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HOUSE OF REPRESENTATIVES—*Friday, June 4, 1976*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Let us not be weary in well doing; for in due season we shall reap, if we faint not.—Galatians 6: 9.

Our Father God, we enter the portal of a new day grateful for the mercies of the past and praying for wisdom and strength as we face the tasks before us. We realize more than ever our dependence upon Thee and we pray that Thou wilt help us to continue to be conscious of Thy presence that we may decide wisely, plan intelligently, and act courageously for the good of our country. May we not shirk any duty nor give way to selfish endeavors but make us kind and thoughtful, seeking the good in others.

We pray for our homes, for our circle of friends, for the large circle of our Nation, and the larger circle of our world. By Thy grace may we endeavor to lead the nations in helping the poor, strengthening the weak, feeding the hungry, lifting the fallen, and in so doing make this Earth a better place where Thy children can live together in peace.

In the spirit of Christ we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 11559. An act to authorize appropriations for the saline water conversion program for fiscal year 1977.

THE LATE HONORABLE BERNARD W. "PAT" KEARNEY

(Mr. STRATTON asked and was given permission to address the House for 1 minute and revise and extend his remarks.)

Mr. STRATTON. Mr. Speaker, I take this time to inform the House that a former Member from New York, and my immediate predecessor, Bernard W. "Pat" Kearney, passed away yesterday at his home in Venice, Fla., at the age of 87.

Congressman Kearney served in this body from 1942 to 1958. He was the ranking member of the Committee on Veterans' Affairs and was the ranking member of the Committee on Un-American Activities. He was also a coauthor of the GI Bill of Rights at the end of World War II, a great friend of the American veteran, and a staunch and outspoken patriot.

Congressman Kearney held a commission as a major general of the Army Reserve and in 1940 served as commanding general of the 27th Division, New York National Guard. Congressman Kearney was also a past national commander of the Veterans of Foreign Wars.

Congressman Kearney was elected to Congress from Gloversville, N.Y., and prior to his election in 1942 served as district attorney of Fulton County. The district he served was known at the time as the 32d District, and included, in addition to Gloversville and Johnstown in Fulton County, Montgomery County with the city of Amsterdam, Schenectady County with the city of Schenectady, Otsego County with the city of Oneonta, and Hamilton County in the Adirondacks, where Pat and Mrs. Kearney made their home, in Lake Pleasant, N.Y., at the time of his decision to retire from the House.

I have always been proud of my friendship with Pat Kearney. He was most helpful to me when I first came here to Washington as a freshman Member to take over his old district, even though we were on opposite sides of the political fence, and I often sought, in the years since then, his counsel and advice. Even though Pat was troubled by illness in the past few years his spirits never flagged, he remained alert and active to the very end, and still espoused his strong and forthright belief in solid 100-percent Americanism.

We have all lost a warm and valuable friend in the passing of Pat Kearney, and America is better for his having served here in this Chamber. To his family and friends Mrs. Stratton and I extend our heartfelt sympathy. Burial is to take place in Arlington Cemetery, next Monday morning.

GENERAL LEAVE

Mr. STRATTON. Mr. Speaker, I ask unanimous consent that Members may have 5 days in which to extend their remarks on the life, character, and public service of the late Honorable Bernard W. "Pat" Kearney.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

CALL OF THE HOUSE

Mr. RONCALIO. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Without objection, a call of the House is ordered.

There was no objection.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 331]

Abzug
Addabbo
Anderson, Ill.
Andrews, N.C.
Armstrong
AuCoin
Badillo
Bauman
Bell
Biaggi
Biester
Bonker
Brademas
Burgener
Carney
Chisholm
Clawson, Del
Clay
Cohen
Conlan
Conyers
Diggs
Dodd
Downing, Va.
Esch
Eshleman
Findley
Ford, Mich.
Fountain
Fraser
Frenzel
Giaimo
Gibbons
Hansen
Harrington
Harsha
Hawkins
Hayes, Ind.
Hays, Ohio
Hébert
Heckler, Mass.
Helstoski
Henderson
Hinshaw
Horton
Hungate
Jarman
Jenrette
Jones, Ala.
Karth
Kindness
Koch
Landrum
Leggett
Litton
Lott
Lujan
McCloskey
McCollister
McCormack
McEwen
McKinney
Madden
Matsunaga
Metcalfe
Milford
Mills
Mink
Moorhead, Pa.
Mottl
Murphy, Ill.
Obey
O'Hara
Ottinger
Passman
Paul
Pepper
Pettis
Peyser
Pike
Pressler
Preyer
Randall
Rangel
Rees
Richmond
Riegle
Rousselot
Ruppe
Sarbanes
Scheuer
Schneebeli
Sikes
Simon
Skubitz
Spence
Stanton,
  James V.
Steiger, Ariz.
Steiger, Wis.
Stephens
Stokes
Stuckey
Symington
Symms
Talcott
Taylor, Mo.
Teague
Thompson
Thornton
Udall
Vander Veen
Walsh
Waxman
White
Whitehurst
Whitten
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Yatron
Zeferetti

The SPEAKER. On this rollcall 310 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

EARTHQUAKE LEGISLATION

(Mr. GOLDWATER asked and was given permission to address the House for

1 minute and to revise and extend his remarks.)

Mr. GOLDWATER. Mr. Speaker, as previously announced by my colleague on the Science and Technology Committee, Mr. SYMINGTON, the Subcommittee on Science Research and Technology will hold 3 days of hearings on earthquake hazards reduction legislation. Quite understandably, California has a substantial interest in such legislation. Because of that interest as well as my own, I intend to enter in today's extensions of remarks section of the CONGRESSIONAL RECORD a section-by-section analysis of the two major bills that will be considered by the Science Committee: S. 1174, which has already passed the Senate and which was introduced by California's senior Senator, Mr. CRANSTON; and, H.R. 13845, which has been introduced by the ranking Republican on the Science and Technology Committee, Mr. MOSHER.

PERSONAL EXPLANATION

Mr. DUNCAN of Tennessee. Mr. Speaker, on rollcall No. 316 I am recorded as having voted "nay." I have previously expressed my support for this measure and would like the RECORD to show at this point my vote on this bill should have recorded as "yea."

PERMISSION FOR COMMITTEE ON RULES TO FILE CERTAIN PRIVILEGED REPORTS

Mr. MOAKLEY. Mr. Speaker, I ask unanimous consent that the Committee on Rules may have until midnight tonight to file certain privileged reports.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts.

There was no objection.

OUTER CONTINENTAL SHELF LANDS ACT AMENDMENTS OF 1976

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1217 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 1217

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 6218) to establish a policy for the management of oil and natural gas in the Outer Continental Shelf; to protect the marine and coastal environment; to amend the Outer Continental Shelf Lands Act; and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed two hours, to be equally divided and controlled by the chairman and ranking minority member of the Ad Hoc Select Committee on the Outer Continental Shelf, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Ad Hoc Select Committee on the Outer Continental Shelf now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, the provisions of clause 7, rule XVI to the contrary notwithstanding, and said amendment shall be read by titles instead of by sections. At the conclusion of such consideration, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House of any amendment adopted in the Committee of the Whole to the bill or to the Committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instruction. After the passage of H.R. 6218, it shall be in order in the House to take from the Speaker's table the bill S. 521 and to move to strike out all after the enacting clause of the said Senate bill and insert in lieu thereof the provisions contained in H.R. 6218 as passed by the House.

The SPEAKER. The gentleman from Massachusetts (Mr. MOAKLEY) is recognized for 1 hour.

Mr. MOAKLEY. Mr. Speaker, I yield 30 minutes to the gentleman from Tennessee (Mr. QUILLEN), pending which I yield myself such time as I may consume.

Mr. Speaker, the resolution provides for the consideration of the Outer Continental Shelf Lands Act amendments (H.R. 6218).

It is an open rule, providing 2 hours of general debate, divided in the customary matter.

It makes the committee amendment in the nature of a substitute in order as an original bill for the purpose of amendment. This is the normal procedure in the case of a committee substitute.

It provides for the substitute to be read by titles instead of by sections. This is common in the case of bills divided into titles. It speeds consideration and better protects Members who wish to offer amendments.

The rule waives points of order which could be raised against the substitute for failure to comply with clause 7, rule XVI, the germaneness rule. It should be noted that no waiver would be required if the committee had reported the measure as a clean bill. The Committee on Rules, therefore, generally treats such a waiver as routine.

Finally the rule makes it in order to substitute the text of the bill, as agreed to, for the measure (S. 521) which has already passed the Senate. This is the ordinary procedure when the House acts last and simply makes it possible for the other body to request a conference.

AD HOC COMMITTEE

The measure made in order by this rule was reported by the Ad Hoc Select Committee on the Outer Continential Shelf, under the authority given it by the Speaker pursuant to clause 5(c), rule X.

The rule authorizes the Speaker to refer legislation to a: "special ad hoc committee appointed by the Speaker with the approval of the House (from the members of the committees having legislative jurisdiction) for the specific purpose of considering that matter and reporting to the House thereon."

On April 22, 1975, the majority leader called up a privileged resolution (H. Res. 412) which, when adopted by voice vote, provided the approval of the House for the appointment of a 16 member committee to consider this legislation. The committee, by unanimous consent, was expanded May 6, 1975, to 19 Members to provide greater geographic representation. The committee was constituted from the membership of the Committees on Merchant Marine and Fisheries, Judiciary, and Interior and Insular Affairs. The chairman of the subcommittee having principal jurisdiction was appointed to chair the ad hoc committee.

During the past year, the committee has held hundreds of hours of hearings in Washington and in areas potentially affected by Outer Continental Shelf activity. The bill made in order by this rule is one of the most comprehensive reviews conducted in this Congress. The distinguished chairman, the gentleman from New York (Mr. MURPHY), and his colleagues deserve our profound thanks for their tireless efforts.

H.R. 6218

The bill would amend the Outer Continental Shelf Lands Act of 1953 by providing statutory guidelines, standards, and procedures for the development of OCS oil and gas.

It would regulate the leasing program and involve the Attorney General and the Federal Trade Commission in insuring fair competition.

It authorizes the States to form regional advisory boards to promote the maximum possible local control of development. This is particularly important to us in New England, where environmental factors and impact on the local fishing industry must receive very careful consideration in any plans for OCS activity.

The bill establishes significant new environmental safeguards and provides for a far closer look at environmental impact than is required under existing law.

It incorporates the provisions of the Coastal Zone Management Act, now in conference, to provide $400 million in automatic grants and $625 million in discretionary funds to help the states meet the impact of OCS activity.

The bill establishes safety regulations for OCS operations and establishes an offshore pollution fund.

A miscellaneous provision, well worth noting, would prohibit the export of oil and gas produced in the Outer Continental Shelf. Under the DISC provisions of the tax code, U.S. corporations are given a windfall tax incentive to export our raw materials even when they are in critically short supply. But an even more outrageous situation would exist if States were asked to face additional environmental hazards to supply the energy needs of other countries.

As a Representative for a region potentially impacted by OCS activity who has grave concerns about the environmental questions, I should stress that no Member should consider this rule to represent a question of whether or not there will be offshore exploration. The question posed by this rule is, "Shall the House have the opportunity to set the terms under which such development will take place, if it occurs?"

Adoption of the rule will make in order numerous amendments so a vote on the rule need not even be guided by a Member's position on the bill as reported.

I urge the adoption of the rule so that we may consider this important legislation.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong opposition to the rule and urge its defeat. The House cannot afford to take up its precious time for the consideration of H.R. 6218, the Outer Continental Shelf Lands Act Amendments of 1976. We cannot afford to do this for two very persuasive reasons.

First, because H.R. 6218 is a blueprint for disaster in our efforts to substantially increase offshore American oil and natural gas production. It represents a crippling blow to our efforts to establish a national energy policy aimed at achieving energy self-sufficiency for the United States.

Crude oil import facts, now reaching 40 percent of our total consumption, clearly demonstrate that American independence from overpriced and unreliable foreign sources of oil is further away from us today than it was at the height of the oil embargo.

I suggest that part of the reason for this appalling and dangerous increase in our foreign oil imports is that we have failed to move forward to establish a national energy policy that makes sense, and that will provide the necessary encouragements for an increase in American oil production which we must achieve. I firmly support the sound progress we have achieved in some aspects of our energy policy, but I am also aware that all too often, we have moved in the opposite direction—the direction of increased dependence on foreign oil, and the direction of rendering more difficult an increase in the production of American oil that we must have.

H.R. 6218 is further evidence of this refusal to come to grips with America's energy problems. It is bad legislation.

The second reason we ought to defeat this rule is the huge backlog of legislation awaiting floor action this session. The severe time constraints which exist in regard to our legislative action demand that we get down to the business of considering sound legislation which can be enacted into law. We simply cannot afford to embroil the House for several days with this extremely controversial and technically complex bill which both the Department of the Interior and the Office of Management and Budget strongly oppose and over which hangs, therefore, the very real threat of a presidential veto.

Mr. Speaker, H.R. 6218 is a bureaucratic nightmare of overlapping jurisdictions with built-in delays. It contains provisions granting virtual veto power on leasing to State and regional advisory boards, and its leasing and drilling provisions demonstrate a completely unrealistic assumption concerning the actual operation of the offshore oil industry.

H.R. 6218 would totally disrupt our current program of developing the oil and natural gas resources on the Outer Continental Shelf which is now beginning to produce encouraging results. The House cannot afford to subject itself to yet another pointless debate over yet another energy bill which is a fiasco, and which would cripple our efforts to increase American oil production and to reduce our dependence on foreign oil.

We must address America's energy problems head-on, and we must take action which will bring down the price of gasoline to the hard-working men and women of this country. We must bend every effort to provide incentives for the production of more American oil, and cut the bureaucratic redtape that hobbles the industry. H.R. 6218 does none of this, and actually makes worse an already alarming situation.

Mr. Speaker, I urge my colleagues to defeat this rule and set aside this mischievous bill.

Mr. Speaker, I yield 3 minutes to the gentleman from New Jersey (Mr. FORSYTHE).

Mr. FORSYTHE. Mr. Speaker, I thank the gentleman for yielding time to me, and I rise in support of this rule.

Mr. Speaker, I do believe that we need legislation to more safely develop the Outer Continental Shelf oil, and I do hope that this House has the opportunity to debate the legislation and to work its will. I am not satisfied with the legislation as it now exists, but I do hope in our wisdom that we will come up with a product that will encourage the development of Outer Continental Shelf oil and fulfill the needs of this Nation.

However, I must at this time also make reference to a column that was published yesterday by Jack Anderson and Les Whitten. I am one of four minority Members who was accused in that column of attempting in effect to load this bill with oil industry amendments. I deny these charges. I have spent literally hundreds of hours working on this bill, listening to testimony, visiting production sites, and consulting with my colleagues on both sides of the aisle.

I supported amendments that in my experience with this legislation persuaded me were beneficial to our country. I did not support amendments because I was asked to do so by any single group, industry, or otherwise.

Mr. Speaker, I ask if I was a willing tool of the industry, why did I write to the chairman of the Committee on Rules urging that this bill be released to the House floor, and why did I do this under the greatest amount of pressure from both industry and the administration to kill this bill?

Mr. FISH. Mr. Speaker, will the gentleman yield?

Mr. FORSYTHE. I yield to the gentleman from New York.

Mr. FISH. Mr. Speaker, I compliment the gentleman on his statement, and would like to add, as one of the other minority Members referred to in the Jack Anderson-Les Whitten column, that I categorically deny the allegations made with respect to me and the minority Members.

It was just an example of bad investigative reporting that I think is very regretful, and when the case is made by the minority Members, I would hope that a retraction would appear in the same column.

Mr. YOUNG of Alaska. Mr. Speaker, will the gentleman yield?

Mr. FORSYTHE. I yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. Mr. Speaker, I thank the gentleman for his statement.

Since I was one of the Members mentioned in the column, I was a little bit pregnant, but I was totally pregnant. I think it was a very bad job of reporting. We know where the information comes from. We know where the pipeline lies.

Mr. Speaker, I think personally, after participating in this committee and after seeing what was happening, very honestly, it was discouraging to me. I do not think it was an attempt to grasp the problem of producing oil for this Nation safely from an environmental standpoint. To me that is the important point.

Mr. Speaker, not only was it a dishonorable act toward all the people involved, but it causes great concern with respect to the integrity of those people who constructed this bill.

Mr. Speaker, I thank the gentleman for yielding.

Mr. QUILLEN. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from California (Mr. WIGGINS).

Mr. WIGGINS. Mr. Speaker, I am here in the well this afternoon to oppose the rule.

I urge the Members to vote "no" at the appropriate time so as to spare the House the unnecessary and wasteful time which will be consumed in the consideration of this measure.

What we have, Members of the House, is a 177-page encyclopedic tome purporting to regulate and control the exploration for and production of oil in the Outer Continental Shelf.

The act begins with a recitation of findings which are correct and which I endorse. It continues with a recitation of a statement of purpose; namely, that the national interest will be served by the production of this oil. Following that are approximately 160 pages of legislation which will frustrate that purpose rather than to implement it.

Members of the House, the finding of oil under deep waters, the drilling for that oil in deep water is a perilous and an expensive undertaking. It is much like going to the Moon in terms of the technological developments which will be necessary in order to tap the resources which we believe lie under the Outer Continental Shelf.

Mr. Speaker, given the complexity of the situation, given the uncertainties which lie ahead in the development of that resource, it is terribly unwise, it seems to me, to attempt to write, chisel in stone, as it were, the rules, the regulations, and the procedures under which we are going to undertake that very uncertain and expensive business.

Mr. Speaker, this activity is uniquely suited to regulations which can be changed as circumstances change, without coming back to the Congress for a full-blown effort to amend the law.

Of course, Congress has a role to play,

but that role is one of careful oversight rather than to attempt, as we do in this legislation, to write the rules of the game in advance.

The reality, of course, is that we do not know all of the challenges which will confront the oil industry as it attempts to tap this resource. Any effort to tie that industry down to a finite list of regulations, all at the threat of having their lease forfeited if they should deviate from those rules and regulations, is an incorrect approach, in my opinion, to a complicated problem. What then should we do?

I realize that this ad hoc committee on which I have served, has devoted an enormous amount of time and money to the consideration of this problem; but that effort is not wasted. We have now developed in the House a pool of expertise which has not existed heretofore and which will stand this House in good stead as it continues its requisite oversight of the activities of the industry and the Department of the Interior if it were to proceed in the absence of this legislation.

The history of this House in the consideration of energy bills has not been a happy one. We have been involved for hours and hours and hours on this floor attempting to resolve the complex policy issues that are involved in energy legislation only to find those efforts frustrated by a veto which could not be overridden; only to find the House efforts frustrated by an unwilling Senate.

We are looking at the same problem here, I will say to the Members of the House. This House is going to consume its precious resource, "time," on this bill. The debate is only for 2 hours but the amending process may well be interminable because the bill is far from perfect if we are to have this legislation at all. And this precious limited resource of the House, time, is going to be wasted in the waning moments of this Congress.

I urge my friends to vote down the rule so that the House may utilize its most important resource, time, more fruitfully.

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. Fish).

Mr. FISH. Mr. Speaker, I rise in support of House Resolution 1217, a rule for the consideration of H.R. 6218, the Outer Continental Shelf Lands Act Amendment of 1976. The rule makes in order the committee amendment in the nature of a substitute which was reported by the ad hoc Select Committee on the Outer Continental Shelf, on which I am proud to serve as ranking member.

I have several reservations about the wisdom of adopting the committee amendment in its present form. I do believe, however, that after full and extensive debate, this bill can be sufficiently improved by amendment to merit its enactment into law.

The Outer Continental Shelf Lands Act, which has been on the books since 1953, without significant amendment, is in need of revision. Many of the revisions in the committee bill are good ones; others will do more harm than good. I do not agree however, with those who want to defeat the bill, and thus its good provisions, before we even have a chance to strike out its bad ones. This has been my consistent position throughout more than a year of committee hearings and markup.

I want a bill, but I want a bill which can be enacted into law. For this to happen, some changes will have to be made or it is going to be vetoed, and I predict that such a veto will be sustained. There are many problem areas which have to be solved before we go to conference, and then these solutions will have to be strongly defended because the bill sent over by the other body contains even more problems.

First and foremost, the unnecessary bureaucratic delays which the committee bill would impose on the leasing and development of our offshore oil and gas resources will have to be eliminated. The energy and security needs of our Nation demand that we obtain additional domestic supplies of oil and gas as rapidly as possible. The committee bill, however, cuts off leasing of the Outer Continental Shelf for 6 months after enactment and again a year from now. It is filled with opportunities for delaying tactics and nuisance suits. These must be eliminated if the Outer Continental Shelf Lands Act is to serve the purposes outlined in title I of H.R. 6218.

The bill assigns the same regulatory jurisdiction to as many as three different Federal agencies. This will effectively turn over our constitutional powers to set national policies to OMB. The minority will offer amendments to remove the redundancy and ambiguities of this legislation.

In 1947 and again in 1953, the Supreme Court ruled that the Outer Continental Shelf is an area of exclusive Federal jurisdiction, yet this bill would give the States a virtual veto power over decisions involving exclusively Federal lands. Our amendments will allow the needs and concerns of the States to be met without infringing upon this constitutional jurisdiction.

Despite the bill's avowed commitment to free enterprise competition, it contains several anticompetitive provisions which restrict the entry of small companies. These must be struck from the bill.

Several restrictions in the committee bill will make it impossible for the Secretary of the Interior to effectively carry out his responsibilities to manage the Outer Continental Shelf in the national interest. Among these are undue restrictions in the choice of bidding systems, mandatory on-structure stratographic drilling tests, and the unwise shift of baseline and monitoring studies from Interior to NOAA.

The bill also lists several opportunities to further protect the environment. Among these are a restricted definition of the term "environment" and a rejection of a maximum 10-year initial lease term in high-risk areas.

The bill also does not adequately provide for congressional control of the overall leasing program. Finally, there are many problems in the oil spill liability section which will prevent its serving as a national system to insure that cleanup costs and damage claims are promptly paid by the responsible party. All these problems can be solved by the adoption of the minority amendments which will be offered during consideration of the bill itself. I am supporting the rule so that the House can have a chance to work its will and correct this legislation. I believe we can come up with a bill which the President can sign and which, with effective congressional oversite, will permit this country to get the oil and gas it needs from the Outer Continental Shelf without undue harm to our environment. I urge my colleagues to adopt this rule so that we can get down to the business of accomplishing these purposes.

I thank the gentleman for yielding.

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the gentleman from Delaware (Mr. du Pont).

Mr. du PONT. Mr. Speaker, I do not intend to take a lot of time on the rule but I do not believe we ought to let go unchallenged the statements of the gentleman from Tennessee (Mr. Quillen) and the gentleman from California (Mr. Wiggins) that this is somehow a bad bill. It is not. It is a good bill. It would be a good bill if it was passed just the way it is. It can be a somewhat better bill if we adopt some of the amendments that will be proposed. I do not think it is a bill that is going to put the oil industry out of business. I do not think it is a bill that is going to cause enormous delays in the development of the Outer Continental Shelf. It is a good piece of legislation that our committee has put a year and a half of work into, and I am going to be pleased to support it very strongly. I hope that when the rule comes up for a vote that the Members will vote for it so that we may move on to considering the legislation.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. du PONT. I yield to the gentleman from Maryland.

Mr. BAUMAN. I thank the gentleman for yielding.

I want to join the gentleman from Delaware in supporting the rule on this legislation. I think it is unfortunate that any attempt should be made to defeat consideration of what is admittedly a very complex bill. I may well not support this bill unless it is substantially amended, but at least we should debate it.

I want to commend particularly the Speaker of the House and the gentleman from New York (Mr. Murphy) in choosing to use this new procedure under our rules to create this select committee, drawing from three major committees, to consider a major piece of energy legislation. All members have worked long and hard on this, as have our staffs on both sides. It would be a tragedy if because of any narrow interests on the part of oil companies, the administration, or others, to defeat a chance for the House of Representatives to work its will on one issue which we must address for the good of the people of this country.

Mr. Speaker, I support the rule.

Mr. HUGHES. Mr. Speaker, will the gentleman yield?

Mr. DU PONT. I yield to the gentleman from New Jersey.

Mr. HUGHES. I thank the gentleman for yielding.

I want to commend my colleague, the gentleman from Delaware, for the very fine statement he has made. I would like to associate myself with his remarks.

Mr. QUILLEN. Mr. Speaker, I would like again to urge my colleagues to defeat this rule. I think the goal of this Congress, this House, is more domestic oil production. If this measure becomes law, it is going to retard that production, and it is going to raise the price of gasoline and oil for the American consumer.

Mr. Speaker, I would urge defeat of the rule. When they bring a bill to the floor where it was necessary for the Committee on Rules to waive points of order on six provisions in the committee substitute, how can anyone say that this is a good bill worked out in committee? It is not a good bill. It should be defeated, and I urge the Members to vote against the rule.

Mr. Speaker, I reserve the remainder of my time.

Mr. MOAKLEY. Mr. Speaker, at this time I yield 2 minutes to the gentleman from New York (Mr. MURPHY).

Mr. MURPHY of New York. Mr. Speaker, there can be no question in any Member's mind, but that we must adopt this rule today. The controversy which has surrounded this bill is ample evidence of the need to allow the Congress to work its will on this legislation.

A bill which can arouse so much emotion—such strong support from coastal States, environmental groups, labor unions, and small energy companies; and such steadfast opposition from the administration and the large oil companies—must surely be important enough for the Members of this House to engage in open debate.

And that is what this rule calls for—2 hours of open debate on the need for this legislation, on the need to bring an act which is 23 years old up to date with the new concerns, new priorities, and new realities of the 1970's. I do not see how else such an important topic can be resolved than by open debate and by the democratic process.

We must allow the democratic process to work here. To deprive the Members of this body the right to discuss and debate this issue would make a mockery of the Congress. Over 1 year ago, this House created a special committee to consider this legislation. That committee diligently fulfilled its mandate for bringing legislation to the floor of the House. The committee built up an impressive hearing record with over 8,000 pages of testimony from over 300 witnesses. We literally exhausted ourselves making sure every viewpoint was heard, every angle considered. During the course of those 18 days of hearings in 14 cities, we saw how much this legislation means to the people of this country. We heard the pleas from the coastal States to give them a voice in the decisions that will lead to development off their coasts. We heard the repeated demands for a coherent national energy policy, one which considered the public welfare, the protection of the environment, and the health of the economy. This bill is a major piece of that mammoth puzzle. To refuse to act on this piece of legislation would be criminal. We would be abandoning our responsibility to our constituents to formulate sound policy.

This Congress so far has shown tremendous skill in uncovering the misdeeds of others, of investigating scandals right and left. We have investigated the CIA and the other organs of the intelligence community. We have investigated meat scandals, and grain scandals, and scandals about Marine recruits. But where is the legislative branch hiding?

Here we have one of the major pieces of legislation of this Congress before us, a real chance to increase the public's share of the wealth off our coasts, to increase the public's involvement in that development, and we stand on the verge of abandoning the bill, of throwing it all to the wind—the committee process, the democratic system, the separation of power, and most important, our legislative function. I urge my colleagues to think twice before we make such a critical move. I urge my colleagues to act in the public interest and adopt the rule for H.R. 6218.

At this point I would like to insert in the RECORD several communications of support which we have received regarding H.R. 6218. They are from:

One, the Seafarers' International Union;

Two, the AFL–CIO;

Three, the Energy Action Committee;

Four, the National Conference of State Legislatures;

Five, the Environmental Policy Center;

Six, the Building and Construction Trades Department of the AFL–CIO;

Seven, Sierra Club;

Eight, the New Jersey Department of Environmental Protection; and

Nine, the Transportation Institute.

The material follows:

WASHINGTON, D.C.,
June 2, 1976.

Hon. JOHN M. MURPHY,
House of Representatives, Rayburn House Office building, Capitol Hill, D.C.:

I strongly urge your support for the passage of H.R. 6218, the Outer Continental Shelf Lands Act amendments bill. This legislation will provide for rational and effective management of the U.S. Outer Continental Shelf. National energy requirements, affected State needs and environmental safeguards are all fully provided for.

Your support is also needed for an amendment to H.R. 6218, to be sponsored by Chairman John Murphy, that would require that only U.S. built and manned rigs and platforms be used on the U.S. Outer Continental Shelf. Thousands of jobs would thus be preserved for U.S. building trades and maritime workers.

PAUL HALL,
President, Seafarers International Union of North America, AFL–CIO.

AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS,
Washington, D.C., June 2, 1976.

Hon. JOHN M. MURPHY,
U.S. House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN MURPHY: Within the week the House will consider the bill H.R. 6218, the Outer Continental Shelf Development Act of 1976. This legislation amends the Outer Continental Shelf Lands Act of 1953 by establishing new statutory guidelines for the management of the oil and gas resources of the Outer Continental Shelf (OCS). It would assure as a matter of national policy, that the development of OCS proceed in a manner that protects both the government and the affected states while promoting competition.

The AFL–CIO strongly endorses this legislation as we believe that the enormous resources of the OCS are too critical to the energy needs of our nation to be left to unregulated, haphazard development. H.R. 6218 would help prevent this from happening. The legislation also contains effective job-safety provisions for workers and gives enforcement authority to the Occupational Safety and Health Administration.

Another important labor provision mandating that all oil rigs and platforms be American constructed, supplied and manned will be offered as a floor amendment by Representative Murphy and we urge your support for it.

In summary we urge your vote in favor of H.R. 6218, the Murphy amendment and your opposition to all crippling amendments.

Sincerely,

ANDREW J. BIEMILLER,
Director, Department of Legislation.

ENERGY ACTION COMMITTEE,
Washington, D.C., June 2, 1976.

DEAR MEMBER OF CONGRESS: H.R. 6218, the "Outer Continental Shelf Lands Act Amendments of 1976", finally—after two earlier oil industry attempts to postpone it indefinitely—was reported from the Rules Committee on Wednesday, May 26, 1976. Floor action on the bill is scheduled to begin this week. It seems clear that the same major oil companies that lobbied so intensely to delay the bill in the Rules Committee (see enclosed newspaper articles) will use the same tactics to kill or severely weaken the bill on the House floor.

H.R. 6218 establishes new policies and procedures for managing the publicly-owned oil and natural gas resources lying under the ocean off the nation's coast. The bill is extremely important because the vast majority of this country's new domestic oil and gas discoveries will be offshore, on this Federal Outer Continental Shelf (OCS) territory. Although the outmoded law governing these resources has never been amended since its enactment in 1953, the major oil companies are adamantly opposed to the proposed amendments. They will fight especially hard to prevent any changes in the way OCS oil and gas is leased by the Federal government. Why? Because the oil companies have done extremely well under the present "cash bonus bid" leasing system.

For example, in 1970, a group of oil companies paid a $28 million cash bonus for just one tract in the Gulf of Mexico. A large sum of money to be sure. But this lease already is providing the oil companies with a *total annual income of $171.5 million*—and production has just begun! The U.S. Treasury is realizing only a 16⅔ percent royalty on the increased profits from these federal oil and gas reserves.

A March 8, 1976, *Oil and Gas Journal* article further demonstrates how well the oil companies do under the cash bonus system: "The $847 million paid for federal leases in the Gulf of Mexico . . . was well spent . . . . While most of the capital investment has been made, most of the oil and gas production is still to come . . .".

Even though H.R. 6218 makes only modest changes in the leasing system, the major oil companies are determined to retain exclusive use of the obsolete cash bonus bid system. Congressman George Miller, however, will offer an amendment to reduce the reliance on cash bonus bidding by switching to other leasing systems which increase competition and assure higher returns to the American people, who own these resources. Congressman Chris Dodd will introduce another amendment that requires review of the competitive impact of each lease sale to prevent oil giants from dominating the bidding as they have done in the past.

We urge you to support H.R. 6218, as reported from the Ad Hoc Select Committee on the Outer Continental Shelf *and* the Miller Leasing Amendment *and* the Dodd Antitrust Review Amendment.

We believe H.R. 6218, with the above amendments, is a reasonable, workable measure. While it is not nearly as strong as the Senate bill passed last summer, it is an acceptable starting point. We hope you will say *No!* to Big Oil's efforts to kill the bill either by moving to have it recommitted or by offering numerous weakening amendments. This bill is one of the most important energy measures you will vote on this year. It and the Miller and Dodd amendments deserves your full support.

We thank you for your consideration of this important matter.

Sincerely,

JAMES F. FLUG,
Director and Counsel.

Enclosure.

[From the Washington Post, May 26, 1976]

OIL BILL STRIKES LOBBYISTS' GUSHER

(By Thomas O'Toole)

Outside the House chamber the other day, Rep. Claude D. Pepper (D-Fla.) ran into two men from the Mobil Oil Corp. who railed against a bill that would change the way oil companies operate offshore federal drilling leases.

The bill is before the House Rules Committee, whose 16 members (including Pepper) are being lobbied by the major oil companies, their independent counter-parts, trade associations like the American Petroleum Institute and offshore operators like the Global Marine Co. not to permit it to go to the floor for a vote.

"The lobbying effort against this bill has come from all directions," said Rep. Richard Bolling (D-Mo.), one of the committee's 11 Democrats. "I have never seen as many different kinds of groups involved, and I wonder why it is . . . What is going on?"

The Outer Continental Shelf Lands Act Amendments of 1976 underwent 18 months of hearings, testimony from 300 witneses, and no fewer than 50 amendments.

One calls for a royalty method of bidding leases instead of bonus bids. Another calls for full reports by oil companies on where they're drilling, how deep they're drilling and at what rate they're producing oil.

Still a third amendment requires that the government drill the first exploratory well in each lease, so that Washington has some idea ahead of time how much oil there might be in the lease.

"All I know is that this bill will double the time it takes for an offshore oil well to begin producing," said J. Hugh Liedtke, chairman of the Pennzoil Co. "Nobody but the biggest oil companies will be able to tie up their money for 10 years. The rest of us will choke."

The 18 months of hearings were conducted by the Ad Hoc Select Committee on the Outer Continental Shelf, the first in the House to be formed out of three standing committes with oceanic jurisdiction to hammer out a single bill. After the hearings, the select committee met 17 times over five months to mark up the bill and send it to the Rules Committee.

The bill was sent May 7 to Rules, which has met twice on the bill and twice postponed its decision. A third meeting is scheduled today.

The Rules Committee is called the traffic cop of the House, deciding which legislation goes to the floor, how long it will be debated, and whether amendments can be offered on the floor.

Telegrams and letters have bombarded the offices of members Andrew Young (D-Ga.), Spark Matsunaga (D-Hawaii), Gillis Long (D-La.) and Pepper. Most have come from Texas and Louisiana, oil producing states. Said one cable to Andrew Young: "Do not report out the bill. Do not give it a rule."

The chief architect of the bill, Chairman John M. Murphy (D-N.Y.) of the select committee, claims the oil industry's tactics now are to delay the bill in the Rules Committee as long as they can.

Murphy points out that the House will consider a dozen appropriations bills in June, moves to the Democratic convention in July and the Republican convention in August, and then faces the November elections.

"Delay," Murphy said the other day, "is the one thing that can kill this bill."

[From the New York Times, May 26, 1976]

DRILLING FOR A LAW

Representatives who want to see off-shore drilling for oil proceed in a safe and sane way are scheduled to try again today to pry a bill to that end out of the Rules Committee. The measure, which is being guided through the parliamentary maze by Representative John M. Murphy of New York, is the product of a select committee drawn from the Interior, Merchant Marine and Judiciary Committees. For lack of an additional couple of votes, the Rules Committee, under fierce pressure from the major oil companies, has been keeping the bill from the floor, presumably planning to delay action until the Presidential conventions are imminent and Congress has no further mind for controversy.

With some variation, the Senate has passed its own version of this badly needed bill, which calls for state and local participation to prevent off-shore drilling from creating on-shore havoc—to the economy as well as the environment. The legislation would compel the publicizing of Federal leasing intentions five years in advance and give interested parties—Governors, the fishing industry, recreation officials, plain private citizens—a voice in planning and surer recourse to the courts when a substantial case can be made against a particular lease.

Other provisions would make the drillers liable for clean-up costs and damages in the event of spills—not by administrative regulation but by statute; encourage greater participation of small oil companies in the exploitation of the Outer Continental Shelf; and assure a fair distribution of the discovered fuel to needy areas.

Regardless of how individual members may feel about the bill, there can be no excuse for burying legislation of this importance in a committee whose function is not to judge a measure's merit but to speed legislative traffic.

[From the New York Times, May 22, 1976]

OFFSHORE OIL BILL CLEARED BY PANEL—VOTE VIEWED AS SETBACK TO PRESIDENT AND INDUSTRY

(By E. W. Kenworthy)

WASHINGTON, May 26.—President Ford and the oil industry were dealt a severe defeat today when the House Rules Committee, by a vote of 10 to 5, cleared for floor action a bill that would make far-reaching changes in the Federal regulation of oil leasing and production on the Outer Continental Shelf.

For months the American Petroleum Institute, the principal industry association, and the major oil companies have waged an intensive lobbying campaign against the legislation. The bill was drafted by the Select Committee on the Outer Continental Shelf, which is headed by Representative John N. Murphy, democrat of Staten Island.

After the select committee reported the bill three weeks ago, industry lobbyists tried to persuade members of the Rules Committee to bottle up the bill by refusing to give it a rule, clearing it for floor action.

The industry found some allies in the White House and the Department of the Interior, which opposed many of the committee's key amendments to the Outer Continental Shelf Lands Act of 1953, a statute that has never been amended.

A few days ago, the Ford Administration sent Mr. Murphy 39 amendments to the bill. Of these, 19 were "star amendments," meaning that President Ford regarded them as necessary for his approval of any offshore oil-leasing legislation.

Yesterday William R. Moffatt, director of program development in the Department of the Interior, said in a telephone interview that he had told Carl L. Parrian, the committee staff director, that the Administration would oppose a rule for the bill as it was, and that if it went to the floor, the White House would try to have it killed by a vote to recommit to committee.

Today was the third time in two weeks that the Rules Committee held hearings on the bill. After the first two hearings, the committee deferred action. If no rule had been approved today, the prospect for a final bill this session would have been very remote.

The small committee room just off the House gallery was crowded with lobbyists for the industry and environmental groups. The atmosphere was tense as the chairman of the Rules Committee, Representative Ray J. Madden, Democrat of Indiana, called up the offshore leasing bill after dealing all morning and early afternoon with rules for other bills.

The first witness was Representative Hamilton Fish Jr. of upstate New York, who is the ranking minority member of the select committee. He urged the Rules Committee to give a rule, saying that, while he thought the bill had some deficiencies, he was confident that the House would adopt many of the Administration's amendments.

The second witness was Representative Charles E. Wiggins, Republican of California, who also is a member of the ad hoc committee. He said the bill was "unwise and unnecessary," and would create "a rigid regulatory scheme" that would delay oil discovery and production.

NATIONAL CONFERENCE
OF STATE LEGISLATURES,
Washington, D.C., May 28, 1976.

DEAR MEMBER OF CONGRESS: On behalf of the National Conference of State Legislatures, I urge your support for HR 6218, proposing amendments to the Outer Continental Shelf Lands Act. The bill will be reaching the House floor shortly.

We are pleased to note that HR 6218 conforms with many of the recommendations in our policy resolution on Outer Continental Shelf (OCS) development, adopted at our annual meeting last October. The bill provides for a strong state role in key federal decisions on the timing, size, and location of proposed OCS lease sales as well as development and production planning. We are also pleased with the provisions for state and local government consultation and review, and for making OCS activities as consistent as practicable with state coastal zone management programs.

Our policy-making committee also recently endorsed the provisions in Title III of the bill assuring against federal pre-emption of state oilspill liability funds and programs. The full National Conference is expected to give its formal endorsement of this resolution at its next annual meeting this September.

Considering the important role that states have played in oilspill cleanup operations, in setting liability requirements, and in assessing damage claims, states with effective existing programs should not be required to dismantle them. We do not believe that the few additional cents per barrel in fees for a state liability fund constitute a significant burden on either the consumer or the industry. Nor do we expect any significant upsurge of damage claim litigation in state and federal courts.

Accordingly, we are opposed to any amendment that might be offered on the floor to extend federal pre-emption over state oilspill liability programs in any way. If the federal program does not work well, state programs that have already shown themselves to be effective will be that much more important in filling the administrative gaps. To require their dissolution now is thus to discard an important form of insurance.

Sincerely,

Representative NANCIE FADELEY,
Oregon Chairman, Natural Resources Task Force, National Conference of State Legislatures.

ENVIRONMENTAL POLICY CENTER,
Washington, D.C., May 18, 1976.

DEAR MEMBER OF CONGRESS: Within the next week, HR 6218, Amendments to the Outer Continental Shelf Lands Act, will be before you on the House floor. Although HR 6218 is not nearly as strong as its Senate counterpart (S 521), nor as strong as we have urged, we believe that the months of hearings and negotiations on this bill by the Ad Hoc Committee on the OCS have produced a workable, reasonable bill. With a few important amendments, HR 6218 could initiate many of the changes which States and other interests have been arguing for over the last year, and could thus prevent the delays and conflicts which have become typical of the OCS leasing program.

The many months of hearings and the conflict over the OCS program recently have shown the clear necessity for this legislation: to give the States some role in the decisions leading to and the planning made necessary by OCS development, to restore a measure of competition to the leasing process, to assure a fair return to the public for the sale of petroleum resources, to assure that development occurs under the safest possible conditions, and to avoid delays in production.

The OCS Lands Act as passed in 1953 (and never amended) is an administrator's delight: it gives the Secretary of Interior overall authority and sets no policy for him—not even that leasing and development be in the public interest. Those who argue that the OCS Lands Act needs no change say that such broad authority gives the Secretary flexibility. The Department of Interior, however, has shown little (if any) flexibility or imagination in its administration of the OCS program. For example, although the OCS Act authorized the Secretary to utilize two bidding systems (bonus bidding and royalty bidding) it took 21 years for the Department to even experiment with the royalty bidding system. It has been similarly resistant to change with regard to environmental and safety regulations, coastal zone management, involvement of the States, and most other matters.

The Senate passed legislation (S. 521) in July which addresses many of these problems. The proposed House bill would make similar, although less far-reaching changes. Following are some of the provisions which we believe to be most significant in HR 6218.

AUTHORITY OF THE SECRETARY TO CANCEL A LEASE

Section 204(a)(2) would permit the Secretary to cancel a lease where "continued activity pursuant to such lease or permit would cause serious harm or damage which would not decrease over a reasonable period of time, to life (including aquatic life), to property, to any mineral deposits (in areas leased or not yet leased), to the national security or defense, or to the marine, coastal, or human environment." Under current law, the Secretary cannot legally cancel a lease for any reason other than willful violation of the lease or gross negligence. He cannot even, for example, cancel a lease if he finds that an active geologic fault is directly adjacent to a well or wells and clearly threatens workers or the environment. This provision would allow for such a cancellation. We urge you to vote against amendments to delete or weaken this provision.

ROLE OF THE GOVERNORS AND REGIONAL ADVISORY BOARDS

The States, in attempting to deal with the Interior Department, have been thwarted time and again in their efforts to effect reasonable changes in the Department's plans, without being obstructionist. Although no State has opposed OCS development, many have voiced strong concern about specific aspects of the leasing program. Unfortunately, any expression of concern or suggested changes in policies or regulations have been taken by the Secretary as total opposition to the program. The most recent manifestation of this policy was the recent Alaska lease sale, which was held despite the reasonable, if vigorous, objections of the State of Alaska, the Council on Environmental Quality, and the Environmental Protection Agency.

Section 19 now provides that ". . . the Secretary shall accept recommendations, unless he determines they are not consistent with national security or the overriding national interest. For the purposes of this subsection, a determination of overriding national interest shall be based on the desirability of obtaining oil and gas supplies in a balanced manner, consistent with the findings, purposes, and policies of this Act. To the extent that recommendations from State Governors or Regional Advisory Boards conflict with each other, the Secretary shall accept such recommendations which he finds to be the most consistent with the national interest. If the Secretary finds that he cannot accept recommendations made pursuant to this subsection, he shall communicate, in writing, to such Board or such Governor the reasons for rejection of such recommendations." This provision does not give the States a veto over OCS development, but rather an assurance that they will have some substantive input into Interior Department OCS leasing policies which affect them. *We urge that you vote against all amendments to delete or diminish the role of the States.*

AVAILABILITY OF INFORMATION

The bill would require that all geological and geophysical information (including interpretations) be turned over to the Interior Department by the companies. It would require Interior to make available to the States geological and geophysical information (excluding interpretations), subject to confidentiality, only after a lease has been sold. Most States believe that the data is needed before the lease sale, (in fact, as soon as it is available), to allow them to plan in as informed a manner as possible for the impacts of massive new development. *We urge that you support amendments to increase the availability of information to State planners before a lease sale.*

BIDDING SYSTEMS

Section 205(a)(6)(C)(i) restricts the use of bonus bidding for OCS leases to 90% of the total area offered for lease each year in frontier areas. This means that of the eight bidding systems authorized for use, there is little incentive for the Secretary to use these systems in order to improve competition, to achieve a better return for the sale of public resources. *We urge that you support the Miller amendment, which would lower the limitation on bonus bidding to 66⅔%.*

ANTITRUST REVIEW

We strongly urge that you support the Dodd amendment, which establishes a review and advisory role for the Federal Trade Commission and the Attorney General regarding pending lease sales and lease extensions.

EXPLORATION

There is a provision in HR 6218 that "at least once in each frontier area, the Secretary shall seek qualified applicants to conduct geological explorations, including core and test drilling, for oil and gas resources in those areas and subsurface geological structures of the Outer Continental Shelf which the Secretary, upon the basis of information available to him and advice of the Geological Survey of the Department of the Interior regards as having the greatest likelihood of containing significant oil and gas accumulations." *We strongly urge that you vote against amendments to delete or weaken the section on stratigraphic drilling permits.*

REIMBURSEMENT

An amendment was added to the bill in Committee which provides that "If a plan is disapproved under clause (c) . . . , the lessee shall be entitled to reimbursement by the U.S. for all consideration paid for the lease plus interest thereon from the date of payment to the date of reimbursement, and for all direct expenditures made after the date of the issuance of such lease and in connection with the exploration or development of the lease." This could make disapproval of a development and production plan *more profitable* for a company in some cases than developing a marginal lease. *We, in agreement with the Secretary of Interior, urge that you support an amendment to delete the reimbursement provision* (Section 25(g)(1)).

BASE LINE STUDIES

The Bureau of Land Management has shown a consistent lack of commitment and expertise in exercising its authority over base line studies. It is unreasonable to expect the Interior Department to promote development and to study and regulate the industry with equal commitment. *We strongly support the provision in HR 6218 which shifts primary responsibility for environmental and base line studies to the Department of Commerce.*

CITIZEN SUITS

We urge that you oppose weakening amendments to the citizen suits provision.

OIL SPILL LIABILITY

Title III of HR 6218 imposes liability for oil spills from OCS facilities and vessels carrying oil from such facilities. Spillers must pay the full costs of cleaning up their spills, (as Interior Department regulations currently require), as well as damage claims up to limited amounts—$35 million in the case of OCS facilities, $150 per ton of ship in the case of vessels. In addition, the bill creates a new pollution compensation fund, base on a 3¢/barrel fee on OCS oil, which will pay ALL cleanup costs and damages regardless of the spiller's own liability limit. We strongly support Title III as an important means of both encouraging the industry to prevent oil spills, and of providing for the compensation of those damaged by the spills that will inevitably occur. *We urge you to oppose any amendments which would weaken this Title, especially an amendment which would preempt State liability laws.* Many States have a better cleanup record than the Federal government, are better equipped to assess local damages, and are more accessible to individual claimants.

This is one of the most important energy/environmental issues before the Congress this year. HR 6218 is neither an industry nor an environmental bill, but rather one which mandates expeditious OCS development under new procedures that provide for more State input, increased competition, and a fairer return to the public for the sale of its resources. *We urge that you support the Miller and Dodd amendments, and that you oppose efforts to weaken the bill, including the proposed substitute to Title II.*

Sincerely,

BARBARA HELLER.

BUILDING AND CONSTRUCTION
TRADES DEPARTMENT,
Washington, D.C., June 2, 1976.

Hon. JOSHUA EILBERG,
U.S. House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN EILBERG: On behalf of the Building and Construction Trades Department and its affiliated 17 National and International Unions representing over 4 million members, I am writing in support of H.R. 6218, the Outer Continental Shelf Development Act of 1976.

Our country needs to establish a national policy on the development of the Outer Continental Shelf so that we can proceed in a manner that will protect the environment and the affected states.

This proposed legislation would do that by amending the Outer Continental Shelf Lands Act of 1953 and establishing new statutory guidelines for the management of the oil and gas resources of OCS. The energy needs of our nation must be met and the enormous resources of the OCS are too critical to be left to an unregulated crazy-quilt pattern of development.

The Building and Construction Trades Department is opposed to all weakening amendments and we support the Murphy Amendment mandating oil rigs and platforms be American constructed, supplied and manned.

We are opposed to any amendments that would change and thereby weaken the safety provisions of the Bill as reported, especially as it relates to O.S.H.A. as the lead agency in all safety concerns.

We urge your consideration and support of H.R. 6218.

Sincerely yours,

ROBERT A. GEORGINE,
President.

SIERRA CLUB,
Washington, D.C., May 21, 1976.

Re H.R. 6218, Amendments to the Outer Continental Shelf Lands Act

DEAR REPRESENTATIVE: We urge you to support H.R. 6218, Amendments to the Outer Continental Lands Act. This important legislation is vital to the future of oil and gas development on the Outer Continental Shelf, and it is particularly urgent with regard to the current and future leasing plans for "frontier areas" along the coastlines of Alaska, California, Eastern Gulf of Mexico, and Atlantic states. We believe the improvements that the bill makes in leasing, development and production procedures are long overdue. Unfortunately there is a concerted and vigorous effort underway to weaken and delay this essential legislation, and we appeal to you to be present when the bill is on the floor and to supoprt H.R. 6218.

The following provisions in the bill are particularly important:

1. Role of the Governors and Regional Advisory Boards.—This provision assures that the Governors and Regional Advisory Boards will play a substantive role in Interior's OCS leasing policies, which are of direct interest to their area. It does not give the Governors or the Regional Advisory Boards a veto over OCS development. This provision could be improved by deleting the "national interest" language.

2. Availability of Information.—The bill requires companies to give to the Interior Department all geological and geophysical information (including interpretations) they have acquired. The bill only requires the Secretary to make available to the States geological and geophysical information (excluding interpretations and subject to confidentiality) only after a lease has been sold. In the view of most states, this provision, while an improvement over current practices, is not adequate, because, they need the information before the lease sale in order to better plan for the eventuality of large scale development attendant with OCS oil and gas production. We would support an amendment to correct this.

3. Federal Resource Inventory.—The bill provides that "at least once in each frontier area, the Secretary shall seek qualified applicants to conduct geological explorations . . . for oil and gas resources in those areas . . . of the (OCS) . . . having the greatest likelihood of containing significant oil and gas accumulations." Although this provision is a beginning step, we support a more comprehensive program of federally funded, contractual exploration before the leasing of public resources.

4. Authority of the Secretary to Cancel a Lease.—There is no provision in the current law which authorizes the Secretary to cancel a lease for any reasons other than willful violation of the lease or negligence. However, hazards to the marine, coastal, or human environment are grounds for cancellation of a lease under H.R. 6218, and this is a particularly important improvement. Reimbursement.—An amendment was adopted in Committee which could make disapproval of a development and production plan more profitable for a company in some cases than developing a marginal lease, and we would support an amendment to strike this language.

5. Bidding System.—Sec. 205 allows use of the bonus bid system to be used for 90% of the total area offered for lease each year in frontier areas. The current language in the bill does not provide adequate incentives for increasing competition, because it only mandates the use of alternative systems, seven of which are specified in the bill, for only 10% of the leases to be offered in frontier areas. We support the amendment sponsored by Rep. George Miller to mandate the Secretary to use alternative systems (other than the traditional "front end bonus") in 33⅓% of leases offered annually over the next five years.

6. Anti-trust.—Rep. Christopher Dodd will offer an amendment to allow the Attorney General or the FTC to require the Secretary of Interior to hold a hearing if either agency believed that a particular lease would present barriers to competition or increase concentration of energy resources or markets. It would also require the Secretary (if a decision is made to go ahead with the lease) to make findings that the benefits to the public outweigh the problems and that no reasonable alternatives are possible.

H.R. 6218 is esesntial to fair, equitable and responsible management of the public's resources. The growing dissatisfaction with the past abuses of the OCS leasing program make the important reforms in the legislation all the more pressing. We urge you to be present next week to support H.R. 6218, to support the Miller and Dodd amendments, to support any further strengthening amendments such as the ones referred to above, and to oppose the many weakening amendments which are expected to be offered.

Sincerely,

LINDA M. BILLINGS,
Washington Representative.

OIL INDUSTRY BLOCKING IMPROVEMENTS: DEP OFFICIAL CRITICIZES PRESENT OFFSHORE OIL LEASING METHODS

GREAT GORGE.—The oil industry is trying to block efforts to improve the offshore oil program, according to Dr. Glenn Paulson, assistant commissioner of the Department of Environmental Protection (DEP). Speaking before the annual convention of the New Jersey Bar Association at Great Gorge this afternoon, Paulson charged that the big oil companies are attempting to bottle up in the House Rules Committee a sound piece of legislation which would both speed up and make more competitive the search for oil under the oceans.

"New Jersey wants to see this 25-year old legislation (The Outer Continental Shelf Lands Act) revised before leases are sold off our shores," Paulson said. "This revision is long overdue."

Citing reports that the lobbying effort to block legislative change is the most intensive in recent memory, Paulson said "the same interests who fought against a greater public role in the use of America's land resources are now fighting against a greater public role in the use of America's energy resources."

"Current law establishes a closed process which involves essentially only the oil industry and the U.S. Departent of Interior," Paulson said. "This closed process keeps out effective competition which might help to reduce soaring energy prices. It creates something akin to a monopoly."

The existing law, passed in 1953, gives the Interior Department sole discretion in how offshore oil resources are searched for and exploited. As implemented, it provides little opportunity for affected communities and local and state governments to protect their interests; it also does not provide prompt and adequate protection for any person or coastal business financially damaged from such events as a major oil spill.

"New Jersey favors a rapid and orderly program to determine how much America can count on the Outer Continental Shelf for its domestic energy needs," Paulson said. Noting that Governor Brendan Byrne and other key state officials have met with industry representatives to explore the potential economic benefits that might be associated with offshore oil work, Paulson said New Jersey will welcome economic activity which is conducted in a manner compatible with New Jersey's coastal communities and resources. "But New Jersey insists that long-needed reforms in the archaic leasing program be instituted before leases are granted off our shores," Paulson stated.

TRANSPORTATION INSTITUTE,
Washington, D.C., May 12, 1976.

Hon. JOHN M. MURPHY,
U.S. House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN MURPHY: The Transportation Institute, a non-profit maritime research organization whose member companies engage in deep sea and domestic shipping operations, strongly urges you to support a vitally important amendment to H.R. 6218, Outer Continental Shelf legislation. The amendment, entitled "To Require U.S. Rigs and Platforms in O.C.S. Operations," will be offered when H.R. 6218 is considered by the full House.

This amendment would require that all drilling rigs, platforms and other similar vessels and contrivances used in U.S. Outer Continental Shelf operation be built and documented in the United States and crewed by American citizens. Presently, there is no such requirement. Rigs and platforms engaged in the exploitation, exploration and recovery of mineral resources in the Outer Continental Shelf may be completely foreign operations. Presently, a Canadian drilling rig, manned largely by a foreign crew, is conducting drilling tests off New England. We believe this situation poses a serious threat to the national interest. The only way to guarantee reliable and uninterrupted Outer Continental Shelf operations is to require that those rigs and vessels operating on the U.S. Outer Continental Shelf be "all-American."

H.R. 6218 is intended to strengthen and protect the security and economy of the United States by facilitating the development of energy resources in order to lessen our nation's dependence on insecure and expensive imports. This amendment is totally consistent with this purpose. It would further strengthen our economy by guaranteeing jobs to American construction and seafaring workers and by generating much-needed tax revenues for the U.S. Treasury. It adds to our security by stimulating the nation's industrial and shipyard base, keeping them in an active state and thereby ready to respond to any future emergency.

The Transportation Institute believes the amendment "To Require U.S. Rigs and Platforms in O.C.S. Operations" is vitally important and we strongly urge that you support this effort to insure that the United States will not lose this vital industry to foreign nations.

Sincerely,

HERBERT BRAND,
President.

Mr. MOAKLEY. Mr. Speaker, does the gentleman from Tennessee (Mr. QUILLEN) have any further requests for time?

Mr. QUILLEN. Mr. Speaker, I have no further requests for time.

Mr. MOAKLEY. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. QUILLEN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 294, nays 27, not voting 110, as follows:

[Roll No. 332]

YEAS—294

Abdnor
Adams
Alexander
Allen
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Aspin
Bafalis
Baldus
Bauman
Beard, R.I.
Bedell
Bennett
Bevill
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burlison, Mo.
Burton, John
Burton, Phillip
Byron
Carr
Carter
Cederberg
Chappell
Clancy
Clausen, Don H.
Cleveland
Cochran
Collins, Ill.
Conable
Conte
Corman
Cornell
Cotter
Coughlin
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Danielson
Davis
de la Garza
Delaney
Dellums
Derrick
Derwinski
Devine
Dickinson
Diggs
Dingell
Downey, N.Y.
Drinan
Duncan, Oreg.
du Pont
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
Erlenborn
Evans, Colo.
Evans, Ind.
Evins, Tenn.
Fary
Fascell
Fenwick
Fish
Fisher
Fithian
Flood
Florio
Flowers
Flynt
Foley
Ford, Tenn.
Forsythe
Frey
Fuqua
Gaydos
Gilman
Ginn
Goodling
Gradison
Grassley
Green
Gude
Hagedorn
Haley
Hall
Hamilton
Hammerschmidt
Hanley
Hannaford
Harkin
Harris
Harsha
Hechler, W. Va.
Hefner
Heinz
Hicks
Hightower
Hillis
Holland
Holt
Holtzman
Howard
Howe
Hubbard
Hughes
Hutchinson
Hyde
Ichord
Jacobs
Jarman
Jeffords
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Ketchum
Keys
Krebs
Krueger
LaFalce
Lagomarsino
Lehman
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lundine
McClory
McDade
McFall
McHugh
McKay
Madigan
Maguire
Mahon
Mann
Martin
Mathis
Mazzoli
Meeds
Melcher
Meyner
Mezvinsky
Michel
Mikva
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Murphy, N.Y.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
Oberstar
O'Brien
O'Neill
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Perkins
Poage
Pressler
Preyer
Price
Pritchard
Quie
Railsback
Randall
Rees
Regula
Reuss
Rhodes
Richmond
Rinaldo
Risenhoover
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Roybal
Russo
Ryan
St Germain
Santini
Sarasin
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shriver
Shuster
Sisk
Slack
Smith, Iowa
Smith, Nebr.
Solarz
Spellman
Staggers
Stanton, J. William
Stark
Steed
Steelman
Stratton
Studds
Sullivan
Taylor, N.C.
Thone
Traxler
Treen
Tsongas
Ullman
Van Deerlin
Vander Jagt
Vanik
Vigorito
Wampler
Weaver
Whalen
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Young, Fla.
Young, Ga.
Zablocki

NAYS—27

Archer
Ashbrook
Beard, Tenn.
Brooks
Burleson, Tex.
Butler
Collins, Tex.
Crane
Duncan, Tenn.
English
Goldwater
Gonzalez
Guyer
Jones, Okla.
Latta
McDonald
Montgomery
Pickle
Quillen
Roberts
Runnels
Satterfield
Snyder
Waggonner
Wiggins
Young, Alaska
Young, Tex.

NOT VOTING—110

Abzug
Addabbo
Anderson, Ill.
Armstrong
Ashley
AuCoin
Badillo
Baucus
Bell
Bergland
Biaggi
Biester
Bonker
Brown, Calif.
Burgener
Carney
Chisholm
Clawson, Del
Clay
Cohen
Conlan
Conyers
Dent
Dodd
Downing, Va.
Esch
Eshleman
Findley
Ford, Mich.
Fountain
Fraser
Frenzel
Giaimo
Gibbons
Hansen
Harrington
Hawkins
Hayes, Ind.
Hays, Ohio
Hébert
Heckler, Mass.
Helstoski
Henderson
Hinshaw
Horton
Hungate
Jenrette
Karth
Kindness
Koch
Landrum
Leggett
Litton
Lott
Lujan
McCloskey
McCollister
McCormack
McEwen
McKinney
Madden
Matsunaga
Metcalfe
Milford
Mills
Mink
Mottl
Murphy, Ill.
Obey
O'Hara
Passman
Paul
Pepper
Pettis
Peyser
Pike
Rangel
Riegle
Rousselot
Ruppe
Sarbanes
Schneebeli
Sikes
Simon
Skubitz
Spence
Stanton, James V.
Steiger, Ariz.
Steiger, Wis.
Stephens
Stokes
Stuckey
Symington
Symms
Talcott
Taylor, Mo.
Teague
Thompson
Thornton
Udall
Vander Veen
Walsh
Waxman
White
Whitehurst
Whitten
Wilson, Bob
Wilson, C. H.
Yatron
Zeferetti

The Clerk announced the following pairs:

Mr. Addabbo with Mr. Anderson of Illinois.
Mr. Matsunaga with Mr. Horton.
Mr. Rangel with Mr. Biester.
Mr. Zeferetti with Mr. Esch.
Mr. Waxman with Mr. Frenzel.
Mr. Hébert with Mr. Kindness.
Mr. Passman with Mr. Armstrong.
Mr. Pepper with Mr. Hansen.
Mr. Hays of Ohio with Mr. McCloskey.
Mr. Helstoski with Mr. Paul.
Mr. Badillo with Mr. Bell.
Mr. Biaggi with Mr. Lott.
Mrs. Chisholm with Mr. Vander Veen.
Mr. Carney with Mr. Eshleman.
Mr. Dent with Mr. Del Clawson.
Mr. Dodd with Mr. Lujan.
Mr. Giaimo with Mr. McCollister.
Mr. Hawkins with Mr. Cohen.
Mr. Leggett with Mrs. Pettis.
Mr. McCormack with Mr. Rousselot.
Mr. Mottl with Mr. Findley.
Mr. Murphy of Illinois with Mr. McEwen.
Mr. Obey with Mr. Ruppe.
Mr. Sikes with Mr. Conlan.
Mr. Stokes with Mr. Steiger of Arizona.
Mr. Thompson with Mr. McKinney.
Mr. Teague with Mr. Skubitz.
Mr. Charles H. Wilson of California with Mr. Symms.
Mr. Yatron with Mr. Spence.
Mr. Whitten with Mr. Walsh.
Mr. Udall with Mr. Steiger of Wisconsin.
Mr. Symington with Mr. Ashley.
Mr. Koch with Mr. Whitehurst.
Ms. Abzug with Mr. Talcott.
Mr. Fountain with Mr. Bob Wilson.
Mr. Harrington with Mr. Conyers.
Mr. Jenrette with Mr. Burgener.
Mr. Milford with Mr. Clay.
Mrs. Mink with Mr. Downing of Virginia.
Mr. O'Hara with Mr. Ford of Michigan.
Mr. Bonker with Mr. Fraser.
Mr. Baucus with Mr. Mills.
Mr. AuCoin with Mr. Taylor of Missouri.
Mr. Bergland with Mr. Stuckey.
Mr. White with Mr. Stephens.
Mr. Thorton with Mr. Riegle.
Mr. Peyser with Mr. Henderson.
Mr. Pike with Mr. Hayes of Indiana.
Mr. Brown of California with Mr. Hungate.
Mr. Landrum with Mr. Simon.
Mr. Gibbons with Mr. Schneebeli.
Mr. Karth with Mrs. Heckler of Massachusetts.
Mr. Metcalfe with Mr. Madden.
Mr. James V. Stanton with Mr. Litton.

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. MURPHY of New York. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 6218) to establish a policy for the management of oil and natural gas in the Outer Continental Shelf; to protect the marine and coastal environment; to amend the Outer Continental Shelf Lands Act; and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from New York (Mr. MURPHY).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 6218, with Mr. NATCHER in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from New York (Mr. MURPHY) will be recognized for 1 hour, and the gentleman from New York (Mr. FISH) will be recognized for 1 hour.

The Chair recognizes the gentleman from New York (Mr. MURPHY).

Mr. MURPHY of New York. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I bring before the House today H.R. 6218, a comprehensive bill which will expedite the development of our offshore oil and gas resources.

The bill is quite controversial and has raised emotions on all sides. Major oil companies are arguing that the bill will never achieve the goals it sets, but will delay development and reduce competition. They have also raised a red flag, crying that this bill will lead eventually and "inevitably" to a national oil company. Finally, they are complaining that the bill creates a "bureaucratic nightmare" and overregulates the industry.

The smaller oil companies and natural gas producers have also expressed a deep interest in H.R. 6218. They support the bill and see it as a means to open up competition in offshore development. Currently, only the big oil companies can afford the expense and risk of offshore drilling, but this bill will allow smaller producers to enter the field.

When you talk about offshore oil and gas drilling, you obviously expect to hear from environmentalists, and they have indeed come through loud and clear on this issue. The committee heard from some 25 environmental groups, most of whom are strong supporters of the bill, though some admittedly do not think the bill is strong enough and should provide even stricter safeguards.

The States have also followed this legislation closely, eagerly awaiting the day when they will be able to participate in the decisions that lead to development off their coasts and the onshore impacts that result. The Governors of Alaska, California, Connecticut, Maine, New Hampshire, New Jersey, and Rhode Island all testified in favor of H.R. 6218. In addition, Members of Congress and State legislatures have also supported the bill. They argued that the frontier areas need a say in what will go on off their coasts and so fundamentally affect their everyday lives. They also want information about what will be going on before it goes on, so they can adequately plan for and cope with the problems that will undoubtedly arise.

Finally, the Interior Department and the Ford administration have taken a keen interest in this bill and have strongly opposed it from the start. They see the bill as an encroachment on the flexibility they now enjoy in managing the Outer Continental Shelf. Right now, they only have to deal with the oil companies in the leasing process and in monitoring the development and production of these resources. Under this bill, however, all that will be changed. They will have to take into account the needs of the individual States, the protection of the marine environment, and alternative uses of the coastal waters. This bill will require that the Secretary of the Interior adhere to a policy developed and mandated by the Congress and not a policy of his own creation or influenced by big oil.

The administration tried to kill this bill in the Rules Committee so the President would not have to make the politically damaging move of vetoing this bill in an election year. Having failed that, they have formally informed my office they will try to have the bill recommitted, again so the bill would never reach the President's desk. I trust that this motion will also fail and the bill will be given full consideration by the full House and sent to the President.

We should not now be intimidated by the possibility of a veto, because the President has recognized the importance of this bill to the various interest groups and to the public, and has realized the difficulty of vetoing such a bill in an election year. As with the coastal zone management bill which passed the House earlier this year by the phenomenal vote of 370 to 14, I do not think we have to worry about the possibility of a Presidential veto despite initial and continuous objections raised by the administration to the bill. This is an important opportunity for the Congress to set the policy by which our offshore oil and gas resources will be managed and developed in the years to come.

The policies which are set forth in this bill constitute a profound change from the original 1953 act. In that act, which has never been amended in 23 years, the only policy which is set forth is that the United States has jurisdiction over the Outer Continental Shelf. There are no policy guidelines as to how the Government is to exercise its jurisdiction over the OCS. The rest of the bill is similarly outmoded. There are no provisions in the act now for State participation in the decision and planning processes. There are no provisions for funds to help States cope with rapid onshore development, or to pay cleanup costs in the event of an oil spill. The Secretary of the Interior is given tremendous discretion in most areas and very few guidelines. As a result the Secretary has acted pretty much on his own in developing regulations and leasing the offshore tracts to oil companies. In such a situation, oil companies have had a tremendous influence on the regulations which the Secretary has issued. In carrying out his duties under the act, the Secretary of the Interior has come under considerable attack by a variety of parties. States and environmental groups have sued to delay or cancel various lease sales, because they are not ready and do not have adequate information to cope with the problems associated with offshore development. This has delayed a leasing schedule which the President has twice ordered to be accelerated. Leasing in 1975 was less than 20 percent of the target of 10 million acres to be leased in that year, due primarily to lawsuits and internal delays.

This bill will change all of that. H.R. 6218 will update the 1953 act taking into account the need for State involvement in the planning process, the need to reverse our growing dependence on imports of foreign oil, and the need to protect the marine environment.

It will give the Secretary more guidance on what role States should play, what environmental safeguards should be implemented, and what general policy he should follow.

The general purposes of the bill are as follows: To update the 1953 act to bring it into line with the new realities of the 1970's. This means encouraging the development of a domestic source of energy at a time when the capital market is tight, in a country where there is increasing concern over the environment and increasing pressure to do something about it, and in a world where natural resources are in short supply and used as political barter. This is a difficult task, and the committee often had to walk a thin line to balance these many demands. The bill which is before the House today is a remarkable product of this balancing act.

In the first place, H.R. 6218 attempts to increase competition among the energy companies in the development of our offshore resources. The bill does this by mandating the use of new bidding methods which are viewed as more competitive than the bonus bid method now used almost exclusively.

The large oil companies have argued strongly against this provision of the bill, often claiming that the other bidding methods to be used are experimental and will result in speculation. However, the truth is that these other methods are not "experimental"; they have been tried and tested elsewhere with success, and should really just be viewed as "alternative" methods and not "experimental." Also, the small oil companies, and the gas producers have endorsed this use of alternative bidding methods because they feel it will open up the competition and allow them to participate in the offshore development without such a tremendous cost and risk.

The bill also seeks to increase competition by calling for a review of the issuance and extension of leases by the Attorney General and the Federal Trade Commission to insure that granting a lease would not be anticompetitive. The major oil companies have argued that this would cause a delay, but in fact this review would be conducted during a 30-day period which is already called for under existing regulations.

Both of these measures will serve to increase competition in offshore drilling. By increasing competition, we will insure a fair return to the public for resources which are held in public trust by the Federal Government.

Another measure in the bill which will increase the return to the public is a provision calling for presale exploratory drilling. Alarmists have called this provision the first step toward a "national oil company," so I will carefully explain just what is called for and what is intended. Under current law, exploratory drilling is conducted after the lease sale, by the company which is granted the lease. By doing exploratory drilling after the lease sale, many of these sales are conducted more or less in the dark. The Federal Government does not know what a fair bid is for the resources in question, and the oil companies are taking a gamble also. As a result, only the largest oil companies can afford to take that risk, and often the public does not get a fair return for the resources it has leased.

What the bill calls for is presale exploratory drilling to be conducted by private industry at the expense of private industry, and the information gained to be shared between the oil companies that contribute to the cost of the drilling and the Federal Government. In this way, everyone will have more information, competition will be promoted, and the public is more likely to receive a fair return on its resources. Clearly, this is no "national oil company" and is not intended to even lean in that direction. It is purely a private industry endeavor and is meant to provide everyone with more information.

The second major objective of the bill is to increase the participation in the decision and planning processes by the States. The States themselves, as well as environmental groups and many others who testified before our committee, have endorsed these provisions. In many cases, frontier States such as California, Alaska, and the mid-Atlantic States will be bearing the brunt of energy development which will benefit the entire Nation. It is important that these States have a say in the decisions that will so vitally affect them, that they have access to information about planned operations so they can come up with comprehensive plans in advance of development, and that they be compensated for adverse impacts which they suffer as a result of development.

This bill will provide for all that, and yet does so without causing excessive delay in offshore development, and without divulging important proprietary information to the public.

A third major objective of the bill is to protect the environment at the same time we encourage development. This bill very carefully achieves that goal.

First of all, without halting any leasing which is now going on, H.R. 6218 directs the Secretary of the Interior to develop a new 5-year leasing program. In this new leasing plan, the Secretary must set out the size, timing, and location of all lease sales over the next 5 years. In developing this plan, he must take into account the potential damage to the environment as well as the potential for the discovery of oil and gas. This new plan would be reviewed by the Governors, regional advisory boards, and the Congress before the Secretary approved it and began implementing it.

A second means of achieving the goal of protecting the environment is through baseline and monitoring studies. These are required by the bill at the time of each lease sale.

A third protection is a new provision allowing the Secretary to suspend or cancel a lease for environmental reasons after a particular tract has already been leased. In such a case, if the cancellation was beyond the control of the lessee, he would be reimbursed for expenses on the lease.

Another major improvement in the current law is the separation of responsibility for encouraging rapid development from responsibility for developing safety regulations. In this bill, safety and environmental regulations are to be jointly issued by the Secretary of the Interior and the agencies responsible for enforcing the regulations, such as the Coast Guard, or the Department of Labor, or the Environmental Protection Agency. This will insure strict enforcement of regulations designed to protect human lives and the environment.

Other important environmental safeguards are the creation of an oil pollution liability fund, and the requirement of the use of the best available and safest technology in offshore operations.

Finally, the bill encourages the rapid development of our offshore resources. It sets due diligence requirements for the oil companies. It directs the Secretary to lease in accordance with its new leasing program, instead of letting the lease sales slip as they have in recent years. Finally, it will drastically reduce the number of lawsuits filed by States and environmental groups trying to delay lease sales because now they will be involved to a greater extent than ever before in the decision affecting their population and welfare.

Some have argued that this bill creates a bureaucratic nightmare with excessive regulation of the various activities and divided responsibility for various aspects of development. The truth is, however, that this bill requires no regulation for operations which are now unregulated. H.R. 6218 only requires an updating of existing regulations regarding the various operations. Such an updating is important if we are to launch into an accelerated phase of offshore development. As for the division of responsibility among various agencies, this bill merely recognizes existing jurisdictional overlaps and clearly sets out who is to do what, whereas now there is much confusion as to which agency should be taking the lead in the various areas of regulations.

This, then is the Outer Continental Shelf bill, probably one of the most complex bills that we will have to consider this year. In votiing on this bill, I ask you to keep in mind that this is a complex bill, that the many provisions are not as simple as some critics would have us believe when they use such emotional labels as "national oil company" or "bureaucratic nightmare." I ask that you consider the whole question of energy independence, of the public interest, of who should benefit from the resources which belong to the public, and that you vote according to your social conscience.

RESPONSE TO ARGUMENTS CONCERNING OVERREGULATIONS REQUIREMENTS OF H.R. 6218

Mr. Chairman, we have heard and read during the last few weeks numerous unjustified attacks on H.R. 6218 because it would establish new regulation requirements and thus delay.

On May 12, 1976, I inserted into the RECORD a response to the minority views on H.R. 6218 which adequately responded to those allegations. I now reinsert it into this debate.

Mr. Chairman, at the time the committee submitted its report to accompany H.R. 6218, a set of minority views was also submitted. Despite the fact that a draft of the report was submitted to minority staff, and certain changes made in response to their suggestions, there was no similar opportunity for majority staff to review minority views until after they were filed. There are, unfortunately, a number of factual misstatements, legal inaccuracies, and misleading comments in those views. In order to provide the Members of this House with an accurate and complete understanding of the issues involved in this legislation, I have asked the staff to prepare the following analysis of minority views and detail these mistakes, and inaccuracies.

ANALYSIS OF MINORITY VIEWS

The minority views states that H.R. 6218 creates a "bureaucratic nightmare." H.R. 6218 details procedures for the management of our resources in the Outer Continental Shelf and lists those agencies which are given specific regulatory promulgation and enforcement powers. As detailed in the committee report, numerous statutes have been enacted that are applicable to OCS activities and these statutes give authority to numerous Federal agencies as to different aspects of the management of our resources, and the supervision of activities in the Outer Continental Shelf. The "bureaucratic nightmare" exists today. H.R. 6218 ends that nightmare, by providing for joint action, and by describing exactly who is responsible for what.

The minority views incorrectly states that exploration of a lease area is contingent upon approval of a development and production plan, not filed until after exploration has resulted in a commercial find.

Subsection 8(b) of the amendments included in H.R. 6218 details what is to be included or covered by an oil and gas lease. Paragraph 8(b)(4) provides that such a lease "shall entitle the lessee to explore, develop and produce the oil and gas resources—conditioned upon due diligence requirements and the approval of development and production plans required by this Act." Clearly, this paragraph means that a lease is to contain a provision that future activities are to comply with the procedures for those future activities. The grant of authority to a lessee to explore is conditioned upon future compliance, with an approved development and production plan.

Minority states that section 11(g), which requires the Secretary to seek qualified applicants for on-structure drilling, will result in no applicants and is thus meaningless. Stratigraphic drilling is not performed by the large oil and gas companies, but rather is undertaken by smaller contractors or permittees who sell the results of their information to a large number of energy companies, or who are hired by such companies to perform the stratigraphic work. Testimony at our hearings indicated that a large number of these companies were interested, and in fact sought, to have the right to perform stratigraphic drilling tests on structure. The Secretary of the Interior refused their request.

H.R. 6218 was carefully drafted so as to avoid and eliminate any undue delay in exploitation of our OCS resources. Nonetheless, minority now states that there are "delays throughout the committee bill." A review of some of these purported "delays" indicates confusion by the authors of the minority views. Section 18, describing the Outer Continental Shelf leasing program, requires that a program "shall be prepared and maintained in a manner consistent with the following principles:

> (1) Management of the Outer Continental Shelf shall be conducted in a manner which considers all the economic, social and environmental values.

Minority indicates that since a program considers all values, it invites those seeking delay to point out additional resource values that are not considered. Such a comment is meritless. Leasing activity should consider, and balance, all relevant values. Any court reviewing the leasing program provisions will find such program sufficient when a good faith effort is made to consider relevant values so as to provide consistency with relevant principles.

Minority indicates that there is no need to have a 120-day review period when a development and production plan is not found to be a "major Federal action," under NEPA, and thus in minority's opinion, "will not have a significant effect on the environment." This comment is, unfortunately, a demonstration of a lack of understanding of the NEPA process and the development and production plan section in H.R. 6218. The Secretary of the Interior is bound to follow the rules and procedures adopted pursuant to the National Environmental Policy Act in determining whether approvals of development and production plans are "major Federal actions significantly affecting the quality of the human environment." Only if an action satisfies this definition, which has been interpreted in numerous cases, is the Secretary bound to follow NEPA processes—except that at least once prior to major development in every frontier area, development and production is to be considered a major Federal action. Approval of development and production plans, might not fit the definition, but still may substantially affect coastal States, coastal areas, marine areas, alternative users of the waters of the Outer Continental Shelf, and others, and thus require some kind of review. Asking the State, a local government, or any other interested citizen, to review a detailed development and production plan, make constructive suggestions, instead of mere total opposition, and return these suggestions after thorough evaluation and discussion, in 60 days is, at the least, unrealistic.

Minority indicates that subsection 8 (f) providing for joint Federal-State leasing would involve delays. A Governor, it is claimed, could refuse to agree to terms for a joint leasing, and therefore, delay the leasing of such lands indefinitely. Again, these views indicate, unfortunately, a lack of knowledge of the law applicable to leasing. When the Federal Government leases its lands, even under a joint lease, it must, of course, comply with Federal statutes, and Federal regulations implementing those statutes. Any joint lease must contain provisions consistent with these statutes and regulations. In addition, it is inherent in every legislative provision that a "rule of reason" must apply. Simply stated, if something cannot be accomplished over a reasonable period of time in a reasonable manner, and in accordance with applicable laws and regulations, then the mandate for an action, which is a mandate for reasonable and possible compliance, has, by necessity, been satisfied.

The minority views describe an "absolute veto power" by affected States, or regional advisory boards as to certain decisions. Section 19(d) provides that any specific recommendation as to a lease sale, or development and production plan, made by an affected State or regional advisory board, is to be accepted unless "determined—not [to be] consistent with national security or the overriding national interest." It is clear from this language that the intent of the committee was not to provide a veto power, but rather to provide if a reasonable recommendation, not shown to be in opposition to the national interest, is made, it is to be accepted.

Section 18 describes a 5-year leasing program and states that the size, timing, and location of OCS activities is to be based on a "consideration" of the laws, goals, and policies of affected States. The minority views states that there is no provision in the section requiring consultation with States in preparation of a leasing program. The consideration requirement of section 18 mandates that the Secretary of the Interior, and his agents, consult with affected States prior to the drafting of his leasing program so that the leasing program in fact, indicates that the laws, goals, and policies of affected States are "considered." Minority views asks "how is the Secretary to determine the goals and policies of a State" and "what is a valid exercise of authority." As in any other situation, the Secretary is to determine such policies or authority by consulting with the leaders of the community and the States.

The minority views suggests no need for the requirement of joint leasing of Federal/State offshore lands. It is stated that the Interior Department "voluntarily created a 3-mile buffer zone and that therefore, there has not been any case in the past where Federal land might deplete resources." The history of the Federal/State tidelands controversy is long and litigious. In fact, it is the basis for the original OCS Lands Act of 1953. "Voluntary action" only occurred as the result of a headlong race between the Federal Government and State governments to lease areas that might contain hydrocarbons in a common geological structure or trap, so as to avoid drainage by the other. To allow "voluntary action" by a Federal administration to continue to govern activities in the Outer Continental Shelf is not responsive to the problem. It evidences a complete disregard of States' rights.

Minority correctly states that under H.R. 6218 the Secretary is permitted to lease tracts on the basis of entire geological structures or traps or for a reasonable economic production unit, but continues that this provision limits competition because "the Secretary should not be allowed to exceed the current maximum of 5,760 acres except where a larger tract is necessary to form a reasonable economic production unit." Opposition is suggested to a provision that complies with the language which is included.

All joint bidding is limited in the Phillips plan, except when necessary to promote competition. In the minority views, it is stated that joint bidding should be allowed in the Phillips plan so as to encourage competition. If competition is furthered, H.R. 6218 allows Phillips plan joint bidding. Again, a statement complaining of a defect is made, and the complaint is unsupported by the text of the statute itself.

The minority views makes certain suggestions as to the oil spill fund. There are certain inaccuracies in the discussion of those suggestions that must be pointed out. The minority complains that it is unfair to "punish" an offshore operator who complies with every safety regulation, and urges his employees to do so, when his employee, neverthless, acts improperly. Of course, this is the law today. Under the legal doctrine of respondeat superior, the employer is always responsible for the negligent activities of his employee acting in his employee capacity. If injury occurs to the environment or individuals from the negligence of an agent or employee, who should pay for the results of such negligence? A limitation in the respondeat superior common law doctrine would result simply in less need for and thus less actual control by employers over their employees.

The minority views improperly state that "the Attorney General is permitted to decide what constitutes a 'class' for purposes of class action." Section 315 provides the "Attorney General may act on behalf of any group of damaged citizens," at the request of the Secretary of Transportation. Section 315 also provides that, even without Attorney General action, class actions independent of the Attorney General, are permitted. This procedure for the Attorney General to represent a class is common in recent legislation; nevertheless, minority views it as a novel idea. The possibility of a conflict is nonexistent. A class action, with representation by the Attorney General, would only occur when the Secreary of Transportation determines that a class would be more adequately represented by the Attorney General. The Attorney General would not represent both sides. Minority views would challenge the long accepted power of the Attorney General to challenge the decisions or actions of the head of any other Federal Government agency. Minority views also flatly state that the Attorney General's decisions as to litigation should be binding, and implies that no new concept should be adopted to allow the Secretary of Transportation or the fund to secure attorneys to represent him or it. Federal agencies, especially when they are independently funded, commonly have their own legal counsel to represent them.

In a discussion of section 308, the drafters of the minority views indicate they have not read the section. They claim that subsections (d) and (e) are contradictory. Under subsection (d) liability for damages is precluded when damage is shown to be caused by a negligent or intentional act of any third party. No such defense occurs as to cleanup costs. Subsection (e) provides for subrogation where a discharger is held liable due to third-party intentional acts of negligence. Subsection (e) is necessary to allow an individual who has to pay for damages and cleanup costs to go against the actual causer of the cleanup costs, and to go against a third party when negligence or intentional acts are discovered after payment is made by an owner or operator. Minority criticizes the phrase "unseaworthiness of a vessel," a legal term repeatedly applied by the courts, and the administrative officers within the Department of Transportation, who are to administer the oil spill fund. Terms that have a well-known common legal heritage and meaning need not, and in fact, should not, be defined.

Minority states that section 314 gives no standards for the courts to follow in judicial review of decisions of a hearing examiner. The words "hearing examiner" were used specifically so as to have the procedures involved in the Administrative Procedure Act utilized. Procedures for judicial review are automatic.

Section 318 provides access to books and records of companies involved in OSC activities. Minority states that "language is needed to limit the applicability to those records which are relevant to the administration of this title." Regulations required by the act to implement a section of the title, of course, must be in accordance with the provisions of that title and any specific section. Limitation of the applicability of those sections to specific records is automatic.

Finally, the minority views attacks the section-by-section analysis prepared to explain the provisions of the bill. It is obvious that the drafters of the minority views did not have a complete understanding of the purpose of a committee report and a section-by-section analysis. A report is not to restate what is contained in a bill. It is to explain the reasons for the committee's actions, why certain words were utilized, and what the intent of the committee was in using those words. Legislative history is to be detailed. If the only purpose of a section-by-section analysis, and other portions of a report, were to restate the word-for-word language of a bill, there would be no need for such an analysis and report.

Minority views criticizes language indicating the intent of the committee was in using words, not because they do not reflect the intent of the committee, but rather they are not in the words of the specific section. This is, of course, true and irrelevant. The intent of the committee as to the actual words is what should be, and is, explained.

A few examples of the misunderstandings by the drafters of the minority views will suffice.

Minority views state that separate authority is granted under two different sections, amended subsection 4(e) and new section 21, for the preparation of regulations. The section-by-section analysis indicates that these two sections are to be read together. The clear intent of the committee, as indicated by the debate in markup, was that as one section 4(e) gave permissive authority as to promulgation of safety regulations, and another section 21 gave mandatory responsibility to prepare such regulations, they are to, and should, be read consistently.

Minority views criticizes the statement that participation of OSHA in preparing regulations for employee safety is "required under section 21." A reading of section 21, and the debate that led to its adoption, clearly indicates that participation by OSHA was to be required in the preparation of such regulations, although the actual regulations could be, although hopefully would not be, promulgated by another agency. The clear intent of the committee, as indicated by the debate in markup, was that OSHA was to be given lead-agency responsibility. That intent was properly indicated in the committee report.

The committee clearly intended that agencies given investigatory authority as to accidents act jointly. That is why joint authority was granted. Joint action is optional and not required, but the intention of the committee was that they make all reasonable efforts to act jointly. This intent was also properly included in the report.

A complete lack of understanding of the legal process, and the meaning of the word "law," is indicated by the minority views discussion as to the standards to be applied by the Regional Advisory Boards. The committee passed title I of the OCS Lands Act Amendments of 1976, which includes findings and purposes. These findings and purposes, as a part of an act, which, if eventually accepted by the Senate, and signed by the President, becomes law, are, despite the intimations to the contrary, substantive law. The fact that they are not included in a specific United States Code provision does not mean that they are in any less effective way law. They are a part of the legislative provisions of the 1976 act, framed by the Congress in enacting the legislation.

According to the minority views anything in an act which does not add or change a United States Code section is not law. Thus, under that theory, the oil spill liability title, and therefore, the oil spill liability fund is not "substantive law," because it is not included in a new Code section. This, of course, is just as ridiculous as the statement that findings and purposes are not "substantive law."

Minority views indicates that the committee report is incorrect in stating that a State recommendation is "somehow more valid than a finding of the Secretary rejecting that recommendation." Again, the drafters of the minority views did not pay attention to the committee discussion at the time it adopted this provision, nor to the words in the bill itself. A recommendation by an affected State Governor, or a regional advisory board, must be "overridden" in the national interest. Therefore, the burden is on the Secretary of the Interior to justify why the national interest requires him to override a recommendation. This shift in "burden" is clearly indicated by the choice of the committee of the word "override" rather than another term.

The drafters of the minority views indicate that the committee report states that suspension can result only in extensions for a 5-year term. The committee report—page 87—states that a suspension is to be tied to a "concurrent extension of the 5-year lease term," referring clearly to an extension of the original 5-year lease term.

The minority views criticize what the drafters see as a limitation as to the purpose of providing lessee-initiated suspensions. The clear words of the committee report are that a lessee-initiated suspension and a concurrent extension are to be allowed for any extension and then states "for example" certain specified types of activities justifying suspension and extension.

The minority views indicates a disagreement with the discussion of cancellation where it is stated that compensation could be more liberal for those leases issued prior to the date of enactment of the cancellation provision. A review of the discussion in markup, and of the law today, clearly indicates that when a new regulation or law is passed providing for cancellation or other effects on possible property rights, any valid property right existing prior to enactment of the new statute or regulation, and therefore without knowledge of its existence, will be more protected, and thus entitled to more compensation, if required, than a property right obtained after and with notice of such regulations. The basis for this statement in the committee section-by-section report was the discussion in markup, the present law today, and common sense.

A statement is made that the committee report tries to limit the joint bidding limitation in the Phillips Plan leases to "economic partnerships." The section-by-section analysis clearly states that "the Secretary may permit joint bidding in a percentage leasing when he specifically finds it necessary to promote competition." Given as an example of where such permission would be warranted, as obtained from representatives of the Department of the Interior, were so-called economic partnerships.

As noted earlier, in a discussion on the joint Federal/State leasing provisions, the minority views in criticizing the committee report refused to accept the fact that laws are to be read in light of reason, and must be interpreted in terms of reason.

Section 17 provides for a "5-year leasing program" describing the size, timing, and location of leasing. Leasing can only be conducted in accordance with the size, timing and location requirements of that 5-year leasing program. Thus, if leasing is to continue beyond 5 years, as stated in the section-by-section analysis, a new leasing program must be prepared for any subsequent 5-year period. The minority views statement that a lease could be issued after that initial 5-year period is just wrong. As the leasing program is described and authorizes activities during a 5-year period, leasing after that 5-year period would not be "for an area included in the approved leasing program."

Minority views confuse a cancellation for safety reasons provided for upon disapproval of development and production plan in section 25, and a cancellation, appropriate any time, where serious harm or damage, which would not decrease over a reasonable period of time, is expected. A plan may be able to be modified to insure a safe operation and thus preclude a disapproving and termination of a lease or a plan, but might not comply with the requirements of law, or plans for a coastal zone. Failure to so comply, if the result of the intentional act of the lessee, would not entitle him to compensation. Failure, if the result of activities over which a lessee had no control, might, in accordance with subsection 5(a), entitle the lessee to compensation, as required by the Constitution or any other law.

Finally, in the discussion of oil spill damages, the minority views indicates that "gross profits" are included with the term as to claims for loss of income. The specific words of the section-by-section analysis state that the term "income" is used in this subsection to include wages, earnings, or profits, and is not intended to mean net income or net profits. The words "gross profits" cannot be found in the analysis.

On May 19, 1976, I received a "Background Paper No. 7" from the American Association of Petroleum Geologists. This background paper entitled "Offshore Rules, Regulations, Orders, and Guidelines" states, as I have stated in my answer to minority views, "many Federal agencies control and regulate [oil] industry activities." This paper describes the responsibilities of the Department of the Interior, the Coast Guard, the Army Corps of Engineers, the Environmental Protection Agency, the Department of Transportation, and the Department of Labor—through the Occupational Safety and Health Administration.

The report concludes:

> One can see that almost every operation in the offshore requires not only one or more permits from one or more agencies but a multiplicity of inspection and reports in the normal conduct of business.

The report reaffirms what I stated in my "Analysis of Minority Views":

> The Minority Views states that H.R. 6218 creates a "bureaucratic nightmare." H.R. 6218 details the procedures for the management of our resources in the Outer Continental Shelf and lists those agencies which are given specific regulatory promulgation and enforcement powers. As detailed in the Committee report, numerous statutes have been enacted that are applicable to OCS activities and these statutes give authority to numerous federal agencies as to different aspects of the management of our resources, and the supervision of activities in the Outer Continental Shelf. The "bureaucratic nightmare" exists today. H.R. 6218 ends that nightmare, by providing for joint action, and by describing exactly who is responsible for what.

I have asked staff to prepare an analysis of the present regulations applicable to Outer Continental Shelf activities and compare them to the requirements in H.R. 6218. I insert it in the Record at this point:

Present Regulations or Laws—As Compared to Requirements of H.R. 6218

H.R. 6218	PRESENT LAW, PROGRAM OR REGULATION
I. *State laws:* Section 203, amending 4(a)(2) of OCSLA—updating of laws of states applicable to OCS activities	Deepwater Ports Act, P.L. 93–627, 88 Stat. 2146, Section 19(f)—amending Section 4 of OCSLA
II. *Regulations:* Section 204—amending Section 5 of OCSLA—suspension of activities	30 CFR 250.12(c) promulgated August 22, 1969, provides for emergency suspensions. 30 CFR 250.12(d), promulgated August 22, 1969, amendment proposed December 19, 1975 (40 FR 58862) provides for other types of suspensions. Proposed OCS Order No. 14 also published in the *Federal Register* on December 19, 1975 (40 FR 58873) specifies the circumstances under which such suspensions may be granted and sets strict guidelines for USGS approval of suspensions.
(a) Assignment or relinquishment of leases	43 CFR 3305.1 to 3305.4
(b) Sale of royalty oil or gas	30 CFR 250.49, 250.60–250.68; 30 CFR 225a.1–30 CFR 225a.9
(c) Use of bidding systems	43 CFR 3302.1–3303.3
(d) Unitization, pooling and drilling agreements	30 CFR 250.50–250.52
(e) Subsurface storage	30 CFR 250.53
(f) Drilling or easements	30 CFR 250.18
(g) Prompt and efficient exploration and development	OCS Orders have been promulgated for present operations (OCS Order No. 11, Gulf of Mexico) and are proposed for other operating areas (70 FR 1086)
H.R. 6218	PRESENT LAW, PROGRAM OR REGULATION
New Subsection (f)—rates to ensure maximum, efficient and safe production	43 CFR 3307.3—2. The Energy Policy and Conservation Act, P.L. 94–183, 89 Stat. 871, Section 105, 42 U.S.C. 6214 provides for the President to set production rates, and emergency production rates. In addition, OCS Orders have been promulgated for present operations (OCS Order #11, Gulf of Mexico) and are being proposed for other operating areas (40 FR 1080) as to rates of production.
New subsection (a) and Section 501—Limitation on flaring of gas, and reports on flaring	OCS Orders have been promulgated for present operations (OCS Order #11, Gulf of Mexico) requiring limitations on flaring and reports on such flaring. Such orders are proposed for other areas (40 CFR 1086).
III. *Bidding Administration:* Section 205—Amending Section 5 of OSCLA	
Regulations—as to awarding of leases	43 CFR 3302.1–3302.7
Joint working group—selection of operator	30 CFR 250.31
Joint bidding limitations	43 CFR 3302.3
Scope and content of lease	43 CFR 3302.1, 3302.2(a), 3302.6 Form 3300–1
Lease extensions	43 CFR 3305a.1
Due diligence requirements	43 CFR 3307.3–4. In addition, OCS Orders require specific due diligence in activities
IV. *Exploration:* Section 206—amending Section 11 of OCSLA	30 CFR 250.34 requires exploration plans and establishes procedures for modifications.
Exploration plans and exploration information—preparing, approval, modifications, revisions	This provision (30 CFR 250.34) has been recently amended to provide for state review and comment.
Stratigraphic Drilling	30 CFR 251.1 to 251.22 provides the procedures and requirements for geological explorations, including stratigraphic tests [251.3(a)].

V. *Annual Reports:* Section 207—amending Section 15	Annual reports are presently required by the OCSLA. The information is obtained by requirements on lessees and permittees as to money, activities, etc. *See* 30 CFR 250.38, 250.90 to 250.97.
VI. *Leasing Program:* Section 208—Adding new Section 18 Promulgation and approval	In 1971, a leasing program was promulgated by the Secretary of the Interior; this was followed by revisions in 1973, 1974 and 1975. An accelerated leasing program was proposed in April of 1973, and then again in January of 1974. In connection with the accelerated leasing program, the Secretary solicited industry and public comment on areas of special resource potential and environmental concern (39 FR 6541 February 20, 1974) and issued a report on these responses on June 5, 1974. The Secretary then prepared a draft EIS on the accelerated leasing program, conducted several public hearings and published the final EIS on July 11, 1975. The areas covered by the June 1975 planning schedule were covered in this EIS process. The accelerated leasing program was approved on October 2, 1975.
Procedures for nominations, review, coordination	43 CFR 3301.1 requires leasing maps; and 43 CFR 3201.3–3301.5 provides for procedures for nominations, hearings, coordination and consultation.
Information to prepare evaluations	43 CFR 3301.2 resource evaluation
VII. *Advisory Boards:* Section 208—adding new Section 19—Regional Advisory Boards	On October 1, 1975, the Secretary of Interior created the OCS Advisory Board to advise him on matters pertaining to exploration and development of the OCS (40 FR 46143). The charter of the Board also provides for regional boards. Membership is comprised of representatives appointed by the Governors of coastal states with ex-officio representation of seven federal agencies. Industry and the public also have ex-officio representation on the Board.
VIII. *Baseline Studies:* Section 20, adding new Section 20—Baseline and Monitor Studies	43 CFR 3301.2—Resource Evaluation. In the Spring of 1974, DOI initiated an environmental baseline study program for frontier areas commencing with the Northeast Gulf of Mexico (MAFLA) area. Additional programs have now been conducted and are underway in South Texas, Southern California, Gulf of Alaska and the Mid and North Atlantic and will be initiated in other frontier areas early on in the sale process. Monitoring has commenced in the MAFLA area and will be started in other areas as exploration and development commence. In March 1974, the Secretary of Interior created the OCS Research Management Advisory Board which has recently been redesignated as the OCS Environmental Studies Advisory Committee. This group has advised the Secretary on the planning and implementation of the BLM's environmental program including baseline and monitoring studies. The committee is composed of state and federal representatives. More than half of the studies are being done by NOAA.
IX. *Safety Regulation:* Section 208—adding new Section 21—Safety regulation Allocation of authority	(1) *Interior*—43 CFR 250.1–250.48 details specific responsibilities of USGS within the Department of Interior. In addition, USGS has promulgated OCS Orders for the Gulf of Mexico and Pacific areas and has proposed and prepared orders for other proposed lease areas. (2) *EPA*—40 CFR Part 6 details procedures for preparation of Environmental Impact Statements, established by the Environmental Protection Agency, 40 CFR Part 1500 provides guidelines for EIS; 40 CFR Part 109 details EPA criteria for oil removal plans; 40 CFR Part 110–114 detail EPA procedures and requirements as to discharges of oil—these procedures and requirements apply to discharges into the Contiguous Zone.
H.R. 6218	PRESENT LAW, PROGRAM OR REGULATION
	(3) *Coast Guard*—33 CFR Subchapter N, Parts 140 to 147—detailed requirements of and standards for islands and fixed structures on the OCS; 33 CFR Subchapter 0—Pollution—establishes regulations as to pollution, control of discharges. (4) *Army*—33 CFR Part 207 establishes Corps of Engineers-Navigation Regulations. (5) *Commerce*—15 CFR 907 describes environmental information prepared by NOAA; 15 CFR 920 describes procedures by the Office of Coastal Zone Management to determine and protect against adverse onshore impacts of offshore activities. (6) *Labor*—29 CFR Parts 1910–11, provide procedures for establishing occupational safety and health standards. Recently, OSHA has promulgated interim regulations for divers working in the OCS. 29 CFR 1910.5(a) specifically makes these procedures applicable to the OCS.
Inspections, testing, records	30 CFR 250.38; 43 CFR 3307.3–3. The various OCS Orders provide for occasional testing, inspections and access to information. *See* OCS Order No. 5, 8 (Gulf of Mexico).
Investigation of spills	30 CFR 250.43.
Investigation of fires	30 CFR 250.45.
Investigation of Serious Injuries	29 CFR, Parts 1903 and 1904 require inspections and reports as to occupational injuries and illnesses.
X. *Development and Production:* Section 208, adding new Section 25 Requirement of oil and gas development and production plan	30 CFR 250.34 now provides detailed requirements for development and production plans; for a statement as to onshore impact; provides for state review and comment, and for approval, modifications or revisions of a plan.

PRESENT REGULATIONS OR LAW—AS COMPARED TO REQUIREMENTS OF H.R. 6218—Continued

Best available and safest technology	30 CFR 250.46. Requires all operations in a manner to insure environmental and worker safety. 30 CFR 251.11 requires similar exploration terms; the various OCS Orders detail equipment and procedures supposedly designated to implement these procedures.
NAE Review	The Marine Board of the National Academy of Engineering has over the past three years conducted studies of existing USGS orders, systems, procedures and programs and has issued at least two reports containing a number of recommendations, many of which have been implemented in new OCS orders or programs.
Interim hazardous activity regulations	39 CFR 1911. Recently, OSHA, in cooperation with the Coast Guard, has issued emergency regulations for divers in the OCS.
XI. *Enforcement:* Section 208, adding new Section 22 Strict enforcement	30 CFR 250.11 and 250.12 requirement of supervisors.
XII. *Information:* Section 208, adding new Section 26—oil and gas information	*Operations not conducted under a lease* (a) Secretarial Order dated Dec. 11, 1974 (39 FR 43562)—all geological and geophysical permits issued subsequent to date of order require permittee to furnish new and processed data obtained under the permit to the USGS upon request of the Supervisor. (b) Proposed regulations covering the geological and geophysical exploration of the OCS (30 CFR Part 251) were published for comment on April 22, 1975 (40 FR 17758). These proposed regulations confirm and expand the Secretarial Order mentioned in (a) above. Proposed Regulation 250.97 establishes when information is to be made public. *Operations conducted under a lease*—30 CFR 250.95 promulgated on August 22, 1969 requires a lessee to furnish to the USGS Supervisor all geologic data obtained in connection with the drilling of wells on the lease. Under 30 CFR 250.97 proprietary information is held confidential until the lease is either terminated or is placed on production. OCS Order No. 12—Gulf of Mexico Area (dated August 13, 1971) (revised February 1, 1975) provides further framework for availability of nonproprietary information and the submission of reports by the lessee.
XIII. *Royalty Oil and Gas:* Section 208, adding new Section 27	30 CFR 225a.1 to 225a.9
XIV. *Limitation on Export:* Section 208, adding new Section 28	Presently, the Export Administration Act provides for procedures as to exporting oil and gas.

Mr. Chairman, a review of this comparison clearly indicates that while an updating of the regulation is required for H.R. 6218 and while a few unregulated and uncontrolled activities are required to be monitored, there are no substantial additional administrative procedures required by H.R. 6218.

Mr. FISH. Mr. Chairman, I yield myself such time as I may consume.

(Mr. FISH asked and was given permission to revise and extend his remarks.)

Mr. FISH. Mr. Chairman, the House of Representatives created the Ad Hoc Select Committee on the Outer Continental Shelf more than a year ago to amend the Outer Continental Shelf Lands Act. H.R. 6218, the only bill the select committee was to consider, was specifically intended to establish a policy for the management of oil and natural gas in the Outer Continental Shelf and to protect the marine and coastal environment. It has proved to be a formidable task, and it is far from being completed. We have a bill, but it is not responsive to the findings set forth in its first title. We have a bill, but it does not implement the purposes set forth in its first title. We have a bill, but our work will only produce a sustained veto unless the bill is extensively amended and then steadfastly defended in conference.

From the start, I have been certain that the Outer Continental Shelf Lands Act of 1953 needed to be amended. I also knew it would be a complex and arduous undertaking. When we finished work on the findings and purposes contained in title I of the bill, I was certain that we could create legislation to accomplish those purposes and which would also become law. My objectives, and those of my minority colleagues, have been and remain true to this conviction. We want to see our work product signed into law. We have charted our own course and offered amendments calculated to give balanced recognition to the legitimate interests of all those concerned. As a result, the minority has had a great deal of influence on the form and substance of this bill.

The majority of the substantive amendments we offered were to title II of the bill, which contains amendments and additions to the Outer Continental Shelf Lands Act. These amendments dealt with definitions; policy, exploration, development and production; bidding systems; leasing programs; annual reports; regional advisory boards; and several other subject areas.

As a result of a minority suggestion, the policy section of the bill was moved from title I to title II so that it would become part of the Outer Continental Shelf Lands Act and have the force and effect of a law. In section 203 of the bill, a minority amendment was adopted which directs the President to settle any outstanding boundary disputes on the OCS. We also obtained the passage of an amendment insuring that State criminal laws applicable on the Outer Continental Shelf become effective there at the same time they do ashore. This will eliminate a double standard which exists under present law.

Amendments of broader impact were offered to sections of the bill dealing with leasing, exploration, development and production of OCS resources. One minority amendment deleted a provision of the bill which would have required the Federal Government to pay half of the exploration costs of the oil industry. This provision would have resulted in a multimillion-dollar subsidy to the oil companies that they could have gambled away in drilling high risk or unnecessary wells. As a result of our amendment this money will continue to flow into the Treasury for the benefit of the people of the United States.

Along these same lines a coalition of concerned members of the select committee adopted a minority amendment striking a provision of the bill which would have put the Federal Government into the oil exploration business. Had the provision of committee print No. 2 not been eliminated, the oil industry would have had no exploration costs whatsoever. They could simply have come in and bought tracts explored at the expense of your constituents and mine—the American taxpayer. Also the only winners of the fierce competition that would ensue for tracts shown to contain oil or gas would be the big oil companies with their resources and ability to withstand short-term losses. The section substituted in its place provides in law that no exploration can be undertaken except under an approved exploration plan and that all information derived from such activities shall be made available to the Secretary of Interior and the affected States.

Perhaps the single most important amendment introduced by the minority was one which established section 26, the Outer Continental Shelf oil and gas information program. Our amendment sets forth in great detail both the scope of information to be made available and the way it will be passed along. Under the amendment, States will, for the first time, receive all the information they need to effectively carry out their constitutional police power functions. No longer will they be frustrated in their efforts to comment on environmental analyses due to lack of facts upon which to base an opinion.

This opening up of the information flow and the general procedures of the Department of the Interior will, we hope, lead to the reestablishment of public confidence in that Department and less need for resort to lawsuits on the part of States.

At the end of the markup process the bill had still not met high expectations I had for it. At that time I resolved to continue my efforts to improve it so that it could, in fact, become law, I opposed the immediate granting of a rule so that members not on the select committee could acquaint themselves with this long and complicated bill and also so that there would be time for further consultations and compromise between members and between the Congress and the administration. Some progress was made on both fronts. The administration even submitted a list of 39 amendments some of which, I am happy to report will be offered next week with bipartisan support. At the same time I have consistently supported the granting of a rule at the proper time. Even when I knew that my course of action was diametrically opposed to that of the administration, I conformed strictly to the course I had previously set. On the day the rule was granted I expressed my support of the rule through both a letter and oral testimony before the Rules Committee.

When debate opens next week on amedments to H.R. 6218, minority Members will continue in our attempts to produce a responsive and reasonable piece of legislation by offering a series of amendments to titles II and III of the bill. After careful analysis of title II as it now stands, we have concluded that the most effective and expedient way to effectuate the many changes needed is to offer a substitute for the entire title. The substitute incorporates all of the sound provisions of the present title plus new sections. It is designed to eliminate unnecessary delays in obtaining resources from the OCS. An exexample of delay is the bill's mandate that a full environmental impact statement be done even in areas where the National Environmental Policy Act has produced a finding that no such costly and time-consuming study is necessary. Nuisance suits possible under the bill would also be eliminated.

The amendment rewriting title II also assures congressional control over the leasing process and regulatory jurisdiction. The present bill does not subject the Secretary of Interior's 5-year leasing plan to any congressional review. Other provisions in the bill are so imprecise and contradictory that they will effectively cede to the Office of Management and Budget the right to choose lead agencies for the development of various classifications of OCS safety regulations.

The adoption of the new title II would insure compliance with the decisions of the Supreme Court which have consistently declared that the Federal Government has exclusive jurisdiction over the resources of the Outer Continental Shelf. There is a solid line of cases in the High Court affirming that the States have no power in the Outer Continental Shelf. There has been no showing that we should attempt to override these decisions and reintroduce the chaos which reigned before the cases were decided.

The new title II will eliminate provisions in the present bill which severely limit the ability of the Secretary of Interior to act in the public interest. For example, the present bill requires that the Secretary of Interior employ experimental bidding systems in the sale of at least 10 percent of the area leased each year.

This could easily force the Secretary to shortchange the U.S. Treasury and to violate a policy of the bill by requiring him to use a bidding form other than one he knows will produce the greatest return for the people. There is no practical way for the Secretary to avoid this illogical and harmful result. I say practical way because the bill does allow him to vary from the prescribed formula but only if both Houses act affirmatively on such a request within 30 days, a virtual impossibility.

In other areas, the present bill does not go far enough in recognizing the legitimate interests and rights of the States. For example, the present title II does not allow the States to comment on the Secretary of Interior's initial draft of the 5-year overall OCS leasing program. My amendment would. In noncoastal affected States, the bill does not take into consideration atmospheric and biological factors in considering what environmental impacts are. By trying to define various types of environments, as is so often the case, the concepts become limited and inflexible. The amendment which would replace the present title II avoids this problem but insures that economic, esthetic, and social factors are also taken into consideration.

Other areas where the minority's title II would correct defects in the present bill include allowing the Secretary of Interior to issue initial leases for a period of up to 10 years under certain circumstances. In frontier areas private capital may not be allocated to exploration activities where technological problems have to be overcome unless the security of the longer initial lease period is available.

I will offer individual amendments on many of these same points should the new title II not be adopted.

Although I still hope to achieve further compromises regarding issues covered in title III, the offshore oil spill pollution fund, I will mention a few of the major problems to be confronted. One of the most important is found in section 322 of the present bill.

Title III of the bill establishes a national system of liability and claims settlement procedures. However, section 322 negates the benefits of having a national system because it fails to preempt the States from establishing their own separate funds to cover the very same types of damages covered under the federal system. The establishment of multiple funds will extend the time for settlement of cases by encouraging jurisdiction shopping. It will also needlessly tie up millions of dollars in duplicate funds where they could be used in nonduplicative ways such as funds for research and development of pollution fighting equipment. Perhaps the worst effect of the duplicative funds would be the added cost of consumer products charged to compensate for multiple contributions by companies to the various funds. A scheme of limited preemption will be proposed as a solution to these problems.

In regard to the bill's provisions of unlimited liability for a discharge of oil, such liability should be limited to discharges arising from the gross negligence or the willful misconduct of the owner, operator, or person in charge. The present bill extends such liability where the gross negligence or willful misconduct of the actions are within the privity and knowledge of one of such parties. I do not remember any testimony before our committee to the effect that an offshore company should be made an absolute insurer stripped of defenses normally available to an employer on shore. The employer of a truckdriver would not be held liable for injury or damages from an accident which occurred while the drive-employee has detoured from his route to go to see his girl friend. If an offshore employee engages in some short of frolic or detour his employer should only be subject to normal agency law tests for liability. An amendment to that effect will be offered to title III.

In conclusion, I want to encourage all Members the next few days to fully acquaint themselves with the issues in dispute in H.R. 6218. I urge you to carefully read the purposes set forth in section 102 of the bill. I believe that amendments to be offered by me and several other minority Members will enable the House to best achieve these purposes. I urge you to join with us in this task.

Mr. MURPHY of New York. Mr. Chairman, I yield 10 minutes to the gentleman from Pennsylvania (Mr. EILBERG).

Mr. EILBERG. Mr. Chairman, I rise in support of H.R. 6218, as reported by the Ad Hoc Select Committee on the Outer Continental Shelf.

The original Outer Continental Shelf Lands Act was the result of a legal and political compromise in 1953.

After President Truman proclaimed the right of this country to all resources off our coasts out to the end of the Continental Shelf, States challenged the Federal claim to these mineral resources. This so-called tidelands controversy led to two laws in 1953—the Submerged Lands Act and the Outer Continental Shelf Lands Act—both considered and reported out by the Judiciary Subcommittee I now chair. With a few exceptions, based on historical claims, States were granted the rights to all resources in the subsoil and seabed of coastal waters up to 3 miles out and the Federal Government the right to such resources from 3 miles out to the edge of the Continental Shelf. The Shelf limits were left undefined, as they still are today.

More than 2 years ago, I became deeply

involved in the problems of, and issues surrounding, the exploration, development and production of offshore oil when the Judiciary Subcommittee which I chair held 4 days of oversight hearings on the Outer Continental Shelf Lands Act, and inspected OCS operations in the Gulf of Mexico. The subcommittee learned of then President Nixon's accelerated leasing program and of the objections of most coastal State governments and most environmentalists to that proposal. We also learned of the need to increase secure domestic sources of energy, to avoid blackmail and price-fixing by foreign countries, and that the Outer Continental Shelf is probably our only remaining substantial source of new domestic oil and gas supplies.

At the end of the 93d Congress and in the very beginning of the 94th Congress, a number of bills amending the OCS Lands Act of 1953 were referred to my subcommittee, and to other committees. I was therefore pleased when I was appointed to the OCS Committee so I could participate fully in the formulation of legislation that will assure the orderly development of oil and gas resources, consistent with the need to protect the coastal and marine environment. I believe H.R. 6218 is a reasonable and successful attempt to balance the various needs and interests and therefore I urge its passage, with certain strengthening amendments.

This updating of the 23-year-old OCS Act is not only important to our Nation so as to provide paced and balanced development of our offshore resources in a safe manner, but is also important particularly to my city, Philadelphia, and its tri-State metropolitan area. At the hearings of the OCS Committee at the historic Second National Bank Building in Philadelphia on July 26, 1975, business and labor leaders indicated that many of the onshore facilities for the construction of rigs and platforms to be used in the frontier OCS areas offshore of New Jersey are expected to be located in the already industrialized sections of Philadelphia, Pa., New Jersey, and Delaware. In addition, the headquarters for the corporations involved in offshore oil and gas development, including the major oil companies and the many smaller oil-related support companies, might be located in the commercial and financial centers such as Philadelphia, rather than the smaller cities and towns adjacent to actual drilling sites.

This OCS-related activity will provide some new jobs for the Philadelphia metropolitan area, up to 50,000 according to former city representative Harry Belinger, and will also require new people to handle specialized jobs.

The Delaware Valley already ranks as the No. 1 refining center on the Atlantic Coast but 70 percent of the oil is imported from the Persian Gulf. Jobs, energy, and development are thus dependent on the whims of Arab leaders.

For these reasons, the Philadelphia area is, of course, interested in the development of the estimated oil and gas reserves off the Atlantic Coast.

Testimony at the Philadelphia hearings also indicated a concern about the possible adverse impact of OCS activities. Labor leaders stressed the need for increased safety regulation, monitoring and enforcement. Citizens wanted assurance that their fishing, boating, and bathing recreational activities at nearby Atlantic Coast resorts would not be damaged. Government leaders highlighted the need for input into OCS planning decisions so as to control impact, and funds to plan, prepare and pay for increased governmental services associated with OCS activity, and resultant new economic and population growth.

For these reasons, the Philadelphia area is also interested in having adequate safeguards so that development of our new energy resources will not lead to accidents and deaths, to damage and destruction of our beaches, or to boom/bust cycles and uncontrolled and unfinanced short- or long-term adverse impacts on public services.

These hopes and concerns expressed in Philadelphia were repeated everywhere the OCS Committee had hearings. The issues and problems are national in scope and local in impact.

Most of my concerns about the proposed development of our offshore resources are addressed in H.R. 6218.

We must assure more competition in the oil industry and protect the small and independent firms in the industry, including the distributors and retailers. I remember during the 1974 oil embargo, my office received numerous calls from independent gas station operators and oil distributors who were being forced out of business by the larger oil companies which were withholding supplies from them.

This bill provides for review of major decisions by the Attorney General and the Federal Trade Commission; provides for royalty oil to go to small refiners; and mandates the use of new bidding systems so as to increase participation by smaller companies.

I am cosponsoring two amendments to strengthen provisions for Attorney General review and to increase the required use of new systems.

The provisions of H.R. 6218, with these amendments, will go a long way to promoting competition.

We must assure our Nation that development of our resources will provide energy over the longest period of time at the lowest possible cost; and that we know what and where our resources are.

This bill requires a leasing program to be prepared describing the timing, location, and size of areas to be leased for 5-year periods; mandates seeking qualified applicants to conduct prelease stratigraphic drilling in areas of high resource probability; and requires information to be compiled as to the extent of our resources.

These provisions are essential if we are to provide for orderly and intelligent exploration and development.

We must insure that OCS activities be conducted so as to minimize environmental damage and, if necessary, compensate for any damages.

This bill authorizes suspensions and cancellations if necessary for environmental reasons; requires studies to be undertaken to allow monitoring and prediction of possible adverse environmental impact; requires exploration plans and development and production plans to be submitted and reviewed, and, if necessary, modified or disapproved, so as to ensure environmental safety; and establishes an oil spill fund to provide prompt cleanup of spills and prompt compensation for pollution damage.

These provisions are long overdue so as to allow prompt, yet safe, development.

We must insure that all OCS activities are strictly controlled and monitored so as to insure safe operations.

This bill requires a new set of safety regulations to be prepared jointly by agencies with the most expertise; mandates surprise inspections of rigs and platforms; demands use of the best available and safest technology; and provides for increased penalties and new remedies for violation of safety standards.

These provisions are essential to insure that our workers are protected.

We must guarantee our States and local communities that their recommendations will be sought and followed and that any adverse impact be compensated.

H.R. 6218 provides for constant and continuous input by State and local officials; requires that their recommendations be accepted unless good reasons are given; and provides adequate funds to prepare and pay for impacts.

I am especially pleased that H.R. 6218 has adapted the funding provisions of the Coastal Zone Management Act Amendments of 1976 (H.R. 3981) recently passed by the House and now in conference.

As a result of numerous meetings by members of my staff with the administrators of the Coastal Zone Management Program in the Department of Commerce, the Philadelphia area has now been declared within the coastal zone for the purposes of offshore oil activity. Thus, if the legislation presently in conference, and now included in this bill, authorizing direct grants and payments to States for any impacts from offshore oil development, is enacted, the Philadelphia area would be eligible to receive substantial sums as a result of any offshore oil activity.

Mr. Chairman, H.R. 6218 is a successful attempt by a conscientious special committee to resolve the many conflicts and issues involved in offshore activity. I urge its passage.

Mr. FISH. Mr. Chairman, I yield such time as he may consume to the gentleman from New Jersey (Mr. FORSYTHE).

Mr. FORSYTHE. Mr. Chairman, I thank the ranking Member for yielding to me.

Mr. Chairman, I strongly endorse the comments of my esteemed colleague from New York in discussing the involvement of the minority members of the Select Committee on the Outer Continental Shelf in attempting to produce a workable piece of legislation. We have come a long way in that attempt, but as the distinguished ranking minority member has already indicated, we have much work that remains to be done.

The resources of the Outer Continental Shelf are a national asset which our national priorities demand must be developed. As a Representative of a congressional district which includes part of the New Jersey coastline, however, I have unbendingly demanded that such a national resource be developed in a manner consistent with protection of our environment and in harmony as far as possible with State and local priorities.

Accordingly, early in this Congress, before the formation of the ad hoc committee, I introduced a package of legislation which attempted to achieve this balance between development and protection. As the work of the select committee proceeded, closer experience with the issues involved led me to modify some of my early conclusions, but this experience greatly strengthened my conviction that rational legislation could indeed achieve that needed balance.

Unfortunately, the present form of H.R. 6218 falls short of that goal.

In spite of the bill's present problems, however, I strongly supported the successful effort to bring it to the floor rather than kill it in Rules Committee, because I feel our national interests require a rational policy for the development of the OCS. The present bill is not that rational policy, but I hope floor action will incorporate the changes necessary to make it so.

This legislation is important to our country. It can be improved and it can be an effective mechanism for the development of our resources.

Rather than attempting to deal with the entire bill, let me focus on several specific areas which are of special concern to me at the moment.

Specifically, the bill presently contains authority for the Secretary of the Interior to require special production rates during times of emergency shortages of oil and gas. Such emergency rates would be disastrous in terms of ultimate production of the resource. But even granting the need for emergency production, the authority granted here to the Secretary has been already reserved to the President by the new energy policy and conservation law passed last session. This overlapping jurisdiction should be eliminated.

Another area of concern to me are provisions in the bill which discourage the participation of small competitors in the development of the OCS, in spite of the bill's avowed purpose of preserving and maintaining free enterprise competition. The committee bill would force small companies to compete for 1 percent shares of so-called Phillips plan leases on the same basis as the majors by banning joint bids, except where the Secretary makes a specific finding as to their necessity. The small companies should be allowed to joint bid under this system in the same manner as under the other systems, so that they can compete on an equal footing with the industry giants.

Still another major problem area is the bill's present mandate for on-structure stratigraphic drilling. The committee wisely eliminated Federal exploration during markup, but unfortunately never quite faced the implications of still requiring such on-structure testing. Such drilling would inevitably bring pressure to undertake incredibly expensive follow-up exploration if oil is found, and would be worthless if oil is not found, since one test may not be an accurate indication of the true potential of the structure.

Finally, as the major author of the present section providing a comprehensive program giving information to the States, I feel that changes still are needed to assure the free flow of information needed by the States while at the same time protecting the confidentiality of that information where necessary. The present language of the proposal provides some difficulties which need to be resolved.

I hope these specific major problems which I have outlined, as well as the numerous other problems discussed by my colleagues, can be solved during our work here today to produce the effective vehicle for the management of the OCS so vital to our national interests.

Mr. MURPHY of New York. Mr. Chairman, I yield 10 minutes to the gentleman from New Jersey (Mr. HUGHES.)

Mr. HUGHES. Mr. Chairman, first of all, I want to compliment the chairman of the ad hoc select committee on which I serve for the manner in which he has chaired this special committee. I want to thank him personally for the many courtesies extended to me during the hearings. There were many times when I took more time than I was allotted. My chairman knows that probably no other area of the country is going to be affected any more than my area, the Second Congressional District of New Jersey. I have in my district at the present time three nuclear powerplants, two in the planning stage, two offshore nuclear facilities which are proposed within 3 miles of Atlantic City, and now, with the prospect of the development of the Outer Continental Shelf, obviously, we have a great deal at stake. More importantly we have made and continue to make our contribution to the national energy effort—and we have every right to insist upon basic protections for New Jersey.

Mr. Chairman, I rise in strong support of the legislation before the House. I want to stress to my colleagues the importance of the legislation we have before us today to amend the 1953 Outer Continental Shelf Lands Act.

It is clear we can no longer continue doing business as usual in the way we lease our offshore lands for oil and gas development.

The accelerated leasing program of the Department of the Interior will soon be bringing offshore oil operations to many areas that have never before experienced OCS development. In the near future, many millions of new offshore acres will be leased in frontier areas, such as off the coast of New Jersey, Delaware, and Maryland. Lease sales have also been scheduled for the New England coast and the southern Atlantic coast from South Carolina to Florida. The coasts of Alaska, California, Oregon, and Washington are also scheduled for OCS development very shortly.

We must not repeat the mistakes of the past in these new areas. We have come a long way since offshore oil development began in the Gulf of Mexico many years ago, and we can benefit immeasurably from our past mistakes and our past experiences. We must now adapt the 1953 OCS Lands Act to deal with the new areas and the new problems.

We all recognize that the need to find new energy reserves is a matter of great national importance if we are to continue to build the economy, provide jobs, and maintain the quality of life in America. But we must also recognize we could bring about the exact opposite result if we rush headlong into an accelerated leasing program without adequate safeguards.

The catastrophic 1969 Santa Barbara oil spill graphically demonstrated in my judgment the damage which offshore oil development could bring to the recreational and coastal resources of California and other areas. My home district in New Jersey, which is one of the areas that will soon be opened to offshore oil development, has a multibillion dollar tourist economy based on its sandy beaches and resort areas along the coast. My people are concerned naturally about what would happen to them, to their homes, to their jobs, and to their way of life if there was ever a spill there like the one that occurred at Santa Barbara, or if low-level, chronic pollution is not minimized or if we do not make provision in legislation for adequate planning and orderly development. The final impact statement on the mid-Atlantic lease sale indicates that oil spills are inevitable, and that some of them will reach our beaches.

The legislation we have before us today, H.R. 6218, provides us with some of the protection we need against oil spills. It requires offshore producers to use the best and the safest technology to prevent and contain spills. It establishes an unlimited oil spill liability fund which would pay for all damages and pay cleanup costs arising out of an oil spill, without regard to fault. It fixes responsibility for damages and provides procedures for cleanup operations. We do not have those provisions at the present time.

The legislation addresses many other important concerns as well, such as how we deal with the adverse effects of new and uncontrolled industrial development in frontier areas related to OCS energy operations. It undertakes a modest program to try new bidding systems to secure a fair return for the sale of our offshore resources and to bring new firms into the bidding and leasing efforts of the Federal Government. It also gives coastal States and regions some voice in the important decisions relating to offshore lease and development.

This legislation has been the subject of wild and irresponsible criticisms by groups which have an enormous vested interest in preventing needed reforms. We are talking about as much as 400 billion to 600 billion barrels of oil in addition to trillions of cubic feet of natural gas, and we could be talking in terms of between $4 and $6 trillion in terms of the fair value of oil and gas resources—perhaps more.

Mr. Chairman, it has been said that this legislation will lead to Federal exploration and a post office-like Federal oil company. It has been charged this legislation provides an absolute veto power over OCS lease sales by the States, and that the Federal Government will be drilling the first well on each lease. It has also been charged that the legislation will lead to extensive delays in offshore oil development and a bureaucratic nightmare. None of these statements are true.

There is no provision in H.R. 6218 for Federal exploration other than what was carried over from the 1953 Act.

The Secretary of the Interior has had the authority for the past 23 years to conduct Federal exploration under section 11 of the OCS Lands Act of 1953. This authority is discretionary with the Secretary, and H.R. 6218 retains the same discretionary authority. A provision to require Federal exploration was considered and rejected by the committee.

Nor is there any provision in the bill which could even be remotely construed as creating a Federal oil company. The legislation does not require the Federal Government to drill the first well on each lease, as has been suggested. If it did, I would support an amendment that would strike that provision from the bill. The legislation does contain a provision authorizing a limited program of exploration prior to leasing, but it is to be conducted by private industry on a strictly voluntary basis and without cost to the Federal Government.

Mr. Chairman, at the present time the Department of Interior does grant leases to oil companies to conduct stratigraphic tests, if you will, types of tests into areas that we call off-structure where we know there probably is not any oil or gas. This is just an extension of that concept.

Nor does the legislation contain a provision for an absolute State veto of the power over leasing. This issue was intensely debated in committee.

The legislation provides that the Secretary of the Interior must abide by the recommendations of a State Governor or a regional advisory board unless he finds it is not in the national interest to do so. In other words, it is the Secretary of the Interior who can veto a State's recommendations rather than the other way around.

As for the issue of delays, I can only refer to the great delays which have already occurred because of lawsuits and administrative actions mounted by frustrated State officials to block offshore leasing, mainly because they were never consulted on important decisions before the lease sale took place.

Mr. Chairman, the procedures specified in H.R. 6218 will not delay the OCS development—they will accelerate it. It provides a procedure or a mechanism for the planning and orderly development of the OCS by bringing States and regional advisory boards into the decisionmaking process so that we can avoid lengthy litigation and assure that due consideration is given to State governments and the citizens they represent.

Mr. Chairman, the Select Committee on the Outer Continental Shelf has traveled thousands of miles and heard literally volumes of testimony to get the answers to these important problems. We have heard experts from every field and have drawn upon the advice of industry, Government, and concerned citizens in an effort to develop legislation which will help us deal with the problem of OCS development.

Unfortunately, the issue of offshore oil development has too often been cast in terms of "drill or "don't drill." It is not that simple.

Mr. Chairman, I believe that H.R. 6218 represents a way to develop our offshore oil and gas resources expeditiously for the benefit of the entire Nation, while finally providing important safeguards to the coastal areas which will be bearing the burdens of OCS development.

I urge my colleagues to approve this legislation and to reject any amendments which would destroy the efforts of the OCS committee to provide the reforms and safeguards which are in the interest of the Nation.

Mr. Chairman, I want to say to my colleagues who criticized this legislation, who stood in this well and have indicated, as they fought the rule, and made it clear that they will fight to destroy the legislation, that I only wish they could share some of the frustrations we have in South Jersey—share some of our hopes and dreams for our beautiful part of the country—and finally our need for protection to preserve our way of life.

I think what it boils down to, Mr. Chairman, is the question of whether we can continue to do business as we always have in this country.

We know that these oil and gas reserves are the last major reserves belonging to this country. I think what this legislation offers is a manner in which we can proceed on an orderly, planned basis.

Mr. Chairman, one of the things that is disturbing to me is the fact that in the very short time I have been here. I have come to realize the power that the special interest groups have in Washington—particularly at the Department of the Interior.

The CHAIRMAN. The time of the gentleman from New Jersey (Mr. Hughes) has expired.

Mr. MURPHY of New York. Mr. Chairman, I yield 5 additional minutes to the gentleman from New Jersey (Mr. Hughes).

Mr. HUGHES. To continue, Mr. Chairman, the legislation itself reeks with a basic distrust of the policies of the Department of the Interior. One of the reasons for the detail in this legislation is because there is a recognition of the Department's unwillingness to add balance and innovation to the lease policies.

One might as well be talking with the president of Exxon when you talk with some of the policymakers at Interior. They do not want to try anything new.

The one reason we have a 10-percent provision in here to try new bidding procedures is because the Secretary of the Interior has the authority to do a lot of things that he does not do, so we have to mandate it. He refuses to try new things.

Mr. Chairman, I listened to the remarks of the gentleman from New Jersey (Mr. Forsythe), and they disturbed me immensely because I have great regard and respect for my colleague.

Mr. Chairman, the prelease test that is proposed in the legislation is not the first step toward the suggestion that it is the first Federal exploration is utter nonsense.

I am going to stand in this well and fight any effort to move us in the direction of Federal exploration as part of H.R. 6218.

The program for prelease exploration directs the Secretary of the Interior to offer "on structure" test permits once in each frontier area to private industry.

He has granted permits in "off structure" areas. Recently a permit was granted to a consortium to sink a test well in the mid-Atlantic at a cost of $9 million. The test could just as easily have been conducted in an area where we believe oil and gas exist.

We say to the Secretary of the Interior, "Mr. Secretary, why don't you try offering permits to the oil industry to sink those wells where we think oil and gas exist?"

Does that not make sense? It does to me.

One of the things that proved an embarrassment to the Department of the Interior and other industry officials was when I questioned them about stratigraphic tests. They snickered and they laughed. But they could not answer the hard question of why—"why don't you fellows first of all ask the Secretary of the Interior for permits to sink those test wells into areas where we know there is oil and gas?"

Is that not going to accelerate the leasing? Is that not going to tell us a little more about what we have before we sell it? I think it most definitely will. No, instead of that, we have to play a game of blind man's bluff—an expensive game that plays right into the hands of the major oil companies.

I have a great deal of respect for the major oil companies. I happen not to be one of the people that believe we have got to tear the major oil companies apart because they are big. I do not think bigness is necessarily bad. I think we have to look at some of the anticompetitive practices but I also think that the independent companies—those companies that have developed something like 80 to 85 percent of the oil and gas reserves in this country should have a shot at the frontier oil. So when we talk about locking up—and that is what we are doing by the present bonus bid system—offshore oil for the major oil companies—then we are making a mistake. We are making a mistake that we will regret. It is time that we changed our way of doing business in this country. If Congress is the policymaker, if we are the ones to manage the resources, then we have to make the decisions, not the Department of the Interior. That is what this is all about to me.

Mr. LEVITAS. Mr. Chairman, would the gentleman yield?

Mr. HUGHES. I yield to the gentleman from Georgia.

Mr. LEVITAS. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I wish that more Members were present so that they could have heard the remarks that have been made by the gentleman from New Jersey (Mr. HUGHES). I regret that with such an important bill before the House that there are not more Members to listen to the explanation the gentleman from New Jersey has made.

Mr. Chairman, I have one or two questions that were called to my attention by various interested groups. I think the gentleman from New Jersey was trying to address himself to them in part of his remarks. There has been a great deal of consideration brought to my attention about the geographical imperfections and the imprecision of using what they call on-structure rather than off-structure drilling. I am told that this legislation requires on-structured test drilling.

Mr. HUGHES. It does not.

Mr. LEVITAS. Would the gentleman explain what the bill does in that regard and the difference between the two?

Mr. HUGHES. Let me tell the gentleman from Georgia what the legislation says. It was my amendment that put prelease permits into the legislation. The amendment merely says to the Secretary of the Interior that once, in each frontier area, we want you to offer permits, to private companies enabling them to sink test wells into where they think oil and gas exist. I believe that such a program will enable us to learn a lot more about these structures before we part with title—will enable us to get a fairer return for our oil and gas resources—and be in a better position to plan and husband the development of the resources on the OCS.

Naturally, the major oil producers like the present system—they do not want the Department of the Interior to know too much about the structures before they buy the leases. And of course the majors are opposed to any system that is going to increase competition.

The CHAIRMAN. The time of the gentleman has again expired.

Mr. FISH. Mr. Chairman, I yield such time as he may consume to the gentleman from New York (Mr. CONABLE).

Mr. CONABLE. Mr. Chairman, although this is a vastly interesting piece of legislation, I would like to limit my remarks today anyway to the proposed Murphy amendment which would require all equipment used in exploration, development, or production of sea bed resources to be of, first, U.S. origin; second, owned and operated and manned by U.S. citizens; and, third, documented under U.S. laws.

I am very much concerned about the implications of this amendment. As a member of the Trade Subcommittee of the Committee on Ways and Means, I and several of my colleagues from that subcommittee will discuss this in the course of the amendment process.

I urge my colleagues to give most careful thought to the consequences of this amendment. It could have a broadly damaging impact on our economy and on our efforts to achieve energy independence, and on our relationships with our friends around the world.

In the first place, the amendment really is not necessary if the aim is to protect American jobs and enterprise. This country is preeminent in the production and exportation of machinery and equipment used in oil exploration and drilling. We dominate the field. We make all but about 10 percent of every piece of oil drilling equipment used throughout the world today.

Because of our dominant position, we should take special note that this amendment runs counter to the language of article II, paragraph 4 of the General Agreements on Tariffs and Trade—GATT—which states in part:

> The products of the territory of any contracting party imported into the territory of any other contracting party shall be accorded treatment no less favorable than that accorded to like products of natural origin in respect of all laws, regulations and requirements affecting their internal sale, offering for sale, purchase, transportation, distribution or use.

A violation of GATT would allow every other nation to retaliate, thus placing in jeopardy our entire range of exports—not just oil rigs, but aerospace items, agricultural products, and a multitude of manufactured goods which account for more than $108 billion worth of income and jobs in the United States today.

There already has been strong pressure, within the United Kingdom, for the development of purchasing procedures in the United Kingdom sector of the North Sea, a big market for oil rigs, which would be more favorable to British interests. The United States has objected to this—and quite properly—and the United Kingdom Offshore Operations Association has agreed to provide British firms only with a "full and fair" opportunity to compete in that country's offshore market. But if the "Buy British" effort were to succeed—and the amendment before us clearly would enhance that prospect—it has been estimated the British share of that market could increase from its present level of between 40 and 50 percent to as much as 70 percent. In that situation the United States—as a major supplier of offshore extractive equipment and technology—would be the largest loser.

The amendment under discussion also could undermine our international energy policy. The United States has been a leader among the industrialized countries in establishing an overall framework for energy cooperation through the International Energy Agency. This 18-nation organization has adopted a program of long-term cooperation in conservation and the development of new energy resources to reduce our dependence on OPEC oil. An integral part of this program is a commitment by each participating state to do the best it can to avoid new legislation which would prevent other participants from receiving national treatment in the energy area.

This amendment to H.R. 6218 is diametrically opposed to the spirit of that commitment, and would put the United States in a poor position to continue any kind of leadership role among the oil-consuming nations.

Finally, Mr. Chairman, this amendment would strike at the heart of United States efforts in the ongoing multilateral trade negotiations—in which my colleagues and I on the Ways and Means Committee have a particular and abiding concern.

We are engaged in an extremely difficult undertaking in these negotiations. We are attempting to persuade our trading partners to be more liberal toward U.S. competition, and we do compete around the globe. We are especially interested in expansion of their government procedure markets.

U.S. procurement procedures are set forth in laws and regulations, including specified margins of preference. Not so with other major trading countries, whose preferences are expressed largely in the form of internal, unpublished instructions, or administrative procedures. Because of this important difference between our policies and those of our trading partners, the United States has led the way toward development of a world code on government procurement. We have been working for more transparent practices and an open-door policy with respect to competition in sales to governments.

In the multilateral trade negotiations in Geneva, we have placed strong emphasis on the importance of including such a code in the final agreements reached. For us to adopt now the same sort of restriction that we have been asking our trading partners to abandon would—at the very least—compromise and jeopardize our efforts to open markets for other American goods.

Mr. Chairman, this amendment is a double-edged sword of international policy. It cuts both ways, and in this case, I fear, our own wounds would be much deeper.

Mr. FISH. Mr. Chairman, I wish to concur with and compliment the gentleman from New York (Mr. CONABLE) on his perceptive remarks in opposition to the proposed amendment to restrict OCS activity to U.S. equipment and crews.

Not only does this amendment conflict with U.S. policy to seek elimination of non-tariff barriers to international trade, but it invites reprisals which would be extremely costly in terms of U.S. exports and jobs.

At this moment, hundreds of U.S. built mobile rigs are active in foreign waters. These were built by Americans, and in many cases are manned by Americans. This country enjoys a significant competitive edge in the field, and estimates of the U.S. share of the market run as high as 75 percent. U.S. imports of this equipment are minimal.

Since this amendment would contravene article 11 of the general agreement on tariffs and trade, all U.S. exports would be subject to retaliation. This will severely damage our balance of payments and cost many thousands of American jobs.

The adoption of this sort of amendment could lead to the destruction of the 18-nation International Energy Agency, established to counter the threat of another oil embargo and high OPEC prices. All parties to the IEA pledged to avoid internal barriers to energy cooperation. This amendment would destroy American credibility and erode our leadership among the consuming countries.

By employing jingoistic phrases, such as "Buy American" and "Buy and Employ Domestically" the proponents of this amendment will attempt to convince the Members that this will help industry and create jobs. The opposite is the case, the amendment will lead other countries to stop buying American, to the detriment of our economy and thousands of American jobs. It does nothing for industry and nothing for the workingman, except knife them in the back.

This sort of provision comes under the jurisdiction of several standing committees of the House, but not the ad hoc select committee. No one has held hearings on it. It is opposed by both the Department of State and the special representative for trade negotiations.

It is not germane to either the original bill or the committee amendment. I believe a point of order will lie against its consideration. If not, it should be soundly rejected on its merits, or rather its lack of merits.

Mr. MURPHY of New York. Mr. Chairman, I yield 5 minutes to our colleague, the gentleman from Louisiana (Mr. BREAUX).

Mr. BREAUX. Mr. Chairman, I take this time in a somewhat disappointed attitude, being that, as in so many cases, during general debate, the only people we have here on the floor are those people who have been participating in the hearings in the last year or so and discussing the bill and trying to mark up a complicated piece of legislation.

I do not intend to sound like a broken record here by going over everything I have been saying for a year, but I do think it is important that some observations be made for the RECORD. I start by saying I think this committee is an example of the Congress finally coming out of the dark ages in one respect. I say that because when we first started talking about the concept of oil and gas leasing in development of major committees in the Congress who had some major claim to make who was going to handle this matter. I think if it had not been for the new rules we would have spent last year fighting about which committee was going to do what about the Outer Continental Shelf. Instead, as a result of some reform measures in this body the chairman of the three committees involved—the Committee on the Interior, the Committee on the Judiciary, and the Committee on Merchant Marine and Fisheries, were able to come together to form a special Select Committee on the Outer Continental Shelf and to give that select committee the responsibility and the duty of looking at the problem and coming up with a piece of legislation.

I would like in that sense to commend the chairmen of the three committees involved and particularly the gentleman from New York, Chairman MURPHY, who took over the responsibility as chairman of this special committee. I think it was his initiative that led to the creation of a special select committee and today he brings the legislation to the floor.

Also, I want to point out some of my concerns. In 1973 when we thought in this country that we had a really bad problem as far as energy was concerned, and in fact this country and its citizens were brought to their knees as a result of a lack of energy and we had long lines in service stations, we were importing approximately one-third of all the oil and gas we were using in America.

Today the situation is much worse. Thus far in 1976, during some months, we were importing over 50 percent of the oil and gas we were using. I think this is a completely intolerable situation and one that is not going to be acceptable.

If the Middle East and the oil-producing States just turned the valve slightly today they could literally bring this country to its knees again, unemployment would rise and, I daresay, we would have an inflationary situation which this country would have great difficulty in overcoming.

When I became a member of this committee I realized it was charged with overseeing and reviewing perhaps what we were doing, in an effort to produce additional oil and gas and to determine whether that situation was working and how we could, in an environmentally safe manner, try to encourage additional oil production.

I am afraid if we look at all the additional requirements in the bill we will have to come to the conclusion that it would have been better for the committee to have reviewed the situation and not make the major changes that are being proposed in this bill.

I say that in all fairness to the staff and all the Members who have worked very hard over a period of a year having hearings throughout the United States and even in some areas of the foreign oil and gas production.

I have some concerns and I will not get into them in great detail today, because I will save them for our arguments under the 5-minute rule, but I would like to list them.

I would suggest one section of concern is the one which provides that leases can be for only 5 years. We all know there are many areas, particularly new frontier areas, where much longer periods of time will be required for development to be completed. We have options to extend that lease period, but I am very concerned that a company, and particularly the smaller companies, will have difficulty because they will only have a lease for 5 years and the fact that they might not be able to complete that operation in 5 years is not going to enable them to risk their capital and money necessary to participate in that program.

Mr. MURPHY of New York. Mr. Chairman, will the gentleman yield?

Mr. BREAUX. I yield to the gentleman from New York, the chairman of the committee.

Mr. MURPHY of New York. Mr. Chairman, I think the provision in the legislation clearly states that initiation of the lease must begin within 5 years. It does not say anything about production beginning in 5 years.

There is also provision for 5-year extensions. That was the way the committee approved the problem and the gentleman just attempted to answer it.

Mr. BREAUX. I would say the gentleman is correct.

The CHAIRMAN. The time of the gentleman from Louisiana (Mr. BREAUX) has expired.

Mr. MURPHY of New York. Mr. Chairman, I yield to the gentleman from Louisiana 5 additional minutes.

Mr. BREAUX. Mr. Chairman, the point is that we have only an option to renew the lease and the company may look at that as maybe so and maybe not, as far as having a lease is concerned, and they will not venture capital necessarily.

We also have a section in the bill that mandates the Secretary to experiment with different types of lease options in leasing the offshore areas and, indeed, areas that we are already leasing. I am all for experimenting, because the ultimate goal should be a fair return to the American public, because the American public owns those lands off shore and they have a right to a fair return.

I would encourage the Secretary to experiment as, indeed, he has done and is doing right now; but to mandate that he experiment with totally unknown and untried methods is unworkable and in certain areas is doing damage. To require someone to experiment or require them to lease under a system when we do not know whether it will work is not wise.

Mr. YOUNG of Alaska. Mr. Chairman, will the gentleman yield?

Mr. BREAUX. I yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. Mr. Chairman, I think it should be brought out that the $19 billion that the oil companies have spent on offshore development, we have received over $18 billion of those dollars and a fair return has been achieved. This should be brought out.

The idea that the new leasing systems will be a big windfall for the taxpayers is not proper. To say we have not received the proper amount of money from the present leasing system is not correct.

Mr. BREAUX. Mr. Chairman, the gentleman from Alaska has made a good point. The idea that the great big oil companies have ripped off the American public just is not so.

Now, I am not going to talk about anything that I do not know anything about; but I have learned a little bit about what has happened in offshore areas. The companies are not now showing a profit for their efforts in the OCS. They are still operating at a loss. Somebody says, "Oh, you've got to be kidding. They are not operating at a loss." But the fact is they are. They hope to make a profit and make enough profit to justify their being there; but after 28 years of operating in offshore gas areas they have not shown a profit.

Mr. HUGHES. Mr. Chairman, will the gentleman yield?

Mr. BREAUX. I yield to the gentleman from New Jersey.

Mr. HUGHES. Mr. Chairman, if I have heard that figure, $19 billion, once, I have heard it a billion times; but the thing is, we can never find out from the oil companies how much in-place oil exists in those leases, which represents assets in the bank. The Library of Congress study that I was able to get indicates there is as much as $100 billion. That is the other side of the coin.

The other question raised by the gentleman from Alaska is that the same oil companies that cry about having to put out $18 billion or $19 billion do not want to change the bonus bid system that takes that front end giveaway. They cannot have it both ways.

Mr. BREAUX. Mr. Chairman, I thank the gentleman for those kind comments, but to get back to my time, I would like to make this point. I come from an oil area that has been producing oil offshore for about 28 years. I would like to say to those Members that will read this some day in the CONGRESSIONAL RECORD that my observations, the committee's observations, and the Library of Congress observations clearly indicate that, after 28 years the operation in the Gulf of Mexico, we have done a pretty good job, and that is an underestimate, a real good job of producing oil and gas and, at the same time, protecting the environment. Those studies have been presented to the committee from a GSRI consortium of universities operating out of the gulf, which indicate clearly oil and gas production has been done without any environmental damage to our area. I think that is very important in the new frontier areas where people are so afraid they might be damaged environmentally.

I would like to point out when we consider where oil specifically comes from, the American public should look at what the findings are, rather than what the gas-use stories might be. The facts are that surveys have shown that some 35 percent of the oil pollution in the oceans of this country come from tankers spillage when they are transferring imported oil from other countries to save some of our shorelines.

In addition, the study has shown that another 30 percent or so comes from industrial runoff—the crankcase-type operations. Less than 3 percent comes from offshore oil and gas operation. So, I say to my colleagues—and indeed to the American public—that one thing they have to understand is that this is not a dangerous operation. It is by far much, much safer than importing foreign oil with the environmental risk that lies with that.

Mr. FISH. Mr. Chairman, at this time I yield such time as he may consume to the distinguished gentleman from Delaware (Mr. DU PONT.)

Mrs. BURKE of California. Mr. Chairman, will the gentleman yield?

Mr. DU PONT. I yield to the gentlewoman from California.

Mrs. BURKE of California. Mr. Chairman, I rise in support of H.R. 6218, which amends the Outer Continental Shelf Lands Act. My support for this legislation stems from my conviction of the need to establish lease priorities consistent with environmental conditions and the regional demand for oil and natural gas. In this connection, it is imperative that we seek to establish some pattern to our development of new energy resources. I feel this legislation affords us an opportunity to do this in a number of ways.

The new provisions of section 18(c) providing for submission of a leasing program are vital because they promise to alter the pattern of secrecy which has hitherto attended the formation of leasing plans by the Interior Department. Together with the section 23(c) provisions for comment and judicial review, these requirements enable state and local governments to participate in a process which will have a direct effect on the people of this Nation.

Given the wide differences among the regions of this Nation which will bear the burden of OCS development, it is a necessary prerequisite to have maximum State and local input into the process. In the southern California basins, for example, any OCS leasing plans will have to take into account factors which operate nowhere else in the United States. We in California have been told of the bulge in the San Andreas fault, which will have to be considered in any offshore oil development plan. This problem, however, does not face other frontier areas like the Atlantic shelf. Furthermore, it is likely that, following completion of the Alaskan oil pipeline, the need for west coast production of oil will decrease. We may even find ourselves with a surplus.

In addition, any leasing program poses the problem of possible socioeconomic disruption in coastal States which are unable to provide ancillary support facilities such as roads, schools, housing, et cetera, for offshore development. Data on land use, growth patterns, and other socioeconomic problems in the coastal zone associated with offshore petroleum development should be collected and analyzed in order to facilitate decisionmaking prior to OCS development in a given area. States and local communities are supremely competent to shoulder this burden.

In conjunction with these environmental and socioeconomic problems, the state of the art and the technology of offshore development must be weighed. Many biology experts have claimed that there is a deficiency in data relating to the impact of Outer Continental Shelf oil and gas development on ocean and coastal zone ecosystems and even concerning marine biology systems themselves. It is my understanding that more detailed field investigations are needed on the effects of chronic pollution on marine ecosystems, the retention of petroleum hydrocarbons in marine organisms, the threat of oil pollution to human health, as well as additional baseline studies on the marine ecosystems in general.

By requiring the participation of State and local communities in the leasing process, this legislation provides for the formation of a rational pattern of offshore development consonant with the needs and concerns of the people. It allows for cautious development of our offshore resources in those frontier areas where many vital questions concerning environmental and economic hazards remain unanswered.

Besides providing for participation by State and local communities, however, it is imperative that any legislation of this kind maximize competition for OCS leases to insure that small, as well as large, firms be able to participate. While the reported bill mandates use of seven alternative bidding systems, the mandate encompasses only 10 percent of the lease offerings.

I feel it would be highly desirable to increase the percentage to 33⅓. The traditional front end bonus system has had the practical effect of encouraging large firms and all but blocking participation by smaller firms. The enormous amounts of money required to secure a lease under the front end bonus system have produced a situation where small firms which participate at all are forced into the position of junior partner to a major company. Not only is this anticompetitive, but it produces the speculation which has traditionally been associated with OCS leasing. Alternative systems which allow for substantial payments to be made to the Government only after resources are actually produced will substantially reduce this kind of speculation.

By requiring the use of alternative bidding systems, we will force the Interior Department to decrease its reliance on the bonus bid system. The fact that the Secretary has had discretion to use alternative systems in the past has not altered the Department's overwhelming reliance on this one system. This is particularly ironic in view of the fact that alternative systems such as the fixed bonus plan, the net profit share, and the Phillips plan have been shown to be much more profitable.

The valuable resources on the Outer Continental Shelf of the United States are decidedly the common heritage of the American people. It is therefore of the utmost importance that the public and the Federal Government be made aware of the true value of these resources. Use of alternative bidding system is a significant step in this direction. For these reasons, I will support the Miller amendment to this bill when it is offered next week.

Considering that one of the reasons for expanding the available number of bidding systems is the anticompetitive nature of the bonus bid system, it is desirable in my view that we seek to insure that no other section of this bill results in violation of the antitrust laws. The present bill permits leases to be granted even if the Attorney General and the FTC find an antitrust violation. For this reason, I will also support an amendment to be offered by Mr. DODD to require the Secretary of the Interior to hold a hearing if a determination is made that a proposed lease or lease extension would be violative of the antitrust laws.

Title III of the bill sets forth another vital necessity in the offshore development process and that is the fixing of liability for cleanup costs and damages in the event of an oil spill. We all remember too well the tragedy that occurred in the Santa Barbara Channel in 1969. Another such spill could prove disastrous for southern California or, for that matter, for any coastal area. Even though oil drilling technology has become highly specialized and new safety measures have been instituted to guard against offshore development hazards, we must nevertheless take every precaution to insure that our coastal lands are protected from the environmental hazards associated with offshore drilling. We in California have a lucrative and viable fishing industry which must be protected. In addition, any adverse environmental impacts from offshore development would have grave consequences for our shorelines and our vital tourist-dependent businesses.

I am therefore pleased that title III provides for owner liability for all cleanup costs resulting from oil spills, as well as for the first $35 million in damages, without regard to fault. Any damages or cleanup costs not paid by the spiller will be paid by an offshore oil pollution fund maintained at a level of between $100 and $200 million through a 3-cents-per-barrel surcharge on oil produced from the Outer Continental Shelf. Any damages exceeding this level would be paid through the fund's borrowing from the U.S. Treasury up to $500 million.

These provisions serve a twofold purpose. On the one hand, they insure that oil companies shoulder the burden for the consequences of their acts. Just as important, however, is the fact that fixing such liability acts as a deterrent to oil spills. These provisions will encourage maximum caution and study by oil companies to insure that the price will not have to be paid.

Reinforcing this liability are the penalty provisions which provide a civil penalty of up to $10,000 per day and a criminal penalty of $100,000 or imprisonment for not more than 10 years, or both. I support these provisions because of the need for strong deterrents to prevent repetition of the Santa Barbara disaster. I also expect and hope that the Secretary will take the powers given him under this legislation and strictly enforce these liability provisions.

While supporting this legislation as a viable solution to the need for OCS development, I must also point out the need to recognize that development of our oil resources is only one prong in our overall energy policy. We cannot afford to overlook the dangers of an overdependence on oil and other nonrenewable resources. I feel that the Federal Government should continue to study and develop the various energy source alternatives which are feasible today. There is still much room for research in the areas of solar, geothermal, and nuclear energy source possibilities. These and other alternatives can serve to alleviate the problems associated with Outer Continental Shelf development and relieve the severe burden being placed on our coastal communities, the marine ecosystem, the petroleum industry, and the Government in trying to develop this resource rapidly.

Much apprehension exists today regarding the uncertainty of development of valuable coastal areas. I hope that this legislation will encourage study and research to develop rational leasing programs as we seek to achieve our goal of energy independence. Since it is mandatory that measures be taken to increase energy production in the United States, we must accomplish this in an environmentally acceptable manner and maintain the proper perspective to preserve our national heritage. I urge my colleagues to join me in supporting this legislation with strengthening amendments.

Mr. DU PONT. Mr. Chairman, I rise in support of this legislation, and would like to make just a few comments about it, but first I would like to comment on what I think has been a very fine experiment, if you will, in the way the House of Representatives conducts its business. We have put together a special ad hoc committee to perform the task of writing regulations for offshore drilling, and from the experience we have had on this committee, I would say that this kind of approach could be used far more frequently in the House of Representatives, and to great effect, to solve some of the more technical and difficult problems we face. I hope the Speaker in the future will give serious consideration to using this procedural technique as much as possible for expediting the business of the House.

Mr. Chairman, this is good legislation, as I said in my brief statement supporting the rule. I believe it is not going to delay the development of our offshore oil resources. I do not believe it is going to destroy the oil industry. I do not believe it is going to cause masses of pollution to wash up on our shores. In short, I think it is a very good response to a very difficult problem.

There are a few problems with the legislation, and I am going to be offering, next week, one or two amendments to try to straighten some of those out. For example, it is not clear to me that NEPA, the National Environmental Policy Act, remains intact under this legislation. There are some sections in this bill that appear to me, perhaps, to undermine some of NEPA's provisions. I think that would be a mistake, and I will offer a corrective amendment to solve that problem.

Similarly, I do not think it is at all clear who has jurisdiction over safety procedures of oil rigs. It looks to me as though there are three different agencies of the Federal Government who have split responsibility. I think we can clarify that question with an appropriate amendment.

But, these amendments are in the way of making the bill more workable, making it more compatible with existing law and insuring that it does the job we intend it to do. They are not basic policy disagreements. I find myself very much in accordance with the basic policy of this legislation.

There are six areas, I think, where the legislation has done a good job in meeting the problems that we have with offshore drilling. For example, in the field of environmental protection, we have a requirement in the bill for baseline studies to be conducted so that we know what is happening to our ecosystem as drilling progresses. We have an EIS, an environmental impact statement, required in all new frontier areas so that we get the best possible information before we begin to drill on just what that drilling is liable to do to the environment.

Second, I think we have done an excellent job in strengthening the role of the States in participating in OCS-related matters.

Under the Supreme Court ruling, of course, the offshore lands outside the 3-mile limit belong to the Federal Government. But we have written legislation which allows the Governors of the States and regional advisory boards, if States want to form them, to participate in the offshore drilling process. Production and development information is made available to Governors and regional advisory boards. The Governors and the regional advisory boards of the coastal States are given an opportunity to participate in the decisionmaking. They can make recommendations to the Secretary and the Secretary has to take those recommendations into account.

Third, one of the best features of the bill is a negative one. It does not have a Federal exploratory drilling program in it.

I offered an amendment in the committee that took out some draft language that would have headed us in that direction. I do not believe the Federal Government has the expertise or risk capital to get involved in oil exploration. So I think the bill is strong from that point of view.

Fourth, the bill does put us in the position of starting to try the new bidding system, and I think that is extremely important.

There is a requirement in the bill that 10 percent of the area leased in the new frontier areas try something other than the cash bonus bid system. I think that is reasonable.

I voted against amendments that would have raised that to 50 percent because I do not think we know enough about some of those unproven systems. But at the same time I wholeheartedly reject the argument that has been made to me in the past few days that a 10-percent requirement is somehow going to undermine the entire oil industry and mean that we will not develop our offshore resources.

I think that is nonsense, and I think the bill is a good one as it is drafted.

Fifth, we have an impact program in here to help the States meet the offshore impact of offshore drilling.

We have the six factors that were drafted in another piece of legislation, the Coastal Zone Management Act, and these six factors are applied in this bill, as well, to distribute money to the States, to help them build their hospitals, their sewer systems, their roads, and the other supportive facilities that otherwise the local taxpayers would have to pay for. I think that is a strong feature of the bill.

Finally—and perhaps most important from an environmental point of view—we have an oil spill liability section that I believe does a good job in making sure that every oil spill which occurs is going to be cleaned up, that the cleanup is going to be paid for by those responsible for the spill, and that the person doing business along the seashore, whose business is adversely affected by a spill, is not only going to have his damages compensated for, but he is going to have the lost income that results from the oil spill compensated. That particular amendment went through an enormously complex amending procedure in our committee. The gentleman from Massachusetts (Mr. STUDDS) and I had our own colloquies on it. I believe we have strengthened it substantially. There will be amendments to strengthen it a little more, but basically I think it is in good shape.

So, Mr. Chairman, I think this is a good piece of legislation. I think over the next few days we will have a chance, as I said earlier, to make it better. But we start from the point that we have a workable product, and if something happens that no amendment could be offered and passed on the floor of this House, I would not have a great deal of hesitation about voting for the bill as is. I hope my colleagues will listen to the debate, participate in the amending procedure, and see that we do pass this legislation and send it on to the President for signature so that we can get on with the important business of drilling for offshore oil.

Mr. FISH. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. WIGGINS).

Mr. WIGGINS. Mr. Chairman and Members of the Committee, earlier today I spoke against the granting of the rule to consider this legislation. However, the will of the House was contrary to my own views, and we now have it before us.

It becomes, therefore, my obligation to do my best to see that this legislation is improved, hopefully to the point where I can support it on passage. I am not sanguine but I am going to try.

Let me point out to the Members some of the areas in which I have concern, and perhaps they will then share those concerns with me and work with me at a later time under the 5-minute rule to improve the legislation.

As a point of beginning, we all know that the exploration for oil in the Outer Continental Shelf is an extremely expensive undertaking. A private company wishing to invest in a lease and thereafter to develop the resources in a leased area is risking a vast amount of capital. We should not, therefore, tolerate the denial to the lessee of the interest which he has bargained for and obtained except for the most compelling reasons. The suspension of leasing activity or the cancellation of a lease has a great potential for economic loss to the lessee, and it should be tolerated, I believe, Mr. Chairman, only after the interested parties have had an opportunity to correct the claimed errors, if possible, and an opportunity for a hearing, and it should not be exercised at the whim or the caprice of the Secretary. It is not my belief that we grant the power to the Secretary to either suspend or cancel a lease capriciously, but I do wish to point out some problems with the bill which might lead to the exercise of that kind of authority unless we develop a legislative record to the contrary.

Mr. MURPHY of New York. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from New York.

Mr. MURPHY of New York. Mr. Chairman, we intend to offer an amendment that I will support, and that amendment will correct the situation that the gentleman has so eloquenly stated.

Mr. WIGGINS. Then, Mr. Chairman, I will pass from my concerns with section 5 on pages 57, 58, and 59, which deal with the problem of suspension and cancellation, and I compliment the chairman of the committee for his sensitivity in recognizing the problem and for his willingness to support an amendment which may well correct it.

I want to move now to the problem of judicial enforcement of various rights which are created in the bill. Those sections are found beginning on page 99 and following pages. Section 23 is captioned, "Citizen Suits, Court Jurisdiction, and Judicial Review." In section 23 and following there is a procedure created for invoking the jurisdiction of the court on behalf of any person who may or can be adversely affected by the terms of a lease, by any regulation promulgated by the Secretary, or by any activity conducted by the lessee pursuant to a lease.

The portion of this section which is troublesome to me is that in which we have apparently given standing to private individuals to enforce regulations promulgated by the Secretary of the Interior and standing to private individuals to sue to enforce provisions of the lease itself. Under normal rules of law a lease is a document between a lessor and a lessee which gives rights to each of the parties against the other. Normally, however, and under normal circumstances, third parties do not have the right to stand in the shoes of either the lessor or the lessee and to complain on his behalf.

This becomes particularly significant, I believe, when we realize the enormous importance of OCS activity to a large number of activist groups in America. I fear that these activist groups will exercise the rights given to them in this legislation to commence with great frequency civil actions to enforce regulations and to charge violations of the terms of the lease or the provisions of this act.

Litigation is, to be sure, expensive; but more importantly, it is demanding on time.

We run the risk, I fear, by granting standing to a broad class of plaintiffs heretofore denied standing, of giving them the right to interfere with and to delay the orderly development of the OCS.

Mr. Chairman, I think that there is something that can be done about this language. At the appropriate time, under the 5-minute rule, I am going to try once again to correct it. I have tried heretofore, with a singular lack of success; but I hope for better days immediately ahead.

Mr. Chairman, this is a matter of some substance. We have seen, for example, the enormous delays in the development of the Alaska pipeline caused by almost interminable litigation. It has cost the American public perhaps billions of dollars by reason of that delay, and it would be tragic to repeat that experience in the development of the Outer Continental Shelf.

Mr. Chairman, I have another concern which I will only mention. It is not my purpose to debate it at this point. The last sections of this bill, in my opinion, provide an unconscionable diversion of Federal revenue to coastal States. I think the reason it is in the bill is to buy off their support. It is supported, in theory, on the assumption that there will be an adverse impact to these States. The bill carefully tries to measure that adverse impact; but it also provides hundreds of millions of dollars to build roads and schools and all manner of public projects.

Mr. Chairman, my State is going to stand in line and get its share, and Alaska is going to stand in line. Alaska may be the only State which requires special support, but the other States of the Union have to pay the economic penalty.

It is my belief that the development of the OCS will be an economic bonanza to the coastal States and will not produce the adverse economic impact assumed in this legislation.

Mr. MURPHY of New York. Mr. Chairman, will the gentleman yield

Mr. WIGGINS. I yield to the gentleman from New York.

Mr. MURPHY of New York. The provisions referred to, as the gentleman knows, are identical to the provisions of the Coastal Zone Management Act which were taken from that bill which passed this House by a vote of 370 to 14 and are currently in a House and Senate conference. Therefore, when the House and Senate agree to that language in that previously passed legislation, we may well withdraw them from this bill.

Mr. WIGGINS. The idea has not improved with the passage of time.

I did not support the other bill, and I surely will not support similar sections of this bill.

I thank the gentleman for his comments, however.

Mr. FISH. Mr. Chairman, I yield such time as he may consume to the gentleman from Alaska (Mr. YOUNG).

Mr. YOUNG of Alaska. Mr. Chairman, there are several issues I would like to discuss today concerning my opposition to H.R. 6218 in its present form. However, in the interest of brevity, I will only touch on those matters which I will attempt to remedy with amendments.

First, I would like to bring to my colleagues attention what I believe is the position of Alaska with respect to OCS development.

This is important as a matter of consideration for more than just myself, since the OCS oil off of Alaska is important to the Nation as a whole.

Almost 40 percent of the U.S. coastline is along Alaska's shores. As a result, matters which affect Alaska will have a substantial impact on the entire Nation.

The State of Alaska has contributed, and will continue to contribute, a great deal to America's energy independence efforts.

The Alaska pipeline will soon be pumping oil; Alaskan forests are providing lumber; the minerals from Alaska's lands are going to industries and homes; and Alaska's fisheries are feeding American families. And soon, the Outer Continental Shelf will be providing oil and natural gas.

I would like to make it clear that Alaska is proud to share its natural resources. At the same time, however, we want to protect our State's abundant natural beauty, rugged charm, cultural heritage, and human resources.

We are concerned with protecting Alaska from unnecessary adverse impacts, recognizing that there are different kinds of resources our State offers the American people other than oil, gas and minerals, which are only finite resources.

We are concerned with the protection and revitalization of our fisheries; the maintenance of the unique heritage and integrity of our small coastal towns and villages; and we would like to minimize the huge impact that development will have on the sparsely developed areas of the State.

It was with these concerns in mind that many of my fellow Alaskans tried to stop the recent lease sales for the Gulf of Alaska conducted by the Secretary of Interior.

These people shared the concern of the Council on Environmental Quality, which recommended that the Interior Department lease only those areas which are environmentally safe, while putting lower on the list of priority, sales from the "frontier areas," such as Alaska, which are less certain on the issue of environmental safety.

As a result, the Council on Environmental Quality said Alaska was one of the last areas which should be developed since no complete study has ever been made of the possible effects leasing could have in the Gulf of Alaska.

Earthquakes and violent storms are common occurrences in these areas, and there are many other unusual features in this area that should be more carefully scrutinized prior to any leasing.

Yet, the Secretary went ahead and leased the Alaskan tracts, despite some strong objections from the State. Now, portions of the Alaskan Outer Continental Shelf will soon be under production.

The reason I bring this issue up is that I wish to make it clear that I am not opposed to the eventual development of the Outer Continental Shelf—given this country's current energy needs, development is inevitable.

What I do want, however, and what the people of Alaska want, is responsible development of the shelf with a minimum of adverse impact brought upon the State.

We also would like just compensation for our efforts to cooperate with the Federal Government in their OCS project.

It costs money to build onshore impact stations, protect our fisheries, maintain an adequate tax base with mounting pressures on services and facilities, build roads, and improve airports, schools, and sewage treatment facilities.

The list goes on and on. And I might point out that the list is especially long in Alaska since so much of the State is undeveloped at present.

There is another important matter that should also be mentioned: Because oil and gas are nonrenewable resources, there will be a glut of people who will need jobs and social services once the OCS oil rights have pumped the wells dry. These people will put an extremely heavy strain on Alaska's already tight employment market and limited State budget.

There are other things that we would like H.R. 6218 to do.

Since the business of this legislation is to provide for the orderly development of the OCS with a sound, efficient and rational leasing policy, all unnecessary delays in the leasing process should be eliminated. In addition, full State input on OCS leasing decisions should be a reality.

This means that the States should have some recourse in the decisionmaking process so that they will not have to go to court every time they disagree with what the Interior Secretary proposes.

Keeping these wishes in mind, I will now go on to a few of the specifics in the bill before us in order to point out why the bill as presently written fails to meet its responsibilities.

The first issue concerns the length of the lease time provided for in this bill.

The current practice of the Interior Department is to lease a tract for a 10-year period, and if the company doing the drilling wishes to terminate the lease at a time prior to the end of that period, it may do so.

Yet in H.R. 6218, the period of time for which a lease may be granted is limited to only 5 years. Then, if the Secretary finds absolute necessity, he may grant an extension for an additional 5 years, but this extension is uncertain at best and, as a result, as the language in the bill currently stands, there is only provision for a 5-year lease.

Additionally, if the Secretary does not like what the lessee is doing on a tract, if he thinks it is environmentally unsafe or unsound, or if the lessee is not complying with the provisions of the law, or if he is not cooperating with the efforts of the Secretary, then the Secretary may cancel the lease before the 5-year time period is up.

This 5-year period does not present any problems in the nonfrontier areas, such as the Gulf of Mexico or off California.

But in Alaska, where there are not as yet any permanent onshore facilities to speak of, where technology for developing a completely safe platform with ability to withstand our earthquakes and storms is till being developed, and where transportation routes are inefficient and need improving, a 5-year period will be wholly inadequate. The uncertainty of receiving the optional 5-year extension will provide further problems.

I believe the strongest reason for support of a 10-year lease period is environmental, since a company might drill only a marginally safe well in order to insure that they meet the 5-year deadline now in the bill.

Capital can also be devoted to developing technology with more assurance of better returns on the investment if the lease period is longer.

Revenues to the public will also be increased if the period of time that oil comes out of the structure is lengthened.

There are also two areas in the bill where there is either no time limit on the leasing decision process in the Interior Department, or the time limit is too long.

The first area concerns the time period before the secretary must decide whether or not a least proposal will require an environmental impact statement under the process established by NEPA.

As the bill is presently written, there is no limit on how much time the Secretary may take on such a decision which could result in many unnecessary delays.

A 30-day time period should be more than sufficient.

The second area of concern is with the period of time before the Secretary must make his final decision on the lease.

The bill presently provides for 120 days, but since there has been ample discussion of the proposed lease prior to when the 120-day period even begins, then a shorter period of time should suffice.

H.R. 6218 also attempts to give the States more input and power in the decisionmaking process, especially with regard to the 5-year lease program that the Secretary must submit to the Congress each year.

I have heard many people say that this bill gives the States some sort of a veto power, since the bill states that the Secretary must accept the recommendations of the States unless he finds that there is "an overriding national interest."

But this broad language of the bill means that the Secretary may act as he please, and act contrary to the wishes of the affected State. All he has to do is tell the Congress why he has not followed the State's recommendations.

Clearly, this language means that State veto power in any form is a myth.

What I propose would not be absolute veto power—this is certainly not desirable, since the Secretary should be able to control his own leasing program on Federal property.

What I think is reasonable, however, is some sort of congressional veto power over the Secretary's long-range leasing program.

This would give a State some hope for recourse in the event their recommendations were not accepted, and would strengthen the bargaining power of the States with the Secretary.

A one-House congressional disapproval program, as it is called, where either House may pass a resolution within a 60-day time period to ask the Secretary to resubmit his leasing plan, would be a substantial improvement over the present bill in my opinion.

The last area of concern, and to me the most important, concerns Federal-State cooperation in the OCS development program.

As H.R. 6218 now stands, the Federal Government enjoys all the receipts from the OCS outside the 3-mile limit, since a recent court decision declared that this area is Federal land.

In a recent tract sale in the Gulf of Alaska, the Federal Government will earn almost $2 billion, and not 1 cent of that money will go to the State.

Yet, it is the State that must support the development with facilities and assistance, at a great cost to the State government and the State taxpayers.

And, with the population influx such development always brings, there will be a heavier demand on almost every conceivable area of State and local government.

This problem faced the Congress back in 1920, when it was drafting the Mineral Leasing Act and Congress had to decide how to compensate the States for the burden forced on them by mining on Federal lands.

At that time, they wisely drew up a plan where the the States would share revenue with the Federal Government.

Congress approved a bill which allowed the States 37½ percent of the revenues.

This plan worked well, and the States are able to benefit from a permanent source of funding that will last as long as leasing on Federal land lasts.

This funding is not subject to the year-to-year whims of the congressional appropriations process, and does not leave to the Government the decision as to who would get how much money. It is simple and clean, and insures that the Federal Government meets its responsibility in mitigating adverse impact on individual States.

H.R. 6218, as presently written, does not meet that responsibility. The only assistance aid it contains is found in title IV, which was pulled out of the Coastal Zone Management Act now pending in the Congress.

This fund is not adequate to meet the needs of frontier coastal States such as Alaska, which will have up to a $200-million-a-year additional expense thrust on it as a result of the direct OCS costs.

A Federal revenue sharing program, that would allow coastal States a small part of the revenues, would eliminate the large gap in this area of responsibility that title IV does not meet.

It would also provide a permanent source of revenue that the States could plan on so that they could develop long-range plans and would show that this Congress is just as responsive and enlightened to the needs of the individual States as was the Congress of 1920.

Mr. MURPHY of New York. Mr. Chairman, I yield such time as he may consume to the gentleman from West Virginia (Mr. Hechler).

Mr. HECHLER of West Virginia. Mr. Chairman, now that there is such a good audience in attendance on the floor I would like to use this time for the purpose of developing legislative history as well as jurisdictional clarification concerning the bill H.R. 6218.

I would like to commend the gentleman from New York for his leadership on this ad hoc subcommittee and for developing this piece of complex legislation.

The Committee on Science and Technology, which has legislative jurisdiction over research and development on Outer Continental Shelf matters, has reported out the bill H.R. 11333 for research and development in the area covered by the bill H.R. 6218. I would like to ask the gentleman from New York whether or not there are any research and development programs contemplated in H.R. 6218, the legislation that is pending?

Mr. MURPHY of New York. Mr. Chairman, if the gentleman will yield, as the bill H.R. 6218 was originally written and subsequently amended and is before us today there are no research and development provisions in the legislation.

Mr. HECHLER of West Virginia. I would also like to ask the gentleman from New York a second question. The Senate passed a bill S. 521 that includes section 21 which deals with research and development on the Outer Continental Shelf. I would like to ask the gentleman from New York when this bill, H.R. 6218, passes the House and is in conference, and the matters on research and development contained in the Senate bill section 21, come up for conference decision, whether it is the intention of the gentleman from New York to consult with the Science and Technology Committee which has jurisdiction over research and development for those matters that are in conference.

Mr. MURPHY of New York. I can assure the gentleman we would certainly consult with the Committee on Science and Technology in this area.

Mr. HECHLER of West Virginia. I appreciate the response of the gentleman from New York. I commend him for working with the Committee on Science and Technology in the research and development area which is in our committee's jurisdiction.

Mr. FISH. Mr. Chairman, I reserve the balance of my time.

Mr. MURPHY of New York. Mr. Chairman, I have no further requests for time.

Mr. FISH. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. Wiggins).

Mr. WIGGINS. Mr. Chairman, I thank the gentleman for yielding.

I am hesitant to even raise this subject but since we have the time and since three other Members of the House have taken the well specifically to disclaim that they were the handmaidens of the oil industry, I thought that perhaps I would take a moment to do likewise.

I have had the privilege of working with our chairman, the gentleman from New York (Mr. Murphy) on many occassions. He is a good friend and I have never doubted for one moment that his strong advocacy of a position was prompted by any considerations other than his perceptions of the public interest. We have not always agreed but I have never questioned and do not now question his good faith in pursuing his objectives.

I wish to assure the Members that I have tried to do what I thought was right without any help from any vested interest. However, a columnist has charged that I have acted as the agent of the oil industry, carrying water specifically for them and at their special request. The Columnist, Mr. Jack Anderson, attributes his information to a confidential source within the committee itself. So I will ask my friend, the gentleman from New York (Mr. Murphy): Are you the source?

Mr. MURPHY of New York. Mr. Chairman, I would be happy to respond to my colleague in this allegation. I would like to let my colleague know that I, too, have been called in many instances the agent of or the handmaiden of the oil and gas industry in the press in my area and in my district and in other places.

I would say to my colleague, the gentleman from California (Mr. Wiggins) that in no way have I ever communicated or was ever the source of the article or other articles to which the gentleman refers. I would also insert at this point in the Record the article in question which, contrary to the remarks of the gentleman from California (Mr. Wiggins), makes no reference to "a confidential source within the committee itself":

The Great Offshore Oil Grab: The Oil Barons . . . Our Congressmen . . . Who's Up to What?

(By Jack Anderson with Les Whitten)

Washington.—With the arrogance of men accustomed to getting their way in Washington, the oil barons have written legislation to award themselves billions in offshore oil. Their friends in Congress have introduced the give-away bills as their own, often without changing a single word. We have compared legislation prepared by the oil industry with the actual bills in the legislative works. In some cases, not a comma has been disturbed.

The great offshore oil grab got as far as the House Outer Continental Shelf Committee. There, Chairman John Murphy (D-N.Y.) tried to head off the oil companies. He drafted a bill which would give the taxpayers a greater share of the offshore oil revenue and would protect the sea and shore life But he was deluged with amendments, which tied up his bill inside the committee for months The amendments were introduced by Reps. Hamilton Fish Jr. (R-N.Y.), Edwin Forsythe (R-N.J.), Charles Wiggins (R-Calif.) and to a lesser extent Don Young (R-Alaska). We have now learned that many of the amendments were prepared by the American Petroleum Institute and the oil companies it represents. A sheaf of amendments was quietly delivered to the committee's GOP staff by an institute courier. Thereafter, Republican committee members dumped the amendments upon the committee, without a word to chairman Murphy about their oily origins.

During the wrangling behind closed doors, the committee accepted some of the crippling amendments and defeated others. But the effect was to weaken the bill, which finally was forwarded to the House Rules Committee. The oil moguls, not satisfied with the sabotage job they had already achieved, sought to torpedo the Murphy measure entirely and thus eliminate the remaining pro-consumer features. This time they lined up the Ford administration itself to work against the bill in the backrooms.

But a conscientious administration official, who believed he should serve the public and not the oil industry, tipped off Murphy's staff as to what was happening. The secret plot was spelled out in a memo, written for Murphy's eyes only. The official, whose name we have withheld to save him from reprisals, stated "that the administration had made a definite policy commitment to try to keep the Rules Committee from granting a rule." Without a rule, the bill couldn't be taken up on the House floor. But there might be enough pressure from consumers to force the bill out of the Rules Committee in an election year. In this case, the official warned that the administration planned to twist arms.

The object is to get enough votes against the measure on the House floor so that President Ford . . . could veto the bill without fear of it being overridden."

One of the oil industry's most powerful backstage allies, said the memo, was Interior Secretary Thomas Kleppe. Warned the memo: the administration has been merely "stringing us along, trying to appear cooperative. But when passage of the bill appeared imminent, they decided to make the all-out effort to kill it." Thus, the Ford Administration has made a secret pact with the American Petroleum Institute to block the bill, which would safeguard at least some of the public rights to the offshore oil billions. Their lobbyists, joined by lobbyists from Atlantic Richfield, Exxon, Mobil and offshore drillers, are busy buttonholing congressmen on Capitol Hill.

The oil lobby has also demonstrated its power on the Senate side of the Capitol. At the instigation of the oil boys, six senators huddled to hatch a "compromise" on natural gas price deregulation. The oil states were represented by Sens. Henry Bellmon (D-Okla.), Paul Fannin (R-Ariz.) and James Pearson (R-Kans.). Representing the consumers were Sens. Fritz Hollins (D-S.C.), Warren Magnuson (D-Wash.) and Adlai Stevenson (D-Ill.).

They emerged from the secret huddle with legislation that would permit the natural gas companies to triple the regulated price of newly drilled gas.

FOOTNOTE: The Republican congressmen, who introduced oil industry amendments without change, claimed that the legislation had been submitted to the staff and that they didn't realize it was the exact wordage of the oil operators. "We did not blindly accept anything from the industry," insisted Rep. Fish. Rep. Young, through a spokesman, added that the only industry bills he had supported were those which benefited Alaska.

The CHAIRMAN. The time of the gentleman from California has expired.

Mr. FISH. Mr. Chairman, I yield the gentleman from California 2 additional minutes.

Mr. WIGGINS. Mr. Chairman, does the gentleman from New York believe the contents of the article to be true in that respect?

Mr. MURPHY of New York. I know the article alleges that amendments were offered when this committee was going through a 4-month process of marking up the bill, during which 194 amendments were considered and that many of the amendments that were offered by members of the committee were identical, even without the commas and errors in punctuation being changed, to amendments that had been recommended by representatives of the industry.

Mr. WIGGINS. Well, let us speak of any amendment offered by me. Does the gentleman from New York have any information that I am the one who sponsored such an amendment originating from an industry source?

Mr. MURPHY of New York. I have no knowledge as to the source of information the gentleman may have used in formulating any amendment and have never made any judgments or evaluations as to not only the gentleman's integrity or judgments or attitudes on legislation, nor have I questioned my other colleagues' attitudes and feelings on this legislation.

Mr. WIGGINS. I appreciate that. Perhaps all this need not to be said; but to tell the truth, I have never received any amendment from any representative of the oil industry and never knowingly sponsored any amendment from the oil industry.

Any amendment offered by me has my input and represents my best judgment, even though the gentleman may disagree with the judgment that I maintain.

The article in that respect was utterly and totally and, in my opinion, scandalously false.

The CHAIRMAN. The time of the gentleman from California has again expired.

Mr. MURPHY of New York. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, I would say to the gentleman from California that I have accepted 24 or 25 amendments similar or identical in language to those recommended by the administration in order to clarify and improve this legislation from their viewpoint.

I would say as far as any newspaper article is concerned, that Members certainly should have a pretty thick skin when it comes to the fourth estate. We are certainly not going to be immune from any attacks, depending on whether we vote one way or the other.

Mr. FORSYTHE. Mr. Speaker, I agree with my esteemed chairman's remarks concerning the necessity for Members to have a thick skin as far as any newspaper article is concerned. However, since he has inserted into the RECORD the particular newspaper article in question, I think it only fitting to provide for the information of my colleagues in the House a copy of the letter which several of the minority members of the committee intend to send to the editor of the Washington Post. I think the letter quite effectively outlines the position of the Members involved in relation both to the legislation and to this example of irresponsible journalism:

HOUSE OF REPRESENTATIVES,
Washington, D.C., June 8, 1976.

Mr. BENJAMIN C. BRADLEE,
Executive Editor, The Washington Post, Washington, D.C.

DEAR MR. BRADLEE: We strongly take issue with the Jack Anderson–Les Whitten Column, published June 3, headlined "Oilmen Find Hill Allies". It is an example of bad investigative reporting.

The column accuses us of introducing, word-for-word, a number of amendments prepared by the American Petroleum Institute (API), by inference without consideration of substance or merit. This is news to us. At no time did we introduce an amendment at the behest of the oil industry or any other group or individual.

The minority introduced 41 of 95 amendments during markup of H.R. 6218, the Outer Continental Shelf Management Bill. We did so after at least 15 meetings with minority staff during which minority positions on the many issues in this complex bill were developed.

Our decisions were based on hundreds of hours of hearings, on-site visits to drilling facilities, and discussions with representatives of resource agencies—the Environmental Policy Center, Council on Environmental Quality, Interior and Commerce Departments, National Advisory Committee on the Oceans and Atmosphere and the Congressional Research Service, Library of Congress.

Mr. Whitten was asked prior to publication by our staff on three or four occasions what amendments he was referring to, but he would not be specific. Mr. Whitten was offered access to all minority files but he refused to take advantage of the offer.

In other respects, the column lacks balance. Much is made of the Administration's effort to defeat the Rule. It was no secret on Capitol Hill that the granting of a Rule was opposed by both the Administration and the oil industry. However, the column is silent on the fact that Mr. Fish and Mr. Forsythe sent a letter to the Chairman of the Rules Committee with copies to all Committee Members, urging that the bill be sent to the Floor for consideration. Also, Mr. Fish, personally testified for the Rule on behalf of the minority.

The bill has flaws, to be sure. We hope they can be corrected on the Floor of the House, for this legislation is of major importance to the citizens of this country. If the oil industry believes it has found unswerving allies in us, it has been seriously misguided. So have the readers of the Jack Anderson-Les Whitten Column.

Sincerely,

HAMILTON FISH, JR.,
DON YOUNG,
EDWIN B. FORSYTHE,
Members of Congress.

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. MURPHY of New York. I yield to the gentleman from California.

Mr. MILLER of California. Mr. Chairman, having never been anybody's handmaiden, I rise to say there is something wrong with this whole suggestion to suggest that some segment in this country cannot be represented in this Congress by someone offering amendments, whether we take them with or without the commas or periods. Whether it is the press or environmentalist or consumers or oil companies or anybody else, what is the difference, if they believe in that amendment, what are we here for? Otherwise, we should have just one person in Congress and not have a variety of views placed in this committee to deal with this delicate and tough subject.

Mr. Chairman, when I asked to be put on the committee, knowing my position, they also put on the gentleman from California (Mr. WIGGINS) to balance that and that is the important fact that took place in this committee.

I do not think somebody offering an amendment in behalf of industry or anybody else is very relevant. They ought to be represented, just as any other group should be represented. That is why it took months and months to mark up the bill, because everybody was asking to be heard on this subject. I think that is a compliment to the patience of this committee to go through those hours and hours of testimony in markup.

I commend the chairman and the ranking minority member for doing this. The source of those amendments is not terribly important, as long as the person offering them believed in them.

Mr. FISH. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would simply like to ask the chairman of the select committee, the gentleman from New York (Mr. MURPHY) a question. In the colloquy with the gentleman from California. (Mr. WIGGINS) in the past few minutes, if I understood the gentleman correctly, the gentleman answered in the affirmative that the gentleman was aware of amendments that have been supplied to the majority and minority by the petroleum industry that were introduced by members of the minority precisely as they were submitted.

I would appreciate—and I do not expect the gentleman to know which they are—but having listened to the minority members today in the well categorically deny this, I think it would be very important if sometime he or his staff would oblige us with those amendments.

Mr. MURPHY of New York. As I said in my colloquy with the gentleman from California, some of the amendments I had seen were offered by members of the committee. I did not specifically pinpoint members of the minority, although some were introduced by members of the minority. If the gentleman would like me to send him some of that information, I would be happy to do so, taking into consideration the fact that there were 194 amendments considered by the select committee and that it would take sometime to compare and submit amendments to you that coincide with industry-proposed language which may now be difficult to obtain under the circumstances.

Mr. FISH. That would be very helpful.

Mr. Chairman, the work of this select committee over the last year has been largely one of learning first of the legitimate concerns on OCS development, and coming up with a structure balancing these concerns such as State interests, the need for expeditious development of OCS resources, which means avoiding the possibilities of delays, promoting competition in the industry and accountability of the Secretary of the Interior; and also the important environmental concerns.

At the time this bill comes up for debate on amendments, the minority will have, as we tried to indicate in the course of the past 2 hours, several amendments to these areas where we think the committee bill creates delays; has gone too far in restricting the authority of the Secretary; or has given in some places too much authority, and in others, too little authority to the States.

Mr. ERLENBORN. Mr. Chairman, I rise in opposition to the unnecessary overlapping regulatory authority which would be created by this bill. As an example of the confusion this bill would cause, the current Outer Continental Shelf Lands Act gives the Department of the Interior sole authority for environmental protection. The committee bill retains this sole authority, but also adds a separate provision giving shared authority to Interior and the Environmental Protection Agency, or Interior and the Department of Commerce—National Oceanic and Atmospheric Administration—or all three. The current law gives the Coast Guard sole authority over lights, markings, and other warning devices for the protection of navigation. The Department of Army—Corps of Engineers—has sole authority to prevent obstruction of navigation. The committee bill leaves these provisions intact, but adds a new one giving shared authority to Interior and the Coast Guard, or Interior and Army, or all three.

Under the current OCSLA, the Coast Guard regulates "safety equipment and other matters relating to the promotion of safety of life and property". The Department of the Interior has some overall concern in this area under its broad mandate to prescribe regulations relating to leasing of the OCS. Whenever neither agency acts to protect occupational safety and health on the OCS, OSHA is required to do so under its own legislation. OSHA's authority ends, however, when the Coast Guard or Department of the Interior steps in. Without changing these independent grants of jurisdiction, the committee bill also requires joint regulation by Interior and the Coast Guard, Interior and the Department of Labor—OSHA—or all three.

Under section 22 of the committee bill, the Department of the Interior and the Coast Guard enforce safety regulations, even if promulgated by another agency. Also, the Department of the Interior and OSHA enforce occupation and public health regulations, even though the Coast Guard has the power to do so under OCSLA section 4(E) which remains in effect.

Under current provisions of law, the Coast Guard is required to investigate deaths and serious injuries. Section 22 (d)(2) of the committee bills requires OSHA to investigate, even if the Coast Guard regulations are involved, and despite the fact that the Coast Guard may be conducting the same investigation.

The Department of the Army is omitted from the list of those which may impose fines for noncompliance with its regulations and which may have access to the courts for remedies to enforce such regulations. However, each of the three agencies—Interior, Coast Guard, and Labor—can use administrative procedures and the courts to enforce any regulation or order under the OCSLA, not just its own.

I am concerned about this duplication of effort and the likelihood that the interagency squabbles which will result will seriously delay the promulgation of needed safety regulations. What we would be doing is turning over our constitutional authority to OMB, which will have to sort out the redundancies and ambiguities in this bill. Once again we would abdicate our responsibility to set policy and hand our powers to the executive branch on a silver platter.

The rule for this bill, which was adopted a short while ago, waived points of order against the committee bill, but as a member of the Committee on Education and Labor, on which I serve, I protest the intrusion this bill would make on the jurisdiction of my committee. When we developed the Occupational Safety and Health Act of 1970, we created OSHA as a back-up agency. Under section 4(b)(1) of OSHA, that whole act does not apply when another Federal agency is exercising its statutory authority with respect to any hazardous working condition. If this bill is going to give OSHA a permanent role on the Outer Continental Shelf, maybe it should be rereferred to the Education and Labor Committee, where we have the responsibility and expertise to consider all the ramifications of this serious change in the authority of an agency over which we have jurisdiction.

I proposed sections 21 and 22 had been in this bill when it was introduced, I have no doubts that the Education and Labor Committee would have been granted concurrent or sequential referral. Since these provisions were added by the ad hoc select committee, we have not had any opportunity to hold hearings and make our recommendations to the House. The indirect amendments to OSHA should be stricken from the bill, if we are going to have rational consideration of legislation under the rules of this House.

I thank the distinguished gentleman from New York for yielding, and compliment him on his perceptive remarks regarding this legislation.

Mr DODD. Mr. Chairman, I rise in support of H.R. 6218, the Outer Continental Shelf Lands Act Amendments of 1976. The demand for increased production of domestic oil and gas resources increases daily. Passage of H.R. 6218, then, becomes ever more important to insure the orderly and efficient development of our Federal, offshore energy reserves.

Before I outline some of the critical points of the bill, however, I would like to take this opportunity to commend the OCS Committee chairman, Mr. MURPHY, ranking minority member, Mr. FISH and as majority counsel, Martin Belsky, for their dedication and diligence in guiding this long-awaited legislation to the House floor.

I also want to add, Mr. Chairman, that it was, indeed, an honor to serve on the OCS Committee, as one of six members representing the judiciary.

I might remind my colleagues that it was the Judiciary Subcommittee on Immigration, Citizenship and International Law, on which I now serve, that drafted in 1953, the original Outer Continental Shelf Lands Act and Submerged Lands Act, which together, first delineated the Federal Government's authority to develop the OCS beyond the States' 3-mile limit.

In the last few years, however, the Outer Continental Shelf has taken on added significance as probably our single largest source of domestic oil and gas resources.

Throughout the months of hearings and debate by the OCS Committee, it became increasingly clear that Congress must take all steps necessary to assure the public that swift offshore development is accomplished without compromising the integrity of our coastal environment and with increased State and local participation.

The opening of offshore frontier areas also brings with it the opportunity to renew this Nation's commitment to free enterprise competition. In fact, it is a necessity that we do so.

As a recent report by the FTC Bureaus of Economics and Competition points out, OCS development is unlikely to be efficient "without effective competition in the market for oil and gas leases."

The same FTC report convincingly details the extent to which a handful of major oil companies currently maintains a stranglehold over offshore energy development. It is these same, relatively few companies that now oppose passage of this legislation.

According to the FTC report:

Total production of oil from Federal offshore leases in 1974 amounted to 332 million barrels. Of this total, the eight largest companies produced more than 61 percent.

In that same year, 1974, the top eight producers accounted for 53 percent of offshore natural gas production

For all years of offshore development under the OCS Lands Act of 1953, the top eight producers have accounted for an amazing 86 percent of all oil produced, and 78 percent of all natural gas produced.

Domination of the offshore oil and gas market by the Nation's largest majors also has been fostered, in part, by the unrestrained use of joint ventures and by the total reliance upon the cash bonus bidding system by the Interior Department.

I can assure my colleagues that H.R. 6218 contains several provisions which will serve to help prevent or at least limit unreasonable industry concentration, and which will increase the likelihood for greater participation by small, independent oil and gas producers in future OCS development.

Some of these important provisions include:

A prohibition of joint bidding among the nine largest oil producers—closing loopholes in previous legislation.

An annual report to Congress by the Secretary, after consultation with the Attorney General, which will include additional suggestions and recommendations to promote competition.

A mandatory limit on the use of the cash-bonus bidding system. I would urge my colleagues to support an amendment to be offered by the gentleman from California (Mr. MILLER) to strengthen this provision.

In one instance, however, I believe the bill deals inadequately with the prevention of anticompetitive actions which might be taken by the Interior Secretary.

H.R. 6218 now requires the Secretary to notify the Attorney General and the Federal Trade Commission of all proposed lease sales and 5-year lease extensions. This is a vital provision.

However, without additional, explicit language, the Secretary would be permitted to reject recommendations by either or both of the agencies authorized to enforce the antitrust laws, without need for justification.

I intend to offer an amendment to remedy this situation by requiring the Secretary to conduct a hearing, in an expeditious manner, before he may issue any lease or extension deemed questionable by FTC or Justice.

I think this provision, along with the other pro-competitive measures in H.R. 6218, should be considered as a minimum dose of preventative medicine. These measures certainly will help to avoid the possibility of costly, time-consuming antitrust litigation at a later date.

Mr. Chairman, the choice before us today is a clear and simple one.

We can choose to continue OCS development under current Interior policies which guarantee the haphazard disposal of the public's resources to a small group of multinational oil companies; or we can choose to move ahead in an orderly, efficient manner and provide a fair return to the public for its resources.

I strongly urge my colleagues to oppose any weakening amendments and support passage of what I believe to be an effective, timely piece of legislation.

Mr. GIBBONS. Mr. Chairman, I would like to pose this question: What are the facts about the proposed "buy national" floor amendment that is supposed to be offered when we take up amendments to H.R. 6218?

Since this amendment has not been considered at all by the Ad Hoc Select Committee on the Outer Continental Shelf or by any other committee of the Congress, it is kind of hard for us to find out exactly what the facts are. This is one big reason that I am urging Members not to vote for adoption of this proposal.

It is only by some rather strenuous efforts that I have been able to find out anything about this issue. Yesterday I made available to Members some of the information on it that I had been able to come up with. This information appears on pages 16629–16632 of the CONGRESSIONAL RECORD of June 3.

I have come across a couple of other items of information which have been researched by staff. At this point I would like to bring these to the attention of those who want to know more about the "buy national" or "buy only U.S. products" OCS amendment.

If anyone can give me some good reasons why we should adopt such a proposal, I would appreciate hearing from that person.

The information follows:

COMMENTS ON "BUY NATIONAL" AMENDMENT TO THE OCS BILL FROM ENERGY RESEARCH STAFFERS

In response to the Ship Builders' Council's allegation that "in terms of mobile rig construction and conversion, the percentage of world production for U.S. shipyards since January 1972 has dropped from 59 percent to 27 percent . . ." the following can be said:

The economics of rig construction are such that it is far less costly to build these rigs as close as is practicable (the tow cost for instance from the US Gulf Coast to South East Asia is approximately $1 million) to their use site.

As was mentioned in the Ship Builders' Council's remarks the world rig market was down during this period. The only area where there was significant activity since 1972 was the North Sea and conditions in that area call for highly specialized equipment. Because Norway and Britain (two of the world's most highly industrialized and technically competent nations) were close to the drill site and had idle shipyards it was significantly less expensive to build the necessary rigs in those countries. In effect then, while the world market was down the North Sea market was booming, giving a distorted view of the rig construction statistics for the last four years.

The Council includes conversions in its statistics. This is noteworthy in that while the total cost of the drilling vessel is around $39 million (and the vessel was probably built in the US) the conversion package (also generally produced in the US) can be installed for $2.5 mililon. In view of the towing costs it is obvious why a conversion would be undertaken at the site.

The US is the most extensively explored and drilled country in the world. Alaska and the US OCS represent our last petroleum frontier. Because of the economics of the industry (as discussed above) most of the rigs used in the development of the OCS will be of American manufacture. If we legislate this as a requirement it will not only be redundant but it will encourage other nations to follow suit. This could dry up the market for US rigs in other, less thoroughly explored areas around the world.

INFORMATION ON RESTRICTIVE TRADE AMENDMENT TO OCS BILL

(Prepared by the staff of the Trade Subcommittee of the House Ways and Means Committee)

Congressman Murphy of New York is expected to introduce a restrictive procurement amendment to H.R. 6218, the Outer Continental Shelf Lands Act Amendments of 1976 bill. Mr. Murphy's amendment would require equipment used in exploration, development or production of seabed resources to be of U.S. origin, owned, operated and crewed by U.S. citizens, and documented under the laws of the United States. Floor consideration of H.R. 6218 could begin as early as May 14.

If procurement for use by Federal or State Governments is involved, the proposed Murphy amendment (attached) goes far beyond the Buy American Act of 1933, as applied by Executive Order 10582 of December 17, 1954. Under E.O. 10582, preference margins are limited to 6 percent generally and 12 percent in cases affecting labor impacted areas. In addition, the Department of Defense employs a 50 percent differential "guideline" for balance of payments reasons.

On the other hand, if equipment is purchased by private companies, the Murphy amendment would amount to an embargo and would contravene Article XI of the GATT which prohibits such restrictions, unless justified under some other GATT provision. In the absence of such justification, the United States would be subject to retaliation under GATT rules.

BUY-NATIONAL PRACTICE

Government purchasing is an area of major national discrimination. Through their buy-national laws or administrative practices, governments often favor domestic suppliers over foreign suppliers. The reasons may be political or economic and can vary widely, depending on the product and the particular government or quasi-governmental body concerned. The motivation can be: (1) National security, or avoidance of dependence on foreign suppliers; (2) the promotion of domestic technological development, or the protection of regional employment; or (3) the alleviation of balance-of-payment problems. To the extent that governmental practices mandate local procurement, significant segments of the global economy are sheltered from competition. Estimates of the percentage of the free world's aggregate product which is purchased by governments run as high as 40 percent.

Following are examples of reasons against intensification of buy-national restrictions:

1. Buy-national restrictions result in higher government costs and establish a "super tariff" on goods used by the Government. Increased foreign competition can therefore result in reduced offering prices by domestic suppliers.

2. Buy-national restrictions are inherently antiforeign. Intensification of U.S. Buy-American restraints could result in effective retaliation by our trading partners. For example, as a result of U.S. protests, the U.K. Government relaxed its restrictions on foreign procurement of equipment for oil exploration use in the North Sea. A large proportion of rigs now used in North Sea exploration are U.S. products. New U.S. restrictions on equipment for use on the Outer Continental Shelf could result in a re-tightening of U.K. restrictions. More generally, foreign retaliation could be implemented against almost any U.S. product through a tightening of administrative procedures, which are the common tool of government procurement restraint in force by other major trading countries.

3. Government procurement policies can have export incentive effects. It has been claimed that some governments, by excluding foreign bids, allow domestic firms to make inflated profits on government contracts—profits that are used to subsidize exports. Any such practice is undesirable at a time when the U.S. is pressing in the Multilateral Trade Negotiations for conclusion of an international code of conduct which would, *inter alia*, limit the use of export subsidies.

4. A long-recognized major difference in U.S. procurement procedures and those of other major countries is that U.S. provisions are set out in laws and regulations, including specified margins of preference, while foreign preferences are largely expressed in the form of internal, unpublished instructions or administrative procedures. For this reason, the U.S. has led the way for many years in an OECD discussion of a possible code on government procurement practices. In this forum, the U.S. has been seeking the achievement of transparency of practices and a meaningful opening of doors to competition in supplying governments. The U.S. has placed a strong emphasis on the need to include such a code as part of the results of the current Multilateral Trade Negotiations. Any intensification of U.S. Buy-American provisions will impede these efforts and the eventual realization of the U.S. goal.

5. Finally, the U.S. and other signatories to the International Energy Agreement have committed to avoid introduction of any legislation that would prevent other IEA members from obtaining national treatment in trade relating to objectives under the Agreement. The Murphy amendment would violate at least the spirit of this commitment and could undermine the effectiveness of the Agreement itself.

Mrs. MINK. Mr. Chairman, the bill we are considering at this time is one of the most significant, one of the most important, that will come before the 94th Congress in this decade. It represents the outcome of more than a year of hard work by a most unusual group, a special ad hoc committee which was directed by the House to deal with the subject of the development of the oil and gas resources of the Outer Continental Shelf. As such, it is a key step in the development of the overall energy policy that this Nation now so urgently requires.

Americans have been bombarded by rhetoric, Mr. Chairman, to the effect that Congress has been unresponsive to the need for developing a national policy with regard to the important subject of energy and our present dependence on foreign sources of petroleum in particular. But I believe that a fair examination of the facts will demonstrate that it is not Congress but the administration which has been confused and divided—even schizophrenic—about the development of our domestic resources and about the need for strong policies in support of conservation and the expansion of alternative energy sources.

Mr. Chairman, H.R. 6218 represents a major congressional initiative toward a coherent and balanced energy policy. It amends the Outer Continental Shelf Lands Act of 1953, to provide a new statutory regime for the management of the oil and gas resources of the Outer Continental Shelf. Its basic purpose is to promote the swift, orderly, and efficient exploration of the almost-untapped resources of that area, and thus to gain the time within which the Nation can, under better leadership, develop alternative sources of energy. At the same time, it replaces the outmoded and inadequate structure of the 1953 act with a statute that meets the vastly different needs of our own era.

The present law, Mr. Chairman, does not spell out responsibility and liability for the often severe effects of oil pollution which can result from activities on the Outer Continental Shelf. The bill before us changes that. Under present law, there is no provision for consultation with the States likely to be adversely affected by developmental and other activities on the shelf. The bill before us contains such provisions. Under present law, compensation to those damaged by oil spills is uncertain or inadequate in many cases. The bill before us deals with that. Present law is not adequate in its requirements for review of plans and activities connected with Outer Continental Shelf development, to make sure that environmental and safety risks are correctly weighed against anticipated benefits. The bill before us deals with that, and establishes carefully designed ways of weighing such balances.

As I mentioned earlier, Mr. Chairman, the bill before us is the result of much time, study, effort, and deliberation. The committee held many hearings, and considered many, many amendments. The bill as it comes before the House today is long and in some respects complicated. Let me try to summarize its principal provisions. They fall into six categories:

First, the bill reorders and strengthens the role of the Department of the Interior with regard to the oil and gas of the Outer Continental Shelf. It vests in the Secretary of the Interior new responsibilities for the rational management of these resources, with a requirement that this management take into account the national energy needs, the needs of affected States, and the need for environmental protection and for consideration of alternative uses of the coastal waters and lands. Thus economic, environmental, and social realities must be taken into account.

Second, the bill changes the rules of the game for the energy industry. On the one hand, it means that lessees of the Federal lands of the Outer Continental Shelf will be subject to more, and stricter regulation. On the other, the bill means that those lessees will enjoy greater certainty about the political conditions and economic constraints which will affect their operations. The bill leaves with private enterprise the chief role in development of the resources of the Outer Continental Shelf. At the same time, it provides that a company which has obtained a lease must submit an exploration plan for approval by the Secretary of the Interior before it may proceed with exploration; the company must also submit a development and production plan prior to beginning development and production of the oil and gas covered by the lease. The development and production plan, which must include data concerning on-and-offshore facilities and operations, environmental and safety protections, the rate of development and production, and other information, goes through a review procedure by the Governors of affected States, a regional board, and other interested parties, after which the Secretary must finally approve, disapprove, or require changes in the plan.

Third, then, the bill before us involves the States in the entire process of development of these resources to a greater degree than is possible under existing law. They are provided an opportunity to participate in the decisionmaking processes, not only with regard to the Department of the Interior's overall leasing program but also with regard to individual development and production plans of the various companies. The States will also be supplied with information necessary for them to have for planning and ameliorating the consequences of offshore development, and its onshore impacts. By involving States in the process from the very start, the bill will reduce the time-consuming lawsuits that are apt to follow if it is not enacted.

Fourth, the bill has been carefully drawn to insure that necessary development of oil and gas is not carried out in a way that unnecessarily endangers the marine, coastal, and human environment. It provides for baseline studies to obtain necessary information. It requires a review of activities after exploration and prior to development and production, to guard against unintended impacts. An environmental impact statement and a hearing is mandated for at least once in every major lease area in previously undeveloped regions. Other protections are required. And at the same time, the bill guarantees that if a development and production plan cannot be modified so as to insure a safe operation, because of exceptional circumstances, then the lessee is entitled to reimbursement for all considerations paid for the canceled lease, plus interest, and for all direct expenditures made after the date of issuance of the lease.

Fifth, the bill provides that regulations affecting the safety of the workers engaged in operations pursuant to its terms will be adequate and adequately enforced. It provides for a review by the National Academy of Engineering of existing safety regulations, and requires that on all new drilling and production operation—and on existing operations as well when that is practicable—the best available and safest technology economically available will be used. Regular and unannounced inspections of the operations are mandated, as are investigations of deaths, serious injuries, major fires, and oil spills.

Sixth, the bill provides important new protections for the citizen who may be adversely affected by operations on the Outer Continental Shelf. Citizen suits are authorized, whereby anyone having an interest which may be adversely affected can proceed against the relevant Government agency or department, or against any other person, for a violation of the provisions of the bill, for violations of regulations implementing it, or for violations of a lease or permit issued under it. Title III of H.R. 6218 establishes an offshore oil spill and pollution fund, and provides for procedures in the event of an oil spill, and compensation for damages from such a spill, whether the spill is from an offshore platform, or from a tanker or pipeline or other transportation device. Procedures are also established for the cleanup of spills, and it is provided that the lessee or the operator of the vessel involved will be held to be strictly liable for all cleanup costs. For damages from a spill—as opposed to cleanup costs—with certain exceptions, the lessee or operator will be strictly liable up to a limit of $35 million per spill; above that, damages will be met from the new oil and pollution fund. Taken together, then, these aspects of the bill go far to insure that citizens who may be inadvertent victims of side effects of development will not be without ways to protect themselves or make themselves whole.

Mr. Chairman, recent weeks have seen a great deal of hostility being expressed, openly or otherwise, toward passage of this bill, H.R. 6218. Certain portions of the petroleum industry have not hesitated to make their voices heard, urging rejection. And the administration has not been completely unheeding of these voices. I believe that this attitude stems from the prospect that H.R. 6218 would alter, drastically, and against some special interests, the present law which is hopelessly outdated and weighted in favor of special, not national interests.

The present law, originally passed in 1954, provided an essentially open-ended grant of authority to the Secretary of the Interior to proceed with leasing on the Outer Continental Shelf. It was based on what was, at that time, an unproven technology and on assumptions that offshore production would be a relatively small supplement to our onshore production.

Today, the situation has changed to the point where we estimate that a full third of our remaining discoverable and producible oil reserves are offshore, as are 22 percent of our natural gas deposits. The importance of the offshore fields is given dramatic proof by the accelerated plans to lease millions of acres, being implemented by the administration. In this situation, reform of the present law is more necessary than ever before.

In our investigations, we on the ad hoc committee have found that the present law, which grants essentially total discretion to the Secretary of the Interior, has given the petroleum industry an unduly dominant voice in setting policy concerning the development of the resources of the Outer Continental Shelf. In short, industry and Government have been practically indistinguishable. Their objectives have been basically identical. The result has been that the interests of States and of the taxpayers have been disregarded all too often.

Although in 1974, the Department of the Interior did establish an advisory board, with designated State representatives, and in 1975 the Department did set up an OCS Advisory Board with a limited policy role, both of these overdue steps, while welcome, still fall short of giving States and local communities adequate involvement in the decisionmaking process. This bill corrects that situation.

Similarly, the bill will actually reduce the delays which are apt to result from lawsuits arising from the inadequacies of present law. By providing to the public assurance that development of the offshore oil and gas resources will be carried out in an open, thorough, and balanced manner, the bill should go far to dispell the doubts and suspicions which can lead to misdirected opposition and, often, legal challenges.

Mr. Chairman, this bill is the product of many months of effort. It no doubt has portions which are unsatisfactory, to some extent, to one person or another. That is of course inevitable when legislation must deal with such a multitude of complex questions. In particular, I believe that there are two areas in which this bill should be strengthened in the public interest. In the committee report, I have joined with a number of other Members of the majority in urging such strengthening amendments, and I will be supporting these amendments when they are considered here on the floor.

The first of these amendments which should be adopted deals with the provisions of the bill intended to safeguard against undue concentration and monopolization resulting from leases issued under the provisions of H.R. 6218. There are a number of such provisions in the bill. But one important provision was taken out of our draft bill during committee markup, and should be reinstated before this bill is passed by the House. I support the amendment which would provide the necessary procedures by which the authorities entrusted with enforcing the antitrust laws may take prompt action to prevent situations which would be contrary to those laws.

As the bill stands now, the Secretary of the Interior is required to notify the Attorney General and the Federal Trade Commission of all lease sales and extensions under the provisions of H.R. 6218. The Attorney General and the FTC then can advise the Secretary whenever they believe that the lease sale or extension would create a situation inconsistent with the antitrust laws. The amendment I am supporting would go further, and require that when the Attorney General or the FTC so advise the Secretary, then the Secretary must hold a full administrative procedure act hearing and make appropriate findings before he could proceed to issue or extend the lease in question.

This is not an untried idea. The House has twice before, in this Congress, enacted similar provisions to insure competitive leasing of Federal energy resources. In the coal leasing bill, H.R. 6721, which came to the floor from the Interior Committee, and from the Subcommittee on Mines and Mining which I chair, an almost identical provision was included, and an amendment to delete it was defeated on the floor by a voice vote before final passage.

And, more recently, when we accepted the conference report on the Elk Hills bill, H.R. 49, we enacted provisions which not only provide for review of certain administrative actions by the Attorney General but which go further and give him the authority to halt actions which are inconsistent with the antitrust laws. Mr. Chairman, we should follow our own good example and treat the OCS oil leases accordingly. For this reason I urge adoption of this amendment.

The other amendment which we should adopt deals with the mandate we are giving, through this bill, to the Secretary of the Interior, requiring him to test various bidding systems to be used for leases under the bill. The front-end bonus bid system, which is the system used heretofore, has effectively shut smaller companies out of the leasing process. Studies by the FTC and the General Accounting Office have shown that this system discourages competition.

In addition, the bonus bid system necessarily ties up large amounts of capital that perhaps could be better employed in speedy exploration of a leased area. Accordingly, I joined with a number of other Members in supporting efforts, during committee work on this bill, to include an effective mandate which would require the Secretary to use other methods of bidding for at least some of the leases to be awarded under this legislation.

As the bill comes before us today, there is such a mandate, but it is not a very strong one. The bill as reported requires that the Secretary use other methods in awarding at least 10 percent of the lease offerings of each year for the 5 years subsequent to enactment, unless he can demonstrate to the satisfaction of both Houses of Congress—expressed in a resolution of approval passed by both House and Senate—that this would unduly delay efficient development, result in less than a fair return to the Government, or reduce competition. The amendment, which I support, would strengthen our mandate to the Secretary and require him to use the alternative methods in a fair greater percentage of the lease sales and extensions.

Mr. Chairman, during committee consideration of this bill we heard a great deal of substantial testimony from distinguished and expert witnesses, who outlined in clear and convincing terms the reasons that the bonus bidding system is not the best available system for OCS leasing. As a result, in the bill itself, the Secretary of the Interior is given a list of other systems which he can employ—and one or more of which he must employ in at least 10 percent of the leases each year.

These are not experimental systems—or at most, only one of them—the Phillips plan—is really experimental. They are systems which have been used, and are being used, in various places. Many of them have been used for years by coastal States for the leasing of their own offshore reserves.

Similarly, these methods of bidding are used by one or more foreign nations producing offshore oil and gas. And the rate of return to these States and nations has been far greater than the rate of return to the Federal Treasury from leases under the front-end bonus bidding which has been utilized by the Department of the Interior. California, for example, has received about 48 percent of the total gross revenues from production under these alternative bidding methods, as opposed to the 16⅔ percent which the Federal Government will receive from all but three of the Federal OCS tracts off southern California which were leased last December. In Indonesia, under similar production sharing agreements, the Indonesian Government has received up to 95 percent of all net profits.

That may not be a goal which the Department of the Interior should aim at, Mr. Chairman, but we should insist that the Secretary, in carrying out the provisions of this act, do better—in terms of return to the people from development of their resources—as some of our own States have done. In each of these cases, involving State resources or foreign resources, the lessees have been the same oil companies that will be the likely bidders for OCS leases under this bill. The record shows that these companies can, have, and will, bid for and develop the resources under these different bidding systems. We should not give the Secretary the discretion to use the unsatisfactory front-end bonus bidding system in the vast majority of OCS lease sales; instead, we should require that other tried and proven methods be used, methods which generate greater revenues to the public and which enhance competition among potential lessees. For these reasons, I urge that the bill be amended accordingly.

Mr. Chairman, we can and we must proceed with early exploration and development of our oil and gas resources on the Outer Continental Shelf. But we can and must do this in an environmentally and socially responsible manner. This bill provides the means for doing so. I urge its enactment.

Mr. HARRINGTON. Mr. Chairman, I rise in support of H.R. 6218, the Outer Continental Shelf Lands Act Amendments of 1976. This legislation represents the product of more than a year of study by the Select Committee on the Outer Continental Shelf. In my opinion, it provides a balance between the need to develop a potentially major new source of oil and gas and the equally important need to minimize adverse impacts on both the coastal environment and on competing alternative economic uses of the coastal zone such as fishing and recreation.

As our current domestic reserves of crude oil and gas dwindle, we are going to have to move toward development of new sources such as the Outer Continental Shelf. However, the current policies and procedures governing the leasing and development of our resources are not adequate to protect the public.

Our offshore oil and gas are public resources, owned by the public, and should be developed with the public interest being paramount. This interest includes the protection of the coastal environment, the people and businesses of the affected areas, and the ultimate sale of the resources at reasonable prices.

Current regulation is deficient in two major areas. First, leasing policies, most notably the bonus bidding system, do not permit enough competition in the development of offshore oil. The only economic entities with enough resources to pay the large bonuses are consortiums of the major oil companies. This situation, at best, tends to inhibit free competition. At worst, it represents potential monopolization of our last major new source of domestic crude oil. In addition, the leasing system does not provide sufficient protection that the Government will receive its share of the revenues created by development of the resources.

The second major deficiency of the current system is that the affected State and regions have little or no say over the scope and pace of development, and little control over the practices and performance of the oil companies. In the densely population regions of the Atlantic and Pacific coasts, this deficiency assumes critical importance. The coastal zone is too important an economic and environmental asset to be developed without adequate State control and supervision. The narrow interests of the oil companies cannot be held superior to the interests of the people of the coastal zone.

The legislation being voted upon today addresses both of these problems. It provides needed reforms in the bidding process, and more importantly, provides a greater State role in the developmental process and the sharing of revenues.

There is, however, one area of concern which I feel has not been adequately addressed by the legislation. In my opinion, there should be stronger incentives for cooperation between the States, of the coastal zone. When we talk of the Georges Bank or the Baltimore Canyon, State boundaries are arbitrary and largely meaningless. Development of those areas will affect all of the contiguous coastal States regardless of what particular State the actual drilling takes place off of.

Yet there is no vehicle for regional cooperation in regulating development and sharing in its possible rewards. Already, we are beginning to see competition between States, most notably in New England, for the location of support services for Outer Continental Shelf development. This situation could rapidly lead to major concessions by the States, both economic and environmental, as they battle each other for the possible benefits of development. In fact, everyone loses in such a situation except for the oil companies.

In my opinion, the answer to this problem lies in the creation of regional compacts in which contiguous coastal States could share in both the responsibilities and rewards of offshore oil development. The form of the compacts could be left to the States themselves, with adequate financial incentives provided by the Federal Government. In addition, we should give serious consideration to the creation of a Federal oil and gas corporation which could provide an economic yardstick in much the same way as the TVA, and at the same time provide an environmental yardstick against which the performance of the private oil companies could be measured.

This legislation does not provide such a comprehensive plan for regional cooperation. It is my hope that the Congress will give this idea careful scrutiny in the near future. But despite this possible shortcoming, I consider the present bill a major improvement over the present haphazard and inadequate system of Outer Continental Shelf regulation and urge all of my colleagues to join with me in voting in favor of its passage.

The CHAIRMAN. There being no further requests for time, pursuant to the rule, the Clerk will now read by titles the committee amendment in the nature of a substitute recommended by the ad hoc Select Committee on the Outer Continental Shelf now printed in the reported bill as an original bill for the purpose of amendment.

The Clerk read as follows:

H.R. 6218

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Outer Continental Shelf Lands Act Amendments of 1976".

Mr. MURPHY of New York. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. McFALL) having assumed the chair, Mr. NATCHER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 6218) to establish a policy for the management of oil and natural gas in the Outer Continental Shelf; to protect the marine and coastal environment; to amend the Outer Continental Shelf Lands Act; and for other purposes, had come to no resolution thereon.

GENERAL LEAVE

Mr. MURPHY of New York. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 6218, and that I may include extraneous material immediately following my own remarks during debate on H.R. 6218.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. FISH. Mr. Speaker, reserving the right to object, may I ask the chairman of the select committee if the unanimous-consent request could include 5 legislative days with respect to the rule as well as to the bill under consideration?

Mr. MURPHY of New York. Yes.

Mr. FISH. Mr. Speaker, I withdraw my reservation of objection.

Mr. MURPHY of New York. Mr. Chairman, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the rule, as well as on H.R. 6218.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. BAUMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BAUMAN. Mr. Speaker, I take this time for the purpose of inquiring of the distinguished majority leader, the gentleman from Massachusetts (Mr. O'NEILL), as to the program for next week.

Mr. O'NEILL. Mr. Speaker, will the acting minority leader yield?

Mr. BAUMAN. I yield with great pleasure to my distinguished colleague.

Mr. O'NEILL. Mr. Speaker, the program for the House of Representatives for the week of June 7, 1976, is as follows:

On Monday, we will call the Consent Calendar. Under suspension of the rules, there are eight bills. Voting on all suspensions will be postponed until the end of all suspensions. The bills are as follows:

H.R. 13567, Small Business Act amendments.

H.R. 11877, National Commission on New Technological Uses of Copyrighted Works.

S. 2760, Indochina migration and refugee assistance.

H.R. 13899, Rules of Criminal Procedure effective dates.

S. 18, control of the African honeybee.

H.R. 11868, orientation of dependents of USDA employees having foreign assignments.

H.R. 13325, U.S. Railway Association authorization.

H.R. 13246, Securities Exchange Commission studies' extension.

On Tuesday, we will consider the following 10 bills under suspension of the rules. Voting on suspensions will be postponed until the end of all suspensions.

H.R. 7792, Alpine Lakes Wilderness, Wash.

H.R. 3052, tax treatment of option income of exempt organizations.

H.R. 3055, distilled spirits.

H.R. 1194, Klondike Gold Rush National Historical Park, Alaska and Washington.

H.R. 5621, Valley Forge National Historical Park, Pa.

H.R. 13713, National Park System boundary changes.

H.R. 2177, exemption from duty for articles previously exported.

H.R. 8656, duty-free importation of loose glass prisms.

H.R. 13500, lobbying by public charities.

H.R. 9549, Old 96-Star Fort National Battlefield, S.C.

On Wednesday, Thursday, and Friday, the House will consider the following bills:

H.R. 13367, fiscal assistance amendments (revenue sharing), subject to a rule being granted.

H.R. 13179, State Department authorization, with an open rule and 1 hour of debate.

H.R. 13589, USIA authorization, with an open rule and 1 hour of debate.

H.R. 13601, Amtrak improvement, subject to a rule being granted.

H.R. 11804, railroad safety authorization, subject to a rule being granted.

H.R. 13490, Olympic Winter Games, Lake Placid, N.Y., subject to a rule being granted.

H.R. 14114, debt limit temporary increase, subject to a rule being granted.

H.R. 6218, Outer Continental Shelf Act amendments. This will conclude the consideration of that bill.

H.R. 9291, national traffic and motor vehicle safety, subject to a rule being granted.

H.R. 12944, Federal Insecticide, Fungicide and Rodenticide Act extension, with an open rule and 1 hour of debate.

H.R. 11743, National Agricultural Research, with an open rule and 1 hour of debate.

H.R. 10133, USDA executive adjustments, with an open rule and 1 hour of debate.

Conference reports may be brought up at any time.

Any further program will be announced later.

Mr. Speaker, I would like to inform the House that we have 20 authorization bills that must be passed before the appropriation bills are considered, beginning June 14.

HOUR OF MEETING ON WEDNESDAY, JUNE 9, THURSDAY, JUNE 10, AND FRIDAY, JUNE 11, 1976

Mr. Speaker, I ask unanimous consent that the House convene at 10 a.m. on Wednesday, June 9, 1976, Thursday, June 10, 1976, and Friday, June 11, 1976.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. BAUMAN. Mr. Speaker, may I ask the distinguished majority leader whether or not any of these bills that might not be finished next week would then go over, perhaps until after the July recess?

Mr. O'NEILL. If the gentleman will yield, all of the bills that are on the schedule must be worked into the appropriation schedule.

We have already announced the schedule of the appropriation bills. So when we start the first appropriation bill on Monday, June 14, we hope we can finish at a reasonable hour and take up some of the remaining authorization bills, because they must be passed before the appropriation bills are passed.

Mr. BAUMAN. So that there will be other legislation, in addition to the appropriation bills already announced by the majority leader?

Mr. O'NEILL. Yes; there are 20 authorization bills that have already been reported and filed.

Mr. KETCHUM. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from California.

Mr. KETCHUM. Mr. Speaker, I thank my friend, the gentleman from Maryland, for yielding. I would like to ask a question of the distinguished majority leader.

Some days ago my colleague, the gentleman from California (Mr. CHARLES H. WILSON), requested of the Speaker what the possibility would be for scheduling a very light legislative day on Tuesday. Tuesday, as the gentleman knows, is the day for the California, Ohio, and New Jersey primaries.

Bearing in mind the fact that we have 10 suspensions in all scheduled and all 10 could be voted on, I just wondered what the gentleman's thoughts are along those lines, since the gentleman from California was given that promise by the Speaker.

Mr. O'NEILL. Mr. Speaker, if the gentleman from Maryland will yield further, my thoughts are that we do not have any control over a Member once he gets up and makes the point of order of no quorum or demands a vote for any reason.

In view of the fact that there are three primaries in three of the major States. California, New Jersey, and Ohio, and since. As I understand it, there are eight conventions being held in eight other States, there will be a considerable number of Members missing because of political action back home in their areas.

The gentleman from California (Mr. KETCHUM) will note that there is nothing on the list scheduled for Tuesday which is earthshaking or which would in any way disturb the peace of the world and the economy of this Nation to any great degree if Members were not here. With that in mind, I hope that other Members would have charity within their hearts and concern for the Members who are at home performing their political duties, which are a part of our congressional activities.

Mr. KETCHUM. Mr. Speaker, will the gentleman yield further?

Mr. BAUMAN. I yield to the gentleman from California.

Mr. KETCHUM. Mr. Speaker, I thank the gentleman for yielding.

I certainly understand the majority leader's remarks concerning the fact that those bills are not earthshaking nor worldmoving, and I am forced to wonder aloud whether other bills on the program are in that category. Of course, that is neither here nor there.

I would also like to refer the question to the majority leader as to the necessity for coming in at 10 o'clock on Wednesday. While that offers no problem to me as a member of the California delegation, I know that many of the Members traveling from California simply would not be able to be here at 10 o'clock on that day.

Mr. O'NEILL. Mr. Speaker, if the gentleman from Maryland will yield further, we have 2 hours of general debate on revenue sharing scheduled to start that day. I know that on our side of the aisle we have cleared this with most of the Members, and we have spoken to a majority of the Members from California. We have also cleared it, as the gentleman knows, with the minority leader on his side of the aisle.

Mr. KETCHUM. Of course, the minority leader comes from the State of Arizona, and Arizona is not having a primary.

Mr. BAUMAN. Mr. Speaker, I just wish to express to the distinguished majority leader the regret that our minority leader, the gentleman from Arizona (Mr. Rhodes), feels because he is not able to be here.

I might just make reference again to the new book written by the minority leader and entitled "The Futile System," which the gentleman is now examining and has in his hands. I hope the gentleman from Massachusetts (Mr. O'Neill) finds time over the weekend to peruse it. I understand he is prominently mentioned in the book.

Mr. O'NEILL. Mr. Speaker, if the gentleman will yield further, I am going to California for political reasons to do a little campaigning for the gentleman from California (Norman Mineta), and while I am flying out there I will peruse the book. It is entitled "The Futile System," by John J. Rhodes. He has sent a copy to me, and the inscription says, "To 'Tip' O'Neill, for whom I have great respect and affection, no matter what the book says."

Mr. Speaker, in further reply to the gentleman from Maryland, I will say that the same affection is felt on this side of the aisle for the gentleman from Arizona (John Rhodes), I have the same affection for him that he has for me. I think he is a great guy, despite his philosophy of government.

ADJOURNMENT TO MONDAY, JUNE 7, 1976

Mr. O'NEILL. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet on Monday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. O'NEILL. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday of next week.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

INTERNATIONAL MONETARY FUND DECISION WILL HAVE RIPPLE EFFECT ON U.S. ECONOMY

The SPEAKER pro tempore (Mr. McFall). Under a previous order of the House, the gentleman from Texas (Mr. Gonzalez), is recognized for 5 minutes.

(Mr. GONZALEZ asked and was given permission to revise and extend his remarks and to include extraneous matter.)

Mr. GONZALEZ. Mr. Speaker, I rise very briefly—I do not, certainly, intend to take 5 minutes—to say that very momentous events have been taking place, and they have scarcely caused a ripple of interest in the general population of our country or in the general surface of events or discussions in the Halls of Congress.

It has to do with the recent decision that was implemented this week, on June 2, by the International Monetary Fund, the so-called IMF, which was a creature of the Bretton Woods meetings back in the waning periods of World War II and which had governed until 1971 the very delicate balance of international exchanges, monetary and currency matters. The decision to place into the market quite a number of ounces of gold which is held by the IMF is more than just a casual decision.

Mr. Speaker, it is very difficult to excite interest in this decision. Yet, it has everything to do with our well-being, with our standard of living, with inflation, et cetera.

Because of the changes in the Committee on Banking, Currency and Housing in the House of Representatives, the subcommittee which I have the honor to chair, which used to be called the Subcommittee on International Finance, is now the Subcommittee on International Monetary Institutions and Finance; and another subcommittee was created that, in effect, since last year, has jurisdiction over matters pertaining to the World Bank, to the IMF, to the Bretton Woods agreement, and the like.

Mr. Speaker, what I am trying to say here is that I intend, beginning next week, to develop this subject matter a little bit more extensively. I do not expect that I will cause any more interest than has hitherto been expressed on this matter, but I think at least somebody in the Congress owes it to the people and owes it to the Congress itself to speak out on this very delicate matter.

It is hard to try to tell the folks at home that something that is being done on that level will ultimately ripple back over to us and will determine whether we have low or high interest rates, that have, in effect, as has been the case for more than 13 years, priced our young generations out of such markets as home building and the like.

Mr. Speaker, our whole American standard of living is really at stake and has been at stake for the past few years, and it is a very, very important subject matter. Unfortunately, it is dry as dust. There is not much interest. There is not much political gain in it.

I do feel, though, Mr. Speaker, that there is an urgency about it, and wish to announce the fact that I will develop this matter in the coming days of this session of the House of Representatives, during the month of June.

U.S. ARMED FORCES HYMNAL

(Mr. MYERS of Indiana asked and was given permission to address the House for 1 minute and revise and extend his remarks.)

Mr. MYERS of Indiana. Mr. Speaker, it has come to my attention that the Armed Forces Chaplain's Board recently has come out with a new hymnal book for the U.S. Armed Forces. What concerns me, Mr. Speaker, is hymn No. 286 which is called "It Was on a Friday Morning," and I would like to recite to the Members one stanza from this so-called hymn:

Now Barabbas was a killer
And they let Barabbas go,
But you are being crucified
For nothing here below.
But God is up in heaven
And he doesn't do a thing;
With a million angels watching,
And they never move a wing.

Mr. Speaker, I have written the Armed Forces Chaplains Board, and they have defended this so-called hymn. They say:

> This hymnal has met a great need in providing for the broad spectrum of worshipers within the military community. * * *
>
> The military community mirrors America's religiously pluralistic society. The Armed Forces Chaplains Board prepared this book of worship to meet this broad spectrum of our society represented by the men and women in our Armed Forces.

I say today that if the Chaplains Board, who are setting the spiritual policy for our Armed Forces, has reached this low, something ought to be done. Certainly we should be on our knees praying for our country.

You will want to register your protest to the President and your Congressmen against the inclusion of a blasphemous hymn in the newly issued U.S. Armed Forces Hymnal to be used in chapels on our military bases around the world. The hymn is as follows:

HYMN NO. 286, IT WAS ON A FRIDAY MORNING

1. It was on a Friday morning
That they took me from the cell,
And I saw they had a carpenter
To crucify as well.
You can blame it on to Pilate,
You can blame it on the Jews,
You can blame it on the Devil,
It's God I accuse.
It's God they ought to crucify
Instead of you and me,
I said to the carpenter
Ahanging on the tree.

3. Now Barabbas was a killer
And they let Barabbas go,
But you are being crucified
For nothing here below.
But God is up in heaven
And he doesn't do a thing.
With a million angels watching,
And they never move a wing.
It's God they ought to crucify
Instead of you and me,
I said to the carpenter
Ahanging on the tree.

4. To hell with Jehovah,
To the carpenter I said,
I wish that a carpenter
Had made the world instead.
Good-by and good luck to you,
The road will soon divide.
Remember me in heaven,
The man you hung beside.
It's God they ought to crucify
Instead of you and me,
I said to the carpenter
Ahanging on the tree.

TRINITY COLLEGE, HARTFORD, ACTS AGAINST RACISM, SEXISM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. COTTER), is recognized for 5 minutes.

Mr. COTTER. Mr. Speaker, President Theodore Lockwood of Trinity College, Hartford, recently took firm action to discourage racist and sexist practices among the school's student body. Jean Tucker, editorial director of WFSB-TV, Hartford, described Mr. Lockwood's stand in a television commentary May 11. I would like to insert Ms. Tucker's remarks into the RECORD.

I hope my colleagues will join me in congratulating President Lockwood. His decisive policy against racism, sexism, antisemitism, and all the other irrational hatreds that divide our society is consistent with the high intellectual standards Trinity has maintained over the years:

WFSB EDITORIAL

In an open letter to the college community recently, Trinity College President Theodore Lockwood called for the suspension of students who use racist language or who are guilty of racist acts—he warned campus organizations that they will lose their financing and constitutions if they permit racist and sexist abuses; and he asked a standing faculty-student committee to draft regulations forbidding this type of conduct.

President Lockwood was following the recommendations of the college's Council on Minority Students after the council had investigated reports that one of the fraternities was insulting black undergraduates for no reason other than they are black and after 200 students had entertained themselves one evening in the school cafeteria by topping one another's ethnic, racist, anti-semitic and sexist jokes.

President Lockwood is not going to allow this at Trinity.

We congratulate him. He could have ignored "Joke Night" and the fraternity harassment, because only a small percentage of the 1750 Trinity students were involved. Or, he could have tried to deal with the problem behind the scenes so the college would not be embarrassed. Instead, he criticized it publicly.

Many of our elected officials could learn from his example: identifying racism in all its ugliness when and where it occurs—denouncing it—and providing the moral leadership needed to end it.

Presented by Jean Tucker, Editorial Director.

LEGISLATION TO CHANGE ELECTION PROCESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. BEDELL) is recognized for 5 minutes.

Mr. BEDELL. Mr. Speaker, there is undeniably a growing sentiment in my district and across the country that Congress is not performing well, that it simply is not responding effectively to the myriad of problems facing the Nation and the world. In my brief tenure in the House, I have become convinced that there is more than just an element of truth to this public perception of the legislative branch, and I think that it is time that we, as Members of Congress, face up to this fact and attempt to do something to remedy it.

As a result, I am today introducing legislation which would make two fundamental changes in our election process which I believe would greatly improve the operation of Congress. This proposal would limit the length of time a Member of Congress could serve consecutively in the same office, and would change the length of a Representative's term from 2 to 4 years, to run concurrently with the President's term. In my view, the adoption of these changes would encourage more innovative, responsive, and effective government for the American people. It would do so by reducing the cost and frequency of campaigning and by insuring a steady and orderly turnover of personnel in Congress.

The first aspect of this legislation is the "term limitation" on all Members of Congress. This provision would restrict the length of time a Member of Congress could serve consecutively in the same office to 12 years for a Congressman and 18 years for a Senator. At the end of such service, an individual Member could run for a different office. However, he could not hold the same office again for at least 2 years. This requirement, when coupled with the proposed change in the length of a Representative's term, would allow a Congressman or a Senator to serve a maximum of three consecutive terms. For any Member now serving in Congress, the term limitation would start to apply after implementation of the legislation, and service prior to that date would not be counted.

The principal purpose of a term limitation is to encourage a steady and orderly turnover in the membership of the Senate and the House which, in turn, would keep the Congress exposed to new ideas and alive with new energy. It has become apparent to me in the year and a half that I have served in the Congress that longevity in office has detrimental as well as beneficial effects. Service in our Nation's Capital has a tendency to insulate Members from the problems of the "real world," the problems which people living in real communities in my district and yours face every day. There is, in my judgment, a real danger of "growing stale" in Washington. "Washingtonitis" is a disease which, to varying degrees, effects all Members of Congress and which grows progressively and almost imperceptibly over time. I think that, overall, it serves to diminish the legislative capabilities and potentialities of Congress and to erode its inclination and ability to aggressively pursue its oversight responsibilities. A steady influx of new people, fresh from the towns and cities of America, who will approach issues and problems with new perspectives and vitality, would, in my view, be a strong antidote to congressional lethargy.

At this point, let me add that I do understand the feelings of those who are concerned that the Congress would lose some good Members by requiring a break in service. However, I do not believe that any Member is so indispensable or highly qualified that an unfillable void would be created if his tenure was interrupted after 12 or 18 years of service. I also believe that when viewed in the broader perspective the benefit which our political system would gain from such a limitation far outweighs this disadvantage.

It is important to understand that my proposal would allow a Member to serve in the House for 12 years or in the Senate for 18 years. This is surely a long enough period to allow an individual to develop and utilize expertise. The bill would also allow him to return to the same public office after a brief sabbatical if he and the voters so choose. However, a Member of Congress would no longer be allowed to become entrenched in the House or the Senate, and the Congress would become more like the citizens' forum it was intended by the Founding Fathers to be.

The second aspect of the legislation I am introducing today is the 4-year House term. This provision is designed to allow Members of the House to devote greater time and energy to their primary task—legislating. Under the current practice of biennial elections, Congressmen spend a great deal of time and money running for office. I think that this preoccupation with one's reelection prospects constitutes a disruptive force in policymaking and places an unhealthy financial burden on the electoral process. The establishment of a 4-year term would allow a Congressman to devote greater attention to the complex legislative matters which he was elected to deal with. It would also lower total campaign costs and reduce the opportunities for special interest groups to exert pressure on Congressmen through contributions.

In researching this proposal, the argument was often raised that the frequent campaigning fostered by the 2-year term forces a Congressman to maintain contact with his constituency and that a 4-year term would jeopardize this contact. I am certainly sympathetic to this concern, for I feel very strongly that a Representative has a responsibility to stay in close touch with the people he represents.

However, I believe that, in the world of the 1970's, 2-year terms are no longer necessary to assure public influence on public policy. Modern communications and travel facilities enable Congressmen to maintain an effective dialog with their constituents, without the constant electioneering which biennial elections engender.

During the recent Easter congressional recess, I held a series of open door meetings with my constituents in each of the 22 counties in my district. At each of these sessions, the ideas of limiting the terms of Members of Congress and of changing the length of a Representative's term from 2 to 4 years were presented for discussion and public vote. The final tabulation of these votes shows that over 70 percent of the people participating in these meetings favored both of these proposals. I believe that this response is indicative of a grassroots feeling that the American people want a more active and innovative problem-solving Congress.

We are all part of a dynamic, evolutionary process—as individuals and as a society. Our institutions are also part of this process, and they too should adapt to contemporary conditions. This is true of the Federal bureaucracy. It is no less true in the case of the Congress.

The problems facing our society—at home and abroad—are growing in number and complexity. Yet, the Congress simply is not responding effectively to the challenges of the modern age. The legislation I am introducing today offers changes which I believe will improve the operation of Congress and help its Members do a better job in shaping the policies of our country. I hope that they will receive serious consideration by both Chambers.

REPORT OF THE ADVISORY COMMITTEE ON REACTOR SAFEGUARDS ON CERTAIN RECENT ALLEGATIONS WHICH HAVE BEEN MADE CONCERNING COMMERCIAL NUCLEAR POWER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. Price) is recognized for 5 minutes.

Mr. PRICE. Mr. Speaker, some months ago serious allegations concerning the commercial nuclear power program were expressed by three former employees of an industrial company and one former employee of the Nuclear Regulatory Commission.

The Joint Committee on Atomic Energy, which has the responsibility under the law to keep the Congress and public informed on such atomic energy matters, promptly initiated an investigation to ascertain the truth. An important part of that investigation was performed in public hearings held by the Joint Committee in February and March 1976. At these hearings, the persons making the allegations were heard first and were given every fair and reasonable opportunity to present their position to the committee on the public record. Subsequently the committee received testimony from the Nuclear Regulatory Commission, as well as from the chairman and some of the members of the Advisory Committee on Reactor Safeguards.

The Advisory Committee on Reactor Safeguards was created by the Congress in 1957 as an independent advisory group of experts whose primary responsibility is to study and advise on the public health and safety aspects of commercial nuclear power operations. Under the Atomic Energy Act of 1954, as amended, the Advisory Committee on Reactor Safeguards must advise the Nuclear Regulatory Commission with respect to the public health and safety aspects of such plants and the law creating the ACRS also provides that its reports be public, the Congress having concluded in 1957 that full, free, and frank discussions in public of the potential radiological hazards involved in any particular nuclear facility would be the most certain way of assuring that the facilities will indeed be safe and that the public will be fully apprised of that fact.

In addition to the testimony that was received from the Advisory Committee on Reactor Safeguards in the February and March hearings, that committee was also asked to review in detail the statements made by the former employees and to submit their report. That report has now been received and I ask unanimous consent that it be included in the Record at this point for the information of all of my colleagues.

Although the Joint Committee will report subsequently in full its findings, conclusions, and recommendations as a result of this investigation, it can be stated now that based upon the extensive hearing record in this proceeding and the report of the Advisory Committee on Reactor Safeguards, paramount consideration is given to nuclear safety in the licensing and regulation of nuclear facilities and that such activities provide adequate protection to the health and safety of the public at all times.

The report is as follows:

Hon. Marcus A. Rowden,
Chairman, U.S. Nuclear Regulatory Commission, Washington, D.C.

Report on the Review of Statements by Messrs. Bridenbaugh, Hubbard, Minor, and Pollard

Washington, D.C.
May 19, 1976.

Dear Mr. Rowden: At its 193rd meeting, May 6–8, 1976, the Advisory Committee on Reactor Safeguards (ACRS) completed its review of statements made by three former General Electric Company (GE) employees, Messrs. Dale G. Bridenbaugh, Richard B. Hubbard, and Gregory C. Minor, and former Nuclear Regulatory Commission (NRC) Staff member, Mr. Robert D. Pollard, as requested in Chairman Anders' letter of February 17, 1976. These statements were considered also by the ACRS at its 192nd meeting, April 8–10, 1976, and by five ACRS Working Groups, each of which was assigned a group of statements for review, as indicated in Appendix A. These Working Groups had the benefit of discussions with members of the NRC Staff, with the three GE engineers, and with others, as indicated in the attendance lists in Appendix B, and of the documents listed in Appendix C. Copies of the reports from the Working Groups to the ACRS are included as Appendix D.

Mr. Anders' letter asked three questions regarding these statements. The questions are listed below, together with the answers prepared by the ACRS.

1. Q. "Whether they raise issues affecting the safety of nuclear facilities of which the ACRS has not been aware."

A. Of the numereous issues raised by the three former GE engineers and the former NRC Staff member in their testimony before the Committee on Atomic Energy (JCAE) only six involved matters that had not previously been considered by the ACRS. These were:

(1) Reactor pedestal acceleration; (IV.B.3).[1]

(2) Thermal shock of the concrete reactor pedestal; (I.A.1).

(3) Potential for criticality of new fuel in storage during fire fighting; (IV.D).

(4) Need for updating of training simulators; (II.B.7).

(5) Standardization of control rooms; (II. B.6).

(6) Recent experiments on core spray distribution. (IV.A.1).

Although the first four of these items had not been considered previously by the ACRS, they had been considered by the NRC Staff and had been found not to be a problem.

The fifth item was new to the ACRS only in the special context in which it was raised. Matters relating to the arrangement of control rooms have been considered by the ACRS in numerous license reviews, but the question of standardization as a means of reducing human errors had not been considered specifically.

The sixth item, which refers to European core spray tests, was new to the ACRS as were recent tests conducted by GE on core spray distribution. A check of the ACRS records revealed that the September 24, 1974, minutes of a prior discussion between the NRC Staff and GE personnel had not been received. Review of this matter by the NRC Staff indicates that the new core spray effects do not introduce significant safety concerns although some additional study is in progress by GE for the early reactors.

2. Q. "Whether they present new information concerning generic or specific issues which indicates a need for regulatory action."

A. Neither the testimony of these men before the JCAE nor the further exploration of their questions in the meetings of the five Working Groups disclosed any new information concerning generic or specific issues that require immediate regulatory action. The fact that unresolved generic matters exist is documented in ACRS reports. The ACRS generic matters exist is documented in ACRS reports. The ACRS generic issue list was most recently updated in the ACRS report of April 16, 1976. The ACRS urges prompt resolution of these matters but does not believe that their current status causes undue risk to the health and safety of the public.

The discussions of specific issues in the Working Group meetings were chiefly elaborations of questions that were previously known to the NRC Staff and the ACRS. Some of the more important aspects of these issues are deemed to be worthy of more complete review and discussion. These aspects are mentioned in the attached reports of the Working Groups.

3. Q. "Whether their statements present any other basis for altering Commission regulatory requirements or research priorities."

A. The review by the five Working Groups did not identify any basis for altering significantly the Commission's regulatory requirements or research priorities. Nevertheless, the discussions at these meetings did suggest that the mode of implementation of some regulatory functions could be altered beneficially in some areas. Comments to this effect will be found in the reports of the Working Groups.

Although not requested to do so in Mr. Anders' letter, the ACRS has considered the implications of Mr. Pollard's statements regarding the manner in which conflicting or dissenting views are considered in arriving at a regulatory position. In this regard, the Committee suggests that the NRC Staff, as practical and appropriate, utilize its Safety Evaluation Reports or specially prepared topical reports to present and discuss the technical considerations and spectrum of views that have entered into the development of Staff positions on major safety issues. Such reports should also present any major differences of opinion that may still exist after a Staff position has been reached. The Committee will continue to review these matters as new and relevant information becomes available, and will report to you further if deemed necessary.

Sincerely yours,
Dade W. Moeller,
Chairman.

List of Members

The current members of the Advisory Committee on Reactor Safeguards are:

Chairman: Dr. Dade W. Moeller, Professor of Engineering in Environmental Health, Head of Environmental Health Sciences Department and Associate Director, the Kresge Center for Environmental Health, School of

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[1] Refers to Item Number in Appendix A. (Notes.—On the file in JCAE offices).

Public Health, Harvard University, Boston, Massachusetts;

Vice Chairman: Mr. Myer Bender, Manager of Engineering, Oak Ridge National Laboratory, Oak Ridge, Tennessee;

Mr. John H. Arnold, Consultant, Air Products and Chemicals, Inc., Allentown, Pennsylvania;

Dr. Spencer H. Bush, Senior Staff Consultant, Battelle Memorial Institute, Pacific Northwest Laboratory, Richland, Washington;

Dr. Max W. Carbon, Professor and Chairman of Nuclear Engineering Department, University of Wisconsin, Madison, Wisconsin;

Mr. Jesse C. Ebersole, Head Nuclear Engineer, Division of Engineering Design, Tennessee Valley Authority (retired);

Dr. Herbert S. Isbin, Professor, Chemical Engineering, University of Minnesota, Minneapolis, Minnesota;

Prof. William Kerr, Professor of Nuclear Engineering, University of Michigan, Ann Arbor, Michigan;

Dr. Stephen Lawroski, Senior Engineer, Chemical Engineering Division, Argonne National Laboratory, Argonne, Illinois;

Dr. J. Carson Mark, Division Leader, Los Alamos Scientific Laboratory, Los Alamos, New Mexico (retired);

Dr. David Okrent, Professor, School of Engineering and Applied Science, University of California, Los Angeles, California;

Dr. Milton S. Plesset, Professor, Department of Engineering Science, California Institute of Technology, Pasadena, California;

Dr. Chester P. Siess, Professor and Head of Civil Engineering, University of Illinois, Urbana, Illinois.

REPORT OF HONORABLE THOMAS J. DOWNEY ON THE EXTENT OF CHEATING AT THE U.S. MILITARY ACADEMY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. DOWNEY) is recognized for 5 minutes.

Mr. DOWNEY of New York. Mr. Speaker, this is a preliminary report. It attempts to summarize some of the very basic conclusions which I have reached during my relatively brief, but intensive, investigation of the cheating scandal at West Point. I intend to submit this report to the Military Personnel Subcommitee of the House Armed Services Committee with the understanding that I will submit a final report to the subcommittee on or before June 14, 1976.

METHODOLOGY

On Sunday, May 23, I began my personal investigation of the situation at the academy, accompanied by my legislative assistant. For more than 3 hours that evening I met with many of the prosecution and defense attorneys who are involved in the legal proceedings arising out of this cheating scandal.

On Monday morning at 8 a.m., I met for nearly an hour with the superintendent of the academy, the commandant of cadets, and the dean of students.

Following that meeting, I met for nearly 1 hour with six members of the Cadet Honor Committee. Thereafter, forced by the press of legislative busines, I returned to Washington, while my legislative assistant remained at the academy until Wednesday afternoon to conduct additional interviews.

During the period between Sunday evening when I first arrived, and Wednesday afternoon when my legislative assistant completed the interviewing process, my office conducted nearly 40 hours of interviews, talking to dozens of cadets and officers at the academy. My staff took great pains during that time to insure that our selection of cadets and officers enabled us to obtain a wide sampling of opinions regarding this current controversy.

Most of the cadets who were interviewed were selected at random. A room in the barracks area of two companies of cadets was set up and second classmen within those companies were invited to participate in confidential interviews behind closed doors. The cadets who spoke to us were asked to remove their name tags before meeting with my staff so as to insure their anonymity. Those interviewed were guaranteed by my staff that they could speak frankly without fear of subjecting themselves to disciplinary action by the academy or the Cadet Honor Committee.

In weighing the responses of the cadets, less credence was given to the opinions of those who admitted that they were presently facing disciplinary action for cheating. Many of those cadets, during their upcoming hearings, hope to show that the cheating is widespread, as evidence of their own lack of culpability. Although I believe that most of these cadets were attempting to be honest in their remarks, I assumed that many could not help but be biased.

Similarly, I discounted slightly the opinions of cadets who asserted that they were extremely strict followers of the honor code. The reason for this is that cadets who cheat or openly tolerate cheating generally avoid contact with those who follow the honor code to an exceptional degree. The cheaters and tolerators simply cannot afford to be honest with these cadets about their actions and the actions of their friends for fear that these cadets would report them for honor violations. As a result, cadets who have followed the honor code to the letter generally have the least amount of contact with cadets who commit violations and are often in the worst position to judge the extent of cheating at West Point.

Instead, we sought out those who had not been charged with dishonesty but who, at the same time, had admitted that they themselves had cheated or had tolerated the cheating of others. These were the cadets who were not caught up in the current controversy—and in fact had much to lose by admitting their misdeeds to my staff—but who had gained the trust of a sufficient number of honor violators at the Academy to objectively estimate their numbers.

THE EXAM

Electrical Engineering 304, more commonly known to the cadets as "juice," was a required course last semester for 823 "second classmen"—cadets in their third year at the Academy. All of these cadets last March were assigned a "take-home" problem which consisted of six questions. Five of those questions required analysis of schematic diagrams and solution of mathematical equations. Some work at computer terminals was necessary to answer these questions. The sixth question was a "short answer" question. Most cadets answered the question in 25 to 40 words.

The grading system at the Academy is a complex one based on a maximum grade of 3.0 or 30 tenths. Without attempting to analyze this system it may be stated that the exam in question was merely a quiz, worth about 5 percent of a cadet's grade in the course. For the vast majority of the cadets, a failing grade in this quiz would not have, in and of itself, affected their letter grade for the semester.

Electrical Engineering 304 is not an exceptionally popular course at West Point. For most of them it is a dry, technical course involving a great deal of what the cadets refer to as "plug and chug." This expression is used to describe exams which require long hours of "plugging" certain figures supplied to the student into complex formulas studied in the course, and "chugging" through the mathematical process required to derive the correct answer.

Most all of the students agreed that the exam in question was both time consuming and difficult. They generally estimated that the quiz took between 4 and 6 hours of work to complete. They also commented that a fair knowledge of the course material was required before a student could make much headway on the exam. Many cadets complained that the amount of work required for the quiz was excessive in view of the fact that:

First, the quiz made up a relatively small amount of their semester;

Second, the quiz was required to be completed shortly before spring recess when cadets' academic workload is relatively full; and

Third, the quiz required work by all 823 cadets on a relatively limited number of computer terminals, posing logistical and scheduling problems for the cadets who had to take turns in getting access to the computer.

THE EXTENT OF THE CHEATING

During the 4 days of interviews conducted by my office, my staff assistant and I talked to dozens of cadets and officers, yet we were unable to determine the precise number of cadets who cheated or tolerated cheating on this exam. However, all of the evidence which we accumulated leads me to the conclusions that cheating at the academy is much more pervasive than academy officials have thus far been willing to concede in that—

First. A substantial portion of those who collaborated on this exam have not been and probably will never be charged with an Honor violation;

Second. Many more such cheating scandals would surface if the academy were to search for cheating as diligently as it has in this particular instance; and

Third. Many if not most of those who cheated on this exam had cheated on previous occasions and/or had known many other cadets who had cheated before.

I have reached these conclusions reluctantly: I am saddened by the determinations that dishonesty is prevelent in an institution whose former superintendent, General Knowlton, once said:

> The Honor System is the well spring of all that we strive for at the Academy. . . .

1. THE UNDISCOVERED COLLABORATION

There were at least three ways in which cadets collaborated on this quiz. There were some who merely discussed the subject matter with one another or in groups offering hints and suggestions on solving the problems. There was a second group who worked out the correct answers together, but took care to insure that their exam papers were not so similar as to raise suspicion. A third category of collaborators was made up of cadets who copied indiscriminately the papers of their colleagues without regard to the appearance of cheating.

The openness of the cheating by cadets in this third category is somewhat astounding. Papers were literally copied number-for-number and word-for-word. It appears that in many cases one exam paper was passed "down the line" to cadet after cadet, each of whom copied the same exam knowing full well that many had copied it before him. In some cases, even misspellings were copied.

It is important to stress that those cadets who have thus far been formally cited for cheating have been made up almost exclusively of this third category of cadets. Those presently charged with cheating have been discovered through a painstaking process of comparing the answers on the papers submitted by the 823 cadets. The cadets who have thus far been "caught" are those who cheated so blantantly that their collaboration was evident on the faces of their exam papers.

The academy has not even begun to uncover the number of cadets who informally collaborated or who took care to disguise their cheating in some manner. Nor has the academy yet made any progress in isolating those cadets who are guilty of "toleration"—cadets who may not have cheated themselves but who failed to report the cheating of their friends and colleagues. In the eyes of the honor system, those who tolerated are as culpable as those who actually cheated.

2. THE SEARCH FOR CHEATING

One of the reasons that cadets cheat is that they have become confident that they can probably escape detection. One of the reasons for this attitude is the traditional method by which exam papers are graded.

Cadets attend classes in small sections, each containing 12 to 15 students. The class is divided into about 60 sections and each of 15 instructors will probably teach four sections. Traditionally, each instructor grades the papers of the cadets in his four sections. Thus, most cadets have been able to assume that as long as they do not collaborate with a student in one of their instructor's four sections there is very little chance that he will ever find out about their cheating.

The reason that widespread cheating was discovered in this particular instance is that the instructors traded papers with one another in an effort to determine exactly how many persons cheated. Cadets' papers were compared with those of their roommates, their company-mates and their friends who had different instructors.

It has been, I believe, this unusually diligent effort to discover the extent of cheating rather than the unusual amount of cheating which has produced the current "scandal."

I have searched but have found no evidence that there was anything unusual about this exam which would have provoked an exceptional amount of cheating. This particular test was merely a quiz, worth about 5 percent of a student's grade in the course. For the large majority of cadets, even a failing grade would not have, in and of itself, affected their letter grade for the semester. There was simply no unusual reason to cheat on this exam.

I am left to conclude that the amount of cheating which occurred in connection with this exam occurs with greater frequency than Academy officials would like to concede. There is simply no escaping the determination that the scandal occurred primarily as a result of the unusual intensity of the search and not as a result of any extraordinary amount of cadet dishonesty.

3. THOSE WHO CHEATED PROBABLY DID NOT DO SO FOR THE FIRST TIME

I have found no one at the academy who could explain why a cadet who had never cheated for 3 years at West Point would suddenly cheat on a quiz worth no more than 5 percent of his course grade. There is simply no plausible explanation why this particular quiz would suddenly cause a cadet to vary from a course of conduct which has been ingrained in him for 3 years. Rather, it appears that most of the cadets we interviewed were correct when they asserted that the people who cheated on this exam had probably not done so for the first time.

LEADERSHIP AT THE ACADEMY

The Honor Code at the academy has traditionally "belonged to the cadets." They are not only primarily responsible for reinforcing it but are also charged with the task of teaching it. West Point plebes learn whatever they know about the code from seniors who conduct courses in the honor system.

But it would appear that a very important role in this honor system can and should be assumed by the instructors and tactical officers at the academy. I believe that if the officers at the academy do not begin to take a more active interest in the honor problems at the academy the cheating problem will never be conquered.

Instructors at West Point seem to have acquired a "hear no evil, see no evil" attitude toward cheating. They generally remain aloof from the problems of the cadets, and go to great lengths to avoid involvement in honor proceedings.

I find it hard to believe that a good instructor could teach an engineering class of 15 students three times per week and not have some idea of who cheats and who does not. One would be forced to have suspicions, for example, about a student who generally performed poorly in classroom discussions but who managed to get high marks on quizzes.

I am convinced that many cadets who begin to fall into patterns of dishonesty can be identified by diligent and concerned instructors and given the assistance and guidance which they may need to correct their behavior.

In addition, I wonder why we should bear the expense of maintaining a low instructor-cadet ratio if this is not fostering strong cadet-officer relationships.

Part of the blame for the occurrence of cheating at the academy must fall upon the officers at the academy.

RECOMMENDATIONS

I understand that Secretary of the Army Martin R. Hoffmann is considering a review of the honor system at West Point by officials within the Military Establishment. While I applaud this change of position by the Secretary, I must express my grave doubts that any group which is so restricted in its membership will be able to objectively evaluate the problems which currently plague the academy. The Committee on Excellence in Education, an agency which consists of two high-ranking Defense Department officials and the Secretaries of the three military services, will not, I believe, supply fresh ideas and outside perceptions which this honor problem so deseparately requires.

Based on the findings of my report, I will recommend to the chairman of the House Armed Services Subcommittee on Military Personnel that he schedule, as soon as practical, hearings into this matter and the Honor Code in general. A thorough, objective group, such as the Congress, I believe, is the only way to resolve the structural problems of the academy.

I will also recommend to the committee that final disposition of the currently pending cases be suspended until the committee has made its final report.

PERSONAL EXPLANATION AS TO VOTE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. DANIELSON) is recognized for 5 minutes.

Mr. DANIELSON. Mr. Speaker, yesterday afternoon, June 3, 1976, I missed the vote on final passage of the cotton research bill, H.R. 10930, rollcall No. 327, which was passed by a vote of 307 yeas and 6 nays. I was unable to be on the floor during that vote due to other business. If I had been present, I would have voted "yea."

STATEMENT ON PALM OIL IMPORTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. SIKES) is recognized for 15 minutes.

Mr. SIKES. Mr. Speaker, soybeans have in recent years become one of the Nation's major crops. It is a crop that readily adapts itself to varying soil and climatic conditions. In the South it has thrived, even on soils that were only marginally productive for the old stand-by crops, such as cotton, corn, and peanuts. The result has been a tremendous increase in soybean acreage. This versatile crop found a ready place on the world markets because of the high nutritional value of the beans, and relatively low cost to the consumer of soybean products.

As a result, soybean production has been one of the brightest pictures in American agricultural programs which often have been spotty and disappointing to the farmer because of high cost of production and uncertain markets.

Regrettably, the promise of soybeans as a profitable agricultural commodity has recently been clouded by such factors as lack of support from our administration in seeking foreign sales and by foreign substitutes, both abroad and in the United States. One of the principal competitive products has been palm oil.

Over a billion pounds of palm oil will be imported into the United States this year—three times the level of 1973. The U.S. Department of Agriculture estimates that sales by American farmers of 43 million bushels of soybeans to domestic edible oil users were lost in 1975 as a direct result of palm oil imports.

Palm oil undercutting the price of domestic vegetable oils will not translate into reduced vegetable oil prices for the American shopper. Food processors of vegetable oil have costs other than raw materials which will inhibit any price reductions on the finished product. Rather, the impact of imported palm oil will take the form of increased prices for meat, poultry, and dairy products. Here is why:

The cost of growing soybeans is constantly rising, due to more expensive fuel, fertilizer, and other farm inputs. Soybean crushers manufacture soybean oil and soybean meal, both of which are derived at the same time. Low prices for soybean oil—induced by competition from palm oil—will force soybean meal to carry the increased cost of producing soybeans. Soybean meal constitutes two-thirds of the high-protein animal feed ingredients in the United States. Higher-priced soybean meal will raise feed prices, and those increases will be passed on to the consumer through more expensive meat, pork, poultry, and dairy foods. To pay for animal feeding standards at least as good as those of 1975, it will cost the American people an extra $8 billion by 1980.

The palm oil causing this problem has been subsidized in its production by international loans to exporting countries like Malaysia. From 1975 to 1980, loans already extended will subsidize 45 percent of all palm oil production. The U.S. Government has endorsed many of these loans as extended by the World Bank.

Assuming that World Bank financing of palm oil will help poor people in producing nations neglects some hard economic facts. Income earned by palm oil exports will not keep growing in pact with projected volume. Too much of a commodity hurts its producers in the long run just as surely as its competitors in the short run. Besides, there are many Third World countries that produce other oil-bearing crops—for example, Indian groundnuts, Nigerian peanut oil—whose markets are being weakened just as badly as those of American edible oils.

Soybeans are a far more versatile food source than palms, and—as the Nation's largest single item of value in foreign trade—are essential to the health of our farm economy. Our Government should stop supporting the subsidy of palm oil production in foreign countries, and should take action to negotiate voluntary import limitations with those nations. Otherwise American consumers will pay for the consequences.

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. Ambro), is recognized for 5 minutes.

Mr. AMBRO. Mr. Speaker, I regret that official business in my congressional district to which I was committed some time ago prevented me from casting my votes in person on amendments to and final passage of H.R. 9560, the Water Pollution Control Act Amendments. I was especially sorry to be absent during the House's deliberations on this important legislation, because it was considered by the Public Works and Transportation Committee, of which I am a member, and I, therefore, was involved with every phase of this measure from public hearings, through markup, to the final committee report.

If I had been present, I would have voted against the substitute to the Cleveland amendment to section 17 of H.R. 9560, dealing with the section 404 permit program for the discharge of dredged and fill material. Had the substitute not been approved, I would have voted for the Cleveland amendment. I would also have voted in favor of final passage of the bill.

CORPORATIONS MUST DISCLOSE ARAB BOYCOTT PARTICIPATION, SAYS SEC

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Ms. Abzug), is recognized for 15 minutes.

Ms. ABZUG. Mr. Speaker, both as an individual member and as chairwoman of the Government Information and Individual Rights Subcommittee, I have been active in efforts to end the Arab boycott against Israel and particularly to end participation in that boycott by American corporations and Federal agencies.

Several months ago, I wrote to Chairman Roderick M. Hills of the SEC asking for the SEC's opinion as to whether an American corporation must publicly disclose its participation in the Arab boycott when that participation results in a material adverse effect upon the corporation's income, assets—including good will—or profits. I stated to Mr. Hills that in my opinion, such disclosure was definitely required by the securities laws.

I am pleased to announce that Chairman Hills has replied that the SEC agrees with my interpretation, at least in part. In a letter to me dated June 3, he states that where corporate participation in a boycott has a material adverse effect upon the income, assets—including good will—or profits of a corporation, disclosure of the relevant facts is mandatory under the rules of the Commission.

Mr. Hills went on to say that material includes conduct of importance to investors. Unfortunately, he was not more specific than that as to just what kind or extent of participation must occur before disclosure is required under the securities laws. Accordingly, I have replied to Mr. Hills by stating that to the average investor, any participation—however small in terms of dollars—is of importance, and that all participation in the Arab boycott—however small in terms of dollars—must be disclosed.

I have asked Chairman Hills to make full public disclosure of any information in the possession of the SEC as to individual corporations' participation, and also asked him to notify each entity subject to the securities laws that it is required to make public disclosure or any and all participation in the Arab boycott.

The texts of my initial letter to Chairman Hills, his response of June 3, and my response to him of today follow:

House of Representatives,
Washington, D.C., December 10, 1975.

Hon. Roderick M. Hills,
Chairman, Securities and Exchange Commission, Washington, D.C.

Dear Mr. Chairman: Recent accounts in the news media have indicated that a number of corporations and other entities subject to the jurisdiction of the Securities and Exchange Commission have participated in or agreed to participate in an economic boycott of Israel.

I would appreciate having the opinion of the Commission as to the conditions under which participation by a corporation in an economic boycott must be reported to the SEC and to the public. It would seem that if participation in a boycott has a material adverse effect upon the income, assets (including good will) or profits of the corporation, or would violate Federal or State law, then the corporation should be required to disclose to its stockholders the fact of its participation in the boycott and the amount of income, assets (including good will) or profits lost or expected to be lost as the result of its participation.

I also wish to know the Commission's position regarding the desirability of legislation that would require such disclosure, or would clarify present requirements for such disclosure.

I hope to have your response on this matter as soon as possible.

With best regards, I am
Sincerely,
Bella S. Abzug, *Member of Congress.*

Securities and Exchange Commission,
Washington, D.C., June 3, 1976.

Hon. Bella S. Abzug,
U.S. House of Representatives,
Washington, D.C.

Dear Congresswoman Abzug: This is in further response to your letter, dated December 10, 1975, inquiring as to "the conditions under which participation by a corporation in an economic boycott must be reported to the SEC and to the public." You also ask for the "Commission's position regarding the desirability of legislation that would require full disclosure, or would clarify present requirements for such disclosure." We previously discussed this matter orally, and this letter reflects developments since our earlier discussions.

The existence of an economic boycott of

Israel has been raised in two contexts of direct concern to this Commission. The first is the requested participation of American brokers and dealers (or their affiliates) in underwriting syndicates for the public distribution of securities which deliberately exclude from participation brokerage firms believed to be sympathetic to Israel or Zionism. As you may be aware, in discharging its statutory responsibilities with respect to oversight of the securities industry and the self-regulatory organizations that help regulate the industry, the Commission has been monitoring industry practices with respect to the economic boycott in connection with underwriting syndication.

The only attempts of which the Commission is aware to exclude any person or entity from an underwriting on the basis of an economic boycott have occurred in connection with offerings of securities *outside* the United States which were not required to be registered with the Commission. The evidence indicating such attempts was developed in the course of an investigation into the Arab boycott, undertaken at the Commission's request, by the National Association of Securities Dealers, Inc. ("NASD"). In its report of this investigation to the Commission, the NASD presented evidence of two successful attempts, and of indications of other unsuccessful attempts, to exclude certain investment banking firms from participation in offshore offerings of securities. A copy of this report is enclosed.

As a result of this investigation, the NASD has taken disciplinary action against two firms, Blyth Eastman Dillon & Co., Inc. and Dillon, Read & Co., Inc., on the basis of their cooperation with Arab-related firms in precluding other firms from certain offshore underwritings. The NASD report also uncovered some evidence, detailed therein, suggesting that one or two similar, isolated attempts had occurred in the United States, but reported that such attempts had been resisted. The Commission is not aware of any successful attempts to implement such discriminatory practices in connection with financing syndicates organized to offer securities registered, or required to be registered, with the Commission.

Under Section 15A(b)(6) of the Securities Exchange Act of 1934, as amended, 15 U.S.C. 78o-3(b)(6), an association of brokers or dealers may not register with the Commission unless its rules are designed—

> "to promote just and equitable principles of trade, . . . to remove impediments to and perfect the mechanism of a free and open market and a national market system . . . and are not designed to permit unfair discrimination between customers, issuers, brokers or dealers . . . ."

The rules of the NASD, the only national securities association registered with the Commission, are designed to implement just and equitable principles of trade, and that organization interprets its rules in this regard as prohibiting racial or religious discrimination by its members in the formation of underwriting syndicates. See Article III, Section 1 of the NASD Rules of Fair Practice; Letter dated April 21, 1976, from Gorden S. Macklin to Chairman Hills (copy enclosed).

As a result of recent amendments to the Securities Exchange Act (P.L. 94-29, June 4, 1975), moreover, the Commission may, under appropriate circumstances, bring an action in the federal courts to enjoin NASD members from violating NASD rules. See Section 21(d) of the Securities Exchange Act, 15 U.S.C. 78u(d). Because the NASD has apprised its members of the proscription contained in the NASD's rules against discriminatory underwriting syndication practices, to date there has been no need to take such action, although both this Commission and the NASD continue to monitor the situation closely. Enclosed is a copy of Securities Exchange Act Release No. 11860 (Nov. 20, 1975), which explains the Commission's position on such activities.

The second context of direct concern to us in which the economic boycott has arisen relates to the activities of American companies in their business activities here and abroad. While the Commission does not directly regulate the conduct of business by American companies, those companies whose securities are held by significant numbers of the investing public are required to file reports with the Commission on a periodic basis, disclosing the results of their operations and other economically material and significant matters. There are, of course, a number of different disclosure requirements which have been promulgated by the Commission pursuant to its statutory authority.[1] In the situation which you posit—that is, where corporate participation in a boycott has "a material adverse effect upon the income, assets (including good will) or profits of the corporation"—disclosure of the relevant facts is mandatory pursuant to disclosure requirements adopted by the Commission, and set forth in 17 CFR 240.12b-20 and 240.14a-9(a).[2] In addition, any material litigation arising from participation in a boycott must be disclosed in periodic reports prescribed by the Commission. See, *e.g.*, Securities Exchange Act Form 10-K, Item 5.[3]

Whether particular corporate conduct which may be in violation of federal or state law is of importance to investors—that is, whether it is "material," and is thus required to be disclosed—necessarily is dependent upon the facts and circumstances involved. Thus, while the Commission in no sense condones corporate activities in violation of law,[4] disclosure by publicly-held corporations of every violation of law which occurs in the course of their business operations may not be required under the federal securities laws.[5] On the other hand, to the extent that boycott participation is material to the business of a particular registrant, disclosure would be required under the rules cited above, and the failure to make appropriate disclosures could be actionable by the Commission, depending upon the appropriate exercise of the Commission's prosecutorial discretion.[6] In addition, if private persons believe that, in a particular instance, these requirements are being violated, they may seek equitable relief or damages in court. Private civil actions based upon violations of the federal securities laws are a "necessary supplement" to the Commission's own enforcement actions. *J. I. Case Co.* v. *Borak*, 377 U.S. 426, 432 (1964).

While, as discussed above, there may have been some question respecting the adequacy of the Commission's authority in the area of underwriting syndications prior to the recent amendments to the Securities Exchange Act, the Commission's authority under the federal securities laws to require disclosure by publicly-held corporations of information of importance to investors is extremely broad. The statutory provisions conferring this authority are discussed in more detail in enclosed Securities Act Release No. 5627 (see n. 1, *supra*).

A recent Commission enforcement action provides an example of the manner in which failure to disclose material facts concerning corporate involvement in a boycott, and falsification of company records incident thereto, can constitute violations of the federal securities laws. On May 10, 1976, the Commission filed a complaint in the United States District Court for the District of Columbia against General Tire and Rubber Company and its President, M. G. O'Neil. The complaint alleges various violations of the federal securities laws as the result of the making by General Tire of millions of dollars of improper and illegal payments and falsification of its books and records as well as the filing of materially false and misleading reports with the Commission. In that context, the complaint recites that General Tire engaged in efforts to buy its way off a boycott list that effectively precluded General Tire from doing business in Arab countries. Without admitting or denying the allegations in the Commission's complaint, the company consented to the entry of a permanent order of injunction against future violations of the federal securities laws. Moreover, it consented, among other relief, to the establishment of a special committee to conduct a thorough inquiry into the allegations in the Commission's complaint, and report to the court, the Commission, and the shareholders.

Whether corporate participation in a boycott should be disclosed, regardless of its importance to investors, or whether it should be prohibited outright, is, of course, a matter for the Congress to determine. Although we believe that the policy considerations implicit in any such determination might better be addressed by other agencies and departments, such as the State Department, we will be pleased to comment on any specific legislative proposals.

The Commission has transmitted to the Commerce, Consumer and Monetary Affairs Subcommittee of the House Committee on Government Operations a letter responding to inquiries posed by that Subcommittee concerning the Commission's knowledge of corporate participation in the Arab boycott. A copy of that letter (with its attachments), which is also relevant to your request, is enclosed.

Please let us know if we can provide any further information regarding these matters.

Sincerely,

RODERICK M. HILLS,
Chairman.

FOOTNOTES

[1] For example, companies which have registered a class of equity securities pursuant to Section 12 of the Securities Exchange Act, or which have filed a registration statement under the Securities Act of 1933 since 1964, must file with the Commission annual reports on Form 10-K, 17 CFR 240.13a-1, and quarterly reports on Form 10-Q, 17 CFR 240.13a-13. In addition, current reports on Form 8-K are required within 10 days after the close or any month in which any specified events or other material events occur, 17 CFR 240.13a-11.

[2] The Commission has promulgated a similar requirement respecting disclosure under the Securities Act of 1933 relating to information required to be furnished to investors upon the public distribution of their securities. See 17 CFR 230.408.

[3] In this context, as you may be aware, the Department of Justice has commenced civil litigation under the antitrust laws against one company, not a Commission registrant, alleged to have participated in such a boycott. See *United States* v. *Bechtel*, Civil Action No. 76-99 (N.D. Cal., Jan. 16, 1976).

[4] When, as a result of its investigations, the Commission becomes aware of violations of laws other than the securities laws, the matter is brought to the attention of the appropriate governmental authority.

[5] "Participation in the Arab boycott" was one of approximately 100 different areas of social interest concerning which one or more participants in a recent Commission proceeding concerning social disclosure expressed an interest. See Securities Act Release No. 5627 at p. 45, n. 72 (Oct. 14, 1975). A copy of that release is enclosed for your information.

[6] In an analogous context, the Commission has instituted various injunctive actions alleging that the defendant maintained undisclosed, off-book pools of money or so-called "slush funds." See, *e.g.*, *Securities and Exchange Commission* v. *Gulf Oil Corp., et al.* (No. 75-0324, D.D.C., filed March 11, 1975).

GOVERNMENT INFORMATION AND INDIVIDUAL RIGHTS SUBCOMMITTEE OF THE COMMITTEE ON GOVERNMENT OPERATIONS,
Washington, D.C., June 4, 1976.

Hon. RODERICK M. HILLS,
Chairman, Securities and Exchange Commission, Washington, D.C.

DEAR CHAIRMAN HILLS: This is in response to your letter of June 3 regarding the effect under the securities laws of corporate participation in the Arab boycott of Israel.

You state that where corporate participation in the boycott has a material adverse effect upon the income, assets (including good will) or profits of the corporation, disclosure of the relevant facts is mandatory pursuant to disclosure requirements adopted by the Commission. In my opinion, any participation, no matter how small in terms of dollars, is of importance to investors, and I therefore suggest that monetary amount should not be a yardstick as to whether disclosure is required.

In view of your statement, I ask that the Commission disclose at once any information in its possession as to boycott participation by any corporation or other entity subject to the securities laws. I also request that the Commission notify each entity subject to the securities laws that it is required to disclose any boycott participation.

Sincerely,

BELLA ABZUG,
Chairwoman.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. MILFORD (at the request of Mr. O'NEILL), for today, on account of illness.

Mr. PEPPER (at the request of Mr. O'NEILL), for today, on account of official business.

Mr. RANGEL (at the request of Mr. O'NEILL), for today, on account of official business.

Mr. FOUNTAIN (at the request of Mr. O'NEILL), between 12 noon and 2 p.m. today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. MILLER of California) and to include extraneous material:)

Mr. GONZALEZ, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. COTTER, for 5 minutes, today.

Mr. BEDELL, for 5 minutes, today.

Mr. PRICE, for 5 minutes, today.

Mr. DOWNEY of New York, for 5 minutes, today.

Mr. DANIELSON, for 5 minutes, today.

Mr. SIKES, for 15 minutes, today.

Mr. AMBRO, for 5 minutes, today.

Mr. BINGHAM, for 5 minutes, today.

Ms. ABZUG, for 15 minutes, today.

Mr. FLOOD, for 60 minutes, June 8.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. MARTIN) and to include extraneous matter:)

Mr. WIGGINS.

Mr. ESCH.

Mr. BROOMFIELD.

Mr. BUTLER.

Mr. REGULA in four instances.

Mr. DERWINSKI.

Mr. ASHBROOK in three instances.

Mr. FISH.

(The following Members (at the request of Mr. MILLER of California), and to include extraneous matter:)

Mr. GONZALEZ in three instances.

Mr. ANDERSON of California in three instances.

Mr. EILBERG.

Mr. MAZZOLI.

Mr. WOLFF.

Mr. BAUCUS in two instances.

Mr. JACOBS in two instances.

Mr. ROSENTHAL in 10 instances.

Mr. MAGUIRE in two instances.

Mr. BRINKLEY.

Mr. TEAGUE.

Mr. BENNETT.

Mr. DODD.

Mr. GINN.

Mr. DINGELL in three instances.

Mr. HAMILTON.

Mr. DELANEY.

Mr. ROYBAL.

Ms. ABZUG in three instances.

Mr. McDONALD in two instances.

ENROLLED BILL SIGNED

Mr. HAYS of Ohio, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 11438. An act to amend title 5, United States Code, to grant court leave to Federal employees when called as witnesses in certain judicial proceedings, and for other purposes.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 1699. An act for the relief of Mrs. Hope Namgyal.

ADJOURNMENT

Mr. MILLER of California. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 3 o'clock and 20 minutes p.m.), under its previous order, the House adjourned until Monday, June 7, 1976, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC

Under clause 2 or rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3433. A letter from the Deputy Assistant Secretary of Defense (Administration), transmitting a proposed new system of records for the Department of the Navy entitled "Navy Overseas Assignment Inventory System," pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

3434. A letter from the Administrator of General Services, transmitting a draft of proposed legislation to amend 5 U.S.C. 5724a (a)(4) to liberalize certain provisions which authorize reimbursement for the expenses of the sale and purchase of a residence upon transfer of an employee; to the Committee on Government Operations.

RECEIVED FROM THE COMPTROLLER GENERAL

3435. A letter from the Comptroller General of the United States, transmitting a report on how the United States compares to other nations in applying modern manufacturing technology by discrete parts, batch process manufacturers; jointly, to the Committees on Government Operations, and Science and Technology.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BRADEMAS: Committee on House Administration. House Concurrent Resolution 623. Concurrent resolution providing for the printing of a booklet entitled "Duties of the Speaker"; with amendment (Rept. No. 94–1213). Referred to the House Calendar.

Mr. BRADEMAS: Committee on House Administration. House Concurrent Resolution 624. Concurrent resolution providing for the printing of a walking tour map of the area surrounding the U.S. Capitol; with amendment (Rept. No. 94–1214). Referred to the House Calendar.

Mr. PERKINS: Committee on Education and Labor. Report of the Committee on Education and Labor pursuant to section 302(b) of the Congressional Budget Act of 1974 (Rept. No. 94–1215). Referred to the Committee of the Whole House on the State of the Union.

Mr. BOLLING: Committee on Rules. House Resolution 1259. Resolution providing for the consideration of H.R. 10210. A bill to require States to extend unemployment compensation coverage to certain previously uncovered workers; to increase the amount of the wages subject to the Federal unemployment tax; to increase the rate of such tax; and for other purposes. (Rept. No. 94–1216). Referred to the House Calendar.

Mr. ULLMAN: Committee on Ways and Means. H.R. 14114. A bill to increase the temporary debt limit, and for other purposes. (Rept. No. 94–1217). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ANDREWS of North Dakota:

H.R. 14182. A bill to amend the act entitled "An Act to Authorize Establishment of the Fort Union Trading Post National Historic Site, North Dakota and Montana, and for other purposes", approved June 20, 1966 (80 Stat. 211); to the Committee on Interior and Insular Affairs.

By Mr. BAUCUS:

H.R. 14183. A bill to amend the River Basin Monetary Authorization and Miscellaneous Civil Works Amendment Act of 1970 with respect to the project for Libby Dam, Mont.; to the Committee on Public Works and Transportation.

H.R. 14184. A bill to authorize construction of power generating facilities at the Libby Reregulating Dam, Kootenai River, Mont.; to the Committee on Public Works and Transportation.

H.R. 14185. A bill to amend the Federal Water Pollution Control Act to authorize the Environmental Protection Agency's assistance to persons outside the United States for the purpose of eliminating, abating, or controlling transboundary water pollution flowing into the United States; to the Committee on Public Works and Transportation.

By Mr. BLANCHARD (for himself, Mr. Mineta, Mr. Derrick, Mr. Edwards of California, Mr. Meeds, Mr. Studds, Mr. Burgener, Mr. Howard, Mr. Zeferetti, Mr. Gilman, and Mr. Dodd):

H.R. 14186. A bill to provide for the elimination of inactive and overlapping Federal programs, to require authorizations of new budget authority for Government programs and activities at least every 4 years, to establish a procedure for zero-base review and evaluation of Government programs and activities every 4 years, and for other purposes; to the Committee on Rules.

By Mr. du PONT:

H.R. 14187. A bill to assure low-income households the opportunity to attain adequate levels of nutrition by increasing their purchasing power, to strengthen the food sector of the economy, and for other purposes; to the Committee on Agriculture.

By Mr. FISH (for himself and Mr. Scheuer):

H.R. 14188. A bill to terminate the granting of construction licenses of nuclear fission powerplants in the United States pending action by the Congress following a comprehensive 5-year study of the nuclear fuel cycle, with particular reference to its safety and environmental hazards, to be conducted by the Office of Technology Assessment, and for other purposes; to the Joint Committee on Atomic Energy.

By Mr. GUDE (for himself, Mr. Fisher, and Mr. Ryan):

H.R. 14189. A bill to establish the Potomac National River in the States of Maryland, Virginia, and West Virginia, and in the District of Columbia, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. HAMMERSCHMIDT:

H.R. 14190. A bill to expand the medical freedom of choice of consumers by amending the Federal Food, Drug, and Cosmetic Act to provide that drugs will be regulated under that act solely to assure their safety; to the Committee on Interstate and Foreign Commerce.

H.R. 14191. A bill to amend title 38, United States Code, to increase the aid and attendance allowance payable to veterans and surviving spouses of veterans; to the Committee on Veterans' Affairs.

H.R. 14192. A bill to amend title 38, United States Code, to provide supplemental pension payments to a surviving spouse of a World War I veteran if such spouse attains age 75 and does not qualify for the aid and attendance allowance; to the Committee on Veterans' Affairs.

H.R. 14193. A bill to amend title 38, United States Code, to provide supplemental pension payments to certain veterans of World War I who have attained age 78; to the Committee on Veterans' Affairs.

By Mr. HIGHTOWER:

H.R. 14194. A bill to require a periodic evaluation and justification of the continued existence of certain Federal regulatory agencies and to provide for the elimination of such agencies or their successor agencies after a specified period of time, and for other purposes; jointly, to the Committees on Government Operations, and Rules.

By Mr. HOLLAND:

H.R. 14195. A bill to require the Federal Communications Commission to increase the channels available for use in the citizens radio service; to the Committee on Interstate and Foreign Commerce.

By Mr. KARTH (for himself and Mr. Baldus):

H.R. 14196. A bill to reaffirm the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce; to reaffirm the authority of the States to regulate terminal and station equipment used for telephone exchange service; to require the Federal Communications Commission to make certain findings in connection with Commission actions authorizing specialized carriers; and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Ms. KEYS (for herself, Mr. Cohen, Mr. Litton, Mr. Baucus, and Mr. Mitchell of New York):

H.R. 14197. A bill to amend title 39, United States Code, to require the U.S. Postal Service to evaluate and examine specific criteria whenever the closing of a post office is considered, to provide for a public hearing whenever the U.S. Postal Service considers closing any post office, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. McDADE:

H.R. 14198. A bill to amend title 39, United States Code, to establish procedures to regulate the manner in which the U.S. Postal Service may close post offices serving rural areas and small communities and towns; to the Committee on Post Office and Civil Service.

H.R. 14199. A bill "Small Business Tax Incentive Act of 1976"; to the Committee on Ways and Means.

By Mr. MAZZOLI:

H.R. 14200. A bill to repeal the recently enacted provisions authorizing increases in the salaries of Senators and Representatives; to the Committee on Post Office and Civil Service.

By Mr. MOLLOHAN (for himself, Mr. Ashbrook, Mr. Gaydos, Mr. Hughes, Mr. Kemp, Mr. McDonald of Georgia, Mr. Miller of Ohio, Mr. Pickle, and Mr. Sarasin):

H.R. 14201. A bill to amend the Solid Waste Disposal Act to prohibit the promulgation of certain regulations respecting beverage containers sold, offered for sale, or distributed at Federal facilities; to the Committee on Interstate and Foreign Commerce.

By Mr. MURPHY of New York:

H.R. 14202. A bill to amend the Regional Rail Reorganization Act of 1973 to implement the final system plan and to authorize States and profitable railroads to acquire certain rail properties from the Consolidated Rail Corporation, and for other purposes; to the Committee on Interstate and Foreign Commerce.

Mr. NOLAN:

H.R. 14203. A bill to amend the Internal Revenue Code of 1954 to provide that individuals who do not apply for or accept employment within their capabilities will not be eligible to receive unemployment compensation; to the Committee on Ways and Means.

By Mr. O'HARA:

H.R. 14204. A bill to amend section 101(1)(2) of the Tax Reform Act of 1969; to the Committee on Ways and Means.

By Mr. O'NEILL (for himself, Mr. Brown of California, Mr. Dingell, Mr. Drinan, Mr. McCormack, Mr. Moorhead of Pennsylvania, Mr. Reuss, Mr. Staggers, Mr. Teague, Thornton, and Mr. Wirth):

H.R. 14205. A bill to amend the Energy Policy and Conservation Act to minimize the use of energy in residential housing, commercial and public buildings, and industrial plants; to create an Energy Conservation Extension Service; to establish energy conservation research, development, and demonstration institutes; to authorize a Federal program of research, development, and demonstration designed to promote efficiency of energy use; to insure coordination of Federal energy conservation activities; and for other purposes; divided and referred as follows: Title I jointly, to the Committees on Banking, Currency and Housing, and Interstate and Foreign Commerce; and title II to the Committee on Science and Technology.

By Mr. ROE:

H.R. 14206. A bill to grant a Federal charter to the Athenia Veterans Post, Inc.; to the Committee on the Judiciary.

By Mr. ROYBAL:

H.R. 14207. A bill to direct the Administrator of the Federal Aviation Administration to promulgate noise standards for certain aircraft in order to reduce noise emissions and to improve the human environment, and to provide certain payments to operators of the aircraft required to meet the noise standards in order to permit the operators to retrofit or replace such aircraft; to the Committee on Public Works and Transportation.

By Mr. TEAGUE:

H.R. 14208. A bill to direct the Secretary of the Army to issue permanent easements for certain docks constructed on property under his jurisdiction; to the Committee on Public Works and Transportation.

By Mr. WHALEN:

H.R. 14209. A bill to establish the National Diabetes Advisory Board and to take other actions to insure the implementation of the long-range plan to combat diabetes; to the Committee on Interstate and Foreign Commerce.

By Mr. BEDELL:

H.J. Res. 974. Joint resolution proposing an amendment to the Constitution of the United States to provide 4-year terms for Members of the House of Representatives and to limit the number of consecutive terms that Representatives and Senators may serve; to the Committee on the Judiciary.

By Mr. MINISH (for himself, Mr. Annunzio, Mr. Biaggi, Mr. Boland, Mr. Conte, Mr. Dominick V. Daniels, Mr. Dent, Mr. Derwinski, Mr. Downey of New York, Mr. Fascell, Mrs. Fenwick, Mr. Florio, Mr. Howard, Mr. LaFalce, Mr. McFall, Mrs. Meyner, Mr. Murphy of New York, Mr. Rinaldo, Mr. Rodino, Mr. Roncalio, Mr. Russo, Mr. Wolff, Mr. Yates, Mr. Zablocki, and Mr. Zeferetti):

H. Con. Res. 651. Concurrent resolution expressing the sense of Congress regarding democracy in Italy and participation by Italy in North Atlantic Treaty Organization; to the Committee on International Relations.

By Mr. HANLEY (for himself, Mr. Annunzio, Mr. Brademas, Mr. Breckinridge, Mr. Brodhead, Mr. Brown of California, Mr. Burlison of Missouri, Mr. D'Amours, Mr. Fary, Mr. Ginn, Mr. Guyer, Mr. Hannaford, Mr. Hughes, Mr. Jones of Alabama, Mr. Jones of North Carolina, Mr. Kazen, Mr. Koch, Mr. Krebs, Mr. Landrum, Mr. Levitas, Mr. Lloyd of California, Mrs. Lloyd of Tennessee, Mr. Long of Louisiana, and Mrs. Meyner):

H. Res. 1255. Resolution expressing the sense of the House regarding the closing of post offices; to the Committee on Post Office and Civil Service.

By Mr. HANLEY (for himself, Mr. Mikva, Mr. Miller of California, Mr. Minish, Mrs. Mink, Mr. Moakley, Mr. Mollohan, Mr. Nedzi, Mr. Patterson of California, Mr. Pattison of New York, Mr. Pepper, Mr. Price, Mr. Roncalio, Mr. Seiberling, Mr. Solarz, Mr. Stratton, Mr. Studds, Mrs. Sullivan, Mr. Thone, Mr. Traxler, Mr. Tsongas, Mr. Vander Jagt, Mr. Waxman, Mr. Whalen, and Mr. White):

H. Res. 1256. Resolution expressing the sense of the House regarding the closing of post offices; to the Committee on Post Office and Civil Service.

By Mr. HANLEY (for himself, Mr. Andrews of North Carolina, Mr. Cleveland, Mr. Harsha, Mr. Litton, Mr. Melcher, Mr. Moffett, Mr. Nolan, Mr. O'Hara, Mr. Pickle, Mr. Quie, Mr. Charles Wilson of Texas, Mr. Zablocki, and Mr. Zeferetti):

H. Res. 1257. Resolution expressing the sense of the House regarding the closing of post offices; to the Committee on Post Office and Civil Service.

By Mr. PIKE (for himself Mr. James V. Stanton, Mr. Dellums, Mr. Murphy *of Illinois, Mr. Aspin,* Mr. Hayes of Indiana, Mr. Lehman, and Mr. Johnson of Colorado):

H. Res. 1258. Resolution to establish a standing committee of the House on intelligence, and for other purposes; to the Committee on Rules.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

398. The SPEAKER presented a memorial of the Legislature of the State of Colorado, relative to the use of funds received from sales, bonuses, royalties, and rentals of Federal lands; to the Committee on Interior and Insular Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mrs. BURKE of California:

H.R. 14210. A bill for the relief of Bu Young Lee; to the Committee on the Judiciary.

By Mr. McFALL:

H.R. 14211. A bill for the relief of Terry Johnson; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII,

485. The SPEAKER presented a petition of Orlan A. Saucke, Chattanooga, Tenn., relative to redress of grievances, which was referred to the Committee on the Judiciary.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted at follows:

H.R. 6218

By Mr. HECHLER of West Virginia:

On page 44, after line 24, add a new section as follows:

"SUNSHINE IN GOVERNMENT

"Sec. 103. (a) Each officer or employee of the Secretary of the Interior who—

"(1) performs any function or duty under this Act or the Outer Continental Shelf Lands Act as amended by this Act; and

"(2) has any known financial interest in any person who (A) applies for or receives any permit or lease under, or (B) is otherwise subject to the provisions of, this Act or the Outer Continental Shelf Lands Act,

shall, beginning on February 1, 1977, annually file with the Secretary a written statement concerning all such interests held by such officer or employee during the preceding calendar year. Such statement shall be available to the public.

"(b) The Secretary shall—

"(1) act within ninety days after the date of enactment of this Act—

"(A) to define the term 'known financial interest' for purposes of subsection (a) of this section; and

"(B) to establish the methods by which the requirement to file written statements specified in subsection (a) of this section will be monitored and enforced, including appropriate provisions for the filing by such officers and employees of such statements and the review by the Secretary of such statements; and

"(2) report to the Congress on June 1 of each calendar year with respect to such disclosures and the actions taken in regard thereto during the preceding calendar year.

"(c) In the rules prescribed in subsection (b) of this section, the Secretary may identify specific positions within the Department of the Interior which are of a nonregulatory and nonpolicymaking nature and provide that officers or employees occupying such positions shall be exempt from the requirements of this section.

"(d) Any officer or employee who is subject to, and knowingly violates, this section, shall be fined not more than $2,500 or imprisoned not more than one year, or both."

H.R. 10210

By Mr. du PONT:

Page 40, line 6, strike out "and".

Page 40, strike out line 12, and insert the following: "ing employers, employees, and the general public;

"(8) review of the present method of collecting and analyzing present and prospective national and local employment and unemployment information and statistics;

"(9) identification of any weaknesses in such method and any problem which results from the operation of such method; and

"(10) formulation of any necessary or appropriate new techniques for the collection and analysis of such information and statistics.

H.R. 13367

By Mr. LEVITAS:

Page 10, strike out line 7 and everything that follows through page 16, line 21.

Redesignate the succeeding sections accordingly.

FACTUAL DESCRIPTIONS OF BILLS AND RESOLUTIONS INTRODUCED

Prepared by the Congressional Research Service pursuant to clause 5(d) of House rule X. Previous listing appeared in the Congressional Record of June 3, 1976, page 16593:

HOUSE BILLS

H.R. 13676. May 10, 1976. Science and Technology. Establishes an Energy Extension Service in the Energy Research and Development Administration to assist in the development of energy conserving practices.

Establishes criteria for the development of State energy conservation implementation plans. Directs the Administrator of Energy Research and Development to develop energy conservation plans for Federal programs.

H.R. 13677. May 10, 1976. Ways and Means. Amends the Internal Revenue Code to provide that income to agricultural organizations derived from horse races and dog races shall not be unrelated business taxable income.

Denies all deductions directly connected with such races for any taxable year.

H.R. 13678. May 10, 1976. Interior and Insular Affairs; Interstate and Foreign Commerce; Public Works and Transportation. Directs the Secretary of the Interior and the Federal Power Commission to expedite United States participation in the construction of an Alaskan natural gas pipeline system through Canada to midwestern domestic markets. Requires that such pipeline be constructed at the earliest feasible moment and in an environmentally acceptable manner.

Prohibits the issuance of rights-of-way for such pipelines through specified public domain lands used for conservation or recreation purposes.

H.R. 13679. May 10, 1976. Interior and Insular Affairs. Amends the Organic Act of Guam to provide for Federal guarantee of specified obligations of the Guam Power Authority not exceeding $36,000,000. Provides the terms of repayment for such obligations.

H.R. 13680. May 11, 1976. International Relations. Amends the Foreign Assistance Act of 1961 to authorize appropriations for military assistance programs for fiscal years 1976 and 1977, and to limit such programs.

Amends the Foreign Military Sales Act to restrict such sales and to authorize appropriations under such Act for fiscal years 1976 and 1977.

Amends the Foreign Assistance Act of 1961 with respect to (1) human rights, (2) assistance for the Middle East, Cypriot refugees, Turkey, Angola, Chile, Portugal, Korea, Lebanon, and Italy, and (3) authorization of appropriations for security supporting assistance, the Middle East Special Requirements Fund, international narcotics control, and the International Atomic Energy Agency.

H.R. 13681. May 11, 1976. Government Operations. Abstract: Deletes the present limitation on the expenditures of appropriations authorized for the use of the Privacy Protection Study Commission established by the Privacy Act of 1974.

H.R. 13682. May 11, 1976. Government Operations. Changes the authorization for appropriations for the Privacy Protection Study Commission under the Privacy Act of 1974. Deletes the annual expenditure limitation on such authorization.

H.R. 13683. May 11, 1976. Government Operations. Abolishes the Department of Health, Education, and Welfare and transfers its functions to the Department of Health, the Department of Education, and the Department of Welfare created by this Act.

H.R. 13684. May 11, 1976. International Relations. Directs the President, through the Council on International Economic Policy, to collect data regarding international investment and to issue regulations requiring recordkeeping of such data. Sets forth regulations to insure the confidentiality of such information. Imposes penalties for violation of the provisions of this Act.

H.R. 13685. May 11, 1976. Education and Labor. Sets forth regulations governing employee welfare or pension benefit plans established or maintained by State or local government entities. Authorizes the Secretary of Labor to enforce the provisions of this Act.

H.R. 13686. May 11, 1976. District of Columbia; Judiciary. Grants judicial officers the power to deny pertrial release to persons charged with the commission of violent crimes if there is reason to believe that such persons would flee or pose a danger to others or the community.

H.R. 13687. May 11, 1976. Ways and Means. Amends the Internal Revenue Code to establish graduated corporate income tax rates. Increases the estate tax exemption and establishes a new rate schedule for the estate tax. Increases the gift tax exclusion and exemption and establishes a new gift rate. Provides special treatment for the sale of stock in a closely held corporation when sold to pay estate taxes. Redefines a subchapter S corporation. Allows tax credits for the hiring of new employees. Redefines section 1244 stock (small business stock, losses on which are treated as ordinary losses).

H.R. 13688. May 11, 1976. Ways and Means. Denies tax exempt status to an organization if a substantial part of the activities of such organization consist of carrying on propaganda or otherwise attempting to influence legislation.

Imposes a tax of 25 percent of the amount of any excess lobbying expenditures.

Prohibits any charitable contribution tax deduction for out-of-pocket expenditures made by any person on behalf of a tax-exempt organization if the expenditure is made for the purpose of influencing legislation.

H.R. 13689. May 11, 1976. Public Works and Transportation. Deauthorizes the Lafayette Dam and Reservoir in Indiana.

HOUSE JOINT RESOLUTIONS

H.J. Res. 951. May 13, 1976. Post Office and Civil Service. Designates September 8 of each year as "National Cancer Day."

H.J. Res. 952. May 13, 1976. Post Office and Civil Service. Authorizes and requests the President to issue a proclamation designating the week beginning on November 7, 1976, as "National Respiratory Therapy Week."

H.J. Res. 953. May 17, 1976. Post Office and Civil Service. Designates October 1, 1976, as "National Coaches' Day."

H.J. Res. 954. May 17, 1976. House Administration. Authorizes the American Hungarian Bicentennial Monument, Incorporated, to erect a memorial in honor of the late Colonel Michael Korvats de Fabrici in the District of Columbia.

H.J. Res. 955. May 18, 1976. Merchant Marine and Fisheries. Provides for the identification of foreign enterprises engaged in commercial whaling.

H.J. Res. 956. May 18, 1976. Post Office and Civil Service. Designates March 13 to 19, 1977, as "National Community Health Week."

H.J. Res. 957. May 18, 1976. Post Office and Civil Service. Designates March 13 to 19, 1977, as "National Community Health Week."

H.J. Res. 958. May 18, 1976. Post Office and Civil Service. Authorizes and directs the President to issue a proclamation designating the week of October 10 through 16, 1976, as "Native American Awareness Week."

H.J. Res. 959. May 19, 1976. Government Operations. Provides for the establishment of an Office of Hispanic Affairs in each department and agency of the executive branch which shall participate in all policy planning and development for all programs.

Requires the Secretary of Commerce to establish a Hispanic Information Clearinghouse.

H.J. Res. 960. May 20, 1976. Post Office and Civil Service. Designates the song, "America the Beautiful" as the "Bicentennial Hymn for 1976."

HOUSE RESOLUTIONS

H. Res. 1186. May 11, 1976. Rules. Creates a select House committee on professional sports to conduct an inquiry into the need for legislation with respect to professional sports.

H. Res. 1187. May 11, 1976. Sets forth the rule for the consideration of H.R. 12945.

H. Res. 1188. May 11, 1976. Sets forth the rule for the consideration of H.R. 12972.

H. Res. 1189. May 11, 1976. Sets forth the rule for the consideration of H.R. 13179.

H. Res. 1190. May 12, 1976. Sets forth the rule for the consideration of H.R. 6810.

H. Res. 1191. May 13, 1976. Sets forth the rule for the consideration of H.R. 12677.

H. Res. 1192. May 13, 1976. Sets forth the rule for the consideration of H.R. 12679.

H. Res. 1193. May 17, 1976. International Relations. Directs the Secretary of Defense to furnish to the House of Representatives information available to him relative to the extent of Cuban or other foreign military or paramilitary presence in the Republic of Panama or in the Panama Canal Zone.

H. Res. 1194. May 17, 1976. International Relations. Expresses the support of the House of Representatives for the basic principles and positions which Secretary of State Henry Kissinger expounded in his address at Lusaka, Zambia, on April 27, 1976.

SENATE—*Friday, June 4, 1976*

(Legislative day of Thursday, June 3, 1976)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by Hon. RICHARD STONE, a Senator from the State of Florida.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Great God, Lord of all men and nations, we thank Thee for this land so fair and free; for its worthy aims and noble purposes, for its instruments of governments, its homes, its churches, and its schools. We are thankful for people who have come to our shores with customs and accents to enrich our lives. Thou hast led us in the past, forgiving sins, correcting mistakes, confirming the right and the good. Lead us in days to come. Give us a voice to praise Thy goodness in this land of living men, and a will to serve Thee now and always, through Jesus Christ our Lord. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., June 4, 1976.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. RICHARD B. STONE, a Senator from the State of Florida, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

Mr. STONE thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of Thursday, June 3, 1976, be approved.

Mr. ALLEN. Mr. President, reserving the right to object, we are still in the same legislative day as we were in yesterday, and my objection at this time to dispensing with the reading of the Journal would not cause the Journal to be read. I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

The Chair notes that the objection was to the approving of the Journal, rather than the reading of the Journal.

Mr. ALLEN. What did the Chair say?

The ACTING PRESIDENT pro tempore. The Chair observes that the objection noted was as to the approval of the Journal, as opposed to the reading of the Journal.

Mr. ALLEN. No, the Senator from Alabama objected to dispensing with the reading of the Journal of yesterday.

Mr. ROBERT C. BYRD. Mr. President, I did not make that request.

Mr. ALLEN. I object to the reading being dispensed with or the approval, because the legislative day is the same as yesterday. I objected to the request.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. ROBERT C. BYRD. For the record, to make the record clear, I did not ask to dispense with the reading of the Journal, but for the approval of the Journal.

The ACTING PRESIDENT pro tempore. The Chair has so stated.

Mr. ALLEN. I object to the approval of the Journal.

The ACTING PRESIDENT pro tempore. The objection is noted.

COMMITTEE MEETINGS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that all committees be authorized to meet until 12 o'clock today, or until the end of morning business, whichever comes later.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I yield the floor.

Mr. HELMS. I yield on behalf of the minority.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from North Carolina (Mr. MORGAN) is recognized for not to exceed 15 minutes.

A DIALOG ON FREEDOM AND INTELLIGENCE

Mr. MORGAN. Mr. President, I was fortunate, during my first year of service to the United States as a Senator, to be appointed a member of the Senate Select Committee on Intelligence Activities. I regard the accomplishments of that committee as some of the most important work ever undertaken in the Congress concerning the rights and civil liberties of American citizens. Recently, in a significant display of support for the work of the committee, the full Senate followed through on one of the central recommendations of the committee and established a permanent committee to oversee the activities of this Nation's intelligence agencies. I was appointed to that committee and look forward to continued service in that general area.

I feel strongly that the new committee, by increasing the accountability of intelligence agencies to the Congress, will make them able to more effectively perform their vital functions while at the same time insure that the principles of freedom on which this country was founded will be held in high regard by those agencies.

The committee conducted many public hearings during its investigation, with some of them being televised nationally. While these hearings and the investigation itself necessarily focused on past abuses of the intelligence agencies, there were several themes and undercurrents present which I feel, because of their subtle nature, need to be reemphasized to the American people. The revealing of past abuses of agencies such as the FBI and CIA to the citizens of our Nation was a relatively simple matter once the abuses had been discovered. Explaining the significance of the abuses, as they relate to the sustenance of our democratic way of life, is a far more difficult task. I make this statement after a careful review of the hundreds of letters I received during the course of the investigation, conversations with my constituents and citizens of other States, and upon determining a general atmosphere I found exhibited by the personnel of the agencies the committee was investigating.

In an effort to increase the awareness of the American people of the functioning of our intelligence agencies and as a means of developing conversation and dialog on the interrelationship of those activities and the inherent rights of American citizens I intend to, during the month preceding our celebration of our 200th anniversary as a nation, enter into the CONGRESSIONAL RECORD some of my thoughts on what I feel are significant themes which were present during the course of the select committee's investigation and which in all likelihood will reappear during the work of the Oversight Committee.

Just as the committee's investigation revealed thousands of abuses of constitutionally guaranteed rights of American citizens committed by intelligence agencies over the last 40 years, the work of the committee also unequivocally demonstrated our need for, and the importance of, an effective intelligence-gathering capability. The recognition of this need is a prerequisite to any discussion of past actions taken by the members of our intelligence community.

The Central Intelligence Agency was established in the wake of World War II and after analyses of information known to various of our military branches indicated that had the information they possessed been centrally organized and evaluated we would have known in advance of the Japanese attack on Pearl Harbor. Thus, the purpose of establishing the CIA was to provide for, in the words of our Declaration of Independence, a more effective "common defense" of our Nation. There should be no argument among American citizens, despite present efforts to ease world tensions, that a strong defense is an absolute prerequisite to our continued existence as a nation.

Similarly, the Federal Bureau of Investigation developed its reputation as one of the most effective law enforcement agencies in the world by enforcing the Federal criminal laws of our country, thereby protecting the citizen and the Nation from those whose activities in disregard for the law threatened, again in the words of our Declaration of Independence, our "domestic tranquillity." An additional and important function of the FBI is the conducting of intelligence operations directed at foreign espionage efforts against the United States. No one would say the purposes of these activities are improper. In today's world, our needs for an effective Central Intelligence Agency and Federal Bureau of Investigation are more than apparent.

The committee's work, however, revealed that for various reasons, some understandable but still improper, and others without any basis in law or logic, our intelligence agencies, in attempting to maintain our security, acted with complete disregard for a basic tenet of our democratic society. It has often been repeated that ours is a government of laws and not one of men. We assume that the law is just and that justice is blind. When we feel there are inequities in our laws, we seek change through the courts, our legislative processes, or through executive mandate. We equip our Nation, States, counties, and municipalities with necessary means to enforce our laws and seek swift and effective punishment for those who violate them. Our society, while recognizing the fallibility of man, strives for perfection through a well-evolved legal process.

The Select Committee's final report on "Intelligence Activities and the Rights of Americans" states that—

> Legal issue were clearly not a primary consideration—if they were a consideration at all—in many of the programs and techniques of the intelligence community.

Stated plainly, many activities of our intelligence agencies were above and beyond the law. These activities not only involved patent violations of the law but more seriously constituted actions which infringed on the rights of our citizens and our fellow Americans. And the violation of the rights of a single American constitutes a violation of the rights of all Americans, no matter his creed or station in life.

Mr. President, my greatest concern for the future of America, for my State, for my family, for us all, is that we remain free. To do this we must first define freedom, as our forefathers did in the Constitution and Bill of Rights, and live our lives accordingly. Not only must this be done by those who seek change or feel aggrieved by our society, but even more so by those charged with insuring our defense and tranquillity.

Only by positively affirming that neither the least nor the most powerful of us is above the rule of law can we attain the true freedom our forefathers sought 200 years ago.

I thank the Chair.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Delaware (Mr. ROTH) is recognized for not to exceed 15 minutes.

CONGRESSIONAL ETHICS

Mr. ROTH. Mr. President, when I was talking to people in Delaware over the Memorial Day weekend, I found them more cynical than ever about Congress as an institution. Many references were made to the Wayne Hays scandal, of course, but the main point is that people regard the Hays matter not as an isolated instance but as part of a general pattern of moral laxity in Congress and coverup. The present scandal only reinforces a negative image already there and further contributes to the already dismal condition of public confidence in Congress. Even before the Hays revelations, a Harris poll found that only 9 percent of the American people have a great deal of confidence in the leadership of Congress. This compares to 18 percent 2 years ago and 42 percent in 1966.

If Congress is to retain the public's confidence, it must have the courage to clean up its own house. It has been applying a double standard of morality, pressing ahead with investigations of the executive branch, Watergate, the CIA, and multinational corporations, but reluctantly acting on charges of congressional misbehavior only when forced to. Congress, which has been so ready to preach morality to others, has failed to enforce acceptable standards for itself.

Under pressure, the House Committee on Standards of Official Conduct is formally investigating allegations involving Congressman HAYS and earlier and different charges against Congressman SIKES. Aside from these, here are some other serious allegations:

Charges that Members of Congress other than HAYS have nonworking employees on their payrolls.

Charges that some Members accepted illegal payments from Gulf Oil Co.

Charges that two Members of the House accepted bribes from the South Korean Government.

Charges that several Members of the House turned in false travel vouchers, receiving reimbursement for travel expenses they never paid.

Charges that a Member of the House extorted payments from illegal aliens in return for introducing private bills on their behalf.

I have no personal knowledge of whether any of these allegations are correct, but I think each and every one of these cases should be fully investigated and cleared up. When serious and well-founded charges are made, Congress should show the same vigor in following up on them as it does when the charges involve others. If Congress is going to have high credibility in performing its proper function of investigating abuses elsewhere, we must show that we are willing to apply a single high standard of ethical conduct to all, including ourselves.

Congress has been suspicious when dealing with others, but generous and tolerant in dealing with its own Members. In the case of the House travel vouchers, for example, there appears to be a great willingness to accept the word of Members that they simply did not look at the vouchers they signed and did not realize that they were claiming reimbursement for hundreds or even thousands of dollars they did not spend. I am sure that if similar pleas were made by executive branch or corporation officials, they would be met with derision.

There can be no double standard when it comes to ethics. An individual should receive no special consideration just because he is in Congress rather than in the executive branch, or just because he is in one party rather than the other, or just because he is powerful or well-liked by his colleagues.

I was a freshman Member of the House when we created the Committee on Standards of Official Conduct. There were high hopes then and a great deal of rhetoric to the effect that that committee and its Senate counterpart would insure a high standard of ethical behavior in Congress and prevent the kinds of abuse so evident in the Bobby Baker and Adam Clayton Powell affairs.

Today these committees are generally viewed as do-nothing, flaccid committees. I hope this situation will be rectified for the good of Congress and the good of the country. We have the machinery to make the investigations that are needed. We have the laws we need. Congress should use the machinery to enforce the laws that we have written.

I believe that whenever there are serious and well-founded allegations of misconduct by Members of Congress, the House and Senate ethics committees should immediately undertake investigations on their own initiative. The honest should be exonerated; the guilty should be punished. That is only fair for Congress as an institution and for those Members who are accused.

Mr. President, I yield back the remainder of my time.

ORDER VITIATING ORDERS FOR RECOGNITION OF SENATOR METCALF AND SENATOR HRUSKA

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the orders for the recognition of Mr. Metcalf and Mr. Hruska be vitiated.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business for not to exceed 10 minutes, with statements therein limited to 2 minutes each.

MESSAGES FROM THE HOUSE

At 1:35 p.m., a message from the House of Representatives delivered by Mr. Hackney, one of its reading clerks, announced that the House has passed the following bills in which it requests the concurrence of the Senate:

H.R. 10930. An act to repeal section 610 of the Agricultural Act of 1970 pertaining to the use of Commodity Credit Corporation funds for research and promotion and to amend section 7(e) of the Cotton Research and Promotion Act to provide for an additional assessment and for reimbursement of certain expenses incurred by the Secretary of Agriculture; and

H.R. 13655. An act to establish a 5-year research and development program leading to advanced automobile propulsion systems, and for other purposes.

The message also announced that the House has passed the bill (S. 2710) to extend certain authorizations under the Federal Water Pollution Control Act, as amended, with amendments in which it requests the concurrence of the Senate.

ENROLLED BILLS SIGNED

The message further announced that the Speaker has signed the following enrolled bills:

S. 1699. An act for the relief of Mrs. Hope Namgyal.

H.R. 11438. An act to amend title 5, United States Code, to grant court leave to Federal employees when called as witnesses in certain judicial proceedings, and for other purposes.

The enrolled bills were subsequently signed by the Acting President pro tempore (Mr. Metcalf).

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, June 4, 1976, he presented to the President of the United States the enrolled bill (S. 1699) for the relief of Mrs. Hope Namgyal.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The PRESIDING OFFICER laid before the Senate the following letters, which were referred as indicated:

Construction Projects by the Air National Guard

A letter from the Deputy Assistant Secretary of Defense transmitting, pursuant to law, a report on seven construction projects to be undertaken by the Air National Guard (with accompanying papers); to the Committee on Armed Services.

Report of the Department of State

A letter from the Assistant Secretary of State transmitting, pursuant to law, a report summarizing the trade controls of COCOM countries current to February 1, 1976 (with an accompanying report); to the Committee on Foreign Relations.

Report of the Comptroller General

Two letters from the Comptroller General transmitting, pursuant to law, a report entitled "Manufacturing Technology—A Changing Challenge to Improved Productivity" (with an accompanying report); to the Committee on Government Operations.

Orders of the Immigration and Naturalization Service

A letter from the Commissioner of Immigration and Naturalization transmitting, pursuant to law, copies of orders suspending deportation, together with a list of the persons involved (with accompanying papers); to the Committee on the Judiciary.

PETITIONS

The ACTING PRESIDENT pro tempore (Mr. Stone) laid before the Senate the following petitions, which were referred as indicated:

A resolution adopted by the commission of the city of Coral Gables, Fla., relating to Federal aid to combat the lethal yellowing palm blight; to the Committee on Agriculture and Forestry.

A resolution adopted by the San Francisco Peaks Chapter of the Society of American Foresters relating to Monongahela legislation; to the Committee on Agriculture and Forestry.

Senate Joint Resolution No. 47 adopted by the Legislature of the State of California; to the Committee on Labor and Public Welfare:

"Senate Joint Resolution No. 47

"Whereas, The seasonally adjusted California unemployment rate for January 1976 was 10 percent; and

"Whereas, In January 1976, there were 68,000 more people unemployed in California than there were in December 1975; and

"Whereas, The Congress is now considering legislation which guarantees all adult Americans able and willing to work the availability of an equal opportunity for useful and rewarding employment; now, therefore, be it

"*Resolved by the Senate and Assembly of the State of California, jointly,* That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to enact such legislation; and be it further

"*Resolved,* That the Secretary of the Senate be hereby directed to transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

A resolution adopted by the Senate of the State of Indiana; to the Committee on Government Operations:

"Resolution

"Whereas, The Federal Government has continually interceded to mandate certain guidelines for states to follow; and

"Whereas, The Indiana Legislature has spent many hours debating federally imposed standards, including vehicle safety, automobile tire composition, textbook and curriculum adoption, welfare programs including so-called "work incentives" and welfare medical clinic programs that will cost Indiana taxpayers more than thirty million dollars per year:

"Now Therefore, be it resolved by the Senate of the General Assembly of the State of Indiana:

"Section 1. That the Federal Government cease from its dangerous path of mandating guidelines and standards for states to follow, and that it further reconsider all prior legislation in this regard.

"Section 2. That the Secretary of the Senate send copies of this resolution to the leadership in both Houses of the United States Congress, all members of the Indiana Congressional Delegation, and the President of the United States."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HUDDLESTON, from the Committee on Agriculture and Forestry, with amendments:

H.R. 8410. A bill to amend the Packers and Stockyards Act of 1921, as amended, and for other purposes (Rept. No. 94–932).

THIRD REPORT ON THE CONDUCT OF MONETARY POLICY—REPORT NO. 94–931

Mr. PROXMIRE submitted a special report entitled "Third Report on the Conduct of Monetary Policy," together with additional views, from the Committee on Banking, Housing and Urban Affairs, pursuant to House Concurrent Resolution 133, 94th Congress, first session, which was ordered to be printed.

HOUSE BILLS REFERRED

The following bills were each read twice by their titles and referred as indicated:

H.R. 10930. An act to repeal section 610 of the Agricultural Act of 1970 pertaining to the use of Commodity Credit Corporation funds for research and promotion and to amend section 7(e) of the Cotton Research and Promotion Act to provide for an additional assessment and for reimbursement of certain expenses incurred by the Secretary of Agriculture; to the Committee on Agriculture and Forestry.

H.R. 13655. An act to establish a 5-year research and development program leading to advanced automobile propulsion systems, and for other purposes; to the Committee on Commerce.

ORDER FOR STAR PRINT

Mr. JAVITS. Mr. President, at the request of the chairman of the Committee on Government Operations, Mr. RIBICOFF, I ask unanimous consent that the committee be permitted to file a star print on its report 94–874 accompanying the Federal Energy Administration Extension Act, S. 2872. Such a star print is necessary to make technical and conforming changes in the report.

The PRESIDING OFFICER (Mr. GRAVEL). Without objection, it is so ordered.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by uanimous consent, the second time, and referred as indicated:

By Mr. HELMS (for himself and Mr. MORGAN):

S. 3518. A bill for the relief of Sea Gate, Inc., a North Carolina corporation, and Charles M. Reeves, Jr. Referred to the Committee on the Judiciary.

By Mr. PELL:

S. 3519. A bill to amend section 402 of title 23 of the United States Code, relating to highway safety programs, in order to require certain provisions in such programs to discourage driving while under the influence of alcohol. Referred to the Committee on Public Works.

By Mr. DOLE (for himself and Mr. HUDDLESTON):

S. 3520. A bill to extend the rural community fire protection program, and for other purposes. Referred to the Committee on Agriculture and Forestry.

By Mr. STEVENSON (for himself, Mr. PEARSON, Mr. GRAVEL, Mr. MONDALE, Mr. STEVENS, and Mr. HOLLINGS):

S. 3521. A bill to expedite a decision on the delivery of Alaska natural gas to U.S. markets, and for other purposes. Referred to the Committee on Commerce.

By Mr. BURDICK:

S. 3522. A bill authorizing the construction of certain bank stabilization works on the Missouri River below Garrison Dam; and

By Mr. BURDICK (for himself and Mr. YOUNG):

S. 3523. A bill to authorize a dam and reservoir for flood control and other purposes on the Pembina River, near Walhalla, North Dakota. Referred to the Committee on Public Works.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. PELL:

S. 3519. A bill to amend section 402 of title 23 of the United States Code, relating to highway safety programs, in order to require certain provisions in such programs to discourage driving while under the influence of alcohol. Referred to the Committee on Public Works.

THE ALCOHOL-IMPAIRED DRIVER ACT OF 1976

Mr. PELL. Mr. President, the Nation has just observed Memorial Day of its Bicentennial Year. In doing so, we are reminded of the brave men and women who gave their lives so that the Nation's freedoms might endure. We paused from our normal endeavors over this holiday weekend to honor their sacrifices.

But our automative age has caused us to face another tragic fact over this holiday period—the Memorial Day holocaust on our highways. The National Safety Council reports that, over the Memorial Day weekend, 455 individuals died in highway accidents, while injuries claimed an estimated 21,000.

The toll is staggering, and it is sad. Mr. President, last year 46,200 of our fellow Americans died in motor vehicle accidents. That number, in 1 year alone, is nearly the equivalent of American deaths during the entire Vietnam conflict, which many of us in Congress labored so long to stop. Although it took many years, considerable effort, and untold cost, that bloodshed was stopped. Now we need a similar effort by all Americans to stop the carnage taking place on our Nation's highways.

Admittedly, these deaths, along with 1,800,000 injuries in 1974, were the result of accidents. They nevertheless can be reduced. Many organizations have been actively involved in the fight. The National Highway Traffic Safety Administration of the Department of Transportation, the National Safety Council, the American Automobile Association, the Highway Users Federation—to mention only a few—have all made important contributions. They have identified the main accident causes: unsafe motor vehicles, poorly trained drivers, inadequate emergency medical services, lax enforcement of existing laws, and dangerous highways. After having identified these problems, steps have been taken to protect America's road users: for example, safety belts, forgiving roadsides, safer automobiles, and lower speed limits. During the 1973–74 energy crisis, traffic fatalities were reduced substantially over previous years—primarily because speed limits were lowered to 55 miles per hour througout the country. The reduction of 18 percent from the previous year is most encouraging. Yet that promising trend has now reversed itself.

The most noted cause of automobile accident deaths and injuries is drunk driving. It is also the hardest factor to combat. Estimates are that half of all motor vehicle deaths are alcohol-related.

I know this sad fact all too well. In the past 18 months two of my valued aides have been killed due to the actions of drunk drivers.

On November 16, 1974, Elizabeth Powell was killed by a young man whose car went out of control, crossed the median strip and struck the automobile in which she was riding. He had been drinking. After several delays in his case, he pleaded guilty to the charge of manslaughter and received a 1-year suspended sentence.

On September 27, 1975, Stephen Wexler, the chief counsel to the Senate Education Subcommittee and my close associate for 10 years, was struck down by a drunk driver, who was drag racing at the time. The legal proceedings for the two individuals involved are still taking place, with no end in sight.

Can anything be done to improve this terrible situation? Are we powerless in this mighty Nation to confront a problem that in a decade wipes out more than one-quarter million of our fellow citizens.

I hope not. We cannot just wring our hands and say that drunk driving is just an inevitable adjunct of freedom of expression. We cannot say this because the byproduct of such expression is 25,000 lives a year, nearly a million injuries, and almost $10 billion in monetary losses.

For these reasons I am today introducing legislation to deal with the problem of drunk driving. This bill will require State highway safety programs to contain strong criminal sanctions, alternative service and alcohol safety programs in order to insure continued receipt of Federal highway safety funds. I believe the combination of these alternatives can have a positive impact in giving police, prosecutors, and judges the necessary flexibility to deal with drunk driving cases. I also believe that the bill can serve to focus attention on this immense problem and help stimulate debate on what further steps should be taken. Most importantly, I believe that it will help reduce the highway carnage we read and hear about daily.

Another measure has come before the Senate this term that focuses on the problem of highway safety, and I am proud to be one of its cosponsors. This bill, Senate Joint Resolution 147, introduced by the distinguished Senator from West Virginia, Mr. RANDOLPH, seeks the President's designation of 1976 as National Bicentennial Highway Safety Year. This resolution serves as a symbol of our Nation's serious attempt to confront this national crisis. According to Senate Joint Resolution 147, each month of the Bicentennial Year is being devoted to an aspect of highway safety, culminating in December's focus on alcohol and problem drinkers. I am glad to support this measure which I believe will help publicize the issues and educate Americans about the need for improved highway safety. In a year when so many Americans are taking to the highways to view our country's scenic attractions and historical areas, we cannot do too much to make everyone aware of the problem.

With that thought in mind, I find it doubly important to introduce the Alcohol-Impaired Driver Act at this time. I am aware that there is great reluctance to impose national standards on the States. I too am sensitive to our delicate Federal structure; however there are times when the Federal Government should set minimum standards for the States to follow, and the drunk driving crisis presents such an opportunity. In addition, by allowing flexibility in the sentencing process, the bill takes into consideration local mores on the subject, thereby lessening the Federal impact.

Section 1 of the bill amends the United States Code section which defines the broad categories of State highway safety programs requiring approval by the Secretary of Transportation—title 23, section 402(a). This section of the bill mandates that "criminal statutes to deter motorists from driving while intoxicated," and "effective alcohol safety programs" shall be contained among the uniform standards promulgated by the Secretary.

Section 2 of the Alcohol-Impaired Driver Act refers to more specific statutory language instructing the Secretary not to authorize any State highway safety program unless it meets certain requirements—23 U.S.C. section 402(b)(1). Under section 2 of the bill, a State highway program would not be authorized if it does not:

> (G) mandate a jail sentence of at least ten days or a comparable term of acceptable alternative service for persons found guilty of driving while under the influence of alcohol; and
>
> (H) provide for participation in an alcohol safety program by persons found guilty of driving while under the influence of alcohol and others referred by a court or other competent authority.

Section 3 of the bill gives the Secretary the authority to prescribe the date on which the Act shall become effective. This section is necessary for two reasons: To insure that States are adequately prepared to provide the services required by the act, and to comply with section 208(b) of the recently enacted Public Law 94–280. According to section 208(b) the Secretary shall evaluate the adequacy and appropriateness of all uniform safety standards under section 402 of title 23 and report his findings to Congress on or before July 1, 1977. Meanwhile no funds shall be withheld from States for failure to implement a section 402 highway safety program. The bill in no way infringes on section 208(b) of Public Law 94–280, but it does offer two safety standards for the Secretary to consider in this evaluation: Deterrent criminal statutes and alcohol safety programs.

I believe this approach is an effective one. Although the problems of alcoholism are exceedingly complex, drunk-driving accidents can basically be divided into two categories: accidents involving social drinkers and those involving problem drinkers. According to most experts, the social drinker can be deterred, while the latter group most often is not susceptible to such pressure. Problem drinkers account for approximately two-thirds of the annual alcohol-related traffic deaths, and are the main focus of attempts to reduce drunk-driving incidents. As the National Highway Traffic Safety Administration points out in a recent publication, a case in point is:

> A 33-year-old man from Colorado who (because of driving while intoxicated) had paid $1,231 in fines; spent 452 days in jail; had 26 convictions, 14 license actions, four crashes; and finally killed himself in an alcohol-related accident with a Blood Alcohol Count of 19 percent.

Such a person is clearly not easily deterred by the severity of punishment. He or she needs treatment.

My own State of Rhode Island has adopted an innovative approach in this area, and one which I believe should be emulated nationally. The driving while intoxicated counterattack program provides a thorough course in the dangers of driving while under the influence of alcohol for those referred by Rhode Island courts. Comprehensive followup treatment and referral are also available. The course has been praised by participants and administrators alike, and has been cited as a leading reason for Rhode Island's reduction in alcohol-related accidents.

Despite the value of programs such as DOT's alcohol safety action program, and the Rhode Island DWI counterattack program, it is clear that such programs alone will not alleviate the problem satisfactorily. There is a need also for stiffer punishment for many drivers convicted of driving while under the influence of alcohol.

Sanctions against drunk driving are severe in other countries. England and the Scandinavian countries, for example, have strong deterrent laws for driving while intoxicated. I believe such laws have helped hold down incidents of drunk driving. I have seen one of the work camps outside of Helsinki where dignified city fathers who had imbibed more than their share were engaged in physical labor because of driving while intoxicated. Embarrassment and inconvenience were caused them, but their plight served as a lesson to others.

I disagree with the view that the Scandinavian system cannot work in this country because our mores do not support efforts to curb alcohol abuse. There is a growing awareness of the problem here. In some areas of the country the punishment has become quite strict.

For example, a Montgomery, Ala., jury recently brought back a verdict of first-degree murder against a drunk driver who was involved in a fatal traffic accident. More and more in my own State, jail sentences are being handed down to those convicted of driving while intoxicated. It is time for the Federal Government to take the lead in this area. I believe this bill does so without overly intruding into the States' domain.

A popular form of legislative activity these days is to make sentences mandatory, thereby taking away judicial discretion in the sentencing process. However, drunk driving is an area where this approach has been tried and failed. It has been shown that whenever mandatory sentences are used, the law enforcement system breaks down, from first police contact through prosecutors, judges, and juries. The result is fewer drunk driving convictions and less deterrent effect for the law. Court calendars become backlogged as fewer defendants are willing to plead to a drunk driving charge with its certain punishment. They would rather go before a jury and take their chances. Due to these circumstances, prosecutors and judges are willing to accept pleas to lesser charges, thereby undercutting the law's intent.

Under my proposal, these pitfalls would be hopefully avoided. My bill would provide stiff and certain punishment for those convicted of drunk driving, but would give the criminal justice system the flexibility it needs to avoid being circumvented.

Under this system judges would have the choice of meting out jail sentences in appropriate instances; or ordering comparable alternative sentences—for example, working in hospitals, work camps, public service jobs—and requiring attendance at alcohol safety classes.

These are minimum standards. There can be no suspended sentences, no probation in lieu of jail. Of course, a State can add on other sanctions such as fines, license suspensions or can extend jail terms to comport with local feelings on the subject. However, each State will be required to have the minimum standards called for in the bill.

Clearly the cost of such legislation will not be small if we are to establish the requisite alcohol safety programs in each State. Although this bill contains no funding mechanism, a proposal has recently been submitted to the Secretary of Transportation by the National Highway Safety Advisory Committee that deserves serious attention. Under this idea, an additional Federal tax on the sale of alcoholic beverages would be levied, and used for alcohol rehabilitation, education, and drinking/driving in the various States. This proposal has much merit. I hope that the Secretary will consider it seriously.

Mr. President, I ask unanimous consent that the text of the bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3519

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 402 of title 23 of the United States Code is amended as follows:

SECTION 1. Section 402(a) is amended by inserting in line 18 after "locations", the following: "criminal statutes to deter motorists from driving while intoxicated, effective alcohol safety programs".

SEC. 2. Section 402(b)(1) is amended by adding two new subparagraphs:

"(G) mandate a jail sentence of at least ten days or a comparable term of acceptable alternative service for persons found guilty of driving while under the influence of alcohol"; and

"(H) provide for participation in an alcohol safety program by persons found guilty of driving while under the influence of alcohol and others referred by a Court or other competent authority."

SEC. 3. The amendment made by this Act shall become effective with respect to State highway safety programs on such date as is prescribed by the Secretary of Transportation.

By Mr. DOLE (for himself and Mr. HUDDLESTON):

S. 3520. A bill to extend the rural community fire protection program and for other purposes. Referred to the Committee on Agriculture and Forestry.

Mr. DOLE. Mr. President, one of the most serious hazards facing rural Americans is the ever present threat of uncontrolled wildfires. Each year, many lives and millions of dollars of property and natural resources are destroyed as the result of fires on cropland, woodland, and rangeland. Lacking good equipment, proper training and effective organization, rural firefighting forces have often been hardpressed to provide adequate protection. In recent months, however, the situation has begun to improve through the operation of the rural community fire protection program.

RENEWAL OF PROGRAM

Mr. President, today I am pleased to introduce legislation renewing the rural community fire protection program for a period of 3 years beyond its expiration date in fiscal year 1977. The program is aimed at protecting lives and property by providing technical and financial assistance to State foresters, who, in turn, help train, equip and organize rural firefighting units. Matching grants are provided on a project basis for the purpose of purchasing or upgrading equipment, establishing fire departments and training firemen in wildland and structural fire suppression techniques. The program, which is restricted to unprotected or poorly protected communities of under 10,000 population, represents a joint Federal, State and local effort.

ACCOMPLISHMENTS

Five years ago, when I first proposed the rural community fire protection program on a trial basis, I expressed the hope that this effort would spark a renewed local commitment to better and stronger firefighting forces in rural America. This hope has become a reality. Since the inception of the program, the volume of applications has remained consistently high, and the Federal matching grants have succeeded in generating almost twice as much non-Federal money. In 1975, the first year the program operated, 5,376 applications for assistance were received, and the allocated funds were distributed among 2,167 approved projects. Federal grants totaled $3.5 million and generated an additional $5.2 million in non-Federal matching money.

While much of the total funding was used to purchase or refurbish basic equipment, a significant share was expended on training programs and on organizing new fire departments. During 1975 alone, more than 18,000 rural firemen received training through the program and 19 new fire districts were established resulting in improved insurance rates in 18 communities. The statistics certainly appear to support my conviction that the rural community fire protection program is a sound and cost-effective national investment.

OVERSIGHT PROVISION

The proposed renewal legislation maintains the existing structure of the program, but adds a new provision requiring the U.S. Forest Service to furnish a brief annual report to Congress for oversight purposes. The report will apprise Congress of the number and origin of applications received, the number and amount of grants and matching funds, and the uses to which they are put. In this way, Congress will be able to measure results and judge whether the program is continuing to serve as a strong incentive for better fire protection.

In addition, the renewal legislation underscores the importance of achieving maximum effectiveness by coordinating the program with such complementary programs as Farmers Home Administration's community facilities loans, the Federal excess property loan program, and the volunteer firemen provisions in section 816 of the Agricultural and Consumer Protection Act of 1973.

Mr. President, the capability of coping with fires rests on the availability of equipment and trained personnel. The rural community fire protection program provides these conditions and has proved its effectiveness. I urge Congress to renew this program in the expectation that we may continue to reduce losses of life and property and prevent future fire outbreaks of potentially disasterous proportions.

I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3520

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 402 of the Rural Development Act of 1972 (7 U.S.C. 2652) is amended by inserting "(a)" before the first sentence and by adding at the end of such section the following new subsections:

"(b) The Secretary, with cooperation and assistance from the Administrator of General Services, shall encourage the use of excess personal property (within the meaning of the Federal Property and Administrative Services Act of 1949) by rural fire forces receiving assistance under this title.

"(c) To promote maximum program effectiveness and economy, the Secretary shall closely coordinate the assistance provided under this title with assistance provided under other fire protection and rural development programs administered by the Secretary.".

SEC. 2. Section 403 of the Rural Development Act of 1972 (7 U.S.C. 2653) is amended by (1) striking out "Report.—" and inserting in lieu thereof "Reports.—(a)"; and (2) adding at the end of such section a new subsection as follows:

"(b) Not later than March 1 of each year, beginning in the calendar year 1977, the Secretary of Agriculture shall submit a report to the Congress regarding the operation, during the preceding fiscal year, of the program provided for under this title. The Secretary shall include in such report the number of applications for assistance filed by each State during such fiscal year, the number of such applications approved by the Secretary, the amounts allocated to each State and the purposes for which such allocations were made. The Secretary shall also include in such report such comments and recommendations for improving such program as he deems appropriate.

SEC. 3. Section 404 of the Rural Development Act of 1972 (7 U.S.C. 2654) is amended by adding at the end thereof the following new sentence: "There is further authorized to be appropriated to carry out the provisions of this title not to exceed $7,000,000 for each of the fiscal years ending September 30, 1978, September 30, 1979, and September 30, 1980."

Mr. HUDDLESTON. Mr. President, I am delighted to join my distinguished colleague from Kansas (Mr. DOLE) in introducing S. 3520, which renews title IV of the Rural Development Act of 1972 for another 3 years.

The need is obvious. In the few years the program has been in operation, there have been 60 requests for help from my own State of Kentucky totaling $285,016. In 1975 it was planned that Kentucky receive $26,119 for equipment and $36,715 for training for a total of $62,834. Local governments and fire districts were to put up $63,243.

Seemingly these are very small amounts of money when taken within the context of overall Federal spending. But when they are combined with the community facility loan program under title I of the Rural Development Act, plus convertible equipment received from the excess property program, a great deal can be done to improve rural fire protection with just a small outlay of dollars.

Under the provisions of title IV, Congress found that inadequate fire protection and the resultant threat of substantial losses of life and property is a significant deterrent to the investment and capital needed to revitalize rural America.

The Secretary of Agriculture, therefore, was authorized to provide financial, technical and other assistance to State foresters or other appropriate State officials to train, organize and equip local firefighting forces to control fires threatening human life, livestock, woodlands, farmsteads and other important rural values.

Money provided under this title is to be matching grants of up to 50 percent. Local governments or other entities put up the rest of the money.

In 1973, in a report called America Burning, the National Commission on Fire Prevention and Control said:

> The fire fatality rate for white Americans in nonmetro areas is 4 per 100,000 versus 2.7 per 100,000 in metro counties. Among blacks and other minority groups, the incidence as well as disparity is even greater: 15.3 per 100,000 in nonmetro areas versus 8.1 in metro areas.

The Commission called on rural residents to install early warning detectors and alarms. But this clearly is not going to be enough. Half of the Nation's poverty and two-thirds of the substandard housing is in rural areas. Millions of people will not be able to afford these devices.

There must be a Federal response, and this modest little program must be a part of that response.

Rural fire protection agencies are faced with insufficient water supplies, a lack of adequate building codes and sufficient enforcement personnel, and not enough money to train and pay firefighters. This latter factor was why I had title IV amended in the 1973 farm bill to include training for volunteer firemen.

Mr. President, in fiscal 1975 the Congress appropriated $3.5 million for title IV. This small amount of seed money resulted in the additional expenditure of $5.2 million in local money to improve rural fire protection.

To my mind this program represents a decent and worthwhile investment in the protection of rural people from the ravages of fire.

I commend the enactment of this bill to the Senate.

By Mr. STEVENSON (for himself, Mr. PEARSON, Mr. GRAVEL, Mr. MONDALE, Mr. STEVENS, and Mr. HOLLINGS):

S. 3521. A bill to expedite a decision on the delivery of Alaska natural gas to U.S. markets, and for other purposes. Referred to the Committee on Commerce.

Mr. STEVENSON. Mr. President, natural gas reserves in the Prudhoe Bay field of Alaska's North Slope are estimated at approximately 24 trillion cubic feet.

Estimates of natural gas shortages in the lower 48 States during winter range from 1.5 trillion to 4.0 trillion cubic feet depending upon the severity of the winter.

Whether it is feasible to construct a transportation system for moving natural gas from Alaska to the lower 48 States is a question of the highest national priority. But beyond the proposition that Alaska has vast reserves of natural gas and the lower 48 States have serious shortages, questions of how to decide whether such a transportation system is feasible, who should make the decision, which system it should be, where it should be located, when it should be built, and how it should be financed are complicated and controversial.

Proof of that fact is the 110,000-page record compiled in the course of the Federal Power Commission's consideration of the applications before it. The competition is so intense and the opposition to certain systems so strenuous that it is likely the Commission's proceeding will end up in the courts, delaying construction of any project for at least 3 more years. Costs due to delay rise an estimated $1 million per day—and the shortages of natural gas grow more severe.

The decision as to which project, if any, ought to be built involves delicate negotiations with Canada which neither the Congress nor the FPC is qualified to undertake. It will require technical assessments of environmental impacts on land and sea. The considerations are many, and they do not all yield to resolution by the Congress. Indeed, a congressionally proposed route could result in a clash between regional interests that might make a sound decision impossible in the near future. And yet the 4-year delay inherent in existing procedures is not acceptable.

Instead of doing nothing or mandating a decision, the Congress should establish a process through which a timely and sound decision can be reached. Such a process could draw on the expertise and experience of the FPC, involve the President's responsibility for foreign relations, congressional review, and an abbreviated judicial review—guaranteeing completion of the process within a reasonable fixed time.

Mr. President, I am, therefore, today introducing with Senators PEARSON, MONDALE, STEVENS, and HOLLINGS a bill to establish such a neutral process, mobilizing the relevant expertise and involving the responsibility of all branches of the Federal Government. This process would produce a decision on this complicated question by the end of 1977.

The bill would require the Federal Power Commission to review all project alternatives—including those which are not currently represented by an application before the Commission—and recommend to the President by February 1, 1977, whether a project should be built and, if so, which one.

Federal agencies would comment to the President on the Commission's recommendation prior to April 1, 1977. By that same date, the Governor of any State, any municipality or other interested party could also submit comments on the Commission's recommendation to the President.

With the benefit of the Commission's recommendation, agency comments, and other public submissions, the President would then be required by July 1, 1977, to issue a decision as to which transportation system, if any, should be built. That decision would be transmitted to the Congress together with a report explaining the decision. Within 20 days of the President's decision, the Commission would be required to comment on the President's decision.

Either House of Congress would have 60 legislative days under expedited congressional procedures to disapprove the President's decision. If neither House disapproves, the decision would become final.

If either House disapproved, the President would be required to send a new decision to the Congress within 30 days. The procedures established by this bill would be exhausted if either House disapproved a second Presidential decision.

Once a Presidential decision became final, judicial review of the decision and actions taken pursuant to it would be limited to claims challenging the constitutionality of the legislation and acts pursuant to the legislation and claims that such acts are beyond the scope and authority of the legislation. All claims challenging the constitutionality of the legislation would have to be filed with the Court of Appeals of the District of Columbia within 60 days of a final decision, and all claims challenging actions, within 60 days of the challenged act.

The court would be required to render a decision on all such matters within 60 days of the filing of such claims. Petitioners would have another 15 days from the time such a decision is rendered to file a petition for certiorari with the Supreme Court.

The bill requires all Federal agencies to issue the necessary permits, leases, and other authorizations necessary to execute a final decision and provides the appropriate Federal officers with civil remedies enforced through the Justice Department for noncompliance with any agency order issued under the legislation.

Finally, the bill provides for equal access to facilities for all shippers and purchasers, places a limitation on the export of Alaska natural gas to foreign nations, and assures that all actions taken pursuant to a final decision under the bill are consistent with requirements of the antitrust laws.

The bill provides 5 months, from February 1 to July 1, 1977, for the President to explore the possibilities of a jointly approved project with the Canadians, and the delicate questions such negotiations may involve. It establishes a timetable for reaching a decision in the United States that matches the decision-making time frame for the Canadian Government.

And, if, after all the safeguards, public input, and mobilization of public and private expertise, the initial result still offends public policy, there is the final check of disapproval by the Congress.

The bill assures a timely, informed decision. In that regard, the bill establishes a neutral process. It requires the Commission to base its decision on project costs, environmental impacts, safety, potentials for delay, an assessment of regional natural gas needs, financeability, and the potential for opening access to the transportation of other resources or commodities to the United States.

In addition to these factors, the President in reaching his decision must also consider matters related to international relations and the prospects for reaching a reasonable agreement with Canada, national security concerns, and impacts on the national economy.

This bill, in short, offers the Congress and the President an opportunity to act positively and quickly on this question. I hope the varied interests of the States represented by the Senators who are sponsoring this bill with me is an indication of the bipartisan, nationwide support the bill will receive. I am grateful to my colleagues for their public spirited cooperation and their generous contribution of time and skill to this effort.

I urge all the Members to support this bill as a means of moving swiftly and harmoniously in an urgent need.

Mr. President, I ask unanimous consent that a full text of the bill appear in the RECORD immediately following these remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3521

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Alaska Natural Gas Transportation Act of 1976".

CONGRESSIONAL FINDINGS

SEC. 2. The Congress finds and declares that—

(a) a natural gas supply shortage exists in the United States;

(b) large reserves of natural gas in the State of Alaska could help significantly to alleviate this supply shortage;

(c) the construction of a viable natural gas transportation system for delivery of Alaska natural gas to other States is in the national interest; and

(d) alternative systems for transporting Alaska natural gas to other States have been proposed, and the selection of a system, if any, involves critical questions of national energy policy, international relations, national security and economic and enviromental impact, and therefore should appropriately be addressed by the Congress of the United States and the Executive Branch, in addition to the Federal Power Commission.

STATEMENT OF PURPOSE

SEC. 3. The purpose of this Act is to expedite a sound decision as to the selection of a natural gas transportation system for delivery of Alaska natural gas to other States through establishment of new administrative and judicial procedures. To accomplish this purpose it is the intent of the Congress to exercise its constitutional powers to the fullest extent in the authorizations and directions herein made, and in limiting judicial review of the actions taken pursuant thereto.

DEFINITIONS

SEC. 4. As used in this Act—

(a) the term "Alaska natural gas" means natural gas derived from the area of the State of Alaska generally known as the North Slope of Alaska, including the Continental Shelf thereof;

(b) the term "Commission" means the Federal Power Commission; and

(c) the term "Secretary" means the Secretary of the Interior.

FEDERAL POWER COMMISSION REVIEW AND REPORTS

SEC. 5. (a) (1) Notwithstanding the provisions of the Natural Gas Act (15 U.S.C. 717–717w), all pending proceedings before the Commission relating to the transportation of Alaska natural gas shall be governed by this Act, and the procedures established and authorized hereunder shall govern actions by the Commission with respect to review of applications and reasonable alternatives relating to the transportation of Alaska natural gas to other States.

(2) The Commission, in the exercise of its discretion, shall establish such rules and procedures as it deems appropriate to carry out its responsibilities under this Act with respect to review of applications and reasonable alternatives relating to the transportation of Alaska natural gas to other States. Such rules and proceduers shall supersede rules or procedures that would otherwise have obtained under the Natural Gas Act (15 U.S.C. 717–717w) and the Administrative Procedure Act (5 U.S.C. 552).

(3) Any certificate of public convenience and necessity related to the transportation of Alaska natural gas from the State of Alaska to other States shall be issued by the Commission in accordance with section 9 of this Act.

(4) The provisions of the Natural Gas shall apply to the extent they are not inconsistent, as determined by the Commission, with this Act.

(b) The Commission may request such information and assistance from any Federal agency as it deems necessary and appropriate regarding the transportation of Alaska natural gas. All Federal agencies requested to submit information shall submit such information to the Commission at the earliest possible time after receipt of a Commission request.

(c) The Commission, pursuant to rules and procedures established under paragraph (2) of subsection (a) of this section, is hereby directed to review all applications pending on the date of enactment of this Act and any subsequent amendments thereto, as well as alternatives for the transportation of Alaska natural gas to other States, and to transmit a recommendation concerning an Alaska natural gas transportation system to the President by March 1, 1977. Such recommendation may be in the form of a proposed certificate of public convenience and necessity, or such other form as the Commission deems appropriate, and may include a recommendation that approval of a transportation system be delayed. Any recommendation for the construction of a system shall include a description of the route and major facilities and designate a party to construct and operate such a system.

(d) In making its recommendation, the Commission shall consider for each transportation system under review, the following factors:

(i) projected natural gas requirements of all regions of the United States;

(ii) transportation costs over its economic life;

(iii) the extent to which it provides access for the transportation to the United States of natural resources or other commodities from sources in addition to the Prudhoe Bay Reserve.

(iv) environmental impacts;

(v) safety and efficiency in design and operation and potential for interruption in the supply of natural gas;

(vi) construction schedules and other possibilities for delay;

(vii) feasibility of financing; and

(viii) such other factors as the Commission deems appropriate.

(e) The recommendation by the Commission pursuant to this section shall not be based upon the fact that the government of Canada or agencies thereof have not by then rendered a decision as to authorization of a pipeline system to transport Alaska natural gas through Canada.

(f) The Commission's recommendation shall be accompanied by a report which shall be made public, explaining the basis of its recommendation, including specific reference to the factors described in subsection (d) of this section.

(g) Within 20 days after the transmittal of the President's decision to the Congress under Section 7, the Commission shall issue a report, which shall be made public, commenting on the decision and including any information with regard to that decision which the Commission deems appropriate.

OTHER REPORTS

SEC. 6. (a) By April 1, 1977, any agency may submit a report to te President with respect to the recommendation of the Commission and the alternative methods for delivering Alaska natural gas to other States. Such reports shall be made public when submitted to the President, unless expressly exempted from this requirement by the President, and shall include information and recommendations within the competence of such agencies with respect to—

(i) environmental considerations, including air and water quality and noise impacts;

(ii) the safety of the transportation systems;

(iii) international relations, including the status and time schedule for any necessary Canadian approvals and plans;

(iv) national security, particularly security of supply;

(v) sources of financing for capital costs;

(vi) impact on the national economy including regional natural gas requirements.

(vii) relationship of the proposed transportation system to other aspects of national energy policy.

(b) By April 1, 1977, the Governor of any State, any municipality or State utility commission, and any other interested person may submit to the President such reports, recommendations, and comments with respect to the recommendation of the Commission and alternative systems for delivering Alaska natural gas to other States as they deem appropriate.

PRESIDENTIAL DECISION AND REPORT

SEC. 7. (a) (1) As soon as practicable after receipt of the recommendation, reports, and comments pursuant to sections 5 and 6 of this Act, but not later than July 1, 1977, the President shall issue a decision as to which system for transportation of Alaska natural gas, if any, shall be approved. The President in making his decision on the natural gas transportation system shall take into consideration the Commission's recommendation pursuant to section 5, the factors set forth in section 5(d), and the reports provided for in section 6, and shall be based on his determination as to which system, if any, best serves the national interest.

(a) (2) Consistent with the provisions of this Act, the Natural Gas Act and other applicable law, the President's decision shall contain such terms and conditions as he deems appropriate for inclusion in any certificate issued pursuant to this Act. The President shall identify the legal authority pursuant to which any such term or condition is included. No such term or condition shall be included unless the President has identified such legal authority.

(b) The decision of the President made pursuant to subsection (a) of this section shall be transmitted immediately to the Senate and the House of Representatives and shall be accompanied by a report explaining in detail the basis for his decision and the reasons for any revision, modification, or substitution of the Commission recommendation.

(c) In making his decision the President shall inform himself, through appropriate consultation, of the views and objectives of the several states and the Government of Canada with respect to those aspects of such determination that may involve intergovernmental and international cooperation between the Government of the United States and the Government of Canada.

(d) The decision of the President shall become final as provided in section 8.

CONGRESSIONAL REVIEW

SEC. 8. (a) The decision concerning an Alaska natural gas transportation system by the President shall become final at the end of the first period of 60 calendar days of continuous session of Congress after the date of receipt by the Senate and House of Representatives, unless either the House of Representatives or the Senate passes a resolution during such period stating that it does not favor the President's decision.

(b) If either the House or the Senate passes a resolution of disapproval, the President, within 30 days of such disapproval must propose a new decision and shall provide a detailed statement concerning the reasons for such proposal. The new decision, together with a statement of the reasons therefor, shall be transmitted to the House of Representatives and the Senate on the same day while both are in session and shall become final pursuant to subsection (a) of this section.

(c) For purposes of this section—

(1) continuity of session of Congress is broken only by an adjournment of Congress sine die; and

(2) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 60-day calendar period.

(d) The procedures of subsection (d) of section 552 of Public Law 94–163 (42 U.S.C. 6422(d)) (relating to expedited procedure for congressional consideration) shall apply to this section except that (1) the term "Presidential decision on an Alaska natural gas transportation system" shall be substituted for the term "contingency plan" wherever it appears; and (2) subsection (d)(2) of Public Law 94–163 is, for the purposes of this section only, amended to read as follows:

"(2) For purposes of this subsection, the term 'resolution' means only a resolution of either House of Congress, the resolving clause of which is as follows: "That the . . . disapproves the Presidential decision on an Alaska natural gas transportation system submitted to the Congress on . . . , 19 . .', the first blank space therein being filled with the name of the resolving House and the other blank spaces being appropriately filled; but does not include a resolution which specifies more than one Alaska Natural Gas Transportation System."

AUTHORIZATIONS

Sec. 9. (a) The Congress hereby authorizes and directs the Commission, the Secretary and other appropriate Federal officers and agencies to issue and take all necessary action to administer and enforce all certificates, rights-of-way, permits, leases, and other authorizations necessary or related to the construction, operation, and maintenance of the transportation system selected in the decision, if any, which becomes final pursuant to section 8 of this Act. All certificates, rights-of-way, permits, leases and other authorizations issued pursuant to this subsection shall be issued at the earliest practical date. All agencies shall expedite in every way their consideration of such certificates, rights-of-way, permits, leases and other authorizations and such matters shall take precedence over all similar activities of such agencies. Rights-of-way, permits, leases, and other authorizations issued pursuant to this Act by the Secretary shall be subject to the provisions of section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), except the provisions of subsections (h)(1), (j) with respect to initial approvals, (k), (q), and (w)(2) thereof; provided, however, that the submission required by the first sentence of subsection (h)(2) thereof may be made at the earliest practicable time after issuance of the rights-of-way and other authorizations hereunder.

(b) All authorizations issued pursuant to this Act shall include the terms and conditions required, and may include the terms and conditions permitted, by the provisions of law that would otherwise be applicable if this Act had not been enacted, so long as such terms and conditions are not inconsistent with the purposes of this Act and do not change the basic nature and route of the transportation system designated hereunder, and the Federal officers and agencies issuing such authorizations may expedite or waive any procedural requirements of law or regulations which they deem necessary to waive in order to accomplish the purposes of this Act. The direction contained in this section shall supercede the provisions of any law or regulations relating to an administrative determination as to whether the authorizations for construction of a system for transportation of Alaska natural gas shall be issued.

(c) The holders of certificates issued by the Commission pursuant to this section 9, shall have all rights, powers and obligations of holders of a certificate of public convenience and necessity issued pursuant to the Natural Gas Act, in addition to any other rights, powers and obligations pursuant to this Act.

(d) Consistent with the purposes of this Act, the Secretary and other Federal officers and agencies are authorized at any time when necessary to protect the public interest to exercise any authority under existing law to amend or modify any right-of-way, permit, lease, or other authorization issued by such officer or agency pursuant to this Act.

JUDICIAL REVIEW

Sec. 10. Notwithstanding any other provisions of law, except the provisions of section 11 of this Act, the actions of Federal officers or agencies taken pursuant to this Act, including the issuance of a certificate of public convenience and necessity by the Commission relative to, and actions concerning the issuance of the necessary rights-of-way, permits, leases or other authorizations for construction, and initial operation at full capacity of, the system for the transportation of Alaska natural gas designated hereunder, and the legal or factual sufficiency of any environmental statement prepared relative to the Alaska natural gas pipeline pursuant to the National Environmental Policy Act (42 U.S.C. 4321 et seq.) shall not be subject to judicial review under any law, except that claims alleging the invalidity of this Act may be brought within 60 days following a decision becoming final pursuant to section 8 of this Act, and claims alleging that an action will deny rights under the Constitution of the United States, or that an action is beyond the scope of authority conferred by this Act, may be brought within sixty days following the date of such action. A claim shall be barred unless a notice of appeal is filed in the United States Court of Appeals for the District of Columbia within such time limits, and such court shall have exclusive jurisdiction to determine such proceeding in accordance with the procedures hereinafter provided, and no other court of the United States, of any State, territory, or possession of the United States, or of the District of Columbia, shall have jurisdiction of any such claim whether in a proceeding instituted prior to or on or after the date of enactment of this Act. Any such proceeding shall be assigned for hearing at the earliest possible date, shall take precedence over all other matters pending on the docket of the court at that time, and shall be expedited in every way by such court and such court shall render its decision relative to any claim within sixty days after such claim is brought. Such court shall not have jurisdiction to grant any injunctive relief against the issuance of any right-of-way, permit, lease, or other authorization pursuant to this section except in conjunction with a final judgment entered in a case involving a claim filed pursuant to this section. There shall be no review of an interlocutory or final judgment, decree, or order of such court except that any party may file a petition for certiorari with the Supreme Court of the United States, within fifteen days after the decision of the United States Court of Appeals for the District of Columbia shall be rendered.

REMEDIES

Sec. 11. (a) In addition to remedies available under other applicable provisions of law, whenever on the basis of any information available to it the Commission, the Secretary or other appropriate agency head finds that any person is in violation of any provision of this Act or other applicable law or any rule, regulation, or order thereof, or condition of the certificate, the Commission, Secretary, or other appropriate agency head, as the case may be, in their discretion, may (1) issue an order requiring such person to comply with such provision or requirement or (2) bring a civil action in accordance with subsection (c) of this section.

(b) Any order issued under this subsection shall state with reasonable specificity the nature of the violation and a time of compliance not to exceed 30 days, which the Commission, the Secretary, or other appropriate agency head; as the case may be, determines is reasonable, taking into account the seriousness of the violation and any good faith efforts to comply with applicable requirements.

(c) Upon a request by the Commission, the Secretary, or other appropriate agency head, the Attorney General may commence a civil action for appropriate relief, including a permanent or temporary injunction or a civil penalty not to exceed $25,000 per day of such violation, for any violation for which the Commission, the Secretary, or other appropriate agency head is authorized to issue a compliance order under subsection (a) of this section. Any action under this subsection may be brought in the district court of the United States for the district in which the defendant is located or resides or is doing business, and such court shall have jurisdiction to restrain such violation, require compliance, or impose such penalty.

EXPORT LIMITATIONS

Sec. 12. Any exports of Alaska natural gas shall be subject to all of the limitations and approval requirements of the Natural Gas Act (15 U.S.C. 717 et seq.) and, in addition, notwithstanding any other provision of law, before any Alaska natural gas in excess of 1,000 Mcf per day may be exported to any nation other than Canada or Mexico, the President must make and publish an express finding that such exports will not diminish the total quantity or quality nor increase the total price of energy available to the United States, and are in the national interest.

EQUAL ACCESS TO FACILITIES

Sec. 13. There shall be included in the terms of any certificate issued pursuant to this Act a provision that no person seeking to transport natural gas in the Alaska natural gas transportation system may be prevented from doing so or be discriminated against in the terms and conditions of service on the basis of their degree of ownership, or lack thereof, of the Alaska natural gas transportation system.

ANTITRUST LAWS

Sec. 14. The grant of a certification, right-of-way, permit, lease, or other authorization pursuant to this Act shall not impair or amend any of the antitrust laws.

EXPIRATION OF AUTHORITIES

Sec. 15. The provisions of sections 4(a), 5, 6, 7, and 8, of this Act shall expire upon the date that a certificate for the Alaska Natural Gas Transportation System becomes final in accordance with the provisions of section 8 of this Act or July 1, 1978, whichever is earlier.

SEPARABILITY

Sec. 16. If any provision of this Act, or the application thereof, is held invalid, the remainder of this Act shall not be affected thereby.

ADDITIONAL COSPONSORS

S. 2348

At the request of Mr. Hartke, the Senator from Tennessee (Mr. Baker) was added as a cosponsor of S. 2348, to amend the Internal Revenue Code of 1954.

S. 2925

At the request of Mr. Muskie, the Senator from Utah (Mr. Moss), the Senator from Idaho (Mr. McClure), and the Senator from New York (Mr. Buckley) were added as cosponsors of S. 2925, the Government Economy and Spending Reform Act of 1976.

S. 3349

At the request of Mr. Helms (for Mr. Mathias), the Senator from Indiana (Mr. Bayh), the Senator from Connecticut (Mr. Ribicoff), the Senator from Wisconsin (Mr. Nelson), and the Senator from Vermont (Mr. Leahy) were added as cosponsors of S. 3349, the Bill of Rights Procedures Act of 1976.

S. 3369 AND S. 3370

At the request of Mr. Proxmire, the Senator from Maine (Mr. Hathaway) were added as cosponsors of S. 3369 and S. 3370, increasing authorizations for Small Business Administration programs.

S. RES. 434

At the request of Mr. Clark, the Senator from Missouri (Mr. Eagleton) was added as a cosponsor of Senate Resolution 434, relating to the treaty powers of the Senate.

SENATE RESOLUTION 457—SUBMISSION OF A RESOLUTION TO REFER A BILL TO THE COURT OF CLAIMS

(Referred to the Committee on the Judiciary.)

Mr. HELMS (for himself and Mr. MORGAN) submitted the following resolution:

SENATE RESOLUTION 457

Resolved, That bill (*S. 3518*) entitled "A bill for the relief of Sea Gate, Inc., a North Carolina corporation, and Charles M. Reeves, Jr.", now pending in the Senate, together with all the accompanying papers, is referred to the Chief Commissioner of the United States Court of Claims; and the Chief Commissioner shall proceed with the same in accordance with the provisions of sections 1492 and 2509 of title 28, United States Code, and report thereon to the Senate, at the earliest practicable date, giving such findings of fact and conclusions thereon as shall be sufficient to inform the Congress of the nature and character of the demand as a claim, legal or equitable, against the United States or a gratuity and the amount, if any, legally or equitably due from the United States to the claimant.

AMENDMENTS SUBMITTED FOR PRINTING

FEDERAL RETIREMENT BENEFITS—S. 3134

AMENDMENT NO. 1779

(Ordered to be printed and referred to the Committees on Post Office and Civil Service, Armed Services, and Foreign Relations.)

Mr. CHILES. Mr. President, I am at this time submitting for myself, Senator NUNN, and Senator DOMENICI, an amendment to S. 3134, which was introduced by Senator BUCKLEY. That bill and my amendment revise provisions of the United States Code which relate to the computation of cost-of-living increases for Federal retirement benefits paid under civil service, military and foreign service plans. I ask unanimous consent that the amendment be printed and that it appear in full in the RECORD of today's proceedings at the conclusion of my remarks.

My amendment clearly establishes the principle that Federal retirees should be fully compensated for inflation on a timely basis. Under the present system, Federal retirees get no increase at all until the price index goes up by 3 percent and stays there for 3 months. It then takes another 3 months for the adjustment to take effect. While this system might have made sense 10 years ago when inflation was slow and erratic, at present it does nothing but delay the adjustment of benefits. It does not even save the Government money in the long run, it just postpones payments.

At present inflation is running in the range of 5 to 7 percent a year, which means about 6 months to meet the 3-percent requirement. In fact, if you had 5 percent a year inflation, you would have to wait 9 months to meet the requirement, plus another three to get the money. That is, it would take you a full year to catch up with a half year's price increases. I think we ought to be able to get the money out faster.

My bill does just that. It sets up a regular, automatic review every 6 months. Whatever the cost-of-living increase has been, that is what the benefit adjustment would be, whether it crosses the arbitrary 3 percent or not. I think this system would be fair to everyone and would eliminate the time lags and uncertainties. Retirees would know that they would get an increase each April and October, and could count on how much it would be.

The Buckley bill would eliminate the "1-percent add-on" provision by which Federal employees' retirement benefits are increased by 1 percent more than the actual cost-of-living change. Unfortunately, simple elimination does not speak to the problem of an erratic and often drawn-out process of adjusting retirement benefits for cost-of-living increases. My amendment goes directly to this problem by eliminating the 3 percent minimum triggering mechanism which causes the delays. Instead, I would have an automatic semiannual adjustment to whatever the consumer price index change had been in the previous 6 months. It seems to me that this system would be more fair to everyone involved, would save a lot of money and would be less inflationary.

The "1-percent add-on" went into effect in 1969. At that time it was probably a very good idea. Inflation was much slower then, and waiting for a 3-percent change in prices to trigger an increase in retirement payments could take a long time. The situation has changed dramatically since then; the first automatic increase after the 3-percent trigger system started in 1965 took 24 months to go into effect, the second took 13 months, and the third took 16 months. In the 1970's, however, the time lag has gone steadily downward, to an average of 9 months between cost-of-living adjustments. This compares with a 12-month adjustment period for social security benefits, annual reviews for active Federal workers and no better than annual adjustments in most private sector union contracts. So right now the time lag that the add-on was supposed to compensate for has mostly disappeared. By mandating a semiannual adjustment, my bill secures a steady, timely response to the impact of inflation on the retired person.

Mr. President, it is important to note that most of the population does not get fully compensated for the effects of inflation. Many State and local pension systems have "caps" limiting the percent increases for any 1 year. Most union agreements for active workers in the private sector also have "caps." For example, for the period 1971 to 1975, cost-of-living escalators in union wage agreements only returned an average of 57 percent of the actual increase in prices. A major change from the 1960's is that we have now provided a full, automatic cost-of-living adjustment for Federal retirees. This is an advanced benefit that should not be taken lightly. To give anything but the exact amount of the price change would jeopardize the basic principle.

I believe that retired persons should get a full cost-of-living increase, because they do not have the option of working more hours or making up the loss in other ways. I have fought the proposals by the President to place a 5-percent cap on retirement increases. But the simple fact is that if we are going to keep public support for a fair cost-of-living adjustment, we are going to have to make it exactly fair, not a little bit more than everybody else is getting. At the same time we must avoid arbitrary devices like the 3-percent minimum. I, therefore, hope the Senate will adopt this amendment to provide Federal retirees a full cost-of-living increase every 6 months.

FEDERAL ENERGY ADMINISTRATION EXTENSION ACT—S. 2872

AMENDMENT NO. 1780

(Ordered to be printed and to lie on the table.)

OFFICE OF ENERGY INFORMATION AND ANALYSIS

Mr. HASKELL. Mr. President, today Senator JACKSON and I are submitting a major amendment to S. 2872, the Federal Energy Administration Extension Act. This amendment would establish within the FEA a professional Office of Energy Information and Analysis which would be free to collect and organize the standardized, accurate, and credible energy information which FEA needs to carry out its functions and which the Congress and the public requires if intelligent decisions with regard to energy policy are to be made.

One of the most important reasons why so many of the debates over energy choices in past years have failed to converge has been the widespread confusion with respect to, and outright distrust of, both basic background energy data and statistics and the analytical methods used to organize this information. Control of and access to energy information has been held tightly by the energy industry for years. Recently the Federal Government—specifically the Federal Energy Administration—has acquired enhanced authority to collect and assemble energy statistics. However, both these "sources" of information are also intensely interested in the outcome of energy policy decisions.

Both the industry and the FEA have been involved in the energy debate as advocates. This automatically raises substantial questions about the reliability and usefulness of the energy information and analysis which is provided to us from these sources. I believe that there is an inherent conflict of interest between the role of a policy advocate and that of one who attempts to serve as an objective provider and organizer of information. I believe that this conflict of interest has substantially inhibited acceptance of the real messages contained in the energy statistics we do have and has delayed collection of some information we badly need. Both the FEA and the industry have often told us the truth. However, because of their advocacy roles, both the basic information and analysis and their policy advice has been perceived as slanted. The facts have been lost in a flurry of charges and indignant countercharges.

I have long thought that this was a situation which should and could be corrected through a proper organizational approach to energy information. I have, therefore, urged the Senate Interior Committee to act on legislation introduced by Senator Nelson, S. 1864, the Energy Information Act. This bill, together with an amendment to it, No. 1435, which I introduced, represents an ambitious attempt to consolidate energy data and analytical functions in a new independent agency, to reorganize data collection in existing agencies, to rationalize the rules with regard to confidentiality in the handling of energy information, and initiate a major survey program to determine the location, extent, and value of our domestic energy resources.

Extensive hearings, which I chaired, were held in the Interior Committee on S. 1864 on March 3, 8, 9, and 12 and on April 2. The legislation has received substantial attention at the staff level within the committee, and the views of a wide range of interested parties in the administration and in the private sector have been considered.

It now appears that enactment of legislation which accomplishes the full range of the policy goals of S. 1864 will not be possible in this session of Congress. Nonetheless I continue to believe that there are important organizational improvements in the energy information situation which are within reach of possibility.

Senator Jackson and I are, therefore, offering today an amendment to S. 2872, the FEA Extension Act, to formally establish within the FEA a credible energy information system which can function to serve our present needs and which will also provide the nucleus of the continuing effort in energy information and analysis which we will require for a long time to come. In structuring this amendment we have narrowed the scope of the legislation to deal specifically with the relationship between the energy information functions and the energy policy roles of the executive branch. Under the amendment the basic energy information function would be retained in the FEA, but would be clearly insulated from the FEA's regulatory and policy advocacy functions. The FEA is a temporary agency, but our energy information needs are pressing today and will continue to exist for the long term. Our amendment is targeted on these needs and, we feel, accomplishes a highly useful goal of policy. We offer this amendment without prejudice to the larger goals which the amendment does not address relating to the ultimate questions of energy organization in the Federal Government, the proper balance with respect to confidentiality in the handling of energy information or the need to accelerate our efforts to inventory domestic energy resources.

Mr. President, I ask unanimous consent that a summary and text of the amendment be inserted in the Record at this point.

There being no objection, the material was ordered to be printed in the Record, as follows:

SUMMARY: AMENDMENT BY SENATOR HASKELL TO THE FEA EXTENSION ACT (S. 2872)—OFFICE OF ENERGY INFORMATION AND ANALYSIS

This amendment would add a new title III to S. 2872, the FEA Extension Act, which would establish in the Federal Energy Administration a professional Office of Energy Information and Analysis. The Office would be headed by a Director who would be appointed by the President subject to Senate confirmation and who would be required to have background experience appropriate to the task of managing the National Energy Information System authorized by the amendment. This system, when complete, would contain the energy information required to permit comprehensive and detailed review of the energy-related problems facing the FEA and the Congress.

It is the intent of the amendment that the Office be explicitly separated from the energy policy role of he FEA and that it serve as an objective, professional resource for the Congress and the public as well as for the FEA. The Office would have the analytic capabilities needed to evaluate energy information and organize it into useful form. While the office would be involved in econometric modeling and energy forecasting, it is intended that these activities involve, where appropriate, alternate methodologies and that these methodologies be available for public review and analysis. The procedures of the office would be subject to an independent professional performance audit review on an annual basis.

The FEA Administrator would be required to conduct a review of Federal energy information activities and develop recommendations designed to reduce burdensome and duplicative reporting of energy information for a report on energy organization required in S. 2872.

For the operations of the office, the Director is empowered to utilize to the maximum extent practicable the files of energy information already being maintained by various Federal agencies. No information in the possession of the Office could be withheld from the Congress.

The Director would be authorized to make both regular periodic and special reports to the Congress and the public providing a comprehensive picture of energy supply and consumption in the United States, including description of important trends in these data. In addition, the Director would be required to collect, and publish in summary form on an annual basis, standardized and comparable information from major energy producing companies which would include a thorough evaluation of revenues, profits, cash flow, costs and competitive structure within the energy industry.

The title creating the office would become effective 180 days after enactment.

AMENDMENT No. 1780

On page 25, line 22, insert the following:

TITLE III—OFFICE OF ENERGY INFORMATION AND ANALYSIS

FINDINGS AND PURPOSE

Sec. 301. (a) The Congress finds that decisionmaking with respect to, and management of, the energy resources and supplies of the United States requires adequate, accurate, standardized, coordinated and credible energy information for preservation and enhancement of the public health, safety and welfare and the national security of the United States.

(b) The purpose of this title is to establish within the Federal Energy Administration an Office of Energy Information and Analysis and a National Energy Information System to assure the availability of standardized, accurate and credible energy information to the Federal Energy Administration, to other Government agencies responsible for energy-related policy decisions, to the Congress and to the public.

Sec. 302. The Federal Energy Administration Act of 1974 is amended by adding at the end thereof the following:

"ESTABLISHMENT OF OFFICE OF ENERGY INFORMATION AND ANALYSIS

"Sec. 31(a)(1). There is established within the Federal Energy Administration an Office of Energy Information and Analysis (hereinafter in this Act referred to as the "Office") which shall be headed by a Director who shall be appointed by the President, by and with the advice and consent of the Senate.

"(2) The Director shall be a person who, by reason of professional background and experience, is specially qualified to manage an energy information system.

"(b)(1) The Director is authorized to exercise, on behalf of the Administrator, those authorities, including enforcement authorities contained therein, granted to the Administrator in section 13 of this Act and in sections 11 and 12 of the Energy Supply and Environmental Coordination Act of 1974, as amended.

"(2) The Director, on behalf of the Administrator, is authorized to collect, tabulate, compare, analyze, standardize and disseminate the energy information collected:

"(A) pursuant to the authorities specified in paragraph (b)(1) of this section; and

"(B) to fulfill the requirements of the National Energy Information System established pursuant to section 32 of this Act.

"(c) As used in this Act the term "energy information" shall have the meaning described in section 11 of the Energy Supply and Environmental Coordination Act of 1974.

"NATIONAL ENERGY INFORMATION SYSTEM

"Sec. 32(a) It shall be the duty of the Director to establish a National Energy Information System (hereinafter referred to in this Act as the "System"), which shall be operated and maintained by the Office. The System shall contain such information as is required to provide a description of and facilitate analysis of energy supply and consumption within and affecting the United States on the basis of such geographic areas and economic sectors as may be appropriate to meet adequately the needs of

"(1) the Federal Energy Administration in carrying out its lawful functions;

"(2) the Congress; and

"(3) other Federal agencies responsible for energy-related policy decisions.

"(b) At a minimum, the System shall contain such energy information as is necessary to carry out the Administration's statistical and forecasting activities, and shall include, when fully operational, such energy information as is required to define and permit analysis of

"(1) the institutional structure of the energy supply system including patterns of ownership and control of mineral fuel and nonmineral energy resources and the production, distribution, and marketing of mineral fuels and electricity;

"(2) the consumption of mineral fuels, nonmineral energy resources, and electricity by such classes, sectors, and regions as may be appropriate for the purposes of this Act;

"(3) the sensitivity of energy resource reserves, exploration, development, production, transportation, and consumption to economic factors, environmental constraints, technological improvements, and substitutability of alternate energy sources;

"(4) the capital requirements of the public and private institutions and establishments responsible for the production and distribution of energy;

"(5) the standardization of energy information and statistics that are supplied by different sources;

"(6) industrial, labor, and regional impacts of changes in patterns of energy supply and consumption;

"(7) international aspects, economic and otherwise, of the evolving energy situation; and

"(8) long-term relationships between energy supply and consumption in the United States and World communities.

"(c) Nothing in sections 31 through 40 of this Act shall impair the ability of the Administrator or the Director, in carrying out statutory responsibilities relating to energy information under this or other Acts, to authorize acquisition and analysis of such information as he may deem necessary (including information necessary to monitor compliance with regulatory programs mandated by law) by such officers or employees of the United States as he deems appropriate.

"ADMINISTRATIVE PROVISIONS

"SEC. 33(a) The Director of the Office shall receive compensation at the rate now or hereafter prescribed for offices and positions at level V of the Executive Schedule (5 U.S.C. 5316).

"(b) To carry out the functions of the Office, the Director, on behalf of the Administrator, is authorized to appoint and fix the compensation of such professionally qualified employees as he deems necessary, including up to 10 of the employees in grades GS–16, 17 or 18 authorized by section 7 of this Act.

"(c) The functions and powers of the Office shall be vested in or delegated to the Director, who may from time to time, and to the extent permitted by law, consistent with the purposes of this Act, delegate such of his functions as he deems appropriate. Such delegation may be made to any officer of agency of the Federal Government and to the State, regional and local public agencies and instrumentalities.

"(d) (1) The Director shall be available to the Congress to provide testimony on such subjects under his authority and responsibility as the Congress may request, including but not limited to energy information and analyses thereof.

"(2) The Director shall, within two weeks after the submission by the President of his budget for each fiscal year, report to the Congress concerning the budgetary needs of the Office. Any request for appropriations for the Federal Energy Administration submitted to the Congress shall identify the portion of such request intended for the support of the Office.

"ANALYTICAL CAPABILITY

"SEC. 34.(a) The Director shall establish and maintain within the Office the scientific, engineering, statistical, or other technical capability to perform analysis of energy information to—

"(1) verify the accuracy of items of energy information submitted to the Director; and

"(2) insure the coordination and standardization of the energy information in possession of the Office and other Federal agencies.

"(b) The Director shall establish and maintain within the Office the professional and analytic capability to independently evaluate the adequacy and comprehensiveness of the energy information in possession of the Office and other agencies of the Federal Government in relation to the purposes of this Act and for the performance of the analyses described in section 32 of this Act. Such analytic capability shall include—

"(1) expertise in economics, finance, and accounting;

"(2) the capability to evaluate estimates of reserves of mineral fuels and nonmineral energy resources utilizing alternative methodologies;

"(3) the development and evaluation of energy flow and accounting models describing the production, distribution, and consumption of energy by the various sectors of the economy and lines of commerce in the energy industry;

"(4) the development and evaluation of alternative forecasting models describing the short- and long-term relationships between energy supply and consumption and appropriate variables; and

"(5) such other capabilities as the Director deems necessary to achieve the purposes of this Act.".

"PROFESSIONAL AUDIT REVIEW OF PERFORMANCE OF OFFICE

"SEC. 35(a) The procedures and methodology of Office shall be subject to a thorough annual performance audit review. Such review shall be conducted by a Professional Audit Review Team which shall prepare a report describing its investigation and reporting its findings to the President and to the Congress.

"(b) The Professional Audit Review Team shall consist of at least seven professionally-qualified persons of whom at least

"—one shall be designated by the Chairman of the Council of Economic Advisors;

"—one shall be designated by the Commissioner of Labor Statistics;

"—one shall be designated by the Administrator of Social and Economic Statistics;

"—one shall be designated by the Chairman of the Securities and Exchange Commission;

"—one shall be designated by the Chairman of the Federal Trade Commission;

"—one shall be designated by the Chairman of the Federal Power Commission; and

"—one, who shall be the Chairman of the Professional Audit Reveiw Team, shall be designated by the Comptroller General.

"(c) The Director and the Administrator shall cooperate fully with the Professional Audit Review Team and notwithstanding any other provisions of law shall make available to the Team such data, information, documents and services as the Team determines are necessary for successful completion of its performance audit review.

"(d) (1) Any information obtained by the Professional Audit Review Team pursuant to the exercise of responsibilities or authorities under this section which constitutes trade secrets or confidential commercial information the disclosure of which could result in significant competitive injury to the company to which the information relates shall not be disclosed except as may be authorized by law.

"(2) Any person who knowingly discloses information in violation of paragraph (1) shall be subject to the penalties specified in section 5(a) (3)B and (4) of the Emergency Petroleum Allocation Act of 1973, as amended.

"COORDINATION OF ENERGY INFORMATION ACTIVITIES

"SEC. 36. (a) In carrying out the purposes of Act the Director shall, as he deems appropriate, review the energy information gathering activities of Federal agencies with a view toward avoiding duplication of effort and minimizing the compliance burden on business enterprises and other persons.

"(b) In exercising his responsibilities under subsection (a) of this section, the Director shall recommend poliices which, to the greatest extent practicable,

"(1) provide adequately for the energy information needs of the various departments and agencies of the Federal Government, the Congress, and the public;

"(2) minimize the burden of reporting energy information on businesses, other persons and especially small businesses;

"(3) reduce the cost of Government of obtaining information; and

"(4) utilize files of information and existing facilities of established Federal agencies.

"(c) (1) At the earliest practicable date after enactment of this section, the Administrator shall identify each Federal agency which, to a significant extent, is engaged in the collection of energy information and shall by rule prescribe guidelines for the submission by each such agency of the report on energy information described in paragraph (2) of this subsection.

"(2) Each Federal agency identified pursuant to paragraph (1) of this subsection shall promptly provide the Administrator with a report on energy information which—

"(A) identifies the statutory authority upon which the energy information collection activities of such agency is based;

"(B) lists and describes the energy information needs and requirements of such agency;

"(C) lists and describes the categories, definitions, levels of detail, and frequency of collection of the energy information collected by such agency; and

"(D) otherwise complies with the guidelines for such report prescribed by the Administrator pursuant to paragraph (1) of this subsection.

Such report shall be available to the Congress.

"(d) The recommendations of the Administrator for the coordination of Federal energy information activities shall be available to the Congress and shall be transmitted to the President for the use of the Energy Resources Council in preparation of the plan required under subsection (c) of section 108 of the Energy Reorganization Act of 1974.

"REPORTS

"SEC. 37. (a) The Director shall make regular periodic reports and may make special reports to the Congress and the public, including but not limited to—

"(1) Such reports as the Director determines are necessary to provide a comprehensive picture of the quarterly, monthly and, as appropriate, weekly, supply and consumption of the various mineral fuels and electricity in the United States; the information reported may be organized by company, by States, by regions, or by such other producing and consuming sectors, or combinations thereof, and shall be accompanied by an appropriate discussion of the evolution of the energy supply and consumption situation and such national and international trends and their effects as the Director may find to be significant; and

"(2) An annual report which includes, but is not limited to, a description of the activities of the Office and the National Energy Information System during the preceding year; a summary of all special reports published during the preceding year; a summary of statistical information collected during the preceding year; energy consumption and supply trends and forecasts for subsequent one-, five-, ten-, fifteen-, and twenty-year periods under various assumptions; a summary or schedule of the amounts of mineral fuel resources, nonmineral energy resources, and mineral fuels that can be brought to market at various prices and technologies and their relationship to forecasted demands; and a description of the extent of compliance and noncompliance by industry and other persons or entities subject to the rules and regulations of the Office.

"(b) (1) The Director, on behalf of the Administrator, shall insure that adequate documentation for all statistical and forecast reports prepared by the Director is made available to the public at the time of publication of such reports. The Director shall periodically audit and validate analytical methodologies employed in the preparation of periodic statistical and forecast reports.

"(2) The Director shall on a regular basis, make available to the public information which contains validation and audits of periodic statistical and forecast reports.

"(c) The Director may not be required to obtain before publication the approval of any other officer or employee of the United States with respect to the substance of any statistical or forecasting technical reports which he has prepared in accordance with law.

"ENERGY INFORMATION FROM MAJOR ENERGY-PRODUCING COMPANIES

"SEC. 38 (a) For the purposes of this Act the Director shall designate 'major energy-producing companies' which alone or with their affiliates are involved in one or more lines of commerce in the energy industry so that the energy information collected from such major energy-producing companies shall provide a statistically accurate profile of each line of commerce in the energy industry in the United States.

"(b) The Administrator shall develop and make effective for use during the first full calendar year after enactment of this section the format for an energy-producing company financial report. Such report shall be designed to allow comparison on a uniform and standardized basis among energy-producing companies and shall permit—

"(1) an evaluation of company revenues, profits, cash flow, and investments in total, for lines of commerce in which such company is engaged and for all significant functions within such company;

"(2) an analysis of the competitive structure of sectors and functional groupings within the energy industry;

"(3) the segregation of energy information, including financial information, describing company operations by energy source and geographic area; and

"(4) the determination of costs associated with exploration, development, production, processing, transportation and marketing and other significant functions within such company; and

"(5) such other analyses or evaluations as the Administrator finds is necessary to achieve the purposes of this Act.

"(c) The Director shall consult with the Chairman of the Securities and Exchange Commission with respect to the development of accounting practices to be followed by persons engaged in whole or in part in the production of crude oil and natural gas required by the Energy Policy and Conservation Act (Public Law 94-163) and shall endeavor to assure that the energy-producing company financial report described in subsection (b) of this section, to the extent practicable and consistent with the purposes and provisions of this Act, is consistent with such accounting practices where applicable.

"(d) The Director shall require each major energy-producing company to file with the Office an energy-producing company financial report on at least an annual basis and may request energy information described in such report on a quarterly basis if he determines that such quarterly report of information will substantially assist in achieving the purposes of this Act.

"(e) A summary of information gathered pursuant to this section accompanied by such analysis as the Director deems appropriate shall be included in the annual report of the Office required by subsection (b) of section 37 of this Act.

"(f) As used in this section the term—

"(1) "Energy-producing company" means a person engaged in any of the following:

"(A) Ownership or control of mineral fuel resources or nonmineral energy resources;

"(B) exploration for, or development of, mineral fuel resources;

"(C) extraction of mineral fuel or nonmineral energy resources;

"(D) refining, milling or otherwise processing mineral fuels or nonmineral energy resources;

"(E) storage of mineral fuels or nonmineral energy resources;

"(F) the generation, transmission or storage of electric energy;

"(G) transportation of mineral fuels or nonmineral energy resources by any means whatever; and

"(H) wholesale or retail distribution of mineral fuels, nonmineral energy resources or electrical energy;

"(2) "Energy industry" means all energy-producing companies; and

"(3) "Person" has the meaning described in section 11 of the Energy Supply and Environmental Coordination Act of 1974.

"ENERGY INFORMATION IN POSSESSION OF OTHER FEDERAL AGENCIES

"SEC. 39(a) In furtherance and not in limitation of any other authority, the Director, on behalf of the Administrator, shall have access to energy information in the possession of any Federal agency except information—

"(1) the disclosure of which to another Federal agency is expressly prohibited by law; or

"(2) the disclosure of which would frustrate the enforcement of law.

"(b) In the event that energy information in the possession of another Federal agency which is required to achieve the purposes of this Act is denied the Director or the Administrator pursuant to paragraph (1) or paragraph (2) of subsection (a) of this section, the Administrator, or the Director, on behalf of the Administrator, shall take appropriate action, pursuant to authority granted by law, to obtain said information from the original sources or a suitable alternate source. Such source shall be notified of the reason for this request for information.

"CONGRESSIONAL ACCESS TO INFORMATION IN POSSESSION OF THE OFFICE

"SEC. 40. (a) Notwithstanding any other provision of this Act, the Director shall promptly provide any energy information in the possession of the Office to the Congress or to any duly established committee of the Congress upon request of the Chairman or upon receipt of a resolution adopted by such committee which request or resolution reasonably describes the information sought. Such information shall be deemed the property of such Committee and may not be disclosed except in accordance with the rules of such committee and the rules of the House of Representatives or the Senate and as permitted by law.

"(b) Nothing in this section shall be construed to in any way limit the access of the Congress to information in the possession of the Federal Energy Administration.

"EFFECTIVE DATE

SEC. 303. This title shall become effective 180 days after its enactment.

HEALTH MAINTENANCE ORGANIZATION AMENDMENTS—S. 1926

AMENDMENT NO. 1781

(Ordered to be printed and to lie on the table.)

Mr. KENNEDY. Mr. President, I submit an amendment on behalf of Mr. CHURCH. This amendment is intended to replace amendment No. 1710, submitted on May 27, 1976. Amendment No. 1710 authorizes the appropriation of funds for the upcoming transitional quarter. The amendment I am submitting on Mr. CHURCH's behalf today deletes the authorization for the transitional quarter, and moderately increases the authorization for fiscal year 1978.

NOTICE OF HEARINGS IN THE STATE OF IOWA

Mr. CLARK. Mr. President, on June 11, I will represent the Subcommittee on Environment, Soil Conservation and Forestry of the Committee on Agriculture and Forestry at field hearings in the State of Iowa.

The purpose of these hearings is to review the operation of soil conservation programs in the State, in order to help identify program strengths and weaknesses and pinpoint budget requirements for the coming year. The success of these programs is of particular concern at this time, because of the record percentages of land being put in production.

The hearings will consist of a morning session at the Leo Ryan, Jr., farm, near Council Bluffs, Iowa, and an afternoon session at the Homer Foster farm, near Sioux City, Iowa.

State-based USDA soil conservation officials, farm groups, county extension directors, and farmers from around the State are being invited to testify.

ADDITIONAL STATEMENTS

THE FULL EMPLOYMENT AND BALANCED GROWTH ACT

Mr. TOWER. Mr. President, the Senate Committee on Banking, Housing and Urban Affairs has completed 3 days of hearings on S. 50: the so-called Full Employment and Balanced Growth Act. Better known as the Humphrey-Hawkins bill, this piece of legislation must be taken seriously because, as noted by Senator PROXMIRE at the beginning of the hearings, the Humphrey-Hawkins bill "is supported by every Democratic Presidential candidate with the possible exception of George Wallace." Today, I would like to summarize the testimony on Humphrey-Hawkins which was presented to the Banking Committee.

Humphrey-Hawkins would begin by establishing an institutional structure which would be used to greatly increase the role of Government planning in the economy. Increasing the role of Government planning, of course, means decreasing the role of the free market. In a working paper submitted for the record on S. 50, Dr. Murray L. Weidenbaum quotes from an analysis by John Jewkes of Britain's experiences with centralized planning.

> "I believe that the recent melancholy decline of Great Britain is largely of our own making. . . . At the root of our troubles lies the fallacy that the best way of ordering economic affairs is to place the responsibility for all crucial decisions in the hands of the State."

In that same paper, Dr. Weidenbaum concludes:

> National planning is a centralized process in which the key economic decisions are made in the form of governmental edicts. The greatest danger of adopting a form of centralized economic planning is that it will, perhaps unintentionally at first but inevitably as its initial results prove disappointing, propel the society away from market freedoms and toward greater governmental controls over individual behavior.

The Humphrey-Hawkins planning apparatus would initially develop a plan using Government spending, Government jobs, and expansion of the money supply to drive the unemployment rate for "adults" down to 3 percent or less within 4 years. However, Humphrey-Hawkins does not specify what constitutes "adult" unemployment. Some supporters apparently feel that "adult" unemployment should be defined as the rate for persons 16 years old and older seeking work. Other supporters argue that "adult" unemployment should be defined as the rate for persons 18 years old and older.

Using the latter definition, it should be noted that the last year during which the unemployment rate for persons 18 years old and older averaged 3 percent or less was during the Korean war. Not even the inflationary Government spending and credit-creation policies of the Vietnam era were able to drive the unemployment rate down to 3 percent. Those policies were sufficient, however, to ignite and inflation that threw this country into its worst recession in 40 years. It should be remembered, too, that during both the Korean and Vietnam wars, there were over 3.5 million men in the Armed Forces, If "adult" unemployment were defined as the rate for persons 16 years old and older, the cost of the Humphrey-Hawkins policies in terms of inflation and in terms of the depth of the resulting recession would be much, much higher than the Vietnam era costs.

In testimony before the Banking Committee, Dr. John Kenneth Gailbraith states:

> At a four percent unemployment rate, there is no question, the American economy can be disastrously inflationary.

Dr. Galbraith was talking about an unemployment rate of 4 percent achieved through Humphrey-Hawkins-type policies, not a 3-percent rate as mandated by Humphrey-Hawkins. I agree with Dr. Galbraith that the policies called for in Humphrey-Hawkins would lead to a disastrous inflation, but I am not as pessimistic as Dr. Galbraith over the ability of the American economy to achieve a 4-percent or lower unemployment rate without rampant inflation or more Government controls. I am convinced that noninflationary full employment can be achieved without more Government controls if we concentrate on giving the private sector the incentives to create the needed jobs.

Under S. 50 the Government would be the "employer of last resort," and these supposedly "last-resort" jobs would be at a wage level equal to the higher of either the minimum wage or the wage paid by other employers to employees with similar job classifications. This sounds magnanimous on the surface, but the Banking Committee hearings revealed the insidious impact such an "employer-of-last-resort" program would have on the economy.

If the new public service employees were paid the higher of either the minimum wage or the wage paid by other employers to employees with similar job classifications, this would remove much, if not all, of the incentive for these Government employees to continue seeking employment in the private sector and would, thereby, create a huge new pool of permanent Government employees. Even worse, because Government jobs are generally viewed as less demanding and as providing more generous fringe benefits than private-sector jobs, unemployed workers would have a strong incentive to take one of the new Government jobs rather than to even try to find private-sector employment. Rather than creating an "employer-of-last-resort program," Humphrey-Hawkins would be likely to make the Federal Government into the "employer of first resort."

This "government-as-employer-of-first-resort program" also would fuel cost-push inflation. Federal Reserve Governor Charles Partee outlined why:

> Private labor markets would be tightened, and this would cause private employers to bid up wage rates in order to obtain and retain workers. Also, by making public jobs available at attractive wages as a matter of right, the program would encourage workers now employed in the private sector to press for even larger wage gains, or to transfer to governmental jobs. As an example, any construction project under this bill would pay the going union rate: but since a large proportion of building in the U.S. is nonunion, this wage would be higher than many construction workers now receive and would provide an alternative preferable to their existing jobs.

Such a cost-push inflation would reinforce the demand-pull inflation set off by the overly expansionary fiscal and monetary policies mandated by Humphrey-Hawkins.

Finally, the "government-as-employer-of-first-resort program" would slow economic growth. According to Alan Greenspan, Chairman of the Council of Economic Advisers:

> Such large scale public employment programs would entail a major increase in the number of workers committed to relatively low productivity jobs in the public sector. This would certainly slow the rise in overall productivity and hence in our standards of living. The programs would not contribute to the capital investment required to create the productive jobs needed to regain a sustainable high employment economy. Indeed, the heavy budget costs of funding the program would result in higher taxes on the productive private sector or greater budget deficits. This is likely to interfere with private savings and capital investment, and the badly needed increases in job supporting facilities. In short, we would be creating the types of problems which confront other countries where bloated public sector employment has become a serious impediment to growth, progress and stability. This approach has proven to be shortsighted and counter-productive.

This quotation from Mr. Greenspan's testimony, in addition to pointing out the unfortunate effect which Humphrey-Hawkins would have on economic growth and living standards, also notes the alternative ways of financing the vast increase in Government spending which Humphrey-Hawkins would entail. These alternatives would be higher taxes or larger deficits and more borrowing.

If the latter alternative is chosen and the surge in Government spending is financed by swelling the Federal deficit, the impact would be especially hard on capital investment. Dr. Alice M. Rivlin, Director of the Congressional Budget Office, estimated that the additional Government jobs called for in Humphrey-Hawkins could cost the Federal Government up to $44 billion. Others have noted that other estimates of the cost run as high as $100 billion.

Numerous studies have shown that, in coming years, the United States must substantially increase the proportion of its gross national product used for capital investment if the Nation is to achieve its goal of maximizing productive employment in the private sector and is to meet investment needs for energy, environmental protection, et cetera.

These same studies have concluded that, if the proportion of GNP used for capital investment is to be increased, the Federal Government will have to reduce its draw on the savings of the private sector; for these savings will be needed to finance the capital investment. This means that Government deficits must be reduced.

In sum, under the Humphrey-Hawkins bill, the Nation would have to choose between up to $100 billion in new taxes on the one hand and, on the other hand, reduced private-sector employment, insufficient investment in new energy sources, and inadequate investment in environmental protection. I am unwilling, myself, to leave this country with such a choice.

The Humphrey-Hawkins bill would not only foster unemployment by depressing capital investment. The inflation which would be spawned by S. 50 would be an even more pernicious destroyer of jobs. In fact, in his testimony, Alan Greenspan characterized inflation as "potentially the greatest destroyer of jobs of any major factor in the economy."

As the Humphrey-Hawkins inflation swelled the ranks of the unemployed, the Government would become the employer of an ever expanding percent of the work force and the cries for comprehensive wage and price controls would mount. The Government probably would be left with no choice but to impose comprehensive wage and price controls. Given the Humphrey-Hawkins-type policies for reducing unemployment, John Kenneth Galbraith told the Banking Committee:

> The only remaining alternative [for avoiding disastrous inflation] is direct intervention in wage bargaining and administered prices.

At this point the circle would be complete. A national economic planning framework would be in place. This framework would be needed to find tasks for the hordes of new Government employees and to administer the wage and price controls.

EDUCATIONAL BENEFITS FOR VIETNAM VETERANS

Mr. DURKIN. Mr. President, Memorial Day of this year passed with all the traditional wreath placing and patriotic speechmaking. But for 3.7 million American veterans of the Vietnam era it also marked the end of a golden opportunity.

I am referring to the GI bill of rights, and the education benefits which it offers to veterans who have set aside several of their most productive years to maintain the military strength of this great democracy.

The Committee on Veterans' Affairs this year recommended that those education payments be increased during the next fiscal year, to take into account the effects of inflation which have eroded the purchasing power of these benefits. This action was taken after the White

House refused to include such cost of living increases in its budget.

Unfortunately the White House did not not ask, nor did the Congress provide, for money to extend those educational benefits so that they could be used after the first 10 years following service discharge or release.

As a result on Memorial Day, the same day that speakers in every city and town were extolling the accomplishments and sacrifices of the American servicemen, 3.7 million veterans saw their education benefits slip away. Many of those 3.7 million had hoped to use those benefits some day when their careers and financial situations permitted. Many others will be caught by the deadline in the middle of their continued education, with the prospect of having to let their education drop, perhaps never to be picked up again.

To my mind, Mr. President, this has been a tragic oversight first on the part of the President, and then on the part of the Congress. What we are saying to American veterans is that we will help them as we should when they are old and infirm, when they are too sick and need a hospital, and when they die and are ready to be buried, but not when they want to make their best years most productive.

Several months ago, I introduced legislation which would rectify this injustice by saying that the GI education benefits would be vested with veterans for life, until exhausted. My colleague from New Hampshire, Mr. McIntyre, joined me in cosponsoring that bill, and since then, Senators Abourezk, Eastland, Huddleston, Sparkman, and Leahy have joined us. The White House and the Congress, however, have seen fit to let the 10-year deadline pass this year without any action.

Now there seems to be some misunderstanding about what this Senator is trying to do. I realize that this proposal, or a proposal to extend the deadline for a limited period of time, is going to cost money. And I am fully aware that no money was included in the first budget resolution for these purposes, despite my own pleas and those of other Members.

But the first budget resolution is not written in stone, and there will be a second budget resolution to be voted in September to make corrections and changes. This should be one of them.

Second, I have received a constant barrage of letters, telegrams, phone calls and visits from school administrators and younger veterans who are frantic about this deadline and what it will do to the careers of thousands in New Hampshire alone. In the ideal, I would like to tell them that the Congress understands their plight and has recommended legislation to extend or eliminate the 10-year deadline. In the least, I would like to tell them that the Congress gave serious consideration to our proposal to eliminate the deadline.

But what these veterans cannot understand, Mr. President, is that Congress has failed to act. I detect a disturbing trend in the new budget process that congressional committees or individual Senators who want to avoid making hard decisions will pass the buck to the Budget Committee, and leave those brave gentlemen the unpleasant task of saying no. Then while everyone in Congress can raise their hands in despair, and while sympathizing with constituents and voters, protest that there is nothing that can be done.

Mr. President, the Constitution vests with the Congress and each of its members the responsibility of making the laws and overseeing their enforcement and administration. The power of the purse is essential to this process. And whether this Congress wants to admit it or not, the message we sent to the younger veterans of this Nation this Memorial Day was that we do not even have the guts to stand up and say yes or no on GI bill benefits.

Where will the money come to pay for such an extension or elimination of the deadline?

The simple answer is that it will come from the U.S. Treasury, which has found over the years that it has received 4 cents back for every penny it has invested in the GI education program—a good investment by any standard. Even the former bond salesman and economic ghoul now acting as Secretary of the Treasury would have to admit that the GI bill is a good investment. We would be penny wise and pound foolish if we cited fiscal conservatism as reason for not addressing this issue at this time.

But I need not inform the Members of this Senate that 10 years ago we were about to engage in the most misguided military adventure in American history. Year after year this Congress approved appropriations to send thousands of young Americans to Southeast Asia, where they shot and bombed and napalmed and maimed and destroyed in magnitudes never approached by any civilization. And year after year, these appropriations had the enthusiastic support of many current Members of the Congress and the current occupant of the White House.

That war cost us $140 billion, 56,900 American lives, and jeopardized the political and economic integrity of the United States at home and abroad, Mr. President. Thousands of American boys came through the war with minds and bodies permanently scarred from the experience.

We hopefully should have learned from that mistake. But in the same vein, we have an extraordinary obligation to those veterans who lived through that hell in Southeast Asia, whose 10-year education benefits expired this Memorial Day and will be expiring on Memorial Day over the next 6 or 7 years. That obligation is to invest in their future through continued training and education. We need to send them a signal that we will not forget what they did for this country, and what this country put them through.

It is time that President Ford and the Members of the Senate and House stopped hiding on this issue. We should have the same intestinal fortitude to stand up on this issue that many in this Congress expected of the young men that were sent off to fight, bleed, and die in the jungles of Southeast Asia.

THE LONG GRAY LINE

Mr. GOLDWATER. Mr. President, a large number of people from the military and civilian sectors of our country have been understandably disturbed and concerned by the reports of student cheating at our military academies and by charges that the honor code of the U.S. Military Academy at West Point was out of date. Some have said that it is unrealistic, in this day and age, to expect such high standards to be achieved by the young people of our country. I disagree.

Mr. President, to show another side of the character and dedication that I feel is typical of the corps of cadets at West Point, I would like to share with my colleagues a letter from Cadet Kevin Benson to his mother and father of Milwaukee, Wis. I ask unanimous consent that this letter be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

May 12, 1976.

Mom and Dad: Lately, as you know, the Corps and West Point have been taking some pretty cheap shots and having some rough times.

Tonight, I was a participant in a ceremony/memorial that has convinced me beyond a doubt, this place, but more importantly the Corps, our spirit, will go on. Today, a firstie (he had less than 24 days before graduation) died. You won't read about this in any papers; somehow that would not be proper.

I do not know the circumstances; I don't think its really important.

The WHOLE UNITED STATES CORPS OF CADETS assembled outside Washington Hall and prayed for him. All lights in every barracks were turned out; we assembled in silence, stood in silence and departed in silence. The only thing that disturbed the silence was a bugler blowing Taps.

I really wish the New York Times, Philadelphia Inquirer and the others were there to witness that. They'd see how faltering the Long Gray line is, how much we've lost our honor, and how brutal we are. I don't believe any other school in the nation could turn out the whole student body for one man, but we did.

I'm sure he knows about it.

Love,

Kev.

GOVERNOR CARTER ON NUCLEAR PROLIFERATION

Mr. RIBICOFF. Mr. President, today the nuclear supplier nations reconvene in London for a second round of talks on controlling commercial nuclear exports to prevent the spread of nuclear weapons. Unless a meaningful agreement is reached and effective controls are implemented, the world may be headed toward a new Dark Ages in which plutonium replaces gunpowder as the explosive of choice, and warfare and terrorism take on a nuclear dimension.

I believe it is appropriate to mark the occasion of this historic conference by placing in the Record a recent address by the leading candidate for the Democratic Presidential nomination, Governor Carter, in which he made several important proposals for controlling the danger of nuclear proliferation. The address, "Nuclear Energy and World Order," was delivered at a conference of the same title that was held at the

United Nations on May 13 under the sponsorship of several foundations and nonprofit organizations.

Governor Carter correctly recognizes that the United States must take the lead role in controlling the spread of nuclear technology. While I have advocated even stronger sanctions than Governor Carter has suggested, nevertheless I am encouraged that a Presidential candidate has given this issue the priority consideration that it deserves. Hopefully, nuclear proliferation will become a major Presidential campaign issue, and in this way the American people can become better informed on the dangers and possible solutions to the problem.

I ask unanimous consent that Governor Carter's address be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

NUCLEAR ENERGY AND WORLD ORDER

(Address by Gov. Jimmy Carter at the United Nations, May 13, 1976)

Mr. Chairman, Mr. Director-General, Captain Cousteau, Ambassador Akhund, Dr. Ikle:

I have a deep personal concern with the subject of this conference today—"Nuclear Energy and World Order."

I have had training as a nuclear engineer, working in the United States Navy on our country's early nuclear submarine program. I learned how nuclear power can be used for peaceful purposes—for propelling ships, for generating electric power and for scientific and medical research. I am acutely aware of its potential—and its dangers. Once I helped in disassembling a damaged nuclear reactor core in an experimental reactor at Chalk River, Canada.

From my experience in the Navy and more recently as Governor of Georgia, I have come to certain basic conclusions about the energy problem. The world has only enough oil to last about 30 to 40 years at the present rate of consumption. It has large coal reserves—with perhaps 200 years of reserves in the United States alone. The United States must shift from oil to coal, taking care about the environmental problems involved in coal production and use. Our country must also maintain strict energy conservation measures, and derive increasing amounts of energy from renewable sources such as the sun.

U.S. dependence on nuclear power should be kept to the minimum necessary to meet our needs. We should apply much stronger safety standards as we regulate its use. And we must be honest with our people concerning its problems and dangers.

I recognize that many other countries of the world do not have the fossil fuel reserves of the United States. With the four-fold increase in the price of oil, many countries have concluded that they have no immediate alternative except to concentrate on nuclear power.

But all of us must recognize that the widespread use of nuclear power brings many risks. Power reactors may malfunction and cause widespread radiological damage, unless stringent safety requirements are met. Radioactive wastes may be a menace to future generations and civilizations, unless they are effectively isolated within the biosphere forever. And terrorists or other criminals may steal plutonium and make weapons to threaten society or its political leaders with nuclear violence, unless strict security measures are developed and implemented to prevent nuclear theft.

Beyond these dangers, there is the fearsome prospect that the spread of nuclear reactors will mean the spread of nuclear weapons to many nations. By 1990, the developing nations alone will produce enough plutonium in their reactors to build 3,000 Hiroshima-size bombs a year, and by the year 2000, worldwide plutonium production may be over 1 million pounds a year—the equivalent of 100,000 bombs a year—about half of it outside of the United States.

This prospect of a nuclear future will be particularly alarming if a large number of nations develop their own national plutonium reprocessing facilities with the capacity to extract plutonium from the spent fuel. Even if such facilities are subject to inspection by the International Atomic Energy Agency and even if the countries controlling them are parties to the Non-Proliferation Treaty, plutonium stockpiles can be converted to atomic weapons at a time of crisis, without fear of effective sanction by the international community.

The reality of this danger was highlighted by the Indian nuclear explosion of May, 1974, which provided a dramatic demonstration that the development of nuclear power gives any country possessing a reprocessing plant a nuclear weapons option. Furthermore, with the maturing of nuclear power in advanced countries, intense competition has developed in the sale of power reactors, which has also included the sale of the most highly sensitive technologies, including reprocessing plants. With the spread of such capabilities, normal events of history—revolutions, terrorist attacks, regional disputes, and dictators—all could take on a nuclear dimension.

Dr. Alvin Weinberg, former Director of the Oak Ridge National Laboratory and one of the most thoughtful nuclear scientists in the United States was properly moved to observe: "We nuclear people have made a Faustian bargain with society. On the one hand we offer an inexhaustible supply of energy, but the price that we demand of society for this magical energy source is both a vigilance and a longevity of our social institutions that we are quite unaccustomed to."

Nuclear energy must be at the very top of the list of global challenges that call for new forms of international action. The precise form which that action should take is the question to be addressed by this distinguished group of scientists, businessmen, diplomats and government officials during the next four days.

I would not presume to anticipate the outcome of your expert deliberations. But I suggest that new lines of international action should be considered in three main areas:

(1) action to meet the energy needs of all countries while limiting reliance in nuclear energy;

(2) action to limit the spread of nuclear weapons; and

(3) action to make the spread of peaceful nuclear power less dangerous.

1. We need new international action to help meet the energy needs of all countries while limiting reliance on nuclear energy.

In recent years, we have had major United Nations conferences on environment, population, food, the oceans and the role of women—with habitat, water, deserts, and science and technology on the schedule for the months and years immediately ahead. These are tentative first steps to deal with global problems on a global basis.

Critics have been disappointed with the lack of immediate results. But they miss an important point: a new world agenda is emerging from this process—an agenda of priority problems on which nations must cooperate or abdicate the right to plan a future for the human condition.

The time has come to put the world energy problem on that new agenda. Let us hold a World Energy Conference under the auspices of the United Nations to help all nations cope with common energy problems—eliminating energy waste and increasing energy efficiency; reconciling energy needs with environmental quality goals; and shifting away from almost total reliance upon dwindling sources of non-renewable energy to the greatest feasible reliance on renewable sources. In other words, we must move from living off our limited energy capital to living within our energy income.

Such a conference would have to be carefully prepared. Just as the World Food Conference provided us with a world food balance sheet, this conference could give us a world energy balance sheet. Just as the World Food Conference stimulated international cooperation in agricultural research and development, so a world energy conference could stimulate research and development in the field of energy.

Existing international ventures of energy cooperation are not global in scope. The International Energy Agency in Paris includes only some developed non-Communist countries. The Energy Commission of the Conference on International Economic Cooperation does not include countries such as the Soviet Union and China, two great producers and consumers of energy. And the International Energy Institute now under study does not call for a substantial research and development effort.

A World Energy Conference should not simply be a dramatic meeting to highlight a problem which is then forgotten. Rather, it should lead to the creation of new or strengthened institutions to perform the following tasks:

Improving the collection and analysis of worldwide energy information;

Stimulating and coordinating a network of worldwide energy research centers;

Advising countries, particularly in the developing world, on the development of sound national energy policies;

Providing technical assistance to train energy planners and badly needed energy technicians;

Increasing the flow of investment capital from private and public sources into new energy development; and

Accelerating research and information exchange on energy conservation.

An international energy effort would also be the occasion to examine seriously and in depth this fundamental question:

Is it really necessary to the welfare of our countries to become dependent upon a nuclear energy economy and if so, how dependent and for what purposes? Surely, there is a moral imperative that demands a worldwide effort to assure that if we travel down the nuclear road we do so with our eyes wide open.

Such a worldwide effort must also provide practical alternatives to the nuclear option. Many countries, particularly in the developing world, are being forced into a premature nuclear commitment because they do not have the knowledge and the means to explore other possibilities. The world's research and development efforts are now focused either on nuclear energy or on the development of a diminishing supply of fossil fuels.

More should be done to help the developing countries develop their oil, gas, and coal resources. But a special effort should be made in the development of small-scale technology that can use renewable sources of energy that are abundant in the developing world—solar heating and cooling, wind energy, and "biconversion"—an indirect form of solar energy that harnesses the sunlight captured by living plants. Using local labor and materials, developing countries can be helped to produce usable fuel from human and animal wastes, otherwise wasted wood, fast growing plants, and even ocean kelp and algae.

Such measures would be a practical way to help the poorest segment of humanity whose emancipation from grinding poverty must be our continuing concern.

And all countries could reap benefits from worldwide energy cooperation. The costs to any one country would be small if they were shared among nations; the benefits to each of us from a breakthrough to new energy sources anywhere in the world would be great. We have tried international cooperation in food research and it has paid handsome dividends in high-yielding varieties of corn, wheat, rice and sorghum. We could expect similar benefits from worldwide energy cooperation.

The exact institutional formula for coping with energy effectively on a world level will require the most careful consideration. The IAEA is neither equipped nor staffed to be an adviser on energy across the board; nor would it be desirable to add additional functions that might interfere with its vitally important work on nuclear safeguards and safety.

One possibility to be considered at a World Energy Conference would be the creation of a new World Energy Agency to work side by side with the International Atomic Energy Agency in Vienna. A strengthened International Atomic Energy Agency could focus on assistance and safeguards for nuclear energy; the agency on research and development of non-nuclear, particularly renewable, sources.

2. We need new international action to limit the spread of nuclear weapons.

In the past, public attention has been focused on the problem of controlling the escalation of the strategic nuclear arms race among the superpowers. Far less attention has been given to that of controlling the proliferation of nuclear weapons capabilities among an increasing number of nations.

And yet the danger to world peace may be as great, if not greater, if this second effort of control should fail. The more countries that possess nuclear weapons, the greater the risk that nuclear warfare might erupt in local conflicts, and the greater the danger that these could trigger a major nuclear war.

To date, the principal instrument of control has been the Non-Proliferation Treaty which entered into force in 1970. By 1976 ninety-five non-weapons states had ratified the Treaty, including the advanced industrial states of Western Europe, and prospectively of Japan. In so doing, these nations agreed not to develop nuclear weapons or explosives. In addition they agreed to accept international safeguards on all their peaceful nuclear activities, developed by themselves or with outside assistance, under agreements negotiated with the International Atomic Energy Agency—a little appreciated, but an unprecedented step forward, in the development of international law.

Important as this achievement is, it cannot be a source of complacency, particularly under present circumstances. There are still a dozen or more important countries with active nuclear power programs which have not joined the Treaty. Hopefully, some of these may decide to become members; but in the case of several of them, this is unlikely until the underlying tensions behind their decision to maintain a nuclear weapons option are resolved.

The NPT was not conceived of as a one-way street. Under the Treaty, in return for the commitments of the non-weapons states, a major undertaking of the nuclear weapons states (and other nuclear suppliers in a position to do so) was to provide special nuclear power benefits to treaty members, particularly to developing countries.

The advanced countries have not done nearly enough in providing such peaceful benefits to convince the member states that they are better off inside the Treaty than outside.

In fact, recent commercial transactions by some of the supplier countries have conferred special benefits on non-treaty members, thereby largely removing any incentive for such recipients to join the Treaty. They consider themselves better off outside. Furthermore, while individual facilities in these non-treaty countries may be subject to international safeguards, others may not be, and India has demonstrated that such facilities may provide the capability to produce nuclear weapons.

As a further part of the two-way street, there is an obligation by the nuclear weapons states, under the Treaty, to pursue negotiations in good faith to reach agreement to control and reduce the nuclear arms race.

We Americans must be honest about the problems of proliferation of nuclear weapons. Our nuclear deterrent remains an essential element of world order in this era. Nevertheless, by enjoining sovereign nations to forego nuclear weapons, we are asking for a form of self-denial that we have not been able to accept ourselves.

I believe we have little right to ask others to deny themselves such weapons for the indefinite future unless we demonstrate meaningful progress toward the goal of control, then reduction, and ultimately, elimination of nuclear arsenals.

Unfortunately, the agreements reached to date have succeeded largely in changing the buildup in strategic arms from a "quantitative" to a "qualitative" arms race. It is time, in the SALT talks, that we complete the stage of agreeing on ceilings and get down to the centerpiece of SALT—the actual negotiation of reductions in strategic forces and measures effectively halting the race in strategic weapons technology. The world is waiting, but not necessarily for long. The longer effective arms reduction is postponed, the more likely it is that other nations will be encouraged to develop their own nuclear capability.

There is one step that can be taken at once. The United States and the Soviet Union should conclude an agreement prohibiting all nuclear explosions for a period of five years, whether they be weapons tests or so-called "peaceful" nuclear explosions, and encourage all other countries to join. At the end of the five year period the agreement can be continued if it serves the interests of the parties.

I am aware of the Soviet objections to a comprehensive treaty that does not allow peaceful nuclear explosions. I also remember, during the Kennedy Administration, when the roles were reversed. Then the U.S. had a similar proposal that permitted large-scale peaceful explosions. However, in order to reach an accord, we withdrew our proposal. Similarly, today, if the U.S. really pushed a comprehensive test ban treaty, I believe the United States and the world communitiy could persuade the USSR to dispose of this issue and accept a comprehensive test ban.

The non-proliferation significance of the superpowers' decision to ban peaceful nuclear explosions would be very great because of its effect on countries who have resisted the Non-Proliferation Treaty's prohibition of "peaceful" nuclear explosives, even through they are indistinguishable from bombs.

A comprehensive test ban would also signal to the world the determination of the signatory states to call a halt to the further development of nuclear weaponry. It has been more than a decade since the Limited Test Ban Treaty entered into force, and well over 100 nations are now parties to that agreement.

It now appears that the United States and the Soviet Union are close to an agreement that would prohibit underground nuclear tests above 150 kilotons. This so-called threshold test ban treaty represents a wholly inadequate step beyond the limited test ban. We can and should do more. Our national verification capabilities in the last twenty years have advanced to the point we no longer have to rely on on-site inspection to distinguish between earthquakes and even very small weapons tests.

Finally, such a treaty would not only be a demonstration on the part of the superpowers to agree to limit their own weapons development. As President Kennedy foresaw in 1963, the most important objective of a comprehensive treaty of universal application would be its inhibiting effect on the spread of nuclear weapons by prohibiting tests by every signatory state.

3. We need new international action to make the spread of peaceful nuclear power less dangerous.

The danger is not so much in the spread of nuclear reactors themselves, for nuclear reactor fuel is not suitable for use directly in the production of nuclear weapons. The far greater danger lies in the spread of facilities for the enrichment of uranium and the reprocessing of spent reactor fuel—because highly enriched uranium can be used to produce weapons; and because plutonium, when separated from the remainder of the spent fuel, can also be used to produce nuclear weapons. Even at the present early stage in the development of the nuclear power industry, enough materials are produced for at least a thousand bombs each year.

Under present international arrangements, peaceful nuclear facilities are sought to be safeguarded against division and theft of nuclear materials by the International Atomic Energy Agency in Vienna. As far as reactors are concerned, the international safeguards—which include materials accountancy, surveillance and inspection—provide some assurance that the diversion of a significant amount of fissionable material would be detected, and therefore help to deter diversion.

Of course, as the civilian nuclear power industry expands around the globe, there will be a corresponding need to expand and improve the personnel and facilities of the international safeguards system. The United States should fulfill its decade-old promise to put its peaceful nuclear facilities under international safeguards to demonstrate that we too are prepared to accept the same arrangements as the non-weapon states.

That would place substantial additional demands on the safeguards system of the IAEA, and the United States should bear its fair share of the costs of this expansion. It is a price we cannot afford *not* to pay.

But in the field of enrichment and reprocessing, where the primary danger lies, the present international safeguards system cannot provide adequate assurance against the possibility that national enrichment and reprocessing facilities will be misused for military purposes.

The fact is that a reprocessing plant separating the plutonium from spent fuel literally provides a country with direct access to nuclear explosive material.

It has therefore been the consistent policy of the United States over the course of several administrations, not to authorize the sale of either enrichment or reprocessing plants, even with safeguards. Recently, however, some of the other principal suppliers of nuclear equipment have begun to make such sales.

In my judgment, it is absolutely essential to halt the sale of such plants.

Considerations of commercial profit cannot be allowed to prevail over the paramount objective of limiting the spread of nuclear weapons. The heads of government of all the principal supplier nations hopefully will recognize this danger and share this view.

I am not seeking to place any restrictions on the sale of nuclear power reactors which sell for as much as $1 billion per reactor. I believe that all supplier countries are entitled to a fair share of the reactor market.

What we must prevent, however, is the sale of small pilot reprocessing plants which sell for only a few million dollars. have no commercial use at present, and can only spread nuclear explosives around the world.

The International Atomic Energy Agency itself, pursuant to the recommendations of the Non-Proliferation Treaty review conference of 1975, is currently engaged in an intensive feasibility study of multinational fuel centers as one way of promoting the safe development of nuclear power by the nations of the world, with enhanced control resulting from multinational participation.

The Agency is also considering other ways to strengthen the protection of explosive material involved in the nuclear fuel cycle. This includes use of the Agency's hitherto unused authority under its charter to establish highly secure repositories for the separated plutonium from non-military facilities, following reprocessing and pending its fabrication into mixed oxide fuel elements as supplementary fuel.

Until such studies are completed, I call on all nations of the world to adopt a voluntary moratorium on the national purchase or sale of enrichment or reprocessing plants. I would hope this moratorium would apply to recently completed agreements.

I do not underestimate the political obstacles in negotiating such a moratorium, but they might be overcome if we do what should have been done many months ago—bring this matter to the attention of the highest political authorities of the supplying countries.

Acceptance of a moratorium would deprive no nation of the ability to meet its nuclear power needs through the purchase of current reactors with guarantees of a long-range supply of enriched uranium. Such assurances must be provided now by those supplied countries possessing the highly expensive facilities currently required for this purpose.

To assure the developing countries of an assured supply of enriched uranium to meet their nuclear power needs without the need for reprocessing, the United States should, in cooperation with other countries, assure an adequate supply of enriched uranium.

We should also give the most serious consideration to the establishment of centralized multinational enrichment facilities involving developing countries' investment participation, in order to provide the assured supply of enriched uranium. And, if one day their programs economically justify use of plutonium as a supplementary fuel, similarly centralized multinational reprocessing services could equally provide for an assured supply of mixed oxide fuel elements.

It makes no economic sense to locate national reprocessing facilities in a number of different countries. In view of economies of scale, a single commercial reprocessing facility and a fuel fabrication plant will provide services for about fifty large power reactors. From an economic point of view, multinational facilities serving many countries are obviously desirable. And the colocation of reprocessing, fuel fabrication and fuel storage facilities would reduce the risk of weapons proliferation, theft of plutonium during transport, and environmental contamination.

There is considerable doubt within the United States about the necessity of reprocessing now for plutonium recycle. Furthermore, the licensing of plutonium for such use is currently withheld pending a full scale review by the Nuclear Regulatory Commission of the economic, environmental, and safeguards issues. And there is a further question to be asked: If the United States does not want the developing countries to have commercial plutonium, why should we be permitted to have it under our exclusive control?

Surely this whole matter of plutonium recycle should be examined on an international basis. Since our nation has more experience than others in fuel reprocessing, we should initiate a new multinational program designed to develop experimentally the technology, economics, regulations and safeguards to be associated with plutonium recovery and recycle. The program could be developed by the U.S. in cooperation with the International Energy Agency.

If the need for plutonium reprocessing is eventually demonstrated—and if mutually satisfactory ground rules for management and operation can be worked out, the first U.S. reprocessing plant which is now nearing completion in Barnwell, South Carolina, could become the first multinational reprocessing facility under the auspices of the International Atomic Energy Agency. Separated plutonium might ultimately be made available to all nations on a reliable, cheap, and non-discriminatory basis after blending with natural uranium to form a low-enriched fuel that is unsuitable for weapons making.

Since the immediate need for plutonium recycle has not yet been demonstrated, the start-up of the plant should certainly be delayed to allow time for the installation of the next generation of materials accounting and physical security equipment which is now under development.

One final observation in this area: We need to cut through the indecision and debate about the long-term storage of radioactive wastes and start doing something about it. The United States could begin by preparing all high-level radioactive wastes currently produced from our military programs for permanent disposal. Waste disposal is a matter on which sound international arrangements will clearly be necessary.

The nuclear situation is serious, but it is not yet desperate. Most nations of the world do *not* want nuclear weapons. They particularly do not want their neighbours to have nuclear weapons, but they understand that they cannot keep the option open for themselves without automatically encouraging their neighbours to "keep options open" or worse.

It is this widespread understanding that it is *not* in the interest of individual nations to "go nuclear" which we must use as the basis of our worldwide efforts to control the atom. We must have negative measures—mutual restraint on the part of the producers and suppliers of nuclear fuel and technology. But these negative measures must be joined to the larger, positive efforts of the non-nuclear weapon states to hold the line against further proliferation.

The recent initiative of the Finnish Government along these lines deserves commendation. The Finns have urged a compact among the purchasers of nuclear fuel and technology to buy only from suppliers who require proper safeguards on their exports.

This proposal would convert the alleged advantages to a supplier of breaking ranks and offering "bargains" in safeguards into a commercial disadvantage. Instead of broadening his market by lowering his standards, the supplier would narrow it. There would be fewer purchasers for his dangerous merchandise than if he maintained a common front on safeguards with other suppliers. There would be competition to offer to buyers the safest product at the best price.

Most important, the Finnish proposal would plainly put the full weight of the non-nuclear world into the effort against proliferation. It would make it evident that this struggle is not a struggle by the nuclear "haves" to keep down the nuclear "have-nots"; it would be a common effort by all mankind to control this dangerous technology, to gain time so that our political structures can catch up with sudden, enormous leaps in our technical knowledge, to turn us around and head us in the right direction—toward a world from which nuclear weapons and the threat of nuclear war have been effectively eliminated. That may be a distant goal—but it is the direction in which we must move.

I have talked to you today about the need for new international action in three areas—action to meet the energy needs of all countries while limiting reliance on nuclear energy, action to limit the spread of nuclear weapons, and action to make the spread of peaceful nuclear power less dangerous.

Of one thing I am certain—the hour is too late for business as usual, for politics as usual, or for diplomacy as usual. An alliance for survival is needed—transcending regions and ideologies—if we are to assure mankind a safe passage to the twenty-first century.

Every country—and the United States is no exception—is concerned with maintaining its own national security. But a mutual balance of terror is an inadequate foundation upon which to build a peaceful and stable world order. One of the greatest long-term threats to the national security of every country now lies in the disintegration of the international order. Balance of power politics must be supplemented by world order politics if the foreign policies of nations are to be relevant to modern needs.

The political leaders of all nations, whether they work within four year election cycles or five year plans, are under enormous temptations to promise short-term benefits to their people while passing on the costs to other countries, to future generations, or to our environment. The earth, the atmosphere, the oceans and unborn generations have no political franchise. But short-sighted policies today will lead to insuperable problems tomorrow.

The time has come for political leaders around the world to take a larger view of their obligations, showing a decent respect for posterity, for the needs of other peoples and for the global biosphere.

I believe the American people want this larger kind of leadership.

In the last two years, I have visited virtually every one of our fifty states. I have found our people deeply troubled by recent developments at the United Nations. But they do *not* want to abandon the UN—they want us to work harder to make it what it was created to be—not a cockpit for controversy but an instrument for reconciling differences and resolving common problems.

And they want UN agencies to demonstrate the same commitment to excellence, impartiality and efficiency they are demanding of their own government.

We want to cooperate—not simply debate. A joint program—whether on nuclear energy or other global problems—is infinitely preferable to sustained and destructive polemics. Our desire for global cooperation is prompted by America's confidence in itself, in our capacity to engage in effective cooperation, and upon the moral imperative that as human beings we must help one another if any of us is to survive on this planet.

The nuclear age, which brings both sword and plowshare from the same source, demands unusual self-discipline of all nations. If we approach these problems with both humility and self-discipline, we may yet reconcile our twin goals of energy sufficiency and world order.

SECRETARY KISSINGER'S AFRICAN POLICY

Mr. GARN. Mr. President, in a few days the Senate will return to consideration of the Foreign Military Sales Act, and further discussion of the African policy outlined by Secretary of State Henry A. Kissinger in Lusaka in April. Also pending is Senate Resolution 436, the resolution introduced by Senator CHARLES PERCY to commit the Senate to support of the policy. I would like to take a few moments today to state, as clearly as I can, my position on the resolution, and on the African policy it is designed to support.

It has been my observation, over the years, Mr. President, that the United States has had no African policy, and in a sense, it is good that at last a debate has been started. As the empires of our friends and allies in Europe crumbled, we took no official position, except insofar as our support for the United Nations constituted a stance in favor of independence. Of course, a significant share of the intellectual community in the United States was always strongly in favor of independence and self-determination, often erroneously equating self-determination with democracy and freedom. A smaller group of intellectuals warned that the withdrawal of European stability would leave a power vacuum which would inevitably be filled, and probably not to our advantage, given our own reluctance to fill it. The Angolan episode is merely one more example of the fulfillment of that warning. We see, in fact, a significant Soviet influence in many African nations. To be sure, the Soviets have not been without their setback in Africa.

The appointment of Daniel Patrick Moynihan to the United Nations did seem to promise a cohesive African policy. During his tenure there, Ambassador Moynihan coupled an unrelenting scorn and opposition to the white supremacist governments of South Africa and Rhodesia with a bluntly realistic treatment of the black governments in the rest of sub-Saharan Africa. The Ambassador dealt with all African nations as equals, neither condoning their excesses nor excusing their obvious faults.

In this context, then, the policy enunciated in Lusaka appears woefully inadequate logically and morally. What exactly motivates it? Is it opposition to minority rule? Clearly not. Secretary Kissinger made his speech flanked by Kenneth Kuanda, who rules without opposition, since his political opponents are in jail. Is it opposition to racial tyrrany? No, because Secretary Kissinger had no condemnation for Idi Amin of Uganda, whose dispossession of the Asian minorities in Uganda was of an excessive brutality.

The Lusaka Policy, then has little to recommend it. It is a belated effort to show black Africans that we don't want them oppressed, by whites anyway. It has little real prospect of preventing further incursions of Soviet influence into the continent. Indeed, in my view, it will provoke more intervention, since it can only increase the already considerable instability in Southern Africa. What the Secretary did, Mr. President, is to declare stability in Southern Africa to be no business of the United States. In my observation, where stability is not our business, instability becomes the business of the Soviet Union.

Procedurally, Mr. President, Secretary Kissinger's action poses other problems. It is the constitutional duty of the Senate of the United States to advise the Executive on the conduct of foreign policy, and to consent to concrete manifestations of it. Now I recognize the difficulty of consulting with a body of 100 disparate souls. Still it appears to me that some discussions could have been had with the Senate, or with individual Senators, before the launching of a major departure in foreign policy such as the Lusaka speech was.

That is particularly true, Mr. President, in view of the fact that the Congress of the United States is clearly on record as opposing one major aspect of the Lusaka Policy. That is the participation of the United States in the embargo of Rhodesian chrome. By its adoption of the Byrd amendment in 1971, agreed to by the Senate, the United States committed itself to a certain direction in foreign policy. The Lusaka Policy, as enunciated by Secretary Kissinger, would clearly change the direction of that policy; such a shift should clearly not be taken without adequate consultation.

Instead, Mr. President, the Lusaka speech was delivered without warning to the Congress. It commits us to a course that it is not clear that we should or will follow. At the least, it appears to be an attempt to coerce the Senate, an attempt that this Senator resents. Because of the complex nature of our Government, it is easy for foreign governments to misunderstand the impact of declarations of this sort by the executive branch. For that reason, it would seem to be prudent for the Executive to bring on board as much of the Senate as possible before announcing new departures. We see the same problem at work in Panama.

What I am leading up to Mr. President, is an announcement that I find the Lusaka policy very difficult to defend, and premature to say the least. Secretary Kissinger has told us before that the internal affairs of such nations as the Soviet Union are not the business of the U.S. Senate, and it is disconcerting now to see him so concerned about the internal affairs of such nations as Rhodesia. The inconsistency is glaring. If our opposition is to minority rule, it is hard to explain our financial support for Mozambique, announced by the Secretary, again without consultation with the Senate, and without legislation to back it up.

For all of these reasons, Mr. President, I would like to be clearly on record as opposing the policy toward Southern Africa enunciated by Secretary of State Kissinger in April, and against the Percy resolution introduced in support of that policy. My hope is that these instruments will die the quiet death they deserve.

RECOGNITION OF HUMANITARIAN EFFORTS OF JOHN BLOOMER, EDITOR, BIRMINGHAM NEWS

Mr. ALLEN. Mr. President, I am pleased to bring to the attention of the Senate the humanitarian efforts of an outstanding Alabamian, Mr. John Bloomer, who is editor of the Birmingham News, Alabama's largest newspaper and one of America's finest daily newspapers. Mr. Bloomer was a central figure in organizing the delivery of relief supplies and services that have put Guatemala back on the road to recovery from the recent natural disaster which it suffered. As Senators will recall, Guatemala, which is Alabama's Latin American partner in the partners of the Americas program, was stricken by a major earthquake on February 8, 1976.

Mr. Bloomer's response and help were immediate. He spared no effort in requesting, securing, and delivering equipment, supplies, medicines, and funds to aid the people of Guatemala to the road to recovery. He personally coordinated the packing and the transporting of two Alabama emergency hospitals that Gov. George C. Wallace made available for Guatemala. For his ability to organize emergency action and produce relief to the citizens of Guatemala, Mr. Bloomer was honored on April 16, by the Medical Association of the State of Alabama. For his contributions to the betterment of human life in the Western Hemisphere he received on May 12 a citation from Gov. George C. Wallace. For his compassion and strength in performing work of substantial value to his community over and beyond normal scope and at considerable personal sacrifice, he was honored on April 27 by the Altrusa Club of Birmingham, Ala., and was entered as that organization's nominee for the Young Men's Business Club of Birmingham's "Man of the Year Award."

Mr. President, details of Mr. Bloomer's contributions to assist his fellowmen appear in news stories in the April 16 and May 12 editions of the Birmingham News and in the program for the "Man of the Year" awards banquet on April 27.

I ask unanimous consent that these articles be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

QUALIFICATIONS FOR NOMINATIONS FOR "MAN OF THE YEAR"

A nominee must either reside or have his place of business in greater Birmingham.

A nominee must have performed outstanding work of substantial value to this community in 1975 over and beyond the normal scope of his professional duties.

A nominee is expected to have made considerable personal sacrifice in the performance of this work.

Nominees for the honor of Man of the Year are accepted from Civic Organizations and individuals from all of greater Birmingham. Their qualifications are submitted to a secret select committee or selection of the Man of the Year. The Secret Selection Committee is composed of members from all walks of life. The members of this committee are not members of the Young Men's Business Club and their names are never made public, therefore they have complete freedom in the selection of the nominee they honestly feel to most deserve the honor of recognition as Birmingham's Man of the Year.

JOHN W. BLOOMER

John W. Bloomer, editor of The Birmingham News, is nominated by the Altrusa Club.

He is president of the Alabama Partners of the Americas and was primarily responsible for securing two hospital units that provided aid to victims of the Guatemala earthquake.

Mr. Bloomer is vice president of the Alabama Lung Association, and a member of the standing committee on public education, Alabama Division, American Cancer Society. He serves on the board of the Warrior-Tombigbee Development Association, is communications vice president for the Birmingham Area Chamber of Commerce, and is chairman of the Alabama Environmental Quality Association.

Bloomer To Receive Honor for Leadership in Quake Relief Work

(By the Kate Harris)

Montgomery.—The Medical Association of the State of Alabama (MASA) will present John W. Bloomer, editor of The Birmingham News, a special award tonight for lay services to humanity.

Dr. Vernon Stabler, MASA president who will make the presentation, said Bloomer is being cited "for his outstanding leadership in coordinating emergency relief efforts for the earthquake victims of Guatemala."

When the earthquake hit Guatemala last February, Bloomer in his capacity as president of Alabama-Guatemala Partners of the Americas was called upon to help the thousands of injured and homeless.

"Through this organzation, medical aid and needed drugs and other supplies were channeled into the country," said Stabler. "He demonstrated exceptional interest and feeling for his fellow man."

Through the Partners of the Americas many Alabama cities for several years have had "sister" cities in Guatemala and are now able to give special assistance to these municipalities.

Also to be honored tonight are Dr. Dewey White Jr., of Birmingham, a member of the Legislature, who will receive the Samuel Buford Word Award for service to humanity by a physician.

Jefferson County Deputy Health Officer Guy Tate Jr. will be presented the William Henry Sanders Award for outstanding service in the public health field.

The William Crawford Gorgas Award, citing a layman for his accomplishments in the field of health, will go to Thomas D. Russell of Alexander City.

Receiving the Douglas L. Cannon Medical Reporter Awards will be Jay Lewis, WSFA–TV, Montgomery; Dave Campbell, WAPI Radio, Birmingham; Bob Rowe, WYDE Radio, Birmingham; and David Marshall, The Tuscaloosa News.

The awards dinner also will be the setting for the introduction of 22 physicians into the 1976 Fifty-Year Club, established to honor doctors who have practiced medicine for half a century.

Keynote speaker will be Dr. George Schweitzer, University of Tennessee chemistry professor.

Speaking at a prayer breakfast Friday will be Rev. Ben Smith, chaplain of the University of Alabama in Birmingham Medical Center.

Wallace Cites News' Bloomer for Heading Guatemala Quake Aid

(By Al Fox)

Montgomery.—John W. Bloomer, editor of The Birmingham News, was cited Tuesday by Gov. George Wallace for his leadership of volunteer efforts to aid earthquake-stricken Guatemala. Then the governor accepted the honorary chairmanship of the Alabama Partners of the Americas.

Wallace also pledged to Bloomer that he and his wife, Cornelia, plan to go to Guatemala this summer for the dedication of a rehabilitation hospital being erected by Alabamians for paraplegic victims of the earthquake.

The presentation of the certificate of appreciation to Bloomer was made in a surprise ceremony in Wallace's office at the Capitol.

The new paraplegic rehabilitation hospital being erected by Alabamians, Bloomer said, will be adjacent to Guatemala City's Roosevelt Hospital constructed during World War II for rehabilitation of American servicemen and turned over to the Guatemala government in 1946.

The Partners of the Americas in an alliance between the United States and Latin American countries which was originated in the early 1960's, during the administration of the late President John F. Kennedy.

Alabama's Latin American partner is Guatemala, and 13 cities in Alabama have sister cities in Guatemala.

Bloomer told Wallace that he accepted the citation on behalf of the thousands of Alabamians who aided in the effort to provide relief assistance for Guatemala, especially Mrs. Thomas Strong, office manager for the editorial department of The News.

The governor said the president of Guatemala had written him that "when the big silver bird from Alabama (a National Guard plane) landed, I had tears in my eyes and hope in my heart."

He also told Bloomer that he had received a call from the Guatemalan ambassador while on the presidential campaign trail in Florida, expressing his nation's gratitude for Alabama's participation led by Bloomer.

Among the items on the Alabama plane were two completely equipped field hospitals in addition to emergency medical supplies.

The governor pointed out that later shipments to Guatemala under efforts directed by Bloomer were clothes, food, blood, additional medical supplies and other necessities for a ravaged nation.

The citation to Bloomer said he "had a highest degree of concern and compassion for his fellowman," and "is at the forefront of most charitable and civic causes in his own community, in addition to the many contributions he has made to people throughout Alabama."

"Through his dedication and hard work in providing disaster relief to the people of Guatemala following the terrible earthquake of 1976, Alabama was the first state to arrive on the scene with emergency medical and relief equipment.

"His immediate response during times of emergency illustrates his qualities of leadership and his inborn sincerity of wanting to help those less fortunate."

GAO REPORT URGING CONGRESS TO STRENGTHEN REVENUE SHARING CIVIL RIGHTS PROVISIONS

Mr. GLENN. Mr. President, last July I participated in hearings on revenue sharing conducted by the Senate Government Operations Subcommittee on Intergovernmental Relations. At that time we heard testimony from the General Accounting Office indicating the need for substantial strengthening of the civil rights provisions of the Revenue Sharing Act.

These hearings were followed by reports by the House Committee on the Judiciary, the U.S. Commission on Civil Rights, and private groups such as the League of Women Voters, the NAACP, the National Urban Coalition, and the Southern Regional Council all documenting a sorry record of civil rights enforcement as practiced by the Office of Revenue Sharing—ORS.

I am pleased that the House Government Operations Committee has already made significant legislative attempts to strengthen revenue sharing civil rights protections. The need for doing so is made all the more clear by the GAO report just issued this week which clearly documents the existence of a major loophole in the 1972 Revenue Sharing Act permitting the circumvention of nondiscrimination provisions by recipient governments.

Because of their "no strings" nature, ORS funds are often interchangeable with other funds and are thus nontraceable. Thus, the GAO points out, ORS funds may be placed in a general purpose fund that is used to support discriminatory activity and it will not be apparent which of the commingled funds are being spent in a discriminatory manner. Federally financed discrimination in employment and in the provision of services has often been the result.

According to the report, such discrimination also has resulted simply from ORS slowness and inaction in all facets of the civil rights area.

To help combat these weaknesses in a program that for the past 5 years placed $30.2 billion of taxpayer money into the hands of local government, I introduced S. 3173, the State and Local Fiscal Assistance Act of 1976 on March 18 of this year. This bill, cosponsored by Senators Humphrey and Mansfield, attempts to put teeth into the revenue sharing civil rights provisions by: First, prohibiting local governments that receive revenue-sharing funds from discriminating not only in programs funded by revenue-sharing receipts but also in programs using funds that have been commingled with revenue-sharing funds; and second, by mandating prompt cutoff of funds by ORS if proceedings by the Office support discrimination allegations.

As the Finance Committee considers the extension of revenue sharing, I strongly urge concurrent consideration of the provisions of S. 3173. I believe that the bill can substantially remedy a real weakness in our national struggle for equal opportunity.

I ask unanimous consent that a digest of the GAO report and an article by Warren Brown on the report that appeared in the Washington Post on Thursday, June 3, 1976, be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Comptroller General's Report to the House Committee on the Judiciary

DIGEST

The Revenue Sharing Act is administered by the Office of Revenue Sharing, Department of the Treasury. It prohibits discrimination based on race, color, national origin, or sex in programs or activities wholly or partially funded with revenue sharing moneys.

STRENGTHENING THE NONDISCRIMINATION PROVISION

A recipient government can unintentionally circumvent the nondiscrimination provision simply by using revenue sharing funds to free its own funds for other uses which will thus not be restricted by the Revenue Sharing Act. GAO therefore recommends that the Congress amend the act's nondiscrimination provision to prohibit a recipient State or local government from discrimination in any of its programs or activities—regardless of the source of funds.

GAO notes that the nondiscrimination provisions in well over 100 Federal laws are inconsistent. These nondiscrimination provisions vary considerably in both the type of discrimination that is prohibited (employment, availability of facilities and services, etc.) and the individuals or groups against which discrimination is prohibited (handicap, race, sex, creed, age, etc.).

Because of the broad flexibility a government has in using revenue sharing funds and the ease with which the funds can be substituted for a government's revenues from other sources, the impact of revenue sharing can occur in almost any of a government's programs or activities. Revenue sharing may thus indirectly support programs that are partially financed by other Federal assistance which prohibits discrimination of a type allowed under the Revenue Sharing Act. Therefore, GAO recommends that the Congress broaden the nondiscrimination provision to prohibit, in all of the recipient government's programs and activities, the types of discrimination that are prohibited by laws applicable to other Federal assistance.

The Office or Revenue Sharing said it had serious reservations concerning these recommendations to broaden the nondiscrimination provision because of the burden they would place on its resources and the lack of evidence that accounting manipulations are widely used to avoid the nondiscrimination requirements. GAO agreed that if the act were broadened, the Office would have to devote additional effort to enforcing nondiscrimination; but because certain generalized civil rights responsibilities have already been placed elsewhere in the Federal Government, the Office should be able to limit the extent of its increased effort by close cooperation with other agencies.

IMPROVING ENFORCEMENT

The Office of Revenue Sharing's nondiscrimination enforcement has been too narrowly focused in relying almost exclusively on discrimination complaints as indicators of potential violations of the act. An adequate civil rights enforcement program should also include selected reviews or audits to determine compliance with prohibitions against discrimination.

Although the Office has conceived of such a program, including use of the existing State and local audit system, cooperation with other Federal and State agencies, a sample audit plan, and a complaint processing system, the concept has not been carried out because of inadequate internal controls, an increasing workload, and insufficient staffing.

As of December 31, 1974, the Office had opened 109 civil rights cases. Ninety-eight of these cases were based on complaints from private citizens, national civil rights organizations, State and local interest groups, legal service groups, and local public officials. The remaining 11 cases were opened because of information from the Department of Justice on pending litigation, office compliance audits, and newspaper articles.

The Office's processing of these cases and its monitoring of affirmative actions by governments found not complying with the act's nondiscrimination provision have been characterized by excessive delays, and processing time is apparently increasing. The 43 cases that had been closed as of June 30, 1975, had an average processing time of 10 months. But 60 of the cases still open as of June 30, 1975, had already been open an average of 12 months. Further, GAO identified 7 closed cases and 50 open cases where a delay of 6 months or more occurred in 1 or more of the 6 major case processing stages. (See app. IV.)

Many of the delays were due to insufficient systematic procedures to alert staff to delinquent actions requiring immediate attention. Also contributing to the delays has been the small number of civil rights specialists who not only performed administrative tasks in Washington, D.C., but conducted field investigations, sample audits, and other civil rights tasks throughout the country.

GAO recommends that the Secretary of the Treasury improve procedures and controls to alert the Office of Revenue Sharing of delinquent civil rights cases requiring immediate attention. The Office agreed that additional controls were necessary and installed computerized control over the status of cases and established time frames within which specified processing actions must be taken.

GAO also recommends that the Congress and the Secretary of the Treasury authorize additional staff for the Office's civil rights branch to deal with its substantial workload. The Office should determine the staff needed in addition to the 10 specialists authorized for fiscal year 1976, by assessing its current needs and planned enforcement program. The Office agreed that additional staff is needed to achieve improved enforcement of the nondiscrimination provision and stated that a request for increased staffing levels is now pending in the Appropriations Committees of both the Senate and the House of Representatives.

[From the Washington Post, June 3, 1976]

GAO HITS BIAS LOOPHOLE IN REVENUE SHARING LAW

(By Warren Brown)

The General Accounting Office urged Congress yesterday to close a loophole in the revenue sharing law that the agency said, permits municipalities to practice race and sex discrimination without losing federal funds.

The GAO, Congress' investigative arm, said in a report to the House Judiciary Committee that the current nondiscrimination provision of the Revenue Sharing Act of 1972 "can be easily circumvented by recipient governments."

"A recipient government can unintentionally or intentionally circumvent the nondiscrimination provision simply by using revenue sharing funds to free its own funds for other uses, which will thus not be restricted by the revenue sharing act," the GAO said.

The agency said the law should be amended to "prohibit a recipient state or local government from discrimination in any of its programs or activities—regardless of the source of revenues used to finance such programs and activities."

The revenue sharing act, which became effective in January 1972, will have pumped nearly $30.2 billion into 39,000 state and local government budgets by the time it expires at the end of this calendar year.

Congress is debating if, for how long, and in what form it should extend the act. The GAO, with its 117-page report, is the latest of a number of government and private organizations to join the debate.

If the program is continued, the GAO said Congress also needs to strengthen the nondiscrimination enforcement arm of the Office of Revenue Sharing (ORS), which is responsible for administering the act.

The GAO said a review of 109 discrimination cases handled by the office between 1972 and Dec. 31, 1974, showed that ORS enforcement efforts have been hampered by "inadequate controls, an increasing workload, and inadequate staffing, which have excessively delayed resolution of civil rights cases."

Employment practices were questioned in 80 of the 109 cases. Police and fire departments were the targets of complaints in about two-thirds of the employment disputes, the GAO said.

In 1976, nearly 200 cases—involving allegations of race and sex discrimination, and discrimination against the handicapped—have been received by the ORS, according to the GAO.

The agency recommended that Congress increase the ORS staff "to improve its overall civil rights program."

That recommendation was welcomed by Priscilla Crane, spokesman for ORS.

"We've only had five—five—civil rights specialists to handle 39,000 jurisdictions," she said last night. "We need more help, but I think we've done a pretty darned good job with what we have."

MISSILES TO JORDAN

Mr. CASE. Mr. President, a great deal of misinformation has been circulating in the press and in other circles about the difficulties in the proposed sale of American-made Hawk missiles to Jordan. There is more than a hint that Congress will be to blame if the Jordanians turn to the Soviets to purchase surface-to-air missiles and other weapons.

It is time to put the record straight.

The effort of Congress last year in this matter pursuant to its statutory responsibility to scrutinize major arms sales, was to work out an arrangement that would neither damage our relations with Jordan nor upset the arms balance in the Middle East. A satisfactory agreement was achieved, taking into account our relations with Jordan and the compelling evidence that an uncontrolled sale of an extensive mobile Hawk system to Jordan would tend to seriously destabilize the military situation.

After the President last year agreed in writing to meaningful restrictions, accepted by Jordan, on the mobility, deployment and technical characteristics of the Hawk missile system to be sold to Jordan, Congress agreed to the proposed sale. In December, 1975, after the President's action cleared the way, the King of Jordan signed the contract for the Hawk missile system.

American technical teams later visited Jordan and began to develop the infrastructure for the Hawk system. Following the return to the United States of the first technical field team. I was able to report to the Foreign Relations Committee that the conditions were being honored.

However, by February there were rumors of serious obstacles. The first indications surfaced in press reports of a drastic increase in the costs of the project.

The State Department later told us of what it called this "increase in price." The Defense Department, directly involved in the weapons discussions, provided another version which differed with the State Department's.

The Defense Department version made it clear that the list of prices for the equipment to be provided under the contracts approved by Congress had not increased, except for some relatively minimal training costs.

What had happened was that the State Department and the Government of Jordan expanded the original program and had contemplated additional expenditures far above the original program limits, including equipment not related to the Hawk missile system. Furthermore, the proposed additional expenditures, which would raise the total program nearly three times the original costs, were being resisted by the Saudi Arabians who had agreed to finance the original package.

These developments did not involve Congress in any way. Indeed, Congress was not even consulted about the proposed expenditures until the last week of May, after the Saudis had declined to pay for them, though it now appears that the State Department knew of the Saudi reluctance much earlier and had been increasingly worried about Jordanian discussions with the Soviets as an alternate arms supplier.

I deeply regret any possible arms deal between Moscow and Amman. Such an arms deal would endanger the cause of peace in the Middle East and the independence of Jordan itself. I can only speculate about why Jordan and the State Department decided to try to expand upon the original program and why the Jordanians are holding discussions with the Russians amid their financial discussions with the Saudis. But the original congressional scrutiny and approval of the original Hawk system to fit Jordan's proclaimed desire for a self-defense system, is in no way responsible for the present impasse.

ARMS CONTROL

Mr. CLARK. Mr. President, last week, in separate signing ceremonies in Moscow and Washington, the United States and the Soviet Union reached agreement on a treaty governing peaceful nuclear explosions. This proposed treaty comes as a companion piece to the Threshold Test Ban Treaty—TTBT—signed in 1974, which limited military nuclear tests to 150 kilotons. The President, at the signing ceremonies in the East Room of the White House, hailed the agreement as a "historic milestone in the history of arms control agreements."

Mr. President, I am strongly in support of arms control with the Soviet Union. And I do not want to prejudge these treaties, but I must note that the handling of the previous major agreements with the Soviets suggests caution at the minimum in assessing this latest accord as historic. Unfortunately, experience shows that earlier accords billed as monumentally significant were at least in part oversold as part of a public relations effort.

In this connection I find it particularly interesting that several prestigious groups of arms control experts take serious exception to these agreements.

In particular, the Arms Control Association, whose members include experienced arms control hands such as former Arms Control and Disarmament Agency Director William Foster, a former ACDA Deputy Director Adrian S. Fisher, Herbert Scoville, former deputy director for science and technology for the Central Intelligence Agency, and Gerald C. Smith, who was not only a director of ACDA but headed this Nation's delegation during much of the SALT talks as well, is unequivocal. The Association believes, it announced, "that the two treaties represent a disheartening step backward from responsible arms control policies." The Association went on to spell out five specific objections to the proposed treaties, including the level of the threshold and the nature of the onside inspection provisions.

Earlier the American Federation of Scientists, for which the respected Jeremy J. Stone serves as director, said simply that "the proposed Threshold Test Ban Treaty is worse than nothing." And finally the Task Force for the Nuclear Test Ban, whose members have labored long in the arms control field, has issued a statement opposing the treaty including the PNE provision.

To me, the arguments for a comprehensive test ban are compelling and I question whether we should toy with halfway measures, such as these two treaties, which could frustrate attempts to achieve a CTB. The executive branch professes to favor a comprehensive test ban "adequately verified." The Senate Foreign Relations Committee in 1973 supported, by a vote of 14 to 1, a resolution calling for a comprehensive test ban.

The possible military advantages in continued testing are insignificant in contrast to the national security benefit to us and to other nations of a halt to nuclear testing. With nuclear proliferation looming as perhaps the greatest danger facing the world today, we may be only playing with the problem as we give serious attention to a proposed treaty which only restricts us and the Russians to weapons tests 10 times the size of the bomb which destroyed Hiroshima.

Mr. President, such considerable criticism from persons and groups so deeply committed to the arms control problem does at a minimum raise questions about the justification for the praise heaped so liberally on these two treaties. I am fully aware, of course, that it may be argued that these are the best terms that can be achieved. Ultimately, this may be the conclusion of the Senate as well when it faces the problem of consenting to the ratification. But in the meantime, I urge a measured and careful analysis of these treaties, and look forward to serious and probing hearings.

As a backdrop to this debate, I ask unanimous consent to have printed in the Record the statement by the Arms Control Association on May 28, 1976.

There being no objection, the statement was ordered to be printed in the Record, as follows:

The Arms Control Association,
Washington, D.C., May 28, 1976.

The Threshold Test Ban and "Peaceful" Nuclear Explosions: Stepping Back From Responsibility

The Arms Control Association today reaffirmed its opposition to the "threshold" test ban treaty signed in Moscow in July 1974 by former President Nixon and Soviet General Secretary Brezhnev, and to the companion treaty governing the conduct of nuclear explosions for peaceful purposes, which President Ford and Secretary Brezhnev have just signed in separate ceremonies.

The Association believes that the two treaties represent a disheartening step backward from responsible arms control policies. By permitting continued nuclear weapons tests of very sizable magnitudes and by establishing arrangements for conducting nuclear explosions for peaceful purposes, the agreements are likely to delay indefinitely the achievement of a long-sought treaty banning *all* nuclear tests, and to provide new respectability for the arguments of states which seek to develop nuclear weapon capabilities by professing an interest in peaceful explosions alone. By so doing, the proposed treaty sets back still further the prospects for preventing the spread of nuclear weapons to other countries, and for countering the grave threat to world peace and security such proliferation poses.

The Association continues to believe, as it did in 1974, that the President should not submit the treaties to the Senate for its consent to ratification. Instead, the President should reopen negotiations with the Soviet Union to obtain a treaty banning all nuclear weapons tests, and should instruct the United States delegation to the Conference of the Committee on Disarmament to undertake serious negotiations in that multilateral forum toward a treaty banning all nuclear weapons tests, in fulfillment of the commitment made by the United States government, along with all other parties, in the 1963 Limited Test Ban Treaty and the 1968 Non-Proliferation Treaty.

Five aspects of the proposed treaties are of particular concern:

1. The Threshold: A limit of 150 kilotons has no relationship to verification capabilities, which now permit the reliable detection and identification of nuclear explosions underground at much lower yields, in most cases at such low yields that any tests which went undiscovered would be of small military utility. The 150 kiloton limit does, however, permit continued testing of nuclear weapons of considerable magnitude—more than ten times the size of the weapon that devastated Hiroshima.

2. Peaceful Explosions Given New Respectability: Furthermore, it is clear that peaceful nuclear explosions (PNEs), which are indistinguishable from nuclear weapons tests, can be used by other countries as an excuse to justify nuclear weapons development. There was widespread skepticism when India announced that its May, 1974 nuclear explosion was entirely for peaceful purposes. Brazil, Argentina, and others have all expressed an interest in PNEs. By completing a treaty allowing such explosions, the United States and Soviet Union give new and unwarranted respectability to India and other nations which undoubtedly will use the new treaty to argue that their conduct of PNE programs has been vindicated.

3. A Freeze On Further Test Limitations: The proposed treaties, if adopted, are likely to freeze the level of permissible nuclear tests at 150 kilotons for years to come. There is no provision for systematically lowering the threshold or number of tests to zero; furthermore, U.S. acquiescence in tieing peaceful explosions to the threshold test ban has made an eventual comprehensive test ban treaty hostage to the continued Soviet interest in PNEs.

The United States has quite properly, but belatedly, all but abandoned efforts to develop nuclear explosives for peaceful purposes. Years of experimentation and millions of dollars in research into ways of using nuclear explosives for excavation, underground engineering, and electric power generation have all led to the conclusion that PNEs cannot compete with conventional means of accomplishing the same objectives, when all economic, environmental, and political considerations are taken into account.

The value of PNEs may be seen in a different light elsewhere, but in no case should the prospect that PNEs might prove useful some day be used today as an excuse for preventing a total ban on all nuclear tests.

(It should be noted that the preamble to the Threshold Treaty at least reaffirms the principles of the 1963 Limited Test Ban Treaty which bars the presence of radioactive material outside the national boundaries of states conducting underground nuclear explosions. This provision almost certainly will prevent the Soviet Union from carrying out announced plans to excavate a large canal using nuclear explosives.)

4. "On-Site Inspection" Provision Is No Breakthrough: References to the inspection provisions of the PNE treaty as a "breakthrough" are misleading. The complex and

highly specialized procedure for inviting designated observers to a predetermined location to witness a preplanned explosion bears little relationship to the on-site inspections sought in the late 1950s and 1960s in connection with test ban negotiations. The principle that U.S. negotiators then sought to establish involved the dispatch of U.S. or Soviet inspection teams, upon acquisition of suspicious information suggestive of nuclear testing, to any location, anywhere in the USSR or United States, at any time. In any event, care should be taken in future arms control negotiations that on-site inspections not be made a condition where they are not necessary.

Furthermore, the science of nuclear test identification has now reached the point where almost all seismic events which can be detected can also be identified, either as earthquakes or explosions, by national technical means, so there would hardly ever be any occasion to call for such an on-site inspection.

Finally, research on on-site inspection technology has shown that such inspections are easily made unreliable by a determined evader. Thus on-site inspection, as it was conceived years ago, would no longer contribute in any way to the verification of a comprehensive test ban. Such specialized verification techniques as have been devised for the PNE agreement might have some relevance to some equally specialized verification problems, but essentially none in the case of a nuclear test ban.

5. Commitment To The Non-Proliferation Treaty: The United States and Soviet Union have been criticized widely in recent years for the non-implementation of their obligations under the Non-Proliferation Treaty, not only to end all nuclear testing, but also to bring about more rapid and meaningful progress at SALT and provide security assurances to parties to the Treaty which have been asked to forego nuclear weapons. The two superpowers have responded by saying, in effect, that how they handle their arms race is nobody's business but their own. But that is not true. The ending of all nuclear weapons tests is an essential goal of *all* nations; any test ban treaty requires the participation of as many nations as possible. Bilateral actions by the two superpowers affect the world's future security and well-being, and cosmetic "arms control" agreements drawn up solely for their mutual convenience, to keep all possible options open, are not good enough.

The Arms Control Association therefore calls on the President to reopen negotiations with the Soviet Union to obtain a treaty banning all nuclear weapons tests, and to instruct the United States delegation in Geneva to negotiate with all parties in the Conference of the Committee on Disarmament a comprehensive ban ending all nuclear weapons tests for all time.

The Arms Control Association is a nonpartisan national membership organization dedicated to promoting public understanding of effective policies and programs in arms control and disarmament. The Board of Directors are William C. Foster, Chairman; Archibald S. Alexander, Anne H. Cahn, Barry E. Carter, Joseph S. Clark, William T. Coleman, Jr., William H. Dodds, Adrian S. Fisher, Thomas L. Hughes, James F. Leonard, F. A. Long, Saul H. Mendlovitz, David A. Morse, Robert R. Mullen, Herbert Scoville, Jr., Gerard C. Smith, Barbara Stuhler, Lawrence D. Weiler, and Herbert York. Thomas A. Halsted is the Executive Director.

This statement has been approved by the Board of Directors of the Arms Control Association with the exception of Secretary of Transportation William T. Coleman, Jr. We felt it inappropriate to ask him to take a position on this matter.

A GRADUATION ADDRESS AT WEST POINT

Mr. GOLDWATER. Mr. President, in this Bicentennial Year, I think it is altogether fitting that we pause and reflect on those ideals and institutions which have contributed so much to this Nation's heritage.

In my view, the U.S. Military Academy at West Point has long embodied those ideals of duty, honor, and country which have made this country great. Men of West Point have answered their nation's call in war and in peace. They need no eulogy from you or me. They have written their own eulogies through lives of patriotic example to all of us.

Feeling as I do about West Point and its importance to the Nation's past, present, and future, I was delighted to read the Secretary of the Army's graduation address, presented at the West Point graduation ceremony on Wednesday, June 2.

Secretary Hoffmann delivered an eloquent and stirring speech which welcomed the Bicentennial class of 1976 to their leadership roles in the Army. He emphasized the significance of the occasion in these words:

> This yearly renewal of the Army by the graduates of this cornerstone institution is not only symbolic, but real; it is substantive, and it is practical. We count on the infusion of youth, enthusiasm, high standards, imagination, and humor which you embody.

Secretary Hoffman reminded the class of 1976 that while their commissions and diplomas were imminent, their education is far from over. He spoke of the challenges of leadership in "a world of complexity, contradiction, and uncertainty—a world from which the Army is not insulated."

Secretary Hoffmann described the world situation briefly, but brilliantly, and challenged the class of 1976 to bring to the Army—

> Their highest expectations, and retain them intact, bringing with them strength and patience to blend them to the (Army's) standards * * * in thus elevating our common vision for the Army, we can together assure fulfillment to the Nation of a historic, honorable, and most sacred trust.

Mr. President, Secretary Hoffmann's speech captures the essence of West Point's importance to the Nation. I commend it to my colleagues and ask unanimous consent that it be printed in the Record.

There being no objection, the address was ordered to be printed in the Record, as follows:

ADDRESS BY THE HONORABLE MARTIN R. HOFFMANN

On behalf of the U.S. Army I am both gratified and privileged to welcome you, the members of this Bicentennial Class of 1976, to your leadership roles in our proud institution. It is a joyous day for you and I congratulate you heartily on your completion of the basic qualifications for one of the nation's most honorable professions—if it is not in fact and by definition the most honorable.

The basic truth was aptly captured by Justice Oliver Wendell Holmes, a distinguished Supreme Court Justice, author, lawyer and always the soldier, as he had once served:

"Who is there who would not like to be thought a gentleman? Yet what has that name been built on but the soldier's choice of honor rather than life? To be a soldier or descended from soldiers, in time of peace to be ready to give one's life rather than to suffer disgrace, that is what the word has meant."

This is a significant day for the Army as well. This yearly renewal of the Army by the graduates of this cornerstone institution is not only symbolic, but real; it is substantive, and it is practical. We count on the infusion of youth, enthusiasm, high standards, imagination, and humor which you embody.

You have a right to feel exhilarated by today's events. For to lead the nation's youth, to command its soldiers, and to deserve the respect it takes to do so is at once among your greatest challenges and the highest honors the nation can bestow. They epitomize the sacred trust the defense establishment holds in providing for the security of the nation.

Your diplomas and your commissions are close at hand. Your education of course is far from over. As you face the challenges of adventure, duty, danger, and leadership, the examinations will continue. Some will test all your faculties; all will test your values and your perception.

The choices that present themselves will seldom seem clearcut; answers will not come easily. You are leaving an institution marked by rules and regulations, by a certain sternness and simplicity; by dedication to traditional values. You are about to enter a world of complexity, contradiction, and uncertainty—a world from which the Army is not insulated.

Your problem will be not only to meet set goals, but to know what goals to set. Your problem will not be to deal with accepted reality, but to find realities amid a sea of conflicting appearances.

Some of today's apparent complexity, contradiction, and uncertainty springs from our role as a nation in the outside world. The role of the Army and thus your role as leaders in it are tied closely to national goals. The United States seeks peace, stability, freedom, and a world respectful of the rule of law. But it does so under conditions that are at once dangerous yet deceptively disarming in appearance.

A rival superpower, the Soviet Union, holds alien values; imposes a repressive political system on its own and neighboring peoples; it exploits international disorder; it openly advocates a competitive relationship based on military strength; and its challenges burst out in strange and distant places. But we must strive to reach reasonable accords with it in areas of mutual interest where we can agree.

We are repeatedly told that we have entered the nuclear age and cannot turn back from it: we are locked in a nuclear stalemate; yet as the nuclear threshold is raised, traditional forces, conventional weapons, and political geography have resumed their old importance.

We marvel at the intercontinental reach of our strategic forces. Yet most of our military objectives we must be prepared finally to reach on foot.

The nation is at peace; yet resources and the armed forces must be raised and maintained against the contingency of war.

We are prone to think of our present situation as unprecedented. But, to a degree, the perception of complexity, contradiction and uncertainty may come from our reverence for our history, and—in this Bicentennial Year—a yearning for overly quick lessons from it.

For we tend to reflect on our beginnings; and indeed much of our past, as simpler times, when choices and objectives were clearer than in the present. The concentrating perspective of hindsight: the ability to review past situations and decisions in the light of events and consequences that followed: and the shrouding of attending uncertainty by the obscuring mists of time—all of these tend to argue that earlier times were less complex, that there was a greater strength to be found in basic values then than now: and that principle was more easy to discern and less costly to follow in our glorious past than in the uneasy present and uncertain future.

Our fellow-citizens have suffered much during the past decade. Despite an unprecedented generosity of motives and intentions toward the outside world, they have not been much rewarded for their efforts.

They have found themselves the targets of lectures, abuse, and a litany of alleged faults and failures. The corrosive events of recent years have provided some warrant for skepticism, for lapse of confidence in our system of government and even for a questioning of the basic strengths of our society. It is understandable if many among our society should wonder how we should proceed from here.

Those potential adversaries from abroad who might be tempted to test this nation should not mistake as weakness or lack of underlying principle or purpose the appearances generated by the process through which the American nation seeks to root out error, to find direction or mold its system closer to the worthy ideals for which it has stood these 200 years. We ourselves should not mistake them.

For I sense the country questions, not to forego or destroy though sometimes that is the appearance. The country probes for value and example; it seeks wellsprings of principle and inspiration.

It is remarkable how often in the past, when faced with comparable trials and doubts, the nation has found in the Army those ideals, inspiration, and leadership it seeks. It is equally remarkable how often it has found them—not only in such commanding figures as Washington, Marshall, and Eisenhower, but also in the dedication and integrity of many thousands of soldiers—citizen and professional—who have compiled an enviable record of the nation's trust upheld.

This trust is neither surprising nor suspect. It has survived well because the Army has been an essence, or distillation of the people, as a symbol of the nation at its best:

Despite the desperate winter of 1777, the Army held itself intact at Valley Forge. Despite the tragedy of Civil War, the Army (North and South) fought with bravery, dedication and sacrifice that transcended the deep divisions in the nation and its people.

Despite the controversies and recriminations of the past decade, the Army held to ground and did its duty in Vietnam.

Whatever the surrounding circumstances, this old institution has faithfully performed its mission, preserved and consistently elevated its own and the nation's honor, and held to its ideals steadfast despite repeated trials.

In this the history of the Army, no one can mistake that the exactions of earlier times were less than in our own. The President made this clear at Arlington Cemetery on Monday of this week in referring to those who bore the brunt of the nation's battles:

> "Their courage won a revolution. Their bravery preserved our Republic. Their perseverance kept the peace and ensured us a heritage of freedom . . . It is through their sacrifice that we, the living, have inherited a sacred burden—a trust—to honor the past by working for the future."

What does that future—that trust—direct for the military profession, for the Army?

The nation may be at peace, and yet we of the Defense establishment must gird ourselves in readiness for the contingency of war, in order to deter war.

Despite the seeming complexity, contradiction and confusion of the times, our task and objectives are clear, and uncompromising.

Ostensible peace—as better it might be called—is a complex and precarious condition—a state of affairs in which peace depends on deterrence, and deterrence depends on the stoutness and readiness of our defenses. We are trusted by the nation to be the judges of the adequacy of our handwork. Whatever else appearances may suggest, deterrence cannot be achieved through facades and false fronts, through hollow organizations and hollow men.

We must have a capability that bristles in the face of threat.

Deterrence in this day and age requires much more of the Army than business as usual. We may not be in combat, but we are engaged in a strange, dynamic, shadow-boxing contest—and the Army mans its front lines. Our campaigns may be in the training areas, in field exercises, or in the vigilant exercise of forward deployments. But they have all the import of battles fought of old—and the Army is central to their outcome.

Guns may be silent, but day-in, day-out, the Army must be ready, on call. Wherever its far-flung units are found, the Army must be prepared to deploy. It must be ready to fight, with little or no warning, to fight outnumbered and to win the first battle.

The whole objective of our mission is the achievement of effectiveness of many elements, and that effectiveness rides squarely on the mutual trust between those elements and between the individuals who man them—trust in the face of adversity; trust in the face of danger; trust in the face of disaster and even death; trust that holds consant until victory is won. Trust; honor; duty; integrity—they are not mere rhetoric nor abstract symbols. They are the very practical, functional stuff from which military capability is forged. Without the readiness, discipline, and tautness which come from continued exercise of principle, our posture and our deterrence will be seen for what it is, a hollow shell, a trust to the nation betrayed.

The United States has not been too proud to sacrifice, and to fight in the past. Now, as in the past, its safety depends on the readiness of individual soldiers and their leaders, and the measure and depth in which they embody that basic trust implied by those three words, duty—honor—country. The challenge, but even more the opportunity we have, is enhanced by the impact on the nation that can be generated by the example the Army will set in meeting the rigors imposed by the mission of peacetime deterrence. The restlessness, the skepticism, the faltering confidence of the society are not all mere superficialties. There has been an erosion of trust—in our institutions, in our ability to hold to basic values, and even in our sense of purpose as a nation. The Army can uniquely provide—and must provide—an example of discipline, honor and trust to which the public can repair. It is an example that will be welcomed, and it will be widely understood. What the Army can be to the nation is in no small measure based on the steadfast example and teaching of West Point.

Recent observers have questioned the modern relevance of the foundations of this institution. We have no need to come before you and defend a code of honor—it is timeless. When placed in its setting of what this institution is at its soul and heart—duty, honor, country—the long gray line, the mighty example of the history of West Point graduates and the story of the Army itself bear witness to its timelessness beyond our capability to so attest in twenty minutes here. I dare say the present public debate, in its criticism and often biting commentary is born of the sincere hope that these principles will endure in a troubled time.

Those who founded the Military Academy 174 years ago were not striving to create some small and separate elite. They were seeking to institutionalize the conscience of the Army—an Army whose principles of dedication and leadership had already been tested and refined in the crucible of the nation's first bitter war. The founders sought an enduring source of professionalism, of lasting standards, of elevating principle. Those needs are no less now than they were in 1802. This institution, however small, must continue in these troubled times to keep the flame of conscience alive. If West Point does not do it, where else will it be done?

It would be out of place to explore with you here the merits of the Honor System as it is presently constituted, that system of rules and procedures by which the principles of the Code are adapted to daily conduct. Its process is in mid-passage and is one of which I myself may ultimately be a part. It is essentially your system, men of the Corps. It finds its roots and its substance in the Corps. It is a system shared with others who constitute this institution. It is a living system that adapts to the need for change as wisdom, experience and judgment so dictate.

But as you leave the reinforcing routine of West Point and as the supporting immediacy of the Corps fades behind you do not overlook the practicality and the individuality of what you have done, and learned, and grown to be here. For despite appearances that may discourage, mock or even ridicule your aspirations, basic human nature remains the underlying reality.

Unwakened hopes, unkindled aspirations, and uncommon and unrealized abilities of soldiers and leaders alike will be within the reach of impact of all of you who on the friendly fields and in the rigorous exactions of West Point have explored and realized them in yourselves. The challenge is to hold to them, to renew them, to make them working realities.

The practical test of your accomplishments here will be to have the courage, the discipline, the wit and the faith to inspire in others and in the Army the basic ideals of duty, honor, country. Do not mistake it: those ideals to which you have aspired while here are the ideals by which the Army as an institution has been guided over the years. They are the ideals to which it continues to aspire today.

And so, members of the Bicentennial Class of '76, I ask that you bring to the Army your highest expectations, and retain them intact, bringing with them strength and patience to blend them to the standards you will find there. For in thus elevating our common vision for the Army, we can together assure fulfillment to the Nation of an historic, honorable, and most sacred trust.

Good luck. Godspeed.

PRESIDENT FORD CHOOSES DIRTY AIR

Mr. MUSKIE. Mr. President, on May 28, President Ford asked the Congress to reverse the course of national clean air policy set in place in 1967 and reinforced in 1970.

The President has proposed the elimination of the policy articulated in the 1967 Air Quality Act to protect air where it is presently clean.

The President has also proposed a delay in the automobile cleanup strategy which would expose 83 million people in this country to approximately 20 percent more smog and carbon monoxide in the 1980's.

The President would prefer uniformly dirty air across the country rather than the protection of public health and protection of the other values of our finite air resource.

His proposal abandons the resources of clean areas to the whims of polluters. The only limit on allowable degradation would be the primary—health-related—and the secondary—welfare-related—air quality standards. These standards are 6 to 10 times dirtier than the quality of the air in many clean areas. Since these standards were conceived as cleanup targets for dirty areas, they do not provide adequate protection for areas where the air is cleaner than such standards.

The President's proposal to degrade clean air areas could mean that visibility over national parks would be reduced to as little as 5 miles in areas that presently have visibility of 100 miles.

The President gave little weight to environmental protection in this decision. He claims that his proposal strikes the proper balance between our energy, environmental and economic needs absent in the Senate bill. This is a serious distortion, when one of the key factors—environment—is assigned no value in the calculation.

President Ford stands firmly for environmental degradation. By his own admission, the President did not seek the information available on nondegradation before attempting to reach his decision. His May 28 letter to congressional leaders states that he has asked the Environmental Protection Agency to supply him with the results of studies of nondegradation. Yet he announced his position on congressional nondegradation proposals in the same letter. He did not wait to examine those studies.

A similar inattention to current information is glaringly apparent in the President's position on auto emission standards. The President has demonstrated a concern for a select segment of the electorate—the automobile industry—that does not extend to the citizens whose health is at stake.

Two days prior to the issuance of the President's letter, the California Air Resources Board announced a significant advancement in automobile emission control technology. A new catalyst system has been certified by Government testing procedures and will be marketed by Volvo in California this year. The new system achieves extremely low emissions and results in a 10-percent fuel economy improvement at the same time. The President is obvious to this important development. In fact, his letter appears to indicate that such information would have no impact on him.

NONDEGRADATION

1. PROGRESS IN ENVIRONMENTAL PROTECTION

The President closes his letter by saying that while we are making progress in reaching environmental goals, we must not retard energy independence and economic recovery.

With regard to clean air areas, the Nation is not making progress. Air quality in clean air areas is declining. While only modest information is available from monitoring in such areas, we know from the increased number of sources in these areas; from the total emissions that come from these sources; and from the actual studies done of the power plants in the Southwest; that air quality in clean air areas is deteriorating.

While concentrations of particulate matter and sulfur oxides have declined in some urban areas over the last few years, total national emissions are on the increase; and urban sulfate levels have not declined. The Clean Air Act has resulted in cleanup progress in dirty air areas and has focused attention on the need to control pollution. Unless an unequivocal nondegradation policy is adopted, even that limited progress will be only temporary.

2. ONLY PRELIMINARY ANALYSIS IS AVAILABLE

President Ford is mistaken in his statement that present studies of nondegradation alternatives are not adequate. The May 26, CONGRESSIONAL RECORD, contains a fact sheet which identified 21 studies conducted on the EPA regulations prior to their final promulgation, and 23 studies which have been conducted on the various Senate committee proposals. Each Senator has received a copy of this factsheet.

In addition, EPA received 3,000 pages of testimony at its hearings on its proposed regulations. A may 28 letter from the Director of EPA Office of Legislation, Robert Ryan, stated that EPA had spent over $1 million analyzing the Senate and House nondegradation proposals.

3. NO MENTION OF POTENTIAL DAMAGE TO THE ENVIRONMENT

The President shows no concern about the potential adverse effects on national parks and wilderness areas, damage to water resources and vegetation by acid rain, harm to crops, and damage to other values protected by nondegradation provisions. This approach represents a philosophical viewpoint diametrically different from that on which environmental legislation has been predicated over the past 6 years. The declared national policy has been that, in the absence of complete information, steps should be taken to provide for protection. President Ford's approach implies that in the absence of conclusive information, environmental damage should be allowed to continue.

I ask unanimous consent to have printed in the RECORD at the conclusion of my remarks a letter from the White House and a study by the Sierra Club which identifies the adverse health and welfare effects associated with air quality levels below the ambient standards.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. MUSKIE. Mr. President, I continue with my point No. 4.

4. THE PRESIDENT APPEARS TO SUPPORT SENATOR WILLIAM SCOTT'S AMENDMENT

The only legislative proposal pending as an amendment in the Senate which would meet the criteria established in the President's letter is the amendment by Senator WILLIAM L. SCOTT of Virginia to strike the protect and enhance clause from the existing Clean Air Act. The Moss amendment does not go this far and does not meet the President's requirement that action be taken to preclude implementation of a significant deterioration policy until absolute and final knowledge is available.

The President has taken a position which supports the total elimination of protection provided by either the EPA regulations or congressional policy. The only fair interpretation of this position is that the President is opposed to protecting clean air.

5. JOB LOSSES

The President is attempting to use a phony "job scare" approach to defeat the Senate bill. His information is wrong. His approach discredits his position.

Pollution control has created 1 million jobs, according to recent reports by the President's own Council on Environmental Quality. Under the Senate bill, the installation of pollution control equipment will mean more jobs for those who manufacture pollution control equipment; for construction workers who install such equipment; and permanent employees who operate such equipment. Construction of new facilities will not be stopped by the Senate bill; new sources will, in some cases, need to add improved pollution control equipment and more carefully select locations for new plants. The increased costs are reasonable. One of the recent reports of EPA—which the President apparently chose not to read before making his decision—concludes this:

> The Senate significant deterioration proposal will not prevent the construction of major, economically sized industrial facilities.

In an economy with 7.5 percent of the work force unemployed, pollution control work will aid the economy.

In addition, a study for the Federal Energy Administration by Inter-City Fund on nondegradation reached a similar conclusion. It said:

> The non-significant deterioration provision currently being considered by the House and Senate are unlikely to inhibit economic development, in that new plants can be built in rural areas.

AUTOMOBILES

The President has embraced Congressman DINGELL's amendment to postpone required reductions in auto emissions until 1982. The President contends that 2 or 3 additional years of delay will affect neither air quality nor the health of the population significantly; that the delay will save billions of dollars; and that the delay will save billions of gallons of gasoline.

The President is mistaken. The Ford-Dingell delay would expose 83 million Americans in the most polluted urban areas to 20 percent greater auto pollution in the 1980's than under the Senate bill.

President Ford alleges that the committee bill would cost billions of dollars and billions of gallons of gas. In fact, the committee bill might cost an added $1 billion per year for 2 years but failure to make that investment could result in as much as $2½ to $10 billion in health benefits foregone.

And the committee bill could result in as much as 1½ to 2 billion gallons of fuel savings over cars which would be produced to the Ford-Dingell standards.

HEALTH EFFECTS

It is the cumulative effect of the many short delays which is relevant to the health of the person exposed to the harmful pollution levels. The basis for President Ford to downplay health effects to unhealthy air is a comparison of the number of regions above the health-related air quality standards in 1990. That is an insufficient basis for comparison. Those regions contain 83 million people.

In 1980, the Dingell interim standard would add 11,000 "person-hours" of disability related to carbon monoxide, 1,000 aggravations of heart and lung disease in elderly persons, 20,000 excess cases of cough and 40,000 excess headaches due to oxidant.

Even in the areas where the air quality standards will be achieved by 1990, the belated attainment which the Ford-Dingell delay would cause will expose 42 million people to harmful air pollution levels.

THE NO_x STANDARD

Implicit in the Ford-Dingell delay is the argument that a 2 gram per mile NO_x standard may be adequate to protect public health, since tighter standards, if any, are left to administrative determination.

The 2 gram per mile NO_x standard is inadequate to protect public health. Between 1980 and 2000, the relaxed Dingell NO_x standard could add 2 million excess attacks of lower respiratory disease in children. According to the report from DOT/FEA/EPA to Mr. DINGELL, that the standard would cause 110,000 excess attacks of lower respiratory disease in children per year in 1990 and 2,000 excess days of restricted activity.

If the 1982 NO_x standard is tighter than 2.0 grams per mile than the DOT/FEA/EPA report indicates, then the technology required will be essentially the same for the 1.0 gram per mile NO_x required by the Senate committee bill and the cost and the fuel economy will be the same under either standard. However, if the 1982 and later standard is kept administratively at 2.0 grams per mile NO_x under the Dingell amendment, then one important step toward protecting public health will have been foregone and emissions of NO_x will be 4 million tons per year greater than under the Senate committee bill.

COST

It is claimed by President Ford that a delay would result in consumer cost savings of bills of dollars.

Reduced cost is an inadequate argument for relaxed standards. According to EPA, the technology to meet Senate committee statutory standards would add $2 or less to the sticker price compared to the Dingell 1982 standards. Even assuming a freeze at 2.0 NO_x, the EPA April 1976 report "Automobile Emission Control" gives a cost of $175 to $216 to meet the Dingell standards—41/3.4/2.0—and $175 to $218 to meet the S. 3219 standard—0.41/3.4/1.0—and these numbers do not reflect the learning curve which results in further cost reduction as technology is stabilized for a period of years. The added cost in either case compared to an average 1976 vehicle is moderate: $117 which is about the same cost as an option such as power steering, or a vinyl roof. The Ford-Dingell approach would not avoid that cost but merely delay it for 2 years.

It also must be recognized that the Ford-Dingell delay will result in added medical costs due to the higher level of emissions permitted. The National Academy of Sciences, in their report on air quality and automobile emissions control, found that the annual benefits for improving air quality from its present levels to the levels of the Federal ambient air standards for automobile pollutants may be in the range of $2½ to $10 billion.

The comparison of lifetime cost depends on relative fuel economy and the most realistic comparison can be made using the scenario described under fuel economy. As shown in the table below, the added lifetime cost due to S. 3219 with the industry adopting good technology would be about $1 billion for 1979, 1980, and 1981. This compares to an estimated total lifetime cost of $16,000 per vehicle or $160 billion for the new car fleet in each year. Thus the added cost under the committee bill will be about $100 over the 10-year lifetime of the car, or about $10 per year. Surely this is not an unreasonable price to pay for clean air and added fuel savings. Using Mr. DINGELL's assumptions, the following table has been prepared:

COMPARISON OF INCREMENTAL LIFETIME COST OF NEW CAR FLEET: S. 3219 WITH GOOD TECHNOLOGY RELATIVE TO DINGELL-FORD WITH POOR TECHNOLOGY

[In billions of 1975 dollars]

Model year	Increase in sticker price and maintenance	Savings in fuel cost	Total added cost of S. 3219
1979	0.95	0	0.95
1980	1.95	.86	1.09
1981	1.95	1.09	.86

However, the Ford-Dingell analysis contains inflated assumptions of the cost of maintenance of vehicles meeting the S. 3219 standards. The recent Volvo data suggests that neither a start catalyst nor a catalyst change will be required. The President assumes both items will be needed. This suggests that the added sticker price will be less than $70 and added maintenance—mostly due to sensor changes—$25 for a total of $95. However, lifetime savings in gasoline cost would be $86 in 1980 and $109 in 1981 so that cost savings due to fuel economy gains offset the modest added sticker cost under the committee standards.

FUEL ECONOMY

The President claims that the Ford-Dingell delay would result in fuel savings of billions of gallons.

Not only is this unlikely, but increased fuel economy is also a false argument for relaxed standards, since there is no guarantee that the hypothetical fuel economy gains identified will be achieved.

In fact, there is good reason to believe that the application of the tighter standards in the Senate bill in 1979, 1980, and 1981 will result in the saving of 3 billion gallons of gasoline compared to the Ford-Dingell standards.

As I have repeatedly pointed out, the actual fuel economy depends on the choice of technology, not on the choice of emission standards.

Actual fuel economy of a vehicle depends upon many factors unrelated to emissions, vehicle weight and engine size. The 1976 EPA report on automobile emission control identified two systems that could be considered to make the good fuel economy engine achieve hydocarbon levels low enough to have high confidence of certifying at statutory emission standards. And EPA has stated that—

> There is no inherent relationship between exhaust emission standards and fuel economy.

The fuel economy standards established by the Energy Policy and Conservation Act of 1975 of 20 miles per gallon in 1980 and 27.5 miles per gallon in 1985 can be met concurrently with the emission standards established by the Senate committee bill, even assuming no shift in model mix and poor to average technology.

Since it is unlikely that the S. 3219 emission standards can be met on most cars without good technology, it is reasonable to assume that if S. 3219 prevails, good technology will be used, with benefits for fuel economy. Since the manufacturers have already faced the Ford-Dingell interim standards in California and most have used poor technology to meet them, it is also reasonable to assume that if Ford-Dingell prevails, poor technology will simply be extended to all States, with a similar and continued negative impact on fuel economy.

A current example of the benefits of good technology is the 1977 Volvo which has achieved emission levels of 0.20 HC, 2.8 CO, 0.17 NO_x in EPA certification tests for cars sold in California. These levels are considerably better than the final statutory standards set in the committee bill. And while meeting much tighter emission levels, this automobile has improved its fuel economy by 10 percent from 20 miles per gallon in 1976 to 22 miles per gallon in 1977.

The reason? The manufacturer introduced improved technology. Surely, given 2 more years of leadtime, the domestic manufacturers can do as well as Volvo.

Assuming that even under the Ford-Dingell delay, that the requirements of public health and the availability of technology would cause EPA to establish a nitrogen oxide standard of 1.0 grams/mile in 1982, there are only 3 years in which the Ford-Dingell and the S. 3219 standards would differ: 1979, 1980, and 1981.

Under the most likely scenario, in which the S. 3219 standards force the use of best technology, but the Ford-Dingell standards do not, close examination of the DOT/FEA/EPA report itself shows that it is the Senate bill which would result in savings of billions of gallons of gasoline.

The ranges of fuel economy from table IA of the DOT/FEA/EPA report are reproduced below along with the requirements of the Energy Policy and Conservation Act.

ESTIMATED FUEL ECONOMY OF NEW CAR FLEET IN MILES PER GALLON

Model year	Required by (EPCA)[1]	S. 3219	Dingell
1976		17.6	17.6
1977		18.4	18.4
1978	18.0	20.7–21.1	20.7–21.1
1979	19.0	19.8–21.8	21.8–22.2
1980	20.0	20.2–22.4	21.7–23.1
1981	[2] (21.5)	21.6–24.0	23.0–24.5
1982	[2] (23.0)	23.0–25.6	[3] 23.0–25.6
1983	[2] (24.5)	24.2–27.2	[3] 24.2–27.2
1984	[2] (26.0)	25.6–28.8	[3] 25.6–28.8
1985	27.5	26.6–29.7	[3] 26.6–29.7

[1] Energy Policy and Conservation Act (EPCA).
[2] Estimated.
[3] Assuming 1 NO_x promulgated by EPA.

LIFETIME NEW CAR FLEET FUEL CONSUMPTION

[In billions of gallons]

Model year	Dingell-Ford (poor technology)	S. 3219 (good technology)	Difference (savings due to Senate bill)
1979	45.87	45.87	0
1980	46.08	44.64	1.44
1981	43.48	41.67	1.81

EXISTING LEVEL OF CONTROL

The President leaves the impression that auto pollution has been reduced by 83 percent. That is incorrect. The latest tests of actual cars on the road show that emissions of carbon monoxide from 1975 model cars are 65 percent above the standards even at low mileage. When projected to the 50,000 miles required to meet certification standards, carbon monoxide emissions will reach 160 percent above the standard and hydrocarbons 47 percent above the standard. Thus, any claim that auto pollution has been reduced 83 percent is idealized and misleading because it does not correspond to actual performance of cars in use.

Russell Train stated the following in the Senate hearings last year—page 1340:

> Currently, 1975 Federal standards will require an 83% hydrocarbon, 83% carbon monoxide, and 11% nitrogen oxide reduction from precontrolled cars.
>
> Compared to the 1970–71 models upon which the statutory 90% reduction required by Congress is measured, and which had higher nitrogen oxide emissions than did precontrolled cars, the progress is 63, 56, and 38 percent respectively.
>
> Thus, we have come a long way, but still have a considerable way to go to meet the statutory standards. Moreover, autos in use often fail to meet standards because of inadequate maintenance.

The last sentence is key: The record of cars in use is very poor. To imply that we have had adequate cleanup of auto emissions is erroneous.

EXHIBIT 1

THE WHITE HOUSE,
Washington, May 28, 1976.

Hon. JENNINGS RANDOLPH,
Chairman, Public Works, Committee, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Both Houses of the Congress will soon consider amendments to the Clean Air Act of 1970. There are several sections of both the Senate and House amendments, as reported out of the respective committees, that I find disturbing. Specifically, I have serious reservations concerning the amendments dealing with auto emissions standards and prevention of significant deterioration.

In January 1975, I recommended that the Congress modify provisions of the Clean Air Act of 1970 related to automobile emissions. This position in part reflected the fact that auto emissions for 1976 model autos have been reduced by 83% compared to uncontrolled pre-1968 emission levels (with the exception of nitrogen oxides). Further reductions would be increasingly costly to the consumer and would involve decreases in fuel efficiency.

The Senate and House amendments, as presently written, fail to strike the proper balance between energy, environmental and economic needs. Therefore, I am announcing my support for an amendment to be cosponsored by Congressman John Dingell and Congressman James Broyhill, which reflects the position recommended by Russell Train, Administrator of the U.S. Environmental Protection Agency. This amendment would provide for stability of emissions standards over the next three years, imposing stricter standards for two years thereafter. Furthermore, a recent study by the Environmental Protection Agency, the Department of Transportation and the Federal Energy Administration indicates that the Dingell-Broyhill Amendment, relative to the Senate and House positions, would result in consumer cost savings of billions of dollars and fuel savings of billions of gallons. Resulting air quality differences would be negligible. I believe the Dingell-Broyhill Amendment at this point best balances the critical considerations of energy, economics and environment.

I am also concerned about the potential impact of the sections of the Senate and House Committee Amendments that deal with the prevention of significant deterioration of air quality. In January 1975, I asked the Congress to clarify their intent by eliminating significant deterioration provisions. As the respective Amendments are now written, greater economic uncertainties concerning job creation and capital formation would be created. Additionally, the impact on future energy resource development might well be negative. While I applaud the efforts of your committee in attempting to clarify this difficult issue, the uncertainties of the suggested changes are disturbing. I have asked the Environmental Protection Agency to supply me with the results of impact studies showing the effect of such changes on various industries. I am not satisfied that the very preliminary work of that Agency is sufficient evidence on which to decide this critical issue. We do not have the facts necessary to make proper decisions.

In view of the potentially disastrous effects on unemployment and on energy development, I cannot endorse the changes recommended by the respective House and Senate Committees. Accordingly, I believe the most appropriate course of action would be to amend the Act to preclude application of all significant deterioration provisions until sufficient information concerning final impact can be gathered.

The Nation is making progress towards reaching its environmental goals. As we continue to clean up our air and water, we must be careful not to retard our efforts at energy independence and economic recovery. Given the uncertainties created by the Clean Air Amendments, I will ask the Congress to review these considerations.

Sincerely,

GERALD R. FORD.

HEALTH AND WELFARE EFFECTS OF POLLUTANTS AT CONCENTRATIONS BELOW NATIONAL AIR QUALITY STANDARDS: A SUMMARY OF FINDINGS

ADDENDUM

This addendum describes the scientific evidence concerning the adverse effects associated with pollution levels below those permitted by the national ambient air quality standards.

HEALTH EFFECTS

Summarizing the results of the Conference on Health Effects of Air Pollution which was conducted under the auspices of the National Academy of Sciences—Engineering, the NAS reporters concluded: [1]

"Due to the limitations of present knowledge, it is impossible at this time to establish an ambient air concentration of any pollutant—other than zero—below which it is certain that no human beings will be adversely affected."

For example, a sulfur dioxide episode in Yokkaichi, Japan, in 1972 resulted in 817 reported illnesses from sulfur dioxide inhalation when the pollution level reached 0.1 part per million (ppm). Syrota, M., "Observations on the fight against air pollution in Japan," 15 Pollution Atmospherique 129–151 (1973). By comparison, the maximum 24 hour concentration, which is not to be exceeded more than once per year, under the present national standards is 0.14 ppm. During the same episode in Japan, absenteeism among school children due to respiratory ailments tripled when the average weekly sulfur dioxide level exceeded 0.09 ppm. *Ibid.*

A recent report in this country found: [2]

The implication of daily levels of SO_2 and particulates has been studied in particularly vulnerable groups such as patients with chronic bronchitis and emphysema. Deterioration in their respiratory well being has resulted from daily concentrations of SO_2 of about 500 micrograms per cubic meter which is not much above the 24-hour primary standard. A few studies have even suggested that deterioration in particularly vulnerable groups may occur with daily concentrations which are below this standard."

A classic example of the adverse effects on health from sulfur oxide concentrations below the ambient standards has recently been documented by EPA itself. Ever since the national sulfur dioxide standards were promulgated, increasing attention has been given to derivative forms of sulfur dioxides, namely sulfates. Sulfates are produced through complex interactions of sulfur oxides with other chemical substances in the air and with ambient moisture. In recent years, sulfates have become increasingly regarded as being more dangerous to human health and more likely to be responsible for observed human health effects than sulfur dioxide itself.[4] The data tentatively suggest: (1) adverse health effects could be ascribed to quite low values of suspended sulfates,[5] and (2) such values exist pervasively in the ambient air throughout the eastern United States.[6]

On September 23, 1975, EPA issued a report which, while emphasizing the need for additional studies, stated that its "best judgment estimates" tied adverse effects to sulfate concentrations at or below that found in a 24-state region of the northeastern United States, including rural areas. EPA, Position Paper on Regulation of Atmospheric Sulfates, p. x (1975). Furthermore, these sulfate concentrations were correlated to sulfur dioxide levels at or near the primary annual standards and at or below the primary 24 hour standard. For example, urban levels now being monitored in the northeastern

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Footnotes at end of article.

United States measured a range of sulfate concentrations of 10 to 24 micrograms per cubic meter (ug/m^3); nonurban concentrations ranged from 8 to 14 ug/m^3 (annual average). *Id.* at x, 20. "Best judgment estimates" on levels associated with adverse health effects were as low as 10 to 15 ug/m^3 (annual average). *Id.* at viii, 10.

Despite this information, EPA has concluded that (*id.* at 78):

"[S]ulfate information presently available does not now permit the establishment of a new regulatory program."

Moreover (*id.* at xiv):

. . . development of the data and information necessary for a sulfate regulatory program would require 3 to 5 years. In this regard, if EPA were to set a National Ambient Air Quality Standard (NAAQS) for sulfates, it could not realistically be proposed before 1980 or 1981."

Sulfur dioxide emissions from relatively clean air in rural areas is a chief contributor to dangerously high urban sulfate concentrations. EPA states (*id.* at 35):[7]

"The hypothesis that long range transport of sulfates from power plants is influencing urban sulfate levels is supported by the limited data on emission and concentration trends * * *. [T]he NAS [National Academy of Sciences] presents estimates of the impact of large emission sources on downwind sulfate concentrations. Their analysis suggests appreciable impacts on sulfate levels at distances of 300 miles downwind * * *."

EPA further states (*id.* at 41):

[O]nce applicable emission limits have been met by all sources in urban areas thus reducing locally produced sulfates, EPA believes that, based on the available evidence concerning transport, further increases in regional and urban sulfates can be expected if nonurban SO_2 emissions from power plants and other sources continue to rise. Given the general levels of sulfates, other fine particles, and sulfur oxides in the northeast, the Agency's assessment of the preliminary health data suggests that such increases should be viewed with concern."

EPA concludes that (*id.* at 60):

". . . protecting the most sensitive portion of the population could ultimately involve SO_2 control in excess of that required to meet current SO_2 standards."

Low level effects of other pollutants which are not covered by EPA's significant deterioration regulations, such as nitrogen oxides, also cause adverse effects.[8] For example, nitrogen dioxide concentrations of 0.1–0.3 ppm for short periods of time may cause visual and olfactory effects.[9] It is now believed that further control of nitrogen oxide emissions could inhibit the formation of sulfates in the atmosphere.[10]

Finally, there is recent evidence regarding the possible cancer causing effects of a nitrogen dioxide derivative. The World Health Organization estimates that eighty per cent of cancers are environmentally caused; the National Cancer Institute puts the figure at sixty to ninety per cent. The City of Baltimore, Maryland, has the highest cancer death rate of any city in the nation.[11] Until recently dimethyl nitrosamine (DMN), one of the most potent cancer-causing substances known to man, had never been found anywhere in ambient air over the United States, because techniques to detect it were too primitive. It was, nonetheless, theorized that DMN could be formed in the atmosphere by the reaction of nitrogen oxides with industrial or natural substances called amines. Baltimore was among five eastern cities recently tested for DMN. This time the startling evidence revealed DMN to be present over two of the cities. Baltimore was one; its air registered the higher level.

In sum, the evidence is mounting that adverse effects on health and welfare are associated with air pollution concentrations well below the present national standards. The National Academy of Sciences—Engineering recently reported to the Congress:[12]

"All of the panels on health effects addressed themselves to the question of whether there are thresholds for the adverse health effects of pollutants, that is, some safe levels below which essentially all members of the population are protected. The present standards were derived on the assumption that such thresholds do exist . . .

However, in no case is there evidence that the threshold levels have a clear physiological meaning, in the sense that there are genuine adverse health effects at and above some level of pollution, but no effects at all below that level. On the contrary, evidence indicates that the amount of health damage varies with the upward and downward variations in the concentration of the pollutant, and with no sharp lower limit." 44(a).

Moreover,[13]

"Some persons with respiratory or cardiac disease may have so little reserve that the slightest increase in pollution could aggravate their condition or precipitate death. 44(b).

"Thus, at any concentration, no matter how small, health effects may occur, the importance of which depends on the gravity of the effect." 44(c).

A report submitted to the Ford Foundation in September 1974 by the American Public Health Association, concluded that "at every level of pollution and not at some defined threshold, it appears that, depending upon the adaptive reserve of the individual, someone becomes ill and someone's life is shortened."[14]

VEGETATION

Adverse effects are also caused to vegetation by low levels of pollution. Complete disappearance of certain lichens has occurred when winter sulfur dioxide averages reached two-thirds of the annual standard. EPA, Effects of Sulfur Oxide in the Atmosphere on Vegetation: Revised Chapter 5 for Air Quality Criteria for Sulfur Oxides, p. 19 (1973). Acute injury to spruce trees has been observed when the four-month growth season average concentration for sulfur dioxide was two-thirds the annual standard. Id. at 36–37. Other studies indicate varying adverse effects of pollutants at levels below the national standards on wheat and potato yields, spinach and apple quality, white pine tree volume and many other crops. Ibid.

ACID RAIN

Another effect of low-level pollution, which is closely associated with observed ambient levels of suspended sulfates, is the phenomenon known as acid rain. EPA, Position Paper on Regulation of Atmospheric Sulfates, supra, p. 11. EPA has found that the acidification of rainfall can raise the acidity of soils and natural waters, cause mineral leaching, and damage vegetation. Ibid. The results can have a devastating effect on forests, soils, plant, animal, and aquatic life.[15] A recent study suggests that acid precipitation may be causing depletion of fish populations in lakes in the Adirondack Mountains of New York.[16] A Swedish study pointed to the increasing acidity of Swedish and Norwegian lakes and streams, some of which have become so acidified that they can no longer support fish life.[17]

Several groups have warned about the potential effect on vegetation which a rise in acidity may have. Sweden's researchers found that a very small increase in ambient concentrations of sulfur oxides led to a drop in the growth rate of its forests. Id. at 44. The resulting acidity was projected to result in a reduction of forest growth by as much as 10 to 15 per cent by the year 2000. Id at 9. Evaluating the environmental impact of power plant development in the Southwest, a federal study group found that "the effect of acid rain * * * may be expected to be significant" on vegetation as well as water quality. Southwest Energy Study, Report of the Air Pollution Work Sub-group, App. C–1, p. 29 (1972). An EPA panel found that a Christmas tree plantation suffered significant damage from emissions from a power plant, even though the maximum one-hour average of ambient sulfur oxides did not exceed .36 ppm during the study period, in contrast to the secondary 3-hour standard of .5 ppm.[18]

In its comments to EPA on the 1973 proposed regulations, the Forest Service expressed particular concern over reports of "substantial reduction in timber volume caused by chronic low levels of SO_2 or acid rains." The comments pointed out that, "although acute damage episodes are diminishing, we are now faced with a more serious problem—chronic exposure to low levels of various air pollutants." To avoid such damage, the Forest Service urged "a cautious approach to allowing any deterioration of air quality . . ."[19]

Rainfall ten times more acidic than normal has been reported over the eastern United Staes. In some remote rural areas of New England, the rains have been described to be "as acid as pure lemon juice."[20]

One especially difficult aspect of acid rain is that its quantity and concentration depend upon the total amount of pollution in the air over a wide region rather than the concentration in any particular place. Any increase in pollutants, even at very low levels and even in an area which enjoys air quality better than required by the standards, nevertheless will contribute to the overall atmospheric loading of pollution which can result in acid rainfall.

VISIBILITY

Any amount of air pollution, even at low levels, will have an impact on visibility. If sulfur oxides are present at a level well below the annual standard (60 micrograms as opposed to the standard of 80), visibility will be reduced to about 15 miles. EPA, Air Quality Criteria for Sulfur Oxides, p. 14. If humidity is fairly high, visibility will be reduced even more. For example, if humidity is at 98 percent, with sulfur dioxide at 60 micrograms, visibility decreases to 3 or 4 miles. Ibid. A visual range of five miles or less requires that aircraft operations be slowed and restrictions imposed. EPA, Air Quality Criteria for Particulate Matter, p. 52. By contrast, in large areas of the country and in particular in those areas prized for their natural and scenic treasures, present visibility may extend for 50 to 100 miles.[21]

The presence of particulates also reduces visibility sharply. At what EPA terms a "typical rural concentration" of 30 micrograms of particulates per cubic meter, visibility is about 25 miles. EPA, Air Quality Criteria for Particular Matter, p. 60. At the level of the secondary annual standard, 60 micrograms, the range is reduced about 12 miles. *Id.* at 57. If particulates are at the level of the primary standard, 75 micrograms, that concentration "might produce a visibility of 5 miles in some instances." *Id.* at 61. And if nitrogen oxides are present with particulates, visibility is reduced even further. EPA, Air Quality Criteria for Nitrogen Oxides, pp. 2–4, 2–6.

SYNERGISTIC EFFECTS

These specific examples demonstrate that many adverse effects are present at pollution levels below those set by the ambient standards. In addition, however, atmospheric pollutants seldom, if ever, occur in isolation. It is clearly established that pollutants combined together may have a greater total effect than the sum of their individual effects. This phenomenon, called synergism, can result in adverse effects produced by two or more pollutants acting in combination, even though each pollutant is present in quantities below its coresponding national

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Footnotes at end of article.

standard. As the National Academy of Sciences-Engineering has stated, the implication is that (NAS Report, *supra*, p. 19):

"Air quality standards that regulate individual pollutants independently can never fully reflect ambient pollutant concentrations and their effects on human health."

Research has increasingly documented synergistic effects. For example, particulate matter in concentrations below the secondary 24-hour standard will produce, in conjunction with small amounts of sulfates, a decrease in the lung function of children both at rest and after exercise. NAS Report, supra, p. 76. The evidence of synergism between sulfur dioxide and particulates is well established.[22] EPA has concluded that the harm from sulfur dioxide is increased three to four times by the presence of particulates, which oxidize sulfur dioxide to acid aerosols. EPA, Air Quality Criteria for Sulfur Oxides, p. 111. A number of other studies have also demonstrated the synergistic effect of relatively low levels of sulfur oxides in combination with particulates.[23]

Synergistic adverse effects upon vegetation at concentrations that had no effects when searchers "found that a mixture of ozone and sulfur dioxide injured tobacco leaves at concentrations that had no effects when the two chemicals were present separately." Marx, Air Pollution: Effects on Plants, Science 731, 733 (February 28, 1975). Damage to plants has been found at sulfur dioxide levels of only .001 ppm, compared with the annual standard of .03 ppm, when combined with ozone.[24] A later study considered the combined effects of sulfur dioxide and nitrogen dioxide which "often occur together because they are both formed during the combustion of fossil fuels, especially coal."[25] The study found that "the synergistic effect was most 'marked at the lower concentrations used * * *.'"[26] The concentrations ranged from .15 to .5 ppm compared with the secondary standard for sulfur dioxide of of .5 ppm.[27]

FOOTNOTES

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[1] Summary of Proceedings—Conference on Health Effects of Air Pollution, Senate Public Works Committee, 93d Cong., 1st Sess. 1 (1973).

[2] Rall, "A Review of the Health Effects of Sulfur Oxides," National Academy of Sciences—Engineering, Air Quality and Automobile Emission Control, Vol. 2, Senate Public Works Committee, 93d Cong., 2d Sess. 418 (1974) (hereafter NAS Report).

[3] Footnote 3 omitted in copy.

[4] See, *e.g.*, Rall, "A Review of the Health Effects of Sulfur Oxides," 8 Environmental Health Perspective 97–121 (1974); EPA, Health Consequences of Sulfur Oxides 7–18 (1974).

[5] See, *e.g.*, Chapman, et al., Power Generation: Conservation, Health and Fuel Supply, Report to the Task Force on Conservation and Fuel Supply, FPC, 1973, National Power Survey 24–26.

[6] NAS Report, *supra*, Vol. 1, p. 60.

[7] See also *id.* at 38, 40; Klein, "St. Louis Study Indicates People Are Doing More About the Weather Than Talking About It," *The Wall Street Journal*, Aug. 19, 1975, p. 34 wherein it is reported "Pollution coming out of Chicago, St. Louis, Detroit and other Midwestern centers contribute to weather patterns all over the eastern U.S.," Russell, "Smog Trail Tracked to Fredericksburg," *The Washington Star*, Oct. 3, 1975, p. 1.

[8] Some of these have been noted in the Brief of Petitioners, Nos. 74–2063, 74–2079, pp. 18–20.

[9] NAS Report, *supra*, at 37.

[10] Oversight Hearings on the Clean Air Act Before the Subcomm. on Public Health and Environment of the House Comm. on Interstate and Foreign Commerce, 93d Cong. 1st Sess., Pt. 1, at 285 (1973).

[11] Challmes, Fairfield plant faces probe in cancer agent, The (Baltimore) Sun, September 20, 1975, at B1, col. 8; Auerback, EPA Probes Chemical Effects, Washington Post, September 20, 1975, at A3, col. 1.

[12] NAS Report, *supra* at 17, 58.

[13] *Id.* at 18.

[14] Carnow, Wadden, Scheff & Musselman, Health Effects of Fossil Fuel Combustion: A Quantitative Approach 2 (1974), *in* American Public Health Association, Health Effects of Energy Systems: A Quantitative Assessment (1974).

[15] Air Pollution Across National Boundaries, Sweden's Case Study for the United Nations Conference on the Human Environment 9, 56 (1971); Likens and Bormann, Acid Rain: A Serious Regional Environmental Problem, Science 11.76 (June 14, 1974); EPA, Summary Report on Suspended Sulfates and Sulfuric Acid Aerosals (197–); EPA, Comments on the Study Management Team's Draft Report, Southwest Energy Study 12 (1972).

[16] Schofield, Lake Acidification in the Adirondack Mountains of New York, presented at the 1st International Symposium on Acid Precipitation, and the Forest Ecosystem, Columbus, Ohio, 1975.

[17] Air Pollution Across National Boundaries, *supra*, p. 56.

[18] EPA, Recommendations and Summary of Mt. Storm, West Virginia—Gorman, Maryland and Luke, Maryland—Keyser, West Virginia, Interstate Air Pollution Abatement Conference, Washington, D.C., October 1971.

[19] Forest Service Comments on Environmental Protection Agency "Proposed Rules for the Prevention of Significant Air Quality Deterioration," October 19, 1973, Attachment to Record No. E–3.

[20] Likens & Bormann, *supra*; Council on Municipal Performance, "City Air," Municipal Performance Report 1:15, pp. 7–8 (1974).

[21] Southwest Energy Study, Report of the Air Pollution Work Sub-group, *supra*, p. 37.

[22] NAS Report, *supra*, p. 73; Hodgson, Short Term Effects of Air Pollution on Mortality in New York City, 4 Environmental Science and Technology 589, 590 (1970).

[23] See, *e.g.*, Novakov, Chang, and Harker, Sulfates as Pollution Particulates: Catalytic Formation on Carbon (Soot) Particles, Science 259 (October 18, 1974); Marx, Air Pollution: Effects on Plants, Science 731 (February 28, 1975).

[24] Applegate & Durrant, Synergistic Action of Ozone-Sulfur Dioxide on Peanuts, 3 Environmental Science and Technology, 759.

[25] Marx, *Air Pollution: Effects on Plants*, *supra*, p. 733.

[26] White, Hill and Bennett, "Synergistic Inhibition of Apparent Photosynthesis Rate of Alfalfa by Combinations of Sulfur Dioxide and Nitrogen Dioxide," 8 Environmental Science & Technology, 574, 575 (1974).

[27] See also Heck, Discussion of O. C. Taylor's Paper: Effects of Oxidant Air Pollutants, 10 Journal of Occupational Medicine 485–499 (1968).

THE OIL DIVESTITURE ISSUE IN PRESIDENTIAL CAMPAIGN

Mr. BARTLETT. Mr. President, my colleagues should find interesting a recent Tulsa World editorial on the oil divestiture issue in the Presidential campaign. "Oil: Scapegoat No. 1" describes how divestiture of the oil companies is being used by some candidates primarily to win votes.

I ask unanimous consent that the editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

OIL: SCAPEGOAT NO. 1

The oil industry has become accustomed to the role of everybody's scapegoat in the Democratic race for President. Hardly a candidate has missed the opportunity to promise to "break up" the oil monsters on that glorious day when he becomes President.

But the pitch against petroleum may have reached its low at Philadelphia this week when one candidate accused another of *ducking the issue* of whether to break up Big Oil.

The accuser was Morris Udall, who staged a "media event"—an outdoor press meeting—to charge that Jimmy Carter isn't really gigging the oil industry hard enough.

This could be passed off as just another campaign ploy, Udall is almost at the desperation point; strapped for money and unable to get his campaign off the ground. He is not doing well in the Pennsylvania campaign and Carter is generally regarded as running first.

Of course, Pennsylvaina is a big oil State, and you might think it would be a bad place to accuse a candidate of not wanting to break up an industry that furnishes jobs and taxes to the local economy.

But that's not the way Udall and the other oil-attackers look on it. One can almost picture them coming to Oklahoma or Texas with a promise to knock the oil industry in the head. That is seen as the way to get the "consumer" vote . . . the liberals, the workers, the poor and the motorist who resents the price of gasoline and heating oil.

It is sheer demogoguery, of course. It is pandering to a popular prejudice, using the age-old technique of taking pot-shots at an easy target.

The oil people scarcely know how to fight this tide of bias. They have made the logical arguments. They are waging a public relations campaign. They are trying to get across the obvious fact that if the domestic oil industry is driven into the ground, it will only increase our dependence on foreign sources—and bring on inevitable higher prices . . . *much* higher prices.

But who is listening? Not the candidates, who find it reassuring to have somebody to kick around. Scapegoat-ism is a basic part of finger-pointing, desk-pounding campaigns. The only way to stop it is for the people to think more clearly than the candidates.

ANNOUNCEMENT OF POSITION ON VOTES

Mr. CLARK. Mr. President, unfortunately, I was unable to be here June 2, for the votes on the southern African funds included in the International Security Assistance and Arms Export Control Act of 1976–77 (S. 3439). Had I been here, I would have voted "yea" on the Humphrey amendment, rollcall vote No. 210; and "nay" on the Allen amendment, rollcall vote No. 209.

CONCLUSION OF MORNING BUSINESS

The **ACTING PRESIDENT** pro tempore. Is there morning business? If not, morning business is closed.

THE ANTITRUST IMPROVEMENTS ACT OF 1976

The **ACTING PRESIDENT** pro tempore. The Senate will now resume the consideration of the pending business, H.R. 8532, which the clerk will state.

The assistant legislative clerk read as follows:

A bill (H.R. 8532) to amend the Clayton Act to permit State attorneys general to

bring certain antitrust actions, and for other purposes.

The Senate resumed the consideration of the bill.

The ACTING PRESIDENT pro tempore. The pending question is on amendment No. 1701, as amended.

Time for debate is limited. Who yields time?

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. ALLEN. Reserving the right to object, Mr. President, I am sure the assistant majority leader has a good reason for suggesting the absence of a quorum, and I think it might be a good idea to find out if we do have a quorum; so I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

The assistant legislative clerk continued to call the roll, and the following Senators answered to their names:

[Quorum No. 9 Leg.]

Allen
Byrd, Robert C.
Cranston
Hart, Gary
Helms
Kennedy
Mansfield
Morgan
Roth
Stone

The ACTING PRESIDENT pro tempore. A quorum is not present. The clerk will call the names of the absent Senators.

The assistant legislative clerk continued the call of the roll.

Mr. ALLEN. Mr. President, I move that the Senate do now adjourn.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from Alabama. All those in favor say "aye."

(A chorus of "ayes.")

The ACTING PRESIDENT pro tempore. All those opposed, please say "no."

(A chorus of "noes.")

Mr. ROBERT C. BYRD. Division, Mr. President.

The ACTING PRESIDENT pro tempore. A division has been called for. Those Senators in favor will rise and stand until counted.

(After a pause.) Those opposed will rise and stand until counted.

On a division, the motion to adjourn was rejected.

The ACTING PRESIDENT pro tempore. The clerk will continue to call the roll.

The assistant legislative clerk continued the call of the roll.

The ACTING PRESIDENT pro tempore. A quorum is not present.

Mr. ROBERT C. BYRD. Mr. President, I move that the Sergeant at Arms be directed to request the attendance of absent Senators.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from West Virginia.

The motion was agreed to.

The ACTING PRESIDENT pro tempore. The Sergeant at Arms will execute the order of the Senate.

Pending the execution of the order, the following Senators entered the Chamber and answered to their names:

Stafford
Talmadge

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. BUMPERS), the Senator from Idaho (Mr. CHURCH), the Senator from Iowa (Mr. CULVER), the Senator from Mississippi (Mr. EASTLAND), the Senator from Michigan (Mr. PHILIP A. HART), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Hawaii (Mr. INOUYE), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Louisiana (Mr. LONG), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Wyoming (Mr. MCGEE), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Utah (Mr. MOSS), the Senator from Rhode Island (Mr. PELL), the Senator from Illinois (Mr. STEVENSON), the Senator from Missouri (Mr. SYMINGTON), the Senator from California (Mr. TUNNEY), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I also announce that the Senator from Minnesota (Mr. MONDALE) is absent on official business.

I further announce that the Senator from Indiana (Mr. BAYH) is absent because of illness.

Mr. HUGH SCOTT. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Maryland (Mr. BEALL), the Senator from Oklahoma (Mr. BELLMON), the Senator from Massachusetts (Mr. BROOKE), the Senator from New Jersey (Mr. CASE), the Senator from Hawaii (Mr. FONG), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from Nevada (Mr. LAXALT), the Senator from Idaho (Mr. MCCLURE), the Senator from Kansas (Mr. PEARSON), the Senator from Illinois (Mr. PERCY), the Senator from Virginia (Mr. WILLIAM R. SCOTT), the Senator from Alaska (Mr. STEVENS), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

Mr. ROBERT C. BYRD. Mr. President, I move that the Sergeant at Arms be directed to compel the attendance of absent Senators.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from West Virginia.

Mr. ROBERT C. BYRD. I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk called the roll.

(Mr. GARY HART assumed the Chair at this point.)

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. BUMPERS), the Senator from Idaho (Mr. CHURCH), the Senator from Iowa (Mr. CULVER), the Senator from Mississippi (Mr. EASTLAND), the Senator from Michigan (Mr. PHILIP A. HART), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Hawaii (Mr. INOUYE), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Louisiana (Mr. LONG), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Wyoming (Mr. MCGEE), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Utah (Mr. MOSS), the Senator from Rhode Island (Mr. PELL), the Senator from Illinois (Mr. STEVENSON), the Senator from Missouri (Mr. SYMINGTON), the Senator from California (Mr. TUNNEY), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I further announce that the Senator from Minnesota (Mr. MONDALE) is absent on official business.

I also announce that the Senator from Indiana (Mr. BAYH) is absent because of illness.

Mr. HUGH SCOTT. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Maryland (Mr. BEALL), the Senator from Oklahoma (Mr. BELLMON), the Senator from Massachusetts (Mr. BROOKE), the Senator from New Jersey (Mr. CASE), the Senator from Hawaii (Mr. FONG), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from Nevada (Mr. LAXALT), the Senator from Idaho (Mr. MCCLURE), the Senator from Kansas (Mr. PEARSON), the Senator from Illinois (Mr. PERCY), the Senator from Virginia (Mr. SCOTT), the Senator from Alaska (Mr. STEVENS), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

The result was announced—yeas 64, nays 0, as follows:

[Rollcall Vote No. 217 Leg.]

YEAS—64

Abourezk
Allen
Bartlett
Bentsen
Biden
Brock
Buckley
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Clark
Cranston
Curtis
Dole
Domenici
Durkin
Eagleton
Fannin
Ford
Garn
Glenn
Gravel
Hansen
Hart, Gary
Hartke
Haskell
Hatfield
Hathaway
Helms
Hollings
Hruska
Huddleston
Jackson
Javits
Kennedy
Leahy
Magnuson
Mansfield
Mathias
McGovern
Metcalf
Morgan
Muskie
Nelson
Nunn
Packwood
Pastore
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Sparkman
Stafford
Stennis
Stone
Taft
Talmadge
Thurmond
Tower
Young

NAYS—0

NOT VOTING—36

Baker
Bayh
Beall
Bellmon
Brooke
Bumpers
Case
Church
Culver
Eastland
Fong
Goldwater
Griffin
Hart, Philip A.
Humphrey
Inouye
Johnston
Laxalt
Long
McClellan
McClure
McGee
McIntyre
Mondale
Montoya
Moss
Pearson
Pell
Percy
Scott, William L.
Stevens
Stevenson
Symington
Tunney
Weicker
Williams

So the motion was agreed to.

The PRESIDING OFFICER. A quorum

is present and the clerk will state the pending business for the information of Senators.

The assistant legislative clerk read as follows:

A bill (H.R. 8532) to amend the Clayton Act to permit State attorneys general to bring certain antitrust actions, and for other purposes.

The Senate resumed the consideration of the bill.

ORDER FOR RECESS UNTIL 11 A.M. ON MONDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 11 o'clock a.m. on Monday.

The PRESIDING OFFICER (Mr. GARY HART). Is there objection? Without objection, it is so ordered.

THE ANTITRUST IMPROVEMENTS ACT OF 1976

Mr. DOMENICI. Mr. President, I ask unanimous consent that Vicente Severa of my staff be accorded the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUGH SCOTT. Mr. President, I ask unanimous consent that Ralph Colman have the privilege of the floor during the consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. Mr. President, I ask unanimous consent that Amy Fondren may have the privilege of the floor during the consideration and voting on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ALLEN. Mr. President, I yield myself such time as I may consume.

I am appreciative of the distinguished assistant majority leader's putting in the quorum call, because I think it is fine that an attempt be made to have a quorum of the Senate present when important business is being discussed. At the time the quorum call was put in, there were some 5 Senators on the floor, and I am pleased to note that at this time there are possibly 20 or 25 in or near the Chamber. I appreciate this, and I hope that the assistant majority leader will from time to time, as attendance drops off, put in other quorum calls.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. ALLEN. Yes.

Mr. ROBERT C. BYRD. The Senator is entirely too kind to me. I tried to cut off the quorum call, and he would not let me.

Mr. ALLEN. Well, a quorum had not yet been established at that time, and therefore I objected.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. ALLEN. Mr. President, I have an amendment pending but I hope to offer either today or certainly by the middle of next week, when it becomes appropriate to do so, an amendment which I believe might well solve the more or less impasse that we have with regard to this legislation.

It is an amendment that is similar to the substitute which I put in last Thursday, and which the managers of the bill sought to table or drop, and were not successful in doing so until yesterday, when the distinguished majority leader was able to prevail on his motion to lay on the table.

That substitute, which drew considerable strength here in the Senate—38 votes, as a matter of fact—provided that we take the House-passed bill, the parens patriae provision without a title number—there was just one subject, so there was no title—take that bill and add to it the principle that the States should come under the provisions of the law if they saw fit to do so, but until such time as they did, the law would not be applicable in any particular State—that is, a local option feature.

That was a substitute for the entire Senate bill. It wiped out all five of the Senate titles. It saved the parens patriae title, title IV, but put it in the House language form.

That substitute wiping out all of the Senate bill except one section drew 38 votes here in the Senate. My present amendment, which is pending at the desk, would provide for taking the House bill and putting the local option feature on it, and offering that in lieu, not of the entire bill, but only of title IV. It would leave the other four titles intact, if the Senate in its wisdom agreed upon those titles.

As far as I am concerned, if this amendment could be adopted, I would have no objection. After consideration of three or four other amendments, and I think a time limit could be reached on those, I think we could dispose of this matter today, if my amendment could be adopted. It does not touch four of the Senate bill's titles; it merely takes the language of the House bill as to title IV.

This bill faces, we read in the press and in the Senate committee report, a possible veto. On page 231 of the minority views, report No. 94–803, part 2, there is a table showing the concerns expressed by President Ford with regard to this bill. The very first concern expressed there is:

> Parens patriae concept, bypassing State legislatures, is questionable.

All my amendment would do would be to adopt the House language. That is not the amendment I am now going to offer, but the prospective amendment. It would take the House language on title IV and put in the local option concept, thereby not bypassing State legislatures.

The State ought to be able to determine what the power and authority, jurisdiction, and duties of its attorney general should be. Why should we confer authority on a State attorney general that the State has not signified that it desires to be placed on the attorney general?

That amendment, as far as the Senator from Alabama is concerned, would solve his major objection to the bill and we could go ahead and pass it. As I say, there are other Senators who want their amendments acted upon. I think we could agree on those.

AMENDMENT NO. 1702

At this time, however, I am going to adopt a somewhat different approach and call up amendment No. 1702, which I ask the clerk please to state.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Alabama (Mr. ALLEN) proposes amendment No. 1702 to amendment No. 1701:

At the end of title IV add the following new section:

SEC. 406. This title shall not be applicable in a State until that State shall provide by law for its applicability as to such State.

Mr. STONE. Mr. President, will the Senator yield?

Mr. ALLEN. I yield.

Mr. STONE. Will the Senator be willing to include the Senator from Florida as a cosponsor on this amendment?

Mr. ALLEN. Yes. I am delighted to do that.

Mr. President, I ask unanimous consent that the distinguished Senator from Florida (Mr. STONE) be added as a cosponsor to amendment No. 1702.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ALLEN. Mr. President, all this does is to provide this as to title IV. The other four titles of the bill would apply nationwide. But as to title IV, that is the power of the attorneys general to file these suits, that would not be applicable in a State until the State legislature passed a two-line bill, saying that the provisions of this bill shall be applicable in the State of Alabama, the State of Pennsylvania, the State of North Carolina, the State of West Virginia, or the State of Rhode Island, as the case might be.

So, already the distinguished managers of the bill have recognized that there is some merit in this concept.

I think one thing that made them recognize that there is some merit in the concept was the 38 votes cast in the Senate on a substitute that would wipe out the entire Senate bill and substitute the House language.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. ALLEN. I yield on the Senator's time. My time is limited. I am sure he will not object to that.

Mr. PASTORE. The Senator from Alabama mentioned the name of the State of Rhode Island. I think that gives me the privilege of asking a question.

Mr. ALLEN. Yes.

Mr. PASTORE. As the bill now stands, as I understand it, the attorney general of a State has a right to bring a class action but he cannot be stopped by the legislature; is that correct?

Mr. ALLEN. He can bring it now.

Mr. PASTORE. In other words, he has the authority now under the so-called Morgan-Allen amendment. The attorney general has the authority to initiate a class action on price fixing, and the only prohibition or inhibition is the action by the State to stop him.

Mr. ALLEN. That is not quite right.

Mr. PASTORE. That is the amendment.

Mr. ALLEN. Under the present law the State attorney general can bring such an action if the State, as such, has been damaged by price fixing. Under the bill as it exists now, after the amendment that the distinguished Senator from North Carolina (Mr. MORGAN) brought up, it would not stop the attorney general but it would provide that the State could come out from under the provisions of this bill. Now my amendment, that has been called up, takes the reverse view of that and it makes the law inapplicable in a State unless the State signifies its willingness to come under it. It is made available to the State if they want it, but they do not have to do it.

Mr. PASTORE. But it would be a one-shot action.

Mr. ALLEN. No. It would be the law of the land until they came back under it.

Mr. PASTORE. In other words, what the Senator is actually suggesting is that there has to be approbation on the part of the State before this law could take effect?

Mr. ALLEN. That is exactly right. And why not?

Mr. PASTORE. Is the Senator asking me the question?

Mr. ALLEN. No. I am asking a rhetorical question. Exactly. And why not?

Mr. HRUSKA addressed the Chair.

Mr. PASTORE. I want to know what it is all about.

Mr. ALLEN. Yes, I know. I am not at any variance with the Senator. I am simply justifying the amendment.

Mr. HRUSKA. Mr. President, will the Senator yield for a brief observation?

Mr. ALLEN. I yield.

Mr. HRUSKA. Is it not true that in the Hawaii case the Supreme Court held that the State attorney general did not have authority to file a class action on behalf of citizens of his State?

Mr. ALLEN. That is correct, unless the State was involved.

Mr. HRUSKA. He could maintain the State's proprietary rights.

Mr. ALLEN. As a plaintiff.

Mr. HRUSKA. The bill before us would give the State attorney general that authority.

Mr. ALLEN. That is exactly right.

Mr. HRUSKA. As I understand the thrust of the pending amendment, the authority granted in the bill would not become effective in a State without affirmative action of the legislature of that State?

Mr. ALLEN. That is correct.

Mr. MORGAN. Mr. President, will the Senator yield for a question?

Mr. PASTORE. Mr. President, may I ask a further question?

Mr. ALLEN. Yes.

Mr. PASTORE. It was my understanding that the thrust of this bill was in order to protect that small consumer who would be one of many in the price-fixing or gouging of a consumer and because his interest was so minimal it would never be expected that he would initiate a suit for the simple reason that he would be spending a lot more money than he would recover; therefore, in order to overcome that, we are giving power in a class action to the State, or the attorney general of the State, to bring that suit on behalf of the citizens of the State. Is that correct?

Mr. ALLEN. Yes, that is correct.

Mr. PASTORE. That was the thrust of this bill.

As I understand the amendment of the Senator, the Senator does not disapprove of that, but before it can happen he wants the State to give its consent.

Mr. ALLEN. That is exactly right, yes.

Mr. PASTORE. I would like to hear from the manager of the bill as to what is wrong with it.

Mr. ALLEN. Before we hear from the distinguished Senator from North Carolina, let me go further.

Yesterday the distinguished Senator from North Carolina called up an amendment by the Senator from Alabama, with the approval of the Senator from Alabama, which, as I stated at the time, was an amendment that I favor, but do not favor as much as the present amendment, and that would allow a State to come out from under the provisions of this law.

What I am suggesting at this time is that this amendment be adopted. While it is inconsistent with the other amendment, it would arm our conferees in the conference with three options in this matter. They could go the House route, which does not provide for a State coming out from under it or going under it. They are just under it under the law. It would provide the option of requiring the State to come out from under it or it would have the option of requiring the State to come under it. It would have those three options, and the conferees would be in full control of what was agreed upon, but it would make these options available to meet the objections of the President.

It might be necessary to go the route of requiring the State to come under it before it is applicable or it might be that they would take the amendment of Senator MORGAN, or it might be they could travel with the House language.

All this does is to give the conferees an added option in this area. So I think it is a good amendment. It is not the full amendment that I was talking about on taking the House bill. All it does at this time is to amend the Senate language on title IV to add this additional option that the conferees might use.

Mr. MORGAN. Mr. President, the effects of the amendment of the Senator would be that even though Congress passes this act, it would not become effective anywhere in the land unless and until the legislature of a given State took some affirmative action bringing that State within the act.

That, in itself, Mr. President, would delay the effective date of this legislation from 1, 2, 6, or 10 years, depending upon when the legislatures meet, and it would also, Mr. President, destroy the overall effectiveness of the bill. And here is why.

Antitrust litigation is very complex, and normally when one brings an antitrust action, he is bringing it against large companies that have large legal staffs.

There are only 77 attorneys in all of the 50 States attorneys general offices who are assigned solely to the antitrust division. Therefore, if the States are to be effective under this bill to assist in enforcing the laws, they are going to have to be able to combine their resources, and if it is going to take a period of 10 years before we have enough States in the bill for them to become effective, then I think we have destroyed the overall effectiveness of it.

In the tetracycline case, the action was brought; eventually all States joined in. The attorneys general of the various States pooled their resources. In the discovery part of the action they pooled their work. One State would do one part of the work and one another. Without it, it would have been impossible; because when I went to Minneapolis to appear in Judge Miles Lord's court, there were more than 50 attorneys representing five drug companies involved in that action. If I had had to be there with just one or two lawyers from my office, it would have been impossible for me to have met on equal footing or anywhere near equal footing with these people.

The amendment of the Senator from Alabama that we adopted yesterday clearly gives a right to any State to come out from under the provisions of this bill any time that the legislature sees fit to take it out. I think that the adoption of this amendment would have the effect of destroying the immediate effectiveness, if not the long-range effectiveness.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. MORGAN. Yes.

Mr. PASTORE. Will the Senator explain what the situation is now, without this law, or in the event that the President vetoes the bill and the veto is not overridden? What will be our situation then?

Mr. MORGAN. The law in that area is uncertain.

However, let me correct what I believe was a misunderstanding or a misstatement between the Senator from Alabama and the Senator from Nebraska. The Hawaii case did not hold that an attorney general cannot bring a parens patriae suit. In fact, it said affirmatively that he could bring a parens patriae suit for injunctive relief; but he could not recover for damages to the general economy of a State.

Mr. ALLEN. Mr. President, if the Senator will yield, that is exactly what the Senator from Alabama said.

Mr. MORGAN. Let me finish my statement.

Until that time, North Carolina's parens patriae case had been upheld. Once that case was decided by the Supreme Court, we had a receiver appointed by the State of North Carolina for and on behalf of the consumers of the State.

Mr. PASTORE. Mr. President, will the Senator yield at that point?

Mr. MORGAN. I yield.

Mr. PASTORE. Would the pending amendment vitiate what the Senator from North Carolina has just said?

Mr. MORGAN. I do not think it would vitiate it. However, the difficulty with what I think the law is is that it has not been decided finally by the Supreme Court and probably will be in litigation for years to come.

Mr. PASTORE. But the likelihood of vitiating it is there?

Mr. MORGAN. Yes.

Mr. PASTORE. Because of this amendment?

Mr. MORGAN. Yes.

Mr. ALLEN. Mr. President, if the Senator will yield, I do not see how the Senator can say that this amendment would have any effect whatsoever on these rights, because this is an additional right. It does not take any right away from anybody. Whatever the present law is, that shall stand. All this says is that these new powers—not the existing powers; it is not vitiating anything—shall not be conferred on the attorney general of a State, unless the State signifies its desire to have that happen.

I call to the attention of the Senator from Rhode Island the fact that this would not be in the final language of the bill, because it contains the other language that would be an option for our conferees to agree on what they thought was necessary to reach agreement with the House and to reach an understanding with the President on a possible veto.

The PRESIDING OFFICER. The Chair reminds Senators that when a Senator who holds the floor yields to another Senator for a statement, the time consumed by that statement comes out of the time of the Senator who makes the statement.

Who yields time?

Mr. ALLEN. Did the Chair say that the time came out of the time of the Senator who made the statement or the Senator who has the floor?

The PRESIDING OFFICER. The Senator who made the statement, if he does not ask a question. If he makes a statement, the time comes out of his time under the cloture limitation.

Mr. ALLEN. But only if it is in the form of a question does the time come out of the time of the Senator who has the floor. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Who yields time?

Mr. HRUSKA. Mr. President, I ask for the yeas and nays on the pending amendment.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. ALLEN. If there is not a sufficient second, there will have to be a quorum call, and I hate to do that.

The PRESIDING OFFICER. There is not a sufficient second.

Mr. ALLEN. We are entitled to the yeas and nays.

Mr. MORGAN. Mr. President, I shall make one final statement.

There is a provision in the bill now, as it was adopted yesterday, which will allow any State to come out from under the provisions of this bill. If the State of Alabama does not want to come under it, the legislature can take it out from under it. This extends to all others the right to come under it.

This measure has been endorsed by many associations, including the National Association of Attorneys General. Because there is adequate remedy for any State that does not want to come under it, I move that the amendment lie on the table.

Mr. HRUSKA. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from North Carolina to table the amendment of the Senator from Alabama. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. BUMPERS), the Senator from Idaho (Mr. CHURCH), the Senator from Mississippi (Mr. EASTLAND) the Senator from Minnesota (Mr. HUMPHREY), the Senator from Hawaii (Mr. INOUYE), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Wyoming (Mr. MCGEE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Utah (Mr. MOSS), the Senator from Georgia (Mr. NUNN), the Senator from Illinois (Mr. STEVENSON), the Senator from Missouri (Mr. SYMINGTON), the Senator from California (Mr. TUNNEY) and the Senator from New Jersey (Mr. WILLIAMS), are necessarily absent.

I further announce that the Senator from Minnesota (Mr. MONDALE) is absent on official business.

I also announce that the Senator from Indiana (Mr. BAYH) is absent because of illness.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY), the Senator from Indiana (Mr. BAYH), and the Senator from Illinois (Mr. STEVENSON) would each vote "yea."

Mr. SCOTT of Pennsylvania. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Maryland (Mr. BEALL), the Senator from Oklahoma (Mr. BELLMON), the Senator from Massachusetts (Mr. BROOKE), the Senator from Hawaii (Mr. FONG), the Senator from Michigan (Mr. GRIFFIN), the Senator from Nevada (Mr. LAXALT) the Senator from Idaho (Mr. MCCLURE), the Senator from Illinois (Mr. PERCY), the Senator from Virginia (Mr. SCOTT), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

The result was announced—yeas 42, nays 30, as follows:

[Rollcall Vote No. 218 Leg.]

YEAS—42

Abourezk
Allen
Bentsen
Biden
Case
Clark
Cranston
Culver
Durkin
Eagleton
Ford
Glenn
Gravel
Hart, Gary
Hart, Philip A.
Hartke
Haskell
Hatfield
Hathaway
Huddleston
Jackson
Javits
Kennedy
Leahy
Magnuson
Mansfield
Mathias
McGovern
McIntyre
Metcalf
Morgan
Muskie
Nelson
Packwood
Pastore
Pearson
Pell
Proxmire
Ribicoff
Schweiker
Scott, Hugh
Stafford

NAYS—30

Bartlett
Brock
Buckley
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Curtis
Dole
Domenici
Fannin
Garn
Goldwater
Hansen
Helms
Hollings
Hruska
Long
Randolph
Roth
Sparkman
Stennis
Stevens
Stone
Taft
Talmadge
Thurmond
Tower
Young

NOT VOTING—28

Baker
Bayh
Beall
Bellmon
Brooke
Bumpers
Church
Eastland
Fong
Griffin
Humphrey
Inouye
Johnston
Laxalt
McClellan
McClure
McGee
Mondale
Montoya
Moss
Nunn
Percy
Scott,
  William L.
Stevenson
Symington
Tunney
Weicker
Williams

So the motion to lay on the table was agreed to.

Mr. ALLEN. Mr. President, in a moment I shall make a motion to reconsider the vote that tabled the amendment. I did change my vote in order to make this motion. But I do believe that there is a misunderstanding about just what the amendment does, and I would like to explain it as we have a few more Senators in the Chamber than we had when the motion was made and carried to table the amendment.

On Wednesday the distinguished Senator from North Carolina (Mr. MORGAN) called up an amendment that provided that title IV, the parens patriae section of the bill, would be applicable in a State until such time as a State came out from under its provisions. That amendment has been introduced by the Senator from Alabama. But he, the Senator from Alabama, also introduced an amendment that provides that title IV shall not be applicable in a State until that State comes under its provisions.

This amendment in nowise supplants the amendment of the Senator from North Carolina (Mr. MORGAN). By adopting the amendment, all it would do would be to arm the House and Senate conferees with three options instead of two options.

Representing the Senate would be the various Senators who have rejected this amendment. There would be no danger of this amendment being rammed through the conference to the exclusion of the other options. It would only be used in the event that it became necessary to meet the Presidential objections to the bill.

I am not speaking idly on the subject because I have here the minority views in the committee report, and on page 231 there is a table outlining the President's concern on this bill, concerns expressed by President Ford.

There are about six or seven of them, but the very first one says:

CONCERNS EXPRESSED BY PRESIDENT FORD

Parens patriae concept, bypassing State legislatures, is questionable.

If the conferees could work it out where they did not give the States any option at all to come out from under, or go under, just confer these rights on the Attorney General, they could do that. If they wanted option No. 2, which is Senator MORGAN's amendment to require them to come out from under, if they saw fit, they could go that route. But if it became necessary, they could meet the President's objection to not bypass the State legislatures and require that they would have to come under the provisions of the law in order for it to be applicable in their particular State.

It does not supplant Senator Morgan's amendment. It just confers on the conferees a third option. They could take it or leave it.

I point out that the Senator from Alabama will not be on that conference. The various Senators opposing this concept would be the conferees. So there would be no danger of it being adopted if they did not want it, but it would arm them with a vehicle to make the bill acceptable.

I feel that with this option in there, if it became necessary to do that, then the conferees could go this route.

So it is not destructive of the present bill or the amendment of the Senator from North Carolina.

I cannot understand why the Senate, the managers of the bill and the supporters of the bill, would not be willing to arm themselves, not arm the opponents of the bill, but arm the proponents of the bill with a third option, and that is all this amendment does.

If we are going to have a monolithic vote on everything, there is no need of having amendments here, just discuss it from now on and finally pass it. But if we are trying to get a bill that would be acceptable in the House and the Senate, and to the President, I feel that this third option that is being granted would improve the bill and in nowise would it be destructive of the thrust of the bill.

I move, therefore, that the Senate reconsider the vote by which the amendment was laid on the table.

Mr. MORGAN. Mr. President, we discussed this issue Wednesday, we discussed it yesterday, and we discussed it today.

The vote was rather decisive, 42 to 30.

Therefore, I move to table the Senator's motion.

Mr. ALLEN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the motion to reconsider. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. Bumpers), the Senator from Idaho (Mr. Church), the Senator from Mississippi (Mr. Eastland), the Senator from Minnesota (Mr. Humphrey), the Senator from Hawaii (Mr. Inouye), the Senator from Louisiana (Mr. Johnston), the Senator from Arkansas (Mr. McClellan), the Senator from Wyoming (Mr. McGee), the Senator from New Mexico (Mr. Montoya), the Senator from Utah (Mr. Moss), the Senator from Georgia (Mr. Nunn), the Senator from Illinois (Mr. Stevenson), the Senator from Missouri (Mr. Symington), the Senator from California (Mr. Tunney), and the Senator from New Jersey (Mr. Williams) are necessarily absent.

I further announce that the Senator from Minnesota (Mr. Mondale) is absent on official business.

I also announce that the Senator from Indiana (Mr. Bayh) is absent because of illness.

I further announce that, if present and voting, the Senator from Minnesota (Mr. Humphrey), the Senator from Indiana (Mr. Bayh), and the Senator from Illinois (Mr. Stevenson) would each vote "yea."

Mr. HUGH SCOTT. I announce that the Senator from Tennessee (Mr. Baker), the Senator from Maryland (Mr. Beall), the Senator from Oklahoma (Mr. Bellmon), the Senator from Hawaii (Mr. Fong), the Senator from Arizona (Mr. Goldwater), the Senator from Michigan (Mr. Griffin), the Senator from Nevada (Mr. Laxalt), the Senator from Idaho (Mr. McClure), the Senator from Illinois (Mr. Percy), the Senator from Virginia (Mr. William L. Scott), and the Senator from Connecticut (Mr. Weicker) are necessarily absent.

The result was announced—yeas 48, nays 24, as follows:

[Rollcall Vote No. 219 Leg.]

YEAS—48

Abourezk
Bentsen
Biden
Brooke
Byrd, Robert C.
Case
Clark
Cranston
Culver
Dole
Domenici
Durkin
Eagleton
Ford
Glenn
Gravel
Hart, Gary
Hart, Philip A.
Hartke
Haskell
Hatfield
Hathaway
Huddleston
Jackson
Javits
Kennedy
Leahy
Long
Magnuson
Mansfield
Mathias
McGovern
McIntyre
Metcalf
Morgan
Muskie
Nelson
Packwood
Pastore
Pearson
Pell
Proxmire
Randolph
Ribicoff
Schweiker
Scott, Hugh
Stafford
Talmadge

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Allen
Bartlett
Brock
Buckley
Burdick
Byrd, Harry F., Jr.
Cannon
Chiles
Curtis
Fannin
Garn
Hansen
Helms
Hollings
Hruska
Roth
Sparkman
Stennis
Stevens
Stone
Taft
Thurmond
Tower
Young

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Baker
Beall
Bayh
Bellmon
Bumpers
Church
Eastland
Fong
Goldwater
Griffin
Humphrey
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Johnston
Laxalt
McClellan
McClure
McGee
Mondale
Montoya
Moss
Nunn
Percy
Scott, William L.
Stevenson
Symington
Tunney
Weicker
Williams

So the motion to lay on the table the motion to reconsider was agreed to.

AMENDMENT NO. 1777

Mr. JAVITS. Mr. President, I call up my amendment No. 1777 on behalf of myself, Senator Hruska, Senator Mathias——

The PRESIDING OFFICER. The Senate will be in order so that the Senator from New York can be heard.

The Senator may proceed.

Mr. JAVITS. I call up my amendment No. 1777 on behalf of myself and Senators Hruska, Mathias, Domenici, and Dole, and ask that it be reported.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New York (Mr. Javits), for himself and others, proposes an amendment numbered 1777.

Mr. Javits' amendment (No. 1777) is as follows:

Add the following title:

TITLE VI—ANTITRUST REVIEW AND REVISION COMMISSION

PURPOSE OF THE COMMISSION

Sec. 601. In pursuance of title I (Declaration of Policy), the Commission shall study the antitrust laws of the United States, their applications, and their consequences, and shall report to the President and the Congress the revisions, if any, of said antitrust laws which it deems advisable on the basis of such study. The study shall include the effect of said antitrust laws upon—

(a) price levels, product quality, and service;

(b) employment, productivity, output, investment, and profits;

(c) concentration of economic power and financial control;

(d)) foreign trade and international competition; and

(e) economic growth.

MEMBERSHIP OF THE COMMISSION

Sec. 602. (a) Number and Appointment.—The Commission shall be composed of eighteen members appointed by the President as follows:

(1) four from the executive branch of the Government;

(2) four from the Senate, upon the recommendation of the President of the Senate;

(3) four from the House of Representatives, upon recommendation of the Speaker of the House of Representatives; and

(4) six from private life.

(b) Representation of Varied Interests.—The membership of the Commission shall be selected in such a manner as to be broadly representative of the various interests, needs, and concerns which may be affected by the antitrust laws.

(c) Political Affiliation.—Not more than one-half of the members of each class of members set forth in clauses (2), (3), and (4) of subsection (a) shall be from the same political party.

(d) Vacancies.—Vacancies in the Commission shall not affect its powers but shall be filled in the same manner in which the original appointment was made.

ORGANIZATION OF THE COMMISSION

Sec. 603. The Commission shall select a Chairman and a Vice Chairman from among its members.

QUORUM

Sec. 604. Ten members of the Commission shall constitute a quorum.

COMPENSATION OF MEMBERS OF THE COMMISSION

Sec. 605. (a) Members of Congress.—Members of Congress, who are members of the Commission, shall serve without compensation in addition to that received for their services as Members of Congress, but they shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of the duties vested in the Commission.

(b) Members From the Executive Branch.—Notwithstanding section 5533 of title 5, United States Code, any member of the Commission who is in the executive branch of the Government shall receive the compensation which he would receive if he were not a member of the Commission, plus such additional compensation, if any, as is necessary to make his aggregate salary not exceeding $36,000 and he shall be reimbursed for travel, subsistence, and other necessary expenses incurred by him in the performance of the duties vested in the Commission.

(c) Members From Private Life.—The members from private life shall each receive not exceeding $200 per diem when engaged in the performance of duties vested in the Commission, plus reimbursement for travel, subsistence, and other necessary expenses incurred by them in the performance of such duties.

POWERS OF THE COMMISSION

SEC. 606. (a) (1) HEARINGS.—The Commission or, on the authorization of the Commission, any subcommittee thereof may, for the purpose of carrying out its functions and duties, hold such hearings and sit and act at such times and places, administer such oaths, and require, by subpena or otherwise, the attendance and testimony of such witnesses, and the production of such books, records, correspondence, memorandums, papers, and documents as the Commission or such subcommittee may deem advisable. Subpenas may be issued under the signature of the Chairman or Vice Chairman, or any duly designated member, and may be served by any person designated by the Chairman, the Vice Chairman, or such member.

(2) In case of contumacy or refusal to obey a subpena issued under paragraph (1) of this subsection, any district court of the United States or the United States court of any possession, or the District Court of the United States for the District of Columbia, within the jurisdiction of which the inquiry is being carried on or within the jurisdiction of which the person guilty of contumacy or refusal to obey is found or resides or transacts business, upon application by the Attorney General of the United States shall have jurisdiction to issue to such person an order requiring such person to appear before the Commission or a subcommittee thereof, there to produce evidence if so ordered, or there to give testimony touching the matter under inquiry; and any failure to obey such order of the court may be punished by the court as a contempt thereof.

(b) OFFICIAL DATA.—Each department, agency, and instrumentality of the executive branch of the Government, including independent agencies, is authorized and directed to furnish to the Commission, upon request made by the Chairman or Vice Chairman, such information as the Commission deems necessary to carry out its functions under this Act.

(c) Subject to such rules and regulations as may be adopted by the Commission, the Chairman shall have the power to—

(1) appoint and fix the compensation of an executive director, and such additional staff personnel as he deems necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at rates not in excess of the maximum rate for GS–18 of the General Schedule under section 5332 of such title, and

(2) procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code, but at rates not to exceed $200 a day for individuals.

(d) The Commission is authorized to enter into contracts with Federal or State agencies, private firms, institutions, and individuals for the conduct of research or surveys, the preparation of reports, and other activities necessary to the discharge of its duties.

SEC. 607. The Commission shall transmit to the President and to the Congress not later than two years after the first meeting of the Commission a final report containing a detailed statement of the findings and conclusions of the Commission, together with such recommendations as it deems advisable. The Commission may also submit interim reports prior to submission of its final report.

EXPIRATION OF THE COMMISSION

SEC. 608. Sixty days after the submission to Congress of the final report provided for in section 607, the Commission shall cease to exist.

Mr. JAVITS. Mr. President, I ask unanimous consent that Herb Jolovitz, of Senator LEAHY's staff, may have the privilege of the floor during the debate on this proposal.

The PRESIDING OFFICER (Mr. LEAHY). Without objection, it is so ordered.

Mr. STONE. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. JAVITS. I yield.

Mr. STONE. Mr. President, I ask unanimous consent that Bill Pursley of my staff have the privilege of the floor during the consideration and voting on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, this amendment proposes to establish an Antitrust Review and Revision Commission on a high level, organized very much like the famous Hoover Commission, the Commission to be composed of four members from the executive branch, four from the Senate in the usual way, four from the House of Representatives, again in the usual way, and six from private life.

The purpose of the Commission will be, within 2 years, to report to Congress and to the President respecting such revisions as ought to be made in the antitrust laws, based upon its study, which study would include the following questions: the effect of the antitrust laws upon price levels, product quality, and service; employment, productivity, output, investment, and profits; the concentration of economic power and financial control; foreign trade and international competition; and, finally, economic growth.

Mr. President, the other elements are the usual routine of subpenas, right to hold hearings, and so forth; but this is the fundamental point.

Why this move at this time? The reason, Mr. President, is that obviously we are, in dealing with the antitrust laws, accepting the basic antitrust laws as they stand, and what we are doing is dealing with enforcement, with the methods by which inquiries and investigations shall be made, et cetera.

There are many of us in this body and in the country who are deeply concerned about whether the antitrust laws reflect the economic realities and economic necessities of our country today.

For example, the courts, as exemplified by a decision by Justice Blackmun only 2 months ago, very seriously criticized the present status of the antitrust laws. Justice Blackmun, as I say only 2 months ago, struggling with what he called the proper construction of an exemption from the Robinson-Patman Act, pointed out that both parties to the suit relied heavily, in completely opposite directions, on unclear legislative history; and judges have complained for years about the confusion which is inherent in the antitrust laws.

Mr. President, this amendment would establish an 18-member bipartisan Commission which would be charged with the duties of reviewing our antitrust laws and making recommendations for improving and modernizing them. The Commission would be composed of eight Members of Congress, four members of the executive branch, and six experts from the private sector, to be chosen in such a manner as to be broadly representative of the various interests, needs, and concerns which the antitrust laws may affect.

The Commission specifically would be asked to examine the effect of the antitrust laws upon:

Price levels, product quality and service;

Employment, productivity, output, investment, and profit;

Concentration of economic power and financial control;

Foreign trade and international competition; and economic growth.

The amendment provides a period of 2 years for this study, in order that fundamental and basic relationships between the antitrust laws and our increasingly complex economy can be thoroughly analyzed.

My cosponsors and I submit this time because we feel that it would be most appropriate now that we are developing in this bill new techniques and remedies for enforcing the existing laws to consider also the substance of those laws. Whatever shape employment techniques ultimately take, they will simply have been added to existing substantive legal concepts which have been in place, for the most part, for over 85 years. Now that some from of antitrust legislation will emerge from the Congress, this is a critical moment at which to begin a reassessment of the basic economic approach to our antitrust laws. In today's atmosphere of "regulatory reform," a hard look at our basic antitrust law may permit us to reform the most fundamental type of government regulation in our entire economy.

Among the reasons why I believe a review and revision of the antitrust statutes has become a economic necessity for our country are:

First, the market structure of our economy and even the nature of the economy itself have changed radically since the adoption of the Sherman Act in 1890; statutes designed to meet the needs of a 19th century economy cannot be expected to provide direction for economic policies of the 1970's.

Second, the vague language of the existing antitrust laws and the lack of clarity as to the purposes of those laws have left the courts, the bar, and the business community with little guidance for deciding cases, predicting results or making business decisions. The result has been uncertainty in the law which has paralyzed much initiative.

For instance Chief Justice White in 1911 in the Standard Oil of New Jersey case in establishing the Rule of Reason and overruling the Trans-Mission Freight Association cases of 1897 speaks about the "confusion" which is created by the question of deciding whether to apply the "Rule of Reason" or the "per se" test in an antitrust case based on a Sherman Act violation. And Justice

Brandeis in expanding on the "Rule of Reason" in the Chicago Board of Trade case expressed his misgivings about applying "simple test(s)" to determine illegal restraints of trade. He indicates that the "true test of legality is whether the restraint imposed is such as merely regulates and perhaps thereby promotes competition or whether it is such as may suppress or even destroy competition." There is obvious uncertainty and unpredictability in applying that kind of test. And finally, Justice Harlan, dissenting in the Northern Pacific Railway case in 1958 cites the "confusion" produced by Justice Black writing for the majority "as to what proof is necessary to show per se illegality of tying clauses in future Sherman Act cases."

Third, the general language of the law has required that the major antitrust policies be shaped and expressed by the judiciary. This has led to applications of and developments in the antitrust law, some of which may be said to be anticompetitive and genuinely in conflict with the declared purposes of our antitrust statutes.

Major historical developments affecting the nature and market structure may have rendered obsolete many 19th century conceptions of antitrust and, at the same time, have generated a need for different antitrust rules and weapons.

Perhaps the most important of these historical changes is the evolution of an essentially laissez-faire economy into a mixed business-government economy.

Still another important historical change, of great importance today, is the growth of multinational corporations and the development of various international economic institutions which have drastically changed the terms of international trade and the business relationships involved in such trade.

Our antitrust laws, as interpreted by the courts, have not kept pace with these changes. Perhaps the courts are not to be blamed for this, for the judicial function is to interpret statutes consistently with their purpose. However, Congress has the responsibility for seeing that laws and their purpose are kept up to date; antitrust policy in changing times should be made by Congress and not the courts.

It is my hope that the Commission to be established by my amendment would give full consideration to the implications of these historical trends for antitrust policy and suggest to Congress appropriate action.

Our antitrust laws are rife with vague statutory terms about restraints of trade and attempts to monopolize which have been given substance and content by the courts by imposing conflicting and contrary mandates in the cases. For example, it is difficult to reconcile the philosophy of earlier statutes with the price equivalency of the Robinson-Patman Act, which tends to dampen competition—though it may be necessary for public policy reasons. As Justice Frankfurter points out in the Automatic Canteen cases, "* * * precision of expression is not an outstanding characteristic of the Robinson-Patman Act—and—exact formulation of the issue before us is necessary to avoid inadvertent pronouncement on statutory language in one context when the same language may require separate consideration in other settings." And just 2 months ago in the Portland Retail Druggists case, Justice Blackman struggled with the "proper construction" of an exemption from the Robinson-Patman Act when both parties to the suit relied heavily and oppositely on unclear legislative history.

Confusion has been increased too by the overlapping jurisdictions of the Justice Department and the Federal Trade Commission, which should serve separate prosecutorial and regulatory functions; and, by the uncertain relationship between private triple damage antitrust suits and suits brought by the Government.

The problem facing lawyers and businessmen was well summarized by Robert H. Jackson when he was Assistant Attorney General for Antitrust:

> In view of the extreme uncertainty which prevails as a result of these vague and conflicting adjudications, it is impossible for a lawyer to determine what business conduct will be pronounced lawful or unlawful by the courts. This situation is embarrassing to businessmen wishing to obey the law and to government officials attempting to enforce it.

If anything, the situation has become far worse since that statement was made in 1938. The Antitrust Review and Revision Commission could perform a great service by laying a basis for a consistent and predictable antitrust law.

Congress has had the benefit of two Presidential task force reports on the antitrust laws, commissioned by Presidents Johnson and Nixon, although the last of these was published 6 years ago. These reports made several interesting observations and suggestions. Proposals for legislative action ranged in scope from the breakup of very large firms in highly concentrated industries to a limitation on the duration of antitrust decreases. But, I believe two features of the reports tended to render them ineffective.

First, in large part the focus of the reports was on the technical improvement of existing laws rather than the review and reordering of substance. It may be of course that analysis would support the substantive principles of our existing laws, but I believe that it is most important that such an investigation be made. A commission would have the mandate to do so.

Second, the task forces were not made up of officials in a position to effectuate their policy conclusions; the reports were simply forwarded by experts to officials who had not participated in making the studies and recommendations.

The Commission to be established by the amendment would insure the involvement of Senators and Members of Congress and executive officials who would be in a position to help implement their proposals. These are among the reasons why I believe it is necessary to establish a high-level Commission to study all aspects of our antitrust policy and make appropriate recommendations to Congress for revising the law. Only on the basis of the recommendations of such a Commission is Congress likely to be moved to action. Such a Commission could be a very effective instrument of reform.

I am not suggesting that we scrap our antitrust laws or that the competition they seek is an anachronism. Nor am I so naive as to think that the Commission will resolve all the disparate views about the role of antitrust policy into one broad consensus. However, the time has come when I feel the Commission could make recommendations which would attract broad support in Congress and have a major effect in improving and facilitating our favorite enterprise system.

Antitrust laws are today one among our techniques of regulating our economy. The Commission would be expected to examine into the structural issues which are at the core of antitrust policy and other forms of regulation.

In addition, there are a myriad of special problems in the antitrust area which have occasioned much discussion and litigation in recent years, as to which Congress ought to have some informed judgment available to enable it to consider legislative policy in specific areas.

Thus, the Commission could profitably give its attention to marketing techniques. With the growth of the economy a number of novel marketing techniques have evolved, and with them have come inevitably, antitrust problems. These problems include resale price maintenance, limitations on competition between distributors, and a whole panoply of problems connected with franchising.

The Commission could also perform a valuable service by clarifying the relationship between the Justice Department and the FTC in the enforcement scheme. At present, there is a good deal of overlap in their functions, particularly under the Clayton Act.

Similarly the relationship between private triple damage antitrust actions and Government actions could be clarified.

Another area in which the Commission clearly could make a most valuable contribution is in the application of our domestic antitrust laws to U.S. foreign trade and investment. For many years, experts have been pointing out how the rigid application of the antitrust laws has put our exporters at a serious disadvantage abroad. That is not a matter to be taken lightly in these days of concern with our balance of payments and our trade balance.

No less pressing is the need to encourage the investment of private capital of the United States and other developed countries in the developing countries. Again, it is widely felt that our antitrust laws are an inhibiting factor, particularly to the establishment of consortiums of the United States and other private companies from industrialized countries grouping to invest in less developed countries. In both instances, there is a deep conflict between our antitrust philosophy and other major national policies when there should be coordination and thoughtful accommodation between them.

Many experts have concluded that uncertainty about the enforcement of U.S. antitrust laws extraterritorially is the greatest single inhibitor to increased foreign trade and investment. The report of the ABA Committee on Trade Regulation in 1963, for example, highlights the following specific areas of uncertainty in this field:

First, uncertainty as to the terms under which a U.S. business may enter into a joint venture with a competitor, either American or foreign, to engage in business abroad;

Second, uncertainty as to the extent to which U.S. business may cooperate in association with foreign competitors, even when the association is required or permitted by the laws of the foreign country where the activity takes place;

Third, uncertainty as to the extent to which a U.S. business may include territorial and other limitations in patents, trademarks, and knowhow licenses;

Fourth, uncertainty due to conflicts between antitrust laws of the United States and the laws of foreign countries, and economic communities, such as the European Common Market; and

Fifth, protests by foreign governments due to the extraterritorial application of U.S. antitrust laws to their nationals.

The list of critical cases which the proposed Commission would be charged with studying could be elaborated at much greater length. But these are some of the major areas of concern.

In the last analysis the enormous job of reviewing, recommending, and enacting the antitrust laws is with the Congress. The tendency has been in recent years for a major part of the antitrust policy to be articulated by the enforcement agencies and the courts. The Commission I propose would enable Congress, if it will, again to establish basic antitrust policy; and such policy is basic to the economic future of the United States at home and abroad and to its leadership in world affairs.

In short, the keystone to effective operation of the modern American economy may be a revision of the antitrust laws. Our antitrust laws, now over 80 years old, may well have become obsolete. It is high time that Congress take the matter in hand to determine our national antitrust policy on U.S. business—marvel of our world and of economic history. We could help enable it to perform its lengendary feats for our people and for peace and well-being and justice in the world, if we reviewed the underlying rules under which it operates.

In addition, I would like to state that I believe this amendment is quite consistent with what I feel the administration believes in in this field, and I hope that the administration will support it.

I hope very much that this proposal to study and revise the antitrust laws will, at long last, have the positive action which it so richly needs and deserves in the interest of the American economy.

In short, Mr. President, as the antitrust laws determine so heavily what will happen in the American economy, they should now be definitively reviewed, and my cosponsors and I submit the amendment for that purpose.

I yield to the Senator from Maryland.

Mr. MATHIAS. Mr. President, I simply wish to say how much I appreciate the leadership the Senator from New York has taken in presenting this amendment to the Senate. It has been a longtime interest of his, and a consistent interest, which he has pursued very faithfully over a number of years.

I concur in what the Senator has just said about the need for a new look at the basis of the law. The Brownell Commission, established by Attorney General Herbert Brownell, one of our great Attorneys General, did a significant and important work in codifying our antitrust laws, but, as the Senator from New York has stated, it merely accepted the law as it is, or as it then was, and made very little innovative change or creative contribution to what the law ought to be. That, I think, is what the Senator from New York, myself, and the other cosponsors perceive as necessary.

I think the way the Senator from New York proposes to do it is important. Years ago, when I was a member of the other body and proposed a similar plan to the then president of General Motors, he said:

> Yes, there ought to be changes in the antitrust laws.

And he was all for them, but he said:

> I dont know what kind of changes you fellows in Congress would make.

It seems to me that the way the Senator from New York has structured this commission, to give weight not only to what Members of Congress may feel, but to what people in the private sector feel, is a very constructive approach to one of the most important issues before the country.

Mr. JAVITS. I thank my colleague.

I am honored to be joined in this amendment by the Senator from Nebraska (Mr. HRUSKA). This is, again, an illustration of the fact that to whatever degree men and women in Congress agree or disagree, it always has the most profound respect for the case which is before it. Senator HRUSKA and I often find ourselves in disagreement, but on occasion we find ourselves in complete agreement. I am delighted that he has joined, as he has done for some years, in this effort.

Mr. HRUSKA. Mr. President, I acknowledge gratefully the kind remarks of the Senator from New York. I think it is at least in four or five Congresses that he and I have joined in the noted Javits-Hruska political axis to attempt to gain favorable consideration for this kind of a commission. The case for it is good, it is strong, and it should be done.

Mr. President, as I have done for a number of Congresses I join the distinguished senior Senator from New York (Mr. JAVITS) in sponsorship of an Antitrust Review and Revision Commission. Its purpose would be to examine our antitrust laws in their entirety and make recommendations for revising them.

It would be a bipartisan commission composed of some Members of Congress, members appointed by the executive branch, and also experts from the private sector in this field.

In his logical and well-stated remarks explaining the necessity and high desirability of such a commission, the Senator from New York drew well upon his vast experience in this field. His remarks are well documented. They are clearly stated. This Senator is happy to subscribe to them as the basis for justification for the enactment of the bill to establish such a commission.

Times and conditions have changed radically since the antitrust laws were first enacted, the Sherman Act in 1890 and the Clayton Act in 1914. While some amendments have been enacted since then, the need for a major review of the body of antitrust law has been apparent for a long time.

Corporate structure in the United States has changed vastly. Distribution and merchandising of products are nothing like what it was in the earlier years.

Attorney General Herbert Brownell, Jr. on June 26, 1953, announced his intention to establish a national committee to study the antitrust laws. The members of that committee and the conferees of that committee, and the Government liaison with that committee, make up the large percentage of who's who among the experts in the antitrust field in this country. Their document was published on March 31, 1955, which contains 393 pages of a report which has been constantly referred to up to this date in hearing after hearing by the Antitrust Subcommittees of both the Senate and the House and other congressional committees. Some of the suggestions in that report have been enacted since then, and other suggestions in that report have prevented bad legislation in the antitrust field from being placed on the books.

The extent of Government regulation and supervision has vastly increased. The labor relations and productivity of labor have undergone vast alterations. There have been innumerable court decisions which should be taken into consideration in revising the statutory law. Our preeminent position and the urgency of improving and expanding it further in the field of international trade should receive prime consideration in any revision in this law.

Further, the burdens on our Federal court systems should be a factor in deciding how to refashion our antitrust laws. Antitrust cases have increased in number and in time consumed to an alarming and very substantial degree. This type of case is heavily responsible for the mounting burdens of docket congestion in Federal district courts.

Some time ago the weight assigned to Government antitrust cases was placed at 8.0 compared with 1.2 for tax cases and 1.7 for condemnation cases. Private antitrust cases were weighted at 4.0 compared to only 1.8 for civil rights cases and 0.7 for Fair Labor Standard Act suits. These figures may have changed somewhat in the intervening time, but essentially they will retain their relative position in my judgment.

Noted economists, lawyers, educators, and Government officials have urged in years past a complete review of our antitrust laws. They have done so realizing the necessity to meet the many challenges of the future in our economic security. We have put off too long this much-needed study and revision commission.

It is my hope that progress can be made soon on this measure.

Mr. President, I join the Senator fully, and hope the measure will be approved. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ALLEN. Mr. President, will the Senator yield?

Mr. JAVITS. I yield to the Senator from Alabama.

Mr. ALLEN. I support the concept of this commission. The only defect I see is that it is being created along wtih some far-reaching basic fundamental changes in the antitrust laws. I think the Senator really should have offered his amendment as a substitute to the pending substitute, because it seems rather strange to me that we are setting up a commission to make recommendations as to changes in the antitrust law and, in the very same bill, we are passing a bill that has the most far-reaching effects in the antitrust field since the bill of the distinguished Representative from Alabama, Judge Clayton, was passed in Congress. So I am just wondering why put this on now and then go ahead with this basic and fundamental change in the antitrust law. Would it not be much better to delay these enactments on the changes in the law and await the recommendations of this fine commission that the Senator is having set up?

Mr. JAVITS. Mr. President, the Senator from Alabama, as usual, validates his reputation here for being very astute. Of course, this could be a substitute for the bill, but Senator HRUSKA and I have been waiting for 8 years to get to the point where this could be done at all. Those who believe in the existing antitrust laws are not prepared to lay them aside, and indeed I am not myself, because we have to have some economic policy on the books, and right now that economic policy is the existing antitrust laws interpreted by the courts. As to this bill which is before us now, the Senator again is technically correct, that we are dealing with the antitrust law, because the enforcement machinery is a very important element of the antitrust law, but I am dealing with the substantive law itself and that is not in any way changed or affected except as stricter means of enforcement may change or affect the antitrust law substantively.

So, my amendment is completely consistent with the bill, but it does take account of the fact that, under different circumstances, Senator HRUSKA and I and before him Senator Wayne Morse and I, tried for years to get this very thing done. It is very unfortunate that it was not done. We would be in a much better position to judge parens patriae, and everything else, if it had been done, but this is life, and it was not.

But within this frame of reference, when those who believe in the existing antitrust laws feels that they want to fortify questions of enforcement, it becomes very appropriate and even acceptable to them that the substantive law should contemporaneously be renewed at the same time that they make every effort to enforce the existing law.

As the need in economic terms in my judgment and, I think, in the judgment of the most Senators is so urgent, we have taken this opportunity which, as I say, seems generally acceptable to go ahead in this way.

What I am saying is really not a valid argument against the Senator's proposition. It is simply an explanation of why we are where we are and why I cannot see that it is inconsistent, though I am sure in pure logic the Senator's proposition is absolutely correct.

Mr. ALLEN. If the Senator will yield further, if this blue ribbon commission is being set up in this area and on deliberation and study of the problem they would feel that Congress had acted ill-advisedly in passing these amendments to the antitrust law, would the Senator in all likelihood look with favor on the recommendation of the commission if it recommended making changes in this area?

Mr. JAVITS. I certainly would.

May I point out to the Senator that if they come up with a new concept of antitrust law, naturally, the remedies and the techniques of the enforcement would have to follow that new concept. I could give the Senator many instances of that, but I am sure he could think of them himself so that we would understand, of course, that this is advisory to us. There is nothing compelled upon us. But I certainly would look with favor upon whatever they recommended, either in the substantive or adjective field.

Mr. ALLEN. I say to the distinguished Senator that while I favor this concept I believe that it follows too closely in the tradition of Congress to act first and study later.

Mr. JAVITS. I yield the floor.

Mr. KENNEDY. Mr. President, I want the record at this point in the discussion and debate to indicate that the members of the Antitrust Subcommittee feel that the hearings and study by the subcommittee over the period of the last 8 to 10 years fully and completely justify the legislation that we have before us at this time. Basically this bill strengthens enforcement for the existing antitrust laws.

The amendment which is being offered by the Senator from New York, and others, addresses a much broader and different variety of antitrust issues and questions which I feel would generally be useful. I think in many instances it is true that many of those issues have already been examined in very considerable detail by the Antitrust Subcommittee. I do think that the amendment is useful, and I would like to point out that the amendment itself has specifically recognized the need for and importance of the current legislation. It starts off, in section 601, "In pursuance of title I," which is the declaration of policy in the Hart-Scott amendment. In that declaration of policy it says:

> It is the purpose of the Congress in this act to support and invigorate effective and expeditious enforcement of the antitrust laws . . .

So in this sense this amendment offered by the Senator from New York is complimentary; it supplements the central thrust of the legislation which, as I say, is basically antitrust enforcement. Our bill is trying to put teeth into the various existing antitrust laws.

I certainly do not object to this study, and I think that it can have some value, for example, in the area of assessing the implications of antitrust policies on unemployment. That happens to be an issue of very great significance and importance, especially in light of the extraordinary fluctuations in our own economy.

I think there are other areas which this study is supposed to review which can be useful to us. One of them I would certainly expect would be the monopoly provisions of the Sherman Act—as to why it takes such an extraordinary period of time to break up large concentrations of power. I would hope that that commission would review this.

But I daresay that I take issue with my friend and colleague from Alabama who has suggested that because we are doing a study, therefore, we either do not have to enforce the existing laws, or do not have to provide the remedies and tools which are included in this legislation. I quite frankly feel they are more than justified by the record before the Senate today.

So I say that we are prepared to accept the amendment.

I shall ask the Senator from New York a question. He mentioned that six private members would serve on the commission; this is provided on the bottom of page 2 in section 602. Does the Senator include within those six private members not only representatives from business and industry, but also representatives of various consumer groups?

Mr. JAVITS. Or labor.

Mr. KENNEDY. Or labor, and other academicians or thoughtful people who have given time and attention to this issue.

Mr. JAVITS. My answer to that is unequivocally yes, and I tried to cover it in the next subsection, which is headed "Representation of Varied Interests" and reads:

> The membership of the commission shall be selected in such a manner as to be broadly representative of the various interests, needs, and concerns which may be affected by the antitrust laws.

Mr. KENNEDY. That would certainly be my interpretation of it. But I do think that it is helpful.

Mr. President, I am prepared to support the amendment in behalf of the managers of the bill, and I only want to add the final thought that I do not think that this in any way weakens nor should weaken the essential and compelling thrust of this legislation, which I think has been fully and completely justified in the course of the hearings that have taken place during the past year.

Mr. President, I urge my colleagues to support this amendment, and I hope the Senate will accept it.

Mr. JAVITS. I am very grateful to Senator KENNEDY and Senator HART for looking with sympathy upon this amendment. I think that, in the eyes of both opponents and proponents, it will be a healthy and constructive element of this bill.

Mr. President, I am prepared for the vote, if no other Member wishes to speak.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New York. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. Bumpers), the Senator from Idaho (Mr. Church), the Senator from Mississippi (Mr. Eastland), the Senator from Minnesota (Mr. Humphrey), the Senator from Hawaii (Mr. Inouye), the Senator from Louisiana (Mr. Johnston), the Senator from Arkansas (Mr. McClellan), the Senator from Wyoming (Mr. McGee), the Senator from New Mexico (Mr. Montoya), the Senator from Utah (Mr. Moss), the Senator from Georgia (Mr. Nunn), the Senator from Illinois (Mr. Stevenson), the Senator from Missouri (Mr. Symington), the Senator from California (Mr. Tunney), and the Senator from New Jersey (Mr. Williams) are necessarily absent.

I further announce that the Senator from Minnesota (Mr. Mondale) is absent on official business.

I also announce that the Senator from Indiana (Mr. Bayh) is absent because of illness.

I further announce that, if present and voting, the Senator from Minnesota (Mr. Humphrey), the Senator from Indiana (Mr. Bayh), and the Senator from Illinois (Mr. Stevenson) would each vote "yea."

Mr. HUGH SCOTT. I announce that the Senator from Tennessee (Mr. Baker), the Senator from Oklahoma (Mr. Bellmon), the Senator from Tennessee (Mr. Brock), the Senator from Hawaii (Mr. Fong), the Senator from Hawaii (Mr. Griffin), the Senator from Nevada (Mr. Laxalt), the Senator from Idaho (Mr. McClure), the Senator from Illinois (Mr. Percy), the Senator from Virginia (Mr. William L. Scott), and the Senator from Connecticut (Mr. Weicker) are necessarily absent.

The result was announced—yeas 73, nays 0, as follows:

[Rollcall Vote No. 220 Leg.]

YEAS—73

Abourezk
Allen
Bartlett
Beall
Bentsen
Biden
Brooke
Buckley
Burdick
Byrd,
Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Clark
Cranston
Culver
Curtis
Dole
Domenici
Durkin
Eagleton
Fannin
Ford
Garn
Glenn
Goldwater
Gravel
Hansen
Hart, Gary
Hart, Philip A.
Hartke
Haskell
Hatfield
Hathaway
Helms
Hollings
Hruska
Huddleston
Jackson
Javits
Kennedy
Leahy
Long
Magnuson
Mansfield
Mathias
McGovern
McIntyre
Metcalf
Morgan
Muskie
Nelson
Packwood
Pastore
Pearson
Pell
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Sparkman
Stafford
Stennis
Stevens
Stone
Taft
Talmadge
Thurmond
Tower
Young

NAYS—0

NOT VOTING—27

Baker
Bayh
Bellmon
Brock
Bumpers
Church
Eastland
Fong
Griffin
Humphrey
Inouye
Johnston
Laxalt
McClellan
McClure
McGee
Mondale
Montoya
Moss
Nunn
Percy
Scott,
William L.
Stevenson
Symington
Tunney
Weicker
Williams

So Mr. Javits' amendment (No. 1777) was agreed to.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. KENNEDY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JAVITS. Mr. President, there was inadvertently omitted from the amendment, unanimously adopted, a provision for appropriations. I estimate not in excess of $500,000 a year for the commission for each of 2 years. I ask unanimous consent that that particular section may be added to the amendment, as adopted.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. I thank the Chair.

AMENDMENT NO. 1772

Mr. THURMOND. Mr. President, I call up amendment No. 1772.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from South Carolina (Mr. Thurmond) proposes (for Mr. Griffin) an amendment No. 1772.

The amendment is as follows:

On page 22, line 15, strike everything through line 8 on page 24.

On page 24, line 10, strike "303" and insert in lieu thereof "302".

On page 26, line 2, strike "304" and insert in lieu thereof "303".

On page 26, line 11, strike "305" and insert in lieu thereof "304".

On page 26, line 18, strike "306" and insert in lieu thereof "305".

Mr. THURMOND. Mr. President, this amendment was introduced by the distinguished Senator from Michigan (Mr. Griffin). He is out of town today, and I have been requested to offer this amendment.

Mr. President, I ask unanimous consent that my name be added as a cosponsor to that amendment along with Senator Griffin.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I would like for the floor manager of the bill to listen closely to this because I feel he might accept this amendment.

This amendment would delete section 302 of the bill which provides for so-called complex antitrust cases to be expedited by the Federal district courts. If the Attorney General certifies that an antitrust case is complex, a court must give the case priority on its calendar.

Section 302 in effect constitutes a legislative reordering of court priorities solely on the grounds that an antitrust case is complex. Nowhere in the bill is there any definition or standards for determining what constitutes a complex case.

Just before a case is complex does not mean it should be given preference. Many other cases of less complexity may be far more important to the parties involved, to consumers and the economy.

With court calendars already overcrowded, there is no justification for further hamstringing the courts without a more compelling reason than is contained in section 302.

I just wonder if the manager of the bill has a statement he wants to make on it.

Mr. KENNEDY. Well, Mr. President, it is my understanding that courts, under the existing legislation, have the flexibility to expedite the case, which is emphasized and mandated by the section deleted by the Senator's amendment.

The amendment of the Senator from Michigan, presented by the Senator from South Carolina, would still in the particular complex cases involved insure that there will be expeditious action which would be taken on these to see that there would be a quick, swift, and hopefully, just solution and resolution.

As I understand it, it is not the intention of the Senator from South Carolina to slow down the consideration of these cases; am I correct?

Mr. THURMOND. There is no effort to slow down the cases. It is just not giving a priority by calling it complex when it may not be complex or when another case may be just as important, and insead of giving it a priority let the court decide the situation.

Mr. KENNEDY. As I understand, it does not deprive the courts of any authority or power they have at the present time.

Mr. THURMOND. That is correct. The court would determine the caliber, and we feel that is a sounder way to handle it than for Congress to tell the court how it should handle the case.

Mr. KENNEDY. As I understand further if the courts desire to use special masters or economics experts, or to exercise their own judgment in setting the timeframe for discovery and trial, they will still have the power to do so?

Mr. THURMOND. I do not know of any reason why they would not, because the judges would have all of the powers they now have. In fact, if we do not pass this the judges will use their discretion in making up calendars, as they usually do, considering all of the cases. But if we do pass this, this will force the judges to do something they may not think is wise or may not think is proper or right. So this leaves it to the discretion of the judges in the matter.

Mr. KENNEDY. With that understanding that this in no way diminishes, restricts, or alters the existing authority and powers of the courts and would not undercut or undermine the need to insure the expeditious handling of particular complex antitrust cases, we would be willing to accept the amendment. I think it is fair to point out that the administration itself has opposed the section proposed to be deleted by this amendment.

Mr. THURMOND. Does the Senator want a rollcall on it or not?

Mr. KENNEDY. No, I do not believe we need a rollcall.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

AMENDMENT NO. 1705

Mr. BUCKLEY. Mr. President, I call up my amendment 1705.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New York (Mr. BUCKLEY) proposes an amendment No. 1705.

The amendment is as follows:

On page 29, delete lines 24 through 25 and on page 30, delete lines 1 through 3 and insert in lieu thereof the following:

(f) In any action brought under this section, the court shall award reasonable attorneys' fees and costs to a prevailing defendant. For purposes of this section, the term "attorneys' fees and costs" is defined to include the reasonable expenses of witnesses or expert witnesses, the reasonable cost of any studies, analyses, engineering reports, tests, or projects which the court finds necessary to the litigation of the action, and reasonable attorneys' fees based upon the actual time expended by any attorney of a party and his or her staff in advising and representing a party (at prevailing rates for such services, including any reasonable risk factor component).

Mr. BUCKLEY. Mr. President, this amendment proposes to amend section 401 of the Hart substitute; it provides for an award of reasonable attorneys' fees and all costs necessary to support the litigant's position when the defendant successfully defends his case.

When a State attorney general brings an action under the parens patriae provisions of the pending legislation, and does not prevail, the plaintiff or his principal would be obliged to reimburse the defendant who has been literally forced into expenditures which can easily run into the hundreds of thousands of dollars, but who has been vindicated by the results of the litigation. The delegation of power to States' attorneys general without strong provisions to insure that the private parties are left whole when and if the judicial process had vindicated them is wrong. We have heard much about Government abuse and the arrogance of power. It seems to me that without a strong provision for reimbursement of the full costs of litigation in the parens patriae section, the Congress will be establishing conditions where a plaintiff's abuse of discretion or poor judgment is a burden we assign to the defendant. That is very unfair.

I am convinced that the 50 new "defenders of the public interest" proposed in the Hart-Scott substitute must be held accountable for the burdens created by publicly funded litigation that proves to be unfounded. Without a legal fees section, companies can look forward to having "legal wars of attrition" waged against them in any State in which a politically ambitious attorney general sees opportunity in dragging out an antitrust claim. The result would be that even a large corporation—to say nothing of the smaller ones now being bought under the ambit of the antitrust laws—could well be forced into a consent decree settlement for no reason other than a decision that the costs of defense were simply too high to bear.

The House took a modest step to avert such a result by allowing a discretionary grant of legal fees when a State's case is frivolous or in bad faith. It is hard to imagine how a court would define "frivolous" or "in bad faith," let alone the problem of how a defendant would bear the burden of proving the same. We have in such language a problem not unlike the burden of proving "malicious" under the Sullivan doctrine in libel cases involving public officials.

I suggest that these words are very hard to define and the burden of proof probably incapable in most cases of being carried.

I believe we are dealing here with a situation where simple equity—the extraordinary power of Government on the one hand, and the limited resources of private corporations on the other—needs to be addressed.

The mere status of being a defendant in an antitrust action is, in terms of time, money, and anxiety, more punishment than most convicted criminals ever see. Anyone who doubts this assertion should consider the case of Firestone and Goodyear. For 12 years, the Justice Department conducted discovery against those two companies, resisting any and all attempts by the defendants to bring the matter to trial. During that period, defendants spent roughly $2,000,000, in addition to indeterminable amounts of executive time. When finally forced to come to trial, the Justice Department dropped charges, admitting in a 23-page memorandum that it had never had any direct evidence of wrongdoing and that it had used discovery in order to determine whether it had a case.

How many criminal defendants are forced to pay $2,000,000 and suffer 12 years of proceedings in anticipation of trial? I suspect such a situation would be held unconstitutional in most other circumstances, irrespective of the guilt to the defendant. But in the case of Firestone and Goodyear, the Justice Department admitted that it had never had direct evidence of wrongdoing on the part of the defendants.

Mr. President, if we are going to multiply 50-fold the ability of Government to engage in this sort of antitrust litigation, then at least we should be willing to compensate the defendants in instances in which the Government is clearly in error.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, we oppose this amendment. Basically, we do not believe that the State is going to involve itself in expensive and extensive litigation, which is going to be costly to the State, for frivolous reasons.

If we are going to put substantial restrictions on the power of an attorney general to use this title—and we are not prepared to accept that approach—then there are other places in this litigation where that issue should be reached.

By accepting the Buckley amendment we are, in effect, saying to the attorneys general that we believe there should be an important inhibition to their bringing many of these particular cases which they may otherwise feel justified in instituting.

It seems to me that what we are saying throughout title 4 is that the instrument of Government, in this case the attorney general, ought to be acting in the public interest and for the public benefit and those cases obviously ought to be carried forward only to protect consumers consistent with public policy purposes.

If we are going to say now that an attorney general is going to have to consider that he believes it is in the public interest that such case be carried forward, he believes the publicy policy is justified, that he believes there has been violation of the antitrust laws, but that if he brings his suit forward and ultimately does not win that State can very well be penalized with very sizable amounts of resources, then I think quite clearly there will be a very serious inhibition to the suit by the attorney general.

There are written into the legislation on page 29 full protections against any kind of potential harassment.

It provides on the bottom of page 29:

"(f) In any action brought under this section, the court may in its discretion award reasonable attorneys' fees to a prevailing defendant upon a finding that the State attorney general acted in bad faith, vexatiously, wantonly, or for oppressive reasons.

So the concerns that have been expressed by the Senator from New York, suits being brought in bad faith, wantonly, and for oppressive reasons, are actually reached in the particular language of the legislation itself. This subsection can completely handle the kind of case, I think, that the Senator would be so concerned about.

Furthermore, the States are already under constraint not to file the frivolous suits. If they lose, they recover neither damages nor costs, and the costs in a case like this are considerable in terms of travel and transcripts. Also, if they lose, they must pay court costs, though not necessarily the attorneys' fees, to the prevailing parties.

The Federal Rules of Civil Procedure rule 54(d) provides that "costs shall be allowed as of course to the prevailing party unless the court otherwise directs." Under 28 U.S.C. 1821, 1920–23, the following costs generally are paid to the prevailing party: witness fees, court fees, stenographic transcript costs, deposition costs, printing costs, and document reproduction costs.

That serves as an inhibition, I believe, and the particular provisions of the legislation that deal with cases which are brought by the attorney general in bad faith, or wantonly, or frivolously, are also already covered.

So we do not believe that that amendment is justified or warranted. We feel satisfied that there are adequate protections built into the legislation.

Mr. BUCKLEY. Mr. President, I must confess that I am not persuaded by the arguments advanced by the distinguished Senator from Massachusetts.

In the first place, we are opening up a vast new area of potential plaintiffs.

We do know politics has been known to raise its ugly head in the abuse of power.

Now, the power of an attorney general to bring suit, he may employ all kinds of private lawyers under a contingent fee arrangement, thereby vastly expanding the base for opportunities for harassment.

I also find not very persuasive the suggestion that because there are provisions in the bill that suggest that a court may, in its discretion, award reasonable attorney fees to a prevailing defendant will, in itself, act as restraint on an attorney general who, after all, and like a private party, is not expending his money in carrying forward the prosecution of a case, but rather, the taxpayers' money.

Finally, it seems to me what is essential is, given these opportunities for harassment, given the increasingly high costs of this kind of complex litigation, given the type of evidence that must be mustered, must be assembled in defense of accusations of antitrust violations, that the defendant is entitled to the certainty of reimbursement in the event he should prevail for the simple reason that a business necessarily must make a determination as to whether the costs of defense justify going forward, even when there is a certainty on the part of the defendant that the defendant is in the right and will be vindicated by a judge.

For all these reasons, I urge my colleagues to adopt my amendment as an act of equity, as a determination that we will do something in this to redress the enormous imbalance that now exists between the power of a government and the power of a private company.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. KENNEDY. Mr. President, I am unconvinced by the arguments put forward by the Senator from New York. It is quite clear in the legislation itself that if cases are brought in bad faith, wantonly, or oppressively the courts are completely empowered to make the kinds of grants for the prevailing defendant which is a matter of concern to the Senator from New York.

I believe we have to ask ourselves if we are formulating and fashioning legislation which is designed to provide protection for consumers in matters dealing with the well-being of the consumers in a particular State.

We have to recognize that the attorney general is charged with fulfilling the requirements of law and to protect and remedy wrongs against his State's residents. He is expected to do so. The amendment of the Senator from New York would provide, I think, an incentive for him not to do so. If he is going to act irresponsibly, there are adequate protections in the legislation to deal with the kind of exaggerated case upon which the Senator from New York has commented.

For those reasons, I would say that there are adequate protections to deal with the case. If we go the full route as suggested by the Senator from New York, I think, as a matter of public policy, it is going to serve as a significant inhibition on the ability of the attorneys general of our several States to deal effectively and vigorously with the protection of the consumed interest against violations of the antitrust laws.

Mr. MORGAN. Mr. President, I do not know that I can add anything to what the distinguished Senator from Massachusetts has said, except to say from my own experience, as an attorney general and a practicing lawyer, I can say that this amendment would have the effect of destroying almost all of the antitrust legislation now on the books.

There are already provisions in this bill to protect the public and to protect industry from attorneys general who act in bad faith. They would not only have to pay the attorney fees but pay court costs.

Under the present law, even if they lose a case and are not acting in bad faith they have to pay court costs. This, in itself, can run into astronomical figures when we are dealing with this kind of legislation. If we add to that the attorney fees, it would make it impractical, if not impossible, for any attorney general in America to file a lawsuit.

I apologize to the Senate for using personal references, but I have been involved in a number of these litigations and I have not yet been involved in one in which the defendants were not represented by dozens of attorneys.

In the tetracycline case almost every time we went to court there would be a courtroom full of attorneys. If attorney fees had been attached to the State no attorney general would ever have a budget adequate to instigate such an action.

The provision of good faith, I believe, provides all of the protection that our system of jurisprudence should provide. We rejected the British system in 1776, of requiring attorney fees to be paid to the defendant if the case was lost. If that situation prevailed, as it did then, no one would ever go to court. So I hope this amendment will be defeated.

Mr. BUCKLEY. Mr. President, I suspect that people probably have their minds made up. Nevertheless, I would like to make a couple of remarks in answer to my friend from North Carolina.

First of all, my amendment applies only to parens patriae cases. It does not affect the antitrust statutes presently on the books.

No. 2, I am not talking about reimbursement of attorney fees by the loser in private litigation. I think this is an area where we have made significant strides from the old British system. My amendment would apply only to nonprevailing governmental prosecutors.

Furthermore, my amendment is limited to the reimbursement of reasonable attorney fees. If defendants bring on a superfluity of lawyers, that will not mitigate against the State.

Frankly, I really do not believe that a State attorney general would be less willing to bring a case that he felt to be meritorious because, after litigating that case, it might be found that, in fact, it was not meritorious, and that the defendant had been unjustifiably forced to incur expenses of a quarter million dollars. It seems to me that an attorney general ought to welcome the opportunity of seeing that defendant made whole.

Mr. President, I am ready for a vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. KENNEDY. Mr. President, I move to table the amendment of the Senator. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. BUMPERS), the Senator from Idaho (Mr. CHURCH), the Senator from Mississippi (Mr. EASTLAND), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Hawaii (Mr. INOUYE), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Wyoming (Mr. MCGEE), the Senator from New Mexico (Mr. MONTOYA) the Senator from Utah (Mr. MOSS), the Senator from Georgia (Mr. NUNN), the Senator from Missouri (Mr. SYMINGTON), the Senator from California (Mr. TUNNEY), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I further announce that the Senator from Minnesota (Mr. MONDALE) is absent on official business.

I also announce that the Senator from Indiana (Mr. BAYH) is absent because of illness.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) and the Senator from Indiana (Mr. BAYH) would each vote "yea."

Mr. HUGH SCOTT. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Oklahoma (Mr. BELLMON), the Senator from Hawaii (Mr. FONG), the Senator from Michigan (Mr. GRIFFIN), the Senator from Nevada (Mr. LAXALT), the Senator from Idaho (Mr. MCCLURE), the Senator from Illinois (Mr. PERCY), the Senator from Virginia (Mr. WILLIAM L. SCOTT), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

The result was announced—yeas 46, nays 29, as follows:

[Rollcall Vote No. 221 Leg.]

YEAS—46

Abourezk
Bentsen
Biden
Brooke
Burdick
Cannon
Case
Chiles
Clark
Cranston
Culver
Durkin
Eagleton
Ford
Glenn
Gravel
Hart, Gary
Hart, Philip A.
Hartke
Haskell
Hatfield
Hathaway
Jackson
Javits
Kennedy
Leahy
Long
Magnuson
Mansfield
Mathias
McGovern
McIntyre
Morgan
Muskie
Nelson
Pastore
Pell
Proxmire
Randolph
Ribicoff
Schweiker
Scott, Hugh
Sparkman
Stafford
Stennis
Stevenson

NAYS—29

Allen
Bartlett
Beall
Brock
Buckley
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Curtis
Dole
Domenici
Fannin
Garn
Goldwater
Hansen
Helms
Hollings
Hruska
Huddleston
Metcalf
Packwood
Pearson
Roth
Stevens
Stone
Taft
Talmadge
Thurmond
Tower
Young

NOT VOTING—25

Baker
Bayh
Bellmon
Bumpers
Church
Eastland
Fong
Griffin
Humphrey
Inouye
Johnston
Laxalt
McClellan
McClure
McGee
Mondale
Montoya
Moss
Nunn
Percy
Scott,
  William L.
Symington
Tunney
Weicker
Williams

So the motion to lay on the table was agreed to.

Mr. MORGAN. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

Mr. CANNON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MORGAN. Mr. President, we yield to any Senator who wishes recognition.

AMENDMENT NO. 1718

Mr. HRUSKA. Mr. President, I call up my amendment No. 1718.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

> The Senator from Nebraska (Mr. HRUSKA) proposes amendment No. 1718.

The amendment is as follows:

> On page 31, line 14, insert the following before the period: ", except that such term does not include any person employed or retained on a contingency fee basis".

Mr. HRUSKA. Mr. President, the purpose of this amendment is to make it clear that the attorneys' fees which may be paid by States to any outside counsel retained by them may not be made contingent on the success of the action, and must be determined on the basis of actual time spent—not on the basis of a percentage of the total recovery, as is done in typical contingent fee arrangements.

Courts have in the past approved contingent fee arrangements which award attorneys a percentage of the total recovery, and which have often resulted in fees that run into the millions of dollars. The reason for awarding such astronomical fees is to provide incentive for the private bar to assume the substantial risk of prosecuting actions involving numerous small claims, which, if unsuccessful, can leave the attorneys with no compensation whatsoever.

There will, however, be little risk in connection with actions brought by the States, which will be paying their legal staffs in any event, and which can afford to pay outside counsel on an hourly basis regardless of the outcome of the action.

Accordingly, there is no justification for permitting contingent fee arrangements, which would result in windfalls to attorneys, not compensation for assumption of risk, and of course, to allow those huge astronomical fees would significantly reduce the amount of the damage fund that would be available to the injured consumers themselves.

Mr. President, it is the purpose of this amendment to effectuate that type of arrangement.

Mr. HELMS. Mr. President, I do hope the Senate will approve this amendment.

In amendment No. 1701, the term "State attorney general" is defined. The pending amendment No. 1718 would add to the definition these words:

> , except such term does not include any person employed or retained on a contingency fee basis.

Obviously, Mr. President, the purpose of this amendment is to make clear that the contingent fee arrangements are prohibited in such suits.

The purpose of parens patriae or a class action is to restore the rights of a deprived class.

The pending bill would not operate to restore the rights of the deprived class. Under present law such rights are not restored. Under the pending bill there will be even less likelihood that they would be.

Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. HELMS. The real beneficiaries of such class suits are the lawyers who generate and financially support the suit.

The Hotel Telephone Charges case was a class action in the name of millions of telephone users with individual claims of about $2 apiece. It was a case against some 600 hotels and hotel chains.

The Ninth Circuit Court of Appeals denied certification of the class saying:

> In view of the non-existent or miniscule recoveries that are likely to accrue to the supposedly intended beneficiaries, it is not surprising that most of the named beneficiaries are attorneys, acting for themselves.

Mr. President, that is an understatement, if ever there was one.

The attraction of astronomical fees creates a new class of interested litigants—the lawyers. It is they who are the largest and the real parties in interest. The suits are brainchildren of the attorneys who receive the bonanza for themselves with little of significance for the consumer parties.

A case in point is Cotchett against Rent-a-Car. It involved an action seeking to recover a $1 surcharge on rental automobiles for a class of 1,400,000 persons.

The court—U.S. District Court for New York—refused to certify the case. The judge stated:

> The difficulty I have with this situation lies in the fact that the possible recovery of Mr. Cotchett as a member of a class is far exceeded by the financial interest Mr. Cotchett might have in the legal fees engendered by this law suit.

The judge's decision was pursuant to rule 23 of the Rules of Federal Civil Procedure. But enactment of that rule will do away with it, thus facilitating such a farfetched action to be brought.

In the Eisen case the court said it was "reluctant to permit actions to proceed where they are not likely to benefit anyone but the lawyers who will bring them."

EXAMPLES

The junior Senator from Idaho (Mr. MCCLURE) on May 25, in the Senate, gave many lurid examples of the manner in which some lawyers feather their own nests in such actions. Here are some of them:

A sum of $635 per hour in the Detroit case, Detroit against Grinnel case. Counsel in that case called it a modest figure because in another case he had received $3,500 per hour.

Ellis against Flying Tigers case: $1,000 per hour.

A $9 million fee in the Gypsum Wallboard case.

A $1,100,000 fee in the Library Book case.

The famous tetracycline case. The final settlement totaled about $213 million. Attorney fees totaled $42 million. Consumers were allocated $60 million. But only 46 percent of that was actually paid out. This was $28 million. Attorney fees were 150 percent greater than actual receipts of consumers.

Mr. President, who is getting ripped off in this? Who is talking about the consumer?

ANOTHER FIDUCIARY WRONGDOER IS CREATED BY CONTINGENT FEES

U.S. District Judge Richey of Washington, D.C., refused to be bound by a contingency fee contract. He pointed out that the individual claimants got insignificant sums. These are the consumers. They get the pittance.

He recalled to mind that the purpose of the suit was to restore rights of a deprived class, and then he wrote:

> In such circumstances, a sizable diversion of the recovery for attorney's fees would merely constitute substitution of one fiduciary wrongdoer with another.

"ILL GOTTEN GAINS MUST BE DISGORGED"

Advocates in recognition of the phenomenon of the real purpose of class suits not reaching the beneficiaries significantly—and perhaps anticipating such a showing—have shifted ground by repeating time and time again: "Ill gotten gains must be disgorged."

Thus, with great ease they forego the failures of the real purpose of class actions, which is to restore rights to a deprived class. They try to elevate their cause by the pseudo moralistic intonation of "ill gotten gains must be disgorged."

Mr. President, the question immediately arises: "Disgorged to whom?"

In the main, to the lawyers—who are the real parties at interest, since the recoveries to the intended beneficiaries are either nonexistent or miniscule.

The record plainly shows the real party at interest is the lawyer holding a contingent and unconscionable fee contract. No other face can be put upon it. The Senate, if it is at all concerned about the consumer, had better recognize that fact right now, with this amendment, and approve it overwhelmingly.

I repeat the words of Judge Richey.

> In such circumstances, a sizable diversion of the recovery for attorney's fees would merely constitute substitution of one fiduciary wrongdoer with another.

As is said in the vernacular, Mr. President, that is calling it like it is. Anybody who pretends to the contrary has a lot of explaining to do in order to satisfy the Senator from North Carolina.

It would be pertinent to ask: Who will force the second fiduciary wrongdoer to disgorge the fat fees of his contingent fee contract?

The answer is plain: The real solution is to deny such an unholy alliance of the contingent fee contract and class action.

This is what the pending amendment would accomplish—that is all it seeks to do—by prohibiting contingent fee arrangements.

No doubt loud cries will arise protesting the idea of letting the violators retain their "ill gotten gains."

Mr. President, this can be said with firmness: To prohibit the contingent fee contract does not mean that the violator of antitrust laws will be allowed to keep his ill-gotten gains.

This proposition will be addressed in

greater detail elsewhere in the current debate.

At this point, I make only brief reference to it as follows:

There are other means with which to meet that problem; means which are more direct and more effective; means which are seasoned in procedure and productive of suitable punishment and deterrent factors.

Fines and imprisonment: Criminal prosecution is one of these means. In per se, antitrust violations, this approach has heretofore been preventive. It is even more so in the greatly increased penalties only recently enacted by Congress.

Parenthetically, Mr. President, I point out that the Senator from North Carolina was one of the cosponsors of the bill providing for those increased penalties: Up to 3 years in prison, and up to $1 million in fines, or both, per violation.

Civil penalties and private suits for treble damages under present practice and procedure are also formidable. Truly aggrieved plaintiffs who can be present in court, who can prove injury, and with proof of actual extent of damage sustained. These are constitutional ways, truly resulting in restoration of rights to deprived persons. The aggrieved will receive the proceeds.

Prohibition of the contingent fee will go a long way to get back to this prime objective of restoring rights to deprived persons.

In any event the pending bill does not posses the capability of achieving that objective.

Even now under present parens patriae or class actions, which are harder to gather than they would be under the pending bill, there is more than ample evidence of abuses in lawsuits filed by lawyers with contingent fee contracts.

The situation would be virtually intolerable if the pending bill is enacted minus the pending amendment.

Lawsuits under the pending bill, if it became law, would be ostensibly filed under the imprimatur of the State. Such suits, now and under the new bill, are filed to coerce settlements, not to be tried. Certification of a class immediately creates an uncertain and enormous exposure, often large enough to bankrupt a defendant.

Ninth Circuit Court Judge Duniway put it this way:

> I doubt that plaintiffs counsel expect the immense and unmanageable case that they seek to create to be tried. What they seek to create will become (whether they intend this result or not) an overwhelmingly costly and potent engine for the compulsion of settlements, whether just or unjust. (508 Fed. 2nd 238)

Prof. Milton Handler, considered by many as one of the deans of America's antitrust bar, testified before the Senate Judiciary Committee. On the point just made, he stated:

> Any device which is workable only because it utilizes the threat of unmanageable and expensive litigation to compel settlement is not a rule of procedure . . . it is a form of legalized blackmail. If defendants who maintain their innocence have no practical alternative but to settle, they have been de facto deprived of their constitutional rights to a trial on the merits. The distinctions between innocent and guilty defendants and between those whose violations have worked great injury and those who have done little if any harm become blurred, if not invisible. The only significant issue becomes the size of ransom to be paid for total peace.

It is undeniable that very, very few large antitrust cases are tried. That is a matter of record. And no large consumer class case has ever been tried.

Suits in the name of a State are an exercise of State power. The State should exercise control over the use of State power, not only in theory, but in fact. If a State attorney general were able to delegate this function to private counsel on a contingency fee basis, the political and financial stake he would experience in otherwise prosecuting the action would be substantially diminished. Thus State power would be exercised without the guarantee of State supervision and the accountability which goes with it.

The pending amendment excludes the use of fee arrangements whereby the State agrees to pay a private attorney a percentage of the recovery if the attorney wins the case for the State. The amendment prohibits any contracts which made the outside counsel fees or the amount thereof contingent on the amount, if any, of the recovery or on whether there is a recovery.

Frankly, Mr. President, even this is going too far when we delegate it, in my opinion, when there is delegated by the bill to a State attorney general the power, authority and jurisdiction to file such parens patriae or class actions. We should leave it to the people of the several states, speaking through their elected legislators, to decide whether this power should be conferred and exercised by the attorney general of the State.

If this protective condition is not imposed on the use of the parens patriae power, the whole concept should be rejected.

Meantime, one vital step in this legislative proceeding is to adopt the pending amendment, which would prohibit contingent fee contracts.

I so urge the Senate to do. I reserve the remainder of my time.

Mr. MORGAN. Mr. President, my distinguished colleague presented some very interesting arguments. I wish that time would permit me to rebut those but, as the President knows, I am limited in time. Therefore, I shall restrict my remarks to what I consider to be the crux of the case.

Members of the Senate should remember that what this amendment is seeking to do is not to outlaw percentage contracts with attorneys; that is, where an attorney would get a given percentage if he won the case. That is the impression that one would gather from listening to the arguments. What this would do, Mr. President, is outlaw any contract with an attorney whereby the attorney would be paid only if he won the case.

There is a great difference, because, in this bill, there are safeguards set against the very complaints that my colleagues complained of. On page 29, it is provided that the court shall determine the fee. It does not say the court shall approve a contract, but it says the court shall determine the fee and, in the legislative history in the committee, it spells out the basis on which the fee shall be determined.

It talks about hourly charges and, of course, it would take into consideration success. But, Mr. President, this is a safeguard against frivolous lawsuits. No attorney or no private law firm is going to enter into a contract or bring a lawsuit if he is not being paid anything unless there is reasonably good grounds to believe that he can recover. This is a real safeguard.

Further, Mr. President, as I mentioned earlier, there are only 77 attorneys in the various 50 States assigned to antitrust departments in the offices of the attorneys general. They have to rely on private attorneys. But this contract would say, until you have the money in your budget to pay them, you cannot hire one. So it is not an amendment to outlaw percentage contracts, because the bill itself does that. It would outlaw all contracts, contingency contracts, which is, in fact, a safeguard.

Mr. President, the record is replete with discussions as to how the fees shall be determined. It says:

> It is the committee's intention that attorneys' fees in section 4(c) cases shall be approved under the same criteria and the court is directed to look behind any fee arrangement which may be made between the State and its counsel.

Then it goes on in the record to set out that the court shall take into consideration the amount of work that has gone into it.

Mr. HRUSKA. Mr. President, will the Senator yield for a yea and nay vote request?

Mr. MORGAN. I yield.

Mr. HRUSKA. Mr. President, I request the yeas and nays.

The **PRESIDING OFFICER.** Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HRUSKA. I thank the Senator.

Mr. MORGAN. Mr. President, I think I made my point clear, but my distinguished colleague pointed out one case that brought to mind an incident that happened to me in Tennessee about 3 or 4 weeks ago, and I wish some private attorney over there would bring a lawsuit.

He talked about the rent-a-car $1 surcharge. I flew into Kingsport, Tenn., and I rented a car. I saw an advertisement of one of the three largest automobile rental concerns, and I believe it was $13.95 a day, no mileage charge, and you buy the gas. So I rented the smallest Chevrolet made, which advertised 35, 36 miles per gallon.

I drove over to a little college in North Carolina and came back. All along the road gas was advertised at $.50, $.52 a gallon. When I started to check in, instead of the rental car company charging me on the basis of the car getting 30 to 35 miles per gallon—it was the very smallest Chevrolet made—they said, "We figured on 19 miles per gallon," and they charged me $.70 a gallon for gasoline when it was advertised all up and down the road for $.50, $.52.

Well, I was only damaged about $5 or $6. But you add $5 or $6 to everybody else who rents them, and look how much they have been damaged.

Mr. President, I say again the fact that the safeguards are in this bill that the court sets the fee, the report sets up guidelines for how the fee will be set, and the fact that he would not recover unless he is successful is a safeguard against frivolous lawsuits.

Therefore, Mr. President, I move to lay on the table the amendment of the Senator from Nebraska.

Mr. HELMS. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Nebraska. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. BUMPERS), the Senator from Idaho (Mr. CHURCH), the Senator from Mississippi (Mr. EASTLAND), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Hawaii (Mr. INOUYE), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Wyoming, (Mr. MCGEE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Utah (Mr. MOSS), the Senator from Georgia (Mr. NUNN), the Senator from Missouri (Mr. SYMINGTON), the Senator from California (Mr. TUNNEY), the Senator from New Jersey (Mr. WILLIAMS), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I further announce that the Senator from Minnesota (Mr. MONDALE) is absent on official business.

I also announce that the Senator from Indiana (Mr. BAYH) is absent because of illness.

I further announce that, if present and voting, the Senator from Indiana (Mr. BAYH), the Senator from Minnesota (Mr. HUMPHREY) would each vote "yea."

Mr. HUGH SCOTT. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Oklahoma (Mr. BELLMON), the Senator from Hawaii (Mr. FONG), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from Nevada (Mr. LAXALT), the Senator from Idaho (Mr. MCCLURE), the Senator from Illinois (Mr. PERCY), the Senator from Virginia (Mr. SCOTT), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

The result was announced—yeas 39, nays 34, as follows:

[Rollcall Vote No. 222 Leg.]

YEAS—39

Abourezk
Biden
Byrd, Robert C.
Clark
Cranston
Culver
Durkin
Eagleton
Ford
Glenn
Gravel
Hart, Gary
Hart, Philip A.
Hartke
Haskell
Hathaway
Huddleston
Jackson
Kennedy
Leahy
Long
Magnuson
Mansfield
Mathias
McGovern
McIntyre
Metcalf
Morgan
Muskie
Nelson
Packwood
Pastore
Pearson
Pell
Proxmire
Ribicoff
Scott, Hugh
Stafford
Stevenson

NAYS—34

Allen
Bartlett
Beall
Bentsen
Brock
Brooke
Buckley
Burdick
Byrd,
  Harry F., Jr.
Cannon
Case
Chiles
Curtis
Dole
Domenici
Fannin
Garn
Hansen
Hatfield
Helms
Hollings
Hruska
Javits
Randolph
Roth
Schweiker
Sparkman
Stevens
Stone
Taft
Talmadge
Thurmond
Tower
Young

NOT VOTING—27

Baker
Bayh
Bellmon
Bumpers
Church
Eastland
Fong
Goldwater
Griffin
Humphrey
Inouye
Johnston
Laxalt
McClellan
McClure
McGee
Mondale
Montoya
Moss
Nunn
Percy
Scott,
  William L.
Stennis
Symington
Tunney
Weicker
Williams

So the motion to table was agreed to.

The PRESIDING OFFICER (Mr. BIDEN). The bill is open to further amendment.

AMENDMENT NO. 1715

Mr. HRUSKA. Mr. President, I call up my amendment No. 1715 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Nebraska (Mr. HRUSKA) proposes an amendment numbered 1715:

On page 28, lines 10 through 14, delete the remainder of subsection (b)(1), beginning with the words "by publication," and substitute therefor the following: ": *Provided*, That the court shall order the best notice practicable under the circumstances, including individual notice to all persons on whose behalf the suit is brought who can be identified through reasonable effort.".

Mr. HRUSKA. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

CLOTURE MOTION

Mr. ROBERT C. BYRD. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair, without objection, directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate upon H.R. 8532, an Act to amend the Clayton Act to permit State attorneys general to bring certain antitrust actions, and for other purposes.

Mike Mansfield, Robert C. Byrd, Philip A. Hart, Abraham A. Ribicoff, Jennings Randolph, Gary Hart, Hubert H. Humphrey, Alan Cranston, James Abourezk, Mark O. Hatfield, John O. Pastore, Joseph R. Biden, Jr., Mike Gravel, Walter D. Huddleston, Vance Hartke, Hugh Scott, Warren G. Magnuson.

THE ANTITRUST IMPROVEMENTS ACT OF 1976

Mr. HRUSKA. Mr. President, the purpose of amendment No. 1715 is to make the notice specification for subsection (b) of section 4(c) of the bill, title IV, consistent with due process requirements. The actions that the States are authorized by title IV to bring on behalf of persons will finally adjudicate whatever private rights those persons have under section 4 of the Clayton Act. Title IV thus permits those persons to "opt out" of the State action if they do not want their rights bound thereby. The Eisen decision by the Supreme Court, however, indicates that the notice by publication provided for in title IV will be inadequate to preserve these private rights if persons who will be bound by the State action can be identified and given individual notice by mail.

This requirement for individual notice where practicable is expensive and, indeed, is one of the reasons for permitting the States to finance the cost with public funds. Quite obviously, if the States are authorized to bring suit, however, there is no need to eliminate the notice requirement for fear that it cannot be paid by individual consumers.

Mr. President, the proposition we have before us really sounds in the proposition and in the constitutional requirement that there be a case in controversy before the court before that court, a Federal court, can have jurisdiction and would be authorized to proceed.

The law of case in controversy can readily be described as lawyers' law. But, Mr. President, it is real. It reflects the language of the Constitution, and the language is not accidental.

It was carefully chosen. It was designed to limit the Federal courts to consideration of cases of "a judiciary nature, that is, to the decision of controversies between parties who are before the court and subject to the appropriate rules of proof."

In the case of fluid recovery, which is provided for in this bill, the "case in controversy" requirement is not met, for the persons on whose behalf recovery is obtained make no claim, they are not parties to the case, and they provide no proof. For the most part they are simply unknown.

A little bit ago in the Chamber here the Senator from North Carolina described a case, for example, Mr. President, in which the members of the class for which certification was requested numbered 1.4 million persons. On behalf of each of those persons the plaintiff's attorney, who himself was one of the claimants as well as his own attorney, alleged each of the parties was entitled to a refund of $1 surcharge which had been exacted by the Rent-a-Car Co. It was for the recovery of that $1 multiplied 1.4 times that the action was brought.

The court took a dim view of that procedure. Fortunately, there was a situation where rule 23 of the Federal Rules of Civil Procedure applied. Under that rule, the judge denied the certification. Here is what he said in the course of that decision:

> The difficulty I have with this situation lies in the fact that the possible recovery of Mr. Cotchett as a member of the class is far exceeded by the financial interest Mr. Cotchett might have in the legal fees engendered by this lawsuit.

Mr. President, I think that case is a very good example of many other cases.

Another case is that which is cited as In re Hotel Telephone Charges case, brought out in the ninth circuit. The defendants in that case were over 650 hotels and hotel chains. The number of people in the class that was required or requested to be certified was in the range of 40 million people, each of them having a claim for $2.

Obviously it would be an impossibility to get those people into court. They would not be interested in doing so, and the fact would remain that the parties would be unknown, they would not be in court, and they would provide no proof; and each of these elements, according to the Eisen case, is necessary in order to result in a case or controversy within the language and within the requirements of article 3 of the Constitution.

It seems obvious that a claim on behalf of such persons does not meet the requirements of article III of the Constitution, limiting the jurisdiction of the Federal courts to "cases and controversies" since such a claim does not arise between actual parties, presenting a real issue and supported by proof designed to show an actual, rather than a supposed or hypothetical, injury.

There are a number of decisions which go far to show that this question under article III is a substantial one which would be given serious consideration by the courts.

And may I remind the Senate, Mr. President, that the Senate as well as the other body of this Congress is as fully charged with staying within the bounds of the Constitution as are the Federal courts and the Supreme Court itself; and when a serious question exists as to the constitutionality of proceedings such as this, where it is substantial and real and is well grounded, the Senate would be well advised to inquire into it very carefully and be guided accordingly.

One of these cases is the Eisen case Mr. President, Eisen against Carlisle and Jacquelin. It was decided in the second circuit in 1973; the decision was vacated on other grounds in 417 U.S. 156 in the folowing year, 1974. That case involved an effort to obtain a "fluid recovery" on behalf of all persons who had bought or sold odd lots on the New York Stock Exchange between May 1962 and June 1966. It was estimated that there were 6,000,000 members of this group, of whom 2,250,000 could be identified. The basic question in the case was who should bear the cost of giving notice to the members of the class who could be identified.

Mr. President, the requirement of notice, therefore, was very well considered, and was held to be essential and vital, and indispensable for the purpose of establishing a case.

Under rule 23 of the Federal Rules of Civil Procedure, the courts have been able to contend with that situation as they did in the second circuit case, the Eisen case. However, the bill we have before us would do two things, Mr. President. First, the provisions would overcome the ruling of the Supreme Court in the Hawaii case, the case of Hawaii against the Standard Oil Co. There the Supreme Court held that the attorney general of a State had no power and authority to bring suit on behalf of the people of his State in a representative capacity and as a representative of that class. The limit of his authority to bring a lawsuit for violation of the antitrust law, and the treble damages which ensue therefrom, if there is success in establishing that violation and liability, would be only in the event and to the extent that the State of Hawaii itself had a proprietary interest in the recovery and was one of the injured parties and could make a recovery.

The bill before us takes care of that one proposition expressly and very blandly by simply saying the attorneys general of the respective States are empowered and vested with the authority to represent classes of individuals within their States.

The second thing, however, which is the essence of the bill, is that it dispenses with and totally negates and extinguishes the requirements and the effectiveness of rule 23 of the Federal Rules of Civil Procedure; and it is that rule which has been devised after a great many years of experience in the courts with cases of this kind in order to render them manageable and in order to make them come as close as they could to the proposition of qualifying under article III of the Constitution in regard to the requirements for "cause and controversy" and the real party at interest.

In the case that I just described, the New York Stock Exchange case, the court of appeals said that the burden of notice could not be put on the defendant. The idea of serving notice on 6 million people, or even the 2.25 million people, the latter figure being those who could be identified and located, even that would be, under a proper construction of rule 23, a burden that could not be put on the defendant. In order to qualify in the lawsuit, it was held that that burden would have to be met; and it would have to be met, by a process of elimination, by the plaintiffs.

This construction of the Second Circuit Court of Appeals was affirmed by the Supreme Court. But the court of appeals went further, in an opinion by Judge Medina, and discussed the impropriety of "fluid recovery" which had been suggested by the district court as a possible solution to the manageability problem posed by the case.

Here is an excerpt from the opinion by Judge Medina:

> Even if amended Rule 23 could be read so as to permit any such fantastic procedure, the courts would have to reject it as an unconstitutional violation of the requirement of due process of law. . . . We hold the "fluid recovery" concept and practice to be illegal, inadmissable as a solution of the manageability problems of class actions and wholly improper.

In the Hotels case, Mr. President, Judge Duniway of the Ninth Circuit Court of Appeals—here there were some 40 million persons on behalf of whom certification was requested, and so on—in that case the question of the propriety of recognizing the possibility that class action suits might be brought in behalf of classes made up of truly aggrieved plaintiffs was discussed. Here is what he said:

> It is inconceivable to me that such a case can ever be tried, unless the court is willing to deprive each defendant of his undoubted right to have his claimed liability proved, not by presumptions or assumptions, but by facts, with the burden of proof upon the plaintiff or plaintiffs, and to offer evidence in his defense. The same applies, if he is found liable, to proof of the damage of each "plaintiff."

So, Mr. President, we have this proposition that is involved in the amendment which seeks to do away with that second phase of the pending bill with reference to a suit becoming properly certified and being considered by the court as being within the Federal jurisdiction under which that court proceeds and is the only fashion in which it can proceed. The way to do that, Mr. President, is to adopt this amendment which would reinstate the essential elements of rule XXIII of the Federal Rules of Civil Procedure. Then we will get within that area where, with the proper amount of attention and effort, a case will become qualified as one which can be tried in the Federal court. These grounds, to the extent that I have discussed them, encompass only a small fraction of the authority, but the degree to which I have discussed them I believe sketches the component elements and the vital relevant elements of the proposition which I state to be that, without the adoption of this amendment, there would not be constitutional procedure within article III of the Constitution for any suit brought under that type of law.

Mr. President, I reserve the remainder of my time.

Mr. MORGAN. Mr. President, if all conditions in a trial of a lawsuit were ideal, then I would be willing to accept the amendment of the distinguished Senator from Nebraska, but I think he himself has made the best case against his amendment by pointing out the large numbers of consumers who would have to be notified and the tremendous costs that would be involved.

In his amendment, Mr. President, he provides:

> That the court shall order the best notice practical under the circumstances, including . . .

And this is the key word:

> including individual notice to all persons on whose behalf the suit is brought who can be identified through reasonable effort.

In other words, one has to make a reasonable effort to identify everyone who bought a tube of toothpaste, if that happens to be the product involved. What is a reasonable effort? It would make it so expensive, Mr. President, that no one could ever afford to bring a class action.

Notice by publication has been accepted in judicial circles and legal circles of this country for a long, long time and has been considered as adequate notice. The provision in the bill, I believe, is completely adequate. It provides:

> In any action brought under this section, the State attorney general shall, at such times, in such manner and with such content as the court may direct, cause notice thereof to be given by publication.

Which has been an accepted practice for generations.

> If the court finds that notice by publication only would be manifestly unjust as to any person or persons, the court may direct further notice to such person or persons according to the circumstances of the case.

Mr. President, that vests in the court adequate authority to protect the rights of all individuals.

I believe I could distinguish the many cases that our colleague has cited but, as the President and the Members of the Senate know, my time is limited in the entire debate; therefore, Mr. President, I move to lay on the table the amendment of the Senator from Nebraska.

The PRESIDING OFFICER. The question is on agreeing to the motion.

Mr. ALLEN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. Bumpers), the Senator from Idaho (Mr. Church), the Senator from Mississippi (Mr. Eastland), the Senator from Ohio (Mr. Glenn), the Senator from Minnesota (Mr. Humphrey), the Senator from Hawaii (Mr. Inouye), the Senator from Louisiana (Mr. Johnston), the Senator from Louisiana (Mr. Long), the Senator from Arkansas (Mr. McClellan), the Senator from Wyoming (Mr. McGee), the Senator from New Mexico (Mr. Montoya), the Senator from Utah (Mr. Moss), the Senator from Georgia (Mr. Nunn), the Senator from Florida (Mr. Stone), the Senator from Missouri (Mr. Symington), the Senator from California (Mr. Tunney), the Senator from New Jersey (Mr. Williams), and the Senator from Mississippi (Mr. Stennis) are necessarily absent.

I also announce that the Senator from Indiana (Mr. Bayh) is absent because of illness.

I also announce that the Senator from Minnesota (Mr. Mondale) is absent on official business.

I further announce that, if present and voting, the Senator from Minnesota (Mr. Humphrey), and the Senator from Indiana (Mr. Bayh) would each vote "yea."

Mr. HUGH SCOTT. I announce that the Senator from Tennessee (Mr. Baker), the Senator from Oklahoma (Mr. Bellmon), the Senator from Kansas (Mr. Dole), the Senator from New Mexico (Mr. Domenici), the Senator from Hawaii (Mr. Fong), the Senator from Arizona (Mr. Goldwater), the Senator from Michigan (Mr. Griffin), the Senator from Nevada (Mr. Laxalt), the Senator from Idaho (Mr. McClure), the Senator from Illinois (Mr. Percy), the Senator from Virginia (Mr. William L. Scott), and the Senator from Connecticut (Mr. Weicker) are necessarily absent.

The result was announced—yeas 49, nays 19, as follows:

[Rollcall Vote No. 223 Leg.]

YEAS—49

Abourezk
Beall
Bentsen
Biden
Brooke
Byrd, Robert C.
Cannon
Case
Chiles
Clark
Cranston
Culver
Durkin
Eagleton
Ford
Gravel
Hart, Gary
Hart, Philip A.
Hartke
Haskell
Hatfield
Hathaway
Hollings
Huddleston
Jackson
Javits
Kennedy
Leahy
Magnuson
Mansfield
Mathias
McGovern
McIntyre
Morgan
Muskie
Nelson
Packwood
Pastore
Pearson
Pell
Proxmire
Randolph
Ribicoff
Schweiker
Scott, Hugh
Sparkman
Stafford
Stevens
Stevenson

NAYS—19

Allen
Bartlett
Brock
Buckley
Burdick
Byrd, Harry F., Jr.
Curtis
Fannin
Garn
Hansen
Helms
Hruska
Metcalf
Roth
Taft
Talmadge
Thurmond
Tower
Young

NOT VOTING—32

Baker
Bayh
Bellmon
Bumpers
Church
Dole
Domenici
Eastland
Fong
Glenn
Goldwater
Griffin
Humphrey
Inouye
Johnston
Laxalt
Long
McClellan
McClure
McGee
Mondale
Montoya
Moss
Nunn
Percy
Scott, William L.
Stennis
Stone
Symington
Tunney
Weicker
Williams

So the motion to table was agreed to.

The PRESIDING OFFICER (Mr. Helms). Who yields time?

Mr. ROBERT C. BYRD. Mr. President, are there any other Senators who wish to call up amendments at this time?

ADDITIONAL STATEMENTS SUBMITTED

Mr. TOWER. Mr. President, proponents of the antitrust bill we are debating today are indeed presenting a convincing case illustrating the need for consumer protection. Here we have a bill which supporters promise will reduce prices, lower unemployment and cut inflation. In reality, it is likely to do none of these things, and may, in fact, have a counterproductive effect. Someone should warn our consumers—the taxpayers, voters, citizens in whose name we govern.

We are not operating in an economist's laboratory; we must form solutions that will work in the real world.

The bill promises to reduce prices. Yet the threat of costy nuisance litigation, treble damage assessments and a lowered threshold for proof of injury will inevitably be passed on to consumers via higher prices.

The bill promises to lower unemployment. It is more likely to impede business financing—threatening expansion and destroying job opportunities.

Similarly, the parens patriae section of the bill is being promoted by exaggerated claims—raising expectations that cannot possibly be realized.

By authorizing State attorneys general to sue for violations, antitrust law enforcement runs the risk of becoming greatly politicized. This would help no one—not consumers, business—no one except politically ambitious attorneys general.

By also allowing private attorneys to bring suits in consumers' names while being compensated on a contingent fee basis, the bill places enforcement of antitrust laws in the hands of private attorneys with personal interests in the litigation. Again, it is not the consumer who will benefit. If anyone, it is the lawyers. The medical malpractice problem—where a rash of suits have brought consumers higher medical fees and have lessened competition by driving out practitioners who can no longer afford to pay the high costs of malpractice insurance—should serve as a warning of things to come if the antitrust bill is enacted.

A final and critical point which I want to see clarified for our constituents is that many of them may not only be the consumers sought to be protected by the bill, but may be those governed by its provisions as well. In many people's minds, antitrust laws are thought to be aimed at multimillion-dollar business corporations.

However, our doctors, lawyers, real estate brokers, architects, engineers, accountants, pharmacists, union members, veterinarians, newsmen and small businessmen should know that this bill would open the door for crippling parens patriae actions against them as well.

People should bear in mind that they could very easily become the targets, rather than the beneficiaries, of this monstrous bill.

Mr. PHILIP A. HART. Mr. President, one of the hazards of life in the Senate is the constant conflict between duty and calendar. All of us agonize over competing priorities and never more so than when we face campaign deadlines in addition to our regular duties.

Senator John Tunney faced such a conflict yesterday. Despite a heavy campaign schedule before the California primary next Tuesday, Senator Tunney interrupted his plans there to be in the Senate to cast a critical vote to help end the filibuster against the Antitrust Improvements Act.

As a sponsor of the bill, I am very grateful that he could be with us on this vote.

Mr. GARY HART. Mr. President, I am not a member of the Committee on the Judiciary, and therefore have not had the benefit of listening to and questioning the more than 40 witnesses who testified during the very extensive hearings on S. 1284. I am well acquainted with the antitrust laws and their enforcement however, and I offer my support for S. 1284, as reported by the Committee on the Judiciary.

Throughout its history, the United States has relied upon free competition among private business enterprises as the basic regulator of most economic activity. American economic policy has generally been to promote competition in a free market system. The U.S. belief and experience, according to our courts, is that the "unrestrained interaction of competitive forces" will usually result in "the best allocation of our economic resources, the lowest prices, the highest quality and the greatest material progress, while at the same time providing an environment conducive to the preservation of our democratic political and social institutions." *Northern Pacific Railway Co.* v. *United States*, 356 U.S. 1, 4, 1965.

To insure the vitality of competition in the 20th century, the Congress enacted the major antitrust laws—the Sherman Act in 1890, and the Clayton Act in 1914. Our experience in the following 86 years has shown that the laws are fundamentally sound, but it has also shown that they do not automatically guarantee competition. Nor do they provide in every instance for the successful and efficient prosecution of the very activities banned by those acts.

As a result of many years of effort by the senior Senator from Michigan, Mr. HART, the other hardworking members of the Judiciary Committee, and the committee staff, we now have before us a sensible solution to the problem of antitrust law enforcement.

If we agree that free competition is desirable in our economy, and if we agree that the goal of antitrust law is to maintain and enhance competition, then we must also agree that this pending legislation is vital. All that the bill before us seeks to do is to provide mechanisms for the enforcement of the antitrust laws. It does not change the standards of the law—nothing that is legal today will be illegal upon the enactment of this bill.

Title II of the Hart-Scott substitute enables the Antitrust Division to issue compulsory process to obtain evidence relevant to an investigation prior to the filing of an action. Presently, the Division can only obtain documents from corporations exclusively, which leaves that Division, and the American public, in the patently absurd situation in which the Division must file an action in order to gather evidence to ascertain whether the action should have been filed in the first place.

The need for title II has been stated many times and is clear. It would provide the Antitrust Division with the same basic investigatory tools as those used by virtually every Federal regulatory agency, including the FTC, and many State atorneys general. But does the title strike a fair balance between the rights of possible offenders and third parties and the need for effective and efficient enforcement of the antitrust laws? The answer is an unqualified yes.

There is no practical method now in existence for enforcing the antitrust laws in the cases envisioned by title IV of the Hart-Scott bill—where a violation of the Sherman Act results in a relatively small overcharge on an item consumed by thousands or millions of people every day. Individual actions in these cases are out of the question. And so are class action suits in light of the Eisen decision.

Exactly how do we expect violations of this nature to be deterred? Until now, the Congress has simply relied on the good faith of our corporations. However, one is reminded of the comment of one corporate executive who stated in an interview with Business Week—June 2, 1975:

> When you're doing $30 million a year and stand to gain $3 million by fixing prices, a $30,000 fine doesn't mean much. Fact is, most of us would be willing to spend 30 days in jail to make a few extra million dollars.

If this statement correctly reflects the attitude of the corporate community, the Congress has a clear duty to stop relying on corporate good faith, and to instead begin relying on a mechanism like parens patriae to enforce existing law.

The procedural safeguards contained in the Antitrust Civil Process Act are continued and expanded upon by title II. In fact, a witness need not say one word without the Antitrust Division first convincing the courts of the necessity of the investigation in an adversary proceeding. Also, any person compelled to give an oral deposition may be accompanied by counsel, a protection not presently afforded to grand jury witnesses. And counsel may intervene at any point when he believes a question violates his client's legal rights.

The parens patriae mechanism created by title IV is necessary if the Congress truly desires to deter antitrust violations, prevent violators from retaining illegal profits, and provide compensation to the victims of antitrust offenses. If the opponents of this provision can find a more just solution than the parents patriae concept, I would be delighted to know what it is. But the fact is that no more acceptable solution can be found.

I believe that the States rights aspect of title IV should also be stressed. It will not be some Federal agency thousands of miles away which will be bringing these suits, but the State attorneys general: Attorneys general who are responsible through the electoral process to the people of each State, and not the Federal bureaucracy.

Mr. President, action by the Congress on major antitrust legislation is long overdue. The American people deserve the chance to preserve the free enterprise system. Those who seek to remove the shackles of unnecessary government regulation of business should be the natural supporters of antitrust laws that work—and the Hart-Scott Antitrust Improvements Act will make the antitrust laws work.

AUTHORIZATION FOR STATEMENTS AND INTRODUCTION OF MEASURES UNTIL 5 P.M. TODAY

Mr. ROBERT C. BYRD. Mr. President, without losing my right to the floor, I ask unanimous consent that Senators may have until 5 o'clock today to enter statements into the RECORD and also to introduce bills, resolutions, petitions, and memorials.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I yield to the distinguished majority leader.

KING JUAN CARLOS I

Mr. MANSFIELD. Mr. President, I had intended to make these remarks earlier in the day. They have to do with the visit of King Juan Carlos I of Spain.

I was much impressed with the King's message to the joint meeting of Congress and continue to be impressed after several sessions with him since that time. I wish to express the hope that the reforms which the King has undertaken in his country will continue to go forward to the end that it will be possible in the not too distant future, and the sooner the better, for Spain to become a member of the North Atlantic Treaty Organization. I have advocated such a policy since my days in the House of Representatives so, in that respect, I do not happen to be a Johnny-come-lately.

I think that the admission of Spain to NATO would strengthen that organization and give a degree of stability to Spain which I think has been lacking, to a certain degree, up to this time.

As far as the Spanish treaty is concerned, it is the intention of the leadership to call it up as soon as it possibly can. The reason it has not been called up to date is due to the fact that the Committee on the Budget has had to consider the financial implications contained therein, as is its duty and responsibility and as it must do in regard to every piece of legislation now being presented for consideration by Congress.

I just wanted to take this opportunity to reiterate my own position on Spain, on my reaction and, I am sure, Congress reaction generally, to his remarks, speeches, and conversations here; reactions which I think, on the whole, have been quite good and very warm. I again express the hope that it will not be too long before Spain will become a member of the North Atlantic Treaty Organization so that she can assume the kind of role which the President envisaged in his conversations and conferences with King Juan Carlos I, and, in that way, bring about a degree of solidity to Western Europe which, at the present time, is sadly lacking.

Mr. TOWER. Will the Senator yield?

Mr. MANSFIELD. I am delighted to yield.

Mr. TOWER. I commend the distinguished majority leader for a very statesmanlike remark and comment. I wish to associate myself with his remarks. I think it is important to Americans to understand that the democratization of political institutions in a society that has lived under authoritarian rule cannot be accomplished overnight, that they have to be accomplished in an orderly fashion. We would not want to precipitate the type of reaction domestically in Spain that could result in reassertions of simply another form of authoritarianism. I think the remarks made by the Senator from Montana are very helpful, and I hope the Senate will take heed.

Mr. CHILES. Will the Senator yield?

Mr. MANSFIELD. I am happy to yield.

Mr. CHILES. I want to associate myself with the majority leader's fine remarks. I was most impressed with the address by King Juan Carlos. I have also been very impressed by his conduct to date. I think many of us and many people in the world did not know what kind of authority, real or implied, King Juan Carlos would be able to exert. It seems to me that his leadership has been very progressive and that it has done much for developing democracy and freedom for the people of Spain.

I am delighted to associate myself with the majority leader's remarks.

Mr. MANSFIELD. I thank the distinguished Senator.

Both Senators are correct. The King evidently is moving as fast and as hard as he can in the right direction. What he needs is encouragement; what he needs is understanding. I think that the state visit of King Juan Carlos I and Queen Sofia has had the effect of bringing about a better degree of understanding, a recognition of the difficulties which confront the King and his regime, and an understanding, also, that the time is ripe for a changed situation, defensively speaking, insofar as Spain's entrance into NATO is concerned.

Mr. JAVITS. Will the Senator yield?

Mr. MANSFIELD. Yes, I yield.

Mr. JAVITS. I wish to make two points. One, that the New York Times has a very gifted article this morning on the subject and with the leader's permission, I should like to include it in these remarks.

Second, I state to the Senate that tonight the Spanish Institute is giving a very big and I think it should be a very significant and distinguished dinner for the King, especially to signify the support of that Institute. I think it represents the view of much of this country for backing this young king in what is a very risky effort for him but which is so important to the peace and freedom of the world.

I thank my colleague.

Mr. RANDOLPH. Mr. President, will the distinguished leader yield to me?

Mr. MANSFIELD. Yes.

Mr. RANDOLPH. Mr. President, with regard to the cogent comment of our leader and those colleagues who have joined in colloquy, all these remarks are timely and important. They deal with the very critical subjects that are before the American people as well as the peoples of the world, including Spain.

I wish to turn aside from this subject matter, however, to refer to a part of the message of His Majesty, Juan Carlos I, King of Spain, that especially appealed to me. I think when it is read and becomes known by many, many people, as I hope it will be, that the same reaction will be evidenced, as I now express.

He indicated that he, in his own power, or the people of any country in their own power, could not by themselves settle these vexing problems that weigh heavily on us. He spoke earnestly. I watched the expression on his face, as he affirmed his faith in a common Creator.

Let us recall his words:

> Freedom is essential for man and for his individual fulfillment. It is an unequaled stimulus for his economic and social progress and for his cultural development. Liberty, above all, is a spiritual good to be cherished and defended. All liberty like all power, comes from God. In affirming today, with humility and simplicity, as your own forefathers did, faith in God, I ask his blessing for your leaders, for your people, and for the noble Nation of the United States of America.

Mr. President, it is essential that in these times of trial and tribulation, we realize that within our own power, we are not sufficient, but that we must, in the final analysis, rely on our God.

Mr. MANSFIELD. I thank the distinguished Senator.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, does any Senator wish to call up an amendment this afternoon?

Mr. ALLEN. I have a number of amendments. Is the Senator suggesting that we might go out if no amendments are offered at this time?

Mr. ROBERT C. BYRD. The Senator from West Virginia is suggesting that unless the Senator from Alabama wishes to call up his amendment and get action on it today, the Senator from West Virginia is prepared to move to go out.

Mr. ALLEN. I have no objection to that move. I do want to state, however, that I have about 20 amendments that I have not yet called up.

Mr. ROBERT C. BYRD. I thank the Senator.

Does the Senator wish to call up one now and get a time limitation on that, say, 15 minutes?

Mr. ALLEN. No. I believe the cloture rules furnish the time limitation when I offer my amendment.

ORDER FOR THE RECOGNITION OF SENATOR MORGAN ON MONDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Monday, after the two leaders have been recognized under the standing order, Mr. MORGAN may be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene at 11 a.m. on Monday. After the two leaders have been recognized under the standing orders, Mr. MORGAN will be recognized for not to exceed 15 minutes. I would recommend to all Senators that they be present because, as we have seen from recent events, live quorum calls can occur very early as can rollcall votes. So I cannot assure Senators, as we sometimes can assure them, that there will not be any rollcall votes before a certain hour on Monday.

I would anticipate rollcall votes at any point after the Senate convenes, and I hope that Senators will be in attendance.

Our target date, may I say, for sine die adjournment this year is October 2. That date might have to be extended depending upon developments. But counting Mondays through Fridays, this means the Senate has only 66 working days left after today in which to complete its business if it is to adjourn on October 2. Of course, it may be necessary to come in on some Saturdays if the workload ahead is heavy.

I ask unanimous consent, Mr. President, to include in the RECORD as part of my remarks at this time a digest of certain measures on the Senate Calendar of Business.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DIGEST OF CERTAIN MEASURES ON THE SENATE CALENDAR OF BUSINESS

S. 625.—Emergency Unemployment Health Benefits Act. The bill provides health insurance benefits to each individual who is unemployed and who is entitled to receive weekly unemployment compensation and who, if still employed, would be covered under an employer-sponsored health insurance plan. Benefits would be paid also to the dependent spouse and each dependent child of such individual. The Secretary of HEW is authorized to enter ino arrangements with carriers and State agencies to carry out the provisions of the bill.

H.R. 7727.—Amends the Tariff Schedules of the United States to extend for an additional 2 years, until June 30, 1978, the existing suspension of duties on specified classifications of silk yarn.

S. Res. 302.—An original resolution to establish a Select Committee of the Senate on Improper Activities in the Labor or Management Field. The Committee is directed to study and investigate the extent, if any, to which illegal and unethical activities are engaged in by persons in the field of labor-management relations.

It empowers the Committee with authority necessary to carry out the provisions of the resolution, limits the expenses of the Committee to $1,250,000 through December 31, 1976 and requires the filing of a final report no later than December 31, 1976.

S. 999.—A bill to designate as the J. Allen Frear Building, the Federal office building located in Dover, Delaware.

S. 422.—Children and Youth Camp Safety Act. It requires the Secretary of HEW to develop regulations on children and youth camp safety standards and submit them to the Senate and House Labor Committees for consideration. States are allowed to submit similar plans for approval. The Secretary is required to designate a State agency to administer plans, to provide for legal authority and enforcement, and to review State plans on an annual basis. It authorizes grants of up to 80 percent of the costs of States in carrying out such plans.

S. 2752.—The bill divides the fifth judicial circuit into eastern and western divisions. Alabama, Florida, Georgia, Mississippi, and the Canal Zone are the eastern division. Louisiana and Texas are the western division.

The President is to appoint three additional judges for the eastern division and five additional judges for the western division.

S. Res. 325.—The original resolution adds a new rule XLV to the Standing Rules of the Senate. It would prohibit Senators and employees of the Senate from accepting a gift of travel from any foreign government without the express consent of Congress.

S. 2773.—Amends the Dwight D. Eisenhower Memorial Bicentennial Civic Center

Act to change the name of the "J. Edgar Hoover F.B.I. Building" to "F.B.I. Building."

H.R. 9432.—An Act to amend the Internal Revenue Code of 1954 to provide for quarterly rather than annual payment to the government of the Virgin Islands as is now provided in the Code.

The payments shall be equal to the internal revenue collections made with respect to articles produced in the Virgin Islands and transported to the United States.

S. 2804.—A bill to amend Title IV of the Social Security Act. It establishes as a condition of eligibility for benefits under the aid to families with dependent children program an individual's participation in the work incentive program of States which offer aid to families with dependent children.

It provides that the Secretary of Labor shall notify the State agency which administers the plan of any refusal by an individual to participate in the State employment program.

H.R. 71.—The bill would provide hospital and medical care to U.S. citizens who served with the armed forces of nations allied or associated with the U.S. in World War I or II. Present law covers only those who were members of U.S. forces.

It would apply to those who were with the British Royal Air Force, for example, or the Polish resistance. Citizens who served with allied nations would be treated only on a space available basis with U.S. veterans given priority.

S. 3219.—(Clean Air) Requires States to submit plans for prevention of significant deterioration of air quality in clean air regions, subject to the approval of the EPA administrator. It establishes guidelines for classification of those regions and imposes limitations on projected increases in concentrations of particulate matter and sulfur dioxide for each class of such regions. And it requires that new sources constructed in such regions utilize the best available control technology and certify that emissions from the facility will not contribute to a cumulative change in ambient air quality greater than the appropriate limits.

S. 1624.—Interstate transportation of wine. To eliminate obstructions to free flow of commerce resulting from discriminatory and unreasonable taxes or regulations affecting wine.

Prohibits any State which permits transportation or importation of wine from applying tax measures, regulations, and other measures against wines produced outside that State unless applied in same manner as to wine of same class in State seeking to impose tax or regulation. States still retain control over purchase, sale, and distribution of wines in State jurisdiction.

S. 2477.—Lobbying—Requires broad public disclosure of the efforts of individuals and organizations paid to influence or attempt to influence issues before the Congress or the Executive Branch without interfering with the right of citizens to petition the government for redress of grievances.

Covers communications or lobbying solicitations to Congress or the Executive Branch which may be expected to reach 500 or more persons.

Reports must be filed with the Comptroller General on a quarterly basis.

S. Res. 436.—Expresses the support of the Senate for the basic principles and positions which Secretary of State Henry Kissinger expounded in his address at Lusaka, Zambia, on April 27, 1976.

S. Res. 68.—To amend Rule XVIII of the Standing Rules of the Senate. Declares that at any time during the consideration of a bill or resolution in the Senate, it shall be in order to move that no amendment which is not germane or relevant to the subject matter of the bill or resolution shall thereafter be in order.

Any such motion must be agreed to by the affirmative vote of two thirds of the Senators present and voting.

S. 12.—To provide benefits for survivors of Federal Judges. Provides that judicial officials are entitled to the same survivor annuity benefits as survivors of Members of Congress with specified limitations and that a survivor shall not be prohibited from simultaneously receiving an annuity under this act and any other annuity to which the survivor may be entitled.

S. 1284.—Improvement and enforcement of the antitrust laws. It would revise discovery procedures and requirements for antitrust investigations; increase civil penalties for failure to file reports or obey subpoenas as required by the Federal Trade Commission Act; and permits the Attorney General of a State to initiate civil action to recover damages on behalf of certain classes of persons or the State for injuries resulting from violation of Federal antitrust laws.

Also requires premerger notification in order to prevent acquisition of stocks or shares or assets of another person or persons if the acquiring person or persons' assets or net sales exceed certain limitations, until 60 days after filing of the notification of merger with the Department of Justice and the Federal Trade Commission.

H.R. 11559.—This bill authorizes an appropriation of $6,470,000 for fiscal year 1977 to carry out programs under the Saline Water Conversion Act of 1971.

H.R. 366.—(Substitute text of S. 230) *infra*.

S. 1776.—Authorizes the Secretary of the Interior to establish the Valley Forge National Historical Park in the Commonwealth of Pennsylvania, not to exceed 3,500 acres. Also authorizes appropriation of necessary funds.

H.R. 13069.—An act to extend for one year (until September 30, 1977) the period for making loans to the unemployment fund of the Virgin Islands and increases the authorized funds by $10,000,000.

H.R. 5360.—An act to increase detention benefits provided to American civilian internees in Southeast Asia from $60 per month to $150 per month under the War Claims Act of 1948.

S. 2837.—A bill to amend the Act of August 30, 1890, so as to except a tract of ground located in Carbon County, Wyoming from canals imposed on such land.

S. 972.—Public Safety Officers Memorial Scholarship Act. Authorizes the U.S. Commissioner of Education to award a scholarship to any eligible applicant for full time undergraduate study at an eligible institution. An applicant must be certified by the head of the agency which employed the Public Safety Officer as a dependent of that Officer who was the victim of a homicide while engaged in the performance of his official duties.

H.R. 8532.—Anti-trust. An act to authorize the Attorney General of any State to bring civil action charging unlawful monopoly practices under the Clayton Act and to recover damages for any injury to the general economy of the State or any political subdivision.

The U.S. Attorney General is directed to notify States' Attorneys General of any instances where States are entitled to bring action for violations of the act.

S. 3424.—A bill to minimize the use of energy in housing, nonresidential buildings, and industrial plants through State energy conservation implementation programs and Federal financial incentives and assistance.

S. 230.—Public Safety Officers Group Life Insurance Act. Authorizes the purchase of group life insurance policies to insure any public safety officer employed on a full time basis by a State or local government which has applied to participate in the program and has agreed to deduct from officers' pay the premiums payable for coverage.

Eligible insurance companies must be licensed in all 50 States and the District of Columbia and have in effect at least 1% of the total amount group life insurance in effect in the United States.

The act provides that each policy issued shall include a schedule of basic premium rates and for any adjustments. The act also sets forth the order of precedence in which survivors of officers will be awarded benefits.

An Advisory Council established by the bill and the Attorney General would meet at least once annually to review the Administration of the Act. The sum of $20,000,000 is authorized to be appropriated for fiscal year ending September 30, 1977.

H.R. 5465.—An act to allow Federal employment preference to employees of the Bureau of Indian Affairs of the Indian Health Service, who are not entitled to the benefits of, or who have been adversely affected by the application of Federal laws allowing employment preference to Indians. The act defines eligible employees.

H.R. 11439.—An act to amend Title 5, U.S. Code, to restore eligibility for health benefits coverage to certain individuals. It would permit a surviving spouse whose civil service annuity was terminated due to remarriage to enroll in a civil service health benefits plan upon restoration of such spouse's annuity if the spouse was covered by a health benefits plan at the time the annuity was terminated.

H.R. 11481.—An act to authorize the appropriation for the Department of Commerce for the Fiscal Year 1977: (1) $403,721,000 for obligations incurred for operating differential subsidy; (2) $19,500,000 for research and development activities; (3) $4,560,000 for reserve fleet expenses; (4) $13,260,000 for maritime training at the Merchant Marine Academy; and (5) $3,741,000 for financial assistance to State Marine schools.

Authorizes additional appropriations for personnel, maintenance, and other expenses of the Merchant Marine Academy.

S. 3267.—A bill to amend the Motor Vehicle Information and Cost Savings Act to add a new title (Research and Development) to the act. The purpose is to encourage development of advanced automobiles designed to meet long-term goals relative to fuel economy, safety, environmental protection and to facilitate competition in development of existing and alternative automotive vehicles and components.

The Secretary of Transportation is authorized to make contracts and grants and other efforts to achieve the objectives of the bill. It authorizes the appropriation of up to $175,000,000 to pay interest on obligations and the principal balance of obligations, guaranteed by the Secretary when the obligor has defaulted.

Annual reports to Congress are required by the bill.

S. 1632.—A bill to authorize the Energy Research and Development Administration to initiate programs and enter contracts for the purpose of developing and producing significant numbers of urban passenger and commercial vehicles utilizing electric propulsion systems.

Authorizes an appropriation of $40,000,000 for each of the Fiscal Years 1976, 1977, and 1978.

S. 2228.—A bill to amend the Public Works and Economic Development Act of 1965 by extending the authorizations for appropriations for an additional three years until September 1979.

S. 3281.—Federal Program Information Act. It creates an information center to establish and maintain a computerized system capable of identifying all existing Federal domestic assistance programs. Identification should be sufficient to allow a prospective beneficiary to determine whether personal qualifications meet requirements for eligibility.

Requires publication of an annual catalogue of domestic assistance programs.

S. 2304.—Prohibits member banks of the Federal Reserve System from making loans or extensions of credit to any of their officers, directors, or other specified persons who have an interest in such bank where such loans or extension of credit exceeds statutory limits on loans to one borrower. The prohibition is extended, under the Federal Deposit Insurance Act, to non-member insured banks. Directors, officers, employees, and agents, and insured banks are subject to cease-and-desist proceedings and orders. Civil penalties for any violations are established.

S. 1926.—A bill to amend the Public Health Service Act so as to eliminate the requirement that health maintenance organizations offer annual open enrollment for individual membership, and makes the offering of supplemental health services optional.

It includes State and local government employers among those who must offer employees the option of membership in a health maintenance organization.

Extends authorization of appropriations an additional two years.

S. 3369.—An Act to amend the Small Business Act to increase the authorization for loans for specified small business loan programs including: (1) displaced business disaster loans; (2) loans for the handicapped; (3) the small business investment company program; and (4) loans to State and local development companies.

It increases authorization for loans in urban or rural areas having high proportion of unemployed or low-income individuals, or to businesses owned by low-income individuals.

S. 3370.—A bill to amend the Small Business Investment Act of 1958 by increasing the authorization for the Surety Bond Guarantee Fund by $53,000,000 (from $35,000,000 to $88,000,000).

S. 2212.—A bill to amend the Omnibus Crime Control and Safe Streets Act. Provides that any unused funds reverting to the Law Enforcement Assistance Administration may be reallocated among the States. Grants to States may be used to devise methods to strengthen the court system.

LEAA may waive State liability and pursue legal remedies where a State lacks proper forum to enforce grant provisions imposing liability on Indian tribes. Permits LEAA to increase grants to Indian tribes under certain conditions.

S. 3165.—A bill to establish the Office of Marine Resources, Science and Technology within the National Oceanic and Atmospheric Administration. The purpose is to initiate long term research and development programs in marine science and technology. An advisory service would impart useful information and techniques to interested organizations and individuals. Programs would be submitted to the Congress and the President and annual reports would be submitted to the Congress by the Secretary of Commerce.

The bill also establishes a National Sea Grant program for research, education, training and advisory services in ocean and coastal resource development, assessment and conservation.

S. 2069.—A bill to create a Consumer Controversies Resolution Act to assure consumers a mechanism which is fair, effective, inexpensive and expeditious. It directs the Federal Trade Commission to establish a Bureau of Consumer Redress. The FTC shall perform various duties including allocation to States of funds appropriated for financial review of each State's plan for resolution of consumer controversies; and evaluation of goals for a model State System of Consumer Controversy resolutions.

The bill authorizes an appropriation not to exceed $500,000 for Fiscal Year 1976 and $20,000,000 for Fiscal Year 1977.

S. 3131.—Amends the Rail Passenger Service Act by authorizing the National Railroad Passenger Corporation to establish a through route and rate with qualified motor carriers. It authorizes appropriations through Fiscal Year 1978 to the Secretary of Transportation for the benefit of the Corporation: (1) to meet specified expenses; (2) for capital acquisitions and improvements; and (3) for the payment of the principal amount of obligations of the Corporation.

S. 2323.—National Traffic and Motor Vehicles Safety Act of 1966. The bill authorizes appropriations of $13,000,000 for the fiscal year 1976 transitional period, $60,000,000 for the fiscal year 1977, and $60,000,000 for fiscal year 1978.

S. 3119.—Federal Railroad Safety Authorization Act. The bill would require any common carrier to provide its employees with sleeping quarters having controlled temperatures and located away from areas where switching and other disturbing operations occur, It forbids any crew members of wreck or relief trains from working 16 consecutive hours in any 24 hour period. It sets forth required safety procedures for protection against following or oncoming trains, and for employees working on, under, or about an engine, car, or train.

It divides the Federal Railroad Administration into ten regional offices for administration and enforcement of Federal railroad safety laws.

S. 2184.—A bill to authorize the Secretary of Commerce to participate in the organization, planning, design and construction of facilities in connection with the 1980 Olympic Winter Games at Lake Placid, New York. It authorizes an appropriation of $50,000,000.

H.R. 11670.—An Act to authorize specified appropriations for the Coast Guard for fiscal year 1977 for vessels and aircraft procurement and for facilities construction. The Act would authorize a year-end strength for active duty personnel and establish average military student loads for fiscal 1977.

S. 2150.—Solid Waste Utilization Act. It directs the Administration of the Environmental Protection Agency to provide financial assistance to each State to: (1) assist in developing a State solid waste management plan; (2) assist the State in the administration of the program; and (3) develop, implement, operate, and enforce State programs for the control of hazardous waste disposal.

The Administrator must develop and implement guidelines and implementation of programs for disposal of solid or hazardous wastes.

Appropriations authorized to the Secretary of Commerce for purposes of the Act are $20,000,000 for each of the fiscal years 1976, 1977, and 1978, and $5,000,000 for the fiscal transitional period ending September 30, 1976.

S. 3037.—Federal Water Pollution Control Act. A bill to authorize the appropriation of seven billion dollars for fiscal year 1977 for the construction of waste treatment works.

S. 3437.—Federal Water Pollution Control Act. An original bill to authorize certain appropriations for the purpose of carrying out the provisions of the Act.

Sections of the Act affected, in brief, are 104(u), 105(h), 107(e), and 113(d).

S. 3438.—Clean Air Act. Section 104(c) of the Act is amended by the authorization of an appropriation of $148,194,700 for the fiscal year ending September 30, 1977.

S. 2872.—Federal Energy Administration Act of 1974. The bill extends the expiration date of the Act to September 30, 1979. It revises requirements for conflicts of interest, disclosure of information and record keeping under the Act. The Federal Energy Administrator shall be afforded an opportunity to comment upon proposed Environmental Protection Agency regulations affecting energy exploration and development.

S. 3439.—(Unfinished Business) Foreign Assistance Act of 1961 and the Foreign Military Sales Act.

H.R. 3650.—A bill to amend Title 5, United States Code, section 8344. It provides for the termination of Federal Civil Service Annuity payments upon the reemployment of specified employees. It further provides for termination of payments upon reemployment on part-time basis for periods equivalent to at least one year of full-time service. And, it provides for termination of payments to annuitants appointed by the President to specified positions covered by civil service retirement.

S. 3105.—Energy Research and Development Administration. The bill authorizes appropriations of certain sums for the following purposes: (1) $4,935,362,000 for nuclear energy research and development, and other purposes; (2) 0812,550,000 for non-nuclear research and development and other purposes; (3) $612,408,000 for environmental research and safety, and basic energy sciences, and for other purposes.

The bill amends prior appropriations acts to increase amounts authorized for specific energy research projects and extends authorizations through fiscal 1977.

S. 2657.—Higher Education Act of 1965 and Vocational Education Act of 1963 Amendments. The bill extends the Higher Education Act until October 1, 1982 and revises provisions dealing with grants and loans to students and regulations thereof, and repeals sections relative to attracting and qualifying teachers to meet teacher shortages.

It extends the Vocational Education Act until October 1, 1982 and provides for assistance to States to improve methods for using every available resource for vocational and manpower training. Requires establishment of State boards for vocational education in States desiring to participate in the program.

Establishes procedures for States and State boards to apply for funds, submit program plans, and maintain proper fiscal control of funds received.

Establishes various levels of educational and vocational responsibility under the U.S. Commissioner of Education and authorizes appropriations necessary to carry out the provisions of the bill.

H.R. 12987.—A bill to authorize appropriations of sums necessary for fiscal year 1976 and for the transition period ending September 30, 1976 to carry out the purposes of Title VI of the Comprehensive employment and Training Act of 1973.

An emergency job program extension—it requires that not less than 85 percent of the funds for public service employment programs be used only for wages and employment benefits, with the remainder of such funds to be available for administrative costs, supplies, and equipment.

H.R. 9019.—A bill to extend appropriations under the Public Health Service Act for loans and loan guarantees by the Secretary of HEW for health maintenance organizations.

The amount dispursed to a health maintenance organization in any fiscal year is not to exceed $1,000,000.

Employers of not less than 75 individuals are to offer as part of any health benefits plan the option of membership in qualified health maintenance organizations which are engaged in the provision of basic health services in service areas in which at least 25 of such employees reside.

H.R. 5546.—Public Health Service Act Amendments. A bill consisting of nine titles and authorizing appropriations necessary to carry out its provisions for fiscal years 1976, 1977, and 1978, for the following general purposes: (1) grants for trainees, construction, loan guarantees and interest subsidies, financial distress and scholarship grants; (2) training requirements for physician assistants, nurse practitioners, etc. and bars against discrimination; (3) construction of teaching facilities for medical and health personnel; (4) sets limits on student loans; (5) grants to health profession schools; (6) special project for medical and dental schools; (7) grants for graduate programs in health administration; (8) restrictions on first year medical residency training programs; (9) Secretary of HEW to contract or arrange for studies relative to the distribution of physicians geographically; to classify allied health personnel; to identify costs in each classification and shortages of critical personnel.

S. 3239.—Health Professions Educational Assistance Act. The bill amends the Public Health Service Act to extend appropriation authorizations for specified medical training and education programs through Fiscal Year 1977.

The bill, consisting of 15 titles provides, in general, for the following:

(1) Extension of current authorities through Fiscal Year 1977;

(2) Recruitment of health personnel speaking language of local population;

(3) Establishes limits, conditions, eligibility, and insurance requirements for student loans;

(4) Directs Secretary of HEW to designate health manpower shortage areas, to provide health services to such areas, and to submit annual reports to Congress;

(5) Establishes post graduate physician training relating to geographic needs of physicians in certain specialties;

(6) Restricts alien immigration of foreign medical school graduates who come to the U.S. principally to perform medical services, as well as medical professionals who were granted visitor status while attending U.S. health professional schools;

(7) Develop standards for State licensing of physicians and dentists, and for continuing education programs for doctors and dentists;

(8) Prohibits grants to medical, dental, and other health schools unless certain conditions for enrollment, Federal aid, and other qualifications are met;

(9) Directs Secretary of HEW to make annual grants to schools of Optometry, Pharmacy, Podiatry, and Veterinary medicine;

(10) Directs Secretary of HEW to make annual grants to public or non profit private educational institutions to support graduate health programs;

(11) Directs Secretary to make grants for allied health programs: administrators, supervisors, etc.;

(12) For special project grants and contracts in beginning, or related, or special areas of health education;

(13) Occupational health training and education centers;

(14) Construction of primary health care teaching facilities;

(15) Miscellaneous grants by the Secretary.

S. 2548.—Emergency Medical Services Amendment. A bill to revise provisions of the Public Health Services Act relative to emergency medical service systems including: (1) grants and contracts for establishment and operation; (2) grants and contracts for improvement; and (3) grants and contracts for research in emergency medical techniques.

The bill authorizes an appropriation of $5,083,000 for grants during the transitional quarter ending September 30, 1976, and for additional funds through Fiscal Year 1979.

H.R. 3348.—A bill to amend Title 38 of the United States Code, sections 5054 and 5055, for the purpose of continuing and improving the exchange of medical information between the Veterans' Administration and the medical community.

S. 2035.—Nuclear Fuel Assurance Act. A bill to authorize the Energy Research and Development Administration to enter into arrangements with private enterprise for the production and enrichment of uranium, for technical assistance, for acquisition of equity in such enterprise, and for other purposes.

S. 2661.—Independent Safety Board Act Amendments. The bill directs the Board to prohibit the disclosure of information obtained from an investigation of an aircraft accident or incident when conducted by a foreign state unless the state which conducted the investigation authorizes such disclosure.

S. 3091.—A bill to amend the Forest and Rangeland Renewable Resources Planning Act of 1974. It directs the Secretary of Agriculture to provide for public participation in the formulation and review of proposed land management plans for units of the National Forest System and to establish procedures for developing such land.

The bill authorizes the Secretary to appraise and sell trees and other forest products in accordance with the principles of the Multiple Use and Sustained Yield Act and repeals the prohibition against sale of forest products outside the State in which the timber is located.

S. 3422.—The Natural Gas Act repeals authority of the Federal Power Commission to regulate the sale of new natural gas sold to a natural gas company for resale in interstate commerce. Producers are prohibited from charging more for natural gas than the applicable ceiling prices.

For a period of seven years from the date of enactment of S. 3422 interstate pipelines are prohibited from paying more than the "onshore price" for new natural gas produced from onshore lands.

The bill continues cost-based regulation under the existing Natural Gas Act for all old gas which is all the flowing and dedicated gas for the interstate market that is not eligible for treatment as new natural gas.

New natural gas is defined as gas dedicated for the first time to interstate commerce on or after January 1, 1976; natural gas produced from newly discovered reservoirs or extensions of existing reservoirs; and natural gas available after the expiration of short term or emergency contracts.

S. Res. 448.—An original resolution. The purpose is to express the hope of the Congress for the early restoration of peace in Lebanon, and also to express the willingness of the United States to assist in Lebanese relief and reconstruction.

H.R. 8948.—A bill to amend the Accounting and Auditing Act of 1950. It directs the Comptroller General of the United States to make audits of the Internal Revenue Service and of the Bureau of Alcohol, Tobacco, and Firearms. The Comptroller General is required to report annually to the Congress on the results of such audits.

S. 2849.—A bill to amend the Investment Advisers Act of 1940. It authorizes the Security and Exchange Commission to establish standards for investment advisers and associated persons relative to training, experience, competence and other appropriate qualifications. The SEC is authorized to promulgate rules and regulations in the public interest to protect investors, to create advisory committees, employ experts, and hold public hearings.

S. Con. Res. 105.—A resolution expressing the sense of the Congress that the United States reaffirms a sympathetic interest in Italian democracy and democratic institutions. It expresses the sense of the Congress that the United States is willing to participate in efforts to provide assistance to Italy through the proposed OECD Special Financing Facility with the assistance of other friends and allies of Italy.

S. 3084.—A bill to amend the Export Administration Act of 1969 so as to extend for three years the authority granted under the Act to regulate exports.

S. 2343.—A bill to amend the Communications Act of 1934 by increasing the maximum fines which may be imposed on an individual for violations of FCC regulations.

S. 3063.—A bill to designate the Ozark Lock and Dam on the Arkansas River as the Ozark-Jeta Taylor Lock and Dam.

H.R. 12169.—A bill to amend the Energy Policy and Conservation Act. It authorizes appropriations for Federal Energy Administration functions for which no specific authorization exists in law, and limits aggregate appropriations to the Administration to $1,000,000,000 and etxends FEA authority through fiscal 1979. The bill revises provisions of the Energy Policy and Conservation Act relating to unfair and deceptive trade practices, Presidential requests for Congressional action, and motor vehicle fuel economy standards. It revises penalty provisions for violations of pricing regulations under the Emergency Petroleum Allocation Act of 1973.

Mr. ROBERT C. BYRD. I think I will also say long daily sessions, without prior notice, working into the evenings may also be required from time to time.

The distinguished majority leader has reminded me that, fortunately, the Senate has been able to carry on its work this year without having to come in on Fridays in several instances, but he also has reminded me that in view of the relatively short time remaining in which to do our work prior to October 2, if we meet that target date, the leadership advises Senators to count on Friday sessions from here on out.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. MANSFIELD. For the information of the Senate—this is only a small part of the program remaining—it is hoped that this month we will be able to dispose of the foreign arms aid bill, which is the unfinished business, and which automatically will follow the pending business unless unanimous consent is granted.

Then we have the gas deregulation bill which is of great interest to a great many Senators. It will entail some debate, perhaps more than anticipated at this time.

Then we have the Clean Air Act which, too, will take some time; and toward the middle of this month it will be the intention of the joint leadership to take up the tax reform bill because attached to that is a time certain under which action must be undertaken one way or the other, and that time certain is June 30. So those are four of the most significant items.

There are scores of others on the calendar which must be attended to at some time. There will be other legislation coming out and, to reiterate, we will take up the Spanish treaty as soon as we can after the Budget Committee completes its findings and gives us the report.

I thank the distinguished Senator.

Mr. ROBERT C. BYRD. I thank the distinguished majority leader.

Mr. ALLEN. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. ALLEN. The Senator spoke of possible quorum calls and votes on Monday. I would like to comment that I feel the present system under which we seem to be operating, of having all quorum calls go live, has speeded up the work of the Senate. There has only been one quorum call today put in by the distinguished assistant majority leader, and I think the Members of the Senate, realizing that a quorum call is going to go live, causes them to come over to the Senate Chamber when a quorum call is called.

I believe instead of having 20, 25, or 30 quorum calls a session, we are now having only one or two, and I believe this has speeded up the work of the Senate, and I am glad the distinguished assistant majority leader is now following that policy. [Laughter.]

Mr. ROBERT C. BYRD. Well, my distinguished friend is overly charitable today in his compliments, but I had sought earlier today to call off that quorum call but the distinguished Senator from Alabama, noting that in his judgment I undoubtedly was seeking to call off the quorum call for a very worthy purpose, went ahead to object to the calling off of the quorum.

Mr. President, I hope that both cloakrooms will notify their respective clientele that rollcall votes are expected early on Monday, and by early I mean as early as very shortly after 11 a.m., and that a long working day is in prospect for Monday.

RECESS TO MONDAY, JUNE 7, 1976, AT 11 A.M.

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 11 o'clock on Monday morning next.

The motion was agreed to; and at 2:28 p.m. the Senate recessed until Monday, June 7, 1976, at 11 a.m.

EXTENSIONS OF REMARKS

CONGRESSIONAL BICENTENNIAL SALUTE TO THE FIRST UNITED METHODIST CHURCH OF PASSAIC, N.J., UPON ITS CENTENNIAL CELEBRATION IN MEMORIAM TO THE LATE REVEREND MISS ANNA OLIVER, ITS FIRST LADY PASTOR

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 3, 1976

Mr. ROE. Mr. Speaker. On Sunday, June 6, the residents of the city of Passaic, my Eighth Congressional District, State of New Jersey, will join with the congregation of the First United Methodist Church in commemorating the 100th anniversary of its founding and memorializing the services of a former pastor and first woman to receive a full theological degree, the Reverend Miss Anna Oliver.

This is indeed a most historic occasion and I know you and our colleagues here in the Congress will want to join with me in extending our warmest greetings and felicitations to Rev. Kenneth L. Smith, the esteemed pastor, and all of his parishioners on this most joyous and noteworthy memorial observance.

As we celebrate our Nation's Bicentennial and reflect upon the history of our country and the good deeds of our people which have placed America in the highest position of preeminence as a representative democracy, second to none, among all nations of the world, with your permission, I would like to insert at this point in our historical journal of Congress a brief history of this most esteemed church, as follows:

EXCERPT OF HISTORY OF THE FIRST UNITED METHODIST CHURCH, COMPILED BY HISTORICAL COMMITTEE, WILLIAM T. SMITH, CHAIRMAN

This year, 1976, is a year of very significant importance to our Church in Passaic as 1976 encompasses both bicentennial and centennial history. The name of our present church, the First United Methodist Church, dates from the merger of the Methodist Church and the Evangelical United Brethern Church in April, 1968. Prior to that date our church was called the First Methodist Church of Passaic when the three major branches of the Methodist Church joined in 1935. Then, when we go back one hundred years, our church was named the First Methodist Episcopal Church. Preceding the centennial year, 1976, our Church was named St. George's Methodist Episcopal Church. And in its origin, it was called just the Methodist Episcopal Church of Acquackanack landing.

In the year 1843, a Sunday School was started in the Tap House On The Hill and, while the Tap House no longer exists, the site on which it was located is the area known today as Passaic Park. A year later, in 1844, a small Methodist Church was built on the west side of River Road and this church building remained adequate until the construction of the railroad which changed the area from a river-oriented community to one which was railroad oriented. The river no longer was the center of activity and people started moving to areas along the route of the railroad.

In 1865, the land on which the church stood, about two hundred feet north of the Erie Railroad bridge, was sold and the church was dismantled and moved piece by piece to the corner of Howe Avenue and Prospect Street. Dr. John M. Howe, a leading doctor and businessman of Passaic, had donated the property and took over the pastorate of the new church. But it was not very long before the church was too small for the growing congregation and it was decided to erect a new church. In 1870, Dr. Howe deeded a lot to the church on the corner of Bloomfield Avenue (now Broadway) and Gregory Avenue. The old church building was sold to the city and it became Passaic's City Hall, Fire Headquarters, Police Headquarters, and the office of the City Clerk. The building was used by the city until 1892 when the new City Hall was ready for occupancy. The old wooden church building then was used for cake-walks and primaries, except on Sundays when a Holland congregation worshipped there. In 1897, it was torn down to make room for the new Municipal Building.

Soon after 1870, plans for the new stone church began to take on monumental proportions. The Rev. George H. Whitney and the building committee were told to build a church worthy of Methodism and one large enough to fulfill the needs of the growing congregation. On September 4, 1871, the cornerstone was laid and on November 2, 1873, the church was dedicated as St. George's Methodist Episcopal Church.

It was a stupendous undertaking; the Methodists had erected a building which was considered the best one in the District, but the escalating costs had risen to well over $70,000 instead of the $30,000 as originally estimated by the architect. On September 20, 1873, about six weeks before the dedication, there was a critical financial crisis in the country; St. George's would feel the effect for the next three years. Within that period the people tried to raise money to keep their church operating. Dr. Howe donated over $30,000—the ladies held fairs and festivals—lecture series were started—concerts were given—but nothing would stem the foreclosure that loomed overhead.

The ladies held "necktie and apron suppers" to raise money, but to no avail.

In March, 1876, three parcels of property owned by St. George's were sold by the sheriff for back taxes—two pieces of property were sold for unpaid taxes of $7 each, one for unpaid taxes of $12, and for the unpaid tax of $100.00.

And then came July 4, 1876, a most important day for our country and also for our Church. The only official centennial celebration in Passaic was held in St. George's.

In August, the foreclosure procedure forced a new church society to be formed, and on August 17, the First Methodist Episcopal Church came into existence.

On September 17, with only fifteen people in the congregation, there appeared in the pulpit, fresh from theological school, the Rev. Anna Oliver. Her theme for the sermon as "Singleness of Aim." The financial pendulum finally began to swing and soon the church began to prosper. Concerts were given, lecture series were started and in the early part of 1877, the Rev. Anna Oliver called as her assistant the black evangelist, Miss Amanda Smith. The floating debt of $3,000 was soon reduced, the back interest on the mortgage was paid, and all running expenses were covered. The church had been built with a seating capacity of 800 but at times there were 1,000 persons crowded into the church. The First Methodist Episcopal Church of Passaic was indeed prospering; prospering so much that, as was the custom of the time, the pews were being rented, sometimes for as much as $5 to $50 each. This prosperity was readily noted by the next Conference and they then appointed another regularly-ordained pastor, the Rev. James R. Bryan.

During the course of our church history we have had fifty pastors. Since 1876, we have seen many changes in our Church; most changes have been very rewarding but some changes were most devastating. The most drastic change was the loss through fire of the old stone church on January 31, 1954. But, like the phoenix of Egyptian mythology, our church rose again. Under the guidance of the Rev. Gustave A. Stark, we secured a new building site, a new church building, new interests and new goals.

And now we come to the bicentennial of our country and the centennial of our re-organized Methodist Church in Passaic under the pastorate of the Rev. Kenneth L. Smith. Let us all work in harmony with each other; let us welcome new people with a sincere gesture of good faith; but let us never lose sight of all the pastors and all the parishoners who worked so diligently in the past, for without their efforts we would not have the Church which we have today.

Mr. Speaker, during the centennial observance of this most historic church, memorial services will be held in honor of the former first lady pastor of the First United Methodist Church, the late Reverend Miss Anna Oliver, whose prominence and leadership position in the community has served as an inspiration to the congregation for these many years.

The following profile of Reverend Oliver was taken from the writings of the church historian, William T. Smith, and is submitted herewith in memoriam to this highly accomplished and dedicated clergywoman whose standards of excellence on behalf of mankind are held in the highest esteem:

IN MEMORIAM TO THE REVEREND MISS ANNA OLIVER, PASTOR OF THE FIRST METHODIST EPISCOPAL CHURCH 1876–77, FIRST WOMAN TO RECEIVE A FULL THEOLOGICAL DEGREE, DEDICATED PIONEER FOR EQUAL STATUS OF WOMEN

On June 7, 1876 Anna Oliver received the first Bachelor of Divinity degree ever awarded to a woman. On that date the School of Theology of Boston University recognized the capabilities of this bright, cultured young woman. Prior to this singular achievement, she already had received an M.A. from Rutger's Female Institute, had been very active in the Woman's Rights and Woman's Temperance Movements and had been a teacher of the Freedmen in the South during the post-war period. Also she was an accomplished artist and subsequently exhibited her work while a student at the University of Cincinnati. Then, after a year of theological study at Oberlin College, she entered Boston University.

The Reverend Oliver had been educated and licensed by the Methodist Episcopal Church and remained in the ministry, worked for the rights of women and continued as a strong temperance advocate until her passing at the age of 52.

A special benediction of Reverend Oliver on Christmas Eve, 1876 memorialized the noble philosophy of the parishioners' heritage with the following inscription:

"May the holy spirit baptize this Church with the baptism of love, and guard from it, forever all things which tend to disturb the harmony necessary to worship our God in spirit and truth."

Mr. Speaker, I am pleased to seek this national recognition of the First United Methodist Church of Passaic, N.J., and to ask you and our colleagues here in the Congress to join with me now in salute to the church membership and Pastor Smith whose quality of leadership and untiring, unselfish efforts dedicated to the religious and spiritual needs of mankind continues to promulgate sincerity of purpose, good will and the warmth of brotherhood so essential to the well-being and inspiration of life's purpose and fulfillment. May they enjoy God's blessings and continued success of achievement in service to His Holy Name.

CRADLE TO GRAVE BUREAUCRATIC CARE

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 3, 1976

Mr. ASHBROOK. Mr. Speaker, in December of last year I introduced House Concurrent Resolution 505. This legislation would restrict the Federal Trade Commission in its authority to prescribe rules preempting State and local laws. In particular, it would limit the power of the FTC in regard to the funeral profession.

FTC bureaucrats have decided that Federal regulation of the funeral profession is in order. Consequently they have proposed complex and far-reaching rules aimed at correcting what they consider to be abuses in the profession. These include price lists, disclosure statements and types of forbidden behavior.

This is one more example of an undesirable trend in our country, an increasing tendency to federalize the issues. More and more matters under State and local control are being taken over by the Federal Government and its agencies.

The FTC's proposed regulations are discussed in a recent editorial by James J. Kilpatrick. I agree with Mr. Kilpatrick's concluding paragraph that the regulations are "merely one more wearisome extension of Federal power. The bureaucrats already seize us at the cradle. Do they truly need to pursue us to the grave?"

Following is the text of the editorial as it appeared in the May 29 Washington Star:

FROM CRADLE—TO GRAVE, TOO

(By James J. Kilpatrick)

The Federal Trade Commission has proposed sweeping federal regulation of the nation's funeral industry. The industry is fighting back. Because death is the one ultimate condition shared by all mankind, the proposal merits universal consideration.

This is no little business. Though many of the country's 22,000 funeral homes are quite small (the national average is only 94 funerals per home per year), the industry reported gross receipts in 1974 of $2.6 billion. In the FTC's view, the burial business plainly "affects" interstate commerce, and funeral practices therefore "are clearly a proper concern of the federal government."

As you would imagine, the industry takes a contrary view. All 50 states maintain boards or commissions with some regulatory and enforcement powers. The National Funeral Directors Association, a federation of state associations, promulgates ethical standards; individual state associations have expelled members for unethical practice. The industry contends that among two million funerals a year, abuses are few.

The FTC responds that state regulation is mostly sham. Only a handful of states provide for even a single public or nonprofessional member on their regulatory boards. In practice, funeral directors write and enforce regulations for fellow funeral directors. The general counsel of the NFDA, Thomas H. Clark, serves also as counsel to the conference of state regulatory boards. It seems indeed a cozy relationship.

Three years ago, in response to what it describes as "widespread complaints," the FTC launched a staff investigation into funeral practices. This culminated in August 1975 in the proposed regulation now pending. Public hearings have been held thus far in Chicago and New York. Additional hearings are scheduled for June 1 in Seattle, June 9 in Los Angeles, June 28 in Atlanta, and July 19 here in Washington. A final order is expected in the fall.

The proposed regulation is based upon a staff study that is curiously shrill and almost contemptuous in its tone. Some animus plainly was at work in the drafting of these charges. The typical funeral director emerges from this report as a greedy body-snatcher, exploiting bereaved relatives by "total and subtle confusion." He is "terrified" or "horrified" by the thought of federal regulation. His purpose is to "steer" the family into the highest-priced funeral by shaming the family into buying a costly casket, lying to them about state laws and charging them for services "they don't really want."

To put an end to these unfair and deceptive practices, the FTC proposes a trade regulation rule that runs to 20 double-spaced pages. The principal proposal goes to written itemization of prices. Funeral directors would have to offer their customers a full price range of caskets, and could not "uglify" the least expensive ones.

It would be an unfair trade practice, punishable at law, for a funeral director "to suggest in any manner that the customers' expressed concern about prices, inexpensive services or merchanidse or an expressed desire to save money by the customer is improper, inappropriate, or indicative of a lack of respect or affection for the deceased." How this particular rule would be enforced, heaven only knows.

The FTC staff insists that it is not engaging in "bureaucratic overkill," but its requirements would demand a bewildering array of price lists, informative memoranda and disclosure statements. The making of funeral arrangements would be treated as an exercise in comparative shopping among the supermarkets.

Perhaps the abuses, deceptions and "exploitative practices" are so pervasive that this heavy-handed federal rule is justified, but I wonder. Most of the states now require price disclosure. The state trade associations still object in principle to price advertising, but they no longer expel members who engage in such advertising. With a return on investment of only 4.25 percent, the industry would not appear to be as "lucrative" as the FTC staff insists it is.

My tentative impression is that the proposed rule is merely one more wearisome extension of federal power. The bureaucrats already seize us at the cradle. Do they truly need to pursue us to the grave?

VOTING RECORD OF CONGRESSMAN JONATHAN B. BINGHAM

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 3, 1976

Mr. BINGHAM. Mr. Speaker, last week, I missed several rollcall votes because I was attending the UNCTAD Conference in Nairobi, Kenya as a Congressional adviser appointed by the Speaker. I wish to record here what my position would have been had I been present and voting:

Rollcall No. 291, motion to agree to

the conference report on H.R. 12453, to authorize NASA appropriations; "yea."

Rollcall No. 292, motion to agree to House Resolution 1191, the rule to consider H.R. 12677; "yea."

Rollcall No. 293, motion to pass to H.R. 12677, to extend for 3 years the programs of assiistance under the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970; "yea."

Rollcall No. 295, motion to pass H.R. 12679, to extend for 3 years assistance programs for health services under the Public Health Service Act; "yea."

Rollcall No. 297, motion to pass H.R. 13121, to direct the Law Revision Counsel to prepare and publish the District of Columbia Code; "yea."

Rollcall No. 298, motion to pass H.R. 11009, as amended, to provide for an independent audit of the financial condition of the Government of the District of Columbia; "yea."

Rollcall No. 299, motion to agree to House Resolution 1190, rule to consider H.R. 6810, to authorize an additional Assistant Secretary of Commerce; "yea."

Rollcall No. 302, motion to pass H.R. 10138, to create the Young Adult Conservation Corps to complement the Youth Conservation Corps; "yea."

Rollcall No. 303, motion to agree to House Resolution 1214, rule to consider H.R. 12945; "yea."

Rollcall No. 306, motion to pass H.R. 13965, making appropriation for the Government of the District of Columbia and other activities for fiscal year 1976 and the transition period; "yea."

Rollcall No. 308, motion to agree to an amendment to H.R. 12945, exempting social security cost-of-living increase in computing the rent paid by senior citizens in public housing; "aye."

Rollcall No. 310, motion to pass H.R. 12945, to amend and extend laws relating to housing and community development; "yea."

Rollcall No. 313, motion to agree to House Resolution 1220, rule to consider H.R. 12169, FEA authorization and extension; "yea."

THE UNITED CHURCH OF CHRIST URGES A STRENGTHENING OF THE UNITED NATIONS

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 3, 1976

Mr. DRINAN. Mr. Speaker, in the recent past the executive council of the United Churches of Christ of America issued a five-point resolution with a comprehensive supporting statement recommending a deepening of the commitment which the United States and other countries have toward the United Nations.

This compelling statement deserves the closest attention of every Member of Congress. It is one of the most compelling statements made in recent times concerning the urgently important task of updating the United Nations so that it can truly guarantee international peace as well as the development of a just and humane world economic order.

The resolution and statement of the UCC follow:

Resolution: "The United States and the United Nations"

1. The U.S. Government should demonstrate clearly its serious respect for the United Nations by the way it prepares for discussion of the UN agenda, by the kind of delegates it sends, by the financial support it provides, and by entrusting to the UN more significant issues that require programs of joint action.

2. The U.S. Government should encourage the UN General Assembly and its Economic and Social Council to press for full observance of human rights in all countries and not, as at present, in limited areas only.

3. The U.S. Government should further by its full cooperation the effort begun by the Seventh Special Session of the UN General Assembly to develop a just and humane world economic order.

4. The U.S. Government should take the initiative in reducing its nuclear strategic weapons to a minimum deterrent, and should support the convening of a world disarmament conference. Since disarmament requires the substitution of world security for national security, the U.S. should stimulate the establishment of a permanent UN peace-keeping force.

5. The U.S. Government should press for activation of the UN "Special Committee on the Charter" with the objective of reorganizing the complex system of UN organs so as to make its many parts effective centers for the negotiation of consensus decisions about action and for implementing those decisions.

The United Nations We Seek

The United Nations has been a prominent fact in the life of the world for a full generation. But today, public opinion in the United States and many other lands looks upon this world organization with an uneasy mixture of admiration and disaffection, gratitude and resentment, trust and distrust, hope and despair. As representatives of the varied constituency of the United Church of Christ in the United States of America, we would address this widespread ambivalence, sketching the shape of the United Nations we seek.

The standpoint from which we speak must not be in doubt. The people and the congregations of the United Church of Christ are neither isolationists nor imperialist in world affairs. They are resolutely internationalist. Throughout the bicentennial history of the Republic, prophetic elements in our church, as in all churches, have borne witness to the belief that worldwide community is the will of God for humanity. Already in the American colonial period, one of our formative theologians held before the churches the vision that underlies their ultimate hope for international relations:

"There shall then be universal peace and a good understanding among the nations of the world instead of such confusion, wars and bloodshed as have hitherto been from one age to another . . . Then shall all the world be united in one amiable society. All nations, in all parts of the world, on every side of the globe, shall then be knit together in sweet harmony." (Jonathan Edward, *A History of the Work of Redemption*, 1739.)

We continue to live by the Biblical promises inherent in this faith. In the 20th century, many Christian citizens and organizations in the United States have participated in the development of our national conviction that the growth of worldwide community requires the framework of a strong intergovernmental organization. We know that such community demands both the protection and the stimulus of effective world political structures if it is to survive the threat of modern war and overcome the dangerous divisions of race and nation, bloc and class, and—let it be our shaming confession—of sect and religion also. Therefore, members of the several faith traditions of the American people helped build the League of Nations two generations ago, and then, learning much from its failure, contributed to the construction of a better United Nations in 1945. We are the grateful heirs of committed people who, in the darkest years of the Second World War, carefully worked out a world-minded "Statement of Political Propositions—Six Pillars of Peace." We have not forgotten that, enlisting the concern of many thousands of clergy and congregations, they helped to mobilize United States Government support at the San Francisco Conference for a Charter creating a universal political organization rather than merely extending the military alliance of the victorious powers.

The broad goals of the United Nations as set forth in the Charter are today as imperative for the safety and progress of humanity as when they were first formulated. This is equally true of the objectives defined for the specialized United Nations agencies—political, economic, social and technical—that have been established to help the nations move toward the Charter vision. But our present re-dedication to those goals must be linked to a realistic appraisal of the record of the United Nations as an instrument for their achievement:

1. To maintain international peace and security . . . and to bring about by peaceful means . . . settlement of international disputes . . .

No new World War has broken out during the life of the United Nations, but a hundred limited wars have been fought with escalating violence, making millions of victims in sixty countries. The arms race has come to involve more countries and more weapons than ever before in history. Earth and sea have been seeded with enough thermonuclear charges to annihilate the human race.

2. To develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples . . .

The United Nations has become a forum in which 144 countries now regularly meet, almost all of the sovereign nation-states of the present era, some third of which were newborn in the vast decolonization that followed World War II. But many countries, old, new, great and small, have used this forum for propaganda and confrontation rather than genuine interchange and negotiated accommodation. Big Powers have refused to let their gravest conflicts be subjected to collective international examination but insisted that smaller countries accept the judgment of the Security Council in which the Big Powers have control. National sovereignty has often been invoked to prevent investigation of claims of unequal rights within nations. Self-determination has been invoked to legitimize national liberation but countries freed from colonial domination and seated in the United Nations have sometimes, under autocratic rulers, allowed no self-determination for their own citizens.

3. To achieve internationl cooperation in solving international problems of an economic, social, cultural or humanitarian character, and in promoting . . . respect for human rights and fundamental freedoms . . .

The United Nations system of economic institutions has facilitated the unprecedented economic growth of many countries since World War II. United Nations cultural institutions have increased mutual knowledge and appreciation, United Nations technical and welfare institutions have improved communication and brought much relief. United Nations socio-ethical institutions have set high standards for human solidarity without discrimination as to race, sex, language or religion. But the gap between the rich and the poor—among and within nations—has widened, political conflict has warped important organizational decisions, and some of the most sensitive divisions between the nations have not been honestly faced but sorely aggravated through the loud sounding board of General Assembly debates.

4. To be a center for harmonizing the actions of nations in the attainment of these common ends.

During the first half of its life to date, the United Nations was prevented by the Cold War from effectively coordinating many weighty actions of the Great Powers. Postwar economic recovery, arms limitation, nation-building, and the implementation of human rights standards could not be harmonized by the United Nations because of the bitter rivalry between East and West. During the second half of its existence, the United Nations has frequently been reduced to rhetoric without adequate action-programs by the fanning of conflict and the refusal of compromise between the industrial and the less developed countries, between North and South. Great Power vetoes in the Security Council and one-sided majority votes in the General Assembly have alike provided empty victories rather than agreed next steps ahead.

We are grateful to God that, in spite of thirty years of crisis and ordeal, the United Nations survives, and is still potentially the organizing center indispensable to our human survival and to the nurture of a genuine and humane worldwide community.

We therefore call upon the churches to work, beginning in this year of the bicentennial and of a presidential election, for five essential reforms related to the whole United Nations couples, and especially the role played therein by our own United States Government. Detailed programs of action in pursuit of each of these reforms will from time to time be proposed in appropriate implementation recommendations. This Resolution aims only to spotlight what we believe are five basic issues concerning which American Christians can help secure appropriate institutional and policy change:

1. The present distribution of power and responsibility in the whole web of United Nations institutions should be restructured so as to insure that the policies and programs adopted have at least the minimum level of member-state support that is essential for their implementation.

The status of United States and international religious bodies as recognized Non-Governmental Organizations should be utilized to press for the activation of the United Nations' "Special Committee on the Charter of the United Nations and the Strengthening of the Role of the Organization." Likewise, religious groups should offer their testimony to the Secretary Genenral's "High Level Group of Experts" charged to develop "A New United Nations Structure for Global Economic Cooperation" in replacement of the current jumble of overlapping and unrelated organs working on various facets of the same porblems. This religious witness should be articulately based on the twin principles of national independence and international interdependence, not on any doctrinaire notion of a single world government or any imperial notion of capitalist or socialist or "Third World" hegemony. The objective should be so to reorganize the United Nations system as to make its many organs and agencies centers for the negotiations of "consensus decisions about action rather than voting about words." (Cleveland, Harlan—"The Peace of Mutation." The Inter-Dependent, July-August, 1975.)

2. The increasingly dangerous stalemate in United Nations work on arms control, arms reduction, and general disarmament should be broken.

Although the rim of the matter has been addressed in treaties on Outer Space, the Seabed, the Antarctic, and a Partial Test Ban, one or another of the Great Powers has over the years resisted successfully the preparation of any agreement limiting nuclear weapons, rolling back the arms race, or convening a world disarmament conference. The world is now spending annually more than $300 billion on armaments. With a deadlock in the SALT II negotiations, the United States must take the initiative in reducing its nuclear strategic weapons to a minimum deterrent. The United States should reverse its opposition to the convening of a world disarmament conference by the United Nations. This would focus world opinion on disarmament and also establish a new negotiating forum in which, hopefully, France and China for the first time might participate. Since disarmament requires the substitution of world security for national security, the United States must stimulate the United Nations to establish peace-keeping machinery in the form of a permanent United Nations force. The religious community in the United States, in concert with the international ecumenical community, should participate vigorously in a campaign to press both national governments and the United Nations toward binding, controllable agreements that damp down the current multiple dangers of general war.

3. The rising demand for a "new international economic order," expressed everywhere in the less developed countries and heard by many people of conscience in the richer nations, must be met head on.

The United Nations is the only place where all parties to the required changes in worldwide capital transfer, productivity, income distribution, price and tax policies can express their concerns and contribute their ideas. The future allocation of food, of energy, of all raw materials, but also the defense and enhancement of our planetary environment, cannot possibly be determined fairly and will never be accepted universally unless the representatives of all of humanity participate in the great decisions that must be made. The religious groups of the United States should urge the United States Government and private United States corporations, whether transnational or engaged in the import/export business, to participate creatively, rather than defensively,,in the construction of that more just and humane world network of economic activity whose time has now come. The Seventh Special Session of the United Nations General Assembly in 1975 began the indispensable process of joint action, by the rich and the poor, to develop a pluralist world economic order in which the special values of free market and planning are united, and other notions about viable economic patterns are tested. Religious groups must vigilantly and vigorously labor to see that there is delivery on the promises made in that historic United States session.

4. The United Nations General Assembly and its Economic and Social Council, with strong support from the United States Government, must develop, the courage to press for full respect for human rights in all parts of the world.

The United Nations has thus far selectively pointed to violations of human rights in such countries as South Africa, Rhodesia, Chile, and the occupied Arab territories. But the United Nations has not been able, politically, to send missions to investigate, or to cite, violations in such countries as Korea, the Philippines, Indonesia, Iran, Syria, Uganda, Czechoslovakia, and the Soviet Union. While the United Nations has adopted the historic Universal Declaration of Human Rights and drafted a series of individual declarations and conventions in many specific areas, the machinery has been lacking to enforce these rights. New United Nations structures are needed and the United States must work for such initiatives.

5. The United States Government must lay much greater weight on the United Nations and its recommendations in the shaping of American foreign policy.

While every country's foreign policy must be essentially determined by its vital national interests, the United States Government must be persuaded to provide a consistent example of a country that does not presume to know what its ultimate national interests really are without factoring into their formulation the best judgment of the United Nations. To enable the United Nations institutions and agencies to contribute to human survival, the United States must clearly demonstrate more than a decent respect for the opinion of the United Nations and all its member-states. By the way it prepares for discussion of the United Nations agenda, it must communicate its will to join in the negotiations of a consensus rather than convey the impression that it regards United Nations debates as generally a threat or a nuisance. By the kind of delegates it sends and financial contributions it votes, a Great Power reveals whether the United Nations organs are central or peripheral to its own policy decisions.

The American religious community should maintain constant pressure on the American Administration to make excellence, compassion and openness the standards for all forms of United States participation in the work of the world body. The United States Government should join other member governments in seeking to make the United Nations more operational by entrusting to it more significant area of joint action, thereby achieving increasing functional integration on a world scale, similar to the regional economic integration being built through the European Economic Community. The religious forces of the United States should continue to help the American people to see that the United Nations is an indispensable instrument of contemporary society. They should work for public understanding that United Nations membership must be all-embracing, whatever the political ideologies of the diverse lands, and for public trust that this struggling world body can indeed be improved, through the diligent labors of all who believe that worldwide community, not self-destruction, is the destiny of the human race.

CONSUMER COMMUNICATIONS REFORM ACT

HON. TIMOTHY E. WIRTH

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 3, 1976

Mr. WIRTH. Mr. Speaker, during the period that I have been a member of the Subcommittee on Communications, one of the witnesses who has impressed me the most has been John Eger, Acting Director of the White House Office of Telecommunications Policy. I regret that Mr. Eger is leaving that post, for I feel he is one of the most forward-thinking individuals in the present administration.

In remarks delivered today before the Electronic Industries Association seminar in Hyannis, Mass., Mr. Eger offers a critical analysis of the telephone industry-backed Consumer Communications Reform Act of 1976. I think it is an excellent statement on the issue of competition in the telephone industry and I commend it to my colleagues:

REMARKS OF JOHN EGER, ACTING DIRECTOR, OFFICE OF TELECOMMUNICATIONS POLICY, EXECUTIVE OFFICE OF THE PRESIDENT, BEFORE THE ELECTRONIC INDUSTRIES ASSOCIATION SEMINAR ON ELECTRONIC COMMUNICATIONS

It's a great pleasure for me to be here with you today at the Electronic Industries Association Seminar on Electronic Communications. I have been greatly impressed by the program thus far, and I look forward to listening to the views of the distinguished speakers you have gathered from the various sectors of the telecommunications industry.

Perhaps no other industry can be more proud of its accomplishments or more optimistic about its future. In the hundred years that have passed since the first telephone message was transmitted right here in the State of Massachusetts, we have witnessed a technological revolution in the development of electronic communications: a revolution that has changed the face of America and, indeed, the social, economic, and political structure of the entire world.

Now we are embarking on the second one hundred years . . . a second century that promises to launch us on a new and even more exciting course—a course rich in opportunity; a course that spills over national boundaries; and a course that winds its way to even higher and higher standards of living for all of us. We have the creativity and the inventive genius, and we have the industrial might to make this dream come true. But it is here that I must ask the question: "Do we have the will to make it come true?"

I ask this question because I see dissension within the industry—not so much as to the goals we have set for the future, but the manner in which we hope to achieve them. For, in the very midst of this technological watershed which promises so much for our society, and indeed those of the entire world, we find well-intentioned men wanting to resist and impede the dynamic wave of innovation that they themselves helped to create.

They have manifested this resistance in the form of a Bill before the Congress. It is a superficially appealing Bill, a deceptive Bill, beguilingly called the Consumer Communications Reform Act of 1976. And, in my judgment, it will serve more to retard consumer communications than to reform it.

It is a Bill that looks backward at a time when the sum of our productivity as a nation depends upon our relentless guest to harness the technology of the future—a quest that must be pursued by each of us, and all of us, slowed only by the limits of our creative imaginations.

To propose that the development of telecommunications might best be served by a single vested interest, free to regulate the pace of technological growth, and unencumbered by the stimulating effect of aggressive competition is, in my judgment, sheer folly. Let me explain.

To begin with, the Bill would establish a presumption in favor of monopoly control of these new technologies and services—and this at a time when economic, technological, and historical development force the contrary conclusion that the traditional competitive market forces are quite capable of serving the public's interest in many of the Nation's emerging marketplaces.

The Bill would place the burden on potential competitors, the new entrants, to prove that their offerings do not duplicate existing services of established carriers; and, if the services are new, the would-be competitor must prove that the service is totally beyond the ability of the established carriers to provide it. It hardly needs to be said that such a burden would be virtually impossible to bear.

The Bill apparently would also allow the established carriers to determine for themselves what constitutes a fair and reasonable price for their competitive services. And, more than that, the Bill would establish a rate-making principle akin to out-of-pocket costs as the floor for rate-making purposes.

That such a rate-making rule applied without the careful oversight of the FCC might result in the financial demise of their rivals is not lost on the established carriers. Should this happen, they request further that the Congress grant their full anti-trust exemption and the green light to acquire the assets of their competitors.

Finally, the Bill would eliminate unified control over the terms and conditions of access to the national telephone network by allowing each state the exclusive right to determine the conditions under which terminal equipment can be connected, by whom the equipment must be supplied, and the very design of the equipment itself.

I need not point out to you that the sum of the provisions of this Bill would eliminate entirely the miniscule competition which currently exists in domestic markets for private lines and terminal equipment. And, more than that, let me emphasize that the Bill would allow for the total elimination of all future competition except perhaps for that which the established industry itself deems to be in the public interest.

Although the proponents of this Bill have advertised it as one designed primarily to protect the consuming public, to my knowledge, after months of intense promotion, the industry has not been successful in enlisting the support of a single consumer group. If this is, in fact, the case, then we must ask ourselves the obvious question: Why not? I say because, in its ultimate effect, it is an *anti*-consumer bill: A bill which would strip consumers of present and future options in their choice of communications services and leave them to the whims and goals, however lofty, of a sole supplier; and a Bill which would lock in place a system of taxes and subsidies both administered and subject to change by private interests without effective public oversight at either the state or Federal level.

It is not my purpose today, however, to say that the established carriers are all wrong—and I am all right. In fact, I agree with much of what the industry has to say. I too deplore cartel management and arbitrary market allocation. I too agree that protective-umbrella rate regulation is a lamentable practice—and must be avoided—and that the opportunity to fail must accompany the opportunity to succeed. I agree that competition, if it is to be full and fair, must be a two-way street—indeed, if we are to have the full benefits of competition. The *same* rules *must* apply with equal force to established carriers and new entrants alike.

I agree further that the public interest requires near-universal telephone service, and I applaud the industry for successfully meeting this objective.

There I disagree, and disagree strongly, is in the basic premise that the established telephone monopoly has put forth as their primary reason for presenting this Bill to the Congress the presumption that competition in the telephone industry will ultimately serve to degrade the public telephone network and increase the cost of telephone service to the general public.

This is, I believe, a false premise, based upon an equally faulty presumption. And it is unbecoming that an industry that has grown and prospered under our basic free enterprise system should now turn its back on that system at the very moment that it promises its greatest rewards in the development of communications—and, perhaps more importantly, that it has also chosen to inject the totally unsubstantiated scare tactics of rising costs and technical harm into the national dialogue in order to preserve its own vested interests at the expense of the consuming public.

I think I speak for a significant cross-section of the Executive Branch, the Congress, and the FCC in stating unequivocably that there simply is no reliable evidentiary foundation for assertion of technical harm to the network, or of any adverse impact from competition on local exchange rates, either now or in the foreseeable future. I would include in the cross-section I refer to such people as Chairman Wiley of the FCC and the late Chairman of the House Subcommittee on Communications, Torbert Macdonald.

The industries' arguments are weak, and their facts are largely overstated. For instance, total competitors' earnings in 1974 were less than four-tenths of one percent of establish carriers' revenues. The portion of Bell System revenues which is even vulnerable to competition is only about 5 percent of the total.

The speculations about potential injury have likewise been grossly exaggerated. For example, a Bell claim that basic exchange rates might increase by as much as 70 percent is based in part on the assumption that the company would lose substantial revenue contributions from both its competitive *and monopoly* services (apart from basic exchange services) while casting off none of the common costs associated with provisions of these services.

Finally, there is simply no basis in our experience for anticipating any significant revenue diversion from continuing monopoly services such as interstate or intrastate message toll or Wide Area Telephone Service; and, even in the competitive fields, Bell's service and marketing innovations to date give every reason to anticipate that it will retain a major portion of the business.

To those who say competition cannot work in telecommunications, I say it can—and we must let it. To those who argue that only a monolithic industry structure can serve the consumer's best interest, I say give the monopoly its due in those markets where it is justified (and it is in some), but leave the remainder for the creative, dynamic forces of market rivalry. Give consumers the benefits of efficient, large-scale production, but do not deny them new and innovative services and the diversity of choice which are the hallmarks of our system of free enterprise.

I recognize that the task at hand is not an easy one, nor one susceptible to simple solutions. But let me say this: Just as our dislike for cartel management must not drive us to embrace monopoly management by a regulatory agency shorn of its regulatory powers by this very Bill, likewise our distaste for market apportionment among many rivals is not at all sweetened by the prospect of Congressional apportionment of the entire market to a sole supplier. Market allocation is market allocation—be it among the many or to the one. Nor does our commitment to fairness for established carriers extend to an endorsement of operating opportunities for predatory pricing by these same carriers.

I want to make it clear that I believe we can and must steer a careful course between the wasteful extremes of unregulated monopoly as implied by the Bill and the kind of regulated competition which, in large measure, has led to the present sorry state of our Nation's transportation system.

We find no merit in either; and, consequently, we are appalled by the prospect of both. Ours is a middle-of-the-road approach. Yet, if we are to travel this road, there is some unfinished regulatory business we must attend to.

Let me be specific. I spoke of that unfinished business last November in my statement to the House Communications Subcommittee. I believed then, as now, that the public deserves and can obtain the benefits of both monopoly and competition. If we are to have both, we must, however, fashion carefully constructed regulatory instruments to prevent both predatory pricing and predatory entry. Mind you, I am not suggesting new regulations, but merely a careful honing of some of the old.

In November, I outlined an eight-point program for regulatory reform in the telephone industry and, at the request of the late Chairman of the House Communications Subcommittee, I submitted an agenda for action and a timetable for implementation—parts of which have already been accomplished.

In the remaining time, let me review quickly for you the contents of that agenda.

The first thing that is needed is a basic and assured commitment to the free market—across the board—except and only to the extent that workable competition can be shown to be unavailing. The burden of proof should be up to those opposing market entry to show concretely that its detriments in any given case are likely to outweigh its benefits—not the other way around.

Second, the FCC should declare its readiness to determine that certain services lacking any appreciable attributes of "natural monopoly" are not common carrier services at all, and so may be freed of any regulation under Title II of the Communications Act. We believe this determination can be made, for example, both with respect to brokerage of communications services and facilities, and with respect to the provision of terminal equipment.

Third, procedures should be established to arrange revised inter-jurisdictional separations procedures that remove present artificial obstacles to competition. OTP is currently developing these proposed revisions and is consulting with interested parties on a sensible approach to this problem.

Fourth, and very importantly, there is an overwhelming need to develop and adopt cost allocation principles that will apportion joint and common costs among the various services offered by multiple-service firms. This is at the heart of the cross-subsidies and predatory pricing issues.

The fifth and closely related step that needs to be taken is a revision of the long-outmoded Uniform System of Accounts. Three years ago, we commissioned and, in 1974, forwarded to the FCC a study showing that, under the current system, not even the direct costs of facilities or equipment are correlated with the various services from which revenues are drawn. And that situation is substantially unchanged today.

We must also insure that services which are determined by the Commission not to be "natural monopoly," common carrier services should nonetheless be offerable by common carriers, provided that they establish for that purpose subsidiary corporations with separate accounts and records. This would involve, for example, the de-tariffing of all terminal equipment.

Finally, the Commission should be asked to prepare whatever specific legislative recommendations may seem necessary to carry the foregoing agenda into effect. Among the changes that might be considered would be a statutory modification of the 1956 AT&T Consent Decree which was negotiated at a time when there was little if any effective competition in the communications services field and which, as written, generally restrains AT&T from operating in unregulated markets.

I realize, of course, that no one of us can make this or any other agenda come to pass. The solutions to the problems we face in telecommunications today must be solved by all of us working together toward a common goal. But the time is long past due to call a halt to the seemingly endless bickering and jurisdictional rivalry which threatens to slow and to cripple our capacity for technological innovation and creativity.

It matters little that we expound on the magnificence of our existing communications systems and our preeminence among nations if, in our boardrooms and in our governmental bureaucracy, we spend the majority of our productive energy devising rules and regulations that, in the aggregate, serve only to restrain our initiative, divide our resources, and set us one upon another in a winner-take-all game of chance.

But let me conclude on a note of optimism and one of caution all the same. We have a fine telephone system—indeed, the finest in the world, and one which is bound to improve. But, let us not establish the precedent for nationalizing whole industries and vesting their control with private interests to achieve that improvement.

And let us not spurn lightly the experience of two centuries during which this nation, armed with the principles of a free competitive enterprise and the democratic vote, grew and prospered. Hand in hand, these very principles guided this nation—the energy and talent of its people and the wealth of its natural resources—to the very pinnacle among the nations of the world. Equality of opportunity—be it in markets for jobs, markets for ideas, or markets for goods and services—has been, is, and will remain the standard against which truly free societies are measured.

And so I leave you with one final thought, and that is the proposition that our success as a nation has not been wrought by accident. It was planned and sustained by men of vision, men who believed in some very basic principles—principles which, taken together come down to a single thought, a single word, the word with which we began some 200 years ago: and that word is "Freedom." The new entrants in the telecommunications industry ask only the freedom to compete. They ask for nothing more, and we must offer them nothing less.

TEACHERS AND RESIDENCY

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 3, 1976

Mr. DERWINSKI. Mr. Speaker, in my judgment, the Federal courts are continuing their unfortunate pattern of usurping legislative jurisdiction. The most recent example is the Supreme Court ruling on residency for local government employees.

On May 13, WGN Chicago, broadcast an editorial on the serious problem that would be created for the Chicago school system if this residency requirement were applied to its teachers, and I believe the points made by WGN are applicable to many other cities in our Nation.

The editorial follows:

TEACHERS AND RESIDENCY

Now that Mayor Daley has ordered that all city employees be city residents, the Chicago Board of Education may do likewise. There is no question, since a recent Supreme Court ruling, that such requirements are legal. We continue, however, to support the concept of free choice in housing and we will support efforts to block or repeal city-residence ordinances.

There is another element involved in the situation of teachers, the effort to integrate faculties as well as student bodies in Chicago's public schools. It is estimated that between 25 and 30 percent of the teachers live in the suburbs. We presume a large majority of them are white teachers. If they are forced to make the choice between suburban living and Chicago teaching jobs, many would opt for the suburbs.

As it is, many experienced teachers are expected to resign if they are ordered to different schools to integrate faculties, whether they live in the city or don't. The additional pressure of a residency requirement could tip the balance toward resignation.

As usual, the youngsters will be the losers. A residency requirement for Chicago teachers would be just another reason for more experienced teachers to leave the city's schools.

CONSUMER COMMUNICATIONS REFORM ACT OF 1976

HON. MARJORIE S. HOLT

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 3, 1976

Mrs. HOLT. Mr. Speaker, I am today joining a number of my colleagues in introducing the Consumer Communications Reform Act of 1976.

Since its inception, the Federal Communications Commission has been charged with the responsibility of implementing a national policy of universal telephone service at reasonable rates. Several recent decisions of the Commission have raised questions as to whether the Commission is implementing this congressionally mandated policy or creating its own policy. These decisions, which are designed to increase competition in the telecommunications industry, allow the unlimited interconnection of customer-provided terminals and station equipment with the telephone network.

Competition is a basic tenet of the free enterprise system and a desirable trait in all commercial transactions. However, it must be recognized that the telephone industry does not operate in a free market; it is a Government-regulated monopoly, the same as all other public utilities. Decisions which are normally made by market forces are in this industry made by regulatory agencies. Thus, the standards which are applied to normal business undertakings cannot be universally applied to the telecommunications industry.

Serious allegations have been made that the FCC-sponsored competition will have deleterious effects upon the system, including a reduction in quality of service and substantial increase in charges for residential and small business customers. While there is no universal agreement on these points, I strongly feel that Congress must review our national telecommunications policy with an eye toward the effect of this policy on the consumer and our national telephone system.

Though I may not ultimately agree with all the provisions of this proposed legislation, I do feel that the Consumer Communications Reform Act of 1976 will provide a framework within which Congress can effect a much needed review of our national policy. I would hope that this review will include methods of increasing competition in the industry which will not adversely affect consumer interests. I urge that the Committee on Interstate and Foreign Commerce initiate prompt hearings on this urgent matter.

WORK RULES AND BEEF PRICES

HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 3, 1976

Mr. ABDNOR. Mr. Speaker, just about anywhere you turn you will find some self-appointed expert lamenting the "high cost of food" with particular emphasis on the "high cost of meat." Any time there is a slight rise in the price farmers are paid for their product it makes headlines. Not much is said when these particular prices decline. Strangely, even though these prices decline the price of food in the supermarket rarely does.

Why this happens is due to a number of factors, and I would like to share with my colleagues some very perceptive comments on the subject which Vince Crago, president of the South Dakota Stockgrowers Association made recently:

On Beef Prices For Consumers—Stockgrowers Challenge Labor Unions, Government

SPEARFISH.—Cattlemen have challenged labor unions and government officials to eliminate rules and practices that cause higher beef prices for consumers and lower cattle prices for producers.

According to Vince Crago, president of the South Dakota Stockgrowers Association, rising off-farm costs of processing, transporting and marketing beef are the major reasons for higher retail food prices for consumers.

Crago explained that these widened farm-to-retail price spreads are caused in large part by union work rules and overly restrictive government red tape and regulations. He contrasted lagging productivity in the off-farm segments of the food industry with continued increases in production per acre and output per man-hour on farms and ranches. Agricultural productivity now is three and one half times greater than it was in 1950.

Without agriculture's productivity improvement which has been twice that of other sectors of the economy—retail food prices would be significantly higher than they are now, Crago pointed out.

The unnecessary government regulations and union "featherbedding," he continued, are contributing to increased prices for meat and other foods. Unless the practices are curtailed, average food prices will continue to rise and the larger farm-to-retail price spreads will further squeeze the farm producer's share of the available food dollar.

"For 20 years, average retail food prices rose relatively slowly," Crago said. "An increase of about 6 per cent per year in agricultural productivity—or output per man-hour—offset most farm production cost increases, and average farm prices rose very little. Until 1971, about 95 per cent of the food price increase was caused by higher costs and margins for marketing farm foods. Farm prices continued to fluctuate with changes in weather and supply and demand, but farm-to-retail price spreads increased almost every year.

"In the early 1970's farm prices rose significantly in response to shorter supplies and increased world demand, but the relentless increase in off-farm margins still accounted for half the increase in average food prices. During the past two years, more than three-fourths of the food price increase was caused by higher marketing charges."

Crago pointed out that labor costs alone represent half to two-thirds of the margins in certain segments of the off-farm food industry, and wage increases without comparable improvements in productivity have been the biggest single factor in price spread increases in recent years. The average beef price spread, for example has gone up more than 50 per cent in just the past five years.

Average cattle prices have risen significantly from several years ago, Crago said, but cattlemen helped keep these increases under control with a 65 per cent improvement in their own output per man-hour in just the past 10 years.

During the same 10-year period, it was noted, the beef price spread jumped 74 per cent. A major factor was labor cost increases. Wage rates in the meat processing industry climbed 77 per cent, compared with a productivity increase of only 30 per cent. In the supermarket business, wage rates rose 82 per cent, but there was a 5 per cent decline in productivity.

"Without the continuing improvement in agricultural productivity," Crago said, "The share of income spent on food would not have leveled off or decreased as it did in recent years. Cattlemen and other agricultural producers have been able to feed more people better because they have not resisted more efficient use of labor; they have not learned to put two drivers in a tractor when one man (or woman) could do the job.

"There were two and one half times as many farmers in 1950 as there are now; yet farm production last year was twice that of 20 years ago. How many more people still would be on farms instead of teaching school or making stereo sets . . . how much higher would beef prices be now if someone had decreed that each farm truck should carry two men, or a man had to be stationed at each cattle feed bunk even when feed wasn't being delivered, or the same ranch hand couldn't feed cattle one day and repair a fence the next?"

Crago estimated that restrictions in labor-management agreements cause beef prices to average at least 5 cents per pound higher than otherwise would be the case. In total, he noted, union "featherbedding" practices in the beef business may cost the public at least $¾ billion a year.

Crago also called attention to an ever-expanding maze of local, state and Federal regulations which hinder productivity and appear to cost the public far more than they return in terms of health, safety or other benefits.

"If the inefficiencies caused by unnecessary government regulations have an effect as great as that of union work rules," Crago said, "the additional cost to the public is easily another $¾ billion per year.

"Beef represents about one-sixth of the at-home food budget. If there are similar inefficiencies in other parts of the food economy, the public is paying several billion dollars a year just to support unnecessarily restrictive government and union rules and red tape. It's another example of cost-push inflation imposed on all of us by big government and big labor."

Crago said the South Dakota Stockgrowers Association is joining the American National Cattlemen's Association in encouraging the legislative and executive branches of government, consumers, business, labor unions and farm producers to acknowledge the productivity problem and then do something about it. Unless wage demands are matched with productivity improvements and costly government bureaucracy is reduced, he asserted, the now-established trend of spiraling food price spreads will continue.

"For years, agriculture's productivity improvement has been the major deterrent to food price increases," he said, "but this one segment of the food economy can't continue to carry the burden for all the rest.

"We would be the first to oppose any anti-competitive situations in the food industry; but it is quite clear that our problem now is not 'administered price increases,' but is 'administered labor and other cost increases' which are not offset by advances in productivity."

Crago said that the widening price spreads have two basic effects on farmers and ranchers. "Part of the increase is passed on to the consumer in the form of higher prices," he noted, "and that limits demand for our product. Also, part of the increase comes out of the producer's share of the food dollar.

"If more of the available dollars go to pay for continually increasing meat handling margins, there obviously will be fewer dollars left for the cattle industry. The squeeze on our prices and returns can ultimately cause large cutbacks in beef supplies, and that means still higher prices for beef."

GREAT NECK MEMORIAL DAY PARADE

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 3, 1976

Mr. WOLFF. Mr. Speaker, on Monday May 31, 1976, the annual Great Neck Memorial Day Parade was held. This year's parade was dedicated to the American Bicentennial observance and many local citizens participated in the event. Mr. Howard Leeds, well known as a local business leader and the president of the Great Neck Chamber of Commerce, was the grand marshal of the parade. He is a prominent citizen in the community and has been a member of the parade committee and the master of ceremonies for the observance on the Village Green for many years. He is also a volunteer congressional aide, district representative to the U.S. Military Academy, and liaison officer to the Veterans' Administration hospitals in the New York area.

Along with this distinguished gentleman were such other notables as Lt. Col. Joseph S. Grasso, USAR, chairman of proceedings; Maj. Gen. George W. McGrath, Jr., commanding general, 17th U.S. Army Reserve Command; John H. Reed, Jr., division commander, USMC; Robert Neubert, 2d Division commander; Jeff Flowers, 3d Division commander; Maj. Gen. R. E. Schoeneman, U.S. Air Force; Rt. Rev. Msgr. Henry J. Reel; Rev. William J. Jiles; Rev. Garry E. Maier; and Rabbi Jerome K. Davidson.

The observance of Memorial Day, a special day set aside each year to honor the memory of our gallant war dead, has long been celebrated on the Great Neck Peninsula. Local veteran posts held memorial exercises during the 1920's and continue to do so to this day. Worthy of special mention has been the strong support of the U.S. Merchant Marine Academy at Kings Point, from the early 1940's on. Over the years, the American Legion and the Veterans of Foreign Wars have also lent unfailing support.

This year's parade committee included honorary chairman, Arthur B. Engel, rear admiral, Superintendent, USMA; general chairman, Howard A. Filbry, past commander V.F.W. Post 372; secretary, Comdr. Robert E. Cohen, USNR (retired); executive chairman, Charles Davis, commander, American Legion

Post 160; and treasurer, John E. Keating, commander, V.F.W. Post 372.

This Bicentennial Year with the dedicated assistance of Attorney Fred A. Williams, the committee has been incorporated and holds a New York State charter; thereby assuring the future continuation of this historic day.

RACISM AND SEXISM: A COMMON PLIGHT

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 3, 1976

Mr. RANGEL. Mr. Speaker, during our Bicentennial year, two sectors in America remain without the fruits of their labor which contributed to this country's 200 years of growth and prosperity. Minorities and women continue to suffer the common plight of unequal opportunity in a country which proclaims equality for all. While women are in a numerical majority and nonwhite citizens are not, still both are victims of discriminatory patterns. Neither groups have equal access to educational and employment mobility, nor are they legitimate forces in the area of decisionmaking which shape our country's future. In the absence of penetration in these areas by such groups, inequality will continue to subvert our constitutional commitment of freedom and equality for all of our citizens.

Our colleague, Congresswoman SHIRLEY CHISHOLM has reflected on this common plight shared by women and minorities in a recent monthly publication prepared by the Congressional Black Caucus. Her article merits the attention of each of us since we share part of that power which causes this kind of disgraceful inequity.

Herewith, I submit "Racism and Sexism: A Common Plight":

RACISM AND SEXISM: A COMMON PLIGHT

(By Representative SHIRLEY CHISHOLM)

Hearings were held during the First Session of the 94th Congress on affirmative action, the process designed to create equal opportunities for minorities and women in agencies and organizations which receive federal funds. These hearings revealed that in order to assure equal opportunities in employment, stronger enforcement rules must be legislated and stronger penalties for violators must be levied.

Originally designed to eliminate the job discrimination based upon race and sex, affirmative action fell short of being the boon that both women and minorities were seeking because it ran head on into employment's seniority system. It was evident that the "last hired, first fired" rule which was supported by the unions would not allow for maximum opportunities by the two most discriminated against groups in this country.

A step forward in the fight against hiring discrimination came recently when the Supreme Court ruled that individuals previously refused seniority by employers are eligible to receive it.

Nevertheless, women and minorities, often thought to be two opposing groups, still share some important problems—not the least of which is employment. In hiring, as in education and in health, these groups of U.S. citizens have been illegally shut out of the equal opportunity arena and have been denied the power to define who they are and what they can do. This has been an important denial because those in power in every society have always recognized that the people who hold the power to define, hold the basic for all power.

The critics of Black and other minority involvement in the liberation struggle of women suggest that the problems of minorities are much more severe than those of women because this country is more color-conscious than it is sex-conscious. The truth is that America is as anti-feminist as it is racist and that both of these constitute a large degree of anti-humanism—a characteristic that is unfortunate, but real.

An examination of the problems shared by women and minorities in employment reveals that tremendously large numbers from both groups are under-employed, unemployed, and underpaid because they have been unable to seize control of any sizable degree of the decision-making positions. They are not the ones who define; therefore, they are not the ones who control.

The delegation and assignment of roles has traditionally been a responsibility of the white males, and as a result, white females (as well as Black males and females) have been relegated to those positions which carry very little weight in the decision-making process. The result has been that over one fourth of all working women have been pushed into only five occupations; secretary, public school teacher, bookkeeper, waitress, retail sales clerk. Although these may be noble occupations, they do not represent the gamut of possible choices available to a person in the so-called "land of opportunity." It is disgraceful that there are approximately 33 million women in the work force with only 2 percent of all managerial positions filled by women and even a smaller percentage held by Blacks.

It appears that when roles are "assigned" by those in power, the domestic and menial jobs are reserved for women and minorities while the positions of control are assigned to white males. This may be why there has never been a woman on the Supreme Court (and only one Black male) and why there has never been a woman on the AFL–CIO council. The truth is that while women clearly comprise more than 52 percent of the nation's population and have undoubtedly been a major force in running political organizations, they have not been allowed to penetrate the political establishment which makes the role decisions and definitions.

The media are other professional outlets which deny extensive opportunities to women and minorities. The power and influence of newspapers and television stations are felt not only in hiring, but also in creating public opinion. The Washington Post, considered among the liberal voices of the print media, in 1972 had only 19 Blacks and 34 women on an editorial staff of 310 in a city that was not only predominantly Black, but is also predominantly female.

The number of minority households and the number of female-headed households have grown astonishingly in the past decade. Most Black and Puerto Rican family heads as well as female family heads do not simply work in order to gain luxuries for their dependents, but work out of neceessity. This is particularly significant when we realize that 11 percent of all families in this nation are headed by women. 28 percent of Black families are headed by women, and 40 percent of all poor families are headed by women.

Nevertheless, we cannot overlook the fact that racism and sexism have often been thought to be mutually exclusive types of discrimination. It is true that women in the U.S. are not a minority and that there are 3½ million more women than there are men in the country. This distinguishes them from the racial minorities who actually are a minority of the overall population.

It is also true that, as a whole, women spand a wide range of economic groups and, therefore, tend not to fall on the lower rung of the economic ladder as do other racial minorities who tend to be the victims of economic devastation. Needless to say, women who are employed as "token" representatives of their sex generally tend not to have as difficult a time adjusting to a work situation as do minorities who often feel alienated and estranged because of their differences in racial or cultural origin.

All of us have an obligation to join in this positive struggle so that "equal opportunity for all" will no longer be an empty slogan, but will be a meaningful, viable, and attainable goal for every American.

We are most fortunate to have a member of the Congressional Black Caucus, Rep. Augustus F. Hawkins, chairing the Subcommittee on Equal Opportunities, the Subcommittee invested with the legislative responsibility for oversight in these matters.

AMERICAN BUSINESS' NEW OWNERS

HON. WILLIAM R. COTTER

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 3, 1976

Mr. COTTER. Mr. Speaker, I would like to bring to the attention of my colleagues an excellent column by Peter Drucker which appeared May 27 in the Wall Street Journal.

At this point, I would like to insert the column into the RECORD:

AMERICAN BUSINESS' NEW OWNERS

(By Peter F. Drucker)

Employe pension funds now own more than one-third of the equity capital of America's publicly-owned companies—more than enough to give them voting control. Within 10 years this ownership will rise to 50% or more. And in the truly big businesses, the top 1,000 or so companies, employe pension funds already hold majority ownership of equity capital and voting stock in most cases.

Since General Motors in October, 1950, started the "pension fund explosion," America has effectively "socialized" its productive resources without "nationalizing" them. The U.S. is considered everywhere the citadel of capitalism. But our system is actually a non-governmental market socialism. I call it "pension fund socialism." The employes through their pension funds have become the new owners of American business.

Managements know that "institutional investors" have become the dominant source of capital and the largest shareholders. And they know that "institutional investor" is just another term for "employe pension fund." Most managements also know—or at least sense—that the pension funds of their own employes and those of other companies together already receive a larger share of corporate income than anyone else, a larger share even than the tax collector. Typically, the company's own pension funds get 30 cents or more of every dollar of income before pension fund charges and taxes. Corporation income taxes—federal, state and local—take half of what is left. Of the remainder, other companies' pension funds, the "institutional investors," get yet another 10 to 15 cents, for a total pension fund take of 40 to 45 cents on the dollar. And within 10 years this will rise to 60 cents or more, crowding out other beneficiaries of corporate income.

Yet almost no management has asked itself what the new ownership structure means for the governance of the corporation; for the structure, composition and function of its board of directors; for the accountability of management, and indeed for the legitimacy of management altogether.

"NEW LOOK" BOARDS

Many American businesses, especially the large ones, have tried to give their boards, during the last five or eight years, a "new look," by bringing in representatives of all kinds of "minorities"—blacks, for instance, or women or consumers. But I know of no business that has yet thought through what the shift in ownership means for the traditional membership of the board—that is for membership that represents the owners—and for the traditional function of the board.

Yet unless managements establish a working relationship with the new owners of their companies—the nation's employes—they will have no constituency at all within a short period of time. "Ownership" and "control" will then be totally divorced. And predictably "control" is not going to survive long without accountability to anyone whom society accepts as legitimate, and without a constituency to support the autonomy of business and management against political, social and governmental pressures.

For the first time perhaps since the 1920s, when ownership and control first began to move apart, there is again a clear, a defined, a powerful and a highly concentrated ownership interest. For the first time altogether the "owners" of big business are a clear majority of the population. For the first time, also, business performance and business profits are directly tied in with a major economic interest of the majority, the interest of every employe in his own support in his own old age.

Yet management so far seems to see neither the need to reach the new owners nor the opportunity to mobilize this new constituency and to gain its understanding and support, even though every company president every time he makes a speech deplores the lack of such a constituency and of its support.

The emergence of the employe pension fund as the new owner of American business also confronts the labor union with a new problem for which it is unprepared. The "exploited worker" whom the union defends against the "wicked bosses" is now himself the "owner" and the "fat cat capitalist." Indeed, this "exploited worker" is now the real "boss." The same "exorbitant profit" that the "bosses" steal out of the workers' pay envelopes is, alas, also "pitifully inadequate" to support a decent pension for the same workers.

In fact, as the number of people surviving into retirement age increases—and it is going up sharply—higher profits will become the first interest of a majority or near-majority of employes, those who have reached retirement age and those who have passed age 45 or 50. If the American labor union disregards the new ownership interest of the American worker and continues, as most labor leaders would clearly like to do, to represent "labor" against "capital," it risks the emergence of a parallel, rival organization that represents the worker in his capacity as the "new owner." But it would be equally dangerous for the American labor union to accept the reality of the "new ownership" on the part of employes, that is to defend the need for profit against union demands. And it would surely be totally incompatible with traditional union rhetoric and traditional union commitment.

The most difficult and perhaps most important problems, however, concern the pension funds themselves. They now have controlling ownership of American business and soon will have majority ownership. Yet they are trustees rather than real owners. The real owner is a contingent claimant to a future penison. However, if the pension funds do not exercise the control this is legally vested in them, there is no control at all. But are pension funds, as trustees, entitled to exercise voting power? Is it even compatible with their responsibility? Their job is to invest in the best financial interest of their clients—the participants in a company pension plan. This means that it is their job to sell the stock of a company in the management of which they have lost faith.

To keep the stock in order to exercise control and thereby to reform the company is clearly not a proper exercise of the trusteeship function. And for a pension fund manager to sit on a company board is probably incompatible both with his responsibility as a trustee for the pension fund's beneficiaries and with his responsibility as a company director.

PENSION FUND PROBLEMS

Even more important and more difficult are the problems of pension fund structure and pension fund governance. The pension funds for the employees of the country's largest businesses—the top 1,000 companies or so—effectively own the American non-farm economy. To whom are they accountable? And how do they establish a relationship with their constituency, the country's employes? Above all, how can they be structured so as to have an adequate defense against the ever-present danger of raids against pension fund assets by irresponsible, greedy or hard-pressed governments trying to "solve" a political problem, or at least to postpone tackling it "until after the election"?

That is by no means a hypothetical problem. In the last year the pension funds of New York City and New York State employes were "persuaded" to buy ever-increasing amounts of New York City IOUs of rather dubious credit-worthiness. And it is scant comfort that trustees of the pension funds of private employers under present laws are forbidden from doing what the totally unregulated pension funds of public employes can apparently be forced to do. The same Congress that in the Pension Reform Act of 1974 has enjoined strict rules of responsibility and accountability on private pension fund trustees, can easily change the laws again. And already there is great pressure on it to do so.

The only defense against the pension funds becoming political prey is the support of their beneficiaries, the country's employes. But so far the employes do not realize the stake they have in the integrity of pension fund assets. Nor is there any legal or institutional mechanism which relates integrity of the pension fund and its governance to the interests of the pension fund's constituents.

The shift of controlling ownership of the country's productive resources to the "new owners," the employes or beneficiaries of their pension funds, was accomplished at a speed that is practically without parallel in social history. It was accomplished without conflict, and indeed practically without friction. It was accomplished without clear plan, without deliberate intention and without any ideology. But the shift is nonetheless a massive transformation of economic structure and a true "revolution."

It is an "unseen revolution," however, to which no one so far has paid much attention. But the basic problems of structure, of policy and of government which this shift has created may be the central structural and policy problems of the American economy and society for years to come. They surely represent both a major challenge and a major opportunity for management—and a challenge and an opportunity to which practically no management has yet addressed itself.

H.R. 10210

HON. PIERRE S. (PETE) du PONT

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 3, 1976

Mr. DU PONT. Mr. Speaker, last December, I introduced a bill that would create an independent, national commission—appointed by the President—to improve the Bureau of Labor Statistics'—BLS—measurements of employment and unemployment. Because the BLS's monthly jobless reports are currently inadequate for helping our Nation formulate policies, administer social programs, and make plans for the future, you may wish to cosponsor this legislation.

When H.R. 10210 comes to the floor I am going to offer an amendment which would expand the purposes of the commission created by title IV to provide that it would also consider the ways in which unemployment statistics are gathered and used.

Here is why. On the basis of the monthly jobless report released by the BLS on a reform basis, our Nation will formulate policies, administer social programs and make plans for the future. Yet there is strong evidence indicating that the Bureau's monthly reports are not adequate for these tasks.

Nowhere has this been more convincingly stated than in the study put together recently by Willard Wirtz, our Secretary of Labor under Presidents Kennedy and Johnson, and Harold Goldstein, a respected manpower statistician with many years service in the BLS. Their report, "A Critical Look at the Measuring of Work," shows that we must reconsider how we define, gather, and use jobless statistics, something that has not been done in a thorough, reflective manner since the Gordon Commission appraised the measuring of employment and unemployment almost a decade and a half ago.

Three illustrations explain in a general way what is wrong:

A teenager drops by the neighborhood grocery store one afternoon next January trying to get a weekend job so he can buy gas for his motorcycle and is told that no help is needed. Because he did this during the measurement week, he will be counted as "unemployed" in the February BLS report. To put it another way, of those reported as "unemployed," a significant number—about one-fourth in 1973; one-fifth in 1974—of both adults and young people are available for and are seeking only part-time work.

Likewise, a parent of three children, constantly looking for work but managing to find only 1 day of it during the entire month, will—if that day falls in the measurement week—be included in the count of the "employed."

As a result, we cannot be sure what is meant when the BLS reports, as it did in October, that more than 8 million people are unemployed. Nor do these statistics tell us much about the economic welfare of our citizens—the duration and severity of their unemployment—a crucial point when we try to determine what social programs may be needed or even how healthy our economy is.

Or, take this example: The population census in 1970 showed that BLS methods for estimating State unemployment rates had resulted in errors of 20 percent or more in 13 States, and worse in some counties and cities. Since then, the BLS has tried to make some improvements, recently including the use of direct measurements in every State. Even so, indirect measurements, such as estimating unemployment by figuring backward from, among other incomplete lists, the count of those receiving unemployment insurance benefits, are still used widely.

Consider what this means for agricultural areas like those in my State. An unemployed head of a household in a rural community where unemployment is high may get no Government job assistance simply because the area's jobless rate is miscalculated by a fraction of a percentage point. Were it accurate, the locale would be eligible for Federal loans to create private jobs in agricultural areas.

And that is not all. These same rates determine whether businesses in a particular locale are eligible for preferential treatment on Government contracts, or whether a city is given Federal moneys to build new access roads or sewers—all of which create jobs and bring more money into the community. Moreover, the initiation of public employment and training programs is based on local unemployment rates.

Here's a third problem: In 1973, our schools had trained 140,000 more teachers than there were teaching positions. This regrettable allocation of resources might have been avoided if in addition to measuring the work force we had also measured the training force—those 20 million Americans undergoing some kind of schooling—and developed occupational employment data on an industry-by-industry basis. This data could, in turn, have been used to give our youngsters better career guidance. Or, to put it another way, BLS employment data should do more than tell what has been wrong, they should also help us solve or prevent future problems in the workplace.

After almost 2 months of investigating into the problems illustrated in those three examples, it is clear to me that there are no easy solutions. The inadequacies in incomplete and, therefore, misleading jobless rates cannot be corrected with a single piece of legislation.

Because the discrepancies are so complex, not to mention critical, it is difficult and unwise to suggest solutions or even think we have defined the problem without first conducting thorough, careful research. And then, there will still be the need for a variety of solutions, some that may need to be legislated and others that can be instituted by the BLS itself.

The best way to define and formulate these solutions, it seems to me, is to form an independent commission made up of experts from universities, industry, and labor. This arrangement would in no way rule out BLS input—in fact, given the Bureau's demonstrated willingness to improve its statistics this would be advisable—but it would permit a fresh look from the outside.

It is clearly important to reexamine, from time to time, the assumptions underlying how we compute the statistics that determine what we do. The Gordon Commission established by President Kennedy in 1961 recognized that it could look only a few years ahead. In its final report in 1962, it stated:

> In formulating recommendations, the Committee has endeavored to assess, and even to anticipate, the mounting requirement for labor-force information which will develop in the next five to ten years.

Now, in 1975, after 13 years of "mounting" reliance on jobless data for forming policies and administering government programs, it is time to take another hard look. This can be done without creating a perpetual commission—the Gordon Commission lasted less than 1 year. And it can be done inexpensively.

Indeed, the Nation cannot afford to do otherwise.

The text of my proposed amendment to H.R. 10210 is as follows:

> Page 40, line 6, strike out "and".
>
> Page 40, strike out line 12, and insert the following: ing employers, employees, and the general public;
>
> (8) review of the present method of collecting and analyzing present and prospective national and local employment and unemployment information and statistics;
>
> (9) identification of any weaknesses in such method and any problem which results from the operation of such method; and
>
> (10) formulation of any necessary or appropriate new techniques for the collection and analysis of such information and statistics.

THE CONSUMER CHALLENGE

HON. CHARLES THONE

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 3, 1976

Mr. THONE. Mr. Speaker, under leave to extend my remarks in the RECORD, I include the following:

THE CONSUMER CHALLENGE

(By Nancy Harvey Steorts [1])

Today we are faced with a new breed of consumers. Consumers who are more enlightened and more demanding. No longer are they satisfied to sit back and allow the government and industry to formulate the policies and programs which affect their safety and pocketbooks. They are demanding a voice in the decision-making process.

Rather than ignore or oppose this changing attitude, both government and industry should welcome it as an additional tool in the difficult process of decision-making.

The most logical approach is one of cooperation, where all parties listen to one another and come to some sort of mutual understanding.

Consumers have always been an important influence in society. The only thing that has changed over the years is the form that influence takes.

The old adage that "The consumer is always right", is just as valid today as it was when man first began to sell his wares in the marketplaces of the world.

If, in fact, "The consumer is always right", why the need for today's so called consumer movement?

Commerce Secretary Elliot Richardson addressed this question in a recent talk before the Drug, Chemical and Allied Trade Association. He noted that since the days of face-to-face bargaining with merchants in the marketplace, mass production and distribution has become increasingly more widespread, changing the fundamental tone and tenor of the vendor/customer relationship.

The consumer society, as we know it today, had its beginning at a time when the people of this country started entering a phase of affluence.

This, according to Secretary Richardson, precipitated a shift from production solely for people's needs to increasing production to satisfy people's wants and fancies. And this led to the intentional cultivation of consumer appetites and demands, principally through advertising.

Thus, the Commerce Secretary noted, what had begun as a face-to-face interplay grew into an impersonal network of transactions conducted at a distance. Business became more remote, less accessible and increasingly powerful. The natural corollary was the consumers' perception of having lost whatever power they might once have commanded in the marketplace. They saw themselves as helpless victims, without any genuine bargaining power and without any effective form of redress.

I believe a similar thing has happened in consumers' relation with their government. As Government became larger and more complicated and more centralized, it, too, tended to be more impersonal and distant from the people.

As a result, consumers feel frustrated in their efforts to once again become a viable part of the marketing system.

Over the past few years, there has been growing concern among consumers that they, in fact, are not participating as they should in the decision-making processes of both Government and industry.

And they have started raising their voices, demanding their rightful role. This has led to the development of organizations that have become more active on behalf of consumers.

At the request of President Ford, the Federal Departments and Agencies have prepared Consumer Representation Plans which will make the government more effective and responsive to the public.

The Department of Agriculture's plan is designed to insure that each agency within the Department proceeds in an organized and systematic manner to meet the consumers' desire to be better informed about and more involved in the agencies' decision-making processes.

We believe the steps outlined in the plan assure consumers a background of information relative to potential decisions in agency planning and program formulation; and provide full and visible opportunity for consumer involvement in the decision-making process.

Basically, the plan assures that American consumers will be well informed about Department actions affecting their interests and that relevant Department decision-making processes are open to the effective expression of informed consumer viewpoints.

But it is not enough to provide consumers with the information they need to make the right choices in today's complex marketplace. The President also feels there is a need to educate consumers so that they will better understand the information being supplied to them. In a message to a consumer education conference in Washington, D.C. last November, the President said:

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[1] Nancy Harvey Steorts, Special Assistant to the Secretary of Agriculture for Consumer Affairs, remarks given at the "Nebraska Chautaqua "76", University of Nebraska, Bellevue, Nebraska, May 27, 1976.

"In the last decade, the Buyer's Bill of Rights has become a way of life in our country. These rights include information, choice, safety, and the right to have complaints satisfactorily resolved.

"The time has now come to recognize a fifth right—one without which consumers cannot gain the full benefit of the other four. This is the right to consumer education.

"It is my earnest hope that consumer education will become an integral part of regular school instruction, community services and educational programs for people out of school. Only in this way can we insure that consumers have the assistance necessary to plan and use their resources to their maximum potential and greater personal satisfaction."

I think you can clearly see that there is a commitment from the Federal Government to be responsive to the consumer.

Industry, too, must recognize the emergence of this new breed of consumers. A recent article in U.S. News and World Report notes that to meet this challenge businessmen are going to have to rely on fair prices, good durability and no-nonsense quality as never before. It goes on to say that analysts predict that consumers will no longer be fooled by planned obsolescence, unnecessary frills and inefficient designs in the products and services they buy.

I think we've all noticed there is a trend to return to the basics. We see an increase in home gardens, a massive return to home canning, and an upsurge in the number of people preparing meals from scratch rather than depending on convenience foods. Also, we are finding consumers switching to the less expensive cuts of meat and turning more and more to the usually lower priced store brand products rather than the name brands.

We must recognize the fact that today's consumers realize they have rights in the marketplace and are using them. They have a right to know what's in a product—a right to feel secure that a product is safe—and a right to buy a product at a fair price.

Consumers are concerned about all aspects of the marketing chain—from the farm to the grocer's shelves, and, rightfully so. They are seeking better information to help them make the right choices for their needs and desires.

At the point of purchase, one of the best information tools is the label on the product. Although most food products comply with current Federal packaging and labeling laws and regulations, improvements are needed so that labels tell consumers what they need to know to compare and select those products best suited for them.

The need for better labeling information was pointed out recently in a study conducted by the General Accounting Office. Briefly, let me list some of the recommendations that came out of that study and what progress, if any, is being made to meet them.

INGREDIENT DISCLOSURE

Currently, some products are exempted or a general ingredient listing is permitted. This, the report says, may not provide consumers—especially those on special diets—the information needed to choose those products best suited for their specific needs. Consumers who need this information include approximately 23 million people with heart conditions, 4 million diabetics and kidney patients, and over 7 million people suffering from allergy reactions.

Under USDA regulations, spices and flavorings are not required to be listed on the label and only the generic term of oils and fats are necessary. However, the Department's Animal and Plant Health Inspection Service, called APHIS, is working with the Food and Drug Administration on a regulation which would require the listing of the specific fat or oil being used in a product.

PERCENTAGE LABELING

The report calls for labels to show the amounts of various ingredients which make up the product. Manufacturers vary their formulas for the same product. For example, in reviewing the recipes for the various beef stews on the market, the General Accounting Office found that the amount of beef varied as much as 22 percent.

Under USDA regulations, ingredients are listed in order of prominence. However, APHIS has in the works a proposal which would require percentage listing of the ingredients. This would be an exploratory proposal, affecting only a limited number of products—turkey and gravy, beef and gravy, and poultry rolls.

NUTRITIONAL LABELING

The General Accounting Office report points out the need for nutritional labeling, noting that many Americans suffer dietary and health problems due, in part, to the lack of good nutrition. Deficient diets, the report says, are caused frequently by poor food choices resulting, to some extent, from lack of nutritional information on food labels and lack of education in nutrition.

The Department of Agriculture has a voluntary program which provides for the nutritional labeling of meat and poultry products. Presently, some 60 companies are involved in the nutritional labeling of such items as frankfurters, pizzas, hams, luncheon meats, sausages, frozen dinners, and numerous other packaged products.

It is anticipated that more companies and more products will become involved in the program after the regulations spelling out the requirements, are published. At last word, the regulations were in the hands of the General Counsel and expectations are that they will be published shortly.

As far as nutritional education is concerned, USDA has prepared and distributed numerous publications on the value of nutrition and has prepared student and teacher guides for using this material.

QUALITY GRADING

The General Accounting Office report also notes that many consumers cannot compare the value of competing products without opening the container, because labels generally do not bear information concerning quality—such things as color, size, texture, flavor, blemishes or defects, and consistency. As you probably know, the Department of Agriculture does have a quality grading system to compare competing products. However, the GAO report points out that the USDA grading system, which is voluntary, was intended for use at the wholesale and processing levels, and it can present problems to consumers trying to use it. A recent USDA survey found that consumers were confused by the different grade names and designations used for various products.

The Department is now taking steps to bring some semblance of uniformity to the grading system. Effective July 1, 1976, the terms U.S. Fancy, U.S. No. 1, U.S. No. 2, and U.S. No. 3 will be the grade names used in establishing or revising grade standards for fresh fruits and vegetables and nuts. Currently, different designations are used. For example, the top quality grade designation used for apples is U.S. Extra Fancy . . . for carrots, U.S. Grade A . . . and for celery, U.S. Extra No. 1.

You can see what confusion this creates. About one third of all the fruits and vegetables would come under this proposal immediately since they already use these designations. The remaining fruits and vegetables would be brought under the new proposal gradually over a period of years.

I strongly hope that this small, but positive step, will eventually lead to all commodities being covered by this same nomenclature. How easy it would be for consumers to make choices. If they wanted the top quality meats, eggs, and dairy products, and fresh fruits and vegetables all they would have to look for is the designation U.S. Fancy. If they wanted quality products but spend less, they would look for U.S. No. 1 or U.S. No. 2.

As I mentioned earlier, although the grade standards originally were developed for use by the wholesale trade, the standards also provide consumers with a knowledge of quality and the ability to compare quality when purchasing. Since the introduction of U.S. standards in 1917, the Department of Agriculture continuously has tried to update its services and procedures to coincide with marketing practices and consumer needs. However, in the past, it was usually the members of the particular industry involved who had the most influence in the terminology used.

Today, all sectors must be involved—producer, processor, retailer, and consumer.

As part of the Department's efforts to expand and improve the channels for consumer involvement, we have held briefings with consumers and members of the media to explain proposals of significance to consumers and encourage their comments. Most recently, we held such a briefing on the proposal to establish uniform grade nomenclature for fresh fruits and vegetables. It is our belief that consumers do care and will comment if only we can provide them with the information they need.

Also, we have begun to institute programs whereby consumers and industry and government representatives are brought together to discuss mutual concerns. Recently, such a gathering was held to discuss labeling procedures and requirements. Such sessions are beneficial, not only for the Department, but also to consumers and industry. It gives consumers an opportunity to explain their desires and needs, and it give industry a chance to explain to consumers the problems industry faces in meeting specific regulatory requirements. Most importantly, industry and consumers usually find that mutually acceptable solutions can be found.

Agricultural research is not immune to this new breed of consumer. Agriculture science is facing a critical test of its ability to serve not only our needs, but that of the world.

The importance of research on all aspects of food supply and consumption is quite evident when hunger and starvation are threatening literally millions of people throughout the world. If there was any single dominant theme coming out of last year's World Food Conference in Rome, it dealt with the need for increased production all over the world, especially in the developing countries. The need in these developing areas is for massive inputs of technical assistance, of research, and of capital.

Agricultural research has proven its ability to generate increased production. Farm output in this country increased by 50 percent between 1950 and 1971, and without a doubt, the research gains of our scientific centers led to much of that increase. There is no question that research can increase productivity. There is a question about the direction this research takes.

Consumers want a voice in determining the direction that research takes.

A generation ago, consumers were probably most preoccupied with taste and appearance, but now they are most conscious of food quality, particularly as measured by its nutritional value.

Agricultural science is already working on ways to upgrade the nutritional value of foods and to establish "good nutrition" standards and guidelines for food processors. At the same time, research is producing more nutritious lines of food products.

While some of these developments are certainly beneficial to consumers, others might be questionable.

The development of a peanut flour with a high concentration of protein is certainly laudable. But research money expended on the development of an easy-to-open pistachio nut might be questioned by consumers.

There is a need to include consumers in determining how research monies should be spent. A beginning step was taken recently when a national working conference to identify research priorities was held in Kansas City last July. Consumers were invited to help determine the direction research should take in the next 10 to 15 years.

There are so many forces affecting our lives today that it is essential we all have a voice in our destiny.

It is interesting to note that at the Kansas City conference, the area which rated highest, as far as research needs are concerned, was energy. Just recently, a task force of the Federal Energy Administration's Food Industry Advisory Committee presented a plan which would curtail production of snack foods and other so-called empty calorie foods. As reported in the publication, Of Consumer Interest, the task force identified some long-range energy-saving objectives to be given research priorities.

Among other things it calls for standardized packing—modularization of wholesale packages as well as standardized retail packages. The task force also suggested putting foods into four categories in order of production priority in a severe energy emergency.

The first group would consist of fresh foods, and foods processed and preserved in their natural state. The second group would include basic foods which require moderate levels of processing as a health measure. The third group include foods which are not looked to for basic nutritive properties, including snack foods, and those products fortified beyond the levels expected in basic foods and the fourth group would include the so-called empty calorie foods. Under conditions of severe energy curtailment, the task force suggests that perhaps production within only the first two categories could be justified.

Another important area of concern to consumers is the use of food additives. An intensive research effort is needed to determine, without a shadow of a doubt, which additives are completely safe.

Also, of great concern, are the chemical residues found in some of our food products. Here, again, intensive research is needed to determine as well as can be done, the extent to which various chemicals are harmful to our health.

I realize, this is no easy task, but it is a task which must be undertaken and given the highest priority by both government and industry.

You can see that both industry and government face the very important challenge of meeting the demands and desires of consumers . . . the challenge of providing consumers with wholesome and reasonably priced food products that are more versatile, easier to prepare, and higher in nutritional value.

I am convinced that these goals can be met with the complete cooperation of all those involved—a cooperative effort which must include consumer input.

EMBATTLED TOBACCO

HON. BO GINN

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 3, 1976

Mr. GINN. Mr. Speaker, legislation has been introduced in the Senate which presents a very personal problem with regard to tobacco production in our Nation. This legislation, S. 2902, would very likely mean the end of the tobacco industry in the United States.

An editorial in the May 31 issue of the Register, in Danville, Va., brings this matter into clear perspective. I insert it in the RECORD at this point, and I commend it to the attention of my colleagues:

EMBATTLED TOBACCO

Some 1,500 members of the Flue-Cured Tobacco Stabilization Corporation, in Raleigh on Friday to attend the 30th annual meeting of that organization, heard Rep. W. C. "Dan" Daniel warn that the tobacco industry "now faces its greatest challenges."

It does, indeed.

While governments, in other tobacco-exporting countries work with their industry to promote its welfare, the Senate of the United States, or rather some highly publicized members, thereof, for example Senators Edward Kennedy of Massachusetts and Gary Hart of Colorado, are working overtime to kill the industry at home and dry up its exports.

The Kennedy-Hart bill would impose higher federal taxes upon cigarettes in an endeavor to discourage smoking and, where individuals will not be discouraged, to impose a penalty upon them proportionate to the tar and nicotine content of the brand of cigarettes they would smoke.

Fortunately, it isn't likely the Kennedy-Hart bill (S 2902) will ever reach the House of Representatives for concurrence. Even so, it may unless the people in tobacco-growing states get their backs up and see that the discriminatory measure is killed.

In line with the warning of Rep. Daniel, his colleague, Rep. Dawson Mathis (D-Ga.) earlier had said of the Kennedy-Hart measure: "This bill is an attempt to tax tobacco products out of existence . . . The economic effect will make the stock market crash of 1929 look like a financial bonanza."

Kennedy and Hart insist they do not want to hurt the tobacco farmer. Kennedy said, "We are not interested in putting those farmers out of business. What we are interested in is having them grow safer tobacco."

If Senator Kennedy wanted to apply such a plan as a means to protect the health of consumers, he and Hart might also write a provision in their bill to raise the import duty on brands of Scotch whisky on a scale based on its proof, so that the lower the proof the lower the import duty or excise tax. Certainly the arguments about tobacco endangering health apply to excessive consumption of alcohol.

Since importing Scotch whisky was the foundation of the great wealth of the Kennedy family, Senator Kennedy should have some comprehension of how impractical it would be to tax each brand of imported Scotch whisky by its proof. And he would realize it is equally as impracticable to tax tobacco and tobacco products by brands proportionate to the tar and nicotine content.

Farmers can and do grow a great variety of leaf with no tar or nicotine content, but they do not try to pawn it off as tobacco. They call such leafy produce cabbage, collards, kale, spinach and other names.

Experiments in non-tobacco growing countries to produce a cellulose product that can be mixed with tobacco to lower the tar and nicotine content by volume has been progressing. It is an ersatz cigarette or bowl-full and never satisfies as does the flue-cured or burley leaf.

If the tobacco industry is to remain a major economic asset in the South, and a substantial economic force in several other states, then their members of the Congress must battle the good intentions of those who want to remove what they regard as a health hazard from the market. It was good to read what our own Congressman had to say at Raleigh.

TIM LEE CARTER

HON. JOHN J. DUNCAN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 3, 1976

Mr. DUNCAN of Tennessee. Mr. Speaker, I am today including for the RECORD a New York Times article about our friend and colleague, TIM LEE CARTER. The story by Richard Lyons depicts Dr. CARTER's untiring efforts on behalf of his district as well as his unique political style:

TIM LEE CARTER

(By Richard D. Lyons)

BOONE, KY., May 26—To hear Ronald Reagan, Jimmy Carter and Gov. Edmund G. Brown Jr. tell it, the American people are sick of big government, the Federal bureaucracy and Washington's give-away programs.

But here in Kentucky's Fifth Congressional District, the poorest in the nation and one of the most conservative, the message of the electorate is the same as in New York: Keep the Federal programs and money coming.

The descendants of the fiercely independent men who crossed the mountains 200 years ago to get away from government interference and authority have come to accept Federal largess as welcome and even necessary although the programs are largely Democratic in origin and the district has been overwhelmingly Republican since before the Civil War.

The shift in attitude is relatively recent but very real, even extending to the political outlook of the candidates the voters of the Congressional district elect.

Representative Tim Lee Carter, who was deeply conservative when first elected to Congress a dozen years ago, has moderated his attitude toward Federal social programs, and as he has moved from the far right his support has increased.

ANOTHER BIG VICTORY

"Congressman Carter has done a whole lot for the district," was the punch line of his radio commercials that were broadcast before this week's primary election here, in which he again won by a landslide.

Mr. Carter has a solidly conservative voting record on foreign affairs, defense spending and environmental issues, but in recent years he has cosponsored and even initiated health education and other social legislation. His district is dotted with dams, schools, libraries, hospitals, water supply systems, sewage disposal plants and housing projects paid for in whole or in part by Federal funds.

"The people need it and want it and I vote for it," he said.

The candidates who oppose Federal spending have become politically unpopular here. As an example, Mr. Reagan's remarks that he might consider selling the Tennessee Valley Authority sent shock waves through the Fifth District. Most of the T.V.A. power brought to Kentucky goes through this district, whose voters gave President Ford an 8,000-vote margin on Tuesday. Mr. Reagan lost statewide by 5,000 votes.

The reaction to the Federal presence was personalized the other day by Glenn Goad, a 56-year-old farmer and part-time tombstone salesman living in the hamlet of Gamaliel. Talking to a visitor, Mr. Goad pointed out a new water supply system paid for by Federal funds.

"We couldn't afford to build the system ourselves, but now we have clean drinking water for the first time," he said. "We really needed Federal help."

MAYOR HAPPY OVER AID

Larry Ross, the 29-year-old Mayor of Tompkinsville, noted that Social Security payments and the food stamp program had helped bring money into his town of 3,000 persons, and he is as happy to receive Federal aid as New York's Mayor Beame.

Mr. Ross said that because of this and other forms of Federal aid, such as an urban renewal project that has provided new homes to 39 poor families, "Government spending isn't much of an issue here."

At Berea College, Loyal Jones, the director of Appalachian programs, said that while the mountain people had long been skeptical of authority their attitude now was "Why shouldn't we have Federal aid as long as everyone else does?"

"But this doesn't mean that they love and trust the Federal Government," he added.

The Fifth District is an expanse of mountains and foothills that is larger than either Connecticut or New Jersey, and rural, with no town larger than 20,000 persons.

From the interstate highways that lace the district, the scenery appears verdant and rich. But off the main road, back in the eroded hollows and rocky hills the countenance of poverty is overwhelming. Many families live in little more than shacks. Outhouses are common, as are abandoned cars and burned-out cabins.

FAMILY INCOME $4660

The Fifth District is easily the poorest of the 435 Congressional districts in the country, according to the Census Bureau, with a median family income of $4,660 a year. This amount is substantially lower than the median income of even the next poorest districts, the 15th of Texas, which is $5,035 a year.

One index of poverty here is the fact that three of the eight men who are candidates for Mr. Carter's seat do not even have telephones in their homes.

Mr. Carter's political opposition has been a traditional courthouse joke. In the last few general elections, he has received from two-thirds to three-quarters of the total vote.

In Tuesday's primary, Mr. Carter received 89 percent of the Republican vote and more than 60 percent of the vote cast for all Democratic and Republican candidates. The leading Democrat, Charles C. Smith, received only 15 percent of the total vote.

Mr. Carter's political attraction is based not only on his voting record and the benefits he has helped bring the district but also on his courtly personality and profession.

Mr. Carter actually is Dr. Carter, or "Doc Carter" as he is known locally. He has presided at the birth of several thousand constituents who now in turn deliver their votes to him.

The Congressman has a remarkable memory for names, faces, problems and ancedotes in the lives of the people in his district. While campaigning before the primary he was observed reeling off the names, medical histories and offspring of several dozen voters chosen at random.

When first elected to Congress, Mr. Carter, who is 65 years old, voted against the Medicare bill, which was also opposed by many of his fellow doctors. He now says that his vote was "a mistake," and in recent years he has sponsored and written a dozen bills that would increase the Federal Government's involvement in national medical affairs, including national health insurance.

This liberal attitude has earned Mr. Carter the opposition of another physician in the district, Dr. Albert G. J. Cullum of Middlesboro. Dr. Cullum said he was increasingly upset with Dr. Carter's political attitudes, such as favoring what he calls "socialized medicine."

Dr. Cullum was so unhappy that he ran as an independent against Dr. Carter in the last general election. Dr. Carter received 30 times as many votes as Dr. Cullum.

"COAL SLURRY PIPELINE—5" INNOVATIVE RAIL HAULING OF COAL

HON. JOE SKUBITZ

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 3, 1976

Mr. SKUBITZ. Mr. Speaker, beginning with May 26, 1976, I have called attention to the House of a bill, H.R. 1863, the Coal Slurry Pipeline bill, which is now pending before the House Interior Committee. This bill would grant Federal powers of eminent domain to the slurry pipelines.

On May 26, I discussed the question of eminent domain, which can be found on page 15521 of the Record. On May 27, I discussed the fact that this is transportation legislation not energy legislation, this can be found on page 15878. June 1, I spoke on the railroad's capability of handling the increased coal production, this is on page 16078. Yesterday I spoke of the threat that slurry pipelines offer to the survival of this country's railroad industry, this can be found on page 16246.

This is another in my series of presentations concerning the grant of eminent domain to coal slurry pipelines as proposed by H.R. 1863.

Today, I would like to discuss the railroad's innovative hauling of coal.

The bankruptcy of Penn Central and other eastern carriers has led some to believe that rail technology is outdated and that therefore we need a new transport mode to meet the massive job of hauling the Nation's goal. These people are susceptible to contentions that slurry lines are a "magic bullet" which would solve the Nation's energy crisis. They labor under a misapprehension which I hope I can dispel by today's discussion of unit train transportation.

The unit train concept is a relatively new one which represents a major step forward in terms of man's ability to move huge volumes of bulk commodities over long distances at low cost levels. This service is very inexpensive by any standard, notwithstanding the effects of inflation. As a result, remote coal supplies not heretofore economically useful have become a vital energy source. It is no exaggeration to say that unit train economics have revolutionized traditional bulk commodity logistics; specifically, they have mitigated the impact of the present fuel "crunch" by allowing the use of low-cost western coal by utility companies located more than a thousand miles from the mine. They have saved the Nation immense quantities of petroleum fuels and have reflected monetary savings for electric consumers amounting to hundreds of millions of dollars. These savings will be multiplied as the years pass. Moreover, unit train technology continues to advance.

I am told that it is entirely reasonable to expect substantial future improvements in productivity.

By way of definition, "unit train" is a term applied to a set of equipment dedicated to a particular service. It may consist of three to seven locomotives and 100 or more cars. It is, however, its mode of operation which distinguishes the unit train from conventional rail service. Mr. John Morgan, Associate Director of the Bureau of Mines, on page 350 of the hearings record had inserted a Bureau of Mines study "Comparison of Several Systems for Providing Coal Based Energy to Users 1,000 Miles Southeasterly From Eastern Wyoming Coal Fields—Four Modes of Energy Transportation and Electricity Versus Gas as the End Use Energy Form," and I quote:

> The unit train is a management technique that permits efficient planning through long-range contractual commitment of producer and consumer and dedication of equipment. Specifically, a unit train consists of a dedicated set of haulage equipment loaded at one origin, unloaded at one destination each trip, and moving in both directions on a predetermined schedule.
>
> The unit train combines three principal factors: design efficiency, equipment balance, and intensive use. To achieve the lowest possible transportation cost, all elements of the operation must be in balance; the loading, haulage, and unloading facilities must be designed and scheduled for intensive use but not to a degree that would bring intolerable maintenance costs; and the haulage capacity must be in balance with supply, with consumer's needs, and with amortization requirements.
>
> In terms of freight rates in effect, the unit train is not a unit train until so designated by the carrier and negotiations for the rate completed. Cooperation between the shippers, the carrier, and the consumer is essential to planning for successful operation which will justify the lower rates.
>
> Lowest transportation costs can be realized when a unit train movement is accomplished on a single line haul. When more than one carrier is involved, the additional capital cost for motive power and additional operating costs will be reflected in higher tariff rates.
>
> Generally, unit train rates have no fixed relationships to rates for other origins and destinations, or to single car shipments. In fact, unit train rates are now in effect for coal moving from Western mines to markets in the Midwest over routes where no single car rates had formerly existed. As previously indicated, rates for unit train movement of coal are individually negotiated, subject to a ICC limitation that the rates not require a designated portion of a shipper's freight to be a part of the negotiated agreement. However, it has been accepted, by the ICC, that minimum loads of coal and minimum annual tonnages do not restrict shipments provided the total output from the mine is above the minimums or could be increased above them.

Like any well-run industrial process, the unit train operates continuously. According to Mr. Louis Menk, chairman and chief executive officer, Burlington Northern, Inc. on page 918 of the hearings record a key element is the use of modern high-speed loading and unloading facilities that function without the necessity to switch out separate cars. In short, the necessary operating efficiency for this high-cost equipment is attained by continuous movement, bypassing terminals, avoiding switching or any interference from other rail operations. Accordingly, unit trains stop only for fueling, crew changes, and inspections. Given these conditions, a unit train can make a 1,000-mile delivery and return to the mine for another load in as little as 4 days.

When operated at high volume such a system requires top quality track and roadbed. Heavyweight rail is needed; ties must be closely spaced, and top-grade ballast must be used. Modern signal systems are essential. Cars and locomotives must be built to high standards. According to Bureau of Mines statistics on page 351 of the hearings locomotives cost about $500,000 each and cars upward of $25,000, thus a single unit train can represent an investment of $5 million. This of course, is in addition to the fixed facilities which are essential to its operation.

In previous discussions I pointed out that a railroad functions most efficiently and at a low cost when its physical plant is extensively utilized. The savings thus realized can then be reflected in terms of reduced electric rates paid by individual electric consumers. As a matter of fact, Mr. Louis Menk testifying before the Interior Committee pointed out that the present boom in western coal production probably would not have come about had it not been for the development of the unit coal train concept. When utility companies were searching for new fuel sources that would meet the then new stack emission standards they at first thought the extensive reserves of low-sulfur, subbituminous coal in the West was economically beyond their reach because of traditional transport cost levels. Fortunately, unit train technology and advances in loading and unloading equipment were simultaneously developed to meet this fuel need.

An additional and special virtue of rail transportation is the flexibility offered by that mode even when considered in terms of large unit train operations. While flexibility is a relative concept, so far as low-cost bulk commodity carriage is concerned, the unit train cannot be matched by any other surface carrier including slurry pipelines in particular. This flexibility is based on the existing extensive rail network which reaches virtually every part of the country.

This permits service to and from every possible origin and destination, just as it permits rerouting around problem areas. Because cars and locomotives can be reassigned, changes in delivery volume can be easily accommodated. Alternate coal sources can be reached to provide for the blending of fuels or to take account of production problems, such as mine strikes.

Pipelines can do none of these things. According to testimony of George M. Stafford, Chairman of the Interstate Commerce Commission, on page 669 of the hearings testified, and I quote:

> In terms of engineering and operation, a slurry pipeline must be designed for an optimum throughout and must be kept filled. The flow rate must be kept near the optimum for economic operation. In order to double the capacity of a given slurry line, four times the pumping power and fuel is needed. That is why slurry lines are designed for an optimum throughput with a resultant lack of operating flexibility.

They will have relatively little ability to serve new customers and obviously will reach but one source area and one or a few destinations. Their ability to adjust to varying fuel demands is limited and while stockpiles can be used, it is no easy matter to store powdered coal or coal slurry. Moreover, a stoppage of a pipeline or of production at the time it serves obviously could cause very great difficulties for the coal user. I suggest, therefore, that in making our judgment as to the public interest issues involved in H.R. 1863, we ought to keep very much in mind the virtues of railroad flexibility and contrast them with the rigidity of pipeline operations.

In the future, the outlook for unit train operation may be even brighter. As I said before, there is every reason to believe that unit train technology will produce still further improvements in productivity. Such things as larger and lighter cars, longer trains, replacement of diesel power with electric locomotives and even revised labor agreements could all have significant leverage in improving present unit train cost efficiency. Also, I understand there is a possibility that coal beneficiation processes can be developed and remove much of the moisture from western coal. This would reduce rail shipping costs by providing fuel users with a processed coal containing more Btu's per ton than does mine-run coal. Therefore, less coal would have to be shipped to meet the users' heat needs.

In speaking of future improvements in productivity it is again important to contrast the rail mode with the slurry pipeline. Believe me, the utility which is locked into a 30-year throughput contract with a coal slurry pipeline cannot provide electric consumers the benefit of any similar improvements in transport efficiency. What improvements can there be in a pipeline buried in the ground already employing pumps which now approach maximum theoretical efficiency? Certainly the pipeline proponents hold out no prospect of any consequential advances.

To sum up, the unit train concept and its application to coal transportation compels these important conclusions:

First. Unit trains are a relatively recent innovation in rail transportation which has been developed, tested, and brought to a high level of efficiency during the last 10 to 15 years.

Second. Unit trains allow a high degree of insulation against the problems of inflation because of the economies of scale inherent in the constant movement of large volumes of coal over existing fixed plant.

Third. The cost efficiencies of unit trains have been a prime means of meeting the energy crisis by permitting the easy substitution of abundant coal for scarce petrofuels.

Fourth. Rail unit train delivery offers flexibility of delivery which cannot be matched by slurry pipelines.

Fifth. There is a strong possibility that unit train technology will substantially advance in the future. Utilities tied to a pipeline, however, would be unable to benefit from any foreseeable improvements in pipeline operation.

The evidence thus makes it clear that railroads are not on their last legs; modern rail technology is our best hope for the efficient utilization of coal at the largest possible number of locations. Surely, we should not pass legislation which would impair this basic transportation resource—as would H.R. 1863.

AN EFFORT TO REDUCE EARTHQUAKE HAZARDS

HON. CHARLES A. MOSHER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 3, 1976

Mr. MOSHER. Mr. Speaker, last month I introduced H.R. 13845, the National Earthquake Hazards Reduction Conference Act of 1976. In recent days, I have received a number of inquiries about this bill.

For the benefit of our colleagues and of others who may be interested in efforts to reduce earthquake hazards, I have had my staff prepare a detailed summary of H.R. 13845. The text of that summary will appear in the RECORD at the end of this statement.

I would also like to mention, Mr. Speaker, that I am told that Congressman GOLDWATER will be placing in the RECORD tomorrow a comparitive analysis of H.R. 13845 and S. 1174, the earthquake bill that was approved recently by the Senate. I would urge anyone who is interested in this legislation to review also the statement Mr. GOLDWATER has prepared.

On June 15, 16, and 17 the Science, Research, and Technology Subcommittee is scheduled to hold hearings on earthquake legislation. The subcommittee has drawn up an outstanding list of expert witnesses and I hope that the public will take notice of those hearings.

At this point, Mr. Speaker, I wish to share with the public my staff's review of H.R. 13845:

H.R. 13845—NATIONAL EARTHQUAKE HAZARDS REDUCTION CONFERENCE ACT

BACKGROUND

All 50 states are subject to some earthquake-related hazard and over 70 million Americans in 39 states are living in zones where moderate to major damage from earthquakes could occur. Programs designed to mitigate earthquake hazards are scattered throughout federal, state and local governments, and the academic and private research community.

Earth science and earthquake research programs now exist in several federal agencies. While much progress has been made by the scientists in the field of earthquake prediction, no effective mechanisms have been developed to integrate current and future prediction capabilities into an effective national earthquake hazards reduction program. No mechanisms exist for coordinating research in the social and economic aspects of earthquake prediction. Legal issues ranging from the promulgation of improved building codes to the development innovative taxation and insurance programs need to be considered.

Planning and preparation for emergency relief are also necessary elements in any federal program. Within the federal government there are at least two dozen agencies with the capacity and responsibility to contribute. All efforts and capabilities, public and private, scientific and social, economic and legal, federal and local, need to be considered and coordinated in developing a comprehensive program of earthquake hazards reduction in the United States. Several other nations, including Mainland China and the Soviet Union presently appear to be ahead of the U.S. in the prediction and mitigation of earthquake hazards.

SUMMARY

This bill establishes a management mechanism within the existing federal structure through which a coordinated program for earthquake hazards reduction may be formulated. It brings together public and private expertise in a wide range of disciplines necessary to the success of a comprehensive national program.

The bill offers an opportunity for U.S. program planners to learn from international experiences, and for both the Executive and Legislative Branches to develop a comprehensive focal point for direction and oversight purposes.

HR 13845 provides nominal funding only for the establishment and operation of a management Conference. No funding is provided for executing elements of a national program as it is expected that such funds would be included in each participating agency's planning and budgeting process.

PROVISIONS

The following is a brief outline of the provisions of HR 13845.

PURPOSE

To establish a National Earthquake Hazards Reduction Conference.

DUTIES OF CONFERENCE

Formulate and coordinate a national program for earthquake hazards reduction.

Confer with Governors and other appropriate officials to establish procedures for dissemination of predictions and warnings.

Establish a clearinghouse to provide state and local authorities with information and technical assistance.

Study and evaluate all federal earthquake-related programs for efficiency and economy.

Coordinate eight different categories of research relevant to a national program.

Promulgate relevant standards for federal buildings and facilities.

Promulgate regulations to safeguard individuals from fraudulent earthquake mitigation services.

Analyze and cooperate with appropriate international programs.

Identify groups likely to be severely affected by earthquakes and develop plans for catastrophy assistance.

Recommend legislation to assist agencies in executing a national earthquake program.

Establish a national Earthquake Prediction Board to evaluate and authenticate predictions.

Membership of Conference

Twenty-three (23) members from twenty (20) federal agencies specified by function; and

Six (6) members appointed by the Secretary of Housing and Urban Development representing state, local, private and academic groups; and

Four (5) non-voting members from Congress specified by function.

Executive Committee of Conference

Eleven (11) members from Conference including the Chairman and Deputy Chairman of the Conference, the six (6) Conference members appointed by the Secretary of HUD, and three (3) other Conference members elected by the Conference.

Staff of Conference

Director appointed by Conference chairman.

Staff appointed by Director.

Contract personnel and detailees as needed.

Powers of Conference

Hold hearings and receive testimony.

Secure necessary information from agencies.

Enter into contracts relevant to execution of duties under this Act.

Reports

Annual report of past/planned Conference activties and recommended legislation to President and Congressional committees.

Research and development report evaluating current activities and recommending legislation.

Legal report compiling and analyzing statutes and decisions and recommending legislation.

Authorization

$2,000,000 for FY'77.
$3,000,000 for FY'78.
$4,000,000 for FY'79.
$5,000,000 for FY'80.
As needed for following fiscal years.

(Prepared by Rodger S. Gabrielson, Office of Congressman Charles A. Mosher)

CONGRESSIONAL BICENTENNIAL SALUTE TO THE HONORABLE BOB CURLEY OF NEW JERSEY THE NEWS SPORTS EDITOR, YOUTH GUIDANCE COACH AND GREAT AMERICAN

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 3, 1976

Mr. ROE. Mr. Speaker, as we celebrate our Bicentennial Year and reflect upon the history of our great Nation and the good deeds of our people which have gained America's preeminence as a representative democracy, second to none, among all nations of the world, I am indeed honored and privileged to call your attention to the good works of one of our leading citizens, outstanding writer and good friend, the Honorable Bob Curley, whose standards of excellence in guiding and working with our young people, inspiring them to fair play and "Big League" expertise in the world of sports have truly enriched our community, State, and Nation.

Mr. Speaker, Bob Curley has advised us of his intention to retire from the News, whose headquarters are located in Paterson, N.J. in my congressional district, where he has attained acclaim as the finest sports writer its readers have known for lo these many years. With your permission I would like to insert at this point in our historical journal of Congress an eloquently stated profile of Bob Curley, authored by one of his distinguished proteges and outstanding news correspondent, Ron Rippey, which appeared in a recent issue of this prestigious newspaper, the News, as follows:

YOU'RE BOB CURLEY . . . A REALLY SPECIAL KIND OF GUY

(By Ron Rippey)

You're Bob Curley and you're going to be leaving The News as sports editor in a short time.

You're Bob Curley and you're not going to see many dry eyes in the place when you leave. You have left your mark on everyone who has had the privilege of knowing you.

You're Bob Curley and you've done more good for people than a thousand other men. You were a boss, sure, but you were more. You were a leader, you were a guy to share a laugh with, you were a shoulder to cry upon, you were a confessor, you were an example for all to follow. More important, you were a friend.

The misty eyes you left your readers with when you told of the joy and sorrows of just people in print will never dry or be forgotten. The sports knowledge you reported could be called a bible.

You earned the name in the office and on the field of "coach." No one ever gave that respected word more authority, more dignity or more meaning than you. If we didn't fumble it was only because you were the "coach."

You're Bob Curley and there isn't anyone who can say to you they've ever read a better column than yours. And that includes all of the sports columns which were ever written.

You're Bob Curley and you've done much more than just makes friends at The News. You found time while you were sports editor at the Ridgewood News to coach at St. Luke's High School, in Ho-Ho-Kus, and start young men and women off on the right foot in life. Your imagination stirred the sports section of the Herald News and when you became public relations director there, a band festival and spelling bee were formed.

You got the closed-down Meadowbrook Theater back into the limelight. But all along the way the most important thing was creating a path of true friends. They say if you make one real friend in a lifetime you've accomplished a lot. You never believed in that motto. You never stopped making friends.

You're Bob Curley and you never married, instead taking care of your wonderful mother, who has passed away. Indeed you were heartbroken. But you proceeded to write a heartwarming column about your mother, something few writers would have the guts to do. But you're Bob Curley and you never lacked guts.

You didn't know what tired or weary was while you were tending to your first St. Bernard, Judy, who once saved a child from drowning, when she became ill. She inspired you to write the column, Legend of the St. Bernard, about a dog following Christ on Good Friday, and attaining a sad face from that day on forever. That column has appeared in The News for the past decade on each Good Friday.

When Judy died, the sports department chipped in for a new St. Bernard, Rusty.

You're Bob Curley whom priests, presidents and just people have come to for advice and to exchange kind words. You never let them down. You never let anyone down.

But this didn't just start at St. Luke's or in the newspaper business.

It started when you were a little boy in Brooklyn. To this day you praise the discipline your mother and father bestowed upon you. Perhaps living in Brooklyn, your early love for the Dodgers molded you into the field of sports. But more likely it was your father.

You moved with your family to the Mountain View section of Wayne, at a young age and watched your father umpire baseball games. He was very knowledgeable, fair, well liked and respected by all. He was also quite a poem writer and obviously you inherited and then built upon that talent.

You went to Pompton Lakes High School, playing football under the late Charlie Benson. You watched, you listened, you learned. Most important, that wonderful fellowship for people was mushrooming.

You graduated from William and Mary College and set out upon a career.

There were a variety of jobs, but writing sports for the Ridgewood News stirred your interest and, lucky for us, ignited the career of a great sports writer. You were fair, honest and intelligent.

It was an accident you began coaching at St. Luke's. You covered a St. Luke-Ridgewood High School basketball game one day and the following day wrote a column about the rag tag kids from St. Luke's. Kids who played a game without a coach and who with just a little guidance could have been successful. The next day Sister Patricia, the school principal, invited you to visit the school and talk with the boys. The invitation lasted 10 years.

You started a football program at St. Luke's and turned the basketball and baseball teams into perennial winners.

You turned some average athletes into some of the greatest athletes Bergen County has ever known. There was Walt Keady, Jay Kirby and Dave Burt. Your baseball teams were a dynasty unlike those ever known by the New York Yankees.

You coached well, but more important you gave the boys faith in God and faith in themselves. The stories you took out of St. Luke's were priceless.

There's the tale about a St. Luke's team which was in a batting slump at the beginning of the season. You suggested praying to St. Jude, patron saint of hopeless causes. A statue of St. Jude would help. But the poor, fragile statue of the saint was accidentally thrown into the bag with the bats and balls.

St. Luke's boys hit like angels that day. And when they discovered St. Jude in the batting bag at the end of the game, he wasn't knicked, tarnished or damaged. Another season you gave the boys on the baseball team medals of St. Jude to wear. A well-known New York Yankee ball player was also in a batting slump at the time and you bestowed one of the medals on him. His hitting became sensational overnight and suddenly many of the Bronx Bombers were petitioning you for St. Jude medals. The Yankees won the pennant and at the end of the St. Luke's championship baseball season at the school's awards banquet most of the New York Yankees showed up.

You're Bob Curley and you put St. Luke's on the map in sports and everything else.

Your football players excelled as well. There was Lindy "Doc" Scafuro, now a dentist in Waldwick. Kenny Hein, Bob Shupin, a high school All-American, who went on to star at North Carolina State, Jiggs and Rickie Turi and John Alberse were all grid stars.

You took your Lucans, football team to Staten Island once to play against an orphanage. They invited you for dinner. The meal was cold fish and lettuce.

Your Lucans had been brought up properly. They ate as little as would be polite to leave more for the orphans. They brought in every candy bar they could buy.

It was a raw, cold day and you and your late mother were politely appalled at the dress of the orphans. Upon returning to your Ridgewood home, she began a crusade the likes of which CARE has never seen. She called the Diocese of New York and demanded the hierarchy accompany her to the home. They did and when she suggested the clergy brave the elements without coats such as the orphans, massive reforms were made. She organized the mothers of St. Luke's to help out the school. They did.

A black boy from the orphanage beat you, 7–6, in the final seconds of a football game. He was a fine athlete, but you were told he was severely lacking in guidance, in understanding. He needed help.

You're Bob Curley and long before society even considered it possible you attempted to adopt that black boy despite the fact you were a bachelor. You wanted to have him in your home. You wanted him to have a chance in life. You cared about him. You've cared about everyone you've ever known.

You're Bob Curley and your life story would make a great movie. But while you were at St. Luke's, your example did inspire a film—it was called "Bells of St. Mary's."

You're Bob Curley and your dedication and inspiration cannot be described or measured. The list of names of people you put on the road to life is endless.

There's Jim Hanney, who you met while a coach at St. Luke and gave a career to at the Herald News. There's Augie Lio, football star who you worked with in sports at the Herald News; there's Joe Siccardi, now general manager of the Belvidere (Ill.) Times; there's this writer.

There's the entire sports staff at The News that includes Steve Jakimec, Rudy Neuman, Brian Bailey, Walt Keogh, Rich Chere, John Ruyzam, Rick Sadowski, Phil Laciura and myself.

There are many more. Its tough to count the number of times you've been asked to be a godfather. Augie Lio and Jim Hanney wanted you. Jim Hanney also insisted you be his best man at his wedding.

"He will always be part of my life and I am sure part of everyone who has had the good fortune of knowing him," said Hanney.

John Van Dyken, principal at Wayne Valley High, who knew your father and you as a little boy said, "Bob Curley is an honest person, congenial, helpful, goes out of his way to do anything he can for anybody. He's a gentleman with an outstanding personality."

Augie Lio said, "He's one of the greatest people I ever met in my life. He's warm, kind, a considerate guy. He always helps you out whenever he can."

The plaudits will never stop. They shouldn't. They can't.

You've received many awards on many levels. You deserved them all. You deserve more. We can't in our lifetime repay what you have done for us. What you have done for others.

They'll never be able to replace you. But maybe that's the way the Lord wanted it to be.

Mr. Speaker, the quality of Bob Curley's leadership, the richness of his wisdom, his compassion for people, and the inspiration he has imparted to the youth of America are all gently woven into this story of his lifetime of dedication and devotion to mankind. I am deeply appreciative of the opportunity to call his good deeds to your attention and know that you and our colleagues will want to join with me in saluting Bob Curley who has served as a bulwark of strength and refreshment to our young people and is indeed a great American.

CONGRESSIONAL BICENTENNIAL SALUTE TO THE REVEREND LADISLAUS J. FLEK OF PASSAIC, N.J., ESTEEMED PASTOR, COMMUNITY LEADER, AND GREAT AMERICAN

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 3, 1976

Mr. ROE. Mr. Speaker, on Sunday, June 6, residents of my congressional district and State of New Jersey will assemble with the congregation of St. Joseph's Church, Passaic, N.J., to give testimony to an outstanding clergyman, distinguished citizen and good friend, the Reverend Ladislaus J. Flek, as we celebrate the 35th anniversary of his ordination to the priesthood.

Father Flek has maintained the highest standards of excellence throughout his lifetime and we are pleased to share the pride of his parents, Valentine and the late Sophia Bielecki, in his many, many achievements, so unselfishly and willingly dedicated to the betterment of mankind. His exemplary service to God and country are mirrored in the happiness and security he has provided our people in his steadfast quest for the religious and cultural enrichment of all of our citizens, young and adults alike.

Having been born and raised in the city of Passaic, Father Flek has truly endeared himself as a special family member to all of us who have had the good fortune to know him. He was born in 1916 as a member of the congregation of St. Joseph's Church, Passaic, and as we attest to the warmth of his friendship and richness of his fidelity and wisdom, it is somewhat awe inspiring to note that we salute him now as the revered pastor of St. Joseph's Church.

Father Flek was graduated from St. Joseph's School in 1929, completed his high school studies at Don Bosco Prep, Ramsey, N.J., attained his college degree at Seton Hall University, and pursued his theological studies at the Immaculate Conception Seminary, Darlington, N.J.

On June 7, 1942, the late Most Reverend Thomas H. McLaughlin, the first bishop of the diocese of Paterson, conducted the ordination services whereby holy orders were conferred upon Father Flek. He celebrated his first solemn Mass at St. Joseph's, by the same altar where he previously served as an altar boy for many years.

As a young curate, Father Flek served at Holy Rosary Parish, Passaic, for the first 6 months of priesthood under the pastorate of the late Very Reverend Canon Stanislaus Kruczek. In January 1942 he was assigned to St. Anthony's Church, Hawthorne, N.J. and in July 1954 was named pastor of St. Simon the Apostle Church, Green Pond, N.J., where his responsibilities embraced the Parish of St. Thomas the Apostle Church in Oak Ridge, N.J.

For 8 years commencing in September 1961 Father Flek served as pastor of Our Lady of Mount Carmel Church, Boonton, N.J., where he will long be remembered for the beauty and magnificence of the church which was built during his pastorate and stands in majestic splendor as one of the oldest, most historic churches in the Diocese of Paterson.

His significant contributions to the quality of our American way of life are also mirrored in his many accomplishments in his leadership position as a distinguished member of the Diocesan Priests' Senate and the Diocesan Pastoral Council.

Mr. Speaker, during this Bicentennial Year as we reflect upon the history of America and the good deeds of our people that have contributed so much to the quality of the way of life in our representative democracy, second to none, among all nations throughout the world, it is highly significant that we now in-scribe within the pages of our historical journal of Congress this commemorative profile of one of our most revered clergymen and outstanding leaders. He has made a difference in the estate, legacy and heritage of our people through his deep concern and positive action in caring and making each moment count by helping others along the pathway of life in seeking life's fulfillment and purpose which has truly enriched our community, State and Nation. We do indeed salute the Reverend Ladislaus J. Flek, the esteemed pastor of St. Joseph's Church, community leader, and great American.

SIGNIFICANT FREEDOM OF INFORMATION ACT DECISION

HON. BELLA S. ABZUG

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, June 4, 1976

Ms. ABZUG. Mr. Speaker, the Government Information and Individual Rights Subcommittee, which I chair, has jurisdiction over the Freedom of Information Act, as amended in late 1974. I wish to bring to the attention of my colleagues a recent judicial decision interpreting what I believe to be one of the most significant aspects of the 1974 amendments; namely, the requirement that—

> [a]ny reasonably segregable portion of a record shall be provided to any person requesting such record after deletion of the portions which are exempt under this subsection. 5 U.S.C. 552(b).

In the case in question, Florence against U.S. Department of Defense, the Defense Department—apparently on the theory that the whole is not equal to the sum of its parts—claimed that even though every individual portion of the record in question was unclassified, all of the portions taken together should be classified. Judge June Green, of the U.S. District Court for the District of Columbia, in a ruling handed down on May 20, held that the reasonably segregable provision quoted above required the release of the entire document.

The opinion and order of the court have been appealed to the U.S. Court of Appeals for the District of Columbia Circuit. I think Judge Green's conclusion was sound and fully consonant with the intent of the statute, and I hope that it will be sustained on appeal.

The material referred to follows:

[U.S. District Court for the District of Columbia, Civil Action No. 75-1869]

OPINION

William G. Florence, Plaintiff v. United States Department of Defense, et al, Defendants.

This action is brought under the Freedom of Information Act, as amended, 5 U.S.C. 552 (Supp. IV, 1974). Plaintiff is seeking access to records entitled "Technical Abstract Bulletin Indexes, Bulletin Number 74-15, 19 July 1974" (hereinafter referred to as "TAB"), which is produced by the Defense Documentation Center, Defense Supply Agency, Department of Defense. This matter is before the Court on cross-motions for summary judgment.

The following are the undisputed facts. TAB is a bibliographical reference document which indexes technical reports prepared for the Department of Defense. It is as an entity classified confidential. Most of the reports indexed in TAB, however, are unclassified and although some of the actual reports indexed in TAB are in themselves classified, their titles have been rewritten so that each title is unclassified.

The defendants have asserted that TAB is properly classified confidential [1] pursuant to Executive Order 11652. Therefore, it is exempt from disclosure under 5 U.S.C. 552 (b)(1), which provides for the withholding of material properly classified pursuant to an Executive Order and authorized by such Order to be kept secret in the interest of national defense or foreign policy. The Court, however, need not reach the question of whether the documents were in fact properly classified, and thus not subject to disclosure, because of other overriding provisions in the Act.

The Freedom of Information Act dictates that:

"Any reasonably segregable portion of a record shall be provided to any person requesting such record after deletion of the portions which are exempt under this subsection." 5 U.S.C. 552(b).

Therefore, the Court holds that each entry which is unclassified must be disclosed to the plaintiff.

Lastly, in the complaint, plaintiff has requested reasonable attorney's fees and costs. Since the Act provides for the assessment against the United States of such expenses when the complainant has substantially prevailed, the Court will so order. 5 U.S.C. 552 (a)(4)(E).

June L. Green,
U.S. District Judge.

Date: May 20, 1976.

[U.S. District Court for the District of Columbia, Civil Action No. 75-1869]

ORDER

William G. Florence, Plaintiff v. United States Department of Defense, et al., Defendants.

Upon consideration of the cross-motions for summary judgment and the record and proceedings herein, and it appearing to the Court that there is no genuine issue as to any material fact, and that plaintiff is entitled to summary judgment as a matter of law, it is by the Court this 20th day of May 1976, in accordance with the accompanying Opinion,

Ordered that plaintiff's motion for summary judgment should be and the same hereby is granted; and that defendants' motion for summary judgment should be and the same hereby is denied; and it is further

Ordered that the defendants and their agents, employees, successors in office and all other persons acting in concert with them or at their direction, and each of them, should be and the same are permanently enjoined from withholding each unclassified entry contained in the records entitled "Technical Abstract Bulletin Indexes, Bulletin Number 74-15, 19 July 1974" (TAB) produced by the Defense Documentation Center, Defense Supply Agency, Department of Defense; and it is further

Ordered that the defendants and each of them should be and the same hereby are ordered to make each unclassified entry in TAB available to plaintiff or to plantiff's attorneys herein no later than ten days after the entry hereof, for inspection and copying; and it is further

Ordered that the defendants shall pay reasonable attorney's fees and costs reasonably incurred in this litigation.

June L. Green,
U.S. District Judge.

A DOSE OF ATOMIC SOCIALISM

HON. HAMILTON FISH, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, June 4, 1976

Mr. FISH. Mr. Speaker, on Saturday, May 15, 1976, the Washington Star published an article by Ralph Nader entitled "A Dose of Atomic Socialism" regarding UPEC—uranium producers export cartel. I am placing the article in the Congressional Record for the benefit of the Members of the House, the context of which follows:

If you haven't yet heard of "UPEC," you soon will. "UPEC"—uranium producers export cartel—is the informal name which industry insiders give to the foreign countries controlling most of the uranium reserves needed for nuclear power.

Partly because these countries—France, Canada, South Africa and Australia are among the leaders—are having informal discussions with a distinctly cartel-forming flavor, the price of uranium is soaring.

From a price of $7 per pound of uranium in 1973, uranium has gone to more than $40 per pound this year.

Even higher uranium prices—and as a result electricity prices—are forthcoming. In a little publicized, 191-page report released earlier this year by the New York investment consulting firm of Mitchell, Hutchins, Inc., the prediction is made that uranium will rise to $100 per pound by 1977.

The report confidently states: "Only at a very high price will supply and demand be balanced, and uranium prices will climb at least to the $12-barrel oil BTU breakeven price of $100-pound over the next year, quite possibly rising two to three times this level thereafter before eventually settling down.

"The days of sub-$100-pound uranium will soon go the way of the days of sub-$10-barrel oil."

Uranium prices, cartels and the likelihood of forced reliance on uranium imports by the 1980s are only a few of the economic problems plaguing the domestic nuclear power industry. These giant corporations—from Westinghouse and General Electric to many electric utilities—now want to transfer the plague to the taxpayer and consumer.

Marching to their corporate drums, Nelson Rockefeller and Frank Zarb went to the Senate a few weeks ago to urge passage of their scheme to bail out the industry with hefty doses of atomic socialism.

With unctuous expediency, these men and their business cohorts shamelessly dropped all free enterprise slogans in their zeal to make the American taxpayer pay for the atomic industry's mismanagement under the guise of a new agency to be called the Energy Independence Authority (EIA).

EIA would have the authority to extend loans and loan guarantees to the atomic industry, yet not be accountable to the congressional budgetary process, environmental impact or freedom of information requirements—to describe some of its extraordinary autonomy.

The pro-nuclear witnesses at that Senate hearing did not speak of the serious safety problems gnawing at the atomic industry, ranging from the uranium mines to the power plants and their lethal radioactive garbage.

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[1] Confidential classification applies to those documents whose unauthorized disclosure could reasonably be expected to cause damage to national security.

In contrast, the Mitchell, Hutchins report stated unequivocally that "the nuclear industry has broken faith with the public, over and over again, in its presumed technological and managerial competence."

The report also stated: "The managerial shortcomings are on two levels: competency and honesty . . . ." and gave examples to support its case.

During the past few months, sharpened concern has grown among a number of scientists and engineers over earthquake risks to atomic power plants.

Five geologists issued a report regarding the potential "for disastrous failure of nuclear power plants in California during an earthquake." This issue will figure prominently in the California referendum next month on atomic safety.

Other scientists, especially Dr. Robert O. Pohl of Cornell and Dr. Edward Martell of the National Center for Atmospheric Research in Boulder, Colo., have pointed to the widespread present health hazard from radioactive mill tailings and other potentially cancer-causing exposures from the nuclear fuel cycle.

For a free copy of a "Critical Mass" report on nuclear radiation hazards, write P.O. Box 1538, Washington, D.C. 20013.

With its technical, environmental and economic positions crumbling, the atomic industry is resorting to political arm twisting and emotional scare tactics of national economic disaster.

Corporate pressure on the board of directors of the Institute of Electrical and Electronics Engineers (IEEE) to issue a blanket endorsement of rapid nuclear development led the IEEE's Committee on Social Implications of Technology to criticize the board sharply in its March newsletter.

NOT ALL SAY "AYE"

HON. JACK BRINKLEY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 4, 1976

Mr. BRINKLEY. Mr. Speaker, besides distributing my regular column, Congressional Report, to the news media in the Third District of Georgia this week, I am taking the liberty also of sending it to chamber of commerce constituents.

I submit this week's Congressional Report for publication in the RECORD:

> NOT ALL SAY "AYE"
>
> (By Hon. JACK BRINKLEY)
>
> If you vote with integrity, you never fail. The dissenting opinions of Chief Justice Oliver Wendell Holmes put him in the minority which did not prevail. Yet his views and his votes have now been almost completely vindicated in law and judicial opinion.
>
> I am resoundingly:
>
> Against a federal budget in excess of $400 billion. 105 of us voted for the balanced budget concept.
>
> Against food stamps for strikers and affluent college students; for an income tax credit to all parents for a child's college tuition.
>
> Against unemployment benefits for seasonal Big League athletes, state legislative session employees, or those who are sustained through sufficient earnings, measured on an annual basis.
>
> Against Humphrey-Hawkins full employment measure and national health startup contained in budget ceiling.
>
> I am for a return to the work ethic as opposed to the handout syndrome where people believe they have a right to be sustained. Even St. Paul said in Thessalonians 3:10 that if any would not work, neither should he eat. This is still sound doctrine.

CHARLES' AND ROZ WEISSMAN HONORED BY YOUNG ISRAEL

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, June 4, 1976

Mr. WOLFF. Mr. Speaker, it was my pleasure to attend the 23d anniversary testimonial banquet of the Young Israel of New Hyde Park which was held in Woodbury, N.Y., on May 31. This year's annual affair took on added importance because it was held in honor of Charles and Roz Weissman, two people whose contributions are in every form too numerous to mention. The banquet could not have been possible without the generous efforts of Seymour and Ethel Rumelt, Sol and Edith Sachs and Morton and Ruth Weiss.

I found the message included in the program, by Rabbi Meyer Bilitzsky, a most suitable tribute and worthy of repeating here:

> I would like to greet all members and friends of the Young Israel at this our 23rd Anniversary Dinner. While in the normal reckoning of time, thirty years is considered a generation, in synagogue life a generation is compacted into a much shorter period and this is due to many circumstances and reasons. One of these reasons is the demographical changes in a community. After two decades, a pattern develops that sees an exodus of the older inhabitants, those who built, struggled and labored to build a community and its institutions. In their place we find a younger generation desiring to make their own mark on community life but stifled due to, supposedly, a lack of things to build or institutions to create.
>
> A second reason why after two decades we are dealing with a new "generation," is that after twenty years it is time "to forget" or "not want to know." As the Torah tells us, "Asher lo yadah es Yosef," that the Pharaoh did not know or want to know of Joseph's accomplishments in the land of Egypt. There is nothing more disconcerting to the young or to the new than to be told, "I remember when . . .," or "When I . . ."
>
> The alternative has to be for existing institutions to allow the new and the young opportunities to create anew. The glories of the past do not necessarily have to be buried. They have to make room for others to carve for themselves new glories they can call their own.
>
> What direction will these new creations take or in what form they will be molded no one can predict. But if institutions are built on solid foundations, if institutions truly project the image for which they should stand, then there is nothing to fear. Who can say that all the necessary institutions a community needs have been born? There is yet more to build; there is yet much to create. We can only hope that the young and the new will take up the cudgels and challenges of the present, and build on the past great accomplishments for their own bright future.
>
> To Charles and Roz Weissman, master builders of the past, and with G-d's help, the future, I extend my sincerest expression of Mazel Tov. May they be continually imbued with the challenge of tomorrow in the full glory of health, goodness and "nachas" from children and family.

I can only add my appreciation of the Weissman's contribution and my pleasure at seeing them so honored.

"THE ETHICAL BASIS OF ECONOMIC FREEDOM"

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 4, 1976

Mr. BENNETT. Mr. Speaker, if there is any truth in the recent statement that "open societies with their ethical standards in disarray are an endangered species," then it is past time for a constructive, national dialogue on participatory ethics and honesty in every phase of our lives. A major step in this direction has been initiated with the publication of a new book entitled, "The Ethical Basis of Economic Freedom," a collection of more than a dozen essays on ethics.

This remarkable book, which my colleagues will soon have, is the product of American Viewpoint, Inc., of Chapel Hill, N.C., whose president, Ivan Hill, assembled and collected the essays. The book is particularly remarkable in that its contributors represent a wide spectrum of viewpoints from the business and academic worlds, and because of the timeliness of its publication.

Within the book are to be found articles by Secretary of the Treasury William E. Simon; Leon Jaworski, former special Watergate prosecutor; Andrew W. Kneier of Common Cause; former Assistant Secretary of Commerce and now professor, Jack N. Berhman; Earl W. Kintner, past head of the Federal Trade Commission; Kenneth Fiester, founder of the Industrial Labor Press, AFL–CIO; Clifford E. Graese, partner, Peat, Marwick, Mitchell & Co.; and Max H. Parrot, president of the American Medical Association.

In addition, there can be found the codes of ethics from broadcasters, newspaper editors, police chiefs, realtors, et cetera, with commentaries on them prepared by spokesmen from each field, such as Arch N. Booth, former president, U.S. Chamber of Commerce and Mark Ethridge, Jr. of the American Society of Newspaper Editors.

At a recent press conference, Secretary Simon, in introducing the book, called on American business to suit their actions to their words and fully subscribe to the theory that "honesty is not only the best policy but the only one compatible with a free society." "I unequivocally disagree," he said, "with those who say that bribes are a necessary way of life for U.S. businessmen operating overseas." He added that, such practices winked at abroad can also become accepted here, leading to the end of free enterprise.

Certainly, one of the most appropriate ways in which we as citizens can commemorate the 200th anniversary of this great Nation, would be to keep alive the issue of ethics and honesty in our minds and in our actions.

As one who has been involved in this field throughout my congressional career, I commend this book to the Members, both as a work for reference and as a keystone for a national dialogue on ethics. I wish also, to thank my friend Ivan Hill for his ongoing contributions in this area and for presenting us with this thought-provoking book.

WEATHER UNDERGROUND PROPAGANDA: OSAWATOMIE AND FILM

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 4, 1976

Mr. McDONALD. Mr. Speaker, even as the Weather Underground Organization's overt arm, the Prairie Fire Organizing Committee, PFOC, is working as a leader of a coalition which intends to mass counter-Bicentennial demonstrations in Philadelphia on July 4, the secret core group of terrorist bombers is seeking to lend its sinister "prestige" to the anti-Bicentennial occasion. The Weather Underground Organization, WUO, communicates through its PFOC representatives and directly through a filmed interview being shown across the country and via its publication, Osawatomie.

The fifth edition of Osawatomie—volume 2, No. 1, April–May 1976—is now being distributed. The 27-page magazine now states it will "advance from a seasonal (quarterly) publication to a bimonthly." "This," says the WUO, "reflects the growth of our organization and the importance we attach to the continued development of Osawatomie as the revolutionary voice of the WUO." In fact, the WUO core cadre exist only as a small, isolated band of spoilt middle class revolutionists. The WUO is a parasite upon free media publicity: Its terror bombs generate the publicity upon which the WUO feeds and which it must have to keep up its "mystique."

The Weather Underground tries to present an image of "reasoned" terrorism: they bomb "symbolic" targets—which are offices and buildings with American citizens working in them—and produce lengthy cliche- and rhetoric-filled statements in justification of the bombs. And they hope the public and their potential leftist supporters will forget that the March 1970, townhouse bomb being armed by Ted Gold, Diana Oughten, Terry Robbins, Kathy Boudin, Cathy Wilkerson, et al., was an antipersonnel bomb, a bomb being packed with nails and staples and bits of metal, whose purpose was to launch a reign of terror in the northeast United States.

Osawatomie is a keystone to Weather Underground plans to organize a mass movement in concentric, protective circles around the terrorist core, via the PFOC organization. Osawatomie serves as a forum for disseminating WUO Central Committee views on many topics: Views which frequently closely coincide with those of the Cubans. The Weather Underground terrorists and their PFOC comrades have been working closely with, and in support of, the Puerto Rican Socialist Party, PSP, a Castroite Marxist-Leninist organization, and support the PSP slogan, "A Bicentennial without colonies." The current Osawatomie focuses on building support for the July 4, Philadelphia demonstrations. The WUO Central Committee editorial, "Where We Stand," states in part:

> Today the two main tasks of our movement are: 1) To build an anti-imperialist working class movement that can join with the oppressed peoples; overthrow imperialism and establish socialism; and 2) To build a communist party to lead the struggle.
>
> The theme of this issue of Osawatomie is "A Bicentennial Without Colonies!" This slogan challenges people to realize that 200 years after the American Revolution the U.S. is the number one imperialist power. This is a slogan against all forms of national and colonial oppression, inside and outside the U.S., a call for self-determination for all peoples oppressed by imperialism. This is the fighting stance of a revolutionary working class movement that can win.
>
> * * * * *
>
> Organizers wholeheartedly fighting for the needs of the working class must also raise the banner of revolutionary anti-imperialism. * * * The only way to strengthen the working class is to fight for internationalist class consciousness in the struggle against hard times.
>
> In this light we dedicate ourselves to solidarity with the July 4th mobilization in Philadelphia which will rase the banner of Independence for Puerto Rico and unite this struggle with that of the workers and oppressed people of the U.S. This is an urgent priority.

The Weather Underground magazine contains a number of articles signed with false names such as Celia Sojourn, Ella Flynn, Joe Reed, and J. Lardner, and by known WUO members Billy Ayers and Bernardine Dohrn who now styles herself "First Secretary, Weather Underground Organization."

A five-page article in support of the Puerto Rican Socialist Party, PSP, praises a long series of revolutionary terrorists—Pedro Albizu Campos and the Puerto Rican Nationalist Party teams who tried to assassinate President Truman and attacked Congress through the clandestine terror bombers of MIRA, the CAL—Armed Commandos of Liberation—and now the FALN—Armed Forces of National Liberation. The WUO, which has itself performed bombings in solidarity with PSP projects, states:

> In Puerto Rico, armed struggle has become a tool of the working class and is used in close harmony with union and anti-U.S. struggles.

This is the Leninist justification of terror—if terrorist acts are part of a socialist "mass struggle" they are a useful tactic of the revolution.

The WUO notes that—

> Political independence for Puerto Rico is a first step, the cornerstone * * *. The final objective, following the creation of a democratic workers republic, is the building of socialism in Puerto Rico.

In its own pronouncements, PSP leaders have made plain that the sort of socialism imposed on Cuba is what they are seeking.

The Weather Underground concludes its Puerto Rican article:

> Independence for Puerto Rico will be a victory for our movement if we do what the situation demands: build a solidarity movement of millions and make our rebellion and action a price imperialism must pay for its crimes against Puerto Rico.

WUO "first secretary" Dohrn contributes an "open letter" in the same vein calling for U.S. workers to take a stand with the PSP and its labor union front, the United Workers Movement, MOU. Says Dohrn—

> They have a class-conscious workers movement, they have a leading revolutionary party (Puerto Rican Socialist Party). * * * They have appealed to the people of North America, whose solidarity is a fundamental factor in advancing the independence struggles.

Dohrn also makes a significant admission in her statement, that "The Puerto Rican struggle is the lifeblood of our own," which clearly indicates the dependency of the Weather Underground and Prairie Fire on "outside" movements—the Cuban- and Soviet-backed guerrilla terrorists in Chile, Puerto Rico, Palestine—for "legitimacy" derived by solidarity bombings.

In some areas, copies of Osawatomie, available in reprints from the John Brown Book Club, Post Office Box 22383, Seattle, Wash. 98122; and Inkworks, 4220 Telegraph Avenue, Oakland, Calif. 94609, have been distributed at movie theaters showing "Underground," a filmed interview by Emile deAntonio, Mary Lampson, and Haskell Wexler with members of the Weather leadership.

"Underground" has been premiered in New York, Boston, Washington, D.C., and other cities to provide funds for defense committees and revolutionary organizations approved by the WUO. These Weathermen acts of "benevolence" have led to revolutionary criticism from members of other terrorist groups such as the Black Liberation Army, BLA, and Symbionese Liberation Army, SLA.

An "Open Letter to the Weather Underground Organization," published by the John Brown Book Club states:

> We address this to the WUO as a criticism of the rationale which lead to the proposed limited political use of the Weather film, as stated in Osawatomie No. 3. As it stands now, use of the film will be confined almost exclusively to comrades who have the most support nationally. While we realize that these comrades need as much support as possible, we feel that it is just as important to support those with less popular or less publicized trials in process or pending. We feel it is a political contradiction that use of this film excludes many revolutionary women, captive BLA and SLA comrades, and other revolutionaries who are facing reactionary tribunals because of their consistent struggle for revolutionary change. There is no practical reason for anyone to be excluded.
>
> Additional distribution of this film could be easily worked out by contacting the POW's [jailed revolutionaries] who have been excluded, and asking them if they would care to use this film as a means of building political and financial support for their trials. Most of the POW's are in contact with folks on the streets who would be willing to coordinate its showing in their area.

The letter was signed by Symbionese Liberation Army members Russell Little, Joe Remiro, Emily Harris and William Harris; Martin Sostre, a revolutionary who had been given a long prison sentence after his third felony conviction for selling heroin; Marilyn Buck; Jomo Joka Omowale; and Black Liberation Army members Elmer "Geronimo" Pratt, Anthony Bottom, Albert Washington and Henry "Shasha" Brown.

Lest anyone receive the impression that the Weather Underground's guerrilla activities have been reduced to spray-painting slogans on statues, the current Osawatomie repeats the threat WUO and Prairie Fire have been making for the past year:

> The official Bicentennial is the ruling-class campaign of bread and circuses. * * * The rulers have set the time for the party; let us bring the fireworks.

HOUSE TO VOTE ON LAOTIAN REFUGEE ASSISTANCE

HON. RALPH S. REGULA

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, June 4, 1976

Mr. REGULA. Mr. Speaker, on Monday the House will consider S. 2760, the Senate companion to H.R. 11473, a bill to amend the Indochina Migration and Refugee Assistance Act to provide for assistance to refugees from Laos. I strongly urge Members to support this measure which will not require any new funds.

When the Migration and Refugee Assistance Act was passed last spring, Laotians were not included in part to avoid offending the Government in Vientienne. In the interim the domestic political situation in Laos has changed, making it necessary for a number of Laotians, many of whom were affiliated with the United States, to leave their homeland.

The Attorney General has granted parole authority for 8,100 of these refugees to enter the United States. Unless S. 2760 is promptly passed, these Laotians will not be eligible for any of the assistance already given to the Vietnamese and Cambodians. This makes it hard for the voluntary agencies to find homes for the refugees as it places a great financial burden on those families willing to take Laotian refugees as part of the resettlement program.

S. 2760, if passed, will enable HEW to reimburse State and local governments for benefits provided to the Laotians and to provide counseling and related services during the readjustment period to run through fiscal year 1977; in the same manner as the Vietnamese and Cambodians are already being helped.

The Judiciary Committee estimates that the total cost of this legislation will be $14.9 million. Public Law 94–23 authorized a total of $455 million for refugee assistance, of which approximately $53 million remains. The money to aid the Laotians would be drawn from these funds.

The people of Laos were heavily involved in the Indochina war; the fighting in Laos on the Plain of Jars and elsewhere was often fierce and devastating. Many of the Laotian refugees now in the United States loyally served the United States and supported our cause. They are now richly deserving of our help.

VIEWS FROM OFF THE HILL ON HUMPHREY-HAWKINS

HON. MARVIN L. ESCH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, June 4, 1976

Mr. ESCH. Mr. Speaker, the Humphrey-Hawkins bill has attracted quite a lot of attention from leading economists and commentators of several persuasions recently. I would like to insert into the Record a sampling of critical comments directed at the bill from these sources. Some of the criticism is derisive, but H.R. 50, unfortunately, is open to such ridicule. The majority of the commentary will provide good insight into many aspects of the bill:

A VIEW FROM OFF THE HILL

I. WHAT THE NATION'S ECONOMISTS ARE SAYING

On inflation

"The critics read like a 'Who's Who' of critics of liberal economists: Charles L. Schultz of the Brookings Institute, . . . his Brookings Colleague Arthur Okum, former Democratic Chairman of the Council of Economic Advisors; who concedes that the bill is 'beautiful poetry'; Franco Modigliani of MIT; former CEA member James Tobin of Yale; Manpower expert Sar Levitan of George Washington University; and Otto Eckstein of Harvard, another Democratic veteran."—"What Humphrey-Hawkins Means: The full Employment Bill Could Bring Back Double-Digit Inflation." Business Week, May 31, 1976.

"At a four percent unemployment rate, there is no question, the American economy can be disastrously inflationary . . . I must specifically and deliberately warn my liberal friends not to engage in the wishful economics that causes them to hope that there is still undiscovered fiscal or monetary magic which will combine low unemployment with a low level of inflation."—John Kenneth Galbraith, testimony before the Committee on Banking, Housing and Urban Affairs, U.S. Senate, on S. 50, the Fair Employment and Balanced Growth Act, May 21, 1976.

"It is, I believe, in further analysis and pursuit of anti-inflation steps that the greatest hope lies for achieving the unemployment goals of the bill."—Dr. Alice Rivlin, Director, Congressional Budget Office before the Senate Committee on Banking, Housing, and Urban Affairs, May 20, 1976.

"The direct and indirect effects of (the wage provisions) on the inflationary problem would be extremely serious once the bill was in full operation. Labor would become very scarce over a broad range of semi-skilled and unskilled jobs in the private industry. Wage rates would rise sharply and prices would follow; the size of the government's job programs would grow rapidly, as workers left lower paying private jobs."—Statement of Charles L. Schultz, Brookings Institute, before the Senate Committee on Public Welfare, May 14, 1976.

On public service employment

"In my opinion, the evidence supports the view that between a quarter and a half of the reduction in unemployment achieved by a public employment program is non-inflationary. This implies, in turn, that between four and eight million public jobs would be required to achieve the 2% reduction in the sustainable unemployment rate that the Full Employment and Balanced Growth Act mandates. At a gross cost to the taxpayers of, say $10,000 per year for each job, the total gross cost of the public employment provisions of the Act would be $40 to $80 billion per year. The net cost would be less . . . by perhaps $10 billion."—Robert E. Hall, Massachusetts Institute of Technology, Committee on Education and Labor, Manpower Subcommittee, April 9, 1976.

On the goal of 3 percent unemployment

"(S. 50) establishes an unemployment target which is not likely to be realized, it ignores changes in the American economy since the passage of the Employment Act; it establishes cumbersome machinery and by failing to define terms, it confuses more than it clarifies . . .

"The goal of achieving 3% adult unemployment within four years is likely to become another unfulfilled promise . . ."—Sar A. Levitan, Director, Center for Social Policy Studies, George Washington University, before the Committee on Banking, Housing, and Urban Affairs on the Humphrey-Hawkins Amendment, (S. 50), May 21, 1976.

On the future

"Looking at all the parts, the basic tendency of the American economy for the next five to ten years is not toward a labor surplus. Within a year or two, in fact, there are likely to be labor shortages in some crucial areas . . . nevertheless, unemployment is a 'gut issue', and one must expect politicians to exploit it."—Peter F. Drucker, "The Unemployment Issue", The Wall Street Journal, April 7, 1976.

II. A VIEW FROM THE NATION'S COLUMNISTS

". . . this legislation reads as though it was drafted by the editorial board of the National Lampoon."—Nicholas Von Hoffman, "Senator Ebullient and His Wishing Well Jobs Plan", The Washington Post, May 5, 1976.

"H–H bill is baloney whoever swallows it . . . the H–H bill has become a kind of talisman in the Presidential campaign. A talisman is a stone, or ring, or charm that is supposed to work wonders. It is a source of occult power; it is hocus-pocus, dominicus. One by one, the Democrats have been put to the test: Do you believe in Humphrey-Hawkins?"—James J. Kilpatrick, "H–H Bill is Baloney Whoever Swallows It", Washington Star, May 23, 1976.

"Planning has no magical precision. Moreover, given the weakness of economic analysis in the past decade, there is reason to worry as does AEI resident scholar Willy Fellner, that forecasts by 'government experts' will end in a big disappointment or there will be an effort to fake the numbers."—Hobart Rowen, "Economy: To Plan or Not To Plan", Washington Post, April 8, 1976.

". . . thus the 'H–H Bill', as it is coming to be known, is certain to be the key domestic issue in the fall election, for the Republican leaders are adamantly opposed to it and prepared to campaign all-out against it. The outcome of this knockdown battle could very well determine the shape of things to come in the United States for a long time."—Clayton Fritchey, "The Shape of Things to Come", The Washington Post, May 23, 1976.

"The Humphrey-Hawkins bill is to unemployment what the WIN button was to inflation."—Herbert Stein, "Legislating an End to Unemployment", The Wall Street Journal, April 14, 1976.

III. A WORD FROM THE NATION'S EDITORIAL WRITERS

"Are we, then to have added to an already overstuffed bureaucracy another layer of well-paid public servants contributing virtually nothing to dislodge from the public teat. Is this the definition of 'balanced growth' according to HHH and H?

". . . Humphrey-Hawkins adds up like any other numbers game: the players almost always lose."—"Cost of HHH's Job Bill", The St. Paul Dispatch, May 25, 1976.

"The question is whether the country can establish full employment, permanently, and with stability, by enacting a law that requires it. The answer, as you probably expected, is that it cannot, not without either a dangerous inflation of iron-clad wage controls."—Editorial—The Washington Post, March 16, 1976.

"The new revised version of the Humphrey-Hawkins bill that is now before Congress has only one virtue. It is not as bad as the old unrevised version."—Editorial—The Wall Street Journal, May 20, 1976.

"The bill would necessitate an undetermined but considerable amount of political manipulation of the monetary and interest rate policies of the Federal Reserve Board. Some fellow in the White House basement . . . might be making monetary policy. If that happens we might be well advised to swap our wallets for wheelbarrows."—Editorial—The Washington Star, May 7, 1976.

"The major opposition seems to come . . . from a variety of mainstream economists—both Democratic and Republican, who conspiculously have not flocked to endorse the package . . . This no doubt is not the first time that salable campaign politics has conflicted with economic reality. But there's no sense in risking the undoing of a steady recovery for the sake of a grandiose political promise . . ."—Art Pine, "Federal Jobs Bill Might Bring on a New Recession", The Baltimore Sun, April 12, 1976.

U.S. POSTAL SERVICE MANAGEMENT FORGETS ABOUT SERVICE

HON. JERRY M. PATTERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 4, 1976

Mr. PATTERSON of California. Mr. Speaker, it has recently come to my attention that the management of the U.S. Postal Service has issued an order directing postal carriers to walk across people's lawns, rather than using sidewalks or streets to go from house to house.

Confidence in our postal system is at an all-time low, and the prospect of trampled yards and paths cut across lawns cannot please property owners. Nor can it please the mailmen who consider the residents their customers.

The Postal Service management is claiming that the move should increase the speed and efficiency of the mail service, and nearly everyone could agree that such improvement is needed. However, I seriously doubt that the performance of the postal carriers is causing the delays in service that now exist.

The move appears to be an effort to put more work on each letter carrier, to eliminate routes and to reduce the work force. Rather than improving mail service, the postal management seems intent on cutting it back.

In addition, lawns abound with sprinkler heads, gopher holes, and a variety of other dangers which are safety hazards for the mailmen. Property owners share the danger of these hazards as they may be held liable for injuries suffered by the postal carrier on their property.

This so-called economy mandate once again mandates the postal management's lack of regard for the concerns and the rights of both postal carriers and property owners, and it is further proof that something must be done if the U.S. Postal Service is going to truly provide a service.

JOINT COMMUNIQUE

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, June 4, 1976

Mr. DERWINSKI. Mr. Speaker, the World Anti-Communist League, in coordination with the Asian Peoples' Anti-Communist League, met recently in Seoul, capital of the Republic of Korea. There were 310 delegates and observers from 61 nations and 10 international organizations in attendance. A communique was issued at the close of the conference, and recognizing the interest the Members of Congress have in this active organization, I insert the communique in the RECORD:

JOINT COMMUNIQUE—9TH WACL/22ND APACL CONFERENCES, SEOUL, REPUBLIC OF KOREA, MAY 1–3, 1976

The World Anti-Communist League (WACL) and the Asian Peoples' Anti-Communist League (APACL) met in Seoul, capital of the Republic of Korea, jointly for their 9th and 22nd General Conference on May 1–3, 1976. Present were 310 delegates and observers from 61 national member units and 10 international organizational member units in Asia, the Middle East, Australia, North America, Latin America, Europe and Africa. They reviewed the international situation; pointed out what action should be taken for free world security, national independence, freedom and peace; and in the name of both organizations formulated various plans and made requests for joint endeavors to defeat international Communism.

Messages to the conferences from H. E. President Park Chung Hee of the Republic of Korea, other heads of State and political leaders of various countries gave great encouragement to the freedom-loving peoples of the world.

At the conferences the delegates confirmed that the international Communists are nowadays increasingly desperate because of the deepened contradictions and discords within their own system combined with the growing unrest of the captive peoples. They sternly condemned the brutal barbarous acts typified by the inhuman massacres of innocent citizens committed recently by the Communists.

It was also confirmed that the international Communists are using "detente" between East and West not as a means of maintaining true peace but as an instrument of their expansionist policy to impose the Communist system of enslavement on free socities everywhere. It was especially noted that such expansionist policy is developing in the form of intensive psychological warfare on the political front.

Realizing that for the purpose of bringing about the internal split and collapse of anti-Communist forces in free democratic societies, the international Communists are taking advantage of the indiscreet behavior and remarks of the so-called liberals, who are naive and unaware of the deceptive nature of the Communist aggressors, in carrying out their political psychological warfare to lay the groundwork for the communization of the whole world, the delegates resolved to keep up vigilance against the "united front tactics" of the Communists.

It was reaffirmed that stricter vigilance and firmer solidarity among the free and peace-loving peoples of the world and staunchness in their determination to safeguard freedom and national independence are the most effective means to defeat the international Communist conspiracy.

It was also ascertained that unity of purpose among free peoples should be demonstrated through concrete and organized actions condemning the inhuman barbarous acts of the Communists and thoroughly foiling their deceitful campaigns.

Mindful of the fact that the Korean peninsula is the place where the threat of Communist aggression is among the most serious in Asia, the delegates expressed profound admiration for the firm determination and courage of the people of the Republic of Korea, under the outstanding anti-Communist leadership of President Park Chung Hee, who are exerting all-out efforts to defend peace and freedom in the face of the sinister southward invasion scheme of the north Korean Communists who are among the most militant and barbarous in the ranks of the international Communists.

Through the conferences, the WACL/APACL succeeded in further enhancing the general desires of the present age to safeguard freedom, national independence and democracy, and resolved to consolidate the free world cooperative bonds for the destruction of international Communism.

The next WACL/APACL Conferences will be held in the first half of 1977.

The delegates expressed sincere gratitude for the hospitality and cooperation extended for the conferences by the Government and people of the Republic of Korea and also showed their appreciation for the Korean Anti-Communist League's endeavors in preparing the conferences.

PLANS AND ACTIONS

For effective handling of the present world situation, the WACL/APACL Conferences have resolved the following:

(1) Stop thinking about winning the Chinese Communists over the containment of Russia. Any attempts to pit the Chinese Communists against the Russians is a result of inadequate understanding about their nature and will provide additional impetus for their race to destroy the free world.

(2) Promote the establishment of a Western Pacific island chain of defense. Support should be positively given to the Republic of Korea, Japan and the Republic of China for enhancement of their political, economic and defense cooperation with the United States and other free nations of the Asian-Pacific region.

(3) Promote peace and freedom in the Middle East. For the protection of peace and freedom and for their common goals of development and prosperity, these free nations of the area should be united strongly against Communism.

(4) Stand for the dissolution of the Russian colonial empire—the U.S.S.R. and its satellites—strongly supporting the heroic struggle for national independence and freedom for all the enslaved nations, like Ukraine, Byelorussia, Lithuania, Latvia, Estonia, Georgia, Azerbaidzhan, Armenia, Northern Caucasus, Turkestan, Bulgaria, Roumania, Hungary, Czechia, Slovakia, Poland, Croatia, Albania, Cuba and others.

(5) Condemn Communist Russian neocolonialism, neo-imperialism, ethnocide, linguicide, Russification of the subjugated nations, enforced deportation to far corners of the U.S.S.R. and mixing up of the same peo-

ples in order to form the so-called "Soviet"—in reality to merge them into the Russian people—which would be equal to a total loss of identity of all enslaved nations, national oppression, economic exploitation and enforced collectivization of these peoples, integral terror applied by the Russian neo-colonialists.

(6) Demand the dissolution and abandonment of all concentration camps and forced labour camps, insane asylums designed to destroy political and religious prisoners, immediate release of all political and religious inmates, the number of which is reaching two million, such as Yuri Shukhevych, Valentin Moroz, Viacheslav Chornovil and others.

(7) Support the heroic anti-Communist endeavors of Latin Americans. WACL and APACL are gatified that forces for freedom in Argentina overthrew the leftist regime. Lend support and solidarity to the governments of Paraguay, Guatemala, Nicaragua, El Salvador, Brazil, Uruguay and Chile for their firm struggle against the Marxist-Leninist imperialism for the permanent defense of the democratic institutions, freedom, peace, integrity, and the social and economic development of their peoples.

(8) Strongly condemn the military intervention by the Communist regime of Cuba, mercenary of Soviet imperialism, in Angola in open violation of the principle of non-interference in the affairs of another country. Also vehemently condemn Castro's Cuba regime for its clandestine subversive movements in all Latin American countries. Cuba must be tightly blockaded. Positive assistance must be given to the anti-Communist Cuban revolutionaries who are striving to overthrow Castro's tyranny.

(9) Strongly defend Africa from Communist infiltration and subversion. Help free African nations eliminate Communist and leftist insurgency. Free Africans are urged to stand firmly on the side of the free democratic camp, and tightly guard themselves against Communist united front attempts to cut Africa's ties with the rest of the free world through so-called "Third World" maneuvers.

(10) Support the heroic anti-Communist struggles of those kept behind Asia's Iron Curtain. The WACL/APACL Conferences attach special importance to the gallant anti-Mao and anti-Communist actions of those who took part in the recent Tienanmen demonstration that served to expose the shaky foundation of Chinese Communist rule and decisively destroyed the false pictures painted by those international circles eager to please the Chinese Communists. The conferences positively support the resolute anti-Communist struggles continuing on the Chinese mainland and in north Korea. Positive support should be given to the anti-Communist national recovery efforts of the peoples of Indochina.

The conferences were conscious of the fact that the communications media has a special responsibility to assist in the protection of the free world and to expose fully the true nature of Communist tyrannies. The media must be made responsible for their actions.

The Communists have declared war on the free world. It is a battle for the hearts, minds and souls of people. The conferences recognized the need to give increased attention to the psychological warfare of the struggle against international Communism and proposed the setting up of a special committee to further study this matter.

The conferences received a special report that had been commissioned by WACL in Brazil in 1975 on the subject of the financing of Communism, Communist economic warfare, and a finance-economic program for halting economic blood transfusions to the Communists. The report was authorized for circulation so that WACL/APACL members could study the documentation and recommendations and consider what action should be taken.

The governments of Britain, France and West Germany were asked to block financial credits and technological assistance—previously blocked by the U.S. Congress in 1974—requested to exploit the natural gas resources in western Siberia. The governments of the free world are also asked to stop all economic and other aid to Communist countries, particularly the aid promised recently to Yugoslavia by the United States of America.

Congratulations were extended to the provisional government of East Timor and the Indonesian volunteers for their success in defeating the Communist-oriented Fretilin forces in East Timor.

A special message was sent to His Majesty Sultan Qaboos Bin Said of Oman congratulating him on his country's success against Communist subversive activities and asked all neighboring countries to give every assistance to His Majesty to maintain a free Oman.

Special greetings were sent to the United States of America on the occasion of the bicentennial celebration of the Declaration of Independence, noting the need for the Americans to support the campaigns of the enslaved nations for national independence from international Communism.

TRIBUTE TO RALPH R. SACHS

HON. EDWARD R. ROYBAL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 4, 1976

Mr. ROYBAL. Mr. Speaker, I would like to take this opportunity to pay tribute to Dr. Ralph R. Sachs, who is retiring from the Los Angeles County Department of Health Services after a long and distinguished career in the field of public health.

Dr. Sachs received his M.D. and masters in public health in his home State of Michigan. He served the people of Michigan and Washington before coming to Los Angeles in 1955, when he joined the Los Angeles City Health Department. It was during his stay with the Los Angeles City Health Department that I first had the privilege of working with this dedicated public servant. As chairman of the Los Angeles City Council's Public Health and Welfare Committee, I had the opportunity to work closely with Dr. Sachs in a joint effort to develop community health and child care programs.

During his long service with both the city and county health departments of Los Angeles, Dr. Sachs worked tirelessly for the development of programs designed to meet the needs of the poor and underprivileged. His dedication to this cause never waivered, as he served the people in all aspects of public health. This includes several years of teaching at the University of California and the University of Hawaii.

During his long and distinguished career, Dr. Sachs also found time to serve the World Health Organization, assisting the people of Indonesia, Manila, and Bangkok. Under the auspices of the Ford Foundation, he served the people of India and Pakistan as a family planning specialist.

Without a doubt, Dr. Sachs has led a full and exemplary career. It is a great pleasure for me to take a moment now to insure that recognition is given Dr. Sachs for his outstanding contributions to the health and well-being of the people of Los Angeles and of the world.

EARTHQUAKE HAZARDS REDUCTION LEGISLATION

HON. BARRY M. GOLDWATER, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 4, 1976

Mr. GOLDWATER. Mr. Speaker, the section-by-section analysis of H.R. 13845 and S. 1174, dealing with earthquake hazards reduction, that I referred to in my 1-minute speech today is as follows:

EARTHQUAKE HAZARDS REDUCTION LEGISLATION—A COMPARATIVE ANALYSIS OF H.R. 13845 (MOSHER) AND S. 1174 (CRANSTON)

SUMMARY

Both bills deal with earthquake hazards reduction. The Mosher bill seeks to establish a management infra-structure to guide and draw together a widely dispersed Federal effort into a comprehensive National Earthquake Hazards Reduction program. The Cranston bill emphasizes research programs, giving only a modicum of attention to the management of a national program. Consequently, the total FY '77 authorization of the Cranston bill exceeds the $2 million authorization of Mosher's bill by $38 million ($40 million total). This significant difference in authorization is due simply to the fact that the Cranston bill supplements and extends currently authorized research programs while the Mosher bill requires most funding to emanate from the various Agencies' budgets via the normal appropriations process.

While the Mosher bill distinguishes between earthquake prediction and earthquake warning and establishes a management mechanism for addressing each, the Cranston bill amalgamates these two areas, providing no separate management mechanism.

Another important emphasis of the Mosher bill is its attention to the social, political, legal and economic aspects of earthquake hazards reduction. Although the Cranston bill finds that "earthquakes . . . can cause . . . economic and social disruption," it does not provide mechanisms through which these concerns can be reflected in a national program.

Other potential problems found in the Cranston bill are: lack of consideration of the international nature and concerns of earthquake hazards reduction efforts; location of basic research programs within NSF which are not commonly within the purview of NSF; creation of an Executive Branch Advisory Committee with unspecified membership, terms of service, compensation; the vesting of funding and program implementation with only two (2) of the twenty-three (23) federal groups currently involved in various aspects of earthquake hazards reduction.

BACKGROUND

The Mosher bill (H.R. 13845), the National Earthquake Hazards Reduction Conference Act of 1976, was submitted May 18, 1976, and referred to the House Committee on Science and Technology. The Cranston bill (S. 1174), the Earthquake Disaster Mitigation Act of 1975, was submitted March 13, 1975, and referred to the Senate Committee on Commerce and then to the Committee on Labor and Public Welfare. It was reported by the

Committee on Commerce as the Earthquake Hazard Reduction Act on May 13, 1976, waived by the Committee on Labor and Public Welfare, and passed by the Senate on May 24, 1976.

Hearings on both bills are scheduled for June 22, 23, and 24, 1976, before the Subcommittee on Science Research and Technology of the House Committee on Science and Technology.

COMPARISON

The following is a section-by-section comparison of H.R. 13845 and S. 1174. For the sake of brevity, only those items of each section which represent significant differences in the legislation are presented. Where common section titles could not be identified, items were grouped under headings created and identified (*) for purposes of this comparison.

Cranston (S. 1174)	*Mosher (H.R. 13845)*
TITLE	
Earthquake Hazards Reduction Act.	National Earthquake Hazards Reduction Conference Act of 1976.
FINDINGS	
Program based upon Federal research could be cost-effective when viewed against potential earthquake loss.	Expertise/responsibility for hazards reduction dispersed through private/public sector. Priority is to focus on organizational structure.
PURPOSE	
Establish an earthquake hazards reduction program.	Establish a national Earthquake Hazards Reduction Conference (a management structure for national program).
DEFINITIONS	
Defines: National Advisory Committee Seismic	Defines: Earthquake prediction Earthquake warning Authenticated prediction Earthquake modification
PROVISIONS*	
Goal—to develop a national program. Method—President shall, by rule, specify lead agency, assign roles to other agencies, to coordinate and staff a program to establish a prediction system, recommend land use policy, and conduct earth science research.	Goal—to provide management structure for a national program. Method—Assemble a conference from heads of existing programs, to formulate/coordinate national program including mechanisms for authenticating predictions, and coordinating efforts in the earth science, legal, social, insurance, tax, and international areas.
PARTICIPANTS*	
Specified involvement from among 9 Federal groups plus state, local, private sectors.	Specified representatives from 23 Federal groups, and Congressional, state, local, private academic sectors.
ORGANIZATIONAL STRUCTURE*	
National Science Foundation to implement basic research. U.S. Geological Survey to develop prediction system, monitoring systems and conduct other research. President to appoint agency/task force to develop national program.	Conference to develop/coordinate national program and establish a mechanism for authenticating earthquake predictions. Membership specified form: 23 involved Federal agencies, 6 appointed from private/public, etc., 4 non-voting Congressional representatives. Duration of terms specified. Compensation specified. Executive Committee—Established from within Conference with specified operating procedures.
ADVISORY COMMITTEE	
Establish *National Advisory Committee on Earthquake Hazard Reduction* to advise President composed of fifteen (15) members appointed by President. Duration of terms—unspecified. Compensation—unspecified.	None—function performed by *Conference*.
REPORTS	
Annual report by President to Congress.	Annual report to President and Congressional committees. After 18 months, evaluation of current technology status and recommended legislation. After 24 months, evaluation of all relevant Federal statutes and law, recommended new legislation.
AUTHORIZATION	
Fiscal year 1977 — $40,000,000 Fiscal year 1978 — 50,000,000 Fiscal year 1979 — 60,000,000 Fiscal year 1980 — ———	Fiscal year 1977 — $2,000,000 Fiscal year 1978 — 3,000,000 Fiscal year 1979 — 4,000,000 Fiscal year 1980 — 5,000,000

PERSONAL EXPLANATION

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Friday, June 4, 1976

Mr. MAZZOLI. Mr. Speaker, due to responsibilities in my district I was not present to vote on matters coming before this body on May 21, 24, and 25. Had I been here I would have voted as follows:

Roll No. 291 conference report on H.R. 12453 National Aeronautics and Space Administration Authorization fiscal year 1977—yea.

Roll No. 292 consideration of H.R. 12677—yea.

Roll No. 293 H.R. 12677 Alcohol Abuse and Alcoholism Amendments of 1976—yea.

Roll No. 294 H.R. 12679 extension of program for health services research and statistics and medical libraries—no.

Roll No. 295 H.R. 12679 health services research and statistics and medical libraries—yea.

Roll No. 297 H.R. 13121 directing the law revision counsel to prepare and publish the District of Columbia code—yea.

Roll No. 298 H.R. 11009, amended, providing an independent audit of the financial condition of the Government of the District of Columbia—yea.

Roll No. 299 House Resolution 1190 the rule under which H.R. 6810 was considered—yea.

Roll No. 300 H.R. 6810 authorization for an additional Assistant Secretary of Commerce—no.

Roll No. 302 H.R. 10138 creating the Young Adult Conservation Corps—yea.

Roll No. 303 House Resolution 1214 the rule under which H.R. 12945 was considered—yea.

HELEN MEYNER GIVES COMMENCEMENT ADDRESS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 4, 1976

Mr. HAMILTON. Mr. Speaker, I would like to call to the attention of my colleagues an excellent commencement address given by our colleague, HELEN MEYNER. Her address, given a few days ago at the Princeton Theological Seminary, touches on the status of women and American food aid. Her broader topic, however, is human compassion and individual responsibility, and she closes her address by perceptively noting that—

> Our mission—yours as ministers of the church and mine as a Member of Congress—must be to try to rekindle in Americans that sense of community spirit and individual responsibility which have traditionally been our greatest virtues and our greatest sources of strength. Without them, we are pointless; with them, there is nothing we cannot accomplish.

Mrs. MEYNER's address follows:

A COMMENCEMENT ADDRESS FOR THE PRINCETON THEOLOGICAL SEMINARY, PRINCETON, N.J., JUNE 2, 1976

(By HELEN STEVENSON MEYNER)

President McCord, Trustees, Members of the Faculty, Guests, and Friends, and especially the graduating class of 1976, I am delighted and honored to be here this morning.

I was particularly delighted to be able to respond to Dr. McCord's invitation to deliver the commencement address, because he has been a very good friend of mine for many years. And, I am greatly pleased to return to the institution which my grandfather, J. Ross Stevenson, loved and which he served as President for 22 years, from 1914 to 1936. He and other predecessors at this podium have been remarkable for their scholarship, eloquence, and inspiration.

Being neither a theologian nor a scholar, I asked some Presbyterian friends what I should say this morning. I asked them if I should make thoughtful observations about the weighty issues of the day or try to be witty, light, and clever. They advised me that I should do neither . . . just be yourself, Helen, they said to me . . . I'm beginning to wonder about my Presbyterian friends.

However, I do believe that I have one virtue as a public speaker—A firm belief in brevity. Politicians and ministers have in common a tendency to go on too long. Someone once said that there are three kinds of commencement speeches—good, bad, and fifteen minutes. You'll have to be the judge of the first two this morning and I'll try to stick to the third category.

It would be futile and presumptuous of me to give you a lot of unsolicited advice. Adlai Stevenson, dismissed that idea in a commencement speech he once gave with the following words:

"If I would guide you, I could not. What a man knows at fifty that he did not know at twenty is, for the most part, incommunicable. The knowledge he has acquired with age is not the knowledge of formulas, or forms, or words, but of people, places, action . . . a knowledge not gained by words, but by touch, sight, sound, victories, failures, sleeplessness, devotion, love . . . the human experiences and emotions of this earth and of one's self and of other men and, perhaps too, a little faith and a little reverence for the things you cannot see."

So, let me share with you this morning some of my own perceptions distilled from those human experiences.

I am serving my first term as a member of Congress. I suppose you could call me a freshperson. As you may know, my husband served two terms as Governor of New Jersey. Like just about every politician's wife, I used to be introduced as "Governor Meyner's lovely wife, Helen." In my own campaign for Congress, I would often say that I was looking forward to the day when my spouse and I would finally be introduced as "The Congresswoman and her lovely husband, Bob." I'm still waiting.

My new status has generated some confusion as to how we should be addressed. A lot of people are puzzled, for instance, about how to address Christmas cards to us. After my election, we received cards addressed to "Representative Meyner and ex-Governor Meyner", "Former Governor and Congressperson-elect Meyner", and "The Honorable Meyners." And, a Republican friend simply wrote "The Meyners" on the envelope; and inside, the note said, "Two Honorables under one roof are one too many, especially when they're both Democrats."

Still, underneath the wry amusement, one feels a special responsibility as a woman in Congress. Women continue to be terribly under-represented in government. There is not one woman in the United States Senate and only 19 women in the House of Representatives out of 435 Members, so you are now looking at over 5% of the women in Congress. We need far more women in business and professional fields, not only to provide the unique perspective of women, but also to provide the role models that young women need to fully appreciate the opportunities available to them.

There is at least one profession where the status of women is more dismal than in government . . . and that's the ministry. I asked Dr. MacLeod if he could provide me with figures on how much the number of women enrolled at the Seminary increased during the 22-year presidency of my grandfather. He informed me that the number of women enrolled during those years skyrocketed from zero to nothing.

It is a little better now. Women this year constitute about 20% of your enrollment. Surely, it is past time for us to bury the idea that only men can minister to the spiritual needs of human beings. So far as has been determined, there is nothing about the Y chromosome that indicates a special divine dispensation in this regard. It should be self-evident that greater participation by women in the ministry will enrich its quality and enhance the church's ability to respond to the complex and profound spiritual needs of all people.

In addition to my concern for the status of women, I have been especially active as a member of Congress in the area of American foreign policy. I am a member of the International Relations Committee, which exercises primary House responsibility in the field of foreign affairs. My own interest in foreign affairs is longstanding and was triggered initially by the year and a half I spent with the American Red Cross in Korea during the Korean War. I had the opportunity there to observe war up close, to witness the naked horror and ultimate futility of combat, and the terrible, dreadful waste of human life. What I learned there—a lesson that was brought home to me again with the agony of Vietnam—was that war is no solution, that no nation—including this one—has so absolute a grip on absolute truth that it is entitled to impose its idea of what is right on another nation.

After Korea, I worked for the United Nations and later for an airline. I had the opportunity to travel widely throughout Europe, the Middle East, the Far East, and Asia. I observed then as I have on subsequent trips abroad, that the real threat to civilization on this planet is not communism. The real danger to liberty is not Russian imperialism or Chinese revolution. The real threat to mankind is ignorance and poverty, hunger and disease. The salvation of this planet demands that we work together, as people and as governments, to heal, to feed, to clothe, and to educate the poor of the world.

It is a glaring, tragic fact that while we sit here, comfortable, affluent, and more or less overfed, much of humanity scrabbles daily to stave off terminal starvation. I find it shocking that our country, with less than 6% of the world's population, consumes more than 50% of the world's resources. This inequity is especially disturbing in the light of runaway population growth. The world's population is expected to double by the year 2000. And, no one knows how they are going to be fed or whether this planet can support their staggering numbers.

As if that weren't enough, there have been some frightening long-range predictions recently. The World Meteor-o-logical Organization warns that the earth may be undergoing the greatest climatic change since 1700. A recent government study predicted a political and economic upheaval almost "beyond comprehension" because of a period of bad weather already begun that may well last for centuries. They predict major famines in India and in China resulting in the deaths of millions of people.

The American response to this crisis is obviously critical. Our country is still the richest, most powerful nation in the world, as well as the world's biggest food producer.

The response of our government has often been disappointing. The United States has contributed $172 billion in foreign aid over the past thirty years. Much of that aid went to reconstruct Europe and Japan after World War II. The Marshall Plan was a superb example of what an aid program could accomplish.

But over the decades, aid delivered to many of the less-developed countries was often squandered by corrupt recipient governments, diverted to showcase projects for the greater glory of local tyrants, or misdirected into inappropriate uses of Western technology. Through bitter experience, we began to realize that food aid often prolonged the dependency of recipient countries instead of encouraging them to increase their own agricultural production.

The Food for Peace program, begun with so much hope and idealism under the Kennedy Administration, degenerated into a means of unloading price-depressing agricultural surpluses. Too often it was used to support unpalatable governments or governments which should have been unpalatable.

The case of Chile is an example. Congress instituted controls on aid to Chile in 1974 after the military junta overthrew the Allende government there. Food for Peace aid immediately skyrocketed from $3.2 million to $52.1 million. Almost all of this aid has been under Title I, which means a cash grant to the Chilean government to be used in any way they choose. In spite of the fact that four other Latin American countries have been designated as "most seriously affected" nations by the U.N., Chile received 86% of the Food for Peace aid in Latin America in 1975. As Tom Wicker of the New York Times wrote, the Food for Peace program has become a "Food for Politics" program under Secretary of State Kissinger.

Fortunately, Congress has taken matters into its own hands in the past year and initiated "new directions" in our foreign aid program. For the first time, the International

Relations Committee has separated development assistance from military assistance. Unfortunately, we still provide far more military aid than we do development aid, but the quality of our development programs has greatly improved.

We are placing greater stress now on increasing the ability of the rural poor to raise their own agricultural production and utilize so-called "intermediate technologies" which are more adaptable to local conditions. We have insisted that more assistance be delivered directly to needy people instead to a succession of middlemen in national governments. A cooperative program between American and foreign land-grant colleges has been initiated. Congress has now mandated that 75% of all Food for Peace aid shall go to the "most seriously affected" nations, regardless of political imperatives.

I have championed the greater use of private voluntary agencies in our foreign aid program. As a result, a much higher percentage of our foreign aid will now go through international organizations and private agencies, such as the UN Development Program, CARE, Planed Parenthood, the Catholic Relief Service, and the Red Cross. There are organizations currently in place in many needy countries, some church-related, that are run by deeply dedicated men and women. They administer aid efficiently and have the trust of the people they serve. It seemed to me that we ought to take advantage of this dedicated professional network to ensure most effective use of our aid.

Although I have spoken primarily about the role of *government* in addressing world food problems, I cannot over-emphasize that private efforts are vitally important. Because of our committee's work, the federal government has finally begun to acknowledge the effectiveness of private voluntary agencies in administering aid abroad. I hope that we will never reach the day when American citizens look to their government as the sole source of charity at home and abroad. We need to further strengthen the fine humanitarian efforts of religious and charitable agencies throughout the world.

Our total aid commitment is still inadequate. Several European countries and OPEC members rank far above the United States in Foreign Aid as a percentage of gross nation product. Father Hesburg of Notre Dame recently noted that "when you stop to think that we are spending about as much on the total aid we give to the whole world as we do on potted plants, that doesn't say much for us. We are spending four times as much on tobacco and eight times as much on alcohol as we are on helping the poor of the world. I think that should remind us as a Christian nation, in the Judeo-Christian tradition, that we are a long way from our basic ideals of loving our neighbor."

It is critically important that we inject a new moral vision into our nation's foreign policy. Soon perhaps, we will have a President and a Secretary of State who are deeply concerned about human suffering even when it is not strategically important. I look forward to the day when this rich nation will choose to fight economic injustice as well as political oppression, will export food and technology with the same ardor we now expend on the export of military hardware, will give priority to food, not guns. Surely no other vision could be more noble or timely than this.

We seem far from this ideal. America is said to be in a selfish, private mood. Americans seem to want to be left alone, to "get government off their backs", to reduce the amount of their tax dollars going to the poor and hungry here and abroad.

So I leave you with one message: use your ministry to bring out the compassion in people. Help people to realize that we cannot choose *not* to be involved. We *are* involved together on this small, finite planet where, in the words of John Donne, "Any man's death diminishes me because I am involved in mankind."

Our sense of worth, even our salvation—as individuals, as a people, as a nation—depends upon a restoration of our sense of compassion, of community, of caring. Caring matters most.

Our mission—yours as ministers of the church and mine as a Member of Congress—must be to try to rekindle in Americans that sense of community spirit and individual responsibility which have traditionally been our greatest virtues and our greatest sources of strength. Without them, we are pointless; with them, there is nothing we cannot accomplish.

If you can do this, if *we* together can do this, then we can say, with William Faulkner: "To the last red and dying evening, mankind will prevail."

THE NEED FOR EFFECTIVE STANDARDS FOR AUTOMOBILE POLLUTION

HON. ANDREW MAGUIRE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, June 4, 1976

Mr. MAGUIRE. Mr. Speaker, Congress will shortly consider amendments to the Clean Air Act as reported by the Committee on Interstate and Foreign Commerce, of which I am a member.

Congressman WAXMAN and I will be offering an amendment to the bill to provide for some relaxation of the schedule for attainment of the toughest emission standards set in the Clean Air Act, but at the same time safeguard the public health consistent with our technological capabilities. We urge Members to support our amendment in preference to the committee bill which weakens the schedule in the Clean Air Act far beyond what is reasonably warranted.

New Jersey Gov. Brendan Byrne has endorsed the Waxman-Maguire amendment. Matthew Feldman, president of the New Jersey State Senate, has issued a statement endorsing the amendment. New Jersey Assembly minority leader Thomas H. Kean has called for the New Jersey congressional delegation to support various "amendments to strengthen greatly the Federal Clean Air Act."

I believe these statements will be of interest to Members:

FROM THE OFFICE OF THE GOVERNOR

Governor Brendan Byrne today cited test results of a new automobile emission control system as evidence supporting strong emission standards in the proposed amendments to the Clean Air Act now pending before the Congress.

Byrne reaffirmed his earlier endorsement of a proposal by Rep. Andrew Maguire of New Jersey and Rep. Henry A. Waxman of California to restore the schedule for compliance in the Clean Air Act to require all cars in the nation to meet strict emission levels in 1978.

According to test results on the 1977 Volvo, released yesterday by the California Air Resources Board, the new system developed by Engelhard Industries of Edison, New Jersey for Volvo's four-cylinder models, met California's stringent 1977 standards and also complied with the standards to be achieved in 1980 as established by the Clean Air Act of 1970.

The system produced these air quality results while achieving higher fuel economy than Volvos currently sold outside California which have significantly higher emission levels. The anticipated cost increase for the new system is between $25 and $50 per car.

"These reports show that the Waxman-Maguire amendment sets automobile emission goals which are feasible and wise," said Bryne. "There is no reason to delay reaching our national goal of cleaner air through strong automobile mission controls. I am pleased that New Jersey industry has played a key role in this technological advance. This development again shows the basic compatibility between our economic and environmental interests."

Byrne praised Maguire for his efforts in the Congressional review of the proposed amendments to the Clean Air Act:

"Congressman Maguire has worked hard to produce a bill which meets New Jersey's needs," he said. "I am confident that his work with the aid of other members of the Congressional Delegation will result in legislation which gives us cleaner air while promoting the technological achievements which spur our economic growth."

STATEMENT OF NEW JERSEY SENATE PRESIDENT MATTHEW FELDMAN

I am pleased to join the League for Conservation Legislation in expressing support for a Federal Clean Air Act.

The legislation proposed by the Waxman-Maquire amendment is particularly significant for New Jersey.

Our State is the most densely populated and most highly industrialized state in the country. It also serves as the main corridor between Boston and Washington. As such, it has become an often visible receptable for air contaminents from both industry and transportation.

It is no coincidence that New Jersey ranks high in the occurence of cancer among its citizens. Nor is it so unusual to note the deterioration of crops and the contamination of livestock.

With this clearly in mind, we must seek an amalgamation of industry, and transportation with environmental conservation and human preservation.

To begin, there must be uniform national standards for clean air . . . this, to discourage the drift of industries to other states where they can comfortably resume activity because of relaxed air pollution standards.

New Jersey's efforts to upgrade its environmental standards has been meaningful, but will lose impact unless every state is required to do the same.

The League for Conservation Legislation's efforts clearly reflect the interest in the well-being of New Jersey's citizens. They have my support.

STATEMENT OF ASSEMBLY MINORITY LEADER THOMAS H. KEAN REGARDING FEDERAL CLEAN AIR ACT AMENDMENTS

I would like to thank the League for Conservation Legislation for this opportunity to join with them in support of a strong federal Clean Air Act. I am disturbed by a number of provisions in the bills as reported out of committee in both the United States Senate and House of Representatives. As these bills now stand, they would weaken federal environmental controls, significantly decrease the environmental quality in New Jersey, and possibly cause the erosion of jobs from our State.

It is my fervent hope that the New Jersey congressional delegation will stand together on a bi-partisan basis to strengthen the legislation in a number of ways. Specifically, I would urge our delegation to support amendments to set nationwide emission standards for industries, to provide that all 1978 automobiles meet the pollution standards currently in effect in California, to provide early compliance with transportation control plans for urban areas, to enact indirect source controls to encourage developers to locate new facilities in existing urban areas, and to protect areas which are now cleaner than Federal primary standards require from significant degredation.

The citizens of the State of New Jersey have shown their support for clean air and a healthy environment time and time again through the years. I trust that our congressional delegation will show no less resolve in supporting amendments to strengthen greatly the federal Clean Air Act.

SENATOR BUCKLEY LABELS KISSINGER ALBATROSS AROUND PRESIDENT'S NECK

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, June 4, 1976

Mr. ASHBROOK. Mr. Speaker, my friend and colleague in the Congress, Senator JAMES BUCKLEY, has made a very thorough and accurate appraisal of the disastrous foreign policy of Dr. Kissinger. He details the record of our Secretary of State in a most illuminating manner and raises questions of policy which unfortunately get little attention in our liberal dominated press.

In fact, I have seen very little mention of this outstanding statement in any of the media despite its clear relevance to the debates of the day in the Congress. For that reason, I include the press release that the New York Senator's office issued with these remarks.

I have never been fooled by Mr. Kissinger. I opposed his nomination. I opposed his confirmation. His duplicity, deceit, and double standards have been exposed in this record on many occasions by me. I know of no basic American interest he has not willingly bargained away whether it be in the areas of defense, trade concessions, SALT, the Panama Canal, the Middle East, or elsewhere. We have Communist China in the United Nations and an old ally, Nationalist China, on the sidelines due to Mr. Kissinger. He is a liability to this country and to his constitutional superior, the President of the United States.

I include Senator BUCKLEY's remarks at this point:

BUCKLEY SCORES CURRENT FOREIGN POLICY; LABELS KISSINGER 'ALBATROSS' AROUND PRESIDENT'S NECK

Senator James L. Buckley (C-R, N.Y.) today said that the world outlook of Secretary of State Henry Kissinger disqualifies him from being "either the architect or the executor of a foreign policy suited to the American character and the imperative needs of the world today."

"That is why Henry Kissinger, he said, is destined to be an albatross around the President's neck."

American foreign policy, he told guests at a luncheon of the American Defense Preparedness Association in Washington, "has become essentially a neagtive one, its primary purpose to buy time, to negotiate for our people the best terms possible from positions or decreasing strength."

The Sonnenfeldt doctrine, he said, "reflects the state of mind of the Secretary of State." The ideas it articulates "can only spring from a deep despair, a profound pessimism, and a lack of understanding of the true strengths of the American people or the strengths and weaknesses of the American political process."

"We need not a self-fulfilling pessimism, but a contagious self-confidence as we affirm our intention to work however patiently, however prudently, for the ultimate triumph of the humane ideals we believe in over the inhumane conditions of a totalitarian state."

"We can restore the confidence of our allies, he said, "and enlist the essential support of the American people, if we will once again affirm the national commitment to the ideals of freedom that the Soviets daily demonstrate in the pursuit of its destruction."

Below are excerpts from Senator Buckley's speech:

Too many Americans, encouraged by the recent shape of our diplomacy, have lost sight of a basic truth—the struggle in which we are engaged is a struggle between good and evil. Evil, the philosophers have told us for centuries, is an active force, and all that it needs to triumph, as Burke tells us, is for good men to do nothing.

And this is where our foreign policy has been blind to ultimate reality. It is a policy based on the belief, as Solzhenitsyn puts it, that as long as we have freedom, we can let the others have pragmatism. It is a policy that purges spiritual or moral considerations from the equation of international politics.

That, I believe, is the only way in which the so-called Sonnenfeldt Doctrine—or perhaps more accurately the Kissinger-Sonnenfeldt Doctrine—can be explained. However unintentionally revealed, however informal its presentation, the Doctrine nevertheless explains and makes explicit something many of us have long believed to be implicit in our approach to foreign policy. As we haven't the power to roll back the Soviet imperial presence in Eastern Europe, we must appease it. More than that, we must legitimize its control over what not too long ago our Presidents were calling "the captive nations." Not only is Soviet hegemony over those nations tacitly encouraged, but it becomes tacit American policy to resist, as destabilizing, any attempt by any one of them to break free of the Soviet orbit.

As the political philosopher James Burnham put it, we seem to be urging upon the nations of Eastern Europe the acceptance of the classic principle—"if rape is inevitable, relax and enjoy it."

Now, it is true that the Sonnenfeldt Doctrine has been officially repudiated. The United States, we are told, totally opposes so-called spheres of influence by any power, and strongly supports the aspirations for freedom and national independence in Eastern Europe. But foreign policy represents something substantially more than the sum total of all the official pronouncements and treaties and positions that are issued or negotiated in its name. A foreign policy develops its own tone and it generates certain perceptions at home and abroad that are the reality of that policy. The Sonnenfelt Doctrine reflects the reality of our current policy. It has the ring of authenticity about it that statements of official policy to the contrary cannot dispel. For it reflects the state of mind of the Secretary of State, his point of view, his perception of American will.

That, I believe, is the only way to explain the Sonnenfeldt Doctrine, for the ideas it articulates can only spring from a deep despair, a profound pessimism, and lack of understanding of the true strengths of the American people or the strengths and weaknesses of the American political process.

This also explains why it is that Henry Kissinger, for all his brilliance and dedication, cannot be either the architect or the executor of a foreign policy suited to the American character and to the imperative needs of the free world today. That is why he is destined to be an albatross around the President's neck. We need not pragmatism, but a convincing commitment to ideals. We need not a self-fulfilling pessimism, but a contagious self-confidence as we affirm our intention to work however patiently, however prudently, for the ultimate triumph of the humane ideals we believe in over the inhumane conditions of a totalitarian state.

But given Henry Kissinger's "mind set," the role of American foreign policy on the international scene has become essentially a negative one, its primary purpose to buy time, to negotiate for our people the best terms possible from positions of decreasing strength.

And, this, I believe, is one of the dangers in the sphere-of-influence politics we have been attempting to play. Such an approach, depending as it does on apparent contradiction and rapid maneuver, is hardly designed to mobilize the support of the Americn public, let alone their willingness to sacrifice for it.

This, I believe, is the inevitable weakness of any foreign policy that is played out against a backdrop devoid of defining principle. And such a policy is extremely dangerous when our adversaries suffer from no such handicap.

Our adversary makes no bones about it. The fololwing statement, for instance, taken from *Pravda* in 1973 when detente was flourishing, spells it out:

"Only naive people can expect the recognition of the principles of coexistence by the capitalists can weaken the main contradiction of our times between capitalism and socialism, so that the ideological struggle will be weakened."

That is what detente means to our adversaries, and their actions are consistent, motivated by an active principle.

Our foreign policy was once motivated by a similarly active principle. We once believed, as Solzhenitsyn puts it, that freedom was indivisible. We took a moral attitude toward freedom, and our foreign policy thus had consistency, cohesion, and direction. And because we had a sense of purpose, because we understood the true nature of the struggle in which we had been engaged, we were willing to build a position of unquestioned military strength, and had the will to utilize that strength in the defense of freedom.

We can restore that will and the credibility of our military power; we can restore the confidence of our allies, and enlist the essential support of the American people, if we will once again affirm the same national commitment to the ideal of freedom that the Soviets daily demonstrate in the pursuit of its destruction.

This is the challenge we face, the challenge we must meet for the most pragmatic of reasons, if you will, because our survival depends on it. But we will meet that challenge only if we will rediscover our secret weapon—the ideals written into the Declaration of Independence that set sparks of hope flying from the new world across the oceans two hundred years ago, igniting the fires of liberty in the old. The ideals of liberty and human dignity have not lost their power over the hearts and minds of men and women everywhere, even those living under the most ruthless despotisms. So long as we remain strong and faithful to our own best traditions, we will be able to galvanize the forces of freedom here and abroad against the spread of Soviet imperialism, and we can sustain the hope that in God's good time will guarantee that its frontiers will be rolled back.

This is why the shape of our foreign policy in the next few years may well determine the fate of the free world, why we must maintain the unchallengeable power to meet any threat wherever it is launched, why we must recover our sense of confidence and purpose, our will.

I believe that will is still there. All that we need to galvanize it is leadership which recognizes the difference between good and evil, that is willing to channel and direct the will of our people into hard, moral, and purposeful policy.

We owe it to ourselves. And we owe it to those men and women like Alexander Solzhenitsyn who yearn for freedom. At the conclusion of his BBC interview, Solzhenitsyn had this to say when asked about Bertrand Russell's famous or infamous aphorism, "better red than dead":

"Looked at from a short distance, these words allow one to maneuver and to continue to enjoy life. But from a long-term point of view, it will undoubtedly destroy those people who think like that. It is a terrible thought."

It is indeed a terrible thought. And that is why we can no longer afford to shape our foreign policy according to the dictates of detente, as it has come to be practiced. Freedom is indivisable, and it is our duty in this world to insure that it remains so.

THE HOSPITALS OF THE UNIVERSITY OF PENNSYLVANIA ADVANCEMENT IN HOSPITAL MANAGEMENT

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 4, 1976

Mr. EILBERG. Mr. Speaker, the rising cost of hospital care is a subject which is of national concern and has affected every facet of the health care delivery system from the private physician to the public hospital.

On Wednesday, May 19, 1976, at a luncheon for the Pennsylvania delegation, I had the opportunity to hear the remarks of Mr. Mark S. Levitan, executive director, University Hospitals, University of Pennsylvania, a man well-versed on the subject of hospital management. He summarized the advances of this field, the benefits of the changes made in the facilities under his direction, and the special problems of medical school-teaching hospital establishments. At this time I enter Mr. Levitan's remarks into the Record.

I would like to address myself to the issues of management in hospitals and particularly the issues facing medical school hospitals. My colleagues have already explained some of the basic characteristics and complexity of the health industry. It is this complexity and somewhat inflexible structure that creates many of the problems faced by hospital management.

A number of steps have been taken by hospitals to improve the quality of hospital management. First, there has been a tremendous increase in the level of professionalism of hospital management. Not many years ago, the hospital administrator came from the ranks of the medical profession, the nursing profession, or the hospital business office. Today, hospital and health care management is recognized as a distinct profession. Hospital managers today are educated in graduate training programs throughout the country. An example is the University of Pennsylvania's graduate program in health care administration in our Wharton School. In addition, hospitals have looked increasingly to industry both at the financial and operational level as a source of managers.

What have these new managers done? They have begun to use the same techniques used by industry to measure and control the output of employees in hospitals. Often this is done through the joint efforts of hospitals through such organizations as the Commission on Administrative Standards in California or the joint Management Engineering and Cost Control Services in States like New Jersey and Pennsylvania where the same resource is available to hospitals in both States. These standards of measurement help the manager judge productivity. They provide a guide in assessing the need for capital facilities and help moderate the demands of medical staff for additional equipment or buildings.

The use of quality assurance programs, utilization review and medical audit programs when aggressively pursued, can reduce the unnecessary use of hospital services and maintain and improve the quality of service delivered to patients.

Great efforts have been made to accelerate collections and to maximize reimbursement to improve cash flow.

Another major improvement has been in data collection, data processing and management information systems. Again, some of these advances have been joint efforts or cooperative efforts with private industry.

At the Hospital of the University of Pennsylvania and the Graduate Hospital of the University of Pennsylvania, for example, a number of significant actions have taken place over the past few years. There has been a total management reorganization. We have attracted qualified managers, both from industry and the health care field. Clear lines of organizational authority were established. We have used standard industrial engineering techniques to control work flow, scheduling and staffing levels. We were able to reduce our employed staff by almost 10 percent at HUP and 20 percent at graduate. We have used economic analysis as one measure to justify capital investment. We are using a shared service to meet our data processing needs at a substantially reduced cost. Physicians are being held accountable and financially responsible where appropriate. In short, management is demanding performance.

What are the special problems of medical schools? The teaching hospital serves a unique role in supporting the training of health care professionals and supporting research in medicine and health delivery. Teaching and research in health care are best conducted in an atmosphere of patient service. However, the imposition of the teaching and research activity adds to the cost of patient care and reduces physican productivity. These are legitimate and appropriate costs of the systems and must have an identified source of funding. Additionally, teaching hospitals are obligated to maintain modern and contemporary facilities as well as a very broad range of services to maintain the quality of the educational programs.

Finally, therefore, let me emphasize the need to recognize the special requirements of medical school hospitals. There must be a rational way to permit purchasers of service to set reasonable limitations on payments to hospitals, but at the same time, we should not indiscriminately apply arbitrary limits which do not account for the unique contribution made by the medical school hospital. Limitations on reimbursement should be selectively applied only after the total mission and performance of a particular institution has been effectively evaluated.

LEVITAS' POLITICAL COURAGE

HON. BO GINN

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 4, 1976

Mr. GINN. Mr. Speaker, our colleague, Elliott Levitas, is taking a leadership role in working to devise solutions to the problems that plague our Nation's social security system. I join with him in his efforts to preserve the integrity of this vital program, and I commend him for his work.

I am pleased to note that Mr. Levitas' efforts have attracted considerable attention to the work that must be done to reform the social security system. In a column in the May 27 issue of the Dekalb New Era, Mr. Jim Boatright has written an excellent analysis of this problem. I ask that this column be reprinted in the Record, and I commend it to the attention of my colleagues:

Levitas' Political Courage

(By Jim Boatright)

This is a political year. Every member of the U.S. House of Representatives and one-third of the U.S. Senate is up for re-election. We will elect a President. There are 32.6 million people on social security. Embracing every race, creed and political doctrine, this is the most powerful monolithic voting group in this country, probably in history.

Politicians respond to political stimula. Social Security recipients have just received a 6.4 per cent increase in their monthly payment beginning with their July checks. These raises will come from social security trust funds which are expected to experience a deficit for the second straight year. The system is in deep financial trouble. Under present law, social security spending will exceed income from payroll taxes until the two cash benefit reserves, disability along with old age and survivors insurance, run dry early in the 1980's.

This means that the money that I, and others, have paid into the trust fund for the past 20 or 30 years is gone; and if I receive any social security payments I will have to depend on children and unborn future workers of this country to support me. Social security has been politicized until it is now an all embracing retirement-welfare program for everyone, whether one "contributed" to the program or not. This was not the original intent of the program.

President Ford did not try to solve the fundamental problem. He chose the politically expeditious way of ignoring the root causes of social security financial deficits by simply recommending that we increase the payroll taxes. He recommended that we increase the payroll taxes paid by employer and employee from 11.70 per cent to 12.30 per cent. The House Ways and Means Committee rejected the proposal this year. Thus the deficit grows.

Each worker pays 11.70 per cent of his income, counting his and his employers tax, on his income up to $15,300. The base is projected to increase to $16,500 on January 1. (Some labor leaders are advocating a base of $25,000.) What does this mean? It means that an average worker with four dependents is now paying more in social security taxes than he is paying in income taxes. If he earns the maximum base of $15,300, he and his employer will be forced to pay $1,790 which could have gone into his pocket. He could buy one heck of an annuity, with more benefits, from a private company for this amount of money.

Increasing social security taxes are a tremendous imposition on the already overburdened small businessman. The only way many small businessmen can overcome the burden of increasing workmen's compensation, unemployment and social security taxes is to simply eliminate jobs, which aggravates the unemployment situation.

Every once in a while someone comes along with a refreshingly new approach to problems like social security concepts, burdens and deficits. Our Congressman Elliott Levitas has proposed that we establish a National Commission on Social Security to study, to overhaul, to establish the scope of the system, and to make it financially sound. Congressman Levitas needs and deserves the support of the people on this worthy project.

MEMORIAL DAY: 1976

HON. WILLIAM S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, June 4, 1976

Mr. BROOMFIELD. Mr. Speaker, this week across our Nation, we commemorated the memory of all who died defending this country in her wars.

In many ways, all their stories are the same. It is the story of young men going to war and then killed while in the prime of their life defending the Nation or principles they cherished. The end of the story is one of saddened families and saddened communities that will always miss their presence.

But each of their stories is also unique for ultimately they were individuals and our memory of them must not be lumped together in some large, nebulous category. To honor their individuality and their individual sacrifice, I wish to commend to the attention of my colleagues a story from the Detroit News, by Pat Murphy. It is about the deaths of three brothers, Hank, Fred, and Bill Living of Holly, Mich., who were killed during World War II and the Korean conflict and about a fourth Holly man, Karl Richter, who was shot down and killed over North Vietnam.

The article follows:

IN MEMORIAM: THREE BROTHERS BECAME THREE SOLDIERS—THREE GRAVES TELL THEIR STORY

(By Pat Murphy)

Hank, Fred and Bill could have been anybody's brothers.

That's what gives today's Memorial Day services at Lakeside Cemetery in Holly something intangible that extends far beyond the boundaries of this rural Oakland County community of 15,000.

Indeed, that something stretches to wherever brave Americans have fought and died—places like Europe, the Pacific Ocean, Korea and Vietnam.

Hank, Fred and Bill were brothers—members of the Living family in Holly, who were killed in action during World War II and Korea.

There was also another Holly man—Karl Richter, shot down and killed over North Vietnam.

Their exploits were evoked today in the kind of simple, small-town ceremonies that were taking place around the nation.

Ceremonies marked by the flags young Americans fought for, the wreaths for their graves and taps for their memories.

There were two awards presented today in Holly—the Living Brothers Award and the Karl Richter Award.

Every year the awards are given to outstanding students at Holly High School as the highlight of the Memorial Day services.

Dozens of other fighting men from Holly also have died in wars for freedom and they were not forgotten. Nor were others from Oakland County, the state and the nation.

"We're honoring the dead from all wars," said Reece Living of Milford, a brother of the commemorated trio. He served in the Marine Corps.

Reece, a member of VFW Post 5587 which sponsors the parade and memorial services, was the main speaker at the Memorial Day program.

It was held in the shadow of a Civil War monument commemorating the northern Oakland County men who fell at Gettysburg, Missionary Ridge, Vicksburg and Atlanta.

The stories of Hank, Fred, Bill and Karl are pretty much what thousands of fighting men went through. But there are chapters of their very own.

Early in 1940, almost two years before Pearl Harbor and the United States entry into World War II, Hank and Fred Living joined the Canadian army.

Both were born in Canada before their family migrated to the United States and both maintained strong ties with the land of their birth.

Hank, a sports standout at Holly High, played professional football for the Toronto Argonauts before getting a commission in the Royal Canadian Air Force.

On his 23rd European mission, Capt. Living was shot down and killed near the German border just six months before hostilities were to end in August, 1945.

The Lancaster bomber he was flying was nicknamed the "Spirit of Fred Living," in honor of his younger brother Fred, who was killed Aug. 6, 1944 near Falais Gap, France.

Fred, remembered as "the musician of the family" because he could play the piano by ear, was a private in the medical corps. According to available records, Fred was fatally wounded while trying to aid injured buddies. His body lies in the Canadian National Cemetery in Cannes, France.

Bill was a small boy back in Holly when his older brothers were killed and he grew up with vivid memories and a yearning to be just like them.

That yearning prompted Bill, then 17, to join the American army shortly after the Korean war broke out in 1950.

Sgt. Bill Living was killed in June, 1951, when his machine gun unit was overrun by enemy forces near Heartbreak Ridge in Korea.

Another Holly High School student, Karl W. Richter, was an honor student and co-captain of the football team prior to enrolling at the Air Force Academy at Colorado Springs.

Lt. Richter died in July, 1967, after his Thunderchief jet was hit by enemy fire over North Vietnam. He was on his 198th mission, one of the last he was to fly before returning stateside for duty as a flight instructor.

The lives of the four men mentioned specifically in today's eulogy spanned half a century and touched on three continents.

"But in my mind," said Reece Living, "they were much more."

AWASH WITH OIL

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, June 4, 1976

Mr. DINGELL. Mr. Speaker, I wish to insert in the RECORD an interesting article from The New Republic on Alaskan oil. The article follows:

AWASH WITH OIL

When Congress got interested in Alaskan oil several years ago, it was told that getting the oil to the West Coast was a matter of great national urgency. Oil executives, State and Interior Department officials and roving experts in the Nixon administration swore that the government had to help the industry rush the Alaskan project to completion so that the oil could be fed to fuel-hungry California. Environmental groups were told that their worries about the pipeline would have to take second place to the national interest. Both environmentalists and Midwestern politicians argued that a trans-Canadian pipeline made more sense than a trans-Alaskan line. A Canadian pipe, they said, would avoid an area of high earthquake risk in Alaska, reduce the likelihood of oil spills by eliminating the need for tankers and, most important, deliver the oil directly to the part of the country that needed it most—the upper Midwest. But the companies had other plans. The Alaskan route had already been mapped out and approved. The financing was set. The companies were annoyed that their plans were being held up in tedious public review at the last moment. As happens often in confrontations like this, the companies invoked national security and had their way.

It's not clear who first sounded the patriotic theme of US strategic interests, but one of the earliest spokesmen was Assistant Secretary of State John Irwin, II, who also helped inspire OPEC to its most avaricious behavior. Coming from him, the argument carried some weight. Irwin told the congressional Joint Economic Committee in 1972 that "the Department of State believes it is most important to bring the oil from the North Slope of Alaska to market as soon as possible," and that the Alaskan route was the only acceptable one. Planning and building the Canadian line would take too long, and the West Coast needed the oil right away. The companies made the same argument. H. G. Gallagher of BP Alaska told the committee that "our decision to ship our oil to the West Coast was not lightly or quickly taken. It was made over three years ago. Three years of review, events and further study confirm us in our conviction that our decision was the right one. . . . The West Coast is crude [oil] short now; it will be extraordinarily crude short in the late 1980s and 1990s." Another executive wrote: "I can categorically state that we have every intension of using our full share of the total Alaskan oil on the US West Coast. . . . It is clear from our estimates and those of the Department of Interior that it is needed on the West Coast."

Every company likes to believe, and to foster the notion, that its interests are congruent with the nation's. But few are as lucky as the oil industry in having the national interest coincide so regularly with their own, whatever their interests may be, however they may change over time. In 1972 the clinching argument for the Alaskan pipeline came from the President's own National Security Council. Gen. George Lincoln, then director of the Office of Emergency Preparedness and chief of the government's oil strategy planners, reported these findings on the pipeline question: "A trans-Alaska pipeline could deliver oil to the West Coast by 1975, and full capacity by 1982; the West Coast markets will be able to absorb that oil. It is in the national interest to reduce our total dependence on insecure imports as much as possible in the critical years after 1975; this interest outweighs any consideration of distribution of that oil among regions." This argument was repeated. with more vehemence, in 1973 when Congress considered and then passed a bill allowing the companies to go ahead with the pipeline.

Soon these predictions and promises will be put to the test. In 1977 the Alaskan oil will begin flowing through the pipe from the North Slope to the Alaskan port of Valdez. From there it will be loaded into tankers and shipped . . . where? Suddenly the government's oil planners are awakening to the fact that there will be a surplus of oil on the West Coast, and that there will be no place to put the new Alaskan deliveries. Several private studies, including one written by the Rand Corporation for the State of California, predict that the West will be glutted with oil by the end of the decade. Rand said that the amount of the surplus by 1980 will equal and then exceed the amount of oil that might have been shipped through a Canadian pipeline to the Midwest. Rand concluded: "Given the pending changes in the distribution of domestic oil production, a West-East pipeline appears to be in the national interest" That report, dated December 1975, signalled a shift in the winds: now the national interest requires oil in the East, not the West. And now the watchdogs of the public interest have sniffed the new scent. Strategists in the Federal Energy Administration (FEA) and the high-level Energy Resources Committee, chaired by Commerce Secretary Elliot Richardson, are looking into the matter. Since early spring they have been checking into several alternatives for shipping the oil out of California to the East.

John Freeman, an assistant administrator at the FEA and coordinator of this transport study, refuses to predict how great the surplus will be, or even whether there will be one. His study group must finish its analysis before he will give an answer, and that may take until July. But Freeman concedes that the Energy Resources Council wouldn't be looking into the question unless there were a good chance that oil will have to be moved out of California beginning next year or the year after.

Three alternatives are being considered at the moment: a northern pipeline from Seattle across the Rockies (one hopes not through Yellowstone Park) to the Midwest, a southern pipeline from California to Texas and from there into the lines that feed the East, and finally, an ocean route using tankers to carry oil through the Panama Canal to ports in Texas and Louisiana, or possibly the East Coast. The tanker system would be the most risky and wasteful; the California-Texas route would be the most efficient, because a pipeline is already in place most of the way. But no matter which of these is chosen, the oil will travel the long way round—the direct Canadian route having been rejected long ago. The one solution the companies insist they aren't considering is the sale of oil to Japan. They are forbidden by law from exporting this oil unless the President and Congress give them explicit permission to do so. But perceptions of the national interest do change. Perhaps in two or three years Project Independence will be replaced by Project Flexibility. Skeptics like Brock Evans of the Sierra Club flatly predict that the companies, despite protestations to the contrary, will find a way of shipping the Alaskan surplus to Japan.

One cannot help but think the companies intended to use this southern shipping route all along. Did they reject the Canadian line simply because it would have been less profitable? Freeman of the FEA doesn't think so. He believes the situation changed suddenly in the last three years in ways that not even Jean Dixon could have predicted. Prices increased dramatically; demand slackened; the government agreed to release its California oil reserves and sell them on the Western market; new offshore drilling leases were let on the West Coast. All these changes, Freeman believes, are working to create an unexpected glut in California, unexpected by industry and by government. But we should remember that all these changes were avidly sought by the oil companies. And this is one industry, as the man from BP said, that doesn't make decisions lightly or quickly. In creating the oil glut, the companies did one of two things. Either they underestimated their own ability to win concessions from the government (for they won most of what they sought), or they misrepresented the true nature of the Western oil market.

If there is a lesson to be found in this, it is that the government must be more skeptical of corporate promises than it has been. Until recently American officials had no independent data and little expertise in energy matters, and thus no basis for questioning industry statements. They had no choice but to accept corporate plans and promises at face value and hope for the best. That's what happened in Alaska. And that explains why it has taken until 1976 for the government to realize that the real problem on the West Coast will not be a shortage, but a surplus of oil.

REGIONAL RAIL REORGANIZATION ACT OF 1973

HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, June 4, 1976

Mr. MURPHY of New York. Mr. Speaker, the bill which I have introduced today is essentially the same one which I and 16 of my New York colleagues have introduced during the last 3 months. This most recent version incorporates several technical and perfecting modifications which I have developed in cooperation with the New York State Commissioner of Transportation, and representatives of concerned private rail lines and unions.

Our objective remains the same: we seek to guarantee the continued operation of vital rail lines in New York's southern tier by providing much needed time in which to determine precisely how this important goal can be accomplished. Congressional inaction at this juncture could have disastrous consequences for a vast sector of our State, and for that reason we intend to forcefully state our views at hearings to be conducted by the Transportation Subcommittee of the House Commerce Committee later in this month.

FIFTH ESTATE ROAD SHOW IN BOSTON

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 4, 1976

Mr. McDONALD. Mr. Speaker, sponsored by the ad hoc Boston Teach-in Committee and the Public Education Project on the Intelligence Community—PEPIC—a subsidiary of the Organizing Committee for a Fifth Estate—OC-5—some 150 persons took part in a conference, "CIA, Intelligence and Repression," held at Boston University Law School, May 7-8, 1976. The speakers roster included:

Perry Douglas Fellwock, OC-5 co-founder, using his "movement" alias, Winslow Peck, on "the CIA and the Southern Rim of Europe," an area which he is reported to have recently visited.

Tim Butz, heading another of OC-5's letterhead subsidiaries, the Intelligence Documentation Center, and an ubiquitous figure at anti-intelligence meetings and conferences.

Margaret Van Houten, an OC-5 coordinator.

Eqbal Ahmed, a leading personality of the Transnational Institute (TNI), an internationally active subsidiary of the Institute for Policy Studies (IPS) involved with revolutionary terrorists.

John Marks, Center for National Security Studies; co-author of an expose of the CIA.

Jennifer Davis, representing the Southern Africa Committee (SAC), an active support group for the Soviet-backed terrorists in Africa. The committee recently asked for its files from the FBI under the Freedom of Information Act which revealed to the SAC that it was the subject of an active investigation. Davis is also director of research for the American Committee on Africa.

Danny Schecter, a former member of the Africa Research Group, an old SDS associated project, former *Ramparts* editor and now news director of WBCN-FM.

Lee Goldstein, National Lawyers Guild.

Roger Finzell, National Lawyers Guild and Wounded Knee Legal Defense/Offense Committee.

Mario Castanheira, Portuguese Committee for Democratic Action.

Robert Meeropol, Committee to Re-Open the Rosenberg Case. Meeropol is a son of Julius and Ethel Rosenberg, executed for espionage conspiracy.

Bonnie Mass, reporter, Bertrand Russell Tribunal on Latin America.

Additional organizations taking part included:

Puerto Rican Socialist Party—a self-stated Marxist-Leninist revolutionary party closely tied to the Cuban Communists which has said it will serve as the bridgehead for revolution to enter the United States.

Boston Grand Jury Project—a group formed by members of the National Lawyers Guild and revolutionary activists to assist activists resist grand juries investigating the harboring of fugitive terrorists.

Susan Saxe Defense Committee—closely associated with the Grand Jury Project, but specifically formed to develop leftist support for an admitted revolutionary bank robber facing murder charges in another bank robbery case.

Boston S-1 Coalition.

Committee to End Sterilization Abuse, Boston chapter.

Native American Solidarity Committee, Boston/Cambridge and Amherst chapters.

Angolan Solidarity Committee, a support group for the Soviet-Cuban puppet MPLA regime.

Tenants First Coalition Defense Committee.

Urban Planning Aid Defense Committee.

Committee for Panamanian Sovereignty.

Chile Action Group, the Cambridge/Boston branch of the revolutionary anti-imperialist Non-Intervention in Chile (NICH) organization.

Latin American Project, self-described as "a socialist approach to graduate studies" of the Goddard-Cambridge Graduate Program in Social Change which is directed by Shepherd Bliss, 5 Upland Rd., Cambridge, MA. 02140 [617/491-0157]. Bliss is an organizer for the Mass Party Organizing Committee (MPOC), a member of the July 4 Coalition. The LAP states: "Our goal * * * is to educate ourselves and others for liberation struggles throughout the Americas, North and South. We have also worked on Portugal and Angola, as well as class struggle in the U.S. Our methodology is based on the Marxist classics, * * * research by groups like NACLA, and cultural works like Cuban posters."

The conference was the usual formula of workshops and panels, with films—"Red Squad; The Unquiet Death of Julius and Ethel Rosenberg"; and "The Rise and Fall of the CIA," plus a video film by New American Movement Leninist Miles Mogelescue made in Portugal.

The anti-intelligence gathering participants held a demonstration and rally against Presidential candidate Gov. Ronald Reagan on Saturday, May 8, protesting his position against the giveaway of the Panama Canal to Castro's ally, the leftist dictator Omar Torrijos of Panama.

A leaflet distributed at the rally also denounced U.S. citizens who live in the Canal Zone as "a colonizing force of 40,000 who are joined by the 10,000 U.S. soldiers" stationed in the Canal Zone. Said the leaflet, clearly showing the totalitarian bent of the protesters, "Reagan must not be permitted to continue attacking Panama, as previous Presidential candidates attacked Korea and Vietnam. * * * Join us to protest Reagan's attacks upon Panamanian sovereignty and dignity. United States Out of Panama."

In view of the close ties of many of the groups participating in the teach in and rally with the Cuban Communists, with U.S. revolutionary terrorists, and with U.S. revolutionary organizations, the Secret Service must be encouraged to take cognizance of potential dangers to candidates for our highest public office.

Rally organizer was the Communications Center of the U.S. National Committee for Panamanian Sovereignty, P.O. Box 189, Harvard Square, Cambridge, Mass. 02138. The committee's education center is located in the offices of the Ecumenical Program for Interamerican Communication and Action—EPICA—at 1500 Farragut Street, NW., Washington, D.C. 20011, a project of the National Council of Churches. EPICA's Farragut Street offices are used as the mailing address for a number of Washington area groups supporting Castro-style revolutionary movements in Latin America.

Reinforcing the Cuban connection, the U.S. National Committee for Panamanian Sovereignty states:

> In recent times, Cuba has been in the vanguard of the demand that the Canal return to Panama; in January of 1976 Fidel Castro, referring to Angola, promised that if necessary for the final victory, "we can add 9 million Cubans to the 1.5 million Panamanians." Panama's neighbors—Mexico, Peru, and Venezuela in particular—have given strong support to Panama's just demand.

A considerable amount of background material on the Organizing Committee for a Fifth Estate and background exhibits is provided in my testimony before the Senate Internal Security Subcommittee and has been published in the hearing, "Subversion of Law Enforcement Intelligence Gathering Operations, part I."

LETTER FROM KENT R. CRAWFORD, HISTORIAN

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 4, 1976

Mr. JACOBS. Mr. Speaker, Kent R. Crawford is an excellent historian and I take pride in the fact that he is a constituent of the 11th District of Indiana. The following is a letter received by me from this historian. I think it should be shared with others.

KENT R. CRAWFORD,
Indianapolis, Ind., May 13, 1976.

Hon. ANDY JACOBS, Jr.,
U.S. Representative,
Washington, D.C.

DEAR SIR: 'Tis rare indeed that I find the time to write to present my views on the state of affairs as I see them—as an Historian. However, I have some observations which may be of interest to you.

Mr. Reagan has made a point of stating our military inferiority as compared to the Russians—in conventional arms. As far as such a comparision goes, it is quite valid. But that is not the whole case. I believe Grossadmiral Alfred von Tirpitz expressed the situation best over seventy years ago, with his now infamous "risk" theory. He wished Germany to have a fleet of such power that to defeat it, even the most powerful country would jeopardize its superiority. Consequently, the High Seas Fleet was qualitatively vastly superior to the British Grand Fleet, but numerically inferior.

I believe this is the case between us and the Soviet Union. They have more of everything, but what we have is technologically superior. Thus, the question becomes one of our (with that of our remaining allies) superior technology versus their superiority of numbers.

Before I continue with the analysis, let me expound on what the parallel means in context of the present. In essence, for the Russians to engage in a war with the Western Allies, regardless of the outcome, they will be so weakened by the effort that China will be able to re-acquire those old Imperial territories which Chairman Mao has promised the Chinese people will be re-incorporated into China. These amount to a good part of asian Russia. This is the consequence of Russian aggression, and undoubtedly the deterrent to it. I firmly believe that no leader of any country would resort to nuclear war, as such would take the rest of the world out too. Thus, the Russians will go along with Detente only as long as they are not prepared to fight a major war on two fronts. But Lord help us when and if they are.

If History teaches anything, it is to avoid solutions which failed in the past. At Jutland, the only test of the German technologically superiority, the High Seas Fleet won a tactical victory, but suffered a strategic defeat. The lesson to be learned is that quality is nice, but it cannot win against quantity. So it is with us. Our 478 ships (according to TIME magazine) cannot hope to win against their 2200 plus. Traditionally, the Navy is the only means by which we can carry a war to another shore.

The point is simply this: If we hope to maintain the status quo of the "risk", we must drastically expand the Fleet. I don't much care who is elected President, as long as the Navy is allowed to expand.

During the Anglo-German Naval Race which preceded World War I, the British press drew much comfort from simple numerical comparisons. So it seems to be with the Soviet Union. They play the numbers game—quality be damned. (I suggest you look into the quality of the Russian T-34 tank during WW II.) I submit the comparison is valid, and that only by increasing our military strength can we hope to avoid a drastic alteration in the status quo. I charge you, sir, to insure our security by supporting all proposals for Naval strengthening. We have no logical choice but to play the numbers game too. We should aim at a Naval establishment of 1,000 ships within the next fifteen years, and then work on replacement of our obsolescent equipment.

On a more personal note, I am much depressed by the lack of trained Historians on the staffs of the various candidates for high office. The quality of the research is just plain disgusting. Witness Mr. Reagan's TV speech, although I can't say anybody else is much better off. It would appear that too many capable civilians are avoiding contamination by staying out of the political arena—in any capacity.

While I can understand, I do not condone. A professor of mine said that Historians should become involved in public affairs. I disagreed on the grounds that politics, by definition, requires compromise, while the values of the Historian (worthy of the name, which your counter-part from Lafayete isn't) should never be compromised. Perhaps a fallacy in our system?!!

Nonetheless, sir, I intend to support you in the coming election, even though it means crossing party lines (a metaphor as ridiculous as our system). I trust, sir, that you will warrant such support by not engaging in support of such endeavors which the country can ill afford.

Respectfully,

KENT R. CRAWFORD.

TWO HUNDRED YEARS AGO TODAY

HON. CHARLES E. WIGGINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 4, 1976

Mr. WIGGINS. Mr. Speaker, 200 years ago, on June 3, 1776, in preparation for the imminent British invasion of New York, the Continental Congress urged the colonies of Massachusetts, Connecticut, New York, and New Jersey to contribute 13,800 militia to reinforce the Continental forces already in that colony.

Congress also urged the immediate establishment in the middle colonies of a 10,000-man "flying camp," to consist of 6,000 men from the Pennsylvania militia, 3,400 from the Maryland militia, and 600 from the Delaware militia.

The militias were to be paid from the day of their marching from home, 1 penny a mile, in lieu of rations, for traveling expenses, and 1 day's pay for every 20 miles, between home and the general rendezvous, going and returning.

BEYOND SPACE—THE HIDDEN REVOLUTION

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, June 4, 1976

Mr. TEAGUE. Mr. Speaker, the June 1976 issue of Popular Science magazine an article entitled "Beyond Space—the Hidden Revolution" was featured. Writer James L. Schefter, author of the article and well-known writer and commentator on our space program has brought unusual perception and better understanding of the importance of our space program to the public in his significant article. Because of this I am including the article in the Record for the benefit of my colleagues:

Beyond Space—the Hidden Revolution

(By Jim Schefter)

"If we can land men on the moon, how come we can't:

a. End poverty?
b. Improve health care?
c. Stop pollution?
d. Etc., etc., etc.?"

How many times have you heard such complaints? And how many times have you shrugged your shoulders and given the universal answer: "I dunno."

Ask another question, "Can you name 10 down-to-earth benefits from the space program?"

Most people will say "no." Some might be able to list Teflon, weather and communications satellites, handheld computers, or electronic wristwatches.

Some critics will argue that space exploration brought no benefits worth the cost, and a very few at the other extreme will credit it with every technological advance in two decades. Is either version right.

"There's no way you can spend tens of billions of dollars for something as purely technological as the space program without having some transfer," says Senator William Proxmire of Wisconsin, a long-time critic of space spending. "You'd think, having been in this program in a big way for more than 18 years, that there would be more to show."

The trouble for Proxmire—and for almost everyone else who isn't working with aerospace technology day-to-day—is that the benefits are difficult to identify. If they're too technical, most people don't care. If they're in the news, they tend to be gadgets or gimmicks. And if they're in between, where are they?

Part of the blame rests with the National Aeronautics and Space Administration itself. The agency was flush with success during the glory days of Mercury, Gemini, and Apollo. Newsmen beat down NASA's doors to get stories of high adventure. NASA didn't see the need to justify itself beyond that. So, instead of explaining what good space exploration could achieve, NASA settled for a policy of "responding to query." In other words, if you didn't ask, NASA wouldn't tell. And if you asked about benefits, they'd tell you about Teflon and communications satellites.

By the time NASA's leaders woke up to declining public interest, it was too late. Even its more aggressive information program in recent years has done little to convince most Americans that space exploration is worth the time and money it takes.

NASA discovered what any good politician already knew: It's hard to play catch-up with public opinion.

IN SEARCH OF AN ANSWER

That leaves the big question: How has space exploration changed our lives? I determined to find out.

Cool dim light surrounded us in the glass-walled visitor's booth overlooking NASA's Mission Control Center in Houston. Forty feet away, beyond the soundproof window, past the lighted executive consoles, through the trench where flight-dynamics officers do magic with their remote computers, the forward wall glowed.

Soyuz wobbled on the big color screen. The picture was coming from a television camera aboard Apollo. The man next to me was George Low, assistant administrator of NASA.

From our ringside seat to history, we probed into that long-standing question: "What is space exploration doing for us?"

"I wish I had an easy answer," Low began. "Space flight is an accelerator for technology. Computers got a major push. Electronics got a push. So did education and ecology, and medicine, materials, miniaturization, meteorology, management, communications, aviation . . ."

As Low ticked off the list, I watched the screen. Here and now, in a quiet, dark room in Houston, I saw the full spectacular sequence of Apollo and Soyuz flying formation across Italy's toe and heel, across the clear Adriatic, on to Greece and Asia Minor. The commentary was not from a TV anchorman; it was straight from Tom Stafford and Alexi Leonov in space—one speaking Oklahoma Russian, the other Ukrainian English.

"We're looking at a perfect example of space benefits that nobody thinks about," Low said, pointing at the screen. "There are thousands, maybe millions, of parts in the Apollo and Soyuz vehicles. Every part had to work to get those things up.

"Look back 10, 15, 20 years at the electronics around your home. There are a lot more of them today and they work a lot better. Space exploration forced companies to learn how to make better products."

We had an Apollo-eye view of Soyuz in empty space above Italian roads and fields. The picture—crystal clear and colorful—was being relayed through an experimental communications satellite 22,000 miles above Africa. In another month, the satellite would be involved in an experiment to bring modern knowledge into isolated villages in India. But now it was the direct link between Apollo/Soyuz, Houston, and Moscow.

"There has been a communications explosion from satellites," Low was saying. "Ten years ago there was no TV to let us see the first Gemini rendezvous. Now here we are, looking at an American and a Russian spacecraft flying over the Mediterranean. Global communications are routine."

Low's enthusiasm was as broad as space itself.

TIP OF THE ICEBERG

But one fact quickly became obvious. There are too many applications of space technology—"benefits" for want of a better word—for any one of us to understand.

Only the barest tip of the iceberg is visible. The electronic watches, hand-held computers, freeze-dried food, live television from Europe, satellite weather maps, and liquid-crystal gadgets are the tiniest fraction of the benefits around us.

Here's the biggest block to understanding what has happened: More than 99 per cent of the identifiable space benefits are hidden from public view. Worse, the majority of them are dull, technical, and esoteric: manufacturing techniques and procedures, computer programming, specialized instruments and sensors, and the like.

Such benefits are adding billions of dollars to the American economy, providing jobs, saving lives, and making things nicer for all of us. Most of the benefits aren't exciting. They're just there.

They're hidden in your home appliances (lubrication and quality-control techniques that extend service life), in your golf clubs (shafts with greater strength and more spring), in your workshop (battery-powered tools), in your car (advanced electronics, tire design and manufacture), in hospitals (monitoring systems), on streets and highways (traffic-signal controls, pavement grooves), and thousands more places; even a simple list would fill this magazine.

The Dallas Cowboys wear helmets lined with a foam padding developed for NASA that reduces impact shock and head injuries. High schools and colleges across the nation have bought similar helmets. The same padding, marketed under the name Temper Foam by Becton, Dickinson & Co., lets wheelchair patients sit more comfortably, tripling the time they can safely stay confined.

The Chrysler Corp. adapted its experience in working on Saturn booster systems to automobile production lines and testing. Among the results are a more durable car radio, an accurate dashboard digital clock, and an ignition retarder to reduce pollution. But the most important space-triggered advance is Chrysler's electronic ignition, which a Senate report calls "a major improvement" that "reduces emissions and lowers maintenance cost."

Heat pipes manufactured by McDonnell Douglas Corp. are installed in pylons along the Alaskan pipeline. Heat-pipe theory predates satellites, but it took the space program to put theory into practice. Such pipes transfer heat from place to place by evaporating and condensing a fluid. In Alaska, they will prevent warm crude oil from thawing frozen tundra, which would buckle the pipeline and spew oil into a fragile landscape.

Your ski parka or sleeping bag may be insulated with the aluminized mylar materials used in the Echo I satellite and for insulation in later spacecraft and space suits. Many hunters and campers carry pocket-size emergency blankets of the same material.

Sirloins that melt in your mouth may have come from the cow that jumped over the moon. In one of the strangest applications of space technology, the Armour Company adapted an electronic strain gauge used in rocket engines to test and accurately predict beef tenderness. The company now sells more than 20 million pounds of premium-priced, guaranteed-tender beef each year.

Every major petroleum and mining company uses data, pictures, and other images from Skylab and the two Landsat earth-resources satellites to seek new mineral deposits. A Colorado mining executive, Dr. H. LeRoy Scharon, of NL Industries, recently told a Congressional committee that such techniques are paying off in reduced exploration time, money saved, and new mineral discoveries.

Customers of a utility in Lincoln, Nebraska can see thermographs of their homes, thanks to space-developed sensors that spot residential heat losses caused by inadequate insulation. The CENGAS Division of the Central Telephone and Utilities Corp. uses an airborne thermal scanner to check rooftop temperatures.

NASCAR race driver Richard Petty wears a liquid-cooled helmet called Cool Head that's a spinoff from the cooling systems built into space suits. This helmet keeps Petty's head and neck temperatures down, significantly cutting his fatigue during auto races.

Atomic power plants are safer because of fracture toughness tests and fatigue analysis methods developed by NASA. These procedures now are routine in designing and building new plants. John Deere and other farm-implement manufacturers use similar tests to build bigger and stronger plows now appearing on American farms. The plows can be pulled faster because of the reduced likelihood of ruining them on rocks.

Fire fighters are benefitting from the lightweight and efficient air packs that have replaced the older, more cumbersome ones. The new Scott Air Pak 4.5 units evolved from astronaut backpacks used in space walks and on the moon.

Remember when the astronauts' facemasks fogged, shortening Gene Cernan's space walk on Gemini 9 and causing problems for Alan Sheppard and Ed Mitchell on their Apollo 14 lunar excursion? NASA came up with an antifog compound used today by firemen, skiers, skin divers, and pilots.

Early in manned-spacecraft design, somebody realized that there was no foolproof way to keep spacecraft windows from popping out into the outside vacuum. The solution was a new silicone sealant, which is now used on auto windshields, for home bath room repairs, and—to the delight of thousands of tropical-fish hobbyists—as the stickum that finally made all-glass aquariums a reality.

POWER, PLANES, PARKWAYS

Space benefits come in sizes and shapes from the tiniest electronic chip to whole rooms of equipment. Take control centers. Watching Soyuz on that big screen triggered a memory.

One April night in 1970, when an Apollo 13 oxygen tank ruptured in translunar flight, I became the first writer allowed into this control center during a mission. For hours, as the tension grew and controllers and astronauts sweated over life and death, I reported their activities to the world's writing press outside. This was to be the last manned mission run from Houston until the Space Shuttle. But there are other control centers, all descendents of this one, running other missions that touch many of us every day.

Preventing power outages is one function of the five control centers that survey 40,000 square miles served by the Arkansas Power and Light Company. Sensors throughout the utility maze feed a steady flow of information to the centers, where operators have a second-by-second view of what is happening along thousands of miles of high-voltage lines. Developed by a division of TRW, the centers trace their ancestry directly to NASA and the computer work that kept Apollo's complex machinery on course, on time, and in control.

The Arkansas sensors give instant warning when trouble develops anywhere in the system. Usually before the first irate customer can get to his telephone, control-center operators have sent electronic commands to transfer loads and reroute circuits, thus restoring power.

Similar control centers already are operating at the Bonneville Power Authority in Washington and Oregon, and at utilities in Oklahoma, Michigan, Pennsylvania, and elsewhere. More and better versions are on the way.

Utilities aren't the only ones using control-center technology. In a full-circle transfer of skills, the aviation industry that spawned the space industry is reaping its own rewards.

Major General Thomas P. Stafford flew four space missions—the rendezvous with the Russians his final triumph—before becoming commanding general of the U.S. Air Force's Flight Test Center at Edwards AFB, Calif. Among the aircraft being tested under Stafford's command is the B-1 bomber.

"We don't leave anything to chance," Stafford told me. "We have a fully equipped control center that monitors every second of every test flight. The aircraft themselves are wired with sensors and instruments straight out of Apollo or even better."

APOLLO TECHNIQUES ON THE STREETS

Hawthorne Boulevard is one of the nation's busiest thoroughfares. Striking straight south through the heart of Los Angeles County's heavily populated South Bay region, it carries commuter, business, and tourist traffic from before dawn to the dead of night. For mile after mile, Hawthorne is a strip of stores, supermarkets, car lots and shopping centers. Within striking distance of its flanks are major aerospace plants—Garrett, McDonnell Douglas, Rockwell, TRW—employing tens of thousands of workers.

A few months ago, I turned onto Hawthorne just before eight a.m. I clicked my stop watch, gritted my teeth, and tensed for battle. For a time in 1973, I drove this same four-mile stretch each morning. Give or take a minute, it was an 18-minute stop-and-go, sit-and-wait ordeal. Average speed: 13 mph.

It was to be a different story this time: For four miles, all of us on Hawthorne and the major surrounding streets—112 intersections in all—got a small dose of progress. I hit red lights at only four of nearly two-dozen controlled intersections. Elapsed time for my test run: 15:48, an average speed of 15 mph.

Not much improvement? Wrong! Those two minutes I saved on my test run (an 11-percent time saving) add up to more than $1-billion a year to South Bay drivers in terms of gasoline not burned, brake linings not worn, and accidents prevented. The psychological savings can't be measured.

Cost to install the entire system was less than $900,000, and it paid for itself in one year. (Already, advanced systems are being installed in Baltimore and Overland Park, Kansas.)

A computerized point-of-sale system for department stores was developed by TRW Data Systems, using what was learned from the Apollo computer programs. Terminals at each cash register let clerks verify credit by punching your credit-card number on a keyboard. Results reveal a 75-percent reduction in fraudulent purchases and a 95-percent reduction in purchases on bad-debt accounts. You'll find the system operating in many Montgomery Ward, J. C. Penney, May Co., Hudson's Bay Co., and other stores.

Then TRW applied the computer programming to a system called Validata, which is used by virtually every airline and major car-rental agency today to check credit cards or personal checks. Validata was in 151 cities by 1975, and the system is growing.

Some non-aerospace companies are using space technology in everyday business, but the unquestioned leaders are the aerospace companies themselves.

"Other industries take a jaundiced view of space technology," commented Dan Schneiderman of the Jet Propulsion Laboratory in Pasadena. "They think it's too expensive, too complex, or not useful to society."

"It can take eight to 15 years for the kind of technology we're looking at to become useful in our society," Schneiderman pointed out. "We've been making a concentrated effort at transferring technology only for the last five years."

As manager of civil systems for JPL, Schneiderman is in the forefront. One of his earthiest projects came directly from JPL's research on rocket motors: perfecting a new sewage-treatment system that could have a multibillion-dollar impact on ecology economics.

A chemical engineer made the connection while looking for a lightweight insulator. The key: Hydrocarbons can be converted into other forms of carbon.

"Well, sewage has hydrocarbons in it," Schneiderman explained, "just a plain old solid mass. So we tested the idea of pyrolyzing sewage."

That simple idea—decomposing sewage with high temperatures—produced activated carbon. And activated carbon is one of the all-time best filter agents.

"So now you use activated carbon to purify the incoming wastewater." Schneiderman grinned. "The sewage provides its own filtration and the end product is a tiny amount of sterile dry ash!" The system is no laboratory fluke. JPL tried it out—a 10,000-gallon-a-day pilot plant. It worked. A million-gallon-a-day plant at Huntington Beach, Calif., begins operating this year.

The plant's economics—not to mention the ecological benefits—are incredible. It costs 20 to 25 percent less to build and operate than a standard secondary-treatment plant approved by the Environmental Protection Agency.

In my travels, I've found an amazing variety and number of things that started in some tiny corner of an aerospace laboratory and now have somehow grown to change my life and yours. Let's look at a few of them.

Transportation: Whether you're flying to Honolulu, Hartford, or Houston, the odds are that the guidance system aboard your commercial jetliner has a grandfather that flew to the moon.

More than 500 commercial jets rely on a navigation system called "Carousel" developed for Apollo. "Carousel" is inertial: that is, it takes its readings from its own internal gyros and accelerometers. It doesn't need radio input and it isn't affected by weather.

After nearly 15 million hours of use in commercial flight, the system continues to score navigational accuracies of better than 99.5 percent. It makes flying just a little safer for all of us.

We're safer on the ground, too. NASA investigated the idea of cutting grooves in runways to prevent airplanes from skidding in the rain. It worked so well that many states now groove dangerous stretches of highways, stopping car tires from hydroplaning. There is no way to know how many of us are alive and well today because of that tiny technology transfer.

Car tires got another boost from the space program. NASA asked Goodyear to develop a tire that would stay bouncy at nearly 200° F below zero. The tires were for that Apollo 14 pull-cart dragged over lunar hills by Al Shepard and Ed Mitchell. Goodyear came up with a flexible tire that didn't turn rock-hard in the moon's frigid temperatures. Shepard and Mitchell unlimbered their "rickshaw" and rolled unhindered, but slightly sweaty, up-crater and down.

In an obvious next step, Goodyear incorporated the new flexible stuff into winter radial tires, increasing traction and eliminating the need for studs, which some states ban anyway. But Goodyear still wasn't through putting aerospace into that car tire. Company researchers found that Du Pont had developed a super-strong shroud line, five times stronger than steel, for the yet-to-come Viking lander parachute. When the parachute deploys in that thin Martian air, three of the new straps will snap taut to hold Viking's 2300 pounds dangling below. The fiber was perfect for the cords of Goodyear's new radial tire and the company expects drivers to get an extra 10,000 miles wear because of it.

And you don't need to be a landlubber to benefit from space technology. Consider The Boeing hydrofoil from Hong Kong to Macao, or between islands in the Hawaiian chain. The waterjet system that sends them skimming along at nearly 50 knots came straight from the Saturn rockets that sent men to the moon.

"Those waterjet pumps are driven by gas

turbines we developed for Saturn," says Rockwell's Joe McNamara, whose eyes light up every time he talks about rockets. "They pump better than 22,000 gallons per minute at about 3700 horsepower."

Rockwell has delivered other units for new crew boats being built for offshore oil rigs in Louisiana. And even better waterjets may be on the way.

Medicine: **Medical shows on TV have exposed** most of us to complex systems that monitor patients in intensive care or provide on-the-spot telemetry for heart-attack victims lucky enough to live in an area with paramedics on call.

But how many have heard about the liquid-cooled brassiere, or the "auto-refractor"?

The liquid-cooled bra emerged from research into space suits and ways to keep astronauts comfortable. The bra is now being tested as a cancer-screening device. It would precool a woman's breasts, and thermal pictures would be made, which could show heat-radiating tumors that might otherwise be missed.

Developed by Aerotherm Acurex Corp. of Mountain View, California, these bras could lead the way to computerized cancer screening. Tests are underway at several research centers, including the National Cancer Institute.

Another amazing medical device is the "auto-refractor," an automated machine invented to measure the vision of airline pilots. Perfected and marketed by Acuity Systems of Reston, Virginia, it measures the eye's focus and reads out a prescription for glasses in just four seconds. Hundreds of the machines are already in use.

Diplomacy: Even the high-level world of international relations has felt the push. Key U.S. embassies are equipped to transmit and receive on private channels through the Department of Defense's satellite communications system. The transmissions are secure and can't be tapped by foreign agents.

But the most exciting diplomatic aspects of space technology—surveillance from space—remains masked by DOD secrecy. There are satellites that supply high-resolution photography, electronic eavesdropping, and sensor-monitoring capabilities to the military and the State Department.

The Defense Dept. allows NASA to use only inferior equipment, though; whatever NASA has, the military has better. Yet enlargements from "inferior" Skylab photos can show aircraft and other items clearly on the ground.

Among known applications of the spy photos are maps that accurately show every usable road in countries where U.S. forces could fight, real-time monitoring of major foreign troop movements, tracking of foreign ships and fleets, and surveillance of major construction projects such as missile silos and dams.

Environment: "The ecology movement got its biggest push from Apollo 8," says George Low without hesitation. "When the world saw the pictures those guys brought back—our fragile little earth hanging there in the dark—people suddenly woke up to our environmental problems."

Low might get an argument from Sierra Clubbers and others whose concern predated Apollo by a generation. But his argument is strong. Until we saw those pictures, ecology was just a word to most of us. Since then, environmentalists have been talking about "spaceship earth", while making substantial use of space technology. A carbon-dioxide sensor developed for Skylab, and now sold by Beckman Instruments, is a standard pollution-monitoring device in many U.S. cities.

Photos from Landsat-1, the first earth-resources satellite (then called ERTS), helped settle a pollution suit between the states of New York and Vermont. The photos, accepted as legal evidence after a Supreme Court-approved review, clearly showed pollution dispersing across Lake Champlain from a New York paper mill. The suit was a legal landmark.

Landsat and Skylab photography continues to spawn new environmental projects. Ohio, Georgia, and Utah have used the photos to site power plants, take inventory of forests, assess wildlife, prepare state maps, and check farm ponds and dams. The other 47 states aren't sitting on their old attitudes; they're using the photos in equally productive ways. A recent NASA report says: "Crop identification now is performed routinely by satellite . . ." The agency, for example, is involved in a massive agriculture test called the Large-Area Crop Inventory Experiment, designed to give food planners accurate advance information on harvests. Think about that the next time you hear the Russians *may* be in the market for U.S. wheat.

THE BOTTOM LINE

Nobody knows, nor ever will know, how much money, how many jobs, how many lives, space benefits mean to you and me.

But in 1975, Dr. Oskar Morgenstern tried. Morgenstern is chairman of the board of Mathematica, Inc., in Princeton, New Jersey. He looked at just four space benefits and presented his findings to the U.S. Congress.

Integrated circuits, those tiny masses of transistors and other components that make handheld computers work and can be found in automobiles, telephones, TV sets, and almost everything else that can be called electronic, will have added more than $5 billion to the economy by 1982, counting from 1963.

Gas turbines developed for jets and now used in dozens of electrical-generating plants will save more than $110 million in fuel costs by 1982.

A computer program developed to help design spacecraft, and now used by other industries to design complex jobs ranging from skyscrapers to bridges to railroad cars, will save its users more than $700 million by 1984.

Finally, an obscure benefit like cryogenic insulation now available for hospitals, heavy industries, and other places where super-cold liquids are used, will add $1 billion to the economy by 1983.

Yet how does cryogenic insulation affect *me*? Or a computer program for skyscrapers affect *you*? Where does RCA's pioneering work on weather satellites and domestic communications satellites fit in? Or the fireproof cloth developed by Owens-Corning in response to the Apollo tragedy? Or the many, many other items, large and small, that are part of the picture? Do they not benefit our society as a whole?

I thought about something Sen. Proxmire said before we parted:

"It was enormously satisfying to everybody to succeed in the Apollo program. But if we'd done it 30 years later, would it really have mattered?"

What do you think?

MICHIGAN PERFECT FOR U.S. SOLAR ENERGY RESEARCH SITE

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, June 4, 1976

Mr. DINGELL. Mr. Speaker, Michigan is making a strong bid for the Solar Energy Research Institute and has the advantages of the perfect site and supporting facilities. The State government of Michigan, the congressional delegation, city and county government, along with industry, labor, business, the press, and the academic community are united in the planned presentation of Michigan's bid to capture and develop solar power for the United States.

Both the Detroit News and the Detroit Free Press have published excellent editorials noting that Michigan is a "logical" and a "natural" site for the Institute. The editorials follow:

[From the Detroit News, May 14, 1976]

LOGICAL PLACE FOR SOLAR RESEARCH

Michigan has a strong case to argue in its attempt to bring the proposed federal Solar Energy Research Institute to this state. It has the kind of technology the project desperately needs. And its university research facilities—and minds—are not being adequately utilized by the federal government.

At Gov. Milliken's instigation, the Legislature funded the campaign to win the federal research facility with $220,000 and experts are now writing the proposal. Industries such as Bendix Corp. are committed to it. Companies and universities are contributing enough staff time to more than double the dollar value of the study.

New and strong emphasis is being placed by the federal authority on the potential of solar energy. Most of the basic technology to make it work is known and understood.

However, solar energy has not been widely adopted for one good reason—the equipment required is too expensive. Some means must be found to design components and discover materials that will make the gear available to the public at affordable prices for such uses as heating and cooling of homes.

Michigan has the kind of mind to do this research. The state is brimful of engineers whose whole being is devoted to producing the most for the least dollars. Engineers in the automobile and auto component industries are probably the most cost-effective and cost-conscious people in the nation.

This is precisely what the solar program needs the work of scientists and engineers who lead in mass production technology and understand the necessity for getting component costs down to the irreducible minimum.

Up to now, the federal government has all but ignored Michigan as a place for research activity. This state ranks second to last in the nation for "research and development" dollar expenditures by the federal government.

For every federal tax dollar sent to Washington by Michigan, the state gets back 1.5 cents in research and development projects. Only Nebraska fares worse than that.

The state is mounting a strong drive to get the Solar Energy Research Institute because there is a cadre of people who believe that this is one project tailored to Michigan's industrial-university community.

These people contend that if the research is done here, with the cooperation of Michigan industries, eventually component production will spin-off from the research project. New jobs will be created and industry will be diversified.

Winning the institute will not be easy. It is to be a federally funded, privately operated program. Michigan has to argue its proposal and name the persons it nominates to run it. The state also must come up with buildings for temporary accommodations at the beginning and no less than 300 acres of land for the later permanent site.

This will require commitment and cooperation from universities, industries and all levels of government. Michigan's people ought to work together for this project because it is the very kind of program that belongs in Michigan.

[From the Detroit Free Press, May 7, 1976]

AN ENERGY-RESEARCH NATURAL

No area of the country should be as conscious of the long-term energy problems facing the U.S. as Michigan.

In no other populous area of the nation is a state's economic well-being so dependent on an adequate and available supply of reasonably priced energy. Michigan's industrial base—the automotive industry—is geared to energy supplies, both to build and power cars and trucks.

It makes a great deal of sense, therefore, for Michigan to try to attract those federal research and development facilities that are going to be exploring new sources of energy and ways to conserve energy.

The proposed new Solar Research Energy Institute is one of the facilities Michigan is now seeking, and with good reason.

As John Mogk, the head of the Michigan Energy and Resource Research Administration, said:

"There is good university and industrial backup here. And nowhere else in the country is the know-how to mass produce solar energy systems to make them efficient and economical to use."

Land is being assembled for the proposed federal research facility and Mr. Mogk is preparing the state's official presentation in an effort to persuade the Federal Energy Administration that Michigan would be the best location for this installation.

The metropolitan area would be an ideal site, and we hope the state's business and political leaders will give the application the full support it will need if federal officials are to be persuaded of the unique opportunities Michigan offers for this vital research.

WATER POLLUTION CONTROL ACT

HON. MAX S. BAUCUS

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 4, 1976

Mr. BAUCUS. Mr. Speaker, yesterday I spoke with members of the House Public Works and Transportation Committee about the need for an amendment to the Water Pollution Control Act, one which did not appear in H.R. 9560, the committee's new amendments to the act. The gentleman from Texas (Mr. WRIGHT) was most courteous and understanding of my concerns and graciously offered me, in a colloquy on the floor of the House, the opportunity to discuss my proposed amendment with the committee at a future date in lieu of pursuing a vote on the matter as an additional amendment to H.R. 9560.

I applaud the gentleman's wisdom in suggesting that this amendment receive thorough and unhurried consideration by the committee. My intention certainly was not to circumvent the committee by offering the amendment on the floor, but rather to bring to the Members' attention the serious problem addressed by the amendment.

Mr. Speaker, I appeal to the Public Works Committee and to all Members to provide advice and the benefit of their experience in the matter of dealing with incoming transboundary water pollution. The bill I offer today will hopefully be useful to the committee as it deliberates on new amendments to the Water Pollution Control Act.

The amendment would enable the Administrator of the Environmental Protection Agency—EPA—to provide financial assistance toward eliminating or minimizing transboundary pollution through construction of water treatment facilities or implementation of other antipollution measures outside the United States. The Administrator would be required to consult with the Secretary of State prior to committing any funds in order to determine advisability vis a vis foreign policy constraints as well as the conditions under which the funds should be administered.

My interest in the international aspect of water pollution control stems from Canadian plans to mine vast quantities of coal along Cabin Creek, a British Columbia tributary of Montana's scenic Flathead River. Residents of the Flathead Basin rely on the river for much more than potable water. The majestic Flathead Valley is one of Montana's major recreation areas. Tourism plays a vital role in the region's economy. The river serves as the western boundary of Glacier National Park and drains into Flathead Lake, the Nation's largest natural fresh-water body within a single State.

The Flathead is the hydrologic base for a complex and fragile ecosystem that encompasses several endangered species. As I mentioned upon introducing H.R. 10747, The Flathead River wild and scenic rivers bill, the game fish that live in the Flathead's waters cannot survive what many would term "insignificant pollution." The effects of pollution on other species of animals and birds cannot be predicted because too little is known about those subtle features of their habitats that affect their ability to survive. Such species are the Montana westslope cutthroat trout, the American osprey, the northwestern white-tailed ptarmigan, the pine martin, and the Canada lynx. Other Flathead species such as the grizzly, the northern Rocky Mountain wolf, and the American peregrine falcon are threatened outright.

The residents of the Flathead Valley, Montana's State government, and the Federal Government have recognized the grave threat to the Flathead posed by Canadian coal mining plans on Cabin Creek. Chemical leaching, siltation, and human waste pollution, all maladies normally attendant to the kind of pit mining envisioned by the Canadians, would drastically alter the Flathead River and its ecosystem.

The Department of State has responded to pleas for action by Montanans. Consultations have been held with the Governments of Canada, British Columbia, and Montana over the need for a comprehensive plan to protect the Flathead under the provisions of the Boundary Waters Treaty of 1909. The Canadians have responded with a proposal for licensing Cabin Creek coal development that allows close examination by U.S. negotiators of requirements for antipollution measures. The governments of Canada and British Columbia are to be commended for their response to our expressed concerns.

There can be no question, however, that the Cabin Creek-Flathead River issue is far from resolved. There is an enormous economic incentive for rapid development of the high grade coking coal found along Cabin Creek. We in the coal-rich West know well the pressures generated by industry in need of energy commodities. There is little doubt that the Cabin Creek reserves will be developed along with other vast coal reserves near the Montana-Canada boundary. Initial development supplies momentum for more development and yet more after that.

One cannot help wondering what effect might ensue if American negotiators in the Cabin Creek consultations overestimate the efficacy of Canadian antipollution requirements. In my view, the effect on the Flathead River and its environs would be catastrophic. One could speculate that the result of such a mistake would be a violation of the Boundary Waters Treaty. The State Department would then seek a bilateral reference to the International Joint Commission—IJC—under the provisions of the treaty. Lengthy deliberations and studies would be undertaken to determine if in fact a violation had occurred and then how best to eliminate it. Once the International Joint Commission's findings were formulated, recommendations would be issued to the governments of Canada and the United States. Experience has taught us, however, that IJC recommendations are sometimes difficult to live up to particularly if substantial investment or economic sacrifice is required. The Flathead River drainage, by the time substantive action had been taken, could have been robbed of its invaluable fish, wildlife, and beauty.

In short, Mr. Speaker, the future of Montana's Flathead River basin is in doubt despite treaties, international tribunals, and the good intentions and best efforts of concerned governments. We cannot know if today's mechanisms for coping with such problems are sufficient to the challenge of intensified future mineral development along the Canadian boundary. How many Cabin Creeks does the future hold? How great a case backlog will the IJC have by the year 2000? Is the State Department equipped to deal with the iceberg of which Cabin Creek is only the tip?

Unfortunately there are no reliable answers to these necessary questions. If answers do not materialize, however, the waters of the border States will be endangered. The time has come, Mr. Speaker, for Congress to employ its vision and exercise its policymaking prerogative in insuring a maximum effort toward sparing our people the harm of transboundary water pollution.

I must emphasize that my proposal does not denigrate the International Joint Commission or our good neighbors, Canada and Mexico. Neither does the proposal assume that Canada, Mexico, and the International Joint Commission are incapable of managing their affairs within the provisions of current agreements. Rather, the proposal is an attempt to foresee potential problems and, for once, to supply a means of dealing with those problems before they become crises. The amendment would supplement the existing mechanism for dealing with incoming transboundary water pollution by providing yet one more tool in case all traditional tools fail.

This amendment would not create a new foreign aid program. Neither would it arbitrarily inject the EPA Administrator into the arena of foreign affairs. The amendment requires consultation between EPA and the State Department in determination of whether financial assistance should be offered, and in setting terms and conditions for such assistance. The program would be used only as a last resort and would be overseen by Congress as any other title II program.

I can appreciate that thoughtful observers of American policy toward Canada and Mexico will have legitimate questions over the possible effects of this measure on that policy. I am anxious to discuss those questions and to help find answers. I must stress, however, my belief that a program such as that embodied in this amendment is worthwhile if even one stream, river or drainage is spared the effects of transboundary pollution when all other means to achieve that end have failed.

A MORATORIUM ON CLOSING SMALL POST OFFICES

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, June 4, 1976

Mr. ASHBROOK. Mr. Speaker, on June 2, I introduced a bill aimed at halting certain unwise actions now being taken by the U.S. Postal Service. This legislation—House Resolution 1236—urges a 1-year moratorium on the closing of small post offices and other service cuts.

Such a moratorium is desperately needed. Without it a number of small post offices in Ohio and throughout the Nation will soon close their doors.

This would be extremely unfortunate. Post offices perform an important role in the community. People need and depend on their small post offices.

A moratorium seems especially appropriate at this time. According to the chairman of the Committee on Post Office and Civil Service, the committee is currently working on legislation to temporarily increase the funding level for the Postal Service. Furthermore, a commission would define the public service functions of the Postal Service and recommend adequate levels of public funding.

Post office closings should be stopped while Congress considers this important question. Any closings or major service reductions should be halted for at least 1 year so that irreversible actions are not taken by the Postal Service.

Following is the text of my bill:

RESOLUTION

Whereas mail service in the United States has been the mode of communication most accessible to the greatest number of citizens; and

Whereas the mail has played, and is playing, a role of incalculable importance in the economic, cultural, and social life of this country; and

Whereas the post office is an important factor in the community life of small towns throughout America, serving as a communication center, stimulator of local business, and, in many cases, the principal source of community identification, as well as a center for the distribution and collection of the mail; and

Whereas new policies and guidelines regarding the closing of small post offices were promulgated by the United States Postal Service without the benefit of comment by the public, affected employee organizations, or Members of Congress; and

Whereas section 101(b), title 39, United States Code, states that: "No small post office shall be closed solely for operating at a deficit, it being the specific intent of Congress that effective postal services be insured to residents of both urban and rural communities;" and

Whereas service cuts in other areas of postal activity have been recently implemented, as in the case of the reductions of deliveries in business districts, or are being actively considered, as in the case of reduction of delivery days from six to five; and

Whereas both actual and proposed reductions in postal services, combined with increases in postal rates, have caused the public to lose confidence in the United States Postal Service; and

Whereas section 2401, title 39, United States Code, provides authorization for annual appropriations "as reimbursement to the Postal Service for public service costs incurred by it in providing a maximum degree of effective and regular postal service nationwide, in communities where post offices may not be deemed self-sustaining, as elsewhere, . . ."; and

Whereas the Congress of the United States is currently considering legislation which would, among other things, temporarily increase levels of funding to the Postal Service for the public service functions while a complete study of Postal Service finance is conducted: Now, therefore, be it

Resolved, That it is the sense of the House of Representatives that the United States Postal Service shall not close or otherwise suspend the operation of any post offices, or implement any major reductions in service during the one-year period following the adoption of this resolution; and be it further

Resolved, That the House of Representatives urges the United States Postal Service to continue cost-cutting programs which do not affect levels of service.

RECIPIENTS OF CHARLES EVANS HUGHES AWARDS

HON. M. CALDWELL BUTLER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 4, 1976

Mr. BUTLER. Mr. Speaker, I call to your attention the following statements of Congressman Brooks Hays, Gov. Linwood Holton, and Ambassador Robert Murphy as the National Conference of Christians and Jews presented these gentlemen the conference's highest annual award, the Charles Evans Hughes Award.

CHARLES EVANS HUGHES AWARD TO BROOKS HAYS

Presentation of Mr. Hays was by V. J. Skutt, President of Mutual of Omaha, and long time member of the Conference. Excerpts from his comment. To introduce Brooks Hays adequately one would have to use a few thousand words but I shall be brief because, as usual, he will have something to say and anyway I would rather listen to him. He came out of the South with all of the humor and friendliness and warmth of that great section. He brought something else, reverence for brotherhood. And like Justice Hughes he became a national influence in his political party. He used that influence to help all the people, with considerable emphasis on racial justice. He is a man of great education and great religious spirit. The records in Arkansas and Washington are replete with evidence of his efforts.

He has written several books, the last of which, "Hotbed of Tranquility", I hope you will read because it tells more about him than I can tell you here. There is one thing I must pause a moment to do though. I asked my wife if she had any suggestions as to what I should say and she said, "Yes, don't forget to introduce Mrs. Hays." Also he has children and grandchildren here. The Hayses look so young, I didn't suspect they had grandchildren—they have five grandchildren, two of whom are here. Will they please stand so we can recognize them. The son, Steele Hays of Little Rock and his wife and their daughter Betty, Mrs. W. E. Bell and Mr. Bell, are here tonight, will they please stand.

Now a moment to read the citation. "The National Conference of Christians and Jews Presents The Charles Evans Hughes Award For Courageous Leadership in Governmental, Civic and Humanitarian Affairs to Brooks Hays.

For courageous, forthright and pioneering accomplishments as a member of the United States House of Reprsentatives.

For outstanding leadership in developing the Arkansas Plan, the Newport Conference and other historic measures designed to implement the principles of our democracy for all citizens.

For dedication and uncompromising principles as Chairman of the North Carolina Human Relations Commission.

For long advocacy of the belief that educational and economic opportunities are essential to the strengthening of the dignity of man and consequently the development of Brotherhood.

For devotion to the promotion of ecumenical exchange and fellowship."

Placing the emblem of brotherhood on this great civic leader Brooks Hays has been appropriately assigned to the daughter of Chief Justice Hughes, Mrs. Wm. T. Gossett.

Mr. Hays responded as follows:

Mr. Chairman, Mrs. Gossett, President Hyatt and my fellow disciples of brotherhood. I am a bit nervous, and I seldom get nervous. I was nervous because I was afraid that Mrs. Gossett would disturb my wig, but she did not touch a hair. I presume you know that what God hath not wrought I went out and bought. I know that Dave Hyatt is nervous because time is limited. He can relax. I have a timer given me by a friend. I got the message.

I am overwhelmed by this award. It comes in the name of a man whom I admired very much. I used to sit on the same pew with Chief Justice Hughes occasionally in the Calvary Baptist Church in Washington when Marion and I lived in Washington prior to my election to Congress.

I am grateful to my admired friend, V. J. Skutt, for his gracious presentation. I don't know how to thank you for this honor. If I try I am afraid I will do as the preacher did when we surprised him with the gift of a new automobile. He stammered, "I don't appreciate this but I sure do deserve it."

Mr. Skutt's statement rivals Dean Francis Sayre's reference to me, "Brooks loves the people of the Ozark hills from whom he learned that the profoundest thoughts are the least pretentious and are best conveyed by the little chariots of anecdote and gentle humor." I hope I can live up to that.

This is a week of anniversaries. It was five score and twelve years ago last Wednesday that Abraham Lincoln spoke to the nation and to the world about "government of, by and for the people." It required many decades of the processes of emancipation and enfranchisement to make that meaningful for our largest minority, our black community, and to give meaning to John Locke's axiom, "there can be no government of and for the people unless there be government by the people."

It was 198 years ago last Thursday that the Articles of Confederation were adopted and this was a mighty step following the Declaration of Independence in building a concept of nationhood.

It was 355 years ago last week that the first baby was born to the Pilgrims, who were beginning a new life. The Bicentennial will keep us reminded of anniversaries.

I had been pained by the religious tensions developed by the 1928 campaign and had applauded the leadership of Justice Hughes, Newton D. Baker and others in launching the Conference program of tolerance and brotherhood.

It was my privilege in 1963 to be received in a private audience with Pope John XXIII, a very moving experience. He said to me, "We are brothers in Christ." This is meaningful because not every Pope who preceded him would have put it that way. His great spirit was eloquently described by a Protestant theologian, John Bennett, who spoke of his "releasing a humanizing and redemptive force" in our divided world.

About the time he greeted me in that way he uttered words of historic import to a group of rabbis. It was after the Ecumenical Council had reflected his spirit of great good will. To these visitors of Jewish faith this man of love, an Italian who bore the name of Angelo Giuseppe Roncalli, said, "I am your brother Joseph."

These incidents signal hope for a stronger base for unity and understanding.

Since being recruited by my dear friend, Hastings Harrison, in 1939, I have spoken in 71 American cities in support of Conference objectives. While we welcome the humanists who, we will not forget, may also have high motivations, we seek primarily the support of religious motivated Americans. I believe you share the sentiment of Dr. Ernest Hocking, "It is only religion, reaching the ultimate solitude of the soul, for which our pleasing amiabilities are but husks, that can create the unpurchaseable man and it is only man, unpurchaseable by any society who can create the sound society."

Your role of leadership is awesome. Your religious faith is part of the catalyzing influence needed by the nation. It is not presumptuous to suggest that we are of the elite. You have a large leadership role. As citizen voters you hold a high political office. As leaders you carry special obligations which must not be treated lightly for as Chaucer said, "If the gold rust how can the iron be saved."

On the basis of my experience as a Conference worker for these three decades I am confident that brotherhood and justice have been strengthened and that our future is brighter because of the Conference contribution to American life. We should have a good portion of the credit for the bright hope that religious bigotry in election campaigning will never threaten us again and that the malignancy of the Ku Klux Klan will never recur.

I close as I began with a reference to Abraham Lincoln whose words always carried conviction to his moving statement, "I have not suffered from the South, I have suffered with the South." As a reunited people we can share his hope for our beloved country. "The mystic chords of memory stretching from every battlefield and patriot grave to every living heart and heartstone will yet swell the chorus of the union when touched as they will surely be by the better angels of our nature."

Remark Prepared by Linwood Holton, Recipient for Eleventh Annual Charles Evans Hughes Award

It is with high honor and deep humility that I accept this award—honor because of its distinction and because of the distinguished figures in American life who have been its recipients; humility because this award belongs not so much to me as to the people of Virginia who made that great Commonwealth move toward being a model of race relations during my administration as governor.

At the time of my inauguration on January 17, 1970, I called for my fellow Virginians to establish "an aristocracy of ability regardless of race, color or creed." In the past five years we have moved a long way toward doing just that. Despite the problems engendered by busing, our public schools are truly desegregated. Despite the current economic recession, no one in Virginia is denied a job because of his race. And despite the problems and prejudices that remain, I am as confident now as I was on that January day of 1970 that Virginia will be a leader for the nation in race relations.

Just as these past five years have seen a new tolerance and harmony emerge in Virginia, so they have seen a diminution of the passions of extremism in our nation. The promises of the Left are unfulfilled and the shibboleths of the Right are unfulfilling. I see a new climate of moderation coming in our country, a real desire to restore fiscal integrity and a determination to restore the balance between state and federal governments.

Such integrity and such a balance in our system of federalism are essential components of true conservatism, and in that sense, the label is one we are proud to bear. Conservatism is not, and must never be allowed to be, a cover for racial discrimination, nor a legitimizing label for ethnic, religious or racial arrogance or domination. Conservatism in its noble sense is "a desire to preserve all that is best about our system, its values and verities, while accepting with alacrity the true challenges of inevitable change."

The impressive record of this great land, the progress that has brought one distinguished historian to conclude: "The history of the American Democracy is the gradual realization, too rapid for some and too slow for others, of the implications of the Declaration of Independence," has been possible because that basic philosophy of true conservatism has dominated the approach of succeeding generations to solving the problems of their respective times.

And that record, that progress, gives cause for optimism that millions of Americans today share my belief in preserving that which has made us the world's greatest nation, while seeking to progress as best we can in a world of shrinking resources and of many problems common to the lives of many people in many lands.

Thus we go forward, sharing always the belief of the man from Monticello, that "the Creator has made the earth for the living . . . nothing then is unchangeable but the inherent and unalienable rights of man."

Remarks by Robert D. Murphy

Years ago when in Berlin Sterling Brown first talked to me about the national conference of Christians and Jews, I had never heard of the organization. When I learned more about it, what appealed to me most was the knowledge that the organization had become a tremendous force for brotherhood in American life. Now, many years later, more than I like to think about, millions of Americans have been made aware of NCCJ's impact and influence towards brotherhood and improvement in human relations. The conference continues quietly and steadily to eliminate hatred and bigotry, and many are unaware of the scope and effectiveness of its good work. There are a vast number of thoughtful citizens who have given of their time and money to help make the conference goal of the brotherhood of man under the fatherhood of God a reality. They deserve great credit.

One remembers the reference to Charles Lamb who once said about a stranger, "I don't like that man." "But," his friend remonstrated, "you don't even know him." "Of course I don't know him," he replied, "If I knew him I couldn't dislike him."

As Dr. Everett Clinchy so aptly said years ago—we are becoming sensitive to the denial of brotherhood even as we became sensitive to the problem of human slavery. People no longer take fatalistically the discriminatory practices of yesterday. There is a determined struggle by mankind against illiteracy, poverty, misgovernment and discrimination.

The conference has played a persistent role influencing attitudes and behavior in human relations in the direction of improvement in the minds, the habits and emotions of men and women. It continues an important factor, actuated by religious motivation and frank discussion, in removing areas of discrimination from life in the United States.

The need for understanding, characterized by traits of brotherhood, is a daily necessity in a world affected by crime and violence, and racial and religious tensions.

The conference remains engaged, and I think successfully, in a systematic and united effort on the part of Christians and Jews to improve group relations.

I have followed with keen interest the United Nations recent treatment of Zionism. The debate over Zionism of course is century old but the debate never happened more prominently and excitedly than in the recent United Nations meetings. To equate Zionism with racism is certainly an extreme view which would not have occurred to me. It has always seemed to me part of the ancient Jewish heritage and part of Jewish religion. Its opponents used it as a cover for anti-Semitic attack. Mr. Chaim Herzog defended Zionism as a constructive national movement saying quite correctly that it is based on a unique and unbroken connection of some four thousand years between the people of the book and the land of the Bible.

However, the recent vigorous Arab activity and public statements have attracted widespread interest, following the reference to the action of the general assembly of the United Nations condemning Zionism as a form of racism. The resolution speaks about a political ideology which has had the effect of excluding certain people as non-Jews, and including others as Jews as an ethnic and not necessarily a religious matter. In essence the Arab attitude among other things relates to the question of expulsion of two million Palestinians from their homeland.

Naturally this is no place to discuss the larger questions relating to the existence of the Jewish state and political problems in that relationship. Zionism of course is of direct interest to the National Conference of Christians and Jews, but it is surprising to me that it has become rather suddenly so highly controversial a subject. No doubt this is a subject which will receive serious thought and attention by the conference as time goes on.

President Hyatt recently pointed out that for nearly fifty years the National Conference of Christians and Jews has been committed to a nationwide education program to combat bigotry and hatred. This organization has enjoyed the support of many thousands of thoughtful men and women who have worked to strengthen national unity and to build interracial and interreligious understanding. Our Nation surely has the will and resources to remedy our problems. The creativity and dynamism of our business, industrial and governmental leadership will demonstrate our capacity to deal with our problems large and small.

It is well to remind ourselves that the national conference is a non-profit human relations organization actively engaged in a nation-wide program of intergroup education designed to eliminate prejudice and discrimination. It works to build bridges of understanding and to bring forces of enlightenment and education to bear upon racial and religious prejudice. It believes in giving to others the same rights and respect we desire for ourselves.

This year, and at Thanksgiving, we are able to express special gratitude for the events which have brought Christians and Jews close together. The declaration on Catholic-Jewish relations in 1965 by Vatican Council II advanced understanding, it is said, farther than at any period since the early Christian church separated from its Jewish roots nearly twenty centuries ago.

Perhaps the most significant contribution of the United States to the theory of government is the principle of religious freedom. In our country ever since 1634 the principle of religious freedom has been firmly safeguarded, subject of course to sporadic wavering on the part of people administering the laws. In our early days we passed through unhappy moments when full citizenship was denied Jews and even Unitarians. Roger Williams proclaimed Rhode Island a refuge for the persecuted and that colony disfranchised Jews and Catholics. Individual States kept on the books for generations religious tests directed mainly against Catholics, Jews and Quakers. The middle eights saw the infamous know-nothing fanning the spark of anti-Catholicism into a consuming flame of hate. In 1920 the Ku Klux Klan developed a most formidable hate movement which promoted mob-spirited lynching of Negroes, adding Catholics and Jews to a nation wide hate mongering list.

Of course there was much more to the problems than this brief reference. I believe it is timely to remember the history of these developments in hatred and prejudice which were overcome by the courage of good-will and the crystallizing of public opinion. At the same time it is well to safeguard our current situation to avoid unwittingly slipping into an unexpected tide of intolerance. Having bought truth dear, we must not sell it cheap.

NATIONAL CONFERENCE TO PROMOTE ENERGY EFFICIENCY

HON. ANDREW MAGUIRE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, June 4, 1976

Mr. MAGUIRE. Mr. Speaker, Ralph Nader recently sponsored a national conference on public policies to promote energy efficiency, in Washington, D.C., May 20–21. In his opening remarks to the conference, Nader described the Ford administration's foot-dragging on energy efficiency policies as creating a "White House energy efficiency gap," the gap between White House lip service to energy efficiency and actual Ford administration policies. Nader illustrated the White House energy efficiency gap with references to ERDA's preference for atomic power over energy efficiency and solar energy, administration opposition to the Energy Conservation Act of 1976, and the Ford-Rockefeller proposal for a $100 billion energy independence authority.

The Nader statement accurately portrays a problem which Congress is all too aware of, the Ford administration's preference for policies that recklessly promote energy supply options regardless of their public safety, environmental, economic, and employment consequences. Public policies which, instead, would promote more efficient use of energy would reduce our need for imported oil at lower economic and environmental costs and years sooner than policies that simply promote energy production at any cost. Moreover, policies that promote energy efficiency investments will create more jobs, better distributed geographically, than would be created by similar investments in nuclear power and other centralized energy supply systems.

I compliment Ralph Nader for sponsoring his conference on energy efficiency and I commend his remarks to the attention of my colleagues:

ENERGY EFFICIENCY AS A NATIONAL PRIORITY

(Opening Remarks by Ralph Nader, May 20, 1976)

Welcome to our conference on public policies to promote energy efficiency. We have prepared this conference with three purposes in mind:

(1) to bring to public attention outstanding examples of cost-effective energy saving projects which demonstrate the potential for cutting U.S. per capita energy use by 50 percent;

(2) to hear energy efficiency experts and public officials describe public policy initiatives that would promote the nationwide duplication of the successful energy saving projects described at the conference; and

(3) to bring together business, consumer, labor, and government representatives to create a stronger constituency to support public policy initiatives which promote energy efficiency.

Evidence that it is technically and economically feasible to cut per capita energy use in this country by 50 percent abounds. Many panelists here today will describe energy efficiency projects that have cut energy use by 50 percent or more in homes, office buildings, and factories. Additional evidence of our massive waste of energy can be found by reference to energy use in Sweden and West Germany, highly industrialized countries which use only one half the energy per capita consumed in this country.

As Roger Sant, the Federal Energy Administration's departing energy conservation administrator, has said, by improving our energy efficiency "we could stop our energy growth right now," while our economy continued to expand. A man who talks like that can't expect to last long in the energy-growth-oriented Ford Administration and, sure enough, Sant is on his way out.

There are basically two energy efficiency problems in this country today. One is the intolerable gap between our present efficiency of energy use and the energy efficiency which we know is economically and technically feasible. The second problem can be characterized as another kind of energy efficiency gap, the "White House energy efficiency gap."

The White House energy efficiency gap is the gap between White House lip service to the goal of using energy more efficiently and actual Ford Administration policies regarding energy efficiency. The breadth and depth of the Ford Administration's energy efficiency gap make the Grand Canyon shrink by comparison. We have to send spaceships to Mars to find topography that is a suitable metaphor for the White House energy efficiency gap.

The only thing more scandalous than the massive waste of energy in our society, with its corrosive effect on our standard of living and our national security, is the footdragging of the White House when it comes to public policies that would promote energy efficiency. Three recent Ford Administration actions regarding energy policy illustrate how the White House has made energy efficiency a controversial issue rather than a consensus policy which accurately reflects our national interests.

First, there is the Energy Research and Development Administration's budget. While the White House preaches energy efficiency, it practices atomic socialism. The ERDA budget is overwhelmingly devoted to the nuclear fuel cycle and the breeder reactor program. Last October the congressional Office of Technology Assessment characterized ERDA's energy conservation plans as "timid and underfunded, despite strong congressional encouragement." Just last month ERDA appeared to change its stripes when it announced its new budget with the proclamation that "energy efficiency technologies . . . are now ranked with several supply technologies as being the highest priority for national action."

The fact is that the ERDA budget of $91 million for energy efficiency technologies continues to reflect a priority far below that given to the atomic power "supply technology." The increased spending on energy conservation technologies for fiscal year 1977 looks good only when compared to the token amounts spent in that area in the past. When compared instead with ERDA's spending on atomic power, the ERDA budget for energy efficiency technologies turns out to be less than the cost overruns on its breeder reactor program alone.

Solar energy did not do much better at ERDA this year. The solar budget of $116 million is only 10% of the more than $1 billion atomic fission budget and only 6% of the ERDA's total budget. One of the paradoxes of the ERDA budget is that while ERDA is spending five times as much on the breeder program in fiscal year 1977 as it is on solar energy, its own understated projection of the role of solar technologies by the year 2000 predicts more energy from solar technologies in that year than from the breeder.

ERDA's misplaced priorities can be partly traced to the White House's Office of Management and Budget. Even the atomic-powered ERDA wanted to budget somewhat more funds for energy efficiency technologies and solar technologies than OMB would permit. OMB hacked away so much of the requested funding that John Teem, ERDA's solar energy director, resigned.

The second ilustration of the White House energy efficiency gap was provided by the Ford Administration's testimony on the proposed Energy Conservation Act of 1976, which would encourage energy efficiency improvements where they would have the most effect, in the vast population of existing homes, commercial buildings, and factories. Many existing buildings are literally designed to waste energy. They are overlighted, overheated, overcooled, overventilated, and overexposed to the outdoor environment by poor design and inadequate insulation. If they were automobiles, we would call them "lemons," and there would be massive recalls for correction of defects.

The proposed Energy Conservation Act would do the next best thing. Among other things, it would provide loan guarantees and interest subsidies to make it easier for the owners of these structural lemons to borrow money to invest in energy efficiency improvements. It would also finance state energy conservation programs which would educate consumers on how to save energy and provide energy audits to guide wise investments in energy saving modifications by homeowners, businessmen, and manufacturers.

Surely such modest proposals to guide energy users to improved efficiency would be expected to gain the support of an Administration committed to a Project Independence program.

Yet when hearings were held on the Energy Conservation Act in February, the White House sent a Federal Energy Administration spokesman to tell the Congress that the Energy Conservation Act is "premature," and that any major public policy initiative in the area of energy efficiency "ought to be preceded by sound analysis of consumer and industrial behavior, which could give us some indication of the effectiveness of measures to promote energy conservation."

Just think about that advice for a moment. That's like telling a person who is hemorrhaging from an open wound to sit back and study the problem rather than stifling the bleeding. The truth is, of course, that major public policy initiatives to reduce energy waste are not premature; they are long overdue.

In addition to the footdragging on energy efficiency initiatives represented by its budget priorities and its opposition to the Energy Conservation Act, a third White House policy which illustrates the White House energy efficiency gap is the Ford-Rockefeller proposal for a $100 billion Energy Independence Authority. Although the White House opposes the Energy Conservation Act's encouragement of investments in energy efficiency, it supports the EIA, which would allocate capital to synthetic fuels plants, uranium enrichment, atomic fuel reprocessing, and the federal purchase of atomic power plants for lease to electric utilities. This proposal should be called the "Energy Cartel Subsidy Act," since its basic purpose is to subsidize our domestic energy cartel.

The EIA is the preeminent example of the Ford Administration's general policy of favoring programs which divert scarce capital to energy producers as the primary answer to our energy problems. Although the departing Roger Sant has repeatedly testified and lectured that a barrel of oil saved is as good as a barrel produced, the White House isn't listening.

Many experts are now talking about energy saving investments that can save a barrel of oil equivalency at a cost of only a few dollars rather than the current average price of $11 per barrel of oil in this country. For example, the American Institute of Architects, which will be represented on two panels Friday morning, has calculated that investments in improving the energy efficiency of new and existing buildings sufficient to save 12 million barrels of oil a day by 1990 would be a much more productive use of scarce capital than investments in traditional centralized energy supply systems during the same period. Other experts appearing on panels today and tomorrow have demonstrated many opportunities to save energy through investments that effectively "produce" energy at surprisingly low costs.

White House footdragging on energy efficiency and efforts to allocate vast amounts of scarce capital to energy supply systems may please the energy industry, but such policies are not in the national interest. Investment in uneconomic energy supply options such as atomic power is actually increasing our need for imported oil. This occurs because our energy use is so inefficient that more energy could be saved by investing a given amount of money in needed energy efficiency improvements rather than in atomic power and other expensive energy supply systems. Today the loss in capital efficiency represented by investments in atomic power is being made up by importing more oil. In the future, the Ford Administration's EIA would try to reduce oil imports by investing even more capital in relatively inefficient energy supply systems. That is, inefficient investments would be piled upon inefficient investments.

The preferable alternative is to encourage more capital efficient investments in energy efficiency. Panelists at this conference will be describing many opportunities for cost effective investments in energy efficiency improvements in both existing and new buildings and industrial processes. At Ohio State University, for example, modifications of six campus buildings have cut electricity use by one third and natural gas use by two thirds at a cost which was repaid in less than eight months.

In addition to reducing our need for imported oil, investments in energy efficiency can improve our economy by reducing inflation through improved economic efficiency and, in the opinion of many experts, increase employment because energy efficiency investments tend to create more jobs than energy supply investments.

The persistence of the White House support for policies that would divert capital into less productive energy supply investments in preference to policies that would promote energy efficiency investments is, in short, a policy of less bang for the buck. Such a policy is based on the White House's undue reliance on the energy supply industry for guidance on energy policy. It is time for the White House to hear from experts in the field of energy efficiency, such as the panelists and many members of the audience at this conference. Since ERDA and FEA are presumably knowledgeable in this area, the weak link must be at the White House and its Office of Management and Budget. Therefore, following this conference, I will request a future meeting between representatives of the White House and several of the panelists and other experts attending the conference to familiarize the White House with the reasons why energy efficiency should be a national priority in fact as well as in name.

HOUSE OF REPRESENTATIVES—*Monday, June 7, 1976*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

*Render to all their dues: tribute to whom tribute is due * * * honor to whom honor.*—Romans 13: 7.

Almighty God, our Father, may this be a day of tender recollection as we gather here having heard the word that our beloved Speaker has decided to retire at the end of this year. Before Thee and in the presence of our visitors we would give tribute to him who deserves our tribute and honor to him who merits all the honor we can give him. Always will we remember him with genuine and grateful affection. We think of his nobility of character, his devotion to his party and his country, his generous good will to all, his life as a genuine good man, and his faith in Thy presence in the human heart.

Father, this is a little prayer on behalf of a great man whom we pray will live a long time enjoying the benefits of a life well lived and well spent. "He most lives who thinks most, feels the noblest, acts the best."

Hear us in the spirit of Him who gives life to all, Jesus Christ, our Lord. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Marks, one of his secretaries, who also informed the House that on the following dates the President approved and signed bills of the House of the following titles:

On June 4, 1976:

H.R. 8719. An act to provide for an amendment to the Washington Metropolitan Area Transit Regulation Compact to provide for the protection of the patrons, personnel, and property of the Washington Metropolitan Area Transit Authority;

H.R. 12132. An act to extend as an emergency measure for one year the District of Columbia Medical and Dental Manpower Act of 1970; and

H.R. 12453. An act to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes.

On June 5, 1976:

H.R. 9630. An act to extend the Educational Broadcasting Facilities Program and to provide authority for the support of demonstrations in telecommunications technologies for the distribution of health, education, and public or social service information, and for other purposes.

CONSENT CALENDAR

The SPEAKER. This is Consent Calendar day. The Clerk will call the first bill on the Consent Calendar.

PROVIDING FOR REAPPOINTMENT OF JAMES E. WEBB AS A CITIZEN REGENT OF BOARD OF REGENTS OF SMITHSONIAN INSTITUTION

The Clerk called the joint resolution (H.J. Res. 863) to provide for the reappointment of James E. Webb as a citizen regent of the Board of Regents of the Smithsonian Institution.

There being no objection, the Clerk read the joint resolution as follows:

H.J. RES. 863

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the vacancy in the Board of Regents of the Smithsonian Institution, of the class other than Members of Congress, which will occur by the expiration of the term of James E. Webb, of Washington, District of Columbia, on May 18, 1976, be filled by the reappointment of the present incumbent for the statutory term of six years.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

Mr. SCHULZE. Mr. Speaker, I ask unanimous consent that further reading of the Censent Calendar be dispensed with.

The SPEAKER. The Chair is not clear as to whether the gentleman from Pennsylvania desires to suspend with the second bill, S. 532, or with the third bill on the calendar?

Mr. SCHULZE. Mr. Speaker, I desire to dispense with the continuation of the two remaining bills.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

RETIREMENT OF SPEAKER CARL ALBERT

(Mr. O'NEILL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. O'NEILL. Mr. Speaker, my close personal friend, the distinguished current occupant of the chair as Speaker of the House of Representatives, we all understand that last Saturday you announced that you have made the decision to retire at the end of this session of Congress. May I say your absence will be greatly felt by your many friends in this body.

Few men have served the House with the devotion and ability of CARL ALBERT. He has been, without doubt, one of the great Speakers in the history of this House.

Under Speaker ALBERT's leadership the Congress passed through the gravest constitutional crisis since the Civil War and emerged, not weakened by the ordeal, but greatly strengthened and revitalized.

As the House moved toward the impeachment of President Nixon, a single mistake could have brought disastrous consequences for the Congress and the Nation in its wake. But under Speaker ALBERT there was no mistake. The matter was handled with absolute fairness and integrity, which have characterized all of the Speaker's dealings, and justice, for which the Nation so deeply yearned, was done. The transition was accomplished to the admiration of all of the nations of the world.

The magnificently competent handling of the impeachment crisis by the Speaker by no means stands alone among this man's accomplishments in the House. It was preceded, for example, by the passage of the Budget and Impoundment Control Act. That act, the most far-reaching legislative reform proposal of our generation, restores to the Congress its constitutional prerogative of control over spending priorities.

Following the impeachment crisis, an ordeal which would have left most leaders exhausted of their creative potential, the Congress under the leadership and guidance of the Speaker went on to fashion yet more creative, new legislation. For example, we passed the War Powers Act, a measure designed to restore proper balance between the executive and legislative branches in the conduct of foreign relations.

Without the House the creative energies of this Speaker have also been turned toward reform. While a Speaker cannot by himself create reform, he can do much to channel its direction. It is a tribute to the wisdom of this Speaker that the House is now a far more open and effective body than when he took office 5½ years ago.

Great as they are, Speaker ALBERT's legislative accomplishments are but a small fraction of his contribution to this House. His warmth, his gentleness, his humanity, his steadfast friendship, and his willingness to spend a moment at any time to help a Member with a personal or political problem are but a few of the qualities for which this man will long be loved and remembered. In personal relationships, as well as legislative accomplishments, CARL ALBERT has set the standard by which Speakers of the House will be measured for a hundred years to come.

Speaker ALBERT has stated that he wishes to spend more time with his family and his friends. While we cannot fault him for that, we can assure him that when he leaves the House, he will be deeply missed by the Nation and by the Members of this body who have been privileged to know him as both their leader and their trusted friend.

The door will always be open for Speaker ALBERT, a warm welcome will always await him on the floor of this House or in any office to which he wants to come.

My wife joins me, and all of my staff join me in saying to Speaker ALBERT good luck and Godspeed. May retirement just be the commencement of a happy and fuller life for you and Mary to spend together.

SPEAKER ALBERT HAS PERFORMED HIS DUTIES NOBLY

(Mr. RHODES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RHODES. Mr. Speaker, I take this time to associate myself with the remarks just made by the distinguished majority leader concerning the Speaker's announcement over this weekend. It is not often that a Speaker retires and it is always a solemn occasion when this occurs because of course it signifies the changing of the guard and a new regime to come in on the heels of a regime which we have all come to know and to trust. I have no feelings of fear or trepidation concerning the type of leadership that my colleagues on the other side might choose if they are in the majority. I have my doubts that they will be. But nevertheless if they are I am sure they will choose as wisely as they have in the past.

But, Mr. Speaker, the personal friendship which I have for you and for your fine wife Mary cause me to think that this is the ending of an era not only in your lives and in the history of the House of Representatives but also more intimately in the lives of Betty and me. We treasure your friendship and we always will.

As far as I am concerned the people of this country have much to thank you for. They are thankful for the many years which you spent in the House of Representatives as a distinguished Member from the State of Oklahoma, the years you spent as majority whip, and the years which you spent as majority leader and then as Speaker, the highest office to which any Member of the House can aspire. You have performed your duties nobly. The Speaker of the House is in every way an officer of the House. He has a party function but he also has a broader function which transcends the center aisle, and you, Mr. Speaker, have fulfilled this function as well as any person ever has since I have been privileged to be a Member of this House.

So as you and Mary go into another phase of your lives, I wish you the very best of everything. I assure you of my friendship and my admiration for you, and I wish you Godspeed.

MAJORITY WHIP JOHN J. McFALL SAYS HOUSE IS LOSING A GREAT SPEAKER

(Mr. McFALL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McFALL. Mr. Speaker, it is with mixed emotions that we hear of the retirement of CARL ALBERT at the end of this Congress following 30 years of distinguished service in the House and 6 years as a great Speaker.

It is with sadness we accept the fact that the Speaker will be leaving us.

It is with gladness that we know he will be taking his well-earned retirement in the State of Oklahoma he so loves.

Speaker ALBERT will be recognized as one of the great Speakers in the history of the House and one of the ablest public servants of the 20th century.

The Speaker has met the test of leadership; he has effectively led the House in a turbulent and difficult period. He gets things done—not by fiat or regimentation, but by tireless work, by scrupulous fairness, by painstaking efforts behind the scenes, by reconciliation and compromise in the highest sense of the word. The great records of the Congresses he has led tell his story best.

His leadership has been the driving force behind the great legislative records of the 94th Congress and its predecessors since 1970. During the difficult impeachment hearings of 1974, it was CARL ALBERT's leadership—both firm and fair—which guided the deliberations and reflected universal credit on the Judiciary Committee and the House. With CARL ALBERT as Speaker we enacted such milestone measures as the War Powers Act, the Budget Control Act, the tax reduction, jobs and energy measures of the 94th Congress, which jolted the Nation out of its long and deep recession. More than anyone else in the Nation, Speaker ALBERT deserves the credit for leading the Congress to enactment of this bold economic legislation which has triggered our recovery and given hope and security to millions of Americans.

Son of a coal miner in the poor, red hills country of Oklahoma, Rhodes scholar, distinguished political leader, and great Speaker of the House, CARL ALBERT will be profoundly missed but not forgotten.

TRIBUTE TO SPEAKER ALBERT UPON ANNOUNCEMENT OF HIS RETIREMENT

(Mr. BRADEMAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BRADEMAS. Mr. Speaker, I also want to join in the remarks of the distinguished majority leader, the distinguished minority leader, and the distinguished majority whip and to add my own to the many tributes that I know will be paid to the Speaker on the occasion of the announcement of his retirement as the Speaker of the House of Representatives.

I shall not here speak long, but I should like now only to say that I am grateful for the unfailing personal kindness and graciousness that, Mr. Speaker, you have always extended to me in every situation and to thank you, sir, for the confidence that you have placed in me in the responsibilities you have assigned me.

And I want, Mr. Speaker, to commend you for the three decades of constructive achievement that your service in the House of Representatives represents. Few Members of this body will be able in later years to look back on such outstanding service as CARL ALBERT, of Oklahoma.

I count myself proud, Mr. Speaker, to call myself your friend. I wish to add my own words of warmest good wishes to you and Mrs. Albert in whatever you now undertake to do.

RETIREMENT OF SPEAKER CARL ALBERT

(Mrs. FENWICK asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. FENWICK. Mr. Speaker, my emotions are unmixed in receiving this news. It was a shock and I have a sense of personal loss which I feel very deeply. However, I must say also that I think our country is losing such a fine Representative. We have been fortunate, Mr. Speaker, and I have been proud, that you spoke for our country. I have been proud to see you in many difficult and long negotiations with foreign nations, here and abroad; that you represented us fully and fairly always—both sides of the aisle—rising above any kind of partisanship in speaking for our Nation.

It was a good day when Oklahoma sent you here and you will be greatly missed on both sides of the aisle, Mr. Speaker. Thank you.

RETIREMENT OF SPEAKER CARL ALBERT

(Mr. STEED asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEED. Mr. Speaker, on behalf of myself and my Oklahoma colleagues in the House and for the people of Oklahoma, may I say that we received this announcement of our Speaker's intention to retire with strong mixed emotions. Of course, we were saddened at the loss of the services of our most distinguished citizen, a man who has given great service to the Nation and even greater service to our State; but we were at the same time made happy for his intention to go from this place back to his native State and to become our most distinguished private citizen. We are happy for him, because we know how well he has earned the right to give up these heavy burdens that he now carries and to seek a more full and peaceful private life. We would not want to deny that to him, although we so keenly feel our loss as he leaves us.

Later on I will have a special order so that all Members who feel as I do can join with me in paying tribute in more detail to this great leader.

In the meantime, may I just tell the Speaker that as he goes on retirement and learns a different way of life that he will try to keep in the back of his mind the thought that, "Oh, Tom, I'm just preparing the way for you."

RETIREMENT OF SPEAKER CARL ALBERT

(Mr. WEAVER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WEAVER. Mr. Speaker, I would as a new Member like to confirm, and associate myself with, the remarks of the leadership and your colleagues of long standing. I have been proud to serve in this body under your leadership.

RETIREMENT OF SPEAKER CARL ALBERT

(Mr. FASCELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FASCELL. Mr. Speaker, I want to take a brief moment on the announcement of your retirement to express my feelings of gratitude for your services in this House. Although the leadership on both sides of the aisle and others who have spoken here have adequately expressed the feelings all of us have for you, Mr. Speaker, I could not let this moment pass, even though I will say more on the special order, without publicly expressing my thanks to you for your leadership, for your dedication, for the sacrifices you and your wife and your family have made on behalf of our country.

I also want to thank you personally for your advice and support to me as a Member of Congress in helping me do my best to represent my constituents.

RETIREMENT OF SPEAKER CARL ALBERT

(Mr. SMITH of Iowa asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Iowa. Mr. Speaker, I feel very strongly that all of the accolades that have been given here to the Speaker are very well deserved. I remember when the Speaker first ran for the speakership, he said that he would serve 8 years and then go home to Oklahoma. That would be 2 more years from now.

I believe so strongly in the things that Members on both sides of the aisle have said today that I hope the leadership on both sides of the aisle, led by the majority leader, the gentleman from Massachusetts, will publicly and openly urge the Speaker to run for one more term.

RETIREMENT OF SPEAKER CARL ALBERT

(Mr. CARTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CARTER. Mr. Speaker, I guess our friendship began a few years ago when I heard, through the barber, that you might have a little problem with dandruff, and that my medicine relieved it.

I am thankful for that. I was pleased to be invited to go with you on the trip to Russia, I guess, as a result of that.

That same year, Mr. Speaker, I came across a little poem:

If with pleasure you are viewing
Any work a man is doing
And you like him, or you love him, say it now!
Don't withhold your approbation
Till the person makes oration
And he lies with snowy lilies o'er his brow.
For no matter how you shout it
He won't really care about it
He won't know how many tear drops you have shed.
If you think some praise is due him
Now's the time to hand it to him.

More than fame and more than money
Is the comment, kind and sunny
And the hearty warm approval of a friend;
Oh! it gives to life a savor
And strengthens those who waver
And gives one heart and courage to the end.
If one earns your praise—bestow it!
If you like him—let him know it!
Let the words of pure encouragement be said!

Mr. Speaker, we wish for you in retirement health, happiness, peace, and contentment.

Mr. MORGAN. Mr. Speaker, while not unexpected, the Speaker's announcement over the weekend of his decision to retire is a matter of regret to those of us who had hoped he would choose to serve at least a few years longer.

As one who also is retiring at the end of this session, after 32 years in the House, I think I can understand and sympathize with his decision. For three decades, Carl Albert has devoted his life to public service for this House, for the Nation, and for his constituents. He has well-earned the right to return to family and private life.

Carl Albert is retiring as a man who has made a notable mark in American history—in one of the highest posts in the land, as head of the legislative body which we all love, and as a dedicated servant who upheld the values of this House throughout his career.

To me, Carl has been a friend as well as leader. I came to the House just one term ahead of the gentleman from Oklahoma.

Through the years, we have worked together on many issues of national and international concern. When he became majority leader in 1962, I was chairman of the Foreign Affairs Committee. I frequently relied on him for advice and assistance in obtaining passage of important legislation and in judging the desires of the House on various foreign policy questions.

While he and I did not always see eye to eye on some issues, I always felt these were honest differences. Never could he be accused of placing his personal interest above that which he thought best for this body.

So, in expressing regrets at the Speaker's decision to step down at the end of this year, I also wish to say, with emphasis, "Thank you, Mr. Speaker"—for all you have done for us, and for the Nation, over the years.

Mr. BENNETT. Mr. Speaker, I comment your on your excellent service as Speaker. I express, at the same time, my sorrow that you will be leaving the House and also the good thought that you will henceforth have the joys and contentment that will come to you with the passing from your shoulders of the heavy burdens of your important office. The job has become increasingly difficult; and you have done your job excellently. You and all your family should be proud of your service. The country should be forever grateful for your accomplishments for the national good.

Mr. ROUSH. Mr. Speaker, your announcement of retirement is received with mixed feelings.

Certainly after 30 years of faithful and dedicated service, both to your congressional district and to your country as a servant in the House of Representatives, you deserve the rest and relaxation which retirement will bring. But, you will be missed in the halls of Congress. our leadership has been of the highest order and in keeping with the finest traditions of the House. I personally have the beneficiary of your patience, your counsel, and your wisdom. For this I am grateful. May God bless you.

GENERAL LEAVE

Mr. O'NEILL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my 1-minute speech.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

OUTSTANDING MUSICAL ORGANIZATION VISITS CAPITAL

(Mr. de la GARZA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. de la GARZA. Mr. Speaker, it is with distinct pleasure and great pride that I call the attention of my colleagues to the presence later today of a tour to our Capital of one of the Nation's truly outstanding music organizations—the McAllen Senior High School Chorale from the 15th Congressional District of Texas.

McAllen is widely renowned for the high quality of its school musical program. The McAllen High Chorale, under the direction of Mr. Ed Hawkins, represents this program at it best. The group is in Washington in response of a special invitation to participate in the Bicentennial festival of a nation, performing in competition with other musical organizations from throughout the United States.

The 53 young people have had a busy and joyful weekend. On Saturday they appeared at a mass at St. Matthews Cathedral. On Sunday, they participated in the chapel service at Walter Reed Hospital, and managed to get in their share of sightseeing in the Nation's Capital.

Mr. Speaker, I congratulate the members of the McAllen High Chorale and Mr. Hawkins, their director, on their constant striving for excellence and the gratifying results the effort has brought. I welcome them warmly to Washington and to this House.

DISCHARGE OF COMMITTEE ON INTERIOR AND INSULAR AFFAIRS FROM FURTHER CONSIDERATION OF S. 2081, LAND AND WATER RESOURCE CONSERVATION ACT OF 1976 AND RE-REFERRAL TO COMMITTEE ON AGRICULTURE

Mr. HALEY. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs be discharged from the further consideration of the Senate bill (S. 2081) to provide for furthering the conservation, protection, and enhancement of the Nation's land, water, and related resources for sustained use, and for other purposes, and that the bill be re-referred to the Committee on Agriculture.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

ORPHANS OF THE EXODUS

(Mr. DRINAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DRINAN. Mr. Speaker, all of the nations which signed the Helsinki Final Act, including the Soviet Union, pledged to do everything in their power to reunite families separated by political boundaries.

Because the Soviet Union is not living up to that promise, Members of Congress are conducting a vigil on behalf of these political orphans—the people who remain separated from their families.

A case history of these families entitled "Orphans of the Exodus" dramatically illustrates this tragic problem. At this time I would like to bring to my colleagues' attention the plight of the Malaev family.

Uriel Gabrielovich Malaev of Frunze, U.S.S.R., his wife, and their three small children have been attempting since 1972 to join their parents in their spiritual homeland, Israel. Repeated requests for exit visas have been refused by Soviet authorities without any explanation.

This callous Soviet disregard for basic human rights and the terms of the Helsinki agreement is intolerable. We in the Congress must do all we can to exert pressure on the Soviet Government so that one day the Malaevs, and all the other orphans of the exodus, can be reunited with their families.

CARE CALLED FOR IN SWINE FLU VACCINE TESTING PROGRAM

(Mr. MITCHELL of Maryland asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MITCHELL of Maryland. Mr. Speaker and my colleagues, I take this brief minute to express some concerns that I have about the testing program for the swine flu vaccine. I would hope that the Department of Health, Education, and Welfare and other agencies associated with this testing program would take a look-see at how the volunteer program is working in urban areas. If, indeed, we saturate through the public health clinics in cities to get the volunteers for the testing program, it means that they are going to end up with the impoverished and blacks in cities as volunteers.

I do not think any Member of this House wants to experience that, so I would urge HEW and the appropriate committees of the House to take a look-see at the overall program for recruiting volunteers for the swine flu test vaccine.

I think it becomes all the more important that we do this when we look at the report last week which stated that Parke-Davis Co. mistakenly manufactured approximately 2 million dosages of swine flu vaccine. There is no danger to children, but the fact that this did take place, it seems to me, suggests that we need to look more carefully at how the volunteer program is being executed in our cities.

RECORD OF 25 YEARS OF PERFECT VOTING ATTENDANCE ON LEGISLATION

(Mr. BENNETT asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. BENNETT. Mr. Speaker, June 5, 1976, this past weekend, was an important date to me because it marked the completion of a 25-year record of not missing any legislative vote in Congress. This record, I am told, has never been duplicated in the history of Congress.

Until February 6 of 1974 my record included nonlegislative votes; but on that date I missed a vote to adjourn the House for the evening. Others in Congress having excellent records of not missing any votes at all since they entered Congress; and I pay great credit to them. However, since I have made a point of trying not to miss any votes, I know my friends join me in celebration of the fact that as of June 5 I have established a new record in Congress of not missing for 25 years any legislative vote in Congress. I am deeply indebted to an understanding wife and family; and to continued excellent health.

SOVIET UNION NOT LIVING UP TO HELSINKI FINAL ACT

(Mr. FISH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FISH. Mr. Speaker, all of the nations which signed the Helsinki Final Act, including the Soviet Union, pledged to do everything possible to reunite families separated by national boundaries.

Because the Soviet Union is not living up to that promise, Members of Congress are conducting a vigil on behalf of the families which remain separated.

A case history of these families entitled "Orphans of the Exdous" dramatically details this tragic problem. At this time I would like to bring to the Members' attention the situation of the Khaimchayev family.

Issak Khaimchayev is a scientist who first applied for an exit visa from the Soviet Union in 1973. Issak was fired from his job in a research institute immediately after applying for his exit visa. Now he is forced to support his family by doing menial labor.

The sad part of this case is that Issak's father, Shmuel Khaimchayev, who lives in Israel is suffering from a heart condition. On August 1975, he was hospitalized with a myocardial infection. A medical certificate from the Ichilov Hospital, Tel-Aviv, internal medicine department stated:

> This general condition is deteriorating and we advise that his son be allowed to visit as soon as possible.

Shmuel Khaimchayev has written many times to Soviet officials pleading with them to show just a small sign of compassion. He stated in one letter:

> I beg you, hear my plea, the cry of my soul. I am weak and old and I wish to spend at least the last days of my life with my son. My life is slowly being extinguished. I suffer too much.

I rise to demonstrate my support and that of my colleagues to the cause of Soviet Jewry, not only to end the suffering of Shmuel Khaimchayev, but also of his son, and the thousands of other Soviet Jews who wish to be reunited with their loved ones.

PROVIDING FOR APPOINTMENT OF JAMES E. WEBB AS A CITIZEN REGENT OF BOARD OF REGENTS OF SMITHSONIAN INSTITUTION

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent that the Committee on House Administration be discharged from further consideration of the Senate joint resolution (S.J. Res. 168) to provide for the reappointment of James E. Webb as a citizen regent of the Board of Regents of the Smithsonian Institution, a Senate joint resolution similar to the House joint resolution (H.J. Res. 863) which earlier passed the House on the Consent Calendar, and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 168

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the vacancy in the Board of Regents of the Smithsonian Institution, of the class other than Members of Congress, which will occur by the expiration of the term of James E. Webb, of Washington, District of Columbia, on May 18, 1976, be filled by the reappointment of the present incumbent for the statutory term of six years.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House joint resolution (H.J. Res. 863) was laid on the table.

RELATING TO PUBLICATION OF ECONOMIC AND SOCIAL STATISTICS FOR AMERICANS OF SPANISH ORIGIN OR DESCENT

Mrs. SCHROEDER. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the joint resolution (H.J. Res. 92) relating to the publication of economic and social statistics for Americans of Spanish origin or descent, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the joint resolution.

The Clerk read the Senate amendment, as follows:

> Page 2, strike out the first five unnumbered lines and insert:
>
> "Whereas improved evaluation of the economic and social status of Americans of Spanish origin or descent will assist State and Federal Governments and private organizations in the accurate determination of the urgent and special needs of Americans of Spanish origin or descent; and"

The SPEAKER. Is there objection to the request of the gentlewoman from Colorado?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, will the gentlewoman explain whether it is the bill that passed the House, and the only change is the Senate language in the first paragraph?

Mrs. SCHROEDER. That is correct.

Mr. ROUSSELOT. Further reserving the right to object, there are no other changes?

Mrs. SCHROEDER. There are no other changes.

Mr. ROUSSELOT. And this bill passed very substantially in the House?

Mrs. SCHROEDER. I think it was a landslide.

Mr. Speaker, the Senate amendment clarifies the wording of the fourth "whereas" clause of the resolution.

It will correct any possible impression that no information on the social and economic characteristics of the population of Spanish origin is currently maintained on a nationwide basis.

The amendment merely changes certain words of the "whereas" clause but, at the same time, retains the full force of the original language by emphasizing need to improve the extent and quality of economic and social data pertaining to Americans of Spanish origin or descent.

Mr. Speaker, this is a most important piece of legislation and I am gratified that the Senate has seen fit to pass House Joint Resolution 92 in essentially the same form as it passed the House last year. Its primary purpose is to develop methods to improve and expand the social and economic statistics concerning Americans of Spanish origin or descent, thereby helping to correct problems which result in inequitable allocation of governmental funds and political representation. Most specifically, the bill will be a great help in reducing census undercounts for Spanish-origin Americans by requiring the use of Spanish language questionnaires and the increased hiring of bilingual enumerators.

The basic need for this legislation was illustrated by the inadequacy of the 1970 decennial census in regard to the accurate counting of Americans of Spanish origin or descent. Indeed, it has been estimated that areas with high concentrations of Spanish origin Americans, such as cities like Denver, Colorado, which I represent, would increase their "official population" by some 2 to 3 percent if all our Spanish-origin citizens were accurately counted.

Failure to fully count these Americans literally costs cities like Denver millions of dollars in Government aid over the course of a decade.

Spanish origin Americans have enough trouble in this country—it is time that we at least started counting them accurately and I believe that enactment into law of this bill will be a great help toward this goal.

Mr. ROUSSELOT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentlewoman from Colorado?

There was no objection.

NATIONAL HEALTH PROMOTION AND DISEASE PREVENTION ACT OF 1976

Mr. ROGERS. Mr. Speaker, I ask unanimous consent to take from the

Speaker's desk the Senate bill (S. 1466) to amend the Public Health Service Act to extend and revise the program of assistance for the control and prevention of communicable diseases, and to provide for the establishment of the Office of Consumer Health Education and Promotion and the Center for Health Education and Promotion to advance the national health, to reduce preventable illness, disability, and death; to moderate self-imposed risks; to promote progress and scholarship in consumer health education and promotion and school health education; and for other purposes, with a Senate amendment to the House amendments thereto, and concur in the Senate amendment to the House amendments.

The Clerk read the title of the Senate bill.

The Clerk read the Senate amendment to the House amendments, as follows:

In lieu of the matter proposed to be inserted by the House engrossed amendment to the text of the bill, insert:

TITLE I—HEALTH INFORMATION AND HEALTH PROMOTION

SHORT TITLE

SEC. 101. This title may be cited as the "National Consumer Health Information and Health Promotion Act of 1976".

AMENDMENT TO PUBLIC HEALTH SERVICE ACT

SEC. 102. The Public Health Service Act is amended by adding at the end thereof the following new title:

"TITLE XVII—HEALTH INFORMATION AND HEALTH PROMOTION

"GENERAL AUTHORITY

"SEC. 1701. (a) The Secretary shall—

"(1) formulate national goals, and a strategy to achieve such goals, with respect to health information and health promotion, preventive health services, and education in the appropriate use of health care;

"(2) analyze the necessary and available resources for implementing the goals and strategy formulated pursuant to paragraph (1), and recommend appropriate educational and quality assurance policies for the needed manpower resources identified by such analysis;

"(3) undertake and support necessary activities and programs to—

"(A) incorporate appropriate health education components into our society, especially into all aspects of education and health care,

"(B) increase that application and use of health knowledge, skills, and practices by the general population in its patterns of daily living, and

"(C) establish systematic processes for the exploration, development, demonstration, and evaluation of innovative health promotion concepts;

"(4) undertake and support research and demonstrations respecting health information and health promotion, preventive health services, and education in the appropriate use of health care;

"(5) undertake and support appropriate training in, and undertake and support appropriate training in the operation of programs concerned with, health information and health promotion, preventive health services, and education in the appropriate use of health care;

"(6) undertake and support, through improved planning and implementation of tested models and evaluation of results, effective and efficient programs respecting health information and health promotion, preventive health services, and education in the appropriate use of health care;

"(7) foster the exchange of information respecting, and foster cooperation in the conduct of, research, demonstration, and training programs respecting health information and health promotion, preventive health services, and education in the appropriate use of health care;

"(8) provide technical assistance in the programs referred to in paragraph (7); and

"(9) use such other authorities for programs respecting health information and health promotion, preventive health services, and education in the appropriate use of health care as are available and coordinate such use with programs conducted under this title.

The Secretary shall administer this title in a manner consistent with the national health priorities set forth in section 1502 and with health planning and resource development activities undertaken under titles XV and XVI.

"(b) For payments under grants and contracts under this title there are authorized to be appropriated $7,000,000 for the fiscal year ending September 30, 1977, $10,000,000 for the fiscal year ending September 30, 1978, and $14,000,000 for the fiscal year ending September 30, 1979.

"(c) No grant may be made or contract entered into under this title unless an application therefor has been submitted to and approved by the Secretary. Such an application shall be submitted in such form and manner and contain such information as the Secretary may prescribe. Contracts may be entered into under this title without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5).

"RESEARCH PROGRAMS

"SEC. 1702. (a) The Secretary is authorized to conduct and support by grant or contract (and encourage others to support) research in health information and health promotion, preventive health services, and education in the appropriate use of health care. Applications for grants and contracts under this section shall be subject to appropriate peer review. The Secretary shall also—

"(1) provide consultation and technical assistance to persons who need help in preparing research proposals or in actually conducting research;

"(2) determine the best methods of disseminating information concerning personal health behavior, preventive health services and the appropriate use of health care and of affecting behavior so that such information is applied to maintain and improve health, and prevent disease, reduce its risk, or modify its course of severity;

"(3) determine and study environmental, occupational, social, and behavioral factors which affect and determine health and ascertain those programs and areas for which educational and preventive measures could be implemented to improve health as it is affected by such factors;

"(4) develop (A) methods by which the cost and effectiveness of activities respecting health information and health promotion, preventive health services, and education in the appropriate use of health care, can be measured, including methods for evaluating the effectiveness of various settings for such activities and the various types of persons engaged in such activities, (B) methods for reimbursement or payment for such activities, and (C) models and standards for the conduct of such activities, including models and standards for the education, by providers of institutional health services, of individuals receiving such services respecting the nature of the institutional health services provided the individuals and the symptoms, signs, or diagnoses which led to provision of such services;

"(5) develop a method for assessing the costs and effectiveness of specific medical services and procedures under various conditions of use, including the assessment of the sensitivity and specificity of screening and diagnostic procedures; and

"(6) enumerate and assess, using methods developed under paragraph (5), preventive health measures and services with respect to their cost and effectiveness under various conditions of use.

"(b) the Secretary shall make a periodic survey of the needs, interest, attitudes, knowledge, and behavior of the American public regarding health and health care. The Secretary shall take into consideration the findings of such surveys and the findings of similar surveys conducted by national and community health educational organizations, and other organizations and agencies for formulating policy respecting health information and health promotion, preventive health services, and education in the appropriate use of health care.

"COMMUNITY PROGRAMS

"SEC. 1703. (a) The Secretary is authorized to conduct and support by grant or contract (and encourage others to support) new and innovative programs in health information and health promotion, preventive health services, and education in the appropriate use of health care, and may specifically—

"(1) support demonstration and training programs in such matters which programs (A) are in hospitals, ambulatory care settings, home care settings, schools, day care programs for children, and other appropriate settings representative of broad cross sections of the population, and include public education activities of voluntary health agencies, professional medical societies, and other private nonprofit health organizations, (B) focus on objectives that are measurable, and (C) emphasize the prevention or moderation of illness or accidents that appear controllable through individual knowledge and behavior.

"(2) provides consultation and technical assistance to organizations that request help in planning, operating, or evaluating programs in such matters;

"(3) develop health information and health promotion materials and teaching programs including (A) model curriculums for the training of educational and health professionals and paraprofessionals in health education by medical, dental, and nursing schools, schools of public health, and other institutions engaged in training of educational or health professionals, (B) model curriculums to be used in elementary and secondary schools and institutions of higher learning, (C) materials and programs for the continuing education of health professionals and paraprofessionals in the health education of their patients, (D) materials for public service use by the printed and broadcast media, and (E) materials and programs to assist providers of health care in providing health education to their patients; and

"(4) support demonstration and evaluation programs for individual and group self-help programs designed to assist the participant in using his individual capacities to deal with health problems, including programs concerned with obesity, hypertension, and diabetes.

"(b) The Secretary is authorized to make grants to States and other public and nonprofit private entities to assist them in meeting the costs of demonstrating and evaluating programs which provide information respecting the costs and quality of health care or information respecting health insurance policies and prepaid health plans, or information respecting both. After the development of models pursuant to sections 1704(4) and 1704(5) for such information, no grant may be made under this subsection for a program unless the information to be provided under the program is provided in accordance with one of such models applicable to the information.

"(c) The Secretary is authorized to support by grant or contract (and to encourage others to support) private nonprofit entities working in health information and health promotion, preventive health services, and education in the appropriate use of health care. This amount of any grant or contract for a fiscal year beginning after September 30, 1978, for an entity may not exceed 25 per centum of the expenses of the entity for such fiscal year for health information and health promotion, preventive health services, and education in the appropriate use of health care.

"INFORMATION PROGRAMS

"SEC. 1704. The Secretary is authorized to conduct and support by grant or contract (and encourage others to support) such activities as may be required to make information respecting health information and health promotion, preventive health services, and education in the appropriate use of health care available to the consumers of medical care, providers of such care, schools, and others who are or should be informed respecting such matters. Such acivities may include at least the following:

"(1) The publication of information, pamphlets, and other reports which are specifically suited to interest and instruct the health consumer, when information, pamphlets, and other reports shall be updated annually, shall pertain to the individual's ability to improve and safeguard his own health, shall include material, accompanied by suitable illustrations, on child care, family life and human development, disease prevention, particularly prevention of pulmonary disease, cardiovascular disease, and cancer, physical fitness, dental health, environmental health, nutrition, safety and accident prevention, drug abuse and alcoholism, mental health, management of chronic diseases (including diabetes and arthritis), and venereal diseases; and shall be designed to reach populations of different languages and of different social and economic backgrounds.

"(2) Security the cooperation of the communications media, providers of health care, schools, and others in activities designed to promote and encourage the use of health maintaining information and behavior.

"(3) The study of health information and promotion in advertising and the making to concerned Federal agencies and others such recommendations respecting such advertising as are appropriate.

"(4) The development of models and standards for the publication by States, insurance carriers, prepaid health plans, and others (except individual health practitioners) of information for use by the public respecting the cost and quality of health care, including information to enable the public to make comparisons of the cost and quality of health care.

"(5) The development of models and standards for the publication by States, insurance carriers, prepaid health plans, and others of information for use by the public respecting health insurance policies and prepaid health plans, including information on the benefits provided by the various types of such policies and plans, the premium charges for such policies and plans, exclusions from coverage or eligibility for coverage, cost sharing requirements, and the ratio of the amounts paid as benefits to the amounts received as premiums and information to enable the public to make relevant comparisons of the costs and benefits of such policies and plans.

"(6) Assess, with respect to the effectiveness, safety, cost, and required training for and condition of use, of new aspects of health care, and new activities, programs, and services designed to improve human health and publish in readily understandable language for public and professional use such assessments and, in the case of controversial aspects of health care, activities, programs, or services, publish differing views or opinions respecting the effectiveness, safety, cost, and required training for and conditions of use, of such aspects of health care, activities, programs, or services.

"REPORT AND STUDY

"SEC. 1705. (a) The Secretary shall, not later than two years after the date of the enactment of this title and annually thereafter, submit to the President for transmittal to Congress a report on the status of health information and health promotion, preventive health services, and education in the appropriate use of health care. Each such report shall include—

"(1) a statement of the activities carried out under this title since the last report and the extent to which each such activity achieves the purposes of this title;

"(2) an assessment of the manpower resources needed to carry out programs relating to health information and health promotion, preventive health services, and education in the appropriate use of health care, and a statement describing the activities currently being carried out under this title designed to prepare teachers and other manpower for such programs.

"(3) the goals and strategy formulated pursuant to section 1701(a)(1), the models and standards developed under this title, and the results of the study required by subsection (b) of this section; and

"(4) such recommendations as the Secretary considers appropriate for legislation respecting health information and health promotion, preventive health services, and education in the appropriate use of health care, including recommendations for revisions to and extension of this title.

"(b) The Secretary shall conduct a study of health education services and preventive health services to determine the coverage of such services under public and private health insurance programs, including the extent and nature of such coverage and the cost sharing requirements required by such programs for coverage of such services.

"OFFICE OF HEALTH INFORMATION AND HEALTH PROMOTION

"SEC. 1706. The Secretary shall establish within the Office of the Assistant Secretary for Health, an Office of Health Information and Health Promotion which shall—

(1) coordinate all activities within the Department which relate to health information and health promotion, preventive health services, and education in the appropriate use of health care;

(2) coordinate its activities with similar activities of organizations in the private sector; and

(3) establish a national information clearinghouse to facilitate the exchange of information concerning matters relating to health information and health promotion, preventive health services, and education in the appropriate use of health care, to facilitate access to such information, and to assist in the analysis of issues and problems relating to such matter.".

TITLE II—DISEASE CONTROL

SHORT TITLE

SEC. 201. This title may be cited as the "Disease Control Amendments of 1976".

AMENDMENTS TO SECTIONS 311 AND 317

SEC. 202. (a) Effective with respect to grants under section 317 of the Public Health Service Act made from appropriations under such section for fiscal years beginning after June 30, 1975, section 317 of such Act is amended to read as follows:

"DISEASE CONTROL PROGRAMS

"SEC. 317. (a) The Secretary may make grants to States and, in consultation with State health authorities, to public entities to assist them in meeting the costs of disease control programs.

"(b)(1) No grant may be made under subsection (a) unless an application therefor has been submitted to, and approved by, the Secretary. Such application shall be in such form, be submitted in such manner, and contain such information as the Secretary shall by regulation prescribe and shall meet the requirements of paragraph (2).

"(2) An application for a grant under subsection (a) shall—

"(A) set forth with particularity the objectives (and their priorities, as determined in accordance with such regulations as the Secretary may prescribe) of the applicant for each of the disease control programs it proposes to conduct with assistance from a grant under subsection (a);

"(B) contain assurances satisfactory to the Secretary that, in the year during which the grant applied for would be available, the applicant will conduct such programs as may be necessary (i) to develop an awareness in those persons in the area served by the applicant who are most susceptible to the diseases or conditions referred to in subsection (f) of appropriate preventive behavior and measures (including immunizations) and diagnostic procedures for such diseases, and (ii) to facilitate their access to such measures and procedures; and

"(C) provide for the reporting to the Secretary of such information as he may require concerning (i) the problems, in the area served by the applicant, which relate to any disease or condition referred to in subsection (f), and (ii) the disease control programs of the applicant for which a grant is applied for.

In considering such an application the Secretary shall take into account the relative extent, in the area served by the applicant, of the problems which relate to one or more of the diseases or conditions referred to in subsection (f) and the extent to which the applicant's programs are designed to eliminate or reduce such problems. The Secretary shall give special consideration to applications for programs which (A) will increase to at least 80 per centum the immunization rates of any population identified as not having received, or as having failed to secure, the generally recognized disease immunizations, and (B) to the fullest extent practicable, will cooperate and use public and nonprofit private entities and volunteers. The Secretary shall give priority to applications submitted for disease control programs for communicable diseases.

"(c)(1) Each grant under subsection (a) shall be made for disease control program costs in the one-year period beginning on the first day of the first month beginning after the month in which the grant is made.

"(2) Payments under grants under subsection (a) may be made in advance on the basis of estimates or by way of reimbursements, with necessary adjustments on account of underpayments or overpayments, and in such installments and on such terms and conditions as the Secretary finds necessary to carry out the purposes of this section.

"(3) The Secretary, at the request of a recipient of a grant under subsection (a), may reduce the amount of such grant by—

"(A) the fair market value of any supplies (including vaccines and other prevention agents) or equipment furnished the grant recipient, and

"(B) the amount of the pay, allowances, and travel expenses of any officer or employee of the Government when detailed to the recipient and the amount of any other costs incurred in connection with the detail of such officer or employee,

when the furnishing of such supplies or equipment or the detail of such an officer or employee is for the convenience of and at the request of such recipient and for the purpose of carrying out a program with respect to which the recipient's grant under subsection (a) is made. The amount by which any such grant is so reduced shall be available for payment by the Secretary of the costs incurred in furnishing the supplies or equipment, or in detailing the personnel, on which the reduction of such grant is based, and such amount shall be deemed as part of the grant and shall be deemed to have been paid to the recipient.

"(d)(1) The Secretary may conduct, and may make grants to and enter in contracts with public and nonprofit private entities for the conduct of—

"(A) training for the administration and operation of disease prevention and control programs, and

"(B) demonstrations and evaluations of such programs.

"(2) No grant may be made or contract entered into under paragraph (1) unless an application therefor is submitted to and approved by the Secretary. Such application shall be in such form, be submitted in such manner, and contain such information, as the Secretary shall by regulation prescribe.

"(e) The Secretary shall coordinate activities under this section respecting disease control programs with activities under other sections of this Act respecting such programs.

"(f) For purposes of this section, the term 'disease control program' means a program which is designed and conducted so as to contribute to national protection against diseases or conditions of national significance which are amenable to reductions, including tuberculosis, rubella, measles, poliomyelitis, diphtheria, tetanus, pertussis, mumps, and other communicable diseases (other than venereal diseases), and arthritis, diabetes, diseases borne by rodents, hypertension, pulmonary diseases, cardiovascular diseases, and Rh disease. Such term also includes vaccination programs, laboratory services, studies to determine the disease control needs of the States and the means of best meeting such needs, the provision of information and education services respecting disease control, and programs to encourage behavior which will prevent disease and encourage the use of preventive measures and diagnostic procedures. Such term also includes any program or project for rodent control for which a grant was made under section 314(e) for the fiscal year ending June 30, 1975.

"(g)(1)(A) For the purpose of grants under subsection (a) for disease control programs to immunize children against immunizable diseases (including measles, rubella, poliomyelitis, diphtheria, pertussis, tetanus, and mumps), there are authorized to be appropriated $9,000,000 for fiscal year 1976, $17,500,000 for fiscal year 1977, and $23,000,000 for fiscal year 1978.

"(B) For the purpose of grants under subsection (a) for disease control programs for diseases borne by rodents there are authorized to be appropriated $13,500,000 for fiscal year 1976, $14,000,000 for fiscal year 1977, and $14,500,000 for fiscal year 1978.

"(C) For the purpose of grants under subsection (a) for disease control programs, other than programs for which appropriations are authorized under subparagraph (A) or (B), and for the purpose of grants and contracts under subsection (d), there are authorized to be appropriated $4,000,000 for fiscal year 1976, $4,500,000 for fiscal year 1977, and $5,000,000 for fiscal year 1978.

"(D) Not to exceed 15 per centum of the amount appropriated for any fiscal year under any of the preceding subparagraphs of this paragraph may be used by the Secretary for grants and contracts for such fiscal year for programs for which appropriations are authorized under any one or more of the other subparagraphs of this paragraph if the Secretary determines that such use will better carry out the purpose of this section, and reports to the appropriate committees of Congress at least thirty days before making such use of such amount his determination and the reasons therefor.

"(2) Except as provided in section 318, no funds appropriated under any provision of this Act other than paragraph (1) of this subsection may be used to make grants in any fiscal year for disease control programs if (A) grants for such programs are authorized by subsection (a), and (B) all the funds authorized to be appropriated under this subsection for that fiscal year have not been appropriated for that fiscal year and obligated in that fiscal year.

"(h) The Secretary shall submit to the President for submission to the Congress on January 1 of each year (1) a report (A) on the effectiveness of all Federal and other public and private activities in controlling the diseases and conditions referred to in subsection (f), (B) on the extent of the problems presented by such diseases, (C) on the effectiveness of the activities, assisted under grants and contracts under this section, in controlling such diseases, and (D) setting forth a plan for the coming year for the control of such diseases; and (2) a report (A) on the immune status of the population of the United States, and (B) identify, by area, population group, and other categories, deficiencies in the immune status of such population.

"(i)(1) Nothing in this section shall limit or otherwise restrict the use of funds which are granted to a State or to an agency or a political subdivision of a State under provisions of Federal law (other than this Act) and which are available for the conduct of disease control programs from being used in connection with programs assisted through grants under subsection (a).

"(2) Nothing in this section shall be construed to require any State or any agency or political subdivision of a State to have a disease control program which would require any person, who objects to any treatment provided under such a program, to be treated or to have any child or ward treated under such a program.".

(b) Section 311(c) of the Public Health Service Act is amended to read as follows:

"(c)(1) The Secretary is authorized to develop (and may take such action as may be necessary to implement) a plan under which personnel, equipment, medical supplies, and other resources of the Service and other agencies under the jurisdiction of the Secretary may be effectively used to control epidemics of any disease or condition referred to in section 317(f) and to meet other health emergencies or problems involving or resulting from disasters or any such disease. The Secretary may enter into agreements providing for the cooperative planning between the Service and public and private community health programs and agencies to cope with health problems (including epidemics and health emergencies) resulting from disasters or any disease or condition referred to in section 317(f).

"(2) The Secretary may, at the request of the appropriate State or local authority, extend temporary (not in excess of forty-five days) assistance to States or localities in meeting health emergencies of such a nature as to warrant Federal assistance. The Secretary may require such reimbursement of the United States for assistance provided under this paragraph as he may determine to be reasonable under the circumstances. Any reimbursement so paid shall be credited to the applicable appropriation for the Service for the year in which such reimbursement is received.".

(c) Section 311(b) of such Act is amended by inserting at the end thereof the following new sentence: "The Secretary may charge only private entities reasonable fees for the training of their personnel under the preceding sentence.".

AMENDMENTS RESPECTING VENEREAL DISEASES

Sec. 203. (a) The Congress finds and declares that—

(1) the number of reported cases of venereal disease continues in epidemic proportions in the United States;

(2) the number of patients with venereal disease reported to public health authorities is only a fraction of those actually infected;

(3) the incidence of venereal disease is particularly high in the 15–29-year age group, and in metropolitan areas;

(4) venereal disease accounts for needless deaths and leads to such severe disabilities as sterility, insanity, blindness, and crippling conditions;

(5) the number of cases of congential syphilis, a preventable disease, tends to parallel the incidence of syphilis in adults;

(6) it is conservatively estimated that the public cost of care for persons suffering the complications of venereal disease exceed $80,000,000 annually;

(7) medical researchers have no successful vaccine for syphilis or gonorrhea, and have no blood test for the detection of gonorrhea among the large reservoir of asymptomatic females;

(8) school health education programs, public information and awareness campaigns, mass diagnostic screening and case followup activities have all been found to be effective disease intervention methodologies;

(9) knowledgeable health providers and concerned individuals and groups are fundamental to venereal disease prevention and control;

(10) biomedical research leading to the development of vaccines for syphilis and gonorrhea is of singular importance for the eventual eradication of these dreaded diseases; and

(11) a variety of other sexually transmitted diseases, in addition to syphilis and gonorrhea, have become of public health significance.

(b)(1) Section 318(b)(2) of the Public Health Service Act is amended to read as follows:

"(2) For the purpose of carrying out this subsection, there are authorized to be appropriated $5,000,000 for fiscal year 1976, $6,600,000 for fiscal year 1977, and $7,600,000 for fiscal year 1978.

(2) Subsection (d)(2) of such section is amended to read as follows:

"(2) For the purpose of carrying out this section, there is authorized to be appropriated $32,000,000 for fiscal year 1976, $41,500,000 for fiscal year 1977, and $43,500,000 for fiscal year 1978.".

(c) Subsection (a) of such section is amended by striking out "public authorities and" inserting in lieu thereof "public and nonprofit private entities and to".

(d) Subsection (d)(1)(B) of such section is amended by inserting before the semicolon at the end the following: "and routine testing, including laboratory tests and followup systems".

(e) Subsection (d)(1)(E) of such section is amended by striking out "control" and inserting in lieu thereof "prevention and control strategies and activities".

(f)(1) Subsection (c) is repealed.

(2) Subsection (c)(1) of such section is amended by striking out "or (d)" and inserting in lieu thereof "or (c)".

(3) Subsection (e)(2)(C) of such section is amended by striking out "(including darkfield microscope techniques for the diagnosis of both gonorrhea and syphilis)".

(4) The last sentence of subsection (e)(4) of such section is amended by striking out the semicolon and all that follows through "paid to such recipient".

(5) The first sentence of subsection (e)(5) of such section is amended by inserting before the period the following: "or as may

be required by a law of a State or political subdivision of a State".

(6) Subsection (g) of such section is amended by striking out ", (c), and (d)" and inserting in lieu thereof "and (c)".

(7) Subsection (h) of such section is amended by striking out "treated or to have any child or ward of his".

(8) Subsections (d), (e), (f), (g), and (h) of such section are redesignated as subsections (c), (d), (e), (f), and (g), respectively.

(g) Subsection (e) of such section (as so redesignated) is amended by striking out "317(d)(4)" and inserting in lieu thereof "317(g)(2)".

(h) Such section is amended by adding at the end thereof the following new subsection:

"(h) For purposes of this section and section 317, the term 'venereal disease' means gonorrhea, syphilis, or any other disease which can be sexually transmitted and which the Secretary determines is or may be amenable to control with assistance provided under this section and is of national significance.".

(i) Section 318(b)(1) is amended by inserting "education," before "and training".

EXTENSION AND REVISION OF LEAD-BASED PAINT POISONING PREVENTION ACT

SEC. 204. (a)(1) Section 101(c) of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4801(c)) is amended by inserting after and below paragraph (4) the following:

"Follow-up programs described in paragraph (3) shall include programs to eliminate lead-based paint hazards from surfaces in and around residential dwelling units or houses, including programs to provide for such purpose financial assistance to the owners of such units or houses who are financially unable to eliminate such hazards from their units or houses. In administering programs for the elimination of such hazards, priority shall be given to the elimination of such hazards in residential dwelling units or houses in which reside children with diagnosed lead-based paint poisoning.".

(2)(A) Section 101(c) of such Act is amended by striking out "should include" and inserting in lieu thereof "shall include".

(B) Section 101(f) of such Act is amended by (i) striking out "and (B)" and inserting in lieu thereof "(B)", and (ii) by inserting before the period at the end the following ", and (C) the services to be provided will be provided under local programs which meet the requirements of subsections (c) and (d) of this section".

(b) Section 401 of such Act (42 U.S.C. 4831) is amended to read as follows:

"PROHIBITION AGAINST USE OF LEAD-BASED PAINT IN CONSTRUCTION OF FACILITIES AND THE MANUFACTURE OF CERTAIN TOYS AND UTENSILS

"SEC. 401. (a) The Secretary of Health, Education, and Welfare shall take such steps and impose such conditions as may be necessary or appropriate to prohibit the application of lead-based paint to any cooking utensil, drinking utensil, or eating utensil manufactured and distributed after the date of enactment of this Act.

"(b) The Secretary of Housing and Urban Development shall take such steps and impose such conditions as may be necessary or appropriate to prohibit the use of lead-based paint in residential structures constructed or rehabilitated by the Federal Government, or with Federal assistance in any form after the date of enactment of this Act.

"(c) The Consumer Product Safety Commission shall take such steps and impose such conditions as may be necessary or appropriate to prohibit the application of lead-based paint to any toy or furniture article.".

(c)(1) Section 501(3) of such Act (42 U.S.C. 4841(3)) is amended to read as follows:

"(3)(A) Except as provided in subparagraph (B), the term 'lead-based paint' means any paint containing more than five-tenths of 1 per centum lead by weight (calculated as lead metal) in the total nonvolatile content of the paint, or the equivalent measure of lead in the dried film of paint already applied, or both.

"(B)(i) The Consumer Product Safety Commission shall, during the six-month period beginning on the date of the enactment of the National Health Promotion and Disease Prevention Act of 1976, determine, on the basis of available data and information and after providing opportunity for an oral hearing and considering recommendations of the Secretary of Health, Education, and Welfare (including those of the Center for Disease Control) and of the National Academy of Sciences, whether or not a level of lead in paint which is greater than six one-hundredths of 1 per centum but not in excess of five-tenths of 1 per centum is safe. If the Commission determines, in accordance with the preceding sentence, that another level of lead is safe, the term 'lead-based paint' means, with respect to paint which is manufactured after the expiration of the six-month period beginning on the date of the Commission's determination, paint containing by weight (calculated as lead metal) in the total nonvolatile content of the paint more than the level of lead determined by the Commission to be safe or the equivalent measure of lead in the dried film of paint already applied, or both.

"(ii) Unless the definition of the term 'lead-based paint' has been established by a determination of the Consumer Product Safety Commission pursuant to clause (i) of this subparagraph, the term 'lead-based paint' means, with respect to paint which is manufactured after the expiration of the twelve-month period beginning on such date of enactment, paint containing more than six one-hundredths of 1 per centum lead by weight (calculated as lead metal) in the total nonvolatile content of the paint, or the equivalent measure of lead in the dried film of paint already applied, or both.".

(2) Section 501 of such Act is amended (1) by striking out "the term" in paragraphs (1) and (2) and inserting in lieu thereof "The term", (2) by striking out the semicolon at the end of paragraph (1) and inserting in lieu thereof a period, and (3) by striking out "; and" at the end of paragraph (2) and inserting in lieu thereof a period.

(d) Section 502 of such Act (42 U.S.C. 4842) is amended by striking out "In carrying out the authority under this Act, the Secretary of Health, Education, and Welfare shall" and inserting in lieu thereof "In carrying out their respective authorities under this Act, the Secretary of Housing and Urban Development and the Secretary of Health, Education, and Welfare shall each".

(e)(1) Section 503 of such Act (42 U.S.C. 4843) is amended by striking out subsections (a), (b), and (c) and inserting in lieu thereof the following:

"(a) There are authorized to be appropriated to carry out this Act $10,000,000 for the fiscal year 1976, $12,000,000 for the fiscal year 1977, and $14,000,000 for the fiscal year 1978."

(2) Subsection (d) of such section is redesignated as subsection (b).

TITLE III—MISCELLANEOUS AMENDMENT

SEC. 31. (a) Section 2(f) of the Public Health Service Act is amended to read as follows:

"(f) Except as provided in sections 314(g)(4)(B), 355(5), 361(d), 1002(c), 1201(2), 1401(13), 1531(1), and 1633(1), the term 'State' includes, in addition to the several States, only the District of Columbia, Guam, the Commonwealth of Puerto Rico, and the Virgin Islands.".

(b)(1) Section 361(d) is amended by adding at the end thereof the following: "For purposes of this subsection, the term 'State' includes, in addition to the several States, only the District of Columbia.".

(2) Section 1401 is amended by adding after paragraph (12) the following new paragraph:

"(13) The term 'State' includes, in addition to the several States, only the District of Columbia, Guam, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands.".

Mr. ROGERS (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment to the House amendments be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, is this the bill that set up the new independent unit at HEW, to provide planning, health information and general promotion?

Mr. ROGERS. No. This is a revised version of that legislation.

Mr. Speaker, the legislation before us now represents a compromise between the Senate and House versions of similar legislation dealing with programs of health information and promotion and disease prevention and control.

This legislation originally passed the Senate on July 30, 1975, and the House on April 7, 1976. Until after House passage the administration was vigorously opposed to the legislation, particularly the health information and promotion portions of it. However, after House passage of the bill, on our initiative negotiations were begun with the administration and our Senate colleagues which, with a considerable good-faith effort on all parts, have resulted in the compromise which is now before us. This compromise removes or rewrites many of the provisions which were unacceptable to the administration and it is our understanding and hope that it will now be acceptable to the President. We are seeking to concur in the Senate amendment to the House amendment because some of the changes which we have made, particularly the deletions and reductions in authorizations which I will describe, would be outside the scope of a conference and because concurring in the Senate amendment will avoid a conference which is now unnecessary.

The compromise before us is an excellent one. Consider first the authorizations of appropriations. The Senate bill authorized a total of $491.5 million. The House amendment contained an authorization of appropriation of $314.8 million. The compromise before us is lower than either figure, $302.8 million. This has been achieved primarily by complete omission of provisions in the Senate bill requiring water treatment and dental health programs and by reduction in the authorizations for the health information and promotion programs which the administration found so objectionable. I am including a complete table of authorizations of appropriations in the Record which details all of the figures. I would add that the total for disease control programs is similar to that in the Senate bill, the total for lead poisoning programs is similar to that in the House bill and the total for venereal disease programs splits the difference between the two bills.

The differences between the two bills with respect to disease control programs, venereal disease programs, and lead poisoning programs were all minor in both number and nature. In all respects we have followed the House approach, except for some minor Senate amendments in the venereal disease program and the addition of increased authorizations of appropriations for childhood immunizations against measles, rubella, polio, diphtheria and other childhood diseases. I am pleased about this increased program for childhood immunizations which was largely the responsibility of Senator Dale Bumpers. In a year in which we are attempting the immunize the entire U.S. population against swine flu it seems only reasonable that we mount a similar, although less expensive effort, to immunize all children against all of the diseases for which we can offer protection. The amounts which we have agreed to, a total of $50 million over the 3 years, 1976 through 1978, should be sufficient to achieve this objective and represent an important new commitment to preventive medicine in this country.

With respect to health information and promotion, we have followed the text of the House bill and either removed or rewritten provisions which were objectionable to the administration. Thus, we have reduced the authorizations from a total of $70 million to a total of $31 million, made it clear that this legislation does not preclude use of other legislative authorities for similar programs, eliminated the requirement that the Secretary review existing and proposed Federal programs that so many of the Members found objectionable upon first passage, eliminated several 2-year deadlines for the completion of tasks which the legislation assigns HEW—although the tasks will still be performed—eliminated the requirement for the development and publication of a formal research plan—although it is anticipated that adequate planning of the research effort will nevertheless be done—revised the requirements for review of advertising and for peer review of research, eliminated the interdepartmental committee required by the proposal, and eliminated the requirement that HEW support a nonprofit, private national health education center—although authority for such support is retained.

We have all heard on numerous occasions how our health is the product of our diet, exercise, and the conduct of our personal lives. Yet, like the weather, this is something that far too little has been done about. The compromise before us is now a modest initial effort on the part of the Federal Government to engage in research and demonstration support for community programs in health information and promotion intended to develop possible further courses of action in this area. The investment is small, the authorization for fiscal 1977 would be $7 million which seems trivial when compared to the estimated $135 billion which will be spent on medical care in that year. The possible yields are enormous. Some of our Canadian colleagues have estimated that a $6 million investment in these kinds of activities can yield as much as a $200 million savings in medical care costs and related economic losses.

Mr. Speaker, this is a good proposal for which I urge my colleagues' support.

I include the following:

COMPROMISE LEGISLATION ON HEALTH PROMOTION AND DISEASE CONTROL (S. 1466 AND H.R. 12678)

[In millions of dollars]

	House, fiscal year—				Senate, fiscal year—				Compromise, fiscal year—			
	1977	1978	1979	Total	1976	1977	1978	Total	1977	1978	1979	Total
Title I:												
Health information and promotion:												
General authority	12.0	23.0	25.0	60.0	11	11.0	24	46.0	(1)			
Private center	2.0	3.0	5.0	10.0	1	1.0	1	3.0				
Subtotal	14.0	26.0	30.0	70.0	12	12.0	25	49.0	7.0	10.0	14.0	31.0
	Fiscal year—											
	1976	1977	1978	Total	1976	1977	1978	Total	1976	1977	1978	Total
Title II:												
Disease control programs:												
Childhood immunizations	9.0	9.0	9.0	27.0	(1)				9.0	17.5	23.0	49.5
Diseases borne by rodents	13.1	13.1	13.1	39.3					13.5	14.0	14.5	42.0
Other control programs	5.0	5.0	5.0	15.0					4.0	4.5	5.0	13.5
Subtotal	27.1	27.1	27.1	81.3	30	35.0	40	105.0	26.5	36.0	42.5	105.0
Venereal disease programs:												
Research and demonstrations	7.5	7.5	7.5	22.5	5	5.0	5	15.0	5.0	6.6	7.6	19.2
Formula grants	0	0	0	0	5	10.0	15	30.0	0	0	0	0
Project grants	35.0	35.0	35.0	105.0	31	33.0	36	100.0	32.0	41.5	43.5	117.0
Subtotal	42.5	42.5	42.5	127.5	41	48.0	56	145.0	37.0	48.1	51.1	136.2
Lead poisoning programs:												
Detection and treatment	10.0	12.0	14.0	36.0	10	12.5	15	37.5	10.0	12.0	14.0	36.0
Lead elimination	0	0	0	0	5	15.0	25	45.0	0	0	0	0
Research and demonstrations	0	0	0	0	3	3.0	3	9.0	0	0	0	0
Subtotal	10.0	12.0	14.0	36.0	18	30.5	43	91.5	10.0	12.0	14.0	36.0
Water treatment programs				0	2	3.0	4	9.0				0
Dental health programs:												
Project grants					15	25.0	25	65.0				
Research and demonstrations					3	4.0	5	12.0				
National education					2	5.0	8	15.0				
Subtotal				0	20	34.0	38	92.0				0
Total	93.6	107.6	113.6	314.8	123	162.5	206	491.5	80.5	106.1	121.6	308.2

[1] Not broken down.

Mr. ROUSSELOT. Further reserving the right to object, this does not then include that new planning organization that was set up at HEW with a special independent corporation to manage it, et cetera? This is not that bill?

Mr. ROGERS. Mr. Speaker, if the gentleman will yield, it is not included in this bill.

Mr. ROUSSELOT. What, in the gentleman's opinion, are the most significant differences between this bill that we now have before us and the agreement the gentleman has gained with the Senate?

Mr. ROGERS. Mr. Speaker, I think the gentleman will be pleased to know that the Senate bill called for an expenditure of $491 million and this has been reduced to $308 million. That is a sizable reduction.

There have also been changes made so that we would omit water treatment and dental health programs in the bill.

Mr. ROUSSELOT. Further reserving the right to object, Mr. Speaker, could the gentleman from North Carolina (Mr.

Broyhill) or the gentleman from Kentucky (Mr. Carter) tell me this: Does this bill contain the provision for this new unit to which we had reference? Can either of those gentleman enlighten me on that?

Mr. CARTER. No, sir, it does not. That was taken out.

Mr. ROUSSELOT. Mr. Speaker, that is what I was trying to elicit. I was hoping some Member could answer that question for me.

Mr. BROYHILL. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from North Carolina.

Mr. BROYHILL. Mr. Speaker, as the gentleman will recall, I offered an amendment when the bill passed the House to delete title I. I was concerned at that time over the problems of duplication and the fact that it would set up new programs that were actually overlapping efforts that are already being made in the Department.

Mr. ROUSSELOT. I certainly remember that. A number of us voted against it.

Mr. BROYHILL. Mr. Speaker, what we have done in the bill, as the gentleman from Florida (Mr. Rogers) has said, is to drop this idea of the special corporation, and the health information title which is in the bill recognizes the efforts that are already underway in the Department and does set up an office within the Assistant Secretary's Office to coordinate those efforts that are already underway. That is all it does.

Mr. ROUSSELOT. Mr. Speaker, further reserving the right to object, has that particular office been expanded under this bill?

Mr. BROYHILL. What they intend to do is to take the old office that I told the Members about in the former debate and to make that a part of the Assistant Secretary's Office, and to make it a coordinating office in order to coordinate all of the health office information programs in the Department.

My concern in the other bill was that they were setting up an entirely new administration which would, in fact, duplicate and overlap the efforts that were already underway. The Department had serious objections to the way that title was written. They have no objections to the way this title is written. In fact, they were greatly responsible for helping us in the drafting of the new language in this title I.

Mr. ROUSSELOT. Further reserving the right to object, Mr. Speaker, can the gentleman from North Carolina (Mr. Broyhill) assure us, then, that all of title I has, in fact, been removed by agreement?

Mr. BROYHILL. No. Mr. Speaker, if the gentleman will yield, I did not say all of title I had been removed. I said title I had been completely rewritten so as to give an entirely different concept and direction than the title I that was in the other bill. The title I that is in this bill gives recognition to the health information efforts already underway.

Mr. ROUSSELOT. The efforts of the existing agency?

Mr. BROYHILL. That is right, the efforts of the existing agency.

The only change, if there is a change, is for the upgrading of the Health Information Office to that of a coordinating office in the Office of the Assistant Secretary.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. Further reserving the right to object, Mr. Speaker, I yield to my colleague, the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, I would like to ask a question regarding the remaining portions of title I.

As I understand it, in one of the parts of that title as originally enacted there was an authorization for HEW to conduct a comprehensive study of health policies in the United States in, I believe, a 1- or 2-year period. They were to report back with recommendations to the Congress as to what policies HEW endorsed. Some of us felt it was and is the duty of Congress to formulate these health policies and that HEW has developed a strong disposition to promote socialized medicine in the United States.

Does this study authorization remain in the bill, or has that been removed as well?

Mr. BROYHILL. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from North Carolina.

Mr. BROYHILL. That section, which was, I believe, section 17 of the old bill, is no longer there.

Mr. ROUSSELOT. It has been totally removed?

Mr. BROYHILL. I have a copy of the bill in my hand, and that is my understanding.

Mr. ROUSSELOT. Mr. Speaker, would the gentleman care to describe any other changes that have been agreed upon?

Mr. BROYHILL. Mr. Speaker, I have given the gentleman the thrust of the changes. The only other aspect of any consequence is, of course, the requirement of a report every 2 years from the Secretary as to how they are carrying out their authorization under this law to provide health information to the consumers.

Mr. ROUSSELOT. How much money would be involved?

Mr. BROYHILL. It has been reduced considerably. As the gentleman will recall, this was another one of the objections I had to title I in the bill as passed by the House. As I recall, it was $70 million, which was considerably over the administration budget.

Mr. ROUSSELOT. What is it now?

Mr. BROYHILL. $7 million for the next fiscal year.

Mr. ROUSSELOT. It went from $70 million to $7 million?

Mr. BROYHILL. To $7 million for the next fiscal year. The total authorizations for this program add up to $31 million over the next 3 fiscal years.

Mr. ROUSSELOT. That is certainly a substantial change.

Mr. BROYHILL. We also have authorization for future years.

Mr. CARTER. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from Kentucky.

Mr. CARTER. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I concur with the Senate amendment to the House amendment and give my support to S. 1466—the National Health Promotion and Disease Prevention Act of 1976.

Title I of this legislation draws upon a proposal I introduced last year to establish a national focal point for health education activities at the Federal level—and to expand Federal efforts in this most important area.

Similar bills were introduced in the House by Mr. Rogers, and Mr. Cohen, and in the Senate by Senator Kennedy.

As you know—the House passed an earlier version of this bill on April 8—which the administration opposed.

Today, I believe that this bill, as amended, meets the objections which were raised at that time.

I believe this proposal should be acceptable to all concerned.

First, the total cost of this bill is less than either of the original bills. This bill authorizes 308.2 million for titles I and 11 combined.

Second, the amount authorized for the office of health information and promotion is about one-half of what was in the original House bill. Now the figure is $31 million for 3 years compared with $60 million in the House bill.

Moreover several provisions with which HEW had concern—have been removed from the bill.

Thus the requirement for Federal review of health programs—the interdepartmental committee—and the Center for Health Promotion in the private sector—have been eliminated from the bill.

Yet, although the scope of these health promotion and health information activities has been reduced, the importance of this initiative should not be diminished.

I feel that there is a need to develop a comprehensive effort in the health education area. There is a need for an identifiable, responsible, focal point within HEW to carry out and to coordinate these activities.

Mr. Speaker, although great progress has been made in the field of medicine—through advances in technology—there is a growing recognition of the limitations of medical care to significantly influence the major causes of illness—disability and death.

I submit that it is time to give appropriate recognition to and support for the important role of preventive medicine and health information and health promotion activities.

In the long run we may well find that the preventive approach to health care can save our citizens money which might otherwise have been spent on costly medical care.

There is so much that individuals can do to protect and to promote their own health. We know that life expectancy and the quality of one's health in general can be improved when individuals eat properly—and exercise regularly—and engage in health promoting behavior.

This legislation also contains provisions concerning the prevention and control of disease. Title II of the bill provides a 3-year extension and revision of existing authorities in this area. Included in the category of diseases are both communicable diseases—such as measles, polio, and mumps—as well as noncommunicable diseases such as hypertension and diabetes.

In all, I think this is a comprehensive bill which provides the authority needed to address the health problems whose solutions are vital to the health and well-being of our people.

I urge favorable consideration of S. 1466.

Thank you, Mr. Speaker.

Mr. ROUSSELOT. Mr. Speaker, I appreciate the gentleman's comments, and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. BROYHILL. Mr. Speaker, the bill we are considering would amend the Public Health Service Act, to extend and revise the program of assistance for the control and prevention of communicable diseases, and to provide for the establishment of the Office of Consumer Health Education and Promotion within the Office of the Assistant Secretary for Health, to reduce preventable illness, disability, and death; to promote progress and scholarship in consumer health education and promotion of school health education; and for other purposes.

On April 7 of this year, the House of Representatives considered and passed a bill with the same general objectives as the bill we are considering here today. I had considerable misgivings about the approach to the problem of providing health information to consumers and the cumbersome administrative machinery designed to carry it out, and the authorizations to fund it. Those misgivings were explained to the House and I offered amendments which I thought would improve the bill.

The problems with the bill, however, were basic. It proposed programs for health education of the public which were either duplicative of, or disrupting to sizable and well-conceived programs already underway. Title II of the bill continued categorical programs for communicable disease control in the shape of specific immunization programs, and I offered no amendments to that title.

Since the time that the House considered and passed H.R. 12678, much change has taken place. The other body passed a somewhat similar bill, S. 1466. Informal meetings and discussions concerning the provisions of the two bills and their relationship to administration programs and policies have taken place. Recommendations resulting from those meetings have resulted in the passage of a bill in the other body which incorporates those recommended changes. The bill which we consider today is identical to that Senate passed bill. Since there is agreement, we see no need to go through a conference.

Like most compromises, it is not the perfect solution, but it does eliminate the major objections which many of us had concerning the original bills. It eliminates to a great degree the duplication of effort. It confines title II to disease control whereas the other bill included prevention activities in this area also. The House bill had authorized $70 million for title I in fiscal year 1977. This bill and that taken up in the other body as a substitute for the previous actions, authorizes $7 million for title I in fiscal year 1977.

I am pleased to be able to support this new bill which is the result of such responsible consideration by all concerned.

Mr. COHEN. Mr. Speaker, I have watched the public health services amendments bill, S. 1466, progress through the legislative process, and I am delighted that we are on the threshold of this bill's enactment.

The first title of this legislation provides a significant congressional initiative in national health education—an initiative that is vitally important to the health of our citizens.

Although we spend more on health care and have more physicians per capita than any other Western industrialized nation, our mortality rates—from infancy through old age—are among the highest in the developed world.

The fault is not with our medical sophistication, but rather the tragedy lies in the fact that a great many individuals are unaware of their own role in the prevention and relief of ills and accidents, and lack the knowledge required to utilize the health care industry itself. We have sold society on the wonders of modern medicine and have created an insatiable demand for health services, but we have forgotten that our health status is also affected by personal hygiene, sanitary measures, nutrition, and our living and working conditions. The leading causes of desirability and death in this country today are chronic or behavioral conditions, such as heart and respiratory disease, cancer, obesity, alcoholism, accidents, and suicide. Effective control of these conditions is impossible without the active cooperation of an informed population.

If we are to control our newer epidemics, we must set forth a new strategy, one which assists us to understand the nature and causes of self-imposed risks, adds to our knowledge of illness, educates patients and consumers about health maintenance and prevention, and improves the physical and social environment. Whenever we attempt to improve the general condition of health or health care of a population along these lines, the need for improved health education appears high on the list. Yet, as a society we have not been willing to come to grips with health education because it is difficult—difficult to define, difficult to deliver, and difficult to measure in effectiveness. Rene Dubos alludes to this problem in this book, "The Mirage of Health"—

> To ward off disease or recover health, men as a rule find it easier to depend on healers than to attempt the more difficult task of living wisely.

I believe that the public is expressing a growing impatience with the overemphasis on the technology of medicine and the neglect of the patient as a responsible agent in the treatment of illness which can be remedied through an effective program of health education. There is evidence of a shifting emphasis among professionals from costly crises care to promotion of positive health and prevention of disability. In the last 2 years, we have witnessed:

The adoption by medicaid and Blue Cross of policies and guidelines to pay for patient education services;

Establishment of the Bureau of Health Education within HEW;

Initiation by the National Health Council of a project to develop detailed plans for a private National Center for Health Education;

Definition by the American Hospital Association of the health education roles and responsibilities of health care institutions;

Incorporation of health education in Federal laws on health organizations, emergency medical service systems, diabetes control programs, and drug abuse education.

The most noteworthy achievement in this area has been, in my opinion, the enactment of health planning legislation, Public Law 93-641, which makes health education one of the nine priorities on the formulation of national health policy and in the development and operation of Federal, State, and area health planning and resource development programs.

These activities may suggest to some that this legislation is only duplicative. Yet, I think one of the significant limitations of health education in the past has been the lack of central direction. This legislation addresses that fragmentation by establishing an office of consumer health information and health promotion in the office of the assistant secretary within HEW. The visability and authority of this office will create a focal point for policy coordination and development of all governmental health education activities, authorization of grants and contracts, and establishment of relationships with the private sector.

The programs visualized by this bill would develop several types of initiatives in research and demonstration providing our people with better information about their own health, how to maintain it and how to use the medical care system effectively.

Toward this end, funding must be made more available for the alternative approaches to health-care delivery envisioned by health education, focusing on those which are both human-effective and cost-effective. In view of the insignificant Federal contribution to health education—nearly four-tenths of 1 percent of the Federal health care dollar—I believe the sums authorized under this bill are achievable.

We must act to change the daily living habits of our overfed, overtired, overmedicated—in short, overindulgent—society. With this legislation we take our own first cautious and modest steps in that direction. Our goal, after all, is health, not a health care system. That, in my opinion, is the essence of health education.

GENERAL LEAVE

Mr. ROGERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the matter just considered.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

AUTHORIZING APPROPRIATIONS FOR SALINE WATER CONVERSION PROGRAM FOR FISCAL YEAR 1977

Mr. JOHNSON of California. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 11559) to authorize appropriations for the saline water conversion program for fiscal year 1977, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 1, lines 5 and 6, strike out "$9,700,000" and insert: "$7,090,000".

Page 1, lines 10 and 11, strike out "$2,100,000" and insert: "$1,200,000".

Page 2, lines 2 and 3, strike out "$1,200,000" and insert: "$1,600,000".

Page 2, line 5, strike out "$1,600,000" and insert: "$550,000".

Page 2, line 6, strike out "$600,000" and insert: "$300,000".

Page 2, line 8, strike out "$800,000" and insert: "$750,000".

Page 2, line 10, strike out "$900,000" and insert: "$850,000".

Page 2, line 14, strike out "$1,000,000" and insert: "$840,000".

Mr. JOHNSON of California. Mr. Speaker, I am pleased to offer the following explanation of the amendments of the Senate to H.R. 11559—to authorize appropriations for the saline water conversion program for fiscal year 1977.

This legislation, as passed by the House on April 5, 1976, authorized appropriations in the amount of $9,700,000 with which to finance desirable research and development activities in the field of saline water conversion. The net effect of the several amendments adopted by the Senate is to reduce the amount authorized to be appropriated by $2,160,000 thus limiting the authorization to $7,540,000.

This overall reduction is the net result of several decreases in individual line items and one increase—as compared to comparable levels in the House bill and are as follows:

First. Water reuse research and planning, decreased by $900,000.

Second. Seawater membrane development, increased by $400,000.

Third. Water reuse technology development, decreased by $1,100,000.

Fourth. Technology transfer, decreased by $300,000.

Fifth. Brackish water membrane development, decreased by $50,000.

Sixth. Freezing technology development, decreased by $50,000.

Seven. Administration and coordination, decreased by $160,000.

In recommending agreement with these amendments, Mr. Speaker, I would like to say that I do so only because I believe that this is the best bill we can get under the circumstances and it is important to complete action on it so that proper authorization will be available when the House considers the Interior Department appropriation bill for fiscal year 1977 later this month.

I do not believe that this level of funding does justice to the needs of this program and I am confident this opinion is shared by the vast majority of my colleagues on Interior and Insular Affairs, as well as those who serve on the Subcommittee on Interior Appropriations. It does, however, represent an increase of about $3 million over the level of activity approved by the Congress for fiscal year 1976 and on this basis I support the legislation as amended by the Senate and urge the House to agree to the Senate amendments.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

REQUEST FOR PERMISSION FOR COMMITTEE ON POST OFFICE AND CIVIL SERVICE TO MEET BETWEEN 10 A.M. AND 12 NOON ON WEDNESDAY AND THURSDAY, JUNE 9 AND 10, 1976

Mr. HENDERSON. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be permitted to meet between the hours of 10 a.m. and 12 noon on Wednesday and Thursday, June 9 and 10, of this week.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

Mr. ROUSSELOT. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

FOURTH PERIODIC REPORT ON PROGRESS OF CYPRUS NEGOTIATIONS—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 94–517)

The SPEAKER laid before the House the following message from the President of the United States; which was read, referred to the Committee on International Relations, and ordered to be printed:

To the Congress of the United States:

Pursuant to Public Law 94–104, I am submitting my fourth periodic report on the progress of the Cyprus negotiations and the efforts this Administration is making to help find a lasting solution to the problems of the island. In previous reports I have detailed the Administration's efforts to revitalize the negotiating process so that the legitimate aspirations of all parties, and particularly those of the refugees, could be accommodated quickly and in the most just manner possible.

Differences on procedural issues have long prevented the Greek-Cypriot and Turkish-Cypriot communities from broaching such critical issues as territory, the form and function of the central government and other constitutional issues. Throughout the period since the hostilities of 1974, we have consistently urged serious consideration of these issues. As my most recent report indicated, an agreement was reached at the February round of the Cyprus intercommunal talks in Vienna, held under the auspices of United Nations Secretary General Waldheim, to exchange negotiating proposals on the key substantive issues of the Cyprus problem. When both sides submitted proposals in April to Secretary General Waldheim's Special Representative on Cyprus, a new impasse developed which delayed a complete exchange on the territorial question. Additionally, in April, Glafcos Clerides resigned his position as the Greek-Cypriot negotiator. These developments, with the subsequent appointment of new Greek-Cypriot and Turkish-Cypriot negotiators, resulted in the postponement of the next negotiating round which had been scheduled to take place in Vienna in May.

On April 15, I invited Greek Foreign Minister Bitsios to the White House for a very useful exchange of views on developments relating to Cyprus.

In addition, the United States and other interested parties maintained close contact with Secretary General Waldheim to support his attempts to resolve these difficulties and resume the intercommunal negotiating process. These efforts culminated in discussions on the occasion of the Oslo NATO Ministerial meeting in late May where Secretary of State Kissinger held separate meetings with Turkish Foreign Minister Caglayangil and Greek Foreign Minister Bitsios, following which the Greek and Turkish Foreign Ministers met together to discuss outstanding bilateral issues including Cyprus. In the course of this process, the Secretary of State stressed the absolute need to move expeditiously to discuss the key outstanding Cyprus issues.

The Secretary of State also publicly emphasized our continuing concern that a rapid solution of the Cyprus dispute be achieved and reiterated the firm position of this Administration that the current territorial division of the island cannot be permanent.

Following the meetings in Oslo, views on territorial issues were exchanged by the two Cypriot communities, and it should now be possible to reinitiate the negotiating process under the auspices of UN Secretary General Waldheim.

The United States will continue to contribute actively to these efforts aimed at a solution to the Cyprus problem. I remain convinced that progress can be registered soon if mutual distrust and suspicions can be set aside, and each side genuinely tests the will of the other side to reach a solution. For our part, we shall remain in touch with Secretary General Waldheim and all interested parties to support the negotiating process. Our objective in the period ahead, as it has been from the beginning of the Cyprus crisis, is to assist the parties to find a just and equitable solution.

GERALD R. FORD.

THE WHITE HOUSE, *June 7, 1976.*

PERMISSION FOR COMMITTEE ON POST OFFICE AND CIVIL SERVICE TO MEET BETWEEN 10 A.M. AND 12 NOON ON WEDNESDAY AND THURSDAY, JUNE 9 AND 10, 1976

Mr. HENDERSON. Mr. Speaker, I again renew my unanimous-consent request that the Committee on Post Office and Civil Service be permitted to meet between the hours of 10 a.m. and 12 noon on Wednesday and Thursday, June 9 and 10, of this week.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, does the gentleman assure us that the committee will not meet beyond 12 on those days?

Mr. HENDERSON. Mr. Speaker, I assure the gentleman from California that the committee will not meet beyond 12 on those days.

Mr. ROUSSELOT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

CALL OF THE HOUSE

Mr. MONTGOMERY. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. O'NEILL. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 333]

Abzug
Adams
Alexander
Allen
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Annunzio
Ashley
AuCoin
Badillo
Bell
Biaggi
Blanchard
Boggs
Bolling
Brown, Ohio
Burke, Calif.
Burton, John
Butler
Carney
Chisholm
Clancy
Clawson, Del
Conyers
Cornell
Daniels, N.J.
Danielson
Davis
Dellums
Derrick
Derwinski
Diggs
Edgar
Erlenborn
Esch
Eshleman
Evans, Colo.
Florio
Fraser
Frenzel
Giaimo
Goldwater
Gonzalez
Gradison
Green
Guyer
Hall
Hansen
Harrington
Harsha
Hays, Ohio
Hébert
Heckler, Mass.
Heinz
Helstoski
Hicks
Hinshaw
Jeffords
Jenrette
Jones, Ala.
Jordan
Karth
Kindness
Koch
Krebs
Krueger
Landrum
Latta
Levitas
Litton
Long, La.
Lundine
McCloskey
McCormack
McDade
McKay
Maguire
Mathis
Matsunaga
Milford
Miller, Ohio
Mineta
Mink
Moakley
Nichols
O'Hara
Passman
Pepper
Perkins
Peyser
Pickle
Poage
Rangel
Rees
Richmond
Riegle
Risenhoover
Rodino
Roybal
Ryan
Scheuer
Schneebeli
Shuster
Sisk
Solarz
Stanton, James V.
Stephens
Stokes
Stuckey
Symington
Symms
Talcott
Teague
Thompson
Udall
Van Deerlin
Vander Veen
Vanik
Wampler
Whalen
Wilson, Bob
Wilson, C. H.
Wydler
Young, Alaska
Young, Fla.
Young, Ga.
Zeferetti

The SPEAKER. On this rollcall 303 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair desires to make an announcement.

Pursuant to the provisions of clause 3(b) of rule XXVII, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to, under clause 4 of rule XV.

After all motions to suspend the rules have been entertained and debated, and after those motions to be determined by "nonrecord" votes have been disposed of, the Chair will then put the question on each motion on which the further proceedings were postponed.

AMENDING THE SMALL BUSINESS ACT AND THE SMALL BUSINESS INVESTMENT ACT OF 1958

Mr. SMITH of Iowa. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 13567) to amend the Small Business Act and the Small Business Investment Act of 1958, as amended.

The Clerk read as follows:

H.R. 13567

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—AUTHORIZATIONS AND LIMITATIONS

PART A

SURETY BOND GUARANTEES

SEC. 101. Section 412 of the Small Business Investment Act of 1958 is amended by striking out "$56,500,000" and by inserting in lieu thereof "$71,000,000".

BUSINESS: LOAN AND INVESTMENT FUND

SEC. 102. Section 4(c)(4) of the Small Business Act is amended by striking out "$6,000,000,000" and by inserting in lieu thereof $8,000,000,000".

ECONOMIC OPPORTUNITY LOANS

SEC. 103. Section 4(c)(4) of the Small Business Act is amended by striking out "$450,000,000" and by inserting in lieu thereof "$525,000,000".

SMALL BUSINESS INVESTMENT COMPANIES

SEC. 104. Section 4(c)(4) of the Small Business Act is amended by striking out "$725,000,000" and by inserting in lieu thereof "$1,100,000,000".

PART B

LINE ITEM PROGRAM AUTHORIZATIONS

SEC. 105. Section 4(c) of the Small Business Act is amended by striking out paragraph (4) and by inserting in lieu thereof the following:

"(4) The following program levels are authorized:

"(A) For fiscal year 1978:

"(i) For the programs authorized by section 7(a) of this Act the Administration is authorized to make $400,000,000 in direct loans, $15,000,000 in immediate participation loans, and $2,500,000,000 in deferred participation loans.

"(ii) For the programs authorized by section 7(h) of this Act the Administration is authorized to make $20,000,000 in direct and immediate participation loans and $20,000,000 in guaranteed loans.

"(iii) For the programs authorized by section 7(i) of this Act the Administration is authorized to make $60,000,000 in direct and immediate participation loans and $81,000,000 in guaranteed loans.

"(iv) For the programs authorized by sections 501 and 502 of the Small Business Investment Act of 1958 the Administration is authorized to make $40,000,000 in direct and immediate participation loans and $20,000,000 in guaranteed loans.

"(v) For the programs authorized by title III of the Small Business Investment Act of 1958 the Administration is authorized to make $20,000,000 in direct purchase of debentures and preferred securities and to make $180,000,000 in guarantees of debentures.

"(vi) For the programs authorized by part B of title IV of the Small Business Investment Act of 1958 the Administration is authorized to enter guarantees not to exceed $915,000,000.

"(vii) For the programs authorized by sections 7(b)(3), 7(b)(4), 7(b)(5), 7(b)(6), 7(b)(7), 7(b)(8), and 7(g) of this Act the Administration is authorized to enter loans, guarantees, and other obligations or commitments not to exceed $300,000,000.

"(B) for fiscal year 1979:

"(i) For the programs authorized by section 7(a) of this Act the Administration is authorized to make $440,000,000 in direct loans, $17,000,000 in immediate participation loans, and $2,800,000,000 in deferred participation loans.

"(ii) For the programs authorized by section 7(h) of this Act the Administration is authorized to make $22,000,000 in direct and immediate participation loans and $22,000,000 in guaranteed loans.

"(iii) For the programs authorized by section 7(i) of this Act the Administration is authorized to make $66,000,000 in direct and immediate participation loans and $89,000,000 in guaranteed loans.

"(iv) For the programs authorized by sections 501 and 502 of the Small Business Investment Act of 1958 the Administration is authorized to make $44,000,000 in direct and immediate participation loans and $22,000,000 in guaranteed loans.

"(v) For the programs authorized by title III of the Small Business Investment Act of 1958 the Administration is authorized to make $22,000,000 in direct purchase of debentures and preferred securities and to make $198,000,000 in guarantees of debentures.

"(vi) For the programs authorized by part B of title IV of the Small Business Investment Act of 1958 the Administration is authorized to enter guarantees not to exceed $1,010,000,000.

"(vii) For the programs authorized by sections 7(b)(3), 7(b)(4), 7(b)(5), 7(b)(6), 7(b)(7), 7(b)(8), and 7(g) of this Act the Administration is authorized to enter loans, guarantees, and other obligations or commitments not to exceed $330,000,000."

SEC. 106. Section 403 of the Small Business Investment Act of 1958 is amended by striking out "from time to time such amounts not to exceed $10,000,000 to provide capital for the fund" and by inserting in lieu thereof ", as capital thereof, such amounts as may be necessary to carry out the functions of the Administration, which appropriations shall remain available until expended".

SEC. 107. Section 412 of the Small Business Investment Act of 1958 is amended by striking out "from time to time such amounts not to exceed $35,000,000 to provide capital for the fund" and by inserting in lieu thereof ", as capital thereof, such amounts as may be necessary to carry out the functions of the Administration, which appropriations shall remain available until expended".

Sec. 108. Part B of this title shall become effective on October 1, 1977.

TITLE II

MISCELLANEOUS CONFORMING AND TECHNICAL AMENDMENTS

Sec. 201. Section 4(c)(2) of the Small Business Act is amended by striking out "and 7(c)(2)" and by inserting in lieu thereof "7(c)(2), and 7(g)".

Sec. 202. Section 4(c)(5) of the Small Business Act is amended by striking out "Committees on Banking and Currency of the Senate and House of Representatives" and by inserting in lieu thereof "Committee on Banking, Housing and Urban Affairs of the Senate and the Committee on Small Business of the House of Representatives".

Sec. 203. Section 10(b) of the Small Business Act is amended by striking out "House Select Committee To Conduct a Study and Investigation of the Problems of Small Business" and by inserting in lieu thereof "Committee on Small Business of the House of Representatives".

Sec. 204. Section 10(e) of the Small Business Act is amended by striking out "House Select Committee To Conduct a Study and Investigation of the Problems of Small Business" and by inserting in lieu thereof "Committee on Small Business of the House of Representatives".

Sec. 205. Section 10(g) of the Small Business Act is amended by striking out "Banking and Currency" and by inserting in lieu thereof "Small Business".

Sec. 206. Section 5316 of title 5, United States Code, is amended by striking from paragraph (11) the figure "(3)" and by inserting the figure "(4)".

REPORTS TO THE PRESIDENT AND THE CONGRESS

Sec. 207. Section 10(a) of the Small Business Act (15 U.S.C. 639(a)) is amended by adding at the end thereof the following new sentence: "With respect to minority small business concerns, the report shall include the proportion of loans and other assistance under this Act provided to such concerns, the goals of the Administration for the next fiscal year with respect to such concerns, and recommendations for improving assistance to minority small business concerns under this Act.".

TITLE III—AMENDMENTS TO SMALL BUSINESS ADMINISTRATION LOAN AUTHORITY

HOMEBUILDERS

Sec. 301. Section 7(a) of the Small Business Act (15 U.S.C. 636(a)) is amended by inserting the following after the semicolon at the end of the first clause "or to finance residential or commercial construction or rehabilitation for sale: *Provided, however,* That such loans shall not be used primarily for the acquisition of land;".

COMPLIANCE LOANS

Sec. 302. Section 7(b)(5) of the Small Business Act is amended by inserting immediately after "any Federal law" the words "heretofore or hereafter enacted".

MORATORIUMS

Sec. 303. Section 5 of the Small Business Act is amended by adding at the end thereof the following new subsection:

"(f)(1) Subject to the requirements and conditions contained in this subsection, upon application by a small business concern which is the recipient of a loan made under this Act, the Administration shall assume the small business concern's obligation to make the required payments under such loan or shall suspend such obligation if the loan was a direct loan made by the Administration. While such payments are being made by the Administration pursuant to the assumption of such obligation or while such obligation is suspended, no such payment with respect to the loan shall be required by the small business concern.

"(2) The Administration shall assume or suspend for a period of not to exceed five years any small business concern's obligation under this subsection only if—

"(A) without the assumption or suspension of the obligation, the small business concern would, in the opinion of the Administration, become insolvent or remain insolvent;

"(B) with the assumption or suspension of the obligation, the small business concern would, in the opinion of the Administration, become or remain a viable small business entity; and

"(C) the small business concern executes a satisfactory agreement in writing as provided by paragraph (3).

"(3) Notwithstanding the provisions of sections 7(a)(4)(C) and 7(i)(1) of this Act, the Administration may extend the maturity of any loan on which the Administration assumes or suspends the obligation pursuant to this subsection for a corresponding period of time.

"(4)(A) Prior to the assumption or suspension by the Administration of any small business concern's obligation under this subsection, the Administration, consistent with the purposes sought to be achieved herein, shall require the small business concern to agree in writing to repay to it the aggregate amount of the payments which were required under the loan during the period for which such obligation was assumed or suspended, either—

"(i) by periodic payments not less in amount or less frequently falling due than those which were due under the loan during such period, or

"(ii) pursuant to a repayment schedule agreed upon by the Administration and the small business concern, or

"(iii) by a combination of the payments described in clause (i) and clause (ii).

"(B) In addition to requiring the small business concern to execute the agreement described in subparagraph (A), the Administration shall, prior to the assumption or suspension of the obligation, take such action, and require the small business concern to take such action, including the provision of such security as the Administration deems appropriate in the circumstances, as may be necessary or appropriate to insure that the rights and interests of the lender will be safeguarded adequately during and after the period in which such obligation is so assumed or suspended.

"(5) The term 'required payments' with respect to any loan means payments of principal and interest under the loan.".

Sec. 304. Section 4(c) of the Small Business Act is amended by inserting in clauses (1)(A) and (2)(A) thereof "5(f)", after the word "sections".

TITLE IV—AMENDMENTS TO SMALL BUSINESS ADMINISTRATION DISASTER LOAN AUTHORITY

DISPLACED BUSINESS LOANS

Sec. 401. Section 4(c) of the Small Business Act is amended as follows:

(1) by inserting in paragraph (1)(A) after the figure "7(b)(2)," the figure "7(b)(3)," and by striking from paragraph (1)(B) thereof the figure "7(b)(3),";

(2) by inserting in paragraph (2)(A) after the figure "7(b)(2)," the figure "7(b)(3)," and by striking from paragraph (2)(B) thereof the figure "7(b)(3),"; and

(3) by striking from paragraph (4) thereof the figure "7(b)(3),".

Sec. 402. Section 7 of the Small Business Act is amended by striking "federally aided urban renewal program or a highway project or any other construction constructed by or with funds provided in whole or in part by the Federal Government" and by inserting in lieu thereof "program or project constructed by or with funds provided in whole or in part by the Federal Government or by a program or project by a State or local government or public service entity, providing such government or public service entity has the authority to exercise the right of eminent domain on such program or project".

ECONOMIC INJURY LOANS

Sec. 403. Section 7(b)(2) of the Small Business Act is amended by adding "or" after the semicolon at the end of section 7(b)(2)(B) and by adding the following:

"(C) a disaster as determined by the Administrator of the Small Business Administration pursuant to the Disaster Relief Act of 1970; and

"(D) if no disaster declaration has been issued pursuant to (A), (B), or (C) herein, the Governor of a State in which a disaster has occurred may certify to the Small Business Administration that small business concerns (1) have suffered economic injury as a result of such disaster, and (2) are in need of financial assistance which is not available on reasonable terms in the disaster stricken area. Upon receipt of such certification, the Administration may then make such loans as would have been available under this paragraph if a disaster declaration had been issued;".

TITLE V—CERTIFICATE OF COMPETENCY

Sec. 501. Section 8(b) of the Small Business Act is amended by striking paragraph (7) and by inserting in lieu thereof the following:

"(7)(A) to certify to Government procurement officers, and officers engaged in the sale and disposal of Federal property, with respect to all elements of responsibility, including, but not limited to, capability, competency, capacity, credit, integrity, perseverance, and tenacity of any small business concern or group of such concerns to receive and perform a specific Government contract. A Government procurement officer or an officer engaged in the sale and disposal of Federal property may not, for any reason specified in the preceding sentence, preclude any small business concern or group of such concerns from being awarded such contract without referring the matter for a final disposition to the Administration.

"(B) If a Government procurement officer finds that an otherwise qualified small business concern may be ineligible due to the provisions of section 35(a) of title 41, United States Code of the Walsh-Healey Act, he shall notify the Administration in writing of such finding. The Administration shall review such finding and shall either dismiss it and certify the small business concern to be an eligible Government contractor for a specific Government contract or if it concurs in the finding, forward the matter to the Secretary of Labor for final disposition, in which case the Administration may certify the small business concern only if the Secretary of Labor finds the small business concern not to be in violation.

"(C) In any case in which a small business concern or group of such concerns has been certified by the Administration pursuant to (A) or (B) to be a responsible or eligible Government contractor as to a specific Government contract the officers of the Government having procurement or property disposal powers are directed to accept such certification as conclusive and shall let such Government contract to such concern or group of concerns without requiring it to meet any other requirement of responsibility or eligibility.".

TITLE VI—SMALL BUSINESS SET-ASIDES

Sec. 601. Section 15 of the Small Business Act is amended by adding the following at the end thereof: "With respect to any work to be performed the amount of which would exceed the maximum amount of any contract for which a surety may be guaranteed against loss under section 411 of the Small Business Investment Act of 1958 (15 U.S.C. 694(b)), the contracting procurement agency shall to the extent feasible place contracts so as to allow more than one small business concern to perform such work.".

The SPEAKER. Is a second demanded?

Mr. J. WILLIAM STANTON. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

GENERAL LEAVE

Mr. SMITH of Iowa. Mr. Speaker, I ask unanimous consent to revise and extend my own remarks and also that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of the bill (H.R. 13567) now under consideration.

The SPEAKER. Is there objection to the request of the gentleman from Iowa?

There was no objection.

Mr. SMITH of Iowa. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I will very briefly explain the bill and then yield later for questions, if there are any.

Mr. Speaker, I rise in strong support of H.R. 13567 and urge the immediate passage of this legislation.

The purpose of this bill is to increase the Small Business Administration's authorizations and limitations on its loan programs; and to increase the scope of eligibility for SBA assistance and the terms thereof.

Mr. Speaker, subsequent to the reporting of this bill by the committee, the President last Friday signed S. 2498 which contains some provisions which are also contained in H.R. 13567. Accordingly, additional amendments have been made and sent to the desk. The only purpose of these additional amendments is to eliminate the duplicative provisions, namely:

Line 1, page 11, through line 12, page 13, which would have provided for SBA loans to food producers, increased the maximum amount of certain SBA loans, and authorized development company loans to be used to acquire existing plants.

Line 7, page 15, through line 21, page 16, which would have provided for a Presidential study of disaster relief and transferred unchanged into the Small Business Act the language setting the interest rate on SBA natural disaster loans, the language now being contained in the Consolidated Farm and Rural Development Act.

Line 13, page 18, through line 4, page 30, which would have established a new program for financing pollution control facilities and required a study of small business by SBA's Chief Counsel for Advocacy.

The purpose of this bill is to:

Increase SBA's authorizations and limitations for fiscal year 1977 as needed—as requested by the President—and establish operating levels for all of SBA's programs for fiscal years 1978 and 1979;

Make miscellaneous conforming and technical amendments to the Small Business Act and the Small Business Investment Act;

Authorize SBA to provide financial assistance to small homebuilders; enlarge the eligibility for SBA compliance loans; and authorize up to a 5-year moratorium on repayment of SBA loans;

Authorize SBA to make displaced business loans to a small concern which has been displaced by a project by a State or local government; and authorize SBA to make economic injury loans to small business concerns in an area affected by a natural disaster upon the request of the Governor of the State involved;

Expand SBA's certificate of competency program by including the final determination of all elements of responsibility and specific aspects of eligibility of a small business for purposes of bidding on Government contracts; and

Direct Federal agencies, to the extent feasible, to divide small business set-aside contracts into amounts of less than $1,000,000 each.

The subcommittee on SBA and SBIC legislation held 6 days of hearings on some 30 bills which were referred to us during this Congress. The subcommittee held a markup session and subsequently introduced a clean bill, H.R. 13567, which is cosponsored by every member of the subcommittee and by other interested Members, and forwarded it to the full committee with a favorable recommendation. The full committee made one amendment by adding title VIII and unanimously ordered it favorably reported, as amended, by a recorded vote of 33 to 0.

In the committee's report, there is a summary of SBA's current major financial programs and I would commend that portion of the report to Members who may have questions about what SBA is and what it does.

Since this is an omnibus bill, a detailed discussion of it would consume a considerable amount of the House's time. I am, therefore, only going to hit the highlights.

TITLE I

In order to continue the operation of SBA programs through fiscal year 1977, it is necessary to increase the limitation on the amount of financial assistance which may be outstanding under the business loan and investment fund from $6 billion to $8 billion; to increase the sublimitation on the amount of economic opportunity loans which may be outstanding from $450,000 to $525,000; and to increase the sublimitation on the amount of financial assistance which may be outstanding to small business investment companies from $725,000 to $1,100,000,000. These are the amounts which have been requested by the President.

Although the above increases will carry SBA through fiscal year 1977, it would be better planning and facilitate greater performance to specify the program levels at which SBA might operate for several years in advance. This would also provide for more congressional control over SBA and would more clearly give SBA and the small business community an indication of the amount of assistance which it might anticipate to be forthcoming from SBA during the next several years and would also eliminate the necessity for Congress to deal with SBA's program levels each year.

TITLE II

SMALL BUSINESS COMMITTEE

At the commencement of the 94th Congress, legislative responsibility for providing assistance to and protection of small business, including financial aid, and participation of small business enterprises in Federal procurement and Government contracts, was given to the House Small Business Committee. This jurisdiction was formerly with the House Committee on Banking, Currency and Housing, and the Small Business Committee was a select committee.

The Small Business Act specifically provides for the submission of certain reports and information to the House Select Committee on Small Business and to the House Committee on Banking and Currency. In order to carry out the change in legislative jurisdiction, these reports and information should now be provided to the House Committee on Small Business and the Small Business Act so amended.

ASSOCIATE ADMINISTRATOR FOR MINORITY SMALL BUSINESS

Prior to 1974, SBA had three Associate Administrators. In that year, a new position of Associate Administrator for Minority Small Business was established and one has been appointed. Although SBA's three other Associate Administrators are established at Executive Level V, no executive level was established for the new Associate Administrator and he should be similarly established at the same executive level.

SBA'S ANNUAL REPORT

SBA submits an annual report to the President, the President of the Senate, and the Speaker of the House of Representatives. The report includes a description of the state of small business, a description of the operations of SBA and recommendations for strengthening or improving SBA's programs. Although SBA is statutorily directed to provide specific assistance to socially and economically disadvantaged individuals, it does not, in its annual report, specifically report on minority small business concerns. A breakdown of the assistance provided to minorities, the goals of the administration for the next fiscal year with respect to such concerns, and recommendations for improving assistance to them would be helpful.

TITLE III—HOMEBUILDERS

A homebuilder, regardless of size, and although over 80 percent of all homebuilders are small businesses, is precluded by SBA from receiving financial assistance. SBA bases this preclusion on their policy that homebuilders as a class are speculators, unless the homebuilder is a custom builder, that is, he is performing the construction under a contract with a specific purchaser.

This requirement of an assured customer is not applied to other industries. A manufacturer does not have assured customers for his products nor does a wholesaler or retailer have assured customers for their line of business and yet all of these are eligible for SBA assistance and are given SBA assistance.

Many small homebuilders are unable to obtain loans from banks because of the modest size of their operation. This credit problem affects the small builder no less than it affects other small businessmen in their attempt to obtain bank financing. Like other small businessmen, the homebuilder needs help from time to time from some other source to make the financial arrangements necessary for the firm's economic well-being.

No other agency or department of the Federal Government, including the Department of Housing and Urban Development, currently provides the same kind of direct financial assistance to homebuilders as does the SBA to other small businessmen.

A number of Members have introduced legislation to correct this inequity, including Congressmen LaFalce, Whalen, Lehman, Hamilton Fish, Levitas, and Mrs. Boggs. I intend to subsequently recognize such of these Members as may desire to be heard on this provision.

COMPLIANCE LOANS

Under section 7(b)(5) of the Small Business Act, SBA makes loans to small business concerns in order to assist them in effecting additions to or alterations in its plant, facilities, or methods of operation to meet requirements imposed upon the business pursuant to any Federal or State law or regulation issued in conformity with the Federal law.

Unless, however, the Federal law was enacted subsequent to enactment of this provision in January of 1974 or unless SBA had a specific loan program established prior thereto, SBA refuses to make these compliance loans to meet statutory requirements. This prospective interpretation of the compliance loan authority denies assistance to small concerns which are required to meet federally imposed or authorized standards established by earlier law.

The requirements of any Federal or State law impose just as much of a financial burden upon small business concerns who must meet these standards, regardless of the date when the requirement was imposed. Thus they should be eligible to receive the same type of assistance.

This lack of SBA assistance has caused considerable problems for small nursing homes which have been required by the Department of Health, Education, and Welfare to comply with the provisions of the Life Safety Code of the National Fire Protection Association. Legislation to correct this injustice was introduced by Congressman Lott and I will subsequently recognize him if he is desirous of making a statement.

MORATORIUMS

As a prerequisite to making any loan, SBA must first determine that there is a reasonable assurance of repayment. The statute also imposes a maximum maturity date or a maximum term for the loan and many SBA loans are made for a maximum statutory term.

Subsequent to the making of a loan, some small business concerns experience financial difficulties, oftentimes due to causes beyond their control, for example, the recent economic recession. Some of these concerns would be able to survive and prosper if there was specific authority in SBA to defer the payments due either to SBA or to a bank which had made a guaranteed loan.

Under the existing law, SBA may defer such payments only in order to provide for an orderly liquidation of the loan. It would be to the benefit of all concerned to give SBA specific statutory authority to grant deferments in other situations providing that without it the borrower would become insolvent or remain insolvent and further providing that with the assumption or suspension of the obligation the borrower would become or remain a viable small business entity.

Legislation to specifically authorize a temporary moratorium on the repayment of SBA loans was introduced by Mr. Parren Mitchell and Mrs. Mink and I will also subsequently recognize them.

TITLE IV

DISPLACED BUSINESS LOANS

The Small Business Administration is specifically authorized under section 7(b)(3) to make loans to small business concerns to assist them in continuing in business or in establishing a new business if the concern has been harmed by a project or program constructed by or with Federal funds. These loans are funded under SBA's Business loan and investment fund, whereas all of SBA's other nonphysical disaster loans are funded under its disaster fund.

Small businesses sustain just as much financial injury when they are displaced by a project or program by a State or local government or public service entity and need Federal loan assistance to assist in their recovery.

Loan assistance, which would carry interest at a rate above the cost of interest to the Federal Government, should be provided to cover this situation, and all displaced business loans should be funded through SBA's disaster loan revolving fund as are all other nonphysical disaster loans.

ECONOMIC INJURY LOANS

SBA is authorized to make loans to small businesses which are located in an area affected by a natural disaster if they suffer substantial economic injury as a result of the disaster, but only if the disaster was declared by the President, the Secretary of Agriculture or the Administrator of SBA.

There are many small businesses which suffer the requisite economic injury but are unable to obtain this type of loan because of the local nature of the disaster.

Those concerns affected by a natural disaster should be eligible for economic injury type loans even if the disaster was not of such proportion as to necessitate a disaster declaration. For example, a fire destroyed a telephone company office recently and disrupted service to thousands of small business concerns. This disruption imposed severe financial loss upon many of these concerns which were dependent upon telephone service to solicit customers. Because the fire did not qualify for a disaster declaration, those small businesses which were harmed could not receive this type of SBA loan assistance.

Severe localized damages from storms, floods, fire, and droughts oftentimes cause severe financial loss to small businessmen in the impacted area. For example, in Alpine County, Calif., the entire community of Bear Valley has filed bankruptcy due to lost business revenue because ski lodges could not operate because of a lack of snow. If some type of Federal loan assistance had been available, many of these financially injured small concerns could have ultimately recovered.

Congressmen John McFall and Dick Ottinger have introduced legislation to rectify this situation and I will, subsequently, recognize them.

TITLE V

Section 8(b)(7) of the Small Business Act authorizes the Small Business Administration to issue a "certificate of competency"—COC. This document certifies to a Federal procuring activity that a small business concern is competent as to capacity and credit to perform a specific Government contract. Whenever any question arises as to the capacity and credit of such small business concern, the Government procurement officer refers the matter to the Small Business Administration, and its subsequent decision on the matter is conclusive. There is, at present, no statutory requirement mandating that once a COC is issued the contract must be let to the small business, nor does the statute include other elements aside from a small business' capacity or credit. This has resulted in severe problems for the small business community.

Small business can and has been denied Government contracts because the procuring activity has determined that the small business lacked the requisite "tenacity, perseverance, or integrity" to perform a specific Government contract. Such a finding results in the small firm being branded as "nonresponsible." Resort to the COC procedure in such cases is not available since capacity and credit are, purportedly, not involved. Although SBA normally has the right to appeal such determinations to a higher authority within the procuring activity, such action is of questionable value as there is an inherent difficulty in asking a bureaucracy to overrule itself. Also, the procurement need not be held in abeyance pending the appeal if the contracting officer subjectively determines that the items called for by the contract are urgently needed.

There is yet another instance when procurement officers needed not refer a matter to SBA for a COC determination, which is working an inequity on small business.

A bidder on a Government contract must also show that he is a manufacturer of or a regular dealer in the materials, supplies, articles, or equipment to be manufactured or used in the performance of the contract. Rules and regulations of the Department of Labor require that a procurement officer must reject bids from a bidder who is not a "manufacturer or dealer" within the meaning of the statute. If a small business is deemed ineligible due to this provision of the Walsh-Healey Act, there is no recourse to the COC procedure. The small business does have the right to appeal the determination to the Department of Labor. However, your committee is not aware of any case in which the Department of Labor has reversed a finding of ineligibility made pursuant to this act.

The application of the Department of Labor rulings varies widely in different areas of the country. Bidders who would be eligible in one area are declared ineligible in another. For example, a bidder was declared ineligible because he did not manufacture the pencils to be included in a kit which was to be supplied to the Government.

The literal implementation of this requirement would exclude such corporate giants as General Motors or Rockwell International from receiving Government contracts. Very few firms produce every integral part that goes into the finished product. But this test is being applied most harshly to small business. The Defense Contract Administration Services has used this test on numerous occasions when conducting its preaward surveys on potential Government contractors. When low bidders are declared ineligible because of an inequitable application of a good law, the Government pays more for its products, and small business is unjustly denied an opportunity to perform on Federal contracts.

Legislation dealing with this subject was introduced by our colleague Joseph P. Addabbo and I will subsequently recognize him.

TITLE VIII

The Small Business Act and numerous other statutes recognize the role which small business should play in our economy, particularly in providing goods and services to the Federal Government. This recognition is indicated by statutory language requiring that small business receive a fair portion of the total purchases and contracts for property and services for the Government.

All Federal agencies set aside some of the contracts exclusively for bidding by small business. The Miller Act requires that a successful bidder provide a surety bond to insure the performance of any Federal contract for more than $2,000. The Small Business Administration operates a surety bond guarantee program under which SBA will reimburse the surety for loss sustained on a surety bond issued on behalf of the small business, providing the size of the contract does exceed $1 million.

Some Federal contracts, however, which are set aside for small business are for more than $1 million. Most small businesses cannot obtain the necessary surety bond in excess of this amount and thus are effectively precluded from bidding on small business set-asides which exceed $1 million.

It would be beneficial to all concerned to direct the Federal agency which is letting a contract as a small business set-aside to divide large contracts into smaller ones, to the extent feasible, so as to keep set-aside contracts to less than $1 million.

CONCLUSION

This legislation which is before the House this afternoon was written by the subcommittee after conducting extensive hearings upon numerous bills which were introduced to rectify problems facing the small businessman.

Again I want to stress that the cosponsors of this bill were jointly responsible for the development of this bill. This bill originated in the legislative branch and combines the ideas of the cosponsors. It is a bipartisan or nonpartisan bill. The ranking minority member of the full committee, Mr. Conte, and of the subcommittee, Mr. J. William Stanton, worked hard and constructively to develop this measure which was unanimously reported by the subcommittee and subsequently by the full committee. It should receive the bipartisan support of the entire membership of the House, and I urge its immediate passage.

RECOGNITION OF MEMBERS

Mr. Speaker, as chairman of the Small Business Legislative Subcommittee, I want to commend all of the members of the subcommittee who devoted their time to attendance and participation in the numerous days of hearings which culminated in the drafting of this legislation.

Also, on behalf of the subcommittee, I want to commend the Members of the House who brought the problems of small business to our attention and who also proposed legislative solutions to these problems. These Members, although many of them do not serve on the Small Business Committee, have a keen interest in the viability of small businessmen throughout the Nation and provided us with the information and assistance so that we can carry out our responsibility of providing assistance to and protection of small business. Thus I want to single out for special recognition because of the input they provided us: The gentleman from California (Mr. McFall), the distinguished majority whip; the gentleman from New York (Mr. LaFalce), the gentlewoman from Louisiana (Mrs. Boggs) and the gentlewoman from Hawaii (Mrs. Mink); and Messrs. Addabbo, Downey, Fish, Lehman, Levitas, Lott, Mitchell of Maryland, Ottinger, and Whalen.

Mr. Speaker, at this time I yield such time as he may consume to the chairman of the full committee, the gentleman from Tennessee (Mr. Evins).

Mr. EVINS of Tennessee. Mr. Speaker, I want to commend the distinguished gentleman from Iowa (Mr. Smith), the able and genial chairman of the Legislative Subcommittee of the House Small Business Committee for his action on this bill.

Thorough and lengthy hearings have been held and all titles, sections and provisions of this measure have been thoroughly considered.

This measure—H.R. 13567—which has been cosponsored by a number of Members, including myself, has my strong support.

This bill would expand and liberalize SBA loan programs in a number of ways, including—

Increase SBA's authorizations and limitations for fiscal year 1977, as needed, and establish operating levels for all of SBA's programs for fiscal years 1978 and 1979;

Make miscellaneous conforming and technical amendments to the Small Business Act and the Small Business Investment Act of 1958—which is also needed;

Authorize SBA to provide financial assistance to small homebuilders—enlarge the eligibility for SBA compliance loans—and authorize up to a 5-year moratorium on repayment of SBA loans;

Authorize SBA to make displaced business loans to a small concern which has been displaced by a project by a State or local government—authorize SBA to make economic injury loans to small business concerns in an area affected by a natural disaster upon the request of the Governor of the State involved;

Expand SBA's certificate of competency program by including the final determination of all elements of responsibility and several aspects of eligibility of a small business for purposes of bidding on Government contracts; and further

Direct Federal agencies, to the extent feasible, to divide small business set-aside contracts into amounts of less than $1 million each.

All these expanding, broadening and liberalizing provisions are needed and are the result of much study by our committee.

I should point out that some 30 bills were introduced and referred to the Small Business Committee dealing with matters affecting small business which are covered in this omnibus bill.

Extensive hearings on these measures were held by the Subcommittee on SBA and SBIC legislation.

The subcommittee considered these bills, held a markup session and subsequently introduced a clean bill—H.R. 13567, the measure now before the House—and forwarded it to the full committee with a favorable recommendation.

The full committee added title VIII to the bill and unanimously ordered the measure favorably reported, as amended, on May 11, last, by a recorded vote of 33 ayes and no noes.

Mr. Speaker, I want to stress that the problems of small business are nonpartisan in nature. I am extremely pleased to note that the Small Business Committee has always regarded them as such and this is certainly reflected by this bill. Every member of the Legislative Subcommittee—both Democrat and Republican alike—has cosponsored this bill.

Also, every member of the committee, who was able to attend the meeting, voted for the bill and none opposed it. The bill was unanimously reported.

In addition to commending the chairman of the Legislative Subcommittee—Neal Smith of Iowa—I want to commend also the ranking minority member of the subcommittee—J. William Stanton of Ohio; the ranking minority member of the full committee—Silvio Conte of

Massachusetts—along with all the other members of the House Small Business Committee for their efforts during this Congress.

This omnibus Small Business Committee bill is the product of the new Small Business Committee, which was expanded in size and stature and given legislative responsibility during the 94th Congress.

The committee has measured up to its new trust and responsibility as expected.

To date, some 85 bills and resolutions have been referred to the Legislative Subcommittee.

The Subcommittee on SBA and SBIC Legislation has held 14 days of hearings on these measures.

Action on 53 bills has been completed, and hearings have been completed on 4 others. Only 24—or less than 30 percent—await subcommittee action. This is an outstanding record and one of which every Member of the House can be justly proud.

I believe that the House has already shown its high regard for the legislation which has been reported by the Small Business Committee.

One bill was passed by a recorded vote of 402 to 0—two were overwhelmingly passed by a voice vote—and one was passed by a vote of 392 to 0—and was signed into law last Friday by the President.

Again, I strongly support this bill. It is a good bill and needed in the public interest.

I urge approval of this measure.

Mr. ADDABBO. Mr. Speaker, will the gentleman yield?

Mr. EVINS of Tennessee. I yield to the gentleman from New York.

Mr. ADDABBO. Mr. Speaker, I rise in support of H.R. 13567. I wish to associate myself with the remarks of the gentleman in the well. The only fact that the gentleman in the well has failed to state and has omitted is the fact that all of the bills and all of the action have been under his great leadership as chairman of the full committee.

It is with deep regret that we note that the gentleman from Tennessee will be leaving us as the chairman of the full committee. We wish him well, and commend him for his great leadership.

Mr. Speaker, I rise in support of H.R. 13567, which I consider to be one of the most important measures offered on behalf of our small business community in recent years.

For the sake of brevity I will limit my remarks to title V of this bill which is designed to greatly expand the Small Business Administration's certificate of competency program. The measure we have before us would authorize the SBA to make all final determinations regarding the responsibility of a small business concern to perform a specific Government contract. The term "responsibility" includes not only all elements of capability, competency, capacity, credit, integrity, perserverance, and tenacity, but also any other factors which procuring activities may determine, now or in the future, relate to the ability of a small business firm to successfully complete a specific Government contract.

Title V also gives the SBA authority to review determinations from a Federal procuring activity that a particular small contractor may be in violation of the "manufacturer or dealer" requirements found in section 35(a) of title 41 U.S.C. of the Walsh-Healey Act. If the SBA believes the procuring activity has made a proper finding, the matter will be referred to the Department of Labor for a final decision. However, if the SBA determines that the small concern is not merely a broker of Federal contracts, but a manufacturer of or dealer in the items called for, it must certify that the small business is eligible pursuant to 41 U.S.C. section 35(a) to receive the subject contract. It is, of course, expected that the SBA will issue rules and regulations to implement this new authority.

Such regulations should adopt a commonsense business approach and reject prevalent theories that in order to qualify as a manufacturer under the Walsh-Healey Act a firm must demonstrate the independent ability to produce every integral part of the finished product. The Department of Labor should cooperate with the SBA in this endeavor and SBA should advise the Department of the peculiar problems facing small business concerns.

Title V does not amend the Walsh-Healey Act in any respect and the SBA must, of course, follow those statutory provisions, the statutory intent and rules and regulations duly promulgated by the Department which appear in the Code of Federal Regulations. Departmental memoranda, notes, or opinions of the Department of Labor cannot, according to the Administrative Procedure Act, provide SBA with prospective rules of general application for its use in this regard.

In summary, title V, if enacted, will result in referrals to SBA is three types of cases where the procuring activity has determined that a small business concern is otherwise qualified to receive a specific Government contract. These three types of cases occur when:

First, there is some element of responsibility of a small business involved; or

Second, the small firm may be ineligible for a contract pursuant to 41 U.S.C. section 35(a); or

Third, an element of responsibility is involved as well as a determination that the small firm may be ineligible pursuant to 41 U.S.C. section 35(a).

Title V further provides that once the SBA issues its certificate of competency it must be deemed conclusive and the subject contract shall be awarded.

I urge all my colleagues to support H.R. 13567.

Mr. RUSSO. Mr. Speaker, will the gentleman yield?

Mr. EVINS of Tennessee. I yield to the gentleman from Illinois.

Mr. RUSSO. Mr. Speaker, I rise in support of H.R. 13567, the Small Business and Business Investments Acts Amendments of 1976.

This measure is the product of some 50 separate bills that were referred to the House Committee on Small Business over a year ago. It is the product of yearlong hearings and many intensive discussions. It merits the support of all of us in this body.

Among its provisions, Mr. Speaker, this legislation increases the authorization for appropriation of the surety bond guarantees fund from $35 million to $71 million. It increases the limitation on the amount of financial assistance which may be outstanding under the business loan and investment fund from $6 billion to $8 billion.

Additionally, this legislation authorizes the Small Business Administration to make regular business loans to small homebuilders attempting to finance residential or commercial construction or rehabilitation for sale. These loans could not be used primarily for land acquisition.

Recognizing the impact Government action has on the small businessman, H.R. 13567 enables the Small Business Administration to offer compliance loans to small business concerns seeking to meet the requirements of Federal law, a State law enacted in conformity with Federal law, or any regulation issued in conformity with a Federal statute, regardless of the date on which the law or regulation was adopted.

I take a small measure of pride in title 8 of this legislation, which provides that if the amount of a proposed small busines set-aside contract is in excess of $1 million, the contracting procurement agency should, to the extent possible, divide the contract so as to reduce the dollar amount of each set-aside contract to under $1 million. This provision should increase the role small business plays in delivering goods and services to the Federal Government. I offered this section of H.R. 13567, and the House Small Business Committee adopted it.

Mr. Speaker, the respected scholar A. D. H. Kaplan once wrote:

> The future of small business in not of concern only to small businessmen. Big business knows that its chances to continue under private auspices rest heavily upon the presence of many virile healthy small businesses bent on retaining the opportunities and liberties that go with private enterprise. For the wage earner in turn the alternative of self employment in small business is an important morale factor. To many an employee it means a sense of independence that might otherwise be lost.

Mr. Speaker, I urge my colleagues to affirm this wisdom and our commitment to a healthy small business community by voting for H.R. 13567.

Mr. McFALL. Mr. Speaker, will the gentleman yield?

Mr. EVINS of Tennessee. I yield to the gentleman from California.

Mr. McFALL. Mr. Speaker, I wish to commend the committee for doing such a great job on this piece of legislation.

Mr. Speaker, the House now has before it a piece of legislation which will enhance the ability of the Small Business Administration to serve the needs of small businessmen in this country.

Before discussing the merits of this bill, I wish to compliment Chairman NEAL SMITH and the members of the Subcommittee on SBA and SBIC legislation for their diligent efforts in reporting an authorization bill which answers the needs of small business in many vital areas. I personally had the privilege of testifying before the subcommittee on one of the bill's provisions dealing with SBA disaster loan assistance. I am grateful to the subcommittee for the opportunity to have participated in those hearings, and for the privilege of speaking to the bill before us today.

In authorizing funds for the SBA through fiscal 1977, the subcommittee has proposed to increase spending authority for the surety bond guarantee program and to increase the limitation on the business loan and investment fund from $6 billion to $8 billion. At a time when financial experts warn us that increased Government borrowing and a general economic upswing may produce severe shortages of capital, this increased loan and guarantee authority should assist small businesses in meeting their capital needs at reasonable interest rates. The subcommittee, under title II, also proposes granting SBA flexibility in suspending loan repayments if such repayments would threaten the short-term solvency of a small business.

Equally important to the needs of small businesses are the proposals under title IV which address the subject of disaster loans assistance. Section 403 would give the SBA greater authority to make disaster loans available to businesses which may have suffered severe economic injury due to a disaster, but are located in areas which were not designated disaster areas. At present, the SBA Administrator does not possess independent authority to declare a disaster for small businesses, or to provide economic injury assistance to small businesses without prior clearance by the Federal Disaster Assistance Administration. This situation is unresponsive to the needs of small businessmen. First, it places another bureaucratic agency between small businesses and the SBA. Proprietors are unable to make their appeals directly to the SBA Administrator because the authority to make initial disaster recommendations is not in his hands.

Second, small business should not have to qualify for Presidential or Secretary of Agriculture designations in order to receive disaster assistance from SBA, as is now the case. The criteria for Presidential and agricultural designations often do not fit the situation of what constitutes losses for a small business. This section would give the SBA increased flexibility to deal with severe, but localized calamities which harm small businesses.

In conclusion, I would once again like to commend Chairman SMITH for the excellent legislation we have before us today, and thank him for the opportunity to speak on its behalf. I urge my colleagues to grant swift passage of this bill.

Mr. LAFALCE. Mr. Speaker, will the gentleman yield?

Mr. EVINS of Tennessee. I yield to the gentleman from New York.

Mr. LAFALCE. Mr. Speaker, I, too, would like to join in the remarks made by the gentleman from New York. I commend this entire piece of legislation to my colleagues, and would like briefly to address one portion of the bill on which I have worked quite hard. Section 301 of the bill provides that the Small Business Administration may make loans to finance residential or commercial construction or rehabilitation for sale. This portion of the bill, if enacted, would enable small homebuilders to obtain SBA assistance for the first time.

This provision was taken from a bill I introduced when I learned that the SBA precluded the small homebuilder from receiving SBA assistance. The reason for homebuilders' exclusion from SBA programs has been SBA's unwillingness to lend to a businessman engaged in speculation. I found this explanation of SBA's exclusion shallow to say the least. Most homebuilders are financially strong members of their community. If they are bad investors, they do not remain homebuilders for long. I am sure that you know that homebuilders are no more speculators than the average small businessman who seeks to develop and produce a product without a contractual agreement with a buyer before he begins production. SBA would only make loans to small builders in this category; that is, to those who have a firm contract before they commence work on the project at hand. What businessman in this kind of situation needs to turn to the SBA for a loan?

Since the only obstacle to small builders receiving SBA help is not existing law but merely administrative regulations, I introduced legislation last September to remedy the situation. The bill received over 40 cosponsors, and for those of you who signed on, I thank you very much for your support. The fact that slightly less than 10 percent of the entire House membership cosponsored the bill should give some kind of indication as to the need for the change recommended.

The small homebuilder should not be confused with the large land developer. The two have completely different financial needs. The homebuilder is generally thinly capitalized. When he builds some new homes on land he purchases, he knows that those houses can and will be sold. Small homebuilders having successful business track records have clearly demonstrated their credit-worthiness, and most homebuilders have excellent financial records. But in times of high interest rates and other adverse economic conditions, the homebuilding industry is often hit far harder than other segments of the economy, and the individual homebuilder's needs for loan assistance are often greater as well.

The problem that the small homebuilder faces in obtaining conventional loan assistance from a bank is the same faced by other small businessmen his size. Like other small businessmen, the homebuilder needs help from time to time from external sources for the firm's economic well-being. The Small Business Administration was establised to meet the needs of all small businesses in the United States, and the exclusion of homebuilders to date means that the agency's mission has not yet been fulfilled.

The time for Congress to express its intent on this issue is long overdue. Passage of the bill before us now will override the SBA's exclusionary regulations in this area and insure that the small homebuilder, like his other small businessmen counterparts, will be able to obtain SBA loans and assistance. I encourage you to cast your vote in favor of this important bill.

Mr. J. WILLIAN STANTON. Mr. Speaker, I yield such time as he may consume to the distinguished, very capable, honorable gentleman from Massachusetts, the ranking minority member of the committee (Mr. CONTE).

Mr. CONTE. Mr. Speaker, I just want to take a couple of minutes to express my wholehearted support for this bill. It is a good bill—an omnibus bill that includes those provisions which the Legislative Subcommitte has indentified as being in immediate need of action.

Our committee worked hard to reach a unanimous, bipartisan consensus on what should be done with regard to SBA and SBIC legislation before the end of this Congress. We reached that consensus and it is reflected in this bill.

I am not going to get into all of the details, because they are already explained thoroughly in the committee report, which also contains an excellent summary of all of the SBA programs. I do want to mention two items that are of particular interest to me.

First, title I provides new authorizations for the SBA. Part A provides the Agency with the new ceilings it needs to continue operations through fiscal year 1977. Part B provides a new approach for the following 2 fiscal years. It sets forth annual program levels of operation for each of the SBA activities. This is a system I have long advocated. This "line-item" approach tells our committee, the Appropriations Committee, the Congress, and the SBA exactly what SBA is expected to do in each area; and, of equal importance, it lets the small business community know just what it can expect from its agency.

I also want to mention title V, which expands and improves the SBA certificate of competency program. And I want to thank my colleague from California (Mr. CORMAN) and my colleague from New York (Mr. ADDABBO) for their efforts in highlighting this problem and developing a solution. The C of C program saves the Government money, because the applicant is always the low bidder. It also gives the small firm effective protection against arbitrary decisions by procurement officers. It gives him his only protection short of an expensive law suit.

Unfortunately, over the years, procuring agencies have found ways to get around the certificate of competency appeal. Instead of using terms such as "capacity" and "credit" in disqualifying small firms, they use terms like "tenacity" and "perseverance" or they say the small firm is not a regular manufacturer or dealer. They are allowing form to triumph over substance. This new language will end all of that. It will permit an appeal to SBA whenever a small bidder is disqualified for any factors that really involve capacity or credit regardless of what they are called.

Mr. Speaker, I want express my personal appreciation to Chairman Neal Smith of our Legislative Subcommittee, the subcommittee's ranking minority member (Mr. J. William Stanton), and all of the members of the Legislative Subcommittee. They have worked hard to produce an excellent product—one free of controversy. I hope the House will give its resounding stamp of approval to this bill.

Mr. Speaker, I want to congratulate our outgoing chairman, the gentleman from Tennessee (Mr. Evins), who has been a tower of strength of this committee, not only on this bill, but throughout the time he served as chairman of the Select Committee on Small Business, before it became a legislative committee. The gentleman has been a pioneer and champion of the small businessmen of this country, and his retirement is going to leave a large void on that committee. I want to wish him many, many decades of happiness and good health, with his lovely wife, so that he will be able to enjoy the fruits of his labors here in Congress for the small businessman and for his constituency in Tennessee.

Mr. J. WILLIAM STANTON. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. Don H. Clausen).

Mr. DON H. CLAUSEN. Mr. Speaker, I rise in enthusiastic support of the legislation.

Mr. Speaker, I rise in strong support of the Small Business Act amendments, and would like to take this opportunity to express my pleasure in learning late Friday night of the President's signing of our bill, the Small Business Act and Small Business Investment Act, which provides the greatly needed loan assistance to our dairymen to enable them to comply with the requirements of the Federal Water Pollution Control Act regarding the disposal of dairy waste. Our bill once and for all directs the SBA to provide the needed loan funds.

The President's action removes the need for a similar provision contained in title VI of the bill before us at this time and it is my understanding that the duplications will be struck.

The provision was placed in the bill as a backup approach in the event that our original bill ran into a snag. I am delighted that this alternative was not needed. It does, however, clearly point up the real concern and understanding shown by Chairman Evins, Mr. Conte, and the chairman of the Subcommittee on SBA and SBIC Legislation (Mr. Smith) and the ranking minority member (Mr. J. William Stanton) and their willingness to approach this problem from every possible angle to insure a prompt resolution of it.

Enactment of our bill marks the end of a long battle to obtain the necessary authority for SBA to assist our dairy farmers.

From the beginning our efforts have been a two-pronged aproach involving both the legislative branch and the administrative agencies. I have met with Chairman Neal Smith on more than a dozen occasions and have had direct input from the agencies involved. I have also met several times with our dairymen to obtain firsthand input from those directly affected. Our combined effort has paid off.

The problem began when SBA announced an administrative policy decision not to make loans available to the dairy farmers on the basis that food and fiber producers should not receive assistance. SBA's contention was that existing programs in the Farmers Home Administration could provide the assistance needed and that action by SBA would be duplicative. The Small Business Committee has carefully reviewed the existing FmHA programs and I quote from the committee report:

> Our Committee is of the opinion that none of these programs effectively make available to small businesses engaged in agriculture the amount of money at a low enough interest rate payable over a long enough term to provide a viable source of funds for water pollution control equipment as is provided by SBA under their water pollution control program.

Our first step was to include language in the committee report which accompanied the 1976 State, Justice, Commerce, Judiciary appropriations bill which stated that it was the intent of the Congress that the Small Business Act be interpreted to permit the granting of loans to our dairymen. SBA continued to arbitrarily discriminate against our dairy ranchers and it became apparent that direct legislation was needed. I, subsequently, introduced a bill simply amending the act to include diaries by defining small businesses as including "establishments primarily engaged in production of cow's milk."

Chairman Smith responded by calling for hearings on my bill and others similar to it. The outcome of these hearings was the drafting of the bill just signed by the President.

I would again like to express my deep appreciation for the cooperation and consideration that Mr. Smith has given to us in dealing with this very serious problem. He has gone the extra mile to help me and my constituents. We shall be eternally grateful.

Mr. J. WILLIAM STANTON. Mr. Speaker, I yield such time as he may consume to the gentleman from Louisiana (Mr. Lott).

Mr. LOTT. Mr. Speaker, I rise in support of H.R. 13567, the Small Business Act Amendments of 1976. This legislation is designed to correct many of the problems which small business concerns presently are experiencing or could experience in the future with respect to their transactions with the Small Business Administration. In doing so, the bill increases certain SBA direct loan and loan guarantee program authority, allows SBA to extend its loan authority to small businesses ruled ineligible previously, provides for a moratorium in SBA loan repayments for up to 5 years in specific situations, and improves the SBA disaster loan program.

I am pleased particularly that H.R. 13567 includes provisions extending the loan authority of the Small Business Administration to additional small business firms. Under the bill, SBA is authorized to make regular business loans available to small homebuilders to finance residential or commercial construction or rehabilitation for sale. The legislation also authorizes SBA to provide assistance to small business concerns engaged in the production of food and fiber, raising of livestock, aquaculture, and all other farming and agricultural related industries.

Finally, Mr. Speaker, this bill proposes to amend section 7(b)(5) of the Small Business Act by authorizing loans to facilitate compliance with Federal laws which were enacted prior to enactment of this subsection. Currently, SBA is interpreting their authority to provide compliance loans only to apply to laws enacted subsequent to this loan program. As a consequence, small businesses, such as nursing homes, have not been able to secure SBA loans for the purpose of complying with federally mandated standards in the law. Approval of this legislation will correct the unfortunate situation which exists today.

I am grateful to the Small Business Committee for bringing this bill to the House. It makes many needed improvements in the existing Small Business Act, and I want to register my full support for its passage.

Mr. J. WILLIAM STANTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to confirm what has already been expressed by the chairman of our Legislative Subcommittee (Mr. Smith of Iowa).

This bill, H.R. 13567, was afforded extensive hearings and deliberation at the subcommittee and full committee levels. It enjoys the unanimous bipartisan support of our committee. It represents what will probably be our final effort of this Congress to strengthen the role of the Small Business Administration and update the Agency's authorizing legislation.

In this bill we have increased the limitations and sublimitations that currently exist for the SBA financial assistance programs. These increased limitations will carry the SBA through fiscal year 1977. For fiscal years 1978 and 1979, the bill authorizes new program levels at which SBA may operate its major programs.

I would like to emphasize that the new program levels do not represent "back door" spending. They are merely ceilings on the future annual level of activities. They provide a needed basis for advance budgetary planning by both the Congress and the executive branch.

Mr. Speaker, this bill and the act signed by the President last Friday (S. 2498) represent our committee's efforts to act responsively and responsibly on more than 50 bills referred to us, a variety of complaints and suggestions received from individual small businesses or their associations, and several problems our committee inherited from its predecessor.

We have added some new authorities, we have increased others. We have hopefully given the small business community an effective and lasting voice in the highest levels of Government. And we have done this without any massive raids on the Treasury or the imposition of new administrative and paperwork burdens.

In closing, I would like to express my

thanks to the chairman of the full committee (Mr. EVINS), the chairman of the Legislative Subcommittee (Mr. SMITH of Iowa), our ranking minority member (Mr. CONTE), and all of the members of the Small Business Committee. I also want to thank all of the Members of this body for their continuing cooperation and support.

Mr. SMITH of Iowa. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. OTTINGER).

Mr. OTTINGER. Mr. Speaker, I want to congratulate the gentleman from Iowa (Mr. SMITH) and also my colleague, the gentleman from New York (Mr. ADDABBO), for the fine job they have done on this legislation.

Mr. Speaker, I rise in support of H.R. 13567, Small Business Act Amendments of 1976. As I said in an earlier statement on the floor, the importance of small business to the American economy cannot be underestimated. The more than 13 million small businesses in the United States—97 percent of all U.S. businesses—account for more than one-half of all private sector employment, 43 percent of business output and one-third of the gross national product. Small business is the heart of the American free enterprise system.

Being small and subject to increasing pressure from conglomerates, it was inevitable that small business suffer inordinately during the recent period of inflation and recession. The economic disaster of the past several years has resulted in many small businesses going under and many more hanging on grimly, facing ever-tighter credit problems. For example, the Administrative Office of the U.S. Courts reported that small business failures in 1974 and 1975 increased 72 percent over 1973. Small business costs have also gone up. Wholesale prices charged by producers to distributors rose 20.9 percent while the Consumer Price Index was rising only 12.2 percent.

Prices of construction materials—a field where small business predominates—rose 21.2 percent in 1974. One association of 600 smaller manufacturers reported a 26-percent increase in the cost of industrial materials its members required. In my own district electricity costs have had inordinately severe effects on small business. Con Ed's rates have gone up 55 percent in the last 5 years, while their total revenues increased 102 percent. Many small businessmen I meet tell me their Con Ed bills now exceed their business rent or mortgage payments.

Partial solutions to these problems include both an infusion of new capital into small businesses and additional legislation to expand SBA authority.

With respect to the first, I am pleased to note that the Appropriations Committee has included an additional $150 million for direct and immediate participation small business loans. Only 5 weeks ago an amendment Representatives HOLTZMAN, CONYERS, and I offered to the first budget resolution included $200 million for the same purpose, among other items, to aid small business and provide economic stimulus. I am gratified to see the Appropriations Committee respond to the desperate state of small business with these additional funds.

With respect to expanded SBA authority, the bill before us today contains several important provisions. First, in a long overdue action the bill makes clear that SBA loan authority includes small homebuilders. This provision is similar to legislation I sponsored with a number of other Members some time ago. The Small Business Administration has up until now been reluctant to lend to homebuilders because of the "speculative" nature of their activity. The fact that most businesses, particularly small enterprises, are speculative does not seem to bother the SBA bureaucracy. Residential construction is a field dominated by small businesses, and one where unemployment is exceptionally high. HUD programs have been oriented primarily toward the housing consumer rather than the builder. For SBA to ignore this important and hard-hit sector of the economy is unconscionable, a situation this bill will correct.

Second, the bill includes a provision raising the ceiling on guaranteed loans from $350,000 to $500,000, also legislation which I sponsored earlier. Though also an overdue change, it is unfortunate that the increase is not applied to direct and immediate participation loans as well.

Third, another provision of the bill I have supported in the past is section 403 which authorizes the SBA Administrator to determine if a disaster has occurred for purposes of making SBA disaster relief loans. It also permits State Governors to certify disasters to SBA for loan purposes if small businesses have suffered economic injury as a result of a disaster. This should help to break through redtape surrounding SBA disaster loans.

One final provision of the bill offers considerable promise for the future—the authorization for a Chief Counsel for Advocacy. The functions of the Advocacy Counsel will be not only to serve as a focus for suggestions and complaints about the Small Business Administration but also to help promote policies in all Government agencies which will help small business.

Mr. SMITH of Iowa. Mr. Speaker, I yield myself such time as I may consume.

Mr. MITCHELL of Maryland. Mr. Speaker, will the gentleman yield for a brief question?

Mr. SMITH of Iowa. I yield to the gentleman from Maryland.

Mr. MITCHELL of Maryland. Mr. Speaker, the gentleman from Iowa and the members of the committee will recall that in 1974 we, I believe, appropriated $400 million for direct loan programs. Somehow or other that money was never spent.

Again last year we tried to use the same approach, and somehow or other the agency did not spend the money for direct loans.

As the Members well know, the prime interest rate has just gone up, and the effects of that are going to filter down and make bank participation loans even tougher.

What I am especially asking the gentleman from Iowa (Mr. SMITH) is this: What guarantees do we have that the agency will spend the $400 million in direct loans, which is what the Congress wants it to do?

Mr. SMITH of Iowa. Mr. Speaker, I do not think anyone can positively guarantee they will loan the money. However, due to the work of the gentleman from Maryland (Mr. MITCHELL) and other Members, I believe the Agency has been educated a little bit in the last couple of years, and I believe they are now more willing to spend the money than they were previously. Perhaps I should say they are more willing to loan the money; that is probably a better term.

We are recommending a substantial increase in appropriations in the fiscal year 1977 appropriations bill that is coming up, so they will have funding to do it, and through the course of the hearings on this bill we have been stressing the need for this legislation and the need for direct loans. I believe that the agency will now be more willing to loan the money than they were in previous periods.

Mr. MITCHELL of Maryland. Mr. Speaker, I thank the gentleman.

Will the gentleman yield further on that same question?

Mr. SMITH of Iowa. Yes, I yield to the gentleman from Maryland.

Mr. MITCHELL of Maryland. Mr. Speaker, will the new rescission and deferral process be of any help in guaranteeing us that this money will be spent for direct loans?

Mr. SMITH of Iowa. That is of some help, and it will be of help if it is interpreted the way I interpret it. They can delay by having a rescission and a deferral and Congress being given time to act upon it; but after the rescission or deferral is rejected, they are then supposed to use the money to the extent they have reasonably good applications demanding the money. We do have from the administrators of the agency statements that indicate they do have plenty of applications for the money.

Mr. MITCHELL of Maryland. Mr. Speaker, I thank the gentleman for his answers and for yielding to me.

Mr. Speaker, I rise in support of passage of H.R. 13567, the Small Business Act Amendments of 1976.

I am proud to urge my colleagues to overwhelmingly adopt H.R. 13567. This legislation contains numerous provisions which are key to strengthening the role in our economy of small business, in general, and several provisions which are crucial to the survival of minority business, in particular.

Minority entrepreneurs are eager and willing to make the necessary sacrifices to enter and remain in the American economic mainstream. Yet, usually due to a paucity of resources and problems of insensitivity—which in many cases have become institutionalized in both the public and private sectors—a large portion of minority businesses exist only from day to day. With too many minority businesses, economic stability is often elusive and economic parity is frequently nonexistent.

Business failures are never a plus, not for the business, not for the community, not for the State, not for the Nation. Every time a business, regardless how small, has to reduce its output or close its doors, unemployment is increased and human resource programs at every level of Government are greater strained.

Therefore, I am most pleased that H.R. 13567 contains provisions aimed at providing certain businesses with a final chance for survival, after all else has failed. This bill allows the Small Business Administration to suspend loan repayments for a period of up to 5 years, providing, most importantly, that without the moratorium the small business concern would become or remain insolvent and that with the moratorium the small business would become or remain a viable small business entity. This SBA authority is designed only for those small businesses in the most desperate of circumstances.

Believe me, the strong signs of economic recovery that administration economists continually bring to our attention at the national level have not yet, and may well never, "trickle down" to some segments of our economic community. Until such time as those alleged trickles become a downpour, this Congress has the obligation to fend off the destruction that comes with an economic drought which is still very real to many small businesses.

With the loan moratorium provisions and others just as critical, H.R. 13567 reinforces that congressional obligation. This bill certainly deserves the support of each one of us.

I submit portions of my testimony before the Subcommittee on SBA and SBIC legislation, in which I argued for this moratorium on repayment of loans.

In April of 1975 I introduced H.R. 6463 to amend the Small Business Act to impose a moratorium on the repayment of principle and interest on certain loans made by the Small Business Administration for a period of 2 years or until such time as the President determines that the United States is no longer in a period of economic recession.

It is important to note that the moratorium would apply to all SBA loans made after January 1, 1970. However, let me quickly add that H.R. 6463 would not grant SBA the authority to impose a "blanket" moratorium. Because, most importantly, the bill is designed only for those small businesses in the most desperate of circumstances; those businesses which would clearly become insolvent without the assumpion or suspension of their loan obligation by SBA

At the time that H.R. 6463 was originally introduced, a survey had been recently conducted to determine the problems facing the small business community, which used as a sample 4,000 small businesses located exclusively in the New York area. When asked to name the major problem threatening the solvency of their business, 22.7 percent responded "the poor state of the economy"; 20.7 percent cited "money, interest, and credit"; and 20.4 percent stated "increasing or unstable costs." Or, a total of 63.8 percent of the largest small business community in the Nation saw as the most insurmountable obstacle the recession and its related side effects.

Recently, the administration has begun issuing statements and statistics which suggest that the national economy is on the upswing, inflation is lessening, unemployment is creeping down, the recession is weakening, things are getting better.

Therefore, the legitimate question to be raised by my colleagues becomes, "Is H.R. 6463 necessary any longer?"

As small businessman after small businessman from across the country, most of whom are minority entrepreneurs, come into my office almost daily, or write, or call; the answer comes back a resounding "yes, an instrument such as H.R. 6463 is still very much needed."

While qualified small businessmen from the larger community would certainly reap the benefits of this legislation, the bill is no less than a necessary point of recourse for the pure survival of the minority business sector.

I am sure that most of my colleagues woull agree that minority businessmen just got into the national economic system. Therefore, when the national system is hurting, they are hurting more than anybody else. High interest rates, inflation, the disappearance of raw materials—all this especially hits hard in the minority business community.

The need for H.R. 6463 is still there.

Of prime importance is the fact that minority businesses operate in communities that have very little money to spend. Minority persons are the major consumers of goods and services produced by minority businesses. In high unemployment situations minorities are laid off in disproportionate numbers. Therefore, an increase in the failure rate of small minority businesses can be expected. Therefore, the need for the relief which would be provided by H.R. 6463 is still there.

Mr. Chairman, the tie-in between the continuing need for the moratorium and the minority unemployment situation cannot be overemphasized.

The administration and the Congress have identified the economic problem facing our Nation as being comprised of three major elements, that is, inflation, recession, and unemployment. The administration, and to some extent supported by the Congress, has ranked those elements as: inflation—priority No. 1, recession—priority No. 2, and unemployment—priority No. 3, dead last. Consequently, national resources to fight the economic problem are allocated in a like fashion.

Tragically, segments of minority groups, particularly blacks, have remained in a recession/depression status in terms of employment since "the great depression," and the national economic policy that we are currently following will surely keep them there.

The current recession has imposed a severe unemployment burden on all Americans, but as in the past, it has affected nonwhites more severely than whites. While the average national unemployment rate was 8.4 percent in the third quarter of 1975, unemployment for nonwhite adult males was 11.5 percent; for nonwhite adult females, 11.8 percent; and for nonwhite teenagers, 36 percent.

Moreover, discouraged workers—those who leave the labor force because they believe jobs are unavailable, and who are therefore not counted among the unemployed—are disproportionately black. Thus, while the unemployment rates for whites and nonwhites in the fall of 1975 were 7.7 and 13.8 percent respectively—a gap of 6.1 percentage points—the percentages of unemployed adjusted to include discouraged workers were 8.7 and 16.4 percent—a gap of 7.7 percentage points. These figures exclude the effects of underemployment due to involuntary part-time work and employment below a worker's skill level.

The figures, which time will not permit me to cite, are even more frightening when one looks at teenage unemployment.

This adds up to reduced buying power in the minority community and, therefore, as I have repeatedly said, increased vulnerability of minority businesses. This all adds up to the point that in some segments of our country "things are not getting better," and, in fact, may be getting worse.

Mr. SMITH of Iowa. Mr. Speaker, I yield such time as he may consume to the gentleman from Missouri (Mr. HUNGATE).

Mr. HUNGATE. Mr. Speaker, I rise in support of this legislation, and I also wish to join in the commendations of the gentleman from Tennessee (Mr. EVINS), the chairman of the committee. He is possibly the greatest thing to come out of Tennessee since Jack Daniels.

The ranking minority member of the committee, the gentleman from Massachusetts (Mr. CONTE), has worked in splendid harmony with our retiring chairman, the gentleman from Tennessee (Mr. EVINS), and I believe the public has benefited over many years by the good work of this committee.

We are breaking new ground under the leadership of the chairman of the subcommittee, the gentleman from Iowa (Mr. SMITH), and the ranking minority member, the gentleman from Ohio (Mr. J. WILLIAM STANTON). This is the first time they have had legislative authority, and I commend both those gentleman for their past efforts in protecting the House position insofar as possible in the conference and bringing us legislation which should be useful to small business.

Mr. Speaker, again I join other Members in expressing regret at the retirement of the gentleman from Tennessee (Mr. EVINS), our chairman, although I have appreciation for his reasons. His House service has been of great value to the public.

Mr. SMITH of Iowa. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to join the other Members in paying tribute to the chairman of the full committee, the gentleman from Tennessee (Mr. EVINS).

He has been a model chairman. He has

supported and encouraged the subcommittee at every juncture to take the initiative on every bill that came before us so as to develop it into appropriate legislation and to get it to the floor.

I want to join the others in paying tribute to him and also I pay tribute to the gentleman from Missouri (Mr. HUNGATE), who has also announced his retirement. He, too, has been a very helpful member on this subcommittee. He has been one of those who showed up at every hearing that he possibly could, making a valuable contribution each time.

Mr. CORMAN. Mr. Speaker, I rise in support of H.R. 13567.

My comments are directed to title V of this bill.

The Small Business Administration has the major obligation and responsibility for the well being of the small business community throughout the United States. The measure before us will provide the Small Business Administration with greatly needed additional authority to fulfill their obligation by authorizing the SBA to make all final determinations regarding all elements of responsibility of any small business to perform a specific contract.

This bill will also provide the Small Business Administration with the authority to determine whether or not a small contractor meets the "manufacturer or dealer" requirements found in section 35(a) of title 41 U.S.C. of the Walsh-Healey Act.

If the SBA finds that the procuring activity made a proper finding in their determination that a particular small contractor, for a specific contract, is in violation of this section of the Walsh-Healey Act, the matter will be referred to the Department of Labor for a final decision. However, if the SBA finds that a small contractor is a manufacturer of or a dealer in the items called for, the SBA shall certify that the small business is eligible to receive the subject contract.

Title V provides that, if SBA issues a certificate of competency to a small contractor, that contractor has met all necessary requirements for a specific contract and the procuring activity must let the contract to that contractor.

Mr. LEHMAN. Mr. Speaker, I rise in strong support of H.R. 13567, the amendments to the Small Business Act and the Small Business Investment Act of 1958.

The Committee on Small Business is to be commended for its work on this important legislation, which addresses so many of the problems small businessmen face. However, I would like to address myself now to just one provision, section 301.

Late last year, I introduced a bill, H.R. 11037, to permit the Small Business Administration to make loans to homebuilders. Section 301 has the same effect, allowing financial assistance for residential or commercial construction or rehabilitation for sale.

The SBA currently considers homebuilders to be speculators, and therefore precluded from receiving assistance. The only exceptions seem to be projects for which there are assured customers. Other industries, by contrast, have no such requirement for eligibility, although products are manufactured and sold at wholesale or retail with no assurance that anyone will buy either a product line or an individual item.

Most homebuilders are small businesses; the South Florida Builders' Association estimates that 90 percent of Dade County builders put up less than 25 houses each per year. Moreover, precisely because of the modest size of their operations, many small homebuilders have problems obtaining credit or bank loans. The Dade County Building Department, although its licensing procedures do not yield hard figures, has noted a trend of increasing closings of small homebuilding firms and increasing IRS liens on firms unable to meet their tax obligations.

Construction is also a major area of unemployment, particularly in Dade County. While the county's April unemployment figure was 11.5 percent, well over the national average, it is estimated that over 50 percent of construction workers are idle.

No Federal department or agency provides direct financial assistance to homebuilders, as SBA could, given the legislative mandate of section 301. Loans to small builders would do a great deal to provide jobs for idle construction workers and keep small homebuilding firms alive.

Mr. Speaker, H.R. 13567 is good and vital legislation. Although I have discussed only one six-line section of it, I would urge my colleagues to support the entire package of provisions designed to assist small businessmen, and to vote for the bill's passage.

The SPEAKER pro tempore (Mr. McFALL). The question is on the motion offered by the gentleman from Iowa (Mr. SMITH) that the House suspend the rules and pass the bill (H.R. 13567), as amended.

The question was taken.

Mr. CONTE. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3 of rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

AUTHORIZATION FOR CONTU APPROPRIATIONS

Mr. KASTENMEIER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 11877) to extend the authorization of appropriations for the National Commission on New Technological Uses of Copyrighted Works to be coextensive with the life of such Commission.

The Clerk read as follows:

H.R. 11877

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 205 of the Act entitled "An Act to amend title 17 of the United States Code to remove the expiration date for a limited copyright in sound recordings, to increase the criminal penalties for piracy and counterfeiting of sound recordings, to extend the duration of copyright protection in certain cases, to establish a National Commission on New Technological Uses of Copyrighted Works, and for other purposes", is amended by striking out "June 30, 1976" and inserting in lieu thereof the following: "and including the day on which the Commission terminates".

The SPEAKER pro tempore. Is a second demanded?

Mr. RAILSBACK. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Illinois (Mr. RAILSBACK) will be recognized for 20 minutes each.

The Chair recognizes the gentleman from Wisconsin (Mr. KASTENMEIER).

GENERAL LEAVE

Mr. KASTENMEIER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of the legislation now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. KASTENMEIER. Mr. Speaker, I yield myself such time as I can consume.

Mr. Speaker, the National Commission on New Technological Uses of Copyrighted Works, known as CONTU, was created by Congress in 1974. The Commission is composed of 13 voting members including the Librarian of Congress. The other 12 members, who are chosen by the President, are evenly divided between the creators, the users of copyrighted works, and the general public. The Register of Copyrights is an exofficio nonvoting member.

The purpose of the Commission is to study and make recommendations to the Congress concerning the use of copyrighted works: First, in automatic systems capable of storing, processing, retrieving, and transferring information, and by various forms of machine reproduction, not including reproduction by or at the request of instructors for use in face-to-face teaching activities, and, second, in the creation of new works by the application or intervention of such automatic systems or machine reproduction.

The Commission must submit reports to the President and the Congress including a final report which is due by December 31, 1977. The Commission will terminate within 60 days after the final report, or by March 1, 1978.

H.R. 11877, which you are considering today, would extend the authorization for appropriations for that Commission, so that it can complete its work. Public Law 93-573, enacted December 31, 1974, limited the authorization for appropriations to June 30, 1976, expressing the congressional intent that the Commission return to Congress to request the balance of the authorization. On February 23, 1976, the Subcommittee on Courts, Civil Liberties, and the Administration of Justice of the Committee on the Judiciary held a hearing at which the executive director of CONTU testified. The work of the Commission is progressing, and a preliminary report is to be filed by October 8, 1976.

The projected costs of CONTU are approximately one-half of what was originally anticipated, and will be approximately $1,267,000 through the expiration date of March 1, 1978.

The other body has considered identical legislation, and passed S. 3187 without amendment on May 11, 1976.

I ask your support of H.R. 11877, which will extend the authorization for appropriations for CONTU through the life of that Commission.

Mr. RAILSBACK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 11877, a bill to extend the authorization for appropriations for the National Commission on New Technological Uses of Copyrighted Works—hereinafter referred to as "CONTU". Although the present act—Public Law 93-573—requires CONTU to conduct studies and prepare reports which shall be due by December 31, 1977—3 years after the enactment—and allows a 60-day winddown period before the Commission expires—no later than March 1, 1978—the authorization for appropriations is presently extended only through September 30, 1976. H.R. 11877 would extend the authorization for appropriations until "and including the day on which the Commission terminates."

The subjects which must be evaluated by the Commission are: first, the reproduction and use of copyrighted works of authorization in conjunction with automatic systems capable of storing, processing, feeding, transferring information, and also by various forms of machine reproduction; and second, the creation of new works by the application or intervention of such automatic systems or machine reproduction.

The cost of CONTU is actually less than originally expected. The committee report in 1974 had projected a total cost of $2,461,400 over 3 years, while the February 19, 1976, letter of the executive director, Arthur J. Levine, projects a total cost of $1,267,000, a savings of $1,194,400.

The Subcommittee on Courts, Civil Liberties and the Administration of Justice held 1 day of public hearings on this bill and it was reported unanimously by the subcommittee and by the full Judiciary Committee. An identical bill passed the Senate, May 11, 1976—S. 3187.

Mr. Speaker, I am unaware of any opposition to this legislation and urge my colleagues to support its passage.

Mr. KASTENMEIER. Mr. Speaker, I have no further requests for time.

Mr. RAILSBACK. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. KASTENMEIER) that the House suspend the rules and pass the bill H.R. 11877.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

Mr. KASTENMEIER. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of the Senate bill (S. 3187) to extend the authorization of appropriations for the National Commission on New Technological Uses of Copyrighted Works to be co-extensive with the life of such Commission, a similar bill to the bill just passed by the House, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 3187

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 205 of the Act entitled "An Act to amend title 17 of the United States Code to remove the expiration date for a limited copyright in sound recordings, to increase the criminal penalties for piracy and counterfeiting of sound recordings, to extend the duration of copyright protection in certain cases, to establish a National Commission on New Technological Uses of Copyrighted Works, and for other purposes", is amended by striking out "June 30, 1976" and inserting in lieu thereof the following: "and including the day on which the Commission terminates".

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 11877) was laid on the table.

AMENDING THE INDOCHINA MIGRATION AND REFUGEE ASSISTANCE ACT OF 1975

Mr. EILBERG. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2760) to amend the Indochina Migration and Refugee Assistance Act of 1975 to provide for the inclusion of refugees from Laos.

The Clerk read as follows:

S. 2760

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Indochina Migration and Refugee Assistance Act of 1975 (Public Law 94-23; 22 U.S.C. 2601), is amended as follows:

(1) In section 2, strike out "Cambodia or Vietnam" and insert in lieu thereof "Cambodia, Vietnam, or Laos".

(2) In section 3, strike out "Cambodia or Vietnam" and insert in lieu thereof "Cambodia, Vietnam, or Laos".

(3) In section 4(b), strike out "Cambodia and South Vietnam" and insert in lieu thereof "Cambodia, South Vietnam, and Laos".

(4) In section 4(b)(3), strike out "South Vietnam and Cambodia" and insert in lieu thereof "South Vietnam, Cambodia, and Laos".

The SPEAKER pro tempore. Is a second demanded?

Mr. FISH. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

Mr. EILBERG. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, a little over 1 year ago this body approved—and the President signed into law—the Indochina Migration and Refugee Assistance Act of 1975. That law, which was enacted in the wake of the collapse of the Governments of Cambodia and South Vietnam, enabled the United States to assist refugees who fled from these two countries.

Specifically, the 1975 act authorized $455 million for the movement, temporary care, and resettlement of Vietnamese and Cambodian refugees.

Since the 1975 legislation was enacted, the Coalition Government of Laos has also fallen and several thousand natives of Laos fled their country—and most of them are now residing in Thailand.

Under the authority of the Immigration and Nationality Act—specifically the parole power set forth in section 212(d)(5) of that act—the Attorney General has agreed to parole approximately 8,000 Laotian refugees into the United States, and as of Friday of last week 2,700 have already been admitted.

Under current procedures, a sponsor is located for each of the Laotian refugees prior to his entry into the United States in order to obviate reestablishment of reception centers in this country. Some problems have developed, however, because Laotian refugees are not included within the scope of the Indochina Migration and Refugee Assistance Act. For examble, under the 1975 act, the Federal Government is authorized to reimburse States for the cost of health care, public assistance, and educational benefits provided to Vietnamese and Cambodian refugees.

Since this coverage does not extend to Laotian refugees, some persons are reluctant to sponsor such refugees fearing that they may be held accountable for any and all expenses relating to the support and care of these refugees.

Consequently, S. 2760 is simply designed to make Lao refugees eligible for the same types of assistance currently being provided to Vietnamese and Cambodian refugees.

My Subcommittee on Immigration, Citizenship, and International Law held 1 day of hearings to consider this legislation, and it was later overwhelmingly approved by both the subcommitte and the full Judiciary Committee.

S. 2670 is a noncontroversial bill, and it is strongly supported by the administration. In addition, we have been assured by witnesses from the executive branch that enactment of this legislation will not require any increase in the authorization limit established by the 1975 act.

Mr. FISH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to join the subcommittee chairman, Mr. EILBERG, in support of the bill, S. 2760, to make Laotion refugees eligible for assistance under the Indochina Migration and Refugee Assistance Act, Public Law 94-23.

In May 1975, Congress passed the Indochina Migration and Refugee Assistance Act. Temporary in time, that bill was limited in its coverage to aid only refugees from Vietnam and Cambodia. Shortly thereafter, a new government took over Laos and since then, many Laotians closely associated with the U.S. effort in that area have fled their country. Many of these refugees are currently in camps in Thailand.

We recognize that the Laotian refugees, as well as those from Vietnam and Cambodia, are the result of a tragic war. We should assume our share of responsibility of assisting in their resettlement as France and Australia are doing. In that regard, in July 1975, the Attorney General authorized the parole of 3,400 Laotian refugees into this country of whom approximately 2,700 are already here. On May 6, 1976, a further parole of 11,000 Indochinese refugees was authorized, of whom approximately 4,700 are Laotians.

Mr. Speaker, who are these additional refugees? They must qualify within one of the following categories:

First. Close relatives of U.S. citizens, permanent resident aliens, and previously paroled refugees;

Second. Former employees of the U.S. missions; and

Third. High-risk persons with close association with the U.S. effort in Southeast Asia.

Mr. Speaker, the refugees presently in Thailand are being handled differently from refugees who came here during the resettlement program last year. Through the auspices of voluntary agencies, these refugees travel directly from the refugee camps in Thailand to their sponsors in this country. This eliminates the need to reestablish stateside refugee camps such as Camp Pendleton, as were needed during last year's successful resettlement program.

However, it is difficult to obtain willing sponsors for Laotian refugees since they currently are ineligible for the benefits received by refugees from Cambodia and Vietnam. Under the 1975 act, the Federal Government provides financial assistance to the States, such as health care, language and vocational training, and social services. S. 2760 rectifies this. The bill we have reported would allow Laotian refugees to qualify for that assistance just as the other refugees we admitted from Indochina presently qualify.

We understand that funds already authorized should be sufficient to support additional refugees and that HEW will be able to administer the additional responsibility within the administration's fiscal year 1977 budget proposals. As a result of the fine management of the resettlement program by the interagency task force headed by Mrs. Julia Taft the transportation phase of the program was completed with a surplus.

Therefore, this bill will merely rectify the present inequality of denying one group of Indochinese refugees benefits we have already authorized for other Indochinese refugees. The bill passed the Senate by unanimous consent and was reported by the House Judiciary Committee by voice vote. The administration strongly supports enactment of this bill, and I urge the support of the House for the motion to suspend the rules and pass S. 2760.

Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio (Mr. REGULA), the sponsor of this legislation.

Mr. REGULA. Mr. Speaker, I rise in support of S. 2760, a companion bill to my earlier bill, H.R. 11473, which will amend the Indochina Migration and Refugee Assistance Act to provide for the inclusion of Laotian refugees.

Last spring this Congress moved expeditiously to insure that the refugees from Vietnam and Cambodia received support in resettling in the United States. When the Migration and Refugee Assistance Act was passed, the political situation in Laos was as yet unclear. Many hoped that the coalition government in Laos would survive; to include the Lao in emergency refugee legislation seemed an unnecessary affront to the government in Vientiane. Now, however, the Laotian Government has emerged as strongly pro-Communist; necessitating that a number of pro-Western Lao, many of whom worked for the U.S. mission during the Indochina war, flee their homeland.

The Attorney General, after consulting with the Congress, has authorized parole authority for 8,100 of these Laotian refugees. Without the benefits and assistance which S. 2760 would give them, these Lao will have a hard time in resettling and finding sponsors; those families who do sponsor Laotian refugees will have to shoulder an unnecessarily large burden in return for their generosity.

Passage of S. 2760 will involve the expenditure of no new moneys. The Congress appropriated $455 million under Public Law 94–23 of which $53 million remains, according to HEW. The funds to aid the Laotians would be drawn from this sum.

This country exhibited a great outpouring and aiding and enthusiasm in resettling and aiding a large number of refugees from Indochina. In light of this superb record it would be tragic to overlook one small but richly deserving group.

Mr. FISH. Mr. Speaker, I have no further requests for time.

Mr. EILBERG. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania (Mr. EILBERG) that the House suspend the rules and pass the Senate bill, S. 2760.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. EILBERG. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on S. 2760, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

RULES OF CRIMINAL PROCEDURE EFFECTIVE DATES

Mr. HUNGATE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 13899) to delay the effective date of certain proposed amendments to the Federal Rules of Criminal Procedure and certain other rules promulgated by the U.S. Supreme Court.

The Clerk read as follows:

H.R. 13899

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provisions of sections 3771 and 3772 of title 18 of the United States Code, and section 2072 of title 28 of the United States Code, the rules and forms governing section 2254 cases in the United States district courts, the rules and forms governing section 2255 proceedings in the United States district courts, and the amendments to the Rules of Criminal Procedure for the United States district courts which are embraced by the orders entered by the United States Supreme Court on April 26, 1976, and which were transmitted to the Congress on or about April 26, 1976, shall not take effect until August 1, 1977, or until and to the extent approved by Act of Congress, whichever is earlier.

The SPEAKER pro tempore. Is a second demanded?

Mr. WIGGINS. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Missouri (Mr. HUNGATE) and the gentleman from California (Mr. WIGGINS) each will be recognized for 20 minutes.

The Chair now recognizes the gentleman from Missouri (Mr. HUNGATE).

Mr. HUNGATE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, statutes known as the Rules Enabling Acts empower the Supreme Court to promulgate rules of "pleading, practice, and procedure." Such rules must be promulgated and transmitted to the Congress before May 1. They cannot take effect until 90 days after their transmittal to Congress. The purpose for this 90-day delay is to enable Congress to study any rules transmitted to it and to pass whatever legislation might be appropriate. After the 90 days go by, the rules promulgated and transmitted by the Supreme Court become effective and nullify any law that is in conflict with them.

Acting pursuant to the authority of the Rules Enabling Act, the Supreme Court promulgated and transmitted to Congress on April 26, 1976, certain amendments to the Federal Rules of Criminal Procedure as well as rules of procedure to govern cases and proceedings under sections 2254 and 2255 of title 18, United States Code.

The amendments to the Federal Rules of Criminal Procedure affect procedure concerning grand juries, peremptory challenges to jurors, the issuance of search warrants, and removal of a criminal case from a State to a Federal court.

The rules of procedure governing cases and proceedings under sections 2254 and 2255 of title 18, United States Code, are brand new. Section 2254 provides that someone held in custody pursuant to the order of a State court may apply for a writ of habeas corpus "only on the ground that he is in custody in violation of the Constitution or laws or treaties of the United States." Section 2255 provides that someone in custody pursuant to the order of a Federal court may, by motion, seek release "upon the ground that the sentence was imposed in violation of the Constitution or laws of the United States, or that the court was without jurisdiction to impose such sentence, or that the sentence was in excess of the maximum authorized by law, or is otherwise subject to collateral attack."

These amendments and new rules, absent congressional action to the contrary, will take effect on August 1, 1976. The purpose of H.R. 13899 is to postpone the effective date for 1 year, to August 1, 1977, in order to give Congress adequate time to review and study what the Supreme Court has transmitted to us.

I will note at the outset that although the Supreme Court transmitted its proposals to us last April 26, so far no official print of the Court's proposals has become available. I am told that the proposals are in galley proof form, but yet no House document containing the official version has been published. This, of course, delays our study and review of them, in part because the unofficial versions available to us do not contain the explanatory notes and comments prepared by the Judicial Conference's Advisory Committee on Criminal Rules. This committee is charged with the responsibility for preparing the initial draft of the rules, and in the past its comments have been most helpful.

H.R. 13899 is very similar to legislation enacted during the 93d Congress with respect to the Federal Rules of Evidence and to certain amendments to the Federal Rules of Criminal Procedure that were promulgated by the Supreme Court and transmitted to Congress on April 22, 1974. Public Law 93-12 postponed indefinitely the effective date of the Federal Rules of Evidence. I would point out that the indefinite postponement did not mean killing the Federal Rules of Evidence. The 93d Congress also enacted legislation establishing a Federal code of evidence, Public Law 93-595. The April 22, 1974, amendments to the Federal Rules of Criminal Procedure were postponed for a year by Public Law 93-361, exactly what H.R. 13899 proposes to do with the recently promulgated amendments. Again, I would point out that postponement was not a way for Congress to avoid dealing with the issues. Congress acted during the additional year it gave itself to approve some of the Supreme Court's amendments in their entirety, to disapprove some of them in toto, and to approve some of them with amendments—Public Law 94-64.

The Rules Enabling Acts, the statutory authority for the Supreme Court's action, contemplate that the Congress will review what the Supreme Court transmits to it. This legislation is designed to give Congress a realistic amount of time to study the Court's transmittals and to carry out its review in a thorough and conscientious manner. It has the bipartisan sponsorship of every member of the Subcommittee on Criminal Justice and comes before the House with the unanimous recommendation of the Committee on the Judiciary. I ask for your support of it.

Mr. WIGGINS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I also rise in support of H.R. 13899.

This is a bipartisan bill the sole effect of which is to stay for a maximum of 1 year certain amendments to the Federal Rules of Criminal Procedure recently promulgated by the Supreme Court.

The Supreme Court is permitted by statute—18 U.S.C. 3771-2, 28 U.S.C. 2027—to prescribe rules of criminal procedure, pleading, and practice for Federal district and appellate courts. Rules promulgated pursuant thereto nullify conflicting laws.

On April 26 of this year, the Supreme Court promulgated amendments effected by H.R. 13899. The amendments are scheduled to take effect on August 1 of this year. H.R. 13899 merely postpones that date 1 year to enable Congress to give these amendments the scrutiny they merit.

The amendments affect procedure concerning grand juries, verdicts by a jury of less than 12, peremptory challenges to jurors, issuance of search warrants, and removal of a criminal case from State to Federal court. The amendments also contain rules and forms for Federal habeas corpus and writ of error proceedings.

H.R. 13899 is similar to congressional treatment of amendments promulgated by the Supreme Court April 22, 1974. In that instance, Public Law 93-361 likewise provided a 1-year postponement and offered Congress a realistic opportunity to study the amendments.

Mr. HUNGATE. Mr. Speaker, I have no further requests for time.

GENERAL LEAVE

Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of the bill (H.R. 13899) under consideration.

The SPEAKER pro tempore (Mr. McFALL). Is there objection to the request of the gentleman from Missouri?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Missouri (Mr. HUNGATE) that the House suspend the rules and pass the bill H.R. 13899.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

CONTROL OF THE AFRICAN HONEYBEE

Mr. FOLEY. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 18) to amend the act of August 11, 1922, to prevent the introduction and spread of diseases and parasites harmful to honeybees, and for other purposes, as amended.

The Clerk read as follows:

S. 18

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1 of the Act of August 31, 1922, as amended (42 Stat. 833; 76 Stat. 169; 7 U.S.C. 281), is amended to read as follows:

"(a) In order to prevent the introduction and spread of diseases and parasites harmful to honeybees, and the introduction of genetically undesirable germ plasm of honeybees, the importation into the United States of all honeybees is prohibited, except that honeybees may be imported into the United States—

"(1) by the United States Department of Agriculture for experimental or scientific purposes, or

"(2) from countries determined by the Secretary of Agriculture—

"(A) to be free of diseases or parasites harmful to honeybees, and undesirable species or subspecies of honeybees; and

"(B) to have in operation precautions adequate to prevent the importation of honeybees from other countries where harmful diseases or parasites, or undesirable species or subspecies, of honeybees exist.

"(b) Honeybee semen may be imported into the United States only from countries determined by the Secretary of Agriculture to be free of undesirable species or subspecies of honeybees, and which have in operation precautions adequate to prevent the importation of such undesirable honeybees and their semen.

"(c) Honeybees and honeybee semen imported pursuant to subsections (a) and (b) of this section shall be imported under such rules and regulations as the Secretary of Agriculture and the Secretary of the Treasury shall prescribe.

"(d) Except with respect to honeybees and honeybee semen imported pursuant to subsections (a) and (b) of this section, all honeybees or honeybee semen offered for import or intercepted entering the United States shall be destroyed or immediately exported.

"(e) As used in this Act, the term 'honeybee' means all life stages and the germ plasm of honeybees of the genus Apis, except honeybee semen.".

SEC. 2. Section 2 of the Act of August 31, 1922 (42 Stat. 834; 7 U.S.C. 282), is amended to read as follows:

"SEC. 2. Any person who violates any provision of section 1 of this Act or any regulation issued under it is guilty of an offense against the United States and shall, upon conviction, be fined not more than $1,000, or imprisoned for not more than one year, or both.".

SEC. 3. The Act of August 31, 1922, is further amended by adding the following new sections:

"SEC. 3. (a) The Secretary of Agriculture either independently or in cooperation with States or political subdivisions thereof, farmers' associations, and similar organizations and individuals, is authorized to carry out operations or measures in the United States to eradicate, suppress, control, and to prevent or retard the spread of undesirable species and subspecies of honeybees.

"(b) The Secretary of Agriculture is authorized to cooperate with the Governments of Canada, Mexico, Guatemala, Belize, Honduras, El Salvador, Nicaragua, Costa Rica, Panama, and Colombia, or the local authorities thereof, in carrying out necessary research, surveys, and control operations in those countries in connection with the eradication, suppression, control, and prevention or retardation of the spread of undesirable species and subspecies of honeybees, including but not limited to Apis mellifera adansonii, commonly known as the African or Brazilian honeybee. The measure and character of cooperation carried out under this subsection on the part of such countries, including the expenditure or use of funds appropriated pursuant to this Act, shall be such as may be prescribed by the Secretary of Agriculture. Arrangements for the cooperation authorized by this subsection shall be made through and in consultation with the Secretary of State.

"(c) In performing the operations or measures authorized in this Act, the cooperating foreign country, State, or local agency shall be responsible for the authority to carry out such operations or measures on all lands and properties within the foreign country or State, other than those owned or controlled by the Federal Government of the United States, and for such other facilities and means as in the discretion of the Secretary of Agriculture are necessary.

"SEC. 4. Funds appropriated to carry out the provisions of this Act may also be used for printing and binding without regard to section 501 of title 44, United States Code, for employment, by contract or otherwise, of civilian nationals of Canada, Mexico, Guatemala, Belize, Honduras, El Salvador, Nicaragua, Costa Rica, Panama, and Colombia for services abroad, and for the construction and operation of research laboratories, quarantine stations, and other buildings and facilities.

"SEC. 5. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.".

The SPEAKER pro tempore (Mr. McFall). Is a second demanded?

Mr. SEBELIUS. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER. The gentleman from Washington (Mr. Foley) and the gentleman from Kansas (Mr. Sebelius) will each be recognized for 20 minutes.

The Chair now recognizes the gentleman from Washington (Mr. Foley).

Mr. FOLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 18, as amended, to amend the Honeybee Act of 1922.

The House is aware that the Honeybee Act of 1922 was originally enacted to exclude foreign diseases of honeybees from the United States. Since the known foreign diseases infected only the adult hive bee, *Apis mellifera*, the act prohibited the importation of adults of this species alone. Subsequently, it was discovered that additional species of *Apis* could transmit diseases. Therefore, the act was revised in 1962 to include all species of honeybees.

Additional developments since that time indicate that existing law is insufficient to protect the U.S. beekeeping industry from the possibility of severe economic loss with consequential adverse effects on various segments of U.S. agriculture. Nor does the act afford the American people adequate protection from exposure to a serious health hazard.

Recent studies by the Department of Agriculture have revealed that immature honeybees can also carry a dangerous mite pest in their respiratory tracts. Moreover, it has been discovered that a significant number of noxious honeybee parasites and diseases occur abroad that are unknown in this country. The African—or Brazilian—honeybee also poses a potential threat to the American beekeeping industry.

The threat is illustrated by the following quotation from the National Academy of Sciences' final report on the African honeybee, June 1972:

> A strain of honeybee not yet present in North America seems likely to enter that continent from the South if its spread is neither hindered nor helped through human agencies. This strain, now rapidly extending its range in South America, has both objectionable and dangerous attributes. Because of its unprovoked mass stinging and because of frequent swarming and absconding, the Brazilian honeybee is dangerous to people and animals and is difficult to manage.

The African honeybee was deliberately imported into Brazil from Africa for research purposes in 1956. Shortly thereafter, queen bees were accidentally liberated and this honeybee strain, known to be highly aggressive and irritable, began spreading throughout South America at the rate of about 200 miles per year.

The strain has mixed with other breeds of honeybees in South America, and has imparted its extremely aggressive traits to the local bee population.

These hybrids are often extremely vicious and difficult to handle. Accidental encounters with livestock and people have resulted in mass stingings that sometimes cause death.

The spread of the African or Brazilian honeybee could also lead to multimillion-dollar losses to American agriculture. If this hybridization should spread to the United States and contaminate domestic strains, the present practice of maintaining bee hives in rural areas, often near human habitation, would probably not be tolerated by the public. This would seriously interfere with the use of bees for crop pollination.

Because of its aggressive foraging for food, domestic bees have disappeared in areas where the African honeybee strain has appeared. Also, African honeybees may take over hives of other bees. This, in turn, creates another loss because the African honeybees may "abscond" or suddenly leave the hives to migrate to other areas. This leaves the beekeeper without producing bees and the adjacent crops without a honeybee pollinator agent. From less than two dozen swarms that escaped from colonies in Rio Claro, Brazil, in 1956, the African or Brazilian honeybee has now spread over an area equal to the continental United States.

S. 18 as amended and reported to the House is designed to remedy the deficiencies in the existing act. The bill would make three main changes in the law applicable to honeybees.

First, it would prohibit the importation of honeybees in all of their life stages—from germ plasm to adult—except under certain specified conditions determined by the Secretary of Agriculture. Under present law, only adult honeybees are covered.

Second, the bill would permit the importation of honeybee semen only from countries which are determined to be free of undesirable species or subspecies of honeybees and which have adequate precautions in operation to prevent the importation of such undesirable honeybees and their semen. Importations into the United States could only be made under rules and regulations prescribed by the Secretary of Agriculture and the Secretary of the Treasury.

Third, the bill would authorize the Secretary of Agriculture to cooperate with State governments, organizations, and individuals and with the governments of Mexico, Colombia, Canada, and the Central American countries to eradicate and control the spread of undesirable species of honeybees, including all forms of the African—or Brazilian—honeybee.

S. 18 was introduced at the request of the administration. The administration supports the bill in its present form. The committee estimates no additional cost over the next 5 years from enactment of the legislation in its present form. According to testimony received by the committee, inspection teams presently in place will be able to perform the additional tasks with respect to controls at the U.S. border on the importation of undesirable species and the introduction of harmful parasites as required by S. 18, as amended. Additional costs would result should it become necessary to implement the cooperative programs authorized by the bill to stem the northern migration of the Africanized honeybee. At the present time the committee estimates that it will not be necessary during the current and 5 subsequent fiscal year period.

A similar cost estimate was submitted to the committee by the Department of Agriculture which stated:

> At this time, we do not project the migration of the bee to any of these countries during the next five years. If this projection is correct, no funds would be required for this provision during the five-year period. If the projection is faulty, due to unanticipated events, the level of funding would depend on mutual agreement with the cooperating countries; the extent of the threat; and action by the Congress on proposals which would be submitted at that time.

Mr. Speaker, S. 18 was amended and reported to the House by the Committee on Agriculture by voice vote in the presence of a quorum. I urge the House to support this legislation to provide the necessary protection to the beekeeping industry of the United States—an industry which plays a vital and significant role in American agriculture. In supporting this legislation, the House will also be providing the American people with protection from a possible health hazard.

Mr. SEBELIUS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, a number of stories have appeared in the newspapers about the African honeybee. It has generally been characterized as a very aggressive bee strain that would cause real or potential problems if introduced into this country.

Testimony before the committee established that a committee of the National Research Council of the National Academy of Sciences completed a study in 1972 concerning the African honeybee in Brazil. That report contained, among other things, a recommendation that legislation be enacted to give the Department of Agriculture authority to deal effectively with the problems which could result from the accidental or intentional importation of such bee into the United States. Dr. Mussman, the Associate Administrator, Animal and Plant Health Inspection Service, U.S. Department of Agriculture—USDA—testified that USDA considers it essential that Africanized bees be kept out of the United States. He stated that Africanized bees when mixed with other honeybee strains imparted to local bees "singular and potentially troublesome traits—aggressiveness and excessive swarming." Dr. Mussman testified that these hybrid honeybees were often extremely vicious and difficult to handle, and this was said to be especially true in early crosses.

USDA is convinced that there is a real possibility that a hybrid strain of the Africanized bee may be introduced into this country and spread across the country rapidly and, therefore, it recommended passage of S. 18 so as to effect the following legislative changes:

First, it would strengthen the current provisions of the Honeybee Act by prohibiting the importation of honeybees in all stages from egg to adult including semen, with certain exceptions. Excepted would be honeybees imported by the Department for scientific purposes; and importations of bees or semen from those countries of the world which are free of diseases or parasites harmful to honeybees, including undesirable species or subspecies of honeybees.

Second, it would provide the Department with standby authority to cooperate with the several States, Canada, Mexico, the Central American countries, and Colombia in conducting such operations or taking such measures as may become necessary to protect against undesirable species or subspecies of honeybees.

The authority contained in S. 18 is consistent with earlier action taken by the Congress to cooperate with foreign countries in efforts to detect, control, and eradicate agricultural pests and diseases. The authority given USDA in 1947 to combat hoof-and-mouth disease—broadened to include other animal diseases and pests and additional countries in 1971—appears to me to be a clear and favorable precedent for the action we take today regarding honeybees. Moreover, in this Congress we broadened the authority of USDA to deal with the Mediterranean fruit fly—Public Law 94-231, March 15, 1976—and that legislation won general approval.

Under the provisions of this bill, the USDA would still be permitted to import honeybees into the United States for experimental or scientific purposes. Thus, the Africanized honeybees may be brought into the United States under carefully controlled standards and procedures to determine if the Africanized bee can be crossed with domestic varieties so as to create a good producer strain—but one without the vicious and dangerous characteristics of the African honeybee.

Furthermore, in exercising its authority under this bill as it relates to cooperation with foreign governments, the USDA is directed to consult with the State Department.

Based on the experience USDA has gained in dealing with the control of introduction of pests and diseases from foreign countries in the last 50 years, I am confident that USDA representatives will exercise this newly granted authority in an intelligent and evenhanded manner.

I am aware that there are certain segments of the honey producers in this country who consider that this bill may grant too much authority to USDA in cooperating with foreign governments. At least one group opposes the inclusion of sections 3 and 4 of this bill. However, I believe that the weight of the evidence as presented to the committee in its hearings strongly supports the amount and extent of delegation of authority we have provided for in this bill. It appears to me that we in the Congress cannot ignore the clear danger which exists or potentially exists if the Africanized bee strain is introduced into this country.

An ounce of prevention—and, remember USDA can bring in the African honeybee for experimental purposes—and even that may carry some risk—but bee producers are interested in the producing capabilities of the African bee, and I trust that USDA will impose stringent controls on its experiments—is worth a pound of cure. Would it not be wonderful if we had taken the precautions we take today for the honeybee on behalf of the fire ant, which is currently causing so much hardship in the Southwest. The destruction caused by the fire ant to date is tremendous—not only in dollars and cents but in the pain and suffering of animals and humans attacked by the fire ants.

Only one group raised any question about sections 3 and 4 in the bill, and that was accomplished by filing a statement at the hearing. I respect the views and motives of these poeple; however, I view the danger here to be too great to risk a gamble that the African bee will not be introduced to the United States or that if introduced, it will not constitute a danger to the public and perhaps to the entire honeybee industry.

Accordingly, I urge you to vote in favor of this bill as reported favorably to you by the committee.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Washington (Mr. FOLEY) that the House suspend the rules and pass the Senate bill (S. 18), as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill (S. 18) just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

ORIENTATION OF DEPENDENTS OF USDA EMPLOYEES HAVING FOREIGN ASSIGNMENTS

Mr. DE LA GARZA. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 11868) to amend section 602 of the Agricultural Act of 1954, as amended.

The Clerk read as follows:

H.R. 11868

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 602 of the Agricultural Act of 1954, as amended, is amended by adding at the end thereof a new subsection as follows:

"(f) Effective October 1, 1976, the Secretary of Agriculture is authorized to provide appropriate orientation and language training to spouses of officers and employees of the Department of Agriculture in anticipation of an assignment abroad of such officers and employees or while abroad pursuant to this Act or other authority: *Provided,* That the facilities of the Foreign Service Institute or other Government facilities shall be used wherever practicable, and the Secretary may utilize foreign currencies generated under title I of the Public Law 83-480 to carry out the purposes of this subsection in the foreign nations to which such officers, employees, and spouses are assigned. There are hereby authorized to be appropriated such sums, not to exceed $35,000 annually. The Secretary shall submit to the House Committee on Agriculture and the Senate Committee on Agriculture and Forestry not later than ninety days after the end of each fiscal year a detailed report showing activities carried out under authority of this subsection during such fiscal year.".

The SPEAKER pro tempore. Is a second demanded?

Mr. GRASSLEY. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Texas (Mr. DE LA GARZA) will be recognized for 20 minutes, and the gentleman from Iowa (Mr. GRASSLEY) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. DE LA GARZA).

Mr. DE LA GARZA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 11868, as amended. The amendment is the text of the bill, H.R. 11868, as amended and reported by the House Committee on Agriculture.

This legislation authorizes the Secretary of Agriculture to provide orientation and language training for spouses of officers and employees of the U.S. Department of Agriculture who have foreign assignments. For this purpose the bill authorizes an annual appropriation of $35,000 effective October 1, 1976.

It is important that spouses of agricultural officers and employees assigned abroad acquire skills to communicate in the language of the country to which they are assigned in order for them to participate in fulfilling the important role of representing U.S. agriculture abroad. It is also useful that the spouses know something of the culture and history of the area to which they are assigned as well as to have a general orientation on foreign service requirements. The USDA employee's spouse is an important member of the attaché team and thereby occupies a significant role in the success of U.S. agriculture activities at posts abroad. The husband and wife team in the embassy environment is an instance where the Government gets the services of two people for the price of one. Training of this kind adds to professional confidence and helps to provide for the spouse functioning more effectively in official contacts. Because of service to the Government, it is felt by the committee reasonable that the Government should bear the cost of this training.

The Department of State has authority to provide training for State Department employees and their families in anticipation of their assignments abroad. It also provides similar training for employees and families of other agencies and collects reimbursement from such agencies for the training. While other agencies have legislative authority to reimburse the Department for training of dependents, the USDA does not.

The Foreign Service Institute was advised by the General Accounting Office in 1968 that it should establish a uniform system of charging other agencies for training services and it should document any deviations from this general policy. The Institute then requested the Department of Agriculture to seek the general authority for such reimbursement already possessed by other agencies such as USIA, AID, and CIA. In the interim it has provided training to dependents of USDA employees on a space available basis pursuant to individual requests from USDA for waiver of reimbursement requirements, with the understanding that USDA would continue to seek the necessary legislative authority.

The bill provides that, to the maximum extent practicable, facilities of the Foreign Service Institute or other Government facilities would be used. Authority is also provided to make use of foreign currencies generated under title I of Public Law 480 to carry out the purposes of this section in foreign nations to which the employees and their spouses are assigned. The committee is advised that there are seven countries in which there are language programs where there are excess currencies available.

The Department of Agriculture has estimated 223 professional staff officers are serving abroad at this time. Based on normal rotation the committee has been advised that no more than 50 dependents would be subject to training during any 1 fiscal year and that the amount provided for in this bill should be sufficient to accommodate the needs of the Department. It is estimated that the cost to be incurred by the Federal Government should approximate but would not exceed $35,000 annually for the next 5 fiscal years.

The Subcommittee on Department Operations, Investigations, and Oversight held a public hearing on March 29, 1976, on H.R. 11868 at which the Administrator of the Foreign Agricultural Service, U.S. Department of Agriculture, testified in support of the bill. No testimony was received in opposition to the bill.

The bill, H.R. 11868, as amended, was reported by the Committee on Agriculture by a voice vote in the presence of a quorum.

We are respectfully requesting that the House adopt H.R. 11868, as amended, and reported to the House by the Committee on Agriculture.

Mr. Speaker, I urge the Members of the House to join me in support of this legislation. Its cost is minimal and it would serve the overall interest of the United States in its activities overseas.

Mr. THONE. Mr. Speaker, will the gentleman yield?

Mr. DE LA GARZA. I will be happy to yield to my distinguished colleague, the gentleman from Nebraska.

Mr. THONE. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise in support of H.R. 11868, a bill to authorize orientation and language training for spouses of certain officers and employees of the Department of Agriculture.

Mr. Speaker, I am concerned that at times U.S. Government officials and their families are still viewed in the "Ugly American" image. This is typified by the condescending posture of some U.S. employees in foreign countries who say to the natives, "you communicate with me in my language and adjust to my customs." I think it is to our credit that greater emphasis is now being placed on the need not only of our officers, but their spouses, to have a greater familiarity with the language and local customs of their overseas assignment in order to function more effectively in their official contacts.

Our Agriculture attachés and their spouses work together as a "team"—and our Government truly gets this team of two for the price of one—and can provide a great service to our Government in their official activities, which are in accordance with U.S. foreign policy objectives with respect to agricultural matters. Our total farm exports for fiscal year 1975 amounted to $21.6 billion. We hope to further expand these sales. At this time when most of our constituents list the state of our economy as their No. 1 concern, an effective job by our agricultural attachés has the potential of having a favorable impact on our balance of trade with foreign countries. This makes it most urgent that our officers and their spouses be well prepared to form an effective, professional team as representatives of the U.S. Government in their sensitive diplomatic missions.

The Senate version of this bill, S. 3052, was passed unanimously by the Senate on March 16, 1976. The House Committee on Agriculture made several changes to this bill, which makes our bill H.R. 11868, a sounder one.

H.R. 11868 was amended in committee to provide this service only for the spouses of certain officers and not for their entire families. Although it is desirous for an entire family overseas to be familiar with the country's language and customs, we think the Government should only provide this orientation and training to the spouse.

H.R. 11868 was also amended to authorize the use of foreign currencies where practical for language training, and this certainly will save expenditures from our Treasury.

H.R. 11868 was amended to place a $35,000 annual ceiling on this authorization of funds. This funding was authorized, notwithstanding the fact that the Department of Agriculture stated that this legislation would not result in additional costs as it could be absorbed within the total resources of the USDA.

H.R. 11868 also requires the Secretary of Agriculture to submit an annual report to the House Committee on Agriculture and the Senate Committee on Agriculture and Forestry showing the activities carried out under the authority of this legislation.

Mr. Speaker, I urge my colleagues in the House to vote in favor of this bill and thus to give Americans abroad who are serving their country adequate training to better serve our country in economic terms, as well as in terms of leaving favorable impressions of our U.S. employees and Americans generally.

Mr. GRASSLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, so many times we wonder why there are so many big black Cadillacs running around Washington, D.C. The reason why there are is that one bureaucrat sees another bureaucrat has a big black Cadillac, so he wants one and gets it.

Or we may wonder why there are so many walnut-paneled offices in Washington, D.C. One bureaucrat sees that another bureaucrat has a black walnut-paneled office, so he wants one and gets it.

Mr. Speaker, I am opposed to the enactment of H.R. 11868, because it is feeding these same fires of snobbery that are so typical of Washington, D.C. This type of legislation is poorly conceived and in my judgment is not needed. With all the priorities that this country has, this legislation in my judgment ranks low in importance and could be called bordering on the frivolous.

Mr. Speaker, this bill was not on our so-called shopping list that the Committee on Agriculture presented to the Committee on the Budget a few months ago. Therefore, why should we be considering this legislation today?

If I may answer my own question, I think the fact that this bill was not on our list of priorities that we submitted to the Committee on the Budget suggests that the committee did not hold this legislation to be a priority item. Then, the Members will ask, why did this bill reach the floor? The Members can legitimately ask that question now.

I can only say that the bureaucrats in the Foreign Agriculture Service have in my judgment taken a course bent on forcing Congress to provide a fringe benefit which, if this is passed, is highly questionable.

The reason why they are asking for it is because they see some other department or some other Government employee has it, so they want it. If we were to enact this bill, we would be opening another door to back door spending and adding to our national debt.

Mr. Speaker, I have confidence that the present Secretary of Agriculture should be able to figure out a way to provide this training without costing the American taxpayer $35,000.

I would submit that this is already being done, because, after hearing testimony by Foreign Agriculture Service witnesses, who stated that the present situation with regard to language training for USDA dependents is done without cost to the Department, I concluded that the present arrangement with the State Department and the Foreign Service Institute is the best possible arrangement to carry out this sort of training. I do realize that this training is presently done on a space-available basis, which may inconvenience some of the people in the bureaucracy, but it is surely a way that saves the taxpayers' money. That ought to be our prime concern.

I strongly urge my colleagues to reject this type of legislation. Frivolous spending such as this bill advocates is not a good way to spend the taxpayers' funds.

Mr. Speaker, on the merits of this bill, the only justification for language training for families of USDA employees is that the State Department allows this activity. And again I want to emphasize the fact that some other departments get it, so this department feels it ought to have it.

If we follow this reasoning, then all Government employees whose families may go overseas should have this training available to them also.

Mr. Speaker, I find this type of justification lacking merit at a time when our national budget is projecting a $43 billion deficit in fiscal year 1977. I would say to all of the Members present here today that if we voted to do away with a black Cadillac limousine last summer, and we had a chance to do that on the energy bill that was before the House at that time, we ought to vote against this bill.

This bill is just like a snowball at the top of a hill. This is just the very beginning. Every other bureaucrat who travels overseas will be in here asking for these same rights and these same privileges.

Then let me ask. Where are we going to draw the line? Right now is the time to curb the bureaucratic snobbery that is connected with this legislation.

Mr. DE LA GARZA. Mr. Speaker, I yield myself 3 additional minutes.

Mr. Speaker and Members of the House, I take this further time only to assure the Members that the gentleman from Iowa (Mr. GRASSLEY) has espoused his philosophical viewpoint unsubstantiated by the facts in this case. I regret very much having to say that.

This has been done. This has nothing to do with black Cadillacs or white Cadillacs. This has been done heretofore in a very orderly way, with the State Department handling it, being reimbursed by the Department of Agriculture. However, our investigating arm, the General Accounting Office, the investigating arm of the Congress, in studying this procedure, said that there was no legal authorization for the Department of Agriculture to reimburse the State Department. The State Department then acquiesced with respect to that fact and said that on a space-available basis, they would train the Agriculture Department personnel if the Agriculture Department initiated procedures to seek legislative authorization. That is the reason for this bill.

It is not permitted on a space-available basis even under the existing law, but the State Department stated that they would continue doing it until this authorization was secured.

It is very simple. It enhances the ability of a husband and wife to work together as a team for the Government of the United States abroad. If we think that we can balance the budget with $35,000 a year, then we are going to have to have hundreds of thousands of these types of bills in order that the gentleman from Iowa (Mr. GRASSLEY) might be able to object, in his very honest attempt to balance the budget and to try to correct the procedure. However, it is not going to be done with a $35,000 a year bill.

Mr. Speaker, this bill is needed badly because those of us who have jurisdiction over this matter and travel abroad know how exceedingly important it is for the man and his wife to speak the language of the country to effectively serve the Government and the people of the United States. It cannot be done. The whole world does not speak English all the time.

Mr. Speaker, this has to be done if we are going to protect the agricultural interests of Iowa. It has to be done if the agricultural interests of Iowa alone are to be protected and they should be protected, along with the agricultural interests of the United States as a whole.

The SPEAKER pro tempore. The time of the gentleman from Texas (Mr. DE LA GARZA) has expired.

Mr. DE LA GARZA. Mr. Speaker, I yield myself 2 additional minutes.

Mrs. FENWICK. Mr. Speaker, will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Speaker, I heartily endorse the comments of my colleague, the gentleman from Texas (Mr. DE LA GARZA), concerning this bill.

I think it is most important that those who represent us abroad should be able to speak the language of the country to which they are assigned. Although it is true that the husband, in very many cases, is the representative, the wife plays an important role in each instance.

Mr. Speaker, I think this is a very far-sighted measure, costing $35,000 a year. I think also that all of our agricultural communities will benefit from this bill.

Mr. DE LA GARZA. Mr. Speaker, I thank the gentlewoman from New Jersey for the remarks she has made.

Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. DE LA GARZA) that the House suspend the rules and pass the bill (H.R. 11868), as amended.

The question was taken.

Mr. ASHBROOK. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were refused.

Mr. ASHBROOK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

Pursuant to clause 3(b) of rule XXVII, and the prior announcement made by the Chair, further proceedings on this motion will be postponed.

Does the gentleman from Ohio withdraw his point of order that a quorum is not present?

CALL OF THE HOUSE

Mr. ASHBROOK. No, Mr. Speaker, I do not. I insist upon my point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

Without objection, a call of the House is ordered.

There was no objection.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 334]

Abzug
Allen
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Annunzio
Ashley
AuCoin
Beard, R.I.
Beard, Tenn.
Bell
Biaggi
Boggs
Brown, Ohio
Burke, Calif.
Burton, John
Butler
Carney
Clawson, Del
Conyers
Coughlin
D'Amours
Daniels, N.J.
Danielson
Davis
Dellums
Derrick
Diggs
Dingell
Downing
Drinan
Edgar
Esch
Eshleman
Evans, Colo.
Fenwick
Fraser
Frenzel
Giaimo
Green
Gude
Guyer
Hagedorn
Hansen
Harrington
Harsha
Hays, Ohio
Hébert
Heckler, Mass.
Heinz
Helstoski
Hicks
Hinshaw
Jacobs
Jarman
Jeffords
Jones, Ala.
Karth
Keys
Kindness
Krebs
Krueger
Landrum
Latta
Leggett
Litton
Lundine
McCloskey
McCormack
McDade
McKay
McKinney
Maguire
Mathis
Matsunaga
Melcher
Milford
Mineta
Mink
Moakley
Mosher
Murphy, Ill.
Nichols
O'Hara
Passman
Patterson, Calif.
Pepper
Peyser
Pickle
Poage
Rangel
Rees
Riegle
Risenhoover
Roybal
Ryan
Schneebeli
Shuster
Simon
Sisk
Stanton, James V.
Steiger, Ariz.
Stephens
Stokes
Sullivan
Symington
Symms
Talcott
Thompson
Udall
Van Deerlin
Vander Veen
Wampler
Waxman
Whalen
Wilson, Bob
Wilson, C. H.
Young, Alaska
Young, Fla.
Young, Ga.

The SPEAKER pro tempore. On this rollcall 311 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

U.S. RAILWAY ASSOCIATION AUTHORIZATION

Mr. ROONEY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 13325) to amend the Regional Rail Reorganization Act of 1973 to authorize additional appropriations for the U.S. Railway Association, as amended.

The Clerk read as follows:

H.R. 13325

Be it enacted by the Senate and House of Representatives of the United States of of America in Congress assembled, That section 214(c) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 724(c)) is amended to read as follows:

"(c) ASSOCIATION.—For the period beginning May 1, 1976, and ending September 30, 1977, there are authorized to be appropriated to the Association for purposes of carrying out its administrative expenses under this Act such sums as are necessary, not to exceed $20,000,000. Sums appropriated under this subsection are authorized to remain available until September 30, 1978.".

The SPEAKER pro tempore. Is a second demanded?

Mr. SKUBITZ. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Pennsylvania (Mr. ROONEY) and the gentleman from Kansas (Mr. SKUBITZ) will each be recognized for 20 minutes.

The Chair now recognizes the gentleman from Pennsylvania (Mr. ROONEY).

Mr. ROONEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill authorizes a total of $11.8 million over and above the amount currently authorized for administrative expenses of the U.S. Railway Association, USRA, for the period of May 1, 1976 to September 30, 1977.

This bill is designed to help USRA administer its duties to develop plans and estimates for a revision in the ConRail operations under the final system plan. This revision will reflect a modification of the final system plan due to the withdrawal of the Chessie System and the Southern Railway from the reorganization process originally proposed by USRA.

This money will also enable USRA to monitor the activities of ConRail and to prepare the defense of the reorganization of the bankrupt railroads in the courts.

The authorization of $20 million contained in the reported bill includes $8.2 million already authorized by existing law which is repeated in this bill because the current authorization will be repealed by enactment of this legislation.

This increase in the authorization for administrative expenses is necessary because of the substantial increase in duties to be performed by USRA. These duties include:

First. Modification of the final system plan because of the withdrawal of the Chessie System and the Southern Railway from the reorganization process;

Second. Increased monitoring activities over ConRail by the USRA which are required by the Railroad Revitalization and Regulatory Reform Act of 1976; and

Third. Proper legal defense of the fairness and equity of the final system plan in the courts.

USRA must now undertake a substantial and complicated refinement of operating and financial plans for the revised ConRail resulting from the withdrawal of the Chessie and the Southern Railway. This will involve new projections of traffic, operating expenses, revenue, and capital investment. The committee has estimated that $300,000 is required to complete the financial and operational detail for the revised ConRail structure.

As "banker" and "monitor" for ConRail under the new Railroad Revitalization and Regulatory Reform Act of 1976 enacted on February 5, 1976—Public Law 94–210—USRA will be required to conduct a quarterly review of ConRail operations to determine the amount of Federal investment for that quarter and assure that such investment is utilized to establish a profitable, private sector railroad. Also, under the new 1976 act, USRA will administer a loan program of $230 million to provide for payment of certain preconveyance obligations of the bankrupt estates so that the start-up of ConRail will not be disrupted. In administering this program, USRA will have to review working capital accounts of the estates, prepare criteria and procedures, monitor the actions of the borrowers, and take action where required to recover the amount of the loan plus interest.

The committee has estimated that USRA will need $2 million to administer this loan program.

Most of the money authorized by this bill will be used by USRA to prepare for the legal defense of the rail reorganization which will be very complex. More than 40 law firms have been retained by the bankrupt estates and creditors to defend their interest in the reorganization. The committee has estimated that $25 million is being paid annually for legal counsel to oppose the reorganization.

USRA will be required to defend, revise, and update the earnings projections of ConRail, particularly concerning ConRail securities. The revisions of operating plans due to actual experience and predictions of ConRail's future will be two of the many issues confronting USRA in this complex adjudication.

One crucial issue involved in the values that will be assigned to the properties acquired by ConRail. For example, the Penn Central trustees assessed the value of their rail properties to be in excess of $7 billion. USRA, on the other hand, has reached a figure of less than $690 million. The special court will be receiving new evidence from the estates and creditors with respect to prices and figures and USRA will be required to respond to that evidence. The determination by the special court will affect the certificates of value, the value of which is guaranteed by the Federal Government.

The committee feels that $9.8 million of this authorization will be necessary for USRA to prepare a proper and adequate legal defense of the final rail reorganization plan, including the preparation of supporting economic, financial, and operational material for use by the attorneys involved.

One committee amendment is included in the reported bill. That amendment deletes from the introduced bill a provision that allowed sums appropriated to remain available until expended. In lieu thereof, the committee amendment would authorize such sums to remain available only until September 30, 1978. This will encourage a review of USRA administrative expenditures before more money is authorized.

Mr. Speaker, I urge the passage of this legislation.

Mr. STAGGERS. Mr. Speaker, will the gentleman yield?

Mr. ROONEY. I yield to the distinguished gentleman from West Virginia.

Mr. STAGGERS. Mr. Speaker, I rise in support of this very important bill to help the U.S. Railway Association, USRA, carry out a substantial increase in its duties. Among other things, USRA will be required to modify the final system plan because of the withdrawal of the Chessie System and the Southern Railway from the reorganization process: To increase its monitoring activities over ConRail as required by the Railroad Revitalization and Regulatory Reform Act of 1976; and to provide for a proper legal defense of the fairness and equity of the final system plan in the courts.

The $20 million authorized in this bill includes $8.2 million already authorized by existing law. The existing authorization is included in this bill because it would be repealed by enactment of this legislation. Briefly, the remainder of the authorization, $11.8 million, will be used as follows:

First, $2 million will be used to administer a loan program of $230 million provided for under the new Railroad Revitalization and Regulatory Reform Act of 1976 in order to make payments on certain preconveyance obligations of the bankrupt estates so that the startup of ConRail will not be disrupted.

Second, $300,000 will be used to complete the financial and operational modifications for the revised ConRail structure in view of the withdrawal by the Chessie System and the Southern Railway.

Third, the largest amount, $9.8 million, will be used to prepare a proper and adequate legal defense of the final rail reorganization plan, including the preparation of supporting economic, financial, and operational material for use by the attorneys involved. The crucial issue that is involved will be the values to be assigned to the properties acquired by ConRail. The Penn Central trustees, for example, have assessed the value of their rail properties to be in excess of $7 billion. On the other hand, USRA has valued the rail properties at a figure of less than $690 million.

The special court will be receiving evidence from the estates and creditors with respect to the valuation of rail properties and USRA will be required to respond to that evidence. The determination by the special court will affect the certificates of value which are guaranteed by the Federal Government. Obviously, the "potential" liability of the Federal Government is very great.

The committee has estimated $25 million is being paid annually to more than 40 law firms which have been retained by the bankrupt estates and creditors to defend their interest in the reorganization.

The committee amendment included in the bill would authorize sums appropriated under this authorization to remain available only until September 30, 1978. Under existing law, sums appropriated would have remained available until expended. This will encourage a review of USRA administrative expenditures before making any additional authorization.

Mr. Speaker, I urge the passage of this legislation.

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. ROONEY. I yield to the gentleman from New York.

Mr. GILMAN. Mr. Speaker, I thank the gentleman for yielding.

I welcome the efforts by the committee in bringing this measure before the House, in order to enhance USRA's monitoring role over ConRail. I would like to call to the attention of the distinguished chairman from West Virginia (Mr. Staggers) that when the initial funding of USRA was before the House, earlier in the 94th session, I had raised the question of funding during the consideration of an emergency appropriation under the Regional Railroad Reorganization Act. The long, lingering repair of an important rail bridge, the Poughkeepsie railroad bridge, which had been left inoperative following a fire on May 8, 1974, and which had gone without any attention from either the Federal agencies or from the State Department of transportation.

This is an important and vital link to the rail system between New York State, Connecticut, and the entire New England region. Unfortunately, this bridge still remains in a state of disrepair. At that time, in a colloquy on the House floor—February 19, 1975—I had the assurance of the distinguished chairman of the committee, the gentleman from West Virginia, that the committee would "try to do whatever (they) could do" so that the bridge would be repaired.

I call to the attention of the committee the fact that this important rail link still remains in an unusable state, affecting vital rail transportation in our area. I urge and request the committee to assist us in our efforts to have this important rail bridge repaired.

Mr. ROONEY. Mr. Speaker, I will be very happy to respond to the gentleman from New York. We are going to hold hearings in Elmira on June 26 on the Murphy bill, and we are looking for competition and hope that we will find a competitive company that will compete with ConRail. If that does happen, the Poughkeepsie problem will be taken care of.

Mr. MOFFETT. Mr. Speaker, will the gentleman yield?

Mr. ROONEY. I yield to the gentleman from Connecticut.

Mr. MOFFETT. Mr. Speaker, I would like to associate myself with the remarks of the gentleman from New York (Mr. Gilman) in so far as he brings to our attention a very important matter which has important consequences not only for his State, but for my State of Connecticut.

I think our concern here is, if in fact there is no competitive service, then what? I think the gentleman and I can make a very strong case for this bridge being repaired even if there is no competition, because the matter will still be there. The gentleman knows that there are reams of testimony from both New York and Connecticut officials on the importance of this bridge being repaired so that we can get vital freight between New York and Connecticut.

I certainly would also urge that the subcommittee keep an eye on this matter and that the full committee keep an eye on this matter and, hopefully, USRA can use its influence to see that we do have this vital service maintained in the system.

Mr. ROONEY. Mr. Speaker, if the gentleman will yield, the gentleman from Connecticut well knows this was in the final system plan, in the beginning, but when the Chessie was pulled off, then it was eliminated.

I can assure both of the gentlemen that it will be given serious consideration.

Mr. GILMAN. I thank the gentleman for his supportive remarks, and we certainly will welcome the committee's concern and attention to this problem. It is of vital concern to the economy of both New York and Connecticut. The fact that there is not a competitive system should not be a condition for repairing this important bridge. The Poughkeepsie rail bridge is important to the ConRail System, even without a competitor. I thank the gentleman from Connecticut for his concern and for his attention and efforts in seeking to resolve this issue.

Mr. SKUBITZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the purpose of this bill is simply to provide funds so that USRA can continue its work with respect to fending off litigation surrounding the creation of ConRail, and working out certain modifications in the final system plan in order to accommodate the requirements of a big ConRail.

Mr. Speaker, USRA was set up as a result of the 1973 Regional Rail Reorganization Act. Its primary purpose was to devise a plan to solve the problem of having eight bankrupt railroads in the Northeast. The Association undertook its job with skill and vigor and was one of the few Government agencies to submit its reports on time. All of the Members will recall the massive preliminary system plan and the equally sizable final system plan which was submitted to Congress by USRA. After considering those plans, Congress accepted the recommendations of USRA with few modifications.

Last February, the President signed into law the Railroad Revitalization and Regulatory Reform Act of 1976. That act contained the implementing legislation necessary to create ConRail and to give it a fighting chance to be successful. Unforeseen at that time was the fact that two important parts of the final system plan would not take place because a small group of men chose to place self-interest above the need for a strong rail transportation for the Northeast. I am referring to the fact that the planned purchases by the Chessie Railroad system and the Southern Railroad system never took place because agreements with organized labor became impossible. As a consequence of that failure, the so-called big ConRail plan was put into place. In short, this means that with the exception of some trackage rights given to the Delaware & Hudson Railroad, the Northeast, and much of the Midwest, is now served by ConRail, and ConRail alone. This change in plans has required additional man-hours by USRA in order to work out trackage rights and other provisions contained in the original final system plan.

USRA now has two jobs: First, it will continue to monitor ConRail operations so as to determine the advisability of continuing the committed Federal payments authorized by the railroad legislation enacted in February. Second, it has the responsibility to take the lead in putting together the kind of legal defense which is necessary in order for the United States to show that the properties now a part of ConRail were, in fact, not taken without due process, but were simply the result of an income-based reorganization.

In this latter area, the U.S. Government will be faced with massive resources and teams of lawyers put together by creditors of the bankrupt railroads, stockholders of the bankrupt railroads, and in some cases, shippers who utilize the services of the bankrupt railroads. It is estimated in the committee report that the legal bill for those trying to extract additional money from the U.S. Government as a result of the creation of ConRail will run conservatively at $25 million per year. Those interests in opposition to the reorganization will spare no effort to see that the rest of the taxpayers in America dole out to them the maximum amount possible. As a defense against that kind of action, it is incumbent upon USRA, the Justice Department, and other interested agencies in Government to effectively explain why the amounts provided in the legislation enacted last February are more than adequate to meet the requirements of the Constitution. As a result of the effort necessary by the Federal Government, however, USRA needs to expend more money than was originally contemplated when the agency was created in 1973.

Mr. Speaker, this bill simply provides that USRA is authorized to expend funds not to exceed $20 million between May 1, 1976, and September 30, 1977. In addition it is permitted that the authorization be carried over until September 30, 1978, since at this period of time, no one can ascertain with certainty the exact amount of money which may be necessary to hire competent lawyers to defend the position of this Congress and the U.S. Government.

I recommend the approval of this piece of legislation.

Mr. Speaker, I now yield 5 minutes to the gentleman from Maryland (Mr. Bauman).

Mr. BAUMAN. Mr. Speaker, I did not want this occasion to pass without the House taking notice of the fact that included in this authorization for the administrative expenses of USRA is approximately, according to the committee report, $300,000 to complete the financial and operational details for the revised ConRail structure.

I would fault the report on one point. It says that this additional expenditure on behalf of USRA is due to the failure of the management of the C. & O. Railroad and Southern Railway to purchase a certain portion of the rails belonging to the Penn Central on the Delmarva Peninsula.

If it is anybody's failure, fault can be placed squarely, first of all, on the unions, including the Brotherhood of Railroad Clerks, who unreasonably and unwarrantedly refused to agree to a very reasonable settlement. Second, the blame must be placed on the Congress of the United States, for writing a provision into the original law that gave the unions the veto power over these final rail plans.

In the case of service on the Delmarva Peninsula, the three Members representing that area, the gentleman from Virginia (Mr. DOWNING), the gentleman from Delaware (Mr. DU PONT), and myself have introduced legislation that would remove this union veto. I would predict that unless the Committee on Interstate and Foreign Commerce takes action on this legislation, we will see more requests for more millions of dollars to be spent to finance this area of rail operation even though private enterprise is willing and able and capable of taking it over.

I would like to ask the gentleman from West Virginia (Mr. STAGGERS) or the gentleman from Pennsylvania (Mr. ROONEY) what if any plans their committee has to consider legislation to change the provisions of the law in order to permit Southern and Chessie to take over these areas of rail operation. The only thing now standing between them and private enterprise operating the service is the provision of the ConRail law which gives the rail unions veto power over the economic lifeblood of these areas.

We have introduced this bill, and I, as well as others, have spoken privately with the gentleman from West Virginia (Mr. STAGGERS). When are we going to have some action on this?

Mr. ROONEY. Mr. Speaker, if the gentleman from Maryland will yield, action will be taken if there is a willing buyer, and if there is a willing buyer and they can get together, we will pass legislation that will allow them to take over the Delmarva line.

Mr. BAUMAN. Mr. Speaker, I will state to the gentleman that there has been a willing buyer all along, the Southern Railway. There was a willing buyer up to the very moment this settlement was scuttled by the union bosses, even against the will of their local membership.

Mr. ROONEY. There was a willing buyer, but he was unwilling to accept some of the labor agreements of the prior railroad, as I understand it.

Mr. BAUMAN. Mr. Speaker, I will say to the gentleman that if that is the contingency he is awaiting, there will never be any legislation, because the Brotherhood of Railway Clerks and the six other unions involved will never accept these reasonable terms, because they think they can do better at taxpayers' expense under ConRail than they ever can if we allow private enterprise to come in and provide good railway service in my area.

If the gentleman's committee will not offer any solution in this area, hopefully we can offer an amendment to a bill that reaches the floor so we can put the House on record as saying whether we want to continue this labor monopoly and the millions of dollars it costs to the detriment of the public.

Mr. ROONEY. Mr. Speaker, if the gentleman will yield further, there is a willing buyer who is negotiating right now with ConRail, and if they negotiate this contract, we will accept an amendment that will allow this to be completed.

Mr. BAUMAN. Mr. Speaker, I look forward to that day, but I do not hold my breath.

I thank the gentleman and include at this point an article from the Washington Post of March 24, 1976:

Delmarva Rail Plan Collapses as Union Rejects U.S. Pact

(By William H. Jones)

Efforts to establish Southern Railway as successor to the bankrupt Penn Central on the Delmarva Peninsula apparently collapsed yesterday when a key union—the Brotherhod of Railway and Airline Clerks—declined to sign a labor agreement drawn up by Secretary of Transportation William T. Coleman Jr.

Barring a new decision by the union, rail service throughout the Delaware-Maryland-Virginia peninsula is scheduled to be reduced drastically starting April 1, as a result of the breakdown.

Consolidated Rail Corp., a new firm set up to continue service on most Penn Central routes, will operate trains over less than 200 miles on the peninsula compared with 460 miles now under Pennsy ownership.

In addition, a north-south rail route, anchored at Wilmington and made possible by a barge connection across the lower Chesapeake Bay, will be abandoned, eliminating potential competition for the federally subsidized Conrail.

Citing the absense of competition for Conrail and the loss of jobs, Coleman suggested that Congress should consider imposing a Delmarva labor agreement by law. Congressional aides said they were studying the possibility but passage of antilabor legislation in an election year was doubtful, they said.

Coleman placed blame for the breakdown on the BRAC and seven other unions he said would have gone along with BRAC. At a news conference yesterday morning, following talks that broke off about 2 a.m., Coleman charged that the unions' refusal to sign was "an exercise in unreasonableness and irresponsibility."

The nation's largest rail union, the United Transportation Union, agreed to Coleman's terms after the news conference but BRAC and six other unions declined.

The Transportation Secretary, who spent nearly 15 hours in continuous talks with labor leaders, said "there was no reason of any substance that should have prevented acceptance.

Sen. J. Glenn Beall, Jr. (R-Md.), a major supporter of legislation that fostered a reorganization of the Northeast region's bankrupt lines, accused the unions of "a callous disregard" for the public interest and warned that taxpayers will end up suffering the most—through less revenues from Delmarva business and extra payments to rail workers without jobs on Conrail. "I feel betrayed," Beall said.

BRAC President C. L. Dennis denied Coleman's version of what happened in a statement yesterday afternoon, even as Coleman was on the telephone, trying to seek a change in the union's decision. "We do resent the unfortunate and complete distortion of facts," said Dennis. But the BRAC leader agreed to meet in Coleman's office late yesterday at the secretary's request to discuss the situation.

Coleman said BRAC wanted the positions of its 55 Delmarva members to come under the terms of its Penn Central contract. Higher wage scales on the Pennsy would have been paid to workers who transferred to Southern employment and BRAC members who elected to go to work for Conrail could do so. Moreover, if no jobs were available on Conrail, the rail reorganization act provides funds to pay these workers.

Southern wanted to hire all 518 Penn Central workers in Delmarva but sought to transfer some to other locations where work was available. On Monday, Southern gave up this demand and agreed to sign Coleman's contract with the "greatest reluctance," in order to complete the deal.

Dennis said yesterday, however, that Coleman's agreemnt would "give away undeserved economic benefits to the Southern . . . during all these negotiations the Southern Railway has remained adamant . . . and unyielding; it has made no significant concessions."

BRAC contended that Coleman's contract would "sign away basic principles that have been well established for over 40 years," contract terms with Northeast railroads that are more lucrative than agreements with rail firms in the South.

Specifically, BRAC negotiators objected strongly to Coleman's language that would continue higher Penn Central wage scales for those workers transferred to Southern but would install the lower Southern wages for newly hired workers.

According to the Maryland Chamber of Commerce, more than 7,000 jobs in industries in the four counties of the lower Eastern Shore depend on rail transportation. Several thousand more are estimated in Delaware and Virginia.

Maryland's Department of Transportation, responding to the unexpected Delmarva crisis, has drawn up proposals to seek subsidies that would keep service alive on some lines to be abandoned by Conrail.

If approved by the federal government, the United States would subsidize the lines for an initial year, after which the state would start sharing costs along routes in which Southern had planned to invest $30 million for upgrading.

Mr. CONTE. Mr. Speaker, I rise in support of the bill to amend the Regional Rail Reorganization Act of 1973 to authorize additional appropriations for the U.S. Railway Association.

This legislation has become necessary in the light of the failure of the Southern and Chessie Railway system failing to participate in the ConRail final system plan. Under the originally contemplated plan, the ConRail system would have consisted of approximately 15,000 route miles. Because the Chessie and Southern did not participate, ConRail had to include an additional 2,000 miles in its final system plan. This has resulted in a multitude of additional administrative and legal expenses for the new "unified ConRail."

The Rail Revitalization and Regulatory Reform Act of 1976 (Public Law 94–210), has imposed increased monitoring responsibilities by the U.S. Railway Association over the ConRail system.

These increased and uncontrollable financial responsibilities had resulted in the need to increase the USRA authorization level from $45.8 million which it is now, to $65.8 million as proposed by this legislation. The legal responsibilities revolving around the proceeding before the "special court" are extremely complex and unpredictable. It is for this reason that the committee recommended that $8.2 million of the $20 million increase remain available through fiscal year 1978 to insure that adequate financial support is available for the duration of the proceeding before the special court.

It is clear that this legislation is most necessary. This legislation has the support of the Administration and deserves passage.

I urge my colleagues to support this legislation.

Thank you, Mr. Speaker.

Mr. SKUBITZ. Mr. Speaker, I have no further requests for time.

Mr. ROONEY. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore (Mr. McFall). The question is on the motion offered by the gentleman from Pennsylvania (Mr. Rooney) that the House suspend the rules and pass the bill H.R. 13325, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ROONEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

SECURITIES AND EXCHANGE COMMISSION STUDIES EXTENSION

Mr. MURPHY of New York. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 13246) to amend the Securities Exchange Act of 1934, as amended.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Securities Exchange Act of 1934 is amended—

(1) in the second sentence of section 11A (e), by striking out "December 31, 1976" and inserting in lieu thereof "June 30, 1977"; and

(2) in the second sentence of section 12 (m), by striking out "one year" and inserting in lieu thereof "18 months".

The SPEAKER pro tempore. Is a second demanded?

Mr. McCOLLISTER. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from New York (Mr. Murphy) and the gentleman from Nebraska (Mr. McCollister) will each be recognized for 20 minutes.

The Chair now recognizes the gentleman from New York (Mr. Murphy).

Mr. MURPHY of New York. Mr. Speaker, I yield such time as he may consume to the gentleman from West Virginia (Mr. Staggers).

Mr. STAGGERS. Mr. Speaker, the bill that we are considering for markup today concerns merely technical amendments to the Securities Exchange Act of 1934. The bill, H.R. 13246, extends for 6 months each, two studies which the 1975 Securities Exchange Act amendments directs the Commission to undertake. The due date of the first, concerning the securities-related activities of banks, would be extended from December 31, 1976, to June 30, 1977. The second is the "street name study," which concerns the impact of the common practice of holding securities in "nominee" and "street name," rather than in the name of the beneficial owner. The bill would extend the due date of the Commission's final report from June 4, 1976, to December 4, 1976.

Mr. MURPHY of New York. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the bill that we are considering today concerns apparently noncontroversial amendments to the Securities Exchange Act of 1934. The bill, H.R. 13246, extends for 6 months each, two studies which the 1975 Securities Exchange Act amendments directs the Commission to undertake. The due date of the first, concerning the securities-related activities of banks, would be extended from December 31, 1976, to June 30, 1977. The second is the "street name study," which concerns the impact of the common practice of holding securities in "nominee" and "street name," rather than in the name of the beneficial owner. The bill would extend the due date of the Commission's final report from June 4, 1976, to December 4, 1976.

The Securities and Exchange Commission has been unable to complete the two studies within the requisite period because of certain unanticipated delays in gathering information.

Mr. McCOLLISTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the chairman of the full committee, the gentleman from West Virginia (Mr. Staggers), and the chairman of the subcommittee, the gentleman from New York (Mr. Murphy), have said it exactly right. The bill passed both the subcommittee and the full committee unanimously.

Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. Murphy) that the House suspend the rules and pass the bill (H.R. 13246), as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MURPHY of New York. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Debate has been concluded on all motions to suspend the rules.

Pursuant to clause 3, rule XXVII, the Chair will now put the question on each motion, on which further proceedings were postponed, in the order in which that motion was entertained.

Votes by electronic device will be taken in the following order: H.R. 13567, by the yeas and nays, and H.R. 11868.

The Chair will reduce to a minimum of 5 minutes the time for any electronic votes after the first such vote in this series.

AMENDING THE SMALL BUSINESS ACT AND THE SMALL BUSINESS INVESTMENT ACT OF 1958

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill (H.R. 13567), as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa (Mr. Smith) that the House suspend the rules and pass the bill (H.R. 13567), as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 341, nays 2, not voting 88, as follows:

[Roll No. 335]

YEAS—341

Abdnor
Adams
Addabbo
Alexander
Ambro
Andrews, N. Dak.
Archer
Armstrong
Ashbrook
Aspin
Badillo
Bafalis
Baldus
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bennett
Bergland
Bevill
Biester
Bingham
Blanchard
Blouin
Boland
Bolling
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Broyhill
Buchanan
Burgener
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, Phillip
Byron
Carr
Carter
Cederberg
Chappell
Chisholm
Clancy
Clay
Cleveland
Cochran
Cohen
Collins, Ill.
Collins, Tex.
Conable
Conlan
Conte
Corman
Cornell
Cotter
Coughlin
Crane
D'Amours

Daniel, Dan
Daniel, R. W.
de la Garza
Delaney
Dent
Derwinski
Devine
Dickinson
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
du Pont
Early
Eckhardt
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
English
Erlenborn
Evans, Ind.
Evins, Tenn.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flood
Florio
Flowers
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Frey
Fuqua
Gaydos
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Gradison
Grassley
Gude
Hagedorn
Haley
Hall
Hamilton
Hammerschmidt
Hanley
Hannaford
Harkin
Harris
Harsha
Hawkins
Hayes, Ind.
Hébert
Hechler, W. Va.
Hefner
Henderson
Hightower
Hillis
Holland
Holt
Holtzman
Horton
Howard
Howe
Hubbard
Hughes
Hungate
Hutchinson
Hyde
Ichord
Jacobs
Jarman
Jenrette
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Ketchum
Keys
Koch
LaFalce
Lagomarsino
Leggett
Lehman
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Lundine
McClory
McCollister
McEwen
McFall
McHugh
McKay
McKinney
Madden
Madigan
Mahon
Mann
Martin
Mathis
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Michel
Mikva
Miller, Calif.
Miller, Ohio
Mills
Minish
Mitchell, Md.
Mitchell, N.Y.
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Mottl
Murphy, N.Y.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nix
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Neill
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Pettis
Pike
Pressler
Preyer
Price
Pritchard
Quie
Quillen
Railsback
Randall
Rangel
Regula
Reuss
Rhodes
Richmond
Rinaldo
Roberts
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Rousselot
Runnels
Ruppe
Russo
St Germain
Santini
Sarasin
Sarbanes
Satterfield
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shriver
Shuster
Sikes
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
Staggers
Stanton, J. William
Stark
Steed
Steelman
Steiger, Ariz.
Steiger, Wis.
Stratton
Stuckey
Studds
Sullivan
Taylor, Mo.
Taylor, N.C.
Teague
Thone
Thornton
Traxler
Treen
Tsongas
Ullman
Vander Jagt
Vanik
Vigorito
Waggonner
Walsh
Waxman
Weaver
White
Whitehurst
Whitten
Wiggins
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Ga.
Young, Tex.
Zablocki
Zeferetti

NAYS—2

McDonald
Paul

NOT VOTING—88

Abzug
Allen
Anderson Calif.
Anderson, Ill.
Andrews, N.C.
Annunzio
Ashley
AuCoin
Bell
Biaggi
Boggs
Brown, Ohio
Burke, Calif.
Burton, John
Butler
Carney
Clausen, Don H.
Clawson, Del
Conyers
Daniels, N.J.
Danielson
Davis
Dellums
Derrick
Diggs
Edgar
Esch
Eshleman
Evans, Colo.
Fraser
Frenzel
Giaimo
Green
Guyer
Hansen
Harrington
Hays, Ohio
Heckler, Mass.
Heinz
Helstoski
Hicks
Hinshaw
Jeffords
Karth
Kindness
Krebs
Krueger
Landrum
Latta
Litton
McCloskey
McCormack
McDade
Maguire
Matsunaga
Milford
Mineta
Mink
Moakley
Murphy, Ill.
Nichols
O'Hara
Passman
Peyser
Pickle
Poage
Rees
Riegle
Risenhoover
Roybal
Ryan
Schneebeli
Stanton, James V.
Stephens
Stokes
Symington
Symms
Talcott
Thompson
Udall
Van Deerlin
Vander Veen
Wampler
Whalen
Wilson, Bob
Wilson, C. H.
Young, Alaska
Young, Fla.

The Clerk announced the following pairs:

Mrs. Boggs with Mr. Allen.

Mr. Annunzio with Mr. Andrews of North Carolina.

Mr. Giaimo with Mr. Ashley.

Mr. Nichols with Mr. Dominick V. Daniels.

Mr. Symington with Mr. Van Deerlin.

Ms. Abzug with Mr. O'Hara.

Mr. Vander Veen with Mr. Derrick.

Mr. Udall with Mr. Bell.

Mr. Thompson with Mr. Anderson of Illinois.

Mr. Roybal with Mr. Conyers.

Mr. AuCoin with Mr. Helstoski.

Mr. Pickle with Mr. Esch.

Mr. Harrington with Mr. Matsunaga.

Mr. John L. Burton with Mr. Eshleman.

Mr. Davis with Mr. Frenzel.

Mr. McCormack with Mr. Brown of Ohio.

Mr. Charles H. Wilson with Mr. Guyer.

Mr. Biaggi with Mr. Hansen.

Mr. Stokes with Mr. Brown of California.

Mr. Riegle with Mrs. Mink.

Mr. Passman with Mr. Hicks.

Mr. Hays of Ohio with Mr. Don H. Clausen.

Mr. Anderson of California with Mr. Jeffords.

Mr. Krueger with Mr. Butler.

Mr. Green with Mr. Karth.

Mr. Milford with Mr. Kindness.

Mr. Carney with Mr. Del Clawson.

Mr. Mineta with Mr. Maguire.

Mr. Murphy of Illinois with Mr. McCloskey.

Mr. Litton with Mr. Landrum.

Mr. Krebs with Mr. Heinz.

Mr. Diggs with Mr. Fraser.

Mr. Moakley with Mr. McDade.

Mr. Edgar with Mr. Dellums.

Mr. Evans of Colorado with Mr. Rees.

Mr. Risenhoover with Mr. Latta.

Mr. Danielson with Mr. Peyser.

Mr. Ryan with Mr. Schneebeli.

Mr. James V. Stanton with Mr. Stephens.

Mr. Wampler with Mr. Talcott.

Mr. Bob Wilson with Mr. Whalen.

Mr. Young of Alaska with Mr. Symms.

Mr. Young of Florida with Mrs. Heckler of Massachusetts.

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER pro tempore. Pursuant to the provisions of clause 3(b)(3), rule XXVII, the Chair announces he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on all the additional motions to suspend the rule on which the Chair has postponed further proceedings.

ORIENTATION OF DEPENDENTS OF USDA EMPLOYEES HAVING FOREIGN ASSIGNMENTS

The SPEAKER. The unfinished business is the question of suspending the rules and passing the bill (H.R. 11868), as amended.

The Clerk read the title of the bill.

The SPEAKER. The question is on the motion offered by the gentleman from Texas (Mr. DE LA GARZA) that the House suspend the rules and pass the bill, H.R. 11868, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title was amended so as to read: "A bill to authorize orientation and language training for spouses of certain officers and employees of the Department of Agriculture."

A motion to reconsider was laid on the table.

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that the Committee on Agriculture be discharged from further consideration of the Senate bill (S. 3052) to amend section 602 of the Agricultural Act of 1954, and I ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 3052

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 602 of the Agricultural Act of 1954, as amended, is amended by adding at the end thereof the following new subsection:

"(f) Appropriations available to the Secretary of Agriculture may be used to provide appropriate orientation and language training to families of officers and employees of the Department of Agriculture in anticipation of an assignment abroad of such officers and employees or while abroad pursuant to this Act or other authority: *Provided,* That the facilities of the Foreign Service Institute or other Government facilities shall be used wherever practicable.".

MOTION OFFERED BY MR. DE LA GARZA

Mr. DE LA GARZA. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. DE LA GARZA moves to strike out all after the enacting clause of the Senate bill (S. 3052) and to insert in lieu thereof the provisions of H.R. 11868, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill to authorize orientation and language training for spouses of certain officers and employees of the Department of Agriculture.".

A motion to reconsider was laid on the table.

A similar House bill (H.R. 11868) was laid on the table.

GENERAL LEAVE

Mr. de la GARZA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of H.R. 11868, of the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

AMENDING REGULATIONS OF DEPARTMENT OF AGRICULTURE PERTAINING TO PRICE SUPPORT PAYMENTS UNDER NATIONAL WOOL ACT OF 1954

Mr. FOLEY. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate bill (S. 532) to authorize the Secretary of Agriculture to amend retroactively regulations of the Department of Agricuture pertaining to the computation of price support payments under the National Wool Act of 1954 in order to insure the equitable treatment of ranchers and farmers.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

Mr. JENRETTE. Mr. Speaker, reserving the right to object, I would like to ask the gentleman if this is the agricultural bill that was on the Consent Calendar?

Mr. FOLEY. Mr. Speaker, wil the gentleman yield?

Mr. JENRETTE. I am happy to yield to the gentleman from Washington.

Mr. FOLEY. Mr. Speaker, the gentleman is correct. This bill was scheduled this morning for action on the Consent Calendar. It is now my information that there is no objection to the immediate consideration of this bill by any official objectors on either side of the aisle.

Mr. JENRETTE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 532

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of Agriculture is authorized to amend retroactively regulations of the Department of Agriculture pertaining to the computation of price support payments under the National Wool Act of 1954 in order that the amount of such payments may, in the case of any rancher or farmer, be computed on the basis of (1) the net sales proceeds received, or (2) in the case of any rancher or farmer who failed to realize the amount provided for in the sales document, the lesser of the following: (A) the net sales proceeds based on the price the rancher or farmer would have received had there been no default of payment under such document, or (B) the fair market value of the commodity concerned at the time of sale.

SEC. 2. The Secretary of Agriculture is further authorized to reconsider any application filed for the repayment of price support under the National Wool Act of 1954 with respect to any commodity marketed during the four marketing years 1969 through 1972 and to make such payment adjustments as he determines fair and equitable on the basis of any amendment to regulations made under authority of the first section of this Act.

Mr. RONCALIO. Mr. Speaker, the bill would retroactively amend USDA regulations to provide that a farmer or rancher who failed to receive the purchase price in the bill of sale for his wool would still be eligible to receive wool price support payments under the 1954 act.

About 50 wool producers in the past few years have been denied price support payments due to bankruptcy of the firm which purchased their wool. They received then, neither the purchase price for the wool sold from the buyer nor the price support payment from USDA. This legislation would allow the farmer or rancher to receive the support payment.

It is estimated that approximately $150,000 would be paid to the many producers.

During 1969 and early 1970, a number of wool producers in Colorado, Idaho, and Wyoming delivered wool to a marketing agency, relinquished title to the wool and received an advance with the balance to be paid on delivery. For many of these growers notes received for the balance proved to be worthless. Since incentive support payments are determined on the net proceeds from sale of the wool, these wool producers were denied payment of the support by USDA.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. RONCALIO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill S. 532, just passed, and that I be permitted to extend my own remarks.

The SPEAKER. Is there objection to the request of the gentleman from Wyoming?

There is no objection.

APPOINTMENT OF CONFEREES ON S. 3295, AMENDING HOUSING AND COMMUNITY DEVELOPMENT LAW

Mr. REUSS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 3295) to amend and extend the laws relating to housing and community development, and for other purposes, with House amendments thereto, insist on the House amendments and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin? The Chair hears none, and appoints the following conferees: Mr. REUSS, Mr. ASHLEY, Mrs. SULLIVAN, and Messrs. MOORHEAD of Pennsylvania, STEPHENS, ST GERMAIN, GONZALEZ, MITCHELL of Maryland, PATTERSON of California, LAFALCE, AUCOIN, BROWN of Michigan, J. WILLIAM STANTON, ROUSSELOT, WYLIE, and MCKINNEY.

PERMISSION FOR COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION TO MEET JUNE 9, 10, AND 11, 1976, FROM 10 A.M. TO 12 NOON

Mr. JOHNSON of California. Mr. Speaker, I ask unanimous consent that the Committee on Public Works and Transportation be permitted to sit from 10 a.m. to 12 noon on Wednesday, Thursday and Friday of this week.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

REQUEST FOR PERMISSION FOR COMMITTEE ON INTERIOR AND INSULAR AFFAIRS TO MEET JUNE 9, 10, 11, 1976, FROM 10 A.M. TO 12 O'CLOCK NOON

Mr. MELCHER. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs be permitted to meet on Wednesday and the balance of the week between 10 o'clock a.m. and 12 noon, notwithstanding the fact that the House is in session.

The SPEAKER pro tempore (Mr. MCFALL). Is there objection to the request of the gentleman from Montana?

Mr. BAUMAN. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

MIGRANT HEALTH LEGISLATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. MCFALL) is recognized for 5 minutes.

Mr. McFALL. Mr. Speaker, this morning I am introducing a bill which would amend the Migrant Health Act to expand health services to agricultural field workers.

Last year, the Congress passed the Health Revenue Sharing Act which contained substantial revisions of previous migrant health legislation. For more than a decade, the Congress has been considering how both migrant and seasonal farmworkers can best be served by federally funded health programs. The respective committees in both Chambers have recognized the need to serve migrants on a priority basis, while at the same time noting that seasonal farmworkers have many of the same health problems as migrants. Both committees have thus expressed a desire to also include seasonals in migrant health programs.

The amendments to the migrant health law passed last year represented an attempt to achieve these aims. However, instead of resulting in increased availability of migrant health services in areas which have high numbers of migrant and seasonal farmworkers, the legislation has served to reduce funding into these areas.

This anomaly is created by three contradictory provisions in the law. Section

319(a)(1) of the law expresses the purpose of migrant health centers to be delivery of primary health care to both migrant and seasonal workers. Section 319(a)(5) also recognizes the need to identify "high impact areas" for the purpose of migrant health service delivery. These are areas in which more than 6,000 migrant and seasonal workers live. However, under section 319(b)(1) of the law, these high impact migrant health service areas are to be assigned priority rankings based solely on the number of migrants residing in the area. The number of seasonal workers is not factored in when setting the priorities.

Consequently, when migrant funds are allocated to the different regions under HEW regulations, the amount is determined primarily from the number of "migrant man-years" in the particular region, to the virtual exclusion of seasonal workers. As the legislation, and the pursuant regulations, now stand, California and all of DHEW region IX stand to lose a substantial share of funding over the next year.

The priorities have been established in this manner because it is commonly assumed that migrant workers have significantly different health needs than do seasonal workers. I question that assumption. Simply because an individual has changed from migrant to seasonal worker status does not mean he is less in need of health services. Migrants and seasonals work side by side in the fields, and they both travel to other sections of a valley and State seeking work, though one worker prefers to settle his family in a single location while the other does not. While the overall living conditions of the migrant worker may be poorer than that of the seasonal worker, the latter cannot be considered to enjoy a significantly higher socioeconomic standard than the former.

It is true, of course, that seasonal farmworkers may avail themselves of medicaid insurance by virtue of their residency. However, preliminary findings of data collected by DHEW region IX Health Administrator's office indicate that the administrative burden of migrant health centers to collect medicaid reimbursement for services to seasonals is actually more expensive than the amount of funds actually collected.

The legislation which I introduce today to amend the migrant health law seeks to restore equity of treatment for seasonal farmworkers in the allocation of health funds and services. In addition, I hope it will contribute to a redefinition of migrant and seasonal workers as occupational groups. Until this is done, we cannot accurately ascertain what types of community services both groups require.

SOCIAL SECURITY DISABILITY PROGRAM INEQUITABLE TREATMENT OF WOMEN

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Ms. ABZUG) is recognized for 20 minutes.

Ms. ABZUG. Mr. Speaker, the House Ways and Means Committee has been holding hearings on the social security disability system. In testimony submitted to the committee I discussed the need for more equitable treatment for women and men by the social security system and two bills which I introduced H.R. 14131, H.R. 14132 to meet those problems. H.R. 14131 ends the disparate treatment between men and women by requiring that husbands, fathers, and widowers receive benefits on the same basis as wives, mothers, and widows. H.R. 14132 provides benefits to disabled spouses of wage earners for the first time and provides full benefits to widows and widowers without regard to age. I would like to take this opportunity to insert my testimony into the RECORD:

TESTIMONY BY REPRESENTATIVE BELLA S. ABZUG

Mr. Chairman, I want to thank you for this opportunity to discuss the changes which I believe are necessary in the social security disability program.

The role of women has changed dramatically since the Social Security Act was enacted. Today women comprise approximately 40% of the labor force. Because of the longer life expectancy for women more elderly women are living alone and are poor. More than two out of three poor persons in the 65 plus age category are women. While some changes have been made in the social security system, inequitable treatment of women persists. This is particularly evident in the disability benefit scheme.

Only about 40% of women workers are covered by disability insurance under Social Security, in contrast to approximately 90% for men. The current earnings requirement is a tremendous barrier to the collection of benefits by disabled women workers. Setting a minimum age requirement of 50 years for eligibility for disabled widows severely limits the number of women who qualify. Women who work as homemakers and receive dependents benefits have no disability coverage at all.

I have sponsored and co-sponsored legislation to remedy these inequities and I urge the Committee to consider these changes in recommending reform of the disability insurance system.

I. DISABLED SPOUSE

Social Security benefits are payable to a wife or husband of a retired or disabled worker beneficiary if she is 62. Benefits are also payable to a wife under 62 if she is caring for a child who is under 18 or is disabled and is entitled to child's benefits on the husband's earnings. Wives and husbands of insured workers are not eligible for any disability benefits.

I have introduced a bill, H.R. 14132, which provides that benefits should be paid to disabled wives and husbands of beneficiaries. Eligibility for these benefits would be similar to the requirements for dependents old age benefits. Benefits would only be payable to the spouse of disabled or retired Social Security beneficiaries. A disabled spouse would have to meet the same requirements as other disability recipients and the amount of the benefits would be calculated in the same manner as the benefit for the retired spouse, or one-half of the primary insurance payment of the wage worker.

Like aged wives of beneficiaries, totally disabled wives frequently face a sharp decline in family income when the working spouse retires or becomes disabled. Yet, they have almost no opportunity to supplement the family income through their own work. The disability often results in additional expense for the family, yet the retired worker's benefit may be the only regular income for the couple. Often someone must be hired to perform the homemaking tasks previously performed by the spouse. Yet there is no compensation for the loss of the services to the couple. My bill would correct this inequity.

Eligibility for disability benefits would also permit Medicare coverage for disabled spouses. This would relieve the burden of high medical costs which the couple incurs to care for the disabled spouse.

I have previously introduced a bill, H.R. 11840, that would extend all social security coverage, disability and retirement, to homemakers. Significant changes are required in the system to eliminate the disparate treatment of women and men in the program and to ensure equal treatment. However, since this Subcommittee is only considering changes in the disability system, I have tried to limit my recommendations to this particular area. Providing disability benefits to spouses would be a first step, at least, in recognizing the value of the services performed by the homemaker and providing compensation for the loss of these services.

The argument that it is difficult to determine disability for an individual with a sparse work history is a specious one. The social security system already makes such determinations for disabled widows and widowers and for disabled children.

The cost of this proposal is small. Social Security estimates that the long range cost would be .06% of the taxable payroll with a first year cost of $275 million. Approximately 400,000 spouses would be covered by such a provision, most of whom would be women. A similar recommendation was made by the 1971 Social Security Advisory Council.

II. DISABLED WIDOWS AND WIDOWERS

Social security benefits are provided for widows and dependent widowers between ages 50 and 60 who are disabled. To qualify for benefits, a widow or widower must have become disabled before, or within 7 years after, the spouse's death. The amount of the benefit depends on the age at which benefits begin. These requirements are much more restrictive than the eligibility requirements for workers. In 1973, the Social Security Administration paid about $8.8 million to 79,000 disabled widows and widowers. Disability coverage for all workers was initially limited to those over 50. However, this restriction was repealed four years later in 1960 after this committee concluded there was no administrative or other justification for continuation of this arbitrary distinction. This same reasoning applies to the Widows situation.

In 1965 and again in 1971 the Advisory Council on Social Security recommended that benefits be provided to disabled widows and widowers regardless of age. My bill, H.R. 14132, would implement these recommendations. The 1971 report notes that the needs of a younger disabled widow may be even greater than those of widows over age 50, since such couples would have less time to accumulate savings or otherwise provide for their future.

In addition to the restrictive age requirement, disabled widows are singled out for reduced benefits. For example, the disabled widow's benefit is 50% of the deceased husband's benefit if payment begins at age 50; 60¾% if payment begins at age 55.

The needs of a disabled widow are as great as those of the aged widow. Yet disabled widows are singled out for this actuarial reduction so that their benefits range from 50% to 71.5%, while aged widows receive benefits ranging from 71.5% to 100% of the deceased husband's primary insurance amount. A disabled widow, like an aged widow, has lost her sole means of support and should receive similar benefits to compensate her for the lost earnings.

Disabled widows constitute one of the poorest groups in our society. In 1971, all widows under age 60 with no work and no children under 18 had a median income of $1,170, 74% of these widows lived in poverty. Although a disabled widow is not eligible for social security benefits until 50 under current law, 18% of those awarded disability benefits in 1971 had become totally disabled before age 50.

To the extent that disabled widows must now turn to welfare for their support, the costs of the supplemental security income program would be reduced. The case for extending full benefits to disabled widows without regard to age is overwhelming. They have less income than aged widows and higher expenses.

The Social Security Administration estimates that 440,000 disabled widows and widowers would be newly eligible for benefits or eligible for higher benefits if the full benefits were provided regardless of age at a long range cost of .09% of the taxable payroll. The first year cost would be approximately $285 million.

Disabled widows also suffer disparate treatment in that there is no opportunity for this group to engage in a trial work period without the risk of losing their eligibility for all benefits. In the 1960 Social Security Act Amendments a provision was included to permit a disabled person, provided his disability has not medically improved, to return to work for up to 9 months and still receive benefits. If at the end of this 9 month trial work period the worker is found to be able to engage in substantial gainful activity, benefits are terminated in three months. Thus a disabled worker may experiment with his vocational skills up to a year without losing his eligibility for benefits. There is no such incentive for disabled widows. Despite the emphasis on vocational rehabilitation in the disability system no provision is made to encourage widows to return to work.

My bill, H.R. 14132, would permit widows and widowers as well as disabled husbands and wives to participate in this program. All recipients of disability benefits should be encouraged to return to work including those who have not had a steady work history in the past.

Current law permits surviving divorced disabled wives to qualify for benefits but there is no similar provision for divorced husbands. Husbands attempting to qualify for benefits based on the earnings record of their wives face an additional barrier because they must prove their dependency, that they receive one-half of their support from their wives. There is no similar requirement for women. Sex alone should not be a basis for treating persons differently under the Social Security Act. I have introduced a bill, H.R. 14131, which eliminates disparate treatment of men and women throughout the Social Security Act, so that benefits for husbands, widowers and fathers will be payable on the same basis as benefits for wives, widows and mothers.

Requiring husbands to meet additional criteria for benefits not only discriminates against the male recipients on the basis of sex, but also discriminates against the woman worker. Although women pay the same tax as male workers, they receive less protection for their families than do male workers. The woman's husband will not be automatically entitled to benefits upon her retirement, disability or death despite her fully insured status.

In recommending changes in the disability program, I would urge the Committee to incorporate into its proposals these principles of equity. The overall cost of extending these benefits to men is negligible since most of those eligible would receive higher benefits on their own wage records. The Congress should take the lead in removing these inequities as they are already under attack in our courts and are inconsistent with our commitment to equality of all persons regardless of sex.

III. DISABLED WORKERS—RECENT WORK REQUIREMENTS

Qualification for disability insurance requires not only 40 quarters of coverage, but also requires that twenty of these quarters be earned during the 10-year period ending with the quarter in which the disability occurred. This latter requirement, known as the recent work test has a particularly harsh effect on women workers. Only 40% of women workers can meet these requirements for disability insurance. This is the result of the interrupted employment experienced by many women who withdraw from the labor force for short periods of time for child birth and child rearing. Thus a woman who has accumulated 40 quarters of coverage and is fully insured, who left the labor market, returned to work for a year and became disabled, would not qualify for social security disability benefits. Despite her fully insured status and her contributions to the social security fund, women in this situation are denied benefits.

I am the co-sponsor of a bill, H.R. 4315, which would eliminate the "recent work" requirement. So long as an individual is fully insured and meets the statutory definition of disabled, he would be entitled to collect benefits. Elimination of this restriction would benefit those workers who go in and out of the labor market as well as those workers who suffer a gradual disability. The 20 out of 40 quarters requirement was originally justified because of the difficulty in developing a permanent disability for someone who had been out of the labor force for a long period. Disability determinations have now progressed so that accurate determinations can be made without this requirement. Moreover, disability determinations are made regularly under the program in the cases of widows and widowers and adults who become disabled in childhood, without regard to whether they have done recent work or in fact whether they have ever worked.

The Social Security Administration estimates that approximately 1 million people would become eligible for disability benefits if the current work requirement was eliminated. This would cost about 1.6 billion in the first year.

I realize that at a time when predictions are being made concerning the depletion of the disability trust fund, it is difficult for the Congress to extend benefits to any group. The Committee is understandably concerned about the stability of the trust fund and the question of whether additional financing is necessary. These are problems which shall have to be addressed whether or not new programs are adopted. However, I don't believe that this should be the basis for rejecting all changes in the system. Women are not receiving equitable treatment under the social system and remedying these inequities should not be postponed. Two hundred years after the founding of the Nation we should take steps to eliminate such sex discrimination in our laws.

Eliminating the recent work requirement would provide working women with the flexibility necessary for them to take advantage of disability benefits. Reducing the age requirement and raising benefit levels for disabled widows and widowers would put them on a par with other recipients of disability benefits. Extending coverage to disabled spouses would at least be a small step in recognizing the services performed by the homemaker spouse and would provide some protection to the spouse if struck by disability. I urge the Committee to adopt these recommendations.

UNITED STATES RESPONSE TO THE GROWING REPRESSION IN SOUTH AMERICA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. KOCH) is recognized for 10 minutes.

Mr. KOCH. Mr. Speaker, today in South America a campaign of terror is being waged against those who dare to speak out in behalf of their beliefs. The right-wing military dictatorships which dominate the Southern Cone have systematically violated human rights in their attempts to quell not only leftist opposition, but moderate and conservative dissent as well. The repressive situation in Chile is best known in the United States, probably because of the role that the United States played in the destabilization of the Allende regime, which lead to his overthrow and assassination. The United States must bear part of the responsibility for the barbarism that has taken place—and which continues to take place—in Chile.

In the past months, however, I have worked to make my colleagues more aware of the tragic but little known situation in Uruguay. Since 1973 when the military took control of the government, Uruguay has descended from a once strong democracy into what I must call the charnal house of Latin America. The repression there is a well-established fact, documented by Amnesty International and even confirmed by the State Department. It is estimated that there are 5,000 political prisoners in Uruguay, a nation of 2.5 million people: One in every 500 is a political detainee. The 22 case studies of torture in Uruguay prepared by Amnesty International is gruesome reading, but what it clearly demonstrates is that Uruguay must be considered at least the equal of Chile in terms of torture.

This widespread repression has lead to an exodus from these countries by political figures for fear for their lives. The U.N. High Commissioner on Refugees has estimated that there are 20,000 political exiles living in Argentina. In a bizarre way, Argentine became a haven, because Juan Peron, and his wife and successor, for reasons best known to them, accepted refugees from these countries. The institution of military dictatorship in Argentina and the events of the past months indicate that those political refugees are now in grave danger. Just 2 weeks ago, four Uruguayan exiles were kidnaped and murdered. Two of those murdered, former Senators Zelmar Michelini and Hector Gutierrez Ruiz, are considered by many to have been highly distinguished parliamentarians and defenders of human rights. The reports that have been made available to me indicate that elements of the Argentine military and right-wing para-military groups are cooperating with the governments of Chile and Uruguay to exterminate the dissidents of those regimes. While there is greater controversy as to whether right or left wing groups are responsible for the kidnaping and murder of Bolivian ex-President Juan Jose Torres, it is clear that the Argentine Government lacks the ability and the willingness to assure the safety of the political exiles living in Argentina. The Argentine Government's callousness is evident from its attitude toward the kidnaping. When Torres' wife asserted that her husband had been kidnaped, the response was to say that Torres had probably gone into hiding and that such an assertion could well be part of "a well-concerted effort directed from abroad to discredit the government." The truth is that the Argentine Government has discredited itself by refusing to protect the lives of those to whom it granted asylum.

So it is clear that there is no longer political asylum in Argentina. Those who had thought they had reached safety are again now open targets of military and para-military violence. Perhaps more terrifying is that the governments of Chile and Uruguay can reach beyond their borders to eliminate their opposition without fear of Argentine intervention. The specter of a bloodbath of opposition leaders in South America is no longer a remote possibility, but a desperate reality here today.

What then should be the response of the United States? It is said that there is a great deal of political violence in Latin America, and the United States can do little about the situation. I disagree with that position. I have been greatly disappointed with the lack of response by the State Department. While the murders of Michelini and Gutierrez Ruiz outraged world opinion, not one major administration official publicly condemned the murders.

I believe the United States should adopt a two-pronged strategy—which will have to originate here in Congress—to improve the situation and perhaps save lives. First, we must take a good hard look at our military assistance to military dictatorships in Latin America. That reappraisal has already begun. This past week the House Appropriations Committee accepted without dissent my amendment cutting off all military assistance to Uruguay. I think there is a growing revulsion to our providing military assistance to such repressive regimes, especially as in the case of Uruguay where there is no external threat and the sole rationale for aid is to assist in maintaining their internal security. The amount of aid for Uruguay was small—$3 million, but the amounts for other countries are much greater. Argentina will receive $48 million in military assistance—in training and credit sales—and one must question the wisdom of such massive aid. Overall, we will furnish over $200 million in military assistance to Latin America. Given what appears to be an an increasingly repressive situation, we must question whether we wish to be closely associated with the militaries which dominate these governments.

The other effort we must make is to offer political asylum to those political exiles in Argentina who are in danger of their lives. I wholeheartedly supported our welcoming the hundreds of thousands of Cuban and Vietnamese refugees who were endangered for having been identified with U.S. policy. Contrast this to the 65 heads of household that we have allowed in from Chile. I think that kind of asylum policy is the height of hypocrisy. Can we turn our backs on those who struggle against military dictatorships, whether they be right or left wing? In the case of Chile, we have a responsibility to offer safety to those who have been driven from their homeland in part as a result of U.S. policy. In the case of Uruguay, many Uruguayan nationals living in Argentina are stranded there, because they have no valid traveling papers. The Uruguayan Government requires those who wish to renew passports to return to Uruguay, which would mean imprisonment for many, if not death. Without freedom of travel, these Uruguayans can only hope they will not be the next victims of the death squads which are operating with complete impunity.

I have urged that a parole visa program be established to insure swift and sure asylum to those who desperately need the safety the United States can offer. The program for Chilean nationals, both for those in Chile and in Argentina, should be expanded and encouraged. Torres' murder means that we must offer all South American political exiles in danger of their lives the refuge of the United States. I will be introducing a resolution to this effect this week.

In a strange way we are reliving the 1940's, when thousands who were being persecuted by Hitler's Nazi Germany found refuge in South America. Now the United States has the opportunity to offer the same kind of haven to South Americans fleeing repression. Let us act now so that other political exiles may be spared the fate of those who have been kidnaped and murdered in what is now an international and in part government-sponsored campaign of political extermination.

I am apprehending my letter to Secretary of State Henry Kissinger respecting the Uruguayan refugees. To date I have not received a response:

Washington, D.C., May 24, 1976.

Hon. HENRY KISSINGER,
Secretary of State,
State Department,
Washington, D.C.

DEAR MR. SECRETARY: While I wrote to you only last week concerning the parole visa program for Chile, I must write to you again to express my concern for the lives of those Uruguayans living in Argentina and ask that you establish a parole visa program for Uruguayan refugees. As you undoubtedly know, four Uruguayan exiles, including former Senator Zelmar Michelini and former Speaker of the Chamber of Deputies Hector Gutierrez Ruiz, were kidnapped and murdered in Buenos Aires last week. It is alleged that these murders indicate that elements within the Argentine military are cooperating with the military dictatorships of Chile and Uruguay to eliminate "troublesome" exiles.

With the lives of other Uruguyan exiles in danger, I urge you to establish a parole visa program for Uruguayan refugees. As I understand the situation, Uruguayan exiles whose passports are expiring are required to return to Uruguay for a passport renewal, where they would face certain imprisonment. Since those Uruguayan exiles have no valid traveling papers, they have no freedom of movement. I understand that Zelmar Michelini at one time contemplated a visit to the United States, but had no valid passport with which to travel. One can only speculate whether his life would have been saved, but we do know that there are other Uruguayans living in Argentina, fearing for their lives and desperately needing the safety that the United States can provide. I would urge you to intercede on their behalf in order to help prevent a reoccurrence of last week's terrorism.

All the best.
Sincerely,
EDWARD I. KOCH.

PRESIDENT LAURA JOHNSON OF HARTFORD COLLEGE FOR WOMEN RETIRES AFTER 34 YEARS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. COTTER) is recognized for 5 minutes.

Mr. COTTER. Mr. Speaker, the Hartford College for Women of my district, is a unique institution, firmly committed to its goal of providing a strong liberal arts education for women. This year, its president of 34 years, Laura Johnson, has retired from her leadership of the college.

Hartford College for Women has grown greatly since 1943, when Miss Johnson first arrived as the school's dean. At that time, the school had 45 students and a small faculty. The student body has since grown to 225, and the school's reputation has grown as well.

Hartford College remains committed to a small college atmosphere that provides individual attention for its students. In an age of impersonal and computer-oriented education, I believe the school's regard for each of its students is an important value.

Although she has retired from her official duties, Miss Johnson will remain as active as ever in the affairs of the community. I am certain that my colleagues will want to join me in congratulating one of Connecticut's leading educators for her effective work on behalf of the ideals of liberal arts education.

COMMISSION ON SECURITY AND COOPERATION IN EUROPE

(Mr. FASCELL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. FASCELL. Mr. Speaker, recently the President signed into law H.R. 94–304 which establishes a Commission on Security and Cooperation in Europe.

It is especially fitting in this Bicentennial Year that such a commission be created to monitor implementation of the Helsinki agreement which contains commitments to many of the ideals embodied in our own Declaration of Independence.

It is to be hoped that members of the Commission will be appointed shortly so that the Commission can begin its important task of discovering whether the Helsinki agreement's promise will be fulfilled or whether its noble objectives will be subverted by the actions of the signatory countries.

The text of Public Law 94–304 is as follows:

PUBLIC LAW 94–304

An act to establish a Commission on Security and Cooperation in Europe.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there is established the Commission on Security and Cooperation in Europe (hereafter in this Act referred to as the "Commission").

Sec. 2. The Commission is authorized and directed to monitor the acts of the signatories which reflect compliance with or violation of the articles of the Final Act of the Conference on Security and Cooperation in Europe, with particular regard to the provisions relating to Cooperation in Humanitarian Fields. The Commission is further authorized and directed to monitor and encourage the development of programs and activities of the United States Government and private organizations with a view toward taking advantage of the provisions of the Final Act to expand East-West economic cooperation and a greater interchange of people and ideas between East and West.

Sec. 3. The Commission shall be composed of fifteen members as follows:

(1) Six Members of the House of Representatives appointed by the Speaker of the House of Representatives. Four members shall be selected from the majority party and two shall be selected, after consultation with the minority leader of the House, from the minority party. The Speaker shall designate one of the House members as chairman.

(2) Six Members of the Senate appointed by the President of the Senate. Four members shall be selected from the majority party and two shall be selected, after consultation with the minority leader of the Senate, from the minority party.

(3) One member of the Department of State appointed by the President of the United States.

(4) One member of the Defense Department appointed by the President of the United States.

(5) One member of the Commerce Department appointed by the President of the United States.

Sec. 4. In carrying out this Act, the Commission may require, by subpena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandums, papers, and documents as it deems necessary. Subpenas may be issued over the signature of the Chairman of the Commission or any member designated by him, and may be served by any person designated by the Chairman of such member. The Chairman of the Commission, or any member designated by him, may administer oaths to any witness.

Sec. 5. In order to assist the Commission in carrying out its duties, the President shall submit to the Commission a semiannual report, the first one to be submitted six months after the date of enactment of this Act, which shall include (1) a detailed survey of actions by the signatories of the Final Act reflecting compliance with or violation of the provisions of the Final Act, and (2) a listing and description of present or planned programs and activities of the appropriate agencies of the executive branch and private organizations aimed at taking advantage of the provisions of the Final Act to expand East-West economic cooperation and to promote a greater interchange of people and ideas between East and West.

Sec. 6. The Commission is authorized and directed to report to the House of Representatives and the Senate with respect to the matters covered by this Act on a periodic basis and to provide information to Members of the House and Senate as requested. For each fiscal year for which an appropriation is made the Commission shall submit to Congress a report on its expenditures under such appropriation.

Sec. 7. There is authorized to be appropriated to the Commission for each fiscal year and to remain available until expended $350,000 to assist in meeting the expenses of the Commission for the purpose of carrying out the provisions of this Act, such appropriation to be disbursed on voucher to be approved by the Chairman of the Commission.

Sec. 8. The Commission may appoint and fix the pay of such staff personnel as it deems desirable, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and general schedule pay rates.

"COAL SLURRY PIPELINE—6"—THE SLURRY PIPELINE LOBBY

(Mr. SKUBITZ asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. SKUBITZ. Mr. Speaker, beginning with May 26, 1976, I have called attention to the House of a bill, H.R. 1863, the coal slurry pipeline bill, which is now pending before the House Interior Committee. This bill would grant Federal powers of eminent domain to the slurry pipelines.

On May 26, I discussed the question of eminent domain, which can be found on page 15521 of the Record. On May 27, I discussed the fact that this is transportation legislation, not energy legislation, this can be found on page 15878 June 1, I spoke on the railroad's capability of handling the increased coal production, this is on page 16078. June 2, I spoke of the threat that slurry lines offer to the survival of this country's railroad industry, this can be found on page 16246. On June 3, I spoke of the railroad industry's innovative rail hauling of coal, this is on page 16740 of the Record.

This is another in my series of presentations concerning the grant of eminent domain to coal slurry pipelines as proposed by H.R. 1863.

Today, I would like to discuss the slurry pipeline lobbyist.

So far, I have confined my discussion of H.R. 1863, to its merits or lack thereof. I have discussed misconceptions about the nature of the proposed legislation. I have discussed misconceptions about the alleged benefits of pipeline operation. And I have explored the effects that enactment of this legislation would surely have upon the existing transportation network.

I intend, as I have indicated, to further discuss questions bearing directly on pipeline operations and on the movement of coal.

Today however, I would like to concentrate my attention—and yours—on the interest of some of those who want this bill passed—and the means being used to accomplish their purpose.

The most obtrusive advocate of the coal slurry pipeline is the Bechtel Corp., an engineering and construction firm. Bechtel joined with Lehman Brothers and Kansas-Nebraska Natural Gas to create Energy Transportation Systems, Inc., the company that would operate the first planned pipeline, the one between Wyoming and Arkansas.

The president of Bechtel Corp. is George Schultz, former Secretary of the Treasury. A vice president of Bechtel is Caspar Weinberger, former Secretary of Health, Education, and Welfare.

Peter G. Peterson, former Commerce Secretary, is chairman of the board of Lehman Brothers.

I do not mean to suggest that there is anything automatically improper about Government officials taking jobs in private industry. Or that companies with such officials should be barred forever from any endeavor which would require them to seek governmental action. And, most specifically, I do not suggest any improper activities by the individuals I have mentioned.

I do not charge that the fact that some of these individuals once held high positions in the present administration helped in securing administration support for their goals. However, as the lady said about her chicken soup—it could not hurt.

I do know that there has been intensive lobbying on this legislation—lobbying that serves as denial of the proponents' claim that this is a simple, routine measure.

For example, a look at the hearing record shows that, when ETSI officials appeared to testify on the legislation, they brought along their general counsel, which seems natural enough. And, under the kind of circumstances we are dealing with here, it might also be natural that their general counsel is Paul Haerle, who also happens to be the national committeeman of the Republican Party in California.

This relationship—and the ones cited earlier—were reported in a Scripps-Howard News Service story that appeared in the Rocky Mountain News of March 29, 1976.

That same story also took note of the fact that the newly formed Slurry Transport Association—an organization apparently formed for the sole purpose of lobbying for eminent domain legislation—has hired as its head the former Clerk of this House, W. Pat Jennings. Again, I suggest no impropriety. But again, it can not hurt.

These relationships were also traced in a story that appeared in the March 29 edition of the Wichita, Kans., Eagle. And, just 2 days later in that same paper, it was reported that Kent Frizzell, who had been Under Secretary of Interior, had been considered for appointment to the Secretary's post, but was rejected because he had once raised legal questions concerning coal slurry pipelines. In addition, I understand that Frizzell and a number of his lawyers are now parting company with the Department of Interior. It will be interesting to see what they now have to say.

In a series of articles during October 1975, Reporter Steve Aug, of the Washington Star, outlined events that led Senator Abourezk to call for an investigation of possible conflict of interest involving that same Department of the Interior and the Bechtel Corp.

According to the stories, Bechtel approached the Office of Coal Research—as it was then known but which is now part of the Energy Research and Development Administration—and offered to conduct a study involving the relative merits of slurry pipelines to conduct a study involving the relative merits of slurry pipelines versus railroads. The offer was not only accepted but Bechtel was paid some $418,000 for the study—which, not surprisingly, concluded that under certain circumstances it would be cheaper to ship coal by slurry pipeline than by rail.

There has been, in fact, considerable maneuvering in the area of studies of coal and coal transportation, but that is a subject I intend to deal with separately.

I do think, at this point, we should try to examine motives. Why are the proponents fighting so hard for this bill?

Frankly, the notion of operating a coal slurry pipeline—in the fact of all the problems I see associated with the business—does not seem all that attractive to me.

The problems associated with running a slurry pipeline do not apply to the construction of a slurry pipeline. Presumably the Bechtel Corp. expects to get that job. It has a 40-percent interest in ETSI.

Now, let us see what could happen. ETSI executes a 30-year through-put contract to deliver coal to a utility. The contract is used as a financing vehicle to raise the funds for construction. Bechtel builds the pipeline and gets paid for the job. Lehman Brothers, the other principal partner does the financing and also gets paid. At that point, it is up to ETSI. If the pipeline firm makes money, Bechtel and Lehman Brothers both take cuts based on their respective ownership of 40 percent. And Kansas-Nebraska for 20 percent. If ETSI fails, that is tough—to the extent that they lose their nominal investment in ETSI. But that could be offset many times over by profits from the construction job and the financing operations.

In the Washington Star, dated May 25, 1976, an article appeared by John Holusha entitled "Big Steel's Chief No Word Mincer"—which makes one wonder U.S. Steel has taken chips in the game.

In that article Mr. Holusha discusses the controversy that now exists between the United States Steel and the pollution-control agencies of the Government—but sprinkled in that article are these very interesting statements and I quote:

> A current dispute on this point with government officials in the suburban Pittsburgh area seemed behind Speer's decision to hold a full-blown press conference yesterday to make the less-than-extraordinary announcement that the company would build a large diameter pipe-making facility in Texas.

Permit me to restate the last five lines:

> . . . that the company would build a large diameter pipeline facility in Texas.

And then the article quotes Mr. Speer as saying, "the political environment" of an area "necessarily has to play a part" in "investment decisions."

He said:

> The Environment at Baytown, Texas, seemed more to his liking, Speers said.

He continued:

> Spear said that the local building trades had signed the equivalent of a non-strike agreement so the new plant can be completed by early 1978.
>
> The date is important, he said, because it has to be ready to supply pipe for the proposed Alaskan natural gas pipeline and proposed coal slurry pipelines.

One begins to wonder how many chips U.S. Steel has taken in the game as it relates to the slurry pipeline.

I point out that those proponents of the establishment of the slurry pipeline are not "bush leaguers" and that if they get into this game, the stakes are pretty high.

That is, of course, only a scenario. There is no way to know for certain that it is a correct assessment of the motives of those lobbying for passage of this measure.

GAO CRITICIZES MISPLACED PRIORITIES IN SYNFUELS GUARANTEE

(Mr. OTTINGER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. OTTINGER. Mr. Speaker, the recent testimony of Mr. Monte Canfield, Director, Division of Energy and Minerals of the U.S. General Accounting Office, puts into perspective the enormous difficulty the country faces in forming an energy program that is productive, practical, and in the public interest. Mr. Canfield concentrates on the scope of legislative proposals for Federal financial support of energy technology and the questions we must consider about these proposals. In light of the recent reemergence of the administration's multibillion-dollar financing proposal for synthetic fuels I urge all Members to read Mr. Canfield's testimony:

STATEMENT OF MONTE CANFIELD, JR.

Mr. Chairman and Members of the Committee, we welcome the opportunity to be here today to consider with you the difficult problems of developing and commercializing energy technology. I would like to lay out a perspective and then focus my comments on two things:

An overview of the scope of various legislative proposals now before the Congress that would provide various combinations of Federal financial support for developing and commercializing energy technologies;

A brief description of recent and ongoing GAO work bearing on the question of Federal financial assistance for developing and commercializing energy technologies.

PERSPECTIVE ON ENERGY DEVELOPMENT

A large number of issues and choices face Congress in dealing with energy development. Energy development is a slow process. Legislative action will occur years in advance of actual impacts. While we recognize that legislative decisions will be required without full information, it is important that the Congress and the Nation focus on some critical issues and trade-offs that can enhance the quality of the decisions to be made.

First, there are no simple choices. Each technology has to be weighed against the benefits and costs of competing options. Those options are not only on the domestic production side. For example, while often overlooked, conservation is truely one of our least costly supply options. Consideration of financing conservation improvements as alternatives to, and complements to, large capital-intensive supply technologies is essential to rational decisionmaking.

Second, although no consensus exists among financial experts, sufficient capital will probably not be forthcoming to support the entire range of developing energy technologies. We can't do everything—we must choose. Further, since it is unlikely that private industry will be able to capture the benefits of many of the more expensive and risky research and development options, some form of Government financing will probably be necessary to stimulate new energy technologies. Developing the criteria to choose among competing technologies and choosing the funding levels for each will be difficult, but equally essential.

For each option we should pursue the question: When could the technology be commercialized? Also the energetics, or thermodynamic efficiencies, should be carefully weighed. Such a weighing of the net energy output for each technology, will enable us to make energy efficiency comparisons among competing technologies. Adverse environmental effects and social costs of development must be considered as part of the total cost of any energy development project. Also, external influences, such as dependence on foreign oil, must be considered in choosing among future options and short term security.

Even once a decision is made to pursue a given option, we are not home free. Deciding among the most desirable methods for encouraging development, including various forms of Government ownership, tax policy, import controls, loan guarantees, price supports, etc., all depend upon the technology and the energy strategy and goals.

ENERGY DEVELOPMENT LEGISLATION

With this perspective in mind, it is useful to recognize that there are three main types of legislative proposals to financially assist the development of new energy technologies. Only by looking at all three areas comprehensively can a true picture of the total costs of energy development emerge.

First, what is termed "front-end" assistance is proposed. This amounts to subsidies to states and local governments in regions which are largely rural and unindustrialized to help them plan for development and to provide the public facilities necessary as a result of the development. Assistance could be in the form of loans, loan guarantees, and planning grants.

Second, since private investors are reluctant to build and operate new risky commercial or near-commercial facilities, incentives in the form of loan guarantees, interest subsidies and tax write-offs are proposed.

Finally, even after commercial-sized plants are subsidized and operating, there is a potential that synthetic fuels will be too high priced to compete with alternatives such as domestic oil and coal or oil imports. Therefore, subsidies to producers in the form of price supports or to users in the form of tax incentive or low interest loans have been proposed to enable higher cost technologies to compete in the market place.

For example, legislative proposals have been submitted which would guarantee purchase of products. One would set up a board to purchase synthetic fuels and solar energy, and auction them off to the highest bidder. Some of these proposals cover more than one of the three financing categories discussed; but none is truely comprehensive. The point is that no one piece of proposed legislation covers in any comprehensive way the entire range of financial support being considered.

ENERGY INDEPENDENCE AUTHORITY

The Administration's most comprehensive energy development proposal would establish an Energy Independence Authority (EIA). The bill, S. 2532, would encourage the development and commercial operation of domestic energy sources and to a lesser extent, encourage energy conservation. A total of $100 billion would be available to the EIA. The proposal would authorize direct investment in energy technologies, loans, loan guarantees, and price guarantees.

Our central concern lies in the proposal's lack of balance. The bill exhibits a clear preference for initiatives of the supply-increasing variety. According to one provision of the bill the conservation projects eligible for funding appear to be those not in widespread use. This would appear to preclude, for example, assistance to a utility-administered residential insulation project, since home insulation is already in "widespread domestic commercial use". No equivalent condition is attached to supply increasing projects.

The bill would hamper conservation efforts rather than simply fail to promote them. This is true because the bill would result primarily in the allocation, not creation of capital. The EIA's loan funds would, in large part, be raised in the private capital market. Its guarantees would make projects it assists financially more attractive to private capital than conservation projects not backed by Federal guarantees. Thus, both its loans and its guarantees will siphon private capital away from conservation projects which might have been able to obtain private financing in the absence of EIA operations.

The choice of projects to receive financial assistance, and the form of assistance, ought to be based upon reasonable forecasts of the degree to which each project will advance the goal of independence per dollar of assistance accorded it. We believe that many initiatives in the direction of conservation hold the promise of moving the country farther down the road toward energy independence per dollar spent than do most supply increasing options.

In addition, the bill is underlaid by some assumptions regarding national policy which are by no means settled. Its predilection toward nuclear power generation is the most obvious example. Another is seen in its willingness to give the Government a large quasi-commercial interest in energy supplies which would be in competition with imported crude oil. Since the bill does nothing to limit imports directly, the underlying assumption appears to be that world crude prices will stay high enough to insure the profitability of the EIA's investments in alternative domestic supplies. Thus, the Government would have a financial interest in keeping world crude prices artificially high. We believe that legislation regarding financial support for synthetic fuels and other energy development should be coordinated in a systematic framework which includes all the likely costs associated with development and detail on the mix, number, and size of plants, and types of financial support needed for each. Specifically, adequate financing for synthetic fuels commercialization requires further information, analysis, and evaluation of many factors, particularly the arrangements for subsidies or price supports which may be necessary to make synthetic fuels competitive. Subsidies or price supports in turn raise the question of Government energy pricing policy. For example, oil and gas prices are being held down by regulations while it appears that it would be necessary to subsidize higher cost synthetic fuels. While legislation on energy development need not be comprehensive, it should seem obvious that a balanced and consistent energy strategy can provide a useful framework within which individual proposals can be evaluated.

SYNTHETIC FUELS REPORT

Our March 1976 report discussed an Administration proposal to authorize ERDA to provide up to $6 billion in loan guarantees for, among other things, commercial demonstration facilities for the production of synthetic fuels. To encourage industry to participate in synthetic fuels commercial demonstration programs the Administration recommended Government incentives consisting of loan guarantees, price supports, and construction grants.

Because of time constraints we did not evaluate the pros and cons of the various forms of Federal assistance considered by the Administration in arriving at its recommendation in that report. We did note, however, that important policy and judgmental questions were involved in arriving at the recommendations. A different emphasis on certain considerations such as impact on the budget, degree to which an alternative preserves and enhances competition, ability to achieve program goals, and extent of Federal involvement in management of operations—could conceivably lead to a different choice of alternative forms of assistance.

We stated our view that the Congress should consider awaiting further studies which ERDA expects to complete in July 1976 before approving any legislation. The studies should provide better information on the scope and magnitude of Federal assistance needed to carry out the programs, including better information on the type and number of plants needed.

ONGOING GAO WORK

GAO has undertaken a review which focuses on technologies that have demonstrated technical feasibility but which do seem to have impediments to full commercialization. These impediments are caused by a variety of non-technical reasons such as financial, environmental, and regulatory. The technologies considered are synthetic fuels, solar and geothermal energy, enhanced oil and natural gas recovery and certain conservation measures. Within this framework we will first address future supply/demand balances to the year 2000 and consider the probable roles of each of these technologies. We will attempt to determine the current status of each of the technologies and the current impediments to commercialization as well as the pros and cons of various Government options to stimulate financing activity. The options will cover such mechanisms as direct loans, loan guarantees, price guarantees, tax incentives and Government ownership.

We will then attempt to evaluate what priorities the Government should attach to the various technological options for the purpose of allocating funds or guarantees. In this section we will consider various social and economic goals such as obtaining the most energy at least cost, the maintenance of a competitive, environment, economies of scale, tradeoffs between first and second generation technologies and the implications of on-budget and off-budget financing. As a conclusion, we will attempt to specify legislative or policy approaches would, in our judgment, allow the most consistent and systematic consideration of Government role in financing energy commercialization efforts. We will also identify key tradeoffs in this area between the supply and conservation options considered in our report.

As you can see, Mr. Chairman, there are matters requiring closer examination regarding the scope and magnitude of Federal financial support for synthetic fuel and other forms of energy development. We hope that our further study will provide some useful insights on these matters. We plan to complete our study in mid-summer which is around the same general time frame that ERDA plans to complete its follow-up studies on synthetic fuels.

I want to emphasize that our study not only addresses the fundamental question of whether early commercialization of synthetic fuel technology should be pursued as aggressively as the Administration proposed but also the broader question of how this country can best provide for its future energy needs.

In summary, we are suggesting that information which should be available from ERDA and GAO this summer should be helpful to the Congress as it proceeds toward final legislative action on H.R. 12112 or any of the other bills currently in Congress dealing with the Federal financial support for construction costs, price supports, and initial costs to State and local governments.

Mr. Chairman, this concludes my prepared statement. We will be glad to respond to questions.

INEXPENSIVE NEW SOLAR COLLECTOR

(Mr. OTTINGER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. OTTINGER. Mr. Speaker, a recent issue of Professional Engineer brings to public attention a startling new development in the field of solar heating—a simplified collector which can be built now at a cost of approximately 80 cents per square foot. This is far below current costs for other collectors which are in the $8 to $20 per square foot range. The significance of this development is that it reduces tremendously the cost of one of the largest components in a solar heating system and serves to make solar heating even more clearly competitive with existing conventional systems. This is a promising occurrence, although according to the article, politics and professional jealousies have slowed further development of the system. At this point I would like to bring the article to the attention of my colleagues:

SPACE AGENCY TOUTS 50 CENTS-PER-SQUARE-FOOT SOLAR COLLECTOR, YET WORK IS SLOW

Engineers at National Aeronautics and Space Administration's Marshall Space Flight Center (MSFC) may have come up with just the kind of technical development needed to spur a breakthrough and turn around commercial feasibility of solar heating. Nevertheless, variety of problems typical of those confronting new energy conservation technologies have slowed work on promising invention—a hot air solar collector producible at stunningly low cost. Consisting of only three parts—a rigid, cast urethane structure, a metal collector plate, and transparent glass cover—collector's desirability centers around its low weight, very low fabrication cost, easy assembly, and potential for retrofit on existing buildings. Its inventors say it requires less power and presents fewer problems (such as leakage and corrosion) than widely-used water system counterparts. Preliminary tests show it to be at least as efficient as—or more efficient than—other collectors on market. Collector's "single disadvantage" is said to be its greater bulk.

Recent NASA report notes that "These simplified collectors could be produced now for roughly 80 cents per square foot. Cost could be further reduced by (making the) panel substantially thinner . . . these collectors could be produced at under 50 cents per foot, unassembeld." At well under $10 to $20 cost of currently available collectors, NASA's progress would be expected to generate widespread attention and hastened development and testing.

MANPOWER, POLITICS, PROFESSIONAL JEALOUSIES STALL LOW-COST COLLECTOR WORK

But for months, no additional units have been built and low-cost hot air collector has been scarcely noticed outside MSFC by federal government solar developers and planners. Some claim it has not even been given due notice at MSFC. NASA's Earl P. Herndon and Kenneth G. Anthony first conceived collector design early last year and built two units in May of 1975. After testing last summer, NASA issued special "tech brief"—with distribution of about 20,000—noting collector's advantages and basic configuration. MSFC representatives say that public response to that notice has been excellent. Even so, when PE magazine contacted key federal energy agency officials in Washington, few had heard anything about that MSFC development. Though several scoffed at projected cost estimates, NASA officials vehemently attest to close scrutinizing of all tech briefs. One MSFC spokesman bluntly said, "If it's issued as a tech brief, you can take it pretty much for gospel."

Combination of factors have contributed to delay in promising project. Part of the problem may have developed when NASA's vendor removed from commercial market particular foam used for collector and various space program applications; some at NASA point to search for substitute material as reason for delay in building more units. Yet others at MSFC closely involved with project deny that materials replacement was important factor. Instead, they and others at NASA headquarters claim manpower to put together new collectors at MSFC was diverted—to efforts in assisting Energy Research and Development Administration carry out commercial demonstration of solar heating and cooling. MSFC engineers have privately asserted that "So far there's been just a lot of politics . . . and professional jealousies. We just need a little money and a little time." Frustrated, one of collector's inventors admits he nearly gave up on project over failure to get personnel to construct additional units needed to verify previous test results and see how collectors performed in array.

Whatever real reason for holdup, NASA engineers now indicate they expect to return to work soon on assembly of six additional units. Copies of original tech brief #75-10301 are available on request from Technology Utilization Office, NASA Code KT, Washington, D.C. 20546.

BIOMEDICAL RESEARCH FOR THE ELDERLY

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. PEPPER. Mr. Speaker, at the National Council of Senior Citizens Convention in Chicago on June 4, Dr. Robert Butler, the new Director of the National Institute on Aging, gave an extremely perceptive address on the need for biomedical research for the elderly.

The House Aging Committee's Subcommittee on Health and Long-Term Care, which I have the privilege of chairing, is very interested in this critical area. By determining the causes of diseases, long-term disabilities may be able to be stopped before they occur. Yet only 4 cents of our health care dollar is spent on research.

Our colleagues will be interested in Dr. Butler's address:

Address by Dr. Robert N. Butler

The existence of the new National Institute on Aging is a tribute to the dedication of many in the field of aging including the National Council of Senior Citizens. It is a particular pleasure to be here and to be speaking to this group where I have so many friends. For a change, I don't have to begin my talk by exhorting my audience to take a stand on behalf of older people. Everyone here probably already knows:

That there are 22 million Americans who are over 65;

That each and everyone of us is or potentially will be old;

That older people have some very special problems which are all the more critical if you happen to be a member of a minority—black, Spanish, or Asian American; or

That if you are a woman you are destined to an average of 10 to 11 years of being widowed.

I don't have to remind this group:

That approximately one-third of all older Americans are either below or hover at the poverty line;

That the average single older person has approximately $75 a week on which to live;

That poverty among older people is a poverty that came as a consequence of growing old;

And, that poor older people are older people that grew poor, as well as poor people who have grown older.

On the other hand, maybe you've forgotten a few facts such as:

That one-third of all the income that older people bring in they bring in through their own work and that is, despite the prejudice and the bias that exists against them for continuing in their work and for employment opportunities. Prejudice against old people usually begins at age 45.—or that old people often work under very humiliating circumstances—doing work which they often are forced not to report on their income tax just to survive.

Perhaps you've forgotten that:

Malnutrition, although somewhat common among older persons, is not the result of poverty alone;

But that loneliness plays its part and that lonely people may become less interested in preparing food, either out of their grief and loneliness or out of their discomfort;

And, that doctors often find themselves admitting such a person to a hospital with what gets referred to very easily as "senility," but is simply a function of inadequate food supply to the brain.

We agree that Medicare has gone a long way in aiding our older people and that it is an important, vital contribution to the 22 million older Americans. But it has its limits. It was set up as though older people are younger people and that their needs are the same as those of younger people. For example, there are no provisions, or inadequate provisions, for those things old people need such as regular check ups, foot care, dental care, hearing aids, glasses, eye checks, or even for long-term care. And finally we may remind ourselves that the reason this has happened is a part of the mysterious denial of the realities of old age and death that so many in this country share.

Last year in America we spent some $117 billion on health care. A substantial amount, perhaps as much as one-half, was in the area of chronic disease. Two-thirds of every dollar that the Federal Government expended in health was spent on the population over 65 years of age; yet, we do not have a medical school in the United States where medical students are required on a routine, regular basis to have training in a nursing home. This is true even though at the moment we now have more patients in nursing homes than we do in American hospitals. In our 23,000 nursing homes we have 1.2 million people. Furthermore, there is virtually no research going on in these homes; there is no training; and there are even some genuine questions as to the quality of services which are delivered within some of these homes. At least one-half of those 23,000 nursing homes cannot even pass basic fire safety inspection; one-half cannot pass basic sanitation inspection—facts that are all well documented in the recent series of reports which have come from the U.S. Senate Special Committee on Aging.

In the field of mental health, we also have many grave problems. It is often striking for people to learn for the first time that for a variety of reasons, 25 percent of all of the suicides which are committed in the United States are accomplished by people over 65 years of age. And, among the reasons for this is the absence of an adequate, effective network of mental health services with people to sit and listen, to be attentive to and to help other people resolve their many difficulties, fears, and concerns.

We fail, all too frequently, to recognize a reversible brain syndrome and hastily label it as senility, confusion, forgetfulness, or problems with attention or concentration. We now know that there are approximately 100, if not more, causes of this kind of so-called "senility." They range from malnutrition, to excessive medication, to unrecognized congestive heart failure, to walking pneumonia, or even to anemia which affects as many as one-fourth of older people.

Well—by now I expect that you are saying to yourselves—what is this man from a research institution doing standing up here reviewing the many social ills that affect these people. We know that these ills exist and we have all lobbied for more money to go for social services and health care delivery programs; maybe even at the expense of research.

Well, I'm here to share with you what I think is fundamental to all good health care and social services and that is research—biomedical, behavioral and social research.

It is not uncommon today that the criticism of our health care system extends to a questioning of the value of continuing research. This questioning is not simply anti-intellectual; but, rather part of a real national anxiety to commit public resources toward immediate social ends, rather than a long-term investment in acquiring useful information. This demand for some justification in economic terms of the return o research is fair, but not always easy to satisfy. How much has the discovery of penicillin really saved us? It's tough to say.

Today the practice of medicine and, in fact, our health care system is still based a good deal on trial and error; without research it would be medieval. We might still be relying on leeches and the purge to protect us from periodic outbreaks of plagues and we'd have to endure catastrophe with no relief from anxiety and pain.

The ultimate purpose of research is the same as social welfare and that is to improve the well being of man—in the case of research it is done by promoting a greater understanding of the nature of life. At the most basic level, we gather knowledge about the functioning of life-giving systems and about the processes of growth, development and decline. Combining and developing this basic information leads to ways to understanding, preventing, and curing disease and disability.

Who here can ever forget that Memorial Day not only marks the real beginning of the summer but used to also mark the long summer vigil of waiting for polio to strike? Who here can't recall the cadence of the iron lung thumping in tribute to the polio virus, or the first signs of scarlet fever? The 1918 influenza epidemic? All the children born deaf and retarded because of German Measles? Or the cold sweats of malaria? All of these are no longer with us. We don't even think of them often enough to pay tribute to their absence. It is one of the real ironies of a research discovery that once it becomes part of daily living we tend to forget its origins.

On the horizon are still more advances. For example, new knowledge gained concerning the immune system, the body's defense against disease, holds extraordinary promise of revealing secrets about the body's development of diseases such as cancer, heart disease and perhaps you and I may be less weakened by viruses as we grow older because we may be able to take medications, things that will enhance our immune responses. New knowledge about bacterial viruses could mean an end to hepatitis. A new vaccine would end pneumonia or influenza. And on and on. . . .

Recently, the President's Biomedical and Behavioral Research Panel reported to the President that they believed that human beings have within their reach the capacity to control or prevent human disease. Furthermore, the panel said that, in their view, there does not appear to be *any* "impenetrable" or "incomprehensible" diseases, although every effort will be required to bring the objective of overcoming diseases into reality.

Our lives are influenced every day by mass social actions such as the fluoridation of water, mandatory sanitation and pollution control practices, all of which have resulted from information gotten in basic laboratory studies. Individuals can also participate directly in the application of research to health when they change life styles by improving eating habits and stopping smoking.

Now everyone here knows all too well about the "negative image problem" we have in the field of aging. Well, it's no less true in our medical schools and research institutions. Unbelievably, we do not have geriatric medicine in the United States. There is no more greater need for research than in the field of aging. The creation of the National Institute on Aging by the Congress was the recognition of this. Nowhere is it stated more effectively than in our authorizing legislation:

1. That the study of the aging process, the one biological condition common to all, had not received research support commensurate with its effects on the lives of every individual;

2. That, in addition to the physical infirmities resulting from advanced age, the economic, social, and psychological factors associated with aging operate to exclude millions of older Americans from the full life and the place in our society to which their years of service and experience entitle them;

3. That recent research efforts point the way toward alleviation of the problems of old age by extending the healthy middle years of life;

4. That there was no American institution that had undertaken comprehensive systematic and intensive studies of the biomedical and behavioral aspects of aging and the related training of necessary personnel.

5. That the establishment of a National Institute on Aging within the National Institutes of Health would meet the need for such an institution.

Because it is a broad mandate, the NIA finds itself special among the 11 institutes and four Divisions of the National Institutes of Health. That congressional law says what I personally have always believed and that is that the study of aging is not just the study of decline—loss—and decrement which does indeed accompany aging and is found in later years; and it is not just the study of disabilities or diseases which may in part be due to social adversities; but it is the study of the normal processes of development—continuing growth and creativity, judgment and wisdom—which are fundamental to life and about which we know precious little. Indeed, a major objective of the Institute's research is to examine the variety of factors—biological, social, and psychological—which constitute the aging process—and its debilitating accompaniment—and then to use this knowledge to prevent, modify, or reverse the latter so that quality of life is better. I can't emphasize that strongly enough. We are interested in improving the quality of life by extending the healthy productive, vigorous middle years, not simply in extending the length of life. And, the diseases or the social ills which interfere with this are our concern, as well as yours.

What contributions can the NIA make? Let us take the issue of retirement. It's a good example of something that appears to be far from research. The subject is becoming increasingly prominent; the NCSC has testified to that. In a short time, the Supreme Court is going to be deciding on the constitutionality of a Massachusetts "involuntary" retirement statute. In that ruling, the court may also be deciding much more than the fate of a uniformed police officer, named Colonel Murgia. It may be deciding on the job prospects of countless others who are subject or potentially subject to mandatory retirement. While groups like NCSC fight the battle in the public arena and in the halls of government, I think we at the Institute must collect the necessary physiological, psychological, and social assessment data necessary to create retirement test batteries. We can provide a set of scientifically sound standards of health and functioning which can be used to measure whether or not a person does or does not have the capacity to continue working.

Another area of mutual concern to us is the misuse of drugs which frequently victimize the elderly. We as scientists need to learn more about drugs and how they react in older people. You must educate yourselves, your friends, and your Congress as to how severe this problem is. It used to amaze me when people would bring their medicine chest in to me at my request. I ask them where they got the drugs. And, you know, they told me they got them from their next door neighbor. Some people started taking a particular medicine as much as five years ago and it seemed to do them some good then. Now, five years later, it may not have any real application; a fact of which they may be quite unaware. What is more important is the fact that their own physician may be quite unaware of the possible bad reactions that drug may be having with others you may be taking or that your body is now different in the way it reacts to those drugs you received when you were younger.

For example: an older woman, for some reason not an older man, receiving a certain anticoagulant, has a greater likelihood of untoward bleeding reactions. We are not sure why.

Some of the tranquilizers which in a younger person may have a calming effect may create a dangerous drowsiness in an older person.

The barbiturates which we think of as being sedatives or hypnotics to help people sleep at night may create the opposite reactions in older people.

Certain tranquilizers given to old people can even create a terrifying condition which doctors call tardive dyskinesia. The horror of this can be best demonstrated by your imagining yourself as having no control over your own mouth area and tongue reaching out as though it were trying to catch a fly. This condition is extremely hard to treat and is much more common with old age and in women who have been on certain types of tranquilizers over a long period of time.

I am not trying to frighten you. Obviously drugs have a very important place in our health but we do tend to overuse them, to misuse them, and to not be properly knowledgeable about their relationship to age. Our doctors learn from textbooks which do not even have age in their index. It will be very important for our new Institute to work to develop a better understanding of drugs.

If indeed we are on the threshold of understanding the mysteries of disease, as predicted by the President's Biomedical Research Panel, then can we do less than pry open the many secrets of aging and apply them to making the later years vigorous and dignified? NIA must push ahead to explore aging at the molecular and cellular level. We need to understand the age related changes in connective tissue which occur in diseases such as arthritis. We must study not only basic biological mechanisms of aging but we must force investigative medicine to the center stage. We need studies of the sleep disturbances which occur with increasing frequency in old age.

We need studies of the relationship of the body's changing tolerance of sugar to the development of diabetes. We can not ignore the personal and social aspects of aging such as why do we fear aging? Why is society so negative toward old people?

This new Institute must draw together all three aproaches: biologically, investigative medicine, and the social and psychological sciences to understand certain questions such as why do women live eight years longer than men? Is it genetic? Hormonal? Stress related? Or what? Stop for a moment to imagine the personal and social consequences of equalizing the life spans of the sexes.

We want to collaborate with other Institutes, for example the National Heart and Lung Institute. I visited with Max Serchuk recently in Miami. There in the store windows of South Miami, where the tourist industry calls old people and nursing homes eye sores, I saw signs that read "Blood Pressure Taken $1.00." This is a real rip-off. It's a crime. It scares people and it preys on their fears and anxieties. On top of that, you don't even have a guarantee that the person taking your blood pressure knows how to do it correctly, much less interpret it correctly. When I came back to NIH, I talked to the people in the National Heart and Lung Institute and they said they could extend their huge high blood pressure education program to South Miami. They could work with local officials and voluntary organizations to do this the right way. We can have a free high blood pressure detection program, by people who are motivated by concern and not the desire for profit.

The NIA can also collaborate with other non-health oriented agencies such as NASA, the space agency. The genius which put men on the moon and which created flying belts for astronauts can adopt their technology to prosthetics to assist older people, severely disabled by stroke, arthritis, and muscular weakness.

Research is necessary to improve the welfare of older Americans. Dollars expended for research do eventually find their way into the health care system and their expression in the form of social services for older Americans. At the same time, let me stress the need for continuing social roles in society for older people and the importance of their continued participation in groups doing what you are doing.

Let me close by sharing with you an idea that we have for the Aging Institute. I have high hopes that NIA will be able to develop a guest worker program for older people whom we feel have many contributions to make. The program could include emeriister to his men under fire was reserved for workers, and writers who could offer us assistance not only in developing a program which speaks to the needs *of* older Americans, but does so with the special perspective that only their years of experience can bring.

THE CHAPLAINCY AND THE BICENTENNIAL

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. PEPPER. Mr. Speaker, on May 3 of this year, Rabbi Solomon Schiff delivered a notable Bicentennial address at the first meeting of the Florida Chaplains Association in Orlando, Fla. In recognition of this historical meeting, the Honorable Reubin Askew issued a proclamation designating that week as Chaplains Appreciation Days. The address, "The Chaplaincy and the Bicentennial," covers the significant history of the growing incorporation of chaplaincies of different denominations in the armed services and recently, in hospitals and Federal penitentiaries. I believe this address will be of interest to our colleagues and to all those who read this Record. I request permission to include it at this point.

THE CHAPLAINCY AND THE BICENTENNIAL

(By Rabbi Solomon Schiff, director of chaplaincy, Greater Miami Jewish Federation)

It is extremely historical that this first regularly scheduled meeting of the Florida Chaplains Association be convened during the bicentennial year of our nation's founding. For Chaplaincy has been a continuous thread interwoven in the fabric of the American tapestry. From a hanging to Hiroshima, from Valley Forge to Vietnam, the spiritual input of chaplains has been a source of ongoing strength to these United States. Recognizing this historical meeting, the Governor of our State of Florida, The Honorable Reubin O'D Askew has issued a proclamation designating this very week as Chaplains Appreciation Days. In his words, "the Chaplaincy has been an integral part of the American fabric since the very founding of our nation, bringing spiritual guidance, succor and comfort to countless numbers of troubled people throughout these 200 years comprising the history of our nation."

It is therefore most fitting I believe, to dwell for a few moments tracing the Institution of Chaplaincy during these past two centuries.

I referred earlier to a hanging. This seems to be one of the earliest recorded events of a Chaplain's service. On June 28, 1776, the snare drums rolled darkly for Sgt. Thomas Hickey. His buttons were slashed from his uniform and the red epaulet from his right shoulder removed. As a crowd of thousands gathered in the field just off New York's bowery lane to watch Sgt. Hickey die on the gallows, the chaplain took him by the hand under the gallows and recited a prayer with him, with tears flowing off the condemned man's face. The Chaplain at that time gave aid and comfort to a man about to lose his life. This same kind of solace and strength has been offered by chaplains throughout the centuries.

The Chaplaincies of the United States Government date from the first beginnings of our country. It was created by an act of Congress in 1775 on recommendation of General George Washington. In 1791, the office of Chaplaincy was recognized as an integral part of the Armed Forces. In 1832, Chaplains were required to be ordained ministers accredited by an official ecclesiastical body. In 1848 the number was raised to 20 and the system of post chaplains instituted. The first Roman Catholic Chaplain was appointed in 1846 and the first Jewish Chaplain in 1862.

The soldiers who served in the revolutionary army broadened their outlook with reference to both their own denomination and their political allegiance. They came in contact with men of different religious bodies from different parts of the country and gained respect for them. They increasingly felt that they were fighting not for their colony only, but for the United Colonies, which were to form a new nation. Massachusetts Congregationalists, Rhode Island Baptists, New York Episcopalians and Dutch Reformed, New Jersey Presbyterians, Pennsylvania members of many small Protestant sects with a continental background, Maryland Roman Catholics, and a scattering of Jews from the seaboard cities, to give a few examples, met in the same camps and acquired a new idea of the need and possibility of religious tolerance.

Such an intermingling of men of different religious faiths and backgrounds had not taken place before in America, except in a few of the larger cities and in three or four small colleges that had broken away from rather narrow local and denominational antecedents.

The contribution of the Chaplains to these results was important. Detached from their own local church they developed a sense of responsibility for all the men in their regiment and rendered a large service. Whatever may be the other effects of serving as a Chaplain, there can be no doubt that it tends to broaden a man's outlook and to break down narrow denominationalism. In some states, such as Virginia, action was early taken opening the regimental chaplaincies which had been established in 1758, at the request of Colonel George Washington, not only to members of the Establishment, but to other religious bodies.

As far as a Continental, or Federal, as distinct from the colonial system of Chaplains is concerned, the legal origin of the Corps of Chaplains is found in the Resolutions of the Continental Congress in July, 1775, providing that their pay be $20.00 a month, the same as then provided for Captains. The following year Chaplains were specifically authorized by General Washington, who was emphatic in his belief that religion and public worship were essential to morale, both in civil and military life.

Prayer and worship played an important role in the early part of our nation. The official minutes of the first session of the Continental Congress in 1774 show a proposal that the sessions be opened with prayer. The person nominated to deliver the prayer was the Reverend Jacob Duche, an Anglican, who two years later was formally elected Chaplain of Congress. This initiation of Congressional Chaplaincies was somewhat inauspicious in that Duche resigned shortly after his election, having, in the words of John Adams, "turned out an apostate and traitor" who urged Washington to call for rescission of "the hasty and ill-advised Declaration of Independence." Fortunately his successors were ardent patriots.

The first proclamation for a day of thanksgiving was issued by Congress in November, 1777, setting aside December 18th for "solemn thanksgiving and praise." It called upon all Americans to "join the pentinent confession of their manifold sins," and to offer "their humble and earnest supplication that it may please God through the merits of Jesus Christ, mercifully to forgive and blot them out of remembrance." This proclamation is also noticeable for its Trinitarian statement, almost always omitted in later Federal and State proclamations so as to make them equally acceptable to all Christians, Jews, and other theists.

The Federal program for Chaplaincies in Federal prisons is conducted by the Federal Bureau of Prisons. John Edgar Hoover, the late Director of the Federal Bureau of Investigation and the man who most Americans would probably consider the best qualified person in the country to speak with authority on the problem of crime and its prevention, was strongly of the opinion that religious affiliation, training and practice constitute a most important single factor in crime prevention.

As a result of convictions expressed by Mr. Hoover and apparently shared in general by his colleagues, the Department of Justice provides both Catholic and Protestant chaplains to all Federal penitentiaries and reformatories. In each of the smaller institutions there is at least one chaplain. Jewish Chaplaincy services are provided on a part-time basis. At the present time, there are 57 full-time chaplains and 150 contract personnel and more than 2000 volunteers in prison chaplaincy programs.

The Government's attitude toward religion and religious denominations as shown in the armed forces is characteristic of the fundamental American position. It is sympathetic with the cause of religion, appreciates its significance in individual and national life and encourages provisions for worship in all branches of military service, while at the same time retaining an impartial attitude toward various denominations. An individual religious creed is not considered in matters of enlistment and promotion. The only recognition of creedal differences is the attempt to distribute chaplaincies fairly and the custom, for the guidance of chaplains, of having their identification tag worn by a serviceman to show whether he is Catholic, Jewish or Protestant, and the indication of this fact on admission blanks to Military hospitals.

As mentioned earlier, the Chaplaincy had its inception during the Revolutionary War when General Washington ordered the carrying out of the purpose of the Congress and established the program in 1776. In 1791, two years after the organization of the American army, the office of chaplain received actual recognition as an integral part of the armed forces. There was then only one chaplain, but the number was increased from time to time. Not until Samuel L. Southard became secretary of the navy in 1823 was a definite rule passed, requiring chaplains to be accredited ordained ministers holding a definite relation to some ecclesiastical body—a plan formally followed by the army in 1861–62.

In 1838 when the office was placed on a fairly firm basis, the number of chaplains was increased to 20, and the system of post chaplains was adopted. The selection in each case was left to the army post council of administration subject to the approval of the secretary of war.

The first Roman Catholic Priest for Army service was appointed in 1846 by President Polk during the Mexican War. Only three Catholics had been named to 1856. Since then Catholic representation in the Chaplaincy has steadily increased. In the Civil War there were in all about 100 Catholic Priests, mostly serving at first with state militia, but later regularly commissioned by the Federal Government. In the Spanish War there were 15 regularly appointed, in addition to many more with militia regiments. In World War I there were several hundred. Before the outbreak of World War II, there were 31 regular Catholic Chaplains in the Army, 19 in the Navy and many more in the National Guard and on the reserve list.

Jewish Chaplains were first authorized during the Civil War. At the out-break of the War, the regular army was extremely small. The War had to be fought by volunteer regiments which were raised throughout the Northern States. These regiments were governed by special laws set by Congress.

One of these laws passed by Congress in July 1861 required that every regimental Chaplain be appointed by the regimental commander "on the vote of the field officers and company commanders," and that he be "a regularly ordained minister of some Christian denomination." The 65th regiment of the 5th Pennsylvania Cavalry, popularly known as "Cameron's Dragoons," unaware of the new law, elected as their chaplain a young Philadelphia Hebrew teacher named Michael Allen. When this was discovered the appointment was disallowed since Mr. Allen was not a member of a Christian denomination, and not an ordained minister. Colonel Max Einstein, a man of strong metal who was the head of the regiment elected another Jew, but this time an ordained Rabbi. The new selection was Rabbi Arnold Fishel of the historic Shearith Israel Congregation of New York City. Fishel immediately applied to the War Department for a Commission, but it obviously had to be rejected.

Now the question of the Jewish Chaplaincy was indeed a public issue. Would the Jew accept second class status in the military services? This was the first time in American history that the Government was compelled to decide on an issue of statutory law whether Judaism was an American faith on an equal level with Christianity.

A wave of protest was aroused throughout the North in the wake of the rejection of Rabbi Fishel's application for a commission as Chaplain. The editors of Jewish periodicals wrote strong editorials demanding equal treatment of Jews before the law and Rabbis made frequent reference to the question in their sermons.

What is most fascinating about this incident is that petitions were drawn up signed by many Christians demanding the law be changed to allow the commissioning of Jewish Chaplains. Seven hundred Christians signed a petition which was circulated in Baltimore, and 38 members of the Maryland legislature sent a resolution to their Congressman in Washington. There were only three Jews in Bangor, Maine, but 200 non-Jews joined them urging the Federal Government to amend the discriminatory laws.

Rabbi Fishel was appointed by the Jewish community to meet with President Abraham Lincoln to bring this inequity to his attention. On December 11, 1861, Rabbi Fishel met with Mr. Lincoln and brought the concern of this inequity to his attention. President Lincoln scrutinized the document which Rabbi Fishel had brought to him and in a few days wrote to Rabbi Fishel as follows: My Dear Sir, I find there are several particulars in which the present law in regard to Chaplains is supposed to be deficient, all of which I now desire presenting to the appropriate committee of Congress. I shall try to have a new law broad enough to cover what is desired by you in behalf of the Israelites. Yours truly, A. Lincoln.

As a result of the President bringing this matter to the attention of Congress, the law was amended by an Act passed July 17, 1862, which removed the requirement that Chaplains must be Christian. The new Act stated merely "that no person shall be appointed a Chaplain in the United States Army who is not a regularly ordained Minister of some religious denomination, and who does not present testimonials of his good standing as such minister, with a recommendation for his appointment as an Army Chaplain from some authorized ecclesiastical body, or not less than five accredited ministers belonging to said denomination."

Finally it was possible for a Rabbi to be appointed as a Chaplain. One month after the amended law the Board of Ministers of the Hebrew Congregations of Philadelphia sent a petition to President Lincoln appealing for the appointment of a Jewish Chaplain for the Philadelphia Military hospitals. President Lincoln sent a message to the board stating that he would "Appoint a Chaplain of your faith if the board will designate a proper person for the purpose."

The Rabbis agreed to nominate Jacob Frankel of Rodeph Shalom Congregation and his commission arrived in Philadelphia on September 18, 1862. Rev. Frankel, the first Jewish Chaplain in the American Military forces was also the first Jewish Chaplain in any country. Not until the outbreak of the Franco-Prussian War did a German rabbi serve with a European army, and the British army waited until the First World War to award a chaplaincy appointment to a rabbi.

The appointment of Rev. Frankel was to a hospital chaplaincy which was new, not only for the Jewish community, but for America as well. President Lincoln had instituted the position at the urging of such men as Archbishop John Hughes of New York. There were six military hospials in the city, and the chaplain made rounds of the various hospitals assisted by other colleagues. From the available recollections of the time, it would seem that Frankel distributed inexpensive gifts to the wounded men, sang for them, wrote letters to their families, and tried as best he could to encourage them. The honor of being the first Jewish chaplain to serve with fighting forces and to minister to his men under fire was reserved for Rabbi Ferdinand Sarner who was elected to his position with the 54th New York Volunteer Regiment on April 10, 1863.

One of the most powerful examples of the influence of chaplains on others, was the story of the four chaplains who gave their life jackets to soldiers on the troop transport ship called the Dorchester. The Dorchester was torpedoed in the North Atlantic on February 3, 1943. A Rabbi, a Priest and two Protestant Ministers gave up their life jackets so that other men could survive. From the reports given by witnesses, the four chaplains were last seen standing with locked arms each uttering his own prayer. This has served as one of the most inspiring stories that came out of World War II.

When Selective Service was instituted in 1940 there was not a single Jewish Chaplain in uniform in any branch of the service. By the end of World War II, 311 Jewish Chaplains had served. For every chaplain who wore the uniform, approximately two volunteers were disqualified for physical and other reasons. This means that almost 1000 rabbis offered their services and were processed by the National Jewish Welfare Board's Commission on Jewish Chaplaincy. The Jewish Welfare Board is an organization that has been recognized by the United States Government as the representative body to provide chaplains for the military services, as well as the Veterans Administration hospitals. This organization mobilized the total American Rabbinate including the three national rabbinical organizations to assist in making chaplains available through their seminaries. The three Rabbinical bodies include the Central Conference of American Rabbis, (CCAR-Reform); the Rabbinical Assembly (RA-Conservative); and the Rabbinical Council of America (RCA-Orthodox).

The response by the American Jewish community during the various wars was extremely meaningful. Since the Korean conflict an additional 356 rabbis have been recruited. This phenomenal response was made possible when the National Jewish Welfare Board, after Pearl Harbor, convened the leadership of the National Rabbinical bodies to reorganize its Chaplains Committee.

When President Lincoln signed the Act of Congress on July 17, 1862 which enabled Rabbis to serve as chaplains, the recruitment was made that volunteers for the chaplaincy be certified as clergymen in good standing by a denominational agency. In the Jewish community it was the National Jewish Welfare Board through its chaplains committee, which served as "Ecclesiastical Endorsing" Agency since World War I. The working together of the various representing bodies has had a great influence on the total American Jewish scene. Since the Chaplains serve the various branches of Judaism there had to develop a sense of esprit de corps among the chaplains that cut across denominational lines. Various problems that have been arising from time to time in terms of religious requirements, rituals, etc., have brought the Jewish community together, especially the Rabbinate in helping to formulate a common working ground by which chaplains of the various branches of Judaism can work together in harmony complementing and assisting one another.

The role of the Chaplain has always been a subject of much debate. A broad spectrum of definitions, descriptions and opinions of the chaplain is available through the media—movies, television, popular periodicals, serious periodicals, serious literature, and sourceless stories.

For example, the chaplain represented as a dolt is no stranger today. He is often pictured as stumbling, bumbling and totally ineffectual. M.A.S.H., Catch 22 and the like reveal the chaplain as a holy joe of pious platitudes. Irrelevancy personified! The chaplain of "tell it to the chaplain" fame is often the impression people have of him. Equally well publicized is the "locker room liturgist"—the chaplain as recreation officer—the inspirational leader of fun and games. He arranges the golf tournaments, calls the bingo, negotiates tours, and generally provides a wholesome atmosphere for the people in his charge. The fact is that the chaplain is many things to many people. He is the crisis counselor, the confronter, the comforter, the countergrouper, the sensitizer, the psychologist, the analyst, the therapist, the calm-downer, the social worker, and in a great number of cases, the winner of friends and influencer of people. He is the manager's Moses, leading the chosen people out of the bondage of unliberated egos to the land flowing with the milk and honey of interpersonal relations.

The question of Chaplaincy and its relationship to the Constitution has been raised from time to time. Generally speaking the prevalent opinion justifying Chaplaincy despite the fact that there exists a wall of separation between Church and State, is the fact that the American Constitution does not prohibit religion, but rather the imposition of religious doctrine. Chaplains in the armed forces may be necessary under the constitutional guarantee of freedom of conscience. A soldier drafted into the armed forces and sent to camp far from home is deprived of the opportunity to visit his house of worship. To the extent that such a deprivation is necessary to the overriding consideration of national defense, it is considered constitutional. So, too, much of the exemption that religion enjoys under tax laws may likewise be justified under the "free exercise" clause in the constitution.

It is interesting to note that the development of military chaplaincies in the United States has had a strong influence on the development of civilian chaplaincies. More and more we find civilian Chaplaincies being instituted in the various parts of the country. Government bodies such as state, county, and city have been instituting Chaplaincies in the various institutions in their charge. In a manual published recently on hospital chaplaincy by the American Hospital Association, it is noted that the direction of hospitals is to make Chaplaincies a part of its regular hospital care program. In a statement on hospital Chaplaincy which was approved by the American Hospital Association at its May 8, 1967 convention the organization states: "The American Hospital Association recognizes that Chaplaincy programs are a necessary part of the hospital's provision for total patient care, and that qualified Chaplains and adequate facilities as well as the support of the administration and medical staff, are essential in carrying out an effective ministry for patients". The various bodies representing Chaplaincies from the denominational standpoint include: The Association for Clinical Pastoral Education, Inc., The College of Chaplains of the American Protestant Hospital Association, The Liaison Committee on Jewish Chaplaincy for Boards of Rabbis, The National Association of Catholic Chaplains, working with the American Hospital Association.

In our own state of Florida much work has been done in recent times in trying to develop and expand Chaplaincy programs. A recent report submitted by the Chaplaincy Advisory Committee which was appointed by Governor Reuben O'D Askew has brought to light some of the strong needs for this expansion. The formation of the Florida Chaplains Association is a direct result of the concern of many Chaplains and interested people and is another example of the direction in which this movement is going. We gathered here, at this conference, are giving of our concern and interest to helping promote those ideals that will help bring that traditional historic strength of the Chaplain to bear on the many who are institutionalized in our state.

As we look forward to the next century of our nation's continued rendez-vous with greatness, we have the unshakable faith that our nation will continue its great progress in helping to make this land truly the land of the free and the home of the brave. In this great challenge, the spiritual strength which religion in general, and the Chaplaincy in particular, can offer will help bring about the success that all of us pray for. With God's help and our determination, we will meet this rendez-vous with greatness.

Credits for portions of the above go to: The Library of Congress; The Honorable Claude Pepper, U.S. Congressman, State of Florida; The Jewish Digest; Rabbi Dr. Bertram W. Korn, Past President, American Jewish Historical Society; Rabbi Aaron H. Blumenthal, Past Chairman, Commission of Jewish Chaplaincy, National Jewish Welfare Board; Navy Chaplains Bulletin, Special Bicentennial Issue; Church and State in America by Canon Anson Stokes; Church, State and Freedom by Leo Pfeffer; Manual on Hospital Chaplaincy by American Hospital Association; and Time Inc., Special 1776 Issue.

GUIDANCE AND COUNSELING FOR THE ELDERLY

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. PEPPER. Mr. Speaker, together with 5 members of the Subcommittee on Health and Long-Term Care of the House Select Committee on Aging and 35 other House Members to date, I have introduced the "Older Persons Comprehensive Counseling Assistance Act of 1976," H.R. 12667, H.R. 14086, and H.R. 14087. This bill would amend the Older Americans Act and the Public Health Service Act in order to provide expanded counseling assistance to the elderly sick and disabled.

That this legislation is desperately needed can be seen by examining several important facts. First of all, in the United States today over 21,000,000 Americans, or approximately 10.3 percent of the entire population, is over the age of 65. These older Americans confront daily life in a society in which ageism—the attitudes and actions that relegate older persons to a secondary or inferior status—is an endemic aspect of life and in which the elderly are treated unfairly with respect to health care, employment, social, recreational, educational, and cultural needs. In fact, many of the problems faced by older persons are directly or indirectly related to the attitudes and behaviors of the rest of the Nation's population.

Frequently, as a result of these attitudes and behaviors, older persons come to perceive themselves as helpless, worthless, nonproductive, and dependent on society. These self-perceptions are reinforced by their concerns over health, fear of crime, fear of loneliness, finances, boredom, lack of independence, and being neglected and rejected by the young.

Depression is a major problem among aging Americans and the suicide rate of those over 65 is substantially higher than for other age groups. Finally, it is important that we realize that these problems will continue to become more and more widespread in the years to come as the percentage of the population that is over 65 increases and as changing social and economic patterns result in earlier retirement, thus accelerating the point at which Americans confront these problems.

The solution to many of these problems is to provide older persons with professional counselors and support personnel who are trained in human relationships and who have the skills and abilities to help older persons to see that they still do count and that they are capable of leading rich full lives. By participating in systematic, organized community counseling programs, older persons can develop new skills, behaviors and attitudes which will enable them to be as independent as possible and to lead meaningful lives in our communities and outside of our nursing homes.

In addition, professional counseling can help senior citizens with serious mental health concerns or with physical health problems which are compounded by emotional responses. The support and caring which counselors are trained to give bolsters the spirits, ends depressions, and gives motivation to recover by instilling the will to live.

Counseling can help those who are residing in or are leaving nursing homes and other types of living facilities to adjust. Residents need help in altering their own self-concepts, in terms of redeveloping a sense of independence and worth, and then in developing behaviors which can sustain them outside the facility. As for those leaving a residential facility, counselors are needed to follow-up and provide important after care.

Another area in which counseling can solve the problems facing the elderly is in the area of preretirement preparation for retirement. By providing comprehensive guidance and information concerning social, financial, emotional, and other aspects of retirement, counselors would bring the need for planning to awareness, assist individuals in structuring budgets and health plans which meet future needs, assist individuals in developing alternative vocational, avocational, and leisure interests, and thus prepare older persons for the problems that come with changing social and emotional environments.

The Older Persons Comprehensive Counseling Assistance Act of 1976 would make badly needed counseling more available to older Americans by authorizing an appropriation of $45,000,000 for the purpose of grants for the fiscal year ending September 30, 1977 and a like amount plus 7 per centum compounded for each of the succeeding 4 fiscal years. Those grants would be made by the Secretary of Health, Education, and Welfare, through the Administration on Aging, for distribution to State and area agencies on aging for support of agency counseling assistance programs for the elderly.

These programs would include initiation and development of counseling assistance for the elderly, preretirement counseling, career counseling, referral services to other health agencies, education and job placement, serving the special needs of those older persons who are disadvantaged or handicapped, and the providing of counseling to families of senior citizens. The bill also authorizes an additional $20,000,000 for the fiscal year ending September 30, 1977, and a like amount plus 7 per centum componded for each of the 4 succeeding fiscal years for the purpose of providing preservice and inservice training of professional counseling and support personnel. These funds would be granted to postsecondary education institutions for the training programs.

Finally, the bill would authorize an appropriation of $15,000,000 for the fiscal year ending Setember 30, 1977 and a like amount plus 7 per centum compounded for each of the succeeding 4 fiscal years for the purpose of a demonstration and evaluation program to be carried out by the Commissioner of the Administration on Aging. These funds would be granted to examine existing counseling for older persons and to develop pilot programs to improve the delivery systems and counseling approaches specifically designed for the elderly. The money would also be used for such programs as identifying more effective methods for the training and retraining of counseling personnel and finding more effective methods and integrating counseling services into already existing services for the elderly such as legal services, health and nursing care agencies, and recreation facilities.

In addition to these authorizations of appropriations, the bill also includes administrative requirements concerning the grants, the training programs, and the demonstration and evaluation program.

I would like to express my gratitude to the American Professional and Guidance Association for their help in preparing this important legislation.

The "Older Persons Comprehensive Counseling Assistance Act of 1976" would, if enacted, provide for the expansion of vital, systematic, organized community-based counseling assistance for our Nation's elderly sick and disabled. It goes beyond existing legislation which attempts to meet the needs of the elderly in aiming to rehabilitate them so that they may achieve dignity and self-respect rather than simply being concerned with health diagnoses and treatment at the least possible cost and effort. If we are genuinely concerned for our Nation's older citizens, we must act on that concern and we must enact this legislation. The lives of the elderly need not continue to be a daily existence of coping with massive problems of loneliness, health deficits, and social rejection at every turn.

MEMBERS OF CONGRESS IN SUPPORT OF MOROZ' LIBERTY AND SANITY

(Mr. KOCH asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, yesterday 76 House Members joined Representatives Fenwick, Dodd, and myself in signing a letter to Soviet General Secretary Leonid Brezhnev, President Nikolai Podgorny and Ambassador Anatole Dobrynin urging the release of Soviet prisoner Valentyn Moroz.

Moroz is the symbol of the Ukrainian struggle for maintenance of a cultural identity against Russian domination. It was his authorship of essays, describing Moscow's plan to Russianize U.S.S.R. satellite Republics such as the Ukraine, which were labeled anti-Soviet propaganda and precipitated his 14-year prison sentence. He has spent 6 years in jail for the alleged crime of "anti-Soviet propaganda and agitation."

Our letter was prompted when we learned of Moroz' recent transfer to Moscow's Serbsky Institute of Forensic Psychiatry, a move we vehemently oppose because of its threat to Moroz' sanity.

I am appending the letter that was sent to the Russian leaders:

Congress of the United States,
Washington, D.C., June 6, 1976.

Hon. Anatole Dobrynin, Ambassador of the U.S.S.R.
Hon. Nikolai Podgorny, Chairman Presidium
Hon. Leonid Brezhnev, General Secretary, Central Committee of the Communist Party Soviet Union
Moscow, Russia

Gentlemen: We the undersigned Members of the United States Congress urge your compassionate intercession on behalf of Valentyn Moroz. We have been informed that he has been transferred to Moscow's Serbsky Institute of Forensic Psychiatry. As you undoubtedly know, millions of Americans, including those of Ukranian ancestry, have taken up the cause of Valentyn Moroz and want to urge the Soviet Union to allow him to accept the invitation extended by Harvard University to each at that institution.

In the spirit of the Helsinski agreement and for the purpose of demonstrating a desire to continue detente, we urge that Valentyn Moroz's sentence be commuted, and that he be permitted to leave the U.S.S.R. If medical attention is warranted, we assure you that it will be appropriately provided here in the United States. We believe you will be doing a great service by displaying compassion in this case and we would consider it a very important step towards improving the relationship between our respective countries if Moroz were to be released.

Sincerely,

Edward I. Koch,
Millicent Fenwick,
Christopher J. Dodd.

The following Members of Congress have requested that their names be added to this letter:

Frank Annunzio, Bill Archer, Les AuCoin, Herman Badillo, Max Baucus, Edward Beard, Tom Bevill, Mario Biaggi, Jonathan Bingham, James Blanchard, John Brademas, William Brodhead, and William S. Broomfield.

George E. Brown, Jr., Philip Burton, William R. Cotter, Lawrence Coughlin, Dominick Daniels, Thomas Downey, Robert Drinan, Robert Duncan, Pierre du Pont, Don Edwards, Joshua Eilberg, Hamilton Fish, Jr., and Henry A. Waxman.

Daniel Flood, Edwin Forsythe, Donald Fraser, Bill Frenzel, Benjamin Gilman, Gilbert Gude, H. John Heinz, III, Henry Helstoski, Elizabeth Holtzman, Frank Horton, William J. Hughes, Jack Kemp, and John H. Krebs.

Robert Lagomarsino, Norman F. Lent, Clarence Long, Larry McDonald, Matthew McHugh, Andrew Maguire, Edward Mezvinsky, Abner Mikva, Joseph Minish, Parren Mitchell, Joe Moakley, and Charles Mosher.

Ronald Mottl, Stephen Neal, Lucien Nedzi, James O'Hara, Richard Ottinger, Edward Pattison, Claude Pepper, Richardson Preyer, Thomas Rees, Peter Rodino, Jr., Robert Roe, Benjamin Rosenthal, and Edward Roybal.

James Scheuer, Patricia Schroeder, Richard Schulze, Paul Simon, Stephen Solarz, Gladys Noon Spellman, Frank Thompson, Jr., Richard Vander Veen, Joseph Vigorito, Charles Wilson (Tex.), Lester Wolff, and Clement J. Zablocki.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. Giaimo (at the request of Mr. O'Neill), for this week, on account of recovery from eye surgery.

Mr. Helstoski (at the request of Mr. O'Neill), for June 7 and 8, 1976, on account of death in the family.

Mr. Jeffords (at the request of Mr. Rhodes), for today, on account of official business.

Mr. Milford (at the request of Mr. O'Neill), for this week, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Evans of Indiana), to revise and extend their remarks, and to include extraneous matter:)

Mr. Gonzalez, for 5 minutes, today.
Mr. Annunzio, for 5 minutes, today.
Mr. McFall, for 5 minutes, today.
Ms. Abzug, for 20 minutes, today.
Mr. Koch, for 10 minutes, today.
Mr. Cotter, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. Emery) and to include extraneous matter:)

Mr. Heinz.
Mr. Quie in two instances.
Mr. Esch.
Mr. Hagedorn.
Mr. Wiggins.
Mr. Gilman.
Mr. Kemp in three instances.
Mr. Ruppe.

(The following Members (at the request of Mr. Evans of Indiana) and to include extraneous material:)

Mr. Holland.
Mr. Evins of Tennessee in five instances.
Mr. Anderson of California in three instances.
Mr. Gonzalez in three instances.
Mr. Annunzio in six instances.
Mr. Brown of California in 10 instances.
Mr. Dingell in three instances.
Mr. Hungate.
Mr. Richmond.
Mr. Rees.
Mr. Teague.
Mr. Simon.
Mr. Cotter.
Mr. McDonald.

BILL PRESENTED TO THE PRESIDENT

Mr. HAYS of Ohio, from the Committee on House Administration, reported that that committee did on June 4, 1976 present to the President, for his approval, a bill of the House of the following title:

H.R. 11438. An act to amend title 5, United States Code, to grant court leave to Federal employees when called as witnesses in certain judicial proceedings, and for other purposes.

ADJOURNMENT

Mr. EVANS of Indiana. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 3 o'clock and 3 minutes p.m.), the House adjourned until tomorrow, Tuesday, June 8, 1976, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, INC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3436. A letter from the Fiscal Assistant Secretary of the Treasury, transmitting a report on the inventory of nonpurchased foreign currencies as of December 31, 1975, pursuant to section 613(c) of the Foreign Assistance Act of 1961, as amended; to the Committee on International Relations.

3437. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to section 112(b) of Public Law 92–403; to the Committee on International Relations.

3438. A letter from the Deputy Administrator, Federal Energy Administration, transmitting an updated version of the report on changes in market shares for aviation gasoline, jet fuels, distillate fuel oils, residual fuel oil and motor gasoline, previously submitted pursuant to section 4(c)(2)(A) of the Emergency Petroleum Allocation Act of 1973; to the Committee on Interstate and Foreign Commerce.

3439. A letter from the Chairman, Federal Power Commission, transmitting a copy of the publication entitled "All Electric Homes in the United States, 1975"; to the Committee on Interstate and Foreign Commerce.

3440. A letter from the Acting Secretary of Commerce, transmitting a draft of proposed legislation to amend the act of August 16, 1971, as amended, which established the National Advisory Committee on Oceans and Atmosphere, to extend the appropriation authorization thereunder; to the Committee on Merchant Marine and Fisheries.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BLOUIN:

H.R. 14212. A bill to foster and continue the family farm in the United States by providing young farmers with the necessary assistance to purchase family farm units, and for other purposes; to the Committee on Agriculture.

By Mr. BROOKS:

H.R. 14213. A bill to extend and amend the State and Local Fiscal Assistance Act of 1972, and for other purposes; to the Committee on Government Operations.

By Mr. FASCELL:

H.R. 14214. A bill to create a Joint Committee on Intelligence Operations with exclusive jurisdiction over intelligence matters and to impose conditions on the expenditure of funds by or for the Central Intelligence Agency for non-intelligence-gathering operations; to the Committee on Rules.

By Mr. FISH:

H.R. 14215. A bill to establish an Antitrust Review and Revision Commission; to the Committee on the Judiciary.

By Mr. McFALL:

H.R. 14216. A bill to amend the Public Health Service Act to revise the migratory health program under that act so that seasonal agricultural workers will be provided services on the same basis as migratory agricultural workers; to the Committee on Interstate and Foreign Commerce.

By Mr. MELCHER (for himself, Mr. Ruppe, Mr. Howe, Mr. Won Pat, and Mr. Johnson of Colorado):

H.R. 14217. A bill to provide for the cooperation between the Secretary of the Interior and the States with respect to the regulation of surface coal mining operations, and the acquisition and reclamation of abandoned mines, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. MOORE:

H.R. 14218. A bill to amend the National Trails System Act to authorize a feasibility study relating to the Bartram Trail in Louisiana; to the Committee on Interior and Insular Affairs.

By Mr. NIX (for himself and Mr. Rodino):

H.R. 14219. A bill to provide for the issuance of a commemorative postage stamp in honor of Dr. Martin Luther King, Jr.; to the Committee on Post Office and Civil Service.

By Mr. PRICE:

H.R. 14220. A bill to amend title 10, United States Code, to authorize the Secretary of the Air Force to contract with air carriers to acquire civil aircraft to provide greater cargo capacity for national defense purposes in the event of war or national emergency, and to modify existing passenger aircraft for this purpose; to the Committee on Armed Services.

By Mr. REUSS:

H.R. 14221. A bill to amend the Internal Revenue Code of 1954 to provide that the tax-exempt treatment allowed to certain industrial development bonds be restricted to bonds the proceeds of which are to be used within economic development areas, and for other purposes; to the Committee on Ways and Means.

By Mr. RHODES (for himself, Mr. McClory, Mr. Broomfield, Mr. Bafalis, Mr. Lujan, Mr. Latta, Mr. Frenzel, Mr. Schneebeli, Mr. Andrews of North Dakota, Mr. Burgener, Mr. Guyer, Mr. Hinshaw, Mr. Cleveland, and Mr. Hyde):

H.R. 14222. A bill to establish a procedure and timetable for the systematic examination of Federal regulatory activities and comprehensive reform in order to eliminate excessive regulatory restraints on the economy, reduce paperwork, streamline regulatory bureaucracy, and for other purposes; jointly to the Committees on Government Operations, and Rules.

By Mr. RHODES (for himself, Mr. Sarasin, Mr. Bauman, Mr. Lott, Mr. Emery, Mr. Talcott, Mr. Moorhead of California, Mr. Myers of Indiana, Mr. Gilman, Mr. Broyhill, Mr. Taylor of Missouri, Mr. Bell, Mr. Beard of Tennessee, and Mr. Mitchell of New York):

H.R. 14223. A bill to establish a procedure and timetable for the systematic examination of Federal regulatory activities and comprehensive reform in order to eliminate excessive regulatory restraints on the economy, reduce paperwork, streamline regulatory bureaucracy, and for other purposes; jointly, to the Committees on Government Operations, and Rules.

By Mr. RICHMOND (for himself, Mr. Bonker, Mr. Ford of Tennessee, and Mr. Yates):

H.R. 14224. A bill to prohibit new rules and regulations from becoming effective under the Food Stamp Act of 1964 until the Congress enacts new legislation with respect to such act; to the Committee on Agriculture.

By Mr. ROGERS (for himself, and Mr. Carter):

H.R. 14225. A bill to adjust the compensation of the Director of the National Cancer Institute; to the Committee on Interstate and Foreign Commerce.

By Mr. TEAGUE:

H.R. 14226. A bill to extinguish Federal court jurisdiction over school attendance; to the Committee on the Judiciary.

By Mr. UDALL:

H.R. 14227. A bill to direct the Secretary of Agriculture to release a condition with respect to certain real property conveyed by the United States to the board of regents of the universities and State colleges of Arizona for the use of the University of Arizona; to the Committee on Interior and Insular Affairs.

By Mr. WIRTH (for himself, Mr. Baucus, Mr. Brown of California, Mr. Hannaford, Mr. McCloskey, Mr. Moorhead of California, Mr. Moorhead of Pennsylvania, Mr. Pattison of New York, and Mr. Rees):

H.R. 14228. A bill to regulate commerce to assure increased supplies of natural gas at reasonable prices for consumers, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. COTTER:

H.J. Res. 975. Joint resolution to authorize and request the President to issue a proclamation designating October 8, 1976, as National Chess Day; to the Committee on Post Office and Civil Service.

By Mr. FLYNT (for himself and Mr. Spence):

H. Res. 1260. Resolution to amend the Rules of the House of Representatives to allow all expenses of the Committee on Standards of Official Conduct to be obtained directly from the contingent fund of the House of Representatives upon vouchers signed by its chairman and ranking minority member; to the Committee on Rules.

By Mr. GILMAN:

H. Res. 1261. Resolution relative to committee hearings on the Nation's future telecommunication policy; to the Committee on Interstate and Foreign Commerce.

By Mr. MICHEL (for himself, Mr. Collins of Texas, Mr. Regula, Mr. McEwen, Mr. Gradison, Mr. Burgener, Mr. Brown of Michigan, and Mr. Ruppe):

H. Res. 1262. Resolution to require the adoption of a resolution by the House of Representatives to carry out the establishment or adjustment of certain allowances to Members, officers, and standing committees of the House of Representatives; to the Committee on House Administration.

By Mr. WINN:

H. Res. 1263. Resolution to amend rule X of the Rules of the House of Representatives to permit a majority of the House to direct the Committee on Standards of Official Conduct to investigate complaints or resolutions involving alleged misconduct if the committee fails to undertake an investigation within 15-legislative days after the receipt of such complaint or referral of such resolution; to the Committee on Rules.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

399. By the SPEAKER: Memorial of the Legislature of the State of Oklahoma, requesting that Congress call a convention for the purpose of proposing an amendment to the Constitution of the United States to prohibit the coercive use of Federal funds by the Federal Government; to the Committee on the Judiciary.

400. Also, memorial of the Legislature of the State of New York, relative to chartering the International Veterans Boxers Association; to the Committee on the Judiciary.

401. Also, memorial of the Legislature of the State of New York, relative to observing Memorial Day on May 30; to the Committee on Post Office and Civil Service.

402. Also, memorial of the Legislature of the State of California, relative to the availability of air transportation for the handicapped; to the Committee on Public Works and Transportation.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ADDABBO (by request):

H.R. 14229. A bill for the relief of Mauritz A. Sterner; to the Committee on the Judiciary.

H.R. 14230. A bill for the relief of Samuel H. Williams of St. Albans, N.Y.; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

486. By the SPEAKER: Petition of the board of directors, chamber of commerce, Yonkers, N.Y., relative to the proposed Full Employment and Balanced Growth Act; to the Committee on Education and Labor.

487. Also, petition of the township council, Teaneck, N.J., relative to the proposed Criminal Justice Reform Act; to the Committee on the Judiciary.

488. Also, petition of the board of directors, American Society for Industrial Security, Washington, D.C., relative to terrorism; to the Committee on the Judiciary.

489. Also, petition of the Lake County Sheriff's Posse Comitatus, Ronan, Mont., relative to treason; to the Committee on the Judiciary.

490. Also, petition of the Ponape District Legislature, Eastern Caroline Islands, Trust Territory of the Pacific Islands, relative to the American Revolution Bicentennial; to the Committee on Post Office and Civil Service.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 13179

By Mr. HENDERSON:

Page 10, strike out lines 1 through 9 and insert in lieu thereof the following new section:

COST-OF-LIVING ADJUSTMENTS OF FOREIGN SERVICE AND CIVIL SERVICE ANNUITIES

SEC. 13. (a)(1) Section 882(b) of the Foreign Service Act of 1946 (22 U.S.C. 1121(b)) is amended to read as follows:

"(b) Effective the first day of the second month which begins after the price index change equals a rise of at least 3 percent for a month over the price index for the month last used to establish an increase, each annuity payable from the Fund having a commencing date not later than that effective date shall be increased by such percentage rise in the price index, adjusted to the nearest 1/10th of 1 percent."

(2) Section 8340(b) of title 5, United States Code, is amended to read as follows:

"(b) Each month the Commission shall determine the percent change in the price index. Effective the first day of the second month which begins after the price index change equals a rise of at least 3 percent for a month over the price index for the base month, each annuity payable from the Fund having a commencing date not later than that effective date shall be increased by such percentage rise in the price index, adjusted to the nearest 1/10th of 1 percent."

(b)(1) Except as provided in paragraphs (2) and (3) of this subsection, the amendments made by subsection (a) of this section shall take effect—

(A) at the end of the 45-day period beginning on the date of the enactment of this Act; or

(B) October 1, 1976;

whichever is later.

(2) In the event the price index change, as determined by the Secretary of State for the month in which the effective date prescribed under paragraph (1) of this subsection occurs, equals a rise of at least 3 percent over the price index for the month last used to establish an annuity increase under section 882(b) of the Foreign Service Act of 1946 (22 U.S.C. 1121(b)), each annuity payable from the Foreign Service Retirement and Disability Fund shall be increased, effective on the first day of the second month that begins after such effective date, by the percentage rise in the price index for the month in which such effective date occurs, adjusted to the nearest 1/10th of 1 percent.

(3) In the event the price index change, as determined by the Civil Service Commission for the month in which the effective date prescribed under paragraph (1) of this subsection occurs, equals a rise of at least 3 percent over the price index for the base month currently in effect under section 8340 of title 5, United States Code, each annuity payable from the Civil Service Retirement and Disability Fund shall be increased, effective on the first day of the second month that begins after such effective date, by the percentage rise in the price index for the month in which such effective date occurs, adjusted to the nearest 1/10th of 1 percent.

Page 10, strike out lines 3 through 9 and insert in lieu thereof the following:

SEC. 13. (a) Section 882(b) of the Foreign Service Act of 1946 (22 U.S.C. 1121(b)) is amended to read as follows:

"(b) Effective the first day of the second month which begins after the price index change equals a rise of at least 3 percent for a month over the price index for the month last used to establish an increase, each annuity payable from the Fund having a commencing date not later than that effective date shall be increased by such percentage rise in the price index, adjusted to the nearest 1/10th of 1 percent."

(b)(1) Except as provided in paragraph (2) of this subsection, the amendment made by subsection (a) of this section shall take effect—

(1) at the end of the 45-day period beginning on the date of the enactment of this Act; or

(2) October 1, 1976;

whichever is later.

(3) In the event the price index change, as determined by the Secretary of State for the month in which the effective date prescribed under paragraph (1) of this subsection occurs, equals a rise of at least 3 percent over the price index for the month last used to establish an annuity increase under section 882(b) of the Foreign Service Act of 1946 (22 U.S.C. 1121(b)), each annuity payable from the Foreign Service Retirement and Disability Fund shall be increased, effective on the first day of the second month that begins after such effective date, by the percentage rise in the price index for the month in which such effective date occurs, adjusted to the nearest 1/10th of 1 percent.

FACTUAL DESCRIPTIONS OF BILLS AND RESOLUTIONS INTRODUCED

Prepared by the Congressional Research Service pursuant to clause 5(d) of House Rule X. Previous listing appeared in the CONGRESSIONAL RECORD of June 4, 1976, page 16676:

HOUSE BILLS

H.R. 13690. May 11, 1976. Ways and Means. Amends the Internal Revenue Code to provide that the amount of the charitable deduction allowed to a corporation for gifts of property need be reduced by only one-half of the amount which would have been taxed as ordinary income if the donated property is related to the basis for the donee's tax exempt status.

H.R. 13691. May 11, 1976. Post Office and Civil Service. Entitles to overtime rates of pay Federal employees performing critical services who are required to remain at work when other agency employees have been dismissed without charge to leave or loss of pay due to emergency or adverse weather conditions.

H.R. 13692. May 11, 1976. Agriculture. Amends the Forest and Rangeland Renewable Resources Planning Act of 1974 to direct the Secretary of Agriculture to include in the Renewable Resource Program, national program recommendations which take into account specified policy objectives. Requires the Secretary to provide for public participation in the formulation and review of proposed land management plans and to promulgate regulations for their development and revision.

Revises provisions relating to the sale of timber found on National Forest Service lands.

H.R. 13693. May 11, 1976. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Grants additional authority to the Federal Communications Commission to authorize mergers of carriers when deemed to be in the public interest. Reaffirms the authority of the States to regulate terminal and station equipment used for telephone exchange service. Requires the Federal Communications Commission to make specified findings in connection with Commission actions authorizing specialized carriers.

H.R. 13694. May 11, 1976. Ways and Means. Amends the Social Security Act by including the services of optometrists under the Medicare supplementary medical insurance program.

H.R. 13695. May 11, 1976. Ways and Means. Allows a tax credit, under the Internal Revenue Code, for a specified amount of the tax on employers paid during the taxable year by the corporation.

H.R. 13696. May 11, 1976. Post Office and Civil Service; Agriculture. Terminates the duty of the Secretary of Commerce to take agricultural, drainage, and irrigation censuses. Directs the Secretary to continue the statistical classification of farms which was in effect on January 1, 1975, until June 30, 1976.

Directs the Secretary of Agriculture to collect comparable information on agriculture, drainage and irrigation on a sample basis.

H.R. 13697. May 11, 1976. Agriculture. Amends the Forest and Rangeland Renewable Resources Planning Act of 1974 to direct the Secretary of Agriculture to include in the Renewable Resource Program, national program recommendations which take into account specified policy objectives. Requires the Secretary to provide for public participation in the formulation and review of proposed land management plans and to promulgate regulations for their development and revision.

Revises provisions relating to the sale of timber found on National Forest Service lands.

H.R. 13698. May 11, 1976. Agriculture. Amends the Food Stamp Act of 1964 to require the Secretary of Agriculture to establish regulations governing the deposit of funds received by food coupon vendors for allotments of such coupons, and the accounting for such funds to State and Federal agencies.

Establishes criminal penalties for the violation of such regulations.

H.R. 13699. May 11, 1976. Rules. Terminates certain authorizations of budget authority, and limits the number of years for which new budget authority may be legislated. Requires quadrennial review of all Federal programs by the congressional committees with legislative jurisdiction over such programs.

Requires the Secretary of the Treasury to prepare an annual financial statement for the United States using accrual accounting procedures.

Requires all bills and joint resolutions introduced in Congress to disclose the projected costs and savings of the actions such legislation proposes.

H.R. 13700. May 11, 1976. Interstate and Foreign Commerce. Requires the Secretary of Commerce to provide grants to the Lake Placid 1980 Olympic Games, Inc., for assisting in the planning, design, and construction of winter sports and supporting facilities for the XIII International Olympic winter games.

H.R. 13701. May 11, 1976. Public Works and Transportation. Authorizes the Secretary of Commerce to make grants for local public works projects, provided that such projects are designed to alleviate unemployment and do not involve the damming or other diversion of water.

H.R. 13702. May 11, 1976. Government Operations; Rules. Requires the President to submit to the Congress, over a period of five years, comprehensive plans for the reform of Federal regulatory agencies. States that such plans shall be designed to eliminate unnecessary or harmful regulation and to increase the overall efficiency of regulatory agencies by merging, modifying, or abolishing existing agencies and functions.

H.R. 13703. May 11, 1976. Judiciary. Includes Columbia, Greene, and Ulster counties in the northern judicial district of New York.

H.R. 13704. May 11, 1976. Ways and Means; Interstate and Foreign Commerce. Amends the Social Security Act to require the participation of optometrists in the activities of the National Professional Standards Review Council and of local professional standards review organizations.

H.R. 13705. May 11, 1976. Agriculture. Amends the Food Stamp Act of 1964: (1) to require the Secretary of Agriculture to establish uniform national eligibility standards for participation in the Food Stamp program; (2) to define household income limits and the amount of household assets which will be permitted in determining eligibility; (3) to stipulate the conditions under which unemployment or underemployment will disqualify an applicant; (4) to establish regulations for the redemption of coupons; (5) to set the value of a household's coupon allotment and the amount the household must pay therefor; and (6) to require State payment of a portion of Food Stamp program costs.

H.R. 13706. May 11, 1976. Judiciary. Establishes procedures for the determination of the mental competency of an individual accused of a crime using the reports of a panel of qualified examining psychiatrists. Authorizes the trial court to commit an accused who is found incompetent to the care of the Secretary of Health, Education, and Welfare. Outlines the procedure required for civil commitment of such persons. Requires an annual review of the danger posed by any accused in the Secretary's custody. Requires discharge if no danger is found and entitles the accused to a hearing if the determination is adverse.

H.R. 13707. May 11, 1976. Judiciary. Authorizes the Judicial Conference of the United States to fix fees and costs in U.S. district courts.

H.R. 13708. May 11, 1976. Judiciary. Requires the supervisory Board of the Federal Judicial Center to hold meetings semiannually (formerly quarterly). Allows the Board to authorize an expenditure for furnished housing accommodations for the director and his family in specified circumstances.

H.R. 13709. May 11, 1976. Judiciary. Establishes penalties for killing, attempting to kill, kidnapping, assaulting, or threatening a foreign officer, official guest, or internationally protected person. Establishes penalties for willfully interfering with a foreign official in the performance of official duties.

H.R. 13710. May 11, 1976. Judiciary; Public Works and Transportation. Prohibits knowing communication of false information which endangers the safety of an aircraft in flight. Enumerates offenses in violation of the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation and prescribes penalties for their violation. Prohibts conveying a threat to do specified felonious acts related to the destruction of aircraft and aircraft facilities where there is apparent determination and will to carry the threat into execution.

Amends the Federal Aviation Act of 1958 to prohibit unauthorized persons from carrying a concealed deadly or dangerous weapon when boarding an aircraft.

SENATE—*Monday, June 7, 1976*

The Senate met at 11 a.m., on the expiration of the recess, and was called to order by Hon. Wendell H. Ford, a Senator from the State of Kentucky.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Eternal Father, we turn for this moment from the hurry and noise of the world about us to make this place a quiet sanctuary of Thy presence. Impart to our waiting hearts a wisdom greater than our own. Show us hour by hour the way of beauty and goodness and truth. Help us this new week to meet its duties with fidelity, its difficulties with fortitude, its joys with gratitude. In all the deliberations of this Chamber may the causes here served and the decisions here made be fruitful for the common good.

In the name of Thy Son, we pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. Eastland).

The assistant legislative clerk read the following letter:

U.S. Senate,
President pro tempore,
Washington, D.C., June 7, 1976.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. Wendell H. Ford, a Senator from the State of Kentucky, to perform the duties of the Chair during my absence.

James O. Eastland,
President pro tempore.

Mr. FORD thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have the Journal of the proceedings of Friday, June 4, 1976, approved.

The ACTING PRESIDENT pro tempore. Without objection——

Mr. ALLEN. Reserving the right to object, Mr. President, we are still in the same legislative day we were in last week and since I do not feel the Journal ought to be approved piecemeal, let us wait until the end of the legislative day. I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

The Senator from Montana.

COMMITTEE MEETINGS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees be authorized to meet until 1 p.m. today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ANNOUNCEMENT BY THE SECRETARY REGARDING PROCEDURES FOR UNPRINTED AMENDMENTS

As of Monday, June 7, 1976, unprinted amendments offered from the floor by Senators will be identified by numbers.

A prenumbered form will be attached to the face of the first page of each unprinted amendment, showing the sponsor's name, the bill or resolution number proposed to be amended, the date, and any necessary remarks.

As in the case of printed amendments, the numbers will start with 1 at the beginning of a new Congress and run consecutively through the entire 2 years. The numbers will have an UP designation; that is, UP73, UP612, and so forth, to distinguish them from printed amendment numbers which will still run simply from 1 onward, as required.

An unprinted numbered amendment, if pending at the close of a daily session will lose that number and receive a printed amendment number. The UP number so canceled will not be used again on another unprinted amendment. The changeover from one number to the other in the Journal, Record, and Daily Digest will be the responsibility of the respective editors.

Any changes made officially on the floor to the text of a numbered unprinted amendment, such as modifications thereto, will be covered by the attachment of an addenda to the original UP form, which will specifically note the fact under remarks; that is, "modification to UP 386, etc." If final action has been taken on the amendment at the time the UP form is attached, the remarks column will so indicate.

Francis R. Valeo,
Secretary of the Senate.

UNANIMOUS-CONSENT AGREEMENT—COMMITTEE ASSIGNMENTS

Mr. MANSFIELD. Mr. President, I send to the desk a unanimous-consent request and ask that it be immediately considered.

The ACTING PRESIDENT pro tempore. The request will be stated.

The assistant legislative clerk read as follows:

The Senator from Montana (Mr. Mansfield) proposes a unanimous-consent request:

(1) that in addition to the committee memberships to which a Senator may be entitled under paragraph 6 of Rule XXV of the Standing Rules of the Senate, a Senator may serve during the 94th Congress as a member of any one joint committee, if the Senate members of that committee may be selected only from among members of one or more of the standing committees named in paragraph 2 or 3 of that rule and specified in the provision of law relating to the selection of membership to such joint committee; and

(2) that a Senator, who on January 2, 1971, was a member of more than one committee of the classes described in the second sentence of paragraph 6(a) of Rule XXV of the Standing Rules of the Senate, may be assigned during the 94th Congress to other committees included within those classes, except that no Senator may serve on a number of committees of these classes greater than the numbers of such committees on which he was serving on such date.

Mr. MANSFIELD. Mr. President, in the 92d and 93d Congresses, the attached unanimous-consent agreement was approved. Research indicates that a similar request was not made during this, the 94th, Congress, and as a result, a number of Senators are holding committee assignments without legal precedent.

In order to appropriately correct the error, a similar request should be made in this Congress and again in the 95th Congress. This procedure will be necessary until Senator Stevenson's Committee on Committees recommends appropriate recommendations, and the Senate takes final action. His committee completes its action in February 1977. Hopefully, the Senate rules will be amended to accommodate their recommendations.

This unanimous-consent request will not affect the current assignments to committees as they were established at the beginning of this Congress.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, the request is agreed to.

ORDER OF BUSINESS

Mr. CURTIS. Mr. President will the Senator yield so I may introduce a measure?

Mr. MANSFIELD. Surely, I yield.

FREEDOM OF EMIGRATION ACT—S. 3524

Mr. CURTIS. Mr. President, today I am introducing a bill entitled "The Freedom of Emigration Act."

This is a bill which I am sure every Senator will want to support. It provides that no credit, direct or indirect, or no guarantees, or no trade agreements, shall be entered into with any nonmarket economy country that denies its citizens the right and opportunity to visit or to join permanently with their close relatives in the United States, such as spouse, parent, child, brother, or sister.

Mr. President, the need for this is very great. The substance of our country should not be used to support the economy of countries where their own people are not allowed to visit with their close relatives in the United States and to emigrate therefrom.

I send the bill to the desk and ask that it be appropriately referred.

I ask unanimous consent that a copy of this bill I have introduced be printed in the Record at this point.

The ACTING PRESIDENT pro tempore. Without objection, the bill will be received and referred to the Committee on Finance.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 3524

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Freedom of Emigration Act".

Sec. 2. Section 409 of the Trade Act of 1974 (19 U.S.C. 2439) is amended to read as follows:

"Sec. 409. Freedom To Visit or To Emigrate To Join a Very Close Relative in the United States.

"(a) To assure the continued dedication of the United States to the fundamental human rights and welfare of its own citizens, and not withstanding any other provision of law, on or after the date of the enactment of the Freedom of Emigration Act, no nonmarket economy country shall participate in any program of the Government of the United States which extends credits or credit guarantees or investment guarantees, directly or indirectly, and the President of the United States shall not conclude or renew any commercial agreement with any such country, during the period beginning with the date on which the President determines that such country—

"(1) denies its citizens the right or opportunity to visit or to join permanently through emigration (within six months of the date of application or attempted application for the proper passport or other documents necessary to be able to leave for the United States) a very close relative in the United States, such as a spouse, parent, child, brother, or sister.

"(2) imposes more than a nominal tax on emigration or on passports, exit visas, or other documents required for visits or for emigration, for any purpose or cause whatsoever, on a citizen described in paragraph (1);

"(3) imposes more than a nominal tax, levy, fine, fee, or other charge on any citizen as a consequence of the citizen's desire to visit or to emigrate to the country of his choice;

"(4) does not allow a citizen described in paragraph (1) to pay for the transportation needed for the visit or emigration, and to take along currency equal to, if visiting, one-half, and if emigrating, five times the cost of the tourist fare for a regularly scheduled airplane to the United States, in addition to the payment for transportation;

"(5) does not allow a citizen described in paragraph (1), if retired and receiving a pension or other old age benefit, to receive the benefits while visiting in the United States, or after emigrating to the United States; or

"(6) makes it difficult or impossible for a citizen described in paragraph (1) to receive visitors from the United States by forcing the visitor to exchange or spend a certain amount of western currency, while visiting, or by other means applied to circumvent the requirements of this section,

and ending one year after the date on which the President determines that such country is no longer in violation of paragraph (1), (2), (3), (4), (5), or (6).

"(b) After the date of the enactment of the Freedom of Emigration Act, (A) a nonmarket economy country may participate in any program of the Government of the United States which extends credits or credit guarantees or investment guarantees, and (B) the President may conclude or renew a commercial agreement with such country, only after the President has submitted to Congress a report indicating that—

"(1) the country is not in violation of paragraph (1), (2), (3), (4), (5), or (6) of subsection (a), and it was never in violation of any of such paragraphs while it was obligated to observe them; or

"(2) the country has not been in violation of any of such paragraphs during the one year ending on the day on which such report is submitted.

Such report with respect to such country shall include information as to the nature and implementation of its laws and policies and restrictions or discriminations applied to or against persons wishing to visit or to emigrate to the United States for any reasons. The report required by this subsection shall be submitted initially as provided herein and, with current information, on or before each June 30 and December 31 thereafter, so long as such credits or guarantees are extended or such agreement is in effect.".

"(c) If the Senate or the House of Representatives by resolution of either House finds that a country is in violation of paragraph (1), (2), (3), (4), (5), or (6) of subsection (a), then the President shall treat that country as being in violation for the purposes of this section.

ORDER OF BUSINESS

Mr. MANSFIELD. I yield 5 minutes to the Senator from Connecticut.

ANNOUNCEMENT OF SUPPORT FOR JIMMY CARTER

Mr. RIBICOFF. Mr. President, America is about to reach for a new sense of unity. The key to America's success is that it has always been a land of opportunity. Here every person should have the right to achieve any position in our land—social, economic or political. This applies to every race, color, or creed.

It should also apply to every State of our Union.

I have been deeply disturbed during the past months by those who would deny a man the Presidency solely because he was a southerner. Not since 1848 has a person from the South been elected President of our land. What we have learned in recent years is that there is no monolithic thinking in any State.

Our population growth has been moving toward the sunbelt. Who are we northerners to insist that only we are suited for the Presidency.

All my life I have insisted that no man should be denied high public office because of his race, color, or creed.

If a Catholic, or a Jew, or a black should have this right, why should not a Southern Baptist have this right as well. Who among us who insists on tolerance and objectivity based on character and ability would deny this right to a man who comes from Georgia and is a Baptist.

A Georgia Baptist is entitled to the same rights and opportunities as a Massachusetts Catholic or a Connecticut Jew.

I have never met Jimmy Carter. I have talked with him once on the telephone a few months back.

I have followed his campaign for the Presidency carefully. I have read interview after interview. I understand his positive and negative attributes—as I do in the other candidates.

Governor Carter has been as forthcoming on the issues as any other candidate. I have become convinced that Jimmy Carter is a man of character and ability. I am confident he will make a good and strong President.

I support Jimmy Carter for the Democratic nomination for President and will work for his election.

Mr. ALLEN. Will the Senator yield?

Mr. RIBICOFF. I am pleased to yield to the Senator.

Mr. ALLEN. I commend the distinguished Senator from Connecticut for his remarks, while I disagree with him in choosing to support Jimmy Carter for the Presidency inasmuch as I support the distinguished Governor of Alabama, Gov. George C. Wallace, for the Presidency.

But I do commend the distinguished Senator from Connecticut for saying that a southerner should not be barred in national thinking from the office of President. To do so would deprive the country, and it has deprived the country in the last 130 years of much talent and much ability and much statesmanship.

The Senator, taking this statesmanlike view, recalls to my mind the statesmanlike position he took with respect to the Stennis amendment that was pending before the Senate for a number of months several years ago.

The distinguished Senator from Connecticut, showing his great statesmanship, took the position that there should not be two separate rules for the desegregation of the public schools of this country.

There should not be a northern rule and a southern rule, but there should be one informal rule. My admiration for the distinguished Senator from Connecticut, which has always been very great, jumped by leaps and bounds when he did take that position. I find him today taking a statesmanlike position that we should choose on the basis of ability and not on the basis of sectionalism.

The ACTING PRESIDENT pro tempore. The Senator's 5 minutes have expired.

Mr. MANSFIELD. Mr. President, I yield myself 1 minute to comment on the remarks of the distinguished Senator from Connecticut.

Mr. President, if the Democrats are going to win this November, they are going to have to be unified as a party. I would hope that each candidate would campaign on the basis of the merits involved in the issues to be considered, and that there would be no "stop campaign" against any candidates. I think one of the best ways to split the party—and we have split too often in the decades past—is to inaugurate and carry to a conclusion a campaign of that nature.

If we stay together and if we remain unified, as we are at the present time, there is no doubt in my mind but that the Democrats will win next November. But if we become fragmented in an effort to get a candidate, no matter who that candidate may be, it means, of course, that disunity will be the result and the chances of a Democratic victory next November will be negated to that degree.

Mr. RIBICOFF. I thank the distinguished majority leader and the Senator from Alabama.

ORDER FOR RECESS UNTIL 10 A.M. TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 10 a.m., tomorrow.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Pennsylvania.

LEAVE OF ABSENCE

Mr. HUGH SCOTT. Mr. President, I ask unanimous consent that the distinguished Senator from Arizona (Mr. GOLDWATER) be noted as necessarily absent from the Senate until such period as he is able to return.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Do Senators yield back their time?

Mr. HUGH SCOTT. Yes.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from North Carolina (Mr. MORGAN) is recognized for not to exceed 15 minutes.

A DIALOG ON FREEDOM AND INTELLIGENCE—THE "CHILLING EFFECT" OF GOVERNMENT SPYING ON CITIZENS WHO HAVE DONE NO WRONG

Mr. MORGAN. Mr. President, on Friday of last week we began a dialog which I expect to carry on for a number of days on freedom and intelligence in this country. This morning I want to address my remarks during the morning hour to the chilling effects of Government spying on citizens who have done no wrong.

Mr. President, many times during the course of my 15 months on the Select Committee on Intelligence, I was asked to comment on the committee's work. Just as frequently, my comments provoked criticism from those in the audience who found it hard to believe the FBI, IRS, or any other of the intelligence agencies of the Government could do anything wrong. I must say that prior to serving on the select committee, I had shared their skepticism.

Among the questions I was most frequently asked was why should anyone care whether the Government keeps files on them, or sends agents to attend their meetings or opens their mail, if they have not done anything wrong? The idea being that since most of us are not criminals, we have nothing to fear from the Government.

The question is important, Mr. President, not for the problem it poses, but for what it demonstrates about what we as individuals have come to expect, and accept, from our Government. If there is one thing I hope to accomplish during my tenure on the new oversight committee it is to rekindle in people's minds the notion of our constitutional forbearers that, barring some overriding public purpose, the rights and liberties of the individual shall be secure against the Government. This was the notion that caused the State of North Carolina to withhold its ratification of the U.S. Constitution until a Bill of Rights was adopted by the Congress. It was the same notion that prompted North Carolinians to adopt their own Halifax resolves and Mecklenburg declaration of independence, two of the earliest demands of the Colonists for a guarantee of individual liberty.

When people ask me, therefore, why we should care if the Government intrudes itself into our lives if we have nothing to hide, I find it particularly disheartening. At the very least, the question shows a lack of understanding of how Government works and what it can do to an individual. But even more important, it shows an indifference to those hard-won rights and privileges that 200 years ago, Americans were willing to fight for, and die for.

Times have changed, and by-and-large Government today has the trust of the people. Ironically, however, never before has the Government been so enmeshed in the lives of its citizens. As society has grown more complicated, the Government's role has expanded. As technology has improved, so has the capacity of the Government improved to insinuate itself into lives of individuals. Few people seem to worry however, about the impact these developments have on their privacy or other rights guaranteed by the Constitution. They see nothing wrong, for instance, in the Government keeping records of their lawful activities, since, as they tell me, they are not doing anything wrong and have nothing to hide.

But this answer fails to take account of the literally hundreds of ways the Government has of taking an action against an individual short of prosecuting him for a crime. Among other things, the Government can audit your taxes, assess your property, furnish information to your employer, deny you Federal benefits, deny you a job, deny you a security clearance, furnish information to potential creditors, or deny you some special status.

The information that Government collects about an individual can be the basis for literally hundreds of administrative decisions—most of which are not made by any elected official or reviewed by any judge. They are made by some Government bureaucrat who is virtually unaccountable for his decisions. If he does not like your politics, or his boss does not like your politics, you may find yourself turned down for a job or denied some Federal benefit.

Moreover, we have seen people subjected to more than simply administrative harassment. In the course of its COINTELPRO, the FBI attempted to break up marriages; tried to foment violence between rival groups; attempted to discredit individuals with their employers and financial backers; planted false news items about people in the press; prevented people from getting honorary degrees and speaking on college campuses; and, in the case of Martin Luther King, attempted to prevent his seeing the Pope.

It has, in short, been amply demonstrated that the Government can and does take actions against individuals and organizations not because they have committed any crime, but because someone in Washington does not like their politics.

But, to my mind, as important as it is to realize what the Government is capable of, it is even more important to realize that it is our rights and liberties which we stand to lose, every bit as much as our jobs and our reputations. Former Chief Justice Louis D. Brandeis in his famous dissent in the Olmstead case in 1928 wrote that—

> The makers of our Constitution undertook to secure conditions favorable to the pursuit of happiness . . . They conferred as against the Government, the right to be let alone—the most comprehensive of rights and the right most valued by civilized men.

We have all found that one's "right to be let alone" by the Government is far from absolute—that it often gives way for the greater public good. But I think that Brandeis meant that the Bill of Rights at the very least guarantees us that the Government shall not arbitrarily intrude itself into our lives without good reason. Hence, we have the fourth amendment which provides that no search warrant shall be issued except upon probable cause that a crime has been committed. We have the first amendment which protects us against recriminations by the Government for what we say. But, as Justice Oliver Wendell Holmes once wrote, even it will not prevent the arrest of a person who yells "fire" in a crowded theater. The right of the individual, in that case, gives way to the greater public good.

My point, then, is that when we realize that the Government is intruding itself into our personal lives, we owe it to ourselves and to the democracy we live in to ask "Why."

What purpose is derived? Why, for example, should the FBI be paying informants to attend meetings of groups who are suspected of committing no crime? Why should the CIA be opening the mail of individuals who are suspected of committing no crime? What public purpose is served by the Army's keeping files on the political activities of 100,000 individuals who were not suspected of committing any crime? These things happened, and yet no one in the Government questioned them—no one asked "why?"

It bothers me still, that even after these activities have been exposed, and after they have been discontinued, that many people still see nothing wrong, no threat to their own liberty, in their having occurred. People tell me that these agencies were only keeping track on individuals and organizations in the event they should decide to do something wrong—that they were only protecting us.

I would submit, Mr. President, that this is one kind of protection we can do without. It is dangerous and clearly contrary to the Constitution because it allows Government to insinuate itself into our lives without a good reason. If we accepted this suggestion of Government power, it would allow the Government to send informants to every private meeting held in the United States, to tap every phone, to read every letter. After all, who knows what it might discover in time.

The end result would be to make us watch what we say, watch what we write, take care with regard to the groups we join or the petitions we sign. In short, the result of accepting Government snooping would be to discourage people from taking the very risks the first amendment is there to encourage.

I myself have been struck by this very feeling. As a member of the Select Committee on Intelligence, I was provided with the file that the FBI maintained on me. To my surprise, the file included a report of my activities at conventions of the National Association of Attorneys General, which I attended several years ago as attorney general of North Carolina. There was nothing very remarkable in the report, but it astounded me to learn that the FBI had directed one of its agents to file a report on my activities at the convention. I do not know why such a report was asked for.

I do not know whether similar reports were filed on other States attorneys general at the convention. But it gave me an idea about how far things had gone, especially in the light of the fact that of the 11 members of the select committee, the FBI had maintained files on all 11, which indicates that it was not just a happenstance that those files were maintained on the 11 who happened to be the committee. And it worried me that such files were available, and how they might be used. As much as I might like to say that the FBI's keeping files on my political and professional activities will have no bearing upon my actions, I cannot, in all candor, say that I will be able to totally disregard it. Who can be certain that his judgment will not be swayed, perhaps even subconsciously, by the realization that he is being watched by the FBI? How many Senators could say with certainty that they would not exercise greater caution in speaking their minds or casting their votes, if they knew that the FBI was keeping book on them and might imperil their political futures?

I suspect the "chilling effect" might be even worse for the citizen who did not have, as we have, an awareness of the legal and administrative means of redress at his disposal, or ready access to the media. If one lacked the confidence that he could successfully challenge the Government, he would undoubtedly be more inclined to keep quiet and avoid rocking the boat.

Mr. President, I do think that such paranoia about the Government has quieted in recent months principally because most of the objectionable activities of the intelligence agencies have been disclosed and, as a result, discontinued. But I genuinely feel that if these activities had not been exposed and challenged, that our society was on the way to becoming something of a police state. In time, it may have become too overwhelming to control.

For the future, I think the best way to insure that the intelligence agencies do not infringe upon constitutionally-protected activities, and, at the same time, inspire confidence in the American people, is for Congress to enact legislation spelling out specifically the circumstances under which Government can undertake investigations of its citizens. We have seen that allowing the FBI or any of our intelligence agencies to investigate individuals and groups for reasons other than the fact that they are suspected of violating the law, is an extremely dangerous enterprise. It is dangerous because there is no stopping point. In the past, we have allowed the Government to have this power, and we have left it to the Government to decide when to use it. This, in my opinion, must change.

It has been the principal reason for the abuses we have seen, and poses the greatest threat to our constitutional liberties in the future. As Woodrow Wilson said in 1912:

> Liberty has never come from the government. Liberty has always come from the subjects of it. The history of liberty is a history of resistance. The history of liberty is a history of limitations of government power, not the increase of it.

Mr. President, I yield the floor.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Marks, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

APPROVAL OF BILL

A message from the President of the United States announced that on June 4, 1976, he approved and signed the bill (S. 2498) to amend the Small Business Act and Small Business Investment Act of 1958 to provide additional assistance under such Acts, to create a pollution control financing program for small business, and for other purposes.

PROGRESS OF THE CYPRUS NEGOTIATIONS—MESSAGE FROM THE PRESIDENT

The Presiding Officer laid before the Senate the following message from the President of the United States, which was referred to the Committee on Foreign Relations:

To the Congress of the United States:

Pursuant to Public Law 94–104, I am submitting my fourth periodic report on the progress of the Cyprus negotiations and the efforts this Administration is making to help find a lasting solution to the problems of the island. In previous reports I have detailed the Administration's efforts to revitalize the negotiating process so that the legitimate aspirations of all parties, and particularly those of the refugees, could be accommodated quickly and in the most just manner possible.

Differences on procedural issues have long prevented the Greek-Cypriot and Turkish-Cypriot communities from broaching such critical issues as territory, the form and function of the central government and other constitutional issues. Throughout the period since the hostilities of 1974, we have consistently urged serious consideration of these issues. As my most recent report indicated, an agreement was reached at the February round of the Cyprus intercommunal talks in Vienna, held under the auspices of United Nations Secretary General Waldheim, to exchange negotiating proposals on the key substantive issues of the Cyprus problem. When both sides submitted proposals in April to Secretary General Waldheim's Special Representative on Cyprus, a new impasse developed which delayed a complete exchange on the territorial question. Additionally, in April, Glafcos Clerides resigned his position as the Greek-Cypriot negotiator. These developments, with the subsequent appointment of new Greek-Cypriot and Turkish-Cypriot negotiators, resulted in the postponement of the next negotiating round which had been scheduled to take place in Vienna in May.

On April 15, I invited Greek Foreign Minister Bitsios to the White House for a very useful exchange of views on developments relating to Cyprus.

In addition, the United States and other interested parties maintained close contact with Secretary General Waldheim to support his attempts to resolve these difficulties and resume the intercommunual negotiating process. These efforts culminated in discussions on the occasion of the Oslo NATO Ministerial meeting in late May where Secretary of State Kissinger held separate meetings with Turkish Foreign Minister Caglayangil and Greek Foreign Minister Bitsios, following which the Greek and Turkish Foreign Ministers met together to discuss outstanding bilateral issues including Cyprus. In the course of this process, the Secretary of State stressed the absolute need to move expeditiously to discuss the key outstanding Cyprus issues.

The Secretary of State also publicly emphasized our continuing concern that a rapid solution of the Cyprus dispute be achieved and reiterated the firm position of this Administration that the current territorial division of the island cannot be permanent.

Following the meetings in Oslo, views on territorial issues were exchanged by the two Cypriot communities, and it should now be possible to reinitiate the negotiating process under the auspices of U.N. Secretary General Waldheim.

The United States will continue to contribute actively to these efforts aimed at a solution to the Cyprus problem. I remain convinced that progress can be registered soon if mutual distrust and suspicions can be set aside, and each side genuinely tests the will of the other side to reach asolution. For our part, we shall remain in touch with Secretary General Waldheim and all interested parties to support the negotiating process. Our objective in the period ahead, as it has been from the beginning of the Cyprus crisis, is to assist the parties to find a just and equitable solution.

GERALD R. FORD.

THE WHITE HOUSE, *June 7, 1976*.

THE ANTITRUST IMPROVEMENTS ACT OF 1976

The ACTING PRESIDENT pro tempore. The Senate now will resume consideration of H.R. 8532, which the clerk will state.

The assistant legislative clerk read as follows:

> A bill (H.R. 8532) to amend the Clayton Act to permit State attorneys general to bring certain antitrust actions, and for other purposes.

The Senate resumed the consideration of the bill.

The ACTING PRESIDENT pro tempore. The pending question is on agreeing to the amendment by the Senator from from Michigan (Mr. PHILIP A. HART) in the nature of a substitute.

Who yields time?

Mr. ALLEN. Vote.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment of the Senator from Michigan.

Mr. ALLEN. Vote.

QUORUM CALL

Mr. GRIFFIN. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. ALLEN. I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

The clerk will continue to call the roll.

The assistant legislative clerk continued to call the roll, and the following Senators answered to their names:

[Quorum No. 10 Leg.]

Allen
Byrd, Robert C.
ston
Ford
Griffin
Inouye
Mansfield
Morgan
Sparkman
Symington
Talmadge

Mr. ROBERT BYRD. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Arkansas (Mr. BUMPERS), the Senator from Nevada (Mr. CANNON), the Senator from Idaho (Mr. CHURCH), the Senator from Iowa (Mr. CULVER), the Senator from Minnesota (Mr HUMPHREY), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Washington (Mr. MAGNUSON), the Senator from New Mexico (Mr. MONTOYA), the Senator from Utah (Mr. MOSS), the Senator from Maine (Mr. MUSKIE), the Senator from Georgia (Mr. NUNN), the Senator from Rhode Island (Mr. PELL), the Senator from Mississippi (Mr. STENNIS), the Senator from California (Mr. TUNNEY), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I also announce that the Senator from Indiana (Mr. BAYH) is absent because of illness.

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from New York (Mr. BUCKLEY), the Senator from Hawaii (Mr. FONG), the Senator from Utah (Mr. GARN), the Senator from Arizona (Mr. GOLDWATER), the Senator from Nebraska (Mr. HRUSKA), the Senator from New York (Mr. JAVITS), the Senator from Nevada (Mr. LAXALT), the Senator from Ohio (Mr. TAFT), and the Senator from South Carolina (Mr. THURMOND), are necessarily absent.

The ACTING PRESIDENT pro tempore. A quorum is not present.

The clerk will call the names of the absent Senators.

The assistant legislative clerk continued the call of the roll.

Mr. ALLEN. Mr. President, I move that the Senate recess in accordance with the previous order.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from Alabama. (Putting the question.)

Mr. ALLEN. Mr. President, I call for a division.

The ACTING PRESIDENT pro tempore. A division has been called for.

Senators in favor will rise and stand until counted.

(After a pause.) Senators opposed will stand until counted.

Mr. ROBERT C. BYRD. Mr. President, what is the question?

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from Alabama to recess in accordance with the previous order.

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Arkansas (Mr. BUMPERS), the Senator from Nevada (Mr. CANNON), the Senator from Idaho (Mr. CHURCH), the Senator from Iowa (Mr. CULVER), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Washington (Mr. MAGNUSON), the Senator from New Mexico (Mr. MONTOYA), the Senator from Utah (Mr. MOSS), the Senator from Maine (Mr. MUSKIE), the Senator from Georgia (Mr NUNN), the Senator from Rhode Island (Mr. PELL), the Senator from Mississippi (Mr. STENNIS), the Senator from California (Mr. TUNNEY), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I also announce that the Senator from Indiana (Mr. BAYH) is absent because of illness.

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from New York (Mr. BUCKLEY), the Senator from Hawaii (Mr. FONG), the Senator from Utah (Mr. GARN), the Senator from Arizona (Mr. GOLDWATER), the Senator from Nebraska (Mr. HRUSKA), the Senator from New York (Mr. JAVITS), the Senator from Nevada (Mr. LAXALT), the Senator from Ohio (Mr. TAFT), and the Senator from South Carolina (Mr. THURMOND) are necessarily absent.

The result was announced—yeas 0, nays 73, as follows:

[Rollcall Vote No. 224 Leg.]

YEAS—0

NAYS—73

Abourezk
Allen
Baker
Bartlett
Beall
Biden
Brock
Brooke
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Case
Chiles
Clark
Cranston
Curtis
Dole
Domenici
Durkin
Eagleton
Eastland
Fannin
Ford
Glenn
Gravel
Griffin
Hansen
Hart, Gary
Hart, Philip A.
Hartke
Haskell
Hatfield
Hathaway
Helms
Hollings
Huddleston
Inouye
Jackson
Johnston
Leahy
Long
Mansfield
Mathias
McClellan
McClure
McGee
McGovern
McIntyre
Metcalf
Mondale
Morgan
Nelson
Packwood
Pastore
Pearson
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Scott, William L.
Sparkman
Stafford
Stevens
Stevenson
Stone
Symington
Talmadge
Tower
Weicker
Young

NOT VOTING—27

Bayh
Bellmon
Bentsen
Buckley
Bumpers
Cannon
Church
Culver
Fong
Garn
Goldwater
Hruska
Humphrey
Javits
Kennedy
Laxalt
Magnuson
Montoya
Moss
Muskie
Nunn
Pell
Stennis
Taft
Thurmond
Tunney
Williams

So Mr. ALLEN's motion was rejected.

The ACTING PRESIDENT pro tempore. There is a quorum present.

The pending business is the Hart-Scott amendment No. 1701.

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays on the Hart-Scott amendment.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

LEGISLATIVE PROGRAM

Mr. MANSFIELD. Mr. President, once again the leadership must inform the Senate that we have only 65 weekdays before the 2d of October, our target date for sine die adjournment. The way things are going I think we can forget October 2d, October 12 and, very likely, be prepared to come back after the election to dispose of the business already on the calendar, not to mention appropriation bills not yet before the Senate.

It is the intention of the leadership from now on to come in early and to stay late. There will be business every Friday, and there will have to be meetings on Saturdays in the weeks ahead.

All one has to do is to look at the calendar and see what responsibilities confront us at this time; and all one has to do is to see how long we are taking on this particular bill to understand the fact that legislation is piling up, much of it very significant. There are 82 bills on the calendar today. Many are controversial and will require time-consuming debate.

In addition there will be a tax reform bill which should be available for consideration around the middle of the month, and that has a time factor attached to it—the end of this month. And there are 15 major appropriation bills yet to be reported.

It is, therefore, the intention of the joint leadership, if the type of delay and stalling we have seen the past few days continues, to object to any committees meeting from tomorrow or Wednesday on except for extraordinary reasons.

With those few remarks, I will let the Senate decide what its own future procedure will be.

Mr. President, I ask unanimous consent that there appear in the RECORD at this point a digest of the measures on the Senate calendar prepared by the assistant majority leader, Mr. ROBERT C. BYRD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DIGEST OF CERTAIN MEASURES ON THE SENATE CALENDAR OF BUSINESS

S. 625.—Emergency Unemployment Health Benefits Act. The bill provides health insurance benefits to each individual who is unemployed and who is entitled to receive weekly unemployment compensation and who, if still employed, would be covered under an employer-sponsored health insurance plan. Benefits would be paid also to the dependent spouse and each dependent child of such individual. The Secretary of HEW is authorized to enter into arrangements with carriers and State agencies to carry out the provisions of the bill.

H.R. 7727.—Amends the Tariff Schedules of the United States to extend for an additional 2 years, until June 30, 1978, the existing suspension of duties on specified classifications of silk yarn.

S. Res. 302.—An original resolution to establish a Select Committee of the Senate on Improper Activities in the Labor or Management Field. The Committee is directed to study and investigate the extend, if any, to which illegal and unethical activities are engaged in by persons in the field of labor-management relations.

It empowers the Committee with authority necessary to carry out the provisions of the resolution, limits the expenses of the Committee to $1,250,000 through December 31, 1976 and requires the filing of a final report no later than December 31, 1976.

S. 999.—A bill to designate as the J. Allen Frear Building, the Federal office building located in Dover, Delaware.

S. 422.—Children and Youth Camp Safety Act. It requires the Secretary of HEW to develop regulations on children and youth camp safety standards and submit them to the Senate and House Labor Committees for consideration. States are allowed to submit similar plans for approval. The Secretary is required to designate a State agency to administer plans, to provide for legal authority and enforcement, and to review State plans on an annual basis. It authorizes grants of up to 80 percent of the costs of States in carrying out such plans.

S. 2752.—The bill divides the fifth judicial circuit into eastern and western divisions. Alabama, Florida, Georgia, Mississippi, and the Canal Zone are the eastern division. Louisiana and Texas are the western division.

The President is to appoint three additional judges for the eastern division and five additional judges for the western division.

S. Res. 325.—The original resolution adds a new rule XLV to the Standing Rules of the Senate. It would prohibit Senators and employees of the Senate from accepting a gift of travel from any foreign government without the express consent of Congress.

S. 2773.—Amends the Dwight D. Eisenhower Memorial Bicentennial Civic Center Act to change the name of the "J. Edgar Hoover F.B.I. Building" to "F.B.I. Building."

H.R. 9432.—An act to amend the Internal Revenue Code of 1954 to provide for quarterly rather than annual payment to the government of the Virgin Islands as is now provided in the Code.

The payments shall be equal to the internal revenue collections made with respect to articles produced in the Virgin Islands and transported to the United States.

S. 2804.—A bill to amend Title IV of the Social Security Act. It establishes as a condition of eligibility for benefits under the aid to families with dependent children program an individual's participation in the work incentive program of States which offer aid to families with dependent children.

It provides that the Secretary of Labor shall notify the State agency which administers the plan of any refusal by an individual to participate in the State employment program.

H.R. 71 —The bill would provide hospital and medical care to U.S. citizens who served with the armed forces of nations allied or associated with the U.S. in World War I or II. Present law covers only those who were members of U.S. forces.

It would apply to those who were with the British Royal Air Force, for example, or the Polish resistance. Citizens who served with allied nations would be treated only on a space available basis with U.S. veterans given priority.

S. 3219.—(Clean Air) Requires States to submit plans for prevention of significant deterioration of air quality in clear air regions, subject to the approval of the EPA administrator. It establishes guidelines for classification of those regions and imposes limitations on projected increases in concentrations of particulate matter and sulfur dioxide for each class of such regions. And, it requires that new sources constructed in such regions utilize the best available control technology and certify that emissions from the facility will not contribute to a cumulative change in ambient air quality greater than the appropriate limits.

S. 1624.—Interstate transportation of wine. To eliminate obstructions to free flow of commerce resulting from discriminatory and unreasonable taxes or regulations affecting wine.

Prohibits any State which permits transportation or importation of wine from applying tax measures, regulations, and other measures against wines produced outside that State unless applied in same manner as to wine of same class in State seeking to impose tax or regulation. States still retain control over purchase, sale, and distribution of wines in State jurisdiction.

S. 2477.—Lobbying—Requires broad public disclosure of the efforts of individuals and organizations paid to influence or attempt to influence issues before the Congress or the Executive Branch without interfering with the right of citizens to petition the government for redress of grievances.

Covers communications or lobbying solicitations to Congress or the Executive Branch which may be expected to reach 500 or more persons.

Reports must be filed with the Comptroller General on a quarterly basis.

S. Res. 436.—Expresses the support of the Senate for the basic principles and positions which Secretary of State Henry Kissinger expounded in his address as Lusaka, Zambia, on April 27, 1976.

S. Res. 68.—To amend Rule XVIII of the Standing Rules of the Senate. Declares that at any time during the consideration of a bill or resolution in the Senate, it shall be in order to move that no amendment which is not germane or relevant to the subject matter of the bill or resolution shall thereafter be in order.

Any such motion must be agreed to by the affirmative vote of two thirds of the Senators present and voting.

S. 12.—To provide benefits for survivors of Federal Judges. Provides that judicial officials are entitled to the same survivor annuity benefits as survivors of Members of Congress with specified limitations and that a survivor shall not be prohibited from simultaneously receiving an annuity under this act and any other annuity to which the survivor may be entitled.

S. 1284.—Improvement and enforcement of the antitrust laws. It would revise discovery procedures and requirements for antitrust investigations; increase civil penalties for failure to file reports or obey subpoenas as required by the Federal Trade Commission Act; and permits the Attorney General of a State to initiate civil action to recover damages on behalf of certain classes of persons or the State for injuries resulting from violation of Federal antitrust laws.

Also requires premerger notification in order to prevent acquisition of stocks or shares or assets of another person or persons if the acquiring person or persons assets or net sales exceed certain limitations, until 60 days after filing of the notification of merger with the Department of Justice and the Federal Trade Commission.

H.R. 11559.—This bill authorizes an appropriation of $6,470,000 for fiscal year 1977 to carry out programs under the Saline Water Conversion Act of 1971.

H.R. 366.—(Substitute text of S. 230) *infra*.

S. 1776.—Authorizes the Secretary of the Interior to establish the Valley Forge National Historical Park in the Commonwealth of Pennsylvania, not to exceed 3,500 acres.

Also authorizes appropriation of necessary funds.

H.R. 13069.—An act to extend for one year (until September 30, 1977) the period for making loans to the unemployment fund of the Virgin Islands and increases the authorized funds by $10,000,000.

H.R. 5360.—An act to increase detention benefits provided to American civilian internees in Southeast Asia from $60 per month to $150 per month under the War Claims Act of 1948.

S. 2837.—A bill to amend the Act of August 30. 1890, so as to except a tract of ground located in Carbon County, Wyoming from right-of-way reservations for ditches or canals imposed on such land.

S. 972.—Public Safety Officers Memorial Scholarship Act. Authorizes the U.S. Commissioner of Education to award a scholarship to any eligible applicant for full time undergraduate study at an eligible institution. An applicant must be certified by the head of the agency which employed the Public Safety Officer as a dependent of that Officer who was the victim of a homicide while engaged in the performance of his official duties.

H.R. 8523.—Anti-trust—An act to authorize the Attorney General of any State to bring civil action charging unlawful monopoly practices under the Clayton Act and to recover damages for any injury to the general economy of the State or any political subdivision.

The U.S. Attorney General is directed to notify States' Attorneys General of any instances where States are entitled to bring action for violations of the act.

S. 3424.—A bill to minimize the use of energy in housing, nonresidential buildings, and industrial plants through State energy conservation implementation programs and Federal financial incentives and assistance.

S. 230.—Public Safety Officers group Life Insurance Act. Authorizes the purchase of group life insurance policies to insure any public safety officer employed on a full time basis by a State or local government which has applied to participate in the program and has agreed to deduct from officers' pay the premiums payable for coverage.

Eligible insurance companies must be licensed in all 50 States and the District of Columbia and have in effect at least 1% of the total amount group life insurance in effect in the United States.

The act provides that each policy issued shall include a schedule of basic premium rates and for any adjustments. The act also sets forth the order of precedence in which survivors of officers will be awarded benefits.

An Advisory Council established by the bill and the Attorney General would meet at least once annually to review the Administration of the Act. The sum of $20,000,000 is authorized to be appropriated for fiscal year ending September 30, 1977.

H.R. 5465.—An act to allow Federal employment preference to employees of the Bureau of Indian Affairs of the Indian Health Service, who are not entitled to the benefits of, or who have been adversely affected by the application of Federal laws allowing employment preference to Indians. The act defines eligible employees.

H.R. 11439.—An act to amend Title 5, U.S. Code, to restore eligibility for health benefits coverage to certain individuals. It would permit a surviving spouse whose civil service annuity was terminated due to remarriage to enroll in a civil service health benefits plan upon restoration of such spouse's annuity if the spouse was covered by a health benefits plan at the time the annuity was terminated.

H.R. 11481.—An act to authorize the appropriation for the Department of Commerce for the Fiscal Year 1977: (1) $403,721,000 for obligations incurred for operating differential subsidy; (2) $19,500,000 for research and development activities; (3) $4,560,000 for reserve fleet expenses; (4) $13,260,000 for maritime training at the Merchant Marine Academy; and (5) $3,741,000 for financial assistance to State Marine schools.

Authorizes additional appropriations for personnel, maintenance, and other expenses of the Merchant Marine Academy.

S. 3267.—A bill to amend the Motor Vehicle Information and Cost Savings Act to add a new title (Research and Development) to the act. The purpose is to encourage development of advanced, automobiles designed to meet long term goals relative to fuel economy, safety, environmental protection and to facilitate competition in development of existing and alternative automotive vehicles and components.

The Secretary of Transportation is authorized to make contracts and grants and other efforts to achieve the objectives of the bill. It authorizes the appropriation of up to $175,000,000 to pay interest on obligations and the principal balance of obligations, guaranteed by the Secretary when the obligor has defautled.

Annual reports to Congress are required by the bill.

S. 1632.—A bill to authorize the Energy Research and Development Administration to initiate programs and enter contracts for the purpose of developing and producing significant numbers of urban passenger and commercial vehicles utilizing electric propulsion systems.

Authorizes an appropriation of $40,000,000 for each of the Fiscal Years 1976, 1977, and 1978.

S. 2228.—A bill to amend the Public Works and Economic Development Act of 1965 by extending the authorizations for appropriations for an additional three years until September 1979.

S. 3281.—Federal Program Information Act. It creates an information center to establish and maintain a computerized system capable of identifying all existing Federal domestic assistance programs. Identification should be sufficient to allow a prospective beneficiary to determine whether personal qualifications meet requirements for eligbility.

Requires publication of an annual catalogue of domestic assistance programs.

S. 2304.—Prohibits member banks of the Federal Reserve System from making loans or extensions of credit to any of their officers, directors, or other specified persons who have an interest in such bank where such loans or extension of credit exceeds statutory limits under the Federal Deposit Insurance Act, to non-member insured banks. Directors, officers, employees, and agents, and insured banks are subject to cease-and-desist proceedings and orders. Civil penalties for any violations are established.

S. 1926.—A bill to amend the Public Health Service Act so as to eliminate the requirement that health maintenance organizations offer annual open enrollment for individual membership, and makes the offering of supplemental health services optional.

It includes State and local government employers among those who must offer employees the option of membership in a health maintenance organization.

Extends authorization of appropriations an additional two years.

S. 3369.—An act to amend the Small Business Act to increase the authorization for loans for specified small business loan programs including: (1) displaced business disaster loans; (2) loans for the handicapped; (3) the small business investment company program; and (4) loans to State and local development companies.

It increases authorization for loans in urban or rural areas having high proportion of unemployed or low-income individuals, or to businesses owned by low-income individuals.

S. 3370.—A bill to amend the Small Business Investment Act of 1958 by increasing the authorization for the Surety Bond Guarantee Fund by $53,000,000 (from $35,000,000 to $88,000,000).

S. 2212.—A bill to amend the Omnibus Crime Control and Safe Streets Act. Provides that any unused funds reverting the Law Enforcement Assistance Administration may be reallocated among the States. Grants to States may be used to devise methods to strengthen the court system.

LEAA may waive State liability and pursue legal remedies where a State lacks proper forum to enforce grant provisions imposing liability on Indian tribes. Permits LEAA to increase grants to Indian tribes under certain conditions.

S. 3165.—A bill to establish the Office of Marine Resources, Science and Technology within the National Oceanic and Atmospheric Administration. The purpose is to initiate long term research and development programs in marine science and technology. An advisory service would impart useful information and techniques to interested organizations and individuals. Programs would be submitted to the Congress and the President and annual reports would be submitted to the Congress by the Secretary of Commerce.

The bill also establishes a National Sea Grant program for research, education, training and advisory services in ocean and coastal resource development, assessment and conservation.

S. 2069.—A bill to create a Consumer Controversies Resolution Act to assure consumers a mechanism which is fair, effective, inexpensive and expeditious. It directs the Federal Trade Commission to establish a Bureau of Consumer Redress. The FTC shall perform various duties including allocation to States of funds appropriated for financial assistance under cooperative agreements; review of each State's plan for resolution of consumer controversies; and evaluation of goals for a model State System of Consumer Controversy resolutions.

The bill authorizes an appropriation not to exceed $500,000 for Fiscal Year 1976 and $20,000,000 for Fiscal Year 1977.

S. 3131.—Amends the Rail Passenger Service Act by authorizing the National Railroad Passenger Corporation to establish a through route and rate with qualified motor carriers. It authorizes appropriations through Fiscal Year 1978 to the Secretary of Transportation for the benefit of the Corporation: (1) to met specified expenses; (2) for capital acquisitions and improvements; and (3) for the payment of the principal amount of obligations of the Corporation.

S. 2323.—National Traffic and Motor Vehicles Safety Act of 1966. The bill authorizes appropriations of $13,000,000 for the fiscal year 1976 transitional period, $60,000,000 for the fiscal year 1977, and $60,000,000 for fiscal year 1978.

S. 3119. Federal Railroad Safety Authorization Act. The bill would require any common carrier to provide its employees with sleeping quarters having controlled temperatures and located away from areas where switching and other disturbing operations occur. It forbids any crew members of wreck or relief trains from working 16 consecutive hours in any 24 hour period. It sets forth required safety procedures for protection against following or oncoming trains, and for employees working on, under, or about an engine, car, or train.

It divides the Federal Railroad Administration into ten regional offices for administration and enforcement of Federal railroad safety laws.

S. 2184.—A bill to authorize the Secretary of Commerce to participate in the organization, planning, design and construction of facilities in connection with the 1980 Olympic Winter Games at Lake Placid, New York. It authorizes an appropriation of $50,000,000.

H.R. 11670. An Act to authorize specified appropriations for the Coast Guard for fiscal year 1977 for vessels and aircraft procurement and for facilities construction. The Act would authorize a year-end strength for active duty personnel and establish average military student loads for fiscal 1977.

S. 2150.—Solid Waste Utilization Act. It directs the Administration of the Environmental Protection Agency to provide financial assistance to each State to: (1) assist in developing a State solid waste management plan; (2) assist the State in the administration of the program; and (3) develop, implement, operate, and enforce State programs for the control of hazardous waste disposal.

The Administrator must develop and implement guidelines and implementation of programs for disposal of solid or hazardous wastes.

Appropriations authorized to the Secretary of Commerce for purposes of the Act are $20,000,000 for each of the fiscal years 1976, 1977, and 1978, and $5,000,000 for the fiscal transitional period ending September 30, 1976.

S. 3037.—Federal Water Pollution Control Act. A bill to authorize the appropriation of seven billion dollars for fiscal year 1977 for the construction of waste treatment works.

S. 3437.—Federal Water Pollution Control Act. An original bill to authorize certain appropriations for the purpose of carrying out the provisions of the Act.

Sections of the Act affected, in brief, are 104(u), 105(h), 107(e), and 113(d).

S. 3438.—Clean Air Act. Section 104(c) of the Act is amended by the authorization of an appropriation of $148,194,700 for the fiscal year ending September 30, 1977.

S. 2872.—Federal Energy Administration Act of 1974. The bill extends the expiration date of the Act to September 30, 1979. It revises requirements for conflicts of interest, disclosure of information and record keeping under the Act. The Federal Energy Administrator shall be afforded an opportunity to comment upon proposed Environmental Protection Agency regulations affecting energy exploration and development.

S. 3439.—(Unfinished Business) Foreign Assistance Act of 1961 and the Foreign Military Sales Act.

H.R. 3650.—A bill to amend Title 5, United States Code, section 8344. It provides for the termination of Federal Civil Service Annuity payments upon the reemployment of specified employees. It further provides for termination of payments upon reemployment on part-time basis for periods equivalent to at least one year of full-time service. And, it provides for termination of payments to annuitants appointed by the President to specified positions covered by civil service retirement.

S. 3105.—Energy Research and Development Administration. The bill authorizes appropriations of certain sums for the following purposes: (1) $4,935,362,000 for nuclear energy research and development, and other purposes; (2) $812,550,000 for nonnuclear research and development and other purposes;

(3) $612,408,000 for environmental research and safety, and basic energy sciences, and for other purposes.

The bill amends prior appropriations acts to increase amounts authorized for specific energy research projects and extends authorizations through fiscal 1977.

S. 2657.—Higher Education Act of 1965 and Vocational Education Act of 1963 Amendments.

The bill extends the Higher Education Act until October 1, 1982 and revises provisions dealing with grants and loans to students and regulations thereof, and repeals sections relative to attracting and qualifying teachers to meet teacher shortages.

It extends the Vocational Education Act until October 1, 1982 and provides for assistance to States to improve methods for using every available resource for vocational and manpower training. Requires establishment of State boards for vocational education in States desiring to participate in the program.

Establishes procedures for States and State boards to apply for funds, submit program plans, and maintain proper fiscal control of funds received.

Establishes various levels of educational and vocational responsibility under the U.S. Commissioner of Education and authorizes apropriations necessary to carry out the provisions of the bill.

H.R. 12987.—A bill to authorize appropriations of sums necessary for fiscal year 1976 and for the transition period ending September 30, 1976 to carry out the purposes of Title VI of the Comprehensive employment and Training Act of 1973.

An emergency job program extension—it requires that not less than 85 percent of the funds for public service employment programs be used only for wages and employment benefits, with the remainder of such funds to be available for administrative costs, supplies, and equipment.

H.R. 9019.—A bill to extend appropriations under the Public Health Service Act for loans and loan guarantees by the Secretary of HEW for health maintenance organizations.

The amount dispursed to a health maintenance organization in any fiscal year is not to exceed $1,000,000.

Employers of not less than 75 individuals are to offer as part of any health benefits plan the option of membership in qualified health maintenance organizations which are engaged in the provision of basic health services in service areas in which at least 25 of such employees reside.

H.R. 5546.—Public Health Service Act Amendments. A bill consisting of nine titles and authorizing appropriations necessary to carry out its provisions for fiscal years 1976, 1977, and 1978, for the following general purposes:

(1) grants for trainees, construction, loan guarantees and interest subsidies, financial distress and scholarship grants; (2) training requirements for physician assistants, nurse practitioners, etc. and bars against discrimination; (3) construction of teaching facilities for medical and health personnel; (4) sets limits on student loans; (5) grants to health profession schools; (6) special project for medical and dental schools; (7) grants for graduate programs in health administration; (8) restrictions on first year medical residency training programs; (9) Secretary of HEW to contract or arrange for studies relative to the distribution of physicians geographically; to classify allied health personnel; to identify costs in each classification and shortages of critical personnel.

S. 3239.—Health Professions Educational Assistance Act. The bill amends the Public Health Service Act to extend appropriation authorizations for specified medical training and education programs through Fiscal Year 1977.

The bill, consisting of 15 titles provides, in general, for the following:

(1) Extension of current authorities through Fiscal Year 1977;

(2) Recruitment of health personnel speaking language of local population;

(3) Establishes limits, conditions, eligibility, and insurance requirements for student loans;

(4) Directs Secretary of HEW to designate health manpower shortage areas. to provide health services to such areas, and to submit annual reports to Congress;

(5) Establishes post graduate physician training relating to geographic needs of physicians in certain specialties;

(6) Restricts alien immigration of foreign medical school graduates who come to the U.S. principally to perform medical services, as well as medical professionals who were granted visitor status while attending U.S. health professional schools;

(7) Develop standards for State licensing of physicians and dentists, and for continuing education programs for doctors and dentists;

(8) Prohibits grants to medical, dental, and other health schools unless certain conditions for enrollment, Federal aid, and other qualifications are met;

(9) Directs Secretary of HEW to make annual grants to schools of Optometry, Pharmacy, Podiatry, and Veterinary medicine;

(10) Directs Secretary of HEW to make annual grants to public or non profit private educational institutions to support graduate health programs;

(11) Directs Secretary to make grants for allied health programs: administrators, supervisors, etc.;

(12) For special project grants and contracts in beginning, or related, or special areas of health education;

(13) Occupational health training and education centers;

(14) Construction of primary health care teaching facilities;

(15) Miscellaneous grants by the Secretary.

S. 2548.—Emergency Medical Services Amendment. A bill to revise provisions of the Public Health Services Act relative to emergency medical service systems including: (1) grants and contracts for establishment and operation; (2) grants and contracts for improvement; and (3) grants and contracts for research in emergency medical techniques.

The bill authorizes an appropriation of $5,083,000 for grants during the transitional quarter ending September 30, 1976, and for additional funds through Fiscal Year 1979.

H.R. 3348.—A bill to amend Title 38 of the United States Code, sections 5054 and 5055, for the purpose of continuing and improving the exchange of medical information between the Veterans' Administration and the medical community.

S. 2035.—Nuclear Fuel Assurance Act. A bill to authorize the Energy Research and Development Administration to enter into arrangements with private enterprise for the production and enrichment of uranium, for technical assistance, for acquisition of equity in such enterprise, and for other purposes.

S. 2661.—Independent Safety Board Act Amendments. The bill directs the Board to prohibit the disclosure of information obtained from an investigation of an aircraft accident or incident when conducted by a foreign state unless the state which conducted the investigation authorizes such disclosure.

S. 3091.—A bill to amend the Forest and Rangeland Renewable Resources Planning Act of 1974. It directs the Secretary of Agriculture to provide for public participation in the formulation and review of proposed land management plans for units of the National Forest System and to establish procedures for developing such land.

The bill authorizes the Secretary to appraise and sell trees and other forest products in accordance with the principles of the Multiple Use and Sustained Yield Act and repeals the prohibition against sale of forest products outside the State in which the timber is located.

S. 3422.—The Natural Gas Act repeals authority of the Federal Power Commission to regulate the sale of new natural gas sold to a natural gas company for resale in interstate commerce. Producers are prohibited from charging more for natural gas than the applicable ceiling prices.

For a period of seven years from the date of enactment of S. 3422 interstate pipelines are prohibited from paying more than the "onshore price" for new natural gas produced from onshore lands.

The bill continues cost-based regulation under the existing Natural Gas Act for all old gas which is all the flowing and dedicated gas for the interstate market that is not eligible for treatment as new natural gas.

New natural gas is defined as gas dedicated for the first time to interstate commerce on or after January 1, 1976; natural gas produced from newly discovered reservoirs or extensions of existing reservoirs; and natural gas available afte the expiration of short term or emergency contracts.

S. Res. 448.—An original resolution. The purpose is to express the hope of the Congress for the early restoration of peace in Lebanon, and also to express the willingness of the United States to assist in Lebanese relief and reconstruction.

H.R. 8948.—A bill to amend the Accounting and Auditing Act of 1950. It directs the Comptroller General of the United States to make audits of the Internal Revenue Service and of the Bureau of Alcohol, Tobacco, and Firearms. The Comptroller General is required to report annually to the Congress on the results of such audits.

S. 2849.—A bill to amend the Investment Advisers Act of 1940. It authorizes the Security and Exchânge Commission to establish standards for investment advisers and associated persons relative to training, experience, competence and other appropriate qualifications. The SEC is authorized to promulgate rules and regulations in the public interest to protect investors, to create advisory committees, employ experts, and hold public hearings.

S. Con. Res. 105.—A resolution expressing the sense of the Congress that the United States reaffirms a sympathetic interest in Italian democracy and democratic institutions. It expresses the sense of the Congress that the United States is willing to participate in efforts to provide assistance to Italy through the proposed OECD Special Financing Facility with the assistance of other friends and allies of Italy.

S. 3084.—A bill to amend the Export Administration Act of 1969 so as to extend for three years the authority granted under the Act to regulate exports.

S. 2343.—A bill to amend the Communications Act of 1934 by increasing the maximum fines which may be imposed on an individual for violations of FCC regulations.

S. 3063.—A bill to designate the Ozark Lock and Dam on the Arkansas River as the Ozark-Jeta Taylor Lock and Dam.

H.R. 12169.—A bill to amend the Energy Policy and Conservation Act. It authorizes appropriations for Federal Energy Administration functions for which no specific authorization exists in law, and limits aggregate appropriations to the Administration to $1,000,000,000 and extends FEA authority through fiscal 1979. The bill revises provisions of the Energy Policy and Conservation Act relating to unfair and deceptive trade practices, Presidential requests for Congressional action, and motor vehicle fuel economy standards. It revises penalty provisions for violations of pricing regulations under the Emergency Petroleum Allocation Act of 1973.

NOTE. There are, in addition to the above, 15 major appropriation bills still to be reported.

THE ANTITRUST IMPROVEMENTS ACT OF 1976

The ACTING PRESIDENT pro tempore. The question now is on agreeing to the Scott-Hart amendment.

AMENDMENT NO. 1768

Mr. GRIFFIN. Mr. President, I send an amendment to the desk and ask that it be stated.

The ACTING PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

The Senator from Michigan (Mr. GRIFFIN) proposes an amendment:

On page 29, lines 2 and 3, strike "and in any class action on behalf of natural persons under section 4 of this Act,".

Mr. GRIFFIN. Mr. President, I am hopeful that this amendment——

The ACTING PRESIDENT pro tempore. Will the Senator suspend until we can get order in the Senate so the Senator can be heard. Will the Senators take their seats or retire to the cloakroom with their conversations.

The Senator from Michigan may proceed.

Mr. GRIFFIN. I am hopeful that this amendment may be accepted by the sponsors of this substitute.

I call attention to the fact that on page 29, beginning on line 1 of the substitute bill, it provides that:

> In any action brought under such section (a)(1) of this section—

The parens patriae provisions—

> damages may be proved and assessed in the aggregate on the basis of statistical or sampling methods, or such other reasonable method of estimation as the court in its discretion may permit * * *

This substitute also provides for a new and different method of determining damages to apply in any class action on behalf of natural persons under section 4 of this act.

I submit that it is one thing to allow this new and novel method of determining damages in the case of an action brought by a State attorney general under the parens patriae provisions, but it is quite another, it seems to me, to make this apply to any class action. The courts have over the years developed—and there have evolved—various rules and procedures which are considered to be fair and necessary to all parties in the determination of damages. If an action is capable of being brought in the manner presently available under rule 23 of the Federal Rules of Civil Procedure these traditional methods of proving damages should not be cast aside.

My amendment would only strike out that particular language which permits aggregation of damages in class action and would leave standing the method of aggregating in the case of suits brought under the parens patriae provisions.

This just happens to be one of a number of objections to the present bill lodged by the administration. It would be a small step, I suggest, in the direction of getting wider support for the final product.

Mr. MORGAN. Mr. President, while I personally do not share the concern and fear of my distinguished colleague from Michigan about this provision, I do understand that this is one of the major objections of the administration.

If it will make the bill more palatable to the administration, the sponsors of the bill are willing to accept the amendment.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment.

The amendment was agreed to.

The ACTING PRESIDENT pro tempore. The bill is open to further amendment.

AMENDMENT NO. 1757

Mr. ALLEN. Mr. President, I call up amendment No. 1757.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alabama (Mr. ALLEN) proposes an amendment No. 1757.

The amendment is as follows:

Strike all starting with page 3, line 4, through page 32, line 18, and insert the following:

TITLE II

SEC. 201. The Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914 (15 U.S.C. 12 et seq.), is amended by inserting immediately after section 4B the following new sections:

"ACTIONS BY STATE ATTORNEYS GENERAL

"SEC. 4C. (a) Any State attorney general may bring a civil action, in the name of the State, in the district courts of the United States under section 4 of this Act, and such State shall be entitled to recover threefold the damages and the cost of suit, including a reasonable attorney's fee, as parens patriae on behalf of natural persons residing in such State injured by any violation of the Sherman Act.

"(b) In any action under subsection (a), the court may in its discretion, on motion of any party or on its own motion, order that the State attorney general proceed as a representative of any class or classes of persons alleged to have been injured by any violation of the Sherman Act, notwithstanding the fact that such State attorney general may not be a member of such class or classes.

"(c) In any action under subsection (a), the State attorney general shall, at such time as the court may direct prior to trial, cause notice thereof to be given by publication in accordance with applicable State law or in such manner as the court may direct; except that such notice shall be the best notice practicable under the circumstances.

"(d) Any person on whose behalf an action is brought under subsection (a) may elect to exclude his claim from adjudication in such action by filing notice of his intent to do so with the court within sixty days after the date on which notice is given under subsection (c). Then final judgment in such action shall be res judicata as to any claim arising from the alleged violation of the Sherman Act of any potential claimant in such action who fails to give such notice of intent within such sixty-day period, unless he shows good cause for his failure to file such notice.

"(e) An action under subsection (a) shall not be dismissed or compromised without the approval of the court, and notice of the proposed dismissal or compromise shall be given in such manner as the court directs.

"(f) In an action under subsection (a) or (b), the court may in its discretion award a reasonable attorney's fee to a defendant upon a finding that the action is frivolous or that the State attorney general has acted in bad faith, vexatiously, wantonly, or for oppressive reasons.

"MEASUREMENT OF DAMAGES

"SEC. 4D. In any action under section 4C (a) or (b), in which there has been a determination that the defendants agreed to fix prices in willful violation of the antitrust law, damages may be proved and assessed in the aggregate by statistical or sampling methods by the computation of illegal overcharges, or by such other reasonable system of estimating aggregate damages as the court in its discretion may permit without the necessity of separately proving the individual claim of, or amount of damage to, persons on whose behalf the suit was brought: *Provided*, That any damages awarded against a defendant which are proved and assessed in the aggregate as provided in this section shall be reduced to actual damages and the cost of suit, including reasonable attorney's fees, if the defendant establishes that he acted in good faith and without reasonable grounds to believe that the conduct in question violated the antitrust laws.

"DISTRIBUTION OF DAMAGES

"SEC. 4E. Damages recovered under section 4C(a) shall be distributed in such manner as the district court in its discretion may authorize, subject to the requirement that any distribution procedure adopted afford each person a reasonable opportunity to secure his appropriate portion of the damages awarded less unrecovered costs of litigation and administration.

"ACTIONS BY ATTORNEY GENERAL OF THE UNITED STATES

"SEC. 4F. (a) Whenever the Attorney General of the United States has brought an action under section 4A of this Act, and he has reason to believe that any State attorney general would be entitled to bring an action under section 4C(a) based substantially on the same alleged violation of the Sherman Act, he shall promptly give written notification to such State attorney general with respect to such action.

"(b) To assist a State attorney general in evaluating the notice and in bringing any action under section 4C of this Act, the Attorney General of the United States shall, upon request by such State attorney general, make available to him, to the extent permitted by law, any investigative files or other materials which are or may be relevant or material to the actual or potential cause of action under section 4C.

"DEFINITIONS

"SEC. 4G. For purposes of this section and sections 4C, 4D, 4E, and 4F:

"(1) The term 'State attorney general' means the chief legal officer of a State, or any other person authorized by State law to bring actions under this Act; except that such term does not include any person employed or retained on a contingency fee basis.

"(2) The term 'State' means a State, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

"(3) The term 'Sherman Act' means the Act entitled 'An Act to protect trade and commerce against unlawful restraints and monopolies', approved July 2, 1890 (15 U.S.C. 1, et seq.)).

"(4) The term 'natural persons' does not include proprietorships or partnerships.

"SEC. 4H. This title shall be applicable in a particular State until that State shall provide by law for its nonapplicability as to such State.".

SEC. 202. The Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914 (15 U.S.C. 12 et seq.), is amended—

(1) in section 4B (15 U.S.C. 15b), by striking out "4 or 4A" and inserting in lieu thereof "4, 4A, or 4C";

(2) in section 5(b) (15 U.S.C. 16(b)), by striking out "private right of action" and inserting in lieu thereof "private or State right of action"; and by striking out "section 4" and inserting in lieu thereof "section 4 or 4C"; and

(3) by adding at the end of section 16 (15 U.S.C. 26) the following: "In any action under this section, the court shall award reasonable attorneys' fees to a prevailing plaintiff.".

Mr. ALLEN. Mr. President, this amendment would provide for substituting for title 4 the provisions of the House-passed bill with the addition of the amendment which has been approved by the Senate by unanimous vote.

It was the amendment of the Senator from Alabama, called up by the distinguished Senator from North Carolina (Mr. MORGAN), the floor manager of the bill, that would provide that this title 4 shall apply throughout all 50 States, I believe the territories as well, until such time as a State came out from under by appropriate legislative action, the provisions of title 4.

It gives the States the option of not availing themselves of the provisions of title 4.

So what it would do is to provide for the parens patriae provision being in the form of the House bill rather than the form of the Senate bill which has been amended in some particulars already.

But this would assure the agreeing on this particular provision in the form of the House bill and having in it the quasi local option, we might say, provision inserted by the Senate at the instance of the floor manager of the bill.

I call for the yeas and nays, Mr. President.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. MORGAN. Mr. President, most of the provisions of the Senator's amendment have already been voted on, but the total effect of the amendment, among many other things, would be to return back to the House provision which would limit the use of parens patriae only to willful price fixing—just willful price fixing, not to other acts in restraint of trade.

The Senate will recall I have already offered an amendment which has been adopted which restricted the use of parens patriae to per se violations.

Also, in his amendment, there would be no contingency fees, which were voted on specifically last week, and it would have the total effect of doing away with treble damages, reducing treble damages down to single damages. This would say, in effect, to a violator, "Go on and violate the law of fixed prices if you want to and, if you get caught, all you will be liable for is just whatever you gyp the public out of, to begin with."

Also, Mr. President, it knocks out title II, which the President supports.

Since we have debated all of these issues, I move——

Mr. BURDICK. Before the manager of the bill moves to table, may I have a word or two on my own time?

Mr. MORGAN. Yes.

Mr. BURDICK. May I ask the distinguished Senator from Alabama about section 4D of his amendment?

I notice that he has in section 4D the permission to recover fluid damages, which I find quite objectionable from a constitutional point of view.

Mr. ALLEN. This is the bill as it passed the House, but it does have the proviso, I call to the Senator's attention, that any damages awarded against a defendant which are proved and assessed in the aggregate as provided in this section shall be reduced to actual damages and the cost of the suit, including reasonable attorneys' fees, if the defendant establishes that he acted in good faith and without reasonable grounds to believe that the conduct in question violated the antitrust laws.

So that would eliminate the fluid damage as to that type.

Mr. BURDICK. Any damages awarded against a defendant which are approved in excess of aggregate shall be reduced to actual damages?

Mr. ALLEN. Yes.

Mr. BURDICK. In the end, it does require the benefit of actual damages then?

Mr. ALLEN. Shall be reduced to actual damages. Yes, we have to prove actual damages, which will remove it from the fluid damage aspect the Senator objects to.

Mr. BURDICK. I thank the Senator.

The PRESIDING OFFICER (Mr. SPARKMAN). The Senator from North Carolina.

Mr. MORGAN. Inasmuch as all these points have been debated at length before and time is limited under the cloture vote, I move that the amendment of the Senator from Alabama be laid on the table.

Mr. ALLEN. Will the Senator withhold that for just a moment so that I can answer the point the Senator made?

The PRESIDING OFFICER. Does the Senator withhold it?

Mr. MORGAN. Yes, I withhold, provided it does not count on my time.

Mr. ALLEN. Mr. President, it is true this amendment would eliminate contingent fees paid to lawyers.

In one case of the fees there were $41 million paid to lawyers.

This bill is going to benefit lawyers more than it will benefit anybody else.

So it does eliminate the power of the attorney general to spread these antitrust actions all over the State to political favorities on a contingency fee basis. I think the fact that the attorney general can act in that fashion and that contingent fees are paid and that they would eat up the bulk of whatever judgment was given in court, is the very reason why we should return to the House language. I appreciate the Senator's withholding his motion to table.

Mr. MORGAN addressed the Chair.

Mr. HELMS. Will the Senator yield on my time?

Mr. MORGAN. Yes.

Mr. HELMS. Mr. President, in the

June 5 edition of the Baltimore Sun, under the headline "Alderman is Indicted," there is a news story that is quite relevant to the issue at hand.

The Alderman referred to in the headline is R. Bruce Alderman, a former Baltimore County solicitor who was indicted by a Federal grand jury on charges of sharing in a $24,474 kickback scheme.

Mr. President, in a moment I am going to ask unanimous consent that the entire article be printed in the RECORD, but suffice it to say that the apprehensions of the Senator from Alabama (Mr. ALLEN) and others in this Senate are borne out by this episode, that contingent fee arrangements are an invitation to corruption.

On Friday, the Senator from North Carolina referred to a number of horror stories which had previously been alluded to in this Chamber by the distinguished Senator from Idaho (Mr. MCCLURE). I think Senators ought to think carefully about what they are doing in connection with this bill because the consumer, whom all of us say we are trying to protect, is precisely the one who is going to be ripped off if this bill does in fact becomes law.

Mr. President, I ask unanimous consent that the article from the Baltimore Sun of June 5 be printed in its entirety at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Baltimore Sun, June 5, 1976]

ALDERMAN IS INDICTED

R. Bruce Alderman, the former Baltimore county solicitor was indicted by a federal grand jury on charges of sharing in a $24,474 kickback scheme by allegedly using his public office to influence the selection of a Chicago law firm to do county business.

The 13-count indictment was announced by the United States attorney's office yesterday just two hours before Dale Anderson, the former county executive, was released by a federal judge on a motion that pleaded prison hardships.

Anderson had served 13 months and 2 weeks of a 5-year federal prison term after his 1974 conviction on conspiracy, extortion and tax evasion.

Anderson was named as a participant in the kickback scheme and a recipient of kickback money. He was not, however, indicted, a fact that led to speculation he might testify for the government.

Barnet D. Skolnik, a federal prosecutor, refused to comment when asked about this possibility.

Charges against Mr. Alderman, 43 were brought under mail-fraud statutes and federal laws prohibiting the interstate transportation of checks in the aid of a bribery-racketeering enterprise.

Mr. Alderman's federal grand jury indictment alleges that the former county lawyer shared the kickback fees with Anderson and James D. Nolan, a Towson lawyer and confidant of Anderson during the 1969 to 1972 period covered by the charges.

Mr. Nolan, who was named as an unindicted co-conspirator in the indictment, apparently has been co-operating with federal investigators for several years.

Asked whether Mr. Nolan had been granted immunity from prosecution, Jeffrey S. White, an assistant U.S. attorney, refused to make any comment.

Another lawyer, William L. Siskind, a hotel and apartment construction entrepreneur, was named in the indictment as agreeing to share legal fees with Mr. Nolan in connection with the scheme.

Mr. Siskind was not named as a defendant in the case. The indictment states that he first suggested the Chicago firm to Mr. Nolan and that he agreed to split the fees with his fellow lawyer on a 50–50 basis.

According to the indictment, Mr. Alderman concealed from the Baltimore County Concil "the existence of the corrupt relationship" between himself and others in arranging for a Chicago law firm to do county business.

Mr. Alderman allegedly obtained the council's permission to pay the Chicago law firm $25,000 to represent the county in antitrust suits against a supplier of equipment to the county.

According to the indictment, Mr. Alderman concealed the fact that he was sharing with Mr. Nolan and Anderson part of the fees that resulted in the filing and settlement—for triple damages—of the civil antitrust suits.

The charges state that the payments allegedly made to Mr. Alderman and Anderson were disguised by false entries to create the "misleading impression" that the payments were fees for referring clients to Mr. Nolan.

The Chicago law firm, Friedman, Koven, Salzman, Koenigsberg, Specks and Homen, had represented many municipalities in filing antitrust suits and, during 1967, was interested in doing such work in Maryalnd.

According to the federal charges, Mr. Siskind, through his law firm, Siskind and Tabor, made an agreement with the Chicago firm to split on a 50–50 basis any legal fees derived from antitrust matters in Baltimore county.

Mr. Siskind, the charges state, contacted Mr. Nolan in 1967 and agreed to a 50–50 split of the legal fees received by the law firm of Siskind and Tabor for antitrust suits filed on behalf of Baltimore county.

Fee-splitting is legal and widely practiced among lawyers. It would, however, be illegal if the lawyers knew the money being split was part of a bribery scheme.

According to the allegations, Mr. Nolan contacted Anderson and Mr. Alderman, who was county solicitor, and agreed to the split of fees. Mr. Alderman allegedly concealed this fee-splitting when he obtained permission from the County Council to hire the Chicago firm.

From "time to time during the period 1969 through 1972" Mr. Alderman asked the council to approve contratcs under which the Chicago firm would represent the county in specific suits.

If convicted on the charges, Mr. Alderman faces a maximum prison term of 65 years. Mr Alderman's lawyer, Brenden V. Sullivan, Jr., said he would have no comment on the charges.

According to Jervis S. Finney, the U.S. attorney, the charges were returned late Thursday afternoon by a new regular grand jury that had been organized only that morning.

Obtaining the charges from the jury just before Anderson's hearing on a motion to reduce his sentence was "a coincidence," Mr. White said.

Judge Joseph H. Young, who yielded to Anderson's plea for release from the Allenwood (Pa.) federal prison facility, has been assigned the new indictment against Mr. Alderman.

Judge Young said that he was "slightly embarrassed" by the timing of the indictment against Mr. Alderman, which came just before he held the hearing for Anderson.

Judge Young said he was not aware that Mr. Alderman had been charged until after the hearing had been arranged. Actually, Anderson's hearing had been set two weeks ago but was delayed after Mr. Skolnik pleaded that he might be invoved in the trial charges against Governor Mandel and five asociates.

When Mr. Mandel's trial was delayed until September 8, Judge Young said he arranged immediately to hear Anderson's plea, which was made by Anderson's lawyer, Norman P. Ramsey.

The judge said the impending charges against Mr. Alderman had no influence on his decision to release Anderson.

A federal court arraignment for Mr. Alderman is expected to be set for late next week.

Mr. MORGAN. Mr. President, I believe we debated this very issue last week. We pointed out that in this bill there are safeguards against such abuses in that the judge determines the fee. I would say that the argument of my distinguished colleague from North Carolina reminds me of the comments that I had to make Saturday night at a meeting in North Carolina.

I pointed out that because of the abrasive conduct and the alleged abuses of one or two Members of this Congress, in the minds of many people the whole Congress was indicted. I said then that if one should stop and count up all of the cases of misconduct or wrongdoing by Members of the Congress for the last 50 years they would probably run out before they ran out of fingers.

I also pointed out that two of my distinguished colleagues, Senator MANSFIELD and Senator PHILIP HART, are retiring at the end of this year with a combination of probably more than 73 years of dedicated public service to the people of this Nation. Their retirement, after all of that public service, has hardly been noted by the press.

It is the exceptions that always get the notorietry, such as the ones referred to by my distinguished colleague from North Carolina.

Again, Mr. President, the amendment has been debated. I move that the amendment lay upon the table.

Mr. HELMS. I ask for the yeas and nays.

The PRESIDING OFFICER (Mr. GARY HART). Is there a sufficient second? There was a sufficient second.

The yeas and nays are ordered, and, the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. BUMPERS), the Senator from Idaho (Mr. CHURCH), the Senator from Minnesota (Mr. HUMPHREY), the Senator from New Mexico (Mr. MONTOYA), the Senator from Utah (Mr. MOSS), the Senator from Maine (Mr. MUSKIE), the Senator from Georgia (Mr. NUNN), the Senator from Rhode Island (Mr. PELL), the Senator from California (Mr. TUNNEY), the Senator from New Jersey (Mr. WILLIAMS), and the Senator from Texas (Mr. BENTSEN) are necessarily absent.

I also announce that the Senator from Indiana (Mr. BAYH) and the Senator from Missouri (Mr. SYMINGTON) are absent because of illness.

I further announce that, if present and voting, the Senator from Indiana (Mr. BAYH) and the Senator from Minnesota (Mr. HUMPHREY) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from New York (Mr. BUCKLEY), the Senator from Utah (Mr. GARN), the Senator from Arizona (Mr. GOLDWATER), the Senator from New York (Mr. JAVITS), the Senator from Nevada (Mr. LAXALT), the Senator from Ohio (Mr. TAFT), and the Senator from South Carolina (Mr. THURMOND) are necessarily absent.

I further announce that, if present and voting, the Senator from Ohio (Mr. TAFT) would vote "yea."

The result was announced—yeas 46, nays 33, as follows:

[Rollcall Vote No. 225 Leg.]

YEAS—46

Abourezk
Biden
Brooke
Burdick
Byrd, Robert C.
Case
Clark
Cranston
Culver
Durkin
Eagleton
Fong
Ford
Glenn
Gravel
Hart, Gary
Hart, Philip A.
Hartke
Haskell
Hatfield
Hathaway
Huddleston
Inouye
Jackson
Kennedy
Leahy
Long
Magnuson
Mansfield
Mathias
McGee
McGovern
McIntyre
Mondale
Morgan
Nelson
Pastore
Percy
Proxmire
Randolph
Ribicoff
Schweiker
Scott, Hugh
Stafford
Stevenson
Weicker

NAYS—33

Allen
Baker
Bartlett
Beall
Brock
Byrd, Harry F., Jr.
Cannon
Chiles
Curtis
Dole
Domenici
Eastland
Fannin
Griffin
Hansen
Helms
Hollings
Hruska
Johnston
McClellan
McClure
Metcalf
Packwood
Pearson
Roth
Scott, William L.
Sparkman
Stennis
Stevens
Stone
Talmadge
Tower
Young

NOT VOTING—21

Bayh
Bellmon
Bentsen
Buckley
Bumpers
Church
Garn
Goldwater
Humphrey
Javits
Laxalt
Montoya
Moss
Muskie
Nunn
Pell
Symington
Taft
Thurmond
Tunney
Williams

So the motion to lay on the table was agreed to.

Mr. MORGAN. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

Mr. McINTYRE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1761

Mr. BURDICK. Mr. President, I call up my amendment No. 1761, which is at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

> The Senator from North Dakota (Mr. BURDICK) proposes Amendment No. 1761.

The amendment is as follows:

> On page 29, strike lines 1 through 8.
>
> On page 29, line 16, delete the period and add: ": *Provided*, That the court may, after determination of the amount of injury to the natural persons of the State, assess a civil penalty to compensate for any unjust enrichment which may have accrued to the defendant.".

Mr. BURDICK. Mr. President, I ask unanimous consent that a technical modification of the amendment be adopted which involves the change of one word, the change of "unjust" to "wrongful".

The PRESIDING OFFICER. Is there objection?

Mr. MORGAN. Mr. President, reserving the right to object, on what line is that?

Mr. BURDICK. The Senator will find that beginning on page 29, line 16. I thought he had a copy of the amendment before him.

Mr. MORGAN. Mr. President, I have no objection.

Mr. BURDICK. I thank the Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment, as modified, is as follows:

> On page 29, strike lines 1 through 8.
>
> On page 29, line 16, delete the period and add: ": *Provided*, That the court may, after determination of the amount of injury to the natural persons of the State, assess a civil penalty to compensate for any wrongful enrichment which may have accrued to the defendant.".

Mr. BURDICK. Mr. President, title IV introduces a new concept for the recovery of damages in antitrust enforcement. It is intended that this procedural device, termed "fluid recovery," will allow plaintiffs to recover damages in the case of a minor overcharge on a mass scale.

I am in agreement with the majority in seeking a solution to the problem. However, the means by which title IV proposes to remedy the matter is constitutionally unacceptable. It would authorize damages in a parens patriae suit brought by the Attorney General to be "proved and assessed in the aggregate" on the basis of sampling or statistical estimates without separately proving the fact or amount of individual injury or damage to natural persons.

I am in agreement that a violator of our antitrust laws should not profit from his wrongdoing. However, I find the provisions of title IV, which would award damages to a "fluid class" of undetermined and unidentified persons, the members of which may or may not be the same consumers who actually suffered injury, unacceptable and legally defective. Adding to my concern over this provision is the fact that the fluid portion of the award is treated exactly like damages to consumers who have proven their claims; the fluid portion is also trebled, thereby magnifying the potential for taking of property without actual proof.

This theory flies in the face of the due process clause of the Constitution, and repudiates a legal system that awards damages only upon adequate proof, first, that the defendant committed a legal wrong; second, that the wrong actually injured the plaintiff; and third, that the plaintiff suffered damages in a reasonably ascertained amount. The court in the case of *Eisen* v. *Carlisle & Jacquelin*, 479 F. 2d 1005 (2d. Cir. 1973), termed "fluid recovery" a "fantastic procedure". It is indeed a fantastic departure from the fundamental guarantees of due process that we have known through the years, and in every case where it has been contested by the defendant, "fluid recovery" has been rejected by the court.[*] These decisions should operate as a red flag to those who seize upon this method in order to prevent a wrongdoer from becoming unjustly enriched. I have no quarrel with the good intentions of the proponents, but there still must be compliance with the law of the land. There are other ways to prevent unjust enrichment, without infringing on due process.

Both the second and ninth circuits have also found "fluid class recovery" unacceptable, and rejected it. The court stated in the Eisen III case, which is the leading case on this subject,

> Even if amended Rule 23 could be read so as to permit any such *fantastic procedure, the Courts would have to reject it as an unconstitutional violation of the requirement of due process of law*. But as it now reads, amended Rule 23 contemplates and provides for no such procedure.

And this is important.

> Nor can amended Rule 23 be construed or interpreted in such fashion as to permit such procedure. *We hold* the "fluid recovery" concept and practice to be illegal, inadmissible as a solution of the manageability problems of class actions and wholly improper." (Emphasis added). *Eisen* v. *Carlisle & Jacquelin*, 479 F. 2d 1005, 1018 (2d Cir. 1973)

This case was appealed to the U.S. Supreme Court, and remanded upon the question of notice. That part of the decision dealing with the question of "fluid damages" was not appealed nor disturbed. *Eisen* v. *Carlisle* 417 U.S. 156, (1974).

Ninth circuit courts have echoed the Eisen opinion. It is stated in *In re Hotel Telephone Charges*, 500 F. 2d. 86, 89 (9th Cir. 1974).

> The antitrust laws focus on the compensation of parties *actually injured*, presupposing that a *plaintiff can prove that he was in fact injured* as a proximate result of an antitrust violation, *Hawaii* v. *Standard Oil Co.*, 405 U.S. 251 (1972). The fact that the injured plaintiff is allowed treble damages does not change the basic nature of the private antitrust action as an action intended to compensate. When, as here, there is no realistic possibility that the class members will in fact receive compensation, then monolithic class actions raising mind boggling manageability problems should be rejected. (Emphasis added.)

Another panel of the ninth circuit rejected the fluid recovery concept in *Kline* v. *Caldwell, Banker & Co.*, 508 F. 2d 266 9th Cir. 1974. In that massive class-action case, the court noted that "plaintiffs must prove both that the defendants' conduct contravened section 1 (of the Sherman Act) and that the plaintiffs suffered injury as a direct result of the illegal conduct." Pages 230–31—emphasis in original. The court held that, because "(p)roof of injury is an essential substantive element of the successful treble damage action", each class member would have to prove to a jury that he had sustained actual injury resulting from a particular defendant's violation, page 233. Judge Duniway in a concurring opinion expressed alarm at the practical consequences of such a "judicial juggernaut". He went on to explain:

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[*] *Hawaii* v. *Standard Oil Co.*, 405 U.S. 251 (1972); *Eisen* v. *Carlisle & Jacquelin*, 479 F. 2d 1005 (2d Cir. 1973); In re *Hotel Telephone Charges*, 500 F. 2d. 86 (9th Cir. 1974); *Kline* v. *Caldwell, Banker & Co.*, 508 F. 2d. 226 (9th Cir. 1974); *City of Philadelphia* v. *American Oil Co.*, 53 F.R.D. 45 (D.N.J. 1971); *Windham* v. *American Brands, Inc.* — *F.* Supp. — (D.S.C. 1975) (CCH Trade Cas. ¶ 60, 530)

> It is inconceivable to me that such a case can ever be tried, unless the court is willing to deprive each defendant of his undoubted right to have his claim liability proved, not by presumptions or assumptions, but by facts, with the burden of proof upon the plaintiff or plaintiffs, and to offer evidence in his defense. The same applies, if he is found liable, to proof of the damage of each "plaintiff". Page 236.

The most recent case to repudiate the "fluid clause recovery" theory embodied in title IV is *Windham* v. *American Brands, Inc.*, (D.S.C. 1975) (CCH Trade Cas. § 60,530).

This was decided just last year. I do not even have the citation. It was decided in 1975. I think the manager of the bill knows something about the case, because it involves the tetracycline legislation. The court there refused to accept a theory of fluid recovery damages similar to that used in the settlement of the tetracycline antibiotic drug litigation, noting that such an approach "has been rejected by subsequent opinions, the reasoning of which the court adopts—referring to Eisen III—pages 67, 345. The court further states, "aside from proof of liability, determining the amount of damages and a proper distribution thereof would result in an unfair trial if a fluid recovery approach were utilized. * * *" Pages 67, 346.

This involves the tetracycline cases, in which there was a settlement reached by agreement with the parties. But for some reason, in this particular area of the country, the settlement could not be made and it went through litigation. When it was litigated, the court rejected that theory.

The most troublesome aspect of the fluid class recovery scheme is that those who are injured by the defendant's wrongdoing will often times go uncompensated while others who did not suffer from the defendant's act will be blessed with a windfall because they have become a member of the fluid class after the fact of injury. It is for this reason that the fluid class device was rejected in *City of Philadelphia* v. *American Oil Co.* 53 F.R.D. 45, 72 (D. N.J. 1971) which found that "the composition of the motoring public which purchased from retail stations has changed considerably during and since the alleged conspiracy ended."

This lack of direct compensation to the injured party is especially disturbing in light of the fact that antitrust law has traditionally been based upon compensatory theory. The Clayton Act (15 U.S.C. sec. 15) provides that a person injured by reason of an antitrust violation may recover threefold the damages he sustained. Treble damages were intended by Congress to compensate victims and to encourage them to come forward and bring suit. There is nothing to suggest it was not the plaintiff's injury but the defendant's illegal profits that is the basis for treble damages.

In keeping with this theory and due process considerations, I contended in committee that title IV should be amended to allow compensation and treble damages only to those consumers who come forward with proof of loss as a result of the antitrust violation. This is in accordance with the procedure outlined in *Darr* v. *Yellow Cab Co.*, 433 P. 2d 732 (1967). At page 740 the Court states:

> The fact that the class members are unidentifiable at this point will not preclude a complete determination of the issues affecting the class. Presumably an accounting in the suit at bench will determine the total amount of the alleged overcharges; any judgment will be binding on all the users of the taxicabs within the prior four years. *However, no one may recover his separate damages until he comes forward, identifies himself and proves the amount thereof.* (Emphasis added)

The amount of the total injury not claimed should be then labeled exactly what it is intended to be, a penalty to prevent unjust enrichment of the wrongdoer.

Any procedure that would rely upon a theory of damages, treble or single, to exact from the defendant the difference between the total injury and that actually claimed by individuals would be an unconstitutional taking of defendant's property without due process of law. I would not contend that the defendant has a constitutional right to retain his illegal profits. The court, by way of penalty, should deprive him of these profits in order to discourage and deter further violations.

However, if this unclaimed difference is to be labeled damages, and then trebled, the result is simply a taking of property from the defendant without the necessary showing of injury to an actual person, required under a theory of damages. The trebling of this amount serves to make the "fluid recovery" concept even more constitutionally repugnant.

Those who would support the fluid recovery theory as a method to deprive a wrongdoer of his ill-gotten gains have the wrong method. As suggested by the witnesses appearing for the American Bar Association, "this objective should be accomplished by the direct means of increased corporate and individual fines pursuant to the recently enacted Antitrust and Penalties Act. If experience shows that these new penalties are insufficient, Congress has the authority to create more severe punitive measures. Title IV of S. 1284 cannot be expected to do the job."

I support the compensatory theory of present antitrust law and treble damages to parties who have proven injury. I also support a plan which would deter further violations by depriving wrongdoers *of their* ill-gotten gains. But when a theory of damages, and not a penalty, is used to divest the defendant of his ill-gotten profits, even though there is no known injured party, the defendant is deprived of his property without due process of law as prohibited by the fifth amendment of the Constitution.

Therefore, I accept the solid weight of judicial authority which rejects the fluid recovery mechanism embodied in title IV of S. 1284 as an unconstitutional expedient whose defects cannot be cured by inclusion in a statute. It is for these reasons I cannot support title IV in its present form.

Mr. President, Mr. Allen C. Holmes testified for the American Bar Association on S. 1284 and paid particular attention to title IV. The conclusion reached was very similar to mine, and I ask unanimous consent that his statement, which was made before the Committee on the Judiciary, be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

TITLE IV

As Mr. Millstein stated, the American Bar Association has previously testified before the Antitrust and Monopoly Subcommittee with respect to Title IV of this bill. On May 7, 1975, Mr. Walker B. Comegys testified for the American Bar Association expressing the views that had been set forth in a resolution adopted by the ABA a few months earlier in connection with the similar parens patriae legislation pending in the House of Representatives.

Since that time, Title IV has been the subject of substantial revision prior to being reported to this Committee by the Antitrust and Monopoly Subcommittee.

We are pleased to note that the Subcommittee did make certain amendments which the ABA, among other witnesses, had suggested and, in particular, the deletion of the state Attorneys General authority to institute damage suits on behalf of corporations and other businesses residing in the state, and the deletion of the language which would have required the Attorney General of the United States to institute a suit on behalf of the citizens of a state when a state Attorney General has not done so.

We also understand that amendments have been recommended by Senators Hart and Scott which will delete the provision which would authorize state Attorneys General to bring suits to recover for damages to the general economy of a state, whether measured by any decrease in revenues or increase in expenditures or otherwise.

This amendment is of particular importance for, as Mr. Comegys testified, such damages would invariably lead to duplicative recoveries despite efforts to avoid such duplication. Any recovery for damage to the "general economy" of a state would, moreover, result in a dollar figure that would be totally speculative and unrelated to any actual harm that might have been caused by an antitrust violation. It is essential that this concept be deleted from the bill.

We do note that certain of the changes which Mr. Comegys suggested last May have not been adopted in the bill that was reported to the Committee, and we urge that our previous recommendations be reconsidered by the full Committee.

Finally, and of greatest importance, the bill that was reported to this Committee would apply in a most significant respect to private class actions instituted under the antitrust laws, and in so doing, would introduce concepts of very questionable constitutionality which are totally foreign to private suits and to the purpose of parens patriae legislation itself.

As Mr. Comegys stated in his testimony, the ABA agrees whole-heartedly with the concept of seeking a means to redress any widespread consumer harm of small individual claims arising from antitrust violations. We believe that it is essential that those who engage in antitrust violations which have the most direct consumer impact should not be permitted to retain the profits of their wrongful acts. On the other hand, a defendant has the right to a fair hearing with all constitutional safeguards. Accordingly, so long as those rights are protected, Congress and the courts should provide whatever remedies are available which, in fact, permit the recovery of damages to consumers injured by antitrust violations.

We say again what we said last May: Antitrust suits instituted by a state Attorney General for damages on behalf of the consumer citizens of the state could, in fact, be such a remedy. We urge that a very simple and straightforward bill providing for representative actions by the States attorneys general under Rule 23 of the Federal Rules of Civil Procedure would fully accomplish such goals while protecting the rights of defendants.

As originally drafted, Title IV authorized the court, in its discretion, to determine when the interests of justice requires that a suit instituted by a State attorney general on behalf of citizens of the state should only proceed as an action subject to the requirements of Federal Rule 23. We endorsed that attorney general class suit concept as to consumers, but we urged that the other forms of attorney general suits contemplated by the bill be rejected because they deprived defendants and class members of basic constitutional rights, including the right to a fair hearing, adequate notice, and substantive due process of law.

Unfortunately, the bill reported by the Subcommittee deleted the Rule 23 alternative entirely. In its place, the bill retained the concept of suits for damages to the general economy—which we understand is now being deleted—and the concept of state Attorney General civil actions to recover damages for natural persons residing in the state. Such suits would not be subject to the protection afforded by Rule 23.

We respectfully submit that this Committee should consider in depth whether it would be more appropriate simply to amend the law so as to provide that a State attorney general is an adequate representative, within the meaning of Rule 23, of consumer interests within the state—whether or not the state itself has been injured in its proprietary capacity. Thus, such suits would be subject to the safeguards contained in Federal Rule 23, which benefit both plaintiffs and defendants alike.

As to the computation of damages, we noted that even in horizontal price fixing conspiracies it cannot be assumed that competitors so engaged will sell at uniform prices or will retain identical prices throughout the period of the conspiracy. Such situations will not permit damage computations in gross, but will rather require individual damage computations. We further noted that those few situations which do permit of uniform methods of damage computations, for example, when competitors agree to raise their prices in identical amounts and retain that price increase during the entire period covered by the claim for damages, do not require, to be manageable, the provision for aggregation of damages in gross as proposed in Section 4C(c)(1). Such suits are in fact readily manageable under Rule 23 as it presently stands. Individual damage hearings in such situations can be conducted expeditiously by a master who needs merely to multiply the overcharge by the number of units purchased. Whether Rule 23 procedures are utilized or new procedures are devised under the proposed legislation, there must be some hearing procedure by which individual injured consumers establish their right to participate in the recovery.

Unfortunately, the bill reported to this Committee not only failed to delete the provision for aggregation of damages in gross contained in the original in the draft, but extended this concept in Section 4(C)(c)(1) to all private class actions instituted on behalf of natural persons under Section 4 of the Clayton Act, and thus removed, by one stroke, one of the most basic substantive requirements of private antitrust actions under § 4 of the Act. The Act has always required that the particular private plaintiff demonstrate that he has in fact been "injured in his business or property by reason of anything forbidden in the antitrust laws."

In other words' this addition—which is irrelevant to the subject matter of the bill because it deals with private suits, rather than suits instituted by a state on behalf of its citizens—would radically alter the existing law by eliminating the requirement that a plaintiff prove as an integral part of the antitrust violation that he in fact suffered cognizable injury as a proximate result of that violation.

As this Committee knows, federal court jurisdiction is limited, under Article III of the Constitution, to a "case or controversy" involving parties who must show injury in order to have standing to bring a suit, and is subject to the requirements of procedural due process. Any provision that authorizes a court to calculate damages against a defendant without hearing in regard to proof of any actual injury to identified plaintiffs almost invariably runs afoul of these two principles.

We note, moreover, that although the bill limits state Attorney General suits to violations of the Sherman Act—and an amendment will apparently further limit the violations to Section 1 of the Sherman Act—Section 4(C)(c)' will authorize damages in gross in any private class action antitrust suit, including violations of the Robinson-Patman Act and the other provisions of the Clayton Act. This sweeping substantive revision of antitrust damage law has no place in this Title which ostensibly deals only with concept of parens patriae.

As we stated in our earlier testimony, we do recognize the legitimate interests of this Committee in seeing to it that antitrust wrong-doers are deprived of profits obtained as a result of their illegal acts. Nonetheless, extreme care is essential to avoid undue penalty under the antitrust laws that already provide, as a deterrent to violations, for treble damages and for substantial criminal penalties—which have recently been very greatly increased. Accordingly, if this Committee determines to retain a concept of damages in gross, without proof of the fact of injury, we urge the following limitations:

(1) such relief should be carefully limited to class actions instituted by the state Attorney General;

(2) recoveries in gross should be authorized only in Attorney General suits involving "hard core" antitrust violations such as price fixing. Limiting such suits to Section 1 Sherman Act violations does not go far enough.

(3) relief in gross should not be permitted when it will be duplicative of damages recovered by (a) those who have excluded their claims from the suit pursuant to the "opt out" provision, or (b) a business entity which has instituted suit that is intended to cause the defendants to disgorge any retained benefits of such violations. Such limitations would avoid duplicative recoveries, would permit those damaged parties other than consumers represented by the state Attorney General to recover for their damages, and would nevertheless ensure that any improperly obtained gains are in fact disgorged;

(4) it should be provided that damages awarded in gross should not be trebled, for although trebled damages have a legitimate place in individual damage suits, to encourage private plaintiffs to bring suit and to deter those who would violate the antitrust laws, treble damages are not needed to encourage class actions instituted by the state Attorney General; and

(5) notice by publication should not be authorized when the defendant voluntarily offers to provide individual notice to all natural persons on whose behalf the suit is brought who can be identified through reasonable effort. Such a provision would go further toward preserving the rights of those supposed to be represented by the state, but who might not receive notice pursuant to the publication standards presently contained in the bill.

In our previous testimony, we also objected to Section 4(C)(c)(2), which provides for distribution of sums obtained from defendants other than to those demonstrably injured by defendants. No court has ever held on the merits that any such treatment of antitrust recoveries, the so-called "fluid recovery" or "pot of gold," is permissible. Although defendants have agreed to such dispositions in settlement situations, it has been rejected in every instance when opposed by a defendant.

The concept of "fluid recovery" suffers from the same potential constitutional infirmities as found in connection with the concept of aggregation of private damages in gross. I should also note that one commentator has pointed out a serious economic consequence which would be involved when a residual fund is used to lower prices below true costs. This commentator observed that such a result would be court-ordered predatory pricing which could have a significant adverse effect on competition.*

Furthermore, seeking indirect benefit for the citizens of the state by making the defendants use the residual funds to achieve social goals by, for example, making drug companies found to have engaged in price fixing build drug clinics, is no real solution, since the same companies are totally free to retrieve their losses through increased prices that create a direct detriment to those who might or might not be benefited by the indirect social benefit mandated by the court.

Quite simply, if, in fact, private suits now provided for by Section 4 of the Clayton Act and the state attorney general class action suits which we suggest should be legislated, do not sufficiently ensure that a wrong-doer is deprived of his ill-gotten gains, this objective should be accomplished by the direct means of increased corporate and individual fines pursuant to the recently enacted Antitrust and Penalties Act, and maximum jail sentences for violators, as permitted by that Act. If experience shows that these new penalties are insufficient, Congress has the authority to create more severe punitive measures. Title IV of S.1284 cannot be expected to do that job.

Among several other problems of Title IV, we do want to note our concern in connection with the definition of the term "State Attorney General" in Section 4(F)(1). As written, the term would include "any person authorized by State Law to bring action under the bill". This definition would include private attorneys retained by the state to sue on its behalf. The House counterpart legislation has had a provision added to this definition to the effect that this term "does not include any person employed or retained on a contingency fee basis". We would recommend the addition of this language to Section 4(F)(1). Such arrangements would significantly reduce the amount of the dam-

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*Note: *Managing the Large Class Action, Eisen* v. *Carlisle & Jacquelin,* 87 Harv. L. Rev. 426, 447 (1973).

age fund available to the injured consumers. We understand that Senators Hart and Scott intend to introduce an amendment which would authorize the court to determine the amount of plantiffs' attorneys' fees, if any, which should be awarded in suits instituted under the new legislation. That is a meritorious provision which we do endorse. However, in order to make it clear that the state may not enter into a separate contingency fee arrangement with outside counsel, we urge the addition of the language contained in the House bill concerning the exclusion of attorneys employed on a contingency fee basis from the definition of "State attorney general".

Finally, we have noted the exchange of correspondence between Senator Hruska and Chief Justice Burger, which indicates that the impact of S. 1284 on the balance between the work load of the courts and their resources to deal adequately with their case loads as well as the bill's impact on practice under Rule 23 of the Federal Rules of Civil Procedure will be presented to the Judicial Conference of the United States at its meeting commencing on April 7 of this year. It appears to us that such consideration by the Judicial Conference is peculiarly appropriate in view of the sweeping expansion of federal jurisdiction proposed by this legislation.

Mr. BURDICK. So Mr. President, the American Bar Association has the identical fears that I have about this matter that, in every case where this was litigated by our courts—and that has been found by four of our circuits—they have come to the identical opinion. There is no contrary opinion, there is no room for argument. The courts have decided this.

We may say we want to use this method as a way to take care of small claims. But we still have to abide by the Constitution.

What have I done in the second part of my amendment? I make a provision in cases where there is a wrongful enrichment, and I agree with the American Bar Association, and I agree with others that one should not be compensated for his wrongful acts. I think the only legal way we can do it—again, the American bar agrees with that—is to permit the trial judge, at the time the matter is being heard on damages, to assess a penalty to compensate for the wrongful enrichment.

On page 29, line 16, my amendment will read as follows:

> Provided, That the court may, after determination of the amount of injury to the natural persons of the State, assess a civil penalty to compensate for any wrongful enrichment which may have accrued to the defendant.

Here we are at this point: We are perfectly willing to let the attorneys general bring their suits for known plaintiffs on proof of damages. In those areas where they do not know who the plaintiffs are or what the damages are, the court, from all the facts and circumstances in the case, can compensate for any wrongful gains or wrongful enrichment that the defendant may have accrued, by way of penalty.

I think that stands foursquare with the law. As I said before, it is not a question of what we want to do with this particular thing; it is a question of what we can do under the Constitution.

I urge the adoption of the amendment.

Mr. ALLEN. I call for the yeas and nays, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

QUORUM CALL

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. ALLEN. I object.

The PRESIDING OFFICER. The objection is heard. The quorum will proceed.

The assistant legislative clerk resumed the call of the roll.

The following Senators answered to their names:

[Quorum No. 11 Leg.]

Allen
Baker
Beall
Brock
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Case
Cranston
Dole
Ford
Griffin
Hart, Philip A.
Hartke
Helms
Hruska
Jackson
Javits
Leahy
Long
Magnuson
Mansfield
Mathias
McClure
McGee
Morgan
Nelson
Pastore
Percy
Randolph
Ribicoff
Roth
Scott, Hugh
Scott, William L.
Sparkman
Stafford
Stennis
Stone
Talmadge
Young

The PRESIDING OFFICER (Mr. STONE). A quorum is not present.

Mr. ROBERT C. BYRD. Mr. President, I move that the Sergeant at Arms be directed to request the attendance of absent Senators, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia (Mr. ROBERT C. BYRD). The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Arkansas (Mr. BUMPERS), the Senator from Idaho (Mr. CHURCH), the Senator from Iowa (Mr. CLARK), the Senator from Minnesota (Mr. HUMPHREY), the Senator from New Mexico (Mr. MONTOYA), the Senator from Utah (Mr. MOSS), the Senator from Maine (Mr. MUSKIE), the Senator from Georgia (Mr. NUNN), the Senator from Rhode Island (Mr. PELL), the Senator from California (Mr. TUNNEY), and the Senator from New Jersey (Mr. WILLIAMS), are necessarily absent.

I also announce that the Senator from Indiana (Mr. BAYH) and the Senator from Missouri (Mr. SYMINGTON) are absent because of illness.

I further announce that, if present and voting, the Senator from Iowa (Mr. CLARK), would vote "yea".

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. BEALL), the Senator from Oklahoma (Mr. BELLMON), the Senator from New York (Mr. BUCKLEY), the Senator from Utah (Mr. GARN), the Senator from Arizona (Mr. GOLDWATER), the Senator from Nevada (Mr. LAXALT), the Senator from Ohio (Mr. TAFT), and the Senator from South Carolina (Mr. THURMOND), are necessarily absent.

The yeas and nays resulted—yeas 77, nays 1, as follows:

[Rollcall Vote No. 226 Leg.]

YEAS—77

Abourezk
Allen
Baker
Bartlett
Biden
Brock
Brooke
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Cranston
Culver
Curtis
Dole
Domenici
Durkin
Eagleton
Eastland
Fannin
Fong
Ford
Glenn
Gravel
Griffin
Hansen
Hart, Gary
Hart, Philip A.
Hartke
Haskell
Hatfield
Hathaway
Helms
Hollings
Hruska
Huddleston
Inouye
Jackson
Javits
Johnston
Kennedy
Leahy
Long
Magnuson
Mansfield
Mathias
McClellan
McClure
McGee
McGovern
McIntyre
Metcalf
Mondale
Morgan
Nelson
Packwood
Pastore
Pearson
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Scott, William L.
Sparkman
Stafford
Stennis
Stevens
Stevenson
Stone
Talmadge
Tower
Young

NAYS—1

Weicker

NOT VOTING—22

Bayh
Beall
Bellmon
Bentsen
Buckley
Bumpers
Church
Clark
Garn
Goldwater
Humphrey
Laxalt
Montoya
Moss
Muskie
Nunn
Pell
Symington
Taft
Thurmond
Tunney
Williams

So the motion was agreed to.

The PRESIDING OFFICER. A quorum is present. The question is on agreeing to the amendment of the Senator from North Dakota (Mr. BURDICK). On this question, the yeas and nays have been ordered.

Mr. MORGAN. Mr. President, will the Senator from North Dakota yield for a question or two?

Mr. BURDICK. I yield.

Mr. MORGAN. If the Senator's amendment were to pass, and an action were brought against a corporation for price-fixing or other violations in restraint of trade, they would have to bring in each individual who had been damaged in order to prove the damages, would they not?

Mr. BURDICK. The claimants would have to be identified in some manner, and their damages would have to be identified, yes.

Mr. MORGAN. In other words, for example, in the tetracycline drug cases, they would have to bring in every person who filled a prescription or bought any of those drugs, and have him before the court, or else you could not consider the charges paid by the defendants in order to determine the damages?

Mr. BURDICK. That is precisely what

the Windham case held, too, from the Senators' own area.

Mr. MORGAN. Well, I would differ with the Senator on that, but that is what the amendment provides?

Mr. BURDICK. Yes.

Mr. MORGAN. In other words, you could prove no damages at all unless you could find the man who bought the tube of toothpaste?

Mr. BURDICK. At an excessive price.

Mr. MORGAN. And he would have to come into court?

Mr. BURDICK. That is what the cases hold.

Mr. MORGAN. I thank the Senator.

Mr. BURDICK. I also provide against wrongful enrichment, and provide a penalty against these people to compensate for their wrongful enrichment, so that they do not get by with that.

Mr. MORGAN. But how would a judge determine the amount of penlty, except by the same kind of statistical proof we provide for in the bill?

Mr. BURDICK. It would permit him to use his discretion, from all the facts and circumstances in the case.

Mr. MORGAN. We provide for that in the bill. Under the Bumpers-Chiles amendment, all who cannot substantiate their claims, the remainder of the money is paid in the nature of a penalty.

Mr. BURDICK. But we run up against a constitutional problem. It is not a question of what you want to do, but what you can do.

Mr. MORGAN. Mr. President, I am limited in time, but I think I would like to take a moment to discuss a case my distinguished colleague mentioned. He talked about the Eisen case.

In that case, it is true that Judge Medina, in a three-judge court—that two judges held that it was unconstitutional. One of the judges did not agree. Then there was a petition for a new hearing en banc, that is, before all 10 of the circuit judges. That was denied. There were three judges who specifically disagreed with Judge Medina, and the other four were silent, but they all agreed, in order to expedite it and get it before the Supreme Court, they were not going to hear it. Then when it went to the Supreme Court, the Supreme Court specifically did not rule on that point.

Mr BURDICK. Mr. President, will the Senator yield?

Mr. MORGAN. In just one minute. The Supreme Court specifically stated:

> We therefore have no occasion to consider whether the Court of Appeals correctly resolved the issues of manageability and fluid class recovery, or indeed, whether those issues were properly before the Court of Appeals under the theory of retained jurisdiction.

In other words, the Supreme Court reversed it on another issue, and specifically pointed out that they were not ruling on that issue.

Mr. BURDICK. That is precisely what happened, because there was no appeal taken on the damage question. The appeal was taken on the notice question. The damage question was not disturbed at all.

Mr. MORGAN. Well, the appeal was before the Supreme Court, and the Supreme Court took time to note in its decision that they were not passing on the constitutionality of that point.

Mr. BURDICK. Because the appeal involved nothing but notice. That is why.

Mr. MORGAN. Well, the Supreme Court were not concerned with it, why did they go to the trouble to mention that they were not ruling on the constitutionality?

Mr. BURDICK. Because it was not before them; that is the reason.

Mr. PHILIP A. HART. Mr. President, I think what our colleague from North Dakota is in effect saying is that it would be nice if we could constitutionally provide treble damage recovery for the fluid class action group, but in his judgment this is not permitted under the Eisen case, and several others, in fact.

Let us remember that we are now talking about a bill that is restricted to hard core antitrust violators, per se violators—no obscurity, no uncertainty—cold turkey. They are carving up a market or they are fixing prices.

Can we not reach that? It would be nice to, but it is constitutionally repugnant.

We have been through this. Adoption of the Bumpers amendment moved toward the point the Senator from North Dakota believes that we must move further toward.

I have listened to constitutional arguments over the years. I have never risen to say to my colleagues that I believe a bill for which I have a responsibility is and will be held to be constitutional. In the sixties, the beloved colleague of ours, whose eminance as a constitutional lawyer was acknowledged by one and all, lectured us frequently with respect to the unconstitutionality of the 1964 act, the 1965 act, and its extension in 1970.

The Senator and I do not know with certainty the verdict of that court across the road. But I draw from the same sources from which I drew in the sixties to state my belief that that court will hold this effort to reach hard core violators of the antitrust laws as a constitutional action by Congress.

Mr. BURDICK. Mr. President, will the Senator yield?

Mr. PHILIP A. HART. I yield.

Mr. BURDICK. In 1964 was there a body of law established in four circuits at that time telling us it was unconstitutional?

Mr. PHILIP A. HART. In 1964 we had described to us an arm's length of cases that clearly would destroy the effort of the 1964 act. The Senator remembers that. In 1965 and 1970 there was the same recital of the same cases, not an Eisen case where the law review writers have carved it up, but again maybe the law review writers are wrong and maybe the Senator from North Dakota is right. I say that, if we want to use the constitutional device as a reason to give comfort to hard core antitrust violators, so be it. But let us not tell ourselves, even if we have recently been engaged in the practice of law, which heaven knows I have not, that we know that something is unconstitutional. The majority of the Committee on the Judiciary views it as constitutional.

I hope Senators will sustain that point of view.

Mr. BURDICK. Mr. President, it is one thing to have a law school student tell us what the law should be or we would like to have it be, but I have four circuits tell us what the law is right now, and there is no difference of opinion. It is all one way. There is no dissent facing us. It is just as clear as day.

Mr. HRUSKA. Mr. President, will the Senator yield for a question?

Mr. BURDICK. I yield.

Mr. HRUSKA. Has there ever been a contested case for damages of this kind where there has been allowed the aggregate or statistical method of computation and the distribution pursuant to the part of the bill which the Senator now seeks to delete?

Mr. BURDICK. There has been no case.

Mr. HRUSKA. The only instances where that distribution has been had where the fluid recovery has been allowed have been cases where there are settlements and a consent decree entered, and for the purpose of conveniencing the court this method was agreed upon; is that not correct?

Mr. BURDICK. That is correct.

Mr. HRUSKA. And in each of the instances there was reliance upon the cases to which the Senator refers, beginning with the Eisen case, which is the leading case on the subject.

Mr. BURDICK. The Senator is correct.

Mr. PHILIP A. HART. Mr. President, will the Senator yield for a question?

Mr. BURDICK. I yield.

Mr. PHILIP A. HART. The Senator's amendment strikes the use of statistical data, does it not?

Mr. BURDICK. That is correct.

Mr. PHILIP A. HART. On what basis will the court make its judgment with respect to wrongful enrichment?

Mr. BURDICK. This will give them wide discretion. They may use anything they want to use in the case.

Mr. PHILIP A. HART. Meaning the same kind of statistical data the Senator would deny with respect to the State attorney general?

Mr. BURDICK. Any evidence in the case he can use. It is at his discretion. It is not the jury; it is the court.

Mr. PHILIP A. HART. Does it permit the judge to use data?

Mr. BURDICK. If it is in evidence, yes.

Mr. PHILIP A. HART. And there is no constitutional unease with respect to that?

Mr. BURDICK. Not when the court uses it as a penalty.

Mr. JAVITS. Mr. President, I shall vote for this amendment, but not on constitutional grounds. I was raised and educated in the same school in which Senator HART has been raised and educated and debated in the Chamber tens of hours, with our beloved colleague, Sam Ervin, who had a very interesting education in constitutional law as he argued these matters. He had the inestimable privilege of serving in the Senate until he had a different view as to individual liberties and what the courts would do to safeguard and protect them. So I am not prepared to support this amendment on grounds of constitutionality. But I am going to support this amendment because I believe it is a realistic and practical way to deal with a totally new situation. The way in which it is set up here is simply too scary to the business community and the American people. That is really what it comes down to. It simply instills unnecessary fear. This bill has a hard enough time as it is. While this is a season when the fortunes of American business are in fairly low esteem because of bribery charges and other charges of unconscionable earning of profits, we should not allow the season to misguide us. The fact is that 85 percent of the American people do extremely well under this system, and it would be very unwise to turn the pyramid upside down and to throw the baby out with the bath water.

So I do not want to scare the American business system where it is reasonably scared already. If it is unreasonably scared, I will have no fear about it and will vote for it in a minute; but if it is reasonably afraid, I think we ought to err on the side of giving American business a sense of reassurance that we know what we are doing, too. It was my feeling in this whole bill that this was where we slipped over the edge, and that the painstaking efforts of 10 years which have gone into this bill had some attenuated sensibilities insofar as the business system is concerned, that we may have failed to perceive a legitimate, a reasonable reason for fear in this matter. We do not want to paralyze American business by fear of endless liability and enormous costs.

That is why I am against the contingent fee provision. I believe Bob Griffin was absolutely right. I have myself, as a lawyer, for years before I came to the Senate practiced law and gotten fees from courts in exactly such cases as we are talking about, not antitrust particularly, but in the securities frauds of the great era of the boom in the late twenties and the depression of 1932. They called me a strike suitor, too, and it never fazed me a bit; on the contrary, I lived to see the day when they hired me because I was that good.

So I understand what we are doing here, but I also understand enough to know that we should not go this far. It is unwise, and that is the only basis on which I argue for this amendment and the only basis upon which I will vote for it.

Mr. MORGAN. Mr. President, will the Senator yield for a question?

Mr. JAVITS. I yield.

Mr. MORGAN. To make it clear for this body, this amendment has nothing to do with the contingent fee question, does it?

Mr. JAVITS. Of course; I am sorry. I did not mean to confuse it at all. But these are the two things that I feel were essential as far as my views were concerned, and so I coupled them in that same remark.

Mr. MORGAN. I seem to have detected such an aversion toward us lawyers at times; consequently, I did not want anyone to think this had anything to do with contingent fees.

Mr. JAVITS. Absolutely not. This has nothing to do with them. That issue has been decided on a rollcall vote and that is, as far as I know, the end of it.

Mr. DOMENICI. Mr. President, I commend the distinguished Senator from New York for his brief but eloquent position. I tend to agree with the Senator from New York on both scores.

I am going to support the amendment, but I have serious doubts whether the proposition that it is unconstitutional is really the issue here. I tend to agree with the distinguished Senator from Michigan (Mr. Philip A. Hart) that we really do not know. I think that if this body found a substantial public interest, we would be willing to try it on that score—if that it what we thought was needed in today's marketplace to cure the kind of activities that are now the subject matter of this bill, after it has been amended by Senator Morgan, to make it per se liability.

It seems to me that we should listen attentively to what the Senator from New York (Mr. Javits) has said.

This is the time in America when a strange paradox exists. If you ask most American people, they think the enterprise system is good for them. Polls have been taken, and they think that their material life is very well served by it. Ask people about their future, and they quickly tie it to the fact that this system is working. In fact, in a recent poll of a broad section of Americans, they stated that they think this system has more in store for them in the future than they think our Government has in store for them in the future.

I think the Senator is pointing up that we do not want to be caught up in the emotions on the other side of that paradox, that there is attack on the business community and the enterprise system—some of it for good cause. But, we are going to assume in this bill that that system is making absolutely enormous profits and that it can sustain the kind of contingent thrusts against it that this bill promotes. I think the Senator from New York is saying that that is not true at this point, and I agree.

There may be aberrations in the system, where we should be directing our attention to profiteering. But, I remind my friends that there is not a distinguished economist in America who wil say that for the past 5 years the enterprise system has been profiting too much. In fact, almost all will say, across the board, that there is not enough profit for the free enterprise system to do that which we expect it to do.

On the one hand, we say to the enterprise system, "You must grow. You must be the job provider." On the other hand, in this bill we would be saying, "However, let's put in a wholly new civil remedy against it." I think that is far too risky at this point.

So I commend the Senator from New York for clearly distinguishing between a good cause of action against those who intentionally violate the antitrust laws and saying to the court, "If that does not seem adequate because of the rules, you punish them with some penalty."

However, I do not think the damage provision we are amending is an appropriate penalty. It is too risky a penalty for us to support. It truly is civil damages of an enormous contingent thrust with very much flexibility, and we are saying it is a "sort of" penalty. I would prefer to go short on the individual damages and long on the penalty and take that risk for a while, to look at what it really does to the enterprise system. I think that is what the amendment would do, and I do not think that the constitutionality is the most important thing to consider.

Mr. HRUSKA. Mr. President, will the Senator yield for a comment, on my time, and then such time as he might use on his part?

Mr. DOMENICI. I yield.

Mr. HRUSKA. The gist of the position stated by the Senator from New Mexico is this: Under the proposed bill, the distribution of the moneys which would be determined by the aggregate method of determining damages would be determined by the judge, in accordance with the State law or as the district court, in its discretion, may authorize; and it is that which forms a heavy foundation for impropriety. If the money that is determined as a penalty for violating the antitust law is determined and if a civil penalty is assessed, then that money accrues to the government, does it not?

Mr. DOMENICI. That is correct.

Mr. HRUSKA. For distribution as miscellaneous receipts, or what have you?

Mr. DOMENICI. That is right.

Mr. HRUSKA. Is that not a better place to put the funds that at the disposition of a court which, in its discretion, will say that the money will go to a hospital or a charitable institution, or what have you, thereby giving the court powers of punishment and powers of appropriation of the money?

Mr. DOMENICI. I agree wholeheartedly with the Senator.

Mr. HRUSKA. And that is not on constitutional grounds at all. It is on ground of policy. The Government should determine what should be done with that money, not the district court, which is in the business of determining litigating cases.

Mr. DOMENICI. The Senator from Nebraska is correct. That is simply another consideration for this body, as to what kind of policy there should be, in connection with the damages we want to impose on this system for violations of our antitrust laws. I do not choose to argue that particular issue at this point, because I think that before we get there, we are talking about how to measure it. That is the issue here.

To put it another way, I agree with the distinguished Senator from Michigan that my vote certainly does not mean that the court cannot use statistical information of the type that is here contended to be part of an unconstitutional property taking, if it is being done under the guise of damages to give to people. I do not think I am voting that you cannot use that information under the civil remedy portion to determine the penalty a court would impose if he does not see substantial justice done in the damage part. There may be a difference of opinion here, but I think that when we talk about judicial discretion in arriving at the penalty that is part of Senator

BURDICK's amendment, that is a broad discretion and certainly is not passing on individual ways to exercise that discretion. I do not want any misunderstanding on that score, either.

I am firmly convinced that there is a need for major reform in the remedial aspect of our antitrust law. But, I think that any approach that asserts that the free enterprise system at this point in our history can take any kind of battering we want to impose against it, and still remain viable and active and growing, is inconsistent with the reality of the economics in the private sector equation today. Profitmaking across the board is not generally excessive. We are trying to attack it where it is excessive, when there is specific misconduct.

I think that the measure of damages in the basic bill is a frontal attack, as if there is too much profitmaking in the enterprise part of this equation, and I do not think that is the case. The remedy is far too big for the ailment we are trying to cure.

I think Senator BURDICK offers an excellent compromise for this particular point in time.

Mr. THURMOND. Mr. President, this amendment proposes to strike lines 1 through 8 on page 29. I call the attention of Senators to the wording of that provision on lines 1 through 8:

> (c) (1) In any action brought under subsection (a) (1) of this section, and in any class action on behalf of natural persons under section 4 of this Act, damages may be proved and assessed in the aggregate on the basis of statistical or sampling methods, or such other reasonable method of estimation as the court in its discretion may permit, without separately proving the fact or amount of individual injury or damage to such natural persons.

Mr. President, I propound a question to the able Senator from North Dakota.

Is it not true that the theory upon which this provision is based repudiates a legal system that awards damages only upon adequate proof, first, that the defendant committed a legal wrong; second, that the wrong actually injured the plaintiff; and, third, that the plaintiff suffered damages in a reasonably ascertainable manner?

Mr. BURDICK. That is what the cases I have cited hold, yes.

Mr. THURMOND. That is what the decisions have held. Is it not true that in every case where it has been contested by the defendant, fluid recovery has been rejected by the court?

Mr. BURDICK. That is correct.

Mr. THURMOND. Is there any court anywhere in jurisprudence that the Senator knows about that has upheld this provision of the act?

Mr. BURDICK. This is entirely new and novel.

Mr. THURMOND. I thank the Senator.

Mr. President, Mr. Philip A. Lacovara, who is an attorney for Bristol-Myers and, at one time, was the Deputy Solicitor General of the United States under Dean Erwin Griswold, testified before the committee. I want to read a few excerpts from his testimony. I think it is very pertinent here.

The attempt to by-pass these constitutional requirements and settled policies ultimately turns on the "fluid class recovery" device which Title IV would adopt. In essence, the concept disregards the question of actual injury to individual consumers, presumes injury to the class of consumers as a whole, creates liability "in the air," and, in light of the practical disinterest of consumers in tiny *pro rata* shares, provides for the bulk of the "compensation" recovered to be applied to miscellaneous court-approved projects or to escheat to the State.

In the class-action setting this approach has been branded as unconstitutional, and a mere change in labels will not transform it into an acceptable device. The most eloquent statement of this position came in Judge Medina's opinion in "Eisen III", *Eisen* v. *Carlisle & Jacquelin*, 479 F. 2d 1005 (2d Cir. 1973), vacated on other grounds, 417 U.S. (1974).[2] Judge Medina firmly rejected the attempt to have the "class as a whole" treated as the real party in interest, with the "claims of the individual members of the class becom[ing] of little consequence" (479 F. 2d at 1017–18):

"Even if amended Rule 23 could be read so as to permit any such fantastic procedure, *the courts would have to reject it as an unconstitutional violation of the requirement of due process of law*. . . . We hold the "fluid recovery" concept and practice to be illegal, inadmissible as a solution of the manageability problems of class actions and wholly improper." (Emphasis added.)

Efforts to present this theory elsewhere have met with similar rebuffs on the firmest grounds. For example, Circuit Judge Ely, another judge considered to be in the vanguard of protecting individual rights, nevertheless rejected the plaintiff's arguments in the *Hotel Telephone* case that "the individual questions arising from the damage claims [of an enormous consumer class] can be solved by allowing damages in the form of fluid recovery. . . ." *In re Hotel Telephone Charges*, 500 F. 2d 86, 89 (9th Cir. 1974). Distinguishing those instances where this device had been accepted by defendants as part of a settlement (such as in the *Tetracycline Antibiotic Drug Litigation*), Judge Ely's opinion stated:

"We agree with the decision reached in *Eisen* v. *Carlise & Jacquelin*, 479 F. 2d 1005 (2d Cir. 1973), that allowing gross damages by treating unsubstantiated claims of class members collectively significantly alters substantive rights under the antitrust statutes." 500 F. 2d at 90.

In that opinion, Judge Ely echoed Judge Medina's reasoned observation in *Eisen III* that rhetorical statements "about 'disoring sums of money for which a defendant may be liable', or the 'prophylactic' effect of making the wrong-doer suffer the pains of retribution . . . do little to solve specific legal problems." 479 F. 2d at 1013. After referring to that language, Judge Ely put the issue this way (500 F. 2d at 92):

"The antitrust laws focus on the compensation of parties *actually injured*, presupposing that a *plaintiff can prove that he was in fact injured* as a proximate result of an antitrust violation, *Hawaii* v. *Standard Oil Co.*, 405 U.S. 251 (1972). The fact that the injured plaintiff is allowed treble damages does not change the basic nature of the private antitrust action as an action intended to compensate. When, as here, there is no realistic possibility that the class members will in fact receive compensation, then monolithic class actions raising mind boggling manageability problems should be rejected." (Emphasis added.)

An even more insistent posture was adopted by another panel of the Ninth Circuit in the real estate brokerage commission case, *Kline* v. *Caldwell, Banker & Co.*, 508 F.2d 226 (9th Cir. 1975). In that massive class-action case, the Court noted that "plaintiff must prove both that the defendant's conduct contravened section 1 [of the Sherman Act] *and* that the plaintiffs suffered injury as a direct result of the illegal conduct." 508 F.2d at 230–31 (emphasis in original). The Court held that, because "[p]roof of injury is *an essential substantive element* of the successful treble damage action" (598 F.2d at 233; emphasis added), each class-member would have to prove to a jury that he had sustained actual injury resulting from a particular defendant's violation. Judge Duniway's concurring opinion expressed alarm at the practical consequences of entertaining the "judicial juggernaut" that plaintiffs and their counsel sought to create there. 508 F.2d at 236. He insisted that it would be necessary for "each such 'plaintiff' " in the alleged class of 400,000 to prove actual injury *and* the amount of his damages. He explained (*ibid.*):

"It is inconceivable to me that such a case can ever be tried, unless the court is willing to deprive each defendant *of his undoubted right to have his claimed liability proved, not by presumptions or assumptions, but by facts*, with the burden of proof upon the plaintiff or plaintiffs, and to offer evidence in his defense. The same applies, if he is found liable, *to proof of the damage of each 'plaintiff'*." (Emphasis added.)

These decisions follow the Ninth Circuit's refusal to entertain a *parens patriae* suit by the State attorney general in *California* v. *Frito-Lay, Inc.*, 474 F.2d 774 (9th Cir. 1973), *cert. denied*, 412 U.S. 908 (1973). There the court held the device unauthorized by law, and criticized the *parens patriae* mechanism on grounds equally applicable to the pending legislation: "To a greater or less degree these [*parens patriae*] theories attempt to utilize class action principles *without the class action safeguards* so carefully worked out by the drafters." 474 F.2d at 777 n. 11 (emphasis added). Although the court commended the problem of consumer protection to the attention of Congress, it was careful not to endorse the *parens patriae* in balanced safeguards.[3] Later opinions of the Ninth Circuit, as we have seen, make clear that statutory codification of the *parens patriae*/fluid class recovery concept is not the kind of solution to the problem that the court would or could approve.

And other courts as well have rebuffed the *parens patriae*/fluid recovery concept. In *Pfizer* v. *Lord*, 522 F.2d 612 (8th Cir. 1975), the Eighth Circuit ordered dismissal of a *parens patriae* case brought under the antitrust laws by foreign governments on behalf of their citizens. It noted that a "strong preference for class actions over *parens patriae* has been expressed" by the courts and that this preference is based on the "safeguards" built into Rule 23 to insure the basic fairness which the *parens patriae* device circumvent. 522 F.2d at 618.

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[2] At the Committee hearing on March 3, 1976, a member of the Committee's staff suggested that the force of *Eisen III* had been undercut by the Supreme Court's later action vacating the judgment of the court of appeals. Significantly, all portions of the Supreme Court's treatment of Judge Medina's opinion reflect explicit approval of his analysis of the questions the Court found it necessary to reach. It was not his opinion that was vacated, merely the formal judgment of the court of appeals. This action was explained (417 U.S. at 179 n. 16) as allowing the plaintiff an opportunity to amend his complaint, without prejudice, to try to allege a smaller class. The Second Circuit had ordered dismissal with prejudice. And as shown below, other courts have continued to treat Judge Medina's opinion as authoritative.

[3] See 474 F.2 at 776 n. 9. saying of the *parens patriae* device indistinguishable from that proposed in Title IV: "No matter how it is labeled, a basic problem still exists. The class action safeguards of Fed. R. Civ. P. 23 are absent."

Recently, the District Court for the District of South Carolina, in a lengthy and careful opinion, continued the trend of judicial repudiation of "fluid class recovery" which Title IV would try to overrule. See *Windham* v. *American Brands, Inc.*, ——— F. Supp. ——— (D.S.C. 1975) (CCH Trade Cas. ¶ 60, 530). The court there refused to tolerate the " 'fluid recovery' theory of damages" that had been used in the settlement of the *Tetracycline Antibiotic Drug Litigation*, noting that that approach "has been rejected by subsequent opinions, the reasoning of which this Court adopts" (quoting *Eisen III's* language) (p. 67, 345). The court stated in no uncertain terms that liability and damage must be proved individually, holding: "Aside from proof of liability, determining the amount of damages and a proper distribution thereof would result in *an unfair trial if a fluid recovery approach were utilized. . . .*" (p. 67, 346).

The overwhelming weight of judicial authority, therefore, rejects the *parens patriae*/fluid recovery mechanism embodied in Title IV of S. 1284 as an unfair and unconstitutional expedient whose defects cannot be cured by inclusion in a statute.

Mr. MORGAN. Mr. President, will the Senator yield?

Mr. THURMOND. I would be pleased to yield to the distinguished Senator.

Mr. MORGAN. Was that statement the Senator just read the statement, the testimony, of Mr. Philip Lacovara, who is general counsel for Bristol-Myers?

Mr. THURMOND. Yes, I stated that when I started.

Mr. MORGAN. I believe Bristol-Myers was one of the five drug manufacturers in the tetracycline case that paid a settlement of over $200 million for price-fixing just recently, were they not?

Mr. THURMOND. That has nothing to do with this. Is the Senator trying to prejudice the Senate by saying that Mr. Lacovara has done something wrong? The point I mentioned was this: I told the Senator in the beginning that Mr. Lacovara was counsel for Bristol-Myers. I further said he had been Deputy Solicitor General of the United States, and this was his testimony here before the committee, and we think simply because he is attorney for some concern does not bar him from reciting the law.

He has compiled one of the finest arguments against fluid recovery and in favor of the proposal, the amendment of the Senator from North Dakota, which has come to my attention. That is why I felt the Senate ought to have the benefit of his views.

Mr. MORGAN. Mr. President, will the Senator yield?

Mr. THURMOND. I want to say further, Mr. Lacovara says fluid recovery is unfair and unconstitutional. It is certainly unfair, and I believe the provision is unconstitutional. If it is unfair does this Senate want to pass it? I do not think so. I think this Senate wants to do what is just and what is reasonable.

Mr. MORGAN. Mr. President, will the Senator yield?

Mr. THURMOND. I want to say further that the position taken here is in accord with the legal precedents and, as I stated, there has been no case where the defendant has appealed to a higher court and been sustained that has come to my attention.

Mr. MORGAN. Mr. President, will the Senator yield? The Senator asked me, I believe, if I was trying to prejudice the Senate. But does not the Senate believe that the Senate is entitled to know the background of the man whose testimony the Senator read to us so that we can determine the credibility we want to give to it?

Mr. THURMOND. Well, the man whose testimony I have read has not been charged with anything. The man whose testimony I have read was Deputy Solicitor General of the United States.

Mr. MORGAN. And he was representing the company——

Mr. THURMOND. He held the highest adjacent position next to the Solicitor General of the United States.

Mr. MORGAN. And he representing the company that paid one of the highest compromise verdicts for price fixing and fraud in the history of the Nation; was he not?

Mr. THURMOND. His company may have paid, they may have paid something for price fixing. I do not know whether they did or not.

Mr. MORGAN. $200 million, did they not?

Mr. THURMOND. I do not know whether they did or not.

What does this have to do with this? I think my time is up, Mr. President, and I yield to the distinguished Senator from North Dakota.

Mr. BURDICK. I would like to ask the manager of the bill, so long as he brought it up, what happened to the tetracycline case when it was tried in court?

Mr. MORGAN. We tried it in North Carolina, and he said it was unmanageable, but it was manageable, and it is now in the court of appeals.

Mr. BURDICK. They knocked out fluid recovery, did they not?

Mr. MORGAN. Oh, I do not believe they did.

While the Senator has asked me the question, let me ask the Senator if he did not cite in his own minority views the Yellow Taxicab cases which allowed aggregate damages, fluid recovery? I will cite it from page 165 of the Senator's own statement. Beginning near the third paragraph from the bottom it says:

> In keeping with this theory and due process considerations, I contended in Committee that Title IV should be amended to allow compensation and treble damages only to those consumers who come forward with proof of loss as a result of the antitrust violation. This is in accordance with the procedure outlined in *Darr* v. *Yellow Cab Co.*, 433 P. 2d. 732 (1967). At page 740 the court states:
>
> "The fact that the class members are unidentifiable at this point will not preclude a complete determination of the issues affecting the class. Presumably an accounting in the suit at bench will determine the total amount of the alleged overcharges; any judgment will be binding on all the users of the taxicabs within the prior 4 years. However, no one may recover his separate damages until he comes forward, identifies himself and proves the amount thereof."

Mr. BURDICK. That is correct.

Mr. MORGAN. Would the Senator let me finish, please. The court said:

> Presumably an accounting in the suit at bench will determine the total amount of the alleged overcharges; any judgment will be binding on all the users of the taxicabs within the prior 4 years. However, no one may recover his separate damages until he comes forward, identifies himself and proves the amount thereof.

In a separate part of that case, another part of that case, which is not quoted, the court said:

> No appearance by the individual members of the class was required to recover the full amount of the overcharges.

Now, is that not one of the cases that the Senator quoted, and is that not what the Darr case said that the Senator quoted?

Mr. BURDICK. I will read the Senator what it says on page 740:

> However, no one may recover his separate damages until he comes forward, identifies himself and proves the amount thereof.

Mr. MORGAN. I will ask the Senator if it was not after the total damages were assessed, and then those who did not come forward, the judge entered an order reducing taxicab fares in the past?

Mr. BURDICK. But that refines the recovery to a known person and known damages.

Mr. MORGAN. Only after the total damages. Read it again. The total damages were awarded. Then everybody was given an opportunity to come in and just prove, as they would under this law, and those who could not prove it then the judge there says:

> It will go to reduce the tax fare damages.

Then the Senator said in his paragraph:

> The amount of the total injury not claimed should be then labeled exactly what it is intended to be, a penalty to prevent unjust enrichment of the wrongdoer.

That is exactly what we have done in this bill. We accepted the Bumpers-Chiles amendment which says after the damages have been awarded, those who did not come in and prove their claims, the judge could then order the remainder paid into the State in the nature of a penalty; exactly what I thought the Senator was asking for.

Mr. BURDICK. Mr. President, will the Senator yield?

Mr. MORGAN. I believe I completed my statement.

Mr. BURDICK. Is the Senator telling me that only those people who can come in and identify themselves and prove their damages are going to recover under title IV? Is the Senator telling me that?

Mr. MORGAN. That is right. That is absolutely right.

Mr. BURDICK. The Senator means that everybody under title IV must identify himself and his damages?

Mr. MORGAN. Before he can recover any damages, that is exactly what it says. Then if there is any money left after all those who come in and proved them, those who cannot prove them, then under the Bumpers-Chiles amendment the court can order the money paid into the State in the nature of a penalty.

Mr. BURDICK. We take care of it by way of penalty, and that is the legal way to do it.

Mr. MORGAN. Mr. President, I have high regard for the distinguished Senator from North Dakota. I serve with him and, like all lawyers, we differ from time to time on interpretation of cases.

I would invite everyone to read the Yellow Taxicab case that the Senator cites himself. But, Mr. President, this is the most crucial part of this bill. I, too, believe in the free-enterprise system, and I want it to survive. But today 200 corporations in America control 67 percent of the manufactured products.

Now, what does this provision we are talking about do, the provision in the bill? It would allow, after once a per se violation has been established, that is, a wanton violation of the antitrust laws, the judge to then decide on the best way to prove the damages. How do you prove them? Let us take the drug case. Your State hospitals, you know how many drugs they bought because you buy them in large quantities; your city hospitals, you buy them in large quantities; your county hospitals. But you do not know what the literally thousands of individuals bought at the local drug stores.

Under Senator BURDICK's amendment, it would eliminate those people unless we could parade them all through the court.

So, what happens, we prove all those we can, subpena the books of the company, saying, "How many drugs did you sell in North Carolina, how many drugs did you sell in North Dakota?"

What better way is there to prove it than by the company's own books? This is a statistical manner or aggregate way once damages have been determined; to give notice that anybody who wants to come in and prove they bought these drugs or they paid overcharges on a rental car, or what have you, to come in and get it, and the amount left over is paid into the State, or to be paid into the State in the nature of a penalty.

Mr. President, I plead as one who has lived with this sort of thing for years, that to require that any plaintiff in an antitrust action parades before the court every single person who has been damaged is, in effect, to render the whole act almost worthless.

Mr. WILLIAM L. SCOTT. Will the Senator yield?

Mr. MORGAN. Only on the Senator's time. I do not have that much time, I believe.

Mr. WILLIAM L. SCOTT. Who controls the time?

Mr. MORGAN. The Senator has an hour.

Mr. WILLIAM L. SCOTT. I see. On the personal time under the cloture motion.

Mr. President, I heard the distinguished Senator from North Carolina comment on the American free enterprise system, and can certainly appreciate his point of view; but I did not follow the logic of a remark that followed.

Did I understand the Senator to say there were 200 companies or corporations that owned 65 percent of the American industry? Am I quoting correctly?

Mr. MORGAN. Sixty-seven percent of the manufactured assets. That shows a concentration of power in this country, economic power.

Mr. WILLIAM L. SCOTT. Let me ask the distinguished Senator, is he trying to say there is something wrong with bigness?

Mr. MORGAN. Not in itself. But when we have three companies in the country who manufacture 97 percent of the light bulbs in this country, we are not likely to have much competition in the market.

Mr. WILLIAM L. SCOTT. Well, now——

Mr. MORGAN. Let me finish.

We are not likely to have much competition and the free enterprise system can only survive if it is regulated or if there is competition.

I would much rather see competition in the marketplace.

Mr. WILLIAM L. SCOTT. How many companies does the Senator feel would be reasonable for the manufacture of automobiles?

The Senator has told us about light bulbs, but what about automobiles?

Mr. MORGAN. I say to the Senator, I have no opinion except to say that had it not been for the foreign manufacturers selling automobiles in this country, offering some competition for the four that we have, I say we would have paid twice as much for the automobiles we now have than we did pay.

Competition is what should regulate the free enterprise system.

Mr. WILLIAM L. SCOTT. Nobody would quarrel with the statement that competition does make for a better product. I have no quarrel with that at all. But I say to the distinguished Senator from North Carolina that there is not a small businessman in this country that would not want to be a big businessman. It is a fact that we do have an opportunity to succeed in this country, whether we are an individual, a company, or a corporation, that results in our high standard of living.

I do not see a thing wrong with bigness in business.

I have never been wealthy or connected with a large company, but I have the opportunity of trying to do these things and so does every other American.

That is something we should not discourage. We should not harass the American businessman. We have too many Government regulations that tend to put the businessman in a straitjacket and stifle economic development of this country.

Industry has to grow and prosper if we are going to have a healthy economy.

In my opinion, this is a bad bill. This is not the time to be harassing the American businessman.

I think the amendment which the distinguished Senator from North Dakota has offered is a very fine amendment. Of course, he is a member, and a very valuable member, of the Judiciary Committee. I know the distinguished Senator from North Carolina is an attorney, and has been attorney general of his State, but he has not had the privilege of serving on the Judiciary Committee and considering this bill as the members of the committee have.

I hope that the Senate does see fit to adopt the amendment of the distinguished Senator.

I think we ought to stop this attack on the American free enterprise system and to stop criticizing business merely because it is big.

Mr. MORGAN. Does the Senator——

Mr. WILLIAM L. SCOTT. We have our antitrust laws, which impose civil and criminal penalties where there are deceptive and unfair acts and practices, or illegal restraint of trade.

The distinguished Senator knows of the antitrust laws, the Clayton Act, the Sherman Act, and all of the other laws we have passed over the years. But the measure that we now have before the Senate is another example of harassment of business. In view of the economic situation today, it is untimely to be attacking American business because of its size, in my opinion.

Mr. MORGAN. Does the Senator understand that this bill applies only to those businesses who have engaged in a per se violation of the antitrust laws?

We are not talking about the bigness alone.

Mr. WILLIAM L. SCOTT. I heard the distinguished Senator talking about the 200 companies and the percentage of business they own. The Senator was talking about light bulbs, but he did not talk about automobiles at all, and we cannot have automobiles manufactured by the small businessman. Even the smallest of the companies that make automobiles in this country, the American——

Mr. MORGAN. Does the Senator not agree——

Mr. WILLIAM L. SCOTT. Mr. President, I still have the floor.

Even the American Motors Co., the smallest of our automobile manufacturers, is big business.

I do not intend to engage in further debate with the Senator, but I just resent the view that bigness is bad. I do not agree with the statement of the Senator. I think that every American businessman who is a small businessman would like to be big, and I do not see anything wrong with it.

Mr. NUNN. Will the Senator from North Carolina yield for a question?

Mr. MORGAN. I believe he had the floor. I would yield on the Senator's time.

Mr. NUNN. I will use my time. I would like to ask a question about the Burdick amendment.

As I understand the amendment, it would say those persons who could not specifically prove their damages would not be awarded fluid damages by the court, could assess against the defendant company, once a per se violation is——

The PRESIDING OFFICER (Mr. CURTIS). The Chair reminds Senators that the Senator may yield for the purpose of propounding a question, but other than that, it requires unanimous consent.

Mr. NUNN. The Senator from Georgia has the floor; is that correct?

Mr. MORGAN. That was my understanding.

The PRESIDING OFFICER. The Senator making a statement has the floor.

Mr. NUNN. The Senator from Georgia can ask a question, can he not, on the Senator from Georgia's time?

The PRESIDING OFFICER. The Senator can only ask a question of the Senator from North Carolina on the time of the Senator from North Carolina, unless unanimous consent is obtained.

Mr. NUNN. I will not make a statement. The Senator from Georgia has the right to yield to the Senator from North Carolina, does he not?

The PRESIDING OFFICER. Only for a question.

Mr. NUNN. That is the only thing I am trying to do, ask a question.

The PRESIDING OFFICER. The Senator may yield for a question but may not interrogate another Senator on his own time, without unanimous consent.

Mr. NUNN. If I can get back to where I was, once a per se violation is found by the court, there are going to be damages in some amount.

As I understand the Senator from North Dakota's amendment, those people who could establish their damages would be able to collect their damages, but the company itself that had been found guilty of a per se violation would then, instead of paying fluid damages to unidentified persons, have to pay a penalty, as I understand it, in a similar amount to the court.

So the assessment against the defendant would be the same thing. It would be a question of where the money ended up, whether it was to unidentified persons who could not prove their damages or to the court.

That is my interpretation of the Burdick amendment.

Mr. MORGAN. I differ with the Senator's interpretation. He strikes all of section C(1), and then he adds this, that the court may, after determination of the amount of injury to the natural persons of the State, assess a civil penalty to compensate for any wrongful enrichment which may have accrued.

So he has to determine the damages to the natural person of the State first. Under the Burdick amendment he would have to do that by direct proof. Certainly, any amendment of penalty would then have to be dependent upon the amount of damages that had been awarded.

Mr. NUNN. Of course, unjust enrichment would theoretically be the same amount of money as the damages to unidentified persons. It seems to me the defendant would have to pay someone x amount of money and x amount of money would be a constant, but it would be a question of whether it went into the court or whether it went into fluid damages.

Mr. MORGAN. But the amount of damages would have to be proven by individuals. We are dealing with treble damages. It is not like if the judge says, "I find you guilty and I am going to fine you $50,000." Here we take the amount of damages that have been proven and treble it and that would have to be proven first. One would be limited, in my opinion, to those they could actually parade before the court and show actual damages, which would not come anywhere near to representing what the real damages were.

Mr. NUNN. I thank my friend from North Carolina. I yield the floor.

Mr. McGEE. Vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ABOUREZK. Regular order, Mr. President.

The PRESIDING OFFICER. Regular order has been called for. Senators will take their seats.

The legislative clerk resumed the call of the roll.

Mr. ROBERT C. BYRD. Mr. President, may we have the well cleared?

The PRESIDING OFFICER. Regular order is called for. Will Senators please clear the well?

The legislative clerk resumed and concluded the call of the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Arkansas (Mr. BUMPERS), the Senator from Idaho (Mr. CHURCH), the Senator from Minnesota (Mr. HUMPHREY), the Senator from New Mexico (Mr. MONTOYA), the Senator from Utah (Mr. MOSS), the Senator from Maine (Mr. MUSKIE), the Senator from California (Mr. TUNNEY), the Senator from New Jersey, Mr. WILLIAMS), the Senator from Indiana (Mr. HARTKE), and the Senator from Louisiana (Mr. LONG), are necessarily absent.

I also announce that the Senator from Indiana (Mr. BAYH) and the Senator from Missouri (Mr. SYMINGTON) are absent because of illness.

I further announce that, if present and voting, the Senator from Indiana (Mr. BAYH), and the Senator from Minnesota (Mr. HUMPHREY) would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. BEALL)', the Senator from Oklahoma (Mr. BELLMON), the Senator from New York (Mr. BUCKLEY), the Senator from Utah (Mr. GARN), the Senator from Arizona (Mr. GOLDWATER), the Senator from Nevada (Mr. LAXALT), and the Senator from Ohio (Mr. TAFT) are necessarily absent.

I further announce that, if present and voting, the Senator from Ohio (Mr. TAFT) would vote "yea."

The result was announced—yeas 39, nays 41, as follows:

[Rollcall Vote No. 227 Leg.]

YEAS—39

Baker
Bartlett
Biden
Brock
Burdick
Byrd,
Harry F., Jr.
Cannon
Chiles
Curtis
Dole
Domenici
Eastland
Fannin
Ford
Griffin
Hansen
Hatfield
Helms
Hollings
Hruska
Huddleston
Javits
Johnston
Magnuson
McClellan
McClure
McGee
Nunn
Packwood
Pearson
Roth
Scott,
William L.
Sparkman
Stennis
Stone
Talmadge
Thurmond
Tower
Young

NAYS—41

Abourezk
Allen
Brooke
Byrd, Robert C.
Case
Clark
Cranston
Culver
Durkin
Eagleton
Fong
Glenn
Gravel
Hart, Gary
Hart, Philip A.
Haskell
Hathaway
Inouye
Jackson
Kennedy
Leahy
Mansfield
Mathias
McGovern
McIntyre
Metcalf
Mondale
Morgan
Nelson
Pastore
Pell
Percy
Proxmire
Randolph
Ribicoff
Schweiker
Scott, Hugh
Stafford
Stevens
Stevenson
Weicker

NOT VOTING—20

Bayh
Beall
Bellmon
Bentsen
Buckley
Bumpers
Church
Garn
Goldwater
Hartke
Humphrey
Laxalt
Long
Montoya
Moss
Muskie
Symington
Taft
Tunney
Williams

So Mr. BURDICK's amendment (No. 1761), as modified, was rejected.

Mr. ALLEN. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. HRUSKA. I move to lay that motion on the table.

Mr. ALLEN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. The question is on the motion to lay on the table.

Mr. ALLEN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, regular order.

The PRESIDING OFFICER. Regular order is called for.

The call of the roll was concluded.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Arkansas (Mr. BUMPERS), the Senator from Idaho (Mr. CHURCH), the Senator from Indiana (Mr. HARTKE), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Wyoming (Mr. McGEE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Utah (Mr. MOSS), the Senator from Maine (Mr. MUSKIE), the Senator from California (Mr. TUNNEY), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I also announce that the Senator from Indiana (Mr. BAYH) and the Senator from Missouri (Mr. SYMINGTON) are absent because of illness.

I further announce that, if present and voting, the Senator from Indiana (Mr. BAYH), and the Senator from Minnesota (Mr. HUMPHREY) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from New York (Mr. BUCKLEY), the Senator from Utah (Mr. GARN), the Senator from Arizona (Mr. GOLDWATER), the Senator from Nevada (Mr. LAXALT), and the Senator from Ohio (Mr. TAFT) are necessarily absent.

I further announce that, if present and

voting, the Senator from Ohio (Mr. TAFT) would vote "nay."

The yeas and nays resulted—yeas 41, nays 41, as follows:

[Rollcall Vote No. 228 Leg.]

YEAS—41

Abourezk
Biden
Brooke
Byrd, Robert C.
Case
Clark
Cranston
Culver
Durkin
Eagleton
Fong
Glenn
Gravel
Hart, Gary
Hart, Philip A.
Haskell
Hathaway
Huddleston
Inouye
Jackson
Kennedy
Leahy
Mansfield
Mathias
McGovern
McIntyre
Metcalf
Mondale
Morgan
Nelson
Pastore
Pell
Percy
Proxmire
Randolph
Ribicoff
Schweiker
Scott, Hugh
Stafford
Stevenson
Weicker

NAYS—41

Allen
Baker
Bartlett
Beall
Brock
Burdick
Byrd,
Harry F., Jr.
Cannon
Chiles
Curtis
Dole
Domenici
Eastland
Fannin
Ford
Griffin
Hansen
Hatfield
Helms
Hollings
Hruska
Javits
Johnston
Long
Magnuson
McClellan
McClure
McIntyre
Nunn
Packwood
Pearson
Roth
Scott,
William L.
Sparkman
Stennis
Stevens
Stone
Talmadge
Thurmond
Tower
Young

NOT VOTING—19

Bayh
Bellmon
Bentsen
Buckley
Bumpers
Church
Garn
Goldwater
Hartke
Humphrey
Laxalt
McGee
Montoya
Moss
Muskie
Symington
Taft
Tunney
Williams

The PRESIDING OFFICER. On this vote there are 41 yeas and 41 nays. The motion to table is not agreed to.

(Upon recapitulation later in today's proceedings, the foregoing announcement was found to be incorrect, in that Senator MCINTYRE was inadvertently included in the rollcall above as having voted both "yea" and "nay" instead of "yea.")

Mr. CHILES addressed the Chair.

The PRESIDING OFFICER. The question recurs on the motion to reconsider.

Mr. CHILES addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. CHILES. Mr. President, I believe that this is debatable now. We have had two votes on this.

I feel that this is a subject that can be compromised fairly simply. It seems to me, from the arguments I have heard, that both sides are talking about being for a provision whereby the court would not have the wide discretion that started off in the original bill which allowed the court to lower the prices of goods, which allowed the court to make some kind of a fluid recovery, and then put this out in the way of scholarships or other good purposes that the court could see.

The PRESIDING OFFICER. The Senator will suspend, and the Senate will be in order. The Senator will suspend until the Senate is in order.

Mr. CHILES. It seems to me that both sides are sort of against that wide latitude.

On the other hand, it seems to me that both sides are generally not for allowing the companies, once they have been found guilty of perpetrating some kind of fraud or some kind of price-fixing, to escape unpunished. So the question is, how are you going to assess that?

As I understand it, the proposition of the committee now would say that, with the Bumpers-Chiles amendment, which allowed the additional penalty provision, the court could come in and allow those people who could prove their damages to do so. Then the court would be allowed to take the remaining part of the damages, which they could determine by statistical methods, by determining what the company's enrichment was, and then assess those damages through a penalty.

It seems to me that the Burdick amendment says virtually the same thing. The major difference I see is that under the committee proposition, those damages could be treble, while in the Burdick amendment they would be just the amount of the unjust enrichment or the wrongful enrichment.

So it seems that both sides want those people to prove their damages who can do so. Both sides do not want to see the companies escape unpunished. The major concern with the Burdick amendment seems to be that it might not allow the court to come in and statistically consider what the company's unjust enrichment was and that it might allow the court only to be limited—with respect to the unjust enrichment or the unlawful enrichment—to the amount of damages that actually were proved.

If that is a fear, it seems to me that if we were to take the Burdick amendment and add to that part of the language in lines 1 through 8 of the committee bill, "in any wrongful enrichment, the court may assess," and then if we read the rest of that, "may in a statistical manner ascertain what the damages are," and then set those in by way of a penalty, we really have what is in the Burdick amendment and we have what is in the Chiles-Bumpers amendment to the bill.

Other than not assessing the companies triple damages for these unprovable damages to an individual, we really would be taking care of the situation, and we could go about the rest of the business of this bill.

I wonder whether the Senator from North Dakota would see that as being a modification to his amendment that he could accept.

Then if he would, if the Senator from North Dakota would see that as being an acceptable modification, it seems to me that would be a way of getting at what the problem is here and would allow us to go on with the bill without continuing to vote all day.

I wonder if the Senator from North Dakota sees anything wrong with seeking to modify his amendment to add—if I could see that language.

At the bottom of the Burdick amendment, when we look at page 29 of the House bill, if we added a period and said:

> Such enrichment may be proved and assessed in the aggregate on the basis of statistical or sampling methods, or such other reasonable method of estimation as the court in its discretion may permit, without separately proving the fact or amount of individual injury.

Or if you just carried it down to, "in its discretion may permit," then I think we would have taken care of the situation.

I say to the distinguished Senator from Nebraska, who was here on this floor a moment ago, if he wants to carry it to a vote right now without accepting this modification, I would be willing to vote on the side of the committee. Then I think the outcome would be certain.

I wonder if the Senator from North Dakota would see that as being acceptable?

Mr. BURDICK. I say to the Senator from Florida that I have opposed this fluid recovery on a legal basis. I became convinced that under the decisions in four circuit courts of appeal in this country, it could not be done. I just wonder how close we are getting to a basis for fluid recovery. I prefer to let the Senate work its will on the amendment and if the Senator wishes to introduce an amendment later on a compromise position, we shall consider it at that time. I do not like to compromise position. I have held here because I firmly believe that, if I have analyzed the law correctly, fluid recovery will not stand up in the courts of this country.

Mr. CHILES. I believe the Senator from North Dakota has taken care of that in his amendment, and I was thinking of his amendment which talks of penalties and wrongful enrichment, not damage, that it could say at the end: "Such enrichment may be proved and assessed in the aggregate on the basis of statistical or sampling methods, or such other reasonable method of estimation as the court in its discretion may permit."

Mr. JAVITS. Mr. President, I think a couple of things need to be made clear before we let this matter sit where it is.

I do not construe my own vote in support of Senator BURDICK's amendment as representing any denial to any group of damaged people of their recovery. In other words, suppose that the amounts involved for individual consumers are very small.

Let us, just for the sake of argument, say it is $10 a radio or television set, or it could even be less. There is not any reason in the world why a court cannot find those damages and make the people write a letter or send in an affidavit and get their $10. But the court would require, before it made a decree assessing damage, some definitive proof of that kind of damage. For example, 500,000 television sets were sold in a given place and so there is $5 million to be assessed. The difficulty with the provision of the bill is that it is left to what is called here "on the basis of statistical or sampling methods." It makes it possible to have huge decrees for damages which will not actually be collected, but at the same time can hang on as a liability for years. That is the only real difference.

I hope, if we cannot do anything about it here, that in conference, the conferees will bear that in mind. There is no use in having—we can take the tetracycline case as an example—an enormous decree, but when we come down to the day of collection, there may not be that many plaintiffs who can prove they are entitled to any part of it.

I think Senator Burdick, therefore, has given us a reasonable way out. He says have a decree which has the amount that is actually proven in damages and if you feel the defendant has been unjustly enriched, sock him with a fine. That seems to be the proper and intelligent way. Do not try to break him with huge decrees on which nobody may collect that much. That is what is motivating me. It is a practical thing.

As we are working very hard here to correct conscienceless practices in American businesses, we must, at the same time, be very cautious about sustaining American business in its legitimate claims for solvency. We simply cannot have these absolutely open-ended speculative decrees, even if they will stand up constitutionally. This is the reason that I have supported Senator Burdick.

I think what Senator Chiles has just said is correct: We are not very far apart at all. The question is, shall the decree be based upon statistical or sampling methods and then let the question of who collects be resolved after the decree is entered, or shall the decree reflect, in the first instance, a realistic situation? I prefer the latter. My colleagues may prefer the former. With my own understanding of the business community and notwithstanding the fact that I have shown on a thousand votes that I am not a bit concerned about hitting them and hitting them hard when we should, the question is, when we do not have to, why do it? That is the way this particular provision appeals to me.

Mr. GRIFFIN. Mr. President, I wonder if I could have the attention of the Senator from Florida. His suggestion, it seems to me, makes a good deal of sense, but I think we are in a parliamentary situation where it would be difficult to implement. As I understand it, such an amendment to the amendment of the Senator from North Dakota would not be in order except by unanimous consent. Is that the situation?

Mr. CHILES. I think the Senator is right.

Mr. GRIFFIN. I wonder if the amendment of the Senator from North Dakota is not already subject to the interpretation that the Senator from Florida seeks to have spelled out? In other words, under the language of the amendment of the Senator from North Dakota, if the court can assess a civil penalty to compensate for any unjust enrichment which may have accrued to the defendant, I wonder if there is anything to keep the court——

The PRESIDING OFFICER. Will the Senator suspend for a moment?

The Chair is advised that the clerk made an error. A Senator changed his vote, which resulted in an error. The vote is 41 yeas, 40 nays. The motion to table carries.

Mr. McCLURE. A parliamentary inquiry, Mr. President.

Mr. GRIFFIN. Mr. President, is a motion to reconsider the vote by which the motion to table was adopted in order?

The PRESIDING OFFICER. It is not.

Mr. McCLURE. A parlimentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. McCLURE. Mr. President, did I understand you to say that the Chair had made an error in announcing the vote?

The PRESIDING OFFICER. No, the clerk had made an error in tabulating it, due to the fact that a Senator had changed his vote and was tabulating as voting once each way.

Mr. McCLURE. I thank the Chair.

Mr. GRIFFIN. Mr. President, is it in order to ask that the Senate be polled again on this?

The PRESIDING OFFICER. A motion to reconsider is not in order.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ALLEN. Mr. President, I want to know how do we know what the correct vote of the Senator was? He voted both ways.

The PRESIDING OFFICER. A quorum call is in progress. The Chair will not recognize the Senator.

Mr. ALLEN. I will ask that question as soon as we establish a live quorum.

The second assistant legislative clerk continued the call of the roll.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Hansen). Is there objection?

Mr. ALLEN. I object.

The PRESIDING OFFICER. Objection is heard.

The second assistant legislative clerk continued the call of the roll, and the following Senators answered to their names:

[Quorum No. 12 Leg.]

Abourezk
Allen
Baker
Bartlett
Beall
Bentsen
Biden
Brock
Brooke
Buckley
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Cranston
Culver
Curtis
Dole
Domenici
Durkin
Eagleton
Eastland
Fannin
Ford
Glenn
Gravel
Griffin
Hansen
Hart, Gary
Hart, Philip A.
Haskell
Hathaway
Helms
Hollings
Hruska
Huddleston
Inouye
Jackson
Javits
Johnston
Kennedy
Leahy
Long
Magnuson
Mansfield
Mathias
McClellan
McClure
McGovern
McIntyre
Metcalf
Mondale
Morgan
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Scott, William L.
Sparkman
Stafford
Stennis
Stevens
Stevenson
Stone
Talmadge
Thurmond
Tower
Weicker
Young

The PRESIDING OFFICER. A quorum is present.

There being some doubt as to the result of the vote to table a motion to reconsider the vote by which the Burdick amendment was rejected, the Chair directs a recapitulation of the vote.

Upon recapitulation, the result was announced—yeas 41, nays 40, as follows:

[Rollcall Vote No. 228 Leg.]

YEAS—41

Abourezk
Biden
Brooke
Byrd, Robert C.
Case
Clark
Cranston
Culver
Durkin
Eagleton
Fong
Glenn
Gravel
Hart, Gary
Hart, Philip A.
Haskell
Hathaway
Huddleston
Inouye
Jackson
Kennedy
Leahy
Mansfield
Mathias
McGovern
McIntyre
Metcalf
Mondale
Morgan
Nelson
Pastore
Pell
Percy
Proxmire
Randolph
Ribicoff
Schweiker
Scott, Hugh
Stafford
Stevenson
Weicker

NAYS—40

Allen
Baker
Bartlett
Beall
Brock
Burdick
Byrd, Harry F., Jr.
Cannon
Chiles
Curtis
Dole
Domenici
Eastland
Fannin
Ford
Griffin
Hansen
Hatfield
Helms
Hollings
Hruska
Javits
Johnston
Long
Magnuson
McClellan
McClure
Nunn
Packwood
Pearson
Roth
Scott, William L.
Sparkman
Stennis
Stevens
Stone
Talmadge
Thurmond
Tower
Young

So on recapitulation the motion to lay on the table the motion to reconsider was agreed to.

Mr. McINTYRE. Mr. President, a matter of personal privilege.

The PRESIDING OFFICER. The Senator will state it.

Mr. McINTYRE. In order to clarify the confusion that seems to exist in the vote, let me say that on the last amendment of the distinguished Senator from North Dakota (Mr. Burdick), I voted "no."

A subsequent rollcall was on a motion to table a motion to reconsider. It was the understanding of the Senator from New Hampshire the motion was to reconsider and I voted "no."

I was later apprised that the vote was a motion to table the motion to reconsider and I came to the floor and changed my vote.

I think an error was made at the desk in failing to expunge my original vote on the motion to table.

I hope that clarifies it. I intended to vote against the amendment of the Senator from North Dakota.

Mr. HRUSKA. Will the Senator yield to clarify the record?

The appearance he just described happened prior to the announcement of the result of the vote?

Mr. McINTYRE. It must have been.

I believe that the correction in my vote, voting "aye" to table, had been made prior to the announcement of the vote.

The PRESIDING OFFICER. The Senator is correct.

Mr. HRUSKA. The question was whether the change was made by the Senator from New Hampshire prior to the time the result of the vote was announced by the Chair.

Mr. McINTYRE. I cannot control what the Chair did. I am saying what I did, what I intended.

The PRESIDING OFFICER. According to the clerk, the change was directed before the vote was announced.

Mr. HRUSKA. That is the inquiry I made and that answer is satisfactory with this Senator.

Mr. ALLEN. Mr. President, I ask unanimous consent that the rollcall be made again in order that the matter can be properly clarified.

Mr. ABOUREZK. I object.

The PRESIDING OFFICER. Objection is heard.

The question is on agreeing to the amendment of the Senator from Michigan, as amended.

Senators GRIFFIN and ALLEN addressed the Chair.

Mr. GRIFFIN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. GRIFFIN. Mr. President, last Friday there was a vote on amendment No. 1718, offered by the Senator from Nebraska (Mr. HRUSKA), and on vote No. 222 a motion to table that amendment was adopted, 39 to 34. That was an amendment, as I understand it, which would have stricken contingent fee arrangements between a State attorney general and private attorneys who might be enlisted to go out and stir up lawsuits.

The question is, with the junior Senator from Michigan having been absent and not voting, would it be in order now for me to move to reconsider that vote?

The PRESIDING OFFICER. The Senator, not having voted and that being within the time frame of the rule, would be in order in asking that that be done.

Mr. GRIFFIN. Mr. President, I move now to reconsider that vote. I would ask the Senate to take another look at that important question. It seems to me that in connection with the concept of parens patriae, it is one thing to empower the highest legal official of a State to bring an action on behalf of some class of consumers; but it is quite another thing, as this legislation would seem to do, to give the State attorney general the authority to delegate State powers to private attorneys, on a contingency fee basis, who are then in a position to engage in what might be described as harassing suits.

If we are going to go to the parens patriae concept, it seems to me that such actions should be brought and prosecuted on the basis of what is in the public interest. And those decisions should be made by the attorney general of a State.

The ambulance-chasing idea of enlisting private attorneys on a contingency fee basis to bring lawsuits, and investing them with the broad powers that this bill contemplates, does not seem to me to be the kind of legislation we ought to be adopting. Now that there are more Senators present than there were last Friday, it would be my hope that the Senate might take another look at that vote and reconsider it.

I ask for the yeas and nays on the motion to reconsider.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ABOUREZK. Mr. President, I move to table that motion to reconsider and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on the motion to lay on the table the motion to reconsider. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. GRIFFIN. Regular order, Mr. President.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. BUMPERS), the Senator from Idaho (Mr. CHURCH), the Senator from Indiana (Mr. HARTKE), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Washington (Mr. MAGNUSON), the Senator from Wyoming (Mr. MCGEE), the Senator from Utah (Mr. MOSS), the Senator from Maine (Mr. MUSKIE), the Senator from California (Mr. TUNNEY), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I also announce that the Senator from Indiana (Mr. BAYH) and the Senator from Missouri (Mr. SYMINGTON) are absent because of illness.

I further announce that, if present and voting, the Senator from Indiana (Mr. BAYH) and the Senator from Minnesota (Mr. HUMPHREY) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Utah (Mr. GARN), the Senator from Arizona (Mr. GOLDWATER), the Senator from Nevada (Mr. LAXALT), and the Senator from Ohio (Mr. TAFT), are necessarily absent.

I further announce that, if present and voting, the Senator from Ohio (Mr. TAFT) would vote "nay."

The result was announced—yeas 39, nays 44, as follows:

[Rollcall Vote No. 229 Leg.]

YEAS—39

Abourezk
Biden
Byrd, Robert C.
Clark
Cranston
Culver
Durkin
Eagleton
Fong
Ford
Glenn
Gravel
Hart, Gary
Hart, Philip A.
Haskell
Hathaway
Huddleston
Inouye
Jackson
Kennedy
Leahy
Long
Mansfield
Mathias
McGovern
McIntyre
Metcalf
Mondale
Montoya
Morgan
Nelson
Pastore
Pell
Proxmire
Randolph
Ribicoff
Scott, Hugh
Stafford
Stevenson

NAYS—44

Allen
Baker
Bartlett
Beall
Bentsen
Brock
Brooke
Buckley
Burdick
Byrd, Harry F., Jr.
Cannon
Case
Chiles
Curtis
Dole
Domenici
Eastland
Fannin
Griffin
Hansen
Hatfield
Helms
Hollings
Hruska
Javits
Johnston
McClellan
McClure
Nunn
Packwood
Pearson
Percy
Roth
Schweiker
Scott, William L.
Sparkman
Stennis
Stevens
Stone
Talmadge
Thurmond
Tower
Weicker
Young

NOT VOTING—17

Bayh
Bellmon
Bumpers
Church
Garn
Goldwater
Hartke
Humphrey
Laxalt
Magnuson
McGee
Moss
Muskie
Symington
Taft
Tunney
Williams

So the motion to lay on the table was rejected.

MESSAGE FROM THE HOUSE

A message from the House of Representatives delivered by Mr. Hackney, one of its reading clerks, announced that the House has passed without amendment the following bills and joint resolution:

S. 532. An act to authorize the Secretary of Agriculture to amend retroactively regulations of the Department of Agriculture pertaining to the computation of price support payments under the National Wool Act of 1954 in order to insure the equitable treatment of ranchers and farmers;

S. 2760. An act to amend the Indochina Migration and Refugee Assistance Act of 1975 to provide for the inclusion of refugees from Laos;

S. 3187. An act to extend the authorization of appropriations for the National Commission on New Technological Uses of Copyrighted Works to be coextensive with the life of such Commission; and

S.J. Res. 168. A joint resolution to provide for the reappointment of James E. Webb as a Citizen Regent of the Board of Regents of the Smithsonian Institution.

The message also announced that the House insists upon its amendments to the bill (S. 3295) to extend the authorization for annual contributions under the U.S. Housing Act of 1937, to extend certain housing programs under the National Housing Act, and for other purposes, disagreed to by the Senate; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. REUSS, Mr. ASHLEY, Mrs. SULLIVAN, Mr. MOORHEAD of Pennsylvania, Mr. STEPHENS, Mr. ST GERMAIN, Mr. GONZALEZ, Mr. MITCHELL of Maryland, Mr. PATTERSON of California, Mr. LAFALCE, Mr. AUCOIN, Mr. BROWN of Michigan, Mr. J. WILLIAM STANTON, Mr. ROUSSELOT, Mr. WYLIE, and Mr. MCKINNEY were appointed managers of the conference on the part of the House.

The message further announced that the House agrees to the amendment of the Senate to the amendments of the House to the bill (S. 1466) to amend the Public Health Service Act to extend and revise the program of assistance for the control and prevention of communicable diseases, and to provide for the establishment of the Office of Consumer Health Education and Promotion and the Center for Health Education and Promotion to advance the national health, to reduce preventable illness, disability, and death; to moderate self-imposed risks; to promote progress and scholarship in consumer health education and promotion and school health education; and for other purposes.

The message also announced that the House agrees to the amendment of the Senate to the joint resolution (H.J. Res. 92) relating to the publication of economic and social statistics for Americans of Spanish origin or descent.

The message further announced that the House agrees to the amendments of the Senate to the bill (H.R. 11559) to authorize appropriations for the saline water conversion program for fiscal year 1977.

THE ANTITRUST IMPROVEMENTS ACT OF 1976

The PRESIDING OFFICER. The question recurs on the motion to reconsider.

The yeas and nays have been ordered. The clerk will call the roll.

Mr. MORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. MORGAN. Is the issue not debatable?

The PRESIDING OFFICER. The issue is debatable.

Mr. MORGAN. Mr. President, I say to Senators that last week we debated this issue and this amendment probably longer than any other amendment. This is a very crucial amendment because, if we agree to this amendment, it would prohibit attorneys general from seeking the expert advice of lawyers who are experienced in this area.

I grant Senators that they can pick out isolated cases, as my colleagues did, and show where private attorneys received exorbitant fees. I think those are the exception. But because of those isolated cases, the committee in its wisdom over a long period of time provided in the bill that the court itself should determine the fee not let someone agree to a percentage contract, but determine it, and the language in the committee report, which is legislative history, spells out that the fee shall be on the basis of hours of work done in keeping with the average hourly wage rate in that given area, of course, taking into consideration whether or not they won the case, but not a percentage of the award.

Many of my colleagues have been led to believe that this is a bill to eliminate percentage contracts. There are only 77 attorneys in the Nation in all 50 States assigned to antitrust, and they simply do not have the expertise and the manpower to come up and meet on equal grounds with the giants who engage in these kind of monopolistic practices.

Mr. President, if there is ever a case where an attorney general needs help, this is it. All the safeguards have been written into this legislation that I believe can be written into it. The court determines the fee on the basis that I mentioned to the Senate. The attorney general, if he acts in bad faith, is taxed with the court costs. And in addition to that what could be a better safeguard against stirring up litigation than to make a man's pay contingent upon his being successful? I do not know of any.

Mr. CHILES. Mr. President, will the Senator yield?

Mr. MORGAN. I do not know of any lawyer anywhere who wants to get involved in litigation unless there is a reasonable prospect of winning. And that is why I think it is so important that the attorneys general be allowed to employ attorneys for expert advice.

Mr. President, I would yield, but I prefer that the Senator seek recognition and then allow me to answer his questions because of time limitations.

Mr. CHILES. I will permit the Senator to yield on my time.

Mr. MORGAN. If the Chair will do it, all right.

Mr. CHILES. Listening to the arguments that the Senator makes, I simply cannot understand what is wrong with the language "Except such terms do not include any person employed or retained on a contingency fee basis."

Mr. MORGAN. Because the budgets of most attorneys general are tight as the old saying used to go "as tight as Dick's hatband," and they do not have the money in their budget to go and pay attorneys hourly rates on an hourly basis. It would bar altogether paying them whether or not they are successful. If the court determines the fee, on an hourly base, we have to put some discretion and some trust in the judges of this country, and this is the case where the attorneys general need the expertise. I really think the safeguards are there.

Mr. CHILES. Does this language in any way bar the attorney general from getting outside counsel?

Mr. MORGAN. It does not bar him, if he has money with which to pay it.

But where is he going to get the money to pay it? When I was attorney general I did not have that kind of budget to hire outside attorneys. The legislature simply does not provide that kind of budget.

Mr. KENNEDY. Mr. President, if the Senator will yield on my time, and I direct this to the attention of the Senator from Florida, I think most of the Members of this body associate contingency fees with a certain percentage of fee that would be retained by an attorney if he were successful in a particular case. But from what I understand and the way that this has been drafted, it is that there is no contemplation of that nature, that the contingency fee, as it is used in this legislation, is solely permissible to permit the State attorneys general to be able to contract with those particular services which they feel are essential or necessary to carry forward what they consider to be the public policy served by bringing such action. So it provides flexibility. But in terms of the amounts that are going to be actually retained, those are going to be set by the courts to be reasonable fees that are related to the kinds of customs and usage in that particular jurisdiction.

Am I correct in my understanding of the thrust of this particular amendment? In listening and reviewing the debate and the discussion, it seems that many Members of this body felt that with the ability to assign contingency fees, in effect, an attorney general was able to permit one of his associates or one of his colleagues to go on out and bring a case and then if successful reap extraordinary profits, which obviously there is absolutely no intention of that occurring. But it is very limited, as I understand, by flexibility, for the attorneys general to select those particular attorneys whose backgrounds, experience, and training would be useful in carrying forward a public purpose; second, it is very explicit in setting the limits to be recovered as being established by the courts but being a reasonable recovery based upon the hourly rates of compensation in the jurisdiction.

Mr. MORGAN. The Senator is exactly right, and all of those safegards were taken into consideration and written into the bill to prevent the very kind of abuses as some of my colleagues pointed out last week.

Mr. KENNEDY. If the Senator will yield further. I shall ask another question. I think what he has shown in debating this particular question is based on the fact of having the personal experience he has had as an attorney general. Without this kind of power, would not the opportunity to carry forward the thrust of this legislation be extraordinarily limited or virtually prohibited?

Mr. MORGAN. I would say it would almost be virtually prohibited.

Mr. KENNEDY. I thank the Senator. I think that there was some confusion, at least, in reviewing the record on this issue. Hopefully, the responses the Senator has given will help clarify this matter. I thank the Senator.

Mr. PHILIP A. HART. Mr. President, the point that I think has not been made and that perhaps we did not make in the discussion last week may have some persuasiveness. There are those of us who believe that a contingency fee is actually protective mechanism against a phantom figure that has floated through here periodically—the overly aggressive State attorney general.

No private attorney in his right mind is going to put in hour after hour in a case that is an outright loser. He is not going to get any money for his time. But if, instead of having a contingency arrangement, you pay him on an hourly basis of $100 an hour every 30 days, he is going to plow and plow and plow, whether or not the suit has merit.

So a point that sometimes is overlooked is that there is a safeguard which attaches to a provision such as in the committee bill, which authorizes the engagement of an attorney on an arrangement that is subject to the court's fixing, which is in that sense a contingency fee.

Mr. GRIFFIN. Mr. President, I suggest that for a State attorney general to delegate that authority and that power to a private attorney is subject to question under the best of circumstances; and when that delegation is made on a contingency fee basis, it seems to me that the conflict and the difficulties are magnified manifold.

The interest of a private practicing attorney is not necessarily the same as the public interest or the interest of the State attorney general. It would be very difficult for a State attorney general to maintain any degree of control of the litigation or the investigation after he has delegated by contract the State's responsibility to some private attorney.

For example, it might well be in the selfish interest of the private attorney to settle a case and to get his fee in situations where the public interest would indicate that the case should be prosecuted.

It is a big step to adopt the parens patriae concept at all—in other words, to delegate to the several State attorneys general, the authority that is now vested in the Department of Justice. But if we are going to do that, we should not then allow a further delegation of authority from the State attorney general to various and sundry private attorneys who may have their own selfish interests to pursue.

I think that the contingency fee arrangement is akin to the ambulance-chasing idea which is not in good repute and that this is the kind of arrangement we should strike down. We should at least have some experience with the use of this authority by the State attorneys general themselves before we take the additional step of allowing them to delegate that authority to private attorneys.

Mr. ABOUREZK. Mr. President, I suppose the specter of an ambulance-chasing attorney has been raised during the debate on this legislation a number of times, more recently just a minute ago by the Senator from Michigan (Mr. GRIFFIN). I think it has been explained adequately that the safeguards in the bill and the legislative history prevent that kind of thing from happening.

I also suggest that no private attorney is going to make the decision as to whether to settle an antitrust case brought by a State attorney general or whether to continue it. That decision must be made by the attorney general, himself, and in no way would be contingent or dependent upon what a private attorney might want to do.

I suppose there is more than one way to gut this legislation or to defeat it. Either you do it on the Senate floor or, failing that, you try to set up a condition whereby perhaps State legislatures might not appropriate funds; and if you prevent the State attorney general from getting help in any other way, then no antitrust cases will be brought, even though the legislation passed by Congress might be in existence.

So I urge that this amendment be defeated, since it seems to me clearly to be a way to deprive State attorneys general from bringing antitrust actions.

Mr. ALLEN. Mr. President, I wonder whether we are not forgetting here the person we are supposed to be to trying to protect, and that is the consumer or or other individual who may have been damaged by antitrust actions by corporations or companies. We seem to be speaking out for large contingency fees for attorneys.

In one case recently, $41 million was allowed as attorneys' fees on a contingency basis. I daresay that the consumer, the person who was injured, may have received a pittance, something in the neighborhood of a few dollars—$10 or less, possibly. Yet, the attorneys received $41 million. So whom are we seeking to take care of—the attorneys handling matters on a contingency basis, the attorneys who are political favorites of the attorney general?

Let us be reasonable about this matter. Where does the money come from for the allowance of these contingency fees? The money comes from those who are damaged by the anti-trust activities. It is not being taken just from the company. The amount of recovery is decided upon and then the contingency fee is allowed. That might be one-third of the recovery. So the more you allow in contingency fees, the less the consumer or other person damaged by the antitrust actions of the defendant will receive.

If we are just working for those who file antitrust suits, those who are favored by the attorney general of a State and are given these cases, that is one thing. If we are going to protect the consumer, that is another. But the more you allow in a contingency fee, the less there is for the person actually damaged.

Mr. President, an indictment was handed down by a Federal grand jury in Baltimore this past weekend which reinforces my strong reservations concerning the dangers contained in the contingency fee provisions of S. 1284.

As has been argued in recent debate on this issue, there is a history of criminal abuse in the Federal antitrust field by public officials who colluded with private entrepreneur bounty hunters of the legal profession in the filing of triple damage lawsuits against business corporations.

Numerous cases of such criminal abuses, involving kickbacks to State attorneys general and prosecutors, have been cited. Now, almost at the very moment the Senate was considering Senator HRUSKA's amendment to eliminate private attorney contingency fee provisions from S. 1284, a Federal grand jury in what, literally, is the national Capital's own backyard, was taking action which serves as yet another dramatic illustration of this danger.

According to the Baltimore Sun of Saturday, June 5, a 13-count indictment was handed down by a Federal grand jury in that city against a former Baltimore county solicitor for—I quote directly from the news report:

> Using his public office to influence the selection of a Chicago law firm to do county business.

The Sun's report of the grand jury action goes on to describe the indictment as involving the solicitor's concealment from the Baltimore County Council of—and here I read from the indictment itself, "the existence of the corrupt relationship" between himself and the Chicago law firm.

The indictment charges the solicitor involved, one R. Bruce Alderman, with getting the council's approval to retain the Chicago law firm to represent Baltimore County "in antitrust suits against a supplier of equipment to the county."

This is the very point that opponents of the private attorney contingency fee provisions of S. 1284 were arguing in support of Senator HRUSKA's amendment. I ask those Members of the Senate who discount the danger of such corrupt arrangements between public officials and antitrust legal entrepreneurs to reconsider their position in light of this latest evidence that such danger is real, not speculative.

Nor, as has been pointed out during this debate, is such abuse of the antitrust process an isolated case. There are scorers of similar cases that have resulted in grand jury indictment and convictions involving collusion between prosecutors and appointed private antitrust counsel on contingency fee antitrust matters.

Further reinforcing the argument made by opponents of the contingency fee provisions of S. 1284 is the fact that in the Baltimore case involving Solicitor Alderman and the Chicago law firm, the engineering company that was the target of triple damage antitrust action chose to settle its case out-of-court rather than bear the burden and incur the risk of contesting the suit.

This, as I have warned on previous occasions, is precisely the kind of abuse to which the Senate will give its official stamp if S. 1284 is passed containing its present triple damage contingency fee provision. We will be encouraging virtual shakedowns of corporations and business firms by bounty-hunting prosecutors and private law firms. Many of these private law firms, in fact, specialize in just such bounty-hunting pursuits. The Chicago firm involved in the Baltimore case is described by news reports as having—I quote—"represented many municipalities in filing antitrust suits."

Under the legal arrangements described by the Baltimore Sun, local Maryland attorneys, working with the county prosecutor, made an agreement with the Chicago law firm to split—again quote—"on a 50–50 basis any legal fees derived from antitrust matters in Baltimore County."

Mr. President, it is no secret that public confidence in all three branches of Government is at low ebb. I submit that it is just such collusive abuse of legal process as are authorized and encouraged by these proposed contingency fee arrangements which contribute to this loss of public faith in our system. I hope that the Senate will not give yet another weapon to those who, by abuse of the process, would add to the damage already done our legal system by entrepreneurial schemes between corrupt public officials and their get-rich-quick friends in the private practice of antitrust law.

Senator HRUSKA's amendment to eliminate this threat from S. 1284 should be reconsidered in that light—or else the Senate itself is in the position of giving aid and sustenance to a form of official corruption the people of the United States will not and cannot tolerate if our legal system is to endure.

Mr. MORGAN. Mr. President, if we are going to defeat this amendment, let us defeat it on the facts. The Senator from Alabama has just read to us, as my colleague from North Carolina did, from a newspaper report of a grand jury indictment on June 5. A man is presumed to be innocent until he is proven guilty. I served as attorney general for 6 years. I have known attorneys general and assistant attorneys general, and they are honorable people. I think I performed my duty with honor. I resent this kind of argument, using the newspaper accounts of an isolated incident of somebody, not even an attorney general, who was indicted a week or two ago. If you take that kind of argument, then you can destroy anything.

Take the $42 million contingency fee. To me, that was a high fee. But it was not awarded to one firm. What happened? The consumers paid $200 million that some of these companies had, I think, marked their prices up 5,000 percent. Much of that recovery would not have been made; over $120 million was actually paid to the consumers.

If Senators are going to cite isolated

cases—if we are going to defeat the provision, let us do it on facts. If Senators are going to cite cases, please cite cases.

The PRESIDING OFFICER Mr. PERCY). The question is on agreeing to the motion to reconsider.

Mr. ALLEN. Mr. President, the Senator mentioned a $41 million attorneys' fee and said that there was more than one attorney involved. Even if there were 41 law firms involved, that would be $1 million per firm. That seems to me to be gouging the consumers. If this fee had been cut down to $10 million, which it seems to me would be quite huge, that would have left an additional $30 million for the consumers.

Mr. MORGAN. Mr. President, I was in that case and I had no private attorneys. It lasted 15 years—15 years—and this was $200 million that some companies wrongfully extracted from the people that they were not allowed to keep. At least what was returned to the consumers was returned to them because of 15 years' work.

Let me tell you who the chief counsel was: a man named Sam Murphy, whose address was One Wall Street, New York. His last 15 years had been spent on nothing but that antitrust suit.

How would anyone expect an attorney general like myself, who usually has to operate with relatively young, inexperienced lawyers, to match wits with that individual? I could not have done it had I not utilized some of the material that had been gathered by these other attorneys.

Mr. President, I hope we will vote no and not reconsider this amendment. We debated it last week.

The PRESIDING OFFICER. The question is on agreeing to the motion. The yeas and nays have been ordered. The clerk will call the roll.

Mr. ALLEN. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. ALLEN. Is the motion a motion to reconsider?

The PRESIDING OFFICER. The question is on a motion to reconsider.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. BUMPERS), the Senator from Idaho (Mr. CHURCH), the Senator from Indiana (Mr. HARTKE), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Wyoming (Mr. MCGEE), the Senator from California (Mr. TUNNEY), the Senator from New Jersey (Mr. WILLIAMS), the Senator from Utah (Mr. MOSS), and the Senator from Maine (Mr. MUSKIE) are necessarily absent.

I also announce that the Senator from Illinois (Mr. BAYH) and the Senator from Missouri (Mr. SYMINGTON) are absent because of illness.

I further announce that, if present and voting, the Senator from Indiana (Mr. BAYH) and the Senator from Minnesota (Mr. HUMPHREY) would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Utah (Mr. GARN), the Senator from Arizona (Mr. GOLDWATER), the Senator from Nevada (Mr. LAXALT), and the Senator from Ohio (Mr. TAFT) are necessarily absent.

I further announce that, if present and voting, the Senator from Ohio (Mr. TAFT) would vote "yea."

The result was announced—yeas 46, nays 38, as follows:

[Rollcall Vote No. 230 Leg.]

YEAS—46

Allen
Baker
Bartlett
Beall
Bentsen
Brock
Brooke
Buckley
Burdick
Byrd, Harry F., Jr.
Cannon
Case
Chiles
Curtis
Dole
Domenici
Eastland
Fannin
Griffin
Hansen
Hatfield
Helms
Hollings
Hruska
Huddleston
Javits
Johnston
Long
McClellan
McClure
Nunn
Packwood
Pearson
Percy
Roth
Schweiker
Scott, William L.
Sparkman
Stennis
Stevens
Stone
Talmadge
Thurmond
Tower
Weicker
Young

NAYS—38

Abourezk
Biden
Byrd, Robert C.
Clark
Cranston
Culver
Durkin
Eagleton
Fong
Ford
Glenn
Gravel
Hart, Gary
Hart, Philip A.
Haskell
Hathaway
Inouye
Jackson
Kennedy
Leahy
Magnuson
Mansfield
Mathias
McGovern
McIntyre
Metcalf
Mondale
Montoya
Morgan
Nelson
Pastore
Pell
Proxmire
Randolph
Ribicoff
Scott, Hugh
Stafford
Stevenson

NOT VOTING—16

Bayh
Bellmon
Bumpers
Church
Garn
Goldwater
Hartke
Humphrey
Laxalt
McGee
Moss
Muskie
Symington
Taft
Tunney
Williams

So the motion to reconsider the vote was agreed to.

Mr. HRUSKA. Mr. President, yeas and nays.

The PRESIDING OFFICER. The question now recurs on the vote by which amendment No. 1718 was tabled. The motion was not debatable and since the original vote was by the yeas and nays, they are automatic, and the clerk will call the roll.

Mr. ALLEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. ALLEN. As I understood this question, the vote to reconsider this amendment, would not the question now be——

The PRESIDING OFFICER. The amendment was never voted on. It was tabled. It is not debatable.

Mr. ALLEN. Does not the question recur on the amendment itself?

The PRESIDING OFFICER. No. The motion recurs on the motion to table the amendment and the clerk will call the roll.

Mr. GRIFFIN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. GRIFFIN. A Senator who is for the amendment would vote against the motion to table that is before the Senate at the present time?

The PRESIDING OFFICER. The Chair will not interpret.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ALLEN. Regular order, Mr. President.

The PRESIDING OFFICER. On this vote there are 39 yeas, 43 nays——

Several Senators addressed the Chair.

Mr. ROBERT C. BYRD. Mr. President, a Senator was seeking recognition.

Mr. MORGAN. I desire to change my vote from "yea" to "nay."

Mr. WEICKER. Point of order, Mr. President.

Mr. HANSEN. A parliamentary inquiry. Was the result not announced?

Mr. WEICKER. The vote was announced.

The PRESIDING OFFICER (Mr. JOHNSTON). The Senator was seeking recognition to change his vote prior to the time the result was announced.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. BUMPERS), the Senator from Idaho (Mr. CHURCH), the Senator from Indiana (Mr. HARTKE), the Senator from Maine (Mr. HATHAWAY), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Wyoming (Mr. MCGEE), the Senator from Utah (Mr. MOSS), the Senator from Maine (Mr. MUSKIE), the Senator from California (Mr. TUNNEY), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I also announce that the Senator from Indiana (Mr. BAYH) and the Senator from Missouri (Mr. SYMINGTON) are absent because of illness.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) and the Senator from Indiana (Mr. BAYH) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Nebraska (Mr. CURTIS), the Senator from Utah (Mr. GARN), the Senator from Arizona (Mr. GOLDWATER), the Senator from Nevada (Mr. LAXALT), and the Senator from Ohio Mr. TAFT) are necessarily absent.

I further announce that, if present and voting, the Senator from Ohio (Mr. TAFT) would vote "nay."

The result was announced—yeas 38, nays 44, as follows:

[Rollcall Vote No. 231 Leg.]

YEAS—38

Abourezk
Biden
Byrd, Robert C.
Clark
Cranston
Culver
Durkin
Eagleton
Fong
Ford
Glenn
Gravel
Hart, Gary
Hart, Philip A.
Haskell
Huddleston
Inouye
Jackson
Kennedy
Leahy
Long
Magnuson
Mansfield
Mathias
McGovern
McIntyre
Metcalf
Mondale
Montoya
Nelson
Pastore
Pell
Proxmire
Randolph
Ribicoff
Scott, Hugh
Stafford
Stevenson

NAYS—44

Allen
Baker
Bartlett
Beall
Bentsen
Brock
Brooke
Buckley
Burdick
Byrd, Harry F., Jr.
Cannon
Case
Chiles
Dole
Domenici
Eastland
Fannin
Griffin
Hansen
Hatfield
Helms
Hollings
Hruska
Javits
Johnston
McClellan
McClure
Morgan
Nunn
Packwood
Pearson
Percy
Roth
Schweiker
Scott, William L.
Sparkman
Stennis
Stevens
Stone
Talmadge
Thurmond
Tower
Weicker
Young

NOT VOTING—18

Bayh
Bellmon
Bumpers
Church
Curtis
Garn
Goldwater
Hartke
Hathaway
Humphrey
Laxalt
McGee
Moss
Muskie
Symington
Taft
Tunney
Williams

So the motion to table was rejected.

The PRESIDING OFFICER. The amendment is now back before the Senate.

Mr. MORGAN. Mr. President, I move to reconsider the vote by which the motion to table was rejected.

Mr. ALLEN. Point of order, Mr. President. That has already been reconsidered.

Mr. ROBERT C. BYRD. Mr. President—

The PRESIDING OFFICER. There will be order in the Senate.

Mr. ALLEN. It has been reconsidered once.

The PRESIDING OFFICER. The Chair will rule that the result on the motion to table has changed so that the motion to reconsider the new result is in order.

Mr. ABOUREZK. I ask for the yeas and nays, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. HANSEN. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. HANSEN. What was the first announced vote?

The PRESIDING OFFICER. The first announced vote was 43 to 37.

Mr. HANSEN. And the last announced vote was what?

The PRESIDING OFFICER. Last Friday, by a vote of 39 to 34, the amendment was laid on the table.

Mr. ALLEN. Mr. President, a point of order. I would like to raise a point of order.

The PRESIDING OFFICER. The Chair will recognize the Senator for a point of order in one moment, as soon as we finish this.

Just a moment ago, by a vote of 38 to 44, on reconsideration, the motion to lay on the table was not agreed to.

Mr. ALLEN. A point of order.

The PRESIDING OFFICER. The Senator will state his point of order.

Mr. ALLEN. Mr. President, there can only be one motion to reconsider a vote, and we had that vote already decided in favor of reconsidering this vote.

Mr. ROBERT C. BYRD. Mr. President, that is true except when the result of the first decision was reversed, as was the case in this instance. Therefore, another motion to reconsider is in order.

The PRESIDING OFFICER. The Chair has recognized the Senator from Alabama.

Mr. ALLEN. I raise the point of order that this is a second motion to reconsider the very same vote. It does not make any difference whether it is 50 to 40, or 60 to 30, or what. Obviously you will have different votes at different times. This is the same motion to reconsider a motion to lay on the table, and it is not in order.

Mr. ROBERT C. BYRD. Mr. President, may I be heard?

The PRESIDING OFFICER. Under the precedents of the Senate, where, upon reconsideration, the result is changed, another motion to reconsider is in order. So the point of order is not well taken.

Does the Senator from West Virginia seek recognition?

Mr. ROBERT C. BYRD. No, I wanted to speak on the point of order. The Chair has ruled as I thought it should rule.

Mr. HRUSKA. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HRUSKA. What is the pending motion?

The PRESIDING OFFICER. A motion to lay on the table the motion to reconsider the vote by which the motion to lay on the table the amendment of the Senator from Nebraska was rejected.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama has the floor.

Mr. ALLEN. I move to lay on the table that motion to reconsider.

Mr. HANSEN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the motion to reconsider the vote by which the motion to lay on the table the amendment of the Senator from Nebraska (Mr. Hruska) was rejected.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. Bumpers), the Senator from Idaho (Mr. Church), the Senator from Indiana (Mr. Hartke), the Senator from Minnesota (Mr. Humphrey), the Senator from Wyoming (Mr. McGee), the Senator from Utah (Mr. Moss), the Senator from Maine (Mr. Muskie), the Senator from California (Mr. Tunney), and the Senator from New Jersey (Mr. Williams) are necessarily absent.

I also announce that the Senator from Indiana (Mr. Bayh) and the Senator from Missouri (Mr. Symington) are absent because of illness.

I further announce that, if present and voting, the Senator from Indiana (Mr. Bayh) and the Senator from Minnesota (Mr. Humphrey) would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. Bellmon), the Senator from Nebraska (Mr. Curtis), the Senator from Utah (Mr. Garn), the Senator from Arizona (Mr. Goldwater), the Senator from Nevada (Mr. Laxalt), and the Senator from Ohio (Mr. Taft) are necessarily absent.

I further announce that, if present and voting, the Senator from Ohio (Mr. Taft) would vote "yea."

Mr. ALLEN. Regular order, Mr. President.

The result was announced—yeas 43, nays 40, as follows:

[Rollcall Vote No. 232 Leg.]

YEAS—43

Allen
Baker
Bartlett
Beall
Bentsen
Brock
Brooke
Buckley
Burdick
Byrd, Harry F., Jr.
Cannon
Case
Chiles
Dole
Domenici
Eastland
Fannin
Griffin
Hansen
Hatfield
Helms
Hollings
Hruska
Javits
Johnston
McClellan
McClure
Nunn
Packwood
Pearson
Percy
Roth
Schweiker
Scott, William L.
Sparkman
Stennis
Stevens
Stone
Talmadge
Thurmond
Tower
Weicker
Young

NAYS—40

Abourezk
Biden
Byrd, Robert C.
Clark
Cranston
Culver
Durkin
Eagleton
Fong
Ford
Glenn
Gravel
Hart, Gary
Hart, Philip A.
Haskell
Hathaway
Huddleston
Inouye
Jackson
Kennedy
Leahy
Long
Magnuson
Mansfield
Mathias
McGovern
McIntyre
Metcalf
Mondale
Montoya
Morgan
Nelson
Pastore
Pell
Proxmire
Randolph
Ribicoff
Scott, Hugh
Stafford
Stevenson

NOT VOTING—17

Bayh
Bellmon
Bumpers
Church
Curtis
Garn
Goldwater
Hartke
Humphrey
Laxalt
McGee
Moss
Muskie
Symington
Taft
Tunney
Williams

So the motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 1718. The yeas and nays have been ordered.

The question is debatable.

Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate now stand in recess, under the order, until 10 o'clock tomorrow morning.

Mr. ALLEN. Mr. President, I ask for the yeas and nays.

It is an obvious effort to keep from voting on this amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is not debatable.

The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. Bumpers), the Senator from Idaho (Mr. Church), the Senator from Indiana (Mr. Hartke), the Senator from Minnesota (Mr. Humphrey), the Senator from Wyoming (Mr. McGee), the Senator from Utah (Mr. Moss), the Senator from Maine (Mr. Muskie), the Senator from California (Mr. Tunney), and the Senator from New Jersey (Mr. Williams) are necessarily absent.

I also announce that the Senator from Indiana (Mr. Bayh) and the Senator from Missouri (Mr. Symington) are absent because of illness.

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. Bellmon), the Senator from Nebraska (Mr. Curtis), the Senator from Utah (Mr. GARN), the Senator from Arizona (Mr. GOLDWATER), the Senator from Nevada (Mr. LAXALT), and the Senator from Ohio (Mr. TAFT) are necessarily absent.

I further announce that, if present and voting, the Senator from Ohio (Mr. TAFT) would vote "nay."

The result was announced—yeas 54, nays 29, as follows:

[Rollcall Vote No. 233 Leg.]

YEAS—54

Abourezk
Bentsen
Biden
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Clark
Cranston
Culver
Durkin
Eagleton
Eastland
Fong
Ford
Glenn
Gravel
Hart, Gary
Hart, Philip A.
Haskell
Hatfield
Hathaway
Hollings
Huddleston
Inouye
Jackson
Kennedy
Leahy
Long
Magnuson
Mansfield
Mathias
McClellan
McGovern
McIntyre
Metcalf
Mondale
Montoya
Morgan
Nelson
Nunn
Pastore
Pell
Proxmire
Randolph
Ribicoff
Scott, Hugh
Sparkman
Stennis
Stevenson
Stone
Talmadge
Weicker

NAYS—29

Allen
Baker
Bartlett
Beall
Brock
Brooke
Buckley
Case
Dole
Domenici
Fannin
Griffin
Hansen
Helms
Hruska
Javits
Johnston
McClure
Packwood
Pearson
Percy
Roth
Schweiker
Scott,
  William L.
Stafford
Stevens
Thurmond
Tower
Young

NOT VOTING—17

Bayh
Bellmon
Bumpers
Church
Curtis
Garn
Goldwater
Hartke
Humphrey
Laxalt
McGee
Moss
Muskie
Symington
Taft
Tunney
Williams

RECESS

The motion was agreed to; and at 5:45 p.m. the Senate recessed until tomorrow, Tuesday, June 8, 1976, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate June 7, 1976:

DEPARTMENT OF THE INTERIOR

Albert C. Zapanta, of California, to be an Assistant Secretary of the Interior, vice James T. Clarke, resigned.

U.S. ARMS CONTROL AND DISARMAMENT AGENCY

James F. Chambers, Jr., of Texas, to be a member of the General Advisory Committee of the United States Arms Control and Disarmament Agency, vice Kermit Gordon, resigned.

DEPARTMENT OF JUSTICE

John J. Smith, of Delaware, to be U.S. marshal for the district of Delaware for the term of 4 years, vice Edward J. Michaels, resigned.

IN THE ARMY

The following-named officer under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 3066, in grade as follows:

To be lieutenant general

Maj. Gen. CJ Le Van, [redacted] U.S. Army.

WITHDRAWAL

Executive nomination withdrawn from the Senate June 7, 1976:

DEPARTMENT OF JUSTICE

William B. Poff, of Virginia, to be U.S. district judge for the western district of Virginia, vice Ted Dalton, retiring, which was sent to the Senate on April 1, 1976.

EXTENSIONS OF REMARKS

SPEAKER CARL ALBERT—STAR AMONG STARS OF THE 80TH CONGRESS "CLASS"

HON. JOE L. EVINS

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, June 7, 1976

Mr. EVINS of Tennessee. Mr. Speaker, we are all concerned over your announcement over the weekend that you will not seek reelection to the Congress.

Your retirement will be a great loss not only to the House and the Congress—but to Oklahoma and the Nation as well.

You have made your mark on the legislative history of our Nation.

You have served with unswerving dedication and with great ability and distinction for 30 years.

I received the news of your decision with mixed emotions—certainly your loss is the Nation's loss and yet on the other hand I can understand your wanting to return home to be with your family and close friends in Oklahoma and to find relief from the tremendous pressures and burdens of your high office.

I recall with pride that we came to Congress together in the new "class" of 90 Congressmen elected after World War II.

We began our service in 1947 in the 80th Congress—sometimes called the "Do-Nothing Congress."

However, as we know, and as a matter of fact, the 80th Congress produced many great and outstanding men, including John F. Kennedy and Richard M. Nixon, who later became Presidents of the United States.

The "class" also included John Bell Williams, later Governor of Mississippi, Caleb Boggs, later Governor of Delaware, several Senators, distinguished judges, administrators and Ambassadors.

For many, our "class" was a springboard to greatness outside the Congress—and for others—like Speaker ALBERT—it was a springboard to greatness as a leader within the Congress.

The 80th Congress produced many outstanding leaders—and the star among stars is Speaker CARL ALBERT himself.

I can recall the Speaker's rise to the top in the House—Democratic whip in 1955, majority leader in 1962 and Speaker in 1971. I also recall your distinguished service on the Agriculture Committee.

From modest circumstances our Speaker—CARL ALBERT became an outstanding scholar—a Rhodes Scholar—and achieved other high academic honors. CARL ALBERT was first elected to Congress in 1946 and served 15 terms—or 30 years.

Mr. Speaker, you have been a great leader during some of the worst constitutional crises this Nation has faced—including the resignation of both a President and a Vice President.

Twice, as I recall, during these crises you were a heartbeat away from the Presidency—you were next in line to the highest office in the land.

Speaker ALBERT's calm judgment and leadership during those difficult and unprecedented times will stand as a monument to his outstanding and distinguished record of public service.

Certainly I wish for you Mr. Speaker, the very best of good luck and success as you return home to Oklahoma—I wish you and your lovely wife Mary good health and much happiness in the years ahead. My wife, Anne, joins me in these sentiments.

JAMES SCOTT RHODES

HON. ALBERT H. QUIE

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 7, 1976

Mr. QUIE. Mr. Speaker, I am very pleased to bring to the attention of my colleagues the fact that our distinguished minority leader's son has received the highest honor Landon School bestows upon a graduating senior.

James Scott Rhodes was given the Upper School Headmaster's Award for "general excellence" in every aspect of school life.

Scott's leadership is exemplified by his being elected class president 5 years. He improved the student government greatly throughout this period.

I submit an article which appeared in the June 4 Landon News and wish to congratulate both Scott and his father for this remarkable achievement.

The article follows:

RHODES HONORED WITH HEADMASTER'S AWARD

The Upper School Headmaster's Award which is presented annually to the student who has best exemplified "general excellence" in every aspect of school life is the highest honor Landon can bestow upon a Sixth Former. James Scott Rhodes has shown the exceptional qualities which merit this award.

Throughout his career at Landon, which began in the third grade, Scott has shown fine academic abilities. Last year, he received the Harvard Club Book Award for high achievement in the Fifth Form. This year, he received a National Merit Letter of Commendation.

However, Scott's most important achievements at Landon have been made in the field of student government. For five years, he was class president, indicating the respect and admiration that his classmates have for him. During this period, he has devoted much of his time to the improvement of the Student Council, the Honor Code, and the Student Council Constitution. Scott served as the Student Council President this year and demonstrated his tremendous effectiveness and organizational ability as a student leader. Throughout this period, he has shown both a sensitivity to the needs of the students and to the requirements of the administration.

In his term of office, he created mock trials to educate the students in the function of the Honor Code; he clarified the responsibilities of the Student Council; he managed greatly to increase the funds collected in the Charity Drive; and he established a Big-Brother type of program in which Upper School students would be sponsors of Lower School classes.

Scott has shown determination and enthusiasm as manager of the football team and as a member of the track team throughout his athletic career.

Most important in the selection of Scott as recipient of this award are Scott's other characteristics—his honesty, maturity, even temperament, fairness and sensitivity. For these, the *News* proudly congratulates Scott.

DANGERS OF 200-MILE LIMIT DISCUSSED

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, June 7, 1976

Mr. SIMON. Mr. Speaker, I am concerned by the recent action taken by Congress extending the U.S. jurisdiction to 200 miles from our coast. I believe there is a potential for danger to our country in this assertion made unilaterally without consultation with other nations.

Because it could be important in the future, I am inserting into the RECORD my letter to Adm. O. W. Siler, Commandant of the U.S. Coast Guard and his reply to me.

I hope we never have to face the situation which my letter suggests, but we are better off facing it now rather than after the fact.

APRIL 19, 1976.

Admiral OWEN W. SILER,
Commandant, U.S. Coast Guard,
Washington, D.C.

DEAR ADMIRAL SILER: I was one of those who voted against the 200 miles zone and I read the story of the press conference with interest. Here is the question that concerns me, and I regret that I was not present for floor debate on this so that I could have had a chance to pose it: What happens if a Russian fishing vessel accompanied by a Russian gunboat comes 150 miles out from the U.S. border. We have signed an international treaty which gives them rights beyond 12 miles, and is a treaty in which we played an initiating role.

We order the Russian fishing vessel to stop fishing and they continue to fish. What happens then? Would the Coast Guard feel compelled to take some type of aggressive action?

I look forward to hearing from you on this.

Cordially,

PAUL SIMON,
U.S. Congressman.

U.S. COAST GUARD,
Washington, D.C., May 26, 1976.

Hon. PAUL SIMON,
House of Representatives,
Washington, D.C.

DEAR MR. SIMON: This is in response to your letter of 19 April in which you pose the question: How would the Coast Guard respond if a Soviet finishing vessel, accompanied by a Soviet gunboat, refused to comply with fishing regulations promulgated pursuant to Public Law 94–265 which extends the United States' fisheries conservation and management jurisdiction out to 200 miles from our coasts?

The presence of armed escorts in this scenario takes the matter beyond the law enforcement arena. The use of, or threat to use, warships to defy the jurisdictional claim of the United States would constitute a major international incident with serious national security implications. The Coast Guard is aware of and sensitive to the strategic importance of the United States' reaction in such a situation. Any short term policy enforcement objectives must give way to these strategio foreign policy and national security considerations. In view of this, the Coast Guard would call upon the Department of State to take appropriate action in an effort to settle the dispute without a belligerent confrontation at sea. Additionally, we would call on the Department of Defense to ensure that sufficient forces are available to meet any eventuality. This methodology would be used regardless of the flag state involved if military intervention was used as a means to resist or interfere with the fisheries conservation and management jurisdiction of the United States as set forth in Public Law 94–265.

In our view, the unlikely possibility that a foreign country will choose to contest our assertion of jurisdiction will be made even more remote by a series of discussions the State Department is commencing in June with each of the countries which fish off our coasts. These important discussions, in which the Coast Guard will participate, will be designed to forecast potential difficulties and eliminate them in advance to the greatest extent possible.

Please advise if we may be able to provide additional information concerning this matter.

Sincerely,

O. W. SILER,
Admiral, U.S. Coast Guard Commandant.

NARCOTIC TRAFFIC

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, June 7, 1976

Mr. GILMAN. Mr. Speaker, for the benefit of my colleagues, I would like to insert in today's RECORD two recent news reports which indicate the extensiveness of narcotics from Southeast Asia and from Latin America being seized by our drug enforcement agents, underscoring the need for a concerted effort by the Congress to assist our Federal authorities in stemming the flow of illicit narcotic traffic:

NARCOTIC TRAFFIC

RALEIGH, N.C.—A Federal drug case involving ten persons accused of smuggling $300 million worth of heroin into the country from Thailand went to the jury today.

It was charged that the drugs were smuggled into the country aboard military aircraft and sent through the mails.

U.S. Eastern District Court Judge Franklin Dupree took 70 minutes to deliver his charge to the jury of eight women and four men. Both the defense and prosecution ended their final arguments yesterday.

The ten, all former or present members of the military, were named in a March Federal grand jury indictment with bringing 166 kilograms, about 332 pounds, of heroin into the country in the false bottoms of luggage, through the mails and in the false bottoms of furniture during 1974 and 1975.

MIAMI.—The skipper of the Colombian square-rigged sailing ship *Gloria* reported to United States authorities yesterday he had discovered a $3 million cache of cocaine aboard his vessel and had arrested two crew members.

The *Gloria* arrived here on a voyage to help the United States celebrate the Bicentennial. It was scheduled to remain at the port of Miami through the weekend, sail to Bermuda and then to New York.

Negotiations were in progress most of the day yesterday between the vessel's skipper, Capt. Rafael Martinez, Colombian Consul General in Miami, Roberto Garcia and representatives of the U.S. State Department and U.S. Customs. U.S. officials were seeking to have customs inspectors search the vessel for possible other caches of the illegal drug.

BRIG. GEN. JOHN FITZWATER

HON. GOODLOE E. BYRON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, June 7, 1976

Mr. BYRON. Mr. Speaker, I learned with great sorrow recently of the passing of Gen. John T. Fitzwater, U.S. Air Force, retired.

General Fitzwater had a long and distinguished career in the U.S. Air Force. After his retirement in Hagerstown, Md., he became active in civic affairs and continued his lifelong role of leadership and concern.

I want to express my sympathy to General Fitzwater's family. He will be greatly missed by all those who came in contact with him over the years. I would like to share with my colleagues the recent obituary from the Hagerstown Morning Herald:

BRIG. GEN. JOHN FITZWATER

Brig. Gen. John T. Fitzwater, 62, U.S. Air Force Retired, died Friday evening at his home, 406 Meadowbrook Road.

Born in Buckhannon, W. Va., he was a son of Carl and Elva M. Helmick Fitzwater.

He was chairman of the Washington County Chapter of the American Red Cross; a member of John Wesley Methodist Church; Morris Frock Post, No. 42, American Legion; and Ralph S. Tagg Jr. Chapter of Disabled American Veterans.

His military career began in 1938 when he entered Flight Training and was commissioned a second lieutenant in the Army Air Corps. At the time of his death he was a Jet Qualified Command Pilot with more than 4,000 hours flying time.

In 1944, he joined the Seventh Bomb Group in India and China and during this period he received the Air Medal for his airmanship. Upon his return to the U.S., he was assigned as director of flying training of the Air Training Command at Barksdale AFB, La. For this service he received the Legion of Merit Medal.

In 1948, he became director of research and development for the Air Training Command. In 1949, he served as director of Human Resources Research at Barksdale AFB, La.

In the same year he organized and commanded the Human Resources Research Center of the Air Training Command at Lackland AFB, Tex., which later became the Personnel and Training Research Center of the U.S. Air Force.

In 1950, he became commander of the 37th Basic Military Training Group at Lackland AFB, Tex. In 1952 he was assigned to Headquarters Far East Air Forces as an assistant deputy for personnel and later deputy of personnel. During this period he received his second Legion of Merit Medal.

He next served as director of combat operations at Headquarters Central Air Defense Force, Richard-Gebaur AFB, Mo. In 1957, he was assigned command of the 33rd Air Division, which later became Oklahoma City Air Defense Sector.

In 1960, he assumed the position of vice commander of the 33rd Air Division—SAGE, and in 1961 was promoted to brigadier general, and then assumed command as senior U.S. advisor to the commander of the Turkish Air Force.

Upon his return in 1963, he was assigned to Headquarters Tactical Air Command as assistant deputy for plans and later as deputy Chief of Staff. In 1966, he was assigned as deputy for operations Headquarters Continental Air Command.

Upon retirement in 1968, he assisted in organizing the Spring Valley Civic Assn., and served as its first president. He organized and served as charter president of the Upper Potomac Chapter of Retired Officers Assn.

MORE COMMUNIST MURDERS OF POLICE IN MEXICO

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 7, 1976

Mr. McDONALD. Mr. Speaker, the brazenness of the armed Communist gangs currently operating in Mexico is a factor worthy of our attention, just as it is in our own country. The murder of policemen in wholesale lots had tapered off for a while, in Mexico, but these anonymous, civilian-clothed terrorists, provided with submachineguns are once more mowing down the police in Mexico City. Of course, just as in the United States, one can expect any police response, whether undercover activity or action against known terrorists, to be denounced as outrageous repression.

In the end, of course, it is the Communists who show us what "outrageous repression" really is, once they gain power in any country.

The latest incident to be reported in the Washington Star, on June 5, reads as follows:

Policemen Mowed Down During Roll Call in Mexico

Mexico City.—Communist terrorists armed with submachine guns cut down a line of policemen standing roll call at a police station here yesterday and then surged into the building. Authorities said six officers were killed and four were wounded in the assault.

The killer band, including several women, launched the raid in four automobiles. The terrorists scattered leaflets identifying themselves as members of the September 23rd Communist League—the same group that kidnaped the 16-year-old daughter of the Belgian ambassador and freed her a week ago for a $408,000 ransom.

District police chief Rafael Xiqui said the terrorist squad opened fire on 10 policemen lined up for a routine morning roll call outside the precinct station in the Mexico City district of Ciudad Azteca.

Three policemen fell dead and two others were fatally wounded, Xiqui reported. The terrorists then invaded the headquarters, killing a noncommissioned officer who had fled into a bathroom and pumping bullets into a tax collection office adjoining the station.

Official sources said the police were taken by surprise and did not shoot back.

Policeman Francisco Ruiz Rojas, one of three officers who suffered only cuts and bruises in the attack, said: "They dropped us like flies as we were lined up for the roll call."

The raiders escaped by driving into the morning rush traffic. There were reports they headed toward the Teotihuaca pyramids, an archeological site north of the capital. Roadblocks were erected on highways leading out of the city and helicopters patrolled possible escape routes. No arrests were reported.

CITIZENS BAND COMMUNICATION

HON. KENNETH L. HOLLAND

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 7, 1976

Mr. HOLLAND. Mr. Speaker, Friday I introduced legislation to increase the number of channels available for use in the citizens radio services.

In the past several years the citizens band of CB radio has grown tremendously in popularity. They are used on highways and in homes with such frequency that the airwaves are becoming crowded and are no longer able to meet the demand of all the CBers. It is for this reason that I am introducing legislation to increase the available channels from the present 23 to 46.

Numerous proposals to increase the channels have been advanced by the Federal Communications Commission, Members of Congress, and private CB organizations. Most of these proposals suggest a greater increase in channels, a situation which would cost the individual CB owner considerable money. By doubling the number of present channels as my bill would, a person who now owns a CB could continue to use it by attaching an inexpensive adapter. An increase in channels above 46 may require an entirely new radio, resulting in the needless scrapping of thousands of CB radios.

While the mention of CB radios usually brings to mind their popular use as a means to avoid speeding violations, the CBers' ability to communicate safety information is far more important. As a CBer myself, I have heard many an accident, fire, or road hazard reported on CB channels, and I can attest to its benefit.

An additional benefit of CB communication is the good will which is established between CBers. The unique language used by CBers is based on words of friendship and helpfulness and results in greater cooperation and fewer highway accidents.

The Federal Communications Commission has been considering for some time the possibility of administratively expanding the number of available channels through their Docket No. 20120, but has chosen to take no action on the much-needed expansion pending further administrative proceedings and the receipt of further written comments.

This unfortunate delay will make many CBers unable to communicate effectively because of the growing number of people using the currently available frequencies.

My bill is an effort to alleviate the problems caused by the overcrowding of existing CB channels and by the Federal Communications Commission inaction. In my judgment, the widespread use of the citizens band radio is one of the most promising things happening to this country today and an increase in the number of channels available for it could only increase its benefits. I hope you will join me in cosponsoring this legislation.

OF NASA'S EFFORTS FOR THE ELDERLY

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, June 7, 1976

Mr. TEAGUE. Mr. Speaker, NASA has undertaken in conjunction with HEW a pilot program applying lessons learned in our space program on food and nutrition to a program to better feed the rural elderly. A recent news article criticized this experimental program. Astronaut Joseph P. Kerwin, in a letter to the editor of the New York Times, provided a nontechnical and warmly human support for this modest but significant effort. Because it is another example of the contribution of space program derived technology to our daily lives, I am including Astronaut Kerwin's letter in the Record.

[From the New York Times]

Of NASA's Efforts for the Elderly

To the Editor:

John Keats wrote recently on your Op-Ed page about a modest NASA effort to provide meals for elderly people. In it, he managed to misunderstand just about every aspect of what we are doing, to put down the elderly and to rouse my ire in the process.

Some old people need help to get adequate food to eat. Congress has recognized this fact and has stimulated the sponsorship of group meals for them in various city centers. For the millions who cannot get to group meals, programs such as "Meals on Wheels" deliver hot food to the homebound. But if you live in a small town, or in the country, or need a hot meal on a weekend, "Meals on Wheels" can't help you. So the Texas Governor's Committee on Aging came to NASA and asked: Could we help develop good-tasting, easy-to-prepare, easy-to-deliver meals for people not reached by current programs?

Despite the fact that the Space Act of 1958 was a little vague on the point of NASA feeding the elderly, we said yes.

We can help because our food engineers know a little about packaging and shelf life, and we are working with agencies which know a lot about the kind of food people like to eat. To correct a few misapprehensions: The food is commercially prepared, not "space food." Some of it is freeze-dried, like campers' food, and some isn't. It's packaged in cans or pouches—nary a squeeze-tube, no problem for "palsied, arthritic fingers." It doesn't "require no preparation." but it's easy to prepare, using the recipient's own dishes and silverware. It will be up to the using agency whether to mail it or not;

if it does (a week's worth at a time), it will arrive in good conditions. That food has a two-year shelf life.

We care because we have relatives who are old, and because we'll be old ourselves soon—if we're lucky. And if packaged meals are the alternative to being put into a nursing home for the convenience of the government or our relatives, we'll make the obvious choice, even if the cuisine isn't up to Mr. Keats's continental standards.

People do need caring. When I flew, the chow was good, but the people who put it together for us were great—they were on our side, and they busted their butts to do the job for us. Now they're trying to use their talents to do the job for old people. The technology is good, but it's the caring of which I am most proud.

Joseph P. Kerwin,
NASA Astronaut.

Houston, May 2, 1976.

REACTING TO REACTORS

HON. TOM HAGEDORN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 7, 1976

Mr. HAGEDORN. Mr. Speaker, tomorrow California residents vote on a controversial referendum that would sharply affect the viability of nuclear power as an energy source by implementing all sorts of stringent regulations for the construction and operation of nuclear powerplants. While it is in the democratic fashion that the question is being decided by popular vote, the issue has been argued in very black and white terms; emotional appeals and scare tactics have played too large of a role. The editors of the Mankato (Minn.) Free Press, an award-winning southern Minnesota daily, have what I believe to be a sensible grasp on the issue, especially in comparison to the way it is being played in California. They argue, as more of us should argue, that balanced, logical presentations by both sides of the issues are necessary before any precedent-setting, long-term nuclear energy decisions are made. Faced with continuing potential energy crisis, the United States must proceed coolly in the study of power alternatives. The June 2 editorial follows:

Reacting to Reactors

The complexities and ironies of the nation's growing nuclear power plant-siting controversy are no better illustrated than in a request made by 23 public interest groups recently, groups that have asked that the government ban the construction of new nuclear power plants within 40 miles of any major American city.

The interested parties were primarily Ralph Nader-organized Public Interest Research Groups.

A "major American city" is defined as any urban area with more than 400 or more people per square mile.

Nader's partisans in this affair are concerned about the potential for nuclear catastrophe.

All right. Then the question becomes where exactly to put a nuclear power plant. In the megalopolis of the Eastern seaboard, stretching from Portland, Me., to Norfolk, Va.,—one of the places where new power sources will be most needed—there is hardly an interlude anywhere along U.S. Route 1 from urban congestion.

This means siting power plants in one of two principal areas: distantly removed rural-agricultural (and farmers won't like the prospect of radioactive pollution of their water sources and croplands, let alone of themselves) or true wilderness areas (near game preserves, or state and national parks whose own environmental protectors will doubtless argue that pristine nature should not be adversely affected).

That leaves desert land, not much of which exists outside of the Southwest.

Dwellers beyond the purviews of large metropolitan areas could very well state an ironic observation, namely that since most of the power produced by new nuclear plants is produced for the requirements of big cities, let big-city dwellers who feel they need augmented power sources badly enough live with the risk of nuclear accidents.

To go one step further, one would have to argue, along with physicist, Edward Teller, writing in a recent issue of *Newsweek,* that nuclear power has of late had an awful lot of unwarranted bad press; that we would be less fearful of it had it not been for Hiroshima and Nagasaki, the twin specters of Armageddon of the age; that reactors in current use are estimably safer than the Naders of this nation would have us believe; that nuclear power is still the best answer to protecting civilization's survival vis-a-vis worldwide energy depletions, and that the largest threat to the world is the poverty that could be stemmed by peaceful use of the atom, not peaceful use of the atom itself.

There is something to be said for all viewpoints—but what comes out should be balanced and informed; and more people should join the debate before they find themselves either living in the shadow of a reactor, or trying to cope with no energy source at all.

FOLLOWUP OF OTHER NATIONS REGARDING SWINE FLU INOCULATION PROGRAM.

HON. WILLIAM L. HUNGATE

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, June 7, 1976

Mr. HUNGATE. Mr. Speaker the following excerpt from the Washington Post is a followup of my June 3 insert into the Congressional Record regarding the reaction of other nations to the swine flu inoculation program:

West German health officials will not say publicly that they regard the swine flu danger as exaggerated, but they point out that Europeans are more used to scares over epidemics than Americans because they are more exposed to bad health news coming from southern Europe and Africa, Michael Getler reported from Bonn.

As a consequence, the officials told Getler, they are less inclined to stampede into large projects such as the crash production of a swine flu vaccine.

In Japan, health officials told John Saar that they believe that antibiotics would make any swine flu recurrence far less serious than the three waves that killed 368,000 and affected 21 million people there between 1918 and 1920.

Singapore health authorities regard the swine flu issue as "controversial," H. D. S. Greenway reported, and plan to study the efficacy and economics of an inoculation program before making any long-range plans.

And David Ottaway reported from Addis Ababa that Ethiopian health authorities are still trying to wipe out smallpox and other deadly diseases unknown in the rest of the world, and have little time to discuss swine flu.

It seems that enough of a mistake may have been made without mentioning the error made by a drug company in their preparation of the vaccine. A wrong strain of virus was used—a mistake estimated at 2 million doses and a setback in the program's initiation by about 6 weeks.

JOBS AND THE JOBLESS

HON. MARVIN L. ESCH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, June 7, 1976

Mr. ESCH. Mr. Speaker, the Washington Post has appropriately taken the occasion of a further drop in the unemployment rate to discuss some of the implications of H.R. 50, the Humphrey-Hawkins bill. As this editorial provides a good analysis of some important facets of the bill, I insert it into the Record for the consideration of all Members:

Jobs and the Jobless

The unemployment rate fell a bit last month, another welcome sign that things are moving in the right direction. But they are moving slowly. There are still 6.9 million people out of work. Nothing has happened to change basically the expectation that unemployment will remain over 6 per cent for the next couple of years. Unemployment is bad for people. What's the remedy?

A good many Democrats in Congress argue that the remedy is the Humphrey-Hawkins bill, which is intended to pull the adult rate down to 3 per cent within four years. If "adult" means everybody over 16, as it does in the version reported in the House, that means a lower rate than the country has ever had except in wartime. All of the Democratic presidential candidates have blessed the bill, although with varying degrees of enthusiasm. It is very likely to become a campaign issue. As we have observed before, the bill is a mixture of noble intentions and unworkable means to pursue them. In recent weeks we have published responses from both of the bill's authors, Sen. Hubert H. Humphrey (D-Minn.) and Rep. Augustus F. Hawkins (D-Calif.). Today we print on the opposite page an analysis by Charles L. Schultze, taken from his testimony before a Senate subcommittee. This testimony has had an unusual impact on the debate over the month since it was delivered, and it offers readers an opportunity to see for themselves what is involved here.

Dr. Schultze is altogether persuasive when he argues that this attempt to make the federal government the employer of last resort would prove, in practice, intolerably inflationary. He also warns that the country will not sustain employment policies that push the inflation rate sharply upward. After the past two years' experience, can anyone doubt that he is right? Ask yourself what you would have thought if someone had told you, in 1973, that the unemployment rate was going to rise to 8.9 per cent—and, as a result, the country would turn slightly to the right in its politics. It happened, of course, because of the fierce inflation rate that had preceded the recession and helped to cause it.

The central danger in this bill is that it offers the hope—a false hope, sadly—that one walloping good-hearted bill can eliminate permanently the plague of unemployment from American society. Nothing in this bill is more disquieting that the nature of the defense that the bill's architects offer. What if it turns out to cost a great deal more than they estimate? They reply that Congress could simply refuse to appropriate further funds. That escape does not sit square with the unqualified promise that the bill itself makes. In the House version, it declares the right of all Americans over 16 to opportunities for useful paid employment, and states that the President shall provide those opportunities if the private economy does not.

This country had a good deal of unhappy experience in the 1960s under the Johnson administration with ambitious social legislation that never kept its promises. There was the promise that poverty would be eliminated in 10 years. The 10 years are gone, but poverty is not. The Model Cities program was going to rebuild the American slums, but here in Washington the corridors of riot destruction are now growing their ninth annual crop of weeds. One of the great lessons of the 1960s was that simply legislating a goal does not guarantee success. Another great lesson was that if the country legislates goals and then abandons them, the effect is deeply harmful in the cynicism and distrust that it generates among those people who need help most.

The test of social legislation is not merely whether its intentions are pure and good. The test is also whether it seems likely to work effectively in practice. Dr. Schultze and others have also made a highly interesting proposal for agreements between labor and government to hold down wage increases but hold up workers' purchasing power when labor markets get tight. There are many other kinds of legislation that need to be explored—especially those focused where the unemployment is greatest, among young people and among blacks. Perhaps the time has come to begin experimenting with subsidized wages for inexperienced workers. It is important not to let the unemployment debate become polarized between the people who want an instant solution and the people who are prepared to tolerate a 6 per cent rate indefinitely. Congress cannot abolish unemployment by passing this one bill. But it has many more realistic alternatives to speed up the present painfully slow descent of the unemployment rate.

SURFACE MINING LEGISLATION

HON. PHILIP E. RUPPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, June 7, 1976

Mr. RUPPE. Mr. Speaker, I join today with my colleague from Montana, JOHN MELCHER, in cosponsoring a new surface coal mining regulation and reclamation bill. This legislation contains several significant amendments to the two surface mining bills, H.R. 25 and H.R. 9725, that already have been reported from the House Interior Committee during the 94th Congress. I am hopeful that this new bill can be quickly brought before the full Interior Committee for expeditious consideration.

I am pleased to note that Secretary of the Interior Kleppe announced the promulgation of surface mining regulations for Federal coal lands on May 11, 1976. I firmly believe, however, that a strong regulatory framework applicable to all lands is needed to allow the orderly development and expansion of our most abundant domestic energy resource while insuring that the abuses of the past do not occur in the future. Only Federal legislation that establishes uniform standards for Federal, State, Indian, and private lands can provide the necessary minimum protection of the land and water in the coal-producing regions of our Nation.

I urge my colleagues to once again direct their attention to this important legislation.

PUBLIC LAND MANAGEMENT ACT NEEDED NOW

HON. JOHN MELCHER

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 7, 1976

Mr. MELCHER. Mr. Speaker, for several years the House Interior Committee has been developing a bill to implement the Public Land Law Review Commission's report recommendations plus other needed and vital sections dealing with federally owned land. On May 13 the Interior Committee reported to the House H.R. 13777, a comprehensive reform bill dealing primarily with the public lands in the 11 Western States and Alaska.

It is the kind of bill that affects, directly or indirectly, all of our citizens and a number of industries throughout the country. It is not perfect and in no way does it satisfy completely all of the principal users of our public lands. Yet, all agree that a bill is needed now—including utility companies who must seek rights-of-way across public lands, oil and gas exploration groups who explore on the public lands, livestock producers who graze the public lands, people who find recreation in hunting, fishing, camping or hiking on public lands, the American Mining Congress which represents miners who explore for minerals on public lands, and environmental groups anxious for preservation and protection of public lands as well as being interested in a review of the Bureau of Land Management lands for wilderness potential.

All of these diverse groups agree that we need a bill but many of them will seek one or more amendments when the bill reaches the House. I understand the reasoning of the various groups and in some instances I, too, would like some of the sections in the bill improved.

Unfortunately, the word has gone forth from a few Washington representatives of environmental groups casting grave doubts on some aspects of the bill. For instance, a May 14 Sierra Club bulletin mailed to their members throughout the country is entirely misleading. It calls the bill "disastrous." And why? The reason they cite is that the bill would not preserve the "landmark conservation authority to establish and expand National Wildlife Refuge System units."

That is not true. The bill does not prevent establishing or expanding National Wildlife Refuge System units. These units usually have been created or expanded by executive withdrawals. The bill would not prevent continuation of that process. The bill does require that except in cases of emergency all executive withdrawals of over 5,000 acres become effective unless Congress by a resolution passed by either House objects. That is congressional overight responsibility. There has been an average of five withdrawals per year of that size for various reasons for various Federal agencies during the past several years. Congressional oversight is necessary.

When I asked Mr. Michael McCloskey of San Francisco, who is executive director of the Sierra Club, if he believed such a procedure was an improper exercise of congressional oversight, he responded that perhaps it was not if the procedure called for a joint resolution by both Houses of the Congress. That is a valid point to be determined by the House and Senate themselves. But surely it is not an adequate objection that allows one to come to the conclusion that the whole bill is a "disaster." Other points in the bill, including grazing fees, as the Sierra Club bulletin points out, should clearly be debated by the whole House with a final agreement in conference of the House and Senate conferees.

All in all the bill has many positive points including the following: authorization requiring range improvements for livestock and wildlife habitat on Federal lands, access to public lands for recreation, creation of special care for the California desert conservation area so long fought for by our late colleague Jerry Pettis and whose battle has now been faithfully carried on by SHIRLEY PETTIS, modification of rights-of-way across public lands, law enforcement procedures and wilderness review of Bureau of Land Management lands.

Yes, it is a comprehensive bill and speaking for myself and others who have worked for years on developing the bill, each of us could recommend areas where we would like to see the bill strengthened. That goes for the major users of public lands including people who use the land for various recreational purposes, livestock people, hunters and fishermen, utility companies seeking rights-of-way, oil and gas exploration groups, miners exploring for minerals, and environmental groups seeking to preserve and protect our public lands. But all of these groups agree we need the bill now.

While amendments will be offered, the bill provides a good framework for the House to work its will to develop a modern concept and direction for our Federal agencies in managing our public lands with also a needed modern concept of closer congressional oversight. The Federal lands are held in public trust for the benefit of all the people and that grave responsibility rests with Congress. It is time now for Congress to act on their behalf and closely consider and enact the best features of H.R. 13777.

PERSONAL EXPLANATION

HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 7, 1976

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, because of circumstances beyond my control, I was not present in the Chamber for final passage of H.R.

12169 (Rollcall No. 320) and H.R. 9560 (Rollcall No. 330). Had I been present, I would have voted "ayes" on each occasion.

WILDLIFE IN OUR SOUTHERN PINE FORESTS

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 7, 1976

Mr. BROWN of California. Mr. Speaker, there are many documents and statements being publicly distributed on the subject of clearcut harvesting and its effects on wildlife in the eastern hardwoods. I have submitted some such articles for the RECORD previously. This emphasis on the eastern hardwood wildlife is understandable because this area contains many varieties of wildlife which are dependent on the complex forest covering for a supportive habitat. But the problems of wildlife due to clearcutting in our southern pine forests must not be overlooked. Many southern biologists and fish and game experts have written to me about their growing concern as they witness squirrel, turkey, and quail losses due to the extremely large clearcuts taking place.

I submit the following statement by Charles D. Kelley, director of Alabama's Department of Conservation and Natural Resources, Division of Game and Fish, for the attention of my colleagues. It is an excellent summary of the southern problems with regard to clearcutting in our national forests.

STATEMENT PRESENTED BY CHARLES D. KELLEY

I appreciate the opportunity of appearing here today and consider it an extreme pleasure to continue the discussion on what appears to be one of the greatest timber-wildlife problems which we have faced in many years. Timber management and its relationship to wildlife has been a topic for many heated discussions and it is time that we think seriously of reaching a common ground whereby all interests can get reasonable consideration.

I am not here to excuse the actions which have been taken, nor am I here to needlessly criticize individuals or companies unless such criticism has a bearing on reaching a common ground.

In preparing information for this presentation, I contacted several of the game biologists serving here in Alabama. I offer excerpts from their reports to give you some idea of the professional game managers' feelings about the clear-cut timber operations and to show that the practice and related problem is rather widespread in Alabama.

A report from southeast Alabama stated: "Timber was cut to the very edge of the stream. Many tops had been deliberately pushed into the water, others piled on the banks. An attempt was made to burn these piles but with little success. Erosion from the cleared areas is evident. Water has been retarded and access to the stream bank and to the stream itself is most difficult. The deeper areas of the creek are fast filling with silt. Flooding has increased due to the retarded runoff."

From southwest Alabama the following was received.

"Immediate damage to all species of wildlife. Squirrel and turkey habitat lost permanently in areas planted to pines.

After one to two years, deer, quail and rabbit habitat returns, then is again lost as pines mature and shade out other species of desirable plants. Long range damage affects all species of wildlife. Loss of mast restricts carrying capacity of most wildlife species. Erosion following clear-cutting is detrimental to streams. Clear-cutting in District VII usually exceeds 400 acres, some up to 3,000 acres. Clear-cutting of large areas is resulting in strained relations between sportsmen, communities and the companies carrying out clear-cutting practices."

From north central Alabama came the following: "Clear definition needed on 'clear-cutting'. Believe the extent of land cleared and the replanting of pines rather than the practice itself is the 'bone of contention'. Clear-cutting and replanting to pine detrimental to most species of game, some immediately, others over a longer period of time. Clear-cutting by different companies varies."

A west Alabama game biologist stated that "large areas in this area clear-cut, followed by spraying to kill hardwood reproduction, then replanted to pines on a thirty-five year rotation. Clear-cut areas range in size from forty to several hundred acres—operations severely affecting small game and turkey."

Comments of another biologist were as follows: "I am convinced that clear-cutting most serious threat to wildlife that we face today. Wildlife losses greater than benefits received. Some clear-cutting in all three state game management areas. On one game management area, over 20,000 acres clear-cut and replanted to pines in last twenty years. Clear-cut area usually a solid block compartment of about 1,000 acres each. Another company has been clear-cutting approximately 20,000 acres scheduled for completion in the next three to four years. On a clear-cut area on the Talladega National Forest (Hollins Management Area) several turkey were found dead following the seeding of the area with pine seed treated with a highly toxic chlorinated hydrocarbon."

From northwest Alabama came the report that "most clear-cutting in this area is confined to large timber companies and the U.S. Forest Service. There have been instances where a refuge manager has been denied the right to clear one acre for wildlife plantings because of the possibility of soil erosion, but just a short distance away the same people who refused to agree to the clearing of a one-acre food patch clear-cut an area of approximately 200 acres."

The above reports are not pleasing but do represent what has happened over large areas of Alabama. As evidenced by the reports, there has been large scale clear-cutting and little real consideration given to wildlife.

An exception to the majority practices is the consideration given by some companies and individuals to much smaller clear cuts and extensive use of controlled burn to benefit both timber production and wildlife. Recognition is also given to the design of cuts and the leaving of hardwoods in key locations. At least one major company has made major changes in recent years to better recognize wildlife needs, and indications are that others are planning to follow suit.

As Director of Alabama's Game and Fish Agency, I am charged by law to protect and enhance the fish and wildlife resources and in doing so, I am attempting to consider all reasonable factors involved with this objective. To arbitrarily state that clear-cutting is all bad or that no cutting is all good would not, in my opinion, be proper. I have lived in Alabama all my life and have witnessed a great deal of real progress and a sizeable portion of false progress, and to the best of my ability, I have attempted to separate the two and prevent objections to realistic long range progress for our state.

Fish and wildlife resources are the products of our waters and our land. How we manage our land and water determines the amount of fish and wildlife that is present in any area.

With the demand for more outdoor recreational opportunities occuring at the same time that large areas of fish and wildlife habitat are being destroyed or degraded as a result of the ever increasing human population, the need for a multiple use concept for land and water is becoming more pressing with each passing year.

We have heard much about a multiple use concept for our forests and streams which includes hunting, fishing and other outdoor recreational activities. Unfortunately, the multiple use concept up until this time appears to have been more for propaganda purposes rather than for action.

An excellent example is the operation carried on by the U.S. Forest Service. This agency adopted a "multiple use concept" on forest lands on June 12, 1960. Multiple use practices on national forest lands as originally conceived included timber, wildlife, water, range and recreation. Today, twelve years after the program was initiated, only one wildlife technician is employed, by the Forest Service in Alabama as compared to thirty graduate foresters. Of the 1972 budget for Alabama of nearly two million dollars, only $18,000.00 is allotted for fish and wildlife purposes. Over four and one-half times as much money will be spent by this federal agency in Alabama for forestry practices than will be spent on all other multiple use practices combined.

Despite the very meager effort by the U.S. Forest Service to develop forest service land on a practical multiple use basis, recreational visits to these lands by the general public have continued to increase each year. This fact alone underscores the urgent need for immediate implementation of the multiple use concept.

Frankly, we now enjoy a very favorable working relationship with the U.S. Forestry personnel in Alabama and feel that they are sincerely concerned about the failure to implement a sound multiple use program. Unfortunately, the policies are established well above the level of the Alabama office and there must be some soul searching throughout the U.S. Forest Service if we are to come to a state of cooperative effort rather than one of continued arguments.

During the past several decades, many forestry practices have been initiated which benefit both our forests and our wildlife. Some of these beneficial practices include selective cutting which results in a forest of both large and small trees that assures continuing income to the landowner and good habitat for wildlife. Control of wildfires and prescribed burning are also beneficial to wildlife and the forest.

Unfortunately, there have been other recent practices that some foresters claim to be exceedingly profitable, but are dertrimental to our fish, our wildlife, our land and our water. These detrimental practices include clearcutting of large blocks of hardwoods or mixed pine-hardwood forests and the replanting of these areas to pure stands of pines. Clear-cutting of large blocks of hardwood, as well as pine-hardwood forests, are being carried out by governmental agencies, large timber companies and in some instances by private individuals.

Much misinformation and distortion have been used in the past to justify clear-cutting. A classic example of false propaganda in this field is a news article that appeared recently in a number of newspapers in Alabama and nearby states. The deadlines read "Wildlife Flying High on Pulp Firm Lands". I quote the news report in part:

"This will make environmentalists and ecologists happy; Alabama's pulp and paper companies, which own thousands of acres of Alabama woodlands, are doing great things for wildlife in those forests. More wild turkey, deer and quail are in these woods today than ever before.

"The fourteen news media people on a Southern Forest Institute tour of Georgia and Alabama forests this week saw some of the things that big companies are doing to improve the environment for wildlife. At the Pickens County forest holding of. . . . "

I end the quote here as enough has been said.

Now let us examine what really did occur.

The group visited a game preserve in west Alabama that has been developed as a hunting area for company officials, special guests, employees and prospective customers. The company has spent large amounts of money on this preserve to increase deer, turkey, quail, squirrel, dove, waterfowl and other wildlife. The company has constructed a fine hunting lodge and there is no doubt that there is more wildlife on this game preserve than in years past. This explanation was not included in the news release. Neither did the news release reveal the fact that as a result of certain forestry practices by the same company, there is less game on other areas of company-owned lands now than was present a few years ago.

The practice of clear-cutting has had wide publicity during the past several years. Congressional subcommittee hearings have been held on the subject, both in Washington and in other cities throughout the nation. On April 20, 1971, Senator Gale McGee, Democrat from Wyoming, introduced a bill, S. 1592, to ban clear-cutting of timber on federal lands for a period of two years. Few meetings that are attended by concerned conservationists adjourn without the subject of clear-cutting having been discussed.

There does not seem to be a "clear-cut" definition for "clear-cutting". In Alabama some companies cut all brush and trees, burn the debris and thoroughly disc the area. Others cut all brush and trees, pile the debris in piles or push it into the nearby streams, but do not disc, while still others cut all merchantable poles and logs, spray the spray the area with herbicides to kill hardwood, but do not otherwise disturb the soil. All of these operations are classed as clear-cutting by the landowners.

In this state, clear-cutting operations are almost without exception the first step for converting the land into even age pine production. Both clearcutting and pine moniculture go hand in hand, and they will be discussed as far as practical as a single activity.

Forest lands provide the necessities for survival for many species of wildlife and the removal of all trees from large blocks of land deprives wildlife of a suitable environment. Wildlife, in order to survive in clearcut areas, is faced with two alternatives. It must adapt to the quick and drastic change in its environment or move to a suitable environment; otherwise it dies.

Clear-cut areas planted to pines provide habitat for rabbit and quail for a period of two to three years, and deer habitat for a period of up to five years. Although deer habitat may be present in some degree for a period longer than five years without control burning, vegetation usually becomes so dense on the area after this period that deer cannot be successfully harvested by the hunter. For all practical purposes, pure pine plantings in many areas after five to seven years become a relative wildlife desert. If the planting is not too wide, wildlife will sometimes pass through, but without suitable food and cover, it will not tarry. Turkey, squirrel and raccoon habitat is destroyed immediately upon clear-cutting, and if the area is planted to pure pine, it will not be productive for these species. Clear-cut areas planted to pine that are long and narrow do not appear to pose as serious a threat to wildlife as do large, wide, solid compartments, even though the total acreage in the long and narrow strips may be the same size or even greater. The present trend for clear-cutting in many areas of Alabama appears to be in large, solid blocks from several hundred acres to 3,000 acres.

On observing clear-cut areas throughout the state, a number of severe environmental problems have noted in additional to those already mentioned.

A number of clear-cuts have been made on steep slopes which have created a severe erosion problem. On at least some of these steep area, furrows for planting seedlings have been plowed straight up and down the hill and no attempt was made to follow the contour. The results have been the creation of large gullies and a much greater erosion problem than was created by the clear-cutting alone. This eroded soil enters nearby streams and fills the stream channel for many miles downstream. Not only is fish habitat destroyed in the immediate area, but fish habitat is degraded on the entire watershed.

On a large clear-cut area on a stretch of one game management area located on a major timber company's lands, bulldozers were used to push tops, stumps, dirt and other debris into a creek until the creek was filled. That which could not be pushed into the creek was piled on the creek bank. Needless to say, fishing opportunities on this creek have been greatly depreciated for many years in the future.

An area in Wilcox County which contained some of the best turkey hunting in the state was leased to a large company for sixty years. Over half of this 1,500 acres has now been clear-cut and planted to pines. Although an occasional turkey may be found in the area that remained uncut, quality turkey hunting on this land no longer exists.

I have stated the case as we see it in our Game and Fish Agency and have referred to situations which have now made history. During recent months, I have had meetings with representatives of the forest industry and have worked with these people toward formulating guidelines which will not necessarily be pleasing to the wildlife interests, nor will they be pleasing to large numbers of timber producers in Alabama. I have found that, among the timber producers in our state, there are many in high positions who are concerned wildlifers and faced with the dilemma of trying to satisfy timber production demands while maintaining reasonable wildlife populations. Basically, the timber interest is looking for a common meeting ground for two reasons: (1) the desire of many of these people to maintain lands where wildlife can be given reasonable treatment and (2) mounting pressure from an aroused public to ban clear-cutting per se.

As stated earlier, I am not advocating, nor do I intend to advocate, the banning of clear-cutting on private lands in Alabama, but I will continue to devote my efforts and the efforts of my staff to assure that in producing the timber products in Alabama that wildlife is not eliminated or greatly decreased in the process. Frankly, I am convinced that although we have realized tremendous success with the wild turkey in Alabama, a continuation of this success is not expected and in fact, a rapid decrease in population is expected if the program to eliminate large areas of hardwood with a conversion to pine is continued. The same holds true for the fate of the squirrel and other lesser hunted species such as raccoon, oppossum, etc.

The dark side has been stated and now for something more pleasant.

I was extremely pleased to receive a policy statement adopted by the Board of Directors of the Alabama Forest Products Association at a January meeting. The policy is as follows:

A. Areas to be harvested by the clearcutting system should be kept as small and as narrow as practical. Large, wide clearcuts should be avoided.

B. Clearcutting should not be employed on an area adjacent to lands recently harvested by this method. The lapse of time should be sufficient for the newly established forest growth to present a pleasing appearance and afford game cover.

C. Hardwood types should be left along stream beds and drains and managed as hardwoods. Clumps of hardwood trees, including den trees and good food-producing trees, should be left in other areas.

D. The forested area along stream beds should not be clearcut but managed as uneven aged forest.

E. Forested strips should be left along highways for their aesthetic value until such time as harvested areas behind them are tall enough for their removal.

F. Control burning should be considered at periodic intervals for hazard reduction and to encourage the growth of food plants for wildlife.

G. Streams should be kept clear of tops.

Although this is merely a recommendation to Association members and does not go as far as some would expect, I do feel that it is a recognition of many members' desire to retain wildlife and a further recognition of the public pressure which has been brought to bear in recent years. I feel that it is a giant step toward a common meeting ground and it is my desire and intent to continue to meet with the forest products industries and to attempt to gain compliance with the policy and even improve the policy where needed in future years.

In closing, I must state that I feel that we have fussed long enough and the time has now arrived whereby we should get together to see what can be done toward the production of timber and the retention of quality wildlife in Alabama.

TAMING THE BUREAUCRACY

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 7, 1976

Mr. HAMILTON. Mr. Speaker, if you walk down main street in any community in southern Indiana you will not find many people who will disagree with the view that government—government at all levels—has become inefficient, intrusive, and just too big and too expensive.

Because of its size and complexity the Federal Government is a particular target for such criticism. A few examples illustrate only too well the nature of the problem. For example, last year through 11 Cabinet departments, 44 agencies, and 1,200 advisory groups, a bloated bureaucracy issued 10,245 new regulations, adding considerably to the 60,000 pages of existing regulations. Furthermore, today there are 228 Federal health programs, 156 income security programs, and 83 housing programs, many overlapping one another.

Government did not reach its present level of mediocrity and incompetence in a day, and it will not be undone in a day, but it is clearly time to begin to make government work better. It is no wonder that most people perceive government as too large and unresponsive, and feel that they no longer get good value for their tax dollar.

For some time I have been casting about for the best means to attack the challenge of how to make government work well. It will help, of course, to reduce the size of the bureaucracy, consolidate some programs, and abolish others. Tough congressional oversight over programs once legislated and Federal agencies once established is essential. But the question remains: How do we achieve oversight and scrutiny of the Federal bureaucracy? How do we look at the problem comprehensively and systematically? How do we cage the elephant?

Mechanisms are needed to force the Congress and the President to review the usefulness of existing programs and agencies, and to reorganize or abolish those that are not working well. The present oversight procedure in the Congress of authorization and appropriations has simply failed to provide periodic and comprehensive scrutiny of existing programs and agencies.

The proposal which I believe best meets the requirement of forced review by the Congress is the "sunset" concept. Under this approach each agency or program would face an automatic termination date—or sunset—according to a fixed schedule, say once every 4 years, unless the Congress specifically approved its continued operation. As the termination date for a particular agency approached, a mandatory congressional review of the agency's performance in light of the purposes for which it was established would be triggered. If Congress did not renew the program, it would go out of existence.

The advantage of the sunset proposal is that it establishes a framework for a systematic, periodic scrutiny of all Federal agencies, and makes the supporters of any particular agency justify continuing public investment in it. Through its use, overlapping programs could be untangled, agencies rejuvenated, and programs and agencies that no longer serve a public purpose could be eliminated. The objective of this proposal is to do away with the natural bureaucratic inertia that permits programs and agencies to continue simply because they are there.

There are other promising proposals directed toward checking the tremendous growth of discretionary power within the Federal bureaucracy. One of these would give Congress the ability to oversee administrative rulemaking by creating procedures for congressional review of regulations issued by Federal departments and agencies. Under this proposal, proposed regulations could be disapproved by concurrent resolution of the Congress, and existing or proposed regulations could be directed for reconsideration by a resolution of either House of Congress. Such review and monitoring by Congress would place limits upon the discretionary authority of agencies, hopefully without involving Congress too deeply in the technicality of rulemaking. The aim of the legislation would be to eliminate excessive discretion which has resulted in unnecessary and burdensome bureaucratic regulation.

Another proposal would impose a rigid timetable on the President and the Congress to consider an act on proposals to reform Federal regulatory activities. Over a 4-year period the President would send each year to the Congress major regulatory reform proposals covering specific sectors of industry—for example, transportation, or finance, or construction. These proposals would be reviewed by the Congress. If the Congress did not act by November of each year the President's proposal would become the pending business in each House of Congress for immediate consideration. A variation of this proposal would require that the plan go into effect the following year unless the Congress disapprove the plan.

The mechanisms that these proposals would create are no panacea to the problems created by Government that has grown too large, too powerful, too costly, too remote, and yet too deeply involved in the daily lives of the American people. Despite the election year rhetoric, no realist expects a wholesale dismantling of the Federal bureaucracy. But if the Congress has the will to conduct meaningful oversight, and there are encouraging indications that it does, then these proposals could result in more justifiable programs and more accountability in Government.

And that, in turn, is the path to a restoration of confidence in Government.

FEWER PUPILS/SURPLUS SCHOOLS

HON. H. JOHN HEINZ III

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 7, 1976

Mr. HEINZ. Mr. Speaker, on March 18, I introduced the Surplus School Conservation Act of 1976 (H.R. 12627), and the Surplus School Conversion Act of 1976 (H.R. 12628). These bills would provide assistance to communities that are experiencing declining enrollment in elementary and secondary schools, and the attendant problem of surplus buildings which are valuable community resources. Unfortunately, Mr. Speaker, most communities lack the funds to recycle these buildings for alternate, productive purposes. I am pleased to report that these bills have received enthusiastic support from school and municipal officials throughout the country.

Recently, Dr. Cyril G. Sargent, professor emeritus of education, City College, City University of New York, and consultant to Educational Facilities Laboratories, New York, and Dr. Harold B. Gores, president of EFL, discussed declining enrollments at the annual convention of the National Association of Secondary School Principals. These men, and their colleagues at EFL, have studied the problem of "Fewer Pupils/Surplus Schools" in considerable depth, and they provided valuable assistance in developing these bills. I urge all Members of Congress to read both of their addresses, and consider this serious problem which has struck many of our Nation's communities:

DECLINING ENROLLMENTS—THE NUMBERS

(By Dr. Cyril G. Sargent)

I am going to ask you this afternoon to do something that may seem unpleasant, that may make you uncomfortable, that you may wish to block out of your range of concerns. I am going to ask you to think small—to think decline—to think shrinkage.

You have been brought up on growth; growth has permeated the whole scheme of things; and your administrative style has been nurtured under growth conditions. I am suggesting that for many of you, on the contrary, your administrative success and leadership will increasingly be measured by your ability to cope with decline.

Think for a moment of the pervasiveness of the idea of growth in the fifties and sixties: growth in personal income, growth in G.N.P., growth in consumer living standards, growth in the stock market. No longer was the goal two cars in every garage but two cars, one boat, one camper, and/or one snowmobile. We were on our way to the moon and our President could proudly proclaim "We're No. 1"!

To mention the possibility that there might be a turnaround just ahead was about as hazardous an observation as the idea of planning was in the late 1940's. Planning was "creeping socialism"; decline in the euphoria of the 60's was equally subversive.

So who would bother to pay much attention to a drop in the birth-rate in 1957—a mere flurry in the almost uninterrupted increase since 1940. And school people in particular were so fully engaged in finding space for burgeoning enrollments that they had no time to catch the earliest warning signs. But then the authorities in this field of demography did not alert them to the new conditions either. Indeed a small drop in the birthrate would not seem to make much difference because the post-war children would themselves begin to have families soon so that the total number of births would continue to rise anyway.

It was not until George Grier of the Washington Center for Metropolitan Studies analyzed the preliminary runs of the 1970 census and published his monograph *The Baby Bust* in 1971 that demographers began suddenly to realize that a dramatic and indeed unprecedented turn-around was occurring. Suddenly we heard about "Zero Population"—a no-growth economy—and the economic and social consequences of decline. It was with some sense of relief that "The Wall Street Journal" on January 13 of last year could ask, "Is Gerber Products Co., a maker of baby foods, finally crawling out of the doldrums? . . . The key consideration in the baby product industry is the birth rate, which has increased in the past four months from a year earlier. 'Recent Government statistics of birth trends are most encouraging,' says Ronald S. Strauss, analyst at Mesirov & Co. of Chicago."

In contrast, a Trustees' Report on Social Security foresaw a decline in the next few years to an average of 1.7 children for each woman of child-bearing age from the the current level of 1.9, and then a gradual climb to a rate of 2.1 children. "Last year, the assumption was for an increase to 2.1 children without any further decline. The impact of this change is to further increase the ratio of retirees to workers in future years; it will climb from 30 for every 100 workers to about 50 for each 100 workers by the year 2030."

So we are down to the lowest completed family size in our history, with total births hovering around 2,000,000 a year. Will they dip below this figure? Probably not, because the number of women of child-bearing age—the "baby burst" generation—will continue to grow from the present 47.4 million to almost 55 million in 1985. And this would seem reasonably certain to result in a new growth in the total number of births. But while the number of women of child bearing age is certain to increase, their values and attitudes are far from set. However, one recent (1973) survey of the *Birth Expectations of American Wives* by the Bureau of the Census shows that young wives 18–24 anticipate a family size of 2.3, which certainly contrasts markedly with an average anticipation of 2.9 in 1967 and 3.1 in 1965 surveys. (Replacement level of births to wives is 2.2). Of these younger wives, 70% expect no more than two children, and the report concludes that "the low levels of expected future fertility among America's young wives suggests that the current low birth rates will remain low for the immediate future at least."

Acting on these and other assumptions, the Census Bureau about a year ago introduced three new population projections (known as Series I, II, and III). Series I assumes a completed family size of 2.7; Series II of 2.1; and Series III, of 1.7. Using these three Series, the Bureau arrives at a population total for the United States in the year 2,025 of either 382.0 or 299.7 or 250.4 million people.

For school age children these three series of course project different population futures. All three remain the same through 1986 (for these children are already born) and for the age group 12–17, they show a decrease in total size from 25,231,000 to 20,582,000, a drop of more than 4½ million, slightly more than 18%. And if today's birth rate and completed family size holds up (or rather down) by the year 2,000, there would still be only about 100,000 more than this 1986 figure.

On the other hand, should the current birth rate turn around abruptly—and return to the 2.7 figure of 1966—a highly unlikely prospect—this number could become 31,016,000. But even if we climbed back to the zero growth of 2.1 children per family, by the year 2,000 we should have just about made it back to where we are today.

So the picture is one of decline in the numbers of young people ages 12–17 through at least 1986. Thereafter the size of the turnaround depends on the number of children yet unborn.

But that is not the whole story, of course. Large as the problem is, we probably could manage it if each of us had an equal responsibility for it. But of course we won't. We are a country of movers, or more accurately, of movers and stayers, with those who move being most apt to move again, and most of the movement being made by young people. So we have the phenomenon of overall decline made sharper by out-migration in some areas, damped for others, and even reversed for some, with problems of growth still pressing on the land and its physical development. The flight from the inner cities has compounded the rate of decline for those places, even the older "inner ring" suburbs are experiencing decline. Yet farther out they still can't build sewers and roads fast enough.

But for most areas, given the size of the fall-off decline and coping with shrinkage will be on the agenda for the 1970's just as much as growth and how to accommodate to it was high on the priority list from the 40's to the mid-60's.

How we handle this phenomenon in terms of equity, how well we succeed in avoiding actions which will inflame our already critical constituencies will determine in large measure how well we preserve the quality of our entire educational effort.

Declining Enrollment and Options for Unused Space

(By Harold B. Gores)

Dr. Sargent has given us the "numbers" which will govern our response as we administer secondary education in the foreseeable future. To contemplate shrinkage in any institution as publicly revered as the American High School seems somehow un-American. Yet, in the absence of a reverse phenomenon—retroactive pregnancy—Dr. Sargent's numbers will call the tune. And it won't be easy. In the words of Kenneth Boulding, eminent economist, "All our institutions and ways of thinking survived because they were well adapted to an age of rapid growth. The prospects for the next 50 or 100 years, barring a major catastrophe such as nuclear war, suggests that we are now entering the age of slow-down." *Small Is Beautiful*

Sometime ago we asked the National Association of Home Builders where the new homes of the next decade would be built. Their answer: not in the big cities nor the suburbs nor in the rural districts back where the creeks fork, but in the small, freestanding cities. The point here is only to suggest that you watch not only the demography but the mobility of population.

Observe that almost all metropolitan areas are out-migrant. New York City is a classic case and well worth watching inasmuch as it frequently offers previews of coming attractions—good and bad. New York City's public school enrollment declined 20,000 again this year while the city itself lost 2,000 inhabitants per week. Similarly, the tide is going out in our other central cities, the difference being that the onset of decline may be somewhat delayed. In Cleveland, for example, declining enrollment is at the ninth grade. And like Cleveland, many of you have time to plan for the inevitable. Moreover, secondary schools have the advantage of observing what the elementary schools have done to adjust to the outgoing tide.

So what do you do? Here are some suggestions:

(1) Try to determine whether your school is in the path of growth, steady-state, or shrinkage. This will give you an important clue as to eventual direction. Observe whether the migrants—in or out—are representative of the general population: interregional migrants tend to be lower in ages and more highly educated, and they tend to have more young children. Or are they retirees without school-age children and bent only on living in an adult community?

(2) If, as, and when unused space opens up in your school, seize the opportunity to get the space needed to enrich the on-going program. A New York City principal is looking forward to surplus space to enable his school to abandon its revolving schedule of 12, 13, or 14 periods per day. Others, less overcrowded, see the surplus space as places for special activities that should have been provided in the first place for a complete school.

(3) If there still is space, look to the community. What are the needs of the people, not just the children—

(a) Are there socially useful activities which might well be housed in the school and whose presence would enrich the school's program?

(b) Is there space for community health, preschool and child care centers, or room for senior citizen centers? In short, can your school become a place for people, not just for pupils?

(c) Can you create a skill center, a kind of library-laboratory in which students can secure the skills that may enable their quick entry into the job market? Harding High School, Charlotte, North Carolina, has a superb installation. Nashville, Tennessee, which is planning to reduce its high schools from 23 to 12 in the next several years, has a skill center in every school and will have them in the three more high schools the metropolitan district will be building.

There are, of course, numerous other uses to which surplus space is being put—the overflow of paper work from City Hall, an extension of the local courts, offices of the United Fund agencies, public library branches, senior citizens daily luncheons, a museum, community arts center, and so on. The uses are as varied as the schools and their communities.

(4) If there still is space—a vacant wing or floor—and no civic use for it, consider outright rental to the private sector. I realize that public institutions tend to be nervous in the presence of private, for-profit corporations. In some communities the renting of public property is against the law. But if it is clearly in the public interest, especially in these times, that the taxpayers recover some of their equity in unused property, efforts to change the law seem reasonable.

(5) If the whole building becomes excess, yet is structurally sound and fit for rehabilitation and recycling, try to keep the building in use by somebody. We know from bitter experience in abandoning elementary schools that "mothballing" seldom works. We know that the best way to protect property is to fill it with people; boarding up the windows preserves neither the building nor the real estate values of its neighborhood.

If and when your secondary school has to respond to severe enrollment decline, observe that others will have had experience. For example:

(1) Dayton, Ohio—where a 2,220-student high school has been converted to a center for manpower training, adult basic education, community recreation center and the like.

(2) Kalamazoo, Michigan—where a large high school was relinquished to the city for adult education, a private school, and a senior citizens' center.

(3) Jacksonville, Florida—where an 800-pupil junior high is now a community/School Center, administrative offices, and the like.

(4) Austin, Texas—where a surplus high school is now a junior college.

(5) Sioux City, Iowa—where the high school has been turned over to the city for public recreation.

(6) Ithaca, New York—where the building was sold to an entrepreneur who recycled it to a shopping center, housing for the elderly, private offices—and returned the premises to the tax rolls.

(7) Claremont, California—the old high school is now a shopping center.

In sum:

(1) While there is no guarantee that the birthrate will not soon reverse its downward trend—though the evidence is presently to the contrary—the most prudent public policy is to hang on to your school and fill it with other compatible constituencies as the conventional students diminish in numbers. After all, most schools are paid for or will soon be. They are a valuable community resource.

(2) Find uses that will strengthen community organizations. In some situations, the principal should assume the function of broker, finding and leading the community to the schoolhouse. Here I would plead that the principal remain central to the transactions in view of the fact that with the glaring exception of housing, the country is temporarily overbuilt. At the moment, for example, there are 100 million square feet of empty commercial space (supermarkets, shopping centers, stores—plus W. T. Grant's 1,100 stores in immediate prospect). New York City has 30 million square feet of untenanted office space. High schools should be alert to compete for housing community services which otherwise may find less natural and congenial locations in the acres of empty space available to them. The principal should be the catalyst.

(3) The high school principalship is under mounting pressure from many quarters these days. Enrollment decline is a new and vexing factor which nevertheless warrants high priority among your concerns lest the principal's role as educational leader continues to erode. Seize the excess space as an opportunity to enlarge your constitutency to the benefit of both the school and the society which supports it.

EFL, with support from the Rockefeller Family Fund, is in the process of compiling an "early warning" report to secondary schools. Many of you may be familiar with EFL's earlier report entitled *Fewer Pupils—Surplus Space*. Its focus was primarily on the elementary schools. The sequel, in collaboration with NASSP, will target in on secondary schools and we ask for your help.

In the time that remains in this session we welcome not only your comments on the subject generally, but especially do we need your testimony from the field. We would be grateful if you would alert us about any instances where surplus space has been used to extend technical-vocational "quick-entry" skill training, special services to the very young and the elderly and where major portions of the school have been converted to a community center operating while school is in session or totally free-standing.

And please don't withhold your comments about your situation just because it seems unique or even bizarre. After all, James Conant once told me that when CBS asked him to conduct a one-hour program on "*The* American High School," he refused, saying "There is no such thing as *the* American High School. High schools are as plural as is our society."

H.R. 9560, 1976 AMENDMENTS TO THE FEDERAL WATER POLLUTION CONTROL ACT

HON. DON H. CLAUSEN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 7, 1976

Mr. DON H. CLAUSEN. Mr. Speaker, Thursday when the House was considering H.R. 9560, the 1976 amendments to the Federal Water Pollution Control Act, I commented on the applicability of section 8 of H.R. 9560 to the situation in Rocky River, Ohio. My comments which were contained on page H5241 of the CONGRESSIONAL RECORD have indicated that I was including correspondence from Senator TAFT, of Ohio, regarding the applicability of section 8 to Rocky River. This material was inadvertently not presented for inclusion in the RECORD yesterday.

The following is a letter from Senator TAFT to me, an explanation prepared by Senator TAFT of the problem in Rocky River regarding eligibility for reimbursement grants under title II of the Federal Water Pollution Control Act, and a letter from the Environmental Protection Agency to Senator TAFT explaining that section 8 of H.R. 9560 in the general provisions clearly would allow Rocky River to proceed with an application for reimbursement.

The material follows:

U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, D.C., May 30, 1976.

Hon. DON CLAUSEN,
House Public Works Subcommittee on Water Resources, Washington, D.C.

DEAR DON: It is my understanding that Section 8 of H.R. 9560 as reported will correct an inequity that has existed for local areas who wish to receive reimbursement funding for construction of publicly-owned waste treatment works which initiated construction with Federal assistance granted prior to July 1, 1973.

Attached is an explanation of a problem which has existed in my State, along with a letter from the Environmental Protection Agency attesting to its interpretation of this Section of H.R. 9560.

I would appreciate it if these documents could be made a part of the RECORD during the House debate on this legislation.

Sincerely,

ROBERT TAFT, Jr.

Enclosures.

EXPLANATION

The State of Ohio's implementation plan in compliance with the Water Quality Act of 1965 required that Cuyahoga County install a secondary waste treatment facility in Rocky River by September 15, 1969. Delays occurred in the awarding of construction contracts, caused by lawsuits and difficulty in adopting an activated carbon pile system for the secondary treatment facility.

Cuyahoga County had applied for and received a Federal R & D grant to finance a full-scale demonstration project in August, 1968. The original grant of $741,000 was given a $250,000 supplement in 1970, to furnish a total grant of $991,000, of which $790,000 could be used for construction. The rest was to be used for research. This grant amounts to 25% of the total cost of the project, which is over $4 million. Other communities, which applied directly for construction grants, were given from 55% to 75% funding for their plants. However, because of an apparent gap in the law, the Cuyahoga County Plant was ruled ineligible for construction funds.

EPA told Cuyahoga there was no longer any R & D money for construction, only for research. The County was ruled ineligible for a construction grant, however, because the definition of the term "initiation of construction" was interpreted in two conflicting ways.

The Federal Water Pollution Control Act, PL 92–500, Sec. 206(a) provides 50% reimbursement for any publicly-owned treatment works on which construction was initiated after June 30, 1966 and before July 1, 1972. Section 212 of the Act (PL 92–500) defines "construction" as preliminary planning to determine the feasibility of treatment works, engineering, architectural, legal, fiscal, or economic investigation or studies, surveys, designs, plans, working drawings, specifications, procedures, or other necessary actions, erection, building acquisition, alteration, remodeling, improvement, or extension of treatment works, or the inspection or supervision of any of the foregoing items.

Under this definition of "construction", Cuyahoga County's waste treatment facility would qualify for funding, because contracts for plumbing, ventilating, electrical work and the activated carbon itself were awarded on January 27, 1972 and preliminary planning had been carried out with R & D money. The total amount of the contracts awarded was $411,000. The agreement with the general contractor also was executed on that date, but it was later voided as a result of a law suit and the final contract was awarded on October 2, 1972.

Section 35.905–47 of the Rules and Regulations published in the February 11, 1974 Federal Register which apply to PL 92–500 defines construction differently than the law does itself. The regs. define "initiation of construction" as the issuance to a construction contractor of a notice to proceed, or, if no such notice is required, the execution of a construction contract. Because the January 27 agreement with the general contractor was voided by a law suit and the final contract was not awarded until October 2, 1972, Cuyahoga was ruled ineligible. Because of the delays incurred by the Cuyahoga County group in beginning construction, the Environmental Protection Agency placed them on 180-day notice to begin construction, prior to October 18, which was too early to receive construction grants under PL 92–500, and too late to receive reimbursement grants.

I do not believe that it was the intent of the Congress in passing the Federal Water Pollution Control Act to prohibit applicants from eligibility if they began preliminary construction planning and awarded some contracts for that construction prior to the date mentioned. This was expressly stated in the law, yet the regs. do not take it into account at all.

I introduced legislation in the 93rd Congress to rectify this situation. (S. 3989). However, it is my understanding that Section 8 of H.R. 9560, as reported, will cover this matter. I would like the enclosed letter from EPA to be included in the RECORD. It attests to that understanding.

U.S. ENVIRONMENTAL
PROTECTION AGENCY,
Washington, D.C., May 24, 1976.

Hon. ROBERT TAFT, Jr.
U.S. Senate
Washington, D.C.

DEAR SENATOR TAFT: The Administrator has asked me to respond to your letter of April 30, 1976 regarding the eligibility of the City of Rocky River, Ohio for reimbursement funding under H.R. 9560 a bill "To amend the Federal Water Pollution Control Act to provide for additional authorizations, and for other purposes."

As you may know, section 8 of that bill would extend the deadline by which projects must have initiated construction to be eligible for a 50 percent or 55 percent reimbursement grant from July 1, 1972, to July 1, 1973. A 90-day period is provided following enactment of the bill for newly eligible projects to file applications under this provision. The bill also provides for an increase in the level of authorization from $2.6 billion to $2.95 billion.

As noted in the City's letter of February 24, 1974 the construction contract was signed on October 2, 1972. In view of this fact, enactment of H.R. 9560 would allow Rocky River to proceed with an application for reimbursement.

I hope this information will be helpful to you, if there is any further information I can provide please do not hesitate to contact me.

Sincerely yours,

ROBERT G. RYAN,
Director, Office of Legislation.

AMENDMENT TO PLACE VOA CHARTER INTO LAW

HON. BELLA S. ABZUG

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, June 7, 1976

Ms. ABZUG. Mr. Speaker, I am planning to introduce an amendment to H.R. 13589, the U.S. Information Agency authorization bill for fiscal year 1977. My amendment would place into law the charter of the Voice of America. The three main principles of the charter are:

(1) VOA will serve as a consistently reliable and authoritative source of news. VOA news will be accurate, objective, and comprehensive.

(2) VOA will represent America, not any single segment of American society, and will therefore present a balanced and comprehensive projection of significant American thought and institutions.

(3) VOA will present the policies of the United States clearly and effectively, and will also present responsible discussion and opinion on these policies.

I would like to bring to the attention of my colleagues some background material on the first of the three principles: VOA coverage of the news.

Are VOA newcasts intended to be accurate, authoritative news broadcasts or are they intended to be official policy statements of the State Department? This is the persistent question which is asked regarding the VOA. There are several documented instances in which the VOA's news coverage was interfered with by State Department officials and American Ambassadors overseas that I would like to bring to the attention of my colleagues.

One instance was cited during hearings last year before the Government Operations Subcommittee on Government Information and Individual Rights, which I chair. Witnesses testified about interference with VOA's coverage of hard newsstories, particularly the coverage of events in Southeast Asia during the Vietnam war.

As an example, a March 19, 1975, cable from Ambassador Dean in Phnom Penh to the USIA stated:

> We strongly advise against carrying story on today's student demonstrations in Phnom Penh and student call for resignation on Lon Nol, and end to the U.S. military aid. This story coincides with a highly sensitive period here and comment from VOA could be misconstrued as representing Mission support for student demands. We recognize that the story is being carried by many commercial services.

The student demonstrations of that period were an important indication of the growing political isolation of the Lon Nol regime. They were definitely a factor to be considered in evaluating the options of American policy. The cable, and others like it, was an attempt to create a false impression that Lon Nol's support was not eroding further. This was a clear effort to make the coverage of news reflect official policy, rather than the actual political reality.

It is evident how such a practice creates a credibility problem for our Government. The commercial broadcast services all carry newsstories, but the VOA may not be broadcasting them. How can this lead foreign listeners to trust our broadcasts? Our credibility can only suffer.

A more recent illustration was reported in the Washington Post on April 21, 1976. The Post quoted a confidential memorandum from U.S. Ambassador to Uruguay, Ernest Siracusa, to VOA Director James Keogh which registered "vigorous objections" to a VOA account of alleged torture in Uruguay. On February 11, a VOA correspondent had reported on the Geneva-based International Commission of Jurists' report of political arrests, torture and press censorship in Uruguay. The Ambassador's memorandum stated that the diplomatic steps he claimed to be taking to improve human rights practices "can only be endangered if the Government interprets the VOA report, with broad audience here, as an aggressive gesture of the U.S. Government inconsistent with the manner and integrity of my approach."

I will insert the full text of the Washington Post article to permit Members to make their own judgments.

It seems to me that two themes characterize these examples and other similar instances with which I am familiar. First, policy officials attempted to interfere with VOA news coverage of legitimate political events. Second, there was considerable apprehension that VOA news broadcasts would be accepted as official American Government policy statements by foreign listeners: Such acceptance could confuse the diplomatic process.

On both of these grounds, the amendment I am proposing would strengthen the integrity of the VOA news broadcasts and, hence, the credibility of our country abroad. The principle that VOA news will be "accurate, objective, and comprehensive" should provide a clear guideline for the VOA to resist pressures to distort or coverup important news developments. During the hearings before my subcommittee, a USIA official explained that VOA and USIA officials would meet to discuss the objections to broadcasts made by American Ambassadors, to determine the validity of these objections. By giving the charter the force of law, my amendment would make it clear that the VOA's news broadcasts should be accurate, objective, and comprehensive, and thus would help the VOA to evaluate these policy objections. It would give VOA news reporters substantial support for putting forth the news as they see it.

Second, passage of the charter should help make it clear to foreign listeners of the VOA that its news is not intended to serve as a public relations outlet for State Department policy. The confusion is understandable. But the way to overcome it is not to hushup unfavorable news, as if VOA were the State Department mouthpiece, but rather to implement a separation of VOA news from general USIA public relations activities. Let us make it clear to foreign listeners what the difference really is and this, in turn, could help lessen pressure from the State Department and Ambassadors on VOA news reporting.

There was a discussion last March during the fiscal year 1976 USIA authorization debate on proposals suggested by the Murphy Commission on government reorganization and the Scranton Commission on international information, education, and cultural programs to set up the VOA as an independent broadcasting entity with an independent board of directors.

This concept received the support of the leading majority and minority members of the International Relations Subcommittee on International Operations. Unfortunately, as the report to H.R. 13589 states:

> The Executive thus far has not addressed itself to the issues raised and the recommendations made.

Therefore we are again faced with a USIA authorization bill which does not adequately address the proper role of the VOA in the USIA. I urge President Ford to respond to the Stanton Commission proposals. Until that response is forthcoming, however, I do not believe that we should leave the situation unchanged. That is why I am proposing my amendment at this time.

The three principles in my amendment were originally set forth in a nonbinding executive directive during the Eisenhower administration. My amendment would add these principles to the USIA authorization measure, thereby giving them the force of law. This is a small step, but one we should take in the absence of any action on the more wide-ranging reorganization proposals now pending.

The full text of the April 21, 1976, Washington Post article follows:

U.S. ENVOY TO URUGUAY PROTESTS VOA STORY

(By Joanne Omang)

MONTEVIDEO.—U.S. Ambassador to Uruguay Ernest Siracusa has registered "vigorous objections" to a Voice of America account of alleged torture in Uruguay, saying the Uruguayan government "will have every right to resent" the story.

The story involved a February report by the Geneva-based International Commission of Jurists (ICJ), which investigates charges of human rights violations around the world. The two-minute broadcast by VOA Geneva part-time correspondent Richard Kilian Feb. 11 contained exaggerations and distortions" of the Uruguayan situation which "can only be injurious to our friends, to our relations and to our efforts to develop useful influence on the very situation commented upon," Siracusa's confidential complaint said.

VOA is an agency of the U.S. government that has a charter to report news without slant. It has frequently run into criticism from American missions abroad that its newscasts hamper U.S. foreign policy. In one case, for example, the U.S. ambassador in a West African country complained that VOA reporting of Argentinian guerrilla operations should be curtailed because it could spark similar activities in the country he was accredited to.

In his response to Siracusa's critique of the VOA report on Uruguay, U.S. Information Agency director James Keogh agreed that [the] report should have been handled far more carefully." At the same time, Keogh maintained that "we believe the story in question accurately reflected the content of the IJC report."

Copies of Siracusa's confidential Feb. 13 complaint to Assistant Secretary of State William D. Rogers and to Keogh, and of Keogh's Feb. 17 response, were obtained by The Washington Post. The response was a milder version of an original draft submitted to Keogh by VOA officials, according to sources within the organization.

A spokesman for Keogh said the VOA director declined to comment on the matter. Siracusa could not be reached for comment.

Siracusa's five-point objection focused on Kilian's statement that the commission's report described massive arrests of political suspects, that few of the suspects survived imprisonment and that there was no press freedom in Uruguay. The story added that the jurists said church documents had been censored, and that the commission had heard a report on alleged torture in Chile the previous day.

The word "massive," Siracusa complained, "grossly exaggerated" the situation up until a recent anti-Communist drive in Uruguay. "With respect to the Communist drive, one could even question whether the arrests of several hundred persons over a five-month period could itself be called 'massive.' "

To say few of those arrested survived, he continued, was untrue and "can only be considered" by the Uruguayan government 'as a "calumny and a provocation." The question of press freedom, he added, was "a relative one," while the alleged church censorship was "a minor problem . . . worked out between the government and the [church] hierarchy."

Mentioning Chile, Siracusa concluded, was "a gratuitous effort on the part of the VOA writer to link Uruguay with the already censured case of Chile as to human rights."

Three times in the complaint Siracusa reiterated support for the VOA's policy of disclosing such news, but said "it should have been handled far more carefully" in order not to endanger efforts he was making "through correct diplomatic channels to improve the human rights situation to the extent that there are violations. This effort can only be endangered if the government interprets the VOA report, with broad audience here, as an aggressive gesture of the U.S. order not to endanger efforts he was making and integrity of my approach," Siracusa said.

Keogh agreed that the VOA story, although an accurate description of the commission's report, "showed insufficient appreciation for sensitivities involved." He added that future reports would be "subject to closer review and cross-checking prior to use."

LAND USE AND GROWTH CONTROL UNDER FEDERALISM: THE ELUSIVE CONSENSUS

HON. THOMAS M. REES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 7, 1976

Mr. REES. Mr. Speaker, Dr. Werner Hirsch, professor of economics at UCLA, has distinguished himself for many years in the area of urban problems and their solutions. One of the issues that continually confronts us at the local, State, and Federal levels is the problem of land use and growth control.

I insert into the CONGRESSIONAL RECORD Dr. Hirsch's recent paper entitled "Land Use and Growth Control Under Federalism: The Elusive Consensus":

LAND USE AND GROWTH CONTROL UNDER FEDERALISM: THE ELUSIVE CONSENSUS

(By Werner Z. Hirsch)

Under our federated system of government, who should make the decisions which will determine the uses of land, in particular the kind of zoning decisions which affect the growth of towns and suburbs? Is it purely the choice of the local resident, or are there implications for the general welfare which would demand control by a higher level of government? Are there preferred control instruments and what are they? On what basis and by what criteria should such decisions be made, and what considerations and guidelines might be appropriate?

Before seeking answers to these questions, let us briefly review the history of land use control in the United States.

The impetus for government to control the use of land came relatively late in this country. This was due partly to strong notions of the sanctity of private property rights and partly to a great abundance of land which made land use conflicts less severe than in more crowded European nations. Predictably, the first attempts to regulate land use were made in the cities. Ordinances regulating building height and land use were passed in Boston and Los Angeles around 1909. More complex efforts to divide cities into districts which permitted some uses and excluded others were made in the following decade, and this technique of "zoning" was given the Supreme Court's approval in 1926. At about the same time, the Commerce Department produced a Standard Zoning Enabling Act which was adopted wholeheartedly by the states. Its key feature was complete delegation of zoning power to local jurisdictions. Given the limited function of zoning and the large distances between cities at the time, land use decisions made in one locality had little effect upon others. Thus, this large scale decentralization of power made a good deal of sense, for it gave control to those most familiar with and most affected by land use decisions.

The decades following the Standard Act saw a continuing refinement of zoning techniques designed to enable planners and local officials to better achieve the zoning goals of segregating inconsistent uses, preventing congestion, and providing for the economical distribution of public services. Soon, however, zoning began to be used as a technique to achieve other more controversial goals. At quite an early stage it was realized that zoning could separate different racial and economic groups as well as different land uses. As the suburban explosion of the 1950s began to reach significant proportions, residents of rural towns in its path realized that zoning could be used to slow the influx into their jurisdictions. Large-lot zoning, minimum floor space requirements, and trailer park bans proliferated. The late 1960s and early 1970s saw an awakening of environmental awareness, and zoning became a weapon in the battle to preserve open spaces and prevent what were perceived as unaesthetic housing tract developments. The recent movements to slow or stop population growth in many suburban communities combine the two objectives of diverting suburban expansion away from the enacting community and preserving the community's aestetic charm as a "small town" environment. The new land use control techniques which have been developed to achieve these objectives retain many traditional zoning methods, but often stretch quite remarkably the original intent of land use regulations. Building moratoriums, population caps, open space zoning ordinances, "holding zones", and phased growth ordinances have been invoked in many places where population growth threatens.

If one were to attempt a broad generalization about the historical development of the functions of zoning, one might say that what began as a tool to solve primarily local problems of incompatible land uses and congestion can, and perhaps in part already has, become a means of solving much larger regional problems of population distribution and environmental preservation. This development has paralleled a large demographic shift of population first from rural areas to central cities and later from central cities to suburbs.

In 1926, in the landmark case of *Euclid* v. *Ambler Realty Company*, the United States Supreme Court held that local zoning ordinances were clothed with a presumption of legal validity, unless demonstrated to be "clearly arbitrary and unreasonable."' At that time, Justice Sutherland indicated that the possibility should not be ruled out that in the future, ". . . the general public interest would so far outweigh the interest of the municipality that the municipality would not be allowed to stand in the way." Thus we might wonder if such changes have indeed occurred in the United States. Since 1926 the airplane, private car, telephone, radio, and television have increasingly come into common use, and Americans are changing their places of residence more frequently than ever before. In the last fifty years, the pace and volume of the flow of goods, services, ideas and people have been continuously on the rise. Consequently, a multitude of interdependencies between people and between land uses has come into being. In the middle 1970s the United States is replete with what economists refer to as externalities. Still, under federalism local decision makers, e.g., in the case of local exclusionary zoning, are inclined to neglect the costs their actions impose on others.

On first blush, therefore, we would be inclined to conclude that the day foreseen by Justice Sutherland has arrived, and that today the general public interest outweighs that of the municipality. Yet the U.S. Supreme Court has retained the position taken initially in 1926. The Court has refused, as recently as 1974, to re-examine its scope of review of zoning cases. When a district court in *Construction Industry Association of Sonoma County* v. *City of Petaluma* took a different view and held that the desire of present residents to retain the "small town character" of Petaluma was not compelling and thus invalidated the Petaluma plan, it was overturned on appeal.

Some state Supreme Courts have taken positions diametrically opposed to that of the U.S. Supreme Court. Most notable is the ruling of the New Jersey Supreme Court in *Southern County of Burlington NAACP* v. *Township of Mount Laurel*. It held that zoning must promote the general welfare. A Municipality cannot only look to its own selfish and parochial interest and in effect build a wall around itself . . .", but must consider the needs of the region as a whole and offer an appropriate variety and choice of housing. A similar position was taken by the Pennsylvania Supreme Court in *National Land Investment Company* v. *Kohn*.

Thus a consensus has so far eluded the courts; legislatures, meanwhile have stood idly by and have done little to clarify the issues. Why? We suggest that in the United States the exclusionary zoning problem is particularly complex for at least two major reasons. Both of them in the past have either not been recognized in analyses of zoning problems, or the analysis has not been as systematic as we think it ought to be.

The first issue relates to the distinction between unique and ubiquitous resources that a jurisdiction may be trying to protect. The Santa Barbara Mission and Lake Tahoe are examples of unique resources, one historical, and the other scenic. A new entrant increases the crowding experienced by all persons in the jurisdiction, and there is no opportunity to augment the resource to avert crowding. Main Street in thousands of small American cities, on the other hand, differs very little from one to the next, and is consequently a ubiquitous resource. Fresh air, or a pleasant climate are similar ubiquitous resources which differ from unique ones essentially in being much more common and devoid of exceptional historical, scenic or aesthetic value. And such ubiquitous resources as schools, roads and parks can be augmented in case of crowding, if revenue is available.

Most importantly, local jurisdictions are motivated to control land uses for distinctly different reasons if ubiquitous rather than unique resources are involved. And this brings us to the second issue—local property taxes. In the presence of ubiquitous resources it is to a large extent the heavy reliance on the local property tax which induces local authorities to pursue an exclusionary policy; they do so as a matter of natural economic interest. Local property taxation, by its very definition is property- and not people-oriented. Thus, a person with a small inexpensive property pays much less in taxes than a neighbor with a big expensive one, although both may get the same services, e.g., send the same number of children to the same school. They therefore impose the same costs on the local jurisdiction. As a result, there is a fiscal advantage for lower and moderate income groups to move into jurisdictions composed mainly of expensive properties. Such circumstances motivate families with high value homes to try to isolate themselves from those with low value homes. They are naturally reluctant to subsidize those living in relatively small inexpensive houses. Instead, each family seeks to live in a jurisdiction with high per capita property value and therefore low ad valorem tax rates. Although the desire of a community to retain its homogeneity in terms of race, religion, etc. also stimulates exclusionary behavior, the local property tax looms very large as a factor in exclusionary zoning.

Regardless of the rationale for exclusionary behavior, we could not defend it if there were alternatives that were preferred for their distributional and efficiency characteristics. However, the absence of exclusion, in conjunction with the local property tax has several shortcomings. First, the fiscal advantages resulting from the property tax are such that no equilibrium would exist until all communities had about the same per capital property value. The resulting "sameness" of communities would constitute an inefficiency by reducing the options available to individuals. Second, builders would choose locations for structures not for their locational advantages alone, but for locational and fiscal characteristics of the communities under consideration. Third, the opportunity for fiscal advantages in new communities will mean that the affluent, who typically are the occupants of the newest structures, will tend to relocate away from established communities. This tendency will introduce new fiscal crises to older suburban areas, like that now experienced in central cities.

Distributionally there are also problems. First, by effecting redistribution through fiscal transfers, rather than by other means, the poorest, who do not move, will be neglected. The richest, located in already exclusive communities will not be "taxed." Second, the builders of structures which "balance" communities are likely to derive most of the benefits, since tenants' alternatives will be to locate in areas which offer no fiscal transfer. As is so often the case, the consumer does not get more than he pays for.

Exclusionary ordinances related to a unique resource, on the other hand, are mainly motivated by the fact, and often justified on the ground, that excessive crowding will destroy the resource to everybody's loss. This fear is reinforced by the additional motivation provided by the local property tax as incentives for local exclusionary ordinances. In the presence of a unique resource, inefficient land uses are likely to result, because the decision maker does not confront the full costs associated with an action, and therefore will not equate the marginal social costs with the marginal social benefits of land developments.

Interestingly, many of the ill-effects surrounding land uses in both the unique and ubiquitous resources case can, in part at least, be mitigated through various land use control schemes. For example, for those unique resources which do not generate major interjurisdictional externalities, i.e., where all the side effects that these resources produce are only felt inside the given jurisdiction, monopoly control of land use can be highly efficient. Alternatively, covenants can be entered into and property rights assigned to residents or builders in a manner such that decision makers confront the full cost or actions and therefore maximize total value produced by the unique resource. In the presence of major interjurisdictional externalities, efficient and socially desirable local land use will require intervention by a higher level of government, e.g., the regional or state body representing the larger interest.

In the ubiquitous resource case three major control instruments are available: large-lot zoning, annual quotas, and entry fees, in increasing desirability as to their likely efficiency effects. Large-lot zoning and population caps can offset some of the ill-effects of the local property tax by separating structures according to value leading to an increased scope of public services and greater stability of communities. However, these instruments will also have some undesirable side effects—incorrect mix of residential and non-residential land use, overly large lots, and greater income homogeneity within communities than would be required to match choices of consumers and producers of public services.

Of these, three control instruments, an entry fee charged builders in cash or kind for the issuance of a building permit is likely to be the most promising. For the sake of efficiency, fair entry fees should be set equal to the present value of the difference between the property tax revenue and the public service costs which a particular structure is expected to generate. If schedules, fairly established, are made public, discriminatory application of fees and opportunities for corruption could be kept to a minimum. Should such entry fees supplant property taxes, the inefficiencies associated with the latter would disappear.

What are the policy implications? Insofar as legislative action is concerned, at least three recommendations can be made.

First, the legislature could revamp the tax system so as to reduce, if not eliminate, the use of the local property tax. Such a step, by the way would be desirable for many other reasons besides those of concern to us here. For example, if the federal government were to institute a negative income tax, which would place a floor below which no family's income was permitted to fall, local governments could employ entry fees or shift from property taxes to user charges. Such a scheme would substantially relieve the burden of central cities in dealing with the problems of the poor without being unfair to them.

As an alternative, local lump sum taxes could be integrated with a federal tax credit which varies inversely with the person's income. Such a scheme would have the additional advantage over current tax schemes that poor people would not necessarily have to move their residences in order to avail themselves of fiscal advantages.

If heterogeneity in communities is itself a social objective, an entry fee scheme for ubiquitous resource cases would be promising, if the federal government were willing to subsidize the fee. With such subsidies given only to deserving families who move into higher income jurisdictions, such communities would have no reasonable objection to low income immigrants, since the tax base would not be threatened. High quality public services could be continued. Therefore, legislative action could take the form of permitting differential entry fees which capture the value of local property tax benefits that builders in the community would otherwise receive.

Finally, legislative action might permit and even encourage monopoly control in unique resource cases where interjurisdictional externalities are minor or absent. In the present of widespread interjurisdictional externalities, the legislature could provide for regional decision making and/or readily enforceable covenants.

Our analysis has also a number of implications for the courts. We would argue that courts are well advised to separate between unique and ubiquitous resource cases. They might give particular attention to not permitting restrictions which do not demonstrably aim at protecting a unique resource and are likely to confine its enjoyment to a small, and usually rich, population. Once they have established that a resource is indeed unique, they should not hesitate to permit certain types of monopoly control over the resource and enforce appropriate covenants and property right assignments to residents or builders.

Finally, in reviewing large-lot zoning in ubiquitous resource cases, the courts might give recognition to the fact that such zoning schemes in the presence of local property taxation are less a matter of malicious behavior by excluding jurisdictions than of their pursuing natural economic interests. Moreover, under certain circumstances some excluding behavior by jurisdictions may be less odious than often assumed, since it might counteract inefficiencies resulting from the property tax. Where crowding relates to ubiquitous resources, courts should favor fair and openly established entry fees over all other land use control instruments.

To summarize: Changes in land use in any highly urbanized society affect more than the parcel of private property whose use has been altered. Under federalism, coping with such external effects is complicated, since decisions in one jurisdiction often affect the welfare of those in other jurisdictions. Heavy reliance on local property taxes causes many citizens to seek residence in high income communities—often suburbs—and to exclude potential newcomers. While for the ubiquitous resource case exclusion is an attempt to protect the tax base, in the presence of unique resources for fear of excessive crowding is the major impetus. Various exclusionary procedures are natural outgrowths of these basic tendencies.

The down-grading of local property taxation is a particularly potent countermeasure, although politically unattractive. In the absence of such a step, exclusionary procedures are not only difficult to ban, but such a ban is likely to be undesirable. Some exclusionary instruments tend to correct parts of the ill-effects of the local property tax and crowding. State and local officials could serve the nation well by recognizing these circumstances, and cooperating in providing authoritative guide-lines for the control of ubiquitous and unique resources. Such guide-lines should authorize local governments to charge builders appropriate building fees in return for issuance of a building permit—a most propitious step.

NIKKI GIOVANNI SPEAKS ON THE BICENTENNIAL

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, June 7, 1976

Mr. RANGEL. Mr. Speaker, during the last 3 years of planning throughout the Nation for celebration of our 200th birthday, there has been a great debate within the black community. The debate has been on the issue of whether or not black Americans ought to be celebrating 200 years of independence when they are not yet beneficiaries of the full promise of the world's most advanced democracy. The pursuit of life, liberty, and happiness is still restricted for 25 million black Americans; the median income of blacks is only 58 percent of that for whites, their unemployment rates are still double those for other Americans, and the Chief Executive of the Nation continues to propose a turning back of the clock on civil rights matters.

No wonder the division, the ambivalence, and the reluctance of the black community to embrace the Bicentennial celebration with enthusiasm. Nevertheless, as the moment of celebration comes closer, there appears to be an emerging consensus among Blacks that they will not forfeit their right to celebrate for they too have paid their dues—in fact, more than their share. Blacks will celebrate though for somewhere different reasons than the majority population. An essential motive behind black participation in the Bicentennial will be hope in the future of America; that she will one day soon live up to her creed and fulfill her promise to all Americans.

Mr. Speaker, author and poet Nikki Giovanni recently told it as it is for her. I believe that her personal expressions mirror, to a large extent, the feelings of most black Americans. Therefore, Mr. Speaker, I insert into the RECORD the following article by Ms. Giovanni which appeared in the February 22, 1976, edition of the Arkansas Gazette:

THE BICENTENNIAL IS TIME TO TAKE POSITIVE ACTION

(By Nikki Giovanni)

Only two things kept me going through the last quarter of '75—the World Series and the prospect of Christmas. I don't care what anyone says about Christmas; I know it's over-commercialized, and under-cherished by most, but I still love it. And I had the perfect Series bet—Cincinnati in seven games. A little luck and a little pluck can get you through almost everything. I feel the same way about the Bicentennial. I like it.

Coming as I do, from a people noted for love of celebration, I would not demean the black love of party by eschewing the 200th birthday. In fact, the first blacks set foot in this nation in 1617, two years before the first successful white settlement. And recent archeological expeditions have uncovered artifacts indicating a black presence in the New World many years before that.

For those who ascribe to the old Atlantis theory, there is even more evidence going back millions of years that the New World and the Old were all one land mass thereby permitting those we would consider Africans to travel by foot into what we now call America. A more recent and better defined solution of black and Asiatic presence is found, of course, in the Bering Straits. It's believed the Eskimos traversed the frozen tundra to the New World.

It's not, in other words, implausible that blacks too followed the yellow brick road from Arabia to China to the Bering Straits. However, what happened a million years or so ago, while important, has nothing to do with my love of the Bicentennial.

Rev. James Cleveland, the renowned gospel singer said of the Bicentennial, "It's the only one I'll have." He could have added, as did Theodore Roosevelt of the Spanish-American War. "It's not much of a war but . . ." There is a certain truth to putting those statements together. "It's not much" but then freedom is difficult to celebrate. Most Americans, expecting that 28 per cent which polls say don't know what events occurred in 1776, would prefer to celebrate the Boston Tea Party than write their Congressman concerning taxation. Most Americans would rather celebrate the Battle of Bunker Hill than do battle with run away agencies such as the CIA, the FBI or the IRS.

As a member of one of the most oppressed minorities—if oppression can indeed be compared—I celebrate the Bicentennial in the tradition of unnamed and unheraled men and women who, finding themselves on shore, determined not only to survive but make a home. I celebrate in the tradition of Nat Turner and Frederick Douglass who presented two sides of the question—violence or reason. I celebrate in the tradition of Harriet Tubman who voted with her feet for freedom and returned to take over 100 men and women out of slavery with her. I celebrate with the more modern tradition of W. E. B. Dubois who proclaimed "The problem of the 20th Century is the problem of the color line." Everyone thought he was talking to Caucasians, but he was talking to colored peoples too.

I'm glad to have lived in an age of Thurgood Marshall and Malcolm X. I once shook the hand of Martin Luther King Jr. and nothing that the FBI can say will change that pride I felt when he looked at me, a high school junior, and said "Thank you," to my "I thought your speech was terrific." I remember my anger and shame and pure rage when the four girls were killed in Sunday school and I didn't want that to happen to me.

There are puzzlement too. Why, after 20 years of law, are schools and housing, not only for blacks but for the majority of Americans, so bad? Why are those who fought so long and so hard for the franchise now so reluctant to use it? I'm puzzled, not that we don't turn flip-flops in the streets, but that we, as a nation, care so little for rights and privileges won at so high a price over the last 1000 years that we allow our politicians to lie to us. I'm amazed that women today still are fighting for the control of their own bodies and possible off-spring and that grown men cannot find jobs.

I celebrate the Bicentennial not only for what we as a nation have done but for what we shall do. We shall create a nation of honest people where the rule of law is more than an expression from House and Senate committees while they lie. We shall create a nation where education for the masses is not left to television commercials, but where the national priority is education and not welfare. I celebrate these 200 years because my parents and grandparents and theirs and untold millions have paid for my right to celebrate.

Just because white Americans say this is a white nation doesn't make it so. The United States has been, is, and will always be multiracial, multi-national, multi-ethnic, multireligious. I celebrate the Bicentennial because as my mother explained her love for me—it's mine.

EXPANDED SBA ACT BOOSTS LIMITATIONS FOR FINANCIAL ASSISTANCE PROGRAM

HON. JOE L. EVINS

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, June 7, 1976

Mr. EVINS of Tennessee. Mr. Speaker, in connection with the amendments to the Small Business Act and the Small Business Investment Act considered on the floor today, I wanted to provide additional information for my colleagues and other interested citizens on the purpose and scope of this broadened, expanded, and liberalized bill.

The purpose of the bill as set out in the report by the Small Business Committee is as follows:

THE PURPOSE OF THE BILL

The bill, H.R. 13567, is divided in 8 Titles, all of which were extensively studied by your Committee.

Title I of the bill increases SBA's authorizations and limitations for fiscal year 1977 as needed and establishes operating levels for all of SBA's programs for fiscal years 1978 and 1979.

Title II of the bill makes miscellaneous conforming and technical amendments to the Small Business Act and the Small Business Investment Act of 1958.

Title III of the bill authorizes SBA to provide financial assistance to small homebuilders; enlarges the eligibility for SBA compliance loans; authorizes up to a 5-year moratorium on repayment of SBA loans; prohibits SBA from discriminating against food producers by arbitrarily denying them the assistance which is available to other small businesses; and increases the maximum amount of financial assistance which may be made available to any one borrower under SBA's regular business loan program, economic opportunity loan program and development company loan program.

Title IV of the bill authorizes SBA to make displaced business loans to a small concern which has been displaced by a project by a state or local government; authorizes SBA to make economic injury loans to small business concerns in an area affected by a natural disaster upon the request of the Governor of the state involved; authorizes the President to undertake a comprehensive review of all Federal disaster loan authorities and make a report thereon to Congress not later than October 1, 1976; and establishes in the Small Business Act the interest rate provisions for natural disaster loans made by SBA.

Title V of the bill expands SBA's certificate of competency program by including the final determination of all elements of responsibility and eligibility of a small business for purposes of bidding on Government contracts.

Title VI of the bill creates a new financing program for existing small businesses in meeting pollution control requirements.

Title VII of the bill establishes within SBA an Office of Advocacy to be managed by a Chief Counsel for Advocacy, appointed by the President and confirmed by the Senate, and directs the Office to do a study of small business needs and to report to the President and Congress thereon.

Title VIII of the bill directs Federal agencies, to the extent feasible, to divide small business set-aside contracts into amounts of less than $1,000,000 each.

This bill would establish increased authorized limitations on financial assistance and was requested by the administration. The increased authorizations are as follow:

Increase the authorization for appropriations for the surety bond guarantee fund from $35 million to $71 million;

Increase the limitation under the business loan and investment fund from $6 billion to $8 billion;

Increase the sublimitation on economic opportunity loans from $450 million to $525 million; and

Increase the sublimitation on financial assistance by small business investment companies from $725 million to $1,100 million.

These amounts would allow the Small Business Administration to operate its programs through fiscal year 1977 in the public interest.

PERSONAL EXPLANATION

HON. CHRISTOPHER J. DODD

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, June 7, 1976

Mr. DODD. Mr. Speaker, during debate on an amendment I offered to H.R. 13350, the Energy Research and Development Administration authorization, I cited two court cases which upheld public disclosure laws. I cited these cases incorrectly as U.S. Supreme Court cases. Both of these cases are State supreme court cases rather than U.S. Supreme Court decisions. The first Montgomery County, Md., against Welsh is from the Maryland Court of Appeals and the second case Illinois State Employees Association against Walker is from the Illinois State Supreme Court.

THE LIBERAL ECONOMISTS ARE AGAINST HUMPHREY-HAWKINS BILL

HON. ALBERT H. QUIE

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 7, 1976

Mr. QUIE. Mr. Speaker, an article in the May 31 issue of Business Week states that a number of liberal economists have come out against the Humphrey-Hawkins bill because it can achieve the goal of 3 percent unemployment only at the cost of a high rate of inflation. The article points out that the bill would require the President, the Council of Economic Advisers, and the Federal Reserve Board to devise a "full employment and balanced growth plan." The scope of the bill is obviously beyond the jurisdiction of just the Education and Labor Committee so I urge my colleagues to read the article and then help bring about consideration by other House committees having jurisdiction.

WHAT HUMPHREY-HAWKINS WOULD MEAN

Despite the economy's strong recovery in the past year, the Democrats believe that the critical issue in the Presidential campaign is still unemployment. To sharpen the issue, they have made the proposed Full Employment & Balanced Growth Act of 1976, sponsored by Senator Hubert H. Humphrey (D-Minn.) and Representative Augustus F. Hawkins (D-Calif.), their vehicle for convincing the American public that they really care, while the Republicans do not. Indeed, Democratic leaders in Congress are counting on President Ford to veto the bill, which they are certain will pass both houses, and are planning to write it into their party platform to keep the issue hot.

One trouble with the Democrats' script, however, is that, while it may have wide political appeal, Humphrey-Hawkins is playing badly with a crowd that should have loved a full-employment bill: the liberal economics establishment that normally provides the ideas and intellectual muscle for the Democrats' legislative programs.

The critics read like a *Who's Who* of liberal economics; Charles L. Schultze of the Brookings Institution, who says, "Call me a friendly critic"; his Brookings colleague Arthur Okun, former Democratic chairman of the Council of Economic Advisers, who concedes that the bill is "beautiful poetry"; Franco Modigliani of MIT; former CEA member James Tobin of Yale; manpower expert Sar Levitan of George Washington University; and Otto Eckstein of Harvard, another Democratic CEA veteran.

INFLATION FEAR

Most of them either decline to endorse Humphrey-Hawkins in its present form, or do so with many qualifications. Their biggest concern is that the bill would be wildly inflationary yet makes no provision for dealing with a potential wage-price explosion. In deference to the AFL-CIO, it omits any reference to wage and price controls or, for that matter, to any form of incomes policy.

Humphrey-Hawkins would establish "the right of all adult Americans able, willing, and seeking work to opportunities for useful paid employment at fair rates of compensation." But unlike the Employment Act of 1946 which stated the same general goal, the bill sets up a mandatory process for achieving it and puts some hard numbers on the objective. It specifies full employment as a 3% adult unemployment rate, and it orders the coordination of all government economic policy to achieve this level within four years of enactment. In addition, the bill would:

Put the government into economic planning through an elaborate process that would involve the President, his CEA, Congress, the Federal Reserve Board, and a bevy of advisory groups. They would be required to come up with an annual "full employment and balanced growth plan."

Require the government to take steps, primarily through coordinated fiscal and monetary policy, to fulfill the plan, and if the long-term goals cannot be met in a given year, require the government to act as employer of last resort, using public service job programs.

Mandate that pay scales for jobs sponsored by the government reflect prevailing wage rates.

The 50-page bill contains a great deal of detail and would require numerous pieces of enabling legislation to implement it fully. But even in its broad outlines, most economists consider it overambitious. Currently, for example, the House version defines an "adult" as 16 years old and above. Humhprey wants to raise that to 18, but even at 18, the 3% adult unemployment target implies an over-all rate of roughly 3.5%, according to both Administration and Congressional economists. And the U.S. has never achieved a 3.5 rate over a sustained period.

In fact, and regardless of whether an adult is defined as 16 or 18, achievement of 3% would require phenomenal growth rates in gross national product. Says Levitan: "You'd have to keep real GNP growing at least 7.5% a year through 1980, and we've never grown so fast for so long a period."

PREDICTION

No one really knows what kind of inflation would occur if the economy steamed up that much, but economists are sure it would be explosive. Michael Wachter of the University of Pennsylvania, a member of Democrat Jimmy Carter's economic advisory team, estimates that "an attempt to get down to 3% unemployment by 1980 or so chiefly with aggregate-demand stimulus could cause inflation of 15% or more."

Carter has endorsed Humphrey-Hawkins in principle, but Wachter fears that the bill could turn out to be "an albatross for Jimmy, assuming he's nominated," if the bill's proponents succeed in their efforts to write it into the party's platform.

"Given the economics profession's widespread opposition to the bill in its present form," says Wachter, "it will be a liability for Carter. It's the wrong bill to deal with the problems that we face. The Democrats should be putting real issues into the platform—measures that deal specifically with structural unemployment and supply problems. This is what they should test Ford on."

From Levitan, the inflation warning comes through even more alarmingly: "We can do much more to reduce unemployment than Ford wants to do, but not this way. What Congress is doing with this bill is shooting at a rapidly moving target." As if 3% were not tough enough, says Levitan, the wage provisions would make public jobs so attractive that business would be forced to raise wages to attract workers back to the private sector. This, he says, would in turn "bring people out of the woodwork and into the job market. As a result, the labor force will grow—without exaggeration—by 3% to 4% more than it would otherwise."

Schultze, too, says that the wage provision would set a new general wage pattern and be too inflationary. To deal with inflation, he advocates some form of incomes policy short of controls, "perhaps a social contract arrangement such as the British are trying, where tax cuts are given in return for wage moderation." In addition, he would like to see the targets in the bill made "less specific."

Similarly, Tobin says he "would look more kindly on the bill if it had an incomes policy alternative," but he adds that "this mechanism should be available at the start of such an effort, not when the economy gets into trouble." Tobin and Wachter both argue that the structural reforms suggested in the bill should come into play at the outset, or else Humphrey-Hawkins would merely pump up the economy and never get to underlying labor market problems.

RUBBING NOSES

With all the bill's flaws, it is, as Okun says, "the litmus test for liberalism in economics." And most of the liberals do have some good things to say about it. Schultze says, "We must keep rubbing the government's nose in the problem of chronic unemployment." All agree on the need for a government process that coordinates macro and microeconomic policies, with special emphasis, as Eckstein puts it, "on making the Fed cooperate in achieving over-all economic goals instead of just reacting to weekly data."

Eckstein thinks that Humphrey-Hawkins involves "principally a set of plans, studies, reports, and advisers to advise the advisers." But he also sees it as an alternative "to telling the public we've got to live with high unemployment for years and are so intellectually bankrupt we won't even try to do something."

Does Eckstein endorse the bill? "No," he says, "I don't have to. I'm not running for President."

TWO HUNDRED YEARS AGO TODAY

HON. CHARLES E. WIGGINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 7, 1976

Mr. WIGGINS. Mr. Speaker, 200 years ago today, on June 7, 1776, Richard Henry Lee, of Virginia, introduced the following resolution in the Continental Congress:

That these United Colonies are, and of right ought to be, free and independent States, that they are absolved from all allegiance to the British Crown, and that all political connection between them and the State of Great Britain is, and ought to be, totally dissolved.

That it is expedient forthwith to take the most effectual measures for forming foreign Alliances.

That a plan of confederation be prepared and transmitted to the respective Colonies for their consideration and approbation.

HOUSE OF REPRESENTATIVES—*Tuesday, June 8, 1976*

The House met at 12 o'clock noon.

Rabbi Chaim Z. Rozwaski, Congregation Etz Chaim, Flossmoor, Ill., offered the following prayer:

ברוך אתה, יי אלהינו, מלך העולם, שנתן מכבוד
לבשר ודם.

You share Your glory, O Lord, with mortal man. You give him wisdom and power to rule, yet only You are omniscient and all sovereignty is Yours.

Grant this House the perception to legislate, wisely; to wield power, moderately; to exercise control, humbly; and serve our great Nation, superbly.

On the threshold of our Bicentennial Year we are mindful of our past and dedicated to our future. Resolved to learn from our ancestors, we are also committed to teach our descendants.

Though we have been, at times, in the dark valley of human despair, we have also climbed the bright pisgah of prophetic righteousness.

Forged in the furnace of dark strife, we have emitted a flame that lit the path of freedom for all who dared to take it, and radiated a warmth for all the needy.

Zealous of the freedom that was once denied us, we are pledged to preserve it for others as well.

A nation founded by persons who asserted their rights, we also respect the rights of others; so that people need not suffer under the rule of tyrannical man, but can aspire to greatness under the rule of just laws.

May the accomplishments of our past inspire us in the future. May we realize that:

"Freedom is a blessing!
To be free is a virtue;
To help others to be free, is sublime!"

May nations look upon us during the next 200 years and say, behold, she is blessed.

ברכך יי וישמרך.
אר יי פניו אליך ויחנך.
שא יי פניו אליך וישם לך שלומ.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

RABBI CHAIM Z. ROZWASKI

(Mr. DERWINSKI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DERWINSKI. Mr. Speaker, I am pleased to call the attention of the Members to the invocation delivered this afternoon by Rabbi Chaim Z. Rozwaski of Congregation Etz Chaim in Flossmoor, Ill.

Rabbi Rozwaski has earned a reputation as a scholar, teacher, author, and administrator. In addition to his present duties, he is a member of the Rabbinical Council of America, the Synagogue Council of America, and serves as secretary of the South Suburban Board of Rabbis. Rabbi Rozwaski is also active as a professor at Governor's State University, Park Forest South, Ill. His professional experience includes the publication of several articles in national magazines and newspapers.

I am pleased to have my distinguished constituent serve as House Chaplain this afternoon.

SUBCOMMITTEE ADDRESSES VETERANS' PROBLEMS

(Mr. MONTGOMERY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MONTGOMERY. Mr. Speaker, the Subcommittee on Compensation, Pension, and Insurance of the Committee on Veterans' Affairs has voted out two bills this morning to be acted on by the full committee next Tuesday and by this House in the latter part of June.

One bill would give a cost-of-living increase of 8 percent to all service-connected veterans and their dependents and widows. The other bill gives a 7-percent increase to non-service-connected veterans and their dependents. If action is not taken on this 7-percent cost-of-living increase, 55,000 veterans will be taken off the pension rolls in October, and over 2 million veterans and their survivors will receive severe reductions in their pension checks.

Mr. Speaker, the bill also provides for a 25-percent increase to the regular pension rates for eligible veterans 80 years or older, plus a generous increase for aid and attendance for these veterans who are 80 years or older.

These two actions, the 25 percent for the World War veteran and generous aid and attendance amounts, are aimed, as I said earlier, to help the World War I veteran. I know the Speaker and other Members have expressed to me their concern about the World War I veteran. The action today by the subcommittee will help all veterans, especially the veterans from World War I.

Mr. FREY. Mr. Speaker, will the gentleman yield?

Mr. MONTGOMERY. I yield to the gentleman from Florida.

Mr. FREY. Mr. Speaker, I just want to add my congratulations to the chairman of the Subcommittee on Compensation, Pension, and Insurance for his efforts in seeking this aid for World War I veterans. There were 1,100,000 of these veterans about 2 years ago, and now there are about 800,000 who are at the average age of 80 years. I am certain that we all appreciate the fact that these people need these increases.

I wish again to extend my congratulations to the gentleman for his work and commend him for his leadership in bringing forth this worthwhile legislation.

Mr. MONTGOMERY. Mr. Speaker, I would call attention to the fact that the gentleman from Florida (Mr. Frey) introduced one of the first bills to provide help to the World War I veterans.

Mrs. FENWICK. Mr. Speaker, will the gentleman yield?

Mr. MONTGOMERY. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Speaker, I, too, am troubled about the World War I veterans, and I am troubled also about the World War II veterans, particularly in regard to nursing home accommodations for our veterans. I hope that the subcommittee will be considering this matter.

It is very, very difficult for veterans to get adequate nursing home facilities and care. The hospitals are crowded, and they cannot take long-term nursing home patients.

Mr. Speaker, I am hoping that something can be devised in this regard, and I wonder if the subcommittee will consider this problem.

Mr. MONTGOMERY. Mr. Speaker, the subcommittee has worked on this, and I am glad to say that there has been an increase provided in this legislation along the lines the gentlewoman has mentioned.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. MONTGOMERY. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Speaker, I wish to commend the gentleman and his subcommittee for taking some action. It is action that has been overdue for a long time, and I hope the House will move on it promptly.

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. MONTGOMERY. I yield to the gentleman from New York.

Mr. GILMAN. Mr. Speaker, I thank the gentleman for yielding.

I, too, want to commend the gentleman from Mississippi (Mr. Montgomery) for his work and for the efforts of his Veterans' Affairs Subcommittee on Compensation, Pension and Insurance in assisting our World War I veterans and for providing sorely needed cost-of-living increases to all service-connected veterans. I hope, too, that the committee chairman and his subcommittee will address themselves to the cause of the veterans of the Vietnam conflict who are seeking an extension of their educational benefits. There are over 480,000 veterans whose education benefits will be interrupted unless we act and act promptly.

Mr. Speaker, I urge the Veterans' Affairs Committee to give due consideration to this critical need. Our veterans are deserving of our prompt attention to their needs.

REQUEST FOR PERMISSION FOR COMMITTEE ON INTERIOR AND INSULAR AFFAIRS TO SIT TOMORROW BETWEEN 10 A.M. AND 12 NOON DURING THE 5-MINUTE RULE

Mr. SEIBERLING. Mr. Speaker, tomorrow the Committee on Interior and Insular Affairs has scheduled taking up the coal slurry pipeline bill. That is a bill which has been deferred several times now. I note that the House has planned to go into session at 10 o'clock tomorrow.

Accordingly, in order that we may take some action in the Committee on Interior and Insular Affairs, I ask unanimous consent that the committee be permitted to sit from 10 a.m. to 12 noon tomorrow, notwithstanding the fact that the House may be proceeding under the 5-minute rule.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, the gentleman from Ohio (Mr. SEIBERLING) spoke to me a few moments ago about the request that he would make for the committee to meet tomorrow morning for this purpose.

Mr. Speaker, I informed him that some members of our committee had previously expressed objection to the committee's meeting further this week during meetings of the full House.

I asked the gentleman to withhold this request. He has not extended that courtesy to me. Therefore, Mr. Speaker, I object.

The SPEAKER. Objection is heard.

Mr. SEIBERLING. Mr. Speaker, would the gentleman from Maryland (Mr. BAUMAN) withhold his objection?

Mr. BAUMAN. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

CALL OF THE HOUSE

Mr. MONTGOMERY. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. FUQUA. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 336]

Abzug
Anderson, Calif.
Andrews, N.C.
Ashley
AuCoin
Bell
Boggs
Brown, Mich.
Burke, Calif.
Burton, John
Carney
Clawson, Del
Conyers
Danielson
Davis
Dellums
Derrick
Diggs
Drinan
Esch
Eshleman
Fraser
Frenzel
Giaimo
Gradison
Green
Guyer
Hansen
Hays, Ohio
Hébert
Heckler, Mass.
Helstoski
Hicks
Hinshaw
Holland
Holtzman
Hughes
Jarman
Jeffords
Jones, Ala.
Karth
Kastenmeier
Kindness
Landrum
Litton
Long, La.
Matsunaga
McCloskey
McCormack
Michel
Milford
Mink
Mosher
O'Hara
O'Neill
Passman
Patterson, Calif.
Peyser
Railsback
Rees
Reuss
Riegle
Rosenthal
Roybal
Ryan
Scheuer
Shuster
Spellman
Stanton, James V.
Stokes
Stuckey
Symington
Talcott
Teague
Thompson
Thornton
Udall
Van Deerlin
Vander Jagt
Wampler
Wilson, Bob
Wilson, C. H.

The SPEAKER. On this rollcall 349 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

REVISING TAX TREATMENT OF CERTAIN COOPERATIVE HOUSING ASSOCIATIONS

(Mr. PICKLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PICKLE. Mr. Speaker, I am today introducing a bill that would amend the Internal Revenue Code of 1954 to revise the tax treatment of certain cooperative housing associations. This provision was part of H.R. 10612, the Tax Reform Act of 1975, that has already passed the Ways and Means Committee and the House of Representatives. However, since it has not yet passed the Senate, and since it is a matter of continuing hardship in the case of homeowner associations, condominium housing associations, and cooperative housing corporations, it seems to me important that this bill be passed. It would make assessments for the administration, maintenance, and operation of the homeowners association exempt from taxation. In order to qualify for this treatment, 60 percent of the association's income for the taxable year must consist of amounts received as membership fees or assessments from members or shareholders.

These fees that are collected for the specific purpose of maintaining the building should not be taxed as income. This treatment precludes an association from building reserves needed to have sufficient money available when large-scale repairs are necessary. The bill contains strict safeguards to see that the income is properly used, and the eligible groups are strictly defined. It is important that these funds be exempt from the tax on income, since they are in fact not income but assessments for the maintenance of the facility.

REQUEST FOR PERMISSION FOR SUBCOMMITTEE ON THE BICENTENNIAL, THE ENVIRONMENT, AND THE INTERNATIONAL COMMUNITY OF COMMITTEE ON THE DISTRICT OF COLUMBIA TO MEET ON JUNE 17, 18, 23, AND 24, 1976, DURING THE 5-MINUTE RULE

Mr. HARRIS. Mr. Speaker, I ask unanimous consent that the Subcommittee on the Bicentennial, the Environment, and the International Community of the Committee on the District of Columbia be permitted to meet during the 5-minute rule on June 17, 18, 23, and 24, 1976.

The SPEAKER. Is there objection to the request of the gentleman from Virginia?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, will the gentleman repeat the request?

Mr. HARRIS. I ask unanimous consent that the Subcommittee on the Bicentennial, the Environment, and the International Community of the Committee on the District of Columbia may be permitted to meet during the 5-minute rule on June 17, 18, 23, and 24, 1976. The subcommittee is now conducting oversight hearings with respect to the Potomac.

Mr. ROUSSELOT. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

PERMISSION FOR COMMITTEE ON RULES TO FILE CERTAIN PRIVILEGED REPORTS

Mr. BOLLING. Mr. Speaker, I ask unanimous consent that the Committee on Rules may have until midnight tonight to file certain privileged reports.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

AMENDMENTS TO H.R. 13367

Mr. BOLLING. Mr. Speaker, H.R. 13367 as reported by the Committee on Government Operations, contains numerous amendments, some of which are substantive and some of which are conforming and should logically be voted upon only if the substantive amendment is adopted. However, under the rules of procedure which require that amendments to sections be offered while those sections are being considered, and not thereafter, the House may find itself in the situation of voting on conforming amendments which are in the first sections of the bill prior to voting on the substantive propositions which occur in later sections. Therefore, to provide for the consideration of this measure in an orderly manner, the Rules Committee has organized the Government Operations Committee amendments into 12 groups, each of which contains a substantive proposition and the resulting conforming changes, and has provided in the rule adopted today that each of these 12 groups, which are designated as numbered amendments to H.R. 13367, may be considered as individual amendments. The House will then be able to vote at one time upon a substantive proposition, and if that proposition is adopted, to make the necessary conforming changes in other portions of the bill.

Mr. Speaker, the amendments are as follows:

AMENDMENT No. 1 TO H.R. 13367

ABOLITION OF TRUST FUND CONCEPT

a. Page 2, line 12, to page 3, line 22 (principal location).

b. Page 3, line 25, to page 4, line 2.

c. Page 4, lines 3, 5, 10, 22, and 23.

d. Page 5, line 6.

e. Page 23, lines 16 and 20.

f. Page 24, lines 20, 21, and 22.

AMENDMENT No. 2 TO H.R. 13367

SUPPLEMENTAL FISCAL ASSISTANCE (SUBTITLE D)

a. Page 4, line 11 and lines 17 to 20.

b. Page 5, lines 23 and 24.

c. Page 5, line 25 and page 6, line 1.

d. Page 17, lines 5 and 22.
e. Page 18, line 17.
f. Page 19, lines 1, 4, 10, and 19.
g. Page 20, lines 2* and 9.
h. Page 21, lines 7 and 20.
i. Page 22, lines 13 and 25.
j. Page 24, lines 7* and 14.
k. Page 35, line 17*.
l. Page 36, line 15*.
m. Page 37, lines 8* and 18*.
n. Page 39, lines 18 and 19.
o. Page 41, lines 1, 6, and 7.
p. Page 42, line 25.
q. Page 46, lines 5 and 22.
r. Page 47, line 9.
s. Page 48, lines 20 and 24.
t. Page 49, line 1 to page 72, line 17 (principal location).

AMENDMENT No. 3 TO H.R. 13367

AMENDMENTS OF UNIT OF LOCAL GOVERNMENT DEFINITION ("GRANDFATHER" CLAUSE)

a. Page 10, line 2.
b. Page 10, lines 3 through 6 (principal location).

AMENDMENT No. 4 TO H.R. 13367

MODERNIZATION OF GOVERNMENT

Page 10, line 7 through page 16, line 21 (sole location).

AMENDMENT No. 5 TO H.R. 13367

AMENDMENT TO PRE-HEARING REPORT PROVISION

Page 18, lines 13 and 14 (sole location).

AMENDMENT No. 6 TO H.R. 13367

AMENDMENT TO HEARING WAIVER PROVISION

Page 19, line 19 (beginning with "The provisions") through page 20, line 3 (sole location).

AMENDMENT No. 7 TO H.R. 13367

AMENDMENT CONCERNING PUBLIC ACCESS TO BUDGET INFORMATION

Page 21, lines 3 through 11 (sole location).

AMENDMENT No. 8 TO H.R. 13367

AMENDMENT TO PUBLICATION WAIVER PROVISION

Page 22, lines 15 through 21 (sole location).

AMENDMENT No. 9 TO H.R. 13367

AMENDMENTS CONCERNING SUBMISSION OF PROPOSED USE REPORT

a. Page 23, line 3.
b. Page 23, lines 4 through 15 (principal location).

AMENDMENT No. 10 TO H.R. 13367

AMENDMENT TO NON-DISCRIMINATION PROVISION

Page 24, line 23 to page 45, line 14 (sole location).

AMENDMENT No. 11 TO H.R. 13367

AMENDMENT TO AUDITING AND ACCOUNTING PROVISIONS

Page 45, lines 20 and 21, page 46, lines 2, 7, 8, 23, 24, and 25, page 47, lines 1 through 4, and 10 and 11 (all locations substantive, not conforming).

AMENDMENT No. 12 TO H.R. 13367

AMENDMENT TO DAVIS-BACON ACT PROVISION

Page 47, line 20 to page 48, line 13 (sole location).

REQUEST FOR PERMISSION FOR COMMITTEE ON AGRICULTURE TO MEET TOMORROW AND BALANCE OF WEEK DURING 5-MINUTE RULE

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that the Committee on Agriculture may have permission to meet tomorrow and the balance of the week during the 5-minute rule. The committee will have pending the food stamp legislation.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

Mr. ROUSSELOT. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

PERSONAL EXPLANATION

Mr. FOUNTAIN. Mr. Speaker, on Thursday, June 3, I was temporarily absent from the House while attending a meeting at the White House with the President concerning the extension of revenue sharing. During this brief period, I missed rollcall No. 327, passage of H.R. 10930, amendments to cotton research and promotion. I strongly support this legislation and had I been present and voting, I would have voted "yea."

On Friday, June 4, I was granted a leave of absence for 2 hours on official business. I was not present for rollcall No. 331, a quorum call. Also, I was recorded as not voting on House Resolution 1217, rollcall No. 332, a resolution to grant a rule for the consideration of H.R. 6218, Outer Continental Shelf Lands Act Amendments of 1976. Had I been present and voting, I would have voted "yea."

DEPARTMENT OF INTERIOR AND RELATED AGENCIES APPROPRIATIONS, 1977

Mr. YATES, from the Committee on Appropriations, submitted a privileged report (H. Rept. No. 94–1218) on the bill (H.R. 14231) making appropriations for the Department of Interior and related agencies for the fiscal year ending September 30, 1977, which was referred to the Union Calendar and ordered to be printed.

Mr. McDADE reserved all points of order against the bill.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO FILE PRIVILEGED REPORT ON APPROPRIATION BILL FOR FOREIGN ASSISTANCE AND RELATED PROGRAMS, 1977

Mr. MAHON. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight tonight to file a privileged report on the bill making appropriations for foreign assistance and related programs for the fiscal year ending September 30, 1977.

Mr. SHRIVER reserved all points of order against the bill.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO FILE PRIVILEGED REPORT

Mr. MAHON. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight tonight to file a privileged report on a bill making appropriations for the Department of Defense.

Mr. EDWARDS of Alabama reserved all points of order against the bill.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

DEPARTMENT OF LABOR—HEALTH, EDUCATION, AND WELFARE APPROPRIATIONS, 1977

Mr. FLOOD, from the Committee on Appropriations, submitted a privileged report (Rept. No. 94–1219) on the bill (H.R. 14232) making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending September 30, 1977, and for other purposes, which was referred to the Union Calendar and ordered to be printed.

Mr. SHRIVER reserved all points of order against the bill.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT APPROPRIATIONS, 1977

Mr. BOLAND, from the Committee on Appropriations, submitted a privileged report (Rept. No. 94–1220) on the bill (H.R. 14233) making appropriations for the Department of Housing and Urban Development, and for sundry independent executive agencies, boards, bureaus, commissions, corporations, and offices for the fiscal year ending September 30, 1977, and for other purposes, which was referred to the Union Calendar and ordered to be printed.

Mr. McDADE reserved all points of order against the bill.

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS, 1977

Mr. McFALL, from the Committee on Appropriations, submitted a privileged report (Rept. No. 94–1221) on the bill (H.R. 14234) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1977, and for other purposes, which was referred to the Union Calendar and ordered to be printed.

Mr. ANDREWS of North Dakota reserved all points of order against the bill.

APPROPRIATIONS FOR MILITARY CONSTRUCTION FOR DEPARTMENT OF DEFENSE FOR FISCAL YEAR 1977

Mr. MAHON (on behalf of Mr. SIKES), from the Committee on Appropriations, submitted a privileged report (Rept. No. 94–1222) on the bill (H.R. 14235), making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1977, and for other purposes, which was referred to the Union Calendar and ordered to be printed.

Mr. McDADE reserved all points of order against the bill.

COMMITTEE ON PUBLIC WORKS APPROPRIATIONS, 1977

Mr. EVINS of Tennessee, from the Committee on Appropriations, submitted a privileged report (Rept. No. 94-1223) on the bill (H.R. 14236), making appropriations for public works for water and power development and energy research, including the Corps of Engineers—Civil, the Bureau of Reclamation, power agencies of the Department of the Interior, the Appalachian regional development programs, the Federal Power Commission, the Tennessee Valley Authority, the Nuclear Regulatory Commission, the Energy Research and Development Administration, and related independent agencies and commissions for the fiscal year ending September 30, 1977, and for other purposes, which was referred to the Union Calendar and ordered to be printed.

Mr. MYERS of Indiana reserved all points of order against the bill.

COMMITTEE ON AGRICULTURE APPROPRIATIONS, 1977

Mr. WHITTEN, from the Committee on Appropriations, submitted a privileged report (Rept. No. 94-1224) on the bill (H.R. 14237) making appropriations for Agriculture and related agencies programs for the fiscal year ending September 30, 1977, and for other purposes, which was referred to the Union Calendar and ordered to be printed.

Mr. ANDREWS of North Dakota reserved all points of order against the bill.

APPROPRIATIONS FOR LEGISLATIVE BRANCH FOR FISCAL YEAR 1977

Mr. SHIPLEY, from the Committee on Appropriations, submitted a privileged report (Rept. No. 94-1225) on the bill (H.R. 14238) making appropriations for the legislative branch for the fiscal year ending September 30, 1977, and for other purposes, which was referred to the Union Calendar and ordered to be printed.

Mr. COUGHLIN reserved all points of order against the bill.

DEPARTMENTS OF STATE, JUSTICE, COMMERCE, JUDICIARY AND RELATED AGENCIES APPROPRIATIONS, 1977

Mr. SLACK, from the Committee on Appropriations, submitted a privileged report (Rept. No. 94-1226) on the bill (H.R. 14239) making appropriations for the Departments of State, Justice, Commerce, the Judiciary, and related agencies for the fiscal year ending September 30, 1977, and for other purposes, which was referred to the Union Calendar and orderd to be printed.

Mr. ANDREWS of North Dakota reserved all points of order against the bill.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO FILE REPORT

Mr. STEED. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight tonight to file a report.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

The was no objection.

Mr. MILLER of Ohio reserved all points of order against the bill.

PERMISSION FOR THE COMMITTEE ON AGRICULTURE TO MEET ON WEDNESDAY, THURSDAY, AND FRIDAY OF THIS WEEK BETWEEN 10 A.M. AND 12 NOON

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that the Committee on Agriculture may meet tomorrow and the balance of the week between the hours of 10 a.m. and 12 noon, during the 5-minute rule, for continued consideration of the bill H.R. 13613, pending food stamp legislation.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, I will ask the gentleman if that will be the only bill that will be considered in that time frame.

Mr. FOLEY. That is the only bill for which we are asking unanimous consent.

Mr. ROUSSELOT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

PERMISSION FOR COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE TO MEET WEDNESDAY AND THURSDAY OF THIS WEEK FROM 10 O'CLOCK A.M. TO 12 NOON

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent that the Committee on Interstate and Foreign Commerce be permitted to meet tomorrow and the next day from 10 o'clock to 12 noon on two bills. I do not think we will get to one of them, but it is H.R. 14032, toxic substances, and the other is the off-track betting bill.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. Pursuant to the provisions of clause 3(b) of rule 27, The Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule 15.

After all motions to suspend the rules have been entertained and debated and after those motions, to be determined by "nonrecord" votes have been disposed of, The Chair will then put the question on each motion on which the further proceedings were postponed.

ALPINE LAKES WILDERNESS, WASH.

Mr. TAYLOR of North Carolina. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 7792) to designate the Alpine Lakes Wilderness, Mount Baker-Snoqualmie and Wenatchee National Forests, in the State of Washington, as amended.

The Clerk read as follows:

H.R. 7792

Be it enacted by the Senate and House of Representatives of the United States of American in Congress assembled, That this Act may be cited as the "Alpine Lakes Area Management Act of 1976".

FINDINGS AND PURPOSES

SEC. 2(a). The Congress finds that:

(1) The Cascade Mountains of the State of Washington between Stevens Pass and Snoqualmie Pass, commonly known as the Alpine Lakes region, compromise an environment of timbered valleys rising to rugged, snowcovered mountains, dotted with over seven hundred lakes, displaying unusual diversity of natural vegetation, and providing habitat for a variety of wildlife.

(2) This region is abundant in its multiple resources, including an abundant source of pure water, commercial forests, an outdoor laboratory for scientific research and educational activities, and opportunities for great diversity of recreational use and enjoyment during all seasons of the year, in particular for quality hunting, fishing, motorized recreation, skiing, picnicking, camping, rock collecting, nature study, backpacking, horseback riding, swimming, boating, mountain climbing, and many others, together with the opportunity for millions of persons traveling through the periphery of the area to enjoy its unique values.

(b) Purposes of this Act:

(1) In order to provide for public outdoor recreation and use and for economic utilization of commercial forest lands, geological features, lakes, streams and other resources in the Central Cascade Mountains of Washington State by present and future generations, there is hereby established, subject to valid existing rights on Alpine Lakes Area, including an Alpine Lakes Wilderness, an 'Intended Wilderness' and a management unit, comprising approximately 920,000 acres.

SEC. 3 (a) The Alpine Lake Wilderness (hereinafter referred to as the "wilderness"), the "Intended Wilderness", and the peripheral area (hereinafter referred to as the "management unit"), shall comprise the areas so depicted on the map entitled "Alpine Lakes Area" and dated June, 1976, which shall be on file and available for public inspection in the Office of the Chief, Forest Service, Department of Agriculture. The Secretary of Agriculture (hereinafter referred to as the "Secretary") shall, as soon as practicable after the enactment of this Act, publish in the Federal Register a detailed description and map showing the boundaries of the wilderness, "intended wilderness", and the management unit.

(b) The Secretary shall administer the federal lands in the management unit in accordance with the laws, rules and regulations applicable to the national forests in such a manner as to provide for the management of all of the resources of the management unit.

(c) The Federal lands designated as the Alpine Lakes Wilderness shall be administered in accordance with the provisions of this Act and with the provisions of the Wilderness Act (78 Stat. 890), whichever is the more restrictive.

(d) Federal lands depicted on the map and legal description as "Intended Wilderness" shall become part of the Alpine Lakes Wilderness at such time as the adjacent non-federal lands, interests or other property become wilderness according to the provisions of Section 3(e) of this Act, at which times the Secretary shall file a map and legal description of such additions in the Federal Register.

(e) Non-federal lands depicted on the map and legal description as "Wilderness" and "Intended Wilderness Lands" shall become part of the Alpine Lakes Wilderness when acquired by the federal government in conformance with the acquisition program required by Section 4 of this Act.

LAND ACQUISITION AND EXCHANGE

SEC. 4. (a) Within the boundaries of the wilderness and "Intended Wilderness Lands," the Secretary is authorized and directed to acquire with donated or appropriated funds, by gift, exchange, or otherwise, such non-Federal lands, interests, or any other property, in conformance with the provisions of section 4 of this Act: *Provided,* That any such lands, interests or other property owned by or under the control of the State of Washington or any political subdivision thereof may be acquired only by donation or exchange. Nothing in this Act shall be construed to limit or diminish the existing authority of the Secretary to acquire lands and interests therein within the Alpine Lakes Area in accordance with established law. Notwithstanding any other provision of law, any Federal property located within the management unit may, with the concurrence of the agency having custody thereof, be transferred without consideration to the administrative jurisdiction of the Secretary for use by him in carrying out the purposes of this Act. The Secretary shall exercise caution in exchanging land so as not to impair substantially the programmed allowable timber harvest of the Mount Baker-Snoqualmie and Wenatchee National Forest. Amounts appropriated from the Land and Water Conservation Fund shall be available for the acquisition of lands and interest for the purposes of this Act.

(b) In exercising his authority to acquire property by exchange, the Secretary may accept title to any non-Federal property located within the Wilderness and intended wilderness lands, and convey to the owner of such property any national forest land within the State of Washington under the jurisdiction of the Secretary. *Provided,* That the Secretary may accept cash for or pay cash to the grantor in such an exchange in order to equalize minor differences in the values of the properties exchanged.

(c) (1) As non-Federal lands and interests in the wilderness and "intended wilderness" are acquired, and as they become protectable and administerable as wilderness, the lands shall become part of the Alpine Lakes Wilderness, and the Secretary shall publish from time to time a notice of such classification in the Federal Register. It is the intention of Congress that acquisition of the "Intended Wilderness Lands" shall be completed no later than three years after the date of enactment of this Act. At any time after three years from the date of enactment of this Act, an action may be instituted by an owner, all of whose lands within the boundaries of the "intended wilderness" have been managed in such a way so as not to become unsuitable or unmanageable as wilderness (except for disturbance affecting a minor land area and found by the Secretary to have resulted from strictly accidental and unintentional circumstances), against the United States in the District Court for the district in which such lands are located to require the Secretary to acquire immediately all of said owner's interest in such lands, interests and property and to pay in accordance with this section 4 just compensation for such lands, interest and property the plaintiff may have which are not yet acquired pursuant to this section 4. By February 1 of each year, the Secretary shall report in writing to the Committees on Interior and Insular Affairs of the United States House of Representatives and the Senate, on the status of negotiations with private owners to effect exchanges and acquisition of non-Federal property.

(2) The United States will pay just compensation to the owner of any lands and interests acquired by and pursuant to this Act. Such compensation shall be paid either: (A) by the Secretary of the Treasury from money appropriated pursuant to this Act from the land and water conservation fund or from any other funds available for such use, upon certification to him by the Secretary of the agreed negotiated value of such property, or the valuation of the property awarded by judgment, including interest at the rate of 8 per centum per annum from the date of acquisition of the property or the date of filing an action according to the provisions of section 4(c)(1) of this Act, whichever is earlier, to the date of payment therefor; or (B) by the Secretary, if the owner of the land concurs, with any federally owned property available to him for purposes of exchange pursuant to subsection 4(b); or (C) by the Secretary using any combination of such money or federally owned property.

(3) Just compensation shall be the fair market value of the lands and interests acquired by and pursuant to this Act, and shall be determined as of the date of acquisition: *Provided, however,* That the fair market value of those lands acquired from owners who, from the time of enactment of this Act to the time of acquisition of any such lands, have managed all lands within the intended wilderness under their ownership so as not to make such lands unsuitable or unmanageable as wilderness (except for disturbance affecting a minor land area and found by the Secretary to have resulted from strictly accidental and unintentional circumstances), shall be the sum of (A) the value of such lands and interests at the date of acquisition, plus (B) any loss of value of timber from casualty, deterioration, disease, or other natural causes from January 1, 1976, to the date of acqusition, with all existing and lost or damaged timber valued at the highest of (i) its market value on the date of acquisition (ii) its market value on January 1, 1976, or (iii) the mean average market value between those dates: *And provided further,* That nothing in this Act shall be deemed or construed to deny to owners of non-Federal lands, or to change their right to, access to such lands or to manage the same for any otherwise lawful purpose prior to acquisition thereof by the Secretary. For the purposes of this section, the owner of property is defined as the holder of fee title unless said property is subject to an agreement of sale entered into prior to April 1, 1976.

WILDERNESS MANAGEMENT PLAN

SEC. 5. In conjunction with the preparation of a wilderness management plan for the wilderness designated by this Act, the Secretary shall prepare a special study of the Enchantment Area of the Alpine Lakes Wilderness, taking into consideration its especially fragile nature, its ease of accessibility, its unusual attractiveness, and its resultant heavy recreational usage. The study shall explore the feasibility and benefits of establishing special provisions for managing the Enchantment Area to protect its fragile beauty, while still maintaining the availability of the entire area for projected recreational demand.

MULTIPLE-USE PLAN

SEC. 6 (a) Within two years of the enactment of this Act, the Secretary shall, in accordance with the provisions of this Act and other applicable acts governing the administration of the National Forest System and with full public involvement required by this and other pertinent law, prepared, complete and begin to implement in accordance with the provision of subsection (b) a single multiple-use plan for the Federal lands in the management unit.

(b) The management of the renewable resources will be in accordance with the Multiple-Use Sustained-Yield Act of 1960 (74 Stat. 215; 16 U.S.C. 528–531), with other applicable laws and regulations of the United States, and will be such to obtain multiple use and sustained yield of the products and services obtained therefrom.

(c) The Secretary shall publish a notice of such plan in the Federal Register and shall transmit it to the President and to the United States House of Representatives and to the Senate. The completed plan will take effect and will be implemented no earlier than 90 calendar days and no later than 150 calendar days from the date of such transmittal.

(d) The resources of the management unit shall be managed in accordance with the provisions of the multiple-use plan until such time as the plan may be revised according to the provisions of this Section.

(e) The Secretary shall review the multiple-use plan from time to time and, with full public involvement, shall make any changes he deems necessary to carry out the purposes of this Act.

(f) The Secretary shall permit and encourage the use of renewable resources within the management unit, and nothing in this Act shall be construed to prohibit the conduct of normal national forest programs during the formation of, nor to prohibit inclusion of such programs in the multiple-use plan required by this section.

AUTHORITIES OF THE STATE OF WASHINGTON

SEC. 7. (a) The Secretary shall permit hunting and fishing on lands and waters under his jurisdiction in accordance with applicable Federal and State laws. Except in emergencies, any regulations pursuant to this subsection shall be issued only after consultation with the fish and game departments of the State of Washington. Nothing in this Act shall be construed as affecting the jurisdiction or responsibilities of these agencies.

(b) Nothing in this Act shall deprive the State of Washington or any political subdivision thereof of its right to exercise civil and criminal jurisdiction within the area or of its right to tax persons, corporations, franchises, or other non-Federal property, in or on lands and waters within the area.

AUTHORIZATION OF APPROPRIATIONS

SEC. 8. There is hereby authorized to be appropriated for the acquisition of lands and interests to carry out the purposes of this Act not more than $20,000,000 in fiscal year 1977, $17,000,000 in fiscal year 1978, and $20,000,000 in fiscal year 1979, such sums to remain available until appropriated without fiscal year limitation. To prepare the multiple-use plan required by section 6 of this Act, there is authorized to be appropriated not more than $500,000. Appropriation requests by the President to implement the multiple-use plan shall express in qualitative and quantitative terms the most rapid and judicious manner and methods to achieve the purposes of this Act. Amounts appropriated to carry out this Act shall be expended in accordance with the Budget Reform and

Impoundment Control Act of 1974 (88 Stat. 297).

The SPEAKER. Is a second demanded?

Mr. SEBELIUS. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

Mr. TAYLOR of North Carolina. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, H.R. 7792, as reported by the Committee on Interior and Insular Affairs, would establish the Alpine Lakes Area, comprising some 920,000 acres, within the Cascade Mountains of Washington State. Within this area, whose Federal lands are already managed by the U.S. Forest Service, some 393,000 acres are identified for wilderness designation. An expedited land acquisition program is also directed to acquire those private lands which are located within the area identified for wilderness designation.

Let me briefly review this history of this legislation. The entire Washington State delegation introduced three measures early in this Congress for our consideration. These bills ranged from a National Recreation Area designation with a wilderness of 575,000 acres, to a simple wilderness designation of 216,000 acres.

The Subcommittee on National Parks and Recreation held hearings on these measures in June of last year. We than held 2 days of field hearings in the State of Washington, and received the views of several hundred witnesses. It became apparent that almost all parties could agree on the unique values of this region, but there would be difficult decisions for the Congress to make regarding the lands to be designated as wilderness, the mechanism needed to acquire privately owned lands to be classified as wilderness, and the management direction needed for the surrounding lands.

During the consideration of this measure by the committee, the gentleman from Washington (Mr. Meeds), offered a new text for the bill which addressed these concerns. The committee adopted this text in amended form. Following the initial action of the committee in reporting this measure, further discussions among the Washington State delegation led to the offering by Representative Meeds of a text with further alterations, which is supported by the entire State delegation. The committee then adopted this further amendment, and that is what we have brought before the House today. I believe the bill as now recommended represents a reasonable solution to a difficult decision.

Mr. Speaker, I will conclude at this time, as the gentleman from Washington (Mr. Meeds) will be offering additional details on the features of H.R. 7792 in its final form.

Mr. SEBELIUS. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, this bill represents a legislative culmination of an extremely controversial issue. It embraces a classic confrontation between alleged protectors of the natural environment and alleged exploiters advocating the consumptive use of that same resource. After strong confrontation in both Washington and field hearings before our committee, and after several years of fighting locally in the Pacific Northwest, this bill apparently now represents an acceptable compromise between the two principal warring factions.

I would like to point out that the committee, after long and arduous debate, adopted a text quite different from that brought before the House today. After full committee consideration was concluded, the sponsors of this legislation brought an entirely new text back before the committee, without fair warning, and in a quick moment of deft parliamentary skill, succeeded in getting this entirely new text adopted as a substitute with hardly a question being raised, and with essentially no scrutiny of the new text at all. Consequently, this bill is not the product of the Interior Committee, but is rather the product of local interests. The committee report for this bill was written on an entirely different text than that which is being proposed for the House to adopt today. Hence, there is no significant and closely applicable legislative history existing for the text of the bill that Members of the House are now being asked to adopt.

I doubt that most Members of the House will understand what they are voting on, since most members of the committee from which it came probably do not know what the bill contains. I will tell you, however, that the bill does contain some features which in earlier debate on similar proposals relevant to the Alpine Lakes issue, were flatly rejected by the committee. I think this is a poor way to legislate.

Overall, I believe the content of the bill will basically resolve the issues needed to be resolved. While I do object to several features of the bill, I do not feel so strongly about them as to wish the bill defeat, and I will not vote against the bill. Procedurally, however, I feel this bill represents a very indefensible way to legislate.

Now, there are a couple features of this bill which I believe should be pointed out.

This bill provides that large acreages of private lands will be purchased by the U.S. Forest Service on a priority basis—that is, within 3 years. The committee has had significant difficulty with this type of priority setting in the past, and this instance represents a greatly higher priority than would normally ever be considered. In the other bill text adopted by the committee, the 3-year period was rejected and replaced with a 5-year period, and even that was adopted with considerable reluctance. Even more important, the new bill text now before us provides a fail-safe for any lack of success over the 3-year acquisition period, in that the landowner may bring court action at the end of 3 years to require the Federal Government to acquire his lands. He is then provided with various formulas for the valuation of his land to assure that his land values do not decrease during the 3-year period, and is also to be awarded an annual rate of interest of 8 percent on the value of his holdings from time of bringing such action until the time of payment therefor.

A pretty good and safe guarantee for the landowner, I must say, and, overall, a significant prioritizing of acquisition of lands in Alpine Lakes at a much faster rate than those many thousands of other recreation type lands across the Nation authorized for acquisition in a conventional manner.

This bill provides an acquisition figure of $57 million, a figure which is possibly as much as $22 million higher than the figure suggested earlier by the U.S. Forest Service for essentially the same lands. I do not know what the explanation for this is, nor am I convinced such a high figure is at all appropriate to hand to the American taxpayer.

There are other features of the legislation which appear to create confusing, difficult, and perhaps unworkable situations for the U.S. Forest Service, who will be administering this area and trying to comply with this law. I wish them luck, for they will need some assistance of that type in getting through this one.

I will very reluctantly vote in favor of this bill, and hope that the Senate will have an opportunity to do a much better legislative job on this issue than did the House.

Mr. TAYLOR of North Carolina. Mr. Speaker, I yield 10 minutes to the gentleman from Washington (Mr. Meeds).

Mr. Speaker, will the gentleman yield?

Mr. MEEDS. I yield to the gentleman from North Carolina.

Mr. TAYLOR of North Carolina. Mr. Speaker, I would just like to point out that the gentleman from Washington (Mr. Meeds) has been most cooperative. He has been most helpful, and he has shown a willingness to spend an unlimited amount of time in trying to find out the real answers to the problems presented in this legislation. I just wish to commend the gentleman for his diligent efforts.

Mr. MEEDS. Mr. Speaker, I thank the chairman of the subcommittee.

Mr. Speaker, let me reciprocate by thanking the gentleman from North Carolina (Mr. Taylor) for his patience and perseverance through this very long and troubled history of the Alpine Lakes legislation.

I think an understanding of the legislation requires a description of the area, a description of the process which was followed, and a presentation of the bill. First, let me say that the Alpine Lakes area is located in the central Cascade Mountains of Washington State. It is composed of towering, rugged, snowcapped peaks, alpine meadows, over 600 crystal-clear alpine lakes, and some beautiful timbered valleys. In short, the beauty of this area equals or surpasses that of the European Alps.

The area is located within 60 road miles of one-half of the State of Washington. It has more hiker use than all three national parks which are located in Washington: Mt. Rainier National Park, Olympic National Park, and North Cascades National Park. It has more outdoor recreational use than both North Cascades and Olympic National Parks combined.

It also contains some very fine commercial timber. That is why we have this bill before the House today rather than having had it here some 20 or 10 or 5 years ago. It is an area upon and within which there are a number of conflicting interests and uses. How to properly utilize the Alpine Lakes area for the best interests of all the people of this Nation has been a matter of controversy in Washington State since 1946, when most of the area with which we are here dealing was first set aside as a limited area by the National Forest Service.

In 1963 a joint study team recommended two wilderness areas within the area which we are here considering. In 1971 the Washington State congressional delegation, determined to resolve the problems of Alpine Lakes, asked the Forest Service for a study and for recommendations.

We first put in bills in 1973. We received that recommendation from the Forest Service in 1975, and the entire delegation put in three bills which went from a proposal which recommended 216,000 acres in two wilderness sections, which was presented by a coalition of users, to a proposal for a 575,000-acre wilderness area surrounded by 537,000 acres of national recreation areas proposed by conservationists.

We conducted 3 days of hearings, 2 in Washington State and 1 here. We had 7 days of markup in the subcommittee and the full committee, and six of the seven members of the Washington State delegation proposed a compromise which was finally passed by the subcommittee and the full Committee on Interior and Insular Affairs.

After that it became apparent that it was possible that accommodation might still be reached so that there could be relatively unanimous agreement on this legislation.

Therefore, the groups began a series of negotiations. The groups were a coalition of users composed of timber companies, of outdoor recreation enthusiasts, four-wheel drive enthusiasts, horsemen, and others, plus the coalition of conservation groups. They had many meetings. It was a difficult and long negotiation.

I attempted to mediate in some instances, and I now know how Henry Kissinger feels when he attempts to negotiate or to mediate the Arab-Israeli dispute. However, I have nothing but praise for those who, through long and hard discussion, stayed with this matter, particularly Bob Witter of the Weyerhaeuser Co., Jerry Grinstein, a Seattle attorney, and Doug Scott of the Sierra Club. They worked long and hard, and finally submitted to us two drafts, from which the Washington State delegation composed a third which was submitted to both groups and accepted by them.

Mr. Speaker, this is the final compromise which is before the House today. It creates a 393,000-acre wilderness area surrounded by a multiple-use management unit of some 527,000 acres. It provides a time certain, 3 years, and the method for acquisition of private lands. A method of acquisition which assures the private owners that they will get their compensation for their land. It also assures the conservationists that they will get the area described, within the 3-year period.

It provides authorization for appropriations of $20.5 million in the first year, $17 million in the second year, and $20 million in the third year.

Mr. Speaker, it is supported by the entire Washington State House delegation, by the coalition of users composed of the timber companies, the recreation-vehicle users, the rock hounders, the horsemen, and a whole bunch of other people. It is supported by all conservation groups in our State and in the Nation. It is supported very strongly by the Governor of our State, Dan Evans.

In short, Mr. Speaker, it is supported by almost everyone.

Opposition has been voiced by a local labor leader, and reservations have been voiced informally to me by the Forest Service as have been indicated by the gentleman from Kansas (Mr. SEBELIUS).

Mr. Speaker, I might just conclude by saying that I think this is a very decent compromise, honorably obtained. This beautiful mountainous region is one of Washington State's most valuable resources. This bill will allow for its maximum use by all of the people of this country and will assure that this majestic area will be preserved for generations to come.

Mr. TAYLOR of North Carolina. Mr. Speaker, will the gentleman yield?

Mr. MEEDS. I yield to the gentleman from North Carolina.

Mr. TAYLOR of North Carolina. Mr. Speaker, I would just like to commend the members of the Washington delegation who have taken the lead in working out a compromise in this legislation.

Personally, I favor solutions and not issues. We are glad that the delegation took the leadership in solving the problem.

Mr. MEEDS. Mr. Speaker, if I might respond to the gentleman, I have the highest praise for my colleagues who have worked equally as hard as have I to achieve this compromise.

I think it is a very fine compromise, and I hope the House will pass it overwhelmingly.

Mr. SEBELIUS. Mr. Speaker, will the gentleman yield?

Mr. MEEDS. I yield to the gentleman from Kansas.

Mr. SEBELIUS. Mr. Speaker, I want to commend the gentleman from Washington (Mr. MEEDS) for his leadership in trying to work out the problem out in Washington State. However, my original remarks still stand on the subject.

I dislike the way we have legislated the ultimate conclusion of this bill because I am not sure exactly what all is in it but, nevertheless, I do commend the gentleman from Washington (Mr. MEEDS) and the Washington State delegation for trying to work out the problem.

Mr. MEEDS. I thank the gentleman.

Mr. SEBELIUS. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. DON H. CLAUSEN).

Mr. DON H. CLAUSEN. Mr. Speaker, I rise in support of H.R. 7792, a bill to establish the Alpine Lakes Wilderness Area in the State of Washington.

I believe it is important to emphasize that this bill is the result of many, many days of hearings and markup sessions by the Subcommittee on National Parks and Recreation and the full House Interior and Insular Affairs Committee, both of which I am a member of, and is the product of long hours of debate and compromise.

Three separate proposals were originally introduced representing the diverse opinions as to the proper management of the area. Subsequently, two updated bills were introduced and numerous amendments and a comprehensive substitute proposal were considered. The final bill represents the combined input of the six members of the Washington delegation and I commend my colleagues on the delegation for their willingness to work together to produce a bill which will provide the desired protection of the Alpine Lakes area. An unusual procedure, in the form of a substitute text passed by the committee brings us a consensus bill negotiated by the varying interests involved.

In the way of background, 2 days of field hearings were also held in Washington State which I attended. It was extremely helpful to the members of the subcommittee to be able to inspect the affected area and to listen to the views of the hundreds of witnesses who appeared before the subcommittee. The numerous ideas and comments presented by the witnesses allowed us to obtain a much better understanding of the wide range of issues involved.

Interest has existed in this unique area for many years. The region contains valuable and superb wilderness, active glaciers, permanent snowfields, and a watershed which is an essential source of water for the areas to the east. In addition, the area offers numerous recreation possibilities such as skiing, backpacking, and rock and mineral collecting. The diversity of the area is also responsible for the diversity of views as to its proper and appropriate use.

The area's close proximity to population centers has also led to its rapid rise in popularity and use which has further intensified the demands for a workable and reasonable management plan.

I urge my colleagues to support the bill.

Mr. SEBELIUS. Mr. Speaker, I yield 3 minutes to the gentleman from Washington (Mr. PRITCHARD).

Mr. PRITCHARD. Mr. Speaker, I think many people in this country believe that the environmentalists and the people that produce timber are on a collision course and that there is not any way in which we can work out these differences. On the other hand, there are people in this country and Members of this Congress who believe that it is absolutely essential that these differences are worked out so that our forests can produce timber and at the same time we can have recreational areas for the great numbers of our citizens.

This bill is the culmination of efforts that have gone on over the last 7 years and I believe is a striking demonstration that these matters can be worked out. As I say, I think it is essential to America that we work out the differences between the environmentalists and the producers of timber, and we will lose a great asset if we fail to work the necessary compromises out. This is an effort that was started in 1946 when the Forest Service first called for a study. In 1969 the ALPS, the Alpine Lakes Protection Society, a group the environmentalists formed, and started their efforts to support this wilderness area. Following that, the producers felt that they had to get together in order to protect their interests. We have had a long and very difficult and arduous task to work this problem out.

I am delighted that I can be a part of the effort to work this out so that we will be able to prove to America that it is not necessary to have a blood bath each time we attempt to set up some type of wilderness and recreational area. The gentleman from Washington (Mr. Meeds) has been the spearhead and should deserve most of the credit but there also should be credit given to the chairman of the committee, the gentleman from North Carolina (Mr. Taylor), and to all of the other members of the committee. Because of this we have been able to work out a bill that means so much to the people of my State. While my congressional district does not border on this area, I believe that there are more people in my district that use this area than any other congressional district in America.

So again I say that I am very proud of the effort that has been made and I am very pleased that the process has worked and we have been able to come to the floor of the House with a bill that is backed by all of the diverse interests in our State.

Mr. TAYLOR of North Carolina. Mr. Speaker, I yield 1 minute to the gentleman from Washington (Mr. Foley).

Mr. FOLEY. Mr. Speaker, I want to join my colleagues from the State of Washington in urging the Members of the House to adopt this compromise bill. It does not represent everything that every Member would like to see in the legislation, but it does represent the very best efforts that the entire Washington delegation and the people concerned with this matter have been able to bring forward to the House floor for approval.

I want to join the gentleman from Washington (Mr. Pritchard) in paying credit to not only the members of the committee, but especially to our colleague, the gentleman from Washington (Mr. Meeds), who has spearheaded this effort of compromise in order to bring the bill before the House.

I believe this is a good bill. It is our best effort. I think when it is enacted that it will be a very important addition to our national wilderness system. It represents a legislative spirit of compromise among all of those who have had a part in this long, difficult process of negotiation.

Mr. SEBELIUS. Mr. Speaker, I yield 4 minutes to the gentleman from California (Mr. Lagomarsino).

Mr. LAGOMARSINO. Mr. Speaker, I rise in support of H.R. 7792, the Alpine Lakes Area Management Act of 1976. The appropriate disposition of the natural resources of the Alpine Lakes Region of North Central Washington has long been a controversial issue. Fortunately, after years of debate and tension, a solution through legislation appears to be nearly at hand in the form of the bill now before us.

I would like to commend the gentleman from North Carolina (Mr. Taylor), the chairman of the subcommittee; the gentleman from Kansas (Mr. Sebelius), the ranking minority member; all of the Washington delegation; and particularly the gentleman from Washington (Mr. Meeds), for their efforts on behalf of this legislation. They never gave up. It went on and on, and they stayed with it.

I would particularly like to commend the gentleman from Washington (Mr. Meeds) for chairing a hearing where in 1 day in Wenatachee, Wash., he and I heard from over 200 witnesses on all sides of this very controversial issue. I think it is almost a miracle that they had achieved the kind of unanimity that now appears before us.

However, I should point out moreover that the bill, now before all Members of the House for final adoption is not the one which was the product of days of debate and consideration by the subcommittee and committee. Rather, the bill before us is a substitute text promptly adopted by the committee last week, without any real scrutiny or knowledge of its contents. There are features of this bill which might not have been adopted by the committee, had the committee considered them.

Nevertheless, I feel the basic thrust of the bill will resolve the local dispute in a reasonably satisfactory manner, even though it may provide considerable difficulty for the U.S. Forest Service in so doing, although not nearly as much difficulty as the originally reported bill.

There is one feature of the bill which really troubles me and which I think is misdirected. That is part of section 5, which directs a special study of the enchantment area, and therein suggests that the feasibility be explored of managing this area to accommodate projected recreational demand.

The automatic and unthinking decision to try to meet projected recreational demand anywhere, and particularly within a wilderness, is inherently and internally conflicting, and inconsistent and obsolete. There is no more sure way to destroy a wilderness area than with that type of thinking. I hope that the Forest Service will scrutinize the language of this provision sufficiently closely so as to recognize that this, first of all, is but part of a study, and moreover only requires that the feasibility and benefits of such action be explored, not necessarily adopted. As long as this is understood, the thought behind this provision can soon and ultimately be abandoned, and conventional steps can then be undertaken to get on with properly protecting the wilderness integrity of this area for visitor use and enjoyment.

Mr. Speaker, on balance, I believe the bill is a good one and I urge its passage.

Mr. SEBELIUS. Mr. Speaker, I yield such time as he may consume to the gentleman from Kansas (Mr. Skubitz).

Mr. SKUBITZ. Mr. Speaker, H.R. 7792, a bill to designate the Alpine Lakes Wilderness in the State of Washington, is a compromise measure, a compromise arrived at only after long and often difficult negotiations involving members of the Washington congressional delegation, user groups, environmental organizations, and the timber industry.

Although the Committee on Interior and Insular Affairs passed an Alpine Lakes bill in February of this year, there was still considerable dissatisfaction and controversy.

It is a tribute to all concerned that they could sit down again and keep talking until their differences were worked out. But the agreement reached—I am fearful establishes a president—that will soon rise to haunt us.

This is a big bill. The total land area involved approaches a million acres.

It is expensive, $57,500,000 will be authorized for land acquisition, and the preparation of a multiple-use plan.

I shall support the bill but there is one provision which does disturb me and I call my colleagues' attention to it in order to sound a warning.

This is the declaration that—

> It is the intention of Congress that acquisition of the intended wilderness land shall be completed no later than three years after the date of the enactment of this act.

In other words, this means that all the areas we have already authorized but have not yet acquired will be pushed back a little bit further.

All other park areas are still waiting in line to get money from the land and water conservation fund so they can get started.

We have landowners who have been told that their land is to be taken and now they will have to wait that much longer to get their money.

I realize there is a sense of urgency with this bill, but the acquisition backlog for both the National Park Service and the Forest Service is large and grows each time we pass one of these bills.

Acquisition of many of the authorized areas in the backlog could be called urgent.

It is a dangerous precedent to leapfrog one wilderness or park area over all the others—I hope this shall not be considered as precedent forming.

Mr. TAYLOR of North Carolina. Mr. Speaker, will the gentleman yield?

Mr. SKUBITZ. I yield to the gentleman from North Carolina.

Mr. TAYLOR of North Carolina. Mr. Speaker, I believe the gentleman will agree with me that there have been other cases in which legislation has been brought to the House floor by our committee which included priority language for land acquisition.

Mr. SKUBITZ. Yes; I agree. In fact, I took the floor in behalf of the Piscataway Park and I asked support for that. But for 12 years, I will remind my chairman, we tried to get that bill through. We had the opposition of the Park Service and it was not until after the death of John Saylor that this committee felt, after all the opposition we had received from the Department, that we ought to go ahead with it.

But we do not have that kind of opposition with this bill. I do not know of one time that the Park Service has opposed it. It is not the opposition I speak of, but I am objective to the principle we establish in this bill.

Mr. TAYLOR of North Carolina. I would like to state to the gentleman that legislation was passed by the House a week or two ago which greatly increased the amount of money going into the land and water conservation fund. If that bill becomes law perhaps that will solve this problem to a great extent for this park and for all others.

Mr. SKUBITZ. That bill did pass the House and the gentleman used the correct word when he said "if" it becomes law. That bill still has a big hurdle to jump, as the gentleman well knows.

Mr. TAYLOR of North Carolina. Mr. Speaker, I yield 1 minute to the gentleman from Washington (Mr. BONKER).

Mr. BONKER. Mr. Speaker, the final compromise proposal for creating an Alpine Lakes wilderness area and management unit in Washington State is a balanced solution to some of the most complex resource use conflicts that Congress is likely ever to face. I endorse it, and I earnestly solicit the support of the full House.

The region, sitting astride the crest of the Central Washington Cascade Mountains, is at once a series of alpine wilderness vistas and the site of some of the most productive timber growing lands in the Nation. Over 600 lakes and 2,000 acres of glaciers enhance unmatched scenic values while providing, too, the irrigation water vital to the dry but fertile lands to the east. Elk, black bear, mountain goats, mule and blacktail deer, over 150 species of birds and a variety of native and introduced species of fish live there, both to lure hunters and fishermen and to provide exceptional opportunities for ecological studies. Recreationally, the area is attractive to the backpacker and mountain climber in search of untrammeled wilderness, yet also is popular with the horseback rider, the skier, the off-road vehicle enthusiast and the rockhounder.

These rich resources lie near the Seattle-Tacoma metropolitan area, just 70 miles by car via two major highways from no less than 50 percent of the population of the entire State of Washington.

However, the ease of accessibility and the diversity of resources that make the Alpine Lakes region unique also subject it to intense pressures from conflicting uses. Those conflicts will soon be deciding the future of the region by default if we do not take this opportunity to act now.

The measure before us today, an Interior Committee substitute to H.R. 7792, offered by Congressman LLOYD MEEDS, resolves the conflicting views of the ultimate worth of the Alpine Lakes area in a manner that has the support of both conservationists and a coalition of timber industry and other user groups.

A 393,000 acre wilderness area surrounded by a 527,000 acre multiple use management unit would be established. Initially, the bill would create a 300,000 acre wilderness. Another 93,000 would be added within 3 years after the owners of the intermingled private lands are paid fair market value for their property plus interest and compensation for deterioration of timber stands.

The wilderness area would encompass the rugged mountain high country where wilderness and scenic values are highest, plus several adjoining low-level roadless valleys important both as trail access corridors to the wilderness area core and for the year-round recreational opportunities they afford for those who cannot or prefer not to undertake the more strenuous effort that travel to the mountain heights requires.

In this latter category are virtually all the roadless portions of Deception, Ingalls, Chatter and Eightmile Creeks and Box Canyon. Major portions of the Snow Creek Valley and Trail would lie within the wilderness. Roadside wilderness vistas would be insured by declaring as wilderness area the valley slopes west of the Miller River Road and along both sides of the Cle Elum River Road above Fish Lake. Finally, a late addition to the wilderness area, coupled with trail protection agreements, afford promise for preserving the recreational values of the Pacific Crest National Scenic Trail in the Tunnel Creek vicinity.

The Forest Service would develop a broad multiple use plan, without strict guidelines mandated by law, for the 527,000-acre management unit outside the wilderness. Initial Forest Service planning allocates the preponderance for multiple use resource production but has also identified two areas where special care to protect scenic values is in order, a prime site for future skiing facilities and a sizable area suitable for trail vehicles and related offroad recreational use.

Mr. Speaker, public discussion of the importance of protecting the Alpine Lakes area began nearly six decades ago. The Forest Service has officially safeguarded major scenic values, pending formal classification, since 1946. Extensive studies have been conducted over the past 15 years. During the early days of the 94th Congress, the introduction of three legislative alternatives set the stage for the final round of hearings, evaluaions and intensive negotiations that resolved all the major issues and produced the legislation that is before the House today.

No better opportunity will ever be available to respond in a balanced, equitable manner to all the many people and interests who know the values of the Alpine Lakes region.

Mr. TAYLOR of North Carolina. Mr. Speaker, I yield 3 minutes to the gentleman from Washington (Mr. ADAMS).

Mr. ADAMS. Mr. Speaker, I rise in strong support of this legislation. I want to join in the comments of my colleagues, the gentleman from Washington, in expressing our appreciation to the chairman of the subcommittee and to the ranking minority member of the committee and to the others who have labored long and hard on this piece of legislation.

It has been mentioned it was a controversial piece of legislation. It was controversial only in the sense that there were some disputed areas peripheral to the central wilderness about which people had very strong feelings. The central core of the wilderness area involved consists of some 600 high alpine lakes and it has always been agreed by all parties this central core should be set aside for future generations. I think the bill before us today represents a good compromise on the disposition of the disputed areas.

The second part of the bill which we found difficult to work out was the manner in which to handle the surrounding area protecting the central wilderness area.

Mr. Speaker, that involved a very difficult series of compromises. I want to compliment my colleague, the gentleman from Washington (Mr. MEEDS) for working with these various groups to reach a compromise. I also want to thank the chairman of the subcommittee and to the ranking minority Member for understanding and having patience while these negotiations were underway.

I think this is going to be a process which we are going to see repeated again and again throughout the United States in the next decade. Throughout the country, decisions on wilderness and national park lands are going to have to be made, and made on an individual basis. Various groups concerned about various parts of the country will come to the Congress and say, "We are trying to reconcile our differences on how best to maintain the natural environment and still leave production facilities available for our people."

These decisions will have to be hammered out one at a time. We are not trying in this bill to say that this will be a pattern for all future settlements of this issue. We are saying that compromise, utilizing the legislative process, is a good method for proceeding with these kinds of problems. That is why I am grateful to the great Committee on the Interior for understanding our situation in the Central Cascades of Washington and for moving on it. When the next bill comes on the floor, many of us will respect the necessary compromises that have to be made in other areas and regions and States to solve their particular problems.

I think we can arrive at a reasonable set of compromises in the next 10 years throughout the entire United States to solve the obvious conflicts of interest that will occur between environmental groups and industrial development groups over wilderness preservation. The way to do it is the way we have worked on this Alpine Lakes bill—through negotiations with all interested groups, with debate on the floor of the House and the Senate, and with approval by the President. The whole matter must continue as a process of development, not as an individual fiat.

Mr. Speaker, I am very pleased to support this legislation. I hope the House will pass it overwhelmingly. I hope that the Senate will then pass it, and it will go to the President's desk to be signed into law so that this beautiful Alpine Lakes area will be maintained.

Mr. McCORMACK. Mr. Speaker, the legislation to create the Alpine Lakes wilderness area has been the subject of considerable controversy for many months. A host of interested citizens and groups have expressed their concerns repeatedly and with great intensity. As would be expected, a broad spectrum of recommendations and philosophical positions was expressed ranging from creating a wilderness area almost as large as the entire study area with a recreational area surrounding that, on one extreme, to no wilderness at all on the other.

Obviously, the responsible solution lies somewhere between—establishing a wilderness including those areas that are remote and untouched and which will best serve the public interest if excluded from development or production. Ideally, such a wilderness should be surrounded by land to be managed for sustained-yield harvesting of timber and multipurpose recreation, using management practices not incompatible with the presence of the wilderness. Finally, the creation of a wilderness area should not impose an unacceptable economic impact on the area under consideration. These are the guidelines I have assumed when attempting to contribute to the drafting and preparation of this legislation, but with a special consideration for the economic impact of the provisions of the bill on the people of Chelan and Kittitas Counties who are my constituents.

Unfortunately, the first version of the bill submitted to the Interior Committee for serious consideration was totally unacceptable in that it would have created a wilderness area that was, from my perspective, too large. It would have, through the creation of buffer zones and de facto recreation areas, removed from the allowable cut so much timber that should be managed for sustained-yield harvesting that critical economic damage would have been done unnecessarily in Chelan and Kittitas Counties. Those and other provisions of that proposal forced me to oppose it. Subsequent action by the Subcommittee on Parks and Recreation and the full Committee on the Interior removed some of the most damaging features of the bill but still left it unacceptable to the people of the Fourth Congressional District and to many members of the committee. Attempts to substitute a cleaner bill with a slightly smaller wilderness area, but with substantially reduced economic impact and simpler management provisions, were led by the gentleman from California (Mr. Bizz Johnson). These attempts failed in the subcommittee by a vote of 11 to 10 and in the full committee by a vote of 23 to 17. The bill originally reported by the committee was, in spite of significant improvements, unacceptabe to me and would have done irreparable economic harm in the Fourth Congressional District. I would have been obligated to oppose that bill on the floor of the House if it had come to us in the form reported by the committee. Fortunately, a compromise has been reached between some of the most involved parties, and the amended version of the bill which comes before the House today is a substantial improvement over the bill originally reported by the full committee.

I want to commend the gentleman from Washington (Mr. Meeds) for his efforts in providing a focal point around which this compromise was reached and for his efforts and determination in ironing out the final details of this bill.

Mr. Speaker, what we have before us is the only possible compromise available to us at this time for this legislation. As such, and in the spirit of harmony, I accept it and I will support it.

However, I feel that I have an obligation to my constituents and to myself to record several serious reservations I have with respect to this legislation, even as it is now amended. I believe that the wilderness area, as it will be established, unnecessarily includes private lands in Chelan County which would better be left in private ownership. I believe that some Forest Service land, particularly in the lower reaches of Jack Creek and Icicle Creek should have been made available for selective logging consistent with standards for scenic areas, and should have been made available for multipurpose recreation for all the people. The effect of not following these policies has been to increase the cost of the bill unnecessarily and to reduce the allowable cut and the number of jobs available in an area already suffering from a 15-percent unemployment rate. In effect, this bill, even in its amended and substantially improved form, threatens the timber industry and the economy in a portion of the Fourth Congressional District. It may, depending on the ultimate allowable cut in the area and the level of competition for available timber, cause the closing of one of the mills in Chelan County. If this happens, unnecessary hardship will result. Each of the three mills in this area supports its own small town, and permanent closure of only one of these mills would have a catastrophic impact on the host community.

Accordingly, it is imperative that the Forest Service, in carrying out the provisions of this law, provide land exchanges within Chelan County, to the maximum possible in order to optimize the private land ownership in the areas closest to the existing mills that will result from these exchanges.

One new and attractive ray of hope appears in this bill. The Forest Service is called upon to make a study of the enchantment area. This area, which is included as wilderness, unmistakably should be protected and preserved for recreation, but it may be too fragile for the recreational load it carries, unless some higher standard for protection and preservation than is normally allowed under wilderness management is provided. Most citizens, I am certain, would assume that if the land were being damaged by overuse without management that it should be managed in such a way as to protect it but still allow people to visit it. However, this is not necessarily the case with wilderness areas, and we arrive at a "Catch-22" situation where people for whom the wilderness area is presumably set aside are kept out and the land is not protected as it could be. I consider this to be a case of inverted thinking, of getting our priorities mixed up. Therefore, a study of this particular enchantment area has been provided in the bill, calling upon the Forest Service to investigate the possibility of taking such steps as may be indicated to preserve the land while providing for recreational activity on it. This may constitute a higher level of protection than would be allowed with normal wilderness management concepts, and this may be a precedent-setting step forward.

Mr. Speaker, preparing this legislation for the Alpine Lakes wilderness area has been a time consuming, difficult exercise often accompanied by emotional strain. I know that everyone involved has tried sincerely and for that I express the appreciation of my constituents, who are the ones most impacted by this bill. I can honestly say that although the final provisions of the legislation are not as I would have wished them to be, I have done my best for my constituents, recognizing that in such a compromise, the opinions and desires of many other interested groups and individuals must also be recognized.

Mr. TAYLOR of North Carolina. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore (Mr. McFall). The question is on the motion offered by the gentleman from North Carolina (Mr. Taylor) that the House suspend the rules and pass the bill (H.R. 7792), as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

TAX TREATMENT OF CERTAIN OPTION INCOME OF EXEMPT ORGANIZATIONS

Mr. ULLMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3052) to amend section 512(b)(5) of the Internal Revenue Code of 1954 with respect to the tax treatment of the gain on the lapse of options to buy or sell securities, as amended.

The Clerk read as follows:

H.R. 3052

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 512(b)(5) of the Internal Revenue Code of 1954 (relating to modifications to unrelated business taxable income) is amended by inserting after the first sentence the following new sentence: "There shall also be excluded all gains on the lapse or termination of options, written by the organization in connection with its investment activities, to buy or sell securities (as defined in section 1236(c)).".

(b) The amendment made by subsection (a) shall apply to gain from options which lapse or terminate on or after January 1, 1976, in taxable years ending on or after such date.

The SPEAKER pro tempore. Is a second demanded?

Mr. SCHNEEBELI. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Oregon (Mr. Ullman) and the gentleman from Pennsylvania (Mr.

SCHNEEBELI) will each be recognized for 20 minutes.

The Chair now recognizes the gentleman from Oregon (Mr. ULLMAN).

Mr. ULLMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the bill before us—H.R. 3052—gives tax-exempt organizations the same tax-free treatment on income from writing stock options as they now have for gains and losses from direct investments in stock or other securities.

Under present law, tax-exempt organizations are subject to tax on their unrelated business taxable income. Dividends, interest, annuities, and royalties are generally exempt from this tax. Also, present law generally exempts capital gains and losses.

Consequently—

If an exempt organization buys some stock, it is not taxed on the dividends from that stock.

If the organization sells the stock, then any gain or loss on the sale is not subject to the unrelated business income tax.

If the organization writes an option on stock and that option is exercised, the gain or loss that results from this exercise of the option is not taken into account for this tax.

However, if the exempt organization writes an option on stock and the option is not exercised, or if the organization enters into what is called a closing transaction, then it appears that the exempt organization may be subject to tax on any gain that results from such a transaction. The gain would arise from the organization receiving an amount—called a premium—when it wrote the option. The results of any closing transaction would normally be netted against the option premium income.

As a result, under present law the question of whether an exempt organization will be taxed on what are essentially passive investment types of income depends to a great extent on the precise form that the organization uses in this investment activity.

At one point, option-writing was sufficiently unusual so that this would not pose a practical problem for exempt organizations. However, with the tremendous growth of the options market since the opening of the first options exchange in 1973, investing in options has become a widespread and profitable investment activity. In addition, when properly approached, it affords investors opportunities to hedge or protect their investments at only a fraction of the cost of direct stock purchases. The potential tax on option premium income, however, reduces the attractiveness of writing options for exempt organizations, such as schools, churches, hospitals, fraternal lodges, pension funds, and cemeteries.

The Ways and Means Committee concluded that exempt organizations' premium income from writing stock options in connection with their investment activities should generally be treated in the same manner as is their income from direct sales of stock. Income from the sale of stock is exempted from the tax on unrelated business income. The committee has therefore provided in this bill that exempt organizations' premium income from writing stock options which are not exercised generally will also be exempt from that tax.

The bill applies to income from options which lapse or terminate on or after January 1, 1976.

Mr. Speaker, I urge the House to approve H.R. 3052 which exempts from unrelated business income tax the premium income on unexercised options written by exempt organizations.

Mr. SCHNEEBELI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3052, which concerns the unrelated business income tax as it applies to income received by an exempt organization in those cases in which the organization has written options to purchase or sell securities and the option has been either terminated or allowed to lapse. Under the present provisions of the Internal Revenue Code, premiums received on "exercised" options become part of the gain or loss on the sale of the property involved and are therefore usually capital gain or loss. However, in cases in which the option in question either lapses or is terminated, the premium is generally treated as ordinary income.

This difference in treatment is important to exempt organizations because in most cases capital gains are excluded from the unrelated business income tax on the basis of the general exclusion for investment income of exempt organizations, while ordinary income resulting from the writing of options is subject to the tax.

H.R. 3052 would add gains on the lapse or termination of options in such situations to exempt organizations' exempt category of income by amending section 512(b)(5) of the Internal Revenue Code of 1954, as amended. The committee believes that the change which this bill would effect is a desirable one, inasmuch as an option writer cannot anticipate whether or not an option will be exercised by the purchaser. The option writer may conclude that it is in his best interest economically to terminate the outstanding option through a closing purchase transaction. It seems inappropriate to tax income from lapsed or terminated options differently from income on those which are exercised, taxing the former income as unrelated business income of the exempt organization while excluding income from exercised options from the tax. The committee believes that such taxation is not consistent with the tax-free treatment generally accorded to exempt organizations' income from their investment activities.

Accordingly, I urge the enactment of this bill.

Mr. ROSTENKOWSKI. Mr. Speaker, I would like to join the distinguished chairman of the Committee on Ways and Means in urging my colleagues to support H.R. 3052, a bill that I introduced in the opening days of this Congress.

This legislation would rectify an inconsistency which presently exists in the tax law in regard to the treatment of tax-exempt organizations. Such organizations, including educational institutions, may seek to augment their investment income by granting options to purchase securities held in their portfolios.

If an option of this type is exercised, thus requiring the organization to sell the security, the premium received for the option is treated as part of the proceeds on the sale of the security itself. Any gain on such a sale is not subject to the unrelated business income tax, because that tax does not apply to investment income such as dividends, interest and capital gains.

If, on the other hand, the option is permitted to lapse, or is terminated, the organization retains the income it received for the option. Yet, although such income also is derived from the investment activities of the organization, the Internal Revenue Service holds that it is subject to the unrelated business income tax.

There is no rational basis for continuing this disparate treatment. The unrelated business income tax is intended to discourage exempt organizations from competing with taxable businesses. Given this purpose, there is no more reason for taxing the income derived from the lapse of options than there is for taxing the capital gains of exempt organizations. No competition with taxable businesses is involved in the production of either type of income.

The Internal Revenue Service's present position results from an historical fortuity. Under the Internal Revenue Code of 1939, income from the lapse of an option was considered short term capital gain, and as such was exempt from the unrelated business income tax. For reasons wholly unrelated to the present issue, such income was reclassified as ordinary income in the Internal Revenue Code of 1954. Although the 1954 change was directed at nonexempt taxpayers, it has the unintended effect of subjecting such income in the hands of exempt organizations to the tax on unrelated business income.

During consideration of the Tax Reform Act of 1969, and again in August 1970, the Treasury Department indicated it would not oppose an amendment which would restore the pre-1954 Code tax status. It did so after considering the legislative history of section 512 and the practice of exempt organizations with regard to the granting of options.

Enactment of the amendment at this time is particularly appropriate. The Chicago Board of Trade has organized the Chicago Board Options Exchange as the first national securities exchange to offer trading in options. Trading on the exchange began over 1 year ago and its successful development and expansion and the development of other options exchanges throughout the country depend in no small part on the participation of tax-exempt organizations such as educational institutions. At the present time their participation is unnecessarily discouraged by the present tax treatment of the income from lapsed or terminated options.

Moreover, in view of current budgetary and fiscal restrictions, educational institutions, particularly our major universities, have an unusual and immediate need to supplement their investment income. The proposed provision would permit such institutions to realize the maximum return from their portfolio holdings without subjecting those holdings to any unusual investment risk.

The revenue loss which would result from this legislation is minimal. Educational institutions and other tax-exempt organizations are at present reluctant to engage in the writing of options because of the present restrictions of the unrelated business income tax on options that are not exercised.

This is the third consecutive Congress into which I have introduced this legislation. I am pleased that it is finally being given its day in the sun.

The SPEAKER pro tempore (Mr. MCFALL). The question is on the motion offered by the gentleman from Oregon (Mr. ULLMAN) that the House suspend the rules and pass the bill H.R. 3052, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

There was no objection.

DISTILLED SPIRITS

Mr. ULLMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3055) to amend certain provisions of the Internal Revenue Code of 1954 relating to distilled spirits, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3055

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 5233(c) of the Internal Revenue Code of 1954 is amended by striking out "No trademarks" and inserting in lieu thereof "Except in the case of gin and vodka for export, no trademarks".

SEC. 2. Section 5062(b) of the Internal Revenue Code of 1954 is amended to read as follows:

"(b) DRAWBACK.—On the exportation of distilled spirits or wines manufactured, produced, bottled, or packaged in casks or other bulk containers in the United States on which an internal revenue tax has been paid or determined, and which are contained in any cask or other bulk container, or in bottles packed in cases or other containers, there shall be allowed, under regulations prescribed by the Secretary or his delegate, a drawback equal in amount to the tax found to have been paid or determined on such distilled spirits or wines. In the case of distilled spirits, the preceding sentence shall not apply unless the claim for drawback is filed by the bottler or packager of the spirits and unless such spirits have been stamped or restamped, and marked, especially for export, under regulations prescribed by the Secretary or his delegate. The Secretary or his delegate is authorized to prescribe regulations governing the determination and payment or crediting of drawback of internal revenue tax on spirits and wines eligible for drawback under this subsection, including the requirements of such notices, bonds, bills of lading, and other evidence indicating payment or determination of tax and exportation as shall be deemed necessary."

SEC. 3. (a) Section 5215 of the Internal Revenue Code of 1954 is amended to read as follows:

"SEC. 5215. RETURN OF TAX DETERMINED DISTILLED SPIRITS TO BONDED PREMISES.

"(a) GENERAL.—On such application and under such regulations as the Secretary or his delegate may prescribe, distilled spirits withdrawn from bonded premises on payment or determination of tax (other than products to which any alcoholic ingredients other than such distilled spirits have been added) may be returned to the bonded premises of a distilled spirits plant. Such returned distilled spirits shall be destroyed, denatured, or redistilled, or shall be mingled as authorized in section 5234(a)(1) (other than subparagraph (C) thereof).

"(b) DISTILLED SPIRITS RETURNED TO BONDED PREMISES FOR STORAGE PENDING EXPORTATION.—On such application and under such conditions as the Secretary or his delegate may by regulations prescribe, distilled spirits which would be eligible for allowance of drawback under section 5062(b) on exportation, may be returned by the bottler or packer of such distilled spirits to an export storage facility on the bonded premises of the distilled spirits plant where bottled or packaged, solely for the purpose of storage pending withdrawal without payment of tax under section 5214(a) (4), (7), (8), or (9), or free of tax under section 7510.

"(c) DISTILLED SPIRITS STAMPED AND LABELED AS BOTTLED IN BOND.—On such application and under such regulations as the Secretary or his delegate may prescribe, a proprietor of bonded premises who has bottled distilled spirits under section 5178(a)(4)(A)(ii), which are stamped and labeled as bottled in bond for domestic consumption, may return cases of such bottled distilled spirits to appropriate storage facilities on the bonded premises of the distilled spirits plant where bottled for storage pending withdrawal for any purpose for which distilled spirits bottled under section 5178(a)(4)(A)(i) may be withdrawn from bonded premises.

"(d) APPLICABILITY OF CHAPTER TO DISTILLED SPIRITS RETURNED TO BONDED PREMISES.—Except as otherwise provided in this section, all provisions of this chapter applicable to distilled spirits in bond shall be applicable to distilled spirits returned to bonded premises under the provisions of this section on such return.

"(e) CROSS REFERENCES.—

"(1) For provisions relating to the remission, abatement, credit, or refund of tax on distilled spirits returned to bonded premises under this section, see section 5008(d).

"(2) For provisions relating to the establishment of an export storage facility on the bonded premises of a distilled spirits plant, see section 5178(a)(3)(D).".

(b) Section 5178 (a)(3) of such Code is amended by adding at the end thereof the following new subparagraph:

"(D) A proprietor who has established facilities for the storage on bonded premises of distilled spirits under subparagraph (C) may establish a portion of such premises as an export storage facility for the storage of distilled spirits returned to bonded premises under section 5215(b)."

(c) Section 5205(c)(2) of such Code is amended by adding at the end thereof the following new sentence: "This paragraph shall also apply to every container of distilled spirits returned to the bonded premises under the provisions of section 5215 (b)."

(d) The heading and the first sentence of paragraph (1) of section 5066(a) of such Code are amended to read as follows:

"(1) BOTTLED DISTILLED SPIRITS WITHDRAWN FROM BONDED PREMISES.—Under such regulations as the Secretary or his delegate may prescribe, distilled spirits bottled in bond for export under the provisions of section 5233, or bottle distilled spirits returned to bonded premises under section 5215(b), may be withdrawn from bonded premises as provided in section 5214(a)(4) for transfer to customs bonded warehouses in which imported distilled spirits are permitted to be stored in bond for entry therein pending withdrawal therefrom as provided in subsection (b)."

(e) Section 5207(a) of such Code is amended—

(1) by striking out "and" at the end of paragraph (9),

(2) by redesignating present paragraph (10) as (11), and

(3) by inserting after paragraph (9) the following new paragraph:

"(10) the kind and quantity of distilled spirits returned to bonded premises, and".

(f) Section 5008(d) of such Code is amended to read as follows:

"(d) DISTILLED SPIRITS RETURNED TO BONDED PREMISES.—

"(1) GENERAL.—Whenever any distilled spirits withdrawn from bonded premises on payment or determination of tax are returned to the bonded premises of a distilled spirits plant under section 5215(a), the Secretary or his delegate shall abate, remit, or (without interest) credit or refund the tax imposed under section 5001(a)(1) (or the tax equal to such tax imposed under section 7652) on the spirits so returned.

"(2) DISTILLED SPIRITS RETURNED TO BONDED PREMISES FOR STORAGE PENDING EXPORTATION.—Whenever any distilled spirits are returned under section 5215(b) to the bonded premises of a distilled spirits plant, the Secretary or his delegate shall (without interest) credit or refund the internal revenue tax found to have been paid or determined with respect to such distilled spirits. Such amount of tax shall be the same amount which would be allowed as a drawback under section 5062(b) on the exportation of such distilled spirits.

"(3) DISTILLED SPIRITS STAMPED AND LABELLED AS BOTTLED IN BOND.—Whenever any distilled spirits are returned under section 5215(c) to the bonded premises of a distilled spirits plant, the Secretary or his delegate shall (without interest) credit or refund the tax imposed under section 5001(a)(1) on the spirits so returned.

"(4) LIMITATION.—No allowance under paragraph (1), (2), or (3) shall be made unless a claim is filed under such regulations as the Secretary or his delegate may prescribe, by the proprietor of the distilled spirits plant to which the distilled spirits are returned within six months of the date of return."

SEC. 4. (a) Section 5214(a)(9) of the Internal Revenue Code of 1954 is amended to read as follows:

"(9) without payment of tax, in the case of distilled spirits bottled in bond for export under section 5233 or distilled spirits returned to bonded premises under section 5215(b), for transfer (for the purpose of storage pending exportation) to any customs bonded warehouse from which distilled spirits may be exported, and distilled spirits transferred to a customs bonded warehouse under this paragraph shall be entered, stored, and accounted for under such regulations and bonds as the Secretary or his delegate may prescribe; or".

(b) Section 5175(a) of such Code is amended to read as follows:

"(a) REQUIREMENTS.—No distilled spirits shall be withdrawn from bonded premises for exportation, or for transfer to a customs bonded warehouse for storage therein pending exportation, without payment of tax unless the exporter has furnished bond to cover such withdrawal, under such regulations and conditions, and in such form and penal sum, as the Secretary or his delegate may prescribe."

(c) Section 5003 of such Code is amended by striking out "manufacturing" in paragraph (9) and inserting before the period at the end of paragraph (9) "and section 5214 (a) (9)".

(d) Section 5214(b) of such Code is amended by adding at the end thereof the following new paragraph:

"(7) For provisions relating to distilled spirits for use of foreign embassies, legations, etc., see section 5066."

SEC. 5. (a) Section 5214(a) of the Internal Revenue Code of 1954 is amended by adding at the end thereof the following new paragraph:

"(10) without payment of tax by a proprietor of bonded premises for use in research, development, or testing (other than consumer testing or other market analysis) of processes, systems, materials, or equipment, relating to distilled spirits or distillery operations, under such limitations and conditions as to quantities, use, and accountability as the Secretary or his delegate may by regulations require for the protection of the revenue.".

(b) Section 5005(e) (2) of such Code is amended to read as follows:

"(2) RELIEF FROM LIABILITY.—All persons liable for the tax on distilled spirits under paragraph (1) of this subsection, or under subsection (a) or (b), or under any similar prior provisions of internal revenue law, shall be relieved of any such liability at the time, as the case may be, the distilled spirits are exported, deposited in a foreign-trade zone, used in the production of wine, deposited in customs bonded warehouses, laden as supplies upon, or used in the maintenance or repair of, certain vessels or aircraft, or used in certain reseach, development, or testing, as provided by law."

(c) (1) Section 5004(a) (2) (B) of such Code is amended by striking out "(9), or" and inserting "or" after "(2),".

(2) Section 5004(a) (2) (C) of such Code is amended to read as follows:

"(C) exported, deposited in a foreign-trade zone, used in the production of wine, laden as supplies upon, or used in the maintenance or repair of, certain vessels or aircraft, deposited in a customs bonded warehouse, or used in certain research, development or testing, as provided by law."

(d) (1) Section 5005(d) of such Code is amended by striking out "(3), or (9)" and inserting "or (3)" after "(2),".

(2) Section 5005(e) (1) of such Code is amended by striking out "section 5214(a) (4), (5), (6), (7), or (8)," and inserting "section 5214(a) (4), (5), (6), (7), (8), (9), or (10)".

(e) (1) Section 5008(f) (3) of such Code is amended by striking "and" at the end thereof.

(2) Section 5008(f) (4) of such Code is amended by striking out the period at the end thereof and inserting in lieu thereof "; and".

(3) Section 5008(f) of such Code is amended by adding at the end thereof the following:

(5) the customs bonded warehouse in the case of withdrawal under sections 5066 and 5214(a) (9).

The provisions of subsection (a) shall be applicable to loss of distilled spirits withdrawn from bonded premises without payment of tax under section 5214(a) (10) for certain research, development, or testing, until such distilled spirits are used as provided by law."

(f) Paragraph (14) of section 5003 of such Code is amended to read as follows:

"(14) For provisions authorizing the withdrawal of distilled spirits without payment of tax for use in certain research, development, or testing, see section 5214(a) (10)."

SEC. 6. (a) (1) Section 5234(a) (2) of such Code is amended by striking from the heading "FOR FURTHER STORAGE IN BOND".

(2) So much of the first sentence of section 5234(a) (2) of such Code as follows subparagraph (C) thereof is amended to read as follows:

"(D) which have been stored in internal revenue bond in the same kind of cooperage for not less than 4 years (or 2 years in the case of rum or brandy),

may, within 20 years of the date of original entry for deposit of the spirits, be mingled on bonded premises."

(b) Section 5025(e) (7) of such Code is amended by striking out "for further storage in bond".

SEC. 7. Section 5025(b) of the Internal Revenue Code of 1954 is amended by inserting ", or the extracted oils of such," after "other natural aromatics".

SEC. 8. (a) Section 5008(b) (1) of the Internal Revenue Code of 1954 is amended by inserting the words "or section 7652" following the words "the tax imposed by this chapter".

(b) Section 5008(b) (2) of such Code is amended by striking out "or under subpart B of this part" and inserting in lieu thereof ", under subpart B of this part, or under section 7562".

(c) Section 5008(c) (1) of such Code is amended by striking out "under section 5001(a) (1)" and inserting in lieu thereof "under section 5001(a) (1) (or the tax equal to such tax imposed under section 7652)".

SEC. 9. The amendments made by this Act shall take effect on the first day of the first calendar month which begins more than 90 days after the date of the enactment of this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. CLANCY. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Oregon (Mr. ULLMAN) will be recognized for 20 minutes, and the gentleman from Ohio (Mr. CLANCY) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Oregon (Mr. ULLMAN).

Mr. ULLMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3055 makes a number of technical amendments to the provisions of the Internal Revenue Code taxing distilled spirits in order to encourage exportation of our distilled spirits, thereby probably providing more jobs in this industry for our workers and adding another weight in the attempt to tip the balance of payments in our favor. This is the main thrust of the bill now before the House. Other provisions of the bill remove unintended clerical errors from the code that tend to discriminate against spirits from Puerto Rico and the Virgin Islands. Still other provisions make it easier to use distilled spirits for experimental scientific purposes and eliminate an obsolete restriction in the production of gin that now hampers product uniformity. Finally, the period in which distilled spirits may be mingled to achieve a different product after storage in bond is extended from 8 to 20 years to match a 1958 amendment to the code that extended the maximum storage period for distilled spirits from 8 to 20 years.

Mr. Speaker, the provisions of this bill are of an unusually technical nature, but they may be fairly summarized as follows:

The first section eliminates a requirement that the name of the distiller be placed on bottles of gin or vodka bottled in bond for export.

Section 2 extends to imported distilled spirits that are packaged or bottled in the United States for export the same tax drawback treatment given to domestically produced spirits that are packaged or bottled for export.

Section 3 allows distilled spirits to be returned to bonded premises of distilled spirits plants or to export storage facilities for storage pending exportation. Also, it provides for tax drawback at the time those distilled spirits are returned for that purpose.

Section 4 allows spirits bottled in bond for export, or returned to an export storage facility for eventual exportation, to be transferred without payment of tax to customs bonded warehouses for storage pending exportation.

Section 5 allows spirits to be withdrawn from bonded premises without payment of tax for purposes of research, development, or testing.

Section 6 relaxes the conditions under which bonded spirits may be mingled.

Section 7 allows gin to be made with the extracted oils of juniper berries and other aromatics, as well as with the juniper berries or other aromatics themselves, without payment of the rectification tax.

Section 8 enables taxes on distilled spirits brought into this country from Puerto Rico or the Virgin Islands to be abated, remitted, credited, or refunded in appropriate cases of loss or voluntary destruction just as are the taxes imposed on domestic distilled spirits.

Section 9—the effective date—provides that the bill's provisions take effect at the start of the first calendar month which begins more than 90 days after enactment.

Mr. Speaker, this bill (H.R. 3055) is supported by the distilled spirits industry and has gained the general approval of Treasury representatives and of the Bureau of Alcohol, Tobacco, and Firearms. It is estimated that the only loss to the revenue will be $3 to $5 million during the first year after enactment, with no loss thereafter. I urge the bill's adoption.

Mr. CLANCY. Mr. Speaker, this bill contains several provisions that will facilitate the export of distilled spirits and wines, and will remove an inconsistency in present law concerning distilled spirits imported into this country from Puerto Rico and the Virgin Islands.

This bill came out of committee without objection, and I urge its passage.

Mr. ROSTENKOWSKI. Mr. Speaker, as a member of the Ways and Means Committee, I urge my colleagues to join me in supporting H.R. 3055, which makes a series of technical and administrative changes in the Tax Code relative to distilled spirits. This legislation would remove from the code restrictions that are not necessary for the effective enforcement of revenue and regulatory aspects of the law. The Treasury Department, in response to a request from my Committee on Ways and Means, has already reported favorably on this legislation.

H.R. 3055 consists of a series of technical and administrative provisions. The bill:

First, eliminates the requirement that the name of the distiller be placed upon gin or vodka bottled in bond for export;

Second, extends to distilled spirits that are imported and then packaged or bottled in the United States for export the same tax drawback benefits given to domestically produced spirits that are packaged or bottled for export;

Third, allows distilled spirits to be returned to bonded premises of distilled spirits plants or to export storage facilities, with benefit of tax credit or refund, et cetera, for storage pending exportation and certain other preferred dispositions; for example, use on vessels and aircraft, transfer to foreign-trade zones;

Fourth, allows spirits bottled in bond, or returned to an export storage facility for export, to be transferred without payment of tax to customs bonded warehouses for storage pending exportation;

Fifth, allows spirits to be withdrawn from bonded premises without payment of tax for purposes of research, development, or testing;

Sixth, relaxes the conditions under which bonded spirits may be mingled;

Seventh, allows gin to be made with the extracted oils of juniper berries and other aromatics, as well as with the juniper berries or other aromatics themselves, without payment of the rectification tax—a tax on redistilling; and

Eighth, enables taxes on distilled spirits brought into this country from Puerto Rico or the Virgin Islands to be abated, remitted, credited, or refunded in appropriate cases of loss or voluntary destruction just as are the taxes imposed on domestic distilled spirits.

These provisions would result in little, if any, effect on the amount of revenue collected by the Internal Revenue Service.

I introduced similar legislation in the two previous Congresses and I am delighted that it is before us today. I would like to insert in the CONGRESSIONAL RECORD a point-by-point description of the provisions listed above:

POINT 1. "IN BOND FOR EXPORT"

The bill would eliminate the requirement of showing, on the label of gin and vodka bottled in bond for export, the name of the distiller. Such information serves no useful purpose, and since gin and vodka are produced from neutral spirits, compliance with the statute means showing the distiller of the neutral spirits which may be a person different from the producer of the gin or vodka; the showing of such distiller on the label could even be deceptive to the consumer.

POINT 2. "DRAWING FOR BULK IMPORTED GOODS BOTTLED IN UNITED STATES"

The bill would authorize allowance of drawback of tax on bulk imported goods which are bottled in the United States and exported therefrom. Because of the limitation to goods "manufactured or produced in the United States" in existing law, imported distilled spirits are not subject to drawback under section 5062(b). However, by virtue of section 5523, IRC reduction inproof and bottling or packaging are deemed to constitute manufacturing under section 311 of the Tariff Act of 1930. (19 U.S.C. 1311) This amendment would make the export standards of Sec. 5062(b) consistent with those in Sec. 311.

POINT 3. "DISTILLED SPIRITS RETURNED TO BONDED PREMISES"

The bill would permit the bottler or packager to return to an export storage facility on bonded premises distilled spirits which would be eligible for drawback under Section 5062(b). The return of the spirits must be solely for the purpose of storage pending withdrawal for export, or other withdrawal without payment of tax authorized under Section 5214(a), or free of tax under Section 7510.

This section also permits the bottler to return to appropriate storage facilities on the bonded premises distilled spirits which he had bottled in bond after tax determination. Such spirits may be withdrawn for any purpose for which distilled spirits bottled in bond before tax determination may be withdrawn from bonded premises.

Appropriate amendments are made to provide for the remission, abatement, credit, or refund of tax on spirits returned to bonded premises under this section.

The amendments made by this section are designed to simplify and encourage export transactions.

POINT 4. "WITHDRAWALS TO CUSTOMS BONDED WAREHOUSES"

The bill would authorize withdrawal of distilled spirits from bonded premises without payment of tax or transfer to any customs bonded warehouse. This provision applies to spirits bottled in bond for export and to spirits returned to bonded export and to spirits returned to bonded premises under Section 5215(b). The amendment is designed to simplify and encourage export transactions.

POINT 5. "REMOVAL OF SAMPLES FOR RESEARCH, DEVELOPMENT, OR TESTING"

The bill would make a reasonable extension of the purposes for which samples may be removed without payment of tax to include plant research in addition to laboratory analysis. This amendment is similar to the recent amendment to Section 5053 relating to beer.

POINT 6. "MINGLING AND BLENDING OF DISTILLED SPIRITS"

The bill would permit distilled spirits plant proprietors to commingle distilled spirits within 20 years of the date of original entry rather than the existing 8 years. The section also eliminates the requirements of existing law that the mingled spirits be placed in the same barrels and that the mingling must be for further storage in bond. Proper administration of the distilled spirits tax and regulatory provisions does not require the limitations on commingling to 8 years or the return of the distilled spirits to bonded storage. From a practical standpoint, the use of the same package is an unnecessary restriction.

POINT 7. "USE OF JUNIPER OILS IN PRODUCTION OF GIN"

The bill would authorize the use of the extracted oils of Juniper berries and other aromatics in the production of gin without incurrence of the rectification tax in addition to the present system of redistillation of a pure spirit over juniper berries and other aromatics. This amendment will permit production of gin with greater uniformity and without loss in quality.

POINT 7. "LOSS OF PROVISIONS FOR SPIRITS BROUGHT IN FROM PUERTO RICO AND THE VIRGIN ISLANDS"

The bill would extend to bulk spirits brought into the United States from Puerto Rico or the Virgin Islands the same loss provisions now applicable to imported and domestic spirits.

Due to an oversight when the law was amended to permit entry of such spirits into bond the provisions applicable to imported and domestic spirits were not extended to spirits brought in from Puerto Rico or the Virgin Islands. Enactment of this section would cure inequities in the present law.

The provisions of H.R. 3055 will become effective on the first day of the first calendar month which begins more than 90 days after enactment. This will give the Treasury Department and the distilling industry sufficient time to modify procedures under the statutes amended.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Oregon (Mr. ULLMAN) that the House suspend the rules and pass the bill H.R. 3055, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill H.R. 3055.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

There was no objection.

KLONDIKE GOLD RUSH NATIONAL HISTORICAL PARK, ALASKA AND WASHINGTON

Mr. TAYLOR of North Carolina. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1194) to authorize the Secretary of the Interior to establish the Klondike Gold Rush National Historical Park in the States of Alaska and Washington, and for other purposes, as amended.

The Clerk read as follows:

H.R. 1194

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) in order to preserve in public ownership for the benefit and inspiration of the people of the United States, historic structures and trails associated with the Klondike Gold Rush of 1898, the Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized to establish the Klondike Gold Rush National Historical Park (hereinafter referred to as the "park"), consisting of a Seattle unit, a Skagway unit, a Chilkoot Trail unit, and a White Pass Trail unit. The boundaries of the Skagway unit, the Chilkoot Trail unit, and the White Pass Trail unit shall be as generally depicted on a drawing consisting of two sheets entitled "Boundary Map, Klondike Gold Rush National Historical Park", numbered 20,013–B and dated May, 1973, which shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior. Within the Pioneer Square Historic District in Seattle as depicted on a drawing entitled "Pioneer Square Historic District", numbered 20,010–B and dated May 19, 1973, which shall also be on file and available as aforesaid, the Secretary may select a suitable site for the Seattle unit and publish a description of the site in the Federal Register. The Secretary may relocate the site of the Seattle unit by publication of a new description in the Federal Register, and any property acquired for purposes of the unit prior to such relocation shall be subject to disposal in accordance with the Federal surplus property laws: *Provided*, That the Seattle unit shall be within the Pioneer Square Historic District. After advising the Committees on Interior and Insular Affairs of the Congress of the United States, in writing, the Secretary may revise the boundaries of the park from time to time, by publication of a revised map or other boundary description in the Federal Register, but the total area of the park may not exceed thirteen thousand three hundred acres.

(b)(1) The Secretary may acquire lands, waters, and interests therein within the park by donation, purchase, lease, exchange, or transfer from another Federal agency. Lands or interests in lands owned by the State of Alaska or any political subdivision thereof may be acquired only by donation. Lands under the jurisdiction of any Federal agency may, with the concurrence of such agency, be transferred without consideration to the Secretary for the purposes of the park.

(2) The Secretary is authorized to acquire outside the boundaries of the park, by any of the above methods, not to exceed fifteen acres of land or interests therein located in, or in the vicinity of, the city of Skagway, Alaska, for an administrative site; and to acquire by any of the above methods, up to ten historic structures or interests in such structures located in the city of Skagway but outside the Skagway unit for relocation within such unit as the Secretary deems essential for adequate preservation and interpretation of the park.

(c) All lands acquired pursuant to this Act shall be taken by the Secretary subject to all valid existing rights granted by the United States for railroad, telephone, telegraph, and pipeline purposes. The Secretary is authorized to grant rights-of-way, easements, permits, and other benefits in, through and upon all lands acquired for the White Pass Trail unit for pipeline purposes, pursuant to the Acts of February 25, 1920 (41 Stat. 449), August 21, 1935 (49 Stat. 678), and August 12, 1953 (67 Stat. 557), and for railroad purposes pursuant to the Act of May 14, 1898 (30 Stat. 409): *Provided*, That significant adverse impacts to park resources will not result.

(d) The Secretary is authorized to grant to the State of Alaska a highway right-of-way across lands in the Chilkoot Trail unit, in the area of Dyea, for the purpose of linking the communities of Haines and Skagway by road if he finds that (1) there is no feasible and prudent alternative to the use of such lands, (2) the road proposal includes all possible planning to minimize harm to the park resulting from such road use, and (3) to grant such right-of-way will not have significant adverse effects on the historical and archeological resources of the park and its administration, protection, and management in accordance with the purposes of this Act.

Sec. 2. (a) The Secretary shall establish the park by publication of a notice to that effect in the Federal Register at such time as he deems sufficient lands, waters, and interests therein have been acquired for administration in accordance with the purposes of this Act. Pending such establishment and thereafter, the Secretary shall administer lands, waters, and interests therein acquired for the park in accordance with the provisions of the Act approved August 25, 1916 (39 Stat. 535), as amended and supplemented, and the Act approved August 21, 1935 (49 Stat. 666), as amended.

(b) The Secretary is authorize to cooperate and enter into agreements with other Federal agencies, State and local public bodies, and private interests, relating to planning, development, use, acquisition, or disposal (including as provided in section 5 of the Act of July 15, 1968, 82 Stat. 356; 16 U.S.C. 460l–22) of lands, structures, and waters in or adjacent to the park or otherwise affecting the administration, use, and enjoyment thereof, in order to contribute to the development and management of such lands in a manner compatible with the purposes of the park. Such agreements, acquisitions, dispositions, development, or use and land-use plans shall provide for the preservation of historical sites and scenic areas, recreation, and visitor enjoyment to the fullest extent practicable.

(c) Notwithstanding any other provision of law, the Secretary may restore and rehabilitate property within the park pursuant to cooperative agreements without regard as to whether title thereto is in the United States.

Sec. 3. (a) The Secretary, in cooperation with the Secretary of State, is authorized to consult and cooperate with appropriate officials of the Government of Canada and Provincial or Territorial officials regarding planning and development of the park, and an international historical park. At such time as the Secretary shall advise the President of the United States that planning, development, and protection of the adjacent or related historic and scenic resources in Canada have been accomplished by the Government of Canada in a manner consistent with the purposes for which the park was established, and upon enactment of a provision similar to this section by the proper authority of the Canadian Government, the President is authorized to issue a proclamation designating and including the park as part of an international historical park to be known as Klondike Gold Rush International Historical Park.

(b) For purposes of administration, promotion, development, and support by appropriations, that part of the Klondike Gold Rush Historical Park within the territory of the United States shall continue to be designated as the "Klondike Gold Rush National Historical Park".

Sec. 4. There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act, but not more than $2,655,000 for the acquisition of lands and interests in lands, and not more than $5,885,000 for development.

The SPEAKER pro tempore. Is a second demanded?

Mr. SEBELIUS. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from North Carolina (Mr. TAYLOR) will be recognized for 20 minutes, and the gentleman from Kansas (Mr. SEBELIUS) will be recognized for 20 minutes.

The Chair recognizes the gentleman from North Carolina (Mr. TAYLOR).

Mr. TAYLOR of North Carolina. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, H.R. 1194 authorizes the establishment of the Klondike Gold Rush National Historical Park in the States of Alaska and Washington. The substitute text reported by the Committee on Interior and Insular Affairs includes several changes proposed by the Department of the Interior—which supports the enactment of this legislation.

The bill protects the historic structures of Skagway, Alaska, as well as the trails of White and Chilkoot Passes—scene of the great Klondike gold rush of 1897 and 1898. An additional unit of the park to be established in Seattle, Wash., will tell the story of the port of embarkation for the thousands of hearty adventurers who braved the rigors of the Yukon to seek fame and fortune in the great gold rush.

The legislation represents the culmination of years of cooperation and planning on the part of the National Park Service and the affected States. As much of the land to be included is already in State or Federal ownership, the relatively small acquisition cost of $2,650,000 will insure the protection of these unique historic sites.

The bill also provides for U.S. participation in a Klondike Gold Rush International Historical Park in cooperation with the Government of Canada.

Mr. Speaker, H.R. 1194 closely parallels a companion measure passed by the Senate earlier this Congress. Favorable action by the House today will be another step toward the ultimate preservation of this unique facet of our heritage.

Mr. SEBELIUS. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, one of the most colorful segments of our Nation's history is that of the various gold and other mineral rushes which have occurred. This bill commemorates one of the most colorful of them all—one that graphically displays the fever of men in search of free treasure.

H.R. 1194 authorizes the establishment of the Klondike Gold Rush National Historical Park, with three units in Alaska and a unit in Seattle, Wash.

Since the lands entailed generally embrace routes of travel and areas of encampment of the treasure seekers, the general configuration of the units is often of a lineal corridor nature. With this lack of compactness of acreage, the park can develop a certain vulnerability to adverse impacts of land use outside the park's boundaries. Likewise, the bill provides that certain rights-of-way may cross the park. I want to caution and urge that great care be taken by the National Park Service to do all in its power to assure that, to the limit of its legal authority, no adverse influences from this situation fall upon the park's natural and historical resources. Likewise, all deliberate and expeditious care must be taken to assure that the existing historical artifacts to be found along the routes of travel are amply protected from vandals and artifact hunters, lest the prime value of this park resource be permanently destroyed.

Mr. Speaker, this bill has exhibited no controversy, and I urge a favorable vote by my colleagues on its passage.

Mr. Speaker, I yield such time as he may consume to the gentleman from Kansas (Mr. SKUBITZ).

Mr. SKUBITZ. Mr. Speaker, I rise in support of H.R. 1194.

Mr. Speaker, the bill now before the House would authorize the Klondike Gold Rush National Historical Park in Alaska and Washington to commemorate the great Klondike gold rush of 1897–98.

There is little or no controversy with this measure. It passed the Committee on Interior and Insular Affairs without dissent and by a voice vote.

The Senate has passed a similar bill.

Moreover, the Canadian Government is proceeding with similar legislation, and there is provision in this bill for designation of an international historical park.

This bill would authorize the acquisition and development of the park in the Skagway, Chilkoot Trail, and White Pass areas in Alaska, and in the Pioneer Square Historic District of Seattle.

Historic buildings in Seattle and Skagway, which are associated with the gold rush, would be preserved and relocated.

Trails which the miners followed over the White and Chilkoot passes would be preserved and marked.

The Klondike gold rush was the last, and one of the most colorful, in our Nation's history.

It behooves us to take this step—before it is too late—to preserve the memory of this important chapter in our history.

Mr. SEBELIUS. Mr. Speaker, I yield 2 minutes to the gentleman from Alaska (Mr. YOUNG).

Mr. YOUNG of Alaska. Mr. Speaker, as sponsor of this legislation, I rise in strong support of the bill. The legislation is strongly supported by all parties, including the city of Skagway, the State of Alaska, and various environmental groups, and there is no opposition to the bill, to my knowledge.

This is a very unique historical landmark, and I have hopes that many of my colleagues will visit it in coming years as an area that will have been preserved by this legislation.

I would like to say further, Mr. Speaker, that this is an example of an area that should be preserved in order that we may see and understand what labors man went through in the great State of Alaska in their search for gold. It is an area that tourists may visit and come to understand the hardships these men endured.

Mr. Speaker, I would also like to compliment the gentleman from Washington (Mr. PRITCHARD), because I believe he is one of the few Members who had ancestors who covered these trails during the period of the gold rush.

Mr. Speaker, this is a good piece of legislation, and I urge its passage.

Mr. SEBELIUS. Mr. Speaker, I yield 1 minute to the gentleman from Washington (Mr. PRITCHARD).

Mr. PRITCHARD. Mr. Speaker, with the news of "gold rush in the Klondike" back in 1897, an amazing adventure began that captured the imaginations of people around the world. Before the Klondike gold rush ended the next year, thousands of men and women had made the incredible journey—in the face of great adversity—into the wilds of the Yukon and Alaska, with dreams of making their fortunes.

This fascinating facet of our American folk memory, known as the Klondike gold rush of 1897–98, can still be traced in a ribbon of historical areas stretching from Seattle, Wash., to Skagway, Alaska, through Dawson, Yukon Territory, and beyond.

Providently, both the United States and Canada have been able to maintain, in an essentially unspoiled natural setting a wealth of historic structures and artifacts relating to this great gold rush. The pressures of new development and tourism in Alaska and the Pacific Northwest may threaten this heritage. To insure the maximum preservation, the most imaginative interpretation, and the most advantageous use of the areas involved in the gold rush, it is imperative that the Congress move ahead on the National Park Service's plan for the proposed Klondike Gold Rush National Historical Park and I am delighted that the House of Representatives has the opportunity today to consider this proposal.

I have a personal and sentimental interest in this part of the Pacific Northwest's heritage because my grandparents "went North" to look for gold in 1897. I took 6 days of the August recess last year to travel, as a private citizen, to the Yukon with some of my family, and to retrace my grandparents' footsteps over the boardwalks in Skagway, along the road to Dyea, up the trail through Chilkoot Pass to Lake Bennett. From Bennett we entrained upon the historic White Pass and Yukon Railway for the return to Skagway.

The scenery along the path is spectacular. Today, in addition to the historic buildings in Skagway, one can still see the ruins and artifacts that remain of Dyea, Canyon City, Pleasant Camp, Sheep Camp, the Scales, Happy Camp, Lindeman City, and of most of the other stops along the route over the pass.

The remnants that remain to be seen today make it easy to visualize the countless thousands surging toward the Yukon gold field over the Chilkoot Pass. Canadian officials checked over 22,000 men across the Chilkoot Pass during the winter of 1897–98, making sure that each had the required supplies and equipment which totaled nearly a ton per man. In a 6-year span covering the turn of the century, these prospectors brought almost 200 tons of gold—worth more than $97 million—back to Seattle.

Although physically isolated from the Klondike, the city of Seattle played a key part in the gold rush story. It was through this then-small waterfront town that thousands of stampeders poured, heading for the Yukon. It was Seattle to which most returned. Today, Seattle is a major shipping port for the Pacific Northwest and is the most important departure point for travel and tourism to Alaska and the Yukon Territory.

Many structures from the gold rush era remain intact in Seattle's Pioneer Square area. A farsighted city ordinance that has zoned that area as a historic district has insured the preservation of most of the structures, and a purposefully led, active association of merchants and citizens is working to keep the memory of the gold rush days from fading. Shops, studios, smart restaurants, and professional offices now occupy space in the restored buildings. A marked renaissance is underway, and the proposed Seattle unit of the park proposal would be a welcomed addition.

The National Park Service has put forth a creative and imaginative plan in order to re-create a vital and stimulating link in the Klondike gold rush story and to assist in the rightful restoration of the historical district.

Seattle welcomes the Park Service's proposed historical interpretative center within the historical area. The center will re-create—through exhibitions, photographic displays, interpretative programs, tours, theatrical presentations, and special events—the living history of gold rush days in Seattle and in the Yukon.

The National Park Service—through its proposed unit in Seattle—is the catalyst for the development of an interpretative plan for the entire Pioneer Square Historical District, and will be working closely, I am sure, with the city and the Pioneer Square Association in this endeavor.

Because the Park Service plans to enter into a lease agreement for the Seattle unit, no substantial Federal investment is required to initiate the project. But, importantly, the lease will encourage the private rehabilitation of the leased space to ready it for occupancy. This beneficial side-effect which encourages historic preservation and restoration is also most welcome in Seattle.

In addition to providing a visitor center, museum and theater, I would like to see the Park Service consider the feasibility of operating a youth hostel in the Pioneer Square area. Our European counterparts have demonstrated the efficacy of the hostel system and we should take advantage of their experiences. Seattle—with a historical district within an urban setting—provides an ideal opportunity to test the hostel concept.

Many of us from the Pacific Northwest are excited to see the Klondike Gold Rush National Historical Park coming closer to reality. I hope that my colleagues will support this proposal with some of the same enthusiasm. It is a romantic and adventurous episode of our country's past that we are commemorating.

Mr. TAYLOR of North Carolina. Mr. Speaker, I have no additional requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina (Mr. TAYLOR) that the House suspend the rules and pass the bill H.R. 1194, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

Mr. TAYLOR of North Carolina. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs be discharged from the further consideration of the Senate bill (S. 98) to establish the Klondike Gold Rush National Historical Park, and for other purposes, a bill similar to the bill just passed, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 98

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) in order to preserve in public ownership for the benefit and inspiration of the people of the United States historic structures and trails associated with the Klondike Gold Rush of 1898, the Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized to establish the Klondike Gold Rush National Historical Park (hereinafter referred to as the "park"), consisting of a Seattle unit, a Skagway unit, a Chilkoot Trail unit, and a White Pass Trail unit. The boundaries of the Skagway unit, the Chilkoot Trail unit, and the White Pass Trail unit shall be as generally depicted on a drawing consisting of two sheets entitled "Boundary Map, Klondike Gold Rush National Historical Park," numbered 20,013–B and dated May 1973, which shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior. Within the Pioneer Square Historic District in Seattle as depiced on a drawing entitled "Pioneer Square Historic District", numbered 20,010–B and dated May 19, 1973, which shall also be on file and available as aforesaid, the Secretary may select a suitable site for the Seattle unit and publish a description of the site in the Federal Register. So long as the Federal Government has not acquired the fee, the Secretary may relocate the site of the Seattle unit: *Provided*, That it shall be within the Pioneer Square Historic District. The Secretary may revise the boundaries of the park from time to time, by publication of a revised map or other boundary description in the Federal Register, but the total area of the park may not exceed thirteen thousand three hundred acres.

(b) (1) The Secretary may acquire lands, waters, and interests therein within the park by donation, purchase, lease, exchange, or transfer from another Federal agency. Lands or interests in lands owned by the State of Alaska or any political subdivision thereof may be acquired only by donation. Lands under the jurisdiction of any Federal agency may, with the concurrence of the head thereof, be transferred without consideration to the Secretary for the purposes of the park.

(2) The Secretary is authorized to acquire, by any of the above methods, not to exceed fifteen acres of land or interests therein located in, or in the vicinity of, the city of Skagway, Alaska, for an administrative site; and to acquire by any of the above methods up to ten historic structures or interests in such structures located in the city of Skagway but outside the Skagway unit for relocation within such unit as the Secretary deems essential for adequate preservation and interpretation of the national historical park.

SEC. 2. (a) The Secretary shall establish the park by publication of a notice to that effect in the Federal Register at such time as he deems sufficient lands, waters, and interests therein have been acquired for administration in accordance with the purposes of this Act. Pending such establishment and thereafter, the Secretary shall administer lands, waters, and interests therein acquired for the park in accordance with the provisions of the Act approved August 25, 1916 (39 Stat. 535), as amended and supplemented, and the Act approved August 21, 1935 (49 Stat. 666), as amended.

(b) The Secretary is authorized to cooperate and enter into agreements with other Federal agencies, State and local public bodies, and private interests, relating to planning, development, use, acquisition or disposal (including as provided in section 5 of the Act of July 15, 1968 (82 Stat. 356; 16 U.S.C. 460 1–22)) of lands, structures, and waters in or adjacent to the park or otherwise affecting the administration, use, and enjoyment thereof, in order to contribute to the development and management of such lands in a manner compatible with the purposes of the park. Such agreements, acquisitions, dispositions, development, or use and land-use plans shall provide for the preservation of historical sites and scenic areas, recreation and visitor enjoyment to the fullest extent practicable.

(c) Notwithstanding any other provision of law, the Secretary may restore and rehabilitate property within the park pursuant to cooperative agreements without regard as to whether title thereto is in the United States.

SEC. 3. (a) The Secretary, in cooperation with the Secretary of State, is authorized to consult and cooperate with appropriate officials of the Government of Canada and provincial or territorial officials regarding planning and development of the park, and an international historical park. At such time as the Secretary shall advise the President of the United States that planning, development, and protection of the adjacent or related historic and scenic resources in Canada in a manner consistent with the purposes for which the park was established, and upon enactment of a provision similar to this section by the proper authority of the Canadian Government, the President is authorized to issue a proclamation designating and including the park as part of an international historical park to be known as Klondike Gold Rush International Historic Park.

(b) For purposes of administration, promotion, development, and support by appropriations, that part of the Klondike Gold Rush International Historic Park within the territory of the United States shall continue to be designated as the Klondike Gold Rush National Historical Park.

SEC. 4. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act, but not to exceed $2,655,000 for the acquisition of lands and interest in lands.

MOTION OFFERED BY MR. TAYLOR OF NORTH CAROLINA

Mr. TAYLOR of North Carolina. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. TAYLOR of North Carolina moves to strike out all after the enacting clause of the Senate bill S. 98, and to insert in lieu thereof the provisions of H.R. 1194, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: "To authorize the Secretary of the Interior to establish the Klondike Gold Rush National Historical Park in the States of Alaska and Washington, and for other purposes."

A similar House bill (H.R. 1194) was laid on the table.

GENERAL LEAVE

Mr. TAYLOR of North Carolina. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

VALLEY FORGE NATIONAL HISTORICAL PARK, PENNSYLVANIA

Mr. TAYLOR of North Carolina. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5621) to authorize the Secretary of the Interior to establish the Valley Forge National Historical Park in the Commonwealth of Pennsylvania, and for other purposes, as amended.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in order to preserve and commemorate for the people of the United States the area associated with the heroic suffering, hardship, and determination and resolve of General George Washington's Continental Army during the winter of 1777–1778 at Valley Forge, the Secretary of the Interior (hereinafter referred to as the "Secretary"), is authorized to establish the Valley Forge National Historical thereinafter referred to as the "park"), in the Commonwealth of Pennsylvania.

SEC. 2. (a) The park shall comprise the area generally depicted on the map entitled "Valley Forge National Historical Park", dated February 1976, and Historical VF-91,000, which shall be on file and available for inspection in the offices of the National Park Service, Department of the Interior, Washington, District of Columbia, and in the offices of the superintendent of the park. After advising the Committees on Interior and Insular Affairs of the United States Congress, in writing, the Secretary may make minor revisions of the boundaries of the park when necessary by publication of a revised map or other boundary description in the Federal Register.

(b) Within the boundaries of the park, the Secretary may acquire lands and interests therein by donation, purchase with donated or appropriated funds, exchange, or transfer. Any property owned by the Commonwealth of Pennsylvania or any political subdivision thereof may be acquired only by donation. The effective date of such donation shall not be prior to October 1, 1976.

(c) Except for property deemed by the Secretary to be essential for visitor facilities, or for access to or administration of the park, any owner or owners of improved property on the date of its acquisition by the Secretary may, as a condition of such acquisition, retain for themselves and their successors or assigns a right of use and occupancy of the improved property for noncommercial residential purposes for a definite term not to exceed twenty-five years, or in lieu thereof, for a term ending at the death of the owner, or the death of his or her spouse, whichever is the later. The owner shall elect the term to be reserved. Unless the property is wholly or partially donated, the Secretary shall pay to the owner the fair market value of the property on the date of such acquisition, less the fair market value on such date of the right retained by the owner.

(d) The Secretary may terminate a right of use and occupancy retained pursuant to this section upon his determination that such use and occupancy is being exercised in a manner not consistent with the purposes of this Act, and upon tender to the holder of the right of an amount equal to the fair market value of that portion of the right which remains unexpired on the date of termination.

(e) The term "improved property", as used in this section shall mean a detached, noncommercial residential dwelling, the construction of which was begun before January 1, 1975 (hereafter referred to as "dwelling"), together with so much of the land on which the dwelling is situated, the said land being in the same ownership as the dwelling, as the Secretary shall designate to be reasonably necessary for the enjoyment of the dwelling for the sole purpose of noncommercial residential use, together with any structures accessory to the dwelling which are situated on the land so designated.

SEC. 3. When the Secretary determines that lands and interests therein have been acquired in an amount sufficient to constitute an administerable unit, he shall establish the park by publication of a notice to that effect in the Federal Register: *Provided*, That the park shall not be established until the Secretary receives commitments which he deems to be sufficient from the Commonwealth of Pennsylvania that the appropriations made by acts 320 and 352 of 1974, and act 12A of 1975, of the Legislature of the Commonwealth of Pennsylvania, will continue to be available and obligated for development purposes within the park. The Secretary shall administer the property acquired for such park in accordance with the Act of August 25, 1916 (39 Stat. 535), as amended and supplemented, and the Act of August 21, 1935 (49 Stat. 666), as amended.

SEC. 4. (a) There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act, but not more than $8,622,000 for the acquisition of lands and interests in lands.

(b) For the development of essential public facilities there are authorized to be appropriated not more than $500,000. Within three years from the date of establishment of the park pursuant to this Act, the Secretary shall, after consulting with the Governor of the Commonwealth of Pennsylvania, develop and transmit to the Committees on Interior and Insular Affairs of the United States Congress a final master plan for the development of the park consistent with the objectives of this Act, indicating:

(1) the facilities needed to accommodate the health, safety, and interpretive needs of the visiting public;

(2) the location and estimated cost of all facilities; and

(3) the projected need for any additional facilities within the park.

The SPEAKER pro tempore. Is a second demanded?

Mr. SEBELIUS. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from North Carolina (Mr. TAYLOR) and the gentleman from Kansas (Mr. SEBELIUS) will each be recognized for 20 minutes.

The Chair now recognizes the gentleman from North Carolina (Mr. TAYLOR).

Mr. TAYLOR of North Carolina. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, H.R. 5621, as reported by the Committee on Interior and Insular Affairs, will provide for the establishment of the Valley Forge National Historical Park in the State of Pennsylvania.

I expect that many members of this House would fully expect that Valley Forge is already a part of our National Park System. The timely action of the State of Pennsylvania, however, has protected much of the encampment area for several decades.

The legislation before us today would authorize the acceptance by donation of the existing State park by the Secretary of the Interior, and would authorize the purchase of inholdings and boundary adjustment costing some $8,622,000 which will further insure the protection of the very site upon which General Washington and his ragged militia braved the bitter winter of 1777–78 and emerged as a disciplined fighting force that would persevere until the ultimate victory of our war of independence.

I want to point out that our hearings were also concerned with an additional tract of land known as Chesterbrook which was proposed to be added to the park. Representative DICK SCHULZE worked long and hard to secure some further protection for this adjacent tract of land through negotiations with the owner of the tract and various conservation organizations. However, the attempt to secure the Chesterbrook property at a lower price was not successful, and the committee did not believe that the acquisition of Chesterbrook was justified on the basis of its extremely high acquisition cost.

As reported by the committee, H.R. 5621 will assure added protection for this historic spot and will also place management responsibility in the capable hands of the National Park Service. I believe that Valley Forge will take its place with Independence National Historical Park and others as among the finest symbols of our American heritage to be preserved in the National Park System.

Mr. Speaker, the committee amendments to this legislation include the customary map reference to describe the park boundary, a provision for retained right of use occupancy by affected owners of private lands, and the authorization of the necessary acquisition funding for an additional $500,000 to be used for minimal Federal developments until a master plan for the area is completed.

In addition, the bill provides for the continuing use of funds recently appropriated by the Commonwealth of Pennsylvania to upgrade the quality of visitor use developments within the park.

Mr. Speaker, I urge my colleagues to join me in securing this unique touchstone of our war for independence.

Mr. SEBELIUS. Mr. Speaker, I yield myself 4 minutes.

Mr. Speaker, I rise in support of this bill, H.R. 5621, which will convert the existing Valley Forge Park, long operated by the Commonwealth of Pennsylvania, into a Federal area to be operated by the National Park Service.

Probably no one could question the propriety of Valley Forge being a Federal park area operated by the National Park Service. This area was without doubt the scene of one of the most important events to shape the history of our Nation. It is an area of unquestioned national significance.

While the State of Pennsylvania has done a commendable job in managing this area through the years, it is the committee's intention and hope that the National Park Service will do an even better job. In that regard, there are several points I would like to make.

Valley Forge has come to be an area where outdoor recreation pursuits often tend to impinge upon and detract from the historical integrity of the historic resources. At all costs, the National Park Service must guarantee that the area's historical integrity is preserved without adverse impairment by more purely recreation-related activities and interests.

The National Park Service must take immediate steps to reroute and/or eliminate some roads so as to reduce the adversity of some of these roads on the historical fabric of the area, and to provide for the increased safety of visitors. It was brought to the committee's attention that some roads through the park act as merely a thoroughfare as the shortest distance between points, the travel upon which has no relationship to the park at all. Immediate actions should be taken to eliminate or rectify this situation.

The National Park Service should greatly phase down the grass mowing and similar operations which contribute to the appearance of an artificially manicured and historically misrepresented scene. Serious effort must be made to depict conditions as closely approximating the earlyday scene as is possible.

I also want to note that the legislation precludes the donation to the National Park Service of lands and interests therein prior to October 1, 1976. The principal reason for this provision is to prevent any transition of management occurring at a time which might be disruptive for the public or the managing agencies during the height of the visitor use season, particularly during this Bicentennial Year. The National Park Service and the Commonwealth of Pennsylvania have the option of making this transition at any time deemed most advantageous and appropriate—beyond the October 1, 1976, date.

I urge the adoption of this legislation.

Mr. SEBELIUS. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Pennsylvania (Mr. SCHULZE).

Mr. TAYLOR of North Carolina. Mr. Speaker, would the gentleman yield?

Mr. SCHULZE. I yield to the gentleman from North Carolina.

Mr. TAYLOR of North Carolina. Mr. Speaker, I would like to commend the gentleman from Pennsylvania (Mr. SCHULZE) for the unswerving help that he has given us in consideration of this legislation. I also would like to commend the State of Pennsylvania for recognizing the importance of this area in the early days, 1893, and of the efforts in preserving Valley Forge in the fine condition that we find it in today. Further, I commend the State for appropriating $10 million to make needed improvements in the park and then, further, on their being willing to donate the park, in its improved condition, to the National Park Service for the Federal Government to administer.

Mr. SCHULZE. Mr. Speaker, I thank the gentleman from North Carolina (Mr. TAYLOR) for the comments he has made, and to say that I thoroughly agree with the gentleman from North Carolina, and to thank him for his leadership as chairman of the committee, and also the ranking minority member of the committee, the gentleman from Kansas (Mr. SEBELIUS) and all of the other members of the subcommittee upon their patience and understanding and for their willingness to delve into this situation which I believe stimulated their views as to the true meaning and value of Valley Forge. They have all been most generous in their time and efforts.

Mr. Speaker, H.R. 5621, establishes Valley Forge as a national historical park under the supervision of the National Park Service. This measure is not a local issue, it is a national one. Thirty-five colleagues from across the Nation have cosponsored this measure with me. One and a half million people from every corner of this country visit Valley Forge every year, with 5 to 10 million expected this year alone. Valley Forge is where the turning point of the Revolutionary War took place. And it is there that 3,000 men died. Some from 11 of the original 13 colonies. Although the existing park is currently owned and operated at the State level, it is assumed by the majority of visitors that Valley Forge is already a unit of the National Park Service.

Commercial encroachments are threatening the very character of the park. Housing and other developments have increased in that area and the park is rapidly becoming an island of undeveloped land in a densely populated region.

The State park is constantly under threat and the State can no longer bear the burden alone. It, the park, needs the protection that only the Federal Government can give it.

There are 10 parcels of land within or adjacent to the park that need that protection and this measure will do just that.

The State is also having trouble keeping the park at standards the American people expect of such hallowed ground. The Commonwealth of Pennsylvania has already enacted legislation donating the State park land to the Federal Government as well as legislation appropriating $10 million for the development of a new museum, rehabilitating several houses and closing two roads.

The Commonwealth of Pennsylvania has not appropriated sufficient funds over the recent years to arrest growing problems—inadequate rest facilities, roads deteriorating, and insufficient parking. Just last September, Governor Shapp announced the closing of the park on Mondays due to budgetary reasons.

Under these circumstances, the park must be taken over and run by the National Park Service. Valley Forge is a window to history.

If Independence Hall in Philadelphia is the birthplace of this Nation, then Valley Forge was surely the umbilical cord that linked the promise to performance. There was suffered the birth pangs that forged the spirit and the resolve of the American Revolution.

Valley Forge is under threat of neither the British nor the Hessians now, but of the fruits of the Revolution that sought a national identity. How ironic that the shrine where American patriots braved freezing temperatures, some of them shoeless, all of them inadequately fed and housed, is now threatened with encirclement by hotels, restaurants, shoe shops, and the like.

It is only fitting in this year of the Bicentennial we remember those patriots who labored through those months of wintering at Valley Forge striving for the independence that was proclaimed in 1776 in our Declaration of Independence. The declaration that is the underpinnings of our political system.

Let us recall the winter of 1777–78, known as the turning point of the American Revolution, for it was here in Valley Forge that Gen. George Washington and his "dear, ragged Continentals" gave true meaning to the expressions of freedom and independence that other men had written into that Declaration of Independence.

In those freezing months General Washington asked himself the question "Starve, dissolve, or disperse, what then is to become of the Army this winter?"

That winter has been described as a "hell of a ghastly cold" as the general and his 11,000 troops arrived at Valley Forge, blue-lipped from the cold and close to despair. Nearly 3,000 of those men died as a result of starvation, cold, and disease.

Their graves are not marked, but many were buried under the fireplaces because elsewhere the ground was frozen.

The troops had been at Valley Forge for 3 days before they received a ration of provisions. They could not forage for food, because they did not have enough supplies even to see them through a short hunting expedition.

On December 23, General Washington advised that—

> We have this day no less than 2873 men in camp unfit for duty because they are barefoot and otherwise naked.

In January, that figure topped 3,000 men.

Noel F. Busch, in his book "Winter Quarters" wrote of the grim jokes the hardship brought. One example: The official Continental uniform was buff and blue, and it was observed at Valley Forge the buff at least was amply displayed.

Valley Forge was chosen as the site for troop encampment, because of its strategic location, overlooking the western approach from Philadelphia. It was originally called Mount Joy Manor and was a tract given by William Penn to his daughter Letitia. The hills, Mount Joy, now topped by the observation tower, and Mount Misery, according to tradition, were named by Penn.

How different the scene along the Schuylkill River today. Industrial Pottstown has arisen, Norristown has become the seat of Montgomery County, Conshohocken—Indian for Pleasant Valley—is now a base of iron furnace and steel mill. Nearby Plymouth Meeting, founded in 1710, would hardly be recognized by an 18th century visitor, despite its continuation in the Quaker tradition.

Valley Forge State Park began in 1893 when the State legislature authorized the acquisition of 250 acres. Additional acreage was acquired in 1903, 1905, and 1917. In 1935, the legislature raised the authorized acreage to 5,000 with the proviso that the land could be purchased on both sides of the Schuylkill River. There after some additional acreage was purchased but only enough to bring the total to 2,000 acres. In the 1960's 1 acquisition of 221 acres was made. This purchase brought the acreage of the park up to its present total of 2,225.

John Reed, a noted Valley Forge historian, in his committee testimony, pointed out that for the 3,000 American soldiers that perished—

> We must hold their dust in trust.

He went on:

> Valley Forge is therefore one of the most precious historic sites in America. As such, it must be preserved to the best of natural and human ability for all generations to come, as an inspiration to free men everywhere.

Some of that preservation can be found in the museum beside the Washington Memorial Chapel. There you can see the battered campaign tent that sheltered George Washington on that first night of terrible cold December 19 and until December 24.

Thomas Paine, after a visit to the camp, wrote to Ben Franklin and described the troops erecting their huts "like a family of beavers." After the construction of these huts, the general, satisfied his men had attained shelter more substantial than tents, moved into what is today known as Washington's headquarters.

Also in the park is an arch of triumph. It was designed by the Frenchman Cret. It serves as a reminder of the part the French played in the ultimate victory. So does the stained glass in the memorial chapel, which some say was inspired by that of Sainte-Capelle. And the carillon, holding 1 bell for each of the 50 States, is reminiscent of Chartres.

The Washington Post just last Monday, Memorial Day, May 31, again urged that Valley Forge be nationalized. They also urged that the Congress correct deficiencies in this legislation, provisions for including the 869-acre tract known as Chesterbrook, which is adjacent to the park and is historically significant. This ecologically valuable property has been considered an essential buffer for the park if Valley Forge is not to have still another real estate development crowding its borders.

The state of those developments can be summed up by testimony given by a young constituent of mine last year. He pointed out that commercial encroachment rather succinctly:

> My father's office building is adjacent to a hotel which directly borders the park. The view from his office may help him practice law, but the view from the park has been harmed by this tall building. There are also newly built apartments around the park, and there is a plan to build housing units which would house nearly 30-thousand people on lands that border the park.

He went on to point out we preserved historic sites such as those at Saratoga and Yorktown, but not at Valley Forge. We must change that now, for the sake of that young man, and for the young men that died there, but while there had courage and faith. Let us not let them down.

This brings me to the point of the Chesterbrook tract. I am disappointed that the committee has removed the authorization for the acquisition of that tract of land. I will in the future introduce legislation to acquire this additional ground, because I feel it is necessary as a buffer to stop the encroachment on the park which continues on every other side.

The varying estimates of the cost of acquiring this tract, I feel, is one of the factors it has been deleted. Contributing to that also was the difficulty in reaching a satisfactory agreement on price with the current owners of the tract. Chesterbrook is a worthwhile purchase to be made by the Federal Government, and in the long run, based on the estimate I have of $15 million for acquisition and initial development, it is the least expensive per visitor of several recent Park Service acquisitions.

Big Thicket, Texas, acquisition and development cost $62 million for 75,000 acres. When fully developed it will attract 800,000 visitors annually. The cost per acre is $827, the cost per visitor, $77,500.

Big Cyprus, Florida, 575,000 acres. Cost $156.9 million, expected visitors 1,400,000. Cost per acre $275, per visitor $112,000.

Cuyahoga, Ohio, 29,112 acres, $35 million, 1 million visitors, cost, per acre, $1,202, per visitor $35,000.

Gateway, New York City, 22,940 acres, $137.1 million, 13.9 million visitors, per acre $5,976, per visitor $9,813, and Chesterbrook, 865 acres, $15 million, 5 million visitors, $17,000 per acre, but, of all the parks, the least expensive per visitor, $3,000. Even if only 3 million visit the park, the cost per visitor is only $5,000, and Big Cyprus, Fla., is $11,000 per visitor.

In just a few days, June 19, it will be 198 years since George Washington broke camp after a bitter winter at Valley Forge. This followed by just a few weeks the blooming of the wild dogwoods native to the hills of Pennsylvania, and found in great abundance at Valley Forge. And it followed by just 1 day the British evacuation of Philadelphia. What more appropriate time for the Congress of the United States to enact this bill, H.R. 5621, and establish Valley Forge as a national historical park.

President Ford is scheduled to visit Valley Forge on the Fourth of July. It would be fitting if on that occasion he would sign into law legislation making Valley Forge what it should have been all along, a national historical park.

Hear the words of Henry Armitt Brown in speaking of Valley Forge:

> If heroic deeds can consecrate a spot on earth, if this living be still sensible of the example of the dead, if courage be yet a common virtue and patience in suffering be still honorable in your sight, if freedom be any longer precious and faith in humanity be not vanished from among you, if love of country still finds refuge among the hearts of men, "take your shoes from off your feet, for the place on which you stand is holy ground."

Can we do less than our best to see that this "holy ground" is preserved for those who take heart in the example set at Valley Forge, and to guard this sacred place for the generations to come?

Mr. SEBELIUS. Mr. Speaker, I yield such time as he may consume to the gentleman from Kansas (Mr. SKUBITZ).

Mr. SKUBITZ. Mr. Speaker, I rise in support of this legislation.

Mr. Speaker, no place is better known in our Nation's history than Valley Forge. No other area is more worthy of national recognition.

Any schoolchild can tell the story of how Gen. George Washington and his 11,000 men spent the bleak winter of 1777–78 there.

Three thousand of them died of hunger, exposure, and disease.

But somehow the Army endured, trained, grew stronger, and went on to victory.

Valley Forge is now a Pennsylvania State park.

The 2,255-acre park is threatened by rapid commercial, industrial, and residential growth in the area.

This bill would establish the area as a national historical park, thereby bringing it under the protection and management of the National Park Service.

It authorizes $8.6 million for acquisition of surrounding lands to further protect the integrity of the area.

It is urgent that we act now to preserve this important and historic monument.

I urge my colleagues' support of H.R. 5621.

Mr. SEBELIUS. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. LAGOMARSINO).

Mr. LAGOMARSINO. Mr. Speaker, this bill, H.R. 5621, will authorize the establishment of the Valley Forge National Historical Park in Pennsylvania. I commend Congressman SCHULZE and the members of the Pennsylvania delegation for bringing us this bill in our Bicentennial Year. I am sure that it might come as a surprise to most Members, as it did to me, that an area as well-known and nationally significant as Valley Forge is not already a unit of the National Park System. This existing park has for years been operated by the Commonwealth of Pennsylvania. This bill will provide for its donation and operation henceforth by the National Park Service as a new unit of the National Park System.

The greatest tragedy which Valley Forge has suffered through the years is the proliferation of impinging, nonconforming development on the peripheral boundary of the present park. The housing developments, shopping centers, and high rise buildings greatly detract from the historic feeling that one would hope to gain from a visit to Valley Forge. These incongruous developments represent one of the most vivid examples in the Nation of why the land set aside to protect a historic part of our heritage should be extensive enough to itself provide a buffer to adjacent land use, or else local zoning controls are needed to assure that immediately adjacent development is more compatible. Valley Forge represents one of the most classic, and correspondingly tragic, cases of failure in this regard.

Fortunately, at least, this bill provides for the acquisition of about 10 additional tracts of basically undeveloped land, to help round out and buffer the park somewhat. This will help, but only in a miniscule way. The greatest damage that could be done by incompatible development on the very edge of this hallowed ground has already occurred.

Mr. Speaker, I am pleased that this legislation is before the House, and I urge my colleagues to join me in its support by voting for its passage.

Mr. SEBELIUS. Mr. Speaker, I have no further requests for time. I yield myself 1 minute to announce that I do intend to ask for a rollcall vote. I think this is a very significant bill in our Bicentennial Year, and we should be recorded on it.

Mr. TAYLOR of North Carolina. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina (Mr. TAYLOR) that the House suspend the rules and pass the bill H.R. 5621, as amended.

The question was taken.

Mr. SEBELIUS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3 of rule XXVII, and the prior announcement made by the Chair, further proceedings on this motion will be postponed.

NATIONAL PARK SYSTEM BOUNDARY CHANGES

Mr. TAYLOR of North Carolina. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 13713) to provide for increases in appropriation ceilings and boundary changes in certain units of the National Park System, and for other purposes, as amended.

The Clerk read as follows:

H.R. 13713

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—ACQUISITION CEILING INCREASES

SEC. 101. The limitations on appropriations for the acquisition of lands and interests therein within units of the National Park System contained in the following Acts are amended as follows:

(1) Arches National Park, Utah: section 7 of the Act of November 12, 1971 (85 Stat. 422), is amended by changing "$125,000" to "$275,000";

(2) Assateague Island National Seashore, Maryland and Virginia: section 11 of the Act of September 21, 1965 (79 Stat. 824), as amended (16 U.S.C. 459f), is further amended by changing "$21,050,000" to "$22,400,000";

(3) Buffalo National River, Arkansas: section 7 of the Act of March 1, 1972 (86 Stat. 44), is amended by changing "$16,115,000" to "$30,071,500";

(4) Capitol Reef National Park, Utah: section 7 of the Act of December 18, 1971 (85 Stat. 739), is amended by changing "$423,000" to "$2,173,000";

(5) Fire Island National Seashore, New York: section 10 of the Act of September 11, 1964 (78 Stat. 928), is amended by changing "$16,000,000" to "$18,000,000";

(6) Gulf Islands National Seashore, Florida and Mississippi: section 11 of the Act of January 8, 1971 (84 Stat. 1967), is amended by changing "$3,120,000" to "$22,162,000";

(7) Lincoln Home National Historic Site, Illinois: section 3 of the Act of August 18, 1971 (85 Stat. 347), is amended by changing "$2,003,000" to "$3,059,000";

(8) Mesa Verde National Park, Colorado: section 3 of the Act of December 23, 1963 (77 Stat. 473), is amended by changing "$125,000" to "$193,233";

(9) North Cascades National Park and Lake Chelan National Recreation Area, Washington: section 506 of the Act of October 2, 1968 (82 Stat. 926), is amended by changing "$3,500,000" to "$4,500,000";

(10) Saint-Gaudens National Historic Site, New Hampshire: section 6 of the Act of

August 31, 1964 (78 Stat. 749), is amended by adding a new sentence as follows: "For the acquisition of lands or interest therein, there is authorized to be appropriated not to exceed $80,000.";

(11) Scotts Bluff National Monument, Nebraska: section 3 of the Act of June 30, 1961 (75 Stat. 148), is amended by changing "$15,000" to "$145,000".

TITLE II—DEVELOPMENT CEILING INCREASES

Sec. 201. The limitations on appropriations for development of units of the National Park System contained in the following Acts are amended as follows:

(1) Andrew Johnson National Historic Site, Tennessee: section 3 of the Act of December 11, 1963 (77 Stat. 350), is amended by changing "$66,000" to "$266,000";

(2) Arkansas Post National Memorial, Arkansas: section 3 of the Act of July 6, 1960 (74 Stat. 334), as amended (80 Stat. 339), is further amended by changing "$550,000" to "$2,750,000";

(3) Chamizal National Memorial, Texas: section 5 of the Act of June 30, 1966 (80 Stat. 232), is amended by changing "$2,060,000" to $5,063,000";

(4) Fort Larned National Historic Site, Kansas: section 3 of the Act of August 31, 1964 (78 Stat. 748), is amended by changing "$1,273,000" to "$4,273,000";

(5) Golden Spike National Historic Site, Utah: section 3 of the Act of July 30, 1965 (79 Stat. 426), is amended by changing "$1,168,000" to "$5,422,000";

(6) Jefferson National Expansion Memorial National Historic Site, Missouri: section 4 of the Act of May 17, 1954 (68 Stat. 98), as amended (16 U.S.C. 450jj), is further amended by changing "$23,250,000" to "$32,750,000";

(7) Saint Gaudens National Historic Site, New Hampshire: section 6 of the Act of August 31, 1964 (78 Stat. 749), is amended by changing "$210,000" to "$2,677,000"; and

(8) Vicksburg National Military Park, Mississippi: section 3 of the Act of June 4, 1963 (77 Stat. 55), is amended by changing "$2,050,000" to "$3,850,000".

TITLE III—MISCELLANEOUS PROVISIONS

Sec. 301. The Act of September 21, 1965 (79 Stat. 824), as amended (16 U.S.C. 459f), providing for the establishment of the Assateague Island National Seashore in the States of Maryland and Virginia, is further amended by repealing sections 7 and 9 in their entirety, and by adding the following new section 12:

"Sec. 12. (a) Within two years of the date of enactment of this section, the Secretary shall develop and transmit to the Committees on Interior and Insular Affairs of the Senate and the House of Representatives a comprehensive plan for the protection, management, and use of the seashore, to include but not be limited to the following considerations:

"(1) measures for the full protection and management of the natural resources and natural ecosystems of the seashore;

"(2) present and proposed uses of the seashore and the lands and waters adjacent or related thereto, the uses of which could reasonably be expected to influence the administration, use, and environmental quality of the seashore;

"(3) plans for the development of facilities necessary and appropriate for visitor use and enjoyment of the seashore, with identification of resource and user carrying capacities, along with the anticipated costs for all proposed development;

"(4) plans for visitor transportation systems integrated and coordinated with lands and facilities adjacent to but outside of the seashore; and

"(5) plans for fostering the development of cooperative agreements and land and resource use patterns outside the seashore which would be compatible with the protection and management of the seashore.

"(b) In conjunction with such comprehensive plan, the Secretary shall study and submit his recommendations with respect to compensation for Worcester County, Maryland, for any damages and other losses, including tax revenues, resulting from the repeal of sections 7 and 9 of the Act of September 21, 1965.

"(c) Notwithstanding any other provision of law, no Federal loan, grant, license, or other form of assistance for any project which, in the opinion of the Secretary would significantly adversely affect the administration, use, and environmental quality of the seashore shall be made, issued, or approved by the head of any Federal agency without consultation with the Secretary and full consideration of his views, unless such project is consistent with the plan developed pursuant to this section.".

Sec. 302. (a) The Secretary of the Interior is authorized to designate by publication of a map or other boundary description in the Federal Register certain areas of scenic, historic, and geological significance including portions of No Thoroughfare Canyon and Red Canyon, but not to exceed two thousand eight hundred acres, for addition to Colorado National Monument, Colorado. Within the areas so designated the Secretary may acquire lands and interests therein by donation, purchase with donated or appropriated funds, or exchange. Property so acquired and any Federal property so designated shall thereupon become part of the Colorado National Monument, subject to the laws and regulations applicable to the monument.

(b) There is authorized to be appropriated not to exceed $460,000 for the acquisition of lands and interests therein.

Sec. 303. Section 4 of the Act approved August 31, 1965 (79 Stat. 588), as amended (87 Stat. 456), providing for the commemoration of certain historical events in the State of Kansas, is further amended by changing "$1,420,000" to "$2,000,000".

Sec. 304. (a) In order to facilitate the administration of certain areas of the National Park System located in Montgomery County, Maryland, the Secretary of the Interior (hereafter in this Act referred to as the "Secretary") may transfer, without monetary reimbursement, to the jurisdiction of the Director of the National Park Service in Montgomery County, Maryland, as set forth in the drawing entitled "Transfer of Land for Washington Aqueduct Shops and Storehouse Projects", numbered 40.1—103.3—1, and dated January 30, 1970 (a copy of which shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior), and which the Secretary of the Army has had use of under a permit dated March 5, 1965, issued by the Director of the National Park Service.

(b) The Secretary of the Army may transfer, without monetary reimbursement, to the jurisdiction of the Secretary the land located in Montgomery County, Maryland, administered by the Secretary of the Army as part of the Washington Aqueduct at the Dalecarlia Shops area, as set forth in the drawing of January 30, 1970, specified in subsection (a).

Sec. 305. Section 2(c) of the Act of October 4, 1961 (75 Stat. 780), providing for the preservation and protection of certain lands in Prince Georges and Charles Counties, Maryland, as amended (88 Stat. 1304), is further amended by changing the fifth sentence by deleting "parcels A, B, C, and D" and inserting in lieu thereof "parcels A, B, and C".

Sec. 306. Section 3 of the Act of August 31, 1964 (78 Stat. 749), authorizing the establishment of the Saint-Gaudens National Historic Site, New Hampshire, is amended by adding the following sentence: "Following such establishment the Secretary may acquire by donation, purchase with donated or appropriated funds, or exchange not to exceed sixty-four acres of lands and interests therein which he deems necessary for addition to the national historical site and which, when acquired, shall become a part of the site.".

Sec. 307. (a) The boundary of the Saguaro National Monument is hereby revised to include the area as generally depicted on the map entitled "Boundary Map, Saguaro National Monument, Pima County, Arizona", numbered 151–91,001–B, and dated May 1976, which map shall be on file and available for public inspection in the Offices of the National Park Service, Department of the Interior. The Secretary of the Interior may acquire property within the revised boundary by donation, purchase, transfer from any other Federal agency, exchange, or by any other means. The monument shall hereafter be administered in accordance with the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1 et seq.), as amended and supplemented.

(b) There is authorized to be appropriated not to exceed $1,700,000 in the acquisition of lands and interests added to the Saguaro Monument pursuant to subsection (a).

The SPEAKER pro tempore. Is a second demanded?

Mr. SEBELIUS. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from North Carolina (Mr. Taylor) will be recognized for 20 minutes, and the gentleman from Kansas (Mr. Sebelius) will be recognized for 20 minutes.

The Chair now recognizes the gentleman from North Carolina (Mr. Taylor).

Mr. TAYLOR of North Carolina. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, each Congress, the Committee on Interior and Insular Affairs has referred to it a large number of bills which propose to make various adjustments in existing units of the National Park System. These amendments to existing legislation are generally noncontroversial in nature, and consist of such items as increases in authorized ceilings for land acquisition or development funding, or for such other changes as adjustments in boundaries or the addition or deletion of various statutory provisions.

As we have done in recent Congresses, the Subcommittee on National Parks and Recreation conducted hearings on a number of these proposed amendments and then combined them into an omnibus format. H.R. 13713 represents the product of the public hearings and deliberations of the Committee on Interior and Insular Affairs.

Title I of the bill authorizes increases in funding for land acquisition purposes at 11 units of the National Park System. In most cases, these increases are necessary due to delays in completing the acquisition program previously authorized by Congress. The consequent increase in land values has made this amendatory legislation necessary. I might point out that the recent action of the House of Representatives in approving an increase in the authorized level of the Land and Water Conservation Fund should be of real benefit in reducing the lead time required to acquire these areas.

Title II authorized increased in development funding limitations for eight areas. Again, programs to construct necessary visitor facilities in many national parks have been badly hampered by inadequate levels. These increases will bring authorized development ceilings for the affected areas into line with currently planned development proposals.

Title III of the bill contains seven additional sections which make various other adjustments to existing areas, including boundary revisions as well as authorized ceiling adjustments.

The amendment adopted by the Committee on Interior and Insular Affairs provides for a boundary change at Saguaro National Monument. This area was also the subject of our open hearings.

Mr. Speaker, while H.R. 13713 is "housekeeping" legislation in the sense that it simply updates previously enacted legislation, it is an important part of our committee work and it enables our members to exercise continuing oversight of the operation of these units of the National Park System. I urge my colleagues to join me in supporting this measure.

Mr. SEBELIUS. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, this bill as it applies to Ft. Larned National Historic Site, in my district, simply boosts the current development ceiling $3 million. Ft. Larned is located in south central Kansas and represents the remains of an Army fort. It was established in 1859 to protect the Kansas portion of the Santa Fe Trail from Indian attacks on travelers, commerce, and the mails.

The fort had numerous buildings during the years, but only nine now survive and are in various states of repair. They represent good examples of American military post architecture during the Victorian period. Remains of virtually all other Army structures survive as archeological features.

Many of the structures at Ft. Larned are in a bad state of deterioration, and more funds are needed to restore some of them to various degrees. The current development ceiling of $1,273,000 has been reached.

This bill will add $3 million to the current ceiling. Half of this will be used to prevent further deterioration of structures and to perform restoration work. This amount will not be sufficient to do a complete restoration job, but the newly developing master plan does not contemplate a complete restoration for all structures as being necessary or practical.

The remaining $1,500,000 of the new ceiling would be used for the development of additional facilities to enhance the experience of the visiting public.

Mr. Speaker, this additional funding is urgently needed, and I would hope that the House will favorably adopt this bill.

Mr. Speaker, this bill represents a collection of relatively minor measures, most of which accomplish changes in boundaries and/or authorization ceilings for numerous units of the National Park System, or units associated with the management of the National Park Service. This is not to say, however, that each item is not important; in terms of its meaning to the respective area, each item is of very major importance to the protection and management of that area. I know of no controversy over any of these measures, although several items do not have the support of the administration.

Mr. Speaker, I urge the adoption of this bill.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. SEBELIUS. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, I rise in support of H.R. 13713, of which I am a cosponsor. This bill contains important provisions dealing with the Assateague Island National Seashore, located in my congressional district in Worcester County, Md.

Anyone who has ever visited Assateague appreciates the natural beauty of this barrier island and experiences the great enjoyment of people spending time with nature. In the last few years, traffic in this area has increased markedly in day use and visits by people who camp both at the State park and at the national seashore.

The legislation before us recognizes a consensus which has developed among all of those concerned with the future of the Assateague Island National Seashore. In 1965 when the seashore was authorized, the statute contained authority for the building of a north/south road along the length of the island. It also permitted the eventual island development of 600 acres for commercial and concession-type buildings and services. It is now generally agreed that in order to preserve the unique natural qualities of the island, these authorities should be repealed.

In studying this problem in the 3 years that I have served in Congress, it has become evident to me that one of the major gaps in the Federal activities surrounding this island was the lack of a comprehensive plan for the development and future use of Assateague. Therefore, at my suggestion, and with the agreement of the Interior Department officials, this legislation includes authority for a 2-year study at the end of which Interior will submit to the appropriate congressional committees a plan for the future use of the seashore. Interior is also directed by the committee to consider the possibility of compensation to Worcester County, Md., for the lost tax revenues that would have gone to the county government had development been permitted on the island.

My bill also contains authority for the spending of $1,350,000 for the final land acquisitions on Assateague which will complete the national seashore.

I want to thank the gentleman from North Carolina (Mr. TAYLOR) chairman of the Subcommittee on National Parks, on which I have the honor to serve, and the other committee members and especially the staff for their cooperation in drafting the Assateague Island National Seashore section of this bill. Hopefully the bill will pass overwhelmingly and be accepted in the other body.

Mr. SEBELIUS. Mr. Speaker, I yield such time as he may consume, to the gentleman from Kansas (Mr. SKUBITZ).

Mr. SKUBITZ. Mr. Speaker, H.R. 13713 is a combination of many different bills to increase authorization ceilings for land acquisition, raise the limitations on funds for development, and make boundary adjustments.

It affects 25 different units of the National Park System.

Authorizations in the bill total almost $69.4 million.

It should be noted that the administration opposes some of these authorizations.

However, the committee feels that appropriations for both acquisition and development will be spread over several years and that the inflationary and budgetary impact will therefore be minimal.

Extensive hearings were held and testimony was heard on each of the units.

With the exception of adverse departmental reports there was no controversy in the committee.

I urge adoption of the bill.

Mr. SEBELIUS. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. FINDLEY), who has a vital interest in this bill.

Mr. FINDLEY. Mr. Speaker, on February 11, 1861, Abraham Lincoln boarded a train at the Great Western railroad station in Springfield, Ill. Facing the awesome burden of impending Civil War he nevertheless stopped to pay tribute to the people of Springfield. "To this place, and the kindness of these people, I owe everything," he told the crowd that stood in the rain to hear him say good by.

Every day for the past 15 years, he had descended the steps from his modest home at 8th and Jackson Streets and walked to the law offices he shared with William Herndon. As he strode along, he called out greetings to his friends and neighbors along the way. In this environment, Lincoln was transformed from an obscure prairie politician to a towering national political force.

In recognition of the importance of the Springfield years in Lincoln's life the Congress nearly 5 years ago, enacted legislation which created the Lincoln Home National Historic Site in Springfield. With the home as its center a four-block area for the historic site was mandated. Plans called for the restoration of the neighborhood to its appearance in the Lincoln era.

In the intervening years, delays in land acquisition have been encountered. Costly condemnation proceedings had to be instituted in several cases. During these same years, land prices increased substantially. Since 1971 the Consumer Price Index has risen by nearly 50 percent.

The funds for the Lincoln Home National Historic Site authorized in H.R. 13713 will permit the acquisition of all the remaining land in the four-block area. This will meet the goal of the 1971 legislation and create a historically intact area.

Visitors to the Lincoln Home National Historic Site—one of the top 10 visitor attractions in the country—will undoubtedly have their appreciation of the Lincoln heritage enhanced by the completion of the site.

In this Bicentennial Year, we have all become more aware of our national heritage. Recognizing Abraham Lincoln's central role in that heritage by preserving intact this important part of his life seems to me a fitting and proper remembrance of his place in history. The Lincoln Home National Historic Site, when completed, will serve as an enduring reminder of his greatness and his humanity, and an inspiration for generations to come.

I am very grateful to the gentleman from North Carolina (Mr. TAYLOR), the gentleman from Kansas (Mr. SKUBITZ), and all others for expediting the Lincoln Home authorization initially and on this subsequent occasion.

Mr. TAYLOR presided at field hearings in Springfield in 1969 and has followed with diligence and deep personal interest the development of the site. I know from personal conversations with him that he considers this an investment of great value to future generations—one of those enactments on which all of us can reflect with pride.

Mr. TAYLOR is the descendent of men who fought on the side of the Confederacy. It is notice of the esteem in which Lincoln's memory is held in the South as well as North.

Mr. TAYLOR's decision to retire this year from Congress is a great personal disappointment to me and a loss to us all.

In my opinion his success in moving to enactment the authorizations for the Lincoln House Site stand are a worthy and lasting remembrance of Mr. TAYLOR's service to mankind.

Mr. TAYLOR of North Carolina. Mr. Speaker, will the gentleman yield?

Mr. FINDLEY. I yield to the gentleman from North Carolina.

Mr. TAYLOR of North Carolina. Mr. Speaker, I am very familiar with the gentleman's outstanding work in connection with the Lincoln Home in the State of Illinois. That is the only facility in the State of Illinois operated by the National Park Service and it was established only a few years ago. The Lincoln Home is a national asset to which the Park Service can point with pride.

Mr. Speaker, these various provisions in the bill make adjustments in authorized boundaries, land acquisition, or development costs of various areas. The projects have all been through hearings. If we passed these projects separately instead of in one bill, if we were handling the legislation as we did under the old procedure, it would require about 30 different bills.

Mr. FINDLEY. I thank the gentleman from North Carolina.

Mr. TAYLOR of North Carolina. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Missouri (Mrs. SULLIVAN).

Mrs. SULLIVAN. Mr. Speaker, I rise in support of H.R. 13713 and particularly address my remarks to section 201(6) of title II, development ceiling increases. This pertains to the Jefferson National Expansion Memorial, commonly known as the Gateway Arch in the city of St. Louis, Mo. This memorial was started in the mid 1930's. Buildings on the riverfront were obtained by the Government, cleared, and the area put into use as a parking lot until May 17, 1954, when the actual construction of the memorial was authorized by Public Law 83-361. Thereafter, by the Second Supplemental Appropriations Act of 1956, we received the first Government appropriations. Under the terms of the act, the Federal Government pays three parts and the city of St. Louis one part of all of the cost of construction of the memorial.

Through the years, the city of St. Louis has continued to pay its share on each occasion that any appropriations have been made by the Congress. To date the Congress has authorized $23,250,000 and has appropriated $21,601,000. I have requested that the Subcommittee on Interior of the House Appropriations Committee appropriate the remaining authorized $1,649,000 for fiscal year 1977.

Each year that there has been a delay in the appropriations, and there have been many, the cost of the memorial has increased. Thus, in order to complete the memorial, it has become necessary to come to the Congress for additional authorization of another $9.5 million. The total estimated cost of the work still to be completed is now $12,827,000, three-fourths of this to be Federal money and one-fourth to be St. Louis money.

I am sure that anyone who has visited St. Louis and seen the arch realizes what a magnificent memorial it is. However, in order for it to be fully utilized, it is essential that it be completed and that the authorization requested by H.R. 13713 be approved by the Congress.

Mr. CLEVELAND. Mr. Speaker, as a cosponsor of H.R. 13713, legislation to provide for national park system boundary changes, I strongly support the measure and hope my colleagues will join in securing its passage.

One of the National Park Service areas affected by this legislation is the Saint Gaudens National Historic Site in Cornish, N.H. The Saint Gaudens National Historic Site was authorized in 1964 by legislation which I introduced to preserve the historically significant properties and collected works of Augustus Saint Gaudens, provide for their enjoyment and study, and to permit presentation of appropriate expositions, festivals, and similar events at the site.

The development ceiling of $210,000, which has remained unchanged since the act was passed in 1964, has permitted little more than a caretaking action at the site and has prevented major long-term rehabilitation or improvements. The need for such improvements is rapidly approaching crisis proportions.

The bill would increase the development ceiling to $2,677,000 to provide for construction of a new interpretive-administrative-art exhibition facility a short distance from the historic scene. This facility is proposed to relieve the pressing problems of management, protection, and visitor service at the site. The National Park Service has recommended its construction because the historic structures at the site have proven inadequate to properly exhibit the items of art in the collection or to properly safeguard them from the deteriorating effects of climate or from damage by insects, rodents, fire, vandalism, and theft.

In addition, the existing historic structures need considerable modification to prevent deterioration as with many other old buildings, the initial construction may not have been accomplished with a view toward permanence.

The land acquisition ceiling would also be increased to $80,000 which would permit an addition of 63.31 acres adjacent to the park.

Grounds restoration and improvements are also planned.

It is my understanding that the Saint Gaudens National Historic Site is the first place in the United States set aside under the Park Service system to commemorate a major American artist and I hope my colleagues will join me in supporting passage of this legislation to insure the needed resources to adequately memorialize Augustus Saint Gaudens.

Mr. GUDE. Mr. Speaker, I wish to record my support for H.R. 13713, a bill providing for increases in appropriation ceilings and boundary changes in certain units of the national park system and for other purposes.

This bill, which provides for several necessary and administratively useful changes within the national park system, includes among those items a provision for the transfer of lands from the jurisdiction of the National Park Service to that of the U.S. Army Corps of Engineers, in Montgomery County, Md. This minor transfer, which will involve no funds, will clarify the jurisdictional control over that piece of property in a manner favorable to both parties.

Such jurisdictional change was the subject of a bill I introduced last year and which was incorporated into this legislation. I am pleased to see that the Committee on Interior and Insular Affairs has seen fit to include that bill in their overall bill.

The SPEAKER pro tempore (Mr. MCFALL). The question is on the motion offered by the gentleman from North Carolina (Mr. TAYLOR) that the House suspend the rules and pass the bill (H.R. 13713), as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

EXEMPTION FROM DUTY FOR ARTICLES PREVIOUSLY EXPORTED

Mr. ULLMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2177) to amend the tariff schedules of the United States to provide for a partial exemption from duty for articles previously exported from the United States composed in part of fabricated components the products of the United States, when returned after having been exported, without having been advanced in value or improved in condition while abroad, as amended.

The Clerk read as follows:

H.R. 2177

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in the case of any aircraft which—

(1) was previously exported from the United States,

(2) was composed, at the time of such exportation, in part of components and materials which are products of the United States and which were installed—

(A) while such aircraft was within the United States, and

(B) after such aircraft was operational,

(3) is returned to the United States after being so exported without having been advanced in value or improved in condition by any process of manufacture or other means while abroad, and

4) was entered for consumption before 1970 pursuant to an entry which is unliquidated as of the date of the enactment of this Act,

the rate of duty provided for in item 694.40 of the Tariff Schedules of the United States (19 U.S.C. 1202) on the date of such entry shall, notwithstanding any other provision of law, be assessed upon the full value of such aircraft less the value of such components and materials. For the purposes of this Act, the value of any such component or material is the cost of such component or material at the time of installation in the aircraft plus the cost of such installation.

SEC. 2. No entry may be liquidated as provided for in the first section of this Act unless request therefor is filed with the customs officer concerned on or before the thirtieth day after the date of the enactment of this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. CONABLE. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Oregon (Mr. ULLMAN) and the gentleman from New York (Mr. CONABLE) will each be recognized for 20 minutes.

The Chair now recognizes the gentleman from Oregon (Mr. ULLMAN).

Mr. ULLMAN. Mr. Speaker, I yield such time as he may consume to the ranking majority member of the Subcommittee on Trade, the gentleman from Florida (Mr. GIBBONS).

Mr. GIBBONS. Mr. Speaker, the purpose of H.R. 2177 as reported is to provide that certain aircraft previously exported and composed at the time of such exportation in part of components and materials which are products of the United States and which were installed while the aircraft was within the United States will be dutiable at the regular rate of duty appropriate to such aircraft provided for in item 694.40 of the tariff schedules of the United States, and assessed on the full value of such aircraft less the cost of such installation.

As reported, the provisions of H.R. 2177 would apply the tariff treatment to such aircraft previously exported and returned to the United States without having been advanced in value or improved in condition while abroad and which was entered for consumption pursuant to an entry which is unliquidated as of the date of enactment of H.R. 2177.

Section 2 of H.R. 2177, as reported, would require that an appropriate request for liquidation of any entry under the bill must be filed on or before the 30th day after the date of enactment.

Headnote 1 of part 1—articles exported and returned—of schedule 8 of the Tariff Schedules of the United States provides that—

> In the absence of a specific provision to the contrary, the tariff status of an article is not affected by the fact it was previously imported into the customs territory of the United States and cleared through customs whether or not a duty was paid upon such previous importation.

H.R. 2177 as originally introduced, would have made a permanent change in the tariff schedules permitting a partial exemption from duty on articles which are composed in part of U.S. components and which have been exported from the United States but later returned to the United States without having been advanced in value while abroad.

Your committee in considering the equities involved in entries of this type concludes that the payment of duty on U.S. components and materials which are assembled into foreign articles while such articles are in the United States serves no purpose. However, the committee also concludes that an amendment to the tariff schedules generally covering such entries would be unwise in the light of tariff avoidance practices that might develop.

Therefore, the committee amended the bill to provide that only certain aircraft previously exported, and composed at the time of such exportation in part of components and materials installed in the United States which are products of the United States, will be dutiable at the regular rate of duty provided for in item 694.40 of the tariff schedules but assessed upon the full value of such aircraft less the cost of such components and materials at the time of installation including the cost of such installation.

Public hearings were held by the Subcommittee on Trade of the Committee on Ways and Means on February 19 and 20, 1976, on duty-free entry and temporary duty suspension bills at which time there were no objections to this bill. The committee has also received reports from interested executive branch agencies reflecting no objection to H.R. 2177, as reported. No objections to this legislation have been received by the committee from any source. A similar bill was reported to the House in the 92d Congress. The House did not take action on the bill.

The committee unanimously reported this bill, as amended, and recommends its passage by the House.

Mr. CONABLE. Mr. Speaker. I yield myself such time as I may consume.

Mr. Speaker, I support H.R. 2177, providing a partial exemption from duty for articles previously exported from the United States that are composed in part of fabricated components made in the United States as long as such components have not advanced in value or improved in condition while abroad.

Under the provisions of this bill, certain aircraft, previously exported from the United States and composed in part of U.S. components, will be dutiable at the regular rate of duty on the full value of the aircraft minus the cost of the U.S. components. These provisions apply only to aircraft imported before 1970 pursuant to an entry that is unliquidated as of the date of enactment of this bill.

The current tariff schedules include provisions under which specific articles previously exported may reenter free of duty. These are generally items that are clearly identifiable as American made. H.R. 2177 merely extends such limited coverage to American equipment, systems, and furnishings used to improve or expand a foreign aircraft previously exported from the United States and then imported at a later date.

There is no apparent value in levying duty on identifiable American-made components, and the narrow application of this bill is intended to prevent the creation of a loophole in the tariff schedules.

Mr. Speaker, the committee received no opposition to enactment, and reported H.R. 2177 unanimously. I recommend passage by the House at this time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Oregon (Mr. ULLMAN) that the House suspend the rules and pass the bill (H.R. 2177), as amended.

The question was taken.

Mr. MOTTL. Mr. Speaker, I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3(b), rule XXVII, and the prior announcement of the Chair, further proceedings on this motion will be postponed.

DUTY-FREE IMPORTATION OF LOOSE GLASS PRISMS

Mr. ULLMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 8656) to amend the tariff schedules of the United States in order to provide for the duty-free importation of loose glass prisms used in chandeliers, as amended.

The Clerk read as follows:

H.R. 8656

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subpart C of part 3 of schedule 5 of the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by striking out item 545.57 and inserting in lieu thereof the following:

"	Prisms and other glass articles of a type used in chandeliers and wall brackets, and articles made therefrom:		
545.58	Loose glass prisms used in chandeliers or wall brackets..	Free.	60% ad val.
545.59	Other......	12% ad val.	60% ad val. ".

SEC. 2. The amendments made by the first section of this Act shall apply with respect to articles entered, or withdrawn from ware-

house, for consumption on or after the date of the enactment of this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. CONABLE. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Oregon (Mr. Ullman) and the gentleman from New York (Mr. Conable) will each be recognized for 20 minutes.

The Chair now recognizes the gentleman from Oregon (Mr. Ullman).

Mr. ULLMAN. Mr. Speaker, I yield such time as he may consume to the ranking majority member of the Subcommittee on Trade, the gentleman from Florida (Mr. Gibbons).

Mr. GIBBONS. Mr. Speaker, the purpose of H.R. 8656 as reported is to provide for the duty-free importation of loose glass prisms used in chandeliers and wall brackets when such products are imported from countries receiving most-favored-nation treatment. Column 2 rates of duty—applicable to nonmarket economy countries, except Poland, Yugoslavia, and Romania—would remain unchanged.

Section 2 of the bill applies the duty-free provision to articles entered, or withdrawn from warehouse for consumption or after the date of enactment.

In reporting this bill unanimously the committee amended the bill to provide that loose glass prisms used in wall brackets as well as those used in chandeliers, should be permitted duty-free entry.

Loose glass prisms for use in making crystal chandeliers have not been commercially produced in the United States for many years, and the domestic lighting fixture industry is entirely dependent upon the importation of glass prisms for its production needs. Therefore, the elimination of the duty on loose glass prisms would lower raw material cost and improve the competitive position of domestic manufacturers of crystal chandeliers and wall brackets.

Public hearings were held by the Subcommittee on Trade of the Committee on Ways and Means on February 19 and 20, 1976, on duty-free entry and temporary duty suspension bills. During these hearings, favorable testimony and written comments were received on H.R. 8656. Favorable reports were also received from interested executive branch agencies. No objections to this legislation have been received by the committee from any source.

The committee unanimously reported this bill as amended and recommends its passage by the House.

Mr. CONABLE. Mr. Speaker. I yield myself such time as I may consume.

Mr. Speaker, I support H.R. 8656, providing for the duty-free importation of loose glass prisms used in chandeliers and wall brackets.

Under the provisions of this bill, loose glass prisms used in the prescribed manner would be reclassified and given duty-free treatment under column one of the Tariff Schedules—applicable to countries with most-favored nation status—all other prisms and glass articles of a type used in chandeliers and wall brackets would remain dutiable at 12 percent ad valorem under column 1.

At the present time, there is no domestic production of loose glass prisms. The duty-free treatment of these articles will go far in improving the competitive situation of domestic producers of finished chandeliers who now must import all crystals needed for production. This would be done without harming domestic manufacturers of other than loose glass prisms. Labor organizations and the administration have favored passage of this bill as supportive of the domestic chandelier industry. It is estimated that enactment of this bill would result in an annual customs revenue loss of $60,000.

Mr. Speaker, the committee received no opposition to H.R. 8656 and reported the bill unanimously. I recommend passage by the House at this time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Oregon (Mr. Ullman) that the House suspend the rules and pass the bill H.R. 8656, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title was amended so as to read: "A bill to amend the Tariff Schedules of the United States in order to provide for the duty-free importation of loose glass prisms used in chandeliers and wall brackets."

A motion to reconsider was laid on the table.

INFLUENCING LEGISLATION BY PUBLIC CHARITIES

Mr. ULLMAN. Mr. Speaker, I move to amend the rules and pass the bill (H.R. 13500) to amend the Internal Revenue Code of 1954 with respect to influencing legislation by public charities, as amended.

The Clerk read as follows:

H.R. 13500

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Section 1. Loss of Exemption Status

(a) Loss of Exempt Status Because of Substantial Lobbying.—Section 501 of the Internal Revenue Code of 1954 (relating to exemption from income tax) is amended by redesignating subsection (g) as subsection (h) and inserting after subsection (f) the following new subsection:

"(g) Expenditures by Public Charities To Influence Legislation.—

"(1) General rule.—In the case of an organization to which this subsection applies, exemption from taxation under subsection (a) shall be denied because a substantial part of the activities of such organization consists of carrying on propaganda, or otherwise attempting to influence legislation, but only if such organization normally—

"(A) makes lobbying expenditures in excess of the lobbying ceiling amount for such organization for each taxable year, or

"(B) makes grass roots expenditures in excess of the grass roots ceiling amount for such organization for each taxable year.

"(2) Definitions.—For purposes of this subsection—

"(A) Lobbying expenditures.—The term 'lobbing expenditures' means expenditures for the purpose of influencing legislation (as defined in section 4911(d)).

"(B) Lobbying ceiling amount.—The lobbying ceiling amount for any organization for any taxable year is 150 percent of the lobbying nontaxable amount for such organization for such taxable year, determined under section 4911.

"(C) Grass roots expenditures.—The term 'grass roots expenditures' means expenditures for the purpose of influencing legislation (as defined in section 4911(d) without regard to paragraph (1) (B) thereof).

"(D) Grass roots ceiling amount.—The grass roots ceiling amount for any organization for any taxable year is 150 percent of the grass roots nontaxable amount for such organization for such taxable year, determined under section 4911.

"(3) Organizations to which this subsection applies.—This subsection shall apply to any organization which has elected (in such manner and at such time as the Secretary or his delegate may prescribe) to have the provisions of this subsection apply to such organization and which, for the taxable year which includes the date the election is made, is described in subsection (c) (3) and—

"(A) is described in paragraph (4), and

"(B) is not a disqualified organization under paragraph (5).

"(4) Organizations permitted to elect to have this subsection apply.—An organization is described in this paragraph if it is described in—

"(A) section 170(b) (1) (A) (ii) (relating to educational institutions),

"(B) section 170(b) (1) (A) (iii) relating to hospitals and medical research organizations),

"(C) section 170(b) (1) (A) (iv) (relating to organizations supporting government schools),

"(D) section 170(b) (1) (A) (vi) (relating to organizations publicly supported by charitable contributions),

"(E) section 509(a) (2) (relating to organizations publicly supported by admissions, sales, etc.), or

"(F) section 509(a) (3) (relating to organizations supporting certain types of public charities), except that for purposes of this subparagraph, section 509(a) (3) shall be applied without regard to the last sentence of section 509(a).

"(5) Disqualified organizations.—For purposes of paragraph (3), an organization is a disqualified organization if it is—

"(A) described in section 170A(b) (1) (A) (i) (relating to churches and conventions or associations of churches),

"(B) an integrated auxiliary of a church or of a convention or association of churches, or

"(C) a member of an affiliated group of organizations (within the meaning of section 4911(f) (2)) if one or more members of such group is described in subparagraph (A) or (B).

"(6) Years for which election is effective.—An election by an organization under this subsection shall be effective for all taxable years of such organization which—

"(A) end after the date the election is made, and

"(B) begin before the date the election is revoked by such organization (under regulations prescribed by the Secretary or his delegate).

"(7) No effect on certain organizations.—With respect to any organization for a taxable year for which—

"(A) such organization is a disqualified organization (within the meaning of paragraph (5)), or

"(B) an election under this subsection is not in effect for such organization,

nothing in this subsection or in section 4911 shall be construed to affect the interpretation of the phrase, 'no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation,' under subsection (c)(3).

"(8) Affiliated organizations.—

"For rules regarding affiliated organizations, see section 4911(f).".

(b) Status of Organization Which Ceases To Qualify for Exemption Under Section 501(c)(3) Because of Substantial Lobbying.—Part I of subchapter F of chapter 1 of such Code (relating to general rules as to exempt organizations) is amended by adding at the end thereof the following new section:

"Sec. 504. Status After Organization Ceases To Qualify for Exemption Under Section 501(c)(3) Because of Substantial Lobbying.

"(a) General Rule.—An organization which—

"(1) was exempt (or was determined by the Secretary or his delegate to be exempt) from taxation under section 501(a) by reason of being an organization described in section 501(c)(3), and

"(2) is not an organization described in section 501(c)(3) by reason of carrying on propaganda or otherwise attempting to influence legislation,

shall not at any time thereafter be treated as an organization described in section 501(c)(4).

"(b) Regulations To Prevent Avoidance.—The Secretary or his delegate shall prescribe such regulations as may be necessary or appropriate to prevent the avoidance of subsection (a), including regulations relating to a direct or indirect transfer of all or part of the assets of an organization to an organization controlled (directly or indirectly) by the same person or persons who control the transferor organization.

"(c) Churches, Etc.—Subsection (a) shall not apply to any organization which is a disqualified organization within the meaning of section 501(g)(5) (relating to churches, etc.) for the taxable year immediately preceding the first taxable year for which such organization is described in paragraph (2) of subsection (a).".

(c) Rules of Interpretation.—It is the intent of Congress that enactment of this Act is not to be regarded in any way as an approval or disapproval of the decision of the Court of Appeals for the Tenth Circuit in Christian Echoes National Ministry, Inc. against United States, 470 F. 2d 849 (1972), or of the reasoning in any of the opinions leading to that decision.

(d) Disclosure.—Section 6033(b) of such Code (relating to information required to be furnished annually by certain exempt organizations) is amended by striking out "and" at the end of paragraph (6), by striking out the period at the end of paragraph (7) and inserting in lieu thereof ", and", and by adding at the end thereof the following:

"(8) in the case of an organization with respect to which an election under section 501(g) is effective for the taxable year, the following amounts for such organization for such taxable year:

"(A) the lobbying expenditures (as defined in section 4911(c)(1)),

"(B) the lobbying nontaxable amount (as defined in section 4911(c)(2)),

"(C) the grass roots expenditures (as defined in section 4911(c)(3)), and

"(D) the grass roots nontaxable amount (as defined in section 4911(c)(4)).

For purposes of paragraph (8), if section 4911(f) applies to the organization for the taxable year, such organization shall furnish the amounts with respect to the affiliated group as well as with respect to such organization.".

Sec. 2. Taxes on Excess Expenditures To Influence Legislation.

Subtitle D of the Internal Revenue Code of 1954 (relating to miscellaneous excise taxes) is amended by striking out chapter 41 and inserting in lieu thereof the following:

"CHAPTER 41—PUBLIC CHARITIES

"Sec. 4911. Tax on excess expenditures to influence legislation.

"Sec. 4911. Tax on Excess Expenditures To Influence Legislation.

"(a) Tax Imposed.—

"(1) In general.—There is hereby imposed on the excess lobbying expenditures of any organization to which this section applies a tax equal to 25 percent of the amount of the excess lobbying expenditures for the taxable year.

"(2) Organizations to which this section applies.—This section applies to any organization with respect to which an election under section 501(g) (relating to lobbying expenditures by public charities) is in effect for the taxable year.

"(b) Excess Lobbying Expenditures.—For purposes of this section, the term 'excess lobbying expenditures' means, for a taxable year, the greater of—

"(1) the amount by which the lobbying expenditures made by the organization during the taxable year exceed the lobbying nontaxable amount for such organization for such taxable year, or

"(2) the amount by which the grass roots expenditures made by the organization during the taxable year exceed the grass roots nontaxable amount for such organization for such taxable year.

"(c) Definitions.—For purposes of this section—

"(1) Lobbying expenditures.—The term 'lobbying expenditures means expenditures for the purpose of influencing legislation (as defined in subsection (d)).

"(2) Lobbying nontaxable amount.—The lobbying nontaxable amount for any organization for any taxable year is the lesser of (A) $1,000,000 or (B) the amount determined under the following table:

If the exempt purpose expenditures are—	The lobbying non-taxable amount is—
Not over $500,000	20 perrcent of the exempt purpose expenditures.
Over $500,000 but not over $1,000,000.	$100,000, plus 15 percent of the excess of the exempt purpose expenditures over $500,000.
Over $1,000,000 but not over $1,500,000.	$175,000, plus 10 percent of the excess of the exempt purpose expenditures over $1,00,000.
Over $1,500,000	$225,000, plus 5 percent of the excess of the exempt purpose expenditures over $1,500,000.

"(3) Grassroots expenditures.—The term 'grass roots expenditures' means expenditures for the purpose of influencing legislation (as defined in subsection (d) without regard to paragraph (1)(B) thereof).

"(4) Grassroots nontaxable amount.—The grassroots nontaxable amount for any organization for any taxable year is 25 percent of the lobbying nontaxable amount (determined under paragraph (2)) for such organization for such taxable year.

"(d) Influencing Legislation.—

"(1) General rule.—Except as otherwise provided in paragraph (2), for purposes of this section, the term 'influencing legislation' means—

"(A) any attempt to influence any legislation through an attempt to affect the opinion of the general public or any segment thereof, and

"(B) any attempt to influence any legislation through communication with any member or employee of a legislative body, or with any other government official or employee who may participate in the formulation of the legislation.

"(2) Exceptions.—For purposes of this section, the term 'influencing legislation', with respect to an organization, does not include—

"(A) making available the results of nonpartisan analysis, study, or research.

"(B) providing of technical advice or assistance (where such advice would otherwise constitute the influencing of legislation) to a governmental body or to a committee or other subdivision thereof in response to a written request by such body or subdivision, as the case may be;

"(C) appearance before, or communications to, any legislative body with respect to a possible decision of such body which might affect the existence of the organization, its powers and duties, its tax-exempt status, or the deductions of contributions to the organization;

"(D) communications between the organization and its bona fide members with respect to legislation or proposed legislation of direct interest to the organization and such members, other than communications described in paragraph (3); and

"(E) any communication with a government official or employee, other than—

"(i) a communication with a member or employee of a legislative body (where such communication would otherwise constitute the influencing of legislation), or

"(ii) a communication the principal purpose of which is to influence legislation.

"(3) Communications with members.—

"(A) A communication between an organization and any bona fide member of such organization to directly encourage such member to communicate as provided in paragraph (1)(B) shall be treated as a communication described in paragraph (1)(B).

"(B) A communication between an organization and any bona fide member of such organization to directly encourage such member to urge persons other than members to communicate as provided in either subparagraph (A) or subparagraph (B) of paragraph (1) shall be treated as a communication described in paragraph (1)(A).

"(e) Other Definitions and Special Rules.—For purposes of this section—

"(1) Exempt purpose expenditures.—

"(A) In general.—The term 'exempt purpose expenditures' means, with respect to any organization for any taxable year, the total of the amounts paid or incurred by such organization to accomplish purposes described in section 170(c)(2)(B) (Relating to religious, charitable, education, etc., purposes).

"(B) Certain amounts included.—The term 'exempt purpose expenditures' includes—

"(i) administrative expenses paid or incurred for purposes described in section 170(c)(2)(B), and

"(ii) amounts paid or incurred for the purpose of influencing legislation (whether or not for purposes described in section 170(c)(2)(B)).

"(C) Certain amounts excluded.—The term 'exempt purpose expenditures' does not include amounts paid or incurred to or for—

"(i) a separate fundraising unit of such organization, or

"(ii) one or more other organizations, if such amounts are paid or incurred primarily for fundraising.

"(2) Legislation.—The term 'legislation' includes action with respect to Acts, bills, resolutions, or similar items by the Congress, any State legislature, any local council, or similar governing body, or by the public in a referendum, initiative, constitutional amendment, or similar procedure.

"(3) Action.—The term 'action' is limited to the introduction, amendment, enactment, defeat, or repeal of Acts, bills, resolutions, or similar items.

"(4) Depreciation, etc., treated as expenditures.—In computing expenditures paid or incurred for the purpose of influencing legislation (within the meaning of subsection (b)(1) or (b)(2)) or exempt *purpose* expenditures (as defined in paragraph (1)), amounts properly chargeable to capital account shall not be taken into account. There shall be taken into account a reasonable allowance for exhaustion, wear and tear, obsolescence, or amortization. Such allowance shall be computed only on the basis of the straight-line method of depreciation. For purposes of this section, a determination of whether an amount is properly chargeable to capital account shall be made on the basis of the principles that apply under subtitle A to amounts which are paid or incurred in a trade or business.

"(f) Affiliated Organizations.—

"(1) In general.—Except as otherwise provided in paragraph (4), if for a taxable year two or more organizations described in section 501(c)(3) are members of an affiliated group of organizations *as defined* in paragraph (2), and an election under *section 501(g)* is effective for at least one such organization for such year, then—

"(A) the determination as to whether excess lobbying expenditures have been made and the determination as to whether the expenditure limits of section 501(g)(1) have been exceeded shall be made as though such affiliated group is one organization,

"(B) if such group has excess lobbying expenditures, each such organization as to which an election under *section 501(g) is* effective for such year shall be treated as an organization which has excess lobbying expenditures in an amount which equals such organization's proportionate share of such group's excess lobbying expenditures, and

"(C) if the expenditure limits of section 501(g)(1) are exceeded, each such organization as to which an election under *section 501(g)* is effective for such year shall be treated as an organization which is not described in section 501(c)(3) by *reason of the application of 501(g), and*

"(D) subparagraphs (C) and (D) of subsection (d)(2), paragraph (3) of subsection (d), and clause (i) of subsection (e)(1)(C) shall be applied as if such affiliated group were one organization.

"(2) Definition of Affiliation.—For purposes of paragraph (1), two organizations are members of an affiliated group of organizations but only if—

"(A) the governing instrument of one such organization requires it to be bound by decisions of the other organization on legislative issues, or

"(B) the governing board of one such organization includes persons who—

"(i) are specifically designated representatives of another such organization or are members of the governing board, officers, or paid executive staff members of such other organization, and

"(ii) by aggregating their votes, have sufficient voting power to cause or prevent action on legislative issues by the first such organization.

"(3) Different taxable years.—If members of an affiliated group of organizations have different taxable years, their expenditures shall be computed for purposes of this section in a manner to be prescribed by regulations promulgated by the Secretary or his delegate".

(4) Limited control.—If two or more organizations are members of an affiliated group of organizations (as defined in paragraph (2) without regard to subparagraph (B) thereof), and the governing instrument of no such organization requires it to be bound by decisions of any of the other such organizations on legislative issues other than as to action with respect to Acts, bills, resolutions, or similar items by the Congress, then—

"(A) in the case of any organization whose decisions bind one or more members of such affiliated group, directly or indirectly, the determinations as to whether such organization has paid or incurred excess lobbying expenditures and the determination as to whether such organization has exceeded the expenditure limits of section 501(g)(1) shall be made as though such organization has paid or incurred those amounts paid or incurred by such members of such affiliated group to influence legislation with respect to Acts, bills, resolutions, or similar items by the Congress, and

"(B) in the case of any organization to which subparagraph (A) does not apply, but which is a member of such affiliated group, the determination as to whether such organization has paid or incurred excess lobbying expenditures and the determination as to whether such organization has exceeded the expenditure limits of section 501(g)(1) shall be made as though such organization is not a member of such affiliated group.".

Sec. 3. Disallowance of Deduction for Contribution to Influence Legislation

Section 170(f) of the Internal Revenue Code of 1954 (relating to disallowance of charitable contribution deductions in certain cases) is amended by striking out paragraph (6) and inserting in lieu thereof the following:

"(6) Deductions for out-of-pocket expenditures.—No deduction shall be allowed under this section for an out-of-pocket expenditure made by any person on behalf of an organization described in subsection (c) if the expenditure is made for the purpose of influencing legislation (within the meaning of section 501(c)(3)).".

Sec. 4. Technical Amendments.

(a) Amendments Conforming to New Section 501(g).—

(1) Section 501(c)(3) of *the Internal Revenue Code of 1954* is amended by striking out "no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation," and inserting in lieu thereof "no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation (except as otherwise provided in subsection (g)),".

(2) The following sections of such Code are amended by striking out "no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation," each place it appears and inserting in lieu thereof in each such place "which is not disqualified for tax exemption under section 501(c)(3) by reason of attempting to influence legislation,":

(A) section 170(c)(2)(D) (relating to the definition of charitable contributions);

(B) section 2055(a)(2) (relating to transfers for public, charitable, and religious uses);

(C) section 2106(a)(2)(A)(ii) (relating to transfers for public, charitable, and religious uses);

(D) section 2522(a)(2) (relating to charitable and similar gifts of citizens or residents); and

(E) section 2522(b)(2) (relating to charitable and similar gifts of nonresidents).

(3) Sections 2055(a)(3) and 2106(a)(2)(A)(iii) of such Code (relating to transfers for public, charitable and religious uses) are amended by striking out "no substantial part of the activities of such trustee or trustees, or of such fraternal society, order, or association, is carrying on propaganda, or otherwise attempting, to influence legislation," each place it appears and inserting in lieu thereof in each such place "such trust, fraternal society, order, or association would not be disqualified for tax exemption under section 501(c)(3) by reason of attempting to influence legislation,".

(b) Amendments Conforming to New Chapter 41.—

(1) Paragraph (6) of section 275(a) of such Code (denying deductions for certain taxes) is amended to read as follows:

"(6) Taxes imposed by chapters 41, 42, and 43.".

(2) Section 6104(c)(1)(B) of such Code (relating to notification to State officers regarding taxes imposed on certain exempt organizations), is amended by striking out "chapter 42" and inserting in lieu thereof "chapter 41 or 42".

(3) Section 6161(b) of such Code (relating to extensions of time for paying tax) is amended—

(A) in paragraph (1) by striking out "42 or" and inserting in lieu thereof "41, 42, or"; and

(B) in the second sentence by striking out "42, or chapter 43," and inserting in lieu thereof "41, 42, or 43,".

(4) Section 6201(d) of such Code (relating to assessment authority) is amended by striking out "chapter 42, and chapter 43 taxes" and inserting in lieu thereof "and certain excise taxes".

(5) Section 6211(a) of such Code (defining deficiency) is amended by striking out "chapters 42" and inserting in lieu thereof "chapters 41, 42,".

(6) The following sections of such Code are amended by striking out "chapter 42" each place it appears and inserting in lieu thereof in each such place "chapter 41, 42,";

(A) subsections (a) and (b)(2) of section 6211 (defining deficiency);

(B) section 6212(a) (relating to notice of deficiency);

(C) section 6213(a) (relating to restrictions applicable to deficiencies and petitions to Tax Court);

(D) subsections (c) and (d) of section 6214 (relating to determinations by Tax Court);

(E) section 6344(a)(1) (relating to cross references);

(F) section 6501(e)(3) (relating to limitations on assessment and collection);

(G) subsections (a) and (b)(1) of section 6512 (relating to limitations in case of petition to Tax Court); and

(H) section 7422(e) (relating to civil actions for refund).

(7) Section 6212 of such Code (relating to notice of deficiency) is amended—

(A) in subsection (b)(1) by striking out "chapter 42" each place it appears and inserting in lieu thereof in each such place "chapter 41, chapter 42"; and

(B) in subsection (c)(1) by striking out "of chapter 43 tax for the same taxable years," and inserting in lieu thereof "of chapter 41 tax for the same taxable year, of chapter 43 tax for the same taxable year,".

(8) The headings of section 6214(c) (relating to determinations by Tax Court) and 6601(c) (relating to interest on underpayments, etc.) of such Code are amended by striking out "CHAPTER 42" and inserting in lieu thereof in each such place "CHAPTER 41, 42,".

(c) Amendments Conforming to Repeal of Former Chapter 41.—

(1) Section 263 of such Code (relating to capital expenditures) is amended by—

(A) striking out paragraph (3) of subsection (a).;

(B) striking out subsection (d) and redesignating subsections (e) and (f) as subsections (d) and (e), respectively; and

(C) in subsection (d), as redesignated by subparagraph (B), striking out "subsection (f)" and inserting in lieu thereof "subsection (e)".

(2) Section 861(a)(1)(G) of such Code (relating to income from sources within the United States) is amended—

(A) by striking out "*section 4912 (c)*" and inserting in lieu thereof "subsection (c) of section 4912 (as in effect before July 1, 1974)"; and

(B) by striking out "*section 4912(c)(2)*" and inserting in lieu thereof "subsection (c)(2) of such section".

(3) The second sentence of section 1232 (b)(2) of such Code (relating to the definition of the issue price of bonds and other evidences of indebtedness) is amended by striking out "section 4911" and inserting in lieu thereof "section 4911, as in effect before July 1, *1974*".

(4) Section 6011 of such Code (relating to requirement or return, statement, or list) is amended by striking out subsection (d) relating to interest equalization tax returns, etc.), and by redesignating subsections (e) and (f) as subsections (c) and (d), respectively.

(5) Section 6076 of such Code (relating to time for filing interest equalization tax returns) is repealed.

(6) Section 6103(a)(2) of such Code (relating to publicity of returns) is amended by striking out "chapter 41" and inserting in lieu thereof "chapter 41 (as in effect before July 1, 1974)".

(7) Section 6611 of such Code (relating to interest on overpayments) is amended by striking out subsection (h) (relating to overpayments of interest equalization tax) and by redesignating subsection (i) as subsection (h).

(8) Section 6651 of such Code (relating to failure to file tax return or to pay tax) is amended by striking out subsection (e) (relating to certain interest equalization tax returns).

(9) Section 6680 of such Code (relating to failure to file interest equalization tax returns) is repealed.

(10) Section 6681 of such Code (relating to false equalization tax certificates) is repealed.

(11) Section 6689 of such Code (relating to failure by certain foreign issuers and obligors to comply with United States investment equalization tax requirements) is repealed.

(12) Section 7241 of such Code (relating to penalty for fraudulent equalization tax certificates) is repealed.

(d) AMENDMENTS TO TABLES OF CHAPTERS AND SECTIONS.—

(1) The table of chapters for subtitle D of such Code is amended by striking out the item relating to chapter 41 and inserting in lieu thereof the following:

"CHAPTER 41. Public *charities.*".

(2) The table of sections for part I of subchapter F of chapter 1 of such Code is amended by adding at the end thereof the following:

"Sec. 504. Status after organization ceases to *qualify for exemption under section 501 (c)(3) because of* substantial lobbying."

(3) The table of sections for part V of subchapter A of chapter 61 of such Code is amended by striking out the item relating to section 6076.

(4) The table of sections for subchapter B of chapter 68 of such Code is amended by striking out the items relating to sections 6680, 6681, and 6689.

(5) The table of sections for part II of subchapter A of chapter 75 of such Code is amended by striking out the item relating to section 7241.

SEC. 5. EFFECTIVE DATES.

The amendments made by this Act shall apply—

(1) except as otherwise specified in paragraphs (2), (3), and (4), in the case of amendments to subtitle A of the Internal Revenue Code of 1954 to taxable years beginning after December 31, 1976;

(2) in the case of the amendment made by section 1(b), to activities occurring after the date of the enactment of this Act;

(3) in the case of the repeal of paragraph (6) of section 170(f) as in effect on the day before the date of the enactment of this Act, to taxable years beginning after December 31, 1974;

(4) in the case of amendments to section 263 of such Code, with respect to acquisitions of stock or debt obligations made after June 30, 1974;

(5) in the case of amendments to chapter 11 of such Code, to the estates of *decedents* dying after December 31, 1976;

(6) in the case of amendments to chapter 12 of such Code, to gifts in calendar years beginning after December 31, 1976;

(7) in the case of amendments to subtitle D of such Code, to taxable years beginning after December 31, 1976, except that the repeal of chapter 41 of such Code as in effect on the day before the date of the enactment of this Act shall apply with respect to acquisitions of stock and debt obligations made after June 30, 1974; and

(8) in the case of amendments to subtitle F of such Code, on and after the date of the enactment of this Act, except that—

(A) in the case of the amendments made by paragraphs (4), (5), (7), (8), and (9) of section 4(c) (other than the repeal of paragraph (2) of section 6011(d) of such Code), with respect to acquisitions of stock or debt obligations made after June 30, 1974.

(B) in the case of the repeal of paragraph (2) of section 6011(d) of such Code, with respect to loans and commitments made after June 30, 1974,

(C) in the case of the repeal of section 6681 of such Code, with respect to actions occurring after June 30, 1974,

(D) in the case of the repeal of section 6689 of such Code, with respect to stock or debt obligations issued after June 30, 1974, and

(E) in the case of the repeal of section 7241 of such Code, with respect to statements and certificates executed after June 30, 1974.

The SPEAKER pro tempore. Is a second demanded?

Mr. CONABLE. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Oregon (Mr. ULLMAN) and the gentleman from New York (Mr. CONABLE) will be recognized for 20 minutes each.

The Chair recognizes the gentleman from Oregon (Mr. ULLMAN).

Mr. ULLMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the bill now before the House, H.R. 13500, provides a new elective set of standards for determining whether a tax-exempt charity has engaged in so much lobbying that it loses its exempt status and can no longer receive deductible charitable contributions.

Under present law, "no substantial part of the activities" of a charitable organization can be devoted to lobbying. There has been great uncertainty as to what constitutes a substantial part and as to how activities are measured. Also, a problem arises because if an organization violates that existing vague standard, even by a small amount, it suffers the sanction of losing its exempt status.

The bill sets up a standard based on expenditures, not activities. The permitted amount of lobbying expenditures is determined under a formula in the bill. The limits in that formula are set on a sliding scale which allows proportionately less expenditures for larger organizations. Within the total permitted expenditure level, no more than one-quarter is permitted for so-called grass roots lobbying. If an organization that has elected the new rules spends more than the permitted amount on lobbying, the organization has to pay a tax of 25 percent of its excess lobbying expenditures. This relates the sanction to the amount of the violation. The sanction of loss of exempt status is reserved for those cases where, over a 4-consecutive-year period, the organization exceeds the permitted levels of lobbying expenditures by more than 50 percent.

The Ways and Means Committee has given extensive consideration to this matter for a number of years. Public hearings were held by the committee in 1972 on proposals to clarify the present law. Those hearings and the committee's markup sessions later in 1972 enabled us to focus on additional underlying problems in this field. Testimony was again taken by the Ways and Means Committee in 1973 and further decisions were made in committee markup sessions in 1974 on this issue. Throughout 1975, the Treasury Department, many of the charitable organizations interested in these proposals, and representatives of major religious organizations all joined with staff members to reach agreements on the various issues that had been uncovered during the previous committee considerations of legislation in this area. The bill you see now is the product of these years of effort—it has been endorsed by all of the relevant parties and has been reported unanimously by the Ways and Means Committee.

Mr. Speaker, I have outlined the general structure of the bill. Let me briefly add that the bill:

Provides definitions for what constitutes influencing legislation;

Provides rules for affiliated organizations so as to forestall any efforts to create multiple organizations in order to avoid the sliding scale standards set in the bill that impose more severe restrictions on larger organizations than on smaller ones;

Provides for disclosure of lobbying expenditures in documents available to the public; and

Excludes churches from these new standards.

The bill generally applies to schools, hospitals, and organizations as varied as the Audubon Society, the Easter Seal Society, the Mental Health Association, and the YWCA. The churches are excluded at their specific request. Private foundations also are excluded.

Mr. Speaker, as I have said, the committee has worked extensively on this bill. The interested organizations and the

Treasury Department and the staff have ironed out the issues that have been raised in years of examination. The committee was unanimous in ordering H.R. 13500 reported. I urge the House to pass this bill.

Mr. CONABLE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 13500, which includes a set of requirements to be used in determining when an electing tax-exempt charitable organization has engaged in lobbying activities of a scope sufficient to cause the loss of tax exemption and the right to receive tax deductible contributions. At present, section 501(c)(3) of the Internal Revenue Code requires that in order to qualify for tax-exempt status, "no substantial part of the activities of—the organization—is carrying on propaganda, or otherwise attempting, to influence legislation." The same requirement applies to qualification by an organization to receive deductible charitable contributions.

Although it has been more than 40 years since this language was first enacted, neither court decisions nor Treasury regulations over that period have given sufficient detailed meaning to the language of the statute to enable most exempt organizations to know which activities on their parts are permissible and which impermissible. It is widely believed that the standards of present law are so vague as to lead to unreasonable uncertainty and uneven enforcement.

SPENDING LIMITS AND SANCTIONS

This bill is aimed at establishing relatively specific spending limits in place of the uncertain standard of present law, while at the same time establishing a more reasonable relationship between the sanctions and the violations of the standards. At the present time, a finding of violation of the requirements of the relevant provisions of the Internal Revenue Code can result only in the loss of exempt status. There is no intermediate penalty or sanction. H.R. 13500 would provide for an excise tax on excess lobbying expenditures, with loss of exemption resulting only in those cases where the expenditures are unreasonably large over a period of at least 4 years.

Specifically, H.R. 13500 would permit public charities which elect to come under its provisions to replace the present "substantial part of activities" test with regard to lobbying with a limit defined in terms of specific levels of expenditure. The basic level permitted, referred to as the "lobbying nontaxable amount," in a year would be 20 percent of the first $500,000 of the organization's exempt purposes spending in that year, with permitted expenditures of 15 percent on the second $500,000, 10 percent on the third, and 5 percent on any expenditures above $1,500,000. In no event would the permitted lobbying expenditures be allowed to exceed $1,000,000 in any taxable year. In addition, a separate limitation equal to one-fourth of the "lobbying nontaxable amount" would be placed on "grassroots lobbying," that is, attempts by the organization to influence the general public on matters of legislation.

An organization covered by the provisions of H.R. 13500 which exceeds either the overall or the grassroots limitation in any taxable year would be subject to a 25-percent excise tax on the excess lobbying expenditures. If an electing organization's expenditures "normally," that is, on the average over a period of 4 years, exceeded 1½ times the lobbying limitations, the tax-exempt status of the charity in question would be lost. In any year in which the public charity's expenditures exceed both in nontaxable lobbying amount and the nontaxable grassroots limitation, the excise tax would be imposed on whichever excess amount was the larger.

"INFLUENCING LEGISLATION"

For purposes of the new rules, "influencing legislation" would include any attempt to affect the opinions of the general public and communication with any member or employee of a legislative body, or any Government official who might be included in the formulation of legislation. However, H.R. 13500 excludes certain categories of activities from "influencing legislation." These categories would include making available nonpartisan analysis or research, providing technical advice or assistance in response to a governmental request and so-called self-defense direct lobbying; namely, appearances or communications to a legislative body regarding possible decision by the governmental body in question which could directly affect the charitable organization.

Also, the bill would exclude communications between the organization in question and its members, unless such communications directly encouraged members either to influence legislation or to urge nonmembers to influence legislation.

AFFILIATED ORGANIZATIONS

In order that creation of numerous organizations to avoid the effect of the decreasing percentages test regarding computation of the lobbying and grassroots nontaxable amounts may be discouraged, the bill provides a method of aggregating related organizations' expenditures. Specifically, H.R. 13500 provides that in cases regarding members of an affiliated group in which one organization has elected to come under the provisions of the bill, calculations of lobbying and exempt expenditures are to be made by taking into account the entire affiliated group's expenditures.

Should the group as a whole not exceed the permitted limits, then the individual members of the group that elected the new standards of the bill would be treated as not having exceeded permitted limits. Conversely, if the group expenditures do exceed permitted limits, then each organization which elected to be covered by the provisions of H.R. 13500 would be treated as having exceeded the permitted limits. The electing organizations would be required to pay the tax only on their proportionate shares of the affiliated group's excess lobbying spending.

Generally speaking, two organizations are treated as being affiliated if either organization is bound by the decisions of the other regarding legislative issues or there are sufficient representatives on the one organization's governing board from the other organization either to cause or prevent action on legislative issues.

STATUS FOLLOWING LOSS OF SECTION 501(C)(3) EXEMPTION

Under the present provisions of the Internal Revenue Code, it is possible for an organization which has lost its tax-exempt status under section 501(c)(3) to continue to remain tax-exempt on its own income if it qualifies under section 501(c)(4) as a "social welfare" organization, although following such change in status it is not eligible to receive tax deductible charitable contributions. This possibility permits an organization which has built up a substantial endowment out of deductible contributions to continue to use that endowment for substantial lobbying in its capacity as a social welfare organization.

H.R. 13500 contains provisions preventing organizations which would be eligible to elect to be covered by its provisions from achieving social welfare organization status following loss of public charity tax-exempt status under section 501(c)(3) of the code because of excessive lobbying. This rule would apply only in the case of organizations losing their charitable organization status based upon excessive lobbying activity which occurred after the date of the enactment of H.R. 13500.

PUBLIC DISCLOSURE OF LOBBYING ACTIVITIES

In addition, the bill contains provisions requiring public disclosure of tax-exempt organization lobbying activities. Specifically, the bill provides that as to an organization which has elected to be covered by the standards of H.R. 13500, such organization's public information return must disclose lobbying expenditures, accompanied by the amount which could have been spent for lobbying without being subjected to the 25-percent excise tax on excess expenditures set by the bill. In the case of affiliated groups, an electing organization which is a member of such group must furnish the information with respect to the whole group as well as for itself.

ELECTION OF COVERAGE

Because of concerns expressed by a number of church groups regarding constitutional questions under the first amendment in connection with the provisions of this bill and the right of a church to elect under a bill of this type, H.R. 13500 does not provide for election by a church for inclusion under its provisions. For organizations which may elect to be covered, an organization may elect coverage at any time during a taxable year and, once having made such election, may only revoke that election for future taxable years. Generally, the provisions of the bill would apply to taxable years beginning after December 31, 1976.

CONCLUSION

I believe that this bill offers important changes in this area, which has been one of exceptional difficulty and indefiniteness for both charitable organizations and governmental officials responsible for overseeing compliance with the requirements of the Internal Revenue Code regarding tax-exempt status. It is the result of a long period of discussion and analysis among officials in the executive branch, the broad range of public charities affected by the bill and Members of Congress. In my opinion, H.R. 13500 is an important opportunity to rationalize tax policy and practice in this area and, accordingly, I urge its enactment.

Mr. FISHER. Mr. Speaker, will the gentleman yield?

Mr. CONABLE. I am very happy to yield to my friend, the gentleman from Virginia (Mr. FISHER), who has also had an important role in the development of this legislation.

Mr. FISHER. Mr. Speaker, I thank the gentleman for yielding.

I also wish to thank my colleague, the gentleman from New York (Mr. CONABLE), for his very careful exposition of this bill.

The gentleman from New York has been the leader in working on this legislation over a period of years, and he has done his work most carefully and most skillfully. I am very pleased indeed to be able to join him in supporting this legislation.

For some years prior to coming to the House, I inhabited the world of the tax-exempt organization, so I have perspective on this legislation as to the need for it as well as the perspective now of a legislator. The act, as it stands, simply does not give definition and form to what a tax-exempt organization may or may not do, and this works to the disadvantage of all parties.

The tax-exempt organizations do not know how much lobbying or attempting to influence legislation they can do, various parts of the Government that confront this problem do not know the answers, and prospective donors to tax-exempt organizations do not know what the rules are.

This bill which my colleague has worked up and has expounded would go a long, long way to overcome these deficiencies; and Mr. Speaker, I urge most strongly that the House consider this and pass it.

Mrs. FENWICK. Mr. Speaker, will the gentleman yield?

Mr. CONABLE. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Speaker, I thank the gentleman for yielding.

I, too, heartily support this legislation.

We have urgently needed something to define, as the gentleman from Virginia (Mr. FISHER) has said so wisely, what tax-exempt organizations can do and what they cannot do.

I am sorry not to find in this legislation something that, in my opinion, is very much needed, which is a prohibition against the lending of tax deductibility by one organization to another organization which is not tax exempt and exists for lobbying purposes.

Mr. CONABLE. Mr. Speaker, if the gentlewoman from New Jersey will permit me to respond at that point, let me say that this bill represents the first effort we have made to prevent an organization which is a 501(c)(3) becoming a 501(c)(4) and taking its endowment with it.

There are bound to be related organizations of different character, and I am afraid that cannot be stopped.

The abuse here has been that an organization in the past has been able to amass a treasury as a charitable organization and then divert a substantial part of the treasury into a nonprofit, but noncharitable, type of organization. This is the first effort to limit that particular practice.

Mrs. FENWICK. If the gentleman will yield further, I am afraid that it is not getting to the heart of the problem that I addressed to the Internal Revenue Service two or three times last year:

> Should we determine that the organization is not operated within the provisions of the exemption law, shall we not take appropriate action to revoke its exemption?

Nothing has ever happened. This letter is dated August 1975; and I never heard from them again.

In other words, the law is apparently now so complex that it has taken some 8 months for the Internal Revenue Service to decide whether or not this action is illegal.

The action, to be specific, was revealed to me by a letter I got from a lobbying group, a perfectly proper lobbying group, against a specific measure coming before this House.

At the bottom of the letter there is set forth very plainly that if one wishes to make a larger tax-deductible gift, he should make it payable to such and such an organization.

Because the organization which was lobbying was not tax exempt, I brought this to the attention of the Internal Revenue Service and have received no reply because it is apparently such a complicated question and so unclear that the Internal Revenue Service has been unable since August of 1975 to decide whether or not tax exemption should be withdrawn.

Mr. Speaker, in my opinion, this legislation should carry a perfectly clear prohibition that tax deductibility under 501(c)(3) or 501(c)(4) cannot be lent to another organization which is not tax exempt, and that any such situation will cancel the tax exemption of that organization.

Mr. CONABLE. I would like to say that charitable practices are not that tight.

Mr. Speaker, I cannot tell the gentlewoman from New Jersey, on the state of facts that she has recounted here, what actually happened with respect to the letter that she read.

I would like to say also that the relationship of organizations in the charitable field is a very relaxed one in many cases.

However, this bill does represent a considerable tightening in the law, and I am afraid that we would have to know what the circumstances were in the situation the gentlewoman from New Jersey described to know whether it is possible to deal with that legislatively or not.

Mrs. FENWICK. If the gentleman will yield further, I would not have written also to the Committee on Ways and Means about this in 1975 and again in 1976 had I not received the two letters from the same non-tax-exempt group which was again lobbying in 1976 against the same legislation.

The earlier letter was protested, but again continued Federal tax deductibility was made possible, although through a different conduit. Another tax-deductible organization was being used so that large tax-deductible gifts could be given to this non-tax-exempt organization.

Mr. Speaker, there is something here that is wrong, and we should not allow this to go on.

We have known about it since the spring of 1975.

Mr. CONABLE. Mr. Speaker, the gentlewoman from New Jersey (Mrs. FENWICK) may very well be right. I will be happy to look into her specific problem and see if there is any way in which we can get a handle on it if the abuse in fact is taking place.

Mrs. FENWICK. Could we offer an amendment to this bill?

Mr. CONABLE. I am afraid that would be a very difficult thing to do. I want to repeat what was said earlier and that is that this measure has been 4 years in gestation. Incidentally, I would like to assure the Members that this bill in no way changes the law with respect to foundations, and private foundations are in present law prohibited from lobbying except with respect to laws that directly threaten their existence. This provision applies only with respect to those charities under section 501(c)(3), of a nonreligious nature. It is a very limited bill. It is, however, a bill that is considered to be very sorely needed by the charitable organizations generally because of the uncertainty as to what they can or cannot do in the way of influencing public opinion.

Mrs. FENWICK. I heartily support the bill.

Mr. STEIGER of Wisconsin. Mr. Speaker, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman from Wisconsin.

Mr. STEIGER of Wisconsin. Mr. Speaker, I appreciate very much the gentleman yielding to me because I know that his time has almost expired, but I do want to join with the other Members in paying tribute to the very persistent leadership the gentleman from New York has given to this issue over the past 4 or 5 years. This is a classic kind of law that was passed many years ago. During that period of time to some extent charitable organizations became uncomfortable with the uncertainty, and then, as time went on, they became a little more uncomfortable. What this bill H.R. 13500 is trying to do is to create a degree of certainty where there is little now. Again I wish to commend the gentleman from New York (Mr. CONABLE), for the leadership he has taken in this legislation, and to commend also the chairman of the committee, the gentleman from Oregon (Mr. ULLMAN), for his help in getting this bill to the floor. I hope it passes.

Mr. CONABLE. Mr. Speaker, I thank the gentleman from Wisconsin.

I, too, would like to thank the chairman and the many members of the Committee on Ways and Means who have been extremely helpful in trying to move this legislation forward. It has been a difficult area in which to legislate, because the law has been so unclear and the precedents are so uncertain.

GENERAL LEAVE

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on this bill now under consideration and on the two previous bills.

The SPEAKER pro tempore (Mr. MURTHA). Is there objection to the request of the gentleman from Oregon?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Oregon (Mr. ULLMAN) that the House suspend the rules and pass the bill (H.R. 13500), as amended.

Mr. ASHBROOK. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore (Mr. McFALL). Pursuant to clause 3 of rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

OLD NINETY-SIX STAR FORT NATIONAL BATTLEFIELD, SOUTH CAROLINA

Mr. TAYLOR of North Carolina. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 9549) to provide for the establishment of the Old Ninety-Six Star Fort National Battlefield in the State of South Carolina, as amended.

The Clerk read as follows:

H.R. 9549

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in order to preserve for the benefit and enjoyment of present and future generations an area containing significant and unique historical values related to the southern campaign of the Revolutionary War with special emphasis on the siege of 1781, including the Star Fort, the Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized to acquire lands and interests therein by donation, purchase, or exchange, not to exceed one thousand one hundred and twenty acres, in the vicinity of the Old Ninety Six and Star Fort National Historic Landmark in the State of South Carolina, for establishment as the Old Ninety-Six National Historic Site, as generally depicted on the map entitled "96 New Area Study Alternative 2, Ninety Six Site, Ninety Six, South Carolina, Sheet 8 of 17", and dated May 1976, which shall be on file and available for public inspection in the offices of the National Park Service, Washington, District of Columbia: *Provided,* That lands and interests therein owned by the State of South Carolina or any political subdivision thereof may be acquired only by donation. The Secretary shall establish the historic site by publication of a notice to that effect in the Federal Register at such time as he determines that sufficient property to constitute an administrable unit has been acquired. After advising the Committees on Interior and Insular Affairs of the United States Senate and House of Representatives in writing, the Secretary may from time to time revise the boundaries of the historic site, but the total acreage of the site shall not exceed one thousand one hundred and twenty acres.

SEC. 2. Pending establishment of the site and thereafter, the Secretary shall administer property acquired pursuant to this Act in accordance with the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2–4), as amended and supplemented, and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461–467), as amended.

SEC. 3. There are hereby authorized to be appropriated such sums os may be necessary to carry out the purposes of this Act, but not more than $320,000 for the acquisition of lands and interests in lands.

(b) For the development of essential public facilities there are authorized to be appropriated not more than $500,000. Within two years from the date of establishment of the historic site pursuant to this Act, the Secretary shall, after consulting with the Governor of the State of South Carolina, develop and transmit to the Committees on Interior and Insular Affairs of the United States Congress a final master plan for the development of the historic site consistent with the objectives of this Act, indicating:

(1) the facilities needed to accommodate the health, safety, and interpretive needs of the visiting public;

(2) the location and estimated cost of all facilities; and

(3) the projected need for any additional facilities within the Old Ninety Six National Historic Site.

The SPEAKER pro tempore. Is a second demanded?

Mr. SEBELIUS. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from North Carolina, (Mr. TAYLOR) and the gentleman from Kansas (Mr. SEBELIUS) will be recognized for 20 minutes each.

The Chair now recognizes the gentleman from North Carolina.

Mr. TAYLOR of North Carolina. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 9549, as reported by the Subcommittee on National Parks and Recreation, would authorize the establishment of the Old Ninety Six National Historic Site in the State of South Carolina. The village of Ninety Six was the scene of a significant Revolutionary War battle which affected much of the revolutionary campaign in the southern colonies. A British force occupying the fortified star-based fort near the village was beseiged for nearly a month in 1781. The village of Ninety Six was burned by the British when they withdrew from the area and the town was rebuilt at another location.

The unique opportunity at this location is that this site has been very little disturbed since the time of the Revolution. Therefore, it offers a unique opportunity for both interpreting this period of American history and as an archeological site of the first importance.

The Department of the Interior has recommended enactment of this legislation and the significance of the site is well established, having been declared a national historic landmark. The amendment by the subcommittee substitutes a text similar to that recommended by the Department of the Interior, and the author of this legislation, Congressman DERRICK, is in agreement with this approach.

Most of the land in the historic site is owned by the State of South Carolina and will be donated to the Federal Government. The land acquisition funding needed for the remaining property is only $250,000.

Mr. Speaker, H.R. 9549 represents a valuable addition to the National Park Service which can be accomplished at a minimum cost. At the appropriate time, I will offer the substitute text as adopted by the subcommittee.

GENERAL LEAVE

Mr. SEBELIUS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on the bill under consideration, H.R. 9549.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kansas?

There was no objection.

Mr. SEBELIUS. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, this is a sample and noncontroversial bill which authorizes the establishment of a new 1,120-acre historic site in South Carolina, to be administered by the National Park Service as the Old Ninety-Six National Historic Site.

The site commemorates some of the early frontier and Revolutionary War activities which occurred in the South, and preserves an area which appears to be extremely rich in archeological resources related thereto.

In planning for the development of this area, it will be extremely important for the National Park Service to conduct a thorough survey of proposed development sites to assure that no prime archeological remains or historic locations are impacted by development. Likewise, it is essential that visitor use and administrative development not be permitted to intrude upon the historic scene in its proximity of location in such manner as might destroy the historic integrity of the area.

It will also be important, Mr. Speaker, for the National Park Service to work closely with its adjacent land-owning neighbors and local governmental entities and organizations to help assure that peripheral development and land use is undertaken in a manner compatible with the historic site.

I urge my colleagues to vote in favor of this bill.

Mr. Speaker, I yield such time as he may consume to the gentleman from Kansas (Mr. SKUBITZ).

Mr. SKUBITZ. Mr. Secretary, this is a bill that practically everyone supports.

It was introduced by Congressman DERRICK, who represents the district in which the fort is located.

The South Carolina delegation supports it.

It is endorsed by the Governor, the General Assembly, and the local county council.

The Department recommends enactment.

It is not expensive, less than $1 million is authorized for land acquisiiton and development.

It has national historical significance as a Revolutionary War battle site, as a frontier outpost, and as a center for dealing with the Cherokee, and Creek Indians.

There are important ongoing archeological studies at the site.

Local public and private organizations have done much to preserve and protect the resource.

This bill will help complete the job and I urge its adoption.

Mr. SEBELIUS. Mr. Speaker, I have no further requests for time.

Mr. TAYLOR of North Carolina. Mr. Speaker, I yield 3 minutes to the gentleman from South Carolina (Mr. Derrick).

The SPEAKER. The question is on the motion offered by the gentleman from North Carolina (Mr. Taylor) that the House suspend the rules and pass the bill (H.R. 9549), as amended.

The question was taken.

Mr. MOTTL. Mr. Speaker, because of the great historic significance of this bill, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER. Pursuant to clause 3 of rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. Debate has been concluded on all motions to suspend the rules.

Pursuant to clause 3, rule XXVII, the Chair will now put the question on each motion, on which further proceedings were postponed, in order in which that motion was entertained.

Votes by electronic device will be taken in the following order: H.R. 5621, by the yeas and nays; H.R. 2177, by the yeas and nays; H.R. 13500, by the yeas and nays; and H.R. 9549, by the yeas and nays.

VALLEY FORGE NATIONAL HISTORICAL PARK, PA.

The SPEAKER. The unfinished business is the question of suspending the rules and passing the bill (H.R. 5621), as amended.

The Clerk read the title of the bill.

The SPEAKER. The question is on the motion offered by the gentleman from North Carolina (Mr. Taylor) that the House suspend the rules and pass the bill (H.R. 5621), as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 364, nays 4, not voting 63, as follows:

[Roll No. 337]

YEAS—364

Abdnor
Adams
Addabbo
Alexander
Allen
Ambro
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashbrook
Aspin
Badillo
Bafalis
Baldus
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blanchard
Blouin
Boland
Bolling
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, Phillip
Butler
Byron
Carr
Carter
Cederberg
Chisholm
Clancy
Clausen, Don H.
Clay
Cleveland
Cochran
Cohen
Collins, Ill.
Collins, Tex.
Conable
Conlan
Conte
Conyers
Corman
Cornell
Cotter
Coughlin
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
de la Garza
Delaney
Dent
Derrick
Derwinski
Devine
Dickinson
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
du Pont
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
English
Erlenborn
Esch
Eshleman
Evans, Colo.
Evans, Ind.
Evins, Tenn.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flood
Florio
Flowers
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fraser
Frey
Fuqua
Gaydos
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Grassley
Gude
Hagedorn
Haley
Hall
Hamilton
Hammerschmidt
Hanley
Hannaford
Harkin
Harrington
Harris
Harsha
Hawkins
Hayes, Ind.
Hébert
Hechler, W. Va.
Heckler, Mass.
Hefner
Heinz
Henderson
Hightower
Hillis
Holland
Holt
Holtzman
Horton
Howard
Howe
Hubbard
Hungate
Hutchinson
Hyde
Ichord
Jarman
Jenrette
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kasten
Kazen
Kelly
Kemp
Ketchum
Keys
Koch
Krebs
Krueger
LaFalce
Lagomarsino
Latta
Leggett
Lehman
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, Md.
Lott
Lujan
Lundine
McClory
McCollister
McDade
McFall
McHugh
McKay
McKinney
Madden
Madigan
Maguire
Mahon
Mann
Martin
Mathis
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Mikva
Miller, Calif.
Miller, Ohio
Mills
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
Oberstar
Obey
O'Brien
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Pettis
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Quie
Quillen
Randall
Rangel
Regula
Reuss
Rhodes
Richmond
Rinaldo
Risenhoover
Roberts
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rosenthal
Rostenkowski
Roush
Rousselot
Runnels
Ruppe
Russo
St Germain
Santini
Sarasin
Sarbanes
Satterfield
Scheuer
Schneebeli
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shriver
Shuster
Sikes
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
Stark
Steed
Steelman
Steiger, Ariz.
Steiger, Wis.
Stephens
Stratton
Stuckey
Studds
Sullivan
Symms
Taylor, Mo.
Taylor, N.C.
Teague
Thone
Thornton
Traxler
Treen
Tsongas
Ullman
Vander Veen
Vanik
Vigorito
Waggonner
Walsh
Waxman
Weaver
Whalen
White
Whitehurst
Whitten
Wiggins
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Young, Tex.
Zablocki
Zeferetti

NAYS—4

Crane
Jacobs
McDonald
Paul

NOT VOTING—63

Abzug
Anderson, Calif.
Ashley
AuCoin
Bell
Boggs
Burke, Calif.
Burton, John
Carney
Chappell
Clawson, Del
Danielson
Davis
Dellums
Diggs
Frenzel
Giaimo
Gradison
Green
Guyer
Hansen
Hays, Ohio
Helstoski
Hicks
Hinshaw
Hughes
Jeffords
Karth
Kastenmeier
Kindness
Landrum
Litton
Long, La.
McCloskey
McCormack
McEwen
Matsunaga
Michel
Milford
Mink
O'Hara
O'Neill
Passman
Peyser
Railsback
Rees
Riegle
Rose
Roybal
Ryan
Staggers
Stanton, J. William
Stanton, James V.
Stokes
Symington
Talcott
Thompson
Udall
Van Deerlin
Vander Jagt
Wampler
Wilson, Bob
Wilson, C. H.

The Clerk announced the following pairs:

On this vote:

Mr. O'Neill and Mrs. Boggs for, with Mr. Riegle against.

Until further notice:

Mr. Staggers with Mr. Van Deerlin.
Mrs. Burke of California with Mr. Milford.
Mr. John L. Burton with Mr. AuCoin.
Mr. Carney with Mr. Ashley.
Mr. Danielson with Mr. Anderson of California.
Mr. Giaimo with Mr. Vander Jagt.
Mr. Hays of Ohio with Mr. Rose.
Mr. Helstoski with Mr. Hicks.
Mr. Ryan with Mr. Wampler.
Mr. Stokes with Mr. Karth.
Mr. Thompson with Mr. Bell.
Mr. Charles H. Wilson of California with Mr. Litton.
Mr. O'Hara with Mr. Rees.
Mr. Matsunaga with Mr. Jeffords.
Mr. Hughes with Mr. McCloskey.
Ms. Abzug with Mr. Kindness.
Mr. Passman with Mr. Bob Wilson.
Mr. Udall with Mr. McEwen.
Mr. Symington with Mr. Talcott.
Mr. Chappell with Mr. J. William Stanton.
Mr. Davis with Mr. Railsback.
Mr. Diggs with Mr. Peyser.
Mr. Green with Mr. Landrum.
Mr. Kastenmeier with Mr. Del Clawson.
Mr. Long of Louisiana with Mr. Frenzel.
Mr. McCormack with Mr. Gradison.
Mrs. Mink with Mr. Dellums.
Mr. Roybal with Mr. Guyer.
Mr. James V. Stanton with Mr. Hansen.

Mr. CRANE changed his vote from "yea" to "nay."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. TAYLOR of North Carolina. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. Pursuant to the provisions of clause 3(b) (3), rule XXVII, the Chair announces he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on all the additional motions to suspend the rules on which the Chair has postponed further proceedings.

EXEMPTION FROM DUTY FOR ARTICLES PREVIOUSLY EXPORTED

The SPEAKER. The unfinished business is the question of suspending the rules and passing the bill H.R. 2177, as amended.

The Clerk read the title of the bill.

The SPEAKER. The question is on the motion offered by the gentleman from Oregon (Mr. ULLMAN) that the House suspend the rules and pass the bill H.R. 2177, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 359, nays 4, answered "present" 1, not voting 67, as follows:

[Roll No. 338]

YEAS—359

Abdnor
Adams
Addabbo
Alexander
Allen
Ambro
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashbrook
Aspin
Badillo
Bafalis
Baldus
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blanchard
Blouin
Boland
Bolling
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Fla.
Burleson, Tex.
Burlison, Mo.
Burton, Phillip
Butler
Byron
Carr
Carter
Cederberg
Chappell
Chisholm
Clancy
Clausen, Don H.
Clay
Cleveland
Cochran
Cohen
Collins, Ill.
Collins, Tex.
Conable
Conlan
Conte
Conyers
Corman
Cornell
Cotter
Coughlin
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
de la Garza
Delaney
Dent
Derrick
Derwinski
Devine
Dickinson
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
du Pont
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
English
Erlenborn
Esch
Eshleman
Evans, Colo.
Evans, Ind.
Evins, Tenn.
Fary
Findley
Fish
Fisher
Fithian
Flood
Florio
Flowers
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fraser
Frey
Fuqua
Gaydos
Gibbons
Gilman
Ginn
Goldwater
Goodling
Grassley
Gude
Hagedorn
Haley
Hall
Hamilton
Hammerschmidt
Hanley
Hannaford
Hansen
Harkin
Harrington
Harris
Harsha
Hawkins
Hayes, Ind.
Hébert
Hechler, W. Va.
Heckler, Mass.
Hefner
Heinz
Henderson
Hightower
Hillis
Holland
Holt
Holtzman
Horton
Howard
Howe
Hubbard
Hungate
Hutchinson
Hyde
Ichord
Jarman
Jenrette
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kasten
Kazen
Kelly
Kemp
Ketchum
Keys
Koch
Krebs
Krueger
LaFalce
Lagomarsino
Latta
Leggett
Lehman
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, Md.
Lott
Lujan
Lundine
McClory
McCollister
McDade
McDonald
McFall
McHugh
McKay
McKinney
Madigan
Maguire
Mahon
Mann
Martin
Mathis
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Mikva
Miller, Calif.
Miller, Ohio
Mills
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Myers, Ind.
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
Oberstar
O'Brien
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Paul
Pepper
Perkins
Pettis
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Quie
Quillen
Randall
Rangel
Regula
Reuss
Rhodes
Richmond
Rinaldo
Risenhoover
Roberts
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rosenthal
Rostenkowski
Roush
Rousselot
Runnels
Ruppe
Russo
St Germain
Santini
Sarasin
Sarbanes
Satterfield
Scheuer
Schneebeli
Schroeder
Schulze
Sebelius
Sharp
Shipley
Shriver
Shuster
Sikes
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Staggers
Stark
Steed
Steelman
Steiger, Ariz.
Steiger, Wis.
Stephens
Stratton
Stuckey
Studds
Sullivan
Symms
Taylor, Mo.
Taylor, N.C.
Teague
Thone
Thornton
Traxler
Treen
Tsongas
Ullman
Vander Veen
Vanik
Vigorito
Waggonner
Walsh
Waxman
Weaver
Whalen
White
Whitehurst
Whitten
Wiggins
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Young, Tex.
Zablocki
Zeferetti

NAYS—4

Madden
Mottl
Murtha
Myers, Pa.

ANSWERED "PRESENT"—1

Gonzalez

NOT VOTING—67

Abzug
Anderson, Calif.
Ashley
AuCoin
Bell
Boggs
Burke, Calif.
Burke, Mass.
Burton, John
Carney
Clawson, Del
Danielson
Davis
Dellums
Diggs
Fascell
Fenwick
Frenzel
Giaimo
Gradison
Green
Guyer
Hays, Ohio
Helstoski
Hicks
Hinshaw
Hughes
Jacobs
Jeffords
Karth
Kastenmeier
Kindness
Landrum
Litton
Long, La.
McCloskey
McCormack
McEwen
Matsunaga
Michel
Milford
Mink
Obey
O'Hara
O'Neill
Passman
Peyser
Railsback
Rees
Riegle
Rose
Roybal
Ryan
Seiberling
Spence
Stanton, J. William
Stanton, James V.
Stokes
Symington
Talcott
Thompson
Udall
Van Deerlin
Vander Jagt
Wampler
Wilson, Bob
Wilson, C. H.

The Clerk announced the following pairs:

Mr. O'Neill with Mr. Van Deerlin.
Mr. Thompson with Mr. Milford.
Mrs. Boggs with Mr. AuCoin.
Mr. John L. Burton with Mr. Ashley.
Mr. Carney with Mr. Anderson of California.
Mr. Danielson with Mr. Peyser.
Mr. Giaimo with Mr. Bell.
Mr. Hays of Ohio with Mr. Rees.
Mr. Helstoski with Mr. Vander Jagt.
Mr. Ryan with Mr. Wampler.
Mr. Stokes with Mr. Karth.
Mr. O'Hara with Mr. Burke of Massachusetts.
Mr. Matsunaga with Mr. Railsback.
Mr. Charles H. Wilson of California with Mr. Del Clawson.
Mr. Hughes with Mr. Frenzel.
Mr. Passman with Mr. Dellums.
Mr. Davis with Mr. Guyer.
Mr. Riegle with Ms. Abzug.
Mr. Green with Mr. Long of Louisiana.
Mr. Kastenmeier with Mrs. Mink.
Mr. McCormack with Mr. Diggs.
Mrs. Burke of California with Mr. Hicks.
Mr. Jeffords with Mr. Kindness.
Mr. Litton with Mr. McCloskey.
Mr. Bob Wilson with Mr. J. William Stanton.
Mr. James V. Stanton with Mr. Symington.
Mr. Fascell with Mrs. Fenwick.
Mr. Gradison with Mr. Jacobs.
Mr. Landrum with Mr. McEwen.
Mr. Obey with Mr. Rose.
Mr. Roybal with Mr. Spence.
Mr. Talcott with Mr. Udall.
Mr. Michel with Mr. Seiberling.

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

The title was amended so as to read: "A bill to exempt from duty certain aircraft components and materials installed in aircraft previously exported from the United States where the aircraft is returned without having been advanced in value or improved in condition while abroad.".

A motion to reconsider was laid on the table.

INFLUENCING LEGISLATION BY PUBLIC CHARITIES

The SPEAKER. The unfinished business is the question of suspending the rules and passing the bill (H.R. 13500), as amended.

The Clerk read the title of the bill.

The SPEAKER. The question is on the motion offered by the gentleman from Oregon (Mr. ULLMAN) that the House suspend the rules and pass the bill (H.R. 13500), as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 355, nays 14, not voting 62, as follows:

[Roll No. 339]

YEAS—355

Abdnor
Adams
Addabbo
Alexander
Allen
Ambro
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Aspin
Badillo
Bafalis
Baldus
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blanchard
Blouin
Boland
Bolling
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.

Burton, Phillip
Butler
Byron
Carr
Carter
Cederberg
Chappell
Chisholm
Clancy
Clausen, Don H.
Clay
Cleveland
Cochran
Cohen
Collins, Ill.
Collins, Tex.
Conable
Conlan
Conte
Conyers
Corman
Cornell
Cotter
Coughlin
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
de la Garza
Delaney
Dent
Derrick
Derwinski
Devine
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
du Pont
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
English
Erlenborn
Esch
Eshleman
Evans, Colo.
Evans, Ind.
Evins, Tenn.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flood
Florio
Flowers
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fraser
Frey
Fuqua
Gaydos
Gibbons
Gilman
Ginn
Goldwater
Goodling
Grassley
Gude
Hagedorn
Haley
Hall
Hamilton
Hammerschmidt
Hanley
Hannaford
Harkin
Harrington
Harris
Harsha
Hawkins
Hayes, Ind.
Hébert
Hechler, W. Va.
Heckler, Mass.
Hefner
Heinz
Henderson
Hightower
Hillis
Holland
Holt
Holtzman
Horton
Howard
Hubbard
Hungate
Hutchinson
Hyde
Ichord
Jacobs
Jarman
Jenrette
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kasten
Kazen
Kelly
Kemp
Ketchum
Keys
Koch
Krebs
Krueger
LaFalce
Lagomarsino
Latta
Leggett
Lehman
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, Md.
Lott
Lujan
Lundine
McClory
McCollister
McDade
McDonald
McEwen
McFall
McHugh
McKinney
Madden
Madigan
Maguire
Mahon
Mann
Martin
Mathis
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Mikva
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
Oberstar
Obey
O'Brien
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Pettis
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Quie
Quillen
Randall
Rangel
Regula
Reuss
Rhodes
Richmond
Rinaldo
Risenhoover
Roberts
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Rousselot
Runnels
Ruppe
Russo
St Germain
Santini
Sarasin
Sarbanes
Schneebeli
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shriver
Sikes
Sisk
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
Staggers
Stark
Steed
Steelman
Steiger, Ariz.
Steiger, Wis.
Stephens
Stratton
Stuckey
Studds
Sullivan
Taylor, Mo.
Taylor, N.C.
Teague
Thone
Thornton
Traxler
Treen
Tsongas
Ullman
Vander Veen
Vanik
Vigorito
Walsh
Waxman
Weaver
Whalen
White
Whitehurst
Whitten
Wiggins
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Young, Tex.
Zablocki
Zeferetti

NAYS—14

Ashbrook
Dickinson
Dingell
Gonzalez
Hansen
Howe
McKay
Mottl
Paul
Satterfield
Schroeder
Simon
Symms
Waggonner

NOT VOTING—62

Abzug
Anderson, Calif.
Ashley
AuCoin
Bell
Boggs
Burke, Calif.
Burton, John
Carney
Clawson, Del
Danielson
Davis
Dellums
Diggs
Frenzel
Giaimo
Gradison
Green
Guyer
Hays, Ohio
Helstoski
Hicks
Hinshaw
Hughes
Jeffords
Karth
Kastenmeier
Kindness
Landrum
Litton
Long, La.
McCloskey
McCormack
Matsunaga
Michel
Milford
Mills
Mink
Mitchell, Md.
O'Hara
O'Neill
Passman
Peyser
Railsback
Rees
Riegle
Roybal
Ryan
Scheuer
Shuster
Stanton, J. William
Stanton, James V.
Stokes
Symington
Talcott
Thompson
Udall
Van Deerlin
Vander Jagt
Wampler
Wilson, Bob
Wilson, C. H.

The Clerk announced the following pairs:

Mr. O'Neill with Mr. Van Deerlin.

Mr. Thompson with Mr. Milford.

Mrs. Boggs with Mr. AuCoin.

Mr. John Burton with Mr. Ashley.

Mr. Carney with Mr. Anderson of California.

Mr. Danielson with Mr. Peyser.

Mr. Giaimo with Mr. Bell.

Mr. Hays of Ohio with Mr. Rees.

Mr. Helstoski with Mr. Vander Jagt.

Mr. Ryan with Mr. Wampler.

Mr. Stokes with Mr. Karth.

Mr. O'Hara with Mr. Talcott.

Mr. Matsunaga with Mr. Mills.

Mr. Charles H. Wilson of California with Mr. Railsback.

Mr. Hughes with Mr. Landrum.

Mr. Passman with Mr. Del Clawson.

Mr. Udall with Mr. Frenzel.

Mr. Davis with Mr. Gradison.

Mr. Riegle with Mr. Dellums.

Mr. Green with Mr. Guyer.

Mr. Mitchell of Maryland with Ms. Abzug.

Mr. Kastenmeier with Mr. Long of Louisiana.

Mr. McCormack with Mrs. Mink.

Mr. Roybal with Mr. Diggs.

Mrs. Burke of California with Mr. Hicks.

Mr. Jeffords with Mr. Kindness.

Mr. Litton with Mr. McCloskey.

Mr. Scheuer with Mr. Shuster.

Mr. Bob Wilson with Mr. J. William Stanton.

Mr. James V. Stanton with Mr. Symington.

Messrs. DICKINSON, SYMMS, and HANSEN changed their vote from "yea" to "nay."

Mr. REGULA changed his vote from "nay" to "yea."

So (two-thirds having voted in favor thereof), the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

OLD NINETY-SIX STAR FORT NATIONAL BATTLEFIELD, SOUTH CAROLINA

The SPEAKER. The unfinished business is the question of suspending the rules and passing the bill H.R. 9549, as amended.

The Clerk read the title of the bill.

The SPEAKER. The question is on the motion offered by the gentleman from North Carolina (Mr. TAYLOR) that the House suspend the rules and pass the bill H.R. 9549, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 359, nays 7, not voting 65, as follows:

[Roll No. 340]

YEAS—359

Abdnor
Adams
Addabbo
Alexander
Allen
Ambro
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashbrook
Aspin
Badillo
Bafalis
Baldus
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blanchard
Blouin
Boland
Bonker
Bowen
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, Phillip
Butler
Byron
Carr
Carter
Cederberg
Chappell
Chisholm
Clancy
Clausen, Don H.
Clay
Cleveland
Cochran
Cohen
Collins, Ill.
Collins, Tex.
Conable
Conlan
Conte
Conyers
Corman
Cornell
Cotter
Coughlin
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
de la Garza
Delaney
Dent
Derrick
Derwinski
Devine
Dickinson
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
du Pont
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
English
Erlenborn
Esch
Eshleman
Evans, Ind.
Evins, Tenn.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flood
Florio
Flowers
Flynt
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fraser
Frey
Fuqua
Gaydos
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Grassley
Gude
Hagedorn
Haley
Hall
Hamilton
Hammerschmidt
Hanley
Hannaford
Harkin
Harrington
Harris
Harsha
Hawkins
Hayes, Ind.
Hébert
Heckler, Mass.
Hefner
Heinz
Henderson
Hightower
Hillis
Holland
Holt
Holtzman
Horton
Howard
Howe
Hubbard
Hungate
Hutchinson
Hyde
Ichord
Jarman
Jenrette
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kazen
Kelly
Kemp
Ketchum
Keys
Koch
Krebs
Krueger
LaFalce
Lagomarsino
Latta
Leggett
Lehman
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, Md.
Lott
Lujan
Lundine
McClory
McCollister
McDade
McEwen
McFall
McHugh
McKay
McKinney
Madden
Madigan
Maguire
Mahon
Mann
Martin
Mathis
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Mikva
Miller, Calif.
Miller, Ohio
Mills
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
Oberstar
Obey
O'Brien
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Pettis
Pickle
Pike

Poage
Pressler
Preyer
Price
Pritchard
Quie
Quillen
Randall
Rangel
Regula
Reuss
Rhodes
Richmond
Rinaldo
Risenhoover
Roberts
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Rousselot
Runnels
Ruppe
Russo
St Germain
Santini
Sarasin
Sarbanes
Satterfield
Scheuer
Schneebeli
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shriver
Sikes
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
Staggers
Stark
Steed
Steelman
Steiger, Ariz.
Steiger, Wis.
Stephens
Stratton
Stuckey
Studds
Sullivan
Symms
Taylor, Mo.
Taylor, N.C.
Teague
Thone
Thornton
Traxler
Treen
Tsongas
Ullman
Vander Veen
Vanik
Vigorito
Waggonner
Walsh
Waxman
Weaver
Whalen
White
Whitehurst
Whitten
Wiggins
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Young, Tex.
Zablocki
Zeferetti

NAYS—7

Goodling
Hansen
Hechler, W. Va.
Jacobs
McDonald
Myers, Pa.
Paul

NOT VOTING—65

Abzug
Anderson, Calif.
Ashley
AuCoin
Bell
Boggs
Bolling
Brademas
Burke, Calif.
Burton, John
Carney
Clawson, Del
Danielson
Davis
Dellums
Diggs
Evans, Colo.
Foley
Frenzel
Giaimo
Gradison
Green
Guyer
Hays, Ohio
Helstoski
Hicks
Hinshaw
Hughes
Jeffords
Karth
Kasten
Kastenmeier
Kindness
Landrum
Litton
Long, La.
McCloskey
McCormack
Matsunaga
Michel
Milford
Mink
Mollohan
O'Hara
O'Neill
Passman
Peyser
Railsback
Rees
Riegle
Roybal
Ryan
Shuster
Stanton, J. William
Stanton, James V.
Stokes
Symington
Talcott
Thompson
Udall
Van Deerlin
Vander Jagt
Wampler
Wilson, Bob
Wilson, C. H.

The Clerk announced the following pairs:

Mr. O'Neill with Mr. Van Deerlin.

Mrs. Boggs with Mr. Milford.

Mr. Thompson with Mr. AuCoin.

Ms. Abzug with Mr. Ashley.

Mr. John L. Burton with Mr. Anderson of California.

Mr. Carney with Mr. Peyser.

Mr. Danielson with Mr. Bell.

Mr. Giaimo with Mr. Rees.

Mr. Hays of Ohio with Mr. Vander Jagt.

Mr. Helstoski with Mr. Wampler.

Mr. Ryan with Mr. Karth.

Mr. Stokes with Mr. Railsback.

Mr. O'Hara with Mr. Del Clawson.

Mr. Matsunaga with Mr. Frenzel.

Mr. Charles H. Wilson of California with Mr. Gradison.

Mr. Hughes with Mr. Dellums.

Mr. Passman with Mr. Guyer.

Mr. Udall with Mr. Long of Louisiana.

Mr. Riegle with Mrs. Mink.

Mr. Green with Mr. Diggs.

Mr. Kastenmeier with Mr. Hicks.

Mr. McCormack with Mr. Kindness.

Mr. Roybal with Mr. McCloskey.

Ms. Burke of California with Mr. J. William Stanton.

Mr. Jeffords with Mr. Symington.

Mr. Litton with Mr. Brademas.

Mr. Bob Wilson with Mr. Davis.

Mr. James V. Stanton with Mr. Evans of Colorado.

Mr. Foley with Mr. Kasten.

Mr. Landgrum with Mr. Mollohan.

Mr. Talcott with Mr. Shuster.

Mr. SATTERFIELD changed his vote from "nay" to "yea."

Mr. GONZALEZ changed his vote from "present" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title was amended so as to read: "A bill to provide for the establishment of the Old Ninety Six National Historic Site in the State of South Carolina, and for other purposes."

A motion to reconsider was laid on the table.

Mr. TAYLOR of North Carolina. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate bill (S. 2642) to authorize the Secretary of the Interior to establish the Ninety Six and Star Fort National Historic Site in the State of South Carolina, and for other purposes, a bill similar to H.R. 9549, just passed by the House.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2642

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in order to preserve and commemorate for the benefit and enjoyment of present and future generations an area of unique historical significance associated with the settlement and development of the English Colonies in America and with the southern campaign of the American Revolutionary War, including the Star Fort, the Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized to acquire lands and interests therein by donation, purchase, or exchange, not to exceed one thousand acres, in the vicinity of the Old Ninety Six and Star Fort National Historic Landmark in the State of South Carolina, for establishment as the Ninety Six National Historic Site, as generally depicted on the map entitled "96 New Area Study Alternative 2, Ninety Six Site, Ninety Six, South Carolina, Sheet 8 of 17" as found in the Old Ninety Six and Star Fort Area Study Report by the National Park Service, dated September 1975, which shall be on file and available for public inspection in the offices of the National Park Service, Washington, District of Columbia: *Provided,* That lands and interests therein owned by the State of South Carolina or any political subdivision thereof may be acquired only by donation. The Secretary shall establish the historic site by publication of a notice to that effect in the Federal Register at such time as he determines that sufficient property to constitute an administrable unit has been acquired. The Secretary may from time to time revise the boundaries of the historic site, but the total acreage of the site may not exceed one thousand one hundred and fifteen acres.

SEC. 2. Pending establishment of the site and thereafter, the Secretary shall administer property acquired pursuant to this Act in accordance with the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2–4), as amended and supplemented, and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461–467), as amended.

SEC. 3. There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act but not to exceed $320,000 for acquisition of lands and interests in lands, and $2,463,000 for development.

MOTION OFFERED BY MR. TAYLOR OF NORTH CAROLINA

Mr. TAYLOR of North Carolina. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. TAYLOR of North Carolina moves to strike out all after the enacting clause of the Senate bill (S. 2642), and to insert in lieu thereof the provisions of H.R. 9549, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill to provide for the establishment of the Old Ninety-Six National Historic Site in the State of South Carolina, and for other purposes.".

A motion to reconsider was laid on the table.

A similar House bill (H.R. 9549) was laid on the table.

GENERAL LEAVE

Mr. TAYLOR of North Carolina. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of the bill (H.R. 9549), just passed.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

APPOINTMENT OF CONFEREES ON S. 327, LAND AND WATER CONSERVATION FUND ACT AMENDMENTS

Mr. HALEY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 327) to amend the Land and Water Conservation Fund Act of 1965, as amended, and to amend the act of October 15, 1966, to establish a program for the preservation of additional historic properties throughout the Nation, as amended, and for other purposes, with a House amendment thereto, insist on the House amendment, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Florida? The Chair hears none, and appoints the following conferees: Messrs. TAYLOR of North Carolina, JOHNSON of California, KAZEN, BINGHAM, SEIBERLING, ECKHARDT, HOWE, SKUBITZ, SEBELIUS, and Mrs. SMITH of Nebraska.

PERSONAL EXPLANATION

Mr. CHAPPELL. Mr. Speaker, when the vote was taken on H.R. 5621, I was unavoidably detained in my office and did not vote.

Had I been present and voted, I would have voted "yea."

PERMISSION FOR COMMITTEE ON ARMED SERVICES TO SIT DURING PROCEEDINGS OF THE HOUSE ON WEDNESDAY, THURSDAY, AND FRIDAY OF THIS WEEK FROM 10 O'CLOCK A.M. TO 12 O'CLOCK NOON

Mr. PRICE. Mr. Speaker, I ask unanimous consent that the Committee on Armed Services be permitted to sit during the proceedings of the House on Wednesday, Thursday, and Friday, from 10 o'clock to 12 o'clock noon.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

PERMISSION FOR SUBCOMMITTEE ON THE BICENTENNIAL, THE ENVIRONMENT, AND THE INTERNATIONAL COMMUNITY, OF COMMITTEE ON THE DISTRICT OF COLUMBIA TO SIT DURING PROCEEDINGS OF THE HOUSE ON JUNE 17, 18, 23, AND 24, 1976

Mr. HARRIS. Mr. Speaker, I ask unanimous consent that the Subcommittee on the Bicentennial, the Environment, and the International Community, of the Committee on the District of Columbia, be permitted to sit during proceedings of the House on June 17, 18, 23, and 24, 1976.

The SPEAKER. Is there objection to the request of the gentleman from Virginia?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, will this be for just between 10 o'clock and 12 noon?

Mr. HARRIS. From 9 o'clock to 12 o'clock noon.

Mr. ROUSSELOT. 9 o'clock to 12 o'clock?

Mr. HARRIS. Yes.

Mr. ROUSSELOT. The gentleman will assure us that the committee will not mark up any legislation?

Mr. HARRIS. This is not for the purpose of markup; no markup will be considered.

Mr. ROUSSELOT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Virginia?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. McFALL asked and was given permission to address the House for 1 minute.)

Mr. McFALL. Mr. Speaker, I have asked for this time to discuss the program for tomorrow with the gentleman from Arizona (Mr. RHODES).

Mr. Speaker, the intention is that tomorrow's program will be, after consultation with the minority leader and the majority leader, as follows:

We will take up H.R. 13367, fiscal assistance amendments (revenue sharing), subject to a rule being granted.

We will then consider the following five bills on the calendar:

H.R. 13179, State Department authorization.

H.R. 13589, U.S.I.A. authorization.

H.R. 13601, Amtrak improvement.

H.R. 11804, railroad safety authorization.

H.R. 13490, Olympic Winter Games, Lake Placid, N.Y.

These are subject to a rule being granted and we will take general debate only on these six bills.

We would be hopeful that we could complete general debate on all of them.

Now, if something should happen, I would say to the distinguished minority leader, that we do not get rules or we are unable to complete the general debate on these six, it would be the intention to take up the final three, which are as follows:

H.R. 12944, Federal Insecticide, Fungicide, and Rodenticide Act extension;

H.R. 11743, national agricultural research; and

H.R. 10133, USDA executive adjustments, for which rules have already been granted.

We would then try to do those in place of the six previously mentioned. Hopefully, the six would be a sufficient program for tomorrow.

Mr. RHODES. Mr. Speaker, will the gentleman yield?

Mr. McFALL. I yield to the gentleman from Arizona.

Mr. RHODES. It is my understanding that on the last three bills the gentleman mentioned only the rules and general debate are scheduled?

Mr. McFALL. That is correct. There would be no 5-minute rule under this proposal at all on any bill tomorrow.

Mr. RHODES. I thank the gentleman, and I appreciate the cooperation of the majority leadership on this matter.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield for a question?

Mr. McFALL. I would be delighted to yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, the gentleman from Maryland has only been here for 3 years, but this is the first time I have ever heard announced such an extraordinary procedure, where we take up six major bills, all with rules, if rules are granted, and then drop consideration under the 5-minute rule with no final vote.

We have enough difficulty around here as it is in keeping Members on the floor and understanding what they are voting on without splitting the consideration into 2 different days. What is the reason for this extraordinary procedure?

Mr. McFALL. The reason for it is the request of both the majority and minority leaders that this be the program. There are a number of primaries today. Members will have difficulty getting back here. Revenue sharing is such a very complicated and controversial piece of legislation that it was thought better not to take it up tomorrow.

By the time we get through with the rule and the general debate, if we start at 10 o'clock, it would probably be afternoon before we could get started on that. It was expected that we should not have any of the 5-minute rules, in deference to some of those who might not be here.

Mr. BAUMAN. If the gentleman will yield further, I think it has been years since we have followed the practice of not having rollcall votes in order to accommodate Members who have primary elections. There have been a great many primaries this year, and none of them have been accorded this privilege.

Mr. McFALL. In my lifetime here, there have been varied practices. I do not know whether there is any ironbound precedent, but in this case both the majority and minority leaders are happy with this arrangement, and I hope the membership would also be served by this arrangement.

Mr. RHODES. Mr. Speaker, will the gentleman yield further?

Mr. McFALL. I yield to the distinguished minority leader.

Mr. RHODES. Of course, one of the reasons that an exception was made—and I agree with the gentleman from Maryland that it is somewhat of an exception—is that at least one of the primaries involved today is at a great distance; in fact, it is even farther than Arizona, and it makes it very difficult for all the Members on both sides of the aisle to get back from their presence in their districts for that primary election.

I would say to the gentleman from Maryland, as far as I personally am concerned, I would hope that this would not become a precedent, but under these circumstances I asked the majority leadership to make this arrangement, and the majority leadership was kind enough to do so after having consulted with some of the majority Members from the State of California.

Mr. BAUMAN. Will the gentleman from California yield further for a question?

Mr. McFALL. I am delighted to yield.

Mr. BAUMAN. I wonder if the majority whip can tell us when we will be expected to finish the 5-minute rule and votes on the six bills on which we hope to finish general debate tomorrow?

Mr. McFALL. It is my assumption, and I believe I am correct, that we would start again on the revenue sharing bill on Thursday and finish the revenue sharing bill first, and then go to each one of the other bills in turn, assuming that the chairmen are ready with each of those bills. I would think that they would be.

Mr. BAUMAN. I appreciate the gentleman's giving me this information. I do think the House has enough trouble with its image these days without departing from its traditional parliamentary procedures. Hopefully, this will not lend itself further to the destruction of our image.

Mr. McFALL. I would say to the gentleman that I would hope that the Members are wise enough to remember what the debate was the day before. We have a number of ways of informing the Members on our side, and I know the gentleman has on his side ways of getting information about the bills. Certainly, the membership will be fully informed as to what the legislation is and how they should vote whether they heard the general debate or not.

SALUTE TO NORTH SYRACUSE NORTHMEN BAND

(Mr. HANLEY asked and was given permission to address the House for 1 minute to revise and extend his remarks and include extraneous matter.)

Mr. HANLEY. Mr. Speaker, virtually every day, the Congress is the happy beneficiary of the talent and dedication of some of this Nation's best high school bands as they play in formation on the steps of the Capitol. With flags and pennants unfurled and brass gleaming in the sunlight, these young men and women play with an enthusiasm and verve which makes us all proud to be among the spectators, for however brief a moment.

These concerts also remind each of us, I am sure, of the many occasions in our own hometowns when we have witnessed the precision and musical skill of bands and marching units in holiday parades and special events. Those are, indeed, special moments of great satisfaction.

It is especially pleasurable to note the achievements of bands in the very important competitions which are conducted at the local, area, regional, State, and national levels. The spark of competition gives an extra brilliance to these performances as each motion and movement is judged against strict rules of performance. Any band which wins in these tough contests deserves a great salute for a job well done.

In my home district of central New York, there are many fine bands which have become State and even nationally recognized for superior achievements. The hard work at rehearsals, the hours of sheer physical pain, the frustrations of keeping a hundred or more members in step and in tune are a tribute to the endurance of bandsmen, musical directors, and parents alike.

One of the finest aggregations I have seen and heard is the North Syracuse High School "Northmen" Band. Dressed in its crisp blue and white uniforms, this band marches down a parade field or village street with the confidence and polish which only hard practice and musical talent can give.

The Northmen were participants in one of the biggest national band contests as the New York State representative at the Apple Blossom Festival held April 30 and May 1, 1976, at Winchester, Va. Bands from 24 States competed in various classes and events to determine those best in each category.

It is my great pleasure to share the joy which these youngsters and their teachers and parents must have felt when the Northmen placed in all categories—the only band to do so. They were especially proud of their first place in the firemen's parade division and the second places in the marching band division and in the grand feature competition.

The Northmen came home to acclaim and public accolades galore. The county executive, John Mulroy, and the county legislature of Onondaga County have united to declare June 8, 1976, "North Syracuse School Band Day."

I had the pleasure last year of addressing the graduating class of North Syracuse High School and am well aware of the strong spirit which this band evokes in the student body each time they perform their alma mater to the melodic strains of "America the Beautiful."

But the real sense of pride and achievement for these young musicians must be the satisfaction that all those lonely hours of practice after school and during times when family and friends were picnicking or partying have finally borne such sweet fruits of success.

Mention of the achievements of the band could not be complete without a congratulations to the band director, Gregory E. Woodruff, and his staff of aides. The tutelage of such a maestro is essential to the development of such a proficient band ensemble. It is more than likely that he spent many a sleepless night arranging and rearranging patterns of march, configurations of field position, selection of music, and even the more mundane things like bus schedules, rides home, and last minute emergencies. Greg Woodruff certainly merits applause for his creativity and dedication to the life of the Northmen.

Mr. Speaker, I commend the North Syracuse school system and the parents of those youngsters in the band and coming up through the primary and secondary grades who encourage band participation at an early age. A great band is not born overnight; it is nurtured for years by encouragement and persistence by students, administration, and community acting in unison.

The band deserves three rousing chants of "Go Northmen":

PROCLAMATION

Whereas, the North Syracuse High School Northmen Band has participated as a representative of New York State in the Apple Blossom Festival at Winchester, Virginia; and

Whereas, the Northmen placed well in each category of band competition including one first place and two second place awards; and

Whereas, the North Syracuse band was the only band in the festival to place in all four of the competition categories; and

Whereas, the band members and their director, Gregory E. Woodruff, have devoted countless hours and effort to attain their high level of performance which culminated in their Apple Blossom Festival awards;

Now, therefore, I John H. Mulroy, County Executive of the County of Onondaga, do hereby proclaim June 8, 1976, as North Syracuse High School Band Day in Onondaga County.

A RESOLUTION HONORING THE NORTH SYRACUSE HIGH SCHOOL NORTHMEN BAND

Whereas, The North Syracuse High School Band under the superior direction of Gregory E. Woodruff, its Band Director, was a New York State representative in the Apple Blossom Festival held April 30 and May 1, 1976 at Winchester, Virginia, and

Whereas, at this competition there were high school bands from twenty-four states, and

Whereas, as a result of their hard work, dedication and continued excellence, said band in the Chamber of Commerce phase of the competition placed first in the Firemen's Parade and placed second in the Grand Feature, and

Whereas, said North Syracuse High School Northmen Band during the Shenandoah Conservatory of Music phase of the competition placed fifth in the concert and placed second in the marching band competition, and

Whereas, the North Syracuse High School Northmen Band was the only band in the competition to have placed in all categories, and

Whereas, through its exemplary efforts members of the North Syracuse High School Band have brought pride and honor not only to themselves but to the County of Onondaga, and

Whereas, the County Executive, John H. Mulroy, has proclaimed June 8, 1976 as North Syracuse High School Northmen Band Day in Onondaga County, now, therefore, be it

Resolved, that the Onondaga County Legislature on behalf of all the citizens of Onondaga County does hereby commend and congratulate the North Syracuse High School Band and wish them continued success in their future endeavors, and be it further

Resolved, that a certified copy of the Resolution be presented to the North Syracuse High School Northmen Band for its permanent history.

UDALL CAMPAIGN NEARS CONCLUSION

(Mr. WEAVER asked and was given permission to address the House for 1 minute to revise and extend his remarks and include extraneous matter.)

Mr. WEAVER. Mr. Speaker, the long Presidential primary trail is nearing its end. One of the most distinguished Members of this House, Mo UDALL, has traveled that exhausting road from its beginning in Iowa and New Hampshire to its conclusion today. Steadfast, consummately honest, decent, intelligent, Mo UDALL has conducted a campaign for the Democratic nomination which does this House proud.

Sunday, the Washington Post published a column by David Broder about Mo UDALL's undaunted efforts. I include the Broder column at this point in the RECORD:

UDALL CAMPAIGN NEARS CONCLUSION

It has been a long, long campaign for Morris K. Udall. The weariness of the effort that began almost two years ago with those first exploratory trips to New Hampshire and Wisconsin is etched deep in his craggy face as he slogs through these final days in the wards of Cleveland.

Unfolding his long body from a cramped seat on his campaign bus, he rallies himself for another effort by calling on his one resource not limited by the federal campaign act—his humor. "Come on, you stop-Carter people," he tells the reporters, who are as tired as he is. "It's gonna be a grand rally of the faithful. Hubert Humphrey will be there—in spirit. Jerry Brown will deliver the invocation. Frank Church will read the minutes of the last meeting. And I will give the message."

The Udall-for-President campaign is not one that will rank among the classics. Unless there is a miracle here in Ohio on Tuesday, Udall will go back to Tucson and Washington empty-handed—having failed to win a single primary of the score he entered.

As the candidate would concede, it has been a botched up campaign in many respects. There were dozens of tactical and strategic errors, small and large, that diluted his efforts and diminished his returns.

Udall himself bears direct responsibility for the failure to fit his brother, Stewart, into a stable, non-abrasive role in the campaign. A procession of campaign managers testifies to his inability to put his own campaign house in order.

The frustrating series of second-place finishes, studded with examples of what-might-have-been, confirmed the critical judgment of some House colleagues. They said in advance that Udall was a man of uncommon ability who lacks the steely determination and quick instincts that spell the difference between victory and defeat.

But if frustration was predictable for a man whose efforts in Congress have often been stymied, it was equally predictable that Udall would acquit himself with honor, dignity and good humor in his quest for worthy goals.

He communicated to a broad national audience the convictions he has voiced for 15 years in the House and in his home district: a respect for the human and physical environment; a commitment to social justice; and a belief in institutional reform and a strict standard of personal political accountability.

All this he conveyed without condescending or pandering to the prejudices of a particular audience. No one but Mo Udall would have reminded the prideful voters in New Hampshire, on the eve of their primary, that "a week from tonight, you won't get a presidential candidate to come within 100 miles of this state." And no one but Udall would have made them laugh at themselves and their inflated self-importance.

Humor is his trademark, and it offended some people to have a presidential candidate try to be entertaining. But the humor was directed at himself and the foibles of politics. It was his way of maintaining his own sense of proportion. Long before he became a candidate himself, he warned against the power-seekers who pursue the presidency with a grim, relentless, all-consuming determination. Their exercise of power will reflect their pursuit of power, he said.

By staying funny, Udall stayed true to his own nature and convictions. But he was also honest in more important ways. He did not back off from his support of school desegregation in Boston or the Detroit suburbs, and he did not disown 40 years of Democratic programs in an effort to become "anti-establishment."

So Udall can live with his memories of this campaign. A more interesting question concerns the conscience of what used to be called the liberal community.

Udall did not assert an inherent claim to liberal support, even though he was early in the contest. "There was no obvious choice" among the many liberal aspirants, he said the other day. "But after Massachusetts and surely after Wisconsin and New York, it was clear" that he had defeated the other liberal contenders and emerged as Jimmy Carter's real rival.

But those he had defeated and who shared his positions—Birch Bayh, Fred Harris, Milton Shapp, Sargent Shriver, among others—either remained silent or endorsed other candidates. So did many other liberals.

Had the votes that went to a single one of those candidates, Fred Harris, been shifted to Udall, he would have beaten Carter in New Hampshire, Wisconsin and Michigan. It takes no genius to calculate how different the Democratic picture would appear today.

But Udall is not given to recriminations, even about Michigan, where the leaders of the United Auto Workers, the most liberal union in the country, worked actively to defeat the surviving liberal candidate because he was "a loser." All Udall will say about Michigan is that "it was kind of poignant to read in that post-primary poll that one out of ten Carter voters said they really preferred me, but thought I had no chance to win."

Udall lost Michigan by two-tenths of one per cent of the vote. He lost Wisconsin and a lot of other states by small margins. The political histories will show that record. One hopes they will also record the respect Mo Udal won from those who have watched his campaign.

A NEW WAY TO GOUGE THE CONSUMER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, the Nation's second largest bank has found a new angle from which to gouge the consumer's pocketbook.

First National City Bank of New York City recently declared that it will begin charging an automatic 50-cent service charge of its Master Charge customers each time they pay their bills within the first month after a purchase. This new "service fee," as they call it, will begin appearing this month on the bills of more than 350,000 account holders at this bank alone.

Shortly after Citibank's announcement, I strongly criticized the move in a public statement and said that unless the new fee is repealed by the bank, I would introduce legislation which not only would prohibit such charges, but would also make it mandatory for businesses which accept credit cards to give discounts to customers using cash. At present, such discounts are allowed by the Fair Credit Billing Act Amendments but are not mandatory.

As chairman of the Consumer Affairs Subcommittee I am particularly upset with the bank's action because for years, Citibank has promoted its Master Charge accounts by telling consumers that if they pay their balances off promptly, they will not incur any charges. But just like the spider who lured the fly into its parlor and then trapped it in its web, the bank has lured customers into its credit card program with glossy promises and is now trying to collect extra fees.

I have sent a letter to Citibank's President William I. Spencer in which I explain my dismay at Citibank's decision. This letter also suggests that if there is no money in credit cards for Citibank, then they should leave the field to those banks whose organizational systems can afford to make good their promises not to charge fees for prompt payment. The same suggestion was made recently by Thomas R. Wilcox, chairman of San Francisco's Crocker National Bank, who stated that Citibank had committed a "strategic error" in levying its fee and further said that the bank had "erred" in insisting that its credit card operation be considered only for its own profitability. Pending Citibank's reply I will begin backgrounding the promised legislation to ban such charges.

The public response I have received in just a few weeks indicates more than 6 to 1 that such a law could win widespread public approval. I would remind my colleagues that the ink is barely dry on a bill which originated in the Consumer Affairs Subcommittee last session prohibiting merchants who accept credit cards from adding surcharges—additional fees—to credit card purchases. This legislation was designed to make certain that credit card customers were not saddled with billions of extra dollars solely because they preferred to make purchases on time with a credit card. This bill was applauded by the banks, Citibank included, as a great boon for consumers because it saved them money. However, now that there is a chance to make a profit for itself, the consumer concern of Citibank appears to be seriously on the wain.

While the 50-cent charge may seem insignificant to individual cardholders, it represents a windfall profit to the banks. And once the practice of the extra charge is established it will only be a matter of time before the 50-cent charge is increased to a much higher figure.

The next step may well be a charge for customers who do not use their credit cards during any given month.

Shortly after Citibank announced its new service fee, the bank's parent company, Citicorp, reported earnings which were up 4 percent from this same period last year—a fact which does not help the bank's argument that unless the additional fees are imposed, some customer services will have to be curtailed. Already, credit card companies make billions of dollars a year in fees received from merchants and, therefore, the Citibank decision to impose a service fee on those credit card customers who pay within a month should encourage consumers to shop around for another card. This card could be used on a regular basis or only in months when prompt payment is anticipated. In this way, the card holder could save as much as $6 a year and at the same time actively demonstrate discontent with the Citibank charge.

I said it in the battle against surcharges and I will say it again here: Unless credit cards are protected from unfair and unnecessary fees such as this, they could easily become the most expensive pieces of plastic in history.

My research indicates that the intake from one consumer credit card account far outweighs the $12 or so a year it takes to maintain an active account—even if a card holder never pays a penny of the 18-percent annual interest rate which some cards carry. The cost of those consumer services which the banks say places such a heavy financial burden on them, are more than paid for by shoppers in the higher prices which merchants who offer credit card services charge. I, therefore, oppose Citibank's new fee not solely on the basis of its unfairness to consumers but also because it is inflationary.

SOME QUESTIONS ABOUT PAROLE AND REHABILITATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. COTTER) is recognized for 5 minutes.

Mr. COTTER. Mr. Speaker, John Manson, commissioner of the Connecticut Department of Corrections, recently testified before the Illinois State Legislature on the history and consequences of indeterminate sentencing. In an article June 1 on his testimony, the New York Times described Mr. Manson as "the head of one of the more advanced and innovative prison systems in the country," and summarized his remarks in this way:

> With few exceptions, the Commissioner now contends, the rehabilitative approach to imprisonment, the whole framework of indeterminate sentencing, education and job training in prison and, finally, parole have provided a structure on which prisoners outwit the people who imprison them and gain an easier time in prison and earlier release than society expects.

I believe Mr. Manson's testimony is important because it comes from a man who has a deep concern for the rehabilitation of criminal offenders. Under his leadership, Connecticut has developed aggressive and often controversial programs designed to reduce the system's rate of recidivism.

There has been a great deal of rethinking lately on the injustice and inconsistency of our present sentencing policies. I believe Mr. Manson's remarks will contribute to that rethinking, and for this reason I wish to insert excerpts from his testimony into the RECORD.

TESTIMONY OF JOHN R. MANSON, COMMISSIONER, CONNECTICUT DEPARTMENT OF CORRECTION

Parole made its appearance in the nineteenth century almost concurrently with the advent of the indeterminate sentence. Among the underlying premises of both steps, apart from mitigating long, harsh sentences, was to allow a measure of discretion in determining the point of release of offenders and the guaranteeing of a period of community supervision for those released prior to the expiration of their terms.

Parole proved a popular new idea and it spread eventually to all fifty States and became the beneficiary of an interstate compact for the transfer of parolees.

While originally the period of parole discretion was rather narrowly prescribed, it grew wider and wider until sentences of one-to-life (or 0-to-life) became increasingly common. This widespread discretion had two consequences for public policy in relation to crime control. First, it effectively removed from the courtroom decisions which had been within the prerogative of the judiciary. Decisions were now to be made by quasi-judicial bodies, i.e., parole boards, on more, but frequently less, information. Decisions were no longer to be subject to review. Sentences, in this system, lost whatever deterrent punch they might once have had. Responsibility was diffused and, in the process, the underlying rationale for a particular term of years was lost.

Second, public offenders, including many minor offenders, were placed under correctional authority for life. True, men and women were discharged from parole supervision at the completion of some period of acceptable behavior, but petty offenders who were socially marginal at best found themselves in a revolving door of incarceration and parole. This kind of procedure neither served the end of community protection nor the purpose of equal administration of justice for all.

What then of parole when it has been administered equally and effectively and under circumstances of adequate support? These are not situations easy to find, but the preponderance of evidence shows that even under ideal circumstances parole has not been a more effective instrumentality than outright discharge from sentence. The New York Parole inquiry reached this decision after tabulating thousands of cases: only a 1–2% higher rate of success was shown for parolees than dischargees. And, this finding has to be tempered by recognition of the fact that the dischargees represent the worst risks among the population considered for release.

Likewise studies of parole caseloads show no significant difference when the numbers are manipulated up or down. For whatever reason parole supervision and its twin goal of marshalling community resources to assist offenders seems not to be the critical factors in determining community success or failure.

It may be that parole decisions, rendered either by specialists or laymen, and the consequent period of supervision, give the public a sense of well-being and safety that could not otherwise be achieved. But, behind this facade, in some disarray, sits a procedure that is not cost effective, that does not meet crucial tests of public protection and that fails to provide for the equal administration of justice.

In supporting the determinate sentencing bill, it follows that I agree with a current growing body of opinion that "rehabilitation" does not work with a substantially large proportion of the inmate population. I must add, however, that my views represent a decidedly minority opinion among my associates across the Nation. A recent survey by corrections magazine revealed that 68% of my colelageus still feel that rehabilitation programs reduce recidivism. My hunch, however, is that many correctional administrators find it difficult to deal with the empirical realities that exist after being "born and bred" on the perfectly natural notion that educational, vocational, and other programs must impact the lives of offenders for the better.

If rehabilitation is not really working, and if offenders do not reform in prison, then it may no longer make sense to use a sentence structure or operate an institution based upon trying to change all offenders. If traditional approaches to rehabilitaion have not delivered their promised reforms, then the foundations upon which the entire criminal justice system are based need to be altered. We have learned through prior experience, though, that if we are to consider such a change, we must plan to change the entire system, rather than try tinkering with selected parts of it.

I am convinced that much inmate participation in correctional programs is "game-playing" for the parole board. Remember that under the indeterminate sentencing structure, inmates can be released after their minimums and before their maximums only by parole board action. Many inmates believe they must participate in various institutional programs to impress the board with their "demonstrated rehabilitation." They believe that once the board recognizes their attempts to change, they will be release. It is actually irrelevant whether or not the board actually views inmate program participation in such a fashion. Inmates generally believe the board does look that way, and they therefore feel they have to participate, whether they want to or not, or whether the programs would in reality do them any good or not. It is therefore reasoned that while some inmates are in programs because they genuinely want to help themselves, not all inmates feel this way. Those that are not genuinely motivated merely waste the time of program staff and other participants while jumping through "parole board hoops".

If flat sentences are introduced without parole board release mechanisms, and if inmates are discharged automatically at the end of their sentence, regardless of program participation, those who choose to participate, knowing their eventual release date will not be affected by their participation, will be doing so because they genuinely want to change, learn, grow, or whatever. This may mean, of course, that the number of participants will decline, but the quality of program will increase because the "deadwood" is gone.

It has been said that the introduction of fixed sentences would be a retreat from correctional treatment. It is important for me to emphasize that this is not necessarily the case. While some systems might use the new structure to return to the harsh old days, I doubt that Illinois would. Inmate programs can be soundly defended and asserted on humanitarian grounds, helping those inmates who really do want to help themselves. Additionally, while fixed sentences would emphasize rehabilitation less than the current sentencing structure, the correctional system in this State, I am certain, would still be pledged to trying to find ways, through humanitarian means, to change offenders' propensity for future criminal behavior.

Connecticut is one of a handful of States which have offered programs of behavior modification for sex offenders, more specifically, the use of aversive conditioning for child molesters who elect to participate. While there is no question that the vast majority of our citizens accept and welcome such programs, it will not surprise you to learn that we are frequently under attack by some groups who see voluntary participation of inmates and the function of the parole board as incompatible. I continue to advocate the use of such programs because of the promise they hold for behavioral change and the protection they offer for future potential victims. Were Connecticut to go to a fixed sentence model, and legislature has established a commission to study this, the issue of voluntary participation in such programs would be resolved without question.

* * * * *

Proponents of fixed sentencing are too often inclined to attribute, at least in part, the ineffectiveness of the existing system to the qualifications, weaknesses and ineptness of parole board members. My own personal experience, however, with parole board members, past and present, has almost without exception been positive and rewarding. The problem is not with the qualifications and character of parole board members but with the state of the art of a criminal justice system which will not allow itself to function effectively in its present form.

* * * * *

Rehabilitative change cannot be coerced. It must be freely elected. Flat sentences will help us do this, and further the removal of the inequities and inefficiencies of parole and would enable us to get on with the business of building an effective and humane system of corrections, a system which would offer just and equal treatment, work and learning opportunities, and the chance to discharge one's sentence with dignity.

DANGEROUS ALUMINUM WIRING—WHO HAS JURISDICTION?

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from California (Mr. Moss) is recognized for 5 minutes.

Mr. **MOSS**. Mr. Speaker, aluminum branch wiring in houses has for years been recognized as a potential fire hazard. It has been the cause of numerous deaths and thousands of dollars of property damage. Now the American public has been dealt another severe setback in its struggle against this consumer product hazard by a court decision indicating that the Consumer Product Safety Commission may not have jurisdiction over aluminum wiring.

In 1972, Congress created the Consumer Product Safety Commission to provide the public with greater protection from the hazards of consumer products. Soon after that independent agency became operational in 1973, I communicated to it my concerns about the dangers posed by aluminum branch wiring in houses. Although the Commission has not moved as rapidly as would have been desirable to deal with this admittedly complex problem, it has determined that aluminum wiring poses sufficient danger to warrant the commencement of a proceeding for the development of a consumer product safety standard. This determination has been based on authoritative information collected from a variety of sources: Public hearings held around the country, a National Bureau of Standards study, complaints received by the Commission, and the work of the National Commission on Product Safety, to name but a few.

While the Commission has been perhaps too cautious, the blame for its snail-like speed in this matter cannot be laid solely on its own doorstep. From the outset, the Commission has encountered stubborn resistance from a powerful industry which has subjected it to a barrage of delaying tactics.

After attempting to discourage and intimidate the Commission with an inundation of legal arguments and memorandums, Kaiser Aluminum and Chemical Corp., filed suit in a further effort to stall the Commission's efforts. Employing a tactic lawyers call forum-shopping, Kaiser not surprisingly selected as the place to file its lawsuit the Federal District Court of Delaware, a court which has quickly gained ascendancy as the judicial form least hospitable to the spirit and intent of the Consumer Product Safety Act. Last month, the court accepted Kaiser's claim that aluminum branch wiring is not subject to the jurisdiction of the CPSC because it is not a "consumer product," an argument which so tortures the express language and clear congressional intent of the Consumer Product Safety Act as to be ludicrous. With Pickwickian rigor, the court concluded that aluminum wiring does not fall within the act's definition of a "consumer product" as an "article—produced or distributed—for the personal use of a consumer in or around" the house because aluminum branch wiring is a part of the house itself and thus cannot be something used "in or around" a house. While the court's decision on this point was only preliminary—and one which I am hopeful will be reversed before it is made final—it nevertheless is a cause for concern.

In creating the Consumer Product Safety Commission, the Congress "intended to vest omnibus product safety authority in a single Federal agency." In order to achieve this purpose, Congress broadly defined the term consumer product, noting that—

> It is not necessary that a product be actually sold to a consumer, but only that it be produced or distributed for his use. Thus . . . products which are primarily or exclusively sold to industrial or institutional buyers would be included within the definition of consumer products so long as they were produced or distributed for use of consumers. H.R. Rep. 1153, 92d Cong., 2d Sess. (1972).

As is clear, Congress intended—and I was one of the principal authors of this legislation—to create an independent agency with broad powers which could provide maximum protection to the public. In the aluminum wiring case, the combination of a powerful industry and a court insensitive to Congress intent threatens to diminish those powers. I strongly support the Commission in its efforts to prevent judicial erosion of its broad, congressionally conferred powers. And I urge the Commission to press forward to achieve a prompt solution of the problems posed by aluminum branch wiring.

Mr. Speaker, the Subcommittee on Oversight and Investigations of the Commerce Committee, which I chair, has been studying Federal regulation for over a year. The experience of the Consumer Product Safety Commission in its efforts to deal with the hazards of aluminum branch wiring provides a clear illustration of one of the problems the subcommittee has found that Federal agencies currently face. We now have a system which provides the regulated industry with the opportunity to engage, under the guise of "due process," in seemingly endless delaying tactics and often produces decisions which reflect more the lawyer's logic than the technical and economic realities of the world. Kaiser's actions in this matter and last month's decision of the district court in Delaware poignantly illustrate my point. And I need hardly point out that the real losers in this battle—and countless others like it which are being fought every day are not the Federal agencies, but the public.

AMENDMENTS TO H.R. 13367

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. METCALFE) is recognized for 15 minutes.

Mr. METCALFE. Mr. Speaker, I rise today to inform my colleagues that I will be offering two amendments to H.R. 13367, Fiscal Assistance Amendments of 1976, when this bill reaches the floor of the House for consideration.

I have been deeply disturbed by the lack of accountability to Congress and to the American people which general revenue sharing has exhibited in its 5-year existence. Therefore, I was pleased with those actions of the Committee on Government Operations which would increase the accountability of recipient governments to their citizens and in the area of civil rights enforcement.

However, there are two areas in which further improvement must be made. First, the priority expenditure categories must be retained and refined to more accurately reflect congressional and community wishes. Second, although the reporting procedures have been significantly improved as to increased accountability, a loophole still exists as to expenditures by recipients to nongovernmental entities. My two amendments would correct these deficiencies.

I will further explain my amendments during floor debate on H.R. 13367. At this point, I would like to insert my amendments into the RECORD for the benefit of my colleagues:

AMENDMENT TO SECTION 3 OF H.R. 13367, AS REPORTED

(Offered by Mr. METCALFE)

Page 2, strike out lines 1 through 5 and insert in lieu thereof the following:

AMENDMENT OF PRIORITY EXPENDITURE CATEGORIES

SEC. 3. Subsection (a) of section 103 of the Act is amended to read as follows:

"(a) IN GENERAL.—

"(1) PRIORITY EXPENDITURES.—Funds received by units of local government under this subtitle may be used only for priority expenditures. For purposes of this title, the term 'priority expenditures' means only—

"(A) ordinary and necessary maintenance and operating expenses for—

"(i) public safety (including law and civil rights enforcement, fire protection, and building code enforcement),

"(ii) environmental protection (including sewage disposal, sanitation, and pollution abatement) and consumer protection,

"(iii) public transportation (including transit systems and streets and roads),

"(iv) health and recreation,

"(v) libraries,

"(vi) social services and housing for the poor and the aged; and

"(B) ordinary and necessary capital expenditures authorized by law.

"(2) MAXIMUM EXPENDITURES.—No unit of local government receiving funds under this subtitle shall expend more than 45 percent thereof in any one of the priority expendtiure categories specified in paragraph (1).

Redesignate the following sections accordingly.

AMENDMENT TO SECTION 10 OF H.R. 13367, AS REPORTED

(Offered by Mr. METCALFE)

Page 18, line 3, after "obligated" insert a comma and the following: "identifying the eventual nongovernmental recipients of such funds (other than salaried employees),".

FEDERAL RESERVE POLICY AND INCREASING INTEREST RATES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. ADAMS) is recognized for 5 minutes.

Mr. ADAMS. Mr. Speaker, I recently wrote to Dr. Arthur Burns, Chairman of the Federal Reserve Board, to point out that the success or failure of the Congress' national economic policy as enunciated in the first concurrent resolution on the budget for fiscal year 1977 depended to a significant degree upon the provision of a supportive monetary policy.

The Fed has it within its power to pursue such a supportive policy or, as has occurred in the past, frustrate the will of Congress by implementing monetary policies that are not supportive.

At the time I wrote to Dr. Burns, I also took the floor to inform the Members of my action and to state that—

> The Congress through the medium of its budget resolution, has provided Mr. Burns with a clear and unambiguous signal—don't drive up the interest rates, we need them kept low to maintain the recovery and prevent its disruption. We also do not want to

pay additional billions in Federal interest charges caused by raising the interest rates.

Dr. Burns has replied and I would like to have it inserted in the Record, along with a copy of my letter to him, for the information of the Members.

Chairman of the
Board of Governors,
Federal Reserve System,
Washington, D.C., May 31, 1976.

Hon. Brock Adams,
Chairman, Committee on the Budget,
Washington, D.C.

Dear Mr. Chairman: I am responding to your letter of May 20, which raises questions about the relationship between the rapid expansion in M_1 over the past several weeks and the recent increase in market interest rates.

After growing quite modestly since mid-1975, M_1 has expanded at a rapid rate thus far this spring. Growth was exceptionally rapid in April, when it reached an annual rate of 15 or 16 per cent. In part this abnormal increase reflected the temporary effects on private deposits of large transfers of funds out of Treasury cash balances to the public. Nevertheless, while some part of the recent growth in M_1 appears to have been transitory, the underlying demand for money has strengthened considerably since the early part of the year. From January through the first three weeks of May, M_1 has increased at about a 9¼ per cent annual rate.

Continuation of growth in M_1 at such a pace would, if past history is any guide, release a new wave of inflation. It would be well above the longer-run growth range for M_1 adopted by the Federal Open Market Committee, and reported to the Congress in accordance with House Concurrent Resolution 133.

Under the circumstances, while the Federal Reserve has recently added to bank reserves, it has not fully accommodated the sharp rise in the demand for these reserves. By restricting the growth of bank reserves, the Federal Reserve has sought to moderate the growth of money. True, money-market interest rates have risen somewhat in the past few weeks; but fears that the money supply is getting out of control have been allayed, and this has ben helpful in maintaining the state of confidence of businessmen and consumers.

The increase in interest rates since April has, in any event, been modest. The 3-month Treasury bill rate, for example, has risen from about 4¾ per cent to 5½ per cent—a level little different from that prevailing at the cyclical low point of the economy in the early spring of last year. Moreover, yields on corporate bonds, though having risen about 50 basis points in the past few weeks, remain some 80 basis points below their levels in the early spring of last year. And, of course, all interest rates—both short- and long-term—are well below the level in the summer of 1975.

Maintenance of moderate growth in the monetary aggregates, in combination with a prudent fiscal policy, is over the longer-run the most effective means of keeping market interest rates, and hence the interest cost of the Federal debt, relatively low. Excessive growth in the monetary aggregates would soon cause fires of inflation to intensify, and this would inevitably lead to even higher interest rates. If we wavered in our determination to keep money and credit growing at a moderate rate, our country might soon find itself facing another recession. Thus, I believe the Federal Reserve is pursuing a policy that will promote sustainable economic expansion—an economic goal that we all share.

Sincerely yours,

Arthur F. Burns.

U.S. House of Representatives,
Committee on the Budget,
Washington, D.C., May 20, 1976.

Hon. Arthur F. Burns,
Chairman, Board of Governors of the Federal Reserve System, Washington, D.C.

Dear Chairman Burns: As you know, both Houses of Congress passed the first concurrent resolution on the fiscal 1977 budget last week. The Congress has undertaken a major reform of its procedures in implementing the provisions of the Budget and Impoundment Control Act of 1974. Through the medium of the budget resolution, the Congress has now debated and voted on a fiscal policy that it feels is appropriate to the current and foreseeable economic situation.

This fiscal policy, if accompanied by a supporting monetary policy, is expected to nurture the economic recovery now underway. The economic assumptions underlying the first resolution are spelled out in the statement of managers contained in the Conference Report. I am enclosing a copy of that Report for your information. As can be seen on Page 6 of the Conference Report, the Congress anticipates that the fiscal policy set forth in the resolution will lead to a 6 percent rate of growth in output. The Congress also assumes that the short-term bill rate will average approximately 5.3 percent in calendar 1976 and 5.8 percent in 1977. Mr. Schneebeli of Pennsylvania attacked the Federal interest cost in function 900 as being $4 billion too low because short-term Federal interest rates will rise drastically this year. I am concerned now that you are making this a self-fulfilling prophecy.

There is concern in my own mind and in that of some of my colleagues as to what role we can expect the Federal Reserve Board to play in our quest to achieve the economic goals set forth so clearly by the Congress in the budget resolution. I have expressed my concern in a speech to the House today.

It is my understanding that the recent increase in short-term interest rates was in response to the abnormally large increase in the money supply during the month of April. I am somewhat puzzled as to the reason for this, especially since commercial and industrial loans and certificates of deposits both declined in April. I would appreciate it if you could provide me with a more detailed explanation of this unusual April increase in M_1, and why you believe an increase in interest rates will be helpful.

I feel certain that you must be as eager as I and my colleagues in the Congress to coordinate fiscal and monetary policy properly between our two bodies. The establishment of the Congressional budget system has not been painless. Still, it is extremely important that the system continues. I hope we can count on your cooperation in achieving the economic goals of the Congress.

Very truly yours,

Brock Adams,
Chairman.

H.R. 14205, OMNIBUS ENERGY CONSERVATION ACT

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. O'Neill) is recognized for 5 minutes.

Mr. O'NEILL. Mr. Speaker, last Friday, I joined with a number of my colleagues in introducing H.R. 14205, an Omnibus Energy Conservation Act.

According to estimates by the American Institute of Architects, an investment in conservation saves twice the amount of energy that would be saved if the same investment were applied to expand production. Yet, we have placed a low priority on energy conservation.

Hopefully, H.R. 14205 will focus attention on at least one reasonable and comprehensive approach to energy conservation.

I include a section-by-section summary of the bill:

Summary of H.R. 14205

SUMMARY OF TITLE I—THE OMNIBUS ENERGY CONSERVATION ACT

Title I establishes several separate programs designed to promote energy efficiency in residential and commercial buildings.

These programs would be primarily under the jurisdiction of the FEA, but would also involve the SBA and HUD.

Section 102(a)—Voluntary Standards and Certification Program for Products Designed to Conserve Energy in Buildings: This section amends the Energy Policy and Conservation Act by adding a new section creating within the Federal Energy Administration a voluntary standards and certification program for products designed to conserve energy in residential or commercial buildings. In cooperation with the Administrator of ERDA, the Administrator of the FEA is directed to prescribe for such products: test procedures, labeling procedures, energy efficiency standards or performance standards other than energy efficiency. The section further provides for the creation of procedures by which the Administrator shall certify a product's compliance with the standards established. Falsely representing a product as being certified is prohibited.

Section 102(b)—Conservation Assistance: Further amends the Energy Policy and Conservation Act by requiring the Administrator to establish guidelines for State energy conservation implementation programs. Stipulates that such guidelines be designed to allow States maximum flexibility and discretion in preparing such programs. Requires that States be given an opportunity to participate in the drafting of such guidelines.

Specifies eligibility requirements for Federal financial assistance to State Energy Conservation Implementation programs. Included here is the requirement that State plans include a system for the making of "energy audits" with respect to housing, nonresidential buildings, and industrial plants within the state. Such audits are further required to identify the energy and cost savings likely to be realized through energy conservation measures. Eligible state programs are further required to provide for monitoring of loans made by lending institutions for the purpose of energy conservation measures taken pursuant to the state program. States must also encourage and facilitate establishment and operation of energy conservation cooperatives.

Authorizes Federal assistance grants to states whose energy conservation proposals meet specified Federal criteria. Limits the amount of assistance going to a given state in a given year to 10% of the total funds authorized for the grant assistance program during that year. The total of such grants to states shall not exceed $25 million in FY 1977, and $50 million in FY 1978–FY 1980. Authorizes the Administrator to provide loan guarantees to lenders issuing loans to borrowers seeking to finance qualified energy conservation measures. The maximum permissible guarantee is $2,000,000. The bill stipulates that the total of guarantee obligations under this program shall not exceed $4.5 million at any one time.

Section 103—Energy Conservation Assistance for Low Income Persons: This section amends Title I of the Energy Conservation and Insulation of Buildings Act of 1976 by adding at the end authorizations of $25 million for FY 1977, $50 million for FY 1978,

$50 million for FY 1979, and $100 million for FY 1980.

Section 104—Energy Conservation Assistance for Homeowners: This section amends Section 2(a) of the National Housing Act by providing that the Secretary of HUD shall pay to any lending institution a portion (not to exceed the lesser of 20% or $400) of the principal on any loan made pursuant to an approved energy conservation measure. Higher limits are set for loans on "renewable-resource energy measures." The section authorizes up to: $100 million in FY 1977, $200 million in 1978, $200 million in 1979, and $200 million in 1980 for the purpose of carrying out the provisions of the section.

Section 105—Energy Conservation Assistance for Small Businesses: This section amends Section 7 of the Small Business Act by adding language empowering the SBA Administrator to make loans (in cooperation with lending institutions) to assist small businesses in implementing approved energy conservation measures. The section sets a limit of the lesser of $5,000 or 20% of the principal on the amount which may be paid by the Administrator to the lender.

Section 106.—This section stipulates that the Energy Resources Council shall be responsible for coordinating Federal energy conservation programs. Further stipulates that upon termination of the Energy Resources Council there shall be created an Interagency Advisory Group to carry out the above coordination responsibilities.

SECTION-BY-SECTION ANALYSIS

TITLE II—OMNIBUS ENERGY CONSERVATION BILL

Part A—Energy Conservation Extension Service

Section 201.—Declaration of Policy: This section contains a number of findings about energy conservation, and the need for an active energy outreach program, to be planned and coordinated by the States.

Section 202.—Establishment of Service: This section establishes, in the Energy Research and Development Administration, an Energy Extension Service office. It further establishes qualifications and duties for a Director who shall be responsible for the energy extension service program developed under Sec. 203.

Section 203.—Extension Program: This section requires the Energy Extension Service to develop and implement a comprehensive program for the identification, development and demonstration of energy conserving practice, techniques, materials, equipment and alternative energy technologies for agricultural; commercial; and small business operations and new and existing residential, commercial, and agricultural buildings or structures. The program shall also provide for technical assistance instruction, and demonstrations of energy conservation opportunities through a variety of means. The implementation of the program is to be implemented by the States, as provided in Section 204.

Section 204.—Guidelines and State Plans: This section establishes criteria to be used by the Energy Extension Service in establishing guidelines for the States to use in preparing plans for Energy Extension Service activities.

The Director of the Energy Extension Service is to promulgate guidelines within 60 days of passage for the preparation and submission of State plans. The guidelines are to allow maximum flexibility and maximum discretion by the States, consistent with the objectives of the Act. The guidelines are to:

(1) Establish procedures designed to assure that assistance under this part shall supplement and increase the expenditure of Federal, State and local funds for this purpose, and supplant or replace such funds;

(2) Require effective coordination of the programs under these plans with other Federal programs for university extension programs;

(3) Require effective procedures to disseminate information to small business concerns;

(4) Limit to 20% maximum the funds which may be used for the purchase of equipment, facilities, and library and related materials; and

(5) Prohibit the use of funds for the purchase of land or the repair of buildings.

Once a State submits a plan, the Director shall approve it if he finds that the plan:

(1) Meets the objectives of this part

(2) Was prepared with input from State, county, and local officials, State universities and community colleges, cooperative extension services, community service action agencies, and other public or private organizations.

(3) Makes optimum use of existing outreach or delivery mechanisms or programs.

(4) Provides for a suitable recordkeeping procedure with respect to Federal funds;

(5) Provides for effectively responding to external inputs and inquiries;

(6) Requires that, to the extent possible, energy audits be made available to all consumers and small business concerns and others;

(7) Provides that the State widely disseminate information on the types of assistance available under Federal and State laws with respect to the planning, financing, installation, and effective monitoring of energy related facilities and activities;

(8) Provides for allocation of funds within a State to be partly based on potential energy savings and numbers of persons affected;

(9) Satisfies other criteria;

If the State plan is not accepted it shall be given an opportunity to revise its plan.

If a State does not submit a plan, or its plan is not acceptable, the Director shall develop an energy extension service plan for the State involved. If the Director implements a plan in a State, he is authorized to enter into agreements for the utilization of existing Agriculture Extension Service offices and personnel, and other offices and personnel as may be appropriate.

Each State shall have 180 days, after the issuance of guidelines to submit its plan. Once approved, the Director shall annually review the implementation of State plans, and shall notify the Governor of the State if he finds any deficiency. If the deficiency is not corrected, the Director may terminate Federal assistance, and develop his own plan for the State. In so doing, the Director shall provide for continuation of all activities under the State plan which were in conformance.

The State plan submitted this part shall specifically indicate how its proposal extension service program will complement or supplement any programs established under Part C of Title III of the Energy Policy and Conservation Act, or any other energy conservation program being carried out within the State with assistance from Federal funds or under other Federal laws.

The Director shall provide financial assistance to each State, as provided in Sec. 210(c) of this part, and shall provide information and technical assistance for the development, implementation, or modification of the State's plan.

Section 205—Regulations and Coordination: This section authorizes the Director to promulgate such regulations as may be necessary to carry out this part, and directs him to consult and cooperate with a variety of Federal agencies to carry out his job. The Director is to be responsible for coordinating the programs of the Energy Extension Service with other public or private programs, but other agencies are to cooperate with the Director in disseminaitng information. The Energy Resources Council, or its successor, is to assist the Director in this coordinating responsibility.

Section 206—Comprehensive Plan: This section authorizes and directs the Administrator of ERDA to prepare a comprehensive program and plan for Federal energy education, extension, and information activities. This section gives guidelines to the Administrator for preparation of this comprehensive plan, and requires it to be transmitted to the Congress 180 days after the day of enactment of this Act.

Section 207—Advisory Board: This section establishes a National Energy Extension Service Advisory Board which shall assist in the evaluation of the energy extension service program established under this part.

Section 208—Amendments to Energy Reorganization Act: This section adopts conforming amendments to the Energy Reorganization Act consistent with this part.

Section 209—Records and Audits: This section requires recordkeeping procedures for recipients of Federal funds under this part.

Section 210—Authorization: This section authorizes ERDA to use funds appropriated pursuant to the FY '77 Authorization Act, and requires future authorizations to be included in the annual authorization for ERDA.

It further authorizes that the allocation among States be as follows:

(1) One-half shall be divided equally among all the States, and;

(2) One-half shall be divided among the States in proportion to their respective populations.

Part B: State Energy Conservation Research and Development Institute

Section 211—Findings, Purpose and Policy: This section sets out a number of findings, purposes and policies which call for the utilization of institutions of higher learning to stimulate, sponsor, provide for, and supplement present programs to meet energy needs. It further calls for the establishment of interdisciplinary energy conservation research, development, and demonstration institutes, in cooperation with and among the States.

Section 212—Establishment of State Energy Conservation Research and Development Institutes: This section authorizes the Administrator of ERDA to provide funds to one college or university to be designated by the Governor of each State as an energy conservation research, development and demonstration institute. Two or more States are authorized to cooperate in designating a regional institute.

Section 213—Functions of Institutes: This section establishes functions and duties for each energy conservation research, development and demonstration institute. These include: research, evaluations, demonstrations, seminars, information dissemination, technical education programs, public school curriculums development, adult education courses, workshops, and other educational activities directed toward the efficient use of energy.

Section 214—Specific Energy Conservation Projects: This section authorizes the Administrator to provide additional sums of money to the institutes to meet the necessary expenses of specific research, development or demonstration projects dealing with energy conservation. The funds appropriated under this section shall be available to match, on a dollar-for-dollar basis, non-Federal funds made available to institutes.

Section 215—Administration: This section makes the Administrator of ERDA responsible for proper administration of this part, including coordination and cooperation with other organizations and agencies.

Section 216—Legal Relationships: This section clarifies the intent of the legislation as to the Federal role and other laws.

Section 217—Condition for Expenditure of

Funds: This section limits use of funds appropriated under this part to those provisions of section 7 of the Federal Nonnuclear Energy Research and Development Act of 1974.

Section 218—Report: This section requires an annual report from the Administrator on the expenditure of Federal funds by the institutes.

Section 219—Authorization of Appropriations: This section authorizes ERDA to use funds appropriated pursuant to FY '77 Authorization Act, and requires future authorizations to be included in the annual authorization for ERDA.

Part C. Energy efficiency research, development and demonstration program

Section 221—Findings: This section sets out a number of findings which point to energy conservation strategies as an effective way to help meet the nation's energy supply crisis.

Section 222—Policy and Goals: This section declares the policy of enhancing energy efficiency and energy conservation strategies to be co-equal with energy supply measures. It further declares that the Federal government should conduct programs to demonstrate energy efficiency technologies.

Section 223—Definitions: This section defines several terms in this part.

Section 224—Energy Use Efficiency Research, Development, and Demonstration Project: This section requires the Administrator of ERDA to set up an Energy Conservation Research, Development and Demonstration Project. It further provides for coordination and cooperation with other agencies in carrying out demonstrations. The Administrator is assigned specific responsibilities in providing for the effective management of the project.

Section 225—Research and Development: This section provides for an energy conservation and energy use efficiency program to include design of energy conserving equipment and processes for residential, industrial, commercial and governmental sectors of the economy.

Section 226—Demonstration of Residential Energy Use Efficiency: This section sets out the energy demonstration program for houses and apartment dwellings. It defines a two year program for retrofitting significant numbers of houses and apartment dwellings with the best current, state-of-the-art energy efficiency technology. It further mandates the retrofitting, within five years, of significant numbers of houses and apartment dwellings with newer energy conservation design features developed under the research and development program of section 225, or elsewhere.

This section also sets out guidelines for selecting demonstrations, and for reimbursement of the Government. It further requires that this section be complementary with Part C of Title III of the Energy Policy and Conservation Act.

Section 227—Demonstration of Industrial, Commercial, Agricultural and Governmental Energy Use Efficiency: This section describes the demonstration program in industrial, commercial, agricultural, and governmental energy use efficiency. It provides for loans for the installation of energy efficient systems in these sectors. It requires a significant number of installations to have been completed within two years using the best current state-of-the-art technology, and within five years using advanced energy efficiency design features.

This section also requires that the projects be compatible with State energy conservation plans developed under the Energy Policy and Conservation Act, and with the industrial energy efficiency improvement targets of that Act. It requires the measurement, of the energy efficiency performance of the demonstration projects selected, and publication of the results to the extent practical. It requires repayment of the loans at a rate not to exceed the rate of measurable savings in energy costs as a direct result of the energy efficiency installation.

Section 228—Development and Performance Standards and Evaluation: This section mandates the development of performance standards for energy efficiency equipment and processes. The standards are to include consideration of ease of maintenance, long lifetime, materials demand and component recyclability. The Administrator is required to develop the standards in consultation with State and local authorities, and to ensure their consistency with provisions of the Energy Policy and Conservation Act.

Section 229—Use of Energy Efficiency Equipment and Processes by Federal Agencies: This section provides for the introduction into Federal operations the energy efficiency equipment and processes developed under the research, development and demonstrations sections of this part through a variety of means.

Section 230—Incentive and Assessments: This section requires three studies that are designed to help assess several issues related to facilitating energy efficiency steps.

Section 231—Encouragement and Protection of Small Business: This section requires that the Administrator assure that small business concerns have a realistic and adequate opportunity to participate in the programs in this part.

Section 232—Reports to Congress: This section requires a semiannual report by the Administrator to Congress on the progress of the program established under this part. Recommendations for additional legislation or other action shall be included in this report.

Section 233—Appropriations: This section authorizes funds appropriated pursuant to the FY '77 ERDA Authorization to be spent for this part, and requires future authorizations to be included in the annual authorization required by the Federal Nonnuclear R&D Act.

CLEAN AIR ACT AMENDMENTS OF 1976

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. PREYER) is recognized for 10 minutes.

Mr. PREYER. Mr. Speaker, as a cosponsor of the Clean Air Act Amendments of 1976, I am convinced that the measures suggested by this legislation offer a balanced solution to the problems of air quality. Cost, energy, and environmental factors have been seriously considered, and allowances are made for all three. Above, the health of our people has been the primary focus of the Clean Air Act amendments of 1976. This measure serves to protect the public interest, permitting growth where it would not infringe on the public health.

Within that basic commitment, the bill is intended to recognize and meet four basic needs. First, the bill recognizes the need to confer greater authority and flexibility on State and local governments. Second, the bill recognizes the need to take energy requirements and impacts into consideration. Third, the bill recognizes the need to assure proper consideration of the costs of cleaning the air. Fourth, the bill recognizes the need to restrict Federal land use authority under existing law. These four points are discussed in detail below:

A. ENHANCING STATE AND LOCAL AUTHORITY AND FLEXIBILITY

The bill provides for enhanced State and local authority and flexibility in the following ways:

(1) Authorizes States to delay emission standards and deadlines for stationary sources beyond 1977;

(2) Eliminates the Federal Government's authority to preempt States with respect to delays of standards and deadlines for sources converting to coal; requires Governor's concurrence before Federal action may be effective;

(3) Provides express role for local governments in carrying out the "significant deterioration" provision of the bill;

(4) For other improvements in State authority and flexibility on the "significant deterioration" issue, see section (D) below;

(5) By overriding OMB requirements to charge State air pollution control personnel for training;

(6) By establishing a greater role for the Governor in promulgating or revising national emission standards;

(7) By requiring complete Federal facility compliance with all State and local procedural and substantive requirements;

(8) By authorizing waiver of the maintenance-of-effort precondition for State or local program grants;

(9) By authorizing State variances to permit continued growth in areas which are exceeding national ambient air quality standards;

(10) By restricting Federal authority to require controls on "indirect sources", such as shopping centers;

(11) By authorizing delay of transportation control measures at the request of the Governor;

(12) By enhancing California's authority to establish and enforce separate new vehicle emission standards;

(13) By authorizing redesignation of air quality control region boundaries at the Governor's request;

(14) By providing for local government consultation in the plan development process;

(15) By authorizing implementation and enforcement of plans by local government in certain cases;

(16) By providing for procedural safeguards applicable to EPA rulemaking which affects States;

(17) By requiring notice to States prior to Federal inspections; and

(18) By authorizing a more effective interstate pollution abatement system.

B. RECOGNIZING ENERGY NEEDS

The Committee bill recognizes energy needs in the following ways:

(1) By authorizing delays for existing stationary sources, which cannot comply due to a shortage of clean fuels or in case of a coal strike or oil embargo;

(2) By authorizing delays to permit existing sources to use new technology which will conserve energy;

(3) By expanding and extending the authority to delay emission requirements for sources converting to coal;

(4) By requiring energy impacts to be evaluated in State "significant deterioration" processes;

(5) By permitting sufficient flexibility in the "significant deterioration" provisions to permit building of new energy parks, power plants, gasification or liquifaction plants;

(6) By authorizing Governors not to count increased emissions (caused by natural gas curtailments or coal conversions) for the purpose of the "significant deterioration" provision;

(7) By requiring consideration of energy impacts in prescribing future new source standards of performance;

(8) By permitting variances for new

sources to use innovative, energy conserving technology;

(9) By delaying new car emission standards until 1980–81 and authorizing further delays until 1985 if excess fuel penalties would result;

(10) By allowing delay of heavy-duty vehicle emission standards if excess fuel penalties would result;

(11) By promoting control strategies, such as vehicle inspection and maintenance and vapor recovery, which will conserve energy; and

(12) By permitting adjustments of vehicles located in high altitude areas, such as Denver to improve fuel economy.

C. PROPER CONSIDERATION OF COSTS

The Committee bill assures proper consideration of costs and economic impacts in the following ways:

(1) By allowing delays of stationary source emission standards where the necessary control technology is too costly to be considered adequately demonstrated;

(2) By allowing delays where financing is temporarily unavailable to permit a source to come into compliance;

(3) By providing for consideration of costs before EPA may promulgate any stratosphere protection measure;

(4) By requiring evaluation of costs and economic impact by States in the "significant deterioration" provisions;

(5) By authorizing extensions and variances for stationary sources to use innovative less costly technology;

(6) By easing restrictions on growth in areas exceeding the national primary ambient air quality standards;

(7) By restricting Federal authority to regulate "indirect sources", such as shopping centers and parking garages;

(8) By authorizing delay of certain transportation control measures;

(9) By delaying auto emission standards;

(10) By reducing the performance warranty on new cars, so as to reduce its anticompetitive effect on the aftermarket parts and service industry;

(11) By stretching out the time for vapor recovery measures to be implemented;

(12) By reducing emission test requirements on small vehicle manufacturers;

(13) By providing mechanisms and standards to assure maximum opportunity for long-term economic growth; and

(14) By authorizing for up to ten years of delay in emission standards for certain primary non-ferrous smelters.

D. RESTRICTING FEDERAL LAND USE AUTHORITY

The Committee bill restricts Federal land use authority in the following ways:

(1) In the "significant deterioration" provision, the States alone are responsible for defining area boundaries;

(2) In that provision, except for existing large national parks and national wilderness areas, the States have discretion to make air quality classification over all Federal and non-Federal areas;

(3) The Federal land manager veto authority over State classification of air quality over Federal lands that is contained in current EPA regulations is repealed;

(4) The EPA veto authority over State classification of air quality over State and private areas that is contained in current EPA regulations is repealed;

(5) The Administrator is expressly prohibited from imposing (or requiring States to impose) any uniform or automatic no growth buffer zones;

(6) In the "indirect source" provision, the authority of the Administrator to require indirect source reviews is suspended for 38 months and is sharply curtailed thereafter;

(7) In section 201 of the bill, the Administrator's express authority to require States to include "land use" measures in State plans is expressly deleted, in light of the concern raised about whether such broad undefined powers should be available to the Administrator;

(8) In the transportation control section, the Federal authority to require "parking management" measures is also suspended for 38 months and made subject to the same restrictions as "indirect source" measures; and

(9) In section 301, the bill returns to States the right to redesignate air quality regional boundaries, which was repealed in the 1970 Act.

BLESSED SACRAMENT 50TH ANNIVERSARY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. PRICE) is recognized for 5 minutes.

Mr. PRICE. Mr. Speaker, on Sunday May 16 Blessed Sacrament Parish celebrated its 50th anniversary of the parish's founding. The only parish in all the Belleville diocese dedicated to the Blessed Sacrament has expanded in half a century from serving 80 parish families to over 600 current families. I am positive that the Golden Jubilee Mass that day with Bishop Albert R. Zuroweste and former associate pastors of the parish as concelebrants was a joyous celebration for all. The parish's harmony and close friendships that have developed during these many years is a beautiful attribute of the church.

Although physically the growth of the parish has stabilized, the concern and generosity of the parish members extends far beyond their community. This is seen in the quick response to the Guatemalan earthquake and the many other worldly needs.

Blessed Sacrament's success in offering a gathering place for a spiritually active community is primarily due to the exceptional ability and administration of its excellent pastors. The late Most Reverend Henry Althoff, D.D., bishop of Belleville, founded the parish and appointed the pastors. In 1926 Rev. Joseph Mueller was appointed pastor. Under his leadership the parish was secured and ready for a promising and growing future. Reverend Mueller was then appointed rector of the cathedral in 1930. His good work was continued by Rev. Louis Ell, pastor for 41 prosperous years until his retirement in 1971. Reverend Ell erected a convent and elementary school staffed by the School Sisters of Notre Dame. He was succeeded by Msgr. Charles Nebel, the current pastor, who has added a new flavor to the parish making it one of the finest in the diocese of Belleville.

This grand anniversary in conjunction with the Nation's Bicentennial marks a year of social and spiritual harmony for this active community, and can only aid the parish in attaining its future goals and aspirations.

To Monsignor Nebel, to all the clergy who have served at Blessed Sacrament and especially to all the parishioners past and present, I extend my congratulations and best wishes for continued success.

"COAL SLURRY PIPELINE—7"; SHOULD A STUDY BY THE OFFICE OF TECHNOLOGY ASSESSMENT PRECEDE CONGRESSIONAL ACTION ON A SLURRY PIPELINE BILL?

(Mr. SKUBITZ asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SKUBITZ. Mr. Speaker, beginning with May 26, 1976, I have called attention to the House of a bill, H.R. 1863, the coal slurry pipeline bill, which is now pending before the House Interior Committee. This bill would grant Federal powers of eminent domain to the slurry pipelines.

On May 26, I discussed the question of eminent domain, which can be found on page 15521 of the RECORD. On May 27, I discussed the fact that this is transportation legislation, not energy legislation, this can be found on page 15878, June 1, I spoke on the railroad's capability of handling the increased coal production, this is on page 16078. June 2, I spoke of the threat that slurry lines offer to the survival of this country's railroad industry, this can be found on page 16246. In June 4, I spoke of the railroad industries innovative rail hauling of coal, this is on page 16740. Yesterday, I spoke of the slurry pipeline lobby, which is on page 16805.

Proponents of this legislation are saying that a proposed study of coal slurry pipelines by the Office of Technology Assessment—a study requested by a number of Representatives and Senators—is not necessary. They are saying that a number of studies have already been done.

However, the OTA staff, in proposing to do a study of its own, came to the conclusion that the existing data are incomplete and without thorough documentation and that virtually all the existing studies are tainted by bias.

An examination of recent history with regard to this subject certainly upholds this conclusion.

I have already mentioned the incident in which the Bechtel Corp. was able to obtain a Government contract for a study that involved comparisons of coal transportation modes—but that is only one example.

During the Interior Committee's hearings, John M. Huneke, a vice president of Energy Transportation Systems, Inc., quoted from a study called "U.S. Energy Prospects—An Engineering Viewpoint," done by the National Academy of Engineering.

That study concluded, among other thngs that the construction of coal slurry pipelines would be a necessity. A look at appendix A however, reveals that the chairman of the task force which produced it is a vice president of the Bechtel Corp.—which, you will recall, is part owner of ETSI.

The Bureau of Mines Information Circular 8690, from which I quoted in an earlier statement, makes use of a wide variety of references. But the comparisons of transport costs used—which favor pipelines—come from magazine articles written by E. J. Wasp, vice president of ETSI, and his associates.

Traffic World, a magazine of some repute in the transportation industry, recently reported on a new study, done by Ebasco Services, Inc. That study was extremely favorable to coal slurry pipelines.

An examination of the annual report of the Halliburton Co. reveals that that company owns Ebasco. Halliburton also owns Brown & Root, a firm which wants to build one of the planned slurry pipelines. Further, one member of the Halliburton Board of Directors is an officer of Lehman Bros. Another member is the chief executive officer of Brown & Root.

There is, by the way, an antitrust suit pending to force divestiture of Ebasco, and a restraining order requires that Ebasco be operated as a separate company.

So far, I have talked about studies favorable to the pipeline proponents. But what happens when a study comes along that is less favorable? The answer can be found in a series of articles by Washington Star Reporter Steve Aug, to which I alluded yesterday.

A study called, The Coal Future, was done by the University of Illinois Center for Advanced Computation for the National Science Foundation. That study "reflected unfavorably on the economics of coal slurry pipelines," in the words of Mr. Aug.

In a story headlined, "Pressure by Bechtel Lawyer Shifts Scholar's Coal View"—which is a part of the hearing record—it was reported that a law firm representing Bechtel persuaded the National Science Foundation to require a disclaimer on the report.

In addition, the opportunity was obtained for a consulting firm hired by the Bechtel law firm to write a rebuttal to the original study.

The result—which no doubt is considered valuable—is that, during the hearings a witness, Floyd Lewis, president of Middle South Utilities, was able to tell the Interior Committee that the report was not endorsed by the National Science Foundation and that it is not a valid study.

The precise colloquy, from the hearing record, is thus:

> Mr. Lewis. Based on the advice that has come to me, yes. I do not believe that a study done by a professor in Illinois, as I recall, is a valid study. I think it has errors in it.
>
> Mr. Santini. What are those errors?
>
> Mr. Lewis. I cannot tell you. I am not personally technically competent in that area.
>
> Mr. Santini. Well, I am not personaly technically competent in that area, either. And, unlike Mr. Lewis, I am not prepared to label any study invalid just because I don't agree with the findings. However, if I had to choose between a study written by a professor in Illinois working under a grant from an independent organization and a study—or even several studies—written by employees of a firm with a financial interest in the results, I know which one would be my first choice.

All this only points up to the need for a truly independent, truly unassailable study. And such a study has been proposed by the staff of the Office of Technology Assessment.

But, suddenly, the pipeline proponents don't seem to want a study.

According to a story in the May 18 edition of the Wall Street Journal, and I quote:

> Pipeline backers are telling the Office to forget the proposed study. They say there's been plenty of studying already.

That story also notes "intense lobbying by the slurry pipeline interest" which it says upset some at OTA.

How successful was this lobbying? I only know that a May 18 meeting of the OTA board to vote on the proposal was canceled. It was eventually rescheduled for May 27, then postponed until June 2. The June 2 meeting was held, but a vote on the proposal was postponed.

The study proposed by the OTA staff would address itself to a great number of questions which I believe to be vital to proper consideration of this legislation.

I do not believe the Interior Committee, or any committee, or the Congress, should act without the benefit of such a study.

I do not believe that this study should be permitted to be derailed by a consortium of special interests.

WORLD HEALTH ORGANIZATION REFUSED TO CONSIDER REPORT ON ISRAEL-OCCUPIED TERRITORIES

(Mr. MIKVA asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. MIKVA. Mr. Speaker, I deplore the recent refusal of the World Health Organization to consider an expert committee's report that health services in Israeli-occupied Arab territories have shown "slow but steady" improvement since the 1967 war. It appears that yet another U.N. body was opted to abandon objectivity and to adopt the anti-Israeli position already exhibited by other UN agencies.

The three-man committee of health experts—two of whom were from countries with no diplomatic relations with Israel—did a thorough job in examining health conditions in the Israeli-administered areas and submitted a report favorable to Israel. But, the annual assembly of the World Health Organization, bowing to pressure from the Arab states, voted 65 to 18, with 14 abstentions to refuse to accept the report, seemingly because it did not carry the message the Assembly wanted to hear.

When the U.N. was established, many of us had high hopes that it would be a forum where all countries could air their views and their differences. The recent action by WHO, now dominated by highly vocal developing countries, serves only to remind us that the U.N. is far from achieving that goal.

Mr. Speaker, I include at this point an abridged version of the report the delegates of the World Health Organization refused to consider.

Health Assistance to Refugees and Displaced Persons in the Middle East

(Report of the Special Committee of Experts appointed to study the health conditions of the inhabitants of the occupied territories)

At its 1973 session the World Health Assembly established a special committee of experts appointed by three Member States to be chosen by the Executive Board. The Board made this choice and the following experts were appointed by their respective countries:

Dr. Traian Ionescu, Chief, Epidemiological Service of the City of Bucharest, Romania;

Dr. Moeljono S. Trastotenojo, Chief, Department of Child Health, Faculty of Medicine, Diponegoro University, Semarang, Indonesia—later replaced by Dr. Wirjawan Djojosugito, Chief, Centre for Education and Training, Ministry of Health, Jakarta, Indonesia;

Dr. Ibrahima Wone, Technical Adviser, Ministry of Public Health, Senegal.

The Committee appointed Dr. Wone as Chairman.

The Committee considered that its principal task was to make an on-the-spot survey of the indigenous inhabitants of the occupied territories. It felt that it had a duty to visit such countries as had part of their territories occupied or which had given refuge to people who had left their homes in the occupied territories following the hostilities.

It twice visited the four Arab countries, Egypt, Jordan, Lebanon and the Syrian Arab Republic. The Committee's two reports on these visits have been submitted to the Assembly, which examined them at its Twenty-seventh and Twenty-eighth sessions (Doc. A27/22 and Doc. A28/20).

Deploring Israel's refusal to cooperate with the Committee the Assembly twice requested the Committee to continue its task and called upon the Government concerned to cooperate and to accord it free movement within the occupied territories. The Assembly urged the Special Committee "to continue its efforts in the accomplishment of its mandate and to report to the Twenty-ninth World Health Assembly".

On the very day resolution WHA28.35 was adopted by the Assembly, the Chairman of the Special Committee sent a letter to the Minister of Health of the Government of Israel requesting him to grant the Committee every facility to carry out the task laid upon it by the Assembly. The Director-General of the Health of Israel on 23 September 1975 sent a letter to the Chairman of the Special Committee expressing his readiness to meet him. This meeting took place in Geneva on 30 and 31 October 1975, after which the Special Committee met on 10 and 11 November. The Committee decided that it could only fulfill its mandate if its three members were authorized to visit the territories and study the health conditions of their inhabitants. On 11 November the Chairman of the Committee wrote to the Minister of Health to state the conclusions reached by the Committee and to request once again that the three members of the Committee be accorded the necessary facilities to carry out their mandate. The three members of the Committee received an invitation from the Government concerned and visited the occupied territories in March, April and May 1976.

PLACES VISITED

During this period visits were made to:

(1) The west bank of the Jordan.

(2) The Golan Heights.

(3) Gaza Strip.

(4) Sinai.

OBSERVATIONS

The Committee decided its main objective should be first to evaluate the work of the medical services and to analyse:

(i) the development of the infrastructure.

(ii) the development and training of personnel.

(iii) the number and type of services offered, including their evolution in quality.

(iv) the supply of drugs, instruments and medical apparatus.

(v) aspects relating to the medical assistance given by the public health services.

The Committee attempted to assess the state of health of the population by means of the morbidity figures recorded or reported as a result of the above activities. The state of health of a population is primarily determined by the overall environment in which it is living.

The Committee was led to take account of the repercussions the state of occupation could have on the level of health of the occupied population and on the medical assistance provided to it.

The information obtained was gathered in the course of discussion with hospital directors and their staffs, and with doctors, pharmacists, nurses, etc., from a perusal of the documents made available to the members of the Committee and by direct observation.

The programme of the visit was set by the Israeli Government. A number of changes were made at the last minute for security reasons. The members of the Committee had the opportunity of making changes to the original programme.

CONCLUSIONS DRAWN FROM THE VISIT

(i) *Evolution of the infrastructure.* The Government hospitals, which were the only ones visited although assistance is also given by a certain number of private hospitals, have not increased in number during the period 1967–1975. During that interval there has been a redistribution of beds as well as the creation of new departments. As part of the study, visits were made on the west bank of the Jordan to new departments (paediatrics, nephrology, gynaecology) set up in the Ramallah and Naplouse hospitals, the new Naplouse Regional Hospital which will be the most modern hospital in the region, as well as to the new departments (orthopaedics and internal medicine) created in the Jericho and Beit Jala Hospitals—in the Gaza region, to the orthopaedic departments in the Khan Yunis Hospital, the paediatric ones in the Nassar Hospital, and the Rimal Central Laboratory and Oncology Clinic.

(ii) *Evolution and training of personnel.*—The statistical data examined as well as discussions with local bodies, show that both in the Gaza region and on the west bank of the Jordan, the number of physicians and nursing personnel increased during the period 1967–1975. On the west bank of the Jordan the number of specialists in the governmental and non-governmental sectors rose from 40 in 1967 to 78 in 1975, while the number of general practitioners increased over the same period from 109 to 298. The number of registered nurses, which was 188 in 1967, reached 240 by the end of 1975.

Discussions with the Principal of the Ibn Sina Nursing School, in Ramallah, revealed that there is a plan for the development and training of nurses during the next five years which is encountering great difficulties connected with the lack of suitable buildings, instructors and the obsolete nature of the teaching equipment. Nowadays young people are no longer attracted to this type of activity and tend to enter better paid occupations.

In 1975, the Nursing Schools in Gaza and on the west bank trained 184 practical nurses, 18 of whom have had additional public health training, 32 registered nurses and 20 registered midwives.

(iii) *Services offered.*—The medical assistance given by the hospital has increased the range of services offered to the population through the addition of new departments. Para-medical examinations have improved. The creation of the Rimal Central Laboratory (Gaza) has considerably raised the quality of medical assistance. The same cannot be said of the west bank, where small laboratories working in the hospitals cannot cope with requirements from the qualitative viewpoint, while the Ramallah Government Laboratory is unable to satisfy the demands made on it quantitatively.

The members of the Committee were able to appreciate the high level of medical assistance given by the Hospitals in Ramallah (nephrology and surgery), Jericho (orthopaedics) and Gaza (Nassar Hospital for Pediatrics and Rimal Hospital for Oncology).

In the case of very specialized operations or treatment, many patients in the occupied territories received medical care in Israel.

It must be stressed that patients are required to pay 7 to 20 pounds per day, according to the region. This new measure in the Gaza territory has considerably reduced the number of admissions.

(iv) *Supply of drugs, instruments and medical equipment.*—The supply of drugs to hospital units takes place in accordance with a list established by the Ministry of Health. The drugs in this list are found in the hospital pharmacies as well as in central depots. Gaps in drug supply were reported in Ramallah, due to the temporary absence of the pharmacist and to administrative negligence. The members of the Committee found in the latter hospital that the drugs which were lacking in the departments were in the central depot and had not been supplied because they had not been asked for. The hospital personnel reported a lack of incubators in the children's department, although the members of the Committee found that there were 10 quite new incubators in the depot.

In the Beit Jala and Jericho Hospitals, where the director is paying special attention to the problem, the supply situation is excellent. In all the west bank hospitals the definite absence of certain antibiotics must be mentioned.

The Rimal Central Laboratory has the most modern and efficient equipment. While the equipment in the laboratories of the Ramallah, Naplouse, Beit Jala and Jericho Hospitals as well as in the Ramallah Public Health Laboratory is not put to proper use because of its dispersion. The concentration already started in Naplouse would also seem advisable for the artificial kidney units available in various hospitals.

CONCLUSIONS

1. Although the number of hospitals and hospital beds has not appreciably increased during the period 1967-1975, the reorganization of departments within the hospitals and the creation of new departments (orthopaedics, nephrology, gynaecology, paediatrics, oncology) as well as of central medical analysis and radiology laboratories, is a step forward in the improvement of medical care.

2. Efforts have been made to train nurses but it appears that inadequacies will persist for a long time.

3. The quality and number of medical services offered to the population have improved over the course of the years and some of them are on a high technical level.

4. Drug supply is acceptable, apart from antibiotics.

5. The supply of instruments and medical equipment covers basic needs.

6. The difficulties, gaps in supply and certain deficiencies are largely of administrative origin and can be resolved at the local level.

7. The insufficiency of various drugs or items of equipment is accentuated by certain practitioners who want to use the latest drugs and the most up-to-date equipment.

8. A few technical and administrative measures would help to improve medical assistance still further, namely:

Study of personnel requirements in relation to plans for development of hospital departments or public health services, in accordance with the generally accepted standards;

determination of a proper balance between the training of registered nurses and auxiliary nurses both for hospital and laboratory requirements;

determination of requirements in the various medical specialities in relation to the morbidity of the population;

further training of physicians and improvement of their information, either by organization of a post-graduate refresher course system or by various practical training courses in the large hospitals;

concentration of personnel and equipment in one or two central laboratories. The same should apply to radiology laboratories. In this connexion it might well be of value to bring about fusion of the public health laboratory and the central laboratory of the regional hospital.

II. PUBLIC HEALTH SERVICES

1. During 1967-1975, the number of dispensaries, infirmaries and maternal and child health care centres increased in the Gaza and west bank regions. One of the most modern health centres we visited was opened in 1974 at Salfit. On the Golan Heights, rural dispensaries and infirmaries have been set up at Rajar, Ein Kinya, Massada, and Majdal Shams.

In the Sinai desert we visited, on the east coast, the dispensaries of Ofira, the Wadi Kide and Dahab health stations and the Nueba dispensary; in the centre of Sinai, the Santa Catherina dispensary and the Tarfac and Firan health posts; and in the north, the Shaikh Zwayed and Bir Lahfan dispensaries. At Ofira, Santa Catherina and Firan, new buildings for the dispensaries are in the course of construction.

2. The equipment varies according to whether the unit in question is a health centre, a dispensary or a health post. The Salfit and Ofira health centres and the Nueba and Santa Catherina dispensaries are very well equipped. The Ofira and Canta Catherna dispensaries have modern, well equipped dental surgeries. The health posts are less well equipped: a table, a medicine cupboard and everyday instruments.

The Ofira health centre and the Santa Catherina dispensary have a microscope and haemoglobinometers for this purpose and have microtests available as a guide to diagnosis. The Ofira health centre possesses a portable electrocardiograph, and there is a registered nurse who knows how to carry out laboratory examinations using these microtests. He knows how to take and interpret electrocardiograms.

All the health posts and dispensaries we visited in Sinai had adequate quantities of disposable syringes.

The supply of drugs is satisfactory. Each health centre or large dispensary has a pharmacy, and the dispensaries and health posts have medicine cupboards. The Ofira pharmacy store and the medicine cupboards of the Golan dispensaries contain adequate stocks of antibiotics as well as such specialized drugs as Butazolidine, Atarax, etc. The medicine cupboards of health posts employing non-qualified nurses contain only the drugs required for the symptomatic treatment needed in first aid, dressings and disinfectants.

3. The medical and nursing personnel working in the public health services has increased in numbers. The rural health posts and dispensaries are normally run by a non-qualified nurse who lives in the village, and are visited from one to three times a week by a physician, as for example at Essawyeh, Rajar, Massada and Ein Kinya. In some other dispensaries the situation is different. They are visited once a week by a qualified nurse for adults, and by a maternal and child health care nurse. The Majdal Shams dispensary receives regular visits from a general practitioner and a paediatrician.

4. Curative and preventive activities were often divorced from one another, with the latter frequently entailing long journeys.

5. We found that all the health centres were making efforts to perform vaccinations. Vaccination coverage rates for children up to the age of one year are as follows: BCG: 60–74 percent; diphtheria-tetanus-pertussis: 75–90 percent; complete poliomyelitis vaccination: 60 percent. The paediatric team at the Nassar hospital (Gaza) has succeeded in raising the coverage rate very considerably—in the case of BCG, for example, it has reached almost 100 percent.

CONCLUSIONS

1. During the period 1967–1975, a considerable number of health centres, dispensaries and health posts having been set up in all the regions visited.

2. Although there has been some progress in the field of training, especially of nursing staff, there is still a shortage of qualified personnel.

3. The divorce between curative and preventive activities, is not practical, in view of the shortage of personnel and of means of transport.

4. The failure to concentrate the activity of a number of dispensaries into a single well-developed unit in zones of high population density means that qualified personnel and auxiliaries are used uneconomically.

5. In the opinion of the Committee, a study should be made of:

The development outlook for public health services and their tasks;

The possibility of concentrating health assistance to several villages in a single dispensary.

The amalgamation of curative and preventive activities in the large dispensaries responsible for the medical care of a population of 4000–7000 persons;

The need for the public health assistance given to the population to come under a regional hospital with a view to the supervision of curative activities and under a health centre for purposes of coordination of preventive activities;

The number of physicians, qualified nursing staff, auxiliaries, etc. needed in relation to the size of the population covered;

The opening of nursing schools for public health workers, stressing preventive instruction.

III. MORBIDITY

The prevalence of communicable diseases has fallen; the various types of dysentery, salmonellosis, food poisoning and viral hepatitis still pose certain problems. Scarlet fever and streptococcal infections claim the attention of the public health authorities, as does poliomyelitis.

Particular attention is paid to tuberculosis and a major case-finding campaign has taken place throughout the Sinai peninsula, following up by annual X-ray checks and microbiological and clinical checks on the cases detected.

The pathology of other diseases is that normally encountered, with some special features among the Bedouins who show a high incidence of urinary infections, infected wounds, respiratory infections, anaemia, renal lithiasis and conjunctivitis.

Among patients sent for treatment in Israel, the most frequent ailments are tumours, osteo-muscular diseases, respiratory and cardiovascular diseases and cases requiring radiotherapy.

At the psychiatric hospital at Bethlehem many of the beds in the hospital are still occupied by chronic patients who have been there for 20 or 30 years, and by habitual patients, schizophrenics, drug addicts, etc. Among the out-patients there is a considerable proportion of persons suffering from some form of neurotic ailment.

GENERAL CONCLUSIONS

1. Curative and prophylactic medical assistance has improved.

2. Morbidity due to communicable diseases has decreased; general morbidity appears to be higher or lower, simpler or more complex, depending on the qualifications of the health personnel making the diagnosis and the additional means of investigation.

3. There should be a study of the morbidity of the population with a view to establishing a development plan for health units and grading them according to their level of activities, and also with a view to determining the type of specialists and the number of personnel at all levels that will be needed over the next few years.

4. Studies are needed in order to determine the best type of health unit to provide ambulatory, curative and preventive medical care in urban and rural areas.

5. In spite of the efforts made to train nursing personnel, this is still inadequate, both numerically and in terms of quality.

6. The apparent or real deficiencies in the supply of drugs, instruments or equipment can largely be corrected by an improvement in the work of the local health administration.

7. The organization of a system of postgraduate training and information for physicians is essential if the level of curative and preventive medical assistance is to be raised.

8. If residents and junior physicians were given contracts, this would do a great deal to encourage them to continue to work in the same place.

9. If the level of medical assistance is to be raised, it is essential that local bodies should be consulted and have a right of decision when priorities are being decided both with regard to the development of their own health services and with regard to budgetary questions.

All that has been said above is based on technical and material data that can be readily perceived: but the Committee has not lost sight of the fact that occupied territories are involved—in other words, territories living under abnormal, and necessarily trying, conditions. It is firmly convinced that this state of affairs cannot possibly guarantee the possession of that "state of complete physical, mental and social well-being" to which every people and every individual can legitimately aspire, in conformity with the Constitution of the World Health Organization.

Dr. Ibrahima Wone, *Chairman.*
Dr. Traian Ionescu.
Dr. Wirjawan Djojosugito.

BOB NORDSKOG, A TRUE AMERICAN

(Mr. GOLDWATER asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. GOLDWATER. Mr. Speaker, as we celebrate this Nation's Bicentennial, I believe it fitting that we pay tribute to those who have contributed so much to all that is worthwhile in our system of private enterprise. Today I would like to pay tribute to one such individual, and industry, located in the San Fernando Valley in Metropolitan Los Angeles.

Robert A. "Bob" Nordskog founded Nordskog Industries in the fall of 1951, when his one employee was also his landlord, and the company with a few simple machines and tools was located in a quonset hut.

By 1955, his company had become the leader in the airborne galley field; a position it still occupies some 21 years later. The difference is that now the company employs more than 500 people; is housed in nine plants built on approximately 12 acres; and is part and parcel of the economy of the San Fernando Valley. Not a man of limited vision, Bob Nordskog expanded his product line to include Nordco Products, which manufactures ground support vehicles for airlines and others; Nordco Publishing; Nordskog International; and Nordskog Marine. He also founded the Nordskog Competition Center, which is involved in all forms of boat racing, advanced engine design and manufacture, and new product development for boat and auto use. Bob himself is a world champion boat racer, and still competes.

Along with the major role Nordskog Industries plays in today's aircraft industry, Bob and his employees have never lost sight of their responsibility to the community.

Some 17 years ago, Bob became involved with the San Rafael Guide Dogs for the Blind and during those years his companies have donated in excess of $60,000 to help train and supply guide dogs. The company is also heavily involved in the youth of the community and nine years ago the Nordskog High School was established. Nordskog Industries, in cooperation with the LA Unified School District has held classes every Saturday morning for high school students in various areas of the industrial arts.

At the bottom line, however, is the obvious fact that Bob Nordskog's cornerstone in this effort over the years has been a deep and abiding faith in God, and in the individual worth of every man and woman. In the United States, that is what the Bicentennial is all about.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. Roncalio (at the request of Mr. O'Neill), for June 8 through June 12, on account of official business.

Mr. Jeffords (at the request of Mr. Rhodes), for today, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Harris) and to include extraneous material:)

Mr. Gonzalez, for 5 minutes, today.
Mr. Annunzio, for 5 minutes, today.
Mr. Cotter, for 5 minutes, today.
Mr. Moss, for 5 minutes, today.
Mr. Metcalfe, for 15 minutes, today.

Mr. ADAMS, for 5 minutes, today.
Mr. O'NEILL, for 5 minutes, today.
Mr. PREYER, for 10 minutes, today.
Mr. PRICE, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. EMERY) and to include extraneous matter:)

Mr. BROOMFIELD.
Mr. SARASIN in two instances.
Mrs. PETTIS.
Mr. WINN.
Mr. FINDLEY in two instances.
Mr. LOTT.
Mrs. FENWICK.
Mr. GRASSLEY.
Mr. WIGGINS.
Mr. KETCHUM.
Mr. COHEN.
Mr. DERWINSKI in four instances.
Mr. HAGEDORN.
Mr. SNYDER.
Mr. COLLINS of Texas.
Mr. GOLDWATER.

(The following Members (at the request of Mr. HARRIS), and to include extraneous material:)

Mr. ANDERSON of California in three instances.
Mr. GONZALEZ in three instances.
Mr. MOTTL.
Mr. ROSENTHAL.
Mr. WAXMAN in three instances.
Mr. AMBRO in two instances.
Mr. DE LUGO.
Mr. VANIK in three instances.
Mr. HAWKINS.
Mr. BINGHAM in five instances.
Mr. OBEY.
Mr. D'AMOURS.
Mr. MCDONALD in five instances.
Ms. ABZUG in two instances.
Mr. MURPHY of Illinois.
Mr. ROYBAL.
Mr. MURTHA.
Mr. WIRTH.
Mr. JONES of Oklahoma.
Mr. LAFALCE.
Mr. VANDER VEEN.
Mr. RANGEL.
Mr. MEZVINSKY.
Mr. ROE.
Mr. PATTEN.

ENROLLED JOINT RESOLUTION SIGNED

Mr. HAYS of Ohio, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a joint resolution of the House of the following title, which was thereupon signed by the Speaker:

H.J. Res. 92. Joint resolution relating to the publication of economic and social statistics for Americans of Spanish origin or descent.

SENATE ENROLLED BILL AND JOINT RESOLUTION SIGNED

The SPEAKER announced his signature to an enrolled bill and a joint resolution of the Senate of the following titles:

S. 532. An act to authorize the Secretary of Agriculture to amend retroactively regulations of the Department of Agriculture pertaining to the computation of price support payments under the National Wool Act of 1954 in order to insure the equitable treatment of ranchers and farmers.

S. 3187. An act to extend the authorization of appropriations for the National Commission on New Technological Uses of Copyrighted Works to be coextensive with the life of such Commission; and

S.J. Res. 168. A joint resolution to provide for the reappointment of James E. Webb as a citizen regent of the Board of Regents of the Smithsonian Institution.

ADJOURNMENT

Mr. HARRIS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 3 o'clock and 22 minutes p.m.), under its previous order, the House adjourned until tomorrow, Wednesday, June 9, 1976, at 10 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3441. A letter from the President of the United States, transmitting a proposed supplemental appropriation for the transition quarter to liquidate contract authority for the Environmental Protection Agency (H. Doc. No. 94-518); to the Committee on Appropriations and ordered to be printed.

3442. A letter from the Director, Office of Regulatory Review, Department of Health, Education, and Welfare, transmitting a proposed final regulation amending the Family Contribution Schedule for use during the 1976–77 academic year under the basic educational opportunity grant program, pursuant to section 431(d)(1) of the General Education Provisions Act, as amended; to the Committee on Education and Labor.

3443. A letter from the Administrator, Federal Energy Administration, transmitting a report on reimbursements made to the States for carrying out responsibilities under the Emergency Petroleum Allocation Act, pursuant to section 19(c) of the act (89 Stat. 955); to the Committee on Interstate and Foreign Commerce.

3444. A letter from the Chairman, Securities and Exchange Commission, transmitting the fifth annual report of the Securities Investor Protection Corporation, covering calendar year 1975, pursuant to section 7(c)(2) of the Securities Investor Protection Act of 1970; to the Committee on Interstate and Foreign Commerce.

3445. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting reports concerning visa petitions approved according certain beneficiaries third and sixth preference classification, pursuant to section 204(d) of the Immigration and Nationality Act, as amended [8 U.S.C. 1154(d)]; to the Committee on the Judiciary.

3446. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting a copy of the order entered in the case of Paul Sanon under the authority contained in section 13(b) of the act of September 11, 1957, pursuant to section 13(c) of the act [8 U.S.C. 1255b(c)]; to the Committee on the Judiciary.

3447. A letter from the Assistant Secretary of the Army (Civil Works), transmitting a letter from the Chief of Engineers, Department of the Army, submitting a report on Saw Mill River at Ardsley, N.Y. (H. Doc. No. 94–519); to the Committee on Public Works and Transportation and ordered to be printed with illustrations.

3448. A letter from the Assistant Secretary of the Army (Civil Works), transmitting a letter from the Chief of Engineers, Department of the Army, submitting a report on Savannah Harbor, Ga. (H. Doc. No. 94–520); to the Committee on Public Works and Transportation and ordered to be printed with illustrations.

3449. A letter from the Acting Chairman, Civil Aeronautics Board, transmitting a report covering calendar year 1975 on actions taken under the International Air Transportation Fair Competitive Practices Act of 1974, pursuant to section 2(c) of the act (Public Law 93–623); to the Committee on Public Works and Transportation.

3450. A letter from the Deputy Administrator of Veterans' Affairs, transmitting a report covering calendar year 1975 on cases in which equitable relief was granted, pursuant to 38 U.S.C. 210(c); to the Committee on Veterans' Affairs.

RECEIVED FROM THE COMPTROLLER GENERAL

3451. A letter from the Comptroller General of the United States, transmitting a report on the Department of the Air Force's Strategic Airlift Capabilities, planned increases, and other programs to further expand airlift capability; jointly, to the Committees on Government Operations, and Armed Services.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HALEY: Committee on Interior and Insular Affairs. Supplemental report on H.R. 2525. A bill to implement the Federal responsibility for the care and education of the Indian people by improving the services and facilities of Federal Indian health programs and encouraging maximum participation of Indians in such programs, and for other purposes (Rept. No. 94–1026, Pt. IV). Referred to the Committee of the Whole House on the State of the Union.

Mr. FOLEY: Committee on Agriculture. Supplemental report on H.R. 11743. A bill to establish a National Agricultural Research Policy Committee, and for other purposes (Rept. No. 94–1172, Pt. II). Referred to the Committee of the Whole House on the State of the Union.

Mr. YATES: Committee on Appropriations. H.R. 14231. A bill making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1977, and for other purposes (Rept. No. 94–1218). Referred to the Committee of the Whole House on the State of the Union.

Mr. FLOOD: Committee on Appropriations. H.R. 14232. A bill making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending September 30, 1977, and for other purposes (Rept. No. 94–1219). Referred to the Committee of the Whole House on the State of the Union.

Mr. BOLAND: Committee on Appropriations. H.R. 14233. A bill making appropriations for the Department of Housing and Urban Development, and for sundry independent executive agencies, boards, bureaus, commissions, corporations, and offices for the fiscal year ending September 30, 1977, and for other purposes (Rept. No. 94–1220). Referred to the Committee of the Whole House on the State of the Union.

Mr. McFALL: Committee on Appropriations. H.R. 14234. A bill making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1977, and for other purposes (Rept No. 94–1221). Referred to the Committee of the Whole House on the State of the Union.

Mr. SIKES: Committee on Appropriations. H.R. 14235. A bill making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1977, and for other purposes. (Rept. No. 94–1222). Referred to the Committee of the Whole House on the State of the Union.

Mr. EVINS of Tennessee: Committee on Appropriations. H.R. 14236. A bill making appropriations for public works for water and power development and energy research, including the Corps of Engineers—Civil, the Bureau of Reclamation, power agencies of the Department of the Interior, the Appalachian regional development programs, the Federal Power Commission, the Tennessee Valley Authority, the Nuclear Regulatory Commission, the Energy Research and Development Administration, and related independent agencies and commissions for the fiscal year ending September 30, 1977, and for other purposes. (Rept. No. 94–1223). Referred to the Committee of the Whole House on the State of the Union.

Mr. WHITTEN: Committee on Appropriations. H.R. 14237. A bill making appropriations for Agriculture and Related Agencies programs for the fiscal year ending September 30, 1977, and for other purposes. (Rept. No. 94–1224). Referred to the Committee of the Whole House on the State of the Union.

Mr. SHIPLEY: Committee on Appropriations. H.R. 14238. A bill making appropriations for the legislative branch for the fiscal year ending September 30, 1977, and for other purposes. (Rept. No. 94–1225). Referred to the Committee of the Whole House on the State of the Union.

Mr. SLACK. Committee on Appropriations. H.R. 14239. A bill making appropriations for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies for the fiscal year ending September 30, 1977, and for other purposes. (Rept. No. 94–1226). Referred to the Committee of the Whole House on the State of the Union.

Mr. PRICE: Committee on Armed Services. Report on allocation of budget authority and outlays by major programs (Rept. No. 94–1227). Referred to the Committee of the Whole House on the State of the Union.

Mr. PASSMAN: Committee on Appropriations. H.R. 14260. A bill making appropriations for Foreign Assistance and related programs for the fiscal year ending September 30, 1977, and for other purposes. (Rept. No. 94–1228). Referred to the Committee of the Whole House on the State of the Union.

Mr. STEED: Committee on Appropriations. H.R. 14261. A bill making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1977, and for other purposes (Rept. No. 94–1229). Referred to the Committee on the Whole House on the State of the Union.

Mr. MAHON: Committee on Appropriations. H.R. 14262. A bill making appropriations for the Department of Defense for the fiscal year ending September 30, 1977, and for other purposes (Rept. No. 94–1231). Referred to the Committee of the Whole House on the State of the Union.

Mr. PERKINS: Committee on Education and Labor. H.R. 14070. A bill to extend and amend part B of title IV of the Higher Education Act of 1965, and for other purposes; with amendment (Rept. No. 94–1232). Referred to the Committee of the Whole House on the State of the Union.

Mr. PEPPER: Committee on Rules. House Resolution 1267. Resolution providing for the consideration of H.R. 2525. A bill to implement the Federal responsibility for the care and education of the Indian people by improving the services and facilities of Federal Indian health programs and encouraging maximum participation of Indians in such programs, and for other purposes (Rept. No. 94–1233). Referred to the House Calendar.

Mr. MURPHY of Illinois: Committee on Rules. House Resolution 1268. Resolution providing for the consideration of H.R. 11804. A bill to amend the Federal Railroad Safety Act of 1970 to authorize additional appropriations, and for other purposes (Rept. No. 94–1234). Referred to the House Calendar.

Mr. BOLLING: Committee on Rules. House Resolution 1269. Resolution providing for the consideration of H.R. 13367. A bill to extend and amend the State and Local Fiscal Assistance Act of 1972, and for other purposes (Rept. No. 94–1235). Referred to the House Calendar.

Mr. MURPHY of Illinois: Committee on Rules. House Resolution 1270. Resolution providing for the consideration of H.R. 13490. A bill authorizing appropriations for the 1980 Olympic winter games at Lake Placid, N.Y. (Rept. No. 94–1236). Referred to the House Calendar.

Mr. MURPHY of Illinois: Committee on Rules. House Resolution 1271. Resolution providing for the consideration of H.R. 13601. A bill to amend the Rail Passenger Service Act to authorize additional appropriations, and for other purposes (Rept. No. 94–1237). Referred to the House Calendar.

Mr. BOLLING: Committee on Rules. House Resolution 1260. Resolution to amend the Rules of the House of Representatives to allow all expenses of the Committee on Standards of Official Conduct to be obtained directly from the contingent fund of the House of Representatives upon vouchers signed by its chairman and ranking minority member; with amendment (Rept. No. 94–1238). Referred to the House Calendar.

Mr. BOLLING: Committee on Rules. House Resolution 1272. Resolution providing for the consideration of House Resolution 1260. Resolution to amend the Rules of the House of Representatives to allow all expenses of the Committee on Standards of Official Conduct to be obtained directly from the contingent fund of the House of Representatives upon vouchers signed by its chairman and ranking minority member (Rept. No. 94–1239). Referred to the House Calendar.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. H.R. 6684. A bill to amend the Federal Trade Commission Act to provide that exclusive territorial arrangements used in the distribution or sale of a trademarked soft drink product or a trademarked private label food product shall not be deemed unlawful per se; with amendment, and referred to the Committee on the Judiciary for a period ending not later than July 27, 1976, for consideration of such provisions of the bill as fall within the jurisdiction of the committee under rule X clause 1(m) (Rept. No. 94–1230, Pt. I). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. YATES:

H.R. 14231. A bill making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1977, and for other purposes.

By Mr. FLOOD:

H.R. 14232. A bill making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending September 30, 1977, and for other purposes.

By Mr. BOLAND:

H.R. 14233. A bill making appropriations for the Department of Housing and Urban Development, and for sundry independent executive agencies, boards, bureaus, commissions, corporations, and offices for the fiscal year ending September 30, 1977, and for other purposes.

By Mr. McFALL:

H.R. 14234. A bill making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1977, and for other purposes.

By Mr. SIKES:

H.R. 14235. A bill making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1977, and for other purposes.

By Mr. EVINS of Tennessee:

H.R. 14236. A bill making appropriations for public works for water and power development and energy research, including the Corps of Engineers—Civil, the Bureau of Reclamation, power agencies of the Department of the Interior, the Appalachian regional development programs, the Federal Power Commission, the Tennessee Valley Authority, the Nuclear Regulatory Commission, the Energy Research and Development Administration, and related independent agencies and commissions for the fiscal year ending September 30, 1977, and for other purposes.

By Mr. WHITTEN:

H.R. 14237. A bill making appropriations for Agriculture and Related Agencies programs for the fiscal year ending September 30, 1977, and for other purposes.

By Mr. SHIPLEY:

H.R. 14238. A bill making appropriations for the legislative branch for the fiscal year ending September 30, 1977, and for other purposes.

By Mr. SLACK:

H.R. 14239. A bill making appropriations for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies for the fiscal year ending September 30, 1977, and for other purposes.

By Mr. BOWEN:

H.R. 14240. A bill to reaffirm the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce; to grant additional authority to the Federal Communications Commission to authorize mergers of carriers when deemed to be in the public interest; to reaffirm the authority of the States to regulate terminal and station equipment used for telephone exchange service; to require the Federal Communications Commission to make certain findings in connection with Commission actions authorizing specialized carriers; and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. CLANCY:

H.R. 14241. A bill to amend the Federal Food, Drug, and Cosmetic Act to require that the identity of the manufacturer of a prescription drug appear on the label of the package from which the drug is to be dispensed; to the Committee on Interstate and Foreign Commerce.

By Mr. COLLINS of Texas:

H.R. 14242. A bill to amend the Small Business Investment Act of 1958, to change the title and duties of the Associate Administrator for Finance and Investment of the Small Business Administration, and for other purposes; to the Committee on Small Business.

By Mr. CRANE (for himself, Mr. STEIGER of Arizona, Mr. KINDNESS, Mr. SNYDER, Mr. ARCHER, Mr. SCHULZE, Mr. CONLAN, Mr. DON H. CLAUSEN, Mr. MCCOLLISTER, and Mr. STUCKEY):

H.R. 14243. A bill to provide that in civil actions where the United States is a plaintiff, a prevailing defendant may recover a reasonable attorney's fee and other reasonable litigation costs; to the Committee on the Judiciary.

By Mr. DICKINSON:

H.R. 14244. A bill to remove statutory limitations upon the application of the Sherman Act to labor organizations and their activities, and for other purposes; to the Committee on the Judiciary.

By Mr. FASCELL:

H.R. 14245. A bill to reaffirm the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce; to grant additional authority to the Federal Communications Commission to authorize mergers of carriers when deemed to be in the public interest; to reaffirm the authority of the States to regulate terminal and station equipment used for telephone exchange service; to require the Federal Communications Commission to make certain findings in connection with Commission actions authorizing specialized carriers; and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. FITHIAN:

H.R. 14246. A bill to terminate the authorization of the navigation study and survey of the Wabash River, Ind.; to the Committee on Public Works and Transportation.

By Mr. LEHMAN:

H.R. 14247. A bill to reaffirm the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce; to grant additional authority to the Federal Communications Commission to authorize mergers of carriers when deemed to be in the public interest; to reaffirm the authority of the States to regulate terminal and station equipment used for telephone exchange service; to require the Federal Communications Commission to make certain findings in connection with Commission actions authorizing specialized carriers; and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. MOAKLEY:

H.R. 14248. A bill to amend section 205 of the Federal Power Act in order to revise the procedure for establishing new schedules of rates, charges, classifications, or services; to the Committee on Interstate and Foreign Commerce.

By Mr. MOAKLEY (for himself, Mr. Drinan, Mr. Gude, Ms. Spellman, and Mr. White):

H.R. 14249. A bill to establish within the Energy Research and Development Administration a program of Federal grants to assist States in carrying out solar energy community utility programs; to the Committee on Banking, Currency and Housing.

By Mr. O'HARA:

H.R. 14250. A bill to revise the estate and gift tax laws of the United States; to the Committee on Ways and Means.

By Mr. PEPPER:

H.R. 14251. A bill to extend the provisions of section 4(c) of Public Law 93-483; to the Committee on Ways and Means.

By Mr. PICKLE:

H.R. 14252. A bill to amend the Internal Revenue Code of 1954 to revise the tax treatment of certain cooperative housing associations; to the Committee on Ways and Means.

By Mr. RISENHOOVER (for himself and Mr. Steed):

H.R. 14253. A bill to authorize the Secretary of the Interior to enter into an agreement with the Cherokee, Choctaw, and Chickasaw Indian Nations for the purchase or lease by the United States of each Nation's right and interests in the riverbed of the Arkansas River, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. SARASIN:

H.R. 14254. A bill to amend the Farm Labor Contractor Registration Act of 1963 as amended and for other purposes; to the Committee on Education and Labor.

By Mr. SIKES:

H.R. 14255. A bill to reaffirm the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce; to grant additional authority to the Federal Communications Commission to authorize mergers of carriers when deemed to be in the public interest; to reaffirm the authority of the States to regulate terminal and station equipment used for telephone exchange service; to require the Federal Communications Commission to make certain findings in connection with Commission actions authorizing specialized carriers; and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. STAGGERS (by request):

H.R. 14256. A bill to amend the Federal Food, Drug, and Cosmetic Act, and related provisions in other statutes, so as to improve the protection of the public health and safety in respect to foods, drugs, and cosmetics, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. STAGGERS (for himself and Mr. Devine) (by request):

H.R. 14257. A bill to amend title XIX of the Social Security Act to revise the payment reductions required in cases of inadequate uilization controls; to the Committee on Interstate and Foreign Commerce.

By Mr. PASSMAN:

H.R. 14260. A bill making appropriations for Foreign Assistance and related programs for the fiscal year ending September 30, 1977, and for other purposes.

By Mr. STEED:

H.R. 14261. A bill making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1977, and for other purposes.

By Mr. MAHON:

H.R. 14262. A bill making appropriations for the Department of Defense for the fiscal year ending September 30, 1977, and for other purposes.

By Mr. BIAGGI:

H.J. Res. 976. Joint resolution authorizing the President to proclaim September 8 of each year as National Cancer Day; to the Committee on Post Office and Civil Service.

By Mr. FISH (for himself, Mr. Gilman, and Mr. Ottinger):

H.J. Res. 977. Joint resolution designating the fourth Sunday in April of each year as Hudson River Day; to the Committee on Post Office and Civil Service.

By Mr. GUDE:

H.J. Res. 978. Joint resolution to recognize the 250th anniversary of the founding of the Christ Episcopal Church of Rockville, Md.; to the Committee on Post Office and Civil Service.

By Mr. MURPHY of New York:

H.J. Res. 979. Joint resolution to authorize and direct the Secretary of the Army, acting through the Chief of Engineers, to undertake dredging operations for Operation Sail; to the Committee on Public Works and Transportation.

By Mr. CONTE (for himself, Mr. Kazen, Mr. Roe, Mr. Simon, Mr. Fascell, Mr. Moakley, Mr. Corman, Mr. Beard of Rhode Island, Mr. Koch, Mr. Fraser, Mr. Hinshaw, Mr. Tsongas, Mr. Frenzel, Mr. Seiberling, Mr. Mitchell of Maryland, Mr. Gude, Mr. Riegle, Mr. Early, Mr. Danielson, Mr. Moffett, Mr. Roybal, Mr. Sarasin, Mr. Edwards of California, Ms. Meyner, and Ms. Chisholm):

H. Res. 1264. Resolution to provide assistance to Lebanon and appealing for a cease-fire; to the Committee on International Relations.

By Mr. RANDALL:

H. Res. 1265. Resolution to insure the quality and quantity of free broadcasting service not be impaired; to the Committee on Interstate and Foreign Commerce.

By Mr. THONE (for himself, Mr. Hayes of Indiana, and Mr. Litton):

H. Res. 1266. Resolution to insure that the quality and quantity of free broadcasting service not be impaired; to the Committee on Interstate and Foreign Commerce.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BIAGGI:

H.R. 14258. A bill for the relief of Peter Baglio; to the Committee on the Judiciary.

By Mr. MAGUIRE:

H.R. 14259. A bill for the relief of Daniel Page, June Rosemary Page, Debra Anne Page, Kerren Danae Page, and Natalie June Page; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

491. By the SPEAKER: Petition of the board of directors, Independent Bankers Association of Oklahoma, Oklahoma City, Okla., relative to the holder-in-due-course doctrine; to the Committee on Interstate and Foreign Commerce.

492. Also, petition of Kim Stribling, Hugo, Okla., relative to designating May 24 of each year as Teens' Day; to the Committee on Post Office and Civil Service.

AMENDMENTS

Under clause 6 of the rule XXIII, proposed amendments were submitted as follows:

H.R. 6218

By Mr. FISH:

On page 82, line 3, after "which", insert "he determines".

On page 82, lines 9 and 10, strike "all of the".

On page 83, line 14, and again on line 17, immediately before the semicolon, insert "which have been specifically identified by the Governors of such States as relevant matters for the Secretary's consideration;".

On page 83, line 22, after "has", insert "or is likely to have".

By Mr. WIGGINS:

On page 100, line 3, strike "behalf—" and all that follows down through page 101, line 12, and insert in lieu thereof the following: "behalf against any Federal official where there is alleged a failure of such official to perform any act or duty under this Act which is not discretionary, including the enforcement of any provision of this Act, any regulation promulgated under this Act and the terms of any lease or permit issued or maintained pursuant to this Act.

"(2) No action may be commenced under paragraph (1) of this subsection—

"(A) prior to sixty days after the plaintiff has given notice of such action in writing under oath, to the Federal official concerned, in such manner as such official shall by regulation prescribe, except that such action may be brought immediately after such notification in any case in which the failure to perform constitutes an imminent threat to the public health or safety or would immediately affect a legal interest of the plaintiff; or

"(B) if the failure to perform involves enforcement as described in paragraph (1), and (i) the Federal official concerned has commenced and is diligently pursuing an administrative remedy to accomplish such enforcement or (ii) such official or the Attorney General has commenced and is diligently prosecuting a civil action in a court of the United States with respect to such enforcement, but in any such action any person adversely affected or aggrieved may intervene as a matter of right."

On page 101, line 13, strike "(4)", and insert in lieu thereof "(3)".

H.R. 13179

By Mr. SNYDER:

On page 10 immediately after line 9 add the following new section:

"Sec. 14. None of the funds authorized to be appropriated in this Act shall be used for the purpose of negotiating the surrender or relinquishment of the Canal Zone or the Panama Canal."

On page 10 immediately after line 9 add the following new section:

"Sec. 14. None of the funds authorized to be appropriated in this Act shall be used for the purposes of negotiating the surrender or relinquishment of any U.S. rights in the Panama Canal Zone."

On page 10 immediately after line 9 add the following new section:

"Sec. 14. No funds authorized to be appropriated in this Act shall be utilized for negotiating or entering into any treaty which would ultimately yield United States control over the Canal Zone or the Panama Canal that does not contain a provision requiring implementing legislation by both Houses of Congress."

On page 10 immediately after line 9 add the following new section:

"Sec. 14. No funds authorized to be appropriated in this Act shall be utilized for negotiating or entering into any treaty which would ultimately yield United States control over the Canal Zone or the Panama Canal that does not contain a provision requiring implementing legislation by both Houses of Congress in accordance with Article IV, Section 3, Paragraph 2 of the Constitution."

On page 10 immediately after line 9 add the following new section:

"Sec. 14. No funds authorized to be appropriated in this Act shall be utilized for negotiating or entering into any treaty which would ultimately yield United States control over the Canal Zone or the Panama Canal that does not contain a provision requiring implementing legislation by both Houses of Congress in accordance with Article IV, Section 3, Paragraph 2 of the Constitution which states: 'The Congress shall have the power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States;' "

On page 10 immediately after line 9 add the following new section:

"Sec. 14. It is the sense of the Congress that any new Panama Canal treaty or agreement must perpetuate the vital interests of the United States in the Canal Zone and in the operation, maintenance, property and defense of the Panama Canal."

By Mr. WHITE:

Page 10, strike out lines 3 through 9 and insert in lieu thereof the following:

Sec. 13. (a) Section 882(b) of the Foreign Service Act of 1946 is amended—

(1) by striking out "(b)" and inserting in lieu thereof "(b)(1)";

(2) by striking out "1 per centum plus"; and

(3) by adding at the end thereof the following new paragraph:

"(2)(A) In the case of an annuity to which this subparagraph applies, there shall be paid from the Fund, in connection with the payment of the first monthly installment which reflects an increase under paragraph (1), an amount equal to the aggregate additional amount of annuity which would have been paid, for the period beginning on the first day of the three consecutive months and ending immediately before the effective date of the increase, if such annuity increase had been in effect for that period. For purposes of such computation, the annuity in effect immediately before such effective date shall be considered to have been in effect throughout such period.

"(B) Subparagraph (A) of this paragraph shall apply to any annuity which is increased under paragraph (1) of this subsection and which has a commencing date not later than the first day of the three-month period with respect to which such annuity increase is calculated. For purposes of this paragraph, the commencing date of an annuity of any surviving wife or husband which is payable under section 821(b) shall be considered to be the date on which the deceased spouse's annuity commenced."

(b) The amendments made by subsection (a) shall take effect—

(1) at the end of the 45-day period beginning on the date of the enactment of this Act; or

(2) October 1, 1976;

whichever is later.

H.R. 13367

By Mr. ADAMS:

Page 5, strike out "; and" in line 5, and insert after line 5 the following:

"(3) Appropriations made pursuant to this subsection (or section 163) for any fiscal year beginning on or after October 1, 1978, shall be deemed, for the purposes of the Congressional Budget Act of 1974, to have become available during the preceding fiscal year."; and

Page 5, line 11, strike out "There" and insert in lieu thereof "Subject to the last sentence of this subsection, there".

Page 6, strike out the quotation mark and final period in line 4, and insert after line 4 the following: "Allocations among States under this subsection (or section 166) for any period beginning on or after October 1, 1978, shall be made only to such extent or in such amounts as are provided in advance by appropriation Acts.".

By Mr. JONES of Oklahoma:

Page 2, immediately before line 1 insert the following new section:

"Elimination of State Governments as Recipients

"Sec. 3. (a) Section 102 of the Act is amended—

"(1) by striking out the first sentence thereof and inserting in lieu thereof the following: 'Except as otherwise provided in this title, the Secretary shall, for each entitlement period, pay to each unit of local government a total amount equal to the entitlement of such unit determined under section 108 for such period.';

"(2) by striking out 'a State government or' in the last sentence thereof.

"(b)(1) Section 107 of the Act to amended to read as follows:

" 'Sec. 107. State's Allocation To Be Allocated Among Local Units.

" 'Each State's allocation shall be allocated among the units of local government of that State as provided in section 108.'.

"(2) Section 123 of the Act is amended—

"(A) by striking out 'State government or' and ', with respect to a unit of local government,' in subsection (a);

"(B) by striking out 'State government or' wherever it appears in subsection (b); and

"(C) by striking out 'Governor of a State or' in subsection (b);

"(3) Section 143(a) of the Act is amended—

"(A) by striking out 'State which receives a notice of reduction in entitlement under section 107(b), and any State or'; and

"(B) by striking out 'such State or unit' and inserting in lieu thereof 'such unit'.

"(4) Section 145 of the Act is amended by striking out 'a State government or'."

Redesignate the following sections accordingly.

(Conforming Amendments:)

Page 2, beginning on line 20, strike out "State and".

Page 3, beginning on line 15, strike out "State governments and".

Page 6, strike out line 14 and everything that follows through page 7, line 2, and redesignate the following paragraphs accordingly.

Page 7, strike out line 15 and everything that follows through page 8, line 5, and redesignate the following sections accordingly.

Page 17, line 4, and beginning on line 20, strike out "State government and".

Page 18, lines 15 and 24, strike out "State government or".

Page 19, line 17, strike out "State government or".

Page 20, line 7, strike out "State government and".

Page 20, line 22, strike out "State government or".

Beginning on page 20, line 25, strike out ", and, in the case of a State government, at the main libraries of the principal municipalities of such State".

Page 21, line 25, strike out "State government or".

Page 22, strike out lines 3 through 5 and insert in lieu thereof "ernment.".

Page 22, line 12, strike out "State government or".

Page 22, line 18, strike out "State or".

Page 35, line 15, strike out "State government or", and on line 16, strike out "government or".

Page 36, line 10, strike out "State government or".

Page 37, line 6, strike out "State government or", and on line 7, strike out "government or".

Page 37, beginning on lines 9 and 13, strike out "State government or".

Page 37, line 20, strike out "of the affected State, or".

Page 38, beginning on line 11, strike out "State government or".

Page 38, beginning on line 19, strike out "Governor, or the" and all of line 20 and insert in lieu thereof "chief executive officer of the", and strike out the comma on line 21.

Page 39 beginning on line 13, and on line 19, strike out "State government or".

Page 40, lines 3 and 8, and beginning on lines 23 and 24, strike out "State government or".

Page 41, lines 7, 13, and 24, and beginning on line 16, strike out "State government or".

Page 42, lines 9 and 13, strike out "State government or".

Page 43, beginning on lines 5 and 10, strike out "State government or".

Page 44, line 16 strike out "State government or".

Page 44, beginning on line 23, strike out "State governments and".

Page 46, line 5, strike out "State governments and".

Page 46, line 10, and beginning on line 13, strike out "State government or".

Page 46, beginning on line 20, strike out "State government and".

Page 47, beginning on line 7, strike out "State government or".

Page 47, line 17, strike out ", the State governments,".

Page 48, line 18, strike out "State government or".

Page 49, line 15, strike out ", to each eligible State government, and".

Page 49, line 23, strike out "State government or".

Page 50, strike out lines 18 through 21, and insert in lieu thereof "(a) Eligibility.—No unit of".

Page 51, strike out lines 2 through 10 and insert in lieu thereof "subsection (c) shall pay to each unit of local government eligible under subsection (a) an amount equal to the amount by which its entitlement under section 168 exceeds its entitlement under section 108.".

Page 51, beginning on line 14, strike out "State governments and".

Page 52, line 18, strike out "State and".

Page 53, beginning on line 3, strike out "State governments and".

Page 55, strike out line 8 and everything that follows through page 59, line 4, and insert in lieu thereof the following:

"Sec. 167. State's Allocation To Be Allocated Among Local Units.

"Each State's allocation shall be allocated among the units of local government of that State as provided in section 168.".

Page 65, strike out lines 11 and 12 and insert in lieu thereof "the other county governments of such State in proportion to their entitlements.".

Page 2, immediately before line 1, insert the following new section:

"PREREQUISITE OF A BALANCED BUDGET

"Sec. 3. Section 102 of the Act is amended—

"(1) by striking out 'Except as otherwise provided in this title,' and inserting in lieu thereof (a) In general.—Except as provided in subsection (b), and except as otherwise provided in this title,'; and

"(2) by inserting at the end thereof the following new subsection:

" '(b) Exception.—If, in the budget submitted for the fiscal year beginning October 1, 1977, or for any succeeding fiscal year, by the President pursuant to section 201(a) of the Budget and Accounting Act, 1921, total budget receipts do not equal or exceed total outlays, then no payment shall be made under subsection (a) to any State or to any unit of government for any entitlement period which begins in such fiscal year. For purposes of this subsection, total outlays shall be determined without regard to this section.'."

Renumber following sections accordingly.

Strike out lines 15 and 16 on page 4 and insert in lieu thereof the following:

"(B) for the fiscal year beginning on October 1, 1977, $6,650,000,000,

Strike out lines 3, 4, and 5 on page 5 and insert in lieu thereof the following:

"(B) for the fiscal year beginning on October 1, 1977, $4,780,000."; and

Line 8, on page 7, strike out "September 30, 1980" and insert in lieu thereof " 'September 30, 1978' ".

Strike out lines 13 and 14 on page 7 and insert in lieu thereof the following:

"(7) The one-year period beginning October 1, 1977."

By Mr. METCALFE:

Page 2, strike out lines 1 through 5 and insert in lieu thereof the following:

"AMENDMENT OF PRIORITY EXPENDITURE CATEGORIES

"Sec. 3. Subsection (a) of section 103 of the Act is amended to read as follows:

" '(a) In General.—

" '(1) Priority expenditures.—Funds received by units of local government under this subtitle may be used only for priority expenditures. For purposes of this title, the term "priority expenditures" means only—

" '(A) ordinary and necessary maintenance and operating expenses for—

" '(i) public safety (including law and civil rights enforcement, fire protection, and building code enforcement).

" '(ii) environmental protection (including sewage disposal, sanitation, and pollution abatement) and consumer protection,

" '(iii) public transportation (including transit systems and streets and roads),

" '(iv) health and recreation,

" '(v) libraries,

" '(vi) social services and housing for the poor and the aged; and

" '(B) ordinary necessary capital expenditures authorized by law.

" '(2) Maximum expenditures.—No unit of local government receiving funds under this subtitle shall expend more than 45 percent thereof in any one of the priority expenditure categories specified in paragraph (1).' "

Redesignate the following sections accordingly.

Page 18, line 3, after "obligated" insert a comma and the following: "identifying the eventual nongovernmental recipients of such funds (other than salaried employees),".

H.R. 13601

By Mr. SOLARZ:

Page 2, immediately after line 18, insert the following new subsection:

"(b) Section 601 of the Rail Passenger Service Act (45 U.S.C. 601) is amended by adding at the end thereof the following new subsection:

" '(c) Whenever the United States or any agency or instrumentality thereof acquires, by purchase or otherwise, any railroad rights-of-way not owned by the Corporation which have been repaired or improved, after the date of enactment of this subsection, with Federal financial assistance pursuant to this section, there shall be deducted from the acquisition price of such rights-of-way an amount equal to the lesser of—

" '(1) the amount of Federal financial assistance expended pursuant to this section for the repair or improvement of such rights-of-way; or

" '(2) the increase in value of such rights-of-way which is determined by the Secretary to be a direct result of Federal financial assistance expended pursuant to this section.' "

Page 2, line 19, strike out "(b)" and insert in lieu thereof "(c)".

FACTUAL DESCRIPTIONS OF BILLS AND RESOLUTIONS INTRODUCED

Prepared by the Congressional Research Service pursuant to clause 5(d) of House rule X. Previous listing appeared in the Congressional Record of June 7, 1976, page 16815:

HOUSE BILLS

H.R. 13711. May 11, 1976. Interstate and Foreign Commerce. Amends the Horse Protection Act of 1970 to prohibit the show, exhibition, sale, or auction of a "sore" horse. Authorizes the Secretary of Agriculture to establish regulations for enforcement of this Act. Imposes penalties for violation of this Act or regulations imposed by the Secretary.

H.R. 13712. May 11, 1976. Merchant Marine and Fisheries. Authorizes the endorsement of not more than two alternate masters in addition to the one already endorsed on the certificate of registry of specified pleasure vessels.

H.R. 13713. May 11, 1976. Interior and Insular Affairs. Increases the limitations on appropriations for specified units within the National Park System.

Directs the Secretary of the Interior to develop a comprehensive plan for the protection, management, and use of Assateague Island National Seashore, Maryland and Virginia.

Authorizes expansion of the Colorado National Monument, Colorado, and Saint-Gaudens National Historic Site, New Hampshire.

Authorizes the Secretary of the Interior to transfer specified lands to the jurisdiction of the Director of the National Park Service in Montgomery County, Maryland. Authorizes the Secretary of the Army to transfer specified lands in such county to the jurisdiction of the Secretary of the Interior.

H.R. 13714. May 11, 1976. Interior and Insular Affairs. Designates a specified segment of the Chesapeake and Ohio Canal within the Chesapeake and Ohio Canal National Historical Park as the Justice William O. Douglas Level.

H.R. 13715. May 11, 1976. Science and Technology. Amends the Federal Nonnuclear Energy Research and Development Act of 1974 to authorize the Administrator of Energy Research and Development to enter into cooperative agreements for the development of a modular facility for the conversion of oil shale to synthetic fuels.

H.R. 13716. May 11, 1976. Judiciary. Directs Federal courts to consider specified criteria in the imposition of terms of imprisonment for criminal offenses.

Establishes a United States Commission on Sentencing as an independent commission within the judicial branch of the United States Government to promulgate sentencing guidelines for criminal offenses.

H.R. 13717. May 11, 1976. Ways and Means. Amends the Internal Revenue Code to provide, in the case of a disabled individual, a deduction for expenses paid during the taxable year for transportation to and from work to the extent that such expenses do not exceed $750.

Allows an additional exemption to a taxpayer or a spouse who is disabled.

H.R. 13718. May 11, 1976. Interior and Insular Affairs. Amends the Organic Act of Guam to authorize a program of loans and grants for capital improvement of Guam. Authorizes the Legislature of Guam to levy a surtax on all taxpayers on a specified percentage of their annual income tax obligation to the government of Guam.

H.R. 13719. May 12, 1976. Small Business. Amends the Small Business Act to authorize grants to cover the expense of training security personnel by the Law Enforcement Assistance Administration of small business concerns which furnish retail business establishments with security services.

H.R. 13720. May 12, 1976. Banking, Currency and Housing. Amends the Consumer Credit Protection Act to prohibit abusive practices by debt collectors. Sets forth criminal and civil penalties for violation of such provisions. Requires the Federal Trade Commission and the Attorney General to oversee enforcement of this Act.

H.R. 13721. May 12, 1976. Interstate and Foreign Commerce. Amends the Emergency Petroleum Allocation Act of 1973 to authorize the President to exempt crude oil produced from conventional waterflooding or enhanced recovery techniques from price controls imposed by such Act. Establishes criteria for determining whether or not an exemption is justified in view of increased costs associated with such techniques, and other factors.

H.R. 13722. May 12, 1976. Science and Technology. Establishes a Federal Council on Earthquake Research, Prediction, and Control. Directs such council to develop a comprehensive plan and program of necessary Federal research on earthquakes and related natural occurrences. Lists specific projects which must be included within the comprehensive plan and program.

Establishes a National Earthquake Prediction, Preparedness, and Coordination Board. Directs such Board to develop a comprehensive plan and that such plan include specified projects, including an earthquake prediction system for areas of high seismic risk.

H.R. 13723. May 12, 1976. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Reaffirms the authority of the States to regulate terminal and station equipment used for telephone exchange service. Requires the Federal Communications Commission to make specified findings in connection with Commission actions authorizing specialized carriers.

H.R. 13724. May 12, 1976. Veterans' Affairs. Increases the limitation with respect to direct loans to veterans for purchase of a home in a rural area or small town or city where adequate credit is otherwise unavailable.

Continues the direct loan revolving fund which provides such loans.

Increases the amount which the Veterans' Administration may guarantee for a loan to a veteran for the purchase of a mobile home.

H.R. 13725. May 12, 1976. Interstate and Foreign Commerce. Amends the Federal Railroad Safety Act of 1970 to direct the Secretary of Transportation to issue regulations requiring that the glass of all exposed windows of locomotives be bulletproof.

H.R. 13726. May 12, 1976. Armed Services. Makes it unlawful for any individual or entity to solicit or enroll any member of the Armed Forces in any labor organization or for any member of the Armed Forces to join, or encourage others to join, any labor organization. Sets forth penalties for violations of this Act.

H.R. 13727. May 12, 1976. Public Works and Transportation. Designates the plaza area of the Federal Building, Portland, Oregon, as the Terry Schrunk Plaza.

H.R. 13728. May 12, 1976. Ways and Means. Amends the Internal Revenue Code to provide that any written interpretation of a tax law which is issued by the Internal Revenue Service to a taxpayer shall be binding with respect to such taxpayer until the Internal Revenue Service revokes the interpretation.

H.R. 13729. May 12, 1976. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Grants additional authority to the Federal Communications Commission to authorize mergers of carriers when deemed to be in the public interest. Reaffirms the authority of the States to regulate terminal and station equipment used for telephone exchange service. Requires the Federal Communications Commission to make specified findings in connection with Commission actions authorizing specialized carriers.

H.R. 13730. May 12, 1976. Government Operations. Directs the Administrator of General Services to grant priority to occupants in the purchase of surplus Government housing being disposed of under the Federal Property and Administrative Services Act of 1949.

SENATE—*Tuesday, June 8, 1976*

(Legislative day of Thursday, June 3, 1976)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by Hon. ROBERT C. BYRD, a Senator from the State of West Virginia.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

"Dear Lord and Father of mankind,
Forgive our foolish ways;
Reclothe us in our rightful mind
In purer lives Thy service find,
In deeper reverence, praise.

"Drop Thy still dews of quietness,
Till all our strivings cease;
Take from our souls the strain and stress,
And let our ordered lives confess
The beauty of Thy peace."

—JOHN GREENLEAF WHITTIER (1807–1892).

In Thy holy name we pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., June 8, 1976.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. ROBERT C. BYRD, a Senator from the State of West Virginia, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

Mr. ROBERT C. BYRD thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have the Journal of the proceedings of Monday, June 7, 1976, approved.

Mr. ALLEN. Reserving the right to object, we are still in the same legislative day we were in last week, and until we do have an adjournment I do not feel that the Journal should be approved piecemeal. I, therefore, object.

The ACTING PRESIDENT pro tempore. Objection is heard.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, I do not seek recognition.

Mr. HUGH SCOTT. Mr. President, I do not seek recognition.

THE ANTITRUST IMPROVEMENTS ACT OF 1976

The ACTING PRESIDENT pro tempore. The Senate will now resume consideration of H.R. 8532, which the clerk will state.

The legislative clerk read as follows:

A bill (H.R. 8532) to amend the Clayton Act to permit State attorneys general to bring certain antitrust actions, and for other purposes.

The Senate resumed the consideration of the bill.

QUORUM CALL

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The absence of a quorum has been suggested. The clerk will call the roll.

Mr. MANSFIELD. It will be live.

The second assistant legislative clerk called the roll and the following Senators answered to their names:

[Quorum No. 13 Leg.]

Abourezk
Allen
Bartlett
Byrd, Robert C.
Cranston
Griffin
Mansfield
Morgan
Scott, Hugh
Talmadge

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. BUMPERS), the Senator from Idaho (Mr. CHURCH), the Senator from New Hampshire (Mr. DURKIN), the Senator from Mississippi (Mr. EASTLAND), the Senator from Kentucky (Mr. FORD), the Senator from Indiana (Mr. HARTKE), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Maine (Mr. MUSKIE), the Senator from Rhode Island (Mr. PELL), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I also announce that the Senator from Indiana (Mr. BAYH) and the Senator from Missouri (Mr. SYMINGTON) are absent because of illness.

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Arizona (Mr. GOLDWATER), and the Senator from Nevada (Mr. LAXALT) are necessarily absent.

The PRESIDING OFFICER (Mr. CRANSTON). A quorum is not present.

Mr. ROBERT C. BYRD. Mr. President, I move that the Sergeant at Arms be directed to request the attendance of absent Senators.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. BUMPERS), the Senator from Idaho (Mr. CHURCH), the Senator from New Hampshire (Mr. DURKIN), the Senator from Mississippi (Mr. EASTLAND), the Senator from Kentucky (Mr. FORD), the Senator from Indiana (Mr. HARTKE), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Maine (Mr. MUSKIE), the Senator from Rhode Island (Mr. PELL), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I also announce that the Senator from Indiana (Mr. BAYH) and the Senator from Missouri (Mr. SYMINGTON) are absent because of illness.

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Arizona (Mr. GOLDWATER), and the Senator from Nevada (Mr. LAXALT) are necessarily absent.

The result was announced—yeas 84, nays 1, as follows:

[Rollcall Vote No. 234 Leg.]

YEAS—84

Abourezk
Allen
Baker
Bartlett
Beall
Bentsen
Biden
Brock
Brooke
Buckley
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Clark
Cranston
Culver
Curtis
Dole
Domenici
Eagleton
Fannin
Fong
Garn
Glenn
Gravel
Griffin
Hansen
Hart, Gary
Hart, Philip A.

Haskell
Hatfield
Hathaway
Helms
Hollings
Hruska
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Leahy
Long
Magnuson
Mansfield
Mathias
McClellan
McClure
McGee
McGovern
McIntyre
Metcalf
Mondale
Montoya
Morgan
Moss
Nelson
Nunn
Packwood
Pastore
Pearson
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Scott,
  William L.
Sparkman
Stafford
Stennis
Stevens
Stevenson
Stone
Taft
Talmadge
Thurmond
Tower
Williams
Young

NAYS—1

Weicker

NOT VOTING—15

Bayh
Bellmon
Bumpers
Church
Durkin
Eastland
Ford
Goldwater
Hartke
Huddleston
Laxalt
Muskie
Pell
Symington
Tunney

So the motion was agreed to.

The PRESIDING OFFICER (Mr. Gary Hart). A quorum is present.

The pending question is on agreeing to the amendment (No. 1718) of the Senator from Nebraska (Mr. Hruska) to the amendment (No. 1701) of the Senator from Michigan (Mr. Philip A. Hart) in the nature of a substitute.

Who yields time?

COMMITTEE MEETINGS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that committees may be authorized to meet until the hour of 1 o'clock today.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that committees on tomorrow may be permitted to meet until the hour of 12 o'clock noon.

Mr. ALLEN. I object at this time, Mr. President.

The PRESIDING OFFICER. Objection is heard.

THE ANTITRUST IMPROVEMENTS ACT OF 1976

The PRESIDING OFFICER. Who yields time? The question is on agreeing to the amendment of the Senator from Nebraska?

Mr. ABOUREZK. Mr. President, I would like to say at this time that there is a possibility that an agreement or a compromise will be worked out on this amendment. I do not think the discussions are completed yet, but I want to say that Senator Philip A. Hart and Senator Hugh Scott, the proponents of the amendment in the nature of a substitute, have issued and sent around a "Dear Colleague" letter overnight which explains a modification that will take place, or that we will attempt to have take place on this amendment today.

Many people have worried about a possible large contingency percentage which would attach to this kind of an antitrust lawsuit. The intention of the sponsors of the legislation has always been never to allow a large percentage contingency, although that is not stated clearly in the legislation. Mr. Philip A. Hart intends to offer that as an amendment to this legislation today, because it is no one's intention to allow that sort of thing.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. ABOUREZK. Yes. I yield on the time of the Senator from Rhode Island.

Mr. PASTORE. All right. As I understand the substitute, No. 1, it is predicated upon the plaintiff prevailing in the action, is that correct?

Mr. President, I asked the Senator a question, and I ran into a conversation.

The PRESIDING OFFICER. The Senate will be in order.

Mr. ABOUREZK. I am sorry. Will the Senator repeat his question?

Mr. PASTORE. I understand that, No. 1, whether or not any fee will be paid to an attorney must be predicated upon the plaintiff winning the case.

Mr. ABOUREZK. That is correct.

Mr. PASTORE. And No. 2, regardless of what the recovery might be, that fee would have to be passed upon by the court and predicated only upon the work actually being done by the attorney?

Mr. ABOUREZK. That is correct. It would be based——

Mr. PASTORE. So the size of the recovery will not determine the size of the fee to be paid?

Mr. ABOUREZK. That is correct. It would be based upon the actual work of the attorney, at an hourly rate approved by the court.

Mr. PASTORE. I thank the Senator. Mr. President, I think this is a good compromise, and ought to be approved.

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. ABOUREZK. I yield on the Senator's time.

Mr. McCLURE. The questions of the Senator from Rhode Island are based on the proposed compromise, and not the existing provisions of the act; is that correct?

Mr. PASTORE. That is correct.

Mr. ABOUREZK. Mr. President, in order to let the proponents proceed upon the compromise, I yield to the Senator from Nebraska.

QUORUM CALL

Mr. HRUSKA. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection?

Mr. ALLEN. I object.

The PRESIDING OFFICER. Objection is heard. The rollcall will continue.

The rollcall was resumed, and the following Senators entered the Chamber and answered to their names:

[Quorum No. 14 Leg.]

Abourezk
Allen
Baker
Bartlett
Biden
Brooke
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Chiles
Cranston
Eastland
Fong
Garn
Griffin
Hansen
Hart, Gary
Hart, Philip A.
Hatfield
Helms
Hruska
Jackson
Johnston
Leahy
Long
Magnuson
Mansfield
McClure
McIntyre
Montoya
Morgan
Moss
Nunn
Pastore
Ribicoff
Schweiker
Stennis
Stone
Talmadge
Thurmond
Tower
Weicker
Williams

The PRESIDING OFFICER. A quorum is not present.

Mr. ROBERT C. BYRD. Mr. President, I move that the Sergeant at Arms be directed to request the attendance of absent Senators.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia.

The motion was agreed to.

The PRESIDING OFFICER. The Sergeant at Arms will execute the order of the Senate.

Pending the execution of the order, the following Senators entered the Chamber and answered to their names:

Cannon Durkin McGee

Mr. ROBERT C. BYRD. Mr. President, I move that the Sergeant at Arms be directed to compel the attendance of absent Senators.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. Bumpers), the Senator from Idaho (Mr. Church), the Senator from Indiana (Mr. Hartke), and the Senator from California (Mr. Tunney) are necessarily absent.

I also announce that the Senator from Indiana (Mr. Bayh), and the Senator from Missouri (Mr. Symington) are absent because of illness.

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. Bellmon), the Senator from Arizona (Mr. Goldwater), and the Senator from Nevada (Mr. Laxalt) are necessarily absent.

The result was announced—yeas 90, nays 1, as follows:

[Rollcall Vote No. 235 Leg.]

YEAS—90

Abourezk
Allen
Baker
Bartlett
Beall
Bentsen
Biden
Brock
Brooke
Buckley
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Clark
Cranston
Culver
Curtis
Dole
Domenici
Durkin
Eagleton
Eastland
Fannin
Fong
Ford
Garn
Glenn
Gravel
Griffin
Hansen
Hart, Gary
Hart, Philip A.
Haskell
Hatfield
Hathaway
Helms
Hollings
Hruska
Huddleston
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Leahy
Long
Magnuson
Mansfield
Mathias
McClellan
McClure
McGee
McGovern
McIntyre
Metcalf
Mondale
Montoya
Morgan
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh

Scott, William L.
Sparkman
Stafford
Stennis
Stevens
Stevenson
Stone
Taft
Talmadge
Thurmond
Tower
Williams
Young

NAYS—1

Weicker

NOT VOTING—9

Bayh
Bellmon
Bumpers
Church
Goldwater
Hartke
Laxalt
Symington
Tunney

So the motion was agreed to.

The PRESIDING OFFICER. A quorum is present.

Mr. McCLURE addressed the Chair.

Mr. GRIFFIN. Mr. President, will the Senator yield to me briefly without losing his right to the floor and on my time for a unanimous-consent request?

Mr. McCLURE. Yes.

Mr. GRIFFIN. Mr. President, on behalf of Senator WEICKER, I ask unanimous consent that David Main of his staff have the privilege of the floor during the debate and vote on this measure.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. LEAHY. Mr. President, will the Senator yield to me on my time and under the same conditions?

Mr. McCLURE. I yield.

Mr. LEAHY. Mr. President, I ask unanimous consent that Herb Jolovitz and Judith Heffner be allowed the privileges of the floor during the debate and votes on the antitrust legislation today.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. CANNON. Mr. President, will the Senator yield to me for the same purpose and under the same conditions? I ask unanimous consent that Aubrey Sarvis of my staff be granted the privileges of the floor.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. McCLURE. Mr. President, the pending question has been in regard to the amendment dealing with contingent fees, and I think that is a question which this body will want to consider very carefully.

I understand there has been some effort made to work out a compromise. If I understand the rules of the Senate correctly, under this situation any kind of a compromise would require unanimous consent, and the mood of this body being what it is, unanimous consent may be very difficult to obtain.

I refer my colleagues back to the kind of discussion in regard to contingent fees that took place earlier in the debate upon this bill when I spoke at some length on the question of contingent fee settlements for attorneys.

I refer the Members of this body back to the RECORD of May 25 with the discussion starting on S. 7953 and extending for several pages after that in which I analyzed some of the contingent fee decisions that have been rendered by judges and the kind of settlements that have been granted to the attorneys, and some of the pitfalls in that kind of a settlement, and I would like to refer at some length to those remarks I made at that time because I think we may be being diverted away from the real problems in the pursuit of a compromise where the real problem lies in the very essence of a class action in which the attorney, whether he be a member of that class or whether he only be a retained attorney——

Mr. ABOUREZK. Mr. President, will the Senator yield?

Mr. McCLURE. Without losing my right to the floor and upon the Senator's time.

Mr. ABOUREZK. I wonder if the Senator will allow Senator HART to offer his modification at this point? The Senator has indicated on his side that he would like to get to a vote and, perhaps, we could get to a vote on the modification that Senator HART will offer.

Mr. McCLURE. Before doing that, let me make a few remarks, and then I will get back to that.

Mr. President, the issue, it seems to me, cannot be as easily compromised, as has been said casually in some conversation around here, in that it simply allowed the judge to determine what the contingent fee settlement should be because regardless of how you state it it is still a contingent fee, and I suspect when the compromise is offered it will come out very clearly that it is contingent upon the plaintiff's winning of the suit or at least that there be a settlement made in the suit, and I would like to make a little distinction between winning a lawsuit in which a verdict is rendered upon the facts and winning by way of settlement in which the defendants are simply worn out by the weight of the litigation.

There would be a settlement because it is cheaper to settle than to continue the litigation without any confession of guilt or any confession of wrongdoing. It is simply, as many of the ordinary citizens of this country find necessary, if they get a traffic ticket which they cannot afford to fight in court, they do not think it is just, but it is cheaper to pay the fine than it is to ask for a trial, so they pay the fine. They do not think it is just but they pay it.

I suspect the same thing is true in a good many of these large antitrust cases. Once a class has been established, the biggest beneficiary in any of those cases is not the public, the biggest beneficiary is the attorney.

We have heard a lot of talk around this body in the last several days about taking care of the consumers of this country. But really the ones we are taking care of are the attorneys. I happen to be a member of the bar, and I also happen to be a critic of the contingent fee system, whether it be in this instance or any other, because I think it distorts the purposes of lawsuits in which the attorneys are the substantial litigants in spite of all the rhetoric to the contrary.

When we get into a class action suit, where there are hundreds of thousands or millions of members of that class, and very small damage or very small claim on the part of any individual, it is not the consumer who is the party-in-interest, it is the attorney, and when you add to that not the ordinary fee recovery for services rendered but a contingent fee, whether it be based upon a percentage of the recovery or whether it be based upon the hourly rate, you are still going to have a massive amount of money being paid to attorneys and, therefore, the motivation for bringing the suit and the development of an entirely new class of plaintiffs' attorneys will develop, and we will have a proliferation of lawsuits of this nature motivated not in the public interest but in the private interest of the attorneys who get hundreds of thousands of dollars in fees.

Let me refer back to my earlier statement for a few minutes for some specific reference to what I am talking about.

In my statement, I made some lengthy reference to the major paper at a conference convened by the Chief Justice on the causes of popular dissatisfaction with the courts, and the paper delivered at that conference by Francis R. Kirkham, who had served in the 1950's on the Attorney General's Committee on the Revision of the Antitrust Laws, and just a few years ago served with a group headed by Senator HRUSKA, the National Commission on the Reform of the Federal Appellate Court System.

We should listen very carefully to the words of a man with that kind of credentials, with that kind of background, and that kind of experience.

It is pertinent to note that these remarks were delivered in the context of a conference called to find out why the public is dissatisfied with our legal justice system.

What is there about the legal justice system that has led the people to be cynical about it?

I want to give just a few examples of enormous attorneys' fees that have been granted in class action suits. These, I remind everyone, are in every instance fees that were approved by the judge. Let us not forget for 1 minute that the judges are lawyers, their friends are lawyers, they work with lawyers, and they are going to provide attorneys' fees for lawyers in these class action suits, not with the public interest in mind, but with a very sensitive regard for the interests of the attorneys that are involved.

Whether it be the original action, the original bill, or the proposal for an amendment, let me emphasize that the proponents of this system are trying to tell us that there is no need to fear because there would be some supervision by the court to ultimately decide the amount of the fees.

It is only fair to note, as Francis Kirkham pointed out recently, "the control of fees has been administered with a gentle hand."

In the Gypsum Wallboard cases a few years ago, for example, the defendants were forced to settle the massive claims against them—without a trial—for $75,000,000. District Judge Zirpoli was then confronted with applications from the various law firms who represented various groups of plaintiffs, including governmental units. Many of the firms, by the way, are those that show up in case after case of this type. Even though Judge Zirpoli termed their demand for legal fees of over $20,000,000—and that was the demand of the attorneys—"exaggerated and untenable" and described his function in doling out the huge sums as "distasteful," he finally awarded the various plaintiffs' lawyers over $9,000,000 in fees.

That is what we are confronted with here as we go through this question. That is one of the reasons why some of us are so vigorously contending that this very system is wrong.

I repeat, $9 million to the attorneys in the suit.

In the Library Book litigation, the fees on settlement exceeded $1,100,000 awarded to the lawyers who represented the class. In another antitrust case, city of Detroit against Grinnel in 1974, it was only the intervention of the court of appeals that overturned a district judge's award of fees to plaintiffs' counsel that worked out to a rate of $635 per hour.

We are saying here that we are passing legislation that is going to protect the consumers. Baloney. It is going to reward plaintiffs' attorneys. That is where the real impetus for this kind of legislation comes from, that class of attorneys who can get that kind of very modest recovery, a very modest award of $635 an hour for their services in the case.

Are we representing the working men and women of this country who do not see $635 a month, let alone $635 an hour? Is that the kind of legislation we are involved in here as we say we are going to take care of the little people in this country?

Maybe it is going to help them a little because those attorneys are going to have an awful lot of money to spend, and maybe they will spend it and some little people will benefit in their standard of living that we will have awarded to a few attorneys.

The court had the temerity not to be persuaded by counsel's argument that the award was really modest, because in another case he had been compensated at a rate of over $3,500 an hour.

Are we in favor of attorneys' recoveries of not $635 an hour, but $3,500 an hour?

It will be argued that, "Well, the judge will see that does not happen."

I am saying right now that the judges permitted this to happen and ordered that it happen. So the idea that the judges will have an interposition between the public interest and the private greed of attorneys seems to me not to be justified by the record.

In Ellis against Flying Tiger Corp., the court of appeals refused to go along with the district court's award amounting to more than $1,000 an hour. These instances of appellate correction of especially outrageous awards cannot mask the fact that, by any standards, the rewards to the lawyers who take these cases on a contingent fee basis are astronomical.

It is going to be suggested, I expect, that we can say it will not be a contingent fee, but based on an hourly rate.

It will still be a contingent fee even though the judge is directed to make the award on the basis of an hourly rate because it is contingent upon their winning.

Mr. Kirkham said that the judges are controlling with a gentle hand the award of attorneys' fees in these cases.

In the Tetracycline antibiotic drug litigation private lawyers were hired on a contingent fee basis by the attorneys general of virtually all of the 50 States to represent the governmental units and consumers in those States. In that litigation, the defendants were forced to pay over $213,000,000 in settlements. This monumental settlement was made even though they insisted they had not violated the antitrust laws and even though, in those few cases that have gone to trial because the plaintiffs' lawyers refused to settle and demanded even more, the defendants have been exonerated.

Much has been made of the fact that, "Well, they must have been guilty, they paid."

That is, again, like most of us who are much more modest in our circumstances, who may have gotten a parking ticket we thought was unjust, or some kind of a traffic violation ticket we did not think was merited, but it was cheaper to pay it than fight it, so we paid it. That establishes no guilt.

Of that $213 million, the courts involved have approved attorneys' fees in the fantastic amount of nearly $42 million to the consumers? No. To the attorneys.

Those of us who are trying to block that kind of an abuse, of the very legitimate concern about antitrust activity, are being met with the argument that the courts will see that that does not happen.

The courts have seen that it does happen, $42 million in attorneys' fees.

And we are asked to stand still for more of it, not less of it.

In the early years of our country, our entire national budget was less than the courts have awarded to private lawyers under contingent fee arrangements in just that one litigation.

That case also illustrates who really benefits from these cases. Only about $28 million is actually being paid to consumers out of about $61 million earmarked for them but unclaimed. These nationwide figures show what in some States is even more dramatic: That in the litigation that is supposed to show the desirability of the parens patriae approach, the private lawyers made far more than the consumers are receiving. Indeed, in some cities and States, the lawyers' fees are 5 or 10 times the amount actually reaching consumers.

In the tetracycline litigation, it appears that the law firm that served as lead counsel will alone net over $6 million.

In the Library Books cases, which I mentioned a few moments ago, Judge Decker criticized what he called the "contingent fee syndrome" but felt constrained to go along with it. Nevertheless, he commented that—

> [T]he attorneys who are taking advantage of class actions to obtain lucrative fees will find themselves vulnerable to the criticism expressed in the Italian proverb, "A lawsuit is a fruit tree planted in a lawyer's garden."

Those of the bar who are so anxious that this legislation be passed will be the chief beneficiaries. And they may also find that the bar, as a whole, will reap the reward of public cynicism concerning the honorability of how honorable the members of the bar are and how well the bar serves the country when they seek to have legislation passed in the guise of protecting the consumers when the real beneficiaries are attorneys.

I think the mechanism which we are setting up in the parens patriae approach must be limited if we are going to have the parens patriae section in this bill, by making certain that private attorneys are not the primary beneficiaries. We can do it very easily, if we will, if we have the courage to recognize what has to be done. But if we are seduced by the blandishments of the plaintiffs' attorneys who make millions of dollars out of this, we will fail to take the action here that ought to be taken by erecting a barrier to that kind of an abuse of this kind of legitimate concern for the rights of consumers.

For example, *Cotchett* v. *Avis Rent-A-Car System, Inc.* (S.D.N.Y. 1972), 56 F.R.D. 549, was an action seeking to recover a $1 surcharge on automobile rentals. The district court refused to certify a class of 1½ million persons, stating:

> The difficulty I have with this situation lies in the fact that the possible recovery of Mr. Cotchett as a member of the class is far exceeded by the financial interest Mr. Cotchett might have in the legal fees engendered by this lawsuit (56 F.R.D. 554).

A similar point was made several years ago by District Judge Charles R. Richey, in Washington, who refused to be bound by a contingent fee arrangement which would have entitled plaintiffs' counsel to one-third of the pensions of each of hundreds of coal miners. Judge Richey found the contingent fee agreements there "null and void as against public policy." The judge said:

> The question of appropriate counsel fees has been tied to the apron strings of the contingent fee percentage for too long. (*Kiser* v. *Miller*, 364 F. Supp. 1311, 1315).

The Judge then commented:

> To justify the contingent fee percentage in class actions on the grounds that the recovery is a "windfall" to the class, and, therefore, there would be a "windfall" award to the attorney is without logical merit.

He explained cogently that the first premise of this reasoning is faulty because the individuals who actually get something back get only insignificant sums which can hardly be termed a "windfall." He then explained:

> Furthermore, the second premise implies a selfishness unbecoming to the legal profession. This thinking is all the more unacceptable when one remembers that the purpose of the suit was to restore the rights of a deprived class. In such circumstances, a sizable diversion of the recovery for attorney's fees would merely constitute a substitution of one fiduciary wrongdoer with another.

What was the judge saying? He was saying the corporation may have violated a law, had been a wrongdoer to that class, but why make the attorneys the wrongdoer in substitution for the corporation?

The multidistrict Hotel Telephone Charges case in the ninth circuit, 2 years ago, 500 F. 2d 86, was a class action in the name of 40 million persons suing 47 hotel chains and 600 individual hotels for alleged overcharges on telephone calls. The individual claims were approximately $2. The court of appeals reversed the certification of a class, saying:

> In view of the nonexistent, or miniscule, recoveries that are likely to accrue to the supposedly intended beneficiaries, it is not surprising that most of the named plaintiffs are attorneys acting as counsel for themselves. Considering that this action has been primarily generated and financially supported by the lawyers who possibly stand to realize astronomical fees, and not by the individuals whose potential claims in any event are *de minimis*, we find the Court's conclusion in *Berley* v. *Dreyfus Co.* * * * applicable here:
>
> "[W]e think that subparagraph (b)(3) [of Rule 23] read as a whole reflects a broad policy of economy in the use of society's difference-settling machinery. One method of achieving such economy is to avoid creating lawsuits where none previously existed. * * * If a class of interested litigants is not already in existence the court should not go out of its way to create one without good reason." (500 F. 2d 91).

Those are not my words. Those are the words of the court.

And in *Kline* v. *Coldwell, Banker & Co.* (9th Cir. 1974), 508 F. 2d 226, Judge Duniway, in a concurring opinion, reminded counsel that "in California, barratry is a crime" (508 F. 2d 237, 238).

For the lay people who may wonder what that term barratry means, it means for lawyers who go out and buy lawsuits, who create lawsuits, so that they can have a client and obtain a fee.

Judge Duniway said:

> The real bonanza in a case like this, if it is won, will go to counsel * * * I venture to suggest that none of the class action features of this case was dreamed up by the named plaintiffs, but that all of them were the brainchildren of their attorneys. (508 F. 2d 238).

I think the record is too abundantly clear that the real beneficiaries and the real motivation for this kind of action lies in the—I was going to say greed, and I think that may be correct—avariciousness of a class of attorneys who cloak themselves in the respectability of a consumer cause but seek only to enrich themselves.

I think there is one way we can stop that and stop it very clearly and very quickly: by appropriate amendment of the pending legislation to make certain that that does not occur.

I hope we will adopt the pending amendment and I hope that we will not adopt the modifications that have been suggested in the guise of a compromise, when as a matter of fact it is not a compromise at all but simply a difference of words.

Let me turn my attention for a few minutes, Mr. President, to another question on the bill under title V—this question of premerger modification. I refer, of course, to title V of the Hart-Scott substitute for H.R. 8532, or amendment 1701.

TITLE V SHOULD BE DELETED (PREMERGER NOTIFICATION)

Under this title, the Government could block any acquisition by one corporation of another, regardless of size, simply by requesting a Federal district court to issue an injunction for that purpose.

That injunction would be required of the court, without any proof or offer of proof that the transaction violates any antitrust laws.

The court would be obligated, without discretion to stay the proposed transaction, by issuing a temporary restraining order barring completion of the merger or acquisition.

This temporary restraining order is the only element of the automatic stay provision which the majority committee report discusses. But other provisions contained in the reported measure go much further than that.

In fact, there is testimony in the hearing record which is to the effect that the bill is not one which monitors and supervises corporate mergers and acquisitions.

That testimony is to the effect and conclusion that the bill is one which will result in prohibition and presentation of future mergers and acquisitions.

This is brought about by the automatic stay provision set out in subsection (d). It provides that the automatic stay which it sets out will be without time limit; a preliminary injunction lasting until final judgment is issued. This may take as many as 5 or 6 years in a normal proceeding of any size and description.

This is a very bad and intolerable provision. It is the provision which makes of the bill a measure of prohibition, rather than supervision.

NO NEED EXISTS FOR SUCH PROVISION

Underlying title V is the false premise that all mergers and acquisitions are bad; that there is a "merger problem" which threatens a healthy economy and the public interest; and that the existing weapons of the Antitrust Division and the FTC are inadequate to cope with this so-called merger problem.

But these propositions are unsupported and are disproven by the evidence presented to our committee.

Even the antitrust enforcement agencies agree that mergers are not per se bad and are often procompetitive and beneficial. Antitrust Division Chief Kauper testified that—

> Many mergers are procompetitive, or promote efficiencies. Many more are economically or competitively neutral.

Moreover, big companies are not steadily gobbling up little companies: The uncontradicted statistics show that mergers and acquisitions are generally declining.

Above all, the antimerger weapons presently available to the enforcement agencies are not shown to be inadequate. On the contrary, their hand has been strengthened by powerful new legal weapons, yet to be fully tested, which confer much greater powers to prevent any illegal mergers.

In sum, there is no showing that there is any need for any such antimerger legislation today.

Certainly there is no demonstrated need for legislation such as the "automatic stay" provisions of section 7A(d). Such arbitrary and absolute enforcement agency power to stop and kill business transactions which are not inherently unlawful is at war with the most fundamental traditions of our jurisprudence.

Yet the provisions of that act are applicable to all proposed acquisitions or mergers. The mere existence of such law would be of such deterrent effect that would virtually preclude consideration of acquisitions or mergers. This is because it would enable arbitrary and absolute imposition of the long stay or bar to consummation of any agreement between two businesses to merge or be acquired, one by the other.

Title V would give the Government arbitrary fiat powers to prevent any business acquisition, regardless of size or competitive impact, and runs counter to basic antitrust policies by inhibiting the competitive, efficient formation and allocation of capital resources.

Advocates of the bill contend, however, that the companies proposing merger or acquisition have two defenses available; and that these defenses are safeguards against arbitrary exercise of the powers conferred by the bill.

Theoretically, the defendant could assert two defenses to such an automatic preliminary injunction. But these "defenses," shifting the burden of proof to the party resisting a stay order, are illusory:

The first theoretical "defense" permits the defendant to prove a negative—that the Government had no reasonable probability of ultimately prevailing on the merits. Since it is notoriously difficult to prove a negative, especially in antitrust cases where the issue of legality may often require close judgments, such a showing would of course be impossible in nearly every case. Moreover, if it has been "virtually impossible" for the Government to show that it has a substantial probability of success within a short time frame, it will be infinitely more difficult for any defendant to convince the court, within a similarly short time period, that the Government has no substantial probability of success.

The second theoretical defense allows the defendant to prove that it will be irreparably injured by entry of such a preliminary injunction. But this defense is likewise illusory, since section 7A(d) expressly provides that a showing of "loss of anticipated financial benefits" from the acquisition or merger would not be a sufficient showing of injury. Almost invariably, loss of "anticipated financial benefits" from the transaction would be precisely the irreparable injury most invariably; loss of "anticipated financial "benefits" may not be merely additional profits to the acquiring firm, but may well consist of enhanced financial and hence competitive strength for the acquired company, rendering it more able to compete, or even keeping it from going out of business.

Since these defenses are illusory, title V in practical effect gives the Government total authority to prevent—not merely to delay—any covered acquisition.

In practical effect, subsection d(3) is likewise an automatic stay provision—and one with no time limit. It provides that a preliminary injunction lasting until the final judgment is issued—which concededly may take 5 or 6 years—must be issued to replace the temporary restraining order, subject to two illusory defenses.

Experience demonstrates that a deal dies once a court stays it. As confirmed recently by Judge Friendly, in *Missouri Portland Cement Co.* v. *Cargill*, 498 F.2d 851, 870 (2d Cir. 1974):

> [T]he grant of a temporary injunction in a Government antitrust suit is likely to spell the doom of an agreed merger. * * *

Even an Antitrust Division official has observed that:

> [I]n almost all Government cases in which preliminary injunctions enjoining an acquisition have been granted, the injunction has had the effect of a final determination without the benefit of a trial. The fluid financial and business context in which such agreements are made cannot be controlled by the court. Agreements usually cannot be held together during the time such litigation takes.

Other commentators have made similar observations:

> The cases are few in which a decision granting a Government motion for a preliminary injunction enjoining an acquisition was followed by a trial on the merits, since it has rarely proven feasible for the parties to put their transaction on ice for the period of time required to obtain final judgment. Accordingly, a preliminary injunction enjoining an acquisition should only be granted if a substantial showing on the ultimate merits has been made.

And a comprehensive study of the matter has concluded:

> It appears that *no proposed merger has survived a wholly prohibitory preliminary injunction for any substantial period of time.* Many mergers are delicate transactions involving compromises and predictions about the future. Obviously, changes in the capital market, the economy, and the industry may make the merger more or less attractive to the parties. The financing of a merger may be dependent on loans from financial institutions that cannot remain committed indefinitely without regard to changes in the money market.

Thus, section 7A(d)'s automatic stay provisions in effect give the Antitrust Division power to prevent and destroy any acquisition, merely on the Justice Department's own say so, without any showing of illegality in the acquisition.

The whole destructive panoply of automatic stays and delays is unjustifiable and unfair, since mergers and acquisitions are not inherently bad but only offend antitrust laws if competitively injurious. Government agents do not ordinarily have arbitrary powers to permit or deny any kind of commercial activity. Nor are defendants normally required to prove that their conduct is lawful; rather, the Government must normally prove that their conduct is unlawful.

In any field other than antitrust, would such arbitrary powers be tolerated by the Senate? In any other field, would the law enforcement authorities be granted total authority to stop private activity with no showing of probable cause or illegality?

Automatic stay concept is opposed by Department of Justice, Federal Trade Commission, American Bar Association, and Department of Treasury.

Then FTC Chairman Engman testified:

> I think we all recognize that there may be instances in which mergers are economically desirable. The *merger law quite properly puts the burden on the government* to challenge by court or administrative proceedings those mergers which appear to threaten competition. If we can get the information that we need to make the determination as to whether a particular merger should be opposed, we think the burden should be on us to make the challenge. Rather than mandating a court, upon application of the enforcement agency, to enter an order prohibiting consummation of a merger pending final judgment, *the law should permit a court to require a showing by the Government of probable illegality.*

Similarly, Deputy Attorney General Tyler advised the chairman of the subcommittee, by letter dated February 19, 1976:

> The administration does not support enactment of the premerger stay provision of title V, preferring instead to reply upon existing decisional and statutory law to govern the issuance of preliminary injunctions in merger actions filed by the Department of Justice and the Federal Trade Commission.

Likewise, the American Bar Association declared:

> Subparagraph (d) of the bill as reported would grant the Government preliminary injunctions at its will. We strongly oppose this provision * * *. As experience teaches, the grant of preliminary relief often aborts the deal. Therefore we can expect many lawful transactions to be frustrated. The present law that the Government must show a reasonable likelihood of success seems a far fairer allocation of the burdens. Indeed, we believe subparagraph (d) should be eliminated in its entirety except for its very salutary expediting procedures, for the existing law governing temporary restraining orders and preliminary injunctions is fair and effective.

Title V would vest in the Justice Department and the FTC an unjustifiable and destructive regulatory authority and veto over the process of capital allocation.

Understandably, Secretary of the Treasury Simon, for the administration, advised the committee on March 13, 1976:

> In our view, any premerger stay provision would discourage healthy, efficient, competitive change in ownership of businesses in response to economic conditions, and promote inefficient allocation of capital resources. A premerger stay provision would give the Government the power to hold up proposed mergers for extensive periods of time without having to make any showing in court that it has a meritorious case. When coupled with the proposed premerger notification requirement of S. 1284, even a 60-day premerger stay provision would allow the Government to hold up a merger for over 135 days without effective judicial review. The mere existence of this discretionary power in the antitrust enforcers could significantly deter lawful mergers to the detriment of the economy. More importantly, by exercising this discretionary power, the Government could prevent—not merely delay—proposed mergers since the economic reasons for such transactions could well pass during the period of delay.

Mr. President, I reserve the remainder of my time.

Mr. PHILIP A. HART. Mr. President, as has been indicated, in a few moments I shall send to the desk and ask unanimous consent to have considered an amendment My colleagues were alerted to that intention earlier today by the distribution of a "Dear Colleague" letter. I ask unanimous consent that the text of that letter, dated June 8, 1976, be printed in the Record at this point.

The PRESIDING OFFICER. Is there objection?

Mr. HRUSKA. Mr. President, what is the request?

Mr. PHILIP A. HART. Just the "Dear Colleague" letter.

Mr. HRUSKA. To put it in the Record?

Mr. PHILIP A. HART. Yes; in a few minutes I shall ask unanimous consent to be permitted to consider an amendment.

Mr. HRUSKA. No objection.

There being no objection, the letter was ordered to be printed in the Record, as follows:

U.S. Senate,
Washington, D.C., June 8, 1976.

Dear Colleague: Yesterday, a number of Senators voiced objection to the absence of an express prohibition against the award of contingent attorneys' fees based on a percentage of the damage award in *parens patriae* cases. It is the intention and understanding of the sponsors of the Hart-Scott amendment to forbid percentage contingent fees; we believe that our amendment already accomplishes this objective, though it contains no direct statement on this point.

Senator Hruska's pending amendment No. 1718, which will be voted on today, would bar all contingent awards of attorneys' fees—whether based on a percentage of award or, as our amendment already provides, on a judicially determined formula keyed to the work performed by the attorneys. We believe this would undercut the viability of the entire title by requiring State legislatures to provide for advance funding of all *parens patriae* antitrust litigation.

In order to accommodate our colleagues who have voiced opposition to percentage contingent fees—where potential for abuse has been cited—we are prepared to seek unanimous consent to offer our own amendment to clarify and restate our original intent to prohibit such percentage contingency arrangements under title IV. Under our amendment, fees might still be awarded on the condition that the plaintiff prevails; the amount, however, will not be contingent on the damages awarded, but calculated on the basis of work performed. Thus, contingency fees based on a percentage of the recovery would be statutorily barred; but hourly rate fees contingent on success would be permitted. We do not believe that abuses could occur under these conditions.

If unanimous consent to submit this amendment cannot be obtained, we will nonetheless restate clearly and unequivocally our interpretation of, the present language as prohibiting percentage contingency fee contracts, and will commit ourselves as conferees to including such an express prohibition in any final bill.

We regret that the absence of express language in the bill on contingency fees may have caused some misunderstanding, but believe that the Hruska amendment goes too far and would be crippling to the legislation's objectives.

Sincerely,

Philip A. Hart.

Mr. PHILIP A. HART. The concerns that have been voiced with respect to contingent attorneys fees were shared by the members of the Committee on the Judiciary in developing what is the pending Hart-Scott substitute. As has been explained, on page 29, lines 21 to 23 of the Hart-Scott bill, which is now amendment 1701, the amendment provides that:

> In any action brought under this section, the amount of plaintiffs' attorneys' fees, if any, shall be determined by the court.

Then, in a rather full discussion in the committee report, which is found particularly beginning at page 51 of the report, we elaborated both our concern that abuses be prevented, and to outline the factors which, under a line of cases, the courts use in determining the appropriateness of an attorney's fee.

I think before offering this amendment, it would be well to make the point that there are two kinds of contingency fee arrangements.

One—and I am one who finds no objection to this—that, contingent upon success or failure, counsel shall be reimbursed. I would hope no matter how we lash around on this issue, we will not lose sight of the fact that justice in this country now comes at an increasingly high price. An awful lot of people will find themselves simply out of luck if we develop the notion that contingent fees based upon success or failure are something that should be regarded as evil or unworthy.

I hope none of us ever find ourselves in the position of putting that proposition to a test. But the cost of justice has now reached the point where a good many middle class Americans could not get in the courthouse unless there was an acceptance of the notion and validity of a contingent fee based upon winning or losing the case. But the second approach and the one that is subject to criticism is the contingent fee which is an arrangement that "X percentage of my recovery, X percentage of the settlement shall be paid me in compensation."

It is this second approach which the committee sought to prevent and which we believe language, trusting the ultimate decision to the court, would assure that abuses would not occur.

Senator HRUSKA's amendment would exclude any contingent fee arrangement. It would, in effect, exclude from participation the vast number of States whose State attorneys general office are simply understaffed and underfunded.

I ask unanimous consent that the text of the amendment be printed in the RECORD so that this discussion will have greater clarity, and I shall ask unanimous consent within a few moments to consider this amendment.

There being no objection, the text of the amendment was ordered to be printed in the RECORD, as follows:

On line 3, strike out the word "basis" and in lieu thereof insert the words "based on a percentage of the monetary relief awarded under this section".

Mr. PHILIP A. HART. My hope, of course, is shared by Senator HUGH SCOTT and other Senators that the Senate will reject amendment No. 1718, which is the Hruska amendment pending, which would ban totally contingent fees.

Further, if the Senate does reject the Hruska amendment, Senator HUGH SCOTT and I will seek unanimous consent later, assuming that we are not permitted the opportunity to offer the amendment which I am about to call up, to offer again a compromise amendment which would prohibit contingent fees which involve a percentage of the amount recovered.

Even if unanimous consent is ultimately denied to that effort, Senator HUGH SCOTT and I, as sponsors and, I assume, as participants in the conference committee to our colleagues, we shall come out of the conference with no less than the substance of our compromise amendment, namely, to abandon all percentage contingent fees.

With that explanation, Mr. President, I ask unanimous consent that an amendment which I had sent to the desk as an amendment to the Hruska amendment 1718 be permitted consideration.

The PRESIDING OFFICER. Is there objection?

Mr. HRUSKA. Mr. President, reserving the right to object under the proposal made by the Senator from Michigan and those who have joined him in this request and in this proposed new amendment, there still would be involved a contingency contract for lawyers' services and there still would be that undesirable feature of contingency contracts with a high degree of potential for abuse, for political abuse as well as for abuse of those for whom ostensibly the recovery is sought to be made.

The Senator from Michigan pursuant to his usual courtesy advised us of his intent to make this request and he had furnished us with this letter dated today which he had printed in the RECORD.

We have had wide consultation among those who are interested in the so-called Hruska amendment. It was the consensus that the amendment was not any improvement over what we have now; therefore, it would be the better part of wisdom to interpose an objection.

Mr. ALLEN. Mr. President, will the Senator yield a moment?

Mr. HRUSKA. I yield.

Mr. ALLEN. I wonder if this compromise might be worked out, that the amendment be allowed to be presented but that by unanimous consent it might be subject to further amendment on the floor in order to give the Senate an opportunity to shape this amendment rather than to accept the exact wording. I have in mind a possible amendment putting a cap on the total amount of fees that might be allowed, that is, a given percentage; if we might be allowed by unanimous consent to offer from the floor nonfiled amendments to the amendment of the Senator from Michigan, it might be well to allow the amendment to come in. I offer that as a suggestion for the Senator to consider before he does interpose an objection.

Mr. HRUSKA. Mr. President, that consensus that we have reached this morning, after all, has been declared and stated expressly by others. The House of Representatives has considered similar elements and had rejected them, and they adopted virtually the substance of the amendment which is before the Senate now.

I object, Mr. President, to the unanimous-consent request.

The PRESIDING OFFICER. Objection is heard.

Mr. PHILIP A. HART. Mr. President, clearly, of course, we regret that we will not have this opportunity at this stage, at any rate, to attempt to make more explicit what we believe the bill does to protect against; namely, an abuse on a percentage of recovery contingent attorneys fee arrangement.

All of us are required to husband our time in the Chamber. I was tempted several times yesterday, and as long as I am using a little of that time I might as well give expression to it this morning, to urge at least those of us who are in the Chamber to maintain a sense of balance and perspective with respect to what this bill seeks to do.

There were moments yesterday when I had the feeling that those who were advocating the improvement in the enforcement of our antitrust laws were offending against the free enterprise system and somehow or another those of us who suggest that society improve the tools to protect against the poison that is introduced into the free enterprise system by hard core price fixing owed the Senate an apology.

Let us remember what we are about. We are attempting to provide in this particular title the opportunity to protect American business against itself. I believe to my fingertips in the principles expounded by the NAM and the Chamber of Commerce. I would have my lobbyists in here seeking to persuade the Senate to do exactly what this bill seeks to do, that is, to permit the honest businessman to compete in a marketplace that is free of restraints that are improper.

This has no particular relevance to the Hruska amendment. I think it requires some response.

Let us not forget that we can find in the daily press reminders that some of the most ancient and honorable among our business institutions whose contribution of gunpowder to the cause of the revolution probably will be celebrated in Delaware some day soon find themselves engaged in activities that are offensive to the concept of a free, competitive society.

What we are seeking to do is to permit American business better protection against that sort of thing.

Mr. ABOUREZK. Mr. President, before we vote—I think we will vote within a couple of minutes on this matter, provided no one else wishes to speak—I think it will be useful if the Senator from Michigan (Mr. PHILIP A. HART) will respond to a couple of questions to clarify exactly what has been done here today.

Is it true that Senator HART and Senator SCOTT have offered a modification of the Hruska amendment which would permit percentage contingency fees of the kind spoken of in the horror stories delivered yesterday by proponents of the Hruska amendment?

Mr. PHILIP A. HART. It is a one-word answer: Yes.

Mr. ABOUREZK. Is it true that the compromise was rejected by Senator HRUSKA and those who support his amendment?

Mr. PHILIP A. HART. Yes.

Mr. ABOUREZK. Is it true, also, that Senator HRUSKA objected to the unanimous-consent request of the Senator from Michigan in which he asked that he be given permission to modify his amendment to do exactly what he says should be done—that is, to prevent percentage contingency fees?

Mr. PHILIP A. HART. Yes.

Mr. ABOUREZK. I suppose the next

question need not be a question. I will make it in the form of a statement.

If the Hruska amendment is defeated, then Senator HART and Senator SCOTT will seek, in conference, to make certain that percentage contingency fees are rejected. They will have to do that in conference, since they cannot do it on the floor, without unanimous consent.

Mr. PHILIP A. HART. That will be our purpose and our pledge.

Mr. ABOUREZK. Will the Senator also try to offer it again, under unanimous consent, after this?

Mr. PHILIP A. HART. Yes. But I have a feeling that we can predict——

Mr. ABOUREZK. So, in order to clarify and improve the bill, the Senator is advocating that the Hruska amendment be defeated, so that once again we can offer this and make the improvements that everybody says they want.

Mr. PHILIP A. HART. We do. We urge the defeat of that amendment.

(At this point, Mr. LEAHY assumed the chair.)

Mr. GARY HART. Mr. President, will the Senator yield, on my time?

Mr. ABOUREZK. I yield.

Mr. GARY HART. Mr. President, I identify myself with the remarks a few minutes ago of the Senator from Michigan.

We hear a great deal in this body, just about every day, about Government regulation. My feeling about the economy of this country is that there are two ways to regulate the marketplace. One is through Government controls and Government regulation of business and the other is through the free flow of the marketplace. Those are the only two ways in which the marketplace can be regulated or can regulate itself.

If you do not have competition, if you do not have a free flow of business in the marketplace, if you do not have genuine competition among businesses in particular industries, inevitably, the people of this country are going to demand Government regulation.

It seems to me clear that the only way to get the Government off our backs is to guarantee that business is competitive, and that is all this bill seeks to do.

The question has been raised as to whether the proponents of this legislation are against bigness or against business. That is not the issue. To a certain degree, when you have concentration, it is a result of bigness. But this is not an antibigness bill. This is not penalizing people for being big. This is to seek to prevent people from illegally manipulating the marketplace, which inevitably leads to Government regulations, which nobody wants.

So I do not see what statements the Senator from Michigan may have made yesterday about this being an assault on bigness and this being an assault on business have to do with this. That is ridiculous. That is not the case. It is an honest, genuine attempt by thoughtful people to guarantee that the free marketplace, which all of us proclaim we believe in, actually functions. When it does not function, you have this enormous Government bureaucracy, and I think that is what all of us are trying to attack. You are not going to get rid of that bureaucracy and those Government regulations until you have devices which over and over again have been declared by our Supreme Court to be constitutional and which, in the general, overall philosophy of the economy and the Government of this country, actually work to guarantee that there are those self-regulating mechanisms in the marketplace.

So this debate, which develops into a question of whether you are for or against business and for or against bigness, sidetracks the issue and does not elevate the level of the public dialog, and it does not advance the people's confidence in this body.

So I identify myself with the statements previously made by the Senator from Michigan.

Mr. NUNN. Mr. President, I should like to ask the Senator from Michigan one or two questions, on my time.

As I understand, in the "Dear Colleague" letter of the Senator from Michigan, dated June 8, in the next-to-the-last paragraph, the Senator makes it plain, it seems to me, that if the Hruska amendment is not agreed to and if the amendment of the Senator from Michigan is not considered by the Senate, nevertheless the Senator from Michigan intends, by way of dialog and as a conferee, to make it plain that percentage contingent fee contracts would not be permitted under this legislation if it finally is passed by Congress. Is that so?

Mr. PHILIP A. HART. The Senator from Georgia reads correctly.

Mr. NUNN. So the Senator from Michigan is saying that a fee of a lawyer hired under this bill would be contingent only in the sense that he would be paid if there is recovery. But the amount of the lawyer's fee would not be contingent as a percentage of recovery. In other words, it would be set by the court on a reasonable basis, based on the work performed. Is that right?

Mr. PHILIP A. HART. The Senator is absolutely right.

Mr. NUNN. The Senator from Georgia has been one of those voting to get the Hruska amendment back for consideration, because I felt it was worthy of consideration. But it seems to me that we would be placed in the position, if the Hruska amendment is agreed to, that all we would be doing would be knocking out contingent fees, so that there would be no contingent fee at all based on recovery or nonrecovery.

Mr. PHILIP A. HART. The Senator from Georgia perceives it exactly.

Mr. NUNN. Would we not be in the position, then, that if a lawyer took the case, he would be paid on an hourly basis, whether he recovered or not?

Mr. PHILIP A. HART. There is that possibility. In the unlikely event that a State could budget for that sort of employment, yes.

This would permit that phantom chased around here yesterday, the too-free-wheeling attorney general, to turn somebody loose who would not have any concern about the validity or the legitimacy of his case and who would simply run his meter.

Mr. NUNN. That is exactly right. If there were no attorney's fees unless there was a recovery, a lawyer would be much more likely to make sure he had a meritorious case.

Mr. PHILIP A. HART. We believe so.

Mr. NUNN. But if he were to be paid whether or not he won, he could litigate for a number of years, and it could become a lifetime occupation.

Mr. PHILIP A. HART. Almost as good as representing a foundation.

Mr. NUNN. It seems to me that the Senator from Michigan has made it very clear that the thing some of us objected to about the present bill has been corrected by this letter.

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. NUNN. I will yield in a moment, as soon as I complete this dialog.

It seems to me that the Senator from Michigan has corrected the fear some of us had that the attorney's fee would be based on a percentage of recovery.

Mr. PHILIP A. HART. Certainly, we seek to insure that that will be forceful.

Mr. McCLURE. Mr. President, will the Senator yield for a question, on my time?

Mr. NUNN. I am glad to yield. I do not know whether that is permissible under the rules, but I will be glad to yield to the Senator for a question, on the time of the Senator from Georgia.

Mr. ROBERT C. BYRD. I should say it is not permissible if anybody raises a point of order.

Mr. NUNN. I yield to the Senator from Idaho for a question on my time.

Mr. McCLURE. I thank the Senator for yielding. I shall not take the Senator's time or the Senate's time for very long.

I think we should keep in mind two things as we are discussing this. The Senator is, I am sure, aware that all we are talking about now are the fees for nonpublic attorneys—attorneys that are not on the attorney general's payroll—in parens patriae suits.

Mr. NUNN. I understand that.

Mr. McCLURE. We are not talking about the usual case of an attorney who has no client; therefore, he has nobody paying him. It is saying that if they wish to do so, they could pay whatever reasonable compensation is in order.

Does the Senator from Georgia understand that?

Mr. NUNN. The Senator from Georgia understands that. The point the Senator from Georgia is making is if a lawyer's potential fee is based on whether or not he finally prevails in the case, it seems to the Senator from Georgia that the lawyer is going to use a lot more discretion in deciding to pursue that case, because no lawyer would want to work for several years on a case that is a losing case and thereby be precluded from recovery.

It seems to me that the contingency part of this amendment, when it is not based on the possibility of recovery, is subject to the very hazard that the Senators opposed to the Hruska amendment are trying to prevent.

I do not understand the Hruska amendment because it seems to me the very thing he is trying to protect against—frivolous lawsuits based on attorneys' fees—is much more likely to be prevented by the clarification of the Senator from Michigan than by Senator HRUSKA's amendment. It seems to me that would be working in the opposite direction.

Mr. STEVENS. Will the Senator yield to me for a question?

Mr. NUNN. I am glad to yield 1 minute.

Mr. STEVENS. Do I understand that the Senator is willing to accept a situation where fees would still be awarded even if the lawsuit is unsuccessful?

Mr. NUNN. Just the opposite. It seems to me that is the position we would be placed in if the Hruska amendment passes. It is just exactly the opposite.

The position of the Senator from Michigan is that recovery by an individual lawyer is contingent on the plaintiff's prevailing in the case.

Mr. STEVENS. It is my understanding that you could hire an attorney on the attorney general's payroll and pay him without regard to the outcome. If you hire an outside attorney, the suggestion of Senator HART is that contingent fees could be on the basis of success only.

Mr. NUNN. That is my understanding.

Mr. STEVENS. It would be on the basis of a reasonable charge for the service performed.

Mr. NUNN. That is my understanding.

Mr. STEVENS. My question pertains to the outside lawyer who is hired by the attorney general. As I understand it, we would have no objection to the attorneys being paid without regard to success by the State, but we still object to——

Mr. NUNN. Who is "we"?

Mr. STEVENS (continuing). An outside attorney being paid by the defendants in the event the suit is not successful.

Is the Senator in agreement with that?

Mr. NUNN. I am in agreement with that. When the Senator says "we," is he talking about the proponents of the Hruska amendment or the opponents?

Mr. STEVENS. Yes.

Mr. NUNN. How about a yea, maybe, on that one?

Mr. HRUSKA. Mr. President, I have no further requests on this side for time.

Mr. ABOUREZK. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. ABOUREZK. The vote now is going to be on the Hruska amendment, up or down, is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. ABOUREZK. Have the yeas and nays been ordered?

The PRESIDING OFFICER. The yeas and nays have been ordered.

Mr. ALLEN. Mr. President, I want to give an illustration of how the contingent fee works.

Washington State Attorney General, John J. O'Connell, hired a prominent plaintiffs' antitrust lawyer, Joseph Alioto, in 1962, to bring suits on behalf of Washington public utilities resulting from the famous electrical equipment antitrust conspiracies. Mr. Alioto was to be paid a contingent fee of 15 percent of the gross recovery, up to a maximum of $1 million.

That seems adequate, I would think.

Sometime thereafter, Mr. O'Connell, the Attorney General of Washington, arranged for Mr. Alioto to share the contingent legal fee generated by the settlements.

Settlements were reached far exceeding those initially expected. By May 1965, the contingent fees had already reached the $1 million maximum. Mr. O'Connell then agreed to lift the $1 million ceiling. Within a few weeks. Mr. O'Connell received his first share of the fees, amounting to over $100,000.

Eventually, settlements were reached totaling over $16 million; attorneys' fees were generated of $2.3 million, of which $530,000 went to the State Attorney General and $270,000 to his chief assistant.

Mr. President, I should like to propose a unanimous-consent agreement. The distinguished Senator from South Dakota has made much of the fact that the distinguished Senator from Nebraska (Mr. HRUSKA) objected to this amendment coming in. I would have no objection to the amendment coming in provided the Senate would have an opportunity to work its will in the wording of the amendment. So I would propose a unanimous-consent agreement that the Hart-Scott amendment be allowed to come in, but that it be subject to other amendments from the floor, which would have to be germane, and that the amendment come in under those conditions.

I ask unanimous consent that that be allowed.

The PRESIDING OFFICER. Is there objection?

Mr. HRUSKA. Reserving the right to object. May I ask the Senator from Alabama whether that contemplates that any debate upon the amendments that would originate from the floor would be subject to the limitation of time under the cloture conditions?

Mr. ALLEN. I see no way to get additional time. That would have to be, under my request.

Mr. HRUSKA. Mr. President, under those circumstances, I would be constrained to object, inasmuch as there is not that protection against the erosion of time for debate of other very important subjects.

I object, Mr. President.

Mr. ALLEN. Would the Senator agree to 30 minutes on each amendment, equally divided? Would that remove the objection?

Mr. ROBERT C. BYRD. Mr. President, I would object to any time agreement on such amendments at this time. I am like the Senator: I prefer to proceed under the cloture rule at this point.

Mr. ALLEN. Very well. If the Senator wants to proceed under the cloture rule, he should have objected to the amendment, the request for the amendment to come in.

Mr. ROBERT C. BYRD. That is up to this Senator to determine whether he should object or not. Objection was made by another Senator.

Mr. ALLEN. I thought the Senator wanted to follow the rule.

The PRESIDING OFFICER. The objection is heard.

Mr. MAGNUSON. Will the Senator yield on my own time?

Mr. ALLEN. I have given up the floor. The Senator can get the floor on his own.

Mr. MAGNUSON. I want to make a comment on the Senator's remark. The remark was about my State.

The PRESIDING OFFICER. The Senator from Washington is recognized on his own time.

Mr. MAGNUSON. The Senator from Alabama quoted that very famous case. I was quite familiar with that. I knew the parties involved. It involved the public utilities on the price fixing of electrical equipment. There was a long trial. The attorney general was tried and the mayor of San Francisco, Alioto. After some time, the jury came in and acquitted them both.

Mr. ALLEN. I made no point of any illegality.

Mr. MAGNUSON. I wanted to have the record cleared up.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. JOHNSTON. Mr. President, I should like to direct a question or two on this amendment. I hope my objections, as Senator NUNN's, will be resolved to it.

As I understand it, under the new proposal, if the Hruska amendment is defeated—I guess this question would be to Senator HART.

If the Hruska proposal is defeated, contingent fees may remain, but they may not involve a percentage of the monetary relief awarded. Is that correct?

Mr. PHILIP A. HART. That is correct.

Mr. JOHNSTON. How would it then work? How would you then structure a contingency fee contract?

Mr. PHILIP A. HART. Well, we must remember that there is provision in the Hart-Scott substitute for the court to—let me get the language precisely—"The court shall determine the amount of the plaintiff's attorney's fee."

There is a series of guidelines that have been developed, some of which, indeed, we set forth on pages 51 and 52 of the committee report. But substantially, I think that I could say that in determining the fee, the court would consider the time and the labor spent, the magnitude of the litigation and its complexity, the quality of the service rendered, and whether the plaintiff had the benefit of a prior judgment in favor of the United States on parallel comparable issues.

It is possible that you could have an hourly rate of $25, or $100. It could vary by region, I am sure. But these would be the factors that would operate in connection with the evaluation of the fee that would be presented to the court by an attorney engaged on a contingent basis, namely, if you win you——

Mr. JOHNSTON. Is the Senator saying the court will in all such contingency fee situations fix the fee, the contingency being that the court has the right to fix it based on these factors or other factors if the plaintiff is successful, but that the court has no such power if the plaintiff does not prevail?

Should I restate that question?

Mr. ABOUREZK. That is correct. That is the intention of the legislation.

Mr. PHILIP A. HART. I am sorry, I did not, in fact, hear the question of the Senator from Louisiana.

Mr. JOHNSTON. That is a correct statement?

Mr. ABOUREZK. That is absolutely correct.

Mr. JOHNSTON. So a contingent fee would not provide, for example, $200 an hour if you win and nothing if you lose. It could not be that kind of a contingent contract; is that correct?

Mr. ABOUREZK. It is possible, that could happen. But it is subject to the court's determination. The thing that this will prohibit is a percentage contingency of the award.

Mr. ALLEN. Mr. President, will the Senator yield?

Mr. JOHNSTON. Let me follow this, if I may. What I am trying to get at is whether this contingent fee contract is a right to go to the court and ask it to fix the fee if the attorney prevails.

Mr. ABOUREZK. That is correct.

Mr. JOHNSTON. That is one thing. It is quite another thing if you have a contract which you execute with the attorney general that says you get $200 an hour or $500 an hour if you win. Is that latter kind prohibited?

Mr. ABOUREZK. The thing is the contract would be of little value because the bill, as it now stands, provides that the court would fix the fee. The contract would not really have anything to do with it.

Mr. JOHNSTON. All right. So we are not talking about contingent fee contracts. The contract would not be allowed or provided for between a plaintiff's attorney and the attorney general under this proposed amendment compromise.

Mr. ABOUREZK. I do not believe they are disallowed but they are not provided for. I do not know if it would have any bearing, any kind of a contract would have any bearing, upon the court's determination in any event.

Let me read out of the report:

> It is the committee's intention that attorneys' fees in section 4C cases be approved under the same criteria, and the court is directed to look behind any fee arrangements which may be made between the State and its counsel.

So the court would thoroughly review it. If there were an agreement they would look totally behind it to find out what it was all about and determine, based on the conditions suggested by Senator HART, whether or not the contingency fee ought to be allowed.

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. ABOUREZK. The important thing is that it does not provide for percentage contingency fees. So all of the horror stories about huge awards really are very meaningless in this particular debate on this particular piece of legislation.

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. JOHNSTON. Yes.

Mr. ABOUREZK. On the Senator's time.

Mr. McCLURE. Do I understand the Senator's question to be in the contrary event that the plaintiffs are unsuccessful, does it provide for the payment of attorneys' fees? I think that was the question. My understanding of the correct answer would be if the attorney general had an agreement to pay a fixed fee or an hourly fee regardless of the outcome of the suit, that arrangement would not be affected by the amendment of the Senator from Michigan (Mr. PHILIP A. HART). It would be applicable only in the event the fee was to be paid in the event of a successful suit and would be paid out of recovery.

Mr. ABOUREZK. The agreement between the State attorney general and a private attorney can be that he will be paid on a flat rate hourly basis, win or lose, or he can be paid on a contingent fee basis, contingent upon whether he won or contingent upon whether he lost, but that would all be subject, in the event of a contingent fee, to a thorough review by the court in each and every case. The court itself would fix the fee.

Mr. JOHNSTON. Would the court fix it initially or simply review the terms of the contract?

Mr. ABOUREZK. It would review it and then fix it.

Mr. JOHNSTON. In effect, the court would ab initio fix the fee for the successful planitiff's attorney.

Mr. ABOUREZK. Let me read out of the bill itself on page 29, line 21, section (e):

> In any action brought under this section the amount of plaintiffs' attorneys' fees, if any, shall be determined by the court.

So it does not say exactly when it is to be done. It can be done at the outset of the case or at the end of the case, whatever the court might determine.

Mr. McCLURE. Mr. President, will the Senator yield? Is the Senator saying that language would not be affected by the proposed language of the Senator from Michigan?

Mr. ABOUREZK. That is right. The proposed amendment by Senator PHILIP A. HART would merely clarify the intention of the committee all along which means that no percentage contingency fees would be allowed.

Mr. JOHNSTON. I thank the Senator.

Mr. ALLEN. Mr. President, will the Senator yield for a question?

Mr. ABOUREZK. On the Senator's time.

Mr. ALLEN. In the event of a small——

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield, and I beg his pardon? The Senator cannot yield to this Senator on his time for him to do the interrogating. The Senator may think he is doing it, but his own time is being used up.

Mr. ABOUREZK. My time is being used up?

The PRESIDING OFFICER. The Senator's time is being used up.

Mr. ALLEN. Mr. President, I would like to make a unanimous-consent request. I ask unanimous consent that the distinguished Senator from South Dakota, the distinguished Senator from North Carolina (Mr. MORGAN), and also the distinguished Senator from Michigan (Mr. PHILIP A. HART) each be accorded an additional 1 hour of time inasmuch as they are having to defend all of the amendments.

Mr. ROBERT C. BYRD. Mr. President, I would reserve the right to object. Instead I would ask unanimous consent that I might yield 30 minutes of my time to the distinguished Senator from South Dakota, and that is in accordance with the rules. But if we start getting additional hours around here, this debate will go on and on.

Mr. ALLEN. There is precedent for it.

Mr. ROBERT C. BYRD. There is precedent, but I would have to object to that.

I ask unanimous consent that I may yield 30 minutes of my time to one of the managers of the bill, Mr. ABOUREZK.

The PRESIDING OFFICER. Is there any objection? The Chair hears none, and it is so ordered.

Mr. ALLEN. Mr. President, will the Senator then yield for a question?

Mr. ABOUREZK. Yes.

Mr. ALLEN. In the event the recovery was small but the hours spent by the lawyers were many, would it not be possible for the entire recovery to be eaten up in attorneys' fees?

Mr. ABOUREZK. I do not think so.

Mr. ALLEN. Why not?

Mr. ABOUREZK. Any court that I would know of would not do that. There would not be much use in bringing the lawsuit if it were all going to be eaten up in attorneys' fees.

Mr. ALLEN. The Senator says if there were no recovery at all the contract would be paid?

Mr. ABOUREZK. Not necessarily. There is a possibility it could be, but it is up to the court.

Mr. ALLEN. It is not possible then for the attorneys' fees to exceed the amount of recovery?

Mr. ABOUREZK. No.

Mr. ALLEN. I see. I am glad to get that into the legislative history.

Mr. ABOUREZK. We are ready to vote.

Mr. McCLURE. Just one comment before the vote, and I will not prolong this, but I do not think we ought to leave the record unexpanded in regard to the comment by the Senator from Michigan that in some instances the fee might be $25 an hour and in some $100 an hour.

I would point out there have been instances in which the court granted attorneys' fees as high as $3,500 an hour and there are many in which the attorneys' fees granted were $1,000 an hour. So let us not be misled that we will be confined to $25 an hour or $100 an hour.

Mr. ABOUREZK. Will the Senator yield?

Is that based on the percentage of the award or was that an hourly award?

Would the Senator speak to that?

Mr. McCLURE. On the Senator's time.

Mr. ABOUREZK. Yes, on mine.

Mr. McCLURE. I am glad to respond on the time of the Senator from South Dakota.

Mr. ROBERT C. BYRD. Mr. President, I have just explained that.

The PRESIDING OFFICER. It will take unanimous consent to speak on another's time. The Senator from West Virginia is correct in his presentation of the rule.

Mr. McCLURE. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. McCLURE. May I respond to the question propounded to me by the Senator from South Dakota on his time?

The PRESIDING OFFICER. No.

Mr. ABOUREZK. On the Senator's own time.

The PRESIDING OFFICER. On the Senator's own time.

Mr. McCLURE. All right, I will respond on my own time.

The PRESIDING OFFICER. Yes.

Mr. McCLURE. But very briefly.

I do not think it makes a whit of difference whether it was a percentage recovery or a contingency under the supervision of the court when the court will grant an attorney fee that is as high as $3,500 an hour. The judge is going to grant it.

Mr. ABOUREZK. The Senator did not answer my question.

Mr. McCLURE. They asked for much more than that.

Mr. ABOUREZK. The Senator did not answer my question. I wonder if he would respond.

Mr. McCLURE. That is all. I cannot.

Mr. ABOUREZK. All right. Then I would like to state that that was based upon a percentage contingent fee and ask the Senator to refute what I have said.

We are ready to vote.

The VICE PRESIDENT. The question is on agreeing to the amendment of the Senator from Nebraska, No. 1718. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. BUMPERS), the Senator from Idaho (Mr. CHURCH), the Senator from Indiana (Mr. HARTKE), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I also announce that the Senator from Missouri (Mr. SYMINGTON) and the Senator from Indiana (Mr. BAYH) are absent because of illness.

I further announce that, if present and voting, the Senators from Indiana (Mr. BAYH and Mr. HARTKE) would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from New Mexico (Mr. DOMENICI), the Senator from Arizona (Mr. GOLDWATER), and the Senator from Nevada (Mr. LAXALT) are necessarily absent.

The result was announced—yeas 42, nays 49, as follows:

[Rollcall Vote No. 236 Leg.]

YEAS—42

Baker
Bartlett
Beall
Bellmon
Bentsen
Brock
Brooke
Buckley
Burdick
Byrd, Harry F., Jr.
Cannon
Case
Curtis
Dole
Eastland
Fannin
Garn
Griffin
Hansen
Hatfield
Helms
Hollings
Hruska
Javits
McClellan
McClure
Packwood
Pearson
Percy
Roth
Schweiker
Scott, William L.
Sparkman
Stennis
Stevens
Stone
Taft
Talmadge
Thurmond
Tower
Weicker
Young

NAYS—49

Abourezk
Allen
Biden
Byrd, Robert C.
Chiles
Clark
Cranston
Culver
Durkin
Eagleton
Fong
Ford
Glenn
Gravel
Hart, Gary
Hart, Philip A.
Haskell
Hathaway
Huddleston
Humphrey
Inouye
Jackson
Johnston
Kennedy
Leahy
Long
Magnuson
Mansfield
Mathias
McGee
McGovern
McIntyre
Metcalf
Mondale
Montoya
Morgan
Moss
Muskie
Nelson
Nunn
Pastore
Pell
Proxmire
Randolph
Ribicoff
Scott, Hugh
Stafford
Stevenson
Williams

NOT VOTING—9

Bayh
Bumpers
Church
Domenici
Goldwater
Hartke
Laxalt
Symington
Tunney

So Mr. HRUSKA's amendment (No. 1718) was rejected.

Mr. ALLEN. Mr. President, having voted on the prevailing side on this issue, I now move to reconsider the vote by which the amendment was rejected, and I call for the yeas and nays.

Mr. ABOUREZK. I move to lay that motion on the table.

Mr. ALLEN. I call for the yeas and nays on the motion to lay on the table.

The PRESIDING OFFICER (Mr. GLENN). Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the motion to reconsider the vote by which the amendment was rejected. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. BUMPERS), the Senator from Idaho (Mr. CHURCH), the Senator from Indiana (Mr. HARTKE), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I also announce that the Senator from Indiana (Mr. BAYH) and the Senator from Missouri (Mr. SYMINGTON) are absent because of illness.

I further announce that, if present and voting, the Senators from Indiana (Mr. BAYH and Mr. HARTKE) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Arizona (Mr. GOLDWATER), the Senator from Oregon (Mr. HATFIELD), the Senator from Nevada (Mr. LAXALT), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The result was announced—yeas 49, nays 41, as follows:

[Rollcall Vote No. 237 Leg.]

YEAS—49

Abourezk
Biden
Byrd, Robert C.
Chiles
Clark
Cranston
Culver
Durkin
Eagleton
Fong
Ford
Glenn
Gravel
Hart, Gary
Hart, Philip A.
Haskell
Hathaway
Huddleston
Humphrey
Inouye
Jackson
Johnston
Kennedy
Leahy
Long
Magnuson
Mansfield
Mathias
McGee
McGovern
McIntyre
Metcalf
Mondale
Montoya
Morgan
Moss
Muskie
Nelson
Nunn
Pastore
Pell
Proxmire
Randolph
Ribicoff
Scott, Hugh
Stafford
Stevenson
Weicker
Williams

NAYS—41

Allen
Baker
Bartlett
Beall
Bellmon
Bentsen
Brock
Brooke
Buckley
Burdick
Byrd, Harry F., Jr.
Cannon
Case
Curtis
Dole
Domenici
Eastland
Fannin
Garn
Griffin
Hansen
Helms
Hollings
Hruska
Javits
McClellan
McClure
Packwood
Pearson
Percy
Roth
Schweiker
Scott, William L.
Sparkman
Stennis
Stevens
Stone
Taft
Talmadge
Thurmond
Young

NOT VOTING—10

Bayh
Bumpers
Church
Goldwater
Hartke
Hatfield
Laxalt
Symington
Tower
Tunney

So the motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, I ask unanimous consent that I be permitted to yield 30 minutes of my time to the majority floor manager of the bill, the Senator from Nebraska (Mr. HRUSKA).

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PHILIP A. HART. Mr. President, as I indicated prior to the last series of votes, in an effort to insure explicit provision in the bill when it goes to the conference, prohibiting contingent fees based on a percentage of either the settlement or the judgment, I again ask unanimous consent that an amendment intended to achieve this goal be permitted to be acted upon.

I will read it. It is an amendment to amendment 1701.

On page 31, line 14, insert the following before the period:

"Except that such term does not include any person employed or retained on a contingency fee based on a percentage of the monetary relief awarded under this section."

This has been discussed before. We have acted now on the Hruska amendment. I hope that both sides will see the desirability of including this language in the bill, and I therefore ask unanimous consent that we may be permitted to consider the amendment.

Mr. HRUSKA. Mr. President, reserving the right to object, for the same reasons that this Senator objected to the previous unanimous-consent request applying to a similar amendment, all of which applied to the present amendment, I am constrained to object, and I do object.

The PRESIDING OFFICER. Objection is heard.

Mr. PHILIP A. HART. Mr. President, assurance was given earlier that in conference the Senate conferees would insist that a ban on all percentage contingency fees be made explicit in the bill. Since this heads in the direction of the House bill, in any event, I anticipate that that kind of commitment is one that could be made in good conscience.

AMENDMENT NO. 1730

Mr. MORGAN. Mr. President, I call up amendment No. 1730.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from North Carolina (Mr. MORGAN) proposes an amendment numbered 1730:
>
> On page 20, line 10, strike out "civil or".
>
> On page 20, line 11, after "States" insert "in which a defendant enters a plea of guilty or nolo contendere".
>
> On page 20, line 13, after "duced" insert "by such defendant", and after "of" insert "the testimony of such defendant or any other officer, director, employee, or agent of such defendant in".

Mr. MORGAN. Mr. President, this amendment actually limits the provisions of the bill as contained in section (L) on page 20 with regard to access to grand jury documents and transcripts.

Under the Hart-Scott substitute as it is now written, any person who institutes a civil action, upon the payment of reasonable charges, after the completion of civil or criminal action, can get all the records of the grand jury proceedings, regardless of whether the testimony or documents related to the defendants or not. We think that is broad and that it should be limited.

This amendment simply would strike out the word "civil" and provide that after the disposal of a criminal case, if the defendant pleads guilty or nolo contendere, all the testimony and documents of the defendant before the grand jury or any of his agents or employees would be available to the plaintiffs in the civil action but none of the documents and testimony of the witnesses who were not employees of the defendants.

It is a restricting amendment, and I believe it is one with which we can all agree and that it will make the bill better.

This amendment limits the provisions of the bill affording access to grand jury documents and transcripts.

It limits such access to cases in which the Government has filed a criminal case and a defendant has entered a plea of guilty or of nolo contendere. Even in such cases, under the amendment, access will be possible only with respect to the documents and testimony of such defendant and its officers, directors, employees and agents.

Mr. President, if a defendant went to trial and was convicted, the grand jury evidence so vital to private plaintiffs would be publicly available on the record of the criminal trial. If a defendant pleads guilty or nolo, such defendant is just as guilty as one who stands trial and is convicted. There is no justification in such cases for private plaintiffs to be denied access to such vital information.

Under the amendment, documents and testimony from third parties would not be available under the standards set forth in title II. Thus, informers and competitors would be protected. But, as to the defendant, no justification exists to use the grand jury as a shield to cover up and protect such defendant's illegal activities.

I believe this amendment strikes an appropriate balance, and hope it will be accepted.

Mr. ALLEN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second at the present time.

The yeas and nays were not ordered.

Mr. ALLEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second at this time.

The yeas and nays were ordered.

Mr. HRUSKA. Mr. President, the subject of the use of the testimony in grand jury proceedings and the inspection and copying of documentary material, and so forth, under the circumstances outlined in the bill—was discussed in the committee, in its markup session. The title VI relating to nolo contendere was eliminated from the bill.

We find now an offer of some material relating to nolo contendere inserted in the instant measure, the Hart-Scott substitute amendment.

I respectfully recommend to my colleagues that we should reject it now. It seems to me that some reason should be advanced why it is being reinserted, in view of the previous treatment in the committee.

Mr. MORGAN. Mr. President, as I understand this amendment, it is a moderating amendment offered by the committee.

Under the section as it is now written, one can obtain all the testimony before the grand jury, regardless of the outcome of the criminal case, so long as the criminal case has been terminated. This would restrict it so that one could get only the testimony of the defendant and its employees if the defendant pleads guilty or nolo contendere. Under the present statute, even if they are found not guilty, one could obtain it. Under this limitation, it would be only the testimony of the defendants.

Second, if the case was tried before a judge and the defendants were found guilty, all the testimony taken in open court would be available to any civil plaintiff. Surely, a defendant, if he is guilty or not, should not be able to conceal this kind of information by pleading guilty rather than having a trial.

I believe it is a moderating amendment and one that will help the bill.

Mr. HRUSKA. Mr. President, notwithstanding the suggestions and the remarks made by the Senator from North Carolina, I renew my objection to the amendment, and I trust and hope that it will be rejected by the Senate. I have no further comment.

The PRESIDING OFFICER. Is there further debate? Who seeks recognition?

The question is on agreeing to the amendment.

Mr. ALLEN. Mr. President, I move to table the amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

QUORUM CALL

Mr. MORGAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. ALLEN. I object.

The PRESIDING OFFICER. The objection is heard.

The assistant legislative clerk resumed the call of the roll, and the following Senators answered to their names:

[Quorum No. 15 Leg.]

Allen
Bellmon
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Cranston
Dole
Durkin
Ford
Garn
Glenn
Hart, Philip A.
Helms
Hollings
Hruska
Javits
Johnston
Leahy
Long
Magnuson
Mansfield
Mathias
McClellan
McGee
McIntyre
Morgan
Muskie
Nunn
Randolph
Ribicoff
Sparkman
Stone
Talmadge
Williams

The PRESIDING OFFICER. A quorum is not present.

Mr. ROBERT C. BYRD. Mr. President, I move that the Sergeant at Arms be directed to request the attendance of absent Senators.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia.

Mr. ROBERT C. BYRD. I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays are called for. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. BUMPERS), the Senator from Idaho (Mr. CHURCH), the Senator from Indiana (Mr. HARTKE), the Senator from California (Mr. TUNNEY), the Senator from Montana (Mr. MANSFIELD), and the Senator from Colorado (Mr. HASKELL) are necessarily absent.

I also announce that the Senator from Indiana (Mr. BAYH), and the Senator from Missouri (Mr. SYMINGTON) are absent because of illness.

Mr. GRIFFIN. I announce that the Senator from Arizona (Mr. GOLDWATER), the Senator from Nevada (Mr. LAXALT), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The result was announced—yeas 88, nays 1, as follows:

[Rollcall Vote No. 238 Leg.]

YEAS—88

Abourezk
Allen
Baker
Bartlett
Beall
Bellmon
Bentsen
Biden
Brock
Brooke
Buckley
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Clark
Cranston
Culver
Curtis
Dole
Domenici
Durkin
Eagleton
Eastland
Fannin
Fong
Ford
Garn
Glenn
Gravel
Griffin
Hansen
Hart, Gary
Hart, Philip A.
Hatfield
Hathaway
Helms
Hollings
Hruska
Huddleston
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Leahy
Long
Magnuson
Mathias
McClellan
McClure
McGee
McGovern
McIntyre
Metcalf
Mondale
Montoya
Morgan
Moss

Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Scott, William L.
Sparkman
Stafford
Stennis
Stevens
Stevenson
Stone
Taft
Talmadge
Thurmond
Williams
Young

NAYS—1

Weicker

NOT VOTING—11

Bayh
Bumpers
Church
Goldwater
Hartke
Haskell
Laxalt
Mansfield
Symington
Tower
Tunney

So the motion was agreed to.

The PRESIDING OFFICER. A quorum is present.

The question recurs on the motion to lay on the table the amendment of the Senator from North Carolina (No. 1730).

Mr. MORGAN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. Bumpers), the Senator from Idaho (Mr. Church), the Senator from Indiana (Mr. Hartke), the Senator from Montana (Mr. Mansfield), and the Senator from California (Mr. Tunney) are necessarily absent.

I also announce that the Senator from Indiana (Mr. Bayh), and the Senator from Missouri (Mr. Symington) are absent because of illness.

I further announce that, if present and voting, the Senators from Indiana (Mr. Bayh and Mr. Hartke) would each vote "nay".

Mr. GRIFFIN. I announce that the Senator from Arizona (Mr. Goldwater), the Senator from Nevada (Mr. Laxalt), the Senator from Alaska (Mr. Stevens), and the Senator from Texas (Mr. Tower) are necessarily absent.

The result was announced—yeas 9, nays 80, as follows:

[Rollcall Vote No. 239 Leg.]

YEAS—9

Allen
Bellmon
Eastland
Hatfield
Hollings
McClure
Scott, William L.
Sparkman
Stennis

NAYS—80

Abourezk
Baker
Bartlett
Beall
Bentsen
Biden
Brock
Brooke
Buckley
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Clark
Cranston
Culver
Curtis
Dole
Domenici
Durkin
Eagleton
Fannin
Fong
Ford
Garn
Glenn
Gravel
Griffin
Hansen
Hart, Gary
Hart, Philip A.
Haskell
Hathaway
Helms
Hruska
Huddleston
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Leahy
Long
Magnuson
Mathias
McClellan
McGee
McGovern
McIntyre
Metcalf
Mondale
Montoya
Morgan
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Stafford
Stevenson
Stone
Taft
Talmadge
Thurmond
Weicker
Williams
Young

NOT VOTING—11

Bayh
Bumpers
Church
Goldwater
Hartke
Laxalt
Mansfield
Stevens
Symington
Tower
Tunney

So the motion to lay on the table was rejected.

The PRESIDING OFFICER (Mr. Helms). The question recurs on agreeing to the amendment of the Senator from North Carolina. The yeas and nays have been ordered. The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. Bumpers), the Senator from Idaho (Mr. Church), the Senator from Indiana (Mr. Hartke), the Senators from Montana (Mr. Mansfield) and (Mr. Metcalf), and the Senator from California (Mr. Tunney), are necessarily absent.

I also announce that the Senator from Indiana (Mr. Bayh), and the Senator from Missouri (Mr. Symington), are absent because of illness.

I further announce that, if present and voting, the Senators from Indiana (Mr. Bayh and Mr. Hartke) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Arizona (Mr. Goldwater), and the Senator from Nevada (Mr. Laxalt) are necessarily absent.

The result was announced—yeas 89, nays 1, as follows:

[Rollcall Vote No. 240 Leg.]

YEAS—89

Abourezk
Allen
Baker
Bartlett
Beall
Bellmon
Bentsen
Biden
Brock
Brooke
Buckley
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Clark
Cranston
Culver
Curtis
Dole
Domenici
Durkin
Eagleton
Eastland
Fannin
Fong
Ford
Garn
Glenn
Gravel
Griffin
Hansen
Hart, Gary
Hart, Philip A.
Haskell
Hatfield
Hathaway
Helms
Hollings
Hruska
Huddleston
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Leahy
Long
Magnuson
Mathias
McClellan
McClure
McGee
McGovern
McIntyre
Mondale
Montoya
Morgan
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Scott, William L.
Sparkman
Stafford
Stevens
Stevenson
Stone
Taft
Talmadge
Thurmond
Tower
Weicker
Williams
Young

NAYS—1

Stennis

NOT VOTING—10

Bayh
Bumpers
Church
Goldwater
Hartke
Laxalt
Mansfield
Metcalf
Symington
Tunney

So Mr. Morgan's amendment (No. 1730) was agreed to.

Mr. MORGAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. ABOUREZK. I move to lay that motion on the table.

Mr. ALLEN. I call for the yeas and nays on that motion.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. Bumpers), the Senator from Idaho (Mr. Church), the Senator from Indiana (Mr. Hartke), the Senator from Hawaii (Mr. Inouye), the Senators from Montana (Mr. Mansfield) and (Mr. Metcalf), and the Senator from California (Mr. Tunney) are necessarily absent.

I also announce that the Senator from Indiana (Mr. Bayh), and the Senator from Missouri (Mr. Symington) are absent because of illness.

I further announce that, if present and voting, the Senators from Indiana (Mr. Bayh) and (Mr. Hartke), and the Senator from Hawaii (Mr. Inouye) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. Baker), the Senator from New York (Mr. Buckley), the Senator from New Mexico (Mr. Domenici), the Senator from Arizona (Mr. Goldwater), the Senator from Nevada (Mr. Laxalt), the Senator from Idaho (Mr. McClure), the Senator from Vermont (Mr. Stafford), and the Senator from Ohio (Mr. Taft) are necessarily absent.

The result was announced—yeas 75, nays 8, as follows:

[Rollcall Vote No. 241 Leg.]

YEAS—75

Abourezk
Bartlett
Beall
Bentsen
Biden
Brock
Brooke
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Clark
Cranston
Culver
Curtis
Dole
Durkin
Eagleton
Eastland
Fong
Ford
Glenn
Gravel
Hansen
Hart, Gary
Hart, Philip A.
Haskell
Hatfield
Hathaway
Helms
Hollings
Huddleston
Humphrey
Jackson
Javits
Johnston
Kennedy
Leahy
Long
Magnuson
Mathias
McClellan
McGee
McGovern
McIntyre
Mondale
Montoya
Morgan
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Sparkman
Stennis
Stevens
Stevenson
Stone
Talmadge
Thurmond
Weicker
Williams
Young

NAYS—8

Allen
Bellmon
Fannin
Garn
Griffin
Hruska
Scott, William L.
Tower

NOT VOTING—17

Baker
Bayh
Buckley
Bumpers
Church
Domenici
Goldwater
Hartke
Inouye
Laxalt
Mansfield
McClure
Metcalf
Stafford
Symington
Taft
Tunney

So the motion to lay on the table was agreed to.

AMENDMENT NO. 1707

Mr. HANSEN. Mr. President, I call up amendment No. 1707.

The PRESIDING OFFICER (Mr. BARTLETT). The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Wyoming (Mr. HANSEN) proposed an amendment numbered 1707:

> On page 15, line 25, add the following at the end of subsection (n): "*Provided*, That such material may be disclosed only when the court directs in connection with a Federal judicial proceeding.".

Mr. ROBERT C. BYRD. Will the Senator yield briefly without losing his right to the floor?

Mr. HANSEN. I will be happy to yield.

Mr. ROBERT C. BYRD. Mr. President, the Senate waited an additional 15 minutes on this past rollcall for a Senator to arrive in the Chamber. There have been a number of times today when the Senate has gone beyond the 15-minute time limit. I am constrained to have to say that our cloakrooms should inform their respective clientele that a demand for regular order will be made henceforth during the remainder of the day when the 15 minutes have expired on rollcalls. I hate to have to say this, but I say it now so that Senators will be forewarned and thereby not inconvenienced. As it is, we are inconveniencing the whole Senate. It is causing the time to run needlessly, and I think in the interests of completing action on this bill, we ought to adhere to the 15-minute rollcall time limit for the rest of the day. I thank the Senator from Wyoming.

Mr. FANNIN. Mr. President, will the Senator yield?

Mr. HANSEN. I yield.

Mr. FANNIN. I ask unanimous consent that Jim Hinish, of my staff, be granted the privileges of the floor during the consideration of H.R. 8532.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HANSEN. Mr. President, the purpose of the proposed amendment is to make it clear that information obtained via a civil investigative demand is accorded the same confidentiality as information obtained pursuant to a grand jury investigation. The Department of Justice has pointed out in its testimony that there may be some confusion regarding the confidentiality under current law and has urged a complete exemption from the Freedom of Information Act. The proposed amendment seeks to achieve the requisite confidentiality by adopting language from the pertinent provision of the Federal Rules of Criminal Procedure applicable to preserving the confidentiality of grand jury proceedings, section 6, subsection (e).

Mr. President, I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HANSEN. Mr. President, it was just a few weeks ago that the Washington Post quoted a warning issued in 1924 about the secret law enforcement by then Attorney General Harlan Fiske Stone:

> There is always the possibility that a secret police may become a menace to free government and free institutions because it carries with it the possibility of abuses of power which are not always quickly apprehended or understood.

We have just read the report of the Senate Intelligence Committee's investigation of all of the abuses of the FBI since that warning was stated and ignored.

Mr. President, will we read another report 40 years from now about the abuses of the power of secret inquisition conferred upon the Department of Justice by title II of S. 1284? Let me make a few remarks about this bill so that no one in the future can say that we were not warned.

Most of the attention, controversy, and criticism surrounding this antitrust legislation has focused on title IV, the so-called parens patriae bill. This attention is certainly justified. As the minority report points out in detail, this is terrible legislation.

Title II is equally terrible, however. It may in fact be more dangerous because its surface plausibility and its underlying complexity have obscured the hidden dangers. The problems involved are very subtle indeed. But do not be lulled into thinking they can be ignored.

Title II is, in reality, quite extraordinary legislation. It gives wholly unprecedented powers of secret inquisition to the prosecutor of the U.S. Government. Under the bill, the Antitrust Division will be able to compel sworn testimony from individuals and State officials on virtually any subject affecting commerce in the United States. It will be able to do this without suspecting the individual of any wrongdoing, without prior court approval, and without notice to potentially affected parties. The bill, of course, does more. It permits the Antitrust Division to compel answers to written interrogatories. And, as the majority report points out, it permits the Division to demand "personal records such as telephone bills, expenses, and calendars" from individuals whether or not they are suspected of any violation of the antitrust laws.

Why are we establishing this roving star chamber, this unchecked Grand Inquisitor? Title II is both necessary and appropriate, we are told, because the Department of Justice's antitrust enforcement is suffering without it, and past history under existing law demonstrates that there has been—and therefore will be—no abuse. Let me examine these two assertions.

As the minority report points out, the Department of Justice did not cite one example of frustrated antitrust enforcement when it testified on behalf of this legislation. Indeed, the Assistant Attorney General was asked how the authority of title II would have aided enforcement in the past when he testified before the House on the companion bill. His answer should stand as a stark warning to us all:

> It would be easier to answer that after we had the authority and see what we can do with it.

This answer is shocking. If the standard is "what we can do with it," why not permit wiretapping, surreptitious entry, and bugging so that we can really know what goes on in corporate board rooms. If capitalists are among the most unsavory elements of our society, so why do we stop with secret interrogation and demands for personal papers?

The Department of Justice did subsequently attempt to identify some past investigations where antitrust enforcement had suffered because of the constraints of existing law. Let us see, then, what the record shows.

The Department has had authority since the initial Civil Investigative Demand Act was enacted in 1962 to compel documents relevant to alleged violations from companies under investigation. It has conducted some 1,700 CID investigations under the existing law since that time. Out of that number, the Department has been able to identify only 14 examples of frustrated investigations. Half of these, moreover, involved mergers, which are subject to the broad investigatory and premerger notice authority of the FTC which cooperates closely with the Department of Justice, at least in the merger area.

The other seven examples are not persuasive, as the minority report points out. Even if they were, they could not justify what the Senate is proposing to enact. This is because utility and efficiency can never constitute the sole standard for judging the propriety of executive power. The need must be balanced against the burdens. The Department, 14 years ago, rejected the authority it now seeks, even though a few investigations had suffered without it, precisely because the burdens and risks for outweighed the benefits.

For reasons known only to it, the Department has now changed its mind. Title II, we are told, would make civil antitrust investigations more "efficient." But so would wiretapping and physical surveillance and other similar devices. So would elimination of the fourth amendment altogether. But we do not propose to approve these things because the burdens and the potential for abuse outweigh the benefits.

What about the potential for abuse? The majority report states emphatically that we should ignore as vastly inflated the warnings about abuse because "no history of abuse under the 1962 Act—or even a single instance of abuse—was brought to the committee's attention."

To cite the absence of abuse because of existing protections as a reason for discarding those protections is extraordinary reasoning. If there has been no abuse of the 1962 act, I think I can confidently say this is because the Department of Justice and the Congress deliberately refused the extraordinary powers this legislation will now grant. The past record thus confirms the wisdom of the 1962 act's limitations. This wisdom is underscored by the contrasting experience with grand jury abuse under the Organized Crime Control Act of 1970 and with the FBI and CIA abuses as recently revealed by the Senate Select Committee Report.

The Organized Crime Control Act of 1970 and our grand jury experience thereunder provide an appropriate contrasting example. As Senator KENNEDY testified before the House only 3 years ago:

> Perhaps the most ominous single sign of our national drift away from liberty is the epidemic of grand jury harassment that has plagued the country in recent years.[1]

As he explained it—

> The novel, wide-ranging so-called "use" immunity power conferred by the Organized Crime Control Act of 1970 appears to be responsible for almost all of the current problems. Indeed, the promiscuous and wholesale current application of this power threatens to make a shambles of the Fifth Amendment's protection against self-incrimination.[2]

Senator KENNEDY traced the responsibility for the abuse as follows:

> In part, of course, Congress is to blame for the present crisis because Congress failed to recognize the sinister potential abuses lurking beneath the innocuous surface of the 1970 law. In part, the Department of Justice is to blame for lulling Congress not only with excessive protestations of the need for this new Act as a law and order tool, but also with equally excessive and wholly unfulfilled promises of good behavior, if only the Act were passed.[3]

What has been the result? As this House witness summarized,

> Today, in consequence, the investigative grand jury has become a powerful new agency of political oppression.[4]

It is important to recognize here, as Senator KENNEDY so clearly put it, that "there are no shortcuts to law and order and certainly not to justice."[5] Certainly, it would be more efficient for the Department's antitrust investigations if there were no limits on either the material it could obtain or the manner in which it obtains it. But such an approach is directly contrary to our traditions.

Justice Black explained our traditions eloquently:

> Secret inquisitions are dangerous things justly feared by free men everywhere. They are the breeding place for arbitrary misuse of official power. They are often the beginning of tyranny as well as indispensable instruments for its survival. Modern as well as ancient history bears witness that both innocent and guilty have been seized by officers of the state and whisked away for secret interrogation or worse until the ground work has been securely laid for their inevitable conviction. While the labels applied to this practice have frequently changed, the central idea . . . remains unchanging—extraction of "statements" by one means or another from an individual by officers of the state while he is held incommunicado.[6]

Title II, of course, adopts the "use immunity" provisions of the Organized Crime Control Act of 1970. It therefore seems clear to me that the relevant history for assessing the wisdom of title II is that act, not the original 1962 CID statute which Congress carefully limited for reasons that should be more rather than less obvious.

The Government subsequently in 1972 filed an antitrust action against the networks, which the court later dismissed when the Antitrust Division defied a court order to turn over documents and tapes bearing on the decision to bring the action. This is, to my way of thinking, an example of abuse of the current law. The potential for abuse of the media, of course, was never fully realized. And the potential for abuse will increase even if we do not adopt tite II. I shudder to think of what can happen if title II becomes law.

I make it clear that I am not attacking the fairness or integrity of the current administration or its current antitrust chief. They want this legislation, and I understand why. They obviously believe they will not abuse the powers. Again, I understand their point of view. But I cannot agree with it. If all Presidents in the future were to have Mr. Ford's sense of decency, I would not be concerned. But if history is any guide, I cannot be confident that they will.

The issue, clearly, is not this administration, the next, or the last necessarily. The issue is the potential for abuse by someone in the future—maybe after we have left the political scene. As one of the supporters of the 1962 act put it in explaining the necessity for all of the safeguards Congress now discards:

> I do not suggest that this Attorney General or, perhaps, any Attorney General or his assistants would abuse this tremendous grant of authority but I think we should concern ourselves with the possibilities of its abuse rather than with the prospects and possibilities of its proper exercise.[7]

Unfortunately, some abuses of the grand jury are concrete examples of abuses we can expect sooner or later from title II if it is enacted.

Let me then return to one of the questions I raised at the outset. Do we really need this legislation? I think it is pretty clear that the only relevant things that have happened since the 1962 act was passed are the abuses I have outlined. These abuses obviously suggest the need for continued restraint, not added powers. Otherwise, we are today where we were prior to 1962 when the Department of Justice explained why it was not seeking the power to subpoena individual citizens:

> We have had very few instances where we have need for such powers where individuals were included, and, frankly, we felt that it might be burdensome to an individual and that the need was not so great that we ought to place that burden on the individual.[8]

So what has changed? We hear so much of price fixing. But that can be—and is—investigated through the grand jury. Indeed, I have read that the Department is now conducting 90 grand jury investigations into alleged price fixing. I am shocked at what appears to be the widespread nature of price fixing. But price fixing is no reason for enacting this legislation. To the contrary, it underscores the adequacy of the authority now available to the Department.

I am therefore prompted to look elsewhere for the motivating force behind title II. What I sense when I read the minority report is that we are really revisiting the Agency for Consumer Advocacy. The Department does not have authority today to use the existing CID statute in its appearances before the various administrative and regulatory agencies. This is because the existing law can be directed only at targets of an antitrust investigation, and regulatory proceedings do not have targets. This is not to say that the Department should have its own discovery powers independent of whatever discovery is available to other parties to a proceeding. To the contrary, fairness and good sense indicate quite clearly that it should not. But the Department's desire to have the authority is, I believe, prompted by the proposed Agency for Consumer Advocacy and the independent discovery authority it will have, if created.

Now, if we do have an Agency for Consumer Protection, what happens to the Department? It has in recent years begun to intervene in and appeal from various agency proceedings which do not in its view pay enough attention to competition. The reasoning is that administrative and regulatory agencies have become captives of the industries they are supposed to regulate. As a result, these agencies confer benefits on protected industries at the expense of the public.

I think we all share this concern about the overprotectiveness of agencies. But it is this very same concern that has already once lead us down the senseless path of proposing yet another superagency to address the problem. The Agency for Consumer Advocacy is simply the wrong way to respond. While that legislation has passed both Houses of Congress, it will, I believe, quite properly be vetoed by the President.

If the legislation is not vetoed, then it will either take over the role now being assumed by the Justice Department, or compete with Justice, to the detriment of us all. Nothing will ever get accomplished. One superagency is bad enough, and having two would be intolerable. On the other hand, if there is a veto and the veto is sustained, then we should not permit the creation of a similar superagency indirectly. Yet, to create such an agency is precisely what title II will do.

It seems senseless to go over all this worn ground again. If there is a problem with the regulatory agencies, let us deal with that problem directly. Let us not try to correct the problems that have resulted from our delegating too much authority by delegating still more authority. There is only so much power in the domestic area that we can give up, and only so many places to pass the buck.

The notion of the Department of Justice acting as an Agency for Consumer Advocacy is extremely dangerous. The CPA legislation was bad enough. But the proposed Agency for Consumer Advocacy was at least theoretically subject to direct congressional oversight. The Department of Justice is decidedly not. Judge Friendly's observations are pertinent here. As he observed after staying a proposal to transfer policymaking to executive departments,

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[1] Hearings before subcommittee No. 1 of the House Judiciary Committee on H. Res. 220, 93d Cong., 1st Sess., p. 34.

[2] *Id.* at 37.

[3] *Id.* at 37.

[4] *Ibid.*

[5] *Id.* at 34.

[6] Quoted by Senator Kennedy at S. 220 Hearings at 34–5.

[7] See S. 1284 Hearings at 456.

[8] Quoted in S. 1284 Hearings at 456, n. 15.

> Quite simply, I find it hard to think of anything worse. Determination of "basic needs of public policy" within the general command of the statute is what Congress created the Commission to do. Either the Commission can perform the task or it cannot. If it cannot it should be abolished. . . . What would be intolerable would be . . . the prospect of making "day to day" decisions in line with the policy guides of White House assistants, whether or not the latter were characterized by "a passion for anonymity." [There would be] . . . the extravagance of having two groups share a common responsibility [and] we would be worse off rather than better.[9]

The Department of Justice is, after all, an enforcement agency. It should remain one.

It is no wonder that the public is politically receptive to anti-Washington rhetoric. Too often our response to the problems of Government is simply more Government. The public, I think, has the justified feeling that bureaucracies spend most of their time simply trying to expand their little empires at the expense of other bureaucracies. And if power cannot be grabbed away from someone else, then it is simply created. No one benefits except the bureaucrats and the lawyers who are paid to try to follow the latest little power struggle. And in the end, we in the Congress are primarily at fault, because we delegate the power initially, and we can take it back.

Where does it all lead us? Nowhere for the public good. A speechwriter for President Kennedy once likened Washington to "a steering wheel that is unattached to the motor." We owe the public better service than to forment the baronial wars between the various parts of the executive branch. The Founding Fathers did envision creative tension between the three major branches of Government. But I am sure that Madison would be shocked to find us in Congress in the 200th anniversary falling all over each other trying literally to choke the Executive with power at our expense.

In sum, there was no need for title II in 1962, and there is no need now. Nothing has transpired in the intervening period except some abuses of the grand jury, which confirm Congress wisdom in 1962 in adopting the limitations the committee now carelessly discards. We seem incapable of learning anything from history. It is a real tragedy that in this Bicentennial Year of celebrating our independence we are now in fact in the process of reversing the great effort 200 years ago to get government off the backs of the people. The said lesson of this country in this century is that once the Government obtains power it is very difficult to take it away. Congress has made some recent efforts to cut back on the ever growing power of the executive branch stemming from the Roosevelt presidency. These efforts are doomed to everlasting failure if we insist, as we do here, on just throwing to the Executive the kinds of powers our forefathers fought so hard against 200 years ago.

I reserve the remainder of my time.

Mr. MORGAN. Mr. President, I think the matter covered by the amendment offered by the distinguished Senator have been taken care of by an amendment which the proponents offered.

One of the objections of the administration to the proposed bill was stressed to the committee in a memorandum from Mr. Joseph Jencks in this connection. I quote from that report, dated May 25, 1976:

> The administration favors an express exemption for information gained from use of CID from the Freedom of Information Act.

That is exactly what the committee amendment did, pursuant to the objections of the administration.

Amendment No. 1728 was offered by Mr. HART and others and was adopted on June 3. It provides that any material or information provided pursuant to any demand under this act shall be exempt from disclosure in section 552 of title V of the United States Code. So we think it is cared for adequately.

The Senator's amendment would go even further than the administration would wish, I think, in that it would be available only for Federal judicial proceedings. Therefore, it would not be available to the Federal Trade Commission and agencies specifically charged with looking into unfair restraints.

There is one other point, Mr. President. The distinguished Senator says that his amendment provides the same protection for the CID information as for grand jury information. That being true, grand jury information is available to private parties upon a showing of need. Therefore, this would make available CID information, which is not now the present law. So I believe his amendment actually would liberalize it.

Anyway, we have taken care of the administration's request verbatim. Therefore, I move that the amendment of the Senator be laid on the table.

Mr. HRUSKA. Mr. President, will the Senator withhold that request for a brief statement, for the purpose of the record?

Mr. MORGAN. Yes.

Mr. HRUSKA. I thank the Senator.

Mr. MORGAN. Mr. President, I ask for the yeas and nays on the motion to table.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it be in order to order the yeas and nays on the motion to table, which Mr. MORGAN will offer.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Without objection, it is so ordered.

Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HRUSKA. Mr. President, I thank the Senator for yielding for this purpose.

I ask unanimous consent, Mr. President, that the material consisting of subsection (e), found on page 141 of the majority report and extending over through the first 7 lines of page 142, be printed in the RECORD at this point. It is simply a comparison of the present statute with the change that would be wrought by this amendment.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

> (e) [Upon the completion of (1) the antitrust investigation for which any documentary material was produced under this Act, and (2) any case or proceeding arising from such investigation, the custodian shall return to the person who produced such material all such material (other than copies thereof made by the Department of Justice pursuant to subsection (c)) which has not passed into the control of any court or grand jury through the introduction thereof into the record of such case or proceeding.] *Upon the completion of—*
>
> *(1) the antitrust investigation for which any documentary material was produced pursuant to this Act; and*
>
> *(2) any such case or proceeding*
>
> *the custodian shall return to the person who produced such material all such material (other than copies thereof furnished to the custodian pursuant to subsection* (b) *of this section or made by the Department of Justice pursuant to subsection* (c) *of this section*) *which has not passed into the control of any court, grand jury, or Federal administrative or regulatory agency through the introduction thereof into the record of such case or proceeding.*

Mr. HRUSKA. I call briefly to the attention of the Senate that this subject has to do with the distribution of records which have been accumulated under civil investigative demands.

The amendment would broaden the present subsection (e) in several particulars: First, the exemption includes material which passes into the control of Federal agencies as well as material which goes into the hands of a court or a grand jury.

Second, the field of material is greatly enlarged because it embraces material, which under the proposed bill, will be coming from persons who have been interrogated by oral or written interrogatories and who are not necessarily the subject of the targeted information. It is in that connection, I think, that it is very useful to have the amendment which is pending approved by the Senate.

I thank the Senator again.

Mr. MORGAN. Mr. President, I reiterate that we have already adopted an amendment exempting all of this material from the Freedom of Information Act. I renew my motion that the amendment lie upon the table.

The PRESIDING OFFICER. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Idaho (Mr. CHURCH), the Senator from Arkansas (Mr. BUMPERS), the Senator from Indiana (Mr. HARTKE), the Senator from Hawaii (Mr. INOUYE), the Senator from Montana (Mr. MANSFIELD), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I also announce that the Senator from Indiana (Mr. BAYH) and the Senator from Missouri (Mr. SYMINGTON) are absent because of illness.

I further announce, that if present and voting, the Senator from Indiana (Mr. BAYH), the Senator from Indiana (Mr. HARTKE), and the Senator from Hawaii (Mr. INOUYE) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Arizona (Mr. GOLDWATER), and the Senator from Nevada (Mr. LAXALT) are necessarily absent.

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[9] Friendly, the Federal Administrative Agencies, p. 118 (1962).

The result was announced—yeas 59, nays 31, as follows:

[Rollcall Vote No. 242 Leg.]

YEAS—59

Abourezk
Biden
Brooke
Byrd, Robert C.
Case
Chiles
Clark
Cranston
Culver
Durkin
Eagleton
Fong
Ford
Glenn
Gravel
Hart, Gary
Hart, Philip A.
Haskell
Hatfield
Hathaway
Hollings
Huddleston
Humphrey
Jackson
Javits
Johnston
Kennedy
Leahy
Long
Magnuson
Mathias
McGee
McGovern
McIntyre
Metcalf
Mondale
Montoya
Morgan
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Schweiker
Scott, Hugh
Sparkman
Stafford
Stennis
Stevenson
Stone
Weicker
Williams

NAYS—31

Allen
Baker
Bartlett
Beall
Bellmon
Bentsen
Brock
Buckley
Burdick
Byrd, Harry F., Jr.
Cannon
Curtis
Dole
Domenici
Eastland
Fannin
Garn
Griffin
Hansen
Helms
Hruska
McClellan
McClure
Roth
Scott, William L.
Stevens
Taft
Talmadge
Thurmond
Tower
Young

NOT VOTING—10

Bayh
Bumpers
Church
Goldwater
Hartke
Inouye
Laxalt
Mansfield
Symington
Tunney

So the motion to lay on the table was agreed to.

AMENDMENT NO. 1771

Mr. GRIFFIN. Mr. President, I send an amendment to the desk, amendment No. 1771.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from Michigan (Mr. GRIFFIN) proposes an amendment:

On page 4, lines 13 and 14, strike "or to competition in a Federal administrative or regulatory agency proceeding".

On page 4, line 16, strike "or during the pendancy of an agency proceeding".

Mr. GRIFFIN. Mr. President, this amendment, No. 1771, on page 4, lines 13 and 14, strikes the words "or to competition in a Federal administrative or regulatory agency proceeding."

As presently drafted, the substitute would permit the Antitrust Division of the Justice Department to use its civil investigative demand powers not only in civil antitrust investigations, but also in administrative or regulatory agency proceedings conducted for other purposes.

I can understand the use of so-called CID powers to obtain evidence for use in a civil antitrust investigation, although some Senators would object even to that provision.

But I do not believe that there has been any justification shown for the Antitrust Division to have power to intervene in regulatory proceedings of other Federal agencies.

Most Federal agencies and departments already have adequate authority to obtain the evidence necessary to determine the competitive effects of their actions. In addition, if the Justice Department believes that the issue of competition has not been thoroughly examined in another agency proceeding, it already has the authority to intervene and request the particular agency to get the necessary information.

As the substitute is written, the new authority would make the Antitrust Division a super agency over other Federal regulatory agencies.

Furthermore, intervention by the Justice Department for its own purposes could have the effect of seriously delaying or prolonging a regulatory agency acting on, for example, an FCC license for renewal or a CAB decision having to do with an airline.

The Justice Department would have powers that could interfere and cause delays much longer than we have presently. In most instances, the regulatory agencies are taking too long now to make decisions under their jurisdiction.

The broad authority in the substitute gives the Justice Department preferential treatment compared with other parties to a proceeding. In effect, the Justice Department could intervene in other agency proceedings with information that is unknown to the other parties.

My amendment would not affect the use of CID's in antitrust proceedings brought by the Justice Department. I want to emphasize that. But it would limit it and provide that it could not be extended into unrelated or other matters which are pending before some other Federal regulatory agency.

This amendment would meet one of the objections of the administration. Its acceptance would be a small step in the direction of making the bill more palatable and of improving its prospects for being signed into law.

I am glad to yield to the distinguished Senator.

Mr. HRUSKA. Mr. President, I concur in the conclusion reached by the Senator from Michigan in regard to the merit of the amendment. However, in order to strengthen the position of the conferees, if and when that time will come that they will be called upon to deliberate on the difference between this bill as amended and what we have in the House, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. KENNEDY. Mr. President, I have very serious reservations about this amendment, but I suppose that, for the reasons stated in the last sentence of the statement of the Senator from Michigan—to the effect of making this show a spirit of accommodation and adjustment—I will indicate the recommendation of the sponsors that the Senate go ahead and accept the amendment.

But I want to point out why I believe the current legislation is justified.

We have vested the Antitrust Division of the Justice Department with the full authority to look out after competitive forces in our economy. We say they are the watchdog over the Nation's free and competitive marketplace.

Here, and by statute, we permit them to intervene in various regulatory agency cases.

What the amendment of the Senator from Michigan would say is that we give the Justice Department the power to go ahead and intervene before the regulatory agencies, but then shackle their participation.

I do not think, as chairman of the Administrative Practice Subcommittee—reviewing the workings and functionings of the regulatory agencies over the last few years, and having looked into the competitive issues which are presented to them—we should say that if the agencies themselves do not obtain relevant important information, then we are not going to let the Justice Department get it even if that information is needed to assess whether proposed action is lawful or advisable.

Effectively, I think we are limiting an important authority and power for the Antitrust Division.

What we are basically saying is that we are going to have to leave it up to the Antitrust Division to go to the CAB or the SEC and say, "Please, please, please, go ahead and subpena this particular information for our use."

I can quote the Senator from Michigan various cases in the past where the regulatory agencies have refused to comply such a request. There have been specific instances where there has been genuine reluctance by the regulatory agencies to move in this field, for example, where the SEC has refused to seek relevant data in certain merger cases.

It seems to me the committee was justified in including this particular statutory power and authority within the present bill.

I quite frankly think we were justified in supporting this provision in the Judiciary Committee.

I am reluctant to see the power of the Antitrust Division modified or adjusted, but in the spirit of seeing early action on this bill, I will recommend that we accept the amendment.

I hope, out of a spirit of accommodation, the Senator will not ask for a yea-and-nay vote since the sponsors are going to accept it in a spirit of accommodation. I hope we can see a similar kind of spirit of accommodation and I ask for withdrawal of the yeas and nays since we are going to accept this amendment.

The PRESIDING OFFICER. Is there objection?

Mr. HRUSKA. Yes, Mr. President.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. HRUSKA. For the moment, it might appear advantageous. There will come a time when we are going to get into conference on this bill and it will be a very heartening thing and a position of strength that will be indicated by a vote here in the Senate.

I object.

The PRESIDING OFFICER. Objection is heard.

The question is on agreeing to the amendment of the Senator from Michigan. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. Bumpers), the Senator from Idaho (Mr. Church), the Senator from Indiana (Mr. Hartke), the Senator from Hawaii (Mr. Inouye), the Senator from Montana (Mr. Mansfield), the Senator from Montana (Mr. Metcalf), and the Senator from California (Mr. Tunney) are necessarily absent.

I also announce that the Senator from Indiana (Mr. Bayh) and the Senator from Missouri (Mr. Symington) are absent because of illness.

I further announce that, if present and voting, the Senator from Indiana (Mr. Bayh), the Senator from Indiana (Mr. Hartke), and the Senator from Hawaii (Mr. Inouye) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Massachusetts (Mr. Brooke), the Senator from Arizona (Mr. Goldwater), and the Senator from Nevada (Mr. Laxalt), are necessarily absent.

The result was announced—yeas 82, nays 6, as follows:

[Rollcall Vote No. 243 Leg.]

YEAS—82

Allen
Baker
Bartlett
Beall
Bellmon
Bentsen
Biden
Brock
Buckley
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Cranston
Curtis
Dole
Domenici
Durkin
Eagleton
Eastland
Fannin
Fong
Ford
Garn
Glenn
Gravel
Griffin
Hansen
Hart, Gary
Hart, Philip A.
Hatfield
Hathaway
Helms
Hollings
Hruska
Huddleston
Humphrey
Jackson
Javits
Johnston
Leahy
Long
Magnuson
Mathias
McClellan
McClure
McGee
McGovern
McIntyre
Mondale
Montoya
Morgan
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Scott, William L.
Sparkman
Stafford
Stennis
Stevens
Stevenson
Stone
Taft
Talmadge
Thurmond
Tower
Weicker
Williams
Young

NAYS—6

Abourezk
Clark
Culver
Haskell
Kennedy
Proxmire

NOT VOTING—12

Bayh
Brooke
Bumpers
Church
Goldwater
Hartke
Inouye
Laxalt
Mansfield
Metcalf
Symington
Tunney

So Mr. Griffin's amendment (No. 1771) was agreed to.

Mr. GRIFFIN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BEALL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1724

Mr. HRUSKA. Mr. President, I call up my amendment No. 1724.

The PRESIDING OFFICER (Mr. Baker). The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Nebraska (Mr. Hruska) proposes an amendment numbered 1724:

Delete title V beginning on page 32, line 21, through page 43, line 24.

Mr. HRUSKA. Mr. President, this amendment would delete the entire title V of the Hart-Scott substitute. Title V deals with premerger notification.

It purports to be, Mr. President, a title that will have for its purposes the monitoring, regulation, and control of mergers and acquisitions of one corporation with another or one corporation of another.

However, it is not that at all. What it will amount to, and what the net result will be, is an act of prohibiting and preventing further mergers of any kind, and regardless of size. That will be the thrust of it, and that will be the net result.

The title itself, as drawn, is based upon the false premise that all mergers are bad, because it vests in the Department of Justice, the Antitrust Division, the power to ask for an automatic stay in connection with the preliminary injunction.

It is not true, Mr. President, that all mergers and acquisitions are bad. Most of them are by far desirable and they are beneficial.

The premerger procedures that have been worked out, which have controlled for some time now, and are in full force and effect are sufficient unto the necessities of those instances where mergers should be challenged and are challenged. It is for this reason and many, many other reasons that I propose this amendment.

May I say in concluding, Mr. President, that the title V as drawn is opposed by the Federal Trade Commission, the Department of Justice, the Treasury Department, and the American Bar Association.

This is not the first time that Congress has considered this type of amendment. It is my hope that this title will join company with the other efforts which were very fruitless and this attempt should also be fruitless.

I yield the floor and reserve the remainder of my time.

Mr. BUCKLEY. Mr. President, I am glad the Senator from Nebraska has called up this amendment. I cannot tell Senators how many calls and discussions I have had over a period of months from members of the investment community in New York who are not directly involved in this but because of their experience can understand the implications of this particular bill. They understand the need for mobility in capital. They understand the business service that is so often accomplished through mergers between corporations in fashions that have nothing whatsoever to do with the kind of concentration of market power that our antitrust laws were designed to prevent. They understand, as entrepreneurs, that part of their incentives for the mobilization of capital and building up a firm is the ability down the line to be able to dispose of the enterprise that they have built.

They see, in other words, that the implications of this legislation of title V will be to dramatically curtail the ability of people to move from one investment to another and all that this has meant down through the years to permit our system of capital formation and mobility of capital to perform its wonders.

This particular title, as the Senator from Nebraska has pointed out, goes beyond any kind of reason in the powers that it vests in the Attorney General.

Under this title, the Government, in fact, could block any acquisition by one corporation of another, regardless of size, simply by requesting a Federal district court to issue an injunction for that purpose.

Many people examining the legislation are of the impression that it only affects entities of $100 million in assets or sales that are intending to acquire or are intended to be acquired by another entity with sales of $10 million or more. This provision, however, affects the obligation on the part of the parties to provide premerger notification. But the fact is that under the legislation the Federal Government can move in and call to a halt any proposed merger between any two firms of any size without the necessity of showing cause.

To repeat myself, the Government need only request a Federal district court to issue an injunction to block the acquisition. This injunction would be required of the court, without any proof or offer of proof whatever that the transaction violates any antitrust law.

The court would be obligated, without discretion, to stay the proposed transaction by issuing a temporary restraining order barring completion of the merger or acquisition.

This temporary restraining order is the only element of the automatic stay provision which the majority committee report discusses.

But there are other provisions contained in the report that go much further than this particular provision.

In fact, there is testimony in the hearing record to the effect that the bill is not one which monitors and supervises corporate mergers and acquisitions.

That testimony is to the effect and conclusion that the bill is one which will result in prohibition and prevention of further mergers and acquisitions, at the whim of the executive branch of Government.

This is brought about by the automatic stay provision set out in subsection (d). It provides that the automatic stay which it sets out will be without time limit; a preliinary injmunction lasting until final judgment is issued, and according to the evidence presented before the committee, this may take as many as 5 or 6 years in a normal proceeding of any size and description.

In other words, without any showing that the proposed combination might impede competition, the Government simply on request can ask for an injunction that will hold the whole situation in suspense for 5 or 6 years.

I suggest that this is not only a bad provision but an intolerable provision. It is a provision that makes of the bill a measure of prohibition rather than supervision.

Underlying title V is the false premise that all mergers and acquisitions are inherently bad; that there is a "merger problem" which threatens a healthy economy and the public interest; and that the existing weapons of the Antitrust Division and the FTC are inadequate to cope with this so-called "merger problem." But these propositions are unsupported and are disproven by the evidence presented to the committee.

Even the antitrust enforcement agencies agree that mergers are not per se bad and are often procompetitive and beneficial. Antitrust Division Chief Kauper testified that—

> Many mergers are procompetitive, or promote efficiencies, many more are economically or competitively neutral.

Moreover, big companies are not steadily gobbling up little companies: The uncontradicted statistics show that mergers and acquisitions are generally declining.

Above all, the antimerger weapons presently available to the enforcement agencies are not shown to be inadequate. On the contrary, their hand has been strengthened by powerful new legal weapons, yet to be fully tested, which confer much greater powers to prevent any illegal mergers.

In sum, there is no showing that there is any need for any such antimerger legislation today.

Certainly there is no demonstrated need for legislation such as the "automatic stay" provisions of section 7A(d). Such arbitrary and absolute enforcement agency power to stop and kill business transactions which are not inherently unlawful is at war with the most fundamental traditions of our jurisprudence.

I suggest it is hard to conceive of a measure in this field that so violates the very concept of due process.

Yet the provisions of this act are applicable to all proposed acquisitions or mergers. The mere existence of such law would be of such deterrent effect that would virtually preclude consideration of acquisitions or mergers. This is because it would enable arbitrary and absolute imposition of the long stay or bar to consummation of any agreement between two businesses to merge or be acquired, one by the other.

Title V would give the Government arbitrary fiat powers to prevent any business acquisition, regardless of size or competitive impact, and runs counter to basic antitrust policies by inhibiting the competitive, efficient formation and allocation of capital resources.

The fact is, Mr. President, that before a complex merger can even be proposed, the business entities in question must make detailed studies, assessment of values, all of which run into considerable sums.

If a climate is established and if at a particular time somebody in the executive branch is vested with the powers to exercise the authority to be granted under this title who is hostile to the mere idea of merger, irrespective of whether any anticompetition would result therefrom, the mere existence of this power would discourage people from making the initial investigations that are required.

Advocates of the bill contend however, that the companies proposing merger or acquisition have two defenses available; and that these defenses are safeguards against arbitrary exercise of the powers conferred by the bill.

Theoretically, the defendant could assert two defenses to such an automatic preliminary injunction. But these "defenses," shifting the burden of proof to the party resisting a stay order, are illusory:

The first theoretical "defense" permits the defendant to prove a negative—that the Government had no reasonable probability of ultimately prevailing on the merits. Since it is notoriously difficult to prove a negative, especially in antitrust cases where the issue of legality may often require close judgments, such a showing would of course be impossible in nearly every case. Moreover, if it has been "virtually impossible" for the Government to show that it has a substantial probability of success within a short time frame, it will be infinitely more difficult for any defendant to convince the court, within a similarly short time period, that the Government has no substantial probability of success.

The second theoretical defense allows the defendant to prove that it will be irreparably injured by entry of such a preliminary injunction. But this defense is likewise illusory, since section 7A(d) expressly provides that a showing of "loss of anticipated financial benefits" from the acquisition or merger would not be a sufficient showing of injury. Almost invariably, loss of "anticipated financial benefits" from the transaction would be precisely the irreparable injury that defendants would suffer. Such financial "benefits" may not be merely additional profits to the acquiring firm, but may well consist of enhanced financial and hence competitive strength for the acquired company, rendering it more able to compete, or even keeping it from going out of business.

Since these defenses are illusory, title V in practical effect gives the Government total authority to prevent—not merely to delay—any covered acquisition.

In practical effect, subsection d(3) is likewise an automatic stay provision—and one with no time limit. It provides that a preliminary injunction lasting until the final judgment is issued—which concededly may take 5 or 6 years—must be issued to replace the temporary restraining order, subject to two illusory defenses.

Experience demonstrates that a deal dies once a court stays it. As confirmed recently by Judge Friendly, in *Missouri Portland Cement Co.* v. *Cargill*, 498 F.2d 851, 870 (2d Cir. 1974):

> [T]he grant of a temporary injunction in a Government antitrust suit is likely to spell the doom of an agreed merger. * * *

Even an Antitrust Division official has observed that:

> [I]n almost all Government cases in which preliminary injunctions enjoining an acquisition have been granted, the injunction has had the effect of a final determination without the benefit of a trial. The fluid financial and business context in which such agreements are made cannot be controlled by the court. Agreements usually cannot be held together during the time such litigation takes.

Other commentators have made similar observations:

> The cases are few in which a decision granting a Government motion for a preliminary injunction enjoying an acquisition was followed by a trial on the merits, since it has rarely proven feasible for the parties to put their transaction on ice for the period of time required to obtain final judgment. Accordingly, a preliminary injunction enjoining an acquisition should only be granted if a substantial showing on the ultimate merits has been made.

And a comprehensive study of the matter has concluded:

> It appears that *no proposed merger has survived a wholly prohibitory preliminary injunction for any substantial period of time.* Many mergers are delicate transactions involving compromises and predictions about the future. Obviously, changes in the capital market, the economy, and the industry may make the merger more or less attractive to the parties. The financing of a merger may be dependent on loans from financial institutions that cannot remain committed indefinitely without regard to changes in the money market.

Thus, section 7A(d)'s automatic stay provisions in effect give the Antitrust Division power to prevent and destroy any acquisition, merely on the Justice Department's own say-so, without any showing of illegality in the acquisition.

The whole destructive panoply of automatic stays and delays is unjustifiable and unfair, since mergers and acquisitions are not inherently bad but only offend antitrust laws if competitively injurious. Government agents do not ordinarily have arbitrary powers to permit or deny any kind of commercial activity. Nor are defendants normally required to prove that their conduct is lawful; rather, the Government must normally prove that their conduct is unlawful.

In any field other than antitrust, would such arbitrary powers be tolerated by the Senate? In any other field, would the law enforcement authorities be granted total authority to stop private activity with no showing of probable cause or illegality?

Mr. President, it is very significant that this automatic stay concept is opposed by the Department of Justice, the Federal Trade Commission, the American Bar Association, and the Department of the Treasury.

Then FTC Chairman Engman testified:

> I think we all recognize that there may be instances in which mergers are economically desirable. The *merger law quite properly puts the burden on the government* to challenge by court or administrative proceedings those mergers which appear to threaten competition. If we can get the information that we need to make the determination as to whether a particular merger should be opposed, we think the burden should be on us to make the challenge. Rather than mandating a court, upon application of the enforcement agency, to enter an order prohibiting consummation of a merger pending final judgment, *the law should permit a court to require a showing by the Government of probable illegality.*

I submit that this merely restates the approach to the law enshrined in our system.

Similarly, Deputy Attorney General Tyler advised the chairman of the subcommittee, by letter dated February 19, 1976:

> The administration does not support enactment of the premerger stay provision of title V, preferring instead to rely upon existing decisional and statutory law to govern the issuance of preliminary injunctions in merger actions filed by the Department of Justice and the Federal Trade Commission.

Likewise, the American Bar Association declared:

> Subparagraph (d) of the bill as reported would grant the Government preliminary injunctions at its will. We strongly oppose this provision * * *. As experience teaches, the grant of preliminary relief often aborts the deal. Therefore we can expect many lawful transactions to be frustrated. The present law that the Government must show a reasonable likelihood of success seems a far fairer allocation of the burdens. Indeed, we believe subparagraph (d) should be eliminated in its entirety except for its very salutary expediting procedures, for the existing law governing temporary restraining orders and preliminary injunctions is fair and effective.

Title V would vest in the Justice Department and the FTC an unjustifiable and destructive regulatory authority and veto over the process of capital allocation.

Understandably, Secretary of the Treasury Simon, for the administration, advised the committee on March 13, 1976:

> In our view, any premerger stay provision would discourage healthy, efficient, competitive change in ownership of businesses in response to economic conditions, and promote inefficient allocation of capital resources. A premerger stay provision would give the Government the power to hold up proposed mergers for extensive periods of time without having to make any showing in court that it has a meritorious case. When coupled with the proposed premerger notification requirement of S. 1284, even a 60-day premerger stay provision would allow the Government to hold up a merger for over 135 days without effective judicial review. The mere existence of this discretionary power in the antitrust enforcers could significantly deter lawful mergers to the detriment of the economy. More importantly, by exercising this discretionary power, the Government could prevent—not merely delay—proposed mergers since the economic reasons for such transactions could well pass during the period of delay.

Mr. President, what I believe these comments add up to is that we are faced in title V with a proceeding that permits the Government arbitrarily to interfere in private transactions that are not inherently illegal, as to which no illegality has been alleged, as to which no evidence is presented that such a combination would result in a restraint of trade—all in violation of our traditions and laws involving due process.

I believe that we see here something more. We see here the arbitrary assumption that Government somehow inevitably acts in the public interest. I believe that Secretary Simon cited some instances where this kind of arbitrary stay, by frustrating mergers that would be to the competitive advantage of the economy, that would result in breaking logjams for the mobility of capital—the instances indicate that the kind of action contemplated in subsection (d) would, in fact, hurt the economy, not help it.

What concerns me is that we have seen over the past several decades an accelerating vesting of arbitrary authority in the Federal Government in Washington. We see more and more bureaucrats given the power of life and death over individual businesses, large and small, the power to intrude in just about every segment of American life. It seems to me that the kind of monopoly we should be most worried about today is the monopoly of power in Washington. I believe that this legislation is marching in the wrong direction by enhancing the authority of the Attorney General to stop any transaction for whatever reason he feels appropriate. It could be for political reasons. I think we have been reminded by recent events that it is possible for agents of the Federal Government, or for agents or appointees of a President, to act politically. What we have here is something that, within the law, would grant to the Attorney General the ability to harass and to block.

As Secretary Simon pointed out and as others whom I quoted have testified, it is impossible to keep a merger offer on ice for any extended period of time. Economic conditions change. There are fluctuations in stock prices, which often have to have a relationship to the relative values of the entities concerned. We have problems of the availability of capital. Business cannot stand still.

I believe that we are setting a precedent here if we enact this title that would be infinitely dangerous in allocating to appointed officials the ability to interfere and halt any private transaction without any reference, without any real obligation to establish that the transaction would result in a breach of the law.

I reserve the remainder of my time.

Mr. FANNIN. Mr. President, I wish to join the distinguished Senator from New York in supporting amendment No. 1724 by the Senator from Nebraska. Deleting title V is very important in accomplishing the objectives that I think we all have of trying to obtain greater formation of capital for the industries operating in our Nation today. We have great competition with other countries of the world. We need to have capital formation and the proper allocation of capital resources.

Under the bill that we have, title V would give the Government arbitrary fiat power to prevent any business acquisition, regardless of size or competitive impact, and runs counter to basic antitrust policies by inhibiting the competitive, efficient formation and allocation of capital resources.

Mr. President, in the attempt that we are making to meet the energy requirements of this Nation today, this particular provision would be very derogatory.

We are in a position now to correct some of the inequities that we have in our regulatory agencies because the regulatory agencies have been changing our Government. But, Mr. President, if we continue down the path that is advocated in title V, we shall not be able to accomplish these objectives.

On June 9, the Joint Economic Committee will hold a series of hearings on the subject of capital formation. I think this is very important in regard to what is involved in title V. Among the committee's witnesses will be Mr. Edgar Speer, chairman of the board of United States Steel Corp. who, I understand, will submit a written statement concerning the need for greater capital investment. Certainly, this will go into the objectives that he has stated in speeches that he has made at different times. I call the attention of my colleagues to a speech which Mr. Speer delivered before the industry-government luncheon of the Economic Club of Detroit on March 15 of this year.

As we are all aware, America's traditional and unique system of government is changing, but few Americans realize fully the impact the change is having upon their lives and their freedoms.

In this talk, which a Pittsburgh business editor later described as "some of the strongest language heard recently from any major business critic in Washington," Mr. Speer illustrates how "a fourth branch of government accountable to no one," is giving us a government of decrees and decisions issued by a "growing group of individuals who are totally out of the mainstream of our political election system."

Mr. President, this excellent statement, made by a knowledgeable leader of business familiar with the problem of Government overregulation, is a challenging message which I believe every Member should ponder carefully. He gives further testimony to the needs and concerns of American business in improving our free enterprise system. Certainly, to improve our free enterprise system, we must have a greater ability for efficiency formation and allocation of capital resources.

This is just exactly what title V would prohibit. But in this speech Mr. Speer gives further testimony of the needs and concerns of American business in improving our free enterprise system. It attests to the urgency of implementing regulatory reform measures as speedily as possible.

Mr. President, I request unanimous consent that the complete text of Mr. Speer's address be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

ARE THE REGULATORY AGENCIES CHANGING OUR GOVERNMENT?

CRADLE TO GRAVE REGULATIONS

(By Edgar B. Speer)

At the risk of making the understatement of the year, I want to say that I'm delighted to be here in Detroit. Inviting a steelman to your City, when our order books are somewhat less than full, is like asking a politician to address his party's national convention—during the prime-time television hours.

Of course, an invitation to speak to this Economic Club is an honor that I'm sure very few could refuse. From the list of past speakers that was sent along to me, I noted that you have heard from princes and cardinals . . . philosophers and scientists . . . presidents and would-be presidents . . . world leaders . . . and advisors to the lovelorn.

I'm sure that I fit among all of those distinguished and interesting individuals. But if there is a category for speakers who look upon Detroit as a most vital part of America's economic machinery, you can count me among them.

I realize, however, that your businesses and your people are equally well known for their innovative ideas that have had great impact upon American life. Just the other day I saw a cartoon that showed two men of the cloth watching the construction of an ultramodern church. And one of them was saying, "It's very nice. But do you think the congregation is ready for bucket pews?"

Now, believe me, I hesitated to come up here to Detroit and confront you with something to be glum about, just when you're starting to smile once again. But when Mr. Swaney asked me to be your guest for today, he suggested that I talk about something that would, in his words, "present the greatest challenge to the leaders of the automotive and related industries operating here in the heart of 'decision America.'"

Well, that's no small challenge in itself. I suspect there isn't a single business or economic subject that hasn't already been placed before this Club by past speakers, in one form or another. And some, I'm sure, have no doubt been discussed many times.

But lately, I have come to the conclusion that there is really only one great challenge facing all of us in industry . . . in banking . . . in transportation . . . in labor . . . in the professions . . . in the press . . . in fact, throughout our personal lives. And that is the challenge of government.

More directly, it is the *change* that's occurring in the government of these United States—a change that is slowly, almost imperceptibly taking away the decisionmaking rights of every citizen and every business and placing them in the hands of a growing group of individuals who are totally out of the mainstream of our political election system.

This change has already reached such proportions that the Federal government is no longer what many Americans think it is. Most of our people, I'm sure, believe that our government continues to be composed of the traditional three branches: the executive, legislative and judicial. Most Americans believe that by going to the polls on the first Tuesday in November they are electing a government of individuals that will act and serve in their best interests.

But for many years, and with increasing speed today, the Federal government has been sprouting a fourth branch that is potentially as powerful as the Presidency, the Congress and the courts. This fourth branch of government is the vast and growing group of agencies, commissions, administrations and bureaus that has been created by legislative action and placed within the Executive branch.

Their directors and administrators are appointed, usually for periods longer than those who are elected to office. The Federal budget chief, James T. Lynn, who spoke to this Club not long ago, has said that "neither the President nor Congress—not even together—can get rid of those people . . . they cannot be removed from office except for reasons specified by law. Disagreement with the President or Congress on matters of regulatory policy is not one of those reasons." They are, in effect, answerable to no one. Their staff members are protected, and perpetuated, by civil service.

Primarily, this fourth branch is carrying out various mandates from Congress. A real, or potential, or politically explosive problem arises. The Congress draws up broad prescriptions to approach it. Then, Congress establishes an agency or commission with the authority to spell out the details of that prescription—and granting broad powers to enforce its dictates on the offending parties.

Before his resignation as Secretary of Labor, John Dunlop said that the number of regulatory programs administered by his Department had grown from forty in 1960 to last year's total of 134. In the final major speech that Caspar Weinberger made as Secretary of HEW, he pointed out that the tremendous growth in the Federal government and Federal spending just in the four-and-a-half years that he had been in Washington had created what he called "an edifice of law and regulation that is clumsy, inefficient and inequitable."

You have have read in the Detroit News in recent days of how the regulatory agencies have grown in number, size and complexity, just in the past few decades. The Environmental Protection Agency, for example, is less than ten years old, but has become one of the largest, with about 11,000 people.

The Federal Energy Administration was created in 1973 as a temporary operation to help deal with the energy crisis following the oil embargo. Yet as The Wall Street Journal pointed out just a week ago, it has grown into an agency of almost 3,500 people and a budget of $142 million a year. It has one of the largest press offices in Washington: 112 people who are spending over three million tax dollars a year in what the Journal calls "self-promotion."

Last year, the FEA spent an additional 17 million of the taxpayers' dollars on more than 150 studies which a top FEA official called "one of the biggest wastes"—implying that there are other wastes as well. Secretary Simon, who was the first FEA administrator, calls the agency "a potential monster" which he would abolish, if he had the authority to do so. Yet the Administration would like to extend its life for three more years, triple its budget and expand its staff.

How has all of this happened? Well, the answer is simple. The Congress has passed legislation that has given Federal bureaus and agencies "blank checks" of authority and power. Senator Humphrey remarked last year, "We pass a law and let it go. It's a little like fathering a child and turning him over to the neighbors to raise, and not bothering to wonder how he's growing up." And his views are reflected in the concern of a growing number of Senators and Congressmen.

Yet the Congress is finding that the problem of control is more easily discussed than confronted. The Congress itself is bogged down in a system that functions through 40 major Senate and House committees, with almost 300 subcommittees. With jurisdictional lines difficult to follow, it is an easy matter for the members of Congress to avoid the responsibility for overseeing the jungle of agencies and bureaus it has created.

The current Administration has given indications lately that it intends to approach the problem through "deregulation." But students of regulatory power point out that Presidential concern about regulation has been on the scene since the days of Theodore Roosevelt. And that was less than two decades after the creation of the first regulatory body, the Interstate Commerce Commission.

Through many other Administrations—through Hoover Commissions, the Landis Report of the 1960's, and the report less than five years ago of the Advisory Council on Executive Organization set up by President Nixon, very little, if anything, has ever been accomplished.

And let's face it. With the possible exception of the Environmental Protection Agency, I doubt that you would find very many companies or industries that could agree on what should be deregulated, to what extent and how.

But, gentlemen, if the private sector of America is to survive—if business is to function independently and maintain control of its own destiny—an answer must be found to this fourth branch of government that is imposing controls of one sort or another on every citizen and every element of the economy.

Where we once looked to the executive or legislative branches for redress and relief from oppressive government, today there is little to be found. We ask who's in charge of the fourth branch of government, and we find that no one is really in charge and no one is accountable. The executive and legislative branches have fragmented responsibility into a hodge-podge of agency units, and no one group is willing to admit responsibility for what is done or the results of what is done.

The concept upon which our unique system of government was built 200 years ago was one of checks and balances, and for a good reason. The designers of our Constitution wanted to prevent one segment of government from gaining excessive power over the others, and particularly over the people who are governed. That concept is being destroyed.

We once spoke proudly that ours was a government of laws, not of men. That is no longer true. Government today is increasingly becoming a government by decrees and decisions issued by individuals who are, in effect, accountable to no one.

The dictates of the regulatory agencies flow out from Washington like the Mississippi River at flood stage. In 1973, the Federal Register required 35,591 pages in order to publish all of that year's new decrees and bureaucratic decisions. Last year, the number of pages had risen to 60,221—a 70 percent increase in two years.

We used to shudder at the thought of the government providing cradle-to-the-grave security. Yet today, we have cradle-to-grave-regulation. The moment a new American is born, the Consumer Product Safety Commission dictates the design of the bed he sleeps in, the composition of the clothes he wears and the toys he plays with. And when he dies, his funeral director must be certain to follow the regulations set down by the Consumer Protection Bureau of the Federal Trade Commission.

During the intervening years, of course, many of the decisions that his parents and grandparents once made for themselves will be made, in whole or in part, by individuals in government who have never had to campaign for his vote and support.

The Department of Labor and of Health, Education, and Welfare may well decide whether the company he wants to work for can place him on its payroll. When he is employed, the security of his job will depend not only on his skills, training and productivity, but on whether the Occupational Health and Safety Administration and the Environmental Protection Agency will allow his company to keep operating.

If his company is a defense contractor, this new, young American may find that his company can no longer do business with the government, because the 13 separate compliance agencies that rule on affirmative action programs cannot agree on the conflicting regulations that determine compliance.

And heaven protect him, should he work for a company such as the small toy firm in Wisconsin that was almost forced out of business when the Consumer Product Safety Commission mistakenly included its products on the Commission's list of banned toys. And, incidentally, that was a firm that hired handicapped people.

Of course, he could well suffer the same fate working for U.S. Steel, as some of our people at Gary Works discovered at the end of last year. We wanted to operate two older coke batteries at Gary, since two new batteries were not quite ready—although one was in the break-in stage and the other would have been fully operational by late this year.

We already had several thousand people off work at the plant due to lack of steel demand. Neither U.S. Steel nor local and state officials wanted to make it any tougher on our employees or the economy in and around Gary. Moreover, coke was in short supply, and without sufficient coke, we believed that there could be an unnecessary delay in recalling laid-off employees once steel demand picked up. Also, we were concerned about losing coke-oven gas that we use as fuel, since it was the daily equivalent of more than 72,000 gallons of fuel oil.

So we approached and reached agreement with the Indiana State Pollution Control Board. They said we could operate two of the older batteries for a temporary period beyond the end of last December. The question was not air pollution levels, since there has been a 70 percent reduction in air pollution over the City of Gary since 1958. In fact, the actual measurement in August had been less than three micrograms over the goals set by the Clean Air Act of 1970.

But the EPA people and the Justice Department in Washington weren't interested in human and practical business problems. They weren't interested in energy conservation. They weren't interested in the hundreds of additional jobs of coal miners and railroaders that would be lost. They threatened criminal charges against us, unless the coke batteries were shut down on schedule. And so they were.

Few regulatory agencies have been as arrogant in the use and abuse of power as the EPA. Yet a story in the Los Angeles Times a few weeks ago suggested foul play in the scientific data EPA used to set limits on sulphur pollution—requiring controls that could ultimately cost the electric utilities and American consumers billions of dollars.

The question, of course, is not whether the public should be protected from hazards over which it has little or no control. No one disputes this. Every member of business is concerned about the health and safety of employees and the customers who buy the products and services of business. Industrial managers breathe the same air and drink the same water as the rest of the nation and are equally concerned about their purity.

But what is happening in America is something that is foreign to the American way of life: a government presuming to know what is best for its people, at the expense of the people's freedom to make their own decisions. Moreover, it is doubly wrong when appointed officials exercise life-or-death power over the source of people's jobs and income, without being held accountable for what happens when that power is used indiscriminately or unwisely.

This has always been the nub of the problem with regulatory agencies. Who has paid the price for the poor decisions and judgments of the Interstate Commerce Commission? The Commission members, or the customers and stockholders of America's railroads—and the taxpayers who are paying for Conrail?

Who is paying for two decades of price controls, administered by the Federal Power Commission, that has caused the steady reduction in natural gas reserves and today's shortages of this clean-burning fuel? And who will pay tomorrow, after the Federal Energy Administration inflicts the same heavy-handed treatment on the nation's oil companies?

Study after study, by some of the best minds in the country, have shown that whatever the presumed benefits of regulation, they are far outweighed by the ultimate costs, whether those costs are measured in lost freedoms, destroyed investments, higher taxes or higher prices for the consumer.

The Ford Administration estimates that the curent cost of useless and wasteful regulation by Federal agencies is now up to $130 billion a year—the equivalent of two thousand dollars annually for every American family.

The price of submitting thousands of reports and tons of information to government agencies is said to be costing American business a minimum of $18 billion a year—a cost that must be covered in prices of the products and services of business. And down in Washington, they spend another $15 billion of the taxpayers' money to process all of that data.

You people in the auto industry know the impact of Federal regulations on the prices of your products—and the effect those higher costs have had upon your sales. I saw an estimate not long ago that government regulation will cost General Motors at least $1.3 billion just in 1976. In the steel industry, we figure that for every dollar we spend on pollution control equipment, 12 to 15 cents is added to our annual operating costs—and we're spending an average of about $100 million a year on pollution control equipment just in U.S. Steel alone.

Yet higher prices are not the only "cost" consumers pay for Federal regulation. Not only has the American citizen lost his right to elect the individuals who decide the course of his personal and economic life, but as a consumer, he has lost most of his "voting rights" in the marketplace. No longer does he really decide the design and style of a product by his right to buy or not to buy what industrial experts design to fit his needs and his desires.

Once, Detroit's automobile industry matched the design of the American car to the measured wants and needs of the auto buyer. But more and more, standards set in Washington determine what the automobile must be in size and weight . . . how the engine must perform . . . and even what kind of gasoline can be used in it.

And this situation may get worse. Tom Murphy pointed this out a few months ago in a talk that he gave to some steel people in Pittsburgh. Talking about the mandated fuel economy standards established by the Energy Policy and Conservation Act of 1975, he said that unless those counter-productive standards are removed, "the American public will have a severely limited range of cars to choose from" in 1985.

Like him, I'm concerned about what impact this might have on auto sales . . . and steel sales . . . and the jobs and incomes of a great many Americans. And I share the entire auto industry's concern for the penalties they will be required to pay, should they fail to meet the standards—five dollars per car for each tenth of a mile per gallon below the prescribed standard. Multiply that times the number of cars that may be produced, and you wonder whether the purpose is to save energy or put the auto companies out of business.

Saving energy is a critical need. But so is saving the free market system under which this country of ours grew and prospered. Our industries created plentiful supplies of low-cost items that gave Americans the highest standard of living in the world. We created jobs for millions of people in our work force by allowing producers and consumers alike to decide how the nation's needs should be met.

Those who believe we'll be better off following the arbitrary decisions of Washington, rather than the judgments of the American consumer—not to mention the American voter—should spend some time living in one of those dull, inefficient, problem-ridden societies overseas that are already trying that approach.

And if it is social goals they wish to achieve, they might remember that it is the natural flow of money and technology and human effort through our free market system that generates the private and government funds that underwrite social programs. Competitive enterprise—not government regulations—is the Golden Goose that makes social and economic progress possible.

Frankly, I have great confidence in the American system. I have great confidence in the American people to make sound decisions. I have confidence that business, and labor, and all the other elements of our economy can solve our national problems and meet our national goals, whether they involve conservation of resources, better safety and control of pollution, or the generation of capital to create new jobs.

We cannot do these things, however, if we allow even more power and authority to center in Washington. And I admit that reversing this situation will not be an easy job.

When Adlai Stevenson was campaigning for governor of Illinois, he was told by one of his supporters that he would certainly have the vote of every thinking person in the state. "Trouble is," Mr. Stevenson replied, "I'll need a majority."

Getting back to our traditional form of government—and returning the decision-making rights of Americans—will require a "thinking majority" all across the land. Certainly a first step must be letting every single citizen know how extensive the control by Washington has already become, and what our people stand to lose if the situation is not reversed.

Some members of Congress are already trying to stem the tide. Suggestions have been made that every law that creates an agency or program should contain a termination date for that agency or program. Others believe a system of "zero-budgeting" could help, with every agency required to justify every penny it requests every year. Cost-benefit analyses are a critical need in the environment area, for scarce capital dollars are already being wasted by industry in efforts to achieve standards that have yet to be proved necessary, or even sound.

In reality, the list of ideas and possibilities is almost as long as the need for action is great. But I repeat: a first step must be a concerted effort by all of us to alert every consumer, every voter to the danger we face.

In his first inaugural address exactly 175 years ago this month, President Thomas Jefferson described the kind of government he had helped to create and which he hoped later generations would perpetuate. He called it: "A wise and frugal government, which shall restrain men from injuring one another, shall leave them otherwise free to regulate their own pursuits of industry and improvement, and shall not take from the mouth of labor the bread it has earned."

As we begin our third century in these United States, we would do well to put our nation back on such a course. If we don't, the government we inherited from men like Jefferson may well pass from the face of this earth.

Mr. **KENNEDY**. Mr. President, I am going to make a motion to table the amendment in just a few moments, but I would like to make a couple of brief remarks.

Mr. **FANNIN** addressed the Chair.

Mr. **KENNEDY**. I thought the Senator yielded the floor.

Mr. **FANNIN**. I have not yielded the floor. I was just getting started in my statement.

The **PRESIDING OFFICER**. The Chair granted a unanimous-consent request for the submission of material that the Senator requested. The Senator does not lose his right to the floor by reason of that request, so he has not finished, he still has the floor.

Mr. FANNIN. I thank the Chair. I did not understand why the Senator from Massachusetts had taken the floor.

Mr. HELMS. Mr. President, will the Senator yield on my time?

Mr. FANNIN. Without losing my right to the floor, yes.

Mr. HELMS. I want to commend the Chair for making clear the ruling. An error was made in this connection a week or so ago and I just want to commend the Chair for his ruling.

Mr. FANNIN. I thank the distinguished Senator.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. FANNIN. Mr. President, we have today a discussion of something that is tremendously important to this Nation. If we adopt this legislation, including title V, we are placing our industries in a very untenable position. The provisions of this particular legislation permit a government to stop or kill any acquisition, contrary to the fundamental concept of due process.

I would be very pleased to yield to the Senator without losing my right to the floor.

Mr. HRUSKA. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. FANNIN. Mr. President, under section 7A(d) of title V the Government could block any acquisition of whatever size simply by requesting a Federal district court to issue an injunction without offering any proof that the transaction might transgress the antitrust laws. The court would be obligated, without discretion, to stay the transaction. Except in circumstances so rare as to be practically nonexistent, this automatic stay would remain in effect until the Government's claim had been finally adjudicated. This works a tremendous obligation on industry.

Since this might take years—5 or 6 years, according to the majority report itself, the practical result would be to prevent the acquisition totally.

This happens because title V in practical effect contains two quite distinct "automatic stay" provisions, one explicit and one implicit.

First. The automatic temporary restraining order.

One is an automatic stay by temporary restraining order. Under subsection (d) (1) of title V, merely upon request the Government at the time the Government files its complaint it can obtain a temporary restraining order forbidding the consummation of the transaction.

Under subsection d(4), unless extended for good cause shown, this temporary restraining order would expire if the court had not rendered a decision on the request for preliminary injunction within 60 days.

This automatic temporary restraining order is the only element of the automatic stay provision which the majority report discusses.

Second. The open-ended preliminary injunction, and the two illusory defenses.

But in practical effect, subsection d (3) is likewise an automatic stay provision—and one with no time limit. It provides that a preliminary injunction lasting until the final judgment is issued—which concededly may take 5 or 6 years—must be issued to replace the temporary restraining order, subject to two illusory defenses.

Essentially, it retains residual remnants of discarded provisions in the original bill for mandatory divestitures at a previously established price, with segregation of assets and escrow of profits. These provisions include: First, an administratively difficult, and now pointless, provision requiring the district court to establish the purchase price of stock or assets; second, a probably innocuous but unnecessary requirement that any divestitures which are ordered must be accomplished expeditiously; third, the incomprehensible requirement that "to the extent practicable, the court shall deprive the violator of all benefits of the violation including tax benefits"; and fourth, a direction that the acquiring persons be required to hold the acquired stock or assets separate unless the interests of justice require otherwise.

The first three of these four provisions are pointless, meaningless, or both. The fourth adds nothing to existing law, since courts can and do enter hold-separate orders in merger cases, consistently with the interests of justice.

Inasmuch as the majority report itself deems this obscure subsection at most declaratory of existing law, it is both redundant and objectionable.

Above all, the whole destructive panoply of automatic stays and delays is unjustifiable and unfair, since mergers and acquisitions are not inherently bad but only offend antitrust laws if competitively injurious. Government agents do not ordinarily have arbitrary powers to permit or deny any kind of commercial activity. Nor are defendants normally required to prove that their conduct is lawful; rather, the Government must normally prove that their conduct is unlawful.

In any field other than antitrust, would such arbitrary powers be tolerated by the Senate? In any other field, would the law enforcement authorities be granted total authority to stop private activity with no showing of probable cause or illegality?

Actually, the FTC, the Department of Justice, and the American Bar Association all oppose the automatic stay concept.

Then FTC Chairman Engman testified:

> I think we all recognize that there may be instances in which mergers are economically desirable. The merger law quite properly puts the burden on the government to challenge by court or administrative proceedings those mergers which appear to threaten competition. If we can get the information that we need to make the determination as to whether a particular merger should be opposed, we think the burden should be on us to make the challenge. Rather than mandating a court, upon application of the enforcement agency, to enter an order prohibiting consummation of a merger pending final judgment, the law should permit a court to require a showing by the Government of probable illegality.

Similarly, Deputy Attorney General Tyler advised the chairman of the subcommittee, by letter dated February 19, 1976:

> The administration does not support enactment of the premerger stay provision of title V, preferring instead to reply upon existing decisional and statutory law to govern the issuance of preliminary injunctions in merger actions filed by the Department of Justice and the Federal Trade Commission.

Likewise, the American Bar Association declared:

> Subparagraph (d) of the bill as reported would grant the Government preliminary injunctions at its will. We strongly oppose this provision * * *. As experience teaches, the grant of preliminary relief often aborts the deal. Therefore we can expect many lawful transactions to be frustrated. The present law that the Government must show a reasonable likelihood of success seems a far fairer allocation of the burdens. Indeed, we believe subparagraph (d) should be eliminated in its entirety except for its very salutary expediting procedures, for the existing law governing temporary restraining orders and preliminary injunctions is fair and effective.

As Prof. Milton Handler eloquently testified:

> * * * There is no short cut that can dispense with a thorough and comprehensive inquiry into the relevant facts if our merger law is to serve the public interest and have any semblance of fairness. The enforcement authorities * * * should not be in the position to prevent the merger by their own action or inaction or on their own *ipse dixit* that the public interest requires the prevention of the merger.
>
> If they have reason to believe that the merger violates the law, they should proceed in the courts by seeking a preliminary injunction.
>
> A restraining order ought not to be issued as a matter of course nor should the burden of proof be shifted to the defendants as proposed in the amendments offered by Senators Hart and Scott. This inversion runs counter to the traditions of equity procedure and violates every precept of fairness. The granting of a restraining order or the issuance of an injunction should be governed by the standards for preliminary relief which courts of equity normally apply. If these standards cannot be satisfied by the Government, it is unjust to prevent the merger. * * * In no other branch of the law with which I am familiar is a restraining order issued automatically by a judge without regard to the needs of the plaintiff, the balancing of the equities, and the circumstances of the case. In no other area of the law is the defendant put in a position where he will be restrained by a preliminary injunction unless he can satisfy the judge that he ought not to be enjoined. Mergers are hardly so universally evil in their consequences as to reverse the ordinary order of events and compel the defendants to prove their innocence.
>
> The Judiciary Committee should not put its stamp of approval on a procedure which, in my opinion, is alien to the American system of justice and the rule of law. Only in Alice in Wonderland do we proceed with verdict first and trial afterwards. Let other systems require defendants to prove that they are not in violation of law; let us stay with the kind of legal system which is in-

tegral to a political democracy particularly in a year in which we are celebrating the inception of our own democracy. (Hearings, pt. 3 at 134–135.)

B. THE BANK MERGER ACT, INVOLVING A TOTALLY REGULATED INDUSTRY, IS NO PRECEDENT FOR AUTOMATED STAYS OF ACQUISITIONS IN FREE AND COMPETITIVE SECTORS OF THE ECONOMY

To be sure, the banking industry operates under provisions of the 1966 Bank Merger Act (12 U.S.C., section 1828(c) (5) (B)), and the Bank Holding Company Act (12 U.S.C., section 1841 et seq.), which provide for an automatic preliminary injunction against bank mergers challenged by the Justice Department under the antitrust laws within 30 days after banking agency approval.

But the banking industry is subject to pervasive regulation, specially authorized by the Constitution. As the Council of Economic Advisers recently noted:

> The FRB, the FDIC, and the FHLBB, together with a host of other Federal and State agencies, regulate virtually every aspect of financial intermediation: entry, expansion, and exit, as well as pricing practices and allowable assets and liabilities.

Hence, requirements of advance Government approval of mergers in banking—and in other regulated industries—are beside the point.

Indeed, such analogies dramatize the basic fallacy of title V—its transformation of all American business into a regulated industry with respect to capital allocation. To subject competitive business generally to regulatory mechanisms, acceptable only in the complex regulatory fields of banking and public utilities, would be a giant retreat from the basic antitrust principle that a free market is the best "regulator" of business activity.

C. TITLE V'S PREMERGER NOTIFICATION PROVISIONS ARE UNJUSTIFIABLY BROAD, REACHING TOO MANY TRANSACTIONS AND DELAYING THEM TOO LONG

The harmful impact of automatic stay provisions are aggravated by the excessive premerger notification provisions of section 7A(b).

Those provisions would require 30 days' advance notice to the Government for any stock or asset acquisition where the buyer and seller had sales or assets over certain relatively low thresholds. Simply by requesting more information, the Government could prolong this 30-day waiting period for another 20 days beyond its receipt of the additional information sections 7A (b) and (c) (2).

The dollar floor for prenotification transactions covers far more than "giant companies," and is unrealistic. Even FTC Chairman Engman criticized this amount as counterproductive:

> If we had to conduct full investigation of all mergers exceeding the $100 million assets or sales test that is contained in the bill, the fruits of our efforts might not be worth the cost. Our own premerger notification program sets higher limits of $250 million of assets or sales and appears to be satisfactory for purposes of getting basic information on large mergers.

In an inflationary era, these dollar limits become even less rational or justifiable.

Likewise, these provisions authorize Government delays which are too long. Thus, beyond the 30-day waiting period for an acquisition after the required prior information is filed, title V permits the Government to extend this period merely by requesting additional information. The acquisition would then have to be delayed by whatever time was necessary to gather together the requested information, plus 20 more days after its receipt by the Government. To accomplish this further delay, the Government would have to make no showing of diligence, or even of its need for the additional information.

Such an open-ended, mandatory, and unjustified waiting period is plainly unreasonable in the context of perishable financial transactions. Even Assistant Attorney General Kauper testified that the enforcement agencies should not be given "virtually unbridled discretion to delay," and that "if a merger is to be held up by virtue of unilateral action of the enforcement agencies, there should be an incentive for the agencies to proceed with their evaluation as rapidly as possible." At a minimum, as the American Bar Association suggested, the enforcement agencies should be required to make a prompt preliminary examination of the submitted material, and decide whether additional material is necessary, within 10 days of the original submission. For without some such "incentive" for speedy action, enforcement agencies may well drag their feet until the end of the original 30-day period, and then demand additional material taking substantially more time to gather and submit.

Tender offers would specially suffer from such delays, and should be eliminated from the ambit of premerger notification. Such offers serve a salutary purpose in keeping management on its toes and making it possible to oust entrenched inefficient management. The time periods in the bill would be disruptive to them. Under present securities laws, such offers must be consummated within 60 days or tenders can be withdrawn. While the waiting period has been shortened from the original version of the bill, in part because of this requirement, the Government could still request, at the last minute, more information requiring more than 10 days to accumulate and submit, without any showing of due diligence or even of need for such information.

Similar premerger notification legislation having died in the fifties, it is even less viable today. There is currently no "merger problem," and the FTC is now operating an active premerger notification program.

Hence, no reason exists for now exhuming this legislative corpse.

D. SINCE THE SO-CALLED "MERGER PROBLEM" IS A MYTH, AND THE GOVERNMENT ALREADY HAS ADEQUATE POWERS TO PREVENT ANTICOMPETITIVE MERGERS, TITLE V IS A DEADLY CURE FOR AN IMAGINARY DISEASE

Above and beyond its total lack of support and justification, title V's specious antitrust "improvement" contradicts fundamental antitrust principles favoring fluid resource mobility in free and competitive markets.

The basic premise of antitrust is the removal of artificial barriers to the free, natural play of market forces in the allocation of economic resources. By contrast, title V would block the free market in capital allocation—the buying and selling of businesses—by authorizing the Government to stop all acquisitions by fiat, irrespective of their competitive impact.

Especially today, a free market for the transfer of business is vital for the essential formation and availability of capital for the economy over the next decade. Key to such capital availability is the promotion of incentives for new investment, and the most productive channeling of existing capital resources.

A major incentive for an entrepreneur to enter the competitive arena, and develop a new business, is the prospective ability to sell it some day if it succeeds. Even unsuccessful businesses need some outlet, short of bankruptcy liquidation, to make room for healthy new competitors. And diversified companies must be able to sell off operations that turn out not to fit their overall requirements. Also, corporate takeovers permit inefficient managements to be ousted, by a new group taking control through a tender offer.

These essential economic processes result in the conservation of capital resources, and facilitate their most efficient allocation.

Such normal, healthy methods whereby capital flows freely to its most productive uses reflect sound economic and antitrust principles—recognized by Assistant Attorney General Kauper's testimony:

> Many mergers are pro-competitive, or promote efficiencies. Many more are economically or competitively neutral.

As to tender offers, which allow challenge to entrenched inefficient managements, he testified:

> There is no inherent reason to suspect such offers, which are in and of themselves purely neutral facts. They may be pro-competitive in some circumstances.

To like effect, Chairman Engman, of the FTC, noted:

> I think we all recognize that there may be instances in which mergers are economically desirable. The merger law quite properly puts the burden on the Government to challenge by court or administrative proceedings those mergers which appear to threaten competition.

And Prof. Milton Handler emphasized:

> What is wrong is to endow governmental officals with virtually unlimited discretion to halt or delay a proposed merger to the point that it is aborted by the mere passage of time without regard to the merits. We must bear in mind that mergers are neither all good nor all bad. Some enrich, fortify, and enhance the vigor of competition; others devitalize competition or create industrial structures inimical to the maintenance of effective competition. The lawfulness of an acquisition depends on the facts of each case.

But title V's provisions would cripple this normal and healthy process. A transaction could be aborted by Government fiat even though a court might ultimately have found it perfectly lawful. Neither purchasers nor sellers would have any assurance that the deal they had made would be allowed to go through. The mere existence of this lethal power would have a chilling effect on all business mergers and acquisitions, regardless of size.

Business firms would have to go, hat in hand, to Government agents in advance of any such transaction—even a perfectly lawful one—to plead that it should not be strangled at birth, with no hope of any independent judicial review.

Indirectly, therefore, title V would vest in the Justice Department and the FTC an unjustifiable and destructive regulatory authority and veto over the process of capital allocation.

Understandably, Secretary of the Treasury Simon, for the administration, advised the committee on March 13, 1976:

> In our view, any premerger stay provision would discourage healthy, efficient, competitive change in ownership of businesses in response to economic conditions, and promote inefficient allocation of capital resources. A premerger stay provision would give the Government the power to hold up proposed mergers for extensive periods of time without having to make any showing in court that it has a meritorious case. When coupled with the proposed premerger notification requirement of S. 1284, even a 60-day premerger stay provision would allow the Government to hold up a merger for over 135 days without effective judicial review. The mere existence of this discretionary power in the antitrust enforcers could significantly deter lawful mergers to the detriment of the economy. More importantly, by exercising this discretionary power, the Government could prevent—not merely delay—proposed mergers since the economic reasons for such transactions could well pass during the period of delay.

Even the Assistant Attorney General for Antitrust acknowledged that title V's automatic stay feature would "operate as a severe disincentive to mergers generally," however neutral or beneficial. Addition of the illusory defenses in section 7A(d) are largely cosmetic and perpetuate rather than eliminate this harmful disincentive.

Above all, such a chilling and destructive disincentive to acquisitions cannot be rationalized by any credible current so-called merger problem. There is no evidence to support the majority report's contention that "the pace of merger activity has greatly accelerated since the Celler-Kefauver amendments."

All reliable published sources confirm a general decline in merger activity in recent years.

Similarly, with respect to manufacturing and mining industries, the FTC's 1975 Statistical Report on Mergers and Acquisitions shows that acquired manufacturing and mining firms with assets of $10 million or more declined by over three-fourths between 1968 and 1973 (even without allowing for the huge intervening inflation), and continued to decline.

Likewise, the FTC's 1975 statistical report shows that assets acquired in such acquisition amounted to only 10 percent of new investment in 1974, as against 45 percent in 1968.

Also, a recent trend in acquisitions may be toward deconcentration, since increasingly they reflect divestitures of parts of businesses. Thus, according to W. T. Grimm figures, in the first quarter of 1976, 65 percent of announced mergers were fractional—that is, only part of a company bought or sold—as against 52 percent in the first quarter of 1975, 39 percent in the year 1973 and 11 percent in 1967. New York Times, April 7, 1976, page 58; Wall Street Journal, April 28, 1976, pages 1, 26.

In short, to justify title V, the majority must conjure up a nonexistent "merger problem." The assertion that the alleged "concentrated structure of American industry * * * in major part stems from mergers and acquisitions" is not only unsupported by the record, but is contrary to fact. The sole record basis for any asserted "merger problem" is stale, superannuated data from the unique merger wave of the late 1960's, an era of financial "frenzy" unlikely to recur in the near future.

In the face of data reflecting the current picture, it is not surprising that the majority report is forced to rely on figures dating back to the administration of Calvin Coolidge to bolster its case.

Aside from the false "merger problem" myth underlying title V, the Government already has ample power to protect the public interest against anticompetitive mergers.

Since 1969 an FTC program has required premerger notification of proposed mergers involving large companies. As testiefid by Chairman Engman, present FTC notification requirements effectively cover significant transactions, without overwhelming the FTC with trivia.

First, the FTC as well as the Justice Department may now obtain preliminary injunctions to halt competitive acquisitions. The Alaskan Pipeline Authorization Act, 15 U.S.C. 53(b), effective November 16, 1973, gave the Federal Trade Commission new authority to obtain preliminary injunctions against alleged violations of the antitrust laws—including any allegedly unlawful proposed merger or acquisition. The Justice Department has long had the power under section 15 of the Clayton Act to sue to "prevent and restrain violations" of section 7, and pending determination of the case, "[t]he court may at any time make such temporary restraining order or prohibition as shall be deemed just in the premises."

Also, both enforcement agencies can seek a temporary restraining order prior to hearing on a request for preliminary injunction. Under the Federal Rules of Civil Procedure, such an order can be issued ex parte—on a proper showing by the Government—for 10 days, extendable for another 10 days for good cause—and extendable indefinitely if the defendant consents.

To be sure, the Government has not always been as successful as it would like to be in securing such preliminary relief. Maybe it would do better if its cases were more meritorious.

Second, the Government may surely improve its success record now that the recent amendments to the Expediting Act permit the Government to appeal the trial court's disposition of motions for preliminary injunction. Prior to these amendments, the district court's disposition of the Government's request for a preliminary injunction could not be appealed, exerting a cautionary influence on a district court contemplating an unappealable preliminary injunction which would effectively kill the transaction. The natural tendency would be to deny such a lethal request, giving the defendant his day in court and permitting the Government to prove its case on the merits. Such denials of preliminary injunctions were not appealable.

But the 1974 Expediting Act amendments—15 U.S.C. 28–29—now allow interlocutory appeals of orders granting, continuing, modifying, refusing or dissolving injunctions in antitrust cases.

The Justice Department deemed this 1974 Expediting Act amendment a powerful addition to its antimerger arsenal:

> We strongly believe in the desirability of appellate review of district court orders granting, modifying, or denying preliminary injunctions.
>
> Such review is generally limited to the outset of a case and would not cause undue delay or disruption. The district court's discretion or injunctions can be reviewed, in substantial part, separately from a determination of the ultimate merits of the case and court of appeals review is not therefore, inconsistent with subsequent direct Supreme Court review of the final judgment in the event of certification. Moreover, the immediate impact of injunctive orders, whether the injunction is granted or denied, calls for appellate review as a matter of fairness. The public interest that possibly unlawful mergers not be consummated until their validity is adjudicated, in addition to the obvious desire of private business to avoid a costly and complicated unscrambling, would, in our view, benefit from making the provisions of section 1292(a)(1), title 28 of the United States Code, available in Expediting Act cases.

In view of this 1974 Expediting Act amendment, it is specious now to claim that, if pressed for time, the court's normal reaction would be to deny the Government's request and try the case on the merits. Rather, the court's normal reaction now would more likely be to preserve the status quo by grant of the preliminary injunction, knowing that the defendant can promptly appeal the matter to the court of appeals. Even if the injunction were denied, the Government has an immediate right of appeal which it has never had before.

Experience with this 1974 amendment will doubtless reveal enhanced Government ability to obtain preliminary injunctions in merger cases. The courts of appeals will develop criteria for appropriate disposition of requests for preliminary injunctions against mergers.

No reason exists, therefore, to legislate title V's radical provisions without permitting these new procedures to prove out in practice.

Moreover, existing Government antimerger weapons provide safeguards of fairness and due process. The Alaskan Pipeline Act provides express standards to guide the court's discretion: the FTC can obtain the injunction "upon a proper showing that, weighing the equities and considering the Commission's likelihood of ultimate success, such action would be in the public interest. And a leading commentary has analyzed the current showing required for Justice Department to secure preliminary relief:

> The courts have looked generally to traditional equitable principles in ruling or motions for such injunctions. While other considerations sometimes influence the granting or denial of preliminary relief, the most important factor considered in deciding such questions is whether the facts indicate the probability that a violation of section 7 will be established at a full hearing on the merits.

In sum, there has been no showing that these existing antimerger powers are inadequate to guard against anticompetitive acquisitions.

From the perspective of a lifetime's study of the antitrust laws, Prof. Milton Handler demolished this notion:

> After all, the Government can institute suit, as it usually does, after the merger takes place. To suggest that the courts are powerless to decree effective relief if the acquisition is found unlawful after trial is to ignore 25 years of experience in the administration of the Celler-Kefauver Act. If there were time, I could satisfactorily explain the instances referred to by Senator Hart in the memorandum accompanying his amendments to title V. If the committee took the time to examine the facts in those cases it would conclude that no court would have granted a preliminary injunction in any of them at the time they were litigated.

It was in light of such considerations that Secretary of the Treasury Simon on March 13, 1976, advised the committee on behalf of the administration:

> The administration does not support enactment of any premerger stay provision. We believe that existing procedures for staying proposed mergers challenged by the Government, together with S. 1284's provision for premerger notification, are adequate. Furthermore, we believe that enactment of any premerger stay provision would produce adverse effects on the economy that would outweigh the benefits of any possible improvement in antitrust enforcement.

He continued:

> The Government considered various formulations of a premerger stay provision in an effort to arrive at a suitable time period beyond which the stay could not be extended unless the Government demonstrated to the court that it had a meritorious case. However, we concluded that any time limit short enough to avoid unduly delaying or deterring mergers would not add significantly to the Government's arsenal in challenging their legality.

On the basis of the committee record and sound public policy, therefore, we are convinced that title V is contrary to the public interest and should not pass.

Mr. President, I certainly agree that this is very important to consider. Lacking any justification or showing of need, I feel that this is certainly an illustration of why title V should be deleted.

Mr. President, from the morning newspaper of Phoenix, Ariz., the Arizona Republic of June 8, 1976, I wish to read the following editorial, entitled "Antitrust Government":

Antitrust Government

> Marxian principles and predictions do not explain the Socialist tide that is sweeping over England and many other Western countries.
>
> Rather, "the fundamental process that has been eroding our liberties is the politicization of economic decisions," according to Prof. Alan A. Walters of the London School of Economics in a paper published by the International Institute for Economic Research.
>
> "Many issues which were once settled by free contract between individuals and firms are now supervised, regulated, or settled by the state and its bureaucracy," Walters notes.
>
> The process of politicization of economic decisions is under way in America with a vengeance. For example, the Federal Register, the government publication that prints the full text of bureaucratic regulations, ran a mere 2,411 pages in 1936. In 1970, the Federal Register had a total of 20,000 pages. By 1975, it had more than 60,000 pages.
>
> Despite all the talk about curbing the federal regulation monster, Congress keeps passing laws that increase and increase again the politicization of economic decisions.
>
> At the moment, the Senate is on the point of adopting legislation giving the government stronger antitrust enforcement powers. The bill is designed to make it easier for both federal and state governments to move against alleged antitrust violations. While the intentions may be good, the effect will be to put the government that much closer to exercising total control over all economic decisions, and liberty for all that much closer to being stamped out.
>
> As Prof. Walters points out, "the gradual development of the belief that government not merely could but should put right all the alleged evils of the free market system has led to an arrogation of enormous power in the hands of the elected representatives."
>
> In the words of Lord Acton, "All power tends to corrupt and absolute power corrupts absolutely." The framers of our Constitution were mindful of this when they devised a system of checks and balances for government. The answer to what to do to arrest the politicization of economic decisions surely rests in somehow returning to the original concept of placing limits on the power of government.
>
> In sum, the institution that needs to be moved against for antitrust violations is government itself, not business.

Mr. President, we have many reasons to try to assist in the formation of capital today. I have mentioned the great need in the energy industry because I do feel that this is something that is very close to home to all of us here in Congress. We are daily trying to get greater development of these energy resources. But it takes a tremendous amount of capital formation, and what we are doing, if this title V is adopted, is going contrary to the work that is being done in so many committees.

It is my feeling that we must be competitive in our industries, not only within our country but as far as the competitive position we should be in with other countries of the world.

We find ourselves lacking in that ability many times because of our inability to join our companies together to bring about an operation that can compete.

We are in competition with countries such as Japan, West Germany, and France, countries that do not have all those restrictions that we have.

In fact, in Japan, for instance, they have their government going hand in glove with their industries to see that they are in a position to compete in the other countries of the world.

In fact, we have many reasons to be very jealous of what they are doing because it is working a great hardship on our industries and on the consumers in this country.

Mr. HELMS. Mr. President, will the Senator yield?

Mr. FANNIN. I am very pleased to yield to the Senator from North Carolina.

Mr. HELMS. I thank the Senator.

Mr. President, may I ask how much time the Senator from North Carolina has remaining?

The PRESIDING OFFICER. The Senator from North Carolina has 36 minutes remaining.

Mr. ROBERT C. BYRD. Mr. President, has the Senator from Arizona yielded the floor?

Mr. FANNIN. I yielded to the distinguished Senator from North Carolina.

Mr. ROBERT C. BYRD. But did the distinguished Senator yield the floor? Mr. President, did the Senator yield the floor?

Mr. FANNIN. Mr. President, I ask the Chair, if the Senator will permit, how much time does the Senator from Arizona have remaining?

The PRESIDING OFFICER. The Senator from Arizona has 15 minutes remaining.

Mr. FANNIN. Mr. President, I do not yield the floor at this time.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. FANNIN. Mr. President, we are discussing a matter that is of utmost importance to many people in this Nation.

My own State of Arizona is very much involved in the generation of energy and with the need for capital formation.

Mr. President, I yield the floor and reserve the remainder of my time.

Mr. KENNEDY. Mr. President, I shall state a few brief remarks on the amendment, and then I am going to make a motion to table.

Mr. President, the amendment which has been submitted to strike title V is a good deal different than the one described earlier by the Senator from Michigan and the Senator from New York. There were very considerable changes and alterations made to comply with objections raised by the administration.

The Senator from New York (Mr. BUCKLEY) read into the record certain provisions of the letter received by the Justice Department, but he was very careful and selective in the provisions that he read. If he continued reading the next paragraph of that particular letter it would indicate that the administration would support the premerger provisions of title V if the certain conditions were complied with. Under the amendment of the distinguished Senator from Maryland (Mr. MATHIAS), agreed to last week, those provisions were changed and the conditions complied with. In a more complete statement that I shall make a part of the RECORD, I shall submit the complete letter which would show administration support for this provision as well as relevant background in support of this provision.

Mr. President, on the important question of the impact of this provision in limiting new capital formation, the Antitrust Subcommittee hearings are very complete and contain two extremely important documents.

The first letter is from the American Life Insurance Association, which indicated that they represent 379 companies, with assets of 254 billion, and they point out:

> We are satisfied that inclusion of title V of the exemptions reported by the subcommittee coupled with those proposed by the mutual fund industry will assure title V does not adversely affect the capital markets. . .

That is from the American Life Insurance Association, speaking for the insurance companies who obviously are most concerned about new capital formation.

On page 709 of those hearings, there is a similar letter from the Investment Company Institute, which is the representative of the mutual funds, and I will ask that their full letter be printed in the RECORD, but the relevant provisions are:

> We believe that if title V is amended as suggested—

which it was—

> . . . and if the committee report sets forth the suggested language, title V would not adversely affect the investment programs of mutual funds in the capital markets.

Mr. President, I ask unanimous consent that letters from the Department of Justice, Antitrust Division; the American Life Insurance Association; the Investment Company Institute; and the Deputy Attorney General with regard to this measure be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

DEPARTMENT OF JUSTICE,
Washington, D.C., November 18, 1975.

Mr. RALPH OMAN,
Legislative Assistant, Russell Senate Office Building, Washington, D.C.

DEAR RALPH: Enclosed is a possible reformulation of the stay provisions of Title V of S. 1284, which we discussed yesterday afternoon.

While this language is quite tentative and has not been reviewed by Tom Kauper, it is something which seems responsive to the concerns expressed during our meeting last week and it at least is worthy of discussion.

In particular, you will find that the only "automatic" feature of this provision is that consummation is prohibited until the district court is able to hold a hearing on the matter. This would ordinarily be only a very short period of time, since the language further directs the court to proceed as expeditiously as possible. Whether a stay will then be entered to prevent consummation until litigation is completed will depend upon whether the court can make the findings specified by the language based on the record established during the hearing.

As I indicated to you yesterday, we regard as crucial to an effective enforcement program the ability to avoid consummation of transactions which are ultimately adjudged to violate Section 7. Absent such an ability, the divestiture problems become in large part unmanageable. The most horrible example is perhaps the El Paso Gas case, in which divestiture took 16 years to accomplish following the denial of a preliminary injunction and ultimate success on the merits.

I would be interested in your reaction to this language. Let's keep in touch.

Sincerely,

JOE SIMS,
Deputy Assistant Attorney General, Antitrust Division.

AMERICAN LIFE INSURANCE ASSOCIATION,
Washington, D.C., December 3, 1975.

Hon. PHILIP A. HART,
Chairman, Subcommittee on Antitrust and Monopoly, Committee on the Judiciary, U.S. Senate, Washington, D.C .

DEAR MR. CHAIRMAN: In accordance with your request, we have reviewed the exemptive amendments to Title V of S. 1284 included in the bill as reported on July 28 by the Antitrust and Monopoly Subcommittee. We also have reviewed the additional exemptive provisions proposed by the Investment Company Institute on behalf of the mutual fund industry and by an association of closed-end funds.

Our Association represents 379 companies, with assets of $254 billion, including at year-end 1974 $96.6 billion in corporate debt securities and $21.9 billion in corporate equity securities. On behalf of our membership, we very much appreciate the consideration and cooperation afforded by the Subcommittee and its staff in evaluating our concerns about the impact of Title V on capital formation by industry in general and, specifically, on our investment function. We are satisfied that inclusion in Title V of the exemptions reported by the Subcommittee coupled with those proposed by the mutual fund industry will assure that Title V does not adversely affect the capital markets or the ability of the life insurance industry to continue its investment function in the capital markets.

Again, our appreciation for the Subcommittee's effort in understanding our concerns.

Sincerely yours,

WILLIAM B. HARMAN, Jr.

INVESTMENT COMPANY INSTITUTE,
Washington, D.C., November 21, 1975.

Re Title V of S. 1284.

Hon. PHILIP A. HART,
Chairman, Subcommittee on Antitrust & Monopoly, Senate Committee on the Judiciary, Washington, D.C.

DEAR SENATOR HART: On Friday, October 31, 1975, I met with Bernard Nash, Esq., Assistant Counsel to the Subcommittee to discuss various amendments to Title V of S. 1284. Attached hereto are copies of: (1) our proposed amendments; (2) a summary of these proposed amendments; and (3) our suggested language for the Committee report.

We believe that if Title V is amended as suggested and if the Committee report sets forth the suggested language, Title V would not adversely affect the investment programs of mutual funds in the capital markets.

We greatly appreciate the consideration you and your staff have given this matter. Please do not hesitate to contact us if we may be of further assistance.

Very truly yours,

MATTHEW P. FINK,
Associate Counsel.

Hon. PHILIP A. HART,
Chairman, Subcommittee on Antitrust and Monopoly, Committee on the Judiciary, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: When the Subcommittee on Antitrust and Monopoly held hearings on S. 1284 during the spring and summer of 1975, the Administration expressed support for the major provisions of the bill, although it generally opposed Title VI. There has been division within the Administration, however, regarding the desirability of Title V, and the Administration position has been reconsidered in light of the scheduled consideration of the bill by the full Judiciary Committee.

Although the Administration adheres to its previously expressed position on other provisions of S. 1284, and particularly Title II of the bill, this letter is to inform you that the Administration does not now support Title V in its present form.

The Administration does not support enactment of the premerger stay provision of Title V, preferring instead to rely upon existing decisional and statutory law to govern the issuance of preliminary injunctions in merger actions filed by the Department of Justice and the Federal Trade Commission.

The Administration continues to support enactment of a premerger notification provision, providing that the waiting period and extension period are reduced to 30 days and 20 days respectively. Furthermore, to assure that challenges to pending mergers are considered on an expedited basis by district courts, the Administration would encourage enactment of a provision directing the Chief Judge of the appropriate United States Court of Appeals to assign a District Court judge who is able to proceed on an expedited basis with the case, and further to direct that a hearing on the government's motion for a preliminary injunction be held at the earliest possible time; taking precedence over all matters except older matters of the same character and trials pursuant to 18 U.S.C. §3161.

If I may be of any assistance to the Subcommittee or the Committee, please do not hesitate to contact me.

Sincerely,

HAROLD R. TYLER, Jr.

Mr. KENNEDY. Mr. President, what we are really talking about in terms of the question of capital formation in this particular provision is the fact that over the period of the last 20 years, the Department of Justice has interceded and asked for preliminary injunctions and temporary restraining orders in some 62 cases but it has been unable to obtain them. Later, when those particular issues were litigated, the Justice Department was successful in 52 cases where courts found violations of section 7 of the Clayton Act.

Mr. President, those cases took an average time of 5 to 7 years to bring about. What we are talking about here are illegal essential concentrations of power which are in violation of section 7, and all that this provision asks for is the 30-day period of notification.

The essence of title V is the creation of a mechanism to provide advance notification to the antitrust authorities of very large mergers prior to their consummation, and to improve procedures to facilitate enjoining illegal mergers before they are consummated.

Presently, the Government can stop few illegal mergers—even blatantly illegal ones—before they take place. Once a merger is consummated, the average case takes 5 to 6 years to resolve, during which time the acquiring entity retains the illegal profits and other fruits of the transaction. Securing adequate relief after the assets, management, and technology of the two merged firms have been commingled for that 5- to 6-year period has proved virtually impossible. Unfortunately, the original state of competition is rarely restored upon ultimate disposition of the judicial proceeding.

In addressing the obstacles of preventing illegal mergers prior to consummation, and the problems of "unscrambling the eggs" and securing adequate postacquisition relief the sponsors of this legislation believe it is significant that the Department of Justice ultimately prevails after trial on the merits in approximately 90 percent, that is 90 percent of the nonbank merger cases it files under section 7 of the Clayton Act.

Title V amends the Clayton Act to provide for a 30-day notification to the antitrust authorities prior to consummation of very large mergers and acquisitions—involving transactions between $100 and $10 million companies. The title does not change the substantive standards by which the legality of mergers is judged. Certain types of transactions, for example, de minimis noncontrol investments, formation of subsidiary companies, real estate acquisitions for office space, regulated industry and bank mergers, are exempted from the notification requirements. Further authority—to waive the 30-day waiting period, to provide additional exemptions by rulemaking, to require additional information, and to extend the 30-day waiting period for an additional 20 days from receipt of such additional information—is conferred upon the antitrust authorities.

The present concentrated structure of American industry—approximately 200 corporations control two-thirds of all manufacturing assets—in major part stems from mergers and acquisitions. Section 7 of the Clayton Act has failed to achieve its objectives, not because of its substantive standards, but because of the lack of an effective mechanism to detect and prevent illegal mergers prior to consummation. Recently, the Senate Special Subcommittee on Integrated Oil Operations of the Committee on Interior and Insular Affairs recommended enactment of premerger notification and advance approval legislation for certain mergers. The subcommittee, chaired by Senator FLOYD HASKELL, concluded that the lack of an effective procedural mechanism resulted in the consummation of a number of significant oil industry mergers because:

> The expected Government opposition to the merger would not be likely to prevail in the near term. Once the two firms were amalgamated, the final outcome of any further litigation could, at worst, be pushed many years into the future. At best, Amoco could expect a settlement in which it would simply be divested of those few Occidental assets in which it really had little or no interest anyway, such as the Permian Corp. and Oxy's European marketing facilities.

Assistant Attorney General Thomas E. Kauper testified on behalf of the administration that "we strongly support the premerger notification procedure and enhancement of our ability to obtain relief pendente lite." Assistant Attorney General Kauper elaborated in subsequent testimony before the House Subcommittee on Monopolies and Commercial Law, as follows:

> The first would require substantial companies to provide pre-merger notification to the Department. Such notification would provide us with time to develop the information needed to insure a thorough evaluation of whether the proposed merger should be challenged. It would thus provide us with a meaningful opportunity to seek a preliminary injunction before a questionable merger is consummated. This is of great practical importance because divestiture of stock or assets after an illegal merger is consummated is frequently an inadequate remedy for a variety of reasons.
>
> Assets may be scrambled, making re-creation of the acquired firm impossible. Key employees may be lost. The goodwill of the acquired firm may be dissipated, making it a weaker competitive force after divestiture.
>
> Moreover, divestiture is normally a painfully slow process, and in some cases might never occur. Locating an appropriate buyer willing to purchase at a reasonable price is frequently difficult. Firms under divestiture orders may deliberately delay to reap the benefits of the unlawful merger. During these delays, anticompetitive consequences grow.
>
> Pre-merger notification will also advance the legitimate interests of the business community in planning and predictability. It will enable firms to make post-acquisition changes with much more confidence than they can at present.
>
> Lastly, pre-merger notification will prevent the consummation of so-called "midnight" mergers designed to subvert the Department's authority to seek preliminary relief.

Careful studies, which have been published only in the last few years, confirm the conclusion of Assistant Attorney General Kauper and reveal that the remedial provisions of the merger decrees have almost invariably failed to restore the competitive conditions existing before the merger. The result of a final divestiture decree usually is the divestiture of a stripped down and empty shell: truncated assets that never were and never could be a viable firm, or the sale to a buyer who, had he sought to acquire the divested firm at the outset, would himself have violated section 7. Furthermore, in a surprising number of cases, the court orders simply no divestiture at all. Relief, when given, has been tardy and long delayed. Thus, Professor Elzinga, in his study of 39 merger cases in which relief was given concluded that the decree could be viewed as truly successful in only three instances. He found that the Government obtained unsuccessful or deficient relief in 90 percent of the cases.

It is startling to contrast the language of the Supreme Court in some of its leading merger cases with the decree finally entered. In *United States* v. *Continental Can Company,* 378 U.S. 441, 463 (1964), the Court struck down a merger between a leading producer of metal containers and a leading producer of glass containers in part because the latter had been removed "as an independent factor in the glass industry." Eight years later, the final decree permitted the sale of most of the acquired assets of the glass container producer to the third largest glass container producer in the United States.

In *United States* v. *Von's Grocery Company,* 384 U.S. 270, 278 (1966), the Supreme Court, in holding unlawful the acquisition of the sixth largest grocery chain in Los Angeles by the third largest chain, characterized the merger as that of "two already powerful companies merging in a way which makes them even more powerful than they were before." Far from restoring the acquired firm, the final decree simply permitted Von's to sell any 35 of its 108 stores, thereby permitting it to choose its least profitable outlets, scarcely a diminution of its power.

Lower court decisions fare no better. In one instance, the acquiring firm refused to offer the acquired company for sale except at an unrealistically high price, and when no buyer was forthcoming, the acquiring firm was relieved of its obligation to divest. In another case, the acquiring firm sold off most of the assets of the acquired firm, and the court found nothing left to be divested except some obsolete machinery for which no buyers could be found. And in yet another, involving an important trademarked product, the court limited divestiture to the physical plants, without the right to use the all-important trademark, which the acquiring firm retained.

In the face of this bleak record, it is not too much to say, as has Prof. Donald Dewey, that while "the government wins the options . . . the defendants win the decrees." (Dewey, *Romance and Realism in Antitrust Policy,* 63 J. Pol. Econ. 93 (1955).) The difficulty of securing injunctive relief to block illegal mergers in advance and the inadequacy of subsequent remedies have resulted in a situation in which the disincentives to unlawful mergers are insufficient.

Mr. President, at this time I move to lay on the table the amendment of the Senator from Nebraska and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. Vote.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. BUMPERS), the Senator from Idaho (Mr. CHURCH), the Senator from Indiana (Mr. HARTKE), the Senator from Montana (Mr. MANSFIELD), the Senator from California (Mr. TUNNEY), and the Senator from Washington (Mr. JACKSON), are necessarily absent.

I also announce that the Senator from Indiana (Mr. BAYH), and the Senator from Missouri (Mr. SYMINGTON) and absent because of illness.

I further announce that, if present and voting, the Senator from Indiana (Mr. BAYH), the Senator from Indiana (Mr. HARTKE), and the Senator from Washington (Mr. JACKSON) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Massachusetts (Mr. BROOKE), the Senator from Arizona (Mr. GOLDWATER), and the Senator from Nevada (Mr. LAXALT) are necessarily absent.

The result was announced—yeas 58, nays 31, as follows:

[Rollcall Vote No. 244 Leg.]

YEAS—58

Abourezk
Allen
Baker
Biden
Burdick
Byrd, Robert C.
Cannon
Case
Chiles
Clark
Cranston
Culver
Dole
Durkin
Eagleton
Fong
Ford
Glenn
Gravel
Hart, Gary
Hart, Philip A.
Haskell
Hatfield
Hathaway
Hollings
Huddleston
Humphrey
Inouye
Javits
Kennedy
Leahy
Long
Magnuson
Mathias
McGee
McGovern
McIntyre
Metcalf
Mondale
Montoya
Morgan
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Proxmire
Randolph
Ribicoff
Schweiker
Scott, Hugh
Stafford
Stevenson
Taft
Williams

NAYS—31

Bartlett
Beall
Bellmon
Bentsen
Brock
Buckley
Byrd, Harry F., Jr.
Curtis
Domenici
Eastland
Fannin
Garn
Griffin
Hansen
Helms
Hruska
Johnston
McClellan
McClure
Percy
Roth
Scott, William L.
Sparkman
Stennis
Stevens
Stone
Talmadge
Thurmond
Tower
Weicker
Young

NOT VOTING—11

Bayh
Brooke
Bumpers
Church
Goldwater
Hartke
Jackson
Laxalt
Mansfield
Symington
Tunney

So the motion to lay on the table was agreed to.

Mr. KENNEDY. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

Mr. HRUSKA. I move to lay that motion on the table.

Mr. ALLEN. I call for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. BUMPERS), the Senator from Idaho (Mr. CHURCH), the Senator from Indiana (Mr. HARTKE), the Senator from Montana (Mr. MANSFIELD), the Senator from California (Mr. TUNNEY), the Senator from Colorado (Mr. GARY HART), the Senator from Washington (Mr. JACKSON), the Senator from Washington (Mr. MAGNUSON), the Senator from South Dakota (Mr. MCGOVERN), and the Senator from Connecticut (Mr. RIBICOFF) are necessarily absent.

I also announce that the Senator from Indiana (Mr. BAYH) and the Senator from Missouri (Mr. SYMINGTON) are absent because of illness.

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON), the Senator from Indiana (Mr. BAYH), and the Senator from Indiana (Mr. HARTKE) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Massachusetts (Mr. BROOKE), the Senator from Arizona (Mr. GOLDWATER), and the Senator from Nevada (Mr. LAXALT) are necessarily absent.

The result was announced—yeas 56, nays 29, as follows:

[Rollcall Vote No. 245 Leg.]

YEAS—56

Abourezk
Baker
Biden
Burdick
Byrd, Robert C.
Cannon
Case
Chiles
Clark
Cranston
Culver
Dole
Durkin
Eagleton
Fong
Ford
Glenn
Gravel
Hart, Philip A.
Haskell
Hatfield
Hathaway
Hollings
Huddleston
Humphrey
Inouye
Javits
Johnston
Kennedy
Leahy
Long
Mathias
McGee
McIntyre
Metcalf
Mondale
Montoya
Morgan
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Proxmire
Randolph
Schweiker
Scott, Hugh
Stafford
Stevenson
Taft
Talmadge
Weicker
Williams

NAYS—29

Allen
Bartlett
Beall
Bellmon
Bentsen
Brock
Buckley
Byrd, Harry F., Jr.
Curtis
Domenici
Eastland
Fannin
Garn
Griffin
Hansen
Helms
Hruska
McClellan
McClure
Percy
Roth
Scott, William L.
Sparkman
Stennis
Stevens
Stone
Thurmond
Tower
Young

NOT VOTING—15

Bayh
Brooke
Bumpers
Church
Goldwater
Hart, Gary
Hartke
Jackson
Laxalt
Magnuson
Mansfield
McGovern
Ribicoff
Symington
Tunney

So the motion to lay on the table was agreed to.

Mr. PASTORE addressed the Chair.

The PRESIDING OFFICER (Mr. DURKIN). The Senator from Rhode Island.

Mr. PASTORE. If I may have the attention of the Members of the Senate, as far as I am concerned, Mr. President, I have only 6 months more to live in the agony of this frustration. Certainly, we are engaged in a certain amount of frustration.

I checked with the desk only a short while ago and I understand we have 50 amendments there. If we keep going the way we are going, I think we will be here until Christmas on this particular bill.

It strikes me that reasonable men could get themselves together and agree on a solution that would be in the public interest—but that is apart from the fact.

We came here early this morning, we are here at 6:30 this evening, we are told we are going to be here until about 8 o'clock. What a dent 8 o'clock is going to make on 50 amendments at the desk, I do not know.

But I am wondering if the leadership could not somehow move that we meet earlier in the morning and, at least, we discuss these important matters at sunrise rather than at sunset, and that we can have a little time with our families in between. That is rather important, too, because, after all, good legislation comes out of happiness, not out of frustration and sadness. I do not know of any better happiness than for a man to go home and enjoy the evening with his family.

We are told now that we might go until 8 o'clock. That means 2 out of 50 more amendments, and two really is not getting anywhere.

I would hope that those who are opposed to this bill and those who are advocating this bill could sit down and reach a reasonable compromise, because, after all, let us understand that the art of politics is the possible. Lyndon Johnson said it. A lot of people before him said it, as well.

Maybe we can go home, let us say, at 7:30 tonight, maybe 12 o'clock tonight, whatever we want to make it, but make it an hour that at least we can kiss our wives goodnight before they fall asleep.

So I say why do we not wake up to the reality of the situation and do what needs to be done? I would hope we could do this and do it in due order and have it done with.

I say to my colleagues here in the Senate, let us shape up and let us do what needs to be done, and let us begin to act a little bit more mature than high school students.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. I want to indicate, first of all, to my good friend and colleague from Rhode Island, that it has not been those of us who support this bill who have been spending hour after hour after hour reading into the RECORD minority views.

There are important points of disagreement. I am sure, although I have not talked to the author of the bill, the distinguished Senator from Michigan, that we could agree to time limitations on any of these matters and move ahead on them rapidly.

I want to point out to the Senator from Rhode Island that a great deal of time has been spent on this bill by the sponsors of the legislation and by members of the Judiciary Committee. There were more than 16 hours of markup on this legislation, years of hearings, and it does involve the most important, I think, consumer legislation that is going to come before the Congress this year or has come up in any recent year. So it involves many very important and significant issues.

But there is nobody who is more accommodating than the Senator from Michigan (Mr. PHILIP A. HART) and the minority leader, the Senator from Pennsylvania (Mr. HUGH SCOTT).

They have been, I have found as a member of the Judiciary Committee, more than willing to go the extra mile on this bill. It is in that spirit that I make this comment. But I am hopeful that we can also meet the responsibilities to the American consumers, to businesses, to the people who do believe in a free and competitive economy.

The majority has some rights, too. The majority has some rights and what we are seeing, I think, in the time I have had the opportunity to participate in the legislation, are tactics which are leading to abuse of those rights.

Mr. PASTORE. I realize that. I was born poor, I will die poor, and maybe nobody suffers more as a consumer than JOHN PASTORE does. I do not have to take a back seat to anybody. But, after all, this Republic has survived to this point without this legislation. I think this legislation is very important. I have been supporting it. Vote after vote after vote I have been supporting it. The fact still remains that here we are. We are at an impasse. We have been bickering back and forth for the last 2 or 3 days. Of course, I do not ride the trolley car. I walk. As a matter of fact, I have really gotten tired of walking, I have had to walk so often.

Here we are, a motion to consider, a motion to reconsider, a motion to lay on the table. All of this has been procedural more than anything else.

I am saying why cannot reasonable people get together? Why cannot JIM ALLEN give in a little bit? Why cannot TED KENNEDY give in a little bit? Can we not come out with a bill? The House has already acted. The House has passed a bill. We have been negotiating on the floor. We have been modifying, from time to time, some of the provisions which came out of the committee.

Why can we not sit down in the cloakroom, either on that side or on this side, and resolve this issue and let us come up with something?

I repeat again, the art of politics is the possible, and I think we can do it. We are not going to do it here at 7 o'clock tonight; we are not going to do it here at 8 o'clock tonight; we are not going to do it here at 9 o'clock tonight. But for goodness gracious why do we not begin to act like mature people and come to an understanding? Is this bill possible or not possible?

There are 50 amendments on the substitute at the desk now. If Senators will count them up, it means we will delay Clean Air, we will delay UEA, we will delay everything else that is being backed up because of this bill. That is all I am saying.

All I am asking is for Members to have a little bit of compassion, to understand that it is 6:30 tonight; that no matter how long we stay here we are still going to have about 40 or 50 amendments on that desk. I say let us get together. Let us put our heads together and act like sensible people and do something.

Mr. KENNEDY. Mr. President, one point I would make in addition, is that of those pending amendments, I daresay that 90 percent of them are proposed by only two Members. The membership should understand that there are not numerous amendments all from different Members who all have differing views about it. There are amendments of mainly two Members. It is important that we undersrtand what the current situation is. One of those Members had the opportunity and did present issue after issue before the Judiciary Committee and they were voted down. He has a right, as the Senator would understand, to do this.

Mr. PASTORE. That is right.

Mr. KENNEDY. But I believe it is fair to say that of the amendments which are at the desk, 90 percent of them are from two Members of the Senate.

There has never been anything but willingness and accommodation by the sponsors of the bill in the Judiciary Committee and, quite frankly, in this Chamber, to consider any reasonable, rational, and useful adjustments to the legislation.

Mr. PASTORE. I agree with my good friend from Massachusetts.

I want to say this in conclusion: in order to complete this torture the only thing that has not happened to us is to have bamboo sticks stuck up our nails. Outside of that, we have achieved every other kind of torture. We keep running back and forth, back and forth. To do what? We have not accomplished a blessed thing. I only hope we get together and do something as reasonable people.

Mr. ALLEN. Mr. President, I yield myself 2 minutes.

I agree with what the distinguished Senator from Rhode Island has said. I think we should work out something, we should reach a consensus on this bill. But I will say this, that I believe a consensus would have been reached had not cloture been rammed down the throat of the Senate. A bill can be rammed through the Senate by resort to cloture, but it cannot be shaped, it cannot be perfected. So we are in a straitjacket here. The distinguished Senator from Michigan wanted to offer an amendment, but he cannot offer an amendment unless he has prefiled it at the desk.

If we had been allowed to proceed, very easily and very likely we could have reached an accommodation. We came so close on so many occasions.

The distinguished Senator from Massachusetts said the opponents of the measure have been delaying it.

Just last week we had a substitute that I had offered that would have wrapped up the measure. It survived three different votes: a substitute, a motion to table, and an amendment. When they saw they could not defeat the amendment, what did they do? They adjourned.

Yesterday at 5:30 we were trying to get action on an amendment and there had been about six test votes on it. What the outcome would be was certain. What happened? The leadership adjourned us at 5:30 against my protest. I wanted to go ahead and finish the bill last night if we could.

On at least two occasions I have offered amendments that would have solved this matter, but they have not been tested.

I am hopeful we can reach an accommodation in this matter. I do not believe we can do it as long as we have this straitjacket of cloture imposed upon us. I reserve the remainder of my time.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a vote on final passage of the substitute occur not later than 2 o'clock tomorrow afternoon.

Mr. ALLEN. I object. That is not in accordance with the rules. We are supposed to follow the rules.

The PRESIDING OFFICER. Objection is heard.

Mr. ROBERT C. BYRD. The Senator talks about the rules. One can ask unanimous consent under the rules, also. Of course, the Senator has the right to object, and he did.

Mr. PHILIP A. HART. Mr. President, I have the feeling that anything that is said now will contribute to the opposite result of the result sought by the Senator from Rhode Island. I have the uneasy feeling that anything that any of us may say on either side now would only serve to dig us in deeper.

I will be very brief. I made a very short list of the things that the proponents of this bill have seen added to it, I think without exception with our support, in the days that have intervened since the application of cloture: Three changes in title II; three changes in title III; three changes in title IV; a shifting of the burden of proof and the modification of the time restraints, two items in title V.

We have given in, and we are a majority. We have an obligation and I hope we respect it.

Nobody has abused the rules. All are operating within the rules.

I conclude by voicing what I am sure will, for a moment, contribute only to disarray.

I suggest that this bill has been filibustered since the end of last July. If anybody wants to review the record, let them.

Mr. PASTORE. Will the Senator yield? I agree with the Senator. I have been voting with him right along. I realize there has been difficulty. But the way these compromises have been achieved, as he has stated, has been after long debate, running back and forth, and with various motions on procedure. I am wondering if somehow, for what remains to be accomplished here, the good heads of this Senate could not get together in a reasonable fashion and bring up something that realistically cannot only pass this bill but can be agreed to in conference and be signed by the President of the United States. That is all I am saying.

I do not question anyone's motivation or his sincerity. The people who are for this bill are just as sincere as the people who are against it. I must say by the same token the people who are against this bill are just as sincere as the people who are for it. The point here is where is the common ground? Where is the common ground? When will we ever achieve it?

We have to go to conference with the House. The House has passed a weaker bill than we have in the Senate. The Senate came out with a very strong bill, which I support. From time to time I would come here and they would say, "This is a concession which is being made."

I would say, "Who is for it?" They would say, "PHILIP is for it."

I would vote for it because PHILIP HART was for it, but a concession was made. You see.

Now, all I am saying is, can we not get together except at 7, 8, or 9 o'clock at night, and sit down as reasonable men, and say, "This is about as far as we can go?" Let us go as far as we can go. Let us do what we can accomplish, and if, then, we cannot do it, then let the regular procedure invoke itself and be carried out.

Mr. PHILIP A. HART. I think that if the acting majority leader had obtained the consent he sought for a vote at 2 o'clock tomorrow, we would have the action.

Mr. KENNEDY. Mr. President, I point out that at the last count there were 2 Griffin amendments, 8 different Hruska amendments, and 11 Allen amendments. The Allen amendments, basically, are the same sort we have voted on, striking one section and substituting the House version. They are not issues that are unfamiliar to the Members here.

So, actually, we are not talking about a very broad agenda still for the Senate to consider. I think if we were able to get a time agreement, realizing that this is the situation, we could get early action.

Several Senators addressed the Chair.

Mr. KENNEDY. I am glad to yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. LONG. Mr. President, the managers of the bill have been conciliatory. I would like to vote for the Hart-Scott amendment if we have the opportunity to do so.

It impresses this Senator that there is no real adamant position taken by those who are managing the bill, and I really think that the Senator from Rhode Island is right about the matter, that the votes are here to pass the bill, and I think that those on the other side are practical also, and that there should be some give and take in this area, where a compromise could be reached to bring this matter to an early conclusion.

I certainly hope so, and I applaud the Senator from Rhode Island for making the suggestion, and also congratulate the managers of the bill, in that they have seen areas where there was substantial sentiment for modification,' and have sought to modify their bill. We would just hope there would be a little more of the same.

Mr. HRUSKA. Mr. President, it is with some interest that one listens to this appeal that we should get together, we should be accommodating one with the other, and live in peace and harmony, go home at 6:30 or 7:00 and enjoy some of the sunshine that is still with us until about 9 o'clock these days.

But, Mr. President, let me suggest there is a time and a place for everything. I recall a day, on May 19, when we stood here and there was insistence from another side of this aisle that we go ahead with this bill.

Mr. President, at that time the bill had been reported out a day or two, not more than three. At that time, the minority report was not even printed, and we do not have charge of the printing. We had our material for the minority report in time, but we were told, "Oh, well, that is of small consequence, nobody depends too much on minority reports and all that; we just debate and vote on the bill."

And it was pointed out that the 3-day rule applied to the filing of the bill, and not to the filing of the report. I do not know whether that is true or not, in exact letter, but I know the spirit is that this body and its Members should have an opportunity to look at the minority report, or have their staffs do it and be prepared for discussion, or listen to discussion, and then go ahead with the business.

Under what circumstances? Under circumstances where we can offer amendments from the floor. Under circumstances where, if we reach an impasse, we can change the amendment. Under circumstances where we can agree or disagree amendment to amendment, on a limitation of time.

Lacking good faith in those areas, then is the time to impose cloture.

What happened? On the first day or two of the consideration of this bill, the chief sponsor of the bill above, not including other proponents held forth for 106 columns in the CONGRESSIONAL RECORD. All of those who opposed, up until that point, had only 76 columns in the CONGRESSIONAL RECORD.

I submit to you there was little mercy shown to us when that substitute bill was offered for the House bill. The other side got all they wanted. They got all they wanted in that regard, and also in regard to the matter of cloture.

Now that they have the cloture, and they have the substitute, they come to us and say, "Why don't you be accommodating?"

I would say if this were a political meeting—which I know it is not—but, Mr. President, it just seems to me that the words of pleading that we get together and be accommodating should be considered in the context of the moment, and that it comes with poor grace for those who had the power to put us in this position, and those who are opposed to the bill, to advise us to forego whatever advantage we may possess.

Mr. PASTORE. Mr. President, will the Senator yield to me?

Mr. HRUSKA. On the Senator's time.

Mr. PASTORE. Yes, on my time. I have a lot of time; that is all we have here, is time.

Let me say this: There is no man I respect and love more than my good colleague from Nebraska. He knows that.

I have had nothing to do with the maneuvering that took place up to now. All I am saying is, "Is it possible to reach an accommodation?" Are oppositions so stiff, so rigid, so irreconcilable, that we can never reach a consensus? Is that what we are up against? Is that what America is looking at when it looks at the Senate of the United States, that accommodation is an impossibility? Is that what we are talking about?

After all, things need to be done about the matter that is before us now. There is no question about that. Maybe the committee did go a little bit too far. Maybe there are some here who think that possibly they have not gone far enough. But the fact still remains that reasonable people ought to be able to sit down together and do privately, with a sense of realism, what has been happening on this floor, because we have already modified this bill several times.

We have already done that, and I say why did we have to take 2 weeks to do it? Why can you not sit in that room there and do it in 2 hours?

That is all I am talking about. After all, America does not deserve frustration. America does not deserve agony. America does not deserve torture. All she deserves is that something be done on the subject at interest.

I hope that is what we are trying to do here. If we are not trying to do that, then I have wasted 26 years in the Senate of the United States, and I hope to God that I did not do that. I hope to God that I did not do that.

Let us leave animosities outside that door, and let us get together in a spirit of friendship and cooperation, and do what needs to be done. That is all I am talking about. If that is impossible, just tell me it is impossible, and I will stay here till doomsday.

Several Senators addressed the Chair.

Mr. PASTORE. Mr. President, I yield to the Senator from Alabama.

Mr. ALLEN. Is the Senator perhaps suggesting that the bill go back to committee for further debate? [Laughter.]

Mr. PASTORE. No; I am not saying that at all. The Senator is being cute again, and I do not like cuteness.

I have said it very simply. I said go into that room. That is not a committee room, it is a cloakroom. I pointed there.

Mr. ALLEN. What does the Senator suggest?

Mr. PASTORE. I am not out here to kill the bill, I am out here to pass legislation that is agreeable to the American people.

Let no one try to fool with PASTORE. Not tonight.

Mr. ROBERT C. BYRD. Or any other night.

Mr. PASTORE. Or any other night. [Laughter.]

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. PERCY. Mr. President, I have not heretofore had occasion to speak on this bill. I have tried to take examination of the issues in each of the proposals as they have come along, and decided them as best I could. But I would like very much to associate myself with the comments of our distinguished colleague from Rhode Island.

I think what Senator PASTORE is saying is, "Let bygones be bygones." We have really reached the stage, I think, in the mood and feeling of the Senate, that there will be tremendous harm done to personal relationships if we carry this thing too far.

There have been reasons, possibly, for anger, and there have been reasons for concern that rights have not been fully protected. But certainly both sides, now, majority and minority, have really had made their point.

Those things ought to be set aside. Whether we solve this in a cloakroom, or whether we solve it right here on the floor, I think in essence what Senator PASTORE is suggesting to us is that we put aside all of the procedural votes, all of the meaningless, time-consuming sort of things that make us look like a bunch of schoolboys running around doing nothing. We are not earning our salaries, we are not accomplishing anything; we are just looking foolish in each other's eyes and certainly in the eyes of the American public and our constituency.

What we can do is consider and vote on every one of those amendments that are substantive, that really get to the heart of the differences between the proponents and opponents of this legislation. The Senate and the Nation are divided on this bill and I just do not happen to believe that all wisdom is represented by the majority or all represented by the minority.

I think certain parts of this bill are substantively absolutely essential, and I say that, having spent most of my life as a producer. I think as to the producer who comes in and willfully price fixes, I do not know how any Senator or any businessman in good conscience could tolerate or condone such action. I put it to every businessman who came in to see me: "You should be the first ones to go after the hide of those who willfully fix prices. You ought to see that they go to jail. They are undercutting the whole essence of the system that is our economic being here."

I would have no mercy on such people. Treble damages may not be enough for them because they are undercutting the free enterprise system by willfully price fixing.

So, I associate myself with the majority on that side.

But I must say, looking at the premerger notification, I am very disturbed about that, enough so that I talked 15 or 20 minutes ago to the Attorney General, who lived and worked in the antitrust division and really believes, as I do, that we have to go after antitrust law violators. But to have 100 or 90 mergers submitted for some 30 or 60 days for review by the antitrust division does not seem to make sense to me. I discussed this with the Attorney General and indicated that to appraise or analyze a merger for 30 days that may have taken 3 or 4 years to consummate, would possibly destroy some valid mergers, in some case by notifying the public. This makes no sense to me.

So I voted with the minority on that. I happen to think they are right.

But let us vote these things substantively. I do not mind voting, and I do not care if we vote for another 5 or 6 days. We have been working on this bill for a long time. But let us get to substantive votes on it. Let us make our vote count, be meaningful and vote amendments up or down.

We are eventually going to end up with some piece of legislation. I simply urge: Let each of us judge where the right is, vote substantively on those issues, and let the Senate decide it in the way it should decide it and not keep playing games any longer on either side.

That is all I would like to say, and let us get on with the business of the Senate. I would certainly follow the leadership of our assistant majority leader who has wanted us to perform and wanted to see us function, but it does not serve any purpose to sit here until 11 o'clock tonight if we are going to accomplish nothing. We are willing to stay if we are going to get something done. But I agree we will do a lot better by starting out in the morning early enough and starting out with the premise in mind that we all agree we are going to get down to the essence and the substance and not the procedural fascinations and parliamentary maneuvers of the Senate.

UNANIMOUS-CONSENT REQUESTS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the vote occur on final adoption of the substitute at no later than 3 o'clock on the afternoon of Thursday this week.

Mr. ALLEN. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 9 o'clock tomorrow.

Mr. ALLEN. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. ROBERT C. BYRD. Mr. President, if no amendment is called up I suggest the vote on the substitute.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Michigan. The yeas and nays have been ordered.

Mr. ALLEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. ALLEN. Mr. President, I yield myself 2 minutes.

Nothing was done by the managers of the bill to accept the proposal of the distinguished Senator from Rhode Island that they go into that room or this room and seek to work this matter out.

As long as the Senate is in a straight jacket, as long as the Senate is not able to work its will by shaping this bill in free discussion and free shaping of amendments, I believe that we have reached an impasse that may take some time to break. Therefore, Mr. President, in order to get us back to a bill that would be subject to amendments and that we could allow the Senate to work its will on, I move to lay on the table amendment No. 1701, and I ask for the yeas and nays. That would get us back to the House bill which would be subject to amendment.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. I yield the floor.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. BUMPERS), the Senator from Idaho (Mr. CHURCH), the Senator from Indiana (Mr. HARTKE), the Senator from Montana (Mr. MANSFIELD), the Senator from California (Mr. TUNNEY), the Senator from Mississippi (Mr. EASTLAND), the Senator from Washington (Mr. JACKSON), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Connecticut (Mr. RIBICOFF), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I also announce that the Senator from Indiana (Mr. BAYH) and the Senator from Missouri (Mr. SYMINGTON) are absent because of illness.

I further announce that, if present and voting, the Senator from Indiana (Mr. BAYH), the Senator from Indiana (Mr. HARTKE), and the Senator from Washington (Mr. JACKSON) would each vote "nay".

Mr. HUGH SCOTT. I announce that the Senator from Massachusetts (Mr. BROOKE), the Senator from New York (Mr. BUCKLEY), the Senator from Nebraska (Mr. CURTIS), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from Nevada (Mr. LAXALT), the Senator from Connecticut (Mr. WEICKER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The result was announced—yeas 20, nays 60, as follows:

[Rollcall Vote No. 246 Leg.]

YEAS—20

Allen
Bartlett
Bellmon
Bentsen
Brock
Byrd, Harry F., Jr.
Dole
Fannin
Garn
Hansen
Helms
Hollings
Hruska
McClellan
McClure
Scott, William L.
Stone
Talmadge
Thurmond
Tower

NAYS—60

Abourezk
Baker
Beall
Biden
Burdick
Byrd, Robert C.
Cannon
Case
Chiles
Clark
Cranston
Culver
Domenici
Durkin
Eagleton
Fong
Ford
Glenn
Gravel
Hart, Gary
Hart, Philip A.
Haskell
Hatfield
Hathaway
Huddleston
Humphrey
Inouye
Javits
Johnston
Kennedy
Leahy
Long
Magnuson
Mathias
McGee
McIntyre
Metcalf
Mondale
Montoya
Morgan
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Roth
Schweiker
Scott, Hugh
Sparkman
Stafford
Stevens
Stevenson
Taft
Williams

NOT VOTING—20

Bayh
Brooke
Buckley
Bumpers
Church
Curtis
Eastland
Goldwater
Griffin
Hartke
Jackson
Laxalt
Mansfield
McGovern
Ribicoff
Stennis
Symington
Tunney
Weicker
Young

So the motion to table was rejected.

Mr. WILLIAM L. SCOTT. Mr. President, I wonder if the distinguished acting majority leader could tell us how long we are going to be here tonight? There are preferential primaries that are important to Members on both sides of the aisle. I know we would like to know the results, or to watch the returns as they come in. It is about time to have supper as far as this particular Senator is concerned. If I could know just what we can expect for the balance of the evening, I would be able to make my own plans and I am sure other Senators would be able to make their plans. Could the distinguished acting majority leader advise us on this?

Mr. ROBERT C. BYRD. Yes. I would say that the Senator can be assured that he will be home in time to watch the California returns.

[Laughter.]

Mr. WILLIAM L. SCOTT. Mr. President, I appreciate the thoughtfulness of the distinguished leader.

Mr. President, in view of the importance of the matter that we have before us, I think we should maintain a quorum on the floor at all times. I suggest the absence of a quorum.

Mr. ROBERT C. BYRD. Mr. President, we just had a quorum on the last vote.

Mr. WILLIAM L. SCOTT. Mr. President, there has been intervening business.

Mr. ROBERT C. BYRD. Mr. President,

I make the point of order that a suggestion for a quorum at this time is a dilatory suggestion, no business having intervened since the vote.

Mr. HRUSKA. Mr. President, a parliamentary inquiry.

Mr. PASTORE. Will the Senator withhold that?

The PRESIDING OFFICER. The point of order is sustained. No business has intervened since the last vote, which showed a quorum.

Mr. ALLEN. Mr. President, I appeal.

Mr. HRUSKA. A parliamentary inquiry.

Mr. WILLIAM L. SCOTT. Mr. President, I do appeal.

Mr. HELMS. Mr. President, I move we stand in recess.

Mr. ROBERT C. BYRD. I move to lay the appeal on the table.

Mr. HELMS. I ask for the yeas and nays.

Mr. ROBERT C. BYRD. Mr. President, I move to lay the appeal on the table.

Mr. HELMS. I ask for the yeas and nays.

The PRESIDING OFFICER. The question is on the motion to table the appeal.

Mr. ALLEN. Yeas and nays are called for.

The PRESIDING OFFICER. Is there a sufficient second?

The Senators wishing to second will have to raise their hands.

There is a sufficient second. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from South Dakota (Mr. Abourezk), the Senator from Arkansas (Mr. Bumpers), the Senator from Idaho (Mr. Church), the Senator from Indiana (Mr. Hartke), the Senator from Washington (Mr. Jackson), the Senator from Louisiana (Mr. Long), the Senator from Montana (Mr. Mansfield), the Senator from South Dakota (Mr. McGovern), the Senator from Connecticut (Mr. Ribicoff), the Senator from Mississippi (Mr. Stennis), and the Senator from California (Mr. Tunney) are necessarily absent.

I also announce that the Senator from Indiana (Mr. Bayh), and the Senator from Missouri (Mr. Symington) are absent because of illness.

I further announce that, if present and voting, the Senator from Indiana (Mr. Bayh), the Senator from Indiana (Mr. Hartke), and the Senator from Washington (Mr. Jackson) would each vote "yea."

Mr. HUGH SCOTT. I announce that the Senator from Massachusetts (Mr. Brooke), the Senator from New York (Mr. Buckley), the Senator from Nebraska (Mr. Curtis), the Senator from Arizona (Mr. Goldwater), the Senator from Michigan (Mr. Griffin), the Senator from Nevada (Mr. Laxalt), the Senator from Connecticut (Mr. Weicker), and the Senator from North Dakota (Mr. Young) are necessarily absent.

The result was announced—yeas 51, nays 28, as follows:

[Rollcall Vote No. 247 Leg.]

YEAS—51

Bentsen
Biden
Burdick
Byrd, Robert C.
Cannon
Chiles
Clark
Cranston
Culver
Durkin
Eagleton
Eastland
Fong
Ford
Glenn
Gravel
Hart, Gary
Hart, Philip A.
Haskell
Hathaway
Hollings
Huddleston
Humphrey
Inouye
Johnston
Kennedy
Leahy
Magnuson
Mathias
McClellan
McGee
McIntyre
Metcalf
Mondale
Montoya
Morgan
Moss
Muskie
Nelson
Nunn
Pastore
Pell
Percy
Proxmire
Randolph
Schweiker
Scott, Hugh
Sparkman
Stevenson
Stone
Williams

NAYS—28

Allen
Baker
Bartlett
Beall
Bellmon
Brock
Byrd, Harry F., Jr.
Case
Dole
Domenici
Fannin
Garn
Hansen
Hatfield
Helms
Hruska
Javits
McClure
Packwood
Pearson
Roth
Scott, William L.
Stafford
Stevens
Taft
Talmadge
Thurmond
Tower

NOT VOTING—21

Abourezk
Bayh
Brooke
Buckley
Bumpers
Church
Curtis
Goldwater
Griffin
Hartke
Jackson
Laxalt
Long
Mansfield
McGovern
Ribicoff
Stennis
Symington
Tunney
Weicker
Young

So the motion to lay the appeal on the table was agreed to.

Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER (Mr. Cranston). The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I would like to inquire at this time whether any Senator wishes to call up an amendment, without losing my right to the floor.

Mr. HRUSKA. Mr. President, what is the request?

Mr. ROBERT C. BYRD. I am asking whether——

Mr. ALLEN. I have amendments to be offered. I do not particularly care about staying here any longer than is necessary, but I have a number of amendments to offer. If the distinguished majority leader wishes to continue on, I will call them up.

Mr. ROBERT C. BYRD. Does the Senator wish to call up one now?

Mr. ALLEN. I say, I do not care to. If the distinguished Senator would like to continue the session, I have an amendment to call up.

Mr. WILLIAM L. SCOTT. Mr. President, I say to the distinguished Senator that I do not believe I have used but a minute or two of my time and I do have a 42-page statement I want to make.

I would prefer that we adjourn so that I could make it tomorrow when all our heads are clearer than tonight, but if we do not adjourn, of course, I will make the statement tonight. I would like to have a quorum here while I am making my statement. I think it is a fine statement that every Senator should listen to.

Mr. ROBERT C. BYRD. Did I understand the Senator to say it will only take a minute or two to make it?

Mr. WILLIAM L. SCOTT. I do not know. I ask the Chair, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 51 minutes remaining.

Mr. WILLIAM L. SCOTT. I am sure it will take 51 minutes.

Mr. PASTORE. Will the Senator yield?

Mr. ROBERT C. BYRD. I have the floor.

Would the Senator just put the statement in the Record by unanimous consent and let us all read it?

Mr. WILLIAM L. SCOTT. No. Some of the Senators might not read it if I put it in the Record, and I would like for them to hear it.

ORDER FOR RECOGNITION OF SENATOR BARTLETT TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the distinguished Senator from Oklahoma (Mr. Bartlett) may be recognized for 15 minutes immediately after the two leaders or their designees have been recognized under the standing order on tomorrow.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that all Senators may be permitted to introduce bills and resolutions today, and to introduce statements into the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The PRESIDING OFFICER laid before the Senate the following letters, which were referred as indicated:

Amendment to Budget Request for the Executive Office of the President—(S. Doc. 94–210)

A letter from the President of the United States transmitting a proposed amendment to the budget request for appropriations for the Executive Office of the President for fiscal year 1977 in the amount of $3.3 million (with additional papers), to the Committee on Appropriations, and ordered to be printed.

Amendments to Budget request for the Department of Health, Education, and Welfare—(S. Doc. 94–109)

A letter from the President of the United States transmitting proposed amendments to the budget request for appropriations for the Department of Health, Education, and Welfare for fiscal year 1977 in the amount of $2,234,000 (with accompanying papers); to the Committee on Appropriations, and ordered to be printed.

Amendment to Budget Request for the Energy Research and Development Administration—S. Doc. 94–208)

A letter from the President of the United States transmitting a proposed amendment to the budget request for appropriations for the Energy Research and Development Administration for fiscal year 1977 in the amount of $178.8 million, and for the addition of appropriation language required by the Nuclear Fuel Assurance bill (with accompanying papers); to the Committee on Appropriations, and ordered to be printed.

Amendment to Budget Request for Foreign Assistance for Fiscal Year 1977—(S. Doc. 94–212)

A letter from the President of the United States transmitting a proposed amendment to the budget request for appropriations for foreign assistance for fiscal year 1977 in the amount of $81.5 million (with accompanying papers); to the Committee on Appropriations, and ordered to be printed.

Amendments to Budget Request for the Department of the Interior—(S. Doc. 94–213)

A letter from the President of the United States transmitting proposed amendments to the budget request for appropriations for the Department of the Interior for the fiscal year 1977 in the amount of $23,282,000 (with accompanying papers); to the Committee on Appropriations, and ordered to be printed.

Proposed Legislation by the Secretary of Commerce

A letter from the Acting Secretary of Commerce transmitting a draft of proposed legislation to authorize appropriations for the National Advisory Committee on Oceans and Atmosphere (with accompanying papers); to the Committee on Commerce.

Report of the National Railroad Passenger Corporation

A letter from the vice president of the National Railroad Passenger Corporation transmitting, pursuant to law, a report on the operations of Amtrak for the month of April 1976 (with accompanying report); to the Committee on Commerce.

Report of the Department of the Treasury

A letter from the Assistant Secretary of the Treasury transmitting, pursuant to law, a report on inventory of nonpurchased foreign currencies as of December 31, 1975 (with accompanying report); to the Committee on Foreign Relations.

International Agreements Other Than Treaties

A letter from the Assistant Legal Adviser of the Department of State transmitting, pursuant to law, copies of international agreements other than treaties entered into during the past 60 days (with accompanying papers); to the Committee on Foreign Relations.

Report of the Federal Energy Administration

A letter from the Deputy Administrator of Federal Energy transmitting, pursuant to law, a report entitled "Petroleum Market Shares—A Report on Aviation Gasoline, Jet Fuels, Distillate Fuels Oils, Residual Fuel Oil and Motor Gasoline (with an accompanying report); to the Committee on Interior and Insular Affairs.

Amendment to Budget Request for the Department of Justice—(S. Doc. 94–214)

A letter from the President of the United States transmitting a proposed amendment to the budget request for appropriations for the Department of Justice for the fiscal year 1977 in the amount of $525,000 (with accompanying papers); to the Committee on Appropriations, and ordered to be printed.

Amendment to Budget Request for the Truman Scholarship Foundation—(S. Doc. 94–211)

A letter from the President of the United States transmitting a proposed amendment to the budget request for appropriations for the Harry S. Truman Scholarship Foundation for the fiscal year 1977 in the amount of $20 million (with accompanying papers); to the Committee on Appropriations, and ordered to be printed.

Amendment to Budget Request for the Department of Health, Education, and Welfare—(S. Doc. 94–215)

A letter from the President of the United States transmitting a request for supplemental appropriations for the fiscal year 1976 and an amendment to the budget request for fiscal year 1977 for the Department of Health, Education, and Welfare in the amount of $12 million for 1976 and $37 million for 1977 (with accompanying papers); to the Committee on Appropriations, and ordered to be printed.

Publication of the Federal Power Commission

A letter from the Chairman of the Federal Power Commission transmitting a copy of a publication entitled "All Electric Homes in the United States, 1975" (with accompanying publication); to the Committee on Commerce.

Report of the Comptroller General

A letter from the Comptroller General transmitting, pursuant to law, a report entitled "Quality of Amtrak Rail Passenger Service Still Hampered by Inadequate Maintenance of Equipment (with accompanying report); to the Committee on Commerce.

Report of the Comptroller General

A letter from the Comptroller General transmitting, pursuant to law, a report entitled "Information on the Requirement for Strategic Airlift" (with an accompanying report); to the Committee on Government Operations.

Published Regulation by the Department of Health, Education, and Welfare

A letter from the Director, Office of Regulatory Review, of the Department of Health, Education, and Welfare transmitting, pursuant to law, a copy of a published regulation amending the family contribution schedule (with accompanying papers); to the Committee on Labor and Public Welfare.

Proposed Legislation by the General Services Administration

A letter from the Administrator of General Services transmitting a draft of proposed legislation to amend title 5, United States Code (with accompanying papers); to the Committee on Post Office and Civil Service.

Report of the Veterans Administration

A letter from the Administrator of Veterans' Affairs transmitting, pursuant to law, a report covering certain cases recommended for equitable relief (with an accompanying report); to the Committee on Veterans' Affairs.

PETITIONS

The PRESIDING OFFICER laid before the Senate the following petitions, which were referred as indicated:

A resolution adopted by the Council of the City of Cleveland, Ohio, in opposition to S. 1; to the Committee on the Judiciary.

A resolution adopted by the Chamber of Commerce of the Sparta Area, Wisconsin, relating to S. 2950 and H.R. 11273; to the Committee on Commerce.

A resolution adopted by the Council of the Township of Teaneck, New Jersey, relating to S. 1 and H.R. 3907, and H.R. 333; to the Committee on the Judiciary.

Assembly Joint Resolution No. 61 adopted by the Legislature of the State of California; to the Committee on Banking, Housing, and Urban Affairs:

"Assembly Joint Resolution 61

"Assembly Joint Resolution relative to the inclusion of owner-occupied mobilehomes in the Housing Assistance Payments Program.

"Whereas, There have been rapid increases in cost for rental of spaces for owner-occupied mobilehomes which have resulted in hardship on low-income families and the elderly; and

"Whereas, Owner-occupied mobilehomes do not currently qualify for the Section 8 Housing Assistance Payments Program; now, therefore, be it

"*Resolved by the Assembly and Senate of the State of California, jointly,* That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States and the Secretary of Housing and Urban Development to make all necessary action to include owner-occupied mobilehomes in the Section 8 Housing Assistance Payments Program, so that those applicants meeting the eligibility criteria set by the U.S. Department of Housing and Urban Development and their appropriate local housing authority will be eligible to receive rental assistance to pay for the rental of space under the Section 8 Housing Assistance Payments Program; and be it further

"*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Secretary of Housing and Urban Development, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

Resolution No. 76(2)-3 adopted by the Legislature of Palau, Western Caroline Islands; ordered to lie on the table:

"H.E. Resolution No. 76(2)-3

"A resolution relative to offering congratulations and expressing good wishes to the people of the Marianas for having achieved a Political Status they have worked hard and long for

"Whereas, the President of the United States and the Delegation from the Marianas District have recently signed the Marianas Covenant, granting the people of the Northern Marianas a Commonwealth Status within the United States Political family; and

"Whereas, the people of the Northern Marianas have worked hard and long to achieve said Political Status; now, therefore,

"Be it resolved by the House of Elected Members of the Sixth Palau Legislature, Second Regular Session, 1976, that the Palau Legislature offer congratulations and express good wishes to the people of the Northern Marianas for having achieved a Political Status they have aspired for so long; and

"Be it further resolved that certified copies of this Resolution be transmitted to the Resident Commissioner of the Northern Marianas, to the Northern Marianas Legislature, to the President of the United States of America, to the Secretary of Interior, to the Director of Territorial and Insular Affairs, to Ambassador Franklin Haydn Williams, to the Speaker of the House of Representatives and the President of the Senate of the United States Congress, to the United Nations Trusteeship Council, to the High Commissioner of the Trust Territory of the Pacific Islands, and to the District Administrator of Palau."

Resolution No. 76(2)-11 adopted by the Legislature of Palau, Western Caroline Islands; to the Committee on Interior and Insular Affairs:

"H.E. Resolution No. 76(2)-11

"A House of Elected Members Resolution relative to requesting the United States Government, as the Administering Authority, to take steps in finding out the extent of damages sustained by the land in Peleliu Municipality during World War II, between the American and Japanese forces, and cause reparations to be made

"Whereas, the damages caused to lands in Peleliu Municipality was the result of the struggle between the Japanese and American forces during World War II; now, therefore,

"Be it resolved by the House of Elected

Members, Sixth Palau Legislature, Second Regular Session, 1976, that the United States Government, as the Administering Authority, be and is hereby respectfully requested to take steps in finding out the extent of damages sustained by the land in Peleliu Municipality during World War II, between the American and Japanese forces, and cause reparations to be made; and

"Be it further resolved that certified copies of this resolution be transmitted to the President and the Vice President of the United States of America, Speaker of the House of Representatives and the President of the Senate of the United States Congress, the Secretary of Interior, the Director of Office of Territorial Affairs, the District Administrator and the High Commissioner of the Trust Territory of the Pacific Islands."

Senate Joint Memorial No. 4 adopted by the Legislature of the State of Colorado; to the Committee on Interior and Insular Affairs:

"SENATE JOINT MEMORIAL No. 4

"Whereas, Federal law prescribes that moneys raised through sales, bonuses, royalties, and rentals of federal lands and returned to this state can be expended only on public schools and public roads; and

"Whereas, Because of energy and resource development on or relating to federal lands, this state and its political subdivisions are faced with financial burdens for the planning, construction, and maintenance of many types of public facilities other than schools and roads; and

"Whereas, the moneys from federal lands should be used to aid this state and its political subdivisions in shouldering said financial burden; now, therefore,

"Be it Resolved by the Senate of the Fiftieth General Assembly of the State of Colorado, the House of Representatives concurring herein:

"That the Congress of the United States is hereby memorialized to amend the applicable federal laws to allow greater flexibility in the use of the money received as a result of sales, bonuses, royalties, and rentals of federal lands in this state and that, among other things, said laws be amended to allow expenditure thereof for planning, construction, and maintenance of public facilities in areas impacted by energy and resource development.

"Be It Further Resolved, That copies of this Memorial be sent to the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States and to each member of Congress from the state of Colorado."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. FORD, from the Committee on Commerce, with an amendment and an amendment to the title:

S. 2097. A bill to provide for the establishment of the Minnesota Valley National Wildlife Recreation Area (Rept. No. 94–934).

By Mr. MAGNUSON, from the Committees on Commerce, Armed Services, and Foreign Relations, without further amendment:

S. 713. A bill to provide the Secretary of the Interior with authority to promote the conservation and orderly development of the hard mineral resources of the deep seabed, pending adoption of an international regime therefor (together with additional views) (Rept. No. 94–935).

By Mr. SPARKMAN, from the Committee on Foreign Relations, without amendment:

S. Res. 459. An original resolution to amend Senate Resolution 91, 94th Congress, first session, to increase the fiscal year limitation on expenses which may be incurred by the Committee on Foreign Relations to facilitate the interchange and reception of certain foreign dignitaries (Rept. No. 94–936), (Referred to the Committee on Rules and Administration).

ALLOCATION OF BUDGET TOTALS TO SUBCOMMITTEES FOR FISCAL YEAR 1977—REPT. NO. 94–933

Mr. McCLELLAN, from the Committee on Appropriations, submitted a report entitled "Allocation of Budget Totals to Subcommittees for Fiscal Year 1977," pursuant to section 302 of the Congressional Budget Act of 1974, which was ordered to be printed.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. CURTIS (on June 7, 1976):

S. 3524. A bill to amend section 409 of the Trade Act of 1974 relating to freedom of emigration from Communist countries. Referred to the Committee on Finance.

By Mr. BARTLETT (for himself and Mr. BELLMON):

S. 3525. A bill to authorize the Secretary of the Interior to enter into an agreement with the Cherokee, Choctaw, and Chickasaw Indian Nations for the purchase and/or lease by the United States of each Nation's right and interests in the riverbed of the Arkansas River, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. BEALL:

S. 3526. A bill to amend the Federal Advisory Committee Act, and for other purposes. Referred to the Committee on Government Operations.

By Mr. YOUNG:

S. 3527. A bill for the relief of Erina A. Fortuna. Referred to the Committee on the Judiciary.

By Mr. HATFIELD (for himself, Mr. CANNON, Mr. CRANSTON, Mr. FANNIN, Mr. GOLDWATER, and Mr. MCCLURE):

S. 3528. A bill to authorize the Secretary of the Interior and the Secretary of Agriculture to conduct a study with respect to the feasibility of establishing the Desert Trail as a national scenic trail. Referred to the Committee on Interior and Insular Affairs.

By Mr. BARTLETT:

S. 3529. A bill to amend the Emergency Unemployment Compensation Act of 1974 to provide that compensation payable to an individual thereunder shall be reduced (but not below zero) by the amount of periodic benefits payable to such individual under a pension system, and to amend the Federal-State Extended Unemployment Compensation Act of 1970 to limit Federal financial participation in compensation payments thereunder to an individual to the portion thereof which is in excess of any such periodic benefits payable to such individual. Referred to the Committee on Finance.

By Mr. McGOVERN:

S. 3530. A bill to amend the Internal Revenue Code of 1954 to provide that the privilege of filing joint returns shall be available only in the case of marriage partners having equal ownership, management, and control of the income, assets, and liabilities of the marriage partnership. Referred to the Committee on Finance.

By Mr. EAGLETON:

S. 3531. A bill for the relief of R. Dean Dawes and others. Referred to the Committee on the Judiciary.

By Mr. BEALL:

S. 3532. A bill for the relief of Reynaldo S. Miranda. Referred to the Committee on the Judiciary.

By Mr. INOUYE (for himself and Mr. JAVITS):

S. 3533. A bill to provide for a greater utilization of the professional services of qualified professional psychiatric nurses in the medicare and medicaid programs. Referred to the Committee on Finance.

Mr. ABOUREZK:

S. 3534. A bill to amend section 142 of title 13 and section 411(a) of title 7, United States Code, to prevent a change in the definition of a farm prior to June 30, 1976, to relieve the Secretary of Commerce of the responsibility for taking censuses of argriculture every 5th year, and require the Agricultural Stabilization and Conservation Service within the Department of Agriculture to collect comparable information using sampling methods. Referred to the Committee on Agriculture and Forestry.

By Mr. BENTSEN:

S. 3535. A bill for the relief of Dr. Antonio Panganiban Serrano. Referred to the Committee on the Judiciary.

By Mr. CANNON (for himself and Mr. PEARSON) (By request):

S. 3536. A bill to amend the Federal Aviation Act of 1958 to bring about the phased and progressive transition to an air transportation system which will rely on competitive market forces to determine the variety, quality, and price of interstate and overseas air services, and for other purposes. Referred to the Committee on Commerce.

By Mr. JACKSON:

S. 3537. A bill for the relief of Marian Law Shale Holloway, Adeline Mary Gill Charles, and Eliza Shale Carstens. Referred to the Committee on Interior and Insular Affairs.

By Mr. PELL:

S. 3538. A bill for the relief of Manuel Martinez de Faria. Referred to the Committee on the Judiciary.

By Mr. WILLIAMS:

S. 3539. A bill to reorganize the executive branch of the Government to centralize Federal energy conservation and research and development policies in a National Energy Center. Referred to the Committee on Interior and Insular Affairs.

By Mr. BEALL (for himself and Mr. MATHIAS):

S.J. Res. 198. A joint resolution to recognize the 250th anniversary of the founding of the Christ Episcopal Church of Rockville, Md. Referred to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BARTLETT (for himself and Mr. BELLMON):

S. 3525. A bill to authorize the Secretary of the Interior to enter into an agreement with the Cherokee, Choctaw, and Chickasaw Indian Nations for the purchase and/or lease by the United States of each Nation's right and interests in the riverbed of the Arkansas River, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

Mr. BARTLETT. Mr. President, I am today introducing legislation to authorize the Secretary of the Interior to enter into an agreement with the Cherokee, Choctaw, and Chickasaw Indian Nations for the purchase and/or lease by the United States of each Nation's right and interest in the riverbed of the Arkansas River, and for other purposes.

In April 1970, the U.S. Supreme Court confirmed the fee title and right to possession of the bed of the Arkansas River from the confluence of the Grand-Neosho River in Oklahoma to the western boundary of the State of Arkansas in the Cherokee, Choctaw, and Chickasaw Nations or tribes of Indians in Oklahoma. In April 1975, a specially convened three-judge court quieted title in the above Nations as follows:

> The Cherokee Nation is the fee simple title owner of the bed of the Arkansas River above the confluence of the Canadian River to the confluence of the Grand-Neosho. The Cherokee Nation is the fee simple title owner of the northern half of the bed of the Arkansas River from the confluence of the Canadian River to the western boundary of the State of Arkansas. The Choctaw and Chickasaw Nations are the joint owners of the fee simple title to the bed of the southern half of the bed of Arkansas River below the confluence of the Canadian River to the western boundary of the state of Arkansas.

In Interior Department Appropriation Acts for fiscal years 1973, 1974, and 1975, the Congress of the United States authorized and appropriated funds for the survey and appraisal of the value of the riverbed property recovered by the three nations. These appraisals are now complete and the value of riverbed property and property rights therein, have been established. The leaders of the three nations have accepted the established valuations.

The leaders of the three tribes owning the riverbed have reached an agreement on disposition of the matter and discussed with Department of the Interior and Bureau of Indian Affairs officials the details of the agreement. However, in order to negotiate the terms of the agreement with the tribes, the Secretary of the Interior needs legislative authority to do so. The legislation I am introducing today would give the Secretary that authority.

The Cherokee, Choctaw, and Chickasaw Tribes are, quite naturally, eager to reach final agreement on disposition of this matter and unanimously and fully support the introduction of this legislation.

I ask unanimous consent that the bill, an analysis thereof, and letters from leaders of the Cherokee, Chocktaw, and Chickasaw Tribes be printed in the RECORD.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 3525

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) The Secretary of the Interior is authorized, after consultation with the Secretary of Defense and the Attorney General of the United States, to enter into an agreement or agreements with the Cherokee, Choctaw, and Chickasaw Nations of Oklahoma on such terms and conditions as may be agreeable to the Secretary and such Nations providing for the use, lease, and/or purchase by the United States of any or all or the rights of such Nations in the bed of the Arkansas River.

(b) The Secretary shall utilize as a basis for the terms of the agreements with the Cherokee, Choctaw, and Chickasaw Nations of Oklahoma the value of the property rights of said Nations in the bed of the Arkansas River, as determined by appraisals conducted by the Secretary and accepted by said Nations, and any such lease and/or purchase agreement shall provide for payment to said Nations of not less than the appraised value of the property rights involved.

(c) The Cherokee, Choctaw, and Chickasaw Nations of Oklahoma are each authorized to enter into an agreement or agreements with the Secretary of the Interior pursuant to the terms of the Act.

SEC. 2. (a) The Secretary shall simultaneously submit any agreement with the Cherokee, Choctaw, and Chickasaw Nations pursuant to this Act to the respective Committees of Congress on Interior and Insular Affairs for their consideration. Any agreement under this Act shall not become effective unless approved by a Joint Resolution passed by both Houses of Congress and approved by the President.

(b) When an agreement under this Act becomes effective as provided in subsection (a) of this section, the Secretary shall cause a notice of that fact and the effective date to be published in the Federal Register.

SEC. 3. There are hereby authorized to be appropriated such sums as may be necessary for the purpose of this Act.

SECTION-BY-SECTION ANALYSIS

Section 1—the bill would authorize the Secretary of the Interior, after consultation with the Secretary of Defense and the Attorney General, to enter into agreements with the Cherokee, Choctaw, and Chickasaw Nations of Oklahoma, for the use, lease, and purchase by the United States of any rights of such Nations in the bed of the Arkansas River. The appraised value of the property involved will be the basis of the agreement terms. The payment terms cannot be less than the appraised value.

Section 2—the Secretary will simultaneously submit any agreement under the bill to the respective Congressional Committees on Interior and Insular Affairs for their consideration. The agreement will not become effective unless it is approved in a Joint Resolution passed by both Houses of Congress, and then approved by the President. If the agreement is approved by the Congress and President, the Secretary shall publish notice of that fact and the effective date in the Federal Register.

Section 3—authorizes the appropriation of such sums as may be necessary to carry out the purposes of the bill.

CHEROKEE NATION,
Tahlequah, Okla., May 11, 1976.
Hon. DEWEY BARTLETT,
U.S. Senate, Russell Senate Office Building, Washington, D.C.

DEAR SENATOR BARTLETT: This is to confirm my conversation with Don Bluejacket regarding the introduction of the"Riverbed Bill" to the Senate. Although the bill could have some stronger language such as requiring the Secretary of Interior to negotiate a settlement, I think the language is sufficiently clear to satisfy the tribes.

The passage of this legislation and ultimate settlement of the matter could very well be the future of the entire eastern half of Oklahoma. I can assure you that any monies received from such a claim will be used in the areas of health, education and job development first. In the long run such a settlement could save the government millions of dollars in federal aid if the settlement is used properly. Your advice and counsel is greatly appreciated in this regard.

Very truly yours,

ROSS O. SWIMMER,
Principal Chief.

CHICKASAW NATION,
Oklahoma City, Okla., May 12, 1976.
Hon. DEWEY F. BARTLETT,
U.S. Senate, Dirksen Building,
Washington, D.C.

DEAR SENATOR BARTLETT: The Chickasaw Tribe is in complete agreement with the Choctaw Tribe and the Cherokee Tribe in asking Congress to appropriate funds for the purchase, lease, and use by the United States of any and all rights the Tribes have in the bed of the Arkansas River.

The appraised value of the property involved will be bases of the agreement terms.

Your support of this proposal will be greatly appreciated.

Sincerely,

OVERTON JAMES,
Governor.

CHOCTAW NATION,
Durant, Okla., May 21, 1976.
Hon. DEWEY BARTLETT,
Russell Office Building,
Washington, D.C.

DEAR SENATOR BARTLETT: Enclosed please find a copy of Proposed Legislation prepared by the Department of Interior and signed to enable the U.S. Government and the Choctaw, Cherokee, and Chickasaw tribes to agree and implement a mutually satisfactory solution to the Arkansas Riverbed issue. Your authorship or co-authorship of this legislation in the U.S. Senate will be greatly appreciated.

As you know, an early settlement of this issue will remove uncertainties and speed the full utilization of the Arkansas Riverbed's great potential. We of the Choctaw, Cherokee, and Chickasaw tribes recognize this potential and are committed to assure its use for all the people in Oklahoma.

Following your introduction of the enclosed legislation, I can assure you that the tribes will do everything within their power, consistent with your strategy, to assure its passage at the earliest possible date. We look forward to working with you and your staff on this matter.

Sincerely,

C. DAVID GARDNER,
Principal Chief.

By Mr. BEALL:

S. 3526. A bill to amend the Federal Advisory Committee Act, and for other purposes. Referred to the Committee on Government Operations.

Mr. BEALL. Mr. President, I am today introducing the Advisory Committee Review Act.

This legislation would amend the Federal Advisory Committee Act by requiring that the existence of all Federal advisory commissions be reviewed by Congress every 2 years.

At the present time, Public Law 92-463, the Federal Advisory Committee Act, mandates that all advisory committees shall terminate at the end of 2 years, unless, in the case of an advisory committee established by act of Congress, its duration is otherwise set by law, or, in the case of an advisory commission established by the President or other official of the Federal Government, such advisory commission is renewed by the President or the appropriate agency head.

It is the latter circumstance which has prompted my legislation.

By permitting any Federal agency to renew independently the life of advisory commissions under their jurisdiction, we have created a major loophole in our effort to control the proliferation of these bodies. I believe Congress must oversee this renewal process, and have veto power over such extension if necessary, and thus my legislation would require that Congress review all advisory commissions on a regular, 2-year schedule.

Additionally, I believe Congress should also have a responsibility to oversee the activities of the advisory committees which it sets up through legislation, and thus my bill would also require Congress to perform this review function every 2 years on legislatively mandated committees.

According to the annual report on Federal Advisory Commissions, there were, as of December 31, 1975, 1,267 advisory committees in existence. This represents an increase of 25 from 1974.

Of the total number of committees reported in 1975, 20 percent, or 295 communities, were mandated by statute: 29 percent, or 440 committees, were specifically authorized—but not required to be established—by statute; 2 percent, or 23 committees, by Presidential directive; and a whopping 49 percent, or 742 committees, were established by general agency or department authorities.

Under the existing law, these 742 committees can be continued indefinitely, since only a rubber-stamped approval from an officer in the Federal Government is necessary to assure their continued activity.

The greatest number of advisory committees are concentrated under a small number of departments or agencies. The following agencies had 40 or more advisory committees in each of the years from 1972 to 1975;

Department/Agency	1972	1973	1974	1975
HEW	367	286	299	322
Agriculture	172	136	163	168
Interior	126	129	126	109
Defense	95	81	97	66
Commerce	76	41	72	74
Small Business Administration	66	66	67	66
Commission on Civil Rights	51	51	51	51
National Science Foundation	41	43	45	48

The index to the membership of Federal Advisory Committees issued by the Subcommittee on Reports, Accounting and Management, chaired by Senator METCALF, of the Government Operations Committee, places the 1974 membership on advisory committees at 22,702.

It is my understanding that this document points out that many individuals serve as a member of different advisory committees.

For instance: 107 persons serve on 4 committees; 47 persons serve on 5 committees; 21 persons serve on 6 committees; and 21 persons serve on 7 or more committees.

One individual is even listed as serving on 15 separate committees.

It is also my understanding that the index shows that 29 large companies have from 21 to 95 representatives on advisory committees; universities and institutes have 23 to 35 representatives, and the AFL-CIO lists 92 representatives.

To me, this raises a legitimate question as who is getting the greatest benefit from this arrangement—the Government or the individual company or organization which is provided with high level access to Government decision-making.

Further, many Americans are under the mistaken impression that the advice the Government receives from their committees is free. The fact is, however, that these bodies cost the American public plenty.

The total Federal costs to operate and support advisory commissions in 1975 were $51,769,400. For calendar 1976, OMB has recommended $53,327,000, or an increase of $1,558,500 to maintain these committees.

Yet despite this multimillion-dollar investment, Congress and the American public have little or no idea what they are getting for their money.

My legislation would enable the Congress and the public to evaluate the work of these commissions on a regular schedule, in order to determine if their continuation is worth the substantial sums that are often expended on these bodies.

I am sure that most of these 1,267 advisory boards and commissions perform a valuable service to the Federal Government. But I am equally sure that there are some whose advice the republic can do without. At a time when we seek to cut expenses wherever possible, I see no reason why advisory commissions should be above regular review by the Congress, and I hope that the Senate will promptly act on this legislation.

Mr. President, I ask unanimous consent that the text of the bill, along with four relevant articles, be printed in the RECORD.

There being no objection, the bill material was ordered to be printed in the RECORD, as follows:

S. 3526

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Advisory Committee Review Act".

SEC. 2. Section 9(c) of the Federal Advisory Committee Act is amended to read as follows:

"(c)(1) No advisory committee shall meet or take any action unless—

"(A) an advisory committee charter has been filed with (i) the Director, in the case of a Presidential advisory committee or (ii) the head of the agency to whom any advisory committee reports, in the case of any other advisory committee, and with the standing committees of the Senate and of the House of Representatives having legislative jurisdiction of such agency; and

"(B) sixty days after the date on which such charter has been filed have expired and neither House of Congress has agreed to a resolution stating in substance that such House disapproves the charter.

"(2) The charter required to be filed under paragraph (1) shall contain—

"(A) the committee's official designation;

"(B) the committee's objectives and the scope of its activity;

"(C) the period of time necessary for the committee to carry out its purposes;

"(D) the agency or official to whom the committee reports;

"(E) the agency responsible for providing the necessary support for the committee;

"(F) a description of the duties for which the committee is responsible, and, if such duties are not solely advisory, a specification of the authority for such functions;

"(G) the estimated annual operating cost in dollars and man-years for such committee;

"(H) the estimated number and frequency of committee meetings;

"(I) the committee's termination date, if less than two years from the date of the committee's establishment; and

"(J) the date the charter is filed.

A copy of any such charter shall also be furnished to the Library of Congress.".

[From the Chicago Tribune, Mar. 9, 1976]

1,341 COMMITTEES OFFER NOT-SO-FREE ADVICE

(By Arthur Siddon)

WASHINGTON—The Senate Government Operations Committee has documented the proliferation of advisory committees in the federal bureaucracy, estimating their annual cost at $42.2 million.

The report, prepared for Sen. Percy [R., Ill.] shows there are now 1,341 committees to advise various federal agencies and departments.

For example, the National Public Advisory Panel on Architectural and Engineering Services informs the General Service Administration about architects and engineers. It has not met in two years.

Another body, the Roosevelt Library Editorial Advisory Board, is responsible for determining the form of publication for the next volume in "Franklin Roosevelt and Foreign Affairs."

Among the others are the Advisory Committee on Hog Cholera Eradication and the Sawtooth National Forest Multiple Use Advisory Committee.

The Federal Advisory Act of 1972 requires that Senate and House committees monitor the various advisory panels.

However, the panels are so numerous and change so quickly that Congress has found the job difficult. The 14-member Senate Government Operations Committee, for example, must oversee 82 federal advisory committees.

"The sheer size and liquidity of the advisory committee system results in constant shifts in the number of such committees, as new ones are created and old ones abolished," Percy said.

"Indications are that in one agency alone, approximately 50 per cent of the committee already established or being processed would not have been necessary if not for the restrictive language of the Federal Advisory Committee Act," said Joseph R. Wright Jr., assistant agriculture secretary.

Wright said that the law mandates "establishment of a committee every time advice is solicited from outside the department on proposed programs."

As a result, the Government Operations Committee has begun a study of the 1972 act to give Congress a tighter rein on the advisory panels.

"Without oversight, this relatively new and expanding species of bureaucracy will grow out of control . . . and remain subject to the same pressures and tendencies which have already caused such a massive proliferation of the bureaucracy," Percy said.

[From The Washington Star, Nov. 23, 1975]

WHY ADVISE?—TO GET EARS OF HIGH OFFICIALS

(By Stephen M. Aug)

Why do several thousand business executives sit on federal advisory committees without pay?

Because—say those willing to discuss the matter—it gives them the ear of high government officials.

Not that there's necessarily anything sinister about that, but the critics of some of those committees—there are at last count 1,242 such committees—contend they give ranking corporate executives an unfair advantage over ordinary citizens.

After all, they argue, it's not the ordinary citizen who gets to sit on the prestigious Business Advisory Council, it's people like Edwin D. Dodd, the chairman of Owens-Illinois, Inc., or Reginald H. Jones, chief executive of General Electric Co., or J. Willard Marriott Sr., chairman of the Marriott Corp., who get the President's ear.

One of the persistent critics of advisory committees is Vic Reinemer, staff director of the Reports, Accounting and Management

Subcommittee of the Senate Government Operations Committee.

"It provides them (corporate officials) with quasi-governmental status. It provides them with access at the highest levels of government to state industry positions clothed in the recommendations of an official government group."

That is probably true enough—but those who defend these committees put a somewhat less sinister cast on them.

Consider Marriott's position. Although Marriott could not be reached to discuss the matter (he is recovering from a heart attack), one of his aides, Tom Burke, vice president for corporate communications, told why Marriott is a member of several committees—including a Commerce Department advisory committee dealing with energy matters.

"The inflation in energy has been a real bucket of bolts and it has hurt us," Burke explained, and as a result, "it's important to know where the government stands, what it intends to do about it, what programs it recommends and how it will channel on down to business, industry and consumer markets.

"The other side is that this gives us a very direct opportunity to make sure the government understands the real world. This is a beautiful area for bad legislation and ill-advised directives, and if the corporate scene is well-represented, maybe we can get some very effective and responsible activity out of the government."

Still, there are places where industry and government can meet in similar informal circumstances without the aura—or, depending on your view, stigma—of a federal umbrella.

Albert V. Casey, chairman of American Airlines, is involved in one, the Travel Program for Foreign Diplomats, Inc., a private, nonprofit corporation which sponsors visits by Washington- or New York-based foreign diplomats to the U.S. hinterlands.

"Oh, that State Department thing," Casey recalled the other day. "It gives me a chance to sit with Bill Coleman on one side and Frank Zarb on the other.

"Hopefully," he continued, "they get some direct input from the businessman."

Casey's answer provides a good idea of why any businessman would want to be associated with a federal advisory committee: It offers a chance to get the ear of, in this case, the secretary of transportation (William T. Coleman) and the administrator of the Federal Energy Administration (Frank Zarb).

It would also explain in part why there are 22,702 members of federal advisory committees, and why some corporations may have members on as many as 95 advisory committees, as in the case of American Telephone & Telegraph Co. or RCA Corp.

Not every committee has the glamor of getting the President's ear—or even that of a Cabinet officer. John H. McChord, a lawyer at International Telephone & Telegraph Corp., which has 86 advisory committee memberships, for several years has sat on the Federal Communications Commission's PBX Standards Advisory Committee, formed about five years ago to look into improvements in interconnecting telephone-related equipment to lines owned by telephone companies. In addition to ITT, such firms as General Electric, the Milville Shoe Corp., North Electric, Union Camp Corp., American Express and AT&T were represented.

AT&T for about the same length of time has generally opposed interconnection of customer-owned equipment on the grounds it might damage the telephone network and that it will take away telephone companies' profitable equipment-supplying businesses.

Recently, however, the FCC ruled that it was going to allow equipment made by others than phone companies to be certified for connection to telephone company lines. That was a key recommendation of the PBX committee (although AT&T and other phone companies objected), and a victory for firms like ITT which make phone equipment.

"I would say that the FCC's ultimate decision . . . was favorable to our position," McChord said in a telephone interview, although the commission did not adopt a variety of technical recommendations from the advisory committee.

Was the committee worthwhile? "Yes, I think so," McChord answered, "I think it kept the momentum going . . . of movement toward relaxation of . . . requirements for interconnection which, from my point of view, is good."

A number of Washington-area businessmen serve on federal advisory committees, probably because their hometown makes travel to meetings easier. One is W. Reid Thompson, chief executive at Potomac Electric Power Co.

Thompson belongs to three committees—the Federal Power Commission National Power Survey's Executive Advisory Committee, a Commerce Department committee on Coastal Zone Management and an Interior Department committee called the Defense Electric Power Advisory Council.

The coastal zone group and the FPC advisory committee both have members from all areas of life—academics, businessmen, working people, scientists. The electric power group is composed of individuals associated with electricity—industry, Tennessee Valley Authority, municipally owned electric firms. It is supposed to assist in protecting the nation's power supply against damage in the event of hostilities.

Thompson recalls that during the Arab oil embargo it considered impacts the shortages could have and the then Secretary of the Interior Rogers C. B. Morton met with the group once.

Thompson says the benefits are two-way: They enable him to understand the problems of others and "you have a representative of government . . . also sitting and exchanging views. Some benefit of getting your own views across."

One other Washington businessman who serves on an FPC advisory committee is Robert S. Hamilton, executive vice president for marketing at Southern Railway System. The commission, he said, "found that for the study they were making—which had to do with fuel requirements and fuel reserves and transportation—they should have someone who knew something about transportation." As a result, Hamilton was selected.

But there are others besides businessmen on these advisory committees. Labor has substantial memberships, with the AFL–CIO serving on 92 advisory committees. The biggest entity—aside from government—serving on these advisory committees, however, is the University of California, which has representatives on 350 advisory committees. Harvard is represented on 167 and the University of Texas on 110.

Among local institutions, George Washington University has 25 members; Georgetown, 27; Pepco, 4; Washington Gas Light Co., 3; American Security & Trust Co., 2; Riggs National Bank, 1; Washington Star, 1 and Post-Newsweek Stations (broadcast subsidiary of Washington Post Co.), 1.

A Government Operations subcommittee, chaired by Sen. Lee Metcalf, D-Mont., who has had an intense interest in government advisory committees, recently issued a complete list of all 22,702 members of advisory committees.

The list—the second to be issued by the subcommittee—along with an annual report of such committees, Metcalf said, can provide a great deal of information about these organizations "which influence the federal government in virtually every area of policy making."

[From the U.S. News & World Report, Mar. 1, 1976]

"CHEAP" BRAINPOWER IN WASHINGTON—BOON OR BOONDOGGLE?

A powerful, yet largely anonymous arm of the Federal Government is generating a new rash of controversy in Washington.

At issue are the hundreds of federal advisory committees that play a key role in policy making. What bothers many is their suddenly growing number and potential for conflicts of interest.

The advisory committees—panels made up of private citizens and Government employees appointed to assist practically every federal agency—get involved in a bewildering variety of public concerns, ranging from tea tasting to telecommunications.

In just one month recently, advisory panels were scheduled to consider matters such as 1976 farm-crop estimates, medicare benefits, U.S. proposals on the law of the sea, research on hypersonic aircraft, and "the conflict between wild and licensed horses" in Idaho.

Reduced in number temporarily by a law passed by Congress in 1972, federal advisory committees are on the increase again. From 1,242 at the end of 1974, the number has grown to 1,341 at latest count—and is still on the way up.

A BARGAIN, BUT

While most advisory committees serve a worthwhile purpose, supplying the Government with brain power at a bargain price, it has been charged that all too frequently the panels represent vested interests rather than the public.

Says a Senate staff member who helped draft the 1972 law: "The federal advisory committee can be a convenient nesting place for special interests seeking to change or preserve a federal policy for their own ends. Such committees stacked with giants in their respective fields can overwhelm a federal decision maker, or at least make him wary of upsetting the *status quo*."

A recent report of the House Government Operations Committee charged that the Food and Drug Administration has made excessive use of advisory committees to delay actions to remove possibly unsafe drugs from the market.

President Ford's proposal for special tax incentives for the electric-utility industry came initially from his Labor-Management Committee, an advisory panel whose membership includes leading officials of labor and of some of the largest corporations. Represented on the panel are a major supplier of electrical power plants, several large electricity users and labor unions interested in stimulating new construction in the utility industry.

A decision by the Coast Guard last year not to require double bottoms in tankers transporting oil from Alaska to West Coast ports was based on the findings of a panel of three Government employes and eight oil and shipping-industry representatives.

And when the Secretary of Defense decided last year to seek an "independent" review of proposed changes in the weapons-systems-acquisition process of the armed forces, he formed a new panel made up solely of present and former military officials.

Government officials argue that it is often difficult for advisory committees, even those formed with the best of motives, to avoid at least the appearance of conflicting interests.

Notes one defender: "If you're seeking experts in a given field, how can you not get people connected with that field's business or labor interests?"

"I'M SURE IT'S TRUE"

A frequent allegation, too, is that political contributions and party affiliation, rather than technical expertise and judgment, often are deciding factors in the selection of committee members. "I'm sure it's true—every political-science textbook says that," concedes William E. Bonsteel, who heads the committee-management secretariat in the Office of Management and Budget (OMB). He adds: "It's something I don't know how you get out."

Still another concern is that certain business, labor and academic organizations are able to place too many representatives on too many panels.

One official of Communications Satellite Corporation served on 15 different advisory committees. American Telephone & Telegraph Company and RCA Corporation had 95 memberships each on various panels, while seven universities—California, Harvard, Massachusetts Institute of Technology, Texas, Johns Hopkins, Michigan, Columbia—shared among them more than 1,000 of the 22,702 total available positions on federal advisory committees.

Worried about the unchecked growth and hidden influence of advisory committee, Congress in 1972 sought to abolish unnecessary panels and bring the rest under closer congressional and public scrutiny.

"For a time," says Senator Lee Metcalf (Dem.) of Montana, "the Federal Advisory Committee Act really appeared to be stemming the tide."

But, he adds, in recent months the number of panels has been "increasing rapidly, almost as if they were created through spontaneous regeneration"—a trend that spurred the Senator to introduce a bill to strengthen the Act.

The OMB, instructed by Congress to weed out dormant, duplicative and ineffectual advisory committees, and to report annually on progress toward that goal, recently warned agency heads again to terminate all "unnecessary" advisory groups and be doubly certain of their need before starting new ones.

Congress, itself, shares much of the blame for the new rash of advisory committees. While telling the executive branch to cut back, the lawmakers have continued to create these committees.

About 60 per cent of such panels come into being through legislation, with the President and Government agencies responsible for the remaining 40 per cent. At least 750 bills introduced in Congress in the past year had provisions for advisory committees.

GOING PUBLIC

An apparent failure at halting growth, the 1972 Advisory Committee Act has been somewhat more successful in bringing these panels out from behind closed doors.

Previously, advisory committees often met secretly or on short notice, barred the public and kept spotty records.

Now they must disclose in the *Federal Register*, well in advance, the time, place and agenda of their meetings—and open them to the public unless there is a compelling reason not to.

In 1975 about 55 per cent of the meetings were open, a substantial improvement over a few years ago.

Prodded by lawsuits, legislation and persuasion, some agencies—such as the Consumer Product Safety Commission—recently have sought to have broader representation on their advisory committees.

Only lately has anyone other than bankers sat on the Comptroller of the Currency's regional banking-advisory committees. Consumer representation was added after it was pointed out that the panels advised on matters such as customer services.

As for charges of political influence in the selection of committee members, the Senate has begun trying through legislation to blunt that criticism. Last December it wrote into the Public Health Service Act an unusual amendment that said party affiliation could no longer be a consideration in picking members of any advisory panel within the National Institutes of Health. Skeptics say that the amendment appears to be unenforceable.

USELESS PANELS

While OMB officials say they are diligently seeking out and ridding the Government of useless advisory groups—299 such panels were terminated after their normal two-year life or were abolished in 1974—examples of committees of questionable worth keep turning up.

For instance, nine advisory panels within the General Services Administration held no meetings and filed no reports in 1974. The 1975 statistics are not yet compiled.

Another apparently dormant committee was the Interior Department's Foreign Petroleum Supply Committee, which was established to advise the Government on "obtaining information relating to foreign petroleum operations, requirements and supply." The panel of major oil-company representatives did not meet in 1974, in spite of the oil-import crisis.

Some agencies, says the OMB's Mr. Bonsteel, initially balked at compliance with the reporting requirements of the 1972 law. Some may even have concealed the existence of their panels.

That practice apparently has ended, officials say, although as recently as 1974, the OMB discovered 69 existing advisory panels about which it previously was unaware.

Prof. William H. Rodgers, Jr., of the Georgetown University Law Center, believes Government agencies may still be underreporting their use of advisory committees. His studies led him to the conclusion that agencies increasingly are utilizing informal advisory groups.

Nobody is really sure exactly how much advisory committees cost the taxpayers. A typical committee, meeting four times a year, may spend around $30,000 annually for travel and other expenses of its members. Four have budgets in excess of 1 million dollars.

One committee reported spending only $3,200 in 1974—which seems like less of an achievement when it is noted that the panel held no meetings.

The perquisites of membership vary widely. Some committee members—industry representatives, for instance—are paid nothing. Others receive up to $145 a day, plus expenses, while doing committee business.

Total spending by such panels in 1974, according to admittedly incomplete estimates by OMB, was 42.3 million dollars, up from 31.1 million the year before.

Looking ahead, officials say the use of outside advisers in the Government almost certainly will continue to grow—unless Congress intervenes. They say congressional intervention is unlikely. Encouraged by recent improvements in advisory-committee practices and procedures, Congress seems more inclined to accept their inevitability.

[From the U.S. News & World Report, March 1, 1976]

When An Advisory Committee Goes Public—

It's rare that a federal advisory committee turns to the general public for help, but more may be doing so in the future.

One recent example: a February 17 meeting of a panel in Washington to consider new standards for those who trade in commodities futures. The advisory committee invited a 25-year-old college student to describe how he lost $56,056 last summer in a wild, two-month plunge into pork bellies, soybean oil and meal, and broilers.

The witness urged the committee to include in its recommendations some tighter restrictions on dealers and some better ways to warn unsophisticated investors before they get into the complex and volatile futures markets.

The testimony of A.S. Csaky, a liberal-arts student at American University, underscored both the potential importance of advisory-committee recommendations, and what Congress in 1972 recognized—that the public has an interest in those recommendations.

Increasingly, advisory committees are listening—as did the Commodity Futures Trading Commission's Advisory Committee on Regulation of Commodity Futures Trading Professionals—to the opinions of such non-experts as Mr. Csaky. Some panels are setting aside a portion of every open session for comment and discussion from the audience.

How much of this public viewpoint winds up in the recommendations of a panel of experts is open to debate. But even critics of the advisory-committee system see the new trend as a hopeful sign. The panel studying further regulation of the commodities-futures industry has solicited what officials describe as "consequential suggestions and substantive commentary from all sources."

Nearly all of the panel's 15 members are associated with the commodities-trading industry.

The committee is expected to make recommendations later this year for the parent Commission to consider.

Robert L. Martin, the panel's chairman and a member of the new Government Commission that regulates futures trading, reminded his fellow advisers at the February meeting: "The Commission is going to be very much guided by the input from this panel."

[From Industry Week, Feb. 23, 1976]

Advisory Committees: The Invisible Branch of Government

(By William H. Miller)

Almost every day, from all parts of the country, briefcase-toting businessmen stride off airplanes at Washington's National Airport, slip into taxicabs, and head for federal departments and agencies to let bureaucrats pick their brains.

They're among an astonishing 24,000 members of federal advisory committees—men and women from all sectors of society who, at the government's request, provide data and advice to help shape national policy-making.

Some industry members of the panels describe the committees as "a waste of time," an "exercise in futility," a "political cop-out," or "window dressing."

Many others, though, speak glowingly of their value. Still others say, yes, they're worthwhile but they aren't structured correctly or used properly to be truly effective.

Congress, meanwhile, is suspicious of the panels. And departments and agencies swear by them.

Whatever their worth, the committees are—or can be—a potent force in Washington. Some observers call them "the fourth branch of government." They more properly might be termed the "invisible branch," because they generate few headlines. Even businessmen probably aren't aware of their number and scope.

As of November 1975, no fewer than 1,341 advisory panels were in existence. During 1974, such panels held 3,626 meetings and submitted 1,014 reports. Those tallies are from the White House's Office of Management & Budget (OMB), which is now required by Congress to keep track of such statistics.

In one way or another, virtually every one of the committees ponders issues that affect manufacturers. Thus, it's not surprising that industry representatives sit on most of them. In fact, "industry people must make up half of the membership," estimates Vic Reinemer, staff director of the Senate Subcommittee on Reports, Accounting & Management. "No respectable large company has fewer than 20 members on advisory committees."

The array of advice does not come cheaply. Advisory units in 1974 cost the federal government $42.3 million (even though in most agencies the members serve without pay, except for expenses upon request). Estimated price tag for 1975: $39.4 million.

Are the committees worth it? Apparently the government thinks they are. As evidence, William E. Bonsteel, chief of OMB's committee management secretariat, points out that most of the panels are surviving a close government scrutiny aimed at weeding out the ineffective ones.

Under the Advisory Committee Act of 1972, he explains, departments and agencies must justify the need for their advisory groups. Some 200 have been abolished, and about 20 more are being pruned each month (although roughly an equal number are created). These terminations, Mr. Bonsteel believes, "prove agencies are taking the law to heart." And the fact that 1,341 committees have passed muster indicates the agencies find them worthwhile, he suggests.

A POLITICAL "OUT"?

Advisory committees are formed in a variety of ways to serve a variety of purposes. They can recommend standards, funnel information to the government, act as a sounding board for policy proposals, pass along complaints, study problems, probe scandals, initiate ideas—and even certify tea.

They also can provide a convenient "political out," notes Richard Berman, who has seen many of the committees in action as labor counsel for the U.S. Chamber of Commerce.

"When a department secretary or an agency head faces a particularly touchy policy issue, his decision is bound to alienate some sector—industry, labor, or the public," says Mr. Berman, who himself sits on the ad hoc Hazardous Materials Labeling Standards Advisory Committee of the Occupational Safety & Health Administration (OSHA). "But a committee composed of representatives of those different elements can provide a consensus recommendation—even though it may be a weak one—and take the heat off" the department secretary or agency head.

To government, however, the opposing interests on advisory committees play a useful counter-balancing role. As Kenneth Van Auken, a Bureau of Labor Statistics (BLS) official who husbands the Business Research Advisory Council, declares: "Having differing viewpoints represented on the committee is the greatest protection we have of BLS objectivity."

For their part, most businessmen seem to like advisory committees, too. Departments and agencies report they usually find no lack of response from industry in instances when they invite committee volunteers in the *Federal Register*. Nor do they get many refusals when, on their own volition, they seek out specific managers to serve.

Most industry advisory committee members queried by INDUSTRY WEEK view their service as a two-way street: the government benefits, and so do they. In fact, some of the praise is so glowing that the critics of the panels could cite it as proof the industry members are "copping out" to the government.

For example, Donald E. Stingel, president of Swindell-Dressler Co. and a member of the Commerce Dept.'s East-West Trade Advisory Committee, observes: "Until this committee was formed, many companies had no idea of how the export licensing procedure works. And the government had no idea of some of our problems. It has been a mutual education."

And one newcomer to advisory committees, Dr. Arthur Kantrowitz, vice president and director of Avco Corp., admits: "I've been surprised at how much you can learn about what's going on in government." He joined the Commerce Technical Advisory Board (CTAB)—which the Commerce Dept. regards as one of the most active of its 72 committees—a year ago.

Besides providing an inside pipeline to government, committee service can yield valuable information from other members, remarks Carl Gerstacker, chairman of Dow Chemical Co. Formerly chairman of the Export Expansion Council (now recast as the President's Export Council), he admits that "on some issues I learned more from other committee members than I did from my own Dow people."

CHECK ON INFLUENCE

Managers hesitate to say it outright, but they also see serving on advisory committees as a way of influencing policy. They insist their role is a healthy part of the political process. Some critics, though, regard it as influence peddling.

Fears that such influence was getting out of hand—or might—led Congress to pass the 1972 act. Fathered by Sen. Lee Metcalf (D, Mont.), the law did far more than require departments and agencies to review the effectiveness of their advisory committees. It also called for the panels to open their sessions to the public in most cases, to publish ample advance notice of meetings, and to have balanced membership (although the definition of "balance" remains hazy).

Giving impetus to the legislation was the furor over the role of advisory committees in the former Bureau of the Budget (now OMB).

Critics charged that the panels—made up exclusively of industry representatives sitting in closed, unannounced sessions—were able to quash proposed government studies and reports that sought data which industry didn't want to give. Among the most celebrated casualties: a Federal Communications Commission study examining the effects of conglomerate ownership of broadcast stations.

Congress was also upset over the now-defunct National Industrial Pollution Control Council, a Commerce Dept. committee that was supposed to advise the President on antipollution measures.

The trouble was, contended Sen. Metcalf, the council was made up solely of "representatives of companies that have the greatest experience in spewing filth and poison into our environment." The council, he said, was "like a rabbit sent to fetch the lettuce."

WINDOW DRESSING?

To many businessmen, however, charges of their ability to sway policy are vastly overrated.

One top industry executive, probably reflecting a widespread view, bluntly calls advisory committees "a waste of time." Normally a man who speaks openly for quotation, he asked that his name not be used; he sits on a sensitive energy-related committee and didn't want to damage his already fragile relationship with environmentalist and consumer members.

"But you can say that it [my service] is an exercise in futility," he grumps.

Another executive, Samuel MacArthur, recently retired chairman of Federal-Mogul Corp., complains that many advisory committees are merely "window dressing." They're especially ineffective, he thinks, when they report to "a figurehead" rather than "an actual doer" who may be at a lower level in the bureaucracy.

Mr. MacArthur currently serves on the automotive equipment Industry Sector Advisory Committee. Although he praises the committees as "a good thing," he worries that their representation is so broad-based their reports "won't go beyond generalizations."

Not only are advisory committees often too general, but they're also "too structured" to be effective, ventures Audrey Freedman, an economist for Organization Resources Counsellors Inc., N.Y.

Ms. Freedman worked closely with advisory panels during 12 years as a bureaucrat in the Labor Dept. and the Cost of Living Council. Now, as an industry consultant, she sits on three such committees. She says that government officials, especially at the policy-formulating level, have a great need for industry's advice—and welcome it. But instead of relying on committees, she thinks they'd get better advice from industry by simply asking executives for their recommendations on an informal basis.

Also, she notes, a committee often is ineffective because an agency "isn't always frank" in providing information or spelling out options to the members, fearing "it might get some tough advice in return."

Similarly, she says, an agency often will "steer" an advisory committee in such a way that the panel will reflect only the advice that the agency seeks. "Used that way," she states, "a committee amounts to nothing more than a papal stamp."

POLICY IMPRINTS

Indeed, to a large degree, industry members believe the effectiveness of an advisory committee depends upon how well it is used.

For example, Dr. Donald Collier, vice president of research for Borg-Warner Corp., notes that Commerce's CTAB, of which he is a member, is "especially sensitive" to the leadership of its chairman, Betsy Ancker-Johnson, assistant secretary of Commerce. "Her predecessors were not as activist [with the committee] as she," he recalls, "and the committee spun its wheels."

CTAB's work shows how an active advisory committee can make an imprint on policy.

Dr. Collier points out that President Ford's energy message in January 1975 "was very coincident" to recommendations made by CTAB in its critique of the Project Independence blueprint. The panel urged use of market forces, rather than rationing schemes, to achieve energy conservation. It also called for all-out development of coal resources—rather than stressing more exotic fuel sources—as the U.S.'s top immediate energy research thrust.

Previous CTAB recommendations led to the creation of the present American National Standards Institute, revisions in the patent system, legislation which established a national highway safety program, and creation of the post of assistant secretary for R&D in the Dept. of Transportation.

Other industry members of advisory committees cite further examples of their policy successes. A sampling:

Dow's Mr. Gerstacker says his Export Expansion Council conceived the DISC (Domestic International Sales Corp.) program, which enables U.S. firms to defer tax payments on as much as half of their export income.

Ms. Freedman credits "steady, gentle" persuasion by industry members of the Business Research Advisory Council with causing the BLS to begin developing a new employment cost index. The index will measure the cost of labor by hours worked rather than by hours paid—a compilation the bureau has resisted because it's more difficult and unions haven't wanted the change.

Willis A. Noel, a retired Reynolds Metals Co. executive who is a member of OSHA's national advisory committee, ticks off several of his panel's recommendations that have been adopted. Two of them: use of colleges to train OSHA inspectors, and giving the states the choice of developing their own standards or accepting federal standards.

A spokesman for the National Petroleum Council, a 30-year-old Interior Dept. advisory unit (now the target of a lawsuit by Sen. Metcalf for inadequate balance), notes that its 1972 energy outlook urged greater coordination of federal energy policies and expanded R&D efforts. The recommendations, published before the Arab embargo, helped lead to creation of the Federal Energy Administration, the Energy Resources Council, and the Energy Research & Development Administration.

AND SOME FAILURES

There are countless examples, though, of where advisory committee recommendations have been turned down.

For all its reputed clout, the National Petroleum Council has taken its lumps. In 1975, Congress repealed the oil depletion allowance, which the council had long fought to retain. And in 1972 the Nixon Administration ignored its advice to retain oil import quotas.

Even the Export Expansion Council, which successfully sold its DISC proposal, has had disappointments. Mr. Gerstacker recalls that the panel "got nowhere" with its plea that Export-Import Bank financing terms on exports be fully competitive with the terms of other nations.

The council also lost its fight for subsidies to make transatlantic shipping costs of U.S. exports competitive with those of imports. And it failed to persuade the government to change the laws requiring that cargoes shipped between U.S. ports be carried in U.S. ships, which are more costly.

Businessmen seem especially frustrated by OSHA. They grumble that they often can't get their recommendations past labor, academic, and public members on OSHA advisory committees. And even when they do, they complain, the agency ignores the advice—or waters it down.

As one case in point, George Fratcher, an A. O. Smith Corp. engineering executive who sits on OSHA's noise standards advisory committee, points out that the agency's final noise proposal—now subject of hearings—"differed appreciably" from the committee's recommendation.

The agency adopted the position of the labor members on the panel, overruling the majority from industry, academia, and the public.

LIVING WITH LABOR, CONSUMERS

Similar splits between industry and labor representatives presumably will be commonplace now that committees must have balanced membership.

But that may not always be the case. Both Mr. Fratcher and Mr. Noel, for instance, note that on their OSHA committees the separate interest groups don't always vote in blocs. They cite cases, in fact, where industry members have disagreed among themselves.

And Borg-Warner's Dr. Collier adds that on the CTAB committee he doesn't "see people coming to meetings committed to a party line."

In some cases, "balanced membership" means that industry people must sit on panels with consumer representatives. But that potential adversary relationship can actually be beneficial, declares Marie Scotti, manager of safety and health for the Maxwell House Div. of General Foods Corp. and a member of the Consumer Product Safety Commission's Product Safety Advisory Council.

"Initially, I thought the consumer members were going to be anti-industry," she confesses. "But through their service on the committee, I think they've gained at least some appreciation for industry's problems. And I now have a better respect for their point of view—as well as their knowledge and resilience.

"It's good for business executives to be reminded of the basic intelligence of people in the marketplace."

However, it may be dangerous to become too sympathetic to other interests on advisory committees—especially labor—warns the Chamber of Commerce's Mr. Berman.

"A lot of management people go on committees without realizing that they'll be serving with labor members who equate the experience with collective bargaining," he says. "They [managers] think everybody on the committee is going to be reasonable. Their position starts eroding immediately."

DOGMATISM VS. ALTRUISM

Furthermore, Mr. Berman fears that management members who have "unique professional backgrounds" may represent industry poorly when they are assigned to committees. "They may be more disposed to represent their professional view in an academic sense than the industrial view in the practical sense."

On the other hand, Ms. Freedman faults industry—and labor, too—for not being altruistic enough. "They both on occasion join committees hoping they'll get exactly what they want," she observes. "Unfortunately, if they send proponents of a dogmatic point of view, nothing positive gets accomplished."

Positive accomplishment. That's the goal, certainly, of all advisory committees. Members differ on their perception of what is "positive," as well as their role on the panels. But then, similar disagreements occur among members of government's three "official" branches.

Why should advisory committees—the unofficial fourth branch—be any different?

THE MANY FACES OF ADVISORY COMMITTEES

Some are called "boards"; others, "commissions"; still others, "panels," "councils," or simply "committees." The nomenclature of the government's 1,341 advisory groups varies—and so does the way they're formed.

Nearly two-thirds are created by Congress. Of this category, some have unlimited life, like the Interior Dept.'s advisory panel on historic sites or the oft-ridiculed Board of Tea Experts in the Dept. of Health, Education & Welfare (established in 1887 to certify the quality of tea imports).

Other so-called statutory committees are impaneled for a specific period to perform a specific task. For instance, the Commerce Dept.'s 26 new sector advisory committees were asked to pass along recommendations from individual industries to guide U.S. negotiators at the world trade talks in Geneva.

Similarly, the new Commission on Federal Paperwork has until 1977 to prepare recommendations for easing the burden imposed by government reports. And the National Commission on Fire Prevention & Control had two years to propose solutions to the nation's fire problems before it closed shop in 1973.

Sometimes, when Congress passes a law, it also creates a committee to evaluate how well the legislation is being implemented. The Labor Dept.'s new Advisory Council on Employee Welfare & Pension Benefit Plans was born in this manner, a child of last year's pension reform legislation.

Then, too, there's a group of statutory committees set up to meet periodically. Health, Education & Welfare's Advisory Council on Social Security, for one, is instructed to convene every four years.

Another broad category comprises "agency committees" created by departments and agencies under their own authority. The controversial National Petroleum Council, which advises the Interior Dept., falls in this group, as do various agencies in the young Federal Energy Administration.

Finally, there's a smaller category of groups created by Presidential order. Among recent examples were the Presidential Clemency Board and the Rockefeller commission that investigated domestic CIA activities.

The committees vary in costs, too. At one extreme in 1974, with a budget as big as its name is long (about $2 million), was HEW's National Commission for the Protection of Human Subjects of Biomedical & Behavioral Research.

At the other end of the scale: the Civil Aeronautics Board's advisory committee on aviation mobilization. Existing solely to verify the agency's inventory of civilian aircraft, its members submit reports by mail. The budget for 1974 was a mere $75.

INDUSTRY'S AMBASSADORS

Run down the organization chart of almost any large U.S. corporation and you'll likely find names of executives who are serving—or have served—on federal advisory committees.

Nine prominent companies provided 50 or more members each to government panels in 1973, reveals an index published by the Senate Subcommittee on Reports, Accounting & Management.

RCA led the list with 93, one more than ITT. Other firms were: Communications Satellite Corp., 81; Collins Radio, 80; General Electric, 79; AT&T, 74; Exxon, 70; Bendix, 67; and Westinghouse, 58.

Oil companies were especially well represented. Besides Exxon, others sending large delegations were Atlantic Richfield, 33; Standard of California, 24; and Phillips, Texaco, and Gulf, 21 each.

Even larger representations came from some of the big universities. The University of California provided 374 members; Harvard, 130; Columbia, 108.

The AFL-CIO and its affiliates held 226 posts. The biggest trade association membership came from the Air Transport Assn. of America, with 87.

By Mr. HATFIELD (for himself, Mr. CANNON, Mr. CRANSTON, Mr. FANNIN, Mr. GOLDWATER, and Mr. MCCLURE):

S. 3528. A bill to authorize the Secretary of the Interior and the Secretary of Agriculture to conduct a study with respect to the feasibility of establishing the Desert Trail as a national scenic trail. Referred to the Committee on Interior and Insular Affairs.

DESERT TRAIL

Mr. HATFIELD. Mr. President, I am today introducing legislation to authorize a study of the Desert Trail for designation as a national scenic trail. In 1968, the National Trails Act designated two well known hiking paths, the Appalachian Trail and the Pacific Coast Trail, as national scenic trails. In contrast to these mountain routes, the Desert Trail will open miles of arid plains and plateaus to travelers.

This trail, which winds for over 2,500 miles from the Canadian border to Mexico, has been tentatively plotted through Idaho, Washington, Oregon, Nevada, California, and Arizona. Planning for this possible route has brought together officials from Federal and State agencies as well as members of local conservation groups. Increasing the feasiblity of this project is the fact that the trail, as envisioned, will make its way almost entirely across public domain.

An additional advantage of the Desert Trail will be access. When winter snows clog most mountain paths, major portions of the Desert Trail will remain open. When the trail is complete, recreationalists will be able to hike and ride across true deserts, high plateaus, and the alpine regions between them.

Only a few years ago, this trail was little more than an idea to Russell Pengelly, a high school biology teacher at Burns High School in Burns, Oreg. Mr. Pengelly recognized the tremendous potential of such a trail and has been working to generate public support for this project over the years.

His efforts, along with the interest of the Desert Trail Association, have increased public awareness of the unique historical, geological, biological, and scenic attributes of the western desert regions. I am pleased to join in these efforts.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD, along with an article from Desert magazine.

There being no objection, the bill and article were ordered to be printed in the RECORD, as follows:

S. 3528

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (c) of section 5 of the National Trails System Act is amended by adding at the end thereof the following: "(15) The Desert Trail, which extends from the Canadian border of Idaho, through parts of Washington, Oregon, Nevada, California, and Arizona, to the Mexican border."

DESERT HIKING TRAIL

(By Robert W. Gail)

As Ed Dolan cooled his feet in the icy waters of the upper Blitzen River high on Steens Mountain in Eastern Oregon, he noticed something moving toward him in the water. He stood still and watched as a beaver swam right up to him and investigated his feet. There could be no doubt that the beaver had never seen a human being before, and was as curious about Ed as Ed was about him. While this was probably the first human being the beaver had seen, he was not likely to be the last.

Ed was a member of the Mazamas, a seventy-five-year-old hiking and mountain climbing club of Portland, Oregon, and one of a party making the first official hike over a part of the new Desert Hiking Trail.

Desert Hiking Trail? That's right! Planned to cross the United States from Canada to Mexico, the Desert Trail has become more than a dream and is rapidly becoming a reality. Routes have already been proposed through Oregon by the U.S. Forest Service, the Malheur National Wildlife Refuge and the U.S. Bureau of Land Management. Planning is under way in Idaho, Nevada and California.

No official action has yet been taken by Congress to recognize the Desert Trail, or appropriate money for it, but several congressmen and senators are familiar with it and have expressed an interest in its development. Local Forest Service and BLM officials have quietly endorsed it, and have begun laying out routes and including plans for the Desert Trail in preparation for the day when it will be a recognized trail.

In Oregon, the Forest Service has proposed a route for the Desert Trail from the Snake River, on the Idaho border, to the lower edge of the Malheur National Forest near Drewsey, Oregon. BLM picks up the trail there and takes it down Malheur River to Malheur Cave, across Diamond Craters and hence to the edge of the Malheur National Wildlife Refuge.

BLM picks up the trail again at the southern boundary of the Refuge, at the base of Steens Mountain. BLM has also officially recognized the Desert Trail by naming it on their maps of the Steens Mountain Recreation Area. From Steens Mountain, the trail drops to the Alvord Desert and then to the Nevada border at Denio.

In Nevada, BLM has provided maps with suggested routes through public land in that state. The proposed Nevada route cuts down from Denio and across Black Rock Desert, bearing east roughly parallel to U.S. Highway 80 to Halleck, where it turns southward along the eastern edge of the Ruby Mountains. Below Ruby Lake, BLM has suggested a swing to the east, and thence a fair direct southward route to pass east of Las Vegas.

The Desert Trail developers have proposed a route from Ruby Lake in a southwesterly direction that would enter California near Death Valley National Monument.

California desert lovers have picked up the ball and are working on a route through Southern California's Mojave and Colorado Deserts and thence to follow along the Colorado River and its great recreational complex.

One of the most encouraging features of the Desert Trail is that it is proposed to cross areas of western United States that are almost entirely public domain, thus offering the highest potential acceptance without interfering with private lands or private interests. Finding good routes through desert lands has proved relatively easy compared to the difficulties encountered by other trails.

A further exciting advantage over the Pacific Crest Trail and the Appalachian Trail is that many areas will be open to use during almost all seasons of the year, and in fact, some parts of it will be at their best when the mountain trails are closed by snow.

Alternate routes and feeder trails open up tremendous possibilities for hiking through many areas of the desert West at all seasons of the year. For example, when Steens Mountain in Oregon is shrouded in snow, it is possible to hike around its north shoulder and down along the Alvord Desert, or to take a route through Catlow Valley west of Steens.

The Desert Trail offers something for everyone. Along the routes already proposed are places of historical interest, old mining camps, fantastic rockhounding, and a fascinating range of scenic, biological and geographical features.

When the Desert Trail is completed, you will be able to hike, ride horseback, and even use trail bikes on some parts of it, in areas that range from the true deserts of California and Neveda, to the high deserts of Oregon, with alpine regions in between.

Neither the Department of the Interior nor the Department of Agriculture (Forest Service) have officially endorsed the project. As "Interior" says—there is a great deal of difference between a trail on paper and a trail on the ground. Since the Desert Trail does not fit present legislation calling for trails accessible to urban areas (in fact it avoids them), and since little public demand presently exists for such a trail, they do not see that much can be done at this time.

You can, of course, hike almost any part of the proposed Desert Trail right now, simply because it is on public land. But you do so strictly on your own, because no money has been appropriated, no water or campgrounds provided, and no trail markers of any kind have been placed. While parts of the trail have been officially recognized on maps, this is largely a form of advance planning by the Forest Service and BLM.

Almost everything done so far in promoting the Desert Trail has been the direct result of action by Russell Pengelly, a Biology teacher at Burns, Oregon, who first conceived the idea for the trail eight years ago, and who has been tireless in promoting it ever since.

The cooperation and help Pengelly has received from local and regional men in the Forest Service and BLM has been gratifying, but the voices of many people need to be heard before the Desert Trail can become a reality. Much work remains ahead, to inform and seek the help of legislators, state officials and government agencies who recognize the importance of this exciting recreational concept.

By Mr. BARTLETT:

S. 3529. A bill to amend the Emergency Unemployment Compensation Act of 1974 to provide that compensation payable to an individual thereunder shall be reduced—but not below zero—by the amount of periodic benefits payable to such individual under a pension system, and to amend the Federal-State Extended Unemployment Compensation Act of 1970 to limit Federal financial participation in compensation payments thereunder to an individual to the portion thereof which is in excess of any such periodic benefits payable to such individual. Referred to the Committee on Finance.

Mr. BARTLETT. Mr. President, today I am introducing companion legislation to my bill S. 3216, introduced on March 26, 1976. This earlier bill provides that a Federal retiree who receives unemployment compensation will have that compensation reduced dollar for dollar by the amount of the pension or annuity that he or she receives.

The bill I am introducing today provides that under the Emergency Unemployment Compensation Act and the Federal-State Extended Unemployment Compensation Act a private sector retiree will have his or her compensation reduced dollar for dollar by the amount received from an annuity or pension.

In an analysis prepared by Evans Whitt of the Associated Press, it is estimated that over 90,000 Federal retirees and 71,000 private sector retirees receive unemployment compensation. The total amount for 1974 was estimated to be $187 million. The private sector accounts for, at the minimum, $71.1 million of this total.

The regulation of this area is primarily by State law; and therefore, there is a wide discrepancy from State to State between the amounts received and the length of time that individuals may draw this compensation. I ask unanimous consent that a summary of State laws, prepared by Evans Whitt, be printed in the Record at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BARTLETT. The question of mandatory termination from employment is provided on the basis that retirement is mandatory under State laws because of the fact that an employee reaches a certain age set by his or her employer. The retiree may then apply for unemployment compensation and receive it. Although the retiree must seek a job, usually a statement to this effect is satisfactory to meet the statutory requirements. Besides, it is virtually impossible for a State employment security commission to locate a job for a retiree because usually this person is at peak income and may be declining in productivity.

A hypothetical example cited by Evans Whitt may be useful to illustrate the possibilities. An individual who retired from a job at 65 and began drawing the pension of $1,000 per month could, in many States, also draw unemployment compensation up to as much as $416 per month. This $416 is in addition to the pension received and social security.

Certainly we have established the need to provide for those individuals who are temporarily out of work and who actively seek to rejoin permanently the labor force. However, providing these funds to retirees is contrary to the purpose of unemployment compensation and is of even greater concern because of the drain that has been placed on unemployment compensation funds during the recession of the past several years.

The purpose of unemployment compensation has been outlined by the Department of Health, Education, and Welfare in their publication of January 1973 entitled "Social Security Programs in the United States." On page 55, HEW stated that—

> Unemployment insurance programs are designed to provide cash benefits to regularly employed members of the labor force who become involuntarily unemployed and who are able and willing to accept suitable jobs.

This is not the case of the normal retiree who has ceased his regular employment. The report to the President by the Committee on Economic Security, published in 1935, stated on page 4 that—

> Unemployment compensation, as we conceive it, is a front line of defense especially valuable for those who are ordinarily steadily employed. . . .

The intention of the Unemployment Compensation Act is concisely summed up in the first sentence of a book written by Merrill G. Murray, staff member of the Committee on Economic Security. Mr. Murray published a book titled "Unemployment Insurance in the American Economy" in 1966, and in the opening sentence of chapter 2 on "The Objectives of Unemployment Insurance," he stated:

> The primary objective of unemployment insurance is to alleviate the hardship that results from the loss of income during unemployment. Other objectives are secondary.

There is strong support throughout the Nation for reform of our unemployment compensation system; and, although we are only talking about reducing expenditures by approximately $71.1 million, this is at least an attempt to confront a Herculean issue. It is a step to realine unemployment compensation to its original purpose and is a demonstration that we, as representatives of the public interest, are keeping faith with the interests of this Nation. I therefore request Members to support this legislation and encourage its expeditious consideration.

Exhibit 1

In 16 States, including many of those with the most unemployed, both private and Government pensioners can draw full unemployment benefits. The States are: Alaska, Arizona, California, Georgia, Hawaii, Kansas, Kentucky, Nevada, New Jersey, New Mexico, North Carolina, North Dakota, Rhode Island, South Carolina, Texas, and Vermont.

In 15 other States, many retirees from the military can draw full benefits, while most non-Government pensioners can not. These are: Arkansas, Connecticut, Florida, Idaho, Iowa, Louisiana, Maine, Massachusetts, Missouri, Nebraska, New Hampshire, Ohio, Oklahoma, South Dakota, and Tennessee.

In eight of the above States, Federal civilian pensioners can receive more jobless pay than most other pensioners; despite Federal law saying ex-Federal employes shall receive the same benefits as other jobless persons.

In Louisiana and South Dakota, all those drawing Government pensions also can draw full unemployment benefits, while retirees from private business face reduced jobless benefits because of their pensions.

In Massachusetts and Oklahoma, Federal pensioners—military and civilian—can draw full jobless pay. In those States, jobless benefits for other retirees can be reduced or eliminated because of their pensions.

In Ohio, all Federal pensioners and all other retirees who contributed to their own pension plans can draw full unemployment checks. Others face a reduction in benefits.

In Missouri, Nebraska, and Connecticut, Federal civilian pensioners and some private pensioners can draw full benefits—at least initially—while other pensioners face reduced jobless pay. Delaware also treats Federal pensioners in this manner, but reduces jobless benefits going to military pensioners.

In the other 19 States and the District of Columbia, unemployment benefits may be reduced if the applicant draws a pension. The amount of the reduction varies and can mean the pensioner gets no jobless check.

By Mr. McGOVERN:

S. 3530. A bill to amend the Internal Revenue Code of 1954 to provide that the privilege of filing joint returns shall be available only in the case of marriage partners having equal ownership, management, and control of the income, assets, and liabilities of the marriage partnership. Referred to the Committee on Finance.

TAX JUSTICE FOR WOMEN

Mr. McGOVERN. Mr. President, I have often spoken in criticism against the tax laws of this country which allow individuals and corporations to avoid paying even a minimum tax on their profits or incomes. Often prodded by investigations which expose flagrant examples of tax dodges—all legal under present law—this inequity in our tax system has been acknowledged by Congress in its ongoing work for income tax reform.

I introduce today a bill, identical to H.R. 12407 which was introduced by Congressman Clifford Allen of Tennessee, that touches a form of legalized inequity suffered by many of the full-time homemakers of this country. It is a simple provision involving the use of the joint tax return. Where now, in almost all States, the taxable family income provides no legal benefits for the spouse who contributes no monetary income, this bill would establish that the use of the lower joint tax rate by married couples requires that each partner swear or affirm on the 1040 form that each owns half of all the income, assets, and liabilities. The fiction of calling two signatures a joint income would become a reality.

This concept cuts through myths and traditions surrounding the control women supposedly hold over the Nation's economy. As consumers, women may appear to preside over much of the cash flow, but as the unsalaried marriage partner, individual income benefits do not exist. Under this bill's addition to the tax program, with both partners legally declaring that they share the income and property, the woman could, for example, make social security contributions on her half, thereby releasing her from the limiting dependency of collecting benefits based on her husband's income. Additionally, she would be free to establish her own pension plan and apply for credit in her own name. This same individual financial recognition would continue into investment security, loan applications and the many other business transactions that require proof of income.

One of the immediate benefits would be the cutting in half of the inheritance tax liability. The oath of joint ownership would refute the argument that, after the death of one partner, inheritance tax should be collected on the full amount.

It is difficult to estimate the economic suffering that has been generated by the tradition of work in the home as full-time but without any benefits of salaried employment. Lifting the total financial dependence of homemakers upon the earned income of a marriage partner should have been done long ago. Even at this time, the choice or necessity of being a full-time homemaker carries with it only the vague requirement that the necessities of life be provided. This requirement hardly provides any incentive to improve one's present financial status or to plan for the future.

We know that the employment statistics for women, in spite of progressive legislation and court decisions, still show that women remain economically disadvantaged. The unsalaried homemaker is even more disadvantaged because of her inability to initiate decisions involving her family's security or her own financial endeavors.

I submit that by making the joint income tax return a reality rather than just a signature, we will contribute generously to the much needed stability of families and ease the unnecessary economic dependence of married women.

Mr. President, I ask unanimous consent that the text of my bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 3530

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 6013(a) of the Internal Revenue Code of 1954 (relating to joint returns) is amended by striking out the period at the end of paragraph (3) and inserting in lieu thereof a semicolon and by adding at the end thereof the following new paragraph:

"(4) no joint return shall be made unless each spouse verifies by oath or affirmation, under regulations prescribed by the Secretary or his delegate, that such spouse has equal ownership, management, and control of the income, assets, and liabilities of the marriage partnership."

Sec. 2. The amendment made by the first section of this Act shall apply only to returns filed after the date of the enactment of this Act with respect to taxable years ending after such date.

By Mr. INOUYE (for himself and Mr. Javits):

S. 3533. A bill to provide for a greater utilization of the professional services of qualified professional psychiatric nurses in the medicare and medicaid programs. Referred to the Committee on Finance.

Mr. INOUYE. Mr. President, today I

am reintroducing legislation which would amend the Social Security Act in order to provide for the independent coverage of the services of qualified professional psychiatric nurses under both our medicare and medicaid programs.

Earlier this session I introduced a similar bill, S. 2886, which I had hoped would be a catalyst to further discussion among the nursing profession and other mental health professionals concerning the potential for greater utilization of our psychiatric nursing health manpower. In all candor, I was surprised by the extent of the dialog which has ensued and as a result, have now decided to reintroduce this legislation incorporating a number of suggestions made by various mental health professionals across our country.

I am most pleased that Senator JACOB JAVITS is joining me in sponsoring this legislation. It would be a tremendous understatement to say that Senator JAVITS and I feel that our proposed changes in the social security legislation would have an extremely beneficial impact on the delivery of mental health services, especially to those who currently live in our rural areas and our inner city ghettos where the other mental health professionals are all too often absent.

The primary difference between this bill and the original version is the fact that we have decided to substitute the nursing profession's certification of clinical excellence for the separate State licensure which I had originally proposed. During our recent discussions, I was pleased to learn that the American Nurses' Association has developed a specific psychiatric-mental health nursing certification which requires as a minimum that a nurse be licensed to practice in his or her State and that the provider have at least 2 years of supervised experience in an organized mental health setting before being eligible to take their national examination. I further understand that a 5-year recertification requirement has been proposed, eligibility for which will be contingent upon participation in an active program of continuing education.

Finally, we have retained that provision which would mandate that all intermediate care facilities and all skilled nursing facilities shall provide for the services of a qualified professional psychiatric nurse on at least a consultant basis, as a condition for receiving medicare or medicaid reimbursement. As I indicated in my earlier floor statement, I do not like to suggest blameworthiness or culpability. However, I have been deeply saddened by the continuing revelations of inadequate care and treatment for our elderly, and most strongly feel that positive action must now be taken.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3533

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 1861(j)(4) of the Social Security Act is amended by—

(1) striking out "and" at the end of clause (A) thereof, and

(2) by inserting immediately before the semicolon at the end thereof the following: ", and (C) provides for having a qualified professional psychiatric nurse available, on at least a consultant basis, to assure that necessary psychiatric nursing services are furnished".

(b) Section 1861(r) of the Social Security Act is amended by—

(1) striking out "or" at the end of clause (4) thereof, and

(2) inserting immediately before the period at the end thereof the following: ", or (6) a qualified professional psychiatric nurse who is licensed by the State in which such nurse performs such function or action, but only with respect to functions or actions which such nurse is legally authorized to perform as a registered nurse by the State in which he or she performs them and, then, only for purposes of section 1861(s)(1), 1861(s)(2)(A), for purposes of making a certification of the type required by section 1814(a)(2)(A), and for purposes of the meeting of the requirement imposed with respect to psychiatric hospitals that each patient of such a hospital be under the care of a physician".

(c) Section 1861 of such Act is further amended by adding at the end thereof the following new subsection:

"Qualified Professional Psychiatric Nurse

"(aa)(1) The term 'qualified professional psychiatric nurse', when used in connection with the performance of any function or action, means an individual who—

"(A) is licensed to practice nursing by the State in which such function or action is performed,

"(B) holds a Master's degree in psychiatric nursing or a related field from an accredited educational institution, and

"(C) is certified as a psychiatric nurse by the duly recognized professional nurses organization.

"(2) An individual who meets the conditions prescribed by clauses (A) and (C) of paragraph (1), but does not meet the condition prescribed by clause (B) of such paragraph, shall, nevertheless, be deemed to be a qualified professional psychiatric nurse with respect to any particular function or action performed by such individual if such individual performed such function or action under the supervision of a person who meets the conditions prescribed in clauses (A), (B), and (C) of paragraph (1).".

(d) The amendments made by this section shall be applicable only with respect to services furnished after the month which follows the month in which this Act is enacted.

SEC. 2. (a) Section 1902(a) of the Social Security Act is amended—

(1) by striking out "and" at the end of clause (35) thereof,

(2) by striking out the period at the end thereof and inserting in lieu thereof a semicolon, and

(3) by adding after clause (36) thereof the following new clauses:

"(37) provide that, with respect to mental health services which are covered under the State plan, payment will be made for professional services furnished by a qualified professional psychiatric nurse who is legally authorized to provide them;

"(38) provide that payment under the State plan will not be made for services furnished by any intermediate care facility or skilled nursing facility unless such facility provides for having a qualified professional psychiatric nurse available, on at least a consultant basis, to assure that necessary psychiatric nursing services are furnished to the patients in such facility; and

"(39) provide that payment under the State plan will not be made for inpatient services furnished by any psychiatric hospital unless, in the operation of such hospital, there is extended to qualified professional psychiatric nurses, with respect to professional services which both physicians and qualified professional psychiatric nurses are authorized to provide, the same staff and similar privileges as are extended to physicians caring for patients in such hospital. Admissions to such hospitals by qualified professional psychiatric nurses will be based on nursing diagnoses or a determined functional diagnosis.".

(b) Section 1905 of such Act is amended by adding at the end thereof the following new subsection:

"(l)(1) The term 'qualified professional psychiatric nurse', when used in connection with the performance of any function or action, means an individual who—

"(A) is licensed to practice nursing by the State in which such function or action is performed,

"(B) holds a Master's degree in psychiatric nursing or a related field from an accredited educational institution, and

"(C) is certified as a psychiatric nurse by the duly recognized professional nurses organization.

"(2) An individual who meets the conditions prescribed by clauses (A) and (C) of paragraph (1), but does not meet the condition prescribed by clause (B) of such paragraph, shall, nevertheless, be deemed to be a qualified professional psychiatric nurse with respect to any particular function or action performed by such individual if such individual performed such function or action under the supervision of a person who meets the conditions prescribed in clauses (A), (B), and (C) of paragraph (1).".

(c) The amendments made by this section shall take effect on January 1, 1977.

Mr. JAVITS. Mr. President, I am pleased to cosponsor this legislation with Senator INOUYE that would provide reimbursement under medicare and medicaid for the services of psychiatric nurse specialists.

As an architect of the nurse training provisions of Public Law 94–63, I have long been convinced that nurses provide services that are crucial to all medical care. In all settings of health care practice, the nursing profession brings medical skill and personal attention to the population at large. The nursing profession continues to broaden its traditional roles in order directly to meet our Nation's most urgent health problems.

As this country moves toward a national health insurance program, it becomes even more urgent that we develop reimbursement systems that will help to assure the quality and quantity of health services necessary effectively to serve the health care needs of all the people of this country.

Many of our citizens have too long been deprived of adequate health care simply because of geography or poverty simply because they happen to live in "underserved" rural or inner-city areas where health services are nonexistent or in short supply. One reason for this shortage is that in many instances health services rendered by providers other than physicians cannot be reimbursed under medicare and medicaid unless a doctor is physically present.

Professional nurses constitute the largest health care provider group in the country, and increasingly they are providing primary care. Naturally they work in close collaboration with physicians, although not necessarily under the same roof at all times.

One of the areas in which nurses have an outstanding record of performance is in psychiatric-mental health care. The value of the services of psychiatric nurses has been apparent in our community mental health centers where they play a significant role in the planning and providing of care and in developing imaginative new programs, such as crisis intervention teams.

Psychiatric nurses function in many settings, and they provide a wide range of services from initial intake screening and evaluation, health teaching, home visits, consultation, to group, individual and family psychotherapy.

I think it is to the advantage of mental health care in this country that these services be supported and their continued development encouraged.

By Mr. ABOUREZK:

S. 3534. A bill to amend section 142 of title 13 and section 411(a) of title 7, United States Code, to prevent a change in the definition of a farm prior to June 30, 1976, to relieve the Secretary of Commerce of the responsibility for taking censuses of agriculture every fifth year, and require the Agricultural Stabilization and Conservation Service within the Department of Agriculture to collect comparable information using sampling methods. Referred to the Committee on Agriculture and Forestry.

Mr. ABOUREZK. Mr. President, I am introducing legislation today which, if enacted into law, would reform the present methods of collecting agricultural census information. This legislation would transfer the responsibility for collecting agricultural statistical information from the Commerce Department to the Agricultural Stabilization and Conservation Service within the Department of Agriculture.

I have received a number of reports from South Dakotans in opposition to the structure of the census collection operation. It is very disturbing to learn of the harassment that producers are subjected to for the refusal to return the detailed forms. Many of these individuals have received threatening letters informing them of the possibility of future litigation. In some instances, they have received telephone calls at odd hours of the day and night asking the producer to divulge this confidential information over the telephone, in some cases over a party line. Serious questions have been raised as to whether or not this statistical information actually helps the people it was intended to assist.

The end result of producers balking against the program is the incompleteness of the survey. Harry C. Trelogan, a former Administrator of the Statistical Reporting Service, revealed that a quality check of the 1964 and 1968 agricultural census revealed incompleteness of 8 and 17.6 percent, respectively. With figures like this it is quite obvious that reform is badly needed in the method of collecting agricultural statistical data.

In addition to transferring agricultural census duties from the Department of Commerce to the Department of Agriculture, this legislation would also seek to reinstate the definition of a farm to that which was in effect prior to August 1975. At that time, the Department of the Census and the Department of Agriculture jointly announced the selection of a new definition of a "farm" for census recording purposes.

Prior to August 1975, the definition of a farm included any operation producing agricultural goods selling for a minimum of $250 per year or any operation measuring at least 10 acres and producing at least $50 in agricultural products.

The new definition describes a farm as only those operations producing at least $1,000 in farm products in a year.

At a time when public confidence in Government is at a low, I strongly believe it is time to take a good look at this thorn in the producer's side. This legislation would hopefully not only return credibility to the census data, as a number of other similar bills would do, but would also go a step further toward injecting local input into the process by directing the ASCS to carry out the sampling process on a local level.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3534

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 142 of title 13, United States Code, is repealed and replaced by the following paragraph: "The Secretary shall continue the statistical classification of farms in effect on January 1, 1975, with respect to censuses taken under section 142 of title 13, United States Code, effective through June 30, 1976, and any statistical report issued on or before June 30, 1976, with respect to any such census shall reflect such classification, but may also include additional classifications as deemed appropriate by the Secretary."

SEC. 2. That section 411(a) of title 7 is amended by inserting "(a)" immediately before "The" and insert the following new paragraphs:

"(b) (1) The Agricultural Stabilization and Conservation Service also shall collect information on agriculture, irrigation, and drainage, on a sample basis, comparable to the information previously collected every five years in the census of agriculture.

"(2) If the Secretary determines that the statistical method known as 'sampling' is not appropriate for the collection of information relating to the classification of farms, he may use another method to collect such information: *Provided,* That in collecting such information, the Secretary, through the Agricultural Stabilization and Conservation Service, (A) shall seek to reduce the time necessary to respond to the questions involved; and (B) shall not use any method which imposes unnecessary requirements upon persons responding to such questions: *Provided further,* That the authority contained herein shall not constitute authority to secure access to or examine Federal income tax returns".

By Mr. CANNON (for himself and Mr. PEARSON) (by request):

S. 3536. A bill to amend the Federal Aviation Act of 1958 to bring about the phased and progressive transition to an air transportation system which will rely on competitive market forces to determine the variety, quality, and price of interstate and overseas air services, and for other purposes. Referred to the Committee on Commerce.

Mr. CANNON. Mr. President, currently the Subcommittee on Aviation is conducting hearings into the future course of airline regulation in America. As most of my colleagues are aware, the Ford administration has submitted to Congress a sweeping proposal to deregulate the domestic airline industry. In addition, several of our colleagues in the Senate have introduced similar legislation.

In hearings on April 8, the Chairman of the Civil Aeronautics Board indicated that the Board has reached the conclusion that the current system of regulation was neither in the public interest or in the interest of the air carriers.

The Board at that time indicated that it would submit its own proposal to Congress which would provide a statutory framework for airline regulation.

While I do not necessarily support the Board's proposed bill, I am introducing it in the Senate on behalf of myself and Senator PEARSON by request, so that all interested parties involved in this issue will be aware of the CAB's legislative recommendation.

I ask unanimous consent that the Board's covering letter to me, together with the bill and a summary analysis, be printed in the RECORD.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 3536

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Aviation Amendments of 1976."

SEC. 2. Section 101 of the Federal Aviation Act of 1958 (49 U.S.C. 1301) is amended—

(1) by redesignating paragraphs (3) through (38) as paragraphs (4) through (39), respectively, and by inserting the following new paragraph (3):

"(3) 'All-cargo air transportation' means air transportation of property and mail only.";

(2) by redesignating paragraphs (14) through (39), (as redesignated by subparagraph (1) of this section) as paragraphs (17) through (42), respectively, and by inserting the following new paragraphs (14), (15), and (16):

"(14) 'Certificated air carrier' means, for the purposes of title IV of this Act, an air carrier operating pursuant to authority granted by a certificate of public convenience and necessity as set forth in sections 401(d) (1) and (2) of this Act.

"(15) 'Charter air transportation' means charter trips, including inclusive tour charter trips, in air transportation, rendered pursuant to a license issued pursuant to section 401(d) (3) of this Act."

"(16) 'Charter trip' means air transportation performed under regulations prescribed by the Board in which the entire capacity of an aircraft has been engaged for the movement of persons, property or mail by one or more persons each of whom has engaged a substantial portion of such capacity.";

(3) by amending paragraph (23) (as redesignated by subparagraphs (1) and (2) of this section) to read as follows:

"(23) 'Foreign air carrier' means any person, not a citizen of the United States, who undertakes, whether directly or indirectly or by lease or any other arrangement, to engage in foreign air transportation: *Provided,* That the Board may by order relieve foreign air carriers who are not directly engaged in the operation of aircraft in foreign air transportation from the provisions of this Act to the extent and for such periods as may be in the public interest.";

(4) by redesignating paragraphs (37) through (42) (as redesignated by subparagraphs (1) and (2) of this section) as paragraphs (38) through (43), respectively, and by inserting the following new paragraph (37):

"(37) 'Scheduled air transportation' means flights in regular route service which are not charters trips."; and

(5) by deleting paragraphs (40) and (41) (as redesignated by subparagraphs (1), (2), and (4) of this section), and redesignating paragraphs (42) and (43) (as redesignated by subparagraphs 1, 2, and 4) as paragraphs (40) and (41), respectively.

SEC. 3. Section 102 of such Act is amended to read as follows:

"DECLARATION OF POLICY: THE BOARD

"Interstate and overseas air transportation

"SEC. 102(a). In the exercise and performance of its powers and duties under this Act pertaining to interstate and overseas air transportation, the Board shall consider the following, among other things, as being in the public interest, and in accordance with the public convenience and necessity:

"(1) The encouragement of air transportation, provided by private enterprise, that is responsive to the needs of the public and adapted to the present and future needs of the foreign and domestic commerce of the United States, the Postal Service, and the national defense;

"(2) The phased and progressive transition to an air transportation system which will rely on competitive market forces to determine the variety, quality, and price of air services, through the facilitation and promotion of entry and potential entry of new carriers into all phases of air transportation, meaningful price competition, and optimal carrier efficiency;

(3) The provision of a variety of services and prices that is responsive to the diverse needs of the traveling and shipping public, without unjust discriminations, undue preferences or advantages, or unfair, deceptive or predatory practices; and

(4) The promotion and assurance of the highest degree of safety in air commerce.

"Foreign air transportation

"(b) In the exercise and performance of its powers and duties under this Act pertaining to foreign air transportation, the Board shall consider the following, among other things, as being in the public interest, and in accordance with the public convenience and necessity:

(1) The encouragement and development of an air-transportation system properly adapted to the present and future needs of the foreign and domestic commerce of the United States, of the Postal Service, and of the national defense;

(2) The regulation of air transportation in such manner as to recognize and preserve the inherent advantages of, assure the highest degree of safety in, and foster sound economic conditions in, such transportation, and to improve the relations between, and coordinate transportation by air carriers;

(3) The promotion of adequate, economical, and efficient service by air carriers at reasonable charges, without unjust discriminations, undue preferences or advantages, or unfair or destructive competitive practices;

(4) Competition to the extent necessary to assure the sound development of an air-transportation system properly adapted to the needs of the foreign and domestic commerce of the United States, of the Postal Service, and of the national defense;

(5) The promotion of safety in air commerce; and

(6) The promotion, encouragement, and development of civil aeronautics."

SEC. 4. Title I of such Act is amended by adding at the end thereof the following new section:

"FEDERAL PREEMPTION

"SEC. 105. No State or political subdivision thereof, including the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the District of Columbia, the territories or possessions of the United States or political agencies of two or more States shall enact any law, regulation, or standard relating to rates, routes, or services in air transportation."

SEC. 5. (a) Section 401 of such Act is amended by amending the heading to read as follows: "CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY AND LICENSES."

(b) Section 401(a) of such Act is amended to read as follows:

"Certificate or license required

"(a) No air carrier shall engage in any air transportation unless there is in force either a certificate or license issued by the Board authorizing such air carrier to engage in such transportation."

(c) Section 401(b) of such Act is amended by adding the words "or License" to the heading, and by inserting the words "or license" after the word "certificate" in the subsection.

(d) Section 401(c) of such Act is amended by inserting the words "or license" after the word "certificate" in the second sentence in the subsection, and by striking out the last sentence reading as follows: "Such application shall be set for a public hearing, and the Board shall dispose of such application as speedily as possible."

(e) Section 401(d) of such Act is amended—

(1) by amending the heading to read: "Issuance of Certificates and Licenses";

(2) by inserting the following at the beginning of the sentence in paragraph (1) of subsection (d): "In the case of an application for authority to perform scheduled air transportation of persons, property and mail, or foreign all-cargo air transportation";

(3) by striking out the words "a certificate" where they first appear in paragraph (2) of subsection (d) and inserting in lieu thereof the word "authority", inserting the word "scheduled" immediately after the word "temporary", and inserting the words "of persons, property and mail, or foreign all-cargo air transportation" immediately after the words "air transportation" in the paragraph;

(4) by amending paragraph (3) of subsection (d) to read as follows:

"(3) In the case of an application for authority to engage in charter air transportation, the Board shall issue a license for such periods as may be required by the public interest if, and to the extent that, it finds the applicant fit, willing, and able properly to perform such charter transportation and to conform to the provisions of this Act and the rules, regulations, and requirements of the Board hereunder."; and

(5) by adding at the end of subsection (d) the following two new paragraphs:

"(4) Notwithstanding paragraphs (1) or (2) of this subsection, in the case of an application for authority to engage in all-cargo interstate or overseas air transportation, the Board shall issue a license for such periods as may be required by the public interest if, and to the extent that, it finds the applicant fit, willing, and able properly to perform such all-cargo air transportation and to conform to the provisions of this Act and the rules, regulations, and requirements of the Board hereunder.

"(5) Notwithstanding any other provisions of this subsection, any air carrier that engages in air transportation solely with aircraft having a maximum passenger capacity of less than fifty-six passengers or a maximum payload capacity of less than 16,000 pounds, shall be exempt from the requirements of subsection (a) of this section, and any other sections of the Act as may be prescribed by the Board under regulations or otherwise, if it conforms to such liability insurance requirements and such other reasonable regulations as the Board shall from time to time adopt in the public interest. The Board may by regulation increase the passenger or property capacities specified in this paragraph when the public interest so requires: *Provided*, That with respect to air transportation between points both of which are within the State of Alaska, or one of which is in Alaska and the other in Canada, the Board may decrease the passenger or property capacities specified in this paragraph or require carriers engaged in Alaskan intrastate transportation to obtain operating authority from the State of Alaska, as the public interest may require."

(f) Section 401(e) of such Act is amended—

(1) by amending the heading to read as follows: "Terms and Conditions of Certificates and Licenses";

(2) by amending paragraph (2) by inserting the words "or license" after the word "certificate" in the last sentence of the paragraph;

(3) by striking out paragraph (3) and redesignating paragraphs (4) through (6) as paragraphs (3) through (5), respectively;

(4) by amending paragraph (3) (as redesignated by subparagraph (1) of this subsection) by inserting the words "or license" after the word certificate where it first appears, and changing the semicolon to a period after the word "require" and by striking out the following: "Except that the Board may impose such terms, conditions, or limitations in a certificate for supplemental air transportation when required by subsection (d)(3) of this section";

(5) by amending paragraph (5) (as redesignated by subparagraph (3) of this subsection) to read as follows:

"(5) Any certificated air carrier may perform charter trips (including inclusive tour charter trips) or any other special service, under regulations prescribed by the Board."; and

(6) by adding at the end of subsection (e) the following paragraphs (6), (7) and (8):

"(6) A license to engage in foreign and overseas charter air transportation may contain any terms, conditions, and limitations which are required by any international treaty, convention, or agreement or which are directed to be included by the President upon his review under section 801(a) of this Act.

"(7) A license to engage in all-cargo interstate or overseas air transportation issued pursuant to subsection (d)(4) or subsection (m)(2) of this section may, during the two years beginning with the effective date of this paragraph, be subject to such reasonable terms, conditions, and limitations on the geographic, operational, and other scope of the air transportation to be performed as the public interest shall require. Such terms, conditions, and limitations shall cease to be effective at the end of the aforesaid two-year period.

"(8) Every license issued pursuant to subsections (d)(3) and (4) of this section shall be subject to such reasonable regulations as the Board shall from time to time prescribe in the public interest. Any such license may also be made subject to any reasonable terms, conditions, and limitations which the Board determines to be required by its findings concerning fitness, willingness, and ability to perform the air transportation authorized thereby."

(g) Section 401(f) of such Act is amended—

(1) by amending the heading to read as

follows: "Effective Date and Duration of Certificates and Licenses"; and

(2) by inserting the words "and license" after the word "certificate" where it first appears, striking out the phrase "under subsection (d)(2) of this section," and inserting a comma after the word "time", inserting the words "or license" after the word "certificate" where it appears the second time, and striking out the phrase ", entered after notice and hearing," in the proviso.

(h) Section 401(g) of such Act is amended by striking out the phrase ", after notice and hearings," , inserting the words "or license" immediately after the word "certificate" where it appears in the subsection, inserting the words "or public interest" after the words "public convenience and necessity", and inserting the phrase "or suspend for such period as the Board may deem appropriate" after the word "revoke".

(i) Section 401(h) of such Act is amended—

(1) by amending the heading to read as follows: "Transfer of Certificates and Licenses"; and

(2) by inserting the words "or license" after the word "certificate" in the subsection.

(j) Section 401(i) of such Act is amended—

(1) by amending the heading to read as follows: "Certain Rights Not Conferred by Certificates or Licenses"; and

(2) by inserting the words "or license" immediately after the word "certificate" in the subsection.

(k) Section 401(j) of such Act is deleted and the following subsection is inserted in lieu thereof:

"Termination or suspension of service

"(j)(1) No air carrier shall terminate any service required by its certificate of public convenience and necessity except upon a minimum of 90 days notice filed with the Board and served upon each community directly affected by such termination. *Provided,* That the Board is empowered upon complaint or upon its own initiative to suspend such termination for any period of time not to exceed an additional 270 days in order to allow arrangements to be made for substitute service.

"(2) The Board may, by regulations or otherwise, authorize such temporary suspension of service as may be in the public interest."

(l) Sections 401 (l) and (m) of such Act are deleted and section 401(n) is redesignated as section 401(l).

(m) Section 401(l) (as redesignated by subsection (l) of this section) is amended—

(1) by amending the heading to read as follows: "Additional Powers and Duties of Board with Respect to License Holders";

(2) by amending paragraph (1) to read as follows:

"(1) No license to engage in air transportation, pursuant to subsection (d) (3) or (4) of this section shall be issued or remain in effect unless the applicant for such license or the air carrier, as the case may be, complies with regulations or orders issued by the Board governing the filing and approval of policies of insurance, in the amount prescribed by the Board, conditioned to pay, within the amount of such insurance, amounts for which such applicant or such air carrier may become liable for bodily injuries to or the death of any person, or for loss of or damage to property of others resulting from the negligent operation or maintenance of aircraft under such license.";

(3) by striking out the words "supplemental air carriers" in paragraph (2) and inserting in lieu thereof the following: "air carriers licensed under subsections (d) (3) or (4) of this section", and striking out the word "supplemental" before the word "air" where it appears the second and third time and inserting in lieu thereof the word "such";

(4) by striking out paragraph (3) and redesignating paragraphs (4) through (6) as paragraphs (3) through (5), respectively;

(5) by amending paragraph (3) (as redesignated by subparagraph (4) of this section) by striking out the word "certificate" where it appears in the paragraph and inserting in lieu thereof the word "license", striking out the word "supplemental", inserting the words "charter or all-cargo" before the words "air transportation" in the first sentence, inserting the phrase "licensed under subsections (d) (3) or (4) of this section" after the words "air carrier" in the first sentence, and striking out the phrase ", entered after notice and hearing," in the last sentence; and

(6) by amending paragraph (4) (as redesignated by subparagraph (4) of this section) by striking out the word "certificate" where it appears therein and inserting in lieu thereof the word "license", striking out the words "a supplemental air carrier" in the first sentence and inserting in lieu thereof the following: "an air carrier licensed under subsections (d) (3) or (4) of this section", striking out the following in the first sentence: "paragraphs (1), (3), or (4)" and inserting in lieu thereof the following: "paragraphs (1), (2), or (3)", and striking out the following in the last sentence: "paragraphs (1), (3), and (4)" and inserting in lieu thereof the following: "paragraphs (1), (2), and (3)".

(n) The following new subsections (m) and (n) are added at the end of section 401 of such Act:

"Issuance of licenses in lieu of certificates

"(m) Notwithstanding any other provisions of this Act—

(1) Any certificate in effect on the effective date of this paragraph authorizing supplemental air transportation shall be deemed to be a license to engage in charter air transportation pursuant to subsection (d) (3) of this section, and shall continue to be subject to all of the provisions of such certificate: *Provided,* That such license shall include the authority to transport mail.

"(2) Any certificate in effect on the effective date of this paragraph authorizing interstate or overseas all-cargo air transportation shall be deemed to be a license pursuant to subsection (d)(4) of this section to engage in interstate all-cargo air transportation between any point in any State of the United States, or the District of Columbia, and any point in any other State of the United States, or the District of Columbia; and in overseas all-cargo air transportation to the extent provided in said certificate. Such license shall continue to be subject to all the provisions of said certificate, other than restrictions as to points to be served in interstate air transportation.

"Procedures for processing applications

"(n)(1) The Board shall adopt rules establishing expedited procedures, which shall provide for adequate notice and an opportunity for all interested persons to file appropriate written evidence and argument, but need not provide for oral evidentiary hearings, for disposing of—

(A) applications for a license to engage in air transportation pursuant to subsections (d) (3) or (4) of this section;

(B) applications for a certificate to engage in interstate or overseas air transportation pursuant to subsections (d) (1) or (2) of this section;

(C) applications by the holder thereof for the alteration, amendment, modification, suspension, or transfer of all or any part of any such certificate or license pursuant to subsections (g) or (h) of this section;

(D) petitions by interested persons and investigations by the Board, whether on its own initiative or in response to a complaint, looking to the alteration, amendment, modification, suspension, or revocation of all or any part of any certificate or license issued pursuant to this section so as to reduce, restrict, suspend, or terminate the holder's authority thereunder to provide any service which the holder has not inaugurated within a period fixed by the Board pursuant to subsection (f) of this section, or which the holder has ceased to operate and has not operated for a period designated by the Board pursuant to that subsection.

"(2) In determining whether to employ such expedited procedures in a particular case involving issuance or amendment of a certificate for interstate or overseas air transportation, the Board shall give consideration to the magnitude of the potential impact of its decision in the case on the interstate and overseas air transportation system. The rules adopted by the Board pursuant to this subsection shall, to the extent the Board finds it practicable, set forth the standards it intends to apply in determining whether to employ such expedited procedures, and in deciding cases in which such procedures are employed. Such rules may provide, among other things, that applications by applicants of demonstrated fitness, for certificates to engage in interstate or overseas air transportation in specified types of situations, as defined in said rules, consistent with a phased and progressive transition to a more competitive air transportation system, shall be automatically granted without a further showing of need. The Board may by rule or order provide that in particular cases or classes of cases, any authority thus automatically granted shall remain in effect for not more than one year, but may thereafter be extended or made permanent upon a showing that the holder has promptly inaugurated and has continued to operate the service authorized. Such rules shall also, to the extent the Board finds it practicable, define and limit the types of factual evidence the Board will deem relevant and material in various classes of cases, and prescribe how such relevant and material facts shall be made of record.

"(3) In all other cases, and in any case where it finds that the public interest so requires, the Board shall set the matter down for an oral evidentiary hearing, and shall dispose thereof as speedily as possible, with due regard for the rights and privileges of all interested persons, pursuant to its rules of procedure.

"(4) The Board shall by rule establish procedural deadlines for Board action pursuant to this section. In any case in which the Board is unable to act within the applicable procedural deadline established by such rule, it shall issue a notice to the parties to the case setting forth the reasons for such inability and establishing a new procedural deadline for such action."

SEC. 6(a). Section 403(a) of such Act is amended to read as follows:

"Filing of Tariffs Required

"(a)(1) Every air carrier and every foreign air carrier shall file with the Board, and print, and keep open to public inspection, tariffs showing all rates, fares, and charges for air transportation (except for charter trips in interstate and overseas air transportation, and for the transportation of mail) between points served by it, and between points served by it and points served by any other carrier or foreign air carrier when through service and through rates shall have been established, and all such tariffs shall show to the extent required by regulations of the Board, all classifications, rules, regulations, practices, and services in connection with such air transportation.

"(2) Every air carrier shall file with the Board, and print, and keep open for public inspection, tariffs showing, to the extent required by regulations of the Board, all classifications, rules, regulations, practices, and services in connection with charter trips in interstate and overseas air transportation of persons or property.

"(3) Every air carrier shall file with the Board, and serve upon such persons as the Board may require by regulation or otherwise, tariffs stating all rates for the transportation of mail between all points served by it, between points between which it has contracted to carry mail pursuant to section 5402(a) of title 39, United States Code, and between points served by it and points served by any other air carrier when through mail service and through mail rates shall have been established. All such tariffs shall show, to the extent required by regulations of the Board, all classifications, rules, regulations, practices, and services in connection with such transportation of mail. Nothing shall be contained in such tariffs which is inconsistent with any rules and regulations issued by the Postmaster General under section 405(a) of this Act. Initial tariffs filed pursuant to this subsection by air carriers which, on the date this subsection becomes effective, are compensated for the transportation of mail at rates established by the Board pursuant to section 406 of this Act, shall set forth the rates for air transportation of mail, and the classifications, rules, regulations, practices, and services in connection with such transportation, that are in effect for such transportation on the date this subsection becomes effective; and the Board may permit such initial tariffs to become effective on less than the notice required by section 403(c). If, at the time this subsection becomes effective, such rates, classifications, rules, regulations, practices, or services are under investigation by the Board, such tariffs and any subsequent tariffs filed before the Board shall determine the final lawful rates, classifications, rules, regulations, practices, and services under investigation, shall be temporary and subject to retroactive adjustment in accordance with section 1002(d)(3)(A): *Provided*, That, after the final lawful rates or classifications, rules, regulations, or practices applicable to such initial or subsequent tariffs specifying temporary rates shall have been determined, no tariffs filed thereafter pursuant to this subsection shall set forth temporary rates or classifications, rules, regulations, practices, or services in connection with such transportation.

"(4) Tariffs shall be filed, posted, and published in such form and manner, and shall contain such information, as the Board shall by regulation prescribe; and the Board is empowered to reject any tariff so filed which is not consistent with this section and its regulations. Any tariff so rejected shall be void. The rates, fares, and charges shown in any tariff shall be stated in terms of lawful money of the United States, but such tariffs (other than mail tariffs under paragraph (3) of this subsection) may also state rates, fares, and charges in terms of currencies other than lawful money of the United States, and may, in the case of foreign air transportation, contain such information as may be required under the laws of any country in or to which an air carrier or foreign air carrier is authorized to operate."

(b) Section 403(b) of such Act is amended by amending the first sentence in paragraph (1)—

(1) by inserting the words "or the transportation of mail by aircraft" after the words "air transportation"; and

(2) by changing the semicolon after the words "foreign air carrier", where they appear for the first time, to a comma and inserting the following: "except as provided in section 1002(d)(3)(A) of this Act;".

(c) Section 403(c) of such Act is amended by striking out the word "thirty" in the first sentence and inserting in lieu thereof the words "forty-five".

(d) Section 403(d) of such Act is amended to read as follows:

"Filing of Division of Rates and Charges Required

"(d) Every air carrier or foreign air carrier shall keep currently on file with the Board, if the Board so requires, the established divisions of all joint rates, fares, and charges for foreign air transportation in which such air carrier or foreign air carrier paticipates; and every air carrier shall keep currently on file with the Board, if the Board so requires, the established divisions of all joint rates, fares, and charges for interstate or overseas transportation of persons and for the transportation of mail by aircraft in which such air carrier participates."

SEC. 7. (a) Section 404 of such Act is amended by amending the heading to read as follows: "RATES FOR CARRIAGE OF PERSONS, PROPERTY, AND MAIL".

(b) Section 404(a) of such Act is amended by amending paragraph (1) to read as follows:

"(1)(A) It shall be the duty of every certificated air carrier to provide and furnish interstate and overseas air transportation of persons and property, and the transportation of mail by aircraft, as authorized by its certificate, upon reasonable request therefor; to provide reasonable through service in connection with other air carriers; and to provide adequate service, equipment, and facilities in connection with such transportation of persons and mail;

(B) It shall be the duty of every licensed air carrier to provide and furnish interstate and overseas air transportation of persons and property, and the transpotation of mail by aircraft, as authorized by its license, upon reasonable request therefor, between points served by such carrier;

(C) It shall be the duty of every air carrier to provide safe service, equipment, and facilities in connection with air transportation; to establish, observe, and enforce just and reasonable individual and joint rates, fares, and charges for interstate and overseas transportation of persons (except charter trips) and for the transportation of mail, and just and reasonable classifications, rules, regulations, and practices relating to interstate and overseas air transportation of persons and property and to the transportation of mail; and, in case of joint rates, fares, and charges for such transportation of persons and mail, to establish just, reasonable, and equitable divisions thereof as between air carriers participating therein which shall not unduly prefer or prejudice any of such participating air carriers."

(c) Section 404(b) of such Act is amended to read as follows:

"Discrimination

"(b) No air carrier or foreign air carrier shall make, give, or cause any undue or unreasonable preference or advantage to any particular person, port, locality, or description of traffic in air transportation of persons or property (other than charter trips in interstate or overseas air transportation) in any respect whatsoever or subject any particular person, port, locality, or description of traffic in air transportation of persons or property (other than charter trips in interstate or overseas air transportation) to any unjust discrimination or undue or unreasonable prejudice or disadvantage in any respect whatsoever."

SEC. 8. (a) Section 405(b) of such Act is amended to read as follows:

"Mail schedules

"(b) Each certificated air carrier shall, from time to time, file with the Board and the Postmaster General a statement showing the points between which such air carrier is authorized to engage in air transportation, and all schedules, and all changes therein, of aircraft regularly operated by the carrier between such points, setting forth in respect of each such schedule the points served thereby and the time of arrival and departure at each such point. No change shall be made in any such schedules used for the carriage of mail except upon ten days' notice to the Postmaster General."

(b) Sections 405(c) and (d) of such Act are deleted, sections 405(e) and (f) are redesignated as sections 405(c) and (d), respectively, and the following new subsections (e) is inserted after subsection (d) (as redesignated by this subsection):

"Payments to foreign air carriers

"(e)(1) In any case where air transportation is performed between the United States and any foreign country, both by aircraft owned or operated by one or more air carriers holding a certificate or license under this title, and by aircraft owned or operated by one or more foreign air carriers, the Postmaster General shall not pay to or for the account of any such foreign air carrier a rate of compensation for transporting mail by aircraft between the United States and such foreign country, which, in his opinion, will result (over such reasonable period as the Postmaster General may determine, taking account of exchange fluctuations and other factors) in such foreign air carrier receiving a higher rate of compensation for transporting such mail than such foreign country pays to air carriers for transporting its mail by aircraft between such foreign country and the United States, or receiving a higher rate of compensation for transporting such mail than a rate determined by the Postmaster General to be comparable to the rate such foreign country pays to air carriers for transporting its mail by aircraft between such foreign country and intermediate country on the route of such air carrier between such foreign country and the United States.

"(2) The Secretary of State and the Postmaster General each shall take all necessary and appropriate actions to assure that the rates paid for the transportation of mail pursuant to the Universal Postal Union Convention shall not be higher than fair and reasonable rates for such services. The Secretary of State and the Postmaster General shall oppose any present or proposed Universal Postal Union rates which are higher than such fair and reasonable rates."

(c) Sections 405 (g) through (i) of such Act are redesignated as sections 405 (f) through (h), respectively, and section 405(j) is deleted.

SEC. 9. Section 406 of such Act is deleted and the following new section is inserted in lieu thereof:

[This section will be submitted at a later date.]

SEC. 10. (a) Section 408(a) of such Act is amended—

(1) by inserting the words "pursuant to subsection (b)(1) or exempted pursuant to subsection (b)(2)" after the word "Board" in the phrase preceding subdivision (1) of the subsection; and

(2) by striking out the proviso at the end of subdivision (5) of the subsection reading as follows: "*Provided*, That the Board may by order exempt any such acquisition of a noncertificated air carrier from this requirement to the extent and for such periods as may be in the public interest."

(b) Section 408(b) of such Act is amended—

(1) by inserting "(1)" immediately after "(b)" and amending the first sentence in paragraph (1) to read as follows: "Any person seeking approval of a consolidation, merger, purchase, lease, operating contract, or acquisition of control specified in subsection (a) of this section, where one or more of the

parties to such transaction is a certificated air carrier, a foreign air carrier, or a person controlling, controlled by, or in common control with, a certificated air carrier or foreign air carrier, shall present an application to the Board, and thereupon the Board shall notify the persons involved in the consolidation, merger, purchase, lease, operating contract, or acquisition of control, and other persons known to have a substantial interest in the proceeding, of the time and place of a public hearing.";

(2) by striking out the second proviso in paragraph (1) reading as follows: "*Provided further*, That if the applicant is a carrier other than an air carrier, or a person controlled by a carrier other than an air carrier or affiliated therewith within the meaning of section 5(8) of the Interstate Commerce Act, as amended, such applicant shall for the purposes of this section be considered an air carrier and the Board shall not enter such an order of approval unless it finds that the transaction proposed will promote the public interest by enabling such carrier other than an air carrier to use aircraft to public advantage in its operation and will not restrain competition:"; and

(3) by adding at the end of subsection (b) the following new paragraph:

"(2) Any person seeking exemption of a consolidation, merger, purchase, lease, operating contract, or acquisition of control, specified in subsection (a) of this section, where none of the parties to such transaction is a certificated air carrier, a foreign air carrier, or a person controlling, controlled by, or under common control with, a certificated air carrier or foreign air carrier, shall file with the Board, pursuant to prescribed regulations, on 45 days notice, a statement of its intent to enter into any of the prohibited acts set forth in subsection (a). The Board may, within 45 days of the date of such filing, require such person to file an application for approval pursuant to the requirements of subsection (b) (1) of this section if it finds either that the proposed transaction may monopolize, tend to monopolize, or otherwise restrain competition in air transportation in any section of the country or that the person may not be fit, willing, and able to properly perform the transportation authorized by the license and to conform to the provisions of this Act and the rules, regulations and requirements of the Board thereunder. If the Board fails to act within 45 days of such filing, the proposed transaction shall be exempt from subsection (a): *Provided*, That in the case of fraud, misrepresentation, or omission of relevant and material facts, the Board may withdraw the exemption under procedures to be prescribed by the Board: *Provided further*, That any exemption resulting from this subsection shall not be considered an order of the Board for the purposes of section 414 of this title."

(c) Section 408(c) of such Act is amended by inserting the phrase ", any person controlling such air carrier," after the words "air carrier" where they first appear in the subsection.

SEC. 10. Section 414 of such Act is amended to read as follows:

"ANTITRUST IMMUNITY

"SEC. 414. Any person affected by any order made under sections 408, 409, or 412 of this Act shall be, and is hereby, relieved from the operations of the 'antitrust laws,' as designated in section 1 of the Act entitled 'An Act to supplement existing laws against lawful restraints and monopolies, and for other purposes,' approved October 15, 1914, and of all other restraints or prohibitions made by, or imposed under, authority of the antitrust laws, only insofar as may be necessary to enable such person to proceed with the transactions specifically approved by the Board in such order or those transactions necessarily contemplated thereby: *Provided*, That, in such order, the Board may specifically define and limit the scope of the relief granted."

SEC. 11.(a) Section 416 of such Act is amended by amending the heading to read as follows: "CLASSIFICATIONS AND EXEMPTIONS".

(b) Section 416(a) of such Act is amended by amending the heading of the subsection to read as follows: "Classifications", and by inserting the words "or foreign air carriers" after the words "air carriers" where they appear in the subsection.

(c) Section 416(b) of such Act is amended by amending paragraph (1) of the subsection to read as follows:

"(1) The Board, from time to time and to the extent necessary, may (except as provided in paragraph (2) of this subsection) exempt from the requirements of this title or any provision thereof, or any rule, regulation, term, condition, or limitation prescribed thereunder, any person or class of persons if it finds that such exemption is or will be justified by special and unusual circumstances, or by reason of the limited extent of the activity sought to be exempted, and that the exemption is not inconsistent with the public interest."

SEC. 12. Section 801(a) of such Act is amended by inserting the words "or license" after the word "certificate" in the first sentence of the subsection, and inserting a comma after the word "certificates" in the second sentence and adding the word "licenses,".

SEC. 13. Section 1001 of such Act is amended by inserting "(a)" immediately after "1001" and by adding at the ending thereof the following new subsection:

"Show cause procedures

"(b) Notwithstanding any provision of this Act requiring the Board to act after notice and hearings, the Board may by order, entered after notice and such opportunity for interested persons to file appropriate written evidence and argument as it shall by rule provide, dispense with an oral evidentiary hearing and proceed to final decision, with or without an opportunity for further written or oral argument before the Board, in any case where it finds on the basis of the record before it, and of facts of which it is entitled to take notice under its rules of procedure, that there are no significant issues of material fact in the case which require an oral evidentiary hearing for their determination. In such a case the Board shall, on its own initiative or at the request of an interested party, first issue an order to show cause, describing specifically the action it proposes to take, setting forth its tentative findings of fact and conclusions of law in support of such action, and requiring any interested party opposed to such action to show cause why such action should not be taken, and, if such party requests an oral evidentiary hearing, why such a hearing is essential to determine significant issues of material fact in the case and why any relevant and material facts the party proposes to adduce cannot be adequately put into the record by written submissions. Upon receipt of answers to its order to show cause, the Board shall proceed to final decision in the case, set the case down for an oral evidentiary hearing, or take such other action as shall be appropriate under its rules."

SEC. 14. (a) Section 1002(d) of such Act is amended to read as follows:

"Power to prescribe rates and practices of air carriers

"(d) (1) Whenever, after notice and hearing, upon complaint, or upon its own initiative, the Board shall be of the opinion that any individual or joint fare or charge demanded, charged, collected, or received by any air carrier for scheduled interstate or overseas air transportation of persons,

(A) is or will be unreasonably high, the Board shall determine and prescribe the lawful maximum fare or charge thereafter to be demanded, charged, collected, or received;

(B) is or will be predatory or tend to restrain competition among air carriers, the Board shall determine and prescribe the lawful minimum fare or charge thereafter to be demanded, charged, collected, or received; or

(C) does or will preclude the provision of adequate service by the carrier in the market to which the fare or charge is applicable, the Board shall determine and prescribe the lawful minimum fare or charge thereafter to be demanded, charged, collected, or received.

"(2) Whenever, after notice and hearing, upon complaint, or upon its own initiative, the Board shall be of the opinion that any classification, rule, regulation, or practice affecting any individual or joint rate, fare, or charge demanded, charged, collected, or received by any air carrier for interstate or overseas air transportation of persons or property or services in connection therewith, is or will be unjust or unreasonable, the Board shall determine and prescribe the lawful classification, rule, regulation, or practice thereafter to be made effective.

"(3) (A) Whenever, after notice and hearing, upon complaint, or upon its own initiative, the Board shall be of the opinion that any individual or joint rate or charge demanded, charged, collected, or received for the transportation of mail by aircraft or services connected therewith, or any classification, rule, regulation, or practice affecting such rate or charge, or the value of service thereunder, is or will be unjust or unreasonable, the Board shall determine and prescribe the lawful rate or charge (or the maximum or minimum, or the maximum and minimum thereof) thereafter to be demanded, charged, collected, or received, or the lawful classification, rule, regulation, or practice thereafter to be made effective: *Provided*, That, if an initial or subsequent tariff filed pursuant to section 403(a) (3) of this Act sets forth a temporary mail rate or charge, or classification, rule, regulation, or practice that is under investigation at the time of filing, the lawful rate or charge, or classification, rule, regulation, or practice determined by the Board after hearing shall be effective from such date as the Board shall determine to be proper.

(B) The Board shall act expeditiously on any proposed changes in rates for the transportation of mail by aircraft in foreign air transportation. In exercising its powers and performing its duties with respect to such rates, the Board shall take into consideration rates paid for transportation of mail pursuant to the Universal Postal Union Convention as ratified by the United States Government, shall take into account all of the ratemaking elements employed by the Universal Postal Union in fixing its airmail rates, and shall further consider the competitive disadvantage to United States flag air carriers resulting from foreign air carriers receiving Universal Postal Union rates for the carriage of United States mail and the national origin mail of their own countries.

"(4) Whenever, after notice and hearing, upon complaint, or upon its own initiative, the Board shall be of the opinion that any individual or joint rate, fare, or charge demanded, charged, collected, or received by any air carrier for scheduled interstate or overseas air transportation of persons or property, or any classification, rule, regulation, or practice affecting such rate, fare, or charge, or the value of the service thereunder is or will be unjustly discriminatory, or unduly preferential, or unduly prejudicial, the Board may alter the same to the extent necessary to correct such discrimination, preference, or prejudice and make an order that the air carrier shall discontinue demanding, charging, collecting, or receiving any such discriminatory, preferential, or prejudicial rate, fare, or charge or enforcing any such discriminatory, preferential, prejudicial, classification, rule, regulation, or practice."

(b) Section 1002(e) of such Act is amended to read as follows:

"Rule of ratemaking for interstate and overseas transportation and transportation of mail

"(e) In exercising its powers and performing its duties with respect to the determination of fares and charges for the carriage of persons pursuant to subsection (d)(1) of this section and of rates for the carriage of mail pursuant to subsection (d)(3) of this section, the Board shall take into consideration, among other factors—

(1) The criteria set forth in section 102 of this Act;

(2) The effect of such rates, fares, and charges on the movement of traffic;

(3) The need in the public interest of adequate and efficient transportation of persons and mail by air carriers at the lowest cost consistent with the furnishing of such services; and

(4) With respect to maximum rates and fares, the need of each air carrier for revenue sufficient to enable such air carrier, under honest, economical, and efficient management, to provide adequate and efficient air carrier service."

(c) Section 1002(g) of such Act is amended—

(1) by amending the heading to read as follows: "Suspension of Rates in Interstate and Overseas Air Transportation and Rates for the Transportation of Mail";

(2) by inserting the words "'or the transportation of mail by aircraft" after the words "overseas air transportation" in the first sentence in the subsection, and inserting the words "at least fifteen days before the time when such tariff would otherwise go into effect," before the words "a statement in writing" in the sentence; and

(3) by striking out the word "any" before the words "air carrier" in the proviso in the last sentence and inserting in lieu thereof the word "an".

(d) Section 1002(h) of such Act is amended to read as follows:

"(h) Whenever, after notice and hearing, upon complaint or upon its own initiative, the Board is of the opinion that the divisions of joint fares or charges for interstate or overseas air transportation of persons, or joint rates, fares, or charges for foreign air transportation, or joint rates for the transportation of mail by air carriers, are or will be unjust, unreasonable, inequitable, or unduly preferential or prejudicial as between the air carriers or foreign air carriers parties thereto, the Board shall prescribe the just, reasonable, and equitable divisions thereof to be received by the several air carriers. The Board may require the adjustment of divisions between such air carriers from the date of filing the complaint or entry of order of investigation, or such other date subsequent thereto as the Board finds to be just, reasonable, and equitable."

(e) Section 1002(i) of such Act is amended to read as follows:

"(i) The Board shall, whenever required by the public convenience and necessity, after notice and hearing, upon complaint or upon its own initiative, establish through service and joint rates, fares, or charges for interstate or overseas air transportation of persons or the transportation of mail, or the classifications, rules, regulations, or practices affecting such rates, fares, or charges, or the value of service thereunder, and the terms and conditions under which such through service shall be operated."

SEC. 15. Section 1005(a) of such Act is amended—

(1) by amending the first proviso in subsection (a) to read as follows: *"Provided,* That whenever the Secretary of Transportation is of the opinion that an emergency requiring immediate action exists in respect of safety in air commerce or the Board is of the opinion that an emergency requiring immediate action exists in respect of economic regulation in air transportation, the Secretary of Transportation or the Board is authorized, either upon complaint or his or the Board's own initiative without complaint, at once, if he or the Board so orders, without answer or other form of pleading by the interested person or persons, and with or without notice, hearing, or the making or filing of a report, to make such just and reasonable orders, rules, or regulations, as may be essential in the interest of safety in air commerce or economic regulation in air transportation to meet such emergency:"; and

(2) by inserting the words "or the Board" after the words "the Secretary of Transportation" in the second proviso of subsection (a).

SEC. 16. Section 3401 of title 39, United States Code, is amended by striking out the words "at rates fixed and determined by the Civil Aeronautics Board in accordance with section 1376 of title 49" where they appear in subsections (b) and (c) of the section, and inserting in lieu thereof the words "at rates set forth in lawful tariffs on file with the Civil Aeronautics Board".

SEC. 17. Section 5402(a) of title 39, United States Code, is amended to read as follows:

"(a) If the Postal Service determines that service by certificated air carriers or combination of air carriers between any pair or pairs of points is not adequate for its purposes, it may contract for the transportation of mail by air at rates set forth in lawful tariffs on file with the Civil Aeronautics Board (1) with any certificated air carrier between any of the points between which the carrier is authorized by the Civil Aeronautics Board to engage in the transportation of mail, or (2) with any other certificated or licensed air carrier if no certificated air carrier so authorized is willing to so contract."

SEC. 18. (a) All orders, determinations, rules, regulations, permits, contracts, certificates, rates, and privileges which have been issued, made, or granted, or allowed to become effective, by the President, the Civil Aeronautics Board, or the Postmaster General, or any court of competent jurisdiction, under any provision of law repealed or amended by this Act, or in the exercise of duties, powers or functions, which are vested in the Board, and which are in effect at the time this Act takes effect, shall continue in effect according to their terms until modified, terminated, superseded, set aside or repealed by the Board, or by any court of competent jurisdiction, or by operation of law.

(b) The provisions of this Act shall not affect proceedings pending at the time this Act takes effect before the Board; but any such proceedings shall be continued before the Board, orders issued therein, appeals therefrom taken and payments made pursuant to such orders, as if this Act had not been enacted; and any orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or repealed by the Board, or by operation of law.

(c) The provisions of this Act shall not affect suits commenced prior to the date on which this Act takes effect; and all such suits shall be continued, proceedings therein had, appeals therein taken, and judgments rendered, in the same manner and with the same effect as if this Act had not been passed.

SEC. 19. This Act shall take effect six months after the date of its enactment.

CIVIL AERONAUTICS BOARD,
Washington, D.C., June 3, 1976.
Hon. HOWARD W. CANNON,
Chairman, Subcommittee on Aviation,
Committee on Commerce, U.S. Senate,
Washington, D.C.

DEAR MR. CHAIRMAN: As requested by the Subcommittee at the time the Board presented its program for regulatory reform, there is submitted herewith draft legislation designed to implement the Board's program.

We bring to your attention that one feature of the Board's program—reform of the present subsidy provisions and a new system of subsidy for service to small communities—is not included in the legislation. The Board recently sought public comment on various alternatives for a service to small community assistance program and plans to submit specific legislation for such a program as soon as it is finalized. Because of the inter-relationship of the small communities program and the other elements of subsidy reform, it was not feasible to draft the subsidy section.

The Board also intends to study further the problem of the inter-relationship of state regulation in the context of diminished Federal regulation of air transportation.

Sincerely,

JOHN E. ROBSON,
Chairman.

SUMMARY ANALYSIS OF THE BILL

DEFINITIONS

Section 101 of the Act is amended to add four new definitions, delete one, and modify two others. The most notable changes are the elimination of the classification of "supplemental" air carriers and transportation, and the addition of an express definition of "charter trip." Under the Board's proposed legislation, the concept of "supplemental" air transportation is anachronistic. The only regulatory distinction between air carriers is that some will perform scheduled air transportation, while others may not. All air carriers will be able to perform charter flights. New definitions of "all-cargo air transportation," "certificated air carrier," and "scheduled air transportation" are added since such terms are newly introduced elsewhere in the bill.

DECLARATION OF POLICY SECTION

Section 102 of the Act is substantially revised to establish a new policy direction for interstate and overseas air transportation. The existing section 102 is oriented toward the development and protection of the air transport industry through public utility-type regulation over entry, exit, and pricing, and the Board's administration of the Act over the years has necessarily reflected this mandate from the Congress. The amendments will explicitly recognize that Congress gives the Board a new mandate to bring about a progressive transition to an air transportation system which relies on the natural forces of the marketplace, stimulates carrier efficiency, provides the opportunity for profitability by efficient carriers, and encourages competition, including, importantly, the entry of new carriers into the industry. The new policy declaration changes the basic thrust of the Board's mission.

The declaration of policy section is divided into two parts in order to accommodate the special considerations which apply to foreign air transportation. Such division is not intended to preclude the Board from relying on elements contained in the new subsection (a) when applying subsection (b) to the extent such reliance is practical and consistent with international requirements.

The safety standard contained in subsection (a) combines the standards now contained in section 102 since it is anticipated that the existing high safety standards will continue, and thus there would not be any change in the respective responsibilities of the Board and the Federal Aviation Administration.

OPEN ENTRY INTO CHARTER AND DOMESTIC AIR FREIGHT TRANSPORTATION

Section 401(d)(3) is amended and a new subsection 401(d)(4) is added to bring about open entry into and free exit from charter air transportation and domestic air freight transportation. Such entry is accomplished through the creation of a new type of operating authority, the "license," which requires only a test of fitness, willingness, and ability. Fitness, willingness, and ability would include, among other things, financial integrity and compliance disposition along the lines historically employed by the Board. All license holders would be subject to the continuing fitness requirement currently applicable to "supplemental" air carriers under existing section 401(n) of the Act.

Carriers would still be required to obtain appropriate certificates of public convenience and necessity to operate in scheduled foreign air transportation. Board decisions involving foreign air transportation would continue to be subject to the approval of the President pursuant to section 801 of the Act.

The Board would automatically grant a license to existing "supplemental" air carriers holding certificates of public convenience and necessity. There is also a two year phased transition period for domestic air freight transportation during which new entry into markets currently receiving scheduled all-cargo service could be subjected to restrictions by the Board. Open entry would occur within two years.

Section 401(d)(3) is amended so as to eliminate the current legal barrier which precludes "supplemental" carriers from simultaneously holding certificates authorizing scheduled air transportation. The Board would have the statutory authority to grant certificates to charter air carriers to engage in scheduled air transportation (scheduled carriers would be eligible to receive licenses to perform charter air transportation). The revised declaration of policy section would specifically encourage the Board to permit new carriers to provide scheduled air transportation and the charter industry would undoubtedly constitute the most likely pool of candidates for entry into scheduled air transportation.

Section 101 would be amended so as to allow charter carriers to transport mail. There is no reason why the Postal Service should not be able to utilize the services of charter carriers or why these carriers should not have the competitive ability to do business with the Postal Service, which is the largest single shipper of cargo in the United States.

Section 417, which currently permits the Board to authorize charter air carriers to perform individually-ticketed or waybilled service under highly specialized circumstances, would be deleted. Once the basic statutory prohibition against the performance of scheduled service by charter carriers is ended, the grant or denial of authority to perform services now covered by section 417 would be determined under the more general exemption standards of section 416 of the Act.

CHARTER RULES

Section 101 of the Act is modified to add a statutory definition of "charter trips" which would provide that a charter consists simply of planeload air transportation. Adoption of this definition removes all legal doubt that a "charter trip" encompasses a variety of full planeload operations, including the various types of charters already promulgated by the Board or proposed by the Board. The specific retention of one form of charter—i.e., the inclusive tour charter—would insure that planeload air transportation which was part of a package involving ground accommodations would continue to be considered charter air transportation. Charter trips would include split charters, as under current Board regulations.

The amendment would permit the Board to evolve a charter program which will increase the availability of low-cost air transportation for broad segments of the traveling public. Although the legislation would remove language in Section 101(36) which generally prohibits the sale of tickets in charter air transportation directly to the public by supplemental air carriers, the Board would retain the legal authority under the proposed legislation to continue the present restrictions against the sale by direct air carriers of individual tickets for charter flights directly to members of the general public, or indirectly by controlling, being controlled by, or under common control with a person who does make such sales. This policy can be reexamined in appropriate proceedings before the Board.

While the scheduled carriers' right to perform charter trips will continue to be limited by regulation under section 401(e)(6), the Board will grant on-route charter authority to air carriers. Moreover, nothing prohibits any scheduled carrier from applying for license authority pursuant to 401(d)(3) in addition to its certificate authority.

SMALL AIRCRAFT EXEMPTION

A new subsection would be added to section 401(d) to establish permanently an exemption from the requirement to hold a certificate of public convenience and necessity and various other provisions of Title IV of the Act for any air carrier engaging in interstate or overseas air transportation with aircraft having a maximum passenger capacity of less than 56 seats or a maximum payload capacity of less than 16,000 pounds if the carrier conforms to the financial responsibility requirements which the Board may impose. The express statutory recognition of an exempt zone would avoid the necessity for costly hearings under the existing standards of the Act and would avoid a judicial challenge to the new exemption. The Board would, at the minimum, expect to exempt such carriers from those sections of the Act currently listed in 14 CFR 298.11, which sets forth the sections from which "air taxis" are currently exempt. This section would not in any way affect the power of the Board to specify the size of equipment eligible for Federal subsidy under a small communities program.

DOMESTIC ROUTE EXPANSION, CREATION OF NEW ROUTES, AND DELETION OF UNUSED AUTHORITY

Section 401 would be amended to add a new subsection (n) which would authorize the Board to (i) employ non-hearing procedures for the grant of new authority, through the elimination of existing restrictions or otherwise, or the deletion of unused authority, but (ii) employ non-hearing procedures for the grant of new authority in foreign air transportation or the elimination or restriction of existing authority only where it concludes that there is no issue of material fact in the case which requires an evidentiary hearing for determination. The Board would, in all circumstances, be required to provide interested persons with an opportunity to submit written evidence and argument and could set any matter for evidentiary hearing where it concludes that the matter is likely to have a substantial impact on the interstate or overseas air transportation system or that a hearing is likely to assist in resolving any remaining issues of fact or policy.

Section 401(c) of the Act would be amended to delete the express requirement of a hearing. References to "notice and hearing" shall be deleted from current sections 401(f), (g), (j), and (n). The Board would nonetheless be required under new section 401(n) to hold a hearing in a number of classes of cases, including cases in which relevant facts cannot be ascertained and established without resort to an oral evidentiary hearing.

These changes would permit the Board to adopt regulations providing for gradual expansion of carriers' existing domestic and overseas route systems, including the removal of certificate restrictions, and the gradual creation of new domestic or overseas route systems by carriers demonstrating fitness, willingness, and ability through expedited procedures which do not include a full evidentiary hearing.

This would result in a substantial change from existing practice, where a hearing can be dispensed with only where there is essentially no opposition to the application. A hearing might still be required if there are several competing applicants for the same authority and there is reason to believe that a grant of authority to all applicants would have a substantial adverse impact on the air transportation system. Even where there are competing applicants, however, the Board would be empowered to dispense with an evidentiary hearing where the Board has adopted decisional standards, keyed to undisputed or officially noticeable facts, which would govern the choice of one or more of the applicants over the rest.

New non-hearing procedures would be established through rulemaking proceedings in which the right of all interested persons, including carriers, to participate would be guaranteed. Any interested person would be permitted to seek judicial review of any standards or requirements established in the rulemaking proceeding as well as judicial review of any Board action employing those standards or requirements in individual cases.

TERMINATION OR SUSPENSION OF SERVICE

Section 401(j) of the Act would be modified to provide for free exit from unprofitable points. Under the new provision the certificated carrier could terminate service on 90 days notice filed with the Board and served upon each community directly affected except that the Board could suspend such termination for a period not to exceed 270 days in order to allow arrangements to be made for substitute service. The existing authority to authorize temporary suspensions of service, by regulation or otherwise and without hearing, would be retained.

EXEMPTION AUTHORITY

Section 416 of the Act would be amended to permit the Board to exempt any person (not merely air carriers) and to eliminate the existing "undue burden" standard, replacing it with a requirement that the Board find that grant of the exemption is justified by special or unusual circumstances or by reason of the limited extent of the activity sought to be exempted and that the exemption is not inconsistent with the public interest. The Board's exemption power could be employed to exempt any person, including foreign air carriers. Similarly, section 101 (19) would be amended to authorize the Board to relieve foreign indirect air carriers from the requirements of Title IV along somewhat the same lines that it is now authorized to relieve U.S. indirect carriers under section 101(3).

Section 408(c) would be amended so as to add to the statutory exemption for acquisitions of ground facilities by air carriers an exemption for the acquisition of a ground facility by an air carrier controlled by a holding company.

ELIMINATION OF MANDATORY CONTROL JURISDICTION AND RELATED ANTITRUST MATTERS

Section 408 of the Act is amended to eliminate mandatory Board jurisdiction over mergers, consolidations, acquisitions, and the like, in those sectors of the industry whose entry would be essentially unregulated (except for fitness or financial responsibility) under section 401 of the Act. A new subsection is added which would require the numerous control relationships involving "unregulated" persons to be filed with the Board in advance of consummation and would give the Board a brief period of time to review such transaction and determine whether or not an assertion of Board jurisdiction is required. In the absence of an assertion of jurisdiction the parties would be free to consummate the transaction but no antitrust immunity pursuant to section 414 would attach. An assertion of Board jurisdiction would require a preliminary finding that the transaction may have serious anticompetitive effects.

The Board's existing section 408 jurisdiction and responsibilities would continue with respect to certificated carriers. Similarly, no changes are made with respect to sections 409 (interlocking arrangements) or 412 (agreements).

Section 414 of the Act, which confers antitrust immunity with respect to matters approved by the Board under sections 408, 409, or 412 of the Act, would be modified to more precisely describe the scope and type of immunity conferred. This change is designed to modify existing law so as to permit the Board to limit the extension of antitrust immunity to those actions actually approved by the Board. It is contemplated that the Board would approve anticompetitive arrangements only in those circumstances where such anticompetitive considerations are outweighed by a serious transportation need or important public benefits. It would also allow the Board to limit immunity to those aspects of the arrangement "affecting air transportation."

PROCEDURAL EXPEDITION

A new subsection (n) is added to section 401 which would require the Board to establish procedural standards, including time limitations on Board action, for the processing of applications filed in accordance with section 401 of the Act. The new subsection would require the Board to issue a public notice to all parties setting forth the reasons for any inability to reach a decision by the dates prescribed and mandates a new procedural deadline. The establishment of standards for particular classes of cases will be accomplished through rulemaking procedures in which all interested persons may participate. Such standards may be changed, as necessary, through the establishment of new standards by subsequent rulemaking procedures.

PASSENGER FARES

Sections 403, 404, and 1002 are amended to distinguish between the duties of certificated (combination) and licensed (charter) air carriers in interstate and overseas passenger air transportation, and the Board's powers with respect thereto. As to scheduled passenger service, the Board would retain jurisdiction to establish maximum fares, to establish minimum fares in cases of predatory practices or inadequate service, to establish reasonable rules, and to correct discrimination. With respect to passenger charters, only the reasonableness of carrier rules would be regulated.

The rule of ratemaking in section 1002(e) is revised to incorporate the new declaration of policy in section 102 and to eliminate carrier-protective criteria.

FREIGHT RATES

Sections 403, 404, and 1002 are amended to eliminate carrier duties and Board regulation with respect to the reasonableness of scheduled and charter freight rates in interstate and overseas air transportation. The Board would retain jurisdiction only over discriminatory rates in scheduled transportation and reasonable rules for scheduled and charter freight transportation.

MAIL TRANSPORTATION

Sections 401, 403, 404, 405, 406, and 1002 of the Federal Aviation Act and sections 3401(b) and (c) and 5402(a) of the Postal Reorganization Act are amended to recognize the authority of charter air carriers to carry mail, to provide for the establishment of mail rates by carrier tariff-filing rather than the current method of Board-established mail rates, and to enhance the mail contracting authority of the Postal Service. Section 403(a)(3) requires the filing of tariffs for mail transportation, section 404 requires the carriers to provide mail service (in lieu of deleted section 401(l)) at reasonable rates, and section 1002 gives the Board jurisdiction over the reasonableness of carrier-established mail rates and rules. Sections 3401(b) and (c) of the Postal Reorganization Act are amended to refer to mail tariffs rather than Board-established mail rates. Anachronistic provisions now in sections 405 and 406 of the Federal Aviation Act are deleted, and other subsections in section 406 relating to transportation of mail are moved to either section 405 or 1002. (The provisions relating to subsidy will be superseded by revision of the subsidy system.)

Section 405(a) is amended to eliminate the Postmaster General's authority to require additional carrier schedules, and section 5402(a) of the Postal Reorganization Act is amended to permit the Postal Service to contract for additional mail service with certificated (combination) or licensed (charter and all-cargo) carriers when it finds service in any market to be inadequate. (Section 5402(c) currently authorizes contracting with air taxis where service is inadequate, and section 5402(b) authorizes contracting where no service is certificated. Neither of these subsections requires the filing of tariffs, and rates are not subject to Board regulation.)

Section 405(j) in deleted, since it has been superseded by section 5007 of the Postal Reorganization Act.

SUSPENSION OF TARIFFS

Under revised section 403, tariffs are required to be filed for scheduled passenger fares and rules, scheduled freight rates and rules, and passenger and freight charter rules in interstate and overseas air transportation, and scheduled and charter mail rates and rules. (No change is made in passenger and freight tariffs for foreign air transportation.) The suspension provisions of section 1002(g) are applicable to such tariffs insofar as the Board retains jurisdiction (e.g., freight rates on scheduled interstate service could be suspended only in cases of discrimination).

Section 403(c) is amended to require that tariffs be filed on 45-days' notice (rather than the current 30 days) in order to increase public notice of tariff changes, in accordance with previous legislation (S. 1836 and H.R. 7017). Likewise in accordance with such legislation, section 1002(g) is amended to require that the Board issue suspension orders 15 days before the effective date of the tariff.

MISCELLANEOUS PROVISION

A new section 105 is added to make clear that no state or political subdivision may defeat the purposes of the bill by regulating interstate air transportation. This provision represents simply a codification of existing law and leaves unimpaired the states' authority over intrastate matters.

Section 801(a) is modified to require that licenses in overseas and foreign air transportation are subject to Presidential approval.

Section 1001(b) would give an express statutory underpinning to the Board's employment of Show Cause procedures.

Section 1005 is amended to permit the Board to undertake, limited emergency action without a hearing. It is believed desirable to make this modification so as to give the Board an additional tool for taking action to protect the public from unacceptable disruptions of service.

The Act shall take effect six months after the date of its enactment.

By Mr. WILLIAMS:

S. 3539. A bill to reorganize the executive branch of the Government to centralize Federal energy conservation and research and development policies in a National Energy Center. Referred to the Committee on Interior and Insular Affairs.

Mr. WILLIAMS. Mr. President, I am introducing today legislation to create a National Energy Center within the Energy Research and Development Administration. It would serve as the focal point for the formulation and implementation of energy research and development strategies. Equally important, it would contribute significantly to our energy conservation efforts. The Center would be a link between the Federal Government's energy conservation programs and research and development planning and the implementation of energy techniques and technology.

Our reliance on imported energy and dwindling conventional fuel sources has been dramatically demonstrated in the past 3 years. The realization that our traditional energy resources were truly finite has resulted in concerted congressional action to develop a coherent national energy policy. Congress has made great strides but much remains to be done.

In an effort to determine where we stand in terms of energy supply and where we are headed, Congress established the Energy Research and Development Administration. This Agency is charged with forming public policy to manage our energy supply and use, and to develop new energy sources to deal with our long-term needs. It has made considerable efforts to meet the policy goals mandated by Congress. And when we consider the relatively short life of the agency, the complexity of the problems, and the uniqueness of its task, we must, in all fairness commend ERDA for its efforts.

However, ERDA's energy policies have not resulted in an aggressive or effective energy conservation and research program. Several key gaps still exist in the administration's set of national energy goals. The measure being introduced today seeks to create a mechanism which will assist ERDA in closing these gaps.

To accomplish this task, the Center would advise and assist ERDA in its endeavor to comply with the congressional mandate to act as the lead energy research and development agency. It would not usurp any of the responsibilities of ERDA but complement the agency's energy efforts.

The National Energy Center would fulfill the needed requisite for a consistent national energy policy. It would house a headquarters for the development, collection, and dissemination of an energy conservation program and an office to oversee the development of an integrated energy research policy.

Energy conservation is of crucial importance. No longer can programs related to end use demand reductions take a backseat to programs designed to increase energy supplies. The two strategies are indispensable for achieving effective energy programs, and they must be pursued with equal vigor.

The bill creates an Energy Conservation Service within the Center to develop and coordinate a comprehensive energy conservative plan to encourage the maximum use of limited energy supplies. As headquarters for such a service, the Energy Center would develop, collect, evaluate, and disseminate energy conservation programs and concepts to citizens and communities as well as to the industrial and commercial sectors on a national scale. Training programs would be provided at the facilities—and other regional centers to be located throughout the country—to instruct field representatives in the most advanced methods of energy conservation and efficiency. These field representatives would then be sent to operate out of metropolitan city, suburban, and rural offices to advise and provide assistance and technical expertise to all sectors of the community. This assistance would come in varied forms including individual assistance, general distribution of energy conservation guidance materials, seminars and training sessions for civic and public leaders and organizations, and use of the media when appropriate.

A similar concept has already been favorably received in both the House and Senate. ERDA has recently revised its earlier energy research and development strategy to include a greatly expanded energy conservation program. Clearly, there is a unanimous recognition of the importance of conservation in meeting short-term objectives.

By creating an effective energy conservation ethic, we can both reduce our current energy consumption and provide the time for an orderly reassessment of the direction of our energy development program. This would provide a period to thoughtfully weigh our options and avoid irrevocable commitments to hazardous or improbable energy sources.

A second function of the Energy Center would be the development and implementation of new energy sources. It would serve as an energy policy clearinghouse to formulate, evaluate, and implement alternative energy policies and strategies which are consistent with social, institutional, and other factors and constraints related to the implementation of alternate energy technologies.

In October, the Office of Technology Assessment released a report entitled "Analysis of the ERDA Plan and Program." One of the principal findings cited the absence of a mechanism to evaluate nontechnical or institutional constraints which may be inherent in any particular new energy alternative.

> Simply establishing technical feasibility is insufficient as non-technical constraints may prohibit implementation. Such constraints could include any or all of: transportation, resource, manpower, and capital availability; public acceptability; or institutional, jurisdictional, economic, and environmental compatibility. If ERDA is to supply solutions to energy problems as mandated by Public Law 93–577, none of these can be neglected. If ERDA confines its activities predominantly to the proving of the feasibility of technological options, some other entity should address the more complex issues underlying energy solutions. In such a case, clear coordination with ERDA would be essential.

The Center would be charged with the responsibility to determine the impact of such nontechnical constraints. For example, according to the nuclear task group of OTA, the primary obstacle to achieve nuclear objectives are financial and institutional. The solar geothermal and advanced system task group of OTA indicated that rapid implementation of geothermal resources is hampered primarily by legal and institutional constraints. The conservation task group reported that the ERDA plan does not sufficiently consider political, economic, and environmental constraints inherent in the implementation of energy conservation technologies. With no mechanism in existence to orchestrate the administration of these various areas, counterproductive efforts result, frustrating progress toward national energy goals.

It is imperative that our search for alternate technologies be conducted under the guidance of a single research center. While such a center would be responsible to determine the feasibility of new technology, it would also conduct the research to expedite utilization of a new technology. This research should take into account global energy considerations such as international cooperation with regard to coping with environmental effects of energy generating technology, addressing security issues such as the management of nuclear materials and waste, and the management of the oceans.

In addition, socioeconomic research and analysis must be considered in identifying obstacles to acceptable energy solutions. Effective commercialization policies must be coordinated with business and industries. A research program must seriously address these factors in order to introduce commercially feasible and institutionally acceptable advanced technologies.

The Center would also be responsible for establishing techniques for the accurate and timely assessment of existing energy resources. This would help insure that policy analysis is based upon reliable resource availability data. It should also expand the development of "net energy analysis" methodologies in order to establish it as a consistent and acceptable tool for aiding in setting priorities for existing and developing technologies. The more precise the criteria for decisions, the more productive and cost effective our energy development will be.

Our national energy research and development effort certainly requires the highest public profile not only to mobilize the support of the electorate which must ultimately pay the bill for developing new energy sources, but also to provide public accountability for the decisions which must be made that will have a profound effect on the quality of all of our lives in the decades to come. The creation of a Center for the high-level activities of ERDA is an essential step in proving it with the profile necessary to galvanize public support.

The conclusion obviously is that there is a serious lack of cohesive national energy policy in the Federal energy program. The resources to establish a national policy exist, but at present, the efforts have been piecemeal and uncoordinated. It seems clear that the creation of an energy center would facilitate much needed policy coordination provide the impetus for a full scale national energy conservation program, while enhancing the profile of our national energy efforts as a means toward generating both public support and participation.

The National Energy Center conceptualized in this bill would be located at a site to be determined by a Site Selection Board. In designating the location of the Center, the Board should keep in mind the objectives of the Center and the characteristics of a particular region which would enhance these objectives.

A primary consideration should be the functional needs of the Center and its representative staff. Particular attention must be given to the availability of an extensive scientific and engineering community and a substantial onsite technical support. The location of the Center should also maximize the opportunity for interaction between the Center and the business and industrial community.

In addition, realization of energy development and conservation strategies will greatly rely on effective implementation programs. Therefore, site selection should consider the proximity to financial centers, auxiliary research institutions, universities, and industrial complexes in order to facilitate the transfer of research and technological developments into commercial products and services.

Climatic factors should also be taken into account. The siting of the Center in a four-season climate representative of that in which the majority of the population of the United States resides would certainly contribute to the reliability of technologies and strategies under most weather conditions. This could significantly reduce the time for practical implementation.

It must be recognized that a national energy research center such as proposed is essential to this country's energy program regardless of where it is finally located. However, it must also be recognized that the optimal site location of such a center can contribute significantly to the achievement of goals to be accomplished there. I believe that New Jersey offers many of the criteria which would make it an optimal location.

New Jersey is located at the center of the largest megalopolis in the world. It is also the center of one of the largest market places in the world. Therefore, New Jersey would be uniquely suited as a testing ground for policies developed by the National Energy Research Center.

New Jersey is in many ways an ideal microcosm of this Nation. Within its borders thrive virtually every form of industrial activity from agricultural to heavy manufacturing, most notably a well-developed oil refined complex and a diverse energy research and development sector. New Jersey reflects a full cross section of community structures ranging from sparsely populated rural and agricultural areas to densely populated industrial and urban centers. These aspects of New Jersey make it particularly well suited for the study of social and economic impacts of alternative energy policies and strategies. Thus, the State could serve as an excellent laboratory for the evaluation of any proposed strategies before implementation on a national scale.

In addition, New Jersey is a State which relies almost exclusively upon imported energy resources. This places New Jersey in a very vulnerable position with respect to future energy shortages, which in turn creates a great interest in the national goal of energy self-sufficiency. This fact, viewed in terms of its analytical potential is yet another factor which makes New Jersey a prime location for alternative energy policy evaluation and implementation.

Furthermore, New Jersey provides a typical four-season climate ideal for testing new technologies and conservation strategies under all climatic conditions, and a full range of energy uses.

New Jersey is one of the world's leading research and development centers, boasting more than 70,000 scientists, engineers, and technicians involved in public and private research and development programs in New Jersey. This industry's annual expenditures in New Jersey are estimated at over $3 billion a year, a significant percentage of the Nation's total research and development spending. Close to 80 percent of these funds emanate from the private sector. No other State in the Nation can come close to matching this figure.

New Jersey can further boast of an exceptionally strong system of higher education. Princeton University has attracted some of the world's most brilliant scholars and scientists. Additional scientific and intellectual resources can be found at Rutger's, the State University, Stevens Institute of Technology, Seton Hall University, the Institute for Advanced Study in Princeton, and many others.

With the assets and resources available in New Jersey, in terms of manpower, skilled labor, intellectual atmosphere, energy related activity, and the capacity to supply and service laboratories of any size, it is indisputable that New Jersey offers an ideal location for a National Energy Research Center.

Mr. President, the need to sustain an effective national energy policy convinces me that a central resource is needed for all phases of energy development. Considering the complexity of the problems and tasks confronting ERDA, a National Energy Center operating under the authority of ERDA would assuredly improve our energy development posture. The National Energy Center I propose would help ERDA respond to congressional mandates for a consistent and coordinated energy effort. Perhaps equally important, the Center would be a symbol of this Nation's effort to seek solutions to its energy problems. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3539

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Energy Center Act of 1976".

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress recognizes that the conservation of conventional energy resources and the development and implementation of alternate energy technologies, strategies and policies will have a profound impact on technological, economic, social, environmental, health, institutional, and other factors relating to the quality of life.

(b) Congress hereby finds—

(1) that the efficient utilization of energy requires a vigorous, coordinated national conservation effort;

(2) that the many diverse energy research and development programs presently in effect would best be served by establishing an energy analysis center to identify, compile, define, categorize, evaluate, and disseminate energy-related technological data and energy conservation techniques; and

(3) that such a center should integrate a concern for the quality of life with the pursuit of alternative energy technology and conservation practices.

(c) It is the purpose of this Act to establish a National Energy Center within the Energy Research and Development Administration to serve as the focal point for the formulation and implementation of energy research and development and to contribute to the national goal of energy self-sufficiency by—

(1) providing leadership in the implementation of new energy technologies by integrating energy strategies and policies;

(2) assisting the Administrator of the Energy Research and Development Administration in developing an integrated, comprehensive framework of energy policy by formulating, evaluating, and demonstrating alternative national energy strategies to supplement energy conservation efforts;

(3) establishing a national program to manage the efficient use of available energy resources; and

(4) fostering international cooperation in developing worldwide energy strategies.

NATIONAL ENERGY CENTER

SEC. 3. There is established in the Energy Research and Development Administration (hereinafter referred to as the "Administration") a National Energy Center (hereinafter referred to as the "Center") to be composed of an Energy Conservation Service and an Office for Energy Research and Policy Analysis to formulate, evaluate, and implement energy research and development policies, and conservation programs related to—

(1) energy technology, techniques, concepts, and programs for the development of alternative energy resources, increasing the efficiency with which energy resources are used, and improving energy conservation practices; and

(2) economic, social, environmental, health, institutional, and other factors which must be taken into account if successful alternative energy technology and energy conservation strategies are to be implemented successfully.

ENERGY CONSERVATION SERVICE

SEC. 4. (a) There is established in the Center an Energy Conservation Service (hereinafter referred to as the "Service") through which the Director shall establish and implement comprehensive programs for the identification, development, and demonstration of energy conserving practices, techniques, materials, and equipment for—

(1) agricultural, industrial, governmental, and educational institutions, small business concerns, and private citizens; and

(2) residential, industrial, governmental, commercial, or agricultural buildings or structures.

Such programs shall provide for technical assistance, instruction, and practical demonstrations in energy conservation methods and practices.

(b) To accomplish the purposes of this Act, the Service shall establish Service Extension Offices consisting of metropolitan city offices, county agents, and technical staff assistants.

(c) In establishing such Service Extension Offices, the Director is authorized to enter into agreements for the utilization of existing Agriculture Extension Service resources, or such other offices and personnel as may be appropriate, and to provide funds for such operations.

(d) Service Extension Offices shall disseminate information and provide advice and assistance under this section to individuals, groups, and units of State and local government by means of—

(1) specific studies and recommendations applicable to private residences, businesses, and agricultural or commercial establishments;

(2) demonstration projects;

(3) distribution of studies and instructional materials;

(4) seminars and other training sessions for State and local government officials and the public; and

(5) other programs designed to provide assistance to the public.

(e) The Service shall also identify, compile, evaluate, index, categorize, and disseminate energy conservation related data. Such information shall be made available to the public including but not limited to—

(1) agricultural, commercial, residential and industrial sectors; and

(2) private citizens.

OFFICE FOR ENERGY RESEARCH AND POLICY ANALYSIS

SEC. 5. There is hereby established in the Center an Office for Energy Research and Policy Analysis through which the Director shall—

(1) oversee the development of an integrated energy research policy;

(2) serve as principal advisor to the Administrator on matters relating to the development of new energy sources, including specifying alternatives for prospective policy decisions, assuring the anticipated impact of new energy sources, and monitoring and evaluating the coordination of a national energy effort;

(3) improve coordination of energy policy-making of Federal agencies;

(4) develop a capability to collect, analyze, and interpret data and evaluate energy research and development programs; and

(5) determine the effect of existing or proposed energy systems including economic, social, environmental, health and other related impacts.

OFFICERS

SEC. 6. (a) The Center shall be headed by a Director (hereinafter in this Act referred to as the "Director") who shall be appointed by the Administrator. The Director shall be a person who by reason of training, experience, and attainments is exceptionally qualified to implement the program of the Office. The Director shall be compensated at a rate equal to that for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(b) There shall be in the Office a Deputy Director who shall be appointed by the Administrator, who shall perform such functions, powers, and duties as may be prescribed from time to time by the Director, and who shall act for and exercise the powers of the Director during the absence or disability of the Director, or in the event of a vacancy in the office of Director.

DUTIES

SEC. 7. (a) The Director shall consult with the Secretary of Housing and Urban Development, the Administrator of the Federal Energy Administration, the Secretary of the Interior, the Administrator of the Environmental Protection Agency, and the heads of other Federal agencies administering energy-related programs, with a view toward achieving optimal coordination of programs administered by the Office with such other programs, and shall promote the coordination of programs under this Act with other public or private programs or projects of a similar nature.

(b) Federal agencies described in subsection (a) shall cooperate with the Director and the Administrator in disseminating information with respect to the availability of information and services under this Act, and in identifying energy-related interests of individuals, groups, or business and commercial establishments eligible for information or assistance under this Act.

(c) The Director shall promulgate such regulations as may be necessary to carry out the functions of the Office.

(d) The Director may employ such personnel, and retain such experts and consultants under section 3109 of title 5, United States Code, as may be necessary to carry out the functions of the Office as provided in sections 4, 5, and 6 of this Act.

CENTRAL RESEARCH FACILITY

SEC. 8. (a) The Administrator shall develop a plan for the purchase or construction of a Central Energy Research Facility (hereinafter referred to as the "Central Facility") consisting of a central laboratory, research facility, research and testing site, housing for employees of the Energy Research and Development Administration employed at the Central Facility and their families, and such other special-purpose structures, facilities or real property as the Administrator deems to be necessary. The Administrator may revise the unexecuted portions of the plan from time to time in accordance with changes in national energy requirements and scientific and technical advances.

(b) The Administrator shall conduct such tests, demonstrations, and pilot programs and may construct such facilities as may be necessary for the evaluation of the effects of alternative energy policies and strategies on the various sectors of the economy and society, and the effectiveness of proposed conservation measures.

(c) All Federal energy research relating to any of the goals set forth in paragraphs (1) through (5) of section 5 shall be carried out at the Central Facility, unless the Director and the Administrator specifically authorize such research to be undertaken at some other facility because of conditions requiring the use of such other facility. The Administrator shall transmit notice of any such determination in writing to the Chairman of the Committee on Government Operations of the Senate, the Chairman of the Committee on Government Operations of the House of Representatives, the Secretary of the Interior, and to the Secretary of Labor.

(d) The Central Facility shall be established at that location, recommended by the Site Selection Board established by section 9, in the continental United States in an area which meets the site selection criteria which reflects a broad cross-section of the nation's demographic and economic configuration, and includes the availability of a full range of nearby industrial, residential, and commercial communities which may be used to evaluate the effects of alternative energy policies and strategies on various sectors of society and the economy and the effectiveness of proposed conservation measures.

SITE SELECTION BOARD

SEC. 9. (a) There is hereby established as an independent organization within the Administration a Central Energy Research Facility Site Selection Board (hereinafter referred to as the "Board") which shall be composed of three individuals appointed by the President by and with the advice and consent of the Senate.

(b) A member of the Board who is not an officer or employee of the Federal Government shall receive compensation at the rate of $200 for each day he is engaged in the performance of duties of the Board.

(c) All members of the Board shall be reimbursed for travel, subsistence, and other necessary expenses incurred in connection with their activities as members of the Board.

(d) The Board shall transmit to the President, the President pro tempore of the Senate, and the Speaker of the House of Representatives a report containing its site selection together with a justification of such recommendation.

REPORTS

SEC. 10. The Administrator and the Director shall submit a joint report to the Congress at the end of each calendar quarter covering the progress of the various stages of planning, design, and construction, of the Central Facility and, upon completion of construction, shall submit reports semiannually covering the programs of research at the Central Facility and the progress of other programs undertaken there.

ANNUAL CONTRIBUTIONS FOR SUPPORT OF THE CENTRAL ENERGY RESEARCH FACILITY

SEC. 11. (a) The Administrator may make annual contributions to the municipal, county, or State government which has jurisdiction of the location at which the Central Facility is established. Contributions payable annually under this section shall not exceed such amounts as the Administrator determines are required to compensate any municipal, county, or State government for the provision of such services as are necessary to accommodate the increased demands on municipal, county, and State services caused by the presence of the Central Facility. The Administrator shall enter in a contract with the municipality, county, and State governments which contains provisions for such annual contributions in order to guarantee their payment, subject to the availability of funds. For purposes of making payments under this section, the Administrator shall establish standards for the cost of such services, taking into account the character and location of the services required.

(b) Every contract under subsection (a) shall provide that no annual contributions by the Administrator shall be made to the government which is a party to the contract unless such Central Facility is exempt from all real and personal property taxes levied or imposed by that government. If the Central Facility is not exempt from such real and personal property taxes, the contract shall provide, in lieu of the requirement for tax exemption and payments in lieu of taxes, that no annual contributions by the Administrator will be made.

AUTHORIZATION OF APPROPRIATIONS

SEC. 12. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

By Mr. BEALL (for himself and Mr. MATHIAS):

S.J. Res. 198. A joint resolution to recognize the 250th anniversary of the founding of the Christ Episcopal Church of Rockville, Md. Referred to the Committee on the Judiciary.

Mr. BEALL. Mr. President, I introduce and send to the desk a joint resolution which would authorize and request the President to issue a proclamation recognizing the 250th aniversary of the founding of the Christ Episcopal Church in Rockville, Md. My distinguished colleague, Senator MATHIAS, is a cosponsor of this resolution and our distinguished colleague, Congressman GILBERT GUDE, is today introducing an identical resolution in the House of Representatives. As one of the Original Colonies, Maryland has a long, deep, and rich history which is a source of great strength and inspiration to its 4 million citizens. Throughout our history, the secular and the sectarian sides of life have been closely intertwined. to their mutual benefit. In fact, the activities of the Anglican Church, the established church of England, predate the establishment of the Colony of Maryland.

In 1629 Capt. William Claiborne established a colony on Kent Island under the authority of the Virginia Company. On October 15, 1631, the Reverend Richard James, an Anglican clergyman, conducted the first known Christian service in Maryland for these Kent Islands settlers. The following year King Charles I granted a charter to Ceilius Calvert, the second Lord Baltimore, for the establishment of a colony north of Virginia which would be named Terra Mariae in honor of Queen Henrietta Maria. It is interesting to note that the Calvert family were converts to Roman Catholicism and the colony was established, in part, to serve as a refuge for persecuted Catholics. The second Lord Baltimore was wise enough to realize that he would unleash serious religious animosity if he did not allow a high degree of religious freedom in the colony. This tolerant policy worked well during the early years of the colony.

By 1638, the colonist had erected a brick church in St. Mary's City which was used alternately by both the Anglicans and the Roman Catholics. In 1649, the general assembly enacted the famous Maryland Toleration Act which guaranteed religious freedom in the colony. This act lessened religious tensions which stemmed, in large part, from the English Civil War. It also helped to encourage the growth and development of the colony. The glorious revolution of 1689 ended the reign of James II, a Roman Catholic, and brought to the English Throne the Protestant co-rulers—William and Mary. This change of government in London had prompt repercussions in Maryland. The Calvert family's proprietorship over the colony was suspended, a Royal Governor was appointed, and the Church of England was established as the State Church of Maryland. The State church continued to consolidate its position until the American Revolution when many Loyalist Anglican clergymen returned to England. In 1780, a church convention was held in Chestertown, Kent County, which created the Protestant Episcopal Church and severed ties with the Church of England and the monarchy. The first American bishop of the Episcopal Church was a Marylander, the Reverend Dr. Thomas John Claggett, who was consecrated in Trinity Church, New York, on September 17, 1792.

Christ Episcopal Church in Rockville, was established during that period of Maryland's history when Anglicanism was the official church in the colony. On July 25, 1726, the members of the Rock Creek Chapel asked the colonial assembly to create a new parish. This new parish—Prince George's Parish—encompassed what is now Garrett, Allegany, Washington, Frederick, Montgomery, and part of Carroll Counties plus the District of Columbia. The first rector of this new parish was the Reverend George Murdock, a native of Prince George's County who was to serve until his death in 1761. Although several chapels were built on or near the present site, the name Christ Church did not appear until Bishop Claggett consecrated a two-story brick church in 1808.

The huge parish was progressively reduced in size until 1830 when Christ Church became the parish church. The Civil War deeply divided the congregation and vestry of Christ Episcopal Church, just as it divided the State and the Nation. The congregation contained slaveholders and abolitionists, pro-Union and pro-Confederate sentiments. The church survived the ordeal of the War Between the States and resumed its growth in the post-war period.

Mr. President, the present building was begun in 1884 and finished in 1887, only to be severely damaged by a hurricane in 1896. In 1905 a new bell was cast by the McShane Bell Foundry in Baltimore for Christ Church. Between 1916 and 1919 the active women in the congregation successfully raised money for the installation of a pipe organ. On Sunday, July 25, 1926, the Prince George parish celebrated the bicentennial of Christ Church with appropriate ceremonies. In 1966 the church was enlarged and remodeled, by Walter G. Peter, Jr. who was one of the architects involved in the restoration of Ford's Theatre and the Decatur House.

On June 13, 1976, Mrs. Beall and I will join the parishioners in a special service marking the sesquibicentennial of Christ Church. It is my understanding that Cardinal Baum, the Reverend John M. Allin—the presiding bishop of the Episcopal Church, and other distinguished clergy and civic leaders will be in attendance. Other activities are planned throughout 1976.

In closing, Mr. President, I would like to note that Christ Church stands today as an enduring symbol of the strength of the religious faith which serves as one of the cornerstones in the foundation of our Nation. This historic parish helps to keep alive those traditional values which were so important to our forefathers. I would hope that, in 1976—our Nation's Bicentennial Year, all Americans would experience a rededication of our commitment to these traditional values and beliefs.

Mr. MATHIAS. Mr. President, I am pleased to join my distinguished colleague, Senator BEALL, in cosponsoring this joint resolution honoring the 250th anniversary of Christ Episcopal Church in Rockville, Md. Our distinguished Maryland colleague in the other body, Mr. GILBERT GUDE, is offering an identical resolution in the House of Representatives today. This is a significant occasion for the members of Christ Episcopal Church, particularly in this Bicentennial Year of our Nation.

Christ Episcopal Church is the largest Episcopal church in the second largest city of Maryland. Its founding is rooted deeply in the history of colonial Maryland, and arose from the petitioning of the Colonial Assembly to create Prince Georges Parish to meet the spiritual needs of the new settlers. This occurred in July 1726. The parish which was subsequently established contained all of what later became Frederick, Washington, Garrett, Allegany, Montgomery, and part of Carroll Counties, in addition to the territory now in the District of Columbia. In the years which followed, the parish was subdivided again by the creation of All Saints Parish which became the mother parish of western Maryland. Christ Episcopal Church as we now know it was founded by a later division of All Saints Parish.

All Saints is my own parish which I have had the privilege of serving as warden and vestryman.

Christ Episcopal Church is rich in history which spans pre-Civil War times to the present. Since 1726 and throughout its history, the church flourished because of the involvement of all its congregations. This aspect of church community, and the tangible results which followed and contributed to the growth of the church, should also be honored at this time.

Mr. President, since January of this year, there have been numerous celebrations to honor the 250th anniversary of Christ Episcopal Church. However, the highlight of this year of celebrations will occur this Sunday, June 13, in Rockville. A special service in commemoration of the anniversary of the church will be held at that time with the presiding bishop, the Right Reverend John M. Allin, and diocesan bishops in attendance, and honored by the participation of Cardinal Baum, archbishop of Washington.

I feel it is fitting and appropriate at this time, therefore, to extend recognition to Christ Episcopal Church and to the continuing spirit of all its congregations which made this 250th anniversary a reality.

ADDITIONAL COSPONSORS

S. 2020

At the request of Mr. RIBICOFF, the Senator from Connecticut (Mr. WEICKER) was added as a cosponsor of S. 2020, to provide optometric coverage under part B medicare payments.

S. 2356

At the request of Mr. BUCKLEY, the Senator from New Hampshire (Mr. DURKIN) was added as a cosponsor of S. 2356, to provide tuition tax deductions.

S. 2589

At the request of Mr. MCGOVERN, the Senator from North Dakota (Mr. BURDICK) was added as a cosponsor of S. 2589, the Young Farmers' Homestead Act of 1976.

S. 2910

At the request of Mr. SCHWEIKER, the Senator from Kentucky (Mr. HUDDLESTON) was added as a cosponsor of S. 2910, to establish the National Diabetes Advisory Board.

S. 2925

Mr. MUSKIE. Mr. President, I ask unanimous consent that the Senator from Maryland (Mr. MATHIAS) be added as a cosponsor of S. 2925, the Government Economy and Spending Reform Act of 1976.

The PRESIDING OFFICER. Without objection, it is so ordered.

S. 3182

At the request of Mr. TAFT, the Senator from Michigan (Mr. GRIFFIN) and the Senator from North Carolina (Mr. MORGAN) were added as cosponsors of S. 3182, to amend the Occupational Safety and Health Act of 1970.

S. 3205

At the request of Mr. TALMADGE, the Senator from Indiana (Mr. HARTKE) and the Senator from Georgia (Mr. NUNN) were added as cosponsors of S. 3205, to provide for the reform of the administrative and reimbursement procedures under medicare and medicaid programs.

S. 3311

At the request of Mr. ROBERT C. BYRD (for Mr. MAGNUSON), the Senator from Georgia (Mr. NUNN) was added as a cosponsor of S. 3311, to amend the Federal Power Act.

S. 3329

At the request of Mr. HARTKE, the Senator from Massachusetts (Mr. BROOKE) and the Senator from Colorado (Mr. HASKELL) were added as cosponsors of S. 3329, to expand the boundaries of the Indiana Dunes National Lakeshore.

S. 3411

Mr. HRUSKA. Mr. President, I ask unanimous consent that the Senator from Arizona (Mr. FANNIN) and the Senator from Georgia (Mr. TALMADGE) be added as cosponsors of S. 3411, to protect the public from traffickers in heroin and other opiates, and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

S. 3425

At the request of Mr. NELSON, the Senator from Kansas (Mr. DOLE) was added as a cosponsor of S. 3425, the Locks and Dams 26 bill.

S. 3501

At the request of Mr. BURDICK, the Senators from Montana (Mr. MANSFIELD and Mr. METCALF) were added as cosponsors of S. 3501, to amend the act entitled "An act to authorize establishment of the Fort Union Trading Post National Historic Site, North Dakota and Montana, and for other purposes."

S. RES. 291

At the request of Mr. Beall, the Senator from Iowa (Mr. Culver) was added as a cosponsor of Senate Resolution 291, clarifying the intent of Congress regarding the regulation of pay cable television.

SENATE RESOLUTION 458— SUBMISSION OF A RESOLUTION TO REFER A BILL TO THE COURT OF CLAIMS

(Referred to the Committee on the Judiciary.)

Mr. EAGLETON submitted the following resolution:

S. Res. 458

Resolved, That bill (S. 3531), entitled "A bill for the relief of R. Dean Dawes and others", now pending in the Senate, together with all the accompanying papers, is referred to the Chief Commissioner of the United States Court of Claims; and the Chief Commissioner shall proceed with the same in accordance with the provisions of sections 1492 and 2509 of title 28, United States Code, and report thereon to the Senate, at the earliest practicable date, giving such findings of fact and conclusions thereon as shall be sufficient to inform the Congress of the nature and character of the demand as a claim, legal or equitable, against the United States or a gratuity in the amount, if any, legally or equitably due from the United States to the claimant.

SENATE RESOLUTION 459—ORIGINAL RESOLUTION REPORTED RELATING TO THE RECEPTION OF FOREIGN VISITORS

(Referred to the Committee on Rules and Administration.)

Mr. SPARKMAN, from the Committee on Foreign Relations, reported the following original resolution:

S. Res. 459

Resolved, That subsection (b) of the first section of Senate Resolution 91, 94th Congress, 1st Session (agreed to March 18, 1975) is amended as follows:

(1) Strike out "ending June 30, 1975" and insert in lieu thereof "1976".

(2) Strike out "$10,000" and insert in lieu thereof "$15,000".

AMENDMENTS SUBMITTED FOR PRINTING

FEDERAL ENERGY ADMINISTRATION ACT EXTENSION—S. 2872

AMENDMENT NO. 1782

(Ordered to be printed and to lie on the table.)

Mr. GARY HART (for himself, Mr. Humphrey, Mr. Fannin, Mr. Kennedy, Mr. Javits, Mr. Philip A. Hart, and Mr. Abourezk) submitted an amendment intended to be proposed by them jointly to the bill (S. 2872) to amend the Federal Energy Administration Act of 1964 to extend the expiration date of such law until September 30, 1979, and for other purposes.

AMENDMENT NO. 1783

(Ordered to be printed and to lie on the table.)

Mr. FORD submitted an amendment intended to be proposed by him to the bill (S. 2872), supra.

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION AUTHORIZATIONS—S. 3105

AMENDMENT NO. 1784

(Ordered to be printed and to lie on the table.)

Mr. JACKSON. Mr. President, on behalf of the chairman of the Joint Committee on Atomic Energy, Mr. Pastore, and myself, I have sent to the desk an amendment to S. 3105, the fiscal year 1977 authorization bill for the Energy Research and Development Administration. As the Senate is aware, the Joint Committee and the Interior Committee share jurisdictional oversight over ERDA, including annual authorization requests for that agency. In consideration of the fiscal year 1977 authorization request the Interior Committee examined the nonnuclear programs of the ERDA budget and the Joint Committee examined the nuclear programs. Both committees reviewed the programs that are supportive of both nonnuclear and nuclear programs. The amendment which we introduce amends certain portions of title III of the bill over which both committees have responsibility. The amendments are of a technical nature correcting the text of the bill. Their adoption would make the bill consistent with the actions taken on this title by both committees.

EXPORT ADMINISTRATION ACT EXTENSION—S. 3084

AMENDMENT NO. 1785

(Ordered to be printed and to lie on the table.)

Mr. STEVENSON. Mr. President, when the export administration bill, S. 3084, is considered by the Senate, I intend to offer an amendment to promote and encourage international efforts to stem the proliferation of nuclear weapons. My amendment would call on the President to seek an international agreement or other arrangement whereby:

First, nuclear exporting nations refuse to supply any other nation with materials or technology which would materially assist the establishment of national nuclear enrichment, reprocessing, or heavy water facilities while alternatives to such national facilities are explored;

Second, nuclear exporting nations refuse to supply nuclear materials or technology to any other nation that has not agreed to implement international safeguards on all its nuclear facilities;

Third, minimum physical security standards are established to prevent the unauthorized diversion of nuclear materials and technology;

Fourth, arrangements are established for effective and prompt responses to violations of any multilateral agreement to control the use of nuclear materials and technology; and

Fifth, nuclear exporting nations, in cooperation with nuclear importing nations, actively pursue the concept of multinational facilities, as an alternative to national enrichment, reprocessing, and heavy water facilities, as a means of meeting the world's nuclear fuel needs.

The amendment urges the President to actively seek and secure such an agreement by the earliest possible date. And it requires that the President provide the Congress with a progress report within a year of enactment.

Mr. President, this measure is needed to encourage and advance efforts already underway. For more than a year, the nuclear supplier nations have been meeting to discuss ways of mitigating the growing dangers of nuclear proliferation. The fact that such discussions are taking place at all represents a significant breakthrough.

The lure of the lucrative nuclear export market makes it difficult for the participants to control the potential for nuclear holocaust which their commerical rivaly creates. Billions in potential export sales undermine proponents of caution. The temptation to gain a competitive edge by offering facilities for the reprocessing of plutonium or the enrichment of uranium—the stuff of which nuclear weapons are made—magnifies the problem. But the fact that the supplier nations now appear to recognize the dangers—and are willing to talk to each other about them—offers a glimmer of hope that the present suicidal drift can be halted. An expression of congressional support for these efforts, coupled with a clear statement of U.S. objectives, would demonstrate the seriousness of our purpose and the intensity of our interest in meaningful, concrete, measures to deal with this growing menace to world peace.

The world desperately needs to chart a new course for meeting its energy needs without creating the conditions for self-destruction. Some progress has been made. The supplier nations have agreed, for example, to insist on safeguards on future nuclear exports. They have agreed to require recipients to give a pledge against the making of nuclear explosives. And they have agreed to require recipients to insist on safeguards and similar assurances against nuclear explosives upon any retransfers of their exports. These are significant accomplishments and will help plug major loopholes in the existing safeguard system. Had such policies been implemented in the past they could have prevented the Indian nuclear explosion.

But much more needs to be done. I need not recite such dangerous and destabilizing developments as the German uranium enrichment facility for Brazil, or the French reprocessing facilities for Pakistan, Iran, and Argentina. An earlier French proposal to supply reprocessing facilities to South Korea was fortunately withdrawn after timely U.S. objection, prompted in part by a resolution which I, with the support of several of my colleagues, introduced in March of 1975. But U.S. computer sales for South African uranium enrichment facilities and other pending proposals for nuclear assistance to South Africa and other world trouble-spots are testimony to the irresistible lure of nuclear export sales and the temptations they present.

There are two driving forces behind

the proliferation of nuclear weapons capability. One is the desire to tap nuclear power to meet burgeoning energy needs, a desire reinforced by the five-fold increase in oil prices since 1973. The other is the desire of nations with nuclear power programs to free themselves from dependence on others for the fuel to power their reactors. Here, too, the 1973 oil embargo has left an indelible imprint, reinforced, no doubt, by uncertainty over the reliability of the United States as a supplier of nuclear fuel.

Reprocessing and enrichment facilities offer a source of reactor fuel, and thereby, an instrument for independence. But they also hold the key to the manufacture of nuclear weapons.

In no country today is reprocessing an economic enterprise. The cost of reprocessed fuel far exceeds the cost of enriched uranium. And no single country outside the United States and the Soviet Union has nuclear power requirements of sufficient magnitude to justify an indigenous enrichment program.

Hence, the suspicion arises that a plea for a means of nuclear independence may mask a desire for nuclear weapons. A list of the potential trouble spots of the world—Korea, South Africa, the Middle East, India, Pakistan, Brazil, Argentina—and the nearly identical list of countries seeking reprocessing or enrichment capability, does little to allay the suspicion. But even among the innocent, reprocessing, and enrichment facilities open the door to the nuclear weapons club. And it is that fact that transforms the desire for nuclear independence into a worldwide nuclear threat.

Quite some time ago I called for a moratorium on U.S. nuclear exports in order to give the world a breathing-spell, an opportunity to reassess the implications of proliferating nuclear power facilities. Now that cooperative efforts are underway, it is imperative that they be supported and that progress be achieved before the goal becomes even more elusive by widespred access to nuclear weapons capability.

A refusal by the supplier nations to transfer to any other nation materials or technology which would assist the establishment of national uranium enrichment, nuclear fuel reprocessing, or heavy water facilities while alternatives to such facilities are being pursued is an essential first step. It makes no sense to continue supplying the means for national weapons development while we are talking about limiting such development.

Similarly, a refusal by the supplier nations to transfer nuclear materials or technology to any other nation that has not agreed to implement international safeguards on all its nuclear facilities and activities would close a major loophole in the existing safeguard system. It makes little sense to supply safeguard nuclear facilities to a nation which retains a previously acquired core of unsafeguarded facilities. The technology acquired through one is easily transferred to the other, and thus, the dangers of unsafeguarded facilities are perpetuated, and, indeed, exacerbated.

By the same token, the establishment of minimum physical security standards to prevent the unauthorized diversion of nuclear materials and technology would provide the means for preventing—instead of merely detecting—the conversion of peaceful nuclear materials to nonpeaceful or other unauthorized uses. The present system of safeguards, such as it is, does no more than identify, diversions. It is powerless to prevent such diversions from occurring. Moreover, in the absence of agreed upon minimum physical security standards, there can be little assurance that nuclear materials will not fall into the hands of terrorists or saboteurs, who with tiny amounts of plutonium can fashion a crude nuclear weapon with relatively minimal skill.

It is also, therefore, essential that there be effective and prompt responses to violations of any multilateral agreement intended to prevent the uncontrolled proliferation of nuclear materials and technology. Presently, no mechanism for a response exists. Members of the Nuclear Nonproliferation Treaty can withdraw from the treaty and thereby forswear their international commitments with a simple 90 days notice. Any international agreement or arrangement, if it is to be meaningful, must carry with it the authority and power to secure compliance.

And finally, active pursuit of the concept of multinational facilities to meet the world's nuclear fuel needs would get to the heart of the nuclear proliferation problem. Removal of uncertainty over the availability of fuel supplies would eliminate the incentives for acquiring reprocessing or enrichment facilities or heavy water reactors, each of which can convey energy independence but at a great risk of diversion to nonpeaceful purposes. Until the users of nuclear energy are assured of adequate uninterrupted sources of fuel, the incentive to acquire independent fuel facilities—with all the risks they entail—will continue.

Mr. President, this measure identifies the principal sources of the world's nuclear proliferation problem—sales of reprocessing, enrichment, and heavy water facilities; the absence of safeguards on every nuclear facility; the lack of minimum physical security standards; the lack of sanctions for violations of nonproliferation obligations; and uncertainty over the availability of nuclear fuel supplies.

Congressional support for a prompt international resolution of these issues would signal to the President that these are, and should be, matters of the highest priority. It would strengthen his hand in the international discussions now underway. And by calling for a multilateral solution, with emphasis on the production of adequate fuel supplies to satisfy peaceful nuclear needs, it would signal to the rest of the world the U.S. desire for a solution which reflects the legitimate aspirations of the energy-poor nations of the world.

An atmosphere of suspicion has too often clouded nonproliferation efforts. Motives are suspect. The nonnuclear nations often view nonproliferation initiatives as a guise for perpetuating the present nuclear monopoly. By the same token, the nuclear exporting nations often view U.S. nonproliferation efforts as a means of perpetuating U.S. dominance in the nuclear export market.

But now that a modest first step has begun—in an atmosphere conducive to mutual trust—it is essential that the journey be continued. There will be time enough to pursue other avenues, including unilateral action, if current efforts fail, but the time to consider alternatives is after we have explored all the paths now open. Adoption of my proposal would confirm the good faith of the United States and its willingness to seek and abide by an international solution to this most pressing of international problems.

PACKERS AND STOCKYARDS ACT—H.R. 8410

AMENDMENT NO. 1786

(Ordered to be printed and to lie on the table.)

Mr. HELMS. Mr. President, I submit an amendment for printing to H.R. 8410, a bill to amend the Packers and Stockyards Act of 1976, as amended, and for other purposes, and I ask unanimous consent that the text of the amendment be printed at this point in the Record.

There being no objection, the amendment was ordered to be printed in the Record, as follows:

Amendment No. 1786

Beginning on page 6, line 7, strike out all drawn through page 7, line 9, and insert in lieu thereof:

"Sec. 409. (a) Each packer, market agency, or dealer purchasing livestock shall, before the close of the next business day following the purchase of livestock and transfer of possession thereof, deliver a check, wire transfer, or deposit a check for delivery by United States mail, to the seller or his duly authorized agent for the full amount of the purchase price: *Provided, however*, That in the case of a purchase on a carcass or "grade and yield", the purchaser shall make payment by delivery of a check, deposit of a check for delivery by United States mail, or wire transfer of funds to the seller's account for the full amount of the purchase price not later than the close of the first business day following determination of purchase price."

OMNIBUS CRIME CONTROL AND SAFE STREETS ACT AMENDMENTS—S. 2212

AMENDMENTS NOS. 1787 AND 1788

(Ordered to be printed and to lie on the table.)

Mr. BEALL. Mr. President, I submit two amendments to S. 2122, amendments to the Omnibus Crime Control and Safe Streets Act of 1968. Both of my amendments are designed to strengthen efforts to combat crimes against the elderly. One of these amendments is identical to S. 1875, which I introduced on June 4, 1975. S. 1875 has subsequently been cosponsored by the following Senators: Senator Brock, Senator Buckley, Senator Cranston, Senator Domenici, Senator Fannin, Senator Laxalt, Senator Mathias, Senator Moss, Senator Pell, Senator Hugh Scott, and Senator Thurmond.

Mr. President, I ask unanimous consent that the text of these two amendments be printed in the Record.

There being no objection, the amendments were ordered to be printed in the Record, as follows:

Amendment No. 1787

On page 20, line 18, before the period insert a comma and the following: "and the prevention of crimes against the elderly".

AMENDMENT No. 1788

Page 10, line 19, strike "and".

Page 10, between lines 19 and 20 insert: "(3) develop programs and projects for the prevention of crimes against the elderly, except that the requirement of this clause may be waived by the Administration, in whole or in part, upon a finding that the provision is inappropriate for that State; and

On page 10, line 20, substitute "(4)" for "(3)"

NOTICE OF HEARING BEFORE COMMITTEE ON THE DISTRICT OF COLUMBIA

Mr. EAGLETON. Mr. President, the Senate Committee on the District of Columbia will hold a hearing on Saturday, June 19, at 9 a.m. to receive a report from Arthur Andersen & Co. on the accounting and financial management practices of the District of Columbia government. The hearing will be held in room 1202, Dirksen Senate Office Building, and is open to the public.

NOTICE CONCERNING NOMINATION OF PHILIP M. VAN DAM

Mr. HRUSKA. Mr. President, the following nomination has been referred to and is now pending before the Committee on the Judiciary:

Philip M. Van Dam, of Michigan, to be U.S. attorney for the eastern district of Michigan for the term of 4 years, vice Ralph B. Guy, Jr., resigning.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in this nomination to file with the committee, in writing, on or before Monday, June 14, 1976, any representations or objections they may wish to present concerning the above nomination with a further statement whether it is their intention to appear at any hearing which may be scheduled.

NOTICE CONCERNING NOMINATION OF GEORGE O. HOUSER, JR.

Mr. HRUSKA. Mr. President, the following nomination has been referred to and is now pending before the Committee on the Judiciary:

George O. Houser, Jr., of Wyoming, to be U.S. marshal for the district of Wyoming for the term of 4 years, vice Charles R. Wilcox, resigned.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in this nomination to file with the committee, in writing, on or before Monday, June 14, 1976, any representations or objections they may wish to present concerning the above nomination with a further statement whether it is their intention to appear at any hearing which may be scheduled.

NOTICE OF HEARING ON NOMINATION OF MARY ANNE RICHEY

Mr. HRUSKA. Mr. President, on behalf of the Committee on the Judiciary, I desire to give notice that a public hearing has been scheduled for Tuesday, June 15, 1976, at 9:30 a.m., in room 2228 Dirksen Senate Office Building, on the following nomination:

Mary Anne Richey, of Arizona, to be U.S. district judge for the district of Arizona, vice James A. Walsh, retiring.

Any persons desiring to offer testimony in regard to this nomination, shall, not later than 24 hours prior to such hearing, file in writing with the committee a request to be heard and a statement of their proposed testimony.

The subcommittee will consist of the Senator from Arkansas (Mr. McCLELLAN); the Senator from Nebraska (Mr. HRUSKA) and myself as chairman.

NOTICE OF HEARINGS BY THE AMERICAN INDIAN POLICY REVIEW COMMISSION

Mr. ABOUREZK. Mr. President, the American Indian Policy Review Commission announces a seminar to be held on Friday, June 18, 1976, from 10 a.m. until 12:30 noon in the Rayburn House Office Building, room B–308.

This seminar will feature a panel discussion on the differences of Oklahoma Indians by members of Task Force No. 1 on Federal Indian Relationship, Task Force No. 2 on Tribal Government, Task Force No. 4 on Federal, State, and Tribal Jurisdiction and Task Force No. 9 on Indian Law Revision and Codification.

Contact Grace Thorpe at 202–225–1284 for further information.

ANNOUNCEMENT OF HEARINGS IN SOUTH DAKOTA

Mr. ABOUREZK. Mr. President, the American Indian Policy Review Commission Task Force No. 5 investigating Indian education, announces public hearings to be held June 18, 1976, at the Pierre Indian Learning Center, Pierre, S. Dak., beginning each day at 9 a.m.

Persons interested in submitting testimony should contact Albert Jones at 605–224–8661 or Yvonne Misiaszek at 509–456–6824.

HEARINGS BEFORE THE COMMITTEE ON GOVERNMENT OPERATIONS

Mr. RIBICOFF. Mr. President, I wish to announce that the Committee on Government Operations will hold 1 day of hearings on S. 2715, the Public Participation in Government Proceedings Act of 1976, on Thursday, June 10, 1976, beginning at 9:30 a.m., in room 5302, Dirksen Senate Office Building.

ANNOUNCEMENT OF HEARINGS

Mr. JACKSON. Mr. President, Previously, I announced the scheduling of an Interior Committee oversight hearing on the Alaska Native Claims Settlement Act for June 10, 1976. Due to the numerous requests to testify, we have scheduled another day for hearings. The hearings will now be held on June 10 and 14, 1976. They will begin at 10 a.m. in room 3110 of the Dirksen Senate Office Building.

NOTICE OF HEARINGS AND BUSINESS MEETINGS

Mr. JACKSON. Mr. President, in accordance with the rules of the Committee in Interior and Insular Affairs, I wish to advise my colleagues and the public that the following hearings and business meetings have been scheduled before the committee for the next 2 weeks:

June 8.—Minerals, Materials and Fuels Subcommittee, 10 a.m., room 3110, hearing, status report on U.N. Law of the Sea Conference.

June 9.—Full committee, 10 a.m., room 3110, business meeting, pending calendar business.

June 10.—Full committee, 10 a.m., room 3110, hearing, oversight hearing on implementation of Alaska Native Land Claims Settlement Act.

June 11.—Indian Affairs Subcommittee, 10 a.m., room 3110, hearing, oversight hearing on Quechan Tribe land issue.

June 14.—Full committee, 10 a.m., room 3110, hearing, oversight hearing on implementation of Alaska Native Land Claims Settlement Act.

June 15.—Energy Research and Water Resources Subcommittee, 10 a.m., room 3110, hearing, S. 2194, to authorize the Secretary of the Interior to construct, operate, and maintain the McGee Creek project, Oklahoma; H.R. 6622, for repair of the Del City aqueduct, Oklahoma.

June 16.—Full committee, 10 a.m., room 3110, business meeting, pending calendar business.

June 17.—Parks and Recreation Subcommittee, 10 a.m., room 3110, hearing, S. 2630, to amend the Youth Conservation Corps Act of 1970.

NOTICE OF HEARINGS ON QUALITY OF LIFE AND THE ENVIRONMENT

Mr. CULVER. Mr. President, on Friday, June 11, 1976, the Panel on Environmental Science and Technology of the Senate Environmental Pollution Subcommittee will hold the third hearing in its ongoing series entitled "Choosing Our Environment: Can We Anticipate the Future?" These hearings, which will be held periodically throughout the year, will explore the need for more effective foresight in public policy and will identify emerging issues of importance to the Environmental Pollution Subcommittee.

The third hearing, "Quality of Life and the Environment," will begin at 10 a.m., June 11, 1976, in the Public Works Committee hearing room, 4200 Dirksen Senate Office Building, Washington, D.C. It will explore the determinants and nature of the future quality of life in America. This examination will include a discussion of the relationship between the quality of life and economic growth, the desirable changes in actions by the Federal Government affecting the quality of life, and the environmental changes which might adversely affect our quality of life.

The following witnesses are scheduled to testify before the panel on June 11, 1976:

Mr. Robert Theobald, consultant to the Northwest Regional Foundation in Spokane, Wash., and author of "Beyond Despair: Directions for America's Third Century," and editor of Futures Conditional;

Mr. B. Bruce-Briggs, resident consultant at the Hudson Institute and coauthor—with Herman Kahn—of "Things to Come: Thinking About the Seventies and Eighties"; and

Dr. Bertram Gross, distinguished professor of Urban Affairs at Hunter College, City University of New York, and author of "The State of the Nation" and "Managing Organizations."

The first session in this series, which occurred on December 15, 1975, provided an orientation to the subject of futures analysis, including the effectiveness of forecasting in policymaking. The second hearing was conducted in February and investigated the directions and prospects of national growth and its concomitant impact on the environment. Subsequent hearings will continue to study the potential for more effective forecasting by assessing the Environmental Protection Agency's analysis of future environmental problems, the role of citizen participation in the planning process, and the implications of forecasting for the Congress.

ADDITIONAL STATEMENTS

TOILETS IN THE FIELDS

Mr. CURTIS. Mr. President, the Occupational Safety and Health Administration just adds insult to injury when it comes to their dealings with the agricultural community.

Several days ago, I brought to your attention the ridiculous OSHA pamphlet, "Safety With Beef Cattle," that addresses farmers in a childish, demeaning tone.

I have received many telephone calls, some from within OSHA, congratulating me for taking a stand and refusing to put up with such nonsense.

Just when I think I have heard everything, OSHA tries to top itself in telling farmers what to do.

Now OSHA is telling farmers they may have to put toilets out in the fields. Is it not just amazing that farmers have lived without such conveniences for thousands of years? Now they are told they may have to hitch Jiffy-Johns to their tractors?

Perish the thought it could be that simple. They will probably need one for men and one for women.

Lest you think I am making this up, I ask unanimous consent to have printed in the Record an article entitled "Toilets in Your Fields?" that appeared in the Nebraska Farmer, May 15, 1976.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Nebraska Farmer, May 15, 1976]

Toilets in Your Fields?

If you hire someone to do field work, will you have to put toilets in your fields?

That's one of the latest proposals on job safety and health from the federal government.

Under a Department of Labor proposal the Occupational Safety and Health Administration would:

Require toilet and handwashing facilities for all employees engaged in field work. The facilities would have to be within a 5-minute walk of an employee or employees and be kept clean and in good working order. One exception would be where four or fewer employees are in the field with "readily available" transportation to nearby toilet facilities. Then such facilities wouldn't need to be in the field. Another exception would be if the work doesn't take more than 2 hours, in which case toilet and washing facilities wouldn't need to be placed in the field.

Require that potable water for drinking purposes be provided for all employees engaged in agricultural work in the field.

Require that field food service, if provided, "be carried out in accordance with sound hygienic principles."

ASPECTS

Aspects of these proposals under debate are:

Whether the standards include all agricultural field operations, as provided in the proposal, and should the requirements be uniformly applied?

(The proposed standards draw heavily on the food crop production sanitation code that's been in effect in California for 10 years. Nonetheless, the standards are being considered for all agriculture across the country.)

Whether such proposed facilities are necessary for safety and health of agricultural employees.

What is an adequate number of toilets and washing facilities? (The proposal calls for one set of facilities per 40 employees.)

Whether alternative compliance, such as transportation to facilities rather than facilities in the field, should be permitted for small employee groups.

Whether the specifications on location of sanitation facilities can be enforced.

The proposed standards, once in final form and accepted, would be enforced by the Occupational Safety and Health Administration.

Mr. CURTIS. This article was brought to my attention by some concerned constituents. The man who sent me the article went on to say, "I propose that Congress declare a national holiday so that the citizenry may witness the public hanging of the individual who thought up such a scheme."

A rancher from North Platte, Nebr., writes:

> . . . we usually employ two full time people and through haying season we may employ six full time for a period of 2–3 months. . . .
>
> Now this proposal is one of the most ridiculous things I have heard and would be impossible to carry out in our operation. When we are working in hay or farming area, the employees have a pickup or a tractor available to go to their house or bunkhouse to use toilet facilities. When we are out in pastures on a horse, it would really be a sight to see a cowboy carrying a portable toilet on his horse.

Not to mention how the horse would feel about it.

I cannot get over the idea that OSHA thinks farmers never figured out how to handle this problem in all these years. Why, agriculture is the oldest profession in the world, or one of them, at least. Give farmers credit for being capable of handling their personal needs.

The article which I reprinted earlier states:

> The proposed standards, once in final form and accepted, would be enforced by the Occupational Safety and Health Administration.

I urge my colleagues to argue strongly against such acceptance. It is hard to imagine what OSHA will think of next.

It is time to cut off OSHA's money. It is a good example of Government at its worst.

INTERNATIONAL THESPIAN SOCIETY HONORS LOIS SACKMAN

Mr. McGEE. Mr. President, a special Wyoming woman will be honored by the International Thespian Society at the 16th International Theater Arts Conference at Ball State University in Muncie, Ind., June 20–26. The contributions of Lois Sackman of Riverton, Wyo., to the International Thespian Society have been countless and in her honor, I ask unanimous consent to have printed in the Record a portion of a letter about Mrs. Sackman from Nancy J. Stearns, Wyoming State Thespian director.

In addition to the accomplishments listed in Mrs. Stearns' letter, Mrs. Sackman is the debate coach at Riverton High School which has received national honors on several occasions in debate competition.

There being no objection, the letter was ordered to be printed in the Record, as follows:

June 1, 1976.

Senator Gale McGee,
Russell Office Building
Washington, D.C.

Dear Senator McGee: Lois Sackman of Riverton, Wyoming, is serving as the International Director of the International Thespian Society. Prior to her election to that prestigious and time consuming post, Mrs. Sackman served as a member of the Board of Trustees and as Assistant International Director for us. She, in performing her duties as Director, has traveled countless miles across this country during the past six years, representing not only the International Thespian Society but the State of Wyoming. Mrs. Sackman has dedicated countless hours to the members of her own troupe in Riverton as well as working for our non-profit organization; that is concerned with the betterment of Secondary School theatre. Her post as International Director is a non-compensatory position and as our International Director she has written thousands of letters to theatre directors, students and troupes throughout the world. She has traveled to many conferences, work sessions, and meetings held throughout our Nation. In all of her duties, Mrs. Sackman has always reflected the warmth and extended the best wishes of the State of Wyoming.

Mrs. Sackman will conclude her term of office this summer and her final duties will be to preside over the Sixteenth International Theatre Arts Conference that she has planned, organized and that will be presented at Ball State University in Muncie, Indiana this June 20–26.

During the week-long conference the International Thespian Society will honor Mrs. Sackman for her tireless efforts and dedication to the furtherment of quality theatre in the Secondary Schools throughout the world.

TWO ARGUMENTS IN FAVOR OF RATIFICATION OF THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, many words have been devoted toward answering objections and misgivings pertaining to the Genocide Convention. Let me now briefly explore two positive effects of ratification.

There seems to exist a general consensus, both within past Senate debates and between nations, as to what constitutes genocide. As such, it is recognized as a crime against all humanity. Consensus in this area parallels the language of the convention.

Ratification would put the United States in a more acceptable legal and moral position. It would enable us to more effectively protect acts of genocide throughout the world. Presently, since we have not signed the treaty, such American protests might appear hypocritical. Ratification would remove this apparent contradiction between our lack of support for the Genocide Convention, and our historic leadership in the area of protection of basic rights.

Another argument for ratification springs from the dynamic nature of the law. The scope and importance of international law is increasing daily. This is just as evident in the area of human rights as in laws covering undersea mineral explorations. It would serve this Nation well to have a strong input in the development and application of international law. Our ratification of the Genocide Convention is an important step in this direction. Our input is both valuable and necessary.

For these reasons, I once again call upon my colleagues in the Senate to move swiftly in ratifying the Genocide Convention.

B–1 AND INFLATION

Mr. FANNIN. Mr. President, I ask unanimous consent to have printed in the Record a statement by the distinguished Senator from Arizona (Mr. Goldwater), and the article attached thereto.

The statement and article ordered to be printed in the Record are as follows:

Statement by Senator Goldwater

Now that we are engaged in a conference between the House and the Senate, the subject of the B–1 amendment introduced by Senator Culver will certainly be one of the major issues. I think it would be a good idea to bring my colleagues up to date on just what that amendment could amount to if it ever becomes a part of the total bill. An article entitled, "B–1 and Inflation" appearing in the Retired Officer Magazine of June, 1976, pretty well sums it all up, but doesn't go on to say that the amendment can cost this country as much as a half billion dollars if it stays.

B–1 and Inflation

In 1970, before inflation hit, the estimated cost for a single B–1 bomber was $42.1 million. Last year, mostly because of inflation, it jumped to $63.4 million and now is projected to be $87 million by 1985.

Using 1970 as the year when a dollar was worth 100 cents in buying power, the Air Force says that by 1985, the year B–1 costs are calculated through, the dollar's buying power will be only 42 cents.

A $3,500 car in 1970 will have a price tag of about $7,000 in 1985, Air Force says. Or a pound of margarine that cost 35 cents in 1970—and now costs 83 cents—will have a price tag of $1.17 in 1985.

A single B–52 cost $8 million when built in the 1960s. Applying the inflation figure used in computing B–1 costs, the same bomber would have a price tag of $33 million today, Air Force says.

The Air Force says it will cost $45 million to update each of the B–52s now flying, and even then they will not have the supersonic speed and exotic electronics to perform the missions the B–1 can accomplish.

The first B–52 joined the Air Force inventory 21 years ago this month.

THE CLEMENCY BOARD AND UNDESIRABLE DISCHARGES

Mr. McGOVERN. Mr. President, 2 years ago, amid a flourish of praise and celebration, the President announced the creation of the Presidential Clemency Board, a move, he predicted, would bind the wounds of the Vietnam war and give draft dodgers and deserters a chance to renew their stature in society. A little more than a year later, the Board quietly died—and the promise of opportunity, respect, and relief for the young Americans the Board was initially designed to help died with it.

Now, instead of a fanfare, silence marks the mention of the clemency program. The reason, as explained in a recent article by Jack Anderson, is that the program never lived up to our expectations. Not only were many of the Board's recommendations ignored, but the "clemency discharges," which were granted to recipients of undesirable discharges in an attempt to restore their records to good standing and improve their chances for success, have been meaningless. The stigma has not been removed and, in fact, the "clemency discharge" may even be more damaging to the records and reputations of many veterans than were undesirable discharges.

Although the Presidential Clemency Board apparently did fail in providing a meaningful remedy to this problem of bad discharges, the door need not be closed to veterans hold "bad papers." One solution I support is that of improving military discharge review procedure. By changing the review procedure and by revising the standards the panels now follow in determining whether a discharge should be upgraded, the many thousands of young veterans who are suffering because less than honorable discharges were issued unfairly, indiscriminately, or prejudicially, could see their records wiped clean.

Mr. President, I have introduced legislation, S. 1254, which offers this remedy. It has been cosponsored by my colleagues Senators Metcalf, Haskell, Humphrey, Mondale, Philip A. Hart, Percy, and Inouye. The article by Jack Anderson, entitled "The Clemency Board: 'A Bureaucratic Vietnam'" emphasizes the need for this legislation, and I ask unanimous consent that it be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

The Clemency Board: "A Bureaucratic Vietnam"

(By Jack Anderson)

Just eight days after President Ford pardoned Richard Nixon for his Watergate crimes, the President established a clemency board to offer similar charity to the draft dodgers and deserters of the Vietnam War.

He promised at an Oval Office ceremony in September 1974 that the new board would bind up the nation's wounds and would offer the Vietnam violators an opportunity "to earn their return to the mainstream of American society."

For the next year, the board became bogged down in a jungle of red tape. The Vietnam outcasts found themselves caught in a sort of bureaucratic Vietnam, complete with the in-fighting, the bungling and the poor leadership that characterized the lost war.

The board offered conditional clemency to about 100,000 servicemen and 13,000 civilians who had committed offenses related to the war. To encourage the violators to apply, the board pledged not to make the files available "to any other agency of government." It was a promise that the board shortly violated by voting to forward evidence of serious crimes to the Justice Department.

This heightened the distrust of an alienated generation who, therefore, were slow to respond to the clemency offer. They were just beginning to gain confidence in the board when its charter ran out. The board asked President Ford for a six-month extension. But he extended the board only a month, then another month.

Despite a sudden surge of applications, he rejected a request for another extension and closed down the board. Of 113,337 eligible for clemency, only 21,729 applied before the deadline. The program ended in failure, therefore, with 91,608 Vietnam violators still consigned to purgatory.

The President, under increasing fire from the right wing of his own party, had become uneasy over the clemency program. He wanted to wind it up, according to White House sources, with a report that would appease its conservative critics.

The staff produced draft reports, however, that contained blistering criticisms of the Selective Service system. One report assailed local boards for failing sometimes to inform the registrants of their legal rights, declaring that "the processing of registrants was likely to be flawed" and that the "exercise of (their) rights was often meaningless."

Selective Service officials often refused to certify registrants as conscientious objectors, a staff report charges, because of a "lack of familiarity with the teachings of religion (and) lack of general acceptance."

Another staff analysis charged that the military discharge office had failed to consider a man's entire service career before slapping him with an undesirable discharge.

But in September 1975 the board met at the Camp David, Md., presidential retreat and quietly cut out almost all criticism of the Selective Service system. They produced a final report that our sources describe simply as a "whitewash." As evidence, they have shown us copies of the suppressed draft reports.

From several sources, we have also pieced together the story of how the clemency program was mishandled. Here are the highlights:

The board unanimously recommended honorable discharges for scores of servicemen who went AWOL after heroic service in Vietnam. The AWOL after heroic service the discharges of servicemen who deserted their military units after being injured. Ex-Sen. Charles Goodell (R–N.Y.) personally presented these recommendations to White House counsel Philip Buchen in late 1974. Goodell made another personal appeal directly to the President. But Ford still hasn't acted on the recommendations.

Similarly, he has ignored another board recommendation to grant pardons to about 700 servicemen who face prosecution for minor offenses they committed after returning from Vietnam.

The board granted "clemency discharges" to thousands of Vietnam servicemen. These were supposed to remove the stigma of an undesirable discharge. Yet incredibly, servicemen with undesirable discharges have had better results getting veterans benefits. Goodell has acknowledged privately that a clemency discharge is sometimes worse than an undesirable discharge.

A clemency discharge is also supposed to improve the veteran's chance of eventually gaining an honorable discharge from the Pentagon. Yet our sources say the Pentagon brass look with scorn upon the clemency discharges. The practical effect has been to make it more difficult for the veterans to upgrade their discharges.

The clemency board promised applicants that they could comment on the case summaries before they were submitted to the board. These summaries were used by the board members to help them judge the cases. We have established, however, that the board usually made decisions before giving the applicants a chance to respond. When some applicants learned about this, they threatened to sue. The board immediately reneged on the promise, issued new regulations and applied them retroactively.

The staff members who played the most important roles in the board's operation were chief counsel Lawrence Baskir and staff director William Strauss. Now Baskir and Strauss have obtained a $220,000 grant from the Ford Foundation to study the clemency program they helped to administer.

Both men assured us they will be both fair and objective in assessing the program. We also spoke to Goodell who acknowledged that certain criticisms had been deleted from the final report. The board felt it shouldn't evaluate the work of other agencies, he said. He also contended that President Ford backed the board on most matters.

TRIBUTE TO ALFRED SELBY

Mr. **SCHWEIKER**. Mr. President, I join with my colleagues in mourning the passing of Alfred Selby, a dedicated employee of the Senate who died earlier this week at the age of 85.

Mr. Selby, who was born in Philadelphia in 1891, began his service in the U.S. Senate at the start of World War I. He served this body longer than anyone else in history—through 31 Congresses, an incredible 62 years.

I will remember Mr. Selby as a self-effacing yet dignified individual whose diligence in his work was an inspiration to all who knew him. My wife and I extend our sympathy to Mrs. Selby and her family.

THE PETROLEUM SITUATION

Mr. **BARTLETT**. Mr. President, petroleum industry divestiture has been made a significant issue facing the country and Congress. If divestiture legislation is enacted, it will be a devastating blow to our Nation's economy, our national security, and our society as a whole.

An excellent article describing some of the many negative aspects of divestiture entitled "United We Stand, Divided We Fall," was prepared by Mr. John W. Winger, respected energy economist with the Chase Manhattan Bank. I ask unanimous consent that it be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

The Petroleum Situation

"UNITED WE STAND, DIVIDED WE FALL"

This year is the two hundredth anniversary of the United States. And, as the nation celebrates its Bicentennial, its history will be reviewed a great many times throughout the year. Looking back over the past 200 years, one cannot fail to be greately impressed with the progress achieved in that time.

Yet, in some respects, we seem not to have progressed at all. The nation's founding fathers—the men who wrote the Constitution and the Bill of Rights—displayed greater wisdom and foresight than do many of the governing bodies and agencies of today.

The establishment of the original 13 colonies was based upon freedom. And with that guiding principle they were able to grow and prosper. Within a relatively brief period of time no people on earth were freer or possessed a higher general standard of living than the colonists. Along with their prized freedom, the colonies also recognized that they should be united in some respects. They learned that in many efforts they could achieve much more by acting in concert rather than individually. The progressive realization of that fact led to the establishment of the United States. One of the men who helped to draft the United States Constitution was John Dickinson. And it was he who first uttered the often quoted words "By uniting we stand, by dividing we fall."

By allowing the separate states to act with a specified degree of autonomy while operating under a central government and also by preserving the freedom of the individual, the framers of the Constitution created a nation that has since become the greatest in the world. No other has achieved so much progress; no other has achieved such a high standard of living.

GOOD FOR BUSINESS TOO

In a great many instances the principles of the Constitution have been applied to economic activities for similar reasons and with similar success. Like the colonies, many small businesses are inherently weak, greatly dependent on one another, and highly vulnerable to fluctuating competitive circumstances. By themselves, they are unable to generate the financial resources needed to become stronger, more efficient, and more competitive. But, by joining together, by integrating their interrelated specialized activities, they can attain those goals and serve their markets better in the process. Dickinson's advice to the colonies more than two centuries ago is fully as applicable to many business organizations today.

In virtually all the major sectors of the United States economy integration has evolved to varying degrees. Small businesses have not been supplanted by this process; in fact, they have flourished instead. The expansion of the integrated organizations created the need for a great many new, smaller supporting businesses. And the stability provided by the coordinated activities of the integrated organizations created a less risky environment that permitted the smaller businesses to coexist and prosper.

HOW IT WAS THEN

In no sector of the United States economy are the benefits of integrated operations better illustrated than by the history of the petroleum industry. The industry had its beginning with the drilling of the first successful oil well in Pennsylvania in 1859. The early history of the industry can best be described as a chaotic period. Then, as now, the search for petroleum ranked among the riskiest of all business ventures. The likelihood of finding oil was highly uncertain and it was impossible to know in advance how much money would be required. Although it was growing, the market for oil was small and each new large-scale discovery caused the price to fluctuate wildly. In fact, within a two year period of the industry's early history, the price of crude oil once plunged from 28 dollars per barrel to 10 cents and then recovered to 22 dollars. Under the circumstances, the new industry could not obtain financial assistance from the conventional sources open to most forms of business enterprise. Therefore, to finance the search for petroleum, it had to depend solely upon capital provided by a few adventuresome individuals.

TO REDUCE THE RISK

The high risks were by no means limited to the search for petroleum. Because of all the uncertainties involved, few were willing to invest capital in the transportation, refining, and distribution facilities required to satisfy consumer demand for petroleum products. Thus, the need for integrated operations existed right from the start. The producers quickly recognized that, if they were to get their oil to market, they would have to do it themselves. By providing their own facilities, the producers were able to minimize their risks. They knew in advance that when they found more crude oil they would be able to transport it, refine it, and deliver the refined products to their customers. With that assurance, they had a greater incentive to expand their search for more petroleum. And they had the stability required to gain access to the capital markets and thereby finance their activities.

With experience, the producers also learned that integrated operations enabled them to provide consumers with petroleum products at lower cost. By skillfully coordinating the movement of oil from the point of production to the consumer, maximum efficiency was achieved. The duplication of capital investment, manpower, and operating costs that would have existed with segregated operations was avoided.

A STABILIZING INFLUENCE

The progressive evolvement of integrated operations brought a great measure of stability to the petroleum industry. And with the more stable conditions came a lessening of the risks. Consequently, there were more opportunities for independent businesses. Many of the integrated companies were able to refine more crude oil than they could produce and therefore they represented a market for independent producers of crude oil. And, with the assurance of a ready and economically sound market for their oil, the independents grew in number and expanded their activities. There were also other integrated companies that were not able to refine all the oil they produced and they represented a stable source of supply for newly formed independent refiners. As a group, the integrated companise have never marketed directly as much oil as they refined. And their excess output has constituted the major source of supply for a great number of independent marketers that have come into existence as a consequence.

Clearly, the existence of the major integrated companies has provided a vast umbrella of economic security over a great many smaller independent businesses. Although there are only 50 integrated or partly integrated companies, there is a total of 10,000 producers of oil and natural gas. There are 100 interstate pipeline companies, 131 refining companies, 15,000 wholesalers and 18,000 marketers of fuel oil, and as many as 300,000 marketers of gasoline—95 percent of whom are independent businessmen. And the number of independents continues to grow. A decade ago, independent marketing companies had 18 percent of the gasoline market; today, they have 36 percent—twice as much.

Without the stabilizing influence and protection provided by the integrated companies, it is extremely doubtful that many of the smaller organizations could have come into existence or survived in the economic environment that otherwise would have prevailed. And it is equally doubtful that a great many other small businesses operating outside the petroleum industry could have evolved either in the high risk environment that surely would have existed without the stable framework the integrated companies gave to the industry. These are the business organizations that supply the industry with a vast range of specialized goods and services.

BENEFITS TO ALL

Although the petroleum industry is not much more than half as old as the United States, it has nevertheless contributed greatly to the over-all progress and well-being of the nation. It has provided to all individual, business, and governmental consumers a broad range of petroleum products and raw materials in abundance and at prices lower than anywhere else in the world. Without that petroleum, much of the economic progress achieved would not have been possible. Without the economic progress, most of the social gains would not have been attainable. And, without the existence of the integrated companies, the industry could not possibly have provided so much petroleum at such low prices. There is not the slightest doubt about that.

ALARMING PROPOSALS

Yet, despite all the obvious benefits flowing from the activities of these integrated organizations, proposals have been introduced in Congress to break them up. Some members of Congress have proposed legislation that would break each of the 20 largest integrated companies into 4 separate organizations. Producers would no longer be permitted to transport, refine, or market. Transporters could not produce, refine, or market. Refiners would not be allowed to produce, transport, or market. And marketers could not produce, transport, or refine.

WITH ALARMING RESULTS

The consequences of the proposed legislation are frightening. If enacted, any of the so-called divestiture bills would have an enormously damaging effect upon the nation. Without doubt, the petroleum industry would be badly crippled and rendered much less able to satisfy the nation's need for petroleum.

And that development would represent a devastating blow to the nation's economy which is utterly dependent upon an adequate supply of energy. It would also greatly increase the nation's dependence upon foreign sources of petroleum and thereby increase its vulnerability. It is highly unlikely that all the petroleum needed from foreign sources would be available. And that which could be imported would surely be very high priced under the circumstances. Obviously, the nation's security would be weakened as a result of the greater dependence upon external sources of petroleum. Finally, the cost of petroleum to all consumers would surely be much higher as a consequence of divestiture.

TWO KINDS OF COMPETITION

Those who want to break up the 20 major integrated companies claim that competition would thereby be increased. So it would—but not the kind of competition they envisage. Not all competition is the same, of course. It can be healthy and therefore beneficial. And it can also be unhealthy and harmful. There are no sound reasons for believing divestiture would produce any additional competition of a beneficial nature. But it would be certain to lead to a great deal of vicious, harmful competition.

Consider what the situation would be following a breakup of the 20 integrated companies. Although there would be four times as many operating entities, there would be no more producing companies, no more transportation companies, no more refining companies, and no more marketing companies. There would still be 20 of each just as before. But they would be functioning separately instead of being integrated under 20 corporate roofs. Since the producing companies would not be competing with the transportation or refining or marketing companies and vice versa, there would be no net increase in the kind of competition that might be potentially beneficial to the consumer.

But there would be a great increase in another kind of competition. The major integrated companies are the nucleus of the petroleum industry. If those companies were broken apart, the industry would no longer have a nucleus. And the remaining disorganized components would be caught up in a mad chaotic scramble for the limited supply of oil that would be available. No longer would there be the smoothly coordinated, highly efficient movement of oil from producer to consumer. Instead, the oil would move to those organizations willing to pay the highest price.

For as far into the future as anyone can possibly estimate, there is going to be a seller's market for crude oil. And, under those circumstances, the producing companies could pick and choose their refining customers at will. Logically, they could be expected to choose those willing to pay the most. Premium payments would become commonplace—they would be both demanded and offered just as they were on various occasions in the past. There would be no obligation for a dismembered producing company to provide crude oil to the refining organization with which it was formerly associated in an integrated operation—not if other refiners offered to pay a higher price.

And in this process, the price would be bid up and up as the refiners struggled to cover their needs. Long term contracts would be a rarity—with none at all at a fixed price. The producers would have no incentive to make them. And neither would the refiners have any reason to make such contracts with the marketing companies. Nor, as a dismembered component of a former integrated company, would the refiner feel compelled to supply the marketing component with which it was formerly associated. Instead, like the producing companies, the refiners would have a seller's market and would sell to the highest bidders.

A DESIGN FOR WEAKNESS

The nation's growing dependence on foreign oil would make the situation even worse. By 1985, our needs for imported oil will be at least 50 percent greater than now—and quite possibly even more. That dependence will increase the bargaining power of the foreign oil producing countries. And a breakup of the major integrated companies would increase it a great deal more. The weaker fragmented companies could easily be played off against one another and against the stronger foreign competitors. It is important to bear in mind that the market for petroleum outside the United States is much larger and also that the other importing nations have an even greater dependence upon the foreign producing countries. Therefore, they can be expected to compete vigorously for an adequate share of a limited foreign supply. Clearly, they would be able to compete more successfully with the weaker, dismembered companies than with the stronger integrated companies. It would be a made-to-order seller's market for the oil producing countries and they would doubtless price their oil accordingly. And the United States might very well be unable to import as much as it would need.

A CAPITAL DEFICIT

Clearly, there is a compelling need for the United States to increase its petroleum self-sufficiency as rapidly as possible. And, if progress toward that goal is to be achieved, the domestic petroleum industry will have to invest a vast amount of money. Just to attain no more than 60 percent self-sufficiency by 1985, the industry would need to invest at least 315 billion dollars in the next decade—assuming a 5 percent annual rate of inflation. If the inflation amounted to 10 percent instead, the industry's capital needs could be expected to total 430 billion dollars. The investment must be made—it is futile to think that success can be achieved with anything less.

An investment of such magnitude would be exceedingly difficult for the industry even with its existing structure. But there is no likelihood that a fragmented industry could manage. Moreover, the capital needs of a fragmented industry would be even greater because of the redundant investment that would be required. When the various functional activities are integrated, facilities all along the line from production to consumption can be jointly utilized. But that would be impossible after divestiture—each of the segregated companies would have to be fully self-sufficient with its own facilities. And those facilities would have to be adequate to satisfy peak needs—the flexibility provided by integrated activities would be lost.

Because they would be less efficient, the segregated companies would also have higher operating costs of all kinds. And that would make it more difficult for them to generate capital funds internally unless they increased their operating revenue by charging higher prices. And their ability to borrow capital funds would be less than that of the integrated companies because their operations would involve substantially greater risks. With all the additional uncertainties that would be created by divestiture, lenders would be less able to justify loans and would be forced to charge higher rates. And those same uncertainties would severely damage the incentive to invest, not only on the part of the segregated companies but also by the other independent operators as well.

Considering all the adverse factors that would be the product of divestiture, there is no realistic basis for thinking an adequate capital investment would be made. Indeed, it would most likely fall far short. And, in that event, the shortage of petroleum would be even more severe. Without enough petroleum, economic activity would surely be restricted with rising unemployment among the many unfavorable consequences, of course.

There is not the slightest doubt that much higher prices for petroleum would be a natural result of divestiture. The creation of seller's markets at all stages coupled with higher costs of doing business make that prospect virtually certain. And it is equally certain that there would be a great many casualities of the competitive struggle for an adequate supply. With out doubt, many of the small independent businesses of today—both within and outside the petroleum industry—would be unable to survive in the environment created by that conflict.

THE REASON WHY

Considering that divestiture would do the nation a great deal of harm and would have no truly redeeming features whatsoever, one might well ponder the reason why such legislation is proposed and supported. At recent meetings of businessmen all across the nation, that question has been raised and discussed repeatedly. And always the conclusion is the same. Everyone agrees that political expediency is the reason. Businessmen and politicians alike know that an unenlightened public is suspicious of all big business. And integrated petroleum companies are highly visible examples of big business. Moreover, the public displays hostility toward the large petroleum companies because of the recent increase in the price of petroleum products—not knowing that the money derived from higher prices is going to various governments rather than the companies.

The integrated petroleum companies, therefore, are an easy target. This is, after all, an election year. And, for politicans, the temptation to play the role of Jack the Giant Killer is great. Businessmen know this. And they are currently very much concerned about it. They recognize the divestiture issue for what it is—another in a series of attacks on business. And they are fearful of the consequences. They know how much they depend upon energy to conduct their business— in fact, nearly three-fourths of the nation's energy use is for business purposes. And they recognize that divestiture would lead to greater energy shortages and much higher prices. They understand, because they have first hand knowledge of all the benefits of integrated operations. Their concern is clearly reflected in the fact that all the major business organizations in the nation have repeatedly taken vigorous public stands against divestiture.

TO STAND OR FALL

The cause of the energy shortage in the United States can largely be attributed to a long series of ill-advised harmful actions of government beginning nearly four decades ago. And it would indeed be a great disservice to the United States if government were to take still another detrimental action when there is such a great need to increase the nation's energy self-sufficiency. There is an urgent need for government to recall the wisdom of the nation's founding fathers two hundred years ago, men who recognized the value of unity—who understood the need to stand and work together. That need is fully as great today. It applies to the activities of business organizations. And, above all, it applies to the relationship of business and government. But, if government instead continues in an adversary posture, continues to take harmful divisive action, how can we hope to stand? Surely, we must eventually fall. That is something to ponder on the two hundredth anniversary of the United States.

THE PROD TEAMSTERS REPORT: A CHALLENGE TO CONGRESS

Mr. GRIFFIN. Mr. President, for some time now an organization of dissident Teamsters known as the Professional Drivers Council—PROD—has been compiling a detailed study of abuses by their union leaders. This report has just recently been released. Entitled "Teamster Democracy and Financial Responsibility," the PROD report is an important document which again underscores the urgent need for a full investigation of the Teamsters Union by a Senate committee.

The PROD report has been called by Time magazine "one of the strongest indictments yet of corrupt, self-serving, and autocratic Teamster leadership." But while it highlights the incredible salaries and fringe benefits pulled down by greedy union officials, the report's most disturbing finding is that rank and file teamsters have no idea how to cure the problems in their union. Teamster members have been kept in the dark about their rights under the Landrum-Griffin Act, and the Federal Government, under the administrations of both parties, generally has been too timid in its enforcement of the law.

The report presents a real challenge to Congress. Further reforms in the law are necessary and Congress ought to get about the job of providing better and more meaningful protection of rank-and-file rights.

I ask unanimous consent that the Time article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Opulent Teamsters

Dissidence within the International Brotherhood of Teamsters is not rare, indeed, it is to be expected in the nation's largest union, which has 2.3 million members ranging from over-the-road truck drivers to nurses and policemen. But a report last week by the Washington-based Professional Drivers Council (PROD), a small but increasingly vocal organization of reformist Teamsters, amounts to one of the strongest indictments yet of corrupt, self-serving and autocratic Teamster leadership.

Though it comes not quite a year after the mysterious disappearance last July of former Teamster Boss Jimmy Hoffa, the 177-page PROD report does not dwell on the union's violent history and associations with organized crime. Instead, drawing chiefly on Teamster financial records filed, as required by law, with the Department of Labor, it focuses on the style of life enjoyed by Teamster officials—and finds it far removed from that of the rank and file, who pay $120-$300 a year in dues to support it. The picture that emerges is of a clubby, entrenched leadership enjoying benefits unmatched in any other union and indeed in few corporations.

In the PROD study, the top Teamsters appear as a cabal of executives with six-figure salaries and perks to match, including free vacations. French chefs at international headquarters in Washington, and the use of the seven jets and turboprops in the Teamster "air force," which is one of the largest private fleets in the country. Some specifics:

SALARY SANDWICHES

In 1974, the most recent year covered by the report, 17 officials received at least $100,000 a year, with some getting more than $150,000. President Frank Fitzsimmons, at $125,000 plus expenses, receives less than some of his underlings but is still doing better than any other labor-union leader. President Leonard Woodcock of the 1.4 million-member United Auto Workers Union is paid $48,000, and $60,000 is tops at the big (700,000-member) American Federation of State, County and Municipal Employees Union.

At the Teamsters, multiple salaries are common. One Kansas City, Mo., Teamster chief holds ten posts, including "general organizer," a title Fitzsimmons can bestow at will. It brings few duties but carriers a $30,000 salary.

GIVING AT THE OFFICE

Intramural gift giving is prevalent. Two years ago, for instance, Chicago Local 781 gave $72,000 in bonuses to three of its officials. including the president and his son, the secretary-treasurer. Sweetheart deals on cars are common: in Cleveland, nine Teamsters bought late-model autos from the union for a total of $13. For top officials, there are fully paid vacations, with expenses for wives, secretaries and aides.

PENSION-FUND POWER

Unlike their colleagues in unions belonging to the A.F.L.-C.I.O., which prohibits salaried officials from being paid for managing pension funds, Teamster bosses have turned these funds into another source of bounty. For managing the fund at Local 182 in Utica, N.Y., for example, Teamster Boss Rocco dePerno drew nearly $20,000 in 1974, over and above his regular salary of $46,000 and the $30,890 he got as a general organizer. Even non-Teamsters share the pension riches. In 1974 the administrator of the Ohio Drivers' Welfare Fund, Dayton Attorney Robert Knee, Jr., was paid $878,900—about 5.5% of the fund's assets.

PROD was organized by dissident long-haul truck and bus drivers in 1972 to lobby in Congress for improved health and safety conditions for Teamster members; today PROD claims 2,000 dues-paying members. Executive Director Arthur Fox, 33, a former National Labor Relations Board lawyer, launched the study of Teamster executive peccadilloes after Hoffa's disappearance last year and is persuaded that the report will show other Teamsters "what their leadership is—a collection of money-hungry men most interested in lining their own pockets."

PROD hopes its report will add fuel to a recently launched Senate investigation of Teamster practices and cause trouble for Fitzsimmons as he seeks election to a second five-year term as president at the union's convention in Las Vegas next month. Yet not even PROD's prodders see much chance for genuine reform from within the Teamsters soon. Although they are hopeful the Government may force some changes, about all dissidents can do under the current entrenched upon management is complain. With so much money and power at the top, concludes PROD's report, the average Teamster has almost no voice in how the union is run.

SENATOR MATHIAS ADDRESSES HAVERFORD GRADUATES

Mr. SCHWEIKER. Mr. President, the Senator from Maryland (Mr. Mathias) recently addressed the graduating class of his alma mater, Haverford College in Bryn Mawr, Pa. His speech is an eloquent call to the future, and I ask unanimous consent that it be printed in the Record so others may have the opportunity to share in it.

There being no objection, the address was ordered to be printed in the Record, as follows:

Commencement Address, Haverford College, May 11, 1976, by Senator Charles McC. Mathias, Jr.

Even Walter Mitty never dreamed of giving the commencement address at his own college. I am proud to be here. (Pocketa Pocketa Queep.)

I must admit I'm a little nervous too. I'm nervous, perhaps paradoxically, because I come as a member of the family and not as a stranger. As family, I know of course the standards of excellence Haverford exacts of its own, and I can't shake off an uneasy feeling that our alma mater has prepared this ultimate test to see how the cub, licked into shape here some 30 years ago, is doing now.

My nerves were not steadied much either by a letter I came across while working on this talk. The letter was written by my classmate Ted Irving. In it, Ted coined a new beatitude: "Blessed are they who expect little of commencement speeches for they shall be satisfied."

To make matters worse, I have discovered who some of your other commencement speaker nominees were. It troubles me to think how it might have been, especially since one of you, when asked what I should talk on, answered: We don't care much what he says as long as he makes it funny.

I warn you right now: I am no substitute for Kurt Vonnegut or Ken Keesey. Who is? And the harrowing events of the past few years in Washington have done little to improve my sense of humor. The outrages of the Nixon-Agnew years had a very sobering effect. More recently I found little fun serving on the committee which discovered that our Government had asked the Mafia to try to arrange for the assassination of a foreign chief of state.

Fortunately, others of you said that I didn't have to be funny, that an "advice-type talk—some reflections on the things that are important in life" would do just as well.

This too is a formidable challenge, for what remains to be said to a group that has spent the past four or more years being schooled at Haverford? You already are imbued with what "my" president of Haverford, Christopher Morley (class of 1910), so gracefully termed "a tenderness for the problems of spirit and conscience". You already are endowed with "a capsule of liberal dreams".

I had no graduation speaker when I left Haverford. It was during World War II and ceremonies were suspended. Perhaps I had the best of both worlds—a degree without a speaker.

But if I had had a graduation speaker, the advice I could have used was this:

Set aside time in your lives for excellence. This sounds obvious perhaps, but life actually sets us no subtler riddle than that of how to control, rather than be controlled by, time.

It is certain that excellence will elude you unless you consciously resolve to devote time every day of your life to enriching your mind and refreshing your spirit in contemplation of excellence.

Right now you are steeped in excellence. You have spent the past four years totally immersed in great ideas, great art, great music and great literature. You have been living in a humane, civilized environment with humane, civilized companions. You probably cannot imagine a day ever coming in your life when this will not be so.

But, although Haverford has sought to prepare you for "lives of service, responsibility, creativity and joy", it is up to you to lead such lives. You will certainly not lead them if you allow yourselves to become involved exclusively in the world of "getting and spending". You will, as Wordsworth saw, simply, "lay waste your powers".

I am sure, by now, someone has told each of you that in time you will look back on these college years as the happiest days of your life. With all due respect to the beauties of Haverford and the beauties of Bryn Mawr, I cannot agree with this sad old canard. A man who thinks his college years were his best years, is a man who has wasted his life.

No one who consistently sets aside time to exalt his mind and his spirit will ever look backwards to find the best years of his life. To such a man, the best years are always now and there are better years ahead.

I'm afraid I've anticipated somewhat a second piece of advice I would like to have been given. But it bears repeating. It is this: You should cultivate your mind as a garden where you will be comfortable spending the rest of your life.

Aware of my obligation under the honor system to identify sources, I'm embarrassed that I can't remember where I read the phrase that embellishes this advice. If any of you can place it for me, I'd be grateful.

You are fortunate to have begun this process of cultivation here at Haverford. If as Plato wrote in the Republic "the direction in which education starts a man will determine his future," your future should be bright indeed.

I do not think you will be comfortable in the garden of your mind, however, no matter how beautifully it is cultivated unless you also put it to work for the common good. It is surely your pleasure to cultivate your mind, but, it seems to me, it is also your duty to do so.

Although we now have more than 8 million people in colleges in the United States—which makes us the first nation ever to have had more students than farmers—not every qualified high school student is able to go to college.

The statistics show that: 95 percent of the high school students ranked in the top 20 percent of their class go to college if their parents are on the top one-quarter of the socio-economic ladder, but only 50 percent of this same group go to college if their parents are on the bottom one quarter of the ladder.

So, in my view, education is not personal property bought and paid for. Even if your parents have paid your tuition in full; and even if they have given generously to annual giving, and even if they have invested in capital endowment, you still have a personal obligation to discharge because you received an education which others, perhaps equally deserving, were denied by external circumstance.

This is a lifetime obligation. If you neglect your mind, if you give yourself over simply to "getting and spending", you will fail yourselves; you will fail those at this college who gave their time and their thought to you, and you will fail that 50 percent of capable high school students who never had your chance.

My final advice to you is: Participate—commit yourselves to the affairs of your community, of your country and of your world.

I know that the great majority of you here today have already involved yourselves in community service. I have read with interest of your abc (a better chance) program and noticed that the student tutors feel they learned more than they taught. This, of course, is the wonder of involvement—that you do gain more from it than you give.

Psychologists claim that your generation—born and raised to television—constitutes a new social phenomenon. They call yours the "observer society". They speak of passiveness engendered by years of T.V. watching.

But I think they are dead wrong. I have not forgotten—nor will I forget—that it was the T.V. generation kids, returning again and again and again to Washington to express their protest, who finally stopped the war in Vietnam. If you were up to that, you are up to anything.

Plutarch writes that whenever Alexander heard of a victory of Philip's, he complained to his companions that his father was leaving him and them no opportunity for performing great and illustrious deeds.

You will have no cause to complain on that score. The world that awaits you now is a good deal more complicated than it was in Alexander's day. It will give you ample scope for your talents.

Some think my generation inherited the worst of all possible worlds. We went straight from the campus to combat in World War II. But, it seems to me that our job was easier in many ways than yours will be. Fighting a war was a fairly, clearcut, if not a likeable, proposition then. Wars had been fought before. There was military strategy for guidance. There were tactics. And there were people—too many of them—who had studied war and knew what it was all about.

But who today can speak with absolute certainty of how to provide for the survival of our cities, much less of our whole planet? Who knows how to redirect the desires of the have-not nations that want to have, and of the have nations that want to have more? How do you apportion this Earth's finite resources? Who knows the secret for controlling populations that do not want to be controlled? Who can sell the idea that "less is more" and "small is beautiful" the way Madison Avenue sells cars. Indeed, who can persuade people not to buy the kind of cars Madison Avenue sells?

These are some of the questions you will have to answer. They are tough questions. But your prospects are not entirely bleak.

The Club of Rome project on the predicament of man suggests that: "Man possesses, for a small moment in history, the most powerful combination of knowledge, tools and resources the world has ever known. He has all that is physically necessary to create a totally new form of society."

What is missing in this Club of Rome statement is any mention of whether man has the will to create this new society. This is the key question that you will have to answer.

I think your prospects are encouraging. I think our situation today is very like the situation John Adams described in a letter to Jefferson. "By the time the revolution occurred," he wrote, "a revolution had already taken place in the minds of the people."

It seems to me that this is true today. What else can explain the great people's movements of the last two decades—the civil rights movement, the anti-war movement, the environment and consumer protection movements, and the women's liberation movement—all these great forces for change originated with and took their impetus from the people. It took, and it still takes, a lot of prodding by a revolutionary people to get the government to follow even slowly in their train.

There are new movements aborning too in some quite unexpected places. For example, a great deal of thought and energy is beginning to go into the question of humanizing industry.

All of this is cause for optimism.

But, ultimately, my optimism about your chances of creating "a totally new form of human society" rests on the knowledge of what courageous men and women have accomplished just in your lifetime by simply deciding to do what was right.

I remind you of Rosa Parks who sat down in the front of a bus in Montgomery, Alabama in 1955.

I remind you of the band of high school students who integrated Little Rock's schools in 1957 and who went on integrating them long after the National Guard had gone home.

I remind you of James Meredith who entered the University of Alabama in 1963 when the way was barred by the Governor himself.

I remind you of what Frank Wills, the 24-year-old night watchman at the Watergate Building, accomplished by doing his duty conscientiously.

I remind you of Archibald Cox who said "no" to the most powerful man on Earth.

I remind you of Sam Ervin, chairman of the Senate Watergate committee, whose defense of liberty and of the rule of law and of the Constitution should inspire judges and lawyers, legislators and public officials for years to come.

And I remind you of the anonymous person in the archives who blew the whistle on the Nixon tax returns.

I wish you all good luck in a great enterprise and, in closing, urge that you recognize the value of now. Don't suffer under the delusion that life is going to get better, or that it used to be better. Today is actually what you have and you should make the most of it.

Our culture is full of devices to postpone savoring the reality of the present—"Save for a rainy day" etc. But the fact is that each day we spend is drawn from the finite store given us—each is precious and irreplaceable. You may not enjoy one as much as another, but live them all for, like hope, life "deferred maketh the heart sick".

RURAL POSTAL SERVICE

Mr. McGOVERN. Mr. President, in an ill-advised attempt to save a fraction of 1 percent of the cost of running the postal system, the U.S. Postal Service has proceeded with plans to close hundreds of small post offices all across the country. The projected savings, which may not even be realized, will do little or nothing to reduce the huge USPS deficit. But there is no question that this short-sighted approach will have a major negative effect on life in rural America.

It may be difficult for people from the crowded, urbanized parts of our country to understand the degree to which rural life depends upon efficient, reasonably priced and readily available postal service. In the city, the post office is simply another impersonal convenience, but in small communities around the country, the local post office is an important social institution. It is also the crucial conduit for information, the indispensable business link to national markets and often the only Federal installation in a very large geographical area. To reduce rural postal service is to deprive our farmers and ranchers of essential contact with their fellow citizens and to condemn small communities to stagnation and decline.

I believe that it is of the highest importance that the postal legislation soon to be considered by the Senate contain provisions to bring this outrage to a halt. The legislation should also be directed toward undoing some of the damage that has already been done by postal bureaucrats more interested in gimmickry and organizational charts than in providing the essential public service with which they are charged. It is high time to make these bureaucrats accountable to the Congress once again.

Mr. President, the May 25, 1976 edition of the Rapid City Journal included an excellent article in which agricultural editor Dick Rebbeck described the reaction of the people of Smithwick, S. Dak., to USPS plans to close their post office, and on May 26, 1976, Mayor Paul G. Gross of Jerome, Ariz. wrote to me about the impact of proposed closure on his community. I ask unanimous consent that the Rebbeck article, the letter from Mayor Gross, and an editorial which appeared in the Sioux Falls Argus Leader on May 31, 1976, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

LIFEBLOOD OF A TOWN: POST OFFICE

(By Dick Rebbeck)

SMITHWICK.—A post office is more than a convenience in a rural community. It is the community, or a big part of it.

Small wonder, then, that Smithwick people, out on the rolling grasslands of eastern Fall River County would see U.S. Postal Service plans to close their post office as an end to a ranching community revolving around school, church and a combination post office-grocery-repair shop.

"It means an awful lot to us, our post office," said Iona Perrault, Smithwick resident since homestead days of 1911.

She was among the first in, one morning last week, to pick up her mail—and the news and views being shared by the neighbors gathering in Postmaster Shirley Hatch's lobby.

Postal Service proposals to change Smithwick to some other kind of service dominated the conversation that day, taking precedence over the upcoming school picnic and, at the time, a need for rain.

Jim Nighswonger could see no reason a post office couldn't be maintained at Smithwick. Quoting information from Rep. James Abdnor, he said a wave of proposed rural post office closures would save only two-hundredth of one per cent of the federal postal budget. It would nearly kill many small towns affected.

"That doesn't make any sense to me," Nighswonger said.

For that matter, Daryl Besco reasoned, switching to a contract mail service could well end up costing more than maintaining the present post office status. Or someone might bid so low to get the contract they'd soon be losing money and service would suffer.

Wilma DeBoer, postmaster until a year ago, indicated postal officials may "misrepresent" overhead costs to people thinking of bidding for a postal service contract.

Betty Davison worried particularly that when a ranch family is gone for several days its mail would pile up unprotected in the absence of a postmaster.

By necessity, ranches do much of their business by mail and the loss of mail or reduction of service could be extremely costly to the entire agriculturally based economy.

Ranches are often half-million-dollar business, basic wealth generators for a regional economy. And Rancher Ray Sides, who has seen the country built back from the dark days of 1931, noted that ranches depend on mail for timely, essential management information and products.

Claude Barr, now retired as a rancher, maintains a thriving worldwide business in native plants built up over 20 years.

"My business can't operate without the post office," Barr said. The road of Oelrichs from his place is often impassage and tough traveling at best. To have to drive to Hot Springs for mail "would kill too much of my day."

Several families, elderly couples especially, can make a living in Smithwick. John Sides pointed out. "They feel wanted and needed, and they are wanted and needed." But if loss of a post office knocks the bottom out of the community economically, they face having to move to some larger town, where they might be merely part of the crowd, neither wanted nor needed. Unable to be self-sufficient, they would add to "welfare" burdens, the younger Sides said.

"We definitely want to keep our post office because the entire community is based around it," he emphasized.

"It's a meeting place," explained Mrs. Loyal Olafson, "a place to visit with people and pick up your mail and groceries."

"We need the post office. That's all there is to it," stated Clem Nighswonger. "It's a place for people to get together, have a few yaks. If we don't have the post office, the town will go completely to pieces."

To Smithwick people, though, it doesn't seem to matter what they or any other rural group wants, and is willing to pay to have. Rural America is simply outvoted and with the urban dominance areas don't make a dent in government statistics, several people said.

Still, they all insisted, rural residents are entitled to, and are perhaps more dependent upon, good postal service.

Mail service was frequently compared to police and fire or other public services communities need. Maybe mail is even more important because local people can provide their own policemen, firemen, water and sewer services but a postal system must be nationwide and worldwide.

"It's a terrible ordeal fighting a government organization," Besco testified. Citizen comments seem to be swallowed by the bureaucracy without effect.

From experience, Smithwick people warn any other rural community not to trust government statements that their post offices aren't also to be closed. Right up until the announcement that Smithwick was losing its post office, residents were receiving letters assuring them "no changes" were anticipated.

There is hardly a post office in the West River country that could not be closed on alleged fiscal efficiency grounds, the Smithwick citizens advised. This despite provisions in the Postal Reform Act of 1970 that "no small post office is to be closed on account of a Postal Service deficit," the people here added.

As present postmaster and Postal Service employee, Shirley Hatch wanted to be careful what she said. She defended mail service as "good," much better than people sometimes acknowledged, even picking up for its competitor, the United Parcel Service, during the recent UPS strike.

"I do think," she also said, "these country post offices do serve people more than impersonal mail services in the cities."

Bennie Hatch, welder and former Navy shipfitter, has gotten a thriving repair business going serving a large ranching area.

With the post office and a small grocery store they have what she termed a three-legged business. Although she didn't foresee them moving away should the post office be closed, she did describe both the post office and grocery store as vital community services, more service than profit.

"I feel the community has a need for a grocery, and a need for a place for people to congregate, to get the news of the community," she remarked.

On that one particular morning, working through the grocery store window, she handed out a newly published church directory, received some donations for flowers for a funeral, channeled plans for a school picnic and, through the postal window, collected money from a patron who had forgotten to stamp a letter the day before.

She had paid for the stamp personally to get the mail moving, knowing she could collect next time she saw him.

"If we lost our post office, we've lost Smithwick," Mrs. Orville Gilky summed up. The Gilkeys wouldn't move, not after 20 years of fixing up their house, but there wouldn't be the "community."

TOWN OF JEROME, ARIZ.,
May 26, 1976.

Hon. GEORGE MCGOVERN,
Dirksen Building,
Washington, D.C.

DEAR SENATOR MCGOVERN: The Town of Jerome has one of the 1,200 small community post offices in the United States which the quasi-organization named the U.S. Postal Service has chosen to close under the pretense of cost economy. We are a community of 600, and presuming we are average, the postal service has chosen to ignore the wishes of 720,000 people across the country. We are a National Historical District visited by over 900,000 tourists annually, a large percentage of whom use the postal service. However, I have been told by postal officials that tourists don't count in surveys. Also, postal officials question that they are regulated by the Historical Preservation Act of 1966, which all other federal agencies, departments, etc. must comply with.

We were told by Mr. Brewer, our area postal manager, that the high salary scale of the post office was one of the major reasons for contracting out small post offices, since the contractor could pay less. In the same discussion he stated no postal employee would be put out of a job. If you continue employees in other offices and then add a contract to another person, how is that conserving money? They know that in actuality many of the postal employees will quit, therefore, while the CETA Act is making an effort to reduce unemployment, the Postal Service is dumping employees.

I feel the Congress of the United States should make a very thorough investigation of the Postal Service and its spending habits in order to protect directly the portion of your constituents in the approximate 720,000 people involved and indirectly the money of all taxpayers.

With the poorer service the Postal Service is attaining daily, while volume decreases and more and more people are being affected by the dictatorial decisions of the Postal Service nationwide, I find that people are wishing for the return of the old Post Office Department, with the government being run by Congress and the President instead of an "immune" group who are demanding a higher subsidy annually and not answering to the wishes of their financiers or the elected officials of our country.

Your consideration of these points and a sincere effort to correct the mistake made in forming the present Postal Service, I am sure, will be appreciated by many of your constitutents.

Respectfully,

PAUL G. GROSS,
Mayor.

DOING NOTHING ABOUT THE MAIL?

Congress will be making a serious mistake this election year if it does nothing about the postal dilemma facing the public; continuation of the trend toward less service and higher costs.

A news story from Washington last week said that sentiment in Congress is hardening against pumping large new federal subsidies into the Postal Service. So the service has started legal work necessary to cut back service by midsummer.

Members of Congress know that the measures involving cutback of service will be unpopular, yet they are hesitant to admit their mistake in making the Postal Service an independent agency several years ago. Some members are reluctant to put the Postal

Service back into its bureaucratic status, because they they'd get the old political pressures from postmen and the public alike that they encountered in the days of the former U.S. Post Office. Some congressmen and former ones, too, have said that handling the Post Office's patronage and the public's complaints about mail service in bygone eras was the most difficult problem they faced. Now they can blame that "independent" agency: the Postal Service. We think the congressmen have an even bigger problem ahead of them.

A READER'S VIEW

A reader of the Argus-Leader wrote to us last week about what will happen to their family's readership of the newspaper if Saturday delivery is discontinued. Her letter said in part:

". . . Elimination of Saturday mail service . . . would be a disaster for people living in rural areas, and dependent on rural delivery.

"The situation is bad enough now: we get two papers on Monday, the Sunday and Monday paper. Then, whenever there is a Monday Holiday, we receive three papers on Tuesday.

"If Saturday service were eliminated, we would get four papers on many Tuesdays. Who wants to read four papers in one day? We would have to give up the daily paper, and content ourselves with the Sunday edition.

"We depend on the daily Argus for TV schedules, weather reports and predictions, market reports and all the area news. And of course, we enjoy all the feature stories and the advertising.

"People in town can go to the post office and get their mail out of their boxes. But we have no box in town, and anyway, we would have to drive 10 miles to get there.

"Last winter, when we first heard about this, I wrote to the Postmaster General in Washington. (Perhaps there no longer is such an official?) In reply I received a form letter that barely mentioned doing away with Saturday deliveries, and then went on at length about the necessity of raising the postal rates.

"What is happening anyway? Are they trying to put the mail order companies out of business? The parcel post service is so slow that if we order clothes from Sears or Wards, it is probably out of style before we get it!

"In this age of speed services should be better instead of deteriorating, shouldn't they?

"Please do something. And tell your readers what they can do, if anything."

NO SATURDAY SERVICE

When the Republic was founded, the post office was considered necessary and one of the purposes, besides letters, was to encourage dissemination of news and educational material. Is the challenge of providing Monday through Saturday mail service to a farm family at Alcester or a business in Sioux Falls a bigger one than tying the original 13 states together with the Post Office in the 18th century?

Americans should not have to give up Saturday mail service. All postal service should be better, not worse.

The higher costs of the Postal Service have resulted in higher mailing costs for the nation's newspapers and magazines. None of them, we are sure, object to paying their fair or prorater costs of mail service. There has been disagreement about what the fair share is. But if those costs, whatever they are, deny services to rural Americans, the Postal Service and the United States government are not being fair and even-handed in providing an essential service for all this country's citizens.

As this is written on a Saturday, the Argus-Leader has not received the Jack Anderson column for Monday. When we came to work on Saturday morning, the Saturday and Sunday columns had just arrived. Ten years ago, it was a rare occurrence during the year (usually only at the peak of Christmas mailing) when columns did not arrive in time. Ten years ago, air mail from either coast usually arrived in Sioux Falls the next day. In 1976, columns mailed first class from New York on Wednesday arrived in Sioux Falls at their destination Saturday morning.

POLITICAL REPERCUSSIONS

President Ford and Congress should reach a compromise on the Postal Service now that would halt further decline in service. Beyond that, Congress should change the agency's status to make it less autonomous and independent. Some responsible administrators should be given the challenge of providing better mail service.

Doing nothing about a service as vital as the citizens' mail has perils for both the legislative and executive branch in Washington—more perils than either should invite.

THE POLITICAL THREAT TO AMERICA'S PROSPERITY

Mr. BARTLETT. Mr. President, I recently read "The Political Threat to America's Prosperity," a speech delivered to the Manufacturing Chemists Association by Mr. Harold J. Haynes, chairman of the board of the Standard Oil Co. of California.

He remarked generally on the principles of economic freedom, and specifically on the divestiture issue. He believes that, as a result of a widespread lack of understanding or a disregard of how a free economy works, the Government has adopted or is considering some tragically misguided policies that will jeopardize our Nation's economic future and our potential for energy development.

I ask unanimous consent that Mr. Haynes' remarks be printed in the Record.

There being no objection, the remarks were ordered to be printed in the Record, as follows:

The Political Threat to America's Prosperity

Good morning. It's a pleasure to be with you today. During your visit, I hope the golfers among you find time to try out the famous courses in this area—especially since those beautiful greens are kept that way with the help of chemistry.

As you know, this is a significant year for our country. Aside from conducting a presidential election, the United States is celebrating its Bicentennial. In 200 years, we've come a long way. From a rather small, agricultural society, we've become the strongest nation in the world. We have the largest economy, the most advanced technology, and a system that offers more economic opportunity for more people than any nation anywhere.

Yet during this Bicentennial year, there is a curious atmosphere of uncertainty in our country. Some Americans are expressing doubt and a lack of faith in most of the institutions which make up our society. Almost every public opinion poll shows a steady decline of public confidence—in government, in education, in labor organizations, and in business.

Much of this skepticism, of course, has been generated by the political controversies and the economic difficulties of the past decade. Where there are legitimate areas for concern, where defects exist in any part of our society, corrective steps must be taken.

But let's be sure they are the right steps, the correct adjustments. Particularly in matters affecting the economic future of the United States, we must treat very carefully. Before we make any fundamental change of direction in our free economic system, we should ask ourselves: What was it that made America grow strong and great?

It is true that we started in a relatively unsettled continent, with an abundance of material resources. Yet other areas and other nations have enjoyed similar advantages. In America, the people made the most of their opportunities and they created history's most prosperous society. There must be something—other than material resources—to explain the contrast.

I believe the secret was freedom: The personal and economic freedoms our system of government was designed to protect and preserve. From the start, the U.S. recognized that individual liberty cannot exist without economic freedom. And for most of our history, our people have been free to make their own economic decisions; to move from one place to another; to shift from one occupation to another; to start a business and work to make it grow.

Individuals were free to climb as high on the ladder of economic success as their skills and talents could take them. Government encouraged economic expansion and the growth of America's industries.

As a result, the United States developed its resources and its economic potential on a scale unmatched in human history. Because all were free to participate, we spread the blessings of this economic progress among more people than any other society that ever existed.

In this century, we have fought two world wars to preserve our own liberty and that of other threatened nations. In each of these conflicts, the tremendous productive capacity of America's free economic system proved the key to victory.

Other nations look to America for leadership and for their own security. They realize a fundamental truth that Americans, too, must never forget:

In the final analysis, it is America's economic and industrial strength, and our commitment to freedom, that makes possible the world's hopes for continued peace, for material advancement, and for freedom.

Unfortunately, as all businessmen know, our country has been gradually drifting away from the principles of economic freedom—at the very time when we face urgent national problems that require a strong and productive economy. We've been moving toward more regulations, more restrictions, and more of the new type of centralized control that can seriously cripple any nation's economy—no matter how strong it may once have been.

I have offered these historical and philosophic observations because I believe it is important that our country never forget its origins or its reason for existence. If America wonders where we may be headed, we must remember where we are today and how we got there.

With this prelude, I would like to focus now on the main point of my remarks today: The increasingly hostile attitude toward business that now seems to prevail among many political figures in Washington and other centers of government.

Much of this hostility, in my opinion, stems from a widespread lack of understanding or a disregard of how a free economy works, and what is necessary to keep it functioning at peak efficiency.

The critical role of capital investment, profits, and the free market in maintaining our prosperity is not known or fully understood by many Americans—including some in positions of important political power. As a result, government has adopted some tragically misguided policies that are hurting America, costing jobs, and jeopardizing the economic future of this nation.

The energy industry, with which I am most familiar, has become a special target for restrictive legislation—even though the long-term energy problems confronting this nation represent the most serious economic challenge we have ever faced in peacetime.

It's been more than two years since the OPEC embargo graphically demonstrated America's growing dependence on foreign petroleum. But we are no nearer now to a realistic national energy policy than we were before. In fact, in many respects, we are worse off.

In the past year alone, Congress has eliminated the depletion allowance for major oil companies, continued price controls on petroleum, and rejected the President's recommendation to deregulate the price of natural gas. I mention this—not to dwell on the oil industry's problems—but simply to illustrate the adverse economic impact that misdirected government policies can have on our country.

The depletion allowance was originally implemented to stimulate the discovery and development of oil and gas in the United States. And it accomplished that purpose exceedingly well. Eliminating this economic incentive will have an opposite result—it will make it more difficult to increase petroleum production because it means the industry has about $2 billion a year less revenue to finance exploration and development.

The same adverse impact can be expected from a continuation of price controls on petroleum, and the refusal to deregulate the price of natural gas. Every lesson of history demonstrates that controlling the price of any product inevitably leads to shortages when it becomes uneconomic or impossible to produce that product at the artificially controlled price.

This is as true for oil and natural gas as it is for the products of any other industry. Congress could place a ceiling of $1.000 on the price of every new automobile. But that wouldn't help the consumer at all because—with steadily increasing taxes, wages and other costs—no American manufacturer can produce an automobile for $1,000.

Many of our representatives in the Congress have yet to comprehend these fundamental economic facts. There is a growing consensus that the price controls on natural gas are a major reason for the increasingly acute shortage of this fuel. The Los Angeles Times, in a recent editorial, pointed out the fallacy of continuing these controls. "Cheap (natural) gas," the Times said, "won't do consumers much good if there isn't enough to go around. And there won't be if the law isn't changed. Already shortages have raised the spectre of industrial interruptions in some states."

The petroleum industry has tried, without success, to point this out to Congress. But our industry remains the only part of America's economy still subject to the price controls adopted in 1971 and repealed 2½ years later—for other industries—because almost everyone agreed that these types of controls create more problems than they solve.

Lincoln once said a house divided against itself cannot stand. He was speaking of the need for national unity, but the same point could be made about the nation's economy. The dynamic, expanding economy we have known in America cannot generate orderly growth; it cannot create the additional jobs our people need, if basic industries are subject to unrealistic controls that prevent the competitive market from functioning efficiently.

Higher tax burdens, unreasonable environmental restrictions, and the sheer volume of government regulations have become an unnecessary barrier to economic growth, a drag on the nation's prosperity.

But there is another, more immediate threat to America's economic growth and the prosperity of its people.

At this moment in Congress, a number of proposals are being considered that would dismantle the very type of industrial organizations that help make it possible for every citizen to own an automobile, to have a well-heated home, and to enjoy a steadily-increasing standard of living.

I'm referring, of course, to the various divestiture proposals that would break up America's integrated industries, including the major petroleum companies.

The rationale for this type of legislation reflects the misunderstanding of American business that I mentioned earlier. The sponsors claim that there is a lack of competition in the petroleum industry, that prices and profits are excessive, that there is too much concentration among a few large companies. Along with this, there seems to be a persistent myth that the oil industry is not like other major segments of American business—that it is owned by a relatively few wealthy individuals.

Not a single one of those claims even approaches the facts. The oil industry is one of the most competitive basic industries in America, with more than 10,000 companies involved in oil and gas exploration and production.

More than 130 companies compete in refining petroleum products and there are more than 15,000 wholesalers, and 190,000 service stations in this industry. Ninety-five per cent of these retail stations are operated by independent dealers.

The largest crude producer has only 8½ per cent of the national volume; the largest refinery processes less than 9 per cent of the nation's petroleum products, and the largest share of the retail gasoline market held by a single company is only 8.2 per cent.

A recent study by George Washington University, financed in part by the National Science Foundation, demonstrates that petroleum is one of the least concentrated and most competitive of any major U.S. industry.

What of the other claims cited as reasons for divestiture—prices and profits? The facts are:

Americans still pay less for gasoline than consumers of any other major developed nation. The price of energy of all types has increased less during the past quarter century than the general price index.

Rather than being excessive, the profits of American business (including the oil industry) are far smaller than many people erroneously believe. Standard and Poor's, the investment research firm, surveyed 62 industries in America and found their profits averaged slightly more than 4 cents per dollar of sales. Yet nearly half of the college students responding to another poll wrongly estimated that business profits in America are as much as 45 per cent of sales.

My own company earned about 1.6 cents per gallon of crude oil and petroleum product sales last year. To put that in perspective, the direct taxes imposed on a gallon of gasoline in California amount to more than 14 cents per gallon.

In short, the entire premise of this divestiture legislation is based on incorrect claims.

Yet dismemberment remains a very real threat, not only to the petroleum industry, but to many of America's basic industries.

At this time, perhaps I should point out that there are two types of divestiture proposals being considered in Congress:

Vertical divestiture would break up major petroleum companies into smaller functional units, and prohibit any company from engaging in more than one phase of petroleum operations—exploration and production, transportation, refining, or marketing.

Other bills would prohibit horizontal integration—making it illegal for petroleum companies to diversify or assist in the development of other energy resources such as coal, oil shale, geothermal steam, solar power, or uranium.

In effect, these measures would strangle the very process by which much of America's economic growth has taken place. Petroleum companies could not engage in vertically integrated operations. And they could not help other energy resources—even though much of the development necessary is a natural outgrowth of petroleum technology.

If a business enterprise cannot operate vertically or expand horizontally, the only other direction is down. And that's exactly what I believe would happen to America's energy production.

If implemented, dismemberment legislation would carve established petroleum companies into untested, separate functional units—disrupting operations that have evolved over many years and which have helped give America the lowest cost energy of any major nation.

There would be a prolonged period of uncertainty and litigation. During this period, it would be virtually impossible to raise the investment capital necessary to make long-term and large-scale commitments for exploration, for production or for research. Yet long-term development of costly projects is essential if America is to produce the oil and gas our country requires for a prosperous economy.

A slowdown of energy development could have disastrous consequences for our country. It could choke our nation's economic growth for years.

One obvious potential casualty of dismemberment would be the research and development programs which have kept America in front in petroleum technology and related scientific achievements. The integrated companies have pioneered the technology that permits the drilling of deeper wells, the exploration of hostile areas offshore and in the Alaskan arctic areas.

The major integrated companies have sponsored research to improve the efficiency of gasoline, to perfect better aviation fuels, and to adapt petroleum products to changing environmental standards.

At one time, kerosene was virtually the only major product derived from oil. Less than 60 years ago, most of the natural gas produced in conjunction with oil drilling was flared. What we now know as a precious resource was wasted. Today, petroleum provides the raw material feedstock for virtually thousands of products in the chemical and other industries. We use every drop we can to produce usable products.

Obviously, it costs millions of dollars to maintain these research programs.

But it is highly doubtful that smaller, dismembered companies confined to only one area of petroleum could maintain the same level of research or commit the vast sums necessary to develop America's remaining untapped petroleum resources.

There is one other element that sponsors of divestiture rarely mention—the potential adverse impact on those who have invested in the petroleum industry. As I mentioned earlier, many citizens do not seem to realize that America's major oil companies are among the most widely-owned enterprises in the nation. A survey conducted in cooperation with the New York Stock Exchange shows that in all, more than 14 million American's have a direct or indirect stake in the six largest U.S. oil companies, including my company.

There are more than 2.3 million individual stockholders and 46 per cent of them are retired, with an average income of $14,000 a year. Another 11.7 million Americans have an important indirect financial interest in these six companies—through the stock investments of public and private retirement systems, mutual funds and insurance companies. These 14 million Americans own 90 per cent of the stock in the six largest companies.

Americans from all walks of life derive part or all of their retirement income from the dividends paid on the stock investments of these public and private retirement systems.

Any government action that fragments the integrated operations of the major oil companies would threaten the stability of the petroleum industry, and jeopardize the pension income, the jobs, and the long-term investments of millions of Americans.

If divestiture won't help the consumer and, in fact, would increase prices; if dismemberment will delay rather than speed up the development of additional domestic energy; if it will create tremendous new and unnecessary financial burdens and uncertainties, the question must be posed: Why is it being proposed?

Unfortunately, there are those who cling to simplistic economic proposals, long after these theories are buried by a landslide of facts. One staff member of a Senate committee was quoted in a national publication (National Journal, 12-6-75) as saying that: "Divestiture even if it is a mistake is better than perpetual uncertainty about government policy."

That's equivalent to suggesting that it's better to convict and punish the accused first—because if you bother to look at the facts, you just might find that he's innocent.

I cannot believe a majority of Congress is prepared to gamble with America's economic stability by using the nation's basic industries as a guinea pig for testing unsound economic theories that are based on unproven claims.

But the business community cannot stand idly by and hope for the best. Sponsors of divestiture legislation have made it clear that petroleum is merely the first on the list of integrated industries to be broken up.

One of the major bills pending now in the Senate would establish the machinery for dismantling seven basic U.S. industries. The list includes: the automobile industry; chemicals and drugs; electronic computers and communications; electrical machinery and equipment; the energy industry; iron and steel, and the non-ferrous metals industry.

Consider what it could mean to dismantle the integrated companies of *all* those industries. It would mean disrupting industries in which *millions* of Americans are employed. Those industries represent the investments of millions of stockholders.

The potential economic impact is enormous. The industries on the list to be broken up constitute the heart of America's productive capacity—the balance wheel of our entire national economy.

Since your own industry would be affected, I hope you will join the petroleum industry in opposing these divestiture proposals.

If you're as concerned about this threat as I am, let your representatives in Congress know, by letter, by telegram, by telephone and by personal contact.

There is far more at stake than simply a law that makes life a little harder for business.

The proposed dismemberment of this nation's core industries is a major political threat to America's economic future, and the prosperity and well-being of our people.

If implemented, it could be the beginning of the end of the free economic system we have known in the United States.

We must never forget what this part of our heritage has meant to our people.

Economic freedom is important to every individual, not simply because of the opportunities it creates for material prosperity, but because it has been one of the guiding principles of our system of government for 200 years.

During our country's long climb to world leadership, America's most important exports did not involve the products of our industries or our farms. Instead, our most important exports were the ideals of individual liberty—the principles embodied in our Constitution and Bill of Rights.

This concept of liberty, the freedom our citizens have always enjoyed, to strive for individual success, to build a better life for themselves and for their children, was the magnet that drew millions of immigrants to our shores.

In my opening remarks, I mentioned the crucial role that economic freedom played in developing our country. Let me close by emphasizing again its importance in helping guarantee that the United States will always have the strength and the tools to protect all our other freedoms.

Thank you.

WHO REALLY NEEDS FOOD STAMPS?

Mr. HATFIELD. Mr. President, a few days ago I received a moving letter from a constituent of mine that I hope my colleagues will take the time to read. This woman's story cuts through the smokescreen of inflamed rhetoric about the food stamp program being a "haven for ripoff artists and chislers," and reveals the struggle of America's working poor.

These people do not want handouts; they are people of dignity and pride who work and pay taxes, but who simply do not earn enough money to provide their families with an adequate diet. These are the people who use food stamps. Of course, there are errors, and abuses, and even fraud in the food stamp program, but they constitute a very small percentage of the total, and they should not divert us from the importance of maintaining an active and effective food stamp program.

My constituent's letter makes another strong point, Mr. President, in emphasizing the need for a vital economy that can provide meaningful work to those who are able to do it. Food stamps treat the symptoms of poverty; they do not effect a cure. We often hear of so-called "welfare bums" who find they can do better on welfare than they can working, and these stories usually result in cries for welfare reform and cutbacks. Instead, we should ask why our economy cannot provide sufficient jobs at a wage higher than welfare benefits.

Mr. President, I ask unanimous consent that my constituent's letter be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Mr. Mark Hatfield: I am writing you to ask you what in the world is the average working man working for? Just so he can pay taxes? Forgive me if I seem bitter, but please take time for 1 minute and think about this. My husband last year earned $8800.00. We are a family of four. He only gets to work in the summer months as he can't get on the back roads when its wet (He's a truck driver for construction). We are trying to make car payments, house rent, keep our telephone working (as without it he couldn't work if something came up). Plus our utilities. So in the summer months we have to have the money to make these payments for the following winter. We don't know how we could've got by with out the food stamps last winter as we don't make enough to buy food and put it away for the winter. Do you think like many other people? That we can get unemployment checks to get by on? Oh no. They just make our rent and utilities (we didn't make enough to get our rent paid up for the winter as we had to pay off unexpected Dr. bills). What will people like my family do? I sometimes think we would be better off to do like the hippies? Don't work at all! Then we wouldn't have to worry about not having enough food this winter. My boy tried to go to work this summer for the N.Y.C. (forestry youth) but found out that because his father makes too much money he is ineligible. My son could've earned all his school clothes money but again because my husband gets out and tries and doesn't care to lay around and draw welfare he was denied a job. I realize there has to be a line drawn somewhere and I'm not trying to put any pressure on you. What I'm really trying to say is; If you were in my husbands shoes what would you do? Would you keep working (altho it might mean your family would go hungry in the winter, your son couldn't work, the benefits if you didn't work would pay more? How much pride and meaningfulness can a man get out of his job when he knows that if he stayed home his family would be better off? I don't know the answers to any of this but, how many families are in this situation? When will the day come, when somebody will do something about this, why are the food stamps just given to anyone who doesn't work? (Thats what it all adds up to.) Anybody who works earns more than $5500 per year, unless they stop working before they get to that amount. Will there be more robberies this winter when the working man can't get food stamps? I truly hope you will bring all this out publicly and give some encouragement to the working man. You know here in Oregon all the loggers, truck drivers, any thing pertaining to construction all make over $5500 per year. They can't be just left out in the cold this winter. What will they do. They can not support their families on unemployment checks this winter. I am writing you. I don't know who else to write. But please do something about this situation!

I know the food stamps have been abused. We got them last winter and we had to really stretch them to feed us. But after a steady diet of hamburger (some time no meat at all) one day I splurged. I couldn't help it. It got to the point where none of the food we ate satisfied us. We would eat and still be hungry, I bought day old breads and cookies since they were so cheap we soon found our family was eating quite a bit of this and we all gained weight. Anyway I splurged and bought a crab. We were all so starved for something to eat. I know if anyone saw me getting that with food stamps what they would think. But people on food stamps also like to eat something good once in a while and sometimes your stomach gets the better of common sense. So a person does these things. After all we pay our share of taxes. So now even tho we pay taxes there is no help for people like us. So this winter if we don't have our car payments ahead do we just lose our car? That would also mean my husband couldn't work any more (no car, no way to work) or do we not pay our rent (kicked out in the street maybe?) or do we not eat? Beg for food perhaps? Or just go out and steal it? No way could we go and steal food. I'd rather starve to death even my family. I would hate to think that we would have to make these choices this winter. But do we? I am sorry to burden you with this type of letter but felt like I had to write this because you must know there are several families in this predicament. God bless you and your family.

If you don't give this letter another thought at least think of God's blessing on you.

I would sign my name but don't see any point in it as I must represent several people just like me.

A Sincere Citizen.

(P.S. I have to add this bit: My son goes to high school. He was the only one who didn't get to buy his class ring. Even tho there were several families on welfare. They could all buy their kids their class rings. $50.00 each. We were the only family that couldn't afford it. I know several of these families. I am not really knocking welfare. I am just saying we're worse off than they are. My husband was hurt deeply when we couldn't get our son his ring. He said maybe he should not go back to work. That way we'd be better off. I tried working. But I have heart trouble. I'm really not able to work and my husband just wilts when I work and my heart bothers me to much so it seems like we're doomed.)

THE EMIGRATION OF VITALI RUBIN FROM THE SOVIET UNION

Mr. BROOKE. Mr. President, in February of this year I visited the Soviet Union. While in Moscow I had the opportunity of meeting privately with a group of Soviet Jews who had been denied permission to emigrate, the so-called refuseniks. In that group was Vitali Rubin, a specialist in ancient Chinese philosophy and one of the leading critics of the Soviet regime. It is with great pleasure that I note that Vitali Rubin has now been granted permission to leave the Soviet Union and emigrate to Israel. Although we can never be satisfied until the right to emigrate is respected in all cases by the Kremlin, great satisfaction can be taken from success in this one case.

Mr. Rubin's statement after being notified of permission to emigrate is an eloquent testimony as to why so many individuals are willing to risk careers, family ties, and even their lives to leave the Soviet Union. He said:

> It will be very strange to stand on the soil of a free country—I never have.

A more eloquent confirmation of the desirability of the democratic form of government could not be found.

Even while we rejoice in the good fortune of Vitali Rubin, we must reaffirm our support for those still being denied permission to emigrate. Included in this category are the following individuals: Aleksandr Lerner, Anatoliy Shcharanskiy, Vladimir Slepak, Iosif Beylin, Dina Beylina, Eduard Trifonov, Vladimir Prestin, Chertin Aleroudz, Ilya Ginzburg, Ilya Shostakovsky, Vladimir Sverdlin, Boris Krumgalz, Yelena Oliker, and Alexander Chertin. Many more could be listed. While their struggle to emigrate to a land of their choice will continue to be a difficult one, the good fortunate of Mr. Rubin illustrates that constancy of purpose both by the "refuseniks" and by their supporters in free societies can achieve positive results.

Mr. President, I ask unanimous consent that the article from the New York Times regarding Vitali Rubin be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Soviet Dissident Allowed to Leave

(By David K. Shipler)

Moscow, June 3.—Vitali Rubin, Soviet dissident and a specialist in ancient Chinese philosophy, said today that he had been granted permission to emigrate to Israel after a wait of more than four years.

"It will be very strange," he said, "to stand on the soil of a free country—I never have."

Mr. Rubin is the most prominent Jewish activist to receive an exit visa since Aleksandr Lunts, a mathematician, was allowed to leave last February. Many others, however, remain barred from departing, including Aleksandr Learner and Viktor Brailovsky, both mathematicians, and Venyamin Levich, a physical chemist who is a member of the Academy of Sciences.

Just as unsuccessful applicants, are rarely given official reasons for the denials, Mr. Rubin and his wife, Inessa, a teacher of German, received no explanation for the sudden decision to let them go. They were told today to leave within two weeks, Mr. Rubin said, and officials have cut through some red tape to speed their departure.

He speculated that the authorities considered him an increased liability since he joined eight other dissidents three weeks ago in a group to monitor Soviet compliance with the Helsinki declaration's provision on human rights.

Mr. Rubin's reasons for leaving are a blend of religious identity and political compunction. At 52 years of age, he is one of Moscow's sharpest critics of the Soviet Union.

In 1971, while he was a senior researcher at the Institute of Oriental Studies, Mr. Rubin wrote a book entitled, "Ideology and Culture in Ancient China."

"I think it was published by mistake," he said. "The editors got a dressing-down. The main point was an analysis of totalitarian idealogy in ancient China, and Soviet intellectuals saw in this a mirror of present Soviet practices." The book was denounced as anti-Marxist.

After he decided to apply for a visa, he said, he and his wife were dismissed from their jobs. Since then they have been living on contributions from abroad and earnings from odd jobs. Mrs. Rubin has some private students of German, and Mr. Rubin has done some translating and writing for other scholars.

They plan to live in Israel, where he has been offered a teaching post at Hebrew University, but they also hope to spend some time in the United States. Columbia University has invited him to lecture, and Harvard's East Asian Research Center has asked him to participate in a conference in August, he said.

IN MEMORIAM: ROBERT D. HOLMES

Mr. HATFIELD. Mr. President, Robert D. Holmes, Governor of Oregon from 1957 to 1959 and my predecessor in that office, died Sunday, June 6. Governor Holmes was a colleague and friend, both before and following our time in the executive branch of State government. He gave Oregon a new thrust in economic development with the creation of a commission of great distinction. He was education's legislative architect and spokesman.

He was a part of the team of Dick Neuberger, Monroe Sweetland, Howard Morgan, Edith Green, Al Ullman, and Jebby Davidson who brought about a true two party system in Oregon in the mid 1950's.

He cochaired the Government organization committee I appointed on which my successor also served—a study that still stands up today and on which our decade of development outline was built in the sixties.

His public affairs television program was enlightening, dignified, and an important contribution to citizenship. He sought facts not scalps or sensationalism.

His sufferance of political and personal blows was always with dignity, tranquillity, and an equilibrium that gave comfort to those who sought to comfort him. Even in what he must have known were his final weeks, he insisted on attending meetings of his Federal Government responsibility.

Our deep sympathy has been extended to his family.

THE INVALUABLE TOOL CALLED REMOTE SENSING

Mr. ABOUREZK. Mr. President, an excellent article appeared in the Washington Star recently, entitled "Remote Sensing Extends EPA's Eyes and Nose." It served as a timely reminder of the value and necessity of the Earth resource observation system and the LandSat satellite.

Remote sensing has become a tool which environmentalists, scientists, and Government officials from every level have come to depend on as a basic means of developing the best inventory yet of our land, our natural resources, and many of the environmental problems which we must solve.

One of the best reasons for supporting this worthy effort is that it demonstrates that the peaceful use of space in an efficient and inexpensive program is not only desirable but entirely possible. This program has continually piled up a tremendous record of success without the national attention and public limelight that the manned programs of the sixties had. We ought to insure that this program continues to build its remarkable record by providing it with the financial support which it deserves.

Mr. President, I ask unanimous consent that the article by Mr. Brian Kelly be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

"Remote Sensing" Extends EPA's Eyes and Nose

(By Brian Kelly)

One spy in the sky these days simply may be your friendly Environmental Protection Agency doing its thing with space satellites, aerial photography, infrared photos, airborne heat-sensing devices or laser beams.

"Remote sensing" is the name of the sophisticated EPA program employing new research tools to supplement the environmental scientists in the field and the old techniques of so-called "grab-sampling," laboratory tests and computer studies.

Tell-tale fingerprints of oil spills, runoff pollution from illegal cattle feedlots, landfill contours, underwater beds of algae, sick vegetation, the drift of smoke plumes—all these and more can be spotted by EPA's "remote" methods, many of them techniques or devices first developed by other agencies such as the Pentagon or the nation's space agency.

Take the giant power plants at the Four Corners complex where the boundaries of Colorado, Arizona, Utah and New Mexico meet. Three plants consuming 25,000 tons of coal a day and discharging 88 tons of particulate matter, 350 tons of sulphur oxides and 200 tons of nitrogen oxides per day.

According to EPA, plumes from the Four Corners stacks drift for more than 100 miles downwind of the complex. The photographic evidence comes from satellites.

Then there was the color shot of lower Lake Michigan, taken on a Skylab space mission. The photo showed "a distinct plume of effluents being discharged from the Indiana Canal," according to an EPA "paper" presented earlier this month.

"The presence of this plume was of little concern," the paper adds, "until it was found to feed directly into the Chicago public water system."

The Federal agency flew in its own aircraft from its Environmental Monitoring and Support Lab at Las Vegas, collected added readings with its heat-image and spectographic devices, then went to court. The result: "A favorable decision on an abatement schedule."

In another paper, presented yesterday at a briefing for science writers here, EPA's Monitoring Director John Moran said combined use of aerial photography and heat sensing instruments can detect 98 percent of the nation's water pollution discharge points.

The photos will detect color changes in the water, while airborne heat sensing instruments detect changes in water temperatures.

Once used in the Vietnam war to detect hidden truck convoys on the Ho Chi Minh Trail, such airborne devices spot otherwise invisible discharges of heated water from power plants or other industry. The readings disclose the distribution of warm water and enable the environmentalists to develop and assess temperature "maps".

Aerial photos have been a standard tool in mapping the extent of oil spills, Moran noted.

But these really are old hat compared to other devices in EPA's growing arsenal, according to Moran. One airborne instrument now in use is a "laser terrain profiler," a laser system that measures ground contours. One use: "It helps us determine if strip-mined land has been properly recontoured."

EPA is working up still other "remote sensing" methods, Moran also said. Among them is an aerial photo technique that will measure the density of smoke plumes by comparing plume "shadows" with the intensity of shadows thrown by solid objects. One use: "A rapid method to measure a large number of atmospheric 'smoke plumes' from aircraft."

Another airborne laser technique, firing energy "pulses" toward the ground should give EPA monitors an "immediate picture" of the particulate layers in the atmosphere below the aircraft, a technique expected to provide measurements of the air inversion ceiling during urban air pollution alerts.

Finally, a method called laser fluorosensing, which can sense light emissions "responding" to an ultra-violet laser beam. With this device, the EPA expects to monitor water pollution with new measurements of surface oils, dissolved organic matter, even algae "blooms."

THE U.S. CAPITOL GUIDE FORCE

Mr. HOLLINGS. Mr. President, on May 29, 1976 the Capitol Guide Force celebrated it's 100th anniversary.

As the chairman of the Legislative Branch Appropriations Subcommittee, I review their operations each year and am greatly impressed by their capability to contend with ever-expanding visitors with the permanent staff of 24 guides. During our recent hearings, the Chief Guide, Mr. Thomas L. Nottingham, testified that the number of visitors taken on guided tours in 1975 was more than 1.5 million or some 350,000 more than 1974.

I also know that for each month through May of 1976 the number of visitors taken on guided tours has been higher than the corresponding month in 1975 so that we are more than 65,000 ahead of the first 5 months of 1975. In fact, in April some 217,000 Capitol visitors were taken on guided tours the highest monthly amount in recorded history of the Capitol Guide Force.

As the Senate will recall we recently took action in the Second Supplemental Appropriations Act to provide 20 additional temporary guides in order to serve the enormous number of visitors coming through the Capitol during the Bicentennial celebrations.

I ask unanimous consent to have printed in the RECORD at the completion of my remarks an article about the U.S. Capitol Guide Force written by Mr. Robert E. Miller, who is one of the guides.

On behalf of the Senate I say, "Happy birthday to the U.S. Capitol Guide Force."

There being no objection, the article was ordered to be printed in the RECORD, as follows:

A SHORT HISTORY OF THE CAPITOL GUIDE FORCE

(By Robert R. Miller)

While the United States celebrates its Bicentennial anniversary the U.S. Capitol Guide Force is observing its 100th birthday. For those who may be unaware of its existence, the Guide Force is an organization of twenty-four men and women, hired by Congress to escort visitors through the Capitol building, explaining and describing not only the building itself but the workings of our legislative branch of government as well. In 1975 over one and a half million visitors participated in those free tours.

Of course, there were guides prior to 1876. They were, according to testimony given in the 1920's by Benjamin Cady, one of the original guides, largely a band of con-men and pickpockets. The large crowds on route to and from Philadelphia's Centennial Exposition in 1876 prompted Congress to take action to organize a Guide Force in order to, in Cady's words, "protect the people." Congressional acts of 1876, 1882, 1892, and 1895 established an authorized, unsalaried Guide Force to provide tours through the building for the small fee of 25 cents per head, 15 cents for school groups.

The organization was well received. Frank Leslie's Illustrated Newspaper, in its May 14, 1881, edition from New York, reported, "The system of 'Capitol Guides', lately introduced in the Capitol at Washington, is one which commends itself to the gratitude of all lone travelling women . . . Parties in search of Statuary Hall hovered ignorantly for hours about its neighborhood, or, once inside, lost themselves afresh in wild conjectures over the identity of the bronze and marble heroes . . . Now a brisk youth, with buttons and straps, rattles off the names of statesmen and sculptors, and leads you, like Jonas Chuzzlewit's cabman, 'to the extremest verge of possibility' between the crypt and the dome."

For 95 years the system remained the same, despite numerous efforts on the part of the guides themselves and members of Congress to re-organize. As the number of visitors swelled the number of guides increased from 3 in 1876 to 24 but the 25 cent fee remained. Tipping was allowed, and probably encouraged by enterprising guides whose prosperity varied from week to week, year to year. Records are scarce but it is known that in 1924 the fourteen guides earned $2,597.80 apiece and in more recent years weekly incomes varied from $6 in the dead of winter to $600 one Easter week.

Finally, on January 3, 1971, Public Law 91–510 went into effect establishing a salaried Guide Force. A Capitol Guide Board was created, consisting of the Capitol Architect and the two Sergeants at Arms, which authorized and directed the Force to conduct tours through the interior of the building for the "Education and enlightenment of the general public." There was to be no charge for the tour and the acceptance of gratuities was prohibited.

Bicentennial 1976, the Centennial year for the Guide Force, has necessitated the hiring of several additional temporary guides to handle the increased number of visitors to Washington and the organization, under the direction of chief guide Thomas Nottingham, continues to provide what one recent foreign traveller described as, "The best tour I've had on my trip around the world."

FATHER DAVID DUNCOMBE

Mr. HANSEN. Mr. President, Wyoming lost one of its fine citizens and dedicated leaders recently and I want to call attention to one of the legacies he left for us.

Father David Duncombe, an Episcopal minister who served the Ethete, Wyo. area, was called "Yellow Cloud" by the Indians because it meant "the first light after the storm." He centered his life goals around the hopes and needs of the Arapaho Indians and died last April while doing so.

The spiritual beauty and strength of character that made Father Duncombe the sensitive man he was will be sadly missed by all who knew him. But he left behind him some prophetic works that are reflections of his emotion. He was the life in life itself.

I ask unanimous consent that the article be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SOME THOUGHTS AFTER A NEARLY FATAL ACCIDENT

(By David Duncombe, September 1968)

Whenever in the course of all my days I've come to know a person as a friend

There comes in me a change of mind and heart, with which to comprehend

The depth of a relationship in which I find new meaning for my life;

Which adds somehow to what I am, and takes away some magnitude of strife.

There is, among these, one such friend I've come to know in recent years called Death.

A dark and fearsome stranger yesterday; but now, no longer one at whom I look with fear chilled state or catch of breath.

Instead, I find that when he comes (at several times he has) quite close to me,

I need not cry or cringe or swear, but rather wait, in wonder and in awe.

How, when, and where?

Alone? Perhaps tonight, as endlessly I drive the difficult and often dangerous highways of my mission path?

Or else, perchance, and at some future date amidst a crowd—

Where angry faces shout and guns and knives and clubs act out man's wrath?

Or none of these: Instead at any time, a sudden rapid beating of my heart or bursting head, or other cause, could well my death portend.

No matter now, whenever or which ever it may be; I know at least this death

Will come, not as an enemy to fear, but as a loving friend.

Now let me add that I do love with all my heart and soul the life I seek to live.

And most especially I do love the life I seek (to those I love) to give;

And also too, I deeply love all happy soul filled love that comes my way.

And pray to God (the source and very fact of love) that I may grow within this love each day.

Still as the weeks and months and years of life continue to go by . . .

As Spring and Summer's sun begrudgingly give place to Golden Fall, and thence to Wintry Sky;

This friend called "Death" is one to whom
I come as others die, and so we often meet.
I fear him not.
And when at last he comes to me, his cold embrace and fatal kiss, is something I believe I'll find most sweet.

—*David Duncombe.*

SEPTEMBER 1968

COMMITTEE ON FOREIGN RELATIONS REPORT UNDER SECTION 302(b) OF THE BUDGET ACT

Mr. SPARKMAN. Mr. President, I ask unanimous consent that there be printed in the RECORD the report showing the crosswalk allocations of the Committee on Foreign Relations pursuant to section 302(b) of the Budget Act.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

COMMITTEE ON FOREIGN RELATIONS—REPORT TO THE SENATE PURSUANT TO SEC. 302(B) OF THE CONGRESSIONAL BUDGET ACT

[In millions of dollars]

Program	Fiscal year 1977			
	Direct spending jurisdiction		Entitlement programs that require appropriation action	
	Budget authority	Outlays	Budget authority	Outlays
NATIONAL DEFENSE				
Liquidation of foreign military sales fund and advances:				
Controllable				
All other	6,916	6,588		
Function 050, total	(6,916)	(6,588)		
INTERNATIONAL AFFAIRS				
Development assistance trust funds:				
Controllable				
All other	6	6		
Department of State				
Foreign Service retirement and disability fund:				
Controllable				
All other	40	40		
Miscellaneous appropriations:				
Controllable				
All other	1	1		
Gifts and bequests, National Commission on Educational, Scientific, and Cultural Coop:				
Controllable				
All other	(*)	(*)		
Educational exchange fund, payments by Finland, World War I debt:				
Controllable				
All other	(*)	(*)		
Educational exchange trust funds:				
Controllable				
All other	(*)	(*)		
Payment to Republic of Panama:				
Controllable				
All other				
International Center Washington, D.C.:				
Controllable				
All other	3	2		
DEPARTMENT OF TRANSPORTATION				
Federal Highway Administration trust funds:				
Highway construction and safety, appropriation:				
Controllable				
All other	27	28		
Foreign Economic Assistance Act of 1950:				
Controllable				
All other	4	5		
Action				
Miscellaneous trust funds:				
Controllable				
All other	(*)	(*)		
U.S. Information Agency USIA trust funds:				
Controllable				
All other	(*)	(*)		
Function 150, total	(18)	(83)		
COMMERCE AND TRANSPORTATION				
Department of Commerce				
Miscellaneous trust funds:				
Controllable				
All other	4	4		
Department of Transportation				
St. Lawrence Seaway Development Corporation fund:				
Controllable				
All other		−2		
Function 400, total	(4)	(3)		
INCOME SECURITY				
Department of State				
Foreign Service retirement and disability fund:				
Controllable				
All Other	106	80		
Function 600, total	(106)	(80)		
Committee total	7,107	6,754		
INCOME SECURITY				
Department of Health, Education and Welfare				
Refugee assistance:				
Cambodia and Vietnam			50	35
Cuba			82	67
Total			132	102

* Less than $500,000.

RABBI ISRAEL M. GOLDMAN

Mr. BEALL. Mr. President, this past Sunday, June 6, hundreds of Marylanders gathered to honor one of our State's most distinguished religious leaders, Rabbi Israel M. Goldman, as he retires after 50 years of service to American Judaism.

Since being ordained at the Jewish Theological Seminary of America on June 6, 1926, Rabbi Goldman has devoted his life to spiritual development in the Jewish community and to the improvement of human relations between all people. He came to the Chizuk Amuno Congregation in Baltimore in 1948, after previously founding Temple Emanu El in Providence, R.I. Since that time, Dr. Goldman has served as president of the Rabbinical Society of America, the Baltimore Zionist District, the Baltimore Jewish Council, the Baltimore Board of Rabbis, and the Jewish Historical Society of Maryland.

In addition, Rabbi Goldman has worked continuously toward greater interfaith and interracial understanding and cooperation in the Baltimore area. He served for 18 years as vice chairman of the Maryland Commission on Human Rights and along with Cardinal Shehan was cofounder and cochairman of the Interfaith Council of Greater Baltimore. His work has led to the enactment of landmark civil rights legislation, and he has helped develop and implement programs of social action which benefit all our citizens.

I am pleased to consider Dr. Goldman as a valued friend, and join with his many admirers in offering my best wishes for a most enjoyable and well-earned retirement. His many accomplishments will long be remembered and appreciated by Marylanders of all faiths.

LIBRARY OF CONGRESS STUDY ON TAX INCENTIVES FOR INVESTMENT

Mr. KENNEDY. Mr. President, one of the major issues that Congress will face in the forthcoming debate on tax reduction and tax reform is the question of the appropriate incentives for capital formation.

Recently, I ask the Library of Congress to analyze this complex question and to compare the effects of several different types of widely discussed capital incentives. I received the report of the Library of Congress yesterday, and I am pleased to make it available to the Senate.

The report analyzed five proposals, using the Data Resources, Inc., DRI, model of the economy. The report ranked the proposals in the following order in terms of their effectiveness and efficiency in stimulating new investment:

First. Replace the current investment

credit with an incremental investment credit, available only for increased investment over a base period level.

Second. Adopt an across-the-board increase in the current investment credit, with an additional credit for incremental investment, with both credits made immediately refundable and accompanied by repeal of the present ADR system. Earlier this year I suggested this proposal for consideration as part of the current tax reform debate.

Third. Adopt an across-the-board increase in the investment credit.

Fourth. Adopt a more generous ADR—Asset Depreciation Range—system allowing shorter useful lives of property and hence increased depreciation deductions.

Fifth. Reduce the current 48-percent corporate tax rate.

For purposes of the comparison, the Library of Congress analyzed the proposals over the 5 years 1977–1981, and chose levels for each alternative that produced the same overall revenue loss to the Treasury for the period—$11 billion. In other words, the study asked the question, How much new investment will be produced over the next 5 years if a Federal tax subsidy of $11 billion is provided under each alternative?

The comparison shows that the proposals differ widely in their efficiency in stimulating new investment, as the following summary, prepared from the Library of Congress tables, indicates:

	Increased investment	
	1977–81 billions	Per dollar of revenue loss
1. Replace the current 7 percent credit with an 18 percent incremental credit	$25.8	$2.30
2. Increase the current credit to 10 percent, add a 5 percent incremental credit, make the credit refundable, and repeal ADR	13.4	1.20
3. Increase the current credit to 10 percent[1]	5.5	.49
4. Expand ARD to shorten the average useful life from the current 11.1 yr to 8.9 yr	3.9	.35
5. Reduce the corporate tax rate from 48 to 46 percent[2]	.4	.04

[1] The report used a credit of 9.67 percent to reach the same revenue loss as in the other alternatives.

[2] The report used a rate of 45.47 percent to reach the same revenue loss as in the other alternatives.

These figures demonstrate the dramatic differences in efficiency that exist among the various proposals now being considered as incentives for capital formation. A "pure" incremental investment credit would be extremely efficient, with each dollar of Federal tax expenditure generating $2.30 in new investment.

By contrast, a cut in the corporate tax rate would be grossly inefficient, producing only 4 cents in new investment for each tax dollar lost to the Treasury.

Even the current investment credit is clearly inefficient, producing only 49 cents in new investment for each dollar lost to the Treasury—or less than one quarter as efficient as the incremental credit.

The incremental credit is of special benefit to new businesses and growing businesses. In addition, by making the credit refundable immediately, the incentive will be available to new and growing businesses, especially small businesses, when it can do the most good—in their early years of growth, when initial losses and other expenses may result in little or no tax liability to be offset by the credit. The refundable feature means that such businesses will be eligible for the credit immediately, without having to wait for future profits before they qualify for the tax incentive.

By contrast, as the "control" columns in the Library of Congress tables indicate, the less efficient incentives are largely windfalls to businesses for investments that would be made anyway. Thus, for each dollar of Federal subsidy through the present "flat rate" investment credit, the Nation receives 49 cents for new investment; the other 51 cents is wasted as a "windfall" element that produces no additional investment.

Perhaps, if there were no other reasonable alternatives for the stimulation of new investment, it would be worthwhile for the Federal Treasury to spend $1 to get 49 cents in new investment. But we face no such choice. Each of the two incremental credit alternatives in the report has a superior efficiency to the present flat rate credit. In fact, both alternatives produce even more than a dollar of new investment from each dollar of revenue loss, and the "pure" incremental credit actually produces over $2 in new investment per dollar of subsidy.

The new Library of Congress report is especially valuable, because it is one of the first quantitative econometric studies of the relative efficiency of various tax incentives for capital formation.

Too often in the past, Congress has adopted tax incentives with little or no sound economic analysis. Now, with the help of the Library of Congress, the Congressional Budget Office, and the Senate and House Budget Committees, Congress is beginning to answer questions that should have been asked long ago. In this way, we can reassess existing tax expenditures and analyze new proposals, before committing Congress to wasteful Federal subsidies through the tax system.

As the current study indicates, there are obvious ways to use the tax system to stimulate business investment and encourage capital formation. But the method we have chosen so far— the "straight" investment credit—is now revealed as one of the least effective methods available.

If we are genuinely concerned about achieving maximum efficiency from the use of scarce Federal funds, it is clear that the incremental investment credit is far superior as a tax incentive for growth and increased investment.

I intend to offer a floor amendment to the forthcoming tax reform bill to improve the efficiency of the current investment credit, and I hope that the Senate will debate and adopt a capital incentive that produces substantially more value for the taxpayer's dollar than the Nation is now receiving.

Mr. President, I ask unanimous consent that the Library of Congress study may be printed in the RECORD.

There being no objection, the study was ordered to be printed in the RECORD, as follows:

[The Library of Congress, Congressional Research Service]

COMPARATIVE COST-EFFECTIVENESS OF ALTERNATIVE INVESTMENT TAX INCENTIVES

(By Robert Tannenwald, Economic Analyst, and Warren E. Farb, Specialist in Macroeconomics, Economic Division, June 7, 1976)

I. INTRODUCTION

During the past several years, a number of economists and businessmen have been warning the country of an iminent "capital shortage". They fear that the nation's capital stock will be insufficient to meet the demands likely to be placed on it during the next several decades. In order to reduce this projected shortfall, they have suggested various tax proposals designed to stimulate investment.

Those concerned about a possible capital shortage have expressed an interest in comparing alternative investment tax incentives in terms of which stimulates the most additional investment per dollar of revenue loss. This study makes such a comparison for 5 specific proposals of equal revenue cost: (1) a reduction in the corporation income surtax by 2.53 percentage points; (2) a shortening of the average useful tax life of business machinery and equipment from 11.1 to 8.9 years; (3) an increase in the investment tax credit from 7 percent (4 percent for utilities) to 9.67 percent for all taxpayers (including[1] utilities); (4) a refundable incremental tax credit (i.e., one that applies only to investment greater than that undertaken during a designated base period) of 18 percent; and (5) Senator Edward Kennedy's investment tax credit proposal [a combination of proposals (3) and (4), coupled with a repeal of the Asset Depreciation Range System].

After a discussion of what these proposals specifically entail, the study draws on economic theory to formulate hypotheses concerning which tax proposal should have the greatest economic impact per dollar of revenue cost. In addition, the impact of each proposal is analyzed using the Data Resources, Inc. long-term quarterly model of the economy.

II. DESCRIPTION OF PROPOSALS AND RELEVANT PORTIONS OF CURRENT LAW

(1) Reduction in corporation income surtax rate. Under current law, the surtax rate is 26 percent. This proposal would lower it to 23.47 percent.

(2) Shortening of average useful tax life. Useful tax lives currently are determined under the Asset Depreciation Range System (ADR). Promulgated in 1971, ADR allows taxpayers to vary industry-wide class lives of machinery and equipment assigned by the Department of the Treasury up to 20 percent in either direction. (In effect, therefore, it gives taxpayers the opportunity to shorten the useful tax lives of such assets from pre-1971 levels by up to 20 percent). ADR also repealed the Reserve Ratio test, a device which required firms to equate roughly their useful tax lives with their actual asset retirement experience.

Currently, the average useful tax life of business machinery and equipment is estimated to be 11.1 years.[2] Proposal 2) would change the flexibility of useful tax lives under ADR so that, for 1977 and later years, this estimate would be 8.9 years. In other respects ADR would remain unchanged. The corporate income surtax rate would remain at 26 percent. The investment tax credit would revert to its pre-1975 level, as provided for under current law.

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[1] Currently the investment tax credit is generally 10 percent for all taxpayers (including utilities). According to the Tax Reduction Act of 1975, the credit is scheduled to revert to 7 percent (4 percent for utilities) on January 1, 1977.

[2] This is the figure used by Data Resources, Inc. in its long-term quarterly model.

(3) Increase in the standard investment tax credit. As explained in footnote 1, page 1, The Tax Reduction Act of 1975 provides for an investment tax credit of 10 percent for all taxpayers (including public utilities).[3] The credit applies only to non-residential machinery and equipment; it does not apply to structures. On January 1, 1977, the tax credit is scheduled to revert to its pre-1975 level of 7 percent (4 percent for utilities).

Proposal 3) would provide that beginning on January 1, 1977, the investment tax credit would become 9.67 percent for all taxpayers (including utilities). The corporation income surtax rate would remain at 26 percent. The average useful tax life of business machinery and equipment would remain at 11.1 years. The ADR system would remain intact.

(4) Incremental credit. Under this proposal, beginning on January 1, 1977, the investment tax credit in its current form would be repealed. In its place would be established a refundable investment tax credit applicable only to investment in non-residential machinery and equipment in exess of the average annual level of such investment during the 3 previous years. If a firm's investment in non-residential machinery and equipment were to equal $500 million in 1977, while its average annual investment in such assets during 1974–1976 were $400 million, it would be entitled to an 18 percent investment tax credit on $100 million ($500 million-$400 million). The average useful tax life of business machinery and equipment would remain at 11.1 years. The ADR system would remain intact. The corporation income surtax would remain at 26 percent.

(5) The Kennedy proposal. Senator Edward Kennedy has proposed that beginning in 1977 the investment tax credit be retained at 10 percent for all taxpayers (including utilities). Moreover, according to his proposal, beginning in 1977 an additional 5 percent credit would be allowed for investment in machinery and equipment in excess of the average annual level of such investment during the 3 previous years. If a firm's investment in business machinery and equipment were $500 million in 1977, while its average annual investment in such assets during 1974 through 1976 were $400 million, it would be entitled to a 15 percent investment tax credit on $100 million and a 10 percent investment tax credit on $400 million.

Starting in 1978, both the regular and incremental tax credits would become refundable, i.e., independent of the tax liability of the taxpayer.

In 1977, in addition to extending the 10 percent investment credit and introducing a 15 percent incremental credit, Senator Kennedy would repeal that element of the Asset Depreciation System which permits a 20 percent deviation from guideline lives. He would restore the use of guideline lives as they existed prior to 1971 and the authority of the Department of the Treasury to insure that guideline lives correspond to actual business experience.

The changes in the economy that would occur were each of these proposals put into effect were compared with changes that would occur were current tax law to remain in effect through 1981.

The 5 alternatives outlined above, as stated above, are equal in revenue cost. More specifically, they are equal in the amount of revenue each would lose from 1977 through 1980. However, in estimating the revenue loss of each proposal, the fact that a dollar of revenue loss in 1980 is worth less than a dollar of revenue loss in 1977 was taken into account.

As illustration of how this compensation was effected, consider this example. The following are the projected revenue losses from the reduction in the average useful tax life of business machinery and equipment from 11.1 to 8.9 years, as provided for in proposal (3) described above:

[In billions of dollars]

1977	1.78
1978	3.09
1979	4.00
1980	4.36

SOURCE: Estimates made by the Congressional Research Service.

To reflect the fact that a dollar of revenue loss in the future is worth less than a dollar of revenue loss in the present, each annual figure was discounted in proportion to how far into the future it would occur.[4]

In this study, based on a recommendation of the Joint Committee On Internal Revenue Taxation, a discount rate of 10 percent is used. The present value of the projected revenue losses over the next four years from reducing the average useful tax lives of business machinery equipment from 11.1 to 18.9 years is approximately $11.2 billion.

This amount is equal to the present values of the projected revenue losses over the next four years from the other proposals whose economic effects are analyzed in this report. In this manner, the estimated revenue costs of these alternatives are equal.

III. THEORETICAL ANALYSIS

There are 3 major ways in which these 5 tax incentives could stimulate private investment:

(1) By increasing the immediate cash flow of businesses in general.

(2) By redistributing income toward firms with a relatively high propensity to invest.

(3) By decreasing the cost of capital and therefore increasing the after-tax return on investment.

By definition, the cash flow effects of the proposals are identical. This theoretical discussion, therefore, concentrates on factors (2) and (3).

According to neoclassical theory, firms employ their funds in the most profitable uses available. They will pursue projects. therefore, whose rates of return exceed the interest rate, the return on loans. They will eschew projects whose rates of return are below the interest rate.

The reduction in the corporate income surtax rate, the increase in the conventional investment tax credit, and the reduction in average useful tax life will increase the net return on all investment projects by a uniform percentage. Some projects previously less profitable than loans will become more profitable. Investment will therefore increase.

An incremental credit, by contrast, affects after-tax rates of return only on levels of investment above the pre-credit equilibrium—the investment "base". Consequently, only those investment projects above and beyond those that form the "investment base" receive the benefit of an increased rate of return. However, the rate of return on each of these projects is less than the interest rate. The incremental credit, therefore, will lift some of them into the realm of profitability—it will increase their rates of return above the interest rate. Consequently, the incremental credit also will augment investment.

The Kennedy proposal would increase the net rates[5] of return on all investment. However, because it entails a larger credit for incremental investment than for "base" investment, it would enhance the rate of return on the former more than the rate of return on the latter. Again, some incremental investment projects formerly less profitable than loans will become more profitable. As a result, investment will be induced by the tax incentive.

All 5 proposals, therefore, theoretically would stimulate investment. The central question addressed in this study is which would result in the greatest stimulus per dollar of revenue loss.

The tax savings resulting from a reduction in the corporation income surtax rate are a function of corporate profits, not corporate investment. A profitable firm which substitutes labor for capital enjoys just as much tax savings from a surtax rate deduction as one which substitutes capital for labor. A profitable high growth firm enjoys just as much benefit as a profitable low growth one. A profitable firm with a high dividend payout ratio enjoys just as much tax savings as a profitable firm with a low pay-out ratio, even though dividends might be consumed rather than reinvested. The tax savings from the other 4 measures, however, are much more closely tied to investment levels. In other words, they redistribute income more directly to firms with a relatively high marginal propensity to invest.

Similarly, a refundable incremental investment tax credit should result in a greater increase in investment per dollar of revenue loss than would either a shortening of useful tax lives or a uniform investment tax credit. Neoclassical economic theory states that all base investment is expected to be profitable with or without tax incentives. Allowing tax reductions for this investment, therefore, merely provides a windfall gain for successful investors. This gain is exactly what a standard investment tax credit and a reduction in useful tax lives provide. An incremental credit concentrates all of its incentive where it can increase investment—at the margin. It does not "use up" revenue losses on non-incremental investment. Therefore, for a given revenue cost it can effect a greater reduction in the cost of financing incremental investment.

Moreover, to the extent that it does provide some windfalls, it provides them only to firms, both profitable and non-profitable (including officially designated non-profit organizations), likely to expand investment, not merely to all profitable firms that engage in any form of investment.

Theoretically, it is more difficult to rank a standard investment tax credit and a shortening of useful tax lives in terms of cost effectiveness. Both are targeted on both incremental and non-incremental investment. The difference in impact of a dollar's worth of each type of incentive is a function of their relative effect on the cost of capital. A priori, it is impossible to predict which effect is greater.

To summarize, from the above analysis, one would predict the following ranking of the 5 alternative investment tax incentives in terms of their impact on investment per dollar of tax revenue loss:

(1) Incremental investment tax credit.

(2) The Kennedy proposal.

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[3] Firms which establish employee stock ownership plans are eligible for a bonus credit of 1 percent.

[4] The discount formula employed was:

$$PV = Ao + \frac{A1}{(1+i)} + \frac{A2}{(1+i)_2} + \frac{A3}{(1+i)_3} + \frac{An}{(1+i)n}$$

Where: PV equals the discounted value of the revenue loss over the 4-year period, or its "present value".

Ao equals the loss in the first year

A1 equals the loss in the second year

A2 equals loss in the third year, and so forth. "i" in this formula is known as the "discount rate".

[5] It would do so under the assumption that the stimulative effect of the credits outweighs the depressing effect of the lengthening of useful tax lives.

(3) (Standard investment tax credit.) (Reduction in useful tax lives.)

(4) Reduction in corporation surtax exemption.

Implicit in the analysis which gave rise to this hypothesized ranking are two assumptions: 1) that the tax savings arising from each incentive are not shifted to the consumer or to labor, and 2) that the economy is operating at less than full employment. If either assumption is abandoned, the possibility that *none* of the 5 alternatives would significantly increase the flow of investment must be considered.

If the tax benefits from the alternatives are to be shifted, then they would not necessarily result in an increase in the net rate of return to the kinds of investment to which they are targeted. Based on the assumption that firms are profit maximizers and that labor markets are competitive, the general view is that the burden of business income taxes fall on capital in the short-run. This view is based on the argument that the tax would not change profit-maximizing price and output decisions.

However, labor unions could use their power to preempt some tax benefits in the form of higher wages. Furthermore, some economists have argued that corporations maximize something other than profits, i.e. sales with a profit constraint. Under such conditions, shifting of the tax benefits might occur in the short run. Moreover, in the long-run migration of capital between sectors could lead to a complex pattern of incidence involving some shifting.

If the economy is operating at full capacity, then the initial stimulus to investment provided by the tax incentives might be negated by an increase in the interest rate. Under such conditions, the economy would be incapable of providing a supply of capital sufficient to satisfy investment demand without an increase in the savings rate. In the absence of such an increase and without accommodating monetary expansion, the change in investment demand arising from the tax incentives would bid up the cost of capital in the form of higher interest rates.[6]

This situation would work to the detriment of forms of investment usually financed with debt, such as housing. In the case of changes in the investment tax credit, this bias would compound the discrimination that housing already suffers by virtue of the ineligibility of structures for the credit. (Structures are also ineligible for the ADR option). The ultimate result of the incentives under full-employment conditions, therefore, could be a change in the mix of investment without a real increase in its level.

IV. SUMMARY OF EMPIRICAL ANALYSIS

Through the use of the Data Resources, Incorporated (DRI) quarterly model of the United States economy, the impact of the 5 tax packages were analyzed. The results of the analysis lend support to the ranking of investment tax incentives supported in the theoretical discussion in part II.[7]

In general, none of the tax proposal packages are likely to have a significant impact on overall economic activity and employment. The strongest impact is on the volume and allocative pattern of investment. The benefit to the economy would then be a higher level of potential output and greater capacity in future years. While there might be some minimal increase in inflation through the years studied, any increase in total investment spending would probably lessen inflationary pressures later in the 1980's.

This analysis suggests that with an incremental tax credit a moderate amount of investment could be stimulated without giving rise to a significant increase in inflation. Historically, however, inflation has been one of the weakest "links" of economic model analysis. It is much more certain that, no matter what incentive is used, any expansion of capital investment is durable equipment at the expense of investment in residential housing. It is important to note, however, that these results rest on the assumption of no change in policy by the Federal Reserve Board to accommodate the increased economic growth. Any actions taken by the Board either to ease credit conditions or to prevent credit from tightening as a result of the economic expansion would attenuate the impact on housing and promote economic growth.

V. APPENDIX: RESULTS OF COMPUTER SIMULATION

A. Impact on investment

1. 18 percent incremental credit. This proposal clearly has the greatest impact on the total level of investment. By 1981, total nominal investment[8] exceeds by 8.6 billion dollars, or 2.0 percent, its level under the control situation. This translates into a $4.9 billion boost to real investment.[9] Real investment in non-residential machinery and equipment increases by $4.8 billion, or 4.2 percent. Real residential construction decreases by only $900 million (1.8 percent).

2. Kennedy proposal. This incentive ranks second in its impact on investment. By 1981 nominal total investment increases by $4.8 billion, or 1.1 percent. Real investment increases by $2.5 billion. Real investment in non-residential business machinery and equipment increases by $2.4 billion, or 2.1 percent. Real residential construction decreases by $700 million, or 1.4 percent.

3. 9.67 percent standard tax credit. This alternative ranks third in its stimulus to investment. By 1981 nominal total investment increases by only $1.7 billion or 0.4 percent. Real investment increases by $1 billion, or 0.4 percent. Real investment in nonresidential machinery and equipment increases by $10 billion or 1.0 percent. Real residential construction decreases by $200 million, (.3 percent).

4. Reduction in useful tax life. The impact of this incentive is relatively small, and is not significantly more stimulative than a reduction in the surtax. Total nominal investment increases by $1 billion, roughly 0.2 percent. Real investment increases by $600 million, or 0.3 percent Real investment in non-residential machinery and equipment increases by $800 million (0.7 percent). Real residential investment decreases by $200 million, or 0.3 percent.

5. Reduction in corporation income surtax rate. This proposal has virtually no discernible impact. Investment increases by only $300 million, or 0.1 percent. Real total investment increases by only $200 million. Real non-residential investment in machinery and equipment and real residential construction do not change by more than $100 million.

A detailed breakdown of the impact of each alternative on key investment variables for the years 1977 through 1981 can be found in Tables 1 through 5.

B. Impact on savings rate

The only proposals which effect the savings rate are the 18 percent incremental investment tax credit and the Kennedy proposal. The former increases it to 0.080, compared with 0.077 under the control situation. The latter increases it to 0.078. The other 3 proposals have no discernible effect on this variable.

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[6] The need of the Federal government to bid for funds in order to finance the increase in the deficit resulting from the tax incentive would only aggravate the situation.

[7] More detailed information regarding the results of the analysis are provided in the appendix.

[8] The sum of nominal business fixed investment, nominal residential construction, and nominal inventory investment.

[9] The sum of real business fixed investment and real residential construction.

TABLE 1.—IMPACT ON INVESTMENT OF REDUCTION IN SURTAX RATE

[In billions of dollars]

	1977			1978			1979		
	Control	Lower surtax rate	Percent difference	Control	Lower surtax rate	Percent difference	Control	Lower surtax rate	Percent difference
INVESTMENT COMPONENT									
Nominal investment, total	(1)	312.4	−0.1	(1)	311.0	−0.1	(1)	338.9	+0.1
Business fixed investment:									
Equipment	(1)	131.0	0	(1)	147.0	.1	(1)	155.5	0
Structures	(1)	67.5	0	(1)	74.2	0	(1)	80.8	0
Residential construction	(1)	82.7	−.2	(1)	78.4	+.1	(1)	92.8	+.2
Inventory investment	(1)	31.2	−.1	(1)	11.4	−2.1	(1)	9.8	+2.5
REAL INVESTMENT COMPONENTS									
Business fixed investment:									
Equipment	(1)	88.9	0	(1)	93.0	0	(1)	93.6	0
Structures	(1)	41.5	0	(1)	42.1	0	(1)	43.5	0
Residential construction	(1)	52.1	−.2	(1)	45.5	+.1	(1)	50.6	.2
Total	(1)	182.5	−.1	(1)	180.6	+.1	(1)	187.7	−.1

TABLE 1.—IMPACT ON INVESTMENT OF REDUCTION IN SURTAX RATE—Coutinued

[In billions of dollars]

	1980			1981			1982		
	Control	Lower surtax rate	Percent difference	Control	Lower surtax rate	Percent difference	Control	Lower surtax rate	Percent difference
INVESTMENT COMPONENT									
Nominal investment, total	(1)	410.1	0	(1)	426.7	+0.1	(1)		
Business fixed investment:									
Equipment	(1)	183.5	+.1	(1)	209.8	+.1	(1)		
Structures	(1)	91.4	0	(1)	95.7	+.2	(1)		
Residential construction	(1)	106.6	0	(1)	99.5	+.1	(1)		
Inventory investment	(1)	28.6	0	(1)	21.7	−1.0	(1)		
REAL INVESTMENT COMPONENTS									
Business fixed investment:									
Equipment	(1)	105.1	−.1	(1)	113.2	0	(1)		
Structures	(1)	46.4	+.1	(1)	46.3	+.2	(1)		
Residential construction	(1)	55.0	+0	(1)	48.6	+.1	(1)		
Total		206.5	0	(1)	208.1	+.1	(1)		

[1] See table 4.

TABLE 2.—IMPACT ON INVESTMENT OF REDUCTION IN USEFUL TAX LIFE

[In billions of dollars]

	1977			1978			1979		
	Control	Tax life change	Percent difference	Control	Tax life change	Percent difference	Control	Tax life change	Percent difference
INVESTMENT COMPONENT									
Nominal investment, total	(1)	312.9	+0.1	(1)	311.6	+0.1	(1)	339.6	+0.4
Business fixed investment:									
Equipment	(1)	131.4	+.2	(1)	147.6	+.3	(1)	156.4	+.6
Structures	(1)	67.5	0	(1)	74.2	0	(1)	81.0	+.3
Residential construction	(1)	82.7	−.1	(1)	78.3	0	(1)	92.5	−.1
Inventory investment	(1)	31.3	0	(1)	11.5	−.9	(1)	9.7	+2.2
REAL INVESTMENT COMPONENTS									
Business fixed investment:									
Equipment	(1)	89.1	+.2	(1)	93.4	+.4	(1)	94.2	+.6
Structures	(1)	41.5	0	(1)	42.1	0	(1)	43.6	+.2
Residential construction	(1)	52.1	−.2	(1)	54.4	0	(1)	50.5	0
Total	(1)	182.7	+.1	(1)	180.9	.2	(1)	188.3	+.4

	1980			1981			1982		
	Control	Tax life change	Percent difference	Control	Tax life change	Percent difference	Control	Lower surtax rate	Percent difference
INVESTMENT COMPONENT									
Nominal investment, total	(1)	411.1	+0.3	(1)	427.4	+0.2	(1)		
Business fixed investment:									
Equipment	(1)	184.8	+.8	(1)	211.2	+.8	(1)		
Structures	(1)	91.4	0	(1)	95.5	0	(1)		
Residential construction	(1)	106.3	−.3	(1)	99.0	−.4	(1)		
Inventory investment	(1)	28.6	0	(1)	21.7	−.9	(1)		
REAL INVESTMENT COMPONENTS									
Business fixed investment:									
Equipment	(1)	106.0	+.8	(1)	114.0	+.7	(1)		
Structures	(1)	46.3	0	(1)	46.2	0	(1)		
Residential construction	(1)	54.8	−.4	(1)	48.3	−.4	(1)		
Total	(1)	207.1	+.3	(1)	208.5	+.3	(1)		

[1] See table 4.

TABLE 3.—IMPACT ON INVESTMENT OF 9.67 PERCENT STANDARD CREDIT

[In billions of dollars]

	1977			1978			1979		
	Control	9.67 percent standard credit	Percent difference	Control	9.67 percent standard credit	Percent difference	Control	9.67 percent standard credit	Percent difference
INVESTMENT COMPONENT									
Nominal investment, total	(1)	312.8	0	(1)	311.7	+0.2	(1)	339.9	+0.4
Business fixed investment:									
Equipment	(1)	131.4	+.2	(1)	147.7	+.4	(1)	156.6	+.7
Structures	(1)	67.5	0	(1)	74.4	+.3	(1)	81.0	+.3
Residential construction	(1)	82.6	−.2	(1)	78.2	−.1	(1)	92.5	−.1
Inventory investment	(1)	31.3	0	(1)	11.4	−1.7	(1)	9.8	+3.2
REAL INVESTMENT COMPONENTS									
Business fixed investment:									
Equipment	(1)	89.2	+0.3	(1)	93.5	+.5	(1)	94.4	+.8
Structures	(1)	41.5	0	(1)	42.2	+.2	(1)	43.6	+.2
Residential construction	(1)	52.1	−.1	(1)	45.4	0	(1)	50.5	0
Total	(1)	182.8	+.1	(1)	181.1	+.3	(1)	188.5	+.5

TABLE 3.—IMPACT ON INVESTMENT OF 9.67 PERCENT STANDARD CREDIT—Continued

[In billions of dollars]

	1980			1981			1982		
	Control	9.67 percent standard credit	Percent difference	Control	9.67 percent standard credit	Percent difference	Control	9.67 percent standard credit	Percent difference
INVESTMENT COMPONENT									
Nominal investment, total	(1)	411.7	+0.4	(1)	428.1	+0.4	(1)		
Business fixed investment:									
Equipment	(1)	185.1	.9	(1)	211.7	+1.0	(1)		
Structures	(1)	91.6	.2	(1)	95.7	+.2	(1)		
Residential construction	(1)	106.3	−.3	(1)	99.1	−.3	(1)		
Inventory investment	(1)	28.7	+.3	(1)	21.6	−1.4	(1)		
REAL INVESTMENT COMPONENTS									
Business Fixed Investment:									
Equipment	(1)	106.2	+.1	(1)	114.3	+1.0	(1)		
Structures	(1)	46.4	+.2	(1)	46.3	+.2	(1)		
Residential construction	(1)	54.8	−.4	(1)	48.3	−.3	(1)		
Total	(1)	207.4	+.4	(1)	208.9	+.5	(1)		

(1) See table 4.

TABLE 4.—IMPACT ON INVESTMENT OF 18 PERCENT INCREMENTAL CREDIT

[In billions of dollars]

	1977			1978			1979		
	Control	18 percent incremental credit	Percent difference	Control	18 percent incremental credit	Percent difference	Control	18 percent incremental credit	Percent difference
INVESTMENT COMPONENT									
Nominal investment, total	312.7	315.1	+0.8	311.2	314.9	+1.2	338.4	343.0	+1.4
Business fixed investment:									
Equipment	131.1	133.1	+1.5	147.1	150.8	+2.5	155.5	161.0	+3.5
Structures	67.5	67.6	+.1	74.2	74.6	+.5	.8	81.2	+.5
Residential construction	82.8	82.7	−.1	78.3	77.4	−1.0	92.6	91.2	−1.5
Inventory investment	31.3	31.7	+1.3	11.6	12.1	+4.3	9.5	9.6	+1.1
REAL INVESTMENT COMPONENTS									
Business fixed investment:									
Equipment	88.9	90.3	+1.5	93.0	95.9	+3.1	93.6	96.9	+3.5
Structures	41.5	41.5	0	42.1	42.2	+.5	43.5	43.7	+.4
Residential construction	52.2	52.1	−.1	45.4	44.9	−1.0	50.5	49.7	−1.5
Total	182.6	183.9	+.7	180.5	183.0	+1.4	187.6	190.3	+1.4

	1980			1981			1982		
	Control	18 percent incremental credit	Percent difference	Control	18 percent incremental credit	Percent difference	Control	18 percent incremental credit	Percent difference
INVESTMENT COMPONENT									
Nominal investment, total	410.0	416.5	+1.6	426.4	435.0	+2.0			
Business fixed investment:									
Equipment	183.4	191.4	+4.4	209.6	218.4	+4.2			
Structures	91.4	91.7	+.3	95.5	97.6	+2.2			
Residential construction	106.6	104.4	−2.1	99.4	97.6	−1.8			
Inventory investment	28.6	29.0	+1.4	21.9	21.4	−2.3			
REAL INVESTMENT COMPONENTS									
Business fixed investment:									
Equipment	105.2	109.8	+4.4	113.2	118.0	+4.2			
Structures	46.3	46.5	+.3	46.2	47.2	+2.2			
Residential construction	55.0	53.7	−2.4	48.5	47.6	−1.8			
Total	206.5	210.0	+1.7	207.9	212.8	+2.4			

TABLE 5.—IMPACT ON INVESTMENT OF KENNEDY PROPOSAL

[In billions of dollars]

	1977			1978			1979		
	Control	Kennedy proposal	Percent difference	Control	Kennedy proposal	Percent difference	Control	Kennedy proposal	Percent difference
INVESTMENT COMPONENT									
Nominal investment, total	(1)	313.8	+0.4	(1)	313.0	+0.6	(1)	340.9	+0.7
Business fixed investment:									
Equipment	(1)	132.1	+.8	(1)	148.9	+1.2	(1)	158.2	+1.7
Structures	(1)	67.5	0	(1)	74.4	+.3	(1)	81.0	+.3
Residential construction	(1)	82.7	−.1	(1)	77.9	−.5	(1)	92.0	−.6
Inventory investment	(1)	31.5	+.7	(1)	11.8	+1.7	(1)	9.7	+2.2

TABLE 5.—IMPACT ON INVESTMENT OF KENNEDY PROPOSAL—Continued

[In billions of dollars]

	1977			1978			1979		
	Control	Kennedy proposal	Percent difference	Control	Kennedy proposal	Percent difference	Control	Kennedy proposal	Percent difference
REAL INVESTMENT COMPONENETS									
Business fixed investment:									
Equipment	(1)	89.3	+.4	(1)	94.1	+1.2	(1)	94.2	+1.6
Structures	(1)	41.5	0	(1)	42.2	+.5	(1)	43.6	+.2
Residential construction	(1)	52.2	0	(1)	45.2	−.4	(1)	50.1	−.8
Total	(1)	183.0	+0.2	(1)	181.5	+1.6	(1)	187.9	+.2

	1980			1981			1982		
	Control	Kennedy proposal	Percent difference	Control	Kennedy proposal	Percent difference	Control	Kennedy proposal	Percent difference
INVESTMENT COMPONENT									
Nominal investment, total	(1)	413.2	+0.8	(1)	431.2	+1.1	(1)		
Business fixed investment:									
Equipment	(1)	187.4	+2.2	(1)	214.1	+2.1	(1)		
Structures	(1)	91.4	0	(1)	97.2	+1.7	(1)		
Residential construction	(1)	105.6	−.8	(1)	98.3	−1.1	(1)		
Inventory investment	(1)	28.8	+.7	(1)	21.6	−1.4	(1)		
REAL INVESTMENT COMPONENTS									
Business fixed investment:									
Equipment	(1)	107.9	+2.2	(1)	115.6	+2.1	(1)		
Structures	(1)	46.4	+0	(1)	47.0	+1.7	(1)		
Residential construction	(1)	54.4	−1.1	(1)	47.8	−9.4	(1)		
Total	(1)	208.7	+1.1	(1)	210.4	+1.2	(1)		

[1] See table. 4.

WHO PAYS THE PIPER?

Mr. GARN. Mr. President, Oliver H. Jones in the June 5 edition of the Washington Post gave a most perceptive analysis of the new Federal Trade Commission's regulation which abolishes the legal doctrine of holder in due course in consumer credit transactions.

To put the matter in perspective, Dr. Jones traces the role the doctrine played in expanding the availability of credit for consumer installment purchases by protecting the lender from the buyer's claims against the seller. In the early days banks were not much interested in consumer lending because they did not want to hold large amounts of debt instruments that they could not resell. The holder in due course doctrine was developed to relieve the banks from the obligations of the seller to the buyer. This made the consumer installment loan paper marketable. Thus, the banks went into consumer installment lending of everything from automobiles to aluminum siding. This contributed greatly to the growth in the market for consumer goods.

Some abuses arose because a few sellers would simply extend credit to buyers and immediately resell their loans. The buyers were required to pay even though the merchandise turned out to be defective.

The Federal Trade Commission stepped in with its rule which abolishes the holder in due course doctrine by requiring that these instruments of indebtedness carry the statement that they are subject to all claims and defenses that could be asserted against the seller. Although this simplistic approach on its face is attractive, particularly to consumers who have been bilked by dishonest merchants, as Dr. Jones points out it ignores the economics of the marketplace.

Dr. Jones observes a number of consequences likely to flow from the rule.

Banks may stop making consumer loans. This could lead to fewer dollars available, an increase in costs, a reduction of sales and a rise in unemployment.

Or the banks may still deal with consumer paper but require the seller to indemnify them. This would push up the cost and restrict the availability of credit.

Probably most banks will remain in the consumer paper market but will tighten their credit criteria restricting the availability of credit and will increase the costs of credit.

What this all comes down to is that the Government, and the Federal Trade Commission in particular, has failed to police the market and is unloading their responsibility on the lending institutions. The cost will ultimately be borne by the consumer who shops wisely for services and merchandise. The piper must be paid and as in so many other schemes coming from the bureaucrats in Washington it is the consumer who pays in higher costs and restrictions on innovation in the marketplace.

Mr. President, I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

CONSUMER CREDIT AND PROTECTION

(By Oliver H. Jones)

My father taught me the rule: "If you do business with a crook, you should expect to get fleeced."

Unfortunately, he did not tell me how to identify the seller of merchandise that did not live up to its billing. So I have gone through life making the usual number of mistakes and fighting my own battles—winning some and losing some.

On an occasion I signed on the dotted line with a door-to-door salesman for storm windows. Some days later, a contractor put the storm windows on the house and appeared at the door seeking another signature. He wanted a signature on a promise to pay a loan which his company would, in turn, sell to a local bank. It happened to be an FHA Title I loan.

The windows passed my inspection but two were missing. He explained that the factory sent the wrong size and he would take care of it later. Of course, my signature meant that I was obligated to pay the bank for the full amount of the purchase—and I had no idea whether I would ever see the missing windows or the contractor again. Sound familiar?

The solution was simple enough. I refused to sign or to pay for the windows in any other way until the original contract was fully met. Sure enough, the appropriate size windows were found within a few days; the contract completed, and the payment made.

Not every home improvement transaction ended so happily. Gullible buyers have signed credit obligations and found that they had obligated themselves to pay a third party whether they were satisfied with the product or not. Sometimes they managed to get satisfaction from the seller or the manufacturer. But if that failed, the legal doctrine of holder in due course protected the lender from the buyer's claims against the seller.

This doctrine has played a significant role in expanding the availability of credit for consumer installment purchases of everything from automobiles to aluminum siding. It has contributed to the remarkable growth in the market for consumer goods.

In the early days of consumer credit, the manufacturer or seller learned that he would increase sales if he could sell on credit. However, the credit he could supply was limited to his own resources, including the funds he could borrow. As he needed all the funds he could raise to operate his business, he began to search for other ways to finance his customers. Over the years, the process has taken a variety of forms. But the simplest transaction was to sell his customers' notes to a bank. Banks, on the other hand, were not particularly interested in paper (debt instruments) that it could not resell. The holder in due course doctrine was developed and by relieving the bank from the obligations of the seller to the buyer it made consumer paper marketable and attractive.

Abuses arose in this system. Sellers simply extended credit to buyers and resold their loans immediately. The buyers were required to pay the loans whether the merchandise measured up to the sellers promises or not. The buyer had a claim to settle with the seller. But the seller, particularly in the home improvement business, might have already moved to another state. He had his money and was long gone.

Our protective government, in this case the Federal Trade Commission, has recently moved to correct this situation by making any holder of your promise to pay "subject to all claims and defenses" you could assert against seller.

It is nice to know that Uncle Sam cares enough to help protect the gullible buyer from unscrupulous sellers. But what about the consumers who have learned to look out for themselves? In all likelihood, when consumer lenders have found ways to live with this change, the cost and availability of credit will be increased. We will all pay the cost of protecting the unwary from himself and the unscrupulous seller will have found another way to rip-off the unwary.

At the moment, it appears that the lender has several choices. He may stop buying consumer paper from sellers and stop making consumer loans. To the extent that decision is made, fewer dollars will be available, pushing up costs and reducing sales and unemployment. He may demand that the seller indemnify him from any loss but that process is limited by the seller's net worth and will produce similar results in the cost and availability of consumer credit. He may seek insurance against loss or hire people to help him police the seller's activities. This choice would keep credit available but it would also increase the cost of consumer credit.

Actually, most buyers of consumer paper will try to stay in the market and tighten their present systems. They will have to police and screen the sellers as well. If they do not end up with a series of nuisance legal suits, they will work out the problems of living with the FTC regulations and stay in the market.

Clearly, government has failed to find ways to police and remove the unscrupulous seller from the market place. It now expects the lender to perform the role of policeman under threat of serious loss. Any increased cost to the consumer will not turn up in a government budget and will be very difficult for the citizen to identify.

OUR NEGATIVE ENERGY POLICY

Mr. HANSEN. Mr. President, there are growing numbers of us who continue to warn of the dangers inherent in the negative U.S. energy policy we are blindly pursuing.

The so-called Energy Policy and Conservation Act mandated a rollback in crude oil prices and a temporary reduction in gasoline prices. The expected result has been higher gasoline consumption and increased oil imports.

Imported crude oil and refined products are now running at around 45 percent of total demand and a higher percentage of this is now coming from Arab countries than at the time of the 1973–74 embargo.

So it is not difficult to visualize the chaos of another such embargo should the Middle East powder keg explode again.

But we go merrily on our way ignoring all warnings as we succumb to the luxury of plentiful if insecure supplies of gasoline and other petroleum products.

In a recent article, Robert J. Samuelson in a Washington Post article emphasized the folly of our wasteful habits and says that last year's great energy debate was mostly a waste of time and proves his point with some interesting facts and statistics.

The cost for the failure of last year's energy debate may not be apparent now, but, by the late eighties, it may be painfully so, he concludes.

Mr. President, so that all Senators may know what a foolish energy course we are pursuing, I ask unanimous consent that the two Samuelson articles that were carried in last Sunday's Washington Post be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

GASOLINE DEMAND: A GROWING CRISIS

(By Robert J. Samuelson)

Anyone who doesn't believe that last year's great energy debate was mostly a waste of time should consult two statistics.

The first comes from the Federal Energy Administration, which reports that gasoline demand is now running nearly 7.5 per cent ahead of 1975 and 6.5 per cent ahead of the record rate of 1973. The second statistic describes the pattern of sales in the automobile industry. This figure indicates that—despite the boom in auto sales—the percentage of sales represented by genuinely small cars (that is, most imports, domestic subcompacts such as Pinto and Vega and a few "specialty" small cars such as the Chevrolet Monza) has declined significantly. Last year, those cars had nearly 34 per cent of the market; this year, the proportion is down to about 28 per cent.

Taken together, these numbers constitute damning confirmation of what was obvious throughout the energy debate: that Congress had no stomach for confronting the single largest component of U.S. oil demand, gasoline. (Neither, it should be added, did the White House.)

More important, the statistics highlight a critical contradiction written into the energy legislation. Congress mandated the auto manufacturers to make significantly smaller cars, but it did little to push consumers towards buying them. A stiff gasoline tax—20 to 40 cents per gallon, introduced, perhaps, in stages—would have been such a prod, but neither Congress nor the White House wanted any part of a gasoline tax.

What realistically looms ahead, consequently, is another ugly confrontation between the auto industry and the government over the 1985 gasoline standards. The energy law prescribes an average mileage for 1985 cars of 27.5 miles per gallon, which—barring any technological breakthrough—would mean that a preponderant part of the industry's production would consist of subcompacts. (By contrast, General Motors' average miles per gallon is 16.6 for the 1976 models, according to the Environmental Protection Agency; Ford's, 17.3; Chrysler's, 16.4.)

The prospects of reaching the 1985 targets seem slim. A more likely outcome would follow these lines: As long as consumers continue to favor larger cars, the auto companies will not rush into the massive conversion necessary to meet the 1985 goals; by the early Eighties, so much time will have been lost that—given the lengthy lead times required for new machine tooling and the limited capacity of the machine tool industry—it will be almost physically impossible to complete the conversion.

Confronted with these facts (and, possibly, a public disinclination to buy smaller cars), Congress will protest loudly, but probably will modify the law rather than fining the industry (as the law prescribes) into stagnation. After all, a stagnant auto industry implies a stagnant economy and high unemployment.

IGNORING THE PROBLEM

To blame the auto companies for this—as will surely be done—is to ignore the fundamental nature of the problem: a public unwillingness, as reflected in both congressional sentiment and car sales, to accept even mild restrictions on energy consumption and a political unwillingness to challenge popular assumptions. It is a mark of how far the "energy crisis" has drifted from the public consciousness that the subject has rarely surfaced during the current presidential campaign.

California Gov. Edmund G. Brown Jr. preaches the need for ecologically bound policies, but does he tell people the unpleasant steps necessary to reduce growth in demand for energy resources?

Jimmy Carter is pledging candor, but is he being candid about the long-run risks in current oil policies?

And, only recently, Ronald Reagan condemned the gasoline standards for handcuffing the automobile industry, but he barely discussed the automobile's impact on oil consumption.

This inattention to energy problems probably reflects the popular mood accurately.

The practical result is that gasoline demand will probably continue rising, because increases in automobile efficiency (the manufacturers do plan to trim down the size and weight of some larger cars) probably will not match inevitable population growth and individual driving increases. No one can accurately predict what the increases in gasoline demand will be, because it is virtually impossible to forecast either the total amount of driving or the actual automobile efficiency improvements that will occur. But a study done in 1974 by the Federal Highway Administration underlines the inevitability—barring catastrophe—of substantial growth in total highway travel.

Even if travel increases only by the rise in population—that is, people won't drive more and no greater proportion of women become licensed drivers—highway travel would increase about 1.5 per cent annually. By 1990, that means total travel increases about 30 per cent from 1970. Unfortunately, however, both these assumptions are contrary to all experience since World War II and, at higher growth rates, the cumulative increases, obviously, are more. The following table illustrates how relatively low rates of annual increases translate, when compounded annually, into large total increases over the next 15 years:

The sobering implication of the latest gasoline consumption figures reported by the FEA is that Americans have acclimated themselves to higher gasoline prices and that demand will increase annually at the high end of the range—something closer to the 2.9 percent annually, rather than the 1.7 percent. That shouldn't be surprising.

Actually, over the last decade, the "real" price of gasoline, adjusted for inflation, has not risen very much and, since the initial jump in 1974 and the first half of 1975, the increases have not outpaced inflation. Moreover, even 3 per cent annual increases in total highway travel would represent a sharp departure from the 1950–1970 trends when, according to the Highway Administration report, highway travel rose at an annual rate of 4.6 per cent. Between 1950 and 1970, that meant that total vehicle travel (including trucks and buses) nearly tripled, from 363 billion vehicle-miles to 901 billion in 1970.

Behind this enormous expansion was rising population, increasing affluence, changing lifestyles (particularly the increase in the number of working women), suburbanization and the expansion of the interstate highway system. Families owned more cars (the driving age population rose only 36 per cent, but the number of cars increased 121 per cent, from 40 million in 1950 to 89.9 million in 1970; half the families with incomes of $15,000 or more had two or more cars in 1970) and people were driving more. In its study, done after the oil embargo, the Highway Administration predicted that annual increases in automobile travel would slow down to a 2 to 3 per cent rate in the next 20 years, because there would be a slackening of population growth and a "saturation" effect on the number of automobiles per family.

But, as the table indicates, a 2 to 3 per cent rate of increase still represents a lot more driving. It means that average new-car increases in fuel efficiency must be at least as large, or gasoline consumption will rise. A 64 per cent increase in travel—not offset by any increase in fuel efficiency—would mean a 64 per cent increase in gasoline consumption; that's about 4.1 million barrels a day on top of 1974's 6.5 million barrels daily, or an increase of about 1.5 billion barrels annually. But even if there's substantial increase in average fuel economy, say about 33 per cent, consumption would still climb by more than 2 million barrels daily.

CRITICIZING THE GOAL

In this sense, the goals in the energy act (which imply a 60 to 70 per cent gain in automobile fuel efficiency by 1985) aren't outlandish. They are unrealistic only in the sense that the legislation created neither the political nor the economic conditions in which the goals might be achieved. Consequently, no one should be surprised that auto executives are already beginning to criticize the targets, leaving little doubt that they will push to have the law modified. Here is Thomas Murphy, chairman of General Motors, speaking last February:

"For General Motors to meet the gas-mileage requirements for post-1984, all but a small fraction of our production would be cars no heavier than today's Vega—no matter how many Americans might want to buy a larger car. But 1984, the Orwellian prophecy, is just around the corner—much closer than we think . . . A great many large families—and better than 20 per cent of American families consist of five or more persons—simply will not want small four-passenger cars, no matter how many miles they can go on a gallon of gasoline. Who will care how far a gallon will take you if you have to leave part of the family behind?"

And here is Lee Iacocca, president of Ford, speaking in early April, putting the problem in almost identical terms:

"We consider this particular problems [the 1985 standards] so critical that in our annual report to Ford stockholders, issued just three weeks ago, Mr. Ford Henry Ford II, chairman of the board] and I said the requirement can be met with existing technology, 'only if the majority of the cars we sell are Pinto-sized and smaller.' And we added, 'Cars in that class [now] amount to less than one-fourth of our sales.'

"We'd like to continue to provide family sedans, station wagons and other roomier vehicles for families of five or more—which covers over 20 per cent of all families in the country, by the way—so that at a minimum they could take a family vacation without having to leave one or two of the kids at home."

SMALL CAR PROBLEMS

Against that background, there is not going to be any headlong surge of new plant investment for smaller cars. Nor, reasonably, should anyone expect a businessman to commit a couple of hundred million dollars to build cars for which the demand is weak. What is now clearly restraining such investment is the lack of demand.

General Motors had planned to open a second production line for its new subcompact, the Chevette, in California, but has deferred the opening indefinitely because Chevette sales have fallen below expectations. Ford is planning to introduce a new subcompact called the Fiesta in mid-1977, but instead of building it in the United States, will import 100,000 initially. That doesn't sit too well with some Congressmen, but when asked why Ford is importing, Iacocca had this to say:

"In the whole year 1975, this market [for small subcompacts], including 55,000 Chevettes, went up to 700,000 [cars]. We think it can go up to 800,000. There are about 15 guys [i.e. other car manufacturers, mostly importers] in it. We would rather think on a gradual basis in terms of 100,000 units. When you think of any domestically-built minicar, you have to think in terms of 300,000 or 400,000. That's about the essence of the way we will answer our congressmen. If the market is there, we will be building it in the United States at some point in time."

Of the Big Three auto companies, Ford has probably been the most heavily committed to smaller cars; partially as a result, it has suffered somewhat from the relative shift towards larger cars. Its share of total car sales has slipped. "Car buyers," Henry Ford told his stockholders recently, "are less interested in fuel economy this year than we thought they would be." American Motors, heavily committed to smaller cars, has had even bigger problems.

Viewed from the boardroom, there is nothing unreasonable or irresponsible about Ford's or GM's attitude toward the new gasoline standards. Indeed, there is something to their argument that a premature shift toward smaller cars without a corresponding pickup in demand might blunt the industry's recovery (Ford, for example, could probably have sold more cars this year if it had a different production mix. Whether or not Ford would have simply recaptured some sales from other companies, or increased the total, is impossible to say.) But it is a measure of the parochialism of many corporate executives that the auto industry has had little to contribute to the energy debate beyond its immediate self-interest. What Iacocca and Murphy do not mention in their speeches is that, unless there's a rather sharp change in the nation's auto fleet, the prospects of stabilizing (never mind reducing) overall gasoline consumption are virtually nil.

DIFFICULT TASK

The auto manufacturers are proud of the gains in fuel efficiency already achieved and, measured against the past, the increases seem substantial. For example, GM's average fuel rate rose from 12 miles per gallon in 1974 to 16.6 in 1976 (though the 1976 figure may now be a bit overstated, because it assumed larger sales of smaller cars.) Moreover, many analysts believe that current plans for redesigning cars will enable the companies to meet the 1978 standard (18 mpg) and even the 1980 standard (20 mpg).

After that, however, there is a huge question mark. Congress conveniently sidestepped the problem by simply promulgating the 1985 standard (which could be lowered to 26 mpg) and telling the Department of Transportation to establish standards for 1981 through 1984. In effect, DOT has been given a virtually impossible task.

The magnitude of the real job—holding down gasoline consumption—is even bigger than it seems. Suppose, for example, the manufacturers were actually able to achieve the 27.5 mpg standard by 1985. Wouldn't that stabilize gasoline consumption? Not necessarily. What people easily forget is that there are already nearly 105 million registered cars, and normally only about 6 to 8 per cent of them are scrapped in any one year. That means that even a 60 per cent increase in the fuel efficiency of new cars won't restrain total demand instantly. It will take years for the new cars to predominate on the highway and, in the interim, the more moderate the gains in fuel efficiency, the larger the total consumption.

Considering the inevitable rise in population and the slow replacement rate of the auto fleet, it may be unrealistic to expect that gasoline consumption in 1990 could be held steady with the mid-1970s level. But surely the size of the increase could be restrained by tempering peoples' enthusiasm for driving and by prompting them to shift toward more efficient cars, thereby accelerating the industry's conversion to those cars.

The conflict between fuel economy and automobile size implied by industry executives is a bit overdrawn. Larger cars can be fitted with less powerful engines and the diesel—which offers significant fuel economies—could be introduced. But such changes are costly and risky, and the industry doubtlessly will not rush in that direction until it knows that its investment will not be wasted. (General Motors tentatively plans to introduce some diesel-powered engines in its 1978 cars, but it's unlikely that any of the manufacturers will make a major commitment until they perceive a substantial demand. Significantly, however, a recent DOT study found that one-half to two-thirds of auto fuel requirements could be met by diesel fuel by the mid-1990s without creating enormous technical problems for oil refiners.)

EFFECT OF A TAX

A gasoline tax was never the monster it was made out to be. All the money raised through such a tax could have been easily returned to the economy through income tax rebates, so that the practical effect would simply have been to raise the price of gasoline. No one really knows how much the price of gasoline affects people's decisions to purchase cars, and other factors—such as the return of middle-class family buyers, who want larger cars—probably explains some of the relative decline in small car sales. But who can doubt that small car sales would have been stronger if the public saw that gasoline prices were marching inexorably higher?

Ultimately, Congress will have to confront the confusion it created. Faced with pleas from the industry (and, possibly, DOT) to modify the standards, Congress could refuse. That would mean that the auto manufactures would be fined $50 per car for every one mile that their average gasoline efficiency fell below the standard. If, for example, GM missed by 3 mpg in 1985 (assuming the standard was dropped to 26 mpg), the fine could be $750 million with an output of 5 million cars, which would be a good, but not record, year. But there will be enormous pressures for Congress not to select this path. The fines simply would be aded to car prices, and fears undoubtedly would be expressed that the higher prices would either suffocate sales or put a couple of weak companies into bankruptcy.

It is tempting to forget about all this. No one can categorically state that the country will be worse off with higher gasoline demand. For the next few years—barring a major disruption of international oil flows—there will be plenty of oil. And, if this country's oil reserves turn out to be greater than now estimated, the next genuine oil squeeze may be decades away.

On the other hand, the pickup in gasoline consumption in the United States is already affecting worldwide demand for oil and making it easier for OPEC nations to consider further price increases. More importantly, one of the lessons that ought to have been learned about energy is that decisions taken—or not taken—today can lead to disastrous consequences five, 10 or even 15 years from now. If new oil reserves only equal the current low estimates, the domestic supply (including Alaska) of oil could reach a point of near exhaustion by the 1990s. That would mean massive dependence on imported oil and a simultaneous rush—perhaps stampede would be more like it—to develop synthetic fuels needed to keep the nation's automobiles running. The amount of coal, for example, needed to sustain the U.S. auto fleet is simply staggering.

The cost for the failure of last year's energy debate may not be apparent now, but by the late Eighties, it may be painfully so.

OTHERS HAVE DONE BETTER

(By Robert J. Samuelson)

In any international comparison of oil conservation since the embargo, the US finishes near the bottom of the list.

Between 1973 and 1975, for example, total oil demand in the United States fell about 5.8 per cent, from 17.3 million barrels daily to 16.3 million barrels daily. Meanwhile, however, the 18 countries of the International Energy Agency (most of the major industrialized nations, including the U.S.) collectively recorded a drop of about 10 per cent in oil consumption. And most individual countries experienced percentage declines significantly larger than th U.S.:

Japan: 10.15 per cent.

West Germany: 13.7 per cent.

France: 10:9 per cent.

United Kingdom: 18.3 per cent.

In Canada, however, demand remained virtually unchanged and Italy's oil consumption dropped only 5 per cent.

Explaining these variations is difficult, because the severity of the recession and weather conditions played a major part everywhere. But, in general, nations abroad have adopted—either out of choice or necessity—tougher public policies than the United States. The main difference has simply been the price of oil. Most other nations (Canada is the main exception) have allowed their prices to go to the world level, which is about $13 to $14 a barrel.

Basically, they had to. Almost all their oil came from the Organization of Petroleum Exporting Countries (OPEC), but even a country such as Norway—which soon will be exporting from its North Sea fields far more than it consumes—adopted the world price. By contrast, the United States, with large quantities of domestic oil, has rigidly controlled those prices. Consequently, the average U.S. price of domestic and foreign oil has been $10 to $11 a barrel. FEA officials believe the price differential has depressed demand significantly abroad and explains much of the higher conservation.

But other nations' conscious policies often have been tougher than that of the United States, too. Gasoline taxes in some were raised significantly. For example, Italy increased its tax from 78 cents per gallon before the embargo to $1.16, according to the FEA. (Italy's consumption reduction may not have dropped further because it was already economizing a great deal before the embargo). In Great Britain, the tax was raised from 38 to 72 cents a gallon and in Japan, from 38 to 46, according to the FEA.

In addition, some countries have adopted peak period pricing for utility rates or have abandoned pricing structures which encourage consumers to use more by making prices lower as consumption rose.

IS NATO MILITARILY VIABLE?

Mr. TAFT. Mr. President, I noted in the RECORD of May 4 that I would, over the next few months, bring to the attention of my colleagues articles on the vital subject, "Is NATO Militarily Viable?" Accordingly, I ask unanimous consent that, at the conclusion of my remarks, an article from the Colorado Springs Sun, "Slow Decisions Endanger NATO," by Mr. T. R. Milton, be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. TAFT. Mr. President, this article discusses the views of two reputable authorities on NATO, Brigadier Close of the Belgain Army and Gen. Johannes Steinhoff of the German Bundeswehr. Both of these authorities suggest that NATO is today very vulnerable to a surprise attack by the Warsaw Pact in central Europe. Mr. Milton, in turn, raises two points which I think should be considered:

First. Forces intended to react to any surprise attack must be on the spot in central Europe; they cannot be reinforcements intended to come from the United States. This means that these should largely be European, not American ground forces.

Second. U.S. participation in NATO should be conditioned on NATO being conventionally viable in central Europe. If NATO cannot resist a Soviet attack with conventional weapons, the United States is left "holding the bag," in that the situation will inevitably escalate to a strategic nuclear confrontation between the United States and the Soviet Union with the United States being the Nation under pressure to do the escalating.

I believe that it is possible for NATO to meet the Soviets successfully in a conventional conflict, providing certain changes are made. The prime responsibility, and perhaps ultimately the sole responsibility, for quick-reaction ground forces must be taken over by the Europeans. NATO's forces must be concentrated in north Germany, where the main Soviet thrust will most probably come. New concepts, such as reorienting the direction of the fighting from an east-west to a north-south direction, must be explored. The United States must undertake to develop adequate naval capability to insure control of the Atlantic within a short time after the outbreak of hostilities.

As Mr. Milton notes, the reforms needed to make NATO militarily viable should perhaps be a condition for continued U.S. participation in the alliance. I strongly urge my colleagues to read this article, and to give serious thought to the observations it contains.

EXHIBIT I

SLOW DECISIONS ENDANGER NATO

(By T. R. Milton)

A few weeks a Belgian, Brigadier Close, caused a major flap in Europe by his prediction that the Russians could reach the Rhine River in 48 hours while NATO was debating its moves.

Brigadier Close is Vice-Commandant of the NATO Defense College in Rome, and his prediction was part of a study that apparently was intended for internal use only. Our allies follow their leader, the United States, in most things, and so the report leaked.

Naturally enough, the NATO officials denounced the study amid scattered cries for Brigadier Close's head.

Unhappily for those who had hoped the matter would now go away, a new book has just appeared arriving at much the same conclusion. It is called ,"Where is NATO Drifting To," or however the German translates, and it is by General Johannes Steinhof.

Now General Steinhof is not just your everyday military expert. He is a most distinguished figure who did a brilliant job of turning the modern German Air Force into one of NATO's principal assets and who served three years in NATO's highest post as Chairman of the Military Committee. I was his Deputy for a time, then worked closely with him for several more years as a member of his Committee.

In the course of those years we became friends, and I began to understand just how deeply Johannes Steinhof feels about the need to preserve Western freedom, and how deep are his worries about Western resolve.

For this man, who shot down 175 airplanes in World War II and who suffered through more than 100 major operations to repair his burned and shattered face and body, is that rare species, a Free-World patriot who puts our collective freedom above national interests.

His book has attacted great attention in Europe because of the great respect he commands in all the NATO countries, even in those lands where Germans in general are not yet forgiven for the last war. General Steinhof's worries about a declining NATO's ability to resist are vastly more difficult for NATO officials to discount than those of the Belgian Brigadier.

Briefly, General Steinhof is concerned over the inability of NATO to react to a sudden Soviet Attack. He fears that political uncertainties between members of the Alliance would contribute to this inability. He goes on to cite the well-known deficiencies in NATO: lack of standardization, poor deployment and general lack of readiness of NATO units.

He is scornful, in his book, of the American promise of reinforcement by airlift. This comes as no surprise for he was scornful of this concept years ago when Secretary McNamara first unveiled it. Gen. Steinhof, along with many Europeans, thought they saw in this notion the groundwork being laid for major American troop withdrawals from Europe. At any rate, Gen. Steinhof thinks any such dependence on trans-Atlantic airlift a fatal strategy. The reaction forces to any Soviet attack must be on the spot in sufficient numbers, and ready.

It is increasingly hard for people to worry about things like this, even for Germans who can look across a minefield at the enemy himself. It is certainly difficult for Americans to worry about it.

Yet everything General Steinhof is saying needs to be listened to carefully. It is a fact that the Alliance is going slowly downhill. In the old days of NATO, the capability of the European allies was not so important. What mattered was the U.S. and its nuclear weapons. Now that the Soviets have brought nuclear capability to a standoff, the capability of NATO to respond in a non-nuclear way, at least at the start, is an essential part of its credibility as a military alliance. That credibility is wht is now being questioned.

The fact is that NATO, our guarantor these past 26 years of a Europe free of Soviet domination, is in desperate need of an overhaul. The absolute democracy on which it was founded, in which Luxembourg, for instance, can veto a proposal to use nuclear weapons, or even to go to a higher state of alert, should be looked at in light of the new dangers NATO faces.

The Alliance now consists of a loose collection of national forces. There is no NATO unit as such. When the time comes, it is assumed the NATO politicians will gather and agree unanimously that the forces will be mobilized and turned over to international command. The Supreme Allied Commander, in Europe, presently General Haig, must await unanimous decision before he has an Allied force in being. Meanwhile, say Brigadier Close and General Steinhof, the Russians are at the Rhine.

These are things which must be thought about. The Soviet star is in the ascendancy these days. The lure of an adventurous thrust into Europe will become ever more enticing as the Soviets perceive a weakening and indecisive NATO. It is just as true now as it has been from NATO's creation that this Alliance is utterly dependent on United States leadership.

Leadership sometimes requires taking a tough line. The time for such a display of leadership has, it would seem, come.

The things that need fixing are mainly in General Steinhof's book. Since there is no point in the U.S. participating in an Alliance that cannot react to a Soviet attack—NATO's only real purpose—perhaps our next President should lay down some conditions for our continued participation.

SENIOR CITIZENS AND RETIRED PERSONS ORGANIZATIONS TESTIFY ON SOCIAL SECURITY

Mr. HUMPHREY. Mr. President, in its recent hearings on the social security system, the Joint Economic Committee heard testimony from Mr. Nelson H. Cruikshank, president of the National Council of Senior Citizens and Ms. Harriet Miller, executive director of the National Association of Retired Teachers Association and the American Association of Retired Persons. Both Mr. Cruikshank and Ms. Miller presented excellent statements to the committee.

I thought that Mr. Cruikshank summarized the importance of these hearings when he said:

> The well-being and peace of mind of past and current generations of workers of all ages and their families have been enhanced by the existence of the social security program. Unjustified concern over the financial stablity of the program and its continuing contribution to the well-being of future generations results from a lack of understanding of the nature and causes of the financing difficulties.

In discussing the causes of the current problems, he said:

> It is important to understand that none reflects on the inherent merit of the social insurance principal or on the inherent soundness of the social security system. The problems of short-run deficits and a technical flaw in the automatic provisions are easily correctable . . . the evidence is sufficient to indicate that the dire predictions of alarmists are not well grounded in fact.

Mr. President, I ask unanimous consent that these statements be printed in the RECORD.

There being no objection, the statements were ordered to be printed in the RECORD, as follows:

STATEMENT BY NELSON H. CRUIKSHANK, PRESIDENT, NATIONAL COUNCIL OF SENIOR CITIZENS

Mr. Chairman, Members of the Joint Economic Committee, my name is Nelson H. Cruikshank. I am President of the National Council of Senior Citizens.

The National Council is a nonprofit, nonpartisan organization of more than 3,500 older people's clubs across the country, representing over three million members.

I deeply appreciate the opportunity to comment on the current status of the social security trust fund and the outlook for the future.

The well-being and peace of mind of past and current generations of workers of all ages and their families has been enhanced by the existence of the social security program. Unjustified concern over the financial stability of the program and its continuing contribution to the well-being of future generations results from a lack of understanding of the nature and causes of the financing difficulties, and I might add, a lack of initiative on the part of the Administration to generate a healthier economic climate in a timely fashion or of sufficient proportions.

The nature of the financing difficulties is properly separated into two distinct aspects: first, as the Committee is aware, there is a short-run problem of temporary deficits in revenues relative to the level of benefit payouts that are a direct result of the high unemployment and low growth rate of the economy coupled with unusually high rates of inflation in recent years; second, a long-run imbalance between revenues and cash benefits is forecast, in part due to a projected rise in the proportion of aged and retired persons in the population, but largely due to an unintended, but easily correctable, error in the 1972 amendments which, under some circumstances, may overcompensate future retirees for the effects of inflation.

Clearly, the underlying causes of the current and projected financial difficulties are economic, demographic, and technical in nature—salted and peppered with a large amount of speculation. It is important to understand that none reflects on the inherent merit of the social insurance principle, or on the inherent soundness of the social security system. The problems of short-run deficits and a technical flaw in the automatic provisions are easily correctable. The problem of the speculated rise in the ratio of retirees to labor force participants—if it can be called a problem at all—is not unique to social security; it would confront any society which protected its elderly, its disabled, and its dependent survivors against economic insecurity.

In addition, assuming the demographic projections are accurate reflections of the composition of the population 70 years from now, it has been estimated that relatively modest changes in the tax rates (a maximum combined increase of approximately four percentage points) would be sufficient to maintain present replacement rates. (This assumes that the defect in the automatic provisions is remedied, i.e., "decoupling.") Other options, also of less than alarming proportions, and in our view preferable to reliance on tax rate increases alone, are also possible. It is far too early, however, to make these decisions. But the evidence is sufficient to indicate that the dire predictions of alarmists are not well grounded in fact.

Recognition of the causes of the financial problems of the social security system presents strong arguments—not for the weakness of the system, but for the strength of the sysem.

First, it acts as an offset to recession by generating those same deficits for which it is criticized. This effect if, of course, wholly consistent with program objectives of replacing a portion of earnings for those whose labor force attachment ceases by reason of age, disability, or death. Recession contributes to involuntary retirement and the social security program acts both to reduce economic insecurity and to invigorate the economy. In this context, an important point deserves explicit mention. There is nothing intolerable about the notion of a short-run deficit; this by itself does not bring into question the actuarial soundness of the system.

Rather, the current concern is over the size and duration of the shortfall relative to the size of the Trust Fund which is intended to serve as a contingency for just such occurrences The predicted exhaustion of OASDI Trust Funds shortly after 1980 is therefore justifiably of concern, but the inevitable fact that the system will have temporary deficits as well as temporary surpluses is now of concern. But inept management of the economy and an unprecedented tolerance for peristently high unemployment are the underlying problem, not the social security system.

Second, rather than suggesting that the system will be subjected to alarming difficulties in the 21st century, the growth in size of the older population suggests that the social security system is destined to play an even greater role in the future than it has in the past.

It is therefore of crucial importance that any changes to the system be carefully devised with full knowledge and understanding of the intent and functioning of the program.

THE SHORT RUN DIFFICULTY

The short run imbalance between revenues and outgo has caused a proliferation of suggested remedies, from immediate rises in the tax rate or the taxable wage base, the introduction of general revenues as a partial revenue base, to—in one case—a one time infusion of general revenues from the treasury in the amount of $5 billion. Although any of these measures would serve to offset the recent adverse experience of the trust funds, there are significant differences. There is no difference of opinion among segments of society that social security financing should be strengthened; the President has made a proposal, business interests, organized labor, economists, as well as the National Council of Senior Citizens—all have offered proposals. The major difference lies in the means by which the system should be strengthened.

The President had proposed a tax rate increase of 0.6 per cent, half to be borne by employees and half by employers. As the Committee is aware, the system will require approximately ten per cent additional revenues over the next 25 years; the President's proposal addressed the needs of the ensuing ten years.

There are, in any case, alternative means to generate revenues which the National Council finds preferable—more specifically, raising the taxable wage base. It has been estimated that comparable revenues could be raised by increasing the maximum earnings base from the $16,500 figure it is expected to be in 1977, (it is $15,300 for 1976 but is automatically adjusted upward as wages rise) to $21,300 in 1977. Although both expansion of the wage base and the President's proposal would provide an excess of income relative to benefit payouts until about 1985, there are important differences which must be carefully considered.

First, an increase in the earnings base is desirable in its own right. In the early years of the program, over 95 per cent of all the workers in the program had all their wages covered; today, only 85 per cent of workers have their full wages counted towards social security benefits. Raising the maximum to $21,300 would move in the direction of restoring the original purpose of including the full wages of all but the most highly paid workers.

Additionally, under an increase in the taxable base, those who pay more receive more protection in return, while under a rate increase everyone pays more and no one gets more benefits. (Although the latter is clearly less than equitable, I suspect this is exactly why the Administration favored the tax rate increase.)

Moreover, an increase in the earnings base makes program financing more progressive while reducing the long-run cost of the program. (This assumes the error in the automatic provisions is corrected.) This is true because contributions from higher earnings accrue at a proportional rate, while the replacement rate used in calculating benefits is applied at a declining rate as income rises.

In regard to what would happen to the distribution of income, there is no speculation involved in saying that the lower earnings worker would be more heavily penalized by a tax rate increase than by raising the taxable base. In the latter case, earnings below $15,300 would not be affected; those with greater ability-to-pay through higher earnings would shoulder the increase, offset, at least in part, by greater benefits after retirement. With a tax rate increase there are only losers, not gainers.

One of the other options to either a rise in payroll taxes or to raising the taxable wage base, is, of course, a contribution from general revenues.

The National Council has in the past indicated its support of tri-partite financing. The long-range goal of the National Council of Senior Citizens is a strong social security system, covering both cash benefits and health insurance, financed partly through contributions of workers and their employers—thus preserving the important contributory principle of benefits as an earned right—and partly by contributions from the government in recognition of society's stake in a well-functioning social insurance program. However, because it appears that general revenue financing may not be (politically) feasible at this time, we prefer to retain this option for a time when it could serve as a resource to enable improvements to be made in real benefits in the more comprehensive program.

We are therefore in support of remedial action in the short run (the next ten years) which adheres to the customary manner of financing. However, the National Council favors raising the taxable wage base and vehemently opposes raising tax rates for all the reasons previously indicated.

We do recognize, however, that all approaches which require that additional revenues be raised—whether from tax rate increases, increases in the taxable wage base, or from additional general revenues—would remove a certain amount of stimulus from the economy. This is considered by many to be currently undesirable. The question then becomes one of timing. How important is it that the short-run imbalance be remedied immediately?

On the one hand, the actuarial soundness of the system does not depend on short-run deviations from the average. It is acceptable to have a temporary imbalance which is not intrinsic to the system itself, with the contingency met by drawing down the reserve funds. This is, in fact, the major purpose of the trust funds.

On the other hand, public concerns over the soundness of the system are aggravated by such occurrences, and are detrimental to people's confidence in their government and their future security. This difficulty is increased by long-run projections which compound the effect of short-run difficulties into the future when no counteracting provisions are incorporated into the estimates.

Therefore, it seems advisable to take immediate action—preferably by raising the taxable wage base—but deferring the effective date of such a change beyond fiscal 1977. In this way, both the concerns of the American public and the need for current fiscal stimulus could be achieved by the simple device of an "announcement effect."

Additionally, an extremely important course of action that is both in the national interest and in the interest of remedying the short-run and long-run problems of the social security system is vigorous movement towards full employment. I do not doubt that the unexplained, extremely adverse experience of the disability trust fund, in particular, is in large part a consequence of unusually high levels of unemployment. Prolonged unemployment has been documented as a cause of illness, and furthermore, the perception of disability—even medically—may well be flavored by poor labor market potential. A national goal of full employment may serve to alleviate the ills of the social security system and the ills of society.

THE LONG RUN DIFFICULTY: OVER INDEXING

The 1972 Amendments to the Social Security Act introduced a mechanism for automatic adjustment to changes in the cost of living. Unfortunately, an unintended error allows future retirees to be overcompensated under certain wage and price patterns. For example, under current law, primary insurance amounts (PIA's) are calculated as a per cent of a worker's average monthly earnings (AMW's) in covered employment at eight discrete threshold levels: approximately 129 per cent of the first $110 of AMW, 47 per cent of the next $290 of AMW, 44 per cent of the next $150 of AMW—down to a low of 20 per cent of the last $100 of AMW of covered wages. The adjustment takes place by adding to each conversion factor the per cent in prices which is then used to determine the benefit level.

Thus, if the rate of price increases is 6.4 per cent, the new benefit level will be calculated as 135.4 (129+6.4) per cent of the first $110 of AMW, 53.4 (47+6.4) per cent of the next $290 of AMW, and so forth. For those currently retired, this formula maintains real purchasing power; for future retirees whose AMW will already reflect wage increases to compensate for inflation during their working life, the add-on to the conversion factors will provide an over adjustment. Similarly, under circumstances of little or no inflation and rising real wages, replacement rates would decline due to the progressivity of the benefit formula. Thus, just as replacement rates may rise if price increases dominate wage increases, replacement rates could decline over time if wage increases dominate price increases. Clearly, replacement rates should be a function of deliberate policy and not an accident of outside forces.

The long-term projections based on assumptions which reflect the more rapid increase in prices relative to wages of recent years, indicate an estimated shortfall which amounts to approximately 50 per cent of the projected actuarial deficit over the ensuing 75 years. Thus, roughly 50 per cent of estimated long-term program costs could be eliminated by correcting the unintended error in cost-of-living adjustments. This should be done immediately.

However, decoupling the system requires that an explicit policy decision be made regarding the long-term level of replacement rates. If retirees are to maintain not only the purchasing power of their benefits, but also share in rising productivity over time and thus maintain their relative position in the income distribution, then the adjustment should be made on the basis of increases in wage rates. If the system were to be indexed solely on the basis of price increases, the replacement rate would decline because of the progressive nature of the benefit structure and even under conditions of constant purchasing power, retirees would be relatively worse-off than they are today. Since a person's well-being is intimately connected with his economic status relative to others, the National Council strongly favors the wage indexing approach as represented in the Bentsen bill (S. 2901). We urge that this approach be supported.

DEMOGRAPHIC CHANGES

Half of the projected deficit in the social security system is attributable to the anticipated change in the composition of the population early in the 21st century. The expected changes indicate a greater proportion of individuals 65 years and over relative to the working age population. Under such circumstances, the ratio of contributors to beneficiaries would be smaller than is currently the case, and the burden on the working generation would be larger than many feel is tolerable, given the current method of internal pay-as-you-go financing. There are a number of feasible solutions that would neither jeopardize future benefits nor inflict intolerable burdens on the working population, but among the simplest is redressing the imbalance between contributors and beneficiaries by encouraging greater labor force participation among all age groups, particularly those past social security retirement age. The retirement test ("earnings test") would delay receipt of social security benefits to those who earned above the prescribed amount, with concurrently greater levels of contributions flowing into the system.

One approach would be to redefine the retirement age in the context of the social security program, raising it to perhaps 67 or 68 years of age. Consistent with the function of the program to replace earnings lost due to retirement, death or disability and with future financing needs, the social security program must therefore retain the retirement test and not be turned into an annuity program.

This movement away from early retirement would be in line with the better health and greater longevity of senior citizens. However, it would be a futile exercise and contrary to the intent of the program if a necessary condition were absent; that is, full employment conditions. However, even under full employment conditions, retirement at the present statutory retirement age should be a matter of individual choice.

But how certain are the conditions which indicate these future difficulties? It is important to note that estimating fertility rates and, hence, population, many years into the future is a tenuous business at best. Although the direction of change in fertility rates since 1957 has progressed steadily downward from 3.77 to the recent low of 1.9 and is expected to stabilize in coming years around 2.1, or zero population growth, the history prior to 1957 including the past 75 years indicates a fluctuating pattern.

It was high at the turn of the century, dropped sharply during the depression years of the 30's, began to rise significantly during World War II, on through 1957. I would speculate that fertility rates are a function of the complicated interaction of changing sociocultural institutions, economic climate, expectations for the future and unanticipated events. In that the projected difficulties of the social security system are extremely sensitive to fertility rates and labor force participation rates, even a slight movement away from current lows would lessen the seriousness of projected financing difficulties.

Additionally, just as the older age group is expected to become an increasing proportion of the population, so the proportion of the younger dependent population is expected to decline. Although it is not clear whether or not this would be offsetting on balance, it is possible that some net resources might be freed for transfer to the older generation without any increase in the overall burden.

In any case, the difficulties associated with the changing composition of the population are of manageable proportions.

WITHDRAWALS FROM THE SOCIAL SECURITY SYSTEM

Attention has recently been drawn to the announced intention of withdrawal from the system of the City of New York, among other jurisdictions. This event has been treated as if it represents a stampede away from a "bad buy." Both the magnitude of this effect in recent years has been exaggerated and the charge that social security is a "bad buy" is far from the truth. However, it has made quite visible the fact that not all workers are covered under social security and that some groups are only voluntarily covered with the option of withdrawal when certain conditions are met.

Historically, public employees at the subnational level were given voluntary privileges to avoid a constitutional confrontation on the issue of the power of the federal government to interfere with the functioning of state and local government through taxation. Other groups such as nonprofit organizations were given similar privileges to avoid jeopardizing tax exempt status.

The number of withdrawals before this year account for approximately 45,000 employees, primarily from small jurisdictions. Applications for withdrawal accounting for 53,000 employees have been made, but several may not complete the process. Based on current requests, the next two years could bring withdrawals by 232 jurisdictions, representing 454,000 workers. New York City represents the largest proportion with a withdrawal notice, effective March 1978, which covers 362,000 employees.

In that a significant proportion of withdrawal announcements have occurred within the last four years, they would appear to be recession induced. Therefore, this problem, too, appears to be rooted in a lack of full employment as is the short-run imbalance in the trust funds. The withdrawals, however, would also have a longer run adverse effect—both on employees who are no longer in the system or who are not privileged to enter, and on the system itself. The system will retain the liability towards those who have accumulated sufficient quarters of coverage, while contributions from those individuals and their employer will have ceased. In the case of New York, this unfunded liability has been estimated to exceed $3 billion dollars.

The obvious solution to this recent adverse trend is to extend mandatory coverage across all workers, including federal civilian employment. Ideally, the social security program should provide basic retirement income with the government plans—both federal, state and local—supplementary staff plans, similar to the pension plans in private industry. It is significant to note that the two labor unions having the largest membership in state and local government employment are on record in support of this principle and vigorously oppose withdrawal from social security coverage. The reasons which justify this course of action transcend cost considerations, although this is certainly an important aspect.

The social security system represents a balance between two goals: (1) individual equity, and (2) social adequacy. Contributions into the system support three elements consistent with the overall goals:

1. future security for self and spouse when retirement is likely to occur;

2. future security for self, spouse, and other dependents should the unfortunate event of disability or premature death of the family breadwinner occurs, and

3. adequate security for less fortunate members of society who have low earnings histories, irregular employment, or become disabled or who die leaving dependents.

There appears to be no justifiable reason why anyone should be excused from supporting the third element. Additionally, Reinhard A. Holhaus, in his classic statement in 1938 said: [1]

"Directed against a dependency problem, social insurance is generally compulsory—not voluntary—giving the individual for whom it is intended no choice as to membership. Nor can he as a rule select the kind and amount of protection or the price to be paid for it. All this is specified in the plan, and little, if any, latitude is left for individual treatment. Indeed, social insurance views society as a whole and deals with the individual only in so far as he constitutes one small element of that whole. Consistent with this philosophy, its first objective in the matter of benefits should, therefore, be that those covered by it will, so far as possible, be assured of that minimum income which in most cases will prevent their becoming a charge of society. Not until this is accomplished should financial resources (whatever, if anything, may remain of them) be considered as available to provide individual differentiation aiming at equity."

The constitutional issues in this approach have never been challenged; there is legitimate reason to do so at this point in time. As a lay observer of the constitutional questions, it appears to me that the constraint on inter-jurisdictional migration and employment imposed by lack of universal social security coverage is at least an equal if not a greater violation of constitutional rights of individuals than the issue upon which current practice is based. We therefore urge that consideration be given to gradual inclusion of all workers in the social security system, with sufficient time allowed for coordination of social security benefits with existing pension plans.

I would like to add that the claims that social security is a "bad buy" are spurious. First, social insurance is not directly comparable to private insurance, either in terms of its goals or in terms of its financing mechanisms. Second, the soundness of a social insurance program rests on its public acceptance and the continuing taxing authority of government. Therefore, statements indicating that social security is a poor value or that the system is on the verge of bankruptcy represent uninformed judgement and a perception of the system which is incorrect. That the system must respond to the changing needs of a dynamic society is without doubt; that it can make these adjustments is also without doubt. Private insurance cannot make these same claims. This is the essential ingredient of strength and value in the social security system.

SUPPLEMENTARY SECURITY INCOME

The means-tested SSI program was designed as a complement to the social security program for lower income aged, blind and disabled. A primary motivation was the need to take the pressure off raising benefit minimums in the social security program. It was felt that social adequacy achieved through redistributive elements in the social security system and supported by current workers had been carried as far as it could be, but that the goal of social adequacy itself had not been carried far enough. Therefore, SSI is intended to further the adequate maintenance of those among the least fortunate in society, with the burden shared based on principles of ability-to-pay through general revenues from income taxes. Those covered under SSI represent individuals either not covered under social security or with only minimal coverage. The income offset in SSI includes a dollar for dollar reduction in SSI benefits for receipt of social security benefits. Thus, the two programs operate in tandem with SSI substituting for the provision of more adequate minimum benefits in the social security program. At present, the benefit levels in SSI are too low to be considered as having met goals of social adequacy. Present benefit levels, in the absence of other income, are $157.70 per month for an individual and $236.60 per month for a couple—amounts which are below the poverty level threshold. Thus improvements in benefit levels in SSI are urgently required.

CONCLUSIONS

In summary, while there are some difficulties to be faced regarding the social security program, it nevertheless ranks as the most successful social program ever initiated in this country.

The short run financing imbalance is a result of recession and inflation; the longer run projection over the next 75 years is adversely affected by unintended over-indexing of benefits which is an easily corrected error, but the real problem presented to the system—if it can be called a problem at all—is the expected change in the proportion of the aged in the population. Social security, however, is not the problem—it is the answer!

The system may be incomplete in many respects and the period of transition to adjust to the changing needs of society may present momentary difficulties, but the social security system is the best that our society has yet devised. Those who would scuttle or drastically alter the system in the name of the worker should cause us to be wary of their motives. There is an old saying of organized labor: "When the boss gets concerned about the welfare of the worker, beware!"

Therefore, no hasty, ill-considered actions should be taken at this time.

Statement of Harriet Miller on the Social Security System

Mr. Chairman: I am Harriet Miller, Executive Director of the National Retired Teachers Association and the American Association of Retired Persons. On behalf of the 9.5 million members of our two Associations, I would like to thank the members of the Committee for the opportunity to appear here today and further, to commend you for your interest in the subject of social security. We hope this interest will continue.

Our members' interests are vitally affected by what happens in the social security area. The release of the Social Security Trustees Report on Monday and the irresponsible manner in which information from that Report has been handled by some members of the media only serves to underscore the need for these hearings. The social security system is not bankrupt, insolvent or "busted." Nor is it in any real danger of being so and this fact must be made crystal clear to the American people.

The Trustees Report has pointed out that because of recent economic conditions, the system will run a deficit at least through 1981. This, in turn, will cause the Trust Fund to be reduced. What must be understood, however, is that this is exactly why the Trust Fund was created—to finance deficits. Social security benefits depend not upon the Trust Fund but rather, upon income from the payroll tax and ultimately, on the taxation power of the federal government. It is difficult to understand how the OASDI system with a 1976 annual income in excess of $73 billion a year and with a projected reserve of more than $40 billion in assets by the end of 1976 can be termed insolvent. In our view, current economic developments indicate that the actuarial estimates made under the "optimistic" assumptions are those most likely to become fact and, if so, the fund at the end of 1981 will be sufficient to finance something on the order of 10 more years of deficits if necessary.

In summary, for the short-run, although the social security system will run a deficit for the next few years, we have a problem, not a crisis.

With respect to the long-run problems of the system, we agree that current benefits for retirees should be immediately separated from future benefits for today's workers—

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[1] "Equity, Adequacy, and Related Factors in Old Age Security," *The Record*, American Institute of Actuaries, Vol. 37 (1938).

that the system be "decoupled." We would add that once this is completed, significant financing problems for demographic changes are not expected to occur until after the turn of the century—25 years from now. There is plenty of time between now and then to carefully and deliberately consider our future problems and act to solve them.

The social security system does require change. There are serious equity questions to be faced. For example, the treatment of women under social security; and, there remains the job of more fully integrating the social security system with SSI. When the economy has become stronger, some means must be found to bring additional revenue into the system if benefit levels are to be improved and these needed changes undertaken.

What the social security system needs most from the Congress today, however (and I would add from the Administration as well), are strong statements of support based upon the facts and those facts indicate that the social security system is far from being bankrupt. The Congress must take those necessary legislative steps to restore public confidence in a strong and viable institution that will continue to provide the income support in retirement that has so benefited older members of our society to date.

This concludes my introductory remarks and I will be happy to attempt to answer any questions you might have.

FREEDOM UNDER LAW

Mr. CURTIS. Mr. President, I call attention of my colleagues to a recent commencement address by the distinguished senior Senator from Hawaii, Mr. Fong, in which he pointed out that excessive government is eroding cherished freedoms of the American people.

In a speech entitled "Freedom Under Law," Senator Fong told graduates of California Western School of Law, where he received an honorary doctor of laws degree, that the "veritable floodtide" of congressional laws and Federal rules and regulations is "rapidly approaching tyranny" upon the American people.

This proliferation, he said, along with the sharp increase in crime, liberalized access to courts, and State and local laws spawned by Federal actions, has clogged court dockets, produced an "outpouring" of judicial laws, and "multiplied adjustments required in schools, homes, businesses, government—indeed every sector of American life."

With the proliferation of laws and regulations has come harassment of individuals and private enterprises; arbitrary and capricious action by Government agents; escalating litigation; higher taxes, to the point where, Senator Fong said:

> We are concerned about what is happening to our cherished concepts of due process, search warrants, speedy trials, economic and political freedom.

Senator Fong declared:

> When government spending comprises 36 percent of our gross national product, as it does now; when government—rather than the marketplace—dictates basic decisions of enterprises across the Nation; when government harasses its people, our competitive private system with its incentives to produce better is jeopardized.
>
> Our freedom as individuals to retain the fruits of our labors is severely curtailed. Our happiness and our contentment are diminished.

Noting that no one quarrels with the objectives of safer working conditions, better quality merchandise for consumers, enforceable warranties, elimination of discrimination in employment, reducing environmental pollution, Senator Fong said:

> When we find along with this so much waste time, bias, stupidity, concentration of trivia, conflicting regulations, impossible goals, and arbitrary and uncontrolled power, then we begin to ponder whether we have reached an intolerable stage.

Senator Fong urged those trained in law to "be in the vanguard of resistance to ever-encroaching government, which has already reached the point of diminishing returns and is already eroding the economic and political freedom of the American people."

Mr. President, as I note the measures remaining on the legislative agenda of the current Congress, I would hope we would keep in mind the all-too-accurate picture Senator Fong painted and act accordingly to reverse the devastating trend toward more and more Government on the already-burdened backs of the American people.

I ask unanimous consent that the timely and thought-provoking address of Senator Fong be printed in the Record.

There being no objection, the address was ordered to be printed in the Record, as follows:

Freedom Under Law

(By Senator Hiram L. Fong)

Chairman and President, Justice Ault; Members of the Board of Trustees; Dean Castetter; Faculty Members and Staff; Fellow Recipients of Honorary Degrees; Candidates for Juris Doctor degree; Families and Friends; Ladies and Gentlemen:

Have I overlooked anyone?

May I first extend my greetings in the traditional Hawaiian way—Aloha! With that beautiful word, I can best express the feelings that flow from my heart, for Aloha conveys friendship, goodwill, understanding, all the warm and human sentiments.

I am delighted to share this memorable day with you and to have the pleasure of delivering the Commencement Address on this, the first graduation program of California Western as an independent School of Law. To be associated with you as an honorary alumnus of your distinguished and venerable school, which is nearing a half a century of education in law, is for me a high privilege and a cherished distinction.

I must confess that to receive an advanced degree in so pleasant and easy a manner—without going to classes, without study, without examinations, without anxiety—leaves me with some feelings of embarrassment, knowing how hard and how long you have worked for your degrees. I am deeply conscious of how much more case law, administrative law, tax law, and subject law you have had to learn than I did. I congratulate you on earning your degrees the hard way.

In this, the Bicentennial year of the adoption of our Declaration of Independence, it is especially fitting that we examine the role of law in relation to freedom in America. Our forefathers, you may recall, fought a revolution against the tyranny of laws enacted by the Mother Country in which the 13 Colonies had no real say and no real representation.

Today, speaking from the vantage point of nearly 43 years in government service, the last sixteen in our Nation's highest legislative body, I am concerned that the veritable floodtide of laws pouring out of Congress and the rules and regulations pouring out of the Federal Departments and agencies are rapidly approaching government tyranny upon the American people.

In the last 15 years alone, 236 Federal Departments, agencies, bureaus and commissions have been created. But only 21 have been eliminated. The vast Federal establishment implements more than 1,000 domestic assistance programs, all with attendant rules and government red tape. Federal regulations comprise 141 volumes codified, and new ones are proposed every working day.

Congress, too, has expanded. In the past five years, Congress doubled its budget and increased its staff by 70 per cent. Now Congress has nearly 60 legislative, select, and joint committees and more than 320 subcommittees, all requiring staffs, making investigations, holding hearings, and thinking up new programs and new laws to push. The last Congress enacted 650 laws, most of which were added to the 175 volumes of Federal laws already codified. In this Congress, we have enacted nearly 300 more.

The proliferation of Federal Congressional and Executive entities has not only generated a mind-boggling array of Federal laws, rules and regulations but has also spawned more laws, rules, and regulations in the 50 States and the thousands of local jurisdictions throughout America.

Together with the sharp increase in crime, the liberalized access to courts, and the growing tendency to go to court rather than settle disputes amicably, this proliferation has helped clog the court dockets and produced an outpouring of judicial laws. In turn, this has multiplied adjustments required in schools, homes, business, governments, indeed every sector of American life.

Filings in Federal District Courts are averaging more than 40 per cent higher per judgeship this year than in 1970. In U.S. Courts of Appeals, case filings per judge have more than doubled in less than ten years, with an estimated 600 per judge in the current year. That means more than two new cases filed on appeal each workday of the year per judge.

In the Ninth Circuit here, although the number of cases terminated has increased dramatically over the 1954–74 period, the number of new filings has increased fivefold and the backlog of pending cases has steadily grown each year.

Most of the Members of the Senate Judiciary Committee, on which I serve, are prepared to increase the judgeships in the Ninth Circuit from the present 13 to 20 and to split it into two divisions. One would have 11 judges and encompass southern and central California, Arizona, and Nevada. The other would have 9 judges and include northern and eastern California, Alaska, Washington, Oregon, Idaho, Montana, Hawaii, and Guam.

The Ninth Circuit caseload is a situation crying for remedy.

The caseload at the Supreme Court has likewise risen sharply, doubling in the past 15 years, until now the Court is able to hear oral argument on only about four per cent of the 4,600 cases that reach it annually. As attorneys, you know in advance there is a 96 per cent probability the Supreme Court will decline to hear oral argument on a case appealed to it.

Furthermore, whereas before 1960, constitutional cases comprised one-fourth to one-third of the Court's decisions, the reverse has been true in recent years, with constitutional cases comprising one-half to two-thirds of the Court's plenary decisions. This means the number of decisions interpreting the vast array of Federal regulatory laws has been diminishing. Only if the case involves a constitutional question does it have much chance for oral argument.

So while the scope of Federal regulatory law has been enormously expanding, the number of Court decisions on non-constitutional issues has been declining. Under these circumstances, judicial review of points of law involved in Federal regulatory statutes in oral hearing by our Nation's highest Court becomes less and less a reality.

Today there are more than 80 Federal regulatory agencies. Whereas old-line regulatory agencies were set up each to regulate a particular industry, such as railroads, ships, airlines, securities, and the like, latter-day regulatory agencies have jurisdiction over a broad spectrum—Environmental Protection Agency, Consumer Product Safety Commission, Occupational Safety and Health Administration, known as OSHA, to name a few.

These regulatory agencies churned out 7,496 regulations in 1974 alone. Their proposed rules, notices, and final regulations occupied 45,400 pages of fine print in the Federal Register and, in 1975, 60,000 pages—a 32 per cent increase in one year!

The Office of Management and Budget—top bookkeeper in the Executive Branch—estimates Federal regulations cost $130 billion a year—$2,000 per family—a result of the additional expense of doing business and lost productivity, which in turn means higher prices for consumers.

There are more than 5,146 different Federal forms required to be filed by businesses, costing an estimated $40 billion yearly. So monumental is the paperwork problem that Congress set up a Commission on Federal Paperwork to reduce the crushing volume.

There is an army of 100,000 Federal employees with regulatory functions. All too often they are at odds with each other. U.S. Department of Agriculture food standards require meat packing plants to be kept clean and sanitary, and tile and stainless steel are preferred for this purpose. But tile and steel reflect noise and do not meet noise standards set by OSHA! One section of OSHA ordered that construction equipment include warning bells designed to ring when vehicles back up. But the anti-noise section of OSHA insists workers at construction sites wear ear plugs. Result: these workers cannot hear the warning bells!

Internal Revenue Service forms and regulations are so complex that even I.R.S. personnel are baffled. A House Ways and Means Subcommittee had its staff call seventeen I.R.S. taxpayer assistance offices with a list of 124 typical taxpayers' questions. Although the questions required no calculations, only yes or no answers, there were 32 incorrect answers—an error rate of 25 per cent. Remember, the I.R.S. will fine a taxpayer if his return is incorrect, even if based on I.R.S. advice which proves incorrect!

A recently completed year-long study by a reading comprehension professor at California State University showed that even graduate students with highly developed reading abilities have so much trouble understanding I.R.S. Form 1040 income tax instructions that they might be mistaken for "functional illiterates."

According to a news report, the problem lies not so much in the density of taxpayers' minds as in the density of the prose produced by the Federal tax collectors. So incomprehensible have I.R.S. tax law and forms become that 43 per cent of American taxpayers hire someone else to prepare their income tax returns. Even so, the taxpayer is liable should there be any mistakes on his Form 1040.

In addition to such frustrations, Americans may be badgered by regulatory agencies that have become quite arrogant. The Consumer Product Safety Commission ordered a toy company to correct a potentially hazardous toy; yet after the company made the correction, the Commission erroneously included the toy on its banned list. The Commission refused to correct its error, and the company had to close down 75 per cent of its toy operations, throwing two-thirds of its employees out of work. One member of the Commission has been quoted as saying, "Anytime that consumer safety is threatened, we're going to go for the company's throat."

This is the same Commission, by the way, that issued reports on how to strike a book of matches and how to get into and out of a bathtub!

In an effort to be helpful to consumers, the Department of Transportation devised quality grading standards for tires. But these standards offer consumers 72 options—not confusion reduced, but confusion compounded!

Too often Washington thinks it knows best! Washington determines what planes will fly and where and how much the fares shall be; what trains shall operate; what trucks will carry freight between States. Washington approves the designs of automobiles, their safety accessories, their pollution control devices, what kind of gasoline they use.

Washington decides whether a company is too big and should be dismembered and whether a company can use domestic or foreign-flag vessels.

Washington decides whether crops shall be price supported, how many acres the farmer can cultivate, and what fertilizers he can use.

Washington decides what medicines we can take, what clothes are safe to wear, what schools children can attend.

We have, literally, come to the point where Federal agencies are regulating the American people from cradle to grave. The Consumer Product Safety Commission dictates the design of beds for babies, the composition of clothing for infants and children, and the toys sold for them. When a person dies, his funeral director will be required to follow regulations now being drawn up by the Consumer Protection Bureau of the Federal Trade Commission.

No one quarrels with the objectives of Federal laws and regulations: safer working conditions, better quality merchandise for consumers, enforceable warranties, elimination of discrimination in employment, reducing environmental pollution, and so on.

But when we find along with this so much waste, bias, stupidity, concentration on trivia, conflicting regulations, impossible goals, and arbitrary and uncontrolled power, then we begin to ponder whether we have reached an intolerable stage.

No wonder over the past decade there has been a growing hostility toward, and a lessening of confidence in, government institutions at all levels. One nationwide public opinion survey showed that fewer than 34 per cent of the American people have great confidence in Congress, the Executive Branch, or the Supreme Court. The majority—52 per cent—placed their greatest confidence—not in government, not in educational institutions, not in the news media—but in trash collectors!

Americans realize that with the proliferation of laws and regulations has come harassment of private enterprise and of individuals; arbitrary and capricious action by government agents; escalating litigation; clogging of the court dockets, to the point where we are concerned about what is happening to our cherished concepts of due process, search warrants, speedy trials, economic and political freedom.

OSHA has no-knock power to enter the premises of virtually any business in the U.S.—even the one or two-person shop—without a search warrant or prior notice of the intention to inspect for health and safety violations. As a matter of fact, a fine and/or jail term are provided in the OSHA law for anyone tipping off an inspection.

In its first year of existence, OSHA issued 15,000 rules and regulations. How in the world can the small business entrepreneur who has a pizza carry-out or a dress shop or a hardware store possibly know what is in those regulations. Yet if an OSHA inspector finds anything he deems in non-compliance, he can fine the employer on the spot.

Furthermore, employers are prohibited from advance consultation with OSHA personnel even to find out whether a situation is in compliance with OSHA regulations or how it might be corrected. To allow some common-sense prior consultation will require an Act of Congress.

The dollar impact of regulations is indeed significant. Goodyear Tire and Rubber Company recently reported that complying with government regulations costs the firm $30 million a year—enough to employ 3,400 new workers. Business as a whole estimates that to install non-income producing systems whose merits are dubious costs $30 billion. These are funds that could otherwise be used as capital investment to create additional enterprises and more jobs.

A couple of years ago, the private sector provided jobs for 85 per cent of the workforce. As Government at all levels has grown, the percentage of American workers on government payrolls has grown and the private sector share has now edged down to 83 per cent. Stated another way, a smaller percentage of workers in the private sector, and the enterprises which employ them, are carrying a greater burden to finance the cost of bigger government.

The average American works all of January, February, March, and April—one-third of the year—just to pay taxes to Federal, State, and local governments. Two hundred years ago, our forefathers fought a revolution against taxation without representation. Now look at the taxes we have with representation!

The inevitable consequence is to remove more and more funds from the private sector—individuals as well as business—and to leave fewer dollars to create jobs, services, and manufactured products. The median cost to create one job in industry is $33,568, but the cost can run as high as $177,680 per job. The dollars government eats up for nonproductive purposes leave that much less for individual savings, for capital investment, and for the 14–15 million jobs that need to be created in the 1975–85 decade.

Just to meet our Nation's material needs in the next 25 years—before most of you reach age 50—we must grow, mine, transport, build, manufacture, and distribute as much as we have in all previous American history. Our economic system can meet these needs, provided government encourages, rather than impedes, the productive energies of the American people—through less red tape and through enlightened tax and fiscal policies. At the Federal level, particularly, we must reverse the trend toward more regulation and we must begin to put our financial house in order.

For, with the advent of the idea that Washington, D.C. has all the answers, we have seen the burgeoning of government and the creation of vested interest groups who plead with Congress not to reduce funds for their pet programs and projects. As of last June 30, there were more than 45 million Americans receiving a Federal check each month, either as salary or benefit. Add to that the millions upon millions of contractors and grantees and you begin to get an idea of the constituency among our 215 million Americans who plead against reducing Federal expenditures.

This helps explain why the Federal budget over the past decade has become uncontrollable—a game of one upmanship between the President and the Congress. No one wanted to be a tight-wad or to offend any of the millions of recipients of Federal checks or Federal assistance. From time to time, attempts were made by the White House or by Congress to curtail the mushrooming Federal budgets. But not until New York City teetered on the brink of bankruptcy was there a general awakening that, if it can happen to New York City, it can happen to the Federal Government, too.

Economic freedom and political freedom go hand in hand. When government spending comprises 36 per cent of our gross national product, as it does now; when Government—rather than the marketplace—dictates basic decisions of enterprises across the Nation: when government stifles initiative and investment; when government harasses its people, our competitive enterprise system with its built-in incentives to produce better is jeopardized. Our freedom as individuals to retain the fruits of our labors is severely curtailed. Our happiness and our contentment are diminished.

Our system has provided the highest standard of living in the history of mankind. We should be doing everything possible to improve it. Instead, it is under continuing assault. There is in Congress and in some Federal agencies a decided anti-business sentiment. This is accompanied by demands for more government regulation, for more government usurpation of private enterprise, and more government agencies. Some are even seriously proposing that Washington should draw up a master plan for the Nation's economy.

This is rather presumptuous when we recall some notable failures of government:

The Postal Service, which, despite a nearly $1 billion subsidy each year, had a deficit of $1.6 billion through fiscal year 1975, and anticipates another deficit of $1.5 billion this year;

Amtrak, whose deficits will require taxpayers' subsidies exceeding $6 billion over the next four years;

Conrail, which even with $2 billion in taxpayers' subsidies faces a deficit of $359 million this year and must lay off thousands of workers, but which, nevertheless, has just decided to grant free cars and country club memberships to its top executives;

Supplmental Security Income Program of the Social Security Administration, which in its first year of operation overpaid recipients by some half billion dollars;

The Federally-mandated seat-belt interlock which cost over $1 billion to develop and which cost fell ultimately on car buyers, only to be canceled by the government;

The energy fiasco, where Congress set up several new agencies but at the same time took actions whereunder, two and one-half years after the embargo, America finds itself with less domestic oil production, less natural gas production, and more dependent on oil imports than before!

This is why I suggest we would all be well advised to question whether Washington "experts" can cope successfully with economic planning of our Nation's far-flung, intricate, and complex economic machinery.

After central planning, what next? Central supervision and central enforcement?

Are we to have a five-year Federal economic plan like the Soviets, whose central planning has time and again failed to reach the projected goals and whose people still cope with shortages of most consumer goods?

Shall we emulate the British government, which has nationalized basic industries like transportation, steel, coal, and embarked on a number of socialist programs? Do we want our economy to be in shambles like theirs?

Shall we emulate the Swedish government, which is frankly socialist and whose confiscatory taxes are driving creative, inventive, and income-producing citizens to flee the country?

Because, if we want to give up our economic system, based for the most part on private ownership, competition, incentive to do better—then what alternatives do we have? Socialism or communism.

Let us look at some other examples. Before communism, Austria and Czechoslovakia had comparable standards of living, as did Greece and Yugoslavia and what are now West Germany and East Germany. Today, each of the free capitalist nations has clearly outdistanced its communist rival.

You who are well educated, trained in law, and about to embark upon your careers should be in the vanguard of resistance to efforts to overturn our economic system. You should be in the vanguard of resistance to ever-encroaching government, which has already reached the point of diminishing returns and is already eroding the economic and political freedom of the American people.

You will find out, if you have not already done so, that government is a constant companion today in America. You will be particularly conscious of this when you pay your taxes, when you obtain the permits to build your home, when you fill out the government forms required of law firms and other private enterprises. You may even be visited—not by the Avon lady—but more likely by someone from OSHA!

You will be dismayed by the protracted legal processes of 1976 and by the multiplicity of reference works and publications you must read in order to keep abreast of developments in your chosen field. You will be frustrated by the layers of bureaucracy that must be penetrated in order to accomplish your goals. You will be amazed at how much government takes from your earnings and how small your actual disposable income is by comparison.

And yet, with all this, you will still be living and working in a Nation that offers greater personal freedom and greater opportunity for advancement and self-fullfillment than any other country in the world.

Be not satisfied or complacent, however. America can and must be improved. So use your talents, your training, your respect for our Constitutional system and our Constitutionally guaranteed rights to try to swing the pendulum away from greater government interference in your life and the lives of your fellow Americans.

Obviously, you cannot turn the clock back to the simple, bucolic life of our once agrarian society. But you can reduce the unnecessary complexities of today's America, thereby enhancing the quality of life and creating a happier, more contented Nation.

As each drop of water helps form the oceans, as each grain of sand helps form the deserts, as each speck of earth helps form the mountains, so each of you can help preserve and perpetuate the cherished features of the American way: due process, protection against unreasonable search and seizure; speedy justice, the right to retain the fruits of one's labors, and freedom to pursue life, liberty, and happiness.

In this way, you will do credit to this great institution of learning, California Western School of Law, you will bring honor upon your family and yourselves, and you will hand the torch of freedom to the next generation.

Thank you and Aloha.

ENERGY DEPENDABILITY

Mr. KENNEDY. Mr. President, we continue to seek ways of creating energy policies that will serve the United States well in the future, it is becoming clear that we need to approach energy on a global basis. In particular, we need to be doing what we can—with other oil-importing nations—to develop energy resources in a wide variety of countries, and in a wide variety of energy fields. In fact, we are all most likely to benefit if there is a search for energy resources in those places in the world where success is most likely. All nations can benefit; and there could even be a downward pressure on prices now set by the OPEC cartel.

This view is put eloquently in today's New York Times by Mr. James W. Howe, a senior fellow at the Overseas Development Council here in Washington. It is a thoughtful and reasoned approach, from a man who has distinguished himself in the fields of economic development and energy. As Mr. Howe writes:

> Our search for energy security cannot be limited to seeking independence from the world energy trading system. It must go beyond that and take the common sense, relatively inexpensive steps that will help to make that system more dependable.

I ask unanimous consent that Mr. Howe's article be printed in the RECORD, and I commend it to my colleagues.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ENERGY DEPENDABILITY

(By James W. Howe)

WASHINGTON.—The Administration's policy for achieving energy security is to decrease United States dependence on foreign oil. This would be done chiefly by increasing domestic energy sources, by energy conservation, and by coordinating our energy planning with other industrialized countries. This is good but not enough.

It needs to be supplemented by a long-range effort to make the international energy-trading system more dependable. After all, even if the United States could become "embargo-proof," this would not make us very secure if some of our chief trading partners (Europe, Japan, Latin America) were still vulnerable to an oil embargo.

Improving the dependability of international energy trade can be done in three ways. First, by increasing the volume of energy wherever in the world it can be done at least cost, because this will help restrain prices in spite of the cartel. Second, by conserving energy use everywhere in the world, which will have a similar effect in restraining prices. Third, by offering the oil-importing third-world countries an alternative to subservience to the oil cartel. Their approval of the Organization of Petroleum Exporting Countries' actions in international forums is believed to have been a significant factor in encouraging OPEC's hard line on prices.

For a small amount of money (relative to the $600 billion to $800 billion of capital needed to reduce dependence) a program of international cooperation on energy could be started that would contribute to all three of these effects. Production of energy could be expanded and diversified by helping poor countries develop their own domestic energy sources. In some cases this might involve advising them, or lending them money to buy advice, on how to develop their petroleum potential. (A recently released United States Geological Survey report shows, for example, that Latin America alone has about four times more prospective oil-bearing area than the Middle East, although not necessarily as much oil.) More typically, it might involve working cooperatively with developing countries to help them learn more about their other energy resources such as coal or hydroelectricity.

Even more frequently it might mean engaging jointly with developing countries in research on small-scale inexhaustible sources of energy. Most such sources (sunshine, photosynthesis and wind) are much more plentiful in the tropics, where most poor countries are situated. Thus, it may pay big dividends in terms of future United States security to make sure that there is a vigorous energy research program in the tropics.

This certainly proved to be true with respect to food. It was joint research in Mexico that helped to give us high-yield wheat. That joint approach has grown and prospered to the point where today there are several worldwide research networks on a variety of grains, each coordinated through one internationally sponsored research agency.

The same could be done with energy. There would be a much better chance for a breakthrough in research on wind or solar electric or biogasification if there were a research network for each that was coordinated by an internationally designated institution that could help avoid gaps or duplications, and exchange information, materials, equipment and personnel. Of course, some of this research in inexhaustible sources would not pay off for many years.

There is little likelihood that any of these steps would dramatically change the supply of energy by 1985 (the Administration's target date for energy "independence"), but for that matter there is not much likelihood that the vastly larger sums spent on sophisticated oil-recovery methods or nuclear fission will do so either.

But one early payoff from helping the emergent countries develop their energy sources and conserve their use of energy would be to convince them they too can look forward to improving their energy security by working with such a cooperative international energy program. That will give them a future alternative to exclusive dependence on OPEC. It may embolden them to withhold their support of any further unreasonable oil price hikes. And if that helps to prevent such price hikes, it will improve the energy security of this country and of our chief trading partners at very low cost.

Our search for energy security cannot be limited to seeking independence from the world energy trading system. It must go beyond that and take the common sense, relatively inexpensive steps that will help to make that system more dependable.

CLEAN AIR ACT AMENDMENTS

Mr. MOSS. Mr. President, in the May 26 Record, Senator Muskie listed various allegations concerning the Clean Air Act Amendments and then gave his version of the facts involved. I believe his listing of the facts to be inadequate. For this purpose I will list each allegation he mentioned, then quote his version of the facts, and then give my own reactions to his analysis. I hope that this exercise will further clarify some of the important issues involved with the decision of whether the Senate should opt for the Public Works Committees' version of nondegradation:

ALLEGATION NO. 1

Legislative hearings have not been held on this provision.

FACTS AS SEEN BY SENATOR MUSKIE

Since enactment of the 1970 clean air amendments, the Subcommittee on Environmental Pollution has held 56 days of hearings to review implications of that act. Specific hearings on nondegradation were held in 1973, 1974, and 1975. In 1975, 14 days of hearings were held and 48 markup sessions were conducted. One entire day of hearings was focused completely on nondegradation in 1975, and the subject was discussed in numerous other hearings that year. Legislative proposals submitted to and considered by the committee included President Ford's proposal, the Environmental Protection Agency's existing regulations, and legislative proposals from the following organizations: The American Paper Institute, the American Mining Congress, Dupont, the National Association of Manufacturers, Shell Oil, Utah Power & Light, Cast Metals Federation, Chamber of Commerce, National Association of Counties, the Electric Utility Industry, Continental Oil Co., the Sierra Club, and the State of New Mexico. The hearings were a combination of oversight and legislative hearings.

REACTION BY SENATOR MOSS

Legislative hearings, however, have *not* been held on the language in Section 6 of S. 3219. The nondeterioration provision was drafted and revised during Subcommittee and Committee markups, after the hearings were completed and the final version bears little resemblance to any proposal on which testimony was received.

ALLEGATION NO. 2

States have not been involved adeqately in developing these amendents.

FACTS AS SEEN BY SENATOR MUSKIE

Twenty States joined the Sierra Club or submitted independent suits requesting the courts to require a nondegradation policy. These States joined the initial Sierra Club suit: Alabama, Connecticut, Florida, Kansas, Louisiana, Maine, Massachusetts, New Mexico, New York, North Carolina, Ohio, Oregon, Pennsylvania, South Dakota, Vermont, Texas. These States filed independent suits requesting the courts to require a nondegradation policy: Illinois, New York, Texas, California, Michigan, and Minnesota—Minnesota adopted the Michigan brief. Only three States opposed the suits requesting the courts to require a nondegradation policy: Utah, Arizona, and Virginia.

In addition to joining suits, the following States have expressed support over the past several years for a policy of prevention of significant deterioration: Alaska, Colorado, Georgia, Hawaii, Idaho, Indiana, Kentucky, Maryland, Montana. Nevada, New Jersey, North Dakota, West Virginia, Wisconsin, and Wyoming.

Eight States testified in 1975, during the clean air hearings: New Mexico, Nebraska, Texas, Colorado, New York, California, Montana, and West Virginia. All submitted comments on nondegradation. Three meetings were held between the committee staff and State air pollution control officials representing the Members of the Governor's Conference. In addition, 12 meetings were held between individual State officials and committee staff members.

It was on the basis of the suggestions made in such meetings and statements from these witnesses that caused the Committee to make substantial changes in the legislative proposals regarding nondegradation.

On May 12, the Chairman of the National Governor's Conference, Gov. Robert D. Ray of Iowa, sent a telegram opposing the delay of congressional action on this issue and said this:

"I would like to advise that the policy of the National Governor's Conference (NGC) call for a decision for Congress to allow each State maximum flexibility to incorporate local guidance in its decisionmaking. An amendment to be offered by Senator Moss to S. 3219 would put off Congressional action on this action.

"Many States are concerned that the passage of such an amendment would result in continuing litigation over present court-ordered Federal regulations and bring about uncertainties among the States and other interested parties in planning for overall development in clean air areas. Therefore, I urge you and your colleagues to insure that the vital issue of prevention of significant deterioration is settled now by Congress."

REACTION BY SENATOR MOSS

The "facts" given in no way refute the "allegation" that States have not been involved adequately in developing the amendments. Knowledge that certain States joined in a lawsuit, that certain States in the past expressed support for a nondeterioration policy, that a few States testified at oversight hearings, and that some State representatives met with committee staff does not in any respect indicate that a majority of States favor Section 6 of S. 3219. Even the quotation from the Chairman of the National Governors Conference does not appear to support the idea of Federal constraints on State and local decisionmaking. The Southern Governor's Conference, by resolution, urged Congress to "clarify the rights and responsibilities of the States to administer air quality programs within the States in whatever manner they choose to meet the national (ambient air quality) standards." Also, it is noteworthy that the State and Territorial Air Pollution Program Administrators—the very people most knowledgeable about, and most directly involved in, state air quality programs—adopted a resolution against Federal involvement in State determinations of the significance of deterioration.

At least 17 Governors have recently written letters expressing opposition to Congressional enactment of nondegradation as national policy.

ALLEGATION NO. 3

No studies have been done. A further 1-year study is necessary to have adequate information upon which to base a decision.

FACTS AS SEEN BY SENATOR MUSKIE

This is totally untrue. Ongoing studies of implementation should be conducted, but extensive studies already exist analyzing nondegradation policy and options.

The Environmental Protection Agency has spent approximately $1 million in studies on nondegradation policies. This is one of the most extensive and expensive series of studies which has been conducted on environmental regulations. Prior to promulgation of the final EPA regulations on December 5, 1975, EPA compiled the following studies:

First. Technical Support Document—EPA Regulations for Preventing the Significant Deterioration of Air Quality, Environmental Protection Agency, January 1975.

Second. "Sierra Club et al. Litigation—Significant Deterioration," B. J. Steigerwald, September 27, 1972.

Third. "Summary of Responses Received Regarding the Prevention of Significant Deterioration."

Fourth. "Summary of Responses Received Regarding the August 27, 1974, Proposal To Prevent Significant Deterioration of Air Quality."

Fifth. "Summary of State Responses on 'Significant Deterioration' Proposal."

Sixth. "The Impact of Proposed Nondegradation Regulations on Economic Growth," volumes 1 and 2, Harbridge House, Inc., November 1973.

Seventh. "Implications of Nondegradation Policies on Clean Air Regions: A Case Study of the Dallas-Ft. Worth AQCR (215)," U.S Department of Commerce, May 1974.

Eighth. "Analysis of the U.S. EPA's Proposals to Prevent Significant Deterioration Relative to the Development Outlook for New York State," New York State Department of Environmental Conservation, October 1973.

Ninth. "Impact of the Proposed Nondegradation Alternatives on New Power Plants," TRW, Inc., September 28, 1973.

Tenth. "Economic Growth and Development Impacts of Proposals to Prevent Significant Deterioration of Air Quality."

Eleventh. "Scientific Factors Bearing on Regulatory Policies to Assure Nondegradation of Air Quality."

Twelfth. "Availability of Air Quality Data in Areas Generally Below the NAAQS."

Thirteenth. "Technical Data in Support of Significant Deterioration Issue."

Fourteenth. "Nondegradation and Power Plant Size," J. A. Tikvart, August 12, 1974.

Fifteenth. "Significant Deterioration in Zone I Areas and the Relative Location of Power Plants," J. S. Tikvart, October 15, 1974.

Sixteenth. "Discussion Paper on the Magnitude of the Class II Increment in the Significant Deterioration Regulations."

Seventeenth. "Emissions of Sources Subject to Significant Deterioration Issue."

Eighteenth. "Guidelines for Air Quality Maintenance Planning and Analysis, Volume 10: Reviewing New Stationary Sources," EPA, September 1974.

Nineteenth. "Guidelines for Air Quality Maintenance Planning and Analysis, Volume 12: Applying Atmospheric Simulation Models to Air Quality Maintenance Areas," EPA, September 1974.

Twentieth. "Findings of Task Force on Significant Deterioration," R.G. Rhoads, December 20, 1973.

Twenty-first: "The Largest Annual Average, Maximum 24-Hour and Minimum 3-Hour Concentrations of Sulfur Dioxide Produced Per Year by a Modern 1000-MW Electric Power Plant Meeting the New Source Performance Standards for Sulphur Dioxide Emissions," Enviroplan, Inc., 1974.

In addition, the Environmental Protection Agency received over 3,000 pages of testimony at the hearings held on its proposed regulations. Ninety-one comments were received from industry.

The following studies have been conducted on various Senate committee proposals:

First. An Analysis of the Impact on the Electric Utility Industry of the Alternative Approaches to Significant Deterioration", EPA/FEA, October 1975;

Second. Chamber of Commerce Analysis and Discussion Papers;

Third. Analysis of the Impact of the Senate Proposals on the State of Alaska;

Fourth. "A Preliminary Analysis of the Economic Impact on the Electric Utility Industry of Alternative Approaches to Significant Deterioration", EPA, February 5, 1976;

Fifth. "Impact of Significant Deterioration Proposals on the Siting of Power Plants" by Environmental Research and Technology, Inc., February 18, 1976;

Sixth. "Impact Analysis of the Effective Proposed Clean Air Act Amendments and Existing EPA Significant Deterioration Regulations on Electric Utilities in Minnesota and Wisconsin" by David Hoffman, James Bechthol, November 14, 1975;

Seventh. "Technical Studies for Assessing the Impact of Significant Deterioration Regulations" EPA, May, 1976;

Eighth. "Summary of EPA Analysis of the Regional Consumer Impact of the Clean Air Act on Significant Deterioration" EPA, May 3, 1976;

Ninth. "A Preliminary Critique of FEA's Analysis of the Impact of Significant Deterioration on Oil Consumption", May 3, 1976;

Tenth. "Estimated Cost for the Electric Utility Industry of Non-significant Deterioration Amendments Currently Considered by the United States" NERA, April 16, 1976;

Eleventh. American Petroleum Institute Report by John J. Anderson, April 19, 1975;

Twelfth. "Summary of EPA Analysis of the Impact of the Senate Significant Deterioration Proposal", April 28, 1976;

Thirteenth. "Proposed Clear Air Amendments: Implications of Proposed Rules for Nondeterioration of Air Quality on the Construction of Kraft, Pulp and Paper Mills", Environmental Research and Technology, Inc., for the American Paper Institute, September 9, 1975;

Fourteenth. "Proposed Clean Air Amendments: Implications of Nondeterioration Rules on Maine", Environmental Research and Technology, Inc., for the American Paper Institute, August 28, 1975;

Fifteenth. "The Effect of Proposed Nondeterioration Rules on the State of Maine," Environmental Research and Technology, Inc., for the American Paper Institute, October 30, 1975;

Sixteenth. "A Summary of the Background Levels of Air Quality Parameters for the Oil Shale Tracks in Colorado and Utah from September, 1974 through February, 1975", American Petroleum Institute, July 14, 1975;

Seventeenth. "Power Plant Impacts on National Recreation Resources", Department of the Interior. March, 1976;

Eighteenth. "An Air Quality Evaluation for the Intermountain Power Project," Westinghouse Electric Cooperation Environmental Systems, October 16, 1975;

Nineteenth. "Health Basis for Preventing Significant Deterioration: An Ounce of Prevention," December 3, 1975;

Twentieth. "Benefits From Preventing Significant Deterioration of Air Quality", April 14, 1976;

Twenty-First. "Impact of Proposed Nonsignificant Deterioration Provisions", Draft Interim Report, Inter-City Fund, Inc., April 14, 1976;

Twenty-second. "Impact of Significant Deterioration Proposals Upon Western Surface Coal Mining Operations," Environmental Research and Technology, Inc., for the Federal Energy Administration, May 5, 1976;

Twenty-third. "An Evaluation of Additional Production Costs for Significant Deterioration and Best Available Control Technology Proposals", General Electric Company, April 26, 1976.

All of these studies have highlighted the fact that the conclusions reached depend very heavily on the assumption used in conducting the study. Many studies by industry contained untrue allegations that large portions of the country would be blocked from further development. These studies were inaccurate because their initial assumptions were flawed.

Proposals to delay any nondegradation policy while further studies are conducted are merely a smokescreen for the desire to have no such policy at all.

REACTION BY SENATOR MOSS

It is questionable to identify some of the listed internal EPA documents as "studies", and it is misleading to suggest that all or a majority of the cited documents were in any way related to Section 6 of S. 3219 and that they substantiate its adoption as sound national policy. Although many of the listed reports are not generally available, it is known that results of some point out serious potential adverse impacts. The latest study on this issue, a study of the effect of nondegradation on the non-ferrous metal industries published in May by the Department of Commerce concluded "The proposal to establish mandatory Class I areas may result in dislocations for copper and lead smelters and new smelters may shift to foreign locations. If non-degradation proposals are enacted, construction of new copper and lead smelters on domestic sites would probably be substantially constrained."

The allegation of flawed assumptions also has been made about EPA reports. Opposition to comprehensive study before adoption of a nondeterioration requirement, particularly a study to weigh costs and benefits, might be based on fear of the conclusions that would be reached.

ALLEGATION NO. 4

EPA's basis for requiring pollution clean up has been challenged and EPA staff has been charged with deliberately distorting data regarding the effects of pollution.

FACTS AS SEEN BY SENATOR MUSKIE

These charges have effectively been laid to rest. Hearings held Friday, April 9 by the House Interstate and Foreign Commerce and the House Science and Technology Committee established the following:

First. Current national ambient air quality standards were established prior to the initiation of the study in controversy—the Community Health and Environment Surveillance System Study—CHESS. Even if the CHESS studies were discarded, this would not affect any of the national standards or EPA's implementation policies, all of which are based on a number of studies, of which CHESS is only one.

Second. The CHESS studies, however, should not be discarded; though no study is perfect—and epidemiological studies are particularly difficult to conduct—the CHESS studies have been characterized as the best of their kind in the world and the most reliable epidemiological studies ever carried out.

On April 13, on page S. 5656 the Congressional Record, the statement of Russell Train, the Administrator of the Environmental Protection Agency, is printed. This statement explains the Agency's analysis of the controversy surrounding the allegation of distortion. I recommend that statement to those who would like to gain some perspective on this whole controversy. Disagreement among scientists always occurs; to equate this with deliberate fabrication and distortion is to misunderstand the nature of such comments from scientists.

REACTION BY SENATOR MOSS

Anyone who thinks the charges have been "laid to rest" should review pages H. 3884–88 of the May 4, 1976, Congressional Record; investigation of the allegations is continuing. There is ample evidence that certain of EPA's control strategies and policies rest heavily on the challenged CHESS conclusions.

ALLEGATION NO. 5

Costs of construction delays as a result of the Senate nondegradation policy may be extensive; therefore, no such policy should be adopted.

FACTS AS SEEN BY SENATOR MUSKIE

Greater uncertainty will occur by eliminating the Senate provision than by accepting it and establishing congressional policy in this area. If Congress remains silent on this subject now, that will only aggravate uncertainty, not erase it.

The policy contained in the Senate Committee bill will clarify policy and reduce uncertainty. Sources may then apply for the right to construct new facilities knowing the ground rules. At present no such certainty can occur.

Moreover, present EPA regulations are subject to court challenge. If the Sierra Club wins, then EPA will be required to tighten its requirements. Even if EPA is sustained, it still could revise its regulations to make them more stringent. On the other hand, by prescribing the requirements in the bill, EPA's authority to promulgate more restrictive rules is curtailed.

REACTION BY SENATOR MOSS

Court challenges to the EPA regulations, in part, raise constitutional issues, which would not be rendered moot by Congressional action. No stay of enforcement of EPA's rules was requested or granted and, until they are upheld or overturned, there is no reason why they cannot and should not be applicable to sources applying for construction permits. Any regulations are, of course, subject to court challenge. Rather poor logic is followed in stating only that EPA rules could be made more stringent unless the bill is passed; they also could be made less stringent, if experience with their administration so indicates, but such action would be precluded if requirements are written into law.

ALLEGATION NO. 6

A no-growth buffer zone of 60–100 miles will be required to prevent pollution of the Federal parks.

FACTS AS SEEN BY SENATOR MUSKIE

This is totally false. Under the Senate bill (but not the EPA regulations), the Class I increment which protects such areas is used as an initial, not a final, test. An appeal is allowed which would permit construction of a major facility regardless of the test for a Class I area if the applicant can demonstrate no adverse impact on the air quality values of the Class I area.

In addition, according to joint EPA–FEA calculations, a well-controlled 1,000 megawatt coal-fired powerplant could locate as close as 6 miles from a Class I area without causing that area's increment to be exceeded.

REACTION BY SENATOR MOSS

These "facts" are oversimplified and misleading. First of all, it was EPA that pointed out (39 F.R. 42510) the necessity for large buffer zones (60–100 miles) to prevent degradation of class I areas. A plant locating as close as 6 miles to a class I area would have to be in flat terrain, have a tall stack (although EPA's policy limits stack heights), probably burn low-sulfur coal, and be equipped with a scrubber (with assumed 100% reliability). An applicant must demonstrate "to the satisfaction of the Federal Land Manager" that emissions will have no adverse impact on the "air quality related values" (whatever that term may be interpreted to mean) of Federal lands in class I areas. It can be presumed that certification to that effect by a Federal Land Manager will be virtually impossible to obtain, since under the bill he has an "affirmative responsibility" to protect the air quality related values of lands under his jurisdiction, and the Committee Report (page 27) admonishes him to "assume an aggressive role" and to "err on the side of protecting the air quality-related values". Even if concurrence is given, with that legislative history, it is certain that delay, uncertainty and litigation will be encountered.

ALLEGATION NO. 7

At least 80 percent of many States would be off-limits to new development.

FACTS AS SEEN BY SENATOR MUSKIE

One percent of the Nation's land would be directly placed in a Class I category, which is designed to protect these important national resources: all international parks, and each national park, memorial park, and wilderness area over 5,000 acres.

REACTION BY SENATOR MOSS

The "facts" do not refute the "allegation", since the former relate to the minimum class I designations nationwide and the latter refers to the Federal lands in individual States.

ALLEGATION NO. 8

Amendments not only ban new manufacturing plants, but even new housing, farming operations, and recreation.

FACTS AS SEEN BY SENATOR MUSKIE

This is false. The provisions only apply to "major emitting facilities" which emit over 100 tons of the pollutant per year and which are listed as a major emitting source category in the bill.

REACTION BY SENATOR MOSS

This is not the total "fact", since other facilities "as the Administrator determines" could be added to those listed in the bill.

ALLEGATION NO. 9

The increments (of allowable degradation of air) are often found to be violated by natural emissions which occur in rural and scenic areas. Therefore, further development already is taken up by nature in many areas.

FACTS AS SEEN BY SENATOR MUSKIE

The increments are in addition to any existing baseline air quality. Such a baseline includes natural emissions and existing manmade sources. The increment is an allowable quota which is added to the existing air quality. Nature cannot use it up. The secondary standards, including natural pollution, establish the limits on growth. No one supports violating secondary standards.

REACTION BY SENATOR MOSS

While nature cannot use up the allowable increment, as defined, natural emissions well may prevent use of the full increment and preclude construction in many areas.

ALLEGATION NO. 10

Most Federal lands would be Class I, effectively ruling out most land in some States.

FACTS AS SEEN BY SENATOR MUSKIE

This is false. Under the Senate bill, only existing national parks and national wilderness areas over 5,000 acres could be Class I. All other Federal lands, including national forests, Indian lands and monuments could only be redesignated as Class I with State concurrence.

REACTION BY SENATOR MOSS

This "fact" is only partly accurate. New national parks and national wilderness areas, regardless of size, initially would be class I and could be redesignated class II only with agreement of the Federal Land Manager (who is charged with assuming an "aggressive role in protecting the air quality values of lands under his jurisdiction"). Wilderness areas in 1975 amounted to 12.7 million acres, pending Administration proposals would raise this to 40 million acres, and 35.5 million more acres is slated for review; at a generous estimate, over 200 million acres of land is still suitable for wilderness designation. (CEQ's 6th Annual Report, December, 1975, page 251–5). The potential impact of class I Federal lands is enormous!

ALLEGATION NO. 11

The number of mandatory Class I areas will increase as new national parks and national wilderness areas are created.

FACTS AS SEEN BY SENATOR MUSKIE

This is not true. The mandatory Class I designation only applies to national parks and national wilderness areas over 5,000 acres which are in existence on date of enactment.

REACTION BY SENATOR MOSS

This "fact" is false. New national parks and national wilderness areas, regardless of size, are mandated class I initially, and the State can change the designation to class II only with the Federal Land Manager's agreement (Section 110(g)(1)(A)(ii) of the Act, as it would be amended).

ALLEGATION NO. 12

The prevention of significant deterioration provisions is a Federal land use policy based solely on one criterion—air quality.

FACTS AS SEEN BY SENATOR MUSKIE

The Senate bill does not require any land classification scheme to be undertaken by the State. The bill in question only regulates air quality and emissions, not land use. The States are free to use the land as they see fit.

Of course, air quality is not the only, let alone the decisive, factor in influencing a State's growth decision. It is merely one factor to be considered.

REACTION BY SENATOR MOSS

Regardless of the attempt at semantic obfuscation, there is no denying that the bill would regulate certain land use decisions (location of new major sources) on the basis of the air quality criterion alone, and States are not free to use land as they may see fit. If a State makes growth and development decisions which conflict with the air quality policy in the bill, new sources simply would not be permitted—no matter how socially and economically desirable, nor how much they are favored by citizens of the area.

ALLEGATION NO. 13

The nondegradation policy would have a much more severe impact in some States than in others.

FACTS AS SEEN BY SENATOR MUSKIE

This allegation comes from a misunderstanding of the use of air quality increments proposed in the committee bill.

Even without a nondegradation policy, an air quality increment already exists in clean air areas. The increment is the amount of pollution which could be added to the area until the ambient air quality standards are reached. In areas of flat terrain, that increment is large. In areas of severe terrain, that increment—up to the national ambient air quality standards—is smaller because pollution concentrations build up rapidly against mountainsides. Therefore, States with flat terrain have a greater competitive advantage if no nondegradation policy exists.

Under nondegradation policy, this uneven competitive disadvantage would be diminished. The amount of additional pollution allowed in all areas will be the same. Areas of uneven terrain are frequently constrained by the national primary and secondary ambient air quality standards. The terrain effects would provide constraints with or without a nondegradation policy. In such cases, the nondegradation requirement for the use of best available control technology will enable such areas to control pollution and allow further growth.

REACTION BY SENATOR MOSS

This "fact" contains convoluted reasoning designated to justify the nondeterioration policy. Certainly, under present law, there is an allowable increment between existing air quality and the national ambient standards; but reducing the allowable increment in all areas by an arbitrary number would in no measure diminish competitive advantages that exist in certain areas because of natural terrain features. It merely makes it more difficult and costly to locate new sources anywhere, because the allowable increment would be subjectively reduced.

ALLEGATION NO. 14

Western States will be held at their present levels of development and not be allowed to develop their energy resources. The Nation will be asked to curtail its industrial output.

FACTS AS SEEN BY SENATOR MUSKIE

These allegations are false. They echo the erroneous position of the Chamber of Commerce since the summer of 1975—a line which has not been altered even though it has been fully discredited. In responding to the Chamber's allegation, Roger Strelow, Assistant Administrator of the Environmental Protection Agency said:

"I have just read your article in September's Washington Report. . . . The article claims that the Environmental Protection Agency's regulations for the Prevention of Significant Deterioration of Air Quality would endanger States' development and 'ban development in areas 60 to 100 miles adjacent to select Federally owned lands such as national parks and forests.' This is simply not true.

"First, the regulations do not apply to all development, but only a select number of the major stationary industrial sources. Thus, contrary to what the article concludes, activities such as construction, farming, light manufacturing, and residential development are not affected by the regulations.

"I would like to comment on the article's contention that Congress in amending the Clean Air Act, is considering a 'no growth federal land use policy' based solely on air quality. That is nonsense. In response to the Administration's request to consider all alternatives and to give explicit guidance on a prevention of significant deterioration policy that allows a balancing of environmental, economic and energy objectives, the Congressional Subcommittees have provided proposals that give the States the authority to make their own determinations of what constitutes significant deterioration within a framework of allowable air quality levels. Like EPA's regulations, these proposals require the States to consider and balance their various objectives, with full public participation. The proposals apply only to major industrial sources.

"The public wants to preserve clean air. According to an August 1975 poll commissioned by the Federal Energy Administration 94 percent of the American people favor preserving our clean air regions."

The EPA analysis of energy facilities indicates that coal gasification, oil shale, coal-fired powerplants and other such energy facilities can meet the nondegradation requirements.

In the CONGRESSIONAL RECORD on April 29, 1976, on page S6175, a new EPA study is printed showing that all major industries could build under the Senate committee's nondegradation proposal. These include powerplants, papermills, smelters, refineries, and so forth.

In sum, Western States will not be precluded from development, and the Nation will not be asked to curtail its output. It will be asked to insure that its growth is clean and that analysis of future development occurs in a rational policy rather than on the basis of piecemeal, private decision-making.

REACTION BY SENATOR MOSS

Opinions of an EPA Assistant Administrator are not necessarily "fact", and many of the EPA's reports and statements have been subject to serious challenges. A copy of the Chamber of Commerce reply to Mr. Strelow's quoted letter is attached. The EPA study which appeared in the April 29, 1976, Congressional Record clearly does not support the Senate nondeterioration proposal; it shows (1) large buffer zones will be necessary in many areas, (2) class III areas will be required if growth and development are not to be impaired, (3) only small, inefficient, uneconomical, and widely separated facilities can be built in hilly terrain, and (4) EPA questions the value of requiring use of best available control technology rather than the present new source performance standards.

ALLEGATION NO. 15

There will be a loss of employment due to the nondegradation provisions.

FACTS AS SEEN BY SENATOR MUSKIE

This is incorrect. In addition to the fact that this provision only applies to new facilities—to employment not yet developed—the pollution control requirements imposed in the committee bill will increase employment, not reduce it. In an immediate sense, more jobs will be needed in order to construct the pollution control facilities associated with compliance—facilities which might not have been installed without these amendments. In an economy with high unemployment, this is a plus.

Studies of the Council on Environmental Quality and Chase Econometrics shows the economic effects of pollution control. These requirements have led us to the creation of one million new jobs, according to CEQ.

REACTION BY SENATOR MOSS

This "fact" is a glib assumption. The real fact is that nobody knows the potential impact on employment, but the Department of Labor has expressed concern (Congressional Record, April 1, 1976, page S. 4805) as have some labor union officials.

ALLEGATION NO. 16

We do not know which areas of the Nation are clean enough to qualify for coverage under the nondegradation provision and, therefore, must wait for further information before determining that such areas should be protected from significant deterioration.

FACTS AS SEEN BY SENATOR MUSKIE

This criticism misses an important difference between nondegradation areas and dirty areas; it implies that expansion in nondegradation areas will somehow be more restricted than expansion in areas which have exceeded national ambient air standards.

This is untrue. In fact, expansion in dirty areas is more difficult. The health and welfare standards have already been exceeded in such areas, and a substantial burden rests on any applicant for a new source to demonstrate that he will not worsen that situation or interfere with cleaning up to the national standards; such a source must make the case that any pollution should be allowed.

Absolute knowledge does not exist. There are many gaps in data on monitoring of existing air quality. But this does not provide a reason for delaying a policy to protecting existing air quality. Most States will be able to make intelligent judgments of air quality in areas where little monitoring data exists. As new applications are submitted, information will be gathered as part of the permit approval process.

REACTION BY SENATOR MOSS

This "allegation" is not particularly pertinent, and the "facts" do not speak to the allegation in an enlightening manner. It is well known that expansion will be difficult or impossible in urban areas where ambient standards are exceeded and most citizens are exposed; that is exactly why any policy that would restrict development in other areas, where few people would be exposed, should be carefully evaluated beforehand.

ALLEGATION NO. 17

Technology does not exist to model the projected emissions from new sources or for monitoring the emissions from these sources. Therefore, Congress, should not act until precise tools exist.

FACTS AS SEEN BY SENATOR MUSKIE

This criticism has a "Catch-22" approach. It says that sources should be allowed to pollute because science has not developed precise techniques for telling exactly how much pollution is created; by the time such techniques are developed, they could very well be useless in protecting air quality, since deterioration would have made the question moot.

For years State air pollution control agencies and Federal agencies have used modeling projections to analyze applications for new sources that would continue under the nondegradation proposal. There is no other way of determining the impact of a source that has yet to be constructed.

In most cases, the errors identified show that more pollution is occurring, not less. This indicates a need to control such pollution now.

REACTION BY SENATOR MOSS

Although limitations and imprecision of monitoring and diffusion modeling are well documented, this "allegation" never has been advanced by those proposing further study of the nondeterioration provision.

ALLEGATION NO. 18

High quality air in clean areas is a luxury—a luxury that must be sacrificed in order to allow industry to grow.

FACTS AS SEEN BY SENATOR MUSKIE

Clean air is not a luxury and growth need not be sacrificed to keep it. If we attempt to sacrifice air quality now for short-term gains, we will find our water becoming more acid, our crop production deteriorating, our esthetic experience in wilderness areas declining, and our health being damaged by long-term low-level exposure.

In addition, we will find that we have lost one of the most useful, growth-preserving options available—the option of determining how air resources will be used prior to their use. Without a nondegradation policy, new sources may well adopt lesser control technologies and thereby use up the available air quality without providing room for the growth of industries that follow in subsequent years.

REACTION BY SENATOR MOSS

Both the "allegation" and "fact" are specious. Nobody is advocating sacrifice of clean air. Speculation about unknown adverse effects is not in accord with scientific facts. Recent scientific reviews have substantiated the ambient air quality standards which protect health and welfare with adequate margins of safety.

ALLEGATION NO. 19

A nondegradation policy will harm the poor and those on fixed incomes.

FACTS AS SEEN BY SENATOR MUSKIE

This is erroneous. Those who use this argument cite competing and mutually exclusive arguments. On the one hand, nondegradation allegedly hurts the city dweller because growth in the clean portion of the metropolitan areas will not be allowed and plants will therefore be forced to flee to outlying areas. On the other hand, cities argue that growth will be restricted in rural clean air areas because of the nondegradation provision and sources will be required to remain in urban areas.

Neither allegation is correct. Dirty air areas usually have some portions that continues to be clean and new sources, if carefully controlled and properly sited, can be located in such urban areas. Growth will continue and the metropolitan area will attract jobs and industry. In addition, the 1976 amendments contain new provisions to allow expansion in such areas. In rural areas, development of new facilities is clearly allowed and nondegradation requirements only insure that the growth be as clean as possible.

REACTION BY SENATOR MOSS

Those who have studied the matter and are in the best position to know would resent the flip assertion that this allegation is "erroneous". For example, the Secretary of Health, Education, and Welfare has stated: "We conclude that the nondeterioration regulations could well impose substantial social and economic costs which in turn would likely be borne disproportionately by the poor, the aged, and the disadvantaged." (See also "No Growth Has to Mean Less is Less," by Bayard Rustin, President of the A. Philip Randolph Institute and National Chairman of Social Democrats, USA, New York Times Magazine, May 2, 1976.)

ALLEGATION NO. 20

The 24 hour or 3 hour increments are unnecessary and should be dropped. The annual average increment levels are sufficient.

FACTS AS SEEN BY SENATOR MUSKIE

Eliminating the short term—3 hour and 24 hour—increments from the bill would completely undermine the protection provided by the nondegradation policy.

An annual average is the sum of a year's daily pollution readings. Since they are only averages, they can mask high air pollution concentrations. In response to a letter I wrote on this subject, Russell Train, Administrator of the Environmental Protection Agency, has said:

"The short-term increments are generally controlling for sources with elevated emission points (e.g., power plants). . . . For example, it is entirely possible that a new power plant could meet the annual Class II increment for both sulfur dioxide (SO2) and particulate matter (TSP) yet cause short-term concentrations that would approach the short-term national ambient air quality standards (NAAQS).

"Thirty-three existing plants were analyzed. . . . Clearly, sole application of the annual increment would not, in many cases, provided a significant margin of nondeterioration protection beyond the primary and secondary NAAQS if a source could create short-term concentrations up to the 24-hour or 3-hour national standards.

"In addition, . . . allowing degradation up to the three-hour secondary NAAQS, could possibly result in damage to certain commercial crops.

". . . the 24-hour concentration of particulates has a considerable impact on visibility. For example, degradation up to the 24-hour NAAQS would reduce visibility from more than 70 miles to about 5 miles. Sole use of the annual increment for nondeterioration would in many cases, allow such a reduction in visibility to occur."

REACTION BY SENATOR MOSS

That chronic low levels of pollution or short-term peaks below the Federal standards may harm health or welfare is speculative and unfounded. If and when supporting evidence becomes available, the law mandates that ambient standards be changed. An annual average is not the sum of a year's readings, but is the mean (geometric or arithmetic, as specified in the standards). While an annual average may (and probably will) contain some relatively high concentrations, nothing in the present Act permits levels above the three- and 24-hour standards more than once a year. "Deterioration" is a long-term reduction in air quality and is not determined by transitory short-term excursions; the annual average, then, is the best and truest measure of "deterioration" and the three- and 24-hour standards are relevant only to health and welfare protection.

ALLEGATION NO. 21

EPA will have the final control over which sources may get permits to construct.

FACTS AS SEEN BY SENATOR MUSKIE

This is true under present EPA regulations but not true under the Senate bill. The States are responsible for deciding whether to issue permits to new sources under the Senate bill. No State permit may be disapproved if the procedures are followed and if the ceilings and increments set in the bill are observed.

REACTION BY SENATOR MOSS

It is wrong to imply that the Federal presence will not pervade the nondeterioration policy. EPA and Federal Land Managers are provided ample clout to influence or block the issuance of permits.

JEC SOCIAL SECURITY HEARINGS

Mr. **HUMPHREY**. Mr. President on May 24 the trustees of the social security insurance funds released their annual reports. These reports were greeted by forecasts of gloom and doom by such respected publications as the Wall Street Journal, which reported that the social security trust fund faced a $4 trillion deficit. On the 26th and 27th of May the Joint Economic Committee held hearings to investigate the trustees' report and various problems encountered by the social security system. During these hearings we found that such press reports grossly exaggerate the problems of the social security fund.

Although the social security system faces some real problems, everyone agreed that there is no immediate danger. As long as the Federal Government has the power to collect taxes and disburse money, the social security system can continue to meet its obligations.

James Cardwell, Commissioner of the Social Security Administration, was our first witness. He discussed the trustees' report, and the outlook for the social security system as a whole. I think it should be stressed that the projections presented in the report, especially the long-range projections, are highly tentative and subject to major revisions. No one can foresee the future with any degree of accuracy. While the 75-year projections may be of some use, they are highly speculative. Small changes in the underlying assumptions can have radical impacts on such long-range projections.

These hearings also brought out very clearly that the growth of the economy and the performance of prices over the next few years is a very important factor in maintaining the solvency of the social security system. A lower rate of unemployment and inflation can significantly improve the outlook for the social security system.

Another witness was Mr. Robert Ball, a senior scholar at the Institute of Medicine in the National Academy of Sciences, and Commissioner of the Social Security Administration from 1962 to 1973. Mr. Ball was very helpful to the committee in understanding the problems facing the social security system in their proper context. He said:

> Social security paid out $1.5 billion more than it took in in 1975, and will pay out about $4.3 billion more than it will take in this year. In itself, this is not a cause for concern. The trust funds exist for just such a situation, and in a recession period it is good for the economy that social security is paying out more than it is taking in.

He went on to say that while there are problems, these are easily manageable and can be corrected. There is no cause for undue alarm on the part of our elderly who are now receiving social security benefits or workers who are planning for their retirement.

Mr. President, I ask unanimous consent that the statements presented by Commissioner Cardwell and Mr. Ball be printed in the Record.

There being no objection, the statements were ordered to be printed in the Record, as follows:

Statement of James B. Cardwell

Mr. Chairman, I am pleased to have the opportunity to discuss with you today the financial status of the social security cash benefits program. I am accompanied today by A. Haeworth Robertson, Chief Actuary; John J. Carroll, Assistant Commissioner, Office of Research and Statistics; and John Snee, Deputy Director, Office of Program Evaluation and Planning.

Mr. Chairman, I will be discussing the financial status of the old-age and survivors insurance and the disability insurance trust funds and the principal assumptions on which the estimates of trust fund operations are based, as contained in the latest annual report of the Board of Trustees, which was released on Monday. As you requested, Mr. Chairman, I will also be discussing the problem of termination of coverage of State and local government employees and some of the income redistribution effects of social security and its relationship to SSI.

Before discussing these issues, I would like to give some perspective of the overall scope of the social security program. Today, more than 32 million people get social security cash benefits totaling about $6 billion per month. In 1976, about $76 billion will be paid out in social security cash benefits, and about another $18 billion in Medicare. About 92 percent of all Americans age 65 and older are either getting benefits or would be if their spouses retired. Ninety-five out of every 100 children and their mothers can count on monthly cash benefits if the family breadwinner dies. Four out of five Americans aged 21–64 can count on monthly cash benefits in the event of severe, extended disability. About 104 million Americans will work in employment or self-employment covered by social security in 1976. Nine out of ten paid jobs are covered under social security. This gives some ideas of why the financial integrity of the social security program is so important.

The financial status of the program can best be discussed, I believe, by separating the discussion into two parts—the short term and the long term. I believe such an approach will facilitate understanding of the problems and issues involved.

SHORT-TERM STATUS

I might mention first, Mr. Chairman, that the 1976 trustees' report presents estimates of the future operations of the trust funds based on three alternative sets of economic assumptions which may be characterized as optimistic, intermediate, and pessimistic sets of assumptions. A comparison of the three sets of assumptions is included at the end of my statement. My discussion of the status of the trust funds is based on the intermediate set of assumptions.

The trustees' report shows that the social security trust funds will decline from their present level of $44.3 billion until they are exhausted in the 1980's. The annual deficit for the combined trust funds is expected to rise from $4.3 billion this year to over $8½ billion in 1981. In the following year, the combined funds would be depleted. The trustees' projections show that the disability fund will be depleted in 1979.

As the members of this committee recognize there is a wide variety of assumptions that could be used for projecting income and outgo of the social security program. At the time the Administration presented its 1977 budget, the estimates contained therein of the short-range financial status of the trust funds were different from those prepared at about the same time by the Congressional Budget Office. Since that time, we have revised our estimates—as reflected in the 1976 trustees' report. We understand that the CBO has also revised its estimates. Although there are slight differences between the trustees' intermediate assumptions and what we understand to be the CBO's latest assumptions, the balance of the combined cash benefits trust funds at the end of fiscal year 1981 will probably be about the same under both sets of assumptions. Under the intermediate assumptions the figure is about $15.9 billion.

I would also add that even if one were to assume that the economy would recover at a somewhat faster pace than under the intermediate or the CBO assumptions, the funds would still decline. For example, projections based on the trustees' optimistic set of assumptions show that, at best, the funds would not last beyond the mid-1980's.

REASONS FOR SHORT-RANGE DEFICITS

Why are the trustees projecting annual deficits in the trust funds? Simply and directly stated, to reflect developments in the national economy. As everyone on this committee knows, during the last few years we have been in the unusual situation of having both high unemployment and high inflation. High unemployment means fewer workers paying into the system, and inflation means higher benefits going out—since social security benefits are automatically increased as the Consumer Price Index rises. Also, the disability insurance rolls have been growing more rapidly than was anticipated a few years ago. Thus, the major conditions that are producing the current deficits are higher outgo and lower income than were anticipated a few years ago.

Although we are on a path of economic recovery, we cannot prudently expect the recovery to overcome the impact of the recent high inflation on the social security benefit outgo over the next few years. In any case, it seems likely that the Nation will experience relatively higher rates of inflation and high unemployment this year and for the next several years, and we must be prepared to deal with this possibility.

ADMINISTRATION PROPOSAL

The real question for the near term is: "What is the critical point below which trust fund levels should not fall?" In our opinion the trust funds should not be allowed to fall below a level of about one-third of a year's expenditures. While we recognize that reasonable people may differ as to how low the trust funds can fall without endangering the integrity of the system, we are concerned about the erosion of public confidence that occurs as the funds decline to lower and lower levels. Also, some cushion should always be retained to carry through periods where a rate increase is desirable, but must be postponed because of economic conditions. Such a reserve is also necessary to allow time for public policymakers to take action to preserve the integrity of the system. In view of these concerns, we believe that the combined cash-benefits trust funds should not be allowed to fall below a level of about one-third of a year's expenditures.

With this in mind, the Administration has proposed that the current cash benefits tax rate be increased, effective in 1977, by three-tenths of 1 percent each for employees and employers, and by nine-tenths of 1 percent for the self-employed. When combined with the earnings base increases that will automatically occur under present law, the rate increases should be sufficient to maintain the trust funds at a level above one-third of the following year's outgo until 1982.

I can assure you, Mr. Chairman, that the President gave very careful consideration to all of the revenue options before reaching his decision. Other options were to increase the earnings base or to have a rate increase and a base increase in excess of the automatic base increase that will occur under present law. In considering this option, it was recognized that the base has increased rapidly in recent years and under present law is expected to increase $1,200 to $16,500 in 1977. In effect, the President's proposal takes these increases into account. The additional revenue expected to be produced in 1977 would come from the proposed rate increase, together with the increase in the base that will automatically occur under the law and the normal year-to-year rise in average earnings covered under the system.

For example, under the automatic base increase in 1977, a worker earning $16,500 or more would pay an additional $70 a year in social security taxes. The proposed rate change would add another $49, for a total increase of $119 for the year. On the other hand, a worker earning $7,500 in 1977 would pay only an additional $22 in social security taxes under the proposal.

A second consideration is that any rise in the wage base now increases future benefit rights, which adds to outgo over the long term. We do not believe it wise to further increase long-term expenditures.

In summary, the proposed rate increase would build upon a wage base increase already in place. In addition, a rate increase means that the cost of providing the additional funds would be shared by all workers and will minimize the impact of the increase on any one worker or particular group of workers.

Another option often advanced is to inject general revenue funds into the social security program. The Administration believes that in time this would erode the earned-right principle that is fundamental to social security. We also believe that it would lead to pressure to further expand the program and thus increase future cost commitments. Unless other expenditures are decreased, use of general revenues would mean either increased Federal borrowing and an increase in the Federal deficit or an increase in general tax revenues.

LONG-TERM STATUS

Now, Mr. Chairman, let me turn to the long-term financial status of the program. As I am sure you recognize, Mr. Chairman, actual future income and expenditures will depend upon a large number of factors: the type and level of benefits payable; the size, characteristics and composition of the population receiving benefits and the population paying social security taxes. These in turn depend upon such things as future fertility rates, mortality rates, migration rates, labor force participation and unemployment rates, disability rates, retirement age patterns, divorce and remarriage rates, etc. Also, of course, wage patterns and changes in the Consumer Price Index are key elements.

It is obviously impossible to know with any degree of certainty what the future holds with respect to these demographic and economic factors. The best that can be done is to make long-range estimates based upon assumptions as to the future behavior of these demographic and economic factors, which will indicate the trend and general range of future income and outgo. Even with their limitation, such estimates, and their underlying assumptions, if revised periodically in the light of developing trends, provide information which is useful for making necessary policy decisions.

As I mentioned earlier, the trustees, in recognition of the difficulty in making cost estimates with any degree of certainty, elected to present in this year's trustees' report projections based upon three alternative sets of demographic and economic assumptions. These three sets of assumptions demonstrate that the projected status of the trust funds can vary widely depending on actual future economic and demographic experience.

Under the so-called intermediate estimates it is assumed that, over the long range, the average annual rates of increase in wages and prices (CPI) will be 5¾ percent and 4 percent, respectively. Thus, an average annual increase in real wages of 1¾ percent is assumed. And a 5 percent unemployment rate is assumed. For the more optimistic estimates, lower wage and price increases and lower unemployment are assumed, as is higher real wage growth—2¼ percent per year. With regard to demographic factors, the ultimate fertility rate used varies from 2.3 under the more optimistic assumptions to 1.7 under the pessimistic ones, with 1.9 being used in the intermediate set of assumptions.

Under the intermediate set of assumptions, the 1976 trustees' report shows a long-range deficit for the cash benefits program under present law averaging 7.96 percent of taxable payroll over the 75-year valuation period. This long-term deficit is primarily a result of three factors:

The way future benefits are related to both inflation and wage growth;

The 1.9 fertility rate, which is below the population replacement level;

The projected higher disability incidence rates.

COUPLED BENEFIT STRUCTURE

Under the present benefit structure, potential future benefit levels—for current workers and their families—are highly sensitive to increases in wages and prices and the relationship between them. Under present law, every time a cost-of-living benefit increase is computed for retirees, that same factor is also used to increase future benefit levels for current workers. This is a flaw in the automatic adjustment provisions that tends to overcompensate for inflation.

Perhaps the best way to illustrate this flaw is to look at what happens to replacement rates—that share of a worker's preretirement earnings replaced by his social security benefit.

Under the intermediate economic assumptions, the present formula will result in an unintended steady rise in replacement rates for all workers. For some workers—those at the lower end of the wage scale—the replacement rates will rise from the present 62 percent level to over 100 percent. In other words, the present formula will result in a significant number of workers getting social security benefits that exceed their retirement wages.

The President has proposed that this flaw be corrected by separating these two computations. This separation is what we term "decoupling." Under the proposal, the computation of benefit increases for current beneficiaries based on increases in prices would be entirely separate from the computation of initial benefit amounts for new beneficiaries which would be based on wages. (For purposes of initial benefits, the wages would be updated in relation to increases in average wages, but there would be no separate adjustment for changes in the CPI, as there is under present law.)

The purpose of our decoupling proposal is to cause future benefit levels to be less sensitive to fluctuations in wage and price increases and also to assure that replacement rates will be relatively constant over time. Our objective is to stabilize *replacement rates*—not social security *benefit amounts*. Under the proposal, future replacement rates will remain at approximately current levels and initial benefit amounts will generally rise over time as wages rise.

I would emphasize that this change would not affect existing automatic cost-of-living increases for people after they become beneficiaries. Under our proposal, as under present law, benefits will be adjusted automatically for changes in the cost of living as measured by the Consumer Price Index so that the beneficiary's purchasing power will be maintained as long as he or she is on the beneficiary rolls. The decoupling proposal does not attempt to overhaul or reform the total system. Existing features of the law that serve as the basis for determining benefit rights will remain in large part unchanged.

Mr. Chairman, the decoupling plan that we will submit shortly to the Congress is designed solely for the purpose of correcting the replacement rate aberration. In doing so it will eliminate about one-half of the projected long-term deficit. To this extent, that 7.96 percent long-term actuarial deficit is misleading. We believe Congress will not permit this unintended double indexing to continue. Thus, the long-term deficit should more properly be considered to be about 4.3 percent.

Furthermore, decoupling will not (and is not intended to) have a remedial effect on the short-term deficits. Its adoption would, though, reduce significantly the projected long-term costs of the system. The Administration believes that an early decision about decoupling is the necessary first step in solving the long-range deficit.

DEMOGRAPHIC FACTORS

The remaining deficit—about 4.3 percent after decoupling—is due largely to the recent sharp decline in birth rates and the assumption that these relatively low birth rates—less than replacement levels—will continue into the future. If current population trends continue and our projections about the future composition of the labor force hold true, future years will witness a relatively smaller work force—that is, a work force expanding at a slower rate than the beneficiary population—and, consequently, a decrease in the number of social security contributors relative to beneficiaries. It is anticipated that the current ratio of 30 beneficiaries for every 100 workers will, by the year 2030, increase to 50 or more beneficiaries per 100 workers. Thus, relatively fewer workers will be supporting more beneficiaries.

In reviewing long-range estimates based upon demographic conditions postulated to exist some 75 years from now, it would be well to keep in mind the following: Although the underlying assumptions for these long-range estimates may appear to be reasonable, based upon current understanding, in some cases the assumptions produce results so different from the current situation that attention should be directed toward the overall implications of these assumptions and not just toward their effect on the single issue of financing the social security cash benefits program.

We believe it is important to recognize that if the population composition should change in accordance with these assumptions, there are likely to be substantial changes in many of the nation's social and economic arrangements. Some things to be considered are:

If health and life expectancy improve, and if demand for labor increases, it is possible that workers will retire at later ages (contrary to present trends), which would result in a substantial improvement in the financial situation of the social security program.

If future birth rates remain low, child-related dependency costs to society will be relatively lower—less money will be required for items such as child care and education—and it may be feasible to devote larger amounts of money to retirement needs.

If the future birth rates are low and the economy continues to grow, there is a possibility that more immigrants will be permitted to enter the country, which would offset, at least partially, the effect of low birth rates.

OTHER LONG-TERM CONSIDERATIONS

Although long-term estimates associated with the social security program are subject to substantial changes because of the uncertainty inherent in an attempt to forecast future economic and population changes, nevertheless, we believe that they are valuable for planning purposes. Since decoupling will solve only one-half of the long-term deficit under the intermediate assumptions, we intend to undertake a thorough review of all aspects of the basic principles and concepts underlying the social security programs.

This review will include a canvassing of the benefit formula and structure, financing alternatives, and analysis of how disability concepts might be better integrated into an income replacement program, a fresh look at coverage provisions, and reappraisal of the proper relationship of social security and other income replacement programs.

Although such a review should be undertaken expeditiously, there is no need for hasty action once the short-term problem is addressed through the proposed tax increases and decoupling is adopted.

STATE AND LOCAL COVERAGE TERMINATIONS

Let me now turn to another issue that has been in the news lately and in which the committee has expressed an interest.

During the past few months, considerable attention has been focused on the withdrawal of State and local government employees from social security coverage, especially on the notice given by the State of New York of its intent to terminate the social security coverage of almost all of the employees of the City of New York.

This situation brings to public attention the fact that not all workers in the United States are covered under the social security program, and that some workers are covered on an elective basis and have the option of withdrawing their participation in the program—while the vast majority of those covered do not have the same option.

Unlike coverage for the work force as a whole, social security coverage for employees of the States and their political subdivisions is exercised at the option of the State or local jurisdiction on a voluntary, group basis. This is executed through agreements between the State and the Secretary of Health, Education, and Welfare.

About 70 percent of the 12 million State and local employees are covered under social security under these agreements. Most of the remaining 30 percent could be covered under social security but the States have not exercised their option.

Some idea of the extent of the current termination activity may be helpful in placing the problem in perspective. Through March 1972, coverage had been terminated for 133 entities employing less than 10,000 workers. In the following 4 years—by March 1976—the number of entities terminated had increased by 2½ times, and the number of terminated employees increased by more than 4 times. In the next 2 years, based on current requests, coverage could be terminated for an additional 232 entities employing about 454,000 workers. Of course, the termination notice affecting by far the largest number of employees is the notice of termination for most of the employees—about 362,000—of New York City.

We are very much concerned about the adverse effects that these terminations have on the benefit protection of workers whose coverage is terminated and on the financial and programmatic integrity of the social security trust funds.

Some of these terminated workers may find themselves ineligible for social security benefits and without adequate protection under other plans. This is especially true with respect to the younger members of the group who have a greater need for the survivors and disability protection provided under social security. All members of the group will, of course, lose their social security disability protection after 5 years. Others may find themselves with little or no group-type protection in place of social security.

For those who remain eligible for social security, the problem becomes one of paying "windfall" benefits to them, the cost of which must be borne by all other social security taxpayers.

Termination of coverage for a large number of employees would have an adverse short-range effect on the trust funds. For example, if coverage is terminated effective March 1978 for workers who are subject to the termination notice filed by New York City, the social security trust funds would lose, in net income terms, an estimated $3.1 billion in contributions and interest during the 5-year period 1978–1982.

The long-range costs would be increased only slightly—about 0.02 percent of taxable payroll for the cash benefits program and 0.01 percent for the hospital insurance program.

While these costs in themselves are not large, the cumulative effect of a large number of major city or State withdrawals from social security coverage could be substantial. If, for example, 50 percent of all State and local employees had their coverage terminated as of June 1978, the total loss in contribution and interest income from the 5-year period would be $37.2 billion and, of course, the long-range deficit would be further increased.

As I testified before the Subcommittee on Social Security on April 26, there are a number of possible approaches to this termination problem, all of which are complicated and have far-reaching implications. I would be glad, Mr. Chairman, to supply a copy of my April 26 testimony for the record.

RELATIONSHIP OF SOCIAL SECURITY TO OTHER GOVERNMENT PROGRAMS

Mr. Chairman, you also asked me to discuss the relationship of the social security system to other income maintenance programs and some of the redistributional effects of social security, which are, of course, different from redistributional aspects of other Federal income maintenance programs.

As you know, social security is our largest social insurance program and the primary reliance of retired and disabled workers and their dependents and the survivors of deceased workers. There are other social insurance programs—unemployment insurance, workmen's compensation, and (in a few States) temporary disability insurance, which cover risks not covered by social security.

In addition, the Nation has a variety of needs-tested programs for people not covered by social insurance or for whom social insurance benefits plus private resources are insufficient to meet individual or family needs. Such needs-tested programs include the Federal SSI system, State supplementary payments, the Federal-State AFDC program, and also programs such as medicaid, food stamps, etc.

The social insurance programs are generally financed by payroll contributions (with or without an explicit employee contribution) and payable as an earned right. The needs-tested programs are generally financed from general revenues—which has a more progressive tax base—and provide benefits only to those whose income and resources are too low to meet a defined standard of need. On this basis, then, the social insurance programs are designed to prevent economic insecurity and financial need and the needs-tested programs are available as a backstop to alleviate poverty and want after it has arisen and to meet needs not met by social insurance.

Let me turn now to the redistributive effects of social security. As you know, Mr. Chairman, the social security program does have certain income redistribution aspects that have a bearing on other Federal income maintenance programs, such as the supplemental security income program and other needs-tested programs which are, of course, financed from general revenues.

Social security redistributes income in several major ways. First, since today's social security benefits are paid from today's social security taxes, social security redistributes income from today's workers to today's retired and disabled beneficiaries and their dependents, and survivors of deceased workers.

Second, by the weighting in the social security benefit formula, which provides for a larger percentage replacement of preretirement earnings for lower-paid earners than for higher-paid earners, social security redistributes income from higher-paid earners to lower-paid ones. This recognizes the fact that lower-paid earners have less margin for reduction in their income than do higher-paid earners.

Another way social security redistributes income is from single workers to married workers. Since social security benefits are payable to a worker's dependents and survivors, a married worker who has a spouse and children may receive more benefits in relation to contributions paid than does a single worker.

As you know, Mr. Chairman, there are some people who argue that the social or welfare aspects of social security should be met through a needs-tested program such as SSI and financed out of general revenues rather than through dedicated payroll taxes. They argue that since we now have a Federal SSI program, these social aspects are inconsistent with the insurance nature of the social security system.

Obviously, this is an area that raises a number of complex questions which, in turn, involve a range of value judgments. The one point we would make here is that the basic concepts that underlie the relationships between social insurance systems and need-tested programs have not been essentially changed because of the enactment of the SSI program.

CONCLUSION

That concludes my prepared statement, Mr. Chairman. I will be happy to answer any questions the Committee may have.

Restoring Public Confidence in Social Security Financing

(By Robert M. Ball)

Mr. Chairman and Members of the Committee:

My name is Robert Ball and I am now a Senior Scholar at the Institute of Medicine of the National Academy of Sciences. From April 1962 until March 1973 I was Commissioner of Social Security and prior to that served for approximately 20 years in various positions in the Social Security Administration and its predecessor organization, the Social Security Board. I am testifying today as an individual, and my opinions do not necessarily represent those of any organization with which I am associated.

INTRODUCTION

Social security today is of major importance to just about every American family. Practically every American is either a beneficiary, a contributor building future protection, or the dependent of a contributor. Today over 90 percent of the people 65 and older are eligible for social security benefits. Ninety-five out of 100 young children and their mothers are protected by the life insurance features of social security called survivors' insurance. Four out of 5 people in the age group 21 through 64 have protection under social security against loss of income due to severe disability. Thirty-two million people, one out of seven Americans, receive a social security benefit each month. One hundred million people will pay into the program this year.

The government through social security has promised future protection to all these people in return for specific earmarked contributions, or premiums, paid by the workers of the country, their employers and the self-employed. I have no doubt that these promises will be kept, but, as you all know, doubt about the financial security of social security is growing among the millions and millions who must depend on the system. An erosion of public confidence is taking place and unnecessarily. Although there *is* a shortfall in social security financing under present law, it is correctable. Steps can and should be taken now to restore the financial integrity of the system and to assure people that their social security protection is safe.

THE NEXT FEW YEARS

Social security paid out $1.5 billion more than it took in in 1975, and will pay out about $4.3 billion more than it will take in this year. In itself this is not a cause for concern.

The Trust Funds exist for just such a situation, and in a recession period it is good for the economy that social security is paying out more than it is taking in. The difficulty is that, in all likelihood, unless the financing of the system is strengthened, outgo will continue to exceed income year after year. There can be reasonable differences of opinion about the size of the annual deficits, but not about the fact of the deficits themselves.

Personally, I have no quarrel with the estimates for the next five years just released by the Boards of Trustees as their "best" estimate. These estimates show an excess of outgo over income for 1977 of $3.9 billion; 1978, $5.2 billion; 1979, $5.9 billion; 1980, $7.2 billion; and 1981, $8.6 billion. However, under even much more optimistic assumptions, the shortfall is still: 1977, $3.9 billion; 1978, $4.3 billion; 1979, $3.5 billion; 1980, $2.2 billion; 1981, $2 billion. Under the first set of assumptions the cash benefit Trust Funds are exhausted in 1982 and under the second set of assumptions about 1986. A return to full employment and to much lower levels of inflation, while, of course, very helpful to social security financing, will not be enough alone to fully solve social security's financial problem. There would remain a middle range problem over the next 25 years and the possibility of a longer range problem in the next century.

If all we were faced with was a short run year by year deficit, which would correct itself with economic recovery the obvious course would be to do nothing. As it is, it seems to me important, just as soon as possible, to amend the law to meet that part of the problem that can be clearly foreseen—the shortfall over the next 25 years—and so restore public confidence in the integrity of social security financing. I do not believe that it is important that the amendments have a major immediate impact, but the changes should be made now so that people are reassured. Social security is too important to the welfare of all to allow doubt about its fiscal soundness to continue. Congress can act now, but in a way that has a minimum negative effect on either employment or prices. But before making a specific proposal for action let me remind you how we got to where we are.

THE BACKGROUND OF THE SOCIAL SECURITY FINANCING PROBLEM

When the social security amendments providing for automatic cost-of-living increases were signed into law in 1972, the system was thought to be adequately financed. There is no truth to the notion that Congress has been willing to vote benefits but not financing. Congress has been very responsible about social security financing.

The 1973 reports of the Boards of Trustees issued shortly after the 1972 amendments showed an imbalance over the 75 years for which estimates are made somewhat larger than had been expected at the time of the legislation—an imbalance of one-half of 1 percent of covered social security payroll (what is meant by this is that an increase in the contribution rate of one-fourth of 1 percent for the employee and a like amount for the employer would have brought the system into exact balance). This was an imbalance of about 5 percent relative to the cost of the whole program over the 75-year period. This relatively minor degree of imbalance was considered acceptable by the Boards of Trustees of the social security funds (the Secretary of the Treasury, of HEW, and of Labor) considering the major uncertainties attached to such long-range estimates.

Moreover, under the estimates it was expected that, in any event, income would exceed outgo year by year far into the future, and that any possible adjustments could be made well before the time they were needed.

The recession has changed all that. It now appears that because of the recent rapid rate of inflation which caused increases in benefits under the automatic provisions, while at the same time unemployment has caused a drop in estimated revenues, there will be a need for more income to the system during the next 25 years than had previously been thought to be the case. A contributing factor in this deficit is that the disability insurance program, on the basis of the last five years experience, is now estimated to cost substantially more than it was previously estimated to cost.

As already indicated, the deficit caused by the recession does not disappear with economic recovery: All benefit payments in the future will be higher because of the inflation of the past, and the system can not make up for lost revenue because interest on the shrunken reserves will be lower than previously expected.

What should be done

1. Change the Automatic Provisions in Present Law so as to Stabilize the Replacement Rate:

The introduction of the automatic provisions in social security in 1972 was a major accomplishment. Beneficiaries are now protected against inflation and contributors receiving automatic improvements in their protection, adjusting for both inflation and the rising level of living of the community as a whole. There is, however, a problem in the design of these automatic provisions.

As they are written, under some wage and price assumptions benefit protection rises proportionately as wages rise, thus, keeping up to date with the level of living as originally expected; under other assumptions, in the long run, the benefit protection may rise less than wages rise or under other assumptions—such as those assumed in the latest reports of the Boards of Trustees—much *more* than wages rise resulting in the completely unrealistic situation in the 2030 to 2050 period of many people becoming eligible for social security benefits at the time of retirement higher than any wages they ever earned. It all depends on the happenstance of how wages and prices move. (When these provisions were adopted it was assumed that the wage and price pattern of the previous 20 years would continue and under those patterns protection would have increased approximately with wages, but under recent assumptions this is not the case.)

The automatic benefit provisions should be changed in such a way that benefits paid in the long-run future are the same proportion of recent earnings for those who retire at that time as benefits are today for those retiring today; in other words, the "replacement rate" should be stabilized. This means that benefit protection for contributors would be guaranteed to keep up to date with increases in wages but are allowed to exceed such increases. Once on the rolls the purchasing power of the benefit would be guaranteed as under present law.

Such a change in the automatic provisions is desirable in any event, because it removes the gamble for current contributors and provides a level of protection they can count on. In addition, because of the specific wage and price assumptions which have been used in recent cost estimates such a change would also have the effect of reducing the long-range (75 year) actuarial deficit by almost one-half. This change was recommended by the President in his budget message, and, I understand, legislation to carry out the proposal is now being drafted.

There is widespread agreement that the automatic provisions should be changed in this way. The last Advisory Council recommended this change, organized labor supports this change, so do senior citizens' groups, and as I have indicated so does the Administration.

For those retiring in the future or becoming eligible for survivors' or disability benefits in the future, the automatic provisions of social security, modified to stabilize the replacement rate, will in most instances provide reasonably adequate benefits for middle income and lower paid workers who have worked continuously under the program. It is expected, however, that the high paid will need supplementation from private pensions in order to maintain a level of living in retirement at all close to that enjoyed while working. Today a worker who has been getting the maximum earnings counted toward social security will receive a benefit equal to a little over 30 percent of his earnings in the year before retirement. For a husband and wife the replacement rate would be about 50 percent. For a worker earning the median wage for male workers the rate would be about 45 percent for the single worker and about 65 percent for the couple. Comparable figures for the worker earning the Federal minimum wage would be 60 percent and 90 percent.

Now the future for the retired aged is not quite as good as this sounds. More than half the retirees claim benefits before age 65, and are disadvantaged in two ways. Their benefits are actuarially reduced (as much as 20 percent if they retire at the earliest possible age of 62), and their average earnings, on which benefits are based, may be lower because of the failure to have earnings between 62 and 65. And, if workers are out of a job, or for any reasons are not covered under social security for a total of more than 5 years during their working career, their benefits will also be less than indicated.

Mr. Chairman, at this point, perhaps it would be worthwhile to digress slightly in order to say why I do not believe that in changing the automatic provisions the Congress should give consideration to the possibility of reducing the replacement rates in present law. It is true, of course, that if benefit levels in the future were to be smaller relative to wage levels in the future, the system would cost less as a percent of covered payrolls. In other words, the financing of the system could be balanced by the device of reducing benefits relative to wages, but it would be at the cost of making the social security system inadequate for the young people contributing today. I bring this up because I understand that such a course will be suggested by a panel of actuaries and economists who will soon be reporting to the House Committee on Ways and Means and the Senate Finance Committee.

I believe this approach would be unwise. Present replacement rates are certainly not excessive, and the ratio of *social security benefits* to previous earnings more than anything else determines the income security of older people. Even in the long run, probably 40 percent of retired persons over 65 will be dependent on social security alone for a regular retirement income. About 10 percent will find that social security is not enough and will need help in addition from the needs-tested Supplemental Security Income program. Another 45 percent may get social security and some retirement protection through either private pensions or government career plans. Perhaps 5 percent, under present policy, will get only a government career pension.

Any reduction in social security replacement rates would surely mean inadequate protection for the 50 percent or so who will not have additional protection under private plans or career government plans, and probably also for many of those with private pension plan supplementation. For others with private pension supplementation, total protection could be maintained only if pension plans were to be further liberalized to make up for any cut-back on social security.

It is noteworthy that the President recommended that the present wage replacement ratios be maintained when changes are made in the automatic provisions. Surely, the Congress would not want to do less. I hope that the Congress will pass legislation to stabilize the replacement rate promptly in order to protect future benefit rights and, at the same time, reduce the actuarial imbalance shown in the present estimates.

2. The Maximum Amount of Wages Counted for Benefits and Contributions Should be Gradually Increased More Than Provided for by Present Law:

I do not favor the President's proposal to increase the contributive rate by 0.3 percent on all employees beginning January 1, 1977. A rate increase falls on all wage earners, low paid as well as high paid, and no one gets additional protection for their additional contributions. Moreover, the full economic effect of such an increase would be felt immediately at the beginning of the year.

Instead, I favor a gradual increase in the amount of earnings counted for benefits and contributions. Only the 15 percent of wage earners who have earnings above next year's maximum of $16,500 a year would pay more under this proposal, and they would also receive more in benefits.

A short-run advantage of increasing the maximum earnings counted as against the contribution rate is that the economic effect of the increase in the maximum earnings is largely postponed until toward the end of the calendar year. In 1977, for example, until late in the year, very few workers would earn more than the $16,500 that would be covered in 1977 under present law. Although the provision needs to be passed the year before, and be effective the first of the year, it has almost no economic impact until the last 2 or 3 months of the year.

I would hope that the Congress would pass legislation this year that would provide for a gradual increase in the maximum amount of earnings counted. The first step could be made effective in 1977 or even in 1978 and the increases could be quite gradual—say $3,000 a year more than under present law—until the program once again covered the full earnings of all but the very highest-paid earners, as was the case when the program started in 1937. At that time, 97 percent of all those in covered occupations had their full earnings counted for social security. As already indicated, the maximum earnings base of $16,500 in 1977 will cover the full earnings of only about 85 percent of those in covered occupations. Such a change would not only contribute to a solution of the short-run problem, but would reduce the long-run actuarial deficit.

3. The Contribution Rate Increase of 1 Percent Now Scheduled for All Should be Made Effective Earlier!

The present law contains a contribution rate increase of 1 percent scheduled for the year 2011, a rate increase which was designed to deal with the problem of a higher ratio of retirees to workers in the next century as compared with this century. I would propose that that rate increase be moved up to the point—probably in the mid-1980's—when, after the changes already indicated, the outgo of the system would otherwise once again exceed income.

In summary, the result of the increase in the wage base and moving up the contribution rate already scheduled in present law, together with stabilizing the replacement rate would carry the social security program into the next century, and under the assumptions used in recent trustees' report would reduce the long-range actuarial imbalance by over one-half. This would be accomplished without increasing the contribution *rates* over those already scheduled in present law and without recourse to any new sources of financing.

I want to stress that two of the three changes I am suggesting for dealing with the financing problem over the next 25 years are desirable in terms of benefit protection really without regard to financing. The substantial improvement in financing is a byproduct of improving program protection.

It is desirable to guarantee that benefit production will rise as wages rise, but it is not desirable to have automatic provisions that could result in social security protection rising at a faster rate than wages. If such an improvement in the relative level of benefits is desired, it should be by specific congressional enactment. Increasing the amount of earnings counted for benefits and contributions would make the financing of the system more progressive, and would improve protection under social security for those called upon to bring more and who now have quite low ratios of social security benefits to past wages.

There are, of course, other possibilities for meeting the deficit over the next 25 years. It would be possible to do it entirely by increases in the contribution rates, combining the President's proposal with moving up the 2011 rate as I suggested. Another possibility would be to tax employers on their total payrolls and increase the maximum earnings base for workers somewhat less than suggested earlier. The values of the contributory system are preserved by relating deductions from workers' earnings to benefit credits, but the employer's contribution does not need to be related to the benefits of the individual workers. The employer's contribution can be thought of as a resource for the system as a whole.

Then, too, there are possibilities of various combinations of these approaches. The contribution rate might be increased, say half as much as proposed by the President, rounding the contribution rate, including Medicare, from 5.85 percent up to 6 percent with a lesser increase in the maximum earnings counted.

A still further possibility would be to introduce a general revenue contribution into social security in the near future. Most foreign systems do not have a government contribution in addition to deductions from workers' earnings and payments from employers. I would favor a contribution from general revenues in the long run if it turns out to be needed to meet the long-range costs of the present program or of an improved program. However, with all the other current pressures on general revenues (including the need for general revenues to finance part of a new national health insurance program and improvements in other social programs), it seems to me best to meet the financing deficit in social security for at least the next 25 years or so, without turning to the general treasury.

THE EFFECT OF SOCIAL SECURITY CONTRIBUTIONS ON LOW WAGE EARNERS

I believe it would be a mistake to exempt low-income workers from social security contributions or to base social security financing on progressive income tax principles. Social security grew out of the efforts of people to help themselves. Its roots go back to contributory plans in the medieval guilds and to trade unions, fraternal orders, friendly societies, and insurance plans—self help efforts. Although I support the use of general revenues for social security to finance part of the cost of the system in the long run, if needed, it seems to me that proposals to finance social security entirely from general revenues or from some kind of income tax surcharge which would completely exempt low-wage earners are based on a failure to understand the strengths of the self-help philosophy. If financing were related entirely to ability to pay, it is very likely that benefits, in time would be related to need. Thus, as a result of a change in financing, we could find that social security had been turned into a welfare program designed to help only the very poor and that it was no longer a self-help program serving as a base on all Americans to use in buiding family security.

Moreover, the security of future benefit payments is greatly reinforced by the concept of a dedicated social security tax or contribution paid by the people who benefit under the system. The moral obligation of the government to honor future social security claims is made much stronger by the fact that the covered workers and their families who will benefit from the program made a specific sacrifice in anticipation of social security benefits in that they and their employers contributed to the cost of the social security system, and thus they have built a right to expect a return in the way of social security protection.

Although I believe that this right can be protected even though general revenues share in the cost of the program, it is important to preserve the principle, that a significant part of the program be financed by direct deductions from the earnings of all covered workers. The general revenue contribution, which might be needed in the next century (or earlier if benefits are substantially improved) can well rest on the rationale of paying for that part of the program which is not directly wage related—the social element in giving a weighted benefit to those with low wages, those with dependents, and those who were no longer young when the program started.

There is a real dilemma, though, as far as the low-wage earner is concerned. He may be getting a "bargain" for his social security contributions—as he does—in terms of long range retirement, disability, and survivorship protection, but nevertheless questions can be raised about a social policy that forces him to substantially reduce an already low level of current living in order to secure this protection.

A possible solution to this dilemma would be to make the refundable earnings credit in the 1974–1975 tax bill permanent and to broaden the credit to include low-income workers without children. Under this provision, low-income people get either an income tax credit, or if they do not have to pay an income tax they get a positive payment offsetting a considerable part of what they are required to pay for social security. Yet the provision does not change the social security system. It is a subsidy from general revenues to low-income workers based on their total family income or the number of people dependent on that income.

IS THERE A REMAINING SOCIAL SECURITY FINANCING PROBLEM IN THE NEXT CENTURY

If the three steps I recommend are taken, would there still be a deficit in social security financing in the next century? The answer is that no one knows, but there is some possibility—even likelihood—that this will be the case. The reason is that we may have an increasing ratio of retired persons to working persons—more taking out of social security as compared to those paying in. This is a situation that, given recent trends, might begin to occur about the year 2005.

While the growth of the population 65 and over since 1900 has been very large and quite steady—rising from 3.1 million in 1900 to 23 million today, an average increase of more than 30 percent every 10 years—future growth will not be a straight line projection of the past. After 1980, the rate of increase begins to drop sharply, so that it takes over three decades for another 30 percent increase, with the population over 65 reaching a total of about 31 million people in 2005. Then, as the generation born in the post-war "baby boom" reaches retirement age, the numbers will shoot up from 31 million to 52 million in 25 years. And this is quite certain. This group has already been born, and its size has been estimated on the assumption of only modest improvements in mortality rates.

Thus, the problems up to about 2005 are largely unrelated to demographic factors, but after 2005 the key question will be the size of the labor force, the number paying in. On this point there is considerably less certainty than there is about the number over 65, because the number of labor force depends most importantly on future fertility rates, and the extent to which women and older people work.

Fertility rates dropped steadily and dramatically from 1957 to 1974. In 1957 it was estimated that on the average women would have 3.77 children. By 1965 the rate was 2.93; by 1970, 2.48; and in 1974, 1975 and 1976 it has been about 1.8. In other words, women are now expected to have only half as many children as they were expected to have in 1957.

With considerable justification, therefore, the last three trustees' reports have assumed for the long run that the fertility rate in the United States will not be 2.5 as had been assumed in the 1973 trustees' report, the last to show social security in approximate long run balance.

In 1974 and 1975 it was assumed rather that the rate would rise slowly and stabilize at 2.2 which is approximately the rate that, over time, will produce zero growth. (I can see nothing, however, in the developments of this last year that caused the trustees in the report just issued to change to an ultimate rate of 1.9 for the central assumption. For this and other reasons it seems to me that the long-range cost estimates in Appendix B of the new report, modified to assume a stabilization of replacement rates should be the focus of our attention rather than those appearing in the body of the report.)

The results of changing from a 2.5 fertility rate to an ultimate rate of 2.1 are startling. In 1940 there were 77 million persons in the age group 20–64 and 9 million people over 65 a ratio of 11.7 aged persons for every 100 persons of "normal working age." Comparable figures in 1974 were 120 million and 22 million, for a ratio of 18.3 aged for every 100 persons of "normal working age." Under the changed assumption there are only minor fluctuations in this ratio between now and 2005, but at that time the growth in the age 20–64 population comes to a halt just at the time the number of people aged 65 and over shoots up from 31 million to 52 million in 25 years, resulting in a ratio of about 30 people past 65 for every 100 persons 20 to 64. But how certain is the continuation of these low fertility rates for the long run?

If we look not at the period just since 1957, but say over the last 75 years, there have been many ups and downs in the fertility rate in the United States. It was high at the turn of the century, dropped sharply at the beginning of the depression of the 1930s, began to rise during World War II and remained on the rise until 1957. If the fertility rate were to rise quickly to 2.5 again, there would, of course, be no social security financing problem of the type now anticipated.

Population experts have, on the record, not been particularly successful at predicting fertility rates, and in that sense everyone can take his choice on the basis of past experience. Yet it may be imprudent to count on there being a return to the fertility rates of the late 1960s and 1970, and in this way dismiss any long-range social security financing problem. The widespread knowledge about, and availability of, inexpensive (for the United States) methods of contraception, the tending to prefer a higher level of living made possible by a smaller family, and the widely recognized major social reasons for zero population growth, persuade me that it is reasonable to base projections of social security costs on a fertility rate ultimately producing ZPG. If we are going to have such fertility rates, we ought to start thinking about the retirement policy that makes sense under ZPG conditions because the most significant social trend causing higher than necessary social security costs in the next century is the trend towards earlier retirement.

In the last trustees' report, the trustees have assumed a continuation of this trend and have estimated a further long-range reduction in labor force participation on the part of people over 60. If we could instead, have *greater* labor force participation among older people in the next century than we have today, there could be a significant saving for social security over what is currently estimated.

There may well be a question whether a policy of earlier and earlier retirement makes sense—either for the individual or for society—when one considers the probability of more older people living somewhat longer and with a high proportion of those in the younger part of the aged population being in reasonably good health. One quite possible and highly rational response to the change in the population distribution that will arise under the fertility assumptions leading to ZPG would be for society to employ a higher proportion of people over 60 rather than a lower proportion as has been assumed in the best estimates.

The most fundamental determinant of the cost of pensions is the proportion of the aged group that is productively employed. This is true because private plans almost always require retirement from the particular employer or industry as a condition of drawing benefits, and social security reduces benefits in proportion to earnings for those who earn more than relatively low exempt amounts.

I believe if we want to continue retirement plans to replace wages to the extent we have promised, improve health insurance and long-term institutional care for the elderly and add the services needed to allow older people to be cared for outside of institutions if they prefer, we had better give high priority over the next 30 years—before the crunch comes—to reversing the trend toward earlier and earlier retirement. It is one thing to be able to support good retirement programs and other programs for the elderly under conditions of a rapidly increasing population over 65 if most people work up to 65 or later. It is something else again if people generally stop working at 60 or even younger.

It should be pointed out, on the other hand, that the increasing demand on goods and services by the aged, which would result from these population projections, will be offset by a decline in the number of younger dependents. If we look not just at the aged but at the combined number of people below 20 and over 65, and consider this combined group to be the number to be supported by active workers, we get a very different picture than when looking at the aged alone. Even allowing a higher per person living cost for older people than for children, it still can be said with considerable confidence that the kind of population shift that may occur in the next century does not represent any real increase in the overall economic burden on active workers, but rather an increased obligation to support older people, balanced by a lessening of the obligation to support children.

Moreover, it may be assumed that with fewer children a higher proportion of women will work in the future as compared with today, a fact that improves the ratio of workers to retirees.

From the narrow point of view of the closed system of social security, however, there may well be a problem. Since about four-fifths of the cost of the system is for the payment of benefits to older people, the somewhat lower cost to the system for the survivors' and dependents' benefits paid to children is offsetting to only a minor degree, and increases in labor force participation by women has already been taken into account by the trustees. Looked at strictly from the standpoint of the social security system in the next century, the issue could well become whether the savings from the lessened burden of dependent children can be translated into a willingness to pay higher rates for retirement protection.

CONCLUSION

Now what does this all add up to? I believe the wise policy would be to take action that would fully support the system into the next century by gradually increasing the maximum amount of earnings counted for benefits and contributions and by moving up the contribution rate increase now scheduled for 2011. I believe also that the automatic provisions should be changed to stabilize the replacement rate. These actions would reduce the estimated long-range imbalance as shown on Appendix B of the recently issued Trustees' Report to less than 3 percent of payroll.

To help further reduce this estimated imbalance I believe we should work toward policies that promote, rather than reduce, employment opportunities for older people.

Whether after these actions an imbalance would still develop in the next century is uncertain. We will know much more about that 10 or 15 years from now after we have had a chance to observe the developing trend of fertility rates and the other uncertain factors that govern long-range costs. In any event, because of the possibility of some remaining long term deficit I believe it would serve to underline the government's determination to meet all future social security obligations as they fall due to put back into the Social Security Act a provision about general revenue financing that was in the law from 1944 to 1950 as follows: "There is also authorized to be appropriated to the trust fund such additional sums as may be required to finance the benefits and payments provided in this title."

MILITARY RECRUITING VIOLATIONS

Mr. McGOVERN. Mr. President, in 1973 Senator ABOUREZK and I requested the General Accounting Office to look into certain recruiting improprieties of the All Volunteer Force. The GAO expanded that study to include all aspects of the recruiting efforts in connection with the AVF and have recently issued their findings and recommendations. This critical review of military recruiting states that the lack of control by the Department of Defense over recruiting activities has resulted in fraudulent enlistments, training failures, disciplinary problems and many early discharges accounting for a waste of $70 million in 1974 alone.

Since the inception of the AVF, the military has increased its spending for recruitment from $430 million in fiscal year 1973 to $508.1 million during 1974 and $511.3 million in the fiscal year 1975 budget. This more than $80 million increase can be traced to advertising. In fiscal year 1970 the military was spending only $6.7 million for advertising. In fiscal year 1974 that figure reached $96.1 million. But despite the incredible amount of money which was sunk into pamphlets, media ads, posters, billboards and give-away "incentive items" such as frisbees, pens, watches and T-shirts, GAO says that this beefed up advertising campaign has been responsible for very few enlistments and has not done anything to improve the image of or change attitudes toward the military. So this huge increase in spending seems to have gone for naught. Flagrant recruting abuses have tormented the services. Still they have not moved to make more than modest changes, if any, in their procedures, principally because they have been bound by the pressure to meet the service strength goals in terms of numbers. This they have done, but seemingly at the expense of young recruits who often enlist without a full explanation or understanding of what they are getting into, or who are not even eligible to enlist in the first place.

And now it has taken the tragic death of a young Marine to focus attention on the recruiting and training malpractices. I hope that the congressional hearings on this matter will result in a hard look at the standards of recruiting and training and encourage the services to adopt the changes necessary to insure that we experience no similar tragedies in the future.

The Marines are a proud group of Americans, as are the members of all of the other military branches serving their country. These recruiting violations, disciplinary problems and incidents of brutality have marred their reputation and have thrust into serious question the standards and priorities of the AVF. If 500 millions of dollars are not sufficient to recruit enough individuals of the highest quality without resorting to abusive recruiting activities, then I suggest that the services concentrate on rearranging their goals and policies and aim for quality, not quantity. I know that Commandant Wilson of the Marine Corps has taken steps to institute reforms along this line and I commend those initiatives. But I think some of the recommendations outlined by the GAO in their four part report would also go a long way toward creating a more efficient and cost effective recruiting system without sacrificing a degree of the strength we depend on.

Mr. President, I ask unanimous consent that the GAO recommendations to the Secretary of Defense regarding recruiting practices be printed in the RECORD.

There being no objection, the recommendations were ordered to be printed in the RECORD, as follows:

RECOMMENDATIONS

To support the military services' intensified recruiting efforts for the all-volunteer force, expenditures for advertising increased over the past 4 years from about $7 million annually to $96.1 million.

Regarding the AVF advertising program, GAO recommends:

Defense and the four services should undertake research programs that have potential for greatly improving the advertising program.

The Department of Defense should identify additional research that is common to the entire recruiting effort.

Some mechanism should be established so that research performed by the services in common areas is not duplicative and is made available to those have use for it.

The services and Defense should begin to experiment with various advertising approaches such as: (1) Defense military service advertising, (2) four service advertising, and (3) controlled test advertising to determine the effect of various media such as direct mail and magazine advertising.

Before pursuing any type of paid broadcast advertising, the services should determine how much public service announcement time is now being obtained, how effective this media is, and how much of this time could be lost if the services went to paid broadcasting.

Defense should examine the policy of using all response type media, especially the more costly popup cards considering the number of leads that can be traced to enlistments.

GAO also found that all advertising costs relating to the overall military recruiting campaign are not fully disclosed and reported by the services consistently. Without such information, program managers are not in a position to carry out their responsibilities in formulating effective plans and making sound decisions.

The Department of Defense spent about $4.7 million during fiscal year 1974 to support its high school recruiting and testing program, testing about 1.1 million students for enlistment eligibility. Of 307,000 male seniors, only 196,000 were potential enlistees. Only 9,700 were enlisted on the basis of the test given them in high school. About 33,700 enlistees who had been tested in high school appear to have been unnecessarily retested at enlistment.

In 1973, the Department of Defense established the Armed Forces Vocational Testing Group to manage the high school recruiting and testing program and to present the military services to the educational community as a single entity.

This latter objective has not been fully achieved because all the services, except the Marine Corps, developed separate programs to further their recruiting interests with the educational community. These programs are similar in many respects but are funded and managed independently. Each program employs civilians with a background in education to improve the service's image through better communications with the educational community.

In order to improve the quality of personnel recruited, GAO recommends that the Secretary of Defense:

Establish a time frame for the services to agree on common aptitude or occupational areas composed of common composites.

Evaluate the high school recruiting and testing program and the service's various liaison programs with the educational community. If these programs are found justified, their management should be consolidated under one agency, independent of service affiliation.

Defense officials agreed with this report and its recommendations, except that they are not yet satisfied that common composites can be developed. They believe that test results must relate to performance in job training which is different among the services.

The Armed Forces Examining and Entrance Stations are best suited to perform quality control over mental and medical examinations, moral fitness, and enlistment paperwork. They have been precluded from independently monitoring these functions because of subordination to the recruiting services, fragmented and incomplete procedural controls, noncompatible recruiting boundaries, and service-administered mental examinations.

Inefficiencies caused by distorted workload standards, monthly enlistment quota systems, varying service-imposed paperwork requirements, and double contract processing of individuals who delay entry into the military also wasted valuable time and increased examining station costs. (See pp. 16 to 21.) GAO estimated that standardizing paperwork and eliminating double contract processing could save $1.2 million annually.

The Department of Defense and the Joint Service Task Force have acted to develop a standard enlistment application and an enlistment agreement which would allow all possible enlistment transactions to be completed on one form and would revise examining station workload standards and adjust staffing levels.

The Defense Department has issued instructions to the services that require a single mental test for all the services to be given under the control of the examining stations.

In addition, GAO reviewed the management of the services' recruiter forces. Since 1971, Defense has increased recruiter staff-years by 3,800 and the services have made numerous changes to increase recruiter effectiveness. The services used increased effectiveness to eliminate enlistment incentives and end 2-year enlistments instead of reducing recruiter force size. GAO believes force size can be reduced at least 10 percent at a $16 million annual savings. Congress decreased the military personnel recruiting budget request for fiscal year 1976 by about 9 percent.

Each service used nonrecruiting personnel to help recruiters locate prospects. Army studies show that nonrecruiting personnel productivity is higher than that of additional recruiters. None of the services, however, have conducted controlled field testing to explore the potential for using nonrecruiting personnel to reduce recruiter force size.

GAO learned numerous organizations, military and contractor, evaluate recruiting programs. The Defense Department and the services perform or contract for evaluations independently. The Department of Defense has not given the services an overall plan specifying programs to evaluate and methods to use. As a result, programs GAO examined had not been evaluated; received limited, inconclusive evaluation; or were evaluated by more than one service.

The Department of Defense has been precluded from making many interservice comparisons in its evaluations because the information received from the services was not uniform, parallel data was difficult to obtain, program costs were not always compiled, and recruiting boundaries are not uniform.

To help improve the effectiveness and efficiency of recruiting, GAO recommends among other things that the Secretary of Defense:

Remove the examining stations from operational control of the recruiting organizations;

Eliminate those factors precluding the examining stations from independently monitoring quality, malpractice, and fraudulent enlistment;

Adjust staffing levels between the examining stations and recruiting services to give the examining stations the resources to perform quality control and monitoring functions.

Insure that the examining stations assess reliability of revised workload standards.

Insure that the recruiting services change the system of month-end enlistment quotas; establish common boundaries and a common entrance examination; and adhere to timetables to standardize enlistment paperwork and eliminate double processing of personnel who delay entry into the service.

Adjust recruiting force levels.

Establish uniform procedures to monitor recruiting results and assess recruiting force needs.

Department of Defense officials' responses to GAO's recommendations are as follows:

The examining stations will be removed from operational control of the recruiting organizations in July 1976.

Elimination of those factors precluding the examining stations from independently monitoring quality, malpractice, and fraudulent enlistment. However, final decisions on enlistment should be left up to the services.

Staffing levels will not be adjusted.

An industrial management survey will evaluate the examining stations' capacities and precise workload.

Agreed to change the system of monthend enlistment quotas.

Many actions, including the reorganization of the examining stations management structure, were considered necessary before pursuing the issue of compatible boundaries. Mental testing for the examining stations was centralized January 1, 1976.

Elimination of double processing of personnel under the delayed-entry program has not been completely resolved.

The Defense Department does not agree that recruiter force levels need to be adjusted.

NADER TAKES ON CORNER REPAIRMAN

Mr. BENTSEN. Mr. President, I would like to bring to the attention of my colleagues an article published in this past Sunday's Chicago Tribune. The column, written by Mr. Jerald terHorst, quite succinctly expresses my concern over the 5-year/50,000-mile performance warranty required by the 1970 Clean Air Act and retained by S. 3219, the 1976 amendments. It is a good statement of the case for reducing the performance warranty to 18 months/18,000 miles, an amendment which Senator PHILIP A. HART and 13 other colleagues have joined me in cosponsoring.

I believe Mr. terHorst's analysis will be helpful as we proceed to the consideration of this year's amendments in the near future. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Chicago Tribune, May 30, 1976]

NADER TAKES ON CORNER REPAIRMAN

(By Jerald terHorst)

WASHINGTON.—While public attention is being diverted by the political smog over the presidential primaries, the U.S. Senate is about to begin floor debate on the long-awaited "clean air amendments of 1976." That could have more affect on the air we breathe, the places we work, and the money we spend than almost anything else the Senate and the White House candidates have said or done all year.

It's a pity that no presidential aspirant is making a big issue of the proposed changes in the Clean Air Act of 1970 that was adopted as the means for cleaning up the nation's air by the end of the decade.

Nearly a year has gone into the shaping of the amendments that will be offered by the Senate Public Works Committee.

Two major controversies will be up for settlement. One involves what ought to be done to protect unspoiled parts of the country against industrial smoke and gas. Another battle will be fought over the auto companies' efforts to lower the standards for vehicle emissions.

Both of these struggles find environmental and consumer organizations on one side and the business communities on the other.

Yet, one facet of the auto emission controversy intrigues me. In this instance, the battle lineup is different, even unusual. There are consumer champions in opposition to each other, the automakers are essentially neutral, and some very potent business groups are promoting the cause of "the little guy," along with their own.

I am referring to the amendment to be offered by Sen. Lloyd Bentsen [D., Tex.] to reduce the performance warranty on pollution control systems on new cars from five years and 50,000 miles to 18 months and 18,000 miles.

That idea sounds like an anticonsumer move by a pro-business senator. And that's what Ralph Nader and the national clean air coalition of environmental and consumer organizations think about it.

But then you find a pro-consumer liberal like Sen. Philip A. Hart [D., Mich.] and others listed as cosponsors of the Bentsen plan. And you find that it has staunch support from the independent auto parts companies, the corner gas station owner, and the Automotive Service Industry Association. Suddenly it's no longer easy to distinguish the good guys from the bad guys.

Independent garage mechanics and parts manufacturers contend that the "5–50" warranty will, if put into effect by the Environmental Protection Agency, prevent them from repairing cars and trucks until they are five years old or have 50,000 miles on them. The American Automobile Association argues that the law would practically force car owners to have all repairs and maintenance done by new car dealers, or risk voiding their warranties.

That strikes Bentsen and Hart as anticonsumer. It limits a motorist's ability to choose a repairman. It offers the Detroit automakers a competitive edge over the whole auto repair market. And, it threatens the existence of the 400,000 independent garages, service stations, and others who perform 80 per cent of the repairs on America's 125 million cars and trucks.

Nader and the consumer-environmental coalition contend this fear is unjustified. Their fear is that any tampering with the 5–50 warranty would ease the pressure on car makers for quality emission controls. Not so, counter the proponents of the 18–18 warranty, since Detroit still will have to build the emission devices to the 5–50 standard provided in the production warranty, and not affected by changing the performance warranties.

My feeling on this upcoming Senate battle is that Nader ought to lose and your corner repairman should win.

DOUBTS ABOUT COAL SLURRY PIPELINE

Mr. McGOVERN. Mr. President, 3 years ago, Energy Transportation Systems, Inc.—ETSI—announced plans to construct a 1,030-mile coal slurry pipeline to move coal from the Wyoming fields to power generating facilities in Arkansas. ETSI is a joint venture involving three major corporations—Lehman Brothers, Kansas-Nebraska Natural Gas, and the Bechtel Corp., the same company which conducted the feasibility study used by the Interior Department in deciding to give initial approval to the project.

The ETSI proposal has encountered a good deal of criticism because of the potential negative impact of the project on the environment, on the railroads and on water supplies in the semiarid Upper Great Plains. Water supplies are in question because the coal slurry technique requires that enormous quantities of water be mixed with pulverized coal in order to permit movement through the pipeline.

Originally, ETSI envisioned drilling into the Madison Formation to obtain the needed water, an action which could draw down ground water in southwestern South Dakota and southwestern Wyoming. More recently, there has been talk of constructing a Missouri River/Wyoming aqueduct to move 100,000 acre-feet per year for pipeline, agricultural and eventually, for mine mouth power generation and coal gasification use. There is great concern in South Dakota and in the other States of the Upper Midwest about what water diversion on this scale will mean for our own future needs and for the quality of our environment.

In addition to these serious questions about the proposed project, it is clear that a commitment to the coal slurry pipeline would go far toward bankrupting the now solvent railroad industry in our region. Objective comparative cost estimates are not as yet available, but transportation by rail offers a far more flexible method of distributing coal than does the pipeline system, tied, as it is, to one main destination. It seems to me to make little sense to opt for a questionable competing system at a time when our national policy is to rebuild and revitalize the railroads.

Mr. President, on May 9, the Minneapolis Tribune commented editorially on the pipeline project, as did the Chicago Tribune on May 19. I ask unanimous consent that these editorials from two of the most important newspapers in our region be printed in the RECORD.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the Minneapolis Tribune, May 9, 1976]

THE COAL-SLURRY PIPELINE ISSUE

We are glad to see the Upper Midwest Council joining Western railroads in their fight against proposals to build pipelines to ship coal slurry—finely ground coal mixed with water. The council last week recommended that Congress reject legislation that would give slurry pipeline companies authority to acquire rights-of-way.

The House Interior Committee will vote on such legislation later this month. We urge Minnesota's congressional delegation to support Rep. Jim Santini, D-Nev., who is leading the opposition on the committee. A vote for a rights-of-way measure could have irreversible effects on Western railroads and the region's economy and environment.

"Financial problems created by the loss of coal traffic to slurry lines," a Burlington Northern executive has predicted, "might very well produce a rail debacle in the West comparable to the Penn Central's failure, and down the drain would go the nation's best hopes to keep the rail industry off the federal dole." His warning is well founded.

Coal-hauling revenues have helped stabilize Western railroads' finances. Taking those revenues away—as slurry pipelines would do—doesn't make sense. Railroads in place, the Upper Midwest Council said, should be able to meet coal-hauling demands in this region at least through 1985. There should be no need for another transportation system to be built from scratch at great cost. Slurry pipelines wouldn't necessarily mean increased competition, either: Once a slurry company entered a long-term contract, say 30 years, other transportation systems would be locked out.

And environmental risks are enormous; some haven't even been researched. Take Energy Transportation Systems, Inc.'s proposal for a $750-million, 1,000-mile-long pipeline to carry coal from Wyoming to power plants in Arkansas. To ship the 25 million tons of coal a year the company proposes 6.5 billion gallons of water a year would be required. It would have to come from underground sources shared by several states. One of the states is South Dakota, whose attorney general warns he will go to court to halt the company taking water needed for established farms and industries. And he should, too.

There are too many risks, too many imponderables, for this region to get involved in slurry pipelines now. Congress should reject the rights-of-way measure and require a thorough study of the issue. Much more needs to be known.

[From the Chicago Tribune, May 19, 1976]

COAL PIPELINE DELAY ASKED

"A number of studies have been made by proponents and opponents of coal slurry lines, but their results often conflict and their impartiality is in question. The issue deserves a dispassionate assessment before rather than after any decisions that may prove irreversible.

"What will be the impact of taking great amounts of water—an estimated 6.5 billion gallons a year or more from the West, where it is in short supply, and dumping it in an area which doesn't need it? What is the air and water pollution impact of coal slurry pipeline?

"Is a pipeline, whose route and therefore its clientele is more rigid than a railroad's, the most efficient way to distribute coal and thereby help meet the country's energy needs? Would it increase or decrease competition?

"Does the Interior Department have the expertise to handle the granting of eminent domain to pipelines?

"If it is found that the pipeline will not hurt the environment or interfere with competition, then does the federal government have any reason not to let pipelines compete with railroads under similar ground rules with respect to eminent domain, or any business telling either industry how to run its affairs?

"Because of questions like these and because of jurisdictional jealousies within Congress, no congressional action is likely soon. Here is one issue on which we agree with Sen. Ted Kennedy: The next step should be a comprehensive study by the Office of Technology Assessment, particularly with respect to the environment."

S. 50 AND INFLATION

Mr. TAFT. Mr. President, the Labor and Public Welfare Subcommittee on Employment, Poverty, and Migratory Labor has held a number of extremely important and productive hearings on S. 50, the Full Employment and Balanced Growth Act. We have heard from many distinguished economists, from both parties and several schools of thought. One would think it to be impossible that anything remotely resembling agreement could be reached involving economists from different parties and backgrounds, but such was not the case. The majority of the testimony by the experts reached basically one conclusion: The bill as it is now drawn contains many promises that cannot possibly be fulfilled by this legislation. The bill is naively written, and seriously flawed.

One of the most serious errors contained in the measure is the provision of "jobs of last resort" at rates that would make these jobs significantly more attractive than jobs in the private sector of the economy. Economists ranging in political views from Arthur Burns to Charles L. Schultze have declared that this one aspect of the bill is sufficient to destroy it as a provider of guaranteed jobs for all Americans. The flood of "crossover" jobseekers abandoning the private sector would drive the cost of this bill up from the authors' estimate of $12 billion "net" after savings from decreased unemployment compensation, to the area of $50 or $60 billion, depending on the amount of supplies, office space, or industrial equipment—capital, if you will—that the Government will have to furnish to go along with this vastly increased supply of Government employees. In anticipation of the need to restrict the number of jobs provided, and in the expectation that there is bound to be a large surplus of applicants, S. 50 provides a rationing scheme in the form of suggested criteria for awarding these positions to the "proper" applicants. Several witnesses have expressed well founded concern that these criteria will discriminate against those who come from families in which there is already one breadwinner, on the grounds that the family is not really in need of a second jobholder. This would be a devastating setback for women seeking to supplement their family income, whether to make ends meet, to pay for a child's college education, or who simply want a career. It would discriminate against youths who want to develop work skills, and who find that other barriers to entry into the private labor force leave them no alternative to Federal employment.

A careful reading of S. 50 reveals that what has been advertised as a bill to provide jobs for all who want them—adults only, in the fine print—is transformed into a bill which provides some jobs, for certain people, in certain circumstances, at an extremely uncertain price, and with extremely uncertain prospects for meaningful output of useful goods or services.

The inflationary consequences of this bill, which even John Kenneth Galbraith warned against, are carefully described by Dr. Schultze in an excellent article in the Washington Post of June 7. He explains why it is so important for the various committees of the House and Senate which will consider this bill to take a long, hard look at S. 50, and the hitherto-ignored, time-tested alternatives which have been offered with little success to these committees in the past. I refer to tax cuts, hiring incentives, subsidized training programs, and reductions in Government controls and redtape which would allow the people of this country to get back to the work which the Government is keeping them from doing.

I ask unanimous consent that this article by Dr. Schultze, and an accompanying editorial, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

JOBS AND THE JOBLESS

The unemployment rate fell a bit last month, another welcome sign that things are moving in the right direction. But they are moving slowly. There are still 6.9 million people out of work. Nothing has happened to change basically the expectation that unemployment will remain over 6 per cent for the next couple of years. Unemployment is bad for people. What's the remedy?

A good many Democrats in Congress argue that the remedy is the Humphrey-Hawkins bill, which is intended to pull the adult rate down to 3 per cent within four years. If "adult" means everybody over 16, as it does in the version reported in the House, that means a lower rate than the country has ever had except in wartime. All of the Democratic presidential candidates have blessed the bill, although with varying degrees of enthusiasm. It is very likely to become a campaign issue. As we have observed before, the bill is a mixture of noble intentions and unworkable means to pursue them. In recent weeks we have published responses from both of the bill's authors, Sen. Hubert H. Humphrey (D-Minn.) and Rep. Augustus F. Hawkins (D-Calif.). Today we print on the opposite page an anaylsis by Charles L. Schultze, taken from his testimony before a Senate subcommittee. This testimony has had an unusual impact on the debate over the month since it was delivered, and it offers readers an opportunity to see for themselves what is involved here.

Dr. Schultze is altogether persuasive when he argues that this attempt to make the federal government the employer of last resort would prove, in practice, intolerably inflationary. He also warns that the country will not sustain employment policies that push the inflation rate sharply upward. After the past two years' experience, can anyone doubt that he is right? Ask yourself what you would have thought if someone had told you, in 1973, that the unemployment rate was going to rise to 8.9 per cent—and, as a result, the country would turn slightly to the right in its politics. It happened, of course, because of the fierce inflation rate that had preceded the recession and helped to cause it.

The central danger in this bill is that it offers the hope—a false hope, sadly—that one walloping goodhearted bill can eliminate permanently the plague of unemployment from American society. Nothing in this bill is more disquieting than the nature of the defense that the bill's architects offer. What if it turns out to cost a great deal more than they estimate? They reply that Congress could simply refuse to appropriate further funds. That escape does not sit square with the unqualified promise that the bill itself makes. In the House version, it declares the right of all Americans over 16 to opportunities for useful paid employment, and states that the President shall provide those opportunities if the private economy does not.

This country had a good deal of unhappy experience in the 1960s under the Johnson administration with ambitious social legislation that never kept its promises. There was the promise that poverty would be eliminated in 10 years. The 10 years are gone, but poverty is not. The Model Cities program was going to rebuild the American slums, but here in Washington the corridors of riot destruction are now growing their ninth annual crop of weeds. One of the great lessons of the 1960s was that simply legislating a goal does not guarantee success. Another great lesson was that if the country legislates goals and then abandons them, the effect is deeply harmful in the cynicism and distrust that it generates among those people who need help most.

The test of social legislation is not merely whether its intentions are pure and good. The test is also whether it seems likely to work effectively in practice. Dr. Schultze and others have also made a highly interesting proposal for agreements between labor and government to hold down wage increases but hold up workers' purchasing power when labor markets get tight. There are many other kinds of legislation that need to be explored—especially those focused where the unemployment is greatest, among young peope and among blacks. Perhaps the time has come to begin experimenting with subsidized wages for inexperienced workers. It is important not to let the unemployment debate become polarized between the people who want an instant solution and the people who are prepared to tolerate a 6 per cent rate indefinitely. Congress cannot abolish unemployment by passing this one bill. But it has many more realistic alternatives to speed up the present painfully slow descent of the unemployment rate.

EMPLOYMENT AND INFLATION

(By Charles L. Schultze)

The Full Employment and Balanced Growth Act of 1976, S.50, addresses the most important domestic problem of this decade—high and persistent unemployment. The chief obstacle to overcoming that problem, both politically and economically, is inflation. I believe that S. 50 does not sufficiently recognize that fact, and hence needs to be changed in a number of important respects. Moreover, the combination of the "employer-of-last-resort" provisions in this bill and the wage standards that go with it threatens to make the inflation problem worse. These sections, particularly, need extensive reworking.

The emphasis that S. 50 puts upon the goal of full employment is, in my view, quite proper. We are a society in which not only economic rewards but status, dignity, and respect depend heavily on a person's place in the work force. The single most important contribution toward solving the major social problems of this generation—deteriorating inner cities, inequality among the races and between the sexes, high and still rising crime rates, poverty, insecurity, and hardship for a minority of our citizens—would be a high level of employment and a tight labor market.

However valuable some of the federal government's manpower training and other social programs may be, they cannot hold a candle to the efficacy of a tight labor market. Necessity is the mother of invention. When 4 million business firms are scrambling for labor in a highly prosperous economy, it suddenly turns out that the unemployable become employable and the untrainable trainable; discrimination against blacks or women becomes unprofitable. In World War II, to choose a dramatic example, we pushed the unemployment rate below 2 per cent. And the result of that tight labor market was revolutionary. Black-white income differentials shrank faster than in any subsequent period; the income distribution became sharply more equal; employers scoured the back-country farm areas and turned poor and untrained sharecroppers into productive industrial workers, whose sons and daughters became the high school graduates of the 1950s and whose grandchildren will shortly begin to enter college in droves.

The importance that S. 50 attaches to high employment, therefore, is not misplaced. The nation cannot afford over the next decade to settle for a relatively sluggish economy and a high unemployment rate.

What stands in the way of full employment?

The basic problem with achieving and maintaining full employment is not that we lack the economic tools to generate increased employment. The traditional weapons for stimulating economic activity—easy money, tax cuts, and government spending for worthwhile purposes—are perfectly capable of generating an increased demand for public and private goods and services, thereby inducing employers to hire more workers. Moreover, we do not need to have the government hire people directly on special programs of public service employment as a long run device to reduce unemployment. The real problem is that every time we push the rate of unemployment toward acceptably low levels, by whatever means, we set off a new inflation. And, in turn, both the political and the economic consequences of inflation make it impossible to achieve full employment or, once having achieved it, to keep the economy there.

With unemployment now at 7.5 percent, the problem is not an immediate one. A rapid recovery could continue for the next year and a half or so, pushing the unemployment rate down steadily, without setting off a new inflation. But experience in the postwar period to date strongly suggests that once the overall rate of unemployment edges below 5.5 per cent or so, and the rate of adult unemployment gets much below 4.5 per cent, inflation will begin to accelerate.

Inflation can occur for other reasons—as it did from crop shortages and oil price hikes in 1973. And inflation, once started, can persist stubbornly for a while even when unemployment has risen sharply. Despite these complications, it is still highly likely that pushing the adult unemployment rate to the 3 per cent target of S. 50 would generate substantial inflation in the absence of major new tools for inflation control.

There is, among economists, a division of opinion about whether the resultant inflation would be a high but steady rate or an ever-accelerating rate. If the latter view is correct, then keeping employment to the 3 per cent target would eventually become impossible, since no economy could stand an ever increasing rate of inflation. One of the reasons we do not know the answer to this controversy is that the political consequences of inflation have been such that the nation has never persisted in holding adult unemployment to 3 per cent for many years running.

I believe, therefore, that a realistic view of both the economics and the politics of inflation and unemployment lead to one central conclusion: The stumbling block to low unemployment is inflation; the supporter of a full employment policy must of necessity become a searcher for ways to reduce the inflation that accompanies full employment.

The central problem is that when the overall unemployment rate gets down into the neighborhood of 5 per cent, the job market for experienced prime age workers becomes very tight. There are many unfilled job vacancies and not many unemployed in this age group. The large number of younger unemployed workers do not move in to fill these vacancies. As a consequence, wages are bid up sharply and prices begin to rise, even though the overall unemployment rate is still high.

One approach to this problem lies in the whole panoply of job counseling, training and placement services for youth. Federal efforts in this direction should be continued and expanded. And a carefully structured public service program for youth could also contribute. (Strangely, the "employer-of-last-resort" program in S. 50 is restricted to adult workers.) But in all honesty, the record of recent years does not warrant a confident hope that such programs can be the principal solution to the problem.

Sec. 206(d) of S. 50 establishes a major new policy—the federal government is pledged to become the employer-of-last-resort for those who cannot find work elsewhere. Sec. 206(e)(4) provides that a person shall be eligible for an employment opportunity under this section if, among other things, he or she has not refused to accept a job that pays whichever is the highest of either the prevailing wage for that job or the wage paid in the government-created "employer-of-last-resort" job. In turn, Sec. 402 sets up a standard for wages in the "last-resort" jobs that is bound to be highly inflationary.

Under Sec. 402(c)(1), for example, the wage paid for a "last-resort" job in which a state or local government is the employing agent must be equal to that paid by the same government for people in the same occupation. But in states or cities with union agreements for municipal employees, and in many cases even without union agreements, the wage for a low-skill or semi-skilled municipal job is often higher than the wage paid for the same jobs in private industry. Given the provisions of Sec. 206(d), a person can turn down a private industry job and still be eligible for a "last-resort" job, so long as the latter pays more than the former, and in many cases it will. An unskilled laborer earning, say, $2.50 an hour in private industry can afford to quit, remain unemployed for four to six weeks (or whatever time might be needed to be eligible), then claim a "last-resort" job paying (on municipal wage scales) $3.50 to $4.50 an hour, and come out way ahead.

This would show up in heightened form in any "last-resort" jobs created in construction work, since Sec. 402 requires Davis-Bacon wages, which in practice are set at the construction union wage scale in the nearest large city.

It is clear that in any area where municipalities or non-profit institutions pay higher scales for relatively unskilled or semiskilled labor than does private industry, the wage scales in private industry will quickly be driven up to the higher level. Otherwise there would be a steady drain of labor away from private industry into "last-resort" jobs. A new and much higher set of minimum wages would be created!

The direct and indirect effects of this on the inflationary problem would be extremely serious, once the bill was in full operation. Labor would become very scarce over a broad range of semi-skilled and unskilled jobs in private industry. Wage rates would rise sharply and prices would follow, the size of the government's job programs would grow rapidly, as workers left lower paying private jobs for the higher wages stipulated in Sec. 402.

Once you begin to ask how to correct this problem, the dilemma of any "government-as-employer-of-last-resort" provision becomes clear. When the unemployment rate is below 5 or 5.5 per cent, most unemployment is *not* long term. Among adult males, unemployment often consists of a period of four to eight weeks after a layoff before a new job is found. Among many teenagers unemployment in such times is not a steady thing, but a period between two relatively low paying jobs. What wages do you pay in the "last-resort" jobs? If you pay low enough wages so as not to attract many people from their existing jobs, you have a very unattractive program. Many private jobs are low-paying, and the only way to avoid attracting people from private industry is to set the "last-resort" wages very low indeed. But then, except in periods of high unemployment, when even very low paying jobs aren't available, who wants the program? If you set the wage somewhat higher—even if not absolutely high—it will still exceed the wages of many people with a current job in private industry. If so, it will begin to cause an exodus from private industry, and drive up wages and prices.

Special public service employment during periods of recession is a useful tool of counter-cyclical policy. Government-financed summer employment for school age youths makes sense. And, in good times, public service employment, paid at unemployment compensation rates, may be the most appropriate way to provide for that relatively small number who have exhausted their unemployment compensation. (This would, however, imply unequal pay for equal work.) But the concept of government as employer of last resort is not a workable method of pushing the overall unemployment rate down to very low levels.

I think that there would be merit in reorganizing the bill so that it jointly addressed the inflation and unemployment problems, and explicitly pointed in the direction of preventing the inflation acceleration that goes with low unemployment.

CLEAN AIR ACT AMENDMENTS AND THE ENERGY CRISIS

Mr. MOSS. Mr. President, in keeping with my policy of gathering and presenting additional information about the economic effects of implementing the nondegradation provisions proposed by the Public Works Committee in S. 3219, I ask unanimous consent that the following speech delivered by Carl E. Bagge, president of the National Coal Association, be printed in the RECORD. His conclusions about the effect these provisions would have on the coal industry are strikingly clear.

The speech was given May 25, 1976, to the National Energy Resources Organization.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

WHATEVER HAPPENED TO THE ENERGY CRISIS?

Well, it has had some birthdays. It got older and grew bigger. It settled in for a long-term residence. And, like an unemployed brother-in-law, loafing in the living room, we got used to having the bum around the house.

We all have simply tried to construct our lives around it—to live as much as possible as we always have, ignoring the unbidden boarder—in short, we have proved once again, to be all too human.

We have as a nation taken the path of least resistance—actually of no resistance when possible—rather than face up to the hard decision and stringent action involved in throwing the bum out.

As Americans, it seems to me, we are a uniquely crisis-oriented people. Just as with the first mention of the unwanted brother-in-law coming to stay, we threatened all kinds of strong actions following the cut-off of Mid-East oil in late 1973. The President rattled the saber in Detroit at the World Energy Conference in 1974. The flag was raised and we rallied with talk of conservation, smaller cars and the return of "Old King Coal." We sloganeered and we established "Project Independence" as a new national goal. We even went so far as to put on sweaters in the winter and take off our ties in the summer.

That was over 2½ years ago. What became of our commitment to achieve national independence? You know the story—not very much!

We've talked a lot. We've studied everything to death. We established a vast new bureaucracy to worry about the problem. We generated a lot of heated air and even more energy scenarios, but we're in worse shape today than before the oil cut-off.

There have been some sound steps taken—even, if you can believe it, by the Congress—but, this nation's energy supply is in trouble and we are floating about on a stormy sea in a rudderless ship.

We continue to argue over which way to go, while the ominous storm clouds rush toward us. We haven't made any of the tough decisions or taken the basic action to free ourselves from the noose of foreign oil.

Instead, our nation is pursuing an affirmative and deliberate course of inaction! And while we continue to vacillate, we are merely buying time with even more foreign oil. And the price, we as a people are going to inevitably pay for that purchased time, is an increase in the severity of the next crisis and truly crippling economic turmoil.

Amazingly, even after all of the media attention and years of public debate, we find ourselves as Americans importing a larger percentage of our oil needs today than before the Arab oil embargo.

We have increased from an unacceptable 35 per cent before the embargo to well over 40 per cent during the first quarter of 1976. At the rate we're going, oil imports will reach at least 44 per cent by the end of this year and rise to over 60 per cent before 1985.

So much for independence!

We know the solutions. But we refuse to proceed—while we continue to sit on the largest coal reserves in the world—coal reserves that make up over 80 per cent of our nation's known economically-recoverable energy resources.

To be certain, there are problems with the shift of our economy from oil and gas to coal and inevitable trade-offs which must be made, but nobody ever said that crises were easy.

Because national attention has turned to coal since the embargo, the coal industry has increased production, but the percentage of coal being used to meet the total energy needs of the nation has increased only from 17.6 per cent in 1973 to 18.1 in 1975. In 1976, the National Coal Association estimates that coal will provide 18.6 per cent of the nation's total needs—and coal continues to represent over 80 percent of our reserves.

It's my opinion, and the opinion of a great many people wiser than I, that this country needs all the domestic energy it can produce—energy from all sources—if we are to maintain our standard of living and not fall victim to the blackmail of other nations. NCA's advertising campaign last year was "Coal is the Answer Now". Coal isn't the only answer, but now it's a major one. And we are engaging in an exercise of what can only be characterized as an expression of national masochism.

With such a serious problem and such an obvious solution, you'd think that we would move swiftly on a clear course of action to remove the obstances to increasing our production and use of coal (and other forms of domestic energy) so that we could reduce our dependence on foreign oil—but—we continue to do just precisely the opposite! To characterize our response as an expression of national masochism is probably the understatement of the year!

We have, 2½ years after the oil embargo, still failed to make a commitment to coal. Indeed, the greater use of our most abundant energy resource is being systematically and consciously obstructed at every turn—and by only the influence of an elite few, which compounds the tragedy.

In the next few weeks and months, this nation—through its elected officials—will be making some very significant decisions about our energy use. And these decisions will profoundly affect our nation's ability to kick the foreign oil habit.

We can achieve our energy independence with coal, but if a vocal and militant few have their way we won't be able to either dig it or burn it in the national interest.

Permit me to focus first on the issues surrounding the production of coal:

In 1975, coal production reached its highest level in history—640 million tons. That's six per cent more than 1974, but it represents only a 9 million ton increase over the previous peak production for the industry—and that was in 1947!

Coal has been our neglected energy resource. And tragically, because of America's addiction to oil during the last two decades, coal's productive capacity has remained stagnant.

As an industry, we believe that we can produce enough coal to meet the Administration's objective of doubling production by 1985, but there are significant issues which must be resolved if we are to meet the goal in the national interest.

We must significantly increase the productive capacity of the industry. The problems are manageable and fall into traditional categories—but, we must be sure that we recognize them in our national planning.

First, we must encourage the rapid development of improved mining technology—especially underground mining. The so-called continuous mining equipment used today isn't really continuous. It is actually producing only about 30 per cent of the time because of the logistical problem of removing the mined coal as the machine advances. Productivity in underground mines fell again last year by 16 per cent—to an all-time low.

In this regard, no federal research funds were directed at advanced mining technologies until just two years ago. This has improved and in FY 1977, federal funding for productive mining research is $60 million. That's a substantial step in the right direction, but the development of automated and improved mining equipment must be rapidly advanced. This is an area where industry and government have begun sound action but far more needs to be done.

Second, the capital expansion requirements of the coal industry, while small compared to the more respectable energy sector as a whole, are very significant. In the next ten years, we estimate that the industry must attract $18 to $22 billion in new money if we are to meet existing production projections. For a marginal industry capitalized at only $5 to $6 billion today, the task is staggering. The job can be done, but steps must be taken to remove the tremendous uncertainties surrounding the development of coal if we are to achieve this huge infusion of investment capital. And the new uncertainty—regarding divestiture of the oil companies from coal—has only increased the problem of raising capital for the coal industry.

Thirdly, is the industry's labor requirements. Based on current mining methods and existing health and safety regulations, we estimate that a total of 125,000 new miners, nearly two-thirds the present number, must be brought into the industry over the next ten years. The industry is devoing its attention to the problems of such a rapid influx of new manpower.

If these traditional management problems weren't enough, our producers have to meet stringent environmental regulations that now exist on both the national and state levels, but they are never certain in their planning what new requirements will be ordered.

Sound reclamation is being carried out wherever coal now is being surface mined and every significant coal-producing state now has legislation and/or federal regulations to assure that the land is properly reclaimed and returned to productive use. The zealots pushing the federal surface mining legislation continue to gloss over the significant actions of the industry and the states in the area of environmentally sound surface-mining techniques.

It is important to note that one-third of our nation's demonstrated reserves of coal can only be mined by surface operations. At year-end 1975, the 32 states with regulated surface-mining accounted for over 90 per cent of the nation's coal production.

Sound land reclamation must be performed, but if we are to rapidly develop our resources, we must not allow ourselves to fall into the regulatory and legal obstacle course that would be created by the federal surface-mining legislation that has been proposed in recent years.

In twice vetoing surface mining legislation, President Ford said that the bill would have plagued the nation's coal development with legal delays it could ill afford. The Administration estimated that the bills would have cut coal production by as much as 22 per cent the first year. The Federal Energy Administration estimated the original bills would have prevented 53 per cent of the nation's surface-minable coal reserves from being recovered.

The most accessible and environmentally acceptable coal reserves in the nation lie just below the surface in the Northern Great Plains region. This coal exists in such rich and easily minable deposits that 1 million tons can be mined while disturbing only about 5 to 10 acres of surface. In some areas of the Powder River Basin in those states, more than 100 feet of coal lies only a few feet under the surface.

The "vast" strip mining of the West envisioned by the media in fact is vast only in the volume of coal. We estimate that the total land area that would ever be disturbed by the year 2000, at projected growth in that region, equals the acreage inside the Beltway—out of the 315,717 square miles in Wyoming, Montana and North Dakota. At any given moment, only a small portion would actually be disturbed in the active mining process. The mined-out land is being quickly returned to a natural productive state under the strict regulations in the Western states.

I am seriously concerned over the new federal leasing regulations recently released by the Interior Department. The regulations were severely tightened and every concession went to the environmentalists. There is no question that Western coal development will suffer because of these standards instead of a more reasonable and sensible set of regulations.

The opponents of strip mining in the West criticized the regulations and said they will have a devastating impact on the states, but I'll tell you: the Western states got exactly what they wanted. Their most stringent state laws can now be applied to the mining of federal lands.

In conjunction with the institution of these regulations, the Interior Department announced it will resume the leasing of federal reserves and lift the moratorium that has prevented the industry from adding the leases essential for the establishment of producing mines.

One significant question mark remains, however, with the pending decision of the Supreme Court in the Sierra Club versus Kleppe suit. If the court rules in favor of Sierra's proposal that an environmental impact statement must be prepared for the entire Northern Great Plains region rather than the already existing EIS prepared for coal development for the Eastern Powder River Basin, that monumental undertaking could delay coal production for years. Estimated demand for Powder River Basin coal, affected by the suit, would amout to 75 million tons per year by 1980—a significant percentage of national production at that time.

Turning our attention away from the problems of getting the coal out of the ground, let's look at the specific issues involved in consuming our most abundant energy resource.

Pending before the Congress of the United States and scheduled for consideration by the Senate next week are proposals to amend the Clean Air Act of 1970. As now written, those bills, specifically the non-deterioration provisions, would have a devastating effect on this country's effort to gain energy independence.

This provision, if approved, would halt or severely curtail industrial development in many areas of the U.S., especially those where the great bulk of the nation's coal reserves are located.

As proposed, the states would identify areas with air quality better than called for by the Environmental Protection Agency's national ambient air quality standards. These relatively pollution-free areas would be subject to federal restrictions on the development and use of coal even where development would not cause national air quality standards to be exceeded.

This concept, if written into law and carried out as apparently intended, could paralyze the nation as effectively as another oil embargo. Just last week in a latter to Senator Frank Moss, published in the Congressional Record, Federal Energy Administrator Frank Zarb released the results of two independent consultant studies conducted for his agency that showed the significant deterioration provision would force utilities to increase oil consumption by 1 million barrels of oil a day by 1990—an amount equal to the entire crude oil production in the Gulf of Mexico last year.

FEA's consultants also found that national coal production in 1990 would be 150 million tons lower than earlier projections and that production from Western states could be severely constrained by the provision.

Electric utilities also would have to increase their capital outlays for sulfur removal equipment by $6 to $16 billion during the 1980–1990 period as a result of passage of the provision. The FEA studies also indicated that the Nation's electric bill would increase by $4 to $6.5 billion over that period.

We're all for cleaning up America, but let's not wipe it out! If we are serious about the crisis that we face, then I sincerely hope that the Senate would adopt the amendments to the bill that Senator Moss proposed and defer action on this provision of the bill until proper study can be made of the full and devastating impact of this proposal. In the interim, existing clean air standards would remain in effect and this nation won't have to pay the price for hasty decisions on a matter of such extreme importance.

Instead of amending the Clean Air Act to make energy production and use more restrictive, we should be considering changes to existing laws to achieve the national ambient air quality standards in a more realistic time frame and through alternative methods of control that are not as restrictive or costly.

As a nation, we need to continue with the development and use of a variety of pollution control technologies. This effort should include both continuous and non-continuous pollution abatement systems. As an example, the electric utility industry can achieve national air standards in many areas through the use of such systems as tall stacks, air monitoring devices, fuel switching and load shifting.

We also must accelerate development of a new generation of stack gas cleaning systems that can be both efficient and reasonably economical. We cannot continue to insist, as the federal EPA has done, that continuous control is the only way to skin the cat. Each and every decision with regard to pollution control must be made after a careful cost-benefit analysis.

If rigid and arbitrary emission standards continue to be the sole permissible approach to compliance with ambient standards, a significant portion of our domestic supply of coal simply cannot be used for the production of electricity.

As a nation, we must continue to look to new ways of using coal as a means of reducing our oil dependency and intensify our research and development in the areas of synthetics and advanced coal burning techniques. But for the near-term, any significant increase in reliance on coal must come from the direct burning of coal.

The technology to convert coal into a variety of other products exists today. If we want to dedicate ourselves to converting coal into gas to supplement our dwindling reserves and into oil products to reduce our imports, we can do it. But, we must get underway now with full-scale commercial demonstration and production plants.

In recent weeks, I have been encouraged by the steps being taken in Congress to get a synthetic fuels loan bill passed. I am basically against this type of legislation, but in the area of synthetic fuels, I believe that as a nation we must undertake these projects now. The economics are not yet there to undertake this effort solely in the private sector—the capital requirements are just too great.

But, the question is not one of the federal government reaching out and providing a technology to make private firms rich, but one of how soon does the nation want to bring large-scale coal synthetics into the market. I believe that the loan guarantee proposals now being considered by Congress would be an effective energizer for moving coal conversion into large-scale producing plants. It is a start toward creating a rational base for the awesome financial structure of a major new industry.

In a perfectly free market for energy, oil and gas prices probably would soon rise to a sufficiently high enough level to bring sufficient private capital into the development of synthetic fuels. However, we are not there yet and therefore we must begin to support this industry if it is to be in place by the eighties.

A few months ago, I had the pleasure of visiting the SASOL commercial coal gasification and liquefaction plant in South Africa. I was amazed to see what they have done and appalled by the comparison with our efforts.

The SASOL plant, using a combination of conversion processes that prominently includes American-developed technology, has been producing synthetics, including gasoline, from coal since it was built in 1955. In addition to the technology, the plant was designed and build in part by American firms.

SASOL became a reality because the South Africans, for their own political reasons, made the kind of national commitment to the use of coal that America must make. Gasification and liquefaction of coal will become a reality in this country when they become economically competitve. With full government support, we can bring first generation equipment on-line commercially before they would naturally become available and we can continue the development of new advanced processes so that they will be available for full-scale production when the economics are competitive.

The passage, by more than a 3 to 1 margin, of the synthetic fuels bill by the House Science and Technology Committee last week is an encouraging step. I hope that the Congress will see the need to get a full-scale program underway and act to shorten the length of time required to bring this new industry into reality.

Finally, you know where I stand: Coal is the answer. It is here for us to use in achieving national energy independence. The major constraints we face in the coal industry are political, not technological. As a nation, we must make up our collective mind and decide: What time period is acceptable in weaning ourselves from foreign oil? What trade-offs must be made? And what costs are we willing to pay?

We must articulate a clear national policy and commitment. All of the talk and study to date have produced little payout!

We can't even make the simple decision to stop using oil and gas in our Nation's utility and industrial boilers, as an example. As long as we hold oil and gas prices at artificially low levels to satisfy the consumer-voter and insist on incredibly expensive pollution control devices as the only way to allow the use of coal to satisfy a few vocal "environmentalists", utilities and basic industry will continue to opt for more imported oil.

We must face up to the hard decisions and stringent action involved in throwing this bum—the energy crisis—out of our national living room. But Congress won't do that as long as the American public remains naive enough to believe that the energy crisis was dreamed up by the oil companies to get higher prices. Any progress we make toward energy independence will be in painfully slow steps.

The public must shake its complacency and resist the few who are bottling-up the Nation's responsible development of its most abundant energy resource.

A clear course must be set—and our political leaders must take the tough actions that are required and communicate the reasons for that action to their constituents—or we may again fall victims to the actions of other nations and pay a dear price to find out that the energy crisis is still very much with us!

Coal is America's Ace in the Hole—let's not wait too long to play it!

PERFORMANCE WARRANTY

Mr. BENTSEN. Mr. President, during the past several weeks, Members have received several communications opposing my proposal to amend the performance warranty provisions of S. 3219, and last Friday, a summation of those statements appeared in the Record. Serious charges have been made with which I strongly disagree, and I would like to take this opportunity to answer them.

First. Charge: Reduction of the performance warranty ignores the objective of clean, healthy air and removes any financial incentive for manufacturers to produce a durable emission control system that will last for 5 years/50,000 miles.

Answer: To the contrary, provisions of the act requiring the automaker to build durable emission control systems and the means by which EPA enforces those requirements will remain intact.

The 1970 Clean Air Act specified the levels by which auto pollutants were to be reduced and the deadlines by which they were to be attained. The act also specified the means for insuring compliance by the automakers. Under section 206(a), for instance, the manufacturers must obtain EPA's certification that a given vehicle and engine model will meet the requisite emission control standards before it can be mass-produced and marketed.

Once the model is certified, the automaker is required under section 207(a) to warrant that each new motor vehicle and new motor vehicle engine is "designed, built, and equipped" so as to conform at the time of sale with the requisite standards and that each is "free from defects in materials and workmanship" which might cause it to fail to conform to the standards during its useful life, a period which the act defines as 5 years or 50,000 miles, whichever occurs first. This production warranty went into effect for all 1972 and later model year vehicles and simply means that if a particular vehicle should fail to comply with a pollution standard as a result of something the manufacturer did or did not do, the defect must be remedied at its own expense and not that of the owner's.

This production warranty is one of two warranties mandated by the act, and it requires the manufacturer to build vehicles which meet the standards at the time of sale and continue to meet them for 5 years/50,000 miles, a period not reduced by my amendment. The manufacturer's liability under this 5/50 production warranty would remain with the adoption of my amendment.

The act also provides the means for insuring that this production obligation is met. Section 206(b) authorizes the Environmental Protection Agency to test vehicles as they come off the assembly line. To date, the Agency has not been performing this test, but it is on the verge of initiating such a procedure. The 1976 amendments to the act require that the test be initiated no later than model year 1977.

Additionally, section 207(c) authorizes the Agency to require the automaker to recall a given model run for needed repairs if the Agency determines that a substantial number of that model or engine type do not conform to the standards when in actual use. The determination, and the resulting recall, can be made anytime during the 5-year/50,000-mile period. It is an authority which will in no way be diminished with the adoption of my amendment.

Thus, does the act, through its production warranty and related provisions, require the automakers to obtain the Agency's certification that new vehicles meet the standards before the model can be produced, that they be subjected to an assembly line test to determine compliance as they leave the factory, and that they continue to meet the standards while in actual operation, subject to a recall order if they do not. These provisions are not imposed by the performance warranty, nor are they altered by my amendment.

Second. Charge: Reduction of the performance warranty is anticonsumer because it would shift the burden and/or expense of repairing a faulty emission control system to the owner.

Answer: The House Small Business Committee, the one congressional committee that has investigated the performance warranty, has reached precisely the opposite conclusion; that is, that implementation of the 5-year/50,000-mile performance warranty will actually be, in its description, "anticonsumer," and I agree for the following reasons:

Cost: Warranties have a price; they are never free. Automakers typically add the expected cost of implementing a warranty to the initial purchase price of the vehicle, and that practice will be repeated when they become liable under the 5/50 performance warranty.

In 1974, a spokesman for Ford told the House Small Business Committee that the cost of replacing a converter would be about $160. Repair or replacement of parts which might have caused the system to fail would be extra, perhaps as much as $100. This expense can be expected to be added to the price of a new car, thereby increasing its cost by $160 to $260.

Because of the way warranty costs are recouped by the manufacturers, the car purchaser would have paid this sum, whether he ever needed repairs or not. As we consider amending the performance warranty requirement, we should be aware of the potential for windfall profits if it is not altered.

The cost would be even greater if the carowner invalidated the performance warranty by improperly maintaining his vehicle. If he had to repair the car himself, the total cost could well be $320 or more for many vehicles—the $160 to cover the cost of the repair when it was performed plus the $160 included in the purchase price.

That sum—from $160 to $260, representing the real cost of the performance warranty—is far greater than the $1 figure which the committee report states has been the cost of the warranty to the carowner to date. Manufacturers have not been liable under the performance warranty because of the lack of a short emissions test and have, therefore, experienced no financial liability under it. That will change once the warranty is required.

The 5/50 performance warranty could thus be extremely costly to the carowner, a cost imposed by public policy. That imposition can hardly be justified unless coverage is reasonably assured, which it is not.

Coverage is neither blanket nor automatic. Under the act, the automakers are permitted to condition their performance warranty upon "proper" care, maintenance, and operation of the vehicle. The act permits this because a car, in operation for 50,000 miles, needs periodic maintenance, and should the owner fail to provide that care and cause the emission control system to fail, holding the manufacturer liable for the owner's negligence would be unfair.

To obtain compensation under the performance warranty, the carowner will have to prove that he has had the routine maintenance performed according to the schedule outlined in the owner's manual, that original equipment manufacturer's parts or their certified equivalents have been used, and that they have been properly installed. If, for example, the required tune-up were performed on schedule and approved parts were used, the warranty might still be invalidated if the plugs were not properly gapped, the timing not properly set, or the carburetor not properly adjusted.

The carowner would then have nothing for the sum he paid for the warranty when he purchased the car and would have to pay for the repairs himself.

Reduced service options. In part due to these considerations, the carowner will feel a pressure, subtle or otherwise, to have his service work performed by his franchised dealer so as not to risk invalidating his performance warranty. The decision as to who can best service a vehicle—the franchised dealer, the independent, or the do-it-yourselfer—should be made by the individual himself on the basis of price, quality of work, and convenience in a market free from a public policy which strongly encourages the selection of one sector of the aftermarket over all others.

"Haggling." The crucial determinant for coverage under the performance warranty will be whether the vehicle has been "properly" maintained. The automaker might refuse to compensate for the needed repairs by simply alleging that the most recent tune-up was not properly performed. Depending upon his insistence, the carowner might well find himself without the compensation he believed was rightfully his.

As the National Academy of Sciences observed in a 1973 publication entitled "Feasibility of Meeting the 1975–1976 Exhaust Emission Standards in Actual Use"—

> When a (vehicle) manufacturer adjusts a car that has been maintained by an independent garage, he can claim that he found sign of "improper" maintenance. The question of his liability under the warranty would then have to be settled in the courts.

I wonder how many carowners would go to the trouble of litigating their grievance. Whatever the decision, the carowner would be left with a bitter experience, the car dealer would probably have lost a customer, and the warranty would be forgotten.

Impact upon the do-it-yourselfer. An ever-growing number of Americans are choosing to service their cars themselves. According to a recent study published by the Automotive Parts & Accessories Association, Inc., no less than 60.8 percent of all carowning households are doing some repair work on their vehicles. Their motivation should be obvious. These carowners want to save themselves some of the expense of operating a motor vehicle. That motivation will remain, and we should be aware of it because everytime the do-it-yourselfer services his car, he risks invalidating the warranty. The result—no coverage for the $160 to $260 he paid at the time of purchase.

Third. Charge: Reduction of the warranty would, in the words of last Friday's statement, "simply protect the automobile industry at the expense of the consumer and the public."

Answer: That statement represents both a misconception of the intent of the sponsors of the amendment and a misunderstanding of the consequences of implementing a 5/50 performance warranty.

The 5/50 performance warranty can quite rightly be considered a tremendous advantage to the auto manufacturers. I am convinced that it will only increase the share of service work performed by the manufacturers through their franchised dealers. It will give them a competitive advantage against the independents in the aftermarket industry, one that they do not enjoy in a marketplace free of this Government-imposed tie-in.

I believe the essence of the case against my amendment consists of two points—the alleged diminution of manufacturer responsibility and the alleged burden imposed upon the carowner. For the aforementioned reasons, however, I believe those charges can be satisfactorily refuted. The House Small Business Committee has concluded that it is both "unnecessary"—because of the liability imposed by the section 207(a) production warranty and the existing enforcement mechanism—and "anticonsumer"—for the requirements and restrictions it will impose upon any carowner who wishes to maintain his coverage.

The House committee's third conclusion was that implementation of the 5/50 performance warranty would be "anticompetitive" as well. A warranty of that length, it noted, together with the requirements needed to insure continued coverage would lead to a tie-in of the carowner to the auto manufacturer for the vast majority of even the most routine repairs and service work performed on the vehicle. I remain convinced that as long as we maintain the performance warranty at 5/50, the pressure to return to the franchised dealer to insure continued coverage under that warranty and the resulting competitive disadvantage given the independents—the gas stations, independent repair shops, and even the do-it-yourselfer—will remain.

I believe the anticompetitive aspects of this performance warranty, because of the potential enormity of their impact, deserve our closest attention, too, and I would like to explain the basis of my concern.

The aftermarket service industry has long been marked by a multiplicity of competing businesses in which success has depended upon price, quality of work, and convenience. It currently includes some 1,700 independent parts manufacturers, 22,000 parts distributors, and some 420,000 independent repair facilities. Each year, this independent segment of the service industry accounts for 80 to 85 percent of all of the service work performed in garages across the country.

I would emphasize that the American carowner has repeatedly demonstrated his preference for the work provided by the service centers which are independent of the major automobile companies. The intense competition has helped to restrain the prices charged, and the record of performance indicates that they can provide quality work.

Many of these service establishments are commonly referred to as "gas stations." Though deriving much of their income from marketing petroleum products, the average station earns about a third of its revenues from automotive service and repairs. Few could remain in business if their service work were to decline significantly, and yet that would be a serious possibility with implementation of the 5/50 performance warranty.

I cannot overemphasize my concern that this public policy would be placing the independent at a serious competitive disadvantage, a consequence which over the longer term would be as detrimental to the motorist's best interests as to the small businesses which would be most directly threatened by it.

The carowner's service options would be restricted as an ever-declining number of repair facilities were available to him.

The major auto companies could well have at last acquired a large share of the aftermarket industry, a dominance which they have thus far failed to achieve.

The restraint on prices for the service performed would be eroded as a declining number of establishments competed for this work.

Surely, none of us can be pleased with the prospect of the decline of the independent sector, and yet I am concerned that it remains a distinct possibility if the 5/50 performance warranty is required by law and is implemented. In the pursuit of our goal to reduce auto emissions, we would have weakened one of the strongest components of the entire industry, the independents. And this, all because of a warranty requirement which is not needed to insure that new cars are equipped with durable emission control systems.

Mr. President, I hope these comments have helped to clarify why reducing the currently mandated performance warranty is so essential. I would like to conclude this statement by asking unanimous consent that the text of my response to the Consumer Federation of America's letter on the Bentsen performance warranty amendment be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

MAY 4, 1976.

MS. CAROL TUCKER FOREMAN,
Executive Director, Consumer Federation of America, Washington, D.C.

DEAR MS. FOREMAN: Thank you for your recent letter on my proposed amendment to the performance warranty of the Clean Air Act. I regret that you have decided to oppose it, for I believe, in the words of the House Small Business Committee, that it is "unnecessary, anticompetitive, and anticonsumer".

I would like to comment briefly upon the reasons you enumerate as the basis for your opposition.

1. Under Section 207(b) performance warranty of either 5 years/50,000 miles or 18 months/18,000 miles, the manufacturer's liability is not absolute, and compensation to the carowner is not automatic. To be eligible, he must first prove with written documentation that he has "properly" maintained his car, i.e., has had routine maintenance performed according to the schedule outlined in the owner's manual, has used original equipment manufacturer's parts or their certified equivalent, and has had them installed properly. If the carowner has failed to observe any of these requirements, he has invalidated his warranty and is not eligible for compensation under it.

In that case, he will have lost the amount added to the purchase price to cover the cost of the the performance warranty (see point 2) and will have to pay for the repairs himself. As with any warranty, coverage is paid for in the purchase price even if the carowners never seeks compensation.

Finally, the Section 207(c) recall provides for manufacturer liability if a substantial number of particular model are found to fail the applicable standards during the 5/50 period. You are well aware that my amendment does not reduce the duration of that liability.

2. Reduction of the performance warranty will not diminish the manufacturer's obligation to produce durable, effective emission control systems. The Section 207(a) production warranty requires the manufacturer to warrant that each new motor vehicle and new motor vehicle engine is "designed, built, and equipped" so as to conform at the time of sale with the requisite standards and that each is "free from defects in materials and workmanship" which cause the vehicle to fail to conform with the standards during its useful life—which remains under my amendment at 5/50.

That obligation, in combination with the production-line test and the recall provision, will require the automakers to produce systems which meet the standards at the time of sale and continue to do so throughout the 5/50 period. My amendment in no way reduces that obligation.

The $1.00 cost you refer to is attributable to the implementation of the 207(a) production warranty. The House Small Business Committee has determined the cost of a 5/50 *performance* warranty to be $160 to $260, a sum which will be added to the purchase price of the car once a short emissions test is found and the performance warranty is being implemented.

3. The Senate Committee bill prohibits the automakers from explicitly conditioning their performance warranty upon service provided by their franchised dealers, but the automaker, for example, would not be liable for the repair of a system failing to meet the standards because the last tune-up was "improperly" performed—if the plugs were not properly gapped or the timing was not properly set—both of which would affect the performance of the catalytic converter. Having been denied compensation, the carowner would be without the coverage he had paid for when he purchased the car. He would certainly give second thought as to whether he would again risk invalidating his performance warranty by having any independent tune his car the next time. That concern, multiplied hundreds of thousands of times, is the subtle pressure which may well direct carowners back to their franchised dealers, a pressure which statutory prohibitions on conditioning the warranty cannot prevent.

4. A voluntary parts certification program is certainly needed, and it is part of my proposed amendment. I believe the certification process will help with the parts problems, but it does not address the problem of who provides the service.

5. The 207(b) performance warranty is not needed to trigger the recall order authorized by Section 207(c). The obligation to produce an emission control system to last 5 years/50,000 miles will remain because the production warranty liability will not be amended. A recall can be initiated whenever EPA determines that a substantial number of a particular model are failing to meet the standards.

Reference to safety recalls and inspections is appropriate. In many states, carowners are required to pass a rigorous safety inspection each year. If a vehicle fails, needed repairs must be made. No stipulation, however, is made as to what parts must be used or who should perform the service. The carowner retains his full service options and can choose whoever will do the work for the least expense. I believe the carowner should have the same option for emission control repairs.

6. I am proposing to amend the performance warranty which is not currently being implemented and for that reason is not currently impeding the independent's demonstrated a preference for the independents, with 80-85 percent of all garage-service work being performed by them. Moreover, more and more carowners are choosing to do the work themselves. Why should the carowner be charged the expense of a prolonged warranty which is not necessary to ensure durability and which can be invalidated so easily if he chooses to follow his established service preferences?

7. The House Small Business Committee did solicit comments and testimony from consumer groups during its 1974 hearings, but none chose to participate. The letter from the Consumer's Union, I am told, arrived long after the hearing record had closed and been printed.

The Committee bill is one attempt to address the problem associated with the performance warranty. We should note, however, that it authorizes a waiver if the automakers can demonstrate to EPA that the effectiveness of their emission control systems depends upon the use of specially designed parts installed by the specially trained mechanics of their franchised dealers. They might well be able to make a strong case.

The automakers could also be expected to seek redress through the courts. They would, no doubt, maintain that being held financially liable for the performance of a system over which they effectively had no in-use quality control would simply be unfair. I do not know how the courts would decide, but the manufacturers can be expected to forcefully argue their case.

If either a waiver or a court ruling were to permit the manufacturer to condition its warranty, the tie-in of the carowner to the automaker for these repairs would be even more pronounced.

In conclusion, I would emphasize that implementation of a 5/50 performance warranty has the potential of redirecting this nation's carowners back to their franchised dealers for the bulk of their service work, a choice most Americans are not now making. The full impact on the independent sector of the aftermarket industry cannot be predicted. Such redirection, however, can only lead to further concentration within the automobile industry as the automakers, through their franchised dealers, acquire an even larger share of the aftermarket, thereby reducing price competitiveness in this key sector. That certainly cannot be in the best interests of any carowner.

Sincerely,

LLOYD BENTSEN.

FARMERS GROW GRAIN FOR SPECULATION: THE CASE FOR A DOMESTIC GRAIN RESERVE

Mr. McGOVERN. Mr. President, in the May 1976 issue of Today's Farmer, Fred Heinkel, president of Midcontinent Farmers Association and one of the Nation's outstanding authorities on farm policy and agricultural legislation, has written an article which should be read closely by every Member of this body and especially by the Secretary of Agriculture.

It is essentially a primer on why farmers raise grain and why a domestic grain reserve is essential to both our domestic and foreign agricultural policy. The Secretary of Agriculture travels from city to city proudly announcing that we have a grain reserve and that it is held privately as it should be. Mr. Heinkel destroys this argument by stating that "grain in storage is not a national reserve so long as it is in the hands of speculators, even when most of the speculators happen to be farmers."

If any Member of either body had any reservation concerning the wisdom of a national reserve coupled with reasonable loan and target levels to insure domestic price stability as well as assuring supply demands of foreign customers, it should be dispelled by a close reading of this article.

Mr. President, I ask unanimous consent that the article entitled "Farmers Grow Grain for Speculation" be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

FARMERS GROW GRAIN FOR SPECULATION

(By F. V. Heinkel, president of Midcontinent Farmers Association)

Up 4.4 percent from last year, wheat acreage is the largest since 1953. Corn acreage may be six or seven percent greater than last year. That would be the biggest corn acreage since 1951.

If weather is favorable, we're set to produce a lot of grain. And we already have on hand a big carry-over—owned by farmers and stored on farms or in country elevators.

A friend in Kansas tells me that about 70 percent of the wheat produced last year in his area still is owned by farmers. Nationwide, between 45 and 60 percent—according to some estimates—of last year's wheat, corn and soybean production still is held by growers.

Why are they holding?

Two reasons: (1) Improved grain prices in 1973 and 1974 put growers in a financial position to delay selling the 1975 crop, and (2) they're hoping for a return of prices paid for grain a couple of years ago.

In other words, grain producers are speculating. And they're adding to that speculative risk as they increase acreage while still holding a big part of last year's crop.

How long will they hold?

Answer: Until (1) prices improve, or (2) hope for price improvement fades.

The first could occur by late summer or fall—if U.S. and/or world crops should be short. In that event, farmers who've held their grain can congratulate themselves.

The second condition also could come by late summer or fall—if crops should be good, resulting in stable or declining prices. In that case, many grain growers would be forced to cash in—contributing to even further price declines.

In either case, if extreme, what might now appear to be a grain reserve will be there no longer. Instead, it will be either high-priced grain or cheap grain.

All of which brings us back to an inescapable truth: *Grain in storage is not a national reserve so long as it is in the hands of speculators*—even when most of those speculators, as at present, happen to be farmers.

By the nature of their business, farmers must sell their produce—either when they believe profit is greatest or when they need money to pay bills. They cannot afford—nor should they be expected—to hold products off the market for the sake of maintaining a national reserve.

To have an effective reserve, grain must be taken off the market in years of excess production and isolated from the market until it's needed. Release should be keyed by law to price rises which reflect the need for grain.

Such a reserve could protect grain producers from low prices in periods of overproduction. And it could ease the squeeze on livestock producers and food consumers when grain production falls short. Coupled with reasonable government loan and target price levels, it could reduce the uncertainties which now haunt grain and livestock producers.

Beyond that, *establishment of a national grain reserve could be our best insurance, in my judgment, against future grain export embargoes*. When there's a shortage or fear of shortage, government curbs on exports remain just about inevitable.

A national grain reserve would help restore confidence of foreign buyers in the U.S. as a supplier. And it could aid in development of new export markets.

With the prospective carry-over and a good crop this year, next fall would be the logical time to move grain into a national reserve. But the "machinery" is not available, although proposals to create it have been debated in the U.S. Congress.

Leaders in the Congress tell me that, short of emergency, chances are slim for significant farm legislation this year. But the present law expires next year. So the Congress and the President whom we elect in November will have to face up to the question of farm and food policy.

Let's keep pushing for a national grain reserve program that will provide price protection for farmers, encouragement of overseas markets and food security for this nation. And let's hope it can be established before it is necessitated by disaster.

DR. GEORGE LOW LEAVES NASA

Mr. MOSS. Mr. President, at the end of last month, Dr. George M. Low, NASA's Deputy Administrator, left the space agency after almost 27 years of service. He, probably as much as any other individual, has been responsible for the success of our manned space program from its inception through Mercury, Gemini, Apollo, Skylab, ASTP, and into the coming era of the Space Shuttle.

Dr. Low left NASA to become president of Rensselaer Polytechnic Institute in Troy, N.Y., where he received two degrees in aeronautical engineering. Dr. Low explained to me why he left NASA for his alma mater:

> Since I am totally dedicated to the proposition that the future of our Nation depends on the advancement of science and technology, I know of no better way to help assure that future than by participating directly in the technological education of our young people.

Dr. Low already has made great contributions to the advancement of science and technology. He joined NASA's predecessor, the National Advisory Committee on Aeronautics, in 1949. When NASA was established 9 years later, he became chief of manned space flight. He was chairman of the special committee that formulated the original plans for the Apollo program to land men on the Moon.

After the tragic Apollo fire that killed three astronauts in early 1967, Dr. Low became manager of the Apollo Spacecraft program. He led the redesign of the spacecraft, advanced the timetable for the Apollo 8 flight around the Moon and directed Apollo 11, the first landing on the Moon, in July 1969. After becoming Deputy Administrator, he guided NASA into the post-Apollo period of greater international cooperation in space and toward the new era of the Space Shuttle.

Dr. Low has always been most helpful to me and the Committee on Aeronautical and Space Sciences in our reviews of NASA's authorization requests and programs. Those who are involved in advancing the Nation's scientific and technical capabilities will miss Dr. Low in NASA. I, personally, and, I am sure, all of my colleagues wish George Low great success and happiness at Rensselaer.

DIVESTITURE IN THE PETROLEUM INDUSTRY

Mr. PHILIP A. HART. Mr. President, the proposal to inject constructive competition into the petroleum industry through divestiture has been criticized by any number of persons for any number of reasons.

Some react badly because they admire the status quo—almost any status quo. Some are critical because they think that more Government regulation is the better route. Some are convinced that the industry is as perfect as any human function can be and wish we would not muddle things up.

But the criticism which can be most unsettling to those of us who—after much study, consultation with experts and a considerable amount of soul-searching—have embraced the reorganization solution has come from economists who expressed fears that the solution was unnecessary or potentially harmful or both.

Therefore, I take comfort in a letter which I have received from Dr. Walter Adams, former president of Michigan State University and currently holding the title of distinguished professor of economics at that university.

Enclosed was a statement of support for the goals of S. 2387 which was signed by 155 professors of economics.

The economists come from all sections of the country and include many all of us recognize. Not the least of these, of course, is Clark Kerr, former chancellor of the University of California at Berkeley.

Mr. President, as with almost all issues which face this body, there is no universality of opinion on the merits of divestiture for the petroleum industry. But I think that my colleagues will share with me the appreciation for the strong support for divestiture which these economists have expressed.

I ask unanimous consent that the letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

MAY 24, 1976.

Senator PHILIP A. HART,
Chairman, Antitrust and Monopoly Subcommittee, U.S. Senate, Washington, D.C.

DEAR SENATOR HART: The undersigned economists endorse the general purpose of S. 2387, commonly cited as the "Petroleum Industry Competition Act of 1976." We understand that the bill will be brought to the Senate floor with bipartisan sponsorship for action during this session of Congress.

Not all of us agree with every provision of the bill, but we endorse its stated purpose—viz. "to facilitate the creation and maintenance of competition in the petroleum industry, and to require the most expeditious and equitable separation and divestment of assets and interests of vertically integrated major petroleum companies."

We endorse such action, because we generally agree with the findings stated in Section 2a of the bill, viz. that

"(1) this Nation is committed to a private enterprise system and a free market economy, in the belief that competition spurs innovation, promotes productivity, prevents undue concentration of economic, social, and political power, and helps preserve a democratic society;

"(2) vigorous and effective enforcement of the antitrust laws and reduction of monopoly and oligopoly power in the economy can contribute significantly to reducing prices, unemployment, and inflation;

"(3) existing antitrust laws have been inadequate to maintain and restore effective competition in the petroleum industry; and

"(4) the extraordinary dimensions of the remedy required by this Act necessitate expedited judicial supervision of the divestitures and attendant actions required by this Act."

We generally believe that enactment of S. 2387 would contribute to greater competition in the petroleum industry, and thus strengthen the competitive market as a regulatory mechanism in our democratic society.

Walter Adams, Michigan; William James Adams, Michigan; Kenneth O. Alexander, Michigan; Curtis C. Aller, California; Swarnjit Arora, Wisconsin; Sue N. Atkinson, Connecticut; G. Jeffrey Barbour, Michigan; Harold Barnett, Rhode Island; V. Lewis Bassie, Illinois; Arthur P. Becker, Wisconsin; Carolyn Shaw Bell, Massachusetts; John M. Blair, Florida; Roger D. Blair, Florida.

Francine D. Blau, Illinois; Douglas E. Booth, Wisconsin; James M. Boughton, Indiana; Roger L. Bowlby, Tennessee; Kenneth D. Boyer, Michigan; Stanley E. Boyle, Virginia; Harvey E. Brazer, Michigan; William Breit, Virginia; Vernon M. Briggs, Texas; Byron W. Brown, Michigan; Otis B. Brown, Rhode Island; Rondo Cameron, Georgia.

Sidney F. Carroll, Tennessee; Richard G. Chandler, Michigan; Darius J. Conger, Michigan; Peter M. Costello, Connecticut; Charles Craypo, Pennsylvania; William R. Cron, Michigan; David B. Culp, Michigan; Albert B. Culver, Michigan; Richard K. Darr, Wisconsin; Paul Davidson, New Jersey; Carmen L. Delliquadri, Michigan; Karl de Schweinitz, Illinois; Joel B. Dirlam, Rhode Island.

Avon M. Dreyer, Michigan; Alexander Eckstein, Michigan; Robert Edminster, Utah; Donald Elliot, Wisconsin; J. Walter Elliot, Wisconsin; Arthur Else, Wisconsin; Kenneth G. Elzinga, Virginia; Marianne A. Ferber, Illinois; George A. Fuller, Utah; Kenneth L. Gagala, New York; James R. Gale, Michigan; Carl M. Gambs, Michigan.

John S. Gambs, New York; James R. Gander, Utah; Norman J. Gharrity, Ohio; Robert W. Gillespie, Illinois; H. S. Gordon, Indiana; Manuel Gottlieb, Wisconsin; Allan G. Gruchy, Maryland; Arthur Gruen, Massachusetts; Mark P. Haas, Michigan; William Haller, Jr., Rhode Island; Daniel S. Hamermesh, Michigan; Reed R. Hansen, Washington; Paul T. Hartman, Illinois.

Robert H. Haveman, Wisconsin; Arnold A. Heggestad, Florida; John P. Henderson, Michigan; Henry W. Herzog, Jr., Tennessee; Charles H. Hession, New York; John R. Hiller, Wisconsin; William Holahan, Wisconsin; Manley R. Irwin, New Hampshire; William Iulo, Washington; Charles H-C Kao, Wisconsin; J. J. Kauman, Pennsylvania.

Clark Kerr, California; H. J. Kiesling, Indiana; Christopher T. King, Utah; Leonard Kirsch, Massachusetts; Herbert Kisch, Michigan; Frank J. Kottke, Washington; Alfredo Kraessel, New Jersey; P. W. Kuznets, Indiana; Charles P. Larrowe, Michigan; Robert Lekachman, New York; Jane H. Levthold, Illinois; Samuel M. Loescher, Indiana; Norman Leonard, Ohio.

Sima Lieberman, Utah; H. H. Liebhafsky, Texas; Carl Liedholm, Michigan; C. E. Lindblom, Connecticut; Robert J. McIntyre, Pennsylvania; Roland N. McKean, Virginia; Robert A. McLean, Wisconsin; Walter W. McMahon, Illinois; William H. Melody, Pennsylvania; Taulman A. Miller, Indiana; James P. Moody, Wisconsin; Marilyn Moon, Wisconsin; James R. Moor, Jr., Michigan: Rodney J. Morrison, Massachusetts.

F. W. Morrissey, California; Dennis C. Mueller, New York; Williard F. Mueller, Wisconsin; Grady L. Mullennix, California; Vernon A. Mund, Washington; Claron Nelson, Utah; Paul A. Nelson, Michigan; Alan T. Nichols, Michigan; Kenneth Nowotny, Texas; Lawrence H. Officer, Michigan; Lloyd D. Orr, Indiana; Donald W. Paden, Illinois; David A. Patterson, Tennessee.

Robert H. Persons, Jr., Connecticut; Boris P. Pesek, Wisconsin; Thomas C. Peterson, Michigan; Wallace C. Peterson, Nebraska; Joseph D. Phillips, Illinois; Lee E. Preston, New York; Elton Rayack, Rhode Island; James M. Rock, Utah; Don Roper, Utah; Marvin E. Rozen, Pennsylvania; Daniel H. Saks, Michigan; Warren J. Samuels, Michigan.

U. Sankar, Wisconsin; Phillip Saunders, Indiana; Robert N. Schoeplein, Illinois; Peter Schran, Illinois; Arthur Schweitzer, Indiana; Robert F. Severson, Jr., Michigan; William G. Shepherd, Michigan; Steven B. Smiley, Michigan; Stanton Smith, Washington; James Starkey, Rhode Island; George J. Stolniez, Indiana; Daniel B. Suits, Michigan; Milton C. Taylor, Michigan; Carey C. Thompson, Texas; James F. Torres, Wisconsin.

L. E. Traywick, Virginia; George Tzannetakis, New Jersey; Paul Uselding, Illinois; Harold G. Vatter, Oregon; Robert F. Voertman, Iowa; Phyllis A. Wallace, Massachusetts; Pauline Weber, Wisconsin; Harold H. Wein, Michigan; Paul Wells, Illinois; Brenda A. Wible, Michigan; Elmus Wicker, Indiana; Elizabeth D. Wickham, Tennessee; Fred Witney, Indiana; Ronald H. Wolf, Tennessee.

THE GENOCIDE CONVENTION AND POLITICAL GROUPS

Mr. PROXMIRE. Mr. President, today I will challenge the argument of those who oppose the Genocide Convention because it does not mention political groups. Such a minor objection cannot be allowed to forestall the implementation of this landmark of morality and decency.

The reason for the omission of political groups is a simple one. Like any treaty, the Genocide Convention is the product of negotiations and compromise. The American delegation at the conference sought to protect the rights of political groups. Unfortunately, most of our allies, as well as antagonists, objected. Consequently, no such protection was enacted.

However, the achievement of an accord outlawing the mass extermination of individuals for their racial, religious, and ethnic views dwarfs this minor setback. We should not reject such a momentous declaration because it is not all we wish it to be. No treaty is ever perfect. No compromise completely satisfies all parties. Furthermore, the membership of political groups is protected by other sections of the convention.

Meanwhile, we have before us an agreement which represents an international commitment to the protection of human rights. I urge the Senate to reaffirm these noble sentiments and ratify the Genocide Convention without delay.

SRI LANKA: REMARKABLE COUNTRY

Mr. McGOVERN. Mr. President, Saturday, May 22, marked a very important moment in the history of Sri Lanka. Four years ago, Sri Lanka, formerly known as Ceylon, ceased to be a dominion in the British Commonwealth and became a republic under a new constitution.

As chairman of the Subcommittee on Near Eastern and South Asian Affairs of the Committee on Foreign Relations, I have followed with interest the U.S. relationship with Sri Lanka. My fellow Members should be aware that Sri Lanka remains a stronghold of the democratic tradition, and its people fiercely adhere to the democratic forms of government and spirit. Next year there are to be genuinely free elections in the tradition which has been followed steadily since independence from Great Britain in 1948.

The United States maintains good and cordial relations with Sri Lanka on the basis of many common values and of mutual respect. Sri Lanka's importance in the developing world is demonstrated in the fact that Prime Minister Bandaranaike's government will host the Fifth Nonalined Summit Conference this summer in Colombo.

Since World War II the United States has provided approximately $300 million in assistance to Sri Lanka, most of it in the form of Public Law 480 food grains.

Sri Lanka has an impressive record of building upon the assistance provided by others. Its rate of population growth is one of the lowest in Asia, and its infant mortality rate is similarly low. Sri Lanka's citizens have a life span comparable to that of developed countries. Recently, the Government of Sri Lanka has undertaken an impressive river diversion project which will result in more widespread irrigation to help in the quest of food sufficiency, better water control, and important hydroelectric power facilities.

An ancient traveler was so taken with Sri Lanka's charms he described it as being 40 leagues from paradise. From a position nearly one-half way around the world from Sri Lanka I join the traveler and others who know of Sri Lanka in being impressed.

FINANCIAL DISCLOSURE

Mr. CRANSTON. Mr. President, it has long been my view that a necessary part of an elected official's responsibility to his electorate is complete financial disclosure. Thus, each year I make it a practice to insert in the RECORD my last year's financial statement and income tax returns. I ask unanimous consent that the following documents be printed in the RECORD:

First, my financial statement including my real properties as of **May 1, 1976.**

Second, my 1975 statement of contributions and honorariums in compliance with rules 42 and 44.

Third, my 1975 Federal and California income tax returns.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Financial statement: Alan Cranston

BANK AND SAVINGS AND LOAN ACCOUNTS

Commercial accounts total	$19,038.43
Savings accounts total	26,856.00
	45,894.43

RECEIVABLE—LOANS AND ACCOUNTS

Wm. & Leona Bazor (sale of lot & building)	17,936.00
Lee Fairbrother (sister-in-law)	4,698.00
Bernard & Patricia Snyder (niece)	1,872.00
Cecil Weintraub (sale of ranch)	27,178.00
Jeffrey Edmonds (trust, sale of lot & building)	11,353.00
	63,037.00

MISCELLANY

Beneficial interest in a blind trust	28,500.00
Personal property	7,500.00
Art objects	2,092.00
Cash value of insurance	7,500.00
	45,592.00

RETIREMENT FUND

U.S. Government (cash value)	25,438.64
	25,438.64
(In addition, State of Calif., monthly annuity of $1,307.48)	
Net value of real estate (see itemization attached)	366,509.00
Total assets	546,431.07

NOTES PAYABLE

Eleanor C. Fowle (sister) (personal loan)	13,200.00
IRS (federal tax on mother's estate)	10,034.00
Total liability	23,234.00
Net worth	523,471.07

REAL ESTATE OWNED, ALAN CRANSTON

Description and address	Title	Market value	Mortgage due to	Mortgage amount	Net value
Lot and building:					
505 San Mateo, San Bruno, Calif	Self, wife	$65,000	Wells Fargo, San Francisco	$26,375	$38,625
215 Main St., Los Altos, Calif	Self	92,000	do	27,848	64,152
163–165 Main St., Los Altos, Calif	¼ self	27,820			27,820
318–324 University Ave., Palo Alto, Calif	½ self	76,600			76,600
482–490 San Mateo Ave., San Bruno, Calif	do	48,000			48,000
Ranch: Star Route, Smartsville, Calif	½ self, wife	44,200			44,200
Land:					
Freeway Vineyard Properties, Sherman Oaks, Calif	1/60 self, wife	11,667			11,667
Simi-Moorpark Properties, Sherman Oaks, Calif	1/100 self, wife	28,510			28,510
Land and building: Wilshire Growth Properties, Los Angeles, Calif	1/40 self	3,462			3,462
Land: 5-Area Properties, Los Angeles, Calif	1/100 self, wife	5,000			5,000
Condominium: 1147 La Verne Way, Palm Springs, Calif	Self, wife	45,000	Keystone S. & L., Westminster, Calif	26,567	18,473
Total		447,259		80,790	366,509

STATEMENT OF CONTRIBUTIONS AND HONORARIUMS

Date, name of contributor, address of contributor, and amount or value:

June 26, 1975, Democratic Senatorial Campaign Committee, 130 Russell Senate Office Building, $3,000.00.

2. DISPOSITION OF CONTRIBUTIONS

Date, name of payee, address of payee, purpose, and amount:

July 2, August 20, and October 15, Jt. Assembly Rules Committee, California Legislature, State Capitol, Sacramento, California, Address tapes for official newsletter, $1,900.00.

3. HONORARIUMS

Date, payer, description of service, and amount or value:

January 27, 1975, National School Boards Association, Speech, $1,000.00.

February 12, 1975, Real Estate Research Council of Northern California, Speech, $381.27.

February 19, 1975, University of Chicago, Seminar, $250.00.

March 9, 1975, Times-Mirror, Article, $150.00.

April 3, 1975, California Mortgage Bankers, Speech, $400.00.

June 6, 1975, Meridian House International, Speech, $500.00.

September 21, 1975, Times-Mirror, Article, $150.00.

October 1975, Washington Post Company, Article, $75.00.

October 3, 1975, California Association of Realtors, Speech, $1,000.00.

November 15, 1975, State of Israel Bonds, Speech, $1,000.00.

November 21, 1975, Sheet Metal Contractors, Speech, $1,000.00.

December 1, 1975, Institute of World Order, Speech, $500.00.

December 1975, National Parks & Conservation Magazine, Article, $100.00.

Total $6,506.27.

U.S. INDIVIDUAL INCOME TAX REPORT

Alan and Geneva Cranston.

OCCUPATION

Yours, U.S. Senator.

Spouse's, Housewife.

FILING STATUS

2. Married filing joint return.

6a. Regular: Yourself and spouse, 2.

EXEMPTIONS

c. Number of other dependents (from line 27), 2.

d. Total, 4.

8. Presidential Election Campaign Fund: Do you wish to designate $1 of your taxes for this fund?, Yes.

If joint return, does your spouse wish to designate $1?, Yes.

INCOME

9. Wages, salaries, tips, and other employee compensation, $43,025.00.

10a. Dividends, $718.06, 10b Less exclusion $100, Balance, $618.06.

11. Interest income, $7,181.71.

12. Income other than wages, dividends, and interest, $20,856.61.

13. Total, $71,681.38.

14. Adjustments to income, ($11,301.33).

15. Subtract line 14 from line 13, $60,380.05.

TAX, PAYMENTS AND CREDITS

16a. Tax, from Tax Rate Schedule X, Y, or Z, $11,357.13.

b. Credit for personal exemptions, $120.00.

c. Balance, $11,237.13.

18. Balance, $11,237.13.

19. Other taxes, none.

20. Total, $11,237.13.

21a. Total Federal income tax withheld, $12,445.74.

22. Total (add lines 21a through e), $12,445.74.

BALANCE DUE OR REFUND

24. Amount overpaid, $1,208.61.

25. Amount to be refunded to you, $1,208.61.

OTHER DEPENDENTS

Robin Cranston, son:

(d) Did dependent have income of $750 or more? No.

(e) Amount YOU furnished for dependent's support. If 100% write ALL, $9,486.59.

(f) Amount furnished by OTHERS including dependent, none.

Kim Cranston, son:

(d) Did dependent have income of $750 or more? Yes.

(e) Amount YOU furnished for dependent's suport. If 100% write ALL, $3,483.06.

(f) Amount furnished by OTHERS including dependent, $1,348.46.

27. Total number of dependents listed in column (a). Enter here and on line 6c, 4.

INCOME OTHER THAN WAGES, DIVIDENDS, AND INTEREST

28. Busines income or (loss), $6,506.27.

29a. Net gain or (loss) from sale or exchange of capital assets, $4,780.16.

31a. Pensions, annuities, rents, royalties, partnerships, estates or trusts, etc. $6,520.18.

35. Other (state nature and source)—sale of building fixtures, $50.

Award from Senate Democratic Campaign Committee, $3,000.

36. Total. Enter here and on line 12, $20,856.61.

ADJUSTMENTS TO INCOME

39. Employee business expense, $11,301.35.

42. Total—enter here and on line 14, $11,301.35.

TAX COMPUTATION

43. Adjusted gross income, $60,380.05.

44. (a) If you itemize deductions, check here and enter total from Schedule A, line 41 and attach Schedule A, $19,119.75.

45. Subtract line 44 from line 43, $41,260.30.

46. Multiply total number of exemptions claimed on line 7, by $750, $3,000.00.

47. Taxable income. Subtract line 46 from line 45, $38,260.30.

[ITEMIZED DEDUCTIONS]

Contributions

1. One half (but not more than $150) of insurance premiums for medical care, $150.

2. Medicine and drugs, $180.71.

3. Enter 1% of line 15, Form 1040, $666.75.

4. Subtract line 3 from line 2. Enter difference (if less than zero, enter zero), none.

5. Enter balance of insurance premiums for medical care not entered on line 1, $83.92.

6. Enter other medical and dental expenses: a Doctors, dentists, nurses, etc., $540.90.

7. Total, $624.82.

8. Enter 3% of line 15, Form 1040, $2000.24.

9. Subtract line 8 from line 7 (if less than zero, enter zero), none.

10. Total (add lines 1 and 9). Enter here and on line 35, $150.00.

Taxes

11. State and local income, $3,526.71.

12. Real estate, $3,308.38.

13. State and local gasoline (see gas tax tables), $35.00.

14. General sales (see sales tax tables), $487.72.

15. Personal property, $30.

17. Total—enter here and on line 36, $7,387.35.

Interest expense

18. Home mortgage, $2,734.39.

19. Other (itemize) Eleanor Fowle, note, $751.

Subdivision bonds, Thornwood, Sacramento, $191.10.

Keystone S & L, Westminster, CA., $2,172.86.

IRS (Sunnyvale), $1,003.39.

Senate Motor-Car Leasing, $340.10.

Bank of Calif., Santa Rosa, note, $1,901.40.

Wedbush, Noble, Cooke, Inc., $178.77.

20. Total (add lines 18 and 19). Enter here and on line 37, $9,273.01.

21. (a) Cash contributions for which you have receipts, cancelled checks or other written evidence, $670.

24. Total contributions—enter here and on line 38), $670.

Miscellaneous deductions

33. Other (itemize):

Entertainment, $1,320.60.

Safe deposit box, $35.

Legal fee re Mother's Trust, $283.79.

34. Total—enter here and on line 40, $1,639.39.

Summary of itemized deductions

35. Total medical and dental, $150.

36. Total taxes, $7,387.35.

37. Total interest, $9,273.01.

38. Total contributions, $670.

39. Casualty or theft loss(es), none.

40. Total miscellaneous, $1,639.39.

41. Total deductions, $19,119.75.

[DIVIDEND AND INTEREST INCOME]

Dividend income

1. Gross dividends (including capital gain distributions) and other distributions on stock:

No. natural gas (w), $108.32.

Idaho Power (w), $153.12.

So. Bell Telephone (w), $150.

Wash. Water and Power (w), $75.

So. Cal. Edison (w), $153.10.

Columbia Gas (w), $78.52.

(NOTE.—These distributed to wife, Geneva Cranston, from the estate of her mother, May McMath.)

2. Total of line 1, $718.06.

6. Dividends before exclusion, $718.06.

Interest income

7. Interest includes earnings from savings and loan associations, mutual savings banks, cooperative banks, and credit unions as well as interest on bank deposits, bonds, tax refunds, etc. Interest also includes original issue discount on bonds and other evidences of indebtedness:

Wells Fargo, S.F., $247.62.

Westdale S. & L., LA., $1,684.11.

Westdale S. & L., LA, $375.50.

Westdale S. & L., LA, $29.71.

Bernie and Pat Snyder—note, $146.83.

Earl Bivens—note, $37.53.

Cecil Weintraub—note, $972.46.

Blind Trust Savings account, $42.59.

Treasury note, $452.

Robert and Alice Bahr—note, $1,452.39.

Downey S. & L., Palm Spr., $642.27.

Downey S. & L., Palm Spr., $327.72.

Downey S. & L., Palm Spr., $98.39.

Wm. Bazor—note, $672.59.

8. Total interest income, $7,181.71.

SCHEDULE OF SENATORIAL EXPENSES AND REIMBURSEMENTS—1975

Reimbursements	
Travel (including official mileage)	$5,584.88
Office expenses in home state	3,656.21
Telephone outside DC	9,893.52
Subscriptions	2,240.87
Total	21,375.48
Expenses	
Travel/Lodging/Gratuities	9,027.21
Postage	225.00
Office Expenses/Home State	3,175.06
Telephone outside DC	10,111.09
Subscriptions/publications	2,853.11
Tapes/Photo/Printing	3,099.01
Consultant Fee	210.00
Petty Cash	357.50
Senate Reimbursement for overpayment	269.25
Senate Demo Caucus Luncheon fund	25.00
Prints/frames for office	277.84
Checks charges	10.26
Miscellaneous supplies/phone charges	36.52
Cost of Living, Washington, D.C.*	3,000.00
Total	32,676.85
Excess expenses over reimbursements	11,301.33

*See attached affidavit.

I hereby certify that I was in a travel status in the Washintgon area, away from home, in the performance of my official duties as a Member of Congress, for 225 days during the taxable year, and my deductible living expenses while in such travel status amounted to $3,000.00.

ALAN CRANSTON.

PROFIT OR (LOSS) FROM BUSINESS OR PROFESSION

A. Principal business activity: honoraria; product: speaking.

B. Business name: Alan Cranston.

D. Business address: Russell Building, Washington, D.C.

E. Indicate method of accounting: cash.

F. Were you required to file Form W-3 or form 1096 for 1975?, No.

G. Was an Employer's Quarterly Federal Tax Return, Form 941, filed for this business for any quarter in 1975?, No.

H. Method of inventory valuation: Was there any substantial change in the manner of determining quantities, costs, or valuations between the opening and closing incentories? (If "Yes," attach explanation), Not available.

Income

1. Gross receipts or sale, $6,506.27.

5. Total income, $6,506.27.

Deductions

21. Net profit, $6,506.27.

CAPITAL GAINS AND LOSSES

Long-term Capital Gains and Losses—Assets Held More Than 6 Months

6. Installment sale—Black Ranch, principle received $2,994.37, X$55.28, gross profit, $1,655.29.

Sale of lot 6, Thornwood, Sacramento, one 1959, ten 1974, $15,000, $8,553.85, $6.446.15.

Sale of copper, 1955, nine 1974, $150, $150, none.

Sale of commercial building, April 20, 1955, July 18, 1975, $1,408.89.

206 Redwood Ave. Ft. Bragg, Calif., Installment sale.

9. Enter your share of net long-term gain or (loss) from partnerships and fiduciaries, $50.00.

11. Net gain or (loss), combine lines 6 through 10, $9,560.33.

13. Net long-term gain or (loss), combine lines 11, 12 (a) and (b), $9,560.33.

Summary of Parts I and II

14. Combine the amounts shown on lines 5 and 13, and enter the net gain or (loss) here, $9,560.33.

15. If line 14 shows a gain—

(a) Enter 50% of line 13 or 50% of line 14, whichever is smaller (see Part VI for computation of alternative tax), $4,780.17.

(b) Subtract line 15(a) from line 14, $4,780.16.

SALE OR EXCHANGE OF PERSONAL RESIDENCE

1(a) Date former residence sold: Sept. 1975.

2(a) Date new residence bought: Not purchased yet.

Computation of Gain and Adjusted Sale Price

4. Selling price of residence, $136,000.00.

5. Less: Commissions and other expenses of sale, $8,686.45.

6. Amount realized, $127,313.55.

7. Less: Basis of residence sold, $91,642.38.

8. Gain on sale, $35,671.17.

10. Adjusted sales price, $127,313.55.

Schedule I—Commissions and Other Expenses of Sale

Commission, $8,160.00.

Attorney, $526.45.

Schedule II—Basis of Old Residence

Cost, $86,400.00.

Improvements, $5,242.78.

Total, $91,642.78.

Supplemental income schedule

1. Name of payer Public Employees' Retirement System, State of California

2. Did your employer contribute part of the cost? Yes.

If "Yes," is your contribution recoverable within 3 years of the annuity starting date? Yes.

If "Yes," show: Your contribution $6,729.20 Contribution recovered in prior years, none.

3. Amount received this year, $13,024.00.

4. Amount excludable this year, $6,729.20.

5. Taxable portion, $6,294.80.

Rent and royalty income

(a) Kind and location of property if residential, also write "R" see form 4831.

(b) Total amount of rents, $35,951.91.

(d) Depreciation (explain below) or depletion (attach computation), $3,935.68.

(e) Other expenses (Repairs, etc.—explain below), $27,949.37.

1. Totals, $35,951.91; $3,935.69; $27,949.37.

2. Net income or (loss) from rents and royalties (column (b) plus column (c) less columns (d) and (e)), $4,066.86.

Income or loses from partnerships, estates or trusts, masl business corporations

See attached schedule.

(d) Income or (loss), ($3,841.48).

1. Totals, ($3,841.48).

2. Income or (loss). Total of column (d) less total of column (e) ($3,841.48).

Total of parts I, II, and III, $6,520.18.

Explanation of Column (e), Part II: See form 4831.

Schedule for depreciation claimed in part II above: See form 4831.

SCHEDULE TO SUPPORT SCHEDULE "E"

Partnerships and income (loss):

Krag Partnership, Ltd	($278.48)
Simi-Moorpark Properties, Ltd	(2,970.00)
Freeway Vineyard Properties, Ltd.	(97.00)
Wilshire Boulevard Growth Properties	(496.00)
Five Area Properties, Ltd	
Total	(3,841.48)

RENTAL INCOME

Rent income:

1. Kind and Location of Property:

Property A 215–225 Main St., Los Altos, Ca.

Property B 501–517 San Mateo Ave., San Bruno, Ca.

Property C 161–165 Main S., Los Altos, Ca. (ownership ¼).

Property D 482–490 San Mateo., San Bruno, Ca. (ownership ½).

Property E 318–324 University Ave., Palo Alto, Ca. (ownership ½).

2. Rents received:

Property A, $9,490.39. Property B, $5,211.20. Property C, 2,486.14. Property D, $6,402.26. Property E, $11,725.54.

3. Total, $35,951.91.

EXPENSES

9. Insurance: $262.99, $525, $219, $549, $595.50.

10. Interest: $2,254.61, $1,936.86.

13. Management fees: $474.50, $280.63, $124.31, $345.11, $578.40.

15. Repairs (list):

Maintenance: $663.65, $130, $363.51.

Painting: $2,153.17.

Roof: $1,319.68.

Miscellaneous: $150, $25, $10.12, $208.37.

18. Taxes and licenses: $5,550.35; $2,175.20, $966.57, $1,643.56, $4,152.24

22. Total expenses: $9,356.10, $7,070.86, $2,654.56, $2,677.79, $5,898.02.

23. Total expenses (add amounts on line 22). Enter here and on Schedule E, Part II, column (e), $27,949.37.

Schedule for depreciation claimed on schedule E, part II, column (d)

(a) Group and guideline class or description of property, (b) Date acquired, (c) Cost or other basis, (d) Depreciation allowed or allowable in prior years, (e) Method of computing depreciation, (f) Life or rate, (g) Depreciation for this year:

27. Other depreciation:

A. Main Street, various, $12,846, $8,348, s/1, 30, $428.

Improvement, various, $4,533, $4,533, s/1.

Improvement, 1970, $2,506, $2,506, s/1, 5.

B. Main Street, 3–26–69, $6,075, $1,157.57, s/1, 28, $217.

C. University Avenue, 10–57, 3–26–69, $23,-205.50, $8,112.05, s/1, 28, $829.

Improvements, 60, $333.25, $333.25, s/1.

Improvements, 65, $162, $162, s/1.

Improvements, 66, $187.50, $187.50, s/1.

D. Redwood Avenue, fully depreciated.

E. San Mateo, various, $31,500, $24,465, s/1, 25, $1,260.

Improvements, various, $13,290, $11,361.81, 200 DB, 15, $267.

Improvements, various, $3,000, $2,045, 200 DB, 15, $114.60.

F. San Mateo, 10–57, 3–26–69, $20,113.25, $5,281.41, s/1, 28, 718.33.

Improvements, 67, $250, $137.50, s/1, 10, $25.

Improvements, 2–1–68, $125, $106.25, s/1, 5, $18.75.

Air conditioning, 10–1–69, $205, $87.30, s/1, 10, $20.50.

Air conditioning, 7–70, $375, $181.25, s/1, 10, $37.50.

28. Totals, $3,935.68.

RENTAL INCOME

Rent income

1. Kind and Location of Property:

Property F 206 Redwood Ave., Ft. Bragg, Ga. (ownership ⅓).

2. Rents received: Property F, $646.38.

Expenses (F)

9. Insurance, ($48.33).

13. Management fees, $60.01.

15. Repairs (list):

Roof, $96.66.

Miscellaneous, (?)

18. Taxes and licenses, $172.63.

20. Utilities, $1.07.

21. Other (list): Accounting, $10.00

22. Total expenses, $292.04.

INDIVIDUAL CALIFORNIA INCOME TAX

Alan and Geneva Cranston.

FILING STATUS

EXEMPTION CREDITS

2. Married filing joint return.

6. Personal, $50.

10. Wages, salaries, tips and other employee compensation, $43,025.00.

11. Dividends—before federal exclusion, $718.26.

12. Interest, $7,181.71.

13. Income other than wages, dividends and interest, $70,856.61.

14. Total, $71,781.38.

15. Adjustments to income, $11,301.33.

16. Adjusted gross income, $60,480.05.

17. Deductions: Itemized (from line 62), $15,650.54.

18. Taxable income, $44,829.51.

19. Tax from Tax Rate Schedule, $3,181.30.

20. Total exemption credits, $50.00.

21. Tax liability, $3,131.30.

23. Net tax liability, $3131.30.

25. Total tax liability, $3,131.30.

26. Total California income tax withheld, $3,204.71.

28. 1975 California estimated tax payments, $800.00.

30. Total prepayment credits, $4,004.71.

33. Amount to be refunded to you, $873.41.

OTHER INCOME

Business income (or loss), $6,506.27.

Net gain (or loss) from sale or exchange of capital assets, $4,780.16.

Pensions and annuities, $6,294.80.

Rents and royalties, $4,066.86.

Partnerships, $3,841.48.

Miscellaneous income:

(c) Other (state nature and source) Senate-D.C.—$3,000, Sale of fixtures, $50, $3,050.00.

Enter total of lines 47(a), 47(b), and 47 (c), $3,050.00.

Total (add lines 39 thru 47). Enter here and on line 13, $20,856.61.

ADJUSTMENTS TO INCOME

Employee business expenses, $11,301.33.

Total adjustments (add lines 49 thru 54). Enter here and on line 15, $11,301.33.

ITEMIZED DEDUCTIONS

Total deductible medical and dental expenses, $150.00.

Total taxes, $3,918.14.

Total interest expense, $9,273.01.

Total contributions, $670.02.

Total miscellaneous deductions, $1,637.37.

Total itemized deductions—enter here and on line 17, $15,650.54.

Reconciliation to Federal Return—If adjusted gross income on Federal Return is different from line 16, page 1, explain below: Dividend Exclusion, $100.00.

RELAXING AUTO EMISSION STANDARDS WILL NOT CONSERVE ENERGY

Mr. GARY HART. Mr. President, during the course of the debate on the Clean Air Act Amendments much concern has been expressed over the effect strict automobile emission standards will have on fuel efficiency. These fears have prompted a retreat from our original commitment to cleaning up the environment, at least partly in the name of energy conservation.

Recently the House Commerce Committee singled out this specific issue in its report on the House version of the bill. Its report clearly demonstrates that relaxing the auto emission standards set out in the original 1970 Clean Air Act will not result in better fuel economy. Their report concluded that:

> With improved emission control systems for model years 1981 through 1984, there is no significant fuel economy differences between an emission freeze at the present 1975–76 levels and the most stringent set of proposed emission standards.

The committee reached this conclusion despite a joint FEA–EPA analysis based intentionally on the unlikely worst case assumptions that there will be little or no further improvements in engine efficiencies, and no successful development of dual or three-way catalyst control systems. The committee report further makes the point that some emission control systems actually increased fuel efficiency, noting that the recent dramatic improvements were "primarily due to the introduction of the catalyst in some 1975 models and in most 1976 models." Finally, the committee reported and documented its finding that improved fuel economy will largely be the result of nonemission control-related changes, such as weight reductions, engine changes, transmission improvements, and shifts to smaller model cars.

Relaxed automobile emissions standards will yield only a marginal increase in fuel economy, but they will have a drastic effect on the air we breathe, and on the health of the public. For example, if the emission standards embodied in the Senate version of the Clean Air Act Amendments are accepted without amendment, the EPA estimates that there will be a 20-percent increase of lower respiratory disease attacks in children, as well as increasing hazards for other segments of the population. The marginal improvements in fuel economy that we may gain are simply not worth the resulting deterioration in the public health.

Mr. President, I ask unanimous consent that the relevant portions of the House report be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FUEL EFFICIENCY SECTION OF REPORT BY THE COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE (TO ACCOMPANY H.R. 10498)

The Committee compromise will enable the auto industry to achieve Congressionally-mandated fuel economy standards in 1980 and beyond.

The Committee recognizes the pressing national need to decrease our Nation's dependence on foreign suppliers of petroleum. One of the major steps toward reducing this dependence was taken in the Energy Policy and Conservation Act of 1975, fashioned by this Committee. That legislation sets the fuel economy standards for all manufacturers at 20.0 miles per gallon in 1980 and 27.5 mpg in 1985, which the Administrator may reduce to 26.0 mpg. In approaching the Clean Air legislation, one of the Committee's prime goals was to assure a proper balance between reducing new automobile emissions levels and improving fuel economy. The Committee is satisfied that the compromise proposal does strike this balance.

As the National Academy of Sciences has pointed out, "Delaying or relaxing standards does not insure that gains in fuel economy will be forthcoming." (NAS, June 5, 1975, p. 21.) In fact, over the last two years, fuel economy has increased by more than 25% despite the imposition of more stringent emission standards.

It will surprise some to learn, as discussed in the journal of the Society of Automotive Engineers, that:

"1976 cars are the most fuel efficient since 1957 and the uncontrolled emissions days. In some cases, methods used to reduce emission has also improved fuel economy. This study indicates that significant improvement in fuel efficiency still lie ahead." ("Fuel Economy Trends," *Automotive Engineering,* 3:12, Dec. 1975, p. 29.)

The major improvement in fuel economy in the last two years is clearly shown in the following figure. The average new car fuel economy for 1976 is 26.6% (3.6 mpg) is better than the average new car fuel economy for 1974. This is primarily due to the introduction of the catalyst in some 1975 models and most 1976 models. Comparing this latest improvement in fuel economy to the last model year of emission uncontrolled automobiles (1967) the Society of Automotive Engineers' Journal notes:

The use of more sophisticated emission control technology in 1976 has resulted in fuel economy at a fixed model mix 11% better than 1967, despite the reduction in uncontrolled emissions for 49-state cars by 83% for HC and CO, and 11% for NOx (id. at 29).

The National Academy of Sciences reports that fuel economy can be improved further while meeting more stringent emission standards. In its June 5, 1975 Conference Report, the Academy concluded that the statutory 1978 emission standards "could, and should, be achieved while improving fuel economy. A significant improvement can be achieved by changes that are independent of emissions." (p. 3) The Academy goes on to point out:

"Fuel economy goals can be achieved by the following methods:

(a) reduction in the weight of vehicles;

(b) change in vehicle mix to include a larger proportion of small cars;

(c) reduction in the ratio of engine power to vehicle weight;

(d) use of more efficient transmissions, such as those that lock during cruise;

(e) use of radial tires and improved suspension systems;

(f) use of aerodynamic configurations that reduce drag;

(g) use of adaptive fan cooling, which shuts down the fan when its cooling effect is not needed;

(h) removal of power-using auxiliary equipment or improvement in its efficiency; and

(i) use of emission reduction technologies that are energy-efficient in preference to those that are not."

This NAS finding that fuel economy should occur independent of emission levels is confirmed by both FEA and EPA. In a joint technical paper dated Feb. 20, 1976, based on manufacturers' data and on technical analysis conducted on the 300-day study for automobile fuel goals, the two agencies concluded:

". . . the remainder of the 100% or greater fuel economy improvement over 1974 models required to be achieved by the three major U.S. automakers by 1985 . . . will be achieved almost totally by non-emission control related changes such as weight reduction, model mix shifts, driveline improvements, and the use of diesel engines." ("Estimate of Fuel Economy Impact of Alternative Emission Standard Levels for Passenger Vehicles," FEA–EPA, February 20, 1976, p. 1.)

The Academy also concluded that technology developed to reduce auto emissions may actually improve fuel economy as well.

"Substantial improvements in fuel economy can and should be realized at any of the proposed levels of emissions. The improved technology required to meet emissions standards may assist in improving fuel economy. Current catalyst technology provides such an example: a technology that was introduced to meet an emissions requirement also allowed the improvement of fuel economy. If future emissions standards require the introduction of more sophisticated fuel delivery systems (electronic fuel injection, for example), further gains in fuel economy should result. The development of new or improved engine technologies which simultaneously reduce emissions and fuel consumption can and should be pursued." (NAS, June 5, 1975, pp. 21–22.)

The February 20, 1976 joint FEA–EPA analysis shows that in the long run there will be no fuel economy penalty whatsoever at standards down to .41/3.4/1.0, a level which would not be required before 1981 (under the Committee proposal) and perhaps as late as 1984. The FEA–EPA analysis found:

"Allowing time for development there should be no fuel economy loss by 1982 or 1983 at level 4 (.41/3.4/1.0), although if first implemented in 1980, a fuel economy loss of 10 to 15% would be expected." (FEA–EPA, Feb. 20, 1976, p. 2.)

(This calculation of a temporary fuel economy loss is reduced to 3 to 12% in calculations included in the April 8 FEA–DOT– EPA Analysis, "Analysis of Some Effects of Several Specified Alternative Automobile Emission Control Schedules", FEA–DOT–EPA, April 8, 1976.)

The most important conclusion which the Committee draws from the April 8 FEA–DOT–EPA analysis is that the automobile industry can achieve the standards specified in the Committee bill while it simultaneously meets the mandatory fuel economy goals.

For example, the report shows that even in the unlikely event that there are no further improvements in emission control technology and no shifts to smaller cars, the 20.0 mpg goal can still be met by 1980. With the expected improvements in emission control systems, the 1980 20.0 mpg standard will be exceeded by 15% or 2.9 mpg, thus achieving average new car fuel economies of as high as 22.9 mpg, while meeting emission standards of .41 HC, 3.4 CO and 2.0 NO_x. Even at standards of .41/3.4/.4, the interagency report projects fuel economy as high as 22.4 mpg. The 22.4 to 22.9 mpg new car fuel economy would improve by another 1 to 2 mpg with the shift to smaller cars (projected in the Federal Energy Administration report, "Gasoline Consumption Model," July 22, 1975).

As shown by the tables below, reprinted from the April 8 Interagency Report (pp. 5 & A–1), with improved emission control systems for model years 1981 through 1984, there is no significant fuel economy difference between an emission freeze at the present 1975–76 levels and the most stringent set of proposed emission standards. In 1985, section 502 of the Energy Policy and Conservation Act sets a maximum fuel economy standard of 27.5 which the Department of Transportation is authorized to lower to 26.0 mpg. This fuel economy standard range is met with improved systems under all the proposed 1985 emission standards with a high of 29.7 mpg at .41 HC, 3.4 CO, 1.0 NO_x and a low of 26.7 mpg at .41/3.4/.4.

ESTIMATED FUEL ECONOMY OF NEW CAR FLEET IN MILES PER GALLON BY MODEL YEAR, FOR EACH SCHEDULE OF EMISSION CONTROL

	Emission control schedule								
	Low range (present systems)				High range (improved systems)				
Model year	DT	A–C	B	D	DT	A–C	B	D	Reference E
1976	17.6	17.6	17.6	17.6	17.6	17.6	17.6	17.6	17.6
1977	18.4	18.4	18.4	18.4	19.0	19.0	19.0	19.0	19.0
1978	20.7	19.7	20.7	20.7	21.1	20.9	21.1	21.1	21.1
1979	21.8	20.8	19.8	21.8	22.2	22.2	21.8	21.2	22.2
1980	21.7	20.6	20.2	20.6	23.1	22.9	22.4	22.9	23.1
1981	23.0	22.0	21.6	22.0	24.5	24.5	24.0	24.5	24.5
1982	23.3	23.3	23.0	23.3	25.9	25.9	25.6	25.9	25.9
1983	24.6	24.6	24.2	24.6	27.2	27.2	27.2	27.2	27.2
1984	26.2	26.2	25.6	26.2	28.8	28.8	28.8	28.8	28.8
1985	27.0	25.7	26.6	25.7	29.7	26.7	29.7	26.7	29.7

(Material in parentheses added.)

The table below presents the emission standards assumed to be applicable to new cars in each model year for the analysis provided in this report.

Schedule:	*Brief description of schedule*[1]
DT	Amendment offered by Representative John D. Dingell, and earlier suggested by EPA Administrator Train.
A–C	A combination of two similar schedules considered by House Interstate and Foreign Commerce Committee.
B	Schedule contained in current Senate Public Works Committee Bill, S. 3219.
D	Schedule adopted by House Interstate and Foreign Commerce Committee (Brodhead amendment) H.R. 10498.
E	Extension of present Federal standards indefinitely for analytical purposes.

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[1] As applicable, for purposes this analysis, it has been assumed that in all cases the least stringent NO standard would be granted by waiver.

Model year	Emission control schedule HC/CO/NOx, grams per mile				
	D(T)	A–C	B	D	E
1976	1.5/15/3.1	1.5/15/3.1	1.5/15/3.1	1.5/15/3.1	1.5/15/3.1
1977	1.5/15/2	1.5/15/2	1.5/15/2	1.5/15/2.	1.5/15/3.1
1978	1.5/15/2	.9/9/2	1.5/15/2	1.5/15/2	1.5/15/3.1
1979	1.5/15/2	.9/9/2	.4/3.4/2	1.5/15/2	1.5/15/3.1
1980	.9/9/2	.4/3.4/2	.4/3.4/1	.4/3.4/2	1.5/15/3.1

Model year	Emission control schedule, HC/CO/NO$, grams per mile				
	D(T)	A–C	B	D	E
1981	.9/9/2	.4/3.4/2	.4/3.4/1	.4/3.4/2	1.5/15/3.1
1982	.4/3.4/2	.4/3.4/2	.4/3.4/1	.4/3.4/2	1.5/15/3.1
1983	.4/3.4/2	.4/3.4/1.5	.4/3.4/1	.4/3.4/1.5	1.5/15/3.1
1984	.4/3.4/2	.4/3.4/1.5	.4/3.4/1	.4/3.4/1.5	1.5/15/3.1
1985	.4/3.4/2	.4/3.4/.4	.4/3.4/4	1.5/15/3.1	1.5/15/3.1

The chart shows that with present systems only (under the "Low Range") that standards required by the Committee bill could result in compliance with the 1985 average fuel economy of an 25.7 mpg, .3 mpg or 1.2% below the 26.0 mpg minimum fuel economy standard for new cars. (The "High Range" projection is 26.7 or .7 mpg higher than the minimum fuel economy standard possible.)

The Committee does not view this potential .3 mpg difference as a significant one which should weaken the air pollution standards. The Committee draws this conclusion from the following information:

(1) the potential 0.3 mpg difference is in the "Low Range" calculation which the Interagency Task Force admittedly based on the unlikely assumptions that there will be little or no further improvements in engine efficiencies *and* no successful development of advanced emission control systems such as the dual catalyst or the three-way catalyst. (Interagency Report, April 8, 1976, p. 3 and pp. D–1 to D–3.) As detailed above, foreign manufacturers have already begun certifying both dual and three-way catalysts for use on 1977 California cars.

(2) the projected drop in new car fuel economy from 1984 to 1985 is not due to any inherent fuel penalty involved in achieving the tigher .4 NO_x standard. Rather, it was demonstrated in the Interagency Report, that with regard to the first few years when standards were imposed this drop is a temporary phenomenon which normally accompanies the introduction of new emission standards and systems.

(3) the following actual experiences demonstrate that significant improvements in fuel economy can be expected at any level of emission reduction in the years immediately following initial introduction;

"(a) in 1975 and 1976, the emission standards went from 1974 levels of 3.0 HC, 28 CO, 3.1 NO_x to 1.5, 15 and 3.1. The Ford Motor Company experienced a 2.2% loss in fuel economy in 1975, but a 20.3 gain in 1976 due solely to improvements in emission controls.

"(b) the experience of the stricter California standards shows that tighter standards do not necessarily mean a fuel economy reduction. FEA–EPA technical experts have stated:

"However, when a manufacturer designs a system to specifically meet a lower standard, as some foreign manufacturers have done for California . . . the lower standards can often be met without fuel economy loss. The technical director of the CARB (California Air Resources Board) has indicated that California certification cars are meeting even lower emission levels for 1977 (.41/9.0/1.5) with no additional loss in fuel economy over 1976 and in some cases a gain. (FEA–EPA Technical Analysis; March 1976)

"(c) Ford Motor Company testified that it expected to improve fuel economy by at least 3% the year following introduction of new standards, with additional improvements each year thereafter, simply through optimization of the engine emission control system." (House Hearings, March 1975, p. 423)

(4) the Interagency Report's projections are admittedly based, in large part, on data provided by the automobile manufacturers. The Committee cautions that the auto industry's calculations concerning potential fuel efficiency problems, as well as potential problems of technological and economic feasibility of any set of emission standards have been consistently overstated.

In 1974 testimony Ford Motor Company and Chrysler Corporation testified that 1975 standards would result in a 3% and 0% fuel economy improvement respectively over 1974 levels.

General Motors testified there would be about a 13 percent improvement. (1974 Hearings, p. 321). In fact, the average improvement for 1975 cars was more than 13 percent and General Motors fuel economy increased substantially more than 13 percent.

(5) The Committee reemphasizes that it has incorporated into the bill waivers for NO_x standards until as late as 1985. The Committee expects that such waivers will be granted should there prove to be a significant fuel economy penalty associated with achieving the statutory standards. Since Congress will be reviewing this legislation at least 3 times before the 1985 model year, there will be adequate time and opportunity to grant further delay or change the 1985 standard if warranted. Additionally, the Committee bill provides a permanent standard of .41/3.4/1.0 for inherently low emission automobiles which are certified for 100,000 miles or 10 years, whichever occurs first. In this provision, the Committee's goal is to encourage the development and marketing of engines, such as light-duty diesels, which will be inherently clean and durable. The Committee is encouraged by the April 8, 1976 Interagency Report which shows that the 1985 maximum fuel economy standard of 27.5 mpg would be exceeded under proposed emission standards of .41 HC, 3.4 CO and either .4 or 1.0 NO_x if the auto companies shift to diesel engines for 20% of their cars. At .4 NO_x the new car fleet fuel economy becomes 28.8 mpg and at 1.0 NO_x, it becomes 31.2 mpg as shown in the following table. (Interagency Report, April 8, 1976; p. D–13).

NEW CAR FLEET FUEL ECONOMY PROJECTIONS WITH DIESEL ENGINE CARS INCLUDED, FOR EMISSION CONTROL SCHEDULES AND MODEL YEARS 1976 THROUGH 1985

[In miles per gallon]

Model year	High range projection (20 percent diesel in 1985)				
	D(T)	A	B	D	E
1976	17.6	17.6	17.6	17.6	17.6
1977	19.1	19.1	19.1	19.1	19.1
1978	21.2	21.0	21.2	21.2	21.2
1979	22.6	22.6	22.1	22.6	22.6
1980	23.5	23.3	22.8	23.3	23.5
1981	25.1	25.1	24.6	25.1	25.1
1982	26.7	26.7	26.5	26.7	26.7
1983	28.3	28.3	28.3	38.3	28.3
1984	30.2	30.2	30.2	30.2	30.2
1985	31.2	28.8	31.2	28.8	31.2

Based on the foregoing, the Committee has concluded that the Committee compromise will enable the auto industry to achieve Congressionally-mandated fuel economy standards in 1980 and beyond.

The sticker price of new cars will not be increased unduly by the Committee's proposed, revised standards.

The National Academy of Sciences detailed sticker price increases (including about a 35% mark-up for manufacturer and dealer profit) for various emission systems and standards. In comparing these costs to benefits, the Academy found "that the benefits, expressed in monetary terms, that could reasonably be expected to accrue from implementing the Federal statutory emission standards for automobile (sic) are commensurate with the expected costs." (NAS, Air Quality and Automobile Emission Control, September, 1974.)

Since the Academy's findings nearly two years ago, new technology for meeting the statutory emission standards has been developed, thus the sticker prices for such equipment will be substantially lower than earlier assumed. According to the most recent government reports, it will not be necessary to combine full injection with advanced catalyst systems because improved carburetors will provide sufficient air/fuel metering. (Environmental Protection Agency, Automobile Emission Control—The Current Status and Development Trends as of March 1976 (April 1976); U.S. Department of Transportation, Environmental Protection Agency, Federal Energy Administration, Analysis of Some Effect of Several Specified Alternative Automobile Emission Control Schedules (April 8, 1976).)

The latest cost estimates (shown in the chart below) are taken from the same interagency report.

Earlier Academy reports show a $254 sticker price increase would result from switching from an oxidation catalyst system for meeting the 1975–76 emission standards of 1.5 HC, 15.0 CO and 3.1 NO_x to a three-way catalyst system for meeting the original statutory standards of .41 HC, 3.4 CO and .4 NO_x The later EPA–DOT–FEA report, however, shows an increase of only $120 for a three-way catalyst system.

GEN. WILLIAM C. GRIBBLE—A MAN OF MANY MISSIONS

Mr. THURMOND. Mr. President, the U.S. Corps of Engineers has been for generations the object of much public esteem and unfortunately is sometimes caught in the middle of controversies not of its own making.

In an exclusive interview printed in the May 1976, issue of Constructor magazine, Gen. William C. Gribble, the Army Chief of Engineers takes stock of the corps and the challenges which confront it. The billions of dollars worth of construction at home and abroad present problems with which the corps can cope. Being caught in the middle of national policy debates and serving as a focal point for critics from all sides is a role that the corps most certainly does not relish.

Mr. President, I believe that my colleagues will benefit from General Gribble's account of the problems that face the Corps of Engineers and I ask unanimous consent that this article "Gen. William C. Gribble—A Man of Many Missions," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

GEN. WILLIAM C. GRIBBLE—A MAN OF MANY MISSIONS

Of all the entities which make up the world of construction, none possesses a better-known name than the US Army Corps of Engineers. For decades, the Corps has enjoyed public esteem. Part of the admiration was generated by the fine work performed by the Corps. A good deal of the high regard came by way of Hollywood. For generations of movie fans, the Corps amounted to those good guys who miraculously produced a bridge, in the midst of combat, that enabled John Wayne and his troops to cross the river and obtain an American victory.

Times have changed and no man knows that better than Lieutenant General William C. Gribble, Jr., the Army Chief of Engineers. Today the Corps is caught in controversies not of its own making. As always, the proverbial buck stops at the desk marked "Chief."

General Gribble took command of the Corps on August 1, 1973, following approximately 2½ years as Chief of Research and Development, Department of the Army. As Chief of Engineers, he is charged with many military and civil responsibilities of critical importance to the nation. He is the principal advisor to the Army Chief of Staff on all military engineering matters, and as such, directs a $2 billion annual construction program for the Army, Air Force, and other government agencies. He also directs the federal government's major planning and construction program for the comprehensive development of the nation's water resources.

A West Point graduate, General Gribble holds a master of science degree and an honorary doctorate degree in engineering. He is a registered professional engineer.

Constructor recently enjoyed the privilege of talking with the General. Our conversation began with an inquiry concerning the challenges he faced when he assumed command of the Corps.

Gribble. When I first came on board as Chief of Engineers, my biggest challenge was that of trying to preserve the organizational integrity of the Corps despite some major increases in our missions and a corresponding lack of commensurate increases in staffing. At that time, the Department of the Army had a major staff reorganization which had considerable effect on the missions of the Corps. Specifically, our role in the area of military construction was expanded. In addition to our responsibility for execution, we were given the responsibilities for planning and programming. At that time, we also received a cut of 15 percent in authorized manpower.

At about the same time, the Water Resources Council announced new principles and standards which greatly complicated our planning process with no commensurate staff increase. Likewise, our regulatory functions were increased in both complexity and jurisdictional scope. We did receive a minor increase in staff to accomplish our new regulatory and jurisdictional responsibilites. On top of all of this, our facilities engineering—our maintenance operations—also suffered cutbacks in manpower and fiscal resources as well.

I do think we have made good progress in meeting these challenges. We've had a major reorganization of our central staff. We've intentionally sought to confine the required changes in staff to positions here in Washington so as not to disrupt our field operations.

Today, I see a new challenge which assumes foremost proportions in my mind. That concern is for our public image. Many of our most controversial programs are key elements in national policy dilemmas. For example, we've gone through a traumatic period in implementing Section 404 of the Federal Water Pollution Control Act. This Section extends our regulatory functions to include the nation's wetlands. Section 404 is highly controversial. Because the Corps is charged with the responsibility of carrying out on Section 404, we find ourselves at the focal point of the controversy. I see this situation in a different light. I believe the real controversy inherent in Section 404 is that which exists between states' rights and the role of the federal government as regards the nation's wetlands. It's much more than unfortunate that the Corps has to be caught up in the middle of the debate.

Constructor. Speaking of wetlands and the like, what impact has the so-called Environmental Movement had on the work of the Corps?

Gribble. To talk about the impact in terms of dollars lost and projects stopped would require some subjective comments which I do not believe would be appropriate to make at this time. However, let me approach that question from a different and positive angle. There's no doubt that the Environmental Movement has had tremendous influence on our staff. We now find our staff is composed of a substantial number of professionals representing the biological and earth sciences whereas before the staff was almost exclusively involved with the engineering sciences. We are now much more heavily involved in rendering what might be termed "non-project" professional services. For example, we've prepared in excess of 1800 environmental impact statements. The number of such statements we've prepared, I believe, makes us second only to the Department of Transportation's highway programs. The importance of the statements is not in the statements themselves. Having made the studies and then the statements, the process casts an influence over the entire approach and attitude toward our projects.

Constructor. In view of President Ford's expressed desire to trim federal spending and reduce the federal budget, do you foresee the Corps having to cut back on any planned construction in fiscal 1977?

Gribble. I am sure that the Corps will not be exempt from the overall effort to reach the President's goal of reduced spending. On the civil works side, I would not expect the impact to be great. A large portion of our work along these lines is in the nature of professional engineering studies. Such studies are individually low cost. In the civil works missions, the vast majority of the money goes for projects already in progress. I would not expect any cutbacks to involve the termination of on-going work. Undoubtedly, the effort to curb expenses will have an effect on the fate of any new projects.

On the military side, our program in recent years has been larger than ever before. This is because of our Congressional mandate to carry out the physical facilities side of the all-volunteer Army concept. I would expect some cuts in this program but we would, nonetheless, be left with a very substantial program.

Constructor. In terms of round dollars, just how large are the missions of the Corps at the present time?

Gribble. Our civil works program, including all services rendered under that program, requires us to spend about $2 billion per year. In military construction, which fundamentally is all other construction besides our water resources projects, is another $2 billion. Our facilities engineering activities, in which we don't spend money, but in which we do allocate resources, is worth another $1 billion.

Constructor. General, the General Services Administration is making use of the Construction Management concept for its projects. Does the Corps have any plans to follow suit?

Gribble. Fundamentally, construction management is our primary function. We have augmented our capacity with help from our outside firms when circumstances warranted doing so. There will always be special areas, special cases which require some outside input. We do not, however, intend to go all out in seeking construction management assistance from outside.

Constructor. When you do look for such assistance, do you look to engineering/design firms as opposed to general construction firms with such capabilities?

Gribble. We do not play favorites. First off, we analyze our specific need and then we look for firms which have past experience indicating that they can be of help to us. As you well know, there is excellent construction management talent to be found among the ranks of general contractors as well as among those of engineering/design firms.

Constructor. The Veterans' Administration makes use of the Critical Path Method (CPM) on all projects of over $1 million. Does the Corps make similar use of CPM?

Gribble. We have a different name for it. we call it "Network Analysis." We don't have any general rule such as the VA's $1 million cutoff point. We find that the Network Analysis system works very well especially where there are numerous contractors and subcontractors to be interfaced. It is also very useful when there's a great deal of government- or contractor-supplied equipment to be installed in an orderly sequence. We use the system almost invariably on our military construction work. We use it less frequently in our civil works programs. In most civil works projects, we are moving large volumes of earth or placing great quantities of concrete. Network Analysis is not needed in such cases to assure an orderly sequence of work.

Constructor. How would you categorize the success of the Corps Quality Control Program?

Gribble. I think the program has been very successful. The principle is sound. When a contractor undertakes a project for a customer, he has every intention of doing the work well within the confines of the contract. I believe it is better for the contractor to make use of his own quality control system than it is for the customer to impose one. Within the Corps, we have our Quality Assurance personnel who assist the contractor in establishing or improving his own quality control system.

Constructor. Are there any particular problems that exist between the Corps and the contractors and, if so, how might these problems be alleviated or resolved?

Gribble. As you are aware, we have a standing committee between the AGC and the Corps. This committee meets once a year. I think that committee is reasonable assurance that no problem is going to linger or be allowed to fester. At present, I cannot identify any problem existing in the interfacing between the Corps and the contractors which is not being attended to.

Constructor. In terms of new construction or expanded work in established areas, what is the general outlook for the Corps in fiscal 1977?

Gribble. The priorities in the civil works is in meeting our power on line due dates for our hydroelectric facilities. We have a large number of these under construction at present. We have similar priorities in our commercial navigation and flood control projects. In military construction, a major priority is in the upgrading of our hospitals to include dental care facilities. There are also three posts to be built as facilities for three new divisions. And, of course, there's the construction and upgrading of the Bachelor Enlisted Quarters—better known to older veterans as barracks.

Constructor. Could you comment on the role of the Corps in Saudi Arabia?

Gribble. Basically, we are acting as a design and construction agent for the Ministry of Defense and Aviation of the Saudi Arabian government. Within the Ministry of Defense, we are doing work for both the army and the navy. Our work for the army consists of providing the field soldiers with accommodations. Our work for the navy involves construction of two major ports, one on the Red Sea and the other on the Persian Gulf. We are also doing some construction work for the Saudi National Guard, the largest undertaking is the building of a national headquarters.

CONSTRUCTOR. How did the US Army Corps of Engineers ever get involved with Saudi Arabia in the first place?

GRIBBLE. It all began back in the 1950s when we built an international air terminal there. We have had a virtualy continuous relationship with the Saudi government ever since then. With the exception of a few minor projects, all of our work there has been fully funded by the Saudi government. The programs were relatively minor up until about three years ago when our involvement took on new meaning and scope.

CONSTRUCTOR. How many of the contractors doing work for you in Saudi Arabia are American contractors?

GRIBBLE. In Saudi, we are dealing in the international, competitive marketplace for our construction work. I would say that over 90 percent of our engineering/design work is being done by American firms. In regard to the construction we deal with a list of pre-qualified contractors. We generally follow procedures similar to those which we pursue at home. At the present time, most of the contractors in Saudi are non-American construction firms. We'd be happy if more American firms would mobilize to help us in Saudi Arabia.

CONSTRUCTOR. Is there a lack of expertise, a lack of qualified American contractors?

GRIBBLE. No. On the contrary, I would say that the United States probably has the largest percentage of construction firms qualified to work in the rigorous environments of overseas construction. I think some of the conditions associated with doing work in Saudi Arabia discourage some American firms; I think many American contractors view the work as high risk. It has been our hope and our objective to reduce the amount of risk. Among the things we are proposing to the Saudi government is to make the construction packages smaller individually, extending over a shorter construction period.

CONSTRUCTOR. Is financing a particular problem for the American contractor seeking Saudi work?

GRIBBLE. Financing has been a problem. In the past, we have been requiring a bank letter of guarantee. More recently, we have offered performance bonds as an option in lieu of a bank letter of guarantee. American contractors are more accustomed to the use of performance bonds. We are hopeful that this change as well as some others we've proposed will make Saudi work more attractive for the American contractors.

CONSTRUCTOR. Is there any chance for a small or medium-sized contractor to become involved in Saudi work?

GRIBBLE. It would be most difficult for a small contractor to be competitive. Considering the cost of organizing and mobilizing for such work, I think we have little choice but to deal with the giants of the construction industry.

CONSTRUCTOR. In February 1975, Major General John W. Morris wrote an article for us in which he notes that the Corps has reduced construction costs by $228 million through Value Engineering. He also expressed concern that the majority of contractors were not taking full advantage of the Value Engineering program. Are your views similar to his and, if so, why is it that more contractors are not participating in the program?

GRIBBLE. I certainly agree with General Morris that the program is most worthwhile and effective. Overall, we've been pleased with the results. Our batting record shows that 60–63 percent of the Value Engineering proposals submitted by the contractors are validated. I suppose the reason that more contractors do not submit more proposals less not in the 63 percent which are validated, but in the 37 percent which are not. While we look at such figures in a positive light, I can see where the same figures might be discouraging to the contractors. I do feel that all the possibilities of Value Engineering have not been fully explored.

CONSTRUCTOR. General, if we can close on a philosophical note, what would you say have been your greatest satisfactions and dissatisfactions in your job?

GRIBBLE. My greatest satisfaction as Chief of Engineers is the opportunity the job affords me to work with the finest of professionals. Professionals not only in the Corps, but in the architectural, engineering, and construction firms as well.

My biggest disappointment lies in the tarnished image which now plagues the Corps. Some of our projects have brought on what is often undue and unfair criticism of the Corps. The news media, by and large, is not viewing the Corps in an historical perspective. I would also have to highlight the fact that the Corps is caught in the middle of the controversy over Section 404. The public is well aware of us, but awareness does not necessarily breed appreciation.

Take, for example, our work in maintaining the nation's waterways. On a yearly basis, we move about 300 million cubic yards of material from the bottoms of America's channels and harbors. Now that 300 million cubic yards of material has to go somewhere. This brings the Corps into sharp focus for those people who wish to see the country's environmental goals reached at the earliest possible date as well as for those people who see the necessity of keeping the waterways clear to facilitate waterborne commerce. Well, it's damn tough to be in the middle. I'm not sure there is a way to lick the image problem and I am not complaining. Fundamentally, the American political process needs time to work. In the meantime, we have learned to live with the situation as it is—being subject to swipes from all sides.

I think one of the major events to transpire while I've been in office occurred with the designation of the Corps, by the Army Chief of Staff, as a combat arm. This event was most significant—it dramatizes for all of us who wear the uniform the reason we have it on. We respect the responsibilities we've been given and we love our work. We can only wish that our customer—the public—were more appreciative of the work we do so well.

COORDINATED ATTACK AGAINST ADMIRAL RICKOVER

Mr. THURMOND. Mr. President, it is with deep concern that I have noted several remarks by various interested parties to besmirch the good name of an outstanding patriot and dedicated officer, Adm. Hyman G. Rickover. As one who has strongly supported the Navy Department, I cannot help but feel some of its officials have fallen prey to bad advice if they have joined the chorus of attacking Admiral Rickover, who has always spoken from the conscience and the heart.

In his appearance before the Armed Services Committee, Admiral Rickover did not deviate from the Navy position on ships until asked his personal opinion. Even then his personal opinion was more in line with the opinions expressed the day preceding by Admiral Holloway and Secretary Rumsfeld than either of the two might realize. The problem was that the requested program of ships for fiscal year 1977 did not dovetail with the personal opinion of either Admiral Rickover, Admiral Holloway, or Secretary Rumsfeld.

They all favor nuclear power for major combatant ships. Yet, the 5-year program presently in effect makes a serious departure from that goal. While monetary considerations may eventually force us to deviate somewhat from the desirability of having nuclear power for all major combatants, the Defense Department would fare better to stand firmly behind title 8 established by the Congress.

Further, I was distressed to read about the harsh remarks made by Gordon Rule, Director of the Navy's Division of Materiel Procurement, in a speech before the Shipbuilders Council. Mr. Rule, as the Navy's procurement chief, has long taken the position that contractors shall be held to their contracts and that claims settlement should be based strictly on the merits or demerits of the Navy and shipbuilder positions.

His personal attack on Admiral Rickover was possibly prompted by some statements by Admiral Rickover which could easily have been made by Mr. Rule during his career in procurement supervision. In fact, Mr. Rule had made many statements complimentary of Admiral Rickover in taking the same position in dealing with shipbuilders.

Mr. President, as one member of the Senate, I favor a reasonable settlement of the shipbuilders claims. Such a settlement is vital to the health of the shipbuilding industry. However, the narrowed oversight restrictions placed on the Congress by the Defense Department relative to the ship claim question has naturally raised suspicions in the Congress.

My remarks today are not intended as a defense of Admiral Rickover. There are only a handful of men in Washington whose position is as consistent and sound as that of this distinguished public servant. Rather my intention is to express my disappointment at what appears to be a not altogether spontaneous effort to discredit the proven strength of our nuclear Navy and its chief proponent.

Those who support a nuclear Navy are not advocating an all nuclear Navy. Around three-fourths of the Navy will always be dependent on oil, as nuclear powerplants are not suitable for our smaller ships. The proponents of a nuclear Navy favor nuclear power for the large major combatant ships or the fighting ships. That is a small percent of the total force and provides the so-called mix that most everyone supports, but so few seem to understand.

In conclusion, Mr. President, I ask unanimous consent to print in the RECORD an article appearing in the June 3, 1976, issue of the Baltimore Sun entitled "Navy Aide Urges Rickover Removal."

There being no objection, the article

was ordered to be printed in the Record, as follows:

Navy Aide Urges Rickover Removal

Washington.—The Navy's senior civilian contracting officer claimed yesterday that Adm. Hyman G. Rickover should be relieved as chief of the nuclear propulsion program for attempting to "torpedo" recent policies and decisions laid down by the Defense Department.

The claim was lodged by Gordon Rule, the director of the Navy's division of materiel procurement, in a speech before industry members of the Shipbuilders Council of America in which he accused Admiral Rickover of "carrying on undeclared war with the rest of the Navy," and being "primarily' responsible for the breakdown in normal business relations with nuclear shipbuilders."

Mr. Rule's statements were directed at Admiral Rickover's recent public attack on the Ford administration's proposal to cut back on the number of nuclear powered ships planned for construction.

The 76-year-old admiral also recently criticized the government's methods of settling claims with the private shipyards, accused shipyard management of purposely inflating vessel construction costs, and, proposed, as a solution, that the Defense Department nationalized those yards performing Navy work.

Mr. Rule who gained the spotlight himself over recent years for criticizing previous administration policies, contended that Admiral Rickover "has made his continued presence in the Navy incompatible with sound management and necessary military discipline."

"He has made himself a liability to the Navy," Mr. Rule asserted, "and tragically has begun to destroy the very capability he helped to create. His patent contempt for, and treatment of, the private business sector in this country is unacceptable by any reasonable standard of conduct by a government employee—military or civilian."

Mr. Rule claimed that Admiral Rickover "has so arrogantly abused the power of the government" that he has "forfeited the right to hold that office."

RETIREMENT OF MR. SILAS N. PEARMAN, CHIEF HIGHWAY COMMISSIONER FOR THE STATE OF SOUTH CAROLINA

Mr. THURMOND. Mr. President, on June 30, 1976, the State of South Carolina will mark the retirement of one of its most distinguished and dedicated public officials, Silas Nathaniel Pearman, who has served as chief highway commissioner since 1961.

Although Si, as he is known to all, is retiring, his achievements will forever remain as an example of professionalism in the fields of engineering, surveys, highway construction and maintenance.

Mr. Pearman spent his early life in rural Anderson County, S.C., and graduated from Clemson University in 1924 with a bachelor of science degree in civil engineering.

Upon leaving Clemson, he accepted a position as instrumentman with the South Carolina Highway Department. Through his hard work and diligence Mr. Pearman advanced from one position of responsibility to another. In 1947 when I was Governor, I remember how Mr. Pearman and his professional abilities were recognized by the people of South Carolina when he was named to the position of State highway engineer. In 1961, he was elected to a 4-year term as chief highway commissioner and was subsequently reelected for three additional terms. In this position he has served as the supervisor of all engineering, motor vehicle and law enforcement functions of the State highway department.

From his position in 1947 as State highway engineer until the present, Mr. Pearman has successfully steered the progress on all Interstate Highway Systems in South Carolina; has been responsible for over 15,000 miles of improved farm-to-market highways; and has upgraded the State to rank fifth of all States in the number of miles of highway in the State system. Through his efforts in highway safety, the death rate on South Carolina highways has declined from 12.1 per hundred million miles of travel in 1947, to 4 during 1975.

Mr. President, many groups have honored Mr. Pearman for his fine work and leadership. Over 20 years ago he was presented the Distinguished Alumnus Award by Clemson University, and in 1969, the American Association of State Highway Officials presented him the Thomas H. McDonald Memorial Award for his outstanding contribution to the highway engineering profession. He is 1 of only 16 men in the United States who has been so honored by the association.

He has served as treasurer of the American Association of State Highway Officials. Mr. Pearman has recently completed an unprecedented second term as president of the Southeastern Association of State Highway and Transportation Officials, and is the past president of the South Carolina Society of Engineers.

Mr. Pearman is active in various civic activities and organizations which include the Rotary Club and the Masonic Order. He and his gracious wife, Sara, have four children; Mrs. Don (Salley) Elliott of St. Petersburg, Fla., Silas N. Pearman, Jr., Major Pearman, and Ben Pearman all of Columbia, S.C.

Mr. President, South Carolina is very fortunate in having the services of such a dedicated and qualified man. Mr. Pearman has been honored by many newspaper articles, tributes, and resolutions since his announced retirement. I believe that my colleagues would benefit from an account of Mr. Pearman's accomplishments in highway engineering; therefore, I ask unanimous consent that several of these representative articles be printed in the Record.

There being no objection, the articles were ordered to be printed in the Record, as follows:

[From the Columbia (S.C.) State, Mar. 11, 1976]

Distinguished Service Award Goes to Pearman

Retiring South Carolina Highway Department Chief Silas M. Pearman was presented Wednesday a "Distinguished Service Award" for 52 years of work in the field of traffic safety.

Wilbur S. Smith, president of the South Carolina Safety Council, presented the award in behalf of the council at its annual meeting.

Vincent L. Tofany, president of the National Safety Council, was the main speaker at the luncheon. Tofany said although the death totals for traffic, home and work accidents have decreased in the past two years, more efforts must be made to further decrease the numbers.

He said unless substantial safety progress is made by the end of this century, more Americans will be disabled in accidents than are alive today. He said continuation at the present accident level will cost Americans in excess of a trillion dollars by the year 2000.

[From the Columbia (S.C.) Record, Mar. 18, 1976]

Building to Honor Pearman

The new South Carolina Highway Department headquarters building will be named for retiring Chief Highway Commissioner Silas N. Pearman.

The Highway Commission meeting in special session today, unanimously approved a resolution to name the building the Silas N. Pearman Building.

Pearman has served as chief highway commissioner for the past 15 years and has been involved in South Carolina highway transportation for more than 50 years.

The commission today also approved the awarding of the construction contract for the building to McCrory-Sumwalt Construction Co. of Columbia, who submitted a low bid of $7.6 million.

The 228,000-square-foot structure, plus a parking garage, will be built on the block bounded by Park, Pendleton, College and Lincoln streets.

Groundbreaking ceremonies will be held at 3:30 p.m. March 25.

Fifteen construction bids were submitted ranging from $8.6 million to $8.5 million, considerably lower than the department's estimated $10 million cost for the new building.

The department originally intended to build the headquarters on property the department owns on Shop Road.

[From the Charlotte (N.C.) Go magazine, April 1976]

Pearman Will End Outstanding Career With Highway—June 30

Silas N. Pearman will step down June 30 as chief highway commissioner, the office he has held since 1961 in a Highway Department career that began in 1924.

He will have completed 52 years of public service, 50 years of it with the Highway Department.

Pearman served as a member of the Board of Directors of the Carolina Motor Club and as president for two years.

Pearman's 29 years of combined service as state highway engineer, 1947–61, and as chief highway commissioner since 1961 embraces almost half of the history of the Highway Department, which was created in 1917. He is only the fifth chief highway commissioner in all those years.

He was elected to four consecutive four-year terms as the Department's chief administrative officer, the last time in 1973. The office is one of three filled by vote of the 18-member Highway Commission.

Pearman, a native of Anderson County, joined the Highway Department as an instrumentman in 1924 upon his graduation from Clemson University with a bachelor of science degree in civil engineering.

He received the 1969 Thomas M. McDonald Award at the annual convention of the American Association of State Highway Officials. The McDonald award is presented annually to an individual who has rendered outstanding service in Highway engineering over an extended period of time.

H. Ernest Quarles Jr., a veteran of nearly 30 years in top management at the South Carolina Highway Department, was elected unanimously for a four-year term to succeed retiring Chief Highway Commissioner Pearman.

Quarles, a native of Edgefield, has been assistant to the chief highway commissioner since 1968 and prior to that time was head of the Highway Department's motor vehicle division beginning in 1947.

As assistant to the chief highway commissioner, Quarles acted for Pearman when needed and served as the Department's principal liaison with the General Assembly.

His election took place at the regular January meeting of the Highway Commission, the 18-member policy-making body for the Highway Department.

In nominating Quarles Vice Chairman Karl S. Bowers, chairman of the personnel committee; Commissioner Thomas W. Whiteside of Spartanburg, and others of the commission lauded Pearman for his half century of dedicated service to the Department and called Mr. Quarles a "worthy successor".

Bowers said Pearman's name is "synonymous" with the Highway Department and that the commission regretted his retirement is imminent. "His record is unsurpassed . . . his record of achievement will stand for all time."

Whiteside said Pearman "has given his life to the Department, dedicated himself to conscientious public service . . . with such distinction."

Quarles, he said "loves his fellow man and in turn is loved and respected by his fellow man" and by devoting "the greater part of his life" to the Highway Department had earned the right to succeed Mr. Pearman.

Upon his being declared elected by Chairman Edward B. Cottingham of Bennettsville, Quarles thanked the commissioners for "the confidence you have shown in me" and said he "just hoped my shoes are big enough to follow Pearman."

He promised, "I will do my best at all times. My ears are open for suggestions. I am just as happy as I can be and I promise that I won't let you down. . . ."

Pearman said he was "very happy that you have selected the gentleman you have to be my successor."

APRIL 16, 1976.

Mr. S. N. PEARMAN,
Chief Highway Commissioner, South Carolina Department, Columbia, S.C.

DEAR MR. PEARMAN: It has been my pleasure to know you for a number of years. I want to thank you for the courtesy you have always shown me when visiting your office. I remember a time when I came by your office to check on a project in Anderson County and you personally accompanied me to Mr. Holstein's office and did not leave until we had the problem solved.

I am glad you can retire in good health and I hope you have many good years ahead. Anderson County is your county and I hope you will be able to visit often with us.

My best wishes for a long and happy retirement.

Sincerely yours,
M. E. MCDONALD,
State Senator.

APRIL 2, 1976.

Mr. SILAS N. PEARMAN,
1215 Shirley Street,
Columbia, S.C.

DEAR "SI": During my eighteen year tenure in the General Assembly, my richest reward has been my acquaintance and association with the great leaders of our era.

Your Highway Department is one of the most efficient and well organized departments in state government. Our modern highway system is a monument to the outstanding contributions you have made to South Carolina.

May your retirement bring you happiness and contentment. I treasure your friendship and many kindnesses over the years.

With warm personal regards, I am

Sincerely,
T. ED GARRISON,
State Senator.

SECRETARY OF TRANSPORTATION,
Washington, D.C., April 16, 1976.

Mr. SILAS N. PEARMAN,
Chief Highway Commissioner, South Carolina State Highway Department, Columbia, S.C.

DEAR MR. PEARMAN: Congratulations on your more than half century of service to transportation in South Carolina.

It is fitting, as you begin your deserved retirement, that a special day be set aside for the citizens of South Carolina to honor you and to show their appreciation for your accomplishments in the exciting field of transportation.

The state of South Carolina years ago demonstrated its high regard for your experience and expertise in transportation by selecting you as its Chief Highway Commissioner. And the contribution you have made will serve the people of your state for many years to come.

I wish you happiness and continued success as you enter your retirement years.

Sincerely,
WILLIAM T. COLEMAN, Jr.

STATE HIGHWAY DEPARTMENT,
Columbia, S.C., April 20, 1976.

Mr. JAMES J. ROGERS,
Executive Vice President, Anderson Area Chamber of Commerce, Anderson, S.C.

DEAR MR. ROGERS: It is my sincere pleasure to respond to your letter concerning our Chief Highway Commissioner Silas N. Pearman. No man has been more influential or left his mark in state government in a more indelible manner than has Silas Pearman. His very name is synonomous with that of the State Highway Department, and they both share the same excellent reputation. He has given of himself in more ways than the tremendous amount of time he has spent in over fifty years of dedicated serivce. He has literally given his very being to the State of South Carolina and its highway program. A lasting monument to his abilities, achievements, and contributions to the cause of good highways will not only be the new highway building that will bear his name, but that very same system and department that he gave his entire adult life in the formulation of.

"Though nothing can bring back the hour of
splendor in the grass
Of glory in the flower;
We will grieve not, rather find strength in
what remains behind."

With every good wish for a successful occasion, I am

Very truly yours,
KARL S. BOWERS,
Chairman.

WASHINGTON, D.C., *April 2, 1976.*

Hon. SILAS PEARMAN,
Chief Highway Commissioner,
Anderson Area Chamber of Commerce,
Anderson, S.C.:

South Carolina has not known a more dedicated public servant than Silas Pearman. He has consistently been willing to devote himself to those tasks that were not necessarily of high visibility nature. The culmination of which has given us one of the finest highway systems in the world. It can truly be said that South Carolina is the finest place to live due to his dedication.

I extend my best wishes to him for a long, fruitful and happy retirement.

Cordially,
BUTLER DERRICK,
Member of Congress.

MARCH 30, 1976.

Hon. SILAS N. PEARMAN,
Chief Highway Commissioner,
South Carolina Highway Department,
Columbia, S. C.

It is with deep regret that Senate duties in Washington will prevent me from joining you for the dinner in your honor on May 6. However, I would not want this occasion to pass without extending through this communication my own highest commendation for the outstanding service you have rendered to the people of South Carolina. The excellent highway system which we have in our state is, in large-part, a lasting tribute to your hard work and leadership through the years. The fact that we have the finest system of highways in America is no development of chance and I join in saluting you for the major role you have played in this continuing development. It is certainly fitting and proper for the people of your home town to honor you for the major contributions you have made to people all over South Carolina. Best wishes for a splendid evening and for all future success.

Highest regards,
STROM THURMOND,
U.S. Senator.

RESOLUTION

Whereas, Silas N. Pearman was born on a farm in Anderson County at Starr in the year 1904 to Ben J. and Daisy Major Pearman; and,

Whereas, this youngster attended public school at Starr, Bailey Military Academy and, upon completion of these studies, entered Clemson University and began a course of study that led to his receiving a bachelor of science degree in civil engineering in 1924; and,

Whereas, seemingly, farming was not meant to be for him, he looked to the world beyond for a life work that would appeal to him to a greater degree; and,

Whereas, having already worked one summer for the South Carolina Highway Department, he looked for permanent employment with the then-almost new agency created by the Legislature to build South Carolina's highways; and,

Whereas, this was a beginning point from which a lifetime of service to South Carolinians ensued, including succeeding assignments as engineer, maintenance superintendent, construction superintendent, assistant district engineer, and district engineer; and,

Whereas, finally in 1947–61, he served as State Highway Engineer, heading an engineering divsion with supervision over 4,700 employees; and,

Whereas, beginning in 1961 and continuing to the present, Mr. Pearman has been Chief Highway Commissioner, administering a system of 38,000 miles of highway and a broad highway program that embraces engineering, law enforcement and motor vehicle and driver regulation; and,

Whereas, even though for many years this distinguished native son of Anderson County has been living elsewhere in the state, he is still much loved and respected by Anderson County citizens and is still among friends and neighbors from his boyhood when he is within our County's borders; and,

Whereas, those of us who did not know him in his time of living in our County, we know him in his larger state role and from his occasional visits here and of his interest and concern for our County;

Now therefore, be it resolved, that Silas Nathaniel Pearman is and heretofore, for evermore, designated a "First Citizen of Anderson County", to be remembered by all of us who know him as a neighbor and friend in the years he grew up; who kept up with him over the years while he was rising in the ranks and stature with the South Carolina Highway Department; and who have admired and appreciated his service and awesome responsibilities as State Highway Engineer, 1947–61, and Chief Highway Commissioner, 1961–76; and,

Be it further resolved that we wish for Mr. and Mrs. Pearman the very best during their years of retirement; may they have good health; enjoy family and friends; and reminiscense over the years of service rendered to his native state of South Carolina where he led our state's highway program to be one of the finest in the nation.

Edward B. Cottingham, Chairman; Karl S. Bowers, Vice Chairman; Posey Belcher; James W. Bilton; J. A. Cochran; William C. Dobbins, Jr.; Julia R. Dougherty; Furman L. Fendley; Robert M. Floyd; J. P. Hester; Robert G. Mace; W. E. Mitchell; B. K. Phillips; Robert B. Scarborough; H. F. Speaks, James J. Stathakis; Allen E. Vaughn; Thomas W. Whiteside.

A Resolution

Whereas, Silas N. Pearman has ably served the State of South Carolina during a half century of service to the State Highway Department, and

Whereas, Mr. Pearman has devoted the past fifteen years to his duties as Chief Highway Commissioner, with one exception the longest tenure of any highway commissioner in the nation, and

Whereas, Mr. Pearman has presided over the construction of four of the state's five inter-state highway systems, and

Whereas, Mr. Pearman has served effectively as director of the Highway Department's more than 6,004 employees, and

Whereas, Mr. Pearman has brought high honor and distinction to South Carolina as one of only sixteen recipients of the 'Thomas H. McDonald Memorial Award' presented by the American Association of State Highway Officials, and

Whereas, Mr. Pearman brought additional recognition to the State as Treasurer of the American Association of State Highway Officials and as the only official elected to two terms as President of the Southeastern Association of State Highway and Transportation Officials, and

Whereas, Mr. Pearman's administration virtually completed improvement and repaving of South Carolina 11—the Cherokee Foothills Scenic Highway—as a 120 mile scienic highway to improve transportation and increase tourism in the State's Appalachian Region, and

Whereas, Mr. Pearman aided the South Carolina Appalachian Council of Governments in numerous highway improvement projects, and

Whereas, as Chief Highway Commissioner, Mr. Pearman secured a billion dollars of construction and improvement funds for South Carolina highways, therefore

Be it resolved that the South Carolina Appalachina Council of Governments expresses its appreciation to Silas N. Pearman for outstanding service to the State of South Carolina and the State Highway Department.

Be it further resolved that the South Carolina Appalachian Council of Governments expresses its gratitude to Silas N. Pearman for his cooperation and willingness to work for highway improvements in the State's Appalachian region of Anderson, Cherokee, Greenville, Oconee, Pickens and Spartanburg Counties.

Jack E. Millwood,
Chairman.

Proclamation—City of Anderson, State of South Carolina

Whereas, Silas N. Pearman was born in Anderson County on April 5, 1904, attended public schools in Anderson, and was graduated from Clemson University; and,

Whereas, Mr. Pearman advanced through the ranks from one position of responsibility to another until he became the Chief Highway Commissioner during 1961 and has maintained that prestigious position until his retirement; and,

Whereas, Mr. Pearman has had many honors bestowed upon him such as being awarded Distinguished Alumnus Award by Clemson University in 1962; and receipient of the Thomas H. McDonald Memorial Award in recognition of his outstanding contribution to the Highway Engineering profession as presented by the American Association of State Highway Officials; and,

Whereas, Mr. Pearman has served as President of the Southeastern Association of State Highway and Transportation Officials; and,

Whereas, Mr. Pearman has been responsible for over 15,000 miles of improved farm to market highways; and has upgraded our state to fifth rank of all states in the number of miles of highways in the state system; and,

Whereas, Mr. Pearman has been responsible for the improvement of many streets in the City of Anderson

Now, therefore, I, Darwin H. Wright, Mayor of the City of Anderson, South Carolina, do hereby proclaim May 6, 1976 as "Pearman Appreciation Day" in the City of Anderson.

A Resolution of the Anderson County Legislative Delegation

To recognize the outstanding service to the State and record of accomplishment of Silas N. Pearman, retiring chief highway commissioner.

Whereas, Silas N. Pearman has announced his retirement as Chief Highway Commissioner effective June 30, 1976; and

Whereas, his great contribution to the highway system of this State is written in the excellent ribbons of concrete and asphalt extending from the mountains to the sea; and

Whereas, the talents and accomplishments of Silas Pearman as an engineer and executive have been recognized nationwide by his election as an official in the American Association of Transportation Officials and the Southeastern Association of State Highway and Transportation Officials, serving twice as President of the latter organization; and

Whereas, the career of public service performed by Mr. Pearman covers a period of more than fifty years culminating in his service since 1961 as Chief Highway Commissioner; and

Whereas, Anderson County wishes to extend its special thank you to Mr. Pearman for his numerous contributions to the progress of Anderson County in addition to the numerous other accolades being given to this fine and constructive citizen. Now, therefore, Be it resolved that the Anderson County Legislative Delegation by this resolution recognizes the outstanding service to the State and record of accomplishment of Silas N. Pearman, retiring Chief Highway Commissioner, and extends to him on behalf of the delegation and all residents of Anderson County a sincere wish for many happy years of retirement.

Be it further resolved that a copy of this resolution be forwarded to Commissioner Pearman.

M. E. McDonald; Harris P. Smith; William H. Ballenger; M. J. Cooper; Marvin B. Collins; Patrick B. Harris; James M. Chamblee; Fred T. Moore, B. L. Hendericks, Jr.; and T. Ed Garrison.

Resolution

A resolution to establish Thursday, May 6, 1976 as "Appreciation Day" for Mr. Silas N. Pearman, retiring chief highway commissioner for the State of South Carolina.

Whereas, Mr. Pearman was a native of our immediate area and proved well his ability to represent Anderson County as well as the State of South Carolina.

Whereas, his dedication and loyalty will be a quality always remembered, as in our day it is very difficult to find individuals as truly devoted and capable of making our State a promising one, as he has proven to be.

Whereas, Mr. Pearman served a number of 52 years with the State Highway System, 16 years of which he served as the Chief Highway Commissioner for our state. Once again, here is an evidence of the devoted quality he possesses.

Whereas, Mr. Pearman should be noted as an individual of integrity, one that proved himself well in being qualified to carry out the duties of his position.

Let it be hereby resolved, that the County of Anderson as well as the entire State of South Carolina will be at a great loss as Mr. Pearman was the type of individual needed in order to keep our state growing and progressive. We should be very proud of individuals such as Mr. Pearman, for these are the ones making our country an outstanding one.

Clarence W. Harris,
County Supervisor.
Fred H. Bratcher,
County Councilman.
William S. Dove,
County Councilman.
Samuel S. Gerrard,
County Councilman.
S. E. Latham,
County Councilman.
Daniel A. Rhodes,
County Councilman.

A Resolution—"An Exemplary Life of Public Service"

Whereas, Silas N. Pearman was born in Anderson County on April 5, 1904, attended public schools in Anderson, and was graduated from Clemson University; and,

Whereas, Mr. Pearman advanced through the ranks from one position of responsibility to another until he became the Chief Highway Commissioner during 1961 and has maintained that prestigious position until his retirement; and,

Whereas, Mr. Pearman has had many coveted honors bestowed upon him such as being awarded Distinguished Alumnus Award by Clemson University in 1962; recipient of the Thomas H. McDonald Memorial Award in recognition of his outstanding contribution to the Highway Engineering profession as presented by the American Association of State Highway Officials; served as Treasurer of the American Association of State Highway Officials from 1963–1973; served as President of the Southeastern Association of State Highway and Transportation Officials; Past President of the South Carolina Society of Engineers; witnessed significant changes in construction methods and equipment during his tenure of service with the Highway Department; has successfully steered the progress maintained in the State of South Carolina on all interstate highway systems; has been responsible for multi-laning and improving many miles of primary system highways; has been responsible for over 15,000 miles of improved farm to market highways; has been responsible for the State's highway system improvements from 15,600 miles in 1947 to the present of nearly 38,000 miles; has upgraded our State to fifth rank of all states in the number of miles of highways in the State system; has been responsible for the Department's safety efforts and reduced highway deaths from 12.1 per hundred million miles of travel in 1947 to 4.0 during 1975; has most ably and capably supervised the 6400 employees in the State Highway Department.

Now, therefore, be it resolved by the Officers and Directors of the Anderson Area Chamber of Commerce, duly assembled on the 14th day of April 1976, did designate the 6th day of May 1976 as "Pearman Appreciation Day" and unanimously and wholeheartedly did commend Mr. Pearman for his outstanding leadership and did wish for him and his wife continued happiness and success during their years of retirement.

Resolved on this the 14th day of April 1976.

DEBATE ABOUT A SINO-SOVIET RAPPROCHEMENT

Mr. THURMOND. Mr. President, I wish to call to the attention of the Senate an article by Victor Zorza entitled "Debate About a Sino-Soviet Rapprochement."

This article appeared in the June 4, 1976, issue of the Washington Post and while I would not endorse the views of the author, he has certainly raised some issues worthy of the attention of the Congress and the Nation.

Mr. President I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, June 4, 1976]

DEBATE ABOUT A SINO-SOVIET RAPPROCHEMENT

(By Victor Zorza)

The possibility of a reconciliation between China and Russia is no longer dismissed in Washington as readily as it once was. An article in the new issue of Foreign Policy by Roger Brown, a senior analyst at the CIA, warns the administration that U.S. policy could lead Peking to seek an accommodation with Moscow. To avert this, he recommends full U.S. recognition of China, which would entail the breaking of diplomatic ties with Taiwan, and the provision of U.S. military equipment to the Peking regime.

It is unusual, not to say unprecedented, for the CIA to join in a public debate about the direction of U.S. policy. An editorial note explains that Brown is presenting his own views, not those of the CIA. But the article will, inevitably, be seen in some foreign capitals as a deliberate signal of the administration's intentions.

Nothing could be further from the truth. Indeed, administration officials fear that the appearance of the article may complicate U.S. relations with both Moscow and Peking. They are angry with the CIA for clearing the article for publication. They are also concerned that some of the issues raised by Brown may become involved in the election campaign. Ronald Reagan has already denounced the administraton's plans to "sacrifice" Taiwan, and Kissinger has promptly denied that there is any such intention.

Brown's article is a contribution to a high-level debate that the administration has tried hard to keep private. There is a similar debate within the CIA itself—not, indeed, about the policy the U.S. should follow, since the CIA is supposed to keep out the policy-making, but about the analysis that should be supplied to the policy-makers.

The overwhelming weight of opinion within the intelligence community—of which the CIA is only one segment—has long been on the side of those who believed that there was no serious possibility of a Sino-Soviet reconciliation. It therefore followed that there was no pressing need to mollify Peking either by ditching Taiwan or by offering arms to China. But a small minority of analysts, made up of seven men who were listed as "dissenters" in a State Department memorandum last year, believed otherwise.

Brown says that it has been a premise of U.S. policy since 1969 that relations between Peking and Moscow are likely to remain hostile, and then proceeds to question its validity. He argues that prolonged stagnation in Sino-U.S. relations could help to undermine the power of those Chinese leaders who are favorably disposed toward Washington, and strengthen the pro-Soviet elements in the leadership. Then, in the power struggle that follows the death of Mao, China might "seek a general accommodation with Moscow."

"Since these eventualities are clearly not in the best interest of the United States," he says, "I believe that Washington should consider recognizing Peking" before Mao's death. This, he argues, might influence the configuration of political power in China, and the course of the post-Mao succession struggle.

He sees China's recent purchase of Rolls Royce fighter aircraft engines from Britain as a strong indication of its interest in Western military technology. He argues, by implication, in favor of similar U.S. sales, since these would lead to increased Sino-Soviet tension, "thus inhibiting any moves toward Sino-Soviet reconciliation."

The first serious proposal along these lines was made last fall in a Foreign Policy article by Michael Pillsbury, a Rand analyst who was strongly attacked by Washington officials for what they described as a wrongheaded and irresponsible approach. But the very vehemence of their attack showed the importance of the issue they were trying to play down. Now comes the Brown article, hard on the heels of a full-scale CIA study entitled "Prospects for a Sino-Soviet Rapprochement after Mao," which clings to the established line.

The CIA's basic conclusions are that even if a desire to reduce differences should emerge among Chinese and Soviet leaders after Mao's death, Peking and Moscow would each find that formidable obstacles, created by conflicting national interests, would circumscribe the concessions each could offer to the other. But the questions first raised by Pillsbury have had a considerable impact on Washington's policymakers, if not on the analysts.

A memorandum recently sent to the China-watching section of the State Department's own intelligence organization listed a series of questions posed by Kissinger. "What should we be doing," it asked, "to deter a Chinese-Soviet rapprochement?"

"We doubt," said a response dated May 6, "that any faction (in Peking) would dare to undertake a major foreign policy reorientation. . . . Rather than ask what we should do to deter a Sino-Soviet rapprochement, perhaps we should examine the basic assumptions." But even this, the memorandum suggested, should wait until later in the year, when the analysis might be found useful by a new administration. But what if Mao dies first? If Kissinger really wants to know what to do, he will have to read Brown's article.

AN UNDERGROUND SUBMARINE COMMUNICATIONS SYSTEM

Mr. THURMOND. Mr. President, the Defense Department is apparently making no progress in connection with its efforts to install a vitally needed underground submarine communications system.

Originally known as the Sanguine system, efforts to have it located in several States during the past 5 or 6 years have proved fruitless.

At this point in my remarks I ask unanimous consent to have printed in the RECORD two articles. The first, "Nobody Wants Giant Radio System for Subs Nearby," appeared in the June 2, 1976, issue of the Washington Star under the byline of Roberta Hornig. The second article, "Navy's Giant Antenna Hits Static, Again," was written by Howard Dratch and appeared in the May 31, 1976, issue of Overseas Weekly.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. THURMOND. Mr. President, these articles are self-explanatory. They point out that in spite of the progress our Nation has made in antisubmarine warfare, finding a submarine at sea is still an immensely difficult task. The vital effectiveness of our missile launching submarines may be impaired if we continue to have difficulty in finding an area where the citizens are willing to have constructed an underground communications system. This system would be designed to enable the Navy Department and the President to communicate with our forward based missile launching submarines in the event of a national emergency.

There may be other solutions to this problem, but it is, nevertheless, one which should receive top priority within the Defense Department in the very near future. Some way must be found to bring into being an effective and secure communications system with our submarines in all parts of the world's oceans. This problem should be given highest priority.

EXHIBIT 1

[From the Washington Star, June 2, 1976]

NOBODY WANTS GIANT RADIO SYSTEM FOR SUBS NEARBY

(By Roberta Hornig)

After getting kicked out of both Wisconsin and Texas, the Navy is eyeing a remote part of the semiwilderness of Michigan's Upper Peninsula as the site of a 3,500-square-mile, underground submarine communications system it has been trying to build for 18 years.

And, despite the endorsement of Michigander Gerald Ford, the Navy isn't getting a warm welcome there either.

While Ford was winning the May 18 presidential primary, Project Seafarer, as the Navy calls it, lost in referendums in five Upper Peninsula counties. It was rejected in Ontonagon, Gogebic, Iron, Dickenson and Baraga by at least 4 to 1. Voters in six communities earlier said "no" by as much as 28 to 1.

The controversy is over the remergence of what used to be called "Projects Sanguine," which has been resurrected under the new name "Seafarer."

Like Sanguine, Seafarer is designed to allow communications with deeply submerged Trident submarines worldwide. Currently, the Navy says submarines have to come close to the water's surface to send or receive messages.

Seafarer would operate on extremely low frequency waves (required to penetrate the oceans) and would employ a network of some 2,000 miles of antennae buried three to six feet underground. The only difference from the Sanguine plan is that the transmitters are now slated to go above ground.

The system would go into a "site adapted grid" shaped like a tic-tac-toe board, covering thousands of square miles. In order to transmit signals around the world, the Navy says, it needs such a large antenna to bounce a signal off the ionosphere layer of the atmosphere to the submarines deep in the seas.

The Sanguine idea had its debut in Wisconsin in 1968. Then the system was to cover 22,500 square miles, about 41 percent of the state, and was being billed as "nuclear war proof" because of the some 240 underground transmitter sites to be buried deep in the ground in concrete vaults. (Becaused of its reduced above-ground facilities, Seafarer is not considered war proof.)

A year later, as opposition grew, the project shrank first to 10,000, then to 6,400, then to 2,400 square miles. In its recent comeback, the Navy put its size at 2,700 square miles.

Wisconsin rejected Sanguine, apparently because the secretary of defense at the time, Melvin Laird, happened to come from the state. About three days before he resigned, he ordered the Navy to leave Wisconsin and suggested it try Texas instead. The Navy did, but was booted out there, too, because of what it calls "public opposition."

"Among all the other important reasons, we're resentful because we don't want it either. Why should we be saddled with it?" one of the program's vocal opponents, William Robinson, a biology professor at Northern Michigan University in Marquette, said the other day.

"It's a bloody battle," is the way another Seafarer opponent, Eunice Carlson, a microbiology professor at Michigan Technological University in Houghton, describes the happenings on the Upper Peninsula these days.

Technically, the Navy is considering three sites for Seafarer and is preparing environmental impact statements for them all. The others are on federal Western lands: one the Nellis Air Force Base-Energy Research and Development complex in Nevada, the other the Ft. Bliss-White Sands complex in New Mexico.

Michiganders on the Upper Peninsula believe, for better or worse, that they're way out in front as the favored site.

One reason is the practical matter of money. Karns says it will initially cost $320 million to put Seafarer in Michigan. The cost would soar to over $980 million, by Navy estimates, to locate it in the Western states.

Another factor is that like Wisconsin, the Upper Peninsula shares the same geological formation—the bedrock Laurentian Shield—which is be a good electricity conductor.

Finally, Michigan's governor, William G. Milliken, "invited" the Navy into the state—at its request—but with codicils.

Among the conditions, Milliken insisted the Navy get the National Academy of Sciences in Washington to study Seafarer's health and environmental impacts, if any. He also ordered a public opinion poll taken after the Navy completes its environmental impact statement and told the Navy to develop plans to turn off the system if "deleterious effects" begin showing up.

Since the Navy began moving in on Michigan, and Upper Peninsula opposition grew, Milliken appears to be having second thoughts.

"The Navy hasn't been altogether straight through this," said one of the governor's aides. He summed up Milliken's current position this way:

"I guess you can say he's predisposed against it but he thinks it's only fair to withhold judgment until all the facts are in."

To ease fears, the Navy has commissioned studies costing around $3 million, up to now, on environmental and health effects.

Scientists for the Navy have studied humans, beagles, rats, mice, monkeys, guinea pigs, frogs, chickens, turtles, ducklings, fruit flies, scallops, snails, crabs, shrimp, squirts, croakers, fin fish, pigeons, flour beetles, wood louse, earthworms, slugs, salamanders, seagulls, buckwheat and corn seedlings, onions, beans and pine trees.

Some scientists believe, while others disagree, that ELF (extremely low frequency) fields can be detrimental to human and animal life. Navy studies to date may or may not bear this out.

One such test involves "serum triglycerides," a medical term that has become a household word in Northern Michigan. It involves a change in the human triglyceride blood count that some believe could make people vulnerable to heart disease.

In a laboratory test at Pensacola, Fla., as well as medical examinations of Navy employes at Clam Lake, some changes in triglyceride levels in some people showed up.

Karns and Capt. Daniel Donovan, Seafarer's project director, say the studies were inconclusive and that the people adversely affected had other health problems anyway.

They also stress that more studies are being conducted, this time with monkeys—because using humans is "very touchy." Further, they say, the results were "preliminary."

Another disquieting test result cited by Michiganders is a rat experiment in the Navy's Johnsville, Pa. lab. This one showed that some rats exposed to the ELF fields were retarded in growth. Again, the Navy says the results are only preliminary and inconclusive and that other scientists disagree.

Opponents of the project also cite:

Fear that Seafarer will make them a nuclear target.

Fear of adverse environmental effects. The area's barrenness, which makes it attractive to the Navy, is also an economic resource for the area. It attracts hunters and fishermen—people who want to get away from other people.

Property rights. Many opponents are natives of the area or people who made it their home because of its semi-wilderness character. They're worried the Navy might condemn their property, or scar it when building the underground transmission system.

A basic questioning of a project the Navy has been—in their view—trying to pawn off on them after 18 years of failure elsewhere.

"They've been trying to get this since 1958 and if they can't sell it in 18 years, it may not be all that good or necessary," charges Robert T. Brown, a biological sciences professor at Michigan Technological University.

The opponents put little faith in either the environmental impact statement now in preparation or the National Academy of Sciences' report.

The EIS is being prepared by GTE Sylvania. "The same outfit in line to build the thing is the outfit doing the statement," Robinson complains. He says he knows how it's going to come out.

Along with Robinson, other anti-Seafarerites also charge that the NAS panel is "stacked" with distinguished scientists who tend to lean toward Seafarer. It is a charge NAS project director Samuel Abramson rebuts, but not entirely.

[From Overseas Weekly, May 31, 1976]

Navy's Giant Antenna Hits Static, Again

(By Howard Dratch)

For the fourth time, U.S. navy plans to build the world's largest radio antenna, spread out over 2,700 square miles, have sparked controversy over charges that it poses serious hazards to human health and the environment.

Pressured out of Wisconsin, Michigan and Texas in recent years, the Navy's Project Sanguine, now called Seafarer, is back in Michigan's Upper Peninsula. The Navy wants to build a gigantic horizontal grid of electrical wires capable of transmitting extremely low frequency radio waves which could penetrate the ocean depths.

A key link in the U.S. "deterrent strategy," the Navy says Seafarer would ensure that America could retaliate from deep within the sea against any nuclear attack, without risking the direction and destruction of submarines. Without the system subs are required to approach the surface and float a visible antenna to receive radio signals, making them vulnerable to attack.

Despite the past controversies, labor unions and businessmen in northern Michigan—hit hard by the recession and eager for potential construction jobs—last year convinced Gov. William Milliken to invite the Pentagon to reconsider the Michigan site.

But opposition in the Upper Peninsula is still fierce. Opponents, citing scientific studies the Navy calls "inconclusive," point out that extremely low frequency radio waves have been shown to raise blood pressure in experimental monkeys, retard the growth of seedlings, cause mutations in insects and microorganisms, alter migration patterns of birds and shorten the lives of some plants.

An organization called "People Against Sanguine-Seafarer" demanded that Gov. Milliken ask the Navy to halt its plans when they discovered the Navy had kept secret for two years a report concluding that more research was needed on Seafarer's potential effects on humans.

The Navy's initial findings showed increased levels of triglycerides—chemical substances found in natural fats and associated with increased risk of heart attacks—after exposure to extremely low frequency waves.

Other Upper Peninsula residents are simply angry that the proposed antenna would cut huge swaths in unspoiled timber forests and interfere with local television reception.

And some scientists have disputed the Navy's engineering studies, arguing that the low frequency waves might not be able to reach the subs. Professor Alwyn Scott of the University of Wisconsin claims they could be electronically jammed by the enemy.

The rising concern has already taken a considerable toll:

Sen. Philip Hart (D-Mich.) has expressed concern about Seafarer's environmental impact, and he and Sen. Gaylord Nelson (D-Wis.) have already warned the Pentagon they think Seafarer might be militarily unjustified. Nelson has persuaded a Senate armed services subcommittee to hold public hearings on the project this spring.

Dr. Howard Tanner, director of Michigan's Natural Resources Department, has blasted Gov. Milliken's invitation to the Navy as "a foot in the door," arguing that it should not have been issued until completion of a National Academy of Sciences project evaluation.

One northern Michigan town, Iron Mountain, voted in November against the project by a 3-to-1 margin—and other towns will hold referenda this spring.

And Rep. Phillip Ruppe, northern Michigan Republican, has come out against the project, angered that the Navy refused his request that it abide by the results of the local referenda.

STREAMLINING

To meet the objections of local residents and Congress, the antenna has been cut down in size and cost since it was first introduced in Wisconsin as Project Sanguine.

Once planned to range over nearly half of Wisconsin, it has been cut back to 2,700 square miles—an area the size of Delaware. And the estimated cost has dropped from an original $1.5 billion to $220 million.

More important, the original Sanguine was to be built underground, with 240 concrete-encased transmitters theoretically able to withstand direct nuclear attack. But Seafarer now calls for only 10 ground-level transmitters which would be knocked out by a nuclear explosion.

The Navy may be trying an end run where a direct attack failed, however, lowering the price to get initial approval and asking for more later.

When the navy announced its switch from Sanguine to Seafarer in March 1975, it explained that it no longer considered Sanguine capable of surviving a Soviet nuclear attack. But that same month Navy Secretary William Middendorf, when asked by Rep. John Flynt Jr. (D-Ga.), if additional funding to transform Seafarer into Sanguine might be requested in the future, replied that Seafarer was just the first stage in the Navy's thinking. "I think we can harden those sites (against nuclear attack) later on and come to this committee and request the funds," he added.

FUTURE OBSTACLES

The National Academy of Sciences is currently preparing a report that will be included in the Navy's environmental impact statement on Project Seafarer. The Navy has promised its statement by early 1977, after which public hearings on the project will be held.

Michigan Gov. Milliken has been promised by the Defense Department that his state will not be chosen as the site without his concurrence.

But opponents of the project are worried by Navy plans to build a 100-square-mile "test facility." Since such a facility already exists in Wisconsin, opponents fear the navy isn't seeking preliminary research but one step toward full development of Seafarer in Michigan.

And the recent congressional decision to go ahead with plans for a fleet of Trident submarines, each costing $1.8 billion and carrying 408 nuclear warheads, may give further impetus to the Navy plan.

If construction of Seafarer in Michigan is blocked, however, the Navy has two back-up sites: New Mexico's White Sands Army Base and Nevada's Nellis Air Force Base. Both are out of reach of environmentalists and ranchers.

But without Michigan's Laurentian Shield—a granite formation underlying northern Michigan and Wisconsin that forms a perfect geological layer from which to transmit low frequency radio waves—the estimated price tag would zoom from $220 million to roughly $500 million. And approval from Congress would still be necessary.

INVESTING IN YOUNG PEOPLE

Mr. BROCK. Mr. President, Neal R. Peirce in a recent article entitled "Investing in Young People" points out some interesting facts, as well as some interesting ideas. Perhaps it is time we began taking a more sincere approach to the needs and problems of this group of Americans. With this in mind, I ask unanimous consent that Mr. Peirce's article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

INVESTING IN YOUNG PEOPLE

Universal youth service, often proposed but never instituted in the United States, has emerged again as a response to sky-high levels of unemployment—and alienation—among the nation's young people.

Even in a "full employment" economy, according to former Secretary of Labor Willard Wirtz, "there would be a 20 per cent unemployment rate among white youths and 40 per cent among black youths. More and more employers are simply not hiring anybody under 20 except for dead end jobs such as dishing out hamburgers."

"We make almost no investment in youth between 16 and 25," Rep. Andrew Young (D-Ga.) told this correspondent. "These young people wander the streets and become drifters. They lack a basic sense of direction or roots." The dearth of youth-oriented programs, Young said, leads directly to "crime and all kinds of social disorders we're now throwing money at—with few tangible results."

It would be a better idea, Young said, to "throw some love" instead, through a universal youth service (UYS) that gives young people a structured way to serve their communities and gain their first work experiences.

The start of a national campaign to enact UYS in the 1970s emerged last month at a conference of some 75 educators, labor officials, businessmen and alumni of past nation youth projects at the Eleanor Roosevelt Institute in Hyde Park, N.Y.

The Roosevelt tie is a "natural." The closest the nation ever came to UYS was the Civilian Conservation Corps' forest and park camps and the wide variety of service projects under the National Youth Administration, both programs of President Franklin D. Roosevelt in the 1930s.

Youth programs since World War II have been limited to specialized groups: the GI Bill for veterans, the Peace Corps and VISTA for the highly qualified, and Great Society "war on poverty" programs for the disadvantaged. President Lyndon B. Johnson considered national service in 1966—about the time he found he couldn't have both guns for Vietnam and more social programs at home.

Among attendees at the Hyde Park conference were Young and Franklin D. Roosevelt Jr., strong supporters of Jimmy Carter, the frontrunning contender for the Democratic presidential nomination. Carter, Roosevelt said, believes a national plan and program to combat youth unemployment is essential, and is studying the universal service approach. Both Young and Roosevelt said they would strongly urge Carter, should he be elected, to back UYS. Young, as Carter's leading advocate among black elected officials, might be particularly influential.

No precise formula for UYS emerged from Hyde Park, but three points came through loud and clear: Youth must be involved in the planning. Major federal funding—$1 billion to $5.5 billion annually—would be needed. And the program should be administered at the grass-roots level to avoid federal bureaucratic red tape and to encourage local initiatives for creative service opportunities.

Under the model developed by Donald J. Eberly, a universal youth service proponent since the early 1950s, the program "must be truly open to all persons from 18 to 25." It would have two major options—community service (teacher's aides, paramedics, assistants in social agencies, etc.) and environmental service (tree planting, park improvements and the like).

Applicants would agree to a contract with public or private agencies that had requested volunteers. UYS would pay the minimum wage to all participants.

A pilot program in Washington State, first proposed by Republican Gov. Dan Evans and similar to the Eberly model, has been in operation for three years. By all accounts this "Program for Local Service," funded by the federal volunteer agency, ACTION, and administered by the state's Office of Community Development, has been exceptionally successful. Agencies have hired 40 per cent of volunteers at the end of their year's service, and 71 per cent of the agencies reported that the volunteers "equalled or surpassed regular employees in motivation, responsibility and skills."

The Washington program does not eliminate applicants for lack of education or experience. One 22-year-old woman, considered mentally retarded, worked at a senior citizens center organizing events from pinochle tournaments to trips out of town. When her service was up, the residents successfully petitioned their city council for funds to hire her permanently.

Young envisages a prestige youth corps in non-military type uniform ("like what our Olympians wear"). Service should begin, he thinks, with physical and civics training and discipline to help young people learn to work within a group. Young believes the program should eventually be compulsory. He had opposed abolishing the draft because "the Army provided the only education a lot of poor folk got."

But compulsion, according to Washington's Secretary of State Bruce K. Chapman, "is a horrible idea that would poison the well of volunteerism and service. I don't trust the government to know what's best for people." Voluntary service, Chapman added, can be an honor and challenge for young people and provide incentives for longterm career success.

UYS could even expand to include private sector opportunities—perhaps, Roosevelt suggests, through tax breaks to employers who offer young people work experience. The arts, home crafts or even organic farming could be eligible, Chapman says.

In place of either "federal officialdom" or "local officialdom" administering UYS at the local level, Wirtz would turn to such groups as community colleges, Lions and Rotary Clubs, or Big Sisters to propose volunteer activities and run the program.

Bypassing state and local governments, however, could generate the same kind of opposition that eventually killed off Great Society projects such as the Community Action Program.

A strong point of a successful UYS program is that it might reduce future criminal justice and welfare costs so significantly that it would be cost-effective, even with annual expenditures of several billion dollars of the taxpayers' money.

But the essential point is human. As President Roosevelt said in 1935, when 2,870,000 young people were out of work and out of school. "We can ill afford to lose the skill and energy of these young men and women."

(NOTE.—Mr. Peirce, a contributing editor of National Journal, writes a syndicated column on the problems of cities and states.)

AMERICAN SUPPORT OF AFRICAN VIOLENCE

Mr. BROCK. Mr. President, a recent Washington Post editorial "American Support of African Violence" I think clearly points out a serious issue that we must face quickly. In this vein, I ask unanimous consent that this editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

AMERICAN SUPPORT OF AFRICAN VIOLENCE

The War in Rhodesia is drawing American policy into an inconsistency that ought to be given a careful look before it hardens into a major contradiction. On the one hand the Ford administration is trying to mobilize international pressure to remove the Cuban troops already in Angola by way of ensuring, among other things, that they won't be used in Rhodesia. On the other hand, the administration is asking Congress for $12.5 million in aid to Mozambique, this money will make it that much easier for Mozambique to weather the effects of suspending economic ties with Rhodesia. Not to put too fine a point on it, what that means is that this $12.5 million will also make it that much easier for Mozambique to fund the operations of thousands of Rhodesian guerrillas that Mozambique is sponsoring against Salisbury right now.

To be sure, the source of this inconsistency is plain. For seven-plus years the Nixon and Ford administrations calculated that "the whites are here to stay . . . there is no hope for the blacks to gain the political rights they seek through violence." In other words, the United States in that period largely ignored the liberation struggle. Only when a successful Cuban intervention in Angola raised the prospect of Communist gains elsewhere did Secretary of State Kissinger seek, in haste, to place the United States unequivocally on the side of black majority rule in Rhodesia. What he seems not to have fully perceived, however, is that by its earlier neglect Washington had lost a good deal of what opportunity there may have been to facilitate majority rule by "peaceful change." By the time Mr. Kissinger got into the action, that goal was already being pursued by violent means. And so, by political commitment and—if the aid to Mozambique goes through—by material support, the United States is becoming a party to the use of force across an international frontier. This will be the actual effect, though perhaps not the intended or admitted purpose, of the aid.

His eye still mainly on those Cubans in Angola, Mr. Kissinger declared the other day that American policy had contributed to Fidel Castro's recent "positive" pledge to halve his forces in Angola by 1977. Washington is entitled to take a little credit, however difficult it may be to read Mr. Castro's motives at any point along the way. As of right now, Mr. Castro wants it known that he does not wish to become "the crusader of the 20th century," and his second-in-command offers the fiction that, in aiding the Popular Movement in Angola, Cuba was merely backing the already-legitimate government of one country and not preparing to intervene elsewhere. Any cooling off of American and Cuban passions is to their common good. But thousands of guerrillas are already operating out of Mozambique. American aid will give them a psychological as well as material boost. The issue of violence in Rhodesia will be there, even if the Cubans are not.

We reject Sen. James B. Allen's (D-Ala.) blinkered views on the racial enlightenment of the Salisbury government. We think nonetheless he is right to ask why the United States should support an armed attack on an established government across an international border—regardless of how reprehensible that government may be and irrespective of how it holds power. You don't have to be soft on Salisbury— and we wouldn't exactly place ourselves in that category—to be worried about whether even indirect American collaboration with Mozambique in this enterprise would not create a questionable precedent in a highly explosive situation. It would move Washington uncomfortably closer to doing in Rhodesia exactly what it criticized the Soviets for doing in Angola. American sympathy for black liberation should be unhesitating and beyond question. But whether the United States should support this objective by lending its financial weight to a policy of violent intervention is quite a different issue, and one that is fraught with more than enough perils and pitfalls to justify a prompt and full debate.

SURVIVING A NUCLEAR WAR

Mr. BROCK. Mr. President, last June my distinguished colleague, the senior Senator from Tennessee, drew the attention of the Senate to the disquieting fact that the Soviet Union is spending at least 10 times more on civil defense than the United States. He added that even little Switzerland on a per capita basis is outspending us by a ratio of 30 to 1.

In February of this year I had occasion to reread Senator BAKER's remarks, and because of my concern for an effective civil preparedness program, I circulated among all my colleagues a reprint of his comments. To my disappointment, however, no corrective steps have so far been taken.

In a recent article in the Washington Post, "Surviving a Nuclear War," Rowland Evans and Robert Novak again referred to the issue. As these two writers correctly point out the ability of the United States to absorb a nuclear attack and to continue as a nation is only marginally less important than possession of so-called equivalence in nuclear striking force. A possible scenario in case of an America-Soviet confrontation would involve an anticipated loss of 10 million human lives on the Soviet side—that is, half their losses in World War II—as compared to 90 million on ours. There can be no doubt that an evaluation of the comparative risks at the critical moment is bound to affect drastically the outcome of any confrontation.

Congress has so far failed to deal with the unpleasant realities of a second energy crisis, apparently hopeful that "the problem will go away."

In a similar fashion but with the possibility of more disastrous consequences, it refuses to face the issue of civil defense. I ask unanimous consent that the article entitled "Surviving a Nuclear War" be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SURVIVING A NUCLEAR WAR

(By Rowland Evans and Robert Novak)

With "detente" now stricken from the administration's lexicon and Congress unwilling to challenge President Ford's record-high defense program, this country's increasing danger on the civil defense front is under belated attack from an unlikely combination of hawks and doves.

What is astonishing is that defense of the homeland against possible nuclear attack—"thinking the unthinkable," in the words of former Secretary of Defense James Schlesinger—has been a virtual no-no topic of serious political debate for 15 years.

But this stark warning from a dovish House Armed Services Committee panel signals belated change:

"The panel received truly alarming estimates . . . about the comparative casualties in the event of nuclear attack if the Soviets had evacuated their people during the crisis period and we were unable to do so: The Soviets would lose about 10½ million people; the United States would lose about 90 million people."

The chairman of that three-man panel is Democratic Rep. Robert L. Leggett of California, a moderate dove. Also on the panel is moderate Republican Donald Mitchell of New York and one of the most dovish freshman Democrats in the House, Rep. Robert Carr of Michigan. Their unanimous recommendation: that the miserly $71 million civil defense program be increased to $110 million at once.

Even such an increase would not come close to the long-time Soviet spending level on civil defense, which the panel estimated at $1 billion a year.

* * * * *

Soviet survival is based on rapid evacuation of the cities, on vast subterranean fallout shelters in the evacuated areas and on war plants capable of continuing operations after a nuclear exchange by virtue of "hardened" sites or geographic dispersal in remote areas.

Lacking even skeleton programs for these "war-survival" measures (often called passive defense), the U.S. could find itself prohibitively out-psyched if deadlock between Moscow and Washington became the prelude to a possible nuclear exchange. Rather than risk such an exchange from a position of proven inferiority in terms of the ability to withstand it, the U.S. might be forced to yield.

Indeed, ability to absorb a nuclear attack and continue as a nation is regarded by some experts as only marginally less important than possession of rough "equivalence" in nuclear striking force. That is why a Soviet diplomatic agent—openly and above board—attended all 11 sessions of the Leggett panel. What the U.S. does in civil defense is of paramount importance to Moscow.

The heart of the panel's report warned that "the size and the reach of the Soviet effort, coupled with its aggressive buildup of arms, raise profound questions about the appropriate defensive counter-actions to be taken by the United States."

That conclusion fits a totally separate warning by former ambassador to the Soviet Union Foy D. Kohler, now a professor at the School for Advanced International Study at Miami University; a hard-line hawk, Kohler, who ran the U.S. embassy in Moscow from 1962 to 1966, states in the foreword to a just-published book ("War Survival in Soviet Strategy," by Dr. Leon Goure, published by Miami University):

"The Soviet Union has stepped up in very substantial ways its war-survival program since the advent of the detente relationship with the U.S. in May, 1972, and is today steadily increasing its attention and resource allocations to the program."

* * * * *

With knowledgeable hawks like Schlesinger and Kohler and dovish Democrats like Carr and Leggett in basic agreement, perhaps the time has come when this country will stop playing the most dangerous kind of Russian roulette with a totally unpredictable future.

MALPRACTICE SUITS

Mr. BROCK. Mr. President, one of the difficulties facing our health care delivery system as well as the millions of Americans who have to pay ever-increasing medical bills is that of malpractice suits. Jack Mabley, in the Chicago Tribune, recently pointed to an interesting case involving a malpractice suit. It indicates that something can be done. I ask unanimous consent that Mr. Mabley's article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

MD's COUNTERSUIT A VICTORY FOR LAW

(By Jack Mabley)

"The issue is simple—can an attorney with no reasonable evidence just haphazardly throw a malpractice suit against a doctor?"

That question was asked by Dr. Leonard Berlin in this column seven months ago.

This week the answer came. It was a resounding No!

Dr. Berlin is a radiologist at Skokie Valley Community Hospital. He had taken an emergency X-ray of the little finger of a woman who hurt the finger playing tennis.

The finger didn't heal properly, and the woman sued Dr. Berlin, and a surgeon who treated her finger, and the hospital for $250,000. Dr. Berlin believed the suit was frivolous and unjustified. Instead of feeling terrible and letting the insurance company take care of things, he decided to fight back.

He filed a suit for damages against the woman, her lawyer husband, and two lawyers who filed the malpractice suit. This week the jury awarded Dr. Berlin $8,000 damages.

Those are the bare-bone facts of the case. Now for the significance of this suit.

It is the first instance in Dr. Berlin's knowledge where a doctor fought back in this manner. He even acted as his own attorney at the beginning, but the case became so complex he engaged an attorney.

Most of the national malpractice problem stems from frivolous suits. They are suits with little merit, but are filed by lawyers who figure on settling out of court for $5,000 or $10,000. The doctors and insurance companies go for these settlements because it costs far more to go to trial to prove innocence.

Dr. Berlin spent at least $10,000 proving his point, and if all the lawyers and doctors who helped his case were paid their normal fees, the cost would have more than doubled.

It is significant that lawyers were vital witnesses in establishing the responsibility of their own profession.

Charles J. O'Laughlin, partner in the prestigious firm of Jenner and Block, was the first witness. "The lawyer has the duty to ascertain whether there is a reason to believe the case is valid," O'Laughlin told the jury. "He has a duty not to proceed if the suit will have the effect of harassment or expense."

Wayne Giampietro, who represented Dr. Berlin, told the jury:

"This case will determine whether a person is totally immune from the law, or whether we attorneys are accountable in our job, just as everyone else is . . . whether attorneys will be called to account for not taking the care they ought to.

". . . Mrs. Nathan felt she was injured and somebody was going to have to pay. That's not what the law is for."

The lawyers for the defense argued that it was sufficient for a lawyer to accept the word of his client.

A key factor in this argument was the actual X-rays. Dr. Berlin said that the X-rays were available for examination, so that an expert could have determined whether they were faulty but that no examination was made before the suit was filed.

The hospital was included in the suit because it was the location of the incident. The hospital was dropped as a defendant, but the suit will go against its record with the insurance companies.

If this verdict in Dr. Berlin's case stands up on appeal, it can be a milestone in medical economics. Other doctors will be encouraged to fight back when frivolous suits are filed.

And certainly lawyers will have second thoughts about bringing suits without thorough investigation.

I think it's pertinent that I had a call from another surgeon at the same hospital a few days before the Berlin verdict. He had performed a relatively simple and successful operation on a member of a lawyer's family. The bill was unpaid after six months. When the doctor contacted the lawyer, he was offered $100 less than the bill. "Take it or I'll sue for malpractice," the lawyer said. [The doctor is suing for the full bill].

There are good and bad doctors and good and bad lawyers. As important as the Berlin verdict itself is that the medical and legal professions joined in establishing a responsible set of guidelines, in a court of law, guided by a competent judge. There's hope.

CHILE

Mr. KENNEDY. Mr. President, in recent days, the reports of Inter-American agencies and international agencies confirm the continuing gross and repeated violations of human rights by the junta in Chile.

Torture, arbitrary imprisonment, and the permanent disappearance of individuals after police roundup mark the findings of these agencies.

I ask unanimous consent that these reports be printed in the Record.

There being no objection, the reports were ordered to be printed in the Record, as follows:

[From the New York Times, June 8, 1976]

Chile Study Says Torture Goes on

(By Juan de Onis)

Santiago, Chile, June 7.—The Inter-American Human Rights Commission has accused Chile's military Government of continuing "arbitrary jailings, persecutions and torture" while issuing decrees and statements to "tranquilize or confuse" world opinion.

A 191-page report on human rights in Chile, circulated by the commission at the annual meeting of American foreign ministers here, contained many specific charges of killings and torture of prisoners.

Secretary of State Henry A. Kissinger arrived here today, after stopovers in the Dominican Republic and Bolivia, to join the deliberations of the general assembly of the Organization of American States that began Friday. He is expected to remain until Thursday. The conference is scheduled to last until June 19.

The seven-member human rights commission, a permanent organ of the Organization of American States, said its work, which included a visit to Chile, had been "seriously perturbed" by the refusal of the Chilean Government to reply to written requests for information.

A 162-page statement by the Chilean Foreign Minister, Patricio Carvajal, was attached to the report.

Mr. Carvajal said that the state of siege imposed in September 1973, when President Salvador Allende Gossens was overthrown, and the security measures adopted later were needed to "protect the population" against an international campaign of subversion aimed at overthrowing the military junta.

He maintained that Chileans here, linked to "those who fight against Chile from abroad," had presented distorted information to international agencies as part of an effort to "isolate the military junta and apply moral and economic sanctions."

Mr. Carvajal specifically attacked the Committee for Peace, an ecumenical group of clergymen, lawyers and social workers that provided legal aid to prisoners and their families. It was dissolved last year under Government pressure.

The work of the committee, whose principal legal figure, José Zalaquet, was sent into exile, has been continued by a Roman Catholic "Vicarage of Solidarity" which provides legal aid and economic assistance to the needy.

A lawyer belonging to the Vicarage, Hernán Montealegre, was arrested May 12 and has been held without specific charges at the Tres Alamos detention center near this capital.

A government decree issued in May 1975 to regulate arrests under the state of siege, sets a five-day limit on detentions before a prisoner must be submitted to a court or be held by the Minister of Interior.

Another decree issued Jan. 28 states that no arrest or search can be made without a written order from the chief of a security agency. It also requires that prisoners be examined by a physician, with a written report, before entering a detention center.

The Human Rights commission's report, commenting on the application of these and other decrees, said that many provisions were ignored or violated by the security forces.

"Practically all persons who are detained remain for a specific length of the time without the members of their families knowing their whereabouts or their condition, with the Government denying the very fact of their detention," the report said. It added:

"The standards issued by the Chilean Government more or less recently on this subject seem to be intended more to serve as instruments of propaganda rather than as effective measures for the protection on human rights."

The report was drafted in March before President Augusto Pinochet began a policy of accelerating the release of persons held under the state of siege. The releases began during a visit by the United States Secretary of the Treasury William E. Simon, last month, today 60 people were released, bringing the total to 362.

But church sources said that in this capital alone there were 133 new arrests in April and May, including those of 20 persons, mostly Communist Party members, on April 29, before Mr. Simon's visit.

The commission's report concluded that "legal provisions have not produced appreciable beneficial effects" and that this was due, in part, to the maintenance of "standards that totally prohibit the activity of political parties" and that substantially restrict liberty of expression.

Anibal Aguilar, a Venezuelan lawyer who is the chairman of the commission, is expected to be present when the foreign ministers debate the report. Some countries represented here, notably Venezuela, Jamaica and Costa Rica, are pushing for a resolution condemning Chile for violations of human rights.

A Chilean member of the commission, Manuel Bianchi, dissented from the majority report.

More than 20 cases of alleged killing of prisoners are contained in the report. Among them is that of Oscar Arrow Yáñez, a lathe operator in Concepcion, who was arrested Sept. 26.

According to a statement by his wife, he was brought to his home the next day by the security forces.

"My husband was emaciated, pale, talking incoherently," she was quoted as saying. "I helped him wash, he could not do it by himself and I saw his beaten body. I asked him why it was that way and he said they had hit him a lot."

The report then added: "Arrow Yáñez was put in the auto again. He was able to say goodbye to his son, and that was the last time they saw him alive."

The report said his body was found on Sept. 28 in a street at Alto Lota, a coal town near Concepcion. The death certificate issued at the morgue said the cause of death was "acute anemia" as result of bullet wounds.

[From the Los Angeles Times, June 6, 1976]

Compiled by Catholic Group: Report Tells of Chile Rights Abuses

Santiago.—A church-sponsored report on human rights abuses, the first such document entirely compiled and published in Chile, is circulating here.

Researched by lawyers of the Roman Catholic Church's Vicarate of Solidarity, a group that aids families of missing and imprisoned Chileans, the report was submitted to the Chilean Supreme Court Feb. 28.

The government has made no attempt to stop circulation of the 500 mimeographed copies known to exist, although the report attacks government use of the state of siege, abuses by its Directorate of National Intelligence (DINA), the secret police, and failure by the court itself to protect the rights of hundreds of arrested Chileans.

The report was signed by Bishop Enrique Alvear.

"The vicarate has been in contact with those who suffer situations of maximum harshness, to the limits of their bodily integrity," the report says in its introduction.

"We have been able to establish severe pressures derived from unjustified restrictions on the fundamental rights of human beings. We have witnessed the defenselessness of those who suffer long periods of deprivation of freedom without being submitted to trial . . . the anguish and uncertainty caused so many of our compatriots by certain agencies, especially the DINA, in their distorted and abusive use of the powers of the stage of siege."

Among the study's reported findings were:

People arrested continue to disappear at an alarming rate, although the number of arrests is diminishing. Of 510 persons arrested from October, 1975, through February, 1976, 143 are still listed as "disappeared."

The DINA has followed the law requiring notification of a prisoner's family within five days of his arrest in only 61 of the 510 cases.

A total of 220 persons arrested in 1974 and 1975 are still missing.

The state of siege, imposed 2½ years ago, has acquired "a permanent character," in spite of "the climate of public peace reigning in Chile."

The 1974 decree creating the DINA under direct responsibility to the junta contains three secret articles that apparently give it power of unrestricted arrests and searches.

The right of habeas corpus is strangling in red tape. Of the thousands of petitions presented and appealed since Sept. 11, 1973, when the military government took over, all have been rejected, the report says.

The courts have adopted a legal fiction that all arrests are properly authorized by warrant so that the absence of a warrant is taken to indicate not that the person was illegally detained but that he is not under arrest at all, the report charges.

Military courts decided 112 cases in which there were legal errors by the court. In 48 cases where the defendant was found innocent the person was rearrested.

The report contains the text of a magazine interview with Col. Jorge Espinoza, head of the National Prisoner Service that administers camps for political prisoners.

He said 36,900 people had been released following arrest under state of siege laws since the junta took power, while 3,869 remained in prisons. All but 624 of those, he said, were to be tried by military tribunals.

Asked about the notorious Four Alamos prisons, which many former prisoners have called a torture center, Espinoza is quoted as replying, "Ah, don't ask me about that. I don't know and don't want to know what goes on there. It's a totally separate area and has nothing to do with me."

[From the Washington Post, June 5, 1976]

OAS TO DEBATE HUMAN RIGHTS IN SANTIAGO

(By Joanne Omang)

SANTIAGO, June 4.—President Augusto Pinochet of Chile opened the Organization of American States meeting today with a sharp attack on "communist tyranny" and on those who adopt peaceful coexistence or neutralism in the face of it.

Continuing the highly political tone that has characterized most preparations for this 6th regular General Assembly, the silver-haired general called for a formal treaty of nonintervention in domestic affairs among the hemispheric states.

Chile, he said, had suffered from various forms of intervention, including the "self-sidelining" of Mexico, which he did not mention by name, from the conference because of political disagreement with his government.

Pinochet, 60, reiterated a promise that a new Chilean constitution will include "one of the most complete and advanced legal documents in the world" regarding guarantees for human rights.

Pinochet has left no doubt in anyone's mind that the 23-nation conference, its resolutions and its very presence here are vitally important to him. He is in many ways the star of the show, and the success of this undertaking in terms of its effects on Chile's international reputation is being closely watched.

The president spoke to the 2,700 delegates, guests, journalists and security guards in front of a sign commemorating what the government calls "the two anniversaries of its independence," 1810, when Chile became independent from Spain, and 1973, when the ruling junta overthrew the leftist government of Salvador Allende.

The junta has gone to great lengths to make this year's annual OAS General Assembly a forum for its viewpoint on world issues and on Chilean affairs in particular.

"Anyone who does not attend has lost the moral right to judge us," Chilean diplomats have said repeatedly in the past few months. "We will show the world Chile as it really is."

Thirteen foreign ministers had arrived by midday today, and Secretary of State Henry A. Kissinger is scheduled to arrive Monday afternoon.

In his remarks, OAS Secretary General Alejandro Orfila amplified Pinochet's implied criticism of Kissinger's foreign policy of detente by announcing in passing the end of Kissinger's "new dialogue" with Latin America.

"In the last few years we have witnessed the disappearance of the Alliance for Progress and the end of the Dialogue of Tlatelolco," he said, referring to the meeting in Mexico in which Kissinger began his "dialogue" with Latin America.

Orfila blamed the demise on "the negative effect . . . of the U.S. foreign trade act" of 1974, which excluded Venezuela and Ecuador from U.S. trade benefits because they are members of the Organization of Petroleum Exporting Countries.

Santiago, a gray and smoggy city, has been cleaned, painted and trimmed for the occasion. Heavy fines for unsightly yards and buckets of free paint helped in the effort.

The government began almost as soon as Chile was approved as the conference site to spruce up its image on human rights as well, at least partly to avoid the threat of a boycott.

After closing one Catholic Church prisoner family assistance program, the Peace Committee, Pinochet allowed another to open, the Vicarate of Solidarity, with many of the same workers. He permitted the printing of a damaging critique by former President Eduardo Frei.

After U.S. Treasury Secretary William Simon warned during his May visit that U.S. support depended on "a clearer understanding of how the Chilean government is assuring respect for human rights," Pinochet released 305 prisoners. Previously he had decreed medical checks and record-keeping improvements for political prisoners, and had given safe-conduct passes to more than a dozen leftists who had taken refuge in embassies here.

Pinochet's critics say it was all a sugar coating on the very bitter pill of continued torture and repression. Mexico, which broke relations with Chile in 1974, decided to boycott the conference, while Venezuelan President Carlos Andres would attend "to fight for the effectiveness of human rights and the freedom of political prisoners."

Although the delegates have before them a stack of 41 agenda items and reports literally one foot high, the thickest is the annual human rights commission report. It details alleged rights violations in 16 member nations, including the United States and includes a tough section attacking Cuba.

Another study, issued in numbered copies to delegates only, concerns Chile alone and is said to be much stiffer than the 46-page section on Chilean rights abuses in the commission's annual report.

The conference agreed to only take note of last year's tough human rights report when Chile promised to allow a U.N. team in to investigate. That promise was later withdrawn. The resolution on this year's report is thus likely to be stronger.

Aside from action on human rights, the major value of the conference is expected to result from bilateral talks between the foreign ministers. These should cover issues including Bolivia's demand for an outlet to the sea through what is now Chilean territory, the future of the Andean Pact made up of six countries, and the convoluted economic problems each nation has with the United States.

The potentially explosive issue of Panama has been defused, according to a member of the U.S. delegation, by the basic agreement between Panama and the United States that ongoing canal treaty renegotiations should continue uninterrupted.

"Theyl'll offer a resolution and we'll agree to it, he said.

Officials of other delegations, however, expressed determination that the resolution reflect more support for Panama than for the U.S. insistence on a long-term military presence in the Canal Zone.

[From the Washington Post, June 5, 1976]

IMF GIVES CHILE NEW LOAN DESPITE RECORD BORROWING

(By Lewis H. Diuguid)

The International Monetary Fund voted another $90 million loan to Chile yesterday, bringing that country's debt with the IMF to a record $530 million.

Representatives of Britain and the Scandinavian countries disassociated themselves from approval of the loan and sources close to the Fund indicated that Chile's chances of obtaining further support from it are virtually nil.

IMF member nations can borrow from the Fund to meet monetary emergencies with the size of the loans related to the borrower's quota in the organization. Chile, in proportion to its quota, has been allowed larger sums than any other country.

Yesterday's five-year loan was provided "to compensate for the shortfall in export earnings" in 1975 resulting from the lower price of copper, Chile's main export, according to the IMF announcement.

It noted that Chile's balance of payments deficit last year was $500 million, which is more than a third of its total export earnings.

Chile's foreign debt is more than $4.5 billion. According to analysts here, 35 per cent for Chilean export earnings this year will be required just to service that debt. Such an outlay would be virtually unprecedented.

Finance Minister Jorge Cauas gave up intial efforts to ask creditor nations for rescheduling the debt, mainly because European nations—reacting to documentation of human rights abuses in Chile—oppose such assistance.

The United States, which is the principal creditor, has declared that any further aid will be contingent on Chile's observance of internationally established human rights norms.

IMF lending does not normally take into account political or human-rights factors, but Britain and Scandinavia have now introduced this consideration twice in connection with loans to Chile.

The military government received "stand-by" loans from the Fund in 1974 and 1975, contingent on Chile taking broad measures to decrease runaway inflation and lower unemployment.

However, figures accepted by international lending organizations show that inflation in 1974 of 368 per cent dropped only to 341 per cent last year. This year's rate has slowed but is still projected at over 200 per cent. Unemployment, meanwhile, has remained at about 18 per cent.

With this performance, the IMF has provided no standby loan this year nor is it expected to do so in the future. The price of copper has risen this year, precluding further offsetting loans for that purpose.

Despite these figures, analyses circulating among the international lenders here show several areas of improved economic performance: food imports, which cost Chile over $600 million in the last year of President Salvador Allende's government, were reduced to $360 million this year.

The economist also praise Cauas' performance in reducing budget deficits and lowering inflationary pressures.

[From the Washington Star, June 7, 1976]

CHILE'S STATUS AS SEEN BY EXILED PRELATE

Bishop Helmut Frenz, the controversial head of the Evangelical Lutheran Church in Chile, has been declared persona non grata by the Pinochet military regime there and is living in exile. A recipient of the United Nations' Nansen Medal for his work with political refugees, Frenz was interviewed by Washington Star Staff Writer William F. Willoughby.

Question: There is criticism, usually in conservative circles of church participation in political and reform types of movement. You obviously don't feel that way.

Frenz: I must say that my personal conviction is that it is not possible to have a neutral church or an apolitical church. As a public institution and a civil institution in our society the church is a political institution, if we want it or not. The Gospel itself has political implications and political dimension. To realize love to the neighbor, we have to act politically. And I think it is better we see this political dimension. It is typical that conservative circles claim neutrality for the church. But this claim is a political expression. A neutral church is usually misused by the ruling powers and supports, if it wants or not. These neutral churches tend to support the ruling powers as if it were the pure Gospel, but when we start to criticize the ruling powers, then they counteract. They give us the advice to abstain from political action and they say this is political, this is politics.

Q: But where does the spiritual mission clash with the social one?

A: When I speak of the political dimension and the political implications of the church, and of the love of the neighbor I think of the meeting of the public responsibility of our actions, the welfare for the society, and not in participation in a political party. In that sense, the church must be neutral. There is no special Christian political party. But our public responsibility for the welfare of the society and for all human beings is the responsibility of the Christian because the Gospel itself demands it.

Q: There was a bit of controversy in your favorable attitude toward the Allende government causing an eventual split in your own church in Chile. Why were you favorably disposed toward a Socialist or Communist government in Chile?

A: I was not in favor of the Communist government, that I want to stress. I was in favor of democratically elected government. Dr. Salvadore Allende was legally elected by free elections, and thereof, I think we have to respect the will of the nation. He wasn't a Communist he was a Socialist. I never supported a Communist government because it was a Communist government.

Q: What was the main reason then that your own church split over your attitude or your resistance to the military junta?

A: The Evangelical Lutheran Church in Chile split 1½ years after the military coup. It had nothing to do with the Allende administration. It split because we have responsible church leaders who, after the coup, felt that we had to defend human rights in Chile. We joined together with the majority of the churches in Chile the ecumenical committee to defend human rights in Chile. Some of our members said: 'How is it possible that you after the coup start to defend human rights? Why not before the coup, when the left wing persecuted us, the upper middle class people and middle class people?' The program of the socialistic government—which included the nationalization of the mines and land reform—left many of the big landowners feeling persecuted.

Q: How many political prisoners do you estimate are in Chile right now?

A: Under the Allende government we didn't have any political prisoners. Now we have about 6,000 to 7,000 political prisoners actually in Chile. The military government itself says that they have about 4,000 political prisoners only. We get witnesses of what has happened to them and we know that all of them who disappeared for a long period of time have submitted to torture.

Q: Could you describe just a bit what kind of torture is going on?

A: It is really difficult to speak about torture because it doesn't correspond to the dignity of the human being to speak about torture. You must know that most of the people who have been tortured are not in the condition to speak freely and openly and frankly about what they had to experience during the time of their torture.

Q: Recently, the government released some 100 in connection with a visit of Treasury Secretary Simon there. Do you feel that that's merely tokenism, or do you feel that this is a necessary step toward possible ultimate release of all?

A: The experience we had in Chile is that the Chilean government, of course, under international pressure, needs to have a kind of face-cleaning. And always when international events take place in Chile, now we have the meeting of the Organization of American States in Chile, then they try to start this campaign of face-cleaning; we had the same a year ago when the working group of the United Nations Human Rights Commission intended to come to Chile. The situation in the prisons for example, changed totally: then when the Commission was denied permission to come to Chile it changed backwards and the system of oppression in the concentration camps and the prisons continued. I don't know how many people they detain during these days so that the number really in relative count doesn't decrease. It seems to be a humanitarian gesture. but it is only a pragmatic political gesture.

Q: What is your attitude toward recognition of governments carrying on this sort of behavior?

A: I think—according to your own democratic tradition—it is impossible to defend such a system of dictatorships as we have in the Latin America in several countries. It is a pragmatic question now if a government like the U.S. government maintains relationships in order to give humanitarian aid to people who have to suffer under military governments. If Secretary Simon asked for the liberation of political prisoners, I think that this is a very important point. We have always to ask for the liberation and to put conditions upon the Chilean government and other military governments. Condition No. 1 must be to reestablish democratic conditions in the country. And to release the political prisoners and to stop the system of persecution.

Q: What do you count as the basic human rights deprived these people who are the victims of these juntas?

A: Our first concern as Christians is to guarantee a minimum of human possibilities to realize a life which God the Creator has given us. There exists some very few, really, fundamental human rights we have to guarantee. There's the right to have enough food to eat. There is a very fundamental right to be in charge of one's own life and one's own destiny. In other words, the human right of freedom, of full liberty. The human right to have a job, to earn money, and not only the right to work, also the right to rest. The other fundamental right is the right of free information and free opinion, to express my opinion. There is a right of free exercise of religion, of faith and of an adequate education. This really makes the human being at least free. And these fundamental human rights are not guaranteed for the moment in Chile.

Q: And these rights must be fought for even in troubled times?

A: If we see the whole picture of Chile, we must say that it is an obligation for us, the Christians, to fight for human rights. And this is not because we are politicians; it is a demand of the Gospel. We are not working on behalf of an ideology, we are trying to realize the Ten Commandments of God. This means, at the same time, that we are not blind in one eye. We are not only fighting for human rights in countries under military regimes from the right; we are also fighting for the respect of human rights in all the other countries, such as Russia, and all the other Socialistic countries, where the human rights are violated as in Latin America.

THE ANTITRUST IMPROVEMENTS ACT OF 1976

ADDITIONAL STATEMENTS SUBMITTED

Mr. EASTLAND. Mr. President, I am extremely concerned about the disproportionate effect that I believe this bill would have on small business in this country.

There is a need to protect the mutual interests of consumers and small business from costly harassment and exposure under the expanded investigatory authority of title II.

As an example of the type of problem presented, a private antitrust class action suit was recently brought in California asserting $750 million in treble damages against 2,000 real estate brokers, jointly and individually. In castigating the abuses inherent in such actions the judge in that case pointed out that the defendants "cannot afford to participate in such an action as this, much less defend it effectively"—*Kline v. Coldwell, Banker & Co.*, 1974.

As the bill presently reads therefore, small business firms would be subject to astronomical damage claims, particularly when named as codefendants or coconspirators in a suit. Unlike larger companies, small firms rarely have the legal expertise or the capital to enable them to engage in such lengthy and costly litigation. Therefore they would be forced instead to settle separately out of court in so-called blackmail settlements.

Furthermore, a company named in such a suit would be required to disclose the amount of the total damage claims against all defendants as a contingent liability on its financial statements. Disclosure of such enormous contingent liabilities by a small, or even a medium-sized, firm would seriously impair its ability to obtain capital financing necessary for the maintenance and development of its operations. This, too, will lead to small companies being forced to accept out-of-court settlements even where the charges may be only marginally meritorious.

This inability of small businesses to successfully defend themselves could make them more alluring targets than the less vulnerable big businesses to some State attorneys general seeking funds for their State treasuries. Such attacks on small business will lead to the financial demise of many small firms, and, contrary to the purpose of the bill, to increased economic concentration within industry.

On several occasions, more candid employees of regulatory agencies have publicly stated their agencies' intent to single out or prosecute small companies rather than take on the giant firms, who have large legal staffs that could adequately defend themselves against prosecution by the Government.

In a recent hearing by a subcommittee of the House Committee on Small Business holding hearings on antitrust and the Robinson-Patman Act, Dr. F. M. Scherer, Director, Bureau of Economics of the FTC, said:

> I had not fully realized until I came to Washington how unfairly the burden of federal regulation and antitrust enforcement falls upon small as compared to large companies. The corporate grants can and do maintain stables of highly skilled attorneys to advise them how to stay clear of the law and defend them if they nevertheless run afoul. Smaller firms are less able to afford such counsel, and the law firms they retain typically lack the specialized knowledge needed to cope with a body of statutory, case, and regulatory law as complex as Robinson-Patman. As a result, they are more likely to get into trouble and to settle by consent if a complaint is brought. . . . I had also understood little about the value system of government antitrust attorneys. What I have learned since joining the Commission staff is that many attorneys measure their own success in terms of the number of complaints brought and settlements won. In the absence of broader policy guidance, therefore, the typical attorney shies away from a complex, log, uncertain legal contest with well-represented giant corporations and tries to build up a portfolio emphasizing small, easy-to-win cases. The net result of these broad propensities is that it is the little guys, not the giants who dominate our manufacturing and trade industries, who typically get sued.

Recently, when speaking of the enacted Consumer Product Warranty and Federal Trade Commission Improvement Act, an FTC official said that this would give the agency a new range of enforcement opportunities. One possibility under consideration was that the agency would be able to get a cease-and-desist order against a small company in an industry and "use that to whipsaw the big boys into line," an FTC lawyer said. "If you sue a big guy and face a large battery of lawyers, it might take 20 times as long" to get a cease-and-desist order as it would take against a smaller company, he explained.

Small businesses are equally vulnerable to the expanded investigatory powers of title II. This title would grant the Justice Department powers to compel secret, sworn testimony from literally anyone who might be thought to know something, or know how to find out something, about an alleged antitrust violation, real or imagined. It would authorize the Justice Department to demand the files of literally any business, on similarly vague suspicions. Keeping these unprecedented powers in check will of course require considerable legal sophistication and expense.

Yet it is precisely the small business which is least likely to have access to top-flight legal advice. It is the small business which is most likely to be severely disrupted by the forced absence of executives for extended periods while giving depositions; or by disorder in its files while the authorities are searching for what they hope might someday turn into evidence.

Mr. President, this bill already contains, in title V, an implicit exemption for small businesses; this is so since firms with sales or assets under $10 million are exempt from premerger notification requirements.

I think it would be only fair and consistent to extend this implicit exemption from title V to cover expressly titles II and IV, the principal other substantive portions of the bill.

The apparent premise of this bill is that somehow the concentration of economic power in the hands of giant corporations must be broken up, and these new antitrust tools and devices will help do the job.

America's small business is no part of this demonology. To avoid truly unfortunate side effects, we should explicitly exempt small business from titles II and IV, and let these experimental and unwise ideas work themselves out on others who can better afford it.

H.R. 8532

Mr. THURMOND. Mr. President, a fundamental objection to H.R. 8532 is that, beneath the facade of "improvements" and "consumer interests," it clearly makes the assumption that private business is an economic evil. Should this bill pass, we shall certainly see the consumer suffer under the yoke of higher prices and we will certainly see a more wealthy antitrust bar. In an editorial in the Washington Star yesterday, June 6, 1976, the points I have mentioned were very effectively made. Mr. President, I ask unanimous consent that the editorial be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

Oh, Those Wicked Oligopolies!

Prof. John Kenneth Galbraith himself said it some years ago, in one of his earlier—some would say sounder—books: "To suppose that there are grounds for antitrust prosecution wherever three, four or a half-dozen firms dominate a market is to suppose that the very fabric of American capitalism is illegal . . . a notion which can seem sensible only to a briefless lawyer."

You couldn't accuse the U.S. Senate of being a patsy for mad, mod economic notions, including Dr. Galbraith's guarded defense of oligopoly. Maybe that explains why the Senate's so-called Hart-Hughes bill (alias the Antitrust Improvements Act of 1976) proposes to ginger up antitrust laws to attack the evils of modern economic concentration in the familiar old Victorian way.

It is a sign of the times. Until fairly recently you probably could have mustered a consensus of economists—supposing that such a thing existed—for the notion that if indeed the antitrust laws needed updating they required one that would take into account the new theoretical hospitality to industrial concentration as well as the newer structures (conglomerates, say) that strike market purists as unseemly.

Two events, at a guess, changed that prospect. One was the recent double-digit inflation, which combined with the slackest markets in 40 years to renew old suspicions of pricing behavior in the great oligopolies. The other was the celebrated ITT merger antitrust case (remember Dita Beard?) which similarly renewed suspicions of how highly concentrated economic power behaves politically.

Those who wrote the basic antitrust law of this country did so in a burst of outrage over the ruthless anti-competitive techniques by which the old buccaneering monopolies of the Gilded Age handled would-be rivals. These monopolies were usually classic ones, concentrating both vertical and horizontal control over production, marketing and pricing in a single vital industry (oil, railroads, etc.). The conglomerate was not then in view.

Just what the Senate is aiming for in the new bill—a filibuster against which was broken Tursday on the Senate floor—is uncertain. Perhaps no more than to remind the voters that their friendly senators have kept the faith and are very much against monopolistic practices in principle, however complicated it may be to deal with them in practice.

The Wall Street Journal accuses the Senate sponsors of the bill of "declaring war on oligopoly (domination of a market by a few firms)" but without defining the term. When steam was rising from the Journal editorial rooms about the bill the other day, it still contained a provision permitting the government "to block a merger on whim alone." That particular fang, we notice, has been drawn by amendment, so that the burden will be on government trust-busters to make a case for their preliminary anti-merger injunctions. That is certainly where the burden ought to rest, in any legal action to arrest the course of mutual economic interest.

The other major provision of which the Journal complained, still intact, would clear the way for state attorneys general to bring class-action damage suits for monopolistic price-fixing without notifying potential claimants who might wish to dissociate themselves.

What is basically at issue here, however, is the sponsors' ritual claim that more vigorous antitrust action "can contribute to reducing prices, unemployment and inflation." Can contribute? Well, okay; it is not inconceivable that that worthy goal can sometimes be achieved.

But for our part, we'd sooner rely on the dynamism of a monitored market—even one dominated by wicked oligopolists—than on piecemeal antitrust action to affect the price index by economies of scale and by technological breakthroughs. After all, the paradox of economic concentration is that it has gone on placing most of its goods within the reach of the ordinary customer, even as the antitrust zealots raged against the failure of oligopolies to conform to the rules of "perfect competition" set by Adam Smith.

The nostalgic longing for what the Journal calls an "industrial America (of) little pieces" has survived the collapse of perfect competition theory. It is no doubt akin to the yearning for limited town-meeting-style government that has likewise survived the centralizing trend of the modern state.

No doubt it is a healthy longing, however inconsistent with economic realities. So perhaps it is well for Congress at intervals to roll its eyes heavenward and get that faraway look in the eye about competition among economic giants. But the ritualistic and therapeutic value of this pious exercise is probably uppermost.

Practically speaking, we share the Journal's suspicion that "the net effect . . . will be a lot more antitrust suits, enriching the private antitrust bar and raising prices to consumers." If so, is that not the net effect of most reforms to which Congress treats us; as witness so-called tax reform? Did not Professor Galbraith say, after all, that the idea that "the very fabric of American capitalism is illegal . . . can only seem sensible to a briefless lawyer"?

Mr. DURKIN. Mr. President, I support the Antitrust Improvements Act as reported by the Judiciary Committee. I think that the members of that committee, especially the senior Senator from Michigan, deserve our highest praise for their persistence and hard work in presenting to the Senate legislation that will revive our antitrust laws. I wonder what the public thinks when we debate at length and entertain all sorts of efforts to gut a bill that changes not by one iota what has been unlawful since 1896, but only provides a much more effective means of enforcing the law. In many ways the antitrust laws are a lot like the blue laws of New England. Everyone talks about them, nobody admits to the behavior that is prohibited by them but they do not change the way people act at all.

Some big business conglomerates still maximize their profits through any effort fair or foul and get away with it. Consumers know it but can not really do much about it. If it costs a few extra cents for each item they purchase because the manufacturers or organizations in the chain of distribution have decided amongst themselves on the price to charge, the individual consumer is not going to sue. But collusion and conspiracy by big business, if unchecked, contaminates our marketplace and undermines our free and democratic society. Every advocate of our economic system pays honor to the principle of free enterprise and competition. Logically, there should be equal enthusiasm for effective enforcement to preserve and maintain that system.

What we have is competition and free enterprise for small business, but not for big business. The grocery store on the corner of the street goes quietly out of business while Lockheed gets millions of taxpayers' dollars to keep it aflow and paying the large salaries of its corporate executives. I would be less concerned by our extended consideration of this legislation if I were convinced that the debate and the offered amendments were to perfect the enforcability of antitrust laws and not to perpetuate their ineffectiveness.

Public disenchantment with government arises from situations like this. People clearly see the hypocrisy of passing laws defining illegal conduct and then of balking at legislation to improve the enforcement of those very same laws. The difference between word and deed, between supporting and antitrust laws while acquiescing in their ineffectiveness, warrants the cynicism of the public. This area of the law is complicated and best understood by experts who have studied and worked in the field for a long time. What can we expect of the voters who hear over and over again the rhetoric of competition and free enterprise and then discover that those who can insure that each of us is participating in a free market are looking the other way while businesses engage in anticompetitive conduct. The law today is of little deterrent effect to big business executives considering the cost of getting caught for antitrust violations against the profit to be derived from them. As the committee report quotes from an issue of Business Week:

> When you'e doing $30 million a year and stand to gain $3 million by fixing prices, a $30,000 fine doesn't mean much.

The Bureau of Economics of the Federal Trade Commission estimates that antitrust activities such as trade restraints and price fixing costs consumers in the United States upward of $80 billion annually. Yet private antitrust actions filed in all U.S. district courts in 1975 numbered only 1,564 and amounted to less than 1.4 percent of all civil cases. Of these cases only 189 were private class actions designed to broadly meet the problem of antitrust violations. Present antitrust enforcement efforts are clearly not adequate to the task.

If this legislation really does invite hobbling Government investigations and unfounded litigation, then let us amend the bill to protect the business community from it. Consumer rights and protection ought not to be built on the denigration of the basic rights of business people. But I fail to see how this legislation will hinder the honest businessman. As any good enforcement bill should, it ought to scare the dishonest businessman, and I would wonder what the bill was all about if it did not. The good businessman and the small businessman can only profit from the speedy enactment of this bill.

Title IV has received the most attention from critics. This is a measure of the affect it will have on improving enforcement of the antitrust laws.

What we are doing is returning power and authority to the States in the best tradition of our Federal system. Under title IV State attorneys general will be authorized to bring actions on behalf of consumers in their States who have been damaged by antitrust violations. This provision is supported by the National Association of Attorneys General. It places authority where it ought to be. The lowest level of Government that can do the job should be the highest level of Government to have the responsibility to do it. We all know that all goodness and wisdom does not reside in Washington, and by placing the responsibility for protecting consumers in the hands of the attorneys general of the States where the consumers live, we are putting it where it can best be exercised.

This title gives an effective remedy to consumers against antitrust violators whose damage to each consumer is small but in the aggregate is considerable. It is also going to remedy an equally important harm, the damage done to the market place. The lace of free and stimulative competition results in more than just increased costs for particular items. It stifles product development, inhibits access to markets by others, and greatly reduces the benefits that a freely competitive economy gives to its participants. One argument against this title offered by the big business executives is that it will result in a bonanza for lawyers who will sue innocent businessmen and put them out of business while consumers sit on the sidelines and benefit not very much, if at all. This argument has been more than adequately refuted by the proponents of the bill.

It is naive to expect that the legal fraternity will contribute their time to litigate very complicated and time consuming antitrust cases. Whatever they do get for fees will, under title IV, be strictly administered by the courts. Lawyers will not get a percentage of the recovery, but will be compensated fairly for the actual work that they put into the case.

Should innocent businessmen be quaking in their shoes from fear of baseless law suits? No, quite to the contrary; they should welcome meaningful and effective participation by the attorneys general of States to insure that the markets that they are competing in are free of collusive arrangements among their competitors. To bring a suit against a company, the attorney general would have to initiate it, and in doing so enlist the support of an attorney who is not likely to take on the case unless he feels there is a chance of success and compensation for his efforts. If there are ulterior motives for bringing the suit, then attorneys fees can be awarded the prevailing company. And under our court procedures, the case can be terminated early by motions for summary judgment.

The small company will not be put out of business. Antitrust violations by their very nature must involve combinations and conspiracies among large numbers of smaller concerns or a small group of large companies. Defense of an antitrust suit will more than likely be well financed.

The principal beneficiaries of these antitrust suits will be the consumers. Not only those that are parties to the law suit, but every other consumer who buys in the market affected and also those companies competing with the wrongdoers. Antitrust actions make up a very small percentage of all civil actions filed in our Federal courts. This legislation will increase that number but because of the complexity of antitrust violations and the difficulty in proving violations, it is doubtful that there will be a flood of litigation stimulated by this title. Perhaps the greatest benefit that the passage of this title will have is to cause big businessmen whose heads are turned by the profits from antitrust violations to consider the increased likelihood of discovery and cost of subsequent litigation.

Title II of the bill has been criticized by opponents for subjecting virtually every citizen to the inquiries of the Antitrust Division of the Justice Department. These claims that the bill will be abused are totally unfounded.

We have examples of other agencies

and State attorneys general that have the same investigative authority that title II confers on the Justice Department. For example, the Securities and Exchange Commission has the authority to issue subpenas, take oral testimony, compel the production of documents and propound written interrogatories.

Its authority is not limited to corporations that are targets of suspected violations but runs to natural persons, including those who may be on the periphery of the wrongdoing. Investors who were victims of the suspected violative conduct can also be subpenaed. Opponents of the antitrust improvements bill speak of testimony being taken in secret as though this were sinister and inquisitory. But the Securities and Exchange Commission's Rules of Practice state that the mere existence of an investigation is nonpublic information, as are the materials and information gathered pursuant to the investigation. In other words, it is secret. And for a very good reason. An investigation does not and should not injure the reputation and standing of a corporation or individual. Although one is innocent until proven guilty, the mere fact of an investigation into someone's activities casts aspersions on their integrity.

The very people that opponents of this title claim to be endangered by secrecy are the people who wish that the investigation and their participation in it remain nonpublic.

In any case, the charge of possible abuse of the expanded civil investigative demand authority by the Justice Department is allayed by judicial review. For example, if a person is served with a civil investigative demand—CID—which he feels is burdensome, calls for irrelevant material or in any way is objectionable, then he can refuse to respond to it. The burden is then on the Department to proceed to the Federal district court and seek a court order compelling compliance with the CID. The person is entitled to be heard and can present any objections he has to the Department's CID. The authority granted the Justice Department under title II is no greater than that held by the SEC. I know of no effort to curtail that agency's powers because of abuse. The SEC also has authority to recommend serious securities violations to the Justice Department for criminal prosecution.

In 1974 the SEC referred 67 cases to the Justice Department for prosecution. Eighty-one convictions resulted from those referrals. Again there is no effort that I know of to limit the SEC's investigative authority, because it also has the authority to recommend criminal prosecutions.

In short, I do not think that this title will result in anything other than much better and more effective enforcement of the antitrust laws which have been on the books since 1896. The objections to this investigative authority will really hamper enforcement. And at a time when many Americans view their Government as a great colossus able only to feed and perpetuate itself, unable to benefit their lives. If this expanded investigative power is really as dangerous as the opponents of title II would have us believe, then in good conscience we should be considering legislation to cut back the authority of those agencies now enjoying the power that this bill will give to the Justice Department.

The experience of just one agency, the SEC, with full investigative authority simply does not support the arguments of the opponents of title II and those who would tinker with it and render it ineffective. I fully support this title and will vote consistent with keeping it in the form as the committee reported it.

Although I am the junior most Member of the Senate, I am equal to any Member of this body in my respect and admiration for the senior Senator from Michigan. In the brief time I have been in the Senate, I have begun to appreciate the tremendous contribution that Senator Hart has made to the work of the Senate and the extent to which he is responsible for the respect Americans have for Congress. The Antitrust Improvements Act is but another example of his contribution. It is a fair, reasonable bill, hammered out over a long period of time. It addresses a serious problem in a most important area of our society and will go a long way to help preserve our free economy.

Mr. MORGAN. Mr. President, at an early point during consideration of this important antitrust bill, I urged my colleagues to permit its consideration on the merits. I assured them that the distinguished sponsors of the legislation are among the fairest of the Members of this body, and that it is not their intention to steamroll the bill to final passage. Indeed, I suggested that the sponsors always have displayed substantial flexibility and reasonableness; and I assured my colleagues that the legislation would be further refined and modified so as to attract the widest possible support from my distinguished colleagues.

We are now in our third day of debate since cloture was invoked, and no end is in sight. The sponsors of the legislation have either accepted or themselves offered many moderating amendments. These include:

Unprinted amendment—Mr. Morgan—per se and fraud on patent office.

Unprinted amendment—Mr. Bumpers—allows reduction of prices and civil penalty for unclaimed recovery.

Unprinted amendment—Mr. Bumpers—Consolidations.

Amendment No. 1739—Mr. Morgan.

Amendment No. 1747—Mr. Mathias.

Amendment No. 1729—Mr. Philip A. Hart.

Amendment No. 1728—Mr. Philip A. Hart.

Unprinted amendment—Mr. Philip A. Hart.

Amendment No. 1726—Mr. Hruska.

Unprinted amendment—Mr. Philip A. Hart (for Mr. Hugh Scott).

Amendment No. 1777—Mr. Javits.

Amendment No. 1772—Mr. Griffin.

Amendment No. 1768—Mr. Griffin.

Amendment No. 1771—Mr. Griffin.

Acceptance of the last amendment (No. 1771), offered by the distinguished assistant minority leader (Mr. Griffin), accomplished another milestone in the processing of this legislation, Mr. President. In their usual low key manner, the sponsors have accepted amendments which shaped key aspects of the bill to meet the White House's objections.

Mr. President, I ask unanimous consent that at the conclusion of these remarks there be printed in full a document entitled "A Summary of the Principal Administration Objections to S. 1284, the 'Hart-Scott Antitrust Improvements Act of 1976'." It was received by the committee on May 25, 1976.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. MORGAN. An item-by-item review of the position of the White House on the bill, Mr. President, shows in almost every case either that their objection has been fully satisfied or that the sponsors have gone more than half way in the spirit of compromise.

We are at the point where the shaping of the legislation is almost complete. I believe it represents a milestone in the annals of antitrust legislation and that it will rank in importance with the Sherman and Clayton Acts. It merits the support of my colleagues on both sides of the aisle. I trust my colleagues will confirm my judgment by voting aye: first, on substitute amendment No. 1701 and then on H.R. 8532, as thus amended.

Mr. President, I ask unanimous consent to have printed in the Record a letter from Mr. C. Raymond Marvin, Washington counsel for the National Association of Attorneys General dated June 2, 1976, addressed to the Senator from Michigan (Mr. Philip A. Hart).

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Exhibit 1

A summary of the principal Administration objections to S. 1284, the "Hart-Scott Antitrust Improvement Act of 1976", is as follows:

TITLE I (DECLARATION OF POLICY)

Although the Administration has not taken a specific position on this title, the policy declaration in some cases is not supportable by economic evidence.

The policy declaration bears no relation to the other four substantive titles of the bill.

TITLE II (CIVIL PROCESS ACT AMENDMENTS)

The Administration supports these amendments, but opposes:

Authority to issue a civil investigative demand (CID) to acquire information in a federal administrative agency proceeding.

Access to grand jury materials by the FTC and private plaintiffs in antitrust actions because this would violate privacy and traditional grand jury secrecy.

The Administration favors:

An express exemption for information gained through use of a CID from the Freedom of Information Act.

TITLE III (MISCELLANEOUS PROVISIONS)

The Administration supports only one provision which would expand the jurisdictional reach of Section 7 of the Clayton Act (mergers) to include violations "affecting" rather than "in" interstate commerce, but opposes expanding this to other sections of the Clayton Act, including the Robinson-Patman Act, and the Sherman Act.

Court award of attorney's fees for injunctive relief under the Clayton Act should be discretionary, rather than mandatory.

The Administration believes that other miscellaneous unrelated amendments are ill-conceived and lack justification or a showing of need.

TITLE IV (PARENS PATRIAE)

The President has expressed serious reservations concerning the parens patriae concept in a March 17, 1976 letter to House Minority Leader John Rhodes which is attached to this memorandum. In addition to reservations about the principle, the Administration has also raised concerns regarding specific provisions in the Senate bill.

The present bill is too broad in its reach and should be narrowed to price fixing violations.

In view of the substantial increase in antitrust penalties in recent years, awards should be limited to the damages that actually result from a violation. Mandatory treble damage awards are not justifiable in parens patriae suits, since the stiffened criminal penalties now provide effective deterrence for willful antitrust violations.

The Administration opposes extension of the statistical aggregation of damages approach, beyond parens patriae cases, to private class actions because this is outside the appropriate reach of this legislation.

TITLE V (PREMERGER NOTIFICATION AND STAY)

The Administration supports the provision for notification prior to consummation of very large mergers and acquisitions.

The Administration is opposed to the stay provisions in Title V which permit the Federal Government to (1) obtain a temporary restraining order, staying a merger for up to 60 days, and (2) then obtain a preliminary injunction, further staying the merger until a decision on the merits, unless, the defendant companies can show the government "does not have a reasonable probability of ultimately prevailing."

These provisions reverse the usual burden of proof and give the Federal Government too much discretion to stop and kill mergers and are contrary to fundamental concepts of due process. The Administration prefers instead to retain existing decisional law.

THE WHITE HOUSE,
(Text of a letter by the President to Representative John J. Rhodes)
March 17, 1976.

Hon. JOHN J. RHODES,
Minority Leader.

DEAR JOHN: As I outlined to you on Tuesday, March 16, I support vigorous antitrust enforcement, but I have serious reservations concerning the parens patriae concept set forth in the present version of H.R. 8532.

I question whether federal legislation is desirable which authorizes a state attorney general to sue on behalf of the state's citizens to recover treble damages that result from violations of the federal antitrust laws. The states have the ability to amend their own antitrust laws to authorize parens patriae suits in their own courts. If a state legislature, acting for its own citizens, is not convinced the parens patriae concept is sound policy, the Administration questions whether the Congress should bypass the state legislatures and provide state attorneys general with access to the federal courts to enforce it.

In addition to my reservations about the principle of parens patriae, I am concerned about some specific provisions of the legislation developed by the House Judiciary Committee.

The present bill is too broad in its reach and should be narrowed to price fixing violations. This would concentrate the enforcement on the most important antitrust violations.

In addition, the Administration is opposed to mandatory treble damage awards in parens patriae suits, preferring instead a provision which would limit awards only to the damages that actually result from the violation. The view that federal penalties were inadequate, which has been used to justify mandatory treble damages in the past, is no longer justifiable given the substantial increases in these penalties in recent years.

The Administration opposes extension of the statistical aggregation of damages, beyond parens patriae legislation, to private class action suits because this is outside of the appropriate reach of this legislation.

Finally, the Administration prefers discretionary rather than mandatory award of attorney's fees, leaving such awards to the discretion of the courts.

During the last two years, the Administration has sought to improve federal enforcement efforts in the antitrust area and the resources devoted to antitrust enforcement have increased substantially. In December 1974, I signed the Antitrust Penalties and Procedures Act which increased maximum penalties from $50,000 to $1 million for corporation and $100,000 for individuals. As I indicated above, I support vigorous antitrust enforcement, but I do not believe H.R. 8532 is a responsible way to enforce federal antitrust laws.

Sincerely,

GERALD R. FORD.

EXHIBIT 2

NATIONAL ASSOCIATION OF
ATTORNEYS GENERAL,
Washington, D.C., June 2, 1976.

Hon. PHILIP A. HART,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HART: You were kind to invite this response to the Minority views of the Senate Judiciary Committee on S. 1284 filed a few days ago.

Any good criminal defense lawyer will tell you that, as in football, the best defense is a good defense. At trial, this usually takes the form of making someone else the "goat." The goat is usually the victim and often the effort is made with exaggerated and unfounded claims, the more sensational (and therefore the more distracting) the better. So it is with the defenders of the status quo who oppose a change in the law which would simply provide for a workable way for consumers to be reimbursed for injuries flowing from antitrust violations.

The opponents of Title IV consider it the "most obnoxious" part of the bill for reasons which are wholly spurious and unfounded. Their lead argument is that it is unsafe to allow state enforcement officials authority to enforce existing laws because they will do so unfaithfully. This absurd charge is devoid of substance. In the first place, state attorneys general now have authority under parens patriae to enforce federal antitrust law for the purpose of seeking an injunction and also have standing to claim treble damages on behalf of their states and state agencies. There has been no claim made in any responsible quarter that this authority has been abused and in fact the evidence is that the attorneys general have established a highly professional and responsible record of significant antitrust enforcement as far as existing laws permit.

The opponents claim that "political self-aggrandizement" by "white horse" state attorneys general is documented by the history of past antitrust activities and cite as "evidence" an antitrust action brought against the major oil companies by the states of Hawaii, Kansas, Connecticut, California and Florida. But that case is now pending before the court and no determination has been made by any lawfully invested authority concerning its merits. Evidently the opponents deem themselves to opine that the state attorneys general brought the action without substantive merit and for purposes of "political self-aggrandizement."

As further evidence to support their case against state attorneys general, opponents pull a quotation from the Fifth Circuit Court of Appeals opinion which describes the action commenced by the Attorney General of Florida as "an ambitious and highly publicized antitrust action", lacing that quotation with the implication that the Court intended a criticism. By the word "ambitious" the Court was referring to the difficulty of the proceeding. As for the case being highly publicized, it would be impossible and unwise, especially in an era of government in the sunshine, to keep secret a major antitrust action against the major oil companies. In any event, opponents conveniently omitted reference to the *holding* of the Fifth Circuit, *i.e.*, that the oil companies' motions to dismiss were without merits and therefore denied. So the criticism of the attorneys general in the oil case is no criticism at all; it is instead an unwarranted and unprecedented invasion into the judicial process.

The opponents also cite other enforcement actions by state attorneys general against dentists, contractors and real estate brokers as politically motivated and without substantive antitrust merit. But a look at those cases is instructive to any fair-minded person. We see that the minority believes that the case of *Ohio ex rel Brown v. Alliance Dental Society* should not have been brought. That case, commenced by Ohio Attorney General William Brown, alleged that the dentists of Alliance had conspired and agreed to withhold dental services from welfare recipients. That case resulted in a consent judgment being agreed to by the dentists which restored dental services to the poor. Does the minority really contend that state attorneys general should not be allowed to commence such actions? If that is not their contention, then why is that case cited in support of their argument that attorneys general can not be trusted?

Next the minority refers to *New Jersey v. Bergen Asphalt Co.* filed May 20, 1975, Number 75–861. In that case, Attorney General William Hyland alleged that several asphalt companies had conspired to violate the antitrust laws of the State of New Jersey and of the United States by fixing prices and rigging bids and further alleged that as a result the prices of asphalt were higher and that the taxpayers overpaid for asphalt which had to be purchased for public purposes. That case is still pending. The Court has rendered no judgment, but the minority has.

Next, the opponents cite *California v. San Diego Board of Realtors*, Number 375827, as a further example of abuse by state attorneys general. It, too, is pending. In fact, the court overruled defendants' demurrers and, after California amends its first cause of action for civil penalty as ordered by the court, the case will proceed to a trial on the merits. It claims that the defendants combined to charge a uniform 6 percent broker's fee and combined to keep the competition out of the Multiple Listing Service. Flying in the face of the minority's claim of abuse, the California Supreme Court held just a few days ago in *Marin County Board of Realtors v. Paulson* that California's antitrust law, the Cartwright Act, applies to real estate brokers, and remanded the case to the lower court with instructions to enter an injunction against the realtors providing that access to the Multiple Listing Services was to be made available to competitors. The Minority Report notwithstanding, the California case will proceed through the judicial system for a proper and lawful determination of its merits.

Finally, the Minority Report cites *Washington v. Multiple Listing Service of Spokane, Inc.* as evidence of abuse. That case, commenced by Attorney General Slade Gorton, alleged that the real estate brokers had agreed to charge a fixed broker's fee and had used the multiple listing service in such a way as to restrain competition among brokers. A consent judgment was entered by the court which required the brokers to pay a civil penalty and prohibited them in the future from the acts charged in the complaint. As a result, there is now visible competition among real estate brokers in Spokane and consumers are able to negotiate fee arrangements which are warranted by the nature of the property to be sold. In light of these facts, the minority's claim that the case is evidence of abuse of office seems downright silly.

So, the Minority Report cites five cases of abuse: three are *sub judice* and two have been concluded by consent decrees prohibiting anticompetitive conduct and have thereby benefited the citizens of the affected jurisdictions. In light of these facts, the frivolous nature of the minority's assertions is apparent. In any event, the Committee version adequately safeguards against abuse by the award of attorney's fees to successful defendants where an attorney general is found to have acted wantonly or vexatiously.

I hope that this review of the evidence which the opponents have brought to bear on their assertion that state attorneys general have abused their authority has been helpful in your determining whether their claims have merit. It is ironic that those who often rise to proclaim the dignity of the rights of states to govern themselves, and praise the ability of state government to function properly without interference of the federal establishment, now are being heard on this bill to say that state officials cannot be trusted. Now, when it comes to choosing between protecting the small and the weak or siding with the rich and the powerful, these same proponents of enlightened federalism say that the only persons who may be trusted with antitrust enforcement are federal bureaucrats.

Finally, the minority claims that this bill is bad for consumers. But again, the facts refute their ambitious assertion, specifically the facts concerning who is supporting and who opposes S. 1284. The defense bar and the Business Roundtable, a group of 160 of the nation's largest corporations, including over 70 who have recently been prosecuted for antitrust violations by the United States Department of Justice, argue against the bill. Those who urge its passage include: Consumer Federation of America, United Mine Workers of America, National Farmers Union, AFL/CIO, National Rural Electric Cooperative Association, United Auto Workers, Computer Industry Association, International Ladies Garment Workers Union, Independent Gasoline Marketers Council, National Consumers League, Retail Clerks International Association, National Retired Teachers Association, American Association of Retired Persons, United Steelworkers of America, Energy Action Committee, Committee for Public Advocacy, National Consumer Congress, Public Interest Economics Center, Common Cause, National Council of Senior Citizens, National Education Association, Amalgamated Clothing Workers of America, Congress Watch, MCI Communications and Congress of Hispanic American Citizens.

We believe that if the legislation and the Committee Report are studied carefully, the merits of this bill will be apparent. If there is any further concern about the bill's justification, please let me know so that I may provide further comment for you and your staff's consideration.

Sincerely yours,

C. Raymond Marvin.

(This concludes additional statements submitted on the bill, H.R. 8532.)

MOTION TO ADJOURN

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate stand in recess until the hour of 8:30 tomorrow morning.

The PRESIDING OFFICER. The question is on agreeing to the motion——

Mr. ALLEN. Mr. President, I move that the Senate adjourn.

Mr. HELMS. The yeas and nays, Mr. President.

The PRESIDING OFFICER. The question is on agreeing to the motion to adjourn.

Is there a sufficient second?

Mr. ROBERT C. BYRD. Mr. President, this is not a debatable motion, but this is the motion that is usually left to the leadership. I hope Senators will vote against the Senator's motion.

Several Senators. Regular order.

Mr. PASTORE. We will do that.

The PRESIDING OFFICER. Is there a sufficient second on the motion to adjourn?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to adjourn. The yeas and nays have been ordered and the clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. PASTORE. Mr. President, regular order.

The second assistant legislative clerk resumed and concluded the call of the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. Bumpers), the Senator from Idaho (Mr. Church), the Senator from Mississippi (Mr. Eastland), the Senator from Indiana (Mr. Hartke), the Senator from Hawaii (Mr. Inouye), the Senator from Washington (Mr. Jackson), the Senator from Louisiana (Mr. Long), the Senator from Montana (Mr. Mansfield), the Senator from South Dakota (Mr. McGovern), the Senator from Connecticut (Mr. Ribicoff), the Senator from Mississippi (Mr. Stennis), and the Senator from California (Mr. Tunney), are necessarily absent.

I also announce that the Senator from Indiana (Mr. Bayh), and the Senator from Missouri (Mr. Symington), are absent because of illness.

I further announce that, if present and voting, the Senator from Indiana (Mr. Bayh), the Senator from Indiana (Mr. Hartke), and the Senator from Washington (Mr. Jackson), would each vote "nay."

Mr. HUGH SCOTT. I announce that the Senator from Massachusetts (Mr. Brooke), the Senator from New York (Mr. Buckley), the Senator from Nebraska (Mr. Curtis), the Senator from Arizona (Mr. Goldwater), the Senator from Michigan (Mr. Griffin), the Senator from Nevada (Mr. Laxalt), the Senator from Maryland (Mr. Mathias), the Senator from Connecticut (Mr. Weicker), and the Senator from North Dakota (Mr. Young), are necessarily absent.

The result was announced—yeas 21, nays 56, as follows:

[Rollcall Vote No. 248 Leg.]

YEAS—21

Allen
Baker
Bartlett
Beall
Bellmon
Brock
Dole
Domenici
Fannin
Garn
Hansen
Helms
Hruska
McClure
Packwood
Roth
Scott, William L.
Stevens
Taft
Thurmond
Tower

NAYS—56

Abourezk
Bentsen
Biden
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Clark
Cranston
Culver
Durkin
Eagleton
Fong
Ford
Glenn
Gravel
Hart, Gary
Hart, Philip A.
Haskell
Hatfield
Hathaway
Hollings
Huddleston
Humphrey
Javits
Johnston
Kennedy
Leahy
Magnuson
McClellan
McGee
McIntyre
Metcalf
Mondale
Montoya
Morgan
Moss
Muskie
Nelson
Nunn
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Schweiker
Scott, Hugh
Sparkman
Stafford
Stevenson
Stone
Talmadge
Williams

NOT VOTING—23

Bayh
Brooke
Buckley
Bumpers
Church
Curtis
Eastland
Goldwater
Griffin
Hartke
Inouye
Jackson
Laxalt
Long
Mansfield
Mathias
McGovern
Ribicoff
Stennis
Symington
Tunney
Weicker
Young

So the motion was rejected.

MOTION TO RECESS

Mr. ROBERT C. BYRD. Mr. President, I modify my recess motion to make the convening time for tomorrow morning 9 o'clock instead of 8:30 a.m.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia.

Mr. PASTORE. Yeas and nays, Mr. President.

Several Senators. Why? Why?

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CHILES. Regular order, Mr. President! Regular order!

The PRESIDING OFFICER. The Senate will be in order. The clerk will suspend until order is restored.

Mr. ABOUREZK. Mr. President, am I recorded?

The PRESIDING OFFICER. The Senate will be in order.

The clerk will continue.

The rollcall was resumed and concluded.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. Bumpers), the Senator from Idaho (Mr. Church), the Senator from Iowa (Mr. Clark), the Senator from Mississippi (Mr. Eastland), the Senator from Indiana (Mr. Hartke), the Senator from Hawaii (Mr. Inouye), the Senator from Washington (Mr. Jackson), the Senator from Louisiana (Mr. Johnston), the Senator from Louisiana (Mr. Long), the Senator from Montana (Mr. Mansfield), the Senator from South Dakota (Mr. McGovern), the Senator from Connecticut (Mr. Ribicoff), the Senator from Mississippi (Mr. Stennis), and the Senator from California (Mr. Tunney) are necessarily absent.

I also announce that the Senator from Missouri (Mr. Symington) and the Senator from Indiana (Mr. Bayh) are absent because of illness.

I further announce that, if present and voting, the Senator from Indiana (Mr. Bayh), the Senator from Indiana (Mr. Hartke), and the Senator from Washington (Mr. Jackson) would each vote "yea."

Mr. HUGH SCOTT. I announce that the Senator from Massachusetts (Mr. Brooke), the Senator from New York (Mr. Buckley), the Senator from Nebraska (Mr. Curtis), the Senator from Arizona (Mr. Goldwater), the Senator from Michigan (Mr. Griffin), the Senator from Nevada (Mr. Laxalt), the Senator from Maryland (Mr. Mathias), the Senator from Connecticut (Mr. Weicker), and the Senator from North Dakota (Mr. Young) are necessarily absent.

The result was announced—yeas 74, nays 1, as follows:

[Rollcall Vote No. 249 Leg.]

YEAS—74

Abourezk
Allen
Baker
Bartlett
Beall
Bellmon
Bentsen
Biden
Brock
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Cranston
Culver
Dole
Domenici
Durkin
Eagleton
Fannin
Fong
Ford
Garn
Glenn
Gravel
Hansen
Hart, Gary
Hart, Philip A.
Haskell
Hatfield
Hathaway
Helms
Hollings
Hruska
Huddleston
Humphrey
Javits
Kennedy
Leahy
Magnuson
McClellan
McClure
McGee
McIntyre
Metcalf
Mondale
Montoya
Morgan
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Roth
Schweiker
Scott, Hugh
Sparkman
Stafford
Stevens
Stevenson
Stone
Taft
Talmadge
Thurmond
Tower
Williams

NAYS—1

Scott, William L.

NOT VOTING—25

Bayh
Brooke
Buckley
Bumpers
Church
Clark
Curtis
Eastland
Goldwater
Griffin
Hartke
Inouye
Jackson
Johnston
Laxalt
Long
Mansfield
Mathias
McGovern
Ribicoff
Stennis
Symington
Tunney
Weicker
Young

RECESS UNTIL 9 A.M.

The motion was agreed to; and at 8:10 p.m., the Senate recessed until tomorrow, Wednesday, June 9, 1976, at 9 a.m.

EXTENSIONS OF REMARKS

NO COMPROMISE WITH HONOR

HON. HARRY F. BYRD, JR.

OF VIRGINIA

IN THE SENATE OF THE UNITED STATES

Tuesday, June 8, 1976

Mr. HARRY F. BYRD, JR. Mr. President, the Charlottesville, Va., Daily Progress published an excellent editorial Sunday, June 6, concerning allegations of widespread cheating at the U.S. Military Academy.

The Daily Progress says it disagrees completely with those who feel that the academy honor system should be disregarded.

The editorial makes a telling point in quoting retired Gen. Bruce Clarke, who asked in a speech last week:

> Do you want an officer who had to cheat to win his commission leading your son into battle?

The editor of the editorial page of the Daily Progress is George Bowles, a retired Army colonel.

I ask unanimous consent to have printed in the Record the editorial captioned "No Compromise With Honor."

There being no objection, the editorial was ordered to be printed in the Record, as follows:

No Compromise With Honor

Allegations of widespread cheating at the United States Military Academy at West Point are once again causing the present-day relevance of the school's Honor Code to be questioned.

It seems to be a part of human nature to discard a principle if enough people disregard it, no matter how sound the principle may be. Even in the halls of Congress, many of the gentlemen on the hill seem willing to wink at the sexual meanderings of other members because such activity is privately conceded to be common practice, and—as long as no public money is involved—none of the public's business, anyway.

The American character has never been quite willing to institutionalize the proposition that a rip-off is all right as long as you get away with it, but there are always those who are inclined to lean in that direction. Maintaining the traditional standards of public and private morality we have always held to be a part of our national character seems to be getting harder all the time.

The cheating scandal at West Point provides a text-book case of the way in which these standards are being tested.

The academy's Honor Code provides that "A cadet will not lie, cheat or steal, or tolerate those who do."

In a civilized society that does not seem to be a terribly unreasonable standard of conduct to expect future officers of the United States armed forces to live up to. Nor, for that matter, does it seem an unreasonable standard of behavior to expect of any citizen.

Yet there are those who say the code is obsolete; that it is out of place in our modern society. Its critics say everyone cheats and the competitive environment of the Academy makes cheating necessary and even acceptable.

We could not disagree more.

The graduate of the United States Military Academy will not be put to the test of professional survival in the work-a-day world of business, the trades or the arts.

His test may come on a battlefield where he will be in command of American soldiers. Upon his leadership and character will depend the lives of his men the success of their mission.

The officer who finds himself in command in such a situation must have proved himself every inch of the way. He must not have gotten there by cheating.

Thus in the present scandal West Point is as much on trial as are the accused cadets. If the standards of honor are lowered the whole country will be the loser.

Let us not forget every citizen has a stake in the outcome. Not only do we rely upon these young men—and women—to develop into strong leaders for the defense of the Republic, but we must remember if another war comes, which God forbid, it is our sons they will be leading.

As Gen. Bruce Clarke asked in a speech last week, "Do you want an officer who had to cheat to win his commission leading your son into battle?"

We certainly do not.

The code's critics notwithstanding, on the battlefield there can be no compromise with honor.

HUNGARIANS IN ROMANIA

HON. EDWARD J. PATTEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 8, 1976

Mr. PATTEN. Mr. Speaker, the American Hungarian Federation and the Transylvanian World Federation, in coordination with other groups concerned about the situation of the Hungarian people in Romania, have provided a great deal of information about this human rights problem.

The Romanian Government recently published a paper to answer Hungarian organization charges of "oppression and exploitation of the Hungarians and Germans in Romania." At the request of the American Hungarian Federation, I am submiting for the Record, the initial response of the Hungarian organizations to the Romanian paper. The statement follows:

Foreword

On July 30, 1976 the American Hungarian Federation, the Transylvanian World Federation and other Transylvanian organizations submitted a Memorandum to the Subcommission on Prevention of Discrimination and Protection of Minorities of the United Nations Human Rights Commission in Geneva. The Memorandum contained concrete information about the oppression and exploitation of the Hungarians and Germans in Romania which has reached the stage of cultural genocide.

Lately, the Government of the Socialist Republic of Romania has sponsored the publication by its state-administered Institute of Political Sciences and of Studying the National Question in Bucharest, entitled "The Hungarian Nationality in Romania." The booklet was sent "With the Compliments of the Embassy of the Socialist Republic of Romania" to many Senatorial and Congressional offices.

Both of our Federations have been appalled by the mendacious assertions in the booklet which purport to refute our arguments based on concrete documentation and have decided to publish a short, immediate reply to the booklet and send it to interested parties in the United States Senate, House of Representative, the Administration's appropriate agencies and scholars. A later study will deal with the statistical assertions of the booklet: this time the general assumptions and descriptions of the booklet are being analyzed.

We hope that the reader will be able to reach his own decisions about the true situation in Romania. This could be compared with the worst of national minority oppression in all of Europe against the largest national group in Europe outside of the Soviet Union which finds itself, without having been asked by any plebiscite, in the Socialist Republic of Romania.

Washington, D.C., May 1976.

Rt. Rev. ZOLTAN BEKY, D.D.,
Bishop emeritus, National Chairman, American Hungarian Federation.
ALBERT WASS,
President, Transylvanian World Federation.

While our Federation is not disposed to the sums and academic facilities available to the Government of the Socialist Republic of Romania in assembling the above booklet, we have tried in the past and will do so in the future to present facts properly interpreted instead of biased statements and misleading statistics.

Especially obvious is the discriminatory bias against the Hungarians of Transylvania in the description of the history of the province by the booklet.

No Romanian political formations existed west of the Carpathians in the Middle Ages. Transylvania was not the cradle of Romanian political development, as a matter of fact, no Romanian national state had existed until 1859. Completely ridiculous is the statement that the Szekelys have learned to write from the Romanians. First, the Szekelys had their cuneiform writing known to man in alphabet form. Second, no place or river names can be found in the Szekely settlement areas which are of Romanian origin, so a presence of Romanians in these areas before the Szekelys cannot be assumed.

The Szekelys are described as a non-Hungarian Turkic tribe which is patently false—the Szekelys are part of the Magyar nation. As a matter of fact they created the oldest settlements in the province. This is a clear case of discriminatory bias against the Hungarians in describing the demography of Transylvania.

In glossing over 600 years of Transylvanian history which was an Hungarian history and during which not the Szekelys but the Romanians were under the cultural tutelage of the Hungarians (including the printing of the first books in Romanian by the Hungarian Princes of Transylvania) sows a conscious effort of distorting history also prevalent in the Romanian school textbooks.

As to the "unification" by the general assembly of Alba Julia, it must be remembered that a few days later at Kolozsvar (Cluj) the Hungarian general assembly protested in strongest terms the attachment of Transylvania to Romania, and at Medgyes (Medias) the Saxon leaders were under duress by Romanian occupation troops to declare their allegiance to Romania.

Interestingly, the booklet calls the Soviet action of June 1940 an "ultimatum," not exactly in the spirit of "Socialist brotherhood." It must be remembered that the Romanian Government had oppressed the Ukrainian minority in Bessarabia and Bukovina just as much as it did the Hungarians in Transylvania. It must also be remembered that it was the Fascist Romanian Government which had requested the Vienna *Diktat* that had restored territories to Hungary with a majority Hungarian population, and not mostly Romanians as claimed by the booklet.

As to the acquisition of Transylvania in 1918, the booklet conveniently forgets that after having concluded a peace treaty in March 1918 they "declared war" on a Hungary which had left the war in the wake of the dissolution of the Dual Monarchy and had demobilized its army. The Hungarian offer of plebiscites at the peace negotiations were not accepted.

The economic and participatory parts show, even according to the quoted statistics, that compared to the rapid development of Romanian economy, the Hungarian counties, particularly those of the Szekely areas which are purely Hungarian have remained slightly industrialized and developed in comparison to the mixed or Romanian counties of Transylvania. Also, the listings of the annexes show that only home and light industries are being developed in these counties.

The 7.2 per cent figure of Hungarians in People's Councils, (even this figure is much lower than the about 10–11 percent of the Hungarian ratio in the overall population) could not be borne out proportionally in the counties of Cluj and Mures. Our later analysis will analyze the figures in more detail.

Under "General Data" the 1966 Romanian statistics are quoted for the population figures counting 1,619,592 Hungarians, a ridiculously low figure. It demonstrates that, despite Romanian statistics on fertility rate to the contrary, the share of the Hungarians in the overall population had even declined (9.1 percent in 1956; 8.5 percent in 1966). Conscious underreporting and pressure on Hungarians in public and economic life to declare themselves Romanians are the reasons for the ridiculous low, mendacious population statistics.

There is no question that the provisions of the Constitution of the Socialist Republic of Romania guarantee considerable rights to the national minorities. The only problem is, as we had shown on hand of concrete examples, that these rights are not being implemented and their abuse is officially tolerated, if not promoted, and the ban on nationalistic-chauvinist hate propaganda are used only when Hungarians protest their discriminatory treatment by Romanians.

The Romanization drive is uniquitious. The aim: to denationalize the Hungarian minority extends not only to the dispersion of Hungarian intellectuals to purely Romanian areas and economic discrimination and housing bias, but even to the architectural Romanization of cities, particularly the downtown areas with Orthodox churches and other Romanian-style buildings and failing to mention even the Hungarian names of the cities of Transylvania in four-languages. Even Hungarian cemeteries are being uprooted in many localities.

On the part on religious freedom, some of the statistics speak for themselves. First, the number of faithful is revised sharply downward, at least by 3–400,000 for the Catholics and Protestant Reformed churches. Then, even the Romanian statistics show that there is not even one priest or minister per congregation or parish. According to information received, sometimes the same minister or priest has to attend to the pastoral needs of several congregations or parishes, at times as many as four. The booklet fails to answer our basic charges about the refusal by law of donations by abroad to the churches, the lack of religious instruction in schools and the brutal interference of the Ministry of Cults into the administrative affairs of the churches, particularly those of the national minorities.

As to schools and cultural and art association we maintain our former contentions that the Hungarian-language courses in schools are declining and that Hungarian cultural activities are inadequately financed. Furthermore that they are used to a substantial degree as conveyor belts of Romanian culture to the national minorities, particularly the Hungarians and Germans. We will deal with the particular statistics which is at best misleading, if not mendacious, in a later study.

In the Annexes the "voluntary" statement of Bishops Papp and Klein and Superintendent Lengyel is reproduced calling the national President of the American Hungarian Federation, Bishop Beky misinformed about the conditions of religious freedom in Romania. Interestingly, the statements of Bishop Beky at the Nairobi Congress of the World Council of Churches were not refuted in specifics by the clergymen from Romania, they only made general statement about the presence of religious freedom and Constitutional guarantees. Bishop Beky and the American Hungarian Federation and the Transylvanian World Federation continues to maintain the concrete data presented at Nairobi and before the Sub-Commission on the Prevention of Discrimination and Protection of Minorities of the United Nations Human Rights Commission.

We appeal to the members of the United States Administration, and of the United States Congress not to believe the allegations of the booklet designed to cover up the denationalization of the Hungarians in Romania and the abridgment of their human rights which make them into a colonial people just as much as the people of the many African states were before their attainment of national independence and sovereignty.

A SPLENDID GIFT

HON. HARRY F. BYRD, JR.

OF VIRGINIA

IN THE SENATE OF THE UNITED STATES

Tuesday, June 8, 1976

Mr. HARRY F. BYRD, JR. Mr. President, in an editorial on May 28, 1976, the Richmond, Va. Times-Dispatch urged the administration not to deviate from its announced course to seek a judicial review of court-ordered forced busing.

Entitled "A Splendid Gift," that article stated that "the whole concept of busing is a tragic error" that is an assessment with which I am in complete agreement.

And it truly would be a "splendid gift" to the people of this Nation if, in this Bicentennial Year, "democratic alternatives to coercive, massive busing can be found, alternatives that would result in public schools open to pupils of all races on a nondiscriminatory basis."

The publisher of the Richmond Times-Dispatch is David Tennant Bryan. The editorial page editor is Edward Grimley.

I would like to share this cogent, balanced statement on forced busing, with my colleagues, the administration and readers of the CONGRESSIONAL RECORD and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

[From the Richmond Times-Dispatch, May 28, 1976]

A SPLENDID GIFT

Charges that he is politically motivated should not dissuade President Ford from directing the Justice Department to go into federal court to seek clarification of the busing issue. If ever a matter needed to be clarified this one does. And the urgency of that need becomes increasingly obvious with each new report on the disastrous impact that the busing of children for racial purposes is having upon many of the communities subjected to the practice.

The United States Supreme Court's actions on busing—not only its opinions but also its refusal to hear appeals in some busing cases—have left the issue shrouded in confusion. There is uncertainty about the proper objectives of busing, when it may be mandated, about how extensive it may be and about how long it may be required. Thus, federal judges have approved busing across political boundaries in some instances, disapproved it in others. The Supreme Court has said that the maintenance of precise white-black enrollment ratios is not an essential feature of a "constitutional" public school system, but some lower judges seem to think otherwise. And there is no clear definition of the role of individual judges in the day-by-day operations of school systems operating under their busing orders.

This latter flaw has been emphatically demonstrated by the Boston busing controversy, which is the result of an order issued by Federal District Judge W. Arthur Garrity Jr. He has become incredibly involved in the routine administrative affairs of that city's schools, even to the extent of deciding, on a case-by-case basis, which temporary teachers are to be laid off and which are to be retained. He has substituted his own judgment for that of fiscal experts and experienced administrators on the matter of how much money the city should spend on its school system. This has been too much for even some liberal supporters of busing.

"Excessive intervention by the judge," wrote columnist Anthony Lewis in *The New York Times* "is a serious philosophical error."

In truth, the whole concept of busing is a tragic error. While there may be a few exceptions, this practice has generally proved to be one of the most despised and destructive domestic policies ever implemented in this country. It usually causes an exodus of white children from the public school system (40,000 have deserted Boston schools), erodes community support for the schools and ignites frictions that often explode in violence. So disruptive are the effects of busing that teaching and learning are often difficult and sometimes impossible. The ostensible objective of busing is to develop a proportionately integrated school system that will offer better educational opportunities for both blacks and whites than they could receive in racially identifiable or randomly integrated schools, but it hasn't worked this way.

Busing has steadily lost supporters in the past year or two, even among blacks. But many of the nation's leading liberals, more interested in form than in substance, continue to favor it enthusiastically. And federal judges continue to order its use.

Surely democratic alternatives to coercive, massive busing can be found, alternatives that would result in public schools open to pupils of all races on a non-discriminatory basis; and Mr. Ford should be encouraged in his search for them. Judicial cooperation in the quest would constitute a splendid Bicentennial gift to this nation.

CHANGE IN STATEMENT

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 8, 1976

Mr. WAXMAN. Mr. Speaker, the National Association of Electric Companies has pointed out to me that in my May 17 Record insert, on page 14185, on the validity of EPA's CHESS study, I mistakenly stated:

> Except for the presentation of the electric utility industry, no one testified that the current sulfur dioxide air quality standards are not justified by the vast amount of scientific and health data available.

That was not the position of the electric utility industry. Indeed, in a letter to me they have stated:

> We do not object to the current sulfur dioxide air quality standards.

May the corrected Record be unequivocal on this point.

PRESIDENT TOLD OF "URGENCY" TO REPLACE ALTON LOCK

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 8, 1976

Mr. FINDLEY. Mr. Speaker, 28 Congressmen from 10 States have asked President Ford's "assistance in quickly presenting to Congress the Secretary of the Army's proposal for a replacement lock and dam near Alton." The bipartisan group, representing much of the population living along the Mississippi River, pledged their willingness "to help speed approval of appropriate authorizing legislation through the Congress just as soon as the Secretary of the Army's report is received." Text of letter follows:

Hon. Gerald R. Ford,
President of the United States,
The White House,
Washington, D.C.

Dear Mr. President: We respectfully request your assistance in quickly presenting to Congress the Secretary of the Army's proposal for a replacement lock and dam near Alton, Illinois. The recent traffic jam at Lock 26 on the Mississippi River proves the urgency of the situation and cost to the nation's consumers of delaying.

Over 55 million tons of commodities pass through this key point each year, including 23 million tons of grains bound for export. If the current structure is allowed to deteriorate in a few short years it will give away completely and the shipment of much of our nation's agricultural produce to foreign consumers will come to a halt. Nearly one-sixth of our annual exports are grains originating in the upper Mississippi valley. The effect on our balance of payments of closing Lock and Dam 26 would be enormous. It would seriously weaken our nation's economy. Equally important would be the loss of vital fuels and chemicals basic to the upper Midwest's economy. The effect on our nation's economy would be disastrous.

Repairing the present facility is not a viable alternative. According to the Army Corps' Board of Engineers for Rivers and Harbors, it would necessitate closing the river for periods lasting several months, and the cost of repair would almost equal the cost of the proposed replacement which is twice as large. Repair instead of replacement would result in an enormous waste of tax dollars.

Consequently, we urge that all necessary steps should be taken to avoid any further delay in requesting congressional authority to construct the replacement dam and a single 1200 foot lock.

We stand ready to help speed approval of appropriate authorizing legislation through the Congress just as soon as the Secretary of the Army's report is received. Thanks for your assistance.

Sincerely,

Signatories of the letter to President Ford:

Minnesota: Albert Quie, Tom Hagedorn, Bill Frenzel Richard Nolan, and Bob Bergland.

Missouri: James Symington, Leonor Sullivan, Bill Burlison, and Bill Hungate.

Kentucky: Carroll Hubbard, Bill Natcher, and Gene Snyder.

Mississippi: David Bowen, Thad Cochran, and G. V. Montgomery.

Montana: John Melcher.

Tennessee: Robin Beard.

Louisiana: David Treen, Joe Waggonner, Otto Passman, and Gillis Long.

Arkansas: Bill Alexander.

Illinois: Melvin Price Paul Findley, Tom Railsback, George Shipley, and Tim Hall.

Iowa: Neal Smith.

Mr. PHILIP LIPTON

HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 8, 1976

Mr. MURPHY of New York. Mr. Speaker, Mr. Philip Lipton of New York City celebrated his 81st birthday and 50th wedding anniversary during this Bicentennial Year. These events take on significance because Mr. Lipton is an American hero, albeit unsung, and is currently hospitalized with a critical illness.

Mr. Lipton came to the United States penniless, alone, and unable to speak English at the age of 14. In the early 1930's he founded the Berkliff Undergarment Corp. and made it not only a rousing financial success, but more important, the base for his extensive good deeds and community service, over 50 years of dedication to other people and to the United States of America.

It is difficult to enumerate his contributions to the American scene because they have been so numerous and also because his deeds were always done modestly and frequently anonymously—never for recognition and accolades.

Before the days of income tax, Mr. Lipton sent checks each year to the Federal Government in grateful thanks for the privilege of being an American. He is a founder of the Albert Einstein Medical School and the Pleasantville Cottage School in Pleasantville, N.Y. The Lipton Charitable Foundation has been effective for 25 years donating repeatedly and substantially to over 150 different charities. Mr. Lipton has sent many promising young men and women to college, has put friends and associates into business, relieved and postponed debts during troubled times, and has been available to hundreds of people in need of advice, money, introductions, and friendship.

As this great, patriotic, and modest American lies sick in the hospital, it is particularly fitting that he be recognized in the Congressional Record. To me, Mr. Speaker, Philip Lipton typifies the spirit of the Bicentennial and all that is good in our great country.

NATIONAL SOCIALIST LIBERATION FRONT'S NEW ALLIANCES

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 8, 1976

Mr. McDONALD. Mr. Speaker, last March 13, 1975, I provided an indepth report on documents of the National Socialist Liberation Front, NSLF, an organization which combines Marxism with racism and which seeks to impose a totalitarian form of government on the United States. As I noted at that time, the NSLF gave strong indications of having connections with violence-prone prison gangs in the California prison system.

The NSLF is active in the Los Angeles, Calif., area and is forming new alliances in an attempt to become nationally active. The NSLF is presently operating from Post Office Box 4168, Panorama City, Calif. 91402.

The NSLF has recently concluded an alliance with the American National Socialist Brotherhood, ANSB, and the American National Socialist Movement, ANSM, the street-side arm of the ANSB which operates from Post Office Box 53, San Dimas, Calif. The American National Socialist Brotherhood is a prison gang active within San Quentin Prison. The ANSB emerged in 1975 as a splinter group from the Aryan Brotherhood, an all-white gang which in 1973 had some 40 members in San Quentin and as many as 500 members throughout the California correctional system.

The Aryan Brotherhood was one of the gangs approached by California prison movement activists who were members of the Maoist Communist group, the Venceremos Organization. The VO organized extensive prisoner visitation activities which enable Maoist activists to bring revolutionary literature into the prisons—literature which clearly had a marked effect on the Aryan Brotherhood and NSLF, as well as other groups.

The prison movement activists tell the inmates that they are not in jail because they committed crimes. Rather, they are imprisoned because "the system" is corrupt and the system is what made them commit the crime. Therefore the cruelly oppressed prisoners have most cause to fight the system, and least to lose; and the revolutionized prisoners will rise and show the way for the real revolution by "tearing down the walls."

These concepts were taken by the Aryan Brotherhood, but the Venceremos Organization and its allies broke off from this group over racial issues. The March 1975 report contained examples of NWLF theory.

NSLF founder "Captain" Joseph Tomassi was shot to death last summer in a confrontation with members of a rival Nazi group, the National Socialist White People's Party.

The NSLF statement announcement of its new alliance with the prison gangs stated in part:

> We must have brotherhood and unity in all levels of membership from the National Leaders on down to the rank and file membership. We must have tolerance and understanding through all the levels of activism from the bomb-throwers to the political canvasser.

It is noted that statements allegedly in the name of the NSLF were made in late 1974 and early 1975 claiming several bombings of rival Trotskyist and Maoist extremist organizations in the Los Angeles area. The NSLF continued:

> We have to be able to field an effective and disciplined ARMED force to counter the ARMED leftist guerrilla forces already at work in this country and around the world. At the same time we must promote political candidates and back White racialists who aspire to political office on the local and national level.
>
> * * * * *
>
> In todays prison system as well as in the streets of America, we are witnessing the birth of a new racial awareness * * *. With the army raised from the streets and prison cells of America we will see a revolution * * * more earth-shaking than any revolution history has known.

Those who are familiar with the rhetoric of the Marxist-Leninist revolutionaries of the New Left and Castroites will immediately recognize the bizarre parody aspects of the NSLF material. Nevertheless, the group should be taken seriously as a threat to security and public order, particularly in that the NSLF has developed contacts with a nationwide alliance of small National Socialist groups formed late in 1975, the White Confederacy, WC.

The NSLF has reported that a Bill Sickles of the Adamic Knights of the Ku Klux Klan and a traveling White Confederacy organizer has assisted meetings of the NSLF and the American National Socialist Movement who "found his cooperation almost unlimited in pursuit of our common goals," a fact which indicates probable approval by the appropriately abbreviated WC umbrella group.

The stated revolutionary and totalitarian goals of the NLSF and its allies, plus its national contacts with the WC make these organizations an appropriate subject for Federal as well as local law enforcement investigation.

OUR SOVEREIGNTY OVER CANAL ZONE CLEAR FROM U.S. PROCLAMATION OF ABSOLUTE SOVEREIGNTY OVER CANAL ZONE AIRSPACE

HON. GENE SNYDER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 8, 1976

Mr. SNYDER. Mr. Speaker, section 701, title 2, of the Canal Zone Code reads as follows:

> The Government of the United States possesses, to the exclusion of all foreign nations, sovereign rights, power, and authority over the air space above the lands and waters of the Canal Zone. Until Congress otherwise provides, the President shall prescribe, and from time to time may amend, regulations governing aircraft, air navigation, air-navigation facilities, and aeronautical activities within the Canal Zone. 76A Stat. 29.

In section 1508, title 49, United States Code, the United States similarly declares its national sovereignty over its airspace.

Mr. Speaker, it is a firmly established concept in international law that a national law that a nation has absolute sovereignty over its superjacent airspace above the land and water areas that constitute the nation's territory.

This notion was first formally recognized internationaly by diplomats meeting in the Paris Aerial Convention of 1919.

Article I of the 1944 Chicago Convention on International Civil Aviation further established the concept as absolute.

Mr. Speaker, it should be obvious to all that the United States of America under no circumstances could declare in law that it has absolute sovereignty over the airspace above the lands and waters of the Canal Zone unless it has absolute sovereignty over the territory which comprises the Canal Zone itself.

I hope this will lay to rest the multitude of falsehoods about our supposed lack of sovereignty over the zone being perpetrated by those who wish to give it away.

SOVIET UNION SUPPLIES CUBA WITH A NUCLEAR POWERPLANT

HON. RONALD M. MOTTL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 8, 1976

Mr. MOTTL. Mr. Speaker, I wish to insert the following telegram I sent to Secretary of State Kissinger and President Ford, drawing attention to the recent and potentially dangerous move of the Soviet Government to provide Cuba with a nuclear power plant. As reported by the Associated Press, this Soviet action can allow Cuba to develop nuclear warheads, thereby threatening our national security as well as the peace of the entire Western Hemisphere. As I stated in my telegram, Cuba has not signed any treaties concerning limitations on the development and use of nuclear weapons. Consequently the United States must communicate to the Soviet Union of our vehement objection to such action, unless provisos are made for international inspection safeguards.

The text of my telegram is as follows:

> The Associated Press reports that Soviet Russia is providing Communist Cuba with a nuclear power plant. Such a plant could easily lead to Cuban production of nuclear warheads.
>
> Cuba's record of reckless military intervention in Angola and elsewhere raises serious concern that such nuclear weapons in Cuban hands would endanger the peace and security of the Western Hemisphere and the Western World.
>
> I urge that the United States immediately inform the Soviet Union that we object to their giving Cuba such a capacity unless there are provisions for international inspection safeguards. It is also alarming that Cuba has not signed any of the international treaties putting limits on the development and use of nuclear weapons.
>
> It is imperative that the United States act now to prevent what could develop into a very serious threat to our national security and survival.

FARM LABOR CONTRACTOR REGISTRATION ACT

HON. RONALD A. SARASIN

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 8, 1976

Mr. SARASIN. Mr. Speaker, today I am introducing a bill to amend the Farm Labor Contractor Registration Act, as amended in 1974. My bill attempts to provide some clarification to areas in which there have been some ambiguous interpretations and clarification to areas where there have been inadequate interpretations of the law.

The Farm Labor Contractor Registration Act was signed into law on September 7, 1964, and became effective January 1, 1965. From the beginning of January 1965 until late in 1974, the Farm Labor Contractor Registration Act—FLCRA—received little, if any, attention from growers, or contractors, or even from Government. When violations of the FLCRA were discovered, they were usually uncovered when the Department of Labor was investigating compliance with other laws, such as minimum wage or age discrimination. Although the FLCRA was designed to eliminate the exploitation of producers, migrant agricultural laborers, and the public, generally by irresponsible labor contractors, the Subcommittee on Agricultural Labor discovered in 1974 that abuses were still prevalent and that labor contractors failed to even know the existence of the law which required them to register.

As a result of oversight and hearings during the 93d Congress, the FLCRA was amended in a number of ways to make it more effective—the Department of Labor was directed to monitor, investigate, and enforce the law; penalties were increased; coverage was extended; civil relief became available; a nondiscrimination clause was added; and persons doing business with labor contractors were obliged to deal only with a registered crew leader. After the 1974 amendments, the FLCRA began to receive some attention. Indeed, the Department of Labor began to enforce the law in a manner that has drawn some criticism from contractors, producers, processors, growers, foremen, and employees of operators engaged in agricultural pursuits. Most of the complaints arise from those portions of the 1974 amendments which extended coverage to intrastate operations and to the removal of the requirement that only crew leaders who hired or transported "ten or more migrant workers" were required to register.

The complaints raised relative to the enforcement of FLCRA since the 1974 amendments are the reason for the introduction of my bill. Whether the criticisms are valid or not, they deserve some attention. I do not know if this bill provides the answers to the complaints, but it does provide a beginning for an investigation into whether the act is being properly administered and enforced.

Section 2 of my bill changes the word "personally" in section 3(b)(2) of the act to "directly." A farmer or processor is exempt if he personally engages in recruitment of workers for his own operation. It has come to my attention that "personally" is being construed by the Department of Labor to mean "in person." Since this could be a narrow and restrictive interpretation which would exclude any corporate farmer, processor, canner, ginner, packing shed operator or nurseryman from the exemption, I have substituted the word "directly" so that corporate operators can benefit in this exemption as long as they meet the other relevant requirements.

Section 3 of my bill strikes the words "on no more than an incidental basis" from section 3(b)(3) of the act. Section 3(b)(3) exempts full-time foremen, or other employees, who engage in recruiting activities for his own employer on no more than an incidental basis. It is claimed that the striken language has been construed too narrowly, and that the exemption for full-time foremen has been practically nullified. Both the House report and the Senate report contained similar language explaining the intent of Congress regarding this exemption. They read:

> While employment relationships vary, it is the Committee's intent that foremen and similar bona-fide employees will not have to register as Farm Labor Contractors if it can be shown, for example, that they are full-time and permanent employees of an employer, who utilizes a limited portion of their time for activities described in section 3(b) of the Act.

It is not my intention to exempt full-time employees who engage in recruitment activities regularly, but it would seem that the above-cited language leaves little doubt that Congress did not intend that the act be construed to require full-time foremen or others to register when only a portion of his duties includes going to town to pick up workers.

Section 4 of my bill adds new definitions of the meanings of "transport" and "immediate family." It has come to my attention that farmers are being required to register if they provide a transportation allowance, but do not control the vehicle or conveyance, and have no direct say of manner of transportation. Therefore, it seems there is a necessity for a precise definition of the word "transport."

Section 3(b) of the act defines farm labor contractors as persons who, for a fee, recruit, hire, or transport migrant workers "(excluding members of his immediate family)." The Department of Labor construes the "immediate family" very narrowly in its regulations, limited to parents, a spouse, or children. In reality, a migrant family is commonly made up of other relatives who live and work as a unit. My proposed amendment recognizes this type of family structure and would relieve the heads of such families from the requirements of registration.

There are equally compelling arguments for other amendments which I have not included in my bill, but which are posing problems in enforcement. The contention has been made that an exemption should be offered to nonprofit cooperatives of farmers or farmers' cooperatives engaging in recruitment solely for its members on a cooperative basis. It has been submitted that such cooperatives are not guilty of the abuses in connection with recruitment and hiring practices of migrant labor and that they receive no "fee" for their services. Apparently, the California farm labor contractor law has exempted such cooperatives since 1955.

However, my present inclinations are to investigate the operations of nonprofit cooperatives of farmers, rather than to write an exemption for them at this time. In a case decided May 7, 1976, in the U.S. district court for the central district of California involving S.P. Growers Association, etc., et al., the court determined that such cooperatives are not exempt where the operation of the defendant was not farming, but recruiting. Further, the court rejected the argument that "fee" necessarily means "profit" and noted that benefits passing between growers and the growers' association had to be considered in the definition of "fee." Until these issues are examined more fully, I am content with the court's opinion.

One other definition that is troublesome is the term "migrant worker." As the act is presently drafted, a "migrant worker" is an agricultural employee who works on a seasonal or other temporary basis. Before the 1974 amendments, the act applied only to crew leaders engaged in interstate commerce, and migrant workers were those engaged in interstate agricultural employment. With the deletion of the interstate requirement, the definition of a migrant, as that term is generally understood, has become confused. I believe the definition needs some clarification.

In offering these amendments, I want to assure my colleagues that I do not wish in any way to waken enforcement of the Farm Labor Contractor Registration Act. However, I believe that agricultural labor practices of the past are rapidly changing and that certain present agricultural practices should be more fully examined so that the enforcement activities are in conformity with the intent of Congress to eliminate the abuses which workers suffer at the hand of unscrupulous crew leaders who meet the definition of "farm labor contractor" in the law.

TWO HUNDRED YEARS AGO TODAY

HON. CHARLES E. WIGGINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 8, 1976

Mr. WIGGINS. Mr. Speaker, 200 years ago, on June 10, 1776, the Continental Congress postponed debate on Lee's independence resolution for 3 weeks. When the resolution was introduced, John Adams had seconded a motion to postpone debate, "to give an opportunity to the Delegates from those Colonies which had not as yet given authority to adopt this decisive measure, to consult with their constituents."

This same day, Congress decided to appoint a committee to prepare a declaration of independence should Lee's resolution be approved when it was debated again in 3 weeks.

HONORS FOR ESTELLE SAMMIS

HON. JEROME A. AMBRO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 8, 1976

Mr. AMBRO. Mr. Speaker, it is my great pleasure to bring to the attention of my colleagues the presentation of an outstanding journalism award to Estelle Sammis, a veteran newspaperwoman from my Third Congressional District in New York. Mrs. Sammis, who writes for the Long Island Press, was honored with the 1976 Front Page Award presented by the Long Island Mid-Suffolk Businessmen's Association for her distinguished reporting of the significant news of Long Island. This is a long-overdue recognition of Estelle Sammis' journalistic contribution to the Long Island community.

I have known Estelle Sammis and her husband Austin for almost 15 years and I can attest to the fact there are few other Long Islanders who have devoted so much of their time and energies to the betterment, ecologically and socially, of this unique and fragile geographic area. I am proud to call them my friends, and I take special pleasure in expressing my public congratulations to a great lady, who is also a professional journalist of dedication, compassion, and perseverance.

The Northport Journal, a local community newspaper, took note of her achievements in the following news story:

BUSINESSMEN'S GROUP HONORS ESTELLE SAMMIS

The Lond Island Mid-Suffolk Businessmen's group on April 2, 1976 honored Estelle Sammis for distinguished reporting of the significant news of Long Island by presenting her with the organization's first Front Page Award.

The following is a statement by LIMBA Chairman Joseph Giacalone as he presented the award

This morning we are having a special ceremony to salute a very gracious lady who is dean of Suffolk's journalists.

Estelle Sammis has been a good friend of LIMBA and its members since we started. She joins in our breakfast table discussions as an active participant and objectively reports on our programs in the Long Island Daily Press.

Born in Northport in 1909, Estelle hand-addressed the community newspaper at age 12 and started writing for it at age 14, founded the first school paper in Northport High School, graduated with English honors, and then "read law" with a Judge in Northport and later was tutored in English and Literature by two college professors.

She successively was News Editor of the Huntington Times, political writer for The Long Islander, News Director for WGSM, and Deputy Director for Public Information for Suffolk Civil Defense. Since 1962 she has been staff writer and reported for ABC News Service with her stories appearing locally in the LI Daily Press.

During the years she has done volunteer public relations work for Northport PTA, Northport Village and various other civic projects.

Estelle's mother was from an old Smithtown Family—the Platt, Rogers and Baldwin colonists. On her father's side she is descended from Guillermo Prieto, a member of Juarez' cabinet who was one of the authors of Mexico's Constitution and Poet Laureate of Mexico.

She lives in Centerport, is married to Austin Sammis, a Huntington Town social service officer for 32 years, and has a daughter and a grandson.

That's a very condensed and quick coverage of a very active career. Most importantly, Estelle is a warm, concerned, intelligent and conscientious person. We love her.

Please stand over here with me, Estelle.

I want to present to you this, LIMBA's first Front Page Award, presented April 1976 to Estelle Sammis for distinguished reporting of the significant news of Long Island.

AWARD FOR DR. CHARLES L. FEFFERMAN

HON. MILLICENT FENWICK

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 8, 1976

Mrs. FENWICK. Mr. Speaker, on the evening of Thursday, May 20, I had the pleasure of attending a ceremony during which Dr. Charles L. Fefferman of Princeton University was honored as the first recipient of the National Science Foundation Alan T. Waterman Award, an award named in honor of the Foundation's first director.

The award, authorized by Congress in 1975, carries with it a medal and a grant of $50,000 a year for 3 years of research at an institution of the recipient's choice. An award committee headed by Nobel Laureate Dr. Melvin Calvin from the University of California at Berkeley made the selection.

Dr. H. Guyford Stever, the present Director of the National Science Foundation and Dr. Norman Hackerman, Chairman of the National Science Board, who announced the award, said that Dr. Fefferman was cited "for his researches in Fourier analysis, partial differential equations and several complex variables which have brought fresh insight and renewed vigor to the classical areas of mathematics and contributed signally to the advancement of modern mathematical analysis." His work, they said, "has answered questions of major importance in mathematics."

Dr. Fefferman, according to Dr. Stever, had epitomized the main criteria which were established for the award—"the recipient must show outstanding capability and exceptional promise for significant future achievements." Dr. Hackerman added that it was important that we recognize and encourage the research of such individuals as Dr. Fefferman whose powerful new methods have subsequently been used by others to achieve additional breakthroughs in the field of mathematics.

I applaud the achievements of Dr. Fefferman, who is only 27 years old and a full professor at Princeton University, and would like to congratulate him on behalf of the Congress.

Thank you Mr. Speaker.

FIFTIETH ANNIVERSARY OF THE DEATH OF THE HONORABLE MEYER LONDON

HON. BELLA S. ABZUG

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 8, 1976

Ms. ABZUG. Mr. Speaker, this week marks the 50th anniversary of the death of former Congressman Meyer London, truly a pioneer Member of this House.

A tribute to Meyer London has been written by Charles Truitt, the son of former constituents of Mr. London. I would like to insert that tribute into the RECORD at this time:

MEYER LONDON

Meyer London was the first socialist elected to Congress from the East. London ran for the United States Congress in 1914 on the American Socialist Party ticket and served three non-consecutive terms in Congress, 1914, 1916, and 1920. With regard to foreign policy, London believed in a policy of Neutrality. He supported the institution of measures to accomplish a just and lasting peace for the warring nations of Europe rather than entry by the United States into the European war. London was also an Internationalist. On his first day in Congress, he introduced a resolution to call upon the President, Woodrow Wilson, "to convene a Congress of neutral nations which shall offer mediation to the belligerents and shall sit in continuous session until the termination of the war." The resolution contained seven points to serve as a basis for negotiations. Although London's resolution was not passed, most of his proposal was later incorporated into the fourteen point peace plan formulated by President Woodrow Wilson. When Wilson asked Congress to declare war on Germany, Representative London was one of the fifty courageous members of the House of Representatives who voted against it. After the declaration of war granted by Congress, Representative London became torn by his two conflicting loyalties, to the Socialist Party, which philosophically was pacific, and to the United States. Due to this conflict, he modified his stance on the war. He began to vote "present" on the war measures offered after that. There were only two exceptions—he voted against the conscription bill and he cast the only dissenting vote in the House of Representatives against the declaration of war on Austria. This modification of his previous vigorous neutrality stance cost many Socialist votes in the 1918 election, in which he was defeated, and served as a focal point for dissension within the Socialist Party.

With regard to domestic policy, London was both an ardent supporter of organized labor and a socialist. He introduced numerous measures to benefit the social welfare of the working masses. London was a pioneer in the field of social legislation and although he succeeded in getting only one bill enacted, he set the stage for many of the "New Deal" programs of Franklin Delano Roosevelt. . . .

London saw two methods for improving the welfare of working people. First, London believed strong trade unions would have to be established. He believed that only through solidarity could workers hope to achieve their goals.

Meyer London played an instrumental role in the formation of strong trade unions. Before his election to Congress, he helped found the Workman's Circle and was its legal advisor until he died. On June 23, 1900 the International Ladies Garment Workers' Union was chartered by the American Federation of Labor. Here London "rendered his greatest service" to the growth of the labor movement in New York. London helped organize the union and served as its counsel free of charge. . . .

In 1910, the cloakmakers of New York, fifty thousand strong, revolted. It was during this general strike that Meyer London entered the annals of labor history. The strike lasted ten weeks during which time London proved a vital moral force to the workers. The workers finally won, and as a result, wages were increased, the work week was shortened, and better sanitary conditions were provided for. What was most important, however, was the emergence of what came to be known as the Protocol. The workers did not get the union shop they wanted, but did get, through the efforts of Louis Brandeis, the "preferential union shop." "A Board of Arbitration and a Board of Grievances were set up with a provision that both strikes by the union and lockouts by the employers during the life of the agreement, were prohibited. All differences between labor and management would be referred to impartial persons whose decisions would be final and binding. It was the first attempt to introduce (mandatory arbitration and) a rule of law and order in the industry, with a tribunal to settle all disputes that would arise. The suggestion for such a tribunal came from the union, and since Meyer London represented the union in all of these negotiations, it is clear that he was responsible for this epoch-making decision to abandon force and apply reason in the settlement of differences between the employer and the union." The Protocol "became an agency for harmony without precedent or parallel in the whole trouble-studded history of union labor in the United States."

The second method advocated by London for the betterment of the social welfare of working people was "a political party founded and maintained by the workers themselves."

He ran unsuccessfully for the U.S. Congress for the first time in 1910, and again in 1912 on the American Socialist Party ticket. London hoped to capture the twelfth district, a traditional Tammany stronghold, and indeed, in the 1912 election, London did "capture" the district. Unfortunately, when the votes were counted and when Tammany Hall had managed the several voting "irregularities" to their favor, London lost the election. Popular sentiment in this election had been without a doubt behind London; the Democrats had been able to hold only one successful rally in the district, while London held them on a regular basis. The reason for London's defeat, however, was that the thousands of people who supported London during the campaign could not vote on election day; they were not citizens. The Naturalization Aid League which had been established by the socialists after the 1910 election, intensified its efforts to increase the number of qualified voters recruited from the ranks of naturalized citizens.

In November, 1914, Meyer London was finally elected; he was to serve in the sixty-fourth U.S. Congress from the twelfth district of New York.

London was awarded membership on the Committees on Labor, on Mines and Mining, and on Expenditures in the Department of Labor.

On the opening day of Congress, December 6, 1915, London introduced a joint resolution (H.J. Res. 38) calling upon the President to convene a Congress of neutral nations to seek to bring about a durable peace in Europe. Later he introduced another measure (H.J. Res. 159), which provided for a federal commission to investigate and report a scheme of national insurance against unemployment and sickness, together with old age pensions, London introduced numerous other social reform measures during his first term in office, but these two, the peace proposal and the national social insurance system, received the greatest part of his efforts.

Recognizing that the war in Europe was a steadily mounting concern of Americans (as the propagandists intensified their efforts), London addressed himself to the war issue immediately. London's peace resolution contained seven principles which were to serve as the basis for negotiations. They were:

First. Evacuation of invaded territory.

Second. Liberation of oppressed nationalities.

Third. Plebiscite by the populations of Alsace-Lorraine, Finland, and Poland as to their allegiance or independence.

Fourth. Removal of the political and civil disabilities of the Jewish people wherever such disabilities exist.

Fifth. Freedom of the Seas.

Sixth. Gradual concerted disarmament.

Seventh. Establishment of an international court of arbitration with the commercial boycott as a means of punishment for disobedience.

While London was setting forth peace proposals, President Wilson was introducing preparedness programs. On December 7, 1915, President Wilson gave his annual message to Congress. He spoke on the issue of preparedness, saying that the conflict in Europe was rapidly taking greater and greater proportions. He said that the U.S. should prepare itself militarily in the event that it was forced to enter the war. Still, Wilson once again proclaimed our neutrality. . . .

On January 18, 1916, London rose in the House to address his colleagues in response to the President's message. . . .

"Now gentlemen, I want to impress upon the American people the need of fighting the insanity of preparedness with the sane, rational, insistent demand for international peace. That is why I introduced on the 6th of December a joint resolution calling upon the President of the United States to convene a Congress of neutral nations to offer mediation to the belligerents of Europe. . . .

"My idea is that he should be able to say that the collective conscience of the American people as expressed by its Congress has forced him to initiate peace negotiations and its compelling him to convene a Congress of neutral nations.

"There may be some men who think that all this talk about internationalism is entirely out of place in this Congress. They are mistaken. Everything worthwhile, gentlemen, is international. There are national prejudices; there are national hatreds. But science is international. Art is international. Music is international. Religion is international. All that you cherish in your religious system has been transmitted to you from the past generations from other climes and other lands and other continents. Let us abandon that narrow conception of patriotism which consists in the doctrine, 'My country, right or wrong,' because there is a nobler doctrine, a higher doctrine, 'My country must always be right.'" (Prolonged applause). . . .

President Wilson and Congressman London were both returned to office in the election of 1916, with a mandate given by the people that the United States remain at peace. Nevertheless, on April 2, 1917, a special session of Congress was convened as the President called upon the Congress to vote a declaration of war against Germany. The vote was 373 ayes and 50 nays. Meyer London was one of the fifty dissenters; he was the only representative from the East to oppose the war.

With the country at war, London was forced to moderate his views. . . . He began to vote "present" on war measures in an effort to appease both the Socialists and his colleagues in the House. . . .

In June, 1917, the Congress passed a bill which was to become the greatest menace to the civil liberties guaranteed by the Constitution in the entire history of the United States. London, recognizing the severity of the Espionage Act and the danger of such a bill in a "free" society, delivered a vigorous denunciation of it. He said:

"It is one of the most mischevious pieces of legislation ever imposed upon a free people. There is nothing to parallel it. I have carefully examined the history of European countries during the last century and found nothing to compare it. There is nothing so drastic to be found during the restoration of the Bourbons in France or during the period which followed the triumph of the Prussian government after the suppression of the revolution of 1848." . . .

On January 8, 1918, President Wilson outlined his "fourteen points" for peace. Today these fourteen points are associated with President Woodrow Wilson; these points, however, were outlined long before Wilson's speech on January 8. London and the socialists had expounded on them before the United States was even at war.

But the war in Europe was not London's sole concern during the sixty-fourth and sixty-fifth Congresses. London also advocated numerous social reform measures which at the time were considered utopian, yet which in the middle-thirties were adopted as part of the New Deal legislation of Franklin D. Roosevelt.

When London entered Congress, the only protective legislation on the statute books was totally inadequate; there were no effective child labor laws, no old age pension laws, no sickness and disability insurance, no unemployment insurance. Today these protections and benefits are taken for granted. But in 1915, such laws were considered idealistic and impractical. Furthermore, the early attempts at federal child labor laws were struck down by the Supreme Court as unconstitutional in 1918.

It was London's foreign policy stance that cost him the 1918 election. He had opposed the war but once the U.S. had entered the war, London, was torn by his conflicting loyalties. His "present" stance outraged many socialists in his district. When the ballots were counted, London had been defeated by 700 votes.

London renewed his work after his re-election in 1920 with the same vigor which had carried him through his first two terms. He reintroduced his national social insurance resolution. He offered a resolution "providing for the recommendation of amnesty and pardon for political prisoners in the United States." London believed that with the end of the war and the war hysteria, there was no longer a claim for keeping the vicious Espionage and Sedition Acts.

London also introduced a resolution calling upon the President to establish friendly relations with the government of the people of Russia. "He based his resolution 'on the martyrdom that the Russian people have suffered for nearly seven years of war, blockade, and excommunication by other nations, on the principle that the Russian people must be permitted to solve their complex problems without obstruction or interference from outside powers. That Russia must get generous aid and assistance from countries with democratic institutions and democratic experience,' and above all, on the fact that 'the refusal to recognize the present government of Russia encourages professional soldiers, political adventurers of the czarist regime to foment civil war.'"

London's victory in 1920 pushed his opponens to look for alternate methods of unseating him. Unable to defeat him at the ballot boxes, unable to defeat him even when they formed a coalition, they looked elsewhere for a solution: the gerrymander. The result was inevitable. London was defeated.

Fifty years ago, on June 6, 1926, Meyer London died. The following morning London's body lay in state in the Forward Building. London had been one of the founders of the *Jewish Daily Forward*. According to the New York Times, 2,500 people passed before his coffin.

According to police reports, about a half a million mourners filed into the streets on his funeral day, June 10, 1926. "For six hours the East Side put aside its duties, pressing or trivial to do honour to its dead prophet," as one newspaper put it.

Indeed, the people of the East Side of Manhattan were paying tribute to a prophet. London predicted that the war would result in revolution. Germany, the Soviet Union and Austria had fulfilled his prophecy. Moreover, London foresaw the League of Nations.

London was equally farsighted in his domestic programs. He introduced time and again his National Social Insurance bill; this was twenty years before the Social Security Act was signed into law by President Roosevelt in 1935. Aside from the National Social Insurance bill, London spoke in favor of federal minimum wage and maximum hour laws, and subsidized public housing to replace the terrible slums in which the urban-immigrant was forced to live. He also advocated income and inheritance taxes to provide for an equitable distribution of wealth. He spoke in favor of women's suffrage and "led the fight against the bill disenfranchising 165,000 workers in Puerto Rico who had voted for fourteen years." He also addressed the House in opposition to the literacy test in the Burnett immigration bill. London had served in Congress as the leading spokesman of the labor movement and of the urban immigrant.

Thus it was no surprise when the urban immigrants and the laborers of the East Side poured into the streets on June 10, 1926. They were there to pay tribute to a great man, a man with relentless energy and a profound understanding that inequities in the American System had to be improved. Meyer London was not to be forgotten on the East Side; the people with whom he had lived and struggled had regarded him as a great leader, counsellor, and organizer. They cherished the memory of London both on the streetcorner and on the House floor, speaking on the need for social reforms.

At the funeral, a great many eulogies were given. Morris Hillquit said of London: "A man of rare and noble parts has gone from among us, a faithful champion of the workers, a loyal comrade within the Socialist movement, a warm-hearted friend of all suffering humanity. The terrible void which his sudden death has left in our ranks will never be filled. His loss is irretrievable."

WELCOMES NEW YORK STUDENT TO WASHINGTON

HON. JEROME A. AMBRO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 8, 1976

Mr. AMBRO. Mr. Speaker, I recently had the pleasure of welcoming to Washington a very bright, young constituent, Michael Volkovitsch, of Huntington, N.Y., who is 1 of the 121 students selected for the prestigious Presidential Scholars.

Michael attends Harborfields High School in Elmwood and successfully competed in a series of challenging contests before being named one of New York State's two Presidential Scholars. His success in that competition is not only a tribute to his own outstanding academic accomplishments, but also speaks well for the quality of education we Long Islanders have worked so hard to achieve in our school systems.

Like many of us in this Chamber, Michael Volkovitsch is an admirer of Thomas Jefferson whose impressive achievements, intellect and foresight are so much on our minds during this Bicentennial Year. It is not surprising that our third President should be a hero to an astute student of history such as Michael who plans to major in that discipline at Harvard University.

Meeting and talking with this fine young American from my Third District in New York was both an interesting and encouraging encounter for me, and I only regret that more of my colleagues did not have an opportunity to make his acquaintance. His accomplishment in the Presidential Scholars competition is most worthy of recognition by the House of Representatives and I am supremely confident of his inevitable success in whatever career he ultimately chooses.

DOES GOVERNMENT MODERNIZATION MEAN THE END OF FEDERALISM?

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 8, 1976

Mr. ROSENTHAL. Mr. Speaker, in recent weeks, a section added to the Fiscal Assistance Amendments of 1976 (H.R. 13367) by the Government Operations Committee has come under fire from those committed to blocking any revenue-sharing reform. The amendment, which encourages the modernization of State and local governments, requires that the States submit an annual report to the Secretary of the Treasury explaining what structural improvements, if any, they have made. Although the amendment suggests criteria for modernization, it leaves the States free to pursue whatever policies they choose.

Yet, opponents have prophesied that the disastrous consequences of the modernization amendment would range from inundation of Washington in paperwork to a betrayal of the founders' Federal principles. The fears have been greatly enflamed, and much of the evidence used against the amendment is distorted. I would like to dispel the inaccuracies contained in the additional views of the committee report—House report 94-1165, pages 105-107.

Assertion No. 1: A GAO report concluded that revenue sharing was not the vehicle to encourage Government modernization. This is a misrepresentation of the GAO publication "Revenue Sharing and Local Government Modernization," which was actually a summary of private views expressed in a conference on revenue sharing—not the conclusion of the GAO. The GAO introduced the pamphlet by noting:

> The report describes the views and opinions of the participants at a conference and should not be interpreted as opinions or conclusions of GAO.

The additional views also cite remarks by Prof. Daniel Elazar which were appended to the GAO report. Professor Elazar argued against any amendment which would "provide inducements" for modernization, establish "a single federally enforceable pattern," or "attach serious conditions to general revenue sharing." These are precisely what the Rosenthal amendment avoids. A unit will face no penalty for failing to prepare a modernization program, nor will it be forced to follow a national plan. Rather, the amendment will encourage local units to follow the path most appropriate for them.

Assertion No. 2: The cost of planning and implementing a modernization program could exceed the Federal funds received. This cavalier charge is made without proof and without any estimate of the cost of refining Government structures. It overlooks the fact that the amendment does not require States to develop a master plan. Above all, this argument is shortsighted: It is more sensible to spend the requisite amounts now to improve local governments than to endure in eternal silence the inefficient utilization of Federal funds.

Assertion No. 3: States and localities should decide for themselves what constitutes a structural improvement. Unfortunately, many obsolete, limited-function local units do little but collect revenue-sharing funds; for them, modernization would be undesirable even though justified. The amendment establishes modernization as an important priority and offers relevant criteria—but implementation of an appropriate plan would still remain in the hands of each State.

Assertion No. 4: By letting some bureaucrat in Washington impose his ideas of modernization on local units, the amendment will destroy federalism. This type of anti-Washington rhetoric belongs on the campaign trail, not in Congress. The term federalism as used in the additional views is a warmed-over synonym for States rights. The amendment does not infringe on legitimate local interests, and it does not allow bureaucrats to impose anything on the States. The amendment simply requires States to report efforts toward structural reform. As the grantor of $30 billion in funds to States and localities, the Federal Government certainly has the right to urge them not to waste it on leaky and antiquated structures. The real issue is not the survival of federalism, but rather, whether Congress will close its eyes to the serious deficiencies in the units which it funds.

Mr. Speaker, I must emphasize that opponents of the Rosenthal amendment do not deny the need for modernizing State and local governments, nor do they disagree with the guidelines offered in the amendment. Instead, they distort what the amendment will require of the States, and they scream about the destruction of federalism. In a program such as revenue sharing, encouraging improvements in State and local governments is not only the Congress right—it is our responsibility.

FARM SAFETY PAMPHLETS

HON. TOM HAGEDORN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 8, 1976

Mr. HAGEDORN. Mr. Speaker, 2 weeks ago, while seeking information concerning the new agricultural regulations of the Occupational Health and Safety Administration, I acquired a series of farm safety pamphlets from OSHA. The material contained in the booklet was incredibly simplistic and an insult to the American farmer, not to mention being a waste of tax dollars. The following is a press relsease I issued after reading the pamphlets:

Hagedorn Questions Effectiveness of OSHA Booklets

Taxpayers are paying $466,700 to inform farmers that floors covered with manure tend to be slippery, 2nd District Rep. Tom Hagedorn charged today.

Such advice is contained in one of a series of pamphlets promoting farm safety being published by the Department of Labor through the Occupational Safety and Health Administration (OSHA), Hagedorn said. He said the information contained in the pamphlets is of little educational value to farmers.

"The material in these pamphlets seems to be written for a New Yorker about to visit a farm for the first time," he said.

Hagedorn said he uncovered the cost of the pamphlets while inquiring into the new OSHA regulations that apply to agriculture. The regulations originally were scheduled to go into effect on June 7 but have been delayed until Oct. 25.

"After seeing six of the pamphlets and reading the simple material which they contain, I can't believe these are intended for persons who have spent all their lives on farms," the congressman said.

According to figures provided by the publication division of the Department of Labor, each pamphlet costs approximately eight cents to print, Hagedorn said. Since 28 different pamphlets are being published in quantities of 155,000 each, total cost of printing is $347,200.

In addition, material which appears in the pamphlets was developed under a contract with Purdue University. The contract, Hagedorn said, is for $119,500.

"This means that $466,700 is being spent by the government to instruct farmers in safety habits which, for the most part, involve nothing more than common sense," he said.

Hagedorn said the pamphlets include instructions and warnings that:

"You can be cut, crushed, pulled in or struck by an object" thrown by farm machinery and, "You can also be injured if you fall while working from or near any of these machines."

"Dull blades (on mowers) can be dangerous because mowing will be more difficult."

"You could fall on tools, equipment and feed lying out of place and get cut or bruised."

"You can get cut by bolts or nails that stick out."

"Bare feet or sneakers aren't safe around cattle."

"When floors are wet and slippery with manure, you could have a bad fall."

A farmer should be careful "that you do not fall into the manure pits."

Not all of the material developed by Purdue University is of this caliber, Hagedorn said, noting that the institution is developing safety lesson plans for agriculture students in vocational schools.

"But from everything I've seen, the $466,700 price tag is much too much for a safety campaign that probably will not teach farmers anything new," Hagedorn said.

IMPOSITIONS UPON THE LIVES OF OUR CITIZENS

HON. CHARLES E. GRASSLEY

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 8, 1976

Mr. GRASSLEY. Mr. Speaker, the Federal Government's unfortunate reputation for generating endless forms and imposing numerous rules and regulations on our citizens is well deserved.

It seems that every day my office receives a letter from a constituent complaining about the impositions which the Federal Government is making upon the lives of our citizens. Following are excerpts from three letters which I have recently received which I would like to bring to the attention of the Members of the House. I am sure that many, if not all, of my colleagues have received similar letters:

Dear Congressman Grassley: I have just received in the mail today form 5500C from the IRS and Department of Labor concerning the report to be filled out for the 1975 Annual Report of Employee Benefit Plan.

I really should wait to write this until tomorrow, but cannot!

I really should wait to write these reports of ERISA, etc. I have to take them to my CPA for proper filing and receive a bill of $50.000 or more each time. They tell me that by the time they research my pension records and type them up there is a 7 hour time charge.

I'm a builder with a good reputation in Waterloo, but a small contractor. My men have been with me, for the most part, a long time and I've made some money—So a few years ago I started a pension fund approved by IRS with the Bankers Life of Des Moines handling the funds. I totally fund it (the pension plan) myself and it's a good one.

But as of today, I am finding out how to cancel this fund. I will pay the IRS whatever I owe them and take the approximately $10,000.00 yearly and put in the B & L—pay the IRS, and keep the rest for myself and wife! I can then forget the numerous reporting forms.

If this is what Congress wants this is what Congress gets (from me anyway).

I'm so sick of paperwork, and expense involved, with Government Bureaucracy that I'm throwing in the sponge.

My men can collect their Social Security (if any) and forget my pension plan, which they didn't fund anyway!

Have you seen all the forms that a small business is required to fill out? If not you should investigate. Somebody should do something about them soon!

I have talked with my fellow businessmen and they feel the same way I do about this matter.

I have been silent until now, but I feel you should know my feelings—Please help us. Everything good that has been started has been bogged down by Big Brother.

William L. Wisner.

Dear Congressman Grassley: With schools having state imposed budget limitations such as ours this cost added by the Federal Government has the effect of reducing books, desks and supplies for teaching kids.

D. H. Feazell.

Dear Congressman Grassley: We have a small business here in Grundy Center, Iowa. I say that it is small, for our staff of employees is usually about a dozen people. This staff does not include C.P.A.'s, lawyers and so forth.

I find that more and more of my time and that of my staff has to be spent in trying to keep up with the government regulations. The feeder pig industry is, perhaps, one of the most highly educated businesses in agriculture. I could write a book about these regulations. However, this is not the purpose of my letter.

I cannot help but wonder if you have any idea or appreciation of what Congress has imposed upon the business community of this country. Isn't there any way that you can give us some relief.

Keith E. Myers.

FINAL CONGRESSIONAL APPROVAL OF HOUSE JOINT RESOLUTION 92

HON. EDWARD R. ROYBAL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 8, 1976

Mr. ROYBAL. Mr. Speaker, I am very pleased with the leadership and support shown by my colleague, Ms. Pat Schroeder, in advancing my bill—House Joint Resolution 92—through the House of Representatives.

The Senate has taken swift action in support of my legislation, and we are now at the point of taking a significant step toward the improved collection and analysis of data on Americans of Spanish origin or descent.

The purpose of House Joint Resolution 92 is to insure that the Federal Government provides an accurate and current reporting of the conditions affecting the more than 12 million Americans of Spanish origin or descent. This assurance has become necessary in light of substantial failures by the Federal Government to fully and accurately represent this second largest minority group.

One of the most glaring effects has been the undercount of Spanish-origin persons by the Census Bureau. The 1970 census was, in fact, a most inaccurate account of this group. The Bureau did not actually count the Spanish-origin population, but relied on a 5-percent sample question. This small sampling was an expedient, an afterthought, adopted by the Bureau to quell criticism against its original failure to provide a Spanish-origin question for the census. However, very little was done to insure that this sample adequately estimated the Spanish-origin population.

First of all, the Census Bureau failed to develop appropriate data collection techniques. It relied too heavily on the mailout-mailback method, despite the fact that mail delivery would be poor or even nonexistent in substandard housing areas.

Nor did the Bureau properly account for the high mobility among migrant farmworkers with its significant Mexican American population.

Further, it failed to provide a Spanish-language questionnaire on a routine basis, despite the fact that many Latinos needed help to fill out the lengthy English-only forms.

The Bureau attempted to discount the Spanish-origin question as a regional problem, completely ignoring their nationwide distribution. The truth is that well over 40 percent of this group resides outside the Southwestern region.

Repeatedly, the Bureau has failed to prove that it was sensitive to the need for bilingual enumerators during the 1970 census. Community representatives and observers continually complained about the absence of bilingual census takers. Originally, the Bureau claimed they had never kept employment records on the enumerators' knowledge of foreign language. Recently, however, I discovered that they did, but had apparently destroyed the records after the census.

An April 1974 report by the U.S. Commission on Civil Rights presented evidence of a significant undercount of the Spanish-origin population, citing the Bureau's own estimate of the 1970 black undercount, and its insensitivity in developing methods to accurately count the Spanish-origin communities.

A 1973 report by the National Urban League concluded that the undercount rate for the Spanish-origin was "probably larger than those for blacks."

As a result of the Bureau's undercount, several organizations conducted independent estimates of the Spanish-origin population. The Mexican American Population Commission estimated the Spanish-origin at over 12 million people as compared to the Bureau's 9 million. In a November 1971 suit against the Bureau, the Commission accused the agency of "often willful and arbitrary indifference" in counting Spanish-origin persons.

The Bureau has the constitutional mandate to compile and publish data on the U.S. population. There is little doubt that governmental agencies at all levels rely heavily, and in many cases exclusively, on data developed by the Bureau. This dependency has its own domino effect: If Bureau figures are suspect, then those of other agencies are also suspect.

There are currently some 100 Federal programs which allocate funds on the basis of population; many require census data for minority groups and populations within specific geographic areas. They cover a wide range of areas, from Federal highways and mass transit funds, to general revenue sharing, education, manpower, housing, health and social services, elderly programs, and law enforcement assistance.

Of special concern is the need for a cohesive data-gathering effort in the area of health. Our present knowledge of health problems among Spanish-origin persons is totally inadequate. For example, the National Center for Health Statistics, the primary Federal health data gatherer, currently does not provide reliable estimates on the health problems facing Spanish-origin persons, despite the fact that a selected "Ten State Nutrition Survey, 1968–1970" conducted by the Center for Disease Control suggested high levels of nutritional deficiency among the Spanish-speaking Americans.

A recent Federal health report provides data on the clinical signs of possible nutritional deficiency from age 1 to 74. The report itself emphasizes, "Nutrition is a major factor in the environment affecting life and health." And yet not one word in this 81-page report on nutritional deficiency among Spanish-origin Americans.

Both the interview and the examination health series present vital facts on the health status of the U.S. population including data on personal health expenditures, physician visits, prevalence of chronic respiratory and other conditions, hypertension, dental disease, pre- and post-natal care of children.

The series contain a combined total of 250 reports published since 1962; yet none offer data on Spanish-origin persons. One report details health record findings among children and youth, but no information is provided for Spanish-origin children.

Another important series of reports by the National Center for Health Statistics contains data on mortality, natality, fetal and maternal mortality, birth weights and other related trends. Nearly 80 percent of these reports provide data by race or color, but none by Spanish origin.

My bill would remedy these serious deficiencies by requiring, first, the regular collection and publication of data detailing the social, health, and economic conditions facing Americans of Spanish origin or descent.

Second, House Joint Resolution 92 would require the improvement and expansion of data on unemployment among this second largest minority group.

Third, it would call for a Government-wide effort on Spanish-origin data collection and analysis, and would designate the Office of Management and Budget as the responsible agency for carrying out this task.

Fourth, House Joint Resolution 92 would require a cooperative effort involving Federal, State, and local groups to develop a program for estimating the undercount in future censuses.

Fifth, it would mandate the use of Spanish-language questionnaires and bilingual enumerators in the Bureau of Census data-collection activities.

Last, it would require an affirmative action program within the Bureau of Census for the employment of persons of Spanish origin or descent.

Only by defining the Spanish-origin population to the greatest degree of accuracy possible can we assure that Government programs adequately serve the second largest minority in the United States.

I think that this legislation, once enacted, will serve as a vehicle for ameliorating the inequities that have existed for so many years.

IRISH CHRISTIAN BROTHERS CELEBRATE 50TH ANNIVERSARY

HON. MORGAN F. MURPHY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 8, 1976

Mr. MURPHY of Illinois. Mr. Speaker, I am delighted to take this opportunity to join with the Chicagoland community in paying tribute to the Irish Christian Brothers, whose inestimable contributions to the spiritual and educational needs of the area are well-known; 1976 marks the 50th anniversary of their continued devotion to these principles of services in the Chicago area.

The Irish Christian Brothers is an order founded by Edmund Rice in Waterford, Ireland, in the early 19th century. By the arrival of the 1920's the Irish Christian Brothers established roots within the Chicagoland area. Due to the untiring dedication of men like Rev. Brother Ignatius Doorley, the legacy of service, counseling, and education was established.

In 1930, the Christian Brothers began the training and education of young men at Leo High School which continues to the present. During the 1950's Brother Rice High School became a further testimony to the unselfish commitment of the Brothers. The Brothers' influence and good will spread further with the opening of St. Laurence High School in 1961.

Since 1930, these schools have graduated more than 9,000 men who have brought the Brothers' great spirit into their careers and their family lives. Many graduates chose the Catholic priesthood, because of their exposure to their teachers and spiritual advisers who combined sensitivity and compassion with manliness.

The Irish Christian Brothers began as a small band of men and have grown into a respected and vital part of their communities. As a Leo graduate myself and a product of the Christian Brothers' educational philosophy, I extend my gratitude to them and wish them continued success.

FEDERAL LEASE PROGRAM

HON. BARRY M. GOLDWATER, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 8, 1976

Mr. GOLDWATER. Mr. Speaker, last month, Julius Gius, editor of the Ventura County, Calif., Star-Free Press, wrote his views on the Federal lease program in the Santa Barbara channel.

I strongly recommend this article to my colleagues:

EDITOR'S NOTEBOOK

(By Julius Gius)

Let's go back to the beginning of the federal lease program in the Santa Barbara Channel:

The oil industry invested more than $600 million in competitive bids for federal leases in February, 1968. It was a gamble to explore for oil deposits under the sea.

Exxon paid $218 million in bonuses for its interest in 47 tracts. Since then it has drilled 45 exploratory wells in the Channel, resulting in discovery of three fields that promise an abundant flow of oil and natural gas. But it's anybody's guess when production will start, even though there have been:

Twenty major hearings on the Exxon development plans:

Three environmental impact studies (by the U.S. Geological Survey, Federal Power Commission and County of Santa Barbara);

Forty-four consultant studies, made at estimated cost of over $2 million;

Nine major approvals by governmental authorities, including federal, state and county entities;

110 conditions imposed by various regulatory bodies, all accepted by Exxon:

A referendum of the Santa Barbara electorate that approved the plans.

You'd think the matter would be resolved after so much wrangling, but that is not the case. The latest dispute concerns the method of transporting the crude oil to refineries after it's been processed in an approved-for-construction Exxon plant in Las Flores Canyon. The State Coastal Commission disfavors a tanker loading point for the processed oil in state waters; it recommends that instead of using tankers the company build a 160-mile pipeline from the Las Flores Canyon plant via Ventura, Chatsworth and downtown Los Angeles to Wilmington where the crude can be refined or trans-shipped elsewhere on tankers. Exxon says that the cost factors make acceptance of such a condition impossible, that they've gone as far as they can go to accommodate bureaucracy.

So that's the current stand-off.

As an alternative, however, the company is going ahead with design and engineering of a complete offshore crude storage and treatment facility that would be moored in federal waters, beyond the jurisdiction of the Coastal Commission. Exxon would get into production but we'd all be losers if this idea goes through, because the natural gas produced with oil would be reinjected into the earth formation rather than put to use. For some reason that is unclear to me, the commission has denied a pipeline to the shore for gas alone if Exxon elects to treat oil in the offshore facility. Thus this energy-scarce area would be deprived, at least for the near term, of up to 77 million cubic feet a day of "sweet" natural gas, enough to supply all the present household needs of Ventura, Santa Barbara and San Luis Obispo counties.

Whatever your feeings about offshore oil development in the Channel, I think you'd agree the Exxon case has been a nightmare of regulatory red tape, the likes of which can dampen business initiative and investment in the long range. No company ought to be required to hurdle so many roadblocks, thrown up by so many diverse government functionaries, in order to get a return on investment made in good faith at the federal government's invitation and encouragement. And the cost of it all—the hearings, studies, elections, lawsuits, and the like—will be paid in the final accounting by you-know-who.

BIPARTISAN LETTER

HON. WILLIAM M. KETCHUM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 8, 1976

Mr. KETCHUM. Mr. Speaker, today California voters go to the polls to cast their ballots on a number of extremely important issues. One of the issues being addressed at this time, Proposition 15, is designed to stop one of the most vital and consumer-oriented programs in our great State, use of safe, clean nuclear power.

The concern I share with a substantial number of the California delegation was stated in the following bipartisan letter sent on June 4 to all other Members of this legislative body:

HOUSE OF REPRESENTATIVES,
Washington, D.C., June 4, 1976.

DEAR COLLEAGUE: As you may be aware, there will be a proposition on the June 8th primary ballot in California which, if passed, would presage a shutdown of nuclear power plants all across the state. The effect of the "nuclear initiative", otherwise known as Proposition 15, could also have serious repercussions on both energy development and economic growth nationwide.

The provisions contained in this measure would stop planning and construction of new nuclear plants through the imposition of unrealistic requirements, while severely restricting the operation of existing nuclear plants in the state. The consequences of the initiative could spread to other states contemplating the continued use and construction of nuclear power generators.

As you know, there has been considerable debate in recent years over the safety and efficiency of nuclear energy generation. Yet, there has never been a major accident at a nuclear power facility. Despite operational difficulties which have prevented some plants from operating at full capacity, nuclear energy generation saved U.S. consumers $2 billion in electricity costs last year.

Development of a national energy policy would be severely restricted if regionally viable energy sources were eliminated on an arbitrary basis. Continued heavy dependence on imported oil and precious natural gas in electric plants is contrary to the interests of the United States. Nuclear power provides one of the most plentiful and environmentally acceptable energy sources which can be made available on a nationwide basis.

Should Proposition 15 be approved, the actual costs to Californians is estimated to be as high as $40 billion over the next twenty years to pay for phased-out nuclear power plants, and for conversion to oil-fired plants fueled primarily with imported oil. An average family of four could expect to suffer $7,500 of that burden. Low and fixed income groups would find it difficult to sustain these increased costs.

Jobs would also be affected by the passage of the initiative. Construction job opportunities would be lost. The unavailability of low-cost energy in sufficient supply could further strain industry, resulting in higher unemployment. This anti-growth impact is unacceptable.

The effects on inflation would be exacerbated. In the agricultural sector, for example, the increased costs of running irrigation pumps would quickly show up on the supermarket shelf.

We believe that federal energy priorities which stress nuclear waste disposal and continuation of reactor safety research programs are both cost-effective and the most prudent approach to a national nuclear energy program designed for protection of public health and safety. Unwarranted retrenchment proposals like the California initiative could have a serious impact on the nation's economic recovery and foreign trade balance.

California's Proposition 15 brings to our attention that the decision to commit ourselves to develop domestic energy sources is at hand. We hope that the voters of California will decide to give a vital energy industry a vote of confidence. In so doing, they could set the tenor of nuclear policy nationwide for years to come.

Sincerely yours,

William M. Ketchum, M.C.; John H. Rousselot, M.C.; Carlos J. Moorhead, M.C.; Clair W. Burgener, M.C.; Burt L. Talcott, M.C.; Bob Wilson, M.C.; Harold T. Johnson, M.C.; B. F. Sisk, M.C.; Barry M. Goldwater, Jr., M.C.; John J. McFall, M.C.; Paul N. McCloskey, Jr., M.C.

Charles E. Wiggins, M.C.; Robert J. Lagomarsino, M.C.; Don H. Clausen, M.C.; Norman Y. Mineta, M.C.; Jerry M. Patterson, M.C.; Thomas M. Rees, M.C.; Robert L. Leggett, M.C.; John E. Moss, M.C.; Charles H. Wilson, M.C.; George E. Danielson, M.C.; Alphonzo Bell, M.C.

A TRIBUTE TO "MAMA NICK"

HON. RON DE LUGO

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 8, 1976

Mr. DE LUGO. Mr. Speaker, I returned to the Virgin Islands this past weekend for one specific reason. I went to pay my respects to Julia Nicholson, "Mama Nick," to those of us fortunate enough to know her.

Mama Nick died last week, and the Islands will never be the same. She was a Christian in the truest sense of the word. Her heart always had room for one more person. She was tireless in her efforts to aid those she thought worthy, and to Mama Nick everyone was worthy.

Julia Nicholson helped all of us because it was the right thing to do. Not only did she raise her children to a point where today they are among the finest citizens of the Virgin Islands, but she took the time to aid everyone else's as well. To Mama Nick it was the little things that counted; a clean face, clean clothes, shoes, and some food. To Mama Nick these were expressions of her love, and not substitutes for it.

Mr. Speaker, I would like to insert a tribute to this wonderful woman from one of our local newspapers in the CONGRESSIONAL RECORD. She enriched the lives of all of us she touched, and it is right that she be remembered properly.

The article follows:

[From the Virgin Islands Daily News, June 2, 1976]

A TRIBUTE TO "MAMA NICK"—(1890–1976)

To us she will always be "Mama Nick," as Julia Nicholson was lovingly called by those persons who were fortunate enough to know her.

A description of the lady would go something like this: ambitious, determined, very kind, a good head for business, a good leader and when necessary a good follower, a churchwoman, and above all a good mother—not only because she took excellent care of her own children but everybody else's. She was a public welfare institution all by herself in the days when there was little help for the indigent.

Her motto was, "Where there is heart room there is always room for one more." Mama Nick took care of other people's children because, in her own words, "A bath, a clean frock or pants, some shoes and a little food, along with a place to put his head is all a child needs. When they are rude, you correct them and always make sure they go to school and church and you will have no problems at all."

Her home was truly a foster home for those who needed care. She also helped the elderly.

"Mama Nick" always had a cake sale, food sale, raffle or some activity to make money in a hurry for one of her many projects. The Girl Scouts was one of her pet organizations, and she attended camp regularly both here and in Puerto Rico, where she was well known, by all the leaders and girls. She took part in all of the activities, never wanting to be left out. She walked in the parades until she became "a little too old for that," and then she rode in a car. At camp Miss Julia was the life of the program in the evenings. Donning her shorts and what she considered a good outfit for company she sang, danced, and told "long time" stories until wee hours of the morning.

In organizations such as the Women's League, church groups and others too numerous to mention, she was known for her excellent cakes and pastries, salt fish cakes, arroz con pollo and many other native delicacies. At the same time when there were discussions on policies or other serious business, she made them repeat everything until she was certain that she understood and then she would take a stand, from which most times she would not budge. In other words, no one could change her mind if she thought she was right, right being what she felt was best for one and all.

A very versatile person, she was a seamstress and made beautiful hats and dresses for ladies and girls to go to "church," at the same time making vestments for the priests and mass boys or acolytes.

It would be easy to go on and on about her many achievements that people know about, and the little things that made the difference in so many lives—and how she was able to do it no one will ever know.

Well done, Miss Julia.

TRIBUTE TO NEWELL BARRETT

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 8, 1976

Mr. WAXMAN. Mr. Speaker, I would like to commend Newell Barrett, judge of the Superior Court of Los Angeles County, who is completing two terms as president of the board of trustees of Portals House.

Portals House is a psycho-social rehabilitation agency for mentally ill adults in Los Angeles. In fact, Portals is the only agency of its kind west of Chicago.

Portals helps psychiatrically disabled persons to secure gainful employment and to function socially in the community.

While many community mental health services in southern California have been curtailed by financial crises, Portals House, under Judge Barrett's strong direction, has established a strong fiscal base. Now, thanks to Judge Barrett's leadership, Portals is operating from a good financial position.

Portals now plans to increase services to more mentally disabled persons with programs not duplicated anywhere in Los Angeles.

His leadership extends far beyond establishing fiscal policy, however. Clients and staff respond to Judge Barrett's warm, easygoing manner. He participates frequently and easily at social functions Portals provides for its clients.

Judge Barrett is concerned about people. During his tenure as presiding judge of the juvenile court, he initiated important changes for juvenile justice. His care and concern for people is shown in all of his relationships, in or out of the courtroom. On June 11, Judge Barrett turns the gavel over to the new president of Portals. At that time, representatives from government, from other agencies, and friends of Portals, including Edwin E. "Buzz" Aldrin, Jr., will be present to acknowledge his outstanding contribution to Portals and to the mental health community of Los Angeles.

A SHOCKING RESEARCH NEGLECT

HON. WILLIAM S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 8, 1976

Mr. BROOMFIELD. Mr. Speaker, I want to call the attention of my colleagues to the little known but common and deadly disease, Reye's—pronounced rye's—syndrome, and urgently request them to make more Federal funds available for research into its cause, treatment and, hopefully, cure.

Reye's syndrome was named for Dr. R. D. Reye who first described the condition in 1963 and theorized it was caused by a combination of factors, rather than by a specific virus. Earlier, in 1925, Dr. Charles Brown and Dr. Douglas Symmers performed autopsies on children who had died of symptoms now attributed to Reye's syndrome. They published a paper on their findings about this unknown illness and called for "further inquiry into its nature and cause."

Reye's syndrome strikes patients generally as they are recovering from a cold or influenza, especially influenza B, and less frequently, it follows the chicken pox or measles. It attacks the liver, brain, and central nervous system. Its victims are nearly always children from 3 months to 18 years of age, with a median age of 11 and those between 12–15 producing the greatest number of cases. It is characterized by uncontrollable nausea and vomiting, drowsiness, convulsions, and delirium. Within 48 hours after the onset, the child may slip into a coma and die, or shrug off the disease and recover quickly. According to the Federal Center for Disease Control in Atlanta, Ga., Reye's syndrome is fatal in about 50 percent of the cases.

Although there is little doubt now that Reye's syndrome is a rare compilation of a number of viral infections, its cause is still unknown, there is neither a cure nor a specific treatment for it. The most effective treatment in serious cases, some physicians believe, is replacement of the patient's blood by means of transfusions.

Since only about 500 cases had been reported in world literature, Reye's Syndrome was thought of as a rare disease prior to the epidemic we experienced in 1974. Between December 15, 1973, and June 30, 1974, 349 cases were reported to the Center for Disease Control in Atlanta. Cases were reported in 40 of the 50 States. The heaviest concentration of cases was in the Midwest, with 167, 48 percent, of the 349 cases occurring in the East North Central region. Michigan reported the greatest number of cases, 46, followed by Ohio, 44, New York, 39, Illinois, 28, Pennsylvania, 27, and Wisconsin, 24.

Since Reye's syndrome is not a reportable disease, information on the exact number of cases that occur in our Nation is not available. For example, the Center for Disease Control indicates 55 cases were reported in 1975 and 19 so far this year, but it is speculative as to what extent these figures represent a decrease in reporting and a decrease in the number of cases. In addition, many physicians fail to recognize Reye's syndrome in their diagnosis so that patients are incorrectly listed as victims of other diseases.

The outbreak of Reye's syndrome in 1974 when 349 confirmed cases were reported to the Central Disease Control Center clearly indicates that this disease is not as rare as previously thought. The number of deaths in 1974 was more than the estimated deaths from lead intoxication.

To personalize the tragedy of this dreadful disease, take the experience of Mr. and Mrs. Gary Tackabury of Berkley, Mich. The Gary Tackaburys' 10-year-old daughter, Yvonne, developed chicken pox shortly after Christmas vacation. Nine days later, Yvonne was dead. Chicken pox was not the culprit, but rather Reye's syndrome. "It was a nightmare," said Mrs. Tackabury. "I never believed I would watch my daughter, my healthy, active daughter, die before my eyes."

So much for the nature and impact of Reye's syndrome on the lives of American children and their families. What needs to be done about this tragic disease and, more specifically, what will Congress do about it?

This winter parents and physicians will be concerned with the effects of a predicted doubling of the cases of measles plus a serious influenza epidemic. To combat the expected increase of influenza cases, we are launching a nationwide influenza vaccination program aimed at 200 million of us at a cost of $135 million. Congress not only reacted, but reacted with amazing speed to make this possible by adopting the Emergency Supplemental Appropriations Act.

Since Reye's syndrome is associated with both influenza and measles, it is reasonable to assume there will be an increase this winter in the number of cases of Reye's syndrome since the epidemic course of Reye's cases almost exactly parallels the epidemic of influenza in previous epidemics. And remember one out of two will die. Unfortunately, there is no vaccine for it. In fact, at present its cause is unknown and there is neither a cure nor a specific treatment other than replacement of the patient's blood by transfusions, life support systems, and drugs which accounts for the high mortality rate of the disease.

Here is a disease that desperately needs research. Research will provide the critical understanding of the problems of Reye's syndrome. Research has been the key to greater understanding of and better treatment of other diseases. I have no doubt that Reye's syndrome will be overcome by expanding our research efforts.

When the Gary Tackaburys took their daughter, Yvonne, to the Children's Hospital of Michigan in Detroit, she said they were told by Dr. Edgardo Arcinue, who diagnosed Yvonne's ailment as Reye's syndrome:

> If there had been more research, maybe I would not have to tell you your daughter is going to die.

It is an indictment that we could let 51 years go by without making a major attempt to study this disease. It was in 1925 that Dr. Charles Brown and Dr. Douglas Symmers called for "further inquiry into its nature and cause" in their published paper on this unknown illness. Is it not sad that we are at about the same place we were 51 years ago insofar as cause, cure, or treatment are concerned and that a child getting Reye's syndrome virtually has no better chance today than 51 years ago.

The rationale for the minimal Federal spending for research into Reye's syndrome is difficult for me to understand. This little known disease is devastating and fatal with 50 percent of its victims dying within a few days. Yet, according to a spokesman at the National Institute of Neurological and Communicative Disorders and Stroke, which is the branch of the National Institutes of Health responsible for research in this type disease, there is only one grant supported by the Institute which is directly related to Reye's syndrome. This grant was made several years ago in the amount of $92,205 and expired April 30, 1976. Apparently there is no set amount allotted in the Institute budget for research in Reye's syndrome.

Since Reye's syndrome attacks the liver, brain, and nervous system, research in these areas may indirectly shed some light on Reye's syndrome. However, there are only 19 research projects in these fields for about $750,000 funded in whole or part by the National Institutes of Health where, by its own admission, there is even a relevancy to Reye's syndrome and in only seven of these is the primary purpose Reye's syndrome. This research is being carried out at several hospitals, research medical centers and universities. Technically, all of this research may have a relevancy to Reye's syndrome, but its impact may be exaggerated. However, if we accept the relevancy of this research, the amount of Federal money being spent on research into Reye's syndrome is pathetically small when compared with its spending on other diseases or when compared with actual need.

Also, it should be noted that research on Reye's syndrome is being carried out on a private basis at a very limited number of hospitals and medical centers. Dr. Arcinue informed the Gary Tackaburys that, although there was no formal research being done on the disease at Children's Hospital of Michigan in Detroit, he had been researching it independently since 1969.

I deeply respect and take pride in the efforts of Dr. Arcinue and others who, through their dedication, are trying to unravel the mystery of Reye's syndrome. Certainly we should provide them the resources to make their efforts hasten the day when this disease is conquered.

Reye's syndrome lacks a critical ingredient for success in obtaining funds from private foundations. Its victims do not live long enough for the relatives and friends to have a continuing reason to perpetuate a foundation that will sponsor research.

Because the Gary Tackaburys found it difficult to believe that a disease that affected so many people in such a devastating way received so little public attention and so little private and Federal research funds, it has become a cause with them. They have established an organization through Children's Hospital of Michigan in Detroit to help find a cause, cure, and successful treatment for Reye's syndrome.

I strongly commend this endeavor and sincerely wish it utmost success. This tragic disease has been overlooked too long. The reason so little progress has been made in determining the cause and cure of the disease is that the amount of money spent on Reye's syndrome research has been miniscule. Dedicated people like Dr. Arcinue must have the funds needed to hasten the saving of lives from this disease.

The final decision regarding Reye's syndrome research within the National Institute of Neurological and Communicative Disorders and Stroke is the National Advisory Neurological and Communicative Disorders and Stroke Council. Since Reye's syndrome seemingly has a low research priority with this Council, I ask the Congress to mandate a specific amount of money to be spent on Reye's syndrome research alone. It will not suffice to increase the appropriation for the National Institute of Neurological and Communicative Disorders and Stroke without setting aside a specific amount for Reye's syndrome research. I ask that we make direct authorization of funds specifically for research into the cause, treatment, and cure of Reye's syndrome.

It is paramount that Reye's syndrome research be given adequate financial support and encouragement. With a substantial increase in funding, we might find a remedy for Reye's syndrome in our lifetime. I respectfully request and urge that the Congress see that there is a substantial increase in the budget of the National Institutes of Health for Reye's syndrome research. Let us change the deplorable and tragic neglect of research on Reye's syndrome by taking this positive action this year. In so doing we will encourage the people like Dr. Arcinue who are researching the disease independently, strengthen the efforts of private foundations and people like the Gary Tackabury family in obtaining research funds and give hope to the children of the future that they will not become victims of the disease.

FEDERAL WATER POLLUTION CONTROL ACT

HON. RICHARD F. VANDER VEEN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 8, 1976

Mr. VANDER VEEN. Mr. Speaker, on June 3, responsibilities in my district, the Fifth Congressional District of Michigan, prevented me from voting on amendments to the 1972 Federal Water Pollution Control Act. For the RECORD, had I been present, I would have voted "no" on rollcall vote 329—the Wright substitute for the Breaux amendment, and "yes" on rollcall vote 330—final passage.

HYDE SCHOOL IN WASHINGTON

HON. WILLIAM S. COHEN

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 8, 1976

Mr. COHEN. Mr. Speaker, I had the great pleasure on June 2 of attending a performance on the steps of the Capitol by a group of students and faculty members from the Hyde School of Bath, Maine.

Their show, developed especially for the Bicentennial and entitled "America's Spirit," has been hailed up and down the east coast as a patriotic triumph. The main theme of the show is a commemoration of the spirit and pride which has guided our country through the last 200 years, and which hopefully will continue to prevail through the next 200.

The pride and enthusiasm of their performance was a source of inspiration to all who attended. I was pleased to note that the entire Maine congressional delegation was present for the performance.

I am pleased to insert into the RECORD an article from the Washington Post which gives a further insight into the Hyde School:

[From the Washington Post, June 3, 1976]

HYDE SCHOOL: DROPPING STANDARDS, BUT NOT QUALITY

(By William Gildea)

Hyde School of Bath, Maine, is not your average school, not close at all to being typical. It can be classified as a prep school; almost all the graduates go on to college. Throwing out its academic standard a few years back didn't hurt its reputation a bit for producing soundly prepared young people.

"I dropped all the academic standards in the school. It was a very scary step for me," Hyde founder Joseph Gauld said yesterday at the Capitol, where 120 of the school's 200 students sang part of the score from their originally produced three-hour show "America's Spirit" as Maine's two senators and a congressman looked on approvingly.

"We brought in a kid who had flunked seventh, eighth and ninth grades," Gauld explained. "He had been told to stay away from all college preparatory courses. His spirit was broken. Well, he improved but he reached a point where he just couldn't pass algebra. There was no way he could do it. But if I turned him out, I'd have been a hypocrite."

This, Gauld said, was because he founded the school 10 years ago not to teach "a lot of facts" but to develop "values"—students, he said, who genuinely care to work up to their capabilities and face up to any personal problems they might have, and families who promise to take an active part in their children's development. Gauld * * * couldn't pass algebra deserved to stay: he went on to complete college in three years and now is described by Gauld as a successful young management consultant.

"The only basis for admission," Gauld said, "is an interview with the student and his parents. We don't consider past records. We look for a commitment." Before graduating, students help decide if they are ready for a diploma. "People wonder how this can be," Gauld said. "Look at it this way. 'If you were going to solo in a plane, you might not be so anxious to say you are ready if you're not.' "

Hyde students come from about 20 states. They can stay for a fifth year for further study or to work with young students in other Bath schools. "We've been in Bath 10 years trying to give this program to others," Gauld said, "and they're just now coming to the point where they want it."

One reason is the musical the students have produced. "People are saying, 'If they are doing this, they must be doing something right'," he said. A year and a half in production, it will be presented by the students in a number of eastern cities in the next few weeks. Last night it was put on at Kenmore Junior High in Arlington; tonight it will be at Montgomery Blair High in Silver Spring, as well as an hour of singing at the Kennedy Center at 11 a.m.

Mark Stevens of Smyrna Mills, Maine, who used a fifth year to work with elementary school children and is planning to attend Beloit in Wisconsin, said Hyde brought his family closer together. "I used to just look at my parents and think they were all set," he said. "Now I have a relationship I didn't have before. I found they could help me out a lot more than I was willing to admit."

Phil Lee, son of Maryland Lieutenant Governor Blair Lee a 1974 graduate and now a student at Colby, said the emphasis of the school is on "character development" and that "a family, not a kid, comes to Hyde."

Gauld, graduate of Bowdoin with a masters degree in mathematics from Boston University, decided he wanted to approach education differently when "I was turning out kids who were going on to advanced calculus at MIT and looking very good to people but who were not so good on the inside."

They may have been good students but they lacked a vibrant spirit, he felt. "Learning at Hyde," he said, "is not an end, it's more of a happening." He said he hopes, with the help of alumni and parents around the country, to spread Hyde's philosophy far beyond Bath. He seemed optimistic. So did his students yesterday.

THE DAY OF SOLAR POWER MAY BE CLOSER THAN WE THINK

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 8, 1976

Mr. VANIK. Mr. Speaker, yesterday morning's newspaper carried a surprising and encouraging article for the advocates of solar energy. Researchers from the Massachusetts Institute of Technology have announced that they have developed a device which economically converts solar energy into electrical energy. According to one of the scientists involved with the project, this converter can be expected to cost $5,000 for a single family dwelling.

This development represents a significant turning point in the long range evolution of a clean, safe energy system for the Nation. Many critics of solar power point to the current high cost of solar conversion units and project that solar energy will produce only a fraction of our energy needs by the year 2000. This pessimism, as this morning's newspaper article points out, is unwarranted. What is dangerous about this attitude, however, is that such pessimism can become self-fulfilling. We will not develop solar power unless we commit the resources now to achieve that goal.

Mr. Speaker, I hope this article will cause some of the critics of solar energy to pause and reconsider their objections to the accelerated development of this vital technology.

The article follows:

[From the Wall Street Journal, June 7, 1976]

SOLAR UNIT PRODUCES CHEAP ENERGY, MIT RESEARCHERS CLAIM

CAMBRIDGE, MASS.—Researchers introduced a solar energy converter that, its developers say, promises to produce energy as cheaply as conventional methods. It is expected to be on the market by the end of 1977.

A team of scientists and engineers at the Massachusetts Institute of Technology displayed a device that uses mirrors to concentrate sunlight on photovoltaic cells, which produce electricity when exposed to outside energy.

Technology to make the cells has been available for some time, but costs are prohibitive. The new converter is said to solve the problem by increasing the intensity of the sunlight by a factor of between 500 and 1,000, which substantially reduces the number of cells required, and hence the total cost.

Water is used to cool the device so it will operate efficiently. The water is heated in that process, and may be used, so the device produces hot water in addition to electricity, the developers say.

The research is sponsored by National Patent Development Corp., a New York-based technology-oriented research and manufacturing concern, which will have the first option as exclusive licensee for the converter.

Jerome I. Feldman, president of National Patent Development, said a converter for a single-family home is expected to cost about $5,000, and would produce half of the electricity and about 70% of the hot water, heat, and air conditioning for the house. Over five years, the converter would achieve savings that would cover its initial cost, compared with energy costs in an all-electric home, Mr. Feldman said.

"After that, you're floating free for the rest of your life," said Mr. Feldman, indicating that the converter would continue to provide energy after paying for itself. He said the company doesn't expect to have any trouble finding major partners to help it produce and market the converter.

DRUG ABUSE

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 8, 1976

Mr. RANGEL. Mr. Speaker, 2 years ago the National Association of Puerto Rican Drug Abuse Programs was organized to influence public drug policies as they affect the Puerto Rican community. A year ago, the association, working with the National Institute for Drug Abuse, sponsored the First Puerto Rican Substance Abuse Conference. In a short time, the association has become a viable organization with more than 30 member programs.

I take great pleasure in commending the National Association of Puerto Rican Drug Abuse Programs for an aggressive program of assistance to organizations across the country with Spanish-speaking drug abuse clientele. This association has quickly become an invaluable ally in the war against drugs. I welcome them to the battle.

Mr. Speaker, the drug menace has no respect for race, creed, color, geography, or socio-economic status. However, the National Association of Puerto Rican Drug Abuse Programs makes the point that its communities have more than their share of drug abusers and that available resources for prevention and treatment are woefully inadequate. I know this is true.

I share the concerns expressed by the association. I ask my colleagues to join with me to make Federal resources adequate to the task of eliminating drug abuse and equal to the commitment evidenced by the National Association of Puerto Rican Drug Abuse Programs.

Again, I commend the association and am pleased to incorporate in the RECORD its address, which follows:

National Association of Puerto Rican Drug Abuse Programs, 1766 Church Street NW., Washington, D.C. 20036, telephone (202) 483-5756.

I include the following material:

NATIONAL ASSOCIATION OF PUERTO RICAN DRUG ABUSE PROGRAMS

PERSPECTIVE

The National Association of Puerto Rican Drug Abuse Programs was organized in June 1974, at a conference held at the National Institute of Drug Programs in Washington, D.C. The conference focused on the needs and problems of drug treatment organizations serving the Puerto Rican community.

The conference participants conceived of the Association as a united, political effort to reverse the unequal distribution of resources. The conference identified and explored the most glaring of these inequities:

Puerto Ricans comprise a disproportionately large percentage of drug abusers and addicts but the resources available for prevention and treatment to them are critically inadequate.

Responsible participation from Puerto Ricans in the major federal, state and local policy decision mechanisms has been deterred up to this point.

There has been little recognition of the fact that because of unique cultural, social and linguistic factors, Puerto Rican drug users and addicts respond more positively to programs conceived and operated by Puerto Ricans.

There has been no significant research and documentation on the Puerto Rican addict and the scope of addiction in this community. The limited work that exists has been done primarily by non-Puerto Ricans and has not considered these significant cultural and linguistic factors.

Confronted with these issues the Association members pledged to join forces to influence, shape and effectuate public drug policies as they affect the Puerto Rican community.

The Association has a growing membership from various urban centers throughout the Northeastern United States, but serves programs in other cities, such as Los Angeles, Chicago and Miami as well. All of these programs together provide a means of exchanging information relating to the treatment, education, prevention and rehabilitation of the Puerto Rican drug abuser and to the Puerto Rican community in general.

In May 1975, the Association sponsored, with the National Institute on Drug Abuse, the First Puerto Rican Substance Abuse Conference in San Juan. Over two hundred and fifty individuals, representing mainland and island programs, federal, state and city officials, as well as recognized experts in the field, attended. It was the first time that the problems of substance abuse in that community were approached from a Puerto Rican perspective.

NATIONAL ASSOCIATION OF PUERTO RICAN DRUG ABUSE PROGRAMS

Andromeda, 1756 Columbia Road, N.W., Washington, D.C., 20009, (202) 667-6766.

Compass, Inc., 239 West 19th Street, New York, New York 10011, (212) 691-5702.

Concilio Drug Program, 656 Massachusetts Avenue, Boston, Massachusetts 02118, (617) 268-2363.

Crossroads, Inc., 48 Howe Street, New Haven, Connecticut 06501, (203) 865-3541.

C.U.R.A., 15 Roseville Avenue, Newark, New Jersey 07106, (201) 484-0018.

Diagnostic Rehabilitation Center, 521 West Gerard Avenue, Philadelphia, Pennsylvania, (215) 763-1446.

Gatehouses Foundation, Inc., 505 North La Salle Street, Chicago, Illinois 60610, (312) 822-0032.

Gaudenzia, Inc., 1832 West Tioga Street, Philadelphia, Pennsylvania 19104, (215) 221-9100.

Greenport Hospital, Department of Psychiatry, 300 Skellman Avenue, Brooklyn, New York, (212) 387-3010.

Hogar Crea, 14 East 60th Street, New York, New York 10022, (212) 688-8127.

Hogar de Encuentro, 938 Clifford Avenue, Rochester, New York 14621, (716) 546-3788.

Illinois Drug Abuse Program, 1440 South Indiana Avenue, Chicago, Illinois 60605, (312) 793-4445.

La Casa Abierta, 3420 N.W. Second Avenue, Miami, Florida 33127, (305) 573-1305.

Lincoln Community Mental Health Center, 781 East 142nd Street, Bronx, New York 10454, (212) 993-4500.

Lincoln Hospital Detox Program, 333 Southern Boulevard, Bronx, New York 10456, (212) 960-5455.

Mora Narcotic Rehabilitation Foundation, Inc., 1230 Park Avenue, New York, New York 10023, (212) 427-0211.

Multi-Cultural Drug Abuse Prevention Center, 8443 South Crenshaw Boulevard, 2nd Floor, Inglewood, California 90305, (213) 971-4551.

North End Drug Abuse Program, 2345 Main Street, Springfield, Massachusetts 01107, (413) 785-1657.

Olympus House, 834 East 156th Street, Bronx, New York 10455, (212) 993-8346.

Phoenix House, 800 Fordham Road, Bronx, New York 10458, (212) 885-0705.

Project Erah, 33 Charter Oak Place, Hartford, Connecticut, (203) 247-4636.

Renaissance Project, Inc., 72 Main Street, New Rochelle, New York, (914) 576-3320.

Resurrection Rehabilitation Center, 1216 Hoe Avenue, Bronx, New York 10451, (212) 328-3333.

Samaritan Halfway House Society, 130-15 89th Road, Jamaica Queens, New York 11418, (212) 846-5200.

S.E.R.A.—Phase IV, 1771 Andrews Avenue, Bronx, New York 10453, (212) 583-9813.

St. Luke's Hospital Detox Program, Amsterdam & 114th Street, New York, New York 10025, (212) 870-1058.

T.A.S.C. of Miami, 1321 N.W. 13th Street, Miami, Florida 33101, (305) 377-7431.

United Bronx Parents Drug Abuse Program, 810 East 152nd Street, Bronx, New York 10455, (212) 993-5300.

West Coast Association of Puerto Rican Substance Abuse Workers, Inc., P.O. Box 33198, Los Angeles, California 90033.

Way Out, 861 East 162nd Street, Bronx, New York 10459, (212) 293-4550.

Williamsburg Youth Center, 118 Manhattan Avenue, Brooklyn, New York 11209, (212) 384-6310.

JONES' QUESTIONNAIRE RESULTS

HON. JAMES R. JONES

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 8, 1976

Mr. JONES of Oklahoma. Mr. Speaker, periodically during the year I send out questionnaires to my constitutents in Oklahoma's First District to ask their views on some of the major issues pending before the Congress.

In the month of April, I sent out a questionnaire on the spending priorities of the Federal Government. The results have been tabulated, and I would like to share our findings with my colleagues here today:

JONES' QUESTIONNAIRE RESULTS

WASHINGTON.—Representative James R. Jones today announced the results of his April survey on spending priorities among the voters in Oklahoma's First Congressional District. Jones said that over 5,000 individuals have responded to his questionnaire, which listed sixteen functional spending categories and asked voters whether spending in each category should be increased, decreased, or kept the same.

The spending categories in Jones' questionnaire were the same as those used in the Congressional Budget Resolution. Each category was listed with its percentage breakdown as part of the total federal budget.

"This questionnaire will be very helpful to me", Jones said, "because it gives me a more accurate picture of my constituents' spending priorities in terms of the same categories in which spending is considered by Congress in setting the Congressional budget ceiling."

The results were most decisive, Jones reported, in the category of Foreign Economic Assistance, where 72.6 percent want to see spending decreased. The other categories in which voters favored reduced spending levels were: Community and Regional Development; Unemployment Assistance; Public Assistance and Other Income Supplements; Revenue Sharing and Related Programs; and General Science, Employment and Social Services.

The areas in which voters favored an increase in spending levels were: National Defense; Natural Resources; Environment and Energy; Agriculture; Education; and Law Enforcement and Justice.

Voters supported present spending levels in the categories of: Space and Technology; Commerce and Transportation; Health; Retirement and Disability Insurance; and Veterans Benefits.

The following table lists the complete results of Jones' questionnaire on spending priorities:

Category	Results—In percent			
	Increase	Decrease	Remain same	No answer
National defense	46.0	21.1	32.2	0.7
Foreign economic assistance (non-military aid)	6.2	72.6	20.5	.7
Space and technology	28.0	19.8	49.5	2.7
Natural resources, environment and energy	52.8	13.7	31.5	2.0
Agriculture	39.7	18.9	38.7	2.7
Commerce and transportation	16.4	38.5	43.7	1.4
Education	41.2	20.5	35.6	2.7
Community and regional development	13.7	54.1	29.5	2.7
Health	28.8	24.6	43.9	2.7
Retirement and disability insurance	19.8	32.2	46.0	2.0
Unemployment assistance	13.4	53.6	30.3	2.7
Public assistance and other income supplements	13.7	61.7	21.9	2.7
Veterans benefits	23.1	24.6	50.9	1.4
Law enforcement and justice	53.3	16.5	28.8	1.4
Revenue sharing and related programs	15.8	52.0	28.8	3.4
Other (general science, employment and social services)	11.3	51.7	31.5	5.5

RACIAL DISCRIMINATION, FULL EMPLOYMENT AND INFLATION

HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 8, 1976

Mr. HAWKINS. Mr. Speaker, at the request of the Subcommittee on Equal Opportunities, which I chair, the Library of Congress Congressional Research Service has done a report on the costs to the Nation's economy of racial discrimination. I call the Members' attention to the study and to a brief explanatory press release that I issued:

HAWKINS RELEASES EMPLOYMENT DISCRIMINATION ECONOMIC IMPACT STUDY

Congressman Augustus F. Hawkins (D-Calif.) co-author of the Full Employment and Balanced Growth Act and Chairman of the Subcommittee on Equal Opportunities today made public a Study done for the Subcommittee by the Library of Congress estimating the loss to the nation of potential Gross National Product (GNP) due to employment discrimination.

The Report, prepared at the request of the Subcommittee concludes that, based on the assumptions set forth, ". . . The estimated impact on GNP in 1975 of racial differentials in employment and income was approximately $55.8 billion", or, in other words, GNP could have been 3.7 percent higher had there been no racial discrimination.

The Library of Congress Study is a part of the overall Report to be issued later by the Subcommittee based upon its extensive hearings and investigation of the operation and effectiveness of the nation's effort to secure equal employment.

Congressman Hawkins stated "the $55.8 billion that the nation lost in GNP last year due to racial discrimination is a price that no nation should consciously allow to continue. Not only does it indicate a real economic loss to each and every American citizen through high unemployment, failure to use both labor and other production resources, and increased inflation, but it also represents massive violation of the nation's goal of equal opportunities for all." The Congressman also noted that the Study's assumptions were conservative in some important respects, particularly in regard to the assumption that the calculations were based upon an unemployment rate of 7.8 percent.

The California legislator further pointed out that "the implications of this study also go far to indicate that there are other very powerful factors causing inflation in our nation's economy—such as racial discrimination—which have nothing to do with the alleged pressures created by paying decent wages to our nation's workers. Had there been no discrimination the economy could have produced substantially more goods and services, thus reducing inflationary pressures. This one factor alone would have contributed substantially to moving the nation toward full employment with price stability."

The Study was prepared by Mr. Charles V. Ciccone, Specialist in Labor Economics and Jeffrey H. Burton, Analyst in Labor Economics, Economics Division, both of the Library of Congress, Congressional Research Service.

[From the Library of Congress Congressional Research Service, May 28, 1976]

An Estimate of the Loss in Potential Gross National Product Due to Existing Employment, Productivity and Wage Differentials Between White and Nonwhite Workers in the United States

This Report estimates the loss in potential gross national product in the United States for the year 1975 due to existing differentials in employment levels, productivity, and average wages between White and Nonwhite workers. Essentially, this estimation attempts to measure the magnitude of the potential increase in this Nation's output, given other accommodating economic activity, if education and skill qualifications were equal between the races, no racially-discriminating hiring practices existed, and all employed workers, regardless of color, received pay equal to the value of their marginal product.

While the range of factors involved in making such estimates are numerous and complex, this analysis considers the issue by making five crucial assumptions.

First, in the absence of the effects of past and present race discrimination in employment, education and training programs, White and Nonwhite workers would be equally competent and productive. Thus, in a nondiscriminatory labor market, White-Nonwhite workers with jobs would be similarly dispersed among and within occupations, with equal skill levels, and—because the value of their marginal product would be the same—the median pay for both groups would be equal.

Second, without the presence of racially-discriminatory pay practices, all Nonwhite workers are assumed to be paid at the same levels as Whites.

Third, unemployment among all workers due to racially discriminatory hiring practices would not exist and thus, unemployment rates for White and Nonwhite workers would be equal.

Fourth, job competition from additional fully-qualified Nonwhites in otherwise White-dominated labor markets and occupations would not significantly change the median pay prevailing in those labor markets or occupations; pay levels for all workers would remain at the existing White level.

Fifth, aggregate consumer demand for goods and services in the economy would increase sufficiently to absorb the increased productivity generated by higher paid and additional employed Nonwhites, and by higher productivity levels for Nonwhites as a group, savings and investments in capital stocks generally would expand sufficiently aided by an accommodative monetary policy, to provide the required increases in the Nation's total wage bill.

Given the above critical assumptions, this analysis considered the following factors:

a. Unemployment rates for White and Nonwhite workers in 1975.

b. Median earnings of wage and salary White and Nonwhite workers in 1975.

These data were then utilized in computing the following:

1. The number of additional Nonwhite workers who would have been employed in 1975 had the unemployment rate for Nonwhites been equal to the rate existing for Whites in 1975.

2. The aggregate amount of wages and salaries these additional employed Nonwhite workers would have received in 1975 if they were equally qualified as Whites, and were paid at the White median annual earnings level.

3. The additional aggregate amount of wages and salaries the already employed Nonwhite workers would have received in 1975 had their median annual wage and salary amount been equal to the 1975 level for Whites.

4. A multiplier of 2.5 is applicable to the total of (2) and (3) above to account for the multiplier effect such additional income would have on GNP. While the 2.5 factor is considered to be at the higher end of reasonable estimates, it is considered appropriate in this case because of the relatively strong impact these changes would have on low income groups in the economy.

Because this estimation process is one of several which could have been used, it represents a rough estimate of the potential impact present employment and salary differentials between White and Nonwhite workers could have on GNP. Nevertheless, this procedure estimates that based on the assumptions specifically stated in this Report, the estimated impact on GNP in 1975 of racial differentials in employment and income was approximately $55.8 billion, or, in other words, represented a potential increase in GNP of about 3.7 percent for that year.[1]

The data and calculations used in arriving at this estimate are:

I. UNEMPLOYMENT 1975[1]

	White	Negro and other races
Civilian labor force	82, 084, 000	10, 529, 000
Employed	72, 713, 000	9, 070, 000
Unemployed	6, 371, 000	[1] 1, 459, 000
Unemployment rate (percent)	7. 8	13. 9
Number unemployed if nonwhite unemployment rate was the same as the white unemployment rate	(6, 371, 000)	[2] 821, 262
Difference between actual nonwhite unemployment and "nondiscriminatory" unemployment		[1] 638, 000

[1] Employment and Earnings, January 1976, p. 138, U.S. Department of Labor, BLS.

[2] It should be noted that unemployment among nonwhites is understated in the BLS national unemployment rate in that most of the "discouraged workers" who have dropped out of the labor force because of lack of training or because of a perceived labor market that is discriminatory are Nonwhites. Therefore, if the assumptions made in this analysis were to exist, labor force participation rate for nonwhites would increase and the differential between white and nonwhite unemployment would be greater.

MEDIAN EARNINGS OF WAGE AND S ALARY WORKERS, 1975

	White	Negro and other races	Earnings differential
Weekly	$190	$156	$34
On annual basis	9, 880	8, 112	1, 768

[1] "Earnings Trends Among Major Labor Force Groups," U.S. Department of Labor, BLS, Sept. 12, 1975.

III. Amount of Additional Wages and Salaries Earned if Unemployment was Equalized at 7.8 percent and if Annual Median Wages and Salaries were Equalized at $9,880—

(a) 638,000 (White-Nonwhite Unemployment Differential) times $9,880 (White median annual earnings) equals $6.3 billion.

(b) Amount of increased earnings if already employed Nonwhites received the same median wages and salaries as Whites: 9,700,000 (Nonwhite Employed, 1975) times $1,768 (Earnings differential) equals $16 billion.

(c) Total additions to aggregate wages and salaries if White-Nonwhite employment and wages and salaries were equalized at the White level: $6.3 billion plus $16.0 billion equals $22.3 billion, or 2.8 percent of the total 1975 wages and salary component of National Income.[2]

IV. Total Estimated Potential Impact on GNP in 1975—

(a) Direct addition to wages and salaries, $22.3 billion.

(b) Multiplier effect of this addition on GNP, $22.3 billion times 2.5[3] equals $55.75 billion, or a potential increase in GNP in 1975 of 3.7 percent.[4]

SKIPPER PRAISES SHIPYARD

HON. TRENT LOTT

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 8, 1976

Mr. LOTT. Mr. Speaker, at Pascagoula, Miss., there is located one of the world's most modern shipyards, a facility that is vital to the national defense of the United States and all the free world. Ingalls Shipbuilding and the people of Mississippi are, today, busy at work building two new fleets of ships that will serve the U.S. Navy for decades to come.

There have been times when this facility and the ships it is building have come under unfounded criticism by those who prefer to exploit the negative rather than to promote the defense of this country by citing the positive. Fortunately, for every piece of criticism which is not based on fact, there is positive and favorable comment which is based on fact.

One such example comes from Comdr. Ray Harbrecht, commanding officer of the U.S.S. *Spruance* (DD–963), the lead ship in a new fleet of 30 destroyers being built by Ingalls. No one is in a better position to evaluate the performance of *Spruance*, nor the performance of Ingalls Shipbuilding, than is Commander Harbrecht. He literally lived in the shipyard during the final stages of construction of his ship, and he spent 6 months sailing the vessel in the fleet while undergoing a rigid series of tests and evaluation.

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[1] In the 1966 Economic Report of the President, an estimate of the measure of the annual economic loss as a result of discrimination was cited. The Report states "If both unemployment rates and productivity levels were equalized (between White and Nonwhite workers), the total output of the economy would rise by about . . . 4 percent of GNP." (Page 110). This compares favorably with the findings of this analysis because at the time Nonwhite unemployment was closer to twice the unemployment rate of White workers than it was in 1975.

[2] Percentage computed from National Income Account, by type of Income, annual rate for Wages and Salaries, 1975, Table B–12, Page 184, Economic Report of the President, 1976.

[3] Estimated with the assumption that individuals previously unemployed and those with lower than average incomes have a higher marginal propensity to consume.

[4] Computed from a GNP of $1,499 billion for 1975, Economic Report of the President, 1976, page 171 also see footnote No. 1.

On March 22, *Spruance*, according to plan, returned to Ingalls to undergo what is known as post shakedown availability (PSA). This 2-month PSA posed a very demanding series of tasks and schedules on the shipyard, requiring that it work almost around the clock to make necessary modifications in order to have *Spruance* return to the fleet.

On the day before *Spruance* sailed from Pascagoula to rejoin the Navy fleet, Commander Harbrecht expressed his opinion about the performance of Ingalls Shipbuilding to Mr. Leonard Erb, vice president of Litton Industries; president, Ingalls Shipbuilding. Commander Harbrecht's words are not only encouraging to the employees of Ingalls Shipbuilding who worked diligently to perform an extraordinary task, but they should be equally encouraging to those of us in Congress who have the responsibility of assuring adequate defense for America, and adequate defense facilities to build the vitally needed weapons systems such as U.S.S. *Spruance*.

The letter follows:

COMMANDING OFFICER,
U.S.S. "SPRUANCE" (DD-963),
FPO New York, N.Y. May 21, 1976.

DEAR MR. ERB: USS *Spruance* completed her post shakedown availability on 21 May 1976. During my nineteen years in the Navy, having served in eight different ships, I can say without equivocation that the PSA was the most productive shipyard availability I have observed. The timely completion of over 800 jobs was made possible only by the concerted efforts of all personnel working on board. The interest in the ship, willingness to work with the *Spruance* crew, care exhibited in workmanship, and efforts to keep the ship clean were exceptional. Please convey to the employees of Ingalls Shipbuilding our sincere appreciation for a magnificent job.

RAY HARBRECHT,
Commander, USN.

HUMPHREY-HAWKINS

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 8, 1976

Mr. LAFALCE. Mr. Speaker, as we are all aware there has been much discussion and written about the Full Employment and Balanced Growth Act in recent weeks. The majority of the commentary has had significant criticisms of the bill. It is essential that we take a careful look at the economic impact of some of its provisions before we vote on this legislation. Therefore, I would like to share with you an article by Melville J. Ulmer, "Taking a Dim View of Humphrey-Hawkins," which appeared in the New Republic, dated June 12, 1976. Mr. Ulmer is concerned by the possible inflationary impact of this bill. While I have strong reservations about his proposed solution of wage and price controls, his comments concerning the potential inflationary impact of the present Humphrey-Hawkins bill is worthy of serious consideration.

The article by Mr. Ulmer follows:

TAKING A DIM VIEW OF HUMPHREY-HAWKINS

(By Melville J. Ulmer)

The current shibboleth of Democratic liberalism is the Humphrey-Hawkins bill for "Balanced Growth and Full Employment," now awaiting a vote in Congress. It has had the support, at one time or another, of every recent or surviving candidate for the Democratic presidential nomination, as well as nearly all those seeking seats in the Senate and the House. Some, such as Morris Udall, have been ardent and vocal advocates. Others, like Jimmy Carter, have responded cryptically but affirmatively when directly questioned. For, from a Democratic standpoint, if you're for full employment, you're for Humphrey-Hawkins—and therefore for the huge public jobs program it provides. The argument, especially for those who have never read the bill, sounds convincing.

Since virtually all Democrats take the same litmus test and fly the same flag, the political primaries prove nothing about the bill's political significance. The test will come after the conventions. For then Humphrey-Hawkins will be a fair target for Republican attack. If, as I believe, the bill is easier to hit than a sore-armed pitcher with a hangover, the result would be devastating. It could prove to be the counterpart for 1976 candidates of the share-the-wealth program that sank George McGovern in 1972.

The great attraction of the Humphrey-Hawkins bill is that it starts with one of the important truths of our time—one that I have been shouting from rooftops for nearly 10 years: that is, that "aggregate monetary and fiscal policies are inadequate by themselves to achieve full employment and to restrain inflation." But once hopes are raised, they are quickly dashed. For despite the obviously noble motivations of its authors, the Humphrey-Hawkins bill contains the seeds of its own frustration. It doesn't ever confront the central economic problem it has presumably set out to solve.

That central problem, proved time and again by experience, is the fundamental conflict between the goals of full employment and price stability. It is reflected in the three-phase pattern of what may be called the roller coaster economy. And that pattern has been imprinted in our economic history ever since Keynesian stabilization techniques were adopted in this country (informally at first) shortly after World War II. The three phases are *recovery, expansion* and *recession*. The first two are typically supported by a substantial tax cut, as is the current upswing. They are also characterized by an inflation that cumulates alarmingly in the second phase. In the third, a recession is induced to fight the inflation, with higher taxes and interest rates doing the "inducing." By now, this sequence of events is as familiar to Americans as the changing of the seasons. So is the disturbing observation that the ups and downs of the roller coaster have grown progressively more extreme and less controllable. But unfortunately, the authors of Humphrey-Hawkins give no evidence that they share this common knowledge.

The provisions of the bill, in effect, would simply generate a great economic expansion by huge expenditures on public employment, superimposed on an economy already established in a fairly firm expansion. Politically, that's like feeding children three-course meals of ice cream, cake and candy. The economy would be sickened unless protected by specific, responsible safeguards against inflation. Were the Humphrey-Hawkins bill enacted as it stands, even if the economy were weak, it would probably stimulate a more spectacular price advance than that of World War II. In the end it would not only fail to help persons now unemployed, but would add new recruits to the army of the poor. First on line would be another of those flamboyantly overlooked sectors of the population—the industrious men and women, now getting on in years, who thought they had provided savings and pensions for a comfortable retirement, only to find that the purchasing power of their incomes was less than enough to keep them properly fed. Nothing now in the bill offers the slightest hope of avoiding an inflationary debacle.

Indeed the bill seems married to a traditional and clearly outdated misconception of why prices rise. For example, it promises to restrain "inflation when total demand threatens to exceed the nation's capabilities at full employment." That unrealistically simplified objective provides its own elementary textbook solution: just stop demand from exceeding the full employment level. But the central problem of our times is that severe inflation sets in long *before* we get to full employment, that it becomes so intense every time the economy expands that we never do get to full employment. The questions the Humphrey-Hawkins bill *should* confront are: Why does premature inflation develop? What can be done to stop it?

There are two related reasons that premature inflation always arises, so that corrective recessions—six in the last 27 years—have been a periodic, practical necessity. The first relates to the power of oligopolistic industry and labor unions. Their role in inflation is often discussed as though both—big business and unions—were in an antisocial conspiracy. Actually, the situation is more serious. In the economic setting provided in the years since World War II, they have simply followed their own interests, rationally. In a presidential address before the American Economic Association last year, Robert A. Gordon remarked that "we economists pay too little attention to the *changing* institutional environment that conditions economic behavior." The observation is well taken. The critical change in the postwar economic history of the US was the systematic adoption of Keynesian techniques for economic stabilization, the attempt to smooth business cycles through fiscal policy. It meant, at least so far as people have been able to see, that declines in business activity would never again be allowed to progress very far or last very long. That conviction was bound to influence the behavior of business and labor, as it indisputably has.

In a word, oligopolistic industry and organized labor have both learned, as Wall Street puts it, to "look across the valley." When business activity declines temporarily, there is virtually no inducement to lower prices and wages in order to maintain volume. Instead business and labor are preoccupied throughout with preparations for the next recovery. There is an eagerness, an alertness on the part of oligopolists to preserve industry discipline (which means *not* lowering prices) and to maintain and increase the industry's share in the GNP (which means *increasing* prices)—especially since demand usually becomes inelastic during downturns. For its part, each union is determined to maintain if not improve the purchasing power of its members in recession, and with prices still rising, and given the equal determination of all other unions, this means raising wages as much and as often as opportunity allows. Such attitudes inculcate an inflationary psychology that spreads and intensifies like a contagious disease. However explained, the evidence is unmistakable. The common phenomenon of business firms and unions raising wages and prices even when output is falling, is familiar to all. Their magnified aggressiveness, as soon as conditions improve, is equally familiar.

There is only one conceivable, effective response to this situation. The federal government must have the standby power, and the will, to impose mandatory controls on prices and wages whenever the behavior of an industry or a union clearly contravenes the public interest. With reasonable planning, this can be done without thwarting the allocative functions of supply and demand, and without placing the economy in a straightjacket. The empty gesture of the Nixon administration toward wage-price controls, and the timid, half-hearted efforts of the Kennedy-Johnson years, should not be taken as evidence to the contrary.

The second reason for premature inflation lies in a structural imbalance in the supply and demand for labor. It arises from a critical split in the labor force (I'm not referring to females versus males, or blacks versus whites, since 75 to 80 percent of the unemployed generally are white). The split has to do with the level of skills. A large part of the labor force remains virtually unaffected by recessions. The reader can verify this by examining Bureau of Labor Statistics data on unemployment rates by occupation. The jobless rates remain at one, two or two-and-a-half percent in recessions for nearly all skilled workers, professionals, administrators, technicians and government employees. You can tell this also by noting stories in *The Wall Street Journal*, reporting severe shortages of what is always considered a surprising variety of skills, even during our worst recessions. Meanwhile, of course, among the unskilled and the semiskilled, unemployment rates during downturns are anywhere between two and four times the national average.

Now, when we use the famed Keynesian techniques for expanding demand and employment, we create overfull employment in markets for the more skilled workers, the technicians, professionals and other favored personnel—an inflationary situation in these markets in which jobs are chasing men and women. At the same time, the unskilled and the semiskilled are helped only modestly. Hence, one essential step toward providing full employment without inflation is the one proposed by Humphrey-Hawkins—that is, to give the unemployed jobs in the public sector. The less skilled workers never are, and under present circumstances never can be, fully employed in the private sector except under the most inflationary conditions.

But public employment is expensive, even after allowing for offsetting savings in unemployment insurance and the like. It would unleash a flood of spending in private business markets with an inflationary impact that could not possibly be contained by mandatory price-wage controls acting alone. Therefore, there must be a definite directive, now lacking, in Humphrey-Hawkins about tax policy. Taxes should be adjusted at all times to a level sufficient to maintain price stability. In the presence of a public employment program guaranteeing opportunities to work, that tax objective is thoroughly feasible, and essential.

In practice, in the present situation, it would probably mean financing the entire net costs of public employment by a tax increase. That would admittedly be a bitter pill for the public, but medicine of that kind has been swallowed before when the public had faith in its efficacy and purpose. That faith is not likely to be engendered by Humphrey-Hawkins as it's now written. If the responsibilities linking the individual and society run in both directions, one would never know it from Humphrey-Hawkins. The opportunities, protections and guarantees to be given the unemployed are described in glowing detail. Nothing is said about the reciprocal obligation to give a week's work for a week's pay. Nor is any other assurance given that the public employment will be truly productive and carefully directed toward those high priority needs that still remain unfulfilled in the public sector. To make matters worse, the wage rates stipulated in the bill could run so high, according to one manpower expert, that as may as 10 million men and women would be induced to leave private jobs to work on the generous public projects provided by Humphrey-Hawkins. Potentially fatal, and even ridiculous, as they are however, such deficiencies can be remedied without altering the bill's principal objective and basic philosophy.

However, if it is to be taken seriously, Humphrey-Hawkins will need to undergo not mere patching, but major surgery. Along with its promise that adult unemployment will be reduced to three percent within four years, the bill must contain a second guarantee—that the annual increase in the consumer price index will be reduced to a maximum of two percent within four years. To satisfy that objective it will have to provide for mandatory, selective wage-price controls plus the appropriate tax policy. A program of that kind would offer the only promise there can be of getting what we have never had—full employment without inflation.

Two weeks ago, in testimony before the Senate Banking Committee, I suggested amendments to the Humphrey-Hawkins bill. John Kenneth Galbraith offered almost identical proposals for the same reasons. They were accepted with approval by the committee's free-spirit chairman, William Proxmire. Even so, the prognosis for the Humphrey-Hawkins bill is dismal. For its authors, its sponsors, and probably most other Democrats, the possibility of higher taxes is an unmentionable in an election year. Even the whisper of wage-price controls, no matter how selective and conditional, is considered a mortal threat for a party cherishing labor's support. Hence the prospect is that Humphrey-Hawkins will be passed in more or less its present form by the House, passed by the Senate, and vetoed by the President.

Call it naïveté or cynicism, but Democratic leaders seem to be exhilarated by that prospect. They will be the good guys, striving gallantly for full employment. Republicans will be the bad guys, rejecting it. The underlying assumption, that you can fool all of the people all of the time, is what I believe will boomerang. Democratic strategy like that could make fourth-rate Republican campaign managers look like geniuses.

ARMY RESPONSE STILL SOUGHT

HON. EDWARD MEZVINSKY

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 8, 1976

Mr. MEZVINSKY. Mr. Speaker, on May 18, I reported to my colleagues on my difficulty in receiving timely responses to my inquiry concerning allegations that former Secretary of the Army Howard Callaway illegally removed the name of Lt. Col. Wilfred Ebel from an Army promotion list. The issue now shifts from one of timeliness to that of responsiveness. I share the following correspondence with my colleagues in the House:

WASHINGTON, D.C.,
May 27, 1976.

Hon. EDWARD MEZVINSKY,
House of Representatives,
Washington, D.C

DEAR MR. MEZVINSKY: This is in response to your letters to Secretary Rumsfeld dated March 29 and May 18, 1976 regarding the promotion of Lt. Colonel Wilfred L. Ebel. We had anticipated being able to send you a substantive reply at an earlier date and as a result did not send an acknowledgment of your first letter. The reason for the delay is that I was appointed to this position only in January of this year, and it has taken me a considerable amount of time to familiarize myself with the Ebel case.

All aspects of the Ebel matter have been under active review in both the Department of the Army and the Office of the Secretary of Defense for over a year. During this time there have been an Army Inspector General investigation, a Defense Investigative Service investigation conducted at the request of this office, and referrals to the Justice Department by both this office and Lt. Colonel Ebel. We have been advised by the Criminal Division of the Department of Justice that they have declined to prosecute on the basis of insufficient evidence. Ebel's attorney, Mr. Frank A. Bartimo, has recently asked the Attorney General to review this decision on the part of the Criminal Division.

As to allegations that former Secretary Callaway illegally ordered Ebel's name removed from the promotion list and other allegations relating to the matter of promotion, the Army's final decision on that issue is contained in a letter dated December 16, 1975 from the Army General Counsel to Mr. Bartimo. Thus, all such allegations brought by Lt. Colonel Ebel have been either thoroughly reviewed or referred to the appropriate agency.

Any further questions concerning the removal of Ebel's name from the promotion list or otherwise relating to the matter of promotion should be directed to the Department of the Army.

Sincerely,

RICHARD A. WILEY.

WASHINGTON, D.C. *June 7, 1976.*

RICHARD WILEY,
General Counsel, Department of Defense,
Washington, D.C.

DEAR MR. WILEY: I have received your letter in reply to my earlier inquiry of Secretary Rumsfeld. To say the least, it was particularly unresponsive and hardly worthy of the two months spent on its drafting.

First, at the end of your letter, you indicated that future questions should be directed to the Department of the Army, implying that your office no longer considered the matter within your province. This, I find startling in view of the seriousness of the allegations and the presumed role of the Secretary of Defense as overall director of the various departments of our nation's defense agencies. In fact, the failure of the Army to lay these charges to rest only underscores the need to bring the situation directly to your office's attention.

To continue, your letter indicated that both DOD and DA have conducted exhaustive internal investigations in an effort to resolve the matter. My information leads me to a contrary conclusion. The IG report simply recommended that the Secretary offer LTC Ebel the option of having his name reinstated on the USAR promotion list or decline the promotion and enter active duty as a lieutenant colonel in the Office of the Deputy Assistant Secretary of Defense. I'm assured that it did not, as Army General Counsel Ablard's December 16 letter stated, find that LTC Ebel had provided "false" information and only agreed that he may have "harbored the intent" to leave his unit (hardly cause for adverse action in anyone's book). Furthermore, I'm informed that the Defense Investigative Service investigation interviewed only one witness (Ebel), was prematurely terminated, and reached no conclusions.

Finally, in response to my concerns about the legality of removing a name from a promotion list after the President's signature and transmittal to the Senate, I'm directed to the contents of the December 16 letter. Mr. Ablard cites 10 U.S.C. 3363(e) as authority, even though to reach such a conclusion requires reading the section as giving the Secretary of the Army blanket authority to intervene in the promotion process. To the contrary, the Constitution is clear in limiting the process to the President and the Congress, after nomination is advanced beyond the President's signature.

The history of this case is replete with contradictions, alarming allegations, and a paucity of candor at DOD. I would appreciate your addressing the issues raised in this and my previous letter. Certainly the seriousness of the matter dictate a more forthright approach.

Sincerely,

EDWARD MEZVINSKY.

TERRORISM IN SEATTLE: THE GEORGE JACKSON BRIGADE

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 8, 1976

Mr. McDONALD. Mr. Speaker, like most American cities, Seattle has had its share of problems with revolutionary violence, street militancy, and terrorism from the days of the Wobblies through the Communist Party's infiltration of trade unions in the 1930's and 1940's through the rise of SDS's Weather faction and New Left bombers.

The Communist Party, U.S.A.—CPUSA—is the oldest continuously active revolutionary organization in Seattle. Both the New Left and members of the law enforcement internal security community tend to mistakenly discount the Communist Party as a terrorist threat. The Communist Party's strong point has always been its disciplined organization, its attention to detail, and thoroughness.

Present and former Communist Party members serve as the coaches, the "Mr. Grey's"—to use an organized crime term—of the New Left terrorist movements. Without intensive investigation and thorough penetration of those groups by law enforcement agencies—both local police and the FBI—it is difficult to determine whether the old CPUSA members are acting under orders from the CP heirarchy; whether they are acting as individuals who think the Communist Party is insufficiently militant and see the younger revolutionists as the "new wave of the future;" or whether they are acting under orders from outside the Communist Party, orders which might originate with the Cubans or the Russians directly.

Since its June 1, 1975, bombing of the Washington State Department of Corrections office in Olympia, the State of Washington has been the victim of a number of bombings by the George Jackson Brigade—GJB. On September 14, a terrorist blew himself to bits in the parking lot of the Capitol Hill Safeway, 15th and East John Streets in Seattle as he was arming a bomb. The man, named as "Comrade Po" by the George Jackson Brigade, was identified as Ralph Patrick Ford. This incompetent terrorist was a member of the Left Bank Collective which operates the Left Bank Bookstore in Seattle. The leader of the collective and operator of the bookstore is Paul R. Zilsel, an admitted former Communist Party member. Zilsel is also the father of Joanna Zilsel, 23, a member of the Weather Underground wanted for bombings in Cleveland but who cannot be extradited from British Columbia, Canada, where she has been living.

On September 18, 1975, the GJB placed a vengeance bomb at that same supermarket which exploded at 9:30 p.m. while shoppers were still in the store. A number of them were injured, and it was only by chance that no deaths resulted. In a communique, the GBJ stated:

> We also realize that as the contradictions heighten it becomes harder and harder to be a passive and innocent bystander in a war * * *.

In other words, since the George Jackson Brigade has decided that "Safeway criminally exploits farmworkers and its clerks, rips off the public through price fixing, and sells food poisoned by preservatives" the housewives shopping there were guilty of aiding a "criminal" business and deserved their bomb wounds.

It is useful in analyzing the terrorist mentality to consider how the supermarket was chosen as a target: Stated the GJB, the above "crimes" have been "the subject of numerous educationals, marches, demonstrations, boycotts, strikes, and even antitrust suits."

The GJB blast was also "in retaliation for the capture of four members of the Symbionese Liberation Army" [referring to Emily Harris, Bill Harris, Patricia Hearst and Wendy Yoshimura]. And it is also significant that Ford's death was considered by his terrorist comrades "murder" by our governmental system because Comrade Po "found it necessary to risk death in order to free himself."

After Ford's dealth, Zilsel's bookstore had a sign in its window along with its usual anarchist, Marxist-Leninist and revolutionary literature. The sign said the store was closed in memory of "our dear friend and employee, Comrade Po" who had "died in the struggle." Zilsel and the Left Bankers issued a public statement in which they denied any relationship to the GJB and also claimed, in contradiction of the GJB's own statement, that Ford had not been a member of the Brigade, but merely held personal animosity toward that particular supermarket.

Late on New Year's Eve, the George Jackson Brigade set off two bombs at the Seattle area Safeway offices in Bellevue, Wash. At the same time, a terror bomb destroyed the transformer supplying electrical power to an entire neighborhood of Seattle. This bomb was in "solidarity" with striking utility workers who had clearly not asked for help from revolutionary terrorists. The GJB communique stated:

> We of the George Jackson Brigade are not City Light workers, but we do live and work in Seattle * * *. For the past two years we have watched City Light workers stand up and fight for their rights. * * * So we have chosen to bring in the New Year with respect and solidarity for the brave example the City Light workers have set by sabotaging the power source for Laurelhurst.

The Brigade concluded:

> We are not terrorists. Safeway and City Light workers have set by sabotaging the enemies of all who have thunder * * * or who have been cold in the winter * * *. *We have no qualms about bringing discriminate violence to the rich.* [emphasis added].

TUKWILA BANK ROBBERY

At a quarter to five on the afternoon of January 23, 1976, as the onset of dusk and rush hour traffic provided escape cover, three men entered the Tukwila branch of the Pacific National Bank and attempted to rob the bank of nearly $45,000.

Police responded to a silent alarm triggered when the bank manager dialed a certain combination to the safe. A shootout ensued between the George Jackson Brigade bank robbers and police, with the law enforcement officers at the time being unaware that they were also being fired on from the rear by other GJB members assigned to the getaway car. The terrorists surrendered after two were wounded.

Arrested in the bank were John W. Sherman, wounded in the face; Ed Mead; and Bruce Seidel, 26, who died that night of his several wounds. All three had been involved with the radical Washington State Prisoners Union. Seidel and Mead had also worked together on the underground prison-movement newspaper, Sunfighter.

On January 26, Mead and Sherman released a statement confessing their attempt at "revolutionary expropriation" and giving their version of the shootout in the bank with graphic descriptions of what effect a police bullet has on the body of a terrorist. Said the surviving robbers:

> None of us were prepared for the sudden transition from the orderly and controlled violence of the expropriation to the savage attack by police. * * * Attica, the massacre of the S.L.A. in Compton * * * were suddenly very real. We opened fire on police. Bruce got five shots off before he hit the floor. * * * [After Mead and Sherman went out and surrendered] Bruce remained inside; the sound of blood gurgling in his lungs * * * created a feeling this writer will not soon forget.

Mead and Sherman were then arraigned on Federal bank robbery charges and local counts of first degree assault "for trying to defend ourselves from the police attack."

JAILBREAK

On March 10, the vehicle transporting John Sherman back to Kings County Jail from treatment of his wounds at the Harborview Medical Center was intercepted. Sherman's GJB comrade shot and seriously wounded the guard. Both terrorists escaped.

On March 20, Mark Cook, a Seattle area prison movement organizer, was arrested and charged with having fired on police from across the street during the Tukwila bank robbery. John Sherman and an unknown number of other George Jackson Brigade activists remain at large.

Mead has been convicted of two counts of first degree assault for shooting at police. Mead attempted to use the "basic political defense" raised unsuccessfully by convicted Symbionese Liberation Army murderer Joe Remiro that people "oppressed" by capitalism have the right "to seize the means for ending their own oppression"; and that "it is perfectly reasonable for people, especially those who have been involved in politics, to assume that a cop who draws a gun on you intends to kill you whether or not there is, in fact, any cause."

Mead now faces trials on State and local charges. He has also admitted that the August 5, 1975, bombing of the FBI's Tacoma offices and the August 6 bombing of the Bureau of Indian Affairs offices in Everett were done by the George Jackson Brigade "in response to FBI terrorism at Pine Ridge and Rosebud Indian Reservations, and in support of a 100-mile march of protest—from Olympia to Portland—over Federal treatment of native Americans."

Stated Mead:

> The Brigade did not claim the actions because folks wanted to focus attention on the plight of Indians rather than trying to push our "credits" or "score."

GRAND JURY RESISTANCE

A Federal grand jury has been convened in Seattle with regard to violation of Federal statutes by the GJB. Several associates of the GJB members in the radical prison movement have been subpenaed including Brenda Carter, Kathy Hubnet, Jill Kray, Peter Lippman, Katie Mitchell, Joanne Sherman, and Michael Withey, a 1975 regional vice president of the National Lawyers Guild, NLG.

The National Lawyers Guild is the principal legal defense organization for U.S. revolutionaries and terrorists. In Washington, the NLG has a regular chapter in Seattle and a law school chapter at the University of Washington Law School.

Last fall, the NLG's Prison Task Force stated:

> The Guild is not merely a legal organization * * *. Many people within the Guild consider the strategy of armed struggle to be an integral part of any revolutionary struggle.
>
> The Guild must make room for those who believe in revolution and armed struggle.

Stephen Bingham, the lawyer who is a fugitive from charges of having smuggled a pistol to George Jackson for his fatal jailbreak attempt, was a member of the NLG and worked with a Prison Law Collective of NLG lawyers. William Kunstler is typical of the NLG attorneys who support terrorism. His September 1975 statement may be taken as representative:

> The thing I'm most interested in is keeping people on the street who will forever alter the character of this society: the revolutionaries. Whether its the American Indian Movement, or the Black Liberation Army, or H. Rap Brown—a person or an organization—I'm really interested only in spending my talents, and any assets I have, to keep the revolutionaries functioning.

As they have in other cities in which grand juries are investigating the harboring and hiding of fugitive terrorists, the National Lawyers' Guild, has formed a Seattle Grand Jury Committee, also known as the Seattle Committee to Stop the Grand Jury [206/622-5144], with local activists to assist the potential grand jury witnesses resist the investigation. The Seattle Grand Jury Committee is producing a flood of propaganda alleging that the grand jury investigation is merely a "front" to "cover up" a harassment campaign against the Seattle prison movement organizers.

At last report, attorney Withey was awaiting a date on his contempt hearing.

OTHER TERRORIST SUPPORT

Seattle and the Northwest had their share of problems with the New Left in the 1960's and 1970's. Students for a Democratic Society—SDS—sent in a team mostly recruited from Cornell SDS to organize the "alternate culture" or "street freak" dropouts in 1969. That SDS group developed the Seattle Liberation Front which was close to the SDS Weatherman faction and which organized the vicious TDA [The Day After] riots in Seattle following the convictions of the Chicago 7 Conspiracy defendants [Tom Hayden, Rennie Davis, Dave Dellinger, John Froines, Jerry Rubin, Abbie Hoffman and Lee Weiner], later reversed on technicalities.

Associates of the Weathermen remain in the Seattle area and are active in the Prairie Fire Organizing Committee (PFOC) Seattle chapter, in the prison movement, the support groups for radical American Indians, and in the John Brown Book Club, P.O. Box 22383, Seattle, WA 98122, which reprints and distributes copies of the official Weather Underground publications—Prairie Fire: The Politics of Revolutionary Anti-Imperialism and Osawatomie.

In January, the Weather Underground's nationwide Prairie Fire apparatus organized a National Hard Times conference in Chicago. The Seattle Hard Times Committee operated through a local prison movement group, Women Out Now, which is active at the Purdy Treatment Center. On March 7, in honor of the Marxist International Women's Day—March 8—Women Out Now held a meeting featuring Arlene Eisen Bergman, a leading Prairie Fire Organizing Committee leader from the San Francisco Bay area, an old time Weatherman associate and an initiating organizer of the Venceremos Brigade. It is noted that the meeting received favorable coverage by the Communist Party press.

One of Arlene Eisen Bergman's comrades in the Bay Area PFOC leadership was Clayton Van Lydegraf, a former Seattle resident. Between the end of the Second World War and the outbreak of the Korean conflict, the CPUSA organized a secret apparatus of "safe houses" for hiding possible fugitives, clandestine printshops, "mail-drops" for messages, and trained saboteurs. With the onset of the Communist's cold war, the CPUSA had to be prepared for possibilities of being declared illegal, for Smith Act prosecutions of Communist Party leaders, and so on. This was Van Lydegraf's work, and he was identified by a number of witnesses as an organizer of the Communist Party underground in the Northwest.

In 1956 Van Lydegraf was called by the House Committee on Un-American Activities to answer these accusations: he took the fifth amendment even on the questions as to his name. He also refused to answer questions relating to whether he had worked with the Communist Huk guerrillas in the Philippines, whether he had received training in revolution in Moscow, and whether he had ever garroted anyone, particularly while in the Philippines.

After an association with a militant Communist Party splinter group, Van Lydegraf became a close associate of the Weatherman leaders and attended the Flint "War Council" in December, 1969, at which the Weather Bureau—the leadership group—decided to go underground and move into armed struggle. With the assistance of a battery of National Lawyers Guild activists, Van Lydegraf has refused to cooperate with grand jury investigations of terrorist activity. He is currently a national figure in the Prairie Fire Organizing Committee; and his grand jury resistance work has been hailed by NLG members and antigrand jury groups as a model for politically "correct" behavior.

CONCLUSION

It is very significant that the George Jackson Brigade chose not to take public responsibility for the Native American support bombings of the FBI and BIA offices last August. One may well speculate whether unattributed terror bombings, such as the LaGuardia Airport tragedy and others during the past 6 years, may not be the work of America's more notorious terrorists who have decided not to admit responsibility for "political" reasons, or to cover up accidents, or to evade law enforcement pressure.

For example, last night, the night of Monday, June 7, four bombs exploded in Chicago. The work was in the style of the Puerto Rican FALN, but as of this morning, no communique had been issued. It is possible the bombing was to protest the Organization of American States (OAS) meetings in Santiago, Chile.

Clearly, the story of the George Jackson Brigade is not over.

REVENUE SHARING: DISINCENTIVE FOR GOVERNMENT MODERNIZATION?

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 8, 1976

Mr. ROSENTHAL. Mr. Speaker, one of the critical problems facing our Nation is the antiquated and inefficient structure of State and local governments. Countless miniscule, limited-purpose units duplicate government services; some areas are taxed beyond their capacity, while others have negligible burdens; many governments lack any professional administrators. Tragically, the general revenue-sharing program—the great experiment in Federal/local relations—has exacerbated these problems by giving new financial life to moribund jurisdictions. Recent studies conclude that revenue sharing has discouraged intergovernmental cooperation and reinforced administrative inefficiency. It would be irresponsible for us to extend the general Revenue Sharing Act without confronting these undesired and unintended disincentives to modernization.

When Congress established the revenue-sharing program in 1972, it opted for a neutral, noninterventionist stand on structural matters; that is, the Federal Government was not to use its grants to influence local structure or procedure.

Unfortunately, recent reports have shown that the attempt at neutrality has failed: Nonintervention is impossible with a program of such magnitude as revenue sharing. The effect of revenue sharing has been the opposite of what the 1972 Congress intended. Small, limited-function, inefficient governmental units have avoided extinction solely because of the umbilical cord to Washington.

The major study of the State and Local Fiscal Assistance Act, done by the Brookings Institution in 1975—Monitoring Revenue Sharing—emphasized that revenue sharing has been interventionist from the start:

> The revenue sharing act of 1972 should not be viewed as neutral in its potential impact on local government structure. . . . The provision of direct local benefits for county, municipal, and township governments—all recognized as general-purpose units regardless of the scope of their responsibilities—involved a deliberate preference for them as against other types of local jurisdictions.

Instances of revenue sharing's encouragement of inefficiency abound. The Brookings study notes, for example:

> Township government is a disaster in South Dakota; the effects of revenue sharing have been to prolong the existence of a form of government which gradually seemed to be on its way out. Townships do not need the money.

The average population of South Dakota's more than 1,000 townships is 167 persons; their dominant function is the construction and maintenance of roads.

In those cases where local units have sought to modernize their structure, revenue sharing has actually discouraged reform. The only comprehensive study of its impact on a local government, done on the city of Rochester, N.Y., by the Center for Governmental Research, documented that "Revenue sharing not only has failed to induce governmental modernization, but in fact, tends to discourage such modernization . . . No-strings money tends to undergird vested interests in the status quo and thwart modernization efforts." The study reached the following conclusion:

> To the extent that modernization and reform efforts were becoming attractive to units under financial pressure, new money delayed or subverted efforts to achieve functional and jurisdictional consolidations and tax reform. Revenue sharing can inhibit change through its minimum grant provisions, because small units inclined to consolidate would receive less than they now receive separately.

The Brookings Institution reached the same conclusion:

> In some cases, by covering nearly all townships and municipalities as well as counties, revenue sharing may tend to frustrate reforms that are based on the consolidation model and designed to eliminate small and limited-function local units.

Mr. Speaker, the evidence is incontrovertible: revenue-sharing funds inevitably influence State and local structures. The only question can be, what effect should they have? Should we permit Fed grants to block much-needed reforms?

I believe that the answer is "No." The Congress must promote structural modernization on all levels. An amendment to the revenue sharing extension (H.R. 13367) adopted by the Committee on Government Operations does precisely that. What has become known as the Rosenthal amendment encourages units which receive Federal assistance to modernize their structures. It requires no more of the States than an annual report on whatever progress they have made. In addition, the amendment suggests modernization criteria which the States may adopt. These criteria seek to alleviate the most serious structural problems, by: reducing the number of limited-function general government; improving the professional capacity of State and local government managers; making tax burdens commensurate with the fiscal capacity of the taxing unit; and encouraging broad public participation in the decisionmaking process.

Mr. Speaker, the modernization amendment has been much maligned and distorted. In an extension elsewhere in today's RECORD, I attempt to correct the misconceptions which have arisen. I want to reiterate, however, that revenue sharing affects governmental structure whether we intend it to or not. Only by adopting H.R. 13367 with the Rosenthal amendment can we insure that Federal funds encourage governmental modernization instead of hindering it.

THE COST OF HIGHER EDUCATION

HON. BELLA S. ABZUG

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 8, 1976

Ms. ABZUG. Mr. Speaker, recently the U.S. Commissioner of Education had to resign because he could not pay for his three children's education on his $37,000 salary. This is dramatic proof of a problem that is increasingly felt at all levels of society. The Bureau of Labor Statistics has estimated that a family of four with an income of $14,337 would have only $662 each year available for education, recreation, and other purposes. Since 1974 when this estimate was made, costs have risen further.

The rate of full-time college attendance is declining most rapidly among lower and middle income families. Private and public institutions are desperately competing for students. At the same time, the property tax is proving increasingly unsatisfactory as a funding mechanism for primary and secondary education.

I believe we in Congress have a responsibility to develop alternative funding mechanisms for education, to insure that this basic right does not become a rare privilege. I hope to address this question in the near future. At this time, I would like to draw my colleagues' attention to a statement I have recently made concerning the decision by the New York Board of Higher Education to end free tuition at the City University of New York:

> Today we mourn the end of 120 years of unlimited educational opportunity in New York. City University's free tuition policy has immeasurably benefited New York. It has trained hundreds of thousands of professionals whose taxes have represented a far greater return to the city, state and nation than the costs of their free tuition. It has given the nation leaders in every field of public life. For so many of us, a free college meant we had a chance. Of course, we still had to work to buy books and sometimes to support our families, while we were in school. But we could not have done it with the additional burden of tuition charges.
>
> CUNY is dying. The entering freshman class next year will be 40% smaller than last fall. After students and faculty worked for months to save their schools from the Kibbee plan, the survival of York and John Jay colleges are now jeopardized by projected enrollment declines of 83% and 72%, respectively.
>
> We New Yorkers have been reassured that state scholarships can make up the difference for most students' costs. But the facts tell a different story. At the same time as the State's Tuition Assistance Program is supposed to cushion the blow of tuition, the Governor has renewed his proposals to restrict eligibility for its grants. He has asked for new definitions to prevent college students from claiming their families cannot support them. But this is a justifiable and necessary action for families with the expense of several children in college.
>
> And the Governor is also suggesting reinstating a proposal limiting students who graduated from high school before January 1974 to a maximum of $600 rather than $1,500 in assistance. This will hit CUNY hard: in 1974, 11% of entering students were over 25 years old, and people returning to school constitute an ever-increasing number of our higher education population. This trend is universally acclaimed as educationally desirable, but tuition works to prevent it. Moreover, thousands of part-time students, many of whom are working men and women for whom finding time and resources for education is a daily struggle, are still ineligible for state tuition assistance.
>
> The harsh reality is that tens of thousands of students can now no longer afford to go to CUNY. Among the hardest hit will be those who benefited most from open admission. Contrary to prevalent myths, during the past five years, it was the category of "non-Hispanic whites" who increased among CUNY's freshman class from 16,000 to 25,000 a year. Students from the hardworking middle class families of New York will generally be eligible only for a maximum of $100 per year in state Tuition Assistance. For the substantial ⅓ of the senior college students who come from families earning between $10–$20,000 per year, tuition will represent another major tax that will drive more of them out of the city forever.

At the same time, it is likely that many of the poor and minority students will not be aware of the scholarship possibilities. And just as many of them avoid welfare, some will be reluctant to fill out the endless forms and provide all the documentation necessary to receive assistance.

This massive attack on the City University is also directed against nearly 20,000 faculty and staff. These professionals, who are an important stable force in our city have already made unprecedented sacrifices. In the interest and hope of preserving CUNY, they agreed to forego salary increases and to defer to 1978 two weeks pay and nine months of increments. Thousands of them, including women and minorities, will face layoffs as the number of students at CUNY declines precipitously and as CUNY finds ways to cutback $48 million more being demanded on top of present cuts. Already, 550 minority faculty members have filed suit against "wholesale black dismissals in the guise of retrenchment." If such challenges are successful, New York State could lose millions of dollars in Federal assistance as a result of our local cutbacks.

Altoghether, the decision for tuition will start a massive brain drain in New York City. When students and faculty cannot be sure what to expect they will go elsewhere. "Born in New York, educated in New York, working in New York" will become a vanished tradition. And our entire city will suffer the consequences.

The consistent shifting of responsibility between Albany, City Hall, and the Board of Higher Education has served only to keep up a pretext that a Humane solution might emerge from the crisis. But after all the equivocations, the answer has been that the powerless will be punished. Decades of fiscal irresponsibility designed and encouraged in part by the city's financial institutions, have resulted in a strike against the city and state by the nation's banks. Now the books are being balanced on the backs of the middle class and poor by cutting needed services.

Doesn't it matter that 90,000 of CUNY's students are already paying tuition, which together with fees by all students amount to $55 million? Doesn't it matter that the new tuition changes will require expanding a costly bureaucracy to administer the scholarships? Doesn't it matter that the $65 million in additional tuition is roughly the same amount the state has already saved in windfall matching funds from CUNY's cuts of last year? Doesn't it matter that while CUNY students will pay tuition at CUNY rates, they will get per capita state support at one third the level? Doesn't it matter that construction at CUNY will still be frozen, while hundreds of millions of dollars in CUNY projects go ahead? As far as I can tell, all that matters is that free tuition has become the latest scapegoat in a mismanaged fiscal crisis plan that mistakenly claims to be solving New York City's problems while making them worse. It is time to repudiate the myth that New York City can become financially solvent within three years without more help from the federal government and the banks. The books may be balanced by then, but will we have a city?

DR. AND MRS. HARMON C. LEONARD TO RETIRE

HON. RONALD A. SARASIN

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 8, 1976

Mr. SARASIN. Mr. Speaker, almost 400 persons, relatives and friends of Dr. and Mrs. Harmon C. Leonard of Cheshire, Conn., will gather together at a testimonial dinner for the Leonards this Monday evening, June 14, at the venerable old Waverly Inn in Cheshire.

The Leonards, one of Cheshire's oldest and best known families, are retiring and moving to a ranch in Colorado. Both Harmon and Josephine are Cheshire area natives. Harmon was born on the family farm on the Cheshire-Wallingford line, which has been in his family for 300 years. The Leonards were married in July of 1944.

"Dr. Harm" is completing 30 years of large and small animal veterinary practice in Cheshire. Dr. Harmon Cook Leonard was born on June 14, 1920, on the Cook Hill Road farm which is exactly 2½ miles from where his beloved Cheshire Veterinary Hospital is located today. He is nationally known for his research on surgical techniques to relieve respiratory distress in animals. In 1963, his film on respiratory problems won the national award for the best veterinary medical film. In 1965, the film took the first place award at the International Veterinary Conference in Munich, Germany.

Dr. Leonard is completing 19 consecutive years as a member of the Connecticut Board of Veterinary Registration and Examination, having served under four different administrations. He is a past president of the Connecticut Veterinary Medical Association, the New Haven County Veterinary Association, and the New England Veterinary Medical Association. Dr. Leonard has served on the New England Governor's Committee for the Regional College of Veterinary Medicine since its inception.

Dr. Harmon Leonard is truly a citizen-doctor. He served for 11 years as an advisor to the Cheshire 4-H Dairy Club; was elected to two terms on the Cheshire Board of Selectmen; served 12 years as a member of the Cheshire Republican Town Committee, and was a director of the New Haven County Extension Service of the University of Connecticut for many years. He is a former Rotarian; a former Vestryman of St. Peter's Episcopal Church; and a past president of the Connecticut Antique Arms Association. In addition, Dr. Leonard has served in various capacities with both the Massachusetts Arms Collectors Association and the American Society of Arms Collectors.

Harmon and Josephine Leonard are truly remarkable citizens. After their marriage in 1944, they traveled together to the various Army installations for the U.S. Army Veterinary Corps. During the war years, veterinary officers were transferred from post to post and Harmon and Joey Leonard saw service at Salem Depot, N.H.; Fort Wright at Fisher's Island, and Springfield, Mass. Their first born, Harmon Cook Leonard, Jr., was born July 15, 1945. Their daughter, Charlene—now Mrs. Arthur Donoho—was born March 27, 1952.

Joey Leonard is truly a remarkable person. A woman of tremendous accomplishment in her own right, she graduated from the Prospect Hill School in New Haven in 1939 and received her baccalaureate degree from Mt. Holyoke College, South Hadley, Mass., in 1943. On February 1, 1947, Mrs. Leonard was instrumental in the opening of the Cheshire Veterinary Hospital and worked in the hospital until 1972. For 16 years, without interruption, Mrs. Leonard directed the Cheshire 4–H Saddle and Bridle Club's Junior Horse Show. The show became the largest junior horse show in Connecticut and is sponsored as an annual event by the St. Peter's Episcopal Church of Cheshire. Mrs. Leonard has served as a member of both the State 4–H Horse Council and the New Haven County 4–H Advisory Board. She is a past president of the Cheshire Garden Club; the longtime assistant treasurer of the St. Peter's Sunday School and for many years served as an active member of the Cheshire Academy Parents Association.

In 1966, the town of Cheshire named the new youth center after young "Harmy" Leonard. Following the untimely death of Harmon, Jr., Harmon and Joey established a community foundation and through townspeople, friends, churches, and civic organizations, raised the money for the construction of the new center. Much of the legwork for collecting funds for the center was done by the youth of Cheshire, all of whom had known Harmy Leonard. The land for the center was purchased from the town and a modern building stands today as a living memorial to Harmon, Jr.

I have been privileged to know Harmon and Joey Leonard through my service on the board of trustees of the Cheshire Academy. The academy is truly a Bicentennial institution, having been founded in 1794. Harmon Leonard's grandfather was one of the school's early graduates. As their Congressman, I wish Harmon and Joey Godspeed and hope they will return to Cheshire to visit as many times as possible. We will miss them.

FORD SHOWS COURAGE

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 8, 1976

Mr. FINDLEY. Mr. Speaker, Jack Anderson is best known as an investigative reporter who delights in unearthing buried secrets which embarrass prominent individuals and institutions. Praise from Jack Anderson is rare indeed. I was therefore both surprised and pleased to read in last week's paper the following Anderson article with which I wholeheartedly agree. I commend it to your attention:

Ford Shows Courage

(By Jack Anderson and Les Whitten)

We have watched President Ford closely since he picked the government reins off the floor nearly 22 months ago. We have often disagreed with his policies; occasionally we have criticized his performance. But we have detected one characteristic that has gone largely unnoticed:

Gerald Ford has political courage.

This side of the President has been revealed behind closed White House doors. Mr. Ford made the decision for example, to send Secretary of State Henry A. Kissinger to Africa on the eve of some crucial southern primaries.

The President saw advance drafts of the statements Kissinger intended to make in Africa, supporting the rights of the black majority. Political advisers warned that the timing couldn't be worse, that the Kissinger tour would antagonize many Southern voters.

The President said the situation in Africa was too critical to wait and personally gave Kissinger the go-ahead. Subsequently, Mr. Ford lost to Ronald Reagan in the Texas, Georgia and Alabama primaries.

Yet the confidential minutes of a White House meeting on May 12 show the President had not relented. The takeover of Angola by Soviet-supported guerrillas, he said, had made the situation "potentially very dangerous" for African moderates.

"Without some strong position by us," he declared, "Africa would become ripe for the picking." There had been "some criticism of the timing" of the Kissinger visit, he said, "but I can't hold foreign policy in abeyance

Mr. Ford has also dismayed his political advisers by calling for an increase in Social Security taxes and a five per cent ceiling on pay raises and pensions. Past Presidents managed to postpone such unpopular moves until after the election. But Mr. Ford told aides it was more important to bring the budget under control.

Even more astounding, he ordered the shutdown of four Air Force bases in states where he was courting votes—Craig in Alabama, Richard-Gebaur in Kansas, Webb in Texas and even Kincheloe in his home state of Michigan.

When Republican leaders pleaded with him to spare their pet projects, according to the confidential minutes of a May 5 meeting, the President replied bluntly: "There are definite limitations on what we can spend."

He demanded fiscal reforms before he would agree to bail New York city out of its financial crisis, despite a warning that stringent measures would cost him votes.

He replied that the city would never have wound up on the financial rocks if past mayors had been willing to face the facts. "We cannot go on spending," he said, "without worrying about where the money is coming from."

Probably no presidential action was more unpopular than his attempt to make gas and oil more expensive. Although we criticized him for penalizing the poor and catering to the oil companies, he felt this was the best way to hold down oil consumption and, thereby, to reduce U.S. dependence on Arab oil fields.

"This may not be good politics," he told his advisers, "but is good for the country."

Mr. Ford also sought to curb electronic surveillance by the FBI and Central Intelligence Agency in a move that brought praise from Sen. Edward M. Kennedy, (D-Mass.), but criticism from some conservative republicans.

Confidential minutes quote the President as responding: "It was a tough decision, without total unanimity, but I felt we had to move in the national interest."

HOUSE OF REPRESENTATIVES—*Wednesday, June 9, 1976*

The House met at 10 o'clock a.m.

The Chaplin, Rev. Edward G. Latch, D.D., offered the following prayer:

O worship the Lord in the beauty of holiness; fear before Him, all the Earth.—Psalms 96: 9.

Eternal God, in this month throbbing with the lilting loveliness of June days, we thank Thee for the beauty around us, the glory above us, the green carpet beneath our feet, and the goodness of grateful hearts.

"God, who touchest Earth with beauty,
Make us lovely too,
With Thy spirit recreate us,
Make our hearts anew.

"Like the springs and running waters,
Make us crystal pure,
Like Thy rocks of towering grandeur,
Make us strong and sure.

"Like Thy dancing wanes in sunlight,
Make us glad and free,
Like the straightness of the pine trees,
Let us upright be.

"Like the arching of the heavens,
Lift our thoughts above,
Turn our dreams to noble action,
Ministries of love.

"God, who touchest Earth with beauty,
Make us lovely too,
Keep us ever by Thy spirit,
Pure and strong and true."
(MARY S. EDGAR.)

Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that Mr. BARTLETT be a conferee, on the part of the Senate, on the bill (H.R. 12438) entitled "An act to authorize appropriations during the fiscal year 1977 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, and research, development, test, and evaluation for the Armed Forces, and to prescribe the authorized personnel strength for each active duty component and of the Selected Reserve of each Reserve component of the Armed Forces and of civilian personnel of the Department of Defense, and to authorize the military training student loads, and for other purposes," vice Mr. GOLDWATER, excused.

PERMISSION FOR COMMITTEE ON RULES TO FILE CERTAIN PRIVILEGED REPORTS

Mr. PEPPER. Mr. Speaker, I ask unanimous consent that the Committee on Rules may have until midnight tonight to file certain privileged reports.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

"AMERICA THE BEAUTIFUL" TO BE FLAG DAY THEME

(Mr. NICHOLS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NICHOLS. Mr. Speaker, some months ago I was appointed chairman of a four-man House Flag Day Committee charged with the responsibility of organizing the House ceremony honoring our American flag.

I am pleased to report to you and my colleagues that we have finalized plans to hold our ceremony on Tuesday, June 15, at the noon hour here in the House Chamber.

Because of the special significance of this Bicentennial Year the committee decided to break past traditions of recognizing a particular segment of our society, such as athletics, entertainment, or the media and develop a theme of much broader significance. I believe we have done just that.

The theme for this year's Flag Day ceremony will be "America the Beautiful" and we have invited to be our special guest Mrs. Lyndon Johnson, the American we believe best personifies this theme. In addition the U.S. Navy Band and Sea Chanters will play patriotic music for the 30-minute ceremony.

This ceremony will be the official recognition of Old Glory by the House of Representatives and the Flag Day Committee hopes that each Member, their family, and staff will be able to participate in honoring our American flag on this day.

UNITED NATIONS IS APPLYING DOUBLE STANDARD VIS-A-VIS AGGRESSION IN LEBANON

(Mr. LEVITAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEVITAS. Mr. Speaker, there are many of us who are increasingly questioning the wisdom of the actions taken by the United Nations.

We question the U.N.'s effectiveness. We question the evenhandedness and fairness of the U.N. We question the relationship of the United States to that body.

However, it is surprising to me, Mr. Speaker, to see the United Nations stand silently by while armed aggression is taking place in Lebanon. The United Nations Security Council, which is so swift to convene and to act in instances when other nations in the world are involved, is again applying a double standard in the case of Lebanon. It does nothing. It says nothing. It watches while foreign arms, foreign forces, and foreign powers commit aggression against a member nation and threaten the peace of that region and, indeed, the peace of the world.

Mr. Speaker, if there has ever been a need for the security and the peacekeeping forces of the United Nations to be brought to bear, it is in the case of what is occurring in Lebanon today as we see this ancient, peaceful community being destroyed. Why? Why does the U.N. do nothing? I think this proves the useless hypocrisy of the organization, which was conceived a dream for world peace and now has become a useless and ineffective body which piously proclaims slander and lies as truth. They shall reap the whirlwind.

Mr. Speaker, I call upon the United Nations and the Security Council to take those steps necessary to secure peace and security in the troubled land of Lebanon. In other words, put up or shut up!

AUTHORIZING THE CLERK TO MAKE CORRECTION IN SENATE ENGROSSED AMENDMENT TO H.R. 11559

Mr. JOHNSON of California. Mr. Speaker, I ask unanimous consent for the immediate consideration of the concurrent resolution (H. Con. Res. 652) authorizing and directing the Clerk of the House of Representatives to make a correction in the Senate engrossed amendment to the bill (H.R. 11559) to authorize appropriations for the saline water conversion program for fiscal year 1977.

The Clerk read the title of the concurrent resolution.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 652

Resolved by the House of Representatives (the Senate concurring), That in the enrollment of the bill (H.R. 11559) entitled "An Act to authorize appropriations for the saline water conversion program for fiscal year 1977", the Clerk of the House of Representatives is authorized and directed to make the following correction: On page 1, line 2, of the Senate engrossed amendment, strike out "$7,090,000" and insert in lieu thereof "$7,540,000".

Mr. JOHNSON of California. Mr. Speaker, the purpose of House Concurrent Resolution No. 652 is to correct a clerical error in H.R. 11559—to authorize appropriations for the saline water conversion program for fiscal year 1977—on which final action was taken by the House on Monday, June 7, 1976.

At that time concurrence to certain Senate amendments was agreed to.

The Senate made several amendments to H.R. 11559, but in the engrossing of those amendments the total amount authorized to be appropriated was not brought into conformity with the sum of the individual items.

I repeat, this resolution is simply to correct an inadvertent error and I urge the adoption of the concurrent resolution.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

CALL OF THE HOUSE

Mr. MYERS of Indiana. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. O'NEILL. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 341]

Addabbo
Alexander
Andrews, N.C.
Ashley
AuCoin
Bell
Biaggi
Biester
Bowen
Brodhead
Brown, Calif.
Brown, Mich.
Broyhill
Buchanan
Burke, Fla.
Byron
Carney
Chisholm
Clawson, Del
Clay
Collins, Ill.
Conlan
Conyers
Corman
Coughlin
Crane
Dellums
Diggs
Drinan
Eilberg
Emery
Esch
Eshleman
Flowers
Ford, Mich.
Fraser
Frenzel
Giaimo
Gibbons
Goldwater
Green
Hanley
Harsha
Hayes, Ind.
Hays, Ohio
Hébert
Heckler, Mass.
Hefner
Helstoski
Henderson
Hicks
Hinshaw
Howard
Jenrette
Jones, Ala.
Karth
Kindness
Litton
Long, Md.
McCormack
McDonald
Mahon
Martin
Michel
Milford
Mollohan
Morgan
Mosher
Murphy, N.Y.
Passman
Pressler
Railsback
Rees
Reuss
Riegle
Roe
Rose
Rosenthal
Rostenkowski
Roybal
Ryan
Sarasin
Scheuer
Spellman
Stanton, James V.
Steelman
Stokes
Stuckey
Symington
Teague
Thompson
Udall
Vander Jagt
Vanik
Waxman
Whalen
Wiggins
Wilson, C. H.

The SPEAKER. On this rollcall 333 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

PERMISSION FOR SUBCOMMITTEE ON MONOPOLIES AND COMMERCIAL LAW OF COMMITTEE ON THE JUDICIARY TO SIT DURING 5-MINUTE RULE TOMORROW

Mr. HUGHES. Mr. Speaker, I ask unanimous consent that the Subcommittee on Monopolies and Commercial Law of the Committee on the Judiciary may sit during the 5-minute rule tomorrow to consider H.R. 4421 and H.R. 4422 dealing with Federal judgeships.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

FISCAL ASSISTANCE AMENDMENTS OF 1976

Mr. BOLLING. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1269 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1269

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 13367) to extend and amend the State and Local Fiscal Assistance Act of 1972, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed three hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Government Operations, the bill shall be read for amendment under the five-minute rule. No amendment shall be in order to said bill except germane amendments printed in the Congressional Record at least one calendar day prior to the offering of said amendment, and except for pro forma amendments. It shall be in order to consider en bloc, in lieu of the separate committee amendments printed in the bill, each group of amendments numbered 1 through 12 printed in the Congressional Record of June 8, 1976, if offered from the floor, and said amendments if offered en bloc shall not be subject to a demand for a division of the question in the House or in the Committee of the Whole. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER. The gentleman from Missouri (Mr. BOLLING) is recognized for 1 hour.

Mr. BOLLING. Mr. Speaker, I yield 30 minutes to the gentleman from Illinois (Mr. ANDERSON); pending that I yield myself such time as I may consume.

Mr. Speaker, this is a complicated rule which does perform a simple function. The bill that it makes in order came before the Committee on Rules with 59 amendments in it. The Committee on Rules was informed that most of those amendments were conforming amendments. Over time, the Committee on Rules learned that it was proposed that a substitute, an amendment in the nature of a substitute, would be offered by the chairman of the committee at the outset of the proceedings when the first part of the bill was read.

The Committee on Rules further learned that there would probably be a substitute for that amendment in the nature of a substitute; but the Committee on Rules was confronted with the fact that there were 59 committee amendments that would pend in the consideration of the bill if those substitutes were defeated and the Committee on Rules felt that it would be advisable to try to provide for an orderly process in the event that those substitutes were defeated.

Each of those substitutes, the amendment in the nature of a substitute, the substitute for the amendment in the nature of a substitute, would be open to perfection. One amendment could be pending on each one through the process.

So the rule is completely wide open. The only structuring that is done is to put en bloc the 12 substantive amendments of the 59, and attach to them for consideration the conforming amendments necessary to implement the substantive amendments. There are only 12 among 59, and that leaves us with 47 that are necessary to be considered. We may never get to that stage, but it will be helpful, I believe, if we do get to that stage to cover the situation in different blocks of amendments.

The only other point, the only other thing that is different, is that we were told that the House would only have general debate on this matter today, and that tomorrow the amendment stage would come. Therefore, we felt that it would be more helpful and orderly for the House and for the Members if the amendments to be offered to the bill were printed in the Record. Those will be subject to amendment, and amendments to amendments do not have to be printed in the Record, so it is a completely open rule.

The complexities are designed to achieve a very simple thing, and we think the complexities will help achieve that, and that is fairness. We tried not to give advantage to anybody in the process, or to any side of the issue in the process, so that the House could work its will fairly on this very complicated and difficult subject.

Mr. Speaker, I reserve the balance of my time.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield myself as much time as I may consume.

Mr. Speaker, House Resolution 1269 is a much simpler rule than it might appear to be. This is essentially a 3-hour open rule. The only difference between this and a straight open rule is that this rule requires that any amendments be printed in the Congressional Record at least 1 day before the day on which they are offered. Since we will only be dealing with general debate on this bill today, that means that Members will have until the close of business today to submit for the Record any amendments they may wish to offer tomorrow. The other thing this rule does is to permit the offering of the 12 categories of committee amendments printed in the bill—to permit each of these categories to be offered en bloc. The 12 blocs of amendments are printed in yesterday's Congressional Record at pages 16860–16861 under Mr. Bolling's name. The reason for this special aspect of the rule is simply to permit conforming amendments for each of the 12 categories to be considered simultaneously under their respective category. It was made clear in the Rules Committee that this procedure would not preclude the separate offering of the amendments in a category should the bloc amendment be defeated.

Mr. Speaker, I think the more likely scenario which will unfold under the 5-minute rule will be the offering of an amendment in the nature of a substitute by the gentleman from Texas (Mr. Brooks), a substitute which would incorporate all the committee amendments. This would obviate the need for the separate offering of all the committee amendments. At the same time, it will allow for amendments to strike each of the committee amendments contained in the substitute. It will also permit the gentleman from New York (Mr. Horton) to offer a substitute for the Brooks substitute if he desires, provided the text of the substitute is printed in the Record by today. That same prior printing requirement applies to the Brooks substitute if he should want to offer it.

In conclusion, Mr. Speaker, I think this is a very fair rule which accommodates the interests of all interested parties on both the majority and minority side. There are no waivers in this bill and all germane amendments will be in order provided they have been printed in the Record by today, or 1 day prior to their being offered if the amendment process should extend beyond tomorrow.

Mr. Speaker, I have no further requests for time.

Mr. BOLLING. Mr. Speaker, I yield 5 minutes to the gentleman from Texas (Mr. Brooks).

Mr. BROOKS. Mr. Speaker, I want to commend the Rules Committee for proposing a rule that I think will provide an orderly procedure for considering H.R. 13367.

Since we will only be conducting general debate today, the requirement that amendments to the bill be printed in the Record will not preclude Members from having their amendments printed in time for them to be considered tomorrow.

The provision for grouping certain amendments so they can be considered at the same time will eliminate a lot of confusion that might otherwise arise.

When you recall that in 1972 we had to consider this important legislation under a closed rule, I am sure you will join with me in commending the Rules Committee and voting for this rule.

Mr. BOLLING. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. ANDERSON of Illinois. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 358, nays 1, answered "present" 1, not voting 71, as follows:

[Roll No. 342]

YEAS—358

Abdnor
Abzug
Adams
Alexander
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashbrook
Aspin
Badillo
Bafalis
Baldus
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bennett
Bergland
Bevill
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brooks
Broomfield
Brown, Ohio
Burgener
Burke, Calif.
Burke, Mass.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Carr
Carter
Cederberg
Chappell
Chisholm
Clancy
Clausen, Don H.
Clay
Cleveland
Cochran
Cohen
Collins, Ill.
Collins, Tex.
Conable
Conte
Corman
Cornell
Cotter
Coughlin
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Danielson
Davis
de la Garza
Delaney
Dent
Derrick
Derwinski
Devine
Dickinson
Diggs
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
du Pont
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
English
Erlenborn
Esch
Evans, Colo.
Evans, Ind.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flood
Florio
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fraser
Frey
Fuqua
Gaydos
Gilman
Ginn
Gonzalez
Goodling
Gradison
Grassley
Gude
Guyer
Hagedorn
Haley
Hall
Hamilton
Hammerschmidt
Hanley
Hannaford
Hansen
Harkin
Harrington
Harris
Harsha
Hawkins
Hayes, Ind.
Hechler, W. Va.
Heinz
Henderson
Hightower
Hillis
Holland
Holt
Holtzman
Horton
Howe
Hubbard
Hughes
Hungate
Hutchinson
Hyde
Ichord
Jacobs
Jarman
Jeffords
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kasten
Kazen
Kelly
Kemp
Ketchum
Keys
Koch
Krebs
Krueger
LaFalce
Lagomarsino
Latta
Leggett
Lehman
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Lundine
McClory
McCollister
McDade
McEwen
McFall
McHugh
McKay
McKinney
Madden
Madigan
Maguire
Mahon
Mann
Mathis
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Mikva
Miller, Calif.
Miller, Ohio
Mills
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nix
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Hara
O'Neill
Ottinger
Patten, N.J.
Patterson, Calif.
Paul
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Quie
Quillen
Randall
Rangel
Regula
Reuss
Rhodes
Richmond
Riegle
Rinaldo
Risenhoover
Roberts
Robinson
Rodino
Rogers
Rooney
Rosenthal
Roush
Rousselot
Runnels
Ruppe
Russo
St Germain
Santini
Sarbanes
Satterfield
Scheuer
Schneebeli
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shriver
Shuster
Sikes
Sisk
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spence
Staggers
Stanton, J. William
Stark
Steed
Steelman
Steiger, Ariz.
Steiger, Wis.
Stephens
Stratton
Studds
Sullivan
Symms
Talcott
Taylor, Mo.
Teague
Thone
Thornton
Traxler
Treen
Tsongas
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Vigorito
Waggonner
Walsh
Wampler
Waxman
Weaver
Whalen
White
Whitehurst
Whitten
Wilson, Bob
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Young, Tex.
Zablocki
Zeferetti

NAYS—1

Burleson, Tex.

ANSWERED "PRESENT"—1

Taylor, N.C.

NOT VOTING—71

Addabbo
Ashley
AuCoin
Bell
Biaggi
Biester
Brodhead
Brown, Calif.
Brown, Mich.
Broyhill
Buchanan
Burke, Fla.
Carney
Clawson, Del
Conlan

Conyers
Crane
Dellums
Eilberg
Emery
Eshleman
Evins, Tenn.
Flowers
Frenzel
Giaimo
Gibbons
Goldwater
Green
Hays, Ohio
Hébert
Heckler, Mass.
Hefner
Helstoski
Hicks
Hinshaw
Howard
Jenrette
Karth
Kastenmeier
Kindness
Landrum
Litton
McCloskey
McCormack
McDonald
Martin
Michel
Milford
Nichols
Passman
Pattison, N.Y.
Railsback
Rees
Roe
Roncalio
Rose
Rostenkowski
Roybal
Ryan
Sarasin
Simon
Spellman
Stanton, James V.
Stokes
Stuckey
Symington
Thompson
Udall
Vanik
Wiggins
Wilson, C. H.

The Clerk announced the following pairs:

Mr. Addabbo with Mr. Bell.

Mr. Thompson with Mr. Pattison of New York.

Mr. Hébert with Mr. Gibbons.

Mr. Hays of Ohio with Mr. Biester.

Mr. Biaggi with Mr. Evins of Tennessee.

Mr. Carney with Mr. Eshleman.

Mr. Eilberg with Mr. Broyhill.

Mr. Giaimo with Mr. Brodhead.

Mr. Passman with Mr. Emery.

Mr. Roybal with Mr. Del Clawson.

Mrs. Spellman with Mr. Conyers.

Mr. Charles H. Wilson of California with Mr. Rees.

Mr. Howard with Mr. Brown of California.

Mr. Jenrette with Mr. McCloskey.

Mr. Nichols with Mr. Kindness.

Mr. Green with Mr. Brown of Michigan.

Mr. Helstoski with Mr. Rose.

Mr. Kastenmeier with Mr. Goldwater.

Mr. Litton with Mr. Crane.

Mr. McCormack with Mr. Frenzel.

Mr. Udall with Mr. Buchanan.

Mr. Symington with Mr. Dellums.

Mr. Rostenkowski with Mr. Martin.

Mr. Roncalio with Mr. Burke of Florida.

Mr. Roe with Mr. Landrum.

Mr. AuCoin with Mrs. Heckler of Massachusetts.

Mr. Ashley with Mr. Conlan.

Mr. Milford with Mr. Karth.

Mr. McDonald with Mr. Hicks.

Mr. Flowers with Mr. Hefner.

Mr. Ryan with Mr. Sarasin.

Mr. Stokes with Mr. Simon.

Mr. Stuckey with Mr. James V. Stanton.

Mr. Vanik with Mr. Higgins.

Mr. PRICE changed his vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. BROOKS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 13367) to extend and amend the State and Local Fiscal Assistance Act of 1972, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Texas (Mr. BROOKS).

The question was taken; and the Speaker announced that the ayes appear to have it.

Mr. ROUSSELOT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. The gentleman objects to the vote on the motion that the House resolve itself into the Committee of the Whole?

Mr. ROUSSELOT. Yes, Mr. Speaker.

The SPEAKER. The gentleman is within his rights.

Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 358, nays 0, answered "present" 1, not voting 72, as follows:

[Roll No. 343]

YEAS—358

Abdnor
Abzug
Adams
Alexander
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashbrook
Aspin
Badillo
Bafalis
Baldus
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bennett
Bergland
Bevill
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brooks
Broomfield
Brown, Ohio
Buchanan
Burgener
Burke, Calif.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Carr
Carter
Cederberg
Chappell
Chisholm
Clancy
Clausen, Don H.
Clay
Cleveland
Cochran
Cohen
Collins, Ill.
Collins, Tex.
Conable
Conte
Corman
Cornell
Cotter
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Danielson
Davis
de la Garza
Delaney
Dent
Derrick
Derwinski
Devine
Dickinson
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
du Pont
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
English
Erlenborn
Esch
Evans, Colo.
Evans, Ind.
Fascell
Findley
Fish
Fisher
Fithian
Flood
Florio
Flowers
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Frey
Fuqua
Gaydos
Gilman
Ginn
Gonzalez
Goodling
Gradison
Grassley
Gude
Guyer
Hagedorn
Haley
Hall
Hamilton
Hammerschmidt
Hanley
Hannaford
Hansen
Harkin
Harrington
Harris
Harsha
Hawkins
Hayes, Ind.
Hechler, W. Va.
Heinz
Henderson
Hightower
Hillis
Holland
Holt
Holtzman
Horton
Howe
Hubbard
Hughes
Hungate
Hutchinson
Hyde
Ichord
Jacobs
Jarman
Jeffords
Johnson, Calif.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Ketchum
Keys
Kindness
Koch
Krebs
Krueger
LaFalce
Lagomarsino
Landrum
Latta
Leggett
Lehman
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Lundine
McClory
McCloskey
McCollister
McCormack
McDade
McEwen
McFall
McHugh
McKay
McKinney
Madden
Madigan
Mahon
Mann
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Mikva
Miller, Calif.
Miller, Ohio
Mills
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Hara
O'Neill
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Paul
Pepper
Perkins
Pettis
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Quie
Quillen
Randall
Rangel
Regula
Reuss
Rhodes
Richmond
Riegle
Rinaldo
Risenhoover
Roberts
Robinson
Rodino
Rogers
Roncalio
Rooney
Rosenthal
Rousselot
Runnels
Ruppe
Russo
St Germain
Santini
Sarbanes
Satterfield
Scheuer
Schneebeli
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shriver
Shuster
Sikes
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spence
Staggers
Stanton, J. William
Stark
Steed
Steelman
Steiger, Ariz.
Steiger, Wis.
Stephens
Stratton
Studds
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thone
Thornton
Traxler
Treen
Tsongas
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Vigorito
Waggonner
Walsh
Wampler
Waxman
Weaver
Whalen
White
Whitehurst
Whitten
Wilson, Bob
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Young, Tex.
Zablocki
Zeferetti

NAYS—0

ANSWERED "PRESENT"—1

Wydler

NOT VOTING—72

Addabbo
Ashley
AuCoin
Bell
Biaggi
Biester
Brodhead
Brown, Calif.
Brown, Mich.
Broyhill
Burke, Fla.
Carney
Clawson, Del
Conlan
Conyers
Coughlin
Crane
Dellums
Diggs
Eilberg
Emery
Eshleman
Evins, Tenn.
Fary
Fenwick
Fraser
Frenzel
Giaimo
Gibbons
Goldwater
Green
Hays, Ohio
Hébert
Heckler, Mass.
Hefner
Helstoski
Hicks
Hinshaw
Howard
Jenrette
Johnson, Colo.
Karth
Litton
McDonald
Maguire
Martin
Mathis
Michel
Milford
Passman
Peyser
Railsback
Rees
Roe
Rose
Rostenkowski
Roush
Roybal
Ryan
Sarasin
Shipley
Spellman
Stanton, James V.
Stokes
Stuckey
Sullivan
Symington
Thompson
Udall
Vanik
Wiggins
Wilson, C. H.

So the motion was agreed to.

The result of the vote was announced as above recorded.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 13367) to extend and amend the State and Local Fiscal Assistance Act of 1972, and for other purposes, with Mr. STUDDS in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Texas (Mr. BROOKS) will be recognized for 1½ hours, and the gentleman from New York (Mr. HORTON) will be recognized for 1½ hours.

The Chair recognizes the gentleman from Texas (Mr. BROOKS).

Mr. BROOKS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, few legislative proposals have sparked as much interest and comment as extension of the general revenue sharing program. Proponents of the program see it as the salvation of local government, while opponents charge that it is the "Trojan

Horse" that will lead to the demise of our present system of government. Revenue sharing embodies concepts that depart substantially from our traditional system in which Government officials who spend public funds are responsible for extracting those funds from their constituency.

In the bill before us today, H.R. 13367, the Committee on Government Operations has tried to deal constructively with the general revenue sharing program as it exists. Some of us have such serious reservations about the wisdom of this program that no improvements could be made to make it philosophically acceptable. Recognizing, however, that the program has been enacted and may be extended, we have made every effort to bring it closer to a responsible and effective expenditure of public funds.

Every objective, impartial study made of the program has pointed to numerous defects, including lack of citizen participation, inadequate reporting requirements, discriminatory practices, and inequities in the distribution formula. We cannot ignore these flaws in a program that is costing more than $6 billion a year.

H.R. 13367 would extend the general revenue sharing program for a 3¾-year term, at a rate of $6.65 billion a year. That will involve the expenditure of almost $25 billion extracted from the taxpayers by the Congress by way of our Federal tax laws. It is incumbent upon us to assure to the greatest extent possible that those same taxpayers participate in some way in determining how those funds are used.

The bill, as reported by the committee, would require State and local governments to hold public hearings at which citizens could comment on proposed uses of revenue sharing funds. They would also have to hold public hearings on proposed uses of the money in relation to their entire budgets.

The recipient governments would also have to file reports on how they plan to use the money, and followup reports on how it was actually spent.

The bill would establish a new procedure for cutting off revenue sharing payments to units of Government that practice discrimination in any of their activities. And discrimination on the basis of age, handicapped status, or religion would be added to the existing prohibition against discrimination on the basis of race, sex, color, or national origin.

A revised formula in the bill, using poverty data to distribute supplemental funds above $6.5 billion, would give a better measure of need in determining a recipient's share. And single-purpose governments would no longer be eligible for revenue sharing funds.

Recognizing that, for all practical purposes, there is no way to trace the use of these funds, the committee bill eliminates the requirement that revenue sharing funds be spent only in certain priority areas, and permits their use for matching other Federal funds.

In addition, the bill extends coverage of the Davis-Bacon Act on local construction projects and seeks to encourage State and local governments to improve their effectiveness and efficiency.

One change we have not made, which, I strongly favor, is to bring revenue sharing into the regular congressional appropriation process. Revenue sharing is our largest domestic aid program, accounting for 10 percent of all domestic grants-in-aid. But its enactment in 1972 committed Congress to expenditures of $30 billion over a 5-year period, and this bill would pump out $25 billion more in the next 3¾ years. For Congress to surrender control over expenditures of such magnitude for such long periods of time is not only unjustified at a time of huge deficits and heavy pressures on the budget, but is totally at odds with our efforts under the Congressional Budget Act to set our own priorities and match them with available resources.

I want to make it clear that although I regard H.R. 13367 as having made improvements in the general revenue sharing program, and feel the Government Operations Committee has acted in a responisble, commendable fashion in reporting it, I cannot support it.

I opposed the enactment of general revenue sharing in 1972, and my fundamental disagreement with the entire concept of the program remains unchanged. I think revenue sharing is destructive of our federal system of government. It is destructive of the principle of public accountability by public officials, and it is destructive of Congress responsibility to determine how Federal revenue should be spent.

Revenue sharing marks a fundamental departure from Congress constitutionally assigned role of providing for the general welfare of the United States through its taxing power. The gravest danger to our federal system posed by revenue sharing lies in the growing dependence of the cities on this aid. To give non-Federal officials drawing rights on the U.S. Treasury through revenue sharing is a drastic distortion of our federal system. Instead of pouring out $6.65 billion every year indiscriminately to every State and local jurisdiction, we should be using our severely limited funds to attack specific national problems. That is the proper role for Congress.

Mr. HORTON. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, I rise in support of the extension of general revenue sharing. I begin with that statement because I believe it is absolutely imperative that the issue before us be clearly framed. Will we extend revenue sharing, or will we pass a bill carrying the name of revenue sharing but possessing little other similarity to the program which we enacted in 1972?

When general revenue sharing was originally passed in 1972, it was heralded as a major change in the relationship between the Federal Government and State and local governments. The Congress had made the decision to provide general fiscal assistance to the State and local governments with very few strings attached. Since becoming law, this program has provided $30.2 billion to 39,000 recipient governments during a time when State and local governments alike have been heavily burdened with diminished resources and increased demand for services.

The establishment of revenue sharing signaled several things. First, it reaffirmed our Nation's commitment to the federal system. Secondly, it represented a reawakening of the understanding of Congress that many decisions are best made at the State and local levels. Finally, the limited number of "strings" on the program put the Congress on record as believing that there were alternative means to categorical assistance to aid the people of this country.

During the 8 months that the Subcommittee on Intergovernmental Relations and Human Resources of the Committee on Government Operations held hearings and markup sessions, the message was clear from the Governors, from the mayors, the county executives, and the legislators of State and local governments: The traditional form of Federal categorical assistance was costly and unproductive.

I serve as Chairman of the Paperwork Commission. We have held hearings all over the country. At every one of those hearings it has been pointed out time and time again how these categorical programs result in a tremendously increased paperwork burden, which only adds to the costliness and the unproductiveness of this categorical assistance-type program.

Revenue sharing, on the other hand, provides an opportunity for distributing Federal assistance in a manner which was efficient and provided the greatest opportunity for effective utilization at the level where services are delivered. In fact, the entire program has been administered with a staff of fewer than 100 persons and one computer. That cannot be said about any other Federal program with which I am familiar.

The subcommittee of the Committee on Government Operations, under the able leadership of the distinguished gentleman from North Carolina (Mr. FOUNTAIN), developed a bill which made substantial modifications in the present program. The subcommittee bill provided an extension of the program for 3¾ years. It also fixed a level of annual funding at the figure for the last 6 months of this year of $6.65 billion a year, and it guarantees long-term funding through the entitlement funding mechanism.

Mr. Chairman, we are going to hear a lot of talk about the entitlement process, and we are going to hear some Members talking in the next day or two about the authorization and appropriation process, and that the procedures of the House are that we should authorize and then appropriate, and they are going to say that this is unique and this is to say that that the Congress has authorized.

I differ with that view, and I make the point now that this is an entitlement program which is made possible through the new legislation that we enacted when we set up the Committee on the Budget. Under the Budget Reform Act this process of entitlement in an appropriation, and it is an appropriate process. So that is an answer with regard to those who make the allegation that this is something new and something that is not authorized.

This subcommittee bill also included strengthened citizen participation requirements. It also contained an extremely comprehensive civil rights provision which was agreed to with virtual unanimity by the subcommittee, and it also provides for greater public access to the local budget process.

That is a very important change that the subcommittee made. The changes agreed to by the subcommittee were in response to strongly held views by many groups which felt that revenue sharing should open the local budget process to greater citizen analysis.

The CHAIRMAN. The time of the gentleman from New York (Mr. HORTON) has expired.

Mr. HORTON. Mr. Chairman, I yield myself 5 additional minutes.

Mr. Chairman, I want to make the point to the House that was a very serious consideration as far as this subcommittee was concerned. A great amount of time was spent in developing this bill which was reported by the subcommittee.

The bill reported by the subcommittee represented a bipartisan attempt to perfect a program that would have broad public support.

Mr. Chairman, I cosponsored that bill when it was introduced, and I continue to support it today.

Unfortunately, the full Committee on Government Operations, which lacks the insight of the hearing process by which the subcommittee considered the legislation, approved a series of amendments on the last afternoon of the markup session which totally destroyed the nature of general revenue sharing.

In all my experience in the House, I never saw a bill so destroyed in just a few hours as occurred in the full Government Operations Committee when we adopted some of these amendments.

The thrust of the amendment was not to improve the program, but it was to clutter up the program. The amendments are a recognition that the Congress could not afford to halt this program. In other words, they knew they were not going to be able to stop revenue sharing, so they were going to do everything they could to mess it up. Therefore, in a manner which is becoming all too common, the committee agreed to a series of amendments which will result in increasing the burden of the Federal Government on each of the recipients. The goal, I am convinced, is to weaken support for the program in the next consideration of the extension of revenue sharing.

Mr. Chairman, the amendments are basically extraneous to the revenue-sharing program, and they also add strings which will strangle the program and the recipients.

The first amendment is the so-called Rosenthal modernization proposal. This amendment originally was defeated by 1 vote in the committee, and then it was reconsidered. It was a 21-to-20 vote. Then it was reconsidered, and then it was adopted by one vote. That will require each State Governor to provide an annual report to the Secretary outlining the State's plan for changing their form of government.

In other words, Mr. Chairman, what the amendment proposes to do is to set out a goal on what they call "modernization and revitalization."

They say that the State has to make a report each year to the Secretary of the Treasury to indicate that they are revitalizing, which, in essence, is having the Federal Government saying, "Do this to your State and local governments."

In my judgment, Mr. Chairman, that ought to be handled by the State and by the local governments, not by the Federal Government.

Mr. Chairman, there are several things wrong with this plan. First of all, the Department of the Treasury is not in the business of reorganizing local governments. Of all of the bureaus, commissions, and offices in the Federal Government dealing with intergovernmental relations, the Treasury Department has the least to do in this area.

Mr. Chairman, by creating this new reporting requirement, we are laying the groundwork for a new bureaucracy and a further intrusion into the affairs of the State and local governments. Make no mistake about it, its proponents say that it is but the first step.

I will inform my colleagues that the ultimate result of this step will be the conversion of every unit of local government into little more than a Federal district run by the bureaucracy in Washington.

Mr. Chairman, it should be plain to the Members of this House that the voters of this country are not in a mood to tolerate increased Federal interference in their lives. The "anti-Washington" mood is very strong, and it will increase in direct proportion with the adoption of the Rosenthal amendment.

Mr. Chairman, the second major feature of the committee's attempts to further restrict revenue sharing was the adoption of the Fascell formula. This proposal, which substitutes a different variable in the formula, is an attempt to reflect need. It is unresponsive to need, and reduces the amount of funds which 33,000 recipient governments will be receiving in the beginning of 1977.

Mr. Chairman, 145 of the 200 largest governments in the United States will lose funds under the Fascell formula, and half of the States with the highest unemployment rates last year will lose.

Mr. Chairman, the Fascell amendment also puts a ceiling on revenue sharing because it says that any funds over $6.5 billion will be allocated under the Fascell formula.

So it is tantamount to putting a ceiling of $6.5 billion on the distribution of revenue sharing in accordance with the formulas that have been proven to be successful in the program since it was adopted in 1972.

We all heard from the mayors and the county officials and the State and local legislators. Tomorrow we will have to inform them as to whether we are still with them.

The CHAIRMAN. The time of the gentleman has again expired.

Mr. HORTON. Mr. Chairman, I yield myself 3 additional minutes. Support of the committee amendments tomorrow will not permit you to say that you have extended revenue sharing because in essence what you will be doing is putting it in a burial box, in a casket.

Tomorrow I will offer the subcommittee bill, which is H.R. 14000. Let me explain the procedure as I understand it. Because the full committee did not act on a clean bill and introduce a clean bill after the adoption of these amendments that I have just referred to, and I have just mentioned 2 of them, there are some 12. They were printed in the RECORD yesterday. The adoption of these 12 amendments would really result in some 57 amendments but, in essence they are all part of the general amendments, about 4 or 5 of them are the amendments that I am talking about. As I say, those amendments were not put in a clean bill so the full committee action has to be taken here on the floor. So we will have to act on those amendments.

As I understand the procedure, the chairman of the committee, the gentleman from Texas (Mr. BROOKS), will offer these amendments en bloc tomorrow, when we go into the amending process, he will offer them en bloc, in the nature of a substitute, that is the amendments that were adopted in the full committee. In other words, he will offer the subcommittee bill plus all amendments adopted in the full committee.

It is my intention at that point, after the gentleman from Texas has introduced that substitute, to also offer a substitute to his substitute which will include the subcommittee bill, which is H.R. 14000, which was introduced and sponsored by the gentleman from North Carolina (Mr. FOUNTAIN), the gentleman from Florida (Mr. FUQUA), the gentleman from Georgia (Mr. LEVITAS), the gentleman from New York (Mr. WYDLER), and the gentleman from Ohio (Mr. BROWN). So I will offer that amendment which is basically the subcommittee bill as it was reported out of the subcommittee.

My substitute represents the best possible vehicle by which to continue this vital domestic program. I urge my colleagues to join with us in this bipartisan effort to extend general revenue sharing.

In this Bicentennial Year, our Federal system deserves a reaffirmation of support. The American people deserve your honest support for this program. I hope that the Members will vote for that substitute which is the subcommittee bill, and oppose these amendments that I have been referring to.

Mr. BROOKS. Mr. Chairman, I yield 15 minutes to the very distinguished and able chairman of the subcommittee that has worked long hours, and days and weeks on this legislation, the gentleman from North Carolina (Mr. FOUNTAIN).

Mr. FOUNTAIN. Mr. Speaker, I want to thank my distinguished chairman of the full Committee on Government Operations and the ranking minority member.

Mr. LEVITAS. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

The CHAIRMAN. At the time the point of order of no quorum was made the gentleman from North Carolina (Mr. FOUNTAIN) had been recognized for 15 minutes.

The Chair recognizes the gentleman from North Carolina (Mr. FOUNTAIN).

Mr. FOUNTAIN. Mr. Chairman, as I was about to say when the point of order was made that a quorum was not present, I want to thank my distinguished chairman, the gentleman from Texas (Mr. BROOKS) for his kind words about my work as chairman of the Intergovernmental Relations and Human Resources Subcommittee and about the work of the committee itself.

I also want to thank my distinguished friend, the gentleman from New York (Mr. HORTON) for his kind words about the work of the subcommittee.

Mr. Chairman, it gives me a great pleasure to rise today in support of this important legislation extending and amending the State and Local Fiscal Assistance Act of 1972, which is popularly known as the Revenue Sharing Act.

The bill before the House is the product of a great deal of study, intensive study and extremely hard work on the part of the Intergovernmental Relations and Human Resources Subcommittee.

I think I can also truthfully say that it reflects the willingness of the subcommittee members to accommodate their strongly held and widely differing views in order to make this extension legislation possible.

H.R. 13367, the clean bill reported by the subcommittee, represents the kind of political compromise that makes the democratic process workable.

Mr. Chairman, I want at this time to pay tribute to the members of the subcommittee, all of whom devoted long hours in the hearing room to meet this responsibility. I think the Members should know that the legislative jurisdiction for this matter was placed in the hands of the Committee on Government Operations for the first time last year.

This commitment on the part of the subcommittee was especially evident during 16 days of markup, when every member of the subcommittee, including our distinguished chairman and ranking minority member of the full committee, attended and participated actively in almost every session.

Before highlighting what is in the bill, I want to say something about the way the subcommittee handled its legislative assignment. In recognition of the fact that revenue sharing represents less than 12 percent of all Federal assistance to our State and local governments, and the States also assist their political subdivisions, the subcommittee felt that it was essential to obtain a more complete picture of intergovernmental fiscal relationships as background for evaluating the revenue sharing program. Hearings for this purpose were held last July, in which testimony was taken from leading experts in the various areas of public finance, in which we learned a lot about the problems of local and State governments. The subcommittee compiled a very useful and important record during those 7 days of hearings on "Fiscal Relations in the American Federal System."

Then, last September, the subcommittee began three months of indepth hearings to take testimony both on the numerous and varied revenue sharing bills introduced in the House, and on the operation of the program—let me emphasize that—on the operation of the program since 1972. The subcommittee heard 101 witnesses, including 20 Members of Congress, representing a broad spectrum of viewpoints and social philosophies. In addition, 55 organizations and individuals submitted written statements for the hearing record. I might add that a tremendous number of additional communications were received from public officials and interested citizens all over America.

Following the completion of the public hearings, informal discussions were held for the purpose of determining the position of the Members of the various bills before the subcommitee. When it became evident that no single bill was acceptable to a majority of the subcommittee as a vehicle for a markup, a "working paper" was developed for this purpose. The working paper, which presented as objectively as possible a range of alternatives for each of the major policy issues, served as a basis for marking a bill up in concept. A wide range of proposals for changing various provisions of the present act were examined in detail by the subcommittee. Upon the conclusion of these extensive deliberations, a bill was drafted incorporating the subcommittee's decisions, and the draft bill was further refined in succeeding meetings until a clean bill, H.R. 13367, was approved and reported to the full committee. Action by the subcommittee was completed on April 30, after 16 formal meetings devoted to markup.

In brief, H.R. 13367 extends the program, not for the 5¾ years recommended by the President with an annual increment of $150 million, but for 3¾ years, until October 1980, at an annual funding level of $6.65 billion, for a total cost of $24.9 billion. It provides assured funding for that period through use of the entitlement mechanism—a mechanism, let me emphasize—which was authorized for this program by the Budget Control Act.

After considering numerous modifications proposed in the interest of greater equity or to meet specific problems, the subcommittee did not change the present allocation formulas, as much as we had endeavored to improve them. However, I want to emphasize that considerable study was made of those proposals, including a computer analysis in each case, to determine the distribution effects and the added costs if the jurisdictions adversely affected were to be protected, or "held harmless," against financial loss. In each instance, the proposed formula change was rejected.

I do not mean to suggest that the existing formulas cannot be improved. This surely could be done if we were starting from scratch. What the subcommittee found, in effect, is that we are locked into the existing formula in the sense that changes produce gainers and losers, and to compensate the losers would require additional money. Very few seemed in the mood to provide additional money. On balance, however, the present formula does a reasonably good job of putting the money where it is most needed.

Concern was expressed in the hearings, and subsequently in the subcommittee, about the propriety of including in the program relatively inactive units of local government, especially those townships responsible for only a single function, such as road maintenance. This was thoroughly discussed. This problem was resolved by limiting eligibility, beginning in October 1977, to local governments that are engaged in substantial performance of more than a single municipal-type function. Many observers believe this was, in fact, the intention of the original act.

The present requirement that local governments spend these funds in specified priority categories has been eliminated. This was done because the existing requirement cannot be enforced and, more importantly, to permit a greater local voice in making expenditure decisions. The matching prohibition in the present act was eliminated for the same reasons.

Underlying these changes is the action taken by the subcommittee to strengthen the opportunity—and we did strengthen it in this bill—for active citizen participation in determining how funds provided under this act are to be expended. This, in my judgment, is a very important improvement. If one supports this program on the theory that local people are better able than those of us in Washington to determine local needs and priorities, then I think it is essential that local citizens have an opportunity, in practice, to participate in the budget determinations of their communities. The subcommittee and committee bills provide specific procedures and requirements to assure that local citizens are adequately informed of budget proposals of their officials for the expenditure of these funds; are informed of how these funds relate to the items in State and local budgets as a whole for the budget period under consideration, as well as the current and past fiscal years; and are afforded an opportunity to participate in the budget hearings of their local and State governments.

The reporting, publicity, and publication requirements are designed to help protect the right of citizens to participate in the budget process of their communities.

These bills also contain very strong nondiscrimination provisions that are quite complicated and to some extent controversial, not because they are designed to prevent discrimination, but because of language which many of us look upon as providing the potential for harassment of and unnecessary burdens on local communities. There are some significant differences between the subcommittee and committee bills with respect to nondiscrimination.

Among major changes made in these bills there is included a requirement for independent fiscal audits of State and local governments; a prohibition against the use of funds for lobbying purposes—that amendment was introduced by my distinguished colleague, the chairman of the committee (Mr. BROOKS)—and an additional requirement that the Treasury Secretary shall make a detailed and comprehensive annual report to the Congress on the implementation and administration of this act.

These, briefly, Mr. Chairman, are the principal features of the subcommittee bill, and also of the committee bill.

While I have personal reservations about some provisions in the subcommittee's compromise bill—and I might say in some areas these reservations are extremely strong—I think it is basically a sound vehicle for extending the present program, and it is far preferable to the committee bill reported with amendments. Other members of the subcommittee and I have circulated "Dear Colleague" letters identifying some of those amendments which we believe to be especially undesirable. These amendments include the so-called modernization-of-government program—I will not take time to go into that now; it will be discussed, I am sure, in detail during the amendment process—the amendment relating to the Davis-Bacon Act; and the unduly burdensome nondiscrimination amendment in the subcommittee bill as amended. At the appropriate time amendments will be offered to delete them, or to substitute the subcommittee bill which has been reintroduced as H.R. 14000.

The CHAIRMAN. The time of the gentleman from North Carolina (Mr. FOUNTAIN) has expired.

Mr. BROOKS. Mr. Chairman, I yield 3 additional minutes to the gentleman from North Carolina (Mr. FOUNTAIN).

Mr. FOUNTAIN. Mr. Chairman, I want to say further that the case for continuing this program is well documented. In the subcommittee's extensive hearing records and in the correspondence and special studies submitted to us. The current fiscal problems of most large cities in the United States, as well as the pressing needs of many States and small communities—except for some of the few very rich States, such as the one from which my dear friend and colleague who chairs the full committee comes—have been widely publicized during the past year. They need no repetition here.

This legislation deserves the support of every Member of this House because it embodies a sound method of supplementing the Federal Government's use of categorical and block grants for achieving national objectives. This program has the virtue of targeting a proportionately large share of the available funds, with a minimum of redtape—and let me emphasize that, with a minimum of redtape, about which we have heard so much in recent years—to the two types of communities most in need of financial aid. These are:

First, our older central cities that have high concentrations of low-income citizens and, consequently, service needs that often exceed their taxing capacities; and, second, the smaller and relatively poor local communities that do not normally benefit from Federal categorical grants. And there are many such communities in that category.

Mr. Chairman, I believe that this is an efficient and a socially desirable program for dealing with these situations. At the same time, the legislation we have brought before the House, in my opinion, is a fiscally prudent measure which provides for greater accountability than the present act.

Mr. Chairman, I urge support for this legislation to extend the revenue-sharing program for an additional 3¾ years.

Mr. HORTON. Mr. Chairman, will the gentleman yield?

Mr. FOUNTAIN. I yield to the gentleman from New York.

Mr. HORTON. Mr. Chairman, I just want to take this opportunity to commend the gentleman in the well, at the conclusion of his statement, not only on the statement made today, but for his leadership of the subcommittee.

I think the gentleman did an outstanding job with a very complex and controversial subject.

Mr. Chairman, as the gentleman from North Carolina (Mr. FOUNTAIN) has indicated in his remarks on the floor, as an ex-officio member and as a ranking minority member of the full committee, I did participate in the hearings and also in the markup session.

The CHAIRMAN. The time of the gentleman from North Carolina (Mr. FOUNTAIN) has expired.

Mr. HORTON. Mr. Chairman, I yield 1 additional minute to the gentleman from North Carolina (Mr. FOUNTAIN).

Mr. Chairman, will the gentleman yield further?

Mr. FOUNTAIN. I yield to the gentleman from New York.

Mr. HORTON. Mr. Chairman, I know that the gentleman from North Carolina (Mr. FOUNTAIN) had a great deal of question as to how to proceed with this, and we adopted the concept approach. Then after we acted on all the concepts that had been presented to the subcommittee, we went into the write-up of the bill. Then we acted on that; that is, the subcommittee acted on that.

Mr. Chairman, it was one of the most thorough demonstrations that I have seen since I have been in the Congress of good legislative work, and I think it is appropriate to commend the gentleman from North Carolina (Mr. FOUNTAIN) and also to commend the ranking minority member, the gentleman from New York (Mr. WYDLER), and all the members of the subcommittee. They did a tremendous job, and I want to commend all of them for the work that they did.

Mr. FOUNTAIN. Mr. Chairman, I thank the gentleman from New York (Mr. HORTON) for his kind words.

I would like to say that I question whether there has ever been any piece of legislation which has ever gone through the committee process of this House which has had more careful and studious attention than this legislation.

The CHAIRMAN. The time of the gentleman from North Carolina (Mr. FOUNTAIN) has expired.

Mr. HORTON. Mr. Chairman, I yield 2 additional minutes to the gentleman from North Carolina (Mr. FOUNTAIN).

Mr. BUTLER. Mr. Chairman, will the gentleman yield?

Mr. FOUNTAIN. I yield to the gentleman from Virginia.

Mr. BUTLER. Mr. Chairman, I thank the gentleman for yielding.

There are some things that begin to trouble me about this legislation.

It seems to me that we are increasing very heavily the responsibilities of the Office of Revenue Sharing in the civil rights enforcement area.

I remember and I am sure that the gentleman is familiar with the GAO report in which they said the principal problem with reference to enforcement in that area has been the lack of staff in the office.

I wonder whether this legislation makes provision for or authorizes additional staffing for the office or whether that is contemplated.

Mr. Chairman, if the gentleman in the well would speak generally to that point, I would be grateful.

Mr. FOUNTAIN. This legislation does not make provision for staff. That is a matter which is not within the jurisdiction of this committee. But I think it is pretty clear that if this legislation is passed, the Office of Revenue Sharing will surely need additional staff.

Mr. BUTLER. Have some figures been offered during the course of the hearings which would give us some idea of how large an increase in the size of the office would be necessary as a result of this?

Mr. FOUNTAIN. It seems to me that some 200 additional positions was proposed by the Judiciary Subcommittee for enforcement of the nondiscrimination section alone. I seriously doubt that that many would be needed, although obviously the subcommittee bill as amended would require more people.

Mr. Chairman, the gentleman has raised a fundamental question with respect to the nondiscrimination provision.

All of us, after listening to the testimony and seeing what had taken place in a number of areas of the country, concluded that we must have a stronger nondiscrimination provision; but as it turned out, that portion of the nondiscrimination provision which would have required a complainant to use the administrative process before resorting to court was eliminated in the full committee. That has been eliminated, and one can go directly to court. This has the potential for causing a great deal of harassment for local governments that are complying with the law but will be forced to defend themselves in court suits. Many small units of local government do not have the resources to engage in protracted litigation and may, therefore have to drop out of this program. This would be most unfortunate.

Mr. HORTON. Mr. Chairman, I yield 10 minutes to the gentleman from Nebraska (Mr. THONE).

Mr. THONE. Mr. Chairman, I rise to share my views concerning the future of general revenue sharing. First, I would like to compliment the members of the Subcommittee on Intergovernmental Relations and Human Resources of the Committee on Government Operations for the careful painstaking process they followed in studying the future of general revenue sharing. As a cosponsor of a bill extending general revenue sharing, I suggest we now act favorably and quickly on the legislation. State and local governments—and the Federal Government, for that matter—are now deeply involved in the budget process for fiscal year 1977. They must plan now. It starts momentarily. Almost all local governments are required to balance their budgets. General revenue sharing funds are currently available for only the first half of the year—through December 31 of 1976. These jurisdictions already work under sufficient handicaps without adding to their uncertainties. Only if we finish consideration of this legislation shortly can localities plan their budgets in an organized, fiscally prudent, legal manner. We owe them this consideration.

General revenue sharing legislation should be extended because the program combines the efficiency of Federal revenue raising with the wisdom of decisions made by local governments most familiar with local conditions and directly accountable to local electorates. General revenue sharing helps meet local needs which categorical Federal aid programs cannot reach. It avoids Federal interference in determining local priorities. It strengthens local governments and aids us on the road to a sounder federalism—one predicated on the shared exercise of powers and responsibilities. Only as each of our governments, at the local, State, and national levels, works together to forge a strong working relationship will our Government respond effectively, and be responsive, to the needs of our citizens.

The chief change in the general revenue sharing which I have advocated is the elimination of State governments from the program, thus making additional amounts available for distribution to local governments. I cosponsored two bills which would have accomplished this purpose. It is my firm belief that State governments have sufficient resources and flexibility to meet their financial needs. Local governments are much more hard pressed to meet their citizens' demands. They have far less flexibility, particularly in the variety of taxation types.

In practice, however, this desirable concept appears not to be politically attainable. I offered such an amendment in the full committee and was not exactly overwhelmed with the support that I received. It is evident that not all State and local governments undertake the same fiscal responsibilities to their citizens. In Hawaii, for example, local government expenditures apparently account for 8.5 percent and State government 91.5 percent of all expenditures in the State. On the other hand, in New Jersey, local government expenditures account for nearly 68 percent of all expenditures in the State while the State government accounts for only 32 percent. Simply eliminating State governments and giving the money to the localities fails to take into account the varying responsibilities and can be as unresponsive to actual needs as the current provision which gives each State 33⅓ percent of the allotment.

It is my belief that a new formula for State and local government participation should be developed. It should be based on a statistically sound model reflecting relative expenditure efforts.

In this way those units of government undertaking the most responsibility would receive appropriate help. As each unit's share of the effort changed over a period of time, so would its share of revenue sharing funds. It is too late, of course, now, Mr. Chairman, to do this. It is only right, however, that it be done before this program be extended again in the future.

Beyond this matter, I would like to speak to a number of issues within the purview of this program. Its virtue, of course, is its simplicity—or at least it was pretty simple before this new bill. It has begun to allow a lessening dependence on categorical grant programs. This allows State and local jurisdictions to determine their own needs and priorities with a minimum of Federal interference, and leads us away from the quickening pulse of overregulation and the bureaucratic side effects we wrestle daily in this body. This, I believe, is most desirable. It was not designed nor should it become the vehicle for massive social engineering, as some would advocate. We must continue to refrain from the temptation of the Federal Government—in both the executive and legislative branches—to play the part of the understanding expert, the teacher, the leader, the enforcer of all vital programs. This is particularly true of revenue sharing.

For example, by a very close vote an amendment was adopted in the committee to encourage the modernization of State and local governmental structures. Its sponsor says it requires States only to report on their modernization efforts and imposes no sanctions against any State that does not toe the line and is an essential ingredient of the revenue-sharing program. In actuality this is bureaucratic redtape at its worst. It is a death-dealing blow to the whole concept of the federal system of government. It is described as permissive, "an important first step." One need not reach far to realize the first step admonishes the second step requires and the third might very well be the administration of a modernization and revitalization program stamped out by Washington. Some of our colleagues, I suggest, are just out of touch. The Nation is at this point, I think, in several State elections pointing out loud and clear that they are sick and tired of this "big brother" approach out of Washington.

Under the current law the allocation formula is devised so that some jurisdictions—primarily large cities—receive a disproportionately high share of funds. Although I have been told this is only mildly equalizing—for each $1,000 increase in per capita personal income per year, the per capita allocation would be $3.40 less per year. I feel very strongly the division of moneys should be more equitable on a per capita basis. Yet we now have another amendment which will skew the allocation even more widely.

There are those among us who advocate placing an ever widening circle of restrictions on the use of these funds. We should not countenance that. Other than the prohibition on use for matching funds, which is also unfortunately under current attack, these restrictions cannot be effectively enforced. Sound accounting techniques, properly executed, allow almost untrammeled use of these funds, and this is desirable. There should be minimal restrictions on use. The local governments are better qualified than the Federal Government to determine their needs. Further restrictive efforts can only lead us back into the quagmire of unresponsive local governments and tremendously complex, expensive enforcement machinery at the Federal level which will move funds from programs and place them in enforcement.

Present legislation provides:

> No person in the United States shall on the grounds of race, color, natural origin or sex be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity funded in whole or in part under general revenue-sharing funds.

It seems to me that no broader nor more explicit guaranty against discrimination can be made.

Complicated procedures which are now proposed to be added to the law, and which assure Federal officials discrimination will not occur in local general revenue-sharing expenditure before any spending takes place, mean that all will suffer, including those it means to protect. Separate, special civil rights enforcement should not be a part of this particular legislation. We must enforce these provisions without burdening this law with highly technical complex, complicated provisions which make a mockery of the basic revenue-sharing program.

Some critics of general revenue sharing feel that there has not been enough citizen participation in decisions concerning local uses of the funds. This concern may well be justified. I am in favor of more citizen participation at all levels of government. I would suggest that most local governments already have much greater citizen participation than does the Federal Government. The small, local unit of government should be spared, the complicated, expensive Federal machinery providing commissions and extra redtape before the funds can be spent.

Except in extreme cases, the general revenue-sharing funds are only a small portion of most governmental entities' budget. Each citizen has a responsibility to participate in the entire budget process, of course. We have an obligation to require that process be carried in a public way, to be sure. Each locality has the responsibility to develop systems which encourage and allow maximum participation. The citizen, after all, has the responsibility to insure it. If he just does not, it may not be, no matter what Washington thinks or says about it.

Mr. Chairman, with my staff I have conducted extensive conversations with 114 mayors and chairmen of village boards in the First Congressional District of Nebraska. I have sought the opinions of my county officials. We have sent written questionnaires to all units of local government in my district on revenue sharing. They are pretty nearly unanimous in favoring extension of general revenue sharing. No other Federal program has anywhere near the almost 100-percent backing from this group. They believe revenue sharing has worked exceptionally well in meeting the needs for which it was designed. They believe it has helped strengthen the viability of our Federal system and has been on the cutting edge of recent initiatives designed to improve the way our governments work effectively together. It has helped supplement the inadequate and regressive tax resources of the local jurisdictions as inflation and a mounting demand for services have been placed on them. It has helped them meet basic service needs which categorical aid programs often do not. It has avoided Federal interference in determining local priorities, which is its simplicity. Its effectiveness is its lack of Federal rules and regulations.

Mr. BROOKS. Mr. Chairman, I yield 5 minutes to the gentleman from Massachusetts (Mr. BOLAND).

Mr. BOLAND. Mr. Chairman, I take this time only for the purpose of informing the members of the committee and also the entire membership of the House that I will be offering an amendment tomorrow with reference to the entitlement provisions of this bill. All the amendments will be printed in today's RECORD, and the particular amendment that will be offered will be offered to that bill which happens to be alive at the time. My amendment will be offered at the proper place and at the proper time.

Basically what the amendment does is to strike the entitlement for the last 2 years of the proposed authorization and in its place it provides a straight authorization for appropriations. I might say after the bill has been signed and if the entitlement provisions of the last 2 years has been eliminated, the Committee on Appropriations will provide funding for 1¾ years, and then each year thereafter the committee will provide funding 1 year in advance for as long as there is appropriate authorization.

Mr. Speaker, under provisions to revise and extend my remaks, I would like to insert at this point in the RECORD portions of the Appropriations Committee report to the Revenue Sharing bill H.R. 13367 concerning entitlement provisions and the advance funding proposals of the committee.

CONCERN OF THE COMMITTEE ABOUT ENTITLEMENT PROGRAMS

The Committee is extremely concerned about the entitlement provisions of H.R. 13367. By definition an "entitlement program" allows a recipient, in this case state and local units of government, more or less automatic claim to certain amounts of money, in the case of revenue sharing some $24.9 billion over three and three quarter years. The Committee considers this to be a dangerous and undesirable practice and counter to the philosophy of the recent efforts of Congress to strengthen legislative budget control.

Entitlement provisions, such as contained in H.R. 13367, make a mockery of the legislative budget and the appropriations process. The Congress is placed in the position of having absolutely no choice but to make an appropriation for entitlement programs even though the basic legislation technically might contain an authorization for appropriations. This results because if the Congress did not make such an appropriation then it could conceivably be subject to a judgment issued by the courts. This approach removes such entitlement programs from any effective annual fiscal control by the Congress.

Why is this important? And why does it matter that the Congress follow the orderly fiscal process of periodic executive and legislative review associated with the authorization and appropriation process?

By providing for a regular appropriation and not an entitlement, the Congress has an opportunity to make a choice about budget decisions, to arrange priorities in the way that best fits the needs of the country at the time, and to achieve greater fiscal stability.

If revenue sharing is turned into an entitlement program, some $24.9 billion is added to the uncontrollable columns of the budget and any flexibility that the Congress might otherwise have is thereby forfeited. This is a dangerous practice and is not justified in view of the new budget procedures the Congress has recently adopted. Already about 75% of total expenditures in a given fiscal year are classified as uncontrollable under existing law.

It is not a question of whether the Congress is for or against revenue sharing, but rather whether or not the Congress will proceed in a responsible fiscal manner. Such entitlement provisions and other financing devices which circumvent the regular process must be rejected if the Congress is to honor its stated objective of achieving better legislative budget control.

APPROPRIATIONS COMMITTEE TO PROVIDE ADVANCE APPROPRIATIONS

If the entitlement provisions are stricken from H.R. 13367 and a straight authorization for appropriations is provided, the Committee would then move promptly to provide appropriations for revenue sharing on an advance basis as it has done with certain other programs. The Committee would propose to appropriate funds for the remainder of fiscal year 1977 and for fiscal year 1978 and to do this as soon as authorization is available.

Each year thereafter the Committee would recommend appropriations for the following fiscal year. This would mean that funding would always be available one year in advance. Such a procedure would provide the various units of government with fully ample lead time in which to prepare and adopt their budgets and with a completely dependable level of funding for future planning purposes.

Mr. MAHON. Mr. Chairman, will the gentleman yield?

Mr. BOLAND. I yield to the gentleman from Texas.

Mr. MAHON. Mr. Chairman, I want to say that the gentleman from Massachusetts has advised me of his plan with respect to this very important matter. I am very much impressed with the plan which he has in mind. I understand it has been discussed with the chairman of the committee. The plan does seem to me a very helpful move toward a most realistic and workable plan for revenue sharing.

Mr. BOLAND. I thank the gentleman.

Mr. ADAMS. Mr. Chairman, will the gentleman yield?

Mr. BOLAND. I yield to the gentleman from Washington.

Mr. ADAMS. Mr. Chairman, I want to state to the gentleman that I support what he is doing.

I have placed in the RECORD myself a back-up amendment, but I will support his amendment.

I stand for the principle that we should limit the period of time where there is an automatic appropriation. I wish I could stop it entirely. At a minimum we should let the House as a whole through the Appropriations Committee and later on the floor work their will, whether it be through advance appropriations or otherwise, and the Government Operations Committee will also be reviewing this at intervals under the regular authorization process and later through appropriations and we can work it out so that the cities will know far enough in advance, in other words 2 years in advance how much money they will get.

I am very glad the gentleman from Massachusetts is doing this. I support his amendment, and my letters which I have sent to my colleagues and the amendments filed are in support of and back up the position of the gentleman.

Mr. BOLAND. Mr. Chairman, I thank the gentleman from Washington, the distinguished chairman of the Budget Committee.

Mr. Chairman, let me say again, because of the complexity of the number of bills before us, whether it is H.R. 13367, whether or not it is an amendment in the nature of a substitute, whether or not it is the clean bill offered by the chairman of the full committee, the gentleman from Texas (Mr. Brooks) or whether it is H.R. 1400, offered by the gentleman from New York (Mr. Horton), or the amendment offered by the gentleman from California (Mr. John L. Burton), depending on whether or not any or all of these specific amendments carry, striking out the work of the past 2 years, I am prepared to offer my amendment.

Mr. ADAMS. Mr. Chairman, will the gentleman yield further?

Mr. BOLAND. I yield to the gentleman from Washington.

Mr. ADAMS. Mr. Chairman, I want to associate myself with the remarks of the gentleman from Massachusetts (Mr. Boland). I agree completely with the gentleman's position.

Mr. Chairman, I want to indicate that I intend to support amending H.R. 13367, the Fiscal Assistance Amendments of 1976. To establish front-door spending effective October 1, 1978, I have prepared an amendment which was printed in the Congressional Record of June 8, 1976, at page 16909 in advance of the House consideration of the bill as required by the rule. If the bill has not been amended by another Member in this fashion I will press my amendment.

Federal grants to State and local governments have increased dramatically over the past decade and one-half. In 1960, grants to State and local governments totaling $7 billion, some 7.6 percent of all Federal outlays. Under the first concurrent resolution for fiscal 1977, Federal assistance to these governments is expected to total $71.6 billion, approximately 17 percent of all Federal outlays. As we move purposefully toward a balanced Federal budget and a strong national economy, Congress must give close attention to the appropriate level of assistance to other levels of the Federal system. It is my view that Congress, after consultation with State and local government, will have to make some hard choices in this area, including the possibility of either reducing funds for revenue sharing or for some of the less important categorical programs.

During the past 1½ years as chairman of the Budget Committee, I have often urged that programs such as revenue sharing be brought within the confines of the annual budget and appropriation process. We cannot begin to effectively work our will on Federal budget priorities in the Congress until we have true control over all elements of the budget, particularly including such major domestic programs as general revenue sharing. Indeed, we can and should provide such annual appropriations on an advance funding basis so long as we choose to continue revenue sharing.

Since it does appear that some form of the revenue-sharing program will be continued beyond this December, I feel it is necessary that we take certain actions now to improve the manner in which the funding of the program is handled by the Congress each year. To that end, my amendment to section 6 of H.R. 13367 would accomplish the following:

First, it would retain the entitlement funding approach proposed in the Government Operations Committee bill for 1¾ years, January 1, 1977–September 30, 1978;

Second, it would establish a "front-door" authorization for appropriation for the remaining 2 years of the bill, October 1, 1978–September 30, 1980; and

Third, it would bring all advance appropriations for the program within the scope of the congressional budget process beginning with fiscal 1978.

On the matter of bringing revenue sharing through the annual appropriations process, my amendment is in the nature of a compromise.

It proposes to give State and local governments 2 years notice that the untouchable nature of the congressional funding system for this program will be ending. My amendment assumes that the Appropriations Committee would consider and act on the appropriation for fiscal 1978 next summer, over 1 year before the start of that fiscal year. This is the so-called advance appropriation system which gives ample leadtime for local planning.

My amendment also provides that, for the purposes of the new congressional budget process, the advance appropriations for revenue sharing will be treated as if the appropriation became available 1 year earlier than it actually will, in order that Congress may set the level of budget authority for the program as part of its annual spring budget resolution. This procedure would involve no actual change in the nature or timing of the funding for the program. It would only enable the Congress to consider the appropriate size of the program within the overall context of the Federal budget. The outlays—which directly effect the deficit—would be scored when spent.

Without this provision, the advance appropriation procedure would make funding for general revenue sharing uncontrollable as a practical matter so far as the congressional budget process is concerned. With this provision in place for revenue sharing, the House would be establishing an important precedent as regards all future proposals to create advance funded programs—that is, they must be brought within the scope of the budget process, and scored so we know their effect on the aggregate revenue and spending totals.

Mr. HORTON. Mr. Chairman, I yield 5 minutes to the gentleman from Minnesota (Mr. Hagedorn).

Mr. HAGEDORN. Mr. Chairman, I thank the gentleman from New York (Mr. Horton) for yielding.

Mr. Chairman, although I strongly support extension of general revenue sharing, H.R. 13367 illustrates well why these funds ought to have remained in the States and local communities in the first place. Once again, the Federal Government has shown an apparently compelling need to attach a tiresome list of conditions and limitations upon the funds that it is so generously sharing with other governmental jurisdictions in the country. In the process, those who have never been comfortable with the basic philosophical premises of revenue sharing, believing rather that public wisdom remains confined in the office buildings in Washington, seem determined to transform the program into simply one more Federal welfare program.

A good number of measures which have emerged from committee during the 94th Congress seem more intent upon promoting through the back door longrange policies which would never stand a chance if confronted directly. The immediate legislation, under the guise of modernizing State and local governments establishes a mechanism by which the planners and movers in Washington can potentially promote their own concepts of regionalism and centralized government. Although there are not yet in place sanctions against those governments which do not develop acceptable plans, it is difficult to believe, in view of past Federal tendencies, that these will not soon follow in the form of law or regulation. Already, the Treasury Department is charged with the responsibility for making recommendations to Congress annually regarding possible incentives for insuring effective State masterplans. The irony of Washington dictating to the States and localities the drafting of plans for streamlined and efficient government is, I daresay, not lost on many Members either.

The new supplemental revenue sharing provisions demonstrate another potential long term danger inherent in this bill. Although these provisions are relatively insubstantial when compared with total levels of funding under the bill, composing no more than 3 percent of the total funds, they are harmful insofar as they establish in law policy that revenue sharing is, at least in part, going to be premised on need. Revenue sharing has never been intended to be a redistribution measure; it was designed simply as a vehicle to restore decisionmaking responsibilities to local jurisdictions, by providing them with at least some of the funds necessary to carry out their decisions. I believe that if we let these provisions become law, the need principle will become an increasingly dominant one, eventually nullifying the basic objectives of revenue sharing. If the majority in Congress believe that the supplemental program's formula is needed and justified they should place this into law through some other legislation. Revenue sharing is not the proper vehicle; to label the supplemental program as a revenue sharing one is both to obscure and threaten the purposes of the larger program.

Mr. BROOKS. Mr. Chairman, I yield 5 minutes to the gentleman from Florida (Mr. Fuqua).

Mr. FUQUA. Mr. Chairman, first of all, I would like to thank the chairman of the full committee and ranking minority member for their fine work in bringing this bill to the floor, and particularly to express my thanks to the gentleman from North Carolina (Mr. Fountain) for the fine and professional manner in which he handled this bill in subcommittee and during the markup.

Mr. Chairman, I would like to propose a colloquy with the chairman of the full committee because, during the subcommittee consideration of this bill I offered an amendment requiring the Department of the Treasury to use the most current data available. Of course, the update of this data is most important to States that have rapid fluctuations in population, tax effort, or per capita income. Because the population increases have not been adequately reflected my own State of Florida has not received its fair share of revenue-sharing funds. Equity demands that the most current data possible be provided.

While the thrust of my amendment was agreed to by the subcommittee the consensus was that the amendment, by necessity, was too long and cumbersome and need not be included in the bill. After further discussion the subcommittee unanimously agreed to include in the report a discussion of the issue and an indication that it is the committee's intention that the Secretary of the Treasury use the latest available data in making the allocation. Unfortunately, this dialog was not repeated in the full committee and this information was inadvertently omitted from the report.

I ask the chairman of the Government Operations Committee if that is not his understanding of the intention of the Government Operations Committee.

Mr. BROOKS. I do recall the discussion of this amendment in the subcommittee. I, of course, wholeheartedly support the use of the most current data as our colleagues on the subcommittee agreed.

Mr. FUQUA. I insert the text of the amendment in the Record at this point:

Amendment Offered by Mr. Fuqua

To amend Sec. 109(a)(7) by adding after (B):

"(C) Timeliness of Interstate Data for Sec. 106.— For the period

(i) October 1, 1977–September 30, 1978, data on population shall refer to the population of the State on July 1, 1976; data on urbanized population shall refer to such population of the State on April 1, 1970; data on per capita income shall refer to such income of the State for calendar year 1975; data on State individual income taxes shall refer to such taxes in calendar year 1976; data on Federal individual taxes liabilities shall refer to such liabilities in calendar year 1975; data on State and local taxes shall refer to such taxes for the period July 1, 1974–June 30, 1975; data on general tax effort shall refer to such tax effort for the period July 1, 1974–June 30, 1975;

(ii) October 1, 1978–September 30, 1979, data on population shall refer to the population of the State on July 1, 1977, data on urbanized population shall refer to such population of the State on April 1, 1970; data on per capita income shall refer to such income of the State for calendar year 1975; data on State individual income taxes of the State shall refer to such taxes of the State for calendar year 1977; data on State and local taxes shall refer to such taxes of the State for the period July 1, 1975–June 30, 1976; data on the general tax effort of the State shall refer to such tax effort for the period July 1, 1975–June 30, 1976;

(iii) October 1, 1979—September 30, 1980, data on population shall refer to the population of the State on July 1, 1978; data on urbanized population shall refer to such population of the State on April 1, 1970; data on per capita income shall refer to such income of each State in calendar year 1977; data on State individual income taxes shall refer to such taxes of the State for calendar year 1978; data on Federal individual income tax liabilities shall refer to such data of each State in calendar year 1977; data on State and local taxes shall refer to such taxes for each State for the period July 1, 1976—June 30, 1977; data on general tax effort hall refer to such tax effort of each State for the period July 1, 1976—June 30, 1977.

(D) Timeliness of Intrastate Data for Sec. 197.—

(i) For the period October 1, 1977—September 30, 1978, the population of each unit of local government shall refer to the population of such government on July 1, 1976; data on the per capita income of each unit of local government shall refer to the per capita income of each local government in calendar year 1975; data on adjusted taxes shall refer to such data for the period July 1, 1976—June 30, 1977; data on intergovernmental transfers of a unit of local government shall refer to such transfers for the period July 1, 1976—June 30, 1977;

(ii) For the period October 1, 1978—September 30, 1979, data on the population of each unit of local government shall refer to such population on July 1, 1976; data on the per capita income of each unit of local government in calendar year 1975; data on the adjusted taxes of each unit of local government shall refer to such taxes for the period July 1, 1976—June 30, 1977; data on the intergovernmental transfers of each unit of local government shall refer to such transfer for the period July 1, 1976—June 30, 1977;

(iii) For the period October 1, 1979—September 30, 1980, data on the population of each unit of local government shall be such population on July 1, 1978; data on the per capita income of each unit of local government shall refer to such per capita income in calendar year 1977; data on the adjusted taxes of each unit of local government shall refer to such adjusted taxes for the period July 1, 1977—June 30, 1978; data on the intergovernmental transfers of each unit of local government shall refer to such intergovernmental transfers for the period July 1, 1977—June 30, 1978.

(E) Subparagraphs (C) and (D) shall not prohibit the use of more current data should it become available.

Mr. FUQUA. Mr. Chairman, when this bill came before this body in 1972, I was one of those in the minority who voted against it. I had some very serious misgivings about the concept of revenue sharing, but like so many Members of this body, I too find that it is not necessarily always wise to plant one's feet in concrete.

I entered the hearings with very mixed emotions about the concept of revenue sharing and how it had operated over the last number of years. I went back to my district and held a series of three meetings with all the mayors, the city officials and all the county officials, and went over the way they had spent the money. I think it was those meetings and hearings we had that convinced me that this was a program that, while having some inequities, was doing a good job.

I also found that had we not passed this program, or enact the program we have before us, in many cases in my district local property taxes will have to increase by from 10 to 15 percent in order to meet the needs of the people that they are presently serving.

I think that we need much more a simplistic program, one that is not as cumbersome as the final bill which was reported out of the full committee. Many reforms were made in the subcommittee bill, and I think most of them I supported, such as the strengthening of the civil rights provision, more citizens participating, and many other constructive amendments that were offered which, I think, deserve our attention. They are contained in the bill that will be offered as a substitute, H.R. 14000, which I and five other Members are co-sponsoring.

So I hope, Mr. Chairman, that when the committee considers this bill, that we will review the improvements that were made by the subcommittee under the able leadership of the gentleman from North Carolina (Mr. Fountain), and that we will support that bill. I think there are some mischievous amendments that have been adopted in the full committee bill, and I hope this House will not accept those.

Mr. Chairman, I support this concept, and I think it goes a long way in improving what has turned out to be a very effective bill. It has been pointed out that less than 100 people are required to administer this bill. I think that is what the American people are calling for.

Mr. HORTON. Mr. Chairman, I yield 10 minutes to the gentleman from Illinois (Mr. Erlenborn).

Mr. ERLENBORN. Mr. Chairman, I rise to support the subcommittee-reported bill on revenue sharing. I wish to associate myself with the remarks of those here today who have spoken in support of the extension of general revenue sharing. This was a concept that I supported when it was introduced some years ago, joined with others of my colleagues in traveling throughout the United States to help tell the story about revenue sharing and what it could do, and I think that within the intervening years, since the passage of the first authorizing legislation, the program has proven its worth.

Mr. Chairman, of course the genius of the program is to have funds going to the States and to the local communities without all of the strings that are attached to categorical aid programs. Very frankly, Mr. Chairman, I wish we had used revenue sharing as a substitute for many of the categorical aid programs that we do now have. I think ideally we should combine some of those programs into block grants and use more of the revenue sharing concept instead of adding to the maze of categorical aid programs that now exist.

Mr. Chairman, this is a program that has proven itself. It has given unencumbered financial assistance to State and local communities, over 39,000 local governments. It has brought many communities the aid that was so necessary in the very difficult financial years. It has allowed many communities to participate in Federal aid who were unable to or unwilling to before because of the constrictions of categorical aid.

There are some things that the committee did to the subcommittee bill which I think are very unfortunate. First of all, the subcommittee-reported bill is a compromise, a bipartisan compromise. It does not have everything that anybody wanted. I think it is truly a compromise, in that each person, I think, that was a part of the subcommittee effort—I did not serve on the subcommittee, but I have talked to those who have—did not view this as an ideal bill. And yet there was give and take in the subcommittee, to the point where a bill was reported, as I understand, on a voice vote, without any vocal opposition. So we had truly a bipartisan bill. I think many of the amendments adopted in the full committee destroy the bipartisanship of that bill, and will tend to destroy the basic concept of revenue sharing.

Mr. Chairman, one of the amendments adopted in the full committee, which I would like to address myself to, was a change in the provisions relative to the application of the Davis-Bacon Act.

In the present program of revenue sharing, it is provided that if 25 percent or more of the cost of the local construction project comes from revenue sharing funds, then the Davis-Bacon Act will apply.

Davis-Bacon, as the Members may know, requires prevailing wage rates in federally-supported construction. So if we have a local construction project getting 25 percent or more Federal funds, prevailing wage rates will apply. I think it is a reasonable provision.

The provision adopted in the full committee removes the 25-percent limitation. The law would then read that if any revenue sharing funds, even one dollar, were used in the local construction project, the Davis-Bacon Act would apply.

What is the harm in this? Davis-Bacon is a very difficult provision for many local governments. What it will do is to impose union wage rates on local governments or areas where we do not have union wage rates. In my area, representing a community just outside of Chicago, we do have almost all construction projects, private and public, under union wage rates. So it really would not make that much difference in my own district. But included in the Chicago area for Davis-Bacon area wage rate determination are many small communities where it is not customary to use union labor. Many projects could be 15 percent, 20 percent, or 25 percent less in cost as a result of not using union wage rates.

The application of Davis-Bacon would force these small communities to pay union wage rates even though they are outside an area where they are customarily required to so pay them. I think that this would discourage some communities from even accepting revenue-sharing funds.

The argument of fungibility of the funds would be made to say that regardless of whether one could trace revenue-sharing funds directly into a construction project, they are there in the budget and if any small portion of revenue-sharing funds might be connected to the bond issue or the project, then Davis-Bacon would apply.

Mr. Chairman, I would hope that the full Committee of the Whole House will reject this amendment, and that we may continue to have the rather acceptable provision that is presently in the law fixing the percentage at 25 percent.

There is one other amendment that was adopted in the committee that disturbs me greatly, and that is the one relative to civil rights. There was, I believe, a carefully worked out compromise on civil rights in the subcommittee, and, as I was informed, the gentlewoman from Texas (Miss JORDAN) participated in arriving at that compromise. Yet in the full committee the gentlewoman offered an entire substitute to the civil rights section. We did not have much time to study it, but from a quick reading of it, I found a portion that seemed to make a very basic change in the civil rights section.

I questioned the gentlewoman from Texas (Miss JORDAN) about this, and she said it was only a technical amendment, that it had no substance, and that it really did not change anything. I think every Member by now, including even the gentlewoman from Texas (Miss JORDAN), would agree it amounts to a very substantive change, because this one provision in her substitute removes the requirement that the Attorney General allege that revenue-sharing funds were used in the program or activity on which discrimination has been alleged. So that the effect of this amendment, if it were adopted, would be to say that if any community receives revenue-sharing funds, the remedy of cutting off revenue-sharing funds can be used even though the alleged discrimination is not in a program financed by revenue sharing.

It was not represented to the committee as doing this, but I am firmly convinced that it does do this. It will turn revenue sharing into a tool for general civil rights enforcement, which was not, I believe, the avowed intention of the author of the amendment.

Mr. DRINAN. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I yield to the gentlewoman from Massachusetts.

Mr. DRINAN. Mr. Chairman, I thank the gentleman for his comments, and I thank him for the extensive work he did in the full Committee on Government Operations.

I cannot speak for the gentlewoman from Texas (Miss JORDAN), but noting her absence, it seems to me that it is very clear in this bill which is proposed by the full committee that the recipient against whom discrimination is charged has the right of showing by "clear and convincing evidence" that the funds in question were not in fact from revenue-sharing funds and, consequently, that the accusation could not, therefore, be made by the Federal Government.

Mr. ERLENBORN. Mr. Chairman, I think that certainly was the intention of the subcommittee. It was the intention of the full committee in the debate that we engaged in prior to the offering of the Jordan amendment. However, the Jordan amendment then removes what was already in the bill, a requirement that there be an allegation that revenue-sharing funds supported the program or project in which the discrimination had been alleged.

In checking with other members on the committee and with those who have law backgrounds and with counsel, I found unanimous agreement with my position that by removing the necessity of making that allegation, it no longer, therefore, is necessary even to allege that revenue-sharing funds were used in the program or the activity. I do not think it was the intention of the gentlewoman from Texas (Miss JORDAN) to make that change. However, regardless of her intention, if the language of her amendment is as clear as I think it is and many other lawyers think it is, she has inadvertently made a very substantive change in revenue sharing and has in effect turned it into a general enforcement tool for civil rights. I would hope that that amendment will be rejected by the House as not even accomplishing the avowed intention of the author of the amendment.

Mr. Chairman, again I reiterate my support for revenue sharing as it exists today. I personally would be pleased with just a simple extension of revenue sharing.

I am, however, agreeable, and I think many others are, to going along with the bipartisan concept that came out of the subcommittee after many long, hard months of work.

As I say, I did not serve on the subcommittee; but I am very proud of the work they did. I am sorry that that bipartisan effort was destroyed, in effect, by the full committee.

Mr. BROOKS. Mr. Chairman, I yield 10 minutes to the gentleman from New York (Mr. BADILLO).

Mr. BADILLO. Mr. Chairman, as a member of the Subcommittee on Civil and Constitutional Rights of the Committee on the Judiciary, I am very pleased that H.R. 13367, the Fiscal Act Assistance Amendments of 1976, amends section 122 of the State and Local Fiscal Assistance Act of 1972, the General Revenue Sharing Act, in order to provide for a more meaningful nondiscrimination provision.

Our subcommittee has held oversight hearings and issued a report in November 1975, entitled, "The Civil Rights Aspects of General Revenue Sharing."

The principal findings of that report were:

First. There is clear and strong evidence that widespread discrimination against minorities and women exists in programs reportedly funded by general revenue sharing.

Second. The Office of Revenue Sharing relies upon grossly inadequate methods for discovering where discrimination exists.

Third. When discrimination has been brought to the attention of ORS, it has responded either ineffectively or not at all.

Fourth. Until this month, ORS operated pursuant to nondiscrimination regulations which were grossly inadequate. As recently modified, its nondiscrimination regulations still contain certain deficiencies.

Fifth. ORS has never temporarily deferred or withheld payment of revenue sharing funds, except pursuant to court order.

The chief recommendation of our subcommittee was that legislation be drafted to amend section 122 in order to provide specific procedures to be followed in strengthening and enforcing the nondiscrimination provisions.

Such provisions are included in H.R. 13367, and they are the results of our recommendations.

Mr. Chairman, I commend the members of the Committee on Government Operations for their efforts, but in order to establish the legislative intent clearly and without any doubt, I would like to ask my colleague, the gentleman from Massachusetts (Mr. DRINAN), who is a member of both our Subcommittee on Civil Rights and the Committee on Government Operations and the principal draftsman of the amendments to section 122, a set of questions.

Mr. Chairman, I ask this of the gentleman from Massachusetts (Mr. DRINAN): Did the gentleman consider the testimony that we had received with respect to New York City when he was drafting the amendments to section 122?

Mr. DRINAN. Mr. Chairman, will the gentleman yield?

Mr. BADILLO. I yield to the gentleman from Massachusetts.

Mr. DRINAN. Mr. Chairman, I commend the distinguished gentleman from New York (Mr. BADILLO) for all that he did and for the extraordinarily fine report that the subcommittee under the chairmanship of the gentleman from California (Mr. EDWARDS) gave to the Committee on Government Operations. I know that the gentleman from North Carolina (Mr. FOUNTAIN) found it very helpful, as all of us did.

I think that we incorporated a number of its recommendations into the subcommittee bill and into the bill approved by the Committee on Government Operations.

Mr. BADILLO. Mr. Chairman, I ask the gentleman from Massachusetts (Mr. DRINAN) this question: There was some testimony about the use of general revenue sharing funds by the city of New York. Specifically, it was brought out that for the fiscal year beginning July 1, 1973, and ending June 30, 1974, New York City received $268 million in general revenue sharing funds and that this entire sum, in toto, was appropriated to defray expenses of the police, fire, and sanitation departments. The same thing happened in fiscal year 1975, when the city received $259 million, and in fiscal year 1976, when the city received $263 million.

Statistics submitted also revealed that New York City is approximately 25 percent black and 15 percent Hispanic and yet, at the time of our hearings, fewer than 7.5 percent of police department personnel were black, and only 2.9 percent were Hispanic. The statistics further indicated that only 5.4 percent of the fire department's employees were black and 0.9 percent who are Hispanic; while the sanitation department has no more than 2 percent or 3 percent minority group employees.

Mr. DRINAN. If the gentleman will yield further. I thank the gentleman from New York (Mr. BADILLO) for making that statement.

These grievous figures should be cited not merely with respect to New York City but with respect to many major northern and southern municipalities.

It was the determination both in the House Committee on the Judiciary and the House Committee on Government Operations, not to allow this $6.5 billion to be used for discriminatory purposes.

I would hope that the gentleman from New York, Mr. BADILLO, agrees that we now have put into section 122 a provision that will prevent a reoccurrence of what has transpired with general revenue sharing funds in New York City and elsewhere.

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. BADILLO. I yield to the gentleman from Illinois.

Mr. McCLORY. Mr. Chairman, I thank the gentleman for yielding. I just want to make this inquiry. Do I understand that under the request of the gentleman from Massachusetts (Mr. DRINAN) to revise and extend his remarks, we are going to be making some legislative history with respect to actions taken by a subcommittee of the House Committee on the Judiciary? If that is the case, then I would much prefer that the legislative history be made on the floor.

Mr. DRINAN. Mr. Chairman, if the gentleman would yield further, I want at that part in the RECORD just to put in some general remarks, not about this subject.

Mr. McCLORY. But do I understand that that is going to be legislative history?

Mr. BADILLO. No, the legislative history is being established here on the floor by direct question and answer. The reason that the gentleman from Massachusetts (Mr. DRINAN) wanted permission to revise and extend his remarks was so that he could make his general comments on the bill. We are not using his permission to revise and extend his remarks for the purpose of establishing legislative history.

Mr. ERLENBORN. Mr. Chairman, will the gentleman yield?

Mr. BADILLO. I yield to the gentleman from Illinois.

Mr. ERLENBORN. Mr. Chairman, I would like to have the gentleman explain to me which legislative history is being made. Is it being made on the basis of the language of the subcommittee bill, or the amendment of the gentlewoman from Texas, Miss JORDAN?

Mr. BADILLO. I would yield further to the gentleman from Massachusetts (Mr. DRINAN) to answer that question.

Mr. DRINAN. I thank the gentleman for yielding and I will be glad to answer the gentleman. We are now discussing the situation in the bill approved by the full Committee on Government Operations, section 122. If I may read just one particular portion which provides that if there is some allegation of discrimination, any State government or unit of local government must prove

> . . . by clear and convincing evidence that the program or activity with respect to which the allegation of discrimination has been made is not funded in whole or in part, directly or indirectly, with funds made available under this program.

I would feel, going back to the question raised by the gentleman in his presentation, that we do not have a problem here where someone can be accused wrongly. There is a perfect defense here where they can say that it was not Federal money. It goes back to the complex question of fungibility. The new revenue sharing bill does not require separate categories or priorities of spending. As a result, it is difficult, if not impossible, to trace the funding since it becomes intermingled with local or State funds. As a result, the provision in question was adopted. It seems to me that this provision gives a clear right to every municipality, to every State, to demonstrate that it is not revenue sharing funds that are being involved in the program in question.

Mr. BADILLO. All I was trying to do was to give a specific example of the kind of thing we are talking about, to show that this is what the committee bill, as reported out by the committee, intends to apply to. I used the example of New York City because it was brought up in the hearings of our subcommittee, and because it was very specific.

Mr. ERLENBORN. If the gentleman will yield further, the language that the gentleman from Massachusetts (Mr. DRINAN) just read was in the subcommittee reported bill and remains in the bill even after the Jordan amendment. What was accomplished among other things was to clean up the Jordan amendment and was to remove the requirement that was in the subcommittee bill that the Attorney General alleged that the revenue sharing funds were used in the program or project in which the discrimination was alleged to have occurred in. I am afraid that what has been accomplished there, to remove that requirement, nullifies what was clearly the intention of the subcommittee, and I think even the understanding of the author, the gentlewoman from Texas (Miss JORDAN) that we trace these funds into programs or projects and it removes that requirement, as I say, and makes this a general civil rights enforcement and is no longer necessary to even have to say that general revenue sharing funds have gone into the project.

Mr. DRINAN. If the gentleman will yield on that, I think that the situation that he brings up goes back to what the subcommittee did and what the full committee ratified, namely, the elimination of any categories or priorities. Under existing law there are nine priorities to which preference must be given. The General Accounting Office and others felt that they were without real meaning. As a result, the subcommittee and the full committee mandated that we allow 38,000 units of government to spend this money in any way that they see fit, including local education, which was formerly forbidden.

The CHAIRMAN. The time of the gentleman has expired.

Mr. BROOKS. Mr. Chairman, I yield 3 additional minutes to the gentleman from New York.

Mr. ERLENBORN. Mr. Chairman, will the gentleman yield?

Mr. BADILLO. I yield to the gentleman from Illinois.

Mr. ERLENBORN. I thank the gentleman for yielding.

I submit I think a great step forward was accomplished by the compromise in the subcommittee, and I think there was a good civil rights section. I think that the consideration the gentleman is discussing relative to the legislative history could be directed to the subcommittee version. I think violence was done to that by the Jordan amendment.

Mr. BADILLO. I would just like to ask the gentleman from Massachusetts (Mr. DRINAN) one last question. If New York City were to spend its general revenue-sharing funds for the next 3 years as it has in the past 3 years, would it be in violation of the proposal and provisions as understood by the gentleman?

Mr. DRINAN. If the gentleman will yield, I hesitate to stand in judgment upon the magnificent city from which the gentleman comes to Congress. But I would say that clearly on the record the burden of proof would be on the city. As the gentleman has demonstrated, the facts suggest that there has been indirect, at least, discrimination running, and I would hope that the general revenue-sharing funds could not be used to perpetuate such a situation.

Mr. BADILLO. I thank the gentleman. I also want to commend him for the amendments that have to do with the public hearings provision. I hope that there is no intention to limit the hearings to only one or two, because such limitations create serious problems in large cities such as New York. We just had a public hearing on the budget. There was only one hearing, it was held at the Police Headquarters Auditorium in Manhattan at 10 o'clock in the morning. Both the timing and the location discouraged poor people from attending. I hope that the legislative intent here is that the proposed public hearing procedure under this bill make provisions for accessibility and for convenient time, in a New England town meeting style. Is that the intention of the gentleman?

Mr. DRINAN. The gentleman states it very well. We intend to maximize participation by the public in this program, since it is one of the most massive Federal programs going to every unit of government across the country.

The CHAIRMAN. The time of the gentleman has expired.

Mr. HORTON. Mr. Chairman, I yield 5 minutes to the gentleman from New York (Mr. CONABLE) a member of the Committee on Ways and Means who handled the bill in 1972, and also chairman of the Republican Policy Committee.

Mr. CONABLE. Mr. Chairman, I have some specific thoughts about this legislation, but I rise at this point to review with the Members here present some of the philosophy that actuates the general revenue sharing program. This philosophy is very important to keep in mind as we debate this measure.

I strongly support an extension of general revenue sharing either in the subcommittee form or in the form of present law. We should maintain its essential character by rejecting encumbering amendments that would convert this in the direction of the categorical grant programs. Mr. Chairman, categorical grants have their place. It is essential, of course, if the Federal Government is going to move against specific community and social problems, that it do so with some degree of accountability. Accountability usually requires massive regulation and an administering bureaucracy to be sure that the money is spent as it is intended to be spent.

I think it has been clearly demonstrated to most of us here by our constituents that the American people are fed up with Big Government; yet there is no way to avoid Big Government if we go the categorical grant route.

Fortunately there are other ways to achieve accountability. One of the best ways is through accessibility: To keep the vital decisions of Government as close to the people as possible in as small units of Government as possible so that the decisionmakers will be available to discuss their reasons, to receive citizen input, and to avoid the dangers of unresponsiveness with which we all know Federal Government is identified.

The inaccessible central planner is inevitably afflicted by a rigidity which I think is antithetical to the best principles of American democracy. Fortunately our society was set up originally with a strong federal system.

Revenue sharing permits accountability through accessibility. There are going to be mistakes made on the local level and I think we are all aware of the fact that this program is not proof against such mistakes, any more than any form of government is proof against such mistakes. People are usually aware of local mistakes, however. Popular pressure can correct them through direct intervention with decisionmakers on the local level.

I think it is desperately important, Mr. Chairman, that we recall this, that we not go the route of turning this unique, valuable, and creative stimulus to the federal system into another categorical grant program with all that implies for rigidity, regulation, and central growth.

That this program is working is clearly demonstrated by the comparatively tiny number of people administering it: less than 100 in the Treasury Department at this time administering a $6 billion program. Were we to pass that amount of money through HUD or HEW, it would require 40,000 people to administer the program because they would be administering rigid Federal standards and they would be operating under a mandate which would require accountability through regulation.

Another overlooked principle in revenue sharing as we discuss this today is the principle of tax reform. Our regressive taxes have gone about as far as they can go. Real estate taxes based on the ownership of property and sales taxes based on consumption are not as equitable as a tax based on ability to pay. It seems to me that, therefore, any program which tends to bring progressive tax money into an area previously nourished by regressive taxation is a very sound principle in Government finance.

I would hope that eventually we will be able to work out in our tax system some form of piggy-backing, that is of hooking our localities directly onto the Federal income tax so that we will not have a patchwork of local administration of taxes, particularly if municipalities are going more and more to the local income tax.

But until we do that, let us restrain ourselves in changing the character of this way of transferring progressive tax money to the localities. If we change it into a categorical grant program we obviously will lose a very important part of the raison d'etre of this approach to government. We will lose the effectiveness of a flexible tool which greatly enhances the value of the categorical grant programs and the federal system of decisionmaking.

Mr. BROOKS. Mr. Chairman, I yield 5 minutes to the gentleman from Florida (Mr. FASCELL).

Mr. FASCELL. Mr. Chairman, I thank the distinguished chairman of the full committee for yielding me this time.

Mr. Chairman, I want to thank the chairman of the subcommittee and all the members of the subcommittee on both sides for their courtesy during the course of the markup and their consideration of the bill. I was not a member of the subcommittee, but I was very interested as a member of the full committee. Also, I had sponsored a reform bill and I was interested in everything that the subcommittee was doing in order to receive consideration of my views.

Mr. FOUNTAIN, the subcommittee and staff were very gracious. They worked very, very hard under the leadership of the distinguished gentleman from North Carolina (Mr. FOUNTAIN).

This was a new subject for our committee. I must say that with them and with their able staff, they dug into a very complex subject. They heard everybody thoroughly and considered all points of view. They worked very diligently to bring a bill to the full committee.

Both the chairman of the full committee, the gentleman from Texas (Mr. BROOKS) and to the ranking minority member, the gentleman from New York (Mr. HORTON) that they exhibited the same kind of spirit in the consideration of the bill in the full committee. Everybody chose up sides, of course; but this was and is a very complex matter and with considerable emotion in it: But I must say that thorough consideration was given to every side and issue. The chairman, the distinguished gentleman from Texas (Mr. BROOKS), has also done an outstanding job in bringing the bill forward. Notwithstanding his reservations that the gentleman may have on all or any part of the bill he has cooperated fully in moving the bill.

Mr. Chairman, I rise in support of H.R. 13367, a bill to extend and amend the general revenue sharing program.

I support the bill as approved by the House Committee on Government Operations, with the exception of the entitlement provisions. In order to improve the accountability of State and local governments for their use of funds, the committee bill should be revised to permit annual appropriations review and forward funding.

As one who has been extensively involved in the committee work on this legislation, I believe that the bill as approved by the full committee goes far toward redressing the flaws that have been observed in the existing program.

The general revenue sharing program has been in existence for some 5 years. During that time it has fulfilled basically the purpose intended by Congress, which is to provide fiscal assistance to the Nation's State and local governments. Without revenue sharing, many of these governments would have been extremely hard pressed to meet the needs of the people for services during periods of recession and financial stringency.

Our States and cities need help in raising the funds to sustain vital programs, so it is essential that we continue the revenue sharing program. At the same time, Congress would be remiss if it ignored the shortcomings which have been found in the operation of the program during the first years of its existence.

The responsibility of assessing the performance of the program was given this Congress to the Committee on Government Operations. I feel that the committee has worked diligently to fulfill that task and has approved reform provisions which will remedy defects in the existing program without imposing undue or needless additional burdens on the State and local governments participating.

Under the bill as approved by the committee, the program would be extended for 3¾ years with guaranteed entitlement funding at an annual rate of $6.65 billion. Reforms would be made in such areas as civil rights, citizen participation, State and local governmental modernization, and supplemental assistance for needy areas.

These reforms are along the lines of those contained in H.R. 10319, a bill which I introduced on behalf of the Ad Hoc Committee on Revenue Sharing Reform. Convenors of the ad hoc committee include the National Urban Coalition and National Urban League, Common Cause, United Auto Workers, League of Women Voters of the United States, Center for National Policy Review, Americans for Democratic Action, National Council on the Aging, Amalgamated Clothing Workers, and other public interest organizations.

Many of these organizations have worked for years on indepth studies of the existing revenue sharing program. The League of Women Voters Education Fund, the National Urban Coalition, the Center for Community Change, and the Center for National Policy Review decided more than 2 years ago to monitor and evaluate the program. Through local community groups and State affiliates the project sponsors monitored and analyzed the allocation and expenditures of funds in 33 communities and 6 States. This clearinghouse on revenue sharing project was probably one of the most extensive probes into the effectiveness and merit of revenue sharing funding.

The General Accounting Office has conducted several studies of the use of revenue sharing funds. One of its inquiries found that the level of citizen involvement in local government decisionmaking was low before the introduction of the program, and that the revenue sharing program had not appreciably raised this performance level. More recently, the GAO has documented civil rights abuses in the use of revenue sharing funds.

With the program due to expire on January 1, 1977, the Ford administration submitted its proposals for revenue sharing extension. The administration bill, H.R. 6558, did not respond to the need for revisions brought out by the public and private studies. Therefore, the Committee on Government Operations developed its own bill after careful consideration at both the subcommittee and full committee levels.

I support the provisions of the full committee bill, although I believe it could be improved by removing the 3¾ years' entitlement provisions. I favor a shorter period of guaranteed funding, followed by subjecting the program to the annual appropriations review of Congress as provided by my own bill, H.R. 10319. The funding could be done in advance so that recipient jurisdictions would be able to budget more intelligently. This procedure would strengthen governments for the use of funds, and bring the program in line with our congressional budget process.

Although revenue sharing is designed to provide funds with "no strings attached," it is essential that we provide at least minimal assurance that these Federal tax revenues are used wisely. Past instances of using funds to build ski slopes or tennis courts point up our responsibilities as custodians of tax funds. Rather than establish a new bureaucracy in Washington to control the program, however, I feel that procedural safeguards giving citizens greater involvement at the State and local levels can help assure that revenue sharing funds are used in a sound manner.

The full committee bill greatly improves the citizen participation provisions of the existing law. Currently, recipient governments can satisfy Federal requirements merely by filing a form with the Office of Revenue Sharing showing planned and actual uses by functional category. There are no special requirements other than use of funds in accordance with State and local law. Consequently, jurisdictions are free to switch revenue sharing funds for their own revenues in any program without the knowledge of the public or the Federal Government. Under the committee bill, jurisdictions would be required to hold two public hearings with advance notice, and to itemize proposed expenditures. In this manner, citizens would be able to have a voice in determining how funds are spent. I believe this is one of the best assurances we can have that there will be minimal abuses in the use of this Federal revenue.

Another important improvement contained in the committee bill is the section on nondiscrimination. A June 2, 1976, report by the GAO to the Congress is entitled, "Nondiscrimination Provision of the Revenue Sharing Act Should Be Strengthened and Better Enforced." Other studies have drawn similar conclusions. Under the committee bill, to cope with the "fungibility" problem in which funds can be interchanged, discrimination would be prohibited in all activities of a recipient government unless it can be proven that no revenue sharing funds were involved. Second, age, handicapped status, and religion are added to the list of forms of prohibited bias. The bill also establishes a new procedure for suspension of payments, with a hearing process to protect the interests of recipients.

The committee approved provisions providing a start toward the modernization of State and local government. This is needed because hopes that the revenue sharing program would induce States to restructure their governments have not materialized.

My original bill sought to provide some $500 million in a special fund which would be distributed only to those jurisdictions which made reasonable efforts to reorganize their governmental structures along more efficient and economical lines. In the full committee, a greatly reduced provision was adopted under which States are merely encouraged to take such steps. There are no specific requirements other than that a report be submitted to the Office of Revenue Sharing by each State government stating any actions which have been taken to modernize. If there have been no such steps, the report could be merely a one-page letter. There are no requirements at all imposed on local governments, and no punitive or incentive provisions are included.

Lastly, the committee adopted a reduced version of my proposed formula change. The objective of the change is to target revenue sharing funds more closely to need. Under the bill, some 98 percent of the total funds provided would be distributed under the existing formula without change. The remaining

2 percent would be distributed under a supplemental formula which measures poverty rather than per capita income. The beneficiaries would be large cities and poor rural areas having large percentages of poverty.

Analysis of the existing formula shows that the present formula is inequitable from a standpoint of providing the most funds to areas where there is the greatest need. This is because the averaging of per capita income with a jurisdiction, which is done in the current formula, can conceal very substantial pockets of poverty and need. For example, New York City's per capita average is 7 percent higher than neighboring Suffolk County, yet 11.58 percent of the city's population is poor, compared to only 4.8 percent of the county's population.

I recognize that in seeking to revise the formula, recognition must be made of the reality that no jurisdiction would like to lose funds that it has previously received. Therefore, in the full committee bill, $6.5 billion would continue to be distributed under the existing formula. This is the same amount that was distributed in the current calendar year, so a "hold harmless" effect would be achieved. Only $150 million of additional money would be affected by the formula change.

I recognize further that opponents of the formula revision have distributed figures showing that various jurisdictions would "lose" funds under the supplemental formula. The opponents attempt to show this by using a figure of $3.325 billion which is the amount being paid for July 1 through December 31, 1976, and multiplying it by two. They then say this is the annual amount they are receiving, $6.65 billion, and thus a distribution of only $6.5 billion under the existing formula would deprive them of $150 million. The final step is to show on a computer printout how much each jurisdiction would "lose" under such a projection.

Several points should be made about this type of comparison. First, the accuracy of any computer printout depends on what was fed into the computer. This means that if the base assumption is invalid, the results are invalid. The assumption used is that jurisdictions have received $6.65 billion over one year under the existing program. This is incorrect. Only $3.325 will be distributed. Anything beyond that is a projection and a hypothetical figure. In the strict sense, therefore, jurisdictions cannot "lose" something they never had.

Second, if there are "losers" under the supplemental formula, there would equally be losers under the subcommittee alternative. This is because some 13,000 jurisdictions stand to gain more funds by dividing up the $150 million under the supplemental formula. If the supplemental formula is removed, each of these jurisdictions will lose funds they would have under the committee bill. It should be added that the losers in such a case are the jurisdictions having the highest percentages of poverty across the country.

I know that some of the material being distributed shows that only 2,500 jurisdictions would gain under the supplemental formula, but again this is a case of choosing one base as a comparison, with an invalid result. Under the committee bill, 13,000 jurisdictions will receive more money next year than they received this year.

A third point is that by extending the existing formula to the entire $6.65 billion entitlement, there is no guarantee that any particular jurisdiction would not lose funds. This is because there is a great fluctuation between entitlement periods due to changes in tax effort, boundary shifts, and other data elements in the existing formula. Some 15,000 to 20,000 jurisdictions each year lose or gain in excess of 10 percent under the existing formula. This should be kept in mind while evaluating the impact of a 2-percent change in the formula. Many jurisdictions which claim they will lose under the committee bill will lose anyhow under the existing formula.

Further, if so many jurisdictions will lose through funding the existing formula at $6.5 billion per year, I wonder why this is the exact amount which would be provided for fiscal year 1977 under the administration bill, H.R. 6558. This was introduced on April 30, 1975 by Congressmen HORTON and WYDLER along with Subcommittee Chairman FOUNTAIN. The stated intent of the Administration bill was to extend the program with minimum change. When they provide $6.5 billion a year it is called extending the existing program, but when the committee bill does the same thing, it is called reducing the funding to 38,000 jurisdictions.

Those who seek to ignore all the strong arguments in favor of accepting the supplemental formula as contained in the committee bill may feel they are placating the cities and counties by rejecting it. They should be reminded that the municipal groups are not monolithic in their position on this legislation.

If the supplemental assistance formula is rejected, the $150 million will be spread out among 40,000 jurisdictions with the result of no significant increase for any jurisdiction. The supplemental formula was supported by Congressman HORTON in subcommittee and Chairman FOUNTAIN of the subcommittee added his support at the full committee level. I feel that we should affirm the full committee's favorable action on the provision.

The minority report on the committee bill has criticized the supplemental formula for not doing anything to help areas of high unemployment. Obviously, the revenue sharing program could be written to do anything we want, but the question is whether it would still be revenue sharing or some other kind of program. One of the banks in New England proposed that revenue sharing be tied to cost of living differentials across the country. Many variations of the formula could be attempted. Somehow, it seems that the effect of most of these proposals is to provide more money to those in the areas making such proposals. The most equitable and meaningful change is one which recognizes poverty.

We cannot hope to solve unemployment by revenue sharing any more than we can remedy the proclivity of people to move to areas of the country where there is more sunshine. The minority has pointed to an isolated instance of Vail, Colo., receiving more funds because of the supplemental formula, but other resort areas lose funds. Nothing can be proved by picking out isolated examples. These abound under the existing formula. We can only hope to move in the right direction by a change which accomplishes the overall result desired, and all the computer printouts received to date confirm that the supplemental formula does indeed provide much-needed help to those areas which are most deserving of assistance.

One other factor should be mentioned. In preparing printouts, the Office of Revenue Sharing did not have readily available all the data called for in the supplemental assistance formula. It used substitute data which comes reasonably close to the desired effect. Nevertheless, the assumptions used are reflected in more funds than would actually be the case going to resort areas and college towns with large numbers of single people with incomes below the poverty line. Under the formula, only such single people over the age of 65 should be counted. This data can be made available for use soon after Congress enacts the supplemental formula.

Like many Members of Congress, I have thought long and hard about whether we should even have a revenue sharing program. Frankly, if all of the committee reforms are rejected, I may be unable to support an extension.

But on principle, revenue sharing is little different from our existing programs of categorical aid. In both types of programs, we have one level of government—the one at the Federal level—taxing the people, and the funds are spent by another level of government, those at the State and local levels. The only difference is the extent of control exercised by the Federal Government. There is less control under revenue sharing, but there is also less bureaucracy required to process grant applications and other paperwork.

It seems to me that there is a place for revenue sharing in our Federal system, but we should do our utmost to be sure that the institutional framework maximizes the benefit gained through this kind of distribution. The reforms approved by the full committee would help to achieve this. As we continue to examine the program over future years, hopefully the results will justify increases in the funding level. Eventually, revenue sharing might become the predominant type of Federal aid program rather than only the single largest one as it is now.

If we have any responsibility in the Congress, it is to assure that all of the tax funds collected by our votes are used in the best possible way and for the most deserving purposes. We cannot meet that responsibility by ignoring the flaws in the existing revenue sharing program. We can fulfill our obligation to our constituents by supporting the committee bill's provisions for reforming clearly documented defects in the operation of the program to date.

Mr. MEZVINSKY. Mr. Chairman, will the gentleman yield?

Mr. FASCELL. I yield to the gentleman from Iowa.

Mr. MEZVINSKY. Mr. Chairman, as a member of the Intergovernmental Relations Subcommittee and, in turn, the House Government Operations Committee, I am pleased to speak on behalf of our efforts.

The subcommittee spent almost 1 full year investigating, holding hearings, and marking-up the revenue sharing renewal bill. Our work was exhaustive and revealing. We found a program that had many strengths, yet at the same time urgently required reform. Revenue sharing has won an overwhelming measure of support from its recipients. It is simple. It provides automatic funding without redtape or delays. It offers unparalleled flexibility to our already-beleaguered local units of government during a time of rapidly mounting costs and increased expectancy with regard to services.

Nevertheless, our responsibility to the public demands that we look beyond the program's success with the officials who are its natural constituency. Civil rights groups have complained of halfhearted enforcement, characterized by backlogged cases, excessive delays, and disinterest on the part of the agency. Citizen groups relayed a litany of instances where local officials ignored the public in the expenditure of funds, or refused to provide access to the decisionmaking process. Still others urged elimination of expenditure categories, clearer reporting procedures, streamlining and modernizing public institutions, and an end to artificial props to archaic and one-purpose governments.

The subcommittee worked toward many of these goals, while the full committee completed the task and instituted further essential reforms. I believe the final work product to be a credit to this effort. The committee added the most important ingredient that had been missing from the existing program—accountability. Revenue sharing, as it exists in the 1972 legislation, has a serious flaw. Fundamental to our system of government is the principle that the willingness to spend public funds is always tempered when it is coupled with the duty to justify expenditures before those who must bear its costs—the taxpayers. In revenue sharing, the Federal Government taxes while local government spends. At the same time, these funds are "fungible"—that is, once commingled, it is impossible to identify precisely where they are spent.

Almost every element of the final committee bill is directed to this problem. Citizens are given access to understandable financial records and then afforded the opportunity to direct where GRS funds may be spent. Audits are taken to maintain public confidence. Safeguards are established to prevent abuse in what has proven to be the largest single domestic program in the history of our Nation.

I applaud the committee's work. These reforms could well become the most important contribution of all to this program's claim to permanence, because only through accountability and responsiveness to the public can revenue-sharing convince the skeptical American taxpayer that his money is being well spent.

Mr. HORTON. Mr. Chairman, I yield 5 minutes to the gentleman from Massachusetts (Mr. CONTE).

Mr. CONTE. Mr. Chairman, as one of the original cosponsors of general revenue sharing legislation in the Congress, I am pleased to rise today in support of this bill, H.R. 13367, which extends the Fiscal Assistance Act through fiscal year 1980.

When this legislation was first introduced, I was one of the Members of Congress who traveled throughout the Nation, explaining and selling this idea to local officials. The general revenue sharing program has become a widely accepted idea, and its renewal is clearly mandated.

However, as strongly as I support the program, I do see a need to change two aspects of the program. First, revenue sharing must be changed from an entitlements program to a program operating under the control of Congress and funded by annual appropriations from the Congress. Second, general revenue sharing moneys should hereafter be sent directly to the local governments, and State governments should be excluded from receiving any more of these Federal funds.

As a member of the Appropriations Committee, I am aware of the consequences of my remark that general revenue sharing funds should be handled through annual appropriations bills. Revenue sharing does not deserve to be treated any differently from other long-range Federal programs. I would remind my colleagues that two of the most important sectors of Federal spending—Defense and Education—are both handled by the Congress through the annual appropriations process.

This enables the Congress to provide for these important programs in the context of the overall Federal budget. The same reasoning should apply to revenue sharing. It is a Federal program providing Federal dollars to State and local governments. It should be handled within the framework of the annual congressional budget and be subjected to close congressional oversight.

I am sure that this appropriations process can be done sufficiently in advance, by a year or two, so that if cuts in the general revenue sharing budget are made, local governments will have adequate time to plan and react.

I am very concerned that if general revenue sharing is not made a program subject to the annual congressional appropriations process, then the Federal Government will be stuck with another "back-door spending" program. Already, $3 of every $4 spent by the Federal Government goes out the "back door." This is done without the consent or control of the appropriations process. There is absolutely no reason why another such program should be added. On the contrary, it is the responsibility of the Congress to live up to its constitutional callings and provide oversight and direction for the general revenue sharing program.

My second concern about this legislation is the unnecessary participation of State governments in the general revenue sharing program. Originally, this legislation was designed to assist local and county governments. These are the communities in the gravest financial trouble, and these are the communities that are the most restricted in how they can raise revenues.

On the other hand, State governments, which now take one out of every three revenue sharing dollars, have a much greater ability to raise revenues by alternate means. In addition, State governments have added a burdensome and unnecessary layer of bureaucracy onto the revenue sharing program, creating added costs and frustrating redtape for local government recipients.

When Congress created the general revenue sharing program, its keystone was to be the principle that the Federal funds were to be spent locally by citizens participating through their local governments. Unfortunately, State governments, in too many cases, have ignored this congressional intent. Instead of having revenue sharing funds spent according to the wills of local communities, in too many cases, State legislatures are dictating to local and county governments exactly how each dollar of the State's share is to be expended.

Also, there is growing evidence that some State governments are using revenue sharing funds for purposes outside the intent of the legislation. For example, one State is using revenue sharing funds to provide for salary increases for State employees.

Mr. Chairman, when the House is reading for amendments on this bill, I intend to offer an amendment to exempt the States from the receipt of general revenue sharing funds, and to provide that these Federal funds go directly to local and county governments.

Mr. BROOKS. Mr. Chairman, I yield 5 minutes to the gentleman from California (Mr. JOHN L. BURTON).

Mrs. SPELLMAN. Mr. Chairman, will the gentleman yield?

Mr. JOHN L. BURTON. I yield to the gentlewoman from Maryland.

Mrs. SPELLMAN. I thank the gentleman for yielding.

Mr. Chairman, a friend of mine in the county government once told me "there is no Democratic or Republican way to collect garbage; there is just the need that must be met." As a former county official and as former president of the National Association of Counties, I can attest to the very real, bipartisan success of revenue sharing to help State and local governments meet the needs of their citizens, and to the real need for a bipartisan effort to renew this program. I suspect that many of my colleagues here in the House feel the same as I: That we must reenact the State and Local Fiscal Assistance Act because it is now an essential ingredient in our Federal fiscal system. Not only has revenue sharing offered opportunities for many people to participate in priority setting in their communities, but it also has enabled those governments on the local level to continue to deliver vital services.

The Members will have to scrutinize the basic policies behind revenue sharing, and they will have to answer the policy questions that the implementation of the revenue sharing program has raised. First, and perhaps most pressing is the question "Are general revenue sharing funds being used wisely and for the most essential needs of our citizens?" The answer is a most emphatic "Yes."

In my county, Prince Georges County of Maryland, revenue sharing funds have been used for public safety, for public transportation, for health care, for libraries, for social services and for financial administration. In this fiscal year alone, nearly $8 million in revenue sharing funds have helped to pay for firefighter services and equipment; $1.6 million for street lighting; $100,000 to purchase books for our county library system; and over $900,000 for indigent care, day care, foster care supplements and family services. Nearly $1 million went to mental hospital care in the county.

Most important of all, revenue sharing funds in Prince Georges County meant that the county found that it could use its own sources to do other things that they cannot even consider doing without revenue sharing funds. For example, it would not have had enough to fund both the police and fire departments without revenue sharing.

Second, there is the question of the need for the continuation of revenue sharing. Many counties are at or near their taxing limit as imposed by the State governments. As you may be aware, Prince Georges County battled heavy odds in the last session of the State legislature to obtain permission to enact a renters' tax that would bring in badly needed revenues, and I can attest to the bitter response of apartment dwellers against this, yet another property tax. It is obviously against national economic policy to have local units of government increasing local property taxes while the Federal Government is cutting taxes to stimulate the economy. Our basic county dependence on the property tax will, during the coming year, increase county problems.

The lag in reassessment and citizen resistance to it will not permit growth in those revenues. Yet, if revenue sharing is not renewed, Prince Georges County will be faced with the need to increase its property tax rates 41 cents just to maintain present services. Revenue sharing is keeping many of our local governments from raising even further the regressive property taxes upon which most local units of government rely. Revenue sharing can be thought of as fiscal assistance that enabled counties like Prince Georges to face very difficult fiscal problems. Those problems and needs will continue for some time.

The impact of the current inflation-recession situation affects all levels of government, but its impact at the county level is particularly acute. When the Nation's economy erodes, revenues for all local governments diminish. Not all local governments, however, suffer the same demand for services—welfare, health and social services—which are uniquely affected by a declining economy. This uniqueness translates into greater demands for county services at a time of substantial county revenue shortfalls. County revenue sources are limited and restricted, and are failing to keep pace with inflation. County expenditures nearly doubled from 1967 to 1972 and county operating costs in 1974 increased in excess of 10 percent. A similar increase is projected for this year.

Revenue sharing has proven itself as an effective means of providing fiscal assistance to States and localities on the basis of need, and I hope the Congress will move quickly to reenact this legislation so that the counties can make plans for the best use of the funds.

Revenue sharing must be made a permanent part of the Federal fiscal program, with specific annual outlays mandated so that this program will not be buffeted in the political winds every year. The program is a vital part of the financing of necessary programs on the State and local levels, and I strongly urge that it be continued.

Mr. JOHN L. BURTON. Mr. Chairman, as a Member who really is not in love with the revenue sharing program, I was one of the great majority on the committee who voted to send this bill to the floor because I thought we made some very meaningful reforms in the present statute in the area of civil rights, in the important area of citizen participation, in the area of eliminating the prohibition on matchng funds, so that the local communities could, if they desired, use revenue sharing funds to provide services for the elderly and some of the other disadvantaged persons in the local community.

Mr. Chairman, I would think, however, that a better way to help local government would be for the Federal Government to assume the total cost of our welfare programs, which would eliminate this part of the property tax burden and the State tax burdens and give local governments their own revenue sources to spend. It really is a bad policy to separate the revenue-raising aspects of the program from the spending aspects, because as we all know it is a lot easier to spend money than it is to raise it. I would think we would help local governments greatly by easing their tax burden for such programs that are Federal in nature, and should be, such as general welfare, and that would then provide them with their own local revenues to spend on whatever services they desire. Certainly I think that would be better than having these bushel baskets given to them every year in the form of revenue sharing.

Mr. Chairman, I do plan tomorrow to offer an amendment that would clean up some of the problems raised by the Members who are concerned about the Rosenthal amendment. If they really read the Rosenthal amendment, they understand that it is not the great disaster that they think it is. But we certainly cleaned that up and spelled it out specifically in a few paragraphs I would hope no Member would have any problem with the amendment. We address ourselves to one major concern raised in the civil rights aspects, that clearly the revenue-sharing funds, as dealt with in civil rights, would be responsible only to discrimination, concerned with the utilization of these funds and not with other Federal funds. My amendment would also address the Fascell formula that some Members seem to think does violence to the hold harmless point of view that has been expressed by members of the committee.

Mr. Chairman, I would hope that when the Members have a chance to hear the debate on my amendment and read the amendment in the journal tomorrow, they will find that this will definitely clear up arguments that have been made against the full committee substitute, because the subcommittee bill is woefully lacking in many areas. It is lacking in the area of citizen participation. It is lacking in the area of doing away with the prohibition of matching funds and the priorities. These are things that are important to the local government. Our committee spent a long time working on the bill, and to go back in the Committee of the Whole House and try to start from scratch with the subcommittee bill would, in effect, say to the full committee that all of the hours that we put in really were wasted because we are right back, in effect, to bypassing the full committee and starting in the subcommittee process.

Mr. Chairman, my amendment will also address itself to the point raised by the gentleman from Massachusetts (Mr. CONTE) and others, concerning the entitlement.

What we would do is not eliminate entitlement but keep entitlement for the period of 1¾ years so that each local government would be guaranteed 2 full fiscal years' funding plus, which is more than any other government was ever guaranteed as a revenue source, leaving the other years open to the appropriation process so that that committee can act in its wisdom to provide the funding and provide forward appropriations if it so desires.

Mr. Chairman, I do not think anyone can be accused of giving local governments short shrift when we are guaranteeing them more than 2 fiscal years' funding as a revenue source.

The CHAIRMAN. The time of the gentleman from California (Mr. JOHN L. BURTON) has expired.

Mr. JOHN L. BURTON. Mr. Chairman, I think that is a pretty good note on which to end my remarks.

Mr. HORTON. Mr. Chairman, I yield 5 minutes to the gentleman from Texas (Mr. STEELMAN).

Mr. STEELMAN. Mr. Chairman, I rise to speak in very strong support for the continuation of the State and Local Fiscal Assistance Act of 1972. I also wish to state my support for the Horton-Fountain substitute—H.R. 14000—which I understand will be offered tomorrow and my opposition to some of the amendment offered at the full committee which I also understand will also be offered tomorrow. In the interest of time, I will be brief in my remarks.

Since its inception in 1972, the general revenue sharing program has proven itself to be one of the few Federal programs that has provided in reality many benefits that the supporters of the legislation had anticipated:

It has brought Government closer to people by providing Federal support for programs deemed to be essential at the local level;

It has balanced out the Federal domestic aid structure by providing a modest amount of unemcumbered Federal aid to match the mountains of specialized categorical programs;

The program has done more than any other single program to revitalize the decentralized American Federal system by placing faith and dollars in the hands of local government; and

The program has contributed significantly in lessening the very severe impact of the recent recession on many local governments and taxpayers.

There are few Federal domestic aid programs as well liked as the revenue sharing program. The Subcommittee on Intergovernmental Relations and Human Resources of which I am a member held 16 weeks of hearings under the very able leadership of Mr. L. H. Fountain. During these hearings, not one witness called for the termination of the program. Late in the hearing process, we heard from the panel of witnesses representing the ADA, Catholic Charter, the League of Women Voters, and the Chamber of Commerce. Although this diverse panel disagreed as to how the program should be structured, they all agreed that the program should be continued.

We must pass a revenue sharing bill this week. Not to do so would be to ignore the fiscal plight of local government and to tarnish one of the few bright spots of our rather drab domestic aid program.

Since the need for the reenactment of revenue sharing is clear, I would like to address the balance of my remarks to the nature of that reenactment. The real debate surrounding the reenactment of revenue sharing is not around whether the program should be continued, but rather the form that the program should take.

The Subcommittee on Intergovernmental Relations and Human Resources held extensive markup deliberations and produced after several months of careful consideration a bipartisan bill that addressed and satisfactorily answered operational criticism of the current program.

The major features of the proposal are:

First. An extension of the program for 3¾ years;

Second. Guaranteed funding through the entitlement mechanism as provided in the Budget Control and Impoundment Act of 1974;

Third. Continuation of the program funding level at $6.65 billion;

Fourth. Significant improvements in the citizen participation and reporting requirements of the law; and

Fifth. Significant improvements in the nondiscrimination provision of the law.

The bill produced out of subcommittee was a compromise between those forces wishing a simple extension of the program basically in its present form and those forces wishing to drastically alter the program by turning it into an instrument for the reform of certain State and local government activities and those forces wishing to simply terminate the program. Since it was a product of compromise, none of the subcommittee members were entirely satisfied with all the provisions of the bill. Yet, it was compromise in the tradition of the democratic process—a compromise that brought conflicting sides together in agreement on basic provisions of the bill.

The compromise that was so delicately worked out at subcommittee was destroyed at the full committee. The revenue-sharing bill as reported out of full committee is a bill to reform State and local government budget and decision-making activities and a bill so loaded with paperwork and redtape that it can only have the effect of lessening the interest of participating governments in the program.

Among the amendments adopted with little or no debate at the full committee and to which I am opposed are:

First. An amendment requiring each State government to submit an annual report on proposals to be implemented for the modernization of local government. Although what is meant by modernization is never spelled out. The amendment is recognized by proponents and opponents alike as a first step in the consolidation and abolition of many smaller jurisdictions under the guise of efficiency and modernization;

Second. An amendment establishing a supplemental fiscal assistance provision, while certainly a laudable objective, is funded at the expense of other government in the program and the formula used to allocate these moneys is fraught with inequities;

Third. An amendment adopted at full committee would extend Davis-Bacon wage rates to all State and local government construction projects. The present program requires the payment of Davis-Bacon wage rates when 25 percent or more of a construction project is financed by revenue-sharing funds. I support the continuation of this provision. I am concerned that extending this provision to all construction projects of a recipient government will greatly increase the cost of construction in the rural areas and will force many smaller governments out of the program; and

Fourth. Finally, the subcommittee with only one dissenting vote agreed to a nondiscrimination section which substantially strengthens the civil rights enforcement mechanism of the Office of Revenue Sharing. The subcommittee bill still retained the procedural safeguards necessary to protect recipient governments from having funds suspended without an opportunity for a hearing. Amendments applied at the full committee have seriously upset this balance.

These amendments represent a restriction of revenue sharing beyond any reasonable standard. These amendments are opposed by the National Governor's Conference, the National League of Cities, the National Association of Counties, and the National Conference of State Legislatures.

I urge that these amendments not be adopted. I urge that we not load down the revenue sharing program with all kinds of paperwork and redtape. I urge that we not unduly meddle in the affairs of local governments. I urge that we retain the uniqueness of the revenue sharing program which is its simplicity and flexibility. I urge that we not turn the revenue sharing program into a piece of reform legislation designed to extend Federal control over the activities of local government.

In closing, I would like to state a simple fact that must be borne in mind during consideration of these and other amendments. Half of the recipient governments receive less than $7,000 per year. Clearly for these governments as redtape, paperwork and the cost of administering the program increase their interest in the program will very quickly diminish. If we are not careful in the amendments we choose to accept, we may find that after a year or so has passed many of the recipient governments that revenue sharing was designed to help will have dropped out of the program.

Mr. BROOKS. Mr. Chairman, I yield 5 minutes to the gentleman from Georgia (Mr. LEVITAS).

Mr. LEVITAS. Mr. Chairman, I rise in support of an extension of the State and Local Fiscal Assistance Act, sometimes known as general revenue sharing, because I think it is one of the most important, workable, and effective programs the Congress of the United States has ever put in place for meeting domestic needs.

Mr. Chairman, this is vital legislation. It is, in my judgment, one of the most important domestic programs in America. It is a program which I trust this committee, in its wisdom, will continue in a form substantially the same as that which was reported out of the subcommittee to the full committee.

For that reason, Mr. Chairman, I urge that the subcommittee substitute, H.R. 14000, be the approach that is taken for the extension of the State and Local Fiscal Assistance Act.

Let us not forget that we are not talking about Federal funds. They are not Federal dollars. These are taxpayers' dollars. These are dollars collected from taxpayers across America. They are not the special province of the Federal Government.

Frankly, I would rather see these dollars stay at home in the first place and not be brought to Washington at all.

We should let local people make the decisions of how they are to tax and how they are to spend, but the fact of the matter is, Mr. Chairman, that, for the most part, the Federal Government has proved very successful in one area, if nothing else: The Federal Government has proved to be a successful tax collector and has, for the most part, preempted effectively the opportunities of State and local governments to be as effective tax collectors as the Federal Government is. For that reason, general revenue sharing is needed to redistribute part of those revenues back to the places they came from to begin with to be spent by local elected officials accountable to the citizens.

Mr. Chairman, even though I have said that general revenue sharing program is one of the best programs which has been put in place in this country, we hear about abuses of this program. All programs have abuses. There is not a single categorical grant program in which one could not find at least as many abuses, and, in my opinion, in most cases, more abuses than those which are found in the general revenue sharing program. However, the basic fact of the matter is that the general revenue sharing program addresses itself to a matter of national priorities: the viability of our State and local governments, the bedrock of our Federal system.

It is the viability of the services which those governments provide to their citizens which are an important national priority.

Mr. Chairman, there is no more wisdom; there is no more integrity; there is no better judgment at the Federal level of Government than there is at the State and local levels. These State, city and county officials are the elected officials who are the closest to the citizens they serve and who have the best ability to determine the needs their citizens have.

This program is a means of providing those governments the resources to better accomplish their reason for existence which is using their taxpayers' dollars, collected by the Federal Government, for the services of the citizens at the local level.

I think the opposite is true when one says the Federal Government should make all of these decisions. I think the track record shows that local officials and State officials are better able to make these decisions for their citizens.

The approach taken by general revenue sharing has eliminated a lot of bureaucratic redtape and Federal interference and has been operated highly efficiently at low cost. The total administrative cost of this program has been about one-eighth of one percent. I defy anyone to show me any other Federal program that has that cost-benefit record.

I think the bill which was reported by the subcommittee is a good bill. It makes improvement over the present law. Some of those improvements have already been referred to, but they are essentially as follows:

We have eliminated the categories which heretofore bound the hands of local government. By eliminating the categories, we are saying to the local governments that they best know what their citizens' needs are and they best know how to spend these funds. We are broadening the choices for local governments to include such areas as education and service to the elderly, for example.

In addition the subcommittee bill improves the present law by providing for much greater citizen input and participation in the decisionmaking process on the use of these funds. Also, the subcommittee bill improves the present law by giving the citizen more information on the anticipated and actual use of these funds.

By rejecting the increased funding to expand the size of the program, as the President had proposed, the committee exercised fiscal restraint and proved that good programs can be continued but that does not mean they always have to grow and get larger and larger to be successful.

In short, Mr. Chairman, the general revenue sharing program is a good one. It should be continued. I believe the subcommittee version does this best and urge your support.

Revenue sharing is a program that works. Let us keep it.

The CHAIRMAN. The time of the gentleman has expired.

Mr. HORTON. Mr. Chairman, I yield 1 additional minute to the gentleman from Georgia.

Mr. PRITCHARD. Mr. Chairman, would the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from Washington.

Mr. PRITCHARD. Mr. Chairman, I would like to compliment the gentleman from Georgia for making one of the finest statements I have ever heard on this floor, and particularly for the knowledge, information, and insight that the gentleman from Georgia has concerning the whole problem of revenue sharing. I am in total support of his views. Again I think that the gentleman has given a marvelous statement, one of the best I have ever heard—and I am not used to giving this kind of accolade.

Mr. LEVITAS. I thank the gentleman from Washington.

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from California.

Mr. LAGOMARSINO. Mr. Chairman, I too would like to commend the gentleman upon the statement he has made and to associate myself with his remarks. The gentleman has hit the nail right on the head. We have no more intelligence, we have no more knowledge, and we have no more expertise here in the District of Columbia in the Federal Government than do the cities, counties, and State governments. I strongly support the gentleman's views.

Mr. Chairman, I rise in support of general revenue sharing. There are few if any programs in the Federal Government which have proven as successful both in theory and in practice as the general revenue-sharing program. During its 5 year life, scheduled to end this December 31, the program will have provided $30.2 billion in sorely needed revenues to State and local governments. Reports indicate that over half the revenue-sharing funds sent to the States were used for public education. Other studies indicate that two-thirds of the money allocated to local governments and four-fifths of the funds allocated to the States, were used to cut taxes or to prevent or hold down tax increases. In other words, revenue sharing has been used to prevent cuts in essential services such as education, and to shift funding for these programs from regressive tax bases such as State and local sales and property taxes to progressive sources such as the Federal income tax.

Conceived as an ideal expression of the Federal-State theory of government, the program has operated with fewer than 100 people and a computer, and has enabled locally elected and accountable officials to set priorities according to their actual needs, rather than according to perceived Federal dictates. It is perhaps the only Federal program which has truly lived up to the expression, "no strings attached."

For these reasons, Mr. Chairman, I am gratified that we finally have before us this week, a bill to reenact this program which has proved so effective in preserving the strong heritage of local government which has been operating in America for almost two centuries. In fact, there are a number of improvements in the bill which reinforce the concept of the program and make it even more certain to reflect local needs and priorities, such as the requirement for increased citizen participation through mandatory public hearings and publication of spending proposals. Likewise, the concept of an entitlement program is a necessary feature carried over from the original program, and gives States and local governments needed assurance for planning and rational budgeting on an annual basis.

However, Mr. Chairman, I am sad to see that in drafting this bill, the full Government Operations Committee was apparently unable to resist the temptation to nibble away at the original concept in ways which could cause problems in the future. The most serious instance of this tampering was in breaching the concept of noncategorical funding, as evidenced by the earmarking of $150 million a year for "supplemental fiscal assistance" according to income level. This diversion of funds from the program—which will mean a cut of $150 million from the $6.65 billion entitlement level for this year—unfortunately does not even accomplish its stated goal. For example under this new formulation, 12 of the 20 States with the highest unemployment rates, including my own State of California, would lose money.

In my own district, which shares California's higher than average unemployment rate, Ventura County as a whole would lose over $208,000 under the new formula. Santa Barbara County loses over $100,000 from current funding levels, and San Luis Obispo County loses almost $80,000.

In fact, close scrutiny of this bill shows that half of the 46 largest cities in the Nation would lose money under this formula. Furthermore, in diverting $150 million a year from the program to provide this supplemental assistance, the full committee imposed a "cap" of $6.5 billion a year on the total program for the life of this extension. This betrays an unrealistic assumption that local and State government will not suffer from the effects of inflation over the 3¾-year life of the bill, an assumption which is certainly not warranted by any rational thought process.

There are other problems with the bill—the requirements that States submit a "plan" for modernization of local government, which can only imply that the Federal Government will then approve or disapprove such plans. How will this requirement be enforced—by an arbitrary cutoff of funds to States which fail to match some Federal bureaucrat's standards of "modernization?" Surely this is an unwarranted and unwise intrusion in the program. I add that the Federal Government is hardly in a position to lecture—or, prescribe to State and local government on modernization and efficiency.

I think the thrust of these changes is unfortunate, and hope that the full House will see fit to delete these provisions from the bill. In my own view, I feel a simple 5¾-year extension of the program, with annual increases for inflation and the moderate improvements cited above to insure full citizen input, would be the best way to proceed. Certainly, in a Bicentennial year, I can think of no better or more apt way to observe the principles of our federal form of government, than to extend this program in its cleanest form. After all, gentlemen, why tamper with success?

Mr. LEVITAS. I thank the gentleman for his remarks.

Mr. GUDE. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from Maryland.

Mr. GUDE. Mr. Chairman, I also want to commend the gentleman from Georgia on this fine statement. I certainly am one who feels we need economy and efficiency in government, as much as any other person. I know that the League of Women Voters has been very interested in an amendment directed to an examination of the structure and the efficiency of State and local governments through this legislation.

The CHAIRMAN. The time of the gentleman has expired.

Mr. HORTON. I yield 2 minutes of additional time to the gentleman from Georgia.

Mr. GUDE. If the gentleman will continue to yield to me, let me say that I think the motives of the Legaue of Women Voters are of the highest, but I think in trying to embody such a massive expensive paperwork program through a revenue sharing bill is the wrong way to go.

I understand the gentleman from Georgia is going to offer an amendment to strike that section of the bill. I am fully in support of the gentleman's amendment.

Mr. LEVITAS. I thank the gentleman from Maryland for his remarks. I do intend at the proper time to offer an amendment to strike out the so-called restructuring provision because the revenue sharing bill is not the place to raise those considerations.

Mr. HORTON. Mr. Chairman, I yield such time as he may consume to the gentleman from Tennessee (Mr. QUILLEN).

Mr. QUILLEN. Mr. Chairman, I rise in support of the Horton substitute which will be debated under the 5-minute rule.

As one of the original sponsors of revenue sharing in 1972, I fully support the program and its extension. Revenue sharing, unlike almost all other Federal programs, provides for local control of the funds, and has already proved a great success throughout the United States.

This praiseworthy experiment in creative federalism has resulted in the return of moneys to the State and local levels of government and has funded a wide variety of worthwhile and very much-needed projects.

It is absolutely essential that we provide adequate long-term funding for the extension of the revenue sharing program in order to enable State and local governments the necessary lead time to formulate longer term plans for the expenditure of these funds in their own budgets. This long-term funding is vital to the cooperative spirit of the Federal-State relationship which is the foundation of the whole general revenue sharing program, and the Congress must insure that it is provided in this extension of the program.

Mr. Chairman, we must extend and enhance the Federal revenue sharing program, and I pledge my wholehearted support in achieving this goal. The peoples' tax dollars are better spent at the local levels of government than they are by the agencies and departments in Washington.

Revenue sharing is American federalism at its best. Let us make it work even better.

Mr. HORTON. Mr. Chairman, I yield 5 minutes to the gentleman from Ohio (Mr. BROWN).

Mr. BROWN of Ohio. Mr. Chairman, we have in revenue sharing perhaps one of the most efficient operations ever undertaken in Washington to insure that money raised from the taxpayer is spent effectively in the interests of all taxpayers. Most of the programs that we originate here in Washington are favorites of the individual Members or of the committees from which they spring, and one must have certain qualifications to receive those funds. We have had a phenomenal growth over the last 3 years in transfer payments, that is, payments of funds to individual citizens based on some peculiar qualification which the citizen has. He is aged; he is in some way infirm; he has some handicap. He has certain racial characteristics. He has certain income limitations, and we give him money on that basis. We give it to institutions because the institution has a certain program of which we approve, or we give it to units of government so they will undertake certain social programs that we think are best.

All of this, unfortunately, relates to what we think is good in most instances for our own local community, but when we make some national application of it, it creates considerable difficulty of administration.

The reason that the mayors and the supervisors and the county commissioners and the Governors and the township trustees and the members of the various general unit of local governing bodies support revenue sharing is because they make the determination of the priorities in their community that need taxpayer support. The other reason they support it so strongly is that it eliminates redtape. They do not have to file these mounds of paper. They do not have to have engineering studies done. They do not have to waste the taxpayers' money filling out some Federal form about individual information that we think may be appropriate to their getting back the money that the people of their constituency have paid to the U.S. tax collector. All they must do is announce to the public what they are spending the money on, and give the local citizens opportunity to have some input in making that decision, and then spend the money.

I had one of my small communities tell me that they had used their revenue sharing funds to buy a police cruiser. I said, "Why in the world did you do that? You could have received LEAA funds for that."

They said, "Congressman, do you have any idea how many months it would have taken us to get the forms filled out and all of that work done? The cost would have been twice what it would be if we had gone down to the local automobile dealer and bought our police cruiser with the revenue sharing funds."

They saved the taxpayer a good deal of money. This is the beauty of the revenue sharing program. I represent a constituency which is essentially small cities, small towns, a rural area but suburban to some metropolitan centers, too. I have townships in my district that range in population from 50,000 down to a little over 500. Those townships provide police, fire protection, and recreation. They care for the highways. They undertake zoning, and they operate cemeteries. They have three township trustees who are the total elective organization in that particular township. Frequently in the smaller townships these people are also the staff that does the work, clearing the snow off the highways.

They deserve revenue sharing just as much as metropolitan areas deserve to share in the largess of the American taxpayer, because they also have problems, and they frequently address those problems much more efficiently than do some of the metropolitan centers that have massive staffs to supervise the people who actually do the work on behalf of the elected politicians.

Mr. Chairman, in conclusion let me just say that we have in the full committee version of this legislation what I consider to be an attempt to kill the legislation by hanging undesirable provisions on it. Many of those people who opposed revenue sharing felt they could not beat it by attacking it directly, so they decided they were going to sink it by putting a lot of things in it that are undesirable, in other words, an anchor around its neck.

I hope we can beat any of those amendments added by the full committee and stick with the subcommittee version of this legislation. It addresses the problem of civil rights effectively. It addresses the problem of reporting effectively. I wish in personal preference that it had gone to 5¾ years rather than 3¾ years, but I feel strongly that the subcommittee version of this legislation deserves to be passed by this body.

We will get the support of the local governments around this country if we stick with the subcommittee version.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. BROWN) has expired.

Mr. HORTON. Mr. Chairman, I yield 1 additional minute to the gentleman from Ohio (Mr. BROWN).

Mr. ESCH. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from Michigan.

Mr. ESCH. I appreciate the gentleman's yielding. I want to commend him on his statement.

Mr. Chairman, I am very pleased to support the passage of revenue sharing legislation today. I believe it has been one of the most successful programs which our Government has undertaken in many years.

Throughout my congressional career I have often taken surveys of my constituents and of specific groups throughout the State on issues pending before the Congress. Recently, I have held meetings with scores of county, city, and township officials in my own State of Michigan and have written to hundreds of local officials throughout the State on the question of revenue sharing. Never in all my years of surveying Michigan opinion have I found an issue on which there is such great agreement—without exception every official felt that revenue sharing has been an important and workable program which has provided greatly needed services for the citizens and has either lowered taxes or kept them from increasing to the extent that they would have had revenue sharing not been in place.

Mr. Chairman, I first introduced a revenue sharing proposal in 1967 during my first term in Congress. I argued at that time that those governments closest to the people were best able to understand and meet the needs of the people. Though the original revenue sharing proposal was amended frequently during the congressional process, its primary emphasis remained—allowing local officials to judge what problems were the most urgent in their own communities.

Responses from around Michigan indicate clearly that communities did make that kind of judgment call.

In fiscal year 1974 the State of Michigan and all the units within were given $256,$32,447 in revenue-sharing moneys. Of this amount, $254,786,410 was spent, 99 percent of the total received. The State government used its entire amount, 34 percent of the total, for the operation and maintenance of education programs within the State. The local units used theirs in greatest proportion for public safety, 25 percent; capital expenditures, 8 percent; and public transportation, 6 percent. While most universally some revenue-sharing funds went into these areas they were often used for much more specific purposes. In Washtenaw County the entire county library system was funded by revenue sharing. Erie Township realized that 25-year-old fire equipment was endangering public safety and was able to purchase new, modern equipment. Berlin Township has had great difficulty in paying sewer debts, and is using part of its revenue-sharing funds to pay for operation of the plant and keep down the user charges which could have caused great hardship to lower income families.

I use these illustrations to indicate that the most urgent needs in different communities are widely varying and that the local officials on the scene are the ones most able to make the decision as to what is most important. Revenue sharing is a program which has allowed that flexibility.

I am convinced that flexibility is essential and I shall strongly work to retain that flexibility in the bill tomorrow. In my judgment the voters have been sending a message to Washington through the primaries. That message is that they want the maximum of freedom and the minimum of Federal bureaucratic involvement. We should heed that message.

Mr. BROOKS. Mr. Chairman, I yield 2 minutes to the gentleman from Oklahoma (Mr. JONES).

Mr. JONES of Oklahoma. Mr. Chairman, I appreciate the chairman yielding and I take this time to explain the three amendments which I will offer to the bill H.R. 13367, the general revenue sharing bill.

The first amendment will extend revenue sharing for 21 months instead of the 45 months voted by the committee. The reason for this is to give Members of the 95th Congress an opportunity to review the program in the same manner Congress does for most other Federal programs. During my two terms in Congress, more than $30 billion of revenue sharing was spent and this is the first opportunity I have had to cast a vote on the program.

The second amendment requires that beginning in fiscal year 1978 revenue sharing shall be suspended unless these funds are included as part of a balanced or surplus budget. In simple terms, we either should have the revenue to share, or we should change the title of the program to "Debt Sharing." Each of us will be asked this year what we have done to bring about a balanced budget. This is our opportunity to cast a vote for fiscal responsibility.

The third amendment I will offer will eliminate State governments as recipients of general revenue sharing. This measure will save $2 billion from next year's deficit. Most States are solvent and in fact have surplus budgets. I do not think it makes any sense for the Federal Government to pay $6 billion in interest on the $30 billion to send to the States that already have surplus budgets.

I do want to commend the committee for improving this bill in a number of respects, for example in removing the restriction from local governments as far as their being able to obligate funds for education, and for improving the civil rights section, and for improving citizen participation.

But, Mr. Chairman, I do think this bill deserves very close scrutiny. In its present form I certainly cannot support it. I hope the Members will give full consideration to the amendments I will offer tomorrow.

Mr. HORTON. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Maryland (Mrs. HOLT).

Mrs. HOLT. Mr. Chairman, the program of general revenue sharing was instituted to give additional funds to State and local governments. Prior to revenue sharing, these governments had to adapt their programs to fit the narrow boundaries of categorical grants. The entire concept of revenue-sharing was to untie the hands of State and local authorities and give them the ability to develop a program of diversity that would serve the local people better.

When I read the committee report on H.R. 13367, I was surprised and disappointed to see the hand of Federal dictation of local policy inserted into the extension of general revenue sharing.

In noting this change, I commented in an Extension of Remarks that "most State and local governments are models of efficiency and usefulness compared with the huge, lumbering bureaucratic monstrosity that has been created in Washington."

It is encouraging to see that this is precisely the position which has been advocated by the Maryland Municipal League, the National Association of Counties, and the National League of Cities. The Maryland Municipal League calls attention to the following provisions of H.R. 13367 to which they object: Entitlement financing, the Fascell formula for doling out supplemental aid, the Rosenthal amendment requiring modernization of State and local units, and the Jordan amendment on nondiscrimination. To this, I would add my objection to a provision which would require Davis-Bacon coverage in all construction done, in whole or in part with revenue sharing funds. This would restrict the freedom of local governments to grant construction contracts as well as raising the cost and virtually driving out small business firms from competition.

The National Association of Counties, as I have pointed out before, shows that counties and jurisdictions in my district alone would lose $235,688 in funding under the Fascell formula for supplemental assistance. They urge opposition to amendments which would further restrict the revenue sharing program.

Finally, Mr. Chairman, the National League of Cities urges opposition to amendments which would further restrict or categorize the revenue sharing program.

Mr. Chairman, it is disappointing that the Government Operations Committee has threatened revenue sharing by attaching these riders, especially the Rosenthal amendment which in my view would destroy the federal system. It is also sad that funding is being recalculated over the level of $6.5 billion by the Fascell formula.

What is encouraging is that I can join with the National Association of Counties, the Maryland Municipal League, and the National League of Cities in trying to restore revenue sharing to effectiveness and respectability before Congress weakens a basically sound program.

Mr. HORTON. Mr. Chairman, I yield 5 minutes to the gentleman from Texas (Mr. PAUL).

Mr. PAUL. Mr. Chairman, I rise in opposition to the revenue sharing bill.

Mr. Chairman, perhaps it would be best if I began my list of reasons for opposing this extension of the 1972 revenue sharing bill with its title.

For 15 of the last 17 years, this Government has seen a deficit. This year the deficit will be $72 billion, the largest in history. The total obligations of this Government probably exceeds $6 trillion. Obviously, it has no revenue to share. The anticipated budget surpluses which were to be distributed under the revenue sharing program have never materialized, and they will never materialize if the Congress enacts this bill.

My second reason for opposing this 3¾ year, $25 billion extension of the 1972 act is its method of appropriation. These funds will not be appropriated annually by this Congress; what we do here today will obligate the Federal Government until September 1980. Already, we are told that 75 percent of the budget consists of "uncontrollable" expenditures. Now, they are not really uncontrollable: If this Congress wants to begin to control spending, it can do so here by refusing to obligate expenditures for the next 3¾ years.

Another important reason for opposing this extension of the 1972 act is that the same formulas for distribution of the revenue sharing funds are retained. These formulas, because they include what is euphemistically called a "general tax effort" factor, actually reward State and local governments with Federal money if they tax their citizens heavily, and the heavier the taxation, the more Federal money they get. I, for one, believe that not only are Federal taxes too high, but that State and local taxes are also. I find it outrageous that the distribution of Federal tax moneys should be made in such a way as to encourage heavy State and local taxation.

A fourth reason that I oppose this extension of the 1972 Revenue Sharing Act is that it requires each State government to continue to assist all units of general local governments within the State to the same extent as it did in 1971, prior to the enactment of the 1972 act. To the extent that a State government reduces its aid to and control over local governments, the Revenue Sharing Act imposes a fiscal penalty on the State government by reducing the amount of money it receives under the program. The revenue sharing program thus insures that there will be no decentralization of government within each State.

Decentralization of government was, of course, one of the major reasons given for passing the original 1972 Revenue Sharing Act. At that time a majority in Congress did not accept the argument that Federal aid necessarily involves Federal control. Even in the 1972 act, there were elements of Federal control over State and local governments, but the controls were minimal so as to induce the State and local governments to become dependent on the Federal aid. Now, in this bill, the Federal control becomes more blatant and overbearing. The sponsors of this bill apparently feel that now that the State and local governments are hooked, it is time to begin to impose the Federal controls. Therefore, they have included auditing requirements that say that all the financial operations of recipient governments must be audited by federally approved methods, not just those operations funded by Federal money. This is a very long step toward imposing the kind of Federal control on all State and local governments that the city of New York is beginning to experience as a result of its receiving Federal aid.

Yet another reason why I must vote against this bill is that it extends the applicability of the Davis-Bacon Act to all construction projects funded in whole or in part by revenue sharing money and all temporary employees of recipient government. Under the present act, there is a provision that the Davis-Bacon provisions apply only to construction projects funded to the extent of 15 percent or more by revenues shared, but that minimum requirement is removed in this bill. This is yet another example of the Federal Government telling the State and local governments what they must do. The General Accounting Office has estimated that the extended application of the Davis-Bacon requirements will raise construction costs 5 to 15 percent, making the State and local governments more dependent on the Federal funds, or more desirous of heavier taxation.

Another major reason for opposing this bill is the fact that it includes a requirement that each State submit to the Secretary of the Treasury an annual report describing steps taken to achieve the goal set in the bill of "modernizing and revitalizing" State and local governments. The Treasury, in turn, is required to report annually to the Congress on the progress made by each State in the development and implementation of the State's plan and timetable. If any provision of the bill could make clear that the revenue sharing bill is an attack on the federal system, this is that provision. The reorganization of 39,000 State and local governments is to come under the purview of the Federal Government. If enacted, this requirement will be a long step toward completing the subjugation of all State and local governments as independent entities, and their transformation into arms of an omnipotent central government.

This bill is a most dangerous bill: it is inflationary, mandating the expenditure of funds this Government does not have; it is fiscally irresponsible, creating $25 billion of uncontrollable spending over the next 3¾ years: It is unconstitutional, mandating the reorganization of State and local governments under the direction of a central government desirous of extending its control over every aspect of life in America. Any illusion that revenue sharing is a program designed to decentralize government ought to be dispelled by now, for passage of this bill will sound the death knell for our American system of government. I will not participate in this hoax on the American people. Time is nearing when our huge debt will need to be paid.

Mr. BROOKS. Mr. Chairman, I yield 5 minutes to the gentleman from Indiana (Mr. SHARP).

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield so that I may ask a question?

Mr. SHARP. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Chairman, I wonder if the distinguished chairman of the Committee on Government Operations could answer an interpretive question.

On page 40 of the bill, paragraph (C) says:

> "(C) SUSPENSION UPON ACTION BY ATTORNEY GENERAL.—Whenever the Attorney General files a civil action alleging a pattern or practice of discriminatory conduct on the basis of race, color, religion, sex, national origin, age, or handicapped status in any program or activity of a State government or unit of local government, which State government or unit of local government receives funds made available under subtitle A or D, and neither party within 45 days after such filing has been granted such preliminary relief with regard to the suspension or payment of funds as may be otherwise available by law, the Secretary shall suspend further payment of any funds under subtitles A and D to that State government or that unit of local government until such time as the court orders resumption of payment.

As I read that, it says that there will be no suspension of payment until either 45 days have elapsed or preliminary relief has been granted within the 45 days. However, some people have interpreted this as meaning that there will be a suspension immediately unless and until preliminary relief has been granted. I take it that the second interpretation is not correct and that the first one I mentioned is.

Mr. BROOKS. The first one is correct. The second one, that they would be suspended, is erroneous. On page 39 of the committee bill, the gentleman will note that suspension after notice is only 90 days after notification, and they have adequate time to clarify their situation. There is no immediate suspension provided for in this bill whatsoever.

Mr. SEIBERLING. I understand. However, paragraph (C) on page 40 is the one as to which my question relates.

I thank the gentleman.

Mr. DRINAN. Mr. Chairman, will the gentleman yield?

Mr. SHARP. I yield to the gentleman from Massachusetts.

Mr. DRINAN. Mr. Chairman, I am pleased to rise in support of H.R. 13367 as reported by the Committee on Government Operations. As a member of the Subcommittee on Intergovernmental Relations and Human Resources, I participated in the extensive hearings which documented both the accomplishments and deficiencies of the multibillion-dollar general revenue sharing program.

While State and local officials who receive revenue sharing funds uniformly praised the program and urged its continuation without change, other witnesses addressed the program's shortcomings in the areas of citizen participation, civil rights enforcement, accountability, and equitability of allocation. These criticisms by public witnesses were buttressed by a series of reports by the GAO, the Advisory Commission on Intergovernmental Relations, the U.S. Civil Rights Commission, the Judiciary Subcommittee on Civil and Constitutional Rights, and the National Science Foundation. The committee met its legislative responsibility by approving a bill which remedies these defects while retaining the fundamental principles of the revenue sharing program.

Since efforts will be made tomorrow to weaken the full committee bill, I believe it would be worthwhile to review briefly the key reform provisions adopted by the committee. Everyone agrees that effective citizen involvement in the decisionmaking process is fundamental to the revenue sharing concept. Yet, according to the General Accounting Office and a large number of public witnesses, citizen participation under the existing act is generally sparse and ineffective. While elected officials must ultimately decide how revenue sharing funds are to be spent, all citizens should be able to advise their officials and make suggestions in a timely manner. The new hearing requirements adopted by the committee will insure that all interested citizens are informed and able to participate early in the decisionmaking process. While I would prefer to see the establishment of a special vehicle for citizen participation in large municipalities with complex budgets, the provisions approved by the committee will greatly enhance citizen involvement. Effective citizen participation is particularly crucial in light of the committee's decision to eliminate priority spending categories and other general limitations on the use of revenue sharing funds.

The elimination of the categories along with strong evidence from the GAO that current reports on the use of revenue sharing funds are illusory and devoid of meaning prompted the committee to strengthen reporting requirements and auditing standards in order to increase the accountability of recipient governments in their expenditure of these Federal funds. Specifically, the committee followed a GAO recommendation that future reports on the use of revenue sharing funds relate revenue sharing dollars to the entire local budget and reflect the actual fiscal impact of the revenue sharing funds. In the area of auditing standards, the committee added the key requirement that annual audits be conducted independently and that audit reports be made available to the public. These provisions, along with a comprehensive annual report to Congress to be prepared by the Secretary of the Treasury on the overall operation of the program, should greatly enhance both local accountability and congressional oversight of this massive program.

In the area of civil rights, the subcommittee's hearing record was replete with evidence that the act's nondiscrimination requirement has gone virtually unenforced. That conclusion was confirmed by oversight hearings on the civil rights aspects of revenue sharing held by the Judiciary Subcommittee on Civil and Constitutional Rights. A report issued by the GAO on June 2, 1976, also advocates immediate and decisive action to halt the discriminatory use of revenue sharing funds.

A great deal of misinformation has been circulated concerning the nondiscrimination provision adopted by the committee. In reality, this provision is simply designed to provide for the effective enforcement of the prohibition on the discriminatory use of revenue sharing funds contained in the existing act. Under the committee bill, local governments will no longer be able to evade civil rights compliance through slick accounting manuevers. Revenue sharing recipients will no longer be able to continue discriminatory practices without suffering the suspension of their revenue sharing funds. Rather, Americans will be assured that the Federal Government is taking steps to enforce the law and the Constitution by protecting the civil rights of all citizens. While I would have preferred a stronger civil rights section than that approved by the committee, I believe we have formulated a workable plan for the effective protection of civil rights. Any weakening of the carefully drafted civil rights section would be a disaster for blacks, women, the elderly, and all other victims of discrimination throughout the United States.

Two other key provisions added by the committee were: First, the establishment of a supplemental $150 million pot to be distributed according to a formula placing greater weight on need; and second, a section encouraging States to develop comprehensive plans to revitalize and modernize State and local government. Both of these provisions have received some unwarranted criticism during the past few days. The supplemental formula provision will not result in any community's receiving less revenue sharing funds in 1977 than it receives during 1976. This supplemental pot will, however, channel additional funds to hard-pressed inner cities and poor rural areas. I believe that the inclusion of this alternative formula in the bill will give Congress a better basis for deciding whether the primary allocation formula should be retained or modified when this act next comes up for renewal in 1980.

The Government revitalization section can trace its origins to the pioneering revenue sharing bill introduced by Congressman HENRY REUSS and Senator HUBERT HUMPHREY well before the enactment of the State and local Fiscal Assistance Act of 1972. Unlike that bill, which required the submission and approval of a modernization plan as a prerequisite for receiving revenue sharing funds, the committee provision merely requires that each State submit an annual report on the status of Government modernization to the Office of Revenue Sharing. That reporting requirement is hardly an onerous one. It represents an effort by the Federal Government to encourage, but not require, States to make their governments more efficient and more responsive to the needs of their citizens. I hope that this provision is retained on the floor.

One of my chief objections to the committee bill is the establishment of an entitlement funding mechanism which effectively insulates this program from the congressional budgetary process for the next 3¾ years. While the Department of Defense, the Office of Education, and other essential agencies have to stand in line to compete with other priorities to secure appropriations, revenue sharing funds will continue to flow on a guaranteed, uncontrolled basis. The misuse of the entitlement mechanism in this fashion would be regrettable and fiscally irresponsible. I urge the House to heed the words of the distinguished chairmen of the Government Operations, Appropriations, and Budget Committees by agreeing upon a mechanism for funding the revenue sharing program which does not violate basic principles of accountability and fiscal responsibility.

In conclusion, Mr. Chairman, the committee has reported out a good bill which merits the support of the House. Throughout its deliberations on ths subject, the committee has been subjected to intense pressure by lobbyists representing State and local officials to ignore the program's deficiencies and extend the general revenue sharing program without change. I am proud to say that the committee successfully withstood that challenge and met its responsibility to report out the best possible bill. Outside pressure on this measure is now being felt by all Members. I am well aware that attempts will be made to undo the committee's work and pass a bill which fails to address the pressing need to improve the program. I hope that the House will have the courage to resist those pressures and carry out its duty to remedy the program's flaws by approving the committee bill before it.

Mr. SHARP. Mr. Chairman, earlier this year, upon learning of an inequity in the present revenue sharing law which adversely affects some communities in my district, I introduced a bill to amend the Revenue Sharing Act by including payments from municipal utilities in the "local tax effort" factor of the revenue sharing allocation formula. This amendment would eliminate a major inequity in the formula which results from counting taxes paid by private utilities but excluding payments to municipalities by publicly owned utilities.

Among the possible problems with including payments by municipal utilities are two which I believe the amendment surmounts. One is the danger that the incentive of additional revenue sharing funds would lead municipalities to increase their electric rates to an unreasonable level merely to increase profits transfers. Since this would clearly be a regressive form of taxation, my amendment would limit the amount of payments which would receive credit in the revenue sharing formula to 8 percent of the utility's revenues.

A second potential problem, or inequity, is that many municipal utilities serve customers outside the boundaries of their municipality. To avoid giving a municipality credit for revenue raised from nonresidents, the amendment limits the payments which would receive credit for revenue sharing purposes to a percentage equal to the percentage of the utility's revenues received from customers located in the municipality.

There are additional questions about my amendment, however, for which I do not have easy answers, and it is my understanding that these questions led the Intergovernment Relations and Human Resources Subcommittee not to accept this proposal.

These questions arise from the lack of available data on the magnitude of utility payments to municipal governments and the lack of standard accounting practices for these utilities. Without knowing the overall size of such payments, the subcommittee could not know exactly how much or to whom the amendment would change the actual allocation of funds. Without universally accepted accounting practices, there was some doubt that the Census Bureau could provide the Office of Revenue Sharing with accurate data on utility payments from the municipalities.

Mr. FOUNTAIN. The gentleman's assumption is correct. The subcommittee considered a similar proposal involving user charges and found that it would have meant major realloactions of revenue-sharing funds. This would have meant major losses for some communities or a large additional appropriation to allow a hold harmless provision for these communities. Data were not available to conduct a similar analysis of the change the gentleman from Indiana is proposing.

Regarding the auditing or accounting difficulties, the Census Bureau responded to a similar proposal from the General Accounting Office in 1975 by saying that the Bureau could collect these data using the normal operating procedures but that it would have a difficult time of verifying and monitoring the correctness of the responses.

Mr. SHARP. It is my understanding that about 25 percent of the municipal electric utilities in the country report voluntarily to the Federal Power Commission, and that a large majority of these utilities use the FPC Uniform System of Accounts. Moreover, I understand that those reporting and using the Uniform System of Accounts include most of the larger municipal utilities in the country. I wonder if it would be possible for the Census Bureau as part of its current revenue survey to request data on utility payments to municipalities in the format of the FPC Uniform System of Accounts. Those municipalities whose utilities are already using this accounting procedure would find it easy to provide the information, and the prospect of a fairer deal in the allocation of revenue sharing funds would create an incentive for other municipalities to comply voluntarily. In the initial request for information, the Census Bureau could indicate that current methods of accounting would be acceptable. This would give the Congress and others a chance to analyze the impact of my proposal. Does the chairman think his subcommittee would be willing to make such a request of the Census Bureau?

Mr. FOUNTAIN. I believe we would certainly be willing to discuss further with the Census Bureau, and perhaps with the FPC and others knowledgeable about accounting procedures, whether it is feasible to gather data for an analysis of the gentleman's proposal.

Mr. SHARP. I thank the Chairman. I believe that the availability of this information would make it possible for the House to give more informed consideration to this proposal, so I will not offer it as an amendment at this time.

The CHAIRMAN. The Chair will advise the committee that at this point the gentleman from Texas (Mr. BROOKS) has 19 minutes remaining, and the gentleman from New York (Mr. HORTON) has 20 minutes remaining.

Mr. HORTON. Mr. Chairman, I yield such time as he may consume to the gentleman from Ohio (Mr. WHALEN).

Mr. WHALEN. Mr. Chairman, one of the most important issues facing the Congress this session is the renewal of Federal revenue sharing. On April 10, I held a hearing in Dayton, Ohio on the impact of the general revenue sharing program upon political subdivisions in the Third Congressional District of Ohio.

After receiving testimony from local government spokesmen, I concluded that the failure of Congress to extend revenue sharing would prove disastrous for the units which they represented. Today, as the House considers H.R. 13367 and H.R. 14000, I would like to share with my colleagues my observations on general revenue sharing based upon the experiences of recipients in my district.

I. BACKGROUND

In the early 1960's, Walter Heller and other economists observed that as the economy expanded, there was a proportionally greater growth in Federal revenues. This led to the conclusion that, in time, Federal revenues would be excessive in relation to needs. The question, then, was one of what to do with these mounting Federal tax receipts.

The solution that I and others recommended was for the Federal Government to share these excess funds with the States and local governments. In 1966, I cited three reasons why the Federal Government should initiate a program of revenue sharing:

First, personal income and corporate profits, as a source of public revenues, largely have been preempted by the Federal Government.

Second, as a consequence, State and local tax receipts have not kept pace with the demands for services at those levels of government.

Third, there are certain problems which are unique to a particular State or community and, therefore, State and local, rather than Federal, officials are best able to identify these peculiar needs.

On February 4, 1971, President Nixon forwarded to Congress his message on general revenue sharing. His arguments for adopting this plan paralleled those which I advanced in 1966 in support of this theory. In setting forth his proposal, the President made it clear that the plan would be financed by "new" money at the rate of 1.3 percent of the expanding taxable personal income resulting from the growing economy. He noted:

> The specific appropriations level I am recommending is 1.3 percent of taxable personal income; this would mean a General Revenue Sharing program of approximately $5 billion during the first full year of operation, a sum which would rise automatically to $10 billion by 1980. All of this would be *"new money*—taken from the increase in our revenues which would result from a growing economy. It would not require new taxes *nor would it be transferred from existing programs*." (Emphasis mine).

The President's proposals were incorporated in the State and Local Fiscal Assistance Act of 1972 (Public Law 92-512). This legislation provided $30.2 billion in permanent appropriations for distribution to State and local government units for the 5-year period from January 1, 1972 to December 31, 1976. These funds—which have been disbursed automatically without necessitating annual congressional appropriations—have been distributed on a quarterly basis by the Department of the Treasury to 39,000 State and government units. The Office of Revenue Sharing within the Department of the Treasury presently is preparing to open the Seventh Entitlement Period under the 1972 Act. Under the entitlement period, which will begin on July 1, 1976, and extend through December 31, 1976, approximately $3.325 billion will be allocated.

Under the current Act, the last payment will be made in January 1977. Thus, whether to renew the General Revenue Sharing program is one of the most important questions confronting the Second Session of the 94th Congress.

II. IMPACT OF GENERAL REVENUE SHARING ON THE THIRD CONGRESSIONAL DISTRICT OF OHIO

Against the backdrop of the Subcommittee's action on Revenue Sharing legislation, I convened a hearing on the program's effect upon local governmental units within the Third Congressional District of Ohio. Fourteen witnesses appeared at the session I held on April 10 in Dayton, Ohio. They testified at my request to help familiarize me with the value and application of Revenue Sharing funds at the local level.

In seeking the advice and input of the invited witnesses, I asked those who testified to comment upon four key questions:

> Question 1: How much did the jurisdictions receive in General Revenue Sharing funds? What were the annual entitlements?

According to the Office of Revenue Sharing, as of January 1976, $29,730,128 had been paid to political subdivisions within my District. Projected payments through December 1976, are $8,432,800, for an estimated total under the present Revenue Sharing program of $38,162,928. These figures approximate those which local government officials provided me at the hearing.

> Question 2: How have General Revenue allocations been used? Since General Revenue Sharing funds were supposed to represent "new money," have they resulted in any new initiatives in the jurisdictions? If so, what were these efforts?

As I noted earlier, President Nixon first recommended an appropriation level for Revenue Sharing funds of 1.3 percent of taxable personal income. The funds involved would represent new money from the expansion of revenues from a growing economy. These extra revenues were to underwrite and encourage local community undertakings which otherwise would not have been possible.

From the testimony I received, I have concluded that this original goal of revenue sharing is being achieved only by the smaller political subdivisions. The larger cities are being forced to use revenue sharing money to sustain existing programs in the face of cutbacks in categorical funding and the ravages of inflation.

Commissioner Charles V. Simms of Montgomery County stated:

> Citizen demand for county services, coupled with the effect of rising inflation has cast critical financial pressure upon the county. This situation in 1976 has culminated in severe budget cuts, totaling a $1,000,000 reduction, with a lay-off of 90 County employees. Cancellation of revenue sharing would cause further lay-offs.

Montgomery County Commissioner Charles Lewis pointed out that Federal revenue sharing funds represent approximately 8 percent of the county's total financial resources. Significantly, he noted that all of the fiscal year 1977 revenue sharing money will be used for general operating purposes. In the absence of an adequate tax base, there is no other source of funds to continue the services involved.

The testimony submitted by Paul R. Woodie, director of the Office of Management and Budget of the Dayton City Manager's office, underscored the points made by the Montgomery County Commissioners:

> Without the extension of General Revenue Sharing, the City of Dayton's five-year plan for the continuation of just the present level of service will suffer a short-fall of over $23 million by 1980. Since local governments within the State of Ohio cannot operate within a deficit, this short-fall will require a substantial reduction in basic municipal services. Even with the reenactment of General Revenue Sharing at its present appropriation, the City of Dayton will sustain a 4.2 million dollar deficit in 1980. We have already begun efforts to adjust our expenditures to avoid the latter potential deficit through streamlining and technology improvements. Without General Revenue Sharing, these efforts are fruitless.

Thus, in the larger political subdivisions which receive the bulk of revenue sharing moneys, these funds are being pressed into service to sustain existing basic service programs rather than to create new programs.

In contrast, the small local government units which receive the lowest amounts of revenue sharing funds have tended to use the extra revenue as "seed money" to finance new ventures and expand services.

While Randolph Township used some of its revenue sharing funds for road maintenance, much of the money was used to start up a police force. Levy funding later supplemented the revenue sharing dollars to continue police protection.

Harrison Township has utilized revenue sharing money to purchase new capital equipment for safety and recreational purposes, and the village of Union has allocated some of its revenue sharing funds to purchase a police cruiser and perform preventative maintenance on its sewer system.

Butler Township purchased an emergency vehicle and used GRS money in conjunction with a parks and recreation building, a youth center, and water and sewage lines. Although the village of Clayton receives only approximately $2,000 per year in Federal revenue sharing money, Mayor Donald Hutchinson noted:

> This money has given us the ability to have a feasibility study for a sewage system. Also, when added to by some general fund money, it allowed us to explore and start the necessary steps to construct a new community building. Neither of the two would have been possible without revenue sharing funds.

The original purpose of revenue sharing thus seems to be more closely fulfilled by the smaller political subdivisions. While general revenue sharing funds have tended to be absorbed more for general operating functions in the larger units of local government, the comments of Mayor John L. Watson of the city of Englewood are representative of all those who testified at the hearing:

> Since local government expenditure needs continue to increase; since local government revenue sources are not adequately responsive to changing economic situations; and since local government resources from taxation are under strict regulation by state constitutions and laws, the dependable long-term support of General Revenue Sharing is important to the continuance of effective local government.

> Question 3: In these jurisdictions did the Federal government "giveth with the one hand and taketh away with the other?" Specifically, how did the level of categorical funding which they now receive compare to that obtained at the time Revenue Sharing commenced?

The testimony revealed that the larger local jurisdictions have suffered substantial reductions in categorical grants received from the Federal Government. Rather than funding new programs, revenue sharing moneys very frequently have been diverted to continue the old ones. Mayor Vic Green of the city of Centerville stated the problem this way:

> While the funding for a large number of categorical grants is being greatly reduced and eliminated, the savings in dollars has not been channeled to local governments. On the one hand Federal funding sources are drying up while Revenue Sharing dollars are remaining constant, and on the other hand, cities are being hit on all sides by calls to use Federal Revenue Sharing funds to replace those lost revenues. If that is the intent, the dollar flow must be made comparable, so that the programs begun with categorical grants can be maintained.

The impact of cutbacks in categorical grant programs was set forth by city of Dayton budget chief Paul Woodie:

> The question of the future of Revenue Sharing comes at a time when other sources of Federal assistance have been reduced. In 1973, the City of Dayton received through categorical grants approximately $17.3 million. In 1976, we will receive less than $12 million. With step-down funding of LEAA and Community Development Block Grant, it will be difficult for the City to sustain even the most successful Federally-assisted programs.

The smaller local governmental units are not as seriously affected by this problem, since most do not receive significant categorical grants. Nevertheless, witnesses from these jurisdictions stated that they have been requested to contribute a greater percentage to area-wide programs which have sustained reductions.

> Question 4: Many supported General Revenue Sharing on the premise that it would generate greater citizen involvement in local government. What procedures have the greater citizen involvement in local government. What procedures have the jurisdictions used in determining the distribution of their General Revenue Sharing receipts? To what extent has the public been involved in these deliberations?

The testimony I received indicated that revenue sharing funds have become an integral part of the budgets of the local government units. Therefore, separate treatment of this money and special hearings to determine its best use usually did not occur. As Mayor Charles F. Horn of the city of Kettering put it:

> We believe that public hearings on Revenue Sharing expenditures should be conducted as a part of the normal budget process of recipient governments. Revenue Sharing is, after all, an integral part of such budgets and should be viewed in the context of the whole and not as a thing apart.

This judgment was echoed by city of Dayton spokesman Paul R. Woodie. He suggested that local officials, in determining the level of total expenditures, must consider income from all sources—of which revenue sharing funds are one—in arriving at that figure. Under these circumstances it would be purely "gamesmanship" to require these authorities to enumerate which specific fund source would support which specific governmental service. As Mr. Woodie put it, general revenue sharing funds can be allocated "in any way that you want."

As far as the smaller jurisdictions are concerned, the testimony submitted by Township Trustee President George E. Orsi of Randolph Township was typical:

> Randolph Township Trustees encourage citizen participation by encouraging public attendance at Trustee meetings, the publishing of meeting activity in our local papers, and the publishing of Revenue Sharing Fund Planned Use and Actual Use Reports.

III. SUMMARY OF FINDINGS

First, the economic principle upon which revenue sharing is predicated was sustained during the past 5 years. Notwithstanding the recession and congressional tax cuts, since 1971 individual tax receipts have grown by 1.2 percent for each 1 percent increase in the Nation's gross national product.

Second, despite this fact, the committee has failed to heed President Nixon's original recommendation that the annual level of general revenue sharing be set at 1.3 percent of individual income tax collected.

Third, the original purpose of revenue sharing generally is not being met. Few, if any, new programs are being created with the funds in the larger political subdivisions of local government. Revenue sharing funds do not represent the "new money" anticipated by President Nixon, but rather, "less than replacement money for old programs." This has been caused by cutbacks in categorical grant programs and the fact that day-to-day operating costs have grown faster than local sources of revenue.

Fourth, revenue sharing funds have become an integral part of the operating budgets of local governments. Were revenue sharing to be discontinued, it generally would not be new, innovative programs that would be dropped; rather, it would be basic governmental services.

Fifth, since revenue sharing funds really no longer represent "extra" money, a special set of public hearings to determine how the funds should be used really is not necessary and often could create public confusion. Citizen participation is better directed to the overall budget determining process—of which revenue sharing funds constitute a part.

Sixth, in addition to the concern expressed regarding the deterioration of local services in the event Congress fails to continue general revenue sharing, witnesses cited several other arguments in behalf of the program's retention, including what Thomas Andrews, chairman of the revenue sharing task force of the U.S. Chamber of Commerce, termed its "low overhead," its lack of red tape, and its flexibility of application.

IV. CONCLUSIONS

First, I will vote for an extension of general revenue sharing. Failure to enact an extension of revenue sharing this year would create a serious fiscal crisis for State and local governments.

Second, while I would prefer that the original "1.3 percent of taxable personal income" formula be retained, in view of the projected Federal deficit for fiscal year 1977, I believe it is impractical to think in terms of an annual figure higher than that recommended by the committee. Thus, I support the $6.65 billion yearly entitlement contained in H.R. 13367 and H.R. 14000.

Third, I also endorse the committee's decision to treat revenue sharing as an entitlement, rather than subject it to the annual appropriations process. The assurance of a continued funding level permits more effective planning on the part of State and local governments.

Fourth, to insure program continuity and to further enhance this planning process, I would support an amendment providing for a 5¾-year extension—rather than the 3¾ years proposed by the committee.

Fifth, the day for special public hearings on the proposed use of revenue sharing funds is long past. While inclusion of such a provision in H.R. 13367, therefore, is meaningless, I shall make no effort to secure its deletion. Allowing for this requirement to remain intact should salve congressional consciences.

Mr. HORTON. Mr. Chairman, I yield 1 minute to the gentleman from Iowa (Mr. GRASSLEY).

Mr. GRASSLEY. Mr. Chairman, at this point I would like to take the opportunity to briefly express my view as to what this revenue sharing program was originally supposed to accomplish. Further, what the future direction of Federal revenue sharing should be.

Initially revenue sharing was to return to the States and the people a portion of the money which was taken from them by way of Federal taxation. Admittedly, the sum to be returned was small in comparison to what moneys flowed into Washington. Citizens at the local and State level could then determine how the revenue sharing funds should be spent. The people could decide what policies and programs would serve them best. Of course, this runs contrary to the prevailing philosophy here in Washington that the government knows what is best for the citizens of our Nation.

It stands to reason that what would be beneficial for the people of the Third Congressional District of Iowa is not necessarily the same for the inhabitants of New York City. There are different problems to be remedied. There are different priorities which must be affixed to various programs and policies. Simply put, and I am changing a traditional folk saying, in this context what is sauce for the goose is not necessarily sauce for the gander.

Any funds returned to the States and localities should be given with no strings attached. There should be no bureaucratic guidelines or categorization imposed. Let the people back home decide for themselves how this small portion of the tribute, for that is what it is, should be spent.

Mr. HORTON. Mr. Chairman, I yield 6 minutes to the gentleman from New York (Mr. WYDLER).

Mr. WYDLER. Mr. Chairman and members of the committee, sometimes things are said on the floor that are of great interest, and if they are carefully listened to, they can be most instructive. I want to review for the members of the committee the colloquy that took place on this floor just about one-half hour ago between the gentleman from New York (Mr. BADILLO) and the gentleman from Massachusetts (Mr. DRINAN). That colloquy, in my judgment, sums up the problem that this House and this committee is going to face in extending the revenue sharing program, because it pointed out the time bomb that has been built into this program by the committee amendments. By that I mean the full committee amendments.

The gentleman from New York (Mr. BADILLO) made the point that the New York City Fire Department, Police Department and Sanitation Department did not have the same percentage of minority and Hispanic people in them as the general population of the city of New York. He then propounded a question to the gentleman from Massachusetts as to whether, under this new proposed revenue sharing program, the city of New York could qualify for its funds. The answer was no, they could not.

Think what that means if that is really true—and it might be. It means that the city of New York will not get its revenue sharing funds under this full committee bill.

There are some people who may say, "That is fine. We do not want New York City to get their money." But it is true about a lot of other cities and a lot of other towns around this Nation, as well.

We have built into this program, these complex provisions that are a time bomb for local government, whether it is State government or county government or town government.

They are going to have all the local governments tied up in almost endless litigation over civil rights of one kind or another, be it questions of race, color, religion, age, handicapped status or what have you. These governments are going to be in a constant turmoil as to whether they are ever going to get their revenue-sharing funds.

That is not the kind of program we want or need in this country. That is not the kind of program the people are asking this Congress to continue. That is a program that is something totally new and something totally alien to the revenue-sharing program of the past.

Mr. DRINAN. Mr. Chairman, will the gentleman yield?

Mr. WYDLER. I will yield to the gentleman from Massachusetts after I have finished my statement.

Mr. Chairman, I agree that this is the best Federal program we have for giving aid to State and local governments. It is much superior to the categorical programs that some Congressmen prefer. This program is good, and it is the best Federal aid program because it does not have a great Federal bureaucracy to run it down here in Washington. And that is what the people back home are telling us right now, that they do not want that Federal bureaucracy built up and built up year after year.

This is a program that has changed the direction of that bureaucracy. That is why it is a good program, and that is why it is the best Federal aid program. It also does not require the local governments to add on to their staffs numerous employees just to fill out the forms and read the requirements the Federal Government imposes upon them.

But this new full committee bill will do just that. It changes the direction, and it adds on these new requirements for auditing, reporting, citizen participation, and what have you.

Mr. Chairman, I urge this committee and this House to reject these full committee amendments and vote for the substitute of the subcommittee bill, which is far superior to the full committee bill. Let us get this program back on the track, which is, I believe, what all the local officials want and which is also, I believe, what an overwhelming majority of this Congress wants as well.

Mr. DRINAN. Mr. Chairman, will the gentleman yield?

Mr. WYDLER. I will be glad to yield to the gentleman from Massachusetts.

Mr. DRINAN. Mr. Chairman, I thank the gentleman for yielding.

In the colloquy between myself and the distinguished gentleman from New York, I in no wise answered as the gentleman from New York (Mr. WYDLER) indicated. I simply stated that under the proposed law approved by the full committee, with only 3 dissents, the local community or a State, if it is charged with discrimination, may indicate and must indicate—it has the statutory right to show—by clear and convincing evidence that the funds in question were not in fact Federal funds.

I am sure the gentleman agrees that if they were Federal funds, then the full thrust of title VI and all the Federal panoply on civil rights legislation should take effect. There is a specific and clear right of the individual community not to be charged with discrimination as to local funds.

Mr. WYDLER. Mr. Chairman, I do not agree with the gentleman at all as to what the colloquy was, and the RECORD will speak for itself.

I remember very clearly the gentleman from New York (Mr. BADILLO) putting the question to the gentleman from Massachusetts (Mr. DRINAN), and the question was whether New York would be qualified to get the funds under the provisions of the Revenue Sharing Act as reported out of the full committee, and the gentleman from Massachusetts answered it would not. That satisfied the gentleman from New York, and he left the floor.

I believe the gentleman answered the question honestly. I do not know whether it is right; that is the gentleman's opinion, and it may be so. However, if it is so, it means that not only the city of New York but many, many jurisdictions across this land, are going to be in the same box.

Mayor Beame is going to have a problem. I told this also to the mayor of Newark, that he is going to be in court and they are going to be in endless litigation over revenue sharing funds, because their right to receive funds is going to be challenged in court by one suit after another.

Mr. Chairman, I do not think we should impose this on those officials, and that is why I urge that this full committee bill be defeated.

Mr. BROOKS. Mr. Chairman, I want to advise the Members that when we go into the 5-minute rule on this bill tomorrow, I will offer the text of the bill, as amended and reported by the committee, as an amendment in the nature of a substitute to the reported bill, and that contains numerous amendments. The amendment which I intend to offer as in the bill H.R. 14213, will be printed in today's RECORD and will be available to the Members tomorrow morning.

Mr. Chairman, I yield 2 minutes to the gentlewoman from Texas (Ms. JORDAN).

Ms. JORDAN. Mr. Chairman, I thank the gentleman for yielding.

I take this time just to clear up a question which I have heard expressed about the effect of the nondiscrimination provision in this general revenue sharing proposal, as offered in the full committee bill as well as in the subcommittee bill.

If the number of employees of a unit of government do not conform racially or ethnically with the general population of the community, there is no way by which that disproportionate representation in employment can cause the unit to lose funds under this bill.

Why? Present law prohibits any mandate of racial quotas with respect to State or local government. That prohibition remains the law, and we do not change it at all under these bills which are before us now.

Mr. ANDERSON of California. Mr. Chairman, we are today discussing one of the most monumental pieces of domestic legislation ever passed by this body. I remember the high caliber debate on this floor in 1972 when the House first passed the State and Local Fiscal Assistance Act. I am equally impressed with today's discussion of some very fundamental principles of government.

As in 1972, I again rise in support of the general revenue-sharing program. The concept of the Federal Government sharing some portion of its tax revenues with State and local governments, with very few strings attached, is an issue which has provoked widespread discussion for some time. A form of general revenue sharing was actually in operation as early as 1836 with the enactment of the Surplus Distribution Act. At that time, during Andy Jackson's administration, nearly $28 million was actually deposited with the State governments. Although the transfer of funds was to be temporary and subject to repayment, they were actually considered gifts and none of the money was ever requested or returned. The States were allowed to use their allotment for whatever purpose they chose.

In this century, congressional attempts to secure Federal tax sharing date back to 1949 when a Member from Kansas introduced a bill to transfer to State treasuries 1 percent of Federal individual and corporate income taxes raised within each State. While Congress failed to enact this bill, we can see that the issue has remainded before this body over the decades.

Finally, in 1972, revenue sharing became a reality as Public Law 92-512. This leglislation has revitalized the federal system by shifting financial resources to those governments closest to the people where the clearest perception of citizen needs exists. It has thus helped to correct the fiscal imbalance in our federal system of government—an imbalance that is due primarily to the fact that the fiscal base of the Federal Government, with its primary reliance upon the income tax, will grow as the economy expands. The fiscal base of State and local government, however, which depends upon property and sales taxes to finance their programs, does not have the same strength or capacity for growth.

The general revenue-sharing program has cut redtape, as well as resulted in greater citizen participation in the decisionmaking process. It has, in some cases, prevented increases in the regressive property tax and has in other instances actually even resulted in a reduction in property taxes.

The program, and the legislation before us today, is obviously strongly supported by the large cities in this country—but it is also strongly supported by the rural areas as well. I have heard it said that one rural official has called revenue sharing "the best thing since the milking machine"—and we are all grateful for that invention.

There are provisions in H.R. 13367 that I consider unnecessarily burdensome and inequitable. I am hopeful that these provisions will be altered or eliminated as we proceed to amend this bill.

I believe that the strengthening of citizen participation, the elimination of the priority categories, and the elimination of the prohibition aganst the use of revenue-sharing funds to match Federal grants, are all provisions which serve to greatly improve the original act.

Mr. Chairman, I urge adoption of the Fiscal Assistance Amendments of 1976.

Mr. BEDELL. Mr. Chairman, the House is today considering legislation which is of great concern to local officials all across the Nation and of great importance to the American people—the State and Local Fiscal Assistance Act Amendments of 1976. This bill would extend the general revenue-sharing program through the end of fiscal year 1980, and would authorize $24.95 billion for that purpose.

As we prepare to debate and vote on this extension bill, I think that it would be wise for all Members to reflect for a moment on the philosophical basis and actual impact of the general revenue-sharing program. In my judgment, both of these considerations testify to the need for and wisdom of extension of this important program.

The general revenue-sharing program, which was passed by the Congress in 1972, appropriated $30.2 billion in Federal revenues to be distributed to 39,000 eligible State and local governments during the 5-year period from January 1, 1972, to December 31, 1976. It was designed to return money and decisionmaking authority to the local level, and to stop the growth of categorical Federal aid programs by supplementing them with a block grant program. General revenue sharing was hailed as part of the "new federalism," and was grounded in the belief that State and local governments should have greater flexibility in the uses of Federal assistance.

I am a strong supporter of the general revenue-sharing concept. In my view, this type of program makes a great deal of sense, with its accent on local decisionmaking and a minimum of Federal involvement. General revenue sharing returns Federal income tax dollars to State and local governments with a low overhead. In fact, it is estimated that less than one-eighth of 1 percent of the annual distribution of revenue-sharing funds is used at the Federal level. There are not many Federal programs—if indeed there are any others at all—that can make this claim.

General revenue sharing allows recipient governments considerable flexibility in meeting local needs as determined at the local rather than the Federal level. Where the categorical aid approach, with its narrowly defined and closely controlled grants, tends to confine local initiative within tightly circumscribed boundaries, revenue sharing has served to focus decisionmaking power at the local level, where officials are most familiar with their own particular needs and problems and are in a position to make the most effective use of their funds. This is not to say that the revenue-sharing approach should supplant categorical aid programs, but rather to indicate that it is a valuable and proven complement to them.

And further, general revenue sharing, with its minimum of Federal requirements, greatly reduces the onerous paperwork and redtape which is generally associated with the distribution of Federal aid funds.

In my opinion, the general revenue sharing experiment initiated in 1972 has injected a new vitality into the partnership between the Federal Government and State and local units of government which has provided great benefit to the American people. We can make an honest attempt to refine and improve the program, but we should not debilitate or abandon it.

I am pleased that the House is today considering legislation to extend the general revenue-sharing program, and I hope that, when all is said and done, we will pass H.R. 13367 by an overwhelming margin. I cannot, however, allow this debate to elapse without mentioning my disappointment that the 94th Congress did not enact a revenue sharing extension proposal at an earlier date. Congressional delays in consideration of this legislation have placed State and local officials in a very unenviable position. They have been forced to formulate their spending plans for fiscal year 1977 without knowing what the Congress intended to do about the general revenue-sharing program. Such uncertainty has made it extremely difficult for local officials to prepare meaningful budgets for the upcoming year.

I do not want to belabor this point at this late date. Nor do I mean to disparage the efforts of the House Government Operations Committee and its Subcommittee on Intergovernmental Relations, whose members worked long and hard on this extension proposal. I do, however, think that it is important to direct attention to the predicament of our State and local planners, and I hope that the Senate will move quickly on the House-passed bill.

Mr. Chairman, in the past 4½ years the general revenue-sharing program has proven its worth. It has provided Federal moneys to the communities of America, with a minimum of overhead and redtape, which local governments can generally use as they see fit to meet their priority needs. I hope that this real working partnership between the Federal Government and State and local units of government will continue, and that today's House vote on H.R. 13367 will pave the way for prompt and responsible Senate action on this important issue.

Mr. LEGGETT. Mr. Chairman, it is almost 4 years since we enacted the first revenue-sharing bill, Public Law 92–512. Passage of that act followed a long period of debate about the merits of this concept extending back to the early 1960's, when I first came to the Congress.

Surely, one of its primary purposes, then and now, was to bring this massive governmental apparatus of ours back a little nearer to the people—to return some of the tax money, and the power to decide how it is used, to entities which are closer to the people. I never viewed revenue sharing, as did the stalwarts of the Nixon administration, as a means to end the evils of Federal categorical programs. And I have sometimes opposed efforts to cut or eliminate a variety of categorical programs on the grounds that block grants represent the preferred approach on occasion.

On the contrary, I see revenue sharing as a supplement to, not a substitute for, the many other necessary Federal domestic programs. Nonetheless, this is not to argue that revenue sharing has been fiscally insignificant for its recipients. It clearly has not been. While it has provided only 2 percent of State and 5 percent of local expenditures, revenue sharing has accounted for 3 percent of State tax collections and 12 percent of taxes generated by general purpose local governments. That is certainly significant.

To those who assert that those who spend tax revenues should also raise them, I say that the principle is lofty but the tax structure of this country cannot sustain it. The facts of the fiscal situation facing States, cities, and localities dictate help, and the trend is not getting any better. Fully 72 percent of their revenues in 1974 came from property and sales taxes, sources which do not rise in proportion with increases in income. Supplementary help is necessary if State and local government is to be able to maintain essential services in the face of the fiscal squeeze.

I am not saying revenue sharing has been perfect, It, obviously, has not been, and there are changes we can and should make in the program. But my overall conclusion is that our 3½ years of experience has demonstrated the value of this program. It deserves to be extended.

The bill before us, H.R. 13367, would extend the program for a period of 3¾ years, through fiscal 1980. Funds would be provided at a level equal to that of the last entitlement period under the 1972 law. I would note that both the proposed duration and the funding level represent a compromise between the administration proposal and the views of those who favored a lesser extension.

The basic allocation formula for almost all of the $25 billion to be authorized would be left unchanged. The bill would, however, provide for distribution of $562.5 million of the total to needy cities and rural communities as supplemental fiscal assistance under a new formula. Despite the otherwise laudable intent of this new section, I find it a cause for concern because I understand it will result in the loss of funds to many cities and counties in spite of the so-called hold harmless provision.

Permit me also to address certain other facets of the bill that are of particular interest.

The argument is made that the entitlement approach embodied in the bill is inappropriate in a time of strengthened congressional control of the budget. I submit that this is no ordinary program and need not be treated like one. We are basically deciding what level of Federal resources to "share" with States and localities over the next 3¾ years. To subject the program level to annual budgetary and appropriations control would, in my judgment, render it far less effective. State and local governments need to know with assurance what levels of funding will be available to them if they are to conduct sound, rational fiscal planning. Subjecting the program to annual appropriations, even if it is forward funded, could cause variations in funding which would undermine the program. I favor retention of the entitlement approach.

Mr. Chairman, the bill would make a number of changes in the revenue-sharing program which I regard as worthwhile. One is to extend coverage under the Davis-Bacon Act to all construction projects on which there is any use of revenue-sharing funds. The current law requires coverage only for projects on which 25 percent or more of the costs are funded from revenue sharing. Some jurisdictions have spread their revenue-sharing funds among many construction projects so as to avoid the provisions of Davis-Bacon. H.R. 13367 would close this gap.

The bill would also make major changes in the law concerning discrimination. It would prohibit discrimination on grounds of race, color, sex, or national origin in all activities of a recipient government, not just those funded from revenue sharing as is the case in current law. In addition, the bill would establish a new procedure for the suspension and termination of revenue sharing payments in order to enforce compliance with these provisions.

Among other changes is a provision to improve public participation in revenue sharing decisionmaking. Recipient governments would be required to hold two types of public hearings during their decision process on revenue-sharing funds. One must be held prior to submission of their "proposed use" report to the Secretary of the Treasury, and the other prior to adoption of their budgets. Both would give citizens the opportunity to present their views on the recipient's proposed use of revenue-sharing funds in relation to other needs and the overall budget of the recipient government.

The bill would also remove two restrictions on the use of revenue-sharing funds which States and localities have found onerous in their budget planning. One restriction eliminated requires that local governments spend revenue sharing funds only for certain priority items. The other now prohibits State and local governments from using revenue-sharing funds to match Federal grants received under other programs. Both requirements run counter to the basic thrust of the revenue-sharing concept.

In sum, the bill makes a number of useful changes in this program. While many of us may find one or more provisions which we cannot support, I urge you to support the overall bill so that we can extend this unique and valuable program.

Mr. BROOMFIELD. Mr. Chairman, I have long supported the concept of revenue sharing. It plays a fundamental role in the process of reallocating governmental authority from the Federal back to the State and local levels. That is where the authority belongs and that is where it is exercised most efficiently.

The basic principle of our Government is the federal system of shared sovereignty. It permits the three levels of government to act freely and simultaneously at the level closest and best suited to meet the problems. In this manner, the needs and concerns of each particular community are taken into consideration.

In recent decades our Federal partnership has become endangered. Because of a highly efficient Federal tax system, revenues have grown fastest at the Federal level while the State and local levels found themselves hard pressed to meet ever-increasing demands for services. Attempts were made to alleviate this situation through categorical and later block grants but these fell short of meeting the needs. They were either too restrictive and thus stifled the initiative and flexibility of the local authorities or they provided grants in areas where the need did not genuinely lie.

This is the situation that we faced in 1972 and this is the situation, I believe, we wisely met when Congress passed the General Revenue Sharing Act.

The program we started in 1972 untied the hands of State and local authorities and gave them the power and resources to tackle the tough problems challenging them. With these funds, they have been able to set their own priorities as each community and State sees its own needs. Revenue sharing funds have been used in the areas of public safety, education, transportation, and health services. Revenue sharing has become so important that the Governor of my State of Michigan has said that these funds "have been a major contributing factor in our efforts to maintain an adequate level of public programs and services for Michiganians." I am sure that the situation is the same in most other States.

In my own district in Michigan, revenue sharing funds have also become crucial on the local level. The letters I have received from local officials about the continuation of the revenue-sharing program are an impressive file of their concern. The projects undertaken by the various cities and townships vary as they rightly should. They express the needs and priorities of each particular area. For example, the City of Birmingham has used its funds in public safety operations, solid waste disposal, air conditioning their library, restoring a lake, and building parking structures. The Township of Orion chose to apply its funds to police protection, public transportation, land acquisition, and an addition to the public library.

Though the application of these funds differ, the results of not extending the revenue-sharing program are the same—cutting back services, laying off employees, and raising property taxes. This cannot be allowed to happen.

Mr. Chairman, we are now considering a bill to continue this program and I believe results show it must be continued. Furthermore, it is important to provide assured funds on a long term basis so that the authorities on the local level can make meaningful plans to meet their needs.

Mr. DON H. CLAUSEN. Mr. Chairman, I strongly support the principle of revenue sharing and I intend to vote for the bill, H.R. 13367, as it provides for the extension of the program.

However, I do object and intend to oppose a number of the restrictions and controls placed on the program by the House Government Operations Committee. While they may be well intended, I fear that their effect will be to reduce the degree of flexibility which our States and local governments now have in directing the use of revenue-sharing funds. The values and advantages of the concept of revenue sharing is the degree of flexibility that it affords the local elected officials in evaluating and meeting the needs of their own communities and in setting their own priorities with a minimal amount of strings attached or controls placed on them.

In particular, I do not support the "modernization of government" proposal which requires State governments to develop master plans and timetables for modernizing and revitalizing State and local governments. This provision is entirely unnecessary and could seriously harm our basic constitutional concept of federalism upon which our Nation is founded.

In working with State officials in California and representatives of the local governments within my congressional district, I find that they are generally a dedicated, hardworking group of people who strive to carry out the responsibilities of their offices in the most equitable and responsive manner possible. They are capable people and are best equipped to determine the needs of their communities and those areas where funds should be spent. I strongly advocate a continuation of the flexibility afforded under the present revenue sharing program.

Advocates of the modernization principle are attempting to force, I repeat, attempting to force, State and local governments to model themselves after the Federal Government based on the misinformed idea that our Federal Government is efficient and modern itself. Nothing could be further from the truth. We all should recognize the need to revitalize the entire Federal system. Members of Congress who advance the idea that Washington know best should listen more closely to the people they represent. All across the Nation, people are critical of the Federal Government, in particular its policy of deficit spending, most of which is caused by program duplication and expanding bureaucracy. Government desperately needs a positive program of fiscal and institutional decentralization. This can be realized through the extension and expansion of the principle of revenue sharing. Congress would be wise to move in the direction of consolidation of more programs and expansion of the block grant approach to funding. In this way, our State and local governments could be more responsively assume the administrative details and requirements and the Congress could concentrate on and be concerned with the responsibilities of oversight, review, monitoring, and auditing of programs to further protect the taxpayer's interests.

In 1964, I drafted a resolution supportive of the concept of revenue sharing. It was subsequently adopted by all six counties in my congressional district. I will read a copy of the text of the resolution which may be of interest to my colleagues:

HOME RULE AND TAX REFORM RESOLUTION: URGING REVISION OF TAX STRUCTURE AMONG THE VARIOUS LEVELS OF GOVERNMENT

> Whereas, all local governments in the United States of America are firmly committed to the advancement of the principles of home rule and local self-determination; and,
>
> Whereas, the precious principles of American local government are meaningless unless the counties, cities, school districts, and other special service districts concerned have available tax sources for financing local governmental functions; and,
>
> Whereas, with home rule there invariably comes the necessity of home responsibility and the challenge of home achievement since the fulfillment of home rule does not involve the denial of governmental services to the people nor does it involve their being furnished at substandard levels; and,
>
> Whereas, the common property tax is now the universally overloaded mainstay of local government finances with the inevitable result that self-sufficiency of local governments is seriously hampered; and,
>
> Whereas, local governments need additional independent sources of revenue in order to enable proper home rule performance of governmental services; and,
>
> Whereas, strong local government is the foundation of our Republic;
>
> *Now, Therefore, Be It Resolved by* ——— that support is hereby expressed for the allocation of specific tax sources to local government; and,
>
> *Be It Further Resolved* that support is hereby expressed for an immediate revision of the tax structure at the state and federal level with the single goal of returning tax sources to local units of government, thereby enabling said local governments to be more self-sufficient in their own right.
>
> As suggested by Don H. Clausen, Member of Congress, First District of California.

Adoption of that resolution indicates our long-standing and solid backing for the concept of revenue sharing. Since adoption of the resolution more than 10 years ago, we have worked to develop this program following the objectives set down by it. These basic concepts have also been adopted by the Congress when we first approved the revenue sharing program in 1972, have been approved by the President and his administration and overwhelmingly supported by local governments throughout our Nation.

In discussing the advantages and values of revenue sharing with local officials in my congressional district I have received an overwhelming endorsement for my efforts to continue the principle of revenue sharing and maintain, at a minimum, current funding levels. I supported the proposal presented by the President to extend the existing program for 5 years without major changes in it.

Walter Eagan, superintendent of schools in Sonoma County wrote regarding the use of revenue sharing funds to build two classrooms at our youth camp which provides for young men under supervision of the juvenile court. He said:

> I can assure you that the money was well spent on a community need that had existed for years. I am confident that this is but one of a number of such projects carried out in the county.

Other advocates of the revenue sharing program include the Mendocino City Community Services District, Karibu House in Santa Rosa, the Family Information Center in Cotati, the North Coast Community Design Center in Santa Rosa, the Long Valley Fire Protection District in Laytonville, the Sonoma County People for Economic Development, community hospital in Santa Rosa, the Mendocino County youth project, the Community Coordinated Child Care Association in Sonoma County, and the Sonoma County Council on Aging.

Many of our local mayors contacted me expressing their concern that any reduction in the program would result in a cutback of municipal services in the areas of recreation, library support, law enforcement, community centers, and park development. Warren Hopkins, the mayor of Rohnert Park and their entire Council indicated to me that, "The Federal revenue sharing program was a godsend to our community."

The Humboldt County Board of Supervisors reiterated their strong support for the renewal of the program and Mayor Sam Sacco, representing Eureka, a city within Humboldt County wrote saying:

> The Federal Revenue Sharing Program has proven to be the most effective approach to returning federal dollars to the local taxpayer by reducing the administrative overhead associated with most categorical grant programs, allowing local officials to establish community priorities for use of the funds, and distributing the funds to states and local communities on a fair and equitable basis.

I have always felt that functioning democracy at its best is a continuing experiment both through the election process and governing process. We must continue to allow our State and local governments the flexibility and latitude to continue in this experiment. The revenue sharing program is one way to insure greater participation at the local level and the best protection and greatest degree of responsiveness to local needs.

I urge my colleagues to support the concept of revenue sharing by minimizing the so-called guidelines and Federal direction and maximizing the flexibility for our local officials. Let us pass this bill overwhelmingly and in so doing send a message to our locally elected representatives that we look to them with respect as genuine partners in our great Federal system of government.

As my colleagues have heard my views over the years, I have constantly warned against the Federal Government expanding its involvement in administering Domestic programs but rather have advocated a return of independent tax sources to States and local units of governments, thereby enabling said local governments to be more self-sufficient in their own right. This will revitalize and strengthen our Federal system and hopefully restore the confidence of the people in government at all levels.

Mr. GILMAN. Mr. Chairman, I thank the gentleman for yielding, and I rise in support of H.R. 13367, the Fiscal Assistance Amendments of 1976, which authorizes an expenditure of $25 billion from January 1, 1977, to September 30, 1980, to assist State and local governments in underwriting public service projects. For the 50 States and the approximately 38,000 local governmental units, this authorization is urgently needed. It is on this issue, the issue of need, that I urge my colleagues to support this legislation.

Mr. Chairman, the issue is clear: Our taxpayers are caught in an economic vise between soaring Federal, State, and local taxes and the escalating costs of governmental services—services that are needed, demanded, and expected by the public.

The Department of the Treasury's Office of Revenue Sharing, in its April 1976 report, "Final Interstate Data and Allocations: Entitlement Period 6," suggests, in the following startling figures, that the citizens of New York State are being taxed to the breaking point: In 1973, $10.6 billion in Federal income taxes were collected from New York State taxpayers; and $16.3 billion in State and local taxes were collected from 1972–73. In Orange County, which is in my congressional district in New York State, county property taxes soared in the last 5 years from $49,923,043 to $90,072,806. Clearly, State and local governments are at the saturation point with regard to the amount of revenues they can obtain through taxation as they seek to continue to provide a high level of public service.

There is a direct correlation between soaring taxes and the escalating costs of a government that is struggling to meet the needs, expectations, and demands of the public for quality government service. Police and fire protection, public works, social services, and public schools are not luxury items; they are obvious needs and costly services. And yet, Mr. Chairman, where are the revenues for these services to be found? The citizens of this Nation, especially low and middle income taxpayers, the senior citizens, and those who are on fixed incomes, can no longer endure increased property and income taxes. Revenue sharing is a viable, although dependent, source to help State and local governments underwrite their needed programs.

I have been informed that in my congressional district in New York State, Orange County received $2.7 million in revenue sharing in 1975; and for the same period, Rockland County received $1,600,000, and it expects to receive $1,750,000 for 1976; and Ulster County received $1,358,058 in 1975, and anticipates receiving $1,553,000 in 1976. I have been told that if revenue sharing funds are discontinued, that Orange County will be forced to increase immediately its taxes by 9 percent in order to maintain the services that were provided by these funds; for Ulster County, it has been estimated—and this is regarded as a conservative estimate—that taxes would be increased by some 15 percent.

Mr. Chairman, these revenue sharing funds are vital for underwriting the costs of employing youths during the summer on highway maintenance programs, river drainage maintenance systems, training facilities for public safety officers, park and recreational centers, equipment for highway departments, solid waste disposal systems, mental health centers, street repairs and road construction, county jail facilities, and community sanitation programs. Without revenue sharing assistance, the availability of these necessities would decline, and perhaps terminate, thereby creating additional societal burdens.

The economic vise of high taxes and increased costs for government services has resulted in some interesting attempts by local governments to modernize their structures and functions, thereby reducing costs and increasing government service and efficiency. For example, I understand that the town and village of Rosendale, which is adjacent to my congressional district, will become a single government entity, effective December 3, 1977. In other communities, towns and villages have merged their police departments. These experiments in consolidation and modernization by local units of government is within the spirit of H.R. 13367.

Commenting on the need for revenue sharing, Louis V. Mills, Orange County executive, recently informed me that "the first people to feel the effect of the discontinuance of revenue sharing funds would be the human services people," for social service programs would be among the first programs to be discontinued.

Mr. Chairman, in the interest of providing a revenue sharing system that will enable State and local officials to properly plan their programs. I urge my colleagues to support this legislation, to provide the financial assistance to underwrite these needed public service programs.

Mr. KOCK. Mr. Chairman, I rise today in support of the Federal revenue sharing legislation. We should keep in mind that although the issue has generated much controversy, we here in the Congress have an excellent opportunity to make the general revenue sharing program more responsive to the needs of the American people.

I want to say at the outset that in the best of all possible worlds, I would not be in favor of revenue sharing. Ideally, the Federal Government ought to substantially lower its tax rate and the States should directly collect the funds they need instead of being forced to follow such a circuitous path to receive moneys due them. In lieu of a massive overhaul in our tax system, however, the bill seeks to shape the revenue sharing program into a more equitable and effective vehicle to the States.

In this spirit, I support those provisions of the legislation which increase citizen participation and reduce discrimination. One such provision permits a citizen alleging discrimination to go to court after pursuing administrative remedies for 60 days.

The legislation also contains provisions requiring local governments to report as specific line items all proposed and actual uses of revenue sharing funds. These reports will be made available to the public. The legislation also requires the governmental units to hold open and well-publicized public hearings on the use of general revenue sharing funds. All these provisions will enhance the revenue sharing program, as local objectives will be aired openly, permitting more direct citizen input and thereby rendering the program more accountable and responsive to the citizenry.

It was with many of these same goals in mind that Congressman Mezvinsky and I introduced the "Truth-in-Municipal Accounting Act of 1976" in March of this year. I am pleased to report that the basic provisions of our bill are included in the full committee legislation before us today. These provisions would require all States and municipalities receiving Federal revenue sharing to provide a complete annual independent audit of their financial records. In cases where the costs of an audit are unreasonable compared to the size of the revenue sharing payments, a less formal review of financial information would be permissible.

The provisions also provide for public access to the audits. In this way the public will have reliable information upon which to evaluate the past performance of their local government and to estimate which projected municipal programs Federal revenue sharing money should be used for. This will make public participation in the program more meaningful. It will also mean that public confidence in the program can be increased by quickly rooting out those case where the funds have been misused, and by the recipients assuring that they will employ responsible fiscal management. I think these auditing provisions can go a long way toward helping both the image and the actual management of revenue sharing and State and local governments.

Finally, I wish to state my support for those provisions which place revenue sharing on a 3¾-year entitlement. While I understand the arguments to the contrary, I again must state that if we are going to have a general revenue sharing program it must be one on which the States and counties and cities can rely. There is much evidence that the uncertainty of congressional renewal of the program has led to the recipient's unwillingness to spend the funds on very worthwhile or long-range projects. Without the assurance of continued congressional support, our cities, towns, and villages will understandably be unwilling to commit their moneys to those beneficial projects.

In closing, I want to again state my support for the legislation and in particular the new auditing provisions. For those of my colleagues who are interested, I am including in the Record a copy of an article which appeared last month in the Washington Post and in part addresses the problems of municipal financing and auditing:

[From the Washington Post, May 4, 1976]

Taxpayers' Surprise—Cities Disguise Obligations

(By William H. Jones)

A study of financial reporting by 43 major American cities, made public yesterday, concludes that an "unpleasant surprise" awaits taxpayers when they discover the costs of benefits now being earned by municipal workers.

A team from the accounting firm of Coopers & Lybrand and the University of Michigan's graduate school of business administration said 16 of the cities make no disclosure of any kind to the public about unfunded obligations for retirement benefits to which their employees are entitled.

"This means taxpayers are not aware that they will have to make up the dollars that must be paid into pension funds in the future to provide for the benefits of retired employees . . . These dollar amounts are staggering," the report said.

Retirement obligations for large cities often exceed $100 million and in some cases top $1 billion. In addition, only seven of the cities surveyed provide data on their liabilities for vacations and sick leave.

The only cities in this region that were included in the survey were Richmond and Baltimore—both of which do provide data on unfunded retirement obligations but do not provide data on liabilities for vacations and sick leave.

In general, the study found that financial reporting to the nation's cities is far short of the information necessary for taxpayers and investors in a new era of municipal financing—one in which the problems of New York City are used as a yardstick when studying a city's economic health.

Preliminary findings released here yesterday noted that American cities are becoming more dependent on state and federal resources, with 23 of the 43 cities spending more each year than they take in from local revenues. Moreover, these spending figures do not count outlays for large capital improvement projects, such as buildings.

If local control over city purse-strings is to be preserved, cities must improve their accounting procedures and money management practices so that they more closely parallel those of public corporations that seek money in the capital markets, the study's authors warned.

"We need to encourage cities to do more to comply with the rules that exist," said Michigan University accounting professor Earl Keller. "Secondly, we need to change the rules" to improve them. Reports by cities are too complex for the general public to understand, he added.

Among findings announced yesterday:

Almost 30 percent of the cities surveyed do not maintain sufficient records to account for public money spent on land, buildings and equipment.

Seventeen cities do not disclose "overlapping debt" in annual reports—debts issued by local taxing agencies other than the city that must be paid by a city's taxpayers and thereby increase their overall burden.

Only 60 percent of the cities have their financial statements audited by an independent certified public accountant.

About half the cities budget their expenditures on an annual basis but provide no interim controls over spending on a month to month basis, "contrary to prudent budgeting practices, since timely monitoring of ongoing programs and expenditures is absent in such cities."

Mr. BROOKS. Mr. Chairman, I have no further requests for time.

Mr. HORTON. Mr. Chairman, I have no further requests for time except that I would like to advise the House that after the gentleman from Texas (Mr. Brooks) offers his substitute amendment which will include the subcommittee bill as amended by the full committee, it is my intention to offer a substitute, which is H.R. 14000, which is basically the subcommittee bill. I intend to offer that as a substitute to the Brooks substitute.

PARLIAMENTARY INQUIRY

Mr. LEVITAS. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. LEVITAS. Under the rule that was adopted earlier, authorizing consideration of this bill, the rule provides that no amendments to the bill shall be in order unless they are printed in the CONGRESSIONAL RECORD at least 1 calendar day prior to the offering of the said amendments, except for pro forma amendments.

Is it the understanding of the Chair that this would not apply or the requirement of publication in the RECORD would not apply to amendments offered to amendments to the bill, as opposed to amendments offered to the bill itself?

The CHAIRMAN. The gentleman from Georgia (Mr. LEVITAS) is correct. The rule requires that amendments to the bill be printed in the RECORD, and that rule does not pertain to amendments to amendments.

Mr. LEVITAS. I thank the Chair.

The CHAIRMAN. Pursuant to the rule, no amendments to the bill are in order except germane amendments printed in the CONGRESSIONAL RECORD at least 1 calendar day prior to the offering of said amendments and except for pro forma amendments. It shall be in order to consider en bloc, in lieu of the separate committee amendments printed in the bill, each group of amendments numbered 1 through 12 printed in the CONGRESSIONAL RECORD of June 8, 1976, if offered from the floor. Said amendments, if offered en bloc, shall not be subject to a demand for a division of the question.

The Clerk will now read the bill by sections.

The Clerk read as follows:

H.R. 13367

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Fiscal Assistance Amendments of 1976".

Mr. BROOKS. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the Chair, Mr. STUDDS, Chairman of the Committee of the Whole House on the State of the Union, reported that that committee, having had under consideration the bill (H.R. 13367) to extend and amend the State and Local Fiscal Assistance Act of 1972, and for other purposes, had come to no resolution thereon.

GENERAL LEAVE

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 13367, the bill just under consideration.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

PROVIDING FOR CONSIDERATION ON H.R. 13179—STATE DEPARTMENT AUTHORIZATION ACT, FISCAL YEAR 1977

Mr. MATSUNAGA. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1189 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1189

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 13179) to authorize appropriations for the Department of State, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on International Relations, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER. The gentleman from Hawaii (Mr. MATSUNAGA) is recognized for 1 hour.

Mr. MATSUNAGA. Mr. Speaker, I yield 30 minutes to the gentleman from Ohio (Mr. LATTA) pending which I yield myself such time as I may consume.

Mr. Speaker, by direction of the House Committee on Rules, I call up House Resolution 1189 and ask for its immediate consideration.

Mr. Speaker, House Resolution 1189 provides for the consideration of H.R. 13179, the State Department Authorization Act for Fiscal Year 1977. The resolution provides an open rule with 1 hour of general debate to be equally divided and controlled by the chairman and ranking minority member of the House Committee on International Relations. The proposed rule provides that when general debate has been concluded, the bill shall be read for amendment under the 5-minute rule.

After the bill has been considered for amendment, the Committee of the Whole shall rise and report the measure to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto, to final passage without intervening motions except one motion to recommit.

Mr. Speaker, the primary purpose of H.R. 13179 is to authorize fiscal year 1977 appropriations for the U.S. Department of State. The total authorization recommended by the Committee on International Relations is $123,197,000 more than the amount appropriated for fiscal year 1976, but it represents only a modest increase over the amount requested for the next fiscal year by the administration. About $69,900,000 of the increase between fiscal year 1976 and fiscal year 1977 resulted from the adoption by the State Department of a new interagency accounting system, the Foreign Affairs Administrative Support System. There is no actual increase in overall costs to the Federal Government; merely a change in the bookkeeping procedure.

The largest share of the authorization—$552,400,000—is for salaries, expenses, and allowances of officers and employees of the State Department, and for the day-to-day conduct of diplomatic relations with foreign countries. In addition, an authorization of $338,875,000 is recommended to pay U.S. dues in international organizations such as the United Nations' NATO, and SEATO—the same amount requested by the administration.

An authorization of $68,500,000 is included for the educational and cultural exchange programs of the State Department. I am particularly pleased to note that the committee has specifically authorized $10 million for the Center for Cultural and Technical Interchange Between East and West in Honolulu. Established in 1965 and administered for 10 years by the University of Hawaii in cooperation with the State Department, the East-West Center recently became an independent institution with its own charter, administered for the State Department by a nonprofit corporation. The center's newly independent status and the record authorization approved by the Committee on International Relations reflect its recognition of the increasingly important role of the East-West Center in improving our relations with the Asians. President Ford, too, in outlining a "Pacific Doctrine" for the United States on December 7, 1975, stressed the fact that the United States is a Pacific nation. He pointed out that—

> Equilibrium in the Pacific is essential to the United States and to the other countries of the Pacific.

By choosing the John F. Kennedy Theater, on the campus of the East-West Center, as the site of his major foreign policy address, the President emphasized the center's role in the continued U.S. presence in Asia. It is indeed a symbol of the peaceful cooperation and progress to which our country is committed.

Finally, I believe that my colleagues will be interested to know that the authorization bill we are about to consider includes $20 million for the resettlement of Russian refugees. The funds will be paid to Israel to assist in the resettlement of Soviet Jews. This humanitarian program has been in operation for 4 years and has assisted well over 100,000 refugees. An additional authorization of $10 million is recommended for other migration and refugee assistance programs in which the United States participates.

Mr. Speaker, I fully support the recommendations made by the Committee on International Relations, and I believe that H.R. 13179 merits favorable consideration by the House. I urge the adoption of House Resolution 1189 so that the bill may be considered and passed.

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as explained by the gentleman from Hawaii, this rule provides for 1 hour of general debate on H.R. 13179, the State Department Authorization Act for fiscal year 1977, and that the bill shall be open to all germane amendments.

The total cost of this legislation is $1,051,407,000 for fiscal year 1977.

The administration supports enactment of this bill in general. However, the administration recommends deletion of section 10 which would authorize the transfer of State Department appropriations to the Recreational Development Co. of Puerto Rico for general expenses for the Eighth Pan American Games. U.S. support of that activity should be limited to the construction of permanent support facilities and provided through other existing programs.

Mr. DERWINSKI. Mr. Speaker, I strongly support the rule to H.R. 13179, the State Department authorization bill for fiscal year 1977.

This bill is brief and to the point. It provides basically what the Department of State requested for money to operate the Department, including the administration of foreign affairs, international organizations and conferences, international commissions, educational exchanges, and migration and refugee assistance. It also provides $20 million for resettling Soviet Jews in Israel and $12 million for the Eighth Pan American games to be held in Puerto Rico in 1979. In my opinion, the funds authorized in this legislation are essential to the conduct of our foreign policy and should be approved.

Mr. Speaker, I would like to take just a moment to commend my colleagues from the Committee on International Relations for their work in preparing this legislation. Those of us who serve on the International Relations Committee have had a hand in dealing with our country's foreign affairs through committee legislation, our personal contacts and occasional assignments, abroad.

I would point out that the North Atlantic Assembly makes a significant legislative contribution to the unity of purpose of the United States, Canada, and their Western European allies. It is in this forum that what used to be called the NATO paraliamentarians make their contribution to a better understanding of the common concerns and mutual heritage of those who write the laws and appropriate the funds that make a mutual defense possible.

Mr. Speaker, as the United States prepares to host the North Atlantic Assembly in this Bicentennial Year, I want to commend those members whose efforts have made the North Atlantic Community a more cohesive unit, which is especially important at a time when so many foreign interests want to see NATO divided and weakened.

Mr. LATTA. Mr. Speaker, I have no requests for time.

Mr. MATSUNAGA. Mr. Speaker, there being no further requests for time, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. ASHBROOK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 378, nays 6, not voting 47, as follows:

[Roll No. 344]

YEAS—378

Abdnor
Abzug
Adams
Alexander
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashbrook
Ashley
Aspin
AuCoin
Badillo
Bafalis
Baldus
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Buchanan
Burgener
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Carr
Carter
Cederberg
Chappell
Chisholm
Clancy
Clausen, Don H.
Clay
Cleveland
Cochran
Cohen
Collins, Ill.
Conable
Conlan
Conte
Corman
Cornell
Cotter
Coughlin
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Danielson
Davis
de la Garza
Delaney
Dent
Derrick
Derwinski
Devine
Dickinson
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
du Pont
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
English
Erlenborn
Esch
Evans, Colo.
Evans, Ind.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flood
Florio
Flowers
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fraser
Frey
Fuqua
Gaydos
Gibbons
Gilman
Ginn
Gonzalez
Goodling
Gradison
Grassley
Gude
Guyer
Hagedorn
Haley
Hall
Hamilton
Hammerschmidt
Hanley
Hannaford
Hansen
Harkin
Harrington
Harris
Harsha
Hawkins
Hayes, Ind.
Hays, Ohio
Hechler, W. Va.
Hefner
Heinz
Henderson
Hightower
Hillis
Holland
Holt
Holtzman
Horton
Howard
Howe
Hubbard
Hughes
Hungate
Hutchinson
Hyde
Ichord
Jacobs
Jarman
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Ketchum
Keys
Kindness
Koch
Krebs
Krueger
LaFalce
Lagomarsino
Landrum
Latta
Leggett
Lehman
Lent
Levitas
Litton
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Lundine
McClory
McCloskey
McCormack
McDade
McEwen
McFall
McHugh
McKay
McKinney
Madigan
Maguire
Mahon
Mann
Mathis
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Mikva
Miller, Calif.
Miller, Ohio
Mills
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Hara
O'Neill
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Paul
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Quie
Randall
Rangel
Regula
Reuss
Rhodes
Richmond
Rinaldo
Risenhoover
Roberts
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rosenthal
Roush
Runnels
Ruppe
Russo
St Germain
Santini
Sarasin
Sarbanes
Satterfield
Scheuer
Schneebeli
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shriver
Shuster
Sikes
Sisk
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spence
Staggers
Stanton, J. William
Stark
Steed
Steiger, Ariz.
Steiger, Wis.
Stephens
Stratton
Studds
Sullivan
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Thone
Thornton
Traxler
Treen
Tsongas
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Vigorito
Waggonner
Walsh
Wampler
Waxman
Weaver
Whalen
White
Whitehurst
Whitten
Wilson, Bob
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Young, Tex.
Zablocki
Zeferetti

NAYS—6

Collins, Tex.
Conyers
Emery
McDonald
Quillen
Rousselot

NOT VOTING—47

Addabbo
Bell
Bonker
Broyhill
Burke, Calif.
Carney
Clawson, Del
Dellums
Diggs
Eshleman
Evins, Tenn.
Frenzel
Giaimo
Goldwater
Green
Hébert
Heckler, Mass.
Helstoski
Hicks
Hinshaw
Karth
McCollister
Madden
Martin
Michel
Milford
Passman
Railsback
Rees
Riegle
Rose
Rostenkowski
Roybal
Ryan
Simon
Spellman
Stanton, James V.
Steelman
Stokes
Stuckey
Symington
Teague
Thompson
Udall
Vanik
Wiggins
Wilson, C. H.

The Clerk announced the following pairs:

Mr. Addabbo with Mr. Bell.

Mr. Roybal with Mr. Eshleman.

Mr. Teague with Mr. Goldwater.

Mr. Thompson with Mr. Martin.

Mrs. Burke of California with Mrs. Heckler of Massachusetts.

Mr. Giaimo with Mr. Bonker.

Mr. Hébert with Mr. Milford.

Mr. Green with Mr. Frenzel.

Mr. Stokes with Mr. Railsback.

Mrs. Spellman with Mr. McCollister.

Mr. Passman with Mr. Broyhill.

Mr. Helstoski with Mr. Hicks.

Mr. Carney with Mr. Karth.

Mr. Diggs with Mr. James V. Stanton.

Mr. Evins of Tennessee with Mr. Michel.

Mr. Dellums with Mr. Madden.

Mr. Ryan with Mr. Rees.

Mr. Simon with Mr. Wiggins.

Mr. Udall with Mr. Symington.

Mr. Charles H. Wilson of California with Mr. Riegle.

Mr. Rostenkowski with Mr. Rose.

Mr. Vanik with Mr. Stuckey.

Mr. Del Clawson with Mr. Steelman.

Mr. McCORMACK changed his vote from "present" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 12384, MILITARY CONSTRUCTION AUTHORIZATION ACT, 1977

Mr. ICHORD submitted the following conference report and statement on the bill (H.R. 12384) to authorize certain construction at military installations and for other purposes:

CONFERENCE REPORT (H. REPT. No. 94–1243)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 12384) to authorize certain construction at military installations and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

TITLE I—ARMY

SEC. 101. The Secretary of the Army may establish or develop military installations and facilities by acquiring, constructing, converting, rehabilitating, or installing permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment, for the following acquisition and construction:

INSIDE THE UNITED STATES

UNITED STATES ARMY FORCES COMMAND

Fort Bragg, North Carolina, $33,293,000.

Fort Campbell, Kentucky, $65387,000.

Fort Carson, Colorado, $10,589,000.

Fort Drum, New York, $7,114,000.

Fort Greely, Alaska, $2,854,000.

Fort Hood, Texas, $20,033,000.

Fort Lewis, Washington, $2,114,000.

Fort George G. Meade, Maryland, $1,142,000.

Fort Ord, California, $14,453,000.

Fort Polk, Louisiana, $47,613,000.

Fort Riley, Kansas, $5,694,000.

Fort Stewart/Hunter Army Air Field, Georgia, $39,634,000.

Fort Wainwright, Alaska, $17,163,000.

UNITED STATES ARMY TRAINING AND DOCTRINE COMMAND

Fort Belvoir, Virginia, $6,052,000.

Fort Benning, Georgia, $10,394,000.

Fort Bliss, Texas, $3,856,000.

Fort Eustis, Virginia, $3,016,000.

Fort Gordon, Georgia, $2,224,000.

Fort Benjamin Harrison, Indiana, $987,000.

Fort Knox, Kentucky, $10,379,000.

Fort Leavenworth, Kansas, $190,000.

Fort Lee, Virginia, $1,115,000.

Fort Rucker, Alabama, $1,841,000.

Fort Sill, Oklahoma, $1,181,000.

Fort Leonard Wood, Missouri, $15,249,000.

UNITED STATES ARMY MILITARY DISTRICT OF WASHINGTON

Fort McNair, District of Columbia, $722,000.

UNITED STATES ARMY MATERIEL COMMAND

Aberdeen Proving Ground, Maryland, $726,000.

Detroit Arsenal, Michigan, $340,000.

Kansas Army Ammunition Plant, Kansas, $493,000.

Letterkenny Army Depot, Pennsylvania, $8,357,000.

Fort Monmouth, New Jersey, $495,000.

Natick Laboratories, Massachusetts, $118,000.

Picatinny Arsenal, New Jersey, $560,000.

Pine Bluff Arsenal, Arkansas, $6,934,000.

Pueblo Army Depot, Colorado, $417,000.

Radford Army Ammunition Plant, Virginia, $25,663,000.

Redstone Arsenal, Alabama, $1,126,000.

Scranton Army Ammunition Plant, Pennsylvania, $162,000.

Seneca Army Depot, New York $421,000.

Sharpe Army Depot, California, $551,000.

Sierra Army Depot, California, $1,489,000.

Tooele Amy Depot, Utah, $2,572,000.

USA Fuel Lubrication Research Laboratory, Texas, $469,000.

Watervliet Arsenal, New York, $3,383,000.

White Sands Missile Range, New Mexico, $349,000.

Woodbridge Research Facility, Virginia, $2,130,000.

Yuma Proving Grounds, Arizona, $6,978,000.

AMMUNITION FACILITIES

Holston Army Ammunition Plant, Tennessee, $1,118,000.

Indiana Army Ammunition Plant, Indiana, $6,758,000.

Lone Star Army Ammunition Plant, Texas, $116,000.

Longhorn Army Ammunition Plant, Texas. $86,000.

Milan Army Ammunition Plant, Tennessee, $512,000.

Radford Army Ammunition Plant, Virginia, $387,000.

Sunflower Army Ammunition Plant, Kansas, $15,238,000.

Volunteer Army Ammunition Plant, Tennessee, $285,000.

UNITED STATES MILITARY ACADEMY

United States Military Academy, West Point, New York, $2,857,000.

UNITED STATES ARMY HEALTH SERVICES COMMAND

Fitzsimons Army Medical Center, Colorado, $244,000.

Walter Reed Army Medical Center, District of Columbia, $1,108,000.

UNITED STATES ARMY MILITARY TRAFFIC COMMAND

Sunny Point Army Terminal, North Carolina, $531,000.

NUCLEAR WEAPONS SECURITY

Various locations, $2,575,000.

OUTSIDE THE UNITED STATES

EIGHTH UNITED STATES ARMY, KOREA

Various locations, $13,669,000.

UNITED STATES ARMY, JAPAN

Okinawa, $124,000.

UNITED STATES ARMY SECURITY AGENCY

Various locations, $4,480,000.

UNITED STATES ARMY, EUROPE

Germany, various locations, $15,907,000.

Italy, various locations, $1,088,000.

Various locations: For the United States share of the cost of multilateral programs for the acquisition or construction of military facilities and installations, including international military headquarters, for the collective defense of the North Atlantic Treaty Area, $80,000,000. Within thirty days after the end of each quarter, the Secretary of the Army shall furnish to the Committees on Armed Services and on Appropriations of the Senate and House of Representatives a description of obligations incurred as the United States share of such multilateral programs.

NUCLEAR WEAPONS SECURITY

Various locations, $49,393,000.

EMERGENCY CONSTRUCTION

SEC. 102. The Secretary of the Army may establish or develop Army installations and facilities by proceeding with construction made necessary by changes in Army missions and responsibilities which have been occasioned by (1) unforeseen security considerations, (2) new weapons developments, (3) new and unforeseen research and development requirements, or (4) improved production schedules, if the Secretary of Defense determines that deferral of such construction for inclusion in the next Military Construction Authorization Act would be inconsistent with interests of national security and, in connection therewith, may acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities and equipment in the total amount of $10,000;000. The Secretary of the Army, or his designee, shall notify the Committees on Armed Services of the Senate and House of Representatives, immediately upon reaching a final decision to implement, of the cost of construction of any public work undertaken under this section, including those real estate actions pertaining thereto. This authorization will expire upon the date of enactment of the Military Construction Authorization Act for fiscal year 1978 except for those public works projects concerning which the Committee on Armed Services of the Senate and House of Representatives have been notified pursuant to this section prior to such date.

TITLE II—NAVY

SEC. 201. The Secretary of the Navy may establish or develop military installations and facilities by acquiring, constructing, converting, rehabilitating, or nstalling permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment, for the following acquisition and construction:

INSIDE THE UNITED STATES

TRIDENT FACILITIES

Various locations, $92,278,000.

MARINE CORPS

Marine Corps Supply Center, Albany, Georgia, $1,965,000.

Marine Corps Base, Camp Lejeune, North Carolina, $22,001,000.

Marine Corps Base, Camp Pendleton, California, $12,720,000.

Marine Corps Air Station, Cherry Point, North Carolina, $526,000.

Marine Corps Air Station, Kaneohe Bay, Hawaii, $1,900,000.

Fleet Marine Force Atlantic, Norfolk, Virginia, $799,000.

Headquarters, Fleet Marine Force Pacific, Camp Smith, Oahu, Hawaii, $1,046,000.

Marine Corps Recruit Depot, Parris Island, South Carolina, $4,499,000.

Marine Corps Development and Education Command, Quantico, Virginia, $532,000.

Marine Corps Air Station, Yuma, Arizona, $940,000.

CHIEF OF NAVAL OPERATIONS

Naval Support Activity, Brooklyn, New York, $491,000.

Naval Support Activity, New Orleans, Louisiana, $1,400,000.

Commander in Chief, Pearl Harbor, Hawaii, $4,300,000.

Naval Support Activity, Philadelphia, Pennsylvania, $201,000.

Naval Support Activity, Seattle, Washington, $667,000.

Headquarters Naval District Washington, Washington, District of Columbia, $1,300,000.

COMMANDER IN CHIEF, ATLANTIC FLEET

Naval Air Station, Cecil Field, Florida, $272,000.

Oceanographic System, Atlantic, Dam Neck, Virginia, $8,048,000.

Naval Air Station, Jacksonville, Florida, $6,101,000.

Naval Station, Mayport, Florida, $1,674,000.

Naval Submarine Base, New London, Connecticut, $300,000.

Flag Administrative Unit, Atlantic, Norfolk, Virginia, $223,000.

Naval Station, Norfolk, Virginia, $24,246,000.

Naval Air Station, Oceana, Virginia, $14,457,000.

COMMANDER IN CHIEF, PACIFIC FLEET

Naval Station, Adak, Alaska, $1,418,000.

Naval Air Station, Barbers Point, Hawaii, $12,836,000.

Naval Air Station, Fallon, Nevada, $2,376,000.

Naval Air Station, Miramar, California, $4,958,000.

Naval Air Station, Moffett Field, California, $896,0000.

Naval Air Station, North Island, California, $11,720,000.

Naval Station, Pearl Harbor, Hawaii, $4,051,000.

Naval Submarine Base, Pearl Harbor, Hawaii, $975,000.

Naval Facility, Point Sur, California, $160,000.

Naval Station, San Diego, California, $8,386,000.

Naval Air Station, Whidbey Island, Washington, $1,055,000.

NAVAL EDUCATION AND TRAINING

Naval Academy, Annapolis, Maryland, $1,639,000.

Naval Supply Corps School, Athens, Georgia, $670,000.

Navy Fleet Ballistic Missile Submarine Training Center, Charleston, South Carolina, $2,504,000.

Naval Air Station, Memphis, Tennessee, $1,871,000.

Naval Submarine School, New London, Connecticut, $672,000.

Naval Education and Training Center, Newport, Rhode Island, $490,000.

Naval School of Diving and Salvage, Panama City, Florida, $10,800,000.

Naval Air Station, Pensacola, Florida, $1,546,000.

Naval Technical Training Center, Corry Station, Pensacola, Florida, $900,000.

Naval Submarine Training Center, San Diego, California, $3,520,000.

Naval Training Center, San Diego, California, $5,455,000.

Naval Air Station, Whiting Field, Florida, $1,208,000.

BUREAU OF MEDICINE AND SURGERY

Naval Regional Medical Center, Jacksonville, Florida, $7,393,000.

Portsmouth Naval Regional Medical Clinic, Kittery, Maine, $4,058,000.

Naval Regional Dental Center, Newport, Rhode Island, $1,975,000.

Naval Hospital, Orlando, Florida, $23,850,000.

Navy Environmental and Preventive Medicine Unit No. 6, Pearl Harbor, Hawaii, $283,000.

Naval Regional Dental Center, San Diego, California, $2,501,000.

Navy Environmental and Preventive Medicine Unit No. 5, San Diego, California, $1,270,000.

CHIEF OF NAVAL MATERIAL

Naval Air Rework Facility, Alameda, California, $1,191,000.

Puget Sound Naval Shipyard, Bremerton, Washington, $10,876,000.

Charleston Naval Shipyard, Charleston, South Carolina, $11,256,000.

Naval Weapons Station, Charleston, South Carolina, $8,796,000.

Polaris Missile Facility, Atlantic, Charleston, South Carolina, $2,315,000.

Naval Weapons Center, China Lake, California, $950,000.

Naval Weapons Support Center, Crane, Indiana, $988,000.

Naval Weapons Station, Earle, New Jersey, $2,835,000.

National Parachute Test Range, El Centro, California, $732,000.

Naval Air Facility, El Centro, California, $3,500,000.

Naval Construction Battalion Center, Gulfport, Mississippi, $4,551,000.

Naval Ordnance Station, Indian Head, Maryland, $383,000.

Naval Torpedo Station, Keyport, Washington, $2,145,000.

Portsmouth Naval Shipyard, Kittery, Maine, $12,789,000.

Naval Air Station, Lakehurst, New Jersey, $117,000.

Long Beach Naval Shipyard, Long Beach, California, $3,981,000.

Navy Ships Parts Control Center, Mechanicsburg, Pennsylvania, $135,000.

Navy Public Works Center, Norfolk, Virginia, $454,000.

Naval Air Test Center, Patuxent River, Maryland, $2,701,000.

Pearl Harbor Naval Shipyard, Pearl Harbor, Hawaii, $11,985,000.

Naval Air Rework Facility, Pensacola, Florida, $7,784,000.

Navy Public Works Center, Pensacola, Florida, $95,000.

Navy Aviation Supply Office, Philadelphia, Pennsylvania, $629,000.

Philadelphia Naval Shipyard, Philadelphia, Pennsylvania, $4,607,000.

Pacific Missile Test Center, Point Mugu, California, $3,087,000.

Naval Construction Battalion Center, Port Hueneme, California, $183,000.

Norfolk Naval Shipyard, Portsmouth, Virginia, $5,909,000.

Naval Undersea Center, San Diego, California, $811,000.

Navy Public Works Center, San Francisco, California, $190,000.

Mare Island Naval Shipyard, Vallejo, California, $9,302,000.

OCEANOGRAPHER OF THE NAVY

Naval Oceanographic Center, Bay Saint Louis, Mississippi, $7,400,000.

NUCLEAR WEAPONS SECURITY

Various locations, $34,581,000.

OUTSIDE THE UNITED STATES

COMMANDER IN CHIEF, ATLANTIC FLEET

Naval Station, Keflavik, Iceland, $6,009,000.

Naval Station, Roosevelt Roads, Puerto Rico, $4,160,000.

COMMANDER IN CHIEF, PACIFIC FLEET

Naval Magazine, Guam, Mariana Islands, $1,861,000.

NAVAL TELECOMMUNICATIONS COMMAND

Classified location, $1,832,000.

NAVAL SECURITY GROUP COMMAND

Naval Security Group Activity, Keflavik, Iceland, $3,000,000.

NUCLEAR WEAPONS SECURITY

Various locations, $2,494,000.

EMERGENCY CONSTRUCTION

SEC. 202. The Secretary of the Navy may establish or develop Navy installations and facilities by proceeding with construction made necessary by changes in Navy missions and responsibilities which have been occasioned by (1) unforeseen security considerations, (2) new weapons developments, (3) new and unforeseen research and development requirements, or (4) improved production schedules, if the Secretary of Defense determines that deferral of such construction for inclusion in the next Military Construction Authorization Act would be inconsistent with interests of national security and, in connection therewith, may acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment, in the total amount of $10,000,000. The Secretary of the Navy, or his designee, shall notify the Committees on Armed Services of the Senate and House of Representatives, immediately upon reaching a decision to implement, of the cost of construction of any public work undertaken under this section, including those real estate actions pertaining thereto. This authorization will expire upon the date of enactment of the Military Construction Authorization Act for fiscal year 1978 except for those public works projects concerning which the Committees on Armed Services of the Senate and House of Representatives have been notified pursuant to this section prior to such date.

DEFICIENCY AUTHORIZATIONS

SEC. 203. Public Law 93-166, as amended, is amended by striking out in clause (2) of section 602 "$549,849,000" and "$608,682,000" and inserting in place thereof "$560,849,000" and "$619,682,000", respectively.

TITLE III—AIR FORCE

SEC. 301. The Secretary of the Air Force may establish or develop military installations and facilities by acquiring, constructing, converting, rehabilitating, or installing permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment, for the following acquisition and construction:

INSIDE THE UNITED STATES

AEROSPACE DEFENSE COMMAND

Tyndall Air Force Base, Florida, $1,720,000.

AIR FORCE LOGISTICS COMMAND

Hill Air Force Base, Utah, $16,587,000.

Kelly Air Force Base, Texas, $2,374,000.

McClellan Air Force Base, California, $1,194,000.

Newark Air Force Station, Ohio, $266,000.

Robins Air Force Base, Georgia, $10,051,000.

Tinker Air Force Base, Oklahoma, $5,348,000.

Wright-Patterson Air Force Base, Ohio, $35,804,000.

AIR FORCE SYSTEMS COMMAND

Arnold Engineering Development Center, Tennessee, $439,010,000.

Eglin Air Force Base, Florida, $354,000.

Laurence G. Hanscom Air Force Base, Massachusetts, $671,000.

Patrick Air Force Base, Florida, $198,000.

Pillar Point Air Force Station, California, $450,000.

Various locations, $10,250,000.

AIR TRAINING COMMAND

Columbus Air Force Base, Mississippi, $6,467,000.

Keesler Air Force Base, Mississippi, $1,350,000.

Mather Air Force Base, California, $3,883,000.

Randolph Air Force Base, Texas, $4,927,000.

Reese Air Force Base, Texas, $250,000.

Williams Air Force Base, Arizona, $825,000.

AIR UNIVERSITY

Maxwell Air Force Base, Alabama, $123,000.

ALASKAN AIR COMMAND

Elmendorf Air Force Base, Alaska, $210,000.

Shemya Air Force Base, Alaska, $3,110,000.

Fort Yukon Air Force Station, Alaska, $448,000.

HEADQUARTERS COMMAND

Andrews Air Force Base, Maryland, $2,880,000.

Bolling Air Force Base, District of Columbia, $1,415,000.

MILITARY AIRLIFT COMMAND

Altus Air Force Base, Oklahoma, $11,377,000.

Charleston Air Force Base, South Carolina, $1,468,000.

Dover Air Force Base, Delaware, $900,000.

Little Rock Air Force Base, Arkansas, $2,305,000.

McChord Air Force Base, Washington, $286,000.

Norton Air Force Base, California, $900,000.

Pope Air Force Base, North Carolina, $200,000.

Scott Air Force Base, Illinois, $90,000.

PACIFIC AIR FORCES

Hickam Air Force Base, Hawaii, $4,145,000.

STRATEGIC AIR COMMAND

Barksdale Air Force Base, Louisiana, $3,628,000.

Beale Air Force Base, California, $7,825,000.

Blytheville Air Force Base, Arkansas, $2,200,000.

Carswell Air Force Base, Texas, $732,000.

Castle Air Force Base, California, $1,270,000.

Davis-Monthan Air Force Base, Arizona, $2,192,000.

Fairchild Air Force Base, Washington, $100,000.

Grand Forks Air Force Base, North Dakota, $2,441,000.

Griffiss Air Force Base, New York, $699,000.

K. I. Sawyer Air Force Base, Michigan, $270,000.

Malmstrom Air Force Base, Montana, $3,150,000.

McConnell Air Force Base, Kansas, $2,948,000.

Minot Air Force Base, North Dakota, $980,000.

Offutt Air Force Base, Nebraska, $38,060,000.

Plattsburgh Air Force Base, New York, $588,000.

Rickenbacker Air Force Base, Ohio, $704,000.

Vandenberg Air Force Base, California, $1,454,000.

Whiteman Air Force Base, Missouri, $133,000.

Wurtsmith Air Force Base, Michigan, $1,607,000.

TACTICAL AIR COMMAND

England Air Force Base, Louisiana, $198,000.

Holloman Air Force Base, New Mexico, $500,000.

Luke Air Force Base, Arizona, $987,000.

MacDill Air Force Base, Florida, $1,022,000.

Moody Air Force Base, Georgia $5,796,000.

Myrtle Beach Air Force Base, South Carolina, $1,570,000.

Nellis Air Force Base, Nevada, $245,000.

Seymour-Johnson Air Force Base, North Carolina, $1,030,000.

East Coast Range, $7,500,000.

UNITED STATES AIR FORCE ACADEMY

United States Air Force Academy, Colorado, $354,000.

NUCLEAR WEAPONS SECURITY

Various locations, $15,523,000.

AIR INSTALLATION COMPATIBLE USE ZONES

Various locations, $2,217,000.

OUTSIDE THE UNITED STATES

AIR FORCE SYSTEMS COMMAND

Classified location, $1,300,000.

STRATEGIC AIR COMMAND

Andersen Air Force Base, Guam, $4,170,000.

UNITED STATES AIR FORCES IN EUROPE

Various locations $38,000,000.

NUCLEAR WEAPONS SECURITY

Various locations, $13,180,000.

EMERGENCY CONSTRUCTION

SEC. 302. The Secretary of the Air Force may establish or develop Air Force installations and facilities by proceeding with construction made necessary by changes in Air Force missions and responsibilities which have been occasioned by (1) unforeseen security considerations, (2) new weapons developments, (3) new and unforeseen research and development requirements, or (4) improved production schedules, if the Secretary of Defense determines the deferral of such construction for inclusion in the next Military Construction Authorization Act would be inconsistent with interests of national security and, in connection therewith, may acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment in the total amount of $10,000,000. The Secretary of the Air Force, or his designee, shall notify the Committees on Armed Services of the Senate and House of Representatives, immediately upon reaching a final decision to implement, of the cost of construction of any public work undertaken under this section, including those real estate actions pertaining thereto. This authorization will expire upon the date of enactment of the Military Construction Authorization Act for fiscal year 1978 except for those public works projects concerning which the Committees on Armed Services of the Senate and House of Representatives have been notified pursuant to this section prior to such date.

TITLE IV—DEFENSE AGENCIES

SEC. 401. The Secretary of Defense may establish or develop military installations and facilities by acquiring, constructing, converting, rehabilitating, or installing permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities and equipment, for the following acquisition and construction:

INSIDE THE UNITED STATES

DEFENSE MAPPING AGENCY

Defense Mapping Agency Aerospace Center, Saint Louis, Missouri, $1,023,000.

Defense Mapping Agency Topographic Center, Bethesda, Maryland, $455,000.

DEFENSE SUPPLY AGENCY

Cameron Station, Alexandria, Virginia, $8,000,000.

Defense Construction Supply Center, Columbus, Ohio, $855,000.

Defense Electronics Supply Center, Dayton, Ohio, $130,000.

Defense Fuel Support Point, Cincinnati, Ohio, $191,000.

Defense Fuel Support Point, Lynn Haven, Florida, $1,393,000.

Defense Fuel Support Point, Melville, Newport, Rhode Island, $225,000.

Defense General Supply Center, Richmond, Virginia, $1,624,000.

Defense Logistics Service Center, Battle Creek, Michigan, $1,862,000.

Defense Property Disposal Office, Ayer, Fort Devens, Massachusetts, $500,000.

Defense Property Disposal Office, Duluth Air Force Base, Minnesota, $135,000.

Defense Property Disposal Office, Groton, Connecticut, $231,000.

Defense Property Disposal Office, Gunter Air Force Base, Alabama, $150,000.

Defense Property Disposal Office, Fort Riley, Kansas, $772,000.

Defense Property Disposal Office, Wurtsmith, Michigan, $162,000.

TERMINAL PROCUREMENT

Harrisville, Michigan, $700,000.

Verona, New York, $200,000.

NATIONAL SECURITY AGENCY

Fort George G. Meade, Maryland, $2,247,000.

OUTSIDE THE UNITED STATES

DEFENSE SUPPLY AGENCY

Defense Property Disposal Office, Kaiserslautern, Germany, $575,000.

Defense Property Disposal Office, Nuremberg, Germany, $649,000.

Defense Property Disposal Office, Seckenheim, Germany, $867,000.

EMERGENCY CONSTRUCTION

SEC. 402. The Secretary of Defense may establish or develop installations and facilities which he determines to be vital to the security of the United States and, in connection therewith, may acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation appurtenances, utilities, and equipment, in the total amount of $10,000,000. The Secretary of Defense, or his designee, shall notify the Committees on Armed Services of the Senate and House of Representatives, immediately upon reaching a final decision to implement, of the cost of construction of any public work undertaken under this section, including real estate actions pertaining thereto.

TITLE V—MILITARY FAMILY HOUSING

AUTHORIZATION TO CONSTRUCT OR ACQUIRE HOUSING

SEC. 501. (a) The Secretary of Defense, or his designee, is authorized to construct or acquire sole interest in existing family housing units in the numbers and at the locations hereinafter named, but no family housing construction shall be commenced at any such locations in the United States until the Secretary has consulted with the Secretary of the Department of Housing and Urban Development as to the availability of suitable private housing at such locations. If agreement cannot be reached with respect to the availability of suitable private housing at any location, the Secretary of Defense shall notify the Committees on Armed Services of the Senate and the House of Representatives, in writing, of such difference of opinion, and no contract for construction at such location shall be entered into for a period of thirty days after such notification has been given. This authority shall include the authority to acquire land, and interests in land, by gift, purchase, exchange of Government-owned land, or otherwise.

(b) With respect to the family housing units authorized to be constructed by this section, the Secretary of Defense is authorized to acquire sole interest in privately owned or Department of Housing and Urban Development held family housing units in lieu of constructing all or a portion of the family housing authorized by this section, if he, or his designee, determines such action to be in the best interests of the United States; but any family housing units acquired under authority of this subsection shall not exceed the cost limitations specified in this section for the project nor the limitations on size specified in section 2684 of title 10, United States Code. In no case may family housing units be acquired under this subsection through the exercise of eminent domain authority; and in no case may family housing units other than those authorized by this section be acquired in lieu of construction unless the acquisition of such units is hereafter specifically authorized by law.

(c) Family housing units:

Fort Polk, Louisiana, six hundred fifty-two units, $25,510,000.

Naval Complex, Bangor, Washington, two hundred forty-two units, $9,375,000.

Naval Station Keflavik, Iceland, one hundred sixty units, $17,200,000.

Gila Bend Air Force Auxiliary Field, Arizona, forty units, $1,676,000.

(d) Any amount specified in this section may, at the discretion of the Secretary of Defense, or his designee, be increased by 10 per centum, if he determines that such increase (1) is required for the sole purpose of meeting unusual variations in cost, and (2) could not have been reasonably anticipated at the time the request for such amount was submitted to the Congress. The amounts authorized include the costs of shades, screens, ranges, refrigerators, and all other installed equipment and fixtures, the cost of the family housing unit, design, supervision, inspection, overhead, land acquisition, site preparation, and installation of utilities.

ALTERATIONS TO EXISTING QUARTERS

SEC. 502. The Secretary of Defense, or his designee, is authorized to accomplish alterations, additions, expansions, or extensions, not otherwise authorized by law, to existing public quarters at a cost not to exceed—

(1) for the Department of the Army, $12,000,000 for energy conservation projects;

(2) for the Department of the Navy, $7,000,000 for energy conservation projects; and

(3) for the Department of the Air Force, $6,890,000 for energy conservation projects.

RENTAL QUARTERS

SEC. 503. (a) Section 515 of Public Law 84–161 (69 Stat. 324, 352), as amended, is further amended by revising the third sentence to read as follows: "Expenditures for the rental of such housing facilities, including the cost of utilities and maintenance and operation, may not exceed: For the United States (other than Alaska, Hawaii, and Guam) and Puerto Rico, an average of $265 per month for each military department or the amount of $450 per month for any one unit; and for Alaska, Hawaii, and Guam, an average of $335 per month for each military department, or the amount of $450 per month for any one unit.".

(b) Section 507(b) of Public Law 93–166 (87 Stat. 661, 676) is amended by striking out "$380" and "$670" in the first sentence and inserting in lieu thereof "$405" and "$700", respectively.

SETTLEMENT OF CLAIMS

SEC. 504. Notwithstanding the provisions of any other law:

(1) The Secretary of the Navy is authorized to settle claims regarding construction of public quarters at the Naval Station, Charleston, South Carolina, in the amount of $1,675,000.

(2) The Secretary of the Air Force is authorized to settle claims regarding construction of mobile home facilities at MacDill Air Force Base, Florida, in the amount of $88,000, plus interest at 8⅞ per centum from April 23, 1975, the date of settlement.

HOUSING APPROPRIATIONS LIMITATIONS

SEC. 505. There is authorized to be appropriated for use by the Secretary of Defense, or his designee, for military family housing as authorized by law for the following purposes:

(1) For construction or acquisition of sole interest in family housing, including demolition, authorized improvements to public quarters, minor construction, relocation of family housing, rental guarantee payments, and planning, an amount not to exceed $80,576,000.

(2) For support of military family housing, including operating expenses, leasing, maintenance of real property, payments of principal and interest on mortgage debts incurred, payment to the Commodity Credit Corporation, and mortgage insurance premiums authorized under section 222 of the National Housing Act, as amended (12 U.S.C. 1715m), an amount not to exceed $1,223,947,000.

TITLE VI—GENERAL PROVISIONS

WAIVER OF RESTRICTIONS

SEC. 601. The Secretary of each military department may proceed to establish or develop installations and facilities under this Act without regard to section 3648 of the Revised Statutes, as amended (31 U.S.C. 529), and sections 4774 and 9774 of title 10, United States Code. The authority to place permanent or temporary improvements on land includes authority for surveys, administration, overhead, planning, and supervision incident to construction. That authority may be exercised before title to the land is approved under section 355 of the Revised Statutes, as amended (40 U.S.C. 255), and even though the land is held temporarily. The authority to acquire real estate or land includes authority to make surveys and to acquire land, and interests in land (including temporary use), by gift, purchase, exchange of Government-owned land, or otherwise.

APPROPRIATIONS LIMITATIONS

SEC. 602. There are authorized to be appropriated such sums as may be necessary for the purposes of this Act, but appropriations for public works projects authorized by titles I, II, III, IV, and V shall not exceed—

(1) for title I: Inside the United States, $419,837,000; outside the United States, $164,661,000; or a total of $584,498,000.

(2) for title II: Inside the United States, $481,500,000; outside the United States, $19,356,000; or a total of $500,936,000.

(3) for title III: Inside the United States, $679,759,000; outside the United States, $56,650,000; or a total of $736,409,000.

(4) for title IV: A total of $32,946,000.

(5) for title V: Military Family Housing, $1,304,523,000.

COST VARIATIONS

SEC. 603. (a) Except as provided in subsections (b) and (c), any amount specified in titles I, II, III, and IV of this Act may, at the discretion of the Secretary of the military department or Director of the defense agency concerned, be increased by 5 per centum when inside the United States (other than Hawaii and Alaska) and by 10 per centum when outside the United States or in Hawaii and Alaska, if he determines that such increase (1) is required for the sole purpose of meeting unusual variations in cost, and (2) could not have been reasonably anticipated at the time the request for such amount was submitted to the Congress.

(b) When the amount named for any construction or acquisition in title I, II, III, or IV of this Act involves only one project at any military installation and the Secretary of the military department or Director of the defense agency concerned determines that the amount authorized must be increased by more than the applicable percentage prescribed in subsection (a), he may proceed with such construction or acquisition if the amount of the increase does not exceed by more than 25 per centum the amount named for such project by the Congress.

(c) When the Secretary of Defense determines that any amount named in title I, II, III, or IV of this Act must be exceeded by more than the percentages permitted in subsections (a) or (b) to accomplish authorized construction or acquisition, the Secretary of the military department or Director of the defense agency concerned may proceed with such construction or acquisition after a written report of the facts relating to the increase of such amount, including a statement of the reasons for such increase, has been submitted to the Committees on Armed Services of the Senate and House of Representatives, and either (1) thirty days have elapsed from date of submission of such report, or (2) both committees have indicated approval of such construction or acquisition. Notwithstanding any provision to the contrary in prior military construction authorizations Acts, the provisions of this subsection shall apply to such prior Acts.

(d) Notwithstanding the foregoing provisions of this section, the total cost of all construction and acquisition in each such title may not exceed the total amount authorized to be appropriated in that title.

(e) No individual project authorized under title I, II, III, or IV of this Act for any specifically listed military installation for which the current working estimate is $400,000 or more may be placed under contract if—

(1) the approved scope of the project is reduced in excess of 25 per centum; or

(2) the current working estimate, based upon bids received, for the construction of such project exceeds by more than 25 per centum the amount authorized for such project by the Congress, until a written report of the facts relating to the reduced scope or increased cost of such project, including a statement of the reasons for such reduction in scope or increase in cost, has been submitted to the Committees on Armed Services of the Senate and House of Representatives and either (A) thirty days have elapsed from date of submission of such report, or (B) both committees have indicated approval of such reduction in scope or increase in cost, as the case may be.

(f) The Secretary of Defense shall submit an annual report to the Congress identifying each individual project which has been placed under contract in the preceding twelve-month period and with respect to which the then current working estimate of the Department of Defense based upon bids received for such project exceeded the amount authorized by the Congress for that project by more than 25 per centum. The Secretary shall also include in such report each individual project with respect to which the scope was reduced by more than 25 per centum in order to permit contract award within the available authorization for such project. Such report shall include all pertinent cost information for each individual project, including the amount in dollars and percentage by which the current working estimate based on the contract price for the project exceeded the amount authorized for such project by the Congress.

CONSTRUCTION SUPERVISION

SEC. 604. Contracts for construction made by the United States for performance within the United States and its possessions under this Act shall be executed under the jurisdiction and supervision of the Corps of Engineers, Department of the Army, or the Naval Facilities Engineering Command, Department of the Navy, or such other department or Government agency as the Secretaries of the military departments recommend and the Secretary of Defense approves to assure the most efficient, expeditious, and cost-effective accomplishment of the construction herein authorized. The Secretaries of the military departments shall report annually to the President of the Senate and the Speaker of the House of Representatives a breakdown of the dollar value of construction contracts completed by each of the several construction agencies selected together with the design, construction supervision, and overhead fees charged by each of the several agents in the execution of the assigned construction. Further, such contracts (except architect and engineering contracts which, unless specifically authorized by the Congress, shall continue to be awarded in accordance with presently established procedures, customs, and practice) shall be awarded, insofar as practicable, on a competitive basis to the lowest responsible bidder, if the national security will not be impaired and the award is consistent with chapter 137 of title 10, United States Code. The Secretaries of the military departments shall report annually to the President of the Senate and Speaker of the House of Representatives with respect to all contracts awarded on other than a competitive basis to the lowest responsible bidder. Such reports shall also show, in the case of the ten architect-engineering firms which, in terms of total dollars, were awarded the most business; the names of such firms; the total number of separate contracts awarded each such firm; and the total amount paid or to be paid in the case of each such action under all such contracts awarded such firm.

REPEAL OF PRIOR AUTHORIZATION; EXCEPTIONS

SEC. 605. (a) As of January 1, 1978, all authorizations for military public works, including family housing to be accomplished by the Secretary of a military department, in connection with the establishment or development of installations and facilities, and all authorizations for appropriations therefor, that are contained in titles I, II, III, IV, and V of the Act of October 7, 1975, Public Law 94–107 (89 Stat. 546), and all such authorizations contained in Acts approved before October 7, 1975, and not superseded or otherwise modified by a later authorization are repealed except—

(1) authorizations for public works and

for appropriations therefor that are set forth in those Acts in the titles that contain the general provisions;

(2) authorizations for public works projects as to which appropriated funds have been obligated for construction contracts, land acquisition, or payments to the North Atlantic Treaty Organization, in whole or in part, before January 1, 1978, and authorizations for appropriations therefor.

(b) Notwithstanding the repeal provisions of section 605 of the Act of October 7, 1975, Public Law 94–107 (89 Stat. 546, 565), authorizations for the following items shall remain in effect until January 1, 1979:

(1) Defense Satellite Communications System construction in the amount of $1,054,000 at Stuttgart, Germany, authorized in section 101 of the Act of December 27, 1974 (88 Stat. 1747), as amended.

(2) Cold storage warehouse construction in the amount of $1,215,000 at Fort Dix, New Jersey, authorized in section 101 of the Act of October 25, 1972 (86 Stat. 1135), as amended and extended in section 605(3)(B) of the Act of December 27, 1974 (88 Stat. 1762), as amended.

(3) Land acquisition, Murphy Canyon in the amount of $3,843,000 at Naval Regional Medical Center, San Diego, California, authorized in section 201 of the Act of December 27, 1974 (88 Stat. 1750), as amended.

(4) Land acquisition in the amount of $800,000 at Naval Security Group Activity, Sabana Seca, Puerto Rico, authorized in section 201 of the Act of December 27, 1974 (88 Stat. 1750), as amended.

UNIT COST LIMITATIONS

Sec. 606. None of the authority contained in titles I, II, III, and IV of this Act shall be deemed to authorize any building construction project inside the United States in excess of a unit cost to be determined in proportion to the appropriate area construction cost index, based on the following unit cost limitations where the area construction index is 1.0:

(1) $39 per square foot for permanent barracks;

(2) $42 per square foot for bachelor officer quarters;

unless the Secretary of Defense, or his designee, determines that because of special circumstances, application to such project of the limitations on unit costs contained in this section is impracticable. Notwithstanding the limitations contained in prior Military Construction Authorization Acts on unit costs, the limitations on such costs contained in this section shall apply to all prior authorizations for such construction not heretofore repealed and for which construction contracts have not been awarded by the date of enactment of this Act.

INCREASES FOR SOLAR HEATING AND SOLAR COOLING EQUIPMENT

Sec. 607. The Secretary of Defense shall encourage the utilization of solar energy as a source of energy for projects authorized by this Act where utilization of solar energy would be practical and economically feasible. In addition to all other authorized variations of cost limitations or floor area limitations contained in this Act or prior Military Construction Authorization Acts, the Secretary of Defense, or his designee, may permit increases in the cost limitations or floor area limitations by such amounts as may be necessary to equip any projects with solar heating and/or solar ccoling equipment.

LAND CONVEYANCE, NEW JERSEY

Sec. 608. (a) The Secretary of the Navy is authorized to convey, without consideration, to the Airship Association, a nonprofit organization incorporated under the laws of the State of New Jersey, all right, title, and interest of the United States in and to that portion of the lands comprising the Naval Air Station, Lakehurst, New Jersey, described in subsection (b), for use as a permanent site for the museum described in subsection (c), subject to conditions of use set forth in such subsection.

(b) The land authorized to be conveyed by subsection (a) is a certain parcel of land containing 13.98 acres, more or less, situated in Ocean County, New Jersey, being a part of the Naval Air Station, Lakehurst, New Jersey, and more particularly described as follows:

Beginning at a point on the westerly side of Ocean County Route Numbered 547, 205.40 feet northerly from the intersection of the center line of new road and the westerly side of Route Numbered 547 thence (1) north 10 degrees 14 minutes 19 seconds east, 770.25 feet along the westerly edge of road to a point thence (2) north 66 degrees 35 minutes 41 seconds west, 724.55 feet to a point thence (3) south 23 degrees 24 minutes 19 seconds west, 750 feet to a point thence (4) south 66 degrees 35 minutes 41 seconds east, 900 feet to the point and place of beginning.

(c) The conveyance authorized by subsection (a) shall be subject to the following conditions and such other terms and conditions as the Secretary of the Navy, or his designee, shall determine necessary to protect the interests of the United States:

(1) The lands so conveyed shall be used primarily for the construction and operation of an airship museum to collect, preserve, and display to the public materials, memorabilia, and other items of historical significance and interest relative to the development and use of the airship, and for purposes incidental thereto.

(2) All right, title, and interest in and to such lands, and any improvements constructed thereon, shall revert to the United States, which shall have an immediate right of entry thereon, if the construction of the airship museum is not undertaken within five years from the date of such conveyance or if the lands conveyed shall cease to be used for the purposes specified in paragraph (1).

(3) All expenses for surveys and the preparation and execution of legal documents necessary or appropriate to carry out the provisions of this section shall be borne by the Airship Association.

LAND CONVEYANCE, WEST VIRGINIA

Sec. 609. Notwithstanding any other provisions of law, the Secretary of Defense, or his designee, is authorized to convey to the city of South Charleston, West Virginia, subject to such terms and conditions as the Secretary shall deem to be in the public interest, all right, title, and interest of the United States in and to a section of land located on the property formerly known as the South Charleston Naval Ordnance Plant, with improvements, such land consisting of approximately 4.5 acres. In consideration of such conveyance by the Secretary, the city of South Charleston shall convey to the United States unencumbered fee title to eight acres of land owned by the municipality, improved in a manner acceptable to the Secretary, and subject to such other conditions as are acceptable to the Secretary. The exact acreages and legal descriptions of both properties are to be determined by accurate surveys as mutually agreed upon by the Secretary and the city of South Charleston. The Secretary is authorized to accept the lands so conveyed to the United States, which lands shall be administered by the Department of the Army.

STUDIES OF REUSE OF MILITARY BASES

Sec. 610. (a) Whenever a final decision has been made to close any military installation located in the United States, Guam, or Puerto Rico and, because of the location, facilities, and other particular characteristics of such installation, the Secretary of Defense determines that such installation may be suitable for some specific Federal or State use potentially beneficial to the Nation, the Secretary of Defense is authorized to conduct such studies, including, but not limited to, the preparation of an environmental impact statement in accordance with the National Environmental Policy Act of 1969, in connection with such installation and such potential use as may be necessary to provide information sufficient to make sound conclusions and recommendations regarding the possible use of such installation.

(b) Any study conducted under authority of this section shall be submitted to the President and the Congress together with such comments and recommendations as the Secretary of Defense may deem appropriate. Such studies shall also be available to the public.

(c) As used in this section, the term "military installation" includes any camp, post, station, base, yard, or other installation under the judisdiction of any military department.

(d) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

IMPACT ASSISTANCE, NON-PROFIT COOPERATIVES

Sec. 611. Notwithstanding section 7 of the Act of August 23, 1912 (31 U.S.C. 679), the Secretary of Defense is authorized to use any funds appropriated to carry out the provisions of section 610 of the Military Construction Act, 1971 (84 Stat. 1224) to reimburse nonprofit, mutual aid telephone cooperatives for their capital expenditures for the purchase and installation of nontactical communications equipment and related facilities, to the extent the Secretary determines that (1) such expenditures are not otherwise recoverable by such cooperatives, (2) such expenditures were incurred as the direct result of the construction, installation, testing, and operation of the SAFEGUARD Antiballistic Missile System, and (3) such cooperatives, as a result of the deactivation and termination of such system, would sustain an unfair and excessive financial burden in the absence of the financial assistance authorized by this section.

BASE REALINEMENTS

Sec. 612. (a) Notwithstanding any other provision of law, no action may be taken prior to October 1, 1981, to effect or implement—

(1) the closure of any military installation;

(2) any reduction in the authorized level of civilian personnel at any military installation by more than one thousand civilian personnel or 50 per centum of the level of such personnel authorized as of March 1, 1976, or the end of the fiscal year immediately preceding the fiscal year in which the Secretary of Defense or the Secretary of the military department concerned notifies the Congress that such installation is a candidate for closure or significant reduction, whichever; or

(3) any construction, conversion, or rehabilitation at any other military installation (whether or not such installation is a military installation as defined in subsection (b)) which will or may be required as a result of the relocation of civilian personnel to such other installation by reason of any closure or reduction to which this section applies:

unless—

(A) the Secretary of Defense or the Secretary of the military department concerned notifies the Congress in writing that such military installation is a candidate for closure or significant reduction; and then

(B) a period of at least nine months expires following the date on which such notice was given, during which period the department concerned has identified the full range of environmental impacts, as required by the National Environmental Policy Act of 1969, that may result from the proposed closure or reduction; and then

(C) the Secretary of Defense or the Secretary of the military department concerned submits to the Committees on Armed Services of the House of Representatives and the Senate his final decision to close or significantly reduce such installation and a detailed justification for his decision, together with the estimated fiscal, economic, budgetary, environmental, strategic, and operational consequences of the proposed closure or reduction; and then

(D) a period of at least ninety days expires following the date on which the justification referred to in clause (C) has been submitted to such committees.

(b) For purposes of this section, the term "military installation" means any camp, post, station, base, yard, or other facility under the authority of the Department of Defense—

(1) which is located within any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, or Guam; and

(2) at which not less than five hundred civilian personnel are authorized to be employed.

(c) For purposes of this section, the term "civilian personnel" means direct-hire permanent civilian employees of the Department of Defense.

(d) This section shall not apply to any closure or reduction if the President certifies to the Congress that such closure or reduction must be implemented for reasons of any military emergency or national security or if such closure or reduction was publicly announced prior to January 1, 1976.

NAVAL MUSEUM, CHARLESTON, SOUTH CAROLINA

SEC. 613. The Congress hereby expresses its approval and encouragement with respect to the establishment, by the State of South Carolina, of a naval and maritime museum in the city of Charleston, South Carolina, and recognizes the historical importance of such museum and the patriotic purpose it is intended to serve.

AMENDMENT TO TITLE 10, UNITED STATES CODE; REAL PROPERTY EXCHANGE

SEC. 614. Section 2662(a) of title 10, United States Code, is amended by adding at the end thereof a new sentence as follows: "The report required by this subsection to be submitted to the Committees on Armed Services of the Senate and House of Representatives concerning any report of excess real property described in clause (5) shall contain a certification by the Secretary concerned that he has considered the feasibility of exchanging such property for other real property authorized to be acquired for military purposes and has determined that the property proposed to be declared excess is not suitable for such purpose.".

SHORT TITLE

SEC. 615. Titles I, II, III, IV, V, and VI of this Act may be cited as the "Military Construction Authorization Act, 1977".

TITLE VII—GUARD AND RESERVE FORCES FACILITIES

AUTHORIZATION FOR FACILITIES

SEC. 701. Subject to chapter 133 of title 10, United States Code, the Secretary of Defense may establish or develop additional facilities for the Guard and Reserve Forces, including the acquisition of land therefor, but the cost of such facilities shall not exceed—

(1) For the Department of the Army:

(a) Army National Guard of the United States, $54,745,000.

(b) Army Reserve, $44,459,000.

(2) For the Department of the Navy: Naval and Marine Corps Reserves, $21,800,000.

(3) For the Department of the Air Force:

(a) Air National Guard of the United States, $33,900,000.

(b) Air Force Reserve, $9,773,000.

WAIVER OF CERTAIN RESTRICTIONS

SEC. 702. The Secretary of Defense may establish or develop installations and facilities under this title without regard to section 3648 of the Revised Statutes, as amended (31 U.S.C. 529), and sections 4774 and 9774 of title 10, United States Code. The authority to place permanent or temporary improvements on lands includes authority for surveys, administration, overhead, planning, and supervision incident to construction. That authority may be exercised before title to the land is approved under section 355 of the Revised Statutes, as amended (40 U.S.C. 255), and even though the land is held temporarily. The authority to acquire real estate or land includes authority to make surveys and to acquire land, and interests in land (including temporary use), by gift, purchase, exchange of Government-owned land, or otherwise.

SHORT TITLE

SEC. 703. This title may be cited as the "Guard and Reserves Forces Facilities Authorization Act, 1977".

And the Senate agree to the same

RICHARD H. ICHORD,
MELVIN PRICE,
WM. J. RANDALL,
CHARLES H. WILSON,
RICHARD C. WHITE,
JACK BRINKLEY,
MENDEL J. DAVIS,
G. WILLIAM WHITEHURST,
BOB WILSON,
ROBIN L. BEARD,
Managers on the Part of the House.

STUART SYMINGTON,
JOHN C. STENNIS,
HENRY M. JACKSON,
HOWARD W. CANNON,
HARRY F. BYRD, Jr.,
PATRICK J. LEAHY,
JOHN TOWER,
STROM THURMOND,
BARRY GOLDWATER,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 12384) to authorize certain construction at military installations, and for other purposes, submit the following joint statement in explanation of the effect of the action agreed upon by the conferees and recommended in the accompanying report:

LEGISLATION IN CONFERENCE

On May 7, 1976, the House passed H.R. 12384 which provides military construction authorization and related authority in support of the Military Departments, Reserve Components and the Defense Department during fiscal year 1977.

On May 20, 1976, the Senate considered the legislation, amended it by striking out all language after the enacting clause and wrote a new bill.

COMPARISON OF SENATE AND HOUSE BILLS

As passed by the House, H.R. 12384, provided $3,324,264,000 in new authorization.

The bill as passed by the Senate provided $3,289,785,000 in new authorization.

SUMMARY OF RESOLUTION OF DIFFERENCES

As a result of the conference between the House and Senate on the differences in H.R. 12384, the conferees agreed to a new adjusted authorization for military construction for fiscal year 1977 in the amount of $3,323,989,000.

The Department of Defense and the respective military departments had requested a total of $3,368,215,000 for new construction authorization for fiscal year 1977. The action of the conferees therefore reduces the Department's request by $44,226,000 in new authorization.

Total authorization granted, fiscal year 1977

[In thousands]

Title I (Army):	
Inside the United States	$419,337
Outside the United States	164,661
Subtotal	584,498
Title II (Navy):	
Inside the United States	481,580
Outside the United States	19,356
Subtotal	500,936
Title II (air Force):	
Inside the United States	679,759
Outside the United States	56,650
Subtotal	736,409
Title IV (Defense agencies)	32,946
Title V (Military family housing)	1,304,523
Title VII (Reserve forces facilities):	
Army National Guard	54,745
Army Reserve	44,459
Naval and Marine Corps Reserve	21,800
Air National Guard	33,900
Air Force Reserve	9,773
Subtotal	164,677
Total granted by titles I, II, III, IV, V, and VII	3,323,989

GENERAL TOPICS

Projects eliminated by the conference

To maintain budgetary ceilings the conferees were required to eliminate several high priority projects that had been added by either the House or the Senate. However, these projects are badly needed and the conferees will expect them to be revalidated and included in the fiscal year 1978 request by the Department of Defense if appropriate.

Non appropriated fund construction

The conferees noted that during the first half of fiscal year 1976 approximately $45 million in non-appropriated funds was spent for construction. In some instances non-appropriated funds were being used for construction at bases now scheduled for closure or significant reductions. They also noted several instances of facilities being built with appropriated funds by one of the services, while another service used non-appropriated funds. The conferees were concerned that this inconsistent, dual-funding approach could circumvent the will of the Congress in the construction of projects at military bases. The House conferees endorsed the language of the Senate report which directs the Department of Defense to examine all non-appropriated fund construction and to report back to the Armed Services Committees of both Houses on the desirability of authorizing all construction in the annual authorization bill regardless of the funding source for each type of facility required by the military services. The conferees further direct that this report be submitted to the committee not later than February 1, 1977.

Nuclear weapons security

For the past several years the Congress has expressed concern over the security of nuclear weapons. Last year Congress authorized over $56 million for this purpose and this bill contains $117,746,000.

In its report on this bill, the Senate directed the Department of Defense to report to the Armed Services Committees of the Senate and House of Representatives on a bimonthly basis for the next two years on upgrading nuclear weapons storage sites. The House argued that a bimonthly report requirement was too frequent to be meaningful and suggested that the report be submitted semiannually, and the Senate agreed. The conferees again expressed serious concern with this situation and insisted that upgrading the physical security of our nuclear storage facilities be given top priority by the Department.

TITLE I—ARMY

The House approved new construction authorization in the amount of $584,245,000 for the Department of the Army. The Senate approved new construction authorization for the Army in the amount of $587,913,000. The conferees agreed to a new total for Title I in the amount of $584,498,000, which is $253,000 above the House figure and $3,415,000 below the Senate figure. Among the major items considered in conference and acted on by the conferees were the following:

Fort Campbell, Ky.—New Hospital, $58,200,000

The Senate, in considering the Fort Campbell hospital, took note of the excellent work done by the House in reducing the budget request for the Fort Campbell hospital from $70,900,000 to $58,200,000. However, the Senate bill had increased the authorization by $3,600,000 over the House-reduced figure of $53,200,000 to allow for certain aspects of construction to be incorporated in the finished facility—namely, seismic strengthening of the hospital core and the inclusion of space for a worldwide, medical data handling system. House conferees remained adamant that the authorization would not be increased above $58,200,000 but agreed that the construction aspects of concern to the Senate could be included in the scope of work if the total authority was not increased beyond the project ceiling, taking into consideration the cost variation provisions in the bill.

Fort Bliss, Tex.—Hospital Annex, $3,856,000

The House committee added $12,755,000 to the bill for a new hospital annex to the William Beaumont Army Medical Center at Fort Bliss, Texas. The Senate did not provide any authorization for this project. During a thorough discussion in conference on this matter, Senate conferees agreed to the need for the annex facility and associated upgrading of utilities of the existing medical center. However, they felt that since the project could not possibly be designed and put under construction before the end of fiscal year 1977, it should be considered a high priority project for inclusion in the Army's fiscal year 1978 military construction program. The matter was resolved when the Senate agreed to authorize $3,356,000 to upgrade the utilities in the existing hospital to meet current safety requirements.

U.S. Army Security Agency, Korea—Barracks, $1,849,000

The Army requested $1,849,000 to construct permanent enlisted men's barracks for the U.S. Army Security Agency at a location in Korea. The House approved the full request but the Senate denied the project on the basis that the barracks should be of the relocatable type, rather than permanent construction, to be consistent with other barracks authorized for Korea. House conferees concurred and convinced Senate conferees to agree to provide authorization for this project on the condition that relocatable structures be used to provide the housing requested in this project.

TITLE II—NAVY

The House approved $502,818,000 in new construction authorization for the Department of the Navy. The Senate approved $500,815,000. The conferees agreed to a new total in the amount of $500,936,000. This amount is $1,832,000 below the House figure and $121,000 above the Senate figure.

Among the major items considered in the conference were the following:

Trident Facilities, $92,278,000

The Navy's request for the fourth phase of the Trident facility was $140,472,000.

The Senate reduced the request by $45,000,000 to bring cumulative authorizations and appropriations more nearly into agreement. This reduction was simply a "bookkeeping" move and was not intended to indicate that the Senate had changed its position about the necessity of timing required for constructing the facility. The Senate approved all projects proposed for the Trident Support Site, including $11,000,000 for Community Impact Assistance.

The House reduced the authorization for bachelor enlisted quarters and bachelor officer quarters, and receded in conference on these two items. The House reduced the authorization for outdoor playing fields and a recreational complex, and the Senate receded in conference on these two items. The House deleted the authorization for an exchange complex on the basis that it should be built with non-appropriated funds, and the Senate agreed in conference with the House deletion. The net reduction of these actions totals $3,194,000.

The House reduced the authorization for the Trident Community Impact Assistance by $9 million, maintaining that the Navy could not prudently use the carryover from the $7 million authorized in fiscal year 1976 and the $11 million requested in this authorization.

After much discussion, House conferees very reluctantly receded upon receiving convincing arguments from the Senate conferees that State and local government applications for community impact assistance might require the full $11,000,000 requested.

Considering the $45,000,000 "bookkeeping" reduction in cumulative authorization, the full $11,000,000 authorization for community impact assistance, and the House reductions of $3,194,000 agreed to in conference by the Senate, the total authorized for Trident facilities in fiscal year 1977 is $92,278,000.

Various locations—nuclear weapons security, $37,075,000

The Senate added $7,375,000 for nuclear weapons security and the House added $1,920,000. The conferees looked at these differences and, after discussing the great importance of improving nuclear weapons security, the House receded and agreed to the Senate figure, bringing the total authorized for the Navy for this purpose to $37,075,000.

TITLE III—AIR FORCE

The House approved $731,059,000 in new construction authorization for the Department of the Air Force. The Senate approved $744,516,000.

The conferees agreed to a new total in the amount of $736,409,000, which is $8,107,000 below the Senate figure and $5,350,000 above the House figure.

Among the major items resolved in conference was the following:

Hill Air Force Base, Utah—Minuteman support facility $5,400,000

The Senate bill included $5,400,000 for the construction of Minuteman storage and maintenance facilities at Hill Air Force Base as requested by the President in a budget amendment and in consonance with the Senate inclusion of Minuteman production funds in the Senate version of the fiscal year 1977 Defense Procurement Bill. The House conferees argued that inclusion of these funds in the final construction bill was questionable since the House had not acted on the budget amendment and no conference position has been taken on the fiscal year 1977 Defense Procurement bill. The conferees agreed to delete the authority for funds with the understanding that if Minuteman production funds are authorized by the conference on the fiscal year 1977 Defense Procurement bill, then supporting construction is appropriate under Section 402 emergency construction authority.

TITLE IV—DEFENSE AGENCIES

The House approved $36,618,000 in new construction authorization for the Defense agencies. The Senate approved $24,946,000.

The conferees agreed to a new total of $32,946,000, which is $8,000,000 above the Senate figure and $5,672,000 below the House figure.

Included in the Defense agencies request was $6,672,000 to build an animal research facility to serve as a radiobiological laboratory. The House reduced the authorization by $1,000,000, and the Senate denied the authorization on the basis that design of the facility had not started. The House receded and the conferees agreed to defer the authorization.

TITLE V—MILITARY FAMILY HOUSING

The House approved $1,302,847,000 for construction, operation, maintenance and debt payment for military family housing. The Senate approved $1,304,523,000.

The conferees agreed to a new total in the amount of $1,304,523,000 which is $1,676,000 above the House figure and equal to the Senate figure.

House conferees agreed to the addition by the Senate of 40 housing units at Gila Bend Auxiliary Airfield, Arizona, at an estimated cost of $1,676,000.

Conferees expressed concern about the dramatic increase in the backlog of deferred maintenance of military family housing. It was the expressed desire that this backlog should receive priority attention as opposed to the improvement of the existing housing inventory. While the conferees were sympathetic to the need for improving the existing inventory, they were more concerned with the continuing deterioration caused by the lack of sufficient maintenance funds. Accordingly, the conferees adopted the Senate position and diverted $25,000,000 from the improvement program for family housing and added that sum to the housing maintenance program.

Conferees felt that in future years adequate amounts should be budgeted in the operation and maintenance portion of the military family housing program in order not to further increase the existing backlog of maintenance of military family housing.

TITLE VI—GENERAL PROVISIONS

The Senate included in its bill Section 608 which expressed the approval of Congress to the planned establishment of a naval and maritime museum in Charleston, South Carolina. The House measure did not contain such language. However, House conferees accepted the Senate provision when it was fully explained that this language does not authorize any federal funds for the proposed museum.

The primary intent of Section 612, as finally approved by the conferees, is to put into law a procedure and a schedule whereby the Department of Defense can effect base realinements. The conferees were quite emphatic that the record must be clear that decisions on base realinements are made by the Department of Defense and not by Congress, but that Congress does have a constitutional obligation to review the justification for such decision just as the Congress reviews the justification for any Department of Defense budget request.

This provision does establish a base realinement schedule insuring that the persons affected, the courts, and the Congress know precisely where they stand regarding any potential action.

Section 612 is retroactive to January 1, 1976, and the following currently pending realinement actions, as a minimum, are covered by the legislation:

INSTALLATION

Army

Jefferson Proving Ground, Indiana
Fort Devens, Massachusetts
Forts Hamilton/Totten, New York
Fort Indiantown Gap, Pennsylvania
New Cumberland Depot, Pennsylvania
Fort Buchanan, Puerto Rico
Troop Support Command and Aviation Material Readiness Command, St. Louis, Missouri

Navy

Key West Naval Air Station, Florida
Naval Shipyard Repair Facility, Guam
Navy Resale System Office, Brooklyn, New York
Naval Air Station, Corpus Christi, Texas

Air Force

Craig Air Force Base, Alabama
Loring Air Force Base, Maine
Webb Air Force Base, Texas
Richards Gebaur Air Force Base, Missouri

Defense agency

Defense Clothing Factory, Philadelphia, Pennsylvania

The conferees are confident that this provision will improve base realinement procedures. It does not represent a violation of the principle of the separation of powers. It bears no resemblance to the highly restrictive provision in the fiscal year 1966 Military Construction Authorization Bill that resulted in President Johnson's veto. Despite the Defense Department's opposition, the conferees are convinced that Section 612 is good legislation that can only benefit all concerned.

TITLE VII—GUARD AND RESERVE FORCES

The House approved $164,677,000 in new construction authorization for the Guard and Reserve Forces. The Senate approved $127,072,000.

The conferees agreed to a new total in the amount of $164,677,000, which is $37,605,000 above the Senate figure, and is the same as the House figure.

Significant factors in increasing the authorization were the growing emphasis on training and combat readiness, and the Total Forces Concept that requires adequate facilities to support new missions and equipment being assigned.

During the discussion of the difference in the amounts authorized, there was unanimous agreement that the requested authorization contained only minimal essential items and that additional authorization should be provided. Accordingly, the Senate conferees agreed to the additional authorization of $37,605,000, making a total authorization of $164,677,000.

RICHARD H. ICHORD,
MELVIN PRICE,
WM. J. RANDALL,
CHARLES H. WILSON,
RICHARD C. WHITE,
JACK BRINKLEY,
MENDEL J. DAVIS,
G. WILLIAM WHITEHURST,
BOB WILSON,
ROBIN L. BEARD,
Managers on the Part of the House.

STUART SYMINGTON,
JOHN C. STENNIS,
HENRY M. JACKSON,
HOWARD W. CANNON,
HARRY F. BYRD, Jr.,
PATRICK J. LEAHY,
JOHN TOWER,
STROM THURMOND,
BARRY GOLDWATER,
Managers on the Part of the Senate.

COMMUNICATION FROM THE CLERK OF THE HOUSE—IN RE POSSIBLE VIOLATION OF 18 U.S.C. 371, 1341, IN THE U.S. DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASIHNGTON, D.C.,
June 2, 1976.

Hon. CARL ALBERT,
The Speaker,
House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: On June 1, 1976, I was served with a subpoena duces tecum by a Representative of the U.S. Department of Justice; said subpoena was issued by the United States District Court for the District of Columbia.

The subpoena commands me or my authorized representative to appear before the Grand Jury of the U.S. District Court on June 10, 1976, and requests certain House records that are outlined in the subpoena itself, which is attached hereto.

House Resolution No. 9 of January 14, 1975, and the rules and practices of the House of Representatives indicate that no official of the House may, either voluntarily or in obedience to a subpoena duces tecum, produce such paper without the consent of the House being first obtained. It is further indicated that he may not supply copies of certain of the documents and papers requested without such consent.

The subpoena in question is herewith attached, and the matter is presented for such action as the House in its wisdom may see fit to take.

With kind regards, I am
Sincerely,
EDMUND L. HENSHAW, Jr.,
Clerk, House of Representatives.

The SPEAKER. Without objection, the subpena will be printed in the RECORD.

There was no objection.

The subpena is as follows:

[In the U.S. District Court for the District of Columbia]

SUBPENA DUCES TECUM

In re: Possible Violation of 18 U.S.C. §§ 371, 1341

To: Honorable Edmund L. Henshaw, Jr., Clerk of the House of Representatives, Washington, D.C., of his authorized representative:

Bring with you: All original official payroll and personnel records relating to the following former staff members of the Honorable James F. Hastings, former Member of Congress (39th Cong. Dist. New York): Clair G. Derringer, Leonard Burdette Jones, David Charles Walden, and Clare L. Bradley. Such documents and materials relating to the above stated persons are for the period of September, 1969, through March 31, 1976, and such documents and materials to include all applications for employment, W-4 Federal Tax Forms, clerk-hire forms, personnel files, payroll ledgers or journals, address cards, correspondence relating to payroll matters, and House of Representative records reflecting all United States Treasury checks, by number, issued during the above mentioned period.

You are hereby commanded to attend before the Grand Jury of this Court on Thursday the 10th day of June, 1976, at 10:00 a.m. to testify and produce the aforesaid documents on behalf of the United States, and not depart the Grand Jury without leave of the Court or United States Attorney.

Witness: this 27th day of May, 1976,
HOWARD F. CORCORAN,
Acting Chief Judge, U.S. District Court for the District of Columbia.

Attorney for the United States: John T. Kotelly (426-7463) Assistant United States Attorney.

Mr. O'NEILL. Mr. Speaker, I offer a privileged resolution (H. Res. 1273) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1273

Whereas, in a Grand Jury Investigation pending in the United States District Court for the District of Columbia, a subpena duces tecum was issued by the said court and addressed to Edmund L. Henshaw, Jr., Clerk of the House of Representatives, directing him to appear as a witness before the grand jury of the said court at 10:00 antemeridian on the 10th day of June, 1976, and to bring with him certain papers and documents in the possession and under the control of the House of Representatives: Therefore, be it

Resolved, That by the privileges of this House no evidence of a documentary character under the control and in the possession of the House of Representatives can, by the mandate of process of the ordinary courts of justice, be taken from such control or possession but by its permission; be it further

Resolved, That when it appears by the order of the court or of the judge thereof, or of any legal officer charged with the administration of the order of such court or judge, that documentary evidence in the possession and under the control of the House of Representatives is needful for use in any court of justice, or before any judge or such legal officer, for the promotion of justice, this House will take such action thereon as will promote the ends of justice consistently with the privileges and rights of this House; be it further

Resolved, That when said court determines upon the materiality and the relevancy of the records called for in the subpena duces tecum, then the said court, through any of its officers or agents, have full permisison to attend with all proper parties to the proceeding and then always at any place under the orders and control of this House, and take copies of those requested papers and documents which are in the possession or custody of the Clerk; and the Clerk is authorized to supply certified copies of such documents or papers that the court has found to be material and relevant and which the court or other proper officer shall desire, so as, however, the possession of said documents and papers by the said Clerk shall not be disturbed, or the same shall not be removed from their place of file or custody under the said Clerk; be it further

Resolved, That as a respectful answer to the subpena duces tecum a copy of these resolutions be submitted to the said court.

PARLIAMENTARY INQUIRY

Mr. BAUMAN. Mr. Speaker, I wish to make a parliamentary inquiry.

The SPEAKER. The gentleman will state his parliamentary inquiry.

Mr. BAUMAN. Mr. Speaker, earlier during the reading of the communication from the Clerk of the House reference was made to court officials, and then the Chair entered the subpena into the RECORD without its being read. There is no indication from the reading from the rostrum as to what case this resolution deals with.

The question I have for the Chair is this: Is this the resolution which permits the House to allow its officials to testify in the grand jury proceedings now pending regarding the gentleman from Ohio (Mr. HAYS)?

The SPEAKER. The Chair will state that it is not.

Mr. BAUMAN. Is it the Chair's intention to entertain such a resolution today?

The SPEAKER. There is another subpena and resolution that will be brought up today.

Mr. BAUMAN. I thank the Chair.

The SPEAKER. The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

COMMUNICATION FROM THE CLERK OF THE HOUSE—IN RE: POSSIBLE VIOLATIONS OF 18 U.S.C. 201, 371, 1001, AND 1341, IN THE U.S. DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C.,
June 2, 1976.

Hon. CARL ALBERT,
The Speaker, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: On June 1, 1976, I was served with a subpoena duces tecum by a Representative of the U.S. Department of Justice; said subpoena was issued by the United States District Court for the District of Columbia.

The subpoena commands me or my authorized representative to appear before the Grand Jury of the U.S. District Court on June 10, 1976, and requests certain House records that are outlined in the subpoena itself, which is attached hereto.

House Resolution #9 of January 14, 1975, and the rules and practices of the House of Representatives indicate that no official of the House may, either voluntarily or in obedience to a subpoena duces tecum, produce such paper without the consent of the House being first obtained. It is further indicated that he may not supply copies of certain of the documents and papers requested without such consent.

The subpoena in question is herewith attached, and the matter is presented for such action as the House in its wisdom may see fit to take.

With kind regards, I am,
Sincerely,
EDMUND L. HENSHAW, Jr.,
Clerk House of Representatives.

The SPEAKER. Without objection, the subpena wil be printed in the RECORD.

There was no objection.

The subpena is as follows:

[In the U.S. District Court for the District of Columbia]

SUBPENA DUCES TECUM

In re: Possible violations of 18 U.S.C. §§ 201, 371, 1001, and 1341:

To: Honorable Edmund L. Henshaw, Jr., Clerk of the House of Representatives, Washington, D.C., or his authorized representative:

Bring with you: All original and official payroll, time and attendance, tax and personnel documents and materials whether maintained by the Finance Office, the Committee on House Administration or other internal House of Representatives body, relating to Elizabeth Ray, also known as Betty Lou Ray, Trezevant Hane, Paul Panzarella, and Patricia Rones (each a present or former employee of the House of Representatives for the period beginning January 1, 1972 up to and including the date hereof, including but not limited to the following: all applications for employment, W-4 Federal Tax Forms, clerk-hire forms, personnel files, payroll ledgers or journals, the payroll affidavits relating to the employment of each of the foregoing, time and attendance records, monthly reports of employment of staff submitted by Committee Chairmen relating to the foregoing, and House of Representatives records reflecting or identifying all United States Treasury checks, by number, issued to Ms. Ray, Mr. Hane, Mr. Panzarella and Ms. Rones during the abovementioned period.

You are hereby commanded to attend before the Grand Jury of this Court on Thursday the 10th day of June, 1976, at 10:00 a.m. to testify and produce the aforesaid documents on behalf of the United States, and not depart the Grand Jury without leave of the Court or United States Attorney.

Witness: this 27th day of May, 1976.

HOWARD F. CORCORAN,
Acting Chief Judge, U.S. District Court for the District of Columbia.

Attorney for the United States: Robert W. Ogren (426-7944), Assistant United States Attorney.

Mr. O'NEILL. Mr. Speaker, I offer a privileged resolution (H. Res. 1274) and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 1274

Whereas, in a Grand Jury Investigation pending in the United States District Court for the District of Columbia, a subpena duces tecum was issued by the said court and addressed to Edmund L. Henshaw, Jr., Clerk of the House of Representatives, directing him to appear as a witness before the grand jury of the said court at 10:00 antemeridian on the 10th day of June, 1976, and to bring with him certain papers and documents in the possession and under the control of the House of Representatives: Therefore, be it

Resolved, That by the privileges of this House no evidence of a documentary character under the control and in the possession of the House of Representatives can, by the mandate of process of the ordinary courts of justice, be taken from such control or possession but by its permission; be it further

Resolved, That when it appears by the order of the court or the judge thereof, or of any legal officer charged with the administration of the order of such court or judge, that documentary evidence in the possession and under the control of the House of Representatives is needful for use in any court of justice, or before any judge or such legal officer, for the promotion of justice, this House will take such action thereon as will promote the ends of justice consistenty with the privileges and rights of this House; be it further

Resolved, That when said court determines upon the materiality and the relevancy of the records called for in the subpena duces tecum, then the said court, through any of its officers or agents, have full permission to attend with all proper parties to the proceeding and then always at any place under the orders and control of this House, and take copies of those requested papers and documents which are in the possession or custody of the Clerk; and the Clerk is authorized to supply certified copies of such documents or papers that the court has found to be material and relevant and which the court or other proper officer shall desire, so as, however, the possession of said documents and papers by the said Clerk shall not be disturbed, or the same shall not be removed from their place of file or custody under the said Clerk; be it further

Resolved, That as a respectful answer to the subpena duces tecum a copy of these resolutions be submitted to the said court.

PARLIAMENTARY INQUIRY

Mr. BAUMAN. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentleman will state his parliamentary inquiry.

Mr. BAUMAN. Mr. Speaker, may I inquire of the Chair whether this resolution authorizes testimony and the presentation of evidence by officials of the House before the Federal grand jury regarding the gentleman from Ohio (Mr. HAYS)?

The SPEAKER. It does.

Mr. BAUMAN. I thank the Chair.

The SPEAKER. The question is on the resolution.

Mr. BAUMAN. Mr. Speaker, I think this is a matter of sufficient importance to demand a vote. Therefore, on that I demand the yeas and nays.

The yeas and nays were refused.

Mr. BAUMAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. The Chair will count. One hundred eighty-three Members are present, not a quorum.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 388, nays 0, not voting 43, as follows:

[Roll No. 345]

YEAS—388

Abdnor
Abzug
Adams
Alexander
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashbrook
Ashley
Aspin
AuCoin
Badillo
Bafalis
Baldus
Baucus
Bauman
Beard, Tenn.
Bedell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Buchanan
Burgener
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Carr
Carter
Cederberg
Chappell
Chisholm
Clancy
Clausen, Don H.
Clay
Cleveland
Cochran
Cohen
Collins, Ill.
Collins, Tex.
Conable
Conlan
Conte
Conyers
Corman
Cornell
Cotter
Coughlin
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Danielson
Davis
de la Garza
Delaney
Dent
Derrick
Derwinski
Devine
Dickinson
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
du Pont
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
English
Erlenborn
Esch
Evans, Colo.
Evans, Ind.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flood
Florio
Flowers
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fraser
Frey
Fuqua
Gaydos
Gibbons
Gilman
Ginn
Gonzalez
Goodling
Gradison
Grassley
Guyer
Hagedorn
Haley
Hall
Hamilton
Hammerschmidt
Hanley

Hannaford
Hansen
Harkin
Harrington
Harris
Harsha
Hawkins
Hayes, Ind.
Hays, Ohio
Hechler, W. Va.
Heckler, Mass.
Hefner
Heinz
Henderson
Hightower
Hillis
Holland
Holt
Holtzman
Horton
Howard
Howe
Hubbard
Hughes
Hungate
Hutchinson
Hyde
Ichord
Jacobs
Jarman
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Ketchum
Keys
Kindness
Koch
Krebs
Krueger
LaFalce
Lagomarsino
Landrum
Latta
Leggett
Lehman
Lent
Levitas
Litton
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Lundine
McClory
McCloskey
McCollister
McCormack
McDade
McDonald
McEwen
McFall
McHugh
McKay
McKinney
Madden
Madigan
Maguire
Mahon
Mann
Mathis
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Mikva
Miller, Calif.
Miller, Ohio
Mills
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Hara
O'Neill
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Paul
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Quie
Quillen
Randall
Rangel
Regula
Reuss
Rhodes
Richmond
Riegle
Rinaldo
Risenhoover
Roberts
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rosenthal
Roush
Rousselot
Runnels
Ruppe
Russo
St Germain
Santini
Sarasin
Sarbanes
Satterfield
Scheuer
Schneebeli
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shriver
Shuster
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spence
Staggers
Stanton, J. William
Stark
Steed
Steelman
Steiger, Ariz.
Steiger, Wis.
Stephens
Stokes
Stratton
Studds
Sullivan
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Thone
Thornton
Traxler
Treen
Tsongas
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Vigorito
Waggonner
Walsh
Wampler
Waxman
Weaver
Whalen
White
Whitehurst
Whitten
Wilson, Bob
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Zablocki
Zeferetti

NAYS—0

NOT VOTING—43

Addabbo
Beard, R.I.
Bell
Broyhill
Burke, Calif.
Carney
Clawson, Del
Dellums
Diggs
Eshleman
Evins, Tenn.
Frenzel
Giaimo
Goldwater
Green
Gude
Hébert
Helstoski
Hicks
Hinshaw
Karth
Martin
Michel
Milford
Passman
Railsback
Rees
Rose
Rostenkowski
Roybal
Ryan
Sikes
Spellman
Stanton, James V.
Stuckey
Symington
Teague
Thompson
Udall
Vanik
Wiggins
Wilson, C. H.
Young, Tex.

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid upon the table.

PERSONAL EXPLANATION

Mrs. SPELLMAN. Mr. Speaker, I truly regret that I was unable to cast my vote on House Resolution 1274, relating to witnesses, evidence and records under the control of the Clerk of the House necessary to the investigation of the Representative WAYNE L. HAYS case.

Sometime ago, I was asked to speak before the graduating class of Fairmont Heights Senior High School on June 9, 1976. Consequently, I was temporarily away from the House when, on this day, the procedural resolution was unexpectedly brought up, and I could not return in time to vote on the measure. Had I not been detained, I would have cast my "yea" in favor of the passage of the resolution.

EXPRESSING THE SENSE OF CONGRESS REGARDING DEMOCRACY IN ITALY AND PARTICIPATION BY ITALY IN NORTH ATLANTIC TREATY ORGANIZATION

Mr. FASCELL. Mr. Speaker, I ask unanimous consent that the Committee on International Relations be discharged from further consideration of the concurrent resolution (H. Con. Res. 651) expressing the sense of Congress regarding democracy in Italy and participation by Italy in North Atlantic Treaty Organization, and ask for its immediate consideration.

The Clerk read the concurrent resolution as follows:

H. CON. RES. 651

Whereas the Atlantic alliance continues to be the cornerstone of the foreign policy of the United States; and

Whereas the basic purposes of that alliance are to preserve the security of member countries and promote the ideals of freedom and democracy they hold in common; and

Whereas the effective functioning of the North Atlantic Treaty Organization (NATO) is crucial to the fulfillment of these purposes; and

Whereas the effectiveness of NATO is dependent upon general agreement within the alliance as to the security needs of its members and the means by which such needs are to be met; and

Whereas the full and unencumbered participation of Italy in NATO is of vital importance in sustaining such agreement; and

Whereas there exist between the United States and Italy strong ties of friendship, alliance, and kinship; and

Whereas the people of the United States and Italy share broad ideals and viewpoints; and

Whereas the United States owes a debt to Italy in the creation and formation of our own country: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that for all these reasons the people and Government of the United States reaffirm a sympathetic interest in Italian democracy and democratic institutions and call on the European friends and allies of Italy similarly to confirm their support for the Italian people and their Government and to join in assisting Italy to renew her confidence and to attain full and lasting prosperity.

SEC. 2. It is the sense of the Congress that the economic viability of Italy is important to the Atlantic alliance as a whole as well as to the United States.

SEC. 3. It is the sense of the Congress that the United States, in conjunction with other friends and allies of Italy, should stand ready to participate in efforts to provide financial assistance to Italy through the proposed OECD Special Financing Facility and/or by other means deemed appropriate.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 13589, U.S. INFORMATION AGENCY AUTHORIZATION ACT, FISCAL YEAR 1977

Mr. YOUNG of Georgia. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1203 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 1203

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 13589) to authorize appropriations for the United States Information Agency, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on International Relations, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions. After the passage of H.R. 13589, the Committee on International Relations shall be discharged from the further consideration of the bill S. 3168, and it shall then be in order in the House to move to strike out all after the enacting clause of said Senate bill and insert in lieu thereof as one amendment in the nature of a substitute the texts of the bills H.R. 12262, H.R. 13179, and H.R. 13589 as passed by the House.

The SPEAKER. The gentleman from Georgia (Mr. YOUNG) is recognized for 1 hour.

Mr. YOUNG of Georgia. Mr. Speaker, I yield the usual 30 minutes for the minority to the distinguished gentleman from Mississippi (Mr. LOTT); pending that, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 1203 provides for an open rule with 1 hour of general debate on H.R. 13589, a bill which authorizes appropriation for the U.S. Information Agency, and for other purposes.

The rule further provides that after the passage of H.R. 13589, the Committee on International Relations shall be discharged from further consideration of the bill S. 3168, making it in order for the House to strike all after the enacting clause of S. 3168, and insert in lieu thereof as one amendment in the nature of a substitute the texts of the bills H.R. 12272, H.R. 13179, and H.R. 13589 as passed by the House.

Mr. Speaker, H.R. 13589 would authorize a total of $261.9 million for the U.S. Information Agency for fiscal year 1977. USIA carries out international informational activities, conducts cultural exchange programs, and supports certain educational activities.

The Agency proposes to spend $4.8 million for special international exhibitions in Eastern Europe and the Soviet Union and $2.1 million for acquisition and construction of radio facilities. The bill also allows for the showing of four films in the United States during the Bicentennial Year.

Mr. Speaker, I urge that we adopt House Resolution 1203 in order that we may discuss, debate, and pass H.R. 13589.

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as the gentleman from Georgia has explained, House Resolution 1203 provides for the House to resolve itself into the Committee of the Whole for consideration of H.R. 13589, the U.S. Information Agency Authorization Act for fiscal year 1977. This is a 1-hour, open rule which makes it in order for the House, after the passage of H.R. 13589, to move to strike all after the enacting clause of S. 3168 and insert in lieu thereof as one amendment in the nature of a substitute the texts of the bills H.R. 12262—Board for International Broadcasting; H.R. 13179—State Department authorization, fiscal 1977; and H.R. 13589 as passed by the House.

The purpose of H.R. 13589 is to authorize a total of $261,908,000 for use by the U.S. Information Agency in fiscal 1977. This figure is $2,000,000 below the executive request. The authorization covers funding for various media programs, employee salaries and retirement benefits, general support, and administrative expenses.

Mr. Speaker, I know of no objections to this rule; and I would not oppose its adoption at this time.

Mr. YOUNG of Georgia. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. ASHBROOK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 387, nays 1, not voting 43, as follows:

[Roll No. 346]

YEAS—387

Abdnor
Abzug
Adams
Allen
Ambro
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashbrook
Ashley
Aspin
AuCoin
Badillo
Bafalis
Baldus
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Buchanan
Burgener
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Carr
Carter
Cederberg
Chappell
Chisholm
Clancy
Clausen, Don H.
Clay
Cleveland
Cochran
Cohen
Collins, Ill.
Collins, Tex.
Conable
Conlan
Conte
Corman
Cornell
Cotter
Coughlin
Crane
D'Amours
Daniel, Dan
Daniel, R. W
Daniels, N.J.
Danielson
Davis
de la Garza
Delaney
Dent
Derrick
Derwinski
Devine
Dickinson
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
du Pont
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
English
Erlenborn
Esch
Evans, Colo.
Evans, Ind.
Evins, Tenn.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Flood
Florio
Flowers
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fraser
Frey
Fuqua
Gaydos
Gibbons
Gilman
Ginn
Gonzalez
Goodling
Gradison
Grassley
Gude
Guyer
Hagedorn
Haley
Hall
Hamilton
Hammerschmidt
Hanley
Hannaford
Hansen
Harkin
Harrington
Harris
Harsha
Hawkins
Hayes, Ind.
Hays, Ohio
Hechler, W. Va.
Heckler, Mass.
Hefner
Heinz
Henderson
Hightower
Hillis
Holland
Holt
Holtzman
Horton
Howard
Howe
Hubbard
Hughes
Hungate
Hutchinson
Hyde
Ichord
Jacobs
Jarman
Jeffords
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Ketchum
Keys
Kindness
Koch
Krebs
Krueger
LaFalce
Lagomarsino
Landrum
Latta
Leggett
Lehman
Lent
Levitas
Litton
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Lundine
McClory
McCloskey
McCollister
McCormack
McDade
McDonald
McEwen
McFall
McHugh
McKay
McKinney
Madden
Madigan
Maguire
Mahon
Mann
Mathis
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Mikva
Miller, Calif.
Miller, Ohio
Mills
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Hara
O'Neill
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Paul
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Quie
Quillen
Randall
Rangel
Regula
Reuss
Rhodes
Richmond
Riegle
Rinaldo
Risenhoover
Roberts
Robinson
Rodino
Roe
Rogers
Rooney
Rosenthal
Roush
Rousselot
Runnels
Russo
Santini
Sarasin
Sarbanes
Ruppe
Satterfield
Scheuer
Schneebeli
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shriver
Shuster
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
Staggers
Stanton, J. William
Stark
Steed
Steelman
Steiger, Ariz.
Steiger, Wis.
Stephens
Stokes
Stratton
Studds
Sullivan
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Thone
Thornton
Traxler
Treen
Tsongas
Udall
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Vigorito
Waggonner
Walsh
Wampler
Waxman
Weaver
Whalen
White
Whitehurst
Whitten
Wilson, Bob
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Young, Tex.
Zablocki
Zeferetti

NAYS—1

Conyers

NOT VOTING—43

Addabbo
Alexander
Anderson, Calif.
Bell
Broyhill
Burke, Calif.
Carney
Clawson, Del
Dellums
Diggs
Eshleman
Fithian
Frenzel
Giaimo
Goldwater
Green
Hébert
Helstoski
Hicks
Hinshaw
Jenrette
Karth
Martin
Michel
Milford
Passman
Railsback
Rees
Roncalio
Rose
Rostenkowski
Roybal
Ryan
St Germain
Sikes
Stanton, James V.
Stuckey
Symington
Teague
Thompson
Vanik
Wiggins
Wilson, C. H.

The Clerk announced the following pairs:

Mr. Hébert with Mr. Bell.

Mr. Addabbo with Mr. Frenzel.

Mr. Carney with Mr. Eshleman.

Mr. Roybal with Mr. Railsback.

Mr. Thompson with Mr. Goldwater.

Mr. Giaimo with Mr. Broyhill.

Mr. Passman with Mr. Martin.

Mr. Helstoski with Mr. Rose.

Mr. Diggs with Mr. Hicks.

Mr. Dellums with Mr. James V. Stanton.

Mr. Ryan with Mr. Karth.

Mr. Charles H. Wilson of California with Mr. Wiggins.

Mr. Rostenkowski with Mr. Michel.

Mr. Vanik with Mr. Rees.

Mr. Milford with Mr. Del Clawson.

Mr. Symington with Mr. Stuckey.

Mr. Sikes with Mr. St Germain.

Mr. Teague with Mr. Jenrette.

Mr. Green with Mr. Alexander.

Mr. Anderson of California with Mrs. Burke of California.

Mr. Roncalio with Mr. Fithian.

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr. Roddy, one of his secretaries.

STATE DEPARTMENT AUTHORIZATION ACT, FISCAL YEAR 1977

Mr. HAYS of Ohio. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 13179) to authorize appropriations for the Department of State, and for other purposes.

Pending that motion, Mr. Speaker, I ask unanimous consent to include a table in my remarks at the appropriate time.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

PARLIAMENTARY INQUIRY

Mr. HAYS of Ohio. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentleman will state his parliamentary inquiry.

Mr. HAYS of Ohio. Mr. Speaker, my understanding is that we will have general debate only on this bill. I had heard that there would be no rollcalls, but is it true at the end of general debate I should ask that the Committee do now rise and we would then take up amendments tomorrow?

The SPEAKER. The Chair will state that that is correct.

The agreement was that we should consider only rules and complete general debate, and then tomorrow start in again with the revenue sharing bill under the 5-minute rule.

Mr. HAYS of Ohio. Then after that, Mr. Speaker, after the Committee rises, I plan to call up the USIA bill and do the same thing on it, general debate only.

The SPEAKER. That would be in order.

Mr. HAYS of Ohio. Mr. Speaker, I thank the Chair.

The SPEAKER. The question is on the motion offered by the gentleman from Ohio (Mr. HAYS).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 13179, with Mr. YOUNG of Georgia in the Chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Ohio (Mr. HAYS) will be recognized for 30 minutes and the gentleman from Alabama (Mr. BUCHANAN) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Ohio (Mr. HAYS).

Mr. HAYS of Ohio. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this is the annual authorization bill for the Department of State for the next fiscal year. Let me start briefly with the overall figures involved in the bill.

The Executive requested $1,017,857,000 for fiscal year 1977. The committee recommends $1,051,407,000—an increase of $44,550,000. Two items account for most of that increase: $20 million for assistance to Israel for the resettlement of Soviet and East European Jewish refugees and $12 million as a Federal contribution for the Pan American games to be held in Puerto Rico in 1979.

There is one other point worth noting. The original request by the Executive is slightly less than $90 million higher than last year's appropriation. But about $70 million of that executive increase is due to the institution of a new system of administrative support which the Department gives to other departments and agencies operating abroad. Under the new system, called foreign affairs administrative support, all of the overseas administrative costs of 24 other agencies are included in the State Department budget and the budgets of the other agencies are reduced in equivalent amounts. Thus no overall increase to the Government is incurred; it is simply an improved bookkeeping system that has the support of GAO.

The largest single item, as usual, is that known as Administration of Foreign Affairs for which the committee recommends $552,455,000. Under this title the Department funds almost all salaries, expenses, and allowances of its officers and employees both at home and abroad.

The next largest item is for international organizations and conferences. It is from the appropriations made pursuant to this authorization of $338,875,000 that our Government pays its assessed share of expenses for the various international organizations in which we are members. I stress that these expenses are assessments, not voluntary contributions, agreed upon by the members of each of these organizations. The voluntary contributions, as distinct from assessed contributions that are made to international organizations, are funded under the Foreign Assistance Act. This item also includes $45 million for international peacekeeping activities in the Middle East, $9.3 million for expenses for our missions to international organizations, and $7,035,000 for international conferences and contingencies, and $3,450,000 for our participation in the multilateral trade negotiations how taking place in Geneva.

I have had questions asked of me on several occasions, including one during the meeting with the Rules Committee, exactly how much we are paying to each of the organizations under this particular authorization. That is a reasonable request since the United States is footing the bill. I therefore am inserting a table that shows the sums planned for the assessed contributions for each of the international organizations of which the United States is a member. Members of the House are then free to make their own judgment whether we are spending too much or too little for this purpose.

The table follows:

Program by activities	*1977*
United Nations and specialized agencies:	
United Nations	$87,185
United Nations Educational, Scientific and Cultural Organization	-------
International Civil Aviation Organization	5,790
World Health Organization	38,155
Food and Agriculture Organization	20,798
International Labor Organization	20,260
International Telecommunication Union	1,470
World Meterological Organization	2,295
Intergovernmental Maritime Consultative Organization	259
Universal Postal Union	316
World Intellectual Property Organization	136
World Tourism Organization	113
International Atomic Energy Agency	11,343
Subtotal	188,120
Inter-American Organizations:	
Inter-American Indian Institute	88
Inter-American Institute of Agricultural Sciences	4,758
Pan American Institute of Geography and History	195
Pan American Railway Congress Association	15
Pan American Health Organization	19,009
Organization of American States	27,005
Subtotal	51,070
Regional Organizations:	
South Pacific Commission	713
North Atlantic Treaty Organization	13,175
North Atlantic Assembly	215
Southeast Asia Treaty Organization	467
Colombo Plan Council for Technical Cooperation	13
Organization for Economic Cooperation and Development	15,850
Subtotal	30,433
Other international organizations:	
Interparliamentary Union	128
International Bureau of the Permanent Court of Arbitration	3
International Bureau for the Publication of Customs Tariffs	28
International Bureau of Weights and Measures	209
International Hydrographic Organization	25
International Wheat Council	-------
International Coffee Organization	-------
International Institute for the Unification of Private Law	24
Hague Conference on Private International Law	27
Maintenance of Certain Lights in the Red Sea	6
Bureau of International Exhibitions	17
Customs Cooperation Council	896
International Center for the Study of the Preservation and Restoration of Culural Property	156
International Organization for Legal Metrology	19
International Agency for Research on Cancer	626
General Agreement on Tariffs and Trade	2,186
International Office for Epizootics	27
Subtotal	4,377
Total, appropriation or Estimate	274,000

We have boundary commissions with Mexico and with Canada. As a result we have international obligations to meet the expenses of these commissions in connection with the development and maintenance of various boundary activities. For these purposes we recommend an authorization of $17,069,000.

For the educational exchange program we recommend $68,500,000. This activity includes not only the exchange of persons, but also aid to American-sponsored schools abroad and cultural presentations. Personally I regard this as one of our really worthwhile international endeavors. I admit it is not easy to detect immediate benefits from this kind of a program, but the dividends will come from a better unerstanding between peoples of different cultural backgrounds.

For migration and refugee assistance through contributions to organizations such as the Intergovernmental Committee for European Migration we recommend $10 million.

Let me comment briefly on a few items that the committee added to the executive request. For the past 4 years the gentleman from New York (Mr. Bingham) has sponsored, and Congress has adopted, an amendment that we have included in the State Department authorization bill. The purpose of his amendment for which the committee recommends $20 million is to assist Israel in the settlement of Jewish refugees from the Soviet Union and East European countries. The original intent of aid to Israel has been somewhat diluted by diverting some of the funds to assist these refugees to resettle in countries other than Israel. This year we specifically provided that such assistance was to be limited to resettlement only within the boundaries of Israel.

We have provided an authorization of $1 million for the Passport Office to permit it to miniaturize its voluminous files and develop a retrieval system. With passports being issued at a rate of more than 2 million each year, it is not difficult to imagine the amount of space needed to store supporting papers and the time necessary to locate documents.

Two smaller items were also written into the bill by the committee. One is a one-shot authorization of $50,000 to defray the expenses of the 22d annual session of the North Atlantic Assembly which the United States will host this fall in connection with the Bicentennial Year. The other is an ex gratia payment of $10,000 from the salaries and expense account of the Department to compensate in part the wife of the former Australian Ambassador to the United States who was brutally beaten near the Embassy residence. She required extensive surgery and hospitalization as a result of the attack.

Members who have visited Moscow are aware of the thoroughly inadequate accommodations we have there. This bill carries an authorization of $30 million to start a new embassy complex. I say complex because what we are planning is really a self-contained community that will include housing, service and recreational facilities. The Soviets want to build new quarters in Washington. But we are not going to let them go ahead here until we can proceed in Moscow. In other words, when we lay 1,000 bricks in Moscow, they can lay 1,000 bricks in Washington. That is the only way I see to assure that we will be able to get our facilities completed.

Under section 11 of the bill Federal employees of all branches of the Government will be permitted to participate in cultural and educational exchange programs by the acceptance of grants or other forms of assistance provided by a foreign government. Existing law restricts the acceptance of a gift from a foreign government to one of "minimal value" which is defined in regulations as one not exceeding $50 in value. Foreign governments have expressed an interest in promoting exchanges that include Federal employees. In drafting the language the committee has been careful not to open the door indiscriminately. The exchange must conform to the type defined in the Hays-Fulbright Act; it must be approved by the Secretary of State; and it is limited only to the individual, not to his family.

One of the smaller but more vexing problems for the Department is the equitable treatment of its alien employees. These people are invaluable in the operation of our Embassies and consulates. They receive their salaries in local currency but in those cases where they are not under a local retirement system, they contribute to our civil service retirement fund. And when they retire, they receive their annuities in dollars. In those few countries where the dollar has been sharply devalued they have suffered severe reductions in their annuities. I should point out that of some 10,800 alien employees under our civil service retirement system, about 10,000 are from State, USIA, and AID—the three principal foreign affairs agencies. The other 800 come from other agencies with small overseas programs. Thus this is really a foreign affairs program.

Two points should be made: First, the Department is making efforts to phase out civil service retirement for its alien employees and switch them to the local system where one exists, for example, in Germany all new alien employees are under the German retirement system. Second, the supplemental annuities authorized by this section will be paid from the salaries and expense account of the employing agency; it will not come from the civil service retirement fund.

Finally, the committee recommends the repeal from the Foreign Service retirement legislation the so-called 1 percent kicker—and extra 1 percent payable each time there is a cost-of-living adjustment in annuities to the retirees of the Foreign Service. The President has requested the repeal of an identical provision that affects retirees under other Federal retirement systems.

I think this is a reasonable bill. The committee has impressed upon the Department to hold the line. And the Department has responded, knowing that if it did not the committee would. The few adjustments that the committee has made are modest in amount and desirable in purpose.

Mr. BUCHANAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise on behalf of H.R. 13179, the State Department authorization for 1977. As the chairman of the subcommittee has explained, we recommend authorizations of some $1,051,417,000 in this bill. This is a rather slight increase over the past year. One reason the increase exists is because of a certain accounting change in which certain overseas costs from the budget of other agencies have been transferred to the State Department authorization, and based on the theory that these particular activities of other departments are of value to the Department's basic operation, those costs are now assigned to the State Department budget and will be deleted from the budgets of the other agencies involved.

Mr. HAYS of Ohio. Mr. Chairman, will the gentleman yield?

Mr. BUCHANAN. I yield to the gentleman from Ohio.

Mr. HAYS of Ohio. I thank the gentleman for yielding.

I think the important point—and I forgot to make it—is that the Department is not adding one new employee this year.

Mr. BUCHANAN. Absolutely none. I believe that the chairman would agree that the subcommittee rather carefully scrutinized the needs of the Department. This does reflect our judgment as a subcommittee as to what ought to be authorized, and that of the full committee. I, therefore, urge the adoption of this resolution.

Mr. Chairman, I reserve the remainder of my time.

Mr. HAYS of Ohio. Mr. Chairman, I yield such time as she may consume to the gentlewoman from New Jersey (Mrs. Meyner).

Mrs. MEYNER. Mr. Chairman, I rise in support of H.R. 13179. I would also like to commend the chairman of the Committee on International Operations, Mr. Wayne Hays, for his leadership during the hearings on this bill. We questioned witnesses thoroughly and examined all items carefully during hearings. I think this State Department authorization for fiscal year 1977 is a good bill, and I urge its adoption.

I thank the gentleman for yielding.

Mr. BUCHANAN. Mr. Chairman, I yield 5 minutes to the gentleman from Texas (Mr. Collins).

Mr. COLLINS of Texas. Mr. Chairman, if we evaluate the State Department's authorization, this is an appropriate time to discuss the Panama Canal which is something that concerns all of us.

We do well in the debate on the House floor to make a definite and final decision that the United States will keep the Panama Canal permanently. The Panama Canal has been and continues to be of vital importance to the security and the economy of our country. Look at the background of our relationship and the history of United States-Panama treaties, and then weigh the facts.

During the first few years of this century, Panama was still loosely unified with Colombia, who was dragging her feet in negotiations with the United States. The Panamanian people, fearful that the United States might choose to build a canal through Nicaragua instead, actually urged the resulting Panama-United States agreement known as the Hay-Bunau-Varilla Treaty of 1903. Let me quote to you two passages from this treaty:

Article II:

> The Republic of Panama grants to the United States in perpetuity the use, occupation and control of a zone of land under water for the construction, maintenance, operation, sanitation and protection of said Canal of the width of ten miles extending to the distance of five miles on each side of the center line of the route of the Canal to be constructed.

Article III:

> The Republic of Panama grants to the United States all the rights, power and au-

> thority within the zone mentioned described in Article II of this agreement and within the limits of all auxiliary lands and waters mentioned and described in the said Article II which the United States would possess and exercise if it were the sovereign of the territory within which said lands and waters are located to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights, power or authority.

The first test of our complete rights came in 1907 in a Supreme Court case, Wilson against Shaw, Secretary of the Treasury. The decision handed down by the Court stated—

> It is hypercritical to contend that the title of the United States is imperfect, and that the territory described does not belong to this Nation, because of the omission of some of the technical terms used in ordinary conveyances of real estate. . . .

The 1904 Constitution of the Republic of Panama; the 1904 and 1914 United States-Panama Boundary Agreements; and the 1936 and 1955 Treaties of Friendship and Cooperation between the United States and Panama all clearly establish a definite role of sovereignty over the Canal Zone.

In return for these rights given to us, we have been more than generous to the government and the people of Panama. Under the terms of the 1903 and 1914 treaties the United States paid Panama $35 million for the right to build the canal and $160 million for the title to the Canal Zone. We also agreed to pay Panama $250,000 per year to cover financial losses of the Panamanian Railroad because of construction of the canal. Since the original treaty was signed, the United States has voluntarily increased our annual payment to Panama to $2 million per year. The canal itself cost $366 million to construct.

Our past treaties with Panama were just as final as were our treaties establishing title to other territorial purchases. The United States paid $25 million to Denmark for purchase of the Virgin Islands, $11.25 million to France for the acquisition of the Louisiana Purchase, $10 million to Mexico for the Gadsden Purchase covering parts of Arizona and New Mexico, and $7.2 million to Russia for Alaska. Manhattan Island was purchased for $24 from the Indians. The total amount the United States has spent in payments and defense connected with the Panama Canal is much more than the amount we have paid for all of our other acquisitions combined. No one considers giving Alaska back to Russia.

In addition to our annual payments, our presence in Panama has created countless jobs for Panamanians and a standard of living higher than any other Latin American country. One-third of all jobs in Panam are related to the canal.

The canal is necessary to the United States. First of all, in terms of our economy, loss of our use of the canal would have the effect of higher consumer prices and higher energy use. At current count, 14,000 ships pass through the canal each year, and 8,000 of these are destined for U.S. ports. If Panama were allowed to substantially increase toll fees, the costs would necessarily be passed on to the consumer. If, in fact, the canal were closed to U.S. ships, both fuel costs and shipping time would be more than doubled. Therefore, loss of our control over the canal would indeed have serious repercussions in the marketplace.

I am also very concerned about the effects any change in our sovereign power might have on our security posture. At this time, the United States is able to maintain a tight, unified naval system with one fleet which, because of canal access, can easily guard both our Pacific and Atlantic coasts. If our ships were forced to take a route around Cape Horn, transit time between the Atlantic and the Pacific would increase by more than 30 days.

Today, the Panamanian Government has established close ties with both Russia and Cuba. The Panamanian Government is friendly to the Soviets and the only allowed political party is the Communist. It is easy to see who our friends in Latin America share our apprehension about security consequences which might result from our loss of canal control.

Open access to the Panama Canal transcends even our own national security and economic stability. The disastrous effects of an embargo would reach all over the world. The closing of the Suez Canal, for instance, cost the world economy $10 billion. We can not place our security or the security of the world in the hands of a volatile and unstable government. We must maintain the stability that the Panama Canal as America gives to the world.

Mr. BUCHANAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I thought before I ended my side of this debate, and I have no further requests for time, I ought to acknowledge what the gentlewoman from New Jersey said a moment ago about the work of the chairman of the subcommittee in his leadership of this subcommittee.

I think one of the ironies of public life is often that those things which one does which are very significant for the country perhaps receive less attention at home and in one's congressional district or even here in the House than some activities and responsibilities which may be considered to be more newsworthy in the view of the press.

I would like to point out that the gentleman from Ohio as chairman of this subcommittee has been of substantial usefulness to the country and the Department of State and he has served in a series of assignments vital to NATO and to the free world as well as to the United States. He is at present president of the North Atlantic Assembly and has served in that post with distinction. He has been very thorough and highly responsible in his leadership in the affairs of this subcommittee.

The Foreign Service buildings program under the gentleman's leadership has I think made millions of dollars for the taxpayers over a period of years, which is a very unusual thing because Government usually tends to spend the taxpayers' money rather than make money for the taxpayers. But all over the world we have very valuable properties that would not have been in our possession except for the leadership of the subcommittee chairman.

So I thought it proper to join the gentlewoman from New Jersey in expressing my appreciation for the very careful and intelligent work that the chairman of the subcommittee has done in this responsibility throughout the years.

Mr. HAYS of Ohio. Mr. Chairman, I have no further requests for time, but I would be less than grateful if I did not express my appreciation to the gentleman from Alabama (Mr. BUCHANAN) for the kind remarks that the gentleman has made.

I think we have tried in this subcommittee to examine the budget carefully, to examine the building program carefully. As the gentleman pointed out, they have made a good deal of money over the years for the taxpayers. I remember one particular case, and I am sure the gentleman is familiar with the General Accounting Office criticizing the committee for restraining the Foreign Service Building office from selling an acre of ground in a certain foreign country for $10 million. We told them we did not think they ought to sell it, that it was a rising market and that we needed the building and until we got a new site prepared we ought not to sell it. We owned the site. We got it prepared and when we sold it, the Foreign Service Building office sold it under sealed bids when the subcommittee told them it thought the time was right. I do not know whether anyone believes it or not, but for that one acre of ground the United States of America, which had paid $600,000 for it during wartime conditions, received 55 million U.S. dollars.

Mr. Chairman, I appreciate the gentleman bringing that matter up.

Mr. Chairman, I have no further requests for time.

The CHAIRMAN. There being no further requests for time, the Clerk will read.

The Clerk read as follows:

H.R. 13179

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION. 1. This Act may be cited as the "State Department Authorization Act, Fiscal Year 1977".

Mr. HAYS of Ohio. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. O'NEILL) having assumed the chair, Mr. YOUNG of Georgia, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 13179) to authorize appropriations for the Department of State, and for other purposes, had come to no resolution thereon.

U.S. INFORMATION AGENCY AUTHORIZATION ACT, FISCAL YEAR 1977

Mr. HAYS of Ohio. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 13589) to authorize appropriations for the U.S. Information Agency, and for other purposes.

The SPEAKER pro tempore (Mr. O'NEILL). The question is on the motion offered by the gentleman from Ohio (Mr. HAYS).

The motion was agreed to.

The SPEAKER pro tempore. The Chair designates the gentlewoman from New York (Ms. HOLTZMAN) as Chairman of the Committee of the Whole and requests the gentleman from Georgia (Mr. YOUNG) to assume the chair temporarily.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 13589) with Mr. YOUNG of Georgia (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN pro tempore. Under the rule, the gentleman from Ohio (Mr. HAYS) will be recognized for 30 minutes, and the gentleman from Alabama (Mr. BUCHANAN) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Ohio (Mr. HAYS).

Mr. HAYS of Ohio. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I only have a few paragraphs about this bill.

Mr. Chairman, H.R. 13589 is the annual authorization bill for the U.S. Information Agency, USIA. It is a simple bill.

The executive requested an authorization of $263,908,000 which the committee reduced by $2 million. Thus I present a bill of $261,908,000.

There are three line-items in this bill. The first, and largest, is for salaries and expenses for which the committee recommends $254,925,000. This is a catch-all item that covers not only salaries but all other outlays to carry out its activities in press and publications, motion pictures and television, cultural centers and libraries, and radio in 188 posts located in 112 countries around the world. Included in this item is the money for travel for which the Agency has budgeted $9.3 million. As a world-wide agency with its personnel subject to periodic transfer, it is understandable that the costs of such transfers are necessary for its efficient operation. The committee did not touch that part of the travel budget for which the Agency plans to spend $3.9 million. The part that concerned us is the larger amount budgeted for temporary duty travel or TDY, for which the Agency plans to spend $5.4 million. It is our view that that item should be reduced by $2 million. Too much travel is done by the Washington based personnel who enjoy expense-free trips abroad.

The other two line-items are $4,841,000 for special international exhibitions, most of which are focused on East Europe, the Soviet Union, and Berlin. These are topical rather than commercial exhibitions at international fairs and other selected locations or special exhibitions circulated in accordance with cultural exchange agreements. They portray American life and culture presented in an American environment and are highly regarded as among the more outstanding of USIA's activities.

The other line item is $2,142,000 for the maintenance and improvement of the radio facilities of the Agency.

Sections 4 and 5 provide permanent authority for the Agency to purchase uniforms for its employees where such uniforms are desirable or necessary in the performance of their duties and to use the proceeds derived from the sale or exchange of motor vehicles used abroad for the replacement of such vehicles. Heretofore the Agency has had to rely on the language in the annual appropriation acts to do these things. These authorities are already granted to the Department of State and the Agency for International Development on a permanent basis.

Finally, we have incorporated almost verbatim the text of a bill introduced by Representatives BOGGS and McDADE to authorize four specifically named USIA-produced films to be shown within the United States in connection with the Bicentennial celebration. As Members may recall, the law was tightened several years ago so that it takes a special act of Congress to permit the showing of USIA productions within this country.

Mr. BUCHANAN. Madam Chairman, I yield myself such time as I may consume.

I join the chairman, Madam Chairman, in urging the adoption of this bill. I am pleased to underline again that this is an authorization somewhat less than that of the previous year by some nearly $5 million. I feel this Agency has very important work to do. It is continuing, however, to cut positions, and seems confident that it can maintain effective programing even with the reduced positions and correspondingly reduced costs.

I would say this may well be true of the entire Federal Establishment, and perhaps this is leadership that we want to be followed in that respect.

On the subcommittee, we have many unanswered questions about the most desirable arrangement in terms of the future of the cultural and information efforts abroad, where there is duplication within the Department of State's Bureau of Cultural Affairs and the U.S. Information Agency. We have, however, postponed the decision as to how to handle that problem until we have had opportunity to give it greater study. Hence, we are recommending authorizing as is for this fiscal year.

I personally feel that the Voice of America can be a very effective instrument for our country, and that what we need to do and must do in the long run is try so to improve it that it might be more comparable to the BBC and the other most excellent rated operations in the world.

As the chairman pointed out, we have cut down on the TDY, temporary duty travel, for those persons who are for a brief period employed by or in some way used by the Agency. The Agency maintains that it must use various specialists, because of the nature of its work, who are needed only for a portion of the year, who are needed in different parts of the world.

The subcommittee thought, however, there was some abuse of this kind of travel by the Agency, and it is my profound hope that this action by the subcommittee, this particular reduction, will not result in the cessation of any essential functions but more careful use of this kind of travel by the Agency.

Mr. HAYS of Ohio. Madam Chairman, will the gentleman yield?

Mr. BUCHANAN. I yield to the distinguished gentleman from Ohio (Mr. HAYS).

Mr. HAYS of Ohio. I thank the gentleman for yielding.

There was one case brought to our attention—and I am not going to mention which political party, because I think it has been abused by both—where the chairman of a State political party was sent on a mission, which cost some $20,000-odd, to evaluate the U.S. Information Agency, and when he came back, the documentation was less than 2 pages. I did not hear any big outcry about it, or any investigation, but it was one of the things that can be done under TDY that ought not to be done.

Mr. BUCHANAN. I think this is an illustration of the reason for the subcommittee action, and I would believe that if the agency can come up with a good, solid justification for this kind of travel for specialists and others who are temporarily employed, the subcommittee would probably look with greater favor in the future on this kind of activity.

Madam Chairman, I urge the passage of this bill. I think this is a good authorization, and what the subcommittee has recommended is fully justified.

Mr. HAYS of Ohio. Madam Chairman, I yield such time as she may consume to the gentlewoman from New Jersey (Mrs. MEYNER).

Mrs. MEYNER. Madam Chairman, I rise in support of H.R. 13589, USIA authorization for fiscal year 1977.

Here again, as we did for the State Department authorization under the leadership of our chairman, the gentleman from Ohio (Mr. HAYS), we held hearings, questioned witnesses and examined every item in this bill carefully. In all frankness, I have to say that I was not always with the chairman on his feelings about cutting TDY travel for USIA personnel, but after having questioned witnesses I felt that there was an extravagance here that could be cut down and cut back.

Therefore, I urge the support of H.R. 13589.

Mr. BUCHANAN. Madam Chairman, I yield 3 minutes to the gentleman from Maryland (Mr. GUDE).

Mr. GUDE. Madam Chairman, tomorrow I am offering an amendment to H.R. 13589 which would allow for the dissemination of three additional USIA films and one paper exhibit within the United States.

These materials were produced especially for the Bicentennial, and it is because of their direct bearing on our 200th birthday that I ask that they be released within the United States. ARBA has expressed an interest in the material, since similar pieces are not available commercially.

I regret that the three films and paper exhibit were brought to my attention after H.R. 13589 was reported by the committee. I believe they deserve full congressional attention and, unfortunately, this was not possible within such restrictive time limits.

However, the films have been shown for the benefit of subcommittee members, and portions of the paper exhibit will be on display in the Speaker's Lobby tomorrow during the 5-minute rule.

According to law, the USIA prepares materials only for foreign audiences, as has been explained, and its products of films, booklets, and exhibits are never made available at all to the public in this country unless the Congress has authorized a specific exception for a certain item. There have been few exceptions, and I think that this is proper. Nevertheless, I think that materials originated expressly in connection with our current Bicentennial observance are entitled to special consideration and timely action by the Congress. With discretion, the use of such USIA materials in our own Bicentennial can only serve the public interest.

With this in mind, members of a nongovernmental, nonpartisan organization called the Public Members Association of the Foreign Service of the United States have recently reviewed the Bicentennial materials and identified the four items which I am going to set forth in my amendment tomorrow as being appropriate to the Bicentennial observance in the United States.

Madam Chairman, I hope that the House will support my amendment to make these films available. I think the public members performed a valuable service in conducting a review of the USIA material under their own initiative and made the recommendation that these items be available to the American public for the Bicentennial. So I hope that the House will adopt my amendment.

Mr. BUCHANAN. Madam Chairman, will the gentleman yield?

Mr. GUDE. I yield to the gentleman from Alabama.

Mr. BUCHANAN. Madam Chairman, I thank the gentleman for yielding.

I simply want to reflect the fact that I shall certainly support the gentleman's amendment. I think it is meritorious and I commend him for offering it.

Mr. GUDE. I thank the gentleman.

Mr. HAYS of Ohio. Madam Chairman, will the gentleman yield?

Mr. GUDE. I yield to the gentleman from Ohio.

Mr. HAYS of Ohio. Madam Chairman, I do not know what these films are or anything about them. I probably would be inclined to support the gentleman's amendment, but first I hope the gentleman will either today or tomorrow give us a little more detail as to what they are all about.

The CHAIRMAN. The time of the gentleman from Maryland (Mr. GUDE) has expired.

Mr. HAYS of Ohio. Madam Chairman, I will be delighted to yield the gentleman more time if he wants it right now.

Mr. GUDE. Yes, indeed.

Mr. HAYS of Ohio. Madam Chairman, I yield 3 additional minutes to the gentleman from Maryland (Mr. GUDE).

Mr. GUDE. Madam Chairman, in response to the request of the gentleman from Ohio (Mr. HAYS), the four items which will be included in the amendment—and I believe the gentlewoman from New Jersey (Mrs. MEYNER) is familiar with these—include a so-called paper exhibit, which will be on exhibit in the Speaker's Lobby tomorrow, and that is an exhibit of finely reproduced scenes from early American history, captioned largely by quotations from American documents and writers of those times.

There will also be two brief Bicentennial films produced by American students in a nationwide competition that was sponsored by USIA, and there will be a 27½-minute film about the outlook for continued progress in medical technology during America's third century and growing out of progress from our past.

More specifically the items covered by my amendment are the exhibit:

"Life, Liberty and the Pursuit of Happiness"—a paper exhibit of pictures and captions drawn largely from documents of the times, depicting the cultural emergence of our infant Nation out of colonial America and tracing the establishment of our National Goverment and legal institutions, the country's early economic growth, the development of the democratic spirit, and the move westward into frontier areas;

"200" and "Rendezvous"—two U.S. student films, representative of the winners in a nationwide competition sponsored by USIA. The first is an impressionistic 3½-minute animated cartoon tracing our country's two centuries of development; the second is a 12-minute reenactment of frontier life experienced by American fur trappers; and

"Century III—The Gift of Life"—One of a series of 27½-minute films intended to show where the United States is in significant technical areas at the time of its Bicentennial and where it appears to be headed during its third century. This one deals specifically with such advanced medical techniques as organ transplants, prosthesis, and immunology.

Mr. HAYS of Ohio. Madam Chairman, if the gentleman will yield, I thank the gentleman for his statement. I have no concern about these items. I simply thought there ought to be a little something in the RECORD stating what they were.

Mrs. MEYNER. Madam Chairman, will the gentleman yield?

Mr. GUDE. I yield to the gentlewoman from New Jersey.

Mrs. MEYNER. Madam Chairman, I rise in support of the amendment that is to be offered by the gentleman from Maryland. I regret that I was unable to see these exhibits before their completion, but a member of my staff whose judgment I trust has seen them, and he thinks their content is splendid and thinks they ought to be used not only internationally but domestically, too.

Mr. HAYS of Ohio. Madam Chairman, I have no further requests for time.

Mr. BUCHANAN. Madam Chairman, I have no further requests for time.

The CHAIRMAN. If there are no further requests for time, the Clerk will read.

The Clerk read as follows:

H.R. 13589

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "United States Information Agency Authorization Act, Fiscal Year 1977".

Mr. HAYS of Ohio. Madam Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. O'NEILL) having assumed the Chair, Ms. HOLTZMAN, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 13589) to authorize appropriations for the U.S. Information Agency, and for other purposes, had come to no resolution thereon.

PROVIDING FOR CONSIDERATION OF H.R. 13490, OLYMPIC WINTER GAMES AUTHORIZATION ACT

Mr. MURPHY of Illinois. Madam Speaker, by direction of the Committee on Rules, I call up House Resolution 1270 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1270

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 13490) authorizing appropriations for the 1980 Olympic winter games at Lake Placid, New York. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Interstate and Foreign Commerce as an original bill for the purpose of amendment under the five-minute rule. At the conclusion of such consideration, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore (Ms. HOLTZMAN). The gentleman from Illinois (Mr. MURPHY) is recognized for 1 hour.

Mr. MURPHY of Illinois. Madam Speaker, I yield the usual 30 minutes for the minority to the distinguished gentleman from Ohio (Mr. LATTA), pending which I yield myself such time as I may consume.

Madam Speaker, House Resolution 1270 provides for an open rule with 1 hour of general debate on H.R. 13490, the Olympic winter games authorization. The resolution also makes the committee substitute in order as an original bill for the purpose of amendment.

H.R. 13490 authorizes $49,040,000 for grants to assist in the planning, design, and construction of the winter sports and supporting facilities for the 1980 Olympic winter games. The bill provides further that these facilities be maintained after the Olympic games under the supervision of the Secretary of Commerce; $250,000 is authorized for the Secretary to administer the act.

This legislation provides permanent facilities to train American athletes for both national and international events and is also an investment in international good will. I urge the adoption of House Resolution 1270 so that we may discuss and debate H.R. 13490.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Ms. HOLTZMAN). Since there is no precedent with respect to addressing a Speaker who is a woman, the Chair will cite the precedent by the gentlewoman from Michigan Mrs. Griffiths, on this point several years ago when she discussed the question of the proper mode of address when she sat as the Chairman in the Committee of the Whole, and using her words, "Although the Chair endeavors to be neutral she is not neuter," the Chair, therefore, would suggest that the proper form of address would be "Madam Speaker."

Mr. MURPHY of Illinois. I appreciate the statement just made by the gentlewoman from New York.

Mr. LATTA. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, as explained by the gentleman from Illinois this rule provides for 1 hour of general debate on H.R. 13490, Olympic winter games authorization, and that the bill shall be open to all germane amendments. In order to preserve the normal amending process, the rule makes the committee substitute in order as an original bill for the purpose of amendment.

The purpose of this bill is to authorize $49,040,000 to the Secretary of Commerce for the purpose of providing grants to the Lake Placid 1980 Olympic Games, Inc., a not-for-profit corporation, or to State, local, or other public agencies. The bill also authorizes $250,000 to the Secretary for the administration of this act.

The administration strongly opposes this bill. It would authorize $50 million in special Federal assistance, providing almost total Federal financing of the 1980 winter games. The administration has proposed legislation which would limit Federal assistance to those permanent sports facilities which would have lasting national value. The temporary and support facilities required for the winter games should not be paid for through special Federal assistance. Rather, proceeds from the games and the local area, which will derive substantial economic benefits, should pay these costs.

Madam Speaker, I have no requests for time and reserve the remainder of my time.

Mr. MURPHY of Illinois. Madam Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ROUSSELOT. Madam Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 377, nays 2, not voting 52, as follows:

[Roll No. 347]

YEAS—377

Abzug
Adams
Alexander
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashbrook
Ashley
Aspin
AuCoin
Badillo
Bafalis
Baldus
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bennett
Bergland
Bevill
Biaggi
Bingham
Blanchard
Blouin
Boggs
Boland
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Carr
Carter
Cederberg
Chappell
Chisholm
Clancy
Clausen, Don H.
Clay
Cleveland
Cochran
Cohen
Collins, Ill.
Collins, Tex.
Conable
Conlan
Conte
Corman
Cornell
Cotter
Coughlin
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Danielson
Davis
de la Garza
Delaney
Dent
Derrick
Derwinski
Devine
Dickinson
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
English
Erlenborn
Esch
Evans, Colo.
Evans, Ind.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flood
Florio
Flowers
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fraser
Frey
Fuqua
Gaydos
Gibbons
Gilman
Ginn
Gonzalez
Goodling
Gradison
Grassley
Guyer
Hagedorn
Haley
Hall
Hamilton
Hammerschmidt
Hanley
Hannaford
Hansen
Harkin
Harrington
Harris
Hawkins
Hayes, Ind.
Hechler, W. Va.
Heckler, Mass.
Hefner
Heinz
Henderson
Hightower
Hillis
Holland
Holt
Holtzman
Horton
Howard
Howe
Hubbard
Hughes
Hungate
Hutchinson
Hyde
Ichord
Jacobs
Jarman
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Ketchum
Keys
Kindness
Koch
Krebs
Krueger
LaFalce
Lagomarsino
Landrum
Latta
Leggett
Lehman
Lent
Litton
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Lundine
McClory
McCloskey
McCollister
McCormack
McDade
McEwen
McFall
McHugh
McKay
McKinney
Madden
Madigan
Maguire
Mahon
Mann
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Mikva
Miller, Calif.
Miller, Ohio
Mills
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Hara
O'Neill
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Paul
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Quie
Quillen
Randall
Rangel
Regula
Reuss
Rhodes
Richmond
Rinaldo
Risenhoover
Roberts
Robinson
Rodino
Roe
Rogers
Rooney
Rosenthal
Roush
Rousselot
Runnels
Ruppe
Russo
St Germain
Santini
Sarasin
Sarbanes
Satterfield
Scheuer
Schneebeli
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shriver
Shuster
Sikes
Simon
Sisk
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
Staggers
Stanton, J. William
Stark
Steed
Steelman
Steiger, Ariz.
Steiger, Wis.
Stephens
Stratton
Studds
Sullivan
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thone
Thornton
Traxler
Treen
Tsongas
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Vigorito
Waggonner
Walsh
Wampler
Weaver
Whalen
White
Whitehurst
Wilson, Bob
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Young, Tex.
Zablocki
Zeferetti

NAYS—2

Conyers
Dingell

NOT VOTING—52

Abdnor
Addabbo
Bell
Biester
Bolling
Broyhill
Carney
Clawson, Del
Dellums
Diggs
du Pont
Eshleman
Evins, Tenn.
Frenzel
Giaimo
Goldwater
Green
Gude
Harsha
Hays, Ohio
Hébert

Helstoski
Hicks
Hinshaw
Karth
Levitas
McDonald
Martin
Mathis
Michel
Milford
Passman
Railsback
Rees
Riegle
Roncalio
Rose
Rostenkowski
Roybal
Ryan
Skubitz
Stanton, James V.
Stokes
Stuckey
Symington
Thompson
Udall
Vanik
Waxman
Whitten
Wiggins
Wilson, C. H.

The Clerk announced the following pairs:

On this vote:

Mr. Addabbo for, with Mr. Levitas against.

Until further notice:

Mr. Thompson with Mr. Bell.
Mr. Roybal with Mr. Frenzel.
Mr. Hays of Ohio with Mr. Eshleman.
Mr. Carney with Mr. Railsback.
Mr. Giaimo with Mr. Goldwater.
Mr. Hébert with Mr. Broyhill.
Mr. Passman with Mr. Martin.
Mr. Helstoski with Mr. Hicks.
Mr. Diggs with Mr. James V. Stanton.
Mr. Dellums with Mr. Karth.
Mr. Ryan with Mr. Wiggins.
Mr. Charles H. Wilson of California with Mr. Rees.
Mr. Rostenkowski with Mr. Del Clawson.
Mr. Vanik with Mr. Stuckey.
Mr. Milford with Mr. Harsha.
Mr. Symington with Mr. Abdnor.
Mr. Green with Mr. Biester.
Mr. Evins of Tennessee with Mr. du Pont.
Mr. Mathis with Mr. Gude.
Mr. McDonald with Mr. Michel.
Mr. Roncalio with Mr. Riegle.
Mr. Rose with Mr. Skubitz.
Mr. Stokes with Mr. Udall.
Mr. Waxman with Mr. Whitten.

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERMISSION FOR SUBCOMMITTEE ON ADMINISTRATIVE LAW AND GOVERNMENT RELATIONS OF COMMITTEE ON THE JUDICIARY TO MEET BETWEEN 10:30 A.M. AND 12 NOON THURSDAY, JUNE 10, 1976

Mr. **FLOWERS**. Madam Speaker, I ask unanimous consent that the Subcommittee on Administrative Law and Government Relations of the Committee on the Judiciary be permitted to sit between the hours of 10:30 a.m. and 12 noon on tomorrow, Thursday, June 10, 1976.

The **SPEAKER** pro tempore (Ms. HOLTZMAN). Is there objection to the request of the gentleman from Alabama?

Mr. **ROUSSELOT**. Madam Speaker, reserving the right to object, is this for 10:30 to 12 o'clock tomorrow only?

Mr. **FLOWERS**. Tomorrow only.

Mr. **ROUSSELOT**. Madam Speaker, I withdraw my reservation of objection.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Alabama?

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 13601, AMTRAK IMPROVEMENT ACT OF 1976

Mr. **MURPHY** of Illinois. Madam Speaker, by direction of the Committee on Rules, I call up House Resolution 1271 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 1271

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 13601) to amend the Rail Passenger Service Act to authorize additional appropriations, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The **SPEAKER** pro tempore. The gentleman from Illinois (Mr. MURPHY) is recognized for 1 hour.

Mr. **MURPHY** of Illinois. Madam Speaker, I yield the usual 30 minutes for the minority to the distinguished gentleman from Ohio (Mr. LATTA), pending which I yield myself such time as I may consume.

Madam Speaker, House Resolution 1271 provides for an open rule with 1 hour of general debate on H.R. 13601, the Amtrak Improvement Act of 1976.

H.R. 13601 amends the Rail Passenger Service Act to authorize $878 million for Amtrak to cover deficits in operating and capital expenses for fiscal 1977 and 1978.

This bill changes existing law to allow Amtrak to hire security guards without regard to State laws relating to licensing or residency and to engage in leverage leasing transactions. H.R. 13601 exempts Amtrak from the payment of transfer taxes or recording fees with regard to the Northeast corridor project.

H.R. 13601 also amends existing law regarding the authority of the Interstate Commerce Commission over interstate rates. This bill provides that rail mass transportation services are exempt from ICC regulation if interstate rates are subject to approval or disapproval by a Governor of any State providing the services.

I urge the adoption of House Resolution 1271 in order that we may discuss and debate H.R. 13601.

Mr. **LATTA**. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, as explained by the gentleman from Illinois this rule provides for 1 hour of general debate on H.R. 13601, Amtrak Improvement Act of 1976, and that the bill shall be open to all germane amendments.

The primary purpose of this bill is to provide funds for Amtrak to cover deficits in operating and capital expenses for each of the fiscal years 1977 and 1978.

The bill authorizes appropriations totalling $638 million through the end of fiscal year 1977 and $240 million through the end of fiscal 1978. Of this amount, $430 million for fiscal 1977 is for operating grants; $140 million for fiscal 1977 and $140 million for fiscal 1978 is for capital grants; $68 million for fiscal 1977, and $75 million for fiscal 1978 is for Northeast Corridor operating expenses; $25 million for fiscal 1978 is for grants to make payments on Amtrak's outstanding debts.

While the administration has no objection to this bill in general, it strongly objects to section 2 and section 5. The proposed authorization is $52 million and $30 million above the administration's request for operating and capital expenses respectively. The administration also believes that leverage leasing for Amtrak would obscure the true cost of operations as well as result in a significant net loss of revenue to the Treasury.

Madam Speaker, I have no requests for time, and I reserve the balance of my time.

Mr. **MURPHY** of Illinois. Madam Speaker, I move the previous question on the resolution.

The previous question was ordered.

The **SPEAKER** pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. **SYMMS**. Madam Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The **SPEAKER** pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 359, nays 21, not voting 51, as follows:

[Roll No. 348]

YEAS—359

Abzug
Adams
Alexander
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashbrook
Ashley
Aspin
AuCoin
Badillo
Bafalis
Baldus
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bennett
Bergland
Bevill
Biaggi
Bingham
Blanchard
Blouin
Boggs
Boland
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Carr
Carter
Cederberg
Chappell
Chisholm
Clausen, Don H.
Clay
Cleveland
Cochran
Cohen
Collins, Ill.
Conte
Corman
Cornell
Cotter
Coughlin
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Danielson
Davis
de la Garza
Delaney
Dent
Derrick
Derwinski
Devine
Dickinson
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
English
Erlenborn
Esch
Evans, Colo.
Evans, Ind.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flood
Florio
Flowers
Flynt
Foley
Ford, Mich.

Ford, Tenn.
Forsythe
Fountain
Fraser
Frey
Fuqua
Gaydos
Gibbons
Gilman
Ginn
Gonzalez
Goodling
Gradison
Grassley
Gude
Guyer
Hagedorn
Haley
Hall
Hamilton
Hanley
Hannaford
Harkin
Harrington
Harris
Harsha
Hays, Ohio
Hechler, W. Va.
Hefner
Heinz
Henderson
Hightower
Hillis
Holland
Holt
Holtzman
Horton
Howard
Howe
Hubbard
Hughes
Hungate
Hutchinson
Hyde
Ichord
Jacobs
Jarman
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Ketchum
Keys
Kindness
Koch
Krebs
Krueger
LaFalce
Lagomarsino
Leggett
Lehman
Lent
Litton
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lundine
McClory
McCloskey
McCollister
McCormack
McDade
McEwen
McFall
McHugh
McKay
McKinney
Madden
Madigan
Maguire
Mahon
Mann
Mathis
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Mikva
Miller, Calif.
Miller, Ohio
Mills
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Hara
O'Neill
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Pressler
Preyer
Price
Pritchard
Quie
Quillen
Randall
Rangel
Regula
Reuss
Rhodes
Richmond
Riegle
Rinaldo
Risenhoover
Roberts
Robinson
Rodino
Roe
Rogers
Rooney
Rosenthal
Roush
Runnels
Ruppe
Russo
St Germain
Santini
Sarasin
Sarbanes
Satterfield
Scheuer
Schneebeli
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shriver
Shuster
Sikes
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Solarz
Spellman
Spence
Staggers
Stanton, J. William
Stark
Steed
Steelman
Steiger, Wis.
Stratton
Studds
Talcott
Taylor, N.C.
Teague
Thone
Thornton
Traxler
Treen
Tsongas
Van Deerlin
Vander Jagt
Vander Veen
Vigorito
Waggonner
Walsh
Wampler
Waxman
Weaver
Whalen
White
Whitehurst
Wilson, Bob
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Young, Tex.
Zablocki
Zeferetti

NAYS—21

Burleson, Tex.
Clancy
Collins, Tex.
Conable
Conlan
Conyers
Crane
Duncan, Tenn.
Hammerschmidt
Hansen
Hayes, Ind.
Latta
Lujan
McDonald
Paul
Poage
Rousselot
Snyder
Steiger, Ariz.
Symms
Taylor, Mo.

NOT VOTING—51

Abdnor
Addabbo
Bell
Biester
Bolling
Broyhill
Carney
Clawson, Del
Dellums
Diggs
Duncan, Oreg.
du Pont
Eshleman
Evins, Tenn.
Frenzel
Giaimo
Goldwater
Green
Hawkins
Hébert
Heckler, Mass.
Helstoski
Hicks
Hinshaw
Karth
Landrum
Levitas
Martin
Michel
Milford
Passman
Railsback
Rees
Roncalio
Rose
Rostenkowski
Roybal
Ryan
Stanton, James V.
Stephens
Stokes
Stuckey
Sullivan
Symington
Thompson
Udall
Ullman
Vanik
Whitten
Wiggins
Wilson, C. H.

The Clerk announced the following pairs:

On this vote:

Mr. Addabbo for, with Mr. Levitas against.

Until further notice:

Mr. Thompson with Mr. Bell.
Mr. Roybal with Mr. Frenzel.
Mr. Roncalio with Mr. Eshleman.
Mr. Carney with Mr. Goldwater.
Mr. Giaimo with Mr. Martin.
Mr. Hébert with Mr. Hicks.
Mr. Passman with Mr. James V. Stanton.
Mr. Helstoski with Mr. Karth.
Mr. Diggs with Mr. Rees.
Mr. Dellums with Mr. Wiggins.
Mr. Ryan with Mr. Udall.
Mr. Charles H. Wilson of California with Mr. Abdnor.
Mr. Rostenkowski with Mr. du Pont.
Mr. Vanik with Mr. Biester.
Mr. Milford with Mr. Del Clawson.
Mr. Symington with Mr. Evins of Tennessee.
Mr. Rose with Mr. Landrum.
Mr. Duncan of Oregon with Mr. Railsback.
Mr. Green with Mr. Stephens.
Mr. Hawkins with Mrs. Sullivan.
Mr. Stokes with Mr. Ullman.
Mr. Stuckey with Mr. Whitten.
Mr. Broyhill with Mrs. Heckler of Massachusetts.

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

FEDERAL RAILROAD SAFETY AUTHORIZATION ACT OF 1976

Mr. MURPHY of Illinois. Madam Speaker, by direction of the Committee on Rules, I call up House Resolution 1268 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 1268

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 11804) to amend the Federal Railroad Safety Act of 1970 to authorize additional appropriations, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Interstate and Foreign Commerce as an original bill for the purpose of amendment under the five-minute rule. At the conclusion of such consideration, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Illinois (Mr. MURPHY) is recognized for 1 hour.

Mr. MURPHY of Illinois. Madam Speaker, I yield the usual 30 minutes for the minority to the distinguished gentleman from Ohio (Mr. LATTA). Pending that, I yield myself such time as I may consume.

Madam Speaker, House Resolution 1268 provides for an open rule with 1 hour of general debate on H.R. 11804, the Federal Railroad Safety Authorization Act of 1976. The resolution also makes the committee substitute in order as an original bill for the purpose of amendment.

H.R. 11804 authorizes $35 million for each of the fiscal years 1977 and 1978 for the administration and enforcement of railroad safety laws.

There are also several significant changes in this bill regarding railroad safety laws. H.R. 11804 provides for uniform penalties of not less than $250 and not more than $2,500 for violation of railroad safety laws. The Hours of Service Act is amended regarding sleeping quarters for railroad employees. Safety requirements included in the bill mandate that all passenger and freight trains have highly visible rear end markers and that employees repairing or servicing rolling equipment be protected by an effective locking device applied to each manually operated switch.

H.R. 11804 further provides that the Office of Technology assessment evaluate the Federal railroad safety program and report to Congress within 18 months with recommendations for legislative or other action.

There is a real need for this legislation given the rise in train accidents and the increased use of the rails in transporting hazardous materials. I urge the adoption of House Resolution 1268 that we might discuss and debate H.R. 11804.

Mr. LATTA. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, as explained by the gentleman from Illinois this rule provides for 1 hour of general debate on H.R. 11804, Federal Railroad Safety Act amendments, and that the bill shall be open to all germane amendments. The rule makes the committee substitute in order as an original bill for the purpose of amendment.

The primary purpose of this bill is to fund the operations of the Federal Railroad Administration within the Department of Transportation, to implement and enforce the Federal Railroad Safety Act for each of the fiscal years 1977 and 1978.

This bill authorizes $35,000,000 for fiscal year 1977 and $35,000,000 for fiscal year 1978.

The administration objects to this bill in its present form because of the provisions of section 5 which would legislate specific safety regulations rather than indicate general policy for implementation by the executive branch. The administration would not, however, oppose this bill if the provisions of section 5 were made more flexible.

Madam Speaker, I have no further requests for time and reserve the remainder of my time.

Mr. MURPHY of Illinois. Madam Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. RUSSO. Madam Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 375, nays 4, not voting 52, as follows:

[Roll No. 349]

YEAS—375

Abdnor
Abzug
Adams
Alexander
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashley
Aspin
AuCoin
Badillo
Bafalis
Baldus
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bennett
Bergland
Bevill
Biaggi
Bingham
Blanchard
Blouin
Boggs
Boland
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Carr
Carter
Cederberg
Chappell
Chisholm
Clancy
Clausen, Don H.
Clay
Cleveland
Cochran
Cohen
Collins, Ill.
Conable
Conlan
Conte
Conyers
Corman
Cornell
Cotter
Coughlin
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Danielson
Davis
de la Garza
Delaney
Dent
Derrick
Derwinski
Devine
Dickinson
Diggs
Dingell
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
English
Erlenborn
Esch
Evans, Colo.
Evans, Ind.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flood
Florio
Flowers
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fraser
Frey
Fuqua
Gaydos
Gibbons
Gilman
Ginn
Gonzalez
Goodling
Gradison
Grassley
Gude
Guyer
Hagedorn
Haley
Hall
Hamilton
Hammerschmidt
Hanley
Hannaford
Hansen
Harkin
Harrington
Harris
Harsha
Hawkins
Hayes, Ind.
Hechler, W. Va.
Hefner
Heinz
Henderson
Hightower
Hillis
Holland
Holt
Holtzman
Horton
Howard
Howe
Hubbard
Hughes
Hungate
Hutchinson
Hyde
Ichord
Jacobs
Jarman
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Ketchum
Keys
Kindness
Koch
Krebs
Krueger
LaFalce
Lagomarsino
Landrum
Latta
Leggett
Lehman
Lent
Litton
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Lundine
McClory
McCloskey
McCollister
McDade
McEwen
McFall
McHugh
McKay
McKinney
Madden
Madigan
Maguire
Mahon
Mann
Mathis
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Mezvinsky
Mikva
Miller, Calif.
Miller, Ohio
Mills
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Hara
O'Neill
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Paul
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Pressler
Preyer
Price
Pritchard
Quie
Quillen
Randall
Rangel
Regula
Reuss
Rhodes
Richmond
Riegle
Rinaldo
Risenhoover
Roberts
Robinson
Rodino
Roe
Rogers
Rooney
Rose
Rosenthal
Roush
Rousselot
Runnels
Ruppe
Russo
St Germain
Santini
Sarasin
Sarbanes
Satterfield
Scheuer
Schneebeli
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shriver
Shuster
Sikes
Simon
Sisk
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
Staggers
Stanton, J. William
Stark
Steed
Steelman
Steiger, Ariz.
Steiger, Wis.
Stephens
Stratton
Studds
Sullivan
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Thone
Thornton
Traxler
Treen
Tsongas
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Vigorito
Waggonner
Walsh
Wampler
Waxman
Weaver
Whalen
White
Whitehurst
Wilson, Bob
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Young, Tex.
Zablocki

NAYS—4

Burleson, Tex.
Collins, Tex.
McDonald
Poage

NOT VOTING—52

Addabbo
Ashbrook
Bell
Biester
Bolling
Bonker
Brodhead
Broyhill
Carney
Clawson, Del
Dellums
Dodd
du Pont
Eshleman
Evins, Tenn.
Frenzel
Giaimo
Goldwater
Green
Hays, Ohio
Hébert
Heckler, Mass.
Helstoski
Hicks
Hinshaw
Karth
Levitas
McCormack
Martin
Meyner
Michel
Milford
Passman
Railsback
Rees
Roncalio
Rostenkowski
Roybal
Ryan
Skubitz
Stanton, James V.
Stokes
Stuckey
Symington
Teague
Thompson
Udall
Vanik
Whitten
Wiggins
Wilson, C. H.
Zeferetti

The Clerk announced the following pairs:

Mr. Hébert with Mr. Bell.
Mr. Thompson with Mr. Frenzel.
Mr. Addabbo with Mr. Eshleman.
Mr. Roybal with Mr. Goldwater.
Mr. Roncalio with Mr. Martin.
Mr. Zeferetti with Mr. Hicks.
Mr. Carney with Mr. James V. Stanton.
Mr. Giaimo with Mr. Rees.
Mr. Passman with Mr. du Pont.
Mr. Helstoski with Mr. Biester.
Mr. Dellums with Mr. Karth.
Mr. Ryan with Mr. Del Clawson.
Mr. Charles H. Wilson of California with Mr. Railsback.
Mr. Rostenkowski with Mr. Ashbrook.
Mr. Vanik with Mrs. Heckler of Massachusetts.
Mr. Milford with Mr. Broyhill.
Mr. Symington with Mr. Evins of Tennessee.
Mr. Levitas with Mr. Wiggins.
Mr. Green with Mr. Whitten.
Mrs. Meyner with Mr. Udall.
Mr. McCormack with Mr. Teague.
Mr. Stuckey with Mr. Stokes.
Mr. Dodd with Mr. Skubitz.
Mr. Brodhead with Mr. Bonker.
Mr. Hays of Ohio with Mr. Michel.

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. ROONEY. Madam Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 11804) to amend the Federal Railroad Safety Act of 1970 to authorize additional appropriations, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania (Mr. ROONEY).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 11804), with Mr. BINGHAM in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Pennsylvania (Mr. ROONEY) will be recognized for 30 minutes, and the gentleman from Kansas (Mr. SKUBITZ) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. ROONEY).

Mr. ROONEY. Mr. Chairman, I yield such time as he may consume to the gentleman from West Virginia (Mr. STAGGERS).

Mr. STAGGERS. Mr. Chairman, the real purpose of this bill is to try to save lives and reduce property damage.

We tried to halt the increase in rail accidents when we enacted the Federal Railroad Safety Act of 1970. We granted the Secretary of Transportation broad regulatory powers and authorized a grant-in-aid program to encourage State participation in safety enforcement activities.

Despite our efforts, rail accidents continued to increase and the statistics showing property damage, dead, and injured present a grim picture.

A major reason for this continuing problem is that the Federal Railroad Administration—FRA—has consistently failed to make use of the safety inspectors and funds authorized by this committee. We continue to authorize up to 500 safety inspectors. The administration budget for 1977 calls for only 376 safety positions. We are also continuing the authorization at $35 million, the same amount authorized for fiscal year 1976. In that year, pursuant to the administration request, only $17.7 million was appropriated. For fiscal year 1977, only $20.5 million was provided in the administration budget.

The FRA has responsibility for conducting inspection activities for well over 300,000 miles of track, 1 million freight cars, and thousands of locomotives and passenger cars. We feel that FRA should request adequate funds and hire sufficient people to carry out that responsibility.

Another area in which we think FRA should utilize existing authority is in the grant-in-aid State safety program. Five years after the enactment of the 1970 Safety Act, there were only eight States with 14 inspectors participating in this program. This year, there are only 12 States with a total of 22 inspectors participating in this program. There is adequate authority under existing law to bring about a significant improvement in this program.

We can only hope that, eventually, FRA will live up to the spirit and the letter of the Federal Railroad Safety Act of 1970 and improve its administration and enforcement of Federal railroad safety laws.

The reported bill also updates many of the penalty provisions that were originally enacted around the turn of the century. Many of these old laws had penalties of $100. In 1957, some of these penalties were increased to $250. This bill provides that the penalties under these old laws will now be the same as the 1970 Safety Act, that is, $250 as a minimum penalty and $2,500 as a maximum penalty.

On July 19, 1974, at Decatur, Ill., seven employees were killed and over 100 were injured in the Norfolk and Western Railroad yards when an explosion demolished crew quarters and an eating facility in the middle of the yard. This bill will prohibit a railroad from constructing sleeping quarters in those areas where railroad switching operations are performed. This section permits the Secretary to give the railroads some flexibility in constructing such lodging, but they must be far enough away from the switching operations so that an explosion will not cause the same kind of devastating accident we had at Decatur, Ill.

As a result of that explosion, a petition was filed with FRA, in August of 1974, to require that sleeping quarters be moved away from switching operations. The FRA has taken no action on that petition. Because of this kind of inaction, the bill also imposes time limits on regulatory proceedings under the 1970 Safety Act. Under this bill, the FRA must take action on such a petition within 12 months after it is filed.

The bill also brings the crews of wreck or relief trains under the Hours of Service Act. This permits such crewmembers to work only up to 16 hours in any 24-hour period when an actual emergency exists and their work is related to that emergency. The emergency ceases to exist when the track is cleared and the line is open for traffic. We included this provision because some railroads were sending wreck trains to an accident scene to clean up debris several days or weeks after the main track had been cleared and their work was considered by the railroad to be that of a wreck train and exempt from the Hours of Service Act.

The bill also adds two more crafts of employees under the hours-of-service protection. The two crafts are hostlers and signalmen.

The primary function of hostlers is to move engines into and out of shop areas and to service locomotives by adding water, sand, and fuel. Even though these employees do not normally operate on main line train movements, they do operate locomotives and should be covered by the Hours of Service Act.

Signalmen engage in the construction, installation, repair, maintenance, testing, and inspection of signal systems. There has been a substantial increase in the installation of signal systems and devices. At the same time, the signal work force has been reduced. The net effect is that the signal employee today is responsible for maintaining 75 percent more equipment than in 1963. In 1974, signal employees worked 1.7 million hours of overtime and that figure was even larger last year. No signalman should be permitted to work on a signal system when he is fatigued. His mistakes could result in signal failures and lead to catastrophic results in case of a derailment or collision.

Rear markers for trains is another area which the committee felt needed prompt attention. Historically, trains had rear markers. In recent years, many railroads have discontinued this safety feature. The lack of rear markers is highlighted by the collision near Chicago in October 1972, of two commuter trains on the Illinois Central Gulf Railroad. That accident resulted in heavy losses of life and many injuries. The National Transportation Safety Board concluded that lack of train rearend visibility may have contributed to the crash or its severity. As a result of that collision, the Illinois Department of Transportation conducted a study on train visibility and, among other things, recommended lighted red markers for the rear of trains.

Over a year ago a petition was filed with FRA to require lighted markers on the rear of all trains. FRA still has not issued a rule covering rear markers. This bill requires FRA to issue such a rule within 6 months after the enactment of this legislation.

This bill also requires the Secretary, within 6 months after its enactment, to issue regulations providing adequate safety protection for employees engaged in inspecting, testing, and repairing trains in the yards. There are many reports of employees being injured or killed because of moving equipment coming in contact with them.

On March 15, 1976, the FRA issued a notice of proposed rulemaking covering the so-called blue flag rule to protect employees working on trains in the yards. The committee feels that FRA simply did not go far enough to protect these workers. Therefore, the bill requires the Secretary to issue a regulation requiring that each manual switch must be lined against movement to the track where employees are working on trains and then secured in that position by an effective locking device.

This legislation is necessary, not only to assure adequate safety enforcement essential to an improvement in the railroad safety picture, but also to protect the lives of railroad workers and railroad passengers.

I urge the passage of this bill.

Mr. ROONEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the primary purpose of this bill is to authorize $35 million for each of the fiscal years 1977 and 1978 for the administration and enforcement of railroad safety laws. The $35 million amount is broken down as provided in existing law, and set forth on page 9 of the reported bill, as follows:

First, $18 million for safety inspection and enforcement activities;

Second, $3.5 million for grant-in-aid State safety programs;

Third, $3.5 million for Federal Railroad Administration salaries and expenses not otherwise provided for; and

Fourth, $10 million for research and development.

The bill also provides for uniform penalties of not less than $250 nor more than $2,500 for violations of railroad safety laws, and the Secretary of Transportation is prohibited from compromising most penalties.

The Hours of Service Act is amended in several respects. First, it imposes new requirements with respect to sleeping quarters for railroad crews. Second, the bill provides that crews of wreck or relief trains shall be subject to the Hours of Service Act. Third, the bill also provides that new classes of employees; namely, hostlers and railroad signalmen, shall be subject to the Hours of Service Act.

The bill also imposes time limits on regulatory proceedings under the Federal Railroad Safety Act of 1970.

The reported bill also requires that new regulations must be issued requiring rear markers on trains and requiring locking devices on manual switches to protect employees working on cars.

The Secretary is required to establish eight regional safety offices and to insure the uniform administration and enforcement of railroad safety laws by such regional offices.

Finally, the bill also requires an evaluation and report to the Congress by the Office of Technology Assessment with respect to the Federal railroad safety program.

Mr. Chairman, the Congress enacted the Federal Railroad Safety Act of 1970 in an attempt to promote safety in railroad operations by granting the Secretary of Transportation broad regulatory powers and providing a comprehensive scheme of Federal regulations, coupled with Federal-State enforcement activities, in order to halt the increase in rail accidents which had doubled over the previous decade.

Despite enactment of the 1970 statute, rail accidents have continued to increase and preliminary figures for calendar year 1975 show that train accidents again increased in 1975.

The best that can be said for the statistics, is that the rate of increase in 1975 was lower than in 1974. We find any increase in rail accidents unacceptable, but perhaps there is some hope in the fact that the rate of increase is declining.

I think these statistics are telling the story that the FRA is not doing its job adequately. One of the major reasons for this problem is that the FRA has consistently failed to avail itself of the safety inspectors and funds authorized by the Congress.

In view of the ever-increasing numbers of train accidents, the quantities of hazardous materials being transported by rail, and the deteriorated condition of railroad track, we are continuing to urge the Department of Transportation to request more funds and hire more personnel in order to bring about more effective enforcement of existing railroad safety laws. This bill authorizes the same amount, $35 million, as was authorized for fiscal year 1976, when only $17.7 million was appropriated. For fiscal year 1977, only $20.5 million is provided in the administration budget.

Despite the frustrations and disappointments with the enforcement of railroad safety legislation, we intend to pursue our efforts to assure that FRA receives sufficient authorization for funds needed to improve railroad safety.

Another area in which the intent of Congress has been frustrated, is in the area of State safety inspections. In 1975, FRA testified that only 8 States with 14 inspectors were participating in the enforcement program under the authority originally enacted in 1970. This year, FRA testified that there are now 12 States participating in this safety program with a total of 22 State inspectors. We feel that FRA should move expeditiously to encourage more States to participate in the enforcement of Federal rail safety regulations.

We firmly believe that adequate authority exists under present legislation to bring about a significant improvement in railroad safety.

I am hopeful that the FRA will eventually live up to the spirit and the letter of the Federal Railroad Safety Act of 1970 and improve its administration and enforcement of all Federal railroad safety laws. I also remain hopeful that the railroad industry will become convinced that railroad safety is cost beneficial and will not continue to defer track and roadbed maintenance that is necessary to safe and efficient railroad transportation.

This legislation is necessary to assure adequate safety inspection and enforcement activity essential to an overall improvement in the railroad safety picture for the future.

I urge the passage of this bill.

Mr. SKUBITZ. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the railroad safety bill now before us continues this body's efforts toward improving the safety record of our Nation's railroad. In 1970, we enacted the Railroad Safety Act of 1970 which was the first major piece of rail safety legislation in many years. Under the 1970 act, the Secretary of Transportation was given broad authority to make rules and regulations so as to improve the railroad safety. Unfortunately, there has been no great improvement in railroad safety. Consequently, we must continue to do what we can to make the 1970 act more effective.

In my judgment, Mr. Chairman, the 1970 act has all of the necessary legal authority for creating a situation where railroad safety becomes a reality. However, experience has shown that the Department of Transportation and the Federal Railroad Administration have failed to fully utilize the tools given them by Congress. For example, we have authorized over 500 rail inspectors and yet there are but 300 trying to inspect hundreds of thousands of miles of railroad track. Only a handful of new rules and new regulations have been promulgated under the 1970 act, and a much better job should be done by the Department of Transportation in this respect.

The bill before us contains authorizations for the next 2 years. The authorizations are at a level of $35 million, yet the Department of Transportation has requested but $21 million. If any part of our Federal budget could justify an increase, it should be railroad safety. Needless injuries and waste of lives could be avoided by more effective enforcement of railroad safety laws. The committee has rightfully requested a funding level of $35 million, and I am hopeful that the Department will endeavor to wisely spend the full amount.

Partly out of the frustration coming from the lack of success in the past, and partly because of a desire to legislate work rules, the bill has in it a number of highly specific provisions which will do little to aid railroad safety. We should not be in the business of writing safety laws—this is for FRA and collective bargaining. For example, the bill provides that crew quarters may be built only within certain locations near railroad yards. It provides that manual switches under the blue flag rule must be locked. Both of these matters would be best left to the rulemaking procedures of the Federal Railroad Administration. Nevertheless, I have no violent objection to either provision as now written in the bill.

The hostlers, who are employees who move locomotives from place to place in a switching yard or between terminals, are also included under the provisions of the Hours of Service Act. While there may be some difficulty because hostlers are often employees who move locomotives only while they are not performing some other function, I have no objection to their inclusion in the bill. I say that I have no objection, but I should voice one reservation. Both the signalmen and hostlers were included within the provisions of the Hours of Service Act without any hearings on the provision. As a matter of policy, I think we should make every effort to fully explore the need for including any group under any law regulating hours of service.

There are three provisions contained in this bill which cause me concern. First, there is the matter of penalties for violations of railroad safety laws.

Under this bill, there is a minimum penalty of $250 per day per violation and a maximum of $2,500. I do not quarrel with the minimum and maximum penalties. The bill does contain, however, a prohibition against compromising the penalty. This provision causes me concern and I believe that the chairman of the committee and I have two different approaches for solving that problem. One approach which I understand that the chairman is considering is to permit compromise down to $250. Unfortunately, this would cost railroads a great deal of additional money and would not provide any long-term benefit toward railroad safety.

After considering this matter for a long time, I have an alternative amendment which would permit the Secretary to make an agreement with the railroad which has been fined so that the money for the fine could be used on designated projects which would improve safety. Those projects would not involve the condition for which the penalty was assessed. They would provide money so that railroads could fix up those situations not yet detected by DOT which represent safety hazards which could be corrected by the expenditure of funds. In essence, my amendment will encourage more self-policing by the industry and will prevent accidents before they happen.

In addition, I am troubled by the provision that requires that the rear car of every train be lighted. Out of nearly 10,000 accidents last year, only 40 involved rear end collisions. In an assessment of those 40 accidents, it was found that a light on the rear car of the train would not have prevented one of those accidents. Instead of requiring a light for the rear car of the train, I have proposed that FRA should conduct an expedited rulemaking procedure of 6 months to determine what would be the best way to avoid rear end collisions. In that rulemaking procedure, they might determine that reflective markers worked equally as well as lighted markers.

Finally, Mr. Chairman, we have put a time limit on FRA of 12 months. I think that time limit is too short because it will eliminate advanced rulemaking procedures. I propose to make the time limit 18 months.

In conclusion, this bill does contain the necessary authorization and should be enacted by the House. However, I am hopeful that it can be amended before the final enactment.

Mr. Chairman, I yield 3 minutes to the gentleman from Ohio (Mr. DEVINE), the ranking member of our committee.

Mr. DEVINE. Mr. Chairman and members of the committee, I probably will not consume the entire time allocated to me.

I would merely point out that I do not think there is any member of the Committee on Interstate and Foreign Commerce or any Member of the Committee of the Whole or of the Congress who is not interested in railway safety and who would not be inclined to vote for any bill that has the word "safety" in it.

Mr. Chairman, the only thing that I would like to point out to the Members present here on the floor this evening is the fact that I think that the action by this House, in adopting this legislation, sets a very dangerous precedent in the field of invasion of the collective-bargaining process.

Under the guise of safety, the Committee on Interstate and Foreign Commerce has seen fit to interject itself, in my opinion, in what should logically be a part of the collective-bargaining process, part of labor-management negotiations.

Mr. Chairman, I have specific reference to the minority views that are included in the committee report, and I would invite all Members to examine these minority views and see whether or not our invasion into the provisions relating to crew quarters and to the inclusion of additional employees is not setting a very dangerous precedent and causing an involvement in the collective-bargaining process by the Committee on Interstate and Foreign Commerce, which will put us in the position at any future time, where labor or management cannot reach an appropriate agreement or do not get everything they think they are entitled to, they can come running hat in hand to the Congress to ask us to resolve the differences that they are not able to resolve themselves through the legitimate collective-bargaining process.

Therefore, Mr. Chairman, I have affixed my signature to the minority views and intend to vote against the legislation, not because I am opposed to railway safety, but because of what I consider a very dangerous precedent in having the Congress involve itself in these matters.

Mr. ROONEY. Mr. Chairman, I have no further requests for time.

Mr. SKUBITZ. Mr. Chairman, I have no further requests for time.

The CHAIRMAN. There being no further requests for time, pursuant to the rule the Clerk will read the amendment in the nature of a substitute recommended by the Committee on Interstate and Foreign Commerce, now printed in the reported bill as an original bill for the purpose of amendment.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Federal Railroad Safety Authorization Act of 1976".

Mr. ROONEY. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore Ms. HOLTZMAN having assumed the chair, Mr. BINGHAM, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 11804), to amend the Federal Railroad Safety Act of 1970 to authorize additional appropriations, and for other purposes, had come to no resolution thereon.

AMTRAK IMPROVEMENT ACT OF 1976

Mr. ROONEY. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 13601) to amend the Rail Passenger Service Act to authorize additional appropriations, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania (Mr. ROONEY).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 13601, with Mr. BINGHAM in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Pennsylvania (Mr. ROONEY) will be recognized for 30 minutes, and the gentleman from Kansas (Mr. SKUBITZ) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. ROONEY).

Mr. ROONEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the purpose of the Amtrak Improvement Act of 1976 is to provide financial assistance by authorizating additional appropriations for fiscal years 1977 and 1978 and to make a number of changes in the existing law.

Operations funds are authorized in the amount of $430 million for fiscal year 1977. This represents an increase of $75 million over the $355 million previously authorized by this Congress. This additional authorization is represented primarily by inflation and increased interest costs.

The committee approved the subsidy for operations in the amount of $430 million rather than the lesser amount of $378 million recommended by the administration, because it was convinced that any amount less than $430 million would necessitate a reduction in service. Amtrak testified that if only $378 million were authorized, as many as 19 routes would have to be discontinued. Although it may be questionable that this many routes would have to be eliminated, the committee does not believe any routes should be discontinued at this time.

Amtrak needs a reasonable time to operate with good equipment and roadbeds before a determination can be accurately made as to whether or not a particular route is viable. To date these conditions have not existed on any of the Amtrak routes. Amtrak is in the process of obtaining new equipment to replace the rundown antiquated equipment it acquired from the railroads when it commenced operations and it is hoped that as a result of the recently enacted Railroad Revitalization and Regulatory Reform Act of 1976 that improvements will be made to a number of the roadbeds on which Amtrak operates. Therefore, it appears obvious that this is not the time to reduce service. Amtrak should have a fair chance to operate a good service on its various routes.

The committee further believes that the $430 million should be authorized because if a lesser amount is authorized and it is subsequently determined that the lesser amount is insufficient, there is no way that additional funds can be authorized, due to the restrictions imposed by the Budget Act.

Moreover, a recent report issued by the General Accounting Office convinces the committee that an authorization of less than $430 million would most likely be insufficient. GAO reported that Amtrak's projections in its 5-year financial plan for sizable increases in ridership and revenues for fiscal year 1977 and succeeding years is very optimistic. In addition, GAO reported that Amtrak's estimated expenses for fiscal 1977 were understated by at least $61 million. Thus, GAO envisions the necessity for a minimum operating grant of $501 million plus the amount of revenue overstatement. Obviously, therefore, no consideration should be given to authorizing an amount less than $430 million.

It should also be noted that the GAO report pointed out that Federal rail subsidies are substantially less than Federal subsidies for other modes of transportation. GAO also concluded that there is a general feeling of satisfaction among a large number of passengers, despite current adverse conditions. Although Amtrak's projected ridership increases may be overly optimistic for the near future, the committee is convinced that given a fair chance under good operating conditions, and its new management, it can provide a good service which is essential to the American public and concomitantly reduce current operating losses.

This bill also authorizes $140 million for fiscal year 1977 and the same amount for 1978 for capital grants. Of these amounts, $50 million is required for new passenger cars, $45 million for facilities, $30 million for right-of-way improvements and $10 million for locomotives. Congress previously authorized $110 million for capital grants for fiscal year 1977; thus, this bill increases this amount by $30 million represented by the rights-of-way improvements.

The bill further authorizes $68 million for fiscal year 1977 and $75 million for fiscal year 1978 for operating expenses pertaining to the recently acquired Northeast corridor.

Finally, the bill authorizes $25 million for fiscal year 1978 for grants to make payments on Amtrak's outstanding debts.

This bill also makes the following changes in existing law:

First. It authorizes Amtrak to employ security guards without regard to State laws relating to licensing or residency;

Second. It grants Amtrak specific authority to engage in so-called "leverage lease transactions" with a Federal loan guaranty authorized in existing law;

Third. It requires the Interstate Commerce Commission to include in its annual report to the Congress a detailed list of the requests received by it from Amtrak to issue, modify or grant an exemption from any regulation issued by the Commission under existing law relating to adequacy of service, together with the results of any Commission action on such requests;

Fourth. It prohibits the Interstate Commerce Commission from issuing any regulation which requires Amtrak, or any other railroad providing passenger service, to offer food service at any time other than normal meal times;

Fifth. It exempts Amtrak from the payment of any transfer taxes or recording fees which might otherwise be imposed in connection with the transfer of any rail properties involved in the implementation of the Northeast Corridor project; and

Sixth. It makes two changes in existing law relating to the authority of the Interstate Commerce Commission over interstate rates charged by local public bodies providing mass transportation services.

It provides that the exemption from ICC regulations applies only to local bodies providing mass transportation services by rail. Any such services provided by bus would remain subject to ICC regulations.

And it provides that rail mass transportation services will be exempt from ICC rate regulation only if the local public body providing such service is regulated by a State or regional regulatory agency.

We are authorizing $430 million for fiscal year 1977, which is an increase of $75 million.

Mr. KAZEN. If the gentleman will yield, in that increase is the committee putting back the lines that they recommend be discontinued?

Mr. ROONEY. Yes.

Mr. KAZEN. In other words, under this bill the International from St. Louis to Laredo, Tex., will be continued.

Mr. ROONEY. There will be no discontinuance of any lines.

Mr. KAZEN. I thank the gentleman.

Mr. GONZALEZ. Mr. Chairman, will the gentleman yield?

Mr. ROONEY. I yield to the gentleman from Texas.

Mr. GONZALEZ. Mr. Chairman, I want to commend the distinguished chairman, the gentleman from West Virginia, for his diligence and determination to produce a workable national rail passenger service system. The Nation is much in his debt, and I want the gentleman to know that I, as one believer in a rail passenger system, am grateful for his ceaseless efforts to keep Amtrak as a vital organization.

I have had a particular interest in rail service in my own area, naturally enough. As I have just told the gentleman from West Virginia in a private conversation, I have worked especially hard to make the Amtrak Inter-American train an effective operation. The committee last year printed a long and detailed study on this train; yet still the operation of that train leaves much to be desired. I appreciate the interest of the chairman in this problem, and thank him for his assurance of continued support in efforts to make it a sound and attractive operation.

No private corporation can survive, even with government support, if it has a product that cannot be sold. The problem with the Inter-American train is that it is so badly run that nobody, save the most determined soul, would want to ride it. This train runs from the heartland of the United States to the heartland of Mexico—or would, if it connected with the Mexican national railway service at Laredo. But after years of effort, there is no such connection.

To travel by train from this country into Mexico, passengers have to endure slow service, uncomfortable riding on bad track, routing and switching patterns that defy sense, almost nonexistent station facilities, and no connection at the end of the road. No sane free enterprise operation could hope to build a business with that kind of service, but that is what we have had with the Inter-American train.

Amtrak would like to eliminate this route, along with others that it thinks will never become revenue earners or profitmakers. But the committee has, I am glad to note, come forward with recommendations that would make it possible to continue this and other low-ridership routes. I am convinced that if the Inter-American is operated as it ought to be, it will in fact become well patronized.

If the Inter-American made a reasonably good connection with the Mexican national railways, Americans could travel from middle America to any point in Mexico conveniently. If Amtrak had decent trackage, the service could be made fast, smooth and comfortable. If Amtrak had decent passenger station facilities along the way, people would not mind buying a ticket and going to board the train. Some of these things Amtrak has tried to improve, but the effort has been little, late, and insignificant.

The gentleman from West Virginia wants to overcome these problems. He sees, as I do, that with imagination and determination, the United States can have good rail passenger service from coast to coast. I will continue to support a strong program of rail passenger service, and continue my efforts to get the Inter-American made into a good, sound, businesslike operation.

Mr. ROONEY. Mr. Chairman, I reserve the balance of my time.

Mr. SKUBITZ. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, last month, Amtrak celebrated its fifth anniversary. During the 5 years of its existence, Amtrak has had some successes and some failures.

On the success side, Amtrak has assured the continuation of intercity rail passenger service. In 1970, there were those who believed that all intercity rail passenger service should be dead—and it nearly was. For 20 years, fewer and fewer people had been riding fewer and fewer trains. The creation of Amtrak stemmed that decline, and today, there is hope for intercity rail passenger service.

One of the failures of Amtrak has been its inability to establish a single route which makes a profit. The National Railroad Passenger Corporation was established as a for-profit corporation. To date, the hopes embodied in that concept have yet to be realized. I, for one, believe that Amtrak will never make a profit, but I am convinced that parts of the Amtrak system will be able to operate without subsidy. However, its feet should be held to the fire—it should be required to do what it can do to cut costs.

Mr. Chairman, this bill, the Amtrak Improvement Act of 1976, contains a 1-year authorization for the operating subsidy. That authorization is $430 million which is more than the administration wanted, but less than the $460 million wanted by Amtrak. Originally, the committee had contemplated a 2-year authorization, but at my suggestion, the authorization for the operating subsidy was held at 1 year. I proposed the 1-year authorization in this area because I feel that it is important for Congress to carefully monitor how much money Amtrak receives for operating subsidies. Next year, I am hopeful that we will be able to realistically appraise Amtrak's root structure so that operating subsidies can be reduced.

Mr. Chairman, this bill also provides money for capital improvements. We all know that when Amtrak took over in May of 1971, it was given the bottom of the barrel as far as rail passenger equipment was concerned. Gradually, Amtrak has undertaken a program of replacing the old, beat-up passenger equipment with new and modern equipment. This bill contains $140 million for fiscal year 1977, and $140 million for fiscal year 1978 for capital grants. This will enable Amtrak to continue its program of modernizing rail passenger equipment.

When we talk about Amtrak deficits, we are really talking about the fact that, to date, Amtrak has not been able to attract enough passengers to pay its own way. I am not sure that Amtrak will ever be able to pay its own way. However, the operating subsidy can be significantly reduced if more people are attracted to the railroad. That can only happen if Amtrak provides efficient service with clean, modern rail passenger equipment. The authorization for capital grants contained in this bill will permit Amtrak to continue to purchase new and modern equipment.

Mr. Chairman, the bill, as pointed out, also contains $68 million for fiscal year 1977 and $75 million for fiscal year 1978 for the Northeast corridor operating expenses. As you know, Amtrak will be taking over the operation of the railroad lines between Washington and New York. In that busy corridor, Amtrak will incur additional expenses because heretofore, the operation of the corridor was run by the Penn Central. Since ConRail took over operations last month, steps have been undertaken to permit ownership of the corridor by Amtrak. The additional authorizations contained in this bill will permit Amtrak to operate the corridor and hopefully with further corridor improvements, the service between Washington, New York, and Boston will be greatly improved.

Finally, the bill contains $25 million to be used for paying off some of current Amtrak debt. Payment of this debt will mean reduced interest payments for Amtrak in the future and is consistent with our policy of using grants rather than loans for Amtrak capital investments.

I would like to point out one feature of the bill which is inconsistent with our policy of giving Amtrak a sound financial footing. That matter, Mr. Chairman, relates to section 5, leverage leases. I offered an amendment in committee which would have struck leverage leases from the bill because I felt that they unnecessarily would add to Amtrak's future operating expenses. It is my understanding that a number of Members will offer or support that amendment when we consider the bill now before us. I, of course, will support such an amendment.

Mr. ROONEY. Mr. Chairman, I yield such time as he may consume to the gentleman from West Virginia (Mr. Staggers), the chairman of the full committee.

Mr. STAGGERS. Mr. Chairman, this bill will fund all of Amtrak operations for fiscal year 1977 and also fund all Amtrak operations for fiscal year 1978, except for the operating grants in 1978.

The total amount of $878 million is broken down as follows:

[In millions]

Purpose:	1977	1978
Operating grants	$430	[1]
Capital grants	$140	$140
Northeast corridor operating grants	$68	$75
Debt payment	[1]	$25
Totals	$638	$240

[1] None.

The bill also makes several other changes in existing law designed to improve the ability of Amtrak to provide intercity rail passenger service on a nationwide basis. I believe this is a useful service to the American people. Without it, we would be totally dependent upon travel by air and automobile. I think this bill shows that this committee is convinced that rail passenger service should be an integral part of any national transportation system.

When Amtrak began operations 5-years ago, rail passenger travel had reached a low mark in this century. Amtrak is proving that passengers can be attracted to railroads with the use of clean, comfortable equipment which will provide dependable service.

In the first 5 years of operation, Amtrak was required to begin operations with old rolling stock that had not been properly maintained and to operate that equipment over track and roadbeds that were also badly deteriorated because of lack of maintenance. As a matter of fact, much of Amtrak operations were conducted over the six bankrupt railroads in the East and Midwest. This frequently required Amtrak to operate at slow speeds and also over circuitous routes.

If we are to realize the benefits which can be derived from the use of rail passenger service, such as the environmental benefits, energy conservation benefits, and safety, Amtrak must be given sufficient funds and authority to permit it to obtain the maximum return on the Federal dollars expended.

I cannot offer any hope that Amtrak will make a profit in the foreseeable future. However, with very few exceptions, rail passenger service is not making profits anywhere else in the world. I do not mean to imply that Amtrak cannot make a profit in some areas. As a matter of fact, Amtrak acquisition of the Northeast corridor should provide an opportunity to demonstrate that rail passenger service in the densely populated corridor can make money. This will be the first time that Amtrak has ever owned the facilities, including the track and roadbed, over which it is required to operate.

I urge the passage of this bill.

Mr. ROONEY. Mr. Chairman, I yield such time as he may consume to the gentleman from Massachusetts (Mr. Burke).

Mr. BURKE of Massachusetts. Mr. Chairman, I just wish to take this time to commend the gentleman from Pennsylvania for the outstanding work he has done in this area. He has recognized the needs of transportation in the Northeast section of this country which will restore the economy up there, and it will be the first step taken in the last 20 years in this area. The gentleman from Pennsylvania is to be commended, as well as the other members of the committee.

Mr. ROONEY. I thank the gentleman for his comments. I would also like to commend the gentleman from Kansas (Mr. Skubitz), the minority member of the committee, who has been so helpful in the development of this legislation.

Mr. Chairman, I yield back the remainder of my time, and I have no further requests for time.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

Section 1. This Act may be cited as the "Amtrak Improvement Act of 1976".

Mr. ROONEY. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. Bingham, Chairman of the Committee of the Whole House on the State of the Union, reported, that that Committee, having had under consideration the bill (H.R. 13601) to amend the Rail Passenger Service Act to authorize additional appropriations, and for other purpose, had come to no resolution thereon.

OLYMPIC WINTER GAMES AUTHORIZATION ACT

Mr. ROONEY. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 13490) authorizing appropriations for the 1980 Olympic winter games at Lake Placid, N.Y.

The SPEAKER. The question is on the motion offered by the gentleman from Pennsylvania (Mr. Rooney).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 13490, with Mrs. Spellman in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule the gentleman from Pennsylvania (Mr. Rooney) will be recognized for 30 minutes, and the gentleman from Kansas (Mr. Skubitz) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. Rooney).

Mr. ROONEY. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, the purpose of this bill is to provide the financial assistance necessary in connection with holding the 13th International Olympic Winter Games in 1980 at Lake Placid, N.Y.

The bill authorizes $49,290,000 to be appropriated. Of this amount, $49,040,000 are to be used to assist in the planning, design, and construction of facilities for these games. These facilities are to be designed and constructed in a manner to assure maximum continued public use after the completion of the games. The funds are to be provided to the Secretary of Commerce, who will award grants to the Lake Placid Olympic Organizing Committee, or to the State of New York, or to local or other public agencies. The Secretary is authorized $250,000 for the administration of this act.

This bill also provides for environmental protection by requiring that the games be carried out in a manner designed to assure the preservation and enhancement of the recreational and wilderness values of the Adirondack Park and the Lake Placid area. In addition, the activities and plans must be consistent with existing State laws, rules, and regulations governing the use, management, and development of Adirondack Park.

This bill requires the Secretary of Commerce to submit three annual interim reports to Congress on the progress of the design and construction of the facilities and a final report containing a summary of all activities undertaken by the Secretary in the administration of this act.

This bill further provides authority for the Comptroller General of the United States to audit the records of the recipients of financial assistance provided by this act.

The funds provided by this bill are considered "assistance" since the State of New York and the local community are also contributing to the cost of having the games. New York has agreed to contribute $23.5 million, including $4 million of its entitlement for grants from the Bureau of Outdoor Recreation, and "in kind" contribution valued at $10 million. The Lake Placid community has agreed to contribute $13.3 million. Although these amounts total less than the amount to be granted by the Federal Government, the committee is satisfied that larger amounts cannot be provided by the State and the community.

There has been considerable concern, and rightfully so, that the 1980 Olympic winter games will become a great spectacular similar to recent Olympic winter games held in other countries, rather than so-called simple games they are intended to be. The committee is convinced that the 1980 Olympic winter games will not degenerate to an extravaganza. It was particularly impressed with the Lake Placid Organizing Committee's plans and organizational ability, the facilities already in place, and the experience gained by Lake Placid in holding previous major international sports events including the 1932 Olympic winter games. We were assured that the "spectacle" aspects of the 1980 games will be kept to a minimum.

There has also been concern that there may be sizable cost overruns similar to other Olympic games. The committee has been assured that this will not occur, due to controls imposed by the State of New York and the local committee. Also, the number of facilities already in place and the environmental restrictions will preclude the necessity for any facilities other than those presently being planned.

In any event, the bill provides that if the actual cost for a facility exceeds the estimate used as a basis for a grant, not more than 50 percent of such excess cost can be provided by Federal funds. Considering that the authorization is based on specifically required facilities estimated to cost the full amount of the authorization, it is unlikely there will be any funds available to pay for any cost overruns.

The administration recommends an authorization of only $28 million for this assistance. It does not desire to support such facilities as the housing for athletes and officials, administrative offices, improvements to the existing arena, increased electrical power, et cetera. Rather, it believes these facilities should be financed by the State of New York and the local community because the items do not meet the criteria of national use or permanency.

The committee considered the administration's position and rejected it. As I said, the committee is convinced that the State of New York and the Lake Placid community are contributing to the cost of holding the event to the extent of their ability. The committee is also convinced that the facilities which the administration does not wish to support are essential to the conduct of the games and that the Secretary of Commerce will enforce the mandated criteria of national use and permanency. For example, the most costly item the administration does not wish to support is the housing facility for the athletes and officials. Certainly this facility is essential to the event. At the present time the organizing committee is negotiating for the renovation of an abandoned Veterans' Administration hospital in the area which would be suitable for an "Olympic Village." It is contemplated that after the Olympics this facility can be used by the Bureau of Prisons as a youth correction center to serve the needs of the entire northeast of the country. Although these negotiations are not complete at this time, obviously funds should be authorized in order that housing can be provided in this manner or in some alternative manner in accordance with the criteria of national use and permanency.

You will recall that on August 4, 1974, by a vote of 382 to 4, we adopted Senate Concurrent Resolution 72 endorsing the selection of Lake Placid, N.Y., as the site of the 1980 Olympic winter games. I hope that we can now implement this resolution by providing the necessary funds to assist in the construction of needed facilities.

Madam Chairman, I would like to point out that Mr. SKUBITZ recently went to Lake Placid to inspect the facilities. He came away convinced as to the necessity for the funds authorized by the bill. Also, I would like to compliment my colleague, Mr. MCEWEN, for all the assistance he gave our subcommittee during our deliberations.

The holding of the 1980 Olympic winter games at Lake Placid, N.Y., will be a great honor for all of the people of the United States. The success of these games is America's responsibility and is a matter of national importance. Although this country has been abundantly blessed materially, we all recognize that there are numerous areas that sorely need improvement, such as employment, housing, health and education. Nevertheless, we must also balance our priorities so as to provide a share of our resources for things that will enrich the spirit so as to make the rest of our labors seem worthwhile.

Madam Chairman, at this time I yield such time as he may consume to the gentleman from West Virginia (Mr. STAGGERS).

Mr. STAGGERS. Madam chairman, this bill provides Federal financial assistance in connection with holding the XIII International Olympic winter games in 1980 at Lake Placid, N.Y.

The bill contains two specific authorizations as follows—

First, $49.04 million are authorized to provide grants for planning, designing, and constructing facilities for the Olympic games.

Second, $250,000 are authorized for the administrative expenses of the secretary of Commerce in carrying out the grant program.

On August 5, 1974, the House of Representatives, by a vote of 382 to 4, adopted Senate Concurrent Resolution 72, endorsing Lake Placid, N.Y., as the site of the 1980 Olympic winter games. By the adoption of this resolution, the Congress pledged its cooperation and support in the successful fulfillment of the 1980 Olympic winter games.

The bill requires the Secretary of Commerce to assure that Federal financial assistance will be furnished in a manner which will provide maximum continued public use of the facilities after the Olympic winter games and which will preserve and enhance the outdoor recreational and wilderness values of Adirondack Park and the Lake Placid area, consistent with existing State laws, rules, regulations, and plans governing the use and development of these areas. In other words, this bill provides environmental protection for the area where the games will be held.

The Secretary of Commerce is also required to submit annual interim reports to the Congress on the progress of the design and construction of facilities for the games, together with any recommendation he may have to assure a successful staging of such games. Also, within 3 months after the completion of the games, he is required to submit a final report to the Congress containing a summary of all his activities under this act, including a description of action taken to assure maximum continued public use of the facilities constructed with Federal assistance.

In addition, both the Secretary of Commerce and the Comptroller General of the United States will have access to any books and records of grant recipients which are related to any grant made under this act for a period of 3 years after the completion of the project for which the grant was made.

Finally, let me point out that grants may be made under this act only to the Lake Placid 1980 Olympic Games Inc., a nonprofit corporation incorporated under the laws of the State of New York, or to State, local, or other public agencies for the purposes of carrying out this act. In addition to the conditions I have already mentioned, the grants will be subject to such terms and conditions as the Secretary of Commerce considers necessary and appropriate and, if the actual cost of any facility for which a grant is made exceeds the estimated cost which served as the basis for making the grant, the Secretary is prohibited from providing Federal funds for more than 50 percent of any excess over and above the estimated cost.

The Lake Placid Olympic Organizing Committee and the local governments have accepted responsibility for organizational and administrative expenses incident to the games. These expenses are projected to be about $13.3 million. In 1932, the Lake Placid community, with a population of less than 3,000, issued bonds in the amount of $375,000 to finance the Olympic games and it took 35 years to redeem these bonds. We cannot reasonably expect this community to make substantial financial contributions to the 1980 games. In the unlikely event that a profit is made, the community must turn it over to the International Olympic Committee. The local community has no possibility of doing more than breaking even and will be required to absorb any losses.

The State of New York will also make a significant financial contribution. The State intends to expand and modify facilities to accommodate many alpine events at an estimated cost of $12 million. Of this amount, the State will contribute $8 million and the remaining $4 million will be provided by the Department of Interior through a matching grant program.

In addition to funds for facility improvements, the State of New York will contribute $1.5 million for security and $10 million of "in-kind" contributions, including services to be provided by State agencies who will be working together with the Lake Placid Organizing Committee, such as environmental conservation, transportation, and park agencies.

I believe this bill will fulfill our pledge of cooperation and support in the successful fulfillment of the winter Olympic games in 1980.

Mr. SKUBITZ. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, when this bill first came up before the committee, I had grave reservations. As a Congressman from Kansas, I am not one who is familiar with snowy mountain tops and steep ski slopes. Quite frankly, it was not until recently that I knew the difference between alpine skiing, slalom skiing, or cross country skiing. It was only recently that I became familiar with the luge. In short, I was not a winter sports fan, anxious to promote winter Olympics at any cost.

In addition, Madam Chairman, I did not want to see money spent in one part of the country which could be spent to benefit the entire country.

After we held hearings in our committee, I could see the need for Federal expenditures so as to make the winter Olympics of 1980 a success. I was troubled, however, as to the amount of money which should be spent. The bill before us contains an authorization for $49 million. The President, when he endorsed the proposition, recommended an authorization for $28 million. The President, in his recommendation, made a distinction between fixed facilities which would have permanent value to the public and those facilities which would be used solely to permit the winter Olympic games to take place.

After the bill was reported from committee, I took a staff member from the committee and went to Lake Placid so as to personally examine what was to be done and to talk with the people in charge of the 1980 winter Olympic game preparations. I spent 2 days in Lake Placid and quite frankly, I was impressed. I was impressed with the location for the 1980 Olympics. I was impressed with the careful planning that has gone into the projected projects. I was impressed with the fact that great care has been taken to make sure that costs are held to a minimum. Above all, I was impressed with the caliber and dedication of the people involved in the planning for the 1980 winter Olympics.

There is no disagreement between the President and the committee on most of the projects involving unique facilities such as the luge run or improvement of the bobsled run. There is some disagreement as to how far the Government should go in adding money to provide support in the 1980 Winter Olympics. For example, there will be between 1,400 and 1,600 athletes and their coaches arriving at Lake Placid for a stay of 2 to 3 months during the Olympic games. There has to be secure housing for these individuals. I need not remind my colleagues of the tragedy at Munich to emphasize the need for a secure Olympic Village.

Lake Placid is fortunate in that there are a number of possible options for housing. One attractive option is a former tuberculosis facility called Ray Brook. Ray Brook is now on the State surplus property list and would be available for the basis of an Olympic Village. It could sleep from 1,100 to 1,200 individuals. Approximately $12½ million is needed to bring that facility up to standards so as to make it suitable for housing. I point that out simply as one example of differences between the President's request and the committee's request.

In the final analysis, I am inclined to support the committee's request of $49 million. I think that the Winter Olympics of 1980 are, in fact, a national event and should be supported by the taxpayers of the Nation. This does not mean that the local community of Lake Placid or the State of New York should not contribute their fair share. They have made the commitment both in terms of time and money to do more than their share. It is incumbent upon the rest of us to help out so that the United States will not be considered a second-rate country when it comes to providing facilities for hosting Olympic games.

Madam Chairman, I yield 5 minutes to the gentleman from New York (Mr. McEwen).

Mr. McEWEN. Madam Chairman, at the outset may I express my very sincere thanks to my dear friend and colleague, the gentleman from Pennsylvania (Mr. Rooney), the chairman of the full committee, the gentleman from West Virginia (Mr. Staggers) and to the ranking minority subcommittee member, the gentleman from Kansas (Mr. Skubitz).

I am delighted that the gentleman from Kansas has seen something of the facilities at Lake Placid, which very interestingly have existed since 1932 when they were constructed for the 1932 world Olympic games at Lake Placid and have been used ever since and will be used again in 1980, facilities such as the bob run at Mount Hoevenberg, the ski complex at Intervale, and the existing Olympic arena.

Let me say, Madam Chairman, that I completeley agree with the language contained in the report of the Committee on Interstate and Foreign Commerce, where that report says:

> In view of the importance of the 1980 Olympic winter games to our national spirit and our international esteem . . . it appears the United States, on the modest scale proposed by the bill, should adequately sponsor the 1980 Olympic winter games, while at the same time provide permanent facilities for American athletic training. The Committee strongly feels that reported bill is necessary to properly achieve these interrelated goals.

The committee strongly feels that the reported bill is necessary to properly achieve these interrelated goals. I say again that I endorse the language of the committee's report, for although Lake Placid, N.Y., is the site of the 1980 Olympic games, the United States of America is the host nation. As far as the rest of the world is concerned, the success of these games is America's responsibility. When tens of millions of people tune in this quadrennial classic on their television sets all over the world, they will be watching and judging not only the wonderful young competitors from all over the world, but also the United States as the host nation.

The State of New York and the local citizens of the Lake Placid area have both pledged financial support. However, a small mountain village of approximately 3,000 people does not have the tax base to support an undertaking of this magnitude, and the State of New York has made and will make a substantial contribution. The United States must and should assume the burden of this funding, and I believe it will be a worthwhile investment.

Mr. ROONEY. Madam Chairman, will the gentleman yield?

Mr. McEWEN. I yield to the gentleman from Pennsylvania.

Mr. ROONEY. Madam Chairman, I might add to what the gentleman has said that at Innsbruck last year, at the winter Olympics, $1 billion was spent by the Innsbruck Winter Olympic Committee in 1975.

Mr. McEWEN. I thank the chairman for that construction. It does put in focus the fact that, as the gentleman has said, and also the gentleman from Kansas, that this is a modest amount. Yes, I would say that when we compare it to what our neighboring country to the north, Canada, is expending for the summer games to be held just next month, where the main facility has run over $1 billion, it is indeed a modest investment for events to be viewed by tens of millions all across the world.

In addition to providing a first-class Olympics, these facilities will provide our future athletes with the most extensive winter sports facility in the United States. However, time is not on our side, and that is why I am most grateful to the members of the Committee on Interstate and Foreign Commerce and its chairman for expediting this legislation.

The short construction season in that part of the country, coupled with the long construction lead-time required for many of the proposed facilities, makes the timetable very tight. I know that an authorization and a partial appropriation will be needed in fiscal year 1977 in order to complete the work on schedule—and completed on schedule it must be.

It is my hope that this will be moved expeditiously. Finally, I would like to touch on a point that is of the utmost importance to the people of Lake Placid and the Olympic organizing committee: The preservation of this beautiful and carefully protected area. This small mountain community depends on the natural beauty of the Adirondacks for its livelihood. There is little opportunity for agriculture in the rugged terrain, and little prospect or desire to attract industrial development. It would be unthinkable to license the destruction of any part of the area for any single event, even the Olympics.

When the citizens endorsed having the games in their area, it was with the understanding that no substantial commercial development would occur, and no such development is planned. There is probably no community in the United States that could hold an Olympics with such a minimal environmental impact. I am pleased that so many environmental and conservation groups have decided to work with the Lake Placid committee to coordinate planning and offer their suggestions. I believe the result of all this work will be an environmentally sound and well planned Olympics.

Mr. WHALEN. Madam Chairman, will the gentleman yield?

Mr. McEWEN. I yield to the gentleman from Ohio (Mr. WHALEN).

Mr. WHALEN. Madam Chairman, the gentleman might recall joining my staff and me at coffee last November, I believe it was, and at that time I happened to be talking about plans about a Christmas vacation. My six children, my wife and I were planning to go skiing. The gentleman may remember that he said, "Why not come up to my congressional district?"

I said, "Where is that?"

And the gentleman said, "Lake Placid."

Thanks to the gentleman's suggestion, we spent 10 delightful days there over the Christmas recess. I might say that we were all very pleased with the beauty and the hospitality of the Lake Placid community. Also, certainly some of the existing facilities there are excellent. The skiing was outstanding. They have the only bobsled run in the North American Continent. Being an avowed "chicken," I did not try it out myself, but my children did. We had a delightful time, and certainly it is a wonderful sight for the 1980 Olympics.

Madam Chairman, I would urge the adoption of this bill.

Mr. McEWEN. Madam Chairman, I thank my colleague for that contribution.

I might say that the gentleman from Kansas has visited the area. I am happy to know that the gentleman from Pennsylvania is going to visit the area, and I hope the chairman of full committee, and others, will take advantage of this and go up and see what is there and what is being done.

I think the gentleman from Ohio states it very well: You will meet some very wonderful, hospitable people, who have a long tradition of hosting visitors to this area.

Mr. WHALEN. Madam Chairman, will the gentleman yield further?

Mr. McEWEN. I yield to the gentleman from Ohio.

Mr. WHALEN. In exchange for these remarks I have made, can I be assured of tickets for my family and myself in 1980?

Mr. McEWEN. May I say to the gentleman from Ohio that I have already probably promised more tickets than will be printed, but if there is any way of doing it, yes, the gentleman will have tickets.

Mr. WHALEN. I thank the gentleman.

Mr. ROONEY. Madam Chairman, I have no further requests for time.

Mr. SKUBITZ. Madam Chairman, I have no further requests for time.

The CHAIRMAN. Pursuant to the rule, the Clerk will now read the committee amendment in the nature of a substitute recommended by the Committee on Interstate and Foreign Commerce, now printed in the reported bill as an original bill for the purpose of amendment.

The Clerk read as follows:

H.R. 13490

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Olympic Winter Games Authorization Act".

Mr. ROONEY. Madam Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose, and the Speaker pro tempore (Ms. HOLTZMAN) having assumed the chair, Mrs. SPELLMAN, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 13490) authorizing appropriations for the 1980 Olympic winter games at Lake Placid, N.Y., had come to no resolution thereon.

FIFTH ANNUAL REPORT ON ADMINISTRATION OF THE RAILROAD SAFETY ACT OF 1970—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore (Ms. HOLTZMAN) laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Interstate and Foreign Commerce:

To the Congress of the United States:

I transmit herewith the Fifth Annual Report on administration of the Railroad Safety Act of 1970 (84 Stat. 971, 45 U.S.C. 421 et seq.) as required by that Act. This report has been prepared in accordance with section 211 of the Act, and covers the period January 1, 1975 through December 31, 1975.

GERALD R. FORD.

THE WHITE HOUSE, *June 9, 1976.*

1975 ANNUAL REPORT ON THE ADMINISTRATION OF THE RADIATION CONTROL FOR HEALTH AND SAFETY ACT—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore (Ms. HOLTZMAN) laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Interstate and Foreign Commerce:

To the Congress of the United States:

I transmit herewith the 1975 annual report on the administration of the Radiation Control for Health and Safety Act (Public Law 90-602), as prepared by the Secretary of the Department of Health, Education, and Welfare.

The report's only recommendation is that the requirement for the report itself, as contained in Public Law 90-602, be repealed. All of the information found in the report is available to Congress on a more immediate basis through congressional committee oversight and budget hearings. The Department of Health, Education, and Welfare has concluded that this annual report serves little useful purpose and diverts agency resources from more productive activities.

GERALD R. FORD.

THE WHITE HOUSE, *June 9, 1976.*

TRIBUTE TO THE LATE HONORABLE TORBERT H. MACDONALD

The SPEAKER pro tempore (Mr. McFALL). Under a previous order of the House, the gentleman from Massachusetts (Mr. BOLAND) is recognized for 60 minutes.

GENERAL LEAVE

Mr. BOLAND. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous matter, on the life, character, and public service of the late Honorable TORBERT H. MACDONALD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. BOLAND. Mr. Speaker, our distinguished colleague, TORBERT H. MACDONALD, the representative of the Seventh District of Massachusetts, passed away on May 21, 1976.

In behalf of the Massachusetts congressional delegation, I have requested this time today to offer tributes in honor of this distinguished public servant.

Mr. Speaker, let me say that the people of TORBY MACDONALD's district will miss the faultless attention to constituent problems, upon which he insisted throughout his 22 years in the House.

And I know that many, many constituents that he helped, personally all feel their debt to him very deeply.

The numbers of those who stood in silence outside the packed Church of the Sacred Heart in Malden, Mass., at TORBY's funeral are testimony to that.

Those of us who knew TORBY MACDONALD as a colleague in the House, knew him as a fighter.

In the areas of communications, transportation, and energy regulation, his record was one of unflagging persistence in espousing the causes he felt just.

No one ever had any doubt about his stand on these issues.

On my office desk today, sits a "Dear Colleague" letter from TORBY, concerning legislation that would have affected important areas of communications law.

He never gave up.

Anyone who knew TORBY MACDONALD even 4 years ago knows this. In recent months he was virtually a shadow of his former robust self.

The former PT boat commander that so distinguished himself during World War II—the man who won a Silver Star, a Presidential Citation and a Purple Heart—had been wasted and physically weakened by disease.

Yet, his spirit remained unflagging and his perception as razor sharp as ever.

He fought his sickness until the very end.

Only the fear that he could not continue to give his customary excellent best to his constituents led him to announce that he would no longer seek reelection to Congress.

TORBERT MACDONALD fought his sickness as he fought all his legislative conflicts—unrelentingly.

The once powerful frame of the famous Harvard football and baseball standout, however, only showed the results of his battle against pain.

His spirit remained undaunted to the end.

TORBY MACDONALD, who gave up a promising career in professional sports to practice law and eventually come to Congress, showed early the kind of commitment to ideals that made him a standout in this and past Congresses.

He and Harvard roommate, John F. Kennedy, looked ahead to the days when the principles upon which they agreed so closely must be put into operation in this country.

Those principles included sacrifice, something to which the aspiring lawyer MACDONALD later came to know so well.

Also contemplated was suffering, but perhaps neither man could hope to know then the kinds of suffering, the pain they would each come to live with.

TORBERT MACDONALD, in his eulogy of John F. Kennedy, called the late President "a spartan," because he endured pain so well that few ever realized that he suffered.

TORBERT MACDONALD was as close to John F. Kennedy as any Member of the House, past or present.

I was particularly struck by his explanation of the President's ability to conceal pain, and I would like to share those words with all here present today.

He explained that—

> The concealing of his emotions was not a purposeful thing, but an ultimate expression of his belief in the rationality of life. He understood better than most of us that with good, some bad always follows, and that pleasure is often the companion of pain. I know it was the pleasure of many of you to have served either with or under Jack Kennedy and I know that pleasure is one of the chief reasons for the terrible pain that many of us feel on this melancholy day.

We mourn the passing of a colleague who was a spartan in the same mold as John F. Kennedy, a man with whom it was my pleasure to serve and that of many Members here today.

His place on the committees on which he served will be hard to fill. But as he himself said of John Kennedy:

> The pleasure we had in his company—in the fights which we shared with him and in the ideals which he sought to bring to public service—that pleasure makes this moment so poignant.

He was a fighter and we will miss his style.

Mr. Speaker, I know I speak for the entire House when I say that all our sympathy and condolences go to the family of TORBERT H. MACDONALD.

Mr. Speaker, at this time, I would like to ask permission to include with my remarks, two additional documents.

The first is the homily given by the Right Reverend Monsignor John J. Grant, at Sacred Heart Church in Malden, Mass., at the funeral of Congressman MACDONALD.

The second is the memorial address delivered by the senior Senator from Massachusetts, the Honorable EDWARD M. KENNEDY.

Both of these addresses touched deeply all who heard them during the funeral service. I feel that other Members will also be moved by the affection and the personal admiration that shines through these remarks.

They fittingly capture some of the heartfelt poignance of that day:

REMARKS BY REV. MSGR. JOHN J. GRANT AT THE MASS OF RESURRECTION FOR THE HONORABLE TORBERT H. MACDONALD

May I take this opportunity to express, in the name of the community of the faithful, the priests and people here gathered, our prayerful concern for the family, relatives and friends of Congressman Torbert H. Macdonald. As his many friends in the Congress and government work join in expressing their sympathy, may I, in the name of the priests and parishioners of Sacred Heart, extend our sincere condolences to Mrs. Macdonald and her children on the loss of a beloved husband and father.

Despite what is written in newspapers as tributes to the life and work of our deceased friend, the whole story can never be captured in any amount of words. Whether the notice is in the small type contained in the Congressional Record, marking Torby's accomplishments, or the printed black-type obituary notice of a newspaper, only those who lived, loved, suffered and rejoiced with Torby know the real measure of the man. The agate type of the paid classified speaks only in terms of date of death, survivors, funeral arrangements and burial. Each of us in our own minds and hearts, however with sorrow at this moment, know what his life, style and achievements have meant to us individually. In a very human way, he lived mindful of his beginnings and his ultimate destiny.

While Senator Kennedy is scheduled to give the memorial address at the end of Mass, I would like to add my own thought at this time as I feel it relates to Torby—

To be human is to be born on earth:
To be human is to live through each day:
To be human brings pain and blessing all at once:
To be human is to search but not find all we seek
To be human is to rest in the earth when life ends:
To be human is to long for God's salvation:

His earthly life is ended, his longing is now fulfilled. May he rest in peace, forever.

Having said this, could I ask you to join in the Prayers of the Faithful incorporated in the Liturgy at this time. With the response on the part of the people—Lord, hear our prayer.

As we have listened to your words, O Lord, and gathered round your altar in love and workship this morning, we pray for our own needs and the community of your people. We pray for peace for those who have gone before us, and peace for those who live in faith and hope:

1. For the vision to see God's love in this world in spite of pain and suffering, separation and loss, Lord hear. . . .
2. That the light of Divine Wisdom direct the deliberations of Congress to the end that all people may share in the blessings of equality, justice and peace. Lord, hear . . .
3. That all men and women of integrity who dedicate their talents to the service of others may be strengthened by your inspiration and power. Lord, hear . . .
4. That all your people may be conscious of the needs of the poor, the lonely, the aged, the alienated, and be ready to share their resources as true stewards of God's creating. Lord, hear. . . .
5. That God's faithful servant, and our friend Torbett may find light, peace and refreshment, forever. Lord hear . . .
6. That all the bereaved and sorrowing, his wife, children, sisters, relatives and friends may find comfort in the belief that death has no power over their loved ones. Lord, hear . . .

Father, may all our lives find their consummation in you, where all questions are answered and tears wiped away, where we shall be forever with those we have loved.

We ask this in faith through Christ, Our Lord. Amen.

REMARKS OF SENATOR EDWARD M. KENNEDY AT SERVICES FOR REPRESENTATIVE TORBERT H. MACDONALD

It is not an easy thing to say goodbye to a great and decent human being like Torbert Macdonald. When a light like that goes out, a star disappears from the sky. The nights are a little darker for so many of us who were guided by his light and warmed by his friendship.

Remembering Torby, I think of both the public and the private man. I think of his three great public qualities of honesty, integrity and service. And I think of his equally great private qualities of friendship, humor and unselfishness.

To thousands in Malden and the many other towns and cities he served in this district, Torby was an outstanding Congressman for our Commonwealth, one of the best

New England ever had. As well as any I have known, he performed the two essential roles of a member of the Congress—service to his district and leadership for the nation.

He leaves enduring monuments in the Seventh District. They are written clearly in the tangible things he accomplished for so many people during his 22 years of service here. But even more important, he lives on in the hearts and gratitude of those for whom he did so much.

He also blazed a brilliant trail in the statute books of the United States. The major laws he fashioned are well known for both their wisdom and their craftsmanship. The history of these recent years in Congress will record Torby's skillful leadership in critical areas like energy, transportation, election reform, and national communications policy, especially public broadcasting and the role of the media in our free society.

His untimely death is a tragedy for the country. He still had so many things to do, so many plans to carry out, so many goals that only he could reach. His skills were a fine blend of leadership, intelligence, and hard work. Above all, his skills reflected the priceless qualities of courage and judgment that guided all his actions. The Silver Star he earned for bravery in battle in World War II was won many times again in the battles he so often fought in public life for what was right.

But for all of us here this morning, it is the private man and friend whose loss we feel the most. There is a special tragedy in the passing of one for whom laughter was second nature, who could so quickly draw a smile from others, whose friendly and welcome sense of humor was always at the surface.

My own recollections of Torby go back over thirty-five years, to those weekends at our Maryland home when my father was at the SEC. Growing up as the youngest in our family, I have many vivid memories of those years. Cabinet officers would come and go, and many other distinguished visitors would call. But for a seven-year-old, few visits could match the times that my brother brought his roommate, who was Harvard's football captain and baseball star, home to spend the night.

In a sense, Torby became a member of our family. His college friendship with Jack grew even closer over the years. Torby was there in Jack's first race for Congress in 1946. In each following campaign, throughout the Senate and the White House years, he was always there—laughing, advising, working, helping in so many ways. And he shared our grief thirteen years ago, as we share his family's grief today.

As college roommates, he and Jack were inseparable. They shared everything. The good times were easy, but they also took their lumps together when things didn't work out as well. When the Dean of Students caught Jack red-handed in the midst of mischief, he didn't know that Torby was around the corner out of sight, directing the operation. But when Jack was called on the carpet the next day in the Dean's office, Torby was standing there beside him. Standing together, they thought, no one could pull the carpet out from under them. They were right and they stood that way for over 25 years.

And later, when my parents went to England, we had a problem in the early 1940's. We thought the New England Telephone Company was outrageously overbilling us for long-distance calls to Britain. Jack was ready to audit the company books himself, until he found that Torby was burning up the wires with calls to my sister, Kathleen. Torby was the most expensive telephone Romeo my sisters ever had.

In those days, my sisters hardly ever went without a date. Long before they thought of it in baseball, the family made Torby the Kennedys' designated hitter—whenever any of my sisters needed him for a date.

Actually, it got to the point where the house was so full of Torby and all of Torby's suitcases and clothing that my father finally told Jack, "Look, he's your friend and I like him, but doesn't he have a home somewhere?"

No person's work is ever finished. But the tragedy of Torby's death is compounded by our knowledge that his life was cut short at its prime. We who live shall carry on his work. We shall rededicate ourselves to his ideals, and to the ideals of the other fine friends and leaders we have lost. We shall make his commitment our commitment, his work our work, his dream our dream.

Near the end of Pilgram's Progress, there is a passage that tells of the death of Valiant:

"Then, he said, I am going to my father's; and though with great difficulty I am got hither, yet now I do not regret me of all the trouble I have been at to arrive where I am. My sword I give to him that shall succeed me in my pilgrimage, and my courage and skill to him that can get it. My marks and scars I carry with me, to be a witness for me, that I have fought his battle who now will be my rewarder.

"When the day that he must go hence was come, many accompanied him to the river side, into which as he went he said, 'Death, where is thy sting?' And as he went down deeper, he said, 'Grave, where is thy victory?' So he passed over, and all the trumpets sounded for him on the other side."

Mr. CONTE. Mr. Speaker, will the gentleman yield?

Mr. BOLAND. I am delighted to yield to the gentleman from Massachusetts (Mr. Conte), the dean of the Massachusetts delegation on the minority side.

Mr. CONTE. Mr. Speaker, at the outset, I want to take this opportunity to congratulate my good friend and neighbor, the gentleman from Massachusetts (Mr. Eddie Boland) for taking this special order to pay tribute to one of our most dear and beloved colleagues, Torbert Macdonald.

I agree with what the distinguished gentleman from Massachusetts (Mr. Boland) said. I attended the funeral, which was one of the most inspiring services that I had ever attended for any of my deceased colleagues.

The eulogy given by the senior Senator from Massachusetts, Senator Kennedy, was one of the most moving and touching eulogies that I have ever heard given for a friend.

Mr. Speaker, the crowds outside the church were just fantastic. They indicated the deep love and enormous respect that the people of Malden held for Torbie Macdonald.

Mr. Speaker, I want to extend my deepest sympathy to his wife and family.

Mr. Speaker, I appreciate the opportunity to once again express my own sense of personal loss and join with my colleagues in collectively reflecting on the void created in this body by the untimely death of our beloved colleague, Torbert H. Macdonald.

Torby Macdonald was a good friend of mine and a great friend to the people of the Commonwealth of Massachusetts. A measure of the love between the man and his community was shown to me at the moving and emotion-charged funeral services last month for our colleague. From throughout the Seventh Congressional District of Masachusetts, men and women from all walks of life gathered—actually lined the street near the Holy Cross Cemetery in Malden—to join with representatives of government at all levels to say a final farewell, accompanied by a piper's plaintive wail, to that good, good man.

I took the floor of the House on May 24 to deliver a tribute to the memory of Torbert Macdonald and I reiterate those thoughts today.

Torbert Macdonald served in the Congress for 22 years, developing special expertise in a number of areas in connection with his assignments on the House Commerce and Government Operations Committees. He was especially knowledgable and active in the areas of broadcasting, energy, railroad revitalization, and consumer protection. He is renowned as the "father of public broadcasting." Here, Torby Macdonald exercised his keen intellect and foresight to create a public institution that has benefitted and is enjoyed by almost every American.

As I have said before in speaking of my distinguished colleague, Torby Macdonald gave few speeches on the floor of the House. But when he took the floor to speak on an issue, he was greeted by a silence and deference unusual to this Chamber. Members recognized that Torby Macdonald addressed the issues, did his homework, and deserved their close attention and respect. His was a voice of authority and direction.

Many people will remember Torby Macdonald as the roommate of John F. Kennedy and a popular football star at Harvard. But I will remember him as a dedicated and conscientious Congressman who toiled hard for his constituents. They will miss his effective representation and we will miss a respected and much-admired colleague.

I once again express my deepest sympathy to Torby's wife, Phyllis, and the entire Macdonald family. I thank my colleague Congressman Edward Boland for arranging for this special order today.

Mr. GONZALEZ. Mr. Speaker, will the gentleman yield?

Mr. BOLAND. I yield to the gentleman from Texas.

Mr. GONZALEZ. Mr. Speaker, I thank the gentleman from Massachusetts (Mr. Boland) for yielding.

I also wish to say that we are very grateful that he took the time for this special order in order to remind us, as Members, of a very illustrious former Member of this House.

I think that Torbert Macdonald and I were contemporaries of a sort. I came to the 87th Congress, in the second half of the middle of the ball game, so to speak.

But it was not long before I met Torbert Macdonald. He was in my mind, and continues to be, inextricably linked with that very glorious period of time in our national history in which President Kennedy fired the imaginations of the American people and filled with enthusiasm and commitment the minds of our youth. It is with this zeal that I always picture and identify Torbert Macdonald.

He was a man who had a marvelous sense of humor, a quick wit and a man who performed extraordinarily well in all that he did.

I recall his chairmanship of a subcommittee and his handling of bills on public broadcasting and other very important legislation.

I guess all that I can say is that I join my colleagues in their remarks and to pray for the rest of TORBERT MACDONALD'S soul.

Mr. BOLAND. Mr. Speaker, I thank the gentleman from Texas for his very moving and eloquent tribute.

Mr. ALBERT. Mr. Speaker, a few days ago, TORBERT H. MACDONALD, of Massachusetts, one of the House's most accomplished legislators, died at Bethesda Naval Hospital. In the final stages of his illness, as throughout his life, TORBY MACDONALD fought hard and gallantly.

Most of us knew TORBERT MACDONALD for his legislative leadership on the Interstate and Foreign Commerce Committee, especially his chairmanship on its Communications Subcommittee. As subcommittee chairman, his influence was spread over all forms of telecommunications, including television, radio, cable TV, and satellites. He was also ranking member of two Government Operations' Subcommittees—Conservation, Energy and Natural Resources, and Government Information and Individual Rights.

Over the past decade, Representative MACDONALD played a central role in such major legislative efforts as the Corporation for Public Broadcasting Act of 1967, the Federal Election Campaign Act of 1971, the 1973 professional football anti-blackout bill, the fight against high energy prices and the growth of cable television.

But there were other sides of TORBY MACDONALD'S eventful career. Born in Boston in 1917, he entered Harvard in the fall of 1936. For 4 years, he was the roommate of John F. Kennedy. Their close relationship was to continue throughout the political career of our former House colleague, Senator, and President, John Kennedy.

TORBY MACDONALD had other experiences in common with former President Kennedy. Both joined the freshman football team at Harvard and TORBY, as an elusive halfback, went on to captain the team. Both men joined the Navy at the outbreak of World War II and both served as PT boat skippers in the South Pacific. For meritorious combat off the coast of New Guinea, Representative MACDONALD was awarded a Silver Star and a Purple Heart. He came back from the war to enter and complete a Harvard law degree.

I had the privilege of knowing TORBY as a personal friend. We have traveled together. We have been on hunts together. We knew one another well and for a long time. His loss is a great personal loss to me.

In 1954, TORBY MACDONALD ran for and won the Massachusetts Seventh District congressional seat. His continued election success over the next 10 elections was a testament to the high esteem that he was held in by his constituents. Because of illness, Representative MACDONALD was to retire at the end of this congressional term.

We will all, of course, miss TORBY MACDONALD. He worked hard; he played the game of life with vigor. Our hearts go out to his surviving family, especially his wife, Phyllis, his four children, and three grandchildren.

Mr. RHODES. Mr. Speaker, I join my colleagues in expression of our sorrow over the death of Representative TORBERT H. MACDONALD of Massachusetts.

During his 22 years in the House, he was active in many areas dealing with communications and political campaigns. Sensing the impact of television on the lifestyle of Americans, he became a leader in formulating legislation dealing with the problems of this rapidly expanding communications medium. He devoted much time and effort to securing broader TV coverage of the views of political candidates. He opposed the growth of violence in TV programing, and took special interest in the content of programs aimed at children.

He was, of course, best known for his efforts on behalf of armchair quarterbacks, and was instrumental in establishing the no-blackout policy which brought home professional football games to millions of fans unable to attend at the stadiums. His efforts helped launch public television as a source of cultural entertainment.

His was a record of dedication and diligence, both in service to the people of the Seventh District of Massachusetts and to the Nation. He worked hard, gained prominence and respect in the House and from the American public. I share with my colleagues our regret at his untimely passing, and offer condolences to his wife, four children, and three grandchildren.

Mr. ROSTENKOWSKI. Mr. Speaker, at a time like this, it is always difficult to say what you really feel about a man who was your friend for so long a time. The irreplaceable cliché seems to constantly loom before us. But, how do you use clichés to describe a man whose lifestyle was the very antithesis of the stereotype. I guess that you just do your best and hope that it does not sound too hackneyed. This is doubly difficult for me because, and let us be honest, TORBY would not really have approved of these proceedings, however, well intentioned they may have been.

The wake, even the Irish wake, was just not his style. While he would have been appreciative, his personal philosophy on eulogies was more like the one that William Butler Yates prescribed for himself when he said:

> Cast a cold eye
> On life, on death
> Horseman, pass by!

I am not going to attempt to mention all of TORBY'S legislative accomplishments. Better and more astute men than I have already performed that function, and performed it admirably. Suffice to say, that as a legislator, he was quick to respond to the appeal of human wants and needs. He passionately believed that it was the proper function of Government to provide a remedy and he did not hesitate to call upon the resources of Government to that end.

Much has been written about TORBY'S long and warm association with the late President Kennedy. I think that only his real friends knew how much the President's death really meant to him. He spoke of him often but never in a maudlin sense. He spoke of President Kennedy in a way that we should always speak of TORBY. He was fond of repeating President Kennedy's words that—

> There are three things which are real: God, human folly and laughter. The first two are beyond our comprehension so we must do what we can with the third.

TORBY, I make a promise to you today that I will never reminisce about you without these prerequisite conditions.

I will only do so in the presence of your real friends.

I will never mention any of your legislative accomplishments.

I will only do so in an atmosphere of laughter.

Mr. O'NEILL. It was my privilege to have served with TORBY in the Congress for the past 22 years. I will miss him, not only because the House has lost such an outstanding legislator, and Massachusetts has lost one of its finest public servants, but because I have lost the companionship, the counsel, the advice, and the support of a close personal colleague.

I knew TORBY since high school days when he was an all-star, four sports athlete. I remember him as the star halfback on the Harvard football team and as a great pitcher on the Harvard baseball team. I knew him as a young attorney practicing law in the Greater Boston area. We became close friends when he came to Congress in 1954, and I knew then that he was destined to become one of America's great national leaders.

There have been many people in Massachusetts and throughout the Nation who were close to the late President John F. Kennedy. But I would have to say none was as close as his college roommate, TORBY MACDONALD, who served as a personal adviser during Kennedy's Presidential years.

TORBY took great pride in representing the Seventh District of Massachusetts, serving his constituents with vigorous leadership and strong personal commitment.

To enumerate his great legislative achievements does not pay him the credit he deserves. He is recognized as the father of public broadcasting, the author of the Emergency Petroleum Allocation Act, and the author of the sports anti-blackout law.

Throughout his legislative career, TORBY fought against higher energy prices and was an influential spokesman for the consumer, the unemployed, and the elderly. As the ranking member of the Commerce Committee he was the driving force behind the most important legislation in our Nation's history that directly affects the health, safety, and well-being of the American people.

TORBY MACDONALD was never more effective as a Congressman than in the last two Congresses. He was not only a strong force in Congress, but his leadership on the House Commerce Committee meant a great deal to the country, to the people of New England, and to his constituents in Massachusetts.

He will be sadly missed by his constituents, his colleagues, and his friends.

My wife, Millie, and my staff join me in extending our heartfelt condolences to his family.

Mr. McFALL. Mr. Speaker, the House and the Nation lost an able and dedicated public servant last month with the death of Congressman TORBERT MACDONALD.

Members of the House have lost a dear friend. The consumer, the working man and woman, the elderly, the common man have lost an eloquent spokesman and a fighter for their rights and dignity.

It was my privilege to work closely with Congressman MACDONALD in his capacity of assistant whip for the New England region, a position he held for 20 of his 22 years in Congress and to which he was elected by his colleagues from Massachusetts and neighboring States.

One cannot escape the parallels in TORBERT MACDONALD's remarkable career with that of another distinguished son of Massachusetts, the late President John F. Kennedy.

Both attended Harvard University, where they were roommates.

Both commanded PT boats in the Pacific during World War II, and both were decorated for heroism in action.

Both began their public service with election to the House of Representatives.

And both were taken from us too soon—after careers of great achievement, but with much more yet to do.

Dilligence, hard work, and the brilliance to go to the heart of complex issues brought Congressman MACDONALD to a position of leadership in the House. He was chairman of the House Subcommittee on Communications, the ranking Democratic member of the Interstate and Foreign Commerce Committee, and a ranking member of two Government Operations Subcommittees.

Throughout his 11 terms in Congress, TORBERT MACDONALD fought the people's fight. He led the battle against higher energy prices, and one of his greatest and most recent achievements was in assuring ample supplies of crude oil at equitable prices to consumers as a conferee on the omnibus energy bill. He never hesitated to take on powerful interests on behalf of consumers, and more than once helped block unnecessary utility rate hikes and win rate rebates for customers.

Congressman MACDONALD is recognized as the father of public broadcasting, having introduced key legislation in 1967 and helped guide growth of educational television and radio. His leadership produced the long-range funding legislation for public broadcasting which the President hailed as a "legislative milestone" last year.

His contributions to progressive legislation for the people were many. He was author of the natural gas pipeline safety law. He helped push campaign reform legislation through the Congress to limit candidate expenditures on television. He fought for better working conditions for the American people and for job security. He played an important role in the enactment of public service and summer youth jobs legislation and of the comprehensive bill to reorganize and revitalize financially troubled Northeast railroads.

The House and Nation will miss TORBERT MACDONALD, his keen intelligence, his compassion, and his humanity.

Mr. MAHON. Mr. Speaker, I join my colleagues in paying tribute to the memory of TORBERT MACDONALD, a good friend and distinguished legislator.

He made a significant contribution to the House during his 22-year career here.

Last year I had frequent occasion to work with him in connection with the authorization and appropriations for the Public Broadcasting Act. In his role as chairman of the Communications Subcommittee of the Interstate and Foreign Commerce Committee, he managed this bill, and I greatly appreciated his cooperation and willingness to work with the Committee on Appropriations on this measure. He did an excellent job for public broadcasting in his handling of the legislation.

TORBERT served his district and State well. His service during World War II was truly outstanding. Others have spoken in detail of the career of this distinguished American and I shall not extend these remarks other than to express my deepest sympathy to his family.

Mr. BURKE of Massachusetts. Mr. Speaker, the whole city of Malden, or at least it seemed so, turned out to say goodbye to TORBY. He was their Congressman for over 21 years, represented them ably, spoke eloquently in their behalf, but most of all, he loved them, was proud to represent them, and they knew it. In final tribute, they honored him, turning out in vast numbers, saying their last goodbyes.

TORBY's legislative accomplishments are many and significant. He was throughout his career a voice for the consumer, whether he was speaking for lower fuel prices, better railroads, public broadcasting, or any number of other things. It is a record that speaks for the people—those people he so ably served for 22 years.

I have said about TORBY that "I will remember him as a gentleman, and as a quiet, effective legislator who never complained; he just did his job. He always went out of his way to be fair and impartial; he never misused his great influence and power."

TORBY's presence in this Chamber will be sorely missed. He possessed a fine mind and was a legislative craftsman. I often sought out his advice; his counsel and expertise on matters before the Interstate and Commerce Committee was second to none. We in New England know how time and time again he was the pivotal point on issues so important to the region such as the fuel allocation bill and the revitalization of our Northeast railroads. TORBY provided valuable leadership and followed through for us. You could always count on TORBY; he was like that. We will miss this fine legislator, but most of all we will miss our close and valued friend.

To his wife, Phyllis, and his children, Laurie, Robin, Torbert, Jr., and Brian, he leaves a legacy of dedicated public service. His accomplishments are ever present and ever with us. While we sadly watched the vitality drain from our beloved friend, his accomplishments remain ever vital, and a testimonial to this great man's perseverance and foresight. Public broadcasting and educational television, perhaps TORBY's proudest achievement, grow stronger each day, bringing to millions the opportunity to appreciate the fine arts, and a quality in visual viewing they otherwise would not have had. How can we even begin to gage what public broadcasting has contribed to this Nation?

My sympathies go out to Phyllis and the children. They should not have had him taken so soon, but their solace must come with the knowledge that he lived a full life and accomplished far more than most could ever dream .

Mr. EARLY. Mr. Speaker, it is with great sadness and a deep sense of personal loss that I join the Members of the House in mourning the death of TORBERT H. MACDONALD, an outstanding Member of Congress for 21 years.

Congressman MACDONALD served his constituency and his country with the highest dedication and distinction. As a PT boat commander in World War II he was awarded the Purple Heart, the Silver Star, and a Presidential citation for valor. As a U.S. Representative and an outstanding member of the House Interstate and Foreign Commerce Committee he gained national acclaim for his legislative leadership in obtaining congressional approval for public broadcasting, the sports antiblackout law, the Emergency Petroleum Allocation Act, and the revitalization of the railroads in the Northeast. These are just a few of the multitude of legislative hallmarks that were adopted and approved by both the Congress and the Chief Executive mainly through his individual cooperative efforts over the past 21 years.

But, above and beyond his military and legislative accomplishments, TORBY MACDONALD was most esteemed and will be forever remembered by his constituents and colleagues for his warm friendliness, his willingness to help in any problem, his compassionate understanding, his straightforward manner, his high courage, and his genuine interest in the progress of the people of the Seventh Congressional District of Massachusetts and the people throughout our Nation.

TORBY MACDONALD was a great, a good, and a gentleman who put the whole of his energy and competence into whatever he did. He will be sorely missed in this House but his legacy of unblemished honor and fearless legislative leadership as a distinguished Member of Congress will remain forever as an inspiration for all who serve here.

I know that the heartfelt sympathy of every Member of the House goes out to his wife, Phyllis, his two daughters, Laurie and Robin, and his two sons, Brian and Torbert, Jr.

Mr. MOAKLEY. Mr. Speaker, I rise today to express my profound sorrow over the recent passing of a Congressman who will be sorely missed—TORBERT H. MACDONALD.

Torby was one of the most respected Members of the House of Representatives. He was a gentleman, a quiet man, a man who worked hard and diligently, and a man whose word was always trusted. Torby always fought hard for those issues he felt were important to his constituents and to all the people of our Nation. He was an extremely effective Representative, a Congressman who got things done.

As a legislator, Torby could not be surpassed. During his 11 consecutive terms in the House of Representatives, Torby was deeply involved in several vitally important legislative fields. Macdonald was responsible for spearheading the drive for educational television and radio, as well as for providing long-range funding legislation for public broadcasting. He was a strong advocate of raising the quality of children's television and was responsible for implementing a children's television office within the FCC.

Congressman Macdonald was a consistent champion of consumers' rights and a defender of voters' rights. His authorship of the Emergency Petroleum Allocation Act, during the recent oil embargo, assured all areas of the United States, especially New England, an equitable supply of home heating oil and gasoline.

In addition to this, Torby served as a major architect of the Federal Eelections Commission Act of 1971. Torby is also well known for authoring the law which forced professional sports teams to allow telecasts of soldout home games. His efforts on behalf of reorganizing and revitalizing the financially troubled Northeast railroads are well known, as is his work fighting against higher energy prices and unnecessary rate hikes from electric utility companies. The list of Torby's accomplishments could go on and on—he was a truly dedicated and sincere Representative of the people.

Torbert Macdonald gave 21 years of his life to the people of his district, to the Massachusetts delegation, to the House of Representatives, and to the country that he loved. His achievements have not only affected the American people during the time they became law, but will have far-reaching effects into the future. Losing Torby was not only a great loss to Congress as a whole, but also to those of us who were lucky enough to have had a measure of personal contact with him. His dedication to the interests of the public, as well as his warmth and honesty as an individual will be deeply missed. It is with sorrow that we pay homage to a great man. And it is with respect that we will always remember him. Torby will always be remembered for his outstanding achievements in the classrooms of Harvard, the playing fields of Harvard, and the Halls of Congress.

Mr. GIAIMO. Mr. Speaker, the recent death of our esteemed colleague, the Honorable Torbert H. Macdonald, has left a void in this Chamber which will be impossible to fill.

Torby's leadership, determination, and diligence were evident in all the disparate undertakings of his rich and rewarding life. In his younger years, he was known as a star athlete and football captain at Harvard. Later, he served with distinction as a PT-boat commander in the Pacific during World War II.

The qualities which Torby exerted on the gridiron and in combat were best displayed, however, when he became a Member of Congress in 1955. Over the last two decades, Torby Macdonald was recognized as a national leader in the area of communications law. As chairman of the Subcommittee on Communications, he worked tirelessly on behalf of public radio and television and rightfully has been called the "father of public broadcasting." Without him we today would not be enjoying the excellent variety of cultural and educational programs which public television and radio provide. In addition, and much to the chagrin of many wives of America, he also authored the sensible legislation which removed the local television blackout on sold-out sports events.

While Torby was recognized as a public servant of national importance, I will always remember him for his efforts on behalf of the people of New England. I had the distinct honor in 1975 of being elected to succeed him as majority zone whip for New England, a position he held ably for many years. Keenly aware of the needs and problems of his region, Torby was one of the founding fathers of the New England Congressional Caucus, and he worked closely with his colleagues on both sides of the aisle to develop legislative initiatives designed to meet the economic needs of the six-State area.

Nowhere were his efforts more noticeable and successful than in the Interstate and Foreign Commerce Committee. In 1973, as chairman of the Subcommittee on Communications and Power—as it was then called—he authored the Emergency Petroleum Allocation Act which assured all parts of the country, particularly New England, an equitable supply of home heating oil and other petroleum products following the oil embargo and shortage. At the same time, he worked unceasingly with his colleagues to draft the Regional Rail Reorganization Act which assured that the entire Northeast will receive improved freight rail transportation to assist the economy and to help improve the environment.

Mr. Speaker, Torby Macdonald was a dedicated public servant, a sincere mentor, and, most of all, a kind friend. My family and I extend our heartfelt sympathy to his widow and children and to the people whom he ably represented in the Congress.

All of us will miss Torby's presence. He was a fine Yankee, and a great man.

Mr. COTTER. Mr. Speaker, I wish to join my colleagues to mourn the death and honor the memory of Torbert Macdonald.

I consider myself privileged to have enjoyed his friendship during my 6 years in the House. I often relied on the counsel of this wise and experienced legislator.

Torby, among many other achievements, was a leader in the field of energy legislation, an area that is of prime importance to the people of my district, who, like other New Englanders, have keenly felt the impact of energy shortages and high prices for automobile, industrial and home heating fuel. The people of my State are grateful for the leadership Torby exercised in this area.

I will miss his presence in the House. To his wife and family, I wish to offer my condolences.

Mr. DODD. Mr. Speaker, It is with deep personal sadness that I rise on this occasion to pay tribute to our friend and colleague, and a long time family friend, Torbert Macdonald.

Several of my colleagues have already accurately enumerated Torby's varied and extensive accomplishments during his 21 years of service to the House of Representatives.

To me, the most significant aspect of Torby's career was the quiet fortitude with which he pursued every endeavor, regardless of the nature of the task. Hundreds of Americans have been immediately affected as a result of his insistence to attack each and every problem directly. This determined spirit has had a profound impact upon both the House of Representatives and the American public.

As chairman of the Commerce Committee's Communication Subcommittee, Torby continually exhibited his independence in many different areas of communication policy. As chairman, he used his recognized influence to implement legislation which established the cooperation for public broadcasting. Certainly, few other pieces of legislation have given the public such enjoyment as well as a tremendous educational experience. Torby had a marked influence upon the broadcasting industry with the Macdonald bill, which lifted blackouts in home team areas. Unfettered by the opposition of major power companies, Torby struggled to regulate the costs of energy, specifically of natural gas. One of the finest examples of his determination and independence was the effort to provide Federal hydroelectric power for New England.

As assistant majority leader for New York, Torby often spoke on major concerns facing New England, such as equitable gas allocation and balancing the transportation system throughout New England.

However, Torby was not only interested in the welfare of his constituents or those who resided in his part of the United States. Rather, he continually involved himself in issues that related to general welfare. Only last summer, he again exhibited his courage to stand up for what he believed when he alerted the public about the adverse effects television commercials might have upon our children.

Torby again showed the same initiative he had displayed against our giant corporations as he threatened to introduce regulatory legislation if the television industry refused to initiate self-regulatory measures to correct problems with its commercials.

His dedication to his constituents as well as to the general public is a credit not only to Massachusetts Seventh District, and the New England States, but to this entire Congress.

Throughout his life, as a lawyer, a professional athelete, and a Congressman, Torbert Macdonald set the highest standards for himself. Let us take a moment today to reflect on these qualities and commit ourselves to his principles of individualism and spirit of dedication in our role as legislators.

At this time I would like to extend my deepest sympathy to Mrs. Macdonald and to the entire family.

Mr. ST GERMAIN. Mr. Speaker, death has taken another of our colleagues, Torbert Hart Macdonald, the esteemed Representative from Massachusetts, and I am saddened and humbled by this new tragedy as I always am when a friend and close associate is called away while he is in the prime of his career.

When Torbert Macdonald took his seat in the 84th Congress, he was but 38 years old and he was only 58 when he passed away; yet he was a veteran in the ways of the House of Representatives, a wise and respected Member, with 21 years of distinguished service to his record.

We served together as fellow Democrats on the Committee on Government Operations, but were associated even more closely during the years we participated in the New England Caucus. I had ample opportunity to observe his fine attributes as a man, and his diligence as a Congressman. He always worked vigorously in the interests of the people of our region, and strove, especially, to find ways to resolve the economic problems of New Englanders. But, more, throughout his congressional life, he translated his concern about the stricken and the economically oppressed levels of our society into a hard-driving pursuit of legislation for their benefit.

Not surprisingly, with his own splendid educational background, as well as his athletic abilities and enthusiasm for active sports, Torbert Macdonald did much work in the Congress to expand the availability of both education and sports through a broadening of television usage. It seems, then, especially fitting that a scholarship fund is to be established in his name, and I commend his family for requesting that form of tribute.

This man, who honored sportmanship in the way he lived, honored it also in the courageous way he faced death, by coming to grips with his fate in a way few of us are ever called upon to do. He handled his knowledge of the inevitable in a manner in which his beloved wife and children can take great pride even as they grieve.

Torbert Macdonald left us too soon, but he left us bravely, and I feel privileged to be able to stand before this House today to pay my final respects to his memory.

Mr. EVINS of Tennessee. Mr. Speaker, I want to join members of the Massachusetts delegation and others in paying a brief but sincere tribute to the memory of our late colleague and friend—Congressman Torbert Macdonald—who died in Bethesda Naval Hospital.

Torbert Macdonald was truly an outstanding Member of the House. He was able, capable, courageous, personable and his positions on matters of public policy were based on high principles and his vast and detailed knowledge of the facts and the issues. He was devoted to the public interest and fought to protect the rights and interests of the American people as consumers—as consumers of electric power, natural gas and other power sources, and as television viewers in the field of communications.

He was a strong opponent of violence anl tasteless programing on television and he urged the communication industry to provide constructive and clean entertainment for the public.

Torbert Macdonald was chairman of the Communications Subcommittee of the Committee on Interstate and Foreign Commerce. He was a member of the Subcommittee on Conservation, Energy and Natural Resources of the Committee on Government Operations.

In both capacities, he rendered outstanding service to the American people—he served well and faithful his district, State and Nation.

Torbert Macdonald was genial, competent, capable and cooperative. He was held in high esteem by all of us and he will be greatly missed.

As a strong and forceful champion of the public interest, he has left his imprint on the legislative history of the Congress—his goals and objectives will serve as beacons for years to come in the very important areas of his concern and expertise.

Certainly I want to extend to Mrs. Macdonald and other members of the family this expression of my deepest and most sincere sympathy in their loss and bereavement. My wife, Ann, joins me in these sentiments.

Mr. WAXMAN. Mr. Speaker, I was deeply saddened to learn this weekend of the death of my friend and colleague, Torbert Macdonald. It was only since I came to Washington as a new Member of this Congress that I came to know Torby, but his reputation and accomplishments, his dedication to his constituents and the Nation, had long preceded our personal acquaintance. I joined the Subcommittee on Communications in the final months of Torby's chairmanship, and came to appreciate his great sensitivity and vision regarding the future of telecommunications in our country. He has indelibly left his mark in all the areas which captured his attention, and his memory will serve as a guide in our future deliberations.

No one can reflect on the last weeks of Torby's life without being overcome by the enormous courage and humility of this man. His experience defies mere words; it speaks to the awesome contemplation of man before the mysteries of life and death. May Torby's life be an inspiration for us all.

Mr. SARASIN. Mr. Speaker, I rise at this time to join my colleagues in expressing my sincere sorrow over the passing of a good friend and trusted colleague, Torbert H. Macdonald of Massachusetts.

I know I speak for many New Englanders when I say that we have lost a great legislator who worked tirelessly during the congressional consideration of the Emergency Petroleum Allocation Act, which guaranteed that we in the Northeast would receive the fuel necessary to heat our homes—at the time of the Arab oil embargo.

During his 22-year career as U.S. Representative from Massachusetts' Seventh Congressional District, Torby Macdonald was the author of many important pieces of legislation dealing with many diverse subjects; such as, children's educational television, the natural gas pipeline safety law, and the reorganization of the Northeast railroad system.

Torby was probably best remembered for his work as chairman of the Communications Subcommittee of the Interstate and Foreign Commerce Committee where he was known as the father of public broadcasting, a founder of the Corporation for Public Broadcasting and as an advocator of free air time for candidates for major political offices so that the voting public might be better informed.

Mr. Speaker, I extend to Congressman Macdonald's wife and four children my sympathy and the sympathy of every Member in the House.

Mr. WHALEN. Mr. Speaker, the death of our esteemed colleague, Torbert H. Macdonald, is a loss deeply felt here in the Congress, the Nation, and the State of Massachusetts.

Torbert Macdonald served in this body devotedly for 22 years, and during that time, achieved an impressive record of accomplishment and service to his constituents. He was chairman of the House Subcommittee on Communications, and the ranking Member of the House Interstate and Foreign Commerce Committee. As subcommittee chairman, Torby was instrumental in establishing the public broadcasting system and in securing its financial future. He also introduced the blackout ban to allow the local telecast of home sporting events. Moreover, he was concerned with the quality of broadcasting, and worked diligently to curb television violence.

Congressman Macdonald's career also included service as the ranking member of two Government Operations Subcommittees—Conservation, Energy and Natural Resources, and Government Information and Individual Rights. Particularly in the field of energy, he spoke for the consumer. He fought the high cost of energy and was a noted critic of natural gas deregulation. As a conferee on the omnibus energy bill, he helped to assure that Americans would have access to enough crude oil at reasonable prices.

Torbert Macdonald's numerous and far-reaching accomplishments are the lasting testament to his diligent discharge of his duties as a Member of Congress. I extend my deepest sympathies to the Macdonald family. May God comfort them in their grief.

Mr. PERKINS. Mr. Speaker, within the space of 8 days in the late spring of 1917 Massachusetts saw the birth of two boys who were destined to make their mark in the legislative halls of this Nation.

The first of these was John Fitzgerald Kennedy, born on May 29, with whom I had the honor to serve on the Committee on Education and Labor. The second was Torbert Hart Macdonald, born on June 6, with whom I had the privilege of serving in this House in 10 Congresses—the 84th to the 94th.

John Kennedy and Torbert Macdonald had many similarities in their early careers. They grew up in the Boston area; they both attended Harvard College; both answered the call to service during World War II; both commanded PT boats in the Southwest Pacific; both were decorated for valor; both were wounded and received the Purple Heart. And both were elected to the House of Representatives from areas that prided themselves on distinguished representation for 200 years.

A dozen years have passed since John Kennedy passed from the scene; and we are met here this afternoon to mark the passing of Torbert Macdonald. They were friends of each other; they were friends of mine and many others who served with them both in this Chamber. Both were brave and gallant gentlemen who have themselves enriched a great tradition.

I first knew Torbert Macdonald when he came here to take his oath on January 3, 1955—21 years ago. Through the years, we were allied in many a good cause, and I knew him as a man of rectitude and honor.

This House is the richer for Torbert Macdonald's having served here, and the traditions of his State of Massachusetts have taken on added luster.

The sadness of his family must be tempered by the knowledge that his great legacy of honor and courage will live on.

Mr. BEVILL. Mr. Speaker, I share the sentiments of all the Members of the House of Representatives in mourning the death of our distinguished colleague from Massachusetts, the late Congressman Torbert H. Macdonald.

Since becoming a Member of Congress in 1954, Congressman Macdonald has become known as one of the best authorities on broadcasting in the entire House.

His expertise in this field will be greatly missed in the House as well as in the whole realm of government in the United States.

Congressman Macdonald will probably be remembered most for his untiring efforts toward the betterment of broadcasting in America. The legislation he authored to ban local blackouts of sold-out professional football games and his fight to control violence on television are but two of the significant efforts he made in the name of better broadcasting.

I came to know Congressman Macdonald through my efforts to get legislation through Congress designed to amend the Communications Act of 1934 to establish orderly procedures for the consideration of applications for renewal of broadcast licenses. More specifically, these dealings with Congressman Macdonald concerned legislation which would extend to 5 years the license renewals granted broadcast stations by the Federal Communications Commission.

During my discussions with Congressman Macdonald concerning these matters, I found him to be extremely knowledgeable in the relationship of the Government to the broadcasting industry. I further found him to be very attentive to my proposals and I could not have asked for any more cooperation and fair consideration than that he afforded me.

Through my dealings with Congressman Macdonald, I came to realize that his knowledge of the broadcasting industry was one the House was fortunate to have. As I said previously, it is a knowledge and expertise that will be sorely missed in this Chamber.

Torbert Macdonald will also be remembered for his support of the public broadcasting system in the United States. Through his position as chairman of the Committee on Interstate and Foreign Commerce's Subcommittee on Communications, he was a legislative pioneer in behalf of the successful public broadcasting system we know today.

His desire to see that energy costs remained within the cost of the average American is one more of the things Torbert Macdonald will be remembered for.

The record Torbert Macdonald left behind in the U.S. House of Representatives is one of dedicated service that will be warmly remembered by those who had the opportunity to work with him.

Mr. BURKE of Florida. Mr. Speaker, I was deeply saddened 2 weeks ago when I learned of the death of my colleague, Representative Torbert H. Macdonald, of Massachusetts. Massachusetts lost a great public servant, the Congress lost a great Member, and I lost a great friend. Over his long and distinguished career, he built an inspiring record of honesty, courage, and devotion to the public good.

Torbert Macdonald was one of those men who could never do anything without doing it well. In college, he was one of Harvard's great athletes. He excelled at track, at football, and at baseball. He was signed as a player by the New York Yankees. He was also a member of the Harvard football Hall of Fame.

Despite our political differences, Torby and I had a lot in common. We both became lawyers. We both fought in World War II. While I served in the Army in Europe, he served in the Navy in the Pacific. Like his Harvard roommate and friend, John F. Kennedy, he distinguished himself for courage as a PT boat commander. For his bravery under fire, he won the Silver Star, the Purple Heart, and a Presidential citation.

Torby was elected to the U.S. House of Representatives in 1955. The energy which had demonstrated itself in athletics and war was now turned to working for the good of his State and his country. Back in the early 1960's, before it was popular to do so, Torby started fighting for justice for consumers. But his concern for justice did not confine itself to American shores. He fought unswervingly for Israel.

As you know, Mr. Speaker, Torbert Macdonald was always a foe of favoritism. He opposed the misuse of wealth in seeking public office. The Federal Election Campaign Act of 1971, which effectively put an end to expensive TV "media blitzes," was passed largely through his effort. He also lead the campaign to reduce violence in TV programming, and advocated improved programs for children. He will be remembered by sports fans as the author of the law prohibiting local blackouts of sold-out sports events on television. Perhaps his greatest monument is the Public Broadcasting System, which he fought long and hard for, and which won him the title of "the father of public television."

Torby could have looked forward to many more years in Congress, for he had so much respect both among his colleagues and his constituents. He was working hard for the expansion of cable television when his career was cut short by illness. He had always put the public interest first, and when he saw his health fading, he retired. Even as he faced death, he showed the same gallantry with which he faced Japanese guns. When he realized that his life could only be artificially prolonged with life-support apparatus, he ordered the doctors to disconnect it. Even then his strong constitution seemed also capable of bringing him back to health. He finally died peacefully with his family at his side. We will miss him greatly, but we can be assured that death has no real triumph over a man like Torbert Macdonald. He has his magnificent record of public service to live after him, and he sleeps confident of the eternal justice and mercy of his Creator.

Mr. Speaker, I share the pride that my colleagues do in having been privileged to serve with him in the House but the greatest privilege of all is that he was my friend.

Mr. DELANEY. Mr. Speaker, I believe it was John Milton who wrote:

Nothing is here for tears, nothing to wail,
Or knock the breast; no weakness, no contempt,
Dispraise or blame; nothing but well and fair,
And what may quiet us in a death so noble . . .

Such was the passing of our colleague, Torbert Macdonald. His last days at Bethesda were best described by his AA—

> He's gutsy, courageous . . . he's got a fierce, incredible amount of strength.

Torbert excelled in practically every endeavor he set his mind to—as halfback and 1939 Harvard Captain; in training with the New York Yankees; as a PT boat skipper in World War II. Many perhaps never heard of his heroism in getting his crew safely back to base after his PT was severely shelled by the Japanese; his was a Silver Star, a Purple Heart, and a Presidential Citation.

For over 22 years he faithfully served the people of the Seventh Congressional District of Massachusetts and the people of this country here in Congress. Few have had so dramatic and immediate an impact on the lives of millions of Americans than did Representative Macdonald as the champion of public broadcasting and in his key Communications Subcommittee chairmanship.

I know he will be greatly missed by all and want to take this opportunity to extend my deepest personal sympathy to his wife Phyllis and the other members of his family.

Mr. PEPPER. Mr. Speaker, one of the saddest of all the tragedies that we have on occasion painfully to observe is the tragedy of a great, able, dedicated, and compassionate man striken down in what should be the best part of his life by some fatal illness. That tragedy we saw, and upon beholding it we sorrowed, in the recent passing of TORBERT MACDONALD. Distinguished as a student, as a PT boat commander in war, as a civic leader, he was in the fullness of his powers as a Member of this House when he fell, in full stride in his career, to a strange and mysterious disease. TORBERT MACDONALD was a man of integrity. His personal and public lives were exemplary. He had character and courage and vision—what three greater attributes can one possess. He loved his country. He loved this House. He loved his family. He loved his friends. And his countrymen, his colleagues, his family, and his friends loved him. He was one of the noblemen who has sat and served in this House. He was an able and dedicated legislator. He was a patriotic American. He was a charming gentleman, and to countless people a cherished friend. His memory will live on, not only in the hearts of his loved ones but in the hearts of his colleagues and all who knew him, for TORBERT MACDONALD was a rare man and such men are too few in this world.

My wife joins me in extending deepest sympathy to all his loved ones and especially to his widow and children who have sustained such an immeasurable loss.

Mr. RODINO. Mr. Speaker, when TORBERT MACDONALD was first elected to the House in 1954 it was apparent he would be an exceptional Member. For this Boston-born Irishman had a special quality of giving of himself—to others and to the great issues that he championed and supported throughout his career. Time served only to sharpen this quality and TORBY was truly a man beloved by all who knew him.

We should have expected as much from this fine athlete who left a professional baseball career to serve his country in World War II. As a naval PT boat commander, TORBERT MACDONALD—like his college buddy John F. Kennedy—distinguished himself, winning the Silver Star and Purple Heart in action against the enemy. His courage in wartime was to stand him in good stead during many important legislative battles in the House.

During our 22 years in the House, I relied on TORBY as my warm and close friend and as a keen student of legislation and issues so important to our country.

His conduct throughout his years in the House serve as a model of integrity and honesty; his dedication to the principles of freedom and democracy never wavered. His commitment to an open and decent political process was clearly demonstrated by his legislation that became the Federal Election Campaign Act of 1971, limiting media spending by candidates for Federal office.

TORBY MACDONALD will be remembered by us all for his spunk and his warmth. He will be remembered by those he served for his dedication to public service and the common good.

Mr. ULLMAN. Mr. Speaker. I learned of the death of Congress TORBERT MACDONALD with a real sense of personal loss. I have known TORBY for as long as I have been in Congress as an outstanding legislator, a warm human being, and a good friend.

TORBY'S work as chairman of the Communications Subcommittee brought some far-reaching changes to the world of broadcasting. He sponsored the legislation which led to the establishment of the Corporation for Public Broadcasting, making good theater and educational programs of a high quality as accessible to most Americans as their own living rooms. A more recent and widely hailed measure, perhaps prompted in part by his own love of sports, provided for lifting blackouts on sold-out sports events, an innovation that was greeted with cheers by the fans and was ultimately accepted with good grace by professional team owners.

TORBERT MACDONALD was a modest man, but one who in a long and distinguished career stood up strongly for what he believed was right. He died, as he lived, with dignity and consideration for those around him. To his family, my wife Audrey and I extend our deepest sympathy. We shall all miss him.

Mr. PATTEN. Mr. Speaker, it is with a deep sense of personal loss that I join with many of my colleagues today in paying tribute to the late Honorable TORBERT H. MACDONALD. Congressman MACDONALD brought a unique expertise to the Congress when he was elected to the House in 1955. His knowledge of the communications industry, and his sincere desire to serve all the people well were instrumental in the passage of legislation in support of public broadcasting. He, of course will be well remembered for his legislation which banned television blackouts of professional football games. In his role as chairman of the Communications Subcommittee of the House Interstate and Foreign Commerce Committee, he fought, and fought well to assure that broadcasting met the highest possible standards.

Congress has already felt the effect of the loss of this wonderful friend, and hard-working Member. I have, also. I want to extend my heartfelt sympathy to Congressman MACDONALD'S wife, Phyllis and to his children, along with my thanks to them for sharing their husband-father with the Congress, the people of Massachusetts, and the Nation.

Mr. JONES of Oklahoma. Mr. Speaker, I would like to join in the tribute being paid to my friend and colleague, the Honorable TORBERT MACDONALD.

Although we did not always agree on the issues, I admired TORBERT MACDONALD for the sincerity and honesty he reflected in his day to day duties as a Congressman. He was a man of his word: Once it was given, he stood by it. Every vote he made and every issue he championed were, in his judgment, in the best interests of his constituency and his country.

Through his leadership in the field of communications, the Public Broadcasting System was created. TORBY'S goal of bringing outstanding television programming into our homes and schools and making available to millions of children and adults a broad range of educational experiences, was thus fulfilled.

His commitment to responsible public service was his greatest legacy and we are the benefactors. He was a good man, a good legislator and a good friend. I will miss him.

Mr. FRASER. Mr. Speaker, TORBY MACDONALD was a valued Member of this body. His untimely death deprives us of an esteemed colleague and a good friend.

His recent death followed closely upon his decision to die with dignity, foregoing some of the extraordinary methods of life support now available to medical science.

The decision was a reaffirmation of life by a man who lived his life to the fullest. Death is a part of every life and to die with grace is something we all wish for. TORBY MACDONALD did die gracefully.

Lawyer, Harvard graduate, 11-term Congressman, fine athlete, skilled legislator are words and phrases that inadequately describe our colleague. His family, his State, his region, have lost a husband and father, a patriot, a champion. We, too, in this House, mourn and are diminished by his death.

Mr. CORMAN. Mr. Speaker, the Congress and the Nation have lost a great legislator and statesman with the passing of our friend and colleague, the Honorable TORBERT H. MACDONALD of the Massachusetts 7th District.

The sudden departure of someone with whom you have worked and shared the burdens and sense of accomplishment of daily legislative endeavor toward common goals, comes always as a tragic shock—and in this case the tragedy is compounded by the utter magnificence of the man.

TORBERT H. MACDONALD was a very special kind of person; a unique and wonderful friend and an admired and respected colleague whose wisdom and dedicated service to the public will be greatly missed by all of us.

Born and reared in the Boston area, TORBERT MACDONALD won recognition originally, in the late 1930's, as a running back with and captain of the Harvard football varsity. In the same period he was the roommate of the late Honorable John F. Kennendy and, in the same manner as Kennedy, served the country in World War II as a PT-boat commander, for which service he was awarded the Silver Star.

Upon returning to civilian life, he received his law degree from Harvard and worked as a lawyer for the Motion Picture Producers' Association and the National Labor Relations Board before entering politics as a candidate for Congress, in 1954. He was elected in this, his initial contest, and was reelected repeatedly by constituents wholly satisfied with his performance from start to finish.

As second-ranking member of the Interstate and Foreign Commerce Committee and fifth-ranking member of the

Government Operations Committee, Torbert Macdonald established a record for ability and integrity unrivaled in recent times. As a member of the Communications Subcommittee of the Interstate and Foreign Commerce Committee, he was one of the prime movers of legislation establishing the Public Broadcasting System and later legislation providing long-range support of that system. Two years ago, as chairman of the Communications Subcommittee, he attracted wide attention by confounding the high potentates of professional football, in the national interest, pushing through a measure forbidding the practice of blacking out home professional football games. Three weeks ago the House and Senate agreed in conference to renew and make permanent the antiblackout measure.

In other areas of communications policy, Torbert Macdonald sought to limit funds spent on political campaign advertising and allow stations to give free time for debates by Presidential candidates of the major parties. He also was known as a stern foe of televised violence.

As the advocate of liberal reform on every front, Torbert Macdonald won the respect of forward-looking people throughout his district, his State, and the country at large.

With a deep sense of personal respect, I salute his name on this occasion, and hail him as a man of the greatest ability and the finest human qualities.

Mr. OTTINGER. Mr. Speaker, I would like to share with my colleagues the great personal loss I feel upon the death of our distinguished colleague, Torbert H. Macdonald.

I had the privilege of working with Torby on the House Subcommittee on Communications and Power—when it when it was so designated—of which he was chairman, and the House Interstate and Foreign Commerce Committee. In his capacity as subcommittee chairman, he was instrumental in influencing legislation concerning television, radio, cable television, and satellites. In addition he also had a major role in shaping legislation dealing with energy, railroad revitalization, and consumer protection as a senior member of the Commerce Committee.

During his 11 consecutive terms in office, Torbert Macdonald achieved a record of distinction in a number of important legislative fields. He is recognized as the "father of public broadcasting," having introduced key legislation ing 1967 and guided the growth of educational television and radio throughout the country. He also authored a law—which I cosponsored—requiring broadcasters to allow local telecasts of home games of professional sports teams when they are sold out. This bill gives sports fans all over the country who cannot afford to buy tickets an opportunity to see their home team on television.

His years of public service have helped virtually every American, Especially important were his efforts on behalf of public broadcasting and his determination to enhance the safety and reliability of our fuel and power systems.

Torby was held in enormous esteem by all his colleagues. We will all miss him deeply; we have a tremendous debt of gratitude for his years of service to the House of Representatives.

Mr. MORGAN. Mr. Speaker, the Nation has lost one of its most able and devoted sons with the death of Torbert H. Macdonald.

Torbert Macdonald came to Congress with credentials matched by few. He had been an athletic star, a decorated World War II hero, an able lawyer and a member of the National Labor Relations Board for the New England area.

During his more than two decades in this body, respect for Torbert grew as he worked hard both in serving his constituents and on issues of national concern. He rose on the Commerce Committee to become ranking Democratic member and chairman of the Communications Subcommittee. He was the leading congressional authority on the communications industry.

Many legislative acts stand today in his tribute—in the fields of communication, public broadcasting, sports, campaign reform, energy, and revitalization of railroads, to name a few.

It is our loss and the Nation's loss that death took him far too soon; but we will remain continuingly grateful for his many accomplishments.

Mr. McCLORY. Mr. Speaker, in joining today in tribute to our departed colleague, Torbert H. Macdonald, I wish primarily to voice my personal affection for Torby as a friend and fellow Member of this House.

Representative Torby Macdonald demonstrated courage in his legislative work and in his fight to overcome physical adversity which plagued him during these recent years.

As a neighbor with offices on the same floor as Representative Macdonald, we had frequent opportunities for conversation and for exchanging of views on legislative as well as subjects of a more personal nature.

I know that Congressman Torbert Macdonald loved his life and his family and was devoted throughout his congressional career to the welfare and interests of those whom he served so conscientiously and so well.

I express to his widow, Phyllis, and to the entire Macdonald family my respect, affection, and deepest sympathy.

Mr. RONCALIO. Mr. Speaker, with the passing of Torbert "Torby" Macdonald, the American people have lost a true friend and dedicated public servant and we in the House have lost a courageous and effective colleague.

Torby's integrity was exemplified in his final days of suffering and that quiet confrontation shall serve as an inspiration to us all.

Throughout his 22 years of service in the House, his dedication was to his Boston constituents and the public at large. He will be remembered for his many contributions toward revamping the broadcasting and communications networks in America and the establishment of public TV, as well as his work on campaign reform.

Torby Macdonald's passing is another page closing on that era of hope and good feeling when his close and dear friend, John F. Kennedy, served as President of the United States.

Our friend and colleague, a graduate of Harvard Law School, was praised as a brilliant lawyer, and brought distinction to himself and his country as a PT boat commander during World War II.

I join in expressing my sympathies to Mrs. Macdonald and to the family. We will miss Torby's presence and leadership in this body.

Mr. FREY. Mr. Speaker, it was with great sadness that we learned of Torby Macdonald's death. He was a gentleman and a friend, and we will miss him.

After long, honorable service in the Navy during World War II, Torby Macdonald was elected to the Congress in 1954. He was reelected continuously by the people of his district in Massachusetts and served in recent years as the chairman of the Communications Subcommittee on the Committtee on Interstate and Foreign Commerce.

During most of my time in Congress, I had the privilege of serving with him on the Communications Subcommittee and during the last year as ranking minority member. During this time, my respect and affection for the gentleman from Massachusetts continually grew. His interest, his intelligence, his knowledge of the communications industry served as the basis of much positive legislation. Without him there would be no public broadcasting system in the United States. He was always more than fair in his dealings with other members of the subcommittee, always insuring that their interests were looked after and that they were given whatever time they desired during the committee meetings. As a matter of fact, his fairness can be seen in that in recent years most of the bills brought out by the Communications Subcommittee not only passed the subcommittee unanimously, but the full committee and the House without much controversy.

I am proud to have been personally associated with Torby Macdonald. Our relationship was close. Although we did not necessarily agree on all issues, I found my differing viewpoint treated with respect and courtesy. Torby was always willing to listen and to try to come to an agreeable solution. One of the real pleasures of the Congress was serving on this committee with the gentleman from Massachusetts.

However, most of all, I think it is important to note that the work of Torby Macdonald has made this a better Nation. The people of Massachusetts have lost a great representative, our country has lost an outstanding leader, and we have all lost a friend.

Mr. WAGGONNER. Mr. Speaker, we have lost an able and respected colleague with the recent death of our friend from Massachusetts, Torbert Macdonald. This House is less for his passing; but it is greater for his having passed this way in life.

During his 22 years in the Chambers, he served his constituents and his conscience well. Torbert Macdonald was a man of deep personal commitment and moral integrity. These characteristics, which I have seen him exhibit on many occasions, made him not only a tough and worthy foe, but a strong and loyal friend as well.

From his important positions on the Government Operations and Interstate and Foreign Commerce Committees, he was able to bring his influence and expert guidance to many pieces of important legislation. He has been hailed—and rightly so—as the father of public broadcasting for his dedication and hard work in the formation of the country's public television and radio broadcasting system.

An outstanding athlete in his young manhood, a decorated veteran of World War II, a respected member of the legal profession, and a devoted public servant—this is the legacy of TORBERT MACDONALD.

In this time of sadness at the loss of our esteemed colleague, our thoughts and sympathies are also with his wife Phyllis and their four children. Our prayers are with them in their sorrow.

TORBERT MACDONALD will be remembered as a man of courage and honor whose service reflected only dignity on the House of Representatives. He will be missed.

Mrs. COLLINS of Illinois. Mr. Speaker, I wish to stand with my colleagues in the House of Representatives to honor Congressman TORBERT H. MACDONALD, of Massachusetts.

Mr. MACDONALD served in the Congress since 1955 and served with distinction. To those familiar with his life, this was no surprise.

Congressman MACDONALD was born in Boston, Mass. In the House of Representatives, he represented an area in Greater Boston that is comprised, like my district in Chicago, of many earnest hard-working Americans. His character was a reflection of that district and its people—earnest and hard working. Typical of his diligence and earnest character, he left a record of high accomplishments. In his educational life, he progressed with distinction through public school in Medford, Mass., through private school at the prestigious Phillips Academy and through Harvard University and Harvard Law School. His military career during World War II was also a record of great accomplishment. He was a PT boat commander in the southwest Pacific and he received both the Silver Star and Presidential Citation Awards.

He was in sum—a very good man, a man of high principle. As a public servant, he made the profession of public servant an honorable one.

I am proud to have known TORBERT MACDONALD. I feel that he will be missed greatly by those he served and by those with whom he served.

Mr. KOCH. Mr. Speaker, TORBERT MACDONALD, who was affectionately called TORBY, was a gentleman. He had grace, culture, and decency, in addition to a superb knowledge of the field of communications. In the near 8 years that I have served in this Congress, I never heard an ill word spoken about him or by him about another. It was distressing over the last year to see his illness become so evident. His death at his request was graceful to the end and his agony not prolonged. May he rest in peace.

Mr. COLLINS of Texas. Mr. Speaker, in this House of Representatives TORBY represented the greatness of Massachusetts.

I will always remember serving on his committee in Commerce. When he chaired the session, the hearing always resulted in a complete summary. TORBY asked the most penetrating questions of anyone I have ever seen in the Chair. Then he would follow them up, question after question until he had the entire story. I remember so well one day we had a dignified witness down here from Boston. As we all know, there is a tendency to be rather gentle with a witness from your hometown. But I saw TORBY bring out the full facts from that witness as he penetrated deeper and deeper. Anyone who came to TORBY'S hearings was going to be squeezed of every drop of information so as to put it in its proper perspective.

TORBY will be remembered at Harvard University as one of the greatest gridiron heroes that the Crimson ever had. In Boston he will probably be remembered as one of the most loyal and dedicated Democrats that ever served in Congress. For those who sat with him in committee, he will always be remembered as an independent legislator who weighed all of the facts and was never influenced by any pressures.

I had a warm affection for TORBY. In this land of double talk up here in Washington, TORBY always leveled with you and you knew exactly where he stood on every issue or any question. Once TORBY told you something, you could depend on it from there on out. He had a polite manner that was as gentle as a southern breeze. But he could be as firm in his stand as a block of steel.

I had a deep admiration for TORBY MACDONALD. On so many issues we stood on opposite sides. But as a Member of Congress he earned and deserved the highest respect. To his widow, his children, and all of his family, my wife and I extend our sincerest and warmest sympathy. Massachusetts has lost a great son. I have lost a wonderful friend. The U.S. Congress has lost one of our greatest Members.

Mr. BENNETT. Mr. Speaker, the House of Representatives and this country have lost a great statesman in the passing of TORBERT MACDONALD. He came to this Congress with a distinguished background of graduation from Andover and Harvard Law School. He practiced law and served in distinguished capacities and with heroic service in combat in World War II. In that combat he received the Silver Star, the Purple Heart, and the Presidential Citation. He was awarded the Order of Merit, in the rank of Commendatore, by the Republic of Italy. He represented the United States in interparliamentary conferences and was distinguished in every activity in his life. In Congress we knew of his leadership, his thoughtfulness and his care with regard to the enactment of legislation. He left a great monument to himself in the enactment of important legislative landmarks. Certainly we in America are deeply indebted to him and we in Congress mourn his passing with great sorrow.

Mr. BADILLO. Mr. Speaker, each of us who serves in this body hopes to leave a mark on the future well-being of our Nation and its citizens, and each of us chooses different areas in which we think we can do our best. TORBERT MACDONALD chose several, and excelled at each one. The nature of the issues he chose varied widely, but the common thread they share is that they served the needs of the ordinary citizens of this country.

His work in the previously uncharted waters of television regulation brought the benefits and beauty of public broadcasting to us; he decried the pervasive violence we witness on television every night; and he was responsible for creating an office for children's television at the Federal Communications Commission. These are acts that have already, and will, in the years to come, have a far-reaching impact on what may be the most important influence on our lives today.

The past years have been difficult ones as we have grappled with the serious problem of energy in our Nation. During the height of the oil embargo, it was through his efforts that existing petroleum supplies were distributed equitably throughout the country. He led the fight against rising energy costs, and voiced the sentiments of many of us in his fight against natural gas deregulation.

As a New Yorker, locked in constant battle with Con Edison, I took particular pleasure in his active advocacy of consumers rights against unnecessary rate increases by public utilities. I am certain that there are many urban Members who will miss his outspokenness on this issue.

I could go on, for the list of his accomplishments is long and far-reaching. But it does not touch on TORBERT MACDONALD, the man. Charming, bright, committed, and above all, brave and courageous. I will miss serving in this body with a man of his stature.

Mr. SCHNEEBELI. Mr. Speaker, we all are saddened by the death of our friend and colleague, TORBERT HART MACDONALD.

His talents and professionalism as a legislator are well known to all of us in the House. His hard work and conscientious representation were well appreciated by his constituents who first elected him in 1954 and saw fit to return him to Congress with perfect consistency.

But aside from his contributions to the legislative process and his outstanding service to the people of the Seventh District of Massachusetts, TORBERT MACDONALD will be sorely missed because of his fine personal characteristics. Friendly and affable are two adjectives which readily project themselves into recollections about this fine gentleman.

Personally, I always will have fond memories of our good-humored discussions about the Harvard-Dartmouth football rivalry. Since he was a captain and star backfieldman at Harvard, and I am a former manager of the Dartmouth football team, we had many spirited exchanges.

It was natural and easy to talk with TORBY, whether the topic was merely such a football rivalry, or a matter of great natural importance.

We join his family, constituents and many other friends in a sense of great loss, and wish to convey to them our sincere expression of sympathy.

Mr. YATRON. Mr. Speaker, the death of the Honorable TORBERT H. MACDONALD has removed from Congress one of its most valuable Members.

I have benefited by his counsel. He was a man for whom I had the deepest respect and sincerest admiration.

The treasured qualities of sincerity, integrity, and dedication were the very characteristics embodied in the Congressman from Massachusetts.

TORBERT MACDONALD's soft-spoken approach belied the fire of determination for which he became so well known. He zealously defended the ideas and principles upon which this Nation was built.

My family and I express our deep sympathy to Congressman MACDONALD's wife and fine children. We treasured the life of Congressman MACDONALD and regret his death.

Mr. LENT. Mr. Speaker, I want to join with my colleagues in paying tribute to a well-respected and well-liked colleague, the late TORBERT MACDONALD.

I had the distinct privilege of serving with TORBERT MACDONALD on the Committee on Interstate and Foreign Commerce for more than 3 years. Although I was not a member of the subcommittee he chaired, all of us who had dealings with the Subcommittee on Communications or considered bills reported by the subcommittee were well aware of TORBERT MACDONALD's integrity and high level of ability.

Of course, TORBERT MACDONALD will best be remembered for his authorship of the bill ending sports blackouts. But the importance of his work on the Communications Subcommittee went far beyond that, simply because of the importance of the broadcast media and telecommunications to the lives of all Americans. I know that this House will miss his leadership.

My sympathies are with TORBERT's family and his Massachusetts constituents whom he served so well for so many years.

Mr. NATCHER. Mr. Speaker, no one who possesses a sense of history can contemplate a lifespan and the record of the late TORBERT H. MACDONALD without a feeling of humility. Monuments are built to those who have passed away, but in many respects my friend TORBERT MACDONALD was a monument in his own time. Those individuals in public life and those beliefs and institutions which are monumental in character have always served a special purpose and filled a special place in the development of our country.

It was a distinct honor and privilege for me to serve in the House of Representatives with Representative MACDONALD. He was loved and respected by all of the Members of the House. He had a quick mind and was one of the hardworking Members of Congress. The status of our Nation is built on the careers of such men. On down through the years Members such as TORBERT H. MACDONALD perform the demanding and necessary assignments which must be done every day, and at times they have had to make hard and unpopular decisions.

He had a charm and wit and he extended a warm courtesy and consideration toward others at all times. His loss to the Nation will be felt down through the years and will be mourned by all of those who had the privilege to have worked with him in seeking to build a better country. He loved his country, his State, and the House of Representatives. Never was there anyone more dedicated to the service he performed or the people he served. As a member of the Committee on Interstate and Foreign Commerce and chairman of one of the most important subcommittees, he had assignments from time to time that were of great consequence to the people in this country. He was a noted authority on communications.

I will miss my friend TORBERT MACDONALD, and it is my fervent wish that this body may forever dedicate and decide the matters before it with that same fairness which was always the trademark of the Honorable TORBERT H. MACDONALD of Massachusetts.

Mr. Speaker, I extend to Mrs. Macdonald and to the members of his family my deepest sympathy in their loss and bereavement.

Mr. CARNEY. Mr. Speaker, I am deeply saddened at the passing of a dear friend and distinguished colleague with whom I had the privilege of serving on the House Interstate and Foreign Commerce Committee, and in particular, under his chairmanship as a member of the Subcommittee on Communications.

During the more than 21 years in the U.S. House of Representatives, Congressman TORBERT H. MACDONALD played a major role in the formation and passage of legislation dealing with broadcasting and television, and with the oil, natural gas, and electric industries.

In 1967, he sponsored legislation in the House that led to establishment of the Corporation for Public Broadcasting. In subsequent years, his efforts were instrumental in continuing Federal funding of the Corporation.

In 1971, Congressman MACDONALD was successful in establishing a limit on the amount of funds spent on political campaign advertising under the Federal Election Campaign Act. He was also instrumental in getting TV stations to give free time for debates by major presidential candidates.

In another area of communications policy, TORBERT MACDONALD was the prime mover behind the bill that ended the automatic television blackout of home professional football games in 1971.

Congressman MACDONALD was also active in efforts to regulate the costs of energy, particularly natural gas. In 1973, during the energy crisis, he fought for Federal allocation of home heating oil, crude oil, gasoline, and other petroleum products.

Congressman MACDONALD, who was best known as "TORBY" by his friends, entered Harvard College in the fall of 1936. His roommate for 4 years there was John F. Kennedy. Both joined the freshman football team. Kennedy dropped out after a short time. But TORBY MACDONALD, an elusive, speedy halfback, made the starting line-up in his sophomore year and led Harvard to victories over both Princeton and Yale that season and in 1938. He was later inducted into Harvard's football hall of fame.

TORBY was also an outstanding outfielder on the Harvard baseball team. After graduation in 1940, he tried out for the New York Yankees and spent that summer playing on one of their minor league teams.

However, the war interfered with any career possibility that TORBY may have had with professional baseball. Like his roommate, John Kennedy, TORBY went to the South Pacific as skipper of a PT boat.

On a patrol off the coast of New Guinea one day early in the war, TORBY's PT boat came upon five Japanese barges loaded with troops. Four of them were attacked and torpedoed. He then went after the fifth boat as it neared an island for a landing. It, too, was torpedoed, but not before TORBY's boat was shelled by a Japanese shore gun. Despite leg wounds, he was able to get his boat and crew back to base safely. As a result of his heroism in that action, TORBY was later awarded a Silver Star and a Purple Heart.

Mr. Speaker, our country will greatly miss the leadership of TORBERT MACDONALD in the U.S. Congress. I am sure all of my colleagues in the Congress will join me in extending our deepest sorrow to his wife, Phyllis, and his two sons and two daughters. May the Lord bless his memory and give strength and comfort to Mrs. Macdonald and family and others of his loved ones.

Mr. JONES of Alabama. Mr. Speaker, I want to join with my colleagues from Massachusetts and throughout the country in expressing my deep personal sorrow at the passing of a fine friend, TORBERT H. MACDONALD.

Congressman MACDONALD will be long remembered for his significant role in improving the Nation's broadcasting and communications policies for the benefit of the public. His concern for a proper national energy policy and his success in advancing that goal should earn him the gratitude of citizens throughout the country.

His contributions to people-oriented policies in energy and communications matters would fill volumes.

My fondest recollections of TORBERT concern his splendid companionship through the past 22 years as a friend and as a colleague on the Government Operations Committee.

As a dedicated and resourceful member of the Subcommittee on Natural Resources and Power, TORBERT was an early leader in the effort to secure a national program to restore proper quality to the lakes and streams of this country.

His concern for and work in behalf

of adequate supplies of energy went far beyond the requirements of his own New England. His labors expressed a keen interest in solving energy problems in every part of the country to the benefit of the people.

His commitment to the public's interest was unexcelled. Because of his considerable skills, his efforts realized amazing success.

His warm companionship through the years was a treasure to me and I will miss him.

His wife and family have my deepest sympathy at their great personal loss.

Mr. O'HARA. Mr. Speaker, our late colleague and friend, TORBERT H. MACDONALD of Massachusetts, a Member of this body for over 21 years, made many significant contributions in both legislative and investigative fields in which he was active. As chairman of the Communications Subcommittee of the House Interstate and Foreign Commerce Committee, he was responsible for landmark laws in public broadcasting.

Just last year, he sparked the enactment of legislation providing long-range Federal funding for the Corporation for Public Broadcasting (P.L. 94–192). He was the author of the antiblackout law, applied to televised sporting events. For many years he was a leader in the effort to encourage television networks to improve their programing and to reduce the amount of violence, crime, and sex on TV during hours when younger viewers make up a large portion of the audience.

A Harvard classmate and confidante of our late President John F. Kennedy, TORBERT MACDONALD was a distinguished attorney, an outstanding athlete, and World War II hero, commanding a PT boat in the Southwest Pacific. Prior to his election to Congress in 1954, he served as a member of the National Labor Relations Board for the New England area.

TORBERT MACDONALD will be sorely missed in the months and years ahead. His friendship, loyalty, and dedication were sources of great strength to those of us who were privileged to work with him over the years of his loyal service here in the House. To his wife, Phyllis and his four lovely children we extend our heartfelt condolences on their great loss.

Mr. SLACK. Mr. Speaker, I join those of my colleagues today who rise to pay tribute to Congressman TORBERT H. MACDONALD of Massachusetts. I wish to express a sense of loss in losing a fellow Member of Congress, and to convey my personal sympathy to his wife and his four children. Over the years, many Members of Congress have worked with an earnest sense of conviction for the legislation and goals they believed necessary, and I think Congressman MACDONALD certainly stands among them.

TORBERT MACDONALD'S service in the U.S. Congress spans a period of nearly 22 years. During that time, he made many contributions to this body and to the people of his district, establishing for himself a reputation as an able and effective legislator, and a worthwhile servant of his constituency.

As chairman of the Interstate and Foreign Commerce Subcommittee on Communications, Congressman MACDONALD was actively dedicated to the principle that the public airways should be used in the public interest, and he worked diligently to advance legislation reflecting this principle. His contributions to this and other areas of legislation in which he held firm convictions will be remembered by the Members of the Congress for some time to come.

The people of TORBERT MACDONALD'S Massachusetts congressional district first elected him to the House of Representatives in 1954. In recognition of his honorable and energetic service in their behalf, they sent him back to Washington as their Representative in 10 congressional elections thereafter. For Congressman MACDONALD, this in itself is a tribute as well as an expression of confidence.

TORBERT MACDONALD'S constituents now face the task of voting for a representative who must fill the vacancy which he leaves and face problems no less challenging than the years of Congressman MACDONALD'S service. In the wake of his fine service, this will not be easy.

Mr. MEEDS. Mr. Speaker, I want to take this opportunity to express my deepest sorrow at the passing of one of our most respected colleagues, Representative TORBERT MACDONALD.

In my years of service in the House of Representatives, I came to know and respect Representative MACDONALD as one of this body's most hardworking and dedicated Members. His efforts in the areas of communications law, election campaign regulations, and energy, to name just a few, will long stand as a tribute to his legislative ability and his desire to serve the people who elected him.

In recalling the career of TORBERT MACDONALD, I think of the tremendous impact his efforts over the years have had upon the citizens of this Nation.

I recall, for example, his constant activities in support of the Corporation for Public Broadcasting. How many of us rely upon public broadcasting for some of the most innovative and thought-provoking television in our country today? Without his efforts to establish the Corporation for Public Broadcasting and his desire to provide adequate funding for it, I daresay that our public television would not be nearly as active as it is today.

I also recall Representative MACDONALD'S work on the Federal Election Campaign Act of 1971, limiting the media spending of candidates to Federal offices. His motives were simple, and based on a desire to make elective office more accessible to all our citizens, regardless of their wealth. He felt that the rich candidate should not be given undue advantage over a poorer candidate, unable to buy large blocks of media time and space. Therefore, he supported, and was successful in achieving, limits on the amount of money that candidates for Federal office are able to spend in the media.

And I also think of the millions of Americans who are able to enjoy televised sporting events in their hometowns today, thanks to his efforts to reduce local television blackouts of these events. Who can estimate the many hours of relaxation and enjoyment that individuals across our Nation have received as a result?

All of these accomplishments, and many, many more, will long live as reminders of TORBERT MACDONALD'S single-minded dedication and hard work.

These were the traits that were so much a part of him as a young Harvard football star, as the World War II, PT boat skipper, and as the young New England lawyer. And these were also the traits that led him to 11 consecutive and successful terms in the House of Representatives.

While I shall mourn the loss of such a talented and dedicated man, I know that this legislative body and this Nation as a whole is better today thanks to his efforts and his works.

Mr. BYRON. Mr. Speaker, with the passing of TORBERT MACDONALD, this body has lost one of its most distinguished Members. I feel compelled to comment on the outstanding service TORBY rendered to the people of Massachusetts and the American people as a whole.

It was my honor to serve on the Communications Subcommittee of the House Interstate and Foreign Commerce Committee. TORBERT MACDONALD chaired that subcommittee. I could spend many hours outlining the major accomplishments of the Communications Subcommittee under TORBY'S able leadership including long-range funding of public television and radio. His making important changes and improvements in the way the subcommittee operated.

Congressman MACDONALD'S career in the U.S. Congress spans 22 years and includes the period in which major changes were occurring in our Nation and in the approach to national problems. Throughout this period, TORBY worked diligently for legislation he considered necessary for the improvement of living standards of his constituents.

TORBY MACDONALD led the way in many legislative fights over the years. He never avoided issues but faced them squarely and honestly. There is little doubt that his guidance and leadership were largely responsible for legislation allowing public television and radio stations and networks to make long-range plans based on the funding legislation he shepherded through the Congress.

I believe the dialog of the Congress will be diminished with the passing of TORBY MACDONALD. I personally learned a great deal as a result of my association with him. The respect of his colleagues is a clear indication of the impact he made in this distinguished body.

Mr. CARTER. Mr. Speaker, it was my pleasure to serve with TORBERT H. MACDONALD on the Committee on Interstate and Foreign Commerce since coming to Congress 12 years ago. I knew him to be a good man who performed his duties as chairman of the Subcommittee on Communications fairly and well. It is a great loss to this body, and to this Nation, that we no longer will have the benefit of his expertise and insight, especially in the critical area of communications policy and in the public broadcasting system for which he was largely responsible.

TORBY was an outstanding athlete, a veteran decorated for bravery in the defense of his country, a fine lawyer and a Congressman who served the people of the Seventh Congressional District of Massachusetts ably for almost 22 years.

I join with my colleagues in offering deepest condolences to his wife, his children and the rest of his family. I trust that they will draw comfort from the words of the Psalmist: "He giveth His beloved sleep."

Mr. DIGGS. Mr. Speaker, I join with my colleagues on both sides of the aisle today in the sad task of mourning a good friend and colleague, Congressman TORBERT MACDONALD of Massachusetts.

TORBY MACDONALD and I came to Congress at the same time, joining in the "Class of 1955" and remaining to serve our districts in the years since.

During those more than 20 years which we served together, I came to know TORBY not only as a distinguished and hardworking representative, but as a respected and valued friend and colleague.

Mr. Speaker, his untimely death has diminished this body, and I join with my colleagues in paying tribute to his memory. I hope that his family and friends will be comforted by the knowledge that he had a rich and full life, and leaves a legacy of concern and efforts on the part of his constituents.

Mr. PHILLIP BURTON. Mr. Speaker, I join today in paying tribute to the memory of our late colleague, TORBERT MACDONALD, and in extending to his wife and family this expression of deep sympathy.

TORBERT MACDONALD was a strong and courageous man who served the people of his district and the Nation with great dedication. His untimely death is a loss to all who were privileged to serve with him in the House.

One could recite his many accomplishments: In the field of sports, or as a decorated war hero, or his many legislative achievements including the establishment of the Corporation for Public Broadcasting. But this brief recitation does not do justice to a public career of some 22 years.

The words of Euripides come to mind:

> When good men die their goodness does not perish but lives though they are gone.

TORBERT MACDONALD was a good man.

Mr. STAGGERS. Mr. Speaker, it is with a deep feeling of sorrow that I rise today to join my colleagues in paying tribute to the memory of a loved and valiant comrade, the Honorable TORBERT H. MACDONALD.

TORBY and I served together on the Interstate and Foreign Commerce Committee for 21 years, and for the past 6 years he has sat on my right as the ranking majority member.

TORBY MACDONALD was a true and loyal friend. I shall miss his friendship and wise counsel.

He was an outstanding subcommittee chairman and legislator and was held in highest esteem by all members of the Interstate and Foreign Commerce Committee and by all of his colleagues:

> And when he fell in whirlwind, he went down as when a lordly cedar, green with boughs, goes down with a great shout upon the hills, and leaves a lonesome place against the sky.—Markham

The congressional record of TORBY MACDONALD is written in legislation advancing the humanitarian concept of Government. His people know that he fought for them—and won—and they love and honor him for his courage, his forthrightness, his dedication to the public interest. His integrity stands out like a tall cedar on the mountain crest of his native land. His specific achievements are cataloged in the files of the statute books and in the minds of his friends and colleagues, and it would be idle repetition to list them all here.

His work will long remain as a monument to his ability, his integrity, and his love of his native land.

Wrote Carlyle:

> Nothing that was worthy in the past departs; no truth or goodness realized by man ever dies, or can die; but is all still here, and, recognized or not, lives and works through countless changes.

So, shall it be with our friend and colleague, TORBERT MACDONALD. He was the kind of man Emerson had in mind when he wrote:

Not gold, but only men, can make
A nation great and strong,
Men, who for truth and honors sake,
Stand fast and suffer long.
Brave men who work when other men sleep
Who dare while others fly,
They build a nation's pillars deep,
And lift them to the sky.

I know that words can do little to relieve the sorrow which has come to TORBY MACDONALD'S family. Words cannot remove the vacant chair or heal the wounded heart. My sympathy goes out to Mrs. Macdonald and to the others he left behind him when he embarked upon the voyage to that bourn from which there is no return. They will miss him. We will miss him. But, there is comfort in the knowledge that the painful question asked centuries ago by Job, "If a man die, shall he live again?" was answered by the man of Galilee:

> I am the resurrection and the life: he that believeth in Me, though he were dead, yet shall he live; and whosoever liveth and believeth in Me shall never die.

That is the hope that leads us on in our bereavement, the hope that enables us to believe that some day, somewhere, we shall see our friend again.

My wife, Mary, joins with me in extending deepest sympathy to Mrs. Macdonald and their four children. Our hearts go out to this devoted family, and we know that no words of ours can ease the pain in their hearts.

There is, however, the great consolation that his deeds stand as the finest monument man can ever have; a monument of devotion in the hearts of a grateful people.

We can confer on him the greatest and simplest of all accolades—the Master's "Well done, thou good and faithful servant."

Mr. ROBINSON. Mr. Speaker, I should like to add my few words of respect and regret on the loss to the House of the distinguished gentleman from Massachusetts, Mr. MACDONALD.

His character and achievements have been delineated well by others. He served his district faithfully in 11 Congresses and rose to senior levels on two important committees.

It was my privilege to serve with our late colleague on the Committee on Government Operations during the 92d Congress and, while he and I—of differing party affiliations—found ourselves advancing opposing views on occasion, I recognized his competence as a student and analyst of governmental operations, and of the issues involved in the matters coming before the committee.

Mr. MACDONALD became one of the experts in this House on questions of communications law and policy, as well as a major figure in the councils of his party.

He will be missed as a conscientious Member and friendly colleague.

My sympathy goes out to his widow and children in this time of grievous loss.

Mr. NOLAN. Mr. Speaker, Ralph Waldo Emerson once observed that a good man lives his life for something which outlasts him in death.

In many ways—but most of all in this very special way—TORBERT MACDONALD was a successful man. The gratitude of those he served in public life, the affection of those of us who were privileged to be his friends, and the mark he made in the Congress of the United States truly outlet and distinguish him.

He was a man of ideals—seeking always to combine the highest aspirations with the most practical programs. TORBERT MACDONALD was always a seeker, and when I think of him, I think of what Carl Sandburg wrote:

The fingers turn the pages
The pages unfold as a scroll
There was a time there was no America
Then came on the scroll an early America, a
    land of beginnings, an America being
    born
Then came a later America, seeker and
    finder, yet ever more seeker than
    finder
Seeking its way amid storm and dream

TORBERT MACDONALD'S life was full of enthusiasm, creativity, and great courage. We will miss him.

Mrs. HECKLER of Massachusetts. Mr. Speaker, the full, rich sound of his laughter will be heard no more. The eloquent wit which he brought to the work of the House is now forever silenced. TORBERT HART MACDONALD is no longer among us and we are diminished by his death.

I join my colleagues, his family and many friends in mourning his passing.

His enjoyment of life, this deliberative body and his work in it were displayed for all to see. Daily in some witty expression of his strong beliefs TORBY MACDONALD would deflate the argument of a colleague and win for the Massachusetts Congressman another of his many legislative triumphs.

In private conversations his brilliance shone. Each day, TORBY MACDONALD demonstrated for us why man is unique among the creatures of this planet and why a great mind is a beautiful thing.

TORBY MACDONALD brought many fine attributes to his work in the Congress.

He was outstanding in his ability as a fighter for causes in which he believed. Seldom has any person been tested as was Torby during his illness.

He lost the final fight. But he did not surrender. He fought courageously until the 15th round. He fought with the same indomitable spirit which earned touchdowns for Harvard and the respect and admiration of his congressional colleagues during his many successful legislative fights.

Though I miss him terribly, I rejoice that I knew him, that I worked with him, that he counseled me, cajoled me with endless anecdotes and helped me as a new Member of this House. I draw strength to continue my own work in the Congress from having known Torby Macdonald.

Mr. Speaker, there is little I can add to the outstanding tributes paid our late colleague in Washington and in Massachusetts. His accomplishments are well known to the Members of the House and to the constituency he represented during his 21 years in the Congress.

Torby did not seek the national spotlight though his outstanding work on the Interstate and Foreign Commerce Committee affected many people in every walk of life throughout our great Nation but the limelight came to him because of the quality of his work.

Torby Macdonald is no longer with us, but we are far better people for the time he spent with us and I wish to offer his family my deepest sympathy on their loss.

Robert Hanley of the New York Times captured the essence of Torbert Hart Macdonald in an obituary on May 22. I include it here in my remarks and commend it to the attention of my colleagues:

Rep. Torbert H. Macdonald, Boston Democrat, Dies

(By Robert Hanley)

With a background of stardom in Harvard football, gallantry in World War II, and friendship with John F. Kennedy, Torbert Hart Macdonald was elected to Congress in 1954 and for 11 consecutive terms represented the Massachusetts district encompassing the aging industrial port of Chelsea and the suburban communities of the northern fringe of greater Boston.

In his 21 years in the House, before illness interrupted his career in April, 1976, Representative Macdonald became the second most powerful Democrat, behind Harley O. Staggers, on the House Committee on Interstate and Foreign Commerce. He was chairman of that panel's subcommittee on communications and power.

In that position he enjoyed in the 1970's a powerful role in the formation and passage of House legislation dealing with broadcasting and television and with the oil, natural gas and electrical industries.

LIMITED SPENDING

His distaste of wealthy politicians "buying elective office" led to perhaps his most significant bill, the Federal Election Campaign Act of 1971, which limited media spending by candidates for Federal office.

In 1967, he sponsored legislation in the House that led to establishment of the Corporation for Public Broadcasting. And in subsequent years, his measures were instrumental in continuing Federal funding of the corporation. He also drew wide public notice for his 1973 measure that banned television blackouts of professional football home games and other sports events sold out in advance.

Also in 1973, he fought during the "energy crisis" for Federal allocation of home heating oil, crude oil, gasoline and other petroleum products.

Mr. Macdonald's work on his last major project—pressing for the growth of cable television—was stopped by his decision in April not to seek a 12th term because of his illness.

Early on May 9, Mr. Macdonald suffered sudden internal bleeding and was taken in what was described as a "coma-like condition" to Bethesda Naval Hospital. Doctors listed him in "very serious condition."

Tubing was inserted into his nose and arms to provide nourishment and medicine to combat and drain the bleeding.

Hours later, he regained consciousness. The next day he told his doctors to withdraw all the life-sustaining tubing.

"He found himself in a position of being encumbered with all these tubes in his nose and arms. He realized he was close to death and this was not the way he wanted to go," his administrative aide, Peter S. Knight, recalled later. "He wanted to die with more dignity than that."

His wife and four grown children, gathered at his bedside, were distraught at his request. As Mr. Knight remembered the scene, Mr. Macdonald's oldest daughter, Laurie, asked him:

"Do you realize what this means?"

"Yes," he said.

"You still want us to remove it?"

"Yes."

However, Mr. Macdonald began to rally and his condition improved slowly. A week after the life support equipment was taken away, his condition, though still serious, had stabilized.

Yesterday, however, his condition began deteriorating. Today, he lapsed into a coma. His wife and children were at his bedside when he died.

INCREDIBLE STRENGTH

"He's gutsy, courageous," Mr. Knight said after Mr. Macdonald's initial rally. "He didn't want to die the way he was, but he's got a fierce, incredible amount of strength."

Mr. Macdonald was born in Boston on June 6, 1917, and was reared in Malden, the Boston suburb where he settled and practiced law after wartime duty as a naval lieutenant commanding a PT boat and graduation from Harvard Law School in 1946.

Mr. Macdonald entered Harvard College in the fall of 1936. His roommate for four years there was John F. Kennedy. Both joined the freshman football team. Kennedy was frail and dropped out. But Torby Macdonald, an elusive, speedy halfback, made the starting line-up in his sophomore year and led Harvard to victories over both Princeton and Yale that season and in 1938.

He was chosen captain of the 1939 team. But he was hurt early in the season and missed several games. In the Yale game that year he scored his team's only touchdown in the waning minutes of a 20-to-7 defeat. He was later inducted into Harvard's football hall of fame.

Mr. Macdonald was also an outstanding outfielder on the Harvard baseball team, and after graduation in 1940, he tried out for the New York Yankees and spent that summer playing on one of their minor league teams.

Wartime ended his professional baseball. He went to the South Pacific as skipper of a PT boat, as did Mr. Kennedy.

On a patrol off New Guinea one day early in the war, his craft came upon five Japanese barges loaded with troops. Four of them were attacked and torpedoed. Mr. Macdonald went after the fifth as it neared an island for a landing. It, too, was torpedoed, but not before Mr. Macdonald's craft was within range of Japanese shore guns. A shell exploded near his craft, damaging it. Despite leg wounds, Mr. Macdonald got his boat and crew back to base safely.

DECORATED FOR VALOR

His action in that raid won him a Silver Star and a Purple Heart.

Soon after Mr. Macdonald opened his law office in Malden in 1946, Mr. Kennedy drew his old roommate into his circle of political advisers to help with his first race for Congress. Mr. Macdonald managed the Kennedy headquarters in Cambridge in that successful race.

Thereafter, Mr. Macdonald worked in all the late President's campaigns. And Mr. Kennedy always stumped for Mr. Macdonald in his Congressional campaigns, beginning with his first in 1954 when he upset a 10-term Republican Representative, Angier L. Goodwin.

Mr. Macdonald is survived by his wife, the former Phyllis Brooks, a former actress of Syracuse, whom he married in 1945; two sons, Torbert Jr., and Brian; two daughters, Mrs. Charles Lotspeich and Robin, and three grandchildren.

Mr. DOMINICK V. DANIELS. Mr. Speaker, it is with a deep sense of sadness that I join today with my colleagues to pay tribute to the late Honorable Torbert Macdonald. It is one of the great privileges of my own life to have been his colleague and his friend.

Torbert Macdonald was a man whose courage in life and in death was clearly an inspiration to everyone who crossed his path. As a legislator he never shirked his responsibility to take on difficult issues even when others advised that he could not win. He was a prime mover of legislation concerned with insuring the public's right in broadcasting, energy, and Federal elections. He was a legislator who could be trusted by his colleagues and the public, regardless of his position on an issue.

Certainly the manner in which he died indicated his great moral strength and his willingness to take responsibility for his life.

Few men have the courage to look reality in the face and to accept "what is." Few men have the religious conviction and the faith in God to be willing to make the decision he did to put himself in God's hands. His life and the way he lived it is an inspiration to all who knew him and who had the privilege and the good fortune to cross his path. We shall all miss him: but none of us can forget him.

Mr. OBEY. Mr. Speaker, I will miss Torbert Macdonald. There have been very few people around here who have shared Torbert Macdonald's determination to maintain the Nation's airways in a manner consistent with the recognition that those airways belong to the public. That determination made him take positions which were occasionally not very popular with television station owners, but those positions were right.

Courage and honesty are the two most important attributes any individual can bring to public service and Torby displayed them both. I will miss Torby Macdonald.

Mr. VAN DEERLIN. Mr. Speaker, those of us attending his funeral in Malden, Mass., 12 days ago came away with a feeling that TORBERT MACDONALD would have been as deeply mourned by his home community if he never had served a day in Congress.

The spacious old brick Sacred Hearts Church was filled to capacity, of course. And a throng jamming the street was made up mainly of the middle aged or beyond—men and women who remembered TORBY with love and admiration from the days of his youth.

Their real recollection, we sensed, was not of the legislator which most of his Washington associates were there to honor, but rather the handsome, smiling, sprightly athlete so touchingly described in TED KENNEDY's eulogy:

> Through our home passed many cabinet officers, congressmen and noted diplomats.

Senator KENNEDY recounted:

> But for a seven-year-old boy, none provided the thrill I recall when my brother brought home the captain of the Harvard football team.

In his youthful impressions of TORBERT MACDONALD, Senator KENNEDY described a bright, gifted and spirited young man which no American town would quickly forget. Outstanding scholar, athlete, war hero, attorney—TORBY had it all. He showed abundant promise to the people of Malden—and more than lived up to it, in the distinguished service that was his hallmark both in Congress and in the years before.

As one who sat literally at Mr. MACDONALD's right hand through four Congresses on the Communications Subcommittee, I had an unmatched opportunity to recognize and appreciate both the wit and the wisdom of our departed colleague. His death has left a void which as a successor of sorts to this fine man, I feel most acutely.

For 9 years, TORBY was chairman of the Subcommittee on Communications and Power, and its successor, the Communications Subcommittee. His accomplishments were legion, among them authorship of a series of landmark bills giving shape and substance to public broadcasting.

In late April, after TORBY announced his intention to retire, he indicated his hope that I should succeed him as chairman of the Communications Subcommittee. With TORBY's backing, I was elected by the majority caucus of the Committee on Interstate and Foreign Commerce to the chairmanship of this subcommittee. In scarcely a month as chairman, I have developed new appreciation of this man's contributions to the statutes affecting all our diverse methods of telecommunications. His is indeed "a tough act to follow."

TORBERT MACDONALD made the way for the hearings currently underway on cable television regulation, with a meticulously researched staff study which he commissioned last year.

Only last week, a House-Senate conference committee reached agreement on legislation making permanent the sports antiblackout law—another memorial to TORBY and his persistent advocacy of consumer interests. This is the law which forces professional sports teams to allow local telecasts of sold-out home games; it thus gives sports fans who cannot afford or do not have the opportunity to buy tickets a chance to see their favorite team on television.

Prior to the 94th Congress, the Communications Subcommittee also exercised jurisdiction over interstate electric power and legislation governing the shipment and sale of natural gas, petroleum and other energy fuels. TORBY was one of the great champions of low energy prices, fighting to the end against efforts to deregulate natural gas. It was prophetic that back in 1954 TORBY as a House freshman was identified by the late Drew Pearson as "one of the outstanding newcomers (who) did a hard fighting job for the consumer during the debate on the natural gas bill."

Nor was TORBY reluctant to take on the big electric utility companies and in this arena, also, he scored some notable victories in winning rate rebates for users. So much so, the utilities tried to defeat him with their own hand-picked candidate. That was perhaps one of TORBY's most enduring traits: He was indeed a fighter, and he was always a good man to have on your side—as I can attest from having taken part in numerous legislative floor fights at the side of this tough and able legislator.

Leadership came naturally to TORBY. Back in the 1930's he was both a star football halfback and ace baseball pitcher at Harvard. During World War II he skippered a PT-boat, winning a Silver Star for heroism at New Guinea as well as a Purple Heart. Prior to his first election to Congress in 1954, he practiced law in Boston and served as counsel to the New England office of the National Labor Relations Board.

TORBY had already been in Congress 8 years when I first joined this body. I have perhaps learned more from him than from any other person with whom I have served in this House, so I shall always be greatly in his debt. More than that, Mr. Speaker, he was a close personal friend, a man of honor and true distinction. His untimely death was especially tragic, in view of the contributions which he was uniquely qualified to make, and which could have been expected to continue.

PUBLIC BROADCASTING SERVICE,
Washington, D.C., May 24, 1976.

WASHINGTON, D.C.—Public Broadcasting Service Chairman Ralph B. Rogers and Vice Chairman Hartford N. Gunn, Jr., on behalf of the officers and staff of the organization, issued the following statement today regarding the death of Congressman Torbert H. Macdonald of Massachusetts:

"All of us in public television feel a deep sense of loss at the passing of Torbert Macdonald.

"In his many years of public service, Congressman Macdonald displayed the qualities of fairness and wisdom which epitomize the conscientious legislator. As Chairman of the House Communications Subcommittee, he dealt with persons of many convictions and interests. Yet, he was unswerving in his dedication to the belief that the interests of the American people rise above all.

"Congressman Macdonald was a true pioneer of our public broadcasting system. It was largely through his diligent efforts in Congress that The Public Broadcasting Act of 1967, creating a system for regular federal assistance to the nation's public TV and radio stations, was put in effect. And it was largely through his patient guidance that the medium grew to become a major American communications resource.

"We send our prayers to the Macdonald family in their time of sorrow. It is our sorrow as well, for in Torbert Macdonald, public broadcasting had a great friend and supporter. We will miss him."

Mr. MEZVINSKY. Mr. Speaker, it is with a feeling of sadness, yet at the same time pride, that I join in this tribute and reflect on having known our colleague, TORBERT MACDONALD.

While others knew him much longer than I—and perhaps much better, my own recollections are intertwined with a sense of friendship and admiration for him. During times of harsh criticism for the burgeoning Washington bureaucracy, TORBERT MACDONALD saw more than a national political issue. He understood the problem at its very roots. TORBERT MACDONALD felt the aggravation and frustration that every citizen experiences in the cobwebs of Federal regulation. His oversight subcommitee listened to horror story after horror story about individuals being harassed or delayed or their lives destroyed by an unthinking, unresponsive Government bureaucracy. Throughout, he retained an understanding and sensitivity for the people involved.

As we prepare to carry on his work and come to grips with this difficult national problem, I, for one, will remember TORBERT MACDONALD for his leadership, his ability, and most of all his humanity.

Mr. UDALL. Mr. Speaker, all of us mourn the loss and cherish the memory of the Honorable TORBERT MACDONALD.

For more than two decades, our late colleague graced this body with his intelligence, insight, and commonsense. His influence on communications is well known, but he left his imprint on every area of congressional activity.

TORBY MACDONALD's conduct in the face of death showed the same remarkable courage and good cheer with which he approached all of life's challenges. This House is a better place for his presence; our lives are poorer since his loss. I was proud to be his friend.

Mr. HANLEY. Mr. Speaker, on Friday, May 21 of this year the House of Representatives, the State of Massachusetts, and our Nation as a whole lost a good friend with the passing of our distinguished colleague, TORBERT H. MACDONALD.

TORBERT MACDONALD was a personable, fair, and dedicated Member of this House, who commanded the respect of his fellow Members in both parties. A loyal servant of the public interest, Mr. MACDONALD has been referred to as one of the "finest, most able Members of Congress," and indeed he was.

In 11 terms, his list of accomplishments are long and worthy of great praise. As chairman of the House Subcommittee on Communications, TORBERT MACDONALD fought hard for the enactment of his sports antiblackout bill.

He is recognized nationwide as the initiator and architect of public broadcasting. Mr. MACDONALD was also an advocate of improved children's television and long range funding for public broadcasting.

Communications was not the only area in which TORBERT MACDONALD asserted himself. He strongly opposed the deregulation of natural gas and struggled to insure an equitable supply of heating fuel for the Northeast. His dedication to the American consumer, and to the Nation's elderly supported by fixed incomes is well known.

His legislative record has benefited all Americans from young sports enthusiasts to those retired or unemployed, and his courage and integrity should serve as an example to us all.

I also wish to join our fellow Members in expressing my deep regret at the passing of TORBERT MACDONALD and would like to express my sympathy to his wife Phyllis and their four children.

Mr. JOHNSON of California. Mr. Speaker, it was with great sadness that I learned of the passing of our good friend and colleague, Congressman TORBERT H. MACDONALD of Massachusetts. His recent illness was known to all of us. Although the end came quickly, it was still a shock to us all.

Here in the House of Representatives, Congressman MACDONALD made an outstanding record through his wise leadership and frequent counsel to his fellow Members. At the same time, Congressman MACDONALD was an effective Representative for the people who returned him to Congress for a total of 11 terms. During his 22 years representing the suburbs of North Boston, TORBERT MACDONALD worked hard to obtain the best for his constituents.

TORBERT was one of those Congressmen who participated actively in the drafting of legislation in a variety of fields. His expertise provided him the means of providing outstanding service in the Congress.

As a senior member of the House Interstate and Foreign Commerce Committee and the chairman of the Subcommittee on Communications, TORBERT MACDONALD had a key role in the shaping of legislation in the communications field. Of particular note were his efforts to develop and expand the public broadcasting programs, to enact the antiblackout legislation, and to remove violence from television, and to improve children's programing on television.

Through his efforts on the House Interstate and Foreign Commerce Committee, Congressman MACDONALD was instrumental in the preparation of the Emergency Petroleum Allocation Act, the development of legislation to reorganize and revitalize the Northeastern railroad system, electric utility company regulations, and other related energy and transportation matters.

Having served with TORBERT in this House for most of his 22 years, I will greatly miss his presence among us and take this opportunity to extend his family our deepest sympathy.

Public service is a demanding career and TORBERT MACDONALD has shown to the rest of us what a really fine public servant can do. His dedication, his wide-ranging knowledge, and his cheerful disposition helped him to make an outstanding Member of the House of Representatives.

Mr. BIAGGI. Mr. Speaker, I am pleased to join with my colleagues in paying tribute to the memory of Hon. TORBERT MACDONALD who died earlier this month at the age of 58.

"TORBY" as he was known to many of us in the House was an outstanding Member of Congress who provided the people of the Seventh Congressional District of Massachusetts with 22 years of distinguished service.

TORBERT MACDONALD was one of Massachusetts most respected native sons. Born in Boston, he was educated at Harvard University and received his law degree from Harvard Law School. During his college and law school years he grew to be a dear friend of another of Massachusetts most distinguished citizens, the late President John F. Kennedy.

While in Congress TORBY MACDONALD championed many causes as chairman of the House Subcommittee on Communications and the ranking Democratic member of the House Interstate and Foreign Commerce Committee. In his capacity as subcommittee chairman, TORBY was recognized as the father of public broadcasting having introduced important legislation in 1967 and his guidance of the growth of educational television and radio throughout the Nation.

The sports fans of this Nation will remember TORBERT MACDONALD for his sponsorship of legislation which allowed professional sports teams to televise games in the local area provided that the game was sold out in advance. This represented a tremendous breakthrough for the armchair quarterbacks of the world.

Congressman MACDONALD sought to insure that the people of this Nation, especially his native New England, received adequate supplies of home heating oil and gasoline during the Arab oil embargo through his sponsorship of the Emergency Petroleum Allocation Act.

TORBERT MACDONALD was a leader in this Congress. He fought for the causes he felt were just and usually prevailed. He was a friend of the consumer, the sports fan, and the older American. He enjoyed the respect and friendship of many of his colleagues in the House, many of whom were saddened over the rapidly deteriorating health of TORBY over the past year.

I enjoyed my association with the distinguished gentleman from Massachusetts. He was a warm and compassionate man, with a quick wit and a sense of dedication and loyalty to friends. I will miss him in the House. I extend my condolences to his widow, Phyllis, his two daughters Laurie and Robin, and his two sons Brian and Torbert, Jr.

Mr. MOSS. Mr. Speaker, TORBERT MACDONALD, a friend and fine public servant, has been taken from among us tragically. His departure from the Congress leaves a void in the public service of the Nation that it can ill afford at this time. TORBY was a knowledgeable, committed man of character, integrity, and decency, whose word was good to every Member of this House.

The Nation is entering a period of vast flux and intricate problems, many of them in the areas where TORBERT MACDONALD was most knowledgeable. In every one of the decisionmaking periods to come, we shall all miss his knowledge, input, and dedication.

Here was a man whose working professional life was devoted to the public interest in the truest sense of the word. In areas where the rights of the public were at stake, he always came down on the side of the public good, disregarding any blandishments that sought to sway him in the other direction. His voice and vote played a key role in virtually every major decision guaranteeing that a special interest would not prevail over public interest.

Major legislative areas bear his mark, again characterized by commitment to doing the right thing on behalf of the majority of Americans. His courage in the face of adverse odds in the legislative sense was also matched by his personal relationships, which were prized by all those who knew him intimately.

I think TORBY had a keen understanding of the essence of this House, and in many ways embodied it, particularly when the chips were down.

As a result, TORBERT MACDONALD added significantly to the continuity this body can and does lend to the ideals, institutions, and basic elements that make up the republic. He never betrayed his trust—never defaulted on a promise—never let the people of his district and the Nation down. He always gave his best, and that best was always more than enough.

The Nation has lost a fine, good, decent, and important man; someone it could ill afford to lose. His courage during his final days sets an example for us all. He leaves behind his family, to whom I extend my deepest condolences.

Few people can expect to be remembered as fondly or with so much respect.

Mr. FORD of Michigan. Mr. Speaker, I join with our colleagues today in paying tribute to our late friend and colleague, TORBERT MACDONALD. I shared the great sense of sorrow which pervaded the House when the news of his death reached us.

TORBERT MACDONALD was an outstanding Member of Congress, but more importantly, he was an outstanding human being. When I first came to Washington, 12 years ago, he was one of the Members to whom I frequently turned for guidance and advice, and I was never disappointed. He was a man who knew and understood the operations of Congress, and he was always willing to share his knowledge with new Members—always ready to help them solve the problems of their constituents and master the complexities of our legislative process.

TORBERT MACDONALD was a truly great gentleman. He brought stature to the position of U.S. Congressman, and brought honor to this body. It has been men and women such as he who have made the Congress the world's most respected legislative assembly.

He will be sorely missed.

Mr. DERWINSKI. Mr. Speaker, it is with deep sorrow that I join my colleagues in paying a special tribute to TORBERT H. MACDONALD.

We have lost the services of a respected and dedicated colleague, and one who so ably served the needs of our Nation and of his district for the past 22 years.

He was a sincere, hard-working Member, who made great contributions particularly in the area of communications. As chairman of the House Communications Subcommittee, he took an active role in advancing public broadcasting. He is well known as the founder of the Corporation for Public Broadcasting, which makes available outstanding television programing, and provides a broad range of educational broadcasting through public television.

All of us who shared his enthusiasm for sports activity have benefited from his legislation to end television blackouts of sports events which are sold out in advance.

His other areas of contribution include his achievements in the field of energy. His efforts helped to assure ample supplies of crude oil at equitable prices to consumers.

His many years of service in the House were distinguished, fruitful, and always dedicated to the interest of the consumer. He has all the qualities and talents that are essential to the makeup of an effective legislator, and he handled the demanding responsibilities of his congressional assignments with intelligence and insight.

Mr. Speaker, we have lost the services of a respected and esteemed colleague and an extremely warm and understanding friend. Mrs. Derwinski joins me in extending our heartfelt sympathies to his wife, Phyllis, and his sons and daughters.

Mr. D'AMOURS. Mr. Speaker, I join with some sadness and some sense of honor in this tribute to a very distinguished Representative and a compassionate individual.

To me TORBERT MACDONALD was the embodiment of the unity of the party of which I am a member. He expressed fairness and reasonableness—and beyond that he showed an accommodation and an understanding for all other diverse points of view in the Democratic Party, which was unique.

Although I was privileged to know him for only a short time, TORBY MACDONALD was a vivid man, a man full of affection, full of warmth, and full of color in his personality, which made so many people feel at ease in his presence. TORBY MACDONALD was a very good friend of every person whom he touched because he had immediate sympathy for the needs and the feelings of the person with whom he was dealing.

TORBERT MACDONALD, too, had another great attribute. He had toughness of spirit. He was a very kind man, a very warm human being with a sweet temper and a sweet disposition. But he had toughness of spirit. In the House he advocated some very tough measures, and he was never to quail from what was required in his honest judgment and conscience to meet the national need and what he considered to be the security of freedom in the world.

Finally, no tribute can be paid to men more than the tribute with relation to what one sees in adversity. Notwithstanding the fact that TORBY was in pain and was ill, time and again we saw that that illness did not destroy or change his fundamental dedication.

He was here when all of us knew he should not be here. He came back when he knew he should not come back. He did so because he felt the need for his presence here. When he was ill, there was not the remotest change of his disposition toward any of us or toward tasks in which he was engaged. Never was a bitter word uttered or a bitter thought entertained, no matter how deep or sincere was his conviction upon an issue in which he expressed himself so forcefully.

So, here is a man who deserves our tribute as a friend and for his great service to the Nation and also in a very warm and human sense for his inspiration to us.

We will have no difficulty remembering TORBERT MACDONALD. I will not have any difficulty, and I do not believe any other Member of the House will, and because what he did in his life was such a fine object lesson and will live with us, we shall not forget.

Mr. STRATTON. Mr. Speaker, I rise to join in expressing my deep sorrow over the passing of our friend and colleague TORBY MACDONALD.

It has been a difficult thing for all of us who have known TORBY and served with him to observe him as he struggled to continue to serve his country these past few months as his health was so obviously declining. He had been such a strong and healthy person, a great athlete, a man of bouncing spirit and vitality. And to see him gradually slow down, and yet never a complaint, never any concession to the illness that he was enduring. It was an example of courage and dedication to his job that was almost without precedent.

TORBY MACDONALD was a great football player at Harvard, and later a great naval officer in the Pacific in World War II. In between, before he went into the Navy, he tried a little professional baseball and played with the Amsterdam Rugmakers, a farm club for the New York Yankees in my home town of Amsterdam, N.Y. They still remember TORBY up there and still remember his batting prowess.

TORBY MACDONALD was also a fighter and a champion as a Member of this House. He is of course especially remembered as the closest personal friend here in Congress of President Kennedy, and the tragedy of the assassination laid a very heavy burden on TORBY. But he carried it bravely. And he carved out here a great legislative record for himself in the field of communications, always championing the interests of the people against those who sought special privilege. We owe much of the public service aspect of broadcasting today to the leadership of Congressman MACDONALD; and all of America's television fans—which is just about the entire population—will be forever in his debt.

And TORBY MACDONALD also was one of the first Members of this body to anticipate the 1973 oil embargo and he succeeded in drafting and pushing through in advance the petroleum allocation legislation that enabled this country to weather the oil embargo with a minimum of disruption.

Mr. Speaker, TORBERT MACDONALD died as he lived, with courage, without pretense, a solid American to the very end. We are all better here for having known him, and we shall miss him very, very much.

> At the going down of the sun
> And in the morning
> We will remember him.

Mr. MURPHY of New York. Mr. Speaker, it is difficult to lose a colleague under any circumstances; but even more difficult to lose such a friend as TORBERT MACDONALD.

Each of us here today knew him not only as an able legislator and a dedicated public servant, but by that greatest of all titles: a good and true friend.

TORBERT MACDONALD was a man who excelled in everything he did, and he had a pride of accomplishment born not of arrogance, but of a true sense of value and worth to his fellow man. In the highest tradition of public service, he determined the needs of his constituents, both locally and nationally, and set out to fill those needs and provide some relevant direction to the legislative process at which he became so expert.

Any of us who knew TORBERT MACDONALD, knew the history of the man—his Harvard college days as the roommate of John Kennedy; his spectacular performance as captain of the Harvard football team, and his election to Harvard's football hall of fame. Mr. MACDONALD's perspective and sense of humor was evident when he reminded those of us who commented on his early relationship with President Kennedy that Kennedy was MACDONALD's roommate, rather than the reverse. At Harvard, TORBERT MACDONALD was in the forefront.

His friendship with Kennedy endured through the war, when they both enlisted together and captained PT boats in the Pacific. After completing his law degree and serving with distinction in a number of prestigious positions, MACDONALD followed his friend Jack Kennedy into politics in 1954, when he began his 11 terms in this body.

Mr. MACDONALD's chairmanship of the Communications and Power Subcommittee, before their separation, and the Communications Subcommittee subsequently, gave an indication of the depth of his abilities, and his dedication to the cause of the public interest. He was no handmaiden to the industry; he was known as a tough regulator who held the broadcast industry to high standards. He was a critic of the commercial broadcasters, as well as what he felt was their inattention to the best public interests. Mr. MACDONALD and I worked together often on the problems of excessive violence and obscenity on the television spectrum, and although he felt strongly about their effect on the public at large, and children in particular, he was an equally strong defender of the broadcasting industry against attempts to politicize it by an overzealous administration.

The name of TORBERT MACDONALD is an integral part of the every major piece of communications legislation devised in the past decade. His leadership produced the original Public Broadcasting Act and extended funding for the Corporation for Public Broadcasting. He brought reform to the media expenditures of political candidates, and he brought every sports fan in the Nation the antiblackout bill. And TORBERT MACDONALD will most certainly be remembered by future generations of cable television watchers as the first national legislator with enough foresight and initiative to press forward with the most comprehensive and exhaustive investigation of what will probably become, within a very short time, the most powerful form of communications on this Earth.

TORBERT MACDONALD's illness was indicative of the spirit of the man. After the removal of the artificial devices, he made an incredible recovery which surprised the media and the medical community.

But I think it surprised very few of his friends here in Congress. We knew him to be a fighter, and a dedicated man who knew there was still so very much left to do.

It will be a much harder job without him.

Mr. DON H. CLAUSEN. Mr. Speaker, I wish to join my colleagues in setting aside this time to honor the memory of our friend, TORBY MACDONALD.

While TORBY will be especially remembered for his landmark service as chairman of the Communications Subcommittee, I think all of us will agree that he effectively combined fairness and firmness in his resolve to see to it that the public interest was protected throughout his congressional career.

His courageous battle for life in the face of serious illness was very typical of his dedicated service to his constituents and to the Nation.

His athletic background gave him a sense of fairplay in the legislative battles in the House and his competitive background sharpened his ability to achieve the goals he was seeking.

The State of Massachusetts has lost an effective and respected citizen and the House of Representatives has lost a fine legislator. We shall all miss him.

Mr. MANN. Mr. Speaker, it was with deep sadness that I learned of the death of our friend and colleague from Massachusetts, Congressman TORBERT HART MACDONALD. His family, his constituents, the 94th Congress and the Nation have suffered a profound loss.

TORBERT MACDONALD's interest and expertise in the field of communications legislation and his willingness to share and discuss his knowledge leaves a vacuum in this body that will be difficult to fill. As chairman of the Communications Subcommittee of the Interstate and Foreign Commerce, he became a hero to football fans across the Nation because of his interest in protecting the rights of all viewers to the airwaves. He will be remembered, and honored, for dedication and hard work for the issues in which he believed. He was a man of convictions, but he was always willing to hear the other side before making a decision.

A scholar, a veteran, a statesman, TORBERT MACDONALD's memory will inspire all of us who were privileged to know him and to work with him to make that extra effort to be better men and better public servants.

I know I join with the others in this House and throughout the Nation in extending to his wife and children my heartfelt sympathy.

Mrs. BURKE of California. Mr. Speaker, today I join my colleagues in paying tribute to TORBERT HART MACDONALD, whose untimely death has saddened us all. TORBY was a quiet man, but recognized by us all as a fair, impartial and able legislator.

His leadership in establishing the Corporation for Public Broadcasting in 1967 will long be remembered. Through that legislation, he helped make available to millions of children and adults a broad range of educational experiences. A constant critic of violence on television, he was pushing for new research on the problem when he was forced by ill health to resign his Communications Subcommittee chairmanship.

The leading congressional authority on the communications industry and a tireless fighter for the public interest, he will be greatly missed on the Commerce Committee and in the Congress as a whole. He served his district, his State, and this Nation well. I extend my deepest sympathies to his wife and family.

Mr. MADDEN. Mr. Speaker, I join with other Members of Congress in expressing my deepest regret and sorrow on the passing of our colleague, TORBY MACDONALD. The State of Massachusetts and the Nation can ill afford to lose public servants with the ability, industry, and devotion to the arduous task of carrying out all the requirements legislative, departmental, and personal duties direct to the office of Congressman.

Congressman MACDONALD as a ranking member of the Commerce Committee was instrumental in sponsoring and enacting many pieces of legislation which were highly beneficial to his State and Nation. During his college years, he was an outstanding football player known throughout the country and his memory will live on in the minds of athletes for generations to come.

He was one of the prime sponsors of public broadcasting legislation, sponsor of the Emergency Petroleum Allocation Act and also the leader and participant in the legislation to ban television blackouts of professional football games.

In the last several months before his passing, TORBY was the victim of major illness and suffered a great deal by reason thereof. His memory will long be held by his many personal friends, including myself, and I wish to extend to his family my deepest sympathy in their bereavement.

Mr. WON PAT. Mr. Speaker, I am deeply saddened to be noting the loss of one of our most esteemed colleagues, Representative TORBERT MACDONALD of Massachusetts.

No sooner had the membership learned of his planned retirement from the House and reconciled ourselves to the loss of Mr. MACDONALD's counsel and leadership than we were informed of his serious illness.

It was doubly saddening that such a vital individual, who had served his nation so admirably in the military and in Congress should be stricken as he was on the verge of being allowed at long last opportunities to pursue solely personal and family goals.

I shared with many of our citizens strong feelings of encouragement for our colleague's heroic efforts to resist mortal illness. I found it particularly indicative of Mr. MACDONALD's renowned strength of character that he should eschew artificial life aids to face adversity and challenge with his own strengths.

Such personal qualities are all too uncommon. That an individual possessing such attributes as Mr. MACDONALD will no longer be present is the loss of his colleagues and our Nation.

Mr. ZABLOCKI. Mr. Speaker, it is with deep sadness and regret that I learned of the unfortunate illness and untimely death of our esteemed colleague in the House, Representative TORBERT H. MACDONALD.

As a sincere, responsible, industrious representative, and a man of integrity, the spirit of TORBERT MACDONALD will not be forgotten. Since his election to the House of Representatives in 1958, TORBERT consistently dedicated his efforts toward fulfilling the wishes and goals of his constituents from the Seventh Congressional District of Massachusetts. At all times, uppermost in his concern was the security of our Nation and the welfare of the American public in general.

The impact of his legislation affecting the communications industry affected most Americans. TORBERT MACDONALD will be remembered for his authorship of legislation ending the automatic blackout of home professional football games, and for his never-ending fight against violence on TV. As chairman of the Subcommittee on Communications of the Interstate and Foreign Commerce Committee, TORBERT fought to assure that the common good was expressed and freedom of speech maintained in the broadcast industry.

TORBERT MACDONALD was also influential in creating the public broadcast system and in the passage of legislation to give long-range public support to PBS.

In recent years he devoted much of his time and energy to help solve the energy problems of our country. He fought to regulate the costs of energy, particularly natural gas.

Representative MACDONALD's background, scholastic achievements, and his concern for his fellowman prepared him for a legislative career and were reflected in his actions in the House. He was a follower and participant in sports from youth. In 1939 he served as captain of the Harvard football team. After graduating and serving in the Navy, he obtained his law degree from Harvard. Prior to his election to the U.S. House of Representatives in 1955, Representative MACDONALD was employed as a lawyer for the Motion Picture Producers Association and the National Labor Relations Board.

Mr. Speaker, TORBERT MACDONALD was a dedicated public servant, and a successful and responsive legislator. He will long be remembered in the hearts and minds of our colleagues and the American people.

My wife joins me in extending our

deepest sympathies to Torbert's wife, Phyllis, his family, and his many friends.

Mr. PICKLE. Mr. Speaker, I had the distinct pleasure of serving with the late Representative Torbert "Torby" Macdonald on the House Interstate and Foreign Commerce Committee from the time I joined this body in 1962 until the beginning of the 94th Congress. During that decade, I developed a real fondness and a deep respect for my colleague from Massachusetts.

Torby toiled long and diligently in the vineyards of the Commerce Committee. He was recognized by his colleagues in the committee, and indeed, by all Members of this body, as a guiding force behind some very meaningful legislation in the areas of broadcasting, consumer protection, election campaign reform and energy.

During World War II, Torby displayed especial courage as a PT boat commander. He received multiple decorations including the Presidential citation for valor. Again, he showed his real mettle after he became seriously ill. Torby told his constituents in the Seventh District of Massachusetts that he chose not to run again because his ill health prevented his serving them in the same manner which he had for the previous 22 years. In the face of death, he asked that the life support machines be disconnected, again exemplifying the same type of courage he had demonstrated in the Pacific theater.

In over 11 years service with him, I learned to appreciate more and more the deep integrity this man possessed. He took a firm stand on legislation, but he always sought to maintain a high level of fairness. You could always talk to him; he was always courteous and understanding. He would give you a chance to present your views. He was never curt, or rude, or brusque. He was a gentleman, and he had a national sense of legislation. Though he was from New England, I think he had as many friends from the South as any Member of the Congress. Last year he voted for a deregulation of gas bill—to the amazement, I am sure, of his Massachusetts colleagues—because he said he thought "it was right." Each year I learned to love and respect him more.

I offer my deepest sympathy to his widow and family.

Mr. ROYBAL. Mr. Speaker, I would like to add a few words of respect and regret on the loss of a distinguished legislator and loyal friend, Torbert Macdonald.

Since his election to the House in 1954, Torbert served his constituents with true distinction. The American consumer, workingman, and senior citizen, as well as the people of Massachusetts' Seventh District, have all lost an eloquent advocate with his passing.

As chairman of the Subcommittee on Communications of the House Interstate and Foreign Commerce Committee, Torbert became a leader in the rapidly expanding communications medium. Due to his central role in establishing the Corporation for Public Broadcasting, he was recognized as the father of public broadcasting. He also took particular interest in the content of programs aimed at children and strongly objected to the growth of violence in TV programing. Additionally, it was largely due to Torbert Macdonald's efforts that the no-blackout policy was instituted. This brought home professional football games to millions of fans unable to attend at the stadium.

His leadership extended well beyond the important area of communications, as he was also instrumental in the formation of legislation in the important areas of energy, transportation, and election reform.

I consider it a great privilege to have known Torbert Macdonald and to have served in the House as his colleague. He was an able and dedicated public servant who rightfully earned the admiration and respect of those who knew and worked with him. We will all miss Torbert, who personified the qualities which make an effective and honorable Member of Congress.

My deepest sympathy is extended to all his family and particularly to his widow, Phyllis.

Mr. PRICE. Mr. Speaker, I am indeed saddened by the untimely death of my friend and colleague, Torbert H. Macdonald. Torby will long be remembered by his fellow colleagues as a fine human being and a dedicated public servant. I extend my deepest sympathy to the Macdonald family for their great loss. I am saddened for the people of Massachusetts who have lost a concerned and devoted representative, one who so ably defended their interests. I am heavy-hearted for the Nation which has lost an irreplaceable Member of the Congress; a Member who served faithfully and conscientiously for 22 years.

Torby was an outstanding athlete, excelling in baseball, football, and track. His longstanding interest in sports led to his authorship of a law preventing the blackout of local television broadcasts of sold-out home games, thus enabling many Americans to watch the games on their home television sets, who would not otherwise be able to see their home teams in action.

Congressman Macdonald's contribution to public broadcasting, especially in the field of educational television and radio is well known. His efforts to assure all areas of the country, especially New England, an equal share in the Nation's supply of fuels to heat homes and gasoline by means of the Emergency Petroleum Allocation Act will always be appreciated by the Nation. The leading role he took in developing legislation to restore the financially troubled Northeastern railroads, and his unswerving devotion to preventing unnecessary rate hikes by electric utility companies are part of the legacy of his dedicated representation of the Seventh District of Massachusetts.

Torbert H. Macdonald was an outstanding Congressman and a fine example of a human being. He will be sorely missed by those of us who loved and respected him.

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, it is with deep personal sadness that I join my colleagues in paying tribute to Torbert H. Macdonald, the esteemed Representative from Massachusetts. Torby's presence in this Chamber, where he was recognized as an outstanding legislator, will be sorely missed. The people in Torby's district will miss the compassion and concern with which he handled constituent problems. I will miss his counsel, companionship, and most of all his friendship which I have always valued so much.

I had the privilege of serving with Torbert Macdonald on the Government Operations Committee. To work with Torby was to learn from him, and the diligence, dedication, and brilliance that are reflected in his many achievements stand today as a shining example for every Member of this body. That Torby was taken from us in the prime of his extraordinary career, only heightens our sense of loss.

Most of us knew Torby for his legislative skill on the Interstate and Foreign Commerce Committee and the Communications Subcommittee which he chaired. Although he may best be remembered for his authorship of the bill ending sports blackouts, Torby was also responsible for providing long-range funding legislation for public broadcasting, and for raising the quality of children's television. In addition, Torby was a staunch defender of consumer rights and voter rights, as well as knowledgeable and active in the areas of transportation and energy regulation.

Torby excelled in nearly everything he did. From Harvard graduate, to PT boat skipper, to 11-term Congressman, Torby always did his homework, and quickly won the respect and admiration of those around him. His commitment to ideals, his tough, courageous spirit, and his exciting creativity, serve as a source of pride and honor to public servants everywhere.

Mr. Speaker, I know I speak for my colleagues as I express my sorrow and deep sympathy to Torby's wife and entire family. Torbert Macdonald will be greatly missed by his Massachusetts constituency and by this House, both of which he served so well.

Mr. WHITTEN. Mr. Speaker, I want to take this means of paying a brief but sincere tribute to the memory of a great public servant and add my voice to the many Members of this body who have expressed their deep sadness at the untimely passing of our colleague and friend the Honorable Torbert H. Macdonald of Massachusetts.

It seems incredible that practically on the eve of his announced retirement and our having to get used to doing without his help here that his death would likewise be announced. We shall miss him and extend to his wife and family our deepest sympathies.

Few men have left their personal mark on so many pieces of landmark legislation as our late friend, Torby, and he will be especially remembered by all of us armchair sports fans as the author of the legislation lifting television blackouts for hometeam professional football games which had been sold out before broadcast time.

Torby Macdonald was one of those

rare individuals who managed to combine the attributes of being an able and forceful legislator while remaining always a gentleman. He was the kind of Congressman who enhanced this body by his presence—a dear friend, and I feel privileged to have served with him and to have known the likes of TORBY MACDONALD.

Mr. MAZZOLI. Mr. Speaker, I have deliberated for days about an appropriate tribute to a man whose outstanding contributions to the Congress, his constituency, and the entire Nation cannot be adequately acclaimed in words. I am speaking, of course, about our distinguished friend and colleague, the late TORBERT MACDONALD.

I was deeply saddened by TORBY MACDONALD's death. But, my sadness was not simply the result of personal loss or of the loss to this Congress. It was for the loss the country has sustained by reason of TORBY MACDONALD's death.

He excelled in every activity he undertook throughout his life, from the pursuit of his education, to his service in the military, to his family life, and finally to his service in the Congress.

His legislative accomplishments are undeniable—he shepherded countless measures through the legislative labyrinth and into the statute books. He has left an imprint on the laws of this land.

TORBY's expertise in communications legislation will be sorely missed. His knowledge and leadership in consumer rights, transportation, energy regulation, and voter rights are, possibly, irreplaceable.

This son of the Bay State served his constituents with compassion, loyalty, and distinction. He served this body with dedication, diligence, and brilliance. All of these attributes—coupled with a great deal of love—characterize the service he provided his family.

I extend my sincerest sympathies and condolences to TORBY's wife and his entire family. Their loss is ours—we will miss him deeply.

Mr. HELSTOSKI. Mr. Speaker, I would like to join my fellow colleagues in expressing my deep sadness over the passing of Representative TORBERT H. MACDONALD. The Nation, the Congress, and, in particular, the Seventh District of Massachusetts, have lost a noble statesman, a great humanitarian, and a compassionate friend.

Born on June 6, 1917, TORBERT MACDONALD was educated in the local public schools of Malden, Mass., before going on to graduate from Harvard College and, eventually, Harvard Law School. While in college, he was an active participant in the sports program and he excelled in both baseball and football. In 1939 he was captain of the Harvard football team.

During that same time, TORBERT MACDONALD was a roommate of the late President John F. Kennedy. He commanded a PT boat in the southwest Pacific during World War II and, due to his bravery and valor, he was the recipient of the Silver Star, the Purple Heart, and a Presidential citation.

Since being eleceted to the 84th Congress in 1954, TORBERT MACDONALD served on the Interstate and Foreign Commerce Committee, chairman of the Subcommittee on Communications, and the Committee on Government Operations. Until the 94th Congress, I had the pleasure of serving on the Commerce Committee with him where I witnessed his outstanding leadership and his pursuit of legislative accomplishments in the area of public broadcasting.

TORBERT MACDONALD may best be remembered for his legislation to ban local blackouts for sold-out football games. He also fought to control violence on television and insure that the communications media would be used for the best interest of the public.

TORBERT MACDONALD's untimely death is a peronal loss to his family, his friends, and all those who have been touched by his many accomplishments. He leaves behind the admiration of his fellow colleagues and the respect of his friends and constituents.

Mr. Speaker, I am glad to have the opportunity to express my deepest sympathy and condolences to his wife, Phyllis, and his family. He will not be forgotten, as his memory will live in the hearts of those who believe.

Mr. McKINNEY. Mr. Speaker, it was not many weeks ago that the Members of this House were witness to a statement of unselfish courage and honesty that, while typical of TORBY MACDONALD, is rare in most men. His decision to retire from Congress and to step down immediately from his position as chairman of the House Communications Subcommittee testified to his deep devotion to serve his Massachusetts constituents and the people of the United States. Just as the best athletes intuitively know when to leave the game, TORBY decided that he could do the most for his "team" from the sidelines. It takes a big man to make such a decision, but as I have said, this was typical of TORBY.

I am sure that none of us had accepted the full impact of that announcement when we learned that TORBY was hospitalized again and that he had instructed the doctors to use no artificial devices to sustain him. Once again it was a decision of immense courage but not so surprising coming from TORBY. Perhaps this, too, was his way of saying that he had given his all and it was time to leave the game. If so, his competitive spirit did so most unwillingly.

TORBERT H. MACDONALD, a man of tall stature in the House of Representatives, is no longer present to guide us by his actions. But there can be no doubt that his conduct over the years and his decisions in the face of illness and death will continue to serve as inspirations for those of us in public service as well as his family, his friends, and the vast multitude of the American public who never got to know him except as a man of extraordinary courage.

Mr. Speaker, there is much that can be said about TORBY MACDONALD's career and accomplishments. The death of our friend and colleague will certainly affect us all in the House but the loss of his influence and advice will have an even greater impact for us in the Northeast.

In April when the distinguished majority leader made the initial announcement on the floor of TORBY's decision to retire, Mr. O'NEILL recounted many of TORBY's accomplishments during his 11 terms representing Massachusetts Seventh District. That lengthy list included bills dealing with some of the most serious problems confronting the Nation in recent years, among them energy, regulatory reform, and transportation.

Although party affiliation seated us on opposite sides of the aisle, geographically we had similar constituencies and his attempts to solve our mutual problems usually found me as one of his solid supporters. There is a natural tendency among politicians to look after the home district first, but TORBERT MACDONALD had that rare ability to focus on the national problems, not to the exclusion of his constituents' interest but to the benefit of the country's. His commitment and devotion to both of these constituencies was an inspiration to his colleagues in the House of Representatives. I had the pleasure of serving in this body with TORBY for only the last three terms. During these years I have seen how effective his leadership on the Interstate and Foreign Commerce Committee has been. His skillful guidance through passage of the Emergency Petroleum Allocation Act, the sports antiblackout law, and legislation to create and fund a public broadcasting network are only the most visible of his legislative achievements.

His performance as chairman of the former Power and Communications Subcommittee and the current Communications Subcommittee were often cited as examples of fairness and effectiveness in the legislative process. Witnesses appearing before him knew when their homework was incomplete because the chairman always put them to the test.

As was often heard from his contemporaries, there was much about TORBERT MACDONALD that the public and we "newcomers" to Congress did not know. His ability as an athlete in Harvard and later, his outstanding record in the Navy during World War II—as evidenced by the Silver Star displayed so proudly in his office—his service as personal adviser to his friend and President, John Kennedy: These were just a few of the unseen elements of the man.

When away from the Hill, sports continued to be one of his major interests. If you ever wanted to know how any of the Boston teams were doing, TORBY could give you the scores and the standings. I still have a vivid recollection of the World Series last fall when the rains came to Fenway Park during one of the games. The camera focused on TORBY sitting through the downpour but still smiling, his indifference to the weather as obvious as his enjoyment of the game. His love of competing was almost as great as his pleasure in winning, and we all know what a great competitor TORBY was.

All Americans owe a debt of gratitude to TORBERT H. MACDONALD for his years of service to the country. We shall miss his presence here on the floor, but our sympathy goes out to his family and relatives in their greater loss.

THE CASE FOR A TAX CUT IN ORDER TO CREATE JOBS AND FIGHT THE HIGH COST OF LIVING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. KEMP) is recognized for 15 minutes.

Mr. KEMP. Mr. Speaker, the question before the House is what produces jobs: more Government spending or tax cuts? A look at the historical evidence gives us a clear answer. Tax cuts have always produced rising employment and prosperity in our economy.

In the 1920s, beginning in 1921, tax rates were cut five times. The economy bounded out of the recession. The tax base expanded with business activity, and revenues poured into the Treasury. It was a period of successful economic policy, rising productivity and efficiency coupled with lower prices to the consumer.

People of energy and initiative found that there was a pay-off to productive effort. As I said, consumer prices fell as productivity grew; tax revenues expanded with employment and economic growth.

The New York Times editorialized in favor of cutting taxes in order to encourage industry and provide funds for capital investment. The newspaper said, correctly, that—

> A tax cut would lighten the demands upon millions of purses hard to fill. It would not only do away with oppressive taxes. It would lower the cost of living. It would release capital for productive industry and enterprise of all kinds. This would result in fuller employment of labor, multiplication of goods in common consumption, and probably bring about a period of great and legitimate expansion of industry and commerce never surpassed in the United States.

The Times was exactly right. Within 4 years of the tax cuts, the enormous expansion of the economy produced enough revenue gains to pay off a third of the national debt.

On the other hand, the 1930's under Hoover and Roosevelt was the decade of rising taxes and the worse unemployment and depression in our history.

Hoover raised both the inheritance tax and income tax from 23 to 45 percent and he imposed a 15-percent corporate tax rate. In 4 years Roosevelt pushed taxes so high that the marginal rate became 92 percent.

The drag of high tax policy on the economy became so obvious that Congress in May of 1938 forced, over the President's protests, the repeal of the 1936 tax on undistributed profits and cut the corporate tax rate. Promptly afterward, the recession officially bottomed out.

Further tax cuts followed the end of World War II, and in 1948 Congress passed a $5 billion tax cut over Truman's veto. The Keynesian economists, who often misuse economics to justify a bigger government sector and more government spending, predicted that the $5 billion tax cut would worsen inflation. But with the tax cut came the end of inflation.

The 1950's, the Eisenhower years, although not a return to the tax increases of the 1930's was dominated by the mistaken idea that tax cuts mean revenue losses and budget deficits. Although we were spared the economy-collapsing tax increases of the 1930's, we did not get during the 1950's the economy-booming tax cuts of the 1920's and 1940's.

Those tax cuts came again in the 1960's with $20 billion in tax reductions between 1962 and 1965. Instead of deficits, the result was increased tax revenues which financed the Great Society programs and the Vietnam war.

Ironically, when free enterprise Republicans today call for tax cuts, the response of liberal Democrats, who want more government spending for a bigger government sector, charge that revenue losses will result. They claim that increased spending in the Government sector is a better way to create jobs than increased spending on consumption and investment in the private sector.

Following the logic behind the Humphrey/Hawkins bill, New York City should be the most prosperous area in the country. Over a 12-year period the city added about 150,000 people to the government job rolls. But prosperity did not result. Instead taxes went up, productivity went down and the unemployment rate climbed—in spite of the 150,000 new government jobs.

In the same period on the Federal level, Government spending rose from $100 to $400 billion. And the unemployment rate rose with it.

The facts are there, and they speak for themselves. When we cut taxes for consumers, people are left with more of their earnings in their pay checks. Both consumer spending and saving go up. Even more importantly, reducing taxes on work means people will work more and produce more.

When consumer spending goes up, the consumer goods industries are stimulated to hire more workers. Employment increases, more goods and services are produced, and the tax base rises and brings in more revenue.

When consumer saving goes up, more money is available for home mortgages and to provide loans for business expansion. Building construction expands as more homes and factories are built.

When we cut taxes for business, we let firms both keep more of their profits from their existing operations and expect more profits from expanding their operations. It encourages business expansion and provides the funds for it.

Cutting taxes is a much better approach than increased Govervnment spending. When consumers spend their own money on consumer goods, they end up with more of what they want instead of more of what Government bureaucrats want. When tax cuts lead to new construction and investments, the result is new factories, new equipment, new and better productive capacity. These things provide new jobs immediately while they are being built and then continue to provide jobs afterwards while they are in operation.

The construction workers benefit as well as the workers who are hired to run the new factories which are producing the goods that consumers are calling for by spending their money in the market place. As a result of tax cuts we get new productive capacity which continues to provide goods and employment for years to come.

The tax cuts not only encourage work by letting our working men and women keep more of their earnings, they also lead to higher earnings. This is because wages are determined by the amount and quality of tools and equipment with which workers have to work. New technology and better tools are provided to workers through new investments. The more capital investment per worker, the higher the wages. Countries with a growing capital stock per worker can provide growing wages. It is investment that provides economic growth.

I am disturbed by the agitation against economic growth coming from some academic quarters and from some of the prosperous who are able to spend a lot of leisure time out of doors. There is too much unemployment in this country, and there are a lot of new people entering the labor force in coming years. This is no time to give up on economic progress. We have got to invest and grow to provide jobs for productive employment which will give people the material base upon which to build successful lives.

I am disturbed by the myth that a combination of bigger government deficits and easy money policy by the Federal Reserve System is the path to full employment. People who believe in this policy think that deficits increase consumer demand for goods, while easy money means low interest rates and encourages business investment as well as consumer installment purchasing.

But bigger deficits and easy money mean inflation, and it is not possible to have low interest rates when there is inflation. When Government is using up the supply of private savings in the credit markets to finance its deficit, an upward pressure is being put on the interest rate. If you increase the demand for credit without increasing the supply of savings, you drive up the interest rate. The Federal Reserve System cannot increase the supply of savings by printing more money. You can only increase saving by reducing consumption or by reducing taxes. Printing more money merely adds to the inflation and drives interest rates higher.

The economic policy needed to hold down inflation and to restore full employment requires no restrictions on individual freedom. It requires no price controls, no public works programs, no income redistribution, no additional taxes, no bigger deficits, no larger government sector. All that is needed is a tax cut with a reduction of excess Government spending.

In an editorial on the Humphrey/Hawkins bill the Christian Science Monitor stated that—

> Mr. Hawkins emphasized the bill's hopes for achieving its goals through the private sector . . . He said he was all in favor of corporate tax incentives—if they could be shown to serve not merely profits but the goals of full employment and balanced growth. It would only be the failure of the private sector to provide the jobs which would require the governmental programs provided for in the bill.

Mr. Speaker, the historical record is clear. Tax cuts put people to work in the 1920's, the 1940's, the 1960's, and they will put people to work today.

The only way the private sector can fail to provide enough new jobs is if the Government prevents it by more taxes that discourage work, more deficits that eat up jobs-creating capital investment by soaking up the country's savings, and more Government that soaks up the people's earnings.

The Humphrey/Hawkins bill does not reduce a single tax.

But it does increase the Government's role at the expense of the productive private sector of our economy.

The Humphrey/Hawkins bill is an effort to apply the policies that have wrecked the British economy to the United States.

There are lessons to be learned from Great Britain, and we should learn them before we wreck our economy. The British Chancellor of the Exchequer, Denis Healey, said that public spending is rising to the level where the taxes needed to cover it would erode the will to work. He said that the result of 30 years of growth of public spending in Britain is a shrunken industry, and "if we want to regenerate manufacturing industry, then we must leave enough resources free from public expenditure."

That is excellent advice from Britain's ruling socialist party. Before we Britainize and destroy our own economy, we must cut taxes.

IS MAGNA CARTA LAW?

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland (Mr. BAUMAN) is recognized for 5 minutes.

Mr. BAUMAN. Mr. Speaker, as most of us well know, that great charter of liberty, Magna Carta, has been much in the news of late. All of us were honored by the recent presentation of an original copy of this great document which was made to the Congress by Parliament and Her Majesty the Queen of the United Kingdom. Although there was some well placed concern about the cost to the American taxpayers of sending a congressional delegation to London for several days to receive a symbolic presentation of Magna Carta, no one doubts the historic significance of this charter of the rights of man signed by King John at Runnymede in 1215.

This document was presented to the Congress with attendant ceremony in the Rotunda of the Capitol last week. The remarks of the Lord Chancellor of England and our own Speaker of the House were most appropriate for the occasion.

But all of this panoply of ceremony and speech ignores a very fundamental question: Is Magna Carta really the law after all these years?

In an effort to respond to this important question I recently turned to a well-known authority on uncommon law, A. P. Herbert, who many years ago reported a number of leading legal cases handed down in the British courts. One of these dealt exactly with the question of the modern application of Magna Carta within the realm that is today Socialist Great Britain.

At this point I include the opinion of Mr. Justice Lugg in the case of Rex against Haddock, in the hope that it will both edify my colleagues and serve as a warning to those who formulate our own national policies.

The case follows:

REX AGAINST HADDOCK—IS MAGNA CARTA LAW?

The hearing of this appeal, which raised a novel point of law, was concluded in the High Court to-day.

Mr. Justice Lugg (delivering judgment): In this case the defendant, one Haddock, is appealing on a case stated from a conviction by a Court of Summary Jurisdiction under the Transport and Irritation of Motorists Act, 1920. The defendant was summoned before the Gerrard Street magistrates on a charge of causing an obstruction in a public thoroughfare by leaving his motor-car unattended for two hours and ten minutes on the night of December 31, 1925.

The case for the defence was that the motor-car had not in fact caused an obstruction, and it was sworn in evidence that the road was not in fact a thoroughfare at all in the ordinary sense of the term, but a short blind alley terminating in a blank wall, against which wall the motor-car was left with the lights burning, according to law; and the police-officer who made the charge was unable to say that during the period in question he had seen any other vehicle, or indeed any other human being, enter the thoroughfare which the defendant's vehicle was obstructing. The magistrates, however, very properly, as I think, brushed aside this somewhat frivolous defence and ordered Mr. Haddock to pay a fine of two pounds and the costs of the prosecution, with additional costs of one pound for conducting his defence in rhymed couplets.

Mr. Haddock has now appealed on a point of law, which I confess is novel to me, under the fourteenth chapter of Magna Carta. The fourteenth chapter of Magna Carta is directed against excessive fines, and provides that:

"A freeman shall not be amerced [that is, fined] for a small fault, but after the manner of the fault, and for a great fault after the greatness thereof. . . ."

And it has been powerfully argued by Sir Rowland Wash that since there is nothing in the Irritation of Motorists Act or in any other statute repealing or suspending this particular chapter, the Irritation of Motorists Act must be read in conjunction with that chapter; that the fine of two pounds is excessive and not 'after the manner of the fault', which is a small one, and that it ought to be reduced.

Now, in private, and even more in public, life there is no doubt that persons are accustomed to speak loosely of Magna Carta as the enduring foundation of what are known as the liberties of the subject, and to assume that that Charter is as potent a measure to-day as at the time of its origin. But, if we examine the Great Charter, as I did for the first time in bed this morning, we are led towards the conclusion that, if this is the foundation of the liberties of the subject, then these liberties are not so numerous as is commonly supposed; for out of the thirty-seven chapters of Magna Carta at least twenty-three have become obsolete, or have been abolished by later legislation, while among the fourteen which are not definitely extinguished there are at least as many for the benefit of the Crown as for the benefit of the subject, and the remainder have only a precarious existence, if any. In Chapter 8, for example, and Chapter 18, which begins:

"If any that holdeth of us lay-fee do die, and our sheriff or baliff do show our letters-patent of our summons for debt, which the dead man did owe to us, it shall be lawful to our sheriff or baliff to attach and inroll all the goods and chattels of the dead. . . ."

it is laid down very clearly that debts owing to Government Departments take precedence of all other debts; but it would be difficult to found upon these chapters any extravagant description of Magna Carta as the fountain of individual freedom. Again, the ordinary citizen will extract no particular satisfaction from the assurance of Chapter 23, that:

"All weirs from henceforth shall be utterly pulled down in the Thames and Medway, and through all England, but only by the sea-coasts."

Macaulay said that the blood of the uttermost settler in the northern deserts of Australia flowed more freely in his veins as he lay beneath the Southern Cross and studied by its light the unforgettable conclusion of Chapter 29:

"To no man will we sell, to no man deny, to no man delay, justice or right."

But we in this Court are well aware that these undertakings have very little relation to the harsh facts of experience. All that can be said is that much justice is sold at quite reasonable prices, and that there are still many citizens who can afford to buy the more expensive brands. If a man has no money at all he can get justice for nothing: but if he has any money he will have to buy justice, and even then may have to go without right (for the two expressions are not always synonymous). Indeed, there is something to be said for selling, denying, and delaying some sorts of justice. The thoughtful observer will distinguish between litigation which is a genuine pursuit of justice, such as a prosecution for embezzlement or murder, and the litigation which is a mere luxury, hobby, disease, profession, or species of blackmail, such as are many libel actions and nearly all suits for breach of promise of marriage. The proper business of the Courts could not be conducted if every citizen who conceived himself insulted could immediately bring an action for defamation without cost to himself. Fish-porters and charwomen pass through life exchanging frank opinions about each other's characters, but never, so far as is known, feel the itch to bring an action for defamation. They could not if they wished: so it might be said that justice is denied them. But they do not wish: and no great hardship is suffered. As for the delay, there can be no dignity without what appears to the thoughtless to be delay. But, beyond that, there will always be a certain delay in the Courts so long as the Crown and Parliament decline to equip them with an adequate supply of judges and shorthand-writers. At all events, the statutory pledges of the Crown set out above mean very little to-day.

Again, in Chapter 30, it is laid down that:

"All merchants shall have their safe and sure conduct to depart out of England, to come into England, to tarry in and go through England as well by land as by water, to buy and sell, without any manner of evil tolls (i.e. extortions) by the old and rightful customs."

But he would be a bold advocate who contended that this was an accurate statement of the law, or, at any rate, the practice of the land to-day. No man, merchant or no, can depart out of England, come into England, tarry in England, or buy or sell without all manner of tolls, extortions, and hindrances by the Crown, which is very right and proper but is not Magna Carta.

Again, it was argued before me that at least that portion of Chapter 29 still has effect which reads:

"Nor will we proceed against a freeman, nor condemn him, but by lawful judgment of his peers or by the law of the land."

But it was proved in evidence that in fact this method of condemning the freeman is the exception rather than the rule, and it was suggested that this portion of Magna Carta must be interpreted in the light of recent statutes, so that it reads:

"Nor will we proceed against a freeman, nor condemn him, but by lawful judgment of his peers or by the law of the land, or Government Departments, or Marketing Boards, or Impregnable Monopolies, or Trade Unions, or fussy Societies, or Licensing Magistrates, or officious policemen, or foolish regulations by a Clerk in the Home Office made and provided."

And in fact in the present case the defendant was not proceeded against by the law of the land, but by regulation; nor was he condemned by his peers, but by a policeman who expected half a crown, and by a magistrate antipathetical to the motorist.

Now, Lord Mildew said in *Klaxon* v. *Great Western Railway* (1871) 2 Q.B.: 'The whole is greater than the part', and this is undoubtedly the law. So if, on a detailed examination of a statute, as of a bicycle, it is found that nearly every part is obsolete or has been destroyed, there is a strong presumption that the whole has for practical purposes ceased to exist. And in this case I am satisfied that so little of Magna Carta is left that nothing of Magna Carta is left, and therefore that chapter on which the appellant relies must be taken to have perished with the others.

The appellant has done his country an ill service in raising this point, for but for his rash act generations of English orators might have continued in the fond belief that Magna Carta was still the abiding bulwark of our liberties, and for that act I shall order him to pay a further fine of five pounds.[1] But it is no part of my duty to conceal the truth, and I am compelled to declare with some reluctance that Magna Carta is no longer law.

The appeal was dismissed.

INTERNATIONAL MONETARY MARKETS AND AMERICAN POCKETBOOKS

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ) is recognized for 5 minutes.

Mr. **GONZALEZ**. Mr. Speaker, as I promised to do last week I now wish to begin a series of discussions.

There are few subjects more arcane than the world of international monetary arrangements. It is not an easy subject to understand; it is not a subject that excites much interest or enthusiasm. It is, moreover, a subject that no expert has ever wholly mastered. Even so, what happens in the world of international monetary policy has a direct bearing on American pocketbooks. For that reason, we have an obligation to understand the subject as best we can—the more so, because the House will soon be called upon to ratify the latest agreement on monetary policy. It is not much of an agreement, but it is all we have got; the question is whether it is a good one.

The agreement that we will be asked to approve is not a true reform of the world monetary system. It is far from being an instrument as profound as the Bretton Woods agreement of 1944. It is at best an interim arrangement, something that its authors hope will last until something better can be worked out.

Monetary policies in the past 10 years have had a melancholy history. The latest agreement, reached after a 5-year struggle, should give no one cause for jubilation. It is a mixed bag, partly good because it at least formalizes a number of de facto practices that have evolved since 1971; partly bad, because its provisions on gold are very likely a backward step.

Why should any of this concern us? For the simple reason that our own lives are profoundly affected by the abstruse question of what the value of one kind of money is, against the value of another.

From 1944 until 1971, the dollar had a single fixed value, unchanging, and many thought, unchangeable. We expressed that value as being $1 equaling one-thirty-fifth of an ounce of gold. Theoretically at least, anybody having a claim on the American dollar could get paid either in dollars or gold; after all, they had the same value. The problem was that this system was adopted at a time when the United States had the only truly strong economy in the world. As the rest of the world emerged from the destruction and ruin of World War II, our relative strength declined. We were and remain far and away the strongest economic force in the world—but the power is shared today, in a way that it was not in 1944. Economic reality changed, but the monetary system did not change with it.

As time passed, the convertibility of the dollar into gold became a fiction; it was convenient, but a fiction. By the sixties, our currency became seriously overvalued, in terms of other national currencies. That created problems for us.

If a currency is overvalued, one result is a growing market for foreign goods. Slowly, U.S. trade balances declined, and then fell into a deficit. This was fine, as long as other countries needed dollars and wanted them. But there came a time when too many dollars were left abroad, and fewer people wanted or needed them. That created the overvaluation that I spoke of. On the international scene, this manifested itself in the form of currency speculation, and rescue operations designed to maintain the old, but out of line rate for the dollar. At home, it was manifested in the form of excessive imports. Americans lost their jobs in growing numbers, until at last perhaps three quarters of a million people lost their jobs because of markets lost to imported goods.

The increasing loss of jobs caused by an overvalued dollar led to demands for high tariffs. The most extreme of these demands came in the form of the Burke-Hartke bill and others like it.

Finally, in 1971, the administration decided that it was no longer possible to maintain the 1944 value of the dollar. It was a fictional value by then; everyone knew it, and no one believed it could be defended. Even so, nobody had a clear idea of what should be done next. Today, 5 years later, there is a better idea of what should be done, but nobody is making much progress toward replacing the monetary system that was junked when Mr. Nixon closed the gold window.

At first, the administration tried to save the fixed-rate exchange system, whereby all countries undertook to maintain a fixed value for their currencies, relative to others. But the Smithsonian agreement reached in late 1971, setting up these new values, and at the time hailed as the greatest monetary agreement in history, only survived a few months. It turned out that nobody really believed fixed rates could be maintained any more, in the face of determined and well-fed speculators. By that time, after all, everyone knew that currency speculation in a fixed exchange system was absolutely safe. There was no way you could lose, because there was a floor value for the money you were betting against. It was not long before Congress found itself faced with a second request for a dollar devaluation. This we duly passed, but this time, the monetary world had changed completely. This time, nobody undertook to defend the new dollar value; fixed exchange rates breathed their last in the speculative onslaught that tore apart the Smithsonian agreement.

We were told that the solution to the world's monetary ills was to let exchange rates float. That way, if your money was over or under valued, the market would set things aright. No fuss, no muss. But this assumed that the monetary market works like Adam Smith's idealized world. It did not and does not. Floating rates can create problems for governments, and so governments do not allow the money markets to work entirely without interference. Government interventions in the money market are frequent, and designed to promote the interests of the governments concerned. There is even a name for this practice: "dirty floating." That is, governments may agree to let the market do what it will with their currencies, but they are not averse to loading the dice or putting a little weight under the roulette wheel, or helping their hands along with an extra card or two.

The Jamaica agreement in effect recognizes this, by calling for countries to cooperate in their market interventions. But the extent of this cooperation may be very small indeed, if as some suspect, Great Britain and Japan are deliberately maintaining an artificially low value on their currencies. It is clear that the British pound sterling is well below any rational price—whether this is because of some deliberate practice, or because of a general flight from that currency. The yen is likewise undervalued—and here, it is very likely because the Government of Japan likes it that way. If that is so, the kind of coordinated floating that the Jamaica agreement calls for, and which we are supposed to ratify, is already in clear danger of collapse.

At least one eminent expert, Fred Bergsten, clearly recognizes the danger, and has urged in the strongest possible terms that the United States press toward getting an international handle on the monetary markets; if dirty floating gets wholly out of hand, we will end up in the same position we were in back in 1971—with an overvalued currency, bloated imports, and growing unemployment.

None of this is easy to understand, and to most, it seems a little unimportant. The fact is, however, that having and keeping a proper value on our national currency makes a crucial difference in all our lives.

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[1] He recalled how, in the chancel of Tewkesbury Abbey, he once came across a stone to one of the barons of Magna Carta on which were the words *"Magna Carta est lex. Deinde caveat rex"* ("Magna Carta is the law, and let the king look out"). (Mr. Stanley Baldwin in Westminster Hall, July 4, 1935.)

If our money is undervalued, we enjoy growing exports, but we also induce new inflationary pressures, which leads in turn to high interest rates. If countries seek to jockey for position in cheapening their currencies, destructive trade wars can result, with effects that benefit some for awhile, but eventually beggar everyone.

If our money is overvalued, we lose export markets, lose jobs, and face domestic problems of growing intensity. So we have much at stake in the world monetary markets.

Island economies, that depend on trade, appreciate and understand all this much more than we do, because monetary events are absolutely vital to them. Yet world trade is a fact that even we cannot ignore—if we ignore it, we invite disaster. We should be more sensitive about the international monetary agreements that have been reached, for they sooner or later affect us all.

The Jamaica agreement, insofar as it affects only the monetary markets, only formalized the arrangements that have grown up since 1971, legitimizing procedures and processes that have never had the benefit of concrete agreement. That much is good. Yet it is far too much to say that the Jamaica agreement is anything more than a rickety way-station, and its survival depends on the good will and good sense of the world's central bankers. How they will react in a hurricane is very much open to question.

Aside from setting up arrangements to handle the more or less free float of world currencies, the Jamaica agreement undertook to establish some new understandings about gold, that most intractable of money problems. Unhappily, the gold arrangements are less than good, and may carry with them the seeds that will destroy what little good there is in the Jamaica agreement. On this, I will have more to say tomorrow.

THE NIKULINA FAMILY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. Moakley) is recognized for 5 minutes.

Mr. MOAKLEY. Mr. Speaker, all of the nations which signed the Helsinki Final Act, including the Soviet Union, pledged to do everything possible to reunite families separated by political boundaries.

Because the Soviet Union is not living up to that promise, Members of Congress are conducting a vigil on behalf of the families which remain separated.

A case history of these families entitled "Orphans of the Exodus" dramatically details this tragic problem. At this time I would like to bring to the Members' attention the situation of the Nikulina family.

Ideya Yefimovna Nikulina

Birthdate:

Occupation: Both she and her husband were engineers at the Omsk Aviation Factory until 1968.

Marital Status: Married, one son.

Applied: 1973:

Refused: 1973.

Reason for Refusal: None given.

Ideya Yefimovna Nikulina, Ul.Gorkovo 21, Kv 13, ODESSA, USSR.

Mother: Mrs. Tsiva Maznova, Shikun Per 5/4, Hadera, Israel.

Iteya Nikulina lives with her husband and son in Odessa. All of her remaining relatives live in Israel. Since 1973 she and her family have repeatedly applied for exit visas. Each time they have received refusals with no explanation given.

In the past, both she and her husband worked as engineers at the Omsk aviation factory. But their employment was terminated in 1968. Surely any "secrets" they may have acquired at the factory have either been forgotten or made obsolete in the seven years that have elapsed. In 1973, they left Omsk to be with her parents in Odessa and there they found work in a foundry.

In an urgent request for help, Ideya's mother wrote from Israel on October 27, 1975:

"With tears in my eyes I turn to you with a mother's plea to rescue my children from ruin. I say "ruin" without exaggeration, because they are indeed on the verge of ruination. . . .

It has been more than two years since they were deprived of earning a living, deprived of a permanent living place, deprived of elementary human conditions. They wander in unfriendly environments in an effort to procure a livelihood by selling much needed warm clothes.

Half starved, homeless, they are pained to see their child suffering (from epilepsy) as a consequence of his experience and being deprived of schooling, because they do not have a permanent residence. For three years they have been going to the Odessa office of OVIR for a permit, but instead they get refusals without stating any reason.

Because of the horrible inhumane conditions in which they find themselves—conditions fraught with fatal consequences about which it is terrifying even to think, I now appeal to you to use your influence to save my children.

At the present time they are in great distress. But I can't be of much help to them. My husband, a pensioner, is an invalid; he lost both hands in World War II. I, myself, have a heart ailment and I can't work.

Thank you in advance for your kindness."

EXPLANATION OF AMENDMENT TO REVENUE SHARING BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. Minish) is recognized for 5 minutes.

Mr. MINISH. Mr. Speaker, I shall be offering an amendment to the revenue sharing bill when that legislation is considered by the House. In compliance with the rule on H.R. 13367, therefore, I am having my amendment printed in today's Record and would like to take this opportunity to explain its purpose to the House.

The amendment is designed to correct a glaring inequity in the present revenue sharing system and one which will be perpetuated under H.R. 13367 unless this amendment is adopted.

The amendment, I emphasize, applies only to a few limited instances wherein the present formula results in highly discriminatory treatment between townships and other kinds of localities. It would not affect those situations in which townships truly are different than other localities and ought to be treated differently and it would not alter the components of the formula.

Let me point out that I am a supporter of general revenue sharing, and am offering this amendment only in the hope of strengthening the credibility of the program.

Mr. Speaker, when one examines the schedule of payments to localities in my area of New Jersey during the life of the revenue sharing program, it is apparent to me and to numerous elected officials, as well as to ordinary taxpaying citizens, that gross distortions have occurred in the program by virtue of the distribution formula employed. The present formula, which is generally equitable, results in a different treatment of townships versus other kinds of local governments. In most instances, this is perfectly legitimate, however, in some areas it is grossly unfair.

Blind application of the formula, with no consideration of its results, has resulted in communities in the same area, with virtually the same population, similar income levels, identical problems, and comparable tax efforts, receiving greatly divergent revenue sharing payments. The situation would be ridiculous if it were not so serious to the affected communities.

I shall cite just a few examples of a pattern which repeats itself throughout my area. The communities of Verona and Cedar Grove, N.J., border each other, differ in population by only a few hundred, and cover almost identical land areas.

They have similar concerns and tax levels and the same type of mayor-council government. While the per capita income levels of the two communities do differ to some extent, this is not sufficient justification for the township of Cedar Grove receiving six times the amount of revenue-sharing money as the borough of Verona. Thus far, under the revenue sharing program, Verona has received a total of $213,333.00 while Cedar Grove's total is $1,242,151.00

In other areas, Montclair and South Orange—nontownships—have received much less per capita than nearby communities despite the fact that the taxes and incomes of these localities do not differ to the extent reflected in their revenue sharing payments. Overall, the town of Montclair received $17.92 per capita from the program and South Orange Village has garnered $15.86. In contrast, Maplewood, a township, received $70.03 per capita.

Irvington and Maplewood also border each other but do differ significantly. Irvington has a population of nearly 60,000, Maplewood less than 25,000. Irvington also has a substantially lower income than Maplewood. Yet, Irvington has received $37.47 per capita, while Maplewood has received $70.03. Why? Because Maplewood is a township.

As I stated, these discrepancies result from the fact that, under the formula, certain types of localities are treated differently simply by virtue of their historical designation.

Generally speaking, townships may indeed be "different" than other kinds of local governments in most parts of the nation. However, in New Jersey there are three basic levels of general purpose government. That is, the State, 21 counties, and the localities. The latter category included towns, cities, villages, boroughs, and townships. There is no significant difference between the localities in terms of the type, functions, or powers of their governments. The difference is in name only and it has even been suggested that some municipalities change their name—from "township of ——" to borough of ——" or "town of ——"—in order to receive more Federal revenue-sharing money.

I strongly urge the House to correct this absurd inequity by passing the amendment which states that when, in fact, localities are identical in terms of their powers and duties they shall be treated identically under the formula except that funds would continue to be distributed on the basis of population, income, and tax effort or whatever factors you decide to include.

SEVENTH TRIENNIAL MEETING OF INTERNATIONAL PUBLIC RELATIONS ASSOCIATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. O'NEILL) is recognized for 5 minutes.

Mr. O'NEILL. Mr. Speaker, on August 11 the seventh triennial worldwide meeting of the International Public Relations Association will convene in Boston. This will be the first such meeting to take place in the United States.

The world congresses offer an opportunity for public relations professionals from all over the world to exchange information and ideas. Perhaps the most interesting discussion will focus on the concerns raised in the International Code of Ethics, and in the Code of Professional Standards for the U.S. Public Relations Society.

I include this material for Members' consideration:

PUBLIC RELATIONS SOCIETY OF AMERICA

DECLARATION OF PRINCIPLES

Members of the Public Relations Society of America acknowledge and publicly declare that the public relations profession in serving the legitimate interests of clients or employers is dedicated fundamentally to the goals of better mutual understanding and cooperation among the diverse individuals, groups, institutions and elements of our modern society.

In the performance of this mission, we pledge ourselves:

1. To conduct ourselves both privately and professionally in accord with the public welfare.

2. To be guided in all our activities by the generally accepted standards of truth, accuracy, fair dealing and good taste.

3. To support efforts designed to increase the proficiency of the profession by encouraging the continuous development of sound training and resourceful education in the practice of public relations.

4. To adhere faithfully to provisions of the duly adopted Code of Professional Standards for the Practice of Public Relations, a copy of which is in the possession of every member.

CODE OF PROFESSIONAL STANDARDS FOR THE PRACTICE OF PUBLIC RELATIONS

This Code of Professional Standards for the Practice of Public Relations is adopted by the Public Relations Society of America to promote and maintain high standards of public service and conduct among its members in order that membership in the Society may be deemed a badge of ethical conduct: that Public Relations justly may be regarded as a profession; that the public may have increasing confidence in its integrity; and that the practice of Public Relations may best serve the public interest.

1. A member has a general duty of fair dealing towards his clients or employers, past and present, his fellow members and the general public.

2. A member shall conduct his professional life in accord with the public welfare.

3. A member has the affirmative duty of adhering to generally accepted standards of accuracy, truth and good taste.

4. A member shall not represent conflicting or competing interests without the express consent of those concerned, given after a full disclosure of the facts; nor shall he place himself in a position where his interest is or may be in conflict with his duty to his client, employer, another member or the public, without a full disclosure of such interests to all concerned.

5. A member shall safeguard the confidences of both present and former clients or employers and shall not accept retainers or employment which may involve the disclosure or use of these confidences to the disadvantage or prejudice of such clients or employers.

6. A member shall not engage in any practice which tends to corrupt the integrity of channels of public communication.

7. A member shall not intentionally disseminate false or misleading information and is obligated to use ordinary care to avoid dissemination of false or misleading information.

8. A member shall be prepared to identify to the public the source of any communication for which he is responsible, including the name of the client or employer on whose behalf the communication is made.

9. A member shall not make use of any individual or organization purporting to serve or represent some announced cause, or purporting to be independent or unbiased, but actually serving an undisclosed special or private interest of a member or his client or his employer.

10. A member shall not intentionally injure the professional reputation or practice of another member. However, if a member has evidence that another member has been guilty of unethical, illegal or unfair practices, including practices in violation of this Code, he should present the information to the proper authorities of the Society for action in accordance with the procedure set forth in Article XIII of the Bylaws.

11. A member shall not employ methods tending to be derogatory of another member's client or employer or of the products, business or services of such client or employer.

12. In performing services for a client or employer a member shall not accept fees, commissions or any other valuable consideration in connection with those services from anyone other than his client or employer without the express consent of his client or employer, given after a full disclosure of the facts.

13. A member shall not propose to a prospective client or employer that the amount of his fee or other compensation be contingent on or measured by the achievement of specified results; nor shall he enter into any fee agreement to the same effect.

14. A member shall not encroach upon the professional employment of another member. Where there are two engagements, both must be assured that there is no conflict between them.

15. A member shall, as soon as possible, sever his relations with any organization when he knows or should know that his continued employment would require him to conduct himself contrary to the principles of this Code.

16. A member called as a witness in a proceeding for the enforcement of this Code shall be bound to appear unless, for sufficient reason, he shall be excused by the panel hearing the same.

17. A member shall co-operate with fellow members in upholding and enforcing this Code.

INTERNATIONAL CODE OF ETHICS

CODE OF ATHENS

(English Version, modifications, Tehran meeting, April 17, 1968)

Considering that all Member countries of the United Nations Organization have agreed to abide by its Charter which reaffirms "its faith in fundamental human rights, in the dignity and worth of the human person" and that having regard to the very nature of their profession, Public Relations practitioners in these countries should undertake to ascertain and observe the principles set out in this Charter,

Considering that, apart from "rights" human beings have not only physical or material needs but also intellectual, moral and social needs, and that their rights are of real benefit to them only in so far as these needs are essentially met,

Considering that, in the course of their professional duties and depending on how these duties are performed, Public Relations practitioners can substantially help to meet these intellectual, moral and social needs,

And lastly, considering that the use of techniques enabling them to come simultaneously into contact with millions of people gives Public Relations practitioners a power that has to be restrained by the observance of a strict moral code.

On all these grounds the Public Relations Associations which have recognized the present document declare that they accept as their moral Charter the principles of the following Code of Ethics, and that if, in the light of evidence submitted to the Council, a member of these associations should be found to have infringed this Code in the course of his professional duties, he will be deemed to be guilty of serious misconduct calling for an appropriate penalty.

Accordingly, each Member of these Associations: Shall endeavour

Clause 1. To contribute to the achievement of the moral and cultural conditions enabling human beings to reach their full stature and enjoy the indefeasible rights to which they are entitled under the "Universal Declaration of Human Rights";

Clause 2. To establish communication patterns and channels which, by fostering the free flow of essential information, will make each member of the society in which he lives feel that he is being kept informed, and also give him an awareness of his own personal involvement and responsibility, and of his solidarity with other members;

Clause 3. To bear in mind that, because of the relationship between his profession and the public, his conduct—even in private—will have an impact on the way in which the profession as a whole is appraised;

Clause 4. To respect, in the course of his professional duties, the moral principles and rules of the "Universal Declaration of Human Rights";

Clause 5. To pay due regard to, and uphold, human dignity, and to recognise the right of each individual to judge for himself;

Clause 6. To encourage the moral, psychological and intellectual conditions for dialogue in its true sense, and to recognise the right of the parties involved to state their case and express their views; shall undertake

Clause 7. To conduct himself always and in all circumstances in such a manner as to deserve and secure the confidence of those with whom he comes into contact;

Clause 8. To act, in all circumstances, in such a manner as to take account of the respective interests of the parties involved: both the interests of the organisation which he serves and the interest of the publics concerned;

Clause 9. To carry out his duties with integrity, avoiding language likely to lead to ambiguity or misunderstanding, and to maintain loyalty to his clients or employers, whether past or present; shall retain from:

Clause 10. Subordinating the truth to other requirements;

Clause 11. Circulating information which is not based on established and ascertainable facts;

Clause 12. Taking part in any venture or undertaking which is unethical or dishonest or capable of impairing human dignity and integrity;

Clause 13. Using any "manipulate" methods or techniques designed to create subconscious motivations which the individual cannot control of his own free will and so cannot be held accountable for the action taken on them.

U.S. CANAL ZONE AND PANAMA CANAL: SOVEREIGNTY QUESTIONS CLARIFIED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. FLOOD) is recognized for 15 minutes.

Mr. FLOOD. Mr. Speaker, in the current public and congressional discussions over the status of the U.S. Canal Zone and Panama Canal there has been, and still is, much confusion on the question of sovereignty over the zone. In fact, much of this bewildering debate, spearheaded by the Secretary of State and other officials in his agency, attempts to establish that the U.S. Canal Zone is Panamanian territory under the jurisdiction of the United States, which is a completely false contention. The title of the United States to the Canal Zone is as valid as its titles to the Louisiana purchase or Alaska.

It must be recognized that the Panama Canal operates under five treaties:

First. The 1901 Hay-Pauncefote Treaty with Great Britain, in which the United States made the long term commitment to construct and operate an Isthmian Canal under the 1888 Convention of Constantinople for the operation of the Suez Canal;

Second. The 1903 Hay-Bunau-Varilla Treaty with Panama for the acquisition of the Canal Zone and the construction, maintenance, operation, sanitation, and protection of the Panama Canal;

Third. The 1914–22 Thomson-Urrutia Treaty with Colombia in settlement of the differences with that country growing out of the 1903 Panama Revolution.

Fourth. The 1936–39 and 1955 treaties with Panama amending but reaffirming the basic provisions of the 1903 Hay-Bunau-Varilla Treaty as regards the undiluted U.S. sovereign control over the Canal Zone.

If the three treaties with Panama, only the 1903 Hay-Bunau-Varilla was negotiated pursuant to advance congressional authorization—Spooner Act of 1902. The 1936 and 1955 treaties were negotiated on executive initiative without advance congressional authorization. The current treaty negotiations for the surrender of U.S. sovereignty over the zone territory, now being conducted without such authorization, have aroused an overwhelming opposition on the part of the sovereign people of the United States, who are far ahead of their Government in understanding the realities involved.

Has the State Department negotiated with Great Britain for the revision of the 1901 Hay-Pauncefote Treaty? So far as known, it has not. Has this agency secured the authorization of the Congress for the disposal of territory and property of the United States in the Canal Zone? It has not done so, but instead has run into strong opposition in both the Senate and House as well as large national organizations such as the American Legion, the Veterans of Foreign Wars, and the U.S. Industrial Council.

This opposition includes that of capable lawyers who have studied the canal treaty question, among them Alfred J. Schweppe of Seattle, Wash. In a recent analysis of the principal treaty provisions relating to the Canal Zone sovereignty question, he exposes with a devastating logic some of the semantic frauds and deceptions now being attempted under State Department sponsorship.

Mr. Speaker, I wish to commend Mr. Schweppe for making his timely analysis and recommend it for reading by all concerned with the canal question, especially officials in the State and Defense Departments, including members of the Joint Chiefs of Staff.

To make the indicated analysis readily available to the Congress, particularly members of the Senate Committee on Foreign Relations and the House Committee on International Relations, as well as the Nation at large, I quote it as part of my remarks:

SCHWEPPE, DOOLITTLE, KRUG,
TAUSEND, BEEZER & BEIERLE,
Seattle, Wash, May 25, 1976.

Hon. STROM THURMOND,
U.S. Senate, Senate Office Building,
Washington, D.C.

DEAR SENATOR THURMOND: I note with satisfaction your defense of our Panama Canal ownership (*New York Times Magazine*, May 16, 1976, pp. 18, *et seq.*)

Reasonably versed in international law, including the law of treaties, as well as the law of property, I have considered the Isthmian Canal Convention of November 18, 1903, as officially published in Volume 33, Part 2, U.S. Statutes at Large, pp. 2234–2241.

In the preamble (p. 2234) it is recited that in furtherance of the object of constructing a ship canal across the Isthmus:

"... The President of the United States is authorized to acquire within a reasonable time the necessary territory of the Republic of Colombia, and the sovereignty of such territory being actually vested in the Republic of Panama, the high contracting parties have resolved for that purpose to conclude a convention ..."

By Article I, "the United States guarantees and will maintain the independence of the Republic of Panama."

In Article II, "the Republic of Panama grants to the United States in perpetuity the use, occupation, and control of a zone of land and land under water ..." ten miles wide.

Then comes Article III:

"The Republic of Panama grants to the United States all the rights, power and authority within the zone mentioned and described in Article II of this agreement and within the limits of all auxiliary lands and waters mentioned and described in said Article II which the United States would possess and exercise if it were the sovereign of the territory within which said lands and waters are located to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights, power or authority."

The preamble merely establishes the preliminary fact of existing sovereignty in the Republic of Panama. Then in Article III, "the Republic of Panama grants to the United States all the rights, powers and authority within the zone mentioned ... which the United States would possess and exercise if it were the sovereign of the territory within which said lands and waters are located, to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights and authority."

Simply stated, Panama having existing sovereignty over the area, by the treaty relinquishes in perpetuity to the United States "the use, occupation and control of a zone of land and land under water . . . to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights."

Persons in the State Department, including Ellsworth Bunker, who is at present conducting the Panama Canal negotiations for the United States, seek to make a hairline distinction between "sovereignty of such territory being actually vested in the Republic of Panama", and the grant to the United States "of all rights, powers and authority within the zone mentioned . . . which the United States would possess and exercise if it were the sovereign of the territory within which said land and waters are located to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights, power and authority."

The distinction sought to be made is illusory. The State Department says that we have acquired only "rights" not title. In fact and in law Panama granted all of the rights there are to make full legal title. The exclusive "use, occupation and control" of the zone in perpetuity constitutes legal title. Legal title is a right to exclusive possession in perpetuity good against all the world. Sovereignty is the supreme political power or dominion over an area. Panamanian sovereignty in the area was voluntarily suspended permanently, and legal title (the permanent right to exclusive possession) granted to the United States.

The 1903 treaty appropriately protected private ownerships. Such a treaty is equivalent to a deed in fee simple by one country to another to all public property, saving private rights which then became subject to the jurisdiction of the new owner.

The acquisition of Alaska, for example, was a cession or ceding of territory and dominion to all public property, saving private property rights. 15 U.S. Statutes at Large, p. 539. It was a grant of absolute title (exclusive possession in perpetuity), as in the case of Panama.

Panama had initial sovereignty (exclusive political control and dominion) and also the exclusive right of possession, but it suspended sovereignty in the zone in perpetuity and granted exclusive possession in perpetuity to the United States.

For this suspension of sovereignty in perpetuity, and the grant "in perpetuity" of "the use, occupation and control" of the zone, the United States in Article XIV agreed to pay the Republic of Panama the sum of $10,000,000.00 in gold and an annual payment of $250,000.00 in gold for the life of the convention, beginning nine years from date, presumably on completion of the Canal.

This annual payment has from time to time been negotiated upwards.

Some changes not affecting the sovereignty provisions of the 1903 treaty were negotiated in 1936 and ratified by the Senate in 1939. 53 U.S. Statutes at Large, Part 3, pp. 1807–1826. The principal changes were the superseding of section I, guaranteeing independence (p. 1608) and giving up the right of the United States to keep order in Panama, if the Republic of Panama could not, in the judgment of the United States, maintain such order. This 1939 treaty was intended to remove any possible stigma of the original 1903 treaty that Panama was a dependent and second-class nation and to remove any concept of guardian and ward. All right of intervention and protection outside the zone was entirely surrendered by the United States. In addition, the United States (p. 1818) granted Panama an official corridor over the zone between parts of Panama separated by the zone.

That "General Treaty of Friendship and Cooperation of 1936", negotiated by Cordell Hull and signed by President Franklin D. Roosevelt, is overlooked in the recent discussions.

In Article I (p. 1808), the United States of America and the Republic of Panama declare:

". . . that the provisions of the Convention of October 18, 1903, contemplate the use, occupation and control by the United States of America of the Canal Zone and the additional lands and waters *under the jurisdiction of the United States* for the purposes of the efficient maintenance, operation, sanitation and protection of the Canal and its auxiliary works." (Italics supplied.)

Article IV (p. 1814) provides:

"In view of the fact that the Canal Zone divides *the territory under the jurisdiction of the Republic of Panama*, the United States of America agrees that, subject to such police regulations as the circumstances require, Panamanian citizens who may be occasionally deported from the Canal Zone shall be assured transit through said zone, in order to pass from one part to another of the territory *under the jurisdiction of the Republic of Panama*." [Italics supplied.]

Article VIII (p. 1818) provides:

"In order that the City of Colon may enjoy direct means of land communication *under Panamanian jurisdiction* with other territory under *the jurisdiction of the Republic of Panama*, the United States of America hereby *transfers* to the Republic of Panama *jurisdiction over a corridor*, the exact limits of which shall be agreed upon by the two governments pursuant to the following description." [Then follows the description of the corridor 25 to 200 feet wide.]

"The United States of America shall enjoy at all times the right to unimpeded access across said corridor at any point, and of travel along said corridor, subject to such traffic regulations as may be established by the Government of the Republic of Panama; . . . (p. 1820).

". . . The Government of the United States will extinguish any private titles existing or which may exist in and to the land included in the above described corridor."—p. 1824—[Maps are attached.]

Article X (p. 1825) provides in part:

". . . Any measures for safeguarding such interests, which it shall appear essential for one government to take, and which may affect the *jurisdiction* of the other government, will be the subject of consultation between the two governments." [Italics supplied.]

Article XI (p. 1825) provides:

"The Provisions of this Treaty shall not affect the rights and obligations of either of the two High Contracting Parties under the treaties now in force between the two countries, nor be considered as a limitation, definition, restriction or restrictive interpretation of such rights and obligations, but without prejudice to the full force and effect of any provisions of this Treaty which constitute addition to, modification or abrogation of, or substitution for the provisions of previous treaties."

Please note throughout the quoted paragraphs the word "jurisdiction" and the careful delineation of mutually exclusive complete jurisdiction.

This 1936 treaty reemphasizes the complete legal and political dominion and ownership of the United States over the zone. The corridor granted a legal easement over property of the United States constituting the zone.

Since then the reported negotiations have centered on Panamanian participation in control of the zone and operation of the Canal and reportedly relinquishing the zone altogether at some future date.

In sum, the United States initially acquired and still has complete dominion over the Canal Zone by the 1903 treaty confirmed in 1939 and has fully paid for this perpetual right of "use, occupancy, and control" to the exclusion of Panamanian "use, occupancy and control"—the legal equivalent of a deed in fee simple.

While an actual instrument of cession of conveyance was not used, the legal language is the equivalent and gives the United States as good a title as it has to Alaska or Louisiana. The language chosen was simply a diplomatic alternative in expression.

Panama was a province of the Republic of Colombia seeking independence by revolt when President Theodore Roosevelt recognized its independence and then kept Colombian troops at a distance with a show of gunboats and Marines. But Colombia in 1922 granted Panama full recognition and settled the boundary between them. Then in 1923 the United States paid Colombia $25,000,000.00 for settlement of Colombian claims, generally considered as including claims arising in 1903.

There are some persons, swinging wildly, who say we "stole" the Canal and should give it back. If it was stolen from anybody, it was stolen from Colombia, and should hence be given back to Colombia. But Colombia has been fully satisfied and has not been heard to complain since the 1923 settlement. Indeed, nearby Colombia itself has reaped great benefits from the Canal. It was not stolen from Panama, Panama got nothing but benefits. It got independence from Colombia and eagerly negotiated a treaty that over the years has brought almost incalculable benefits to Panama. The situation in no way partakes of colonialism.

Even if one accepted the notion of the State Department about the 1903 treaty, that we merely acquired "rights" (ignoring that ownership of property is merely an exclusive right of possession in perpetuity) for the $10,000,000.00 paid in 1903, then why, at the proper time, if it ever comes, do we not sell back those rights to Panama at their then current value, including all of the billions of dollars invested in the canal appropriately depreciated.

This was a commercial transaction (money for exclusive possession of and jurisdiction over the Canal Zone in perpetuity) made in 1903 and reconfirmed in 1939.

Why even tentatively consider giving away these valuuable properties of the American taxpayer.

For your convenience I attach copies of the provisions of the Isthmian Canal Convention of 1903 which are applicable to the current debate.

Very truly yours,

ALFRED J. SCHWEPPE.

CONVENTION BETWEEN THE UNITED STATES OF AMERICA AND THE REPUBLIC OF PANAMÁ

For the construction of a ship canal to connect the waters of the Atlantic and Pacific Oceans

[Hay-Bunau-Varilla Treaty [1]]

[Signed at Washington, November 18, 1903; ratified by Panamá, December 2, 1903; ratification advised by United States Senate, February 23, 1904; ratified by the President, February 25, 1904; ratifications exchanged at Washington, February 26, 1904; proclaimed at Washington, February 26, 1904.]

[ARTICLES]

[I. Independence of Panamá.
II. Canal zone.
III. Authority in canal zone.
IV. Subsidiary rights.
V. Monopoly for construction, etc.
VI. Private property.]

ISTHMIAN CANAL CONVENTION

The United States of America and the Republic of Panama being desirious to insure the construction of a ship canal across the Isthmus of Panama to connect the Atlantic and Pacific oceans, and the Congress of the United States of America having passed an act approved June 28, 1902, in furtherance of that object, by which the President of the United States is authorized to acquire within a reasonable time the control of necessary territory of the Republic of Colombia, and the sovereignty of such territory being actually vested in the Republic of Panama, the high contracting parties have resolved for that purpose to conclude a convention and have accordingly appointed as their plenipotentiaries,—

The President of the United States of America, JOHN HAY, Secretary of State, and

The Government of the Republic of Panama, PHILIPPE BUNUAU-VARILLA, Envoy Extraordinary and Minister Plenipotentiary of the Republic of Panama, thereunto specially empowered by said government, who after communicating with each other their respective full powers, found to be in good and due form, have agreed upon and concluded the following articles:

ARTICLE I

The United States guarantees and will maintain the independence of the Republic of Panama.

ARTICLE II

The Republic of Panama grants to the United States in perpetuity the use, occupation and control of a zone of land and land under water for the construction, maintenance, operation, sanitation and protection of said Canal of the width of ten miles extending to the distance of five miles on each side of the center line of the route of the Canal to be constructed; the said zone beginning in the Caribbean Sea three marine miles from mean low water mark and extending to and across the Isthmus of Panama into the Pacific ocean to a distance of three marine miles from mean low water mark with the proviso that the cities of Panama and Colon and the harbors adjacent to said cities, which are included within the boundaries of the zone above described, shall not be included within this grant. The Republic of Panama further grants to the United States in perpetuity the use, occupation and control of any other lands and waters outside of the zone above described which may be necessary and convenient for the construction, maintenance, operation, sanitation and protection of the said Canal or of any auxiliary canals or other works necessary and convenient for the construction, maintenance, operation, sanitation and protection of the said enterprise.

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[1] Manuscript, United States Department of State, Archives, Treaty Series, No. 431. Also *S. Doc. No. 474* (63d Cong., 2d Sess.), pp. 295–313 (English and Spanish). W. M. Malloy, *op. cit.*, II, 1349–57.

The Republic of Panama further grants in like manner to the United States in perpetuity all islands within the limits of the zone above described and in addition thereto the group of small islands in the Bay of Panama, named Perico, Naos, Culebra and Flamenco.

ARTICLE III

The Republic of Panama grants to the United States all the rights, power and authority within the zone mentioned and described in Article II of this agreement and within the limits of all auxiliary lands and waters mentioned and described in said Article II which the United States would possess and exercise if it were the sovereign of the territory within which said lands and waters are located to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights, power or authority.

ARTICLE IV

As rights subsidiary to the above grants the Republic of Panama grants in perpetuity to the United States the right to use the rivers, streams, lakes and other bodies of water within its limits for navigation, the supply of water or water-power or other purposes, so far as the use of said rivers, streams, lakes and bodies of water and the waters thereof may be necessary and convenient for the construction, maintenance, operation, sanitation and protection of the said Canal.

ARTICLE V

The Republic of Panama grants to the United States in perpetuity a monopoly for the construction, maintenance and operation of any system of communication by means of canal or railroad across its territory between the Caribbean Sea and the Pacific Ocean.

ARTICLE VI

The grants herein contained shall in no manner invalidate to the titles or rights of private land holders or owners of private property in the said zone or in or to any of the lands or waters granted to the United States by the provisions of any Article of this treaty, nor shall they interfere with the rights of way over the public roads passing through the said zone or over any of the said lands or waters unless said rights of way or private rights shall conflict with rights herein granted to the United States in which case the rights of the United States shall be superior. All damages caused to the owners of private lands or private property of any kind by reason of the grants contained in this treaty or by reason of the operation of the United States, its agents or employees, or by reason of the construction, maintenance, operation, sanitation and protection of the said Canal or of the works of sanitation and protection herein provided for, shall be appraised and settled by a joint Commission appointed by the Governments of the United States and the Republic of Panama, whose decisions as to such damages shall be final and whose awards as to such damages shall be paid solely by the United States. No part of the work on said Canal or the Panama railroad or on any auxiliary works relating thereto and authorized by the terms of this treaty shall be prevented, delayed or impeded by or pending such proceedings to ascertain such damages. The appraisal of said private lands and private property and the assessment of damages to them shall be based upon their value before the date of this convention.

* * * * *

ARTICLE XXVI

This convention when signed by the Plenipotentiaries of the Contracting Parties shall be ratified by the respective Governments and the ratification shall be exchanged at Washington at the earliest date possible.

In faith whereof the respective Plenipotentiaries have signed the present convention in duplicate and have hereunto affixed their respective seals

Done at the City of Washington the 18th day of November in the year of our Lord nineteen hundred and three.

John Hay
P. Bunau Varilla.

THE PLIGHT OF A SMALL BUSINESSMAN IN MEMPHIS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee (Mr. Ford) is recognized for 5 minutes.

Mr. FORD of Tennessee. Mr. Speaker, I rise today to call the attention of my colleagues to the plight of a small businessman in Memphis, Tenn. I am speaking about the case of Mr. Bert Randall, the proprietor of Randall's 66 service station located in Memphis, Tenn. Mr. Randall, like thousands of other retail gasoline dealers, is being forced out of his filling station by one of the major oil companies.

The facts in Bert Randall's case follow the typical course of events for situations of this nature. After notifying him of a 300-percent rent increase for the use of the oil company-owned filling station—an increase which Mr. Randall could never pay—he received instructions to vacate the premises. Having operated this filling station for some 7 years, he was shocked by the treatment suddenly given him by the oil company.

This case and others like it have developed as a result of a January 1976 court decision which ruled that the Federal Energy Administration did not have authority to regulate rents charged by oil companies for the use of retail gasoline stations. Since that time, the major oil companies have launched a campaign against these small businessmen, a campaign against the very individuals who are the foundation of our free enterprise system. The ruthless attacks of these oil companies are a glaring illustration of the dangers corporate bigness poses for our economic system.

Mr. Speaker, I am happy to say that this problem has not gone unnoticed by the Congress. The dedicated and hardworking chairman of the Subcommittee on Energy and Power of the House Committee on Interstate and Foreign Commerce, John Dingell, has introduced legislation designed to protect gasoline retailers from such capricious actions by the major oil companies, H.R. 13000, the Petroleum Marketing Practices Act. Chairman Dingell and his able colleagues on the subcommittee have completed public hearings on this and related issues. A similar measure has already been passed by the Senate.

I, for one, wish to express my deep appreciation to Chairman Dingell and the Energy and Power Subcommittee and to urge them to markup this sorely needed legislation as soon as possible. The longer the enactment of this bill is delayed, the more hardworking small filling station operators like Mr. Randall will fall victim to the insatiable greed of the major oil companies.

VETERANS' RIGHT TO JUDICIAL REVIEW

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. Bingham) is recognized for 10 minutes.

Mr. BINGHAM. Mr. Speaker, I am introducing today a bill to provide for judicial review of veterans claims adjudicated by the Board of Veterans Appeals.

Under title 38, United States Code, a decision by the Board of Veterans Appeals is final; claims may not be reconsidered absent "new and material evidence." The finality of the decisions of the Board denies American veterans, their dependents, or survivors, genuine due process of law on crucial decisions regarding benefit eligibility: Such decisions are left entirely free from scrutiny by the Federal courts. The VA is thus illogically excluded from the provisions of the Administrative Procedures Act, 5 United States Code, which provides for the judicial review of administrative actions.

Mr. Speaker, I have firsthand knowledge of what a stumbling block in the way of justice this grant of such broad and final powers can be. For the past 5 years, I have been trying unsuccessfully, to win compensation for a courageous World War II veteran from the Bronx, Mr. Edward N. Evans. The left half of Mr. Evans' body is paralyzed, he believes, because of malaria which he contracted in connection with military duty. On the basis of clinical reports and other medical evidence I have uncovered, I believe his assessment is correct.

I felt so strongly that Mr. Evans' case had not been properly handled by the VA that I took the extraordinary step of testifying personally before the Board of Veterans Appeals. I presented authoritative medical and legal evidence that cast substantial doubt upon the VA's position that Mr. Evans' hemiplegia—paralysis—was not service connected, and I established that hemiplegia as a secondary condition to service connected malaria was well within the "range of probability" as required under the reasonable doubt rule—38 CFR 3.102—of the Veterans Compensation Law.

It is true that Mr. Evans' voluminous file has been reviewed several times at all levels of the Veterans' Administration. It is also true that the VA enlarged its panel to reconsider his claim on appeal. However, it is interesting to note that the VA decisions have recorded its recognition that, first, several of those who treated Mr. Evans believed that the hemiplegia was caused by malaria, and second, the cause of Mr. Evans' paralysis would probably never be clearly proven. On the basis of these findings alone, one would think that those who had Mr. Evans under observation shortly after the hemiplegia developed would be the most qualified experts in determining its cause. In this regard, I uncovered a clinical report on Mr. Evans which I felt was "new and material evidence" which would change the factual basis upon which the denials have been predicated. The attending neurologist at a VA hospital stated in this document that Mr. Evans had "repeated bouts of malaria during the course of one of which he developed a severely disabling left hemiplegia—certainly this disability would appear to be service connected in total." On the basis of this report, I requested a reopening of Mr. Evans case. To my dismay, the Veterans' Administration responded by stating that this clinical report was not considered "new and material evidence" and, therefore, did not warrant the reopening of Mr. Evans' case.

The law as it stands, prevents Mr. Evans from taking his case to court. Mr. Evans is not the first nor the last veteran to engage in such a lonely, frustrating battle with the VA, but his case is a particularly moving one, which concerns me deeply. My bill, the Veterans Judicial Review Act, will give Mr. Evans and others like him the right to have his day in court, by amending section 211(a) of title 38, United States Code striking out after "shall be," all that follows through the end of such subsection and inserting in lieu thereof the following: "subject to judicial review as provided in chapter 7 of title 5."

REALITIES FOR THE UNITED STATES IN THE MIDDLE EAST

(Mr. OBEY asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. OBEY. Mr. Speaker, on May 28, 1976, the Washington Post carried a column by Stephen S. Rosenfeld entitled "The Palestinians in Crucial Passage." He made two essential points which should, I believe, become explicit elements in the increasingly active discussion over future U.S. policy in the Middle East. First, despite the apparent weakening of the PLO's position in the wake of Syrian intervention in Lebanon, almost all of the non-Israeli parties concerned—and many Israelis as well—have come to the conclusion that creation of some sort of Palestinian entity, independent, or associated with Jordan, is a necessary part of any peace settlement. And second, as the United States becomes more active in spelling out what we feel needs to be done to achieve peace, we must not only beam our message to Israel but must be equally as bold in telling the Arabs, including the Palestinians, what they must do.

Late last year, a Middle East study group at the Brookings Institution published a thoughtful and compelling report articulating, among other things, the broad terms which we should ask both sides to accept. The necessity for an active American diplomatic role in the process was discussed in particularly cogent terms.

I would like to insert in the RECORD at this time both Mr. Rosenfeld's column and the Brookings study group report:

THE PALESTINIANS IN CRUCIAL PASSAGE

(By Stephen S. Rosenfeld)

The Palestinian movement seems to me to be in a crucial passage from which, if it emerges, the Palestinian question could conceivably be solved in what would probably be the best possible way.

Two things are happening. First, the movement is being brutally cut down to size in Lebanon, which is the only remaining place in the Arab world where it still had something of an autonomous existence. The civil war there has given Syria the chance to do by arms in Lebanon what Egypt and Syria did by politics and police on their own soil after 1967 and what Jordan did by blood in 1970: Get the PLO.

One has only to listen to Palestinians screaming about "the crimes being committed by the Damascus rulers against the Palestinian cause in the service of imperialism and Zionist aims" to realize that the Palestine Liberation Organization is being destroyed as a would-be independent actor on the Arab stage.

The reason is simple. No more than Egypt and Jordan does Syria want its own national aims, focused now on achievement of an American-directed general Mideast settlement, undercut by the Palestinians' vain and unattainable quest to wipe the Zionist state off the political map. Even Israeli Prime Minister Rabin, by the way, seems to sense this: Some Israelis consider him soft on Syria!

Not by a long shot is the PLO the only villain in the Lebanese piece. Still, the PLO must accept the lion's share of the blame for the cruel meat-mincer—Christian rightists on one side, the Syrian army and its (Palestinian) puppets on the other—in which it is being chewed up in Lebanon.

For years PLO leaders have temporized, hoping against history and reality to de-Zionize that relatively small part of historic Palestine that is the modern state of Israel. They have not had the courage or vision to tell their own people, soon enough or specifically enough, of the compromises they would eventually have to make.

True, Yasser Arafat, murmuring behind his hand, has persuaded some of his Western listeners that he would accept, temporarily at least, if handed to him on a platter, a West Bank-Gaza state. Perhaps he would, Arafat seems also to have believed that international propaganda triumphs would somehow compensate for his own inability to tame the Palestinian tiger.

But as Syria mops up in Lebanon, as it is bound to do, then the PLO will have lost the one "state within a state" that it used for mounting terror raids on Israel and for maintaining a political apparatus. The PLO will then be a Syrian tool and the focus will shift to the West Bank.

On the West Bank, of course, the political consciousness of Palestinians is finally becoming evident. It took nine years for the locals, who supposedly were aching with hatred for the "cruel" Israeli occupiers, to start throwing a few rocks at them. By an accident, the Israelis scheduled local elections that gave West Bankers the opportunity to turn out the accommodationist "notables" and to install Palestinian nationalists instead. Arab democracy is alive and well—in the areas controlled by Israel.

But one would not want to make too much of this West Bank Palestinian consciousness. By itself it is a relatively new and flabby phenomenon incapable of achieving its own aims against local Israeli power.

The difference is that other nations, including not only Israel's Arab neighbors but the United States, are now for the first time in rough agreement that the Palestinian question must be disposed of by giving the Palestinians a rump state of their own—something to occupy them with and to shut them up.

Let us be frank: It is not the overwhelming justice of the Palestinian cause—Lithuania, say, has a much better case—that makes it seem so necessary to the world that a 21st Arab state be set up for a group of people who call the claim for a single Jewish state "racism." It is the overwhelming power of the Palestinians' supporters.

The Arab states have shown their willingness to get the Palestinian tar baby off their back by the way they have treated the PLO. They have better things to do, such as get rich or strive for development, than to continue to let their psyches and societies be dominated by the alibi for adolescence that the Palestinian issue has been for most of them for years.

The interest and awareness of the United States are converging on the same decision to set up a Palestinian state, I think—regardless of what party or President takes office next January. This is being anticipated—not without dire misgivings—by intelligent Israelis. They have about a year to get ready for the push.

They will put up a huge fuss: Their United Nations counter-blast this week against American criticism of their West Bank settlements is a taste of what is to come. If I were an Israeli, I would certainly put up a fuss—out of genuine alarm and for bargaining purposes, too.

The Israelis have an absolute right to insist that any Palestinian state—whether it be, as some Arabs now fear, a Jordanian creature or whatever—emerge from direct negotiations with themselves. No such negotiations are conceivable with a Palestinian entity that does not explicitly accept Israel's sovereign right to exist. Let the Palestinians sing to themselves their ballads about a "secular democratic state": They must sign on the dotted line.

The Israelis also are absolutely right to insist on strong security arrangements. The savagery in which Palestinians have participated in Lebanon is only the lastest powerful argument for such. For every one Arab demonstrator killed by a wayward Israeli bullet on the West Bank, after all, perhaps 2000—yes, 2000—Arabs have been slaughtered by fellow Arabs in Lebanon.

American officials and various American citizens, even journalists, have been very bold in recent months in telling the Israelis what they must do for a settlement. This is good. Americans have got to be equally bold—evenhanded, if you will—in telling the Arabs especially the Palestinians, what they must do.

When they address the Israelis on these matters, the President and the Secretary of State should not just issue vague assurances and hints of pressure to come. They should start offering specific promises of what political concessions the United States will ask the Arabs to yield in return for territory. That is how to help ensure that the current Palestinian passage will end in a way acceptable to responsible Palestinians and Israelis alike.

TOWARD PEACE IN THE MIDDLE EAST

(Report of a study group from the Brookings Institution)

MEMBERS OF THE BROOKINGS MIDDLE EAST STUDY GROUP

Morroe Berger (Codirector) Princeton University.

Robert R. Bowie Harvard University.

Zbigniew Brzezinski Columbia University.

John C. Campbell Council on Foreign Relations.

Najeeb Halaby Attorney at Law, New York, New York.

Rita Hauser Stroock & Stroock & Lavan.

Roger W. Heyns (Chairman) American Council on Education.

Alan Horton American University Field Staff.

Malcolm Kerr University of California at Los Angeles.

Fred Khouri Villanova University.

Philip Klutznick Klutznick Investments.

William Quandt University of Pennsylvania.

Nadav Safran Harvard University.

Stephen Spiegel University of California at Los Angeles.

A. L. Udovitch Princeton University.

Charles W. Yost (Codirector) Brookings Institution.

FOREWORD

Nearly three decades ago the United Nations proposed the creation of both a Jewish and an Arab state in Palestine. This action came after three decades of constant tension and intermittent warfare between these two communities. It is now almost sixty years since this conflict began. It has widened steadily but its core has remained the same: limited geographically to a small area, yet hard and seemingly intractable.

Throughout these years, the American interest in the Arab-Israeli conflict and in the entire Middle East has increased greatly. Since the 1973 war, moreover, the American role has also increased. To assess this role and to suggest how it might be employed most usefully, the Brookings Institution last summer invited a diverse group of distinguished Americans to consider how this country might help in the achievement of a workable, fair, and enduring settlement of this most troublesome conflict.

The members of the Brookings Middle East Study Group have had a continuing interest in the Arab-Israeli question from varying points of view. Most of them, indeed, have known and studied the complex issues at first hand as public-spirited citizens, lawyers, scholars, and government officials. After meeting once monthly for one or two days since last June, they have come to share a position which they now offer for public consideration. They have in my judgment made remarkable progress in bridging differences among their points of view and achieving a wide and significant area of agreement.

Each has signed in his or her personal capacity, without involving in any way the responsibility of the organization or organizations with which he or she may be affiliated.

The conclusions and recommendations of this report represent a compromise among the diverse views of the members of the group, to which they agreed as an expression of their conviction that a settlement of the conflict must likewise result from difficult but necessary compromises among the parties. It follows that the preferred conclusions of some of the members, had they been acting alone, would have differed in some respects from those of the report. Where the report presents a range of possible solutions to certain aspects of the problem, such as the Palestinian question and Jerusalem, it was because each of the solutions was preferred by some members of the group and agreement could be reached only by stating the alternatives without expressing a group preference.

The Middle East Study Group worked continuously, patiently, and with good will under the chairmanship of Roger Heyns and with the assistance of codirectors Morroe Berger and Charles Yost. The Brookings Institution was able to call this group together with the financial support of the Rockefeller Foundation.

The study was carried out as an activity of the Brookings Foreign Policy Studies program, of which Henry Owen is director. The views expressed in this report are those of the Study Group and should not be attributed to the staff members, officers, or trustees of the Brookings Institution or to the Rockefeller Foundation.

This timely report merits the attention of the American public and the United States government as a thoughtful and constructive statement of a group of Americans who know the Middle East and want this nation to help that region toward peace.

KERMIT GORDON,
President, the Brookings Institution.
WASHINGTON, D.C., *December 1975.*

SUMMARY

The study group reached five main conclusions:

1. *U.S. interests.* The United States has a strong moral, political, and economic interest in a stable peace in the Middle East. It is concerned for the security, independence, and well-being of Israel and the Arab states of the area and for the friendship of both. Renewed hostilities would have far-reaching and perilous consequences which would threaten those interests.

2. *Urgency.* Whatever the merits of the interim agreement on Sinai, it still leaves the basic elements of the Arab-Israeli dispute substantially untouched. Unless these elements are soon addressed, rising tensions in the area will generate increased risk of violence. We believe that the best way to address these issues is by the pursuit of a comprehensive settlement.

3. *Process.* We believe that the time has come to begin the process of negotiating such a settlement among the parties, either at a general conference or at more informal multilateral meetings. While no useful interim step toward settlement should be overlooked or ignored, none seems promising at the present time and most have inherent disadvantages.

4. *Settlement.* A fair and enduring settlement should contain at least these elements as an integrated package:

(a) *Security.* All parties to the settlement commit themselves to respect the sovereignty and territorial integrity of the others and to refrain from the threat or use of force against them.

(b) *Stages.* Withdrawals to agreed boundaries and the establishment of peaceful relations carried out in stages over a period of years, each stage being undertaken only when the agreed provisions of the previous stage have been faithfully implemented.

(c) *Peaceful relations.* The Arab parties undertake not only to end such hostile actions against Israel as armed incursions, blockades, boycotts, and propaganda attacks, but also to give evidence of progress toward the development of normal international and regional political and economic relations.

(d) *Boundaries.* Israel undertakes to withdraw by agreed stages to the June 5, 1967, lines with only such modifications as are mutually accepted. Boundaries will probably need to be safeguarded by demilitarized zones supervised by UN forces.

(e) *Palestine.* There should be provision for Palestinian self-determination, subject to Palestinian acceptance of the sovereignty and integrity of Israel within agreed boundaries. This might take the form either of an independent Palestine state accepting the obligations and commitments of the peace agreements or of a Palestine entity voluntarily federated with Jordan but exercising extensive political autonomy.

(f) *Jerusalem.* The report suggests no specific solution for the particularly difficult problem of Jerusalem but recommends that, whatever the solution may be, it meets as a minimum the following criteria:

There should be unimpeded access to all of the holy places and each should be under the custodianship of its own faith;

There should be no barriers dividing the city which would prevent free circulation throughout it; and

Each national group within the city should, if it so desires, have substantial political autonomy within the area where it predominates.

(g) *Guarantees.* It would be desirable that the UN Security Council endorse the peace agreements and take whatever other actions to support them the agreements provide. In addition, there may well be need for unilateral or multilateral guarantees to some or all of the parties, substantial economic aid, and military assistance pending the adoption of agreed arms control measures.

5. *U.S. role.* The governments directly concerned bear the responsibility of negotiation and agreement, but they are unlikely to be able to reach agreement alone. Initiative, impetus, and inducement may well have to come from outside. The United States, because it enjoys a measure of confidence of parties on both sides and has the means to assist them economically and militarily, remains the great power best fitted to work actively with them in bringing about a settlement. Over and above helping to provide a framework for negotiation and submitting concrete proposals from time to time, the United States must be prepared to take other constructive steps, such as offering aid and providing guarantees where desired and needed. In all of this, the United States should work with the USSR to the degree that Soviet willingness to play a constructive role will permit.

THE REPORT

Events of the past two years—the fourth Arab-Israeli war in October 1973, the Arab oil embargo and its impact on the West, the interim Sinai agreement of 1975—have increasingly brought home to the American government and people the far-reaching U.S. stake in peace in the Middle East. How can a comprehensive and durable settlement between Arabs and Israeli be achieved?

This report addresses that question in the hope of contributing to a constructive answer by its analysis and recommendations.

The following sections discuss (1) the U.S. interest in a peaceful Middle East; (2) what is required for a settlement; (3) the main components of a settlement; (4) the process of negotiation; and (5) the U.S. role in the settlement.

I. The U.S. interest

The United States has a vital interest in the establishment of a stable peace in the Middle East for the following reasons, among others.

1. Rising tensions in the Middle East, which experience suggests are ultimately almost certain in the absence of a settlement, might well lead to another Arab-Israeli war and even provoke a major confrontation between the United States and the Soviet Union, substantially elevating East-West tension and threatening the recent many-sided effort toward greater international stability. As a signatory of the UN Charter and permanent member of the Security Council, the United States has a major responsibility for the maintenance of international peace and security.

2. The United States has a strong interest in the security, independence, and well-being of Israel and the Arab states of the area and in the friendship of both. Their security and future development will remain in jeopardy until a durable settlement is concluded. Both would be bound to suffer gravely from another war fought with the advanced weapons now available to both sides.

3. The United States has a strong interest

in the unimpeded flow of Middle Eastern oil to itself and to its European and Japanese allies, which are even more dependent on this supply. In the event of another Arab-Israeli war, or even a serious crisis short of war, Arab oil shipments to those markets might be disrupted.

4. The United States has a considerable and growing interest in trade with, investment in, and communications through the entire area.

5. Efforts by the United States to establish greater global stability and to help manage the growing economic interdependence among nations more effectively are likely to be frustrated as long as conflict and confrontation seem probable in this area where so many national interests converge. U.S. interests in this respect are congruent with those of the states in the area.

II. What is required for a settlement?

If it is essential to U.S. interests and to those of the parties to the conflict that a settlement acceptable to those parties and binding upon them be promptly found, what are the requirements that must be met?

1. The momentum toward settlement which was strong immediately after the 1967 war but gradually subsided, was revived after the 1973 war and has continued through the Sinai agreement of September 1975. It is important that this momentum be maintained. A prolonged stalemate, a failure to move forward in a significant way over a period of months, would increase tension and could lead to renewed hostilities. It would be imprudent and unsafe to attempt to leave the situation "frozen" for any prolonged period. That is probably not a genuine option. Even though further results may not be obtained quickly, the process and momentum of negotiation must be maintained. In the absence of progress, the obstacles to settlement could harden again, moderate policies and leaders be superseded by more intransigent ones, and the security of all parties be gravely imperiled by the failure of all to act while the time was ripe.

2. On the other hand, basic conditions are now more propitious for a settlement than they have been or may be again for some time. The Arab states bordering Israel have all publicly recognized its existence and indicated a willingness, under very specific conditions, to negotiate a permanent settlement. There are corresponding indications, since the 1973 war, of an Israeli disposition to negotiate either further interim steps or a comprehensive settlement, including one that would take account of the Palestinian problem.

The United States, by its intensive participation in negotiations since the 1973 war, by the substantial assurances and contributions it has already undertaken, and by its repeatedly stated belief that these are but steps on the road to a comprehensive settlement, has demonstrated that it recognizes its own vital interest in an early end to conflict and enduring peace.

3. Since the 1973 war the emphasis of peacemaking has been on interim steps, designed to reduce tension and move gradually toward a comprehensive settlement. Interim steps have advantages and disadvantages but it now seems probable that further steps of this kind will not prove feasible in the immediate future. If the momentum of negotiation is to be maintained and a prolonged stalemate avoided, peacemaking efforts should henceforth concentrate on negotiation of a comprehensive settlement, including only such interim steps as constitute essential preparations for such a negotiation.

4. The primary basis for a settlement must be a negotiated and agreed tradeoff between the Israeli requirement for peace and security and the Arab requirement for evacuation of territories occupied in 1967 and for Palestinian self-determination.

Satisfaction of the Israeli requirement would involve binding commitments by the Arab states to a stable peace—that is, commitments to recognize and respect the sovereignty of Israel, to refrain from the threat or use of force against it, to desist from other hostile actions against it, and progressively to develop with it normal international and regional political and economic relations.

Satisfaction of the Arab requirement would involve Israeli withdrawal to the June 5, 1967, lines with only such modifications, as well as such particular arrangements for Jerusalem, as might be agreed upon. It would involve the right of the Palestinians to self-determination in one form or another, consonant with the above Israeli requirements. The Arab requirement for security would be satisfied by making reciprocal the commitments outlined in the previous paragraph.

5. So that both sides may be persuaded to make the concessions which this integrated accommodation between peace and withdrawal would require, it will be necessary that, while comprehensive peace agreements stipulating the whole range of commitments be concluded, their implementation be staged over a period of years. The stages would be clearly defined in the agreements. Each stage would be undertaken only when the agreed provisions of the previous stage had been carried out. Under this procedure Israeli withdrawal and Arab movement toward normal relations would proceed in tandem. If at any stage of implementation, there should be failure by one side to carry out agreed measures, corresponding measures by the other side could be suspended. Bilateral or multilateral commissions should be established in the agreements to hear and investigate complaints about alleged failures to carry out provisions of the agreements and to iron out differences arising in their phased implementation.

6. A further requirement would no doubt be international endorsements, guarantees, arrangements, and assistance to support and supplement the peace agreements. It would be desirable that the agreements be endorsed by the UN Security Council. If they provide for demilitarized zones, the UN would be expected to provide peacekeeping forces or observers to supervise those zones.

It is likely that there will be a supplementary requirement for explicit bilateral or multilateral guarantees by one or more of the great powers. The United States should be prepared to extend such guarantees as are feasible and necessary to achieve a settlement.

A stable settlement will also need to be reinforced by measures to end the arms race in the area. Until agreed measures to this end are adopted, there will be a continuing requirement to supply weapons to the parties to enhance their sense of security.

There will also be need for substantial economic aid to many of the parties and to repatriated and resettled refugees.

7. Finally, on the basis of the experience of the past twenty-five years, it is clear that the parties are unlikely to be able to negotiate a comprehensive and durable settlement unassisted. There are powerful political and psychological constraints within each nation or movement, which could not at present be wholly overcome even by governments and leaders desiring to do so. They need help. It is here that outside powers—particularly the United States because it enjoys a measure of confidence on both sides and has the means of assisting them economically and militarily—have a substantial, possibly a decisive, role to play. Soviet cooperation would also be most desirable to the extent the USSR is willing to play a constructive role.

These seven essential requirements for a settlement are examined in fuller detail in the following sections.

III. The main components of a settlement

Mutual Acceptance and Peaceful Relations

The peace agreements must contain binding reciprocal commitments by all parties to the settlement to respect the sovereignty, independence, and territorial integrity of the others as defined in the agreements, and to refrain from the use or threat of force against each other.

They must equally contain commitments by all parties to the settlement to put an end to all hostile actions against the others, including armed incursions, propaganda inciting hostile acts, economic blockades and boycotts, obstacles to the normal movement of shipping, goods, and people. They should also provide for steady progress, in defined stages, toward the development of normal international and regional political and economic relations and cooperation. Specific reciprocal actions by the parties themselves demonstrating progress toward normal relations are an indispensable part of the process of settlement.

Palestinians

The Palestinians for the most part believe that they have a right to self-determination. For a peace settlement to be viable, indeed for it even to be negotiated and concluded, this right will have to be recognized in principle and, as a part of the settlement, given satisfaction in practice.

Whoever represents the Palestinians must recognize the equal right to self-determination of Israel and Jordan. In particular, the Palestinians must recognize the sovereignty and integrity of Israel within agreed frontiers and must accept whatever security arrangements, mutual guarantees, demilitarized zones, or UN presence are embodied in the peace settlement.

Such a settlement also cannot be achieved unless Israel accepts the principle of Palestinian self-determination and some generally acceptable means is found of putting that principle into practice.

Possbilities for doing so might include (1) an independent Palestine state accepting the obligations and commitments of the peace agreements or (2) a Palestine entity voluntarily federated with Jordan but exercising the extensive political autonomy King Hussein has offered. Either of these arrangements might be supplemented by close economic cooperation with Israel and Jordan, possibly evolving into a wider regional common market.

Moreover, a peace settlement should include provision for the resettlement of those Palestinian refugees desiring to return to whatever new Palestinian entity is created, for reasonable compensation for property losses for Arab refugees from Israel and for Jews formerly resident in Arab states, and for sufficient economic assistance to the state or entity in which Palestinian self-determination is realized, from its neighbors and from the international community, to enable it to survive and to develop.

Accomplishment of these essential aspects of a settlement is complicated by disagreement and uncertainty as to who can negotiate authoritatively on behalf of the Palestinians.

While the Arab states at the Rabat meeting in 1974 accepted the Palestine Liberation Organization as representing the Palestinians, and many other states have also done so, its claim is not unchallenged. Many Jordanians continue to believe Jordan has a better right to this representation. It is not clear to what extent the PLO can negotiate on behalf of the Palestinians on the West Bank, in Gaza, or in Jordan, to whom it does not have ready access. The PLO has not publicly recognized Israel's right to exist. Israel has not recognized the PLO or agreed to accept the establishment of a Palestine state.

Nevertheless, it can certainly be said that a solution to the Palestinian dimension of the conflict will require the participation of credible Palestinian representatives who are prepared to accept the existence of Israel.

Boundaries

The basic principles governing the territorial aspects of the settlement should be those laid down in UN resolution 242 of November 1967 and accepted by most of the parties: "inadmissibility of the acquisition of territory by war"; "withdrawal of Israeli armed forces from territories occupied in the recent conflict" (the 1967 war); and the right of all nations of the area "to live in peace within secure and recognized boundaries."

We believe that, in exchange for the assured establishment of peaceful relations with its neighbors and suitable security arrangements, Israel should and would agree to withdraw to the June 5, 1967, lines, with only such modifications as might be mutually accepted. Jerusalem is discussed separately below.

In the Middle East as elsewhere, the only "secure" boundaries are mutually "recognized" boundaries, that is, boundaries freely accepted by the parties concerned. As long as there are irredentas that one or more of the parties passionately believes are unjustly annexed or held, no boundary incorporating those irredentas will be secure. This is particularly true in a situation where the parties have access to more and more sophisticated weapons, including missiles capable of easily spanning the contested territories and striking the cities of the other side. In an area where centers of population of the contending parties are so closely juxtaposed, security can be assured only by the establishment of normal peaceful relations.

Jerusalem

The issue of Jerusalem is especially hard to resolve because it involves intense emotions on the part of both Israelis and Arabs. It embraces sites that are among the most holy of Muslims, Jews, and Christians. It has been the focus of Jewish messianic yearning and has had special significance in Muslim history. The city was bitterly contested in the wars of 1948 and 1967, and its division in the interwar years left a heritage of deep mutual recrimination. Finally, it is the capital of Israel and might also be sought as the capital of a Palestine state.

For all these reasons the issue is highly symbolic for both sides. Consequently, it may prove wise to leave its resolution to a late stage of the negotiation. Whatever that resolution may be, it should meet as a minimum the following criteria:

(a) There should be unimpeded access to all the holy places and each should be under the custodianship of its own faith.

(b) There should be no barriers dividing the city which would prevent free circulation throughout it.

(c) Each national group within the city should, if it so desires, have substanital political autonomy within the area where it predominates.

All these criteria could be met within a city (1) under Israeli sovereign jurisdiction with free access to the holy places, (2) under divided sovereign jurisdiction between Israel and an Arab state with assured free circulation, or (3) under either of these arrangements with an international authority in an agreed area, such as the old walled city, with free access to it from both Israel and the Arab state. These or any other possible solutions should incorporate all three of the criteria set forth above.

No solution will be able to satisfy fully the demands of either side. Yet the issue must be resolved if there is to be a stable peace. We are convinced that ingenuity and patience should be able to find a compromise which will be fair and ultimately acceptable, even though not ideal from the point of view of any party.

Stages of Implementation

We believe that an integral part of a comprehensive settlement must be its implementation in stages that would be clearly defined in the peace agreements.

In order that a settlement be sufficiently attractive to all the parties to induce them to make the necessary compromises, all aspects of the settlement will have to be spelled out explicitly in an agreement or agreements that will be signed more or less simultaneously as part of a "package deal." Some of the provisions of such agreement or agreements can be implemented shortly after signature. Others, however, will require considerable time, probably several years, for full implementation. The latter are those that should be implemented in clearly defined stages, particular steps of withdrawal being matched with security measures and steps in the establishment of peaceful and normal relations.

This phased implementation would enable each side to assure itself, before proceeding with the next stage, that the other side had fully carried out the agreed and defined provisions of the previous stage. If it believed the other side had not complied, it would be entitled to suspend its own implementation of the next stage, while it resorted to whatever bilateral or multilateral machinery had been established by the agreements for supervision of compliance.

Through this device no party would feel that it was bound to one-sided implementation of any part of the agreement, if and when another party had failed to carry out its defined commitments under an earlier stage.

Safeguards, Guarantees, and Assistance

Finally, the peace agreements should be reinforced and supplemented by a wide range of safeguards, assurances, guarantees, and assistance, some of which would be embodied in the agreements themselves and others provided in separate instruments.

The agreements will contain the mutual commitments to security and peaceful relations among the parties described under the first heading of this section. They will probably also contain provision for rather extensive demilitarized zones, to be supervised by UN forces or observers or by joint commissions of the parties, and to be maintained for periods of time prescribed in the agreements. There should be explicit provision that the UN forces not be withdrawn by unilateral action.

It would be desirable that the agreements be endorsed by the UN Security Council, the United States and the USSR particularly committing themselves not only to respect but to support the agreements. The Security Council will need to take appropriate action in regard to demilitarized zones and to UN forces and observers.

Should these arrangements and safeguards not be considered by some or all of the parties sufficient to make certain there will be no violations of the agreements, they may wish to seek supplementary guarantees from one or more outside powers, which might either be multilateral guarantees of the agreements as a whole or unilateral guarantees extended to a single party. These contingencies are discussed in Section V below in relation to the U.S. role in a settlement.

No doubt the parties will expect to and will continue to receive external military assistance until stabilization and reconciliation have reached a point where such assistance is decreasingly necessary. Provision for eventual limitation of the flow of arms into the area might be included either in the peace agreements themselves or in the Security Council action supporting the agreements. In any case it should be an ultimate goal.

The agreements will further need to be supplemented by the provision, by wealthy states concerned with stability in the area, of economic assistance essential to the peaceful development of its states and people.

IV. The process of negotiation

Perhaps the most difficult task facing the peacemakers is not what to seek but how to achieve it.

A series of devices have been tried since 1967: good offices of the UN secretary general and his special representative, Four Power conversations at the UN, bilateral conversations between the United States and the USSR, good offices by the United States vis-a-vis some or all of the parties in pursuit, originally, of a comprehensive settlement and, subsequently, of interim steps designed to avoid a stalemate. Since the 1973 war the concentration has been almost wholly on interim steps.

The conclusion of the Sinai agreement in September 1975, significant and useful as it no doubt was, has brought out certain difficulties in this line of approach. Both parties perceive themselves as having made very substantial concessions, which may render it politically difficult for them to make further concessions necessary to a general settlement in the near future. Among the Arabs only Egypt has received any satisfaction from this agreement. Other Arabs equally involved demand satisfaction of their claims. Consequent divisions and recriminations among the Arabs have complicated the process of settlement.

Moreover, the Soviet Union is increasingly annoyed at being left on the sidelines. Its leaders believe that its extensive interests in the area and its formal role as cochairman of the Geneva Conference justify its playing a leading part in the process of peacemaking, whether of a comprehensive settlement or of interim steps. While it did not interfere with Secretary Kissinger's shuttle diplomacy in March or August 1975, it was certainly resentful of its conspicuous exclusion, of the absence of consultation throughout the process, and of the stationing of American technicians in the Sinai without its agreement. The USSR, because of its relations with Syria and the PLO, certainly has a considerable capacity for complicating or even for blocking either further interim steps or progress toward an overall settlement.

At the same time the United States, in order to obtain this limited agreement, has made a considerable number of commitments which used up some of the incentives it will need to promote a broader settlement. It has also become the target of attack from other Arabs who demand progress toward their goals. The U.S. Congress is beginning to express uneasiness at growing U.S. involvement and commitments, made not to guarantee an agreed comprehensive settlement but merely to facilitate another very limited step in the process.

In any case there may not be another interim step which is feasible at the present time.

The one most frequently proposed is an Israeli-Syrian agreement, but leaders of both Israel and Syria have expressed great skepticism about the feasibility of an agreement on the Golan Heights except in the framework of an overall settlement. In the absence of such a settlement Israel is unlikely to be willing to abandon the fortified hills and kibbutzim close to the present cease-fire line, while Syria seems in no mood to be satisfied with a token or cosmetic withdrawal. Soundings should no doubt continue with both sides, but they do not appear promising.

Since Jordan's capacity to represent West Bank interests is widely contested, and since Israel and the PLO do not recognize each other, the possibility of negotiating any sort of partial withdrawal on the West Bank seems even more remote.

Mutual recognition and the cessation of all acts of violence between Israelis and the PLO or another representative Palestine body would greatly facilitate the whole process of negotiation and would in itself constitute an important interim step.

Unilateral measures of concession and goodwill by one or several of the parties could make a contribution to improving the atmosphere and should be stimulated. On the other hand, unilateral actions that aggravate fears and passions delay or even jeopardize settlement.

What would be most prejudicial under present circumstances would be to do nothing. Regardless of how much those involved in negotiating the Sinai agreement might wish a pause of some duration, the situation is not likely to permit it. Unless Syria, the Palestinians, and Jordan are engaged in the peacemaking process, they will exert themselves even more strongly to undermine the Egyptian-Israeli agreement and to provoke tension and disorder by inviting international attention to their claims.

On the whole, therefore, we see no promising alternative for the near future to the commencement and vigorous pursuit of negotiations directed toward a comprehensive settlement involving all the parties to the conflict.

A Process of Comprehensive Settlement

While the desirability of negotiating a comprehensive settlement is clear, the means are not. Yet if stalemate is too dangerous to be tolerated for long and no significant interim step seems feasible in the near future, there is no alternative to facing and overcoming these difficulties.

A general conference at Geneva or elsewhere has advantages and disadvantages. The advantages are substantial.

First, it would assemble all or most of the parties at interest and enable each government to assure its people that, even if the process was long, there was no stalemate, their problems were being dealt with, and progress was being made.

Second, a general conference would give Israel what it has so long been seeking, an opportunity to sit down with its neighbors and negotiate face to face. At the same time it would enable the Arabs to negotiate in parallel fashion, though not necessarily in tandem, and thus to avoid the public divisions provoked by separate interim steps.

Finally, a general conference, of which it was a cochairman, would reintroduce the Soviet Union into the negotiating process and oblige it publicly either to accept or to reject a share of the responsibility for actively promoting a settlement. Certainly its role would be both more legitimate and more effective if it would first move toward impartiality by reestablishing relations with Israel.

The intentions and capabilities of the Soviet Union in the Middle East are the subject of considerable controversy. The region is geographically adjacent to the USSR, which has had extensive interests and involvement there at least since 1955. The extent of its influence has varied from place to place and from time to time, and will continue to do so in the future. The Soviet Union can be prevented from achieving predominance in the area, but it cannot be excluded from it.

It seems probable that the Soviet Union would not want another war in the Middle East, which might involve it in agonizing dilemmas as to how far to go in supporting its friends, and possibly in a serious confrontation with the United States. Whether on the whole it would prefer a comprehensive settlement to the present precarious instability, and if so how far it would exert its influence in this sense, is unknown and could only be determined by testing. Certainly the Soviet Union is unlikely to press for solutions strongly opposed by its Arab friends. On the other hand, it might be willing to contribute to a settlement which protected both Arab interests and its own and in the negotiation of which it played a respectable part.

Since there is no question but that the USSR has a considerable capacity for obstructing a general settlement, and any settlement which it opposed would be likely to prove unstable, its involvement in the negotiating process and in the arrangements and guarantees following a successful negotiation would seem on balance to be an advantage rather than a disadvantage of a general conference.

There are also serious possible obstacles to a general conference.

First, the question of Palestinian representation has not been resolved. Some insist that the PLO could not attend as long as the PLO and Israel do not recognize each other. On the other hand, others insist the conference could not be held unless it does attend. It has been asserted by some that, if the PLO were to attend a Geneva conference, which would be acting pursuant to Security Council resolutions 242 and 338, and were there to negotiate with Israel, it would be recognizing Israel and its right to exist in peace and security.

In any case what does have to be decided either before a conference or not long after it convenes, is how the Palestinians are to be represented. A solution that would solve many problems would be mutual recognition by Israel and the PLO and an agreement between them to suspend acts of violence at least for the duration of the conference. Other possible solutions might be the creation of a Palestinian negotiating authority including both the PLO and elements from the West Bank and Gaza or, at least temporarily, the inclusion of Palestinians in another Arab delegation.

A second obstacle to a general conference is the fear that it might simply reproduce a polemical, UN type of general debate. It might quickly deadlock, the Soviet Union uniformly supporting the Arabs and the United States, at least on fundamentals, Israel. If it failed, it has been claimed, the situation might be worse than if it had never been convened.

These are genuine obstacles but they must be overcome if there is no viable alternative to the negotiation, in one way or another, of a comprehensive settlement.

It was doubtless with this imperative in mind that Secretary Kissinger in his speech to the UN General Assembly September 22 said that the United States would support, not only an Israeli-Syrian interim negotiation or a reconvened Geneva conference, but also "a more informal multilateral meeting to assess conditions and to discuss the future."

Such an informal meeting could prepare for a more formal conference and might have the advantage of eluding or postponing for the time being the question of PLO representation. On the other hand, if the informal meeting were to be more than preparatory and were to enter into substantive negotiations, the question of Palestinian representation would soon arise and would have to be met.

The organization of such an informal meeting also raises questions. Who would take the initiative in arranging for and sponsoring the meeting? The alternatives would presumably include the United States and the USSR acting together, the United States alone, or the UN secretary general. Whoever took the initiative would no doubt wish to consult with the others mentioned and would of course have to obtain the consent and cooperation of the principal parties in the area.

Certainly a conference to negotiate a comprehensive settlement needs to be properly prepared. On the other hand, the preparations should not be so comprehensive as to cause a deadlock and unduly delay the conference. Basic issues can hardly be settled in a preparatory process.

The conference, when it convenes, might well commence with a reaffirmation of UN resolutions 242 and 338, which provide the basis for settlement. Another possibility is that, before undertaking to negotiate the details of a settlement, an attempt would be made to agree on its general framework and essential principles. In any case, there should be a minimum of plenary sessions, the real work being done by a number of committees charged with negotiating each of the main issues.

The parties should be encouraged to present concrete proposals for resolving the main issues, but if the parties are politically constrained from submitting proposals that have any chance of acceptance, one or both of the cochairmen may find it necessary to do so. As the process proceeds, new and unexpected interim steps may become feasible; these would lower tension and buy time until the final settlement is achieved.

Timing is in some sense the central problem. With issues so complex, differences still so great, and domestic political constraints on all the parties so severe, the process of hammering out a durable settlement, even if it ultimately succeeds, is bound to take considerable time. On the other hand, continuing progress is needed if all the risks of stalemate, deterioration, and explosion are to be avoided.

V. The U.S. role in the process of settlement

To judge by the experience of the past eight years, it seems evident that the Arab and Israeli governments cannot reach a settlement in the foreseeable future without strong encouragement from the great powers. The governments directly concerned must bear the responsibility for negotiation and agreement, but initiative, impetus, and inducement may well have to come from outside.

The United Nations has played a significant role in the area since 1947, laid down some of the basic principles of a settlement, accepted by all concerned, in Security Council resolutions 242 in 1967 and 338 in 1973, and still maintains indispensable peacekeeping forces along the cease-fire lines in the Sinai and on the Golan Heights. Nevertheless, since 1967 the UN has neither displayed the capacity nor commanded the trust of all the parties sufficient to bring about a general settlement. It now seems even less likely to do so, although it could have a very consequential role in the implementation of a settlement through the use of UN forces and in the political, economic, and social programs that emerge from a settlement.

The interests and influence of the Soviet Union in the area and its role as cochairman of a general conference are described above. It is not yet clear how far it is prepared to work for a general settlement, but since its cooperation would certainly be helpful and may prove essential, its participation in preparing and conducting negotiations should be actively sought and its intentions thus thoroughly tested.

The United States, because it enjoys a measure of confidence of parties on both sides and has the means of assisting them economically and militarily, remains the great power best fitted actively to work with them in bringing about a settlement. The fact is that whatever the United States does or does not do is bound to affect the policies of the parties and the prospects for a settlement. By either its action or its inaction it will, whether it wishes to or not, strengthen or weaken the elements on both sides which are, against all the obstacles we have described, striving for a durable peace.

On the other hand, the United States,

either alone or with the Soviet Union, cannot impose a settlement. Nor would it be wise for it to attempt to lay down a detailed blueprint of what it believes a settlement should be. As much as possible should be negotiated and agreed upon by the parties on their own initiative.

These reservations about a too large U.S. role do not at all mean that the United States, alone or with others, should not feel free at any time to make proposals to the parties to overcome difficulties, large or small, which are certain to arise. It is entirely appropriate for a state extending good offices in an international dispute to do exactly that. Unless it does, in view of the domestic constraints upon the parties, the whole process is very likely to break down. The effective management of a general conference or an "informal meeting," for example, would require an active role by the cochairmen from time to time, just as did the negotiations of the interim agreements.

Besides helping provide a framework for negotiation and submitting concrete suggestions from time to time, the United States can take other constructive steps. Under appropriate circumstances and in varying degrees it can offer military and economic aid. If held within reasonable limits so as not to exacerbate fears, such aid can help give the parties sufficient assurance of security and stability to enable them to make concessions they might otherwise refuse to make.

Perhaps the most controversial aspect of the U.S. role is whether or not it should offer commitments or guarantees in support of a settlement, supplementary to the mutual commitments undertaken by the parties and whatever guarantees and safeguards the United Nations may offer.

The recent debate on the Sinai agreement demonstrated that Congress would be extremely reluctant to offer guarantees or to undertake commitments going beyond traditional assurances of aid and consultation if those guarantees or commitments applied to the present unsettled situation. The Congress might well, however, consider favorably some form of guarantee of a comprehensive peace.

It is of course not clear whether the parties would wish a supplementary unilateral U.S. guarantee. In the past Israel has expressed lack of interest in such a guarantee, perhaps fearing that it would be deemed a substitute for security demands Israel favored, but that situation may have changed. If at any time it should appear that a supplementary unilateral guarantee to Israel alone or to other parties as well were essential to the conclusion of a settlement, we believe such a guarantee would be in the U.S. interest. It seems probable that a guarantee to all of the parties should best be multilateral, extended by the Soviet Union and perhaps Britain and France as well as the United States.

How extensive a U.S. guarantee should be and whether and when it should contemplate the involvement of U.S. forces would need to be the subject of extensive examination and discussion, and would have to be fully understood and approved by the U.S. Congress and the public before being undertaken. Because of the obvious difficulties, a U.S. guarantee, if undertaken, should not obligate the United States to intervene to deal with violations of the peace agreements that could be dealt with by other means, and it should be restricted to major violations of the agreements threatening world peace or the existence of states.

The main criteria for external guarantees perhaps should be:

(1) that they are essential to obtaining and maintaining a settlement;

(2) that they are no more extensive than is necessary for that purpose; and

(3) that they should not be directed *against* anyone but simply underwrite commitments undertaken in the peace agreements.

DIVESTITURE SHOULD BE VIEWED IN AN HISTORICAL LIGHT

(Mr. OTTINGER asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. OTTINGER. Mr. Speaker, as we all know, the Senate Antitrust Subcommittee has favorably reported S. 2387, a bill to increase competition in the oil industry. That action has been met thus far with the tremendous and very well-orchestrated opposition of the giant oil companies this measure would affect. As the current debate over oil industry divestiture rages on, however, I regret that we too often fail to consider the historical context in which this proposal ought to be considered.

I recently came across a discussion which took place in the Senate over 40 years ago when the Public Utility Holding Company Act of 1935 was being considered. The purpose of that legislation was to control and, in many cases, eliminate the 35 public utility holding companies which were in operation at that time. These 35 companies and the scores of subsidiaries they owned constituted a tremendous political and economic force in our society at that time, just as the major oil companies do in the United States today. Nevertheless, Congress passed the Holding Company Act and President Roosevelt signed it. That was one of the most significant antitrust actions this Congress ever took.

Senator Burton K. Wheeler, of Montana, the author and floor manager of the bill, brought to light in his opening statement many of the same arguments being used for and against S. 2387 today. Those comments which Senator Wheeler made on May 29, 1935, were never more timely than they are today and I would like to share them with my colleagues in the House:

Statement of Senator Burton K. Wheeler, U.S. Senate, May 29, 1935

Mr. President, at the outset of my remarks I wish to state that I am not unmindful, when we come to pass legislation which materially affects the great power interests of this country, that we are faced always with one of the greatest and most insidious lobbies that has ever entered the Capitol of this Nation.

I recall a few years ago when we had before this body the question of an investigation of the so-called "Power Trust." I was a comparatively new Member of the body at that time, but was serving upon the Committee on Interstate Commerce and I recall the terrific fight that was made against the resolution of investigation. I remember not only the fight that was made upon the floor of the Senate, but I recall the tremendous lobby that was out in the corridors, and that filled the galleries when the resolution was pending.

I remember distinctly how every Member of Congress was buttonholed, how his office was visited, how the representatives of local power interests came to the Capitol and called on every Member of the Congress. I remember how they at last succeeded in having the investigation taken out of the Congress of the United States and sent to the Federal Trade Commission because the power interests themselves—among them Mr. Insull, and others—felt that they could get more lenient treatment before the Federal Trade Commission.

The investigation covered a period of years, and resulted in the disclosure of one of the most gigantic trusts that has ever been developed in the history of this country. It uncovered the practices of the holding companies, which cannot be characterized in any other way, I submit without fear of contradiction, than as fraudulent and as legalized thievery against the people of the United States.

I wish to call attention to the findings of the Federal Trade Commission. Among other things they said:

A list of the questionable practices is attached to part 72–A as appendix A. Such acts and abuses are too various to recite here in detail, but the numerous evil conditions and practices discussed in the preceding chapters may for the most part be classified under the following general heads:

(1) Pyramiding companies owning or controlling the operating companies for the purpose of enabling a minimum of investment to control a maximum of operating facilities, involving a greedy and highly speculative type of organization detrimental to the financial and economic welfare of the Nation.

(2) Loading the fixed-capital account of public utilities with arbitrary or imaginary amounts in order to establish a base for excessive rates.

(3) Writing up the fixed assets without regard to the cost thereof, with the result of watering the stock or creating a fictitious surplus.

(4) Engaging in transactions of purchase and sale of property or securities with controlled or subsidiary companies for the purpose of recording arbitrary profits or fixing valuations unjustified by market values.

(5) Exaction of payments from affiliated or controlled companies for services in excess of cost or value of such services.

(6) Gross disregard of prudent financing in excessive issues of obligations, imperiling the solvency of the company and involving excessive charges for interest, discount, commissions, redemption, etc.

(7) Manipulating the security markets to deceive stockholders, bondholders, or potential purchasers of its securities.

(8) Putting funds in the call-loan market with the result of greatly stimulating speculation.

(9) Excessive use of conversion privileges for bonds and preferred stocks and of purchase warrants and options with the effect of inducing investors to part with conservative investments for speculative ones.

(10) Misstatement of earned surplus, or failure to distinguish earned from capital surplus, and making payment of dividends from the latter.

(11) Deceptive or illusory methods of dividing, or pretending to divide, earnings or profits.

(12) Including imaginary (or putative) interest in construction costs of a public utility and counting it as a part of earnings.

(13) Deceptive or unsound methods of accounting for assets and liabilities, costs, operating results, and earnings, including writeups unrealized or fictitious profits, stock dividends, etc.

(14) Corporate organization which gives powers inconsistent with a just division of responsibilities and emoluments as between various groups or parties furnishing capital by loan or by contribution, either directly or indirectly by purchase, succession, or otherwise.

(15) Issuing special voting or management stock giving control at small cost in order to promote the interests of selfish cliques, against the interest and safety of the general stockholders.

(16) Unsafe or mischievous methods of securing loans to the detriment of the lender.

(17) Intercompany financing on a basis

disadvantageous to operating company borrowers or lenders.

(18) Evasion of State laws in effecting sales of security issues.

(19) Effecting pretended corporate reorganizations principally for the purpose of evading the payment of Federal income taxes.

In the last analysis the foregoing practices and the conditions which they have created must be judged not only by economic results but by ethical standards. It is not easy to choose words which will adequately characterize various ethical aspects of the situation without an appearance of undue severity. Nevertheless the use of words such as "fraud", "deceit", "misrepresentation", "dishonesty", "breach of trust", and "oppression" are the only suitable terms to apply if one seeks to form an ethical judgment on many practices which have taken sums beyond calculation from the ratepaying and investing public.

The evils recited have flourished in spite of such regulation as has existed. As shown in an exhaustive study made by this Commission, printed in part 69A and discussed at length in chapter XII of this summary report, such evils have to a substantial degree resulted from and even been promoted by legislation and policies in some of these States. It is there shown that no substantial progress is being made, or can be made, by the States generally, toward effective regulation of holding companies. In a few States efforts are being made but generally the situation remains as it was 25 years ago, in spite of the rapid expansion of the holding-company systems and an even more rapid growth of resultant abuses. This refers particularly to the holding-company situation, because there the power of the States is, at best, handicapped by nonresidence and other causes. These compel the States, when any regulatory attempt is made, to resort to indirect methods of control, rather than to direct specific remedies. The States in general are quite helpless when certain of the States grant roving charters with practically unlimited power in what Justice Brandeis has characterized as a race "not of diligence but of laxity."

The holding company in the utility field has been the chief device by which the control and ownership of operating companies has been rapidly concentrated into fewer and fewer hands with every prospect that the process will continue on to Nationwide monopoly.

Mr. President, I appreciate the fact that there are those in this Chamber whose philosophy differs from mine in that they believe that monopolies are beneficial to the people of this country. But I am one of those who believe that unless we stop the present trend toward monopoly and get back to an economic democracy in the United States, instead of breaking up these bureaucracies which exist at the present time, we are going to build up greater and greater bureaucracies until finally the Nation itself will go down, as every other civilization has gone down in the past.

This bill, unlike many bills which have been proposed in these legislative halls, seeks not for further concentration of power in the hands of the Government of the United States; on the contrary, the tendency of the bill is to make these power-holding companies decentralize, so that they can be controlled by local communities, or can be controlled in a small number of States where they carry on their operating facilities.

With reference to the claim that there is no demand for this bill, let me call the Senate's attention to the fact that the bill is not something new. It is the outgrowth of an investigation which was started in Congress a great many years ago when my colleague the late Senator Walsh, one of the greatest lawyers who ever served in this body, started the investigation into the holding companies, which was continued before the Federal Trade Commission, where for 6 or 7 or 8 years they have been conducting the investigation.

Mr. President, this bill is not the result of snap judgment. This legislation and the conditions which exist in the country with reference to holding companies have been subject to consideration from time to time by various Congresses and by legislators of States from one end of the country to the other.

It is said there is no public demand for this legislation. Was there not a public demand which brought up an investigation of these charges? Was there not a public demand which caused the Government of the United States to spend millions of dollars before the present administration ever came into power, to have these companies investigated and their practices shown up and brought to light? Were the studies which have been conducted for all these years, and the recommendations by various bodies, brought about without public demand? I am certain the question of public demand would be answered affirmatively if one went out to the people of any State of the Union and asked them whether or not there is a public demand for this kind of legislation.

Mr. President, Senators have received a great many letters on this subject. I have received 3,000 letters from my constituents asking me to kill this bill. I have hundreds of letters in my possession from laboring men who have written in saying, "I have had to write the letter to you. The company has come to me insisting that I write the letter. They have paid for the postage." I have had other people write to me saying, "I had to write the letter or lose my job." I have been told that companies have asked all their employees to write such letters. I have had letters from stockholders in which they apologized to me for writing letters asking me to kill the proposed legislation, because they did not understand its purpose at the time they wrote their original letters.

CHARITABLE CONTRIBUTION TAX CREDIT BILL

(Mr. OTTINGER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. OTTINGER. Mr. Speaker, I am today introducing legislation to give to all taxpayers a charitable tax credit similar to the currently authorized tax deduction for charitable gifts which is of primary benefit to wealthy citizens. According to section 170 of the Internal Revenue Code, an individual is allowed to claim as an itemized deduction the amount of charitable contributions to religious, educational, public, or scientific organizations with a maximum allowable deduction of 50 percent of adjusted gross income. The bill I am introducing today would allow individuals to elect in lieu of this deduction, a tax credit of $500, $1,000 for a joint return.

A tax credit for charitable contributions will create greater equity for the taxpayers and promote increased contributions for charitable organizations.

Under present law only taxpayers who itemize deductions may deduct charitable contributions; no allowance for charitable giving is provided taxpayers who claim the standard deduction. Statistics show that less than 5 percent of returns with adjusted gross income of less than $5,000 itemize deductions, and less than 30 percent of returns with adjusted gross income between $5,000 and $10,000 itemize. However, 90 percent of returns with adjusted gross income between $30,000 and $50,000, and virtually all returns with adjusted gross income above $500,000 itemize deductions. Thus, because of their financial situation and the structure of the Tax Code, less than 5 percent of taxpayers with adjusted gross income below $5,000 receive any tax benefit for their charitable contributions; however, over 90 percent of taxpayers with adjusted gross income in excess of $30,000 do receive such tax incentives. Clearly this situation is unfair to those people in the lower income brackets and is a severe limitation on charitable institutions whose prime constituency is low- and middle-income people.

The magnitude of the increase that might be anticipated in charitable giving stimulated by a charitable tax credit is indicated by a study performed by the Harvard Institute of Economic Research which shows that a 30-percent optional Federal tax credit for charitable contributions, with no maximum limit, would increase total giving by 20 percent.

An important byproduct of this legislation would be to permit aid to private and parochial schools in a manner that is clearly constitutional. Those taxpayers who chose to use their charitable credit in this manner could give to such schools just as taxpayers can presently use the charitable deduction for support of religious organizations and their educational institutions for charitable contributions also.

It is important that we encourage private giving to charitable organizations because these organizations play an important role in American life and because private giving is essential not only to their autonomous existence but also to help them maintain their level of services and benefits to ultimate beneficiaries. Furthermore I agree fully with the judgment expressed in the 1975 report of the Commission on Private Philanthropy and Public Needs that—

> Governmental incentives to giving are appropriate because giving provides an important mode of citizen expression. By contributing to non-profit organizations a citizen says with his money what needs should be met, what objectives pursued, what values served. Every contributor exercises, in a profound sense, a form of self-government that parallels, complements, and enriches the democratic process itself.

While this bill does not offer solutions to all the inequities of the present tax structure as it pertains to charitable contributions, it does address some of the difficulties and provides for a tax structure that encourages charitable contributions as well as helps to maintain equal treatment for the taxpayers.

The text of the bill follows:

H.R. 14286

A bill to amend the Internal Revenue Code of 1954 to allow an individual to elect a tax credit for 50 percent of his charitable contributions in lieu of the deduction allowed for such contributions

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this

Act may be cited as the "Religious and Charitable Donors' Tax Justice Act of 1975".

SEC. 2. (a) Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits allowable) is amended by redesignating section 42 as section 43 and by inserting after section 41 the following new section:

"SEC. 42. CREDIT FOR CHARITABLE, ETC., CONTRIBUTIONS AND GIFTS.

"(a) GENERAL RULE.—In the case of an individual, there shall be allowed, subject to the limitations of subsection (b), as a credit against the tax imposed by this chapter for the taxable year an amount equal to 50 percent of the amount of the deduction which, but for subsection (d), would be allowable to the taxpayer for the taxable year under section 170 (relating to charitable, etc., contributions and gifts).

"(b) LIMITATIONS.—

"(1) MAXIMUM CREDIT.—The credit allowed by subsection (a) for the taxable year shall not exceed $500 ($1,000 in the case of a joint return under section 6013).

"(2) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) for the taxable year shall not exceed the amount of the tax imposed by this chapter for the taxable year reduced by the sum of the credits allowable under section 33 (relating to foreign tax credit), section 37 (relating to retirement income), section 40 (relating to expenses of work incentive programs), and section 41 (relating to contributions to candidates for public office).

"(c) ELECTION.—This section shall apply in the case of an individual who, for the taxable year, elects to take the credit against tax provided by this section. Such election shall be made in such manner and at such time as the Secretary or his delegate shall prescribe by regulation.

"(d) DENIAL OF DEDUCTION.—An individual who, for the taxable year, elects to take the credit against tax provided by this section shall not be allowed the deduction under section 170 (relating to charitable, etc., contributions and gifts) for the taxable year".

(b) Section 170(d)(1) of such Code (relating to carryovers of excess contributions for individuals) is amended by adding at the end thereof the following new subparagraph:

"(C) EFFECT OF ELECTING CREDIT UNDER SECTION 42.—In the case of any taxable year for which the taxpayer elects the credit provided by section 42 (relating to charitable, etc., contributions and gifts)—

"(i) no portion of the excess (if any) of the amount of the charitable contributions described in subsection (b)(1)(A) payment of which is made by the taxpayer during such taxable year over 50 percent of the taxpayer's contribution base for such taxable year shall be treated under subparagraph (A) as a charitable contribution described in subsection (b)(1)(A) paid in any succeeding taxable year, and

"(ii) such taxable year shall not be taken into account under subparagraph (A) except for purposes of determining the number of taxable years succeeding any contribution year.".

(c) The table of sections for subpart A of part IV of subchapter A of chapter 1 of such Code is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 42. Credit for charitable, etc., contributions and gifts.

"Sec. 43. Overpayments of tax.".

SEC. 2. (a) Section 46(a)(3) of such Code is amended by striking out "and" at the end of subparagraph (B), by striking out the period at the end of subparagraph (C) and inserting in lieu thereof ", and", and by inserting after subparagraph (C) the following new subparagraph:

"(D) section 42 (relating to credit for charitable, etc., contributions and gifts).".

(b) Section 170(j) of such Code is amended by adding at the end thereof the following new paragraph:

"(9) For disallowance to individuals electing credits for charitable contributions, see section 42(d).".

SEC. 3. The amendments made by the first two sections of this Act shall apply to taxable years beginning after December 31, 1974.

GENERAL REVENUE SHARING

(Mr. HORTON asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. HORTON. Mr. Speaker, today I received two telegrams relating to the reenactment of general revenue sharing. One telegram was from the mayor of Rochester, N.Y., the principal city in my district. The second telegram was from the Honorable Hugh Carey, Governor of New York State. I believe that the content of these telegrams is as important for other States and cities in the Union as they obviously are for cities in New York and the State of New York. I hereby submit the text of these telegrams for the benefit of my colleagues:

TELEGRAMS

Hon. FRANK HORTON,
Rayburn House Office Building,
Washington, D.C.

With inflation and economic recession facing both local taxpayers and municipal government our need for Federal assistance in the form of general revenue sharing is greater than ever. Therefore, I urge you and our congressional colleagues who will consider revenue sharing legislation on the House floor to support the following actions:

1. Entitlement financing.
2. Elimination of Fascell supplemental formula.
3. Restoration of the $150 million growth factor.
4. Elimination of the Rosenthal modernization amendment.

THOMAS P. RYAN, Jr.,
Mayor of Rochester, N.Y.

JUNE 9, 1976.

Hon. FRANK J. HORTON,
House Office Building,
Washington, D.C.:

The extension of the State and Local Fiscal Assistance Act, revenue sharing, is vital to the future of New York State. This telegram conveys my positions on the major provisions of and amendments to H.R. 13367.

ENTITLEMENT AND LONG-TERM FUNDING

I am firmly committed to the 3¾ year entitlement financing mechanism in H.R. 13367 to assure long-term funding for revenue sharing within the context of the newly established congressional budgetary process. The combined authorization-appropriation entitlement is essential to the fiscal and planning efforts of State and local governments whose budget making process is seriously hurt by the uncertainty of Federal funding.

FORMULA DISTRIBUTION

I am committed to the continuation of the distribution of funds directly to the States and general purpose governments using the existing distribution formula which reflects need, population, and tax effort.

When Congress acted in 1972, it intended to aid the States and units of local government in meeting a varied range of governmental needs. It did not intend to create yet another category of payments to meet individual needs. The Fascell formula, contained in subsection D (supplemental fiscal assistance), confuses the original intent and now seeks to add individual, rather than governmental needs, to the formula. This formula I support the restoration of the $150 million annual increment which will allow for the continuation of the modest 2 percent annual growth for the program. In addition, I support gradually raising the 145 percent ceiling to 175 percent by the end of the 3¾ years. This increase will serve to allocate more money to needy governments with greater service responsibilities.

Reduces the funding level of 90 percent of all recipient government units, including 12 of the States with the highest unemployment rates in the Nation. The fascell formula results in a net loss for New York and most of its subsidiary units. For these reasons, I oppose this supplemental formula.

ROSENTHAL AMENDMENT

I believe the costly and troublesome Government restructuring amendment must be defeated. This amendment seriously violates both the principle of our federal system and the concept of general revenue sharing. The States and local units of government must be allowed to determine their own destinies with regard to their governmental structures.

CATEGORIES

Finally, I am opposed to any amendments on the House floor that add further categorization or program restrictions to general revenue sharing.

Overriding all of these issues, however, is the need for confidence and continuity. Revenue sharing is one of the few stabilizing influences in what is now, at best, an unsettled fiscal environment. The immediate re-enactment of the State and Local Fiscal Assistance Act would be a most effective way of assuring State and local officials and the people of the country as a whole that fiscal justice is being applied equitably across the Nation. I strongly urge your strong, personal support for revenue sharing.

HUGH L. CAREY.

MEMORIAL DAY IN VETERANS PARK IN SURFSIDE

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PEPPER. Mr. Speaker, one of the very fine and progressive municipalities in my congressional district is that of Surfside. Every year for many years the mayor, the members of the council, veterans organizations, and the veterans auxiliaries, together with a large number of patriotic citizens have had a very stirring, patriotic service on Memorial Day in Veterans Park in Surfside. There are many patriotic speeches, an award to Gold Star Mothers and participation by the Boy Scouts and many other organizations dedicated to the freedom and independence of our country. On this Memorial Day there was another inspiring, patriotic program at Veterans Park in which I had the honor to participate. One of the most eloquent addresses made on this Memorial Day program was that made by the distinguished mayor of Surfside, Hon. Sam Brenner. He not only reminded us of our debt to the dead and the duty we owe to carry on the fight for which they gave their lives, but he in eloquent and moving words called upon the nations and peoples of the world to stop war. In substance, he pleaded for that of which the Bible speaks:

> When nations shall beat their swords into plowshares and their spears into pruning hooks and make war no more.

He pleaded for the people of the world to determine to preserve peace and to set up an organization which could keep the peace of the world.

Mayor Brenner's address was both thoughtful and movingly patriotic. I commend it to my colleagues and to my fellow countrymen. Mr. Speaker, I, therefore insert Mayor Brenner's address in the body immediately following these remarks:

SPEECH BY MAYOR SAM BRENNER,
SURFSIDE, FLA.

"By the flow of the inland river
Whence the fleets of iron have fled
Where the blades of the grave grass quiver
Asleep are the ranks of the dead.

"No more shall the war cry sever
Or the winding rivers be red;
They banish our anger forever
When they laurel the graves of our dead!"

How many times has that been ringing in my ears! And

"I shall not sleep though poppies grow
In Flanders fields."

And

"How sleep the brave?" Yes! How *do* sleep the brave?

I tell you that they cannot sleep, that they "cease to rest." It is proper and fitting on this occasion to eulogize our departed soldiers, to come here and weep for our dead soldiers. But I do not come here only to weep for dead soldiers, I come here also to take action for the living so that *we, Their Beloved*, shall not die as they died. For *I* cannot sleep "tho poppies grow in Flanders fields": I have come here today to bare my heart and soul beneath the sky before all of you and with all of you. I am addressing you as tho these men *just* died. I speak for the dead for I *am* the dead if I have done nothing to preserve the living.

It is nice to be remembered, but remembering is not enough. They don't want our tears year after year. They don't want our promises which smack of new year's resolutions. Even the bible has been promising for thousands of years that the sword will be beat into a plowshares. What has happened to that sword? It has become a nuclear bomb and a guided missile.

The world returns to their graves with unclean hands from piling on high more and more dead soldiers all over the world, year in and year out—

"Pile them high at Austerlitz and Waterloo," Sandberg cries, pile them high at Ypres and Verdun, shovel them under and let me work. I am the grass, I cover all."

Where to next? Or are we next?

For this very moment as I speak to you there are guided missiles and nuclear bombs aimed right at us. We are but the pushing of a button away from total annihilation, total oblivion. What madness is this?

"Is this the dream he dreamt who shaped
the suns
And marked their ways upon the ancient
deep?"

This was not man's dream either. We must come to our senses! What are we waiting for, when it is too late as it was too late when people were being pushed into cattle cars and taken to gas chambers? Are we waiting for that terrible moment when a nuclear bomb or a guided missile comes screeching towards us to tear us into oblivion and we scream, "Oh, my God!" It will be too late to be helped then for God helps those who help themselves by planning *now* to avert disaster.

Now is the imperative moment to make a decisive move to begin to replace the international anarchy which prevails all over the world by instituting a plan for international law and order. We must create a heterogenous impartial peace keeping force duly representative of all nations which works to protect all nations regardless of their race, color, creed, or form of government. This impartial peacekeeping force must gradually replace the enormous capital fighting forces of all nations with which we are overburdened.

The survival of the world of the future is enough impetus for us to find a common basis for peace; *for what is the alternative? This? This? What we have now? Think!* Is it not at its very worse, the lesser of two great evils? *War is a madman!* And in this way, we can put him in a straight jacket where he belongs.

We build the world's great cities, with their gigantic skyscrapers and we have no insurance that they won't be blown into smithereens with ourselves included. International law and order could be our insurance.

The Democratic Executive Committee of Dade County passed a resolution, under my sponsorship, last year, calling for the restructuring of the United Nations voting procedure simultaneously with the offering of all member nations to contribute 15% of their fighting forces into a heterogeneous peacekeeping force for an experimental five-year period. I surely hope the Democrats will see fit to make it part of their platform. For the world cannot exist without international harmony, particularly so in this nuclear age, and any vehicle of communication among nations is safer in the long run than no communication at all.

General Douglas MacArthur said in a speech:

"I know war as few other men now living know it, and nothing to me is more revolting. I have long advocated its complete abolition, as its very destructivenes on both friend and foe has rendered it useless as a means of settling international disputes. . . ."

Let us embark upon a new epoch. We must explore new ideas in the search for peace, for the old ideas have constantly failed us. *Something must be wrong!* For the proof lies in the graves of our departed beloved soldiers. This is a world I never made, and if I have to correct the mistakes and sins of my fathers, this is the way I wish to begin to correct them. Once and for all let us pull the devastating weed of war out by its *roots*, so that it cannot grow back anymore. Give back the hope to man that he can do it!

"Give back the upward looking and the
light rebuild in him the music and the
dream!"

"In the chaos of the present lies the order
of the future."

Man stands up to protect the animal kingdom from extinction of any one of its species. Who will stand up to protect the human kingdom from extinction? What manner of mankind are we that we protect the animal kingdom but not our own? Nothing by comparison is so vital to our lives as the quest and attainment of peace. Let us resolve here and now that this be the meaning of our lives and that we were born for this purpose and become ordained and destined to be the seed of peace. Then we will not have to make speeches in which we declare, "Let us resolve that these men shall not have died in vain." Let's just not have them die to begin with! There can be no limit to the need for eloquence for the cause for peace, but let the need for the cause itself be its own eloquence. And may men answer that need quietly, consistently and with determination. Man must step across a shadow, the shadow of fright, distrust and faithlessness—the shadow of himself.

Then, and then only will these men not have died in vain, will we be able to sleep in peace "while poppies grow in Flanders fields," and will we be able to exult with the poet in his refrain,

"No more shall the war cry sever
Or the winding rivers be red
We banish our anger forever . . ."
". . . Asleep are the ranks of the dead."

JAMES A. FARLEY REMINISCES AT WARM SPRINGS

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PEPPER. Mr. Speaker, when the opportunity arises to honor certain extraordinarily meritorious individuals, we should grasp it firmly and gladly. James A. Farley's recent visit to the Little White House in Warm Springs, Ga., reminds us of his long and illustrious career, and his close association with President Franklin Delano Roosevelt. Indeed, few people, if any, are living who had a closer relationship with President Roosevelt. As we all know, James A. Farley immeasurably contributed to Roosevelt's election as Governor and then as President, and served as a member of his Cabinet. As Democratic National Chairman, as Postmaster General, and as the President's close friend and adviser, James A. Farley achieved greatness with simplicity, courage, and ability.

I have had the privilege of a deep friendship with James A. Farley, always a warm and compassionate man, over the past 40 years. We also worked together on many matters affecting the public interest. I soon came to appreciate the nobility of his character, and his profound devotion to the needs and interests of the country. His continued involvement with the affairs of our Government point to the constant dedication and sincerity of James A. Farley's distinguished career.

Mr. Speaker, two newspaper articles have recently appeared recounting the accomplishments and unique personal qualities of James A. Farley. I believe that my colleagues would desire to join with me in paying tribute to and honoring this great American by including these articles in the CONGRESSIONAL RECORD following my remarks:

[From the Atlanta Journal, Apr. 13, 1976]

FARLEY REMINISCES AT WARM SPRINGS: AT 87, FDR CABINET OFFICER VERY MUCH POLITICAL ANIMAL

(By Charles Salter)

WARM SPRINGS, GA.—James A. Farley, political kingmaker in the 1930's, says he still believes that Sen. Hubert Humphrey will win the Democratic presidential nomination this summer and occupy the White House next January.

He believes most Democrats feel that neither Sen. Henry Jackson nor Jimmy Carter "will have what might be called a sizeable group of delegates in the convention before it opens."

"If they don't have a sizeable group on which they could make efforts to get other delegates to go along, they might have difficulty in being nominated," Farley said.

Farley, 87, was postmaster general two

terms in the Franklin D. Roosevelt administration and was chairman of the Democratic National Committee.

He helped Roosevelt win election as governor of New York and directed his successful 1932 and 1936 presidential campaigns, then split with FDR over the politically precedent-setting decision to seek a third term in 1940.

Farley reminisced about his long friendship with Roosevelt in a program in front of the Little White House Monday afternoon, the 31st anniversary of the president's death in Warm Springs.

In an interview before his speech, Farley was reluctant to comment on Carter's candidacy but conceded the Democratic convention could not ignore him on the ticket if he keeps winning in the presidential preference primaries.

The fact that Carter ran against Wallace in the early primaries "helped him immeasurably," said Farley, pointing out the Alabama governor's political strength has deteriorated a lot.

"It is apparent to the voting public that Wallace can't be nominated," Farley said, "and, consequently, he can't be a candidate for the presidency.

"I would think he would have an influence in the convention. He could have a substantial number of votes."

Farley said he believes "any Democrat nominated would win the election because I don't think President Ford is as strong as they try to make it appear."

The former Cabinet officer observed that Ronald Reagan received from 40 to 52 percent of the votes in five primaries, winning in North Carolina.

"A fairly definite impression prevails that he's (Reagan) going to make a good run of it, and he may carry Texas," Farley said.

"So, that shows when you get an average of 40 percent of the Republicans who voted in the primaries, voted against the sitting president, that's bound to detract from his (Ford's) influence with the voters. The country is Democratic anyway."

In his home district in New York, Farley is a delegate for Sen. Jackson, for whom he will vote on the first ballot in the convention, but he admits "Jackson, in my judgment, has no chance to be nominated."

Farley expects major issues in the campaign to include the U.S. relations with Russia and Secretary of State Henry Kissinger's "influence or his standing or his attitude."

Asked about the policy of detente with the Soviet Union, Farley said, "It hasn't worked well. I've never had any confidence in the Russians keeping their word."

He recalled that Roosevelt told him in 1933 he was going to recognize Russia and that nation would permit religious freedom, allowing one Catholic priest and one Protestant minister in Moscow.

This remains the extent of religious freedom allowed by Russia, Farley said, noting the two churches were closed and services are held in the U.S. and British embassies.

Farley said he regretted Roosevelt never received full credit after he "saved the country" with strong leadership and major legislation for programs to fight unemployment and fear in the Depression.

"I had great respect for the man," he said. "He had the courage of a lion."

In his speech, Farley recalled he met with Roosevelt over 70 times and discussed hundreds of appointments to federal posts.

Farley's list of great presidents is led by George Washington, followed by Thomas Jefferson, Andrew Jackson, Abraham Lincoln, Franklin Roosevelt and Harry Truman. He said Truman "had a lot of courage and ability."

Today the United States needs another president like Franklin D. Roosevelt, said Farley.

"There'll never be another Franklin D. Roosevelt," he said. "I meant a man who had his ability, his knowledge of politics, his knowledge of government, his intelligence, his integrity. Not many have that in the top leadership, unfortunately."

If Roosevelt were running for president today, "he would do well," said Farley. "He had a magnetic personality, was an attractive man and had a fine speaking voice. He had all the elements that a successful candidate must have to win."

While visiting Warm Springs, Farley saw a number of old friends, including L. W. "Chip" Robert of Atlanta, who was secretary of the Democratic National Committee while Farley was chairman.

Graham Jackson, Roosevelt's favorite musician, performed on the program, stirring memories of FDR's visits to his beloved Little White House.

[From the Hallandale Digest, May 13, 1976]

BERG'S EYE VIEW

(By Marty Berg)

Dictionaries define "great" as distinguished, famous. On the other hand, "greatness" is defined as eminent, renowned, illustrious.

To few is it given to become great. The closest most of us come to it is using the word as an expletive.

Equally, given to few if the opportunity to achieve greatness. Or, for that matter, to be in the presence of anyone who achieves greatness, let alone to be privileged to be on even remotely friendly terms with one who is great.

I consider myself so privileged, and it is with consummate humility that I join the world in saluting him on his 88th birthday, come Decoration Day.

It would be impossible for me to recount in this space the honors that have come to this great man, who wears them with the simplicity and grace that have been the hallmark of his life.

You'll see him when the Democratic Party meets in convention to select their Presidential candidate; the Honorary National Chairman, standing head and shoulders above most delegates, all six feet four of him; still straight as a ramrod at 88!

Don't be surprised, either, that when he first strides into Madison Square Garden, the entire assemblage rises as one, and voices a loud hosanna, in tribute to the man most of them hope was 30 or 40 years younger, so that he could be their victorious candidate—as he would be.

Though I pride myself on being able to put words together with some semblance of meaning, and occasionally with some fecundity of thought, in this instance, I bow to and borrow from truly great writers for my personal tribute to this man.

To Thomas Carlyle, I owe, "No great man lives in vain. The history of the world is but the biography of great men." Edmund Burke aptly said, "Great men are the guide-posts and landmarks in the state." Lord Byron had him in mind when he wrote, "Good without effort, great without a foe."

Watch him and you'll know the truth of Robert Louis Stevenson's "If you would grow great and stately, you must try to walk sedately." Henry Wadsworth Longfellow's classic lines assuredly apply,

"Lives of great men all remind us
We can make our lives sublime,
And, departing, leave behind us
Footprints in the sands of time."

In "Twelfth Night," William Shakespeare wisely cautions, "But be not afraid of greatness; some men are born great, some achieve greatness, and some have greatness thrust upon them."

Plutarch's description fits our great like a glove, "No man ever asked a favor with less offense, or conferred on with better grace. When he gave, it was without assumption; when he received, it was with dignity and honour."

Sidney Smith gives us, "Great men hallow a whole people, and lift up all who live in their time," and Charles Baudelaire contributes, "To be a great man and a saint for oneself, that is the one important thing."

Again, Longfellow wrote:

"The heights by great men reached and kept
Were not attained by sudden flight,
But they, while their companions slept,
Were toiling upward in the night."

Multitudes agree with Samuel Taylor Coleridge's assessment,

"Greatness and goodness are not means, but ends.
Hath he not always treasures, always friends,
The good, great man?"

Because he is a truly devout man, it is a truly devout man, it is fitting that my well wishes to this great American be the following from Maccabees in The Bible: "The noble acts which he did, and his goodness, they are not written, for they were too many."

God keep you on your 88th, James A. Farley!

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. HICKS (at the request of Mr. O'NEILL) for June 7, 8, and 9 on account of illness.

Mr. HELSTOSKI (at the request of Mr. O'NEILL), for today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. EMERY) to revise and extend their remarks and include extraneous material:)

Mr. KEMP, for 15 minutes, today.

Mr. DON H. CLAUSEN, for 20 minutes, today.

Mr. BAUMAN, for 5 minutes, today.

Mrs. HECKLER of Massachusetts, for 10 minutes, today.

(The following Members (at the request of Mr. OBERSTAR) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. MOAKLEY, for 5 minutes, today.

Mr. MINISH, for 5 minutes, today.

Mr. BADILLO, for 10 minutes, today.

Mr. O'NEILL, for 5 minutes, today.

Mr. FLOOD, for 20 minutes, today.

Mr. FORD of Tennessee, for 5 minutes, today.

Mr. BINGHAM, for 10 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Obey, and to include extraneous matter, notwithstanding the fact that it exceeds two pages of the Record and is estimated by the Public Printer to cost $1,502.

Mr. Derwinski, prior to the vote on House Resolution 1189.

Mr. Don H. Clausen to include extraneous matter in his remarks made in the Committee of the Whole today.

Mrs. Spellman, immediately following the vote on House Resolution 1274.

(The following Members (at the request of Mr. Emery) and to include extraneous matter:)

Mr. Sarasin.
Mr. Esch.
Mr. Broomfield.
Mr. Wiggins.
Mrs. Pettis.
Mr. Paul.
Mr. Jeffords.
Mr. Winn.
Mr. Kemp in three instances.
Mr. Forsythe.
Mr. Moorhead of California.
Mr. Lent in two instances.
Mr. Wydler.
Mr. Steelman.
Mr. Steiger of Wisconsin.
Mr. Harsha.
Mr. Carter.
Mr. Findley in three instances.
Mr. Don H. Clausen.
Mrs. Holt.
Mr. Derwinski in three instances.
Mr. Gude.
Mr. Ashbrook in five instances.

(The following Members (at the request of Mr. Oberstar) and to include extraneous matter:)

Mr. Roe.
Mr. Teague in two instances.
Mr. Nowak in 10 instances.
Mrs. Spellman in 10 instances.
Mr. Gonzalez in three instances.
Mr. Anderson of California in three instances.
Mr. Roush in three instances.
Mr. Moakley.
Mr. Waxman in two instances.
Mr. Ginn.
Mr. Rodino in two instances.
Mr. Russo.
Mr. McDonald in three instances.
Mr. Rangel.
Mr. Riegle.
Mr. Rogers in five instances.
Ms. Abzug.
Mrs. Schroeder.
Mr. D'Amours.
Mr. Badillo in two instances.
Mr. Fary.
Mr. Eilberg.
Mr. Patten.
Mr. Dominick V. Daniels.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 1466. An act to amend the Public Health Service Act to provide authority for health information and health promotion programs, to revise and extend the authority for disease prevention and control programs, and to revise and extend the authority for venereal disease programs, and to amend the Lead-Based Paint Poisoning Prevention Act to revise and extend that act; and

S. 2760. An act to amend the Indochina Migration and Refugee Assistance Act of 1975 to provide for the inclusion of refugees from Laos.

ADJOURNMENT

Mr. GONZALEZ. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 12 minutes p.m.), under its previous order, the House adjourned until tomorrow, Thursday, June 10, 1976, at 10 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3452. A letter from the Secretary of the Treasury, transmitting a draft of proposed legislation to authorize further adjustments in the amount of silver certificates outstanding, and for other purposes; to the Committee on Banking, Currency and Housing.

3453. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of Council Act No. 1–130, "To extend Regulation 74–21 (establishing interest rates for certain loans) to 2 years," pursuant to section 602(c) of Public Law 93–198; to the Committee on the District of Columbia.

3454. A letter from the Acting Administrator of General Services, transmitting a draft of proposed legislation to amend the Federal Property and Administrative Services Act of 1949 to authorize transportation for certain persons engaged in the continuity of Government program; to the Committee on Government Operations.

3455. A letter from the Under Secretary of Health, Education, and Welfare, transmitting a draft of proposed legislation to amend the Social Security Act to improve State medical assistance utilization control programs; to the Committee on Interstate and Foreign Commerce.

3456. A letter from the Assistant General Counsel for International, Conservation and Resource Development Programs, Federal Energy Administration, transmitting notice of meetings related to the International Energy Program; to the Committee on Interstate and Foreign Commerce.

3457. A letter from the Director, Administrative Office of the U.S. Courts, transmitting his annual report for fiscal year 1975, pursuant to 28 U.S.C. 604(a) (4); to the Committee on the Judiciary.

3458. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting reports concerning visa petitions approved according certain beneficiaries third and sixth preference classification, pursuant to section 204(d) of the Immigration and Nationality Act, as amended [8 U.S.C. 1154(d)]; to the Committee on the Judiciary.

3459. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting copies of orders entered in cases in which the authority contained in section 212(d) (3) of the Immigration and Nationality Act was exercised in behalf of certain aliens, pursuant to section 212(d) (6) of the act [8 U.S.C. 1182 (d) (6)]; to the Committee on the Judiciary.

3460. A letter from the Acting Administrator of General Services, transmitting a prospectus proposing the purchase and alteration of a truck terminal/warehouse facility at Ambassador Bridge, Detroit, Mich., pursuant to section 7(a) of the Public Buildings Act of 1959, as amended; to the Committee on Public Works and Transportation.

3461. A letter from the Director, National Science Foundation, transmitting the analytical portion of the report on Federal support to colleges, universities and selected nonprofit institutions for fiscal year 1974, pursuant to section 3(a) (7) of the National Science Foundation Act, as amended; to the Committee on Science and Technology.

3462. A letter from the Chairman, Privacy Protection Study Commission, transmitting the Commission's report and recommendations on Federal tax return confidentiality, pursuant to section 5(c) (2) (B) (ii) of Public Law 93–579; jointly, to the Committees on Government Operations, and Ways and Means.

Received From the Comptroller General

3463. A letter from the Comptroller General of the United States, transmitting the first annual report on Amtrak activities, pursuant to section 805(2) (C) of Public Law 91–518, as amended; jointly, to the Committees on Government Operations, and Interstate and Foreign Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MORGAN: Committee on International Relations. Report on the allocation of budget totals for fiscal year 1977 (Rept. No. 94–1241). Referred to the Committee of the Whole House on the State of the Union.

Mr. HALEY: Committee on Interior and Insular Affairs. Report on allocation of budget totals to subcommittees for fiscal year 1977 (Rept. No. 94–1242). Referred to the Committee of the Whole House on the State of the Union.

Mr. ICHORD: Committee of conference. Conference report on H.R. 12384 (Rept. No. 94–1243). Ordered to be printed.

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. H.R. 11570. A bill to authorize appropriations of the Department of Commerce to be available until expended or for periods in excess of 1 year; with amendment (Rept. No. 94–1244). Referred to the Committee of the Whole House on the State of the Union.

Mr. MADDEN: Committee on Rules. House Resolution 1277. Resolution providing for the consideration of H.R. 9291. A bill to amend the National Traffic and Motor Vehicle Safety Act of 1966 to authorize appropriations (Rept. No. 94–1245). Referred to the House Calendar.

Mr. MURPHY of Illinois: Committee on Rules. House Resolution 1278. Resolution providing for the consideration of H.R. 13720. A bill to amend the Consumer Credit Protection Act to prohibit abusive practices by debt collectors (Rept. No. 94–1246). Referred to the House Calendar.

Mr. DELANEY: Committee on Rules. House Resolution 1279. Resolution providing for the consideration of H.R. 14114. A bill to increase the temporary debt limit, and for other purposes (Rept. No. 94–1247). Referred to the House Calendar.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, the following report was delivered to the Clerk for printing and reference to the proper calendar:

Mr. BROOKS: Committee on Government Operations. H.R. 11347. A bill to convey the interests of the United States in certain lands in Salt Lake County, Utah, to Shriners' Hospitals for Crippled Children, a Colorado corporation; with amendment (Rept. No.

94-1240). Referred to the Committee of the Whole House.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Ms. ABZUG:

H.R. 14263. A bill to amend title XX of the Social Security Act to provide that the existing dollar limitation on the amount of Federal funds available for social services thereunder shall be increased from time to time to reflect rises in the cost of living; to the Committee on Ways and Means.

H.R. 14264. A bill to amend title XX of the Social Security Act to provide for the reallotment of unused Federal funds for social services, in any fiscal year, to States whose regular allotments of such funds were insufficient to meet the needs (giving first priority to States which would otherwise have to close existing facilities); to the Committee on Ways and Means.

By Mr. CHAPPELL:

H.R. 14265. A bill to amend title 38 of the United States Code in order to provide service pension to certain veterans of World War I and pension to the widows of such veterans; to the Committee on Veterans' Affairs.

By Mr. EDWARDS of Alabama:

H.R. 14266. A bill to modify the project for Mobile, Harbor, Ala., (Theodore Ship Channel); to the Committee on Public Works and Transportation.

By Mr. KEMP:

H.R. 14267. A bill to amend title 38, United States Code, to protect the rights of eligible veterans and persons to educational benefit entitlements under chapter 34 or 35 of such title in cases when the Administrator of Veterans' Affairs withdraws approval of courses, programs of education or training, or educational institutions; to the Committee on Veterans' Affairs.

H.R. 14268. A bill to amend the Social Security Act by adding thereto a new title XXI which will provide insurance against the costs of catastrophic illness, by replacing the medicaid program with a Federal medical assistance plan for low-income people, and by adding a new title XV thereto which will encourage and facilitate the availability, through private insurance carriers, of basic health insurance at reasonable premium charges, and for other purposes; jointly, to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mr. LUNDINE:

H.R. 14269. A bill to provide for a program, to be carried out through the Secretary of Labor, of demonstration projects and an advisory committee to promote economic stability by increasing employment opportunities and improving productivity; to the Committee on Education and Labor.

By Mr. MATSUNAGA:

H.R. 14270. A bill to provide for a congressional scholarship program; to the Committee on Education and Labor.

By Mr. MOAKLEY:

H.R. 14271. A bill to amend title 10, United States Code, to provide that investigations of deaths, disappearances, or serious injuries of individuals while aboard naval vessels shall be conducted by the Judge Advocate General of the Navy, and for other purposes; to the Committee on Armed Services.

By Mr. MOORE:

H.R. 14272. A bill to amend the Tariff Act of 1930 with respect to the marking of imported articles and containers; to the Committee on Ways and Means.

By Mr. NOLAN:

H.R. 14273. A bill to amend title II of the Social Security Act to provide that a beneficiary who dies shall (if otherwise qualified) be entitled to a prorated benefit for the month of his death; to the Committee on Ways and Means.

By Mr. NOLAN (for himself and Mr. Oberstar):

H.R. 14274. A bill to provide for the adjustment of geographic boundaries of standard metropolitan statistical areas for the purpose of Federal assistance programs; to the Committee on Government Operations.

By Mr. OTTINGER (for himself and Mrs. Spellman):

H.R. 14275. A bill to amend the Budget and Accounting Act, 1921, to require that all departmental budget requests made to the Office of Management and Budget with respect to any fiscal year be submitted to the Congress along with the President's budget for such year, and that officials of the Office of Management and Budget, when requested to do so by the appropriate committees of the Congress, testify before such committees on the President's budget and on such departmental budget requests; to the Committee on Government Operations.

By Mr. PEPPER:

H.R. 14276. A bill to reaffirm the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce; to grant additional authority to the Federal Communications Commission to authorize mergers of carriers when deemed to be in the public interest; to reaffirm the authority of the States to regulate terminal and station equipment used for telephone exchange service; to require the Federal Communications Commission to make certain findings in connection with Commission actions authorizing specialized carriers; and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. PRITCHARD:

H.R. 14277. A bill to amend title 5, United States Code, to provide that appointments in the competitive service shall be made without regard to any political recommendation; to the Committee on Post Office and Civil Service.

By Mr. RICHMOND:

H.R. 14278. A bill to amend title II of the Social Security Act to provide that the marriage of a disabled individual receiving child's insurance benefits shall not operate to terminate his or her entitlement to such benefits if the marriage is to a civil service retirement or survivor annuitant, just as it would not terminate such entitlement if it were to another social security beneficiary; to the Committee on Ways and Means.

By Mr. RIEGLE:

H.R. 14279. A bill to amend title XVI of the Social Security Act to establish a more adequate and realistic guaranteed annual income for all aged, blind, and disabled individuals by increasing benefit amounts, and to establish outreach procedures to assure that all potential recipients of benefits under such program will be fully informed concerning such benefits; to the Committee on Ways and Means.

By Mr. BIESTER (for himself, Mr. Anderson of Illinois, Mr. Hamilton, Mr. Frenzel, Mr. Rees, Mr. McCloskey, Mr. Coughlin, Mr. Erlenborn, Mr. Sarasin, Mr. Jeffords, Mr. Broyhill, Mr. Patterson of California, Mr. Gibbons, Mr. Baucus, Mr. Bedell, Ms. Spellman, and Mr. Murphy of New York):

H.R. 14280. A bill to create a Joint Committee on Intelligence Operations with exclusive jurisdiction over intelligence matters and to impose conditions on the expenditure of funds by or for the Central Intelligence Agency for non-intelligence-gathering operations; to the Committee on Rules.

By Mr. BINGHAM:

H.R. 14281. A bill to provide for judicial review of administrative determinations made by the Board of Veterans Appeals; to the Committee on Veterans' Affairs.

By Mr. DERWINSKI (for himself and Mr. Hyde):

H.R. 14282. A bill to reaffirm the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce; to reaffirm the authority of the States to regulate terminal and station equipment used for telephone exchange service; to require the Federal Communications Commission to make certain findings in connection with Commission actions authorizing specialized carriers; and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. EDGAR (for himself, Ms. Abzug, Mr. Addabbo, Mr. Allen, Mr. Bevill, Mr. Cederberg, Mr. Conyers, Mr. Eilberg, Mr. Flood, Mr. Hubbard, Mr. Hyde, Mr. Lehman, Mr. Lujan, Mr. McHugh, Mr. McKinney, Mr. Madigan, Mr. Mazzoli, Mr. Melcher, Mr. Mineta, Ms. Mink, Mr. Mitchell of Maryland, Mr. Moorhead of Pennsylvania, Mr. Nolan, Mr. Nowak, and Mr. Oberstar):

H.R. 14283. A bill to amend title 38 of the United States Code in order to extend under certain circumstances the delimiting period for completing veterans' education programs and to provide a teach-down period for veterans who have committed themselves to furthering their education; to the Committee on Veterans' Affairs.

By Mr. MOSHER (for himself, Mr. Koch, and Mr. Kemp):

H.R. 14284. A bill to require in all cases court orders for the interception of communications by electronic and other devices, for the entering of any residence, for the opening of any mail, for the inspection or procurement of certain records, and for other purposes; to the Committee on the Judiciary.

By Mr. MOSHER (for himself, Mr. Brown of Ohio and Mr. Maguire):

H.R. 14285. A bill to deny Members of Congress any increase in pay under any law passed, or plan or recommendation received, during a Congress unless such increase is to take effect not earlier than the first day of the next Congress; to the Committee on Post Office and Civil Service.

By Mr. OTTINGER:

H.R. 14286. A bill to amend the Internal Revenue Code of 1954 to allow an individual to elect a tax credit for 50 percent of his charitable contributions in lieu of the deduction allowed for such contributions; to the Committee on Ways and Means.

By Mrs. SMITH of Nebraska:

H.R. 14287. A bill to reaffirm the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce; to grant additional authority to the Federal Communications Commission to authorize mergers of carriers when deemed to be in the public interest; to reaffirm the authority of the States to regulate terminal and station equipment used for telephone exchange service; to require the Federal Communications Commission to make certain findings in connection with Commission actions authorizing specialized carriers; and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. STEIGER of Wisconsin (for himself and Mr. Quie):

H.R. 14288. A bill to establish a National Student Loan Bank, and for other purposes; to the Committee on Education and Labor.

By Mr. ROGERS (for himself, Mr. Symington, Mr. Scheuer, Mr. Waxman, Mr. Florio, Mr. Carney, Mr. Maguire, and Mr. Heinz):

H.R. 14289. A bill to amend the Federal Food, Drug, and Cosmetic Act and related provisions of law to improve the protection of the public health and safety with respect to drugs; to the Committee on Interstate and Foreign Commerce.

By Mr. DOWNEY of New York (for himself, Mr. ROYBAL, Mr. DODD, Mr. MCHUGH, Mr. HANNAFORD, Mr. BAUCUS, Mr. GILMAN, Mrs. SPELLMAN, Mr. MURPHY of New York, and Mr. SARASIN):

H.J. Res. 980. Joint resolution to plan and conduct a Congressional Conference on Aging in 1977; to the Committee on Rules.

By Mr. KOCH (for himself, Mr. BEARD of Rhode Island, Mr. BRADEMAS, Mr. BRODHEAD, Mr. FLOOD, Mr. FRASER, Mr. GUDE, Mr. MCDONALD, Mr. MEZVINSKY, Mrs. PETTIS, Mr. SIMON, Mrs. SCHROEDER, Mr. VANDER VEEN, Mr. VIGORITO, and Mr. CHARLES WILSON of Texas):

H. Con. Res. 653. Concurrent resolution expressing the request of the U.S. Government that the Government of the Union of Soviet Socialist Republics provide Valentyn Moroz with the opportunity to accept the invitation of Harvard University; to the Committee on International Relations.

By Mr. CONTE (for himself, Mr. COUGHLIN, Mr. RINALDO, Mr. BRECKINRIDGE, Mr. HARRINGTON, Mr. BOLAND, Mr. FLOOD, Mr. SOLARZ, Mr. RANGEL, Mr. O'HARA, Mr. ABDNOR, Mr. MCCLORY, Mr. COHEN, Mr. EDGAR, Mr. BELL, and Ms. SPELLMAN):

H. Res. 1275. Resolution to provide assistance to Lebanon and appealing for a ceasefire; to the committee on International Relations.

By Mr. LENT:

H. Res. 1276. Resolution condemning the Soviet Union's failure to observe existing international conventions to which it is a party, especially the newest restriction respecting the delivery of parcels from the United States; to the committee on International Relations.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 11804

By Mr. SIMON:

Page 14, line 13, strike out "and".

Page 14, immediately after line 13, insert the following new paragraph:

"(2) the locomotive of all passenger and freight trains shall have oscillating or strobe lights which are lighted during periods of darkness or whenever weather conditions restrict clear visibility; and".

Page 14, line 14, strike out "(2)" and insert in lieu thereof "(3)".

By Mr. SKUBITZ:

Page 11, strike out lines 13 through 18 and insert in lieu thereof the following:

AGREEMENTS TO IMPROVE SAFETY

SEC. 4.(a) The Federal Railroad Safety Act of 1970 is amended by adding at the end thereof the following new section:

"SEC. 213. Agreements to Improve Safety

"(a) In order to increase the enforcement powers of the Secretary in accordance with the declaration of policy contained in section 202 of the Rail Safety Improvement Act of 1974, the Secretary is authorized, in his discretion, to enter into an agreement with any railroad under which—

"(1) an amount equal to all or any part of the amount of a particular penalty assessed against such a railroad under section 209 of this act, or to the amount agreed upon in compromise, must be expended by such railroad in such manner as the Secretary shall prescribe to promote safety in the operations of such railroad in order to reduce deaths and injuries to persons and reduce damage to property caused by railroad accidents; except that no part of any amount expended by such railroad under such agreement shall be used to correct any unsafe condition for which any such penalty has been assessed; and

"(2) such railroad shall make any expenditure referred to in paragraph (1) in accordance with such terms and conditions as the Secretary may deem appropriate to carry out the purposes of this Act and to assure compliance with the terms of such agreement.

"The Secretary shall not enter into any agreement under this subsection until he receives assurances in writing, satisfactory to him, that amounts to be expended by the railroad concerned under such agreement are in addition to, and not in lieu of, amounts the Secretary determines that such railroad could reasonably be expected to expend for railroad safety improvements during the period of such agreement.

"Any amount expended by a railroad in accordance with an agreement entered into under this section may be deducted by such railroad from any amount, due the United States on account of a penalty assessed on or after the date of such agreement, under section 209 of this Act. The provisions of this section shall apply with respect to any penalty assessed by the Secretary under this Act, or under any Act (other than the so-called Hours of Service Act (45 U.S.C. 61–64b)) referred to in section 3 of the Federal Railroad Safety Authorization Act of 1976. Nothing in this section shall be construed to affect the authority of the Secretary to assess and collect penalties in accordance with section 209 of this Act. That portion of the amount of any penalty assessed under such section 209 (or the amount agreed upon in compromise) which exceeds the amount expended by the railroad concerned in accordance with an agreement under this section may be collected and covered into the Treasury in the same manner as in the case of any penalty assessed under such section 209.

"(b) Each railroad which enters into an agreement with the Secretary under subsection (a) of this section shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such railroad of each expenditure made pursuant to such agreement, the total cost of the project or undertaking in connection with which such expenditure was made, the amount of that portion of the cost of such project or undertaking supplied by other sources, and such other records as will facilitate an effective audit. The Secretary and the Comptroller General of the United States, or any of their duly-authorized representatives, shall, until the expiration of three years after completion of the project or undertaking referred to in this subsection, have access for the purpose of audit and examination to any books, documents, papers, and records of expenditures made pursuant to the agreement entered into under subsection (a) which, in the opinion of the Secretary or the Comptroller General, may be related or pertinent to the expenditures made pursuant to such agreement.".

(b) The Secretary of Transportation shall report to the Congress, within 12 months after the date of enactment of this Act, with respect to the implementation of the amendment made by subsection (a) of this section. Such report shall include such comments as the Secretary may deem appropriate with respect to the effectiveness of such amendment, together with his recommendations as to whether such amendment should be repealed, continued, or modified to improve its effectiveness.

And renumber the following sections accordingly.

H.R. 13179

By Mr. FINDLEY:

(Amendment to Amendment Offered by Mr. HENDERSON.)

Add at the end of the material to be inserted by the amendment the following:

(c)(1) In the case of any person receiving an annuity under the provisions of law amended by subsection (a) of this section which has been increased under a statutory cost-of-living adjustment formula that included a bonus of 1 percent—

(A) the authority administering such annuity shall compute the aggregate amount paid to such person by reason of such bonus, and

(B) except to the extent provided in paragraph (3), such person shall not be entitled to increases which would otherwise be made in such annuity under such provisions of law during the period for which this subparagraph applies to such person.

(2) Paragraph (1)(B) of this subsection shall apply in the case of any person beginning on the effective date of the amendment(s) made by subsection (a) and ending on the date on which the aggregate amount not paid to such person by reason of paragraph (1)(B) equals the amount determined under paragraph (1)(A) of this subsection.

(3) For purposes of computing the amount of the annuity of any person for months beginning after the period referred to in paragraph (2) of this subsection, such annuity shall not be less than the annuity which would be payable if such period had ended immediately before the effective date of the last preceding annuity increase.

H.R. 13367

By Mr. ADAMS:

At the end of section 6(a)(2), on page 5 of the bill, strike out "; and" in line 5, and insert after line 5 the following:

"(3) BUDGET PROCESS.—Appropriations made pursuant to this subsection (or section 163) for any fiscal year beginning on or after October 1, 1978, shall be deemed, for the purposes of title III of the Congressional Budget Act of 1974 and for only these purposes, to have become available during the preceding fiscal year."; and

In section 6(b)(1), on page 5 of the bill, strike out "There" in line 11 and insert in lieu thereof "Subject to the last sentence of this subsection, there".

At the end of section 6(b)(1), on page 6 of the bill, strike out the quotation mark and final period in line 4, and insert after line 4 the following: "Allocations among States under this subsection (or section 166) for any period beginning on or after October 1, 1978, shall be made only to such extent of in such amounts as are provided in advance by appropriation Acts.".

(Amendment to the amendment in the nature of a substitute by Mr. BROOKS.)

At the end of section 6(a)(2), on page 4 (of H.R. 14213), strike out "; and " in line 23, and insert after line 23 the following:

"(3) BUDGET PROCESS.—Appropriations made pursuant to this subsection (or section 163) for any fiscal year beginning on or after October 1, 1978, shall be deemed, for the purposes of title III of the Congressional Budget Act of 1974 and for only these purposes, to have become available during the preceding fiscal year."; and

In section 6(b)(1), on page 5 (of H.R. 14213), strike out "There" in line 5 and insert in lieu thereof "Subject to the last sentence of this subsection, there".

At the end of section 6(b)(1), on page 5 (of H.R. 14213), strike out the quotation mark and final period in line 23, and insert after line 23 the following: "Allocations among States under this subsection (or section 166) for any period beginning on or after October

1, 1978, shall be made only to such extent or in such amounts as are provided in advance by appropriation Acts.".

(Amendment to the amendment in the nature of a substitute by Mr. HORTON.)

At the end of section 5(a)(3), on page 3 (of H.R. 14000), strike out " '; and" in line 12, and insert after line 12 the following:

"(3) BUDGET PROCESS.—Appropriations made pursuant to this subsection (or section 163) for any fiscal year beginning on or after October 1, 1978, shall be deemed for the purposes of title III of the Congressional Budget Act of 1974 and for only these purposes, to have become available during the preceding fiscal year."; and

In section 5(b)(1), on page 3 (of H.R. 14000), strike out "There" in line 18 and insert in lieu thereof "Subject to the last sentence of this subsection, there".

At the end of section 5(b)(1), on page 4 (of H.R. 14000), strike out the quotation mark and final period in line 10, and insert after line 10 the following: "Allocation among States under this subsection (or section 166) for any period beginning on or after October 1, 1978, shall be made only to such extent or in such amounts as are provided in advance by appropriation Acts.".

By Mr. BIAGGI:

Page 2, strike out line 1 and everything that follows through line 5 and renumber the succeeding sections and any references thereto accordingly.

By Mr. BOLAND:

Page 3, strike out line 24 and everything that follows through page 7, line 14, and insert in lieu thereof the following:

SEC. 6. (a) Section 105 of the Act is amended—

(1) by redesignating subsection (c) as subsection (d);

(2) by inserting immediately after subsection (b) the following new subsection:

"(c) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—

"(A) FOR ENTITLEMENTS.—There are authorized to be appropriated to pay the entitlements hereinafter provided in this subtitle—

"(i) for the period beginning January 1, 1977, and ending September 30, 1977, $4,987,500,000; and

"(ii) for the fiscal year beginning on October 1, 1977, $6,650,000,000.

except that sums authorized hereunder for any entitlement period in excess of the amount specified in section 163(a)(1) for that period shall be distributed under subtitle D of this title as an entitlement.

"(B) Payments after September 30, 1978.—There are authorized to be appropriated for the making of payments for each of the fiscal years beginning on October 1 of 1978 and 1979, $6,650,000,000, except that sums appropriated hereunder for any entitlement period in excess of the amount specified in section 163(a)(2) shall be distributed under subtitle D of this title.

(2) NONCONTIGUOUS STATES ADJUSTMENT AMOUNTS.—

"(A) ENTITLEMENT.—There are authorized to be appropriated to pay the entitlements hereinafter provided—

"(i) for the period beginning January 1, 1977, and ending September 30, 1977, $3,585,000;

"(ii) for the fiscal year beginning October 1, 1977, $4,780,000.

"(B) AUTHORIZATION.—There are authorized to be appropriated for the making of payments for each of the fiscal years beginning on October 1 of 1978 and 1979, $4,780,000."; and

(3) by inserting "; AUTHORIZATIONS" in the heading of such section immediately after "APPROPRIATIONS".

(b)(1) Subsection (a) of section 106 of the Act is amended to read as follows:

"(a) IN GENERAL.—There shall be allocated an entitlement to each State—

"(1) for each entitlement period beginning prior to December 31, 1976, out of amounts appropriated under section 105(b)(1) for that entitlement period, an amount which bears the same ratio to the amount appropriated under that section for that period as the amount allocable to that State under subsection (b) bears to the sum of the amounts allocable to all States under subsection (b);

"(2) for each entitlement period beginning after December 31, 1976, but prior to September 30, 1978, out of amounts authorized under section 105(c)(1)(A) for that entitlement period which are not reserved for distribution under subtitle D, an amount which bears the same ratio to the amount so available under that section for that period as the amount allocable to that State under subsection (b) bears to the sum of the amounts allocable to all States under subsection (b); and

"(3) for each entitlement period beginning on or after October 1, 1978, out of amounts appropriated under section 105(c)(1)(B) for that entitlement period which are not reserved for distribution under subtitle D, an amount which bears the same ratio to the amount so available under that section for that period as the amount allocable to that State under subsection (b) bears to the sum of the amounts allocable to all States under subsection (b).".

(2) Section 106(c)(1) of the Act is amended by striking out "section 105(b)(2)" and inserting in lieu thereof "subsection (b)(2) or (c)(2) of section 105".

(3) Section 106(c)(2) of the Act is amended to read as follows:

"(2) DETERMINATION OF AMOUNT.—The additional amount to any State under this subsection for any entitlement period is an amount equal to a percentage of the amount allocable to that State under subsection (b)(2) for that period which is the same as the percentage of basic pay received by such employees stationed in that State as an allowance under such section 5941. If—

"(A) the total amount appropriated under section 105(b)(2) for an entitlement period ending on or before December 31, 1976;

"(B) the total amount authorized under section 105(c)(2)(A) for an entitlement period ending on or before September 30, 1978; or

"(C) the total amount appropriated under section 105(c)(2)(B) for an entitlement period beginning on or after October 1, 1978.

is not sufficient to pay in full the additional amounts allocable under this subsection for that period, the Secretary shall reduce proportionately the amounts so allocable.".

(4) Section 107(b) of the Act is amended by redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively, and by inserting after paragraph (5) the following new paragraph:

"(6) SPECIAL RULE FOR THE PERIOD BEGINNING JANUARY 1, 1977.—In the case of the entitlement period beginning January 1, 1977, and ending September 30, 1977, the aggregate amount taken into account under paragraph (1)(A) for the preceding entitlement period and the aggregate amount taken into account under paragraph (1)(B) shall be three-fourths of the amounts which (but for this paragraph) would be taken into account.".

(5) Section 108(b)(6)(D) is amended by inserting after "6 months" the following: ", $150 for an entitlement period of 9 months".

(6) Section 108(c)(1)(C) of the Act is amended by striking out "December 31, 1976" and inserting in lieu thereof "September 30, 1980".

(7) Section 141(b) of the Act is amended by inserting at the end thereof the following new paragraphs:

"(6) The period beginning on January 1, 1977, and ending September 30, 1977.

"(7) The one-year periods beginning on October 1 of 1977, 1978, and 1979."

Page 3, strike out line 24 and everything that follows through page 7, line 14, and insert in lieu thereof the following:

SEC. 6. (a) Section 105 of the Act is amended—

(1) by redesignating subsection (c) as subsection (d);

(2) by inserting immediately after subsection (b) the following new subsection:

"(c) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—

"(A) FOR ENTITLEMENTS.—There are authorized to be appropriated to pay the entitlements hereinafter provided in this subtitle—

"(i) for the period beginning January 1, 1977, and ending September 30, 1977, $4,987,500,000; and

"(ii) for the fiscal year beginning on October 1, 1977, $6,650,000,000.

"(B) PAYMENTS AFTER SEPTEMBER 30, 1977.—There are authorized to be appropriated for the making of payments for each of the fiscal years beginning on October 1 of 1978 and 1979, $6,650,000,000.

(2) NONCONTIGUOUS STATES ADJUSTMENT AMOUNTS.—

"(A) ENTITLEMENT.—There are authorized to be appropriated to pay the entitlements hereinafter provided—

"(i) for the period beginning January 1, 1977, and ending September 30, 1977, $3,585,000;

"(ii) for the fiscal year beginning October 1, 1977, $4,780,000.

"(B) AUTHORIZATION.—There are authorized to be appropriated for the making of payments for each of the fiscal years beginning on October 1, of 1978 and 1979, $4,780,000."; and

(3) by inserting "; AUTHORIZATIONS" in the heading of such section immediately after "APPROPRIATIONS".

(b)(1) Subsection (a) of section 106 of the Act is amended to read as follows:

"(a) IN GENERAL.—There shall be allocated an entitlement to each State—

"(1) for each entitlement period beginning prior to December 31, 1976, out of amounts appropriated under section 105(b)(1) for that entitlement period, an amount which bears the same ratio to the amount appropriated under that section for that period as the amount allocable to that State under subsection (b) bears to the sum of the amounts allocable to all States under subsection (b);

"(2) for each entitlement period beginning after December 31, 1976, but prior to September 30, 1978, out of amounts authorized under section 105(c)(1)(A) for that entitlement period, an amount which bears the same ratio to the amount so authorized under that section for that period as the amount allocable to that State under subsection (b) bears to the sum of the amounts allocable to all States under subsection (b); and

"(3) for each entitlement period beginning on or after October 1, 1978, out of amounts appropriated under section 105(c)(1)(B) for that entitlement period, an amount which bears the same ratio to the amount so appropriated under that section for that period as the amount allocable to that State under subsection (b) bears to the sum of the amounts allocable to all States under subsection (b).".

(2) Section 106(c)(1) of the Act is amended by striking out "section 105(b)(2)" and inserting in lieu thereof "subsection (b)(2) or (c)(2) of section 105".

(3) Section 106(c)(2) of the Act is amended to read as follows:

"(2) DETERMINATION OF AMOUNT.—The additional amount to any State under this subsection for any entitlement period is an amount equal to a percentage of the amount allocable to that State under subsection (b)(2) for that period which is the same as the percentage of basic pay received by such employees stationed in that State as an allowance under such section 5941. If—

"(A) the total amount appropriated under section 105(b)(2) for an entitlement period ending on or before December 31, 1976;

"(B) the total amount authorized under section 105(c)(2)(A) for an entitlement period ending on or before September 30, 1978; or

"(C) the total amount appropriated under section 105(c)(2)(B) for an entitlement period beginning on or after October 1, 1978, is not sufficient to pay in full the additional amounts allocable under this subsection for that period, the Secretary shall reduce proportionately the amounts so allocable.".

(4) Section 107(b) of the Act is amended by redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively, and by inserting after paragraph (5) the following new paragraph:

"(6) SPECIAL RULE FOR THE PERIOD BEGINNING JANUARY 1, 1977.—In the case of the entitlement period beginning January 1, 1977, and ending September 30, 1977, the aggregate amount taken into account under paragraph (1)(A) for the preceding entitlement period and the aggregate amount taken into account under paragraph (1)(B) shall be three-fourths of the amounts which (but for this paragraph) would be taken into account.".

(5) Section 108(b)(6)(D) is amended by inserting after "6 months" the following: ", $150 for an entitlement period of 9 months".

(6) Section 108(c)(1)(C) of the Act is amended by striking out "December 31, 1976" and inserting in lieu thereof "September 30. 1980".

(7) Section 141(b) of the Act is amended by inserting at the end thereof the following new paragraphs:

"(6) The period beginning on January 1, 1977, and ending September 30, 1977.

"(7) The one-year periods beginning on October 1 of 1977, 1978, and 1979."

Page 49, strike out lines 10 through 15 and insert in lieu thereof the following:

"Except as otherwise provided in this title, the Secretary shall for each entitlement period beginning on or after January 1, 1977, pay—

"(1) out of the amounts authorized under section 105(c)(1)(A) which are not reserved for distribution under subtitle A; or

"(2) out of the amounts appropriated under section 105(c)(1)(B) which are not reserved for distribution under subtitle A, and out of any additional amounts appropriated under section 163(b), to each eligible State government, and

Page 50, strike out lines 4 through 11, and insert in lieu thereof the following:

"(a) RESERVATION.—

"(1) ENTITLEMENT.—There shall be available for distribution under this subtitle, as an entitlement, any sums authorized under section 105(c)(1)(A) which exceed—

"(A) $4,875,000,000 for the entitlement period beginning January 1, 1977, and ending September 30, 1977; or

"(B) $6,500,000,000 for the entitlement period beginning October 1, 1977.

"(2) SIMPLE RESERVATION.—There shall be available for distribution under this subtitle any sums appropriated under section 105(c)(1)(B) which exceed $6,500,000,000 for any entitlement period beginning on or after October 1, 1978.

Page 53, strike out lines 7 through 10, and insert in lieu thereof the following:

"An amount equal to the amount authorized under section 105(c)(1)(A) for each entitlement period beginning after December 31, 1976, but prior to September 30, 1978, which is not reserved for distribution under this subtitle, or equal to the amount appropriated under section 105(c)(1)(B) for each entitlement period beginning on or after October 1, 1978, which is not reserved for distribution under this subtitle shall be allocated among the States as follows:

Page 53, strike out lines 12 through 15 and insert in lieu thereof the following:

"Forty percent of an amount equal to the amount authorized under section 105(c)(1)(A) for an entitlement period beginning after December 31, 1976, but prior to September 30, 1978, which is not reserved for distribution under this subtitle, or of an amount equal to the amount appropriated under section 105(c)(1)(B) for an entitlement period beginning on or after October 1, 1978, which is not reserved for distribution under this subtitle, shall be allocated among the States in the same proportion as—

Page 53, beginning on line 21, strike out "Sixty percent" and everything that follows through line 24, and insert in lieu thereof the following: "Sixty percent of an amount equal to the amount authorized under section 105(c)(1)(A) for an entitlement period beginning after December 31, 1976, but prior to September 30, 1978, which is not reserved for distribution under this subtitle, or of an amount equal to the amount appropriated under section 105(c)(1)(B) for an entitlement period beginning on or after October 1, 1978, which is not reserved for distribution under this subtitle, shall be allocated among the States in the same proportion".

(Amendment to the amendment in the nature of a substitute by Mr. BROOKS.)

Page 3, strike out line 21 and everything that follows through page 7, line 8, and insert in lieu thereof the following:

SEC. 6. (a) Section 105 of the Act is amended—

(1) by redesignating subsection (c) as subsection (d);

(2) by inserting immediately after subsection (b) the following new subsection:

"(c) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—

"(A) FOR ENTITLEMENTS.—There are authorized to be appropriated to pay the entitlements hereinafter provided in this subtitle—

"(i) for the period beginning January 1, 1977, and ending September 30, 1977, $4,987,500,000; and

"(ii) for the fiscal year beginning on October 1, 1977, $6,650,000,000.

"(B) PAYMENTS AFTER SEPTEMBER 30, 1977.—There are authorized to be appropriated for the making of payments for each of the fiscal years beginning on October 1 of 1978 and 1979, $6,650,000,000.

(2) NONCONTIGUOUS STATES ADJUSTMENT AMOUNTS.—

"(A) ENTITLEMENT.—There are authorized to be appropriated to pay the entitlements hereinafter provided—

"(i) for the period beginning January 1, 1977, and ending September 30, 1977, $3,585,000;

"(ii) for the fiscal year beginning October 1, 1977, $4,780,000.

"(B) AUTHORIZATION.—There are authorized to be appropriated for the making of payments for each of the fiscal years beginning on October 1 of 1978 and 1979, $4,780,000."; and

(3) by inserting "; AUTHORIZATIONS" in the heading of such section immediately after "APPROPRIATIONS".

(b)(1) Subsection (a) of section 106 of the Act is amended to read as follows:

"(a) IN GENERAL.—There shall be allocated an entitlement to each State—

"(1) for each entitlement period beginning prior to December 31, 1976, out of amounts appropriated under section 105(b)(1) for that entitlement period, an amount which bears the same ratio to the amount appropriated under that section for that period as the amount allocable to that State under subsection (b) bears to the sum of the amounts allocable to all States under subsection (b);

"(2) for each entitlement period beginning after December 31, 1976, but prior to September 30, 1978, out of amounts authorized under section 105(c)(1)(A) for that entitlement period, an amount which bears the same ratio to the amount so authorized under that section for that period as the amount allocable to that State under subsection (b) bears to the sum of the amounts allocable to all States under subsection (b); and

"(3) for each entitlement period beginning on or after October 1, 1978, out of amounts appropriated under section 105(c)(1)(B) for that entitlement period, an amount which bears the same ratio to the amount so appropriated under that section for that period as the amount allocable to that State under subsection (b) bears to the sum of the amounts allocable to all States under subsection (b).".

(2) Section 106(c)(1) of the Act is amended by striking out "section 105(b)(2)" and inserting in lieu thereof "subsection (b)(2) or (c)(2) of section 105".

(3) Section 106(c)(2) of the Act is amended to read as follows:

"(2) DETERMINATION OF AMOUNT.—The additional amount to any State under this subsection for any entitlement period is an amount equal to a percentage of the amount allocable to that State under subsection (b)(2) for that period which is the same as the percentage of basic pay received by such employees stationed in that State as an allowance under such section 5941. If—

"(A) the total amount appropriated under section 105(b)(2) for an entitlement period ending on or before December 31, 1976;

"(B) the total amount authorized under section 105(c)(2)(A) for an entitlement period ending on or before September 30, 1978; or

"(C) the total amount appropriated under section 105(c)(2)(B) for an entitlement period beginning on or after October 1, 1978, is not sufficient to pay in full the additional amounts allocable under this subsection for that period, the Secretary shall reduce proportionately the amounts so allocable.".

(4) Section 107(b) of the Act is amended by redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively, and by inserting after paragraph (5) the following new paragraph:

"(6) SPECIAL RULE FOR THE PERIOD BEGINNING JANUARY 1, 1977.—In the case of the entitlement period beginning January 1, 1977, and ending September 30, 1977, the aggregate amount taken into account under paragraph (1)(A) for the preceding entitlement period and the aggregate amount taken into account under paragraph (1)(B) shall be three-fourths of the amounts which (but for this paragraph) would be taken into account.".

(5) Section 108(b)(6)(D) is amended by inserting after "6 months" the following: ", $150 for an entitlement period of 9 months".

(6) Section 108(c)(1)(C) of the Act is amended by striking out "December 31, 1976" and inserting in lieu thereof "September 30, 1980".

(7) Section 141(b) of the Act is amended by inserting at the end thereof the following new paragraphs:

"(6) The period beginning on January 1, 1977, and ending September 30, 1977.

"(7) The one-year periods beginning on October 1 of 1977, 1978, and 1979."

(Amendment to the amendment in the nature of a substitute by Mr. Brooks).

Page 3, strike out line 21 and everything that follows through page 7, line 8, and insert in lieu thereof the following:

Sec. 6. (a) Section 105 of the Act is amended—

(1) by redesignating subsection (c) as subsection (d);

(2) by inserting immediately after subsection (b) the following new subsection:

"(c) Authorization of Appropriations.—

"(1) In general.—

"(A) For entitlements.—There are authorized to be appropriated to pay the entitlements hereinafter provided in this subtitle—

"(i) for the period beginning January 1, 1977, and ending September 30, 1977, $4,987,500,000; and

"(ii) for the fiscal year beginning on October 1, 1977, $6,650,000,000,

except that sums authorized hereunder for any entitlement period in excess of the amount specified in section 163(a)(1) for that period shall be distributed under subtitle D of this title as an entitlement.

"(B) Payments after September 30, 1978.—There are authorized to be appropriated for the making of payments for each of the fiscal years beginning on October 1 of 1978 and 1979, $6,650,000,000, except that sums appropriated hereunder for any entitlement period in excess of the amount specified in section 163(a)(2) shall be distributed under subtitle D of this title.

(2) Noncontiguous states adjustment amounts.—

"(A) Entitlement.—There are authorized to be appropriated to pay the entitlements hereinafter provided—

"(i) for the period beginning January 1, 1977, and ending September 30, 1977, $3,585,000;

"(ii) for the fiscal year beginning October 1, 1977, $4,780,000.

"(B) Authorization.—There are authorized to be appropriated for the making of payments for each of the fiscal years beginning on October 1 of 1978 and 1979, $4,780,000."; and

(3) by inserting "; AUTHORIZATIONS" in the heading of such section immediately after "APPROPRIATIONS".

(b)(1) Subsection (a) of section 106 of the Act is amended to read as follows:

"(a) In General.—There shall be allocated an entitlement to each State—

"(1) for each entitlement period beginning prior to December 31, 1976, out of amounts appropriated under section 105(b)(1) for that entitlement period, an amount which bears the same ratio to the amount appropriated under that section for that period as the amount allocable to that State under subsection (b) bears to the sum of the amounts allocable to all States under subsection (b);

"(2) for each entitlement period beginning after December 31, 1976, but prior to September 30, 1978, out of amounts authorized under section 105(c)(1)(A) for that entitlement period which are not reserved for distribution under subtitle D, an amount which bears the same ratio to the amount so available under that section for that period as the amount allocable to that State under subsection (b) bears to the sum of the amounts allocable to all States under subsection (b); and

"(3) for each entitlement period beginning on or after October 1, 1978, out of amounts appropriated under section 105(c)(1)(B) for that entitlement period which are not reserved for distribution under subtitle D, an amount which bears the same ratio to the amount so available under that section for that period as the amount allocable to that State under subsection (b) bears to the sum of the amounts allocable to all States under subsection (b).".

(2) Section 106(c)(1) of the Act is amended by striking out "section 105(b)(2)" and inserting in lieu thereof "subsection (b)(2) or (c)(2) of section 105".

(3) Section 106(c)(2) of the Act is amended to read as follows:

"(2) Determination of amount.—The additional amount to any State under this subsection for any entitlement period is an amount equal to a percentage of the amount allocable to that State under subsection (b)(2) for that period which is the same as the percentage of basic pay received by such employees stationed in that State as an allowance under such section 5941. If—

"(A) the total amount appropriated under section 105(b)(2) for an entitlement period ending on or before December 31, 1976;

"(B) the total amount authorized under section 105(c)(2)(A) for an entitlement period ending on or before September 30, 1978; or

"(C) the total amount appropriated under section 105(c)(2)(B) for an entitlement period beginning on or after October 1, 1978,

is not sufficient to pay in full the additional amounts allocable under this subsection for that period, the Secretary shall reduce proportionately the amounts so allocable.".

(4) Section 107(b) of the Act is amended by redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively, and by inserting after paragraph (5) the following new paragraph:

"(6) Special rule for the period beginning January 1, 1977.—In the case of the entitlement period beginning January 1, 1977, and ending September 30, 1977, the aggregate amount taken into account under paragraph (1)(A) for the preceding entitlement period and the aggregate amount taken into account under paragraph (1)(B) shall be three-fourths of the amounts which (but for this paragraph) would be taken into account.".

(5) Section 108(b)(6)(D) is amended by inserting after "6 months" the following: ", $150 for en entitlement period of 9 months".

(6) Section 108(c)(1)(C) of the Act is amended by striking out "December 31, 1976" and inserting in lieu thereof "September 30, 1980".

(7) Section 141(b) of the Act is amended by inserting at the end thereof the following new paragraphs:

"(6) The period beginning on January 1, 1977, and ending September 30, 1977.

"(7) The one-year periods beginning on October 1 of 1977, 1978, and 1979."

(Amendment to the amendment in the nature of a substitute by Mr. Brooks.)

Page 38, strike out lines 10 through 15 and insert in lieu thereof the following:

"Except as otherwise provided in this title, the Secretary shall for each entitlement period beginning on or after January 1, 1977, pay—

"(1) out of the amounts authorized under section 105(c)(1)(A) which are not reserved for distribution under subtitle A; or

"(2) out of the amounts appropriated under section 105(c)(1)(B) which are not reserved for distribution under subtitle A,

and out of any additional amounts appropriated under section 163(b), to each eligible State government, and

Page 39, strike out lines 4 through 11, and insert in lieu thereof the following:

"(a) Reservation.—

"(1) Entitlement.—There shall be available for distribution under this subtitle, as an entitlement, any sums authorized under section 105(c)(1)(A) which exceed—

"(A) $4,875,000,000 for the entitlement period beginning January 1, 1977, and ending September 30, 1977; or

"(B) $6,500,000,000 for the entitlement period beginning October 1, 1977.

"(2) Simple reservation.—There shall be available for distribution under this subtitle any sums appropriated under section 105(c)(1)(B) which exceed $6,500,000,000 for any entitlement period beginning on or after October 1, 1978.

Page 42, strike out lines 8 through 11, and insert in lieu thereof the following:

"An amount equal to the amount authorized under section 105(c)(1)(A) for each entitlement period beginning after December 31, 1976, but prior to September 30, 1978, which is not reserved for distribution under this subtitle, or equal to the amount appropriated under section 105(c)(1)(B) for each entitlement period beginning on or after October 1, 1978, which is not reserved for distribution under this subtitle shall be allocated among the States as follows:

Page 42, strike out lines 13 through 16 and insert in lieu thereof the following:

"Forty percent of an amount equal to the amount authorized under section 105(c)(1)(A) for an entitlement period beginning after December 31, 1976, but prior to September 30, 1978, which is not reserved for distribution under this subtitle, or of an amount equal to the amount appropriated under section 105(c)(1)(B) for an entitlement period beginning on or after October 1, 1978, which is not reserved for distribution under this subtitle, shall be allocated among the States in the same proportion as—

Page 42, beginning on line 22, strike out "Sixty percent" and everything that follows through line 25 and insert in lieu thereof the following: "Sixty percent of an amount equal to the amount authorized under section 105(c)(1)(A) for an entitlement period beginning after December 31, 1976, but prior to September 30, 1978, which is not reserved for distribution under this subtitle, or of an amount equal to the amount appropriated under section 105(c)(1)(B) for an entitlement period beginning on or after October 1, 1978, which is not reserved for distribution under this subtitle, shall be allocated among the States in the same proportion".

(Amendment to the amendment in the nature of a substitute by Mr. Horton.)

Sec. 6. (a) Section 105 of the Act is amended—

(1) by redesignating subsection (c) as subsection (d);

(2) by inserting immediately after subsection (b) the following new subsection:

"(c) Authorization of Appropriations.—

"(1) In general.—

"(A) For entitlements.—There are authorized to be appropriated to pay the entitlements hereinafter provided in this subtitle—

"(i) for the period beginning January 1, 1977, and ending September 30, 1977, $4,987,500,000; and

"(ii) for the fiscal year beginning on October 1, 1977, $6,650,000,000.

"(B) Payments after September 30, 1977.—There are authorized to be appropriated for the making of payments for each of the fiscal years beginning on October 1 of 1978 and 1979, $6,650,000,000.

(2) Noncontiguous states adjustment amounts.—

"(A) Entitlement.—There are authorized to be appropriated to pay the entitlements hereinafter provided—

"(i) for the period beginning January 1, 1977, and ending September 30, 1977, $3,585,000;

"(ii) for the fiscal year beginning October 1, 1977, $4,780,000.

"(B) Authorization.—There are authorized to be appropriated for the making of payments for each of the fiscal years beginning on October 1 of 1978 and 1979, $4,780,000."; and

(3) by inserting "; AUTHORIZATIONS" in the heading of such section immediately after "APPROPRIATIONS".

(b)(1) Subsection (a) of section 106 of the Act is amended to read as follows:

(a) IN GENERAL.—There shall be allocated an entitlement to each State—

"(1) for each entitlement period beginning prior to December 31, 1976, out of amounts appropriated under section 105(b)(1) for that entitlement period, an amount which bears the same ratio to the amount appropriated under that section for that period as the amount allocable to that State under subsection (b) bears to the sum of the amounts allocable to all States under subsection (b);

"(2) for each entitlement period begining after December 31, 1976, but prior to September 30, 1978, out of amounts authorized under section 105(c)(1)(A) for that entitlement period, an amount which bears the same ratio to the amount so authorized under that section for that period as the amount allocable to that State under subsection (b) bears to the sum of the amounts allocable to all States under subsection (b); and

"(3) for each entitlement period beginning on or after October 1, 1978, out of amounts appropriated under section 105(c)(1)(B) for that entitlement period, an amount which bears the same ratio to the amount so appropriated under that section for that period as the amount allocable to that State under subsection (b) bears to the sum of the amounts allocable to all States under subsection (b).".

(2) Section 106(c)(1) of the Act is amended by striking out "section 105(b)(2)" and inserting in lieu thereof "subsection (b)(2) or (c)(2) of section 105".

(3) Section 106(c)(2) of the Act is amended to read as follows:

"(2) DETERMINATION OF AMOUNT.—The additional amount to any State under this subsection for any entitlement period is an amount equal to a percentage of the amount allocable to that State under subsection (b)(2) for that period which is the same as the percentage of basic pay received by such employees stationed in that State as an allowance under such section 5941. If—

"(A) the total amount appropriated under section 105(b)(2) for an entitlement period ending on or before December 31, 1976;

"(B) the total amount authorized under section 105(c)(2)(A) for an entitlement period ending on or before September 30, 1978; or

"(C) the total amount appropriated under section 105(c)(2)(B) for an entitlement period beginning on or after October 1, 1978,

is not sufficient to pay in full the additional amounts allocable under this subsection for that period, the Secretary shall reduce proportionately the amounts so allocable.".

(4) Section 107(b) of the Act is amended by redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively, and by inserting after paragraph (5) the following new paragraph:

"(6) SPECIAL RULE FOR THE PERIOD BEGINNING JANUARY 1, 1977.—In the case of the entitlement period beginning January 1, 1977, and ending September 30, 1977, the aggregate amount taken into account under paragraph (1)(A) for the preceding entitlement period and the aggregate amount taken into account under paragraph (1)(B) shall be three-fourths of the amounts which (but for this paragraph) would be taken into account.".

(5) Section 108(b)(6)(D) is amended by inserting after "6 months" the following: ", $150 for an entitlement period of 9 months".

(6) Section 108(c)(1)(C) of the Act is amended by striking out "December 31, 1976" and inserting in lieu thereof "September 30, 1980".

(7) Section 141(b) of the Act is amended by inserting at the end thereof the following new paragraphs:

"(6) The period beginning on January 1, 1977, and ending September 30, 1977.

"(7) The one-year periods beginning on October 1 of 1977, 1978, and 1979."

By Mr. BROWN of Ohio:

(Amendment to the amendment in the nature of a substitute by Mr. BROOKS).

Strike lines 1, page 4 through line 2, page 5 and substitute the following:

"(c) AUTHORIZATION OF APPROPRIATIONS FOR ENTITLEMENTS.—

"(1) IN GENERAL.—There are authorized to be appropriated to pay the entitlements hereinafter provided in Subtitle A.

"(A) for the period beginning January 1, 1977, and ending September 30, 1977, $4,987,500,000;

"(B) for the fiscal year beginning on October 1, 1977, $6,800,000,000;

"(C) for the fiscal year beginning on October 1, 1978, $6,950,000,000; and

"(D) for the fiscal year beginning on October 1, 1979, $7,100,000,000.

"(2) IN GENERAL.—There are authorized to be appropriated to pay the entitlements hereinafter provided in Subtitle D such sums as the Congress may deem necessary but that shall not exceed $150,000,000 for any 12-month period beginning January 1, 1977.

"(3) NONCONTIGUOUS STATES ADJUSTED AMOUNTS.—There are authorized to be appropriated to pay the entitlements hereinafter provided—

"(A) for the period beginning January 1, 1977, and ending September 30, 1977, $3,585,000; and

"(B) for each of the fiscal years beginning on October 1 of 1977, 1978, and 1979, $4,780,000";

"(4) by inserting "; AUTHORIZATIONS FOR ENTITLEMENTS" in the heading of such section immediately after "APPROPRIATIONS".

(Conforming amendments to Sections 162 and 163 and other appropriate sections are authorized.)

Section 108(b)(6)(B) of the Act (31 U.S.C. Supp. 1227(b)(6)(B) is amended by adding a new sentence to the end thereof to read as follows: "Beginning with the entitlement period that begins January 1, 1977, the maximum constraint shall increase at a rate of 6 percentage points until it reaches 175 percent."

Section 108(b)(6)(B) of the Act (31 U.S.C. Supp. 1227(b)(6)(B) is amended by adding a new sentence to the end thereof to read as follows: "Beginning with the entitlement period that begins January 1, 1977, the maximum constraint shall increase at a rate of 8 percentage points until it reaches 175 percent."

By Mr. BROOKS:

(Amendment in the nature of a substitute)

(Following amendment is identical to H.R. 14213)

Strike out all after the enacting clause and insert in lieu thereof: That this Act may be cited as the "Fiscal Assistance Amendments of 1976".

DEFINITION

SEC. 2. As used in this Act the term "the Act" means the State and Local Fiscal Assistance Act of 1972 (31 U.S.C. 1221; 86 Stat. 919).

ELIMINATION OF EXPENDITURE CATEGORIES

SEC. 3. (a) Subtitle A of title I of the Act is amended by striking out section 103.

(b) Section 123(a) of the Act is amended by striking out paragraph (3).

ELIMINATION OF PROHIBITION ON USE OF FUNDS FOR MATCHING

SEC. 4. (a) Subtitle A of title I of the Act is further amended by striking out section 104.

(b) Section 143(a) of the Act is amended by striking out "104(b) or".

ABOLITION OF TRUST FUND CONCEPT

SEC. 5. (a) Section 105 of the Act is amended—

(1) by striking out "CREATION OF TRUST FUND;" in the heading of such section;

(2) by striking out subsection (a) and inserting in lieu thereof the following:

"(a) IN GENERAL.—Funds appropriated pursuant to subsections (b) and (c) shall remain available without fiscal year limitation and shall be used for the payments to State and local governments as provided by this title. The Secretary of the Treasury shall report to the Congress not later than January 15 of each year on the operations and payments under this substitle during the preceding fiscal year.";

(3) by striking out "to the Trust Fund, out of amounts in the general fund of the Treasury attributable to the collections of the Federal individual income taxes not otherwise appropriated" each place it appears in subsection (b) and inserting in lieu thereof "for the purpose of making the payments authorized by this subtitle";

(4) by striking out paragraph (3) of subsection (b); and

(5) by striking out the subsection redesignated (by section 6(b)(1)) as subsection (d), and inserting in lieu thereof the following:

"(d) TRANFERS TO THE GENERAL FUND.—The Secretary shall from time to time transfer to the general fund of the Treasury any funds available for this subtitle which he determines will not be needed to make payments to State governments and units of local government under this subtitle.".

(b)(1) Section 102 of the Act is amended by striking out "out of the Trust Fund".

(2) Section 107(b)(8) of the Act, as redesignated by section 6(b)(4) of this Act, is amended by striking out "from the Trust Fund".

EXTENSION OF PROGRAM AND FUNDING

SEC. 6. (a) Section 105 of the Act is amended—

(1) by redesignating subsection (c) as subsection (d);

(2) by inserting immediately after subsection (b) the following new subsection:

"(c) AUTHORIZATION OF APPROPRIATIONS FOR ENTITLEMENTS.—

"(1) IN GENERAL.—There are authorized to be appropriated to pay the entitlements hereinafter provided in this subtitle—

"(A) for the period beginning January 1, 1977, and ending September 30, 1977, $4,987,500,000; and

"(B) for each of the fiscal years beginning on October 1 of 1977, 1978, and 1979, $6,650,000,000, except that sums authorized hereunder for any entitlement period in excess of the amount specified in section 163(a)(1) or (2) for that period shall be distributed under subtitle D of this title as an entitlement.

"(2) NONCONTIGUOUS STATES ADJUSTMENT AMOUNTS.—There are authorized to be appropriated to pay the entitlements hereinafter provided—

"(A) for the period beginning January 1, 1977, and ending September 30, 1977, $3,585,000; and

"(B) for each of the fiscal years beginning on October 1 of 1977, 1978, and 1979, $4,780,000."; and

(3) by inserting "; AUTHORIZATIONS FOR ENTITLEMENTS" in the heading of such section imemdiately after "APPROPRIATIONS".

(b)(1) Subsection (a) of section 106 of the Act is amended to read as follows:

"(a) IN GENERAL.—There shall be allocated an entitlement to each State—

"(1) for each entitlement period beginning prior to December 31, 1976, out of amounts appropriated under section 105(b)

(1) for that entitlement period, an amount which bears the same ratio to the amount appropriated under that section for that period as the amount allocable to that State under subsection (b) bears to the sum of the amounts allocable to all States under subsection (b); and

"(2) for each entitlement period beginning on or after January 1, 1977, out of amounts authorized under section 105(c)(1) for that entitlement period which are not reserved for distribution under subtitle D, an amount which bears the same ratio to the amount so available under that section for that period as the amount allocable to that State under subsection (b) bears to the sum of the amounts allocable to all States under subsection (b).".

(2) Section 106(c)(1) of the Act is amended by striking out "section 105(h)(2)" and inserting in lieu thereof "subsection (b)(2) or (c)(2) of section 105".

(3) Section 106(c)(2) of the Act is amended by inserting immediately after "section 105(b)(2) for any entitlement period" the following: "ending on or before December 31, 1976, or authorized under section 105(c)(2) for any entitlement period beginning on or after January 1, 1977,".

(4) Section 107(b) of the Act is amended by redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively, and by inserting after paragraph (5) the following new paragraph:

"(6) Special rule for the period beginning January 1, 1977. In the case of the entitlement period beginning January 1, 1977, and ending September 30, 1977, the aggregate amount taken into account under paragraph (1)(A) for the preceding entitlement period and the aggregate amount taken into account under paragraph (1)(B) shall be three-fourths of the amounts which (but for this paragraph) would be taken into account.".

(5) Section 108(b)(6)(D) is amended by inserting after "6 months" the following: ", $150 for an entitlement period of 9 months".

(6) Section 108(c)(1)(C) of the Act is amended by striking out "December 31, 1976" and inserting in lieu thereof "September 30, 1980".

(7) Section 141(b) of the Act is amended by inserting at the end thereof the following new paragraphs:

"(6) The period beginning on January 1, 1977, and ending September 30, 1977.

"(7) The one-year periods beginning on October 1, of 1977, 1978, and 1979.".

MAINTENANCE OF EFFORT; CHANGE OF BASE YEAR

Sec. 7. (a) Section 107(b)(1) of the Act is amended—

(1) by striking out "July 1, 1973," and inserting in lieu thereof "January 1, 1977,"; and

(2) by striking out clause (B) and inserting in lieu thereof the following:

"(B) the similar aggregate amount for the one-year period beginning July 1, 1975, or, until data on such period are available, the most recent such one-year period for which data on such amounts are available.".

(b) Section 107(b)(2) is amended by striking out "beginning July 1, 1971," and inserting in lieu thereof "utilized for purposes of such paragraph".

DEFINITION OF UNIT OF LOCAL GOVERNMENT

Sec. 8. Paragraph (1) of section 108(d) of the Act is amended to read as follows:

"(1) Unit of local government.—

"(A) In general.—The term 'unit of local government' means the government of a county, municipality, or township which is a unit of general government as determined by the Bureau of the Census for general statistical purposes, and which, with respect to entitlement periods beginning on or after October 1, 1977, meets the requirements specified in subparagraph (B), and imposes taxes or receives intergovernmental transfers for substantial performance of at least two of the following services for its citizens: (i) police protection; (ii) courts and corrections; (iii) fire protection; (iv) health services; (v) social services for the poor or aged; (vi) public recreation; (vii) public libraries; (viii) zoning or land use planning; (ix) sewerage disposal of water supply; (x) solid waste disposal; (xi) pollution abatement; (xii) road or street construction and maintenance; (xiii) mass transportation; and (xiv) education. Such term also means, except for purposes of paragraphs (1), (2), (3), (5), (6)(C), and (6)(D) of subsection (b), and, except for purposes of subsection (c), the recognized governing body of an Indian tribe or Alaskan Native village which performs substantial governmental functions. For the purposes of this subsection a unit of local government shall be deemed to impose a tax if that tax is collected by another governmental entity from the geographical area served by that unit of local government and an amount equivalent to the net proceeds of that tax are paid to that unit of local government.

"(B) Limitation.—To be considered a unit of local government for purposes of this Act, at least 10 per centum of a local government's total expenditures (exclusive of expenditures for general and financial administration and for the assessment of property) in the most recent fiscal year must have been for each of two of the public services listed in subparagraph (A), except that the foregoing restriction shall not apply to a unit of local government (i) which substantially performs four or more of such public services or (ii) which has performed two or more of such public services since January 1, 1976, and continues to provide two or more such public services.".

Sec. 9. Subtitle B of title I of the Act is amended by inserting immediately after the heading thereof the following new section:

"Sec. 120. Modernization of Government.

"(a) Policy and Purpose.—In order that funds provided under this Act shall encourage the modernization and revitalization of State and local governments, each State shall submit an annual report to the Secretary describing any steps it has taken to achieve the goal set forth in this section.

"(b) State Master Plan.—It is established as a goal that each State government prepare and develop in accordance with subsections (c), (d), and (e), a master plan and timetable for modernizing and revitalizing State and local government.

"(c) Preparation of Master Plan and Timetable.—Prior to submitting the State's annual report to the Secretary, the State's chief executive officer may submit a proposed master plan and timetable to the State legislature and to the chief executive officer and legislative body of each county government, township government, and other unit of local government, including, for these purposes, special purpose governments not covered by the definition of unit of local government in section 108(d)(1). The proposed master plan and timetable may also be made available to the public by publication in newspapers throughout the State. After issuance of any proposed master plan and timetable, there shall be a period of not less than 120 days for local officials and citizens of the State to comment on the proposed master plan and timetable, in accordance with a procedure for such comment promulgated by the chief executive officer of the State. The chief executive officer of the State may take into consideration such comments in preparing the final master plan and timetable. A final master plan and timetable shall be submitted to the State legislature which shall vote whether or not to submit such plan to the Secretary.

"(d) Contents of Master Plans and Timetables.—

"(1) In general.—A State's master plan and timetable may contain—

"(A) a set of proposals for substantially improving the effectiveness, economy, and equity of State and local government;

"(B) the steps (constitutional, legislative, or administrative) necessary to effectuate those proposals; and

"(C) a timetable for effectuating each proposal within a reasonable period.

"(2) Criteria.—The following broad criteria may be employed in the development of the provisions of the master plan and timetable:

"(A) Function.—Governmental responsibilities should be assigned to State and sub-State governments with the objective of providing all residents with at least a minimal level of public services.

"(B) Structure.—The organization of State and sub-State governments should substantially reduce the number of limited function general governments and special districts.

"(C) Fiscal integrity.—The system of State and local taxation should result in a tax burden commensurate with the fiscal capacity of the taxing unit.

"(D) Management capacity.—Improvements in the professional capacity of State and local governments should be specifically addressed.

"(E) Accountability.—Broad participation of the general public in the decision-making process should be encouraged, and formal mechanisms of reporting the impact of such decisions should be proposed.

"(e) Methods for Promoting Effectiveness, Economy, and Equity in State and Local Government.—

"(1) In general.—In preparing the master plan and timetable, the chief executive officer may take into consideration the following methods for promoting effectiveness, economy, and equity in State and local governments:

"(A) Interstate.—Arrangements, by interstate compact or otherwise for dealing with interstate regional problems, including those of metropolitan areas which overlap State lines, and for regional cooperation in such areas as health, education, welfare, conservation, resource development, transportation, recreation, and housing.

"(B) State direct action.—Strengthening and modernizing of State government (by constitutional, statutory, and administrative changes), including but not limited to, modernized State borrowing powers; improved tax systems; increased financial and technical assistance to local governments; revising the terms of State aids and shared taxes to compensate for differences in total local fiscal capacity; State assumption of greater direct fiscal responsibility for basic functions; modern personnel systems; and development of minimum State standards for services at the State and local level.

"(C) State action affecting localities.—Strengthening and modernizing by the State of local, rural, urban, and metropolitan governments (by constitutional, statutory, and administrative changes), including—

"(i) changes designed to make local government more efficient, economical, and accountable, as by—

"(I) reducing the number of, or eliminating, local governments too small to provide efficient administration or possessing inadequate fiscal resources;

"(II) reducing the number of special districts not subject to democratic controls, and eliminating those whose functions can be carried out by general governments;

"(III) granting adequate home-rule powers to local governments of sufficient size and scope;

"(IV) improving local property tax administration;

"(V) authorizing local governments to utilize nonproperty taxes, coordinated at the State or regional level; and

"(VI) easing restrictions on the borrowing and taking power of local governments.

"(ii) other changes designed to strengthen local government in metropolitan areas, as by—

"(I) liberalizing municipal annexation of unincorporated areas;

"(II) setting minimum standards of population density for proposed new incorporations;

"(III) authorizing city-county consolidation, or transfers of specified functions between municipalities and counties;

"(IV) authorizing intergovernmental contracts for the provision of services;

"(V) authorizing municipalities to exercise extraterritorial planning, zoning, and subdivision control over unincorporated areas not subject to effective county regulation;

"(VI) restricting zoning authority in metropolitan areas to metropolitan bodies, larger municipalities, counties, or the State;

"(VII) authorizing the formation of regional multi-functional bodies for housing, health care, social services, parks and recreation, and water sewer facilities; and

"(VIII) establishing State standards of accountability in the planning process and operations of special districts, boards, commissions and official agencies not directly subordinate to a general government.

"(f) Reports and Recommendations.—The Secretary shall report to Congress at the end of each fiscal year on the progress made by each State in developing and carrying out a master plan and timetable, and, based on such progress, shall make recommendations concerning the goal set forth in this section.

CITIZEN PARTICIPATION; REPORTS

Sec. 10. (a) Section 121 of the Act is amended to read as follows:

"Sec. 121. Reports on Use of Funds; Publication and Public Hearings.

"(a) Reports on Proposed Use of Funds.—Each State government and unit of local government which expects to receive funds under subtitle A or D for any entitlement period beginning on or after January 1, 1977, shall submit a report to the Secretary setting forth the amounts and purposes for which it proposes to spend or obligate the funds which it expects to receive during such period as compared with the use of similar funds during the two immediately preceding entitlement periods. Each such report shall include a comparison of the proposed, current and past use of such funds to the relevant functional items in its official budget and specify whether the proposed use is for a completely new activity, for the expansion or continuation of an existing activity, or for tax stabilization or reduction. Such report shall be in such form and detail as the Secretary may prescribe and shall be submitted at such time before the beginning of the entitlement period as the Secretary may prescribe.

"(b) Reports on Use of Funds.—Each State government and unit of local government which receives funds under subtitle A or D shall, after the close of each entitlement period, submit a report to the Secretary (which report shall be available to the public for inspection and reproduction) setting forth the amounts and purposes for which funds received during such period have been appropriated, spent, or obligated and showing the relationship of those funds to the relevant functional items in the government's official budget. Such report shall further provide an explanation of all differences between the actual use of funds received and the proposed use of such funds as reported to the Secretary under subsection (a). Such reports shall be in such form and detail and shall be submitted at such time as the Secretary may prescribe.

"(c) Public Hearings Required.—

"(1) Pre-report hearing.—Not less than 7 calender days before the submission of the report required under subsection (a), each State government or unit of local government which expects to receive funds under subtitle A or D for any entitlement period beginning on or after January 1, 1977, shall, after adequate public notice, have at least one public hearing at which citizens shall have the opportunity to provide written and oral comment on the possible uses of such funds.

"(2) Pre-budget hearing.—Not less than 7 calendar days before the adoption of its budget as provided for under State and local law, each State government or unit of local government which expects to receive funds under subtitle A or D for any entitlement period beginning on or after January 1, 1977, shall have at least one public hearing on the proposed use of funds made available under subtitles A and D in relation to its entire budget. At such hearing, citizens shall have the opporutnity to provide written and oral comment to the body responsible for enacting the budget, and to have answered questions concerning the entire budget and the relation to it of funds made available under subtitles A and D. Such hearing shall be at a place and time that permits and encourages public attendance and participation.

"(3) Waiver.—The provisions of paragraph (1) may be waived in whole or in part in accordance with regulations of the Secretary if the cost of such a requirement would be unreasonably burdensome in relation to the entitlement of such State government or unit of local government to funds made available under subtitles A and D. The provisions of paragraph (2) may be waived in whole or in part in accordance with regulations of the Secretary if the budget processes required under applicable State or local laws or charter provisions assure the opportunity for public attendance and participation contemplated by the provisions of this subsection and a portion of such process includes a hearing on the proposed use of funds made available under subtitles A and D in relation to its entire budget.

"(d) Notification and Publicity of Public Hearings; Access to Budget Summary and Proposed and Actual Use Reports.—

"(1) In general.—Each State government and unit of local government which expects to receive funds under subtitle A or D for any entitlement period beginning on or after January 1, 1977, shall—

"(A) 30 days prior to the public hearing required by subsection (c)(2)—

"(i) publish conspicuously, in at least one newspaper of general circulation, the proposed use report required by subsection (a), a narrative summary setting forth in simple language an explanation of its proposed official budget, and a notice of the time and place of such public hearing; and

"(ii) make available for inspection and reproduction by the public (at the principal office of such State government or unit of local government, at public libraries, if any, within the boundaries of such a unit of local government, and, in the case of a State government, at the main libraries of the principal municipalities of such State) the proposed use report, the narrative summary, and its official budget which shall specify with particularity each item in its official budget which will be funded, in whole or in part, with funds made available under subtitle A or D, and, for each such budget item, shall specify the amount of such funds budgeted for that item and the percentage of total expenditures for that item attributable to such funds; and

"(B) within 30 days after adoption of its budget as provided for under State or local law—

"(i) publish conspicuously, in at least one newspaper of general circulation, a narrative summary setting forth in simple language an explanation of its official budget (including an explanation of changes from the proposed budget) and the relationship of the use of funds made available under subtitles A and D to the relevant functional items in such budget; and

"(ii) make such summary available for inspection and reproduction by the public at the principal office of such State government or unit of local government, at public libraries, if any, within the boundaries of such unit of local government, and, in the case of a State government, at the main libraries of the principal municipalities of such State.

"(2) Waiver.—The provisions of paragraph (1) may be waived, in whole or in part, with respect to publication of the proposed use reports and the narrative summaries, in accordance with regulations of the Secretary, where the cost of such publication would be unreasonably burdensome in relation to the entitlement of such State government or unit of local government to funds made available under subtitles A and D, or where such publication is otherwise impractical or infeasible. In addition, the 30-day provision of paragraph (1)(A) may be modified to the minimum extent necessary to comply with State and local law if the Secretary is satisfied that the citizens of the State or local government will receive adequate notification of the proposed use of funds, consistent with the intent of this section.

"(e) Reports Provided to the Governor.—A copy of each report required under subsections (a) and (b) filed with the Secretary by a unit of local government which receives funds under subtitle A or D shall be provided by the Secretary to the Governor of the State in which the unit of local government is located, in such manner and form as the Secretary may prescribe by regulation.

"(f) Planned use report to areawide organization.—At the same time that the proposed use report is published and publicized in accordance with this section, each unit of local government which is within a metropolitan area shall submit a copy of the proposed use report to the areawide organization in the metropolitan area which is formally charged with carrying out the provisions of section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3334); section 401 of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4231); or section 302 of the Housing and Community Development Act of 1974 (42 U.S.C. 461).".

(b) Section 123 of the Act is amended by adding at the end thereof the following new subsection:

"(d) Report of the Secretary of the Treasury.—The Secretary of the Treasury shall include with the report required under section 105(a) a report to the Congress on the implementation and administration of this Act during the preceding fiscal year. Such report shall include, but not be limited to, a comprehensive and detailed analysis of the following:

"(1) the measures taken to comply with section 122, including a description of the nature and extent of any noncompliance and the status of all pending complaints;

"(2) the extent to which citizens in recipient jurisdictions have become involved in the decisions determining the expenditure of funds received under subtitles A and D;

"(3) the extent to which recipient jurisdictions have complied with section 123, including a description of the nature and extent of any noncompliance and of measures taken to insure the independence of audits conducted pursuant to subsection (c) of such section;

"(4) the manner in which funds distributed under subtitles A and D have been used, including the net fiscal impact, if any, in recipient jurisdictions; and

"(5) significant problems arising in the administration of the Act and proposals to remedy such problems through appropriate legislation.".

NONDISCRIMINATION; ENFORCEMENT

SEC. 11. (a) Section 122 of the Act is amended to read as follows:

"SEC. 122. NONDISCRIMINATORY PROVISION.

"(a) PROHIBITION.—

"(1) IN GENERAL.—No person shall, on account of race, color, religion, sex, national origin, age, or handicapped status, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity of a State government or unit of local government which government or unit receives funds made available under subtitle A or D. The provisions of this paragraph shall be interpreted—

"(A) in accordance with titles II, III, IV, VI, and VII of the Civil Rights Act of 1964, as amended, title VIII of the Civil Rights Act of 1968, as amended, and title IX of the Education Amendments of 1972, with respect to discrimination on the basis of race, color, religion, sex, or national origin;

"(B) in accordance with the Rehabilitation Act of 1973 with respect to discrimination on the basis of handicapped status; and

"(C) in accordance with the Age Discrimination Act of 1975 with respect to discrimination on the basis of age, notwithstanding the deferred effectiveness of such Act.

"(2) EXCEPTIONS.—

"(A) FUNDING.—The provisions of paragraph (1) of this subsection shall not apply where any State government or unit of local government proves by clear and convincing evidence that the program or activity with respect to which the allegation of discrimination has been made is not funded in whole or in part, directly or indirectly, with funds made available under subtitle A or D.

"(B) CONSTRUCTION PROJECTS IN PROGRESS.—The provisions of paragraph (1), relating to discrimination on the basis of handicapped status, shall not apply with respect to construction projects commenced prior to January 1, 1977.

"(b) AUTHORITY OF THE SECRETARY.—

"(1) NOTICE.—Whenever there has been—

"(A) publication or receipt of notice of a finding, after notice and opportunity for a hearing, by a Federal or State court, or by a Federal or State administrative agency (other than the Secretary under subparagraph (B)), to the effect that there has been a pattern or practice of discrimination on the basis of race, color, religion, sex, national origin, age, or handicapped status in any program or activity of a State government or unit of local government, which government or unit receives funds made available under subtitle A or D; or

"(B) a determination that a State government or unit of local government is not in compliance with subsection (a)(1) after an investigation by the Secretary, prior to a hearing under paragraph (4), but including an opportunity for the State government or unit of local government to make a documentary submission regarding the allegation of discrimination or the funding of such program or activity with funds made available under subtitle A or D,

the Secretary shall, within 10 days of such occurrence, notify the Governor of the affected State, or of the State in which an affected unit of local government is located, and the chief executive officer of such affected unit of local government, that such State government or unit of local government is presumed not to be in compliance with subsection (a)(1), and shall request such Governor and such chief executive officer to secure compliance. For purposes of subparagraph (A), a finding by a Federal or State administrative agency shall be deemed rendered after notice and opportunity for a hearing if it is rendered pursuant to procedures consistent with the provisions of subchapter II of chapter 5, title 5, United States Code.

"(2) VOLUNTARY COMPLIANCE.—In the event the Governor or the chief executive officer secures compliance after notice pursuant to paragraph (1), the terms and conditions with which the effected State government or unit of local government agrees to comply shall be set forth in writing and signed by the Governor, by the chief executive officer (in the event of a violation by a unit of local government), and by the Secretary and the Attorney General. At least 15 days prior to the effective date of the agreement, the Secretary shall send a copy of the agreement to each complainant, if any, with respect to such violation. The Governor, or the chief executive officer in the event of a violation by a unit of local government, shall file semiannual reports with the Secretary and the Attorney General detailing the steps taken to comply with the agreement. Within 15 days of receipt of such reports the Secretary shall send a copy thereof to each such complainant.

"(3) SUSPENSION AND RESUMPTION OF PAYMENT OF FUNDS.—

"(A) SUSPENSION AFTER NOTICE.—If, at the conclusion of 90 days after notification under paragraph (1)—

"(i) a compliance agreement has not been entered into under paragraph (2),

"(ii) compliance has not been secured by the Governor of that State or the chief executive officer of that unit of local government, and

"(iii) an administrative law judge has not made a determination under paragraph (4)(A) that it is likely the State government or unit of local government will prevail on the merits,

the Secretary shall notify the Attorney General that compliance has not been secured and shall suspend further payment of any funds under subtitles A and D to that State government or that unit of local government. Such suspension shall be effective for a period of not more than 120 days, or, if there is a hearing under paragraph (4)(B), not more than 30 days after the conclusion of such hearing.

"(B) RESUMPTION OF PAYMENTS SUSPENDED UNDER SUBPARAGRAPH (A).—Payment of the suspended funds shall resume only if—

"(i) such State government or unit of local government enters into a compliance agreement approved by the Secretary and the Attorney General in accordance with paragraph (2);

"(ii) such State government or unit of local government complies fully with the final order or judgment of a Federal or State court, if that order or judgment covers all the matters raised by the Secretary in the notice pursuant to paragraph (1), or is found to be in compliance with subsection (a)(1) by such court; or

"(iii) the Secretary finds, pursuant to paragraph (4)(B), that noncompliance has not been demonstrated.

"(C) SUSPENSION UPON ACTION BY ATTORNEY GENERAL.—Whenever the Attorney General files a civil action alleging a pattern or practice of discriminatory conduct on the basis of race, color, religion, sex, national origin, age, or handicapped status in any program or activity of a State government or unit of local government, which State government or unit of local government receives funds made available under subtitle A or D, and neither party within 45 days after such filing has been granted such preliminary relief with regard to the suspension or payment of funds as may be otherwise available by law, the Secretary shall suspend further payment of any funds under subtitles A and D to that State government or that unit of local government until such time as the court orders resumption of payment.

(4) HEARINGS; OTHER ACTION.—

(A) PRELIMINARY HEARING.—Within the first 30 days after notification under paragraph (1)(B), the State government or unit of local government may request an expedited preliminary hearing by an administrative law judge in order to determine whether it is likely that the State government or unit of local government would, at a full hearing under subparagraph (B) of this paragraph, prevail on the merits on the issue of the alleged noncompliance. Such judge shall render a finding hereunder within the 90-day period after notification under paragraph (1)(B). A finding under this subparagraph by the administrative law judge in favor of the State government or unit of local government shall defer the suspension of funds under paragraph (3) until the 210th day after the issuance of a notice of noncompliance under paragraph (1)(B), or until 30 days after the conclusion of hearing on the merits under subparagraph (B) of this paragraph.

"(B) COMPLIANCE HEARING.—At any time after notification under paragraph (1) but before the conclusion of the 120-day period referred to in paragraph (3)(A), a State government or unit of local government may request a hearing, which the Secretary shall initiate within 30 days of such request. The Secretary may also initiate a hearing in case of a finding in favor of a State government or unit of local government under subparagraph (A) of this paragraph. Within 30 days after the conclusion of a hearing under this subparagraph, or, in the absence of a hearing within 210 days after issuance of a notice of noncompliance under paragraph (1), the Secretary shall make a finding of compliance or noncompliance. If the Secretary makes a finding of noncompliance, the Secretary shall (i) notify the Attorney General of the United States in order that the Attorney General may institute a civil action under subsection (c), (ii) terminate the payment of funds under subtitles A and D, and, (iii) if appropriate, seek repayment of such funds. If the Secretary makes a finding of compliance, payment of the suspended funds shall resume as provided in paragraph (3)(B).

"(5) JUDICIAL REVIEW.—Any State government or unit of local government aggrieved by a final determination of the Secretary under paragraph (4) may appeal such determination as provided in section 143(c).

"(c) AUTHORITY OF ATTORNEY GENERAL.—Whenever the Attorney General has reason to believe that a State government or unit of local government has engaged or is engaging in a pattern or practice in violation of the provisions of this section, the Attorney General may bring a civil action in an appropriate United States district court. Such court may grant as relief any temporary restraining order, preliminary or permanent injunction, or other order, as necessary or appropriate to insure the full enjoyment of the rights described in this section, including the suspension termination or repayment of funds made available under this title or placing any further payments under this title in escrow pending the outcome of the litigation.

"(d) AGREEMENTS BETWEEN AGENCIES.—The Secretary shall enter into agreements with State agencies and with other Federal agencies authorizing such agencies to investigate noncompliance with subsection (a). The agreements shall describe the cooperative efforts to be undertaken (including the sharing of civil rights enforcement personnel and resources) to secure compliance with this section, and shall provide for the immediate notification of the Secretary by the Attorney General of any actions instituted under subsection (b) (3) (C), subsection (c), or under any other Federal civil rights statute or regulations issued thereunder.".

(b) Subtitle B of title I of the Act is amended by adding at the end thereof the following new sections:

"Sec. 124. Complaints and Compliance Reviews.

"By March 31, 1977, the Secretary shall promulgate regulations establishing—

"(1) reasonable and specific time limits for the Secretary or the appropriate cooperating agency to respond to the filing of a complaint by any person alleging that a State government or unit of local government is in violation of the provisions of this Act, including time limits for instituting an investigation, making an appropriate determination with respect to the allegations, and advising the complainant of the status of the complaint; and

"(2) reasonable and specific time limits for the Secretary to conduct audits and reviews of State governments and units of local government for compliance with the provisions of this Act.

"Sec. 125. Private Civil Actions.

"(a) In any action brought to enforce compliance with any provision of this Act, the court may grant to a prevailing plaintiff reasonable attorney fees except where the lawsuit is frivolous, vexatious, brought for harassment purposes, or brought principally for the purpose of gaining attorney fees.

"(b) Intervention by Attorney General.—In any action brought to enforce compliance with any provision of this Act, the Attorney General, or a specially designated assistant for or in the name of the United States, may intervene upon timely application if he certifies that the action is of general public importance. In such action the United States shall be entitled to the same relief as if it had instituted the action.".

AUDITING AND ACCOUNTING

Sec. 12. (a) Subparagraph (A) of section 123(a) (5) of the Act is amended by striking "therefor" and inserting in lieu thereof ", in conformity with subsection (c) of this section," by inserting at the end thereof the following: "and conduct independent financial audits in accordance with generally accepted auditing standards as required by paragraph (2) of such subsection,".

(b) Section 123(c) of the Act is amended to read as follows:

"(c) Accounting, Auditing, and Evaluation.—

"(1) In General.—The Secretary shall provide for such audits, evaluations, and reviews as may be necessary to insure that the expenditures of funds received under subtitle A or D by State governments and units of local government comply fully with requirements of this title. Such audits, evaluations, and reviews shall include such independent audits as may be required pursuant to paragraph (2). The Secretary is authorized to accept an audit by a State government or unit of local government of its expenditures if he determines that such audit was conducted in compliance with paragraph (2), and that such audit and the audit procedures of that State government or unit of local government are sufficiently reliable to enable him to carry out his duties under this title.

"(2) Independent audits.—The Secretary shall, after consultation with the Comptroller General, promulgate regulations to take effect not later than March 31, 1977, which shall require that each State government and unit of local government receiving funds under subtitle A or D conducts during each fiscal year an audit of its financial accounts in accordance with generally accepted auditing standards. Such regulations shall include such provisions as may be necessary to assure independent audits are conducted in accordance with such standards, but may provide for less formal reviews of financial information, or less frequent audits, to the extent necessary to insure that the cost of such audits not be unreasonably burdensome in relation to the entitlement of such State government or unit of local government to funds available under subtitles A and D. Such regulations shall further provide for the availability to the public of financial statements and reports on audits or informal reviews conducted under this paragraph for inspection and reproduction as public documents.

"(3) Comptroller general shall review compliance.—The Comptroller General of the United States shall make such reviews of the work as done by the Secretary, the State governments, and the units of local government as may be necessary for the Congress to evaluate compliance and operations under this title.".

CONSTRUCTION PROJECT WAGE RATES

Sec. 13. Section 123(a) (6) of the Act is amended to read as follows:

"(6) all laborers and mechanics employed in the performance of work on any construction project which is funded in whole or part out of its trust fund established under paragraph (1), will be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a–5), and that with respect to the labor standards specified in this paragraph the Secretary of Labor shall act in accordance with Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267) and section 2 of the Act of June 13, 1934 (40 U.S.C. 276c), except that nothing in this subsection shall be construed to cover work performed by a State or local jurisdiction with its own regular, permanent laborers or mechanics.".

PROHIBITION ON USE FOR LOBBYING

Sec. 14. Section 123 of the Act is amended by adding at the end thereof the following new subsection:

"(e) Prohibition of Use for Lobbying Purposes.—No State government or unit of local government may use, directly or indirectly, any part of the funds it receives under subtitle A or D for the purpose of lobbying or other activities intended to influence any legislation regarding the provisions of this Act. For the purpose of this subsection, dues paid to National or State associations shall be deemed not to have been paid from funds received under subtitle A or D.".

SUPPLEMENTAL FISCAL ASSISTANCE

Sec. 15. (a) Title I of the Act is further amended by adding at the end thereof the following new subtitle:

"SUBTITLE D—SUPPLEMENTAL FISCAL ASSISTANCE

"Sec. 161. Short Title.

"This subtitle may be cited as the 'Supplemental Fiscal Assistance Act of 1976'.

"Sec. 162. Payments to State and Local Governments.

"Except as otherwise provided in this title, the Secretary shall, for each entitlement period beginning on or after January 1, 1977, pay out of the amounts authorized under section 105(c) (1) which are not reserved for distribution under subtitle A, and out of any additional amounts appropriated under section 163(b), to each eligible State government, and to each eligible unit of local government, an amount determined under section 164 for such period. Such payments shall be made in installments, but not less often than once for each quarter, and shall be paid not later than 5 days after the close of each quarter. Such payments for any entitlement period may be initially made on the basis of estimates. Proper adjustment shall be made in the amount of any payment to a State government or a unit of local government to the extent that the payments previously made to such government under this subtitle were in excess of or less than the amounts required to be paid.

"Sec. 163. Funding.

"(a) Entitlement.—There shall be available for distribution under this subtitle, as an entitlement, any sums authorized under section 105(c) (1) which exceed—

"(1) $4,875,000,000 for the entitlement period beginning January 1, 1977, and ending September 30, 1977; or

"(2) $6,500,000,000 for any entitlement period of 12 months' duration thereafter.

"(b) Authorization.—In addition to the sums available under subsection (a) there are authorized to be appropriated such sums as Congress may deem necessary to adequately fund the program estabilshed by this subtitle.

"Sec. 164. Eligibility; Determination of Amount of Payments.

"(a) Eligibility.—No State government shall be eligible to receive payments under this subtitle unless, with respect to an entitlement period, its entitlement under section 167 exceeds its entitlement under section 107. No unit of local government shall be eligible to receive payments under this subtitle unless, with respect to an entitlement period, its entitlement under section 168 exceeds its entitlement under section 108.

"(b) Payment of Excess.—Except as provided in subsection (c) the Secretary shall pay—

"(1) to each State government eligible under subsection (a), an amount equal to the amount by which its entitlement under section 167 exceeds its entitlement under section 107; and

"(2) to each unit of local government eligible under subsection (a), an amount equal to the amount by which its entitlement under section 168 exceeds its entitlement under section 108.

"(c) Limitations.—

"(1) Ratable reductions.—If the sums available under section 163 (a) and (b) for any entitlement period for making payments under this subtitle to State governments and units of local government are not sufficient to pay in full the total amount of payments authorized by subsection (b) of this section for that entitlement period, then each such payment for such period shall be ratably reduced. In case additional funds become available for making such payments for any entitlement period during which the preceding sentence is applicable such reduced payments shall be increased on the same basis as they were reduced.

"(2) Payment less than $2,500, or governing body waives payment.—If (but for this paragraph) the payment to any unit of local government below the level of the county government—

"(i) would be less than $2,500 for any entitlement period ($1,875 for an entitlement period of 9 months), or

"(ii) is waived for any entitlement period by the governing body of such unit,

then the amount of such payment for such period shall (in lieu of being paid to such unit) be added to, and shall become a part of, the payment for such period to the county government of the county area in which such unit is located.

"Sec. 165. Management of Funds.

"(a) Management.—

"(1) In general.—Funds appropriated pursuant to section 163(b) shall remain available without fiscal year limitation and, except as provided in this title, may be used only for the payments to State and local governments as provided by this subtitle.

"(2) Report.—The Secretary of the Treasury shall report to the Congress not later than January 15 of each year on the operations and payments under this subtitle during the preceding fiscal year.

"(b) Transfer to General Fund.—The Secretary shall from time to time transfer to the general fund of the Treasury any moneys available for this subtitle which he determines will not be needed to make payments to State governments and units of local government under this subtitle.

"Sec. 166. Computation of Allocation Among States.

"An amount equal to the amount authorized under section 105(c)(1) for each entitlement period which is not reserved for distribution under this subtitle shall be allocated among the States as follows:

"(a) Allocation on Basis of Income Factor.—Forty percent of an amount equal to the amount authorized under section 105 (c)(1) for any entitlement period which is not reserved for distribution under this subtitle shall be allocated among the States in the same proportion as—

"(1) the population of each State, multiplied by the income factor of that State, bears to

"(2) the sum of the products determined under ubparagraph (1) for all State.

"(b) Allocation on Basis of Tax Effort Factor.—Sixty percent of an amount equal to the amount authorized under section 105 (c)(1) for any entitlement period which is not reserved for distribution under this subtitle shall be allocated among the States in the same proportion as the amount allocable to each State under subsection (c) of this section bears to the sum of the amounts allocable to all States under such subsection.

"(c) Determination of Allocable Amount.—

"(1) In general.—For purposes of subsection (b) of this section, the amount allocable to a State under this subsection for any entitlement period shall be determined under paragraph (2), except that such amount shall be determined under paragraph (3) if the amount allocable to it under paragraph (3) is greater than the amount allocable to it under paragraph (2).

"(2) General tax effort amount.—For purposes of paragraph (1), the amount allocable to a State under this paragraph for any entitlement period is the amount which bears the same ratio to the total amount allocable under subsection (b) as—

"(A) the population of that State, multiplied by the general tax effort factor of that State, bears to

"(B) the sum of the products determined under subparagraph (A) for all States.

"(3) Income tax effort amount.—For purposes of paragraph (1), the amount allocable to a State under this paragraph for any entitlement period is the amount which bears the same ratio to the total amount allocable under subsection (b) as—

"(A) the population of that State, multiplied by the income tax effort factor of that State, bears to

"(B) the sum of the products determined under paragraph (A) for all States.

"Sec. 167. Entitlements of State Governments.

"(a) Division Between State and Local Governments.—The State government shall be entitled to receive one-third of the amount allocated to that State for each entitlement period. The remaining portion of each State's allocation shall be allocated among the units of local government of that State as provided in section 168.

"(b) State Must Maintain Transfers to Local Governments.—

"(1) General rule.—The entitlement of any State government for any entitlement period beginning on or after January 1, 1977, shall be reduced by the amount (if any) by which—

"(A) the average of the aggregate amounts transferred by the State government (out of its own sources) during such period and the preceding entitlement period to all units of local government in such State, is less than,

"(B) the similar aggregate amount for the one-year period beginning July 1, 1975, or until data on such period are available, the most recent such one-year period for which data on such amounts are available.

For purposes of subparagraph (A), the amount of any reduction in the entitlement of a State government under this subsection for any entitlement period shall, for subsequent entitlement periods, be treated as an amount transferred by the State government (out of its own sources) during such period to units of local government in such State.

"(2) Adjustment where State assumes responsibility for category of expenditures.—If the State government establishes to the satisfaction of the Secretary that since December 31, 1976, it has assumed responsibility for a category of expenditures which (before January 1, 1977) was the responsibility of local governments located in such State, then, under regulations prescribed by the Secretary, the aggregate amount taken into account under paragraph (1)(B) shall be reduced to the extent that increased State government spending (out of its own sources) for such category has replaced corresponding amounts which for the one-year period utilized for purposes of paragraph (1) (B) it transferred to units of local government.

"(3) Adjustment where new taxing powers are conferred upon local governments.—If a State establishes to the satisfaction of the Secretary that since January 1, 1977, one or more units of local government within such State have had conferred upon them new taxing authority, then, under regulations prescribed by the Secretary, the aggregate amount taken into account under paragraph (1)(B) shall be reduced to the extent of the larger of—

"(A) an amount equal to the amount of the taxes collected by reason of the exercise of such new taxing authority by such local governments, or

"(B) an amount equal to the amount of the loss of revenue to the State by reason of such new taxing authority being conferred on such local governments.

No amount shall be taken into consideration under subparagraph (A) if such new taxing authority is an increase in the authorized rate of tax under a previously authorized kind of tax, unless the State is determined by the Secretary to have decreased a related State tax.

"(4) Special rule for period beginning January 1, 1977.—In the case of the entitlement period beginning January 1, 1977, and ending September 30, 1977, the aggregate amount taken into account under paragraph (1)(A) for the preceding entitlement period and the aggregate amount taken into account under paragraph (1)(B) shall be three-fourths of the amounts which (but for this paragraph) would be taken into account.

"(5) Reduction in entitlement.—If the Secretary has reason to believe that paragraph (1) requires a reduction in the entitlement of any State government for any entitlement period, he shall give reasonable notice and opportunity for hearing to the State. If thereafter, he determines that paragraph (1) requires the reduction of such entitlement, he shall also determine the amount of such reduction and shall notify the Governor of such State of such determinations and shall withhold from subsequent payments to such State government under this title an amount equal to such reduction.

"(6) Transfers to local governments.—An amount equal to the reduction in the entitlement of any State government which results from the application of this subsection (after any judicial review under section 143) shall be made available for distribution to local governments within the State in accordance with section 168. In the event that, because of limits imposed by section 168, any portion of such amount is not properly allocable to local government, such portion shall be transferred to the general fund of the Treasury.

"Sec. 168. Entitlements of Local Governments.

"(a) Allocation Among County Areas.—The amount to be allocated to the units of local government within a State for any entitlement period shall be allocated among the county areas located in that State so that each county area will receive an amount which bears the same ratio to the total amount to be allocated to the units of local government within that State as—

"(1) the population of that county area, multiplied by the tax effort factor of that county area, multiplied by the income factor of that county area, bears to

"(2) the sum of the products determined under paragraph (1) for all county areas within that State.

"(b) Allocation to County Governments, Municipalities, Townships, Etc.—

"(1) County governments.—The county government shall be allocated that portion of the amount allocated to the county area for the entitlement period under subsection (a) which bears the same ratio to such amount as the adjusted taxes of the county government bear to the adjusted taxes of the county government and all other units of local government located in the county area.

"(2) Other units of local government.—The amount remaining for allocation within a county area after the application of paragraph (1) shall be allocated among the units of local government (other than the county government) located in that county area so that each unit of local government will receive an amount which bears the same ratio to the total amount to be allocated to all such units as—

"(A) the population of that local government, multiplied by the tax effort factor of that local government, multiplied by the income factor of that local government, bears to

"(B) the sum of the products determined under subparagraph (A) for all such units.

"(3) Township governments.—If the county area includes one or more township governments, then such township governments shall be treated as units of local government in making the allocation prescribed by paragraph (2) of this subsection.

"(4) Indian tribes and Alaskan native villages.—If within a State there is an Indian tribe or Alaskan native village which has a recognized governing body which performs substantial governmental functions, then before applying subsection (a) of this section there shall be allocated to each such tribe or village a portion of the amount allocated to that State for the entitlement period which bears the same ratio to such amount as the population of such tribe or village within that State bears to the population of that State. If this paragraph applies with respect to any State for any entitlement period, the total amount to be allocated to county areas under subection (a) shall be appropriately reduced to reflect the amount allocated under the preceding sentence, and the population of any tribe or village receiving such allocation shall not be counted in determining the allocation under subsection

(a) of the county area in which such tribe or village is located. If the entitlement of any such tribe or village is waived for any entitlement period by the governing body of that tribe or village, then the provisions of this paragraph shall not apply with respect to the amount of such entitlement for such period.

"(5) Rule for small units of government.—If the Secretary determines that in any county area the data available for any entitlement period are not adequate for the application of the formulas set forth in paragraph (2) with respect to units of local government (other than a county government) with a population below a number (not more than 500) prescribed for that county area by the Secretary, he may apply paragraph (2) by allocating for such entitlement period to each such unit located in that county area an amount which bears the same ratio to the total amount to be allocated under paragraph (2) for such entitlement period as the population of such unit bears to the population of all units of local government in that county area to which allocations are made under such paragraph. If the preceding sentence applies with respect to any county area, the total amount to be allocated under paragraph (2) to other units of local government in that county area for the entitlement period shall be appropriately reduced to reflect the amounts allocated under the preceding sentence.

"(6) Entitlement.—

"(A) In general.—Except as otherwise provided in this paragraph, the entitlement of any unit of local government for any entitlement period shall be the amount allocated to such unit under this subsection.

"(B) Maximum per capita entitlement.—The per capita amount allocated to any county area or any unit of local government (other than a county government) within a State under this section for any entitlement period shall not be more than 300 percent of two-thirds of the amount allocated to the State under section 166, divided by the population of that State.

"(C) Limitation.—The amount allocated to any unit of local government under this section for any entitlement period shall not exceed 50 percent of the sum of (i) such government's adjusted taxes, and (ii) the intergovernmental transfers of revenue to such government (other than transfers to such government under this subtitle).

"(D) Entitlement less than $2,500, or governing body waives entitlement.—If (but for this subparagraph) the entitlement of any unit of local government below the level of the county government—

"(i) would be less than $2,500 for any entitlement period ($1,875 for an entitlement period of 9 months), or

"(ii) is waived for any entitlement period by the governing body of such unit,

then the amount of such entitlement for such period shall (in lieu of being paid to such unit) be added to, and shall become a part of, the entitlement for such period of the county government of the county area in which such unit is located.

"(7) Adjustment of entitlement.—

"(A) In general.—In adjusting the allocation of any county area or unit of local government, the Secretary shall make any adjustment required under paragraph (6)(B) first, any adjustment required under paragraph (6)(C) next, and any adjustment required under paragraph (6)(D) last.

"(B) Adjustment for application of maximum per capita entitlement.—The Secretary shall adjust the allocations made under this section to county areas or to units of local governments in any State in order to bring those allocations into compliance with the provisions of paragraph (6)(B). In making such adjustments he shall make any necessary adjustments with respect to county areas before making any necessary adjustments with respect to units of local government.

"(C) Adjustment for application of limitation.—In any case in which the amount allocated to a unit of local government is reduced under paragraph (6)(C) by the Secretary, the amount of that reduction—

"(i) in the case of a unit of local government (other than a county government), shall be added to and increase the allocation of the county government of the county area in which it is located, unless (on account of the application of paragraph (6)) that county government may not receive it, in which case the amount of the reduction shall be added to and increase the entitlement of the State government of the State in which that unit of local government is located; and

"(ii) in the case of a county government, shall be added to and increase the entitlement of the State government of the State in which it is located.

"Sec. 169. Definitions and Special Rules for Application of Allocation Formulas.

"(a) In General.—For purposes of this subtitle—

"(1) Population.—Population shall be determined on the same basis as resident population is determined by the Bureau of the Census for general statistical purposes.

"(2) Exempt income.—Exempt income shall mean one-fourth of the annual income designated by the Bureau of the Census as the low-income level for a family of four persons.

"(3) Aggregate exempt income.—Aggregate exempt income for any unit of government shall mean the population of that unit multiplied by exempt income as defined in paragraph (2).

"(4) Income.—Income means total money income from all sources, as determined by the Bureau of the Census, for general statistical purposes.

"(5) Dates for determining allocations and entitlements.—Except as provided in regulations, the determination of allocations and entitlements for any entitlement period shall be made as of the first day of the third month immediately preceding the beginning of such period.

"(6) Intergovernmental transfers.—The intergovernmental transfers of revenue to any government are the amounts of revenue received by that government from other governments as a share in financing (or as reimbursement for) the performance of governmental functions, as determined by the Bureau of the Census for general statistical purposes.

"(7) Data used; uniformity of data.—

"(A) General rule.—Except as provided in subparagraph (B), the data used shall be the most recently available data provided by the Bureau of the Census or the Department of Commerce, as the case may be.

"(B) Use of estimates, etc.—Where the Secretary determines that the data referred to in subparagraph (A) are not current enough or are not comprehensive enough to provide for equitable allocations, he shall use such additional data (including data based on estimates) as may be provided for in regulations.

"(b) Income Factor.—

"(1) The income factor for a State, county area, or unit of local government is a fraction—

"(A) the numerator of which is—

"(i) the number of persons in families in that State, county area, or unit of local government below the low-income level, plus the number of unrelated individuals 65 years old or over below the low-income level, plus

"(ii) the number of persons in families with incomes between 100 percent and 125 percent of the low-income level residing in a central city of an urbanized area within that State, county area, or unit of local government, plus the number of unrelated individuals 65 years old or over who have incomes between 100 percent and 125 percent of the low-income level residing in a central city of an urbanized area within that State, county area, or unit of local government;

"(B) the denominator of which is the number of persons in families in that State, county area, or unit of local government plus the number of unrelated individuals 65 years old and over.

"(2) The terms used in paragraph (1) are defined in accordance with the definitions used by the Bureau of the Census for general statistical purposes.

"(c) General Tax Effort Factor of States.—

"(1) In general.—For purposes of this title, the general tax effort factor of any State for any period is—

"(A) the net amount collected from the State and local taxes of such State during the most recent reporting year, divided by

"(B) the aggregate income, as defined in paragraph (4) of subsection (a), attributed to such State for the same period, minus the aggregate exempt income attributable to such State for the same period.

"(2) State and local taxes.—

"(A) Taxes taken into account.—The State and local taxes taken into account under paragraph (1) are the compulsory contributions exacted by the State (or by any unit of local government or other political subdivision of the State) for public purposes (other than employee and employer assessments and contributions to finance retirement and social insurance systems, and other than special assessments for capital outlay), as such contributions are determined by the Bureau of the Census for general statistical purposes.

"(B) Most recent reporting year.—The most recent reporting year with respect to any entitlement period consists of the years taken into account by the Bureau of the Census in its most recent general determination of State and local taxes made before the close of such period.

"(d) Income Tax Collections of States.—The income tax collections attributed to any State for any entitlement period shall be equal to the net amount collected from the State individual income tax of such State during the last calendar year ending before the beginning of such entitlement period. The individual income tax of any State is the tax imposed upon the income of individuals by that State and described as a State income tax under section 164(a)(3) of title 26, United States Code.

"(e) Income Tax Effort Factor.—The income tax effort factor of any State for any entitlement period is—

"(1) the income tax collections of that State as defined in subsection (d), divided by

"(2) the aggregate income, as defined in paragraph (4) of subsection (a) attributed to such State for the same period, minus the aggregate exempt income attributable to such State for the same period.

"(f) Tax Effort Factor of County Area.—For purposes of this title, the tax effort factor of any county area for any entitlement period is—

"(1) the adjusted taxes of the county government plus the adjusted taxes of each other unit of local government within that county area, divided by

"(2) the greater of

"(A) the aggregate income (as defined in paragraph (4) of subsection (a)) attributed to that county area, minus the aggregate exempt income attributable to that county area, or

"(B) one-half the aggregate exempt income attributable to such county area for the same period.

"(g) Tax Effort Factor of Unit of Local Government.—For purposes of this title—

"(1) In general.—The tax effort factor of any unit of local government for any entitlement period is—

"(A) the adjusted taxes of that unit of local government, divided by

"(B) the greater of—

"(i) the aggregate income (as defined in paragraph (4) of subsection (a)) attributed to that unit of local government, minus the aggregate exempt income attributable to that unit of local government, or

"(ii) one-half the aggregate exempt income attributable to such unit of local government for the same period.

"(2) Adjusted taxes.—

"(A) In general.—The adjusted taxes of any unit of local government are—

"(i) the compulsory contributions exacted by such government for public purposes (other than employee and employer assessments and contributions to finance retirement and social insurance systems, and other than special assessments for capital outlay), as such contributions are determined by the Bureau of the Census for general statistical purposes,

"(ii) adjusted (under regulations prescribed by the Secretary) by excluding an amount equal to that portion of such compulsory contributions which is properly allocable to expenses for education.

"(B) Certain sales taxes collected by counties.—In any case where—

"(i) a county government exacts sales taxes within the geographic area of a unit of local government and transfers part or all of such taxes to such unit without specifying the purposes for which such unit may spend the revenues, and

"(ii) the Governor of the State notifies the Secretary that the requirements of this subparagraph have been met with respect to such taxes,

then the taxes so transferred shall be treated as the taxes of the unit of local government (and not the taxes of the county government).".

(b) Section 123(a)(1) of the Act is amended by inserting "or D" immediately after "subtitle A".

Sec. 16. (a) Except as provided in subsection (b), the amendments of the Act made by this Act shall take effect at the close of December 31, 1976.

(b)(1) The amendments made by section 6 of this Act shall take effect on the date of enactment.

(2) The amendment made by section 8 of this Act shall take effect at the close of September 30, 1977.

By Mr. JOHN L. BURTON:

(Amendment to the Amendment in the nature of a substitute by Mr. Brooks)

Strike out everything after the first section thereof and insert in lieu thereof the following:

DEFINITION

Sec. 2. As used in this Act the term "the Act" means the State and Local Fiscal Assistance Act of 1972 (31 U.S.C. 1221; 86 Stat. 919).

ELIMINATION OF EXPENDITURE CATEGORIES

Sec. 3. (a) Subtitle A of title I of the Act is amended by striking out section 103.

(b) Section 123(a) of the Act is amended by striking out paragraph (3).

ELIMINATION OF PROHIBITION ON USE OF FUNDS FOR MATCHING

Sec. 4. (a) Subtitle A of title I of the Act is further amended by striking out section 104.

(b) Section 143(a) of the Act is amended by striking out "104(b) or".

ABOLITION OF TRUST FUND CONCEPT

Sec. 5. (a) Section 105 of the Act is amended—

(1) by striking out "CREATION OF TRUST FUND;" in the heading of such section;

(2) by striking out subsection (a) and inserting in lieu thereof the following:

"(a) In General.—Funds appropriated pursuant to subsections (b) and (c) shall remain available without fiscal year limitation and shall be used for the payments to State and local governments as provided by this title. The Secretary of the Treasury shall report to the Congress not later than January 15 of each year on the operations and payments under this subtitle during the preceding fiscal year.";

(3) by striking out "to the Trust Fund, out of amounts in the general fund of the Treasury attributable to the collections of the Federal individual income taxes not otherwise appropriated" each place it appears in subsection (b) and inserting in lieu thereof "for the purpose of making the payments authorized by this subtitle";

(4) by striking out paragraph (3) of subsection (b); and

(5) by striking out the subsection redesignated (by section 6(a)(1)) as subsection (d), and inserting in lieu thereof the following:

"(d) Transfers to the General Fund.—The Secretary shall from time to time transfer to the general fund of the Treasury any funds available for this subtitle which he determines will not be needed to make payments to State governments and units of local government under this subtitle.".

(b)(1) Section 102 of the Act is amended by striking out "out of the Trust Fund".

(2) Section 107(b)(8) of the Act, as redesignated by section 6(b)(4) of this Act, is amended by striking out "from the Trust Fund".

EXTENSION OF PROGRAM AND FUNDING

Sec. 6. (a) Section 105 of the Act is amended—

(1) by redesignating subsecton (c) as subsection (d);

(2) by inserting immediately after subsection (b) the following new subsection:

"(c) Authorization of Appropriations.—

"(1) In general.—

"(A) For entitlements.—There are authorized to be appropriated to pay the entitlements hereinafter provided under this act—

"(i) for the second period beginning January 1, 1977, and ending September 30, 1977, $4,987,500,000; and

"(ii) for the fiscal year beginning on October 1, 1977, $6,650,000,000.

"(B) Payments after September 30, 1978.—There are authorized to be appropriated for the making of payments for each of the fiscal years beginning on October 1 of 1978 and 1979, $6,650,000,000. (2) Noncontiguous States adjustment amounts.—

"(A) Entitlement.—There are authorized to be appropriated to pay the entitlements hereinafter provided—

"(i) for the period beginning January 1, 1977, and ending September 30, 1977, $3,585,-000;

"(ii) for the fiscal year beginning October 1, 1977, $4,780,000.

"(B) Authorization.—There are authorized to be appropriated for the making of payments for each of the fiscal years beginning on October 1 of 1978 and 1979, $4,780,000."; and

(3) by inserting "; AUTHORIZATIONS" in the heading of such section immediately after "APPROPRIATIONS".

(b)(1) Subsection (a) of section 106 of the Act is amended to read as follows:

"(a) In General.—There shall be allocated an entitlement to each State—

"(1) for each entitlement period beginning prior to December 31, 1976, out of amounts appropriated under section 105(b)(1) for that entitlement period, an amount which bears the same ratio to the amount appropriated under that section for that period as the amount allocable to that State under subsection (b) bears to the sum of the amounts allocable to all States under subsection (b);

"(2) for each entitlement period beginning after December 31, 1976, but prior to September 30, 1978, out of amounts authorized under section 105(c)(1)(A) for that entitlement period, an amount which bears the same ratio to the amount so authorized under that section for that period as the amount allocable to that State under subsection (b) bears to the sum of the amounts allocable to all States under subsection (b); and

"(3) for each entitlement period beginning on or after October 1, 1978, out of amounts appropriated under section 105(c)(1)(B) for that entitlement period, an amount which bears the same ratio to the amount so appropriated under that section for that period as the amount allocable to that State under subsection (b) bears to the sum of the amounts allocable to all States under subsection (b).".

(2) Section 106(c)(1) of the Act is amended by striking out "section 105(b)(2)" and inserting in lieu thereof "subsection (b)(2) or (c)(2) of section 105".

(3) Section 106(c)(2) of the Act is amended to read as follows:

"(2) Determination of amount.—The additional amount to any State under this subsection for any entitlement period is an amount equal to a percentage of the amount allocable to that State under subsection (b)(2) for that period which is the same as the percentage of basic pay received by such employees stationed in that State as an allowance under such section 5941. If—

"(A) the total amount appropriated under section 105(b)(2) for an entitlement period ending on or before December 31, 1976;

"(B) the total amount authorized under section 105(c)(2)(A) for an entitlement period ending on or before September 30, 1978; or

"(C) the total amount appropriated under section 105(c)(2)(B) for an entitlement period beginning on or after October 1, 1978,

is not sufficient to pay in full the additional amounts allocable under this subsection for that period, the Secretary shall reduce proportionately the amounts so allocable.".

(4) Section 107(b) of the Act is amended by redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively, and by inserting after paragraph (5) the following new paragraph:

"(6) Special rule for this period beginning January 1, 1977.—In the case of the entitlement period beginning January 1, 1977, and ending September 30, 1977, the aggregate amount taken into account under paragraph (1)(A) for the preceding entitlement period and the aggregate amount taken into account under paragraph (1)(B) shall be three-fourths of the amounts which (but for this paragraph) would be taken into account.".

(5) Section 108(b)(6)(D) is amended by inserting after "6 months" the following: ", $150 for an entitlement period of 9 months".

(6) Section 108(c)(1)(C) of the Act is amended by striking out "December 31, 1976" and inserting in lieu thereof "September 30, 1980".

(7) Section 141(b) of the Act is amended by inserting at the end thereof the following new paragraphs:

"(6) The period beginning on January 1, 1977, and ending September 30, 1977.

"(7) The one-year periods beginning on October 1 of 1977, 1978, and 1979."

MAINTENANCE OF EFFORT; CHANGE OF BASE YEAR

Sec. 7. (a) Section 107(b)(1) of the Act is amended—

(1) by striking out "July 1, 1973," and inserting in lieu thereof "January 1, 1977,"; and

(2) by striking out clause (B) and inserting in lieu thereof the following:

"(B) the similar aggregate amount for the one-year period beginning July 1, 1975, or, until data on such period are available, the most recent such one-year period for which data on such amounts are available.".

(b) Section 107(b)(2) is amended by striking out "beginning July 1, 1971," and inserting in lieu thereof "utilized for purposes of such paragraph".

DEFINITION OF UNIT OF LOCAL GOVERNMENT

Sec. 8. Paragraph (1) of section 108(d) of the Act is amended to read as follows:

"(1) Unit of Local Government.—

"(A) In general.—The term 'unit of local government' means the government of a county, municipality, or township which is a unit of general government as determined by the Bureau of the Census for general statistical purposes, and which, with respect to entitlement periods beginning on or after October 1, 1977, meets the requirements specified in subparagraph (B), and imposes taxes or receives intergovernmental transfers for substantial performance of at least two of the following services for its citizens: (i) police protection; (ii) courts and corrections; (iii) fire protection; (iv) health services; (v) social services for the poor or aged; (vi) public recreation; (vii) public libraries; (viii) zoning or land use planning; (ix) sewerage disposal or water supply; (x) solid waste disposal; (xi) pollution abatement; (xii) road or street construction and maintenance; (xiii) mass transportation; and (xiv) education. Such term also means, except for purposes of paragraphs (1), (2), (3), (5), (6)(C), and (6)(D) of subsection (b), and, except for purposes of subsection (c), the recognized governing body of an Indian tribe or Alaskan Native village which performs substantial governmental functions. For the purposes of this subsection a unit of local government shall be deemed to impose a tax if that tax is collected by another governmental entity from the geographical area served by that unit of local government and an amount equivalent to the net proceeds of that tax are paid to that unit of local government.

"(B) Limitation.—To be considered a unit of local government for purposes of this Act, at least 10 per centum of a local government's total expenditures (exclusive of expenditures for general and financial administration and for the assessment of property) in the most recent fiscal year must have been for each of two of the public services listed in subparagraph (A), except that the foregoing restriction shall not apply to a unit of local government (i) which substantially performs four or more of such public services or (ii) which has performed two or more of such public services since January 1, 1976, and continues to provide two or more such public services.".

Sec. 9. Subtitle B of title I of the Act is amended by inserting immediately after the heading thereof the following new section:

"Sec. 120. Efficiency, Economy and Responsiveness of State and Local Governments.

"(a) Policy and Purpose.—In providing funds under this Act, it is the intent of Congress to encourage the efficiency, economy and responsiveness of State and local government. Each State as part of their annual report under section 121 (b) of the Act shall include a description of any steps it has taken to achieve the goals set forth in this section.

"(b) General Plan.—Each State government may develop a general plan and timetable for making its State and local governments more efficient, economical, and responsive to the public according to its own procedures or may use the content and criteria suggested in subsection (c).

"(c) Content and Criteria.—The general plan may contain specific proposals for improving the effectiveness, economy and equity of State and local government and may include the factors of governmental functions and structures, fiscal and management capacity, and public accountability.

"(d) Secretary Action.—The Secretary, as part of the annual report required under section 105 (a), shall include the steps taken by each state to achieve the goals of this section and shall make recommendations on these goals."

CITIZEN PARTICIPATION; REPORTS

Sec. 10. (a) Section 121 of the Act is amended to read as follows:

"Sec. 121. Reports on Use of Funds; Publication and Public Hearings.

"(a) Reports on Proposed Use of Funds.—Each State government and unit of local government which expects to receive funds under subtitle A or D for any entitlement period beginning on or after January 1, 1977, shall submit a report to the Secretary setting forth the amounts and purposes for which it proposes to spend or obligate the funds which it expects to receive during such period as compared with the use of similar funds during the two immediately preceding entitlement periods. Each such report shall include a comparison of the proposed, current, and past use of such funds to the relevant functional items in its official budget and specify whether the proposed use is for a completely new activity, for the expansion or continuation of an existing activity, or for tax stabilization or reduction. Such report shall be in such form and detail as the Secretary may prescribe and shall be submitted at such time before the beginning of the entitlement period as the Secretary may prescribe.

"(b) Reports on Use of Funds.—Each State government and unit of local government which receives funds under subtitle A or D shall, after the close of each entitlement period, submit a report to the Secretary (which report shall be available to the public for inspection and reproduction) setting forth the amounts and purposes for which funds received during such period have been appropriated, spent, or obligated and showing the relationship of those funds to the relevant functional items in the government's official budget. Such report shall further provide an explanation of all differences between the actual use of funds received and the proposed use of such funds as reported to the Secretary under subsection (a). Such reports shall be in such form and detail and shall be submitted at such time as the Secretary may prescribe.

"(c) Public Hearings Required.—

"(1) Pre-report hearing.—Not less than 7 calendar days before the submission of the report required under subsection (a), each State government or unit of local government which expects to receive funds under subtitle A or D for any entitlement period beginning on or after January 1, 1977, shall, after adequate public notice, have at least one public hearing at which citizens shall have the opportunity to provide written and oral comment on the possible uses of such funds.

"(2) Pre-budget hearing.—Not less than 7 calendar days before the adoption of its budget as provided for under State and local law, each State government or unit of local government which expects to receive funds under subtitle A or D for any entitlement period beginning on or after January 1, 1977, shall have at least one public hearing on the proposed use of funds made available under subtitles A and D in relation to its entire budget. At such hearing, citizens shall have the opportunity to provide written and oral comment to the body responsible for enacting the budget, and to have answered questions concerning the entire budget and the relation to it of funds made available under subtitles A and D. Such hearing shall be at a place and time that permits and encourages public attendance and participation.

"(3) Waiver.—The provisions of paragraph (1) may be waived in whole or in part in accordance with regulations of the Secretary if the cost of such a requirement would be unreasonably burdensome in relation to the entitlement of such State government or unit of local government to funds made available under subtitles A and D. The provisions of paragraph (2) may be waived in whole or in part in accordance with regulations of the Secretary if the budget processes required under applicable State or local laws or charter provisions assure the opportunity for public attendance and participation contemplated by the provisions of this subsection and a portion of such process includes a hearing on the proposed use of funds made available under subtitles A and D in relation to its entire budget.

"(d) Notification and Publicity of Public Hearings; Access to Budget Summary and Proposed and Actual Use Reports.—

"(1) In general.—Each State government and unit of local government which expects to receive funds under subtitle A or D for any entitlement period beginning on or after January 1, 1977, shall—

"(A) 30 days prior to the public hearing required by subsection (c)(2)—

"(i) publish conspicuously, in at least one newspaper of general circulation, the proposed use report required by subsection (a), a narrative summary setting forth in simple language an explanation of its proposed official budget, and a notice of the time and place of such public hearing; and

"(ii) make available for inspection and reproduction by the public (at the principal office of such State government or unit of local government, at public libraries, if any, within the boundaries of such a unit of local government, and, in the case of a State government, at the main libraries of the principal municipalities of such State) the proposed use report, the narrative summary, and its official budget which shall specify with particularity each item in its official budget which will be funded, in whole or in part, with funds made available under subtitle A or D, and, for each such budget item, shall specify the amount of such funds budgeted for that item and the percentage of total expenditures for that item attributable to such funds; and

"(B) within 30 days after adoption of its budget as provided for under State or local law—

"(i) publish conspicuously, in at least one newspaper of general circulation, a narrative summary setting forth in simple language an explanation of its official budget (including an explanation of changes from the proposed budget) and the relationship of the use of funds made available under subtitles A and D to the relevant functional items in such budget; and

"(ii) make such summary available for inspection and reproduction by the public at the principal office of such State government or unit of local government, at public libraries, if any, within the boundaries of such unit of local government, and, in the main libraries of the principal municipalities of such State.

"(2) Waiver.—The provisions of paragraph (1) may be waived, in whole or in part, with respect to publication of the proposed use reports and the narrative summaries, in accordance with regulations of the Secretary, where the cost of such publication would be unreasonably burdensome in relation to the entitlement of such State government or unit of local government to funds made available under subtitles A and D, or where such publication is otherwise impractical or infeasible. In addition, the 30-day provision of paragraph (1)(A) may be modified to the minimum extent necessary to comply with State and local law if the Secretary is satisfied that the citizens of the State or local government will receive adequate notification of the proposed use of funds, consistent with the intent of this section.

"(e) Reports Provided to the Governor.—A copy of each report required under subsections (a) and (b) filed with the Secretary by a unit of local government which receives funds under subtitle A or D shall be provided by the Secretary to the Governor of the State in which the unit of local government is located, in such manner and form as the Secretary may prescribe by regulation.

"(f) Proposed Use Report to Areawide Organization.—At the same time that the proposed use report is published and publicized in accordance with this section, each unit of local government which is within a metropolitan area shall submit a copy of the proposed use report to the areawide organization in the metropolitan area which is formally charged with carrying out the provisions of section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3334); section 401 of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4231); or section 302 of the Housing and Community Development Act of 1974 (42 U.S.C. 461).".

(b) Section 123 of the Act is amended by adding at the end thereof the following new subsection:

"(d) Report of the Secretary of the Treasury.—The Secretary of the Treasury shall include with the report required under section 105(a) a report to the Congress on the implementation and administration of this Act during the preceding fiscal year. Such report shall include, but not be limited to, a comprehensive and detailed analysis of the following:

"(1) the measures taken to comply with section 122, including a description of the nature and extent of any noncompliance and the status of all pending complaints;

"(2) the extent to which citizens in recipient jurisdictions have become involved in the decisions determining the expenditure of funds received under subtitles A and D;

"(3) the extent to which recipient jurisdictions have complied with section 123, including a description of the nature and extent of any noncompliance and of measures taken to insure the independence of audits conducted pursuant to subsection (c) of such section;

"(4) the manner in which funds distributed under subtitles A and D have been used, including the net fiscal impact, if any, in recipient jurisdictions; and

"(5) significant problems arising in the administration of the Act and proposals to remedy such problems through appropriate legislation.".

NONDISCRIMINATION; ENFORCEMENT

Sec. 11. (a) Section 122 of the Act is amended to read as follows:

"Sec. 122. Nondiscrimination Provision.

"(a) Prohibition.—

"(1) In General.—No person shall, on account of race, color, religion, sex, national origin, age, or handicapped status, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity of a State government or unit of local government which government or unit receives funds made available under subtitle A or D. The provisions of this paragraph shall be interpreted—

"(A) in accordance with titles II, III, IV, VI, and VII of the Civil Rights Act of 1964, as amended, title VIII of the Civil Rights Act of 1968, as amended, and title IX of the Education Amendments of 1972, with respect to discrimination on the basis of race, color, religion, sex, or national origin;

"(B) in accordance with the Rehabilitation Act of 1973 with respect to discrimination on the basis of handicapped status; and

"(C) in accordance with the Age Discrimination Act of 1975 with respect to discrimination on the basis af age, notwithstanding the deferred effectiveness of such Act.

"(2) Exceptions.—

"(A) Funding.—The provisions of paragraph (1) of this subsection shall not apply where any State government or unit of local government proves by clear and convincing evidence that the program or activity with respect to which the allegation of discrimination has been made is not funded in whole or in part, directly or indirectly, with funds made available under subtitle A or D.

"(B) Construction projects in progress.—The provisions of paragraph (1), relating to discrimination on the basis of handicapped status, shall not apply with respect to construction projects commenced prior to January 1, 1977.

"(b) Authority of the Secretary.—

"(1) Notice.—Whenever there has been—

"(A) publication or receipt of notice of a finding, after notice and opportunity for a hearing, by a Federal or State court, or by a Federal or State administrative agency (other than the Secretary under subparagraph (B)), to the effect that there has been a pattern or practice of discrimination on the basis of race, color, religion, sex, national origin, age, or handicapped status in any program or activity of a State government or unit of local government, which government or unit receives funds made available under subtitle A or D; or

"(B) a determination that a State government or unit of local government is not in compliance with subsection (a)(1) after an investigation by the Secretary, prior to a hearing under paragraph (4), but including an opportunity for the State government or unit of local government to make a documentary submission regarding the allegation of discrimination or the funding of such program or activity, with funds made available under subtitle A or D,

the Secretary shall, within 10 days of such occurrence, notify the Governor of the affected State, or of the State in which an affected unit of local government is located, and the chief executive officer of such affected unit of local government, that such State government or unit of local government is presumed not to be in compliance with subsection (a)(1), and shall request such Governor and such chief executive officer to secure compliance. For purposes of subparagraph (A), a finding by a Federal or State administrative agency shall be deemed rendered after notice and opportunity for a hearing if it is rendered pursuant to procedures consistent with the provisions of subchapter II of chapter 5, title 5, United States Code.

"(2) Voluntary compliance.—In the event the Governor or the chief executive officer secures compliance after notice pursuant to paragraph (1), the terms and conditions with which the affected State government or unit or local government agrees to comply shall be set forth in writing and signed by the Governor, by the chief executive officer (in the event of a violation by a unit of local government), and by the Secretary and the Attorney General. At least 15 days prior to the effective date of the agreement, the Secretary shall send a copy of the agreement to each complainant, if any, with respect to such violation. The Governor, or the chief executive officer in the event of a violation by a unit of local government, shall file semiannual reports with the Secretary and the Attorney General detailing the steps taken to comply with the agreement. Within 15 days of receipt of such reports the Secretary shall send a copy thereof to each such complainant.

"(3) Suspension and resumption of payment of funds.—

"(A) Suspension after notice.—If, at the conclusion of 90 days after notification under paragraph (1)—

"(i) a compliance agreement has not been entered into under paragraph (2),

"(ii) compliance has not been secured by the Governor of that State or the chief executive officer of that unit of local government, and

"(iii) an administrative law judge has not made a determination under paragraph (4) (A) that it is likely the State government or unit of local government will prevail on the merits,

the Secretary shall notify the Attorney General that compliance has not been secured and shall suspend further payment of any funds under subtitles A and D to that State government or that unit of local government. Such suspension shall be effective for a period of not more than 120 days, or, if there is a hearing under paragraph (4) (B), not more than 30 days after the conclusion of such hearing.

"(B) Resumption of payments suspended under subparagraph (A).—Payment of the suspended funds shall resume only if—

"(i) such State government or unit of local government enters into a compliance agreement approved by the Secretary and the Attorney General in accordance with paragraph (2);

"(ii) such State government or unit of local government complies fully with the final order or judgment of a Federal or State court, if that order or judgment covers all the matters raised by the Secretary in the notice pursuant to paragraph (1), or is found to be in compliance with subsection (a)(1) by such court; or

"(iii) the Secretary finds pursuant to paragraph (4)(B), that noncompliance has not been demonstrated.

"(C) Suspension upon action by Attorney General.—Whenever the Attorney General files a civil action alleging a pattern or practice of discriminatory conduct on the basis of race, color, religion, sex, national origin, age, or handicapped status in any program or activity of a State government or unit of local government, which State government or unit of local government receives funds made available under subtitle A or D, the conduct alleged violates the provisions of this section, and neither party within 45 days after such filing has been granted such preliminary relief with regard to the suspension or payment of funds as may be otherwise available by law, the Secretary shall suspend further payment of any funds under subtitles A and D to that State government or that unit of local government until such time as the court orders resumption of payment.

"(4) Hearings; other actions.—

"(A) Preliminary hearing.—Within the first 30 days after notification under paragraph (1)(B), the State government or unit of local government may request an expedited preliminary hearing by an administrative law judge in order to determine whether it is likely that the State government or unit of local government would, at a full hearing under subparagraph (B) of this paragraph, prevail on the merits on the issue of the alleged noncompliance. Such judge shall under a finding hereunder within the 90-day period after notification under paragraph (1) (B). A finding under this subparagraph by the administrative law judge in favor of the State government or unit of local government shall defer the suspenion of funds under paragraph (3) until the 210th day after the issuance of a notice of noncompliance under paragraph (1)(B), or until 30 days after the conclusion of hearing on the merits under subparagraph (B) of this paragraph.

"(B) Compliance hearing.—At any time after notification under paragraph (1) but before the conclusion of the 120-day period referred to in paragraph (3)(A), a State government or unit of local government may request a hearing, which the Secretary shall initiate within 30 days of such request. The Secretary may also initiate a hearing in case of a finding in favor of a State government or unit of local government under subparagraph (A) of this paragraph. Within 30 days after the conclusion of a hearing under this subparagraph, or, in the absence of a hearing, within 210 days after issuance of a notice of noncompliance under paragraph (1), the Secretary shall make a finding of compliance or noncompliance. If the Secretary makes a finding of noncompliance, the Secretary shall (i) notify the Attorney General of the United States in order that the Attorney General may institute a civil action under subsection (c), (ii) terminate the payment of funds under subtitles A and D, and, (iii) if appropriate, seek repayment of such funds. If the Secretary makes a finding of compliance, payment of the suspended funds shall resume as provided in paragraph (3)(B).

"(5) Judicial review.—Any State government or unit of local government aggrieved by a final determination of the Secretary under paragraph (4) may appeal such determination as provided in section 143(c).

"(c) Authority of Attorney General.—Whenever the Attorney General has reason to believe that a State government or unit of local government has engaged or is engaging in a pattern or practice in violation of the provisions of this section, the Attorney General may bring a civil action in an appropriate United States district court. Such court may grant as relief any temporary restraining order, preliminary or permanent injunction, or other order, as necessary or appropriate to insure the full enjoyment of the rights described in this section, including the suspension, termination, or repayment of funds made available under this title, or placing any further payments under this title in escrow pending the outcome of the litigation.

"(d) Agreements Between Agencies.—The Secretary shall enter into agreements with State agencies and with other Federal agencies authorizing such agencies to investigate noncompliance with subsection (a). The agreements shall describe the cooperative efforts to be undertaken (including the sharing of civil rights enforcement personnel and resources) to secure compliance with this section, and shall provide for the immediate notification of the Secretary by the Attorney General of any actions instituted under subsection (b)(3)(C), subsection (c), or under any other Federal civil rights statute or regulations issued thereunder.".

(b) Subtitle B of title I of the Act is amended by adding at the end thereof the following new sections:

"Sec. 124. Complaints and Compliance Reviews.

"By March 31, 1977, the Secretary shall promulgate regulations establishing—

"(1) reasonable and specific time limits for the Secretary or the appropriate cooperating agency to respond to the filing of a complaint by any person alleging that a State government or unit of local government is in violation of the provisions of this Act, including time limits for instituting an investigation, making an appropriate determination with respect to the allegations, and advising the complainant of the status of the complaint; and

"(2) reasonable and specific time limits for the Secretary to conduct audits and reviews of State governments and units of local government for compliance with the provisions of this Act.

"Sec. 125. Private Civil Actions.

"(a) Attorney Fees.—In any action brought to enforce compliance with any provision of this Act, the court may grant to a prevailing plaintiff reasonable attorney fees except where the lawsuit is frivolous, vexatious, brought for harassment purposes, or brought principally for the purpose of gaining attorney fees.

"(b) Intervention by Attorney General.—In any action brought to enforce compliance with any provision of this Act, the Attorney General, or a specially designated assistant for or in the name of the United States, may intervene upon timely application if he certifies that the action is of general public importance. In such action the United States shall be entitled to the same relief as if it had instituted the action.".

AUDITING AND ACCOUNTING

Sec. 12. (a) Subparagraph (A) of section 123(a)(5) of the Act is amended by striking "therefor" and inserting in lieu thereof ", in conformity with subsection (c) of this section," and by inserting at the end thereof the following: "and conduct independent financial audits in accordance with generally accepted auditing standards as required by paragraph (2) of such subsection,".

(b) Section 123(c) of the Act is amended to read as follows:

"(c) Accounting, Auditing, and Evaluation.—

"(1) In general.—The Secretary shall provide for such audits, evaluations, and reviews as may be necessary to insure that the expenditures of funds received under subtitle A or D by State governments and units of local government comply fully with the requirements of this title. Such audits, evaluations, and reviews shall include such independent audits as may be required pursuant to paragraph (2). The Secretary is authorized to accept an audit by a State government or unit of local government of its expenditures if he determines that such audit was conducted in compliance with paragraph (2), and that such audit and the audit procedures of that State government or unit of local government are sufficiently reliable to enable him to carry out his duties under this title.

"(2) Independent audits.—The Secretary shall, after consultation with the Comptroller General, promulgate regulations to take effect not later than March 31, 1977, which shall require that each State government and unit of local government receiving funds under subtitle A or D conducts during each fiscal year an audit of its financial accounts in accordance with generally accepted auditing standards. Such regulations shall include such provisions as may be necessary to assure independent audits are conducted in accorddance with such standards, but may provide for less formal reviews of financial information, or less frequent audits, to the extent necessary to insure that the cost of such audits not be unreasonably burdensome in relation to the entitlement of such State government or unit of local government to funds available under subtitles A and D. Such regulations shall further provide for the availability to the public of financial statements and reports on audits or informal reviews conducted under this paragraph for inspection and reproduction as public documents.

"(3) Comptroller general shall review compliance.—The Comptroller General of the United States shall make such reviews of the work as done by the Secretary, the State governments, and the units of local government as may be necessary for the Congress to evaluate compliance and operations under this title.".

CONSTRUCTION PROJECT WAGE RATES

Sec. 13. Section 123(a)(6) of the Act is amended to read as follows:

"(6) all laborers and mechanics employed in the performance of work on any construction project funded in whole or on part of its trust fund established under paragraph (1), will be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a-5), and that with respect to the labor standards specified in this paragraph the Secretary of Labor shall act in accordance with Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267) and section 2 of the Act of June 13, 1934 (40 U.S.C. 276c), except that nothing in this subsection shall be construed to cover work performed by a State or local jurisdiction with its own regular, permanent laborers or mechanics;".

PROHIBITION ON USE FOR LOBBYING

Sec. 14. Section 123 of the Act is amended by adding at the end thereof the following new subsection:

"(e) Prohibition of Use for Lobbying Purposes.—No State government or unit of local government may use, directly or indirectly, any part of the funds it receives under subtitle A or D for the purpose of lobbying or other activities intended to influence any legislation regarding the provisions of this Act. For the purpose of this subsection, dues paid to National or State associations shall be deemed not to have been paid from funds received under subtitle A or D.".

SUPPLEMENTAL FISCAL ASSISTANCE

Sec. 15. (a) Title I of the Act is further amended by adding at the end thereof the following new subtitle:

"Subtitle D—Supplemental Fiscal Assistance

"Sec. 161. Short Title.

"This subtitle may be cited as the 'Supplemental Fiscal Assistance Act of 1976'.

"Sec. 162. Payments to State and Local Governments.

"Except as otherwise provided in this title, the Secretary shall, for each entitlement period beginning on or after January 1, 1977, pay out of the amounts appropriated under section 163, to each eligible State government, and to each eligible unit of local government, an amount determined under section 164 for such period. Such payments shall be made in installments, but not less often than once for each quarter, and shall be paid not later than 5 days after the close of each quarter. Such payments for any entitlement period may be initially made on the basis of estimates. Proper adjustment shall be made in the amount of any payment to a State government or a unit of local government to the extent that the payments previously made to such government under this subtitle were in excess of or less than the amounts required to be paid.

"Sec. 163. Authorization.

"There are authorized to be appropriated such sums as the Congress may deem necessary to adequately fund the program established by this subtitle.

"Sec. 164. Eligibility; Determination of Amount of Payments.

"(a) Eligibility.—No State government shall be eligible to receive payments under this subtitle unless, with respect to an entitlement period, its entitlement under section 167 exceeds its entitlement under section 107. No unit of local government shall be eligible to receive payments under this subtitle unless, with respect to an entitlement period, its entitlement under section 168 exceeds its entitlement under section 108.

"(b) Payment of Excess.—Except as provided in subsection (c) the Secretary shall pay—

"(1) to each State government eligible under subsection (a), an amount equal to the amount by which its entitlement under section 167 exceeds its entitlement under section 107; and

"(2) to each unit of local government eligible under subsection (a), an amount equal to the amount by which its entitlement under section 168 exceeds its entitlement under section 108; and

"(c) LIMITATIONS.—

"(1) RATABLE REDUCTIONS.—If the sums available under section 163 for any entitlement period for making payments under this subtitle to State governments and units of local government are not sufficient to pay in full the total amount of payments authorized by subsection (b) of this section for that entitlement period, then each such payment for such period shall be ratably reduced. In case additional funds become available for making such payments for any entitlement period during which the preceding sentence is applicable, such reduced payments shall be increased on the same basis as they were reduced.

"(2) PAYMENT LESS THAN $2,500, OR GOVERNING BODY WAIVES PAYMENT.—If (but for this paragraph) the payment to any unit of local government below the level of the county government—

"(i) would be less than $2,500 for any entitlement period ($1,875 for an entitlement period of 9 months), or

"(ii) is waived for any entitlement period by the governing body of such unit,

then the amount of such payment for such period shall (in lieu of being paid to such unit) be added to, and shall become a part of, the payment for such period to the county government of the county area in which such unit is located.

"SEC. 165. MANAGEMENT OF FUNDS.

"(a) MANAGEMENT.—

"(1) IN GENERAL.—Funds appropriated pursuant to section 163 shall remain available without fiscal year limitation and, except as provided in this title, may be used only for the payments to State and local governments as provided by this subtitle.

"(2) REPORT.—The Secretary of the Treasury shall report to the Congress not later than January 15 of each year on the operations and payments under this subtitle during the preceding fiscal year.

"(b) TRANSFER TO GENERAL FUND.—The Secretary shall from time to time transfer to the general fund of the Treasury any moneys available for this subtitle which he determines will not be needed to make payments to State governments and units of local government under this subtitle.

"SEC. 166. COMPUTATION OF ALLOCATION AMONG STATES.

"An amount equal to the amount appropriated under section 105(c)(1) for each entitlement period shall be allocated among the States as follows:

"(a) Allocation on Basis of Income Factor.—Forty percent of an amount equal to the amount appropriated under section 105 (c)(1) for an entitlement period shall be allocated among the States in the same proportion as—

"(1) the population of each State, multiplied by the income factor of that State, bears to

"(2) the sum of the products determined under paragraph (1) for all States.

"(b) Allocation on Basis of Tax Effort Factor.—Sixty percent of an amount equal to the amount appropriated under section 105 (c)(1) for an entitlement period which is not reserved for distribution under this subtitle shall be allocated among the States in the same proportion as the amount allocable to each State under subsection (c) of this section bears to the sum of the amounts allocable to all States under such subsection.

"(c) DETERMINATION OF ALLOCABLE AMOUNT.—

"(1) IN GENERAL.—For purposes of subsection (b) of this section, the amount allocable to a State under this subsection for any entitlement period shall be determined under paragraph (2), except that such amount shall be determined under paragraph (3) if the amount allocable to it under paragraph (3) is greater than the amount allocable to it under paragraph (2).

"(2) GENERAL TAX EFFORT AMOUNT.—For purposes of paragraph (1), the amount allocable to a State under this paragraph for any entitlement period is the amount which bears the same ratio to the total amount allocable under subsection (b) as—

"(A) the population of that State, multiplied by the general tax effort of that State, bears to

"(B) the sum of the products determined under subparagraph (A) for all States.

"(3) INCOME TAX EFFORT AMOUNT.—For purposes of paragraph (1), the amount allocable to a State under this paragraph for any entitlement period is the amount which bears the same ratio to the total amount allocable under subsection (b) as—

"(A) the population of that State, multiplied by the income tax effort factor of that State, bears to

"(B) the sum of the products determined under subparagraph (A) for all States.

"SEC. 167. ENTITLEMENTS OF STATE GOVERNMENTS.

"(a) DIVISION BETWEEN STATE AND LOCAL GOVERNMENTS.—The State government shall be entitled to receive one-third of the amount allocated to that State for each entitlement period. The remaining portion of each State's allocation shall be allocated among the units of local government of that State as provided in section 168.

"(b) STATE MUST MAINTAIN TRANSFERS TO LOCAL GOVERNMENTS.—

"(1) GENERAL RULE.—The entitlement of any State government for any entitlement period beginning on or after January 1, 1977, shall be reduced by the amount (if any) by which—

"(A) the average of the aggregate amounts transferred by the State government (out of its own sources) during such period and the preceding entitlement period to all units of local government in such State, is less than,

"(B) the similar aggregate amount for the one-year period beginning July 1, 1975, or until data on such period are available, the most recent such one-year period for which data on such amounts are available.

For purposes of subparagraph (A), the amount of any reduction in the entitlement of a State government under this subsection for any entitlement period shall, for subsequent entitlement periods, be treated as an amount transferred by the State government (out of its own sources) during such period to units of local government in such State.

"(2) ADJUSTMENT WHERE STATE ASSUMES RESPONSIBILITY FOR CATEGORY OF EXPENDITURES.—If the State government establishes to the satisfaction of the Secretary that since December 31, 1976, it has assumed responsibility for a category of expenditures which (before January 1, 1977) was the responsibility of local governments located in such State, then, under regulations prescribed by the Secretary, the aggregate amount taken into account under paragraph (1)(B) shall be reduced to the extent that increased State government spending (out of its own sources) for such category has replaced corresponding amounts which for the one-year period utilized for purposes of paragraph (1)(B) it transferred to units of local government.

"(3) ADJUSTMENT WHERE NEW TAXING POWERS ARE CONFERRED UPON LOCAL GOVERNMENTS.—If a State establishes to the satisfaction of the Secretary that since January 1, 1977, one or more units of local government within such State have had conferred upon them new taxing authority, then, under regulations prescribed by the Secretary, the aggregate amount taken into account under paragraph (1)(B) shall be reduced to the extent of the larger of—

"(A) an amount equal to the amount of the taxes collected by reason of the exercise of such new taxing authority by such local governments, or

"(B) an amount equal to the amount of the loss of revenue to the State by reason of such new taxing authority being conferred on such local governments.

No amount shall be taken into consideration under subparagraph (A) if such new taxing authority is an increase in the authorized rate of tax under a previously authorized kind of tax, unless the State is determined by the Secretary to have decreased a related State tax.

"(4) SPECIAL RULE FOR PERIOD BEGINNING JANUARY 1, 1977.—In the case of the entitlement period beginning January 1, 1977, and ending September 30, 1977, the aggregate amount taken into account under paragraph (1)(A) for the preceding entitlement period and the aggregate amount taken into account under paragraph (1)(B) shall be three-fourths of the amounts which (but for this paragraph) would be taken into account.

"(5) REDUCTION IN ENTITLEMENT.—If the Secretary has reason to believe that paragraph (1) requires a reduction in the entitlement of any State government for any entitlement period, he shall given reasonable notice and opportunity for hearing to the State. If thereafter, he determines that paragraph (1) requires the reduction of such entitlement, he shall also determine the amount of such reduction and shall notify the Governor of such State of such determinations and shall withhold from subsequent payments to such State government under this title an amount equal to such reduction.

"(6) TRANSFERS TO LOCAL GOVERNMENTS.—An amount equal to the reduction in the entitlement of any State government which results from the application of this subsection (after any judicial review under section 143) shall be made available for distribution to local governments within the State in accordance with section 168. In the event that, because of limits imposed by section 168, any portion of such amount is not properly allocable to local governments, such portion shall be transferred to the general fund of the Treasury.

"SEC. 168. ENTITLEMENTS OF LOCAL GOVERNMENTS.

"(a) ALLOCATION AMONG COUNTY AREAS.—The amount to be allocated to the units of local government within a State for any entitlement period shall be allocated among the county areas located in that State so that each county area will receive an amount which bears the same ratio to the total amount to be allocated to the units of local government within that State as—

"(1) the population of that county area, multiplied by the tax effort factor of that county area, multiplied by the income factor of that county area, bears to

"(2) the sum of the products determined under paragraph (1) for all county areas within that State.

"(b) ALLOCATION TO COUNTY GOVERNMENTS, MUNICIPALITIES, TOWNSHIPS, ETC.—

"(1) COUNTY GOVERNMENTS.—The county government shall be allocated that portion of the amount allocated to the county area for the entitlement period under subsection (a) which bears the same ratio to such amount as the adjusted taxes of the county government bear to the adjusted taxes of the county government and all other units of local government located in the county area.

"(2) Other units of local government.—The amount remaining for allocation within a county area after the application of paragraph (1) shall be allocated among the units of local government (other than the county government) located in that county area so that each unit of local government will receive an amount which bears the same ratio to the total amount to be allocated to all such units as—

"(A) the population of that local government multiplied by the tax effort factor of that local government, multiplied by the income factor of that local government, bears to

"(B) the sum of the products determined under subparagraph (A) for all such units.

"(3) Township governments.—If the county area includes one or more township governments, then such township governments shall be treated as units of local government in making the allocation prescribed by paragraph (2) of this subsection.

"(4) Indian tribes and Alaskan native villages.—If within a State there is an Indian tribe or Alaskan native village which has a recognized governing body which performs substantial governmental functions, then before applying subsection (a) of this section there shall be allocated to each such tribe or village a portion of the amount allocated to that State for the entitlement period which bears the same ratio to such amount as the population of such tribe or village within that State bears to the population of that State. If this paragraph applies with respect to any State for any entitlement period, the total amount to be allocated to county areas under subsection (a) shall be appropriately reduced to reflect the amount allocated under the preceding sentence, and the population of any tribe or village receiving such allocation shall not be counted in determining the allocation under subsection (a) of the county area in which such tribe or village is located. If the entitlement of any such tribe or village is waived for any entitlement period by the governing body of that tribe or village, then the provisions of this paragraph shall not apply with respect to the amount of such entitlement for such period.

"(5) Rule for small units of government.—If the Secretary determines that in any county area the data available for any entitlement period are not adequate for the application of the formulas set forth in paragraph (2) with respect to units of local government (other than a county government) with a population below a number (not more than 500) prescribed for that county area by the Secretary, he may apply paragraph (2) by allocating for such entitlement period to each such unit located in that county area an amount which bears the same ratio to the total amount to be allocated under paragraph (2) for such entitlement period as the population of such unit bears to the population of all units of local government in that county area to which allocations are made under such paragraph. If the preceding sentence applies with respect to any county area, the total amount to be allocated under paragraph (2) to other units of local government in that county area for the entitlement period shall be appropriately reduced to reflect the amounts allocated under the preceding sentence.

"(6) Entitlement.—

"(A) In general.—Except as otherwise provided in this paragraph, the entitlement of any unit of local government for any entitlement period shall be the amount allocated to such unit under this subsection.

"(B) Maximum per capita entitlement.—The per capita amount allocated to any county area or any unit of local government (other than a county government) within a State under this section for any entitlement period shall not be more than 300 percent of two-thirds of the amount allocated to the State under section 166, divided by the population of that State.

"(C) Limitation.—The amount allocated to any unit of local government under this section for any entitlement period shall not exceed 50 percent of the sum of (i) such government's adjusted taxes, and (ii) the intergovernmental transfers of revenue to such government (other transfers to such government under this subtitle).

"(D) Entitlement less than $2,500, or governing body waives entitlement.—If (but for this subparagraph) the entitlement of any unit of local government below the level of the county government—

"(i) would be less than $2,500 for any entitlement period ($1,875 for an entitlement period of 9 months), or

"(ii) is waived for any entitlement period by the governing body of such unit,

then the amount of such entitlement for such period shall (in lieu of being paid to such unit) be added to, and shall become a part of, the entitlement for such period of the county government of the county area in which such unit is located.

"(7) Adjustment of entitlement.—

"(A) In general.—In adjusting the allocation of any county area or unit of local government, the Secretary shall make any adjustment required under paragraph (6) (B) first, any adjustment required under paragraph (6) (C) next, and any adjustment required under paragraph (6) (D) last.

"(B) Adjustment for application of maximum per capita entitlement.—The Secretary shall adjust the allocations made under this section to county areas or to units of local governments in any State in order to bring those allocations into compliance with the provisions of paragraph (6) (B). In making such adjustments he shall make any necessary adjustments with respect to county areas before making any necessary adjustments with respect to units of local government.

"(C) Adjustment for application of limitation.—In any case in which the amount allocated to a unit of local government is reduced under paragraph (6) (C) by the Secretary, the amount of of that reduction—

"(i) in the case of a unit of local government (other than a county government), shall be added to and increase the allocation of the county government of the county area in which it is located, unless (on account of the application of paragraph (6)) that county government may not receive it, in which case the amount of the reduction shall be added to and increase the entitlement of the State government of the State in which that unit of local government is located; and

"(ii) in the case of a county government, shall be added to and increase the entitlement of the State government of the State in which it is located.

"Sec. 169. Definitions and Special Rules for Application of Allocation Formulas.

"(a) In General.—For purposes of this subtitle—

"(1) Population.—Population shall be determined on the same basis as resident population is determined by the Bureau of the Census for general statistical purposes.

"(2) Exempt income.—Exempt income shall mean one-fourth of the annual income designated by the Bureau of the Census as the low-income level for a family of four persons.

"(3) Aggregate exempt income.—Aggregate exempt income for any unit of government shall mean the population of that unit multiplied by exempt income as defined in paragraph (2).

"(4) Income.—Income means total money income from all sources, as determined by the Bureau of the Census, for general statistical purposes.

"(5) Dates for determining allocations and entitlements.—Except as provided in regulations, the determination of allocations and entitlements for any entitlement period shall be made as of the first day of the third month immediately preceding the beginning of such period.

"(6) Intergovernmental transfers.—The intergovernmental transfers of revenue to any government are the amounts of revenue received by that government from other governments as a share in financing (or as reimbursement for) the performance of governmental functions, as determined by the Bureau of the Census for general statistical purposes.

"(7) Data used; uniformity of data.—

"(A) General rule.—Except as provided in subparagraph (B), the data used shall be the most recently available data provided by the Bureau of the Census or the Department of Commerce, as the case may be.

"(B) Use of Estimates, etc.—Where the Secretary determines that the data referred to in subparagraph (A) are not current enough or are not comprehensive enough to provide for equitable allocations, he shall use such additional data (including data based on estimates) as may be provided for in regulations.

"(b) Income Factor.—

"(1) The income factor for a State, county area, or unit of local government is a fraction—

"(A) the numerator of which is—

"(i) the number of persons in families in that State, county area, or unit of local government below the low-income level, plus the number of unrelated individuals 65 years old or over below the low-income level, plus

"(ii) the number of persons in families with incomes between 100 percent and 125 percent of the low-income level residing in a central city of an urbanized area within that State, county area, or unit of local government, plus the number of unrelated individuals 65 years old or over who have incomes between 100 percent and 125 percent of the low-income level residing in a central city of an urbanized area within that State, county area, or unit of local government;

'"(B) the denominator of which is the number of persons in families in that State, county area, or unit of local government plus the number of unrelated individuals 65 years old and over.

"(2) The terms used in paragraph (1) are defined in accordance with the definitions used by the Bureau of the Census for general statistical purposes.

"(c) General Tax Effort Factor of States.—

"(1) In General.—For purposes of this title, the general tax effort factor of any State for any period is—

"(A) the net amount collected from the State and local taxes of such State during the most recent reporting year, divided by

"(B) the aggregate income, as defined in paragraph (4) of subsection (a), attributed to such State for the same period, minus the aggregate exempt income attributable to such State for the same period.

"(2) State and local taxes.—

"(A) Taxes taken into account.—The State and local taxes taken into account under paragraph (1) are the compulsory contributions exacted by the State (or by any unit of local government or other political subdivision of the State) for public purposes (other than employee and employer assessments and contributions to finance retirement and social insurance systems, and other than special assessments for capital outlay), as such contributions are determined by the Bureau of the Census for general statistical purposes.

"(B) Most recent reporting year.—The most recent reporting year with respect to any entitlement period consists of the years taken into account by the Bureau of the Census in its most recent general determination of State and local taxes made before the close of such period.

"(d) Income Tax Collections of States.—The income tax collections attributed to any State for any entitlement period shall be equal to the net amount collected from the State individual income tax of such State during the last calendar year ending before the beginning of such entitlement period. The individual income tax of any State is the tax imposed upon the income of individuals by that State and described as a State income tax under section 164(a)(3) of title 26, United States Code.

"(e) Income Tax Effort Factor.—The income tax effort factor of any State for any entitlement period is—

"(1) the income tax collections of that State as defined in subsection (d), divided by

"(2) the aggregate income, as defined in paragraph (4) of subsection (a) attributed to such State for the same period, minus the aggregate exempt income attributable to such State for the same period.

"(f) Tax Effort Factor of County Area.—For purposes of this title, the tax effort factor of any county area for any entitlement period is—

"(1) the adjusted taxes of the county government plus the adjusted taxes of each other unit of local government within that county area, divided by

"(2) the greater of

"(A) the aggregate income (as defined in paragraph (4) of subsection (a)) attributed to that county area, minus the aggregate exempt income attributable to that county area, or

"(B) one-half the aggregate exempt income attributable to such county area for the same period.

"(g) Tax Effort Factor of Unit of Local Government.—For purposes of this title—

"(1) In general.—The tax effort factor of any unit of local government for any entitlement period is—

"(A) the adjusted taxes of that unit of local government, divided by

"(B) the greater of—

"(i) the aggregate income (as defined in paragraph (4) of subsection (a)) attributed to that unit of local government, minus the aggregate exempt income attributable to that unit of local government, or

"(ii) one-half the aggregate exempt income attributable to such unit of local government for the same period.

"(2) Ajusted taxes.—

"(A) In general.—The adjusted taxes of any unit of local government are—

"(i) the compulsory contributions exacted by such government for public purposes (other than employee and employer assessments and contributions to finance retirement and social insurance systems, and other than special assessments for capital outlay), as such contributions are determined by the Bureau of the Census for general statistical purposes,

"(ii) adjusted (under regulations prescribed by the Secretary) by excluding an amount equal to that portion of such compulsory contributions which is properly allocable to expenses for education.

"(B) Certain sales taxes collected by counties.—In any case where—

"(i) a county government exacts sales taxes within the geographic area of a unit of local government and transfers part or all of such taxes to such unit without specifying the purposes for which such unit may spend the revenues, and

"(ii) the Governor of the State notifies the Secretary that the requirements of this subparagraph have been met with respect to such taxes,

then the taxes so transferred shall be treated as the taxes of the unit of local government (and not the taxes of the county government).".

(b) Section 123(a) (1) of the Act is amended by inserting "or D" immediately after "subtitle A".

Sec. 16. (a) Except as provided in subsection (b), the amendments of the Act made by this Act shall take effect at the close of December 31, 1976.

(b) (1) The amendments made by section 6 of this Act shall take effect on the date of enactment.

(2) The amendment made by section 8 of this Act shall take effect at the close of September 30, 1977.

By Mr. ERLENBORN:

(Amendment to the amendment in the nature of a substitute by Mr. Brooks.)

At page 37, at line 1, strike, "in whole or in part," and substitute, "at 25 percent or more."

At page 37, at line 1, strike, "in whole or in part," and substitute, "at 10 percent or more."

At page 37, at line 1, make proposed paragraph 6, to paragraph "6a" and at line 13, insert a new paragraph "6b" to read as follows:

"Paragraph 6a shall not apply to any recipient government which receives an annual entitlement of $10,000 or less under this Act."

By Mr. FOUNTAIN:

(Amendment to the amendment in the nature of a substitute by Mr. Brooks.)

Strike out all of section 9 and renumber the following sections and any references thereto accordingly.

(Amendment to the amendment in the nature of a substitute by Mr. Brooks.)

Strike out all of section 11 and insert in lieu thereof the following:

NONDISCRIMINATION; ENFORCEMENT

Sec. 11. (a) Section 122 of the Act is amended to read as follows:

"Sec. 122 Nondiscrimination Provision.

"(a)(1) In General.—No person shall, on account of race, color, religion, sex, national origin, age, or handicapped status, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity of a State government or unit of local government, which government or unit receives funds made available under subtitle A. The provisions of this paragraph shall be interpreted—

"(A) in accordance with titles II, III, IV, VI, and VII of the Civil Rights Act of 1964, as amended, title VIII of the Civil Rights Act of 1968, and title IX of the Education Amendments of 1972, with respect to discrimination on the basis of race, color, religion, sex, or national origin;

"(B) in accordance with the Rehabilitation Act of 1973 with respect to discrimination on the basis of handicapped status; and

"(C) in accordance with the Age Discrimination Act of 1975 with respect to discrimination on the basis of age, notwithstanding the deferred effectiveness of such Act.

"(2) Exceptions.—

"(A) Funding.—The provisions of paragraph (1) of this subsection shall not apply where any State government or unit of local government proves by the preponderance of the evidence that the program or activity with respect to which the allegation of discrimination has been made is not funded in whole or in part with funds made available under subtitle A.

"(B) Construction projects in progress.—The provisions of paragraph (1), relating to discrimination on the basis of handicapped status, shall not apply with respect to construction projects commenced prior to January 1, 1977.

"(b) Authority of the Secretary.—

"(1) Notice.—Whenever there has been—

"(A) receipt of notice of a finding, after notice and opportunity for a hearing, by a Federal court (other than in a proceeding brought by the Attorney General) or State court, or by a Federal or State administrative agency (other than the Secretary under subparagraph (B)), to the effect that there has been a pattern or practice of discrimination on the basis of race, color, religion, sex, national origin, age, or handicapped status in any program or activity of a State government or unit of local government, which government or unit receives funds made available under subtitle A;

"(B) a determination after an investigation by the Secretary (prior to a hearing under paragraph (4) but including an opportunity for the State government or unit of local government to make a documentary submission regarding the allegation of discrimination or the funding of such program or activity with funds made available under subtitle A) that a State government or unit of local government is not in compliance with subsection (a)(1),

the Secretary shall, within 10 days of such occurrence, notify the Governor of the affected State, or of the State in which an affected unit of local government is located, and the chief executive officer of such affected unit of local government, that such State government or unit of local government is presumed not to be in compliance with subsection (a)(1), and shall request such Governor and such chief executive officer to secure compliance. For purposes of subparagraph (A), a finding by a Federal or State administrative agency shall be deemed rendered after notice and opportunity for a hearing if it is rendered pursuant to procedures consistent with the provisions of subchapter II of chapter 5, title 5, United States Code.

"(2) Voluntary compliance.—In the event the Governor or the chief executive officer secures compliance after notice pursuant to paragraph (1), the terms and conditions with which the affected State government or unit of local government agrees to comply shall be set forth in writing and signed by the Governor, by the chief executive officer (in the event of a violation by a unit of local government), and by the Secretary. On or prior to the effective date of the agreement, the Secretary shall send a copy of the agreement to each complainant, if any, with respect to such violation. The Governor, or the chief executive officer in the event of a violation by a unit of local government, shall file semiannual reports with the Secretary detailing the steps taken to comply with the agreement. Within 15 days of receipt of such reports the Secretary shall send a copy thereof to each such complainant.

"(3) Suspension and resumption of payment of funds.—

"(A) Suspension after notice.—If, at the conclusion of 90 days after notification under paragraph (1)—

"(i) compliance has not been secured by the Governor of that State or the chief executive officer of that unit of local government, and

"(ii) an administrative law judge has not made a determination under paragraph (4) (A) that it is likely the State government or unit of local government will prevail on the merits,

the Secretary shall suspend further payment of any funds under subtitle A to that State government or that unit of local government. Such suspension shall be effective for a period of not more than 120 days, or, if there is a hearing under paragraph (4)(B), not more than 30 days after the conclusion of such hearing, unless there has been an express finding by the Secretary, after notice and opportunity for such a hearing, that the recipient is not in compliance with subsection (a)(1).

"(B) Resumption of payments suspended under subparagraph (A).—Payments of the suspended funds shall resume only if—

"(i) such State government or unit of local government enters into a compliance agreement approved by the Secretary in accordance with paragraph (2);

"(ii) such State government or unit of local government complies fully with the final order or judgment of a Federal or State court, if that order or judgment covers all the matters raised by the Secretary in the notice pursuant to paragraph (1), or is found to be in compliance with subsection (a)(1) by such court; or

"(iii) after a hearing, the Secretary finds that noncompliance has not been demonstrated.

"(C) Suspension upon action by Attorney General.—Whenever the Attorney General files a civil action alleging a pattern or practice of discriminatory conduct on the basis of race, color, religion, sex, national origin, age, or handicapped status in any program or activity of a State government or unit of local government, which State government or unit of local government receives funds made available under subtitle A, and the conduct alleged violates the provisions of this section and neither party within 45 days after such filing has been granted such preliminary relief with regard to the suspension or payment of funds as may be otherwise available by law, the Secretary shall suspend further payment of any funds under subtitle A to that State government or that unit of local government until such time as the court orders resumption of payment.

"(4) Hearings; other actions.—

"(A) Preliminary hearing.—Prior to the suspension of funds under paragraph (3), but within the 90-day period after notification under paragraph (3)(A), the State government or unit of local government may request an expedited preliminary hearing by an administrative law judge in order to determine whether it is likely that the State government or unit of local government would, at a full hearing under subparagraph (B) of this paragraph, prevail on the merits on the issue of the alleged noncompliance. A finding under this subparagraph by the administrative law judge in favor of the State government or unit of local government shall defer the suspension of funds under paragraph (3) pending a finding of noncompliance at the conclusion of the hearing on the merits under subparagraph (B) of this paragraph.

"(B) Compliance hearing.—At any time after notification under paragraph (1) but before the conclusion of the 120-day period referred to in paragraph (3), a State government or unit of local government may request a hearing, which the Secretary shall initiate within 30 days of such request. Within 30 days after the conclusion of the hearing, or, in the absence of a hearing, at the conclusion of the 120-day period referred to in paragraph (3), the Secretary shall make a finding of compliance or noncompliance. If the Secretary makes a finding of noncompliance, the Secretary shall (i) notify the Attorney General of the United States in order that the Attorney General may institute a civil action under subsection (c), (ii) terminate the payment of funds under subtitle A, and, (iii) if appropriate, seek repayment of such funds. If the Secretary makes a finding of compliance, payment of the suspended funds shall resume as provided in paragraph (3)(B).

"(5) Judicial review.—Any State government or unit of local government aggrieved by a final determination of the Secretary under paragraph (4) may appeal such determination as provided in section 143(c).

"(c) Authority of Attorney General.—Whenever the Attorney General has reason to believe that a State government or unit of local government has engaged or is engaging in a pattern or practice in violation of the provisions of this section, the Attorney General may bring a civil action in an appropriate United States district court. Such court may grant as relief any temporary restraining order, preliminary or permanent injunction, or other order, as necessary or appropriate to insure the full enjoyment of the rights described in this section, including the suspension, termination, or repayment of funds made available under this Act, or placing any further payments under this title in escrow pending the outcome of the litigation.

"(d) Agreements Between Agencies.—The Secretary shall enter into agreements with State agencies and with other Federal agencies authorizing such agencies to investigate noncompliance with subsection (a). The agreements shall describe the cooperative efforts to be undertaken (including the sharing of civil rights enforcement personnel and resources) to secure compliance with this section, and shall provide for the immediate notification of the Secretary by the Attorney General of any actions instituted under subsection (c) or under any other Federal civil rights statute or regulations issued thereunder.".

(b) Subtitle B of title I of the Act is amended by adding at the end thereof the following new sections:

"Sec. 124. Complaints and Compliance Reviews.

"By March 31, 1977, the Secretary shall promulgate regulations establishing—

"(1) reasonable and specific time limits for the Secretary or the appropriate cooperating agency to respond to the filing of a complaint by any person alleging that a State government or unit of local government is in violation of the provisions of this Act, including time limits for instituting an investigation, making an appropriate determination with respect to the allegations, and advising the complainant of the status of the complaint; and

"(2) reasonable and specific time limits for the Secretary to conduct audits and reviews of State governments and units of local government for compliance with the provisions of this Act.

"Sec. 125. Private Civil Actions.

"(a) Standing.—Whenever a State government or unit of local government, or any officer or employee thereof acting in an official capacity, has engaged or is engaging in any act or practice prohibited by this Act, upon exhaustion of administrative remedies, a civil action may be instituted by the person aggrieved in an appropriate United States district court or in a State court of general jurisdiction.

"(b) Relief.—The court may grant as relief to the plaintiff any temporary restraining order, preliminary or permanent injunction or other order, including the suspension, termination, or repayment of funds, or placing any further payments under this title in escrow pending the outcome of the litigation.

"(c) Intervention by Attorney General.—In any action instituted under this section to enforce compliance with section 122(a), the Attorney General, or a specially designated assistant for or in the name of the United States, may intervene upon timely application if he certifies that the action is of general public importance. In such action the United States shall be entitled to the same relief as if it had instituted the action.".

(Amendment to the amendment in the nature of a substitute by Mr. Brooks.)

Strike out all of section 13 and renumber the following sections and any references thereto accordingly.

By Mr. HORTON:

(Amendment in the nature of a substitute to Mr. Brooks' amendment in the nature of a substitute.)

Strike all language beginning on line 1, page 1 through line 4, page 62, and substitute the following:

That this Act may be cited as the "Fiscal Assistance Amendments of 1976".

DEFINITION

Sec. 2. As used in this Act the term "the Act" means the State and Local Fiscal Assistance Act of 1972 (31 U.S.C. 1221; 86 Stat. 919).

ELIMINATION OF EXPENDITURE CATEGORIES

Sec. 3. (a) Subtitle A of title I of the Act is amended by striking out section 103.

(b) Section 123(a) of the Act is amended by striking out paragraph (3).

ELIMINATION OF PROHIBITION ON USE OF FUNDS FOR MATCHING

Sec. 4. (a) Subtitle A of title I of the Act is further amended by striking out section 104.

(b) Section 143(a) of the Act is amended by striking out "104(b) or".

EXTENSION OF PROGRAM AND FUNDING

Sec. 5. (a) Section 105 of the Act is amended—

(1) by inserting "or in an appropriation Act" immediately after "as provided in subsection (b)" in subsection (a)(1);

(2) by redesignating subsection (c) as subsection (d);

(3) by inserting immediately after subsection (b) the following new subsection:

"(c) Authorization of Appropriations for Entitlements.—

"(1) In general.—There are authorized to be appropriated to the Trust Fund to pay the entitlements hereinafter provided—

"(A) for the period beginning January 1, 1977, and ending September 30, 1977, $4,987,500,000; and

"(B) for the fiscal years beginning October 1 of 1977, 1978, and 1979, $6,650,000,000.

"(2) Noncontiguous States adjustment amounts.—There are authorized to be appropriated to the Trust Fund to pay the entitlements hereinafter provided—

"(A) for the period beginning January 1, 1977, and ending September 30, 1977, $3,585,000; and

"(B) for each of the fiscal years beginning on October 1 of 1977, 1978, and 1979, $4,780,000."; and

(4) by inserting "; authorizations for entitlements" in the heading of such section immediately after "appropriations".

(b)(1) Subsection (a) of section 106 of the Act is amended to read as follows:

"(a) In General.—There shall be allocated an entitlement on each State—

"(1) for each entitlement period beginning prior to December 31, 1976, out of amounts appropriated under section 105(b)(1) for that entitlement period, an amount which bears the same ratio to the amount appropriated under that section for that period as the amount allocable to that State under subsection (b) bears to the sum of the amounts allocable to all States under subsection (b); and

"(2) for each entitlement period beginning on or after January 1, 1977, out of amounts authorized under section 105(c)(1) for that entitlement period, an amount which bears the same ratio to the amount authorized under that section for that period as the amount allocable to that State under subsection (b) bears to the sum of the amounts allocable to all States under subsection (b).".

(2) Section 106(c)(1) of the Act is amended by striking out "section 105(b)(2)" and inserting in lieu thereof "subsection (b)(2) or (c)(2) of section 105".

(3) Section 106(c)(2) of the Act is amended by inserting immediately after "section 105(b)(2) for any entitlement period" the following: "ending on or before December 31, 1976, or authorized under section 105(c)(2) for any entitlement period beginning on or after January 1, 1977,".

(4) Section 107(b) of the Act is amended by redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively, and by inserting after paragraph (5) the following new paragraph:

"(6) SPECIAL RULE FOR THE PERIOD BEGINNING JANUARY 1, 1977.—In the case of the entitlement period beginning January 1, 1977, and ending September 30, 1977, the aggregate amount taken into account under paragraph (1)(A) for the preceding entitlement period and the aggregate amount taken into account under paragraph (1)(B) shall be three-fourths of the amounts which (but for this paragraph) would be taken into account.".

(5) Section 108(b)(6)(D) is amended by inserting after "6 months" the following: ", $150 for an entitlement period of 9 months".

(6) Section 108(c)(1)(C) of the Act is amended by striking out "December 31, 1976," and inserting in lieu thereof "September 30, 1980,".

(7) Section 141(b) of the Act is amended by inserting at the end thereof the following new paragraphs:

"(6) The period beginning on January 1, 1977, and ending September 30, 1977.

"(7) The one-year periods beginning on October 1 of 1977, 1978, and 1979."

MAINTENANCE OF EFFORT; CHANGE OF BASE YEAR

SEC. 6. (a) Section 107(b)(1) of the Act is amended—

(1) by striking out "July 1, 1973," and inserting in lieu thereof "January 1, 1977,"; and

(2) by striking out clause (B) and inserting in lieu thereof the following:

"(B) the similar aggregate amount for the one-year period beginning July 1, 1975, or, until data on such period are available, the most recent such one-year period for which data on such amounts are available.".

(b) Section 107(b)(2) is amended by striking out "beginning July 1, 1971," and inserting in lieu thereof "utilized for purposes of such paragraph".

DEFINITION OF UNIT OF LOCAL GOVERNMENT

SEC. 7. Paragraph (1) of section 108(d) of the Act is amended to read as follows:

"(1) UNIT OF LOCAL GOVERNMENT.—

"(A) IN GENERAL.—The term 'unit of local government' means the government of a county, municipality, or township which is a unit of general government as determined by the Bureau of the Census for general statistical purposes, and which, with respect to entitlement periods beginning on or after October 1, 1977, meets the requirements specified in subparagraph (B), and imposes taxes or receives intergovernmental transfers for substantial performance of at least two of the following services for its citizens: (A) police protection; (B) courts and corrections; (C) fire protection; (D) health services; (E) social services for the poor or aged; (F) public recreation; (G) public libraries; (H) zoning or land use planning; (I) sewerage disposal or water supply; (J) solid waste disposal; (K) pollution abatement; (L) road or street construction and maintenance; (M) mass transportation; and (N) education. Such term also means, except for purposes of paragraphs (1), (2), (3), (5), (6)(C), and (6)(D) of subsection (b), and, except for purposes of subsection (c), the recognized governing body of an Indian tribe or Alaskan Native village which performs substantial governmental functions. For the purposes of this subsection a unit of local government shall be deemed to impose a tax if that tax is collected by another governmental entity from the geographical area served by that unit of local government and an amount equivalent to the net proceeds of that tax are paid to that unit of local government.

"(B) LIMITATION.—To be considered a unit of local government for purposes of this Act, at least 10 per centum of a local government's total expenditures (exclusive of expenditures for general and financial administration and for the assessment of property) in the most recent fiscal year must have been for each of two of the public services listed in subparagraph (A), except that the foregoing restriction shall not apply to a unit of local government which substantially performs four or more of such public services."

CITIZEN PARTICIPATION; REPORTS

SEC. 8. (a) Section 121 of the Act is amended to read as follows:

"SEC. 121. REPORTS ON USE OF FUNDS; PUBLICATION AND PUBLIC HEARINGS.

"(a) REPORTS ON PROPOSED USE OF FUNDS.—Each State government and unit of local government which expects to receive funds under subtitle A for any entitlement period beginning on or after January 1, 1977, shall submit a report to the Secretary setting forth the amounts and purposes for which it proposes to spend or obligate the funds which it expects to receive during such period as compared with the use of similar funds during the two immediately preceding entitlement periods. Each such report shall include a comparison of the proposed, current, and past use of such funds to the relevant functional items in its official budget and specify whether the proposed use is for a completely new activity, for the expansion or continuation of an existing activity, or for tax stabilization or reduction. Such report shall be in such form and detail as the Secretary may prescribe and shall be submitted at such time before the beginning of the entitlement period as the Secretary may prescribe.

"(b) REPORTS ON USE OF FUNDS.—Each State government and unit of local government which receives funds under subtitle A shall, after the close of each entitlement period, submit a report to the Secretary (which report shall be available to the public for inspection and reproduction), setting forth the amounts and purposes for which funds received during such period have been appropriated, spent, or obligated and showing the relationship of those funds to the relevant functional items in the government's official budget. Such report shall further provide an explanation of all differences between the actual use of funds received and the proposed use of such funds as reported to the Secretary under subsection (a). Such reports shall be in such form and detail and shall be submitted at such time as the Secretary may prescribe.

"(c) PUBLIC HEARINGS REQUIRED.—

"(1) PRE-REPORT HEARING.—Not less than 7 calendar days before the publication (pursuant to subsection (d)(1)(A)(i)) of the report required under subsection (a), each State government or unit of local government which expects to receive funds under subtitle A for any entitlement period beginning on or after January 1, 1977, shall, after adequate public notice, have at least one public hearing at which citizens shall have the opportunity to provide written and oral comment on the possible uses of such funds.

"(b) REPORTS ON USE OF FUNDS.—Each State government and unit of local government which receives funds under subtitle A shall, after the close of each entitlement period, submit a report to the Secretary (which report shall be available to the public for inspection and reproduction), setting forth the amounts and purposes for which funds received during such period have been appropriated, spent, or obligated and showing the relationship of those funds to the relevant functional items in the government's official budget. Such report shall further provide an explanation of all differences between the actual use of funds received and the proposed use of such funds as reported to the Secretary under subsection (a). Such reports shall be in such form and detail and shall be submitted at such time as the Secretary may prescribe.

"(c) PUBLIC HEARINGS REQUIRED.—

"(1) PRE-REPORT HEARING.—Not less than 7 calendar days before the publication (pursuant to subsection (d)(1)(A)(i)) of the report required under subsection (a), each State government or unit of local government which expects to receive funds under subtitle A for any entitlement period beginning on or unit of local government to funds made available under subtitle A.

"(d) NOTIFICATION AND PUBLICITY OF PUBLIC HEARINGS; ACCESS TO BUDGET SUMMARY AND PROPOSED AND ACTUAL USE REPORTS.—

"(1) IN GENERAL.—Each State government and unit of local government which expects to receive funds under subtitle A for any entitlement period beginning on or after January 1, 1977, shall—

"(A) 30 days prior to the public hearing required by subsection (c)(2)—

"(i) publish conspicuously, in at least one newspaper of general circulation, the proposed use report required by subsection (a), a narrative summary setting forth in simple language an explanation of its proposed official budget, and a notice of the time and place of such public hearing; and

"(ii) make available for inspection and reproduction by the public (at the principal office of such State government or unit of local government, at public libraries, if any, within the boundaries of such a unit of local government, and, in the case of a State government, at the main libraries of the principal municipalities of such State) the proposed use report, the narrative summary, and its official budget; and

"(B) within 30 days after adoption of its budget as provided for under State or local law—

"(i) publish conspicuously, in at least one newspaper of general circulation, a narrative summary setting forth in simple language an explanation of its official budget (including an explanation of changes from the proposed budget) and the relationship of the use of funds made available under subtitle A to the relevant functional items in such budget; and

"(ii) make such summary available for inspection and reproduction by the public at the principal office of such State government or unit of local government, at public libraries, if any, within the boundaries of such unit of local government, and, in the case of a State government, at the main libraries of the principal municipalities of such State.

"(2) WAIVER.—The provisions of paragraph (1) may be waived, in whole or in part, with respect to publication of the proposed use reports and the narrative summaries, in accordance with regulations of the Secretary, where the cost of such publication would be unreasonably burdensome in relation to the entitlement of such State government or unit of local government to funds made available under subtitle A, or where such publication is otherwise impractical or infeasible.

"(e) REPORTS PROVIDED TO THE GOVERNOR.—A copy of each report required under subsections (a) and (b) filed with the Secretary by a unit of local government which receives funds under subtitle A shall be provided by the Secretary to the Governor of the State in which the unit of local government is located, in such manner and form as the Secretary may prescribe by regulations.".

(b)(1) Section 123 of the Act is amended by adding at the end thereof the following new subsection:

"(d) Report of the Secretary of the Treasury.—The Secretary of the Treasury shall include with the report required under section 105(a)(2) a report to the Congress on the implementation and administration of this Act during the preceding fiscal year. Such report shall include, but not be limited to, a comprehensive and detailed analysis of the following:

"(1) the measures taken to comply with section 122, including a description of the nature and extent of any noncompliance and the status of all pending complaints;

"(2) the extent to which citizens in recipient jurisdictions have become involved in the decisions determining the expenditure of funds received under subtitle A;

"(3) the extent to which recipient jurisdictions have complied with section 123, including a description of the nature and extent of any noncompliance and of measures taken to ensure the independence of audits conducted pursuant to subsection (c) of such section;

"(4) the manner in which funds distributed under subtitle A have been used, including the net fiscal impact, if any, in recipient jurisdictions; and

"(5) significant problems arising in the administration of the Act and proposals to remedy such problems through appropriate legislation.".

(2) Section 105(a)(2) of the Act is amended by striking out "March 1" and inserting in lieu thereof "January 15".

NONDISCRIMINATION; ENFORCEMENT

Sec. 9. (a) Section 122 of the Act is amended to read as follows:

"Sec. 122. Nondiscrimination Provision.

"(a)(1) In General.—No person shall, on account of race, color, religion, sex, national origin, age, or handicapped status, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity of a State government or unit of local government, which government or unit receives funds made available under subtitle A. The provisions of this paragraph shall be interpreted—

"(A) in accordance with titles II, III, IV, VI, and VII of the Civil Rights Act of 1964, as amended, title VIII of the Civil Rights Act of 1968, and title IX of the Education Amendments of 1972, with respect to discrimination on the basic of race, color, religion, sex, or national origin;

"(B) in accordance with the Rehabilitation Act of 1973 with respect to discrimination on the basis of handicapped status; and

"(C) in accordance with the Age Discrimination Act of 1975 with respect to discrimination on the basis of age, notwithstanding the deferred effectiveness of such Act.

"(2) Exceptions.—

"(A) Funding.—The provisions of paragraph (1) of this subsection shall not apply where any State government or unit of local government proves by clear and convincing evidence that the program or activity with respect to which the allegation of discrimination has been made is not funded in whole or in part, directly or indirectly, with funds made available under subtitle A.

"(B) Construction projects in progress.—The provisions of paragraph (1), relating to discrimination on the basis of handicapped status, shall not apply with respect to construction projects commenced prior to January 1, 1977.

"(b) Authority of the Secretary.—

"(1) Notice.—Whenever there has been—

"(A) receipt of notice of a finding, after notice and opportunity for a hearing, by a Federal court (other than in a proceeding brought by the Attorney General) or State court, or by a Federal or State administrative agency (other than the Secretary under subparagraph (B)), to the effect that there has been a pattern or practice of discrimination on the basis of race, color, religion, sex, national origin, age, or handicapped status in any program or activity of a State government or unit of local government, which government or unit receives funds made available under subtitle A;

"(B) a determination after an investigation by the Secretary (prior to a hearing under paragraph (4) but including an opportunity for the State government or unit of local government to make a documentary submission regarding the allegation of discrimination or the funding of such program or activity with funds made available under subtitle A) that a State government or unit of local government is not in compliance with subsection (a)(1),

the Secretary shall, within 10 days of such occurrence, notify the Governor of the affected State, or of the State in which an affected unit of local government is located, and the chief executive officer of such affected unit of local government, that such State government or unit of local government is presumed not to be in compliance with subsection (a)(1), and shall request such Governor and such chief executive officer to secure compliance. For purposes of subparagraph (A), a finding by a Federal or State administrative agency shall be deemed rendered after notice and opportunity for a hearing if it is rendered pursuant to procedures consistent with the provisions of subchapter II of chapter 5, title 5, United States Code.

"(2) Voluntary compliance.—In the event the Governor or the chief executive officer secures compliance after notice pursuant to paragraph (1), the terms and conditions with which the affected State government or unit of local government agrees to comply shall be be set forth in writing and signed by the Governor, by the chief executive officer (in the event of a violation by a unit of local government), and by the Secretary. On or prior to the effective date of the agreement, the Secretary shall send a copy of the agreement to each complainant, if any, with respect to such violation. The Governor, or the chief executive officer in the event of a violation by a unit of local government, shall file semiannual reports with the Secretary detailing the steps taken to comply with the agreement. Within 15 days of receipt of such reports the Secretary shall send a copy thereof to each such complainant.

"(3) Suspension and resumption of payment of funds.—

"(A) Suspension after notice.—If, at the conclusion of 90 days after notification under paragraph (1)—

"(i) compliance has not been secured by the Governor of that State or the chief executive officer of that unit of local government, and

"(ii) an administrative law judge has not made a determination under paragraph (4)(A) that it is likely the State government or unit of local government will prevail on the merits,

the Secretary shall suspend further payment of any funds under subtitle A to that State government or that unit of local government. Such suspension shall be effective for a period of not more than 120 days, or, if there is a hearing under paragraph (4)(B), not more than 30 days after the conclusion of such hearing, unless there has been an express finding by the Secretary, after notice and opportunity for such a hearing, that the recipient is not in compliance with subsection (a)(1).

"(B) Resumption of payments suspended under subparagraph (A).—Payment of the suspended funds shall resume only if—

"(i) such State government or unit of local government enters into a compliance agreement approved by the Secretary in accordance with paragraph (2);

"(ii) such State government or unit of local government complies fully with the final order or judgment of a Federal or State court, if that order or judgment covers all the matters raised by the Secretary in the notice pursuant to paragraph (1), or is found to be in compliance with subsection (a)(1) by such court; or

"(iii) after a hearing, the Secretary finds that noncompliance has not been demonstrated.

"(C) Suspension upon action by Attorney General.—Whenever the Attorney General files a civil action alleging a pattern or practice of discriminatory conduct on the basis of race, color, religion, sex, national origin, age, or handicapped status in any program or activity of a State government or unit of local government, which State government or unit of local government receives funds made available under subtitle A, and the conduct alleged violates the provisions of this section and neither party within 45 days after such filing has been granted such preliminary relief with regard to the suspension or payment of funds as may be otherwise available by law, the Secretary shall suspend further payment of any funds under subtitle A to that State government or that unit of local government until such time as the court orders resumption of payment.

"(4) Hearings; other actions.—

"(A) Preliminary hearing.—Prior to the suspension of funds under paragraph (3), but within the 90-day period after notification under paragraph (3)(A), the State government or unit of local government may request an expedited preliminary hearing by an administrative law judge in order to determine whether it is likely that the State government or unit of local government would, at a full hearing under subparagraph (B) of this paragraph, prevail on the merits on the issue of the alleged noncompliance. A finding under this subparagraph by the administrative law judge in favor of the State government or unit of local government shall defer the suspension of funds under paragraph (3) pending a finding of noncompliance at the conclusion of the hearing on the merits under subparagraph (B) of this paragraph.

"(B) Compliance hearing.—At any time after notification under paragraph (1) but before the conclusion of the 120-day period referred to in paragraph (3), a State government or unit of local government may request a hearing, which the Secretary shall initiate within 30 days of such request. Within 30 days after the conclusion of the hearing, or, in the absence of a hearing, at the conclusion of the 120-day period referred to in paragraph (3), the Secretary shall make a finding of compliance or noncompliance. If the Secretary makes a finding of noncompliance, the Secretary shall (i) notify the Attorney General of the United States in order that the Attorney General may institute a civil action under subsection (c), (ii) terminate the payment of funds under subtitle A, and, (iii) if appropriate, seek repayment of such funds. If the Secretary makes a finding of compliance, payment of the suspended funds shall resume as provided in paragraph (3)(B).

"(5) Judicial review.—Any State government or unit of local government aggrieved by a final determination of the Secretary under paragraph (4) may appeal such determination as provided in section 143(c).

"(c) Authority of Attorney General.—Whenever the Attorney General has reason to believe that a State government or unit of local government has engaged or is engaging in a pattern or practice in violation of the provisions of this section, the Attorney General may bring a civil action in an appropriate United States district court. Such court may grant as relief any temporary restraining order, preliminary or permanent injunction, or other order, as necesary or appropriate to insure the full enjoyment of the rights described in this section, including the suspension, termination, or repayment of funds made available under this Act, or placing any further payments under this title in escrow pending the outcome of the litigation.

"(d) Agreements Between Agencies.—The Secretary shall enter into agreements with State agencies and with other Federal agencies authorizing such agencies to investigate noncompliance with subsection (a). The agreements shall describe the cooperative efforts to be undertaken (including the sharing of civil rights enforcement personnel and resources) to secure compliance with this section, and shall provide for the immediate notification of the Secretary by the Attorney General of any actions instituted under subsection (c) or under any other Federal civil rights statute or regulations issued thereunder.".

(b) Subtitle B of title I of the Act is amended by adding at the end thereof the following new sections:

"Sec. 124. Complaints and Compliance Reviews.

"By March 31, 1977, the Secretary shall promulgate regulations establishing—

"(1) reasonable and specific time limits for the Secretary or the appropriate cooperating agency to respond to the filing of a complaint by any person alleging that a State government or unit of local government is in violation of the provisions of this Act, including time limits for instituting an investigation, making an appropriate determination with respect to the allegations, and advising the complainant of the status of the complaint; and

"(2) reasonable and specific time limits for the Secretary to conduct audits and reviews of State governments and units of local government for compliance with the provisions of this Act.

"Sec. 125. Private Civil Actions.

"(a) Standing.—Whenever a State government or unit of local government, or any officer or employee thereof acting in an official capacity, has engaged or is engaging in any act or practice prohibited by this Act, upon exhaustion of administrative remedies, a civil action may be instituted by the person aggrieved in an appropriate United States district court or in a State court of general jurisdiction.

"(b) Relief.—The court may grant as relief to the plaintiff any temporary restraining order, preliminary or permanent injunction or other order, including the suspension, termination, or repayment of funds, or placing any further payments under this title in escrow pending the outcome of the litigation.

"(c) Intervention by Attorney General.—In any action instituted under this section to enforce compliance with section 122(a), the Attorney General, or a specially designated assistant for or in the name of the United States, may intervene upon timely application if he certifies that the action is of general public importance. In such action the United States shall be entitled to the same relief as if it had instituted the action.".

AUDITING AND ACCOUNTING

Sec. 10. (a) Subparagraph (A) of section 123(a)(5) of the Act is amended by striking "therefor" and inserting in lieu thereof ", in conformity with subsection (c) of this section," and by inserting at the end thereof the following: "and conduct independent and complete financial audits as required by paragraph (2) of such subsection,".

(b) Section 123(c) of the Act is amended to read as follows:

"(c) Accounting, Auditing, and Evaluation.—

"(1) In general.—The Secretary shall provide for such accounting and auditing procedures, evaluations, and reviews as may be necessary to insure that the expenditures of funds received under subtitle A by State governments and units of local government comply fully with requirements of this title. Such procedures, evaluations, and reviews shall include such independent and complete audits as may be required pursuant to paragraph (2). The Secretary is authorized to accept an audit by a State government or unit of local government of its expenditures if he determines that such audit was conducted in compliance with paragraph (2), and that such audit and the audit procedures of that State government or unit of local government are sufficiently reliable to enable him to carry out his duties under this title.

"(2) Independent audits.—The Secretary shall, after consultation with the Comptroller General, promulgate regulations to take effect not later than March 31, 1977, which shall require that each State government and unit of local government receiving funds under subtitle A conducts during each fiscal year an audit of its finances. Such regulations shall include such provisions as may be necessary to assure the independence and completeness of such audit, but may provide abbreviated or simplified procedures, or less frequent audits, to the extent necessary to ensure that the cost of such audits not be unreasonably burdensome in relation to the entitlement of such State government or unit of local government to funds available under subtitle A. Such regulations shall further provide for the availability to the public of reports on audits conducted under this paragraph for inspection and reproduction as public documents.

"(3) Comptroller general shall review compliance.—The Comptroller General of the United States shall make such reviews of the work as done by the Secretary, the State governments, and the units of local government as may be necessary for the Congress to evaluate compliance and operations under this title.".

Sec. 11. Section 123 of the Act is amended by adding at the end thereof the following new subsection:

"(e) Prohibition of Use for Lobbying Purposes.—No State government or unit of local government may use, directly or indirectly, any part of the funds it receives under subtitle A for the purpose of lobbying or other activities intended to influence any legislation regarding the provisions of this Act. For the purpose of this subsection, dues paid to National or State associations shall be deemed not to have been paid from funds received under subtitle A.".

Sec. 12. (a) Except as provided in subsection (b), the amendments of the Act made by this Act shall take effect at the close of December 31, 1976.

(b)(1) The amendment made by section 5 of this Act shall take effect on the date of enactment.

(2) The amendment made by section 7 of this Act shall take effect at the close of September 30, 1977.

(Amendments to the amendment in the nature of a substitute by Mr. Brooks.)

At page 9, beginning on line 22, strike Sec. 120, "Modernization of Government," through and including page 16, line 9.

Strike lines 13, page 16, through line 2, page 24 and insert:

"Sec. 121. Reports on Use of Funds; Publication and Public Hearings.

"(a) Reports on Proposed Use of Funds.—The chief executive of each State government and unit of local government which expects to receive funds under subtitle A or D for any entitlement period beginning on or after January 1, 1977, shall prepare a report setting forth the amounts and purposes for which he proposes to spend or obligate the funds which the government expects to receive during such period as compared with the use of similar funds during the two immediately preceding fiscal years. Each such report shall include a comparison of the proposed, current, and past use of such funds to the relevant functional items in its official budget and specify whether the proposed use is for a completely new activity, for the expansion or continuation of an existing activity, or for tax stabilization or reduction. Such report shall be in such form and detail as the Secretary may prescribe and shall be prepared at least 15 days prior to the hearing required in subsection (C)(1).

"(b) Reports on Use of Funds.—Each State government and unit of local government which receives funds under subtitle A or D shall, after the close of each fiscal year, submit a report to the Secretary (which report shall be available to the public for inspection and reproduction) setting forth the status of its trust fund established under Section 123(a) including the amounts and purposes for which funds received under subtitle A and D have been appropriated, spent, or obligated during such fiscal year and showing the relationship of those funds to the relevant functional items in the government's official budget. Such report shall further provide an explanation of all differences between the actual use of funds and the planned use of such funds previously published under subsection(D)(1)(b). Such reports shall be in such form and detail and shall be submitted at such time as the Secretary may prescribe.

"(c) Public Hearings Required.—

"(1) Revenue sharing hearing.—Not less than 60 calendar days before the adoption of its budget as provided for under State and local law, each State government or unit of local government which expects to receive funds under subtitle A or D for any entitlement period beginning on or after January 1, 1977, shall, after adequate public notice, have at least one public hearing at which the report required under subtitle A shall be reviewed and at which citizens shall have the opportunity to provide written and oral comment on the possible uses of such funds.

"(2) Pre-budget hearing.—Not less than 7 calendar days before the adoption of its budget as provided for under State and local law, each State government or unit of local government which expects to receive funds under subtitle A or D for any entitlement period beginning on or after January 1, 1977, shall have at least one public hearing on the proposed use of funds made available under subtitles A and D in relation to its entire budget. At such hearing, citizens shall have the opportunity to provide written and oral comment to the body responsible for enacting the budget, and to have answered questions concerning the entire budget and the relation to it of funds made available under subtitles A and D. Such hearing shall be at a place and time that permits and encourages public attendance and participation.

"(3) Waiver.—The provisions of paragraph (1) may be waived in whole or in part in accordance with regulations of the Secretary if the cost of such a requirement would be unreasonably burdensome in relation to the entitlement of such State government or unit of local government to funds made available under subtitles A and D. The provisions of paragraph (2) may be waived in whole or in part in accordance with regulations of the Secretary if the budget processes required under applicable State or local laws or charter provisions assure the opportunity for public attendance and participation contemplated by the provisions of this subsection and a portion of such process includes a hearing on the proposed use of funds made available under subtitles A and D in relation to its entire budget.

"(d) Notification and Publicity of Public Hearings; Access to Budget Summary and Proposed and Actual Use Reports.—

"(1) In general.—Each State government and unit of local government which expects to receive funds under subtitle A or D for any entitlement period beginning on or after January 1, 1977, shall—

"(A) within 15 days after the public hearing required by subsection (c)(1)—

"(i) publish conspicuously, in at least one newspaper of general circulation, the proposed use report required by subsection (a), as amended if appropriate as a result of the revenue sharing hearing held under (C)(1), a narrative summary setting forth in simple language an explanation of its proposed official budget, and a notice of the time and place of such public hearing; and

"(ii) make available for inspection and reproduction by the public (at the principal office of such State government or unit of local government, at public libraries, if any, within the boundaries of such a unit of local government, and, in the case of a State government, at the main libraries of the principal municipalities of such State) the proposed use report, the narrative summary, and its official budget which shall specify with particularity each item in its official budget which will be funded, in whole or in part, with funds made available under subtitle A or D, and, for each such budget item, shall specify the amount of such funds budgeted for that item and the percentage of total expenditures for that item attributable to such funds; and

"(B) within 30 days after adoption of its budget as provided for under State or local law—

"(i) publish conspicuously, in at least one newspaper of general circulation, a narrative summary setting forth in simple language an explanation of its official budget (including an explanation of changes from the proposed budget) and the relationship of the use of funds made available under subtitles A and D to the relevant functional items in such budget; and

"(ii) make such summary available for inspection and reproduction by the public at the principal office of such State government or unit of local government, at public libraries, if any, within the boundaries of such unit of local government, and, in the case of a State government, at the main libraries of the principal municipalities of such State.

"(2) Waiver.—The provisions of paragraph (1) may be waived, in whole or in part, with respect to publication of the proposed use reports and the narrative summaries, in accordance with regulations of the Secretary, where the cost of such publication would be unreasonably burdensome in relation to the entitlement of such State government or unit of local government to funds made available under subtitles A and D, or where such publication is otherwise impractical or infeasible. In addition, the 30-day provision of paragraph (1)(A) may be modified to the minimum extent necessary to comply with State and local law if the Secretary is satisfied that the citizens of the State or local government will receive adequate notification of the proposed use of funds, consistent with the intent of this section.

"(e) Reports Provided to the Governor.—Upon request, a copy of the report required under subsection (b) filed with the Secretary by a unit of local government which receives funds under subtitle A or D shall be provided by the Secretary to the Governor of the State in which the unit of local government is located, in such manner and form as the Secretary may prescribe by regulation.

"(f) Planned Use Report to Areawide Organization.—At the same time that the actual use report is published and publicized in accordance with this section, each unit of local government which is within a metropolitan area shall, upon request, submit a copy of the actual use report to the areawide organization in the metropolitan area which is formally charged with carrying out the provisions of section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3334); section 401 of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4231); or section 302 of the Housing and Community Development Act of 1974 (42 U.S.C. 461).".

Conforming amendments are to be made in any appropriate section.

Strike all after section 122, nondiscriminatory provision at page 24 of H.R. 14213, on line 6, through section 125, line 17 at page 34, and substitute in its place the following:

"Sec. 122. Nondiscrimination Provision.

"(a)(1) In General.—No person shall, on account of race, color, religion, sex, national origin, age, or handicapped status be excluded from participation in, be denied the benefits of or be subjected to discrimination under any program or activity of a State government or unit of local government, which government or unit receives funds made available under subtitle A. The provisions of this paragraph shall be interpreted—

"(A) in accordance with titles II, III, IV, VI, and VII of the Civil Rights Act of 1964, as amended, title VIII of the Civil Rights Act of 1968, and title IX of the Education Amendments of 1972, with respect to discrimination on the basis of race, color, religion, sex, or national origin;

"(B) in accordance with the Rehabilitation Act of 1973 with respect to discrimination on the basis of handicapped status; and

"(C) in accordance with the Age Discrimination Act of 1975 with respect to discrimination on the basis of age, notwithstanding the deferred effectiveness of such Act.

"(2) Exceptions.—

"(A) Funding.—The provisions of paragraph (1) of this subsection shall not apply where any State government or unit of local government proves by clear and convincing evidence that the program or activity with respect to which the allegation of discrimination has been made is not funded in whole or in part, directly or indirectly, with funds made available under subtitle A.

"(B) Construction projects in progress.—The provisions of paragraph (1), relating to discrimination on the basis of handicapped status, shall not apply with respect to construction projects commenced prior to January 1, 1977.

"(b) Authority of the Secretary.—

"(1) Notice.—Whenever there has been—

"(A) receipt of notice of a finding, after notice and opportunity for a hearing, by a Federal court (other than in a proceeding brought by the Attorney General) or State court, or by a Federal or State administrative agency (other than the Secretary under subparagraph (B)), to the effect that there has been a pattern or practice of discrimination on the basis of race, color, religion, sex, national origin, age, or handicapped status in any program or activity of a State government or unit of local government which government or unit receives funds made available under subtitle A;

"(B) a determination after an investigation by the Secretary (prior to a hearing under paragraph (4) but including an opportunity for the State government or unit of local government to make a documentary submission regarding the allegation of discrimination or the funding of such program or activity with funds made available under subtitle A) that a State government or unit of local government is not in compliance with subsection (a)(1),

the Secretary shall, within 10 days of such occurrence, notify the Governor of the affected State, or of the State in which an affected unit of local government is located, and the chief executive officer of such affected unit of local government, that such State government or unit of local government is presumed not to be in compliance with subsection (a)(1), and shall request such Governor and such chief executive officer to secure compliance. For purposes of subparagraph (A), a finding by a Federal or State administrative agency shall be deemed rendered after notice and opportunity for a hearing if it is rendered pursuant to procedures consistent with the provisions of subchapter II of chapter 5, title 5, United States Code.

"(2) Voluntary compliance.—In the event the Governor or the chief executive officer secures compliance after notice pursuant to paragraph (1), the terms and conditions with which the affected State government or unit of local government agrees to comply shall be set forth in writing and signed by the Governor, by the chief executive officer (in the event of a violation by a unit of local government), and by the Secretary. On or prior to the effective date of the agreement, the Secretary shall send a copy of the agreement to each complainant, if any, with respect to such violation. The Governor, or the chief executive officer in the event of a violation by a unit of local government, shall file semiannual reports with the Secretary detailing the steps taken to comply with the agreement. Within 15 days of receipt of such reports the Secretary shall send a copy thereof to each such complainant.

"(3) Suspension and resumption of payment of funds.—

"(A) Suspension after notice.—If, at the conclusion of 90 days after notification under paragraph (1)—

"(i) compliance has not been secured by the Governor of that State or the chief executive officer of that unit of local government, and

"(ii) an administrative law judge has not made a determination under paragraph (4)(A) that it is likely the State government or unit of local government will prevail on the merits,

the Secretary shall suspend further payment of any funds under subtitle (A) to that State government or that unit of local government. Such suspension shall be effective for a period of not more than 120 days, or, if there is a hearing under paragraph (4)(B), not more than 30 days after the conclusion of such hearing, unless there has been an express finding by the Secretary, after notice and opportunity for such a hearing, that the recipient is not in compliance with subsection (a)(1).

"(B) Resumption of payments suspended under subparagraph (A).—Payment of the suspended funds shall resume only if—

"(i) such State government or unit of local government enters into a compliance agreement approved by the Secretary in accordance with paragraph (2);

"(ii) such State government or unit of local government complies fully with the final order or judgment of a Federal or State court, if that order or judgment covers all the matters raised by the Secretary in the notice pursuant to paragraph (1), or is found to be in compliance with subsection (a)(1) by such court; or

"(iii) after a hearing, the Secretary finds that noncompliance has not been demonstrated.

"(C) Suspension upon action by Attorney General.—Whenever the Attorney General files a civil action alleging a pattern or practice of discriminatory conduct on the basis of race, color, religion, sex, national origin, age, or handicapped status in any program or activity of a State government or unit of local government which State government or unit of local government receives funds made available under subtitle A, and the conduct alleged violates the provisions of this section and neither party within 45 days after such filing has been granted such preliminary relief with regard to the suspension or payment of funds as may be otherwise available by law, the Secretary shall suspend further payment of any funds under subtitle A to that State government or that unit of local government until such time as the court orders resumption of payment.

"(4) Hearings; other actions.—

"(A) Preliminary hearing.—Prior to the suspension of funds under paragraph (3), but within the 90-day period after notification under paragraph (3)(A), the State government or unit of local government may request an expedited preliminary hearing by an administrative law judge in order to determine whether it is likely that the State government or unit of local government would, at a full hearing under subparagraph (B) of this paragraph, prevail on the merits on the issue of the alleged noncompliance. A finding under this subparagraph by the administrative law judge in favor of the State government or unit of local government shall defer the suspension of funds under paragraph (3) pending a finding of noncompliance at the conclusion of the hearing on the merits under subparagraph (B) of this paragraph.

"(B) Compliance hearing.—At any time after notification under paragraph (1) but before the conclusion of the 120-day period referred to in paragraph (3), a State government or unit of local government may request a hearing, which the Secretary shall initiate within 30 days of such request. Within 30 days after the conclusion of the hearing, or, in the absence of a hearing, at the conclusion of the 120-day period referred to in paragraph (3), the Secretary shall make a finding of compliance or noncompliance. If the Secretary makes a finding of noncompliance, the Secretary shall (i) notify the Attorney General of the United States in order that the Attorney General may institute a civil action under subsection (c), (ii) terminate the payment of funds under subtitle A, and, (iii) if appropriate, seek repayment of such funds. If the Secretary makes a finding of compliance, payment of the suspended funds shall resume as provided in paragraph (3)(B).

"(5) Judicial review.—Any State government or unit of local government aggrieved by a final determination of the Secretary under paragraph (4) may appeal such determination as provided in section 143(c)

"(c) Authority of Attorney General.—Whenever the Attorney General has reason to believe that a State government or unit of local government has engaged or is engaging in a pattern or practice in violation of the provisions of this section, the Attorney General may bring a civil action in an appropriate United States district court. Such court may grant as relief any temporary restraining order, preliminary or permanent injunction, or other order, as necessary or appropriate to insure the full enjoyment of the rights described in this section, including the suspension, termination, or repayment of funds made available under this Act, or placing any further payments under this title in escrow pending the outcome of the litigation.

"(d) Agreements Between Agencies.—The Secretary shall enter into agreements with State agencies and with other Federal agencies authorizing such agencies to investigate noncompliance with subsection (a). The agreements shall describe the cooperative efforts to be undertaken (including the sharing of civil rights enforcement personnel and resources) to secure compliance with this section, and shall provide for the immediate notification of the Secretary by the Attorney General of any actions instituted under subsection (c) or under any other Federal civil rights statute or regulations issued thereunder.".

(b) Subtitle B of title I of the Act is amended by adding at the end thereof the following new sections:

"Sec. 124. Complaints and Compliance Reviews.

"By March 31, 1977, the Secretary shall promulgate regulations establishing—

"(1) reasonable and specific time limits for the Secretary or the appropriate cooperating agency to respond to the filing of a complaint by any person alleging that a State government or unit of local government is in violation of the provisions of this Act, including time limits for instituting an investigation, making an appropriate determination with respect to the allegations, and advising the complainant of the status of the complaint; and

"(2) reasonable and specific time limits for the Secretary to conduct audits and reviews of State governments and units of local government for compliance with the provisions of this Act.

"Sec. 125. Private Civil Actions.

"(a) Standing.—Whenever a State government or unit of local government, or any officer or employee thereof acting in an official capacity, has engaged or is engaging in any act or practice prohibited by this Act, upon exhaustion of administrative remedies, a civil action may be instituted by the person aggrieved in an appropriate United States district court or in a State court of general jurisdiction.

"(b) Relief.—The court may grant as relief to the plaintiff any temporary restraining order, preliminary or permanent injunction or other order, including the suspension, termination, or repayment of funds, or placing any further payments under this title in escrow pending the outcome of the litigation.

"(c) Intervention by Attorney General.—In any action instituted under this section to enforce compliance with section 122(a), the Attorney General, or a specially designated assistant for or in the name of the United States, may intervene upon timely application if he certifies that the action is of general public importance. In such action the United States shall be entitled to the same relief as if it had instituted the action.".

At page 34, beginning at line 4, strike the present section 125 title, "Private Civil Actions," up through line 17, page 34, and substitute in its place the following:

Sec. 125. Private Civil Actions

(1) Any party who is injured or deprived within the meaning of section 1979 of the Statutes (42 U.S.C. 1983) or of section 1980 of the Revised Statutes (42 U.S.C. 1985) by any person, or two or more persons in the case of such section 1980, in connection with the use of the funds made available under this Act, may bring a civil action subject to terms and conditions of those sections.

(2) In a civil action brought to enforce the provisions of this section of the Act, a court, in its discretion, may award attorney's fees to the prevailing party.

Strike from the bill all language starting on line 1, page 38 to line 4, page 62.

By Mr. JONES of Oklahoma:

Page 2, immediately before line 1 insert the following new section:

ELIMINATION OF STATE GOVERNMENTS AS RECIPIENTS

Sec. 3. (a) Section 102 of the Act is amended—

(1) by striking out the first sentence thereof and inserting in lieu thereof the following: "Except as otherwise provided in this title, the Secretary shall, for each entitlement period, pay to each unit of local government a total amount equal to the entitlement of such unit determined under section 108 for such period."; and

(2) by striking out "a State government or" in the last sentence thereof.

(b)(1) Section 107 of the Act is amended to read as follows:

"Sec. 107. State's Allocation to be Returned to Department of the Treasury.

"Each State's allocation shall be returned to the Department of the Treasury.".

(2) Section 123 of the Act is amended—

(A) by striking out "State government or" and ", with respect to a unit of local government," in subsection (a);

(B) by striking out "State government or" wherever it appears in subsection (b); and

(C) by striking out "Governor of a State or" in subsection (b):

(3) Section 143(a) of the Act is amended—

(A) by striking out "State which receives a notice of reduction in entitlement under section 107(b), and any State or"; and

(B) by striking out "such State or unit" and inserting in lieu thereof "such unit".

(4) Section 145 of the Act is amended by striking out "a State government or".

Redesignate the following sections accordingly.

(Conforming amendments:)

Page 2, beginning on line 20, strike out "State and".

Page 3, beginning on line 15, strike out "State governments and".

Page 6, strike out line 14 and everything that follows through page 7, line 2, and redesignate the following paragraphs accordingly.

Page 7, strike out line 15 and everything that follows through page 8, line 5, and redesignate the following sections accordingly.

Page 17, line 4, and beginning on line 20, strike out "State government and".

Page 18, lines 15 and 24, strike out "State government or".

Page 19, line 17, strike out "State government or".

Page 20, line 7, strike out "State government and".

Page 20, line 22, strike out "State government or".

Beginning on page 20, line 25, strike out ", and, in the case of a State government, at the main libraries of the principal municipalities of such State".

Page 21, line 25, strike out "State government or".

Page 22, strike out lines 3 through 5 and insert in lieu thereof "ernment.".

Page 22, line 12, strike out "State government or".

Page 22, line 18, strike out "State or".

Page 35, line 15, strike out "State government or", and on line 16, strike out "government or".

Page 36, line 10, strike out "State government or".

Page 37, line 6, strike out "State government or", and on line 7, strike out "government or".

Page 37, beginning on lines 9 and 13, strike out "State government or".

Page 37, line 20, strike out "of the affected State, or".

Page 38, beginning on line 11, strike out "State government or".

Page 38, beginning on line 19, strike out "Governor, or the" and all of line 20 and insert in lieu thereof "chief executive officer of the", and strike out the comma on line 21.

Page 39, beginning on line 13, and on line 19, strike out "State government or".

Page 40, lines 3 and 8, and beginning on lines 23 and 24, strike out "State government or".

Page 41, lines 7, 13, and 24, and beginning on line 16, strike out "State government or".

Page 42, lines 9 and 13, strike out "State government or".

Page 43, beginning on lines 5 and 10, strike out "State government or".

Page 44, line 16, strike out "State government or".

Page 44, beginning on line 23, strike out "State governments and".

Page 46, line 5, strike out "State governments and".

Page 46, line 10, and beginning on line 13, strike out "State government or".

Page 46, beginning on line 20, strike out "State government and".

Page 47, beginning on line 7, strike out "State government or".

Page 47, line 17, strike out ", the State governments,".

Page 48, line 18, strike out "State government or".

Page 49, line 15, strike out ", to each eligible State government, and".

Page 49, line 23, strike out "State government or".

Page 50, strike out lines 18 through 21, and insert in lieu thereof "(a) ELIGIBILITY.—No unit of".

Page 51, strike out lines 2 through 10 and insert in lieu thereof "subsection (c) shall pay to each unit of local government eligible under subsection (a), an amount equal to the amount by which its entitlement under section 168 exceeds its entitlement under section 108.".

Page 51, beginning on line 14, strike out "State governments and".

Page 52, line 18, strike out "State and".

Page 53, beginning on line 3, strike out "State governments and".

Page 55, strike out line 8 and everything that follows through page 59, line 4, and insert in lieu thereof the following:

"SEC. 167. STATE'S ALLOCATION TO BE ALLOCATED AMONG LOCAL UNITS.

"Each State's allocation shall be allocated among the units of local government of that State as provided in section 168.".

Page 65, strike out lines 11 and 12 and insert in lieu thereof "the other county governments of such State in proportion to their entitlements.".

By Mr. LONG of Maryland:

Page 18, line 3, strike out "and" and insert in lieu thereof a comma.

Page 18, line 4, strike out the period and insert in lieu thereof the following: ", and specifying the tax impact, whether stabilization or reduction, of such use."

By Mr. MINISH:

On page 8, immediately after line 5, insert the following new section:

SEC. 8. Section 108(d)(3) of the Act is amended as follows:

"(3) TOWNSHIPS.—The term "Township" includes equivalent subdivisions of government having different designations (such as "Towns"), and shall be determined on the basis of the same principles as are used by the Bureau of the Census for general statistical purposes, but shall not include any subdivisions of government located in states which have the entirety of their territorial limits divided into general purpose municipalities and townships (as defined by the Bureau of the Census for general statistical purposes), none of which overlap."

By Mr. MYERS of Pennsylvania:

Page 2, immediately before line 1, insert the following new section:

PAYMENTS OF LESS THAN $2,000

SEC. 3. Section 102 of the Act is amended by striking out the period at the end of the second sentence thereof and inserting in lieu thereof the following: ", except that, where the Secretary determines that the entitlement of a unit of local government to funds made available under this subtitle for an entitlement period will be less than $2,000, the payment of such entitlement shall be made in a single payment not later than 5 days after the close of the first quarter of such entitlement period.".

Redesignate the following sections and any references thereto accordingly.

Page 4, strike out lines 15 and 16 and insert in lieu thereof the following:

"(B) for each of the fiscal years beginning on October 1 of 1977, 1978, 1979, 1980, and 1981, $6,650,000,000,"

Page 5, strike out lines 3, 4, and 5, and insert in lieu thereof the following:

"(B) for each of the fiscal years beginning on October 1 of 1977, 1978, 1979, 1980, and 1981, $4,780,000."; and

Page 7, line 8, strike out "'September 30, 1980'" and insert in lieu thereof "'September 30, 1982'".

Page 7, strike out lines 13 and 14 and insert in lieu thereof the following:

"(7) The one-year periods beginning on October 1 of 1977, 1978, 1979, 1980, and 1981,"

Page 22, immediately after line 21, insert the following new paragraph:

"(3) COOPERATIVE PUBLICATION.—No provision of this subsection shall be deemed to prevent units of local government served by the same newspaper of general circulation from combining and consolidating the information required to be published under this subsection in a single joint publication, provided such joint publication clearly identifies the required information pertaining to each such unit."

By Mr. RANDALL:

Page 19, line 12, insert immediately after "participation" the following new sentence: "In addition, senior citizens and senior citizen organizations within the State or local unit of government shall be given a significant amount of time at this public hearing to provide written and oral comment and shall be notified well in advance of the scheduled hearing of their right to testify."

Page 19, immediately after line 12 insert the following:

"(3) Prior to the adoption of its budget as provided for under State and local law, each State government or unit of local government which expects to receive funds under subtitle A or D for any entitlement period beginning on or after January 1, 1977, shall have at least one public hearing on the proposed use of funds made available under substitles A and D in relation to its entire budget at which hearing senior citizens and senior citizen organizations, after adequate notice, shall have the opportunity to provide written and oral comment to the body responsible for enacting the budget, and to have answered questions concerning the entire budget and the relation to it of funds made available under subtitles A and D."

Page 19, line 13, strike out "(3)" and insert in lieu thereof "(4)"

By Mr. ROSENTHAL:

Page 10, after line 6, insert the following new section:

POPULATION ADJUSTMENT

SEC. 9. Section 109(a)(1) of the State and Local Fiscal Assistance Act of 1972 is amended by inserting immediately before the period at the end thereof the following: ", except that the Bureau of the Census shall make available to the Secretary data to correct for any substantial and systematic undercounting of the residents of any State, and the Secretary shall utilize such data to the extent that it represents a reliable and uniform count of such residents".

Redesignate the following sections and any references thereto accordingly.

(Conforming amendment.)

Page 65, line 19, insert immediately before the period the following: ", except that the Bureau of the Census shall make available to the Secretary data to correct for any substantial and systematic undercounting of the residents of any State, and the Secretary shall utilize such data to the extent that it represents a reliable and uniform count of such residents".

By Mrs. SPELLMAN:

To strike from the amendment in the nature of a substitute those additions which conform to subtitle D of H.R. 13367 as follows:

a. Page 4, line 11 and lines 17 to 20.
b. Page 5, lines 23 and 24.
c. Page 5, line 25 and page 6, line 1.
d. Page 17, lines 5 and 22.
e. Page 18, line 17.
f. Page 19, lines 1, 4, 10, and 19.
g. Page 20, lines 2 and 9.
h. Page 21, lines 7 and 20.
i. Page 22, lines 13 and 25.
j. page 24, lines 7 and 14.
k. Page 35, line 17.
l. Page 36, line 15.
m. Page 37, lines 8 and 18.
n. Page 39, lines 18 and 19.
o. Page 41, lines 1, 6, and 7.
p. Page 42, line 25.
q. Page 46, lines 5 and 22.
r. Page 47, line 9.
s. Page 48, lines 20 and 24.
t. Page 49, line 1 to page 72, line 17 (principal location).

By Mr. WYDLER:

(Amendments to the amendment in the nature of a substitute by Mr. BROOKS):

Strike lines 1, page 4 through line 2, page 5 and substitute the following:

"(c) AUTHORIZATION OF APPROPRIATIONS FOR ENTITLEMENTS.—

"(1) IN GENERAL.—There are authorized to be appropriated to pay the entitlements hereinafter provided in Subtitle A.

"(A) for the period beginning January 1, 1977, and ending September 30, 1977, $4,987,500,000;

"(B) for the fiscal year beginning on October 1, 1977, $6,800,000,000;

"(C) for the fiscal year beginning on October 1, 1978, $6,950,000,000;

"(D) for the fiscal year beginning on October 1, 1979, $7,100,000,000;

"(E) for the fiscal year beginning on October 1, 1980, $7,350,000,000; and

"(F) for the fiscal year beginning on October 1, 1981, $7,500,000,000.

"(2) IN GENERAL.—There are authorized to be appropriated to pay the entitlements hereinafter provided in Subtitle D such sums as the Congress may deem necessary but that shall not exceed $150,000,000 for any 12-month period beginning on January 1, 1977.

"(3) NONCONTIGUOUS STATES ADJOURNMENT AMOUNTS.—There are authorized to be appropriated to pay the entitlements hereinafter provided—

"(A) for the period beginning January 1, 1977, and ending September 30, 1977, $3,585,000; and

"(B) for each of the fiscal years beginning on October 1 of 1977, 1978, 1979, 1980 and 1981.";

(4) by inserting "; AUTHORIZATIONS FOR ENTITLEMENTS" in the heading of such section immediately after "APPROPRIATIONS".

(Conforming amendments to section 162 and 163 and other appropriate sections are authorized.)

Strike from line 1, page 8 to line 21, page 9 and insert the following:

(1) UNIT OF LOCAL GOVERNMENT.—The term "unit of local government" means the government of a county, municipality, township, or other unit of government below the State which is a unit of general government (determined on the basis of the same principles as are used by the Bureau of the Census for general statistical purposes). Such term also means, except for purposes of paragraphs (1), (2), (3), (5), (6)(C), and (6)(D) of subsection (b), and, except for purposes of subsection (c), the recognized governing body of an Indian tribe or Alaskan native village

which performs substantial governmental functions.

Strike all after Sec. 122, Nondiscriminatory Provision at page 24, on line 6, through Section 125, line 17 at page 34, and substitute in its place the following:

Sec. 122. (a) In General.—No person in the United States shall, on the grounds of race, religion, color, national origin, or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this title.

(b) Authority of the Secretary.—Whenever the Secretary determines that a State government or unit of local government has failed to comply with subsection (a) or an applicable regulation, he shall, within 10 days, notify the Governor of the State (or, in the case of a unit of local government, the Governor of the State in which such unit is located, and the chief elected official of the unit) of the noncompliance. If within 90 days of the notification compliance is not achieved, the Secretary shall, within 10 days thereafter—

(1) exercise all the powers and functions provided by title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d);

(2) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted; or

(3) take such other action as may be provided by law.

(c) Enforcement.—

(1) Any party who is injured or deprived within the meaning of section 1979 of the Statutes (42 U.S.C. 1983) or of section 1980 of the Revised Statutes (42 U.S.C. 1985) by any person, or two or more persons in the case of such section 1980, in connection with the use of the funds made available under this Act, may bring a civil action subject to terms and conditions of those sections.

(2) In a civil action brought to enforce the provisions of this section of the Act, a court, in its discretion, may award attorney's fees to the prevailing party.

Strike from line 3, page 35 through line 20, page 36 and substitute the following:

(C) Accounting, Auditing, and Evaluation.—

(1) In general.—The Secretary shall provide for such accounting and auditing procedures, evaluations, and reviews as may be necessary to insure that the expenditures of funds received under subtitle A & D by State governments and units of local government comply fully with the requirements of this title. The Secretary is authorized to accept an audit by a State of such expenditures of a State government or unit of local government if he determines that such audit and the audit procedures of that State are sufficiently reliable to enable him to carry out his duties under this title.

(2) Comptroller general shall review compliance.—The Comptroller General of the United States shall make such reviews of the work as done by the Secretary, the State governments, and the units of local governments as may be necessary for the Congress to evaluate compliance and the operations under this title.

FACTUAL DESCRIPTIONS OF BILLS AND RESOLUTIONS INTRODUCED

Prepared by the Congressional Research Service pursuant to clause 5(d) of House rule X. Previous listing appeared in the Congressional Record of June 8, 1976, page 16910.

H.R. 13731. May 12, 1976. Ways and Means. Denies tax exempt status to an organization if a substantial part of the activities of such organization consist of carrying on propaganda or otherwise attempting to influence legislation.

Imposes a tax of 25 percent of the amount of any excess lobbying expenditures.

Prohibits any charitable contribution tax deductions for out-of-pocket expenditures made by any person on behalf of a tax-exempt organization if the expenditure is made for the purposes of influencing legislation.

H.R. 13732. May 12, 1976. Government Operations. Amends the Federal Property and Administrative Services Act to provide that a fair proportion of Federal contracts for architectural and engineering services are made with small business concerns.

H.R. 13733. May 12, 1976. Ways and Means; Interstate and Foreign Commerce. Amends the Small Business Act to provide that loans shall be made to small business concerns in order to facilitate the conversion to the metric system of measurement.

H.R. 13734. May 12, 1976. Ways and Means; Interstate and Foreign Commerce. Amends the Medicare program of the Social Security Act to include speech pathology and audiology services among the items covered under Medicare.

H.R. 13735. May 12, 1976. Ways and Means.

Allows an individual to take a tax credit, under the Internal Revenue Code, for a percentage of the qualified solar heating and cooling equipment expenditures incurred with respect to the taxpayer's principal residence. Allows a tax credit for the portion of the qualified State or local real property taxes attributable to such solar heating and cooling equipment for any residence.

H.R. 13736. May 12, 1976. Science and Technology. Directs the Secretary of Commerce to coordinate the establishment and operation of a Federal climate program for the collection, analysis, and dissemination of data concerning climatic states and the influence of man's activities on climatic dynamics.

Directs the Secretary to establish a Federal Climate Directorate composed of representatives of interested Federal agencies to expedite such program.

H.R. 13737. May 12, 1976. Interstate and Foreign Commerce. Amends the Investment Advisers Act to authorize the Securities and Exchange Commission to prescribe standards of qualification and financial responsibility for investment advisers.

H.R. 13738. May 12, 1976. International Relations. Directs the President to conduct a comprehensive study of investment in foreign countries by American companies. Directs the President to report to the Speaker of the House of Representatives and the Senate Committee on Foreign Relations the findings and recommendations pursuant to such study.

H.R. 13739. May 12, 1976. Ways and Means. Amends the Tariff Schedules of the United States to repeal the duty imposed on articles assembled abroad with components produced in the United States.

H.R. 13740. May 12, 1976. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Reaffirms the authority of the States to regulate terminal and station equipment used for telephone exchange service. Requires the Federal Communications Commission to make specified findings in connection with Commission actions authorizing specialized carriers.

H.R. 13741. May 12, 1976. Interstate and Foreign Commerce. Amends the Medicaid program of the Social Security Act to include podiatrist's services as physician services for the purposes of the medical assistance program under Medicaid.

H.R. 13742. May 12, 1976. Public Works and Transportation. Amends the Federal Aviation Act of 1958 to revise the economic regulation of air transportation. Defines terms for purposes of such Act to expand charter air transportation. Revises the present regulations and limitations regarding foreign and domestic air transportation. Allows discretionary expansion of scheduled service by specified passenger air carriers and all cargo carriers. Revises the ratemaking authority of the Civil Aeronautics Board. Revises restrictions on entry into the domestic airline industry. Prohibits the Postmaster General from requiring air carriers to provide additional service to areas for mail transportation.

H.R. 13743. May 12, 1976. Education and Labor. Requires that every public contract entered into by any branch of the Armed Forces under the Service Contract Act contain a provision that the contractor must notify the head of the branch of the Armed Forces involved whenever a strike occurs involving employees who are engaged in carrying out such contract.

Directs the head of the Armed Forces involved to terminate any contract if such person determines that the contractor has replaced, or attempted to replace, any employee participating in such a strike.

H.R. 13744. May 12, 1976. Education and Labor. Requires every contract within the scope of the Davis-Bacon Act to contain a provision that in case of a work stoppage which is directly related to a labor dispute, the Federal Mediation and Conciliation Service shall be immediately notified.

Directs the Service to appoint a fact finding panel to determine within five days whether the contractor is at fault in causing the work stoppage.

Authorizes termination of contracts by the Federal Government in specified instances where the contractor is at fault in causing the stoppage.

H.R. 13745. May 12, 1976. Education and Labor. Requires that every public contract under the Davis-Bacon Act contain a provision that the contractor must notify the contracting agency whenever a strike occurs involving employees who are engaged in carrying out such contract.

Directs the head of the agency involved to terminate any contract if such person determines that the contractor has replaced, or attempted to replace, any employee participating in such a strike.

H.R. 13746. May 12, 1976. Education and Labor. Requires every contract within the scope of the Service Contract Act of 1965 to contain a provision that in case of a work stoppage which is directly related to a Labor dispute, the Federal Mediation and Conciliation Service shall be immediately notified.

Directs the Service to appoint a fact finding panel to determine within five days whether the contractor is at fault in causing the work stoppage.

Authorizes termination of contracts by the Federal Government in specified instances where the contractor is at fault in causing the stoppage.

H.R. 13747. May 12, 1976. Education and Labor; Judiciary. Requires that every public contract under the Walsh-Healey Act contain a provision that the contractor must notify the contracting agency whenever a strike occurs involving employees who are engaged in carrying out such contract.

Directs the head of the agency involved to terminate any contract if he determines that the contractor has replaced, or attempted to replace, any employee participating in such a strike.

H.R. 13748. May 12, 1976. Education and Labor; Judiciary. Requires every contract within the scope of the Walsh-Healey Act to contain a provision that in case of a work stoppage which is directly related to a labor dispute, the Federal Mediation and Conciliation Service shall be immediately notified.

Directs the Service to appoint a fact finding panel to determine within five days whether the contractor is at fault in causing the work stoppage.

Authorizes termination of contracts by the Federal Government in specified instances where the contractor is at fault in causing the stoppage.

H.R. 13749. May 12, 1976. Ways and Means. Amends the Internal Revenue Code to allow individuals to deduct from gross income amounts paid into a broaden stock ownership trust or annuity. Establishes requirements for such a trust or annuity. Allows the proceeds of such a trust or annuity to be treated as long term capital gains.

H.R. 13750. May 12, 1976. Post Office and Civil Service. Extends to former employees of county soil conservation committees who are employed by any Federal agency, specified civil service compensation, leave, and seniority benefits afforded to former employees of such county committees who are employed by the Department of Agriculture.

H.R. 13751. May 12, 1976. Merchant Marine and Fisheries. Amends the Migratory Bird Conservation Act to require as an additional condition for the purchase or rental of lands by the Secretary of the Interior for migratory bird sanctuaries, the approval of the voters of the county in which such lands are located.

H.R. 13752. May 12, 1976. Education and Labor. Authorizes Federal grants to States for the education of educationally deprived children, handicapped children, and Indian children, and for adult and vocational education programs.

H.R. 13753. May 12, 1976. Agriculture. Directs the Secretary of Agriculture to make loans available to agricultural producers who suffer losses as a result of having their agricultural commodities or livestock quarantined or condemned because such commodities or livestock have been found to contain toxic chemicals dangerous to the public health.

H.R. 13754. May 12, 1976. Judiciary. Directs Federal Courts to consider specified criteria in the imposition of terms of imprisonment for criminal offenses.

Establishes a United States Commission on Sentencing as an independent commission within the judicial branch of the United States Government to promulgate sentencing guidelines for criminal offenses.

H.R. 13755. May 12, 1976. Armed Services. Makes it unlawful for any individual or entity to solicit or enroll any member of the Armed Forces in any labor organization or for any member of the Armed Forces to join, or encourage others to join, any labor organization. Sets forth penalties for violations of this Act.

H.R. 13756. May 12, 1976. International Relations. Directs the Secretary of Commerce to establish a program to gather information on the investments, sales, employment, research funds, and branch and affiliate location of multinational business enterprises whose aggregate assets exceed $50,000,000. Requires that such information cover the two years preceding the date of submission.

H.R. 13757. May 12, 1976. Banking, Currency and Housing. Prescribes standards and procedures for disclosure of financial records of any customer by a financial institution to Federal agencies. Provides criminal and civil penalties for violations of this act.

H.R. 13758. May 12, 1976. Ways and Means. Amends the Tariff Schedules of the United States to increase for a 5-year period the customs duty on certain hand tools.

H.R. 13759. May 12, 1976. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Reaffirms the authority of the States to regulate terminal and station equipment used for telephone exchange service. Requires the Federal Communications Commission to make specified findings in connection with Commission actions authorizing specialized carriers.

H.R. 13760. May 12, 1976. Judiciary; District of Columbia. Grants judicial officers the power to deny pretrial release to persons charged with the commission of violent crimes if there is reason to believe that such persons would flee or pose a danger to others or the community.

H.R. 13761. May 12. 1976. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Grants additional authority to the Federal Communications Commission to authorize mergers of carriers when deemed to be in the public interest. Reaffirms the authority of the States to regulate terminal and station equipment used for telephone exchange service. Requires the Federal Communications Commission to make specified findings in connection with Commission actions authorizing specialized carriers.

H.R. 13762. May 12, 1976. Ways and Means. Amends the Internal Revenue Code to prohibit a State or political subdivision thereof from including in a corporation's gross income, for purposes of a State or local income tax, any amounts with respect to such corporations' ownership of stock or securities in a foreign corporation unless such amounts are includible in the gross income of the corporation for purposes of the Federal income tax.

H.R. 13763. May 12, 1976. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Grants additional authority to the Federal Communications Commission to authorize mergers of carriers when deemed to be in the public interest. Reaffirms the authority of the States to regulate terminal and station equipment usced for telephone exchange service. Requires the Federal Communications Commission to make specified findings in connection with Commission actions authorizing specialized carriers.

H.R. 13764. May 12, 1976. Government Operations; Rules. Establishes a pilot demonstration program of termination and review to cover all Federal agencies. Terminates specified agencies on specified dates and provides that such agencies may be reestablished for a period not to exceed six years only after Congress has conducted public hearings to evaluate such agencies.

H.R. 13765. May 12, 1976. Ways and Means. Amends the Tariff Schedules of the United States to repeal the duty imposed on (1) articles assembled abroad with components produced in the United States, and (2) certain metal articles manufactured in the United States and exported for further processing.

H.R. 13766. May 12, 1976. Interior and Insular Affairs. Directs the Secretary of the Interior to convey to a certain individual the mineral interests of the United States in specified real property.

H.R. 13767. May 12, 1976. Judiciary. Authorizes classification of a certain individual as a child for purposes of the Immigration and Nationality Act.

H.R. 13768. May 12, 1976. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 13769. May 13, 1976. Rules. Establishes a Joint Committee on Intelligence Operations to conduct continuing oversight of, and to exercise exclusive legislative jurisdiction over, the foreign intelligence activities of the United States.

H.R. 13770. May 13, 1976. Ways and Means. Amends the Internal Revenue Code and the old-age, survivors, and disability insurance benefits program of the Social Security Act to (1) increase the rate of the Federal Insurance Contribution Act taxes and of self-employment taxes; (2) increase the rate of the annual allocation of funds to the Federal Disability Insurance Trust Fund; (3) prohibit the retroactive payment of specified social security benefits; and (4) end the payment of such benefits to students above the age of 18.

H.R. 13771. May 13, 1976. Ways and Means; Interstate and Foreign Commerce. Amends the Social Security Act to require the participation of optometrists in the activities of the National Professional Standards Review Council and of local professional standards review organizations.

H.R. 13772. May 13, 1976. Post Office and Civil Service. Specifies instances in which wages paid by private employers are to be excluded from surveys taken to determine wages to be paid Federal prevailing rate employees.

Removes restrictions placed on the Civil Service Commission in defining individual local wage areas for prevailing rate employees who work for the Veterans' Canteen Service or for specified nonappropriated fund instrumentalities of the Armed Forces. Requires that such employees working in comparable conditions with prevailing rate employees in Federal agencies be paid not less than such agency employees.

H.R. 13773. May 13, 1976. Interior and Insular Affairs. Authorizes the Secretary of the Interior to acquire certain lands to establish the Frederick Law Olmsted Home and Office in Massachusetts as a national historic site.

H.R. 13774. May 13, 1976. Ways and Means; Interstate and Foreign Commerce. Amends the Trade Expansion Act of 1962 to prohibit the President from adjusting imports of petroleum and petroleum products by means of a tax or fee.

Amends the Emergency Petroleum Allocation Act of 1973 to direct the President to establish a program for the reimbursement of retail petroleum product marketers who sell petroleum products at a price below the ceiling price for such products.

Stipulates that the total amount authorized to be appropriated for such reimbursements shall not exceed the total amount of all taxes and fees imposed by the President on petroleum imports.

H.R. 13775. May 13, 1976. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Grants additional authority to the Federal Communications Commission to authorize mergers of carriers when deemed to be in the public interest. Reaffirms the authority of the States to regulate terminal and station equipment used for telephone exchange service. Requires the Federal Communications Commission to make specified findings in connection with Commission actions authorizing specialized carriers.

H.R. 13776. May 13, 1976. Ways and Means. Amends the Internal Revenue Code to provide an optional credit against the estate tax of $40,000, if a qualified closely held business is included in the value of the gross estate of the decedent. Allows the recapture of such credit if such interest is transferred to anyone other than a relative.

H.R. 13777. May 13, 1976. Interior and Insular Affairs. Directs the Secretary of the Interior to prepare and maintain an inventory of all public lands and their resources. Directs the Secretary of Agriculture to prepare and maintain an inventory of all National Forest System lands and renewable resources.

Establishes regulations relating to the management, use, development, and conveyance of public lands and National Forest System lands and the authority of the Secretary of the Interior and the Secretary of Agriculture with respect thereto.

H.R. 13778. May 13, 1976. Ways and Means. Amends the Internal Revenue Code to allow a deduction to individuals who rent their principal residences for a portion of the real property taxes paid or accrued by their landlord.

H.R. 13779. May 13, 1976. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Reaffirms the authority of the States to regulate terminal and station equipment used for telephone exchange service. Requires the Federal Communications Commission to make specified findings in connection with Commission actions authorizing specialized carriers.

H.R. 13780. May 13, 1976. Ways and Means. Amends the Tariff Schedules of the United States to increase for a five-year period the customs duty on certain hand tools.

H.R. 13781. May 13, 1976. Judiciary. Incorporates the National Ski Patrol System.

H.R. 13782. May 13, 1976. Banking, Currency and Housing. Creates the National Consumer Cooperative Bank, the Self-Help Development Fund, and the Cooperative Bank and Assistance Administration to assist the formation and growth of consumer and other types of self-help cooperatives.

H.R. 13783. May 13, 1976. Public Works and Transportation. Directs the Administrator of the Federal Aviation Administration to promulgate noise standards for certain civil subsonic turbojet powered aircraft. Authorizes the Administrator to provide grants to operators of noncomplying aircraft to retrofit or replace such aircraft.

H.R. 13784. May 13, 1976. Small Business; Government Operations; Banking, Currency and Housing. Amends the Small Business Act to expand assistance under such Act to minority small business concerns. Establishes the Office of Minority Small Business Assistance Personnel to work with all Government agencies having procurement powers. Provides statutory standards for contracting and subcontracting by the United States with respect to minority concerns. Creates a Commission on Federal Assistance to Minority Enterprise.

H.R. 13785. May 13, 1976. Small Business; Government Operations; Banking, Currency and Housing. Amends the Small Business Act to expand assistance under such Act to minority small business concerns. Establishes the Office of Minority Small Business Assistance Personnel to work with all Government agencies having procurement powers. Provides statutory standards for contracting and subcontracting by the United States with respect to minority concerns. Creates a Commission on Federal Assistance to Minority Enterprise.

SENATE—*Wednesday, June 9, 1976*

(Legislative day of Thursday, June 3, 1976)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the Acting President pro tempore (Mr. METCALF).

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Almighty God whose Word declares that "all things work together for good to them that love the Lord," help us to love Thee with our whole heart and to trust Thy providences even though events are mysterious and unexplainable. Amid the confusion and uncertainty of so many days keep us at our tasks with our vision high and our motives pure. Enable Thy servants here in the discharge of their public trust to be calm, confident, wise, and just, ever strengthened by a steadfast faith in Thee.

We ask it in the hallowed name of Him for whose coming kingdom we pray. Amen.

COMMITTEE MEETINGS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that all committees may meet until 12 noon today.

Mr. GRIFFIN. Mr. President, I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

Does the Senator from Michigan, the acting minority leader, seek recognition?

Mr. GRIFFIN. Mr. President, I wish to explain to the distinguished majority whip and to others that the objection on my part was lodged as a result of a request by several Members on our side.

Mr. President, if I have time remaining, I yield to the Senator from North Carolina.

Mr. HELMS. Mr. President, had not the distinguished assistant minority leader objected to the unanimous-consent request just posed, I would have done so, because I always want to cooperate with the leadership; and on my desk this morning is a statement from Mr. MANSFIELD saying:

> It is therefore the intention of the joint leadership to object to any committee meetings from tomorrow or Wednesday on, except for extraordinary reasons.

That is the main reason why I wish to object.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Oklahoma (Mr. BARTLETT) is recognized for not to exceed 15 minutes.

HUMPHREY-HAWKINS BILL AND INFLATION

Mr. BARTLETT. Mr. President, like the snake oil elixir sold by the traveling medicine shows of America's past, the Humphrey-Hawkins Full Employment and Balanced Growth Act of 1976 is specious. Not only would this nostrum fail to cure our employment ills, it would have an insidious effect on our economy.

The inflationary potential of the Humphrey-Hawkins legislation is frightening. The U.S. Chamber of Commerce refers to the bill as a "gigantic engine of inflation," and the Congressional Budget Office has estimated the net additional inflationary impact, over and above the inflation already existing, to be as much as two full percentage points in the second year of operation. For example, a 6-percent inflation rate would jump to 8 percent with the enactment of the Humphrey-Hawkins bill. Furthermore, this added inflation can be expected to accelerate as the program continues.

The Humphrey-Hawkins proposal would be inflationary through its effects on wages and productivity, as well as working directly through fiscal and monetary channels to promote increasing prices.

Humphrey-Hawkins is not so much a jobs creation bill as it is a jobs transfer bill, transferring employment and resources away from the productive, private sector of the economy to the Government. I believe the working taxpayer will resent a program which allows someone to take a "last resort" Federal job at a higher salary than that available from productive jobs in private employment. This is a probable result of Humphrey-Hawkins as described by economists of both liberal and conservative persuasion. Such a jobs transfer plan would inevitably erode national productivity and efficiency.

The Humphrey-Hawkins legislation would also stimulate wage inflation. For example, section 402 of the bill ties the definition of prevailing or fair rate of compensation to the Davis-Bacon Act—a clear indication to the consumer and taxpayer that this proposal is synonymous with runaway inflation.

As the Davis-Bacon Act has been interpreted in the past, wages paid for jobs under Federal contract have often exceeded the actual "prevailing or fair rate of compensation" in a particular area. For example, in 1971, the GAO concluded that Davis-Bacon wage provisions inflated the costs of Federal construction projects up to 15 percent. Thus we can fully expect section 402 of the Humphrey-Hawkins bill to provide inflated wages for the new federally sponsored jobs, forcing wage inflation in the related areas of the private labor market.

Supporters of Humphrey-Hawkins suggest that the program would create jobs at a cost to the taxpayer of about $10,000 per year. Actually, this is probably more wishful thinking than actual anticipation because the Department of Labor, in recent debate on the public jobs legislation of the Congress, said that it costs them about $25,000 to create one public service job.

I believe the employment benefit of $25,000 per year per worker invested in American industry to improve productivity would far exceed the benefit of such an investment by bureaucratically directed make-work jobs programs. In the past year, the American private sector has created over 2 million new jobs, compared with the 250,000 jobs the last Government jobs bill proposed to create over a period of 2 years at a cost of $6 billion.

As taxes are increased on the productive sector of the economy, workers and businesses, this will reduce the United States' already abysmally poor record in productivity growth. In fact, a substantial improvement in America's productivity performance is required if the United States is to achieve more employment with less inflation. The decreasing competition of many of our industries in relation to foreign-made goods is directly attributable to the fact that, since 1960, the United States has the worst productivity performance of the seven major industrial countries. Not only is our record poor, but it is getting worse, averaging only a 1.35 percent increase in productivity annually since 1965, compared with 3 percent for Britain, the next lowest, and 8.6 percent for Japan.

All the Democratic Presidential candidates have endorsed Humphrey-Hawkins. Congressman UDALL is reported to have suggested that in operation the Humphrey-Hawkins jobs program could cost $40 billion per year, not an unreasonable estimate. How do supporters of Humphrey-Hawkins suggest that we pay for this $40 billion expenditure? Most have been silent. Given the inclination of the present majority in this Congress, the strong probability is that much of the price tag of Humphrey-Hawkins would be financed by substantially increased Federal deficits, which would lead directly to worsening inflation. To finance big budget deficits, the Government can either enter the private capital markets or increase the money supply. If the Government borrows capital, this also represents a shift, not a creation, of resources. If we again consider our poor production performance, it is not surprising to find that since 1960, the United States rates dead last among 11 industrial nations in the percentage of GNP consumed for fixed capital investment. Again, I am doubly concerned that this already low level has been dropping further in recent years as Federal budget deficits have mushroomed.

This attempt to achieve 3-percent unemployment rests solely, in the end, on inflationary money expansion. As Humphrey-Hawkins seriously weakens the independence of the Federal Reserve System, political pressures to give in to inflationary monetary policy will be virtually irresistible. But job creation by inflation is simply illusory; what effect it does have is lost as soon as inflationary expectations are built into the economy. This means that the Humphrey-Hawkins proposal will deliver not only more inflation, but increasingly more inflation—the definition of a destructive wage-price spiral.

Contrary to the premise of the Humphrey-Hawkins act, a specific unemployment rate cannot be legislated at the stroke of a pen. The Humphrey-Hawkins legislation requires us to adopt policies which might well prove to be destabilizing rather than setting our sights on a more important goal: maximum stable and sustainable longrun employment. If, as required by this legislation, we persist in the questionable pursuit of an arbitrary employment figure which has its basis, not in sound economic policy, but in cynical electioneering, we will do so at the cost of accelerating destructive levels of inflation.

Mr. President, I yield the floor.

Mr. STENNIS. Mr. President, will the Senator yield to me on a different subject?

Mr. BARTLETT. Yes, I yield.

SUBSTITUTION OF CONFEREE—H.R. 12348

Mr. STENNIS. Mr. President, I wish to propound a unanimous-consent request with respect to the conference and the conferees on the part of the Senate on H.R. 12384, the military authorization bill. I ask unanimous consent that the Senator for Oklahoma (Mr. BARTLETT) be substituted as a conferee for the Senator from Arizona (Mr. GOLDWATER), who cannot be here for several days and has asked that this be done.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

Mr. STENNIS. I thank the Chair.

THE ANTITRUST IMPROVEMENTS ACT OF 1976

The ACTING PRESIDENT pro tempore. The Senate will now resume consideration of H.R. 8532, which the clerk will state.

The assistant legislative clerk read as follows:

A bill (H.R. 8532) to amend the Clayton Act to permit State attorneys general to bring certain antitrust actions, and for other purposes.

Mr. ALLEN. Mr. President, I call up my amendment No. 1754 and ask that it be stated.

The ACTING PRESIDENT pro tempore. The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from Alabama (Mr. ALLEN) proposes an amendment No. 1754:

Strike all starting with page 3, line 4, through page 32, line 18, and insert the following:

TITLE II

SEC. 201. The Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914 (15 U.S.C. 12 et seq.), is amended by inserting immediately after section 4B the following new sections:

"ACTIONS BY STATE ATTORNEYS GENERAL

"SEC. 4C. (a) Any State attorney general may bring a civil action, in the name of the State, in the district courts of the United States under section 4 of this Act, and such State shall be entitled to recover threefold the damages and the cost of suit, including a reasonable attorney's fee, as parens patriae on behalf of natural persons residing in such State injured by any violation of the Sherman Act.

"(b) In any action under subsection (a), the court may in its discretion, on motion of any party or on its own motion, order that the State attorney general proceed as a representative of any class or classes of persons alleged to have been injured by any violation of the Sherman Act, notwithstanding the fact that such State attorney general may not be a member of such class or classes.

"(c) In any action under subsection (a), the State attorney general shall, at such time as the court may direct prior to trial, cause notice thereof to be given by publication in accordance with applicable State law or in such manner as the court may direct; except that such notice shall be the best notice practicable under the circumstances.

"(d) Any person on whose behalf an action is brought under subsection (a) may elect to exclude his claim from adjudication in such action by filing notice of his intent to do so with the court within sixty days after the date on which notice is given under subsection (c). The final judgment in such action shall be res judicata as to any claim arising from the alleged violation of the Sherman Act of any potential claimant in such action who fails to give such notice of intent within such sixty-day period, unless he shows good cause for his failure to file such notice.

"(e) An action under subsection (a) shall not be dismissed or compromised without the approval of the court, and notice of the proposed dismissal or compromise shall be given in such manner as the court directs.

"(f) In an action under subsection (a) or (b), the court may in its discretion award a reasonable attorney's fee to a defendant upon a finding that the action is frivolous or that the State attorney general has acted in bad faith, vexatiously, wantonly, or for oppressive reasons.

"MEASUREMENT OF DAMAGES

"SEC. 4D. In any action under section 4C (a) or (b), in which there has been a determination that the defendants agreed to fix prices in willful violation of the antitrust law, damages may be proved and assessed in the aggregate by statistical or sampling methods, by the computation of illegal overcharges, or by such other reasonable system of estimating aggregate damages as the court in its discretion may permit without the necessity of separately proving the individual claim of, or amount of damage to, persons on whose behalf the suit was brought: *Provided*, That any damages awarded against a defendant which are proved and assessed in the aggregate as provided in this section shall be reduced to actual damages and the cost of suit, including reasonable attorneys' fees, if the defendant establishes that he acted in good faith and without reasonable grounds to believe that the conduct in question violated the antitrust laws.

"DISTRIBUTION OF DAMAGES

"SEC. 4E. Damages recovered under section 4C(a) shall be distributed in such manner as the district court in its discretion may authorize, subject to the requirement that any distribution procedure adopted afford each person a reasonable opportunity to secure his appropriate portion of the damages awarded less unrecovered costs of litigation and administration.

"ACTIONS BY ATTORNEY GENERAL OF THE UNITED STATES

"SEC. 4F. (a) Whenever the Attorney General of the United States has brought an action under section 4A of this Act, and he has reason to believe that any State attorney general would be entitled to bring an action under section 4C(a) based substantially on the same alleged violation of the Sherman Act, he shall promptly give written notification to such State attorney general with respect to such action.

(b) To assist a State attorney general in evaluating the notice and in bringing any action under section 4C of this Act, the Attorney General of the United States shall, upon request by such State attorney general, make available to him, to the extent permitted by law, any investigative files or other materials which are or may be relevant or material to the actual or potential cause of action under section 4C.

"DEFINITIONS

"SEC. 4G. For purposes of this section and sections 4C, 4D, 4E, and 4F:

"(1) The term 'State attorney general' means the chief legal officer of a State, or any other person authorized by State law to bring actions under this Act; except that such term does not include any person employed or retained on a contingency fee basis.

"(2) The term 'State' means a State, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

"(3) The term 'Sherman Act' means the Act entitled 'An Act to protect trade and commerce against unlawful restraints and monopolies', approved July 2, 1890 (15 U.S.C. 1, et seq.).

"(4) The term 'natural persons' does not include proprietorships or partnerships.

"SEC. 4H. This title shall not be applicable in a particular State until that State shall provide by law for its applicability to such State.".

SEC. 202. The Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914 (15 U.S.C. 12 et seq.), is amended—

(1) in section 4B (15 U.S.C. 15b), by striking out "4 or 4A" and inserting in lieu thereof "4, 4A, or 4C";

(2) in section 5(b) (15 U.S.C. 16(b)), by striking out "private right of action" and inserting in lieu thereof "private or State right of action"; and by striking out "section 4" and inserting in lieu thereof "section 4 or 4C"; and

(3) by adding at the end of section 16 (15 U.S.C. 26) the following: "In any action under this section, the court shall award reasonable attorneys' fees to a prevailing plaintiff.".

Mr. ALLEN. Mr. President, I yield myself 15 seconds.

Mr. President, this amendment retains title I and title V of the Hart substitute, and in lieu of the other titles it inserts the House bill as passed with the local option feature.

If this amendment were adopted, it would remove the objection of the Senator from Alabama to the bill.

Mr. President, I call for the yeas and nays on my amendment.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. MORGAN. Mr. President, I raise a point of order with regard to the amendment that has been called up. As I read the amendment, and as the Senator from Alabama explains it, this amendment strikes out titles II, III and IV of the substitute bill which, in effect puts it back to the House bill.

The Senator offered amendment 1757 which did exactly the same thing, offered it on June 7, and it was tabled 46 to 33. The only additional provision in this bill is a provision that would enable a State to come under the bill or require the State to come under it. The Senator did that by offering amendment 1702. That was tabled on June 4 by a vote of 42 to 30.

I raise the question as to whether or not this amendment is in order.

Mr. ALLEN. Mr. President, the point is not well taken.

The ACTING PRESIDENT pro tempore. May I ask if the Senator is making a parliamentary inquiry.

Mr. MORGAN. I am making a point of order.

The ACTING PRESIDENT pro tempore. Point of order.

The Chair is informed by the Parliamentarian that since this amendment combines two previous amendments, it is substantially different, and the point of order is not well taken.

Mr. MORGAN. Mr. President, inasmuch as the provisions of this amendment have been offered in two other amendments, both of which were substantially defeated when the motions to table were made, I move that the amendment of the Senator from Alabama lay on the table, and I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? Obviously there is a sufficient second.

The yeas and nays were ordered.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from North Carolina to lay on the table the amendment of the Senator from Alabama. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. (Mr. LEAHY). Let us have order in the Chamber so the clerk can hear the votes.

The assistant legislative clerk resumed the call of the roll.

The PRESIDING OFFICER. Let us have order in the Chamber. Senators who are not voting, will please clear the well so that the clerk can record the votes of those Senators coming into the Chamber.

The assistant legislative clerk continued and concluded the call of the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from Arkansas (Mr. BUMPERS), the Senator from Virginia (Mr. HARRY F. BYRD, JR.), the Senator from Idaho (Mr. CHURCH), the Senator from Mississippi (Mr. EASTLAND), the Senator from Alaska (Mr. GRAVEL), the Senator from Michigan (Mr. PHILIP A. HART), the Senator from Indiana (Mr. HARTKE), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from Washington (Mr. MAGNUSON), the Senator from Montana (Mr. MANSFIELD), the Senator from New Mexico (Mr. MONTOYA), the Senator from Alabama (Mr. SPARKMAN), and the Senator from California (Mr. TUNNEY), are necessarily absent.

I also announce that the Senator from Indiana (Mr. BAYH), and the Senator from Missouri (Mr. SYMINGTON) are absent because of illness.

I further announce that, if present and voting, the Senator from Indiana (Mr. BAYH), and the Senator from Indiana (Mr. HARTKE) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. BEALL), the Senator from New York (Mr. BUCKLEY), the Senator from New Jersey (Mr. CASE), the Senator from Arizona (Mr. GOLDWATER), the Senator from New York (Mr. JAVITS), the Senator from Nevada (Mr. LAXALT), and the Senator from Virginia (Mr. SCOTT) are necessarily absent.

The result was announced—yeas 56, nays 19, as follows:

[Rollcall Vote No. 250 Leg.]

YEAS—56

Abourezk
Baker
Bentsen
Brooke
Burdick
Byrd, Robert C.
Cannon
Chiles
Clark
Cranston
Culver
Dole
Durkin
Eagleton
Fong
Ford
Glenn
Griffin
Hart, Gary
Haskell
Hatfield
Hathaway
Hruska
Huddleston
Humphrey
Inouye
Jackson
Johnston
Leahy
Mathias
McGee
McGovern
McIntyre
Metcalf
Mondale
Morgan
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Schweiker
Scott, Hugh
Stafford
Stevens
Stevenson
Taft
Weicker
Williams

NAYS—19

Allen
Bartlett
Bellmon
Brock
Curtis
Domenici
Fannin
Garn
Hansen
Helms
McClellan
McClure
Roth
Stennis
Stone
Talmadge
Thurmond
Tower
Young

NOT VOTING—25

Bayh
Beall
Biden
Buckley
Bumpers
Byrd, Harry F., Jr.
Case
Church
Eastland
Goldwater
Gravel
Hart, Philip A.
Hartke
Hollings
Javits
Kennedy
Laxalt
Long
Magnuson
Mansfield
Montoya
Scott, William L.
Sparkman
Symington
Tunney

So the motion to lay on the table was agreed to.

Mr. MORGAN. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

Mr. HELMS. I ask for the yeas and nays, Mr. President.

Mr. ABOUREZK. I move to lay that motion on the table.

Mr. HELMS. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. ROBERT C. BYRD. Let us do it by voice vote, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. HELMS. Mr. President, I ask for the yeas and nays. I ask for the Senators who desire to vote; otherwise we will have a rollcall.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on the motion to table the motion to reconsider. The yeas and nays have been ordered and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. BUMPERS), the Senator from Idaho (Mr. CHURCH), the Senator from Alaska (Mr. GRAVEL), the Senator from Michigan (Mr. HART), the Senator from Indiana (Mr. HARTKE), the Senator from Louisiana (Mr. LONG), the Senator from Washington (Mr. MAGNUSON), the Senator from Montana (Mr. MANSFIELD), the

Senator from Alabama (Mr. Sparkman), and the Senator from California (Mr. Tunney), are necessarily absent.

I also announce that the Senator from Indiana (Mr. Bayh), the Senator from Missouri (Mr. Symington), are absent because of illness.

I further announce that, if present and voting the Senator from Indiana (Mr. Bayh), and the Senator from Indiana (Mr. Hartke), would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. Beall), the Senator from New York (Mr. Buckley), the Senator from Arizona (Mr. Goldwater), the Senator from New York (Mr. Javits), and the Senator from Nevada (Mr. Laxalt), are necessarily absent.

The result was announced—yeas 61, nays 22, as follows:

[Rollcall Vote No. 251 Leg.]

YEAS—61

Abourezk
Baker
Bentsen
Biden
Brooke
Burdick
Byrd, Robert C.
Cannon
Case
Chiles
Clark
Cranston
Culver
Dole
Domenici
Durkin
Eagleton
Fong
Ford
Glenn
Griffin
Hart, Gary
Haskell
Hatfield
Hathaway
Huddleston
Humphrey
Inouye
Jackson
Johnston
Kennedy
Leahy
Mathias
McGee
McGovern
McIntyre
Metcalf
Mondale
Montoya
Morgan
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Schweiker
Scott, Hugh
Stafford
Stevens
Stevenson
Taft
Talmadge
Weicker
Williams

NAYS—22

Allen
Bartlett
Bellmon
Brock
Byrd,
Harry F., Jr.
Curtis
Eastland
Fannin
Garn
Hansen
Helms
Hollings
Hruska
McClellan
McClure
Roth
Scott,
William L.
Stennis
Stone
Thurmond
Tower
Young

NOT VOTING—17

Bayh
Beall
Buckley
Bumpers
Church
Goldwater
Gravel
Hart, Philip A.
Hartke
Javits
Laxalt
Long
Magnuson
Mansfield
Sparkman
Symington
Tunney

So the motion to lay on the table was agreed to.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Senators may be authorized to insert statements in the Record and to introduce bills, resolutions, petitions, memorials, and reports during the day.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

PETITION

The ACTING PRESIDENT pro tempore (Mr. Metcalf) laid before the Senate the following petition:

A resolution adopted by the Council of the Township of Edison, N.J.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the resolution transmitted by the acting township clerk of the Township of Edison, N.J., relative to sanitary landfill operations, be referred jointly to the Committee on Public Works, the Committee on Commerce, and the Committee on the Judiciary.

The ACTING PRESIDENT pro tempore. Without objection it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Roddy, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore (Mr. Metcalf) laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT ON THE ADMINISTRATION OF THE FEDERAL RAILROAD SAFETY ACT OF 1970—MESSAGE FROM THE PRESIDENT

The ACTING PRESIDENT pro tempore (Mr. Metcalf) laid before the Senate the following message from the President of the United States, which was referred to the Committee on Commerce:

To the Congress of the United States:

I transmit herewith the Fifth Annual Report on administration of the Railroad Safety Act of 1970 (84 Stat. 971, 45 U.S.C. 421 et. seq.) as required by that Act. This report has been prepared in accordance with section 211 of the Act, and covers the period January 1, 1975 through December 31, 1975.

Gerald R. Ford.

The White House, *June 9, 1976.*

REPORT ON THE ADMINISTRATION OF THE RADIATION CONTROL FOR HEALTH AND SAFETY ACT—MESSAGE FROM THE PRESIDENT

The ACTING PRESIDENT pro tempore (Mr. Metcalf) laid before the Senate the following message from the President of the United States, which was referred to the Committee on Labor and Public Welfare:

To the Congress of the United States:

I transmit herewith the 1975 annual report on the administration of the Radiation Control for Health and Safety Act (Public Law 90-602), as prepared by the Secretary of the Department of Health, Education, and Welfare.

The report's only recommendation is that the requirement for the report itself, as contained in P.L. 90-602, be repealed. All of the information found in the report is available to Congress on a more immediate basis through congressional committee oversight and budget hearings. The Department of Health, Education, and Welfare has concluded that this annual report serves little useful purpose and diverts agency resources from more productive activities.

Gerald R. Ford.

The White House, *June 9, 1976.*

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. Metcalf) laid before the Senate the following letters, which were referred as indicated:

Report of the Assistant Secretary of Defense

A letter from the Deputy Assistant Secretary of Defense transmitting, pursuant to law a report on a new system of records entitled "Navy Overseas Assignment Inventory System" (with an accompanying report); to the Committee on Government Operations.

Report of the Securities and Exchange Commission

A letter from the Chairman, Securities and Exchange Commission, transmitting, pursuant to law, the report of the Securities and Exchange Commission covering the year 1975 (with an accompanying report); to the Committee on Banking, Housing and Urban Affairs.

Proposed Legislation to Authorize Further Adjustments in the Amount of Silver Certificates Outstanding

A letter from the Secretary of the Treasury, transmitting a draft of proposed legislation to authorize further adjustments in the amount of silver certificates outstanding, and for other purposes (with accompanying papers); to the Committee on Banking, Housing and Urban Affairs.

Report on the International Air Transportation Fair Competitive Practices Act of 1974

A letter from the Acting Chairman, Civil Aeronautics Board, transmitting, pursuant to law, a report on the International Air Transportation Fair Competitive Practices Act of 1974 (with an accompanying report); to the Committee on Commerce.

Legislative Action By the Council of the District of Columbia

A letter from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a copy of an act adopted by the Council on May 18, 1976, and signed by the Mayor on May 20, 1976, Act 1-130, which would extend Regulation 74-21 (establishing interest rates for certain loans) for two years (with accompanying papers); to the Committee on the District of Columbia.

Proposed Utilization Control Amendments of 1976

A letter from the Under Secretary of Health, Education, and Welfare, transmitting a draft of proposed legislation to amend the Social Security Act to improve State medical assistance utilization control programs (with accompanying papers); to the Committee on Finance.

Report on Federal Tax Return Confidentiality

A letter from the Chairman, Privacy Protection Study Commission, transmitting, pursuant to law, a summary report and recommendations on Federal tax return confidentiality (with an accompanying report);

to the Committee on Government Operations.

Notice of Certain Meetings Related to the International Energy Program

A letter from the Assistant General Counsel for International, Conservation and Resource Development Programs, Federal Energy Administration, transmitting, pursuant to law, a notice of certain meetings related to the International Energy Program (with accompanying papers); to the Committee on Interior and Insular Affairs.

Adjustment of Status of Certain Alien

A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to order, an order entered relating to the adjustment of status under section 13 of the Act of September 11, 1957 (with accompanying papers); to the Committee on the Judiciary.

Proposed Legislation To Extend Authority for Planning Grants to States for Career Education Programs

A letter from the Under Secretary of Health, Education, and Welfare, transmitting a draft of proposed legislation to extend the authority for planning grants to States for career education programs, and to repeal certain education program authorities (with accompanying papers); to the Committee on Labor and Public Welfare.

Proposed Acquisition and Alteration of Truck Terminal/Warehouse Facility at Ambassador Bridge, Detroit, Mich.

A letter from the Acting Administrator, General Services Administration, transmitting, pursuant to law, a prospectus for proposed acquisition and alteration of truck terminal/warehouse facility at Ambassador Bridge, Detroit, Mich. (with accompanying papers); to the committee on Public Works.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the ACTING PRESIDENT pro tempore (Mr. METCALF):

House Joint Memorial 2004, from the Legislature of the State of Arizona; to the Committee on Agriculture and Forestry and the Committee on Interior and Insular Affairs, jointly, by unanimous consent:

"HOUSE JOINT MEMORIAL 2004

"A joint memorial urging congressional action to protect and promote the multiple-use concept of national forests

"To the Congress of the United States of America:

"Your memorialist respectfully represents:

"Whereas, federal court decisions based on narrow interpretations of the 1897 Organic Act that restricts management of the Monongahela and Tongass National Forests have severely reduced supplies of timber, pulpwood and other wood products from nine national forests in a four-state region of the eastern United States and in part of Alaska; and

"Whereas, these decisions have established strong legal precedents and other court cases are pending or foreseen that could apply a restrictive interpretation of the United States Forest Service's forest management and timber sales authority to all of the nation's one hundred and fifty-five national forests, including the seven national forests in Arizona; and

"Whereas, on a nationwide basis, the resulting timber sales 'embargo' would drive the prices of lumber, plywood, paper and other forest products beyond the reach of many customers, eliminate the jobs of more than one hundred thousand people directly dependent on national forest timber, adversely affect the livelihood of four million others who depend to varying degrees on timber resources, escalate the cost of housing already in short supply to even greater heights, impede the recovery of the home construction and forest products industries which have yet to emerge from their worst slumps on record, increase inflationary and recessionary pressures and generally disrupt the national economy in the same manner as the recent Arab oil embargo; and

"Whereas, in Arizona more than four thousand people are employed in forest related operations largely dependent on timber sales from the seven national forests in the state that contain more than two million three hundred thousand acres of commercial forest land which would be impacted by application of the Monongahela decision in Arizona; and

"Whereas, twenty-five per cent of the receipts of the federal treasury from national forest income, of which timber sales is the major contributor, that annually go to counties in lieu of land taxes to help pay for schools and roads would be dramatically reduced and create fiscal problems for thirteen counties in Arizona; and

"Whereas, the court decisions ignore nearly eighty years of advances in the development of scientific forest management practices by upholding a law passed three years before the first forestry school was opened in the United States; and

"Whereas, the court decisions effectively prohibit the practice of professional forestry in the national forests and therefore seriously retard the improvement in tree growth and forest management that are needed to insure adequate supplies of timber for future generations; and

"Whereas, the restrictions in forest management would reduce the quantity and quality of browse and forage needed by wildlife and livestock; and

"Whereas, the restrictions in forest management would adversely impact the regulation and protection of water resources, a particularly vital matter for industrial, agricultural and domestic users in Arizona; and

"Whereas, the decline in timber sales would retard the construction and maintenance of roads needed for access into the forest not only for timber removal, but for recreation, mining and protection against natural catastrophes such as fire, insects and disease; and

"Whereas, the court decisions generally prevent the Forest Service from achieving the management directive set forth in the 1960 Multiple Use-Sustained Yield Act, which requires 'the achievement and maintenance in perpetuity of a high-level annual or regular periodic output of the various renewable resources of the National Forests without impairment of the productivity of the land'; and

"Whereas, the Society of American Foresters, a national organization with twenty thousand members representing the forestry profession in the United States, has formally stated it is 'gravely concerned about the adverse impacts on forest land management' of the court decisions, and sees a 'clear need' to revise the 1897 Organic Act in order to 'encourage flexibility in forest management so that management prescriptions for each forest area are appropriate in terms of the area's capabilities and provide for continuing fulfillment of human needs in a way which is environmentally sound'; and

"Whereas, the courts, which have called the 1897 Organic Act an 'anachronism' and recognized the serious economic repercussions of their decisions, have said it is up to Congress, not the courts, to remedy the situation.

"Wherefore, your memorialist, the Legislature of the State of Arizona, prays:

"1. That the Congress of the United States enact legislation immediately to assure that the forest product needs of consumers and the well being of those whose livelihood depends on our forest resources in Arizona and elsewhere across the United States will not be further jeopardized by an abandonment of the multiple-use concept, which directs the use of our national forests for a broad range of needs and purposes, including watershed protection, fish and wildlife development, rangeland for livestock grazing, recreation, scenic enjoyment, as well as a source of wood fiber.

"2. That such legislation not restrain professional management of our national forest lands that is so essential now for the use and enjoyment and to meet the needs of future generations.

"3. That copies of this memorial be dispatched to the President of the United States, to the President of the United States Senate, the Speaker of the United States House of Representatives, and to each member of the Arizona Delegation to the United States Congress."

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that House Joint Memorial 2004, transmitted from the Arizona Legislature, be referred jointly to the Committee on Agriculture and Forestry and the Committee on Interior and Insular Affairs.

The PRESIDING OFFICER. Without objection, it is so ordered.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HARRY F. BYRD, JR., (for Mr. SYMINGTON), from the committee of conference, submitted a report on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 12384) to authorize certain construction at military installations and for other purposes, which was ordered to be printed (Rept. No. 94–937).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. GRIFFIN:

S. 3540. A bill to establish procedures for resolving contested elections for the office of U.S. Senator. Referred to the Committee on Rules and Administration.

By Mr. ALLEN (for himself and Mr. SPARKMAN):

S. 3541. A bill to modify the project for Mobile Harbor, Ala. (Theodore Ship Channel). Referred to the Committee on Public Works.

By Mr. CHURCH (for himself and Mr. MCCLURE):

S. 3542. A bill to authorize the Secretary of the Interior to make compensation for damages arising out of the failure of the Teton Dam a feature of the Teton Basin Federal reclamation project in Idaho, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GRIFFIN:

S. 3540. A bill to establish procedures for resolving contested elections for the office of U.S. Senator. Referred to the

Committee on Rules and Administration.

CONTESTED SENATE ELECTIONS ACT

Mr. GRIFFIN. Mr. President, during my service as a member of the Committee on Rules and Administration, I have spent a lot of valuable time learning that the Senate's rules and procedures for resolving election contests are very inadequate. In fact, when it comes to resolving an election dispute about a Senate seat, it can almost be said that in this body there are no rules at all.

In my view, the Rules Committee would do itself, the Senate and the country a great service, if, during this period when there are no election challenges to decide, we were to report for Senate consideration a set of rules and procedures to provide better guidance for the future.

With that objective in mind, I am introducing a bill today to provide a comprehensive procedure for dealing with Senate election contests. This bill addresses many of the procedural problems that confronted the Committee on Rules and Administration during consideration of the election contests, which arose out of the 1974 elections.

As we approach the 1976 elections we should be better prepared to carry out our function under article I of the Constitution. Section 4 of article I provides that the time, place and manner of holding elections for Senators and Representatives shall be prescribed in each State by its legislature unless Congress by law changes the time or manner. The Senate, of course, is the judge of the elections, returns and qualifications of its own Members under section 5 of article I.

These constitutional provisions occasionally overlap and cause problems of jurisdiction. The actions of the House of Representatives in determining the qualification of Congressman Adam Clayton Powell, were ultimately subjected to judicial review in the Supreme Court in *Powell* v. *McCormack*, 395 U.S. 486. Congress found, to its surprise, that its powers under article I, section 5, were not plenary.

The legislation I propose attempts to define our actions in the event of a possible contest. The parameters of our inquiry should be set well in advance of the contest so that a contestant can reasonably analyze, plan and prepare his case before coming before the Senate or its committee. No modern court would be operated by rules devised and promulgated in the course of trial. Neither should the Senate be without at least minimum directions set in advance, when we undertake the serious function of judging the elections of our own Members.

In the last two major contests the absence of rules has cost the Senate much time and debate. If we desire to be fair to both contestant and contestee, we should not delay decisions on the merits while we argue about procedure. In two recent cases, Oklahoma and New Hampshire, both sides had expensive legal staffs standing by while we tried to iron out evidentiary problems, definition of terms and methods of proceeding that could have been previously decided. Unfortunately, while the debate is in progress, the argument over procedure becomes intertwined in substance and each side accuses the other of partisanship, whether justified or not.

The problem of delay also becomes important since the attorney fees are, at least partially, reimbursed by the Senate with taxpayers' funds. In my proposed legislation there is a provision for the reimbursement of attorney fees based upon periodic billings, so the Senate can anticipate and warn a contesting party if we believe the fees are becoming excessive. The contestant then can decide whether to continue to mount these legal expenses, without expectation of reimbursement.

This proposal is similar to one already in effect in the House. While it is true the Senate was faced with somewhat unique problems in both the Oklahoma case and the New Hampshire contest, the other body did handle their 1974 election contests much more expeditiously and at considerably less cost to both parties and the House. Perhaps the existence of their law was partially the reason.

In brief my proposal contains sections dealing with definitions, notice, response, defenses, motions, default, depositions, subpena, rules of evidence, burden of proof, pleading, briefs, seating pending determination, applicable State law, allowance of expenses, rules of the Senate, and action by the Senate. These items are primarily procedural questions that should be settled in advance of any contest and be settled equally to all parties.

I was pleased recently to cosponsor Senator Roth's proposals in this area, and I believe that the two bills may well be incorporated and merged in the final action of the committee. At the time he introduced his bill, Senator Roth pointed out that in judging the elections and returns of our Members we must observe the essential distinction between our political function and our judicial function. He said:

> Power to make that ultimate political decision is explicitly committed to the electors of the separate States by the 17th Amendment. As citizens and candidates, we may legally attempt to influence that political decision, and as electors, we may participate in our respective states in the making of that political decision, but the Senate as an institution has no constitutional power to make that political choice, and we, as members of the Senate, possess no more political power under the Constitution than any other citizen or elector in deciding that question. The power which we, as electors, exercise in our respective States by casting our ballots on election day should not be confused with our power, as Senators, to judge the elections and returns of members of this body. In the first instance we are making a political decision as electors, deciding who should serve here, but in the latter role we are making a judicial decision as Senators, deciding who, if anyone, the electors of a State did in law and in fact elect.

We must ever keep before us the obligation we face when we undertake a judicial function. One of the most frightening prospects the Senate has faced in over 100 years was the recent possible Presidential impeachment. I was not alone in the fear that the Senate's political nature would prevail over our judicial role in the trial of a President. The rules we discussed for such impeachment were colored by the events of the time. We should not allow our judicial duty to judge the elections and returns of our Members to become politically tarnished.

Mr. President, I hope the Senate will not again have to exercise the constitutional power under section 5, but if we do, I hope this measure will help us carry out our duties in a fair and equitable manner with greater speed and less expense.

By Mr. CHURCH (for himself and Mr. McClure):

S. 3542. A bill to authorize the Secretary of the Interior to make compensation for damages arising out of the failure of the Teton Dam, a feature of the Teton Basin Federal reclamation project in Idaho, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

RELIEF FOR INJURED PARTIES OF THE TETON DAM FLOOD

Mr. CHURCH. Mr. President, I am joining my colleague, Senator McClure, in introducing legislation to authorize the Secretary of the Interior to provide direct relief to citizens and private and public entities for damages caused by flooding which resulted from the failure of the Teton Dam.

The rupture of this dam is a tragic and devastating calamity for Idaho and its citizens. I can only say, having viewed the devastation firsthand, that the loss of life, injury to persons, and damage to property is extensive. While I have no doubts that Idahoans will rebuild their homes and towns and farms as quickly as possible, I am equally convinced that those who have suffered this great loss need the immediate assistance of all the American people in order to recover.

In more than 74 years the Bureau of Reclamation has never experienced the failure of a Federal dam. The Teton Dam tragedy is without precedent. Under circumstances of this nature, where areas have been hit by disaster, the usual mode of Federal assistance is to provide grants-in-aid for relieving immediate needs like temporary housing, food, and clothing. But, when it comes to rebuilding, resettling, starting anew, our domestic relief programs offer eligible disaster victims low-interest Federal loans.

Where natural disasters have occurred, be it hurricanes, floods, or tornadoes, I believe our disaster relief programs are adequate.

The failure of Teton Dam, however, is significantly different for this tragedy is distinguished by the fact that damage was caused by a federally sponsored project.

The purpose of this measure is to provide the Federal Government with authority to respond adequately to this precedent-setting situation. This act, without assigning ultimate responsibility for the dam's failure and without asserting liability on any party's part, merely seeks to assure rapid and responsive relief to those victims of the flood in Idaho.

To offer a flooding victim the opportunity to acquire low-interest loans when the Federal Government must, by the very nature of the project, share primary responsibility, is totally absurd. No citizen damaged by this flood should have to live for years under the financial burden of a manmade catastrophe. This legislation would authorize the Secretary to review claims and make direct payments to those parties whom he finds to be eligible for such relief. It is my expectation, and the legislation so intends, that granting of this authority will provide expeditious relief to the victims of this catastrophe without forfeiting the rights of any party to any legal causes of action unless otherwise agreed to.

As chairman of the Subcommittee on Energy Research and Water Resources, to which this bill will be referred, I intend to schedule hearings as soon as possible. While this measure should be considered a draft, Senator McClure and I are introducing it at this time in order that the discussion on this type of relief might begin immediately. I expect changes will be made as the dimensions of the problem are better evaluated and as technical questions are studied. In addition, although I hope that coverage of this bill will be all-inclusive, and will totally compensate any person suffering losses.

Finally, while the estimates of damages are still rather sketchy, I fear that the flood has wreaked extensive damage to Idaho's agricultural base. I am hopeful the losses to our agricultural productivity are not permanent although I know that many thousands of acres of prime farmland have been innundated. The surging flood has also destroyed numerous irrigation works far downstream from the dam break. These works must be repaired immediately in order to minimize losses of agricultural productivity throughout the coming growing season. This bill provides for this needed repair work.

I have no anxiety that Idahoans will allow this disaster to defeat them; the pioneer spirit is too much a part of their heritage.

I ask the Senate to give this measure immediate and favorable consideration. As much as this proposed action is a beneficient gesture on the part of all the American people, its passage is also a responsibility which the Federal Government must share as the result of a Federal undertaking.

I might also add that I have conferred with the Honorable Cecil Andrus, Governor of the State of Idaho about this legislation. While the Governor has not yet had an opportunity to consider the specific provisions of this proposal, he has indicated that he endorses the bill's objective. The Governor shares our deep concern that Idahoans injured by this dam failure should receive full and prompt compensation.

Mr. McCLURE. Mr. President, my colleague and I are introducing legislation today which will provide full compensation for the victims of the Teton Dam disaster in Idaho. Last Saturday the Teton Dam, a Federal Government structure, burst sending 15-foot walls of water which destroyed everything in its path. Damage is so extensive that it is still impossible to assess the damage done. We do know that so far 9 are dead, 522 are injured, and around 50 are missing. Over 825 homes are totally destroyed and approximately 3,000 homes are damaged. It is estimated that over 80,000 acres of rich farmland were flooded and irrigation systems servicing over 400,000 additional farming acres are destroyed.

These people are not victims of a natural disaster but of a Government structure that failed.

This bill provides just compensation for the personal injuries and deaths as well as the loss and damage to property. This legislation is necessary so that Idahoans will receive just compensation and thus allow them to return as soon as possible to productive, self-sufficient lives. The Secretary of the Interior, is designated as the administrator of damage claims while the laws of the State of Idaho will govern the measure of damages. This bill does not ask for special privileges for the people of Idaho but insures simple justice for the victims of this tragedy. The compensation is limited to the actual damage suffered.

We have not proposed a complicated piece of legislation. It merely provides for a prompt settlement and directs swift action by the administrative agencies. Timely action on the bill provides not only the compensation to the people of Idaho but is in the best interest of the American taxpayer and the Federal Government. Any delay now increases the chances of further losses in the area. A prime concern now is that over 400,000 acres of irrigated farmland will be lost to production within 10 days unless irrigation systems can be restored.

Again, this bill is not a Government subsidy, a charity, nor a special benefit but simply returns to the people of the area that which was taken from them as the result of a Federal project. I ask unanimous consent to have printed in the Record just three of hundreds of newspaper articles which tell the story of this disaster. These articles are typical of the news accounts which relate the story of human suffering and loss encountered of the residents of the Upper Snake River Valley in eastern Idaho.

There being no objection, the articles were ordered to be printed in the Record, as follows:

[From the Times News, June 6, 1976]

Thirty Thousand Idahoans Mop Up After Teton Dam Flood

Rexburg.—The newly constructed Teton Dam in eastern Idaho collapsed in a roar of mud and swirling water Saturday, flooding an estimated 30,000 Idahoans out of their homes.

As residents of Rexburg, Sugar City, Teton, and other communities surveyed the damage this morning, no exact count of casualties was available.

However, an official of the Bonneville County sheriff's office in Idaho Falls said late Saturday he feared 150 people may have died in what may prove to be the worst disaster in Idaho history.

Completed only six months ago, the Teton Dam cost $55 million. Environmentalists opposed construction of the dam for years saying it would harm fish and wildlife populations in Eastern Idaho.

A huge lake, 8 miles wide and 25 miles long covers an area in Madison County around Rexburg this morning.

The towns of Sugar City and Teton, both with populations under 500, were the hardest hit by the flooding waters from the burst dam.

Rexburg, with a population over 10,000, also was extensively damaged by the flooding Teton River.

Authorities feared the death toll from the broken dam could be high because many people underestimated the severity of the flood.

Upon hearing of the break residents of some eastern Idaho towns went down to the banks of the Snake and Teton Rivers for a better look at the rising waters.

Many of these sightseers are believed now to be victims.

Residents of the towns of Ririe, Teton, Rexburg, Menan, St. Anthony and Sugar City were evacuated. Many persons were seen sitting on the rooftops of their homes. Cattle were seen struggling for survival in the water.

Ted Austin, owner of radio station KIGO at St. Anthony, said there first was a hole 10 feet in diameter in the lower north end of the dam. He quoted sources as saying a "ground shift" caused a fissure.

At 11:30 a.m. the entire north side of the dam went out, Austin said, and by 2 p.m., when he left the area, the dam was "virtually destroyed."

"It's destroying everything in its path," State Trooper Duane Sammons said. "Several hundred vehicles were swept away, and I feel sure there are people who have drowned. The dam totally gave way and the water is still moving south."

Idaho Gov. Cecil D. Andrus declared a state of emergency and asked President Ford for immediate assistance.

"I have personally viewed the destruction and am overwhelmed by the size and scope of the disaster," Andrus said in a wire to the President.

Floyd Hahn, Rigby, owner of the Queen Bee, Inc., Flight School, flew over the stricken area and reported, "It's the biggest mess you ever saw. Cattle, houses, barns and trees are floating everywhere. It's a disaster.

The Teton Dam, owned by the U.S. Bureau of Reclamation and built for irrigation, power and flood control purposes, had a crest length of 2,500 feet, rose 315 feet above the riverbed and had a reservoir capacity of 315,000 acre feet. It was filling for the first time this year and was nearly full when it burst.

Many farmers tried to truck out their livestock ahead of the advancing waters despite pleas from law enforcement authorities to save themselves and forget about the cattle.

National Guardsmen were called up to battle the flood and assist evacuees. Red Cross units set up temporary shelters, providing food and needed clothing.

State police closed all roads leading north of Idaho Falls.

Idaho Water Resources Director Keith Higginson said "it is hard to believe that this happened."

"It's inconceivable that such dams would fail because of design and safety factors built into them," he said.

Bureau of Reclamation officials said they expected American Falls Dam to halt the surging waters and bring them under control during the night.

They said they suspected that lowland areas as far downstream as Blackfoot and Rose might suffer flooding.

Leo Busch, newly appointed river operations officer for the bureau, questioned the ability of Blackfoot area dikes to withstand the flood waters.

William Schafer, plant superintendent at Minidoka Dam, said the bureau has "never experienced anything of this nature on routing a big flood of this size."

Both Schafer and Busch said they did not expect more than 100,000 acre-feet of water in the American Falls Reservoir. They said extra water would not raise the water level above levels two weeks ago.

Carlos Randolph, bureau superintendent in Burley, said the bureau was doing "everything we can to slow it down."

Water flow to Palisades Dam was partially cut off and flow to Island Park Dam cut off completely. Both dams are above the mouth of the Teton River.

The bureau opened the gates at American Falls Dam and lowered the water level in Lake Walcott at Minidoka Dam. The gates at Milner Dam were also wide open.

Randolph alerted sheriff's departments along the Snake River and broadcast radio warnings for people to stay away from the river because of the anticipated sudden fluctuations in water levels during the 24 hours to end sometime this evening.

[From the Times News, June 7, 1976]

Valley Residents Join Aid Efforts

(By Ken Hodge)

Magic Valley.—Magic Valley residents joined the efforts of the Red Cross, The Salvation Army, the Mormon Church, and state and federal agencies to provide relief to victims of the Teton Dam disaster.

"We were called about 11:30 Saturday night and asked to take our vehicles over there (to Idaho Falls)", Mrs. Len Blix, commanding officer of the Twin Falls Salvation Army, told the Times-News.

"We left about 2 o'clock Sunday morning and took 8 cases of disposable diapers, 6 cases of canned baby formula and 14 cases of baby food with us to the disaster area," she said. "We left our vehicles there for them to use."

Mrs. Blix asked that any donations of clothing and other supplies be made directly to the Salvation Army Store on 2nd Avenue East, because the Salvation Army is without vehicles to make pick ups at the drop boxes around town.

"We are stockpiling blankets," Mrs. Blix added. "There is a need for blankets over there. And we are ready to send any clothing necessary."

Officials in the area have asked that supplies be sent through the proper channels and not at random, Mrs. Blix said.

Irene Basom, manager of the Twin Falls chapter of the American Red Cross, said, "I am taking names and telephone numbers of aid that is available and any help that is needed. The last of the week we will be going to the area with needed supplies."

Mrs. Basom said that 27 emergency shelters are operating in the area and also cautioned against sending supplies that are not needed. "They (Red Cross officials) said to hold off until they let us know."

Garth Eames, Rupert, stake president in charge of welfare operations the seven Magic Valley LDS Stakes, said, "They (church officials coordinating the relief effort) have told us not to do anything but just to make contributions to help."

Both Eames and David Carter, Twin Falls stake president, said that the church storehouses are readying emergency food supplies to be taken to the area when the need is assessed.

Eames said the Desert Industries in Idaho Falls has not been damaged and will provide assistance. And the Mormon Church in Salt Lake City has already sent two truckloads of supplies to the disaster area.

"We are getting our people alerted to help," Eames said. "One scout troop in this area, instead of going to camp this summer, is planning to go up there and help to clean up."

Eames also cautioned against taking unnecessary supplies to the disaster area. "Large truckloads of stuff that is not needed is being taken up there," he said.

[From the Times News, June 7, 1976]

If Man Sees "Farm Sink"

(By Bob Zuckerman)

Idaho Falls.—John A. Gay watches hopelessly from a road on high land as flood water laps at the sides of his farmhouse about 50 yards away. Wearing blue overalls and a mechanics hat, the part-time farmer, in his 40s, shakes his head and says, "I'm just sitting here watching my farm sink."

Already the water has submerged much of his property, making his half-covered barn look like a small dog house and trees three-fourths submerged look like big bushes on the water.

Gay is just one of an estimated 1000 farmers to lose livestock and crops after the Teton Dam burst. The earthen dam broke Saturday, sending about 300,000 acre feet of water roaring down the Teton River into the Snake River.

Gay's farmhouse and yard are located on a 300-acre island in the Snake a little more than 30 miles downstream from Teton. His family and nine others lived in houses on the island about 10 miles north of Idaho Falls. Now most of the families are homeless, he says.

In addition, the flood swept over Gay's 40 acres just east of the Snake where he was raising hay. He says in about two weeks the hay would have been ready to cut. "Now there's been a slight delay," he says.

Gay estimates his losses at from $30,000 to $50,000, including one crop of hay, water damage to his home and machinery, and five sheep and 40 to 50 hogs that drowned in the flood.

The water started rising Sunday morning, according to Gay. He says it rose 15 feet in less than five hours.

He points to the front of his house. A bridge near it once ran from the island to the west bank of the river, he says.

"The flood washed it away."

Then he points to another bridge which once crossed the Snake just south of his home. "That's the only way to get my farm equipment to my land on the east side of the river," he says. "And right now the machinery's all over here."

Gay's three dogs sniff at the water rising slowly onto the road.

Wet field mice scurry across the road searching for dry land that isn't there. "Mice are coming out of here by the hundreds," Gay says. "I pity the things."

A National Guard helicopter flies low over the area, searching for persons unlucky enough to be stranded on top of houses how half submerged.

One of Gay's friends cruises up in a car along the high road. "Hey, John. How are things going?"

"Not so good," Gay says.

"Yeah, I guess you got a little problem," says Gay's friend, surveying the damage.

"Yes, I've got a problem. It's called too much swimming pool."

The jokes continue.

"Yeah, you might say I got a little more irrigation than I wanted," he says. "I guess my voodoo didn't work."

The only object that can be seen above the waterline in front of Gay's house is the top of his mailbox. "They'll have to deliver the mail in a boat," Gay says.

A mechanical engineer for Westinghouse during the day, Gay points to a partially submerged antique green tractor near the side of his house. He says he was going to enter the 1944 Model D John Deere tractor in the Idaho Falls Fourth of July Parade. Now he doesn't know whether he can get the machine dried and fixed by parade time.

The water level probably won't go down for at least another day, Gay says, adding the mud won't be dry for almost two weeks after that.

Already signs of resentment can be seen in Gay. "You can be sure I'm going to sue someone, but I don't know who it will be."

Gay says the farmers from his area will no doubt file one suit. "I don't know. We'll just have to wait and see what federal investigations of the dam break says.

"If the federal government's involved we may never find out whose fault it is," he says. "But I've been around earth dams before, and I know they don't break unless you get an earthquake, or someone screws up somewhere."

Gay says that if the flood hadn't occurred he "would have paid off his house and property in another 10 years." He says he's paid half the mortgage already. But now he says he doesn't know if he'll ever get everything paid off.

Gay has a wife and six children, five girls, and one boy.

His wife, Janice, says that if the police had told them the flood was going to be as bad as it was, the Gays might have been better prepared.

"They were trying so hard not to alarm anybody, they didn't get the real picture across," she says. "If they had said 15 feet, we could have hustled and bustled."

Gay says the police told them to evacuate about 5 p.m. Saturday night, but "they didn't say it would be this bad."

If the water hadn't risen the last 6 inches, Gay says he might have been able to save some of the hogs. "But now it's too late," he says. They like to wallow, but they can't do it forever."

ADDITIONAL COSPONSORS

S. 1153

At the request of Mr. Mondale, the Senator from South Dakota (Mr. McGovern) was added as a cosponsor of S. 1153, the Truth in Contributions Act.

S. 1173

At the request of Mr. Curtis, the Senator from California (Mr. Cranston) was removed as a cosponsor of S. 1173, to amend the Internal Revenue Code of 1954.

S. 2475

At the request of Mr. Curtis, the Senator from Illinois (Mr. Stevenson) was added as a cosponsor of S. 2475, a bill to modify the distribution requirements of private foundations under section 4942 of the Internal Revenue Code.

S. 3151

At the request of Mr. Robert C. Byrd, the Senator from Michigan (Mr. Philip A. Hart) and the Senator from Colorado (Mr. Haskell) were added as cosponsors of S. 3151, the Multinational Business Information Act of 1976.

S. 3182

At the request of Mr. Taft, the Senator from Georgia (Mr. Talmadge) was added as a cosponsor of S. 3182, to amend the Occupational Safety and Health Act of 1970.

S. 3379

At the request of Mr. Robert C. Byrd, the Senator from Connecticut (Mr. Ribicoff) and the Senator from Oregon (Mr. Hatfield) were added as cosponsors of S. 3379, the International Contributions, Payments, and Gifts Disclosure Act.

SENATE RESOLUTION 460—SUBMISSION OF A RESOLUTION RELATING TO THE EQUITABLE ALLOCATION OF NORTH SLOPE AND OTHER CRUDE OIL RESOURCES

(Referred to the Committee on Interior and Insular Affairs.)

Mr. MANSFIELD (for himself, Mr. Metcalf, Mr. Burdick, Mr. Young, Mr. Church, Mr. Proxmire, Mr. Nelson, and Mr. Humphrey) submitted the following resolution:

S. Res. 460

Whereas under Section 410 of Public Law 93–153 the "Congress declares that the crude oil on the North Slope of Alaska is an important part of the Nation's oil resources, and that the benefits of such crude oil should be equitably shared, directly or indirectly, by all regions of the country"; and

Whereas Section 410 of Public Law 93–153 also provides that the "President shall use any authority he may have to ensure an equitable allocation of available North Slope and other crude oil resources and petroleum products among all regions and all of the several states"; and

Whereas it is essential to maintain a viable crude oil refining industry in the "Northern Tier states" of the United States: Now, therefore, be it

Resolved, that it is the sense of the Senate that the President should immediately exercise the authority vested in him by law to carry out the intent and purpose of Section 410 of Public Law 93–153 by allocating an equitable share of North Slope and other crude oil resources and petroleum products to the Northern Tier region of the United States.

Mr. MANSFIELD. Mr. President, I submit for appropriate reference a resolution to express the sense of the Senate with respect to the equitable allocation of North Slope and other crude oil and petroleum products to the Northern Tier region of the United States.

It is highly important that new crude oil supplies be brought into the Northern Tier region as soon as possible if a viable crude oil refining industry, so vital to this region, is to be maintained. Refineries in the region depend wholly or partially on Canadian crude. Canada is presently curtailing exports and will eliminate all exports to the United States by 1981. The elimination of Canadian crude, if not promptly replaced by other sources will mean economic hardships for every farmer, merchant, business, and individual in the Northern Tier States.

Until 1975, Canada was selling the United States approximately 1 million barrels of crude oil per day. This volume was shared by refineries in the Northern Tier States, Puget Sound, the Rocky Mountains, the twin cities of Minneapolis and St. Paul, and other Midcontinent areas.

After the 1973 oil embargo and the worldwide increase in crude price, the Canadian Government adopted a policy of self-sufficiency by curtailing both imports and exports. Total phaseout of imports and exports was scheduled to be completed by 1983.

In November 1975, Canada announced that the United States would receive only 510,000 barrels per day starting January 1, 1976, and that this volume would be reduced to 385,000 barrels per day later in the year. Furthermore, the date for elimination of all Canadian exports to the United States was accelerated from 1983 to 1981.

This means that those Northern Tier refineries now dependent on Canadian crude may only have enough crude oil to carry them through this year, and little or none will be available for refineries which do not have an alternate source of supply for their operating requirements. An oil shortage thus faces a wide region unless new supplies of crude oil become available.

An added problem in parts of this region is its dependence on Canadian natural gas. Canada has also announced that it plans to curtail exports of gas to the United States. This will greatly increase the demand for fuel oil, thus accentuating the gap between supply and demand in the regions.

It is my understanding that the Federal Energy Administration is presently conducting a study as suggested by the distinguished Senator from Minnesota, Mr. Mondale, to determine the most feasible and economic method of supplying crude oil to the Northern Tier region. It is also my understanding that with the completion of the trans-Alaskan pipeline and the beginning of production of the Elk-Hills Naval Petroleum Reserve, there will be a substantial surplus of crude oil on the west coast. It seems to me the time is at hand for steps to be taken to provide for those sections of the country that are facing immediate and disastrous shortages of crude oil and petroleum products.

Mr. HUMPHREY. Mr. President, I am pleased to cosponsor and I offer my support for the resolution proposed by my good friend, Senator Mansfield, expressing the sense of the Senate with respect to the equitable allocation of North Slope crude oil to the Northern Tier region of the United States.

I have been following closely the Northern Tier oil situation, a situation primarily involving that region's efforts to find the most efficient, reliable means to replace Canadian crude oil. As my colleagues know, Canada has determined to rest a major portion of her domestic energy independence efforts on a reduction in oil exports. Their intention, specifically, is to phase out essentially all such exports by 1981.

The Northern Tier States of Washington, Idaho, Montana, North and South Dakota, Minnesota, and Wisconsin are most directly impacted by this policy. If refineries in these States are to remain open, new oil supplies to replace these Canadian exports must be located. Means of transporting these new supplies must be developed, also, and this is, to my mind, the far more difficult problem.

The resolution urges that the Northern Tier States be allocated sufficient oil—from anywhere—to replace declining Canadian flows. I support that suggestion should such allocations be the only feasible means to assure the Northern Tier of economically priced crude oil.

As I have just indicated, the more difficult problem is how to transport replacement oil from anywhere to the Northern Tier. The only pipeline system now serving that region can be used currently only to supply more Canadian oil. So, new pipelines must be developed. The Federal Energy Administration is vigorously focusing on this question and should have some answers for the Congress shortly. Until then, it is certainly appropriate that involved refineries and others evaluate the full range of possible solutions.

AMENDMENTS SUBMITTED FOR PRINTING

FOREIGN MILITARY SALES ACT—S. 3439

AMENDMENTS NOS. 1789 AND 1790

(Ordered to be printed and to lie on the table.)

Mr. ALLEN submitted two amendments intended to be proposed by him to the bill (S. 3439) to amend the Foreign Assistance Act of 1961 and the Foreign Military Sales Act, and for other purposes.

TAX REFORM ACT—H.R. 10612

AMENDMENT NO. 1791

(Ordered to be printed and referred to the Committee on Finance.)

Mr. TAFT submitted an amendment intended to be proposed by him to the bill (H.R. 10612) to reform the tax laws of the United States.

EXPORT ADMINISTRATION ACT EXTENSION—S. 3084

AMENDMENTS NOS. 1792 THROUGH 1797

(Ordered to be printed and to lie on the table.)

Mr. TAFT submitted six amendments intended to be proposed by him to the bill (S. 3084) to extend the Export Administration Act of 1969, as amended.

CLEAN AIR AMENDMENTS OF 1976—S. 3219

AMENDMENTS NOS. 1798 AND 1799

(Ordered to be printed and to lie on the table.)

Mr. RANDOLPH submitted two amendments intended to be proposed by him to the bill (S. 3219) to amend the Clean Air Act, as amended.

EXTENSION OF THE FEDERAL ENERGY ADMINISTRATION ACT—S. 2872

AMENDMENT NO. 1801

(Ordered to be printed and to lie on the table.)

Mr. KENNEDY (for himself, Mr. Jackson, Mr. Magnuson, Mr. Proxmire, Mr. Hollings, Mr. Glenn, Mr. Clark, Mr. Gravel, Mr. Hartke, Mr. Haskell, Mr. Humphrey, Mr. Javits, Mr. Leahy, Mr. Metcalf, Mr. Mondale, Mr. Packwood, Mr. Pell, and Mr. Tunney) submitted an amendment intended to be proposed by them, jointly, to the bill (S. 2872) to amend the Federal Energy Administration Act of 1974 to extend the expiration date on such law until September 30, 1979, and for other purposes.

AMENDMENT NO. 8102

(Ordered to be printed and to lie on the table.)

Mr. KENNEDY (for himself, Mr. Magnuson, Mr. Hollings, Mr. Glenn, Mr. Clark, Mr. Gravel, Mr. Hartke, Mr. Humphrey, Mr. Javits, Mr. Leahy, Mr. Metcalf, Mr. Mondale, Mr. Packwood, Mr. Pell, and Mr. Tunney) submitted an amendment intended to be proposed by them, jointly, to amendment No. 1801 intended to be proposed to the bill (S. 2872), supra.

Mr. KENNEDY. Mr. President, I am submitting two amendments to S. 2872, the Federal Energy Administration extension legislation, that would, if adopted, commit the Federal Government, working cooperatively with State governments, to a far more active and meaningful effort to achieve greater efficiency in the use of energy in new and existing residential and nonresidential buildings, small businesses, and in industrial buildings and manufacturing processes. This amendment is cosponsored by Senators Jackson, Magnuson, Proxmire, Hollings, Glenn, Clark, Gravel, Hartke, Haskell, Humphrey, Javits, Leahy, Metcalf, Mondale, Packwood, Pell, and Tunney.

In introducing S. 2932—the Energy Conservation Act of 1976—last February 5, I noted that a serious national commitment to energy conservation is the essential next step in fashioning a workable and effective national energy policy for the United States. Moreover, greater energy efficiency is the only realistic way in the next few years that we can stem the tide of increasing oil imports and bring some economic relief to millions of our citizens who still struggle with the vastly increased costs of energy.

Today, some 4 months later, the need for conservation legislation is even more clear. Energy demand has been rising sharply in the last several months as the country pulls out of the recession of 1974–75. Domestic production of petroleum continues its downward trend. Unless we invest in conservation measures, our energy inefficient homes, office buildings, and factories will waste increasingly large amounts of energy in the coming years and imports of oil from insecure sources will continue to grow.

The legislative process in the Senate has responded to the urgent need for energy conservation legislation. In the past 4 months since the Energy Conservation Act of 1976 was introduced, it has been the subject of intensive committee consideration.

Hearings on S. 2932 have been held by the Senate Commerce, Interior and Banking Committees. The Subcommittee on Energy which I chair of the Joint Economic Committee has also held 5 days of hearings on the need for a much greater national effort to conserve energy through increased efficiency.

A modified version of S. 2932, incorporating many useful suggestions of individuals, private organizations and Federal agencies, was ordered reported favorably by the Senate Committee on Commerce on May 4; it was subsequently reintroduced as a clean bill, S. 3424, and is now on the Senate calendar.

In addition to the formal hearings, many meetings took place with private organizations, the National Governors' Conference staff, Federal agencies, and nongovernmental experts.

As a result of these hearings and action by the Committee on Commerce, the staffs of the Commerce, Interior and Banking Committees, working with my staff, were directed to draft a revised version of S. 3424 incorporating suggestions of members of all three committees.

The amendment to S. 2872 that I am submitting today incorporates the results of this collaborative effort. It combines, in a single package, the provisions of H.R. 8650, the Energy Conservation and Insulation in Buildings Act of 1976, and, in a somewhat modified form, the provisions of S. 3424. This linkage of the two bills provides a comprehensive program of energy conservation for new housing, existing housing, and low-income housing.

H.R. 8650, which was passed by the Senate on March 9, 1976 and is currently in conference with the House, provides financial assistance to allow low-income persons to weatherize their homes and it provides for the establishment of energy performance standards for new residential and commercial buildings.

S. 3424, its natural complement, is designed to encourage and facilitate energy conservation in existing housing, nonresidential buildings, and small businesses. It calls upon the States to draw up detailed programs for informing and educating the general public on the economic benefits of greater energy efficiency and to establish safeguards against consumer fraud and misrepresentation in the installation of home insulation and other energy conserving materials. It also provides for energy conservation loan subsidies under the FHA home improvement loan program and the Small Business Administration loan programs.

These energy conservation investments are highly cost-effective. The average homeowner will be able to repay the loan out of the savings from reduced energy bills; once the loan is repaid, the energy conservation investments will continue to yield dividends for many years to come.

The Nation also benefits from the reduction in oil imports that will be achieved—estimated to be in the neighborhood of 1 million barrels of oil equivalent per day, an amount more than the initial flow of the Alaska pipeline. It is estimated that the $7 billion in private investments stimulated over the 3-year life of the program will create about 200,000 jobs.

Federal expenditures authorized by this amendment will total $890 million for 3 years. The following table provides a breakdown of these outlays and I ask unanimous consent that the table be printed at this point in the Record.

There being no objection, the table was ordered to be printed in the Record, as follows:

Anticipated costs

[In millions of dollars]

	Fiscal year 1977	Fiscal year 1978	Fiscal year 1979
I. Performance standards for new buildings	5	---	---
II. Conservation in existing buildings	---	---	---
Part A: Assistance for low-income persons	55	65	80
Part B: Grants for State programs	25	50	50
Part C: Assistance for homeowners	100	200	200
Part D: Assistance for small business concerns	20	20	20
Total	205	335	350

Mr. KENNEDY. Mr. President, it must be emphasized that if the energy saved through this amendment was replaced by additional domestic production, the direct cost to the Nation would be approximately twice as large, if indeed this additional domestic production could be achieved at any cost. Also, the savings through energy conservation can be made in much less time than it is possible to achieve a comparable increase in energy production.

Finally, increasing available supplies of energy through greater efficiency avoids the difficult environmental problems that are almost always associated with expanding energy production from natural resources.

By any standard of measurement, energy conservation is a bargain—to the individual homeowner or small business owner, as well as to the Nation.

The second amendment I am introducing, which amends the first amendment, contains, in modified form, the obligation guarantees section of S. 3424 designed to promote energy conservation investments in nonresidential buildings, public and private buildings, and industrial plants. This amendment is cosponsored by Senators Magnuson, Hollings, Glenn, Clark, Gravel, Hartke, Humphrey, Javits, Leahy, Metcalf, Mondale, Packwood, Pell, and Tunney.

Industrial energy conservation is one of the most potentially productive areas for large energy savings. Industry accounts for over 40 percent of all energy used in the United States—the equivalent of 15 million barrels of oil per day. The Federal Energy Administration estimates that conservation investments, such as encouraged by this amendment, could drastically cut future requirements—in the neighborhood of 2.5 million barrels of oil equivalent per day.

While some energy savings investments are being made by industry without any governmental stimulus, the FEA reports that the bulk of the energy savings potential will not be realized without additional incentives. Although many energy conservation investments are clearly cost-effective—that is, they more than pay for themselves over the life of the equipment—the savings from reduced energy consumption are often not large enough, in themselves, to justify the investments in comparison to other opportunities available to the corporation or business. More concretely, corporations routinely require an annual return on investment of 20 to 30 percent, or higher. Due to these competitive factors, many energy conservation investments that would be of great value to the Nation are never made.

On the other hand, Federal obligation guarantees can increase the financial attractiveness of energy conservation investments in several important and cumulative ways: By reducing interest rates; by making possible a higher debt to equity ratio with respect to investments, thereby increasing the rate of return on the equity; and by making possible "off budget" financing for industries wishing to move forward with energy conservation investments.

The Federal guarantee of a loan, in itself, does not expose the Federal taxpayer to any liability. Liability only occurs if there is a default on the loan and if the property secured by the loan cannot be liquidated at a cost sufficiently high to cover that security investment.

As a practical matter, individual residential home improvement loans—guaranteed by the Federal Government—experience a default rate of about 2 percent. It is anticipated that an industrial energy conservation obligations guarantee program would not exceed this 2-percent default rate and, in fact, would probably be much less than 2 percent for three reasons: First, commercial enterprises approved by FEA to receive an energy conservation obligation guarantee would in most cases be more financially secure than individual homeowners; second, the value of the security interest that the Government would hold would usually be sufficient to repay the loan; and third, energy savings realized through the conservation improvements would provide financial resources to be applied to repayment of the loan.

This amendment stipulates that the Administrator of FEA cannot approve an obligation guarantee in the absence of an energy audit demonstrating the cost-effectiveness of the proposed investment. Also, the Administrator is prevented from approving the guarantee unless the eligible borrower, exercising reasonable judgment, would not make the investment without the guarantee. In other words, the guarantees would not be extended to investments that would otherwise be made. Moreover, the Federal guarantee cannot exceed 90 percent of the total investment.

This amendment limits Federal obligation guarantees to $2 billion in fiscal year 1977 and to an additional $2 billion in fiscal year 1978. Moreover, a limit of $60 million has been established for each fiscal year for the appropriation of funds to cover any potential defaults. At least 40 percent of funds authorized by this amendment are to be made available to support obligation guarantees for investments by any State, county, city, or privately owned nonprofit institutions, such as universities, to promote greater energy conservation. FEA reports that very extensive energy savings can be made in the public and private nonprofit sector, particularly in school buildings.

A great deal of effort has been expended to perfect this amendment. In my judgment, it now offers a sensible and responsible way to achieve, at a limited cost to the Federal Treasury, a wide range of energy conservation investments that otherwise would be lost. As a nation, we cannot afford to pass up the opportunity to achieve these substantial energy savings.

The staff has prepared a short memorandum outlining the benefits of obligation guarantees in stimulating greater energy conservation investments. I believe this memorandum would assist Senators in better understanding the reasons for supporting this amendment and I ask unanimous consent that the staff memorandum on "Loan Guarantees To Facilitate Industrial Energy Efficiency," be printed at this point in the Record.

There being no objection, the memorandum was ordered to be printed in the Record, as follows:

Loan Guarantees To Facilitate Industrial Energy Efficiency

BACKGROUND

On May 13, 1976, the Senate Committee on Commerce reported S. 3424, The Energy Conservation Act of 1976. The purpose of the legislation was to promote energy conservation by encouraging energy saving investments in homes, offices, and industrial plants. The encouragement of industrial energy conservation investments was to be accomplished by guaranteeing loans to owners of industrial plants, commercial buildings, corporations or subsidiaries of corporations, non-profit institutions, or other persons who intended to finance energy conservation measures identified pursuant to regulations of the Administrator of the Federal Energy Administration.

Following the reporting of S. 3424, a number of questions with respect to the loan guarantee provisions of the bill were raised. The following is a presentation of those issues and answers to them.

ISSUES

(1) Are loan guarantees needed to promote energy conservation in industry?

(2) Do loan guarantees by the federal government expose the government and American taxpayers to costs that are not justified on the bases of benefits to be derived by the Government and the American taxpayers?

(3) Assuming that loan guarantees are needed to promote energy conservation in industry and assuming that loan guarantees are justified under a cost-benefit test, are the political burdens of legislating a $4 billion dollar loan guarantee program too great to warrant the inclusion of such a program?

ANSWERS

(1) Are loan guarantees needed to promote energy conservation in industry?

Industry accounts for over 40% of all energy sources—the equivalent of 15 million barrels of oil per day. FEA estimates that conservation investments could drastically cut future requirements. Savings by 1980 could be the equivalent of 2.5 million barrels of oil per day.

While some energy savings investments will be made by industry without any governmental stimulus, the Federal Energy Administration reports that the bulk of the energy savings potential will not be realized without some stimulus. The FEA postulates several reasons for this. In the first place, direct financial savings to a firm resulting from energy conservation investments are often not high enough to justify the capital expenditure. For example, a million dollar investment by an industry may result in a $100,000 energy saving. But this 10% return on investment may not be high enough to justify the investment if the firm has alternative investment opportunities that promise it higher rates of return.

Because an industry has limited funds to invest, the managers of that industry often set target rates of return which are used to weed out investments that are relatively unattractive. Many energy conservation projects involve rates of return to the industry which are lower than the typical target rates of return required by managers.

However, energy conservation investments which are not sufficiently lucrative to an individual firm to be chosen over alternative projects may be so from a social point of view. Ways must therefore be sought to increase the attractiveness of conservation investments to the individual firm so as to more accuractely reflect society's perception of their value. Federal loan guarantees are an effective and relatively inexpensive means to this end.

If the federal government guarantees loans to finance industrial energy conservation investments, investments that would not be made without loan guarantees will be made. Loan guarantees can increase the financial attractiveness of energy conservation investments in several important and cumulative ways: 1) loan guarantees can reduce interest rates; 2) loan guarantees make possible a higher debt to equity ratio with respect to investments thereby increasing the rate of return on the equity investment; and 3) loan guarantees stimulate "off-budget" financing possibilities for industries wishing to take advantage of energy conservation investments.

(1) Lower interest rates—

Industrial concerns must pay interest rates depending on their credit rating that currently range from 8.5 percent to 10.5 percent. With a loan guarantee, loans can be obtained near the prime rate at about 8%. Thus, savings in interest costs could range from .5% to 2.5%. This interest rate reduction can increase the rate of return on some energy conservation investments to a point where industries would make such investments. Suppose an industry decided to make a million dollar energy conservation investment which would yield, over the life of the investment a return of $125,000 (12.5%) before amounts paid as interest for loans to make the investment are subtracted. Suppose further that .5 million dollars of equity had to be invested and .5 million dollars had to be borrowed, and that the corporation had to pay 10% interest for the half million dollars borrowed. A 10% interest rate on half million dollar investment would cost $50,000. (Assuming, for the sake of discussion. that the life of the investment was one year, a $50,000 interest payment when subtracted from $125,000 produces a net return of $75,000.) In contrast, an 8% interest rate would reduce interest payments to $40,000 producing a greater net return—$85,000. The $85,000 would amount to a 17% rate of return on a half million dollar equity investment as compared to the 15% rate of return were there no loan guarantee program. This difference could easily be enough for the industry to undertake the energy conservation investment.

(b) Leveraging of investment—

Using the example above of a 12.5% energy saving on a million dollar investment the loan guarantee would not only reduce the interest rate on the debt to be financed in order to accomplish the investment, it would also permit a corporation to deviate from the normal 50% debt and 50% equity ratio for investments. Since the amendment authorizes the government to guarantee 100% of the loan for 90% of the energy investment for a million dollar program the corporation would only have to put up $100,000 of equity and could finance 90% of the debt at the lower interest rate (8%).

Thus, for the $100,000 equity investment the return would be $125,000 minus the interest expense which would be the cost of $900,000 at 8% or $72,000. The net return on the $100,000 of equity investment would be $125,000 minus $72,000 or $53,000. This amounts to a 53% return on the $100,000 equity investment. This is of course an extreme example of the use of leverage and the high return reflects the risk to the company of assuming the large debt. Nevertheless it vividly demonstrates that the loan guarantee proposal, can change a marginally attractive investment into a very atttractive investment because of the lower interest rate and the ability to leverage it.

(c) Off budget financing—

Loan guarantees can magnify the advantages of highly leveraged financing by a third party investor who would lease the conservation investment to the industry. The availability of loan guarantees could enable companies which specialize in conservation to borrow the money (90% of the investment) for investment in energy saving equipment and then lease it to an industry. Without the loan guarantees, they may not be able to finance the investment with 90% debt and, even if they could get a 90% loan, the return on investment without the lower interest rate might not be high enough. If this approach were followed industry would not have to extend any equity and would pay only an operating expense (tax deductible) which would be lower than the energy savings. In addition to the benefits of a highly leveraged investment the conservation entity would have certain tax advantages to further reduce leasing costs. By affording the industry the choice of a simple reduction of expenses (and no debt) the loan guarantee incentive would make energy conservation investments attractive and available to capital-short industries.

(2) Do loan guarantees expose the Federal Government and the taxpayer to costs that are not justified when compared to benefits to be derived—

The federal guarantee of a loan per se does not expose the federal taxpayer to any liability. Liability only occurs if there is a default upon the loan and if the property secured by the loan cannot be liquidated at a cost sufficiently high to cover that security interest. For example, if the federal government guarantees 90% of a million dollar loan and the borrower pays off the loan, the cost to the federal government and the American taxpayer for the extension of that loan guarantee has been zero dollars. On the other hand, the theoretical exposure of the federal government would be $900,000 but the government stands to lose this amount only if (1) the default occurs the day after the loan guarantee is made and (2) the property secured by the loan has no value.

As a practical matter, under individual residential home improvement loans, the default rate is in the neighborhood of 2%. It is anticipated that an industrial energy conservation loan guarantee program would not exceed the 2% default rate and would probably be much less than 2% because commercial enterprises are generally more financially secure than individual homeowners and because of the value of the security interest that the government would hold in case of default. Therefore, under a loan guarantee program with a $4 billion obligational ceiling, the maximum cost to the federal government would be in the area of $100–120 million dollars, and would probably be far less.

It is necessary to compare this potential cost to the benefits to be derived from the incentives provided by a loan guarantee program in order to make a judgment as to whether a loan guarantee program should be enacted. The public benefits of a loan guarantee program that stimulates industrial energy conservation are substantial. Every barrel of oil per day that is saved, is a barrel that this country would not have to import. This would produce an economic savings to the ordinary consumer for the following reasons. Industry now pays less than $10 per barrel for crude oil but the import price for crude oil is well over $13. This decreases our exposure to political and economic blackmail. It also saves money for the nation because the investments to save energy cost less than $10 per barrel.

This bill will generate investments that will save about 1.0 million barrels of oil equivalent per day. The dollar savings to the economy would be about $1.0 billion annually.

There are other benefits to be derived from industrial energy conservation and investments. 1) To the extent that less energy is consumed in industrial processes, environmental degradation associated with such processes is minimized. 2) Strategic reserves that must be stockpiled while this country is dependent upon foreign sources of oil could be substantially reduced if the nation came closer to energy independence. This reduction in the strategic reserve would save substantial tax dollars. For example, a 90 day minimum stock pile to back up this oil otherwise imported would cost the government over $1 billion dollars. This compares to the loan guarantee program which has the potential of costing no more than $100–120 million dollars. And, of course, there is the benefit related to national security achieved by moving toward energy self-sufficiency.

Mr. KENNEDY. Mr. President, the decision to offer these two amendments to the FEA extension legislation reflects the obvious need to expedite passage of energy conservation measures in this session of Congress. Failure to move now will almost surely mean that another full year will pass before similar legislation is likely to come before both Houses of Congress. We cannot afford another year's delay if we hope to have any effective means for slowing the rising demand for energy in this country and for reducing our growing dependence on imported oil.

Both amendments have been the subject of hearings before the three committees to which the initial legislation, S. 2932, was referred. The views of the three committees have been carefully taken into account in drawing up the modified versions that will be offered to the FEA extension bill.

I strongly urge the support of my colleagues for both amendments. I also ask unanimous consent that the text of each amendment be printed at this point in the Record.

There being no objection, the amendments were ordered to be printed in the Record, as follows:

Amendment No. 1801

At the end of title II, add the following new titles:

TITLE III—ENERGY CONSERVATION STANDARDS FOR NEW BUILDINGS

SHORT TITLE

Sec. 301. This title may be cited as the "Building Energy Conservation Standards Act of 1976".

FINDINGS AND PURPOSE

Sec. 302. (a) The Congress finds that—

(1) large amounts of fuels and energy are consumed unnecessarily each year in heating, cooling, ventilating, and providing domestic hot water for newly constructed residential and commercial buildings because such buildings lack adequate energy conservation features;

(2) Federal policies and practices contribute to this condition, which the Nation can no longer afford in view of its current and anticipated energy shortage, by providing, without regard to energy considerations, Federal construction aids directly such as through loans or grants and indirectly through financing from federally approved, regulated, or insured financial institutions;

(3) failure to provide adequate energy conservation measures in newly constructed buildings increases long-term operating costs that may affect adversely the repayment of and security for loans made, insured, or guaranteed by Federal agencies or made by federally insured or regulated instrumentalities; and

(4) State and local building codes or similar controls can provide an existing means by which to assure, in coordination with other building requirements and with a minimum of Federal interference in State and local transactions, that newly constructed buildings contain energy conservation features.

(b) The purposes of this title, therefore, are to—

(1) redirect Federal policies and practices so that Federal financial assistance for construction purposes is provided only under conditions which assure that reasonable energy conservation features will be incorporated into new buildings receiving such assistance;

(2) provide for the development and implementation as soon as feasible of performance standards for new residential and commercial buildings which are designed to achieve the maximum practicable economies in fuels and energy consumption within reasonable cost levels; and

(3) encourage States and local governments to adopt and enforce such standards through their existing building code and other construction control mechanisms.

DEFINITIONS

Sec. 303. As used in this title, the term—

(1) "Secretary" means the Secretary of Housing and Urban Developmenet;

(2) "Administrator" means the Administrator of the Federal Energy Administration;

(3) "building" means any structure to be constructed which includes provision for a heating or cooling system, or both, or a hot water system;

(4) "residential building" means any building developed for residential occupancy, substantially on a year-round basis, for one or more persons or families;

(5) "commercial building" means any building developed for use other than residential occupancy, including buildings developed for industrial or public use;

(6) "Federal building" means any building to be constructed by or for the use of any Federal agency which is not legally subject to State or local codes or similar requirements;

(7) "unit of general local government" means a city, county, town, municipality, or other political subdivision of a State or any combination thereof, which has a building code or similar jurisdiction over a particular area;

(8) "Federal agency" means any department, agency, corporation, or other entity or instrumentality of the executive branch of the Federal Government, and includes the United States Postal Service, the Federal National Mortgage Association, and the Federal Home Loan Mortgage Corporation;

(9) "financial assistance" means any form of loan, grant, guaranty, insurance, payment, rebate, subsidy, or any other form of direct or indirect Federal Assistance, other than general or special revenue sharing or formula grants made to States;

(10) "Federal instrumentality responsible for the supervision, approval, regulation, or insuring of banks, savings and loan associations, or similar institutions" means the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Comptroller of the Currency, the Federal Home Loan Bank Board, the Federal Savings and Loan Insurance Corporation, and the National Credit Union Administration;

(11) "State" includes each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the United States territories and possessions;

(12) "performance standard" means a goal or goals to be met without the specification of the methods, materials, and processes to be employed in achieving that goal, but including statements of the requirements, criteria and evaluation methods to be used, and any necessary commentary; and

(13) "building code" means a legal instrument which is in effect in a State or unit of general local government, the provisions of which must be adhered to if a building is to be considered to be in conformance with law and suitable for occupancy and use.

PROMULGATION OF MINIMUM ENERGY CONSERVATION STANDARDS

Sec. 304. (a)(1) As soon as practicable, but in no event later than 3 years after enactment of this title, the Secretary, only after consultation with the Administrator, the Secretary of Commerce utilizing the services of the Director of the National Bureau of Standards, and the Administrator of the General Services Administration, shall develop and publish in the Federal Register for public comment proposed performance energy conservation standards for new commercial buildings. Performance standards shall be developed and promulgated within 6 months after publication of the proposed standards, and shall become effective within a reasonable time, not to exceed 1 year after promulgation, as specified by the Secretary.

(2) As soon as practicable, but in no event later than 3 years after enactment of this title, the Secretary, only after consultation with the Administrator and the Secretary of Commerce utilizing the services of the Director of the National Bureau of Standards, shall develop and publish in the Federal Register for public comment proposed performance energy conservation standards for new residential buildings. Performance standards for such buildings shall be promulgated within 6 months after publication of the proposed standards, and shall become effective within a reasonable time, not to exceed 1 year after promulgation as specified by the Secretary.

(b) All standards promulgated pursuant to this section shall take account of, and make such allowance as the Secretary determines appropriate for, climatic variations among the different regions of the country.

(c) The Secretary, in consultation with the Administrator, the Secretary of Commerce, the Administrator of General Services, and other Federal officials, as appropriate, shall periodically review and provide for the updating of standards promulgated pursuant to this section.

(d) The Secretary, if he finds that the dates otherwise specified in this section for publication of proposed or promulgation of final performance standards under subsection (a)(1) or (a)(2) cannot practically be met, may extend the time for such publication or promulgation, but no such extension shall result in a delay of more than 6 months in promulgation.

INCORPORATION OF STANDARDS IN STATE AND LOCAL CODES

Sec. 305. (a) No Federal officer or agency shall approve any financial assistance for the construction of any building in an area of a State unless the State has certified that the unit of general local government having jurisdiction over such area has adopted and is implementing a building code or similar requirement which meets or exceeds the minimum standards promulgated pursuant to section 304 of this title, or unless the State certifies that a State code or requirement providing for the enforcement of such standard or standards has been adopted and is being implemented on a statewide basis has been adopted and is being implemented on a statewide basis or within the area in which such building is to be located.

(b) In any case where, on the effective date of the performance standards referred to in section 304(a), a State has not yet developed and implemented a procedure for certifying local codes or similar requirements, or adopted and proceeded to implement a State code or requirement for carrying out the provisions of subsection (a) of this section, but where the Secretary finds that the State is actively developing such procedure or code, the Secretary may receive and approve a code or other requirement proposed by a unit of general local government as complying with the provisions of subsection (a) of this section, but no such approval shall extend for more than 1 year.

(c) Each Federal instrumentality responsible for the supervision, regulation, or insuring of banks, savings and loan associations or similar institutions shall adopt regulations prohibiting such institutions from—

(1) making loans for the construction or financing of buildings, or

(2) purchasing loans made after the effective date of any energy conservation standard for the construction or financing of buildings.

unless such buildings are to be located in areas where Federal assistance for construction is permitted under subsection (a) of this section.

(d) In the certification submitted by a State, the State may recommend to the Secretary that specific units of local government within the State be excluded from all provisions of this title on the basis that new construction in such jurisdiction is not of a magnitude to warrant the costs of implementing or providing for required inspections, and the Secretary may, in his discretion, exclude such unit without thereby affecting the State's certification.

(e) The Secretary shall, by regulation, provide for the periodic updating of State certifications under this section, and shall make such reviews and investigations as he deems necessary to determine the accuracy of such certifications. The Secretary may reject, disapprove, or require the withdrawal of any certification but he shall not take such action without affording the State a reasonable opportunity for hearing.

FEDERAL BUILDINGS

Sec. 306. The head of each Federal agency responsible for the construction of Federal buildings shall adopt such procedures as may be necessary to assure that such construction meets or exceeds the applicable energy conservation standards promulgated pursuant to this title.

GRANTS TO STATES

Sec. 307. (a) The Secretary is authorized to make grants to States to assist them in meeting the costs of developing standards or State certification procedures to carry out the provisions of section 305 of this title.

(b) There are hereby authorized to be appropriated for the purpose of grants under this section not to exceed a total of $5,000,000 for fiscal year 1977.

TECHNICAL ASSISTANCE

Sec. 308. The Secretary, directly, by contract or otherwise, may provide technical assistance to State and units of general local government to assist them in meeting the requirements of this title.

CONSULTATION WITH INTERESTED AND AFFECTED GROUPS

Sec. 309. In developing and promulgating standards and carrying out his other functions under this title, the Secretary shall consult with appropriate representatives of the building community, including labor, the construction industry, engineers, and architects, and with appropriate public officials and organizations of public officials, and representatives of consumer groups. For purposes of such consultation, the Secretary shall, to the extent feasible, make use of the National Institute of Building Sciences as established by section 809 of the Housing and Community Development Act of 1974. The Secretary may also establish one or more advisory committees as may be appropriate. Any advisory committee or committees established pursuant to this section shall be subject to the provisions of the Federal Advisory Committee Act.

RESEARCH

SEC. 310. The Secretary, in cooperation with the Administrator, the Administrator of the Energy Research and Development Administration, and the Director of the National Bureau of Standards shall carry out such research and demonstration activities as he determines may be necessary to assist in the development of standards under this title and to facilitate the implementation of such standards by State, and local governments. Such activities shall be designed to assure that standards are adequately analyzed in terms of energy use, institutional resources, habitability, economic cost and benefit, and impact upon affected groups.

TITLE IV—ENERGY CONSERVATION ASSISTANCE FOR EXISTING BUILDINGS

SHORT TITLE

SEC. 401. This title may be cited as the "Energy Conservation in Existing Buildings Act of 1976".

FINDINGS

SEC. 402. The Congress finds and declares the following:

(1) The fastest, most cost-effective, and most environmentally sound way to prevent future energy shortages in the United States, while reducing the Nation's dependence on imported energy supplies, is to encourage and facilitate, through major programs, energy conservation measures (including a shift from depletable to nondepletable sources of energy, such as solar energy) with respect to housing, nonresidential buildings, and industrial plants.

(2) Current efforts to encourage and facilitate energy conservation measures are inadequate, as a consequence of—

(A) a lack of adequate and available financing for energy conservation, particularly with respect to individual consumers and owners of small businesses;

(B) a shortage of reliable and impartial information and advisory services, pertaining to practicable energy conservation measures and the probable cost savings therefrom; and

(C) the absence of organized programs which if they existed, would enable consumers, especially individuals and owners of small businesses, to undertake energy conservation efforts easily and with confidence in their economic value.

(3) Major programs of financial incentives and assistance for energy conservation measures (including a shift from depletable to nondepletable energy sources) in housing, non-residential buildings, and industrial plants would—

(A) significantly reduce the Nation's demand for energy and the need for petroleum imports;

(B) cushion the adverse impact of the high price of energy supplies on consumers (e.g., elderly and handicapped low-income persons who cannot afford to make the modifications necessary to reduce their residential energy use); and

(C) increase, directly and indirectly, job opportunities and national economic output.

(4) the primary responsibility for the implementation of such major energy conservation programs should be lodged with the governments of the several States. The diversity of conditions among the various States and regions of the Nation is sufficiently great that a wholly federally administered program would not be as effective as one which is tailored to meet local requirements and to respond to local opportunities. The States should be allowed flexibility within which to fashion energy conservation programs, subject to general Federal guidelines and monitoring sufficient to protect the financial investments of consumers and the financial interest of the United States and to insure that the measures undertaken in fact result in significant energy and cost savings which would probably not otherwise occur.

(5) To the extent that direct Federal administration is more economical and efficient, direct Federal financial incentives and assistance should be extended through existing and proven Federal programs (such as those conducted by the Small Business Administration) rather than through new programs that would necessitate new and separate administrative bureaucracies.

(6) Such programs should be designed and administered to supplement, and not to supplant or in any other way conflict with, State Energy Conservation Programs under part C of title III of the Energy Policy and Conservation Act (42 U.S.C. 6321, et seq.); the emergency energy conservation program carried out by community action agencies pursuant to section 222(a)(12) of the Economic Opportunity Act of 1964; and other forms of assistance and encouragement for energy conservation.

(b) PURPOSE.—It is therefore declared to be the purpose of the Congress in this title to encourage and facilitate energy conservation in housing, nonresidential buildings, and industrial plants, through—

(1) State energy conservation implementation programs; and

(2) Federal financial incentives and assistance.

PART A—RESIDENTIAL INSULATION ASSISTANCE FOR LOW-INCOME PERSONS

DEFINITIONS

SEC. 411. As used in this part, the term—

(1) "Administrator" means the Administrator of the Federal Energy Administration;

(2) "Director" means the Director of the Community Services Administration;

(3) "elderly" means persons who are 60 years of age or older;

(4) "Governor" means the chief executive officer of a State (including the Mayor of the District of Columbia);

(5) "handicapped person" means an individual who meets the definition of a "handicapped individual" as defined in section 7(6) of the Rehabilitation Act of 1973, as amended, or who is under a disability as defined in section 1614(3)(A) or 223(d)(1) of the Social Security Act or in section 102(7) of the Developmental Disabilities Services and Facilities Act of 1970, as amended, or who is receiving benefits under chapter 11 or 15 of title 38, United States Code;

(6) "insulation materials" means items primarily designed to improve the efficient energy utilization of a dwelling, including, but not limited to, ceiling, wall, floor, and duct insulation, storm windows and doors, and caulking and weatherstripping, but not including mechanical equipment valued in excess of $50 per dwelling unit;

(7) "low-income" means that individual or family income, as appropriate, which does not exceed 50 percent of the median income for individuals or families (adjusted for family size), as appropriate, for a particular geographical area, as determined by the Director in consultation with the Secretary of Housing and Urban Development; and

(8) "State" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands.

FINANCIAL ASSISTANCE

SEC. 412. (a) The Administrator is authorized, in accordance with the provisions of this title and regulations issued pursuant thereto, to (1) provide financial assistance to States, and (2) to transfer to other Federal departments or agencies funds for use to serve Native Americans, to assist in carrying out projects designed to improve insulation and energy conservation in dwellings in which the head of household is a low-income person, particularly where elderly and handicapped low-income persons reside.

(b)(1) The Administrator, after consultation with the Secretary of Housing and Urban Development, the Secretary of Health, Education, and Welfare, the Secretary of Labor, the Director of the ACTION Agency, and the heads of such other Federal agencies as he deems appropriate, and with the concurrence of the Director, shall develop and publish in the Federal Register for public comment, not later than 45 days after the date of enactment of this title, proposed regulations to carry out the provisions of this title. He shall take into consideration comments submitted regarding such proposed regulations, and shall publish such final regulations not later than 75 days after the date of such enactment.

(2) the regulations prescribed pursuant to this section shall include provisions—

(A) prescribing, with the approval of the Director of the National Bureau of Standards in the Department of Commerce and in consultation with the Secretary of Health, Education, and Welfare, for use in various climatic, structural, and human need settings, standards for insulation materials, energy conservation techniques, and balanced combinations thereof, designed to achieve a balance of a healthful dwelling environment and maximum energy conservation; and

(B) designed to insure that (i) the benefits of insulation assistance in connection with leased dwelling units will accrue primarily to low-income tenants; (ii) the rents on such dwelling units will not be raised because of any increase in the value thereof due solely to insulation assistance provided under this title; and (iii) no undue or excessive enhancement will occur to the value of such dwelling units.

(c) In the event that a State does not, within 150 days after the date of enactment of this title, submit an application meeting the requirements set forth in section 406, a community action agency carrying out programs under title II of the Economic Opportunity Act of 1964, as amended, may, in lieu of such State, submit an application (meeting such requirements and subject to all other provisions of this title) for carrying out projects under this title in the geographical area served by such agency under that Act.

(d) Notwithstanding any other provision of law, the Administrator is authorized to transfer to the Director sums appropriated under this title to be utilized in order to carry out programs under section 222(a)(12) of the Economic Opportunity Act of 1964, as amended, in furtherance of the purpose of this title.

APPLICATION

SEC. 413. (a) The Administrator is authorized to provide financial assistance (or transfer funds) from sums appropriated for any fiscal year under this title only upon annual application therefor containing such information (including information needed for evaluation purposes) as may be required (1) in the regulations prescribed pursuant to section 412 and (2) to carry out this section. In making grants and transferring funds to provide such assistance, the Administrator shall allocate funds on the basis of the relative need for residential insulation assistance among low-income persons throughout the States, taking into account the climatic and energy conservation factors specified in subsection (c) of this section.

(b)(1) Any State submitting an application for financial assistance under this title shall designate or create a State agency or institution which, itself or a policy advisory council of which, has special qualifications and sensitivity with respect to solving the problems of low-income persons (including the residential insulation and energy conservation problems of such persons) and which is broadly representative of organizations and agencies which are providing services to such persons in the State, and shall submit its application to the Administrator through the agency or institution so designated. Such agency or institution shall be the sole agency for administration, coordination, and allocation of the financial assistance provided to such State under this title, and shall allocate such funds to carry out residential insulation projects within the State based on factors set forth in subsection (c) of this section.

(c) Each application for financial assistance under this title shall specify the location and scope of projects to be funded, including a description of—

(1) (A) the estimated number and characteristics of low-income persons and dwellings to be assisted;

(B) the climatic conditions in the State, which may include consideration of annual degree days;

(C) the type of insulation work to be done (including insulation materials and energy conservation techniques to be used) in the various settings;

(D) the priorities to be established among low-income persons, including a description of the way in which priority is to be assured for elderly and handicapped low-income persons, and the extent to which priority will be given to single-family or other high-energy-consuming dwellings; and

(E) the estimated amount of fuel to be conserved;

(2) policies and procedures designed to assure that financial assistance provided under this title will be used so as not to supplant State or local funds, but to supplement and, to the extent practicable, to increase the amounts of such funds that would in the absence of such Federal funds be made available for carrying out the purpose of this title, including plans and procedures (A) for securing, to the maximum extent feasible, the services of volunteers and manpower training participants and public service employment workers, pursuant to the Comprehensive Employment and Training Act of 1973, as amended, to work under the supervision of qualified supervisors and foremen, and (B) for complying with the limitations set forth in section 414.

LIMITATIONS

SEC. 414. (a) Funds provided or transferred to any recipient of financial assistance under this title shall, to the maximum extent feasible, be used for the purchase of insulation materials, except that not to exceed 10 percent of any grant or transfer of funds under this title may be used to administer a residential insulation project.

(b) The Administrator shall insure that not less than 50 percent of the sums appropriated for any fiscal year shall be allocated to community action agencies in such year in accordance with the provisions of subsection (c) of this section.

(c) The Administrator shall insure that financial assistance provided to States under this title will—

(1) be allocated to community action agencies carrying out programs under title II of the Economic Opportunity Act of 1964, as amended, or other appropriate qualified public or nonprofit entities in the State so that—

(A) due consideration will be given to the availability of and relative need for residential insulation assistance among the low-income population within the State, including such factors as climate and the availability of similar insulation assistance under other Federal programs;

(B) (i) funds to be allocated for carrying out residential insulation projects under this title in the geographical area served by the emergency energy conservation program carried out by a community action agency under section 222(a) (12) of the Economic Opportunity Act of 1964, as amended, will be allocated to such agency, and (ii) priority in the allocation of such funds for carrying out such projects under this title will be given such a community action agency in so much of the geographical area served by it which is not served by the emergency energy conservation program it is carrying out: *Provided*, That such allocation requirement and such priority shall no longer apply in the event that the Governor makes a determination, after following policies and procedures consistent with those set forth in section 417, that the emergency energy conservation program carried out by such agency has been ineffective in meeting the purpose of this title or is clearly not of sufficient size, and cannot in timely fashion develop the capacity, to support the scope of the project to be carried out in such area with funds under this title; and

(C) due consideration will be given to the results of periodic evaluations of the projects carried out under this title in the light of information regarding current and anticipated energy and residential insulation needs of low-income persons within the State; and

(2) be allocated (including disapproval or discontinuation of funding) under this title to residential insulation projects within the State consistent with the policies and procedures set forth in section 417.

MONITORING, TECHNICAL ASSISTANCE, AND EVALUATION

SEC. 415. The Administrator and the Director shall monitor and evaluate the operation of projects receiving financial assistance under this title through reports as required in section 416(a) or through joint or separate onsite inspections, or otherwise, in order to assure the effective provision of insulation assistance for the dwellings of low-income persons, and shall jointly carry out periodic evaluations of the program authorized by this title and projects receiving financial assistance hereunder. They may provide technical assistance to any such project, directly and through persons and entities with a demonstrated capacity in developing and implementing appropriate technology for enhancing the effectiveness of the provision of residential insulation assistance to the dwellings of low-income persons, utilizing in any fiscal year not to exceed 10 percent of the sums appropriated for such year under this title.

ADMINISTRATIVE PROVISIONS

SEC. 416. (a) The Administrator, in consultation with the Director, by general or special orders, may require any recipient of financial assistance under this title to provide, in such form as he may prescribe, such reports or answers in writing to specific questions, surveys, or questionnaires as may be necessary to enable the Administrator and the Director to carry out their functions under this title.

(b) Each person responsible for the administration of a residential insulation project receiving financial assistance under this title shall keep such records as the Administrator may prescribe in order to assure an effective audit of the disposition of the funds provided under this title.

(c) The Administrator, or the Director, and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, information, and records of any project receiving financial assistance under this title that are pertinent to the financial assistance received under this title.

(d) Payments under this title may be made in installments and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments.

APPROVAL OF APPLICATIONS AND ADMINISTRATION OF STATE PROGRAMS

SEC. 417. (a) The Administrator shall not finally disapprove any application submitted under this title, or any modification thereof, without first affording the State agency or institution (or community action agency under section 412 (c)) in question as well as other interested parties, reasonable notice and opportunity for a public hearing. Whenever the Administrator, after reasonable notice and opportunity for a public hearing, finds that in the administration of the program within such State there is a failure to comply substantially with the provisions of this title and regulations prescribed hereunder, he shall notify such agency or institution and other interested parties that the State (or such community action agency) will not be regarded as eligible to participate in the program under this title until the Administrator is satisfied that there is no longer any such failure to comply.

(b) Reasonable notice under this section shall include a written notice of intention to act adversely (including a statement of the reasons therefor) and a reasonable period of time to submit corrective amendments to the application, or to propose corrective action.

JUDICIAL REVIEW

SEC. 418. (a) If any applicant is dissatisfied with the Administrator's final action with respect to the approval of its application submitted under section 413 or with the final action under section 417, such applicant may, within 60 days after notice of such action, file with the United States court of appeals for the circuit in which the State in question is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Administrator. The Administrator thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code.

(b) The findings of fact by the Administrator, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Administrator to take further evidence, and the Administrator may thereupon make new or modified findings of fact and may modify his previous action, and shall certify to the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(c) The court shall have jurisdiction to affirm the action of the Administrator or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

NONDISCRIMINATION

SEC. 419. (a) No person in the United States shall on the ground of race, color, national origin, or sex, or on the ground of any other factor specified in any Federal law prohibiting discrimination, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program, project, or activity supported in whole or in part with financial assistance under this title.

(b) Whenever the Administrator determines that a recipient of financial assistance under this title has failed to comply with subsection (a) or an applicable regulation, he shall notify the recipient to secure compliance. If within a reasonable period of time the recipient fails to secure compliance, the Administrator shall (1) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted; (2) exercise the power and functions provided by title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) and any other applicable Federal nondiscrimination law; or (3) take such other action as may be provided by law.

REPORT TO CONGRESS

SEC. 420. The Administrator and the Director shall each submit, on or before March 31, 1977, and annually thereafter through 1980, a report to the Congress and the President describing the supplementary residential insulation program carried out under this title or any other provision of law, including the results of periodic evaluations and monitoring activities required by section 415.

AUTHORIZATION OF APPROPRIATIONS

SEC. 421. There are authorized to be appropriated to carry out the program under this title $55,000,000 for fiscal year 1977, $65,000,000 for fiscal year 1978, and $80,000,000 for fiscal year 1979.

PART B—STATE ENERGY CONSERVATION IMPLEMENTATION PROGRAMS

DEFINITIONS

SEC. 431. As used in this part, and in parts C, D, E, and F of this title:

(1) The term "Administrator" means the Administrator of the Federal Energy Administration or his successor.

(2) The term "energy conservation measure" means an investment, action, or procedure which is designed to modify, in whole or in part, any existing housing, nonresidential building, or industrial plant (on a permanent or long term, rather than on a temporary or short-term, basis), if—

(A) such investment, action, or procedure—

(i) has as its primary purpose an improvement in the efficiency of energy use in such housing, nonresidential building or industrial plant, such as investments in insulation, heat pumps, clock thermostats, storm windows, equipment to improve the efficiency of central heating systems, caulking, and weatherstripping; or

(ii) is a renewable-resource energy measure such as investment in a flat plate solar collector for hot water production or space heating or cooling, or investment in a windmill to supply a portion of electrical energy demand; and

(B) such investment, action, or procedure is likely to improve the efficiency of energy use and reduce energy costs in an amount sufficient to enable the owner or operator of such housing, building, or plant to recover or recoup the cost of implementing such investment, action, or procedure during the lesser of—

(i) the useful life thereof; or

(ii) 15 years in the case of an energy conservation measure other than a renewable-resource energy measure, and 25 years in the case of a renewable-resource energy measure.

Such term shall not include the purchase or installation of any appliance.

(3) The term "appliance" means any of the following: refrigerator, refrigerator-freezer, freezer, dishwasher, clothes dryer, room air conditioner, television set, kitchen range, kitchen oven, clothes washer, humidifier, dehumidifier, and any other article which the Administrator classifies as an appliance for the purposes of this title.

(4) The term "includes" and variants thereof should be read as if the phrase "but is not limited to" were also set forth.

(5) The term "renewable-resource energy measure" means an investment, action, or procedure which involves a shift from a depletable to a nondepletable source of energy (e.g., solar or wind) in housing, nonresidential buildings, or industrial plants.

(6) The term "State" means any of the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Marianas Islands, or any other territory or possession of the United States.

(7) The term "State energy conservation implementation program" means a program established under section 432.

GUIDELINES AND PROPOSALS

SEC. 432. (a) GUIDELINES.—(1) The Administrator shall, within 120 days after the date of enactment of this Act, establish and make effective, by rule, guidelines with respect to State energy conservation implementation programs. Such guidelines shall be consistent and coordinated with the guidelines prescribed by the Administrator with respect to State energy conservation plans and related matters, pursuant to section 302(b) of the Energy Policy and Conservation Act (42 U.S.C. 6322(b)).

(2) The Administrator shall, at the time of promulgation of the guidelines under paragraph (1), (A) describe and set forth the provisions of one or more model State energy conservation implementation programs; and (B) prescribe rules for approving energy audits not included in a State energy conservation implementation program, and which must be conducted before financial assistance under this title may be granted.

(3) The Administrator shall offer the Governors of the several States opportunity to consult with the Administrator in the development of such guidelines and model programs, and shall publish proposed guidelines and model program for public comment at least 60 days prior to the effective date established by subsection (a) of this section.

(b) STATE PROGRAM PROPOSALS.—At the earliest practicable date after the effective date of the guidelines described in this section, the Administrator shall invite the Governor of each State to develop and submit a proposal for a State energy conservation implementation program which shall be promptly reviewed by the Administrator and may be approved and funded pursuant to this part.

(c) CONSUMER PROTECTION.—The Federal Trade Commission is authorized and directed to (1) cooperate with and assist State agencies which have primary responsibilities for the protection of consumers in activities aimed at preventing unfair and deceptive acts or practices affecting commerce which relate to the implementation of energy conservation measures, and (2) undertake its own program to prevent unfair or deceptive acts or practices affecting commerce which relate to the implementation of energy conservation measures.

REQUIREMENTS

SEC. 433. (a) PRELIMINARY REQUIREMENT.—In order to be eligible for Federal financial assistance under this part, a State shall establish and appoint qualified individuals to be members of a State energy conservation advisory committee. This committee shall be empowered to and shall advise and assist such State in the development and formulation of an energy conservation implementation program which meets or exceeds the requirements set forth in subsection (b). Guidelines shall assure that the views of the various energy-consuming sectors, and other public and private groups concerned with energy conservation, are carefully considered in the formulation and modification of a State's energy conservation implementation program. Among groups to be considered are the following: political subdivisions of the State; organized labor; small businesses; commercial, banking, manufacturing, and agricultural interests; professional engineers, architects, contractors, and associations thereof; colleges and universities; the low-income community; and organizations and groups concerned with consumer protection or environmental protection, or which have significant capacity and demonstrated willingness to assist in developing and carrying out such a program. As used in this paragraph, the term "qualified individual" means an individual who is, by reason of knowledge, experience, or training, capable of making a contribution to such committee.

(3) A continuing public education effort which is designed, and is likely, to increase significantly public awareness of—

(A) the energy and cost savings which are likely to result from implementation of energy conservation measures; and

(B) information and other assistance which is, or may be, available under any Federal or State law, public or private program, or other authority with respect to the planning, financing, installing, and effectiveness-monitoring of energy conservation measures.

(b) PROGRAM REQUIREMENTS.—A State energy conservation implementation program is eligible for Federal financial assistance under this part if it includes each of the following as defined with specificity in guidelines required to be promulgated pursuant to section 432(a):

(1) Continuing authority in the advisory committee established pursuant to subsection (a). Such committee shall be empowered to and shall advise such State in carrying out an energy conservation implementation program and in developing and formulating any improvements or necessary changes with respect to such program.

(2) Procedures for insuring that effective coordination exists among various local, States, and Federal energy conservation programs within and affecting such State including programs, if any, supported pursuant to subsection (b) of section 363 of the Energy Policy and Conservation Act and programs which relate to energy conservation, if any, operated by, in cooperation with or otherwise supported by the Energy Research and Development Administration;

(3) Procedures for learning of energy conservation advances and for encouraging the utilization of such advances.

(4)(A) Procedures for encouraging and facilitating the making of energy audits with respect to housing and nonresidential buildings within the State which minimize, to the extent practicable, the cost and burden of such audits, or

(B)(i) the incorporation of an energy audit program which the Administrator is authorized to promulgate as part of a model State energy conservation implementation program under section 432(a)(2) or (ii) the affirmative decision to rely upon energy audits established pursuant to section 432 (a)(2)(B) of this title.

(C) "Energy audit" means a procedure for identifying the energy and cost savings likely to be realized through the implementation of particular energy conservation measures.

(D)(i) Energy audits shall be conducted by persons who are determined under procedures set forth in the guidelines promulgated by the Administrator to be qualified to conduct energy audits and to identify and advise on practicable energy conservation measures likely to result in energy and cost savings in particular facilities. (ii) Such guidelines shall insure that procedures for encouraging and facilitating the making of energy audits shall—

(I) assure that energy audits of housing or nonresidential buildings are not conducted by persons with direct or indirect financial interests in such housing or nonresidential buildings;

(II) be designed to assure, to the maximum extent practicable, uniformity among the States with respect to the making of energy audits;

(III) (aa) assure that energy audits are available at no direct cost to homeowners; and

(bb) assure that energy audits, are available at reasonable rates to owners of nonresidential buildings.

(iii) A State may utilize any reasonable procedures for the conduct of such audits, so long as such procedures are developed in accordance with applicable guidelines established under section 432(a), and result in the identification of cost-effective energy conservation measures and make provision for periodic review and verification of the results of energy audits by officials designated by a State for such purpose, in order to minimize error and to detect any deception or fraud.

(5) Procedures requiring the agencies of such State which have primary responsibilities for the protection of consumers to develop and carry out a specific and continuing program for the purpose of preventing any unfair and deceptive acts or practices affecting commerce which relate to the implementation of energy conservation measures.

(6) Procedures for the periodic verification, at reasonable times, and under reasonable conditions, by officials designated by a State for such purpose—

(A) of the accuracy of any finding a State energy conservation implementation program or guidelines of the Administrator require a lending institution within the State to make with respect to any application for energy conservation assistance under an amendment made by section 451 or 471; and

(B) of the actual and complete implementation, the cost, and the effectiveness of any energy conservation measure for which financing was obtained with such assistance.

(7) Procedures for—

(A) encouraging and facilitating the participation of energy consumers in energy conservation cooperatives; and

(B) assuring that such cooperatives and their members have (i) the ability to obtain financial assistance for startup costs, and (ii) information and available expert technical assistance with respect to energy conservation measures.

For purposes of this paragraph, an energy conservation cooperative is an association or other entity whose members share certain characteristics (e.g., homeowners or owners of small businesses) or concerns (e.g., homeowners, tenants, and businesses in a particular area), or both, and who have combined together to conserve energy through mutually beneficial, joint, or shared activities and efforts.

(8) Federal assistance provided under this part supplements and does not supplant, the expenditure of other Federal, State or local funds for the same purposes;

(9) Appropriate enforcement provisions, consistent with the guidelines established under section 432(a), which will facilitate the State's efforts to carry out an energy conservation implementation program.

FEDERAL FINANCIAL ASSISTANCE GRANTS

SEC. 434. (a) IN GENERAL.—The Administrator is authorized to make grants to any State for the purpose of assisting such State in carrying out its energy conservation implementation program if the Administrator finds that such program meets the requirements set forth in section 433. The Administrator shall establish rules for disbursing such grants to the States. Such rules shall not deny funding for any proposal submitted under section 432(b) without notice and an opportunity for an agency hearing.

(b) FEDERAL SHARE.—Commencing with the fiscal year beginning October 1, 1977, and for each fiscal year thereafter during which this Act is in effect, the amount of Federal financial assistance granted to a State by the Administrator pursuant to this section shall not exceed 90 percent of the cost incurred by such State in carrying out its State energy conservation implementation program.

(c) RECORDS, AUDIT, AND EXAMINATION.—Each State receiving Federal financial assistance under this part shall make and retain such records as the Administrator, in consultation with the Comptroller General of the United States, shall require, including records which fully disclose the amount and disposition of such assistance; the total cost of the program, projects, measures, or systems for which such assistance was given or used; the source and amount of any funds not supplied by the Administrator; and any information and data which the Administrator, in consultation with the Comptroller General, determines is necessary to protect the interests of the United States and to facilitate an effective financial audit and performance evaluation. Such recordkeeping shall be in accordance with Federal Management Circular 74–7 (34 CFR part 256) and any modification thereto. The Administrator, or any of his duly authorized representatives, shall have access, at reasonable times, and under reasonable conditions, until the expiration of 3 years after the completion of any such program, project, measure, or system, to any books, documents, papers, and records or receipts which the Administrator deems to be related or pertinent, directly or indirectly, to any such Federal financial assistance.

(d) LIMITATION.—No State may receive, in any fiscal year, more than 10 percent of the total funds authorized to be appropriated for such year under subsection (e).

(e) AUTHORIZATION FOR APPROPRIATIONS.—There are authorized to be appropriated to the Administrator, for purposes of carrying out the provisions of this section, not to exceed $25,000,000 for the fiscal year ending September 30, 1977; not to exceed $50,000,000 for the fiscal year ending September 30, 1978; and not to exceed $50,000,000 for the fiscal year ending September 30, 1979. Such sums are to remain available until expended.

PART C—ENERGY CONSERVATION ASSISTANCE FOR EXISTING HOUSING

AMENDMENTS

SEC. 451. (a) The last paragraph of section 2(a) of the National Housing Act is amended—

(1) by inserting after "energy conserving improvements," the following: "energy conservation measures,";

(2) by striking out "and" at the end of clause (2) thereof;

(3) by striking out the period at the end thereof and inserting in lieu thereof "; and" and

(4) by adding at the end thereof the following new clause:

"(4) the terms 'energy conservation measure' and 'renewable-resource energy measure' have the meanings prescribed for such terms in section 431 of the Federal Energy Administration Extension Act.

(b) Section 2 of the National Housing Act is amended by adding at the end thereof the following new subsection:

"(i) (1) The Secretary shall pay to any lending institution an amount not exceeding the lesser of $400 or 20 percent of the principal, with respect to any loan made by that institution to finance an approved energy conservation measure, other than a renewable-resource energy measure. In the case of a loan made to finance a renewable-resource energy measure, the Secretary shall pay to the lending institution an amount not exceeding $2,000 or 25 percent of the principal thereof, whichever is less. Notwithstanding the two preceding sentences, if the Secretary makes a finding in writing, together with reasons therefor, that the cost of implementing energy conservation measures in any specified State is so high (because of its isolated geographic location or other unique features) that substantial energy conservation implementation is unlikely to take place in the absence of additional financial incentives, the amount required to be paid by the Secretary pursuant to the first or second sentence of this paragraph, whichever is applicable, shall be increased by no more than 50 percent of the amount otherwise provided for, if the lending institution certifies that the State in which such loan is made has paid, or is obligated to pay, to such lending institution an amount equal to the additional such amount to be paid by the Secretary: *Provided,* That the additional such amounts, in the aggregate for any such specified State, shall not exceed $2,000,000 in any fiscal year. Any amounts paid to a lending institution under this subsection with respect to a loan made to finance an approved energy conservation measure or a renewable-resource energy measure shall be credited by the institution to reduce the principal amount of the loan. Interest on a loan whose initial principal amount has been reduced by a payment by the Secretary to a lending institution shall only be paid on the principal amount of such loan remaining after such payment.

"(2) (A) For purposes of this section, the term 'approved energy conservation measure' means an energy conservation measure other than a renewable-resource energy measure which is (i) identified in accordance with the provisions of an approved State energy conservation implementation program (as established pursuant to the Federal Energy Administration Extension Act), or (ii) included on a list of energy conservation measures published by the Administrator.

"(B) The Administrator of the Federal Energy Administration shall develop a list of approved energy conservation measures, which shall include energy conservation measures such as those listed in section 431 (2) (A) (i) and shall cause such list to be published at the time of promulgation of the guidelines under section 432(a) (1). Such list may be modified if, on the basis of new information and experience, the Administrator—

"(i) determines that additional energy conservation measures should be included on such list, or that energy conservation measures included on the list should be removed from such list, and

"(ii) publishes such determination in the Federal Register, together with a statement of the basis and justification for such modification.

"(C) At least 30 days prior to the effective date of the guidelines required by section 432(a) (1), and at least 30 days prior to the publication of any modification of the list of energy conservation measures, the Administrator shall publish a proposed list of energy conservation measures in the Federal Register and an explanation thereof. The Administrator shall invite interested persons to submit comments in writing and, to the extent practicable, shall evaluate and take into account any such comments received with respect to such list.

"(3) No assistance under this subsection may be made available with respect to a loan if the individual or family income of the borrower exceeds 200 percent of the median family income in the housing market area in which such borrower maintains his principal residence, as determined by the Secretary.

"(4) No assistance under this subsection may be made available with respect to a loan made to finance a renewable-resource energy measure if such measure has not been identified by an energy audit (A) carried out in accordance with an approved State energy conservation implementation program (as established pursuant to the Federal Energy Administration Extension Act) or (B) approved by rule by the Administrator.

"(5) No person shall be eligible for both financial assistance under this subsection and a credit against income tax for the same energy conservation measure investment. The Secretary, after consultation with the Secretary of the Treasury, shall prescribe regulations to carry out the preceding sentence.

"(6) No person receiving financial assistance under this subsection shall be eligible for further financial assistance under this subsection.

"(7) No more than one payment may be made to any family unit residing in a given household under this subsection.

"(8) No assistance under this subsection may be made available with respect to a loan unless such loan is made to finance an energy conservation measure which a lending institution, operating pursuant to the provisions of this title, finds to be consistent with the provisions of an approved State energy conservation implementation program (as established pursuant to the Federal Energy Administration Extension Act) or which is consistent with requirements of the Administrator and is included on a list of approved energy conservation measures published by the Administrator. Any such loan shall conform to the other provisions of this section, to the extent not inconsistent with the provisions of this subsection.

"(9) (A) There is authorized to be appropriated to the Secretary, for purposes of carrying out the provisions of this subsection, not to exceed $100,000,000 for the fiscal year ending September 30, 1977; not to exceed $200,000,000 for the fiscal year ending September 30, 1978; and not to exceed $200,000,000 for the fiscal year ending September 30, 1979.

"(B) Sums expended by the Secretary to provide assistance with respect to loans made to finance renewable-resource energy measures shall not exceed the following amounts: $10,000,000 in fiscal year 1977; $30,000,000 in fiscal year 1978; and $40,000,000 in fiscal year 1979. Such sums are to remain available until expended.".

Part D—Energy Conservation Assistance for Small Business Concerns

AMENDMENTS

Sec. 471. (a) Section 7 of the Small Business Act (15 U.S.C. 636) is amended by adding at the end thereof the following new subsection:

"(1) The Administration also is empowered to make loans (in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis) to assist any small business concern in implementing any energy conservation measure which a lending institution finds to be consistent with the provisions of an approved State energy conservation implementation program (as established pursuant to the Federal Energy Administration Extension Act) or which is included on a list of approved energy conservation measures which the Administrator is authorized to publish. No assistance under this subsection may be made available with respect to a loan made to finance an energy conservation measure if such measure has not been identified by an energy audit (A) carried out in accordance with an approved State energy conservation implementation program (as established pursuant to the Federal Energy Administration Extension Act) or (B) approved by rule by the Administrator. The amount of any such loan may include the cost of an energy audit. Any such loan shall conform to the other provisions of this Act, to the extent not inconsistent with the provisions of this subsection. With respect to any such loan, the Administration shall pay to the lending institution an amount not to exceed 20 percent of the principal thereof or $4,000, whichever is less. Notwithstanding the preceding sentence, if the Administration makes a finding in writing, together with reasons therefor, that the cost of implementing energy conservation measures in any specified State is so high (because of its isolated geographic location or other unique features) that substantial energy conservation implementation is unlikely to take place in the absence of additional financial incentives, the amount required to be paid by the Administration pursuant to such sentence shall be increased by no more than 50 percent of the amount otherwise provided for, if the State in which such loan is made has paid, or is obligated to pay, to such lending institution an amount equal to the additional such amount to be paid by the Administration: *Provided*, That the additional such amounts, in the aggregate for any such specified State, shall not exceed $2,000,000 in any fiscal year. Any amounts paid to a lending institution under this subsection with respect to a loan made to finance an energy conservation measure shall be credited by the institution to reduce the principal amount of the loan. Interest on a loan whose initial principal amount has been reduced by a payment by the Administration to a lending institution shall only be paid on the principal amount of such loan remaining after such payment.

(b) Section 4(c) (1) of the Small Business Act (15 U.S.C. 633(c) (1)) is amended by—

(1) striking out "and" immediately before "(B)" therein; and

(2) inserting before the period at the end thereof the following: "; and (C) a financial assistance fund for energy conservation measures which shall be available for the purpose of financing loans made pursuant to section 7(1) of this Act (15 U.S.C. 636(1)) and for administrative expenses connected therewith".

(c) Section 4(c) (2) of the Small Business Act (15 U.S.C. 633(c) (2)) is amended by—

(1) striking out "and" immediately before "(B)" therein; and

(2) inserting before the period at the end thereof the following: "; and (C) pursuant to section 7(1) of this Act (15 U.S.C. 636 (1)), shall be paid into the financial assistance fund for energy conservation measures".

(d) Section 4(c) (4) of the Small Business Act (15 U.S.C. 633(c) (4)) is amended by—

(1) striking out "and" immediately before "(D)"; and

(2) striking out the period at the end thereof and inserting in lieu thereof the following: "; and (E) under section 7(1) of this Act, shall not exceed $300,000,000. The total amount of payments to lending institutions under section 7(1) shall not exceed $60,000,000.".

Part E—Other Duties of the Administrator and the Comptroller General

EXCHANGE OF INFORMATION

Sec. 481. (a) In General.—The Administrator shall encourage and facilitate the exchange of information and ideas among the States with respect to energy conservation, through conferences, publications, and other appropriate means.

(b) From States.—The information developed as a result of energy audits conducted pursuant to State energy conservation implementation programs established under this Act shall be collected by each State and made available to the Administrator. The Administrator may not disclose any information provided by a State under this part which is a trade secret or other matter described in section 552(b) (4) of title 5, United States Code, disclosure of which may cause significant competitive damage: except to committees of Congress upon request of such committees.

(c) To States.—The Administrator shall make available to the States any information subject to his control which may be useful in developing and carrying out the provisions of this title and State energy conservation implementation programs. No State shall impose, pursuant to this title, any reporting requirement which will result in the receipt of information which has previously been, or which will be, reported to the Administrator as a result of compliance with regulations in effect on the date of enactment of this Act.

REPORT BY THE ADMINISTRATOR

Sec. 482. The Administrator shall prepare and submit to the Congress and the President, and shall cause to be published, an annual report on (1) the State energy conservation implementation programs, and (2) the energy conservation measures for which financing was obtained with Federal financial assistance provided under this Act or an amendment made by this Act. Such report shall include—

(A) a summary of the actions taken to implement the provisions of this Act;

(B) a detailed statement of the status, impact, and effectiveness of the State energy conservation implementation programs;

(C) a summary of existing or anticipated problems with respect to further implementation of the provisions of this Act;

(D) recommendations for additional legislation, if any, which is deemed necessary or appropriate; and

(E) any other matters which the Administrator deems appropriate.

Sec. 483. (a) The Comptroller General shall report annually to the Congress on the activities of the Administrator under this title. The provisions of section 12 of the Federal Energy Administration Act of 1974, as amended, relating to access by the Comptroller General to books, documents, papers, statistics, data, records and information in the possession of the Administrator or of recipients of Federal funds shall apply to data which relate to such activities

(b) The Comptroller General's report shall include, but need not be limited to—

(1) an accounting of expenditures of Federal funds under each program authorized in this title by State;

(2) an estimate of the energy savings which have resulted thereby;

(3) a thorough evaluation of the effectiveness of the programs authorized in this title in achieving the energy conservation potential available in the sectors and regions affected by such programs;

(4) the extent and effectiveness of compliance monitoring authorized by States and by the Administrator of programs in this title and the evidence, if any, of the occurrence of fraud with respect to such programs; and

(5) the recommendations of the Comptroller General with respect to improvements in the Administration of programs authorized in this title and additional legislation, if any, needed to achieve the purposes of this title.

Amendment No. 1802

At the end of title IV, add the following new part:

"Part F—Energy Conservation Obligation Guarantees

Sec. 491. (a) The Administrator is authorized to provide financial assistance in the form of loan guarantees to eligible borrowers in order to advance the industry energy efficiency improvements targets established in part D of the Energy Policy and Conservation Act and to improve energy efficiency (1) in major energy-consuming industries (as defined in part D of the Energy Policy and Conservation Act), other significant energy-consuming industries, or public or nonprofit entities on a priority basis, and (2) in other sectors to the extent such guarantees are available given the obligational authorities contained in subsection (1). The Administrator is authorized, in accordance with this section and such rules as he shall prescribe, to guarantee, and to enter into commitments to guarantee, lenders against loss of principal or interest, or both, on loans, bonds, debentures, notes, or other obligations issued by or on behalf of an eligible borrower (including obligations issued by any State or instrumentality or political subdivision thereof).

(b) Energy Audits.—(1) No obligation may be issued under this section to guarantee an investment in an energy conservation measure if such measure has not been identified by an energy audit (A) carried out in accordance with an approved State energy conservation implementation program or (B) approved by rule by the Administrator.

(2) Any obligation issued by or on behalf of an eligible borrower may include the cost of an energy audit.

(c) Definitions.—For purposes of this section the term "eligible borrower" means the owner of an industrial plant or commercial building, a corporation or a subsidiary of a corporation, a nonprofit institution, or any other person or governmental entity identified pursuant to regulations of the Administrator, which will utilize the financial resources made available by a loan guaranteed pursuant to subsection (a) to finance energy conservation measures.

(d) Limitations.—The Administrator shall limit the availability of an obligation guarantee otherwise authorized by subsection (a) to—

(1) energy conservation measure investments which should result in energy and cost savings which will be sufficient, within the useful life of such measure, to allow recovery from such investment of the principal amount of such obligation and interest thereon, and

(2) eligible borrowers, who can demonstrate to the Administrator that, exercising sound business judgment, they would not make such investment in the absence of such obligation guarantee. Such demonstration shall include a showing that financing is not otherwise available on terms and conditions which make the investment sufficiently attractive to cause the investment to be made.

(e) Extent of Guarantee.—Any guarantee under this section shall apply only to so much of the principal amount of the loan or obligation involved as does not exceed 90 percent of the aggregate cost of the energy conservation measures with respect to which such loan is made or such obligation is entered into. No guarantee issued, and no commitment to guarantee, which is made under this section shall be terminated, canceled, or otherwise revoked except in accordance with reasonable terms and conditions prescribed by the Administrator, after consultation with the Secretary of the Treasury and the Comptroller General of the United States, and contained in the written commitment to guarantee. Any such guarantee or commitment to guarantee shall be conclusive evidence that the underlying obligation complies with the provisions of this section and rules under this section and that such obligation has been approved and is legal as to principal, interest, and other terms. Any such guarantee shall, subject to the conditions and terms thereof, be incontestable in the hands of the holder of the guaranteed obligation, except as to fraud or material misrepresentation on the part of the holder.

(f) Information, Records, Audit, and Examination.—No guarantee and no commitment to guarantee may be issued or made under this section unless and until the Administrator obtains any information reasonably requested and such assurances as are in his judgment (after consultation with the Secretary of the Treasury and the Comptroller General of the United States) reasonable to protect the interests of the United States and to assure that such guarantee or commitment to guarantee is consistent with and will further the declaration of policy of this title. The Administrator shall require that records be kept and made available to the Administrator or the Comptroller General, or any of their duly authorized representatives, in such detail and form as are determined necessary to facilitate an effective financial audit and performance evaluation of the energy conservation measure investment involved. The Administrator and the Comptroller General, or any of their duly authorized representatives, shall have access to any pertinent books, documents, papers, and records of any recipient of Federal assistance under this section.

(g) Default.—(1) If there is a default by the obligor in any payment of principal or interest due under an obligation guaranteed under subsection (a), and if such default continues for 30 days, the holder of such obligation or his agent has the right to demand payment by the Administrator of the unpaid interest on, and the unpaid principal of, such obligation, consistent with the terms of the guarantee of such obligation. Such payment may be demanded after or before the expiration of such period as may be specified in the guarantee or related agreements, but not later than 90 days from the date of such default. Within such specified period, but not later than 60 days from the date of such demand, the Administrator shall pay to such holder the unpaid interest on, and the unpaid principal of, such obligation, consistent with the terms of the guarantee of such obligation, except that (A) the Administrator shall not be required to make any such payment if he finds, prior to the expiration of such period, that there was no default by the obligor in the payment of interest or principal or that such default has been remedied, and (B) no such holder shall receive payment or be entitled to retain payment in a total amount which together with any other recovery (including any recovery based upon a security interest in equipment or facilities) exceeds the actual loss of such holder.

(2) If the Administrator makes payment to a holder under paragraph (1), the Administrator shall thereupon—

(A) have all of the rights granted to him by law or agreement with the obligor; and

(B) be subrogated to all of the rights which were granted such holder, by law, assignment, or security agreement between such holder and the obligor.

(3) The Administrator may, in his discretion, complete, recondition, reconstruct, renovate, repair, maintain, operate, charter, rent, sell, or otherwise dispose of any property or other interests obtained by him pursuant to this section. The terms of any such sale or other disposition shall be as approved by the Administrator.

(4) If there is a default by the obligor in any payment due under an obligation guaranteed under subsection (a), the Administrator shall take such action against such obligor or any other person as is, in his discretion, necessary or appropriate to protect the interests of the United States. Such an action may be brought in the name of the United States or in the name of the holder of such obligation. Such holder shall make available to the Administrator all records and evidence necessary to prosecute any such suit. The Administrator may, in his discretion, accept a conveyance of property in full or partial satisfaction of any sums owed to him. If the Administrator receives, through the sale of property, an amount greater than his cost and the amount paid to the holder under paragraph (1) he shall pay such excess to the obligor.

(h) Taxability.—With respect to any obligation guaranteed under this section, the amount of the interest paid on such obligation and received by the purchaser of the obligation (or his successor in interest) shall be included in gross income for the purpose of chapter 1 of the Internal Revenue Code of 1954, as amended.

(i) Limits on Amounts Which May Be Guaranteed.—(1)(A) Outstanding obligations under this part may not exceed $2,000,000,000 in fiscal year 1977; or an additional $2,000,000,000 in fiscal year 1978.

(B) There are authorized to be appropriated for the payment of amounts to be paid under subsection (g) such sums as are necessary not to exceed $60,000,000 for fiscal year 1978, such sums to remain available until expended.

(C) If the moneys available to the Administrator are not sufficient to pay any amount which the Administrator is obligated to pay under subsection (g), the Administrator shall issue to the Secretary of the Treasury notes or other obligations, in such forms and denominations, bearing such maturities, and subject to such terms and conditions as such Secretary may prescribe. The Administrator shall redeem such notes or other obligations from amounts appropriated under paragraph (1). Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States on comparable maturities during the month preceding the issuance of such notes or other obligations. The Secretary of the Treasury shall purchase any notes or other obligations issued under this paragraph, and for this purpose such Secretary may use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as now or hereafter in force. The purposes for which securities may be issued under that Act are extended to include any purchase of notes or other obligations issued under this paragraph. The Secretary of the Treasury may at any time sell any of the notes or other obligations so acquired under this paragraph. All redemptions, purchases, and sales of such notes or other obligations by the Secretary of the Treasury shall be treated as public debt transactions of the United States.

(2) The Administrator shall calculate and determine the aggregate unpaid principal amount of obligations which may be guaranteed under this section by relating the probability of default ratio to the maximum aggregate payment responsibility specified in paragraph (1).

(3) The aggregate unpaid principal amount of obligations which may be guaranteed by the Administrator under this section shall not, at any one time, exceed the aggregate amount authorized under this subsection or a lesser amount if the Administrator finds that the authorization of appropriation would be exceeded.

(4) The Comptroller General of the United States (hereinafter referred to as "Comptroller"), in cooperation with the Administrator and the Secretary of the Treasury shall, upon the basis of actual experience under this section and under comparable obligation guarantee programs under other Federal statutes, review the accuracy of the probability of default ratio determined by the Administrator on a continuing basis. In reviewing such ratio, the Comptroller shall find and determine—

(A) the actual rate (and amount) of default on obligations guaranteed by the

United States under this section, and on comparable obligations guaranteed under other Federal statutes:

(B) the actual rate (and amount) of recovery by the United States of amounts paid by it to the holders of obligations guaranteed under this section, and to the holders of comparable obligations guaranteed under other Federal statutes, in cases of default on such obligations;

(C) any other relevant factors, including the general state of and prospects for the economy; and

(D) the probability of default ratio based on actual experience, taking into account the relationship between the rate of default on such obligations, the rate of recovery of amounts paid by the United States when obligors default on such obligations, and other relevant factors.

As used in paragraphs (A) and (B), an obligation guarantee is comparable if (i) the proceeds of the obligation guarantee are required to be used for the acquisition, rehabilitation, or improvement of real property or tangible personal property having a useful life of 10 years or more; and (ii) the United States is granted and subrogated to substantially the same rights provided for in subsection (f). The Comptroller shall from time to time invite views and comments, with respect to any such review, from financial analysts and other persons and governmental entities, and such Comptroller shall study and evaluate such views and comments in the course thereof. Upon the completion of any such review, the Comptroller shall submit the results thereof to the Administrator and he shall revise the probability of default ratio to reflect the results of the Comptroller's review.

(5) The Administrator shall assure that at least 40 percent of funds authorized in this subsection are available to support loan guarantees for investments by any State, city, county, town, township, parish, village, or other general purpose political subdivision of a State, if such general purpose political subdivision possesses taxing powers and has responsibility for providing public facilities or public services to the community, or any privately owned nonprofit institutions such as universities, as determined by the Administrator."

Mr. GLENN. Mr. President, I am pleased to join Senator KENNEDY and several of our colleagues in submitting two amendments to S. 2872, the Federal Energy Administration extension bill. These amendments would provide for a significant Federal program designed to promote and facilitate the implementation of energy conservation measures across a broad spectrum of the economy. These amendments seek to achieve greater energy conservation by providing for the dissemination of reliable information concerning potential savings through conservation and by making capital for cost effective energy conservation investments more accessible at lower rates.

The first amendment provides grants to States to enable them to establish State energy conservation implementation programs. The purpose of these programs is to educate the public so that they will be aware of the potential energy and cost savings available through the implementation of energy conservation measures, to provide for reliable energy audits to determine the potential savings achievable on a case-by-case basis, to provide for a consumer protection program, and to provide for a program to encourage energy conservation cooperatives. The authorization for this program is $25 million for fiscal year 1977, $50 million for fiscal year 1978, and $50 million for fiscal year 1979.

This amendment includes the provisions of H.R. 8650 which has passed both Houses and is now deadlocked in conference. These provisions establish energy conservation standards for new buildings and a program of residential insulation assistance for low-income persons. The low-income weatherization program provides for grants to States so that they may purchase and install insulation in low-income residential homes free of charge to the owner. Funding for this purpose is $55 million for fiscal year 1977, $65 million for fiscal year 1978, and $80 million for fiscal year 1979.

The amendment further provides financial assistance for energy conservation purposes to the residential and small business sectors.

For residential homeowners, the National Housing Act is amended so as to provide for an interest subsidy or reduction in principal of 20 percent or $400, whichever is less, for a loan made by a lending institution for energy conservation measures, or 25 percent or $2,000 for a loan made by a lending institution for renewable-resource energy measures. Funds authorized for this purpose are $100 million for fiscal year 1977, $200 million for fiscal year 1978, and $200 million for fiscal year 1979 of which no more than $10 million for fiscal year 1977, $30 million for fiscal year 1978, and $40 million for fiscal year 1979 may be allocated to finance renewable resource energy measures.

For small businesses, the Small Business Act is amended to provide for an interest subsidy or reduction in the principal amount of the energy conservation loan of 20 percent or $4,000 whichever is less. The total amount authorized for this purpose is $60 million over the 3-year period.

The second amendment which we are submitting would amend the first one. It provides for an FEA program of energy conservation obligation guarantees to industry, nonprofit entities, and States and other political subdivisions. A limit of $2 billion in fiscal year 1977 and $4 billion thereafter is placed on the aggregate amount of obligations outstanding at any one time. The amendment further provides a limit on the authorization of funds for the purpose of insuring the obligation guarantees. The amount is $60 million for fiscal year 1977 and $60 million for fiscal year 1978 with these funds remaining available until expended. The probability of default rate is to be calculated, reviewed, and refined so that the amount of obligation guarantees outstanding will not cause the authorization for appropriation to be exceeded.

These amendments can provide the necessary ingredients for effective action to conserve energy. Efforts to promote energy conservation must be continued and expanded. Attention must be focused, both in the Congress and throughout the Nation, on the necessity for, and the benefits to be derived from, a full scale effort to conserve energy.

Energy conservation must be an integral part of our national energy policy. However, it has not received the degree of attention which it deserves. The energy savings by the application of energy conservation technology are well documented and would be substantial. The investment required can often be recouped within a few years with significant cost savings thereafter. As a nation we must realize that our fuel supplies are finite and that they should be used wisely. Energy conservation actions, it is estimated, are capable of saving up to 25 percent of our present total national consumption of energy in the next 10 to 20 years—up to 10 million barrels per day of oil equivalent. Furthermore, these actions are consistent with policies which seek continued economic growth and increased employment.

I am especially heartened to see that the administration now intends to place greater emphasis on energy conservation. ERDA recently released its updated version of the national energy plan. The most significant change from the earlier plan that was released last summer is that conservation is to be spotlighted.

Dr. Robert Seamans, the chief ERDA Administrator, in support of the new national energy plan stated:

> I believe it is impossible to exaggerate the need and desirability to make more efficient use of energy. An example illustrative of this point is that ordinarily it costs less to save a barrel of oil than to buy it. Each barrel saved means one barrel not imported. Conservation also will help provide time for the Nation to develop, as it must, new energy sources to replace our finite and dwindling supplies of oil and gas which now account for more than 75 percent of our energy.

It is encouraging that the new ERDA national plan points out that the efficient use of energy makes excellent economic sense.

No one disputes the need for energy conservation. The amendments which we are introducing today constitute an important congressional effort to encourage energy conservation and I fully support it. I hope my colleagues will join us in this effort.

ANTITRUST IMPROVEMENTS ACT OF 1976—H.R. 8532

AMENDMENT NO. 1800

(Ordered to be printed and to lie on the table.)

Mr. ROBERT C. BYRD (for himself, Mr. GRIFFIN, Mr. PHILIP A. HART, Mr. HUGH SCOTT, Mr. MANSFIELD, Mr. JAVITS, Mr. ROTH, Mr. BROCK, Mr. KENNEDY, Mr. ABOUREZK, Mr. MORGAN, Mr. PERCY, Mr. STEVENS, and Mr. TAFT) submitted an amendment intended to be proposed by them, jointly, to amendment No. 1701 to the bill (H.R. 8532) to amend the Clayton Act to permit State attorneys general to bring certain antitrust actions, and for other purposes.

NOTICE OF MOTION TO SUSPEND RULES

Mr. ROBERT C. BYRD submitted the following notice in writing:

NOTICE OF MOTION TO SUSPEND RULES

Pursuant to the provisions of Rule XL of the Standing Rules of the Senate, I hereby give notice in writing that I shall hereafter move to suspend Paragraph 2 of Rule XXII, for the purpose of proposing to the amendment No. 1701 to H.R. 8532 the following amendment:

AMENDMENT No. 1800

On page 29, line 8, strike out the period and insert in lieu thereof the following:

": *Provided*, That in cases other than price fixing or arising out of the fraudulent procurement or enforcement of a patent, any damages awarded against a defendant which are proved and assessed in the aggregate on the basis of statistical or sampling methods shall be reduced to single damages interest, and the cost of suit, including reasonable attorneys' fees and other expenses of the litigation.

On page 40, strike out lines 10–25, and on page 41, strike out lines 1–23, and insert in lieu thereof the following:

"'(1) upon the filing of such certification the chief judge of such district court shall immediately notify the chief judge of the United States Court of Appeals for the circuit in which such court is located, who shall designate a United States district judge to whom such action shall be assigned for all purposes; and

"'(2) the motion for a preliminary injunction shall be set down for hearing by the district judge so designated at the earliest practicable time, shall take precedence over all matters except older matters of the same character and trials pursuant to 18 U.S.C. 3161, and shall be in every way expedited.".

On page 42, line 22, strike out all through page 43, line 18.

On page 31, line 14, insert the following before the period: ", except that such term does not include any person employed or retained on a contingency fee based on a percentage of the monetary relief awarded under this section".

AMENDMENT NO. 1803

(Ordered to be printed and to lie on the table.)

Mr. ROBERT C. BYRD submitted an amendment intended to be proposed by him to amendment No. 1701 to the bill (H.R. 8532), supra.

NOTICE OF MOTION TO SUSPEND RULES

Mr. ROBERT C. BYRD submitted the following notice in writing:

NOTICE OF MOTION TO SUSPEND RULES

Pursuant to the provisions of Rule XL of the Standing Rules of the Senate, I hereby give notice in writing that I shall hereafter move to suspend Paragraph 2 of Rule XXII, for the purpose of proposing to the amendment No. 1701 to the bill H.R. 8532 the following amendment.

AMENDMENT No. 1803

On page 40, strike out lines 10–25, and on page 41, strike out lines 1–23, and insert in lieu thereof the following:

"'(1) upon the filing of such certification the chief judge of such district court shall immediately notify the chief judge of the United States Court of Appeals for the circuit in which such court is located, who shall designate a United States district judge to whom such action shall be assigned for all purposes; and

"'(2) the motion for a preliminary injunction shall be set down for hearing by the district judge so designated at the earliest practicable time, shall take precedence over all matters except older matters of the same character and trials pursuant to 18 U.S.C. 3161, and shall be in every way expedited'.".

AMENDMENT NO. 1804

(Ordered to be printed and to lie on the table.)

Mr. ROBERT C. BYRD submitted an amendment intended to be proposed by him to amendment No. 1701 to the bill (H.R. 8532), supra.

NOTICE OF MOTION TO SUSPEND RULES

Mr. ROBERT C. BYRD submitted the following notice in writing:

NOTICE OF MOTION TO SUSPEND RULES

Pursuant to the provisions of Rule XL of the Standing Rules of the Senate, I hereby give notice in writing that I shall hereafter move to suspend Paragraph 2 of Rule XXII, for the purpose of proposing to the (amendment No. 1701) to the bill H.R. 8532 the following amendment:

On page 29, line 8, strike out the period and insert in lieu thereof the following:

AMENDMENT No. 1804

": *Provided*, That in cases other than price fixing or arising out of the fraudulent procurement or enforcement of a patent, any damages awarded against a defendant which are proved and assessed in the aggregate on the basis of statistical or sampling methods shall be reduced to single damage interest, and the cost of suit, including reasonable attorneys' fees and other expenses of the litigation."

AMENDMENT NO. 1805

(Ordered to be printed and to lie on the table.)

Mr. ROBERT C. BYRD submitted an amendment intended to be proposed by him to amendment No. 1701 to the bill (H.R. 8532), supra.

NOTICE OF MOTION TO SUSPEND RULES

Mr. ROBERT C. BYRD submitted the following notice in writing:

NOTICE OF MOTION TO SUSPEND RULES

Pursuant to the provisions of Rule XL of the Standing Rules of the Senate, I hereby give notice in writing that I shall hereafter move to suspend Paragraph 2 of Rule XXII, for the purpose of proposing to the amendment No. 1701 to the bill H.R. 8532 the following amendment:

AMENDMENT No. 1805

On page 31, line 14, insert the following before the period: ", except that such term does not include any person employed or retained on a contingency fee based on a percentage of the monetary relief awarded under this section".

AMENDMENT NO. 1806

(Ordered to be printed and to lie on the table.)

Mr. ROBERT C. BYRD submitted an amendment intended to be proposed by him to amendment No. 1701 to the bill (H.R. 8532), supra.

NOTICE OF MOTION TO SUSPEND RULES

Mr. ROBERT C. BYRD submitted the following notice in writing:

NOTICE OF MOTION TO SUSPEND RULES

Pursuant to the provisions of Rule XL of the Standing Rules of the Senate, I hereby give notice in writing that I shall hereafter move to suspend Paragraph 2 of Rule XXII, for the purpose of proposing to the amendment No. 1701 to the bill H.R. 8532 the following amendment:

AMENDMENT No. 1806

On page 42, line 22, strike out all through page 43, line 18.

HEARINGS ON THE GOVERNMENT ECONOMY AND SPENDING REFORM ACT OF 1976

Mr. RIBICOFF. Mr. President, the Committee on Government Operations will hold 1 day of hearings on S. 2925, the Government Economy and Spending Reform Act of 1976, on Wednesday, June 16, 1976, at 10 a.m. in room 3302 Dirksen Senate Office Building.

The chairmen and ranking minority members of all Senate committees have been invited to testify on S. 2925.

ADDITIONAL STATEMENTS

ATOMIC ENERGY IN CALIFORNIA

Mr. BAKER. Mr. President, yesterday, voters went to the polls in three States to select candidates in the respective primaries of each party. As might be expected, there were also a number of local and statewide issues that were considered as well. Sometimes, what begins as statewide or local matters has a national impact far beyond their immediate interest. Such was yesterday's vote in California on the continued development of atomic energy, popularly called proposition 15.

Proposition 15, a public referendum on the future of nuclear energy, would have banned construction of new uranium-fueled nuclear powerplants and would have limited the operating levels of existing plants to 60 percent of capacity. It would have also required the California legislature to make technical safety and construction judgments that it is neither equipped nor likely to make. In effect, had proposition 15 passed, the generation of electric power through the peaceful use of the atom would have systematically come to an end in California.

As I speak today, I am happy to report that Californians have overwhelmingly rejected this ill-timed proposal. By a margin of 2 to 1, the people of the Golden West have refused to negate the energy progress that has recently been achieved. In light of America's continuing dependence on foreign oil, it is imperative that we develop as many promising domestic resources as possible. The peaceful use of the atom to provide domestic power remains one of our most promising economically and ecologically sound resources.

Mr. President, I want to publicly compliment my friends in California for their wisdom and foresight. They have thoughtfully rejected numerous appeals based on fear and emotion. They have repudiated a chorus of prophets of doom and destruction. They have overcome a coalition of activists who would regressively impact our standard of living now and well into the future. They have forcefully spoken for continued progress on the energy front, not only to Californians, but to Americans at large.

After receiving the benefits of electricity generated by atomic energy for 12 years in the Golden State, most voters realized that the nucear power industry is not only economical, but it is safe as well.

Immediately ahead are proposed referendums in several States on this same issue. I hope that the same realizations that influenced Californians will influence other Americans as well: A cessation in the continued development of nuclear electricity will result in higher utility bills, increased air pollution, growing dependence on foreign oil, and a general reduction in our standard of living.

Mr. President, I am thankful for the broad coalition of labor, business, rich, poor, black, and while who came together to defeat this issue. We must forward on all fronts to combat America's dependency on foreign energy sources.

THE GENOCIDE CONVENTION AND INTERNATIONAL PENAL TRIBUNALS

Mr. PROXMIRE. Mr. President, one criticism of the Genocide Convention stems from the possibility that under article VI, a person accused of genocide could be tried by an international penal tribunal, without any guarantee of our constitutional legal protections.

There is no reason to believe this will occur.

The first thing that must be pointed out is that no such tribunal has been established. Should one be set up in the future, signatories of the Genocide Convention would not be automatically under its jurisdiction, or in any way subject to its decisions. This is an essential point in answer to such objections. The United States, and more specifically the Senate, reserves the right to legislate applicability of jurisdictions by its treaty powers.

The ratification of this treaty cannot alter the inability of this Government to exercise legal jurisdiction unless the accused is in U.S. territory.

Today, the International Court of Justice has no penal or criminal jurisdiction. Its rulings on the Genocide Convention are purely advisory. The Genocide Treaty, as well as the rulings of the International Court, exist as moral deterrents. They have no means of direct execution. Only the voluntary action of the affected parties can force compliance.

Thus, American citizens accused of genocide cannot be tried by an international judicial body at this or any other time, without appropriate congressional action recognizing jurisdiction of that body. Our ratification of the convention cannot and will not go beyond our present constitutional provisions and legal guarantees. Rights of American citizens remain protected as long as they remain within American territory. We reserve the right to try our own nationals within the United States.

We must not let another Congress end without considering this treaty.

THE COURAGE OF DISSENT

Mr. BEALL. Mr. President, on May 15 the British Ambassador, the Honorable Sir Peter Ramsbotham, KCMG, addressed the 176th commencement exercise at the University of Maryland. The Ambassador's address, entitled "The Courage of Dissent," was a thoughtful and thought provoking view of the role of dissent in our society from the time of the American Revolution to the present. As the Ambassador notes, the history of Maryland and the history of the United Kingdom had been clearly intertwined, a theme which he skillfully incorporates into his remarks.

In order to share the Ambassador's provocative remarks with my colleagues, I ask unanimous consent, Mr. President, that the text of this commencement address be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

THE COURAGE OF DISSENT

It is a great honour to be invited to deliver the principal address at the 176th Commencement Exercise of this distinguished University of Maryland. Nothing could give me more pleasure than to bring the good wishes of the people of Great Britain to the State of Maryland and to its University, in the year when we are celebrating together the birth of the American nation and its great achievements in the two hundred years that followed.

There has been much talk this year about the winners and losers in 1776. As British Ambassador, I have often found myself questioned about British feelings, on this anniversary of one of our most notable defeats. Many Americans appear surprised that we are contributing so enthusiastically to your celebrations. Was not the United States born from a series of British mistakes? Even the American national anthem was inspired by a British defeat on Maryland soil. Are not the British, people ask, embarrassed by the memory of these disasters?

I do not try to re-write history when I reply to such questions. I sometimes ask whether it can really be considered a defeat to be released from controlling—from three thousand miles away—the most powerful collection of individualists that have ever been assembled within a single society. And I often remind people that we British have little difficulty in celebrating one of our defeats; they are all the more memorable for being so few.

But the important point to remember is that, whatever happened in those volatile times, our two countries could not be firmer friends than they are today.

You well know that the British make friends slowly—the first two hundred years are always the most tentative—but once we have made up our minds, it is hard to shake us off.

One of the values of the Bicentenary is that it encourages us to think about America in its third century, as well as in its first two. It will be a century of uncertainty. The challenges of uniting, and then extending, this vast country were huge; but they were, in a sense, uncomplicated challenges. A man could set his line and not deviate from it.

But the world of the next one hundred years will not be like that. The factors that affect the health and the livelihood of your people and of mine will be many times multiplied; and there will be intense and sometimes troubled debates about the courses we should follow. I believe we have the strength and the versatility to adapt to what is coming; but the pressures will be great.

In such circumstances, the younger people in Britain and America are right to ask what trust they may credibly place in their governments, and why they should not question the judgments and the actions of their governments, and why they should not question the judgements and the actions of their authorities. In both our countries there is a tendency amongst the young—(which was not so prevalent in my generation)—to withhold the benefit of the doubt in judging those who are set in authority—the establishment—whether in politics, the administration, the schools and universities, the hosptials or whatever. But I also sometimes detect a feeling of disquiet that such dissent and such doubts may, in certain circumstances, be evidence of disloyalty and lack of patriotism. To what extent is that feeling justified? Can one speak today of the Courage of Dissent?

In a search for an answer to that question, I think it is profitable to look at the story of the dissenters of 1776, the Loyalists: some lessons can usefully be drawn.

The War of American Independence was not just about American Independence; nor was it just a War between two countries, America and Britain. For one thing, neither country was united about it, nor indeed united within itself. The United Kingdom had only become a Union seventy years before; and there was a considerable body of opinion in the mother country that sympathized with the aspirations of the colonists. Likewise, on the other side of the ocean, there were many American Loyalists; loyal, in and after 1776, to George III.

Historians cannot be precise about the number of the Loyalists. Probably about one-fifth of the American population, that is to say about half a million people were Loyalist at heart; and many more were loyal to the King when Independence came. They believed in the status quo. They included, but they were not confined to, customs officers, Admiralty officials, judges and Revenue officers, and that whole colonial bureaucracy that was familiarly described as "the friends of government". But they were, indeed, to be found in all the colonies and in every walk of life.

When in June 1776 a number of people were arrested in New York on suspicion of plotting to kill George Washington, they included the Mayor of New York, and some officials, but they also included farmers, tavern-keepers, two gunsmiths, two doctors, two tanners, one silversmith, one saddler, one shoemaker, 'a pensioner with one arm', and an unfortunate man described tersely as 'a damned rascal'. The majority of those loyalists who settled Canada were not parts of any Establishment. They were poor, they were without jobs, and most of them signed their names with a cross.

But if the Loyalists were not fewer in number than the Patriots (indeed probably the reverse), they were certainly less vocal, and less addicted to pamphleteering and protest. In large measure the Loyalists lost the battle for men's minds in America, lost it early, long before 1776; and in some measure lost it by default. Equally, they lacked the organisation, the capacity for riot and rebellion; lacked, too, the minute-men, prompt to come to the cause, and the whole paraphernalia of revolution.

What then did they stand for, what did they believe in, other than straightforward loyalty to the King? Perhaps it was not necessary to believe in anything more than that in 1770. America then was part of the British Empire, the King was young, 'born and bred in Britain' as he was prompt to boast—and it was a significant boast, since several of his predecessors had been conspicuous by their very foreignness. He was "farmer George". A recent biography of King George III shows how unjustly maligned he has been. He was cultured. He was well-informed on American affairs. And he was sympathetic to the needs of his people. He was far from being the 'senile and inept monarch', disparagingly described in the Declaration of Independence. In fact he was six years younger than George Washington.

The colonies, remember, were over eighty per cent British in racial character. And they were prosperious. The revolution had no natural momentum. It was the case for change that had to be made, *not* the case for the status quo.

The colony of Maryland, in those days, was blessed with a particularly generous share of English Culture. The libraries of the well-to-do in Maryland at that time testify to tastes which had been cultivated in England. Many had a special predilection for the classics, with a preference for works of history and political thought. Maryland's literary product was penetrated with worldly wisdom and ratioinalistic thought. The Maryland Assembly excelled in the use of the language of English parliamentarianism.

But, if the colony of Maryland developed, along with the others, a culture that was modelled largely on a British pattern, it also shared with the other colonies an increasing movement of self-government in America. In a remarkably short space of time, the local assemblies engendered an atmosphere of autonomy, establishing themselves as true legislatures with powers to introduce and enact laws of many kinds. Even though these powers were balanced by the authoritative control of the Governor, derived from the mother country, the feeling grew that analogy and precedent had less force than the expression of the will of the people in the enacting and administering of the law.

Gradually, therefore, people were pulled in two directions.

Joseph Galloway and John Dickinson each came from a propertied family in Maryland. They were of almost the same age: Dickinson had been born in 1732 and Galloway in 1731. Each had married money, and was a successful lawyer. Each worked professionally in Philadelphia. Each feared the effects of Yankee levelling, and was regarded as, in essence, a Tory. Why did Galloway go one way, and Dickinson go another, as the events of the 1770s rolled on? Joseph Galloway, who was Benjamin Franklin's earlier ally against the Penns in Pennsylvania; Galloway, the wise thinker of 1774—(he had proposed the setting-up then of an American Parliament)—ended up as a Loyalist in London, criticising General Howe for losing the war, and claiming damages on a considerable scale. John Dickinson, a man of means, who volunteered to serve in the Continental Line, and helped to draft the Articles of Confederation became a vigorous champion of the rights of small states, and thus a Patriot. Like two streams on a peak of the Continental Divide, Joseph Galloway and John Dickinson began from approximate positions, and ended oceans apart.

We enter here the intriguing, but almost impenetrable, area of taste and preference, courage and cowardice, self-interest and opportunism, judgement and calculation, conscience—and sheer chance.

The intellectual conflict of 1776 was not between Whig and Tory, but between Whig and Whig, or, to use Burke's language—between Old Whig and New Whig. Both sides took as their texts the writings of the great English thinkers, Locke and Coke; and rested their case on the achievements of the Glorious Revolution of 1688: both sides favoured a balanced constitution, the harmonious order of ranks and classes, a religion that emphasised obedience and virtue, an acceptance of property as the basis of suffrage and office-holding. Before March 1776, all but a handful of Americans looked upon the British Constitution as their model of government. The differences were very narrow: to many Loyalists like Joseph Galloway of Maryland, this meant, primarily, loyalty to Crown and Governor. To Patriots, on the other hand, like John Dickinson, it meant primarily loyalty to colony and assembly.

Many Tories—that is to say Old Whigs—were quite as emphatic about the right of resistance to tyranny as were the New or Radical Whigs. American Whigs stood for the same rights of property and trade, the same respect for charters, the same control of taxation which had been the backbone of Whiggism in seventeenth-century England.

The influence of John Locke was strong, yet this was Locke with a difference. Locke had been emphatic on the importance of the centralised character of Parliament. He believed in a supreme power in the State, and in the necessary existence of one legislature. To him, irrespective of the size of the Atlantic, the authority of the British Parliament was co-extensive with the Empire; there could be no "colonial" Parliament and no division of sovereignty. This point was also made—uncompromisingly—by William Blackstone, whose first volume of Commentaries on the Laws of England came out in the same year as the Stamp Act. "There is and must be," he wrote, "in every state a supreme, irresistible, absolute and uncontrolled authority in which the rights of sovereignty reside, and this supreme power is by the Constitution of Great Britain vested in the King, Lords and Commons".

Thus the Tories in America cited Locke for one reason, to emphasize the supremacy of the Crown in Parliament, and the rights of Parliament against the Crown; while the American Whigs cited Locke for another reason—they had their local colonial assemblies in mind, and it was for these that they demanded liberty. But it was a distortion, because the authority Locke supported was that of the British Parliament. And yet all this has not prevented Locke and Blackstone from being regarded, in later years, and indeed today, as mentors of the laws and liberties of the United States.

Federalism and the notion of divided sovereignty were still strange ideas in the eighteenth century. Even amongst the Founding Fathers, drafting the Constitution thirteen years later, there were many who did not believe that republicanism and federalism could last very long in a vast and unmapped continent. The Anti-Federalists argued that Sovereignty was indivisible. In the eyes of the political nation in Britain, the assemblies in the New World were not mini-parliaments curbing royal governors, as they saw themselves. They were no more than "municipal corporations", dependent on the will of the Mother Parliament in London and entirely subordinate to it. Since the majority of the people of Britain at that time were not themselves represented in the House of Commons, there was no case that was genuinely sustainable for having an elected parliament in North America, nor for having American MPs in the House of Commons in London. Distance and slowness of communications prevented that anyway.

So we can call the Loyalists the First American Conservatives, the first natural pessimists; those who believed that the visions of the Founding Fathers would not, could not, work out as those idealists dreamed, and who knew from a knowledge not only of books, but of human nature, that man is imperfect, addicted to error, acquainted with sin. Many of the Loyalists were the doomwatchers of their day. They saw the trends of the future, and judged they would not work, and they would not work, and they would have none of it.

And they suffered for their views. Indeed they were known at first as "the American sufferers". They went into exile, 60,000 of them, to the West Indies; to Canada, whose Founding Fathers they are; to London, Bristol, Birmingham 8,000 of them settled in Britain, and some of the Blacks went on to Sierra Leone. There were more emigrés from America per head of population than from Revolutionary France. At least 5,000 of them took refuge in Florida, believing that it would stay British; only to find that in the Peace Treaty of 1783 Britain agreed—in order to retain Gibraltar, to give Florida back to Spain, and so they had to move on again.

History is not kind to failures, and it has rarely been fashionable to write the story of the unsuccessful. Today, however, history from the bottom up has become acceptable, even perhaps in fashion. As sufferers and exiles, as failures, as men and women who agonised and then guessed wrong, the Loyalists offer some corrective to the success story of the Yankees.

Our world today is disturbingly familiar, with loyalty oaths and guerrilla wars, with charges and counter-charges of treason and loyalty, spies and counter-spies. The United States has again, in recent years, faced the question of whether it is a punishable offence for the individual to follow the dictates of his conscience rather than the requirements of his Government. The debate is a sharper one here than in my country: The British are an older, more tightly-knit society, whose strength as a nation has been tested from outside more often, century for century, than the United States. The story of your birth as a nation, and of the opening up of your vast continent, has illuminated more dramatically the qualities of determination, inventiveness and vigour inherent in the American character, which accentuate the strength of will of the individual.

Two hundred years ago, the signatories to the Declaration of Independence held certain truths to be self-evident. But behind that statement lay an assumption that every American was capable of perceiving these truths for himself; that each of them bore a certain responsibility, as an individual, for a continuous relationship with his government. What could not be deduced from the statement of principles in the Declaration was that there were specific political consequences that followed. It turned out that different individuals did have different moral apprehensions; and some of these apprehensions were wide enough apart to allow for almost directly opposite interpretations of the obligations of the colonists in the dilemma they faced.

Widely varying opinions about the obligations of the citizen are no less a modern phenomenon; indeed, no democracy is fully alive without such a debate. It is a question of the degree to which dissent is taken and the country's need for unity at the time. The parallels between Britain's war with the colonies in the 1770s and the American war in Vietnam in this last decade have been pointed out by modern historians. Both wars raised painful questions of judgment and balance, of courage and loyalty. There is a time when dissent and pacifism are intolerable, when a nation is fighting for its life. To encourage disunity in such circumstances can be treason. But there are other times when it is possible to afford the luxury of debate and disagreement.

What, then, is the criterion by which we should judge the behavior of the dissenter? By the fervour of his convictions? By the firmness of his courage? By the worth of the proposed alternative?

We are reaching out here to the extreme point of perspective, where a people can effectively pass judgment on themselves. But it is well to remind ourselves that the relationship between authority and those dissenting from it may, at a time of crisis, be a decisive factor in the survival of the community.

Philosophers and historians have pondered over these problems for millenia, and there is little I can add. But I would leave one thought in the minds of the young people here today—as an injunction to any would-be dissenters: that dissent (if you feel you must dissent) should be a contribution to, not a subtraction from, the strength of your society. There should be a firm element of thought and courage in the foundations of your action. Democracy rests on debate, not on mindless opposition. In order to preserve the freedoms that we have, there are freedoms which we do not have, which we must deny ourselves; the freedom, for instance, to escape from the interest which society (any society) has in you, as an individual and as a contributor.

If your argument measures up to the most stringent test you can subject it to, in its relationship to the truth and to the needs of your country, then follow it with all the courage at your command. You may not be remembered for your stand: the Loyalists of 1776 were the first in American history to pose the question of what loyalty is; and to what Americans should be loyal. They lost, and all but disappeared, and history for almost two centuries has passed them by. But the question has recurred, from Lexington to Fort Sumter—to Saigon; and will occur again in the future.

I believe it will remain at the very heart of the struggle for the survival of democracy in the world; a struggle in which the leadership of the free world will fall upon the shoulders of your generation. And it is within your country—the greatest experiment in democracy that the world has seen—fostered by the training to think for yourselves (which is the blessing of a university education), that the courage of dissent can be most nobly matched with the nation's highest callings.

ELECTRONIC WARFARE

Mr. ROBERT C. BYRD. Mr. President, electronic warfare is that segment of the defense arsenal concerned with electromagnetic vulnerability of weapons systems. It is a sophisticated science that is incorporated in the design and deployment of weapon systems that must penetrate a complex enemy electronic defense environment. Although the importance of electronic warfare has been neglected or minimized in the past, we realize today that this is an increasingly vital part of defense planning.

My good friend and colleague, JOSEPH M. MONTOYA of New Mexico, not only recognizes, understands, and appreciates this sophisticated facet of technology, but for almost a decade has singly been its leading, most fervent proponent. He belongs to the Association of Old Crows, an organization of more than 8,000 members who are interested in electronic warfare and is a charter member of the Southwestern Roost at White Sands Missile Range. Senator MONTOYA never misses an opportunity to actively participate as an electronic warfare spokesman, whether at an Old Crow function or with his colleagues on the Appropriations Subcommittee on Defense.

On January 31, 1976, Senator MONTOYA was the speaker at the annual installation of officers banquet held by the Southwestern Crow Club at Fort Bliss, Tex. His remarks were reprinted in the March/April 1976, issue of Electronic Warfare, and I ask unanimous consent that they now be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

ELECTRONIC WARFARE: THE GROWING THREAT

I am delighted to be here today to speak to my own Southwestern Old Crow Club. I want to thank your outgoing president, Mr. Alvarez—and I want to congratulate the newly elected officers. I know that you all realize the importance of the job you are taking on—and I commend you for your courage!

The last time I spoke to you—in August of last year—the Old Crows joined with two other groups to discuss defense preparedness. We talked about the mood of the Congress—and the tightness of the budget. We talked about the importance of White Sands to this State and to the Nation, and we talked about the need for every one of you to do the public education which was needed in order to protect our real defense priorities.

Today, I want to spend some time explaining my viewpoint about electronic warfare—and the job which you and I have to do in the months ahead if we are going to keep our priorities straight in America.

Eight years ago, I spoke to this group, and I remember that meeting well. Since then, a lot of important things have happened:

In foreign affairs, we have witnessed a steady shift in the balance of world power as we moved through Vietnam, the Middle East, recognition of Red China, detente and S.A.L.T. 1.

Domestically our traditional problems have been aggravated by questions of energy and inflation. And throughout all this there have been technological explosions such as those in the fields of micro-electronics. lasers and data-processing.

I specifically mention these events because I have seen their effect and realize the impact they have upon our joint responsibilities within the E.W. Community—your responsibilities as E.W. professionals and mine as a legislator and member of the Senate Appropriations Committee.

We are all aware that the growth of electronic warfare has been one of great conflict and controversy within each of the services. As our defense needs increased, concerns for E. W. vulnerability were lost in the rush to produce and deploy basic weapons systems. Back in those early days, E. W. was minimized or altogether ignored in the development cycle. Often, because of this neglect, the lessons of E.W. vulnerability were learned only through the harsh realities of modern warfare.

Many of you here tonight had continually pointed out this "blind spot" in our weapons systems and defense planning. However, your faith in E.W. was not fully substantiated until the Southeast Asia and Middle East conflicts. As a result of the E.W. contributions in those clashes, it became apparent that electronic warfare had emerged as a distinct category of modern battle. Further, it was firmly established that our emphasis on E.W. vulnerability investigations during the weapon's lifetime was necessary and correct. As in the case of the B–52, we saw that the introduction of appropriate E.W. systems could extend the effective lifetime of an existing weapon system whose basic combat role was in question.

Instead of merely providing justification for costly retrofit programs or new weapons systems, defense planners now viewed electronic warfare considerations as an accepted aspect of the R. & D. cycle. Where it once required an agonizing effort on the part of the Appropriations Committee staff to determine the characteristics of a new weapons system, we now have greater hope of finding E. W. parameters clearly defined in the budget request. Further, it has been my personal observation that the old questions are no longer so apparent during a discussion or hearing on E.W. vulnerabilities. Electronic warfare, I am happy to say, is no longer questioned—it is here to stay.

A lot of the credit for these major achievements belongs to E.W. professionals here at Ft. Bliss and at White Sands; for your diligent work in the fine laboratories on the range, and for the assistance which you have rendered through your commands to such offices as mine.

We are here tonight to insure that this favorable trend in the development of our E.W. capability will continue. In a period of rapidly changing ideological positions, our defense planners must constantly reevaluate their stance as we reach—or fail to reach—new international accords.

We must be ever mindful that modern surprise attacks do not begin on the battlefield but rather in the laboratories and universities of a potential adversary.

Fortunately, new collection systems give our intelligence community an unprecedented ability to delineate both the possibilities for war as well as the margin for peace.

In recent months, there has been severe criticism of some improper activities of our intelligence groups. However, I think it is important to remember that there has been no criticism of the collection systems which are the most important part of our intelligence work. I know that the vast majority of the members of Congress agree with me that we must continue to support those intelligence collection work which reduces the chance for misjudging opposition capabilities, intentions, or ideological shifts. Nothing can ever change our need for that kind of intelligence activity.

I believe that the key to future E.W. success will rest in our ability to use our intelligence resources more intelligently. We must be increasingly precise in responding to military threats. The staggering costs of new weapons systems precludes redundancies in production and deployment. We cannot support "shotgun" approaches to defense needs.

The diplomatic efforts of this country in S.A.L.T., detente, and the recognition of Red China reflect our good-will. But all too often in this world, "good-will" is not enough. We extend the hand of friendship to all, but it should be understood that we do so with a sense of strength, not of weakness. While I fully support our efforts to relax international tensions, I am in complete opposition to any form of unilateral disarmament. In addition, recent events have demonstrated that our current detente may be somewhat illusory. Soviet research continues to develop an increasing range of strategic and tactical weaponry. This fact coupled with the danger of a sudden shift in Sino-Soviet internal politics could produce grave consequences for our Nation.

It is our duty to remain increasingly prepared to respond to any unfavorable shifts of international policy. Much of this preparation should occur in the electronic warfare laboratory at White Sands and in our tactical units at Ft. Bliss. For this reason, and to further strengthen our electronic warfare capability, I am outlining several suggestions which I intend to pursue, both before the Senate and with the Army:

Firstly, I will continue to stress the need for an expanded Army E.W. center located in this area. It has long been obvious to me, and I have previously urged, that such a center is essential for a viable E.W. program. It is my understanding that the Army is also considering the importance of a more sharply focused E.W. structure. It would be difficult to think of a more appropriate and cost-effective location for such a center than here in the Southwest. The highly instrumented range at White Sands, along with its large R. & D. complex and varied pool of E.W. specialists, would be impossible to duplicate. In addition, we have Ft. Bliss with its unparalleled training facilities, as well as support from the fine laboratories at New Mexico State University.

At this point, I would like to say that I will look very harshly upon any attempt by D.O.D. to dismantle this critical complex. I was not pleased, as you can imagine, when I heard of the Air Force's decisions concerning Kirtland Air Force Base. The proposal to move the E.W. aircraft "Big Crow" to Wright-Patterson Air Force Base was most ill-advised. I must admit that I sent a rather sharp letter on this subject to the Secretary of the Air Force, Mr. McLucas. This was distressing, as I feel much more comfortable working harmoniously with our armed forces to achieve a proper defense readiness. However, I cannot tolerate a dilution of E.W. resources and assets in this region. Although Mr. McLucas has gone on to other work, I hope that the solutions we worked out will be properly implemented by his successor.

Secondly, I will continue to support expansion of our electronic warfare R. & D. programs. Before we move into production of E.W. equipment, it is essential that the very latest technology has been incorporated into their design. Timely use of a broad technology base offers the possibility of increasing our combat effectiveness without necessarily increasing the number of men under arms or risking a critical defense gap.

It should be noted that when I stressed this point with General Miley in 1971, he assured me that M.E.W.T.A. could look forward to an increased budget in the coming years. I note that their funding for this year had expanded several times over the 1971 level. This type of growth is absolutely necessary to insure that weapons systems deployed in the future will be both militarily effective, as well as cost effective.

Finally, we must examine our E. W. Structure, with an understanding that proper management of defense programs is an absolute necessity. We must seek out leaders who are both aggressive and innovative. The pressures upon all of us here today are intensified by a constant need to accomplish our job with the most efficient use of all our resources. Every dollar—and every hour—counts. It is my understanding that the Army—along with its desire to centralize E. W. Operations—is currently seeking to improve its E. W. Management plan. I have discussed this matter in the past and I will continue to stress the need for a more functional structure.

It is an irony of this age that while attack response times are being reduced to minutes or even seconds, the time it takes to research, develop, test and deploy a new system has increased dramatically. Therefore, it is imperative that a close working bond exist between the intelligence offices which anticipate or identify the threat and those of you in the E. W. community who are called upon to counter the threat. We cannot allow any slowdown in this process. I guarantee that the Appropriations Committee will be increasingly firm as it manages our national resources in this regard.

Also, it is essential that we increase the flow of E. W. data into the Senate to provide the information needed for timely defense budget actions, and to insure that our E. W. programs are being properly managed at all levels.

It is in this area that I am going to require your assistance and your understanding. Over the years, I have personally come to many of you in the E. W. community for both technical and budgetary advice. Sometimes this advice has come in the form of briefings organized by your respective commands; other times my information has come through less formal channels. However, you have always been courteous and responsive to my requests.

If we are to see a continued expansion of the vital programs being carried out here in the Southwest, then I must ask your ongoing assistance as we work toward achievement of our mutual goals. As details for upcoming budget requests are being looked at, I plan, once again, to join you in briefings and conversations aimed at allowing me to define better your interests before the Senate Appropriations Committee.

Together, I believe we can add significant strength to the defense of our Nation during a critical and historic period. In this way, I am certain we will also add to the bond we share as members of the Southwestern Crow Club.

Together we can continue to do the job which must be done!

ALFRED SELBY

Mr. JAVITS. Mr. President, I was saddened to hear of the recent death of Alfred Selby who passed away at the age of 85 years after having served the Senate for more than 62 years, longer than any other employee in history.

All of us deeply appreciated the many services performed by Mr. Selby throughout the years and he will be missed by the Senate. It is some consolation that he lived a long and fruitful life and was in the Senate to observe many of the historic moments of the twentieth century.

On behalf of Mrs. Javits and myself, I extend most profound sympathies to Mr. Selby's family on his passing.

SECRETARY HILLS RECOGNIZES NEED FOR NATIONAL PLANNING

Mr. HUMPHREY. Mr. President, Carla A. Hills, Secretary of Housing and Urban Development, has proven herself to be one of the most energetic and candid members of the Ford administration.

At a time when many Government spokesmen seem to have closed their minds to new ideas and new opportunities for solving our fundamental economic problems, it is most refreshing to have a person like Carla Hills in office.

I am particularly pleased to note her endorsement of the concept of national planning at the Habitat Conference on Human Settlements sponsored by the United Nations, June 1, 1976.

In her speech to the Conference, Secretary Hills noted that the Conference was seeking "a radical change in our entire perception of human settlements," and that "it calls for a long-range comprehensive approach to the problems and opportunities of human settlements rather than dealing separately and short-range with each contributing factor."

Secretary Hills then went on to say that "sound national planning benefits the entire world community. * * *"

The importance of this observation cannot be overstated. National planning to solve the problems of human settlements, housing, and rural and urban community development is absolutely essential.

Mr. President, I ask unanimous consent that the speech of Carla A. Hills, Secretary of Housing and Urban Development, at the Habitat United Nations Conference on Human Settlements, June 1, 1976, be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

REMARKS BY CARLA A. HILLS

Mr. President, Mr. Secretary General, distinguished delegates—Ladies and Gentlemen:

The President of the United States has sent me here committed to a constructive and cooperative role in these discussions—and to help bring about that enduring spirit of peaceful, global habitat to which this international assemblage is dedicated.

President Ford gave me this message, before I left Washington, to deliver to you, here, in person:

"Your Conference will focus world attention on a challenge which confronts us all—how to enhance human dignity in the villages, town and cities where people live. It is an imposing task. It will take all the imagination, determination and perseverance that people and their governments can summon.

"In a few weeks the United States will celebrate a great milestone in its history—the 200th anniversary of American independence. This will serve as an occasion for pondering the lessons of two centuries of experience—of the successes and failures and how we all may benefit from them as we contemplate our future.

"In this sense, the Conference on Human Settlements which is intended to make possible a global exchange of experience comes at an especially appropriate time for us Americans. Our history is a reflection of other peoples in other places. Throughout our existence as a nation, we have been enriched by ideas brought to our shores by millions of immigrants from all parts of the globe and by those who did not stay but whose ideas left an enduring impression on our lives and human settlements. The Conference will provide us with yet another means by which we can benefit from the wealth of experience of others and add new dimensions to our vision of our next 100 years.

"There is no task more compelling than the improvement of man's condition. The recommendations you make could have a profound and lasting influence on all of us. The United States will cooperate with you in seeking to chart paths that offer the promise of better and fuller lives for all people and habitats truly worthy of man." Signed: Gerald R. Ford.

As we search for the key to what President Ford calls "habitats worthy of man," the people of our planet have a right to expect that our actions here are worthy of man! We will be judged, not so much on our skills in the arena of world politics, but in our willingness to lay aside the debates that divide us and concentrate on the greater needs that brought us here in the first place.

Habitat is a creative challenge. Since it is certain that our often sterile—and too often rigid—thinking of the past will not serve the awesome needs of the future, this Conference demands a radical change in our entire perception of human settlements. Above all it calls for a long range comprehensive approach to the problems and opportunities of human settlements rather than dealing separately and short range with each contributing factor.

We are here because we have much to learn from each other; much to take back with us for possible application to similar national problems of our own. For, although the numbers and the problems are global—unifying us in resolve—the choice of action by the nations here assembled will be defined in the long run by national application dictated by local needs, local economics, local customs and local experience.

The experience of my country is set against the backdrop of our fundamental belief in a free society in which the establishment of public policy is based on the active participation and involvement of all our citizens.

It is the combined voice, and force, of all our citizens, representing all sides and all aspects of the question of human settlements which provide our national government with the critical information and judgment essential to balancing the opposing forces of inevitable growth and finite resources, while responding to our needs.

Never has the flexibility of our national institutions been more challenged than by our experience in urbanization. In the space of less than 100 years we have moved from a sparse agrarian society to a crowded urban society. In the process we have experimented with hundreds of programs and virtually thousands of institutional arrangements to deal with this change.

Both our mistakes and our triumphs have been highly visible to us—and to the rest of the world—and offer a laboratory of hard lessons to other nations at this Conference, now, and long after Habitat has been adjourned.

We are here to share the knowledge we derived from the approaches we have tried—both those that worked and those that failed.

For example, we know now that in spite of the support of urbanists and government officials, in spite of our noble intentions and hard work, and in spite of strong public and private financing—wholesale urban renewal can destroy the culture, spirit and social fabric of an urban neighborhood.

That is not to say that urban development is no longer one of the most important priorities of my nation—which it most certainly is—but it is an admission of our failure to recognize the hazards.

We learned by that mistake, and now rather than by clearing them out, up-rooting the residents and rebuilding the neighborhood from the ground up we are reclaiming our center-cities by preserving and restoring and adding.

With resources so scarce, we must be creative in the re-use of every existing and serviceable resource that remains in the neighborhood larder.

As a nation of the world, our experience and our lessons cannot be isolated from the global experience. Indeed, the discovery and development of the Western Hemisphere—and the establishment of my country—was part of that global experience.

Today, as the rapid shrinking of our planetary habitat affirms the naivete of some of our past concepts, we must concede that: . . . No nation's growth and development can be insulated from the global economy—nor from the necessity of positive international cooperation of the kind we are engaged in right here.

For sound national planning benefits the entire world community; and cooperative international effort augments the effectiveness of national programs.

We cannot shirk our obligations—as world citizens—to the needs of the many poor people and poor nations among us. Together, we do have the technical ability to provide a suitable quality of life for every living member of the human race today. The question is our moral commitment to that oldest quest of humanity—a world without poverty.

It is clear that the increasing number of human beings in settlements, resulting both from high birth rates and from migration, critically complicates the task of providing a higher quality of life for each and calls for a rededication to the World Population Plan of Action adopted almost unanimously in Bucharest in 1974 and now being effectively implemented in many parts of the world.

It is also clear that we cannot achieve a world without poverty without the establishment of an expanding world economy. Good intentions alone will not turn the magic key. We cannot accomplish it with a one-way flow of funds from the richer nations to the poorer nations—a method tried and found wanting, both by the nations who have borne the heavy burden and by those who have felt their national pride compromised by a relationship of continuing dependency on the good will of others.

Thus, we bring to this Conference a number of practical international programs—tempered by our national experience and faithful to the fundamental beliefs of the American people—particularly responding to the expressed concerns of developing nations.

The United States emphasizes four areas of priorities and programs to assist those countries:

Food production, distribution and nutrition.

Population planning and health.

Education.

Human resources.

Each of these is essential to the establishment of human settlements policy—but, until now, we have tended to deal with them individually.

Habitat itself, in its comprehensive approach to the human settlement, reinforces our national determination to effect changes in some of our assistance programs:

First: To achieve improved rural/urban balance, we are developing new integrated and comprehensive approaches to help nations who wish to strengthen their rural regions. This would focus on the development of market towns as an alternative to the boundless growth of single urban centers. It is aimed at the increase of agricultural production—and with it, the sound development of rural regions.

Second: We are turning to a more comprehensive approach to providing shelter for the urban poor.

One of our most important instruments for this is our Housing Investment Guarantee Program, which has financed more than $1 billion of shelter projects, and which is now the largest single source of international financing for shelter. At its inception, this was a program for those of moderate income. We are shifting that emphasis to meet the needs of the poor.

The Housing Investment Guarantee Program will be used increasingly to assist the poor to help themselves, in two ways: (1) by financing sites and services for those who build or complete their own housing; and (2) by financing the improvement of slum and squatter settlements to provide better living conditions.

Third: We will support the integration of major development components—appropriate technology and credit for small producers, family planning, health, nutrition, and education—so that the programs will provide better opportunities for the poor to expand their incomes and gain easier access to the services they need.

Fourth, in technology. Last month, at the United Nations Conference on Trade and Development, Secretary Kissinger outlined the most comprehensive effort ever put forward by the United States to deal with the application of technology to development. Many of the programs have important relevance to human settlements activities.

Satellite technology offers enormous promise as an instrument for development and human settlements planning. Remote sensing satellites can be used to collect data on land use, soil types, transportation and demographic patterns. Supplemented by other means, they can be used to prepare maps to identify features important to regional planning. Remote sensing can help foresee and evaluate natural disasters and is particularly useful in isolated areas.

Modern communication technologies, including satellites, have a large untapped potential to improve education, training, health services, food production and other activities.

We are intensifying our research and development of technology in two other areas in order to improve housing, especially for the poor.

These include new low-cost materials, designs and construction techniques which do not depend so much on the use of highly skilled labor, capital intensive equipment or costly imported materials; and low cost structures resistant to natural disasters for use in disaster-prone areas.

Obviously, since every nation is different, all of our scientific advances will not be appropriate to all nations. But, we offer access to the technologies which help the United States in managing our urban/rural environment—both as an insight to our national experience and as evidence of our desire to share our accumulation of knowledge with developing countries whose urban growth is already out-pacing our own.

Few subjects are more central to the improvement of our habitats than the utilization of water resources. The technology of storing, transporting and purifying water is fundamental to the health and even the survival of human settlements.

The United States will encourage its universities, institutes and training centers to establish special programs for students and personnel of developing nations—in business, industrial problems, public management, health, welfare and related socio-economic fields.

My Government will encourage formation of a Technology Corps—to parallel our Executive Service Corps—to work with and help train local officials in the new and complex problems of human settlements management.

And we are committed to helping expand the capabilities of the United Nations International Center for Exchange of Technological Information. To that end, the United States already has moved to improve and speed up the Center's access to the existing information centers of our country.

The sole object is to deliver the maximum usable settlements information to the developing countries in the minimum time and with the least number of bars to ready accessibility.

My Government offers this Conference and the nations of the world the best of what we have to contribute—not out of charity nor a sense of beholden indebtedness.

The resources of the world—wherever located—are vital to all of us; as is the world economy by which we all must live.

At the 7th Special Session of the United Nations, last September, our nations agreed on an agenda of mutual international action. Since that time we have moved forward with historic international negotiations on trade and finance.

We have accomplished much. We still have much to do.

To conclude with the words of Secretary Kissinger:

"Materially, as well as morally, our destinies are intertwined. There remain enormous things for us to do. We say (once more) to the new nations of the world: We have heard your voices. We embrace your hopes. We will join your efforts.

"We are committed to our common success."

Thank you.

S. 3316—A BILL FOR THE HANDICAPPED

Mr. MONDALE. Mr. President, I rise to offer a few comments in regard to legislation recently approved by the Committee on Finance, and on the general subject of architectural and transportation barriers. My colleague, Senator DOLE, recently introduced S. 3316, a bill to amend the Internal Revenue Code to provide tax incentives for the modification of buildings so as to remove architectural and transportational barriers to the handicapped. S. 3315 was later added as an amendment to the comprehensive tax reform bill in the Finance Committee. This legislation was designed to provide incentives to the private sector to deal with the important problem of architectural barriers.

Mr. President, we have taken over the past few years important steps toward providing full equality for minorities and women in this country. But we have only begun to understand the full implications of being handicapped in America.

In my capacity as a member of the Subcommittee on the Handicapped, I know how long it has taken to identify the handicapped as Americans who have not received equal treatment under our traditional policies—and sometimes, even under our laws. It is a sad indication of our affluence that in our country we have often—and sometimes unnecessarily—banished the handicapped from our daily life, because we have had the resources to build residential institutions and the "special schools" and hospital wards.

Between the years 1956 and 1972 we recognized the tremendous needs in the area of special education by providing new programs and funding in the area of vocational rehabilitation and general education.

In 1967, we created the Bureau for the Education of the Handicapped to guarantee a new commitment and focus on special education.

And in 1972 the Labor and Public Welfare Committee of the Senate, on which I serve, created a subcommittee devoted entirely to identifying and meeting the needs of persons with all types of handicaps.

I am proud to have been a member of this subcommittee since its inception. Now we need to let them go to work.

The Finance Committee, on May 27, with approval of the Dole-Mondale compromise on S. 3316, took a major step toward insuring that handicapped Americans have equal access to jobs—and thus to become productive members of society. The important thrust of this legislation is to give incentives to the private sector to remove obstacles that interfere with the employment of the handicapped.

Under this bill, individuals and corporations that remove barriers, as specified under the Architectural Barriers Act of 1968, may treat such expenses as a tax deduction up to $25,000.

Barriers are widespread in commerce and industry in spite of previous Federal legislation intended to address the problem. This tax incentive will encourage the private sector to take the initiative.

A total of 21,984,000 Americans—about 1 in 10—suffer some limitation of activity. Largely through modern medical advancements, this number is increasing, and will continue to do so. The removal of physical barriers is needed to increase accessibility to jobs, to better education, and to more active economic, social, and cultural roles. Some related facts are:

It is predicted that by 1980, the number of handicapped persons will increase by as much as 20 percent.

Forty-two percent of the handicapped are employed, as compared to 59 percent of the total adult population.

Fifteen percent of the handicapped are classified as "poorest of the poor," as compared to 8 percent of the general public.

In 1950, our life expectancy was 62 years. Today, it is 70½ years.

Twenty-two percent of the handicapped failed to complete eighth grade, as compared to 14 percent of the general public.

It is estimated that the cost of this legislation will be $10 million during the first year, according to the Joint Committee on Internal Revenue Taxation. Although many of us would prefer alternate more equitable ways of financing this type of legislation we all know that because of the continuing human suffering and the indignity of not being able to work simply because business and government do not have the physical facilities to accommodate the handicapped, is nothing less than a national scandal. We should be outraged that in 1976 handicapped individuals who are trained and able to work cannot find jobs because of architectural and transportation barriers.

I urge the Senate to take quick action on this important piece of legislation.

Finally, Mr. President, I ask unanimous consent that a recent article appearing in the Washington Post on May 24, 1976, entitled "A World Walled Out," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, May 24, 1976]

A WORLD WALLED OUT

(By Lynne Hoffman Keating)

CLAREMONT, CALIF.—We all gathered at the "people park." The park provided every convenience a family or individual could expect: a children's playground, complete with wading pool and attendant; picnic tables and barbecue pits; a drinking fountain.

We sipped drinks and lounged lazily self-satisfied. Then we noticed Sally's van approach. Sally is a law student, presides over two organizations, and serves on the board of directors of Casa Colina Hospital for Rehabilitative Medicine.

Sally also happens to be a quadriplegic confined to a wheelchair.

Immediately we spotted three stairs at the park entrance. Four of us jumped up and raced to the drive. The curb looked six inches high. Sally calmly allayed our concerns and pointed to her two portable ramps as she rolled down the ramp of her van. Others not so fortunately equipped would have had difficulty climbing the curb and stairs. Then Sally confronted thickened grass en route to the main grounds. A lot of strength and spirit finally got our friend settled with a drink and general conversation resumed.

Had Sally needed water she could not possibly have reached the fountain, which was "42 inches high." Had Sally needed the bathroom, she could not possibly have rolled through the narrow wooden doors. We made many accommodations so our friend could enjoy the simple pleasures of a Sunday picnic in the "people's Park."

Sally neither wants nor likes accommodations, having worked long to become self-sufficient. Barriers that frustrate her efforts offend her total spirit. Mere obstacles reduce an independent dynamo to a frustrated dependent.

One week later I attended a Legislative Awareness Seminar on architectural barriers at Cosa Colina Hospital. The seminar hoped to enlighten public officials to the realities of such barriers.

Thirty legislators, councilmen and mayors of Los Angeles County found themselves seated in wheelchairs for the evening along with 75 other guests. Each was assigned a paralyzing condition. Soon all "wheelchaired" guests were led through a maze of architectural barriers.

I noticed smiles of challenge on the legislators' faces, then slight frustration when they reached the first curb. In a building normally quite accessible, the barriers were noticeably constructed for the event. The frustrated looks turned to grimaces as each person approached double doors that had to be pulled, raised metal moldings on the floors, grass areas in the courtyard that had to be crossed to reach the patio. Sounds of relieved sighs were heard as each individual entered the hallway, which provided easy travel.

The men who emerged from the restrooms had sober looks. No one was allowed to rise from his chair for any purpose.

After a film and panel presentation of personal experiences from other wheelchair victims, a long silence settled in the dining room. The time of truth. Until that moment we all were brothers and sisters in distress. One could seldom tell who was a paraplegic and who was not. The silence broke as half the people in the room rose and stretched their legs.

A quiet murmur filled the hall.

One by one the men and women walked away. They walked and I walked with them. One paraplegic remarked as he noticed distress on my face: "What's tragic is not what we are but not that many of us have found joy in who we are, the barriers, the obstacles fully prevent us from enjoying normal lives."

Later as I walked into our home, I suddenly realized I could not invite my new friends to our house. The steps were too high, the doorway too narrow. No matter how aware I was or how concerned, unknowingly I lived in a dwelling that walled out a whole population.

This is a private home. The problem is magnified a thousand times in public buildings and educational facilities where services are offered that the handicapped require and desire as much as anyone—sometimes more.

The laws are on the books, but the codes are not enforced.

I am reminded of the poem by Robert Frost:

> Before I built a wall I'd ask to know
> What I was walling in or walling out.
> And to whom I was like to give offense.
> Something there is that doesn't love a wall
> That wants it down.

PRELIMINARY NOTIFICATION PROPOSED ARMS SALES

Mr. HUMPHREY. Mr. President, section 36(b) of the Foreign Military Sales Act requires that Congress receive notification of proposed arms sales under that act in excess of $25 million. Upon receipt of such notification, the Congress has 20 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

Pursuant to an informal understanding, the Department of Defense has agreed to provide the committee with a preliminary notification 20 days before transmittal of the official notification. The official notification will be printed in the RECORD in accordance with previous practice.

I wish to inform Members of the Senate that two such notifications were received on June 7, 1976.

Interested Senators may inquire as to the details of this preliminary notification at the offices of the Committee on Foreign Relations, room S–116 in the Capitol.

THE 341ST STRATEGIC MISSILE WING: A RECORD OF EXCELLENCE

Mr. MANSFIELD. Mr. President, the 341st Strategic Missile Wing of the Strategic Air Command is located at Malmstrom Air Force Base adjacent to Great Falls, Mont. A true sense of cooperation and mutual respect is readily apparent between the community of Great Falls and this outstanding unit. A recent editorial in the Great Falls Tribune, entitled "Best of the Best," stated.

> The key to Malmstrom missile wing's success lies in the Air Force personnel. The men and women at the Base have good leadership as well as professionalism and pride in their work. The best indication of their caliber is the time and effort so many of them put into community activities during off-hours. The city gets a bargain in community service. Congratulations to the missile wing.

Wing personnel came to the aid of the city of Great Falls when the Sun River flooded in 1975. More than 100 off-duty personnel worked around the clock for nearly 2 days to assist residents in moving their household belongings in mobile homes to safety. Air reduce helicopters from Malmstrom Air Force Base evacuated and saved the lives of over 130 persons in 23 rescue missions. The Cascade County Civil Defense Coordinator credited the wing's efforts with saving 95 percent of all movable belongings in the flood area and preventing the loss of any lives. In contrast, a similar flood in 1964 claimed 33 lives and injured over 300 people.

Malstrom Air Force Base was one of the first four Strategic Air Command bases to be granted official recognition from the American Revolution Bicentennial Administration. The base has completed a resurvey and making of the portage route of the 1805 Lewis and Clark expedition around the Great Falls of the Missouri River.

People of the 341st Strategic Missile Wing contributed almost 1,000 pints of blood to the Red Cross Blood Center during 1975. During the annual Combined Federal Campaign, Malmstrom Air Force Base collected over $88,800 or 148 percent of its goal. Most of this money went into local charities.

The military affairs committee of the Great Falls Chamber of Commerce is rapidly approaching a membership of 300 community leaders. Base representatives sit on all chamber committees to insure even more active participation by the base in community activities. They have developed programs which have fostered an attitude of trust and mutual respect between the base and the city of Great Falls. One example is participation by over 90 members from the base who winterized the homes of the aged and handicapped, insulating the attics and putting new roofs on five homes in October alone.

The people of Great Falls are proud of the record of the 341st Strategic Missile Wing and in particular its selection as the winner of the Col. Lee R. Williams Memorial Missile Trophy. This trophy is awarded each year to the best missile wing in the Strategic Air Command. Following the winning of this trophy, the wing entered the SAC missile combat competition at Vandenberg Air Force Base on April 20, 1976. Culminating that event was the award of the coveted Blanchard Trophy symbolizing the "Best of the Best" within the missile field. The 341st Strategic Missile Wing can claim, without dispute, to be the best in the Strategic Air Command, and I wish to take this opportunity to compliment them for this outstanding achievement. The State of Montana, the city of Great Falls, and all Montanans can be proud of our association with the 341st.

I ask unanimous consent that the following statement, "A Record of Excellence—The 341st Strategic Missile Wing," be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

A RECORD OF EXCELLENCE—THE 341ST STRATEGIC MISSILE WING

The 341st Strategic Missile Wing, located in the heart of Montana, is unique among the military units responsible for maintaining our nation's nuclear deterrent capability. It was the first unit to be equipped with the Minuteman Inter-Continental Ballistic Missile. It is the only missile wing that employs two different types of weapon system. It maintains a missile complex which covers a larger geographical area (approximately 24,000 square miles) than any other missile wing. These characteristics are only part of the 341st Strategic Missile Wing's distinguishing features. The other part consists of a record of unparalleled achievement and daily excellence in the performance of its assigned duties. Since the first of January 1975, the 341st Strategic Missile Wing has further embellished its record of outstanding success.

The Strategic Air Command Inspector General (SAC IG) performed an Operational Readiness Inspection (ORI) of the 341st Strategic Missile Wing from July 18 to July 24, 1975. The SAC IG found the wing to be ". . . fully capable of fulfilling its assigned EWO (Emergency War Order) mission." Mission effectiveness, the ultimate determining factor of the wing's ability, was rated outstanding. Within the wing, 20 areas were outstanding, and no area was rated unsatisfactory. Many of the SAC IG team members commented that Malmstrom Air Force Base, the home of the 341st Strategic Missile Wing, was the most impressive missile base they had seen. Brigadier General Clyde R. Denniston, Jr., the SAC IG team chief, stated, "The results of this ORI were the best in the wing's history. They were also better than those of any other missile wing."

The 15th Air Force Commander's Facility Inspection of the 341st Strategic Missile Wing was conducted on 8 July 1975. The wing was rated outstanding. Of 293 areas inspected, 207 were rated outstanding, 77 were rated excellent, and the remaining nine areas were rated satisfactory. The inspection report noted, "The base is exceptionally immaculate, and all facilities clearly show the outstanding initiative and dedication of all personnel."

Since January 1, 1975, the 3901st Strategic Missile Evaluation Squadron (SMES) has performed two full inspections of the 341st Strategic Missile Wing. The results of the first inspection, February 24 to March 7, 1975, were the best achieved by the wing to that date. All areas evaluated were rated either satisfactory or excellent. SMES evaluators administered or observed qualification checks of fourteen missile combat crews.

All crew members earned qualified or better ratings. Eighteen of the twenty-eight crew members were rated highly qualified. SMES personnel also checked four on-alert missiles. These missiles were judged to be fully combat capable. The 3901st Strategic Missile Evaluation Squadron visited the wing a second time in March, 1976. This time the wing surpassed its previous performance. The unit earned ratings of satisfactory, excellent, or outstanding in all areas.

During the period January 22 through July 8, 1975, the 341st Strategic Missile Wing participated in the planning and execution of the highly successful "F to G" modification program in the 564th Strategic Missile Squadron. During this modification, the Minuteman II "F" missile was removed and the Minuteman III "G" missile was installed. In addition, several modifications to the launch facility were made on each site. Through careful planning and resourceful management, the program was completed ahead of schedule. This, in spite of the fact that the project was primarily performed during the harsh winter months, is a tribute to the people of the 341st Strategic Missile Wing.

An ICBM unit's ability to fulfill its Emergency War Order commitment and thus, its contribution to the nation's nuclear deterrent capability is measured by the operational ready rate of its missiles. The operational ready rate is determined by comparing the number of hours each missile was capable of being launched on a moments notice as opposed to the total number of hours in a month. Since the first of January, 1975, the 341st Strategic Missile Wing has maintained one of the highest operational ready rates in the Strategic Air Command.

The wing's Maintenance Division, which was responsible for maintaining the missiles in a launchable configuration, was faced with a task unequalled by any other Minuteman Maintenance Division. The maintenance complex was responsible for servicing the largest Minuteman fleet in the largest missile complex. This responsibility was complicated by several factors. The 341st Strategic Missile Wing possessed the oldest weapon system in the Minuteman inventory, and it was unique among Minuteman wings in that it maintained two completely different weapon systems. One system was composed of the WS 133A-M system and the Minuteman II missile while the other was composed of the WS 133B system and the Minuteman III missile. Another significant factor was the conversion from one missile maintenance squadron to a field missile maintenance squadron and an organizational missile maintenance squadron. Throughout the entire transition process, all maintenance activity continued without interruption. Finally, the four operational tests conducted during the period placed an additional strain on the already undermanned maintenance squadrons. Each test required extensive maintenance support while the wing continued its daily maintenance on the two weapon systems. The Maintenance Division proved its ability to cope with adverse circumstances by earning several outstanding ratings from the SAC IG.

Since January 1, 1975, the 341st Strategic Missile Wing has participated in four operational tests. Two of these tests were Simulated Electronic Launch-Minuteman (SELM) Tests, Giant Pace 75-5 and Giant Pace 76-1. Both tests involved the electrical isolation of two launch control centers and ten missiles within the tested squadron. The missiles were put through a launch sequence up to the point of engine ignition. In spite of the shortage of maintenance personnel, all test schedules were met, and both tests were highly successful. The other two tests were operational test launches of randomly selected Minuteman missiles. The 341st Strategic Missile Wing missiles were transported to Vandenberg Air Force Base, California, where wing personnel brought them to full alert status. Both tests, nicknamed Glory Trips, were completely successful. Glory Trip 51GB, launched on 17 December 1975, was especially significant since it was the first test launch of a 341st Strategic Missile Wing Minuteman III missile following the conversion of the 564th Strategic Missile Squadron to this weapon. The wing Task Force which participated in Glory Trip 51GB was commended by Brigadier General Stuart H. Sherman, commander of the 1st Strategic Aerospace Division, in these words, "This Task Force demonstrated outstanding weapon system knowledge and professionalism in accomplishing the successful operational test launch."

The Safety Program of the 341st Strategic Missile Wing has achieved remarkable success. The Missile and Nuclear Safety Programs were rated outstanding by the SAC IG. The wing has experienced no nuclear accidents or incidents while supporting the "F to G" conversion, two SELM Tests, and three Glory Trips. Furthermore, the SAC IG and 15th Air Force have recognized the wing's Human Reliability Program as the most outstanding program in SAC. Personnel who cannot meet or maintain the program's stringent requirements for access to or controlling access to nuclear weapons are quickly identified and eliminated. The wing has also achieved an outstanding record in the area of Ground Safety. Wing personnel drove twelve million miles in all types of weather. In doing so the wing had zero fatalities and the best improvement or containment record of any unit in 15th Air Force. Malmstrom Air Force Base accumulated the best ground safety record in 15th Air Force. The wing innovated many successful and unique accident prevention programs in achieving this record.

"Operation Give-a-Hoot" was an attack on complacency that sparked supervisors and included a briefing by the wing commander to all personnel, special supervisor meetings, tailgate training, an incentive award program, and improved driver check-out programs. "Safety Cross III" was a program which sought to improve winter driving ability by putting all 2700 Air Force motor vehicle drivers through driving maneuvers that would prevent accidents. As part of the program, the wing joined with the Great Falls Police Department to set up a collision avoidance course on an old taxiway. These extensive programs significantly reduced the accident rate and contributed to the wing's outstanding relationship with the civilian community.

The Comptroller Division was another area in which the wing excelled. The Comptroller Division was selected as the "Best in the Strategic Air Command" for 1975. This occurred during a period in which the division was manned at a level lower than that of any other comptroller division in the command. Lieutenant General Bryan M. Shotts, the 15th Air Force Commander, stated, "It is reflective of the highest standards of Air Force management that required the utmost in participation by all concerned." The Comptroller Division also compiled an outstanding record in the Strategic Air Command Emphasis program. The Emphasis Program rates all command Comptroller Divisions on the accuracy and timeliness of reporting in the Air Force Accounting System for Operations. The Accounting and Finance Branch of the Comptroller Division received outstanding ratings the last six consecutive quarters. This was a record in the Strategic Air Command. No other unit has been able to sustain outstanding ratings for more than three consecutive quarters. The Management and Budget Branch was also recognized with the selection of a study, "The Impact of Commercial Credit and Consolidated Package Stores on Malmstrom Air Force Base Open Messes," as the best study of the year in the Strategic Air Command.

Since January 1, 1975, the 341st Security Police Group has suffered from severe manning shortages. The 341st Missile Security Squadron, the unit most affected, averaged an assigned manning which was only 70 percent of the authorized strength. Despite this problem, the Inspector General noted, "The Security Police Group is highly satisfactory. Personnel are motivated and effective management is prevalent throughout." The unit safety program was described as the ". . . best observed in two years." Throughout this period, the young airmen of the group worked many overtime hours with minimal supervision due to the critical manning of the unit. These airmen proved their dedication and professionalism by their daily performance under adverse conditions.

The SAC IG reported that the Wing Information Division was ". . . performing in an outstanding manner. Excellent community relations are evident by the close cooperation on mutual problems." This was the first outstanding rating awarded to an information division in two and a half years. These laudatory comments were repeated by the SAC Information Office following the information division's coordination with local news media concerning a battery fire at Romeo-O launch control center. At the base open house, titled Big Sky Air Force Day, July of 1975, 15,000 people in attendance received explanations of the sonic boom phenomena at a static display of the SR-71 aircraft. The successful SR-71 display added to the knowledge of sonic booms of central Montana residents and led to a significant decrease in sonic boom complaints received by the base.

The 341st Strategic Missile Wing also scored highly in the area of transportation, particularly in the area of operator care and maintenance. The 341st Transportation Squadron was selected as the runnerup in the competition for the SAC Dillard Award as the best transportation squadron in the command. The Vehicle and Equipment Control Branch of the 341st Field Missile Maintenance Squadron was selected as the winner of an unprecedented second consecutive 15th Air Force Minuteman Vehicle and Equipment Control Branch Award. This award was based on the branch's superior performance during inspections and evaluations by higher headquarters.

Another award garnered by the wing was the Strategic Air Command's Small Business Achievement Award which went to the Procurement Division. Through diligent efforts, the division was able to award an unparalleled 7.1 million dollars in contracts to small business enterprises. This surpassed the wing goal of 5.7 million dollars by an astounding 1.4 million dollars.

The success of the 341st Strategic Missile Wing was achieved by its people. The contributions of some of these people were recognized with individual awards. They are:

(1) Major Phillip H. McMillen and 2nd Lieutenant Robert E. Bina, SAC Minuteman Crew of the Month.

(2) Captain Ronald C. Williams and 1st Lieutenant Stephen C. Bell, SAC Minuteman Crew of the Month.

(3) 1st Lieutenant Bruce C. Lamartine and 2nd Lieutenant Robert M. Ladow, SAC Minuteman Crew of the Month.

(4) Captain Thomas Luisi and Captain Larry G. Hoover, SAC Minuteman Crew of the Month.

(5) Master Sergeant Henry W. Habenick, SAC Maintenance Man of the Month.

(6) Technical Sergeant Ernest R. Cooper, SAC Maintenance Man of the Month.

(7) Sergeant Charles L. Campbell, SAC Maintenance Man of the Month.

(8) GS-7 Jean P. Davis, SAC Quarterly Procurement Achievement Award.

(9) Technical Sergeant Robert L. Zimmerman, SAC Quarterly Procurement Achievement Award.

(10) Staff Sergeant Jay P. Jerome, SAC Supply Man of the Quarter.

(11) Master Sergeant William G. English, 15th Air Force Outstanding Administrative Superintendent Award.

(12) Staff Sergeant Jon S. Warner, 15th Air Force Outstanding Administration Specialist Award.

(13) Airman First Class Mary D. Mayse, 15th Air Force Outstanding Executive Support Specialist Award.

(14) Master Sergeant Pedro Ayala-Rivera, 15th Air Force Outstanding Executive Support Superintendent Award.

(15) Chief Master Sergeant John E. Phillips, 15th Air Force Senior Noncommissioned Officer of the Year.

(16) Technical Sergeant Ronald P. Fitzpatrick, Great Falls Exchange Club Law Enforcement Officer of the Year.

(17) Master Sergeant Joseph E. Piccuci, SAC Meritorius Open Mess Manager of the Year Award.

(18) Master Sergeant Ken Lambdin, USAF Outstanding Security Police Senior Noncommissioned Officer of the Year.

(19) Chief Master Sergeant Clarence H. Salley, Jr., Air Force Communications Service Senior Noncommissioned Officer of the Year—Runnerup.

(20) Captain John L. Sullivan, SAC Accounting and Finance Officer of the Year.

(21) Master Sergeant James R. Tompkins, Air Force Meritorious Recreation Technician Award for 1975.

Eight airmen came to the aid of accident victims. These airmen were: Staff Sergeant Theodore Key, Staff Sergeant Randy Schaffer, Sergeant John E. Kennedy, Sergeant Kennis King, Airman First Class Sheldon C. Badger, Airman First Class Burton E. Erminger, Airman First Class Scott A. Fuller, and Airman First Class Russell M. Wright. Other wing personnel too numerous to name came to the aid of the City of Great Falls in June 1975, when the Sun River flooded the southwest corner. Thirty-five Air Force personnel dispatched to the endangered area to assist residents in moving their household belongings and mobile homes to safety were joined by over 100 off duty personnel. They worked around the clock for nearly two days in the effort. Air rescue helicopters from Malmstrom Air Force Base evacuated and saved the lives of over 130 persons in 23 rescue missions. The Cascade County Civil Defense Coordinator credited the wing's efforts with saving 90 percent of all movable belongings in the flood area and preventing the loss of any lives. In contrast, a similar flood in 1964 claimed 33 lives and injured over 300 people.

The personnel of the 341st Strategic Missile Wing are deeply involved in the Great Falls community. This was demonstrated during the annual Combined Federal Campaign. Malmstrom Air Force Base collected over $88,800 or 148 percent of its goal. Much of this money went into local charities. This performance was better than that of any other northern tier SAC base.

Another area in which the wing and the civilian community have cooperated is in the celebration of our country's Bicentennial. Malmstrom Air Force Base was one of the first four SAC bases to be granted official recognition from the American Revolution Bicentennial Administration. The base has completed a resurvey and marking of the 18 mile portage route of the 1805 Lewis and Clark Expedition around the Great Falls of the Missouri River. Another project is a town meeting program in cooperation with the Cascade County Bicentennial Committee.

"Operation Welcome" was a plan designed to acquire sponsors and support for the relocation of Vietnamese refugee families. The success of the program was evidenced by the relocation of five families consisting of over 50 family members in the Great Falls area. Both the base and the civilian community contributed to this noble cause. Money, food, clothing, furniture, and automobiles were gathered on behalf of the refugees.

Hunting is a popular sport in Montana which has often resulted in tragedy. In an effort to further the cause of hunter safety and education, personnel of the base firing range conducted training for over 1200 military and civilian hunters. Personal instruction, weapon zeroing, hunter safety, survival training, and movies were all part of this extensive program. There were no accidents involving base or local hunters during the entire hunting season for the first time in many years.

The Red Cross Blood Center is another area in which the community and the wing have joined to provide mutual support. People of the 341st Strategic Missile Wing contributed almost 1000 pints of blood to the program during 1975. Nurses from the base hospital participated in the program during their off duty hours on a voluntary basis. The personnel of the wing proved they care.

The relationship of the 341st Strategic Missile Wing and the City of Great Falls has ripened into a full-fledged love affair. The Military Affairs Committee of the Great Falls Chamber of Commerce is rapidly approaching a membership of 300 community leaders. Base representatives sit on all Chamber committees to insure even more active participation by the base in community activities. A Co-Commander Program allows civilian leaders to join commanders of wing units and learn first hand about military management. These programs have fostered an attitude of trust and mutual respect.

Another outstanding community service project included participation by over 40 members of the 341st Supply Squadron in an Opportunities, Incorporated project to winterize the homes of the aged and the handicapped. Working in their time off, the men and women of the supply squadron, later joined by 50 members of the 12th Strategic Missile Squadron, insulated the attics and put new roofs on five homes in October alone. Meanwhile, the security police brought Christmas cheer to the area's underprivileged children. They collected money and discarded toys. The toys were refurbished, and the money paid for more toys and treats. In December, the security police distributed these gifts to 250 children at a Christmas party attended by Santa Claus.

The personnel of the wing's Social Actions Office have also participated greatly in the community. Social Actions personnel have been guest speakers at the College of Great Falls, in the Great Falls public schools, and for many church and youth groups. They have conducted drug and alcohol abuse, and human relations training for the Chamber of Commerce, the Optimist Club, churches, and local schools. Led by these dedicated specialists, military personnel and their dependents constitute over one-third of the volunteers of the Great Falls Crisis Center.

The 341st Strategic Missile Wing is proud of its record as are the people of Great Falls. Both were honored with the selection of the wing as winner of the Colonel Lee R. Williams Memorial Missile Trophy. This trophy is awarded each year to the best missile wing in the Strategic Air Command. In announcing the award, General Dougherty, the Commander in Chief of SAC, wrote, "The men and women of the 341st can justifiably be proud of their superior performance and team effort that resulted in their wing being honored as SAC's most outstanding missile wing." The attitude of the residents of Great Falls and the surrounding area is reflected in the editorial which appeared in the *Great Falls Tribune* on April 17, 1976. Entitled "Best in the Business," it stated:

"The key to Malmstrom missile wing's success lies in the Air Force personnel. The men and women at the base have good leadership as well as professionalism and pride in their work. The best indication of their caliber is the time and effort so many of them put into community activities during off-hours. The city gets a bargain in community service. Congratulations to the missile wing."

The professionals of the 341st Strategic Missile Wing entered the SAC Missile Combat Competition at Vandenberg Air Force Base, California titled "Olympic Arena '76" on April 20, 1976, confident they would prove by demonstrated performance in the tough, demanding environment of the contest that what had been said previously was in fact true. The State of Montana and the City of Great Falls lent outstanding support. Governor Thomas Judge in proclaiming the period of competition to be in honor of the 341st Strategic Missile Wing, stated that, "The 341st Strategic Missile Wing will demonstrate its resolve and capability to be the Best in Strategic Air Command in the 1976 Olympic Arena Competition," and urged all the People of the State of Montana to join him in supporting its Air Force citizens. When it was over on April 28, the 341st Strategic Missile Wing had taken sixteen of the twenty-two trophies which could be won, completely dominating the competition from the first day. These included Best Minuteman Wing, Best Operations, Best Crew, Best Single Crew Exercise, Best Minuteman Crew, Best Maintenance Team, Best Minuteman Electro-Mechanical Team, Best Minuteman Electronic-Laboratory Team, Best Minuteman Missile Handling Team, Best Communications Team, Best Minuteman Communications Team, Best Civil Engineering Team, Best Minuteman Civil Engineering Team, The Air Force Association Award for Best Minuteman Operations, and the Air Force Logistics Command Best Minuteman Logistics Trophy. The awards indicated a total team effort in all spectrums of competition supported by wing personnel at home and the civilian community. Culminating the event was the award of the coveted Blanchard Trophy, symbolic of the "Best of the Best" within the missile field. The recipient was the 341st Strategic Missile Wing. The Blanchard Trophy, wrought in competition, reflects a record of excellence in daily performance and the 341st Strategic Missile Wing can claim without dispute to be the best in the Strategic Air Command.

CONGRESSIONAL BUDGET OFFICE TESTIMONY ON SOCIAL SECURITY TRUST FUND

Mr. HUMPHREY. Mr. President, as part of our review of the social security system and the 1976 Report of the Trustees, the Joint Economic Committee asked the Congressional Budget Office to review the Trustees' Report and give us an evaluation. Dr. Alice Rivlin presented the views of the Congressional Budget Office to the committee. In many respects she agreed with the thrust of the Trustees' Report, although her statement illustrates just how sensitive such projections are to the underlying economic assumptions. For example, by using only a modestly more optimistic assumption for the unemployment forecast, the CBO projections show that the social security trust fund surplus would be $31½ billion in 1981 as compared to the Social Security Administration's forecast of $23.2.

Like other witnesses before the committee, Dr. Rivlin felt that while many problems of the social security system have been greatly exaggerated, prompt action by the Congress would allay the anxieties and uncertainties of the public concerning the financial stability of the social security program. Because public assistance and support is crucial to the success of any social insurance program, it is important for Congress to take action that will preclude such alarmist statements as those which have recently appeared in the press.

Other witnesses who appeared before the committee were Dr. Allen Wallis, the chairman of the 1975 Quadrennial Advisory Council on Social Security, Mr. Robert Tilove, the author of a recent book on public employee pension funds, and Prof. Martin Feldstein of Harvard University. Each of these witnesses presented an excellent statement, and they contained many very helpful suggestions for the Congress.

Mr. President, I ask unanimous consent that these statements be printed in the RECORD.

There being no objection, the statements were ordered to be printed in the RECORD, as follows:

STATEMENT OF ALICE RIVLIN, DIRECTOR, CONGRESSIONAL BUDGET OFFICE

Mr. Chairman and Members of the Committee:

I appreciate this opportunity to discuss with the Joint Economic Committee the financing problems confronting the social security system.

Over the next few years, the reserve funds of this system will be reduced because of the combined effects of inflation and recession. This depletion was to be expected. The crucial questions that need to be addressed are how long the trust funds' reserves will continue to be depleted and whether they will be replenished as the economy recovers. Predictions on the status of the trust funds' reserves in the early 1980s largely depend on the assumed future inflation and unemployment rates.

However, while the stability of the trust funds' reserves over the next five to ten years will depend most heavily on overall economic trends, other major factors affect the financial strength of the system in the future. Under any set of reasonable economic assumptions, it is clear that the current tax and benefit structure will not maintain the trust funds' solvency in the long run. The reasons for this are twofold: (1) the ratio of beneficiaries to workers will rise substantially after about 2012; (2) a flaw in the benefit computation formula will increase retirement benefits relative to earned wages especially after about 1995. These two factors have a significant impact on the future balance of trust fund income and outgo.

To correct these longer-run problems, changes in the benefit and/or tax structure are necessary, but need not be made immediately. However, because any legislation that corrects for the consequences of actual economic trends will affect the trust funds' reserves into the distant future, there is both the need and the opportunity for the Congress to consider the entire set of remedies together.

By addressing both the immediate and the longer-run problems now, Congress will also allay anxieties and uncertainties of the public concerning the financial stability of the social security program. Because workers are likely to make contributions for forty years before benefits begin and because social security is the foundation of their retirement plans, public acceptance and support of the program is important. Furthermore, public support may depend upon a better understanding of the system by the 100 million persons who are paying social security taxes and the 31 million persons who receive social security benefits.

My discussion today will focus upon the severity and causes of the solvency problems, both over the next five to ten years as well as over the next 20 to 75 years and how various possible solutions will affect the benefits to different types of individuals. Finally, I will discuss the advantages of considering the remedies to these financing problems together.

I. THE SIZE AND NATURE OF THE FINANCING PROBLEMS

The social security system operates on a pay-as-you-go basis; it does not accumulate large revenues in order to finance future claims. Automatic tax and benefit adjustments were enacted in 1972 to balance receipts and expenditures. This adjustment permits the amount of earnings subject to the payroll tax to rise as average wages rise and the level of benefits to rise as consumer prices increase. These rate and benefit adjustments are expected to keep income and outgo roughly balanced on the average. In years of sustained growth, receipts grow faster than expenditures so as to produce a reserve. This reserve fund is expected to be drawn down in recession years or years when relatively large, rapid price increases occur without commensurate increases in taxable wages.

The tax and benefit adjustments enacted in 1972 would keep the funds in balance, on the average, if two economic assumptions prove correct: (1) that total wages subject to the payroll tax, on the average, increase by 6 percent annually because of increases in employment and current dollar wages. and (2) that prices, on the average, increase at 4 percent annually. Whether or not reserves are depleted depends upon the actual performance of the economy. If total wages increase more slowly, then revenues will be reduced. Also, higher rates of inflation mean higher trust fund outlays.

Between fiscal years 1970 and 1975, the trust funds' reserves increased from $37.7 billion to $48.1 billion. However, because the trust funds' outlays increased from $30.3 billion to $64.7 billion over the same period, the reserves as a ratio to current year's benefits fell from 125 percent to 75 percent. This substantial decrease in the ratio of reserves to annual benefits occurred as a result of both a short-fall in expected revenues (caused by high unemployment) and an unusually large increase in benefits (caused by rapid price increases).

Past inflation rates increased the base level of benefits, and it is largely because of this that absolute decreases in the funds' reserves can be expected over the next few years. But even this absolute reduction in reserves is not necessarily an indication of insolvency. The purpose of a reserve in a pay-as-you-go system is to cushion short-term financial shocks. Hence, the system is in need of adjustment only if:

The financial condition is getting worse and gives no sign of correcting itself: or

While capable of correcting itself, it appears to be running out of funds before it can correct itself. Whether or not either of these conditions will hold over the next few years will be determined by actual performance of the economy. However, there is no question that a depletion of reserves will occur eventually under current policy because of the long-term demographic changes in the population and the legislated increases in benefits.

A separate but very important factor with a strong bearing on the trust funds' deficits over the next five years is the unforeseen and as yet unexplained rise in disability insurance costs. Because disability insurance may require special treatment of both an administrative and structural nature, it is preferable to discuss separately the Old Age and Survivors Insurance fund (OASI) and the Disability Insurance fund (DI).

OASI fund over the next five years

The prognosis for OASI over the next five or so years depends upon macroeconomic events.

Table 1 compares the 1976 Trustees' Report projection (intermediate assumptions) and CBO's most recent estimate. The key difference in the assumptions is the higher inflation estimates in the Trustees' Report for fiscal years 1977 through 1979. The effect of this is to provide higher cost-of-living increases to beneficiaries, so that by 1981, the Trustees' estimates of fund disbursements is almost $4 billion higher ($108.0 billion versus $104.3 billion).

As can be seen from Table 1, both sets of projections show a deficit in every fiscal year from 1976 to 1981, although the CBO estimates reserves at the end of fiscal year 1981 of $31.4 billion, which is about $7 billion higher than the Trustees', mainly because of the lower rates of inflation assumed. Under both the Trustees' and CBO projections, the reserves at the end of fiscal year 1981 will be less than one-third of the annual benefits paid out.

TABLE 1.—COMPARISON OF TRUSTEES' PROJECTION (INTERMEDIATE ASSUMPTION) AND CBO PROJECTION OF THE PROGRESS OF THE OLD AGE SURVIVORS INSURANCE (OASI) TRUST FUND FOR FISCAL YEARS 1976–81

	1976	TQ	1977	1978	1979	1980	1981
Trustees' projection (intermediate assumptions):							
Economic assumptions, calendar year:							
Annual increase in wages (subject to SS tax)	77.0		8.5	9.4	8.5	7.7	6.7
Annual increase in prices	63.0		6.0	6.0	5.5	5.0	4.5
Rate of unemployment	7.7		6.9	6.6	6.2	5.7	5.2
Maximum taxable wage	15,300.0		16,500.0	17,700.0	19,200.0	21,000.0	22,800.0
Total income	62.4	16.6	71.8	79.1	87.2	95.6	103.3
Total outgo	64.2	17.2	73.4	81.5	89.7	98.7	108.0
Net increase	—1.8	—.6	—1.6	—2.4	—2.5	—3.1	—4.7
Reserve, end of year	38.1	37.5	35.9	33.5	31.0	27.9	23.2
CBO projection:							
Economic assumptions, calendar year:							
Annual increase in wages (subject to tax)	7.0		8.0	8.0	8.3	8.1	8.1
Annual increase in prices	6.3		5.5	5.0	5.0	5.0	5.0
Rate of unemployment	7.4		6.6	6.6	6.0	5.5	5.0
Maximum taxable wage	15,300.0		16,500.0	17,700.0	19,200.0	20,700.0	22,500.0
Total income	62.5	16.7	71.7	78.7	86.4	95.1	102.9
Total outgo	64.4	16.8	73.8	80.3	87.5	95.4	104.3
Net increase	—1.9	—.1	—2.1	—1.6	—1.1	—.3	[1]—1.4
Reserve, end of year	38.0	37.9	35.8	34.2	33.1	32.8	31.4

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[1] The sharp increase in deficit results from a decline in tax rate as 0.1 percent of taxable payroll is shifted from OASI to DI under current law.

What is more disturbing than the continuous depletion of reserves during this period is the lack of a distinct turnaround in the reserve situation. Indeed, under the Trustees' projections, annual deficits appear to be growing larger. In the CBO projections, the annual deficit falls from $1.1 billion in fiscal year 1979 to $.3 billion in fiscal year 1980, but rises again in fiscal year 1981 to $1.4 billion. This increased deficit in 1981, however, results from the legislated decrease in the OASI tax and not from changed economic assumptions. In 1981, the OASI tax rate drops from 8.7 percent on taxable wages to 8.6 percent. (This tax is shifted to DI.) If this decrease in the OASI tax did not occur, then the projected OASI deficit in fiscal year 1981 would be approximately equal to that of fiscal year 1980.

The continuing strong deficit situation under the Trustees' estimates and the lack of a turnabout under the CBO estimates reflect the economic assumptions used. While the current tax and benefit structure of the social security system is based on a 4 percent increase in inflation and a 6 percent increase in taxable wages, the economic projections used by the Trustees and CBO have utilized higher rates of inflation which, in turn, are inadequately compensated by higher growth rates in taxable wages.

These projections raise questions about whether the automatic adjustments currently built into the social security system are adequate to maintain the solvency of the fund over the next five to ten years. Indeed, the Trustees have shown under pessimistic economic assumptions for inflation and particularly unemployment that the OASI reserves could be exhausted by 1981. Of course, under more optimistic assumptions—that is, lower inflation rates and lower unemployments rates—a rebuilding of the OASI reserves would be projected.

OASI beyond the mid-1980's

If unfavorable economic conditions continue, then revenues could be increased to cover the short-fall in the near future. But small changes in revenues will not solve the deficit problem foreseen for the next 75 years.

The long-range deficit will require much more basic changes. The combined social security payroll tax rate (OASDI) is now 9.9 percent and will rise to 11.9 percent in the year 2011 under current law. In order to keep the funds in balance under current law, tax rates would have to be increased by 75 percent, averaging about 19 percent over the next 75 years. This is principally because of two factors: first, revised demographic projections which show fewer persons of working age compared to the number of social security beneficiaries; and, second, a defect in the automatic adjustments to the benefit formula written into law in 1972, containing an annual adjustment which causes future benefits to grow so rapidly for some groups that they will certainly exceed wages at retirement.

The seriousness of this problem was first brought to public attention in the 1975 Trustee's Report.

The Demographic Shift. Knowledge that those born during the postwar baby boom of 1947 to 1954 would be retiring in about 2012 to 2020 has long been built into the long-range projections. However, the continuation of the decline in the fertility rate following the baby boom and the depth of the decline have only recently been accepted as actuarial assumptions. These changes in fertility rates would bring about the lowest ratio of working age population to retired population that the system has ever experienced. The ratio will shift from 30 beneficiaries per 100 workers in 1975 to 50 beneficiaries per 100 workers in 2030. To fund the additional beneficiaries with the smaller ratio of taxpayers would require an increase of about 20 percent over scheduled tax rates for each worker.

The second factor is the benefit computation formula. It is worthwhile taking a closer look at the formula and its defect because major proposals to revise the formula are about to be presented to the Congress.

The social security benefit computation formula is simply an equation to determine how much of the earnings that were lost by retirement, death, or disability will be replaced by the benefit. The summary equation is:

(Average lifetime wages) x (wage replacement factors)*=benefit amount.

Under the statutory changes made in 1972, whenever benefits for those already on the rolls are increased to keep pace with the cost of living, the wage replacement factor is also increased by the same percentage. This was established to assure that every future retiree who had the same average lifetime wage as a current retiree could receive the same benefit. This adjustment or indexing overlooked the fact that average lifetime wages of the future retiree are also rising and, therefore, the benefit formula is actually overadjusted.

Until about 1995, this overadjustment compensates for a different adverse phenomena: the lengthening of the period over which wages are averaged. In 1950, the Social Security Act was amended so that the averaging period would include only those years since 1950. This means that until 1995, when the period stabilizes at 45 years, the averaging period will increase and therefore the average lifetime wage and the related benefit level would become smaller as a percentage of final wages.

As a result, simply eliminating the indexing of the wage replacement factor (commonly known as "decoupling") would, if no other adjustment is provided, decrease the ratio of retirement benefits to final wages.

Disability insurance

The Disability Insurance (DI) trust fund is in dire condition for reasons that go beyond those affecting the OASI fund. The DI fund is sensitive to the same economic changes as the OASI fund, and in fact more so to unemployment (because disabled workers are more vulnerable to loss of employment).

However, a greater problem for this program is the continued and as yet unexplained increase in the number of beneficiaries. Since 1965, the number of new beneficiaries has risen sharply and the rate at which persons are leaving the benefit rolls has fallen sharply. As a result, the actuaries have revised their estimates of normal costs for this system six times since 1965.

Both the Trustees and CBO projections indicate (as shown in Table 2) that the DI fund reserve would be exhausted by fiscal year 1979. If special authority were to be enacted to allow funds to be shifted from the OASI to the DI trust fund, the combined fund reserves would be decreased by the rapidly increasing DI annual deficits. Without structural changes, the DI program would accumulate total deficits by fiscal year 1981 of $7.2 billion and $15.7 billion under the Trustees' and the CBO estimates respectively.

The difference between the Trustees estimates and the CBO estimates reflects different judgments as to whether the rate of new benefits will begin to stabilize. CBO has no basis to assume that the current rates will level off. They may, in fact, but the estimates can only reflect the current knowledge of probabilities. In any case, it is clear that some strong action will have to be taken before 1981 and that the action may include revision of both administration and structure of the fund.

TABLE 2.—COMPARISON OF TRUSTEES' PROJECTION (INTERMEDIATE ASSUMPTION) AND CBO PROJECTION OF THE PROGRESS OF THE DISABILITY INSURANCE (DI) TRUST FUND FOR FISCAL YEARS 1976–81

	1976	TQ	1977	1978	1979	1980	1981
Trustees' projection (intermediate assumptions):							
Total income	8.4	2.2	9.5	10.7	11.8	12.8	14.6
Total outgo	9.6	2.7	11.3	12.9	14.5	16.4	18.3
Net increase	−1.2	−.5	−1.8	−2.2	−2.7	−3.6	−3.7
Reserve, end of year	7.0	6.5	4.7	2.5	[1]−.2	[1]−3.8	[1]−7.2
CBO projection:							
Total income	8.3	2.2	9.4	10.6	11.6	12.7	14.5
Total outgo	9.6	2.7	11.9	13.9	16.4	18.0	20.7
Net increase	−1.3	−.5	−2.5	−3.3	−4.8	−5.3	−6.2
Reserve, end of year	6.9	6.4	3.9	.6	[1]−4.2	[1]−9.5	[1]−15.7

[1] Fund has no authority to go into a negative balance. These figures are demonstrative of what would happen if the fund were to borrow at prevailing interest rates.

In light of the fundamental differences in the nature of the OASI and DI problems, there would seem to be a very strong argument to treat the DI program separately with regard to remedies.

The House Ways and Means Committee is undertaking an intensive study of the program. There is some concern that the unpredictable increase may be due to:

a. Liberalization of the law;

b. A greater awareness of the program and a consequent larger application rate;

c. The accelerated increase in the administrative burden on the Social Security Administration through the assignment of the Black Lung and SSI programs which may have caused a deterioration in the quality of program operations; and

d. The increase in judgmental factors in the determination of disability.

Combined OASDI trust fund reserves

The OASI fund is likely to have between $23 billion and $31 billion in reserves by 1981, and the combined reserves of OASI and DI trust funds could be between $15 and $16 billion. Even at this level of reserves, it would appear that the combined trust fund revenues will be adequate for the next several years under all but the most pessimistic assumptions. However, if the annual deficit in DI continues at a rate of $4 to $6 billion, then the combined OASDI trust fund reserves could be depleted within a few years.

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*The wage replacement factor is the percent of average monthly wage to be replaced by benefits. It is not a single value. It is graduated into different values over dollar-range brackets so that persons with lower wages get a higher percentage of their former earnings replaced.

While such a prognosis does not necessarily warrant action this year or next, it is likely that steps will have to be taken within the next five years, if for no other reason than to correct for the deficiency in the DI fund. Congress could wait five years or more to determine how the long-term solvency problems should be handled. However, this might unnecessarily heighten public concern, particularly for those who depend on social security for retirement income.

II. POSSIBLE REMEDIES

A. Immediate proposals

One option before the Congress is the President's proposal contained in the fiscal year 1977 budget. The proposal would increase the OASDI payroll tax by 0.3 percent of earnings subject to tax for both employer and employee and institute certain long-range reductions in benefit eligibility. The new tax rate would raise the current combined rate of 9.9 percent to 10.5 percent and would maintain a large positive balance in the combined OASI and DI funds through 1982. This proposal presumes that:

Before the funds are depleted, Congress will take the next step of revising the benefit structure to correct for the overadjustment in future benefits, and

Afterwards, Congress may, with less pressure, correct the remaining deficit over the long term.

Some may object to this approach, not only because of a disagreement about the need for action in this session, but because of the nature of the immediate action. An increase in the tax rate aggravates the regressive nature of the payroll tax and could increase inflationary pressures in the short run.

As an alternative, tax revenue can be increased, still within the payroll tax structure, by increasing the amount of earnings subject to tax. This would shift the additional burden to higher wage earners. The affected wage earners would not be paying a greater tax rate on their total wages than would persons with lower wages. However, a wage base increase is less efficient than a tax rate increase because it would create entitlement to higher benefits in the future. In fact, under the current program structure, these future benefit costs would actually increase the long-range deficit.

If immediate corrective action is deemed to be necessary, there are at least two other approaches besides revenue increases under the payroll tax structure that could provide temporary relief until permanent remedies are selected.

1. Provide a grant from general revenues. The amount needed, if no other remedies were adopted before 1981, would range from zero under the most optimistic economic assumptions to $13 billion under the Trustees' most pessimistic assumptions.

2. Emergency borrowing authority from the general fund. Congress could provide a limited authorization to cover temporary deficits by borrowing from the U.S. Treasury. Unlike an outright grant, it would permit the system to retain its self-financing structure while at the same time avoiding long-term measures to correct short-term crises. Provisions of this type have been enacted in the past but have never been used. This alternative assumes annual surpluses in the future large enough to repay the loans.

B. Structural reforms

Structural changes in the system include higher levels of revenues or lower levels of benefits. The higher levels of revenues may be achieved either by increasing the payroll tax or by some support from general revenues. The lower levels of benefits may be achieved either by a general reduction in benefit levels (lowering the ratio of benefits to final wages) or by selective reductions in eligibility and entitlement (reducing the progressive nature of the benefit, shifting some dependency and survivor benefits to other programs). The magnitude of the structural changes in revenues or benefits depends upon the extent to which revised economic assumptions differ from those now used in the social security system.

1. Higher levels of revenues

Increases in payroll tax. If the entire deficit were to be remedied by a one-time increase in the payroll tax rate, it would require an increase of 6 percent of taxable payroll in the OASI fund (63 percent higher than the current rate) and 2 percent of taxable payroll in the DI funds (128 percent higher than the current rate). These increases would have to be put in place at once.

If tax rates were increased annually by only enough to meet current costs, the tax rate for OASI would have to be 23.7 percent of taxable payroll in the year 2050 (119 percent over the rate currently scheduled for that year) and for DI it would have to be 4.87 percent (or 286 percent over the rate currently scheduled for that year). Table 3 summarizes these tax increases on annual and one-time adjustment bases.

TABLE 3.—CURRENT AND NECESSARY TAX RATES AS A PERCENT OF TAXABLE PAYROLL[1]

Annual adjustment	Tax rates in current law			Necessary revisions		
	OASI	DI	Total	OASI	DI	Total
1975 (calendar year)	8.75	1.15	9.90	9.29	1.36	10.65
2050 (calendar year)	10.2	1.7	11.9	23.72	4.87	28.59
1-time adjustment	9.43	1.54	10.97	15.42	3.51	18.93

[1] 1976 trustees report—"intermediate" assumptions.

Under an immediate or one-time increase, the fund would build up a huge surplus in the early years. With annual increases, the combined tax rate would have to be almost 29 percent of covered wages, a rate which would be intolerable.

Support from general revenues. There has long been controversy about the propriety of adding revenues to the system from general revenues. Those who argue against it defend their position mainly on the need to preserve the integrity of the self-financing system. Those who argue for general revenue support defend their position mainly on the basis that a very large part of the benefit commitment is not entirely wage-related, but also includes income redistribution from the richer to the poorer participants. Under these circumstances, it is said to be inequitable to support such transfers of income with funds raised by regressive taxes, particularly when higher incomes derived from sources other than wages are not taxed.

2. Lower Levels of Benefits

General Benefit Reductions. Most proposals for correcting the benefit computation formula would eliminate the indexing of the wage replacement factor (the relationship of benefits to average wages) and replace it by indexing the earnings history. "Indexing" earnings history translates each past year's earnings into current year's values by multiplying the past year's earnings by the growth that has taken place in some other economic factor.

The two most popular alternatives for indexing earnings history are to index by (a) wages or (b) prices. The differences between them may become an important issue.

The Social Security Advisory Council of 1975 suggested wage-indexing the earnings history in order to stabilize the current relationship between benefits and final wages. All prior year wages would have the same comparative value as wages earned in the year before retirement. This approach would eliminate half the deficit.

Earnings history could also be indexed by price. Since prices over a long period of time do not grow as rapidly as wages, the relationship of benefits to final wages would decline continuously over time. Therefore, all other things being equal, price-indexing develops more savings. It could be employed to eliminate the entire deficit by itself. One should recognize, however, that this would be tantamount to an across-the-board reduction in benefit commitments for future retirees. This is the exact situation that many fear: Although taxes will remain high, future social security benefits as a percentage of final wages will be reduced.

The advantage of wage indexing is that it preserves the relative level of benefits with regard to current wages for all future beneficiaries. However, it produces less savings than price indexing.

The advantage of price indexing is that it produces more savings for the system. However, it does this by sustaining a high level of payroll taxes while reducing the relative level of benefits.

Those who argue for price-indexing contend that adjustments can be made later by future Congresses whenever they believe that to be necessary. Funds would have to be found at that time to finance any increases. These increases could be offset by other benefit reductions.

Earnings history is not the only element in the formula that can be indexed. In addition to, or instead of, earnings history, the dollar range of the brackets to which the wage replacement factors are applied can be indexed. Alternatively, other types of adjustments are possible, such as changing the length of the period over which earnings are averaged or the number of years that can be dropped out in calculating the average wage.

It is a crucial but not well understood point that while indexes and values of all the elements of the formula can be combined in a number of ways to produce many different results, each change in the valuation of any element in the formula will affect different groups of individuals differently. For example, workers whose earnings rise more slowly or end earlier in life than the average worker will be gainers in a formula that indexes earnings history (because it will increase the value of earnings earlier in life). About 12 percent of the population fall into this group. Wage indexing can increase the effective or countable average lifetime earnings of workers by as much as 50 percent; price indexing by as much as 25 percent. Increasing the number of years excluded from the period over which wages are averaged will benefit workers who move in and out of covered employment or whose earnings are highly variable.

Specific reductions in benefits. Except for those changes in the benefit computation formula which would involve drastic future reductions in benefits as a percentage of final wages, indexing benefits will eliminate only about half of the long-term deficit. Other options to reduce benefits for more narrowly targeted groups should be considered.

For example, a large part of the costs under this system consists of income transfers from high-wage earners to the low-wage earners; or to the dependents of retired workers. The degree to which the transfers occur and are desirable in this system rather than in other public assistance systems is worth considering because: (1) social security is an inefficient system for delivering assistance to the poor; it uses average lifetime earnings as the criterion for current need, providing costly windfalls to some nonneedy; (2) particularly when the system is in serious deficiency, it may be appropriate to shift the financing of nonwage-related benefits to other programs, paid out of general progressive taxes, rather than to finance these benefits from the regressive payroll tax; and (3) there may never be a better opportunity than now, when there is a visible need to reduce costs, to reexamine the depth of involvement of this system in providing minimum income to all social security beneficiaries.

While it is possible to consider the structural proposals separately, this should not be done. They interact with respect to which individuals would be affected and by how much; with other income transfer programs; and with some of the immediate actions being proposed.

In summary:

1. While it does not seem to be necessary to act immediately to avoid undue risk to the short-term status of the fund, action is likely to be needed within five years.

2. It is desirable to consider measures that could be taken immediately in terms of their interaction with permanent structural changes.

3. Changes in the benefit computation formula, while necessary, are probably not sufficient to solve the long-term deficit.

4. There is time to consider other major permanent changes of a structural nature which, together with changes in the benefit computation formulation, would be sufficient to restore long-term financial stability to the program.

5. This may be the most appropriate time for the Congress to think through a complete set of changes which would be adequate to solve the total financial problem while improving the equity of this important program.

STATEMENT BY W. ALLEN WALLIS

Mr. Chairman and Members of the Subcommittee:

Although I had the honor of being chairman of the Quadrennial Advisory Council on Social Security that reported, pursuant to Section 706(d) of the Social Security Act, in March 1975, I cannot by any stretch of the imagination present myself as an expert on Social Security. While the Council was working, beginning in May 1974, I became acquainted with some aspects of the System, but because the Council had only 8 months for its work instead of the two years contemplated in the law, it limited its attention to a few of the subjects deemed most important. Besides that limitation, Social Security is such a large and complex subject that only someone living with it every day can hope to keep a firm grasp even of topics once mastered.

To this statement I will append the three-page "Summary of Major Findings and Recommendations" from the Advisory Council's Reports, and I will confine myself today to three points that seem to me especially important and urgent.

The three points, on each of which I will expand, are:

(1) The soundness of the system, and consequently the answer to the often-asked question, "Will I get my benefits when I retire?" depends entirely on the future willingness and ability of the Congress to appropriate the benefits and raise the money for them, and has nothing to do with what people pay in before retirement and almost nothing to do with the trust funds.

(2) Because of a serious error in the cost-of-living adjustment to benefits Congress has lost control of the level of benefits, so no one can tell what they will be in the future, and correction of this error is urgent.

(3) Extensive research on many fundamental issues related to Social Security should be carried out soon to provide a sounder basis for future Advisory Councils and for Congress than is available now, since otherwise the Councils and Congress can only continue to recommend minor adjustments and patches on what has already become too much of a patchwork quilt and may even become a crazy quilt.

I will try to explain each of these three points.

1. PAY-AS-YOU-GO

Many people think that the Social Security taxes taken out of their wages and sent to Washington each month provide for their old age pensions and other Social Security benefits. This simply is not the case. Those taxes are levied on workers in order to pay benefits to people who already have retired and are drawing their Social Security pensions, or to pay other Social Security benefits to those who already are drawing them. Just as Federal gasoline taxes are special taxes earmarked to pay for highways, so Social Security taxes are special taxes earmarked to pay for certain current welfare expenditures. When you pay Social Security taxes you are in no way making provision for your own retirement. You are paying the pensions of those who already are retired.

Once you understand this, you see that whether you will get the benefits you are counting on when you retire depends on whether the Congress will levy enough taxes, borrow enough, or print enough money, and whether it will authorize the level of benefits you are counting on.

The situation is in no way analogous to putting money each month into a private insurance company which invests it and undertakes to pay you an annuity. In that case it is sensible to ask, "Will the company be sound enough to pay what they promised?" In the case of Social Security the only sensible questions are political: "Will Congress continue to authorize and fund the benefits?"

I am not a politician or a political scientist, but the answer to that political question seems to me obviously and certainly "Yes!". But don't think you will get your benefits because you "have been paying for them all these years," because you haven't. What you paid in the morning went out that afternoon to someone already retired.

Sometimes people suggest that this pay-as-you-go system in Social Security is not much different from what a private insurance company does. A private insurance company ordinarily pays benefits due in a given month from premiums received that month. But there is a very basic difference. Social Security taxes are set at rates intended to balance the total receipts with the total outgo over periods of a few years. Private insurance companies set rates for annuities as if they were maintaining a separate fund for each person, into which his premiums would be paid, to which interest would be credited, and from which benefits would be paid, with life insurance policies to adjust for differences among individuals in length of life.

Misunderstanding of the pay-as-you-go nature of Social Security is widespread among journalists and the public. Indeed, this misunderstanding seems to have been deliberately cultivated sometimes, in the belief that it makes the Social Security System more palatable to the public.

2. DECOUPLING

The Advisory Council was unanimous in recommending what is called "decoupling," the correction of a technical error in the automatic cost-of-living adjustment that was introduced in 1972.

Unfortunately, the error is technical, and hard to understand. If it were obvious, presumably it would not have occurred in the first place. But I will try my hand at explaining it.

First, a fact about the way benefits are determined when a person retires: His average monthly earnings are calculated, and there is a table in the law showing what the monthly benefits will be for any value of average monthly earnings. (There are some complications about calculating average monthly earnings, but none of them make any difference for understanding decoupling.) Benefits are higher, the higher the average monthly earnings.

Now the way the automatic cost-of-living adjustments is made is to raise the schedule of benefits when the Consumer Price Index rises, so that at each value of average monthly earnings the benefits are increased by an appropriate percentage. If a person had average monthly earnings of, for example, $400, earned before inflation, and if $260 was the corresponding benefit before inflation, then if there is 10 percent inflation the benefit should go up by $26 to $286. So far, so good.

But now consider a person with the same job history, except after inflation of 10 percent. His average monthly earnings will be $440. That increase of $40 in his average monthly earnings will bring him an increase in benefits, even without a cost-of-living adjustment. Under the benefit table in use a couple of years ago, it would bring him about $16 a month more, or $276. So the increase in wages that inflation causes would, at least to a first approximation, bring about an automatic increase in benefits even if the benefit schedules were not adjusted. But because of the 1972 automatic adjustment of the benefit schedule, a further upward adjustment of about 10 percent occurs, and the benefit becomes about $304. Thus, when there is 10 percent inflation the benefit goes up from $260 to $304, or by 17 percent. The monthly benefit after inflation is 69 percent of the average monthly earnings instead of the 65 percent that Congress established before inflation.

This kind of example, where the benefits go up substantially more than the cost of living, has led some to refer to the error as "overindexing." It should be noticed, however, that under some circumstances the result of the error could be "under-indexing." That is, the benefits might fail to go up enough to give retired workers as high a percentage of pre-retirement earnings as Congress intended. For example, if wages were to rise at 5 percent per year and the Consumer Price Index at 2 percent per year, than a worker with low earnings who is 1975 would have retired with benefits 61 percent as much as his pre-retirement earnings, would, if retiring in 1985, receive only 55 percent and in 2000 only 51 percent of final earnings. (See p. 105 of the 1974 Advisory Council's Reports for further examples.)

Thus, the point is not over-indexing or under-indexing but complete loss of control by Congress over what relation benefits will have to final earnings. Under the conditions now expected during the rest of this century, it seems likely that the error will result in over-indexing. In fact, of the 8 percent long-run deficit estimated in the Trustees' report earlier this week, almost half is due to over-indexing.

The Advisory Council recommended a straightforward way to remedy this serious error. The way to do it is to index monthly wages before they are averaged.

For example, suppose a worker retires in May 1986. What he actually earned in, say, November 1955 would be indexed by increasing it by the same percentage that average wages in May 1986 are above average wages in November 1955. Similarly, his actual earnings for every other month would be indexed to a May 1986 equivalent. Then these indexed monthly earnings would be averaged. A new benefit table would be constructed relating benefits to average monthly indexed earnings instead of to average monthly actual earnings. This table could produce replacement ratios fairly close to what Congress intended before it lost control. After retirements, benefits would increase according to the Consumer Price Index.

The use of average monthly indexed earnings would, as the Reports of the Advisory Council point out, make possible a number of simplifications and improvements in the benefit schedules. (See pages 16–18 and 107–108 of the Reports.)

There has already been too much delay in correcting this serious technical error. It, more than any other single factor, threatens the integrity and stability of the entire Social Security System. If it is not corrected promptly, vested interests will grow up around the artificially inflated benefits and will make correction politically difficult.

3. RESEARCH

On this subject, I take the liberty of repeating part of the testimony that I gave in May 1975 before the Social Security Subcommittee of the House Ways and Means Committee.

As a foundation for the next Council's work, there should be a comprehensive study by a non-Government body of such fundamental issues as full reserve funding vs. current cost financing; the effects of Social Security on productivity, capital formation, and private savings; the relationship between private pensions and Social Security; the appropriate size of the trust funds; and other basic issues.

No council of this kind can carry out that type of research. Indeed, research is not properly a function of such a Council. Instead, a Council ought to be able to draw, to the extent that it finds appropriate, on a body of research relevant to the policy issues with which Councils should deal.

Another reason for such a study is that the Social Security System has never, so far as I know, been subjected to a totally independent, detailed scrutiny of all of its actuarial, statistical, and technical assumptions and procedures. The Trustees' reports and the reports of Advisory Councils have relied ultimately on the data and analyses of present or former members of the Social Security staff. No one else is competent enough, and the Trustees and Councils do not have enough time for completely fresh people to develop competence comparable with that of those who have had long experience with Social Security.

This is not to impugn in the slightest the competence, integrity, and dedication of the Social Security staff. On the contrary, the Council had the highest respect for, confidence in, and even admiration for the staff. But a review or audit needs to be independent, for truly independent reviews and audits have a value that simply cannot be attained without total independence.

In the next few years Congress and the public will focus more attention on Social Security than it has ever received before. It is important that completely independent evaluations and analyses be available, and this is by no stretch of the imagination a reflection on the present small group of Social Security experts. In addition, many basic issues should be studied that are outside the scope and competence of the Social Security Administration. The system is now 40 years old, and personally, I attach great urgency to an independent, detailed, thorough, objective, non-Governmental review. Every effort should be made to have it completed in time for the 1978 Advisory Council to use its findings.

(From Reports of the Quadrennial Advisory Council on Social Security (49th Congress, 1st Session, House Document 94–75))

Summary of Major Findings and Recommendations [*]

A. CASH BENEFITS

1. Purpose and principles

The earnings-related OASDI program should remain the Nation's primary means of providing economic security in the event of retirement, death, or disability. It should be supplemented by effective private pensions, individual insurance, savings, and other investments; and it should be undergirded by effective means-tested programs. Future changes in OASDI should conform to the fundamental principles of the program: universal compulsory coverage, earnings-related benefits paid without a test of need, and contributions toward the cost of the program from covered workers and employers.

2. Benefit structure—Replacements rates

The provisions of present law for computing average monthly earnings, on which benefits are based, and for adjusting the benefit table in the law to change in prices may result over the long range in unintended, unpredictable, and undesirable variations in the level of benefits. The benefit structure should be revised to maintain the levels of benefits in relation to preretirement earnings levels that now prevail. Benefits for workers coming on the rolls in the future should be computed on the basis of a revised benefit formula a using past earnings indexed to take account of changes during their working lives in the average earnings of all covered workers. As under present law, benefits for people on the rolls should continue to be increased as price levels increase.

3. Retirement test

The provisions of the present retirement test should be modified so that beneficiaries who work can retain more of their benefits. Instead of reducing benefits by one dollar for every two dollars of earnings above the exempt amount of earnings, as under present law, one dollar of benefits should be withheld for every three dollars of earnings between the exempt amount and twice the exempt amount, and one dollar for two dollars above that level. Also, the provision under which a full benefit may be paid for any month in which a beneficiary earns less than one-twelfth of the annual exempt amount should be eliminated, except for the first year of entitlement to benefits. The test should be based on annual earnings.

4. Treatment of men and women

The requirements for entitlement to dependents' and survivors' benefits that apply to women should apply equally to men; that is, benefits should be provided for fathers and divorced men as they are for mothers and divorced women and benefits for husbands and widowers should be provided without a support test as are benefits for wives and widows. At the same time, the law should be changed, effective prospectively, so that pensions based on a person's work in employment not covered by social security will be subtracted from his social security dependents' benefits. Other provisions of the social security program which are the same for men and women but which are criticized because they appear to have different average effects on men and women (or different average effects on the married and the unmarried) should not be changed.

5. Other recommendations

(*a*) *Universal compulsory coverage.*—Although social security covers over 90 percent of workers, the gaps that remain often result in unwarranted duplication of benefits. Social security coverage should be applicable to all gainful employment. Ways should be developed to extend coverage immediately to those kinds of employment, especially public employment, for which coordinated coverage under social security and existing staff-retirement systems would assure that total benefits are reasonably related to a worker's lifetime earnings and contributions.

(*b*) *Minimum benefit.*—Partly because of the gaps in social security coverage, the minimum benefit is frequently a "windfall" to those, such as Federal retirees, who are already receiving a pension based on earnings in employment not covered by social security. Almost all workers who have worked in social security employment with some regularity become entitled to higher than minimum social security benefits. The minimum benefit in present law should be frozen at its level at the time the new benefit structure recommended under number 2 above goes into effect and the new system should not pay benefits exceeding 100 percent of the indexed earnings on which the benefit is based.

(*c*) *Definition of disability.*—The definition of disability should be revised to provide disability benefits for workers aged 55 or over who cannot qualify for benefits under present law but who are so disabled that they can no longer perform jobs for which they have considerable regular experience. These benefits should be 80 percent of the benefits for those disabled workers who qualify under the present law.

(*d*) *Miscellaneous.*—Further study is needed on three matters; the effects of the social security program on different racial and ethnic group, ways of simplifying the social security program and its administration, and the frequency of cost-of-living adjustments in benefits. In addition, a general study of social security should be made by a full-time non-Government body, covering such matters as funding vs. pay-as-you-go, possible effects of social security on capital formation, productivity, the proper size of the trust funds, the incidence of payroll taxes, and other basic questions.

B. FINANCING

1. Actuarial status

The cash benefits program needs a comparatively small amount of additional financing immediately in order to maintain the trust funds levels. Beginning about 30 years from now, in 2005, the program faces serious deficits. Steps should be taken soon to assure the financial integrity and long-range financial soundness of the program.

2. Tax rates

(*a*) *Employee-employer.*—No increase should be made, beyond those already scheduled in present law, in the total tax rates for employees and employers for cash benefits and hospital insurance. However, the OASDI tax rate should be gradually increased, as OASDI costs increase, and the increases should be met by reallocating taxes now scheduled in the law for part A (hospital insurance) of the Medicare program. Income lost to the hospital insurance program by this reallocation should be made up from the general funds of the Treasury. Hospital insurance benefits are not related to earnings, so should be phased out of support from the payroll tax.

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[*] The Council's findings and recommendations reflect a consensus of the Council and not necessarily the precise view of any individual member on any issue. To the extent that Council members have chosen to express their differences from the Council's findings and recommendations, such expressions are contained in the section of statements at the end of the report. Footnotes at appropriate points in the body of the report call attention to these supplementary statements.

(*b*) *Self-employed.*—The present 7-percent limitation on the tax rate for the self-employed should be removed. The self-employment OASDI tax rate should be the same multiple of the employee contribution rate as was fixed at the time the self-employed were first covered—150 percent.

3. Retirement age

The Council recognizes that under current demographic projections there will be a sharp rise in the number of people who will have reached retirement age relative to the working age population in the first several decades of the next century. Although the Council is not recommending an increase in the age of eligibility for social security retirement benefits, the Council does believe that such a change might merit consideration in the next century, when the financial burden of social security taxes on people still working may become excessive.

Social Security Benefits and Financing—Some Short-Term and Long-Term Issues

(By Robert Tilove)

We are obviously at a time when extensive amendment of social security has to be considered because of a number of simultaneous developments.

Additional financing is needed for the immediate future. The benefit escalation formula has to be replaced by something more stable, less likely to produce unintended results. A projected long-range increase in the ratio of beneficiaries to workers raises basic questions about ultimate financing and benefits. Increasing payroll taxes have stimulated interest in ways of lightening the load on workers with low earnings and for increasing the role of general revenues in the program. Growing participation of women in the labor market and judicial decisions create a need for recasting provisions so that they will be sex-blind.

The notices by Alaska and New York City to terminate their participation in social security raise important questions about the costs and benefits of social security.

TERMINATION OF COVERAGE BY A STATE OR LOCAL GOVERNMENT

A unit of state or local government that has participated in social security for at least five years has the privilege of terminating that coverage after giving two years' advance notice. The privilege is a mistake that may prove to be very costly to the social security system. From the standpoint of the national interest, it is a privilege which can and should be ended.

Withdrawal leaves the social security fund with a huge benefit liability, the cost of which has to be picked up by all other employers and employees. If a public unit leaves, it stops contributing but it does not take with it the obligation to make future payments for accrued benefits. If a public employer has been covered by social security for at least ten years, he or she has permanent entitlement to its retirement benefits, even though participation is terminated well before retirement. If the employee is close to retirement, there is little or no diminution in benefit amount. If the employee still has years to go before retirement, his or her benefit amount will be diminished, by the inclusion of zeros in determining his average monthly earnings, but the shrinkage is less than proportionate because of the weighting of the social security in favor of the lower-paid. (In this case, of course, they would not be lower-paid, but would get the advantage of that weighting anyhow). The result is that withdrawal leaves the social security fund with large liabilities, unmatched by contributions, and a consequent need for greater financing by everyone else.

Commissioner Carwell testified before the House Ways and Means Committee that if half the employees of state and local government who are presently covered withdraw, it will mean a loss of contributions in the five year period, 1978–82, of over $37 billion, not offset by diminution of benefit payments.

Employees of state and local government comprise about 11 percent of total social security coverage. On that basis, I would confidently estimate that if all of them were to be withdrawn from social security coverage it would require an increase in the social security contribution of at least 1.3 percent of taxable payroll for each of the succeeeding ten years. That would be an increase over and above the increase in revenue now known to be needed to overcome the near-term shortfall and to restore the trust fund to its one-year contingency position.

In correcting the error of permitted withdrawal, the difficulty is in finding an effective way that will be both constitutional and equitable.

The answer, in my opinion, dovetails into the matter of the mandatory coverage of public employees.

There is no reason why public employees should be exempt from social security. Employment is mobile, public employment is a large part of the total, and social security coverage should continue whether a worker is in a public or private job. The program benefits which are worthwhile and which are designed to minimize poverty. Moreover, those public employees who are exempt enjoy a windfall at the expense of the social security fund. Most of them draw social security benefits based on covered employment before, after, or during their public employment at the relatively favorable percentages intended for low-wage workers. For all of these reasons—their own protection by fully portable benefits, early disability benefit coverage, and valuable survivors insurance; the general welfare; and elimination of the waste of social security funds on windfall benefits—there ought to be universal mandatory coverage. The Advisory Council so recommended.

However, it would *not* be appropriate to mandate social security coverage on those present employees of federal, state, or local government who are currently outside social security and who are covered by a staff retirement system. The contributions and benefits of those systems have been firmly fixed in the light of non-coverage by social security. It would not be reasonable to add social security contributions and benefits on top.

The legislative action I respectfully recommend would be mandatory coverage for all public employees except for any present employee who is not already covered by social security and who is covered by a staff retirement plan. Also, any employee who is hired within the next three years and is in the same position should remain outside the mandate.

That would mean:

1. No change in the status of present public employees who are outside social security.

2. Employees hired in the next three years would be in the same position.

3. Each jurisdiction not presently under social security would have three years within which to establish a retirement plan for those of its employees who will have mandatory social security coverage.

4. Mandatory coverage would apply immediately to all government units that now have coverage; in short, universal coverage would make withdrawal moot.

A significant result of universal coverage is that it would strengthen both the short-term and the long-term financing of social security.

First, by shutting the door on withdrawal, it would put an end to that potential drain on the social security fund.

Secondly, as new employees were hired starting, let us say, in 1981 it would bring in additional contributions, without, for the time being, adding much to benefit payments. These additional contributions would multiply rapidly, as the cohort of employees hired after 1980 increased, so that within a few years the extra contributions would be in the billions, while still without anything approaching offsetting benefit payments.

The third effect would be to improve the long-term financing. Exempt coverage is a drain on the social security fund because of the windfalls which fall to exempt public employees who have also had some covered employment. Universal coverage would stop that unnecessary cost. This result would not be achieved at once, of course, because present exempt employees would remain exempt. But it would be accomplished gradually over the next 30 years. It would strengthen financing by eliminating a source of waste that is bound to be an increasing source of embarrassment to the social security program.

Compulsory coverage of the employees of state and local government would of course run into a constitutional questions. However, the issue concerns the general welfare in a highly mobile society in which a life-time of work frequently involves both public and private employment and the mandate would apply uniformly to all employees and employers. Moreover, it would seem possible to include clearly constitutional sanctions—such as conditions for federal grants having a welfare component or a fall-back provision for taxation on the employees—which would make the constitutional issue academic.

There is, of course, no constitutional problem to deter the federal government from bringing all its future hires into social security. The employer contribution would, in fact, be a gradually increasing stream of income to the trust fund from general revenues.

DEALING WITH THE WINDFALL BENEFITS OF EXEMPT EMPLOYEES

Whether legislation should eliminate the windfall benefits of non-covered employees is a separate question. It is bound to be a highly sensitive issue because, right or wrong, these include benefits that have, to one extent or another, already accrued under the exitisng law.

Yet, the issue may soon be unavoidable, at least in a limited form.

The courts have already decided that a widower is entitled to the benefits payable to a widow caring for the minor child of a deceased insured worker. Then there will be the case of the husband who will sue for the 50 percent spouse benefit, while he is receiving a public employee pension for non-covered employment and the further case of a surviving aged widower who will ask for the benefit payable to a widow even though he, too, is on a pension based on non-covered employment. As it is, a woman who is receiving a social security benefit as a wife or as an aged widow may also be receiving a pension from her exempt public employment that was designed as if she had no social security benefits.

Considering the possibility that changes to make the Social Security Act sex-blind would vastly increase such windwalls, the 1974 Advisory Council recommended that a pension payable on the basis of non-covered employment be offset from any spouse or surviving spouse benefit under social security. It was explicit in not recommending such a deduction from the worker's own social security benefit.

However, if an arrangement for offset is to be established, might it then be asked whether it could be applied so as to shrink to non-windfall proportions the social security benefit to which an employee in non-covered employment will be entitled on the basis of his pieces of covered employment? These social security benefits might, for example, be calculated, as a first step, on all his earnings but paid only for that portion ratably attributable to his covered earnings.

It is worth reiterating that the proposition of making coverage universal is entirely separable from the question of the windfall benefits of presently non-covered employees. however, if universal coverage were mandated and steps were also considered toward eliminating the windfalls, then it would be appropriate simultaneously to consider measures to make sure that no employee still in non-covered employment would fall between social security and his benefits as a public employee. This might be done on some basis involving specifically calculated transfers to the social security fund. It is a problem to which considerable thought has been given at the federal level and some of the same approach might also be applied for state and local governments.

THE SOURCE OF GREATER CONTRIBUTIONS

Suggestions for the increased income needed to meet the short-term deficiency have included increased rates, an increase in the wage base, general revenues, and combinations of two or more of these.

An increase in the wage base, for example, to encompass all of the earnings of 90 or 95 percent of the employees, would add to revenue, but also, ultimately to benefit payments. However, there is a break-even point—an increase in the base can permanently bring in more than it pays out if the replacement ratio on the wage increment is sufficiently modest. If it proves true that 40 years from now there will be only two active employees for each beneficiary, then any legislated increment in the wage base will return a net gain to the fund if the benefit ratio on that wage increment is less than double the total contribution rate. For example, if the combined contribution rate for OASDI is 11 percent, a replacement ratio of less than 22 percent on the highest segment of earnings will yield a net gain to the fund on that segment of the wage base.

There is a good case for applying general revenues for the "welfare" aspects of social security, that is, those features that represent social adequacy as distinguished from individual equity.

However, one of the strongest underpinning of social security is its acceptance as social insurance paying benefits earned as a matter of right on the basis of employer and employee contributions. It is therefore a legitimate concern, in my opinion, that general revenue should be applied in so distinctive a way that it does not undermine that concept.

THE POSSIBILITIES OF A TWO-TIERED BENEFIT SYSTEM

Social security has always balanced two objectives: individual equity, based on earnings in covered employment, and social adequacy. Increasing costs have put a strain on accomplishing both within payroll taxes. That fact, plus a combination of changes to which we have referred, suggest that it may be worth considering changing the benefit structure.

The following is therefore advanced, not as a proposal that has been entirely thought through, but as a possibility worthy of serious study.

Suppose social security were recast so that it would consist of two layers instead of one. The first would be a demogrant of, let us say, for example, $100 per month, granted to everyone upon attainment of a particular age, for example, 65. The coverage might be every resident or it might be limited to those eligible for social security and their wives and husbands. The $100 would be automatically updated by an indexing formula. The demogrant would be taxable. The second layer would be strictly related to average indexed earnings in covered employment. It would be a benefit payable in the full amount upon retirement at or after age 65. It might be 25 or 30 percent of average monthly indexed earnings. Or it might be 30 percent to one level and 20 percent on the highest segment of covered earnings.

There is, of course, nothing very novel about this idea. There are several countries that have two layers in their national programs: the first, a flat pension for everyone and the second, a graduated social insurance plan.

This sort of change would have many implications. Among the more obvious are these:

(1) General revenue would be applied to make payment to every "senior citizen" and part of the payment would come back to the government through taxation on the basis of taxable income.

(2) The problem of inequity as between the one-worker couple and the two-worker couple and the related problem of the meager increment earnable by a wife's work would be eliminated. Each "oldster" would get his or her wage-related benefit plus the $100 a month.

(3) The burden on the payroll tax would be lightened or abated.

(4) Payable regardless of work after 65, the demogrant would reduce the problem of the post-retirement work test. Of course, to the extent that a beneficiary continued to work, part of the benefit would return to the federal government in the form of taxes.

(5) It gives the proper tilt to the combined benefits in favor of the lower-paid worker.

(6) It makes an allowance for the spouse who has not been in the labor market.

(7) The benefit formula would be extremely simple and its equity readily understandable.

This formula comes rather close to reproducing, in a very general way, the results of the social security program. That is not surprising. What this idea does essentially is to take the social adequacy weighting embodied in the social security formula and convert it into a simple flat benefit. That applies both to the weighting for the lower-paid and the add-on for wives.

This idea is, of course, far-reaching. If anything comparable were to be adopted, it would have to be phased in. It should not be written off as being too abruptly different. There are many possible approaches to transition. For example, if the social security benefit were to start with a base of $100 a month for each beneficiary, the financing of that demogrant or base through general revenues could be phased in by stages.

CORRECTING THE ESCALATION FORMULA

There seems to be unanimity in favor of changing the escalation formula, but not on what should take its place. It would seem desirable to set a goal in terms of wage replacement and fulfill it as steadily and equitably as possible by careful choice of a formula for indexing creditable wages from the time they were earned to the time for retirement.

As your Committee no doubt knows, this change would take a large part out of the otherwise projected cost increases.

THE LONG-RANGE INCREASE

A long-range increase in cost is nevertheless in prospect—a slow increase for many years and then a substantial jump in the years 2010 to 2030, when the post-war "baby boom" retires and finds that fertility rates at or below "zero population growth" have produced little more than two workers to support every beneficiary.

Those costs may or may not develop as projected. There are many variables and they may change remarkably before 2010. It is even possible that retirements in 2010 will create a labor shortage with the effect, subsequently, of holding able-bodied employees back from retirement. Nevertheless, it would not be prudent, wise, or responsible to ignore the projections.

One of the questions to be resolved is how to phase or schedule the increased financing—should it be incorporated as a level rate, substantially higher than the present rate, or should the rate increase only as the cost increases, or should the increase be smoothly graduated. I would respectfully suggest the last of the alternatives.

An abrupt increase in undesirable at any time—now or in 2010. A graduated increase would spread the burden over time and over the generations. It would mean that during the next few decades, contributions would exceed expenditures and a substantial trust fund would accumulate. Under the circumstances, that would have a major advantage.

Let us assume that contributions do no more than meet current costs as they develop. Let us suppose we are at the year 2009 and it appears, as now projected, that a substantial increase in contributions is required immediately and for the following 20 years. However, if the social security actuary then in office were to do a 75-year projection he would find, by present assumptions, that the "baby boom" effect would last only 20 years and be succeeded by lower costs based on a more "normal" ratio of active workers to beneficiaries. He would therefore observe that if a substantial trust fund were then on hand it might help materially to see the program through its highest-cost years without commensurate increases in contributions. In other words, the reserve would help to smooth the peak.

Of course, this is a very long look into the future, yet the most responsible course is to prepare to meet the problem in ways that leave flexibility for adjustment and readjustment as the changing circumstances and projections unfold.

Summary of Testimony by Martin Feldstein

10 BASIC FACTS

1. The social security program is currently running a deficit and depleting its small reserve fund.

2. The recent demographic swing from baby boom to baby slump will eventually require a very large increase in the social security tax rate if the current relative benefit structure is to be maintained.

3. Social security retirees receive on average more in benefits than they (and their employers) paid in taxes during their working years. This excess of benefits over lifetime taxes is equivalent to earning a very high rate of return on the taxes paid. Unfortunately, this rate of return will fall sharply in the future so that social security will provide a much lower rate of return than private investment.

4. For many retirees, social security benefits exceed previous income.

5. The high benefits and the earnings test force many to retire who would otherwise work.

6. Social security does not prevent poverty in old age.

7. Two-thirds of American employees are covered by private pensions.

8. The lack of progressivity of the payroll tax is irrelevant.

9. More than half of married women are now in the labor force.

10. Social security substantially reduces capital accumulation.

8 RECOMMENDATIONS

A. The tax rate should be raised within 3 years to eliminate the short-run deficit.

B. Index the benefit formula so that future benefits and replacement rates depend on real and not relative income.

C. Develop a larger social security capital fund.

D. Reform the treatment of two-earner families and of dependent wives.

E. Relax the earnings test.

F. Raise SSI benefits.

G. Tighten the relation of benefits to previous contributions.

H. Do not raise the relative maximum taxable earnings.

ANNOUNCEMENT OF POSITION ON VOTES

Mr. STEVENS. Mr. President, because of longstanding obligations which required my presence in Alaska, I was unable to attend the sessions of the Senate on Thursday and Friday, May 27 and 28. I also missed one vote on Thursday, June 3. If I had been present, this is how I would have voted:

Rollcall No., subject, and position:

201—Motion to discharge S. Res. 449 from Interior Committee, Nay.

Antitrust Amendments

202—Motion to table Allen amendment No. 1712, Nay.

203—Morgan amendment to Hart amendment No. 1701, Yea.

204—Morgan amendment as substitute for Allen amendment No. 1712, Yea.

205—Morgan to Allen amendment No. 1712, Yea.

Nominations

206—Motion to compel the presence of absent Senators, Nay.

207—David M. Lilly to Board of Governors of Federal Reserve System, Yea.

208—George Henry Kuper to National Center for Productivity, Yea.

Antitrust Amendments

211—Motion to limit debate on the Antitrust Act, Nay.

GRIM REPORT ON CYPRUS

Mr. KENNEDY. Mr. President, a recent report issued by Secretary-General Kurt Waldheim on Cyprus reminds us once again that conditions on the island have changed tragically little since the Turkish invasion in 1974.

Despite a litany of false promises and optimistic reports by the Department of State, Cyprus today remains bitterly divided and occupied. More refugees have been created, and none have returned to their homes. And political divisions and suspicions have grown as Turkish military authorities have entrenched their occupation of 40 percent of the island.

Particularly disturbing, Mr. President, is the mounting evidence of the total violation by Turkey of the Vienna agreements concerning the plight of Cypriot-Greeks in the occupied zone. The agreement, concluded in Vienna under U.N. auspices in August 1975, provided for the free movement, protection, and normalization of the lives of Cypriot-Greeks remaining in the Turkish occupied area.

The Government of Cyprus has scrupulously carried out its part of the agreement regarding the free movement of Cypriot-Turks in the government zone, but the condition of Cypriot-Greeks has steadily deteriorated in the Turkish occupied area. This situation, coupled with reports of the systematic colonialization of the island by Turkey, not only call into question the good faith of the Cypriot-Turkish leadership in negotiating the Vienna agreement, but also raises troubling questions over Ankara's intentions on Cyprus.

In addition to the continued suffering caused by Turkey's policy on Cyprus, its actions—particularly the violation of previous agreements and the colonialization of the occupied areas by mainland Turks—will remain as stumbling blocks to restoring United States-Turkish relations.

As the New York Times noted in an editorial today:

> There may be nothing effective that the United Nations or the United States can do about Turkey's *fait accompli* on Cyprus. But Turkey must know that its actions imperil congressional approval of the billion-dollar arms and bases agreement of the United States.

Indeed, the pending foreign assistance bill, S. 3439, in section 403, makes clear that assistance to Turkey will be conditioned upon, among other things, the fact that Turkey does not increase its military forces or its civilian population on Cyprus. The evidence contained in the United Nations report, and in other reports from the field, clearly indicate that Turkey has already begun a process of colonialization, bringing mainland civilian populations to Cyprus for resettlement.

In short, even if Congress passes the pending bill providing $125 million in military aid to Turkey, a clause in the bill will block the Department of State from using the funds until and unless Turkey "does not increase * * * its civilian population on Cyprus."

Mr. President, the situation on Cyprus is grim, as the New York Times noted today. It will not improve until Turkey shows some sign of good faith in negotiations and in honoring previously negotiated agreements. And it will not change with other optimistic report from the President, such as the one submitted to Congress yesterday.

I would like to draw to the attention of Senators the editorial in today's New York Times, and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the New York Times, June 9, 1976]

GRIM REPORT ON CYPRUS

Though clothed in diplomatic language, Secretary General Waldheim's semiannual report to the Security Council on the United Nations operation on Cyprus makes grim reading. After citing the increasing difficulties encountered by the United Nations forces—known as UNFICYP—in gaining access to Greek Cypriots remaining in the Turkish-occupied northern part of the island, Dr. Waldheim sums up:

"As a result of these restrictions, UNFICYP has been unable to contribute in any effective way to the welfare, well-being and security of the Greek Cypriots in the north except for the supply of material items and distribution of social welfare benefits. This is a continued outflow of these people to the south."

That outflow, according to abundant information from independent sources, is induced by Turkish pressure. Dr. Waldheim reports many complaints from Greek Cypriots that they are coerced into signing requests to leave and warned that if they refuse they will be moved regardless—but without their personal possessions. Because of Turkish restrictions, United Nations police have "no possibility of verifying whether people wish to leave."

As Dr. Waldheim says, the plight of Greek Cypriots in the north is a matter for serious concern, not merely on humanitarian grounds but because it "increases tension between the two communities and tends adversely to affect the efforts toward a just and lasting peace in Cyprus."

The Secretary General asks the Security Council to extend the mission of the U.N. forces on Cyprus for another six months, which it probably will do later this week. But the Council ought to face the reality, which is that Turkey at present has no intention of withdrawing from any of the territory—40 percent of the island—that its forces seized in 1974, nor of allowing the reconstruction of any central Government worthy of the name.

On a visit to West Germany last month, Rauf Denktash, the Turkish Cypriot leader, said flatly that the Turkish side was not prepared to make any territorial concessions. The Turkish proposals for a "Federal Republic of Cyprus" would give a central Government so little power that the end result would be partition of the island—something expressly forbidden by the Security Council resolution of March 1975.

There may be nothing effective that the United Nations or the United States can do about Turkey's *fait accompli* on Cyprus. But Turkey must know that its actions imperil Congressional approval of the billion-dollar arms and bases agreement with the United States; and the Security Council ought to have no compunctions about exposing the broken promises and bad faith of Ankara.

KNOW YOUR ENEMY

Mr. TAFT. Mr. President, one of the oldest and most well proven maxims of warfare is, "know your enemy." Unfortunately, I am not certain that the services are doing enough to acquaint our military officers with the tactics, doctrine, and equipment of Soviet-model forces. I recently noted in the RECORD that Marine Corps troop commanders have little or no time for professional development, which includes study of the potential opponent; this situation is by no means unique to the Marine Corps. Yet it is absolutely critical that our troops commanders not go into battle unfamiliar with the way their opponent operates. In modern war, there is no time to learn while doing, and the price of ignorance is often defeat.

Accordingly, I was extremely gratified to see an article in the June issue of Air Force magazine entitled, "Awareness Is a Weapon, Too." This editorial points out how critical it is for military officers to be familiar with their potential opponent. It also notes that the Air Force is setting the pace in developing new programs to increase our awareness of the nature of the opponent.

I commend this article to my colleagues, and I strongly commend the Air Force for their Soviet awareness program. I hope that this program will extend beyond the senior ranks, and that the other services will develop awareness programs of their own.

Mr. President, I ask unanimous consent that the editorial from Air Force magazine, "Awareness Is a Weapon, Too," be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

AWARENESS IS A WEAPON, TOO

(By John L. Frisbee)

"Know your enemy" is an axiom as old as the art of war itself. It was largely ignored by the officials who set policy for our military operations in Vietnam, at least at a time when it could have made a difference.

Strategically and tactically, Vietnam was a minor league war—for us, anyway. Nevertheless, there are lessons to be learned, or relearned, from it. Not the least is this: Neither more nor better arms can guarantee lasting success when understanding of the enemy—his motivating philosophy, national and military strategy, social structure, and so on—is either faulty or lacking. That kind of understanding—for want of a better team, we'll call it the intellectual side of war—demands a lot of mental effort. To paraphrase Napoleon, we might say without too much exaggeration that in war, the intellectual is to the physical as three is to one.

Intellectual preparation, essential to success in fighting wars, also is an important part of deterrence. That brings us around to the USSR, and to the observation that, for a variety of reasons, the intellectual side of deterrence, which is primarily associated with the USSR, has not in recent years had the emphasis here that it deserves. For one thing, the Vietnam decade was a diversion. Then, too, Americans tend to be pragmatic, sometimes contemptuous of theory (which can't be quantified, or projected with certainty), and often prone to mistake theory for propaganda.

Hardware and budgets aside, Americans have put a lot less effort into understanding Soviet military/political thought than the Soviets have in studying ours. To be on the low end of the balance beam in both military capability and knowledge of one's opponent would be doubling our jeopardy. Without a widely shared understanding of Soviet operating philosophy, there will be little appreciation of the threat; without that appreciation there will be neither public support of adequate military forces nor perhaps even adequate preparation of the forces we have.

We don't mean to imply that the intellectual side of deterrence has been ignored by the Air Force and the other services. But serious study of Marxist-Leninist operating philosophy has been pretty much the province of a handful of specialists at higher headquarters, and a necessarily lesser fraction of the professional military education programs. That totally integrated philosophy subsumes all elements of national power—physical, intellectual, spiritual. Its goal is world domination; its driving force military might, whether used as a negotiating tool or, under favorable conditions, for conquest. That has been a recurring theme of AIR FORCE Magazine, though we often have been accused of preaching to the choir.

A recent Air Force development encourages us to believe that our homilies on the threat have not been superfluous. That development is the new Air Force Soviet Awareness program, conceived by Maj. Gen. George Keegan, USAF's Assistant Chief of Staff, Intelligence, and developed under his supervision with the strong support of Air Force Chief of Staff Gen. David C. Jones.

The roots of the Soviet Awareness program go back to 1972, when General Keegan started a project of translating the major Soviet books on military thought. (The series of translations was reviewed in our March Soviet Aerospace Almanac issue.) The nine books translated so far are used in Army, Navy, and Air Force service schools and by research organizations throughout the Free World. They may also be found in some 1,100 civilian libraries. These translations provide a professional basis, previously unavailable to those who can't read Russian, for understanding the use of military power as the Soviets see it.

The Soviet Awareness program itself, first discussed publicly by Senior Editor Edgar Ulsamer in our May issue, has already produced instructional materials for Air University and inaugurated a formal course in Washington, where its first students were the Air Force's new brigadier generals. One phase of the course capsulizes the essence of Soviet military thought as expounded by Soviet theoreticians. Unclassified segments that we have seen are done with imagination and clarity. Senior civilian and military officials in the Washington area will start attending the course soon.

The Awareness course is to be videotaped and distributed throughout the Air Force including the Reserve components, along with supporting instructional materials. Some phases will be tailored to the particular needs of different functional groups within the Air Force—SAC missile and bomber crews, fighter pilots in Europe, R&D people.

The purpose of the Awareness program is not to launch an anti-Communist or anti-Soviet crusade. It is a straightforward, unemotional presentation of the objectives that Soviet leaders have set out for their own people, and of the strategy, concepts, doctrine, tactics, and materiel they have created to reach those objectives.

We hope that similar programs will be established by the other services, and urge that essential parts of the Air Force program be made available on Capitol Hill and to civilian audiences. Americans must take the carefully calculated and minutely described strategic and tactical concepts of the Soviet hierarchy more seriously than we did Hitler's blueprint as set forth in *Mein Kampf* lest this country be forced into a slow retreat toward oblivion, or into the catastrophe of World War III.

THE ELKS NATIONAL "HOOP SHOOT" FREE THROW CONTEST

Mr. HATFIELD. Mr. President, the names of the top winners in the Elks National "Hoop Shoot" Free Throw Contest will now be listed in the Naismith Memorial Basketball Hall of Fame at Springfield, Mass.

Official announcement of the contest's national recognition was made in a joint news release from Willis C. McDonald, chief national executive officer of the B.P.O. Elks of the United States of America, and Lee Williams, administrator of the Basketball Hall of Fame.

McDonald said:

> We are tremendously pleased at this honor accorded our contest and the boys and girls who compete. We expect even larger numbers of entries than this past year's 2¾ million, and we expect many more of the Order's 2,200-plus lodges throughout the country to sponsor local contests.

Williams lauded the contest as a solid contribution to the sport, heightening interest in the game and doing much to improve one of the most important parts of any basketball contest.

While only 4 years old as a national contest, "Hoop Shoot" began almost 30 years ago when Frank Hise of Corvallis, Oreg., walked into a grade school gym and watched some boys shooting baskets. He saw that the smaller lads got mighty few shots as the big boys dominated play. Hise proposed to his lodge that they start a free throw contest as part of their youth activities program. They approved the idea and ran the contest for some 12 years.

Noting the growth and interest of the contest, the Oregon State Elks Association adopted it statewide, running it for another dozen years.

In the interim, Hise was elected Grand Exalted Ruler of the Order of Elks in 1969–70 and he began to work to have the contest adopted as a national project. The first national contest was operated in 1972–73 but was limited to boys only for the first 2 years.

Over 750,000 boys entered in that first year, with the entries jumping to 1,250,000 the second year. The contest was then opened to girls and entries soared to over 2,200,000 in 1974–75 and 2,720,000 this past season, indicating a growth pattern that was rather overwhelming, yet gratifying to the Elks.

The man who has headed the contest since its inception, Gerald L. Powell of Peru, Ind., said:

> We're delighted and gratified at this important milestone in the "Hoop Shoot" contest. We feel it's doing a great deal for American boys and girls and for basketball as a sport . . . and we hope that thousands of Elks and their families will make it a point to visit the Basketball Hall of Fame any time they're near Springfield, Massachusetts.

For the first 4 years of national competition, the finals have been held in Kansas City, Mo.

Oregon has had three national winners: Layne Johnson, Coos Bay, 8- and 9-year-old boys; Eric Croxford, Klamath Falls, 12- and 13-year-old boys; Tracy Hatten, Gold Beach, 8- and 9-year-old girls.

NATIONAL PAINTING AND DECORATING WEEK—JUNE 18–26

Mr. HATFIELD. Mr. President, the painting and decorating contractors of America is a national trade association established in 1884, with a membership of nearly 5,000 contractors located in all fifty states.

Mr. Carl Leuteneker of San Leandro, Calif., president of the association, has designated June 18 through June 26 as national painting and decorating week, a period of time in which the PDCA chapters across the country are encouraged to paint a structure as a service to the community in which they live and work.

Last year, at their 91st annual convention, the Painting and Decorating Contractors of America, by unanimous resolution, recommended that all of their nearly 300 chapters and 32 regional councils consider selecting a boys' club in their respective areas for a continued "paint-up" project. Following the passage of this resolution, PDCA and Boys' Clubs of America, which was founded in 1860 and granted a U.S. congressional charter in 1956, met to develop a special Bicentennial program involving charity repaint work on boy's clubs facilities throughout the Nation. The program focuses on local and regional selection of paint-up projects through the formation of joint project committees composed of PDCA members at the council and chapter levels and local Boys' Clubs officials.

It is estimated that this program could benefit more than 160,000 deserving children throughout the United States in 1976 alone; and, as this is to be a continuing project, the number of children benefited in years to come will easily be several times that.

PDCA's goal for this year's Boys' Clubs of America paint-up project is $1 million worth of painting and decorating based on current market values. To date, over $350,000 worth of work has been either completed or committed. By July fourth, the organizations hope to have gone over the half million dollar mark.

In addition to the Boys' Clubs project, other services are performed by the local PDCA chapters during national painting and decorating week; and, since the first such proclamation in 1964, thousands of churches, historical buildings and monuments, scouting facilities, community centers, YMCA and YWCA buildings have been renewed and revitalized by the local PDCA chapters as a service to the community and the Nation.

AMERICAN MUSIC

Mr. HOLLINGS. Mr. President, in our Bicentennial Year we have endeavored to honor everything that is American.

What could be more American than our music which has had such an incredible impact on the entire world. American music is a most important export and every American artist is, in effect, an American Ambassador without portfolio. The music with its messages tells more about American life than all other efforts to reach the peoples of the world.

I have just learned that the international music industry's premier publication, Billboard—one of the oldest trade publications in any field in America—is presenting a special July 4 issue Music/Records 200, A Spotlight on America.

I would like to commend the publisher and the Billboard staff for this fine piece of Americana which so completely tells the story of one of our Nation's oldest and finest export, American music.

R. SARGENT SHRIVER

Mr. HOLLINGS. Mr. President, one of the ablest public servants of recent years—or of any years, for that matter—is the subject of a probing and perceptive article in the June issue of the Washington Monthly. I am speaking of R. Sargent Shriver, and of his many accomplishments in the Peace Corps, OEO, and the Ambassadorship to France. Wherever Sarge Shriver represented the public interest, we had the best in ability, commitment, and result.

The Washington Monthly article goes to the depth and substance of the man. Most Americans know of Sargent Shriver as a can-do, get-results administrator. Fewer are aware of the more private man, and depth and range of his mind, the breadth of his reading and contemplation.

As we enter America's third century, it is comforting to know that America continues to produce this kind of talent and dedication. Sarge Shriver is one of America's finest, and the country has reaped well from the unselfish service he has given over the years. I hope we will be fortunate enough to have the benefit of his counsel and his endeavor in the years ahead.

Mr. President, I ask unanimous consent that Mr. Colman McCarthy's article from the June 1976 issue of the Washington Monthly, be printed in today's RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SHRIVER: THE LIGHTWEIGHT LABEL

(By Colman McCarthy)

When he declared his candidacy dead, and wafted to the after-life of Washington, where losers can, without fear, be put on hold by nobodies and ignored by waiters, Sargent Shriver was characteristically buoyant. At the wake for his campaign, he called it a "remarkable success." That was vintage Shriver: ever the mole, boring his way through piles of defeat and fatigue, and coming up to sun himself on whatever ray was left. It is one of the traits by which Shriver has endeared himself to so many of those who once worked for him. It is also the kind of behavior that has caused him to be dismissed as a lightweight by many reporters.

There were, at the outset, a few exceptions. Theo Lippman, Jr. of the *Baltimore Sun* and George Will, columnist, saw something more in Shriver. And Michael Novak has actually worked in both of Shriver's campaigns.

As one who cared about the Shriver candidacy—because I had cared about Shriver himself since about ten years ago when he invited me to Washington to work for him at the Office of Economic Opportunity—I was elated by these signs of regard as Shriver's 1976 campaign got under way. Someone else had perceived something that I had seen over the years and had been telling friends about all along. "Wait until he's President," I had said more than once to those who, unable to benefit large doubts, saw Shriver as little more than a well-plumed careerist looking to nest in any roost of Washington power.

The waiting goes on. Shriver fell after the Illinois primary in March, after he had stumbled into and staggered out of Iowa, New Hampshire, and Massachusetts. To reflect on the failure of Shriver is, first, to examine how elective campaigning can be a death rite to an inexperienced candidate who makes an early mistake or two in tactics and, second, to suggest that the Democrats are not so talent-rich a party that someone like Shriver can now be dismissed as obsolescent. He has lost out but that is no proof at all that he is worn out.

A candidate's basic strategy in political campaigning is to make it hard for the baying press to discover his weakness. The pack gets its thrills by sniffing for scents of naivete (Romney's "I was brainwashed"), or simplism (McGovern's $1,000 to every American), or stupidity (Reagan's $90-billion scheme). Romney, McGovern, and Reagan had all survived earlier hunts, so when running presidential campaigns they were nimble enough to force the press to work a little to sink in their teeth.

With Shriver—a 60-year-old innocent who had never run for office on his own—it was as though he couldn't wait to expose his vulnerability. His announcement speech at the Mayflower Hotel on September 20 was hardly into its first syllables when he was claiming the legacy of John F. Kennedy. The packed and high-mood celebrators in the ballroom cheered and stomped at their Sarge's taking up the fallen banner of JFK, but for the detached observers the message was different: Shriver felt insecure about running on his own record and ideas, so he was hooking jumper cables to John Kennedy to be energized by a winner.

Candidates traditionally ride coattails, but this was too much to ignore for even those in the press who had affection for Shriver: a candidate using the coattails of a man dead 13 years. For those who felt no affection, the urge to move in and chew up Shriver was irresistible. The opportunity came the next day on "Meet the Press." The interviewers forced Shriver into an immediate defensiveness about the Kennedy legacy: forcing the new candidate to explain that Ted Kennedy "is the logical claimant, but he decided, you know, not to be a candidate"; to say that "my success in business did not start when I married the boss's daughter"; to dodge a question about why he stressed the Kennedy legacy but not the McGovern legacy, although he had run with McGovern in 1972. Each of the four questioners—Bill Monroe, Jack Germond, Martin Nolan, and Robert Novak—pawed Shriver with legacy questions.

The program was dispiriting because Shriver not only had a weakness revealed so soon but he had openly cooperated in exposing it. And this was before Ms. Judith Exner stepped forward with tales that gave new meaning to *Johnny, We Hardly Knew Ye*. But the real irony of Shriver's making himself dependent on John Kennedy was that, of all the Democratic candidates—the announced ones then and those running now—only he had a record of service and innovation that was unique and substantial on its own. Shriver was the only candidate who could go back and say that something he began 15 years ago—the Peace Corps—is still alive today and retains much of the philosophical purity that he originally gave it. He was the only candidate who could point to ten-year-old programs and ideas—Head Start, Job Corps, Legal Services, Upward Bound, among others—and claim that they were still productive and working today. Nixon tried to kill many of them, but failed.

By stressing this kind of association, Shriver could have forced the debate about him to revolve about his skills as a social innovator. In Washington, it is acceptable to dismiss such programs as Head Start and Job Corps, but in trips I have made around the country in the past few years, whether to the migrant worker camps in southern Florida or the coal towns in east Tennessee, I have come upon people still being served by the administrative structures that Shriver set up a decade ago in OEO programs. If there was a legacy crying out to be claimed, it was Shriver's own: one to take immense political pride in and one that separated him in obvious ways from the Jacksons, Carters, and Udalls. None of them could point to something initiated 15 or 10 years ago and say, honestly, that it was functioning today.

The best-selling position in politics today—anti-bureaucratic, pro-lean government—was Shriver's over a decade ago. Government employees traveled first class in 1961; Shriver's Peace Corps went tourist. There were no carpets on the floor at OEO. There was no tenure at the Peace Corps to guarantee lifetime employment to time-serving bureaucrats. The evaluation and inspection system at Peace Corps and OEO encouraged whistle-blowing and communication between the top and bottom of those agencies that was unprecedented. Legal Services at OEO represented the first break in the liberal tradition of throwing money at problems. Instead of a giant new agency to deal with social problems, a handful of lawyers was turned loose with minimum cost and maximum results.

That Shriver, with such a record, didn't offer himself as an unattached candidate—avoiding any self-announced association with John F. Kennedy—was a mistake, and instantly perceived as a crippling flaw by reporters happy to kick the crutches out from under a candidate.

But Shriver was insecure at the prospect of running on his own—despite his record at Peace Corps and OEO, and in Paris as ambassador, and as a corporate lawyer who negotiated contracts with the Soviet Union. It was a form of personal uneasiness common to Washington. Few of those who have attachments to one form of power or another don't rely on them. Journalists use the phone and announce themselves not as John Smith but as John Smith of CBS News or John Smith of *The Los Angeles Times*. Some of the power-reliers are such habitual self-linkers that even as dinner guests—relax-boys—they introduce themselves by saying not merely who they are but whom they are with.

Shriver's psychological inability to detach himself from a source of power was standard Washington behavior. To imagine his agony is not hard. He was suddenly a free lancer. For 15 years, he had been safely associated with a force larger than himself. He could dash around the country, hold forth on the issues and win victories that had to be noticed, because it wasn't really himself that he was putting forward. It was someone else—JFK, LBJ, McGovern—or another cause: poverty, diplomacy. He had no difficulty battling the Albert Quies and Charles Goodells who led the congressional fights against OEO. He wasn't asking Congress or anyone else to do anything for Shriver; he was only the agent serving another; whether it was the Mississippi Head Start director who needed funds or Lyndon Johnson wanting to be seen as great. Writers who have been on the payroll of a newspaper or magazine for years but suddenly try to stand on their own as free lancers can sympathize with Shriver's situation. Now it's just me, not me and CBS or me and *The Los Angeles Times*.

That Shriver felt distinctly uncomfortable with his free-lance status is suggested not only by his sticking with a dead brother-in-law but by associating himself with a group of the glitteringly alive. Much time was devoted to organizing the "Shriver for President Committee," a list of names that included Lauren Bacall, Paul Newman, Arthur Rooney, Roosevelt Grier, Carol Channing, Morton Downey, Ara Parseghian, Mrs. Aristotle Onassis, G. Mennen Williams, Jr., Scottie Fitzgerald Smith, L. Sam Shoen (chairman of the board of U-Haul-It), among others.

The committee list wasn't all like that, but reading the names it was clear that here was a candidate who may have had a lot of friends but he must be the last of the sophomores to believe that many voters would be impressed by his knowing so many of the beautifuls. The committee list made it easier to dismiss Shriver as a lightweight, which Johnny Carson regularly took vacuous glee in doing. At Shriver headquarters, the list became an embarrassment. One volunteer told of phoning field workers in Massachusetts to ask how much more campaign literature they needed from Washington. "They'd always tell me, send up speeches, press releases, but for God's sake burn those committee-list booklets. Nobody in the neighborhoods is impressed by Sarge's celebs."

This was another irony. On the list—among the Morton Downeys, Carol Channings, has-beens and never-was-beens—were citizens whose judgment, values, and ideals were politically and morally sound. That Shriver was friends with someone like prof. John Raines of Temple University's department of religion, or Charles Frankel, a philosophy professor at Columbia, suggested a side to him that set him apart from the other candidates even more distinctly than his record at Peace Corps, OEO, and Paris Shriver was a passionate reader of philosophy, theology and literature, one who sought to make the connection real between daily politics and the resources of the inner life. It was not a pose of piety, but an effort to go out of himself to seek communion with minds and spirits larger and deeper than his own. It is standard American politics for public men to display their reverent side, but as Nixon exemplified with his White House prayer services, what we get is not religion but religiosity. It is useless for a candidate's supporters to claim that their man is holier-than-thou's, which is why Shriver, both in 1972 and in the six months of running just past, kept his interior life where it should be: hidden and within.

My own glimpse of it came when I began working for Shriver as his speechwriter in 1966. I had been roving around the country and sending in articles to some of the smaller magazines. One of them appeared in the *National Catholic Reporter*, then and now a lively weekly. Shriver, a NCR subscriber, had read a piece of mine on Harlem. A week or two later, when I was in Kansas City, he called. He enjoyed the article and needed a speechwriter. Could I come to Washington to talk about the idea. It was a heady moment for me, discovering that something I'd written in a small circulation journal was read by one of the few national figures that I respected. This was also the first job offer I'd ever had. But on coming to Washington, I had no reason to be overjoyed. I would blow it when I met Shriver, I thought, because he would ask me—having been well out of circulation for five years—what I knew about Head Start, VISTA, Foster Grandparents, and I would know no more about them than about molecular physics. We went to dinner. For the next four hours, not a word passed between us about OEO, Peace Corps, or anything else of political Washington. Instead, the discussion involved the life and thought of such philosophers as Leon Bloy, Ronald Knox, Henri DeLubac, and Romano Guardini.

At one point, Shriver went off on a long conversational discourse on the differences between the early Jacques Maritain, the middle and the late Maritain. I had spent enough time reading this French philosopher to know that Shriver wasn't bloviating and that he did indeed have a sensitivity to ethics and moral theology. I was amazed by Shriver, because he was then much the worldly success that Washington embraces. His enthusiasm for ideas and moral issues had to be respected because he was no recent convert—a la Chuck Colson—whose candlestick talk dripped with the wax of piety. Shriver told me that while a student at Yale, 30 years earlier, he had invited Dorothy Day to come speak to a group of students there, and that he had kept up with the Catholic Worker people since. One of those he most admired was Daniel Berrigan. In 1965, when Berrigan was known only as a promising poet, Shriver had asked him to baptize one of his children.

Because I knew a little about Maritain and Leon Bloy (author of *The Woman Who Was Poor*), Shriver hired me. In three years of helping him with speeches, it was always striking that rather than my sprinkling in quotes from the heavies—as most politicians, wanting the wise sound, demand of speech writers—the quotes would come from Shriver. He would pass along the latest book he had read—Unamuno's *Tragic Sense of Life* or something of Bergson, Teilhard, or Ralph Ellison—and suggest that some of the underlined material be used for the next speech. A few months ago, when I went to his headquarters to talk about his campaign, he rattled on about the progress he was making in New Hampshire and Massachusetts. Others were in the room then. But when they left, he asked the secretary not to be interrupted. He reached into a drawer and took out a book. He began reading aloud. "Let's see if you recognize this," he said. He read a page and a half. It was from Maritain's *Social and Political Philosophy*. Shriver would read a sentence, and exclaim, "and just listen to this!" He would go on, get excited, stop, read on. About half an hour passed and, recharged, he was ready for the outside world again.

It is maddening that Shriver's early campaign botches made it so easy for him to be dismissed. Nothing worthwhile he said or did seemed able to free him from the self-inflicted damage of the Kennedy connection or the sheen of his beautiful people image. Yet, going back, much of what he actually was saying not only has sharpness and insight now but was able to command serious attention when he said it. In January, he issued a 22-page economic position paper with the kind of persuasive arguments and careful analysis that no other candidate—before or since—has presented.

Shriver was also the only candidate to try to arouse a campaign discussion about family life and the effect—usually disastrous—of government policy on parents and children. *The New York Times* and other papers devoted editorials to Shriver's ideas, but how much did anyone want to hear those ideas? In April, a month after Shriver retired, Jane O'Reilly ended a column in *The Washington Star*: "The problems of families and children in the United States are extraordinarily complex and important. Why aren't all those men running for President talking about it?" One was.

For all the commotion about the supposedly religious natures of Jimmy Carter and Jerry Brown, a Shriver paper on "Religion and the Presidency" represented the only specific statement of a candidate's uses of religion should he get to the White House. "I can assure you of only a few things," he wrote. "If I am elected President . . . I shall establish a Council of Ethics Advisors, similar to the Council of Economic Advisors . . . for most presidential problems have ethical, not just financial, scientific, military or political dimensions. Frequently the more important question is, 'Should we do it?,' not 'Can we do it?' "

Shriver is as thoughtful, candid, and creative a person as we have in public life. He just should be kept from running for office. He botches it, whatever the causes, in or out of his control. But should the Democrats win in November, the need will be present for someone in the cabinet who has survived countless struggles with Congress (as he did at the Peace Corps and OEO), brought government to the citizens—through Community Action programs, neighborhood Legal Services offices—well before "down with Washington" became a slogan, and came forward as a presidential candidate with careful thoughts about economics, family life, and ethics. Besides that, he has read Jacques Maritain, early, middle, and late.

BARBARA WALTERS LEAVES "TODAY"

Mr. PERCY. Mr. President, for those millions of us who have regularly begun our day for many years by watching the NBC Today show, it was an unusual experience this week to realize that we no longer had Barbara Walters for our early morning companion. After 12 years we had comfortably grown accustomed, not only to her face and her easily recognizable voice, but to the incisiveness of her questions and the integrity of her reporting. And we had grown accustomed to her sense of humor, droll and brief and sometimes almost too quick to catch at that early morning hour.

Through her talent, brainpower, and persistent hard work, Ms. Walters has risen to the very top of her profession. She has set a standard for many young journalists—men and women alike—toward which to aim.

We have not lost her, of course. In the fall she will launch a new and challenging phase of her career as coanchor of the ABC evening news, along with other prime time assignments for ABC.

But for those of us who for so long have enjoyed our day the Walters way, frankly we shall miss her.

Mr. President, reporter Judy Flander of the Washington Star was in the studio to record Barbara's bittersweet final performance on the Today show. I ask unanimous consent to print her excellent article on that event in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Washington Star, June 4, 1976]

Barbara Is Off to the Gold Mines

(By Judy Flander)

New York.—"I promised I wasn't going to cry," said Barbara Walters, who didn't.

But there were tears glistening in the eyes of many of the stage hands for NBC's "Today" show as they hugged and kissed her at an on-the-set farewell party yesterday morning. As everybody knows, Walters is now ABC's million-dollar baby, starting in September as the first network news anchorwoman. She was leaving "Today" early, she explained, because "NBC felt that I shouldn't work this summer for NBC or for ABC. I understand that."

"The unthinkable morning has finally arrived," said executive producer Stuart Schulberg, "when we're saying goodbye to Barbara Walters." After 12 years, Walters was appearing "live" on "Today" for the last time and everyone from NBC brass on down swarmed into the studio after the show. (Today's appearance was taped—she said she would probably be too emotional to say goodbye in person on her real last day.) It was obvious that a lot of people were sorry to see her go.

"I love Barbara," said exuberant, mustachioed Gene Shalit, quietly. He was slipping out early, he said, and he didn't want to talk. But he couldn't resist a parting shot: "She's a great journalist and someday the womanhaters will know this. She's going to succeed."

It was like a theme. Each of the men who worked with Walters felt impelled to shatter her image as an "aggressive female." Schulberg called her a trouper. "She's so goddam terrifyingly professional, she helps carry the show along."

Jim Hartz said, heatedly, that Walters' "aggressiveness" is a vastly undeserved label. "She did it herself. She did it the hard way."

"What a real doll, I'm losing a sister," said technician Charles Kirnard, who has worked with Walters the entire time she's been on "Today." "She's a sweetheart. People says she's distant, but she's not," he said, blinking back tears behind his gold-rimmed glasses.

Walters was wearing Kirnard's gift of a heart-shaped pin on the collar of her blouse, and a medallion around her neck that was inscribed "With love and luck for a lovely lady from Jim, Maurice and Matty," members of the television crew. She was holding a sterling silver jewelry box from Schulberg and a large white chrysanthemum Shalit had handed to her with a flourish.

"Here's to integrity in reporting," he said. "What kind of flower is that?" someone called. "It's a mum," said Shalit, "and mum's the word."

Flowers were everywhere, and, since it was only 9 o'clock and time for breakfast, the party food included scrambled eggs, bloody Marys and bagels and lox.

On camera, it had been a morning of goodbyes. Walters breezed into the studio, a tiny bundle of femininity in a violet blouse, pink sweater, skirt and shoes.

"Okay, guys, now don't screw up the last program," she called out. Seated at the set's news desk, she laughed and said, "why don't you say good riddance?" She kept teasing Shalit and co-host Jim Hartz: "Where are my presents?" Shalit said they had one but it was "too big to get into the studio." Hartz countered, "She's the one with the million dollars. You should give us presents."

Hugh Downs and Joe Garagiola, "Today" retirees, stopped by to join the trio in a trip down memory lane accompanied with film clips of Walters near the program's end. And in a memorable few moments Walters, who has interviewed all the greats, nearly all the heads of states—she had literally captivated Cuba's Fidel Castro—"interviewed herself."

"I'm a little nervous about it because I hear I'm a tough interviewer," she said. Then she asked herself if she'd ever been "involved with anyone personally." And answered, briskly, "I'm sorry. I never answer personal questions. Next question."

Doing her Alpo dog food commercial, she insisted that the cameras skip her and be trained on the dog, a Scottie called Muffy, because she didn't want "my last day to be remembered with me and a dog." She told Muffy not to worry about eating his Alpo: "I put a lamb chop in (the dog dish) today." And, added, off camera, with a devilish look, "They shouldn't have given me a commercial on the last day."

Commercials by the show's principals have been a sore point with them for a long time. Hartz, who started on "Today" two years ago, was "assured" that the practice would be eliminated.

"It's taken awhile but it's finally going to happen soon," he said.

That's not all that's going to happen to "Today." In what Schulberg calls "a nutty coincidence," he and Walters are leaving the show simultaneously. (After 8 years, he'd planned to quit sometime in 1976, he said. He'll do a three-hour prime-time special in January.) The new executive producer, Paul Friedman, said he is "thinking about making many changes."

It appears that he has no plans for creating another Barbara Walters. There will be a woman on the show—Betty Furness will fill in until Labor Day—but Friedman is "not sure what the role of the woman will be." Whatever it is, Furness doesn't sound as if she'll like it. She said, pugnaciously, addressing herself partly to a reporter and partly to Friedman, that she wouldn't mind staying on the show permanently, but "I don't want to be on a spot if I don't know what that spot is."

NBC executives didn't seem to be in a party mood. They were courteous but cool. President Herbert Schlosser said "we're sorry to see her go, but as they say, the show must go on." NBC never had any plans for making Walters an anchor—"the question never came up," Schlosser said. "We had other plans and desires for her and they didn't mesh with hers."

NBC news chief Richard Wald, asked by Schulberg to say "a few final facetious words," said he was hard put to say anything nasty about Walters. But he finally got out "it was always exciting to yell at and be yelled at by Barbara." He explained that he didn't mean it when he said he wished her "moderate success—in the competitive sense," because she is going to a rival network. "But we really wish her great success."

Schulberg was more direct.

"It should make us all tremble in our boots. I don't have to face that. I don't have to face Barbara."

Walters, meanwhile, voiced just a little apprehension about the responsibility of being a pioneer in the world of anchormen.

"I just hope the people will watch," she said, "but you have to take some chances." Obviously she thinks her chances of success are good. She predicts "in two or three years there will be anchorwomen on all three networks."

GISCARD EXPRESSES CONFIDENCE IN THE UNITED STATES

Mr. PERCY. Mr. President, French President Valery Giscard d'Estaing, in his last speech before concluding his official visit to this country, made strong expressions of confidence in the United States, expressions not made for a very long time by a leader of France.

In case reporting of this speech may have eluded the attention of my colleagues, I ask unanimous consent that the New York Times story of the speech, written by the distinguished reporter Flora Lewis, be printed in the Record.

There being no objection, the story was ordered to be printed in the Record, as follows:

Giscard Speaks of Confidence in United States

(By Flora Lewis)

New Orleans, May 21.—President Valery Giscard d'Estaing of France said today, in his final address of a weeklong state visit to the United States, that "doubt has been cast on its strength and degree of commitment." But, he added, his own "strongest impression is one of confidence" in America.

Mr. Giscard d'Estaing's New Orleans speech was the most frankly political of his visit, expressing Europe's concern about American foreign policy intentions and his own belief in American "vitality" far more directly even than did his address to a joint session of Congress last Monday.

At the last minute, aides of the President issued corrections in the speech that he had prepared for delivery at a civic luncheon in the Superdome here, diluting French acceptance of American leadership of the West.

But the changes in the text made just before Mr. Giscard d'Estaing finished a Louisiana lunch of oyster soup and flounder filets stuffed á l'acadienne, made the point of his appeal to the United States to remain at the helm of the Western world even more visible than his original wording.

"In a troubled, unstable world," he said, "threatened in so many ways, fraught with latent conflicts, the Western democracies must shoulder their responsibilities." In the forefront of these democracies stands the United States of America, which must live up to the responsibilities its power entails." The original version spoke of the "responsibilities its military, monetary and economic power entails."

The deletions were unlikely to mollify

those among the French who hold that French "independence"—a word the President inserted in another passage—precludes acceptance of United States leadership, but particularly by removing the reference to military power, they made the idea less precise.

AN IMPRESSION OF CONFIDENCE

Again, after mentioning the doubts about America's strength and willingness to use it, which have been widespread both in Europe and in United States electioneering, Mr. Giscard d'Estaing had written, "I can only refute the validity of this fear." The phrase was struck from the text, but he left the following passage in:

"Indeed the strongest impression I will take back is one of confidence. You showed amazing vitality in overcoming the political, institutional, and moral crises which divided you, worried you"—and, he had written and crossed out, "weakened you"—for several years."

This tacit reference to Vietnam and Watergate was then followed by a reference to recovery from the "most serious economic upheaval the world has known since the Great Depression of 1929."

"Ultimately," he said, "the foundations of American power, that is, the confidence you have in yourselves, your civic cohesiveness, the unanimous agreement on your institutions and on the creative value of initiative and individual enterprise, add the immense capacity of your productive apparatus, were not shaken."

TOWARD DEFENSE BACKING

"Your contribution even becomes irreplaceable," he went on, "once you understand that you are not alone, once you have the same confidence in your friends and allies as they have in you, once you accept their individuality"—and, he inserted in the corrections, "independence"—"and once you do not fear freedom for them any more than you fear it for yourselves."

Even with the corrections, it was a substantial step further toward assuring the United States of French and, by implication, European backing for joint defense not only within the North Atlantic Alliance but wherever common Western interests are endangered. It was the sort of appeal that Common Market leaders, at their Luxembourg meeting early last month, told each other needed to be made to America.

It was not clear why the President chose a social occasion at Ney Orleans, the last stop on his weeklong visit, instead of his formal speech before Congress as the forum to declare that, together, the nations of the Western world can meet "all the political, economic and social challenges of the modern world if they keep their principles of freedom and progress intact."

CANDID REMARKS OF A CHICAGO SENIOR CITIZENS LEADER

Mr. PERCY. Mr. President, a few weeks ago the Chicago Tribune published a timely and provocative interview with Ray Smith, president of the Chicago chapter of the American Association of Retired Persons.

May was Older Americans Month. Mr. Smith pointed out that it is not enough merely to set aside 1 month a year to honor senior citizens.

The problems older Americans face are with them throughout the year—problems relating to retirement income, health care, housing, and transportation.

Mr. Smith is right. These special needs of the elderly require the attention of Government officials the year-round, not just during a few weeks each year. I hope we will take his words to heart.

Mr. President, I ask unanimous consent that the full text of the interview with Ray Smith by Chicago Tribune reporter Jeff Lyon be printed in the Record.

There being no objection, the interview was ordered to be printed in the Record, as follows:

[From the Chicago Tribune, Monday, May 24, 1976]

"Good Life" in America Ends at 65, Says Angry Retiree

President Ford has proclaimed May Older Americans Month.

But as the nation honors senior citizens for their past contributions to our way of life, at least one seniors' spokesman finds it all an "empty gesture."

He is Ray Smith, president of the Chicago chapter of the American Association of Retired Persons [AARP], and he accuses society of inadvertent brutality—leaving the elderly to fend for themselves when they are least able to cope, and making them the most victimized of all social groups.

Smith, 69, is part of the new effort to forge a senior citizen voting bloc to put power behind demands for reform. At the same time, however, he has little patience for what he thinks are some superfluous demands from some senior groups.

A Rogers Park resident, Smith is a retired author, personnel consultant to the United States Brewers Association, and production manager with General Motors and Pullman Standard.

Smith has served as assistant to AARP's Illinois director, with responsibility for 150,000 members in northern Cook County. He is on the planning committee of the Chicago Metropolitan Senior Citizen Senate, and is adviser on senior citizen affairs at St. Joseph's Hospital.

He was interviewed by Tribune reporter Jeff Lyon.

Q—Mr. Smith, why do you find Older Americans Month an empty gesture?

A—I think it's a kind gesture to recognize older men and women. But it is empty because it doesn't contribute anything to the welfare of older people.

I believe this opportunity should be used to help them. And when I say help, I mean something substantial and practical, like improvements in Social Security, unemployment, and, primarily, a comprehensive catastrophic health plan.

Q—Doesn't it at least show there's interest in the elderly in Washington?

A—Privately it's the opinion of many seniors that a lot of politicians look on older people as helpless has-beens, current nuisances, and future liabilities and problems.

Q—Then why do so many politicians appear to be campaigning strongly this year on senior citizen issues?

A—They thought when 18-year-olds were granted the vote it would increase the number of eligible voters, and they wouldn't have to cater to older people. But less than 40 per cent of the young people registered, so they didn't get the young vote.

Then there's been the formation of so many senior citizen clubs throughout the country. Suddenly older people are welded into an effective political organization, evidenced by the fact that AARP now has nine million members.

Q—We know life has become hard for older people, compared with the way they were treated, say, 50 years ago. What has happened?

A—We've deserted a lot of the old virtues, and in their place is a new attitude, and people don't feel they have any obligation to parents or grandparents anymore. I blame the parents for this, because it was their responsibility to form the right relationships. So you can't blame it all on the young.

Perhaps we're not aware of it, but inadvertently we're sentencing our older people to a cruel and lonely life. This is literally brutality of a high degree and does not seem to belong in a humane society such as we brag about.

Q—What do you mean brutality?

A—Older people, once they retire, must take on the increased costs of supporting their needs for the services of doctors, dentists, and therapists, and for ambulatory devices. This is done on fixed incomes, small pensions, and Social Security.

The older person is overmatched. He's not equipped mentally, physically, or financially to provide adequately for himself. We're more vulnerable to more adverse conditions than anybody. Individually and collectively, we're the victims of more wrongs.

Q—What wrongs?

A—Mandatory retirement creates unemployment and job discrimination. There's poverty and malnutrition, inadequate housing, inadequate transportation. We're the victims of crime, in the streets and in the home; we're the victims of sickness, disease, and pain. And we're victims of loneliness and rejection by society and family.

All of this is compounded by inflation.

Q—Are the new retirement homes an answer?

A—They can be very expensive. I know one woman entering a home and she will have to pay $37,500 to enter it. She must also pay a monthly fee, and leave her assets to the home when she dies.

Q—You mean a person works all his or her life to accumulate some money, and then must pay it all out at the end just for some peace of mind?

A—That's right.

Q—Who can step in to change this situation?

A—I believe the primary responsibility has to be government's. The medical industry is the largest industry in the country today, bigger than oil, automobiles, and steel. To take over the medical industry requires something as big as our government.

Q—What do you mean take over?

A—I mean establishing a comprehensive catastrophic health bill.

Q—Why is one needed?

A—Even if a millionaire has a catastrophic illness—heart, kidney transplant, leukemia, cancer, stroke—which requires longterm care, it will wipe him out. If an older person contracts pneumonia, for example, intensive care for a few weeks can cost $3,000 or more. People just don't have that.

Q—A lot of people think Medicare does the trick.

A—For hospital bills, yes. But it does nothing for doctors' fees. We have an 87-year-old woman living with us, and when the doctor comes to see her he charges $35 for the house call. Medicare allows $15. The doctor even charges $15 sometimes for a phone call.

Medicare doesn't pay for drugs, eyeglasses, or dental work. And it doesn't pay anything for custodial care—when a person goes into a nursing home, not really sick or ill, but can't wait on himself or herself.

Q—You're saying the government should pay for nursing home care?

A—Sure, Everything, any type of illness or infirmity, should be taken care of 100 per cent. Medicaid, you know, pays for everything, but you have to be on welfare.

Q—Isn't that an answer, then?

A—You can't get public aid until you're broke and in debt, until you have nothing left.

Q—But accepting a government handout, as with catastrophic illness coverage, isn't that tantamount to welfare?

A—Pride's been in the way of a lot of older people taking advantage of what's there. Some young people have no pride. They take welfare easily. But now a lot of older people are discarding their pride and are out to get what they can.

Q—Mr. Smith, life spans are growing. It's likely that someday half our people routinely will live to 90. How can government afford all of this?

A—I think that as we lengthen the life span, we have to lengthen self-sufficiency.

In other words, we have to absolutely do away with mandatory retirement and provide opportunities for those who are able, willing, and need to work.

Q—But we're talking about a time when there aren't enough jobs for people under 65, let alone over.

A—Well, there's going to have to be research and planning. Maybe we're going to have to classify certain industries and occupations as only for older persons. There are jobs older people can't do anyway. They don't have the endurance.

Q—You've told me nobody can live on Social Security and provide adequate nutrition and housing for themselves. How can they improve Social Security?

A—The thing we push is lifting the limitation on earnings. Right now a person can earn $2,760 a year without losing benefits. After that, for every $2 he makes, they take $1 away in benefits. We say anybody drawing Social Security should be able to make as much as he can without losing any of his benefits.

The way things are, even pension and Social Security together aren't adequate. That's why there are 16 or 17 million older people right now at the poverty level or below.

Q—Why is housing such an issue with older persons?

A—Rents are so high that those on limited incomes can't afford the increases. Now with public housing, one can get a one bedroom for $70 a month that otherwise costs $175 and up. But there are many senior projects in the city with waiting lists of three to five years.

Q—Why doesn't the Chicago Housing Authority build more?

A—It's not the city. It operates on federal funds. The money just hasn't been appropriated by Congress.

You know, I saw on television that HUD [United States Department of Housing and Urban Development] has all these houses they're tearing down, even while people need housing. It costs a lot to wreck them. Couldn't they use that money to fix them up and rent or sell to older people?

Q—Some senior citizen groups are asking for things like exemptions from school taxes, half-rate phone calls, 25 per cent off on taxi rides. Do you support any of these?

A—These groups are, in my opinion, going all over the map. They have superfluous things in their platforms, asking too much that is not needed, and therefore they might end up with nothing.

Q—If you had to sum up the quality of life for older people in America today in a few words, what would you say?

A—I'd say it is extremely discouraging, and will be for years.

I'm optimistic, but I don't see much change for a while. The problems are too big and complex. Too many factors are required. And politics is a hindrance. They're going to have to take a nonpartisan view of this thing.

But I think we have a lot of young, dedicated leaders, and a lot of these old tycoons and billionaire hardheads are going to mellow just a little to help out. Furthermore, we have the resources and we have the wealth, brains, and research facilities to put it all together.

HOPEFUL SIGNS IN SOUTH ASIA INVOLVING INDIA AND PAKISTAN

Mr. PERCY. Mr. President, I think we can all be encouraged by the hopeful signs of reconciliation in South Asia between nations which can only benefit from increased communication and cooperation. The decision of India and Pakistan to resume diplomatic relations is commendable, and both Prime Minister Gandhi and Prime Minister Bhutto deserve congratulations.

I ask unanimous consent to print in the Record an excellent editorial from the Washington Star of May 19, which assesses this and other favorable developments on the subcontinent, while expressing broadly held reservations about India's internal political situation.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

Editorial

The decision of India and Pakistan to resume diplomatic relations is an overdue step toward stability on the subcontinent. Along with Pakistan's improved contacts with Bangladesh, the renewal of ambassadorial exchange between India and China, and Iranian-sponsored bids for more regional cooperation, the Indian-Pakistani move could indicate an encouraging trend among the governments of South Asia. They may be thinking less about military posturing and more about how to improve the circumstances of their underfed millions.

The leaders of India and Pakistan, whose armies have engaged in three wars since the partition of British India in 1947, have taken a long time to restore communications after their last tiff. That was on the occasion of the 1971 secession of Pakistan's former eastern wing, which became the independent Bangladesh with the aid of an Indian invasion.

Pakistan, with respectable civilian government restored under Prime Minister Bhutto, has long since been resigned to a more compact existence in India's enlarged shadow. It has made no sense to continue, for four and a half years, the costly disruption of trade, travel and communications between the neighboring countries whose border is among the most arbitrary in the world. And the lack of regular diplomacy could only add to mutual suspicion. The longest-standing dispute between Pakistan and India, involving the claims of both to Kashmir, is not involved in the current talks, but diplomacy may be useful just to maintain the cease-fire in some future crisis.

India apparently aims at improving its stature in some of its foreign relations, partly to enhance its role at a summit conference of nonaligned nations to be held in August in Sri Lanka. Normal contacts with China, balancing the Soviet friendship, and with Pakistan as an important component of the Islamic world, serve this purpose. But there is no corresponding drive in India to return the nation to its once-cherished democracy, which has been in suspension since Prime Minister Gandhi's declaration of her self-serving "emergency" last June. Thousands of political dissidents remain locked up, censorship prevails and Mrs. Gandhi looks more and more like a dictator-for-life. In that aspect of Indian affairs, the country's stature is at the lowest point in three decades of independence.

DESEGREGATION AND THE CITIES—PART XIV: FINDINGS OF DE JURE SEGREGATION IN THE SCHOOLS

Mr. BROOKE. Mr. President, many critics of school desegregation court orders claim that the courts are acting in an arbitrary fashion, on the basis of some mistaken sociological theory about the values of integration. It is very important to realize that the role of the courts has been very different. The courts may only act when there is clear evidence of de jure segregation, of official action by local or State officials who have used governmental power to impose or reinforce racial separation. The role of the courts has not been to search for educational reforms particular judges might find attractive but to remedy official actions which have segregated children and imposed a racial caste system on much of American public education.

When a Federal judge finds clear evidence of official action fostering segregation, he has no choice. He must correct this violation of the constitutional right to equal protection of the laws by ordering the local school authorities to desegregate their schools. Often, as in the Charlotte and Detroit cases, the judges began the cases with an attitude of skepticism and later reported their astonishment at learning of the depth of segregationist practices in their home communities.

Since the press seldom reports fully on the constitutional violations uncovered in litigation and even concrened observers and Members of Congress seldom have the opportunity to read a collection of Federal district court decisions, Senator Javits and I asked the U.S. Commission on Civil Rights to prepare a summary of the findings in a number of cases.

The following chart shows in tabular form the various types of illegal action identified in a number of communities. I hope that we keep the range and frequency of these violations in mind as we consider efforts to limit the remedial powers of the courts. If we limit the ability of the courts to remedy de jure segregation we would be writing a great exception into the 14th amendment. Equal protection of the laws, we would be saying, must be provided except in our public schools, our most important public institutions. De jure segregation, we would be telling the courts, will be illegal, except when it is inflicted on our children.

Mr. President, I ask unanimous consent that the above-mentioned charts be printed in the Record.

There being no objection, the material was ordered to be printed in the Record as follows:

SCHOOL DESEGREGATION

SCHOOL BOARD

Case name and citation	Construction of new schools	Expansion of existing schools	Closing of schools	Changing attendance zones	Creation and/or utilizing feeder patterns	Open enrollment	Controlled transfer policy	Faculty segregation	Curriculum segregation college prep versus vocational	Busing	Failure to end de jure segregation	Other (see app. II)	City government	County government	State government
Johnson v. San Francisco Unified School District, 339 F. Supp. 1315 vacated on other grounds 500 F. 2d 349 (9th Cir. 1974)	×	×		×				×							
Spangler v. Pasadena City Board of Education, 311 F. 2d 510 (C.D. Cal. 1970)	×	×	×	×			×	×		×	×	×			
Keyes v. School, District No. 1, 413 U.S. 189 (1973) [Denver, Colo.]	×	×		×	×		×	×		×	×	×			
Evans v. Buchanan 379 F. Supp. 1218 (D. Del 1974) Wilmington—New Castle County) also 393 F. Supp. 428, aff'd 423 U.S. 963 (1975)				×							×				
United States v. School District 151, 286 F. Supp. 786 (N.D. Ill. 1968) aff'd 404 F. 2d 112 (7th Cir. 1968) [Cook County, Ill.]	×			×			×	×		×					
U.S. v. Board of School Commissioners of the City of Indianapolis, Indiana, 368 F. Supp. 1199 (7th Cir. 1974).	×	×		×				×					×		×
Martin v. Evansville-Vanderburgh School Corp., 347 F. Supp. 816 (S.D. Ind. 1972)				×			×			×					
Downs v. Board of Education of Kansas City, Kansas, 336 F. 2d 988 (10th Cir. 1964)				×	×		×	×							
Newburg Area Council v. Board of Education of Jefferson County Kentucky, Haycraft v. Board of Education of Louisville, Kentucky 489 F. 2d 925, Reversed & Remand 510 F. 2d 1358 (1974)				×			×				×	×[1]			
Vaughns v. Board of Education of Prince Georges County, 355 F. Supp. 1034, 1038, 1044, 1051 (D. Md 1972)				×		×	×				×				
Morgan v. Kerrigan, 509 F. 2d 580 (1st Cir. 1974) cert. den., 421 U.S. 963 (1975) [Boston, Mass.]	×			×	×	×	×	×	×	×	×	×			
Berry v. School District of City of Benton Harbor, Michigan, 505 F. 2d 238 (6th Cir. 1974)				×				×	×			×[2]			
Bradley v. Milliken, 338 F. Supp. 582 (E.D. Mich. 1971) aff'd 484 F. 2d 215 (6th Cir. 1973); reversed, Milliken v. Bradley, 418 U.S. 717 (1974) [Detroit, Mich.]				×						×					
Davis v. School District of the City of Pontiac, Michigan 309 F. Supp. 734 (1970) (E.D. Mich S.D. 1970)	×			×				×							
Oliver v. School District of Kalamazoo, [Nos. 74–1104 & 74–1105 (6th Cir. December 9, 1974) Fact Findings at 368 F. Supp. approx. 155 [Kalamazoo, Mich.]	×			×				×				×[3]			
Booker v. Special School District No. 1, Minneapolis Minnesota, 351 F. Supp. 799 (D. Minn 1972)	×	×		×			×	×							
U.S. v. State of Missouri 363 F. Supp. 739 (1973)											×	×[4]			
U.S. v. School District of Omaha, Nebraska, 521 F. 2d 530 (8th Cir. 1975)	×			×	×	×	×	×	×			×[5]			
Kelly v. Guinn, 456 F.2d 100 (9th Cir. 1972); cert. den., 413 U.S. 919 (1973) [Clark County, Nev.]	×	×	×					×				×[6]		×	
Fuller v. Volk, 230 F.Supp. (D. N.J. 1964); vacated on other grounds, 351 F.2d 323 (3d Cir. 1965) [Englewood, N.J.]				×											
Blocker V. Board of Education of Manhasset, New York 226 F.Supp. 208 (E.D., N.Y. 1964)				×			×								
Branche v. Board of Education of Hempstead, New York School District No. 1, 204 F.Supp. 150 (E.D., N.Y. 1962)							×								
Hart v. Community School Board, 512 F.2d 37 (2nd Cir. 1975) [New York City, N.Y.]	×			×	×										
Olson v. Board of Education of Union Free School District No. 12, 250 F. Supp. 1000 (E.D. N.Y. 1966); appeal dismissed, 367 F. 2d 565 (2d Cir. 1966) [Hempstead, N.Y.]				×											
Brinkman v. Gilligan, Dayton Board of Education, (6th Cir.) 503 F. 2d 368 (1974)				×			×	×							
Clemons v. Board of Education of Hillsboro, Ohio 228 F. 2d 853 (6th Cir. 1956; cert. den., Board of Education of Hillsboro v. Clemons, 350 U.S. 1006 (1956)				×											
Dowell v. School Board of Oklahoma City Public Schools, 219 F. Supp. 427 (D. Okla. 1963), aff'd. 375 F. 2d 158 (10th Cir. 1967) cert. denied 387 U.S. 931, 338 F. Supp. 1256 (1972)							×				×				
U.S. v. Board of Education, 150 No. 1, 429 F. 2d 1253 (10th Cir. 1970) (Tulsa Okla.) Later remedy litigation at 459 F. 2d 720 (10th Cir. 1972)	×	×					×	×				×[7]			
Hoots v. Commonwealth of Pennsylvania, 359 F. Supp. 807 (W.D. Pa. 1973)														×	×
Arvizu v. Waco I.S.D., 495 F. 2d 499, Prior decision 373 F. Supp. 1264 Waco Tex.						×		×			×				
Cisnero's v. Corpus Christi Independent School District, 467 F. 2d 142 (5th Cir. 1972) affirming 324 F. Supp. 599 (S. D. Texas 1970)	×	×		×			×	×		×		×[8]			
Flax v. Potts, 464 F. 2d 865 (5th Cir. 1972), 333 F. Supp. 711; 450 F. 2d 1118 vacated, cert. denied 409 U.S. 1001 (1972), Fort Worth, Tex.	×			×				×				×[9]			
Morales v. Shannon, 516 F. 2d 411, Uvalde Tex.	×			×								×[10]			
United States v. Midland Independent School District, Midland Tex., 519 F. 2d 60 (5th Cir. 1975)				×			×								
United States v. Texas Education Agency, 467 F. 2d 848 (5th Cir. 1975) [Austin, Tex.]	×	×		×			×	×							
Hobson v. Hansen, 269 F. Supp. 401 (1967) [Washington, D.C.]				×				×	×		×	×[11]			

APPENDIX I

EXPLANATION OF SCHOOL DESEGREGATION CHART HEADINGS

1. CONSTRUCTION OF NEW SCHOOLS

This heading refers to the technique of constructing new schools in such a manner as to create or perpetuate segregation of students. It includes, among others: (a) selection of locations for new school buildings in the center of racially or ethnically homogeneous areas with the predictable result that the "neighborhood" attendance area will include a disproportionate ethnic or racial representation of students; (b) construction of new schools with a capacity designed to accommodate only children of a single area which is racially or ethnically homogeneous.

2. EXPANSION OF EXISTING SCHOOLS

This heading refers to the technique of expanding the size and/or use of school facilities so as to perpetuate student segregation. Some of the specific techniques included are: (a) building additions onto existing schools; (b) adding portable classrooms to existing schools; (c) overutilizing school facilities, e.g., double sessions or overcrowded classrooms.

3. CLOSING OF SCHOOLS

This heading refers to the technique of closing schools in order to create or perpetuate student segregation.

4. CHANGING ATTENDANCE ZONES

This heading refers to the technique of creating and/or altering attendance zones in a manner which results in increased segregation. It includes, among others: (a) gerrymandering zones to correspond to racial and ethnic residential patterns; (b) expansion or contraction of attendance zones following changes in racial or ethnic population within an area.

5. CREATION AND/OR UTILIZATION OF FEEDER PATTERNS

Feeder patterns are a normal tool of school administration which control public school attendance. Under the simplest feeder pattern, all students attending a particular elementary school are "fed" into a single junior high school, and in turn, into a single senior high school. In the hands of a segregation minded school board, feeder patterns can be utilized to create or perpetuate student segregation, especially at the secondary school level.

6. OPEN ENROLLMENT

Also known as freedom of choice, this technique allows students to enroll in any school in the district offering instruction at a student's grade level. While this may sound fair on its face, it is often done with the knowledge that schools will remain segregated due to distances involved or for other reasons. (Bus transportation is often not provided under open enrollment plans.)

7. CONTROLLED TRANSFER POLICY

This heading refers to any of a number of techniques which prevent a student from transferring to a less segregated situation or permit a student to transfer from a desegregated school to a segregated facility. It includes, among others: (a) provisions for automatic transfers from a school in which a student is in the minority to one where he/she would be in the majority; (b) racially or ethnically unequal application of an otherwise neutral transfer policy.

8. FACULTY SEGREGATION

This heading refers to the racial separation of teaching and/or administrative staff. The race of the staff tends to parallel that of the student body, thereby intensifying the racial identifiability of the school.

9. CURRICULUM SEGREGATION—COLLEGE PREP VERSUS VOCATIONAL

This heading refers to the "steering", "channeling" or "tracking" of students on a racial basis into specialized courses of instruction. One of the most common techniques of curriculum segregation involves channeling minority students into vocational education programs and steering white students into college preparatory programs.

10. BUSING

This heading refers to the technique wherein students are bused for the purpose of segregation. This includes the busing of students past the closest available school to a school in which the student's race predominates.

11. FAILURE TO END DE JURE SEGREGATION

This heading refers to jurisdictions where segregation was permitted (although not necessarily mandated) by state law. The constitutional violation is found in the failure of local school authorities to take steps to unify the prior existing dual system.

APPENDIX II

FOOTNOTES

[1] Underutilization of white schools.

[2] Providing unequal physical facilities for white and black schools.

[3] Inferior facilities at black schools, failure to hire significant number of black teachers and administrators, neglect of opportunities for decreasing segregation.

[4] Maintaining of small black school district that was inadequately funded.

[5] Allowing deterioration of existing schools.

[6] Continuing neighborhood schools at elementary level while abandoning it at the secondary level.

[7] Imposing school attendance zones on existing segregated neighborhoods.

[8] Providing optional transfer zones for whites to avoid minority schools.

[9] Creating a desegregation plan that excluded the first grade students.

[10] Using ability grouping to segregate students.

[11] Creating and maintaining optional attendance zones plus overcrowded black schools and underutilized white schools.

COMMITTEE MEETINGS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to proceed for 30 seconds.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent earlier today that all committees may meet until 12 noon. Some committees are very inconvenienced by the objection because they had not had prior notice that they would not be allowed to meet. Witnesses are coming from afar to attend some meetings. I make the same request again.

The PRESIDING OFFICER. Is there objection?

Mr. GRIFFIN. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to proceed for 30 seconds.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Permanent Investigations of the Government Operations Committee be permitted to meet until 11:30 a.m. today, and that the Post Office and Civil Service Committee be permitted to meet until 12 noon today.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

THE ANTITRUST IMPROVEMENTS ACT OF 1976

AMENDMENT NO. 1713

Mr. HRUSKA. Mr. President, I call up my amendment No. 1713.

The PRESIDING OFFICER (Mr. FORD). The amendment will be stated.

The legislative clerk read as follows:

The Senator from Nebraska (Mr. HRUSKA) proposes an amendment No. 1713.

The amendment is as follows:

On page 28, line 2, strike the word "threefold".

The PRESIDING OFFICER. Who yields time?

Mr. HRUSKA. Mr. President, the purpose of this amendment is to eliminate as wholly unnecessary and unduly punitive the provision that trebles the damages awarded in parens patriae actions.

Mr. President, the amendment as it was read and as it exists in printed form applies only to one place in the applicable section where the word "threefold" occurs. There are two other places on page 30, line 13, where the word "treble" occurs, and on page 31, line 7, where the word "threefold" occurs.

I ask unanimous consent that my amendment be modified so as to embrace and include the two lines to which I have referred.

The PRESIDING OFFICER. Is there objection?

Mr. KENNEDY. Mr. President, as I understand the consent request it is to conform the amendment to the related provisions of the bill. Is that correct?

Mr. HRUSKA. That is right. It does not change the substance at all. The thrust is to eliminate threefold damages. Overlooked in the drafting of the amendment were the other two places within that same section where the word "treble" occurs.

The PRESIDING OFFICER. Will the Senator send his modification to the desk?

Mr. HRUSKA. It is on page 30, line 13, delete "treble" and on page 31, line 7, delete "threefold."

The modification is as follows:

On page 28, line 2, strike the word "threefold".

On page 30, line 13, delete "treble".

On page 31, line 7, delete "threefold".

Mr. KENNEDY. Mr. President, I do not believe that I will object, but I wish to simply see where those other modifications were, if we could, and I reserve the right while he talks about it.

Mr. HRUSKA. Very well.

Mr. ABOUREZK. Parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. Will the Senator from Nebraska yield for that purpose?

Mr. HRUSKA. I yield. In fact, Mr. President, I shall continue with my discussion of the amendment, and the Senator from Massachusetts, by the time I conclude, perhaps will be in a position to say whether or not he objects.

The PRESIDING OFFICER. The Senator will state his parliamentary inquiry.

Mr. ABOUREZK. Was there an amendment that was proposed at an earlier time on this particular legislation that would be an amendment to eliminate treble damages?

The PRESIDING OFFICER. The Chair advises the Senator that such an amendment has not been offered previously.

Mr. ABOUREZK. Will the Chair repeat that? What about the modification?

The PRESIDING OFFICER. The Chair states that it has not been offered as it is now before the Senate, with or without the modification.

Mr. ABOUREZK. Mr. President, reserving the right to object, will the Senator withdraw the modification request for a few minutes?

Mr. HRUSKA. Yes, if that will serve any purpose. I withdraw the request temporarily, Mr. President, reserving the right to renew it in due time, to accommodate the Senator.

The PRESIDING OFFICER. Without objection, the Senator withdraws his modification.

Mr. HRUSKA. Mr. President, the antitrust laws currently allow for treble damages in private actions, in part to provide for an incentive to sue and thus further to provide for a measure of deterrence. This allowance is appropriate for private actions where the plaintiff might otherwise decide that the costs of suit are not worth risking recovery of single damages only. Where a public body is suing, however, there are virtually no risks because of the public resources available to a State. The riskless nature of parens patriae suits will be underscored when the recent Senate bill appropriating Federal funds for State antitrust enforcement becomes law.

Accordingly, an allowance for treble damages in parens patriae actions becomes a purely punitive measure, providing for a form of civil penalties that bears no relationship whatsoever to the nature or seriousness of the violation. It makes absolutely no sense in light of the recently enacted bill increasing civil and criminal penalties for antitrust violations.

I yield the floor, and I reserve the remainder of my time.

Mr. HANSEN. Mr. President, I support the amendment by Senator HRUSKA.

Testifying on behalf of the American Bar Association, Allen C. Holmes, one of the most respected antitrust lawyers in the United States, said:

> As Mr. Millstein stated, the American Bar Association has previously testified before the Antitrust and Monopoly Subcommittee with respect to Title IV of this bill. On May 7, 1975, Mr. Walker B. Comegys testified for the American Bar Association expressing the views that had been set forth in a resolution adopted by the ABA a few months earlier in connection with the similar *parens patriae* legislation pending in the House of Representatives.
>
> Since that time, Title IV has been the subject of substantial revision prior to being reported to this Committee by the Antitrust and Monopoly Subcommittee.
>
> We are pleased to note that the Subcommittee did make certain amendments which the ABA, among other witnesses, had suggested and, in particular, the deletion of the state Attorneys General authority to institute damage suits on behalf of corporations and other businesses residing in the state, and the deletion of the language which would have required the Attorney General of the United States to institute a suit on behalf of the citizens of a state when a state Attorney General has not done so.
>
> We also understand that amendments have been recommended by Senators Hart and Scott which will delete the provision which would authorize state Attorneys General to bring suits to recover for damages to the general economy of a state, whether measured by any decrease in revenues or increase in expenditures or otherwise. This amendment is of particular importance for, as Mr. Comegys testified, such damages would invariably lead to duplicative recoveries despite efforts to avoid such duplication. Any recovery for damage to the "general economy" of a state would, moreover, result in a dollar figure that would be totally speculative and unrelated to any actual harm that might have been caused by an antitrust violation. It is essential that this concept be deleted from the bill.
>
> We do note that certain of the changes which Mr. Comegys suggested last May have not been adopted in the bill that was reported to the Committee, and we urge that our previous recommendations be reconsidered by the full Committee.
>
> Finally, and of greatest importance, the bill that was reported to this Committee would apply in a most significant respect to private class actions instituted under the antitrust laws, and in so doing, would introduce concepts of very questionable constitutionality which are totally foreign to private suits and to the purpose of *parens patriae* legislation itself.
>
> As Mr. Comegys stated in his testimony, the ABA agrees whole-heartedly with the concept of seeking a means to redress any widespread consumer harm of small individual claims arising from antitrust violations. We believe that it is essential that those who engage in antitrust violations which have the most direct consumer impact should not be permitted to retain the profits of their wrongful acts. On the other hand, a defendant has the right to a fair hearing with all constitutional safeguards. Accordingly, so long as those rights are protected, Congress and the courts should provide whatever remedies are available which, in fact, permit the recovery of damages to consumers injured by antitrust violations.
>
> We say again what we said last May: Antitrust suits instituted by a state Attorney General for damages on behalf of the consumer citizens of the state could, in fact, be such a remedy. We urge that a very simple and straightforward bill providing for representative actions by the States attorneys general under Rule 23 of the Federal Rules of Civil Procedure would fully accomplish such goals while protecting the rights of defendants.
>
> As originally drafted, Title IV authorized the court, in its discretion, to determine when the interests of justice requires that a suit instituted by a State attorney general on behalf of citizens of the state should only proceed as an action subject to the requirements of Federal Rule 23. We endorsed that attorney general class suit concept as to consumers, but we urged that the other forms of attorney general suits contemplated by the bill be rejected because they deprived defendants and class members of basic constitutional rights, including the right to a fair hearing, adequate notice, and substantive due process of law.
>
> Unfortunately, the bill reported by the Subcommittee deleted the Rule 23 alternative entirely. In its place, the bill retained the concept of suits for damages to the general economy—which we understand is now being deleted—and the concept of state Attorney General civil actions to recover damages for natural persons residing in the state. Such suits would not be subject to the protection afforded by Rule 23.
>
> We respectfully submit that this Committee should consider in depth whether it would be more appropriate simply to amend the law so as to provide that a State attorney general is an adequate representative, within the meaning of Rule 23, of consumer interests within the state—whether or not the state itself has been injured in its proprietary capacity. Thus, such suits would be subject to the safeguards contained in Federal Rule 23, which benefit both plaintiffs and defendants alike.
>
> As to the computation of damages, we noted that even in horizontal price fixing conspiracies it cannot be assumed that competitors so engaged will sell at uniform prices or will retain identical prices throughout the period of the conspiracy. Such situations will not permit damage computations in gross, but will rather require individual damage computations. We further noted that those few situations which do permit of uniform methods of damage computations, for example, when competitors agree to raise their prices in identical amounts and retain that price increase during the entire period covered by the claim for damages, do not require, to be manageable, the provision for aggregation of damages in gross as proposed in Section 4C(c)(1). Such suits are in fact readily manageable under Rule 23 as it presently stands. Individual damage hearings in such situations can be conducted expeditiously by a master who needs merely to multiply the overcharge by the number of units purchased. Whether Rule 23 procedures are utilized or new procedures are devised under the proposed legislation, there must be some hearing procedure by which individual injured consumers establish their right to participate in the recovery.
>
> Unfortunately, the bill reported to this Committee not only failed to delete the provision for aggregation of damages in gross contained in the original draft, but extended this concept in Section 4(C)(c)(1) to all private class actions instituted on behalf of natural persons under Section 4 of the Clayton Act, and thus removed, by one stroke, one of the most basic substantive requirements of private antitrust actions under § 4 of the Act. The Act has always required that the particular private plaintiff demonstrate that he has in fact been "injured in his business or property by reason of anything forbidden in the antitrust laws." In other words, this addition—which is irrelevant to the subject matter of the bill because it deals with private suits, rather than suits instituted by a state on behalf of its citizens—would radically alter the existing law by eliminating the requirement that a plaintiff prove as an integral part of the antitrust violation that he in fact suffered cognizable injury as a proximate result of that violation.
>
> As this Committee knows, federal court jurisdiction is limited, under Article III of the Constitution, to a "case or controversy" involving parties who must show injury in order to have standing to bring a suit, and is subject to the requirements of procedural due process. Any provision that authorizes a court to calculate damages against a defendant without hearing in regard to proof of any actual injury to identified plaintiffs almost invariably runs afoul of these two principles.
>
> We note, moreover, that although the bill limits state Attorney General suits to violations of the Sherman Act—and an amendment will apparently further limit the violations to Section 1 of the Sherman Act—Section 4(C)(c) will authorize damages in gross in any private class action antitrust suit, including violations of the Robinson-Patman Act and the other provisions of the Clayton Act. This sweeping substantive revision of antitrust damage law has no place in this Title which ostensibly deals only with concept of *parens patriae*.
>
> As we stated in our earlier testimony, we do recognize the legitimate interests of this Committee in seeing to it that antitrust wrong-doers are deprived of profits obtained as a result of their illegal acts. Nonetheless, extreme care is essential to avoid undue penalty under the antitrust laws that already provide, as a deterrent to violations, for treble damages and for substantial criminal penalties—which have recently been very greatly increased. Accordingly, if this Committee determines to retain a concept of damages in gross, without proof of the fact of injury, we urge the following limitations:
>
> (1) such relief should be carefully limited to class actions instituted by the state Attorney General;
>
> (2) recoveries in gross should be author-

ized only in Attorney General suits involving "hard core" antitrust violations such as price fixing. Limiting such suits to Section 1 Sherman Act violations does not go far enough.

(3) relief in gross should not be permitted when it will be duplicative of damages recovered by (a) those who have excluded their claims from the suit pursuant to the "opt out" provision, or (b) a business entity which has instituted suit that is intended to cause the defendants to disgorge any retained benefits of such violations. Such limitations would avoid duplicative recoveries, would permit those damaged parties other than consumers represented by the state Attorney General to recover for their damages, and would nevertheless ensure that any improperly obtained gains are in fact disgorged;

(4) it should be provided that damages awarded in gross should not be trebled, for although trebled damages have a legitimate place in individual damage suits, to encourage private plaintiffs to bring suit and to deter those who would violate the antitrust laws, treble damages are not needed to encourage class actions instituted by the state Attorney General; and

(5) notice by publication should not be authorized when the defendant voluntarily offers to provide individual notice to all natural persons on whose behalf the suit is brought who can be identified through reasonable effort. Such a provision would go further toward preserving the rights of those supposed to be represented by the state, but who might not receive notice pursuant to the publication standards presently contained in the bill.

In our previous testimony, we also objected to Section 4(C)(c)(2), which provides for distribution of sums obtained from defendants other than to those demonstrably injured by defendants. No court has ever held on the merits that any such treatment of antitrust recoveries, the so-called "fluid recovery" or "pot of gold," is permissible. Although defendants have agreed to such dispositions in settlement situations, it has been rejected in every instance when opposed by a defendant.

The concept of "fluid recovery" suffers from the same potential constitutional infirmities as found in connection with the concept of aggregation of private damages in gross. I should also note that one commentator has pointed out a serious economic consequence which would be involved when a residual fund is used to lower prices below true costs. This commentator observed that such a result would be court-ordered predatory pricing which could have a significant adverse effect on competition.*

Furthermore, seeking indirect benefit for the citizens of the state by making the defendants use the residual funds to achieve social goals by, for example, making drug companies found to have engaged in price fixing build drug clinics, is no real solution, since the same companies are totally free to retrieve their losses through increased prices that create a direct detriment to those who might or might not be benefited by the indirect social benefit mandated by the court.

Quite simply, if, in fact, private suits now provided for by section 4 of the Clayton Act and the State attorney general class action suits which we suggest should be legislated, do not sufficiently insure that a wrong-doer is deprived of his ill-gotten gains, this objective should be accomplished by the direct means of increased corporate and individual fines pursuant to the recently enacted Antitrust and Penalties Act, and maximum jail sentences for violators, as permitted by that act. If experience shows that these new penalties are insufficient, Congress has the authority to create more severe punitive measures. Title IV of S. 1284 cannot be expected to do that job.

Among several other problems of title IV, we do want to note our concern in connection with the definition of the term "State Attorney General" in section 4(F)(1). As written, the term would include "any person authorized by State law to bring action under the bill". This definition would include private attorneys retained by the State to sue on its behalf. The House counterpart legislation has had a provision added to this definition to the effect that this term does not include any person employed or retained on a contingency fee basis. We would recommend the addition of this language to section 4(F)(1). Such arrangements would significantly reduce the amount of the damage fund available to the injured consumers. We understand that Senators HART and SCOTT intend to introduce an amendment which would authorize the court to determine the amount of plaintiffs' attorneys' fees, if any, which should be awarded in suits instituted under the new legislation. That is a meritorious provision which we do endorse. However, in order to make it clear that the State may not enter into a separate contingency fee arrangement with outside counsel, we urge the addition of the language contained in the House bill concerning the exclusion of attorneys employed on a contingency fee basis from the definition of "State attorney general".

Finally, we have noted the exchange of correspondence between Senator HRUSKA and Chief Justice Burger, which indicates that the impact of S. 1284 on the balance between the work load of the courts and their resources to deal adequately with their case loads as well as the bill's impact on practice under rule 23 of the Federal Rules of Civil Procedure will be presented to the Judicial Conference of the United States at its meeting commencing on April 7 of this year. It appears to us that such consideration by the Judicial Conference is peculiarly appropriate in view of the sweeping expansion of federal jurisdiction proposed by this legislation.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Nebraska.

Mr. HRUSKA. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have been requested. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, this is not a new issue for the member of the Judiciary Committee or the Senate at large. It has been a matter which we have all gone over in very considerable detail.

The Hart-Scott amendment which is before us is a good deal more modified as a result of the Morgan-Mathias amendment, which deals generally with this subject matter. It does so in the following respect, Mr. President: That treble damages will only be awarded in suits involving per se violations, which have been defined by the Supreme Court of the United States, and also fraud against the Patent Office.

So the whole scope of parens patriae cases has been rather carefully defined. It has been made more precise and is now, in light of the modification we accepted last week, fully warranted and justified.

If we are to accept the amendment of the Senator from Nebraska, its effect would be to put the consumers of this country at a disadvantage in comparison with the legal actions that could be brought by business interests or even those individual interests that would not be represented in a parens patriae action, because this amendment only applies to the narrow class of actions brought under the parens patriae provision. So in a particular case, where there may be per se violations—price-fixing or dividing markets or dividing customers or limiting production—were a State attorney general to bring the case to represent the people of his State and were the court to find violations, he would only obtain recovery of single damages. If there are similar violations found in a suit brought by businesses against the same defendant, and they were to win the case, they would be able to recover full treble damages.

So if this amendment is adopted we are putting the consumers of this country, as represented by the attorneys general, at a very distinct disadvantage and, as a result, the attorneys general across this country strongly oppose this particular provision.

The concept of treble damages has been included in the antitrust laws since they were passed in 1890. The arguments I have heard placed before the Senate this morning were arguments placed before the Senate back some 80 years ago about its implications on American commercial enterprises. These fears and predictions have not proved well founded, and neither are those of the Senator from Wyoming or the proponent of this amendment.

For those reasons and the others which are outlined in the committee report, I hope this amendment will be defeated. So, Mr. President, I will move to lay on the table the amendment of the Senator from Nebraska. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Massachusetts to lay on the table the amendment of the Senator from Nebraska. The clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. BUMPERS), the Senator from Idaho (Mr.

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*Note: *Managing the Large Class Action, Eisen* v. *Carlisle & Jacquelin*, 87 Harv. L. Rev. 426, 447 (1973).

CHURCH), the Senator from California (Mr. TUNNEY), the Senator from Indiana (Mr. HARTKE), the Senator from Louisiana (Mr. LONG), and the Senator from Michigan (Mr. PHILIP A. HART) are necessarily absent.

I also announce that the Senator from Missouri (Mr. SYMINGTON) and the Senator from Indiana (Mr. BAYH) are absent because of illness.

I further announce that, if present and voting, the Senator from Indiana (Mr. BAYH) and the Senator from Indiana (Mr. HARTKE) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from New York (Mr. BUCKLEY), the Senator from Arizona (Mr. GOLDWATER), the Senator from New York (Mr. JAVITS), the Senator from Nevada (Mr. LAXALT), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The result was announced—yeas 61, nays 26, as follows:

[Rollcall Vote No. 252 Leg.]

YEAS—61

Abourezk
Allen
Baker
Beall
Bentsen
Biden
Brooke
Burdick
Byrd, Robert C.
Cannon
Case
Chiles
Clark
Cranston
Culver
Durkin
Eagleton
Ford
Glenn
Gravel
Hart, Gary
Haskell
Hatfield
Hathaway
Huddleston
Humphrey
Inouye
Jackson
Johnston
Kennedy
Leahy
Magnuson
Mansfield
Mathias
McGee
McGovern
McIntyre
Metcalf
Mondale
Montoya
Morgan
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Schweiker
Scott, Hugh
Sparkman
Stafford
Stevenson
Taft
Weicker
Williams

NAYS—26

Bartlett
Bellmon
Brock
Byrd, Harry F., Jr.
Curtis
Dole
Domenici
Eastland
Fannin
Fong
Garn
Griffin
Hansen
Helms
Hollings
Hruska
McClellan
McClure
Roth
Scott, William L.
Stennis
Stevens
Stone
Talmadge
Thurmond
Tower

NOT VOTING—13

Bayh
Buckley
Bumpers
Church
Goldwater
Hart, Philip A.
Hartke
Javits
Laxalt
Long
Symington
Tunney
Young

So the motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question now is on the amendment of the Senator from Michigan. The yeas and nays have been ordered.

Mr. ALLEN. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. KENNEDY. Mr. President, I do not want to make a motion to table that motion. Since we have a number of the Members here, I just want it very clearly understood what the nature of that last vote was, 61 to 26. We just want the Members to understand that. We were not going to make any motion to vote to reconsider, but I think it is important we draw attention to this. The Senator is obviously quite within his rights to make such a motion. I think as we start the day off, we should get an understanding of what the nature of the problem is which we are going to face, in trying to get a discussion and debate on the merits of these particular issues.

Mr. President, I——

Mr. PASTORE. Will the Senator yield to me for a moment?

A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. PASTORE. Under the cloture rule, are dilatory tactics prohibited?

The PRESIDING OFFICER. They are specifically prohibited under the cloture rule.

Mr. PASTORE. That is precisely the point the Senator from Rhode Island is raising. This is quite obvious. Here we have a vote where one who votes negatively then votes positively just to place himself in a position to ask for another vote to reconsider. Are we not playing games under the rules? That is what I would like to know. I would like to have a ruling from the Chair.

The PRESIDING OFFICER. Dilatory motions have been ruled out of order, but only when the point was made from the floor.

Mr. PASTORE. Will the Presiding Officer restate that?

The PRESIDING OFFICER. Dilatory motions have been ruled out of order only when the point was made from the floor.

Mr. PASTORE. I raise the point of order, Mr. President, on this particular motion to reconsider.

Mr. CURTIS. Mr. President, I ask to be heard on the point of order.

Mr. PASTORE. I would like to have a ruling from the Chair first.

The PRESIDING OFFICER. The Senator from Nebraska will be heard. Does the Senator from Nebraska wish to be heard?

Mr. CURTIS. I do.

The PRESIDING OFFICER. The Senator from Nebraska may proceed.

Mr. CURTIS. Mr. President, the way to expedite legislation is to give everybody a chance to present his amendment on its merits. Most of the amendments offered here have not gone to a vote on the merits of those amendments, but there has been a motion to lay on the table. True, they have been tabled by tremendous majorities, but that is tyranny of the majority, nothing else.

If an amendment is bad and without merit, let it be voted down. If it does have merit, let it be voted up.

The responsibility for the procedure that has gone on here is not resting upon those who have proposed amendments, but rather upon those who never let those amendments come to a vote.

Furthermore, Mr. President, a rollcall vote is a constitutional right. The motion has been made by the Senator from Alabama, and he has a right to a rollcall vote.

Several Senators addressed the chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. HELMS. I move to table the point of order, and ask for the yeas and nays.

The PRESIDING OFFICER. The Senator from Rhode Island has been recognized, and has the floor.

Mr. PASTORE. The Senator from Rhode Island has the floor.

Mr. HELMS. Suits me.

Mr. PASTORE. It all depends on where you stand, and how you want to look at it.

Mr. HELMS. Right.

Mr. PASTORE. You can talk about the tyranny of the majority against the minority, but why do we not talk about the crucifixion by the minority against the majority? That is what we are getting into here.

We have been here for 3 weeks, and we have gone up the hill, down the hill, back and forth, to our offices and back over here; and what are we doing? We are just playing games.

"I move to reconsider."

"I move to lay it on the table."

"I again move to reconsider."

"I again move to lay on the table."

I am telling you, it is a charade, a farce, and a tragedy.

I say to the Senator, if you stand there and tell me that the majority is running over the minority, then I say, take a good look in that mirror and see if you are not crucifying the majority.

I insist upon the point of order that I raise.

The PRESIDING OFFICER. Do other Senators wish to be heard?

Mr. KENNEDY. Mr. President, I am willing for the Chair to rule on the point of order, but in response to the comments of the Senator from Nebraska about the exercise of the authority or power, he says by the majority, or I suppose by those who have responsibility in managing the bill, I want to make it extremely clear that we have at no time ever made any motion to lay on the table any of the amendments that have been proposed by those who have offered them at any time when we believed that the Members who were supporting the amendments or the prime sponsors wanted to speak. I think the record should be very clear on that. We have been very careful on that issue. I believe that policy has been followed uniformly by those who have been helping to manage this bill, and it would certainly be our intention to continue to exercise that policy in the future.

Mr. ROBERT C. BYRD. Mr. President, under the cloture rule, no dilatory motion or dilatory amendment is in order. Under the precedents quorum calls have been ruled to be dilatory. There is no precedent on this particular motion to reconsider under the cloture rule.

I think it might be well if the Senate considered establishing such a precedent. I say that for these reasons: The Senate has been debating this measure now for several days. There have obviously been dilatory motions made: motions to recess, motions to adjourn by Senators other than those in the leadership, when according to usage and custom the motion to recess and the motion to adjourn have been considered by Senators on both sides of the aisle primarily to be the prerogative of the leadership, because it is the responsibility of the leadership to attempt to move the legislation forward and to use its judgment as to when to adjourn and when to recess, subject, of course, to the votes of the majority of the Senate.

But we have seen motions made to reconsider by those who are opposing the bill, and I am not criticizing any who want to oppose this measure. It is possible that I could vote against it myself. I have in the past voted against measures which I have endeavored, as a representative of the leadership, to get action on and to get cloture on. But I went into this situation last evening at considerable length, because I thought the time had come for us to establish a precedent, where it was justified, in connection with a dilatory motion to reconsider.

The purpose of the cloture rule is to speed up the legislation. That is the whole purpose of cloture: To break a logjam, to break a deadlock, and to keep the legislative process moving and get action on the measure. The Senate action can be for or against the measure, but the Senate should eventually be able to work its will.

That is the purpose of the cloture rule. Once cloture has been invoked, that is also the purpose of the portion of the rule which says that dilatory motions shall not be in order.

I think that even though there may not be a precedent on a dilatory motion to reconsider—I was advised last night that there was none—the time has come, in view of the various dilatory motions that have been made here during the debate under cloture on this measure, for the Senate to establish a precedent today. I, therefore, support the point of order raised by Mr. PASTORE.

Mr. STEVENS. Mr. President, some of us support the bill and have supported some of the amendments and have opposed others. While I have high regard for the acting majority leader, I question seriously setting a precedent until we define some parameters of it.

There were, I recall now, two of these motions to reconsider that, had this Senator voted affirmatively on those, or any one of them, they would have been reconsidered. We have had several close calls on some of these amendments. But I do notice in that connection any majority versus a minority in a party sense, though I do notice a majority versus a minority in an issue sense. As some of these amendments are going into some new areas, including, for example, the concept of treble damages, some of us have had some difficulty with some directions of this new legislation, even though we support it.

So, although I do not oppose setting a precedent, I think there ought to be some parameters on it. It is proposed that we set a precedent here that any motion to reconsider in a cloture situation is dilatory. If we agree to that, I think we will be setting a very large precedent.

On the other hand, not having made any of these motions, and urging that we get along with other legislation we have on the calendar, and knowing the problem the leadership has had, I think we ought to get some resolution of the matter.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. STEVENS. Just 1 minute. The Senator from Nebraska has suggested a way out, which is to have an understanding that there will be votes on the merits of these amendments, and if it is a close one, I think a motion to reconsider is in order. If it is not a close one, I would join and have joined in motions to table some of these motions to reconsider, because we like to see legislation moved forward.

But I say to the Senator from West Virginia, this precedent could be very far-reaching, and I really feel that the precedent that is coming out of this, until we define it, is so far-reaching that I would prefer to have that done by way of a rule. If there are more than 15 votes difference, and it is obvious that reconsideration cannot be voted, I think we should define what is a dilatory motion in those terms, and, while I have due respect for the Senator who is making and protecting his situation, I am sure he would live by the rule if it were changed; but to rule on a point or order on this concept without defining the parameters worries me a great deal.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. STEVENS. I yield to the Senator from Rhode Island.

Mr. PASTORE. I am perfectly willing to withdraw my point of order, provided we get away from the second motions to reconsider, which are obviously dilatory. I do not mind a motion to reconsider when a matter comes up; I think that is perfectly within a Senator's power, perfectly within his prerogative.

But to have 18 people vote in the negative and then have one withdraw it and just to make the motion over again, obviously that is dilatory. And we ought to stop it. If we can get a consent to stop that I will withdraw my point of order, and that is all I am trying to do is to get a little commonsense on the floor of the Senate. But it is obvious that these second motions to reconsider and to lay again on the table are dilatory, obviously so, and I would hope that we would stop it. And that is the reason why I brought up the matter.

Mr. ALLEN. Mr. President, will the Senator yield for a question?

Mr. STEVENS. I yield.

Mr. ALLEN. I ask the Senator from Alaska if it is not true that Senators will recall that four-fifths of the motions to reconsider and motions to table have been made by the managers of the bill? And I guess that is statesmanship when they do that. But when the Senator from Alabama and those who feel the same way as he does about this matter, when they make such a motion, even though it is very seldom made, it is regarded as being dilatory. What about the motions made by the managers of the bill, time and time again in similar circumstances? Is that dilatory?

The PRESIDING OFFICER. The Chair will announce that those Senators talking are doing so on their time.

Mr. ALLEN. The Senator from Alaska has a question?

Mr. STEVENS. The Senator from Alaska understands that, and I close my question again saying with due respect to the Senator from Alabama that the time comes when those who oppose legislation must recognize the will of the majority and I am prepared to do that, provided we have a vote up and down on some of the amendments that some of us are interested in and I would hope that in the interest of comity he would agree that this should take place. If I were in his position I would. He is entitled to his own opinion. All I am saying is this point of order worries me from the point of view of what it might mean in the future. On some instances where we have had 30 and 40 Members missing we have held over reconsideration the next day and a vote can be changed. The parameters of the point of order alarm me in terms of the precedents of the Senate.

The PRESIDING OFFICER. The Chair is allowing the debate on this question, although it is not debatable. The Chair is willing to make a decision if it is necessary and the Senator from Rhode Island does not withdraw his request.

Mr. ROBERT C. BYRD addressed the Chair.

Mr. PASTORE. I repeat again if the Senator will yield to me.

Mr. ROBERT C. BYRD. I yield.

Mr. PASTORE. I repeat again, even if we have to allow it this one more time if we will only stop it, I will withdraw my point of order. I think we ought to have some semblance of order on the floor. I would hope that the Senator from Alabama will withdraw his motion to reconsider. I do not mind him doing it the first time, once an amendment is defeated, but this idea that once it is reconsidered we have another motion to reconsider the motion to reconsider, that is dilatory. He knows it. I know it. The entire world knows it. And I think my 11-year-old grandson knows it as well.

Mr. ROBERT C. BYRD. Mr. President, before the Senator withdraws his point of order, I think the Senator from Rhode Island has served a very useful purpose today in making the point of order. However, I think under the circumstances he would be justified and would be right in withdrawing the point of order for the present. But he has raised the warning. As to the concerns that have been expressed by my friend from Alaska, he is quite correct. There do need to be proper parameters, but the parameters would be decided by the Senate as each case arises. In this one instance, the vote was 61 to 26. Obviously there is going to be no change in that vote. If it were a very close vote it would be a different thing. But on a vote of 61 to 26, there is not going to be a change sufficient to merit reconsideration. The parameters are clear in this instance.

As to the distinguished Senator from Alabama talking about the managers of the bill making motions to reconsider, the managers of the bill are not making motions to reconsider in order to delay action on the bill but to speed up the final action; whereas some who have been making motions to reconsider are making those motions obviously for the purpose of delaying final action, which undermines the basis for the cloture rule.

I thank the Senator from Rhode Island.

Mr. GRIFFIN. I join in commending the Senator from Rhode Island for withdrawing the point of order. I think it would be unfortunate if we proceeded to a vote under these circumstances. I think he served a very good purpose and made his point, and I think the Senate is going to take cognizance of it.

Mr. PASTORE. I withdraw the point of order.

The PRESIDING OFFICER (Mr. CULVER). Point of order is withdrawn. The question is on the motion to reconsider.

Mr. ALLEN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. ABOUREZK. Mr. President, I move to table the motion to reconsider.

The PRESIDING OFFICER. Evidently there is a sufficient second. There is a motion to reconsider——

Mr. ALLEN. I call for the yeas and nays on the motion to table.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. McCLURE. Mr. President, point of order.

The PRESIDING OFFICER. The Senator will state it.

Mr. McCLURE. Is the motion to table the—is the motion to reconsider a dilatory tactic? Or is it dilatory only when it is raised by the Senator from Alabama?

The PRESIDING OFFICER. Is the Senator posing this as a parliamentary inquiry?

Mr. McCLURE. Parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Chair chooses not to answer parliamentary inquiries in this case.

Mr. McCLURE. I wonder, Mr. President, if the Senator from South Dakota might withdraw so there will be no question of dilatory tactics.

Mr. ABOUREZK. Mr. President, I ask unanimous consent that the order for the yeas and nays be withdrawn on my motion to table.

Mr. ALLEN. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. ABOUREZK. Now, my parliamentary inquiry is to the motion as to a dilatory tactic.

The PRESIDING OFFICER. The motion is not debatable and the clerk will call the roll.

Mr. ROBERT C. BYRD. Mr. President, may I be recognized at this time to make a point of order?

The PRESIDING OFFICER. The Senator from West Virginia will state the point of order.

Mr. ROBERT C. BYRD. The distinguished Senator from Rhode Island withdrew his point of order earlier. I think we see now what is happening. The Senator from Rhode Island withdrew his point of order, and there were others of us who commended him for withdrawing it. Now the Senator from Alabama persists in getting a vote on the motion to reconsider, and objects to a request to withdraw the order for the yeas and nays on the Abourezk motion to table. I think the Senator from Alabama's motion is obviously dilatory, and I make such point of order and want the Chair to rule or the Senate to decide.

The PRESIDING OFFICER. Whereas ordinarily a motion to reconsider would not be dilatory unless it were under cloture, since there is no dilatory procedure except under cloture, the Chair in this instance chooses as its prerogative under rule XX to submit the question to the Senate ab initio.

Mr. ROBERT C. BYRD. I make the point of order.

The PRESIDING OFFICER. The vote will occur on, Is the point of order well taken——

Mr. BROCK. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. That the motion is dilatory?

Mr. BROCK. Parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BROCK. Was the point of order directed to the motion to reconsider or to the motion to table? Is the Chair presenting the question on the tabling motion or the——

Mr. STEVENS. Rollcall vote.

The PRESIDING OFFICER. The Chair understands it to be on the tabling motion.

Mr. ROBERT C. BYRD. No, the point of order was on the motion to reconsider.

The PRESIDING OFFICER. On the motion to reconsider.

Mr. BROCK. Is the point of order in order since the matter before the Senate is the tabling motion on which the yeas and nays have been asked?

The PRESIDING OFFICER. The Senator is correct. The Chair understood the point of order was directed against the tabling motion.

Mr. BROCK. The vote then the Chair will submit to the Senate is on whether or not a tabling motion can be a dilatory tactic.

The PRESIDING OFFICER. The question then would occur on the motion to table. The yeas and nays have been ordered.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PASTORE. The Chair recognized the Senator from Rhode Island, and I raise the point of order both on the motion to reconsider and the motion to lay on the table, the whole caboodle.

Mr. BROCK. The Senator has no right to make such a motion at this point.

The PRESIDING OFFICER. The Senate will be in order. The Senate will confine it on the motion to table.

Mr. ALLEN. Parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. A motion has been made.

The Senate will be in order and the Chair recognizes the Senator from Alabama.

Mr. ALLEN. The question then is: Has the distinguished Senator from South Dakota made a dilatory motion in seeking to table the motion of the Senator from Alabama, is that correct? I believe that is the point the distinguished Senator from Tennessee brought up.

The PRESIDING OFFICER. That is correct.

Mr. BROCK. Will the Senator from South Dakota be held to have made a dilatory motion?

Mr. ROBERT C. BYRD. Mr. President, may I be heard?

The PRESIDING OFFICER. The Senator from West Virginia—for what purpose? Will the Senator state the point of order? The yeas and nays have been ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to proceed for 30 seconds.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, the point of order is to the motion to reconsider. That is what precipitated this whole thing. If we are going to have a point of order raised against the motion to table, then I insist that this question be divided and that there be a vote on the point of order against the motion to table and a separate vote, on my point of order against the motion to reconsider.

Mr. STEVENS. Mr. President, is not the pending business the rollcall on the motion to table?

The PRESIDING OFFICER. That is correct.

Mr. STEVENS. I submit to the Senate that the dilatory tactic is the rollcall, not the motion to reconsider and not the motion to table the motion to reconsider, but the time involved on the rollcalls.

I would support a point of order against these continuous rollcalls when the tide has run, but I cannot support a point of order against the motion itself, either to table or to reconsider.

Mr. PASTORE and Mr. CASE addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. CASE. Mr. President, I am not accustomed to taking the time of this body very often, but it seems to me that in this instance the thing that the point of order would lie against would be not the motion to reconsider, because that has been passed over by the motion to table, nor the motion to table, because that has been passed over by the request for withdrawal of the yeas and nays, but upon the Senator from Alabama's refusal to permit the withdrawal of the yeas and nays.

Mr. PASTORE. Mr. President——

Mr. HELMS. Regular order, Mr. President.

The PRESIDING OFFICER. Debate is out of order, and the Chair stated that the vote will now occur on the motion to table. The clerk will call the roll.

Mr. McCLURE. A parliamentary inquiry, Mr. President. Was not the point of order lodged against the motion to table? Was not that submitted to the Senate?

The PRESIDING OFFICER. Did the Senator from Rhode Island make a point of order against the motion to table?

Mr. McCLURE. Was it not the Senator from West Virginia who made the point of order against the motion to table?

The PRESIDING OFFICER. The Senate will be in order.

Mr. ABOUREZK and Mr. PASTORE addressed the Chair.

Mr. HELMS. Regular order has been requested.

The PRESIDING OFFICER. Did the Senator from Rhode Island make a point of order against the motion to table as being dilatory?

Mr. PASTORE. I made a point of order that the motion to reconsider was dilatory. That is what I did.

The PRESIDING OFFICER. That motion is not in order, because the motion to table is pending.

Mr. McCLURE. A parliamentary inquiry, Mr. President.

Mr. ABOUREZK. Mr. President——

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. ABOUREZK. Mr. President, I ask unanimous consent that the motion to table that I made be withdrawn.

Mr. ALLEN. I object.

Mr. TOWER. I object.

The PRESIDING OFFICER. Objection is heard.

The question now occurs on the motion to table.

Mr. ABOUREZK. A parliamentary inquiry.

Mr. McCLURE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. There is no more debate. The question is on the motion to table, and the clerk will call the roll.

Mr. McCLURE. Mr. President, a parliamentary inquiry.

Mr. ABOUREZK. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ABOUREZK. A parliamentary inquiry, Mr. President.

Mr. McCLURE. A parliamentary inquiry.

The PRESIDING OFFICER. The Senate will be in order.

(Mr. Allen voted "no.")

The PRESIDING OFFICER. The Members of the Senate will be advised that the Chair, exercising its prerogative, refuses to consider additional parliamentary inquiries.

Mr. McCLURE. I did not raise a point of order.

The PRESIDING OFFICER. Parliamentary inquiries.

Mr. McCLURE. Mr. President, may I state the parliamentary inquiry?

The PRESIDING OFFICER. A vote is in progress, and there has been a reply.

Mr. McCLURE. Is the Presiding Officer refusing to recognize a Senator standing on his feet and asking recognition?

The PRESIDING OFFICER. For a parliamentary inquiry.

Mr. McCLURE. The Chair is making that refusal, Mr. President?

The PRESIDING OFFICER. A rollcall is in progress.

Mr. McCLURE. The rollcall was not in progress prior to the inquiry of the Senator from Idaho.

Mr. GRIFFIN. Regular order.

The PRESIDING OFFICER. The clerk will continue to call the roll.

The assistant legislative clerk continued to call the roll.

Mr. HRUSKA. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

The clerk will continue to call the roll.

The assistant legislative clerk continued to call the roll.

The PRESIDING OFFICER. The Senate will be in order. The clerk will suspend the reading of the roll until the Senate is in order, and Senators have suspended conversation and have taken their seats.

The clerk will not call the roll until the Senate is in order.

The Senate is not in order. The membership is advised that the clerk will not call the roll until it is in order. Conversations will suspend.

The clerk will call the roll.

The assistant legislative clerk resumed the call of the roll.

Mr. NELSON. Mr. President, the Senate is not in order.

The PRESIDING OFFICER. The Clerk will suspend calling the roll.

The Chair wishes to advise the Chamber that we will not continue business until the Senate is in order.

The clerk will proceed.

The assistant legislative clerk resumed the call of the roll.

The PRESIDING OFFICER. The Senate will be in order.

The assistant legislative clerk resumed and concluded the call of the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. Bumpers), the Senator from Idaho (Mr. Church), the Senator from Michigan (Mr. Philip A. Hart), the Senator from Indiana (Mr. Hartke), and the Senator from California (Mr. Tunney) are necessarily absent.

I also announce that the Senator from Indiana (Mr. Bayh) and the Senator from Missouri (Mr. Symington) are absent because of illness.

I further announce that, if present and voting, the Senator from Indiana (Mr. Bayh) and the Senator from Missouri (Mr. Symington) would each vote "yea."

Mr. SCOTT of Pennsylvania. I announce that the Senator from New York (Mr. Buckley), the Senator from Arizona (Mr. Goldwater), the Senator from Michigan (Mr. Griffin), the Senator from New York (Mr. Javits), and the Senator from Nevada (Mr. Laxalt) are necessarily absent.

The result was announced—yeas 65, nays 23, as follows:

[Rollcall Vote No. 253 Leg.]

YEAS—65

Abourezk
Beall
Bentsen
Biden
Brock
Brooke
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Clark
Cranston
Culver
Domenici
Durkin
Eagleton
Fong
Ford
Glenn
Gravel
Hart, Gary
Haskell
Hatfield
Hathaway
Huddleston
Humphrey
Inouye
Jackson
Johnston
Kennedy
Leahy
Long
Magnuson
Mansfield
Mathias
McGee
McGovern
McIntyre
Metcalf
Mondale
Montoya
Morgan
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Schweiker
Scott, Hugh
Stafford
Stevens
Stevenson
Taft
Talmadge
Weicker
Williams

NAYS—23

Allen
Baker
Bartlett
Bellmon
Curtis
Dole
Eastland
Fannin
Garn
Hansen
Helms
Hollings
Hruska
McClellan
McClure
Roth
Scott, William L.
Sparkman
Stennis
Stone
Thurmond
Tower
Young

NOT VOTING—12

Bayh
Buckley
Bumpers
Church
Goldwater
Griffin
Hart, Philip A.
Hartke
Javits
Laxalt
Symington
Tunney

So the motion to lay on the table was agreed to.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The motion to reconsider is tabled, and the point of order now falls.

AMENDMENT NO. 1714

Mr. HELMS. Mr. President, I call up amendment No. 1714 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated. The assistant legislative clerk read as follows:

> The Senator from North Carolina (Mr. Helms) proposes an amendment numbered 1714. On page 28, line 5, insert the following after "Act; and": "the prevailing party shall recover".

Mr. HELMS. Mr. President, the purpose of this amendment——

The PRESIDING OFFICER. The Senator will suspend until the Senate is in order.

The Senator from North Carolina is recognized.

Mr. HELMS. Mr. President, I thank the Chair.

Mr. President, the purpose of this amendment is to discourage States from bringing groundless suits under the act by providing that the cost of the suit be charged against the State in the event of an unsuccessful action.

Now, Mr. President, inferences have been made on this floor, whether intended or not, which tended to leave the impression that attorneys general around this country are as pure as the driven snow and, therefore, there is no possibility of any corruption or malfeasance or imprudent action.

Well, let us look at the record as to attorneys general. I am not accusing any attorney general of anything. I am willing to assume that every now sitting attorney general in the United States is honest. But the fact remains that in the State of Washington the attorney general hired a prominent plaintiff's antitrust lawyer, Joseph Alioto, 1962, to bring suits on behalf of Washington public utilities resulting from the famous electrical equipment antitrust conspiracies. Mr. Alioto was to be paid a contingent fee of 15 percent of the gross recovery, up to a maximum of $1 million. Sometime thereafter, Mr. O'Connell arranged with Mr. Alioto to share the contingent legal fees generated by the settlements.

Settlements were reached far exceeding those initially expected. By May 1965, the contingent fees had already

reached the $1 million maximum. Mr. O'Connell then agreed to lift the $1 million ceiling. Within a few weeks, Mr. O'Connell received his first share of the fees, amounting to over $100,000.

Eventually, settlements were reached totaling over $16 million; attorneys' fees were generated of $2.3 million, of which $530,000 went to the State attorney general and $270,000 to his chief assistant.

Now, let us look at a little more recent one, the State of New Mexico where the attorney general, David Norvell, from 1971 to 1974 was recently indicted by a Federal grand jury for "corrupt use of the power, influence and prerogatives" of his office. On two occasions, the attorney general is accused of extorting $25,000 payments in exchange for favorable legal rulings and State actions. One situation involved the State engineers office and approval of irrigation well drilling; and other approval of a savings and loan reorganization.

He has been charged on eight counts, of extortion, using interstate commerce for bribery and extortion, and making false entries on income tax returns. Trial is set for this month, Mr. President. I might add Mr. Norvell's attorney is F. Lee Bailey.

Then there was a case involving the attorney general of the State of Alabama, and so on. So the Senator from North Carolina feels there must be protection against frivolous suits and certainly against corrupt suits brought by State officials, and that is the purpose of this amendment because, as currently drafted, the parens patriae provisions do nothing to discourage—and, in fact, encourage—blackmail suits that are frivolous, and that are designed to extort settlement funds from defendants. As experience with rule 23 demonstrates—and as States will no doubt appreciate—defendants cannot today afford to defend even the most frivolous class action suits on the merits because of the open-ended nature of the potential liability. These defendants much prefer to settle for a limited sum certain than run the risk, however remote, or having to pay an indeterminate sum in the future. Indeed, no class action under amended rule 23 has ever gone to trial; each has been settled. Title IV suits will be brought much more often than rule 23 suits, of course, because of the bill's elimination of the costs of individual notice—which the States could afford to pay in any event—the ability of States to hire outside counsel on a contingent fee basis, and, finally, the added political pressures that will face State attorneys general.

In these circumstances, it is sheer folly to encourage the bringing of suits which entail absolutely no risk to a public body with public funds no matter how frivolous the action is. Charging costs of suit, including attorneys' fees, to the States in the event of unsuccessful action is thus absolutely essential to provide some measure of balance. Even with the proposed amendment, of course, the cards are stacked in favor of bringing groundless actions, because of the realities which dictate settlement and of the public resources available to the State to pay the costs of suit.

Now, Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. HELMS. Mr. President, I hesitate to suggest——

The PRESIDING OFFICER. There is a sufficient second.

Mr. HELMS. But I want the yeas and nays. Is there a sufficient second?

The PRESIDING OFFICER. There is now a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. I thank the Chair.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. MORGAN. Mr. President, this is the same or substantially the same amendment the distinguished Senator from New York (Mr. BUCKLEY) offered last week which was tabled by a vote of—I do not have the exact vote, but it was fully debated at length.

I pointed out at that time, Mr. President, that to adopt such a procedure as this would, in effect, go back to the English system where we required attorneys' fees in all cases where actions were brought and where the plaintiff did not prevail, and we abandoned that system in 1776.

We do have in this bill, Mr. President, a provision which protects against abuse of any provisions of the bill by providing that if the court finds an action is brought in bad faith then the court may award attorneys' fees for the defendants.

Mr. President, I think really that is all that needs to be said except that I am compelled to point out that I still believe in the judicial systems, the principles of justice in this country.

Yesterday or the day before yesterday I was a little amazed and concerned that the distinguished Senator from Alabama (Mr. ALLEN) used a newspaper clipping of June 5 pointing out where a district or county solicitor had been indicted, to impugn the integrity of attorneys general. I differ with my distinguished Senator from North Carolina, who uses a case of an attorney general in New Mexico simply because he has been indicted.

Under our system, Mr. President, we still have the presumption of innocence until a man is proven guilty, and the fact that Mr. F. Lee Bailey is his attorney—one whom I would not personally choose—was offered, it would seem to me, for the purpose of an innuendo or an inference that there was something wrong.

I could name two or three attorneys general in the country who have gone to jail for fraud and corruption, Mr. President, but at the same time I could name hundreds and hundreds and hundreds of others who have always served with honor and distinction.

Mr. President, since this bill was debated fully, this amendment was debated fully, when Senator BUCKLEY offered it and it was tabled at that time after extended debate, I move that the——

Mr. HELMS. Mr. President, will the Senator withhold his motion?

Mr. MORGAN. Yes.

Mr. HELMS. The Senator from Oklahoma wishes to speak.

Mr. BARTLETT addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. BARTLETT. Mr. President, I thank both distinguished Senators from North Carolina.

Mr. President, I ask unanimous consent that Mark Isaac and Ed King of my staff be granted privilege of the floor during this debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BARTLETT. Mr. President, although portrayed as recapturing corporate "ill-gotten gains" from price fixing conspiracies in bread, milk, and other consumer products, title IV goes far beyond hard-core price fixing violations. It penalizes an open-ended catalogue of business activities, swept up by ever-broadening court interpretations of the Sherman Act's elastic ban on "restraint of trade." Actually, under recent judicial Sherman Act interpretations and Justice Department actions against advertising and fee restrictions by professional and service organizations, such smaller firms may become leading victims of parens patriae claims under title IV.

Every lawyer knows that the Sherman Act's elastic generalities allow court interpretations to reach any business activity chargeable as a "restraint of trade." Consequently, even business activities whose legality is governed by specific provisions of the Clayton Act, such as price discrimination, exclusive arrangements, and mergers, are likewise actionable under the Sherman Act. Hence, Professor Handler told the committee that title IV's ostensible "limitation to Sherman Act violations" "is in fact an almost totally meaningless 'safeguard' "—hearings, part 3 at page 137. This assessment is confirmed by the majority report which recites title IV's aim to authorize parens patriae actions not only against pricefixing, but also against "group boycotts, division of markets, exclusive, dealings, tie-in arrangements, fraud on the Patent Office, monopolization, attempts to monopolize, conspiracies to limit production, and other violations of the antitrust laws."

Mr. ROBERT C. BYRD. Mr. President, I beg the Senator's pardon, but whose time is this statement being charged to?

Mr. BARTLETT. Mr. President, I assume that this is on my own time.

Mr. ROBERT C. BYRD. I did not understand.

The PRESIDING OFFICER. The Chair will advise the Chamber.

The Senator from Oklahoma is making it on his own time.

Mr. ROBERT C. BYRD. I thank the Chair.

But I did not understand the Senator from North Carolina had yielded for a statement.

The PRESIDING OFFICER. Does the Senator from North Carolina yield for a statement?

Mr. MORGAN. Mr. President, I had not yielded. I thought I was yielding for a request, but since he is in the middle of a statement, I will yield.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. BARTLETT. I thank the distinguished Senator from North Carolina.

Mr. HELMS. Mr. President, will the Senator yield on my time?

Mr. BARTLETT. I yield.

Mr. HELMS. Mr. President, I had clearly asked the Senator from North Carolina to withhold because the Senator from Oklahoma wanted to speak on this subject. I think the record will reflect exactly that.

Mr. MORGAN addressed the Chair.

Mr. HELMS. If we are going to haggle over every little thing that comes up in this Chamber, I want to know it now.

Mr. MORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma has the floor.

Mr. HELMS. He yielded to me.

Mr. BARTLETT. I yielded to the Senator from North Carolina.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. MORGAN. Mr. President, my comment was after what I thought was a request. If we want to haggle, I will haggle. I had a motion made to table. This is the same proposal, the same one argued before.

I want to hear what the Senator from Oklahoma has to say. We want to accommodate the Senator, but I yield to the Senator from Oklahoma for any reason.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. BARTLETT. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 56 minutes remaining.

Mr. BARTLETT. I thank the Chair.

Mr. President, I thank the distinguished Senator from North Carolina, the acting floor manager of the bill. I am speaking on this, as he knows, for the first time, and I appreciate his comment.

Due to shifting court interpretations, trade practices assumed for many years to be lawful, and even procompetitive, may thus incur open-ended liabilities under title IV parens patriae actions and the risks of massive title IV retribution for a wrong guess may well inhibit aggressive competition. Multimillion dollar parens patriae actions may strike at newspaper and other franchise restrictions on distributor resales; media rate practices; newspaper, gasoline, and other consignment price arrangements; lawyers' bar association fee schedules; real estate broker commission and listing practices; medical association restrictions on advertising; architects' fee and advertising standards; anesthesiologists' "value guides"; engineers', architects', and accountants' bidding restrictions; and optometrists', pharmacists' and druggists' price or advertising restrictions.

Likewise, Sherman Act section 2's "monopolization" provisions may invite massive parens patriae actions aimed at patent pools and patent licensing restrictions; acquisitions and mergers; "predatory" pricing; and "fraud on the Patent Office, * * * and other violations", unspecified, in the majority report.—page 39.

Also our hearings revealed that labor unions may find themselves at the paying end of heavy parens patriae antitrust liabilities. Since unions have only a partial antitrust exemption, cut back recently by the Supreme Court interpretations, State attorneys general or their private deputies may name labor unions as defendants or coconspirators with employers for allegedly restrictive, collusive, or monopolistic activities charged as curtailing competition or raising prices at the consumer level.

Mr. FORD. Mr. President, will the Senator yield for a brief question?

Mr. BARTLETT. I yield to the Senator from Kentucky.

Mr. FORD. The Senator still has 50-plus minutes. Can he advise the Chamber how long he will take?

Mr. BARTLETT. Yes, probably 10 or 12 more minutes.

Mr. FORD. I thank the Senator.

Mr. BARTLETT. Mr. President, in sum, huge antitrust liabilities under parens patriae actions can hit not only alleged corporate price-fixers reaping "ill-gotten gains."

Rather, they will create heavy antitrust exposures particularly for smaller firms, professional and service organizations, media, and even labor unions.

According to Professor Handler's survey of recent Government retail price-fixing cases:

> The largest single category of retail price-fixing charged by the Government related to fee schedules and codes of ethics adopted by various professional associations and real estate boards. No less than 15 of these suits have been brought against groups of lawyers, architects, engineers, accountants, anesthesiologists, veterinarians and real estate brokers. (Hearings, pt. 3 at 136.)

He anticipated for parens patriae suits under title IV:

> Based on the cases brought by the Government having a maximum impact on consumers, they open the doors wide for the assertion of claims of astronomical proportions against small business and professional people for conduct whose legality very few questioned until recently. (Hearings, pt. 3 at 137.)

In particular, a smaller firm, charged as an antitrust coconspirator with joint and individual liability for an alleged industry-wide conspiracy, may be unable to stand the risk of a potentially astronomical exposure. Understandably, the $750 million potential liability of each of 2,000 real estate brokerage firms "shocked the conscience" of the court of appeals, which declared:

> The small individual operator faces a potential liability of upwards of three-quarters of a billion dollars for which all of his or her assets are responsible. The amount of a recovery in a law suit is not ordinarily of concern where a wrong has been inflicted and an injury suffered. But when 2,000 are joined in an action where each is jointly and severally liable, the liability is increased in geometric progression. Such an award against each of 2,000 real estate broker defendants would shock the conscience.

Such litigation against smaller firms is inherently conducive to "blackmail settlements," since they often cannot carry the risk or the costs of an effective antitrust defense.

Understandably, the National Association of Small Business came in at the end of our hearings to request an exemption for small business, fearing that title IV would catch small businessmen "in a perilous crossfire between the consumer on the one hand, and the Government on the other"—Hearings, pt. 3 at 288.

Many others may yet be unaware of the plague on their houses by title IV's parens patriae "improvements," which are promoted by their proponents as redress against "concentration," corporate price fixing and "ill-gotten gains."

Mr. President, I am very concerned about this whole procedure. I hope more amendments may be adopted which will improve the bill. I would certainly hate to see our ability as a nation to produce and to increase production be deterred by legal actions that are dilatory and that will make it difficult for business to produce at its full capability, for it to improve its earnings picture, for it to merge, for it to do the many things that business wants to do to be more competitive and more effective for this Nation.

It is with our capabilities as an industrial power that we do have the opportunity to enter into social programs that benefit not only the citizens of this country but the citizens of the entire world.

It is because of our economic engine that we have the opportunity to have a strong military to safeguard this Nation in a hostile and unfriendly world.

Our economy is basic to our being the leader of the free world. It is my strong conviction that this body should do everything it can to create an environment for our industrial efforts, for our productivity, for our ability to produce products cheaper, more competitively, and to compete more efficiently with the rest of the world.

I am concerned that the provisions in this bill to which this amendment addresses itself can lead to inefficiencies, delays, and costs which would be borne by the taxpayer-consumer and would make it that much more difficult for this Nation to move ahead and be strong in every department.

Mr. President, I reserve the remainder of my time.

Mr. MORGAN. Mr. President, as I mentioned earlier, this is substantially the same amendment that Senator BUCKLEY offered last week, amendment 1705. The debate on that bill is reported on pages S8567 to S8569 of the RECORD. I refer any Member of the Senate to those pages if they desire to read them.

The vote on the motion to table Senator BUCKLEY's amendment was 46 to 29. In order to have an up-and-down vote on this amendment once and for all, I ask unanimous consent to withdraw my motion to table the amendment and will let the Members vote upon the amendment.

The PRESIDING OFFICER (Mr. HASKELL). The motion to table was never actually made, so it will not be necessary to withdraw it.

Mr. HELMS. Mr. President, I want to thank my distinguished colleague from North Carolina. He has put his finger on the thing that has bothered this Senator from North Carolina. That is the failure of the Senate to vote up or down on amendments. I do not know how to put it delicately, but suffice it to say that I am sick and tired of all these tabling motions. Let the Senate face up to the issue and not forever vote on tabling motions to enable those Senators who desire to do so to go home and say, "Well, there was really no vote on that issue. That was a procedural matter."

I thank the Senator from North Carolina for permitting an up-and-down vote. He is going to win in either case. The senior Senator from North Carolina knows that, but I appreciate the fact that he has abandoned his plans to move to table. I call for a vote.

Mr. BARTLETT. Mr. President, if I might be recognized, I merely want to say to the junior Senator from North Carolina that I thank him very much for his consideration of the expressions of the Senator from Oklahoma about his feelings for this bill and for the Senator withholding the motion to table.

Mr. HELMS. Vote!

The PRESIDING OFFICER. The question is on agreeing to the amendment. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. BUMPERS), the Senator from Idaho (Mr. CHURCH), the Senator from Indiana (Mr. HARTKE), the Senator from Montana (Mr. METCALF), the Senator from Utah (Mr. MOSS), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I also announce that the Senator from Indiana (Mr. BAYH) and the Senator from Missouri (Mr. SYMINGTON) are absent because of illness.

I further announce that, if present and voting, the Senator from Indiana (Mr. BAYH) and the Senator from Indiana (Mr. HARTKE) would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from New York (Mr. BUCKLEY), the Senator from New Mexico (Mr. DOMENICI), the Senator from Arizona (Mr. GOLDWATER), the Senator from New York (Mr. JAVITS), and the Senator from Nevada (Mr. LAXALT) are necessarily absent.

The result was announced—yeas 34, nays 53, as follows:

[Rollcall Vote No. 254 Leg.]

YEAS—34

Allen
Baker
Bartlett
Beall
Bellmon
Brock
Burdick
Byrd, Robert C.
Cannon
Chiles
Curtis
Dole
Fannin
Fong
Garn
Griffin
Hansen
Helms
Hollings
Hruska
McClellan
McClure
Nunn
Packwood
Roth
Scott,
  William L.
Stevens
Stone
Taft
Talmadge
Thurmond
Tower
Weicker
Young

NAYS—53

Abourezk
Bentsen
Biden
Brooke
Byrd,
  Harry F., Jr.
Case
Clark
Cranston
Culver
Durkin
Eagleton
Eastland
Ford
Glenn
Gravel
Hart, Gary
Hart, Philip A.
Haskell
Hatfield
Hathaway
Huddleston
Humphrey
Inouye
Jackson
Johnston
Kennedy
Leahy
Long
Magnuson
Mansfield
Mathias
McGee
McGovern
McIntyre
Mondale
Montoya
Morgan
Muskie
Nelson
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Schweiker
Scott, Hugh
Sparkman
Stafford
Stennis
Stevenson
Williams

NOT VOTING—13

Bayh
Buckley
Bumpers
Church
Domenici
Goldwater
Hartke
Javits
Laxalt
Metcalf
Moss
Symington
Tunney

So Mr. HELMS' amendment (No. 1714) was rejected.

Mr. HELMS. Mr. President, I yield myself such time as I may require.

Mr. President, my distinguished colleague from North Carolina (Mr. MORGAN) is in a rather untenable position in connection with this measure. He is not a member of the committee. Yet he has been called upon by circumstances to do the excellent job he has done in defending against various amendments. The Senator and I do not happen to agree on this bill or on very many of the amendments. Nonetheless, I think we ought to remedy the situation if time prevails. He has just about run out of time. In a moment I am going to ask unanimous consent that the Senator from North Carolina (Mr. MORGAN) be accorded another hour of time as manager of the bill.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, I wonder if another Senator would yield such time from his own time to Mr. MORGAN. I recognize the justification in Mr. MORGAN having additional time as I would recognize the same with respect to Mr. HRUSKA. But I am afraid if we start getting unanimous-consent agreements to give Senators an additional hour that can go on and on.

Mr. HELMS. That would be perfectly satisfactory to me.

Mr. ROBERT C. BYRD. If one other Senator has time, all right. I have already yielded 30 minutes of my time to the manager of the bill.

UNANIMOUS-CONSENT AGREEMENTS

Mr. GLENN. Mr. President, I ask unanimous consent that I be permitted to yield 30 minutes of my time to the Senator from North Carolina.

Mr. BENTSEN. Mr. President, I ask unanimous consent that I be permitted to yield 30 minutes of my time to the Senator from North Carolina.

Mr. HELMS. That accomplishes my purpose.

The PRESIDING OFFICER. Is there objection to either one of the unanimous-consent requests?

Mr. HELMS. That having been accomplished, may I ask the Chair to determine how much time the distinguished minority floor manager has remaining?

The PRESIDING OFFICER. First the Chair will have to rule on these unanimous-consent requests.

Without objection, it is so ordered.

The Senator from North Carolina.

Mr. HELMS. In essence, I wish to know how much time Mr. HRUSKA, on the other side, has remaining?

The PRESIDING OFFICER. The Senator from Nebraska has 46 minutes remaining.

Mr. HELMS. How many?

The PRESIDING OFFICER. Forty-six.

Mr. HELMS. That is enough for the time being, he said. So we have remedied the situation as of now. I thank the Chair.

AMENDMENT NO. 1716

Mr. CURTIS. Mr. President, I call up amendment No. 1716, which I ask the clerk to state.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Nebraska (Mr. CURTIS) proposes amendment No. 1716.

The amendment is as follows:

On page 27, line 18, delete the words "done anything forbidden in" and substitute therefor "entered into an agreement among competitors to fix prices in willful violation of".

Mr. CURTIS. Mr. President, in presenting this amendment, I will say that the preparation for this amendment has been conducted by my distinguished colleague, Senator HRUSKA.

It was about 45 years ago that I first met the gentleman who is now my distinguished senior colleague from Nebraska. The occasion that brought us together was the fact that he had some legal business out in my hometown, and we met for the first time and we chatted out in front of the courthouse. All through the years, Senator HRUSKA has applied himself to the law. He is one of the most distinguished lawyers presently in the Senate or to have ever served in the Senate. He is a good lawyer. He is a studious lawyer. His scholarship is out standing. In addition to that——

The PRESIDING OFFICER. Will the Senator suspend for a moment? The Chair announces that the amendment of the Senator attempts to strike a section and insert new language therefor. The attempted section to be stricken having already been stricken, therefore, the amendment is not in order.

Mr. CURTIS. Very well, Mr. President. I wish to speak on the bill, itself. I yield myself such time as I may require.

My distinguished colleague has had years of trial experience. I know as a fact that some of the very good lawyers in this Chamber who disagree with Senator HRUSKA on philosophy relating to antitrust still regard him as one of the ablest and best authorities in that field. I was pleased that the majority graciously permitted a vote on its merits on the last amendment he offered.

Here we have a situation in which an individual who is qualified, having spent not months but years in the field of antitrust, offers amendments of substance, amendments that should be voted upon and considered; and time after time after time, the tyranny of the majority comes to the surface, and motions are made to table amendments offered by the distinguished Senator from Nebraska (Mr. HRUSKA).

It matters not that no one is seeking time to debate when a motion is tabled.

A motion to table still avoids the issue of passing upon the merits of a proposal. It is taken by outsiders to be procedural and some basis of why it should not be considered in that legislation. So, while the Senate may be chagrined at what some of the public will say about the procedure that has been followed in the last day or two, the responsibility must rest upon those who have attempted to muzzle the discussion and who have attempted to deny the right of Senators to have amendments voted upon on their merits.

Mr. President, in support of the position taken by my distinguished colleague, Senator HRUSKA, in this matter, I shall read from the testimony of Mr. Milton Handler, one of the ablest and recognized authorities in the field of antitrust:

Very few of the horizontal price-fixing actions brought by the Department of Justice over the past 5 years have accused defendants of fixing the retail prices at which consumers actually bought goods or services. Passing the four of these suits alleging price-fixing affecting vending machines for cigarettes and soft drinks—where the small, unrecorded, cash purchases involved make it obviously impossible for many individual consumers to establish injury—we find that two of the Justice Department suits charged local price-fixing conspiracies affecting retail liquor sales in Clovis, N. Mex., and Waco, Tex.; two charged similarly local price-fixing conspiracies on shoes and women's clothing in Albuquerque and New York City, respectively; four involved allegedly fixed charges for automobile repair work; and one charged price-fixing on assembled tour packages for travelers.

The largest single category of retail price-fixing charged by the Government, however, has been in the area of alleged conspiracies based on fee schedules and codes of ethics adopted by various associations of professionals and realtors. No less than 15 of these suits have been brought against groups of lawyers, architects, engineers, accountants, anesthesiologists, veterinarians, and—particularly—real estate brokers.

The fee schedule cases provide a dramatic example of the potential dangers of parens patriae and fluid class suits in circumstances where the equities fail to batch the preconceived motions of the proponents of these procedural devices. Here we are generally dealing with small individual businessmen and practitioners, not giant corporations. We are likewise not dealing with hardened price-fixers; in many cases the legality of the codes of ethics and fee schedules in question was generally presumed even by lawyers until the Supreme Court ruled otherwise just last term. Finally, it is highly unlikely that any of these groups of defendants have amassed collective "pots of gold" by gouging consumers; to the contrary, as one court noted in approving the settlement of a class action against certain realtors in Alabama that provided for no damage recovery at all, in each and every case where real estate brokerage fee schedules have been enjoined, the effect has been to increase rather than lower rates.

Nevertheless, real estate brokers in particular have recently been subjected to a number of class suits asserting astronomical treble damage claims which are particularly shocking in light of the smallness of the business involved. In Kline against Caldwell Banker & Co.,[1] for example, the representatives of the alleged plaintiffs' class sought to recover $750,000,000 against some 2,000 Los Angeles realtors—the vast majority of them being individuals in business for and by themselves—based upon the claimed use of a recommended fee schedule in some 400,000 sales of residential property. In rejecting this proposed class suit, the Ninth Circuit introduced "the notion of fairness to defendants" as a requirement of Rule 23.[2] Thus, in his concurrence, Judge Duniway pointed out that to allow a class action in the circumstances of the Kline case would be to create "an overwhelmingly costly and potent engine for the compulsion of settlements, whether just or unjust." Most brokers, he observed, are small businessmen who "cannot afford even to participate in such an action, must less to defend it effectively" and who therefore "will settle for whatever amount they can bargain for, and without regard as to whether they are really liable or not * * *."

While it is doubtful that the draftsmen of the proposed parens patriae bills deliberately intended to revoke the "fairness" doctrine articulated in Kline, this may be what they have in effect done by eliminating many of the significant safeguards against injustice presently contained in rule 23. Thus, for example, the Ninth Circuit's holding is predicated upon the requirement of F.R.Civ.P. 23(b)(3) that a class action be "superior to other available methods for the fair and efficient adjudication of the controversy." Since no corresponding language is included in the proposed legislation now before Congress, "fairness" may not be a requirement in parens patriae suits unless imparted as a matter of constitutional requirement. Without a fairness requirement, the courts would not have the power to prevent abuse which the Ninth Circuit exercised in Kline.

In short, while the proponents of the parens patriae bills may have in mind their application to cases of hard core antitrust violation by defendants that have unjustly enriched themselves at the public expense, there is nothing in the proposed legislation that so limits State suits or indeed even permits judicial control to avoid the very real danger of inequity—a danger which is apparent, not in some hypothetical situation, but in the kinds of cases that the Justice Department and private plaintiffs' bar are bringing right now.

The question that perhaps Congress ought to be asking itself at this point is whether it really serves the interests of consumers and the Nation generally for even the Department of Justice to be bringing these fee schedule cases, especially since the Department itself acknowledges that prices in "service businesses" have risen after each of its price-fixing suits. Without prejudging the issue in this particular area, it would seem that the least that is required are procedural safeguards of the kind that guide and control administrative conduct in other parts of Government, to insure rational decisionmaking in the consumer and national interest by the antitrust enforcement agencies. While we shall make some specific suggestions in this regard in the final section of this article, it may be observed here that this goal of policy coordination at the prosecutorial level becomes much more difficult to achieve to the extent that enforcement responsibilities are shifted to 50 State attorneys general by parens patriae legislation.[3] The fact is that the very granting to the States of the power to bring these compensatory suits for consumers is, by itself, sufficient to create immense pressures on State officials to sue in every case where their consumer-constituents may potentially have a claim.

Turning to the remaining types of price-fixing at the retail level that have been the targets of Government suits, the danger here is that the proposed use of parens patriae and fluid class remedies against the garages, liquor stores, and tour coordinators who are generally the defendants in these cases may well be as inappropriate as trying to kill mosquitoes with an elephant gun, and equally unproductive. The businesses involved in most of these violations are, after all, sufficiently small so that the fines of up to $1 million provided for by present law are already more than sufficient to threaten economic extinction. What is more, most of the defendants allegedly involved in this kind of price-fixing seem to be in licensed businesses, a circumstance which gives the States a potent additional weapon for both deterring others and preventing recurrences of the offense by the same wrongdoer.

In sum, there is no shortage of available deterrents to retail price-fixing. The real problem is not one of adding a new hydrogen bomb to our armory of punishments, but rather of improving our enforcement efforts so that potential price-fixers will know that detection and punishment for antitrust violations will be sure and swift.

Mr. President, I again urge that the Senate carefully consider this matter.

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[1] 1974-2 Trade Cases ¶ 75,436 (9th Cir. 1974).

[2] Marks v. San Francisco Real Estate Board, 1975 Trade Cases ¶ 60,182 (N. D. Cal. 1975) at p. 65,609.

[3] In addition to the policy and practical objections to such a shift, the Supreme Court's recent decision in Buckley v. Valeo, . . . U.S. , 44 U.S.L.W. 4127, 4169 (Jan. 30, 1976) indicates that the pending *parnes patriae* legislation probably violates Art. II, cl. 2, § 2 of the Constitution insofar as it purports to vest in the State attorneys a general responsibility and authority "for conducting civil litigation in the courts of the United States for vindicating *public* rights. . . ." This is entirely different from existing statutory provisions for treble damage actions under the antitrust laws which, like other private suits under federal law, require that the plaintiff must demonstrate injury to himself, and thus plainly involve the vindication of private, not public, rights.

This whole matter of further antitrust laws is a matter of further Government regulation of our economy. It has been rather interesting to observe, in the current scramble for the nomination for President, that all the candidates decry Goverment regulation. Mr. President, somebody votes for these things—somebody does. Today, or this week, or whenever we are going to vote, we are called upon to approve a massive addition to Government regulation of our economy. The mad rush to do this, the evoking of cloture after but 2 days of debate, the refusal to consider amendments on their merits but to table them, is not an exercise in the interest of the economy of our Nation. It is not in the interest of full employment or sound business operation; it is not in the interest of encouraging enterprise that will produce jobs tomorrow.

Mr. President, we should not ever ask the people of this country to live under a law that we do not at least read, let alone understand, or on which we do not adequately consider every good-faith amendment that is offered, because those amendments are directed at weaknesses and dangers in what is proposed.

Whatever we think about the procedure here, it does not hurt Senators very much. What we enact here the people have to live under. Whatever further regulation and strangling of economy comes out of this bill will not affect Senators very much, but it will affect our economy. It will affect the confidence in people who make decisions which add to the free enterprise and job opportunities of our country.

QUORUM CALL

Mr. CURTIS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. ALLEN. I object.

The PRESIDING OFFICER. Objection is heard.

The call of the roll was resumed, and the following Senators entered the Chamber and answered to their names:

[Quorum No. 16 Leg.]

Abourezk
Allen
Bellmon
Burdick
Byrd, Robert C.
Chiles
Cranston
Curtis
Durkin
Fong
Ford
Garn
Hansen
Hart, Philip A.
Haskell
Helms
Hruska
Inouye
Leahy
Mansfield
McClellan
McClure
McGee
Morgan
Pearson
Pell
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Sparkman
Stennis
Stone
Talmadge
Thurmond
Williams

The PRESIDING OFFICER (Mr. Leahy). A quorum is not present.

Mr. MANSFIELD. Mr. President, I move that the Sergeant at Arms be directed to request the presence of absent Senators.

Mr. ALLEN. I call for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Montana.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. Bumpers), the Senator from Indiana (Mr. Hartke), the Senator from California (Mr. Tunney), the Senator from Idaho (Mr. Church), and the Senator from Utah (Mr. Moss) are necessarily absent.

I also announce that the Senator from Missouri (Mr. Symington) and the Senator from Indiana (Mr. Bayh) are absent because of illness.

Mr. GRIFFIN. I announce that the Senator from New York (Mr. Buckley), the Senator from New Mexico (Mr. Domenici), the Senator from Arizona (Mr. Goldwater), the Senator from New York (Mr. Javits), the Senator from Nevada (Mr. Laxalt), and the Senator from Ohio (Mr. Taft) are necessarily absent.

The result was announced—yeas 85, nays 2, as follows:

[Rollcall Vote No. 255 Leg.]

YEAS—85

Abourezk
Allen
Baker
Bartlett
Beall
Bellmon
Bentsen
Biden
Brock
Brooke
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Clark
Cranston
Culver
Curtis
Dole
Durkin
Eagleton
Eastland
Fannin
Fong
Ford
Garn
Glenn
Gravel
Griffin
Hansen
Hart, Gary
Hart, Philip A.
Haskell
Hatfield
Hathaway
Helms
Hollings
Hruska
Huddleston
Humphrey
Inouye
Jackson
Johnston
Kennedy
Leahy
Long
Magnuson
Mansfield
Mathias
McClellan
McClure
McGee
McGovern
McIntyre
Metcalf
Mondale
Montoya
Morgan
Muskie
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Scott, William L.
Sparkman
Stafford
Stennis
Stevens
Stevenson
Stone
Talmadge
Thurmond
Tower
Williams
Young

NAYS—2

Nelson
Weicker

NOT VOTING—13

Bayh
Buckley
Bumpers
Church
Domenici
Goldwater
Hartke
Javits
Laxalt
Moss
Symington
Taft
Tunney

So the motion was agreed to.

The PRESIDING OFFICER. A quorum is present.

The question is on amendment No. 1701. The yeas and nays have been ordered.

Mr. HRUSKA. Mr. President——

Mr. ROBERT C. BYRD. Mr. President, the Senator from Nebraska is seeking recognition.

The PRESIDING OFFICER. I am sorry. The Senator from Nebraska.

AMENDMENT NO. 1723

Mr. HRUSKA. Mr. President, I call up my amendment No. 1723.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Nebraska (Mr. Hruska) proposes an amendment No. 1723, as follows:

Section 301 should be deleted in its entirety by striking lines 2 through 25 on page 21; and lines 1 through 14 on page 22.

Mr. HRUSKA. Mr. President, the purpose of this proposed amendment is to retain the present jurisdictional reach of the Robinson-Patman Act and section 3 of the Clayton Act to activities in the flow of interstate commerce. In addition, this proposed amendment would retain the jurisdictional requirement in section 7 of the Clayton Act that both the acquiring and acquired companies be engaged in commerce.

I direct my remarks now to section 3 of the Clayton Act.

There is no apparent reasons for expanding the scope of section 3 of the Clayton Act to cover activities which only affect intrastate commerce. Such an amendment would encourage predominantly local disputes to be litigated in the Federal courts at a time when such courts are becoming increasingly overcrowded. There has been no indication that the commerce limitation in section 3 has created any enforcement problems, particularly since the practices which violate section 3 also violate section 1 of the Sherman Act and section 5 of the Federal Trade Commission Act, both of which cover practices to the full extent of the Federal commerce power.

The absence of any need for such expanded Federal jurisdiction is underscored by the vigorous antitrust programs being undertaken in a large number of the States—with the active encouragement of the Federal enforcement agencies—to deal with local restraints on a local level. The enactment of section 301 would give rise to serious Federal/State jurisdictional questions with respect to antitrust policy and enforcement. The same acts would be subject to differing and possibly conflicting legal standards. Moreover, the extensive efforts of many States to regulate conduct solely within their boundaries might be thwarted by enactment of section 301.

SECTION 7 OF THE CLAYTON ACT

There exists no apparent reason for expanding the applicability of section 7 to corporations whose activities only affect intrastate commerce. The Supreme Court has very recently determined that the "drastic prohibitions" of section 7 were not intended to reach all corporations engaged in activities subject to the Federal commerce power. *United States* v. *American Building Maintenance Indus.*, 1975 Trade Cas. paragraph 60,365 at 66,551 (1975). Indeed, the legislators who amended section 7 in 1950 made it clear that the provision would not prevent "any local enterprise in a small town from buying up another local enterprise in the same town."

Nothing has developed since 1950 which would warrant a change in the jurisdictional scope of section 7 of the Clayton Act. As with section 3 of the Clayton Act, there appears no valid reason for further burdening the Federal courts with local controversies.

The bill, Mr. President, would strike

out the words "in commerce" wherever the term appears in the Robinson-Patman Act.

The present jurisdictional reach of the Clayton Act is not clear. In *Gulf Oil Corp.* v. *Copp Paving Co., supra,* the Sureme Court declined to reach the question whether the reach of the "in commerce" language in sections 3 and 7 of the Clayton Act was coextensive with the reach of the commerce clause. However, this issue is now before the Supreme Court in *United States* v. *American Building Maintenance Industries* (No. 73–1689), where the United States is arguing that the Clayton Act should be accorded the same reach as the Sherman Act, that is to all activities which substantially affect interstate commerce.

The question whether the jurisdictional reach of the Clayton Act should be expanded differs from the question before Congress in expanding the reach of the Federal Trade Commission Act, which is also under discussion. It was recognized that this additional grant of power to the Federal Trade Commission would not cause the Commission to lose sight of the fact that the vast preponderance of local marketing practices were primarily the concern of State and local governments and enforcement agencies. Expansion of the reach of the Clayton Act raises the question of whether the amendment would encourage private litigation under the Federal antitrust laws which would be more properly filed in State and local courts under State and local laws governing local trade practices.

Mr. President, I urge that this amendment be adopted.

Mr. ABOUREZK. Mr. President, amendment 1723 is opposed by the administration and the committee. The Senate has already stricken, I might remind the Senator from Nebraska, sections 301 (a) and (c), as requested by the administration. Section (b) remains in here, and that is all that remains to strike. The committee attempted to retain that section; we think it is needed.

The Senator suggested that the words "in commerce" should be stricken. Those words are already stricken in the bill itself.

Mr. President, I reserve the remainder of my time.

Mr. HRUSKA. The Senator will recall that I prefaced my remarks by saying I addressed myself to section 301 of the Clayton Act. There were originally three subsections, (a), (b), and (c) in section 301. Subsections (a) and (c) have already been stricken, and section 301 (b) became section 301. It is to that that I have addressed my remarks and my amendment.

Mr. ABOUREZK. Section 7 is the only thing remaining, may I remind the Senator from Nebraska.

Mr. HRUSKA. It would apply only to that remaining portion of the section.

Mr. President, it is my desire to call for the yeas and nays. There does not seem to be a quorum present. I suggest the absence of a quorum.

Mr. ABOUREZK. Mr. President, will the Senator withhold that?

Mr. HRUSKA. Yes, without losing my right to the floor.

The PRESIDING OFFICER. May we have order, so that the Chair can hear? Did the Chair correctly understand that the Senator from Nebraska is withholding his suggestion of the absence of a quorum?

Mr. HRUSKA. I am withholding it temporarily, subject to my not losing my right to the floor.

Mr. ABOUREZK. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment (No. 1723) of the Senator from Nebraska (Mr. Hruska). On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. Bumpers), the Senator from Idaho (Mr. Church), the Senator from Indiana (Mr. Hartke), the Senator from Montana (Mr. Metcalf), the Senator from Utah (Mr. Moss), and the Senator from California (Mr. Tunney) are necessarily absent.

I also announce that the Senator from Indiana (Mr. Bayh) and the Senator from Missouri (Mr. Symington) are absent because of illness.

I further announce that if present and voting, the Senator from Indiana (Mr. Bayh) and the Senator from Indiana (Mr. Hartke) would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from New York (Mr. Buckley), the Senator from New Mexico (Mr. Domenici), the Senator from Arizona (Mr. Goldwater), the Senator from New York (Mr. Javits), the Senator from Nevada (Mr. Laxalt), and the Senator from Ohio (Mr. Taft) are necessarily absent.

The result was announced—yeas 22, nays 64, as follows:

[Rollcall Vote No. 256 Leg.]

YEAS—22

Allen
Bartlett
Bellmon
Brock
Byrd,
  Harry F., Jr.
Curtis
Eastland
Fannin
Garn
Hansen
Hatfield
Helms
Hollings
Hruska
McClellan
McClure
Scott,
  William L.
Stennis
Stone
Thurmond
Tower
Young

NAYS—64

Abourezk
Baker
Beall
Bentsen
Biden
Brooke
Burdick
Byrd, Robert C.
Cannon
Case
Chiles
Clark
Cranston
Culver
Dole
Durkin
Eagleton
Fong
Ford
Glenn
Gravel
Griffin
Hart, Gary
Hart, Philip A.
Haskell
Hathaway
Huddleston
Humphrey
Inouye
Jackson
Johnston
Kennedy
Leahy
Long
Magnuson
Mansfield
Mathias
McGee
McGovern
McIntyre
Mondale
Montoya
Morgan
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Sparkman
Stafford
Stevens
Stevenson
Talmadge
Weicker
Williams

NOT VOTING—14

Bayh
Buckley
Bumpers
Church
Domenici
Goldwater
Hartke
Javits
Laxalt
Metcalf
Moss
Symington
Taft
Tunney

So Mr. Hruska's amendment (No. 1723) was rejected.

AMENDMENT 1773

Mr. WILLIAM L. SCOTT. Mr. President, I call up amendment No. 1773.

The PRESIDING OFFICER. The clerk will state it.

The assistant legislative clerk read as follows:

The Senator from Virginia (Mr. William L. Scott) proposes an amendment No. 1773:

> On page 28, line 6, strike the period and insert in lieu thereof the following: ": *Provided,* That if the State fails to establish that the defendant acted in willful violation of the antitrust laws, the monetary relief shall be reduced from treble to single damages.".

Mr. WILLIAM L. SCOTT. Mr. President, I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. WILLIAM L. SCOTT. Mr. President, this amendment provides that if a State fails to establish that the defendant acted in willful violation of the antitrust laws, the monetary relief shall be reduced from treble to single damages. It seems to me that this is a reasonable amendment. Unless it is established that there is a willful violation, it does not appear that a defendant should have to pay any more than actual damages.

I believe the committee report will indicate that I opposed this entire bill. To me, it is not the proper time for us to be doing something that would damage the recovery of our economy. In my opinion, the economy is gradually recovering, and I do not believe that we should harass the business community. More, I do not believe it is in the public interest to pass a measure of this kind. I am speaking insofar as the whole bill is concerned. I believe that it should be defeated.

Mr. ABOUREZK. Will the Senator yield?

Mr. WILLIAM L. SCOTT. I am glad to yield to the distinguished Senator on his time without losing my right to the floor.

The PRESIDING OFFICER. Is there objection? The Chair hears none. Without objection, it is so ordered.

Mr. ABOUREZK. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. ABOUREZK. Senator Hruska had an amendment a little bit earlier today dealing with treble damages, reducing them from treble damages to single.

The PRESIDING OFFICER. May we have order in the Chamber? The Chair finds it impossible to hear the Senator. May we have order in both the Chamber and the galleries?

Mr. ABOUREZK. I am curious to know if this is the identical amendment. If it is, I shall have to make a point of order against it.

Mr. WILLIAM L. SCOTT. This is amendment 1773. I do not know the amendment to which the Senator refers.

Mr. ABOUREZK. Mr. President, I make a point of order that a similar amendment has been offered and then the Chair can rule on that.

Mr. WILLIAM L. SCOTT. Mr. President, speaking on the parliamentary inquiry, on similarity—there is nothing wrong with offering similar amendments. I would say that there is something wrong with offering identical amendments.

The PRESIDING OFFICER. The Senators will suspend while the clerk gets the earlier amendment.

Can the Senator from South Dakota inform the Chair which of the amendments by Senator HRUSKA he is referring to in the point of order?

Mr. ABOUREZK. I have just compared the two amendments with minority counsel. I shall withdraw my point of order because they are different amendments.

The PRESIDING OFFICER. The point of order is withdrawn. The Senator from Virginia has the floor.

Mr. WILLIAM L. SCOTT. Mr. President, I appreciate the kindness of the Senator from South Dakota.

Speaking with regard to title IV of S. 1284, and this is the parens patriae concept, if title IV of S. 1284 is passed, the time will come when the Federal courts will find it unconstitutional. Title IV, in my opinion, is an ill-conceived attempt to clothe punitive sanctions in the garb of compensation for consumers. Not only is this device at odds with sound economic policy, but it also raises fundamental constitutional questions. The constitutional flaws in the parens patriae concept surely prove to be its undoing and we should not let it get that far.

Section 4C(a)(1) of S. 1284 sets up the basic premise:

> Any State attorney general would be empowered to bring a civil action to secure monetary relief for damages to the State's consumers caused by conduct in violation of the Sherman Act.

Although the action would nominally be brought in the name of the State, designed ostensibly to redress consumer injury, the parens patriae concept clearly is in the form of representative action. Lest there be any doubt, section 4C(a)(1) creates a new technique for computing damages and it makes it applicable both to parens patriae suits and to all consumer class actions brought under the antitrust laws.

But notwithstanding its form, the fact is that parens patriae actions would not truly be representative in operation. The accumulated experience with large consumer actions vividly demonstrates how little they actually benefit consumers. Although purportedly brought to compensate consumers for injuries too small to warrant the institution of a lawsuit, even though huge in the aggregate, these actions rarely result in direct benefits to consumers. The one fact that has emerged uncontroverted from the hearings on S. 1284 is that it is highly unusual for consumers actually to partake of the proceeds of recoveries supposedly obtained in their name.

One of many examples is the experience of the tetracycline litigation. It will be recalled that in this litigation involving dozens of cases transferred to the Federal court in New York, *State of West Virginia* v. *Chas. Pfizer & Co.*, 314 F. Supp. 710 (S.D.N.Y. 1970), aff'd 440 F.2d 1079 (2d Cir.) cert. denied 404 U.S. 871 (1970), the five defendants paid well over $200 million into a settlement fund, faced, as they were, with potential claims running well into the billions of dollars. Incidentally, even though the defendants paid these enormous sums to settle the massive claims against them, subsequent litigation with the Federal Government and with nonsettling plaintiffs resulted in judgments that the companies had not violated the antitrust laws.

The tetracycline litigation, therefore, vividly illustrates the "blackmail settlement" that is an inevitable corollary to the parens patriae concept.

Even more striking, however, is that of the over $30 million of the settlement fund earmarked to be paid to consumers, only $8 million, or somewhat less than 30 percent, was ever distributed to consumers. This dollar figure probably represents well under 30 percent of the consumer class members, for a significant number of the consumer claimants used tetracycline intensively, thus entitling them to a disproportionately large share.

Even these figures do not reflect the fact that in only a small number of cases was consumer recovery anything close to the 30 percent average. In Alabama, for example, $661,500 was earmarked for consumer compensation; only $74,000 was distributed. In Alaska $47,800 was earmarked for consumer compensation; only $1,000 was distributed. In Florida $948,000 was earmarked for consumer compensation; only $183,000 was distributed. And in Illinois $1,319,400 was earmarked for consumer compensation; only $135,800 was actually distributed.

In other words, in the litigation that proponents of the parens patriae action point to as representing the shining example of consumer class recovery, only a scant portion of the purchasing public ever received compensation paid in its name.

By contrast, the figures for attorneys' fees in these four States were $309,500, $10,000, $479,000, and $780,500, respectively—several times the amounts received by the consumers. In fact, millions of dollars more were actually paid in legal fees to the lawyers who brought the tetracycline cases than was refunded to consumers. There is little doubt, then, who are the real beneficiaries of large consumer class actions. Thus, despite the supposed character of suits like this as vindicating the interests of consumers, the vast majority of consumers in whose names consumer class actions have been brought and in whose behalf parens patriae actions would supposedly be brought have only the most attenuated interest in the outcome of these litigations. The plaintiffs' lawyers who construct these cases stand to profit most from parens patriae suits.

I hope, Mr. President, in talking about the high fees the attorneys receive that my brethren at the bar will not hold this against me because I, like many Members of this body, am or formerly was, a practicing attorney, and we certainly do not want to lose the friendship of our brethren at the bar. And yet we have the public interest to be considered in matters like this, and I believe a bill of this nature against the business community is also against the public interest.

Those sections of title IV that govern the manner in which a parens patriae action would actually be conducted confirm that representation of actual consumers is not really anticipated. Section 4C(b)(1) is illustrative, and provides:

> In any action brought under subsection (a)(1) of this section, the State attorney general shall, at such times, in such manner and with such content as the court may direct, cause notice thereof to be given by publication. If the court finds that notice by publication only would be manifestly unjust as to any person or persons, the court may direct further notice to such person or persons according to the circumstances of the case.

Mr. President, might I ask how much time I have remaining?

The PRESIDING OFFICER (Mr. HELMS). The Chair is advised that the Senator has 37 minutes remaining.

Mr. WILLIAM L. SCOTT. I thank the Chair.

Title IV thus provides that in parens patriae actions notice shall be by publication. Only in the exceptional case, and upon a judicial finding of manifest injustice, will notice of the action be given in any other way. Leaving aside, for the moment, the question of the constitutional adequacy of this provision, its draftsmen manifestly do not expect many consumers in fact to receive notice of the pendency of parens patriae actions. How could it be otherwise? How many people are aware of, much less read, legal notices published in the local newspapers? Does anyone seriously believe that this type of notice reaches more than a fraction of those to whom it is directed? Instead, by proposing notice by publication as the way to inform people that their rights are being litigated by someone purporting to act on their behalf, title IV selects a method calculated to conceal that fact.

Mr. HELMS. Mr. President, will the Senator yield on my time?

Mr. WILLIAM L. SCOTT. I would be glad to yield to the distinguished Senator from North Carolina on his time, without losing my right to the floor.

Mr. HELMS. I thank the able Senator.

Mr. President, earlier today I made a unanimous-consent request which resulted in additional time being granted to the distinguished acting manager of the bill, if that is the right identification of my distinguished colleague from North Carolina (Mr. MORGAN), and inasmuch as there seemed to be some accord now in the final hours of discussion of this bill, I would like to ask unanimous consent that the distinguished Senator from Tennessee (Mr. BROCK) be permitted to convey to the distinguished Senator from Alabama (Mr. ALLEN) 30 minutes of his time.

Mr. DURKIN. I object.

Mr. ABOUREZK. Reserving the right to object, Mr. President——

The PRESIDING OFFICER (Mr. Hatfield). There has been objection heard.

Mr. DURKIN. I request permission to withdraw the objection.

The PRESIDING OFFICER. Is there further objection?

Mr. ABOUREZK. Reserving the right to object, Mr. President, do I understand the request to be that the 30 minutes go to someone other than the Senator from North Caraolina?

Mr. HELMS. I am making this request on behalf of the distinguished Senator from Tennessee (Mr. Brock).

Mr. ABOUREZK. To give the time to Senator Allen, the Senator from Alabama?

Mr. HELMS. That is correct. There will be no additional time involved.

Mr. ABOUREZK. It would be taking 30 minutes from Senator Morgan of North Carolina and giving it to Senator Allen?

Mr. HELMS. No, 30 minutes time from Mr. Brock to Mr. Allen.

Mr. ABOUREZK. I see, Mr. Brock's time.

Mr. HELMS. Yes.

Mr. ABOUREZK. I would object to that. I thought the Senator was going to take 30 minutes of the hour given to Senator Morgan.

Mr. HELMS. I do wish the Senator would reconsider before he——

Mr. WILLIAM L. SCOTT. I wonder if the Senator understands? As I understood the distinguished Senator from North Carolina, he has indicated that additional time was given to another Senator a few minutes ago, and he is asking for the same type of action to be taken.

Mr. ABOUREZK. That was not a transfer of time from one Senator to another.

Mr. HELMS. Yes, it was. I beg the Senator's pardon. It was exactly the same thing.

The PRESIDING OFFICER. The Chair would inform the Senator that it was accomplished by a unanimous-consent transfer of time.

Mr. HELMS. Was the Senator aware of that course? I am attempting to achieve equity in the disposition of time, Mr. President. I think, as I mentioned to the distinguished Senator earlier, this would be the best 30 minutes he could invest in terms of completion of this bill, and I hope that he would not object.

Mr. ABOUREZK. Mr. President, has the Senator renewed the request yet? Has the request been renewed?

The PRESIDING OFFICER. Has the Senator renewed his objection?

Mr. HELMS. I thought the Senator withdrew his objection.

Mr. ABOUREZK. I objected.

Mr. HELMS. The Senator did?

Mr. ABOUREZK. Yes.

Mr. HELMS. Well, that puts an end to it.

The PRESIDING OFFICER. Objection has been heard.

Mr. ABOUREZK. I would like, if I might, Mr. President, to use a minute to explain why.

Mr. WILLIAM L. SCOTT. I am glad to yield to the distinguished Senator on his time without losing my right to the floor.

Mr. ABOUREZK. I think that is the rule, yes.

The leadership is restricting transferrals of time only to those people who are actively floor managing the bill on either side, if there is to be a transfer. I have just been advised of that by the Policy Committee staff.

Mr. HELMS. Will the Senator yield?

Mr. ABOUREZK. There is another possibility. If the Senator from Alabama wishes to request part of the time that was given to the Senator from North Carolina, who is managing the bill on this side, if he wants to ask for that, I will be happy to give him that 30 minutes, or half of the time given Senator Morgan.

Mr. HELMS. But that will be up to the Senator from Alabama. I was simply complying with a request on behalf of the Senator from Tennessee (Mr. Brock).

I do not know whether the Senator from Alabama wants to request it in his own right, or not.

Mr. ABOUREZK. I have to object to that.

I reserve the remainder of my time.

Mr. HELMS. I thank the Chair and the Senator.

Mr. WILLIAM L. SCOTT. Mr. President, I ask unanimous consent that the colloquy that has just taken place be placed at an appropriate place in the Record so as not to conflict with the continuity of my statement.

Mr. DURKIN. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. WILLIAM L. SCOTT. Mr. President, these type requests are routinely granted as a courtesy by one Senator to another. But the distinguished junior Senator certainly has a right to object, so I will continue with my statement.

Rather revealing comments about the efficacy of notice by publication can be found in an article by David I. Shapiro, attorney for the plaintiffs in several large consumer class actions, one of the principal proponents of the parens patriae concept. In this article entitled "Processing the Consumer's Claim," and which appears in volume 41 of the American Bar Association Antitrust Law Journal at page 257, Mr. Shapiro describes the response to notice by publication in the tetracycline antibiotic drug litigation. This notice was printed, not at the outset of the litigation, but after a settlement agreement had been reached in principle, in other words, when consumers clearly stood to gain financially by responding to the notice. Mr. Shapiro, at pages 263–264, describes the response to the notice this way:

> The *Antibiotics* consumer notice appeared once, on or about July 1, 1969, in every daily newspaper of general circulation in each participating jurisdiction; in addition to English language newspapers, notices were also published in Spanish and Japanese newspapers. The notice described the status of the litigation, advised consumers about their choice between opting out and being bound by the judgment and about their right to appear separately, and then went on to give instructions for the filing of claims, stating that failure to file a claim by August 16, 1969, would constitute an authorization for public utilization of unclaimed funds.
>
> The initial response to the printed notice was disappointing. Although counsel and the court had done their best to phrase the notice in language comprehensible to the layman and although the quarter-page notice, with a large heading, was calculated to catch the eye, relatively few claims came in the early days of the month-and-a-half claim period and some of the responses reflected a lack of understanding." (citations omitted).

Mr. Shapiro then writes of the extraordinary measures it took to elicit some consumer response:

> Accordingly, we began a hasty campaign to increase the publicity given the matter. We arranged for Ralph Nader, Esq. to appear on the "Today" television show to discuss the matter and encourage the filing of claims. We also enlisted the help of the National Association of Broadcasters in urging its member stations to broadcast announcements. The Federal Communications Commission was persuaded to classify them as 'public service announcements' for purposes of the time accountings that the stations submit when seeking renewal of their licenses. In addition, the matter was publicized through communications by congressmen with their constituents, public statements by various state attorneys general, and coverage in various news media, union newsletters and the like.

The tetracycline litigation was extraordinary in its dimensions, and, as this excerpt from Mr. Shapiro's article illustrates, rather extraordinary means were used to publicize it. Nevertheless, as I mentioned earlier, far less than 30 percent of the consumers supposedly represented ever saw a penny of the millions paid in settlement.

As to the effectiveness of notice by publication, even Mr. Shapiro—at page 267—concludes that "any kind of printed legal notice, however it may be dressed up, can serve only to intimidate or discourage those to whom it is addressed." Not that Mr. Shapiro thinks that suitable methods of notification cannot be devised. He suggests—at page 268—"a comprehensive program of television and radio announcements during hours that will maximize exposure. In order to dramatize the message it should be given by a public official, for example, the State attorney general or perhaps even the judge presiding over the case."

Given the fact that S. 1284 has gotten as far as it has even though absolutely astounding in many ways, one hesitates to brand any idea as pure fantasy. But the prospect of the bicentennial minute being replaced by the daily prime time legal notice—propounded, no doubt, by Federal judges wearing pastel robes—is almost too bizarre to contemplate. How eager broadcasters would be to provide free time for plaintiffs suing their advertisers is another wrinkle that gives one pause; it is more realistic, it would seem, to conclude that title IV really does not contemplate actual notice reaching consumers.

This suspicion is confirmed by the provision title IV makes for the distribution of damages.

Mr. President, I would like for more Senators to be in the Chamber while I am making this talk. I suggest the absence of a quorum.

Mr. ABOUREZK. Will the Senator withhold that briefly?

Mr. WILLIAM L. SCOTT. Mr. President, I will be glad to hear why the distinguished Senator wants me to withhold.

Mr. ABOUREZK. First of all, I would like to ask unanimous consent that the statement of the Senator from Virginia show no interruption due to the colloquy which we had earlier.

Mr. DURKIN. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. WILLIAM L. SCOTT. I appreciate the efforts of my distinguished friend.

QUORUM CALL

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ABOUREZK. Mr. President, was there intervening business between now and the last quorum call?

The PRESIDING OFFICER. The quorum call is already in process. I would have to inform the Senator that it is too late to put that query.

Mr. ABOUREZK. Has anyone answered the quorum call yet?

The PRESIDING OFFICER. The quorum call is in process. The clerk will continue to call the roll.

The second assistant legislative clerk called the roll and the following Senators entered the Chamber and answered to their names:

[Quorum No. 17 Leg.]

Abourezk
Allen
Baker
Bellmon
Burdick
Durkin
Gravel
Hatfield
Helms
Hruska
Huddleston
Mansfield
Scott, William L.
Talmadge
Young

The PRESIDING OFFICER. A quorum is not present.

Mr. MANSFIELD. Mr. President, I move that the Chair direct the Sergeant at Arms to request the presence of the absent Senators.

Mr. ALLEN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. BUMPERS), the Senator from Idaho (Mr. CHURCH), the Senator from Indiana (Mr. HARTKE), the Senator from Hawaii (Mr. INOUYE), the Senator from Mississippi (Mr. STENNIS), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I also announce that the Senator from Indiana (Mr. BAYH) and the Senator from Missouri (Mr. SYMINGTON) are absent because of illness.

Mr. GRIFFIN. I announce that the Senator from New York (Mr. BUCKLEY), the Senator from New Mexico (Mr. DOMENICI), the Senator from Arizona (Mr. GOLDWATER), the Senator from Nevada (Mr. LAXALT), and the Senator from Maryland (Mr. MATHIAS) are necessarily absent.

The result was announced—yeas 85, nays 2, as follows:

[Rollcall Vote No. 257 Leg.]

YEAS—85

Abourezk
Allen
Baker
Bartlett
Beall
Bellmon
Bentsen
Biden
Brock
Brooke
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Clark
Cranston
Culver
Curtis
Dole
Durkin
Eagleton
Eastland
Fannin
Fong
Ford
Garn
Glenn
Gravel
Griffin
Hansen
Hart, Gary
Hart, Philip A.
Haskell
Hatfield
Hathaway
Helms
Hollings
Hruska
Huddleston
Humphrey
Jackson
Javits
Kennedy
Leahy
Long
Magnuson
Mansfield
McClellan
McClure
McGee
McGovern
McIntyre
Metcalf
Mondale
Montoya
Morgan
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Scott, William L.
Sparkman
Stafford
Stevens
Stevenson
Stone
Taft
Talmadge
Thurmond
Tower
Williams
Young

NAYS—2

Johnston
Weicker

NOT VOTING—13

Bayh
Buckley
Bumpers
Church
Domenici
Goldwater
Hartke
Inouye
Laxalt
Mathias
Stennis
Symington
Tunney

So the motion was agreed to.

The PRESIDING OFFICER. A quorum is now present.

Mr. ABOUREZK. First of all, I would like to ask unanimous consent that the soliloquy delivered by the Senator from Virginia (Mr. WILLIAM L. SCOTT), appear uninterrupted by the preceding dialog that took place during——

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ABOUREZK. Mr. President, I yield myself 1 minute of my time.

Mr. WILLIAM L. SCOTT. Mr. President, a parliamentary inquiry.

Mr. ABOUREZK. Mr. President, I have the floor.

Mr. WILLIAM L. SCOTT. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. WILLIAM L. SCOTT. The parliamentary inquiry is whether or not I lost the floor, having possession of the floor before the quorum call.

The PRESIDING OFFICER. The Senator from Virginia lost the floor when he suggested the absence of a quorum.

The Senator from South Dakota now has the floor.

Mr. ABOUREZK. Mr. President, the first thing I say is that, according to an informal understanding we arrived at by osmosis a couple hours ago, we have not been trying to table the amendments that have been brought up by the opposition. We have not done that because the informal agreement was that there would be no more dilatory tactics on the part of the opposition.

While Senator WILLIAM L. SCOTT was delivering his speech, in the middle of the speech he said, "I want to see more Senators come on the floor," and he suggested the absence of a quorum. When he did that, the quorum call went live and there were not enough Senators present in the Chamber. Then we had to have a rollcall vote on directing the Sergeant at Arms to request the attendance of absent Senators.

It seems to me that any kind of understanding on our part will not be taken seriously by the other side. I do not fervently desire to do this, but I am forced into it, Mr. President.

I move to lay on the table the amendment of the Senator that was the amendment that is being considered at this time, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. BUMPERS), the Senator from Idaho (Mr. CHURCH), the Senator from Indiana (Mr. HARTKE), the Senator from Hawaii (Mr. INOUYE), the Senator from California (Mr. TUNNEY), the Senator from Montana (Mr. METCALF) and the Senator from Louisiana (Mr. JOHNSTON) are necessarily absent.

I also announce that the Senator from Missouri (Mr. SYMINGTON), and the Senator from Indiana (Mr. BAYH) are absent because of illness.

I further announce that, if present and voting, the Senator from Indiana (Mr. BAYH) and the Senator from Indiana (Mr. HARTKE) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from New York (Mr. BUCKLEY), the Senator from New Mexico (Mr. DOMENICI), the Senator from Arizona (Mr. GOLDWATER), the Senator from Nevada (Mr. LAXALT), and the Senator from Maryland (Mr. MATHIAS) are necessarily absent.

The result was announced—yeas 51, nays 35, as follows:

[Rollcall Vote No. 258 Leg.]

YEAS—51

Abourezk
Biden
Brooke
Burdick
Byrd, Robert C.
Cannon
Case
Clark
Cranston
Culver
Durkin
Eagleton
Ford
Glenn
Gravel
Hart, Gary
Hart, Philip A.
Haskell
Hatfield
Hathaway
Hollings
Huddleston
Humphrey
Jackson
Javits
Kennedy
Leahy
Magnuson
Mansfield
McGee
McGovern
McIntyre
Mondale
Montoya
Morgan
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pell
Proxmire
Randolph
Ribicoff
Schweiker
Scott, Hugh
Stafford
Stevenson
Weicker
Williams

NAYS—35

Allen
Baker
Bartlett
Beall
Bellmon
Bentsen
Brock
Byrd, Harry F., Jr.
Chiles
Curtis
Dole
Eastland
Fannin
Fong
Garn
Griffin
Hansen
Helms
Hruska
Long
McClellan
McClure
Pearson
Percy
Roth
Scott, William L.
Sparkman
Stennis
Stevens
Stone
Taft
Talmadge
Thurmond
Tower
Young

NOT VOTING—14

Bayh
Buckley
Bumpers
Church
Domenici
Goldwater
Hartke
Inouye
Johnston
Laxalt
Mathias
Metcalf
Symington
Tunney

So the motion to lay on the table was agreed to.

Mr. MANSFIELD. Mr. President, on yesterday, we had 16 votes, a few of them undoubtedly a stalling operation, a delaying tactic. Today, we have nine so far, some of them stalling and some of them delaying. For the information of the Senate, it is my intention to object to committees meeting from now on except for the most extraordinary reasons; secondly, for the information of the Senate, we will be in this Saturday; third, for the information of the Senate, it is my intention at an appropriate time later in the evening—and we will be in late tonight—to ask unanimous consent and if that fails, to move that the Senate stand in recess until the hour of 8 o'clock tomorrow morning.

The PRESIDING OFFICER (Mr. HELMS). Who yields time?

Mr. WILLIAM L. SCOTT. Mr. President, it is good to see additional Senators on the floor. The remarks that I am making, to a large extent, have been prepared by the staff of the Committee on the Judiciary. I think they are very important matters that are being brought to the attention of the Senate. I only have 37 minutes remaining. I ask unanimous consent that I be allocated another 30 minutes so that I can complete my remarks.

The PRESIDING OFFICER. Is there objection? The Chair hears none. Without objection, it is so ordered.

Mr. ABOUREZK. Mr. President, what was the request? Reserving the right to object.

Mr. WILLIAM L. SCOTT. The Chair has already ruled, Mr. President.

The PRESIDING OFFICER. The Chair has already ruled.

Mr. WILLIAM L. SCOTT. Mr. President——

Mr. ABOUREZK. A parliamentary inquiry: What was the ruling?

The PRESIDING OFFICER. The Senator from Virginia has the floor.

Mr. WILLIAM L. SCOTT. Mr. President, the distinguished Senator did ask unanimous consent and obtained unanimous consent of the Senate that my remarks be continuous. I appreciate that.

This suspicion is confirmed by the provision title IV makes for the distribution of damages. Section 4C(c)(2) provides for the distribution of damages—nominally awarded as compensation for consumer injury—"either in accordance with State law or as the district court may in its discretion authorize." Both proponents and opponents of title IV agree that this provision was inserted to guide district courts in distributing recoveries that are certain to exceed several-fold the actual consumer claims. Thus written into the statutory language is the draftsmen's expectation, justified by experience, that the majority of the compensation awarded will never find its way to consumers.

The evident and irreconcilable contradiction between the form of the parens patriae action and its reality creates several constitutional problems. Foremost is whether a parens patriae action would realy be a "case," as that term is used in the Constitution. Article III of the Constitution limits the judicial power of the U.S. courts to "cases" and "controversies." This has always been interpreted to mean that the Federal courts lack the power to entertain any lawsuit except one that places in issue concrete interests of actual parties, and it is forthis reason that advisory opinions or hypothetical issues have always been held to be outside of the scope of the Federal judicial power. Once one understands that a vast preponderance of consumers have no knowledge of, much less any real interest in, lawsuits instituted purportedly on their behalf, it becomes clear that a parens patriae action, and even a consumer class action of sufficient breadth, does not present an actual controversy within the meaning of the Constitution.

Let me illustrate. Assume that a person with a bit of time on his hands wrote the following letter to a Federal judge:

> Dear Judge, a lawyer friend of mine told me he read that some consumers paid an extra dollar last year for popcorn at moviehouses, because the makers of bearings in popcorn-buttering machines got together and fixed their prices. I went to the movies last year. I don't know if anyone is planning to sue about this, but if they do, judge, print a notice in the paper. Better yet, my lawyer friend says you should show it on T.V. between "The Price is Right" and "Let's Make a Deal." If I see that notice and if I don't like the person bringing the lawsuit and I'd rather do it myself, chances are one in five I'll let you know. But if I don't write to you, assume anyway that I saw the notice and that I want the case to go forward in my name. You don't have to tell me anything if the case is lost; I'm not interested in bad news. But drop me a line in case I win anything, and tell me how much I stand to gain. Even if anybody did anything wrong, I only lost a dollar, but you never know, I might want to go to the trouble to collect my money, and even if I don't I guess someone could put it to good use.

There cannot be much doubt what would happen to this so-called "lawsuit." No judge would consider this an actual case. There would be no reason to believe that the so-called plaintiff was really interested in the prosecution of the action. There would be no reason to believe that he really had a "personal and concrete" stake in the outcome. And there would be no reason to believe that he would even bother to collect the proceeds of any judgment in his favor. But a parens patriae lawsuit would not be even this concrete, for instead of the letter-writer himself, the judge would be confronted by a lawyer claiming to represent him. Putting aside, for the moment, the question of a State attorney general's standing to represent the interests of consumers in his State, a parens patriae lawsuit calls upon a Federal court to exercise the Federal judicial power and to expend the energy and resources inherent in adjudication for something like a 30 percent probability that the ostensible beneficiary of the action will take any interest in it. How can this be called an actual case?

Erwin Griswold, formerly Solicitor General of the United States and dean of Harvard Law School, is one of the Nation's leading constitutional law scholars. In a thoughtful paper submitted to the Judiciary Committee, Dean Griswold concluded that a parens patriae action would not meet the constitutional "case or controversy" requirement.

Does the distinguished Senator from Alabama want me to yield?

Mr. ALLEN. For a question only.

Mr. WILLIAM L. SCOTT. For a question only, without losing my right to the floor, and with the request that this appear at the conclusion of my remarks.

Mr. ALLEN. I thank the Senator.

Mr. ABOUREZK. Mr. President, reserving the right to object, is the Senator from Virginia making a unanimous-consent request?

The PRESIDING OFFICER. Does the Senator from Virginia yield, and, if so, to whom and for what purpose?

Mr. WILLIAM L. SCOTT. I will be glad to yield to the distinguished Senator from Alabama without losing my right to the floor, and I yield for a question only.

The PRESIDING OFFICER. That will require unanimous consent.

Mr. ALLEN. He can yield for a question without his losing his right to the floor.

The PRESIDING OFFICER. The Senator is correct.

Mr. ALLEN. Will the Senator yield for a question?

Mr. WILLIAM L. SCOTT. Provided I do not lose my right to the floor.

The PRESIDING OFFICER. The Senator will not lose his right.

Mr. WILLIAM L. SCOTT. Very well.

Mr. ALLEN. I was impressed with the distinguished Senator's eloquence, and I would like to ask the Senator if it is not reassuring to him that the Senate has been so impressed with his remarks and so imbued with his remarks that they raised no objection when the distinguished Senator asked for an additional 30 minutes to further elucidate upon this subject. Must it not be and is it not very reassuring to the Senator?

Mr. WILLIAM L. SCOTT. Mr. President, it is reassuring, but certainly I would not want to interpret the reason for granting the additional 30 minutes. I am very grateful that no Senator did raise an objection, so that I will have an hour and a half instead of the usual hour that is permitted under the rule. I thank the Senate for that privilege.

Mr. ALLEN. I think the Senator is entitled to the use of that time, and I am sure he will make great use of it.

Mr. WILLIAM L. SCOTT. I was reading from a letter——

Mr. MANSFIELD. Mr. President, will the Senator yield without losing his right to the floor?

Mr. WILLIAM L. SCOTT. For a question.

Mr. MANSFIELD. Mr. President, I think the idea of cloture is being ground into the ground. Had I been on the floor at the time this request was made I would have objected to it. I would hope that the Senate will learn a lesson from the lesson which it is being taught on the basis of the invocation of cloture and the length to which it can be carried.

I think this is making a mockery of the will of the majority of the Senate, and I even disapprove of time being transferred from one Senator to another.

Certainly I disapprove completely of an additional half hour being granted by unanimous consent to any Senator because I think it goes contrary to the intent and the spirit of cloture and what it means and what is states. I thank the Senator.

Mr. WILLIAM L. SCOTT. Mr. President, I appreciate the remarks of the distinguished majority leader. I am grateful to the Senate for granting the additional 30 minutes. Frankly, I made the request in jest, but it was granted, and I intend to take advantage of the additional 30 minutes. I fully anticipated that there would be objection. None having been made, I do want to take the opportunity of completing my remarks.

Mr. President, I was reading from a statement by the dean of Harvard Law School, Dean Griswold. He explained:

> [T]he persons on whose behalf recovery is attained make no claim, are not parties to the case, and provide no proof. For the most part, they are simply unknown. Although no precise authority on this question is known—probably because the possibility of such a contention has seemed so far-fetched—it seems obvious that a claim on behalf of such persons does not meet the requirements of Article III of the Constitution, limiting the jurisdiction of the Federal courts to "cases and controversies" since such a claim does not arise between actual parties, presenting a real issue and supported by proof designed to show an actual, rather than a supposed or hypothetical, injury.

Another of the Nation's leading constitutional scholars and respected authority on the subject of the jurisdiction of the Federal courts, Frances R. Kirkham, has also expressed grave doubts about whether large actions, purportedly on behalf of consumers, are in fact "cases" as that term is used in article III of the Constitution. Mr. Kirkham has noted:

> Under our traditional law, and under our Constitution, the business of the courts is to decide cases and controversies. It may well be questioned whether a proceeding to declare the rights of a person who lacks sufficient interest in his claim to bring himself before the court is justiciable as a case or controversy. In any event, the awarding of damages measured by a *de minimis* injury to a person uninterested in adjudicating the claim, or even in accepting damages, when awarded, can only be justified, as noted above, on the assumption that courts should change their role from a "passive one" of dealing in compensation to parties before them to an "active one" of extracting money, in the absence of a controversy, from alleged wrongdoers.

Mr. President, may I add parenthetically, that we talk about the great case law, all the backlog of cases that our Federal courts have, the need for additional judges, and the Senate has just recently passed a bill that is pending before the House of Representatives that would provide for additional Federal judges, and if this bill should be passed, if it should be signed by the President—and I would hope it would not be signed if it does reach the White House—but I wonder if it would not add materially to the burden of our Federal courts and, unnecessarily so, in a very unwise and unreasonable fashion.

Mr. Kirkham's remarks were delivered before the "National Conference on the Causes of Popular Dissatisfaction with the Administration of Justice," a conference recently held in St. Paul, Minn., to commemorate the 70th anniversary of Dean Roscoe Pounds' historic speech that gave the conference its name. Mr. Kirkham's topic was "Problems of Complex Civil Litigation," and I recommend his probing analysis in its entirety. Mr. Kirkham bolstered his contention that large class damage suits do not raise constitutional "cases" and "controversies" by quoting from the same article by David Shapiro to which I referred earlier.

In that article, Mr. Shapiro quotes some of the responses from the nominal plaintiffs, consumers, in a tetracycline case that later proceeded to trial, resulting, as did all litigated tetracycline cases, in a judgment for the defendants. These responses to notices that their interests were being litigated in a drug case included the following:

> DEAR MR. CLERK:
>
> I would like to know why I am a party to this action that I don't know anything about. Who made me a party to anything? (I am a democrat.)
>
> * * * * *
>
> DEAR SIR:
>
> Our son Bill is in the Navy stationed in the Caribbean someplace. Please let us know exactly what kind of drugs he is accused of taking. From a mother who will help if properly informed. A worried mother. Jane Doe.
>
> * * * * *
>
> DEAR MR. MORGAN:
>
> I received your card about the lawsuit and I would like to know how much I owe and can I pay it off by the month so I won't have to go to court? If I can pay by the month, I will do just that as soon as I hear from you.

These were not the responses of informed litigants, much less of litigants who perceived themselves to have a direct and immediate stake in the outcome of the litigation. There is no reason to believe that the response to a parens patriae action would be any different. This type of consumer interest, in short, is not the stuff of "case" or "controversy."

Nor is the problem cured because some consumers may indeed be aware of a parens patriae action and have an actual interest in its outcome. To quote Dean Griswold again:

> Surely the fact that some members of the class may be properly before the court does not mean that there is a case or controversy with respect to other members of the class. The fact that there is a case or controversy with respect to a named or identified plaintiff, does not give the court jurisdiction to decide other and hypothetical or abstract questions. Thus, a plaintiff that is properly before the court could not say: "And, by the way, we would like to have you declare this other, unrelated, statute unconstitutional." Cf. *Muskrat* v. *United States*, 219 U.S. 346 (1911).
>
> Similarly, the fact that proof is provided by some members of the class who are before the court does not necessarily mean that there is a case or controversy with respect to other members of the class who make no proof at all either of actual injury, or of damages. The fact that others may seek to provide some sort of proof on their behalf does not mean that there is an actual controversy on such matters before the court. Under Article III, the court has no constitutional power to decide such collateral questions, on behalf of parties not before the court, and making no claims, and the Congress should not seek to assign such powers to the courts under our constitutional system.

As responsible legislators who have taken an oath to uphold the Constitution, we should heed Dean Griswold's sound advice on the proper limits, imposed by the Constitution, on the uses to which the Federal courts can be put.

Even assuming that there were interested consumers to represent, that representation cannot constitutionally be undertaken by a State attorney general. Having suffered no personal injury himself, this political official may not seek redress for any injury suffered by another. A simple example will illustrate. If my local postman gets bitten on the leg by my neighbor's dog, I cannot go into court and seek damages for the postman's injury. He can go into court to seek redress for his own injuries, but I am not permitted to bring his lawsuit in my name even if I solemnly assure the court that, if I win, I will give any court award to the postman. This is what the law calls "standing." In the illustration I have just given, the injury is the postman's; it is not mine, and I have no right to assert it. The Supreme Court has often held that the requirement of standing is part of the case or controversy requirement under Article III of the Constitution. This is not to say that Congress is wholly lacking in power to confer standing to sue. But in the Supreme Court's most recent major expression on standing, *Warth* v. *Seldin*, 422 U.S. 490 (1975), the Court made clear that, because the standing requirement stems from Article III, Congress does not have a free hand to authorize would-be litigants to represent and assert the rights of others.

Warth v. *Seldin* was a lawsuit brought by citizen organizations and residents of Rochester, N.Y., and local builders to contest the validity of a zoning ordinance in the town of Penfield, adjacent to Rochester.

The plaintiffs contended that Penfield's zoning ordinance discriminated against people of low and middle income. The plaintiffs were suing purportedly "on behalf of themselves, and all persons similarly situated," but the zoning ordinance had not been applied directly to them.

In concluding that the action had to be dismissed because the plaintiffs lacked standing to bring it, the Supreme Court said (422 U.S. at 499):

> The Art. III judicial power exists only to redress or otherwise to protect against *injury to the complaining party*, even though the court's judgment may benefit others collaterally. (Emphasis supplied.)

As to the power of Congress to confer standing, the Court stated (422 U.S. at 501):

> Congress may grant an express right of action to persons who otherwise would be barred by prudential [or non-Constitutional] standing rules. Of course, Art. III's requirement remains: the plaintiff still must allege *a distinct and palpable injury to himself*, even if it is an injury shared by a large class of other possible litigants. *E.g., United States*

> v. *SCRAP*, 412 U.S. 669 (1973). (Emphasis added.)

And, of particular importance to the legitimacy of a suit for money damages brought by a political official without a financial interest in the action, the Court noted:

> Petitioners must allege and show that *they personally* have been injured, *not that injury has been suffered by other, unidentified members of the class . . . which they purport to represent*. Unless these petitioners can thus demonstrate the requisite case or controversy between themselves *personally* and respondents, "none may seek relief on behalf of himself or any other member of the class." *O'Shea* v. *Littleton*, 414 U.S. 488, 494 (1974). (422 U.S. at 502) (Emphasis added.)

These words mean that under our Constitution no one may bring suit in the Federal courts to redress wrongs done to others, even in a representational capacity, unless he himself has suffered the identical injury.

Mr. President, I am glad to yield to the distinguished Senator from Rhode Island if I may do so without losing my right to the floor.

Mr. PASTORE. I thank the Senator.

The PRESIDING OFFICER (Mr. HANSEN). The Senator may yield for a question without losing his right to the floor.

Mr. WILLIAM L. SCOTT. I ask unanimous consent to yield to the distinguished Senator from Rhode Island without losing my right to the floor. It is at the request of the Senator from Rhode Island.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

LEAVE OF ABSENCE

Mr. PASTORE. Mr. President, I ask unanimous consent to be excused from attendance in the Senate between the hours of 4:30 this afternoon and 12 o'clock noon tomorrow. There is a death in the family of one of my employees in the Providence office and I feel that I should return home.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE ANTITRUST IMPROVEMENTS ACT OF 1976

Mr. GRIFFIN. Will the Senator yield to me under the same conditions?

Mr. WILLIAM L. SCOTT. Mr. President, by unanimous consent and without losing my right to the floor, I will be glad to yield to the distinguished Republican whip.

Mr. GRIFFIN. It is for a unanimous-consent request.

Mr. ABOUREZK. Reserving the right to object, Mr. President——

The PRESIDING OFFICER. Without objection, the Senator is recognized.

Mr. GRIFFIN. I ask unanimous consent that Gill Clark of my staff have access to the floor during the debate and votes on H.R. 8532.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WILLIAM L. SCOTT. Mr. President, I ask unanimous consent that the colloquies and the addresses to the Chair follow after the conclusion of my remarks.

Mr. ABOUREZK. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. WILLIAM L. SCOTT. Returning to my remarks: This principle is also embodied in rule 23(a) of the Federal Rules of Civil Procedure, the rule governing the maintenance of class actions in the Federal courts, which provides that no class action of any kind may be maintained unless—

> (3) the claims or defenses of the representative parties are typical of the claims or defenses of the class, and (4) the representative parties will fairly and adequately protect the interest of the class.

And the Supreme Court has made clear that this requirement stems from the Constitution itself. See *Hansberry* v. *Lee*, 311 U.S. 32 (1940).

Given these rather clear rules of constitutional adjudication, how can it be asserted that State attorneys general may constitutionally bring suit seeking the award of damages for injuries allegedly done to others? Philip A. Lacovara, a former Deputy Solicitor General and Counsel to the Watergate Special Prosecutor, and an expert on constitutional law, concluded that such an assertion was impossible. In a paper presented to the Judiciary Committee he stated:

> Since these principles are founded upon the constitutional limits on Federal judicial power, it would seem plain that a state official could not validly be authorized to go into a federal court to recover 'damages' allegedly incurred by others unless he satisfies the constitutional requirement, codified in Rule 23, that he must be a member of the class he seeks to represent. Otherwise, no matter how worthy the goal, the *parens patriae* device is simply not one the Constitution allows.

Of even greater constitutional gravity is the so-called "fluid recovery" mechanism embodied in title IV. This mechanism is flagrantly unconstitutional, and this method for assessing and computing damages has been repeatedly rejected by the courts on constitutional grounds. Despite these constitutional objections, section 4C(c)(1) of title IV would establish these discredited procedures for the assessment of damages. It provides:

> In any action brought under subsection (a)(1) of this section, and in any class action on behalf of natural persons under Section 4 of this act, damages may be proved and assessed in the aggregate or on the basis of statistical or sampling methods, or such other reasonable method of estimation as the court in its discretion may permit, without separately proving the fact or amount of individual injury or damage to such natural persons.

The "fluid recovery" concept is intended to glide over the difficulties inherent in proving the fact and amount of consumer injury caused by violations of the antitrust laws and over the problems inherent in actions for the maintenance of large class actions generally. The maintenance of antitrust actions even on behalf of individual consumers has proved to be somewhat difficult, since the fact that consumer injury is rarely a direct consequence of anticompetitive conduct and this economic fact of life makes it difficult to determine whether any injury has in fact been suffered. Prof. Milton Handler, for years preeminent among the Nation's antitrust authorities, explained the difficulties in a recent article in the April, 1976, Yale Law Journal:

> The overwhelming majority of price-fixing suits brought by the Department of Justice from 1971 to 1975 have alleged conspiracies in areas of the economy far removed from the consumer, with the result that the price-fixed item is generally a miniscule component of the product or service that the consumer purchases. For example, many of these suits have involved items such as plumbing fixtures, gypsum wall board and plaster, gas vent pipe, plastic pipe fittings, concrete and concrete block, toilet seats and overhead garage doors, which consumers typically acquire only as component parts of new or used houses. Similarly, the Department has charged price-fixing conspiracies affecting zipper sliders, which consumers ultimately acquire as a minute component of the articles or clothing they purchase, and with respect to the paper labels which are put on some bottles and cans and which are thus included as a minor incident to the grocery or supermarket.
>
> Even further removed from customers are the conspiracies charged by the Government affecting, for example, diamond grit for industrial grinding, chromite sand used to make molds for steel ingot, nylon netting used for shrimp and salmon fishing, and chemicals used to make plastics and herbicides, all of which have only the most speculative connection with goods or services actually sold to consumers. On the other hand, in another group of cases involving local price-fixing conspiracies by wholesalers of bread, dairy products, meat, eggs and produce, consumers do purchase the price-fixed items as such, but only after they have been bought and sold at one or more intervening, competitive levels in the chain of distribution.
>
> The problem in all of these situations where the consumer does not deal directly with an alleged price-fixer is that he cannot establish a claim merely by proving that there has been an antitrust violation; rather, in order to show that he has been injured, the consumer must also demonstrate that there was an overcharge which reached him by being passed from one level to another in the chain of distribution.
>
> The extreme (indeed, insuperable) difficulty of trying to prove the pass-on of an overcharge was articulated at length by Justice White in his now classic opinion in Hanover Shoe. The plaintiff in that case was a shoe company that claimed it had been overcharged as a result of the defendant's policy of only leasing, as opposed to selling, its shoe-manufacturing machinery, thereby raising the total cost to the user of the machinery in question. By way of defense, the defendant argued that the plaintiff had suffered no injury since it had 'passed-on' any overcharge to its own customers by increasing the prices at which it sold shoes.
>
> In rejecting this defense, the Court stressed the virtual impossibility of trying to establish a causal link between an overcharge incurred by a business in acquiring supplies or equipment and the pricing decisions of that company's executives in the different and presumably competitive market in which it sells. Justice White noted:
>
> "Normally the impact of a single change in the relevant conditions cannot be measured after the fact; indeed a businessman—

Mr. ABOUREZK. Mr. President——

Mr. WILLIAM L. SCOTT. Mr. President, I cannot yield at this time. I want to continue.

Mr. ABOUREZK. I want to renew my request——

The PRESIDING OFFICER. The Senator from Virginia has the floor. Does the Senator yield?

Mr. WILLIAM L. SCOTT. Mr. President, without knowing the reason why the distinguished Senator asks me to yield, I am unable to yield at this time.

Mr. ABOUREZK. I would like to——

The PRESIDING OFFICER. The Senator declines to yield. The Senator from Virginia may proceed.

Mr. ABOUREZK. Will the Senator yield for a question?

Mr. WILLIAM L. SCOTT. Mr. President, I want to accommodate my distinguished friend, but I certainly do not want to be taken off of the floor to have any parliamentary inquiries addressed, or something that would in some way be detrimental to my completing my statement.

If the Senator wants to privately let me know why he wants me to yield, I would try to accommodate him. In the absence of that, I do not yield.

The PRESIDING OFFICER. The Senator declines to yield. The Senator from Virginia may proceed.

Mr. WILLIAM L. SCOTT. Mr. President, I do yield for a unanimous-consent request, without relinquishing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ABOUREZK. Mr. President, I ask unanimous consent that the Senator's remarks appear in the RECORD without interruption from the previous colloquy that was had a little earlier, under the previous order we assented to.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ABOUREZK. Mr. President, a parliamentary inquiry.

Mr. WILLIAM L. SCOTT. I do not yield for that purpose.

The PRESIDING OFFICER. The Senator from Virginia declines to yield.

Mr. WILLIAM L. SCOTT. Mr. President, I appreciate the kindness of the Senator's remarks——

Mr. ABOUREZK. A point of order, Mr. President. I raise a point of order.

Mr. WILLIAM L. SCOTT. Mr. President, continuing my remarks——

The PRESIDING OFFICER. The Senator must be yielded to to raise a point of order.

Mr. WILLIAM L. SCOTT. Mr. President, I decline to yield for that purpose at this time.

The PRESIDING OFFICER. The Senator from Virginia has the floor.

Mr. ABOUREZK. The Senator from Virginia has no time remaining. The Chair just rescinded his 30 minutes.

Mr. WILLIAM L. SCOTT. Mr. President, Justice White noted:

> Normally the impact of a single change in the relevant conditions cannot be measured after the fact; indeed a businessman may be unable to state whether, had one fact been different (a single supply less expensive, general economic conditions more buoyant, or the labor market tighter, for example), he would have chosen a different price. (392 U.S. 492–493.)

Indeed, even in the best possible circumstances, where, by hypothesis, "it could be shown that the buyer raised his price in response to, and in the amount of——

Mr. ABOUREZK. Mr. President, point of order.

The PRESIDING OFFICER. The Senator from Virginia has the floor. Does he desire to yield?

Mr. WILLIAM L. SCOTT. No, I do not, Mr. President.

Mr. ABOUREZK addressed the Chair.

Mr. WILLIAM L. SCOTT. Mr. President, may we have order in the Chamber so that I can complete my remarks?

The PRESIDING OFFICER. The Senator from Virginia has the floor.

Mr. ABOUREZK. The Senator from Virginia has no more time. Regular order.

The PRESIDING OFFICER. The Senator from Virginia has the floor.

Mr. ABOUREZK. Regular order.

Mr. WILLIAM L. SCOTT. It could be shown that the——

Mr. KENNEDY. Regular order.

Mr. WILLIAM L. SCOTT. Buyer raised his price in response to, and in the amount of the overcharge it would still be impossible to prove——

Mr. ABOUREZK. I asked for regular order, Mr. President.

Mr. WILLIAM L. SCOTT. Mr. President, may we have order?

The PRESIDING OFFICER. The regular order is for the Senator from Virginia to continue.

Mr. ABOUREZK. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator is out of order.

Mr. ABOUREZK. Has the Senator from Virginia time remaining?

Mr. WILLIAM L. SCOTT. That the buyer's price increase——

The PRESIDING OFFICER. The Senator from Virginia has the floor.

Mr. WILLIAM L. SCOTT. Represented the pass-on of that overcharge since:

> There would remain the nearly insuperable difficulty of demonstrating that the particular plaintiff could not or would not have raised his prices absent the overcharge or maintained the higher price had the overcharge been discontinued.
>
> In short, in what the Supreme Court referred to as "the real economic world rather than an economist's hypothetical model," it is inherently impossible to reconstruct the subjective dynamics of a past pricing decision, much less determine what that decision would have been if a particular cost item had been less expensive.

The proponents of the bill say they are merely providing for efficient procedure when they purport to dispense with the need to prove either the fact or the amount of individual injury. But what the Supreme Court made clear in Hanover Shoe and Professor Handler explained in his article, there may be no consumer injury at all from an antitrust violation at some remote level in the manufacturing process. I have taken the liberty of quoting Professor Handler's article at length because it amply illustrates how section 4C(c)(1), by dispensing with the necessity of "proving the fact or amount of individual injury," simply ignores economic realities. It is as if the draftsmen, having found these immutable economic facts of life not to their liking, decided that by an act of will they could legislate them out of existence. A statute cannot constitutionally take away someone's property to "compensate" another person when it deliberately disregards the crucial questions—has that person in fact suffered any injury, and if so, how much.

Proponents of the so-called fluid recovery concept are also attracted to it because of the difficulties of providing damages in large consumer class actions. Where the class is numerous—numbering in the thousands or even millions—it is time consuming and expensive for each class member to prove whether he has been injured by a defendant's allegedly wrongful conduct. For this reason, among others, courts have on occasion dismissed large consumer class actions as inherently unmanageable.

For example, in the Hotel Telephone Charges case, 500 F.2d 86 (9th Cir. 1974), a plaintiff allegedly representing a "class" of 40 million persons sued 47 hotel chains and 600 individual hotels for alleged overcharges on telephone calls placed from hotels. Although the individual claims were approximately $2, potential liabilities ran into the hundreds of millions. The Court of Appeals for the Ninth Circuit concluded that the necessity for each of the 40 million plantiffs to step forward and prove his claim rendered the action an unwieldly nightmare. Accordingly, it was ordered dismissed.

In the large consumer antitrust class action the difficulties of proof inherent in consumer antitrust actions and large consumer class actions merge. Not only must plaintiffs demonstrate that consumers have been injured by the anticompetitive conduct alleged, plaintiffs must make this showing as to each and every class member. There is no gainsaying the fact that this is a difficult task indeed, although this is a difficulty that arises from the nature of the claim asserted, rather than being one imposed from outside. The so-called fluid recovery concept, as embodied in section 4C (c)(1) of title IV of S. 1284, would allow both the fact and amount of injuries to be proved as to the class rather than as to the individual class members under the rationale that an easier way must be found to provide consumer redress. The theory that damages should be proved as to a class, rather than its members, is superficially alluring, and if injuries to the class can be demonstrated more easily, why should a court require the rather arduous, time consuming, and expensive process of proving injury to each individual class member?

The flaw with this superficial analysis is that it assumes that the class is somehow an entity separate from its component members. Injury to the class is nothing more nor less than the sum of any injuries inflicted upon the individual class members, and there is simply no way that injury to the class can be demonstrated without totaling the damages to each class member. No statement in a statute can repeal the laws of commonsense and economic reality.

The category "consumers" is simply not a generic label that is sufficiently descriptive to justify a conclusion that all members are properly includable in a "class" for the purposes of litigation.

Consumers are not automatons queuing up at the same stores to buy the same products at the same prices. For example, assume a parens patriae action in which a State attorney general seeks to recover damages caused by an alleged price fixing arrangement between manufacturers of transistors. Can it fairly be asserted that all "consumers" of transistors comprise a class as to which damages can be readily ascertained? Some consumers buy their transistors in televisions, some in blenders. Some who buy televisions buy from wholesalers who may have absorbed an overcharge because demand in their area is price sensitive; some do not. Some consumers buy from retailers who passed on an overcharge from their wholesalers; some buy from retailers who have high prices but who attract business because of their reputation for fine service. The list of variations is practically endless, and it flies in the face of reality to disregard these very real variations and assume that all "consumers" of a given product are injured by the same conduct to the same extent and in the same way.

The so-called "fluid recovery" concept is nothing more nor less than an attempt to dispense with the requirement of proof in a situation where the unlikelihood of injury renders proof of it inconvenient.

Since the earliest days of our Republic, it has been a fundamental principle of our jurisprudence, embodied in the 5th and 14th amendments to our Constitution, that no one may be deprived of his liberty or property without due process of law. "Due process of law," in the context of a trial for damages, means, to state the matter simply, that a plaintiff bears the burden of proving, by competent evidence brought before a court, that the defendant has done something forbidden by law, that he has suffered injury, and that the defendant's conduct has been the cause of the plaintiff's injury in an ascertainable amount. And whether it is trial by ordeal or damages "assessed in the aggregate," procedures that allow for the extraction of damages without the necessity of proof by competent evidence run afoul of our most cherished constitutional traditions.

It is a small wonder, then, that the courts which have considered the so-called "fluid recovery" concept have deemed it a denial of due process of law. Perhaps the most eloquent statement of this position came in Judge Medina's opinion in "Eisen III," *Eisen* v. *Carlisle & Jacquelin*, 479 F. 2d 1005 (2d Cir. 1973), affirmed in part and reversed in part on other grounds, 417 U.S. 156 (1974). In that case, the named plaintiff was an "odd-lot" trader on the New York Stock Exchange, who sued on behalf of all buyers and sellers of odd lots during a 4-year period. He alleged that anticompetitive conduct among brokerage firms on the exchange had resulted in small overcharges in each transaction in odd lots. The named plaintiff had suffered damages only of $70; because the "class" numbered 6 million individuals, however, defendants faced potential liabilities of nearly half a billion dollars.

One of the many hurdles that had to be overcome before that action could be maintained was that proof of 6 million individual damage claims would obviously have been a staggering, and probably impossible, task. Rather than face the problem, or dismiss the class action as unmanageable, the district court settled on the expedient of "fluid class" recovery, whereby, in a manner unexplained, damages were to have been assessed for the injuries inflicted on "the class as a whole." When this procedure finally reached the Court of Appeals for the second circuit for its scrutiny, the court, in an opinion by Judge Medina, reacted almost incredulously to its use.

Judge Medina repudiated the attempt to have the class treated as something other than the sum of its parts, with the "claims of the individual members of the class becom[ing] of little consequence." He stated (479 F. 2d at 1017–1018):

> Even if amended Rule 23 could be read so as to permit any such fantastic procedure, *the courts would have to reject it as an unconstitutional violation of the requirement of due process of law*. . . . We hold the 'fluid recovery' concept in practice to be illegal, inadmissible as a solution of the manageability problems of class actions and wholly improper." (Emphasis added.)

The ninth circuit has agreed with the second. In the Hotel Telephone case I referred to earlier, a panel of that court in an opinion by Judge Ely, adopted the *Eisen* rationale and stated (500 F. 2d at 92):

> The antitrust laws focus on compensation of parties *actually injured*, presupposing that a *plaintiff can prove that he was in fact injured* as a proximate result of an antitrust violation, *Hawaii* v. *Standard Oil Co.*, 405 U.S. 251 (1972). The fact that the injured plaintiff is allowed treble damages does not change the basic nature of the private antitrust action as *an action intended to compensate*. When, as here, there is no realistic possibility that the class members will in fact receive compensation, then monolithic class actions raising mind-boggling manageability problems should be rejected. (Emphasis added.)

In *Kline* v. *Caldwell, Banker & Co.*, 508 F. 2d 226 (9th Cir. 1974), another panel of the ninth circuit stood firm in its rejection of the so-called fluid recovery concept. In that case plaintiffs brought an antitrust action on behalf of themselves and all persons who sold residential real estate in Los Angeles County, Calif., over a 4-year period, a class of some 400,000 members. They sued all members of the Los Angeles Realty Board, alleging that the board's recommended fee schedule amounted to prohibited price fixing. Liability was said to arise from between 400,000 and 800,000 transactions, with potential damages reaching $750 million.

The court of appeals reversed the certification of the case as a class action. The court held that, because "[p]roof of injury is an essential substantive element of the successful treble damage action" (508 F. 2d at 233), each class member would have to prove to a jury that he had sustained actual injury resulting from a particular defendant's violation. In a concurring opinion Judge Duniway insisted that each plaintiff in this alleged class of 400,000 was required to prove both the fact of actual injury and the amount of his individual damages. Judge Duniway explained:

> It is inconceivable to me that such a case can ever be tried, unless the court is willing to deprive each defendant *of his undoubted right to have his claimed liability proven, not by presumptions or assumptions, but by facts*, with the burden of proof on the plaintiff or plaintiffs, and to offer evidence in his defense. The same applies, if he is found liable, to proof of damage of each "plaintiff." (Emphasis added.)

Recent judicial expression on the so-called fluid recovery device, outlawed in the second and ninth circuits, has been consistent with the earlier decisions. In *Windham* v. *American Brands, Inc.*, for example, 1975–2 C.C.H. Trade Cas. ¶60,530 (D.S.C. 1975), plaintiffs sued on behalf of between 20,000 and 30,000 tobacco producers, claiming injuries caused by allegedly anticompetitive practices of the major tobacco companies. The court refused to certify the case as a class action, holding that because of differences in the types of transactions various class members had entered into with the defendants, the fact, nature, and amount of injury of individual class members differed to an extent that would render maintenance of a class action inappropriate.

To paper over these difficulties, much like those that would exist in a parens patriae action brought on behalf of "consumers," plaintiffs proposed utilization of the so-called fluid recovery artifice. The court refused to allow this device. It first noted that success in antitrust action depends on proof of more than anticompetitive conduct; plaintiffs are also required to "prove the fact of damage or injury resulting therefrom." As to the use of the "fluid recovery" technique, the court noted that cases, including the tetracycline litigation, upholding settlements on the basis of class-wide recovery "have been rejected by subsequent opinions, the reasoning of which this court adopts." (at p. 67,345). Plaintiffs' suggestion, the court observed, "would result in an unfair trial if a fluid recovery approach were utilized." (at 67,346).

Opinion on the so-called fluid recovery concept is thus virtually unanimous, leading such students of constitutional law as Philip Lacovara to conclude:

> The overwhelming weight of judicial authority, therefore, rejects the parens patriae fluid recovery mechanism embodied in title IV of S. 1284 as an unfair and unconstitutional expedient whose defects cannot be cured by inclusion in this statute.

Finally, there is the question of the constitutionality of the notice provisions of title IV, contained in section 4C(b) of the bill. As mentioned before, subsection (b)(1) calls for notice by publication. Subsection (2) permits any person to exclude himself from the class subject to the parens patriae action, but he may do so only by filing a notice of such election with the court within such time as specified in the notice prescribed pursuant to subsection (b)(1) of this section. And subsection (3) of section 4C (b) provides that "the final judgment in the action brought by the State shall be res judicata as to any claim under section 4 of this act by any person in respect of damage to whom such action was brought unless such person has filed the notice prescribed in subsection (b) (2) of this section." Taken together these provisions mean that any individual who is the nominal object of a notice by publication will be bound by the results of the parens patriae action unless he affirmatively files with the court a statement indicating his intent not to be so bound.

There is no need for me to repeat in detail here what I pointed out earlier, that notice by publication is not notice at all. It is at best a legal fiction, tolerated by the courts only where there is no alternative, and then primarily where justice requires that action be taken with regard to unclaimed or abandoned property. It is now clear that any statutory provision that provides automatically for notice by publication is doomed to constitutional perdition.

In *Eisen* v. *Carlisle & Jacquelin,* 417 U.S. 156 (1974), the Supreme Court affirmed the Second Circuit's decision in Eisen III, discussed earlier, on the ground that rule 23 of the Federal Rules of Civil Procedures requires individual notice to all identifiable members of a class, an issue also decided by the court of appeals. The Court's opinion reflects its recognition that notice by publication is generally little more than a legal fiction.

Thus, for example, the Court concluded that its earlier opinions had established and "that notice by publication had long been recognized as a poor substitute for actual notice." (417 U.S. at 156.) According to the Supreme Court, these opinions had established the following guiding principle:

> [W]hen notice is a person's due, *process which is a mere gesture is not due process.* The means employed must be such as one desirous of actually informing the absentee might reasonably adopt to accomplish it. The reasonableness and hence *the constitutional validity of any chosen method may be defended on the ground that it is in itself reasonably certain to inform those affected."* 417 U.S. at 174, *quoting, Mullane* v. *Central Hanover Bank & Trust Co.,* 339 U.S. 306 (1950) (Emphasis added).

Nevertheless, the plaintiff in Eisen contended that the notice requirement should be eased, for the very reasons said to support the use of notice by publication in title IV—the prohibitively high cost of providing individual notice to millions of class members with little individual stake in the outcome of the litigation. The Supreme Court rejected this argument holding that individual notice "is not a discretionary consideration to be waived in a particular case." (417 U.S. at 176.)

And to dispel any confusion that the Court's construction of class action requirements was without rather definite constitutional significance, the Court pointedly mentioned that the draftsmen of rule 23, in commenting upon its final text, "explicated its incorporation of due process standards by citation to *Mullane* v. *Central Hanover Bank & Trust Co.,* 339 U.S. 306 (1950), and like cases." Thus, it is clear, that after Eisen, reliance on notice by publication guarantees constitutional trouble in the courts.

Constitutionally deficient notice will turn the parens patriae cause of action into a shambles. Despite the terms of section 4C(b)(3) purportedly making decisions in such cases res judicata as to all consumers, there is no way, consistent with the dictates of due process, that an individual can be bound to the results of an adjudication taken in his name of which he was not properly notified. Due process at its barest minimum includes an opportunity to be heard, and, of course, there can be no opportunity to be heard when there is no actual knowledge of the pendency of the litigation. This means the parens patriae action, purporting to settle the rights and liabilities of millions of consumers, will introduce only confusion. Consumers who seek to retain a right of action could not have those rights cut off by constitutionally deficient notice, with the result that defendants in multiple proceedings could be forced to pay duplicative recoveries. Similarly, there would be no repose for the defendant exonerated of any wrong-doing, for the consumer who was not properly notified of the parens patriae action would still be able to bring his own lawsuit.

The picture that emerges from this review is uniformly bleak, for it reveals a legislative design that is without constitutional foundation. This house of cards should be abandoned or reconstructed, for it ill behooves the Congress to enact measures so blatantly unconstitutional. If this body fails to do its duty, there can be little doubt that the courts will do theirs.

AMENDMENT NO. 1760

Mr. President, I call up Amendment No. 1760.

The PRESIDING OFFICER (Mr. Stafford). The amendment will be stated.

The legislative clerk read as follows:

The Senator from Virginia (Mr. William L. Scott) proposes an amendment numbered 1760.

The amendment is as follows:

Beginning on page 27, line 7, delete in its entirety title IV (Parens Patriae Amendments), including section 401, section 402, section 403, section 404, and section 405, through and including page 32, line 18.

Mr. WILLIAM L. SCOTT. Mr. President, I ask for the yeas and nays.

Mr. ABOUREZK. Mr. President——

The PRESIDING OFFICER. The Senator from Virginia has the floor.

Mr. WILLIAM L. SCOTT. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ABOUREZK. Mr. President, I move to table the amendment.

Mr. WILLIAM L. SCOTT. I ask for the yeas and nays on the motion to table.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from South Dakota to table the amendment of the Senator from Virginia. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. SPARKMAN (after having voted in the negative). Mr. President, I have voted "nay" on this vote. I have a live pair with the Senator from Maine (Mr. Muskie) who would vote "aye." Therefore, I withdraw my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. Bumpers), the Senator from Idaho (Mr. Church), the Senator from Hawaii (Mr. Inouye), the Senator from Indiana (Mr. Hartke), the Senator from California (Mr. Tunney), the Senator from New Hampshire (Mr. McIntyre), the Senator from Montana (Mr. Metcalf), and the Senator from Maine (Mr. Muskie), are necessarily absent.

I also announce that the Senator from Indiana (Mr. Bayh) and the Senator from Missouri (Mr. Symington), are absent because of illness.

I further announce that, if present and voting, the Senator from Indiana (Mr. Bayh), and the Senator from Indiana (Mr. Hartke) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from New York (Mr. Buckley), the Senator from New Mexico (Mr. Domenici), the Senator from Arizona (Mr. Goldwater), the Senator from Nevada (Mr. Laxalt), and the Senator from Maryland (Mr. Mathias) are necessarily absent.

The result was announced—yeas 56, nays 28, as follows:

[Rollcall Vote No. 259 Leg.]

YEAS—56

Abourezk
Bentsen
Biden
Brooke
Burdick
Byrd, Robert C.
Cannon
Case
Chiles
Clark
Cranston
Culver
Durkin
Eagleton
Fong
Ford
Glenn
Gravel
Hart, Gary
Hart, Philip A.
Haskell
Hatfield
Hathaway
Huddleston
Humphrey
Jackson
Javits
Johnston
Kennedy
Leahy
Long
Magnuson
Mansfield
McGee
McGovern
Mondale
Montoya
Morgan
Moss
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Schweiker
Scott, Hugh
Stafford
Stevens
Stevenson
Weicker
Williams

NAYS—28

Allen
Baker
Bartlett
Beall
Bellmon
Brock
Byrd, Harry F., Jr.
Curtis
Dole
Eastland
Fannin
Garn
Griffin
Hansen
Helms
Hollings
Hruska
McClellan
McClure
Roth
Scott, William L.
Stennis
Stone
Taft
Talmadge
Thurmond
Tower
Young

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Sparkman, against.

NOT VOTING—15

Bayh
Buckley
Bumpers
Church
Domenici
Goldwater
Hartke
Inouye
Laxalt
Mathias
McIntyre
Metcalf
Muskie
Symington
Tunney

So the motion to lay on the table was agreed to.

Mr. ALLEN. Mr. President, I move to lay on the table H.R. 8532 and I call for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Alabama. The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. SPARKMAN (When his name was called). Mr. President, on this vote I have a live pair with the Senator from Maine. If he were present and voting, he would vote "nay," and if I were at liberty to vote, I would vote, "yea." I therefore withhold my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. Bumpers), the Senator from Idaho (Mr. Church), the Senator from Indiana (Mr. Hartke), the Senator from Hawaii (Mr. Inouye), the Senator from Louisiana (Mr. Long), the Senator from New Hampshire (Mr. McIntyre), the Senator from Montana (Mr. Metcalf), the Senator from Maine (Mr. Muskie), and the Senator from California (Mr. Tunney) are necessarily absent.

I also announce that the Senator from Indiana (Mr. Bayh), and the Senator from Missouri (Mr. Symington) are absent because of illness.

I further announce that, if present and voting, the Senators from Indiana (Mr. Bayh) and (Mr. Hartke) would each vote "nay".

Mr. GRIFFIN. I announce that the Senator from New York (Mr. Buckley), the Senator from New Mexico (Mr. Domenici), the Senator from Arizona (Mr. Goldwater), the Senator from Nevada (Mr. Laxalt), and the Senator from Maryland (Mr. Mathias) are necessarily absent.

The result was announced—yeas 18, nays 65, as follows:

[Rollcall Vote No. 260 Leg.]

YEAS—18

Allen
Bartlett
Bellmon
Curtis
Eastland
Fannin
Hansen
Helms
Hollings
Hruska
McClellan
McClure
Scott,
William L.
Stennis
Talmadge
Thurmond
Tower
Young

NAYS—65

Abourezk
Baker
Beall
Bentsen
Biden
Brock
Brooke
Burdick
Byrd,
Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Clark
Cranston
Culver
Dole
Durkin
Eagleton
Fong
Ford
Garn
Glenn
Gravel
Griffin
Hart, Gary
Hart, Philip A.
Haskell
Hatfield
Hathaway
Huddleston
Humphrey
Jackson
Javits
Johnston
Kennedy
Leahy
Magnuson
Mansfield
McGee
McGovern
Mondale
Montoya
Morgan
Moss
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweikèr
Scott, Hugh
Stafford
Stevens
Stevenson
Stone
Taft
Weicker
Williams

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Sparkman, for.

NOT VOTING—16

Bayh
Buckley
Bumpers
Church
Domenici
Goldwater
Hartke
Inouye
Laxalt
Long
Mathias
McIntyre
Metcalf
Muskie
Symington
Tunney

So the motion to lay on the table was rejected.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. ABOUREZK. Mr. President, I ask unanimous consent that Ralph Neas of Senator Brooke's staff be granted the privilege of the floor during the consideration of the pending legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from South Carolina.

AMENDMENT NO. 1763

Mr. THURMOND. Mr. President, I seek to call up an amendment but I wish to discuss it first.

The purpose of this proposed amendment is to make it clear that the materials returned to the persons who provided them on completion of the investigation include copies as well as the originals. As the custodial provision is now drafted, it is subject to an interpretation that would permit the Department to retain copies, even after the documents themselves have been returned to their owner after the completion of an investigation. Such an interpretation would defeat the purpose of providing for return of documents and would, in addition, permit the Department to build up a gigantic data bank that could serve no legitimate antitrust or other purpose whatsoever.

Mr. President, on this point I would like to read an excerpt from a statement by Mr. Earl E. Pollock.

Mr. ABOUREZK. Mr. President, will the Senator yield for a question?

Mr. THURMOND. Not on my time, Mr. President.

Mr. ABOUREZK. The question can be on my time. I want to ask which amendment the Senator is referring to. Can he give me a number?

Mr. THURMOND. After I discuss the amendment, I expect to call up the amendment. The number is 1763.

Mr. President, in this statement by Mr. Pollock, he said:

> Finally, the confidentiality of all materials produced pursuant to procedures under Title II should be preserved to the maximum extent. Toward that end, such materials should be exempted from the disclosure provisions of the Freedom of Information Act. Further, we oppose the provisions in Title II [§ 201 (e)] which would permit the Antitrust Division to use CID-obtained information in any other cases or proceedings (including proceedings of other agencies) in which the Division is involved and to turn over such information to the Federal Trade Commission for use in any matter under its jurisdiction. Adoption of these provisions would, for all practical purposes, make the confidentiality of the information subject entirely to the discretion of Division and Commission personnel and would thereby destroy one of the key safeguards built into the 1962 Act.
>
> There remains for consideration the provisions in Title II which would authorize the Department to utilize its present and proposed investigative powers not only in connection with "a civil antitrust investigation" (the present scope of the Antitrust Civil Process Act) but also any "Federal administrative or regulatory agency proceeding". We oppose this extension of the Department's authority. As stated above, we believe that the CID power should be confined to use against targets of civil antitrust investigations, and should not be permitted against third parties who may merely have "any information, relevant to a civil antitrust investigation". Even more clearly, we believe that CID powers should not be allowed where there is no civil anitrust investigation and where the Department is merely seeking information to use for some undefined purpose in an administrative or regulatory proceeding being conducted by another federal agency.

Mr. President, on this same subject I want to quote an excerpt from the minority views submitted in the report on S. 1284 on page 202:

> The majority defeated an amendment, at the Justice Department's urging, requiring the Department to return all originals *and copies* of CID material to the respondent after the completion of an investigation (or subsequent trial). Our concern was not only to protect corporate trade secrets, but also to protect individuals from having "dossiers" compiled on them by the Department. It seemed to us clear that there was a potential for abuse of individual privacy, and Senator Hart initially expressed agreement with that concern. Mr. Lerman's testimony elaborated title II's deletion of the two 1962 limitations, stemming from the Dirksen and MacGregor amendments, prohibiting the Department from turning over CID material even to Congress and prohibiting issuance of CID's to innocent third-party witnesses. As Congressman MacGregor warned:
>
> "The power which would have been granted by [the bill in the absence of the two amendments] would not properly safeguard the innocent third-party witness from bureaucratic harassment; books and records could have been demanded from anybody and everybody in business, and the Justice Department could have distributed the information obtained indiscriminately throughout various Government agencies. The basic individual rights to privacy and to protection against unreasonable search and seizure would have been trampled."
>
> To be sure, there has been little abuse of privacy *in the past,* precisely due to the limitations title II would destroy. But any claim that the business community is *not* concerned under title II *in the future* is wholly refuted by the hearing record.

Mr. President, the gentleman who has been managing this bill, the distinguished Senator from North Carolina (Mr. Morgan), has spoken along this same line, and I wish to read some quotations from a speech that he made in this Chamber on Monday, June 7, that I think are very pertinent at this time.

He said:

> Mr. President, on Friday of last week we began a dialog which I expect to carry on for a number of days on freedom and intelligence in this country. This morning I want to address my remarks during the morning hour to the chilling effects of Government spying on citizens who have done no wrong.

Another excerpt from his speech is as follows:

> The information that Government collects about an individual can be the basis for literally hundreds of administrative decisions—most of which are not made by any elected official or reviewed by any judge. They are made by some Government bureaucrat who is virtually unaccountable for his decisions. If he does not like your politics, or his boss does not like your politics, you may find yourself turned down for a job or denied some Federal benefit.
>
> Moreover, we have seen people subjected to more than simply administrative harassment. In the course of its COINTELPRO, the FBI attempted to break up marriages; tried to foment violence between rival groups; attempted to discredit individuals with their employers and financial backers; planted false news items about people in the press; prevented people from getting honorary degrees and speaking on college campuses; and,

> in the case of Martin Luther King, attempted to prevent his seeing the Pope.
>
> It has, in short, been amply demonstrated that the Government can and does take actions against individuals and organizations not because they have committed any crime, but because someone in Washington does not like their politics.

Another excerpt from the speech by the distinguished Senator from North Carolina:

> What purpose is derived? Why, for example, should the FBI be paying informants to attend meetings of groups who are suspected of committing no crime? Why should the CIA be opening the mail of individuals who are suspected of committing no crime? What public purpose is served by the Army's keeping files on the political activities of 100,000 individuals who were not suspected of committing any crime? These things happened, and yet no one in the Government questioned them—no one asked "why?"
>
> It bothers me still, that even after these activities have been exposed, and after they have been discontinued, that many people still see nothing wrong, no threat to their own liberty, in their having occurred. People tell me that these agencies were only keeping track on individuals and organizations in the event they should decide to do something wrong—that they were only protecting us.

Mr. President, I think it is clear that the words "other than" on page 16, line 12, should be deleted, and we should substitute therefor the word "including", so that the amendment then would read thus:

> When any documentary material has been produced by any person pursuant to this Act, and no case or proceeding as to which the documents are usable has been instituted and is pending or has been instituted within a reasonable time after completion of the examination and analysis of all evidence assembled in the course of such investigation, such person shall be entitled, upon written demand made upon the Attorney General or upon the Assistant Attorney General in charge of the Antitrust Division, to the return of all such documentary material (including copies thereof furnished to the custodian pursuant to subsection (b) of this section or made by the Department of Justice pursuant to subsection (c) of this section) so produced by such person.

In other words, Mr. President, why should the agency keep any copies of any material, if the people have been cleared or if they have been acquitted? We think it is not right for the Government agency to retain any copies of material, documents, and so forth, that have been used in any pending procedure or any trial. Therefore, I think possibly as soon as I offer this amendment, it may be that the distinguished manager of the bill will accept the amendment; but at any rate, Mr. President, I now call up amendment No. 1763, and I ask for the yeas and nays.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

> The Senator from South Carolina (Mr. THURMOND) proposes an amendment numbered 1763:
>
> On page 16, line 12, delete the words "other than" and substitute therefor the word "including".

Mr. ABOUREZK. Mr. President——

The PRESIDING OFFICER. The Senator from South Carolina has asked for the yeas and nays. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ABOUREZK. Mr. President, this amendment has been opposed by the administration and the committee, and the amendment was rejected in the committee, for the very basic reason that the originals are given back to the company under the law, and a requirement that they would have to go through every antitrust division file and desk drawer to search out and return every copy would be unreasonable, and it could not be done.

The provision has been in the law since 1963, and there has been no abuse whatsoever. The copies have been retained with the agency, while the originals have been given back. Such a requirement would be unsuitable for this kind of legislation.

I move that the amendment be laid on the table, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment (No. 1763) of the Senator from South Carolina (Mr. THURMOND). On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SPARKMAN, when his name was called.) On this vote I have a pair with the distinguished Senator from Maine (Mr. MUSKIE). If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." I withhold my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. BUMPERS), the Senator from Indiana (Mr. HARTKE), the Senator from Hawaii (Mr. INOUYE), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Maine (Mr. MUSKIE), the Senator from Rhode Island (Mr. PASTORE), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I also announce that the Senator from Indiana (Mr. BAYH), and the Senator from Missouri (Mr. SYMINGTON) are absent because of illness.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PASTORE), the Senator from Indiana (Mr. HARTKE), and the Senator from Indiana (Mr. BAYH) would each vote "yea."

Mr. HUGH SCOTT. I announce that the Senator from New York (Mr. BUCKLEY), the Senator from New Mexico (Mr. DOMENICI), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from Nevada (Mr. LAXALT), and the Senator from Maryland (Mr. MATHIAS) are necessarily absent.

The result was announced—yeas 58, nays 26, as follows:

[Rollcall Vote No. 261 Leg.]

YEAS—58

Abourezk
Bentsen
Biden
Brooke
Burdick
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cranston
Culver
Durkin
Eagleton
Fong
Ford
Glenn
Gravel
Hart, Gary
Hart, Philip A.
Haskell
Hatfield
Hathaway
Hollings
Huddleston
Humphrey
Jackson
Javits
Johnston
Kennedy
Leahy
Long
Magnuson
Mansfield
McGee
McGovern
Metcalf
Mondale
Montoya
Morgan
Moss
Nelson
Nunn
Packwood
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Stafford
Stevenson
Weicker
Williams

NAYS—26

Allen
Baker
Bartlett
Beall
Bellmon
Brock
Byrd, Harry F., Jr.
Curtis
Dole
Eastland
Fannin
Garn
Hansen
Helms
Hruska
McClellan
McClure
Scott, William L.
Stennis
Stevens
Stone
Taft
Talmadge
Thurmond
Tower
Young

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Sparkman, against.

NOT VOTING—15

Bayh
Buckley
Bumpers
Domenici
Goldwater
Griffin
Hartke
Inouye
Laxalt
Mathias
McIntyre
Muskie
Pastore
Symington
Tunney

So the motion to lay on the table was agreed to.

Mr. BELLMON. Mr. President, I will call up an amendment shortly, but I should like to make a statement prior to that time.

The PRESIDING OFFICER (Mr. STONE). The Senate is not in order. The Senate will be in order.

Mr. BELLMON. The amendment will deal with title V.

Title V is intended to aid antitrust enforcement against illegal mergers. It would not change rules of legality, but it would change procedures. The essential changes it would make fall into four categories:

First. Premerger notification;

Second. A 30-day waiting and discovery period, which could be extended by 20 days or more;

Third. Automatic temporary restraining orders, with a shift of burdens from plaintiff to defendant on the ensuing motion for a preliminary injunction; and

Fourth. Where a preliminary injunction is not entered, a nearly automatic hold separate order and a mandate to deprive the losing defendant of the benefits of the acquisition.

The first two categories are aimed at giving the Government sufficient knowledge and sufficient time to sue and to seek preliminary relief when appropriate. We believe these are proper objectives. We think a premerger notification program and a waiting or notification period for certain merging companies could be salutary and would be an aid to antitrust enforcement.

But the last two categories are, in our view, unnecessary and untenably restrictive. Their predominant effect will be to deter or abort lawful business transactions. If a merger is probably unlawful, the courts will grant a preliminary injunction today. If it is probably lawful, it seems wrong that the courts should stand in its way at the outset of a litigation, or impose penalties on the loser at the conclusion.

We should like to deal in greater detail with each of the four categories of the title.

A. PREMERGER NOTIFICATION

We support in concept notification of mergers over a minimum value. Of course, the Federal Trade Commission already has such a program. The premerger notice provisions of title V do not add a good deal to the existing FTC requirements, but they do include more mergers jurisdictionally, they do insure notice reasonably prior to consummation of the transaction, and they do make the filings directly available to the Assistant Attorney General in charge of the Antitrust Division. We believe such additions are salutary.

However, we believe this bill suffers from overbreadth. A $10 million acquisition by a $100 million company is probably not likely to offend the antitrust laws. Inclusion of all such transactions is likely to deluge the antitrust authorities with essentially meaningless paper and immerse them in unnecessary administrative duties. The Federal Trade Commission has used the more realistic reporting minimum of $250 million in sales or assets, and apparently, according to the testimony of former FTC Chairman Engman, it has found this minimum entirely saitsfactory. As Chairman Engman said:

> If we have to conduct full investigation of all mergers exceeding the $100 million assets or sales test . . . the fruits of our efforts might not be worth the cost.[1]

B. WAITING PERIOD

A short waiting period sufficient to give the Government time to analyze transactions subject to notification would be an aid to responsible antitrust enforcement. Thirty days would seem to be a reasonable time. The bill as reported allowed an additional extension of 45 days after receipt of information and documents requested by the Government, and we are pleased to note that this period may be reduced to 20 days. But even the 20-day period presents problems that should be cured. The most obvious problems inhere in the tender offer situation. The offering company must, under the Williams Act, accept tendered stock within 60 days of tender or risk its withdrawal. We propose that, in order to take advantage of the discretionary time extension, the Government should be required to make its request for information and documents within 10 days after notification is filed.

C. TEMPORARY RESTRAINING ORDERS AND PRELIMINARY INJUNCTIONS

Subparagraph (d) of the bill as reported would grant the Government preliminary injunctions at its will. We strongly opposed this provision, as did many others, including former FTC Chairman Engman. Presumably, within the notice period the Government would have assembled sufficient facts to prove that it was entitled to preliminary relief, if it was so entitled. If preliminary injunctions were made automatic on mere application of the Government, without any adversarial testing on the merits, large numbers of probably lawful transactions would be unduly restrained.

Senators SCOTT and HART have proposed an amendment that would go only a small way toward curing this problem. In essence, the Government would have the right to an automatic temporary restraining order, and on the ensuing motion for preliminary relief the usual burdens would be shifted. The preliminary injunction would issue unless defendants show that the Government does not have a reasonable probability of success on the merits, or that defendants will be irreparably injured by loss other than loss of benefits of the transaction. The burden on defendants would be a hard one indeed, and one would expect the preliminary injunction to issue even where the Government's case is thin. As experience teaches, the grant of preliminary relief often aborts the deal.

Therefore we can expect many lawful transactions to be frustrated. The present law that the Government must show a reasonable likelihood of success seems a far fairer allocation of the burdens.

The automatic temporary restraining order is itself a problem. The problem is magnified in tender offer cases where entry of the order will almost surely kill the tender offer, and therefore the case is particularly strong for eliminating tender offers under the Williams Act from subparagraph (d). Indeed, we believe subparagraph (d) should be eliminated in its entirety, except for its very salutary expediting procedures, for the existing law governing temporary restraining orders and preliminary injunctions is fair and effective.

D. HOLD SEPARATE ORDERS, ESCROWED PROFITS AND DISGORGEMENT OF BENEFITS

Subparagraph (g) mandates a hold-separate order unless justice requires otherwise, authorizes escrowing of profits, and mandates disgorgement of the benefits of the transaction.[2] This provision is, of course, intended to cover those cases in which no preliminary injunction issues under subparagraph (d).

It is hard to understand how such restrictions are merited in a case in which the Government—to borrow words from subparagraph (d)—"does not have a reasonable probability of ultimately prevailing on the merits."[3]

In any event, a hold-separate order—although at times appropriate—should be won by the plaintiff in an adversarial proceeding, or negotiated.

Subparagraph (g) provides also that the court may order that profits of the acquired firm, or stock or assets, be placed in escrow, and that the court shall deprive the losing defendant of all benefits of the violation. These provisions are apparently intended as a deterrent to illegal acquisitions, and as a method of preventing acquiring companies from profiting from their illegal acts.

These objectives are salutary, but the solutions are not. The bill will tend to discourage the acquiring company from maximizing the competitive potential as well as the efficiency of the acquired firm. The defendant will lose its incentive to do so. It is likely to prefer to expend its money and efforts where its investment is a surer one, and the acquired firm is likely to stagnate.

This effect may be pronounced in the case of a financially troubled acquired firm, in particular need of an infusion of capital, new facilities and new management. Preservation and reinforcement of such a firm as a competitor should be encouraged, not deterred.

We believe that subparagraph (g) provides disincentives to competition and is not an appropriate deterrent,[4] and we oppose it.

CONCLUSION

In conclusion, we favor premerger notification and a reasonable waiting and discovery period, during which the Government may gather information sufficient to make enlightened decisions whether to sue and whether to seek preliminary relief. Having this information, the Government will be well situated to get preliminary relief wherever it is reasonably likely to prevail on the merits. When the Government's case is so thin that it is not likely to prevail, we believe the merging companies should have the right to consummate their planned transaction, and we believe they should fully retain their incentives to operate efficiently, to maximize their earnings, and to compete effectively.

Mr. President, many changes have been made in this bill since it was first introduced. It has been improved. The amendment I hope to offer I believe will improve it further. But some of the problems that are obviously present in this bill can and should be corrected because it becomes apparent that it is going to clear the Senate. It may never become law—at least, we are not sure what will happen when it leaves this body. But I believe that the amendment I am going to offer will help to correct some of the inequities I feel are here.

For instance, the weight of authority has supported the view of many of the antitrust scholars of the country that there has been a high order of statesmanship already exhibited by the court and by the FTC in dealing with the kind of matters that this bill deals with. I am pleased to note that the nolo contendre amendments in title V have likewise been withdrawn. This, of course, has helped this present version over the bill as it was originally introduced.

According to the press, it appears that the major revisions are in contemplation with regard to the premerger notification and stay amendments of title V, which I have just discussed.

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[1] Testimony before the Subcommittee on Antitrust and Monopoly of the Senate Judiciary Committee, May 7, 1975.

[2] We do not read subparagraph (g) as changing the law regarding divestiture, and to the extent that it reaffirms the rule that divestiture is in most cases the preferred remedy for a Section 7 violation, we have no objection to it.

[3] Under subparagraph (d), a preliminary injunction may be denied if it would irreparably injure defendants, but presumably in such case the court would order a hold separate order under (d) if appropriate, so that subparagraph (g) is not needed for this circumstance.

[4] Subparagraph (g) would deter mergers that are probably lawful, since these are the mergers that do not invite preliminary relief under subparagraph (d). There is no public interest in deterring lawful mergers.

Manifestly, no valid objection can be taken to the requirement that the Government be notified before a merger or corporate acquisition occurs. What is wrong is to endow governmental officials with virtually unlimited discretion to delay or to halt a proposed merger to the point that it is aborted by the mere passage of time without regard to the merits. You must bear in mind that mergers are neither all good nor all bad. Some enrich. They tend to fortify and enhance the vigor of the competition, whereas others devitalize competition or create industrial structures inimical to the maintenance of effective competition.

The lawfulness of an acquisition depends on the facts of each case. There is no shortcut that can dispense with a thorough and comprehensive inquiry into the relevant facts if our merger law is to serve the public interest and have any semblance of fairness. The enforcement authorities should be given a short period of time after receiving notice of a proposed merger to determine whether or not they intend to challenge it. They should not be permitted to delay the transaction by repeated requests for additional time. They should not be in the position to prevent the merger by their own action or inaction or on their own ipse dixit that the public interest requires the prevention of the merger. If they have reason to believe that the merger violates the law, they should proceed in the courts by seeking a preliminary injunction. A restraining order ought not to be issued as a matter of course nor should the burden of proof be shifted to the defendants as proposed in the amendments offered by Senators Philip A. Hart and Hugh Scott.

This inversion runs counter to the traditions of equity procedure and violates every precept of fairness. The granting of a restraining order or the issuance of an injunction should be governed by the standards for preliminary relief which courts of equity normally apply. If these standards cannot be satisfied by the Government, it is unjust to prevent the merger. After all, the Government can institute suit, as it usually does, after the merger takes place. To suggest that the courts are powerless to decree effective relief if the acquisition is found unlawful after trial is to ignore 25 years of experience in the administration of the Cellar-Kefauver Act.

If there were time, I could satisfactorily explain the instances referred to by Senator Hart in the memorandum accompanying his amendments to title V. If the committee took the time to examine the facts in those cases it would conclude that no court would have granted a preliminary injunction in any of them at the time they were litigated. In no other branch of the law with which I am familiar is a restraining order issued automatically by a judge without regard to the needs of the plaintiff, the balancing of the equities, and the circumstances of the case.

In no other area of the law is the defendant put in a position where he will be restrained by a preliminary injunction unless he can satisfy the judge that he ought not to be enjoined. Mergers are hardly so universally evil in their consequences as to reverse the ordinary order of events and compel the defendants to prove their innocence.

The Judiciary Committee should not put its stamp of approval on a procedure which, in my opinion, is alien to the American system of justice and the rule of law. Only in Alice in Wonderland do we proceed with verdict first and trial afterwards. Let other systems require defendants to prove that they are not in violation of law; let us stay with the kind of legal system which is integral to a political democracy particularly in a year in which we are celebrating the inception of our own democracy.

I am informed that changes are being made in Title I, The Declaration of Policy. The latest BNA reports that the declaration is being eliminated, but that seemingly is in error. A distinction must be drawn between a declaration of the goals and purposes of a proposed enactment and statutory affirmations of fact. Reasonable men can differ, and generally do, about the objectives of any piece of legislation.

The fact that there is a difference of opinion, therefore, is no reason why the purposes of the legislation should not be made explicit. However, where the declaration consists of findings of facts, the very integrity of the legislative process demands that the facts be correctly stated. I do not believe anyone will disagree with these propositions.

Title I has aroused considerable controversy because the facts concerning the relationship of concentration and antitrust to unemployment, inflation, inefficiency, underutilization of economic capacity, reduction of exports and adverse effect on the balance of payments are conflicting and highly uncertain. There is no general consensus supporting the assertions contained in the declaration as originally drafted. As one who has spent a lifetime studying these problems, I would say that in my view the weight of the evidence is against the factual recitals of the declaration. The revisions proposed in the Hart-Scott amendments do not go to the heart of the problem. With all respect, I regard the changes as essentially cosmetic. The revivsed declaration is no less objectionable than the original.

I am particularly troubled by the concluding words of section 102(a) of title I. That section states as one of the policies of Congress the prevention and elimination of oligopoly power in the economy. Nowhere in the bill is oligopoly or oligopoly power defined. The term as used in economic literature is accordion-like, capable of both expansion and contraction. Economists speak of loose, tight and moderate oligopolies. Economic power is measurable only in terms of a relevant market. Market definition is still one of the thorniest problems in antitrust.

The degree of power that can properly be denominated as oligopoly power is not specified in the bill. So I ask, Is it the intent of this committee to outlaw any business that can be said to possess oligopoly power? Is it equating bigness with illegality? Is its intent to leave at large the definition of such power by the enforcement authorities and the courts without providing them with any guidance? Will it be the duty of the Justice Department and the Commission to proceed against every so-called oligopoly and seek to have it shorn of its economic power? Does this make most of our major corporations fair game for such attacks by public and private parties including parens patriae suits? Ought a matter of such immense moment to the country be left in a state of uncertainty?

I strongly recommend that the declaration be omitted. If it has no legal significance, why muddy the waters and incite unnecessary controversy? If it is intended to have any legal significance, the committee owes it to the Nation to tell it, clearly and unambiguously, what is that significance.

The committee is to be commended for eliminating from title IV the provision authorizing parens patriae suits for the recovery of damages to the general economy of any of the States or political subdivisions thereof. I addressed myself to the objections to this type of parens patriae suit in my previous testimony and am pleased with this revision. I believe that it is vital that section 405 be likewise eliminated in its entirety.*

The partial change that is proposed in the amendments before the committee does not go to the root of the problem. The retroactive application of title IV would be grossly unfair, would have a serious judicial impact and would add a further element of doubt as to the title's constitutionality under the due process clause.

It is not enough to strike the words relating to class actions and parens patriae suits pendinig on the date of enactment. The same reasons that led to that change apply with even greater force to the remaining part of the section which would give retroactive application of title IV to cases that are refiled or to cases in which the cause of action accrued before the date of enactment. What this section means is that cases in which parents patriae suits were dismissed or consumer classes denied under rule 23 can be refiled. Since title IV makes substantive changes in the law, its retroactive application would violate settled principles of due process. What is more, to change the rules of the game in mid-stream runs counter to everything we hold sacred in our system of law.

No one challenges the desirability of effectively safeguarding the consumer interests.

Mr. President, on that point, I look at this legislation as being very definitely contrary to consumer interests. I cannot imagine, for instance, how any manufacturer would know how to price his product when he knew that at any time any number of lawsuits might be filed against him which would, at the very minimum, cause him to incur substantial costs and which could, depending upon the outcome of the legislation, also cause him to incur substantial costs in the payment.

---

*"Sec. 405. This title shall apply to all civil actions filed under the antitrust laws, in which a person representing a class of natural persons or a State is plaintiff, that are pending on the date of enactment of this title or that are hereafter filed or refiled, including those in which the cause of action accrued before the date of enactment of this title."

Therefore, every manufacturer, in anticipation of these kinds of costs, is going to be forced to raise the price of his product sufficiently to build up a reserve that will enable him to deal with these kinds of unnecessary and impossible-to-ascertain costs, and in this way be ready for the expenses when they occur.

For that reason this legislation is likely to raise the costs of all the products we use; to have a substantial bad effect upon the cost of living; to make it more difficult for companies to hold down their costs to the lowest level that competition would produce and, in this way, have a negative effect upon consumers.

When anyone labels this legislation as being in the consumer interest, I think they simply do not understand the impact it will have and, therefore, we must look upon this as basically anticonsumer legislation.

I do not want to be put in a position of adopting an anticonsumer stance since I have long been interested in trying to help improve the lot of consumers and, certainly, this legislation goes contrary to that interest.

The interest, as I see it, is how we should be able to best protect consumers' interests from injury directly traceable to violations of the antitrust laws, without adopting measures that are likely to be counterproductive, and which will create side effects that are more harmful than the mischief we are trying to correct.

I believe this legislation has that bad side effect. I believe it will do more harm than good, and that even after it is amended, it is going to be of very doubtful value.

I propose today to deal primarily with title IV. I should like to emphasize that the disagreement between the sponsors of this title and those like myself who are in opposition relates not to the ends sought to be achieved but rather to the means selected to attain those ends.

No one challenges the desirability of effectively safeguarding the consumer interest. Most certainly I would not adopt an anticonsumer stance since my earliest work in the law, going back to a period almost 50 years ago, was in lecturing, writing, and drafting legislation concerning the protection of the consumer. The issue, as I see it, is how best to protect consumers from injury directly traceable to violations of the antitrust laws without adopting measures that are likely to be counterproductive and create side effects more harmful than the mischief we are trying to correct.

I trust that the sponsors of title IV will not be offended when I suggest that they may be proceeding on a series of misconceptions that can result in the frustration of the hopes they are placing on parens patriae suits as a panacea for consumer injuries.

I had occasion recently together with one of my partners, Michael D. Blechman, to examine the 341 civil and criminal antitrust actions instituted by the Justice Department during the past 5 years, in an effort to determine the extent to which the antitrust violations challenged in those suits had had any impact on consumers. The results of our study will eventually be published in one of the major law reviews. Because we felt that our analysis should be available to the Members of Congress before they register their votes on the Rodino bill, I circulated a draft of our study among all the Members of the House of Representatives.

Only a handful of cases involved price-fixing at the retail level which would directly affect the prices paid by consumers. Except for one of these cases, the suits bordered on the trivial, dealing, for example, with local price-fixing conspiracies in two cities with regard to retail liquor sales. Some of the cases had to do with local price-fixing conspiracies in the sale of cigarettes and soft drinks from vending machines. Two charged local price-fixing conspiracies of shoes and women's clothing, again limited to two cities. Four involved the fixing of charges for automobile repair work and one concerned price-fixing on assembled tour packages for travelers.

The largest single category of retail price-fixing charged by the Government related to fee schedules and codes of ethics adopted by various professional associations and real estate boards. No less than 15 of these suits have been brought against groups of lawyers, architects, engineers, accountants, anesthesiologists, veterinarians, and real estate brokers.

The fee schedule cases provide a dramatic example of the potential dangers of parens patriae and fluid class suits in circumstances where the equities fail to match the preconceived notions of the proponents of these procedural devices. Here we are generally dealing with small individual businessmen and practitioners, not giant corporations. We are likewise not dealing with hardened price-fixers; in many cases the legality of the codes of ethics and fee schedules in question was generally presumed to be lawful even by lawyers until the Supreme Court ruled otherwise just last term.

Finally, it is highly unlikely that any of these groups of defendants have amassed collective "pots of gold" by gouging consumers; to the contrary, as one court noted in approving the settlement of a class action against certain realtors in Alabama that provided for no damage recovery at all, in each and every case where real estate brokerage fee schedules have been enjoined, the effect has been to increase rather than lower rates.

Nevertheless, Mr. President, real estate brokers in particular have recently been subjected to a number of class suits asserting astronomical treble damage claims which are particularly shocking in light of the smallness of the businesses involved in *Kline* v. *Caldwell Banker & Co.* (1974–2 Trade Cases ¶ 75,436 (9th Cir. 1974)), for example, the representatives of the alleged plaintiffs' class sought to recover $750,000,000 against some 2,000 Los Angeles realtors—the vast majority of them being individuals in business for and by themselves—based upon the claimed use of a recommended fee schedule in some 400,000 sales of residential property.

While the proponents of the parens patriae bills may have in mind their application to cases of hard core antitrust violation by defendants that have unjustly enriched themselves at the public expense, there is nothing in the proposed legislation that so limits State suits or indeed even permits judicial control to avoid the very real danger of inequity—a danger which is apparent, not in some hypothetical situation, but in the kinds of cases that the Justice Department and private plaintiffs' bar are bringing right now.

Congressman RODINO, in a statement submitted to the Rules Committee, expressed the hope that the danger of imposing unconscionable liability on innocent businessmen for conduct reasonably thought to be lawful would be avoided by the provision in the bill limiting the availability of the parens patriae remedy to violations of sections 1 and 2 of the Sherman Act. According to the Congressman's statement—and I quote:

> There are, in fact, few if any areas of business activity where the application of Sections 1 and 2 of the Sherman Act is not clearly delineated by past decisions.

Unfortunately, this just is not the case. The Los Angeles realtor suit I have just referred to was, in fact, predicated on section 1 of the Sherman Act, the defendants' adherence to their association's fee schedule having been attacked as an alleged conspiracy in restraint of trade. The Topco decision, in which cooperative efforts by small grocers to compete with the larger chains were struck down because they imported an alleged assignment of exclusive territories was, again, a section 1 case.

Indeed, when, for some 25 years I reviewed in annual lectures to the New York City bar each year's grist of antitrust opinions, I was constantly surprised by the Supreme Court's extension of sections 1 and 2 of the Sherman Act to new areas of business conduct—extensions of the law which I surmise must have been at least equally surprising to the businessmen directly affected. Indeed, since it is difficult to imagine many Clayton Act violations that could not also be attacked under sections 1 and 2 of the Sherman Act, this supposed limitation in the bill is in fact an almost totally meaningless "safeguard."

Thus, title IV and the companion Rodino bill as presently drafted are not limited to suits against the malefactors of great wealth based on hard core violations of undeniable illegality. Based on the cases brought by the Government having a maximum impact on consumers, they open the doors wide for the assertion of claims of astronomical proportions against small business and professional people for conduct whose legality very few questioned until very recently. Does this committee really want the doors so opened against so many of your constituents?

Mr. President, the bulk of the price-fixing cases brought by the Government are concerned with conspiracies occurring in areas of the economy far removed from the consumer with the result that the price-fixed item is generally a minuscule element of the product or service that the consumer purchases. For example, many of these suits have involved items such as plumbing fixtures, gypsum wall board and plaster, gas vent pipe, plastic pipe fittings, concrete and concrete block, toilet seats and overhead garage doors which consumers typically acquire only as component parts of new or used homes.

Similarly, the Department has charged price-fixing conspiracies affecting zipper sliders, which consumers ultimately acquire as a minute feature of the articles of clothing they purchase, and also with respect to the paper labels placed on bottles, cans and containers in which consumer products are marketed.

Even further removed from the consumers are the conspiracies charged by the Government affecting diamond grit used for industrial grinding, chromite sand used to make molds for steel ingots, nylon netting used for shrimp and salmon fishing, and chemicals used to make plastics and herbicides, all of which have only the most speculative connection with goods or services actually sold to consumers.

Outside the price-fixing area we encounter litigations involving tie-ins at the manufacturing level as, for example, the case where a defendant is charged with only allowing its grain elevator in a given port to be used if the shipping companies also used its stevedoring services in unloading their grain. Twenty Government suits involved territorial divisions, again at the production level, such as, for example, among producers of lithium or publishers of books.

Similarly, there have been 19 Government actions charging defendants with monopolization primarily at the manufacturing level. An example is the charge against the major networks with monopolizing prime time TV entertainment programs.

Interestingly, in many instances the Department's section 2 cases claimed that the defendants achieved monopoly through predatory pricing whose immediate effect would be beneficial rather than adverse to consumers, however harmful the impairment to competition that may eventually result over the long run. Another category of cases has been conspiracies by purchasers to buy at prices lower than those charged by the sellers. In the vast majority of these antitrust offenses, it is going to be highly unlikely, if not impossible, for consumers to make out compensable claims.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 26 minutes remaining.

Mr. BELLMON. I thank the Chair.

Against this background, to see what the actual effects of the parens patriae provisions of the bill are going to be, let us take the case cited in the House committee report of a hypothetical antitrust violation resulting in alleged overcharges of $50 million and claimed to affect 50 million consumers, so that each consumer has an asserted claim of $1.

Based on our study of the Government's civil and criminal antitrust suits over the past 5 years, it is virtually certain that in any case even approaching this magnitude, consumers are likely to have acquired the price-fixed item only at the end of a long chain of distribution, after the item has been incorporated into something else as well as having been bought and sold in a multiplicity of intervening, competitive markets. Thus, aside from legal impediments, it is going to be virtually impossible as a matter of economic and practical fact for consumers to prove injury. To take a typical example, how is a customer who purchased a $30,000 house ever going to prove he would have paid $29,999 if the plastic pipe, wall board, gas vent pipe, plumbing fixtures or garage door in that house had originally been sold by the manufacturer to a wholesaler for $1 less? How is he going to prove, first, that the price charged by the wholesaler to a subcontractor in an untainted, fully competitive market was artificially inflated by $1 rather than being determined by the forces of supply and demand, and then establish that the same was true with respect to the subsequent sales made by the subcontractor, the contractor or builder and any prior owners there may have been of the house itself? How is the consumer going to prove that, if there was an overcharge, it was he who paid it, rather than any of the equally innocent purchasers at prior levels in the chain of distribution, all of whom—based on past experience—are likely to be pressing claims in competition with one another based on the same alleged injury.

It is perfectly obvious that, however profitable this kind of litigation may be to the lawyers involved, no consumer is going to derive any meaningful benefit. What is more, there is nothing in the pending bill that would or—within the limits of the Constitution—could circumvent these problems. If a single consumer cannot trace a $1 overcharge through the chain of distribution to himself, the task becomes no easier when multiplied by 50 million. There is no statistical or sampling method which can overcome the insuperable difficulty of proving that a $30,000 house would have cost a dollar less but for a price-fixing conspiracy affecting one of its innumerable component materials or accessories. There is no "estimating technique" by which a damage claim can be expropriated from a person higher in the chain of distribution who really did pay an overcharge for a material or part, but then sold his own product or service at the same price he would have obtained in any event under the prevailing economic conditions. In short, there is no magical, legislative solution to the problem of the consumer who does not have a viable, provable claim: 50 million times zero is still zero.

It is likewise clear that an attempt to circumvent the need to prove injury by basing damage recoveries on pure guesswork would constitute an unconstitutional deprivation of property without due process of law. Indeed, Judge Medina found that the fluid recovery device proposed in the Eisen case violated precisely that constitutional safeguard of due process which, of course, is equally applicable to legislative as well as judicial lawmaking.

Congressman RODINO states unequivocally:

> There is nothing in this bill that would change substantive antitrust law or the requirement that damages be proved under established legal standards. The State would not be able to collect a penny under the bill's procedures unless it proves (1) that there was an antitrust violation, (2) that the violation caused injury to consumers and (3) the amount of the resulting damages to consumers. The bill would let consumers (through their State Attorney General) prove their damages collectively, but they would still have to prove actual damages.

I accept Congressman RODINO at his word. Neither the parens patriae nor class action remedies, thus, are to be available unless the violation has caused injury to consumers. I take it, therefore, that in those of the recent suits where the result of the litigation was to increase prices to the consumer, there could be no recovery, since there has been no damage, regardless of whether the suit is brought by the consumer individually or collectively through parens patriae or consumer class actions. Where there are three to five stages between the level at which the violation occurs and the consumer purchase, we run into very difficult legal questions as to whether the consumer has any right of action at all and if he does how his claim is to be reconciled with and balanced against the conflicting claims of the intermediaries in the production and distribution chain between the stage at which the violation occurs and the stage at which the consumer makes his purchase. According to Congressman RODINO, if he has no damage, the parens patriae remedy is inapplicable. If the cases brought within the past 5 years are any criterion, parens patriae will, and properly so, provide no remedy.

All this does not, of course, mean that there is nothing that can be done to enforce the antitrust laws in the consumer interest. What it does mean, however, is that a putative consumer remedy which is based upon the false assumption that consumers are generally going to have compensable damage claims in antitrust cases is predestined to create disappointed expectations and frustrations on the part of the very people that the legislation is supposed to benefit. To be meaningful, a consumer remedy must take the economic facts of life into account and be designed accordingly to be workable in the real world of antitrust.

I have several suggestions for the committee as to possible alternatives for accomplishing by far more effective means the laudable goals of the present, pending legislation.

First, I think we have to realize that our first priority—which is susceptible of realization—ought to be that of providing effective antitrust enforcement aimed at stopping those violations which are most likely to cause serious injury to consumers and the Nation generally. That this is not necessarily the kind of enforcement that exists today is suggested by the fact that, as I have noted, very few Government prosecutions involve violations that affect consumers directly, and those that do—such as the real estate broker and professional fee schedule cases—are as often as not followed by increases rather than a lowering of consumer prices. All too often the Justice Department proceeds as though its primary function were to expand the technical, legal scope of antitrust to the maximum posible limit, concentrating on novel areas of application without apparent consideration of the economic consequences or the likelihood that less exotic but possibly more prevalent and harmful practices—such as price fixing—present greater dangers to the public welfare. This approach is reflected inter alia in the Government's merger cases, which have tended to involve smaller and smaller companies and increasingly attenuated theories as to the impairment of potential competition—which have moved, in other words, into precisely those areas where the economic effects of a Government lawsuit are most uncertain.

The problem we face in this regard is perhaps epitomized by the Topco case I referred to earlier. There, although the program which the small grocers pursued through their cooperative necessarily involved the assignment of exclusive territories, they made out an impressive case that the net effect was to permit them to vie for business with the larger supermarket chains and thus bring more, rather than less competition to consumers. The Supreme Court, in striking down the defendant's horizontal territorial allocations as illegal per se, stressed the point that it would go beyond the judicial function and competence to weigh the defendants' claims of enhanced inter-brand competition against the fact of decreased intra-brand competition. Assuming that this is so, should not there be at least someone to make a determination as to whether a Government victory is going to be good for consumers, competition, and the Nation generally? And if the courts are not going to do that job, then should not at least the Government itself make such a determination in a controlled, principled manner calculated to insure reasoned consideration of all pertinent public interest considerations?

In sum, the effectiveness of antitrust enforcement in the consumer interest needs to be improved in a number of areas. For one thing, the Justice Department's efforts should be channeled toward bringing those suits likely to have the most significant economic effect in terms of promoting the proper functioning of the competitive system. This might be achieved, inter alia, by requiring the Department, like other Federal agencies, to issue reasoned statements explaining its major policy decisions, such as its decisions to bring lawsuits of various types, setting forth in such cases the extent and nature of the impact on the economy which a Government victory is expected to have.

A second goal to which Justice Department enforcement efforts should be guided is the protection of the consumer as such. Thus, the detection and prosecution of violations that directly affect consumers should be encouraged and, to the extent necessary, funds should be especially appropriated for that purpose. In addition, the U.S. attorneys in the various judicial districts should be authorized to maintain continuous grand jury investigations of price fixing and other serious antitrust violations which have the most demonstrable direct and adverse effects on the consuming public, and the present activities of the Antitrust Division in monitoring prices in various key areas of the economy should be further expanded as an important early warning system for price fixing and like violations.

The enforcement policies of the Antitrust Division should also reflect the fact that in cases where the numbers of persons injured are so large and the amounts of individual damage are so small that private suits are unlikely to be maintained—for example, the hypothetical case cited in the House report of 50 million persons each with a $1 claim—it is the Government that consumers must necessarily depend upon to protect their interests. Since there is no feasible way in which these small recoveries, after absorption of administration costs, will have any meaningful benefit to consumers, rather than to provide windfalls to the States, we should concentrate on preventing consumer injury through vigilant and effective antitrust enforcement, especially suits for injunctive relief.

In order to insure that the consumer interest is adequately reflected in Justice Department policymaking, several possible devices come to mind. One is to appoint advisers to both the Department of Justice and the Federal Trade Commission who are specially qualified to point out areas of consumer interest and to influence the choice of cases to be brought so as to maximize benefits to consumers. Another possibility is to require the Department to prepare a consumer impact statement setting forth an analysis of the likely economic impact on consumers of the Department's enforcement efforts.

Similarly, in those cases where treble damages might provide a realistic and meaningful remedy for consumers but where for one reason or another it is impractical for consumers to maintain the litigation themselves, I think that it is the Federal antitrust enforcement agencies who should be responsible for protecting the consumer interest. Thus, I would recommend special legislation to allow the Attorney General of the United States to sue under rule 23 of the Federal Rules of Civil Procedure as a statutory class representative on behalf of consumers in those cases where he finds that the consumers' claims are significant enough to justify the burden which the suit would impose on the judicial system. In such an action, the court should be empowered to determine not only whether or not there was an antitrust violation, but also the nature and extent, if any, of the injury to consumers resulting from the defendants' conduct. The court could then, as part of its judgment, lay down rules governing the measurement of consumer damages where the consumer has supplied cognizable injury.

At that point, the adjudication of individual consumer claims should pass from the courts to an administrative body, such as the Federal Trade Commission. The agency should be empowered to award treble damages in such cases to individual consumers who comply with whatever simplified procedures the agency prescribes within congressionally mandated guidelines. The procedure should be sufficiently simple, however, so that a layman could prosecute his own individual claim before the agency without having to retain an attorney. Thus, consumers whose claims are not sufficiently meaningful to make it worth their while to comply with even such minimal requirements would, of course, receive no recovery. Those consumers whose claims were significant would receive their entire treble damage recoveries without deduction for attorneys' fees or for the large costs of administration which typically erode individual claims in a normal class action context.

There are a number of advantages which I believe would accrue from this suggested procedure. For one thing, as I have indicated, the beneficiaries of such a litigation would be the consumers who are actually injured rather than the lawyers who all too often are the only ones who profit from a class suit. Second, responsible representation for the class would be assured, thus avoiding abuses—such as settlements exacted through blackmail—which have unfortunately become associated with other consumer class action procedures. Similarly, by putting such representation in the hands of the Government, the Congress would avoid encouraging a coterie of plaintiffs' lawyers from fomenting consumer class litigation for the purpose of generating gigantic legal fees, without regard to the interests of the consumers themselves. Since the Justice Department has developed the facts of violation in its own litigation, it is in the best position to take the next step of suing on behalf of consumers. This avoids the necessity of bringing the State attorneys general into the act together with the private attorneys they hire on a contingent basis. Our plan avoids the expropriation of the interests of those who do not file claims and eliminates the anomaly of the States reaping a bonanza from a violation of Federal law. Recovery would and should be limited to those who file a claim with the Commission. One has the right of not pressing a claim if he is so minded and there is no constitutional basis of granting his recovery without his consent to another even if the other is a sovereign State. Finally, the procedure I suggest would assure consumers of skilled, adequately financed representation in every meritorious case where a treble damage remedy is appropriate.

I now turn to several other aspects of this measure which cause me deep concern. I trust first to section 701c) which amends section 6 of the Sherman Act.[*] That section provided for the condemnation of any property involved in an antitrust violation which happened to be in the course of transportation from one State to another or to a foreign country. This Sherman law remedy has proved to be a dead letter for two reasons: First, because it is much too drastic and is inherently unfair, and second, because the forfeiture is limited to property moving in interstate commerce in the implementation of an antitrust violation. Section 701(c) of the pending bill would eliminate the limiting language of section 6 concerning the movement of the goods in interstate or foreign commerce in carrying out any unlawful contract, combination or conspiracy.

The result of the proposed amendment is quite extraordinary. Now every piece of property embraced by any unlawful contract, combination or conspiracy is to be forfeited to the Government. Such condemnation is mandatory and not discretionary with the court. This means, for example, where a merger is challenged under the Sherman Act, the properties of buyer and seller are forfeited if the acquisition is declared unlawful. In price-fixing cases, the products whose prices are conspiratorially rigged, be they electrical equipment, plumbing fixtures, steel, sugar, or other commodities, become the property of the United States after judgment of illegality is entered. In a case such as United Shoe Machinery, all machines subject to the unlawful leases would likewise be forfeited. I could go on ad infinitum.

I can only ask whether the members of this committee seriously intend to impose so draconian a penalty on American business whenever the Sherman Act is infringed. Has the committee given consideration to the fact that in cases involving the same degree of culpability one defendant may have $100,000 of property condemned whereas another could be faced with the forfeiture of billions of dollars? So far as I am able to determine, the prior hearings failed to indicate the whys and wherefors for this radical change. What proof has there been of any need for the amendment? Who is sponsoring it? Has the Department of Justice, which would be responsible for bringing condemnation suits under section 701(c), requested Congress to confer such power and impose such responsibility upon it? Has this provision of the bill been approved by the Office of Management and Budget? These are questions which I believe the committee should pursue and the answers to which the public is entitled to have.

Section 703 provides that a party's complaint may be dismissed or its answer stricken if it, or any person in privity with it, fails to furnish discovery on the ground that the law of a foreign country where the evidence is located prohibits compliance with the discovery order. Can you imagine the consternation in this country were any foreign country to enact reciprocal legislation which would compel an American to violate our laws in order that his pleadings not be automatically stricken and judgment entered against him by a foreign court? This is a problem that has been handled extremely well, on a pragmatic basis, by our Federal courts, without creating any international incidents or complicating the conduct of our foreign relations. There is very little meaningful testimony in the legislative hearings on the need, purpose or effect of this proposal. If it is not intended to change existing law, it serves no purpose, and if conversely, it is intended to restrict the discretion of the courts and to change the present law, no showing has been made of any need for taking any step which could have unpleasant repercussions in our relations with other nations.

Mr. President, how much time do I have remaining?

The **PRESIDING OFFICER**. Slightly less than 6 minutes.

Mr. **BELLMON**. I thank the Chair.

Mr. President, the mischief of section 703 is compounded by section 707(c) which provides that 703 shall apply to all actions pending on the date of enactment of this bill.

I again would urge that the committee find out who has sponsored this section, what are the reasons that Congress is being asked to enact it, what need has been demonstrated for any change in the law and what showing has been made, contrary to my representation, that the existing law has not worked satisfactorily in the interests of the litigants, the public and the administration of justice.

AMENDMENT NO. 1722

Mr. President, at this time I call up amendment No. 1722.

The **PRESIDING OFFICER**. The amendment will be stated. The legislative clerk read as follows:

> The Senator from Oklahoma (Mr. BELLMON) proposes amendment No. 1722.

The amendment is as follows:

> Delete page 36, lines 1 through 11; change the "(B)" on line 14 to a "(4)".
>
> At page 38, line 7, delete "and," at page 38, line 14, substitute a semicolon for the period, and at page 38, line 15, insert the following before "(C)":
>
> "(xi) tender offers for, or requests or invitations for tenders of, any class of any equity security, and deposits and transfers of stock pursuant to such tender offers, requests, or invitations: *Provided, however*, That, within ten days after making a tender offer for 10 per centum or more of the stock of another person, if the resulting acquisition would satisfy the standards set forth in subsection (a) thereof, the person making such tender offer shall file with the Federal Trade Commission and the Assistant Attorney General duplicate originals of the notification specified in paragraph (3) of subsection (b); and
>
> "(xii) such other classes of persons and transactions as the Federal Trade Commission, after consultation with the Assistant Attorney General, shall by general regulation prescribe.".

Mr. **BELLMON**. I ask for the yeas and nays.

The **PRESIDING OFFICER**. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. **BELLMON**. Mr. President, I reserve the remainder of my time.

Mr. **MORGAN**. Mr. President, this is the amendment relating to title V. The amendment is opposed by the administration. It was offered in the committee, and it was rejected in the committee.

What it does in effect is it prohibits rulemaking authority to promulgate the premerger notification forms. It also exempts tender offers unnecessarily even though the average time is 45 days for tender offers, the argument being that they could not give 30-day notice because it would interfere with them. But actually the average notice they give is 45 days.

Let me read, if I may, Mr. President, from the letter from the Deputy Attorney General, Judge Harold R. Tyler, to Senator PHILIP A. HART with regard to this provision. It states:

> The Administration continues to support enactment of a premerger notification provision, providing that the waiting period and extension period are reduced to 30 days and 20 days respectively.

And the Senate will remember that we adopted the amendment offered by the distinguished Senator from Maryland (Mr. MATHIAS) that did exactly that:

> Furthermore, to assure that challenges to pending mergers are considered on an expedited basis by district courts, the Administration would encourage enactment of a provision directing the Chief Judge of the appropriate United States Court of Appeals to assign a District Court judge who is able to proceed on an expedited basis with the case, and further to direct that a hearing on the government's motion for a preliminary injunction be held at the earliest possible time, taking precedence over all matters except older matters of the same character and trials pursuant to 18 U.S.C. § 3161.

In other words, Mr. President, the bill as it is now written is exactly what the administration requested. We have adopted an amendment that was offered by Senator MATHIAS.

I urge the defeat of the amendment called up by the Senator from Oklahoma.

Mr. **JACKSON**. Vote.

Mr. **WEICKER**. Vote.

The **PRESIDING OFFICER**. The question is on agreeing to the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

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[*] Sec. 6. Any property owned under any contract or by any combination, or pursuant to any conspiracy (and being the subject thereof) mentioned in section one of this act, and being in the course of transportation from one State to another, or to a foreign country, shall be forfeited to the United States, and may be seized and condemned by like proceedings as those provided by law for the forfeiture, seizure, and condemnation of property imported into the United States contrary to law.

Mr. SPARKMAN (when his name was called). On this vote I have a pair with the distinguished Senator from Maine (Mr. Muskie). If he were voting, he would vote "nay." If I were permitted to vote, I would vote "yea." I therefore withhold my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr Bumpers), the Senator from Idaho (Mr. Church), the Senator from Indiana (Mr. Hartke), the Senator from Hawaii (Mr. Inouye), the Senator from New Hampshire (Mr. McIntyre), the Senator from Maine (Mr. Muskie), the Senator from Rhode Island (Mr. Pastore), and the Senator from California (Mr. Tunney) are necessarily absent.

I also announce that the Senator from Missouri (Mr. Symington), and the Senator from Indiana (Mr. Bayh) are absent because of illness.

I further announce that, if present and voting, the Senators from Indiana (Mr. Bayh) and (Mr. Hartke), and the Senator from Rhode Island (Mr. Pastore) would each vote "nay."

Mr. HUGH SCOTT of Pennsylvania. I announce that the Senator from New York (Mr. Buckley), the Senator from New Mexico (Mr. Domenici), the Senator from Arizona (Mr. Goldwater), the Senator from Michigan (Mr. Griffin), the Senator from Nevada (Mr. Laxalt), the Senator from Maryland (Mr. Mathias), and the Senator from Idaho (Mr. McClure) are necessarily absent.

The result was announced—yeas 20, nays 62, as follows:

[Rollcall Vote No. 262 Leg.]

YEAS—20

Allen
Baker
Bartlett
Bellmon
Brock
Byrd, Harry F., Jr.
Curtis
Eastland
Fannin
Garn
Hansen
Helms
Hruska
Roth
Scott, William L.
Stevens
Stone
Talmadge
Thurmond
Tower

NAYS—62

Abourezk
Beall
Bentsen
Biden
Brooke
Burdick
Byrd, Robert C.
Cannon
Case
Chiles
Clark
Cranston
Culver
Dole
Durkin
Eagleton
Fong
Ford
Glenn
Gravel
Hart, Gary
Hart, Philip A.
Haskell
Hatfield
Hathaway
Hollings
Huddleston
Humphrey
Jackson
Javits
Johnston
Kennedy
Leahy
Long
Magnuson
Mansfield
McClellan
McGee
McGovern
Metcalf
Mondale
Montoya
Morgan
Moss
Nelson
Nunn
Packwood
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Schweiker
Scott, Hugh
Stafford
Stennis
Stevenson
Taft
Weicker
Williams
Young

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Sparkman, for.

NOT VOTING—17

Bayh
Buckley
Bumpers
Church
Domenici
Goldwater
Griffin
Hartke
Inouye
Laxalt
Mathias
McClure
McIntyre
Muskie
Pastore
Symington
Tunney

So Mr. Bellmon's amendment (No. 1722) was rejected.

Mr. ROBERT C. BYRD. Mr. President, may we have order, please?

The PRESIDING OFFICER. The Senate will be in order.

Mr. ROBERT C. BYRD. Mr. President, on behalf of myself and the following named Senators, I am about to send an amendment to the desk; I shall ask unanimous consent that it be in order to call up the amendment: Mr. Griffin, Mr. Philip A. Hart, Mr. Hugh Scott, Mr. Mansfield, Mr. Javits, Mr. Roth, Mr. Brock, Mr. Kennedy, Mr. Abourezk, Mr. Morgan, Mr. Percy, Mr. Stevens, and Mr. Taft.

The Senators whose names I have called have been in consultation throughout the day in an effort to come up with an amendment in the nature of a compromise. The amendment makes two major modifications in amendment No. 1701, the Hart-Scott substitute. I believe, and these colleagues whose names I have stated believe, that the compromise represents two additional major concessions on the part of the sponsors of this legislation. Clearly, this is an effort to break the logjam and to permit the Senate to finish up this important legislation.

Mr. Pastore, last evening, quite appropriately made the suggestion that reasonable men on both sides of the aisle get together and make an effort to develop a compromise proposal that would have broad-based support and that would be given an opportunity for action by the Senate.

We recognize that unanimous consent is necessary in order to proceed to the consideration of this compromise.

The amendment does two significant new things: First, it cuts back on parens patriae actions in the following manner: a State attorney general would only—I stress the word "only"—be permitted to recover treble damages utilizing fluid class recovery for two offenses: price fixing, and fraudulently procuring a patent or enforcing a fraudulently procured patent. For all other per se offenses in violation of the Sherman Act, a State attorney general could only recover single damages—I repeat, single damages—when the fluid class recovery method is utilized.

Second, the compromise amendment offered by these various Senators and myself makes significant concessions in title V. Our amendment would leave the provisions dealing with premerger notification intact, but it would strike all of the provisions dealing with the automatic temporary restraining orders. Under the amendment of Senator Mathias, which is presently in the bill, the Government may get an automatic temporary restraining order against a proposed merger for 30 days or until the district court issues a decision on the preliminary injunction, whichever is less.

Under the language presently in the Hart-Scott substitute, the Government may get an additional 30-day extension for good cause shown. The compromise amendment would strike these provisions in their entirety.

Our amendment also includes a third significant provision which is not new. It renews the offer previously made by Senators Philip A. Hart and Hugh Scott of Pennsylvania to ban percentage contingency fees in parens patriae action. As Senators will recall, Senators Philip A. Hart and Hugh Scott sought unanimous consent to offer this provision yesterday morning. Unanimous consent was not obtained at that time.

To summarize, under our amendment, title IV would be significantly cut back to two offenses for treble damages—price fixing and fraud on the Patent Office. Title V would be conformed totally to the recommendations of the administration and of the departments. Finally, percentage contingency fees in parens patriae actions would be banned.

Mr. President, my colleagues are present on the floor and can answer substantive questions, but I am going to ask unanimous consent—and I hope that the opponents of this legislation would see the wisdom of accepting this compromise—to ask unanimous consent that it be in order to offer this compromise amendment to the Hart-Scott substitute.

Mr. HUGH SCOTT. Will the distinguished Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. HUGH SCOTT. I would hope that it could be accepted because, regardless of the views of those who oppose the bill or other sections thereof, it represents a significant effort on the part of the supporters of the bill to meet objections which have been asserted to it over a period of time. It, in fact, incorporates some of the very amendments proposed by the opponents of the bill. It should quiet the concerns of some on the floor, and I am told that it has quieted the concerns of a number of Senators in this Chamber. It represents the, I must say reluctant but realistic, acceptance of the fact that the objections need to be met if the bill is to be accepted by the House of Representatives and to become law. The elimination of the automatic stay alone, for example, should eliminate considerable objections to the bill. There are, in my judgment, reasons—eminently good reasons—why we should again show a spirit of compromise. I do not think any of us who support the bill have given up our view that the original bill was a good one and we would prefer it.

But we also recognize the realities of the situation, that acceptance of the views of others is a part of the process by which the Senate arrives at conclusions.

I think we have gone on much too long in the consideration of this bill, with all due respect to all Senators involved. I think that we ought to find some way by which we can arrive at some agreements.

We are in a parliamentary situation which makes the job of the distinguished assistant majority leader that much more difficult. But I would hope that we can secure approval, because it is the intention of the Senator from Michigan and myself that, if given that approval, we would, of course, honor it in conference and fight for it. If not given that approval, I feel it is fair to say—and the

Senator from Michigan (Mr. PHILIP A. HART) is here—that we do strongly feel if it is the means of obtaining a bill then we ought to consider supporting it in any way in the conference. The Senator from Michigan nods his head and, I assume, he agrees with what I have just said.

So that we are acting in the utmost of good faith. We are trying to meet the objections of those who opposed the bill in the beginning. I do not believe we ought to be asked to meet every objection to every section of the bill. We have gone a long way, as the Senator from Massachusetts (Mr. KENNEDY) said yesterday. We have taken long steps toward compromise, and here is another, and this one certainly has gained the approval of a number of Senators who heretofore have had misgivings in various degrees about various parts of the bill.

So I would hope that we could get the unanimous-consent request. If we cannot, we will continue to use those legislative means which are available to us. But I deeply regret the fact that the Senate is unable to get on with the foreign assistance bill, that we are unable to get on with my favorite bill, S. 1776, the Valley Forge Park Act, because I want the President to be able to sign that on July 4, unless we are still in session that day and have not acted on it. And there is, of course, the tax bill and many other matters of great moment.

So I do want to thank the distinguished assistant majority leader for yielding.

It is, in my view, of preeminent importance, I say in conclusion, that we try to find means by which we can solve what has up to now been a serious and regrettable impasse. I believe that all Senators have acted from the highest of motives. I believe we have all acted with a desire to secure reasonable legislation. But I think those who support the Hart-Scott bill have made tremendous concessions as the debate has gone along, and certainly as to titles IV and V we have made further important additional concessions.

Mr. President, vigorous antitrust enforcement should be the rallying cry of all who believe in the free enterprise system. It is one of President Ford's major initiatives, and he must commended for his efforts in this direction.

Senator PHILIP A. HART and I have moved together on this bill in the belief that the free enterprise system and the competitive market have served this Nation well. No other economic system allocates resources and labor as efficiently, nor distributes the products of labor to the ultimate consumer as well. Unnecessary Government regulation stifles the creativity and competitive spirit of American business.

However, certain basic rules must be enforced if the system is to continue to function effectively. The Sherman and Clayton Acts are the basic guardians of our free enterprise system. But they are not enough. Competition in many sectors of the economy no longer exists, and price is determined not by free market forces but by an assessment of what the market will bear, and quality is determined not by consumer comparison with the quality of the products of competition, but by illegal agreement.

I have followed this debate for almost a year now, for it has been that long since Senator HART and I introduced the measure. Those of you who may find the position of the advocates of this bill unyielding or unreasonable have not had the advantage of my extended perspective. The bill we are debating today bears but the slightest resemblance to the bill that was introduced a year ago. In a bipartisan spirit of compromise and conciliation, we have made major changes. On every controversial point, accommodations have been made. I am convinced that the bill we will send to the President will be a bill he can sign. It will be a product of compromise.

We make these concessions or a gesture of good will and in the spirit of compromise. We have the votes to pass the bill in its current posture, but we are reluctant to exacerbate the hard feelings or frayed nerves. We are the majority, but we respect the views of our colleagues who oppose us and move to accommodate their convictions.

I thank the distinguished assistant majority leader for yielding, and I know he may want to submit at this time to other questions.

Mr. ALLEN. Reserving the right to object——

The PRESIDING OFFICER. No request has been made. The Senator from North Carolina.

Mr. ROBERT C. BYRD. I have not yet propounded the unanimous-consent request. I shall first ask that the amendment be read, and I would expect that the time would be charged against me. So, if I may ask the clerk now to read the amendment for the enlightenment——

The PRESIDING OFFICER. Well, first, the Chair inquires did the Senator from North Carolina seek recognition?

Mr. HELMS. Mr. President, I thank the Chair for his courtesy. I was going to reserve the right to object, I will say to the distinguished Senator from West Virginia, not intending to object but because I do have concern that the ranking member of the Judiciary Committee is not on the floor. He was called out, and I was going to suggest that we have a quorum call, with a fervent plea that nobody make it go live. If Senator HRUSKA gets here, I think that will be resolved. I hope the unanimous-consent request will not be actually made until he is here.

Mr. ROBERT C. BYRD. I think I ought to make the request so that it is the pending matter before the Senate. I will make the request, and then I will ask the clerk to read the amendment, and then other Senators may want to reserve the right to object while they ask questions.

Mr. HELMS. I have just been informed that the Senator is on his way here, so the matter is academic.

Mr. ROBERT C. BYRD. Mr. President, I ask that the amendment be considered in order.

The PRESIDING OFFICER. Is there objection?

Mr. ALLEN. I reserve the right to object. What is the request now?

The PRESIDING OFFICER. That the amendment be in order.

Mr. ALLEN. I would reserve the right to object. I thought the distinguished assistant majority leader requested that the amendment be read.

Mr. ROBERT C. BYRD. I did.

Mr. ALLEN. I reserve the right to object.

Mr. ROBERT C. BYRD. Will the Senator reserve the right to object and allow the clerk to read the amendment, the time being charged to me?

The PRESIDING OFFICER. Is there objection to that procedure?

Mr. ALLEN. I am not agreeing to the amendment being in order.

The PRESIDING OFFICER. Precisely.

The clerk will state the amendment.

The legislative clerk read as follows:

On page 29, line 8, strike out the period and insert in lieu thereof the following:

": *Provided*, That in cases other than price fixing or arising out of the fraudulent procurement or enforcement of a patent, any damages awarded against a defendant which are proved and assessed in the aggregate on the basis of statistical or sampling methods shall be reduced to single damages, interest, and the cost of suit, including reasonable attorneys' fees and other expenses of the litigation.

On page 40, strike out lines 10–25, and on page 41, strike out lines 1–23, and insert in lieu thereof the following:

"'(1) upon the filing of such certification the chief judge of such district court shall immediately notify the chief judge of the United States Court of Appeals for the circuit in which such court is located, who shall designate a United States district judge to whom such action shall be assigned for all purposes; and

"'(2) the motion for a preliminary injunction shall be set down for hearing by the district judge so designated at the earliest practicable time, shall take precedence over all matters except older matters of the same character and trials pursuant to 18 U.S.C. 3161, and shall be in every way expedited.".

On page 42, line 22, strike out all through page 43, line 18.

On page 31, line 14, insert the following before the period: ", except that such term does not include any person employed or retained on a contingency fee based on a percentage of the monetary relief awarded under this section".

The PRESIDING OFFICER. Is there objection?

Mr. ALLEN. Reserving the right to object, Mr. President——

The PRESIDING OFFICER. The Senator from Alabama—the Senator from West Virginia.

Mr. ALLEN. Mr. President, inasmuch as this is not a debate on the measure but an attempt to reach an accommodation in the matter, I ask unanimous consent that such time as I use on this not be charged against the 5 minutes remaining.

Mr. ROBERT C. BYRD. Mr. President, I would have to object to that request because the Senator leaves it open.

Mr. ALLEN. Not to exceed 10 minutes.

Mr. MANSFIELD. Mr. President, I would object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Alabama still has 8 minutes remaining.

Mr. ALLEN. I thank the Chair.

Mr. ROBERT C. BYRD. The Senator may ask questions of cosponsors.

Mr. PERCY. Mr. President, the Senator from Illinois has a good deal of time left, and for the purpose of clarifying the issue I would be happy to yield specific limited amounts of time to the Senator from Alabama.

Mr. ROBERT C. BYRD. I would have to object to that kind of request. The Senator from Alabama may ask questions of the Senator from Illinois, and it will be on the Senator from Illinois' time in asking them.

Mr. ALLEN. I would ask the distinguished assistant majority leader—will the Senator yield there?

Mr. ROBERT C. BYRD. Yes.

Mr. ALLEN. Will the Senator yield for a question?

Mr. ROBERT C. BYRD. Yes.

Mr. ALLEN. Does this amendment have the approval of the distinguished Senator from Nebraska (Mr. HRUSKA)?

Mr. ROBERT C. BYRD. I cannot answer that question. Perhaps some of the others who were in consultation throughout the day can answer that question.

Mr. ALLEN. Mr. President, will the Senator yield for a further question?

Mr. ROBERT C. BYRD. Yes.

Mr. ALLEN. I make no point of the fact that I was not shown the courtesy of being brought into the negotiations, but I wonder why the distinguished Senator from Nebraska was not brought into the consideration of the proposed substitute.

Mr. ROBERT C. BYRD. Mr. President. I am not sure that the distinguished Senator from Nebraska was not at that meeting.

Mr. PHILIP A. HART. Will the Senator yield?

Mr. ROBERT C. BYRD. I yield the floor.

Mr. PHILIP A. HART. On my time.

Mr. HANSEN. Mr. President, has objection been raised to the unanimous consent request?

The PRESIDING OFFICER. Objection has not yet been made.

Mr. HANSEN. Mr. President, reserving the right to object——

Mr. MANSFIELD. It is already being reserved.

Mr. ALLEN. I would like to ask the distinguished Senator from West Virginia, inasmuch as some of us might like to glance at this for a few minutes before deciding whether we would agree to it, would it be in order to have a good-faith effort to reach an agreement on this, or to make constructive suggestions as to a revision, and that we might have a recess of some 30 minutes to consider this?

I do not think a bill of this importance that has been debated for 2 or 3 days here ought to be decided on the spur of the moment.

Mr. ROBERT C. BYRD. Mr. President, no recess is needed. Senators may reserve the right to object to this amendment. Senators may ask questions, as they reserve that right, to Mr. PHILIP A. HART or to any other Senators. They in that way, I think, can clarify any questions they may have in mind concerning the amendment.

It would seem to me that would give ample opportunity for any Senators who wish to ask some questions.

Mr. ALLEN. I disagree with the Senator.

Mr. PHILIP A. HART. One question that was asked—I will use my time.

Mr. ROBERT C. BYRD. The Senator has the floor.

Mr. PHILIP A. HART. I wish Senator HRUSKA were here.

Mr. MANSFIELD. I understand he is in the cloakroom.

Mr. ALLEN. He is on the floor.

Mr. PHILIP A. HART. I am more comfortable making this explanation with him here.

The question was, Why did not those of us, Senator SCOTT and others, ask Senator HRUSKA how he felt about this fallback proposition?

I assume a personal responsibility. I speak only for myself. I knew damn well you would not agree with it, and if I am wrong in that, I would be delighted to welcome their amendments, or those associated with me would.

But why dance around the honest fact? We knew there were limits constructed within debate, within the committee itself, that would foreclose, in all likelihood, some Members, some colleagues whom we would welcome joining us, and there was nothing more to achieve than that in the fact we did not go to him.

Mr. HRUSKA. Mr. President, I am sure the Senate is aware there is not any more fair man, a more considerate or courteous man in the Senate, than the preceding speaker.

It was not my privilege to have consulted with him, nor him with me, before this document which I hold in my hand was formulated. I would not take offense at it and I ask everyone not to suggest that there is something ulterior in motive or something which is not wholesome about it. We have to have a starting point someplace.

Frankly, earlier in the day I was asked, "Would you compose and transmit something by way of a suggestion to serve as a basis of compromise?" I was frank enough to say, "We have been at it now for about 2 months, or a little more than that, first of all in the committee in the markup sessions, later on on the floor here."

Virtually each and every time—I say this most confidently—a suggestion was made to turn it down out of hand and the power of a greater majority on the other side of the issue asserted itself.

Mr. ROBERT C. BYRD addressed the Chair.

Mr. HRUSKA. No harm in that.

Mr. ROBERT C. BYRD. Will the Senator state the name of the Senator who made the proposal that he——

Mr. HRUSKA. Pardon?

Mr. ROBERT C. BYRD. Will the Senator state the name of the Senator who came to him this morning and asked if he would present something?

Mr. HRUSKA. Yes, indeed. The Senator from West Virginia came to me.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. HRUSKA. We discussed it. I gave him that story.

No offense, Mr. President. No offense at all, because in this business we give and we take, and we offered and we were rejected time and again.

My suggestion was that there is nothing that I could suggest that has not already been suggested by this Senator, or those who have been thinking on similar lines have not already made.

I took that to mean when it was referred back to the other side that they would formulate something and come to us, and here it is. I think we should accept it in the spirit in which it is offered.

As to the substance of this, and after all, that is what we are interested in—but first of all, I want to say I think it was done in good spirit, it was done in an effort to try to see if we can resolve an issue or two here that will allow us to go forward from the point which we now occupy.

As to the merits of this proposal, I have, first of all, the narrative proposal. Second, the technical language of the amendments that are proposed.

I shall not undertake a final judgment on it, Mr. President. It took a little while for it to be formulated. Those who have proposed it are much more familiar with it. They are much more familiar where it fits in the text of this bill.

I must remind the Senate once again—as I have done time after time after time, to paraphrase a very famous historical figure—that this is a bill with five titles, attacking one of the most complicated and complex and intricate pieces of legislation on the books.

I do not know where it fits in, and I do not know what things are left out, and what things should receive attention that it does not pay attention to.

I call attention to some of the items which are of some consequence and which are absent in the narrative and in the amendments.

Aggregate and statistical method of formulating damages, for example. It is totally silent on that.

Totally silent on the proposition of the surplus of these damages, as ascertained after the individual claims of consumers have been satisfied, what becomes of that?

Will the judge in his good judgment, by fiat or otherwise, say that they are going to the hospital, they are going to the Good Shepherd Home, they are going to the Salvation Army, they are going to food stamps, and so on?

Will it be that sort of disposition of those surplus funds or will it be a situation where those funds which are public in character, which are by way of a fine or penalty in essence, will that be turned over to a legislative body like the Congress, for example, or turned over to the State legislature for them to dispose of in the regular appropriation process?

Those things are absent from this and they are of some consequence because we have considered those points on the floor here.

In title II, the matter of the civil investigative demands—as we used to know it in 1962 when we passed the law, we know it now as the Civil Process Act, and that nomenclature is not too important—it has to do with some basic rights of the citizenry of this country. When we have these demands made upon people who are not even the objects and the targets of investigation, they are people in possession or in custody of documents which might affect somehow the issue at hand, the point of investigation of the Antitrust Division of the Department of Justice, what happens to those documents when that process is over?

That is of great consequence because they are documents which belong to individual citizens. They are documents and material, and oftentimes information, about their business—sometimes even of their personal lives.

The bill now provides that they may be circulated and virtually given and deposited in various regulatory bodies, and in any other way, and in many wide ways, which in the judgment of some of us is not right.

Here we complain about "Big Brother" walking in and accumulating huge dossiers of information about all individuals in America under their social security numbers, and so on. Then we indulge in an effort where we add to that very statistic and that very fact which we criticize so greatly. That point has not been raised.

There are other points. I will not go into detail about the other points.

May I suggest this, in order to afford those of us who are asked to analyze this and react to it, that we be given overnight, whatever remains of the night—it is 7 p.m. by the clock right now—and be prepared tomorrow to discuss this in proper fashion and say, "Here is a counter proposal—here is a counter proposal."

I need not remind the Senate or any of its Members that the success of any compromise of this kind rests upon the unanimous consent of those who are involved here, and there are 100 Members. Absent an opportunity, a reasonable opportunity, Mr. President, preferably by some daylight hours—and the Sun will set in about 1 hour and 45 minutes—preferably at some daylight hour when we can gather, foregather, and consider this thing logically and rationally, I say we can foreordain for this proposal a rather dismal future.

I would suggest that we follow that course of procedure.

It is not a matter of time. Time is being consumed in any event. Shall we, with the time lying immediately ahead of us, employ it through committee? Shall we do it thoughtfully? Once again, Mr. President, and I say this most kindly and most understandably, shall we abide the result by the fact that there are more votes on one side of the issue than the other?

I think we are paying the penalty under the procedures we have had the last few days because there is a premature assertion of the cloture of debate. I say this most advisedly. We have gone over this before. But I say this, that it is much too late to repeat that and to prolong it. I suggest this other as an alternative.

Mr. ROBERT C. BYRD. Mr. President, if there is no objection to the unanimous consent I have propounded, the amendment would be before the Senate and would be subject to debate. Senators could debate it within the time of the cloture rule, just as they can debate any other amendment that is being called here.

Mr. HRUSKA. But the Senator knows that that has its limitations. It has its limitations for this reason, Mr. President: This is subject to unanimous consent. It cannot be debated all that is wanted. This proposal is subject to unanimous consent for the purpose of consideration by this Senate. So let us not say debate. Debate will get us nowhere unless we get into a homogeneous group where we can say, "All right, you on your side and we on our side will agree to forego certain things and also to espouse other things and see if we can meet."

That cannot be resolved in debate, Mr. President, because debate means there is virtually a polarization of ideas, and then there has to be a majority vote to see which of those polls will be decided upon as a point of origin or the point of destination. So it is not a matter of debate. If it were the normalcy, without cloture, without restrictions of debate, without limitations, yes, then that would be fine, because then as we proceed from point to point, and we can amend on the floor to accommodate the swinging of a pendulum any given point, that is one thing. But where we are frozen into a situation with unanimous consent required, I submit very respectfully that debate will not resolve that issue.

Mr. ROBERT C. BYRD. Mr. President, I point out that not a single question has been asked concerning the substance of this amendment. Senators may do that on their own time under the cloture rule. They can ask questions before giving consent.

Mr. HANSEN. Mr. President, reserving the right to object, let me observe that I have participated to a very slight degree in the consideration and questioning of the various sections of this bill. I, too, hope that we might arrive at a consensus so as to approve whatever we can approve and move on from there to the consideration of other legislation. But it does seem to me as though the Senator from Nebraska has made a very reasonable proposal.

I, for one, not being a lawyer, most certainly do need the counsel and the benefit of the critique that Members trained in the law might be able to give me, if they are willing to go that far in adding to my understanding of a very complicated and sophisticated piece of legislation. I do not think it is being unreasonable to ask that we might have some time—the Senator from Nebraska has suggested that we consider it overnight—and then that the unanimous consent request be propounded in the morning. I should hope that by then, those of us who have not been privy to it could better understand it. I will do my best. I do not know that whatever position I take will have much influence one way or the other, but I certainly will make a good faith effort to see if we can reach an accommodation.

I do not think that the sort of understanding that is prerequisite to my being able to make a determination one way or the other can be achieved through the question and answer process which is now being offered, and only that being offered. I say that in all sincerity. I would hope my good friend from West Virginia would not force me to object.

Mr. ROBERT C. BYRD. I understand my distinguished friend. Is the Senator asking me to forego action on my request overnight until tomorrow? There is a unanimous-consent request that should be acted upon today. Are Senators asking me to forego making this request until tomorrow and thus delaying action on my unanimous-consent request at least another 12 hours?

Mr. HANSEN. No.

Mr. ROBERT C. BYRD. Or are they saying they will grant the request and then forego action on the amendment until tomorrow? I am not sure I understand what is being asked.

Mr. HANSEN. I can speak only as one Senator, Mr. President. I will say this: Unless I can have the benefit of persons who I have been supporting generally on this overall debate, unless I can have the advantage of their understanding and their critique of it, I shall indeed object. That does not mean that the Senator cannot bring it up tomorrow and make the same unanimous-consent request. But I have had no opportunity at all, and I am certain there are others who are in the same situation I find myself in who I know are of equally good determination, to try to bring a resolution to the very knotty issue which is before us. I would have to say, if the Senator wants us to follow through with the sort of scenario which I understand he now proposes, I would object. If we may have some more time, I may very well find that there is no good, valid reason to object.

Mr. ROBERT C. BYRD. Mr. President, since we have clarified the question, I cannot forego the presentation of my request until tomorrow. I think there is ample time now to develop for everyone's understanding the provisions of this amendment. So I have to leave my request at the desk now. If the Senators feel constrained to object, they will have to object.

Mr. STEVENSON. Will the Senator yield?

Mr. HRUSKA. Will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. HRUSKA. Mr. President, this is a proposition where a text is offered and we should say yes or no. We had here for many years the revered leader from Vermont. His name was Senator Aiken. One of his favorite sayings, when he came through that door over to my right, was, "If you don't know anything about the measure, vote no."

We do not know enough about this measure in the whole context of this thing. We would not want to be in the situation of the justice of the peace who says to the accused, "Do you want to be found guilty now or do you want to stand trial and be found guilty after the trial is had?"

No amount of debate, Mr. President, will substitute for a thoughtful consideration of this proposal in the context of the entire bill so that counterproposals to this proposal can be formulated.

Mr. MORGAN. Mr. President——

Mr. HRUSKA. I yield the floor.

Mr. MORGAN. Mr. President, reserving the right to object, and I shall not object, I would urge my colleagues to let this compromise proposal be considered. That is all we are asking, that it be considered. Once we consider it, then if they do not find the provisions of it acceptable, they can vote against it and we go back to the same position we are in now.

All we are asking is that it just be considered. It would appear to be a reasonable argument that we recess and study the proposal until tomorrow, and I think that would be reasonable if we had to give an answer yes or no on accepting the amendment. But all we are asking tonight, in order to try to get on with this proposition, is that the Senate just give unanimous consent to consider the amendment, which I honestly believe will answer many questions.

As the distinguished minority leader pointed out, it is not going to answer all of the objections that everyone has made, but I think it will answer the major ones.

For instance, as a very strong proponent of this bill and a former attorney general, I did not like the proposal that we are making which would restrict parens patriae suits to two classes of actions with treble damages: price fixing and fraudulently procuring a patent. I argued with my colleagues that we certainly ought to leave in there allocations of markets, because that is where I saw some of the worst abuses. But I gave in on that, because I think somewhere we have to hit a happy medium.

Mr. STEVENS. Mr. President, will the Senator yield right there?

Mr. MORGAN. Yes.

Mr. STEVENS. The compromise proposed by the Senator from West Virginia is directly toward the point that concerned some of us, but as I listened to the reading, it seemed to me that the treble damages in those two instances were waived only in the event of fluid damages. Is that the correct interpretation?

Mr. MORGAN. Those two situations are the only two where you can have treble damages.

Mr. STEVENS. No matter which way you compute the damages?

Mr. MORGAN. Only if it is aggregate damages. Then, with regard to all other per se actions, and it would apply to any other per se action, you would be entitled only to single damages. So if a person had engaged in that, it would certainly be reasonable for him to have to pay the single damages.

The distinguished Senator from Nebraska mentioned the aggregate damage theory. We have debated that now for nearly a week, and it seems to be an issue that probably cannot be resolved to the satisfaction of all of us, but that is not involved except with regard to these two areas with regard to the surplus, to what is done with the money that is left over. The Senator from Nebraska raised that question.

The Bumpers-Chiles amendment would still remain intact; that would give the court the authority, after all substantiated claims had been found, for it to be paid over into the State's treasury.

But to go into all of these things would open up the whole debate for another 2 weeks, and I do not believe anyone in the Senate wants that.

So all we are asking, Mr. President, is that Senators just give unanimous consent that this proposal be considered. I think the Senate can consider it, and if Senators do not like it, they can vote it down.

Mr. STEVENS. Mr. President, will the Senator from West Virginia yield to me for a question?

Mr. ROBERT C. BYRD. I yield.

Mr. STEVENS. Again I commend the Senator on his proposal, and would like to be added as a cosponsor, but I want to ask a question about the extent to which there were considered, in preparing this compromise, the feelings that some of us had expressed, primarily and informally, about the scope of the attorney general's authority under this new concept. Particularly I wish to ask whether it was considered if there was any way at all to limit the attorney general of the State with regard to actions under this particular law, so that the attorney general would have to proceed under State law to the extent that he could, or in some way leaving the attorney general of the State in a position where he must enforce the State law first.

One of the fears I have expressed here informally is that we have little antitrust laws all over the country, enacted by the State legislatures. They are basically designed to take care of the areas not covered by the Sherman Act or the Clayton Act.

I do not see that this amendment goes in the direction of assuring us that the attorneys general of the States will in fact continue to enforce the State laws, if the large power of the Federal law that is detailed to them now under the parens patriae concept becomes available.

Was that considered by the group that formulated the compromise?

Mr. ROBERT C. BYRD. Mr. President, the distinguished Senator from Alaska will understand, I am sure, that I have been on the floor all day, and I was unable to participate in the discussions. I knew that they were going on, but one of the Senators who did participate in those deliberations would have to answer as to the extent that those questions were discussed.

Mr. STEVENS. I only raise the question because I think there were some of us who, while we were prepared to accept the compromise, would also urge some changes here and there that might make it more acceptable, rather than compromise in terms of unanimous consent. I would urge that we try to work this out, and it does appear to me as something that, through the process of questioning, as the Senator from West Virginia has suggested, or through the process of some time frame for consideration, could lead to a counteroffer or could lead to a compromise, and we will be through with this a lot sooner, if we can take time to try to consider some of the vexing problems some of the Members still have with the bill, even with this compromise.

Could I address that question to someone else? Was there any consideration of the concept that we might limit the attorneys general, as they get into this new concept, to enforcing their State laws first, before they exercise this new power?

Mr. MORGAN. Mr. President, reserving the right to object, I can try to answer the question.

Yes, I have given a great deal of thought to it, and so has the Senate. As the Senator will recall, earlier we adopted an amendment by the Senator from Arkansas (Mr. BUMPERS) and the Senator from Georgia (Mr. NUNN), which would authorize the Federal judges or the judicial panel to consolidate the cases, the purpose being to prevent a proliferation of lawsuits all over the country.

I understand the Senator's point of view is to utilize the State cases, but then we might have a company trying to defend in 50 different States. I think the very purpose of the Bumpers-Nunn amendment was to prevent that. I really do not believe it would be feasible.

Mr. STEVENS. Is the Bumpers-Nunn feature maintained by this compromise?

Mr. MORGAN. Yes, it is.

Mr. STEVENS. But going again to the basic problem of those antitrust negotiations not currently covered by State law, and the authority of the attorney general to pursue them, it would be my idea that the State attorneys general should first enforce their own laws and pursue violations of their own laws. It would seem that there ought to be some way to urge these people to enforce their own laws first, and use this as the extreme authority to pursue antitrust violations in their States.

Mr. MORGAN. That is contemplated

by the bill itself, and I think if this amendment is accepted, so we can permit it to be discussed, that might be made clear.

Mr. HRUSKA. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HRUSKA. What is the question before the Senate?

The PRESIDING OFFICER. The Senator from West Virginia has propounded a unanimous-consent request, on which there is pending a reservation of objection.

Mr. HRUSKA. May I ask the substance of the unanimous-consent request?

The PRESIDING OFFICER. That it be in order to offer the amendment, which was read.

Mr. HRUSKA. I beg the Chair's pardon.

The PRESIDING OFFICER. That it be in order to offer the amendment which the clerk reported.

Mr. HRUSKA. Mr. President, I did not know there was any permission necessary in order to offer an amendment.

The PRESIDING OFFICER. Under cloture. The amendment had not been properly qualified before the invocation of cloture.

Mr. HRUSKA addressed the Chair.

Mr. ALLEN. I object.

Mr. HRUSKA. Mr. President, on that basis I suggest this: It sort of locks us in, does it not? It locks us in because we are under cloture If we accept this as an amendment qualifying under cloture, are we going to be allowed to amend it? I do not understand the rules of the Senate to be that.

Mr. ROBERT C. BYRD. Mr. President, such a provision was not included in my unanimous-consent request. I did not ask that this amendment if allowed to be called up under the cloture rule would be subject to amendment. I did not ask that.

Mr. HRUSKA. The Senator has not asked that it be subject to amendment.

Mr. ROBERT C. BYRD. No. I have only asked that this amendment be in order.

Mr. HRUSKA. That proves my point, Mr. President. It will be in order. It will be before the Senate. Under the rules of the Senate under cloture we cannot without unanimous consent amend any of the text of this amendment. Am I correct? I shall ask the parliamentary inquiry.

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD addressed the Chair.

Mr. HRUSKA. It locks us in. It freezes us.

Mr. ROBERT C. BYRD. Mr. President, no more than the other amendments at the desk. How many amendments are there? Forty amendments.

The PRESIDING OFFICER. There are 40.

Mr. ROBERT C. BYRD. No amendments to those amendments are in order unless such amendments to those amendments were at the desk at the time cloture was invoked.

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. I am only asking that one more amendment be at the desk and it be in order to call up that amendment.

Mr. HANSEN. Mr. President, reserving the right to object, let me say again that I am constrained to believe this: A very sincere, worthwhile bipartisan effort has been made; probably very substantial progress has been made toward achieving a consensus on this very difficult issue.

When I was enthusiastic about doing something, my father would say to me:

> Son, why don't you sleep on it overnight? If it still seems to be a good idea to you when morning comes, that might be soon enough to go ahead.

I am not saying that we necessarily need to wait overnight, but I thought that it did seem rather unreasonable not to have an opportunity to examine it. I think someone suggested an earlier recess for perhaps some time this evening, when we could have a chance to look at it and come back a little bit later. I may be in error. But I thought that the Senator from West Virginia, the distinguished assistant majority leader, seemed to indicate a willingness even to go that far. If that is his disposition, all right. If he feels that he does not want to accord us even that sort of shortened opportunity to examine it—I dare venture to say that probably there are not too many Senators here who understand all the ramifications of this—then reluctantly, Mr. President, I am going to have to object.

The PRESIDING OFFICER. Objection is heard.

Mr. ROBERT C. BYRD. Mr. President, pursuant to the provisions of rule XL of the Standing Rules of the Senate, I hereby give notice in writing that I shall hereafter move to suspend paragraph 2 of rule XXII for the purpose of proposing to amendment No. 1701 to H.R. 8532 the following amendment which is the amendment I sent to the desk which I have had stated and which has been discussed.

Mr. ALLEN. I object to the introduction of the resolution.

The PRESIDING OFFICER. Objection does——

Mr. ALLEN. It is not the business. We are supposed to stay on this business until it is disposed of under the cloture rule.

Mr. MANSFIELD addressed the Chair.

The PRESIDING OFFICER. Objection does not lie to the submission of the amendment for printing.

Mr. ALLEN. What is the Chair's ruling.

The PRESIDING OFFICER. That objection does not lie to the submission of the amendment for printing overnight.

Mr. MANSFIELD and Mr. CHILES addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. ALLEN. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. ALLEN. What is the effect of the Chair's ruling that it be before the Senate?

Mr. MANSFIELD. Did the Chair recognize me or not? Have I been recognized?

Mr. CHILES addressed the Chair.

The PRESIDING OFFICER. I recognized the Senator from Montana, but the Chair would like to answer the parliamentary inquiry.

Mr. MANSFIELD. I withhold the Chair's recognition.

The PRESIDING OFFICER. The Chair thanks the Senator from Montana.

The amendment is not before the Senate. It has been submitted for printing.

Mr. ALLEN. Very well.

The PRESIDING OFFICER. Notice of intention to suspend the rules has been submitted in writing.

(The notice is as follows:)

NOTICE OF MOTION TO SUSPEND RULES

Pursuant to the provisions of Rule XL of the Standing Rules of the Senate, I hereby give notice in writing that I shall hereafter move to suspend Paragraph 2 of Rule XXII, for the purpose of proposing to the amendment No. 1701 to H.R. 8532 the following amendment:

On page 29, line 8, strike out the period and insert in lieu thereof the following:

": *Provided*, That in cases other than price fixing or arising out of the fraudulent procurement or enforcement of a patent, any damages awarded against a defendant which are proved and assessed in the aggregate on the basis of statistical or sampling methods shall be reduced to single damages, interest, and the cost of suit, including reasonable attorneys' fees and other expenses of the litigation.

On page 40, strike out lines 10–25, and on page 41, strike out lines 1–23, and insert in lieu thereof the following:

"'(1) upon the filing of such certification the chief judge of such district court shall immediately notify the chief judge of the United States Court of Appeals for the circuit in which such court is located, who shall designate a United States district judge to whom such action shall be assigned for all purposes; and

"'(2) the motion for a preliminary injunction shall be set down for hearing by the district judge so designated at the earliest practicable time, shall take precedence over all matters except older matters of the same character and trials pursuant to 18 U.S.C. 3161, and shall be in every way expedited.".

On page 42, line 22, strike out all through page 43, line 18.

On page 31, line 14, insert the following before the period: ", except that such term does not include any person employed or retained on a contingency fee based on a percentage of the monetary relief awarded under this section".

Mr. ALLEN. I object to that because that is not part of the business before the Senate. Rule XXII says that it shall be the unfinished business ahead of all other business until disposed of. An amendment to the rule will not be in order.

Mr. ROBERT C. BYRD. Mr. President, this is not a dilatory motion. It is a motion that can be presented at this time under the rules.

Mr. ALLEN. I object.

The PRESIDING OFFICER. The objection and point of order of the Senator from Alabama do not lie.

Mr. ALLEN. I appeal the ruling of the Chair and call for the yeas and nays.

Mr. MANSFIELD. All right.

The PRESIDING OFFICER. Does the Senator from Montana yield for the appeal?

Mr. MANSFIELD. I yield and I hope I will be recognized when the yeas and nays have been completed.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. MANSFIELD. I ask for the yeas and nays.

The PRESIDING OFFICER. There is a sufficient second.

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. I move to lay the appeal on the table.

Mr. MANSFIELD. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. CHILES addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

Mr. CHILES. A point of order, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. CHILES. Can the Chair tell us before we vote on this motion, what is the effect of the amendment laying over until tomorrow and having the motion to suspend the rules? When would that be taken up? As to the debate on the motion to suspend the rules, it is debatable? What kind of vote does it take to suspend the rules? I think many of us would like to be informed of what we are in now.

The PRESIDING OFFICER. The Chair advises that 1 day's notice in writing having been given the motion could be made tomorrow to suspend the rules to allow the offering of the amendment which has been submitted for printing. The motion would be debatable and the motion to be sustained would require two-thirds vote. If that vote is forthcoming then the amendment could be moved.

Mr. ALLEN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. ALLEN. The effect of suspension of the rules sought by the assistant majority leader for the purpose of introducing this amendment is to do away with the cloture that has already been invoked by the Senate; is that correct?

The PRESIDING OFFICER. The Chair does not interpret that.

The question is on the motion to table.

Mr. CHILES. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. CHILES. The inquiry is on the debatable motion that would be before us tomorrow. Is there any time limitation on that motion? Are we still under cloture for that motion?

The PRESIDING OFFICER. Yes. The Senate is still under cloture for that debate.

Mr. MANSFIELD. Mr. President, will the Chair state the parliamentary situation.

The PRESIDING OFFICER. The question is on the motion to lay on the table the appeal.

Mr. ROBERT C. BYRD. From the ruling of the Chair.

The PRESIDING OFFICER. From the ruling of the Chair.

The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. BUMPERS), the Senator from Idaho (Mr. CHURCH), the Senator from Indiana (Mr. HARTKE), the Senator from Hawaii (Mr. INOUYE), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Maine (Mr. MUSKIE), the Senator from Rhode Island (Mr. PASTORE), the Senator from California (Mr. TUNNEY), the Senator from Mississippi (Mr. EASTLAND), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from Washington (Mr. MAGNUSON), the Senator from South Dakota (Mr. MCGOVERN), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I also announce that the Senator from Indiana (Mr. BAYH), and the Senator from Missouri (Mr. SYMINGTON) are absent because of illness.

I further announce that, if present and voting, the Senators from Indiana (Mr. BAYH and Mr. HARTKE), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Maine (Mr. MUSKIE), and the Senator from Rhode Island (Mr. PASTORE) would each vote "yea".

Mr. HUGH SCOTT. I announce that the Senator from New York (Mr. BUCKLEY), the Senator from New Mexico (Mr. DOMENICI), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from Nevada (Mr. LAXALT), the Senator from Maryland (Mr. MATHIAS), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

The result was announced—yeas 51, nays 25, as follows:

[Rollcall Vote No. 263 Leg.]

YEAS—51

Abourezk
Beall
Brock
Brooke
Byrd, Robert C.
Case
Clark
Cranston
Culver
Dole
Durkin
Eagleton
Fong
Ford
Glenn
Gravel
Hart, Philip A.
Haskell
Hatfield
Hathaway
Hollings
Huddleston
Jackson
Javits
Johnston
Leahy
Mansfield
McGee
Metcalf
Mondale
Montoya
Morgan
Moss
Nelson
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Sparkman
Stafford
Stevens
Stevenson
Stone
Taft
Talmadge
Williams

NAYS—25

Allen
Baker
Bartlett
Bellmon
Bentsen
Biden
Burdick
Byrd,
  Harry F., Jr.
Cannon
Chiles
Curtis
Fannin
Garn
Hansen
Hart, Gary
Helms
Hruska
McClellan
McClure
Nunn
Packwood
Scott,
  William L.
Thurmond
Tower
Young

NOT VOTING—24

Bayh
Buckley
Bumpers
Church
Domenici
Eastland
Goldwater
Griffin
Hartke
Humphrey
Inouye
Kennedy
Laxalt
Long
Magnuson
Mathias
McGovern
McIntyre
Muskie
Pastore
Stennis
Symington
Tunney
Weicker

So Mr. ROBERT C. BYRD's motion to lay on the table Mr. ALLEN's appeal from the ruling of the Chair was agreed to.

Mr. MANSFIELD. Mr. President, a remark was made by the distinguished Senator from Alabama (Mr. ALLEN) prior to the vote on the tabling motion to the effect that what the distinguished Senator from West Virginia, the assistant majority leader, was attempting to do was, at the very least, weaken the cloture rule. I do not agree with that contention. I think the attempt to murder cloture has been caused by those who are opposed to this legislation and who are, in effect, flouting the will of the majority.

May I say that the distinguished Senator from West Virginia has been most assiduous in seeking to achieve a compromise which would get the present legislation off dead center and which would prevent further murdering of cloture as it has been applied for the last 3, 4, or 5 days.

Mr. President, earlier this afternoon, following the announcement by the Chair of the result of the rollcall vote on a motion by the Senator from South Dakota (Mr. ABOUREZK) to table an amendment by the Senator from Virginia (Mr. WILLIAM L. SCOTT), which motion incidentally was adopted by a vote of 49 to 34, the Senator from Virginia (Mr. WILLIAM L. SCOTT) obtained the floor.

The Senator from North Carolina (Mr. HELMS) was the occupant of the chair at that time, and the following colloquy took place, and I quote:

> The PRESIDING OFFICER (Mr. HELMS). Who yields time?
>
> Mr. WILLIAM L. SCOTT. Mr. President, it is good to see additional Senators on the floor. The remarks that I am making, to a large extent, have been prepared by the staff of the Committee on the Judiciary. I think they are very important matters that are being brought to the attention of the Senate. I only have 37 minutes remaining. I ask unanimous consent that I be allocated another 30 minutes so that I can complete my remarks.
>
> The PRESIDING OFFICER. Is there objection? The Chair hears none. Without objection, it is so ordered.
>
> Mr. ABOUREZK. Mr. President, what was the request? Reserving the right to object.
>
> Mr. WILLIAM L. SCOTT. The Chair has already ruled, Mr. President.
>
> The PRESIDING OFFICER. The Chair has already ruled.
>
> Mr. WILLIAM L. SCOTT. Mr. President——
>
> Mr. ABOUREZK. A parliamentary inquiry: What was the ruling?

The Presiding Officer. The Senator from Virginia has the floor.

Mr. President, when that colloquy took place, I was not on the floor of the Senate. As a matter of fact, there were less than six Senators present. Upon learning of what had occurred—that the Senator from Virginia (Mr. William L. Scott) had obtained an additional 30 minutes time, by unanimous consent, in contradiction of the spirit of the cloture rule and at a time when the assistant majority leader and the manager of the bill were on the floor but otherwise occupied—I came to the floor and made the following statement, which I wish to read for the information of those Senators who were not present at the time:

> Mr. Mansfield. Mr. President, I think the idea of cloture is being ground into the ground. Had I been on the floor at the time this request was made I would have objected to it. I would hope that the Senate will learn a lesson from the lesson which it is being taught on the basis of the invocation of cloture and the length to which it can be carried.
>
> I think this is making a mockery of the will of the majority of the Senate, and I even disapprove of time being transferred from one Senator to another. Certainly I disapprove completely of an additional half hour being granted by unanimous consent to any Senator because I think it goes contrary to the intent and the spirit of cloture and what it means and what it states. I thank the Senator.

Mr. President, to point up the absurdity of what has been taking place in the Senate and the mockery that is being made in this Chamber of the rules of this body, I wish to repeat to the Senate the statement made by the Senator from Virginia (Mr. William L. Scott) immediately following my remarks, and I quote.

> Mr. William L. Scott. Mr. President, I appreciate the remarks of the distinguished majority leader. I am grateful to the Senate for granting the additional 30 minutes. Frankly, I made the request in jest, but it was granted, and I intend to take advantage of the additional 30 minutes. I fully anticipated that there would be objection. None having been made, I do want to take the opportunity of completing my remarks.

Mr. President, the Senator may have made his request in jest. The unanimous consent for the 30 minutes additional time was, nevertheless, granted—and the Senator from Virginia (Mr. William L. Scott) proceeded to use every minute of it.

I find no fault with what Mr. Scott has done. I blame the Senate and Senators for not objecting.

Mr. President, I may be completely lacking in any sense of humor, but I must say to my colleagues I find nothing funny or humorous and, I may say to my friend from Virginia (Mr. William L. Scott), nothing to jest about with regard to the situation in which we find ourselves.

Mr. President, we have been considering the antitrust bill for 9 days. We have debated it under the cloture rule since Thursday—for 5 days. We have had 54 votes on this bill. We have voted on 12 amendments, 18 motions to table amendments, 8 motions to table motions to reconsider previous votes, 2 motions to reconsider previous votes, 1 motion to table an appeal of a ruling of the Chair, 7 motions to instruct the Sergeant at Arms to request the attendance of absent Senators, 4 motions to recess or adjourn, and 1 cloture motion. And we have had all but four of these votes under the cloture rule.

Prior to the vote just concluded, a bipartisan group of Senators sought to offer a compromise substitute measure. All that was sought was consent to offer the compromise and that it be in order to call up the substitute compromise amendment at a later time. Objection was made to this good faith effort to find an acceptable solution to the impasse.

This is the second time an objection was made to a good faith offer made by the distinguished majority leader, the distinguished manager of the bill, the Senator from Michigan (Mr. Philip A. Hart), and others who were interested in this particular matter—further evidence that the minority or certain Members thereof are unwilling to give one inch.

Now, Mr. President, much has been said in recent days about the tyranny of the majority. But, Mr. President, as the Senator from Rhode Island (Mr. Pastore) observed on yesterday, what about the tyranny of the minority? Is the majority without rights? An objective observer of the Senate for the past week would have to conclude that not only does the majority have no rights but that the minority controls the leadership function of the Senate.

Now, Mr. President, I once again call to the Senate's attention that there are some 43 amendments still pending at the desk on this bill. I point out that in spite of the fact that cloture was invoked on the substitute last Thursday, there remains well over 60 hours of time exclusive of the time for quorum calls, rollcall votes, and countless dilatory procedural motions.

Again, Mr. President, I point out that there remain on the Senate Calender 84 bills ready for action; there are 20 conference reports yet to be acted upon; and there are 15 major appropriation bills yet to be acted upon. We only have 63 weekdays before the 2d of October, our target date for sine die adjournment, and, as I said earlier, unless we get on with the business now before the Senate, we will be here until Christmas.

Mr. President, I announced earlier today that if we are to complete action on this bill and get on with the people's business we will work well into the night. We will start again at 8 a.m. on tomorrow and work late. We will come in early on Friday and work late and we will come in early on Saturday and work late. There will be no committee meetings henceforth except under the most extraordinary circumstances. I make this statement to put all Senators on notice as to the intention of the leadership.

Now, Mr. President, in conclusion I wish to raise the warning flag to those who are using dilatory tactics to delay the completion of Senate action on this bill.

I will not return to the Senate next year. But I warn those who will return for the 95th Congress and those who would preserve the tradition of unlimited debate in the Senate that the actions of the minority on this bill will inevitably lead next year to a major attempt in the Senate to alter rule XXII to provide for majority cloture.

The Senate of the United States is unique among parliamentary bodies. Because of the tradition of unlimited debate in the Senate, even though that principle has been diminished by rule XXII, the rights of the minority have always been secure in this Chamber. That is what gives the Senate of the United States a unique stature among parliamentary institutions. It stands alone in that respect throughout the entire world.

I hope the actions of the minority on this bill will not result next year in a change in rule XXII leading to majority cloture. If that occurs, the uniqueness of this body will be destroyed; it will be relegated to the status of any other legislative body. I think the minority knows that—and I hope they will heed the warning.

Mr. CHILES. Mr. President, I have been discussing with many Senators, as have many other Senators in this body, a way out of this sort of morass that we are in, and I find there are a vast number of us who are seeking that kind of solution, and over today and over yesterday, too, with some other Senators I have been trying to determine where there could be some middle ground, and I intend to propose what I think could be a middle, some middle, ground. After I have a few minutes to discuss the matter, I will seek unanimous consent to modify an amendment that is now pending at the desk.

The amendment now pending at the desk, which is 1751, is an amendment by the distinguished Senator from Alabama, and it deals with title IV, which is primarily the area in which there is fluid recovery that allows the Attorney General to bring the parens patriae action.

It seems in the compromise that was just proposed before us recently, again with much hard work having gone into that by people on both sides of this question, the elements of the amendment that I would seek to modify would contain part of those, part of that amendment.

Mr. WILLIAM L. SCOTT. Mr. President, will the Senator yield on my time for a brief statement, since the distinguished majority leader made his statement?

Mr. CHILES. Without losing my right to the floor, I yield briefly.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Virginia is recognized.

Mr. WILLIAM L. SCOTT. Mr. President, I have some time remaining, and I did not use all of the time that was allocated to me.

I appreciate the problem that our distinguished majority leader has in his leadership capacity. But I believe he indicated that my requesting unanimous consent for an additional 30 minutes was within my right as a Member of the Senate.

Since coming to this body, I notice a considerable difference in the method of procedure in the Senate from the procedure in the House. While we have rules in the Senate, we frequently do not follow those rules. We operate to a very large extent by unanimous consent. So I see nothing improper by my asking unanimous consent to speak for an additional 30 minutes. It may be that it is an unprecedented move under the circumstances, and I repeat I said this in jest, but it was agreed to. Nobody objected to it. I see no impropriety and, frankly, do not see a reason to make some major remark with regard to it.

I have heard the distinguished majority leader, the distinguished majority whip and, I believe, every Member of this Senate on occasion ask unanimous consent to depart in some manner from a rule. I hope the distinguished majority leader did not intend that to be a chastisement of the Senator from Virginia, and I make no apologies at all for what I did.

Mr. MANSFIELD. I thought I made that very plain in my remarks. I indicated, and the Senator has reaffirmed what he said, that he made the proposal in jest and that he expected it to be objected to.

But this is the first time, I think—I could be wrong—in the history of cloture in this body that any Senator has gone beyond the 1-hour time limitation laid down under rule XXII and done so on the basis of getting an additional 30 minutes.

Mr. ALLEN. If the Senator will yield just a moment for a question, the Senator realizes that there are three Senators in this body since cloture has been invoked, I will say to the distinguished majority leader, who have had 30 minutes added to their time, other Senators.

Mr. MANSFIELD. Well——

Mr. ALLEN. Let me finish, please.

The distinguished Senator from North Carolina (Mr. MORGAN) had 30 minutes added to his time, the distinguished Senator from South Dakota (Mr. ABOUREZK) had 30 minutes added to his time, the distinguished Senator from Nebraska had 30 minutes added to his time. All by unanimous consent.

So I do not think the Senator from Virginia has done anything wrong.

Mr. MANSFIELD. Will the Senator yield?

Mr. WILLIAM L. SCOTT. I am happy to yield.

Mr. MANSFIELD. This was time transferred from one Senator's 1 hour to another and I would be opposed to that, too, but this was an addition granted by the Senate which would extend it beyond the 100 hours if each Senator used his 1 hour.

So I think the argument is fallacious.

Mr. WILLIAM L. SCOTT. I do not want to press the matter any further, but I did feel that I should make a brief response to the remarks of the distinguished majority leader.

The PRESIDING OFFICER. The Senator from Florida.

Mr. CHILES. Mr. President, I think as we start off in just a little history, as the bill came to the floor we had from the committee bill a number of causes of actions that could be brought by the attorney generals. Originally, triple damages could flow from those and there could be the fluid recovery. That caused great concern.

The Senator from North Carolina attempted to alleviate some of that concern by first putting in an amendment that said only per se violations. That, I am sure, helped.

There was further concern that these could be private actions as well as broad, and the Senator from Michigan (Mr. GRIFFIN) was able to be successful in striking out the private actions.

We had the Burdick amendment and the debate that went into that. We had a tie vote of 40–40 on that particular amendment, again expressing the great concern of the Senate as to the breadth of the action under the fluid recovery, the way it was constituted.

Now we have the amendment that was proposed as the compromise, which now rests on the desk to be sought to be brought up tomorrow by two-thirds vote.

When we look at that amendment, we see that it limited those actions for triple damages to two features. There had to be price fixing or there had to be fraudulent procurement of a patent. Those were the only two for triple damages.

They allow other per se violations and they enumerate a number of those, I think. They enumerated some three or four other actions and allowed ordinary damages.

Of course, that is another step in trying to alleviate the fears that have been set forth.

There were other portions of that amendment, some going to section 5 and others going into contingent fees.

The modification that I would propose and that would be brought up in amendment 1751 would allow, under the fluid recovery for treble damages, two actions; one, price fixing.

So I would modify the amendment to strike the word "willful" that now rests in amendment 1751 and I would add another action, the other action of where the defendant has intentionally engaged in fraudulent procurement of a patent or the enforcement of a fraudulently procured patent.

So I would add the two actions again. That would make it identical to either the substitute amendment or the proposed compromise amendment. My proposed modification would not include the other per se violations for ordinary damages.

So the basic difference in the amendment I would propose and the modification would be as far as section 4 goes, and it would be that I would limit or leave out the per se actions because many people are concerned as to how much power we are giving for the fluid recovery, for the measure of damages being by fluid recovery, and for allowing the State attorneys general to have actions into areas in which the law is not as clear.

All of us sort of know price fixing. We all know it is wrong. We know that any business that engages in that should be burned, and we want to see them burned. We also can clearly understand the fraudulent use of a patent.

When we get into actions above that, there are areas in which they are complex and many of us do not completely understand them.

Mr. JOHNSTON. Will the Senator yield for a question?

Mr. CHILES. In just a minute.

I want to make it clear, in addition, the portion of amendment 1751 that had a proviso as follows:

> That any damages awarded against a defendant which are proved and assessed in the aggregate as provided in this section shall be reduced to actual damages and the cost of suit, including reasonable attorneys' fees, if the defendant establishes that he acted in good faith and without reasonable grounds to believe that the conduct in question violated the antitrust laws.

I would in my modification propose striking that language. I do not think that is necessary. I propose to strike that.

I think that there is a further concern on the part of some of the Members who have been very concerned about these actions about what the degree of proof is.

In the original amendment, as is in the House bill, it says "willful price fixing."

I would propose to strike the word "willful" in my modification because I think sufficient elements of proof are there under the existing case law that we can make it very clear we are not attempting to change the case law. We are not attempting to open this up for parallel pricing; that it, by itself, be a sufficient action. I think that could take care of it.

I hope before I make my attempt to modify that we would clear that up in a colloquy.

I think if the distinguished Senator from Louisiana has a question, I might try to answer that, then I would like to discuss this matter with the distinguished Senator from Illinois, who has evidenced a desire to support this compromise, and with the distinguished Senator from North Carolina.

Mr. JOHNSTON. Will the Senator yield for a question?

Mr. CHILES. I yield.

Mr. JOHNSTON. I wonder if the proposed modification presented by the distinguished Senator from West Virginia deals with the same subject matter, the same sections, and if so, what is the difference between the Senator's proposed compromise and his?

Mr. CHILES. The proposed compromise by the distinguished Senator from West Virginia goes into other sections.

Let me first say, it goes into title V and deals with some time problems there.

I do not attempt to deal with that.

I understand, basically, from what I can understand, both sides are sort of in agreement as to what should be done, and I think the compromise could be done on that point without any problem.

The other thing it does, it attempts

to incorporate what the distinguished Senator from Michigan sought to do; That is, to spell out that contingent fees would be based on an hourly basis; that they would not be on a purely contingent basis of arrangement.

That is not in mine. I think, again, that is something that can be worked out.

In the area of title IV in which they are parallel, for triple damages they are exactly the same. The only triple damages now under that proposal and under mine is for price fixing or the fraudulent procurement of a patent.

So they are the same there. They differ in that the compromise by the distinguished Senator from West Virginia and others would include for ordinary damage the other per se violations or a list of the per se violations. My amendment does not go to that. I leave out the per se violations. I only deal with the two enumerated ones and wherein there would be triple damages. That is the difference.

Mr. JOHNSTON. My objection is this: I am concerned about the phrase "per se violations." It does not import any real meaning to me to add the term "per se violations." My question is: Is that a word of art generally understood by all lawyers who deal with the field of antitrust?

Mr. CHILES. I would have to reply to the distinguished Senator that I am not competent to answer that question as to how much of a word of art it is. I believe, though, that I can say that the fear the Senator has is shared by many who feel that "per se" is a term one can simply plead, that there is a per se violation. I do not think the case law is very clear as to what meaning it does have, putting it in antitrust violations.

By the same token, I want to point out that the word "wilfull" is also a word that has not really been used in antitrust before. That is why the Senator from Florida wants to leave that out. It is in the amendment that I am going to call up, but because "wilfull" is a word that is used in criminal cases and expresses a specific sort of wilfull criminal intent, I am uncomfortable with that word. While there are many people on the other side of this question who want to put this word in, I think it is not necessary because I think the case law is pretty clear. I hope to establish this further, as I say, in a colloquy. I think right now the case law is clear that in a price-fixing case there has to be some conversation, there has to be some overt act, there has to be really some sort of intentional act of at least two parties to get together to fix prices. They have not allowed just parallel pricing, the fact that two people happen to come up with the same price. They have not allowed these things that are less than some sort of an intent to be formed.

For that reason, I want to strike "willful" because I do not know what "willful" means on the other side if it is put in. Is the burden of proof increased so much that we change the law we have been operating under since the 1890's? Because I am uncomfortable with that I do not want to bring it up with the word "willful" in it, so far as I am concerned.

Mr. JOHNSTON. Will the Senator agree with me that the use of a phrase like "per se violation" would leave this law, unless it is otherwise made very clear by the jurisdprudence—and I doubt that—in such a state of ambiguity that courts would be able to reach out and call anything a per se violation or not a per se violation? Would the Senator agree with me that the term "per se" used in this context is almost utterly without meaning, and without meaning as far as the jurisprudence in other fields is concerned? Would the Senator agree with that?

Mr. CHILES. I would agree that I have the same fear that the Senator from Louisiana has. I am not sure that I can say that I know enough about the actual case law in this particular field that I can intelligently answer because it is not a field in which I have practiced. I never got into this rich practice in my country practice. I am not sure how many people do understand it; but I have the fear that the Senator has.

I yield to the distinguished Senator from Illinois.

Mr. PERCY. Mr. President, first I would like to make it perfectly clear that I am a cosponsor of the compromise that has been offered, but I do commend the distinguished Senator from Florida if somehow or other we do not move ahead with that to now present something that we can give consideration to, which would move this body forward toward agreement. I commend him, and I would be pleased to cosponsor the amendment with or without the word "willful" in it. I would certainly support his unanimous-consent request on that.

Mr. President, I would first like to ask for a clarification as to the intent and meaning of the amendment. I ask this question of my distinguished colleague from Florida. Am I correct in the following: this amendment is designed to prevent use of the aggregation of damages provision in cases of price fixing only as that is defined by current law today—that is, where there are actual communications and overt acts intended to further the price-fixing conspiracy—and the amendment is not intended to be used in situations like conscious parallelism, comparative pricing, or other doctrines not illegal today?

Mr. CHILES. That is correct. In addition to giving my answer on that, I would like to ask the distinguished Senator from North Carolina, because he knows much more about this field than I do, and the distinguished Senator from Michigan if they would comment on whether their feeling would be that the interpretation that the Senator and I are placing on that is correct. It certainly would be my intent in offering it that it would not be at all to change existing case law. But because I cannot say fully what the case law is now or with a great degree of confidence I would like to ask the distinguished Senator from North Carolina if he would share with us his knowledge of the subject.

Mr. MORGAN. Mr. President, in effect, what we would be doing would be codifying the present case law and existing law. As I understand that law to be, it is substantially as stated by the Senator from Illinois. It would have to be a conscious act. The mere incidental parrallel pricing would not constitute price fixing, in my opinion. It would have to be something that would be knowingly done.

Someone mentioned the words "knowingly," "consciously," "wilfull" being words of art and they always give the courts difficulty. But also as the distinguished Senator from Florida pointed out, to add the word "wilfull" would almost carry a connotation that from now on we are going to require a greater degree of proof. Wilfull would almost imply criminal.

I think the distinguished Senator from Illinois has correctly stated what is basically the case law with regard to proof.

Mr. PERCY. The Senator from Illinois thinks it is extraordinarily important that we do clarify that point and make that point a part of the legislative history of this legislation. I think it does go to the heart of some of the objections which have been raised by the minority in this case.

I have a further question. I want to be sure that we preserve the nonretroactive nature of title IV. Would I be correct in saying further that this amendment is also not designed to permit use of the aggregation of damages where the Supreme Court or Congress reverses prior decisions granting exemptions or immunity from the antitrust laws would be the case, for instance, if the Supreme Court were to reverse or alter some of its exclusive jurisdiction on immunity cases?

I put that question to the distinguished Senator from Florida.

Mr. CHILES. I would like to yield to the distinguished Senator from North Carolina.

Mr. MORGAN. The answer to your question with regard to the amendment proposed to be offered by the Senator from Florida, as well as the amendment which has been offered by the distinguished Senator from West Virginia, would not affect the nonretroactive provisions. Senator MATHIAS and myself earlier this week offered an amendment striking out the retroactive application and limited the application of all provisions of title IV to future violations only. Neither of the proposed amendments would change that.

Mr. PERCY. I thank my distinguished colleague. In talking with representatives of businesses, of law firms, and I might say representatives of the administration, there have been some deep concerns in this matter. I do feel that amendment 1751 offers a reasonable solution. It would clarify many of these points. Therefore, Mr. President, I wish to indicate again my support for the amendment, certainly based on the clarification that we have had and this legislative history, and this amendment offered by the Senator from Florida to the Hart-Scott antitrust legislation.

It would limit the aggregation of damages to those cases where the parties have agreed to fix prices in willful violation of the antitrust laws, or, in the case of the amendment if adopted, if we eliminate the word "willful" there. In other words, State attorneys general using the parens patriae provision would have to prove injury to all members of the allegedly injured class in all cases except those involving willful disregard of the Federal antitrust laws.

This proposed amendment would also—and I think this is extremely important at this stage—conform the language in the Hart-Scott substitute with regard to aggregating damages to the House-adopted language. In my view, this amendment offers a reasonable compromise to a portion of this legislation which has left the Senate in its present procedural quagmire.

It has been reasonably clear in the hearings on this antitrust bill that congressional concern has focused principally on the need to find a viable method of facilitating a recovery in price-fixing cases which are characterized by the existence of many claims for relatively small amounts. The proposed amendment deals specifically and clearly with that problem, and avoids the possible pitfall of extending the aggregation of damages concept to numerous other situations with results that may not be fully appreciated at this time.

Mr. President, I hope that my colleagues will support this amendment. It would give the State attorneys general broad new authority to sue for damages in willful price-fixing cases. It has been adopted by the House of Representatives, and I understand that it has been accepted by the President, or would be acceptable to the President, to the best of my knowledge.

In the spirit of compromise, I hope that we can accept this language now, so that we could give some consideration to other parts of this bill.

Certainly the Senator from Illinois would like very much to see modifications in the section involving prenotification on mergers. I have already expressed my deep concern about those sections as being really unreasonable, and also a disservice to the Justice Department and a disservice to American industry, and I think to the American consumer.

I would hope, in the spirit of compromise, that we could moderate some of those provisions to take out the most onerous and less useful features. But I do feel that the amendment now being offered by the distinguished Senator from Florida would move this body forward, and I hope move us toward where we can reach a consensus.

Mr. MORGAN. Mr. President, if I may say so, I think the amendment that the Senator from Florida proposes to offer later on does approach the amendment offered by the Senator from West Virginia. It does not go as far as I think that the Senate must go, but I think those are matters that, if the amendment comes before the Senate for debate, we can then discuss. But for the sake of legislative history, whatever that is worth—I never found it worth very much in court when I was practicing—let me say I am not sure I agree with all that the Senator from Illinois said about having to prove damages to every member of the class.

I prefer not to argue it now; I just simply say that I am not sure I would agree for the purposes of legislative history.

If I may say one other thing, we are going to be considering the question of what is a per se violation. To those who are not lawyers, per se is a word of art that we lawyers use, which means an act which, in itself, would be a known violation.

To quote from two cases, in the Northern Pacific case, the court said:

> [T]here are certain agreements or practices which because of their pernicious effect on competition and lack of any redeeming virtue are conclusively presumed to be unreasonable and therefore illegal. . . .

There the principle of per se unreasonableness applies. To use another word, in United States against Topco Associates, the court stated:

> This Court has reiterated time and time again that [*per se* offenses] are naked restraints of trade with no purpose except stifling of competition.

Where two businesses, for instance, agree to stay out of each other's territory, or two businesses agree to reduce production in order to eliminate competition. I will be prepared tomorrow to give some more examples on that.

Mr. CHILES. Mr. President, I yield to the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I want to acknowledge what is known to all the Members of the Senate, and that is that the Senator from Florida has been enormously interested and diligent in pursuing this legislation, and has been extremely active in its discussion and development during the course of the recent debate.

I would hope that if the Senator from Florida is going to make a unanimous-consent request, that unanimous-consent request will include the proposal that was put forward by the assistant majority leader as well as the request of the Senator from Florida, in a form or structure which would permit the Senate to at least consider both of the proposals, for the Senate to be able to work its will in those areas. They cover common ground, and they reach some of the very essential aspects of the legislation itself.

I myself have very serious and strong reservations even about the proposal that has been made by the Senator from Florida, in providing the kinds of limitations that he has in the areas of misrepresentation or fraud in the Patent Office, and otherwise only in respect to price fixing. It seems to me that if you divide up a market, you can achieve about what you are achieving in terms of price fixing, or if you can divide up the kinds of customers you are appealing to, you are in effect achieving pretty much the same kinds of violations in the areas of price fixing.

A number of those areas, of course, are included, as the Senator from North Carolina has pointed out, in case law under the per se violations.

But I do not think it is fair for us to talk and debate those issues and for the Senate to resolve that in an hour, seeking to reflect the general sentiment within the Senate, and then to make a choice of decisions in the areas that the Senator from Florida and the Senator from Illinois has proposed, or the compromise which has been put forward by the Senator from Michigan.

I believe that that can be srtuctured in such a way as to insure that there would be a fair vote on the proposition of the Senator from Florida, and I certainly would hope that there would be no objections to permitting a vote on the proposition which has been put forward by the Senator from Florida. But I hope that we can at least include in any unanimous-consent request an opportunity for consideration of both propositions.

Mr. BURDICK. Mr. President, will the Senator from Florida yield to me on my time?

Mr. CHILES. I yield.

Mr. BURDICK. I understand in his proposed amendment he would allow treble damages only is case of price fixing and fraudulent patents?

Mr. CHILES. That is correct.

Mr. BURDICK. And would solve the problem of treble damages in that manner?

Mr. CHILES. That is correct.

Mr. BURDICK. I thank the Senator.

Mr. CHILES. Mr. President, I am reluctant to make my unanimous-consent request without the distinguished Senator from Nebraska being on the floor. I wonder if he is around. I also want to make sure that anyone else on the minority side who is interested knows that we are getting ready to make a request. I do not know whether the distinguished Senator from North Carolina (Mr. HELMS) or others are around. Do we know whether they are available?

ADDITIONAL STATEMENT SUBMITTED

Mr. TAFT. Mr. President, I rise to support the amendment offered by the Senator from West Virginia and to commend him for introducing this amendment which can break the deadlock existing in the Senate on this bill. I am happy to cosponsor the amendment.

I do not think I need to point out the extent to which we have debated this bill this week and last, with no apparent end in sight. There is no need to comment on the hard feelings which have been experienced on both sides while this bill has been processed—others have already made such comments.

I believe it is the sense of the Senate that we find a compromise. I believe that the Byrd amendment represents an excellent vehicle to achieve such a compromise and I recommend its adoption.

The major cause for the controversy here is the so-called fluid recovery device for measuring damages in the aggregate and the possibility of indeterminate threefold damages resulting; section 4C(c)(1) of title IV, would authorize the assessment of damages "in the aggregate," and it would explicitly jettison the traditional requirement of "proving the fact or amount of individual injury" to each class member. This section embodies the so-called fluid recovery concept, which, in every case in which this device has been tested by the defendant, has been constitutionally questioned by the courts. The so-called fluid recovery concept is merely an attempt to overcome both the economic uncertainties inherent in determining the existence and amount of consumer injury resulting from violations of the antitrust laws and over the problems inherent in large class actions generally.

I recognize that it has been difficult to prove consumers' antitrust damages because such injury is rarely a direct consequence of anticompetitive conduct. Indeed, the Supreme Court decision in *Hanover Shoe* v. *United Shoe Manufacturing Corporation*, 392 U.S. 481 (1968), makes clear that there is rarely any actionable consumer injury from an antitrust violation at some remote level in the manufacturing process. The Court ruled that, in the absence of demonstrably unusual circumstances, the law presumes that the economic impact of an antitrust violation has been borne solely by persons who dealt directly with the violator.

Proponents of the so-called fluid recovery concept are also attracted to it because in any large consumer class action it is often time-consuming, expensive, and difficult for each class member to prove whether he has been injured by a defendant's allegedly wrongful conduct. And, in a large consumer antitrust class action, the difficulties of proof inherent in consumer antitrust actions and large consumer class actions merge. Not only must plaintiffs demonstrate that consumers have been injured by the anticompetitive conduct alleged, plaintiffs must make this showing as to each and every class member. This is a difficult task indeed, but one that arises from the nature of the claim asserted, rather than being one imposed from outside. The so-called fluid recovery concept, as embodied in section 4C(c)(1) of title IV purports to solve this problem by allowing both the fact and amount of the injury to be proved as to the class rather than as to individual class members.

Mr. President, in my view, the Senate is deeply troubled by this theory as evidenced by the close vote by which the Burdick amendment, No. 1761, which would have deleted the theory and substituted a civil penalty to compensate for a defendant's unjust enrichment, was rejected. The Senate was concerned that the essentially untried theory could result in treble damages for a variety of antitrust violations, not only price fixing.

As an alternative to the Burdick approach, Senator Byrd's amendment seems to me to strike a sensible compromise by authorizing the use of this device which may result in treble damages only where defendants have engaged in willful price fixing or where there is a fraud on the patent office. For all other antitrust violations single damage are appropriate.

This amendment and approach are acceptable, I believe, for a number of reasons. First, it will permit aggregation of small claims in the kind of violation that can directly injure consumers, that businessmen can and should avoid, and that the proponents of the bill say they want to deter. Virtually every example used by the proponents to support this legislation has been a price-fixing case. And willful price fixing is a pernicious offense that should be stopped.

In addition, I share many of Senator BURDICK's constitutional concerns about the "fluid recovery" theory. And I question whether any additional deterrence is necessary in view of the vast increase in antitrust penalties that we enacted only 18 months ago in the Antitrust Penalties and Procedures Act of 1974. But I do think a compromise is appropriate and I think my concerns should not stand in the way of a justifiable one.

Second, I should like to point out that the Byrd amendment will not subject business to indeterminate liability for conduct that they have every reason to feel is legitimate. A number of per se offenses often are not very clear-cut. I defy anyone on this floor to tell me exactly what, for example, a "tie-in" is. The law on per se offenses changes rapidly. Moreover per se does not mean hard-core offenses. Rather it defines or tries to define, an offense as to which there will be no trial on the economic impact of the conduct. It is this lack of evidence on economic injury or impact that troubles me most. A businessman does not know what to avoid and thus may become paralyzed, and if conduct is found in violation, he often cannot tell who, if anyone, was injured. Most offenses injure business—suppliers, customers and competitors—not consumers. The courts very often cannot measure the extent of injury.

Price fixing is different. Patent office fraud is different. They can injure consumers directly, and they can be avoided by business. Damages can be measured. I therefore support the proposed amendment, cosponsor it and urged its adoption.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the time from now on be charged to me.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURKIN. Mr. President, can this time be charged to my time?

Mr. MANSFIELD. From now on.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

The second assistant legislative clerk called the roll and the following Senators answered to their names:

[Quorum No. 18 Leg.]

Abourezk
Allen
Baker
Bartlett
Beall
Bellmon
Bentsen
Biden
Brock
Brooke
Burdick
Byrd, Robert C.
Cannon
Chiles
Clark
Cranston
Curtis
Dole
Durkin
Eagleton
Fannin
Fong
Ford
Garn
Glenn
Gravel
Hansen
Hart, Gary
Hart, Philip A.
Haskell
Hatfield
Hathaway
Helms
Hollings
Hruska
Huddleston
Jackson
Javits
Johnston
Kennedy
Leahy
Mansfield
McClellan
McClure
McGee
McGovern
Metcalf
Mondale
Montoya
Morgan
Moss
Nunn
Packwood
Pearson
Pell
Percy
Proxmire
Randolph
Roth
Schweiker
Scott,
William L.
Sparkman
Stafford
Stevens
Stevenson
Stone
Taft
Talmadge
Thurmond
Tower
Williams
Young

Mr. WILLIAM L. SCOTT. Mr. President, do we have a quorum in the Chamber at this time?

The PRESIDING OFFICER. There is a quorum present.

Mr. WILLIAM L. SCOTT. What is the business before the Senate?

Mr. MANSFIELD. Mr. President, if I may be recognized, the business before the Senate would be, I would assume, the vote on the Hart-Scott substitute, unless there is a amendment to be offered.

AMENDMENT NO. 1776

Mr. ALLEN. Mr. President, I call up my amendment 1776. I think it is quite appropriate. The amendment is the amendment of the distinguished Senator from New York (Mr. JAVITS), amendment No. 1776 which, I think, is very appropriate in our Bicentennial year that it be called up at this time.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from Alabama (Mr. ALLEN) proposes an amendment numbered 1776 to add to the bill the following title: Title VI—Antitrust Review and Revision Commission.

The amendment is as follows:

Add to the bill the following title:

TITLE VI—ANTITRUST REVIEW AND REVISION COMMISSION

PURPOSE OF THE COMMISSION

SEC. 601. In pursuance of title I (declaration of policy), the Commission shall study the antitrust laws of the United States, their applications, and their consequences, and shall report to the President and the Congress the revision, if any, of said antitrust laws which it deems advisable on the basis of such study. The study shall include the effect of said antitrust laws upon—

(a) price levels, product quality, and service;

(b) employment, productivity, output, investment, and profits;

(c) concentration of economic power and financial control;

(d) foreign trade and international competition; and

(e) economic growth.

MEMBERSHIP OF THE COMMISSION

SEC. 602. (a) NUMBER AND APPOINTMENT.—The Commission shall be composed of eighteen members appointed by the President as follows:

(1) four from the executive branch of the Government;

(2) four from the Senate, upon the recommendation of the President of the Senate;

(3) four from the House of Representatives, upon recommendation of the Speaker of the House of Representatives; and

(4) six from private life.

(b) REPRESENTATION OF VARIED INTERESTS.—The membership of the Commission shall be selected in such a manner as to be broadly representative of the various interests, needs, and concerns which may be affected by the antitrust laws.

(c) POLITICAL AFFILIATION.—Not more than one-half of the members of each class of members set forth in clauses (2), (3), and (4) of subsection (a) shall be from the same political party.

(d) VACANCIES.—Vacancies in the Commission shall not affect its powers but shall be filled in the same manner in which the original appointment was made.

ORGANIZATION OF THE COMMISSION

SEC. 603. The Commission shall select a Chairman and a Vice Chairman from among its members.

QUORUM

SEC. 604. Ten members of the Commission shall constitute a quorum.

COMPENSATION OF MEMBERS OF THE COMMISSION

SEC. 605. (a) MEMBERS OF CONGRESS.—Members of Congress, who are members of the Commission, shall serve without compensation in addition to that received for their services as Members of Congress, but they shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of the duties vested in the Commission.

(b) MEMBERS FROM THE EXECUTIVE BRANCH.—Notwithstanding section 5533 of title 5, United States Code, any member of the Commission who is in the executive branch of the Government shall receive the compensation which he would receive if he were not a member of the Commission, plus such additional compensation, if any, as is necessary to make his aggregate salary not exceeding $36,000 and he shall be reimbursed for travel, subsistence, and other necessary expenses incurred by him in the peformance of the duties vested in the Commission.

(c) MEMBERS FROM PRIVATE LIFE.—The members from private life shall each receive not exceeding $200 per diem when engaged in the performance of duties vested in the Commission, plus reimbursement for travel, subsistence, and other necessary expenses incurred by them in the performance of such duties.

POWERS OF THE COMMISSION

SEC. 606. (a)(1) HEARINGS.—The Commission or, on the authorization of the Commission, any subcommittee thereof may, for the purpose of carrying out its functions and duties, hold such hearings and sit and act at such times and places, administer such oaths, and require, by subpena or otherwise, the attendance and testimony of such witnesses, and the production of such books, records, correspondence, memorandums, papers, and documents as the Commission or such subcommittee may deem advisable. Subpenas may be issued under the signature of the Chairman or Vice Chairman, or any duly designated member, and may be served by any person designated by the Chairman, the Vice Chairman, or such member.

(2) In case of contumacy or refusal to obey a subpena issued under paragraph (1) of this subsection, any district court of the United States or the United States court of any possession, or the District Court of the United States for the District of Columbia, within the jurisdiction of which the inquiry is being carried on or within the jurisdiction of which the person guilty of contumacy or refusal to obey is found or resides or transacts business, upon application by the Attorney General of the United States shall have jurisdiction to issue to such person an order requiring such person to appear before the Commission or a subcommittee thereof, there to produce evidence if so ordered, or there to give testimony touching the matter under inquiry; and any failure to obey such order of the court may be punished by the court as a contempt thereof.

(b) OFFICIAL DATA.—Each department, agency, and instrumentality of the executive branch of the Government, including independent agencies, is authorized and directed to furnish to the Commission, upon request made by the Chairman or Vice Chairman, such information as the Commission deems necessary to carry out its functions under this Act.

(c) Subject to such rules and regulations as may be adopted by the Commission, the Chairman shall have the power to—

(1) appoint and fix the compensation of an executive director, and such additional staff personnel as he deems necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of Chapter 53 of such title relating to classification and General Schedule pay rates, but at rates not in excess of the maximum rate for GS-18 of the General Schedule under section 5332 of such title, and

(2) procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code, but at rates not to exceed $200 a day for individuals.

(d) The Commission is authorized to enter into contracts with Federal or State agencies, private firms, institutions, and individuals for the conduct of research or surveys, the preparation of reports, and other activities necessary to the discharge of its duties.

SEC. 607. The Commission shall transmit to the President and to the Congress not later than two years after the first meeting of the Commission a final report containing a detailed statement of the findings and conclusions of the Commission, together with such recommendations as it deems advisable. The Commission may also submit interim reports prior to submission of its final report.

EXPIRATION OF THE COMMISSION

SEC. 608. Sixty days after the submission to Congress of the final report provided for in section 607, the Commission shall cease to exist.

Mr. ALLEN. This amendment sets up an Antitrust Commission. The distinguished Senator from New York and the distinguished Senator from Nebraska added this amendment——

Mr. MORGAN. Mr. President, a point of order.

Mr. ALLEN. Wait a minute, let me finish—added this amendment to the Hart-Scott substitute but failed to offer it to the bill. I want to remedy that situation and to also get it adopted to the bill, and I call for the yeas and nays.

Mr. MANSFIELD. A point of order, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. MANSFIELD. Mr. President, when an amendment is called up after cloture has been adopted to whom is the time charged for the transaction of this business?

The PRESIDING OFFICER. The reporting of the amendment is not charged. The speaking to the amendment, as the Senator from Alabama did ultimately do, is charged to the Senator from Alabama.

Mr. MANSFIELD. Mr. President, the purpose of cloture is clearly to bring a matter before the Senate to expeditious and final determination by the entire Senate. I submit that the failure to charge time associated with the calling up of an amendment is at variance with the purpose of cloture and acts to reduce a rule of the Senate to a nullity.

In the circumstances, I make the point of order that the time which is required to place an amendment before the Senate, including reading time, is a part of the debate on the issue and must be chargeable in full under cloture to the Senator who calls up said amendment.

Mr. HANSEN. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Chair is about to rule.

The point of order submitted is a question of first impression.

Mr. MANSFIELD. Is what?

The PRESIDING OFFICER. It is a question of first impression. There are no precedents.

Mr. MANSFIELD. Then I take it——

The PRESIDING. OFFICER. The Chair has not quite concluded with the statement.

Therefore, the Chair will utilize the Chair's prerogative under rule XX to submit to the Senate, ab initio, the question: Is the point of order well taken?

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays.

Mr. HANSEN. A parliamentary inquiry, Mr. President.

Mr. MANSFIELD. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Wyoming will state the inquiry.

Mr. HANSEN. Mr. President, would I be right in assuming that under the rules of the Senate when cloture has been invoked, every Senator is entitled to have called up and considered those amendments which were on file before the cloture motion had been acted upon favorably by the Senate?

The PRESIDING OFFICER. That is the precedent.

Mr. HANSEN. Would not the objection raised by the distinguished majority leader then have the possibility of denying a Senator the right to receive consideration on an amendment which was duly filed, in order, and before the body?

The PRESIDING OFFICER. The Chair concedes that it could conceive of a situation which would change the prior practice, if the point of order is sustained.

Mr. CANNON. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. CANNON. Is it not a fact the Chair has ruled on numerous occasions before that when a Senator's time has expired under cloture, he would still then be eligible to bring up amendments that were pending at the desk, but could not debate them because he had no time left?

The PRESIDING OFFICER. That has been the practice and the precedent.

Mr. CANNON. A further parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. CANNON. If the Chair sustained the position of the distinguished majority leader in this instance, that would lock the Senate into a position where no amendments could be brought up in the future by a person who had used up all of his time under cloture, is that correct?

The PRESIDING OFFICER. Since the effect of sustaining the raised point of order could conceivably be a drastic change from prior practice, that is the reason why the Chair chose to act under the rule to submit the question ab initio to the full Senate.

Mr. CANNON. A further parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. CANNON. If the Chair will answer my inquiry, my inquiry is: If the position of the majority leader is sustained, would not that preclude a Senator in the future who has used up his time under cloture from calling up any amendments he had pending at the desk?

Now, that can be answered yes or no.

The PRESIDING OFFICER. Calling it up would take no time, and if unanimous consent were not granted for the reading to be dispensed with, then the Senator's hypothetical could be the case.

Mr. CANNON. And not considered?

The PRESIDING OFFICER. Would the Senator repeat his last question?

Mr. CANNON. And the amendment could then not be considered, is that correct?

The PRESIDING OFFICER. That is possible.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The point of order is not debatable. The Chair will entertain——

Mr. ALLEN. I move to table the point of order. It is an outrageous point of order.

SEVERAL SENATORS. A parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Tennessee will state it.

Mr. BROCK. If the Chair has ruled that the calling up of an amendment does not take time, would not the Senator in question, having used up his 60 minutes, be subject to challenge for not having any time, and he could not gain access to the floor?

The PRESIDING OFFICER. That is conceivable.

Mr. STEVENS. Mr. President, a parliamentary inquiry.

Mr. BROCK. Then the effect is just what the Senator from Nevada said. If the Senate rules on behalf of this point of order, to sustain it, then Members could be denied an opportunity to even call up an amendment, is that correct?

The PRESIDING OFFICER. That is correct.

Mr. STEVENS. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. STEVENS. Under the cloture procedure, it is mandatory that an amendment be read if unanimous consent is not granted at the time the amendment is called up, if it is otherwise called upon?

The PRESIDING OFFICER. That rule, the rule of reading, has recently been amended and any amendment at the desk by the time the vote on cloture was completed would be deemed to qualify.

Mr. STEVENS. If an amendment is qualified, must the sponsor still ask unanimous consent to have the reading of it waived at the time it is called up if it was at the desk?

The PRESIDING OFFICER. The usual practice is to read an amendment. That reading requirement would not be required in the circumstances the Chair just outlined.

Mr. STEVENS. I want to be absolutely sure about this, then. If an amendment was at the desk at the time cloture was invoked, it would not have to be read and, therefore, the reading of the amendment would not be charged against the Member's 60 minutes, in the event he called it up?

The PRESIDING OFFICER. That is the current practice.

SEVERAL SENATORS. A parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Nebraska will state it.

Mr. CURTIS. Mr. President, rule XXII states in part:

> Thereafter, no Senator shall be entitled to speak in all more than 1 hour on the measure, motion or other matter pending before the Senate, or the unfinished business, the amendments thereto and motions affecting the same, and it shall be the duty of the Presiding Officer to keep the time of each Senator who speaks.

My question is this: If the view of the distinguished majority leader prevails and the calling up of the amendment and the reading of the amendment is charged to the Senator who calls it up, is that not, in effect, changing the rule which says that he is entitled to 1 hour to debate?

The PRESIDING OFFICER. The Chair can see a situation where that would be the result.

SEVERAL SENATORS. A parliamentary inquiry.

The PRESIDING OFFICER. The Senator has correctly stated it.

Mr. CURTIS. In other words——

The PRESIDING OFFICER. Not in other words. Those are the words.

Mr. CURTIS. Thus, by majority vote, the 1-hour debate guaranteed to every Senator after cloture is voted can be denied him by a majority vote, is that correct?

The PRESIDING OFFICER. The Chair has stated its opinion.

Mr. JOHNSTON. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. JOHNSTON. Mr. President, if it is the practice and precedent of the Senate to allow a Senator to call up an amendment after his 1 hour of time has expired, as the Chair has stated, then would not the position of the majority leader, if sustained, be contrary to that precedent of the Senate?

The PRESIDING OFFICER. That would change the practice, yes.

Mr. JOHNSTON. Then it is not a case of first impression, but, rather, a case upon which there are adequate precedents of the Senate?

The PRESIDING OFFICER. This point of order has never been raised. That makes it a case of first impression.

The Senator from Montana.

Mr. ALLEN. I move to table that point of order.

The PRESIDING OFFICER. The Senator from Montana.

Mr. MANSFIELD. Mr. President, in view of the debate which has ensued, I would point out that the purpose of my proposal was, insofar as possible, to do away with dilatory and stalling tactics which have become the norm in cloture situations.

For example, we find Senators suggesting the absence of a quorum. It takes at least 15 minutes. The time is not charged against that Senator.

We find Senators who call for the yeas and nays on an order directing the Sergeant at Arms to corral enough absent Senators to make a quorum.

We find, for example, that a Senator can offer amendments by the score. He does not have to speak on them. He can just call them up, have the title read, the Senate will vote on those amendments, and maybe 15 seconds at the most, if that much, is allocated against the Senator's time during the imposition of cloture.

The purpose of this proposal of mine was to bring home to the Senate, if it needed to be brought home, that there are many ways in which dilatory and stalling tactics have been used and are being used to circumvent the will of the Senate in the interpretation and the application of rule XXII.

I hope I have made my point. I would like to ask unanimous consent that the point of order which I have raised be withdrawn.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. ALLEN. I ask that my amendment be stated at this time.

The PRESIDING OFFICER. The amendment of the Senator from Alabama will be stated.

The legislative clerk read as follows:

> The Senator from Alabama (Mr. ALLEN) proposes an amendment, No. 1776.

The legislative clerk proceeded to read the amendment.

Mr. ALLEN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MANSFIELD. Mr. President, if the pending amendment had been read, and I think it covers four or five pages, would the reading of the amendment have been charged against time of the Senator offering the amendment?

The PRESIDING OFFICER. No.

Mr. MANSFIELD. I thank the Chair.

Mr. KENNEDY. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state.

Mr. KENNEDY. If the amendment had been carried to H.R. 8532 and subsequently the substitute amendment No. 1701 had actually been accepted by the Senate, would that not have effectively vitiated any earlier action that was taken in terms of H.R. 8532?

The PRESIDING OFFICER. Does the Senator ask whether, if this amendment now being considered is agreed to, and then the substitute agreed to, amendment No. 1701, would that latter adoption vitiate the adoption of this amendment? The answer is "yes."

Mr. KENNEDY. Yes.

I suppose it would have been possible, Mr. President, to have offered a whole series.

A further parliamentary inquiry: Is this not the first amendment that we will be considering to H.R. 8522? Am I not correct that every other amendment during the period of the last 5 days has been to amendment No. 1701, since cloture has been invoked?

The PRESIDING OFFICER. The Senator is correct.

Mr. KENNEDY. And furthermore, Mr. President, under the other situation, would it not have been virtually impossible to have unlimited kinds of amendments to H.R. 8532—they have been proposed here—and, as I mentioned earlier, the effect of which would have been vitiated if we had had a positive response by the Senate on amendment No. 1701?

The PRESIDING OFFICER. If such amendments had been timely filed prior to the vote on cloture.

Mr. ALLEN. I call for the yeas and nays.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. ALLEN. I call for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. MORGAN. Mr. President, this very same amendment was adopted to the Hart-Scott substitute amendment No. 1701. If that amendment No. 1701 is not later adopted, of course, the amendment could be offered. But since it has been adopted and since we are considering the Hart-Scott substitute, I move that this amendment——

Mr. KENNEDY. If the Senator will withhold that, this has already been adopted to the substitute? Am I correct?

Mr. MORGAN. Yes.

Mr. KENNEDY. Will the Senator ask unanimous consent to have the yeas and nays withdrawn? I would think he would be willing to accept this in the form of a substitute.

Mr. MORGAN. I believe under the circumstances we should move to table it and if the time comes when we consider the original then it could be offered again.

I believe, Mr. President, I will insist on my motion to table the amendment.

Mr. ALLEN. I call for the yeas and nays, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FORD. Mr. President, could we have order in the Senate?

The PRESIDING OFFICER. The Senators will clear the well.

The clerk will proceed.

The assistant legislative clerk resumed and concluded the call of the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. BUMPERS), the Senator from Idaho (Mr. CHURCH), the Senator from Indiana (Mr. HARTKE), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Hawaii (Mr. INOUYE), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Maine (Mr. MUSKIE), the Senator from Rhode Island (Mr. PASTORE), the Senator from California (Mr. TUNNEY), the Senator from Virginia (Mr. HARRY BYRD, JR.,), the Senator from Iowa (Mr. CULVER), the Senator from Mississippi (Mr. EASTLAND), the Senator from Louisiana (Mr. LONG), the Senator from Washington (Mr. MAGNUSON), the Senator from Wisconsin (Mr. NELSON), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Mississippi (Mr. STENNIS), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I also announce that the Senator from Indiana (Mr. BAYH), and the Senator from Missouri (Mr. SYMINGTON) are absent because of illness.

I further announce that, if present and voting, the Senator from Indiana (Mr. BAYH), the Senator from Indiana (Mr. HARTKE), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Maine (Mr. MUSKIE), and the Senator from Rhode Island (Mr. PASTORE) would each vote "yea."

Mr. TOWER. I announce that the Senator from New York (Mr. BUCKLEY), the Senator from New Jersey (Mr. CASE), the Senator from New Mexico (Mr. DOMENICI), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from Nevada (Mr. LAXALT), the Senator from Maryland (Mr. MATHIAS), the Senator from Pennsylvania (Mr. HUGH SCOTT), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

The result was announced—yeas 44, nays 27, as follows:

[Rollcall Vote No. 264 Leg.]

YEAS—44

Abourezk
Biden
Brock
Byrd, Robert C.
Clark
Cranston
Durkin
Eagleton
Fong
Ford
Glenn
Gravel
Hart, Gary
Hart, Philip A.
Haskell
Hatfield
Hathaway
Hollings
Huddleston
Jackson
Johnston
Kennedy
Leahy
Mansfield
McGee
McGovern
Metcalf
Mondale
Montoya
Morgan
Moss
Packwood
Pearson
Pell
Proxmire
Randolph
Roth
Schweiker
Sparkman
Stevens
Stevenson
Stone
Taft
Williams

NAYS—27

Allen
Baker
Bartlett
Beall
Bellmon
Bentsen
Brooke
Burdick
Cannon
Chiles
Curtis
Dole
Fannin
Garn
Hansen
Helms
Hruska
Javits
McClellan
McClure
Nunn
Percy
Scott,
  William L.
Stafford
Thurmond
Tower
Young

NOT VOTING—29

Bayh
Buckley
Bumpers
Byrd,
  Harry F., Jr.
Case
Church
Culver
Domenici
Eastland
Goldwater
Griffin
Hartke
Humphrey
Inouye
Laxalt
Long
Magnuson
Mathias
McIntyre
Muskie
Nelson
Pastore
Ribicoff
Scott, Hugh
Stennis
Symington
Talmadge
Tunney
Weicker

So the motion to lay on the table was agreed to.

ORDER FOR RECOGNITION OF SENATOR DOLE TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the two leaders or their designees have been recognized under the standing order, Mr. DOLE be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 8 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate now recess until the hour of 8 o'clock tomorrow morning.

There being no objection, at 9:43 p.m., the Senate recessed until tomorrow, Thursday, June 10, 1976, at 8 a.m.

NOMINATIONS

Executive nominations received by the Senate June 9, 1976:

DEPARTMENT OF DEFENSE

Gen. George S. Brown, U.S. Air Force, for reappointment as Chairman of the Joint Chiefs of Staff for an additional term of 2 years.

OFFICE OF TELECOMMUNICATIONS POLICY

Thomas J. Houser, of Illinois, to be Director of the Office of Telecommunications Policy, vice Clay T. Whitehead, resigned.

U.S. RAILWAY ASSOCIATION

Richard B. Ogilvie, of Illinois, to be a member of the Board of Directors of the U.S. Railway Association for the remainder of the term expiring July 8, 1976, vice William W. Scranton, resigned.

Richard B. Ogilvie, of Illinois, to be a member of the Board of Directors of the U.S. Railway Association for the term of 6 years expiring July 8, 1982 (reappointment).

U.S. TAX COURT

Jules G. Körner III, of Maryland, to be a judge of the U.S. Tax Court for a term of 15 years after he takes office, vice Bruce M. Forrester, retired.

IN THE AIR FORCE

The following officer for temporary appointment in the U.S. Air Force under the provisions of chapter 839, title 10 of the United States Code:

To be brigadier general

Col. Richard Carr, [redacted] FR, Regular Air Force, Chaplain.

EXTENSIONS OF REMARKS

MASSACHUSETTS LOOKS TO THE SUN

HON. JOE MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 9, 1976

Mr. MOAKLEY. Mr. Speaker, I would like to bring to the attention of the full House the steps being taken by the Commonwealth of Massachusetts to promote the development and acceptance of solar energy.

Gov. Michael S. Dukakis recently released a report prepared by the Massachusetts Energy Policy Office which states that conversion to solar energy use from conventional energy sources could cut fuel costs by $120 million over 10 years and would create thousands of jobs in the process. These fuel savings could be realized if 50 percent of new construction and 20 percent of existing buildings were converted to solar energy.

The report contained nine specific recommendations for action on the State level. They included:

Property owners using solar energy should have "solar easements" protecting their rights to sunlight, prohibiting the construction of neighboring structures which might block solar radiation.

In subdivisions, land use plans and zoning actions, State law should require consideration of "Sunrights" so homeowners have unrestricted access to the Sun.

The State should consider the use of solar energy systems in selected State buildings where economically feasible.

Cost studies should be required when selecting heating systems and hot water systems for new State buildings. Where solar energy is cheaper, it should be used.

State building codes should cover solar energy, allowing installation of equipment on roof and wall areas and requiring such installations to be secure and weather-tight.

State vocational training programs should include education in solar energy-related skills, most importantly plumbing.

The State should help organize a solar energy information center, which may be privately funded and staffed.

Property tax abatements for installation of solar energy equipment should be continued by the State.

Information should be made available by the State on solar energy. The State should promote the use of exhibits and demonstrations of soar energy.

Mr. Speaker, we should applaud the Commonwealth of Massachusetts for its efforts to increase the public's awareness of alternative energy sources. Each and every State should be encouraged to follow the lead set by Massachusetts and actively explore the potential that exists at this moment to convert to clean, abundant, and ever-lasting energy from the Sun's rays.

REMARKS IN TRIBUTE TO THE LATE HONORABLE JOHN F. KENNEDY, ON THE OCCASION OF THE ANNIVERSARY OF HIS BIRTH

HON. JOHN G. FARY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 9, 1976

Mr. FARY. Mr. Speaker, on the occasion, marking the anniversary of the birth of the late Honorable John F. Kennedy, 35th President of the United States, I would like to express my admiration for the purposes and accomplishments of his brief administration, and hail him as a leader of the highest quality and the most inspiring nature.

As President of the United States, John Kennedy was exceptional in many different ways; so much so, and with so many beneficial results, it is hard to realize his term in office was actually of such limited duration.

As President, John Kennedy was confronted by international situations calling for a full knowledge of the diplomatic arts, with which he was well acquainted from an early age. During the service of his father, Joseph Kennedy, as Ambassador to England, John Kennedy was employed as a member of the American Embassy staff in London, in which capacity he witnessed at close range the awesome development of World War II. As President, in the Berlin crisis of 1961 and the Cuban missile crisis of 1962, he would reveal an astonishing capacity for diplomatic negotiation.

In the matter of civil rights, John Kennedy brought to the Presidency a totally new concept, in that he fought all his battles against majority oppression right out there in the open, where there was no doubt as to what he was doing. Gone was the old, time-honored policy of secret messages to and secret negotiations with Southern Governors. Now, at long last, the Federal Government was taking an open, defiant, public stand against the curse of racial segregation; and when Southern officials sought to circumvent the law, the President brought to bear the full force of Federal authority.

Concerned about the living conditions of poor and middle-income people in many sections of the country, John Kennedy promoted the Housing Act of 1961, to the benefit of many thousands of Americans and many hundreds of American communities.

To vary a metaphor, the proof of an American political pudding is in the hating—in the anger engendered among the members of the opposition. Not one of the great American Presidents has gone through his term or terms in office without bringing down upon his head the outright curses of the opposition. So it was with Washington, with Jefferson, Jackson, and Lincoln; so it was with Wilson, both the Roosevelts, and Harry Truman. And so it was for John Kennedy.

Cut down by an assassin and rendered a martyr, he is mainly remembered today in melodramatic terms: The young President, the man who brought a youthful flair to politics, the man who captured the imagination of American youth. And all that is true, of course.

But more than that: He was a brave and bold reformer in a period desperate for reforms long overdue; reforms opposed by important elements in Congress, business, labor, the press, and every other influential force.

In the end, death robbed him of his victories; but he had been a President of principle, who fought for justice, not for glory.

It was an honor to our country to have experienced the leadership of such a man as John F. Kennedy whose record of accomplishment has placed him high among the heroes of our national purposes and the democratic cause throughout the world.

MAURINE PELHAM JOHNSON, M.D.

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 9, 1976

Mr. TEAGUE. Mr. Speaker, it is indeed an honor for me to pay special tribute to Dr. Maurine P. Johnson as she nears completion of her first year as chief of staff of one of the largest Veterans' Administration hospitals in America.

The accomplishments of Maurine Pelham Johnson, M.D., place her at the top of any list of outstanding Americans.

Dr. Johnson's appointment as chief of staff of the Washington, D.C., Veterans' Administration hospital culminates 25 years of service as a distinguished medical research scientist and clinician. She is the only black woman to hold the position of chief of staff in the VA's 171-hospital system and 1 of only 2 women to do so.

Her duties as chief of staff place her in charge of all clinical care programs at the 708-bed hospital and all research and medical education activities inherent in its affiliation with 3 medical schools and 2 dental schools.

Her appointment to the chief of staff post came upon recommendation of the medical deans of Howard, Georgetown and George Washington Universities, following her nomination by a committee of her associates.

The Washington, D.C., VA hospital cares for 15,000 inpatients annually and records 83,000 outpatient visits to its clinics. Under Dr. Johnson's direction, the work of 118 full-time and part-time physicians and 155 residents is marshaled to provide the care these sick and disabled persons require. The sheer magnitude of this patient load is a tribute to Dr. Johnson's professional status. Dr. Johnson's colleagues, however, and her patients over the years have repeatedly attested to the fact that it is quality, not quantity, which distinguishes Dr. Johnson's efforts.

Dr. Johnson's career development can be traced in a revealing manner in chronological sequence. She was born in the Nation's Capital, a daughter of Harry L. Pelham, M.D., an active practitioner in the District of Columbia for many years. Her mother, Mrs. Vivian Spears, who still lives in Washington, also had a great influence on Maurine's career in encouraging her to fulfill her ambitions.

When Dr. Johnson decided to enter medical school in the 1930's, there were few women similarly enrolled. She was graduated cum laude from Howard University's College of Medicine in 1939. Four years previously she had been graduated a bachelor of science degree cum laude after completing major studies in botany and zoology. During her internship and residency training at Freedmen's Hospital, Washington, she became interested in tuberculosis and other respiratory diseases.

Upon completing this training in 1943, she was awarded a Rockefeller Fellowship to pursue further studies of chest disease at the Herman Keifer Hospital in Detroit, Mich. From 1944 to 1949, Dr. Johnson provided specialist care to patients in county tuberculosis hospitals in Louisville, Ky., and Columbus, Ohio, as a staff physician. One of her patients at the Dayton Hospital was a young veteran of World War II, William Johnson, whom she treated and then married.

Also during her years at this hospital, Dr. Johnson led its participation in the multihospital VA/Armed Forces cooperative studies testing new tuberculosis drugs, a landmark clinical research project that significantly altered medical practice. In 1953, she was named chief of the Dayton Hospital's tuberculosis service, a position she held until 1962.

She then was transferred to the Mount Alto VA Hospital in Washington, serving as chief admitting physician there for 4 years, and when the new Washington VA Hospital was opened, she became chief of its outpatient service, remaining in that capacity until chosen to be chief of staff in July of 1975.

Over the years, Dr. Johnson has been the recipient of numerous honors and awards testifying to her achievements as a physician, educator, administrator, and humanitarian. These include the Disabled American Veterans Bronze Plaque, the Disabled American Veterans National Commanders Award, the Department of Maryland Disabled American Veterans Citation, the American Legion Post No. 46 Citation of Merit, the government of the District of Columbia Certificate of Commendation, the Veterans of Foreign Wars Certificate of Appreciation, and AMVETS Distinguished Service Award for Outstanding Service, and the Howard University Institute for Human Affairs and Research Certificate of Award in Recognition of Outstanding Contributions to Culture and Family Life in the Metropolitan Washington area.

In addition to such tangible evidences of recognition, Dr. Johnson has repeatedly been recognized in other, more personal ways. In her personnel folder is a letter of commendation from Gen. W. C. Westmoreland, USA Ret., former Chairman of the Joint Chiefs of Staff, expressing his appreciation of her concern and professional acumen in presiding over a physical examination the general underwent at the Washington hospital. Equally glowing are other testimonials and letters of praise from patients for her warmth and compassion.

Her position as chief of staff in a teaching hospital affiliated with three medical schools requires her to merit and maintain the respect not only of three deans, but of the many department chairmen of all the schools, and to carry out the responsibilities represented by the educational philosophies of three separate institutions.

In her earlier career, she demonstrated flexibility and expertise as tuberculosis changed from its position as one of the Nation's leading causes of morbidity and mortality to a disease controllable with chemotherapy so that most patients could live a normal life rather than spending months or years in bed. Later she presided over a similar dramatic change in the extent and nature of Veterans' Administration outpatient care. When she assumed direction of the Washington Hospital Outpatient Clinic, only rather selective care was provided for service-connected veterans, coupled with examination services for veterans seeking beneficiary entitlements. Since then, VA Outpatient mission has been expanded under new legislation to provide broad ambulatory care to a large segment of the veteran population including services that can be offered veterans to obviate necessity for their hospitalization.

Through all these changes, Dr. Johnson has demonstrated her leadership and her professional insistence that the patients' welfare comes first, insisting on the highest quality of medical care for the veterans that are her responsibility. Her competence, her strength of character, her capable performance in the responsibilities of a demanding position have won her broad respect among her associates, patients, and educators. It is this respect, no less than her accomplishments as a physician and educator, that attests to the success of her career.

TWO HUNDRED YEARS AGO TODAY

HON. CHARLES E. WIGGINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 9, 1976

Mr. WIGGINS. Mr. Speaker, 200 years ago, on June 11, 1776, the Continental Congress appointed John Adams, Benjamin Franklin, Thomas Jefferson, Robert R. Livington and Roger Sherman as members of the committee responsible for the preparation of a declaration of independence. Although Adams appeared to be the most logical choice to chair the committee, the task was given to Jefferson, who wrote the declaration.

At the same time, Congress also authorized the appointment of a committee "to prepare and digest the forms of a confederation to be entered into between these colonies." The committee consisted of one member from each colony.

THE URBAN CRISIS IS ALIVE AND WELL AND LIVING IN CHICAGO

HON. HERMAN BADILLO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 9, 1976

Mr. BADILLO. Mr. Speaker, last year, during the height of the fiscal emergency in New York, President Ford informed the country that New York was an isolated case, and once quarantined and medicated with loans from the Federal Government, it would regain it's health. And that, he assured us, would spell the end of the urban crisis in America.

Well, many of us thought him wrong, and, indeed, there have been rumblings from many cities across the country that have been having difficulty providing services on the level they had previously been able to. But Sunday, readers of the New York Times learned how alive and kicking the problems of urban America are. For the past years, Chicago has been held up as an example of how a city should be run. We have been told that Mayor Daley really knew how to make a city work, and improve its economy and enhance the lives of its citizens. And yesterday we learned that Chicago is the latest city to feel the impact of our shaky urban policies.

I suggest to my colleagues once again that New York is not an isolated case of bad management and governmental largesse. When even cities which have limited their services carefully, as Chicago has, are feeling the pinch, we must assume that the problems are universal. It is time, Mr. Speaker, that we begin to take our urban ills with real seriousness, and seek a cure that will stop what seems now like the certain death of America's cities.

The article follows:

CHICAGO LATEST TO FEEL IMPACT OF URBAN CRISIS

(By Paul Delaney)

CHICAGO, June 5.—In this metropolis of more than three-million people, widely acclaimed as the city that works, something seems to be going awry.

Chicagoans up till now have felt fairly comfortable that Mayor Richard J. Daley was the medicine man with the cure-all to fix any ailment; that unlike other mayors, New York's in particular, he could wave a magic wand and make everything all right in Chicagoland.

But it seems that time is catching up with Chicago. Financial woes are such that not even Mayor Daley seems able to stave them off. Chicago, it is beginning to appear, is no better or worse off than New York or Philadelphia or a score of big cities facing the urban crisis, especially a severe money pinch.

WIDE RANGE OF WOES

Critics say that at best Mayor Daley has failed to circumvent the problems that seem to be piling up and that at worst he is to blame for some, if not most, of them. Additionally, they say, he is failing to face the problems realistically. Some of the problems are the following:

¶ The city was forced to close schools on Thursday, 16 days early, because of a $47.4 million deficit that resulted from settlement of a 11-day teacher strike last fall, a settlement urged upon the school board by Mayor Daley. Unless the State Legislature waives the law to exempt the city from a penalty for the early closing, city schools will lose $56 million more in September.

¶ Mayor Daley seems to be losing some of the clout he possessed as boss of the Chicago Democratic machine. He pushed for settlement of the teacher strike because he felt he could persuade the Legislature to pass three education bills that included financing for the schools. Although he personally led lobbying efforts to Springfield, the capital, he failed. Robert M. Healey, president of the Chicago Teachers Union, and others now predict the Mayor Daley will not muster enough support to get the exemption for Chicago passed.

¶ Cook County Hospital, the only public hospital in the city, narrowly averted a temporary shutdown Thursday when the state agreed to pay $9 million in overdue Medicaid patient bills. The action permitted the hospital to meet the deadline for obtaining funds for its June 15 payroll. It came after the First National Bank of Chicago had balked at lending the hospital $10 million in addition to $15 million it had previously borrowed. The future of the hospital remains in jeopardy, officials reported.

At a hearing yesterday, United States District Judge Prentice H. Marshall once again balked at releasing the city's impounded revenue-sharing funds, now up to $118 million. The money has been held back by the court since December 1974 when the court found that the Police Department had discriminated against black, Hispanic and female applicants. The city has refused to comply with the judge's orders that set up hiring quotas. Judge Marshall is conducting hearings to determine whether the city is complying. Based on his reactions so far, he does not seem impressed with the city's position.

Some black leaders believe that the city's firm position in opposing several court and state orders and efforts to end segregation and discrimination in the fire and police departments, schools and housing contributed significantly to steadily increasing racial hostility, especially white attacks on blacks. These leaders believe that Chicago is on the verge of race war.

HOUSING BIAS ALLEGED

Additionally, the Chicago Urban League, in a report based on a survey by the United States Commission on Civil Rights, charged that Chicago had the most segregated housing of any big city in the nation.

When asked to comment on the city's problems, Alderman Michael A. Bilandic, chairman of the City Council Finance Committee and neighbor of Mayor Daley, answered with the question, "what problems?" he said the city faced no real financial squeeze right now. He said that the Mayor was not responsible for the troubles faced by the school board and the Health and Hospitals Governing Commission, although members of both are drawn from the Cook County Democratic machine.

Mr. Bilandic said that the city was "being treated unfairly" by Judge Marshall and that the city expected to win the case on appeal. He said the withheld revenue-sharing funds had not caused a strain on the budget so far. However, the city has had to borrow money to make up for the funds.

"We're still paying our bills and carrying out our responsibilities as a city. There has been no negative impact," Mr. Bilandic commented.

"If we see some negative impacts soon, we'll just have to make some adjustments," he added.

TEACHERS LOSING 8.5 PERCENT

The closing of schools early has put the city in conflict with the Chicago Teachers Union. School employees will lose 8.5 percent of their salaries, which will wipe out the gains they made in the strike settlement. The average teacher will lose $1,400.

Mr. Healey, the teachers union president, opposed the legislation to allow the 526,000-pupil Chicago school district an exemption from the law that requires 177 days of classes. Only 162 were held this year. The early closing and the exemption would wipe out the deficit. Otherwise, the city would be penalized $3.7 million a day in state aid for each day fewer than 177 days.

Union leaders fear the exemption would set a precedent and would allow school boards to be lax in preventing or settling strikes. An exemption would be an antiunion strikebreaking measure, according to Mr. Healey.

The schools superintendent Joseph P. Hannon, said that the law would be an emergency one-time waiver for Chicago only. He denied that the proposed action was antiunion.

JACKSON SCORES LEADERS

Meanwhile, black leaders are convinced that the city's problems, tied to the leadership of Mayor Daley, are also connected to the aspirations and plight of blacks.

The Rev. Jesse L. Jackson, president of Operation People United to Save Humanity, said that "immoral, decadent white leadership sets the climate for what's happening in Chicago today."

The last few weeks have seen an increasing number of attacks on blacks by whites, especially in changing neighborhoods where antiblack posters have been found and homes stoned. Blacks have set up their own patrols in some sections.

"The political leaders, led by Mayor Daley, are the only ones who benefit from racial strife. That's why they oppose every move to wipe out discrimination and segregation, in order to maintain support among whites," Mr. Jackson remarked.

"We are on the verge of race war in Chicago. The only positive change I see is movement by a few religious and business leaders. One thing that's been lacking here is moral leadership from the white clergy," he said.

1976 LEGISLATIVE QUESTIONNAIRE

HON. EDWARD J. PATTEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 9, 1976

Mr. PATTEN. Mr. Speaker, in the next few days, I plan to mail my annual questionnaire to every postal stop in the 15th Congressional District I represent.

There will be six questions—three on domestic affairs and three on foreign matters.

The three on domestic affairs will be the following:

Which of the following issue areas do you believe should be given the greatest attention by Congress? (Check one)

(a) Inflation,

(b) Unemployment,

(c) High mortgage interest rates and the housing shortage.

Would you prefer to return control of the present U.S. Postal Service to Congress?

Regarding auto emission control standards, should Congress:(Check one)

(a) Retain present emission control standards schedule?

(b) Support the Administration's request to keep standards as they are for 5 more years?

(c) Keep standards as they are for another 2 or 3 years, and then tighten up controls?

The three questions on foreign matters will be:

Do you favor tighter controls on the Central Intelligence Agency (CIA) by Congress?

Should America give up its control over the Panama Canal?

Do you think that the U.S. should increase its trade with countries like Poland, Rumania, Hungary, and other Communist-influenced nations?

Mr. Speaker, I hope that every household which receives the above questionnaire fills it out and returns it to me, for I always look forward to reading and analyzing the views of my constituents.

The way I vote in committee and on the House floor—and the decisions I make—are primarily determined by my beliefs and convictions, but I also care about how my constituents feel about issues. In fact, there are times when I learn a great deal from them.

TRIBUTE TO MRS. IRENE ZATMAN ROBINSON

HON. GILBERT GUDE

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 9, 1976

Mr. GUDE. Mr. Speaker, I am pleased to join with her many co-workers and friends at the National Institutes of Health and throughout the Washington-Baltimore area in paying a special tribute to Mrs. Irene Zatman Robinson. At the conclusion of next week, Mrs. Robinson will retire from Federal civil service after 22 years as an exemplary public servant.

Mrs. Robinson, who was born in Manchester, England, and has been a resident of Montgomery County, Md., for a number of years, began her career with the Federal Government at the age of 17. Her first position was with the Reconstruction Finance Corporation, where she worked for nearly 9 years. After marrying Harry B. Robinson, she interrupted her Federal service for a period of 20 years during which she raised her two children, Larry and Merle, and assisted her pharmacist husband in the well-known pharmacy which they owned and operated in the District of Columbia.

Mrs. Robinson returned to Government service and began her career with the National Institutes of Health in early 1962. She worked briefly in the Dental Department of the NIH Clinical Center, and then served for a year and a half as the Senior Secretary-Office Manager to the Executive Secretary of the Grants Associates program in the NIH Division of Research Grants. Less than a year after it was established, Mrs. Robison joined the National Institute of Child Health and Human Development as a member of the Institute Director's staff. For the last 12 years she has diligently performed the major portion of the staff work in the Institute's Office of Legislative Liaison.

Mrs. Robinson has received several commendations for sustained high quality work performance and has frequently been cited as a conscientious and dedicated Federal civil servant. She has consistently contributed much to the agencies which she has served, in particular, the National Institute of Child Health and Human Development.

Her NIH co-workers and numerous friends will honor the conclusion of Mrs. Robinson's Federal career next Tuesday afternoon, June 15, between 3 and 4 o'clock in the cafeteria Building One on the NIH campus in Bethesda, Md. I am proud to join with her many well-wishers in expressing sincere gratitude for her years of loyal service and the hope that the years ahead will be filled with enjoyment and happiness for Mrs. Robinson and her family.

SOLAR ENERGY IS FOR OUR GENERATION

HON. WILLIAM S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 9, 1976

Mr. BROOMFIELD. Mr. Speaker, it is evident to me that solar energy as an alternate source of power for buildings is not to be thought of for the distant future, but as a reality for the present.

Mr. Joseph Neussendorfer dramatically shows that solar energy is for real and for our generation in a three-installment feature story, "Harnessing Michigan's Sunpower: Pioneers, Prospects, and Resources," in the monthly bulletin of the Michigan Society of Architects. He points out there are already several solar energy projects underway in Michigan and he cites four as pioneers:

> Four of the solar energy pioneering efforts in Michigan are the Macomb Satellite Services Office Building in Warren, Michigan, designed by Thomas Strat & Associates, Inc., Troy; the already operational solar collector atop the Smith, Hinchman & Grylls Associates Inc. building in downtown Detroit; the solar demonstration project at the Walter and May Reuther UAW Family Education Center near Onaway, Michigan; and the new solar heated apprentice school in Warren, Michigan, designed by OEM Associates Inc., St. Clair Shores, for the Joint Apprentice Building Committee of Local 80 Sheet Metal Workers International and Sheet Metal Contractors of Michigan.

The manager of reporting services for the Builders Exchange of Detroit and Michigan is optimistic about the growth potential of solar energy use and believes the use of solar energy will usher in a new era in housing. He says:

> Reflecting on the prospects of solar energy we should not lose sight of the fact that the sunlight shed on Lake Erie in one day is equal to all the energy used by Americans in one year.
>
> The major challenge is to collect, store and transport this free, readily available, renewable energy source to the consumer at prices cheap enough to compete with other fuels.

In the final installment of his article, Neussendorfer presents a comprehensive compilation of sources of information about solar energy technology and hardware.

RUSSIAN MUTINEER SAILORS DENIED ASYLUM IN SWEDEN

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 9, 1976

Mr. McDONALD. Mr. Speaker, one of the continuing tragedies of the post World War II history of the free world has been its treatment of political refugees from behind the Iron Curtain. Recently, several books have outlined the forcible repatriations of the Cossacks by the British from Austria and the Vlasov Army and others by the Americans from Germany just after the fighting stopped in Europe. We seem to have learned nothing in the process as witness the forcible return of the fisherman Simas Kudrika some years ago by the U.S. Coast Guard. Sweden has shared in this inglorious chapter of western history, having forcibly returned many Balts to the Soviet Union just after World War II. Now we learn Sweden refused asylum to the crew of Russian Baltic Fleet destroyer *Storozhevoy* when it reached Swedish waters.

Aside from the human tragedy involved, it appears that the Soviet Baltic Fleet is becoming somewhat unreliable. The mutiny on the *Storozhevoy* was reportedly the outgrowth of a larger outbreak at the Riga Naval Base. Further than that, it has been reported that there was a revolt on a Baltic Fleet cruiser last year and in some years prior to that a roundup of Baltic Fleet officers for anti-Soviet activity.

The item from the Daily Telegraph of June 5, 1976, follows:

> RUSSIAN MUTINEER SAILORS DENIED ASYLUM IN SWEDEN
>
> (By David Floyd)
>
> The Swedish Government refused to grant political asylum to members of the crew of the Russian destroyer *Storozhevoy*, 3,500 tons, when they mutinied in the Baltic last November, according to reports reaching the West from Russia.
>
> The mutiny was suppressed by air bombardment and machine-gunning in which at least 50 of the crew were reported to have been killed.
>
> In earlier reports from Stockholm the Swedish Defence Staff admitted to knowing about the mutiny and the draconian measures taken to suppress it.
>
> The impression was given that the incident took place outside Swedish territorial waters and that the Swedish authorities had no part in it.
>
> But the reports from Russia say the mutineers succeeded in bringing *Storozhevoy* into port in the Swedish island of Gotland, where it was surrounded by Swedish patrol boats.
>
> The leader of the mutiny, named Markov, the destroyer's political officer, then radioed a request for all the mutineers to be granted political asylum.
>
> The Swedish coastguard warned the Russians not to take any action until they received instructions from the Swedish Government.
>
> Two hours later a Swedish naval officer sent a radio message in Russian saying that since the crew of *Storozhevoy* were naval personnel they were considered to be deserters and could not be granted asylum.
>
> Markov then ordered the ship to set course for Denmark or Norway in the hope of obtaining asylum there. But, some members of the crew, alarmed at the Swedish refusal, took fright and radioed back to their base in Leningrad to report the mutiny.
>
> By the time a squadron of Russian bombers reached the destroyer it was outside Swedish waters. They machine-gunned the decks and dropped several bombs.
>
> Markov and six officers who supported the mutiny are said to have committed suicide and more than 50 ratings were killed or wounded. Those who tried to swim for the shore were machine-gunned in the water.

REQUIRE COST-AND-BENEFIT FIGURES FOR REGULATIONS

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 9, 1976

Mr. ASHBROOK. Mr. Speaker, regulatory reform is a continuing necessity. In the past few years the businessman has found himself inundated with redtape and regulations. One of the results has been to increase costs for the consumer.

While there seems to be a growing consensus that the regulatory agencies are out of control—even some of their liberal congressional supporters are backing off—there is still a lack of action in this area. Regulations are put into effect with little thought to their cost-versus-benefit ratio. Dr. Murray Weidenbaum has suggested a very sensible reform in this area. In an interview that appeared in the June 6, 1976, Richmond Times-Dispatch he stated:

> To me the simplest, but most powerful change, is to require each governmental regulatory agency to demonstrate before it issues a regulation that the cost it's imposing on the production of goods and services is worth it in terms of the benefits they generate.

Of course, this is one of the tests that are required in public works projects. For example, the Army Corps of Engineers is required to figure out a cost-benefit ratio on a project before it begins construction.

A cost-and-benefit test makes sense. This would be a step in the right direction. Too often regulations seem to be promulgated with little regard for what they will actually cost and sometimes even less regard for what actual benefits are being sought.

Dr. Weidenbaum suggests that agencies where costs exceed benefits should be cut back. In his words, "That is a real incentive to bureaucrats."

The present liberal majority in Congress has been dragging its feet in actually reforming the regulatory agencies. Reform is needed now and in my opinion the big four—EPA, CPSC, OSHA, and EEOC—should receive particular attention.

THE WAXMAN-MAGUIRE AMENDMENT AND THE CLEAN AIR ACT—IV

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 9, 1976

Mr. WAXMAN. Mr. Speaker, on May 29, the California Air Resources Board announced that beginning this fall in California, Volvo will be marketing several cars which not only meet but beat the statutory standards for automobile emissions mandated by the Clean Air Act. This breakthrough demonstrates that Waxman-Maguire amendment, which calls for meeting the statutory standards in 1981, is a reasonable and realistic approach toward meeting the goals set out by the Congress in 1970.

Most dramatically, the Volvos certified to date have halved the statutory 0.4 NO$_x$ standard—a standard which the industry said could not be met for several years and which, under the Dingell amendment, is effectively repealed altogether.

These automobiles will also achieve 10 percent better fuel economy over this year's cars. This achievement explodes the myth that emissions controls and fuel economy are incompatible. Indeed, if the technology which Volvo employed—a three-way catalyst, manufactured by Engelhard Industries of New Jersey—could be perfected and adopted industry-wide, it is conceivable that there would be a higher fuel penalty under the Dingell-Broyhill proposal than under the Waxman-Maguire amendment.

Additionally, there will be only a $50 price increase on these new Volvos over this year's cars, because of the three-way catalyst. This explodes another myth: That meeting the statutory standards would cost consumers hundreds of dollars in increased sticker prices for pollution control equipment.

Clearly, the Air Resources Board announcement is a very exciting development in the long struggle to remove the automobile as a major source of smog. For the first time, achievement of the statutory standards is no longer in the realm of the theoretical; it has been proven and demonstrated, and will be achieved by one manufacturer's fleet this year.

Encouragingly, the Ford Motor Co. has announced that it has begun testing of the three-way catalyst. Additionally, Engelhard is continuing its research to adapt the catalyst to six- and eight-cylinder cars, and to carbureted automobiles.

All of these promising research efforts will be compromised, however, if the Congress obviates their need by granting an extended freeze of the current Federal standards—standards which are well above the full statutory standards. Defeat of the Waxman-Maguire amendment would remove any incentive Detroit would have to capitalize on these developments.

On June 3, 1976, Tom Quinn, chairman of the Air Resources Board, joined Representatives MAGUIRE, BROWN of California, and myself in presenting this information at a press conference. I am inserting for the benefit of my colleagues our statements and the ARB fact sheet on the Volvo three-way catalyst automobiles:

STATEMENT OF REPRESENTATIVE HENRY A. WAXMAN

Good Morning.

The breakthrough which has been described by Mr. Quinn this morning greatly strengthens the arguments I have been making in the Congress for over a year—that there is no justifiable reason why an extended freeze of the current automobile emission standards should be granted.

The Detroit manufacturers have been engaged in a lobbying blitz which seeks to delay final compliance with the statutory standards until well into the 1980's. We have been told time and again that meeting the statutory standards would cause enormous fuel penalties, greatly increased car costs, and provide only marginal improvements in air quality. We have been told that the earliest date that a car meeting the statutory standards could be marketed would be after the end of this decade.

The automobile industry was wrong. Cars meeting the statutory standards will be on the road later this year. These automobiles will get 10 percent better fuel economy than last year's models. The increased cost to the consumer—$50.00—is minimal.

It is terribly important to remember that the automobile emissions standards mandated by the Clean Air Act have been imposed to protect public health. Every year, four thousand Americans die and four million work days are lost to illness due to automobile pollution. Exposure to harmful tailpipe emissions has been shown to cause cradiovascular and respiratory diseases, particularly among the very young and the very old. Although the Clean Air Act directs that air quality standards designed to protect public health be established, there are no known "threshold" levels of pollution—levels below which no adverse health effects occur.

In dollars, the cost to the American people of the damage caused by automobile air pollution lies somewhere between $2.5 and $10 billion per year. This is, in my judgment, an unacceptably high cost to our people and our quality of life.

We have therefore decided to offer, when the Clean Air Act comes to the floor, an amendment which reflects the progress in meeting the statutory standards which has been announced this morning.

All of the cosponsors of the original Waxman-Macguire Amendment have agreed to support the automobile emissions schedule suggested by the Air Resources Board.

First, our amendment would require final compliance with the full statutory standards in 1981. Second, our amendment would require, in the interim, the adoption nationwide of the current California standards in 1978, and the 1977 California standards in 1979 and 1980.

There are several reasons why we have chosen this approach. By establishing 1981 as the final deadline for compliance with the full statutory standards, we are giving Detroit four years from the time a car meeting these standards has been marketed to achieve those standards on an industry-wide basis.

By requiring the adoption of the California standards in the interim, our amendment will keep the pressure on Detroit to maintain a step-by-step progression toward final compliance in 1981. It should be realized that all the standards our amendment would apply nationally between now and 1981 will have been in effect for at least two years beforehand in California. The interim technology, in other words, is proven and available, and its imposition nationwide will not, in our judgment, prove burdensome for Detroit.

Lastly, although we are greatly encouraged by the success of the three-way catalyst, we do not wish to lock the manufacturers into any one particular device or engineering technique. Since Volvo will be meeting the statutory standards in 1977, we could have chosen to require full compliance by, for example, 1979. We did not do so because we wanted to give the industry a large amount of flexibility in its exploration of various ways and means toward meeting the statutory standards.

We believe that the more moderate interim levels which we have proposed between now and 1981 provide this flexibility. At the same time, we believe these are standards which will have a positive impact in reducing dangerous levels of air pollution across the country.

We have been bitterly attacked by Detroit for insisting that greater efforts on their part, with more fruitful results, could fairly be expected of them. We were not wrong in our insistence.

The simple fact is that the industry has consistently underrated the performance of their cars and their ablity to meet the nation's energy and environmental goals. As tailpipe emissions have been cut by a dramatic 83 percent since 1970, fuel economy has increased substantially. The cost has not been excessive. And there has been correspondingly, a significant improvement in ambient air quality concentrations in many critically affected regions of the Nation—to the benefit of the health of millions.

It is no coincidence, in my judgment, that we are here this morning making this particular announcement. As many of you know, several outside analyses of the industry, most notably by the National Academy of Science, have concluded that the statutory standards could be met in 1978. Those analyses were correct.

I am therefore convinced that we now have in hand the technology which can finally resolve the differences between Detroit and the Congress over this issue. Simply put, meeting the statutory standards means that within a decade we can remove the automobile as the major source of smog.

I very much hope the Big Three will positively respond to this new breakthrough, making a commitment to seize the initiative and fully exploit these developments.

I am certain they have the capability to do so.

I invite the industry to join in the amendment we are proposing this morning. I look forward to their early response.

Thank you.

TABLE OF VARIOUS AUTOMOBILE EMISSIONS PROPOSALS

[All figures are in HC/CO/NOx in grams/mile]

Model year	House bill	Waxman-Maguire	Dingell-Broyhill	Current law
1978	1.5/15/2	[1] 0.9/9/2.0	1.5/15/2	[2] 0.41/3.4/.4
1979	1.5/15/2	[3].41/9/1. 5	1.5/15/2	[2] 0.41/3.4/.4
1980	.41/3.4/2	[3].41/9/1.5	[1].9/9/2	[2] 0.41/3.4/.4
1981	[4].41/3.4/.4(2)	.41/3.4/.4	[1].9/9/2	[2] 0.41/3.4/.4
1982	[4].41/3.4/.4(2)	.41/3.4/.4	[5].41/3.4	[2] 0.41/3.4/.4
1983	[4].41/3.4/.4(1.5)	.41/3.4/.4	[5].41/3.4	[2] 0.41/3.4/.4
1984	[4].41/3.4/.4(1.5)	.41/3.4/.4	[5].41/3.4	[2] 0.41/3.4/.4
1985	[3].41/3.4/.4	[3].41/3.4/.4	[5].41/3.4	[2].41/3.4/.4

[1] Current California standards.
[2] Statutory standards.
[3] 1977 California standards.
[4] Level to which 0.4 NOx standard may be waived by EPA Administrator.
[5] NOx level to be set by EPA Administrator at his discretion.

MAGUIRE FIGHTS FOR EFFECTIVE AUTO EMISSION STANDARDS

The amendment which Congressman Waxman and I are announcing today would relax the schedule for automobile emission reduction set in the Clean Air Act. Unbiased, scientific evidence shows that the original standards could probably have been met had there been a dedicated and sincere effort to attain them. I regret that we must take this step. However, the amendment comes as a compromise between the schedule for emission reduction in the Clean Air Act and the position of some who apparently want to repeal effective standards altogether.

The excellent certified test performance of the 1977 four-cylinder Volvo is further evidence that inexpensive and fuel-efficient technology can be applied on a mass production basis to meet even the toughest emission standards ever scheduled by law. While a foreign manufacturer has successfully applied American pollution control technology to achieve these superb results, some may ask whether American auto manufacturers can do as well. I certainly hope so. Engelhard Industries, which developed the technology, and the California Air Resources Board are confident that American cars can use the technology. In fact Engelhard is currently testing the three-way catalyst on American-made carbureted cars. However, it should be emphasized that the success of these tests would show that *no* relaxation of the standards set in the Clean Air Act is necessary.

To ease any doubts, our amendment provides both more time to meet the standards scheduled in the Clean Air Act and sufficient flexibility for the development of technology. The measure would give a full three years beyond the 1978 deadline for attainment of the full standards. It would also provide a phase-in period in 1979 and 1980 which would delay for two years federal implementation of 1977 California emission standards. This phase-in period would give the auto manufacturers the freedom to perfect existing technology or to develop alternative technology.

What about cost? The anticipated cost increase beyond the 1976 model is between $25 and $50. In considering cost of pollution control equipment, it is vital to consider the benefit that would result from eliminating auto emissions. The National Academy of Sciences recently estimated the benefit at between $2.5 and $10 billion every year, which represents costs to the public in medical bills, lost work hours and damage to materials and crops which are due to automobile pollution.

It is also vital to consider the costs in terms of human life and health if Congress fails to enact effective emission reduction standards. The NAS estimates that every year four thousand Americans die and four million work days are lost due to automobile pollution. The individuals most vulnerable are the very young, older persons, and those with respiratory or heart ailments—altogether some 20 percent of the population.

Long-term health hazards of pollution from autos are alarming. Scientists have found a high statistical correlation between incidence of cancer deaths and high concentrations of the tailpipe pollutant, nitrogen oxides or NOx. More recent evidence indicates that nitrogen oxides are combining in the air with a common pollutant, amines, to form nitrosamines—recognized to be one of the most potent cancer-causing agents known.

What is the significance of these facts on the health dangers of auto pollution? Each year's scientific evidence shows that last year's efforts to protect public health against pollution were altogether inadequate. It is quite clear that Congress should not slacken its efforts to protect public health from pollution. Congress cannot gamble with the lives and health of the American people. We must not forget Congress' responsibility to protect lives and health in the maze of statistics and other data on technological feasibility, fuel efficiency, and control costs. We firmly believe that this amendment which we recommend today represents the minimum recognition and fulfillment of this responsibility. We hope that a majority of our colleagues in Congress will join us in this effort.

CALIFORNIA AIR RESOURCES BOARD—1977 VOLVO THREE-WAY CATALYST AUTOMOBILES

During May of 1976, Volvo completed certification testing requirements on a new "3-way" catalyst system, developed in cooperation with Engelhard Industries of Edison, New Jersey. The new system, which has been developed for all of Volvo's four cylinder models, will be the first ever to catalytically control introgen oxides (NO_x) emissions from production cars. Not only did the 3-way system meet California's stringet 1977 emission standards, it also comfortably met the 90% reduction, statutory standards established by the Clean Air Act Amendments of 1970 while achieving higher fuel economy than the 1976 "49-state" Volvos, which emit far more pollution.

The tests performed on the Volvos by the U.S. Environmental Protection Agency are conclusive proof that the toughest emission goals ever established by Congress can now be met by a roomy automobile with a conventional engine and excellent fuel economy. Even the station wagon version of the Volvo exceeded the 20 mile per gallon fuel economy standard which the Congress has established for 1980.

Until now catalytic converters have been used only to control hydrocarbon (HC) and carbon monoxide (CO) exhaust emissions. Without catalytic control of NOx available, automobile manufacturers have claimed that NOx emission standards below the 1.5 gram per mile (gpm) level established by the California Air Resources Board (ARB) for 1977 models would be impossible to achieve without major penalties in fuel economy and driveability. Volvo, in fact, believed that the use of a catalyst that could control Nox as well as HC and CO would allow improved fuel economy at 1.5 gpm NOx standard established by the ARB. Other manufacturers did not attempt to certify a 3-way catalyst system for 1977 because previous experience with 3-way catalysts had shown them to deteriorate rapidly in only a few thousand miles. Engelhard Industries has, however, now discovered new methods of catalyst formulation and fuel metering which eliminate that problem.

The HC and CO emission levels from the Volvo system were actually lower after 50,000 miles of durability testing that at 4,000. NOx emission were only 14% higher at 50,000 miles than at 4,000 miles. The table below summarizes the emissions and fuel economy performance of the new system.

	Exhaust emissions (grams per mile)			Fuel economy (miles per gallon)		
	HC	CO	NOx	City	Highway	Combined
Average of 4 Volvo test cars, including 50,000-mile deterioration factor	0. 20	2. 8	0. 17	18. 2	28. 1	21. 6
Clean Air Act goals	. 41	3. 4	. 40			
1977 California standards	. 41	9. 0	1. 50			
Current (1976) Federal standards	1. 5	15. 0	3. 1			

The three-way catalyst system is nearly indistinguishable from the oxidation catalyst system used on current automobiles. The catalyst construction is the same as current catalysts with only the chemical composition being modified slightly. In addition to the tiny amounts of platinum used in current catalysts, 3-way catalysts often contain rhodium in trace quantities. A key system difference from current oxidation catalyst systems is the use of an exhaust composition sensor which signals the fuel metering system to change slightly should the exhaust become too rich or too lean for optimum catalyst efficiency. The system can be made to work with either fuel injection or carburetors. Recent discoveries in the area of the catalyst's fuel metering requirements make it likely that the more precise control offered by fuel injection will be unnecessary. The anticipated cost increase for the 3-way catalyst and the exhaust sensor is $25-$50.

3-way catalysts have already undergone extensive tests for "unregulated" pollutants. Auto exhaust contains literally hundreds of harmful compounds, only some of which are regulated. Many of these compounds are unregulated because their concentration is insignificant from a health-effects viewpoint. These compounds include aldehydes, sulfuric acid, hydrogen cyanide, particulate matter, etc. Of all systems tested to date, the 3-way catalyst system may be the lowest in unregulated pollutants. The system reduces many of the unregulated compounds. Higher sulfuric acid levels, which have been a concern with oxidation catalysts, are not a problem with 3-way catalysts. All other compounds remain at safe levels even under "failure modes" of system operation.

Volvo has reported to the ARB that it may extend the use of the 3-way system to its entire model line for 1978 even though the system provides far more emissions control than is required by State or Federal law. The ARB has estimated that by 1981 all cars could use the 3-way system to meet the 0.4 gpm NOx standard if the Congress recommits the Nation to the goal of producing clean cars.

To permit an orderly phase-in of the technology now available to meet the Clean Air Act's goals, the ARB is rocemmending the following schedue be adopted by the Congress:

Model year	HC	CO	NOx
1978	0.9	9.0	2.0
1979-80	.41	9.0	1.5
1981	.41	3.4	.4

Cars sold in California have met the standards recommended nationally for 1978 since 1975, and the 1977 California cars will all meet the standards recommended nationally for 1979-80.

HOWARD UNIVERSITY'S 108TH COMMENCEMENT

HON. CARL D. PERKINS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 9, 1976

Mr. PERKINS. Mr. Speaker, on Saturday, May 8, Howard University held its 108th convocation for conferring of degrees.

The principal address of the day was by Dr. Maynard Jackson, the distinguished mayor of Atlanta; and Miss Carol M. Day, a degree candidate, gave the address of welcome.

I was particularly pleased, Mr. Speaker, in the fact that the degree of Doctor of Humane Letters, honoris causa, was conferred upon Louise Maxienne Dargans Fleming, research director of the Committee on Education and Labor, who is well and favorably known in this House through her long association on Capitol Hill.

Mr. Speaker, I ask that the slightly abbreviated text of Dr. Jackson's address be printed in the Appendix of the RECORD in recognition of the importance of Howard University and its unique relationship to the Congress and the countrv:

HOWARD UNIVERSITY COMMENCEMENT ORATION BY MAYOR MAYNARD JACKSON

I am delighted to bring you greetings today from the greatest city in this country with the possible exception of your hometowns. I am especially proud and fortunate to have the opportunity to address this 108th Commencement of Howard University which, through its long and illustrious history, has been one of the major capstones of black higher education in the United States and, in fact, in the world. To share with these distinguished. Americans the judgment of this great University, its President and Board of Trustees that I should receive an honorary degree on this important occasion is indeed an added and much treasured honor, and I thank you for having considered me worthy.

The historical significance of this moment is heightened, because there is a certain black political presence being felt in our nation as never before. There are more black public officials and a greater opportunity for black political action now than at any other time in the history of our country.

Moreover, the time is significant because currents in the society presently are accentuating lingering problems which have surfaced dramatically from time to time in the country's history: problems of the inequitable distribution of resources among the body politic; problems of caring for those who cannot care for themselves; problems of ensuring equality to victims of prior discrimination and exclusion; problems of guaranteeing the basic rights to livelihood and a humane quality of existence for all citizens.

What I submit to you then today is that these are a few basic problems from which other problems which afflict us now derive, including, but not limited to, the widely publicized areas of crime, popular disillusionment with government and the urban crisis. It is no secret that each of those problems ravages black and poor people in the United States. What is less commonly understood—or less commonly admitted—is that each of those problems is the direct result of politically dynamic, racially and economically oppressive public policy decisions made by the power brokers of this nation. They didn't just happen.

Let us review, therefore, a few characteristics of the structure of current policy-making in the United States. How is policy made? By whom? In the first century of our nation's history, the bias favoring the power brokers was reflected in the absence of a strong governmental role. Jefferson's phrase, "That government governs best which governs least," characterizes that period.

However, in the twentieth century, the growth of huge monopolies, capped by the appearance of powerful multi-national corporations, placed serious restraints on the interplay of competitive forces. These fetters became obvious in the great depression of the thirties. Moreover, as political participation was extended to the masses of people, challenges then began to develop to the dominance of business interests, and the masses of people then began politically to demand social welfare policies which policies, theretofore, had excluded them effectively.

There are at least five institutional shifts in the United States in this century which have removed the federal government to an alarming degree from popular participation and control by the people . . . less and less participatory democracy. Here are five reasons I would suggest why:

First, as overall government has become increasingly centralized, the role of the presidency has grown in relation to the two remaining branches of government. As a result, key policy decisions can be made with little opportunity for public scrutiny and debate.

Second, the court system in the United States has assumed more and more of a legislative and administrative role. Although between the Second World War and the mid-1960's, the courts often upheld the validity of the struggle for civil rights and civil liberties, the court nonetheless is generally a reluctant innovator made even more tradition-bound by infrequent changes in its membership.

A third shift has been the consolidation of what might be called the technocratic model of government. No longer are elected officials expected, in the spirit of Jefferson and Jackson, to make decisions on their own training based on their own common sense and based on their own intuition. Today, national, state and local officials are ever more dependent on the advice of so-called "experts" who comprise a buffer zone which deflects citizen capacities to influence the process of policy-making.

A fourth related development has been the systematic penetration of international public policy by huge multi-national corporations whose profit motive all too regularly conflicts with the interests of the masses of the people in foreign nations and at home. This extension of western enterprise assures that the United States budget retains inordinate expenditure levels for military materials . . . inordinate expenditures levels for military materials. Ignored and neglected as a conequence of these misplaced priorities are the full health, education, employment and welfare needs of the masses of people in American society and other societies all across the globe.

The fifth and final institutional shift to which I call your attention is integrally connected with the other four developments. The convergence of a political, corporate and military elite at key sectors of the society reinforces the tendencies which I already have described. None of these institutions, individuals or groups, therefore, will favor or sponsor any changes in the society which are any more than cosmetic. We cannot expect those who have the power voluntarily to give up enough of their power to make a difference in how we live.

If we expect . . . if we expect anything different . . . If we expect the oppressor to relieve the oppressed voluntarily, then we might as well believe that elephants will begin to roost in trees, and that Rockefeller won't have a cent, and that baboons will ride up and march down Broadway singing "Stardust" and that this year we'll have a black president . . . that will be the day.

Professor Michael Parenti in his book, *Democracy for the Few*, asserts that, "About one-half of one percent of the population—that part constituting the 'super rich'—controls the greater part of the corporate wealth of this country." The existence of disproportionate . . . I said disproportionate . . . business/government relationships also has helped the emergence of the corporate state. In any given year, the United States Treasury distributes about $10 billion to $13 billion in direct payments to manufacturing, shipping, aviation, mining, timber, agriculture and other enterprises to enhance their profits and to diminish their losses. Also, between $6 billion and $7 billion annually is allocated to high income farmers and large farm corporations to limit acreage production and to buy up crop subsidies. All of this while there are people here and across the world who are hungry. You and I know of a Senator from Mississippi who at one time was getting subsidies of up to $13,000 a month not to plant food; and all the while down there in Sunflower County, Mississippi, running around in the shadow of his baronial estate, were little-bitty hungry black and white children with 14-inch ascaris worms bulging their stomachs! It happens because people in power decide who shall have it and who will not. That's why they are there . . . to make those decisions. But the name of the game for us is to change the people who make the policy so we can change the policies that change our lives.

Policy alone dictates where our national priorities are. One case in point, and not the only one . . . and I'm not against having a defense budget. We need to have it for protection of our country. The question is how much do you have to have? The defense budget goes up while the hope of the people goes down, and elected officials make those decisions.

For $9 million, or the price of one A-6E "Intruder" airplane used in Viet Nam, we could have 257 apartments at $35,000 a piece! For $200,000 or the price of one 20-MM cannon used by the Army, we could have 8 single-family houses at $25,000 each! For $4 billion, or the amount of the cost overrun—not the cost, but the cost overrun—on the F-111 plane (which incidentally, the Vietnamese apparently were able almost to knock down with rocks,) we could provide a visit to the health clinic for 120 million people! For $105 billion, or the eventual cost of future weapon systems now being planned, we could clean up the entire American natural environment! Finally, for $1 billion, or the amount just through last year of the cost overrun on the B–1 bomber (of which not one prototype yet has been completed,) we could have had the child-care program for child nutrition, for health and for day care that was vetoed by President Ford on the heartless fiction that it cost too much money.

Meanwhile, what about America's have nots? Two areas in which Howard University has made outstanding contributions—they have made them in many other areas but these two of them—contributions to black people and to America in general, the areas of education and health, illustrate the continuing urgency of our need . . . us . . . the masses of people in this country.

If we are not careful, we are going to be so busy celebrating the Bicentennial that we are going to overlook the fact that an estimated seven (7) million school-aged children have severe reading deficiencies; if we aren't careful, we are going to overlook the fact that over one-half of the unemployed youth between the ages of 16 and 21 are functionally illiterate (that's nearly 1 million people,) and there are over 18 million adults in this country who are functionally illiterate. If we aren't careful we're going to be so busy popping firecrackers on July the 4th that we're going to overlook the fact that the high school dropout rate for minority students is nearly twice the national average. Despite increased college enrollment among minorities over the last decade, access to higher education remains a frozen dream for the majority of poor and black students who have the desire and the potential to continue their education. If we don't watch out, black and poor students more and more are going to be forced exclusively into vocational and trade schools by the skyrocketing costs of liberal arts colleges and the destruction of financial aid programs. There's nothing wrong with vocational education. I'm for it, but if we aren't careful, we will get funneled exclusively, I say, into it. The liberal arts generally are the most persuasive in facilitating the development in students of a critical understanding of how our society works. As W.E.B. DuBois, observing in 1900 the need for liberal arts in a humane and democratic society, said, "The object of all true education is not to make men carpenters," (he should have said "people," but he said "men") "it is to make carpenters men."

Now what about the area of health where this great University has been so persuasive and so influential? This is of concern to us, too. Poor people, African Americans and other minorities historically have received inferior health services in America. Of the black children under 14 years of age who were born in a public hospital, 60 percent never have even seen a dentist. An African American is four times more likely to die before the age of 35 than a white American is. Of all physicians and dentists in the United States, African Americans comprise less than 2 percent.

Things don't have to be this way, but the priorities of America today are the expressions of the wishes of the privileged few who have a strange-hold at this time on the nation's democratic processes and on the presidency as an institution. That explains in part the brutal, uncaring vetoes by President Gerald Ford of jobs for the jobless and day-care for the needy and aid for struggling cities while, at the same time, supporting more arms for the armies, more money for the monied and more power for America's powerful.

Things don't have to be this way, graduates, and that's where you come in. Don't you dare strut out of here with your degrees over your eyes! Don't you dare be so blinded by the glint of gold that you cannot see that your degree is not a ticket to paradise, but is a mandate to act to relieve the desperation of your brothers and your sisters now! Your degree buys you only the right to stoke coal on the freedom train, a train that has not reached its far away destination yet, but your degree can help to buy all of us a ride thereon.

Your degree is supposed to help you to help others to see that, as America celebrated its Centennial in 1876, with the Hayes-Tilden Compromise and the elimination of African Americans from an important involvement in politics . . . as that occurred, 8 black U.S. Congressmen from South Carolina, black senators from Mississippi and a governor of Louisiana for six months (until they found out that he could do what he was supposed to do) and they took him out. As America celebrated its Centennial by cutting all of that out, America, our home to which we are loyal, may be celebrating its Bicentennial in an equally inhospitable way. There is a move on the political power structure of Black America, and don't think otherwise. There is a move on black people and poor people. There is a retrenchment going on in our country and we have ourselves to blame as much as anyone else because we think that we are free and we have gone to sleep at the switch.

Your degree is supposed to help you to help others to understand that a sense of self-discipline must be created among our people so that we can ward off the "party, party, party" syndrome thrust upon us by a vapid pop culture which may be just another ideology tailor-made for our political enslavement. It's not going to be enough just to be black when that door is finally kicked down . . . and that's the way it's going to have to happen . . . by politics . . . by votes . . . by people registering to vote. When the door of opportunity is finally kicked down, just to be black is not going to cut it. You've got to be black and beautiful.

I am reminded of a story of a brother who thought he was ready to take over the role of the "Shadow" on radio and he waited for his big break to come. Finally, one night the guy who played "Lamont Cranston" on radio who had the power to make himself invisible to normal people had laryngitis and could not come to the station. The producers found this out a minute before airtime and desperately then began to search for a substitute.

They went out into the hall and, as they were running down the hall, all of a sudden they heard coming from the corner a mellifluous tone of this brother who was saying, "Who knows what evil lurks in the hearts of men." They cut him off right then . . . didn't let him finish. They said, "Come on, you've got to go on right now;" and he said, "Hold on . . . I haven't finished practicing!" He had been practicing this for years by now. They said, "No, you've got to go on right now!" They grabbed him, took him into the studio, put him on the stool in front of the microphone, gave him the countdown and sure enough, he was a trooper and he was going to do the best he could. He reared back and on cue said, "Who knows what evil . . . lurks in the hearts of men . . . the Shadow do!"

Your degree is like a compelling injunction . . . like a writ of court demanding you to comfort the afflicted and to afflict at least some of the comfortable. It is a charge to pursue political unity of all oppressed Americans, regardless of color—black and white. We need all the allies we can get. As Julian Bond once said, "If your house is on fire and somebody runs up with a bucket of water, don't ask him who he is, don't ask him where he got it . . . just make sure it's not gasoline and pour it on."

Your degree is a mandate to all of us to root ourselves here or wherever we come from in our political environment, to think and to act politically and to pledge ourselves to do all that we can do to work and to agitate for freedom for all from all oppression. The only way such a strategy, in my opinion, can be built is at the grass roots. The ideal of democracy can be actualized only by democratic participation and action. We need to build a political apparatus to house our aspirations, and it only can be built, in my opinion, from the ground up.

Three and one-half centuries ago, an old, gray-haired mother stood on the shores of the mighty African continent and watched with strained gaze a small ship slowly fade from view. As that vessel of evil disturbed the serenity of that tranquil sea, she endured the pain of recalling that her sons and daughters had been stolen, beaten, chained and sold into a system so perverse that it challenged her understanding. That old, gray-haired mother in Africa knew nothing of the politico-economic arrangements of that day. Words such as mercantilism and imperialism meant nothing to her; but in her heart she knew that something had just made an attack upon the soul of her people. Although she was left behind, too old to be privy to the plunder, she felt the tremors when that enslaved black humanity, which theretofore had thrived under the moon and stars of freedom, survived the Middle Passage and was spewed onto the docks of Jamestown, Virginia, to make cotton king and to make the king corrupt.

As we were defined as chattel, sold like a horse, worked like a mule, mated like cattle and treated like a dog, the spirit of that old woman presided over us. She consoled us while we endured pellagra, boll weevil exploitation, lynching, castration and racism so barbaric that its vestiges plague the oppressed and the opressor even a century later.

Today, we ought to thank our fathers and our mothers and the faculty and the leadership of this administration—all of them—we ought to remember our common roots, but we ought to especially remember that old black lady who is our "Rock of Ages," that tower of power who is so often seen standing at the bus stop, clothed in the raiments of poverty, surrounded by rumpled shopping bags, waiting for her ride home after a hard day's work for too little money. She is weathered by experience and withered by the heavy burden of being overworked, oppressed and ignored. We have the will as manifested by those who gave us birth and gave us life . . . by the black man and by the black woman who have survived despite . . . and despite . . . and despite . . . and despite for three and one-half centuries in this country. And . . . they have made it because there is something unusual about the African American. That is the capacity to keep on keeping on . . . the will to do when others don't . . . will power.

As Ella Wheeler Wilcox once said—and this I believe is our final charge:

That there is no chance, there is no destiny; there is no fate can circumvent or hinder or control the firm resolve of a determined soul.
Gifts count for noting; it is will alone that is great;
And all things will fall before it sooner or later.
What mighty force can fade the sea-seeking river in its course or turn the ascending orb of day into night.
Each well-born soul has got to win what it deserves.
Let the fool prate of luck the fortunate.
Is he whose ernest purpose never swerves,
Whose slightest action or inaction serves the one great aim.
Why, even Death stands still,
And waits an hour sometimes for such a will.

QUESTIONNAIRE RESULTS RELEASED

HON. LARRY WINN, JR.

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 9, 1976

Mr. WINN. Mr. Speaker, today I am placing in the RECORD the results of my spring questionnaire which I mailed to 170,000 postal patrons in the Third District of Kansas in March. These results were compiled from well over 20,000 responses to the survey—the biggest response to any of my questionnaires since I came to Congress in 1967.

I believe these results are significant because they show, once again, that the voters of this country are fed up with big government and our attempts to intervene in practically every area of the lives of individual citizens. They are concerned about the level of Government spending, and over half said that it is "extremely important" to balance the Federal budget.

From the additional comments, it is apparent that my constituents answered only after a great deal of thought, and the volume of their response assures me that, in the Third District of Kansas, people care enough about the future of our Nation to make their views known on these important issues.

Mr. Speaker, for the benefit of my colleagues, I am inserting a complete breakdown of these results:

SPRING QUESTIONNAIRE

[In percent]

1. Do you favor expansion in construction of nuclear power plants to produce energy, despite still unresolved questions concerning their safety? Yes, 55; no, 45.

2. Should the federal government take a more active role in regulating public utility rates, a function now left to state and local governments? Yes, 20; no, 80.

3. In today's economy, which of the following do you feel represents the most serious problem? (Rank in order, with #1 being the most serious).

Level of government spending: 48.
Unemployment: 17
Rate of growth of Gross National Product: 4.
Inflation: 31.

4. How important is it to you to balance the federal budget? (Check one).

Extremely important: 53.
Very important: 31.
Slightly important: 13.
Not at all important: 3.

5. Do you favor raising the exemption limits and stretching out the payment period for inheritances subject to federal estate taxes? Yes, 82; no, 18.

6. Should our laws be changed to permit private firms to compete with the U.S. Postal Service for delivery of first-class mail? Yes, 71; no, 29.

7. Social Security officials have warned that the Social Security trust fund may be bankrupt in a few years. In light of this, do you feel (Check one):

Social Security payroll taxes should be increased? 26.
Social Security should be replenished by general tax revenues? 44.
Social Security should be a voluntary program? 25.
Social Security should be gradually eliminated? 5.

8. Should any of the following groups be issued food stamps?

Strikers: 6.
Low-income military personnel: 23.
Seasonal workers: 38.
Students: 17.
None of the above: 38.

9. Should the government establish and own a grain reserve to guard against future shortages? Yes, 62; no, 38.

10. Would you favor mandatory sentences for crimes committed with handguns or other dangerous weapons? Yes, 95; no, 5.

11. Should the U.S. continue to maintain a program of foreign intelligence operations in other countries? Yes, 92; no, 8.

12. In your view, has the continuing Congressional investigation of the CIA and FBI been harmful to our nation's interest? Yes, 65; no, 35.

13. How would you evaluate our policy of detente with the Soviet Union? (Check one).

Successful: 4.
Fairly successful: 24.
Not very successful: 41.
Unsuccessful: 31.

FROM THE SHACKLES OF DOMINATION AND OPPRESSION

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 9, 1976

Mr. RANGEL. Mr. Speaker, I would like to share with my colleagues excerpts from a speech given by the Honorable Michael Manley, Prime Minister of Jamaica, which was delivered at the Fifth Assembly of the World Council of Churches in Nairobi, Kenya. The Prime Minister's remarks are to be commended for their insightful reflections into the meaning of liberation and how the process itself encompasses a broad spectrum of peoples throughout the world. I am pleased to share with my colleagues Prime Minister Manley's perspective regarding those who are the victims of oppression and who are thus necessarily part of the struggle for liberation:

IN NAIROBI "FROM THE SHACKLES OF DOMINATION AND OPPRESSION"

(NOTE.—The following are excerpts from the speech of Honorable Michael Manley, Prime Minister of Jamaica delivered at the Fifth Assembly of the WCC (Nov. 23–Dec. 10, 1975) in Nairobi-Kenya.)

Any consideration of the processes and objectives of liberation must deal with the political, economic, social and psychological effects of oppression. The process of liberation must also be seen both in a national context and also as it deals with relations between nations.

Let me remind you that liberation is about victims. Every weak nation exploited by a strong nation is a victim. Every man and woman denied the chance to learn to read and write is a victim. Every man and woman deprived of the chance to acquire the skills of our technological age is a victim. Every family that is undernourished is a victim. Not only the unemployed, but every man and woman whose work is underpaid, irregular or insecure are victims. And every child born of the unions of such men and women are doubly victimized; for they do not only have to suffer malnutrition, disease, overcrowed living conditions or actual homelessness, desertion by parents or orphanhood, ignorance and talents stunted by starvation—they also suffer the crippling effects of insecurity and the deprivation of love.

Every man who has ever spent a lifetime at work and never once been asked to help plan next year's production is a victim. Every woman who has been denied work because of her sex, or received unequal pay for her work, is a victim. Every person who has been denied equality, who has been treated with less than full regard, who has been maimed or killed, because of race or religion, is a victim. Every human being who has ever been imprisoned without genuinely fair trial or denied access woman who has been denied work because of poverty or ignorance, is a victim. Every nation that is condemned to comparative poverty, while a transnational corporation accumulates profits out of its natural resources, is a victim. Liberation is about victims. And as long as there is one victim upon the face of this earth, the process of liberation must continue.

SMALL BUSINESS ACT AMENDMENTS

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 9, 1976

Mr. PAUL. Mr. Speaker, on June 7 I voted against H.R. 13567, to amend the Small Business Act and the Small Business Investment Act of 1958. I would like to explain why I voted in this manner.

This bill simply expands further the special programs available to help small business, primarily through subsidized loans and loan guarantees. As a small businessman myself, I do not think that this is what small business wants or needs to compete in the business world. I am supported in this opinion by many of my fellow small businessmen. One large group of them is the Associated General Contractors of America. As they said to me in a letter:

> Despite the ability of the overwhelming majority of our membership to avail themselves of the special preferences afforded small business construction firms, our association, by direction of these same small business firms, has historically and consistently opposed special small business considerations in construction. Our member firms believe more in preserving the open, competitive, free enterprise system in the use of Federal expenditures than they do in receiving a portion of these same Federal expenditures as a "stippend" under the special preferences available to small business construction firms.

I think what small business really needs is to be free of the steadily mounting increase in government regulation and red tape. The cost of such regulation inevitably hurts small business far more than big business, which can hire specialists to deal with it. As economist Murray Weidenbaum noted:

> A small enterprise that employs 75 people, two employees working half time to fill out government forms may not sound particularly burdensome until one considers that the plant's productivity increases for the year might be substantially reduced as a result. In contrast, a plant with 5,000 em-

ployees can much more easily afford to employ a staff of 10 working full time to meet Federal requirements. The larger company can spread the cost of one "nonproductive" staff member over the work output of 500 employees.

I would still like to believe that if someone can "build a better mousetrap" he ought to be able to succeed without a Government loan. I think what small business really wants and needs is simply the freedom to compete in the marketplace without handouts or unreasonable restrictions.

ATLANTA'S FIGHT AGAINST CRIME

HON. ANDREW YOUNG

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 9, 1976

Mr. YOUNG of Georgia. Mr. Speaker, today, much of what one hears and reads about the Nation's cities is negative. We read LEAA reports that indicate crime is on the incline. The newspaper headlines read: "Atlanta No. 2 in Murder."

In the battle against crime in the cities, we seldom hear of the great success stories. Atlanta does have a success story and much of this story centers upon the new political awareness that is apparent in the city of Atlanta. Second, much of this success is due to the sustained efforts of Atlanta's Commissioner of Public Safety, A. Reginald Eaves.

A year ago, Time magazine ran an article about the "police controversy" which accompanied Commissioner Eaves' appointment to this important position. Now 1 year later Time magazine has run an article that I take pleasure in commending to my colleagues, "The Black Crime Buster"—March 22, 1976. And Ebony magazine, in its June issue, 1976, has done a feature by Alex Poinsett on "Atlanta's Winning Fight Against Black-on-Black Crime." I am very proud of Atlanta's record and of what can be accomplished when a spirit of municipal municipal cooperation prevails.

The articles follow:

[From Time magazine, Mar. 22, 1976]

THE BLACK CRIME BUSTER

To many Atlantans it smacked of capricious cronyism when Maynard Jackson Jr., the city's black mayor, appointed A. Reginald Eaves as commissioner of public safety in 1974. A blunt-spoken black lawyer whose chief qualification for the job appeared to be his friendship with Jackson, a college classmate, Eaves seemed totally unqualified to command the city's 1,500-man police force, then struggling ineffectively against a crime surge that had made Atlanta one of the homicide capitals of the U.S. But today the top cop is being cheered more than he is being jeered—even by some of his harshest early critics. Says Hal Gulliver, editorial page editor of the Atlanta Constitution, which vehemently opposed his appointment: "Eaves must be doing something right."

Last year violent personal crimes in Atlanta dropped 9.9%. Murders decreased from 248 to 185, burglaries dropped from 16,802 to 14,501, and armed robberies fell from 4,357 to 3,887. Overall, reported crime increased by only 3% in Atlanta last year, compared with an estimated national average increase of 11%. One big reason: Reg Eaves and his tough approach to "black on black" crime.

In Atlanta, which is 60% black, crime had followed a grimly familiar pattern. Most violence occurred in largely black areas, where the city's largely white police force was least effective. Eaves, now 41, took on his $34,000-a-year job with a simple conviction: "Blacks suffer the most from crime, and if given a chance to relate to the police, they will help fight it."

NO EXCUSE

Eaves launched his campaign with characteristic directness: he demoted more than 100 acting sergeants and other commanders and installed his own team, promoting more than 30 blacks. He also increased recruit training from six weeks to 19 weeks, and required all cops to take "crisis intervention" classes to learn how to deal with domestic squabbles. Most important, he began spreading what might be called Eaves' law through black high-crime areas: "No matter how poor you are, there is no excuse for knocking a lady in the head or stealing her purse."

In one violent South Side neighborhood, Eaves set up an integrated "crime control team" that made the cops on the beat responsible for following a case through, instead of turning it over to a detective. Local cops were thus forced to develop neighborhood contacts who could supply information needed to build a successful case. As a result, the police now regularly get useful tips, and the proportion of crimes solved has increased from 30% to 56%.

Eaves has pushed a number of new tactics, with the help of federal funds from the Law Enforcement Assistance Administration. A squad of cops disguised as tramps and winos was set up to lure muggers, and high-crime areas were assigned a special force of additional patrolmen. Says Eaves: "We're trying to become as unpredictable for the criminal as the criminal is to us."

His most conspicuous achievement has been to win the admiration of Atlanta blacks—sometimes with behavior that makes whites cringe. In one typical episode, notes TIME Correspondent Jack White, Eaves ordered an option-loaded car that cost more than the $3,900 the city usually allots for commissioners' automobiles, then airily dismissed the subsequent howls: "I'm giving too much time and effort to this city to try to prove that I'm the good nigger. If I can't ride in a little bit of comfort, to hell with it." Eaves eventually had to pay the difference between the cost of the car and the city allowance, but his chutzpah had the desired effect. Says Black Councilman James Bond: "In my district, Eaves is a hero."

Born in Jacksonville, Fla., Eaves had his share of youthful scrapes with cops. Says he: "I don't care how right I was, I couldn't get anywhere with the police." After school at predominantly black Morehouse College in Atlanta and a stint in the Army, Eaves got a law degree from the New England School of Law in Boston, where he drifted into city politics. When he returned to Atlanta to help Jackson become the city's first black mayor, Eaves recalls, cops were "the No. 1 issue. Everywhere we went, the first question people had was what are you going to do about the police." His reaction when Jackson asked him to become commissioner: "I didn't want the job because I knew the man who took it was going to catch hell."

Most recently, Eaves has been catching it from a predominately white police organization, which charges him with reverse discrimination, and from some city officials, who accuse him of building up a black clique within the department (still 70% white despite stepped-up black recruitment). Eaves' answer is that he wants to be evaluated "only on my success in fighting crime." His own evaluation: "What we've learned in Atlanta is that a black chief can make a big difference in fighting crime. Other cities ought to try it."

[From Ebony magazine, June 1976]

ATLANTA'S WINNING FIGHT AGAINST BLACK-ON-BLACK CRIME—PUBLIC SAFETY DIRECTOR A. REGINALD EAVES' CRUSADE IS YIELDING LASTING DIVIDENDS

(By Alex Poinsett)

For months a masked rapist had terrorized Atlanta's plush Cascade Heights section. Traumatized, embarrassed, perhaps fearing further invasions of their privacy, his victims had avoided reporting the attacks. One frightened woman finally described the rapist to police recently and even named other females he had attacked. Within days after the police Anti-Rape Squad methodically staked out the area, they caught their man red-handed in the midst of an assault. It may be his last, since Georgia's stiff penalty for rape is life in prison.

Across town in other neighborhood, an expensive home had been burglarized repeatedly within a few months. As part of a city-wide drive, police helped the owner to secure his windows and doors. Three weeks later he revealed that would-be burglars, frustrated in yet another attempt to enter his home, burglarized his unwary next door neighbor instead.

Meanwhile, several female visitors from other cities had been mugged near a famous, downtown Atlanta hotel. Police disguised one of their Decoy Squad members as a woman then sent him sashaying down a street near the hotel. Again the mugger struck. This time police arrested him without a struggle.

These brief skirmishes underscore the Atlanta Police Bureau's highly successful war on crime which, until quite recently, has been 80 percent black-on-black. While the crime rate has increased in other cities as their black populations multiplied, Police Bureau statistics reveal opposite results in 60 percent black Atlanta. Last year, violent personal crimes in the city dropped 9.9 percent. Murders decreased from 248 to 185, burglaries dropped from 16,802 to 14,501, and armed robberies fell from 4,357 to 3,887. The one person most responsible for this dramatic trend is Atlanta's hard-working, indefatigable Director of Public Safety A. Reginald Eaves—41-year-old son of a black orthodox Jewish rabbi and grandson of the onetime police chief of Kingston, Jamaica.

In his tiny, fourth floor office at the Police Bureau headquarters on Decatur Street, Eaves labors sometimes 16 hours a day, oblivious of the wristwatch he wears, its face decorated in the red-black-green colors of liberation, a mechanical black fist vigorously ticking off the seconds.

When he was a Morehouse College student in the early 1950s along with Atlanta's Mayor Maynard Jackson, Eaves had been known as "Mr. Civil Rights," because of his fervent social activism. During that period, four policemen came to his aparament and ordered him to either leave the city permanently or suffer dire consequences. Neither he nor they could foresee that one day he—a relentless crusader for racial justice—would become Atlanta's chief law enforcer. In the less than two years of his administration, the Boston-trained lawyer has shown that he is as black, as committed and as unflinching as ever, and he has demonstrated a flair both for brilliant innovation and common sense. For example, he assigns extra foot patrolmen—not squad cars—to high crime areas, dissuades local businessmen from protecting their multimillion dollar inventories with two-dollar locks, urges local ministers to convince "the good folks" in their congregations to cease buying stolen goods. His Special Weapons and Tactics team (S.W.A.T.), a crack, 15-member unit specializing in combatting bank robberies, sniper attacks, kidnapings and riots, moves randomly about the city, making itself as unpredictable as the criminals it flushes out.

"I deemphasize the issuing of traffic

tickets," Eaves reports. "I don't say don't issue them, because a police officer must enforce the law. But instead of them patrolling the main thoroughfares, I tell them to get in those back streets where burglaries are taking place. Don't worry about John Q. Citizen who will never break a law except maybe run through a traffic light. Worry about the guy who is burglarizing his apartment while you're stopping him on the street giving him a ticket."

Such realism has boosted Atlanta's burglary arrests about 50 percent, and a widely publicized, federally funded "Thor" project has helped make Atlantans more conscious of protecting their property. Businessmen, for example, display signs on their doors and windows warning would-be robbers, "This is a stakeout location!" Thus robbers are deterred because they have no way of knowing whether police are actually hidden on the premises.

In one of Atlanta's toughest sections, the 3.4 square-mile, 85-percent black Model Cities area, discontent and trouble are as high as the area's unemployment and crime. Nearly two years ago a police detachment commanded by Capt. Johnny Sparks, a 33-year-old ex-Marine, established a neighborhood cop shop in an abandoned pool hall. Then, like a small-town police force, the unit began mixing and mingling with the area's 35,000 residents—sometimes steering drunks to their homes instead of to jail and following crime cases from beginning to end. Because they do not call in detectives from downtown to investigate and make reports, Sparks' police are free to horse trade, say, with lottery men to run down rape or robbery suspects. The police develop numerous other neighborhood contacts to gain information. Burglaries in the Model Cities area are down 42 percent from last year, robberies are off 24 percent, aggravated assaults down eight percent. Sparks' unit responded to more than 65 percent of its calls in less than three minutes and had a crime "clearup" rate of 99 percent.

Sparks' unit is a model for the remainder of Atlanta's 1,551-person police force and an inspiration to the citizens it serves. According to Eaves, blacks throughout Atlanta declare: "We don't care how poor you are mister, we're not going to let you rape our sisters. We don't care how ill-educated you are, we're not going to tolerate you selling dope to our boys and girls. Dont' tell us you're sick, because that's no excuse for pistol-whipping our senior citizens."

For many black Atlantans, to whom the police were once brutal oppressors who kicked in doors, whipped heads and occasionally killed needlessly, Eaves is a beacon of hope. "You cannot fight crime when there's a constant battle between police and the community," he explains. "We've developed a marriage here between the citizens and the police." Five police precincts are located around Atlanta, thus making the captains who head them available to the public. Also, the captains are required to attend community meetings and meet citizens personally. Eaves not only makes himself available, he conducts a daily "Commissioner's Report" on an Atlanta radio station, usually signing off with the slogan: "Be your brother's keeper, not your brother's killer!"

That spirit has been institutionalized in the Police Bureau. Under an "Officer Friendly" program, nearly a third of Atlanta's police play football, basketball, softball and run track with the city's hardcore youths. Eaves drills his police with the understanding that because a person is black or poor, he is not necessarily a criminal, that he is in fact an employer of what are essentially public servants. Treated with this sort of respect, black Atlantans have developed a closer rapport with the police and revealed much crime-solving information. In short, Eaves believes the man at the top has to be sensitive to the black community before he can cure its crime. He is confident that once cities elsewhere in the nation note Atlanta's example, they too, will turn to black administrators to curb heavy black-on-black crime.

If Atlanta is the nation's only major city where a black man has absolute control of police guns (a fact that once sent many whites to Nutsville), it is because of the decisiveness of Mayor Jackson. Jackson provoked charges of "cronyism" in 1974 when he appointed his long-time friend and top aide as the $34,000-a-year Director of Public Safety, to simultaneously head the police, fire and civil defense departments. Eaves' appointment to the "super chief" position had been the latest development in a drawn-out controversy between Jackson and his rebellious police chief, John Inman. Months earlier, Atlanta had experienced some of its most serious racial confrontations when several hundred blacks marched through the downtown area to protest the police shooting of a young parole violator. Several dozen marchers were roughed up and arrested. While legal technicalities prevented Jackson from firing Inman, his appointment of Eaves reduced Inman to the figurehead position of "director of police services" which, the mayor explained, guaranteed no specific duties.

White critics seized on the absence of police experience in Eaves' background to claim he was unqualified for his new post, even though he had served two years as commissioner of penal institutions in Boston and Suffolk County, Mass. Despite the criticism, Eaves immediately established that he was in charge, promptly rolling heads in the Police Bureau the day after his August 1974 confirmation. He demoted all six assistant chiefs, demoted more than 100 acting sergeants and other commanders and installed his own team, promoting more than 30 blacks and stepping up black recruitment. He also increased recruit training from six weeks to seven months and required all policemen to take "crisis intervention" classes to learn how to deal with domestic squabbles.

Meanwhile, the predominantly white Fraternal Order of Police accused Eaves of "reverse discrimination" and filed a class action suit asking a Superior Court judge to declare the city ordinance which reorganized the Police Bureau and created Eaves' job "null and void." The Bureau was expelled last year from the nationwide Law Enforcement Intelligence Unit because Eaves had placed a black person, Maj. Howard Baugh, over the Bureau's intelligence division, thereby incurring the wrath of 40 other police departments. The Bureau was also expelled (alter reinstated) from the Georgia State Intelligence Network. Undaunted by the rebuffs, Eaves continued implementing his belief that a police force should reflect the population of the city it serves. "I would not expect to serve a predominantly white community with a predominantly black police force," he explains. "And I cannot understand why people want me to serve a predominantly black community with a predominantly white police force. A white community wouldn't tolerate it and it's unfortunate that a black community is forced to tolerate it."

A man of limitless patience, Eaves is determined to make up for a long and undistinguished record of white-on-black crime within the Police Bureau. Barred from the Bureau until 1948, blacks were required to hold segregated roll calls in a local YMCA, were assigned only to black areas, could not arrest whites and could not wear their uniforms in court. When they finally were permitted to come to the police station, they were not allowed to meet in the same room with whites. If a black officer managed somehow to receive a promotion, white peers and superiors in the Bureau who wanted to see him fail either fed him erroneous information or no information at all. Atlanta's police were not desegregated until the late 1960s when blacks with officer rank were sent into a black community bursting with civil rights activism to "talk sense" to the people.

Accordingly, the city's black policemen became animated contradictions. On the one hand they were sworn to uphold law and order. But on the other hand, they also defended white supremacy every time they arrested civil rights demonstrators with whom most sympathized. Thus they ran a crazy, zig-zag gauntlet lined on one side with white police, on the other with members of the black community. To their white colleagues, black policemen were defenders of the established order but their blackness made them suspect. To the black community, they were mere "Toms" for an establishment that was insensitive to black needs and thus were perpetuators of black suffering. If some black policement were totally loyal servants of the system which oppressed their fellow blacks, they often overacted against them in desperate almost compulsive efforts to prove their objectivity.

It is against this background that Eaves struggles today. Only a year ago, members of the white power structure moved very forcibly to oust him from the strategic position he fills. But black Atlantans jammed police headquarters, jammed City Hall, jammed the radio stations, jammed the telephone lines and paralyzed the city for two hours with their demands that Eaves not be forced to resign. Having weathered that storm, he lays plans for the future. He expects half of the Police Bureau to be black within three years (it is now 70 percent white). Currently, the Public Safety director has two black and two white deputy directors, five black and five white majors, 26 white and nine black captains, 49 white and nine black lieutenants. While the Bureau's detectives and sergeants are nearly even, racially, Eaves still has trouble recruiting blacks on the patrolman level even though starting salaries range between $9,000 and $10,000 depending on the recruit's education.

"I don't think you can say segregation is over and therefore you're going to start from this day forward and forget all the cripples that you've created in the past," Eaves contends, returning to a troublesome subject. "We must do what we can to make this system fair and equitable for everybody from this point on, but we have to make some adjustments for what has happened in the past."

One case in point is Gene Ray Nichols who last October became the first black civilian supervisor in the Bureau's history. During ten years of employment, Nichols had received only two lower-level promotions, the last coming in 1967. He was recommended for his supervisory post by Deputy Director Eldrin Bell who at that time was also the Bureau's Affirmative Action Officer. Nichols had amassed 133 hours of college training, while his nearest competitor, a white employee, had only a high school education. Nichols had taken eight additional work-related courses, his competitor six. Thus Nichols' promotion was based on merit rather than race, as charged by critics.

Nevertheless, Eaves has been obliged to appeal an order from U.S. District Court Judge Charles Coye to show why his latest transfers in the Police Bureau do not vioate the judge's earlier restraining order. The earlier order has been issued in connection with a suit originally filed by the Afro-American Patrolman's League and charging then Police Chief John Inman—Eaves' predecessor—with discrimination against blacks and violation of officers' right to free speech. Since its original filing in 1973, the nature of the suit has changed completely, with Eaves being accused of practices which violate the rights of white officers. Moye's restraining order seeks to prevent him from making personnel assignments based on "race, creed or color."

"Anytime you start talking about affirmative action you run into a clash," Eaves complains. "The federal judge is saying to me, 'You slow down.' The Law Enforcement Assistance Administration, which has given us millions of dollars for law enforcement, is saying, 'You either give us an affirmative action program or we'll take the money away from you.' So I'm torn between the two. I'm going to do what I believe is right."

The beleaguered administrator has the U.S. Supreme Court on his side. In a recent landmark decision, the Court ruled that blacks who were denied jobs in violation of the Civil Rights Act of 1964 must be awarded retroactive seniority once they succeed in getting those jobs. In other words, they must be given the same seniority they would have had if they had been hired initially, the Court said, with all accompanying rights, including pension benefits and in the event of layoffs, better job security than that possessed by workers with less seniority. The ruling, with three Justices dissenting, supports the general concept of affirmative action as a means of remedying discrimination. The ruling also firmly established, as the Court noted, that whites must share with blacks "the burden of the past discrimination" in employment.

"I'm committed to the affirmative action program," Eaves concludes, "even if it means I'm going to have to serve some time in the federal prison. I'm not going to let some judge dictate how I'm going to run the Bureau. My commitment is to preserve the peace of this city. My moral conscience is to bring equity to an institution that is historically known for its discrimination."

Because of Eaves' increasingly successful crusade against crime both outside and inside the Police Bureau, Atlanta is well on its way to becoming the nation's most crime-free city .

HEROIC DEED OF BILL KURTIS

HON. MARTIN A. RUSSO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 9, 1976

Mr. RUSSO. Mr. Speaker, recently a distinguished broadcaster from Chicago demonstrated that he is as fine a human being as he is a newsman.

On Monday of this week, Bill Kurtis of station WBBM was filming a news story in Marquette Park when he saw that a boy was in trouble in the lagoon located in the park. The 17-year-old had gone some 30 yards from shore to retrieve a model motorboat and was unable to return to shore.

Bill reacted instantly. Removing his shoes and jacket, he dived in and rescued the youngster.

In the press reports, Kurtis said he ordinarily tries not to become part of the news, but "this was a matter of life and death."

Indeed it was. How fortunate for the boy that at a moment when heroic action was called for, Bill Kurtis was there. I commend him for his courage and deem it an honor to call him my friend.

DARKNESS AT NOON

HON. WILLIAM A. STEIGER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 9, 1976

Mr. STEIGER of Wisconsin. Mr. Speaker, the Department of Labor recently issued regulations that mandate equal employment opportunities for the handicapped. This was done in recognition of the fact that handicapped persons are capable of performing many jobs as well as their counterparts without handicaps.

It has been shown time and again that, if given the opportunity, those without sight or hearing, or with other physical handicaps, do a superb job in their assigned fields of endeavor. The business community has recognized this and responded enthusiastically in offering employment to the disabled.

Harold Krents, a member of the President's Committee on Employment of the Handicapped, wrote an article, "Darkness at Noon," which appeared on the op-ed page of the May 26 New York Times. Mr. Krents, who has been blind since birth, does an excellent job in his article of pointing up the shortcomings of those of us "without handicaps" in our response to those "with handicaps." His article provides some very good insights. I commend it to your attention:

[From the New York Times, May 26, 1976]

DARKNESS AT NOON

(By Harold Krents)

WASHINGTON.—Blind from birth, I have never had the opportunity to see myself and have been completely dependent on the image I create in the eye of the observer. To date it has not been narcissistic.

There are those who assume that since I can't see, I obviously also cannot hear. Very often people will converse with me at the top of their lungs, enunciating each word very carefully. Conversely, people will also often whisper, assuming that since my eyes don't work, my ears don't either.

For example, when I go to the airport and ask the ticket agent for assistance to the plane, he or she will invariably pick up the phone, call a ground hostess and whisper: "Hi, Jane, we've got a 76 here." I have concluded that the word "blind" is not used for one of two reasons: Either they fear that if the dread word is spoken, the ticket agent's retina will immediately detach, or they are reluctant to inform me of my condition of which I may not have been previously aware.

On the other hand, others know that of course I can hear, but believe that I can't talk. Often, therefore, when my wife and I go out to dinner, a waiter or waitress will ask Kit if "he would like a drink" to which I respond that "indeed he would."

This point was graphically driven home to me while we were in England. I had been given a year's leave of absence from my Washington law firm to study for a diploma in law degree at Oxford University. During the year I became ill and was hospitalized. Immediately after admission, I was wheeled down to the X-ray room. Just at the door sat an elderly woman—elderly I would judge from the sound of her voice. "What is his name?" the woman asked the orderly who had been wheeling me.

"What's your name?" the orderly repeated to me.

"Harold Krents," I replied.

"Harold Krents," he repeated.

"When was he born?"

"When were you born?"

"Nov. 5, 1944," I responded.

"Nov. 5, 1944," the orderly intoned.

This procedure continued for approximately five minutes at which point even my saintlike disposition deserted me. "Look," I finally blurted out, "this is absolutely ridiculous. Okay, granted I can't see, but it's got to have become pretty clear to both of you that I don't need an interpreter."

"He says he doesn't need an interpreter," the orderly reported to the women.

The toughest misconception of all is the view that because I can't see, I can't work. I was turned down by over forty law firms because of my blindness, even though my qualifications included a cum laude degree from Harvard College and a good ranking in my Harvard Law School class.

The attempt to find employment, the continuous frustration of being told that it was impossible for a blind person to practice law; the rejection letters, not based on my lack of ability but rather on my disability, will always remain one of the most disillusioning experiences of my life.

Fortunately, the view of limitation and exclusion is beginning to change. On April 16, the Department of Labor issued regulations that mandate equal-employment opportunities for the handicapped. By and large, the business community's response to offering employment to the disabled has been enthusiastic.

I therefore look forward to the day, with the expectation that it is certain to come, when employers will view their handicapped workers as a little child did me years ago when my family still lived in Scarsdale.

I was playing basketball with my father in our backyard according to procedures we had developed. My father would stand beneath the hoop, shout, and I would shoot over his head at the basket attached to our garage. Our next-door neighbor, aged five, wandered over into our yard with a playmate. "He's blind," our neighbor whispered to her friend in a voice that could be heard distinctly by Dad and me. Dad shot and missed; I did the same. Dad hit the rim; I missed entirely; Dad shot and missed the garage entirely. "Which one is blind?" whispered back the little friend.

I would hope that in the near future when a plant manager is touring the factory with the foreman and comes upon a handicapped and nonhandicapped person working together, his comment after watching them work will be, "Which one is disabled?"

ODE TO DON YOUNG

HON. CARLOS J. MOORHEAD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 9, 1976

Mr. MOORHEAD of California. Mr. Speaker, today we are celebrating the birthday of one of our distinguished colleagues, DON YOUNG of Alaska. I would like to share with you a poem written in honor of this occasion by Bill Kelder:

ODE TO DON YOUNG

He came to Alaska in '58
With his clothes on his back
And no beans on his plate.
He arrived as a teacher
But he learned quite a lot.
Like trapping the Yukon
Without getting shot!

He's been a cat-skinner, a trapper
And a fisherman too
(He even found time
to teach at the school).
He bought a small cabin
Which he still calls his home
Somewhere between old Whitehorse and Nome.

Through snow and through slush
He worked like a husky
(Politically though, he's no Edmund Muskie.)
Even now at the height of success
He's been heard to speak out
and quite frankly confess:
"If I had it to do all over again,
I'd be out on the Yukon
For some good salmon fishin'."

Now he's a Congressman,
Who occasionally takes heat
Because he must sit in
Alaska's lone seat!
Through the good and the bad
He's managed to smile;
And for all his Alaskans
He'd walk many miles.

Now you may well wonder
Why I've written this here.
So pay close attention
You'll all want to hear.
It's really quite simple:
It's his birthday, you see.
And old Father Time
Just made him forty-three!
—The Bard of the Longworth.

POWER OF HOUSE ADMINISTRATION COMMITTEE

HON. MARJORIE S. HOLT

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 9, 1976

Mrs. HOLT. Mr. Speaker, in 1970 H.R. 457 was enacted, giving the Committee on House Administration unilateral authority to control allowances for Congressmen. Then minority leader Gerald Ford warned that once such broad authority were granted to the committee, it would never return to the full House until and unless there were a scandal. There has been a scandal, and it is time that responsibility for setting allowances returns to the whole House.

I would like to applaud my colleague ROBERT BAUMAN for his foresight in attempting to prevent a scandal like the one facing us presently. Last year he initiated a proposal to return allowance responsibility to the full House. If the proposal was timely last year, it seems imperative now.

In conclusion, I commend to my colleagues an editorial from the Baltimore Sun, June 7, 1976:

MR. HAYS AND THE HOUSE

Representative Wayne Hays must step aside for the moment not only as chairman of the Democratic House campaign committee but more importantly as chairman of the Administration Committee, because that is the capacity in which he is accused of putting his mistress on the payroll. Until he clears his name of the prima facie evidence piled up against him, he has no claim to an office he holds only with the consent of his fellow legislators. That much is obvious and is all but certain to be accomplished soon, but it is not the heart of the issue. What matters is whether the United States House of Representatives now can demonstrate a will to deal fairly and sternly with its own members, however powerful or obscure.

Mr. Hays's admitted sexual relationship with a committee employee who claims she was hired for no other purpose raises two narrow questions: Whether a public official improperly used the public payroll and whether private services to the chairman were in any way a condition of the woman's employment. But the House's own standing with the public will be affected not only by what becomes known about Mr. Hays but by the zeal it shows in determining if similar misuses of office are widespread. The House Ethics Committee has been more ready to investigate news leaks than charges of plain wrongdoing by representatives. Much of the public disdain for Congress that shows up in opinion polls amounts to suspicion that the House dares not pursue an errant member for fear that the pursuit might lead directly or indirectly to other members. Any flinching in the Hays case would surely turn this suspicion into a belief that committees assigned to keep watch serve instead as mutual-protection networks.

The Hays affair puts the House on trial, and the case is unlikely to remain limited to Mr. Hays himself. He built the dead-end Administration Committee chairmanship into a base of great power by doing the House's dirty work, whether it was inflating stationery funds or quashing election reforms. Members voted him more and more authority, not because they respected him but because they would rather have him pass out perquisites than have their constituents see roll calls in which they voted themselves the goodies. When Maryland's Representative Robert Bauman sought last year to return the responsiiblity to the full House, he was defeated, 262 to 148, mostly by Democratic votes.. Voters will not miss the point if Congress now shrinks from the consequences of going the surreptitious rather than the open route.

AVILLA, IND.—FOUNDED IN 1876

HON. J. EDWARD ROUSH

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 9, 1976

Mr. ROUSH. Mr. Speaker, this week a small community in my district, Avilla, Ind., will be celebrating their centennial. It is an honor for me to be able to participate this weekend in their celebration.

It was Noah Hill who built the first house in Avilla. Being on a frequently traveled road, the house was soon converted into a hotel. This house still stands today.

By 1876, the community had grown to the point of wishing to become a town. A petition of incorporation was signed and presented to the commissioners of the county. An election was held and the first trustees were as follows: S. P. Stewart, Maternus Blust, and Henry Yeiser. E. T. Haynes held the position of clerk/treasurer and Samuel Hoke served as marshal. They were all reelected in 1878. Noah Hill became the first justice of the peace and was also appointed as the first postmaster. Business was centered around a sawmill, a planning mill, a hoop factory, a large grist mill, and a brickyard. Businesses expanded due largely to the location of the railroad passing through town.

Kathryn Delucenay and Bob Uhl furnished much of this history to me. They have been instrumental in reconstructing the life and times of the 1870's. I will be presenting a plaque to Kathryn Delucenay following the centennial parade in honor of her efforts in refurbishing the old county schoolhouse. She has taken the project upon herself. The schoolhouse was moved to the park and has been turned into a library to serve the community.

As of 1970, the population of Avilla was 881. Edward Hindenlange is the president of the Chamber of Commerce. The present town board consists of Wendell Beck, president; Kent Garman; Robert Treesh; and Vivian Hockenbarger, secretary/treasurer.

Avilla happens to be one of the many small communities that during the last hundred years has been able to maintain its identity despite the growth and expansion of the many communities around it. For this reason I am glad to join in Avilla's centennial celebration.

OFFICER KENNETH M. BROWN

HON. NORMAN E. D'AMOURS

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 9, 1976

Mr. D'AMOURS. Mr. Speaker, I am both pleased and honored to congratulate Officer Kenneth M. Brown, a constituent of mine, upon successfully attaining the degree of bachelor of science and upon being bestowed the distinction Cum Laude from St. Anselm's College in New Hampshire.

As a strong supporter of education as a viable means of combatting this country's soaring crime rate, it is especially gratifying to note that this opportunity was afforded to Ken from his GI benefits and grants from the law enforcement education program—LEEP—a subsection of the Omnibus Crime and Safe Streets Act passed in 1968.

Ken completed his education in 10 years, but for others it can take longer. In that capacity I have proposed H.R. 9428 which would insure that those who have served their country are allowed to complete their education even if it should extend beyond 10 years from the date of their discharge. These men and women deserve at least that much. Senator HUMPHREY recently decided to introduce this bill into the U.S. Senate to help speed the process along.

The law enforcement education program is helpful in much the same way as GI benefits. Grants from this program have furthered the education of over 98,000 police officers like Ken.

Ken and I both understand, however, that money alone can not educate. It requires the hard work and dedication of teachers and administrators alike. In Ken's case we should all be grateful to St. Anselm's College, a leader in this area and to all those who took time to assist him with his education.

As a Congressman, one of my greatest rewards is to see some of my efforts pay off for others as they have for my good friend, Officer Ken Brown.

CONGRESSIONAL BICENTENNIAL SALUTE TO THE PEOPLE OF WEST PATERSON, N.J., ON THE DEDICATION OF THEIR NEW MUNICIPAL CIVIC CENTER

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 9, 1976

Mr. ROE. Mr. Speaker, on Saturday, June 12 Congressman MINISH and myself will participate in the dedication of the new municipal building complex of the borough of West Paterson, an outstanding community in our Nation, which we have both had the privilege of having within the boundaries of our congressional districts during the course of this most comprehensive construction program.

As we celebrate our Nation's Bicentennial and reflect upon the history of America and the good deeds of our people which have attained preeminence as a representative democracy, second to none, among all nations throughout the world, it is most appropriate that we point with pride to the achievements of a government of the people, by the people, and for the people.

In the borough of West Paterson, the residents have placed the strongest of confidence and support in their elected officials and we are pleased to commend to you Mayor Alfred H. Baumann, who has served with distinction as the chief executive of the borough—1957-60; 1963 to present—and other members of the governing body, as follows:

The Honorable Alfred H. Baumann, mayor; John Van Etveldt, councilman; Thomas May, councilman; Richard Dunn, councilman; Anthony De Pasquale, councilman; Frank D. Zaccaria, councilman; Katherine Cornetto, councilwoman; and Alfred A. Reda, municipal clerk administrator.

In dedicating the West Paterson municipal building complex, special plaudits are also extended to the architects, the Honorable Frederick J. Voytko, A.I.A., and his associates of Huntington-Larson Architects, Inc., of Spring Lake Heights, N.J., whose expertise in planning, bidding, and supervising the construction project is mirrored in the beauty and magnificence of this municipal center.

Mr. Speaker, we are, indeed, living in the most exciting and challenging times in spite of all of our problems. In the borough of West Paterson, the governing body encouraged and supported by people with purpose have moved forward over the years to provide optimum service in a government of the people, by the people, and for the people. With your permission we would like to insert at this point in our historical journal of Congress the story leading up to the dedication of their new municipal complex that bespeaks the story of America—its people, purpose, and progress. Background information, as transmitted to me by the municipal clerk/administrator, Al Reda, is as follows:

BACKGROUND INFORMATION

After many years of planning, we dedicate our new Municipal Building and prepare to take leave of the building that has served in various municipal capacities since 1858.

The land on which the old building stands was acquired by William and Mary Brophy in 1855 and conveyed by them in 1858 to Union District School No. 9 of the Acquackanonk Township.

The building itself was erected in 1858 for use as a school by Acquackanonk. Little Falls Township, created from a part of Acquackanonk Township in 1868, continued to use the building as a school until June 1913.

In 1914, the Borough of West Paterson was created from a portion of Little Falls. The newly organized borough reopened the school in 1920 and continued to use the building for school purposes until 1957 when the West Paterson Board of Education transferred the building to the Municipal Council. During those later years the second floor was used for municipal purposes while the first floor housed the industrial arts shop of the school system. Since 1957 it has been used solely as the Municipal Building.

Since the borough was first organized many of the various municipal offices were housed in the private homes of the respective officeholders. Still, today, municipal offices may be found in some nine various private homes scattered throughout the community. The various mayors and councilman recognized the difficulties of this situation and attempted to overcome them by adding on to the present building rather than erecting a new building because the financial needs of the growing school district and the extension of the various municipal utilities were considered greater priorities.

Finally, the first step for a new building was taken in November, 1966 when a little more than two acres of land was purchased from Herman and Dorothy Diorio and Dominick and Rose Kaimone. A third acre was acquired from the Galvan Corporation in June 1968. That same year the house and lot of Sophia Safron, located immediately next to the old building on McBride Avenue, was acquired. The tract was rounded out in June 1974 when the house and lot of the Brophy Lane, was acquired.

While rounding out the site, a year long search for an architect was started in July, 1972 and concluded in July 1973 with the selection of the firm of Huntington-Larson, Architects, Inc., of Spring Lake Heights. This firm handled the work through the planning and bidding of the project with Frederick J. Voytko, A.I.A., serving as project architect. The Mayor and Council later selected Mr. Voytko to supervise the construction of the project.

The project enjoyed the unanimous support of the Mayor and Council and a public information program was carried out by them to fully inform the community of the project. The many organizations of the borough provided the forums for this program which culminated in acceptance and support by the community at large.

Bids were received for the project on September 4, 1974, and were rejected because of the cost. Plans were revised and an additional appropriation provided and the bids were finally accepted on October 23, 1974. The contracts were signed on December 6, 1974 and the symbolic groundbreaking occurred on December 14, 1974.

The bonding ordinances provided $1,374,900 for constructing and furnishing the building as well as site development; a sum of $89,750 for the architectural, legal, accounting and advertising fees; and the sum of $133,350 for payment of interest for two years on bond anticipation notes. The temporary financing of the notes was handled by the New Jersey Bank, N.A., at the very low rate of four per cent. An additional sum of $15,000 had been paid from the capital improvement fund for the architect's work. The total of the ordinances and the sum from the capital improvement fund amounted to $1,613,000.

The contracts were awarded as follows:

Mahieu Construction Co., general construction: $925,650.

Philip Fritze & Sons, heating, air conditioning: $82,700.

Bender Brothers, plumbing: $54,818.

Post & Kelly, electrical, $176,575.

Dane Stell Co., Steel: $41,156.

J. W. Signal Co., communications: $27,819.

The new Municipal Building will be occupied by the various departments within the next few weeks. It will enable us to have all of our municipal offices housed within one public building. It has been constructed as a civic center for government needs as well as the badly needed hub for all of the public safety services of the borough. In addition to all of this, it provides a community room which will be available for meetings of civic and service organizations of the borough.

It is dedicated for service to our people and as a salute to the Bicentennial of our nation.

Mr. Speaker, we appreciate the opportunity to present this statement to you and our colleagues today providing another chapter in the history of America and attesting to the unmatched greatness of a representative democracy and the lasting achievements that can be attained with people working together in common endeavor—a partnership of people involved in government, banking, industry, and the business community.

In commemorating this new municipal complex, we salute the quality of leadership manifested by the foresight and expertise of the governing body and the quality of life to be found in the bulwark of strength of a united people—as in the spirit of 1776, the democracy continues to flourish in the year 1976.

KEN COATES

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 9, 1976

Mr. FLORIO. Mr. Speaker, it is all too commonplace to read in the newspapers about the plight of a person who was in need of assistance, either because of an emergency or because of a criminal act, abandoned in clear view of indifferent bystanders. Though many persons assume this to consistently be the case, there are heroic exceptions. One person who did the exceptional was Ken Coates, a postal worker and member of the South Jersey area local of the American Postal Workers Union.

On January 9, 1976, Mrs. Betty Schwartz arrived at the Blackwood post office in her car. Ken Coates was routinely removing the mail in front of the post office. Unfortunately for Mrs. Schwartz, the car was apparently still in gear and as she opened the door and was partly out of the car it began to move backward. The open door knocked her to the ground and the vehicle was about to roll over her. Fortunately for Mrs. Schwartz, Ken Coates did get involved. He immediately dropped everything and rushed to the car removing her from its path. Then, with the help of several other postal employees, he successfully brought the car to a halt. Though Mrs. Schwartz was injured, Ken Coates obviously saved her from much more serious harm and, of course, possible death.

I wish to take this moment to sincerely commend Ken Coates for his action and involvement and believe that the U.S. Postal Service is certainly fortunate to have such an admirable employee.

VALLEY FORGE NATIONAL PARK

HON. JOSEPH M. McDADE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 9, 1976

Mr. McDADE. Mr. Speaker, I am pleased the House has passed H.R. 5621 creating a new National Park at Valley Forge, Pa. As a cosponsor of this legislation, I am especially grateful to the chairman of the subcommittee (Mr. TAYLOR) and the ranking member (Mr. SEBELIUS) and especially to Congressman DICK SHULTZE, all of whom have supplied the leadership that has led to the passage of this important piece of legislation.

Mr. Speaker, Valley Forge is not only a Revolutionary War campsite, it is a significant event in our Nation's history. Nowhere in the Nation was the spirit of our people and the endurance of our army more severely tested than here. It is therefore especially important that we make every attempt to preserve for future generations this fitting memorial to the American Reveolution in our Bicentennial Year. Valley Forge is such a memorial, and after final passage of this bill we can address ourselves to improving the park and upgrading its facilities for the enjoyment of all Americans.

Mr. Speaker, swift congressional action on this bill is important for other reasons. There is a very real threat to the beauty and historic value of this area from commercial development. Last year the Congress acted to avert the construction of a cemetery on the park site. In addition, the commonwealth of Pennsylvania is reducing their financial commitment to Valley Forge. So, this legislation is really the last hope for historic preservation here. Congress has wisely committed itself to an active program of historic preservation, and Valley Forge National Park will be a significant addition to that program. I trust that in the coming weeks, Congress will act quickly to clear this bill for Presidential signature.

VERMONTERS SPEAK OUT ON THE ISSUES

HON. JAMES M. JEFFORDS

OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 9, 1976

Mr. JEFFORDS. Mr. Speaker, about 2 months ago I asked the people of Vermont for their advice on a large number of the important issues which are being discussed here in the Congress.

For this purpose, I circulated a long and complicated questionnaire. I am pleased to say that nearly 9,000 Vermonters took the time to fill it out and return it to me, demonstrating the extremely high level of citizen involvement we have in Vermont.

While the questionnaire tabulations speak for themselves, I would like to make a couple of general observations based on a review of the figures.

One factor which stands out is that most people, at least in Vermont, no longer fit comfortably into the traditional categories of "liberals" and "conservatives."

On fiscal questions, there is a strong tendency to lean in the "conservative" direction. There is an overwhelming feeling that the Government is not spending tax money wisely and efficiently: that there are abuses to be eliminated and fat to be cut.

Those responding to the questionnaire expressed great concern over the unemployment problem. But in even stronger terms, they made it clear that our efforts to combat unemployment should not be based on methods which will fuel inflation.

And, while most of them would like the tax cut continued, a plurality would be willing to sacrifice it if necessary to keep the Federal budget within reasonable bounds.

On energy questions, the largest numbers supported Federal policies which we tend to call liberal. These include aggressive Government programs for development of new energy sources, particularly nonnuclear; Government intervention to increase competition in the oil industry; and continued controls on prices at the wellhead, at least for the time being.

Foreign aid, both military and economic, is seen as a prime target for budget cuts. Yet in specific situations, such as our commitment to Israel, or a hypothetical Soviet intervention in Africa, the questionnaire indicates substantial support for American assistance in one form or another.

I could go on, but my point is this: Public opinion today is not based on dogma or upon simplistic formulas. It is based on serious examination of individual issues. The people are going to keep Congress on its toes—and I for one consider that to be a very healthy trend.

Before I finish, I want to mention briefly my appreciation for the computer sciences class at the Burlington Area Vocational Center, which took on the massive task of tabulating the questionnaires. I was extremely impressed with the quality and professionalism of the students who carried out this endeavor.

Mr. Speaker, I believe the results of this questionnaire will be both interesting and informative reading for my colleagues and, therefore, insert them in the RECORD at this time:

QUESTIONNAIRE

1. Many Vermonters have expressed concern about "bigness" in government, business, and organized labor. Do *you* feel substantial problems are posed by:

	Percent
A. Bigness in government?	73
B. Big business?	53
C. Big labor?	69

2. There has been much recent controversy regarding the role of the CIA. In general, do you feel the CIA should: (check one)

A. Be eliminated?	5
B. Perform only "intelligence" work, eliminating all "covert" operations?	27
C. Be allowed to perform "covert operations" approved by the President, but subject to veto in advance by designated members of Congress?	33
D. Be allowed to perform "covert operations" subject only to presidential control and approval?	29

3. Government spending, as it relates to the economy, remains a dominant issue in Congress. In setting the budget, do you feel Congress should give highest priority to: (check one)

A. Combating inflation by balancing the budget or keeping the deficit as low as possible?	42
B. Spurring the economy, and reducing unemployment, through increased government spending even if inflationary pressures result?	5
C. Finding an appropriate compromise in the budget, to spur the economy to some extent while keeping inflationary impact to a minimum?	46

[In percentage]

4. A. Do you feel the present, temporary federal income tax reductions should be continued for the remainder of 1976?

Yes	78
No	11

B. Should any additional tax cut be offset by reductions in federal spending?

Yes	79
No	8

C. If the economy improves, but a significant budget deficit will still result, should we extend the tax cut anyway?

Yes	35
No	46

5. Meaningful action to resolve the nation's energy problems has been delayed, largely because there are many strongly different views on what should be done. The following statements, although perhaps oversimplified, represent some of these divergent views. Please check the statement or statements which are closest to your own opinion.

	Percent
A. There is almost no competition in the oil industry, so the free enterprise system cannot work. Therefore, the government must continue controls on oil prices	31

	Percent
B. Price controls should be lifted immediately, to allow prices to rise to levels established by the "market"	13
C. The government should take steps to increase competition in the industry, for example by breaking up vertical monopolies, where a single company produces, transports, refines and retails oil products. This way, prices could be set by a free market	20
D. In its efforts to reduce our dependence on imported oil, the government's main priority should continue to be development of more nuclear power	20
E. In developing alternative energy sources, the government should concentrate more on non-nuclear sources, such as solar, wind, geothermal, and clean-burning of coal	70
F. The government should keep its hands out of the energy business, and let private enterprise solve the problems	14

6. Proponents of U.S. involvement in Africa point to the success of Russian and Cuban backed forces in Angola. They also note that Russia has constructed a naval base in Somaliland and is assisting other African nations economically. Opponents of U.S. military involvement in Africa point out that Russia failed to gain influence through military assistance to Egypt.

If Russia were to openly back an overthrow of the governments of Africa nations presently friendly to the U.S., such as Zaire or Nigeria, should we: (check one)

A. Provide military aid, in the form of money and equipment only?	44
B. Provide military aid, including U.S. troops?	14
C. Take a "hand-off" position?	34

7. Should we continue our commitment to Israel to keep it strong militarily?

Yes	64
No	24

8. The present U.S. policy toward Russia is "detente", a conscious effort to reduce tensions while recognizing that we are still adversaries. Do you feel that under this policy:

A. We are being taken advantage of by the Russians?	61
B. Progress is being made toward the goal of world peace?	27
C. We are benefitting more than the Russians are?	1

9. In which of the following general areas would you like to see federal expenditures increased, decreased, or remain the same?

[In percentage]

A. National Defense

Increased	31
Decreased	30
Same	34

B. Foreign military aid

Increased	5
Decreased	48
Same	40

C. Foreign economic aid

Increased	11
Decreased	45
Same	37

D. Education

Increased	43
Decreased	14
Same	38

E. Public Assistance

	Percent
Increased	14
Decreased	43
Same	35

F. Revenue Sharing

Increased	27
Decreased	19
Same	46

G. Energy research and development

Increased	74
Decreased	4
Same	16

H. Social Security and other programs for the elderly

Increased	39
Decreased	9
Same	47

I. Price supports for dairy farmers

Increased	31
Decreased	19
Same	44

J. Space research and exploration

Increased	11
Decreased	48
Same	35

K. Highway construction

Increased	7
Decreased	49
Same	38

L. Mass transportation

Increased	54
Decreased	12
Same	28

M. Veterans Programs

Increased	13
Decreased	24
Same	57

N. Food stamps

Increased	9
Decreased	61
Same	25

O. Health

Increased	36
Decreased	17
Same	41

P. Law Enforcement

Increased	50
Decreased	6
Same	38

10. Of the general areas listed below, please put the number "1" in the box corresponding to the area you feel should receive the highest priority in Congress during 1976. Put down "2" for the second highest priority, and "3" for the third highest. Please rank only three.

[In percentage]

A. Reducing unemployment

Top priority	16
Among three top priorities	37

B. Curbing inflation

Top priority	20
Among three top priorities	42

C. Tax reform

Top priority	9
Among three top priorites	32

D. Welfare reform

Top priority	12
Among three top priorities	40

E. Food Stamp reform

	Percent
Top priority	1
Among three top priorities	13

F. Improved benefits for senior citizens

Top priority	2
Among three top priorities	9

G. Holding down energy costs

Top priority	3
Among three top priorities	12

H. Increasing energy supplies

Top priority	7
Among three top priorities	24

I. Economic aid for poor countries

Top priority	0.5
Among three top priorities	1

J. Military aid for allies

Top priority	0.5
Among three top priorities	1

K. Legislation to help small farmers

Top priority	1.5
Among three top priorities	8

L. National Health Insurance

Top priority	3
Among three top priorities	13

M. Streamlining government bureaucracy

Top priority	15
Among three top priorities	37

N. Higher minimum wage

Top priority	0.5
Among three top priorities	2

COLLEGE PARK AIRPORT

HON. GLADYS NOON SPELLMAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 9, 1976

Mrs. SPELLMAN. Mr. Speaker, the College Park Airport has a unique historical significance. It was established in 1907 and has been in continuous use ever since—longer than any other airport in the Nation. This facility, which is located in Prince Georges County, Md., has played a major role in kindling the infant aviation field into the vital industry that it is today.

The Wright Brothers were two of the first aviators to have used this facility, that has since become a fine local airport, contributing to both the city of College Park, the county, and the citizens therein. Had it not been for the opportunities provided by this airport in the formative years of airflight, by such trail blazers as the Wright Brothers, we may well not have been able to make the numerous advancements still going on in the aviation field.

Currently, the College Park and Prince Georges Jaycees, are attempting to have this facility placed on the National Register of Historic Places. This effort, being led by Mr. William A. Aleshire, of Greenbelt, Md., is a very worthy project indeed, and should be commended. In addition, this group of involved citizens have plans for restoring one of the old hangars according to the original plans, and eventually opening up a museum, depicting the part this airport has played in the development of aviation in America. We all hope that this effort will be a successful one.

FEDERAL JOBS BILL MIGHT BRING ON A NEW RECESSION

HON. MARVIN L. ESCH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 9, 1976

Mr. ESCH. Mr. Speaker, I should like to call especial attention to an excellent article by a fine newspaper reporter from the Baltimore Sun. Art Pine has written a carefully reasoned column on the Humphrey-Hawkins bill, H.R. 50, the so-called Full Employment and Balanced Growth Act.

As he said:

> . . . Many analysts fear it ultimately could bring on another recession. To begin with, for a variety of reasons relating to the make-up of the labor market, most economists view a 3 percent unemployment target as unrealistic. For one thing, so-called "frictional" unemployment—the temporary joblessness that inevitably accompanies job-switching or moving to new locations—alone guarantees an astonishing 3.5 percent jobless rate, and other structural problems add on even more.
>
> Second, as economists have learned painfully in recent years, it is foolhardy to set specific numerical targets for such broad aggregates as the unemployment rate, because changes in overall economic conditions may make it impossible to achieve them.
>
> If anything, economists who deal with labor-market problems fear that a permanent government job-creation program—as Humhprey-Hawkins almost certainly would be if it ever got started—could well worsen the job problem rather than help it, by ultimately diverting job-seekers from the private sector, where they could prove more productive.
>
> If that happens, the nation could end up producing highways and new courthouses at a time when its citizens are demanding more houses and automobiles—leading private-sector wage rates to skyrocket into an inflationary spiral.
>
> ". . . To many economists, the combination of these pressures would be to tighten labor markets so severely that wages would begin to soar, spurring inflation to the double-digit level and paving the way for formal wage-price controls. Indeed, although more starry-eyed supporters refuse to acknowledge the fact, economists who have worked on the legislation concede the Humphrey-Hawkins program would not be workable without some form of mandatory restraints. The main reason sponsors do not admit this publicity is that they would risk the opposition of organized labor.
>
> ". . . The bill would also push the Government into a degree of economic planning that many economists fear could deprive policymakers of some flexibility. While on one hand it would do no more than formalize what already happens—the President would be required to submit an economic plan for approval by Congress—on the other hand it would make it more difficult for the government to change tack when the economic winds shift. There is little the new structure would provide that cannot already be accomplished under the new congressional budget process which gives Congress a firm hand, if it wants one, in setting fiscal policy.

I trust my colleagues will read the entire volumn by Art Pine, and it is herewith inserted in the RECORD for this purpose:

FEDERAL JOBS BILL MIGHT BRING ON A NEW RECESSION

(By Art Pine)

WASHINGTON.—The proposition is a tempting one, especially in an election year: Commit the federal government to reducing the adult unemployment rate to 3 per cent in the next four years. Set up new procedures for establishing specific numerical economic targets. Require the administration to achieve these goals by launching massive new programs, ranging from public-service jobs to local construction projects. Then promise that, from now on, Washington will provide a job for every adult work-seeker who cannot find one on his own. The result: Long-term economic prosperity.

Such is the stuff of the new "Full Employment and Balanced Growth Act of 1976," now being sponsored by Senator Hubert H. Humphrey (D., Minn.) and Representative Augustus F. Hawkins (D., Calif.)—and doubtless it is the most appealing campaign promise since the Hoover administration's legendary chicken in every pot. In just a few short weeks, the measure has become an economic manifesto for liberals and many moderates, attracting the support of virtually all the Democratic presidential candidates except Jimmy Carter. The only real question is, would the bill do more harm than good?

To be sure, the impetus behind the new legislation is difficult to quarrel with. In the wake of the past two years' recession, no one is arguing seriously that the government should not aim its policies at spurring economic growth and employment. Indeed, many of the measures the bill would require—such as public-service jobs and local construction programs—already are in effect, albeit on a much smaller scale.

Both parties are committed to returning to long-term prosperity. Their differences lie over how to go about it.

The question is, can the nation actually achieve the goals of the Humphrey-Hawkins bill without dangerously high inflation or rigid wage-and-price controls—and the answer, according to a broad range of both liberal and conservative economists, is unequivocally no. Critics contend the measure would severely tighten labor markets, embark the nation on a spate of costly income-maintenance programs, and produce a new set of production cutbacks, supply bottlenecks and inflation. Many analysts fear it ultimately could bring on another recession.

To begin with, for a variety of reasons relating to the make-up of the labor market, most economists view a 3 per cent unemployment target as unrealistic. For one thing, so-called "frictional" unemployment—the temporary joblessness that inevitably accompanies job-switching or moving to new locations—alone gurantees an astonishing 3.5 per cent jobless rate, and other structural problems add on even more. Many analysts believe unemployment cannot be pushed below 4.5 per cent without skyrocketing inflation. An adult unemployment rate of 3 per cent would imply an overall jobless rate of between 3.6 and 3.7 per cent.

Moreover, to hold the unemployment rate at 3 per cent or so for very long would require a continuous spurt in output at a rate that most economists believe would be unsustainable without severe inflation.

Sar Levitan, director of the liberal-oriented Center for Manpower Studies, testified recently that to achieve a jobless rate of that level, the government would have to spur output at a long-term annual rate of 7.5 per cent. The nation, he added, "has never achieved such a sustained high growth" before, and is not likely to now.

Secondly, as economists have learned painfully in recent years, it is foolhardy to set specific numerical targets for such broad aggregates as the unemployment rate, because changes in overall economic conditions may make it impossible to achieve them. Sometimes the nation can afford to push joblessness to 4 per cent or so without risking renewed inflation, but at other times the most reasonable goal may be 5 per cent, or even 6 per cent. To many, committing the nation to a hell-or-high-water target of any sort is choosing in advance to ignore reality.

Then, too, as both liberal and conservative economists have pointed out, different sets of economic conditions produce different types of unemployment—not all of which can be remedied by the same kinds of policies. In 1969 and 1970, for example, when engineers and aircraft workers were being laid off because of cutbacks in government research and procurement programs, a Washington-financed ditch-digging program hardly would have helped very much. Similarly, an expensive new construction program won't directly help laid-off auto workers.

If anything, economists who deal with labor-market problems fear that a permanent government job-creation program—as Humphrey-Hawkins almost certainly would be if it ever got started—could well worsen the job problem rather than help it, by ultimately diverting job-seekers from the private sector, where they could prove more productive. If that happens, the nation could end up producing highways and new courthouses at a time when its citizens are demanding more houses and automobiles—leaving private-sector wage rates to skyrocket into an inflationary spiral.

Perverse effects of another sort of already shown up in the wake of recent increases in unemployment compensation benefits, which now have been extended to cover persons who are out of work for up to 65 weeks. Although the humaneness of such payments is not being disputed, many economists have begun to notice that the high level of benefits has encouraged some land-off workers to turn down some jobs they might otherwise have taken, or simply to stop looking altogether. Had benefits been less attractive, they contend, the recipients might have been back on jobs earlier.

To many economists, the combination of these pressures would be to tighten labor markets so severely that wages would begin to soar spurring inflation to the double-digit level and paving the way for formal wage-price controls. Indeed, although more starry-eyed supporters refuse to acknowledge the fact, economists who have worked on the legislation concede the Humphrey-Hawkins program would not be workable without some form of mandatory restraints. The main reason sponsors do not admit this publicly is that they would risk the opposition of organized labor.

But the prospect of controls raises still another specter: As the recent U.S. experience demonstrated, controls programs themselves often create still further sets of problems—with investment cutbacks, supply bottlenecks and, eventually, a new round of inflation. Many analysts are convinced that a move to anything that comprehensive could well set the nation up for another recession—precisely what the Humphrey-Hawkins bill is attempting to avert.

A Library of Congress study on last year's version of the bill warned of its inflationary effects, but has not been widely quoted. There also is the question of whether the public really wants to take on the kind of responsibility the Humphrey-Hawkins bill implies, and whether it is willing to pay the price—either in actual outlays or in inflation.

Although sponsors argue the legislation technically would do no more than simply set up a new economic policy-making procedure, the fact that it requires the goveernment to achieve specific numerical goals actually commits the nation to a spate of massive job-creation and income-transfer programs—many of which are untested on any scale approaching what the bill calls for.

* * * * *

The bill also would push the government into a degree of economic planning that many economists fear could deprive policymakers of some flexibility. While on one hand it would do no more than formalize what already happens—the President would be required to submit an economic plan for approval by Congress—on the other hand it would make it more difficult for the government to change tack when the economic winds shift.

There is little the new structure would provide that cannot already be accomplished under the new congressional budget process which gives Congress a firm hand, if it wants one, in setting fiscal policy.

Apart from such philosophical and policy issues, almost as disconcerting to many analysts is the myriad of technical defects in the legislation—a flaw many economists fret could make the bill a nightmare to administer. Just listing the criteria for who is to be given priority for the government-financed jobs, for example, takes pages of legislation to describe, and still invites arguments concerning possible exceptions. And many crucial definitions—such as what age groups should be included in the "adult" category that is to be guaranteed jobs—remain dangerously vague.

There also are several internal contradictions. At one point, for instance, the legislation actually mandates that under no circumstances can the government run a "full-employment deficit"—an economic term for a spending level that would place the budget in deficit even if the jobless rate were 4 per cent.

Although the whole thrust of the Humphrey-Hawkins measure is to ensure a more stimulative economic policy, this one clause alone would prohibit the government from pursuing a strategy even as expansive as the one it is following now. As a result, the bill would be trapped by its own prohibitions.

To be sure, defects of this sort are unlikely to inhibit supporters of the legislation, who already have received assurances from the congressional leadership that the bill will be reported out of committee and sent to the House and Senate floors. Although the measure got nowhere last year in an even more expansive version, this year's model has been made more palatable to organized labor, and now is receiving more serious consideration.

The major opposition seems to come from President Ford, who vowed he would veto the package, and from a variety of mainstream economists—both Democratic and Republican—who conspicuously have not flocked to endorse the package. But to many serious analysts, the hope is that, like many election-year vehicles before it, the Humphrey-Hawkins bill can be rethought a few more times before it finally is adopted either as a Democratic campaign platform or as a national law.

If Congress wants to enact job-creation programs—or enlarge the current tax reductions instead—it can do so without this legislation, and retain the flexibility to alter them when necessary.

This no doubt is not the first time that salable campaign politics has conflicted with economic reality. . . .

LEVITAS' POLITICAL COURAGE

HON. BO GINN

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 9, 1976

Mr. GINN. Mr. Speaker, our colleague, Elliott Levitas, is taking a leadership role in working to devise solutions to the problems that plague our Nation's social security system. I join with him in his efforts to preserve the integrity of this vital program, and I commend him for his work.

I am pleased to note that Mr. Levitas' efforts have attracted considerable attention to the work that must be done to reform the social security system. In a column in the May 27 isue of the Dekalb New Era, Mr. Jim Boatright has written an excellent analysis of this problem. I ask that this column be reprinted in the Record, and I commend it to the attention of my colleagues:

Levitas' Political Courage

(By Jim Boatright)

This is a political year. Every member of the U.S. House of Representatives and one-third of the U.S. Senate is up for re-election. We will elect a President. There are 32.6 million people on social security. Embracing every race, creed and political doctrine, this is the most powerful monolithic voting group in this country, probably in history.

Politicians respond to political stimula. Social Security recipients have just received a 6.4 per cent increase in their monthly payment beginning with their July checks. These raises will come from social security trust funds which are expected to experience a deficit for the second straight year. The system is in deep financial trouble. Under present law, social security spending will exceed income from payroll taxes until the two cash benefit reserves, disability along with old age and survivors insurance, run dry early in the 1980's.

This means that the money that I, and others, have paid into the trust fund for the past 20 or 30 years is gone; and if I receive any social security payments I will have to depend on children and unborn future workers of this country to support me. Social security has been politicized until it is now an all embracing retirement-welfare program for everyone, whether one "contributed" to the program or not. This was not the original intent of the program.

President Ford did not try to solve the fundamental problem. He chose the politically expeditious way of ignoring the root causes of social security financial deficits by simply recommending that we increase the payroll taxes. He recommended that we increase the payroll taxes paid by employer and employee from 11.70 per cent to 12.30 per cent. The House Ways and Means Committee rejected the proposal this year. Thus the deficit grows.

Each worker pays 11.70 per cent of his income, counting his and his employers tax, on his income up to $15,300. The base is projected to increase to $16,500 on January 1. (Some labor leaders are advocating a base of $25,000.) What does this mean? It means that an average worker with four dependents is now paying more in social security taxes than he is paying in income taxes. If he earns the maximum base of $15,300, he and his employer will be forced to pay $1,790 which could have gone into his pocket. He could buy one heck of an annuity, with more benefits, from a private company for this amount of money.

Increasing social security taxes are a tremendous imposition on the already overburdened small businessman. The only way many small businessmen can overcome the burden of increasing workmen's compensation, unemployment and social security taxes is to simply eliminate jobs, which aggravates the unemployment situation.

Every once in a while someone comes along with a refreshingly new approach to problems like social security concepts, burdens and deficits. Our Congressman Elliott Levitas has proposed that we establish a National Commission on Social Security to study, to overhaul, to establish the scope of the system, and to make it financially sound. Congressman Levitas needs and deserves the support of the people on this worthy project.

THE WAR AGAINST TERRORISM—ANOTHER NO-WIN WAR

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 9, 1976

Mr. McDONALD. Mr. Speaker, twice in recent history American men have been sent into combat in a war they were not permitted to win. First in Korea and then in Vietnam. Restrictions placed on us and a privileged sanctuary maintained for the enemy, made victory impossible.

The war on crime is also a no-win war. Restrictions placed on the police by the courts have enabled the enemy—the criminals—to win most of the battles. Police complain that when they apprehend a violent criminal, he is out on the streets before they can complete the paperwork.

For the past few years the non-Communist world has been the target of Marxist-Leninist terrorist bands supported by Moscow and Havana. The Bicentennial Year has shifted attention to the United States. The terrorists and their supporters have targeted our country as their next victim. Terrorist bombings have increased and kidnapings are a grim possibility.

There has been a large scale nationwide assault on police intelligence gathering. The attack, organized by the Communists and abetted by naive judges and politicians, has severely hampered the ability of the police to cope with terrorism.

The Federal Bureau of Investigation has been severely curtailed in its ability to investigate subversives and terrorists. A concerted propaganda campaign coordinated with harassing law suits has prevented effective FBI counter-terrorist operations.

The Socialist Workers Party, the American section of the Trotskyite Fourth International, is suing the U.S. Government charging that the FBI has been investigating them for over 35 years. Indeed, the FBI should investigate the Socialist Workers Party as it provides aid and support to other sections of the Fourth International, some of whom are actively engaged in terrorism.

In the course of an examination before trial, FBI Agent Joseph McMahon testified that the FBI has backed off in its investigation of the Trotskyites.

Special Agent McMahon testified:

> I do notice that there are less interviews and that type of thing because the agents don't want to be put into a position where they are accused of harassment or something of that nature.

McMahon further testified that FBI headquarters had warned its agents to,

> be circumspect in their dealings with any member of the Socialist Workers Party.

The Trotskyite communists in their official newspaper, The Militant, of June 4, 1976, boasted of their success in "diminishing the G-men's zeal".

The FBI and the police are our first line of defense against terrorism. They should not be forced to fight a no-win war. Intelligence gathering by law enforcement agencies must be strengthened and expanded if we are going to win the war against Marxist-Leninist terrorists.

THREE ANNIVERSARIES OBSERVED AT LACKAWANNA, N.Y., BASILICA

HON. HENRY J. NOWAK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 9, 1976

Mr. NOWAK. Mr. Speaker, on May 25, special services were held in Our Lady of Victory Basilica in Lackawanna, N.Y., commemorating three anniversaries—the 125th anniversary of the parish, the 100th ordination anniversary of Msgr. Nelson H. Baker under whose leadership the shrine was built, and the 50th anniversary of the basilica's consecration.

Our Lady of Victory Basilica is a national shrine and a landmark in western New York. The late Msgr. Baker, still commonly and affectionately known as "Father Baker," is renowned for his dedication and life of service to the people, the church and the community at large.

As part of our Nation's Bicentennial, the city of Lackawanna this year has scheduled several events which focus on "Father Baker" and Our Lady of Victory Basilica.

I have been provided with an exchange of correspondence, dealing with these events, between the city of Lackawanna Bicentennial Committee and the Vatican. At this point in the RECORD I would like to insert the committee's letter of March 24, 1975 to Pope Paul VI and the response received from the Vatican Secretariat of State on May 24, 1975:

CITY OF LACKAWANNA
BI-CENTENNIAL COMMITTEE,
Lackawanna, N.Y., March 24, 1976.

HIS HOLINESS POPE PAUL VI,
Saint Peter's Basilica Vatican City, Rome, Italy

MOST HOLY FATHER: Our Bicentennial Committee is happy to announce that the City of Lackawanna will honor the late Monsignor Nelson Baker as one of the highlights of our Bicentennial Program because of his great works, especially in the building of Our Lady of Victory Basilica. We are fortunate to be one of the few cities accepted as a Bicentennial City in the United States, mainly because of the architectural and art works in this "National Shrine of Our Lady of Victory Basilica".

"Father Baker" is also noted for his "miraculous" gas well, dug in 1891, which is still in operation.

The following events will take place:

1. March 19, 1976—The 100th Anniversary of the Ordination of Father Baker into Priesthood.
2. May 25, 1976—The 50th Anniversary of the consecration of Our Lady of Victory Basilica. Rededication by Terence Cardinal Cooke of New York.
3. July 25, 1976—Father Baker Day Procession to the gravesite.
4. July 29, 1976—Actual Anniversary of the death of Father Baker.
5. Later date—Presentation of a plaque designating the gas well site.

It may also be of interest to know:

1. June, 1874—Nelson Baker, while a seminarian, was on the very first American Pilgrimage to Europe, and had an Audience with the Holy Father Pope Pius IX.
2. 1905—Father Baker was made Right Reverend Monsignor by Pope Pius X.
3. 1922—Father Baker was made Prothonotary Apostolic by Pope Pius XI.
4. July, 1936—Monsignor Baker (while critically ill) received a cable from the Vatican by Cardinal Pacelli, later to become Pope Pius XII, sending his "affectionate apostolic benediction".

We, of the City of Lackawanna, which is also known as the "Steel City" would be forever grateful if His Holiness will but acknowledge this letter with a reply, to be preserved with other mementos for posterity.

It would be a wonderful thing if all of "Father Baker's" works and institutions could be preserved as well.

Humbly yours in Christ,
MRS. ORLANDO MORETTI,
Member of Religious Committee,
LEONARD A. WOYSHNER,
Third Ward Councilman & General Bicentennial Commission Chairman.

SECRETARIAT OF STATE,
FROM THE VATICAN,
May 24, 1976.

DEAR MRS. MORETTI: I am directed to acknowledge the letter which you and Mr. Leonard A. Woyshner kindly addressed to the Holy Father on behalf of the Bicentennial Committee of Lackawanna, and to thank you for the gift of the inscribed volume which was enclosed for his acceptance.

His Holiness is happy to learn of your intention to honor the memory of the late Monsignor Nelson Baker as part of the Bicentennial celebrations in your city. He prays that this occasion may be a source of inspiration for all to devote themselves more generously to the good of the community. Upon yourselves and all associated with you in this commemoration, the Holy Father invokes the blessings and favors of Almighty God.

With every good wish, I remain
Sincerely yours,
J. BENELLI.

IN HONOR OF JOHN GLYNN, LABOR LEADER, EDUCATOR, AND HUMANITARIAN

HON. RONALD A. SARASIN

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 9, 1976

Mr. SARASIN. Mr. Speaker, during the early 1900's, the industrial revolution was firmly implanted in America, insuring our country's position as a world leader. But this success was not only a result of the machines which were forging a new world and new societies; it was a result of the blood, sweat, and tears literally shed by America's working men, women, and children, many of whom toiled under abysmal circumstances.

The Jungle and many periodicals of the day launched a full-scale attack against the inequities and the tragedies of the workers' plights, and these expositions gave birth to a new social consciousness that has grown through the present day. The rights of not just workers but of all mankind were acknowledged and are now an inextricable element of America's heritage.

To keep the fires of freedom and compassion, decency, and liberty alive, men and women have devoted their entire lives to the causes. One such individual, a resident of the State of Connecticut, is John Glynn, director of the University of Connecticut Labor Education Center.

John's history of involvement in the organized labor movement began shortly after his graduation from Trinity College in Hartford. He was an active member, steward, and officer of the United Electrical Workers' Union and was instrumental in its entry into the United Auto Workers. While a shop officer, he was a delegate to the CIO Council, serving as chairman of its housing committee.

John's interest in the goals of the labor movement has been all-encompassing, ranging from the organization of Local 1386 of the American Federation of Teachers at the University of Connecticut to the founding of the Wilbur Cross Democratic Club and the Americans for Democratic Action. Representing his local on the Willimantic Central Labor Council, he served in numerous positions, including the presidency, and is now legislative chairman of the council.

As with all men of compassion and vision, John's concerns knew no national boundaries. His lifelong commitment to international affairs grew out of his dedication to democracy on the job and in the community. In the early postwar years he directed collective bargaining seminars for visiting European productivity teams under the Marshall Plan; he was chief consultant in the establishment of an International Labor Center at St. John's College; he served as chief adviser on labor education at the University of the Philippines and has conducted many courses for foreign labor leaders under U.S. Department of Labor auspices.

Thousands of people—from Connecticut's labor leaders, workers and industries to individuals from throughout the world—have benefitted from Professor Glynn's labor education programs and general commitment to humanity. Indicative of his tireless interests and efforts is his testimonial dinner which will be held June 12 in New Haven. While designed to honor a man who has devoted the majority of his life to improving the human condition, it will serve a dual purpose in raising funds for the Histadrut Scholarship Fund, established in 1957 to provide both academics and vocational high school scholarships to children of underprivileged families in Israel and to further their education in the fields of science, medicine, social studies and engineering.

Histadrut, an organization in which I, too, am interested as a result of my meeting with Mr. Yerucham Meshel, Secretary General, is based on one of the foremost philosophies of democracy in America and throughout the world—that people, especially the youth, are the country's most precious assets; that the denial of training and skills is a threat to democracy and to stable socioeconomic development. This, to, is John's philosophy, and he has put into practice the fact that man is the instrument of knowledge, through which can come peace and the betterment of humanity.

John Glynn certainly deserves to be so honored.

THE LATE HONORABLE BERNARD WILLIAM KEARNEY

HON. JOHN J. RHODES

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 4, 1976

Mr. RHODES. Mr. Speaker, those of my colleagues and I who served with him were saddened to learn of the death of a former Member of this body, Bernard William Kearney.

Pat Kearney served 16 years in the House, representing what was then the 32d District of New York from 1942 to 1958, when he retired. He was a dedicated American, who served his district and the Nation with distinction. He was intensely interested in national security, and served on the House Un-American Activities Committee.

Pat was perhaps best known as coauthor of the GI Bill of Rights for World War II veterans. As a member of the Veterans' Affairs Committee he worked hard for improvement of veterans opportunities. He was a cofounder of the American Legion and was elected national commander of the Veterans of Foreign Wars in 1936. Prior to coming to the House, he was active in the National Guard, reaching the rank of brigadier general.

During the 6 years we served together in the House, it was my privilege to have Pat Kearney as a friend. He was a fine Congressman and a great American. I offer my condolences to his three daughters.

RURAL POST OFFICES AN AMERICAN TRADITION

HON. WILLIAM H. HARSHA

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 9, 1976

Mr. HARSHA. Mr. Speaker, rural Americans deserve far better than they are receiving from the U.S. Postal Service, which is currently embarked on a campaign to close thousands of small rural post offices throughout the country.

For all of its contributions to the growth and development of this Nation, rural America has frequently been the victim of inequality, insensitivity, and outright neglect in the allocation of Federal services and expenditures.

So it is nothing particularly new—although unfortunate nevertheless—that this vital segment of America should suffer yet another indignity at the hands of the Postal Service.

Certainly it is nothing new to witness callous unconcern by the Postal Service for its obligation to provide a necessary service. In that respect, it has inflicted its rising postal rates and deteriorating service on rural and urban Americans alike.

Even as I deliver these remarks, the headlines tell us that the Postmaster General is preparing to eliminate all Saturday mail service. This is merely the latest in a long line of blunders made by the Postal Service, which, since becoming a quasi-independent corporation, has amassed a horrendous record of inefficiency, mismanagement, favoritism, and waste.

Its decision to close most of the Nation's rural postal facilities is typically devoid of logic and practicality. Under the public pretense of improving service, the top brass of the Postal Service has decided to remove the very facilities which provided the service in the first place. Thus far, eight rural post offices in my own Sixth Congressional District of Ohio are under survey for closing or consolidation.

Apparently for the sake of appearances, the Postal Service adheres to new guidelines which permit a closing if one or more of four conditions exist. A rural facility may be closed if equivalent or improved service can be provided more efficiently; if another facility is within reasonable distance and would provide equal service; or if a majority of the customers approve a closing.

The fourth condition permits almost any action. It allows a closing if changing conditions related to the community, or to the staffing or facilities of the post office make it impractical to operate a post office. Simply put, that means that the Postal Service can close offices as it sees fit.

The notion that patrons in rural areas are being given a "choice" is largely fiction. The choice they should be given is whether or not they wish to continue their post office. Instead, they are being allowed to "choose" only among alternative services.

Such alternatives would include rural route delivery or the requirement that residents of smaller communities do postal business in the nearest larger town. I strongly question that such alternatives would provide equal or better service.

Subjecting elderly and handicapped people to the necessity of standing in the weather to purchase stamps and money orders and to vandalism of their postal boxes and mail would hardly be considered superior service.

The Postal Service's founding charter prohibits closing rural post offices "solely for operating at a deficit," and there is a good reason for that—although the Postal Service is clearly violating that provision.

Rural post offices are now and always have been considerably more than simple mail distribution centers. In many areas, this kind of post office fills the role of a town hall where people gather for social and business purposes. At stake is more than postal service. The rural post office is a source of community pride and identity.

In this regard, I can clearly understand the concern of the citizens in Point Pleasant, a historical town in my district and one of several whose post office is being studied for closing. Point Pleasant is the birthplace of Gen. Ulysses S. Grant, 18th President of the United States. Town identity is a factor which must not be ignored.

It would also be a mistake to overlook the economic impact of rural postal facility closings on the community. Business and industry require a foundation of basic community services before locating in a community or area. The community post office has traditionally been an integral part of that foundation.

Mr. Speaker, this body must go on record as opposing this arbitrary and destructive action by the Postal Service against those who live in America's small towns and farming communities.

I have joined in sponsoring House Resolution 1257, which calls for a 1-year moratorium on the closing of small post offices and other service cuts by the U.S. Postal Service.

Reductions in levels of service, despite increasing postal rates, as well as the closing of small post offices, have eroded public confidence in the Postal Service. Declaring this moratorium should help restore some of this confidence, although the Postal Service still has a long way to go.

It is difficult to imagine that the Postal Service could worsen its already poor record of service. Operational inefficiency, steadily rising postal rates, a bloated and overpaid management structure, and huge deficits—like the $2.3 billion deficit recorded in 1974—all combine to support contentions that the Postal Service has been a disastrous experiment.

The level of congressional concern over the plan to close thousands of rural postal facilities was expressed earlier in a suit filed in Federal court by a number of Members of this body, including myself, for the purpose of slowing the Postal Service's attempted meat-ax approach to these closings.

It is my hope that this body will move quickly to adopt House Resolution 1257 and that our vital and cherished network of rural postal facilities can be preserved.

THOMAS J. THORLEY

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 9, 1976

Mr. ANDERSON of California. Mr. Speaker, on June 25 the men and women who work for the Port of Long Beach, as well as many others from the surrounding community, will gather together at a testimonial dinner to honor a man who has guided the port through an unparalleled period of economic success and expansion. Thomas J. Thorley, general manager of the Port of Long Beach, will be saluted for his more than 30 years of outstanding service to the port.

A 1936 graduate of the University of Southern California with a bachelor of science degree in industrial engineering, Tom Thorley began his career with the Martin-Decker Corp. in Long Beach. He worked as chief engineer in charge of research and development of oilfield instruments and tools until he volunteered for duty in the U.S. Navy following Pearl Harbor.

"Tom," as he is known to his many friends, soon was commissioned as a lieutenant, junior grade, USNR, and was assigned to Naval Ordnance. After serving in San Diego, Lieutenant (jg.) Thorley saw 16 months of action with the Third Fleet, when he was in charge of all aircraft torpedoes in the South Pacific. After an ordnance assignment in Washington, D.C., as lieutenant commander, he was released from service. Currently, he holds the rank of commander, USNR—inactive.

During his 30 year tenure with the Long Beach Harbor Department, Tom Thorley has served as senior harbor engineer, administrative assistant, and assistant general manager before receiving his appointment as general manager in 1969.

As the Port of Long Beach's senior engineer, Thorley was deeply involved in subsidence, tideland studies, and remedial projects. His experience and leadership were instrumental in the development of a harborwide drainage system, and in the establishment of the first shore based radar station in the Western Hemisphere. Tom Thorley was also deeply involved in many other port related projects, including a bulk loading conveyor system for ships, construction of the largest grain elevator in southern California, development of the port's first supertanker terminal and the purchase by the port of 90 acres of land for industrial development.

Under his leadership, port tonnage has increased from 21.6 million tons of cargo to 27.7 million tons—rising 28 percent since he first took over as general manager. Last year, the port handled 27.7 million tons of cargo, with a total value of almost $6 billion.

When the Port of Long Beach community gathers to congratulate Thomas Thorley on his many achievements, they will be honoring a man who combines many years of experience in port management with acute business sense and the ability to deal with people from various backgrounds. Many people have helped to make the Port of Long Beach one of the largest and most influential on the west coast, but Thomas Thorley has certainly been one of the key individuals in this effort.

Besides his busy schedule as a professional man, Thomas Thorley has devoted much of his time to outside activities and services, including the International, American, and California Associations of Port Authorities, Southern California Foreign Trade Association, American Management, the Long Beach Rotary, the Los Angeles and Long Beach Chambers of Commerce, the Elks Club, the Navy League, and a director of the Los Angeles-Long Beach Marine Exchange.

Mr. Speaker, throughout his long career for the Port of Long Beach, Thomas Thorley has utilized his talents, knowledge, and energy to the utmost. The success of the Port of Long Beach—not only as a revenue source, but as a place with good labor management relations, areas of esthetic beauty, and definite recreational value as well—speaks of the outstanding job he has done as the port's general manager.

My wife, Lee, joins me in congratulating Thomas J. Thorley, and in wishing him the best of fortune as he continues his career. His lovely wife, Claire, and their four children—Annette Zelden, June Toohey, Christine Miller, and Thomas M. Thorley—must be understandably proud of Tom Thorley's many accomplishments.

PANAMA CANAL DEFICITS

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 9, 1976

Mr. FINDLEY. Mr. Speaker, Allan A. Seiler, editor of the Pike Press weekly newspaper, Pittsfield, Ill., has a reassuring word for those uptight about the possibility that the United States may give up the Panama Canal. In the June 2 issue of the newspaper, he wrote:

About the Panama Canal

Lots of folks seem worried that the United States is about to give away the Panama Canal.

Relax. The possibility is remote.

The canal has started to run its first operating deficits since it opened in 1914. Canal traffic which had grown steadily over the years, fell in 1975, with a further decline this year considered likely.

Uncle Sam is not about to give up something that is operating at a deficit.

SENIORS CALL FOR DEREGULATION OF NATURAL GAS PRICES

HON. SHIRLEY N. PETTIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 9, 1976

Mrs. PETTIS. Mr. Speaker, during mid-May, the 1976 National Invitational Senior Conference on Energy was held in North Wildwood, N.J.

This conference was sponsored by the National Alliance of Senior Citizens as their Bicentennial event for Older American's Month. Energy was selected as the inaugural issue due to the overwhelming importance of energy sufficiency to our Nation's future as an industrial and agricultural power.

Senior citizens, energy experts and a host of concerned persons gathered at this conference to explore the options in energy for a strong America.

Mr. Speaker, during this conference, many hours of testimony and recommendations were presented on the various energy issues. At this time, I would like to insert the "Initial Report of the Select Panel on Natural Gas" which was drafted during this conference. This report represents a partial overview of senior Americans national energy policy recommendations regarding natural gas and provides an excellent indication of how our senior citizens feel about our Nation's energy problems:

Initial Report of the Select Panel on Natural Gas: Congress Must Deregulate Natural Gas Prices

The Select Panel on Natural Gas of the 1976 National Invitational Senior Conference on Energy was marked by its concern over the future of natural gas supplies.

Among the topics considered were decontrol of all natural gas prices, employment, offshore drilling, governmental policies, environmental impacts, industrial and agricultural usage, coal gasification, supply increase methods and methane solid waste conversion.

The input of experienced seniors, consumer, industrial and producing interests all called for decontrol of prices. Environmental groups have long supported such action, recognizing natural gas for its clean properties as a fossil fuel.

Since 1954 America has paid an artificially controlled price for natural gas. The number of gas producers has diminished from 18,000 in 1956 to 4,000 in 1971, the year our nation reached the point where natural gas demands exceeded our ability to produce and supply the gas. More than 58,000 wells were drilled in 1956 while less than half that number were drilled in 1971. Thus price controls have not only caused shortages through economic constraints, they have also driven many individuals out of business.

This artifically cheap fuel which has the best record in environmental cleanliness has therefore become very much in demand. It has severely hampered the normal growth of the coal industry, a phenomenon we can expect to regret for many years to come as coal resources become more and more vital to our energy production.

With production costs rising in the gas industry as in virtually everything in our society, the pure economics of reasonable expectation of profit, or just breaking even has effectively prohibited new production.

Consumers in controlled states (non-producing states) currently pay 85% of their residential gas bill for pipeline and distribution expenses, a constant cost. With present 15% shortfall of supply under demand, the amount paid to fulfill that 15% was as much as the total cost of the other 85% of the delivered gas. This 15% is not natural gas, but fuel oil, synthetics or liquefied Algerian gas, and the cost is enormous.

Thus the profits from American energy consumption are being exported to the Arabs because Congress refuses to allow the domestic producers to charge reasonable rates for their product. The conference stressed that even with $2 per one thousand cubic feet (MCF) at the wellhead, consumers would still have lower home heating bills.

Add to this the thousands of jobs and countless other wage hours lost due to both permanent and temporary industrial plant closures from gas shortages, and the case for decontrol is overwhelming.

The major force behind today's crisis is the United States Congress. Congress must immediately decontrol onshore and offshore, old and new and future natural gas prices. Anything short of this action would be a further irresponsible slap in the face of American consumers, and most particularly of those living on fixed incomes.

Congressmen who continue to rail about "consumer protection" with controlled natural gas prices at 52 cents MCF, while forcing the gas suppliers to secure their gas from the Algerian liquefied gas and synthetics at up to $5.35 MCF are playing the cruel political game in Washington, and it must not be allowed to continue.

Decontrolled "intrastate" prices are now around $2 MCF, but new long term contracts for delivery where such prices are allowed are being signed at between $1.30–$1.50 MCF, proof that supply will control prices in a way to assure demand is met at the lowest possible cost through competition.

America's alternative energy sources, including nuclear, solar, and the myriad of minor possibilities such as geothermal, wind, nuclear fusion, wood and tidal are still far in the future. For today's needs we must secure new supplies of natural gas and rush them to the market for immediate use.

There is a 36–65 year supply remaining from new natural gas sources which are presently known. While we must stress conservation, we must also meet demands which require the particular properties of natural gas.

These supplies are in the Atlantic Ocean's Outer Continental Shelf (OCS), in Alaska and her offshore areas, in new Gulf of Mexico fields and the Rocky Mountains as well as off the Pacific coast. Additional supplies are feasible from coal gasification projects which are under intensive development, and from the less desirable importation of liquefied natural gas.

A topic of considerable discussion is offshore drilling on the Atlantic OCS area, including the offshore region of New Jersey. Experts discussed the process whereby this vital resource would be brought to residences and industries. One of the Select Panelists, himself a Professional Geologist, personally conducted one of the largest geophysical surveys ever made off the East coast of the United States (Norfolk, VA to Canada and offshore up to 200 miles,) and reported his belief, widely shared by other experts, that there are sufficient quantities of natural gas offshore to cut East coast utility bills as much as one half.

An environmental expert detailed the ecological effects of such drilling and the pipelines reuqired to bring the gas onshore and into the domestic gas system. There are no "oil spill" dangers for gas, or for oil for that matter due to the new anti-spill devices on offshore equipment drilling in the OCS area.

The nautral gas industry has an excellent record of environmental protection onshore, and has fully explored pipeline construction methods through Atlantic wetlands to guarantee minimal short term impact and long term interference free operation. Such measures include backfilling any trenches to achieve immediate re-entry of marsh grasses and foliage-inhabiting animals.

One of the critial problems of natural gas production is the long delays in moving from the leasing stage to the production stage due to actions by those who oppose any new action by business interests. Reasonable objections are fully expected, and if justified, should cause the gas production process to never begin. In cases wherein objections are based on specious grounds only for the sake of halting progress, unwarranted delays have caused projects to be cancelled as inflation exceeded the opportunity for return. Other delay ramifications directly accrue to the consumer with lack of the needed fuel and higher prices. The result of undue delays are less supply and additional dependence on importation.

Congress must define and place definite time constraints upon such objections as it moves to tackle the problem it caused in 1954. The conference expressed its sense of concern for environmental dangers where valid substantive evidence can be presented to warrant delays and "additional studies." It expressed equal concern for the irrational delays which have denied consumers much of the gas they require to retain their employment and to heat their homes. Others have lost their jobs or hours on the jobs due to these artificial shortages.

The oil and natural gas industries comprise the petrochemical industry. This industry changes oil and gas into basic materials for chemical, plastic and textile products, and contributes to every facet of our lives.

This converts to jobs for the future as well as jobs for today. Last Winter, Ohio lost 61,000 man days of employment due to gas shortages while more than 400 plants were closed in North Carolina alone for that reason.

The conference found the position of organized labor on the decontrol issue completely at variance with the best interests of their members and therefore totally unacceptable.

America should now know from its experiences and those of other nations that the magic hocus pocus of wage and price controls do not work. They create shortages and long range market anomalies which take years to correct. Political demalogues continue to rally the ignorant with such blatantly false cures, but the American people reject this imposed and self-defeating "solution." The conference will convey this message to the Congress, and the National Alliance of Senior Citizens will work for decontrol in the interest of providing gas to those who need it most, our senior Americans.

Another critical dependency America has developed for natural gas is that of agricultural production. American agricultural production is only possible with the natural gas energy consumed on farms which totals 38 percent of the total as opposed to gasoline at 28 percent. Insect, pest and weed eradication are performed by products made from natural gas, and of course, nitrogen for fertilizers, are a product of natural gas.

America's favorable balance of trade over even the high oil importation months is only possible because of the bumper crops of our agricultural community and the natural gas upon which they depend for their record production.

Aside from the naturally occurring natural gas, America is seeking other sources of supply for this vital resource. It is common knowledge that foreign sources are unreliable and should be avoided except as a final alternative. There is no reason for foreign dependence, for our producers can provide the domestic needs if they are merely allowed to charge the price required, which is far less than foreign sources charge.

It was the sense of the conference, that continuing discussions about assisting the Soviet Union in developing her Siberian gas resources is totally unrealistic and counter to our national interests. Logic is lacking to believe the Soviets dependable, and to expend huge sums of American tax dollars to develop their sources, and then pay them excessive amounts to import a product our own industry can produce without tax dollars, and to bring to market at much lower costs with much greater reliability.

Coal gasification is an alternative which is currently being explored. This would require financial commitments from the quire financial commitments from the taxed public through government guaranteed loans due to the huge capital outlays and the uncertainty by banking interests based on previous Congressional policy behavior. Industry would not desire to enter this expensive process unless they had reasonable expectations of adequate returns, so the loans are not a normal subsidy with such a course counter to the normal funding directions. Coal gasification is indeed economically feasible with realistic price expectations, government loan guarantees would be used to assure financial institutions of the commitment of the United States government to this extremely expensive, but necessary, process.

An excellent and compelling presentation was delivered from the Reutters Company of Camden, New Jersey on the successful conversion of Gas from solid wastes, and the economic feasibility of this process.

Natural gas is a great American resource, providing jobs, food production, heat, industrial products and plays an absolutely vital role in our lives.

The 1976 National Invitational Senior Conference on Energy recognizes the immediate need for decontrol of natural gas prices, and gives its strongest support to such action by the Congress.

RETIREMENT OF JOHN J. MARTIN

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 9, 1976

Mr. LENT. Mr. Speaker, I rise in tribute to a man whose lifelong record of good works for the benefit of his community has earned him the respect and admiration of thousands upon thousands of people in the Fourth Congressional District of New York, which I am privileged to represent.

John J. Martin will be retiring this month as a member of the North Merrick Board of Education. In large measure, Mr. Martin is responsible for the high quality of education which characterizes that school system. He has been a tireless worker, and his career as a trustee of the North Merrick Board is a model of selfless public-spirited community service.

His wisdom and long experience will be missed, but what John J. Martin accomplished will benefit generations of North Merrick citizens far beyond our lifetimes. John J. Martin will be missed but never forgotten.

I know I speak for the people in North Merrick in wishing him continued health and happiness as he retires, but the more enduring testimonial to John J. Martin exists and will always exist in the hearts and minds all of those people whose lives have been improved because of his dedication and devotion to his community.

THE HUMPHREY-HAWKINS BILL—BLUEPRINT FOR A GOVERNMENT-CONTROLLED ECONOMY

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 9, 1976

Mr. ASHBROOK. Mr. Speaker, on May 4 the House Education and Labor Committee approved H.R. 50, better known as the Humphrey-Hawkins bill. This legislation poses a grave threat to our free enterprise system and the individual liberty of every American.

Passage of H.R. 50 would result in a major restructuring of our economy. Its entire thrust is toward central economic planning. The Federal Government would become intimately involved in virtually every aspect of our economy and our lives. We would have big government spelled in capital letters.

The primary goal of the bill is a full employment economy. It mandates that unemployment be reduced to 3 percent within 4 years. Under this proposal the Federal Government would become the employer of last resort. The Government would be required to provide a job to everyone 16 years of age and older who says he wants one.

To attain its stated employment goals H.R. 50 establishes elaborate governmental machinery and detailed planning requirements. Each year the President would be required to prepare and submit to Congress a national economic plan.

This plan would include specific numerical goals for employment, production, and purchasing power. The President would also be required to stipulate the policies to be followed in achieving those goals. He would have to make specific proposals in areas such as public works, countercyclical revenue sharing, credit policy, and a host of other fields.

And how long would the President have to put together this comprehensive plan to solve the Nation's economic problems? Only 90 days. This is absolutely ridiculous.

The Federal Reserve would also be brought into the planning process. It would be transformed into a political tool, mandated to direct its attention to only one national goal, that of unemployment. Other vital economic issues, such as inflation and high interest rates, would take a back seat to this single-minded and, I must say, simple-minded approach.

Apparently the sponsors of this bill believe that the Federal Government is like Divine Providence, that it can provide for everybody's wants and needs and master any problem. Apparently the promoters of this legislation believe centralized economic planning is preferable to our free enterprise system.

These are foolish beliefs. All we have to do is look at England to see the complete and utter failure of national economic planning. The more the Government has intervened to restrain inflation and recession the worse these problems have become.

Instead, this bill would raise false hopes—hopes that cannot possibly be fulfilled. It would also lead us down the path to economic ruin.

The inflationary impact alone should be enough to justify defeat of this bill. The methods used in H.R. 50 to get unemployment down to the 4-percent level would result in an unacceptable increase in inflation.

According to an independent Library of Congress study, it would probably push the rate of inflation above 10 percent. The Congressional Budget Office has stated the Humphrey-Hawkins bill "could result in lower unemployment but at the risk of substantially higher inflation."

Our Nation can ill afford to adopt a policy that will foster double-digit inflation. Americans are already having a hard enough time making ends meet without the Government further eroding the value of the dollar.

The bill would also place a hefty burden on the taxpayer. Cost estimates range anywhere from $16 billion to $48 billion a year. Can we afford such large expenditures at a time when our budget deficit is already in the $75 billion range?

The sponsors of H.R. 50, however, have little regard for problems such as these. Their only concern is unemployment and let the rest be hanged. As an editorial in the May 6, 1976, Washington Star Comments:

> The Humphrey-Hawkins bill takes a one-dimensional, Johnny-one-note approach to economic planning, and seems geared to subordinate other important economic and institutional values to a magic figure of unemployment that may not be attainable. The best one can say of the legislation is that it's out of date, and that it seems likely to over-promise and under-deliver simplistic answers to complex problems.

TRIBUTE TO MARC THOMAS DONATO

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 9, 1976

Mr. WAXMAN. Mr. Speaker, in May, Marc Thomas Donato received the Eagle Scout Award at the Court of Honor of Troop 139, held at the Campbell Hall School in North Hollywood, Calif.

Marc is a student at Walter Reed Junior High School. He became a Boy Scout in February of 1972 in Troop 18, North Hollywood where he advanced in rank from Tenderfoot to Second Class. In October, he transferred to Troop 139, Campbell Hall School.

While in Troop 139, he was assistant patrol leader, scribe, instructor—family living, and citizenship. He has earned 24 merit badges.

His Eagle Scout project was the development of an ecology pond situated in the Sepulveda drainage basin, Van Nuys, Calif., for the city department of recreation and parks, which is the first such project of its type ever developed in the San Fernando Valley and will be utilized by various youth groups, schools and general public for the observation of wildlife in its nature setting.

Marc has a wonderful record of accomplishment and shows promise of outstanding future.

It is my pleasure to express to my colleagues and to Marc my sincere congratulations.

NEW INSTRUCTIONS ON PACKAGES SENT TO THE U.S.S.R.

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 9, 1976

Mr. EILBERG. Mr. Speaker, the Soviet Union is continuing to violate the human rights of its citizens in contravention of the provisions of the Helsinki Declaration it signed last August.

The Soviet government's refusal to allow its citizens the basic rights of emigration is, of course, well known. Additionally, there was the infamous exit tax based on the education level of persons who were allowed to leave.

It has also been Soviet policy to persecute its citizens who even ask for permission to live in another country. This is especially true of Soviet Jews, who are fired from their jobs, harassed on the streets, forced out of their homes, and imprisoned on trumped-up charges.

The supporters of these people had attempted to help them by sending them money to live on, but this aid was terminated by a new exorbitant tax on money sent to persons in the Soviet Union.

However, assistance was provided by sending packages of clothing and other goods which could be sold as a means of support. Now, we have learned that the Soviet authorities plan to impose another tax on June 15 which would raise the import duties on these packages to impossibly high levels, and in fact, they will impose this tax retroactively on parcels which have not yet been delivered.

While the regulations will affect all Soviet citizens, including Ukrainians, Bielorussians, and those persons in the Baltic States, who have relatives in Western countries and were the recipients of parcels for decades, the Jewish activities are the only group of people without significant employment possibilities. They will suffer the most, especially those Soviet Jews in the border and isolated areas.

Mr. Speaker, the Soviets must be

shown that this continued policy of harassment will not be successful. Certainly, the people of the Soviet Union who are trying to win freedom have not shown any willingness to slacken their efforts or compromise. Can we do any less? Only by continued support for these people can we convince the Soviet's that if they want something from us they will have to make concessions concerning these basic human rights.

At this time, I enter into the RECORD an analysis of the new Soviet tax prepared by the National Conference on Soviet Jewry:

NEW RESTRICTIONS ON PACKAGES SENT TO THE USSR

According to information now available, on June 15, 1976, the Soviet Union will put into effect new restrictions on the size and value of parcels which may be sent into the Soviet Union.

The new regulations will raise the assessed value of some items sent into the Soviet Union by eight or ten times their normal value. This will have the effect of raising the import duty, already at 70% of assessed value, in proportion to the newly assessed amount.

In addition, limits will be placed on the quantity and types of goods which may be sent; until now there have been no restrictions on how many items a package could contain.

For example, under current regulations in effect since 1969, there is no limit to the number of women's skirts or blue jeans which may be included in a parcel. Under the new restrictions, a parcel could include only two skirts or two pairs of jeans. The inclusion of either skirts or jeans would make it impossible to send any jackets, knitted blouses, sweaters or vests in the same parcel. The duty on jeans would be increased almost 1000%; from 1.18 rubles a pair to 10.00 rubles a pair. Men's clothing would be similarly affected.

Previously, five mohair scarves, at a duty of 2.25 rubles each, could be sent in one parcel. The new regulations limit the number of mohair scarves per parcel to two. The duty is also raised to 10.00 rubles for each scarf.

There was no limit on the number of blankets per parcel under the old rules. Now only one blanket is allowed per parcel. Cotton blankets were assessed at 1.35 rubles each and all other blankets at 3.15 rubles each. Under the June 15th regulations, all blankets, regardless of fabric or quality, will be assessed at 10.00 rubles each.

To complicate matters, a shipload of 7–8,000 packages was detained in the USSR in September 1975 and stored in a Moscow warehouse. Each package is being systematically inspected and the new restrictions are being retroactively placed on the September packages. It seems, however, that the October–May packages were not detained.

The results of these regulations will be to raise the cost of sending one $250.00 package to $600.00, which will have to be sent in three installments.

MAINTAINING A PERSPECTIVE ON THE FUTURE

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 9, 1976

Mr. TEAGUE. Mr. Speaker, with all of the problems perplexing our Nation today, it is all too easy for we as national leaders to become shortsighted. In our attempts to deal with today's problems we must also maintain an outlook for the future. Dr. James C. Fletcher, Administrator of our space agency recently outlined the promise of space for our future generations in a guest editorial for experimental mechanics. I am including the text of this editorial in the RECORD.

In a few months we will celebrate the 200th Anniversary of our nation. As we approach this historic milestone, we become more aware of our country's heritage and our accomplishments as a free people over the past two centuries. In looking back, however, we should keep in mind that the American Experiment is about to cross the threshold of a third century and the past is prologue. What we have accomplished as a nation is the direct result of the vision and foresight of the Founding Fathers. Had they failed to consider future alternatives, it is unlikely that America would have achieved the greatness it enjoys today among the world's nations.

One of today's most promising alternatives for the future is the American space program. Its phenomenal successes have enhanced our national prestige, elevated America to technological leadership in the world and produced an impressive array of benefits which bear directly on the quality and security of life for all.

While we can be justifiably proud of these accomplishments, we must guard against complacency. The benefits from space we now take for granted are the products of yesterday's foresight, not today's hindsight. As our forefathers, we must maintain a future perspective. We cannot allow ourselves to become shortsighted, or to permit emotional, political and economic considerations of the present to halt our flight into the future. Unless we move forward in space with the same adventuresome spirit that characterized the earlier years of the Space Age, we will forfeit the vast potential that space exploration holds and inherit tomorrow's problems instead of tomorrow's dreams.

These dreams can become reality. But to attain them we must temper the current philosophy that demands an immediate dollar return on space expenditures. In the long run, the visionary approach to space will prove to be far more valuable than the attainment of immediate practical benefits. We should, for instance, be giving attention to orbiting solar platforms to harness the unlimited power of the Sun as a means of solving our long-range energy needs. We should be thinking about orbiting space stations. Crewed by international teams of scientists, medical researchers, engineers and technicians, these space bases would provide an unmatched capability for studying and monitoring the Earth's weather, resources and environment.

We should not ignore new concepts such as inhabited space colonies—orbiting communities housing up to 10,000 persons—which would enable us to utilize the unique qualities of weightlessness and vacuum for medicine, manufacturing and energy production.

We should expand our exploration of the Moon and planets to gain a better understanding of our own world, and to prepare for the day when these distant spheres may be looked upon as havens from a ravaged and teeming Earth. We should consider exploration of the stars and tuning in on the conversations of the galactic community, for among the stars of the galaxy, lies our ultimate destiny.

The rewards and promises of space are staggering to contemplate. Our ability to achieve them is limited only by the restrictions we place upon ourselves.

CENTER FOR CONSTITUTIONAL RIGHTS: BRINGING DOWN THE SYSTEM THROUGH THE SYSTEM

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 9, 1976

Mr. McDONALD. Mr. Speaker, from the days of the Comintern's International Red Aid and its U.S. section, the International Labor Defense, the revolutionaries have recognized the need for radical lawyers in rendering "material and moral aid to the imprisoned victims of capitalism." Since 1936, the principal Communist Party, U.S.A., front for lawyers has been the National Lawyers Guild—NLG—which although it contains Maoist, New Left, and Castroite members remains firmly within the Soviet camp serving as the U.S. affiliate of the Soviet-controlled International Association of Democratic Lawyers—IADL.

The Center for Constitutional Rights—CCR—has worked since 1966 "as a legal instrument of the people." CCR states that it was created to play "a central role in advancing the goals of progressive organizations and individuals while protecting them as they engage in their struggles." State the CCR staff: "We are activists in a struggle for justice and against illusory democracy."

Analysis of CCR activities over the years indicates clearly that the "illusory democracy" CCR is struggling to destroy is the elected representative government established under our Constitution.

On September 10, 1975, pages 28533–28535, I provided a detailed report on the Center for Constitutional Rights together with brief profiles of its leading personalities, which remain essentially the same. CCR's curent officers and staff include:

President: Benjamin E. Smith, New Orleans, La. (deceased).

Treasurer: Robert L. Boehm, New York, N.Y.

Volunteer Staff Attorneys: Arthur Kinoy, William M. Kunstler, Morton Stavis, Peter Weiss, New York, New York.

Staff Attorneys: Rhonda Copelon, Doris Peterson, Elizabeth M. Schneider, Nancy Stearns.

Staff: Elizabeth Bochnak, Dianne Boesch, Georgina Cestero, Gregory H. Finger, Isabel Malavet, Lisa Roth, Jeffrey Segal, Joan L. Washington.

Board of Cooperating Attorneys:
Daniel L. Alterman, New York, N.Y.
Mark Lemle Amsterdam, New York, N.Y.
William J. Bender, Seattle, Wash.
Edward Carl Broege, Newark, N.J.
Alvin J. Bronstein, Washington, D.C.
Haywood Burns, New York, N.Y.
Ramsey Clark, New York, N.Y.
Vernon Z. Crawford, Mobile, Ala.
I. T. Creswell, Jr., Washington, D.C.
William C. Cunningham, S.J., Santa Barbara, Calif.
Michael I. Davis, New York, N.Y.
William J. Davis, Columbus, Ohio.
Bernard D. Fischman, New York, N.Y.
Janice Goodman, New York, N.Y.
Jeremiah Gutman, New York, N.Y.
William L. Higgs, Albuquerque, N.M.
Philip J. Hirschkop, Alexandria, Va.
Linda Huber, Washington, D.C.
Susan Jordan, San Francisco, Calif.
Percy L. Julian, Jr., Madison, Wisc.

C. B. King, Albany, Ga.
Beth Livezey, Los Angeles, Calif.
George Logan III, Phoenix, Ariz.
Charles M. L. Mangum, Lynchburg, Va.
Howard Moore, Jr., Berkeley, Calif.
Harriet Rabb, New York, N.Y.
Margaret Ratner, New York, N.Y.
Michael Ratner, New York, N.Y.
Jennie Rhine, Berkeley, Calif.
Dennis J. Roberts, Oakland, Calif.
Catherine G. Roraback, New Haven, Conn.
Michael Sayer, Gardiner, Me.
Paul Schacter, San Juan, P.R.
Benjamin Scheerer, Cleveland, Ohio.
Helen E. Schwartz, New York, N.Y.
David Schribner, New York, N.Y.
Abbott Simon, New York, N.Y.
Tobias Simon, Miami, Fla.
Richard B. Sobol, Ann Arbor, Mich.
Michael Standard, New York, N.Y.
Daniel T. Taylor III, Louisville, Ky.
Bruce C. Waltzer, New Orleans, La.

As Saigon and Phon Penh fell to the Communists, children who had been placed in orphanages run by American organizations who included children of Vietnamese and Cambodian employees of the U.S. Embassies were evacuated in a "babylift." The Communists howled with protest and demanded the children be immediately returned to be raised under their totalitarian system. The Vietnamese Communists would also like to track down the parents and any relatives of the airlifted children to mete out appropriate punishment for sending the children to be raised in America, and to force them to write letters asking for the return of the children.

The CCR admits that its staff attorneys were immediately contacted by California antiwar groups which had been supporting the Vietnamese Communists. CCR, with the assistance of California lawyers, quickly filed a class action suit "on the children's behalf" seeking to send them back to Vietnam and "prevent the finalization of any adoptions."

The CCR lawyers have sought photographs and copies of the files on each child, as well as interviews with them by Vietnamese-speaking activists. The CCR and the activist groups seeking return of the children to the care of the Vietcong have attacked the Government attorneys and lawyers for several private adoption agencies for "raising the unsupported spectre of reprisals by the Saigon Government against the Vietnamese parents." However, Vietnamese broadcasts and some newspaper items have fully supported the fears of a bloodbath with reports of women seeking husbands who had worked for the Republic of Vietnam Government, who had been police or army officers, or who had worked for Western embassies who have never returned from reeducation centers.

The case, *Nguyen Da Yen, et al.,* v. *Kissinger, et al.,* C-75-D389-SW (N.D. Cal.), is being handled for the CCR by Nancy Stearns, with Mort Cohen, Michael Davis, Neil Gotanda, Thomas Miller, and Dennis Roberts.

BAADER-MEINHOFF SUPPORT

Several members of the Red Army Faction, more popularly known as the Baader-Meinhof gang, are on trial in West Germany for crimes including terror bombings of U.S. Army and West German police facilities in which both Americans and Germans were killed, bank robberies, shootings of police, and having provided the logistical backup for the Palestine Liberation Organization's Black September squad which slaughtered the entire Israeli Olympic team in Munich.

The gang members have included several "New Left" lawyers several of whom have been jailed and disbarred. The lawyers carried messages between the arrested gang members and their comrades and supporters on the outside. In December 1975, a Palestinian terrorist commando unit attacked the OPEC oil ministers meeting in Vienna. The terrorist leader was identified as Ilyich Ramirez Sanchez, alias Carlos the Jackel, the young Venezuelan-born, Soviet-trained assassin who has worked with Palestinian terrorists apparently with the Cubans acting as his controllers. Another member of the terrorist group who was shot and left behind by his comrades for medical treatment was a law clerk who until that very week had been working for the Baader-Meinhof defense lawyers.

West Germany has passed several antiterrorism laws which include provisions permitting a judge to remove defense lawyers for misconduct in these special cases, and permitting a judge to sit in on attorney-client conferences to prevent abuse of attorney-client privileges.

CCR attorneys William M. Kunstler, William H. Schaap, Peter Weiss, and Ramsey Clark, the former U.S. Attorney General, "joined with several European lawyers, at the defendants' request, and asked the court to be allowed to represent them. This was denied."

Other CCR cases of interest include In re Burns, et al., an attempt to quash subpenas of 12 "political activists" including leaders of the Prairie Fire Organizing Committee, the New York Women's Union, a Black Liberation Army support committee, and three NLG attorneys issued subpenas by a grand jury investigating an escape attempt by Black Liberation Army members from a New York City courtroom; and In re Raymond, an effort to squash subpenas from a grand jury investigating the harboring of admitted revolutionary bank robber Susan Saxe and a cofugitive.

United States v. *Delfin Ramos,* 74 Crim. 312 (D.P.R.)—Ramos, a member of the Puerto Rican Socialist Party, was charged with Federal bombing offenses after explosives were discovered buried under the floor of his house by FBI agents executing a search warrant. The CCR states:

> Ramos was charged with violating the federal Explosives Control Act. This case is the first political prosecution brought by the federal government in Puerto Rico since the anti-colonial upheavals of the early 1950's. * * * CCR attorneys are representing Ramos in such a way as to expose the government's political motivations for prosecution, as well as revealing the oppressive nature of the colonial relationship itself. Among the many pre-trial motions that have been filed are a demand that the proceedings be held in Spanish, a challenge to the composition of the jury * * *, and a motion setting an evidentiary hearing on FBI and CIA counterintelligence activity in Puerto Rico.

CCR attorneys are Rhonda Copelon, Liz Schneider, Nancy Stearns, William H. Schaap, with Jose Diaz Asencio and Graciany Miranda Marchand.

State of North Carolina against Joan Little—CCR states:

> The CCR * * * was called upon to assist the defense in challenging the racial composition of the grand jury which indicted Joan Little, and in preparing the defense motion for a change of venue * * * . Although the grand jury challenge was not successful, the venue motion was granted on the basis of documentation of overwhelming racial prejudice and presumption of guilt * * * .

CCR legal papers were prepared by Rhonda Copelon as an activity of the National Grand Jury Project, created early in 1975 by the National Lawyers Guild, the CCR, the National Conference of Black Lawyers, the Civil Liberties Defense Fund, and the National Emergency Civil Liberties Committee, a Communist Party front.

A sidelight to the Little case has appeared in an article in the Columbia Journalism Review, March/April 1976, by free-lance journalist Mark Pinsky who has covered various "political" trials in North Carolina and who confesses his advantage "because during the 1960's I went to school with, or worked in various political movements with, many of the defense attorneys and defendants in such trials." Pinsky noted:

> The reason they trust me is because they think that we are on the same side. In the best newspaper tradition, I do nothing to discourage this feeling, and in this case they are right.

Pinsky continued:

> * * * the great untold (or unreported) story of the Joan Little trial, which I first learned from members of the defense law firm and the defense committee, was the role of the Communist Party, through its National Alliance Against Racist and Political Repression, in controlling the entire (and considerable) political movement surrounding the case. * * *
>
> The anomaly was that straight reporters did not report this situation, out of a concern that the information might be used in red-baiting * * * . Reporters representing leftist, feminist, and black publications, frustrated by what they considered to be the National Alliance's extremely conservative political strategy, felt unable to openly criticize the Communist party for much the same reason.

State against H. Rap Brown, Supreme Court, New York—CCR tells how its attorneys are trying to free convicted armed robber and militant revolutionary H. Rap Brown on the grounds that since the FBI actively sought to make it difficult for him to organize a revolutionary movement, he must not be imprisoned for any crimes he actually did manage to commit:

> After a lengthy trial, the jury in the trial of H. Rap Brown and his three codefendants was hopelessly hung on the charge of attempted murder. However, all defendants were convicted of robbery in the first degree and other crimes and Brown was sentenced to a term of five to fifteen years in a state prison. * * *
>
> In July, 1974, CCR attorneys filed a motion to vacate the conviction based on documents,

> revealed as a result of a Freedom of Information Act suit brought by a journalist, detailing the existence and activities of COINTELPRO, * * *.
>
> The FBI now officially concedes that Brown had been a target of COINTELPRO * * * and New York Supreme Court Judge Fraiman has ordered the FBI to disclose any electronic surveillance of Brown or face an evidentiary hearing on the matter. Amidst much outrage over such unconstitutional government activities as COINTELPRO and the infamous Huston Plan, a number of other lawyers and groups are using the CCR's COINTELPRO motion as a model for their own litigation. * * * Jesse Berman, William M. Kunstler, Liz Schneider.

CCR'S NONLITIGATIONAL WORK

The Center for Constitutional Rights does not limit its activities to litigation. CCR "educational" activities include the distribution of briefs, motions, and memoranda to other attorneys litigating in areas similiar to the CCR; the publication and distribution of the CCR Annual Report and Docket Report and docket updates.

CCR is expanding its project to provide articles written in layman's language as well as a series of articles to be published in law reviews containing the more technical details. One such article, "The One-Sided Sword: Selective Prosecution in Federal Courts," by former CCR staff attorney Mark Amsterdam, was sent to 1,000 attorneys, law libraries, law students, and legal workers. Other mailings are to include bibliographies of CCR case materials, law review articles, and other literature written by CCR staffers.

In the spring of 1975, the CCR prepared a sample letter to the CIA and suggested to its contributors that they use the Freedom of Information Act to request the CIA, FBI and any other Government agencies requesting any personal files they might have. CCR reports that it has received some 300 responses and notes "it may take several months to complete the investigation and analyze the results."

The CCR lawyers have been conducting "training sessions" in their areas of specialization, "such as wiretap law, grand jury abuse, and jury composition and selection, at the request of the National Lawyers Guild and the National Jury Project." The National Jury Project—NJP—is a project of the NLG; CCR; National Conference of Black Lawyers, which can be characterized as an all-black counterpart of the NLG whose leaders also hold long-standing NLG membership; the Civil Liberties Defense Fund—CLDF—and the National Emergency Civil Liberties Committee—NECLC.

The NJP grew out of such "political" defense work as the Angela Davis trial where sociologists, psychiatrists, and defense lawyers developed questionnaires and cross-examination techniques designed to elicit even subconscious adverse attitudes among prospective jurors against the Communist Party, U.S.A., and blacks. The techniques have been expanded to cover attitudes against homosexuals, revolutionary activists, minority groups, and other categories of defendant. In other areas, successful challenges to grand jury indictments have been mounted on grounds that the grand jury composition did not reflect an exact balance of all ages, occupations, and ethnic groups in the area. CCR reports:

> CCR staffpersons have been actively involved with the NJP since its inception, serving both on its Executive Board and the Steering Committee. Rhonda Copelon worked on the jury composition challenge in the case of State v. Joan Little * * * and Greg Finger worked on the jury selection project for the case of United States v. Pat Swinton. In both cases, the result was complete acquittal. * * *

CCR'S RECRIMINATIONS COMMITTEE

The Center for Constitutional Rights, in an effort to instruct America in what the Vietnamese Communists call the "lessons of the war," formed a Recriminations Committee, now renamed the National Study Committee on Indochina. States CCR: "The American people must remember Vietnam, as the German people must remember Auschwitz, and the Japanese people remember Hiroshima." They continue:

> Under the auspices of CCR, a large group of anti-war activists and scholars is attempting to compile information about both the war, and the war crimes of many of our "leaders" as well as plan some form of monument to the Vietnam war. CCR has provided legal and logistical support for plans to create a Veitnam people's archives and museum, to preserve the history of the war; and CCR attorneys have participated in plans to continue the investigations of scholars into the real decision-making processes during the war—through Freedom of Information Act lawsuits—and to aid the scholars in the preparation of informative indictments of government figures, using many of the principles of Nuremberg.

"Contributions for these activities," notes the CCR, "are tax deductible and within the provisions of the new Tax Reform Act."

THE NEED OF THE ELDERLY: A MORAL IMPERATIVE

HON. DONALD W. RIEGLE, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 9, 1976

Mr. RIEGLE. Mr. Speaker, one of the most urgent problems in this country today is finding a way to meet the needs of our elderly people and retirees. We have yet to achieve the goal of an adequate retirement income for all of our senior citizens despite previous legislation passed by Congress.

It is true that social security benefits have been increased and a supplemental security income program established to provide an "income floor" for our elderly, blind or disabled citizens. And, the Congress did act in 1974 to make many private pension plans more secure by the pension reform law.

But these changes have been modest and the essential problem of providing an adequate income for our elderly has not yet been solved. The elderly are still the most economically disadvantaged group in the Nation; in fact, poverty and old age go hand in hand. One out of every six people over 65 lives in poverty, and many more do not have incomes sufficient to meet a survival standard of living. People who are poor all their lives usually remain poor as they grow old. And these poor are joined by many others who become poor through economic hardships. Quite often, these are people who have worked hard all their lives, sacrificed for the needs and future happiness of their children, and saved in anticipation of their old age and retirement. Then, through no fault of their own, inflation, illness, or other unforseen emergencies wipe out their limited savings and they are left to live on limited pensions, social security or supplemental security income payments which are far too meager.

While traveling around my district and the State of Michigan, I have met many of these people and I have seen firsthand the economic hardship and despair of these forgotten Americans. I am convinced that we must act now and with urgency to solve this problem. I consider this a moral imperative of the highest order. I have drafted a bill which I am introducing in Congress which will guarantee all of our elderly, blind, and disabled a minimum income payment that will lift them out of poverty and preserve their very lives and self-esteem and dignity.

INCREASED INCOME LEVEL

The provision of a basic SSI income at least at the poverty level was the original intent of Congress. The committee reports describe the new program as assuring that aged, blind, and disabled people would no longer have to exist on below poverty incomes. However, the amounts allotted for benefits were out of date even before implementation of the program began on January 1, 1974. The current SSI payments of $157.70 per month for an individual and $236.60 for a couple are inadequate to meet the basic needs of aging and disabled persons and equal only 75 percent of the poverty level. Furthermore, since SSI payments and the poverty level are both adjusted according to changes in the Consumer Price Index, SSI payments will not increase relative to the poverty level without an increase in the basic Federal payment.

My bill would increase the Federal SSI payment to $333 per month for an individual—$4,000 per year; and $460 for a couple—$5,500 per year and place the responsibility for insuring the aged, blind, and disabled Americans an adequate income standard of living on the Federal Government. The White House Conference on Aging, in 1971, recommended the intermediate retirement budget of the Bureau of Labor Statistics as the minimum income level for the elderly. This was $6,041 for a couple in autumn 1974. My bill would raise the benefit levels to an amount between the poverty level—$2,352 for an individual, $2,958 for a couple according to the latest Government figures—and the amount recommended by the 1971 White House Conference. Raising the benefit level by this amount will permit aging, blind and disabled persons to have adequate income to manage their financial affairs with dignity and at the same time provide fiscal relief to the States by eliminating the need for most State supplementation and dual administration making this a truly Federal income maintenance program.

The total cost to the Federal Government would be approximately $10 billion; about one quarter of this amount would be returned to the Government as this money is spent and new jobs and tax revenue are created. In addition, this increase would provide fiscal relief to the States which now spend almost $1.5 billion to supplement the Federal payment. Thus, the net cost is approximately $6 billion—approximately 1½ percent of the Federal budget and about the same cost as four Trident submarines.

SIMPLER ELIGIBILITY TESTS

Experience has shown that the existing stringent SSI income and resource tests have compromised the dignity of SSI recipients and created an atmosphere of humiliation among the aged, blind and disabled for whom the program was established. We now have policies and regulations that are too complex for equitable administration and too time-consuming and expensive when weighed against their benefits. I would prefer to have simplified, objective tests of eligibility that improve the effectiveness of the program and can be understood by everyone.

Currently, excluded are: a home valued to $25,000, and a car up to $1,200 and household goods up to $1,500. My bill amends the current provisions to exclude from consideration as resources: the home as long as it is occupied by the recipient, a care and household goods. Excluding the value of a home should not lead to abuses for a disproportionately expensive home would require a correspondingly high income for its maintenance. The values of household goods and autos are next to impossible to establish accurately as well as time consuming to determine. Moreover, because so many areas lack alternate means of transportation a car is a necessity for many.

My bill would also exclude the consideration of "in kind" income which is difficult to define and value. This provision is consistent with the elimination of the one-third reduction in benefits for persons living in another person's household.

While the current provisions I have mentioned may be less of a barrier to eligibility than might be expected, these determinations are expensive in terms of time and manpower, often result in inequities and I would like to see them eliminated.

VARIATIONS IN PAYMENT

The concept of a uniform payment level, with amounts varying only according to income, is a basic feature of the SSI program. A uniform payment allows administrative efficiency while providing a reliable source of income and permitting greater freedom of choice for recipients. Former public assistance programs provided assistance to meet individual circumstances and needs. SSI payment levels—countable income plus SSI—were intended to be uniform and vary only by income, not by individual expenditures or needs.

My bill is based on the concept of entitlement to a basic income regardless of place of residence. Current variations in payment levels have required complicated regulations to define various living arrangements, which are subject to variation in application and are not consistent with a uniform income security program. Eliminating benefit reductions based on a person's living arrangements would simplify and strengthen SSI as a uniform security program that provides equitable treatment of individuals.

Presently SSI payments vary with living arrangements in accordance with specific provisions in the legislation or as a result of treatment of in-kind support and maintenance as income. For example, a one-third reduction in the payment level is made when a recipient lives in another person's household. This provision can result in a decrease in payments when a recipient shares household expenses with others in order to economize. My bill eliminates these reductions.

In addition, my bill would eliminate the current reduction to $25 per month when an SSI recipient is in a medical institution. The change to a uniform payment level would not result in any additional real financial benefits to most SSI recipients since a recipient's SSI income would be substituted for State medicaid funds, however, this would provide fiscal relief to States and be consistent with the concept of a uniform payment level for all.

SPEED UP BENEFITS

Since the SSI program is based on need, any delay in processing applications and issuing checks creates an immediate financial crisis. Currently, eligible persons are waiting weeks and months for applications to be processed and checks to begin. This is indefensible. The SSI program can not fulfill the purposes for which it was establish unless it pays each eligible person promptly and adequately.

My bill would establish processing goals for initial decisions on an application—30 days for the aged and 45 days for the blind and disabled. In addition, my bill broadens the concept of "presumptive eligibility" and increases the emergency payment made on the basis of presumptive eligibility from $100 to the full SSI payment. This provision would allow decisions to be made immediately by the interviewer based on the evidence submitted, and if necessary observations of an applicant's physical condition, at the time of application.

Under present law, the Social Security Administration can start full benefit payments on this basis to an applicant who alleges he is disabled even before the process of determining eligibility is completed. I believe all SSI recipients deserve this same respect and treatment.

OUTREACH

Finally, because many aged, blind, and disabled persons are not receiving benefits to which they are entitled, my bill would include an outreach program. SSI is an entitlement. People have a right to receive benefits if they are eligible.

The original and revised estimates of the people eligible for SSI benefits and the current number of SSI recipients are still far apart. My bill would require the Social Security Administration to undertake a comprehensive outreach program and report to the Congress every 6 months on the progress of the program. Clearly, the program goal of an adequate income for all needy aged, blind, and disabled persons cannot be achieved if millions do not even know the program exists.

1976—THE YEAR TO ACT

I believe we have an opportunity in the Congress this year to modify the SSI program in such a way to assure an adequate income payment for all aged, blind, and disabled Americans. The cost would be reasonable and in the best interests of our Nation. The current tragedy facing our senior citizens is even more painful because in this country we have the resources to adequately provide for their needs. In this Bicentennial Year it is appropriate that we direct our resources toward this end to demonstrate to the world that a hallmark of our society is respect for old age.

We can end a vast amount of suffering being inflicted on our retirees and elderly people—and the time to do it is now.

ADM. CHARLES K. DUNCAN, FORMER SUPREME ALLIED COMMANDER

HON. TIM LEE CARTER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 9, 1976

Mr. CARTER. Mr. Speaker, I have known Adm. Charles Kenney Duncan for many years. In fact, we were in school together. He was the second Kentuckian to have become a four star admiral. His career was distinguished and all Kentuckians should be proud of his wonderful record.

I submit his résumé for perusal of the Members:

ADM. CHARLES K. DUNCAN, FORMER: SUPREME ALLIED COMMANDER ATLANTIC

Admiral Charles Kenney Duncan, U.S. Navy, became NATO's seventh Supreme Allied Commander Atlantic on September 30, 1970. At the same time he became Commander in Chief Atlantic (the United States Unified Command) and the Commander in Chief of the U.S. Atlantic Fleet. He retired from the U.S. Navy on November 1, 1972, in the grade of Admiral.

Admiral Duncan was Deputy Chief of Naval Operations (Manpower and Naval Reserve) and the Chief of Naval Personnel from April, 1968, to August, 1970. The Distinguished Service Medal was awarded to him for "exceptionally meritorious service" during that period. With the medal he received a citation that praised his "dynamic leadership and outstanding foresight," "his deep concern for the morale and welfare of Navy personnel," and "his dedicated service and brilliant record for achievement."

Previous to the assignment as Chief of Naval Personnel, Admiral Duncan has held a sequence of three major Atlantic Fleet Commands: the U.S. Second Fleet and NATO's Striking Fleet Atlantic (1967–68); the Atlantic Fleet Amphibious Force (promoted to Vice Admiral) (1965–67), and the Atlantic Fleet Cruiser-Destroyer Force (1964–65). For his service as Commander Amphibious Force, he was awarded the Legion of Merit with a citation that commended "his outstanding operational and planning ability, leadership and sound judgment."

Admiral Duncan had had earlier experience at both the Supreme Allied Commander Atlantic and Commander in Chief Atlantic/Atlantic Fleet Headquarters. He was a member of the Plans and Policy section of the Supreme Allied Commander Atlantic Staff the first year of that Command's activation (1952–53), and was Assistant Plans Officer on the Commander in Chief Atlantic/Atlantic Fleet (1948–51).

Three tours of duty in the Bureau of Personnel in Washington had preceded his tour as Chief of Naval Personnel. He was Assistant Chief of Naval Personnel for Plans and Programs (1962–64); Executive Assistant to the Chief of Naval Personnel (1953–55), and Director of Officer Procurement, Bureau of Naval Personnel (1944–46). More than 100,000 naval officers were commissioned while he was Director of Officer Procurement. During this latter period he served as a member of the Navy's "Holloway Board" to "Study the Form, System, and Method of Education of Naval Officers." The conclusions and recommendations of this Board established the modern NROTC and provided also for direct commission of college graduates at the Officer Candidate School, among other matters.

Admiral Duncan began his naval career at age 17 as a Naval Academy Midshipman. Upon graduation in 1933 he was commissioned as Ensign, U.S. Navy, and served for five years aboard the cruiser, U.S.S. *Salt Lake City* in the Pacific. He came to the Atlantic in 1938 to serve in several capacities in the destroyer *Schneck* (DD–159). He continued serving at sea as World War II approached, being assigned to the staff of the Commander Destroyers, Atlantic Fleet, at the time that command was formed in June, 1940. It was during this period, while turning over 50 destroyers to the British, that he met his wife, Sheila Taylor of Halifax, Nova Scotia, whom he married the following summer of 1941 in Bermuda.

He commissioned the destroyer *Hutchins* (DD–476) as Executive Officer in the Atlantic in 1942. After a short period in the Atlantic he went with her to the Pacific, taking part in combat action in the Aleutians and the South Pacific. He then commanded the destroyer *Wilson* (DD–408), taking part in combat actions in the South, and Central Pacific. For his service as Commanding Officer he was awarded the Navy Commendation medal with Combat "V", and a Gold Star with Combat "V" in lieu of a second award.

His post-World War II duty began as Executive Officer of the fast battleship *Wisconsin* in 1946. He then attended the Armed Forces Staff College in Norfolk. In 1951 (after serving 3 years on the Atlantic Fleet Staff) he was assigned as Commander Destroyer Division 62 in the Atlantic. In 1955 (after Bureau of Personnel duty) he was assigned as Commanding Officer of the Amphibious Attack Transport *Chilton* in the Atlantic and Mediterranean. The *Chilton* won the Amphibious Force's Battle Readiness Plaque during this period.

These tours were followed with a series of assignments in the Pacific. The first was as Assistant Chief of Staff for Operations for the Commander in Chief, Pacific Fleet (1956–58). Selected for promotion to Rear Admiral in the summer of 1958, he was immediately assigned as Commander Amphibious Group One (1958–59) and later as Commander Amphibious Training Command, Pacific assigned as Commander, U.S. Naval Base Subic Bay, Philippines. While there, he also became President of a Philippine charitable association and also Vice President of the Philippines Tubercular Association. He became an "adopted son" of the Provinces of Bataan and Zambales. From the Philippines he returned to the Bureau of Personnel in 1962.

Since retirement in November, 1972, Admiral Duncan has lived in the country near Leesburg, Virginia, and become identified with local volunteer work with the Virginia Museum of Fine Arts, the Board of "Keep Loudoun Beautiful," and the Boy Scouts. He is a member of the Board of Managers of the Navy Relief Society in Washington and a member of the Secretary of the Navy's Advisory Board on Education and Training. He is a member of the Board of Advisors to the President, U.S. Naval War College in Newport, Rhode Island.

In the Spring of 1974 Admiral Duncan was installed in Athens as Honorary President of the "Greek National Organization Encouraging NATO's Aims."

As Supreme Allied Commander, Atlantic, in which Command he held the largest NATO naval exercises ever held, he received the Award of the Grand Cross of the Order of Oranje Nassau with Swords from Her Majesty the Queen of the Netherlands, and the Grand Cross of the Order of AVIS (the oldest military order) from Portugal. Admiral Duncan, as Supreme Allied Commander Atlantic, was given an audience with His Majesty the King of Belgium, Her Majesty Queen Elizabeth II, Queen of Britain, His Majesty the King of Denmark, and His Majesty the King of Norway.

Admiral Duncan was born in Nicholasville, Kentucky, on December 7, 1911. He moved to Lexington, Kentucky, at age 9 and subsequently attended Lexington High School, Kavanaugh Preparatory School, and the University of Kentucky. His mother was a full Professor and a Head of Department at the University, one of the first women to hold such position. Admiral Duncan is also a Kentucky "Colonel." Member of the Chevy Chase Club. He is an Episcopalian.

Admiral Duncan's current home address (January, 1976) is Route 1, Box 160, Waterford, Virginia 22190. His telephone is (703) 882–3666. Admiral Duncan and his wife, Sheila, will move to Coronado, California, during the coming year.

NATIONAL FORESTS—AN INFORMED VIEW

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 9, 1976

Mr. BROWN of California. Mr. Speaker, outside pressure is growing as the issue of national forest timber management reform has become one of concern to many. Most of us assume that the outcry of public citizens who are not part of an organized interest group or connected to some faction of the timber industry is based on simple emotional reaction to clearcutting and its unesthetical appearance.

I beg to differ with this assumption. As national interest has magnified, many knowledgeable foresters, forest consultants and informed citizens have contributed well-documented, concise criticisms and contributions of information to the debate. The following letters, which I include in the Record are examples of such informed concern. Congress tends to listen to only the major lobbying groups without stopping to hear the facts within the pleas for reform from our citizens.

I ask my colleagues to review this material. It certainly helped to strengthen my trust in the people of this country.

The letters follow:

Rudolf W. Becking,
April 26, 1976.

Hon. Jennings Randolph,
Senator of West Virginia, U.S. Senate Office Building, Washington, D.C.

Dear Senator Randolph: I am writing you on behalf of SB.2926 Forest Management Practices in National Forests. I wish to congratulate you for your farsightness in introducing this measure and I consider it a giant step forward in forest management practices. I am very much involved in the EIR issue of forestry operations in California and was primarily responsible for the EIR ruling or the application of CEQA and NEPA upon timber harvesting operations. I appreciate any additional information as developments on this bill continue and would like to be placed on your mailing list.

In studying your bill I can support practically all the aspects of your bill as a professional forester. However, there are a few comments I would like to add to make the bill more clear to its intent. I hope you can appreciate these comments.

It has been virtually impossible for me to obtain this kind of information from Region 5. Allowable cuts are here obtained from CFI inventories which are not continuously updated. Computer programs take this information and according to RAM it proportions it for the entire region and per national forest. There seems to be no regard as to natural ecosystems like watersheds and everything is programed for the entire forest or forest district. I am suspicious of serious computer errors in calculating such allowable cuts by computing growth immediately for each cut block for 100% while the area in question may still have no trees on it for 5 years awaiting funds for artificial reforestation. Also the general acceptance of standard yield tables makes the information suspicious since from personal experience I can attest to the fact that virtually no two timber stands are identical nor that they grow as a yield table prepared in the 1920's and revised in 1945 would lead one to believe. I have written many letters for this information both to Region 5 (San Francisco) and Region 6 (Portland, Oregon) but so far none of my letters have been responded to. I think this is a very significant and vital concern to protect the long-term productivity of our national forests for future generations. I propose that specific language be incorporated in this bill spelling out my above concerns and making this information available at district and regional offices for the public. This would include actual inventories and their locations.

(4) There is insufficient emphasis upon reforestation. I propose that legal language be incorporated in your bill that as a minimum 5% of all net revenues from the harvest of the timber of a specific site will have to be utilized and earmarked for the reforestation of that site or the restoration of its native productivity. At present all revenues accrue to the general fund and reforestation programs have been continuously cut in funds. It would be most equitable to earmark immediately a share of the revenues for this restoration automatically. In case the initial reforestation efforts fail additional funding for reforestation must be made available or the allowable cut must be immediately and permanently reduced until full stocking of that site has been attained at the age of 10 years. The effects of this type of funding will be more rapid reforestation and less erosion and loss of native productivity.

(5) If more than 30% of small watersheds are cut over within a 10–15 year period all

future harvesting operations must cease until the oldest cut blocks reach full stocking and are at least 10 years of age. This means that full stocking is attained for trees of a minimum of 10 years not counting any trees younger than that age. Full stocking is further defined that the trees are uniformly spaced over the entire cut block. Stocking standards of the yield tables should be utilized and not planting standards at 8–15 feet spacing since even 100% survival of such plantings full stocking will only be achieved after some 25–30 years. Full stocking can be computed by tree density (number of trees/acre) or by basal area (BA/acre) for the specific site quality and age according to an accepted yield table. This is also the same yield table used for computations of the allowable cut. In all cases deviations from these standards should be immediately reflected in allowable cut computations. No clearcuts will receive any growth upon planting until a stocking standard has been determined to be full at the minimum age of 5 years following the artificial planting.

I have repeatedly offered my services for growth computations to Region 5 but so far I have had always refusals. In December, 1975 I was personally invited to the Tahoe National Forest and with the Supervisor (who since retired) we reached agreement that my proposal to study growth by soil and vegetation type would be welcome on that forest. In February and March of 1976, the Tahoe National Forest made a complete reversal and denied my free offer and refused to sanction such studies. I have yet to receive any communication on this Tahoe incident from the Regional office at San Francisco, Calif. From this and other incidents you can better appreciate the difficulties the public experiences in learning about growth in our national forests. I appreciate whatever you can do now to make these data available to me.

One final comment upon SB 2926. Like in previous legislation of the 1960 and 1964 acts regulating forest uses there is hardly any followup on these acts. Over the years the USFS has acted in their timber harvesting processes in violation of these acts and there seems to be little recourse for the public. In order to remedy future situations like those of the past it would seem to me that your bill should safeguard the public interests in its national forests. I suggest that you incorporate the same language in your bill of NEPA 1970 Act, which act is the first act which fully recognized the public's interests in the protection of our environment and gives the public automatically legal standing to sue the federal agency. Also the whole process of the EIS and its public disclosure should be adopted for any allowable cut determination or major timber harvesting plans.

The economic situation locally is very serious as forest products are rapidly dwindling and virgin or old growth forest resources are rapidly consumed with no or little replacement. Today's economics more or less dictate the larger timber companies to adopt cut-out and get-out policies partly because of dwindling timber resources partly because of the ad valorem taxation of timber resources. We are working hard locally in California to change tax laws to a more equitable Yield Tax but this may be too late for the local lumber economy. The National Forests have become increasingly involved in supplying their timber resources to these larger companies with the hope to stabilize local economies. Sales of Federal timber have interestingly developed an alarming pattern. While some 10 years ago timber was sold in small cut blocks competitive bidding allowed many smaller timber operators to harvest these smaller blocks and sustain a large labor force and diversified income. With the entrance of the large timber corporations in the market place for federal timber sales have rapidly increased in size requiring bonding and cash deposits which have resulted in wholesale bankruptcy of many of the smaller gyppo loggers.

These small operators had special skills and often good craftsmanship in protecting forest resources. With the advent of the large corporations logging practices have distinctly deteriorated and enforcement of even the crudest rules becomes increasingly hazardous for the young and neophyte forester of the USFS since these large corporations will yield tremendous political powers. Many good and conscientious young foresters have been transferred under such corporate pressures and their professional records have often been blemished while they honestly were doing their job for protecting the national forests for the people of this nation. If the EIS process is adopted for timber harvesting it seems to me that such wholesale clearcuts cannot be justified. Maybe with return of the small cut block of a maximum of 40 acres we will see the gyppo logger back again and with him most likely a revitalization of local economies. This is something to think about. Although block size may seem hard to regulate or to specify a good EIS could help tremendously in this respect, especially when economics are considered which stay within the local region.

Respectfully yours,
Dr. RUDOLF W. BECKING,
Professor of Natural Resources.

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(1) The principle of Multiple Use or the Multiple Use Act (1960) seems to have been lost in this bill. The predominant aspect of forest use is for timber harvest and management. In the 1960 Multiple Use Act it states that all the forest uses are to be considered, and that no one use is to be dominant as to impair the other uses and that not necessarily the use with the greatest dollar return would be the appropriate use. In order to safeguard the other forest resources and the many externalities or diseconomics of the national forests I would like to safeguard these provisions in the current SB 2926 and have them here repeated to dispel any doubt.

(2) The 1964 Wilderness Act required all national forests to be inventoried for potential wilderness resources and to report back to Congress by 1974. You know that no single national forest has yet completed this survey. There are other deficiencies in the 1964 Wilderness legislation. Not necessarily wilderness can exist only on federal lands, on lands of more than 5,000 acres, and on lands where in the past there has been no human impact whatsoever. It would be far more realistic to preserve forest ecosystems in smaller watersheds for their uniqueness and integrity of natural processes. In the past the USFS has deliberately put wilderness at high elevations upon bare rocks and virtually no wilderness has been studied or proclaimed which would encompass sizable tracts of highly productive forest lands. The language of your bill seems to provide for this but I like more clarity. I suggest that significant examples of all forest ecosystems are to be preserved in areas of sufficient sizes that they can maintain and perpetuate in essence their natural processes, and that private lands can be included by an active policy of acquisition of such wilderness lands, and that examples of high forest productivity are to be included, even if it would mean reduction of the calculated allowable cut.

(3) There is insufficient emphasis upon allowable cut and sustained yield in SB 2926. I suggest that your bill should state that all the information utilized in the calculation or revision of calculation of the allowable cut of each national forest should be public information. It should specify that data supporting allowable cut should be collected for each specific management unit to justify its allowable cut and that this information should be verified by actual on-the-ground inventories.

APRIL 19, 1976.

Re: Pending National Forest Legislation.
Hon. MARK O. HATFIELD,
U.S. Senator,
Russell Office Building,
Washington, D.C.

DEAR SENATOR HATFIELD: As an ex-member of the now-defunct "Umatilla National Forest Advisory Board", an individual who is dependent upon National Forest lands for aesthetic experiences, and as a member of the present "Tri-Forest Timber Management Plan Citizen's Committee", I urge your consideration of my plea.

Because of my experiences in committees, involvement in land use planning, and on-the-ground inspections of actual forest management of the Umatilla, Wallowa-Whitman and Malheur National Forests, I am convinced that at present, these Forests are being managed predominately for timber harvest. All land that has not been protected by Congress, ie; Minam Addition to the Eagle Cap Wilderness Area and the Hells Canyon National Recreation Area, is destined to be "intensively managed" in hopes of producing fiber for the local mills. Outdoor recreation, watershed and wildlife are not receiving "equal consideration" as directed by the Multiple Use—Sustained Yield Act.

The National Forest land in northeastern Oregon is not highly productive because of shallow, highly erodable soils and climatic conditions. These three National Forests are defining "productive forest lands" as land capable of producing 20 cubic feet per acre per year! The Resources Planning Act is attempting to only commit funds for intensive management on lands which can produce at least 50 cubic feet per acre per year, so the dollar return will reflect an intelligent investment. From a layman's perspective, it looks like our Blue Mountains produce natural beauty and wildlife at the least cost to our Nation's budget.

Presently, as in the past, the USFS is swayed by local industry pressures. As Senator Randolph stated in his introduction of S2926, it is the duty of Congress to set the enforceable standards, outline the procedures, put curbs on the Secretary of Agriculture's discretion, make goals clear and make prohibitions certain. Congress must insure that our forests are managed as true areas of multiple-use.

Two areas in northeastern Oregon are presently suffering from lack of Congressional leadership. One example is the Cable Creek Timber Sale, Ukiah Ranger District, Umatilla National Forest. It was logged just last year and resulted in destruction of riparian vegetation which causes degradation of the fishery and soil resources; cover was eliminated for wildlife and the area is offensive to humanity.

Another example is the intelligent land use planning by the Malheur National Forest in their "John Day Planning Unit—Draft Environmental Statement". They are attempting to protect roadless areas' integrity and enhance wildlife diversity and water quality. Local industry is enraged by this attempt to provide multiple use management of the forest and is applying pressure that may break anyone who will not give priority to timber and livestock grazing exploitation.

The legislation that should pass Congress in the very near future should eliminate such abuses. Future timber sales must be planned with adequate input from resource specialists to protect wildlife and soils. The active timber sales should then be closely monitored by these specialists to be sure that "rules" are followed in the field.

Please insist on specific guidelines for the United States Forest Service to follow:

"THE EDITOR: I wish to compliment you for recent editorials extolling the virtues of the Randolph bill, which will help to put our national forests under sound management. . . .

"The Randolph and Humphrey bills both address the issue of requiring sustained yield and multiple-use benefits from our national forests. But the Humphrey bill establishes only goals for which the U.S. Forest Service should strive. Unlike the Randolph bill it lacks teeth because there are no standards to be met other than those established by the Forest Service itself. The evidence of the past 10 to 15 years demonstrates that they even disregard their own manuals and guidelines for timber management. . . .

"The U.S. Forest Service has been under tremendous pressure from Washington to meet quotas that require sacrificing professional judgment. The real culprit is not the local forester in many cases. The Randolph bill spells out standards that must be met so that we will still have a sound national forest system in the future.

"One of the major requirements of the Randolph bill deals with the selling price of our trees. It requires that no bid be accepted unless it is high enough to cover the cost of administering the growth, sale and reforestation. Many bids in the national forest today do not pay the cost of reforestation alone. Such a constraint would force the U.S. Forest Service to stop underselling private enterprise, increasing the opportunity for the small farmer to get a fair price for his trees while taking pressure off our national forests.

"The seriousness of the problem is best illustrated by the U.S. Forest Service plans for timbering the Chattooga River Basin in Northeast Georgia and the Nantahala River Basin across the border in North Carolina. Such plans spell the beginning of the end for the Southern Blue Ridge as we know it today. Plans call for commercial timber operation on 85 per cent of the Chattooga River Basin and 98 per cent of the Nantahala River Basin (Unit 22 plan). Most of the timbering will be carried out by clear cut methods.

"The laws governing the national forests were written to protect watersheds, enhance navigable streams, and to stabilize and protect certain vulnerable lands with steep slope and thin soils. The national forests belong to the people. Although Sen. Talmadge told me recently that Congress would produce a bill with standards, he cannot do it alone. Public support is necessary in Washington. Readers can let their feelings be known by writing Sens. Herman Talmadge and Sam Nunn at Senate Office Building, Washington, 20515, or their representative at House Office Building, Washington, 20510.

"Jim Meldrum,
"State Chairman, Natural Resource Planning Committee, Georgia Wildlife Federation.
"Decatur."

LETTER TO WASHINGTON POST

HON. EDWIN B. FORSYTHE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 9, 1976

Mr. FORSYTHE. Mr. Speaker, as many of my colleagues are aware, a Jack Anderson-Les Whitten column was published on June 3, entitled "Oilmen Find Hill Allies." I was one of the minority Members who were accused of attempting to load H.R. 6218, OCS Lands Act amendments, with oil industry amendments. I emphatically deny that the oilmen have found "Hill allies" among the minority members of the OCS Committee as the article claims. Accordingly, I offer for the information of my colleagues in the House a copy of a letter to the editor of the Washington Post. I think the letter quite effectively outlines the position of the Members involved in relation both to the legislation and to this example of irresponsible journalism:

House of Representatives,
Washington, D.C., June 8, 1976.

Mr. Benjamin C. Bradlee,
Executive Editor,
The Washington Post,
Washington, D.C.

Dear Mr. Bradlee: We strongly take issue with the Jack Anderson-Les Whitten Column, published June 3, headlined "Oilmen Find Hill Allies". It is an example of bad investigative reporting.

The column accuses us of introducing, word-for-word, a number of amendments prepared by the American Petroleum Institute (API), by inference without consideration of substance or merit. This is news to us. At no time did we introduce an amendment at the behest of the oil industry or any other group or individual.

The minority introduced 41 of 95 amendments during markup of H.R. 6218, the Outer Continental Shelf Management Bill. We did so after at least 15 meetings with minority staff during which minority positions on the many issues in this complex bill were developed.

Our decisions were based on hundreds of hours of hearings, on-site visits to drilling facilities, and discussions with representatives of resource agencies—the Environmental Policy Center, Council on Environmental Quality, Interior and Commerce Departments, National Advisory Committee on the Oceans and Atmosphere, and the Congressional Research Service, Library of Congress.

Mr. Whitten was asked prior to publication by our staff on three or four occasions what amendments he was referring to, but he would not be specific. Mr. Whitten was offered access to all minority files but he refused to take advantage of the offer.

In other respects, the column lacks balance. Much is made of the Administration's effort to defeat the Rule. It was no secret on Capitol Hill that the granting of a Rule was opposed by both the Administration and the oil industry. However, the column is silent on the fact that Mr. Fish and Mr. Forsythe sent a letter to the Chairman of the Rules Committee, with copies to all Committee Members, urging that the bill be sent to the Floor for consideration. Also, Mr. Fish personally testified for the Rule on behalf of the minority.

The bill has flaws, to be sure. We hope they can be corrected on the Floor of the House, for this legislation is of major importance to the citizens of this country. If the oil industry believes it has found unswerving allies in us, it has been seriously misguided. So have the readers of the Jack Anderson-Lee Whitten Column.

Sincerely,

Edwin F. Forsythe,
Don Young,
Hamilton Fish, Jr.,
Members of Congress.

ALEX ARMENDARIS, AN OUTSTANDING PUBLIC SERVANT

HON. ALAN STEELMAN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 9, 1976

Mr. STEELMAN. Mr. Speaker, this past Friday night in Dallas, Tex., a Bicentennial tribute was held to honor Alex Armendaris, who for more than 3 years has headed the Office of Minority Business Enterprise—OMBE—of the U.S. Department of Commerce. About a thousand persons from all parts of the country gathered for a moving tribute to a man who has come to symbolize the best in public service.

The honorary cochairmen of this tribute included many Governors, mayors, U.S. Senators, Members of Congress, business leaders, and educators. The main address was given by Senator Pete Domenici of New Mexico. Congressmen Jim Collins of Dallas, Tex., and Frederick Richmond of Brooklyn, N.Y., spoke of the high personal regard in which Alex Armendaris is held by so many in Congress. Congressman Collins also read a letter from Secretary of Commerce Elliot Richardson, praising Alex Armendaris' record. Fernando Oaxaca, Associate Director of the Office of Management and Budget, represented the President of the United States. Numerous awards and citations of merit were presented honoring Alex Armendaris for his public service. Among these was an honorary doctoral degree from Wiley College in Marshall, Tex. Mayor Robert Folsom of Dallas presented a proclamation declaring an Alex Armendaris Day in Dallas. Rudy J. Flores, special assistant to Governor Briscoe, recognized on behalf of the Governor, Mr. Armendaris' service to Texas.

Also among the many dignitaries attending were State Senator Betty Andujar; State Representative Eddie Bernice Johnson; Antonio Morales, national chairman of the GI Forum; Manuel Gonzalez, national president of LULAC; David Martinez, representing Senator John Tower, of Texas; and Brownie Trevino, representing the Mexican American Republicans of Texas. Burt Sanborn of Dallas served as host for the tribute.

Who is this man who merits this outpouring of sentiment from so many community and business leaders in Texas and around the Nation? Alex was born in Chicago, Ill., of Mexican-American parents. His personal drive, hard work, and perseverance have helped him to proficiency in business, an area historically shut off to many Mexican Americans. Spending much of his adult life in South Bend, Ind., Alex Armendaris became particularly expert in corporate marketing.

I first got to know Alex Armendaris in 1971 when I was Executive Director of the President's Advisory Council on Minority Business Enterprise. At that time the Council was concerned that the Spanish speaking might not be getting a fair shake in the incipient minority enterprise program. Accordingly, Alex Armendaris joined the Council to study means of insuring full Spanish-speaking participation in the program. His careful attention to detail and fair-mindedness, characteristics which have been evident in his leadership of OMBE, were apparent in 1971.

When Alex Armendaris assumed the leadership of OMBE in April, 1973, he faced a formidable task. The Agency was torn by discord and experienced all the expected growing pains of an organization which had mushroomed overnight. In 3 years OMBE has been transformed into one of the most effective Government agencies in the domestic policy area. In this change the imprint of Alex Armendaris has been strong. These changes have not come easily.

When Alex Armendaris came to OMBE nearly all of OMBE's staff was concentrated in the national office in Washington; now most employees are stationed in the field closer to the businesses they assist. Three years ago OMBE was funding a number of business assistance organizations of questionable effectiveness. Relentlessly insisting that these organizations shape up or no longer receive Federal funding, the OMBE Director has braved considerable political heat to improve the program.

He has used his marketing expertise to move the minority business program to a new level of sophistication. Four years ago corporate purchasing from minority businesses was almost nonexistent. In 1975 major corporations bought a half billion dollars in goods and services from minority firms. In 1977 member firms of the OMBE-sponsored National Minority Purchasing Council have set a goal of $1 billion in minority purchasing.

Two other initiatives launched under the leadership of Alex Armendaris deserve special note. OMBE has put together a technology utilization program designed to move minority business into the forefront of the new technology industries. Drawing on private capital from such corporations as Rockwell International, marketing research from Sears, Roebuck, technology from major corporations NAXA, the National Science Foundation, and the Federal Laboratory Consortium, OMBE has welded together an imaginative program at very little cost to the taxpayer.

Another area which OMBE has pioneered is that of neighborhood commercial revitalization. Since early 1974 OMBE, at the urging of its Director, has taken the lead in efforts to encourage the revitalization of neighborhood shopping areas. Other Federal agencies, such as the Economic Development Administration and the Department of Housing and Urban Development have begun to follow OMBE's lead. Alex Armendaris has for 2 years encouraged mayors of American cities to provide for the survival and growth of the small neighborhood merchant.

The recent tribute to Alex Armendaris was a testament not only to his leadership position within the Hispanic-American community and the minority business movement, but also to the vision he has brought to the national scene. Alex Armendaris is a proud father, a man who wants his children to grow up in a land of full opportunity. His work has helped to bring that day closer for all of us.

HOW THE CITY COUNCIL FAILED THE CITY

HON. HERMAN BADILLO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 9, 1976

Mr. BADILLO. Mr. Speaker, I have been accused by some of my colleagues, both in and out of the New York delegation, of expressing my concern for the way New York is being run in the midst of our fiscal crisis too boldly and vocally. "BADILLO," they say, "you shouldn't be so critical of the mayor and his people." Well, Mr. Speaker, after the performance last week by the City Council, in their failure to assert any leadership in modifying the totally unworkable budget that Mayor Beame submitted to the council and the city's Board of Estimate, I find my worst anxieties bearing fruit.

The root of the problem, however, is not just City Council inaction, but mayoral manipulation. Mayor Beame, knowing that his budget did not have enough votes to pass the council, and possibly not even vote it out of the Council Finance Committee, stacked the committee with enough new members—all but one of them beholden to the mayor—to assure the failure of any amendments to the budget that would restore some services to the people of New York.

The story below, from the Village Voice, written by two outspoken and courageous members of the council, Henry Stern and Robert F. Wagner, Jr., outlines clearly just how badly the mayor, at this life-or-death moment in the city's history, is still willing to play politics with people's lives. The actions of his appointees to the council Finance Committee, including the member from my own devastated district, Ramon Velez, spelled the difference between the restoration of funds for hospitals—including Morrisania, Fordham, and the Segundo Ruis Belvis Health Center in my district; a full school day; the reopening of Hostos Community College; the restoration of the Bureau of Child Guidance; the retention of at least 49 child care centers, as well as other vitally needed services, and the perpetuation of a fiscal plan that is designed to save the necks of our mayor and his hatchet men, while the ordinary citizens of New York continue to suffer.

This episode provides an all too vivid example of why I am an alarmist about the future of New York, and why I will continue to point out how New York City is being sold out by its own elected officials.

The article is as follows:

HOW THE CITY COUNCIL FAILED THE CITY

(By Henry J. Stern and Robert F. Wagner, Jr.)

This year the New York City Council did not return the 1977 budget to the mayor as required by law. It did not approve the budget, nor did it disapprove it. It did not vote to refuse to discuss it. The council simply was not allowed to meet to consider the budget.

The city's expense budget is a rough spending plan which divides about $12.5 billion between city agencies and debt service. Under the charter, the mayor must prepare the budget and submit it by April 15. The law provides: "Each body [the council and the Board of Estimate] shall return the budget to the mayor not earlier than May 14 nor later than May 24 in each year."

The City Council's failure to act at all this May 24 means that the council chose to be even less than a rubber stamp (at least a rubber stamp leaves an impression) and demonstrated its irrelevance to the city's future. It also means that the President, Congress, the banks, and the public should have little respect for the way New York is governed.

That 11-day period in which the council can act on the budget should be sufficient. What the framers of the charter did not foresee was that the council would not be called into session until 10:30 p.m. on the eleventh day, 90 minutes before the end of the time in which it could act. And even then, the council first had to consider the capital budget, a $1.1-billion document of 86 pages. The capital budget, originally intended to pay for construction, is smaller and less controversial than the expense budget, although it is an equally flawed document, today containing primarily expense items. It was approved at 11:57 p.m. Then the clock ran out.

This scheduling was no accident. It was calculated strategy by the leadership, intended to prohibit the 42 council members from voting on the budget or on any amendments to it. And it was a scheme with which the majority of the council concurred.

As a legislative day, May 24 began in the usual manner; the Finance Committee, scheduled for 9:30 a.m., convened at 10. The committee proceeded to consideration of the capital budget, easily defeating a number of amendments which would have provided items like a new library for Borough Park in Brooklyn. We then offered 11 amendments to cut a total of $18,635,000. These proposals included reducing the office of school buildings by 50 percent, since no new schools are being built, and renovation is minimal; eliminating $1.3 million for campus planning at CUNY because no campuses are being planned; cutting the Housing and Development Administration by 10 per cent for failure to build or develop any housing; deleting another new parking lot for Yankee Stadium ($1.5 million). All 11 were easily defeated.

Even though many council members privately agreed with these points, the word was out that this was the mayor's budget, and no changes were acceptable. The capital budget was then approved by the committee, as recommended by the mayor, Board of Estimate and council leadership, with minor modifications that had been agreed upon at weekend conference at Gracie Mansion.

Just after noon, the Finance Committee started on the expense budget. Again a series of amendments by different council members were suggested and routinely defeated, many without debate. Then Councilman Sam Horwitz moved to restore $2.6 million that had been cut from the Bureau of Child Guidance. United Federation of Teachers and Child Guidance personnel had been watching the budget procedure, meeting with council members, and lobbying all day in the chamber and committee room. The UFT people had met with each member, mentioning the school programs in each district.

On the roll call, the Horwitz motion carried, unexpectedly. A council staff member said, with some annoyance, "That was supposed to be a 'no' vote." The council was beginning to upset the game plan; it had amended the budget.

A more dramatic assault came from Manhattan Councilman Ted Weiss, who had been added to the Finance Committee only three days earlier after 14 years' exclusion. Weiss showed why the leadership had kept him off the committee by putting together a $50-million package to be allocated for education ($30 million), Health and Hospitals Corporation ($15 million, enough to keep three threatened hospitals open), $2.1 million (Child Guidance) and $1.9 million (ambulatory health care). The $50 million was to come out of the $100 million reserve fund put in the budget to replace the already depleted rainy day fund. The amendment was adopted, 10–3. Council members were delighted; committee chairman Matthew Troy was furious. The committee recessed abruptly at 7:25 p.m.

The recess, originally called for 15 minutes, dragged into hours. Meanwhile, at 9:30, the Board of Estimate met and approved the budget over the objections of Comptroller Harrison Goldin and Bronx Borough President Robert Abrams. The mayor publicly chastised the two dissenters, saying they had not offered him any alternatives. Council members had offered alternatives; they were called in and privately chastised for doing that.

At 10 p.m., waiting councilmen went to the mayor's press room to watch the fight between Muhammad Ali and Richard Dunn. The fight was one-sided, just like the budget struggle. It ended with a knockout in the fifth round, after which the council resumed.

President O'Dwyer warned that the council had to act by midnight. Councilman Stern asked if the members would become pumpkins at the stroke of 12. Other councilmen said they thought they already were. In the past, midnight had been taken to mean the conclusion of the legislative day, not 12 o'clock sharp. But this year the council was to be held to a strict curfew.

We then discussed the capital budget, condensing our 11 amendments to five. They received from four to nine votes on the floor. The capital budget was officially adopted, 34 to 6, at 11:57 p.m. The dissenters were Olmedo and Wright of Brooklyn, DeMarco and Kaufman of the Bronx, and Stern and Wagner of Manhattan.

The Finance Committee reconvened after midnight. It dutifully repudiated itself, not simply by taking out the $50-million amendment voted earlier in the day, but by voting down the entire budget as amended. Six members switched: Silverman and Horwitz of Brooklyn, both new members of the committee, and DeMarco, Mele, Ryan, and Velez of the Bronx. Where earlier the committee had voted 10–3 to amend the budget, it now voted 9–4 to reject the amended budget. This meant that even if there were no time problem, the council would not have a budget to consider.

Back on the floor at 12:45 a.m., Councilman Weiss moved to discharge the Finance Committee and consider the expense budget. President O'Dwyer ruled the motion out of order, on the ground that it was after midnight. Mr. Weiss appealed, and a vote was taken. In effect, the issue was: Do you want to consider the budget? O'Dwyer was sustained, 27 to 10, with 3 abstentions. The 10 included seven Manhattan members: Burden, Friedlander, Greitzer, Samuel, Stern, Wagner, and Weiss, and three Brooklynites, Katz, Olmedo, and Steingut. The issue was settled; the revolt crushed.

The reason for this bizarre scenario is that the leaders of the council are, and traditionally have been, supporters of the mayor; their highest goal is to execute his will. For a show of independence two years ago, Matthew Troy lost the Democratic leadership of Queens County. Today he is the mayor's most faithful adherent, although he knows the absurdity of the positions he defends. For a week he was on television denouncing city cars and assorted waste, yet he voted against every motion to reduce the budget.

Does this entire spectacle undermine confidence in local self-government and the credibility of public officials? Yes, if there is any left. Does it indicate that we have learned any lessons from our plight? Yes, we have learned new ways of avoiding decisions and shifting responsibility. Does it inspire the world to conclude that New York and its leaders act responsibly? Clearly, it does not.

There is a legitimate argument against the fiscal consequences of dipping into the $100 million reserve fund. The case should have been made on the floor. And, even if the amendment had been adopted, it would still have been vetoed by the mayor, and his veto could not have been overridden, except by an unattainable two-thirds vote of the council and the Board of Estimate. So the purpose of the stall was not to save $50 million, it was simply to shift the blame for hospital and school closings away from the mayor.

What happened on May 24 was not a tragedy. Nor was it a comedy, although it did have elements of farce. It was just another blind step toward the deterioration of the city, taken by officials who should have more respect for the principle of democratic government, even though now and then a vote may go the other way.

After all, isn't that what legislatures, even weak ones, are all about?

ABORTION ACCOUNT SHARED

HON. JOHN W. WYDLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 9, 1976

Mr. WYDLER. Mr. Speaker, recently a constituent of mine, Mrs. Carolyn Dlugozima, the director of the Floral Park Citizens for Life, an organization in my district, sent me an article which appeared in the May 14 issue of the New York Times, entitled "There Just Wasn't Room in Our Lives for Another Baby," written by Jane Doe, a pseudonym for a woman who works in the publishing business. Mrs. Dlugozima asked me to enter the article into the CONGRESSIONAL RECORD, since the issue of abortion is alive in Congress and she felt the article was pertinent. This matter is now before the House for consideration, and I am pleased to fulfill Mrs. Dlugozima's request and make the article available to the Members:

THERE JUST WAS NOT ROOM IN OUR LIVES NOW FOR ANOTHER BABY

(By Jane Doe)

We were sitting in a bar on Lexington Avenue when I told my husband I was pregnant. It is not a memory I like to dwell on. Instead of the champagne and hope which had heralded the impending births of our first, second and third child, the news of this one was greeted with shocked silence and Scotch. "Jesus," my husband kept saying to himself, stirring the ice cubes around and around. "Oh, Jesus."

Oh, how we tried to rationalize it that night as the starting time for the movie came and went. My husband talked about his plans for a career change in the next year, to stem the staleness that fourteen years with the same investment-banking firm had brought him. A new baby would preclude that option.

The timing wasn't right for me either. Having juggled pregnancies and child-care with what freelance jobs I could fit in between feedings, I had just taken on a full-time job. A new baby would put me right back in the nursery just when our youngest child was finally school age. It was time for us, we tried to rationalize. There just wasn't room in our lives now for another baby. We both agreed. And agreed. And agreed.

How very considerate they are at the Women's Services, known formally as the Center for Reproductive and Sexual Health. Yes, indeed, I could have an abortion that very Saturday morning and be out in time to drive to the country that afternoon. Bring a first morning urine specimen, a sanitary belt and napkins, a money order or $125 cash—and a friend.

My friend turned out to be my husband, standing awkwardly and ill at ease as men always do in places that are exclusively for women, as I checked in at 9 A.M. Other men hovered around just as anxiously, knowing they had to be there, wishing they weren't. No one spoke to each other. When I would be cycled out of there four hours later, the same men would be slumped in their same seats, locked downcast in their cells of embarrassment.

The Saturday morning women's group was more dispirited than the men in the waiting room. There were around 15 of us, a mixture of races, ages and backgrounds. Three didn't speak English at all and a fourth, a pregnant Puerto Rican of around 18, translated for them.

There were six black women, and a hodgepodge of whites, among them a tee-shirted teenager who kept leaving the room to throw up and a puzzled middle-aged woman from Queens with three grown children.

"What form of birth control were you using?" the volunteer asked each one of us. The answer was inevitably "none." She then went on to describe the various forms of birth control available at the clinic, and offered them to each of us.

The youngest Puerto Rican girl was asked through the interpreter which she'd like to use: the loop, diaphragm or pill. She shook her head "no" three times. "You don't want to come back here again, do you?" the volunteer pressed. The girl's head was so low her chin rested on her breastbone. "Si," she whispered.

We had been there two hours by that time, filling out endless forms, giving blood and urine, receiving lectures. But unlike any other group of women I've been in, we didn't talk. Our common denominator, the one which usually floods across language and economic barriers into familiarity, today was one of shame. We were losing life that day, not giving it.

The group kept getting cut back to smaller, more workable units, and finally I was put in a small waiting room with just two other women. We changed into paper bathrobes and paper slippers and we rustled whenever we moved. One of the women in my room was shivering and an aide brought her a blanket.

"What's the matter?" the aide asked her. "I'm scared," the woman said. "How much will it hurt?" The aide smiled. "Oh, nothing worse than a couple of bad cramps," she said. "This afternoon you'll be dancing a jig."

I began to panic. Suddenly the rhetoric, the abortion marches I'd walked in, the telegrams sent to Albany to counteract the Friends of the Fetus, the Zero Population Growth buttons I'd worn, peeled away, and I was all alone with my microscopic baby. There were just the two of us and soon, because it was more convenient for me and my husband, there would be one again.

How could it be that I, who am so neurotic about life that I step over bugs rather than on them, who spends hours planting flowers and vegetables in the spring even though we rent out the house and never see them, who makes sure the children are vaccinated and inoculated and filled with Vitamin C, could so arbitrarily decide that this life shouldn't be?

"It's not a life," my husband had argued, more to convince himself than me. "It's a bunch of cells smaller than my fingernail."

But any woman who has had children knows that certain feeling in her taut, swollen breasts, and the slight but constant ache in her uterus that signals the arrival of a life. Though I would march myself into blisters for a woman's right to exercise the option of motherhood, I discovered there in the waiting room that I was not the modern woman I thought I was.

When my name was called, my body felt so heavy the nurse had to help me into the examining room. I waited for my husband to burst through the door and yell "stop," but of course he didn't. I concentrated on three black spots in the acoustic ceiling until they grew in size to the shape of saucers, while the doctor swabbed my insides with antiseptic.

"You're going to feel a burning sensation now," he said, injecting Novocain into the neck of the womb. The pain was swift and severe and I twisted to get away from him. He was hurting my baby, I reasoned, and the black saucers quivered in the air. "Stop," I cried. "Please stop." He shook his head, busy with his equipment. "It's too late to stop now," he said. "It'll just take a few more seconds."

What good sports we women are. And how obedient. Physically the pain passed even before the hum of the machine signaled that the vacuuming of my uterus was completed, my baby sucked up like ashes after a cocktail party. Ten minutes start to finish. And I was back on the arm of the nurse.

There were twelve beds in the recovery room. Each one had a gaily flowered draw sheet and a soft green or blue thermal blanket. It was all very feminine. Lying on these beds for an hour or more were the shocked victims of their sex life, their full wombs now stripped clean, their futures less encumbered.

It was very quiet in that room. The only voice was that of the nurse, locating the new women who had just come in so she could monitor their blood pressure, and checking out the recovered women who were free to leave.

Juice was being passed about and I found myself sipping a Dixie cup of Hawaiian Punch. An older woman with tightly curled bleached hair was just getting up from the next bed. "That was no goddamn snap," she said, resting before putting on her miniskirt and high white boots. Other women came and went, some walking out as dazed as they had entered, others with a bounce that signaled they were going right back to Bloomingdale's.

Finally then, it was time for me to leave. I checked out, making an appointment to return in two weeks for an IUD insertion. My husband was slumped in the waiting room, clutching a single yellow rose wrapped in a wet paper towel and stuffed into a baggie.

We didn't talk the whole way home, but just held hands very tightly. At home there were more yellow roses and a tray in bed for me and the children's curiosity to divert.

It had certainly been a successful operation. I didn't bleed at all for two days just as they had predicted, and then I bled only moderately for another four days. Within a week my breasts had subsided and the tenderness vanished, and my body felt mine again instead of the eggshell it becomes when it's protecting someone else.

My husband and I are back to planning our summer vacation and his career switch.

And it certainly does make more sense not to be having a baby right now—we say that to each other all the time. But I have this ghost now. A very little ghost that only appears when I'm seeing something beautiful, like the full moon on the ocean last weekend. And the baby waves at me. And I wave at the baby. "Of course, we have room," I cry to the ghost. "Of course, we do."

A TRIBUTE TO THE CLUB CIVICO DE DAMAS DE PUERTO RICO AND ITS DYNAMIC PRESIDENT, MRS. CARMEN LOCKHEIMER

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 9, 1976

Mr. RODINO. Mr. Speaker, Mrs. Carmen Lockheimer of New Jersey, a woman of great ability in public affairs, is one of my dear friends of many years. She will soon conclude a tremendously successful tenure as president of the Club Civico de Damas de Puerto Rico. This outstanding civic, cultural and social organization is presently celebrating its 55th anniversary.

The Club Civico de Damas de Puerto Rico, with a membership of 750, is the oldest, most active, organization of record performing exemplary community services of the widest scope in Puerto Rico. For example, the club has donated a land site for public use as Plaza Antonio Quinones, established a "Home for the Homeless," befriended and assisted the first continental U.S. schoolteachers in Puerto Rico, performed volunteer work in hospitals with World War II convalescing soldiers, and has supported the Girl Scout and Boy Scout troops in the San Jose Housing Development, while sending about 30 less-fortunate, but worthy, scouts to summer camp.

In addition, the organization has been responsible for the restoration of many Puerto Rican monuments and landmarks, the founding of two libraries, and the establishment and operation of one of the first blood banks in Puerto Rico.

The club founded the annual Christmas party for underprivileged children, and this activity became so large that it had to be transferred to the office of the mayor of San Juan. At the 1975 party, some 20,000 participated at various locations throughout the metropolitan San Juan area. Also during the Christmas season, the club's choir has sung at the veterans' hospitals, public hospitals and at old people's homes for the past 25 years.

To enlighten students on their Puerto Rican heritage, a "Know Your School" program has been implemented, which informs students about the Puerto Rican citizens for whom their schools are named.

As president, Mrs. Lockheimer supervised all of these activities, and initiated numerous others, such as the donation of an electrocardiograph to the Providencia Old People's Home, the establishment of an annual scholarship to an advanced music student at the Conservatory of Music of Puerto Rico, and the sponsorship of a new Cub Scout troop.

Mrs. Lockheimer put the resources of the club behind the continuation of the "Limpieza es Salud y Belleza" program, a campaign to keep Puerto Rico clean and beautiful. A front license plate to promote the program was designed and a club member, at personal expense, had several thousand made and distributed. The secretary of public works of the Commonwealth Government of Puerto Rico, Honorable Rafael Ignacio, at the suggestion of Mrs. Lockheimer, had large billboards made, and erected at various locations in San Juan and other cities. A pamphlet with all of the statutes and regulations governing environmental quality and control has been printed and is ready for public distribution.

The major goal of Mrs. Lockheimer's presidency was to provide a minipark with facilities for the handicapped and for general public enjoyment. Following lengthy negotiations between Mrs. Lockheimer and government officials, Mayor Carlos Romero Barcelo and the Municipal Council of San Juan, unanimously agreed to give the 3½ acre site, directly in front of the Roberto Clemente Coliseum and the Hiran Bithorn Stadium in the Hato Rey section of San Juan, to the club for use as a minipark.

The club then embarked on a series of fund raising activities for the purchase of equipment and general improvements of the site.

The engineering and architectural work has been donated by public spirited Puerto Rican professionals, and a major portion of the landscaping and planting is being donated by a Puerto Rican enterprise.

Ground breaking took place on Monday, May 17, 1976, and on July 1, 1976 Mr. Lockheimer's dream will be realized when the park will be opened to the public. It will be the only park in Puerto Rico with facilities for the handicapped to enjoy.

In addition to leadership in the Club Civico de Damas de Puerto Rico she is active in the Puerto Rican Association for Restoration of National Monuments, Care of Puerto Rico, the Club Union de Majeres Americana, the Underprivileged Children's Christmas Toy Fund and is on the board of directors of the fund raising committee for the Deaf Mute Center. She is also a member of the San Juan Board of the Department of Human Resources.

Over the past few years Mrs. Lockheimer has received citations from numerous organizations, including: The Inter-American Association of Businessmen; the Businessmen's Association of Free Enterprise in Puerto Rico, Care of Washington, the Order of Merit by the Dominican Republic.

Mr. Speaker, I congratulate the Club Civico de Damas de Puerto Rico and its president, my friend, Carmen Lockheimer, for their notable endeavors in community service and I wish them continued success in their future work.

EQUAL RIGHTS AMENDMENT

HON. BELLA S. ABZUG

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 9, 1976

Ms. ABZUG. Mr. Speaker, passage of the equal rights amendment is essential if women are to attain the equal status they have been denied since the inception of our Nation. The law has consistently applied a double standard, judging individuals not on the basis of their ability or qualifications but rather on the basis of their sex. In so doing the law has perpetuated discrimination in a wide range of areas. While laws are changing concerning protective labor legislation, the right to control one's own body, and differential tax treatment, change is slow and inadequate.

A recent article in the American Bar Association Journal written by Doris Sassower, addresses many of these issues. She suggests that by raitfying the equal rights amendment and increasing the number of women in the legal profession as lawyers, legislators, law professors, and judges, women will have a greater opportunity to obtain equal treatment under the law, making equality a reality for the "disadvantaged majority." I would like to take this opportunity to insert this article in the Record:

WOMEN, POWER, AND THE LAW

(By Doris L. Sassower)

(Law has been used as a means of keeping power from women, and ony recently have decisions of the United States Supreme Court shown a chink in the masculine armor. But the Court has never applied the suspect classification test to gender-based discrimination, making ratification of the equal rights amendment all the more important.)

There is more than a measure of irony in any attempt to establish a relationship between women, power, and the law, because women have never had enough power to talk about. And women's essential powerlessness in society is at once cause and consequence of laws that have enforced that condition. For the nearly two centuries of our national existence, power has not belonged to the people but to male lawmakers. As controllers and dispensers of the nation's collective force, they have institutionalized legal precepts and constitutional principles that served to perpetuate the "natural male dominance" and left to women a heritage of dependency and second-class citizenship.

Women's rights have been severely limited, if not totally suppressed, by sex-linked roles defined for them by men. Women's stereotyped status as domestic servants, physical weaklings, and legal dependents has made them, in fact, unable to support themselves. The impact of the feminist movement and the dramatic rise in the proportion of women in the labor market have now furnished the momentum to eradicate their subordinate legal, as well as economic, status.

Sex discrimination in employment was upheld as constitutionally permissible more than a century ago in *Bradwell* v. *Illinois*, 16 Wall. 130 (1873). Women as a class not only were restricted but barred from many occupations, including the practice of law. The male interpreters of the Constitution decreed as axiomatic truth that "God designed the sexes to occupy different spheres of action, and that it belonged to men to make, apply and execute the laws," for which duties "the natural and proper timidity and delicacy" of women rendered them "evidently unfit." The less than divine prejudice expressed in the conclusion that "the paramount destiny and mission of woman" was "to fulfill the noble and benign offices of wife and mother" became enshrined as "the law of the Creator" in Justice Bradley's memorable opinion sustaining the rejection by the state court of Myra Bradwell's application for admission to the bar because she was of the wrong sex.

The continuing judicial treatment of women as non-persons was expressly held not to violate any constitutional right some twenty years later in *In re Lockwood*, 154 U.S. 116 (1894), when Belva Lockwood sought to practice law in Virginia. The Court relied on *Bradwell* and *Minor* v. *Happersett*, 21 Wall. 162 (1874), which had hallowed the denial to women of the right to vote. Notwithstanding the fact that Belva Lockwood was licensed to practice law in several states and the District of Columbia, the High Court sustained the state's right to confine the word "person" to males under a statute providing that "any person duly authorized and practicing as counsel or attorney at law in any state or territory of the United States or in the District of Columbia may practice as such in the courts of this state."

WHAT PRICE PROTECTION?

Under the banner of "protection," the use of sex as a reasonable basis for classification became accepted constitutional doctrine—starting with *Muller* v. *Oregon*, 208 U.S. 412 (1908), in which the Court cited the immutable, "inherent difference between the two sexes" to justify protective labor laws. These, in time, became the vehicle of "protecting" women out of the right to employment, advancement, and overtime pay. Women became the virtual victims of a form of protection that in practice perpetuated their dependency by reducing their value in the job market. In important respects women were citizens without responsibilities, such as service on juries and in the military—and also without the correlative rights that give citizenship its value.

The growing participation of women in the work force recently impelled the United States Supreme Court to reconsider their role in relation to jury service. In *Taylor* v. *Louisiana*, 419 U.S. 522 (1975), the Court, noting that 54 per cent of women between the ages of eighteen and sixty-four are in the labor market, retreated from the concept of women as "the center of home and family life" enunciated in *Hoyt* v. *Florida*, 368 U.S. 57 (1961), which had upheld the exemption of women from jury service. The Court reversed itself this far—a male criminal defendant is deprived of his due process right to fair trial when women, by state statute, are automatically excluded from jury service. *Taylor*, while undeniably of significance in the evolving judicial perception of women in society, was touted in the news media as a momentous victory for women's rights—one which raised doubts as to the need for the equal rights amendment.

In proper perspective, *Taylor* is no *Brown* v. *Board of Education*, 347 U.S. 483 (1954). It does not reinterpret prior case law to sound a Fourteenth Amendment clarion call for equality between the sexes, as *Brown* did for the races. To the extent that law is a behavioral science that sets standards of acceptable conduct for individuals in their relations with each other and the state, it still remains constitutionally permissible to treat men and women unequally, without violating the equal protection clause of the Constitution.

What *Taylor* does accomplish is the expansion of the Sixth Amendment right to a fair and impartial trial in criminal prosecutions (binding on the states by virtue of the Fourteenth Amendment) by holding that constitutional right violated if the jury has not been impaneled from a representative cross-section of the population. The remarkable conclusion reached by the Supreme Court in *Taylor* is that women—more than half the population—are an essential component of that cross-section. It took until 1975 for our highest Court to come to that history-making announcement! That's a long time, but hardly a long way, baby!

Taylor has perhaps more significance for what it does not say—it does not reject sex-based exemptions from jury service as a denial of equal protection. And so, it is once again clear that the ultimate judicial recognition of women as "persons," entitled to the equal protection of the law, which women's rights advocates had hoped would emerge after the new heights scaled in the landmark abortion cases, has not yet materialized.

Of course, we must not forget that in 1891, the Supreme Court said in *Union Pacific Railroad* v. *Botsford*, 141 U.S. 250, 251, that "no right is held more sacred . . . than the right . . . to . . . control of [one's] own person. . . ." The Court waited almost a century before applying that pronouncement to women's right to control their own bodies by allowing them to choose whether or not to restrict conception or abort.

Two more recent decisions involving gender-based discrimination give evidence that the Supreme Court is altering its former views on the role of men and women in contemporary society. *Stanton* v. *Stanton*, 421 U.S. 7 (1975), found irrational, for purposes of child support, a Utah statute emancipating females at age eighteen and males at age twenty-one. In *Weinberger* v. *Wiesenfield*, 420 U.S. 636 (1975), the Court found legislative irrationality in a provision of the Social Security Act granting survivors' benefits to a widow, but not a widower, with young children. In both cases, the sex-linked laws in question did not meet the test of minimum rationality or compelling governmental interest. Accordingly, as the Court put it in the Utah case, it was "unnecessary . . . to decide whether a classification based on sex is inherently suspect."

SKIRTING THE ARGUMENT

The Utah ruling is but the latest in a line of Supreme Court cases that in the last several years have considered substantial Fourteenth Amendment equal protection challenges to sex-based statutory provisions without meeting the "suspect classification" argument head on. Two previous decisions—*Reed* v. *Reed*, 404 U.S. 71 (1971), and *Frontiero* v. *Richardson*, 411 U.S. 677 (1973)—were encouraging, but neither provided the long-awaited, clear-cut precedent that would make distinctions resting on sex, like race, "suspect" classifications.

In *Reed* the Court unanimously invalidated an Idaho statute that gave automatic preference to males when equally related females sought to administer an interstate estate. The effect of the decision, however, was limited to prohibiting arbitrary discrimination against women, without holding that all discrimination against women is presumptively arbitrary.

In *Frontiero* four of the justices moved beyond *Reed* to state that "classifications based upon sex, like classifications based upon race, alienage, or national origin are inherently suspect, and must, therefore, be subjected to strict judicial scrutiny." The eight to one ruling in that case held unconstitutional a federal statute requiring a female servicewoman to prove her husband's dependency on her in order for him to qualify for military fringe benefits. Wives of servicemen were automatically entitled to dependents' benefits, regardless of whether they, in fact, were dependent—

Unfortunately, the views of the four justices were not a majority opinion; four other justices concurred in the decision on the basis of the due process clause of the Fifth Amendment. But three of these members of the Court explicitly refused to address themselves to the "suspect classification" argument prior to the conclusion of all state ratification procedures concerning the equal rights amendment, which might not be until 1979.

The auspicious trend suggested by *Reed* and *Frontiero* suffered a setback with two other cases in 1974 that might have been vehicles to bring sex differences within the equal protection clause. *Kahn* v. *Shevin*, 416 U.S. 351 (1974), sustained a property tax exemption for widows but not for widowers. *Geduldig* v. *Aiello*, 417 U.S. 484 (1974), upheld a state disability statute denying women benefits for disabilities of normal pregnancy.

In 1975 the argument for a strict judicial scrutiny standard for gender-based classifications was raised and rejected in *Schlesinger* v. *Ballard*, 419 U.S. 498 (1975). The Court denied a challenge to the navy's mandatory discharge scheme, which provided disparate treatment to male and female naval officers. The federal statute in question gave women a longer tenure than their male counterparts in competition for promotions. This was found to serve a rational legislative purpose in light of anterior discrimination against women.

SEXISM IS PERVASIVE IN LAW

It seems plain then that in the absence of a constitutional mandate, continuing judicial challenge on a piecemeal basis is required to eliminate laws which, notwithstanding significant improvement, are still rampant with sexism.

Double standards of justice and sexual morality decree, for example, that a woman guilty of a single act of adultery forfeits all right to future support, with no comparable economic penalty for the adulterous husband, despite the wife's years of devoted, uncompensated services in the home. Married women, including the virtuous homemakers extolled by law and society, often find that on divorce, they acquire no rights in the property accumulated during the marriage, that alimony (if awarded) is an uncollectible illusion, and that the arbitrary allocation of decision-making power to the husband under our common law, requires her not only to take and keep her husband's name, but also his choice of domicile—at the risk of forfeiting the support he is ostensibly required to provide. At the same time, if a wife uproots herself and leaves a job to accompany her husband, she invariably disqualifies herself for unemployment benefits, having voluntarily discontinued her employment. Legal encouragement to women to marry early has been built into laws that fix a lower age of majority for females and permit women to marry earlier than men—the assumption being that it is desirable to encourage females to exchange one form of dependency for another.

Sex distinctions in law enforcement are reflected in different prison terms for men and women for the same offense and in prostitution laws. As pointed out in the February, 1976, report of the American Bar Association Section of Individual Rights and Responsibilities to the House of Delegates: "In all but a few states, the law ignores the fact that a man can be a prostitute and more importantly, that male customers, whose patronage is essential to the survival of prostitution, are at least equally responsible for generating the activity in question."

Just as the Nineteenth Amendment was needed to remove barriers to women's right to vote, so the equal rights amendment remains an imperative in order to establish equality on a constitutional basis and put an end to the discriminatory practices and judicial interpretations that have sanctified "the woman's place is in the home" philosophy.

Radical changes are taking place in society, and they are gradually being reflected in responsive legislation and court decisions. But in this shifting drama the real power relationships will not be changed until there is a drastic change in the cast. When women are truly partaking of power, they will share the limelight, and the proof will be found in the numbers of women in positions of leadership in all sectors of society and in the number of women lawyers, legislators, law teachers, and judges. This is the true index of accomplishment in equalizing women's status.

According to the latest statistics, women studying law in approved law schools increased roughly from 2,600 to 26,000 in the ten-year period from 1966 to 1975. Women now account for close to 23 per cent of the total enrollment, but that is not cause for complacency. The rate of increase in women's enrollment has gone down steadily for each entering class since 1973.

In contrast, my research shows that as far back as 1959 women in Denmark accounted for 50 per cent of law students, in Poland 25 per cent of judges, and in France 14 per cent of lawyers. Bear in mind that today fewer than 4 per cent of lawyers and fewer than 2 per cent of judges in the United States are women. As long as these percentages prevail, talk of women having achieved power is just that—talk.

The pitiful underrepresentation of women in the legal profession and the historic discrimination against them parallel the factors given as the rationale for "minority admissions" programs in law schools, although concededly the cultural deprivation suffered by women as a class is of a different sort. Yet, nonminority women are typically denied the benefits of preferential programs, which have already achieved a visibly higher percentage of black and Puerto Rican lawyers and judges.

Whether these preferential programs are constitutional is in dispute. There is raised, however, in a class action brought on behalf of women in the United States District Court for the Southern District of New York (*Stewart* v. *New York University*, 74 Civ. 4126) the question whether women too should have preferment in the event the programs ultimately are upheld by the Supreme Court. The suit is designed to establish women's entitlement to rights now given to minorities.

In a nation that proclaimed at its inception that all men are created equal, the question in our bicentennial year is not merely whether equality between the sexes shall be recognized constitutionally, but also whether Americans shall settle for anything less as the most immediate next step. A revolutionary battle again rages, this time for a single legal standard for both men and women. In that struggle, the ratification of the equal rights amendment will be a common victory.

For women—the disadvantaged majority—"the promise of America" can have meaning only when it is translated into constitutional power and backed by the currency of daily reality.

PERSONAL STATEMENT

HON. HERBERT E. HARRIS II

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 9, 1976

Mr. HARRIS. Mr. Speaker, on May 12, I published in the CONGRESSIONAL RECORD the details of the Federal income tax joint return—form 1040, which Mrs. Harris and I filed for the year 1975, thus continuing a practice I have followed since entering public life.

Today I am augmenting that disclosure with a detailed listing of our assets and liabilities as of January 1, 1976. It should be noted that our assets basically are our home and insurance. While total assets are not large, neither, I am pleased to note, are liabilities.

I believe that this type of detailed disclosure provides a basis of confidence that my actions on behalf of the citizens of the Eighth District of Virginia are based on my best judgment and in their best interest and not on any possibility of financial or material gain on my part. The honor they have bestowed on me in permitting me to represent them demands no less.

NET WORTH STATEMENT—CONGRESSMAN AND MRS. HERBERT E. HARRIS II OF VIRGINIA AS OF JANUARY 1, 1976

ANNUAL INCOME DATA FOR 1975

1. Wages, salaries and other employee compensation, $39,072.08.
2. Retainers, fees, honoraria, and other non-employment payments, $450.00.
3. Dividends, $154.40.
4. Interest income, $1,455.93.
5. Rents (net), None.
6. Business income (or loss), None.
7. Net gain (or loss) from sale or exchange of capital assets, None.
8. Pensions or annuities, None.
9. Royalties, None.
10. Settlements, None.
11. Partnerships, None.
12. Commissions, None.
13. Estates or trusts, None.
14, Gifts, loans, pardoned loans, None.
15. Farm income, none.
16. Winnings of any kind, None.
17. Other income of any kind, None.

ASSETS, LIABILITIES (AS OF JANUARY 1, 1976)

Assets

Cash on Hand, $50.

Cash in Bank: Checking Account, $4,601; Savings Account, $13,681.

Notes receivable, None.

Accounts receivable, None.

Loans receivable, None.

Life insurance (cash surrender value), $38,105.

Securities (readily marketable-U.S. Government and Stock Exchange Listings) $2,223. (General Foods, American Telephone and Telegraph, and Exxon—all acquired in 1964.)

Securities (not readily marketable-unlisted bonds), None.

Mortgages owned, None.

Real Estate (Personal Residence), $71,654.

Real Estate (other), None.

Automobiles (2) $1,800.

Other assets (including jointly-owned property):

Retirement System, $3,126.

Household goods, jewelry, etc., $5,000.

Total Assets, $140,240.

Liabilities

Notes payable to banks (unsecured-direct borrowings only), None.

Notes payable to banks (secured direct borrowings only), None.

Notes payable to others (unsecured), None.

Notes payable to others (secured), None.

Time payment accounts, None.

Loans against life insurance, None.

Real estate mortgages payable (Personal Residence), $25,805.

Real estate taxes and assessments payable, None.

Federal and State income taxes, None.

Other taxes, None.

Interest payable on loans, mortgages, etc., None.

Brokers margin accounts, None.

Other liabilities, None.

Total liabilities, $25,805.

Net Worth: (Assets less Liabilities), $114,435.

BUSINESS INTERESTS FOR THE YEAR 1975

None.

SUPPLEMENTAL INFORMATION

Banks and Savings and Loan Associations: Alexandria National Bank of Northern Virginia; Home Federal Savings and Loan Association; and Washington Federal Savings and Loan Association.

Sergeant at Arms (U.S. House of Representatives).

Insurance: Bankers Life Insurance; Metropolitan Life Insurance; American Farm Bureau Benevolence Association; and General American Life Insurance.

WORKER EXPOSURE TO LEAD

HON. DOMINICK V. DANIELS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 9, 1976

Mr. DOMINICK V. DANIELS. Mr. Speaker, the Subcommittee on Manpower, Compensation, and Health and Safety held 4 days of hearings in March 1976, on the subject of worker exposure to lead as part of our oversight on the Occupational Safety and Health Act of 1970. We heard testimony from many witnesses concerning the deplorable conditions of exposure to lead dust and fumes which exist in battery plants throughout this country.

One of our witnesses, Dr. Hector Blejer of the National Institute for Occupational Safety and Health, formerly chief of the Medical Unit in the Occupational Health Section of the California State Health Department, focused on the lead intoxication of battery plant workers in California. The New York Times on June 6, 1976, carried an article which dealt with lead contamination of workers at the Prestolite battery plant in Visalia, Calif. I call my colleagues' attention to this article.

Unfortunately, the subcommittee heard that the Visalia plant is not an isolated incident of lead poisoning. Dr. Blejer noted that of 145 workers studied in 9 battery plants in southern California, 50 percent of the workers had levels of lead in their blood above what could be considered an "acceptable" level for adult male workers. The battery plants who participated in this study did so voluntarily. It is Dr. Blejer's considered judgment that these plants, therefore, were likely to be "cleaner" than other lead battery plants, and the plant owners did not expect that the study would uncover these blatant cases of lead poisoning.

Other witnesses before our committee, including Dr. Morton Corn, Assistant Secretary of Labor, Dr. John Finklea, Director of the National Institute for Occupational Safety and Health, and several physicians from the Mount Sinai School of Medicine in New York, testified to widespread lead contamination of American workers in smelters and battery plants.

Dr. Harry Heimann, research professor emeritus, Mount Sinai School of Medicine and formerly Chief, Division of Occupational Health of the U.S. Public Health Service, testified as follows:

> In regard to lead exposures in such places that I have visited, and most of them have been lead storage battery plants, I have never yet seen one properly controlled in terms of the lead hazard—never. I have seen in my time probably 20 or 30 lead storage battery plants. Various degrees of control have been instituted, but never to the point where there would be no excessive exposure.

Dr. Heimann also informed the committee:

> In my opinion, again based on my 40 years of work in this field, I think it (lead) is one of the most serious, noxious substances around for industrial workers in the United States and in the world. . . . It is an important toxic substance that has not been properly evaluated as to its potential.

Mr. Speaker, I am well aware that there are Members of this House who want OSHA repealed or amended to exempt small business or to eliminate first instance sanctions. I also am well aware of the complaints concerning the administration of the act—complaints concerning standards and inspectors.

I have frequently discussed these problems with the Department of Labor, and the subcommittee has held 17 days of of oversight hearings on OSHA in this session of Congress. In addition, the House on November 17, 1975, passed H.R. 8618, a bill to amend OSHA to provide a program of on-site consultation to employers.

I urge my colleagues not to lose sight of the larger issue involved in any discussion of OSHA—the issue which underlies the entire act—namely, the health and safety of the American worker. I firmly believe that the right to a safe and healthful workplace is fundamental, and it must be preserved and protected at all costs.

The text of the article follows:

[From the New York Times, June 6, 1976]

A BATTERY PLANT AND LEAD POISONING

(By Henry Weinstein)

VISALIA, CALIF.—The Prestolite auto battery plant here isn't particularly imposing.

It's just outside of this town, 200 miles south of San Francisco and halfway between the Pacific Ocean and the Nevada border. There are only 150 employees, and most of those are Mexican-Americans.

But that Prestolite plant is in the center of an almost classic struggle between industry and public health authorities. The issue is whether the battery production is the source of lead poisoning endangering the health of the plant's workers.

The state of California says it is and charges that despite repeated warnings and orders the company avoids correcting the problem. Prestolite, a division of the diversified Eltra Corporation of New York, denies any guilt and drops hints of closing the plant and moving to another state.

Industrial health hazards are no longer easily ignored. The long illnesses caused by asbestos, the liver cancers traced to vinyl chloride and the chemical poisoning tied to Kepone are well documented. Lead poisoning, too, could be an industrial problem. In Canada, the General Motors Corporation ordered that no women of childbearing age work at its battery plant because of the danger. And California authorities said that airborne lead exceeded the state's limits at 18 of 19 battery plants—heavy users of lead—checked in southern California.

The United Auto Workers, which represents the Visalia workers, and has contracts in 40 other battery factories, says its studies show lead hazard isn't uncommon.

"Visalia is bad, but it's not the worst I've seen," said a U.A.W. industrial hygienist. But "if they clean it up, it may set a costly precedent."

In Visalia, there's more than concern; there's fear.

"I'm 29, but I feel like 50. I've been having stomach problems. I've got kidney problems. I know my nerves are shot. I notice myself shaking. I get headaches. Some days I take four or five Anacin," says a Prestolite worker who asked that his name not be used. Last year he missed two months of work because of the high level of lead in his blood.

He had plenty of company. According to reports received by the California department of health, 119 different Prestolite workers saw a doctor about lead problems last year. Eighty one were ordered to wear respirators a few hours a day, 31 of the 150 at the plant were told to stay away from the plant for a while, some for as much as five months.

Others were advised by their doctors to quit the plant altogether or suffer serious long-term consequences. Lead contamination has long been known to cause anemia, neuritis, and damage the blood, kidneys, brain and central nervous system.

In January, Prestolite was fined $45,000, by the state's division of industrial safety, for health and safety code violations, the highest fine ever from the agency. This was on top of $10,000 in fines dealt to the company in 1974 and 1975.

John Walovich, the plant manager, won't discuss the situation with a reporter. On March 10, however, he circulated a letter to workers saying "it is felt that there is not an uncontrolled health problems at the Visalia plant. Lead exposure controls, which have safeguarded your health, have been in effect here for years and will continue to be improved upon."

Jack A. Green, Prestolite's chief counsel in Toledo, says, "I don't think it's proper to say anything more because the matter is in litigation," although there is no law that keeps him or the company from discussing it.

But Prestolite's attorney here, Clark Deichler, says:

"Prestolite has one of the best and cleanest plants around. Why are they getting hit so hard?" He also says the company has "the most rigid hygiene and medical program of any battery plant in the United States. They've become a laboratory for the [state] department of health. They're the only one that regularly monitors their lead and air. They have spent $750,000 on this."

Yet, he complains, "the [California] division of industrial safety is within half an inch of squeezing Prestolite out of the state."

California officials don't see the company in quite the same light.

"Prestolite was picked out for study because it was the worst of the bad actors at the time," says Dr. David Parkinson, chief of the occupational health section of the state's health department. "I have no reason to change that position. If they're the best company, God help the workers in the other companies."

In February, with the state threatening to close the plant, Prestolite agreed to halt work in some of the worst areas until they could be cleaned, to hire a qualified industrial hygienist and mechanical ventilation engineers from outside the company to carry out a program of eliminating the lead hazard, and to medically monitor all the plant's workers.

In mid-April, after a surprise inspection, Michael Schneider, deputy chief of the state industrial safety division, said "there was little or no evidence that the company had engaged in any structural alterations."

The company had agreed to give workers protective coveralls and better aprons, but, says Milton Mason, a state hygienist, "it is clear that no meaningful effort has been made to provide workers with adequate protective coveralls or suitable garments. This should have been done long ago since it's so simple a problem to solve."

The state has threatened to close the plant in August. "We're in a 'Catch 22' bind," Mr. Schneider, the state official said. "I don't want to close down the plant, but I don't want anyone to die of lead poisoning, either."

One 28 year old worker says he missed five months of work last year because of his blood's high lead content.

"The lead makes you irritable. It's hard to get along with your family. People get on your nerves all the time." Still, he's back at

Prestolite. The $4.24 an hour he earns is "a good wage for around here. Right now it's hard to find another job. Say you're off for a month or two, your bills pile up so you have to come back to work," he says.

"Nobody wants to be out of a job but nobody wants to work in that environment, either. It's not right that we have to choose between our job and our health. It's just not right," says Candy Ramos, president of the U.A.W. local at the plant.

The state's first study at the plant, which opened in 1970, came in April 1974. Airborne lead concentrations were found to be too high and Prestolite was fined $1,550. In November several machines were shut down with a court order. Another inspection in December 1974 showed lead levels 13 times higher than the allowable level, Mr. Mason, the state hygienist, reported "this plant is out of control at specific work stations as well as in many general room areas."

Prestolite appealed but lost and $8,600 in penalties were upheld by a state hearing officer. Machines that had been shut, however, were working again in June 1975 with the approval of a local judge. However, a three day inspection in November 1975, after reports from doctors of high lead levels in workers, led to the $45,000 fine which is being appealed.

The death of one Prestolite worker at another California battery plant, this one in Oakland, is connected to the lead problem.

The worker, Tommie D. Miller, started at the Oakland plant in June 1969, and he had no blood lead problem when he started the job. But the lead level rose rapidly, he had headaches, vomiting, severe stomach pains and lost weight. His blood lead level stayed high even after he quit the job, which was puzzling. Some doctors believe that long exposure to lead leaves the blood lead count permanently high.

Mr. Miller died Sept. 12, 1971 at the age of 28, and his death certificate said the underlying cause was acute and chronic lead poisoning.

When he stopped working at Prestolite he had received $3,496.08 in workmen's compensation benefits. After his death his young daughter was awarded $2,700, less legal and medical fees, from Prestolite.

MELVIN MAKES THE GRADE

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 9, 1976

Mr. FINDLEY. Mr. Speaker, graduation exercises tend to be misty-eyed events. This one was especially so.

There was Melvin garbed in black cap and gown, adorned with the gold sash of a merit scholar, seated on the stage at the departmental auditorium, ready to accept awards for scholarship and then to speak as salutatorian of the graduating class of Bell Vocational High School.

When he stood up and delivered his thoughtful remarks about goals and how to achieve them, he looked taller than his 6-foot-1. To me and to the dozen of his fellow workers from Capitol Hill clustered together in the auditorium that night, Melvin was as tall as anybody could get.

When we first met him 7 years ago he was half as tall, and shy. He was one of four young men my assistant, Bob Wichser, his wife, Pat, and another member of my staff, Madelyn Evans, brought together one evening a week for scholastic tutoring.

These three began tutoring in the wake of the riots and burnings which engulfed parts of the District of Columbia after Dr. Martin Luther King, Jr. was assassinated. The four youngsters were from one of the neighborhoods so scarred that both home-life and school-life were under strain. These staffers of mine decided a tutoring class would be a way to help.

Finally the evening class dwindled down to one—Melvin. This experience led to an after-school job for him. He helped with filing, preparing mail, making deliveries. And during summers the job became fulltime. So Melvin became a part of my congressional staff, and this relationship continued all through high school. The job had conditions. Melvin had to be punctual and diligent. And he was. More than that, he had to keep up his grades in school.

Melvin grew in the job, physically and in other ways. He lost his shyness. He gained poise and an air of confidence. He learned to deal with people in all kinds of circumstances. One of his chores was bringing mail to the Capitol Building for me to examine and sign while I was required to keep close to the House floor. He quickly won the friendship and respect of doorkeepers and policemen.

Scholarship was always high on the agenda. Each report card was carefully examined by my staff. Despite his workload at the office he mastered the workload at school too. One day Melvin brought cheers to this corner of the Rayburn Building when he announced that he has been selected as salutatorian of his class.

And so it was Melvin had a supersized cheering section at commencement exercises. Yet his office colleagues were not prepared for his prominence on the program. In addition to recognition as salutatorian, he received the Lemuel A. Penn Memorial Award, the Earl Howard Medallion Award, recognition as a member of the Society of Distinguished American High School Students, and a special letter of commendation from the District of Columbia Superintendent of Schools, Vincent E. Reed.

He was recognized as the only student whose senior class record included no marks below B. A letter commending him for "diligence, perserverance, and serious attention" from Superintendent Reed was read to the crowded auditorium. And to top it all, Melvin had won the esteem of his classmates. He was elcted class secretary.

Melvin's mother, father, two sisters, and several relatives were in the audience. They could not have been prouder of him than his office family from Capitol Hill.

And frankly, I could not be prouder of my assistant and his coworkers who helped Melvin down the road to achievement.

In his address at the exercises, Melvin had this to say:

SALUTATORIAN ADDRESS OF MELVIN S. COBB

Honored platform guest, class of 1976, parents and friends.

This evening I will convey to you my personal views concerning success. The word success means different things to different people. Quoted from Webster's New World Dictionary success means; the gaining of wealth, fame, rank, etc., a successful person.

I believe that success is the gaining of what one wants out of life. Ask yourself what do I want? Once that decision has been made, then one should follow the proper procedure in order to obtain achievement. This is why I feel the word goal plays a significant role. Goal is the object that one strives to attain. Setting a goal in life is an important factor to consider. By doing so, one would have something to look forward to in life. That individual will need a great deal of motivation and confidence in order to help strive for accomplishments. It doesn't matter what goal one sets out for, there will always be the possibility of unpleasantness. Your dreams my vanish before you. Its only normal for frustration and disappointment to occur. When incidents of that nature arise, it is vital that one overcome those obstacles and make alternative decisions. Langston Hughes who is an author of several books wrote a poem entitled, "As I Grew Older."

In this particular poem, the individual's dream started to fade away. I quote the following:

AS I GREW OLDER

It was along time ago.
I have almost forgotten my dream.
But it was there then,
In front of me,
Bright like a sun—
My dream.

And then the wall rose,
Rose slowly,
Slowly,
Between me and my dream.
Rose slowly, slowly.
Dimming
Hiding
The light of my dream.
Rose until it touched the sky—
The wall

Shadow
I am black.

I lie down in the shadow.
No longer the light of my dream before me,
Above me.

END OF QUOTE

Once that wall got in front of that individual's dream, he just gave up.

Giving up is something no one should do.

If that wall should suddenly start to rise in front of your dream, It might be difficult to accept, but that's one wall one will have to climb over. Remember, make up your mind as to what you want in life. Then strive for success. After all, nothing will be handed to you on a silver platter.

Melvin's goal is to be a union electrician, and a good one. He will find some walls to overcome, but he will hurdle them one by one. Of that I have no doubt.

Capitol Hill has helped Melvin, but at the same time he has helped the Hill. As long as he lives at least one Washingtonian will know that some good things happen on Capitol Hill.

CENTENNIAL CELEBRATION OF THE CITY OF UKIAH, CALIF.

HON. DON H. CLAUSEN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 9, 1976

Mr. DON H. CLAUSEN. Mr. Speaker, let me take this opportunity to call the attention of my colleagues in the Congress the words of Councilman Jack Simpson of Ukiah, Calif.

Mr. Simpson provided an extraordinary historical and chronological presentation to a large gathering of young pepole, their parents, and many citizens of Mendocino County participating in a centennial celebration for the city of Ukiah and, simultaneously, the Bicentennial of the United States.

His eloquent, capsule summary of the history of Ukiah can be enjoyed by anyone. It represents both a statement of some of the events that have fostered the beautiful and enjoyable community that Ukiah is today as well as a testimonial to events that, recreated in countless towns and cities across the Nation have made America what it is today.

In addition, the musical presentations of the young people from the schools of Ukiah and Mendocino County were truly outstanding.

I have seen many performances by professionals in the musical world but none could surpass the talent displayed by these young performers.

It made everyone in attendance appreciate the deep sense of pride and patriotism they were projecting through song to the listening audience.

It was truly a red, white, and blue celebration that sent a chill up your back as you listened.

At a time when so many of our young people in the big cities seem to have lost their way, the thought ran through my mind, "Oh, how I wish all of America could see the dedication and the sense of purpose of these beautiful and talented young performers from Ukiah." The music teachers have done themselves proud in bringing their students to the peak of perfection.

I believe Mr. Simpson's remarks should have wide circulation and I want to record them permanently in the Record:

Talk Given by Jack Simpson on Occasion of Ukiah's Centennial and Our Nation's Bicentennial

There have been many articles in the paper, presentations by various clubs and societies, and a lot of talk concerning the Bicentennial in Ukiah. It is difficult to keep from being repetitious. However, when we think of our nation that we love, and our community that we love, it isn't too difficult to come up with some interesting things to talk about. In trying to condense the history of 100 years into my allotted time, most of my remarks were ending up on the cutting room floor. I will not be able to talk about the vast changes in the educational systems, the innovative role of the County Superintendent of Schools Office, nor the many, many, changes in city and county government, the role of the courts, and the various annexations to the city.

The first pioneer family to settle in Ukiah, was the family of A. T. Perkins in 1857. They moved into a cabin which was built by Mr. Lowery the year before, on the property where the Library is now located.

Up to 1865 the business of the town was confined to Main Street, then gradually moved around the courthouse. The original city lapsed in 1872. In 1874 none of the city officials qualified. Ukiah became incorporated in March, 1876. It was one mile square—¼ mile each way from the courthouse. The city is now approximately 4.1 square miles in size. Only 3 square miles in 100 years!

There were frequent fires; the bucket brigades and early fire departments were not effective unless they were on the scene when the fire started. Like today, most buildings were under-insured, so financial losses from fire were frequent. In 1864 there was a huge forest fire near Ukiah. An article in a local paper on March 7, 1877 stated: "The Eagle Fire Company has been formed with 15 members. Their equipment consists of a hook and ladder, and 4 Babcock Fire Extinguishers. The company owns its building and hopes to purchase a fire bell soon." The city now has modern equipment, and enjoys low fire rates, and cooperates with the Ukiah Valley Fire Department. In 1899 there was a fire which practically wiped out the entire business area of the town. The Palace and Capital Hotels were burned, along with stores, livery stable, and saloons.

In those days you could stay at the Palace Hotel for $1.50 per day. You could get a complete dinner at the Davenport Restaurant for 25¢. Round steak was 25¢ a lb. and liver was free at the butchershop. A man could earn from $1.00 to $2.00 a day for a 10 to 12 hour day.

The sidewalks, even downtown, were dirt or wood. The CETA employees have completed about 12 miles of sidewalk this past year. The streets were dirt, and horses and wagons would get mired down in the rainy season.

The racetrack was near South Dora and Wabash Streets. Horse racing was so popular that the Northwestern Pacific Railroad used to run special trains from the Bay Area two or three times a year.

There was a laundry where Pennys Store is now located. Carnivals were held in this same area, as was Chatauqua. The latter was held in a large tent; they had speeches on national topics, debates, minstrel shows, hypnotists, famous singers, singing groups, juggling acts, and plays. Bands and parades were popular. The Willits Band would sometimes join the Ukiah Band, and lead a parade; hurry to the tail-end of the parade, and then pass by again as the Willits Band. Street and folk dances were held frequently. Many times most of a band would be members of one or two families. There was always a parade on national holidays.

Quite a few newspapers have come and gone; mostly weekly or bi-weekly. They came out strongly for one party or the other, and frequently either supported or gave an individual a bad time.

Todd Grove, which is the City Park and Golf Course, was offered to the city fathers by Judge Lilburn Gibson, who besides being a lawyer, was in the real estate business with George Johnson. Johnson quit the job of County Treasurer in order to get into the real estate business. The council could see no use for the property, and refused to purchase it. However, Mayor H. B. "Bud" Smith thought it a good idea—saw lots of possibilities in it, and talked the council into purchasing Todd Grove property for the terrific price of $5,000. It is now worth hundreds of thousands of dollars, and provides open space. We now have McGarvey Park, across from Yokayo School, a mini-park in Empire Gardens, and a mini-park near Oak Manor School, as well as the Regional Park on Low Gap Road.

The law was carried out a little bit differently in those days. Frequently the District Attorney went with the Sheriff to investigate the situation before an arrest was made. They really had a good batting average or track record. It was the custom to gather up a posse right on the spot. Some of the events turned out to be humorous. As it is told:

A culprit was seen leaving the scene of the crime, and heading north. The posse was formed of strong, or what was felt to be courageous men. About two hours later one of the men was seen running into town all out of breath and quite bedraggled. He was asked if he had spotted the villain. When he could catch his breath, he said, "Yes, he jumped behind a tree, pulled his gun and fired at me; I heard that bullet twice—once when it passed me, and once when I passed it."

Some of the early city ordinances were quite unusual: "Dogs without licenses must be killed by the Marshal. Owners who do not take out dog licenses shall be fined $5 to $50. No boy under 16 shall be permitted on the streets after 8:00 p.m.—it shall be considered a misdemeanor. The fine shall not be more than $10, or imprisonment for 10 days, or both. The Marshal shall arrest all offenders . . .

Flour mills in Calpella moved to Ukiah in 1867. By the way, an attempt was made to divide the county in half, and to make Calpella the county seat of the northern half.

SCHOOL DISTRICTS

At one time there were 105 school districts in Mendocino County. Each had its own Board of Trustees. This means that there were about 320 trustees. There are now 7 school districts with approximately 60 school board members.

The first grammar school in Ukiah was across the street from the Methodist Church, built in 1858—before the Civil War, which was 1861–1865. Later a six-room building was constructed by public minded citizens, and given to the public. This was near the north east corner of the Yokayo School. The first and second grades attended school at the Baptist Church. School was also held in Cleland Hall near where Penny's and the Christian Science Church are located. This building was later moved nearer to the present site of Yokayo School. After another school was built, the town dances, plays, etc., were held in Cleland Hall. The high school also played its basketball games there. In 1904 there were around 200 pupils. The building at that time had six regular classrooms, a primary classroom, and the traditional belfry. The bell called the children into school in the a.m. and after recesses. The woodpeckers also found it a convenient place to drill holes to store acorns. Then, there was a building in back of Yokayo, three stories high, a fire trap. It was torn down in 1908. Well, about two years ago a large circle on the blacktop at the northeast side of Yokayo opened up—it was the old schools' well. Yokayo itself was built by Frank Crane, Sr. in 1922, and opened in 1923. The high school was built in 1892, burned and was rebuilt. The old shops which were temporary buildings, were torn down when the new shop was built in 1948.

When I was at Redwood Valley School, 1939–1945, the first school lunch in Northern Calif. was started, using surplus commodities and NYA help. The government furnished butter, flour, oranges, apples, hams, etc. We hired a cook and charged 3¢ a meal.

Class loads then and now—Now 25 is the largest number of pupils in most classes. I never taught a class in the district with less than 36 pupils, and have had classes of 56 in undersized classrooms. At Redwood Valley, I was principal, taught grades 7 & 8, coached sports for boys and girls, had 4–H Club, taught band and orchestra, shop, and handled the discipline, transportation, cafeteria, and finances of the district, and repeated much of the same in Ukiah, except I had only one 8th grade class. Thank the Lord school administrators are no longer called upon to do so much. The first school I taught I was handed a length of rubber hose and told that if I had any problems, to use it and use it hard, or else. One day a big boy—large than I—was picking on some first graders. He ignored my request to cease and desist. I used the rubber hose (reluctantly) and to make a long story short, the next day he brought me a bouquet of flowers and a large piece of smoked salmon, and said,, "I had it coming yesterday." Now you cannot expel or send a child home legally unless his lawyer appears, and it is agreed that he should be sent home.

In the good old days we used to line up outside the buildings and salute the flag every morning, and at one school, we even brushed our teeth before coming into school in the a.m.

When I came to Ukiah in 1945 from Redwood Valley, we had around 500 pupils in the Ukiah Elementary District at Yokayo, then called the Ukiah Grammar School. Fifteen years later we had an elementary and junior high school music festival in this auditorium, with 550 youngsters participating! By that time we had Yokayo, Frank Zeek, Nokomis, and Pomolita Schools.

My allotted time is used up. In honor of Ukiah's Birthday, which was March 8th, we have a birthday cake which will be served after the program. So let us go on with this fine musical program which has been prepared for us.

The City Council brings you greetings, and is very pleased with the city-wide bicentennial programs. Thank you.

HOUSE OF REPRESENTATIVES—*Thursday, June 10, 1976*

The House met at 10 o'clock a.m.

Rev. Harold Henniger, Canton Baptist Temple, Canton, Ohio, offered the following prayer:

Our Father, we pause to acknowledge Thee, the only true God, as our Creator, Sustainer, and Saviour.

We are grateful for the wisdom that Thou didst give our Founding Fathers and for Thy grace which has preserved this Nation these two centuries.

We thank Thee for Thy Word and for salvation through the death, burial, and resurrection of Thy Son, the Lord Jesus Christ.

We ask Thee to bless this session of Congress.

May each official realize that the fear of the Lord is the beginning of knowledge.

"Our Fathers' God, to Thee, author of liberty, to Thee we sing:
Long may our land be bright with freedom's holy light;
Protect us by Thy might, great God, our King."

Through Jesus Christ, our Lord. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

REV. HAROLD HENNIGER

(Mr. REGULA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. REGULA. Mr. Speaker, our guest Chaplain today is the Reverend Harold Henniger, pastor of the Canton, Ohio, Baptist Temple. Reverend Henniger came to the community of Canton 27 years ago, started with a small congregation of approximately 160 members, and today has the largest congregation in the 16th District. His ministry has inspired a Sunday school attendance approaching 4,500. The church operates buses throughout the district bringing people to hear the message of Christian faith as preached by Reverend Henniger. In addition Reverend Henniger's message of inspiration is heard by countless thousands through his radio and TV ministry.

The Canton Baptist Temple not only contributes greatly to the religious growth of our community, but also to the support of 100 missionary families around the world.

Dr. Henniger holds a bachelor of divinity degree from the Bible Baptist Seminary at Fort Worth, Tex., and a doctor of divinity degree from Bob Jones University of Greenville, S.C. He is the founder of the Christian Hall of Fame, housed at the Canton Baptist Temple. Included in the Christian Hall of Fame is a collection of 93 original oil portraits of great Christian leaders of our time.

Reverend Henniger is one of the fine Christian leaders who have enriched the life of our community in the 16th District. His thoughtful messages have been an inspiration to the people of my community. I personally cherish our friendship and have great respect for his wise counsel.

I can say on behalf of the people in our community that we have been blessed by Reverend Henniger's ministry.

PERMISSION FOR SUBCOMMITTEE ON ACTIVITIES OF REGULATORY AGENCIES OF COMMITTEE ON SMALL BUSINESS TO MEET UNTIL 11:30 A.M. TODAY DURING 5-MINUTE RULE

Mr. BEDELL. Mr. Speaker, I ask unanimous consent that the Subcommittee on Activities of Regulatory Agencies of the Committee on Small Business be permitted to meet during the 5-minute rule until 11:30 this morning. The Administrator of the Federal Highway Administration will present a brief statement and will demonstrate a new computer they have devised to attempt to standardize State transportation regulations.

The SPEAKER. Is there objection to the request of the gentleman from Iowa?

There was no objection.

PERMISSION FOR SUBCOMMITTEE ON IMMIGRATION, CITIZENSHIP, AND INTERNATIONAL LAW OF COMMITTEE ON THE JUDICIARY TO SIT DURING 5-MINUTE RULE TODAY

Mr. FISH. Mr. Speaker, I ask unanimous consent that the Subcommittee on Immigration, Citizenship, and International Law of the Committee on the Judiciary be permitted to sit today during the 5-minute rule.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

PERMISSION FOR SUBCOMMITTEE ON ENERGY AND POWER OF COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE TO SIT DURING 5-MINUTE RULE TODAY

Mr. OTTINGER. Mr. Speaker, I ask unanimous consent that the Subcommittee on Energy and Power of the Committee on Interstate and Foreign Commerce be permitted to sit during the 5-minute rule today.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

CALL OF THE HOUSE

Mr. WYDLER. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. O'NEILL. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 350]

Addabbo
Allen
Andrews, N.C.
Ashley
Bell
Biester
Broomfield
Brown, Calif.
Burton, John
Byron
Clawson, Del
Clay
Collins, Ill.
Conyers
Daniels, N.J.
Davis
Dellums
Dent
Diggs
du Pont
Edwards, Calif.
Esch
Eshleman
Ford, Mich.
Frenzel
Giaimo
Gibbons
Goldwater
Gonzalez
Goodling
Green
Harsha
Hayes, Ind.
Hays, Ohio
Hébert
Helstoski
Henderson
Hicks
Hinshaw
Holtzman
Jarman
Johnson, Colo.
Jones, Ala.
Karth
Kemp
Kindness
LaFalce
Litton
McEwen
McFall
Matsunaga
Meeds
Meyner
Milford
Nowak
Passman
Pepper
Peyser
Rangel
Rees
Reuss
Riegle
Roncalio
Rousselot
St Germain
Santini
Scheuer
Stanton, James V.
Steelman
Steiger, Ariz.
Stuckey
Symington
Taylor, Mo.
Teague
Thompson
Udall
Waxman
Wright
Young, Alaska
Young, Ga.
Zeferetti

The SPEAKER. On this rollcall 350 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

PERMISSION FOR COMMITTEE ON RULES TO FILE CERTAIN PRIVILEGED REPORTS

Mr. BOLLING. Mr. Speaker, I ask unanimous consent that the Committee on Rules may have until midnight tonight to file certain privileged reports.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

RELATING TO THE EXPENSES OF THE COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT

Mr. BOLLING. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1272 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 1272

Resolved, That upon the adoption of this resolution it shall be in order to consider the resolution (H. Res. 1260) to amend the Rules of the House of Representatives to allow all expenses of the Committee on Standards of Official Conduct to be obtained directly from the contingent fund of the House of Representatives upon vouchers signed by its chairman and ranking minority member, in the House as in the Committee of the Whole. It shall be in order to consider the amendment recommended by the Committee on Rules now printed in the resolution, the provisions of clause 7, Rule XVI to the contrary notwithstanding.

The SPEAKER. The gentleman from Missouri (Mr. BOLLING) is recognized for 1 hour.

Mr. BOLLING. Mr. Speaker, I yield 30 minutes to the gentleman from Tennessee (Mr. QUILLEN); pending that, Mr. Speaker, I yield myself such time as I may consume.

The SPEAKER. The Chair recognizes the gentleman from Missouri (Mr. BOLLING).

Mr. BOLLING. Mr. Speaker, the resolution that we are now considering makes in order the resolution introduced by the chairman of the Committee on Standards of Official Conduct, with an amendment made by the Committee on Rules. This resolution has to do with the ability of the Committee on Standards of Official Conduct to get funded for the various investigations that are pending before it, and it is in that sense a very unusual and important resolution.

The rule provides for the consideration of that resolution in the House as in the Committee of the Whole, so that the only general debate will be on the rule. That is now proceeding. When the rule is adopted, we will consider the matter from the Committee on Standards of Official Conduct in the House as in the Committee of the Whole, which means that we will automatically be under the 5-minute rule.

It further means that the manager of the resolution is empowered to move the previous question, not only on amendments to the resolution but on all amendments and the resolution itself to final passage. Of course, the gentleman who is managing it does not intend to move the previous question unless the debate becomes onerous from the point of view of the House.

So this is an open rule that we have on this resolution. The resolution, as introduced by the chairman of the Committee on Standards of Official Conduct, would have been completely open ended and would have constituted a change in the rules of the House, theoretically at least, a permanent change in the rules.

That would have been given to the Committee on Standards of Official Conduct on a permanent basis. Everybody understands that each new House makes its own rules, but the custom is to go on with the rules of the last House in the new one.

The Committee on Rules decided to modify that to make this ability to go to the floor directly, bypassing the Committee on House Administration, in order to get funds for investigation limited only to this year. There was no way in the time we had to establish what a proper limit should be. Therefore, what we did was to limit it only to this year; and that is the reason for the complicated procedure.

Mr. Speaker, the resolution lost its privilege when we limited it only to this year. It has to come up as an unprivileged resolution.

This makes it possible for us to meet the current emergency, which is to give the Committee on Standards of Official Conduct the money it must have to do the various jobs we have given it to do, but it also gives us, the House, the Members, all of us, the opportunity to have some time to look at the way in which we should deal with this matter on a long-term basis. Presumably, that will be done by both parties and then by the House itself between the end of this Congress and the beginning of the next; and some determination will be made as to how to handle it on a permanent basis.

Mr. Speaker, this is a temporary way to meet an urgent problem. I urge the adoption of the resolution, and I urge the future adoption of the resolution which this resolution makes in order, with the amendment proposed by the Committee on Rules.

Mr. MADDEN. Mr. Speaker, will the gentleman yield?

Mr. BOLLING. I yield to the gentleman from Indiana.

Mr. MADDEN. Mr. Speaker, there is a scheduled meeting of the Committee on Rules at 10:30. We will postpone the meeting until after this pending legislation on the floor is disposed of.

I thank the gentleman for yielding.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the able gentleman from Missouri (Mr. BOLLING) has explained clearly the provisions of the rule before us today.

It is important that we go full speed ahead and adopt not only the rule, but House Resolution 1260 as well.

I fully realize, too, the urgency and why it is necessary to go through the House contingency fund. I realize this not only as a member of the Committee on Rules, but also as a member of the Committee on Standards of Official Conduct. Many matters are before us which must be funded in order to go forward.

The last time the Committee on Standards of Official Conduct went before the Committee on House Administration, their resolution was delayed 48 days before it was acted upon and then cut to about 40 percent of the requested amount.

The Committee on Standards of Official Conduct does not know the funds required to carry out the matters before it, and the need for the procedure of going through the contingency fund has been clearly demonstrated.

Mr. Speaker, I, like the gentleman from Missouri (Mr. BOLLING), urge the adoption of the rule and the resolution with the committee amendment.

Mr. BOLLING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in 2 United States Code, section 95, it is provided that:

> No payment shall be made from the contingent fund of the House of Representatives unless sanctioned by the Committee on House Administration. . . .

I think it should be clear that the resolution that this rule brings before this body is a clearly defined exception to that statutory provision. This resolution is a later expression of congressional intention that, under the conditions set forth in the resolution, certain payments may be made from the contingent fund of the House of Representatives without securing the sanction of the Committee on House Administration.

Mr. Speaker, I yield 5 minutes to the gentleman from Georgia (Mr. FLYNT), the chairman of the Committee on Standards of Official Conduct.

Mr. FLYNT. Mr. Speaker, I thank the gentleman from Missouri (Mr. BOLLING), the manager of this resolution, for yielding to me at this time. First let me state that I concur in the remarks which both he and the gentleman from Tennessee (Mr. QUILLEN) have made in explaining the rule, House Resolution 1272, and also the resolution which the House is about to consider, House Resolution 1260.

Mr. Speaker, let me state that the gentleman from South Carolina (Mr. SPENCE), the ranking minority member of the Committee on Standards of Official Conduct, and I introduced this resolution jointly. We did not introduce this resolution in haste. We did not do so lightly. We recognize that we are requesting a special exception to the established rules of the House regarding the funding of the standing committees of the House of Representatives.

Mr. Speaker, in this connection I should point out, and I gladly point out, that before introducing this resolution it was discussed with the Speaker, the majority leader, the minority leader and with the chairman and most of the members of the Committee on Rules. Every effort was made to explain why we considered this resolution to be necessary to make possible the orderly and prompt conduct of business by the Committee on Standards of Official Conduct.

Mr. Speaker, we come before the House today with a record of economy and frugality in the financial operations of our committee. Our committee has historically spent less in a year's time than many of the other committees of the House spend in a month or even in a week. We make this special request upon the House of Representatives with the assurance not only from the ranking minority member, the gentleman from South Carolina (Mr. SPENCE), and myself, but I think I can also give you the assurance of each of the other 10 members of our committee, that we will maintain strong and constant accountability of every dollar and every cent that we shall henceforth expend if granted this authority through the adoption of House Resolution 1260.

Mr. Speaker, we deliberately omitted putting a figure in this resolution as a ceiling because too often when figures are put in as a ceiling, we find instead of remaining a ceiling they become a floor, because there are times when people seem to think that because the authority authorizes the expenditure of a certain amount of funds that that amount of funds must be spent. We pledge to the House of Representatives, Mr. Speaker, and to you, that we will maintain the diligence that we have exercised in the past and we will continue to exercise the frugality which has characterized this committee since it was first created in 1968.

We come before you because we feel it is absolutely necessary that when we are called upon to proceed with investigations we must have the necessary resources through this funding resolution, to proceed without any delay of any kind.

We respectfully request the approval of House Resolution 1272 and the subsequent approval of House Resolution 1260.

Mr. QUILLEN. Mr. Speaker, I yield 5 minutes to the gentleman from South Carolina(Mr. SPENCE).

Mr. SPENCE. Mr. Speaker, I fully endorse the comments of my distinguished colleague, the chairman of the Committee on Standards of Official Conduct. Chairman FLYNT has made an eloquent and highly persuasive argument for immediate passage of the resolution before us today. I have only a few comments relative to House Resolution 1260 that I would like to add at this point.

The Committee on Standards of Official Conduct was created out of a sincere determination on the part of the House of Representatives, to establish an ethical standard for its membership. It is a solemn responsibility which does not weigh lightly upon the shoulders of committee members—no one enjoys the prospect of sitting in judgment of his colleagues. But your committee has accepted the duty assigned us, with full knowledge of its importance to this body; and we have discharged our responsibilities with the highest degree of reason, discretion, and efficiency possible under the circumstances.

However, there are procedural problems which have hampered our overall effectiveness in the past, Mr. Speaker. The Committee on Standards of Official Conduct has the smallest regular staff and budget, of all standing committees in the House of Representatives. Our quarters are cramped, and we have no hearing room worthy of the designation. As the chairman pointed out in his statement before the Rules Committee this week, our committee is a special case, and it requires special considerations which have not always been forthcoming.

House Resolution 1260 addresses one of our most difficult problems.

Under current Rules of the House of Representatives, the committee must justify its need for additional funds in the manner of most legislative committees. Thus, each time we are called upon to consider a possible breach of ethics, we must present at least part of the case to members of another committee who have no background on the scope of our investigations.

This can put us in a very difficult position, Mr. Speaker, since under the rules of the House, we are not always free to explain in open forum, matters which have been brought before us. The Ethics Committee is acutely aware of its responsibility to avoid the reckless mention of individuals whose reputations could be damaged thereby.

Also, of course, the present system can result in damaging delays. In the past, such delays have resulted in the loss of valuable evidence.

Under the terms of House Resolution 1260, we would be free to draw the money we need directly from contingency funds, as do other committees which operate under special circumstances. We are asking that the rule change be effective only for the remainder of this Congress. This will give the Rules Committee the time necessary to consider overall reform.

Mr. Speaker, our colleagues have entrusted us with the high responsibility of judging their official actions. Surely they can extend that trust to our handling of House contingency funds. We can be as strong and active as our resources permit. The vote on House Resolution 1260 gives the Members of this body an opportunity to show the American people that they are serious about maintaining the highest ethical standards for the House of Representatives.

Mr. QUILLEN. Mr. Speaker, I have no further requests for time, and I reserve the remainder of my time.

Mr. BOLLING. Mr. Speaker, I yield myself such time as I may consume.

Mr. FLYNT will the gentleman yield?

Mr. BOLLING. I yield to the gentleman from Georgia.

Mr. FLYNT. Mr. Speaker, for the purpose of establishing legislative history, I would like to address the following question to the gentleman from Missouri, the manager of this resolution. On line 6 of House Resolution 1260 there appears among others, the words "including the procurement of temporary or intermittent services of consultants or organizations as described in section 202(i) of the Legislative Reorganization Act of 1946."

It was the intention of the gentleman from South Carolina and myself, after consultation with the legislative counsel, when we introduced this resolution that the words which I just read on line 6, 7, 8, and 9 thereof confer upon the Committee on Standards of Official Conduct contract authority as well as the authority to be funded directly from the contingent fund of the House.

I would, therefore, Mr. Speaker, ask the gentleman from Missouri if that is his interpretation of the language contained in lines 6 through 9.

Mr. BOLLING. Mr. Speaker, that was not only my interpretation; it was my intention when I moved the resolution.

Mr. ANNUNZIO. Mr. Speaker, will the gentleman yield?

Mr. BOLLING. I yield to the gentleman from Illinois.

Mr. ANNUNZIO. Mr. Speaker, I would like to ask the gentleman from Missouri a question on this legislation. Is it applicable only to this Congress? In other words, in the next Congress will the Committee on Standards of Official Conduct have to go back to House Administration Committee?

Mr. BOLLING. They would have to go back to the House Administration Committee, I would say to the gentleman from Illinois, unless the Congress in adopting its rules modified its rules.

Mr. ANNUNZIO. I thank the gentleman from Missouri.

Mr. FLYNT. Mr. Speaker, will the gentleman from Missouri yield further?

Mr. BOLLING. I yield to the gentleman from Georgia.

Mr. FLYNT. Mr. Speaker, let me say, speaking for the gentleman from South Carolina and myself and for the members of the Committee on Standards of Official Conduct, we concur in supporting the amendment which was adopted in the Committee on Rules to House Resolution 1260.

Mr. MILLER of California. Mr. Speaker, will the gentleman yield?

Mr. BOLLING. I yield to the gentleman from California.

Mr. MILLER of California. Mr. Speaker, if this resolution is passed, what is its relationship to the funds that would be vouched out as a result of the resolution?

If the chairman and ranking minority Member would sign a voucher and funds would be provided, is it comparable to what we did in the case of the Pike committee, where I believe the House took restricted action to see that funds were provided for attorneys who might be called before the committee, and the House Administration Committee cut back the request? How is the accounting to be set up in terms of where the money is to go for which investigation?

Mr. BOLLING. The accounting would be under the jurisdiction of the Committee on Standards of Official Conduct. In a somewhat comparable situation which occurred in the Congress before this one, when the House approved a resolution providing for a Select Committee on Committees, a different procedure was used, but there was no difficulty in the accounting. I happen to know because I was chairman of that committee that dealt with the problems of committee jurisdiction.

The reason for bypassing the House Administration Committee with that committee must be abundantly evident to all Members who have watched that process over time. In that case the vouchers were signed off finally by the Speaker.

The normal accounting methods used by the Committee on House Administration and by the Clerk of the House were used in that case, and I would assume that the Committee on Standards of Official Conduct would do exactly the same thing.

As I remember it our accounts were at least partially checked out by the General Accounting Office. I think the Committee on Standards of Official Conduct would be very careful to see to it that its own accounts were in order.

Mr. MILLER of California. So it is fair to assume that the legislative actions taken by the House in regard to the Pike committee meeting and investigation would remain intact and that the passage of this resolution would in no way affect that investigation or action of the House taken in regard to that investigation.

Mr. FLYNT. Mr. Speaker, will the gentleman yield?

Mr. BOLLING. I yield to the gentleman from Georgia.

Mr. FLYNT. Mr. Speaker, let me say I, in principle, concur exactly with the gentleman from Missouri in response to the gentleman from California. In this connection let me say while we intend to follow the guidelines as to vouchering of accounts and accountability of all funds expended, laid down not only by the House Administration Committee, but also by the General Accounting Office and the Clerk of the House, we are not going to tie ourselves down, but I do want to say it is the present intention of the Committee on Standards of Official Conduct to act responsibly and we respectfully ask the House of Representatives to trust us in this.

Mr. MAGUIRE. Mr. Speaker, will the gentleman yield?

Mr. BOLLING. I would be glad to yield to the gentleman from New Jersey.

Mr. MAGUIRE. I have two concerns I would like to ask about. First, do I understand correctly that if the resolution is passed the House itself will not have an opportunity to make decisions with regard to the amounts of money to be expended in the future by the Committee on Ethics?

Mr. BOLLING. I would reply that this, in effect, gives the Committee on Ethics an open ended route to the contingency fund, if vouchers are signed by both the chairman and the ranking minority member, for the duration of this Congress.

Mr. MAGUIRE. I thank the gentleman. That is what I was concerned about. And I do not think that answer satisfies my concern from the procedural and fiscal points of view.

Mr. FLYNT. Mr. Speaker, will the gentleman yield to me for a response to that question?

Mr. BOLLING. I yield to the gentleman from Georgia.

Mr. FLYNT. Mr. Speaker, I would say to my friend, the gentleman from New Jersey, that if the gentleman will look at the past history of this committee in its expenditure of funds, as I said earlier in the general debate on the rule, we have been consistently economical in our operations and extremely frugal. We certainly do not intend to spend one dime that is not proper. We intend to hold our expenditures to a bare minimum consistent with doing a good and a thorough job.

I give the gentleman from New Jersey my assurance that we will not be wasteful, nor injudicious.

Mr. MAGUIRE. Mr. Speaker, will the gentleman yield further?

Mr. BOLLING. I yield to the gentleman from New Jersey.

Mr. MAGUIRE. I appreciate the gentleman's assurances. I wonder if the gentleman's asurances would extend to the matter pertaining to the $150,000 which was allocated earlier by the House for one of its investigations when the committee had, in fact, requested a significantly larger amount. Are we going to have a situation in which the committee would feel free under this new authority to add to the expenditures for that particular investigation, or would the gentleman feel the committee could not do so?

Mr. FLYNT. Let me say this, with respect to that particular investigation to which the gentleman referred, which was a matter not within the normal jurisdiction of the Committee on Standards of Official Conduct, but which was assigned to the Standing Committee on Standards of Official Conduct as if it were created as a special committee for the handling of one particular thing, we do not intend to use any funds in addition to the $150,000 which the House allowed for that investigation, for the purpose of completing that investigation.

I would like to add, however, that we have been severely constrained by the limitations placed on our committee by the reduction in the amount that we requested; however, I think I can state with accuracy that we will complete that investigation within the amount allowed by the House and we will not use any of these funds for that purpose.

Mr. MAGUIRE. I thank the gentleman for those assurances. I would simply say, though, that although the assurances are comforting, I am not sure they are sufficient for those of us who are concerned about proper procedures and fiscal accountability. As the gentleman from Missouri indicated, the resolution would provide a blank-check type of authority, as long as the two signatures provided for in the resolution were forthcoming from the Committee on Ethics itself. I, for one, am concerned about that on procedural and fiscal grounds. Surely we do not wish to set up a situation in which abuses we are trying to correct may be duplicated elsewhere.

I have a second question, if the gentleman will yield further.

Mr. BOLLING. I yield to the gentleman from New Jersey.

Mr. MAGUIRE. Why would it not make sense, since we are concerned here about a conflict-of-interest situation, which is a very clear one; namely, that the House Committee on Administration which is itself under investigation would make decisions on the funding of the investigation. Clearly that is an unacceptable situation which is the reason a resolution of this general sort is required.. But rather than limit the impact of this resolution by time why not limit it by cases; that is make the resolution applicable only to the investigation which pertains to the House Committee on Administration but require that the Committee on Ethics go through the usual procedures on any other applications for funds. Why would that not be a more sensible way to proceed?

Mr. BOLLING. That is certainly a possibility. The Rules Committee after considering it and hearing all the witnesses that came before it decided on this particular approach. I happen to think that this is a perfectly adequate approach. I do not know what limitation there really is on limiting it to House Administration Committee matters because that in effect involves all of the accounts of all of the Members and all of the committees and it does not seem to me that there is much anybody would be inclined to go into except the matters that might pertain to anything that affected the House.

Mr. MAGUIRE. If the gentleman will yield further I would say yes except that there are a number of other matters pending before the Ethics Committee which are distinct from the matter we are discussing now.

Mr. BOLLING. The only other one I know of is—and I am sure there are others I do not know of—but the chairman of the committee has commented on the so-called Pike matter which I suppose is really the Dan Schorr matter. He has another one that involves an individual Member.

After all the jurisdiction of the committee itself is limited by the rules to certain kinds of investigations so that they could not go out and investigate for instance an executive department. It could not do a great many things because it is already limited in what its investigations can deal with by the rules of the House.

Mr. MAGUIRE. The gentleman from Missouri (Mr. BOLLING) has traditionally been concerned very much about the procedures in the House. For my part, I am concerned, first of all, about the blank check nature of the resolution in its present form; and second, the possibility that it may serve as a precedent in the future for having this or any other committee procedurally unrestrained in its expenditures by setting it apart from the normal process for the authorization of funds to committees or from approval by the House itself.

Mr. BOLLING. If I may, I would like to comment on that. The gentleman is concerned about procedures—the gentleman now speaking—and that is exactly the reason we amended the resolution proposed so that it now makes it possible for the House, in a more deliberate fashion, to decide what kind of permanent treatment, what kind of permanent rule it wants to have in dealing with the problem of investigations coming from the Committee on Standards of Official Conduct.

Mr. ANNUNZIO. Mr. Speaker, will the gentleman yield?

Mr. BOLLING. I yield to the gentleman from Illinois.

Mr. ANNUNZIO. Mr. Speaker, I appreciate the gentleman from Missouri yielding to me.

I would like to ask the chairman of the Ethics Committee another question which should be made clear. The gentleman's committee, like all other committees, gets a statutory allowance. How much is that statutory allowance for the gentleman's committee? Because, what he is asking for today—and I want to make the record absolutely clear—is, in addition to his statutory allowance, he is being given permission for the remainder of this Congress to dip into the contingent fund as the need arises for additional funds.

Like all other committees, what is the amount of the statutory allowance?

Mr. FLYNT. Mr. Speaker, will the gentleman yield so that I can respond?

Mr. BOLLING. I yield.

Mr. FLYNT. We have a statutory allowance of 30 administrative and professional staff members.

Mr. ANNUNZIO. Which in dollar amounts is over $1 million?

Mr. FLYNT. I think it is approximately $1 million.

Mr. ANNUNZIO. I want to make the record absolutely clear, that when, as a member of the House Administration Committee, we voted the gentleman's allowance of $150,000, it was in addition to the $1 million, and he was told by Chairman THOMPSON that if and when he needed more funds, to return to the committee.

Now, I am ready to vote for this resolution, but I want to warn every Member of this House that not all of us on the Committee on House Administration just give the money away. We do study these allowances, these requests made by the various committees, and they are scrutinized very, very closely. What the Members are being asked to do here today is to make an exception because of a so-called emergency case existing, so I would be very, very careful about how I was voting today and how I would vote in the future, giving anyone permission to dip into the contingency fund.

Mr. BOLLING. Mr. Speaker, I yield to the gentleman from California, a member of the Rules Committee (Mr. SISK).

Mr. SISK. I appreciate the gentleman from Missouri yielding.

Mr. Speaker, I would like to direct a question to my colleague from Missouri.

Is it in fact true that we are here today establishing no precedent when we look at certain situations that exist in the House today—and have existed for these many years—that, No. 1, the Committee on House Administration itself has unlimited jurisdiction, so far as the contingent fund is concerned?

Is it not also true, let me ask my colleague from Missouri, the fact that the Committee on Appropriations, one of the very esteemed committees of this House, has traditionally, and does today, have complete control in connection with the use and handling of their funds?

So, in fact, although I agree we must be careful in these matters, this, in a sense, is not precedent?

Mr. BOLLING. The gentleman is precisely correct.

In a sense, in the same sense, there are blank checks out already and, of course, that is a question for further consideration.

Mr. PEPPER. Mr. Speaker, will the gentleman yield?

Mr. BOLLING. I yield to the gentleman from Florida (Mr. PEPPER).

Mr. PEPPER. Mr. Speaker, I have asked the able gentleman to yield so that I might ask a question of the distinguished gentleman from Georgia, the chairman of the Committee on Standards of Official Conduct.

Mr. Speaker, I am afraid the country has been somewhat at a loss to understand the apparent reluctance of the gentleman's committee to investigate matters that have been very, very conspicuously mentioned in the media of the country that are disparaging to the Members of the House and tending to reflect upon the whole House.

Is there any limitation in the authority of the gentleman's committee that it could not act until it gets a formal request from one or more Members of the House or from some committee, that the gentleman does not have a right on his own initiative, when a matter is brought very conspicuously to the public's attention about some Member's alleged misconduct, to initiate an inquiry without some request from some Member?

Mr. BOLLING. Mr. Speaker, I yield to the gentleman from Georgia to answer that question.

Mr. FLYNT. Mr. Speaker, I will be glad to answer the question propounded by the gentleman from Florida.

Let me say that our committee has always moved as promptly as the rules of the House and the rules of the committee permit, in every case that has been referred to us.

There was the precedent once established that the committee would not move except upon a sworn complaint filed by a Member of the House or otherwise brought pursuant to the rule set up by the Committee on Standards of Official Conduct.

Certainly our committee has moved, and it will continue to move whenever called upon to do so, when so moving is justified.

In the past, the committee has established a policy of not initiating complaints against Members of the House, lest the committee be in the position of becoming both prosecutor and judge and jury at the same time.

Mr. PEPPER. Does the able gentleman mean he will continue to pursue the course of not acting until he has a sworn complaint?

Mr. FLYNT. No. That precedent may have been broken.

Mr. PEPPER. I believe the gentleman would inspire public confidence if he pursued that course.

Mr. FLYNT. We intend to do so.

Mr. BOLLING. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SYMMS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 400, nays 0, not voting 31, as follows:

[Roll No. 351]

YEAS—400

Abdnor
Abzug
Adams
Addabbo
Alexander
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashbrook
Ashley
Aspin
AuCoin
Badillo
Bafalis
Baldus
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bennett
Bergland
Bevill
Biaggi
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Carney
Carr
Carter
Cederberg
Chappell
Chisholm
Clancy
Clausen, Don H.
Clay
Cleveland
Cochran
Cohen
Collins, Ill.
Collins, Tex.
Conable
Conlan
Conte
Corman
Cornell
Cotter
Coughlin
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Davis
de la Garza
Delaney
Dellums
Dent
Derrick
Derwinski
Devine
Dickinson
Diggs
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
English
Erlenborn
Esch
Eshleman
Evans, Colo.
Evans, Ind.
Evins, Tenn.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flood
Florio
Flowers
Flynt
Foley
Ford, Tenn.
Forsythe
Fountain
Fraser
Frey
Fuqua
Gaydos
Gibbons
Gilman
Ginn
Gonzalez
Goodling
Gradison

Grassley
Gude
Guyer
Hagedorn
Haley
Hall
Hamilton
Hammerschmidt
Hanley
Hannaford
Hansen
Harkin
Harrington
Harris
Hawkins
Hayes, Ind.
Hébert
Hechler, W. Va.
Heckler, Mass.
Hefner
Heinz
Henderson
Hicks
Hightower
Hillis
Holland
Holt
Holtzman
Horton
Howard
Howe
Hubbard
Hughes
Hungate
Hutchinson
Hyde
Ichord
Jacobs
Jarman
Jeffords
Jenrette
Johnson, Calif.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Ketchum
Keys
Kindness
Koch
Krebs
Krueger
LaFalce
Lagomarsino
Landrum
Latta
Leggett
Lehman
Lent
Levitas
Litton
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Lundine
McClory
McCloskey
McCollister
McCormack
McDade
McDonald
McEwen
McFall
McHugh
McKay
McKinney
Madden
Madigan
Maguire
Mahon
Mann
Martin
Mathis
Mazzoli
Meeds
Melcher
Metcalfe
Mezvinsky
Michel
Mikva
Miller, Calif.
Miller, Ohio
Mills
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Oberstar
Obey
O'Brien
O'Hara
O'Neill
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Paul
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Quie
Quillen
Railsback
Randall
Rangel
Rees
Regula
Reuss
Rhodes
Richmond
Riegle
Rinaldo
Risenhoover
Roberts
Robinson
Rodino
Roe
Rogers
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Rousselot
Roybal
Runnels
Ruppe
Russo
Ryan
St Germain
Santini
Sarasin
Sarbanes
Satterfield
Scheuer
Schneebeli
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shriver
Shuster
Sikes
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
Staggers
Stanton, J. William
Stark
Steed
Steelman
Steiger, Wis.
Stephens
Stokes
Stratton
Studds
Sullivan
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thone
Thornton
Traxler
Treen
Tsongas
Udall
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Vigorito
Waggonner
Walsh
Wampler
Waxman
Weaver
Whalen
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Tex.
Zablocki
Zeferetti

NAYS—0

NOT VOTING—31

Bell
Biester
Brown, Calif.
Clawson, Del
Conyers
Daniels, N.J.
du Pont
Ford, Mich.
Frenzel
Giaimo
Goldwater
Green
Harsha
Hays, Ohio
Helstoski
Hinshaw
Johnson, Colo.
Karth
Matsunaga
Meyner
Milford
Mink
Nowak
Passman
Roncalio
Stanton, James V.
Steiger, Ariz.
Stuckey
Symington
Thompson
Young, Ga.

The Clerk announced the following pairs:

Mrs. Meyner with Mr. Brown of California.

Mr. Dominick V. Daniels with Mr. Goldwater.

Mr. Roncalio with Mr. Stuckey.

Mr. Passman with Mr. Johnson of Colorado.

Mr. Thompson with Mr. Bell.

Mr. Helstoski with Mr. Frenzel.

Mr. Giaimo with Mr. Steiger of Arizona.

Mr. Symington with Mr. Conyers.

Mr. Nowak with Mr. Karth.

Mr. Green with Mr. James V. Stanton.

Mr. Matsunaga with Mr. du Pont.

Mr. Milford with Mr. Harsha.

Mr. Hays of Ohio with Mr. Ford of Michigan.

Mr. Young of Georgia with Mr. Del Clawson.

Mrs. Mink with Mr. Biester.

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. BOLLING. Mr. Speaker, I call up House Resolution 1260, and pursuant to House Resolution 1272, ask that it be considered in the House as in the Committee of the Whole.

The Clerk read the resolution, as follows:

H. RES. 1260

Resolved, That clause 4(c) of rule X of the House of Representatives is amended by adding at the end thereof the following new subparagraph:

"(3) All of the expenses of the Committee on Standards of Official Conduct, including the procurement of temporary or intermittent services of consultants or organizations as described in section 202(i) of the Legislative Reorganization Act of 1946 and including any limitation contained therein and the providing of assistance for members of its professional staff in obtaining specialized training as described in section 202(i) of the Legislative Reorganization Act of 1946 and including any limitation contained therein, shall be paid from the contingent fund of the House of Representatives upon vouchers signed by both the chairman of the committee and the ranking minority member of the committee.".

COMMITTEE AMENDMENT

The SPEAKER. The Clerk will report the committee amendment.

The Clerk read as follows:

Committee amendment: On page 1, line 1 strike all after the word "*Resolved,*" through the word "All" in line 4, and insert in lieu thereof the following: "The during the remainder of the 94th Congress all".

The committee amendment was agreed to.

Mr. BOLLING. Mr. Speaker, I do not desire to use time unless there are other Members who wish to strike the requisite number of words.

AMENDMENT OFFERED BY MR. MAGUIRE

Mr. MAGUIRE. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MAGUIRE: Page 2, line 5, after "committee." insert "During the remainder of the 94th Congress the committee will report all funds expended in such investigation every 45 days in the Congressional Record."

Mr. MAGUIRE. Mr. Speaker, this is a very simple amendment which simply asks that the Committee on Standards of Official Conduct report to the House every 60 days on the expenditures for which this resolution provides.

Mr. QUILLEN. Mr. Speaker, will the gentleman yield?

Mr. MAGUIRE. I yield to the gentleman from Tennessee.

Mr. QUILLEN. I thank the gentleman for yielding.

As read by the Clerk, the amendment says "45" and the gentleman is speaking of 60 days.

Mr. MAGUIRE. I thank the gentleman.

Mr. Speaker, I ask unanimous consent to modify my amendment to change the words "45" to the word "60".

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The SPEAKER. The Clerk will report the modification to the amendment.

The Clerk read as follows:

Page 2, line 5, after "committee." insert "During the remainder of the 94th Congress the committee shall report all funds expended is such investigation every 60 days in the Congressional Record."

Mr. MAGUIRE. Mr. Speaker, the amendment is designed to provide what I think is an important procedural and fiscal safeguard.

The chairman of the Ethics Committee has in an earlier colloquy assured the House that the committee will be responsible in its expenditures and that, for example, funds from one category previously approved by this House will not be indirectly augmented through the process that we are now going to provide to the committee for its ongoing funding.

I appreciate those assurances but I do think the House in this case and in other cases—the Appropriations Committee and the House Administration Committee I believe have also not had to account sufficiently to this body on their expenditures—ought to require regular reporting.

It goes without saying that I favor a strong and independent ethics committee. At the same time I am anxious that we not set up a situation with this resolution which could lead to abuses similar to those we are trying to correct. We must eliminate conflict of interest in this case. The clear conflict of the House Administration Committee acting on funding requests for an investigation of itself—but let us not eliminate all accountability for expenditures at the same time. It is with the intent to correct this anomaly that I offer the amendment.

Mr. BOLLING. Mr. Speaker, will the gentleman yield?

Mr. MAGUIRE. I yield to the gentleman from Missouri.

Mr. BOLLING. Mr. Speaker, I am informed the gentleman from Tennessee agrees, and the gentleman from Georgia has told me he agrees, and I therefore agree to accept the amendment.

Mr. MAGUIRE. I thank the gentleman.

Mr. QUILLEN. Mr. Speaker, if the gentleman will yield, we accept the amendment.

The SPEAKER. The question is on the amendment offered by the gentleman from New Jersey (Mr. Maguire), as modified.

The amendment as modified was agreed to.

Mr. BOLLING. Mr. Speaker, I move the previous question on the resolution and all amendments thereto.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. ASHBROOK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 400, nays 0, not voting 31, as follows:

[Roll No. 352]

YEAS—400

Abdnor
Abzug
Adams
Addabbo
Alexander
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashbrook
Ashley
Aspin
AuCoin
Badillo
Bafalis
Baldus
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bennett
Bergland
Bevill
Biaggi
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Carney
Carr
Carter
Cederberg
Chappell
Chisholm
Clancy
Clausen, Don H.
Clay
Cleveland
Cochran
Cohen
Collins, Ill.
Collins, Tex.
Conable
Conlan
Conte
Conyers
Corman
Cornell
Cotter
Coughlin
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Davis
de la Garza
Delaney
Dellums
Dent
Derrick
Derwinski
Devine
Dickinson
Diggs
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
English
Erlenborn
Esch
Eshleman
Evans, Colo.
Evans, Ind.
Evins, Tenn.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flood
Florio
Flowers
Flynt
Foley
Ford, Tenn.
Forsythe
Fountain
Fraser
Frey
Fuqua
Gaydos
Gibbons
Gilman
Ginn
Gonzalez
Goodling
Gradison
Grassley
Gude
Guyer
Hagedorn
Haley
Hall
Hamilton
Hammerschmidt
Hanley
Hannaford
Hansen
Harkin
Harrington
Harris
Hawkins
Hayes, Ind.
Hébert
Hechler, W. Va.
Heckler, Mass.
Hefner
Heinz
Henderson
Hicks
Hightower
Hillis
Holland
Holt
Holtzman
Horton
Howard
Howe
Hubbard
Hughes
Hungate
Hutchinson
Hyde
Ichord
Jacobs
Jarman
Jeffords
Jenrette
Johnson, Calif.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Ketchum
Keys
Kindness
Koch
Krebs
Krueger
LaFalce
Lagomarsino
Landrum
Latta
Leggett
Lehman
Lent
Levitas
Litton
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Lundine
McClory
McCloskey
McCollister
McCormack
McDade
McDonald
McEwen
McFall
McHugh
McKay
McKinney
Madden
Madigan
Maguire
Mahon
Mann
Martin
Mathis
Mazzoli
Meeds
Melcher
Metcalfe
Mezvinsky
Michel
Mikva
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mink
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Hara
O'Neill
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Paul
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Quie
Quillen
Railsback
Randall
Rangel
Rees
Regula
Reuss
Rhodes
Richmond
Riegle
Rinaldo
Risenhoover
Roberts
Robinson
Rodino
Roe
Rogers
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Rousselot
Roybal
Runnels
Ruppe
Russo
Ryan
St Germain
Santini
Sarasin
Sarbanes
Satterfield
Scheuer
Schneebeli
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shriver
Shuster
Sikes
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
Staggers
Stanton, J. William
Stark
Steed
Steelman
Steiger, Wis.
Stephens
Stokes
Stratton
Studds
Sullivan
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thone
Thornton
Traxler
Treen
Tsongas
Udall
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Vigorito
Waggonner
Walsh
Wampler
Waxman
Weaver
Whalen
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Young, Tex.
Zablocki
Zeferetti

NAYS—0

NOT VOTING—31

Bell
Biester
Breckinridge
Brown, Calif.
Clawson, Del
Daniels, N.J.
du Pont
Ford, Mich.
Frenzel
Giaimo
Goldwater
Green
Harsha
Hays, Ohio
Helstoski
Hinshaw
Johnson, Colo.
Karth
Matsunaga
Meyner
Milford
Mills
Mitchell, Md.
Moffett
Passman
Roncalio
Stanton, James V.
Steiger, Ariz.
Stuckey
Symington
Thompson

The Clerk announced the following pairs:

Mrs. Meyner with Mr. Moffett.

Mr. Thompson with Mr. James V. Stanton.

Mr. Roncalio with Mr. Harsha.

Mr. Passman with Mr. Bell.

Mr. Helstoski with Mr. Del Clawson.

Mr. Giaimo with Mr. Frenzel.

Mr. Green with Mr. Biester.

Mr. Symington with Mr. du Pont.

Mr. Hays of Ohio with Mr. Johnson of Colorado.

Mr. Milford with Mr. Karth.

Mr. Dominick V. Daniels with Mr. Steiger of Arizona.

Mr. Mitchell of Maryland with Mr. Brown of California.

Mr. Matsunaga with Mr. Goldwater.

Mr. Breckinridge with Mr. Stuckey.

Mr. Ford of Michigan with Mr. Mills.

So the resolution was agreed to.

The result of the vote was announced as above recorded.

The title was amended so as to read: "Resolution to provide that during the remainder of the 94th Congress all of the expenses of the Committee on Standards of Official Conduct shall be paid from the contingent fund of the House of Representatives upon vouchers signed by its chairman and ranking minority member.".

A motion to reconsider was laid on the table.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF HOUSE RESOLUTION 1260

Mr. BOLLING. Mr. Speaker, I ask unanimous consent that the Clerk may be authorized to correct errors in punctuation in the engrossment of the resolution (H. Res. 1260).

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

FISCAL ASSISTANCE AMENDMENTS OF 1976

Mr. BROOKS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 13367) to extend and amend the State and Local Fiscal Assistance Act of 1972, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Texas (Mr. Brooks).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 13367, with Mr. Studds in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on yesterday, Wednesday, June 9, 1976, the Clerk had read through line 4 on page 1 of the bill.

Are there any amendments to section 1 of the bill?

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. BROOKS

Mr. BROOKS. Mr. Chairman, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. Brooks: Strike out all after the enacting clause and insert in lieu thereof the following:

That this Act may be cited as the "Fiscal Assistance Amendments of 1976".

DEFINITION

Sec. 2. As used in this Act the term "the Act" means the State and Local Fiscal Assistance Act of 1972 (31 U.S.C. 1221; 86 Stat. 919).

ELIMINATION OF EXPENDITURE CATEGORIES

Sec. 3. (a) Subtitle A of title I of the Act is amended by striking out section 103.

(b) Section 123(a) of the Act is amended by striking out paragraph (3).

ELIMINATION OF PROHIBITION ON USE OF FUNDS FOR MATCHING

SEC. 4. (a) Subtitle A of title I of the Act is further amended by striking out section 104.

(b) Section 143(a) of the Act is amended by striking out "104(b) or".

ABOLITION OF TRUST FUND CONCEPT

SEC. 5. (a) Section 105 of the Act is amended—

(1) by striking out "CREATION OF TRUST FUND;" in the heading of such section;

(2) by striking out subsection (a) and inserting in lieu thereof the following:

"(a) IN GENERAL.—Funds appropriated pursuant to subsections (b) and (c) shall remain available without fiscal year limitation and shall be used for the payments to State and local governments as provided by this title. The Secretary of the Treasury shall report to the Congress not later than January 15 of each year on the operations and payments under this subtitle during the preceding fiscal year.";

(3) by striking out "to the Trust Fund, out of amounts in the general fund of the Treasury attributable to the collections of the Federal individual income taxes not otherwise appropriated each place it appears in subsection (b) and inserting in lieu thereof "for the purpose of making the payments authorized by this subtitle;

(4) by striking out paragraph (3) of subsection (b); and

(5) by striking out the subsection redesignated (by section 6(b)(1)) as subsection (d), and inserting in lieu thereof the following:

"(d) TRANFERS TO THE GENERAL FUND.—The Secretary shall from time to time transfer to the general fund of the Treasury any funds available for this subtitle which he determines will not be needed to make payments to State governments and units of local government under this subtitle.".

(b)(1) Section 102 of the Act is amended by striking out "out of the Trust Fund".

(2) Section 107(b)(8) of the Act, as redesignated by section 6(b)(4) of this Act, is amended by striking out "from the Trust Fund".

EXTENSION OF PROGRAM AND FUNDING

SEC. 6. (a) Section 105 of the Act is amended—

(1) by redesignating subsection (c) as subsection (d);

(2) by inserting immediately after subsection (b) the following new subsection:

"(c) AUTHORIZATION OF APPROPRIATIONS FOR ENTITLEMENTS.—

"(1) IN GENERAL.—There are authorized to be apropriated to pay the entitlements hereinafter provided in this subtitle—

"(A) for the period beginning January 1, 1977, and ending September 30, 1977, $4,987,500,000; and

"(B) for each of the fiscal years beginning on October 1 of 1977, 1978, and 1979, $6,650,000,000,

except that sums authorized hereunder for any entitlement period in excess of the amount specified in section 163(a) (1) or (2) for that period shall be distributed under subtitle D of this title as an entitlement.

"(2) NONCONTIGUOUS STATES ADJUSTMENT AMOUNTS.—There are authorized to be appropriated to pay the entitlements hereinafter provideed—

"(A) for the period beginning January 1, 1977, and ending September 30, 1977, $3,585,000; and

"(B) for each of the fiscal years beginning on October 1 of 1977, 1978, and 1979, $4,780,000."; and

(3) by inserting "; AUTHORIZATIONS FOR ENTITLEMENTS" in the heading of such section immediately after "APPROPRIATIONS".

(b)(1) Subsection (a) of section 106 of the Act is amended to read as follows:

"(a) IN GENERAL.—There shall be allocated an entitlement to each State—

"(1) for each entitlement period beginning prior to December 31, 1976, out of amounts appropriated under section 105(b)(1) for that entitlement period, an amount which bears the same ratio to the amount appropriated under that section for that period as the amount allocable to that State under subsection (b) bears to the sum of the amounts allocable to all States under subsection (b); and

"(2) for each entitlement period beginning on or after January 1, 1977, out of amounts authorized under section 105(c)(1) for that entitlement period which are not reserved for distribution under subtitle D, an amount which bears the same ratio to the amount so available under that section for that period as the amount allocable to that State under subsection (b) bears to the sum of the amounts allocable to all States under subsection (b).".

(2) Section 106(c)(1) of the Act is amended by striking out "section 105(b)(2)" and inserting in lieu thereof "subsection (b)(2) or (c)(2) of section 105".

(3) Section 106(c)(2) of the Act is amended by inserting immediately after "section 105(b)(2) for any entitlement period" the following: "ending on or before December 31, 1976, or authorized under section 105(c)(2) for any entitlement period beginning on or after January 1, 1977,".

(4) Section 107(b) of the Act is amended by redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively, and by inserting after paragraph (5) the following new paragraph:

"(6) SPECIAL RULE FOR THE PERIOD BEGINNING JANUARY 1, 1977.—In the case of the entitlement period beginning January 1, 1977, and ending September 30, 1977, the aggregate amount taken into account under paragraph (1)(A) for the preceding entitlement period and the aggregate amount taken into account under paragraph (1)(B) shall be three-fourths of the amounts which (but for this paragraph) would be taken into account.".

(5) Section 108(b)(6)(D) is amended by inserting after "6 months" the following: ", $150 for an entitlement period of 9 months".

(6) Section 108(c)(1)(C) of the Act is amended by striking out "December 31, 1976" and inserting in lieu thereof "September 30, 1980".

(7) Section 141(b) of the Act is amended by inserting at the end thereof the following new paragraphs:

"(6) The period beginning on January 1, 1977, and ending September 30, 1977.

"(7) The one-year periods beginning on October 1 of 1977, 1978, and 1979.".

MAINTENANCE OF EFFORT; CHANGE OF BASE YEAR

SEC. 7. (a) Section 107(b)(1) of the Act is amended—

(1) by striking out "July 1, 1973," and inserting in lieu thereof "January 1, 1977,"; and

(2) by striking out clause (B) and inserting in lieu thereof the following:

"(B) the similar aggregate amount for the one-year period beginning July 1, 1975, or, until data on such period are available, the most recent such one-year period for which data on such amounts are available.".

(b) Section 107(b)(2) is amended by striking out "beginning July 1, 1971," and inserting in lieu thereof "utilized for purposes of such paragraph".

DEFINITION OF UNIT OF LOCAL GOVERNMENT

SEC. 8. Paragraph (1) of section 108(d) of the Act is amended to read as follows:

"(1) UNIT OF LOCAL GOVERNMENT.—

"(A) IN GENERAL.—The term 'unit of local government' means the government of a county, municipality, or township which is a unit of general government as determined by the Bureau of the Census for general statistical purposes, and which, with respect to entitlement periods beginning on or after October 1, 1977, meets the requirements specified in subparagraph (B), and imposes taxes or receives intergovernmental transfers for substantial performance of at least two of the following services for its citizens: (i) police protection; (ii) courts and corrections; (iii) fire protection; (iv) health services; (v) social services for the poor or aged; (vi) public recreation; (vii) public libraries; (viii) zoning or land use planning; (ix) sewerage disposal or water supply; (x) solid waste disposal; (xi) pollution abatement; (xii) road or street construction and maintenance; (xiii) mass transportation; and (xiv) education. Such term also means, except for purposes of paragraphs (1), (2), (3), (6)(C), and 6(D) of subsection (b), and, except for purposes of subsection (c) the recognized governing body of an Indian tribe or Alaskan Native village which performs substantial governmental functions. For the purposes of this subsection a unit of local government shall be deemed to impose a tax if that tax is collected by another governmental entity from the geographical area served by that unit of local government and an amount equivalent to the net proceeds of that tax are paid to that unit of local government.

"(B) LIMITATION.—To be considered a unit of local government for purposes of this Act, at least 10 per centum of a local government's total expenditures (exclusive expenditures for general and financial administration and for the assessment of property) in the most recent fiscal year must have been for each of two of the public services listed in subparagraph (A), except that the foregoing restriction shall not apply to a unit of local government (i) which substantially performs four or more of such public services or (ii) which has performed two or more of such public services since January 1, 1976, and continues to provide two or more such public services.".

SEC. 9. Subtitle B of title I of the Act is amended by inserting immediately after the heading thereof the following new section:

"SEC. 120. MODERNIZATION OF GOVERNMENT.

"(a) POLICY AND PURPOSE.—In order that funds provided under this Act shall encourage the modernization and revitalization of State and local governments, each State shall submit an annual report to the Secretary describing any steps it has taken to achieve the goal set forth in this section.

"(b) STATE MASTER PLAN.—It is established as a goal that each State government prepare and develop in accordance with subsections (c), (d), and (e), a master plan and timetable for modernizing and revitalizing State and local government.

"(c) PREPARATION OF MASTER PLAN AND TIMETABLE.—Prior to submitting the State's annual report to the Secretary, the State's chief executive officer may submit a proposed master plan and timetable to the State legislature and to the chief executive officer and legislative body of each county government, township government, and other unit of local government, including, for these purposes, special purpose governments not covered by the definition of unit of local government in section 108(d)(1). The proposed master plan and timetable may also be made available to the public by publication in newspapers throughout the State. After issuance of any master plan and timetable, there shall be a period of not less than 120 days for local officials and citizens of the State to comment on the proposed master plan and timetable, in accordance with a procedure for such comment promulgated by the chief executive officer of the State. The chief executive officer of the State may take into consideration such comments in preparing the final master plan and timetable. A final master plan and timetable shall be submitted to the State legislature which shall vote whether or not to submit such plan to the Secretary.

"(d) Contents of Master Plans and Timetables.—

"(1) In general.—A State's master plan and timetable may contain—

"(A) a set of proposals for substantially improving the effectiveness, economy, and equity of State and local government;

"(B) the steps (constitutional, legislative, or administrative) necessary to effectuate those proposals; and

"(C) a timetable for effectuating each proposal within a reasonable period.

"(2) Criteria.—The following broad criteria may be employed in the development of the provisions of the master plan and timetable:

"(A) Function.—Governmental responsibilities should be assigned to State and sub-State governments with the objective of providing all residents with at least a minimal level of public services.

"(B) Structure.—The organization of State and sub-State governments should substantially reduce the number of limited function general governments and special districts.

"(C) Fiscal integrity.—The system of State and local taxation should result in a tax burden commensurate with the fiscal capacity of the taxing unit.

"(D) Management capacity.—Improvements in the professional capacity of State and local governments should be specifically addressed.

"(E) Accountability.—Broad participation of the general public in the decision-making process should be encouraged, and formal mechanisms of reporting the impact of such decisions should be proposed.

"(e) Methods for Promoting Effectiveness, Economy, and Equity in State and Local Government.—

"(1) In general.—In preparing the master plan and timetable, the chief executive officer may take into consideration the following methods for promoting effectiveness, economy, and equity in State and local governments:

"(A) Interstate.—Arrangements, by interstate compact or otherwise for dealing with interstate regional problems, including those of metropolitan areas which overlap State lines, and for regional cooperation in such areas as health, education, welfare, conservation, resource development, transportation, recreation, and housing.

"(B) State direct action.—Strengthening and modernizing of State government (by constitutional, statutory, and administrative changes), including but not limited to, modernized State borrowing powers; improved tax systems; increased financial and technical assistance to local governments; revising the terms of State aids and shared taxes to compensate for differences in total local fiscal capacity; State assumption of greater direct fiscal responsibility for basic functions; modern personnel systems; and development of minimum State standards for services at the State and local level.

"(C) State action affecting localities.—Strengthening and modernizing by the State of local, rural, urban, and metropolitan governments (by constitutional, statutory, and administrative changes), including—

"(i) changes designed to make local government more efficient, economical, and accountable, as by—

"(I) reducing the number of, or eliminating, local governments too small to provide efficient administration or possessing inadequate fiscal resources;

"(II) reducing the number of special districts not subject to democratic controls, and eliminating those whose functions can be carried out by general governments;

"(III) granting adequate home-rule powers to local governments of sufficient size and scope;

"(IV) improving local property tax administration;

"(V) authorizing local governments to utilize nonproperty taxes, coordinated at the State or regional level; and

"(VI) easing restrictions on the borrowing and taxing powers of local governments.

"(ii) other changes designed to strengthen local government in metropolitan areas, as by—

"(I) liberalizing municipal annexation of unincorporated areas;

"(II) setting minimum standards of population and population density for proposed new incorporations;

"(III) authorizing city-county consolidation, or transfers of specified functions between municipalities and counties;

"(IV) authorizing intergovernmental contracts for the provision of services;

"(V) authorizing municipalities to exercise extraterritorial planning, zoning, and subdivision control over unincorporated areas not subject to effective county regulation;

"(VI) restricting zoning authority in metropolitan areas to metropolitan bodies, larger municipalities, counties, or the State;

"(VII) authorizing the formation of regional multi-functional bodies for bousing, health care, social services, parks and recreation, and water sewer facilities; and

"(VIII) establishing State standards of accountability in the planning process and operations of special districts, boards, commissions and official agencies not directly subordinate to a general government.

"(f) Reports and Recommendations.—The Secretary shall report to Congress at the end of each fiscal year on the progress made by each State in developing and carrying out a master plan and timetable, and, based on such progress, shall make recommendations concerning the goal set forth in this section.

CITIZEN PARTICIPATION; REPORTS

Sec. 10. (a) Section 121 of the Act is amended to read as follows:

"Sec. 121. Reports on Use of Funds; Publication and Public Hearings.

"(a) Reports on Proposed Use of Funds.—Each State government and unit of local government and unit of local government which expects to receive funds under subtitle A or D for any entitlement period beginning on or after January 1, 1977, shall submit a report to the Secretary setting forth the amounts and purposes for which it proposes to spend or obligate the funds which it expects to receive such period as compared with the use of similar funds during the two immediately preceding entitlement periods. Each such report shall include a comparison of the proposed, current, and past use of such funds to the revelant functional items in its official budget and specify whether the proposed use is for a completely new activity, for the expansion or continuation of an existing activity, or for tax stabilization or reduction. Such report shall be in such form and detail as the Secretary may prescribe and shall be submitted at such time before the beginning of the entitlement period as the Secretary may prescribe.

"(b) Reports on Use of Funds.—Each State government and unit of local government which receives funds under subtitle A or D shall, after the close of each entitlement period, submit a report to the Secretary (which report shall be available to the public for inspection and reproduction) setting forth the amounts and purposes for which funds received during such period have been appropriated, spent, or obligated and showing the relationship of those funds to the relevant functional items in the government's official budget. Such report shall further provide an explanation of all differences between the actual use of funds received and the proposed use of such funds as reported to the Secretary under subsection (a). Such reports shall be in such form and detail and shall be submitted at such time as the Secretary may prescribe.

"(c) Public Hearings Required.—

"(1) Pre-report hearing.—Not less than 7 calender days before the submission of the report required under subsection (a), each State government or unit of local government which expects to receive funds under subtitle A or D for any entitlement period beginning on or after January 1, 1977, shall, after adequate public notice, have at least one public hearing at which citizens shall have the opportunity to provide written and oral comment on the possible uses of such funds.

"(2) Pre-budget hearing.—Not less than 7 calendar days before the adoption of its budget as provided for under State and local law, each State government or unit of local government which expects to receive funds under subtitle A or D for any entitlement period beginning on or after January 1, 1977, shall have at least one public hearing on the proposed use of funds made available under subtitles A and D in relation to its entire budget. At such hearing, citizens shall have the opportunity to provide written and oral comment to the body responsible for enacting the budget, and to have answered questions concerning the entire budget and the relation to it of funds made available under subtitles A and D. Such hearing shall be at a place and time that permits and encourages public attendance and participation.

"(3) Waiver.—The provisions of paragraph (1) may be waived in whole or in part in accordance with regulations of the Secretary if the cost of such a requirement would be unreasonably burdensome in relation to the entitlement of such State government or unit of local government to funds made available under subtitles A and D. The provisions of paragraph (2) may be waived in whole or in part in accordance with regulations of the Secretary if the budget processes required under applicable State or local laws or charter provisions assure the opportunity for public attendance and participation contemplated by the provisions of this subsection and a portion of such process includes a hearing on the proposed use of funds made available under subtitles A and D in relation to its entire budget.

"(d) Notification and Publicity of Public Hearings; Access to Budget Summary and Proposed and Actual Use Reports.—

"(1) In general.—Each State government and unit of local government which expects to receive funds under subtitle A or D for any entitlement period beginning on or after January 1, 1977, shall—

"(A) 30 days prior to the public hearing required by subsection (c)(2)—

"(i) publish conspicuously, in at least one newspaper of general circulation, the proposed use report required by subsection (a), a narrative summary setting forth in simple language an explanation of its proposed official budget, and a notice of the time and place of such public hearing; and

"(ii) make available for inspection and reproduction by the public (at the principal office of such State government or unit of local government at public libraries, if any, within the boundaries of such a unit of local government, and, in the case of a State government, at the main libraries of the principal municipalities of such State) the proposed use report, the narrative summary, and its official budget which shall specify with particularity each item in its official budget which will be funded, in whole or in part, with funds made available under subtitle A or D, and, for each such budget item, shall specify the amount of such funds budgeted for that item and the percentage of total expenditures for that item attributable to such funds; and

"(B) within 30 days after adoption of its budget as provided for under State or local law—

"(i) publish conspicuously, in at least one newspaper of general circulation, a narrative summary setting forth in simple language an explanation of its official budget (including an explanation of changes from the proposed budget) and the relationship of the use of funds made available under subtitles A and D to the releveant functional items in such budget; and

"(ii) make such summary available for inspection and reproduction by the public at the principal office of such State government or unit of local government, at public libraries, if any, within the boundaries of such unit of local government, and, in the case of a State government, at the main libraries of the principal municipalities of such State.

"(2) Waiver.—The provisions of paragraph (1) may be waived, in whole or in part, with respect to publication of the proposed use reports and the narrative summaries, in accordance with regulations of the Secretary, where the cost of such publication would be unreasonably burdensome in relation to the entitlement of such State government or unit of local government to funds made available under subtitles A and D, or where such publication is otherwise impractical or infeasible. In addition, the 30-day provision of paragraph (1)(A) may be modified to the minimum extent necessary to comply with State and local law if the Secretary is satisfied that the citizens of the State or local government will receive adequate notification of the proposed use of funds, consistent with the intent of this section.

"(e) Reports Provided to the Governor.—A copy of each report required under subsections (a) and (b) filed with the Secretary by a unit of local government which receives funds under subtitle A or D shall be provided by the Secretary to the Governor of the State in which the unit of local government is located, in such manner and form as the Secretary may prescribe by regulation.

"(f) Planned Use Report to Areawide Organization.—At the same time that the proposed use report is published and publicized in accordance with this section, each unit of local government which is within a metropolitan area shall submit a copy of the proposed use report to the areawide organization in the metropolitan area which is formally charged with carrying out the provisions of section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3334); section 401 of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4231); or section 302 of the Housing and Community Development Act of 1974 (42 U.S.C. 461).".

(b) Section 123 of the Act is amended by adding at the end thereof the following new subsection:

"(d) Report of the Secretary of the Treasury.—The Secretary of the Treasury shall include with the report required under section 105(a) a report to the Congress on the implementation and administration of this Act during the preceding fiscal year. Such report shall include, but not be limited to, a comprehensive and detailed analysis of the following:

"(1) the measures taken to comply with section 122, including a description of the nature and extent of any noncompliance and the status of all pending complaints;

"(2) the extent to which citizens in recipient jurisdictions have become involved in the decisions determining the expenditure of funds received under subtitles A and D;

"(3) the extent to which the recipient jurisdictions have complied with section 123, including a description of the nature and extent of any noncompliance and of measures taken to insure the independence of audits conducted pursuant to subsection (c) of such section;

"(4) the manner in which funds distributed under subtitles A and D have been used, including the net fiscal impact, if any, in recipient jurisdictions; and

"(5) significant problems arising in the administration of the Act and proposals to remedy such problems through appropriate legislation.".

NONDISCRIMINATION; ENFORCEMENT

Sec. 11. (a) Section 122 of the Act is amended to read as follows:

"Sec. 122. Nondiscriminatory Provision.

"(a) Prohibition.—

"(1) In General.—No person shall, on account of race, color, religion, sex, national origin, age, or handicapped status, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity of a State government or unit of local government which government or unit receives funds made available under subtitle A or D. The provisions of this paragraph shall be interpreted—

"(A) in accordance with titles II, III, IV, VI, and VII of the Civil Rights Act of 1964, as amended, title VIII of the Civil Rights Act of 1968, as amended, and title IX of the Education Amendments of 1972, with respect to discrimination on the basis of race, color, religion, sex, or national origin;

"(B) in accordance with the Rehabilitation Act of 1973 with respect to discrimination on the basis of handicapped status; and

"(C) in accordance with the Age Discrimination Act of 1975 with respect to discrimination on the basis of age, notwithstanding the deferred effectiveness of such Act.

"(2) Exceptions.—

"(A) Funding.—The provisions of paragraph (1) of this subsection shall not apply where any State government or unit of local government proves by clear and convincing evidence that the program or activity with respect to which the allegation of discrimination has been made is not funded in whole or in part, directly or indirectly, with funds made available under subtitle A or D.

"(B) Construction Projects in Progress.—The provisions of paragraph (1), relating to discrimination on the basis of handicapped status, shall not apply with respect to construction projects commenced prior to January 1, 1977.

"(b) Authority of the Secretary.—

"(1) Notice.—Whenever there has been—

"(A) publication or receipt of notice of a finding, after notice and opportunity for a hearing, by a Federal or State court, or by a Federal or State administrative agency (other than the Secretary under subparagraph (B)), to the effect that there has been a pattern or practice of discrimination on the basis of race, color, religion, sex, national origin, age, or handicapped status in any program or activity of a State government or unit of local government, which government or unit receives funds made available under subtitle A or D; or

"(B) a determination that a State government or unit of local government is not in compliance with subsection (a)(1) after an investigation by the Secretary, prior to a hearing under paragraph (4), but including an opportunity for the State government or unit of local government to make a documentary submission regarding the allegation of discrimination or the funding of such program or activity with funds made available under subtitle A or D,

the Secretary shall, within 10 days of such occurrence, notify the Governor of the affected State, or of the State in which an affected unit of local government is located, and the chief executive officer of such affected unit of local government that such State government or unit of local government is presumed not to be in compliance with subsection (a)(1), and shall request such Governor and such chief executive officer to secure compliance. For purposes of subparagraph (A), a finding by a Federal or State administrative agency shall be deemed rendered after notice and opportunity for a hearing if it is rendered pursuant to procedures consistent with the provisions of subchapter II of chapter 5, title 5, United States Code.

"(2) Voluntary Compliance.—In the event the Governor or the chief executive officer secures compliance after notice pursuant to paragraph (1), the terms and conditions with which the affected State government or unit or local government agrees to comply shall be set forth in writing and signed by the Governor, by the chief executive officer (in the event of a violation by a unit of local government), and by the Secretary and the Attorney General. At least 15 days prior to the effective date of the agreement, the Secretary shall send a copy of the agreement to each complainant, if any, with respect to such violation. The Governor, or the chief executive officer in the event of a violation by a unit of local government, shall file semiannual reports with the Secretary and the Attorney General detailing the steps taken to comply with the agreement. Within 15 days of receipt of such reports the Secretary shall send a copy thereof to each such complainant.

"(3) Suspension and Resumption of Payment of Funds.—

"(A) Suspension After Notice.—If, at the conclusion of 90 days after notification under paragraph (1)—

"(i) a compliance agreement has not been entered into under paragraph (2),

"(ii) compliance has not been secured by the Governor of that State or the chief executive officer of that unit of local government, and

"(iii) an administrative law judge has not made a determination under paragraph (4)(A) that it is likely the State government or unit of local government will prevail on the merits,

the Secretary shall notify the Attorney General that compliance has not been secured and shall suspend further payment of any funds under subtitles A and D to that State government or that unit of local government. Such suspenesion shall be effective for a period of not more than 120 days, or, if there is a hearing under paragraph (4)(B), not more than 30 days after the conclusion of such hearing.

"(B) Resumption of Payments Suspended Under Subparagraph (A).—Payment of the suspended funds shall resume only if—

"(i) such State government or unit of local government enters into a compliance agreement approved by the Secretary and the Attorney General in accordance with paragraph (2);

"(ii) such State government or unit of local government complies fully with the final order or judgment of a Federal or State court, if that order or judgment covers all the matters raised by the Secretary in the notice pursuant to paragraph (1), or is found to be in compliance with subsection (a)(1) by such court; or

"(iii) the Secretary finds, pursuant to paragraph (4)(B), that noncompliance has not been demonstrated.

"(C) SUSPENSION UPON ACTION BY ATTORNEY GENERAL.—Whenever the Attorney General files a civil action alleging a pattern or practice of discriminatory conduct on the basis of race, color, religion, sex, national origin, age, or handicapped status in any program or activity of a State government or unit of local government, which State government or unit of local government receives funds made available under subtitle A or D, and neither party within 45 days after such filing has been granted such preliminary relief with regard to the suspension or payment of funds as may be otherwise available by law, the Secretary shall suspend further payment of any funds under subtitles A and D to that State government or that unit of local government until such time as the court orders resumption of payment.

"(4) HEARINGS; OTHER ACTIONS.—

"(A) PRELIMINARY HEARING.—Within the first 30 days after notification under paragraph (1)(B), the State government or unit of local government may request an expedited preliminary hearing by an administrative law judge in order to determine whether it is likely that the State government or unit of local government would, at a full hearing under subparagraph (B) of this paragraph, prevail on the merits on the issue of the alleged noncompliance. Such judge shall render a finding hereunder within the 90-day period after notification under paragraph (1)(B). A finding under this subparagraph by the administrative law judge in favor of the State government or unit of local government shall defer the suspension of funds under paragraph (3) until the 210th day after the issuance of a notice of noncompliance under paragraph (1)(B), of until 30 days after the conclusion of hearing on the merits under subparagraph (B) of this paragraph.

"(B) COMPLIANCE HEARING.—At any time after notification under paragraph (1) but before the conclusion of the 120-day period referred to in paragraph (3)(A), a State government or unit of local government may request a hearing, which the Secretary shall initiate within 30 days of such request. The Secretary may also initiate a hearing in case of a finding in favor of a State government or unit of local government under subparagraph (A) of this paragraph. Within 30 days after the conclusion of a hearing under this subparagraph, or, in the absence of a hearing, within 210 days after issuance of a notice of noncompliance under paragraph (1), the Secretary shall make a finding of compliance or noncompliance. If the Secretary makes a finding of noncompliance, the Secretary shall (i) notify the Attorney General of the United States in order that the Attorney General may institute a civil action under subsection (c), (ii) terminate the payment of funds under subtitles A and D, and, (iii) if appropriate, seek repayment of such funds. If the Secretary makes a finding of compliance, payment of the suspended funds shall resume as provided in paragraph (3)(B).

"(5) JUDICIAL REVIEW.—Any State government or unit of local government aggrieved by a final determination of the Secretary under paragraph (4) may appeal such determination as provided in section 143(c).

"(c) AUTHORITY OF ATTORNEY GENERAL.—Whenever the Attorney General has reason to believe that a State government or unit of local government has engaged or is engaging in a pattern or practice in violation of the provisions of this section, the Attorney General may bring a civil action in an appropriate United States district court. Such court may grant as relief any temporary restraining order, preliminary or permanent injunction, or other order, as necessary or appropriate to insure the full enjoyment of the rights described in this section, including the suspension, termination, or repayment of funds made available under this title, or placing any further payments under this title in escrow pending the outcome of the litigation.

"(d) AGREEMENTS BETWEEN AGENCIES.—The Secretary shall enter into agreements with State agencies and with other Federal agencies authorizing such agencies to investigate noncompliance with subsection (a). The agreements shall describe the cooperative efforts to be undertaken (including the sharing of civil rights enforcement personnel and resources) to secure compliance with this section, and shall provide for the immediate notification of the Secretary by the Attorney General of any actions instituted under subsection (b)(3)(C), subsection (c), or under any other Federal civil rights statute or regulations issued thereunder.".

(b) Subtitle B of title I of the Act is amended by adding at the end thereof the following new sections:

"SEC. 124. COMPLAINTS AND COMPLIANCE REVIEWS.

"By March 31, 1977, the Secretary shall promulgate regulations establishing—

"(1) reasonable and specific time limits for the Secretary or the appropriate cooperating agency to respond to the filing of a complaint by any person alleging that a State government or unit of local government is in violation of the provisions of this Act, including time limits for instituting an investigation, making an appropriate determination with respect to the allegations, and advising the complainant of the status of the complaint; and

"(2) reasonable and specific time limits for the Secretary to conduct audits and reviews of State governments and units of local government for compliance with the provisions of this Act.

"SEC. 125. PRIVATE CIVIL ACTIONS.

"(a) In any action brought to enforce compliance with any provision of this Act, the court may grant to a prevailing plaintiff reasonable attorney fees except where the lawsuit is frivolous, vexatious, brought for harassment purposes, or brought principally for the purpose of gaining attorney fees.

"(b) INTERVENTION BY ATTORNEY GENERAL.—In any action brought to enforce compliance with any provision of this Act, the Attorney General, or a specially designated assistant for or in the name of the United States, may intervene upon timely application if he certifies that the action is of general public importance. In such action the United States shall be entitled to the same relief as if it had instituted the action.".

AUDITING AND ACCOUNTING

SEC. 12. (a) Subparagraph (A) of section 123(a)(5) of the Act is amended by striking "therefor" and inserting in lieu thereof ", in conformity with subsection (c) of this section," and by inserting at the end thereof the following: "and conduct independent financial audits in accordance with generally accepted auditing standards as required by paragraph (2) of such subsection,".

(b) Section 123(c) of this Act is amended to read as follows:

"(c) ACCOUNTING, AUDITING, AND EVALUATION.—

"(1) IN GENERAL.—The Secretary shall provide for such audits, evaluations, and reviews as may be necessary to insure that the expenditures of funds received under subtitle A or D by State governments and units of local government comply fully with requirements of this title. Such audits, evaluations, and reviews shall include such independent audits as may be required pursuant to paragraph (2). The Secretary is authorized to accept an audit by a State government or unit of local government of its expenditures if he determines that such audit was conducted in compliance with paragraph (2), and that such audit and the audit procedures of that State government or unit of local government are sufficiently reliable to enable him to carry out his duties under this title.

"(2) INDEPENDENT AUDITS.—The Secretary shall, after consultation with the Comptroller General, promulgate regulations to take effect not later than March 31, 1977, which shall require that each State government and unit of local government receiving funds under subtitle A conducts during each fiscal year an audit of its title A or D and conducts during each fiscal year an audit of its financial accounts in accordance with generally accepted auditing standards. Such regulations shall include such provisions as may be necessary to assure independent audits are conducted in accordance with such stadards, but may provide for less formal reviews of financial information, or less frequent audits, to the extent necessary to insure that the cost of such audits not be unreasonably burdensome in relation to the entitlement of such State government or unit of local government to funds available under subtitles A and D. Such regulations shall further provide for the availability to the public of financial statements and reports on audits or informal reviews constructed under this paragraph for inspection and reproduction as public documents.

"(3) COMPTROLLER GENERAL SHALL REVIEW COMPLIANCE.—The Comptroller General of the United States shall make such reviews of the work as done by the Secretary, the State governments, and the units of local government as may be necessary for the Congress to evaluate compliance and operations under this title.".

CONSTRUCTION PROJECT WAGE RATES

SEC. 13. Section 123(a)(6) of the Act is amended to read as follows:

"(6) all laborers and mechanics employed in the performance of work on any construction project which is funded in whole or part out of its trust fund established under paragraph (1), will be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a–5), and that with respect to the labor standards specified in this paragraph the Secretary of Labor shall act in accordance with Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267) and section 2 of the Act of June 13, 1934 (40 U.S.C. 276c), except that nothing in this subsection shall be construed to cover work performed by a State or local jurisdiction with its own regular, permanent laborers or mechanics.".

PROHIBITION ON USE FOR LOBBYING

SEC. 14. Section 123 of the Act is amended by adding at the end thereof the following new subsection:

"(e) PROHIBITION OF USE FOR LOBBYING PURPOSES.—No State government or unit of local government may use, directly or indirectly, any part of the funds it receives under subtitle A or D for the purpose of lobbying or other activities intended to influence any legislation regarding the provisions of this Act. For the purpose of this subsection, dues paid to National or State associations shall be deemed not to have been paid from funds received under subtitle A or D.".

SUPPLEMENTAL FISCAL ASSISTANCE

SEC. 15. (a) Title I of the Act is further amended by adding at the end thereof the following new subtitle:

"Subtitle D—Supplemental Fiscal Assistance

"SEC. 161. SHORT TITLE.

"This subtitle may be cited as the 'Supplemental Fiscal Assistance Act of 1976'.

"SEC. 162. PAYMENTS TO STATE AND LOCAL GOVERNMENTS.

"Except as otherwise provided in this title, the Secretary shall, for each entitlement period beginning on or after January 1, 1977, pay out of the amounts authorized under section 105(c)(1) which are not reserved for distribution under subtitle A, and out of any additional amounts appropriated under section 163(b), to each eligible State government, and to each eligible unit of local government, an amount determined under section 164 for such period. Such payments shall be made in installments, but not less often than once for each quarter, and shall be paid not later than 5 days after the close of each quarter. Such payments for any entitlement period may be initially made on the basis of estimates. Proper adjustment shall be made in the amount of any payment to a State government or a unit of local government to the extent that the payments previously made to such government under this subtitle were in excess of or less than the amounts required to be paid.

"SEC. 163. FUNDING.

"(a) ENTITLEMENT.—There shall be available for distribution under this subtitle, as an entitlement, any sums authorized under section 105(c)(1) which extend—

"(1) $4,875,000,000 for the entitlement period beginning January 1, 1977, and ending September 30, 1977; or

"(2) $6,500,000,000 for any entitlement period of 12 months' duration thereafter.

"(b) AUTHORIZATION.—In addition to the sums available under subsection (a) there are authorized to be appropriated such sums as Congress may deem necessary to adequately fund the program established by this subtitle.

"SEC. 164. ELIGIBILITY; DETERMINATION OF AMOUNT OF PAYMENTS.

"(a) ELIGIBILITY.—No State government shall be eligible to receive payments under this subtitle unless, with respect to an entitlement period, its entitlement under section 167 exceeds its entitlement under section 107. No unit of local government shall be eligible to receive payments under this subtitle unless, with respect to an entitlement period, its entitlement under section 168 exceeds its entitlement under section 108.

"(b) PAYMENT OF EXCESS.—Except as provided in subsection (c) the Secretary shall pay—

"(1) to each State government eligible under subsection (a), an amonut equal to the amount by which its entitlement under section 167 exceeds its entitlement under section 107; and

"(2) to each unit of local government eligible under subsection (a), an amount equal to the amount by which its entitlement under section 168 exceeds its entitlement under section 108.

"(c) LIMITATIONS.—

"(1) RATABLE REDUCTIONS.—If the sums available under section 163 (a) and (b) for any entitlement period for making payments under this subtitle to State governments and units of local government are not sufficient to pay in full the total amount of payments authorized by subsection (b) of this section for that entitlement period, then each such payment for such period shall be ratably reduced. In case additional funds become available for making such payments for any entitlement period during which the preceding sentence is applicable, such reduced payments shall be increased on the same basis as they were reduced.

"(2) PAYMENT LESS THAN $2,500, OR GOVERNING BODY WAIVES PAYMENT.—If (but for this paragraph) the payment to any unit of local government below the level of the county government—

"(i) would be less than $2,500 for any entitlement period ($1,875 for an entitlement period of 9 months), or

"(ii) is waived for any entitlement period by the governing body of such unit,

then the amount of such payment for such period (in lieu of being paid to such unit) be added to, and shall become a part of, the payment for such period to the county government of the county area in which such unit is located.

"SEC. 165. MANAGEMENT OF FUNDS.

"(a) MANAGEMENT.—

"(1) IN GENERAL.—Funds appropriated pursuant to section 163(b) shall remain available without fiscal year limitation and, except as provided in this title, may be used only for the payments to State and local governments as provided by this subtitle.

"(2) REPORT.—The Secretary of the Treasury shall report to the Congress not later than January 15 of each year on the operations and payments under this subtitle during the preceding fiscal year.

"(b) TRANSFER TO GENERAL FUND.—The Secretary shall from time to time transfer to the general fund of the Treasury any moneys available for this subtitle which he determines will not be needed to make payments to State governments and units of local government under this subtitle.

"SEC. 166. COMPUTATION OF ALLOCATION AMONG STATES.

"An amount equal to the amount authorized under section 105(c)(1) for each entitlement period which is not reserved for distribution under this subtitle shall be allocated among the States as follows:

"(a) ALLOCATION ON BASIS OF INCOME FACTOR.—Forty percent of an amount equal to the amount authorized under section 105 (c)(1) for any entitlement period which is not reserved for distribution under this subtitle shall be allocated among the States in the same proportion as—

"(1) the population of each State, multiplied by the income factor of that State, bears to

"(2) the sum of the products determined under subparagraph (1) for all States.

"(b) ALLOCATION ON BASIS OF TAX EFFORT FACTOR.—Sixty percent of an amount equal to the amount authorized under section 105 (c)(1) for any entitlement period which is not reserved for distribution under this subtitle shall be allocated among the States in the same proportion as the amount allocable to each State under subsection (c) of this section bears to the sum of the amounts allocable to all States under such subsection.

"(c) DETERMINATION OF ALLOCABLE AMOUNT.—

"(1) IN GENERAL.—For purposes of subsection (b) of this section, the amount allocable to a State under this subsection for any entitlement period shall be determined under paragraph (2), except that such amount shall be determined under paragraph (3) if the amount allocable to it under paragraph (3) is greater than the amount allocable to it under paragraph (2).

"(2) GENERAL TAX EFFORT AMOUNT.—For purposes of paragraph (1), the amount allocable to a State under this paragraph for any entitlement period is the amount which bears the same ratio to the total amount allocable under subsection (b) as—

"(A) the population of that State, multiplied by the general tax effort factor of that State, bears to

"(B) the sum of the products determined under subparagraph (A) for all States.

"(3) INCOME TAX EFFORT AMOUNT.—For purposes of paragraph (1), the amount allocable to a State under this paragraph for any entitlement period is the amount which bears the same ratio to the total amount allocable under subsection (b) as—

"(A) the population of that State, multiplied by the income tax effort factor of that State, bears to

"(B) the sum of the products determined under subparagraph (A) for all States.

"SEC. 167. ENTITLEMENTS OF STATE GOVERNMENTS.

"(a) DIVISION BETWEEN STATE AND LOCAL GOVERNMENTS.—The State government shall be entitled to receive one-third of the amount allocated to that State for each entitlement period. The remaining portion of each State's allocation shall be allocated among the units of local government of that State as provided in section 168.

"(b) STATE MUST MAINTAIN TRANSFERS TO LOCAL GOVERNMENTS.—

"(1) GENERAL RULE.—The entitlement of any State government for any entitlement period beginning on or after January 1, 1977, shall be reduced by the amount (if any) by which—

"(A) the average of the aggregate amounts transferred by the State government (out of its own sources) during such period and the preceding entitlement period to all units of local government in such State, is less than,

"(B) the similar aggregate amount for the one-year period beginning July 1, 1975, or until data on such period are available, the most recent such one-year period for which data on such amounts are available.

For purposes of subparagraph (A), the amount of any reduction in the entitlement of a State government under this subsection for any entitlement period shall, for subsequent entitlement periods, be treated as an amount transferred by the State government (out of its own sources) during such period to units of local government in such State.

"(2) ADJUSTMENT WHERE STATE ASSUMES RESPONSIBILITY FOR CATEGORY OF EXPENDITURES.—If the State government establishes to the satisfaction of the Secretary that since December 31, 1976, it has assumed responsibility for a category of expenditures which (before January 1, 1977) was the responsibility of local governments located in such State, then, under regulations prescribed by the Secretary, the aggregate amount taken into account under paragraph (1)(B) shall be reduced to the extent that increased State government spending (out of its own sources) for such category has replaced corresponding amounts which for the one-year period utilized for purposes of paragraph (1)(B) it transferred to units of local government.

"(3) ADJUSTMENT WHERE NEW TAXING POWERS ARE CONFERRED UPON LOCAL GOVERNMENTS.—If a State establishes to the satisfaction of the Secretary that since January 1, 1977, one or more units of local government within such State have had conferred upon them new taxing authority, then, under regulations prescribed by the Secretary, the aggregate amount taken into account under paragraph (1)(B) shall be reduced to the extent of the larger of—

"(A) an amount equal to the amount of the taxes collected by reason of the exercise of such new taxing authority by such local governments, or

"(B) an amount equal to the amount of the loss of revenue to the State by reason of such new taxing authority being conferred on such local governments.

No amount shall be taken into consideration under subparagraph (A) if such new taxing authority is an increase in the authorized rate of tax under a previously authorized kind of tax, unless the State is determined by the Secretary to have decreased a related State tax.

"(4) SPECIAL RULE FOR PERIOD BEGINNING

January 1, 1977.—In the case of the entitlement period beginning January 1, 1977, and ending September 30, 1977, the aggregate amount taken into account under paragraph (1)(A) for the preceding entitlement period and the aggregate amount taken into account under paragraph (1)(B) shall be three-fourths of the amounts which (but for this paragraph) would be taken into account.

"(5) Reduction in entitlement.—If the Secretary has reason to believe that paragraph (1) requires a reduction in the entitlement of any State government for any entitlement period, he shall give reasonable notice and opportunity for hearing to the State. If thereafter, he determines that paragraph (1) requires the reduction of such entitlement, he shall also determine the amount of such reduction and shall notify the Governor of such State of such determinations and shall withhold from subsequent payments to such State government under this title an amount equal to such reduction.

"(6) Transfers to local governments.—An amount equal to the reduction in the entitlement of any State government which results from the application of this subsection (after any judicial review under section 143) shall be made available for distribution to local governments within the State in accordance with section 168. In the event that, because of limits imposed by section 168, any portion of such amount is not properly allocable to local governments, such portion shall be transferred to the general fund of the Treasury.

"Sec. 168. Entitlements of Local Governments.

"(a) Allocation Among County Areas.—The amount to be allocated to the units of local government within a State for any entitlement period shall be allocated among the county areas located in that State so that each county area will receive an amount which bears the same ratio to the total amount to be allocated to the units of local government within that State as—

"(1) the population of that county area, multiplied by the tax effort factor of that county area, multiplied by the income factor of that county area, bears to

"(2) the sum of the products determined under paragraph (1) for all county areas within that State.

"(b) Allocation to County Governments, Municipalities, Townships, Etc.—

"(1) County governments.—The county government shall be allocated that portion of the amount allocated to the county area for the entitlement period under subsection (a) which bears the same ratio to such amount as the adjusted taxes of the county government bear to the adjusted taxes of the county government and all other units of local government located in the county area.

"(2) Other units of local government.—The amount remaining for allocations within a county area after the application of paragraph (1) shall be allocated among the units of local government (other than the county government) located in that county area so that each unit of local government will receive an amount which bears the same ratio to the total amount to be allocated to all such units as—

"(A) the population of that local government, multiplied by the tax effort factor of that local government, multiplied by the income factor of that local government, bears to

"(B) the sum of the products determined under subparagraph (A) for all such units.

"(3) Township governments.—If the county area includes one or more township governments, then such township governments shall be treated as units of local government in making the allocation prescribed by paragraph (2) of this subsection.

"(4) Indian tribes and Alaskan native villages.—If within a State there is an Indian tribe or Alaskan native village which has a recognized governing body which performs substantial governmental functions, then before applying subsection (a) of this section there shall be allocated to each such tribe or village a portion of the amount allocated to that State for the entitlement period which bears the same ratio to such amount as the population of such tribe or village within that State bears to the population of that State. If this paragraph applies with respect to any State for any entitlement period, the total amount to be allocated to county areas under subsection (a) shall be appropriately reduced to reflect the amount allocated under the preceding sentence, and the population of any tribe or village receiving such allocation shall not be counted in determining the allocation under subsection (a) of the county area in which such tribe or village is located. If the entitlement of any such tribe or village is waived for any entitlement period by the governing body of that tribe or village, then the provisions of this paragraph shall not apply with respect to the amount of such entitlement for such period.

"(5) Rule for small units of government.—If the Secretary determines that in any county area the data available for any entitlement period are not adequate for the application of the formulas set forth in paragraph (2) with respect to units of local government (other than a county government) with a population below a number (not more than 500) prescribed for that county area by the Secretary, he may apply paragraph (2) by allocating for such entitlement period to each such unit located in that county area an amount which bears the same ratio to the total amount to be allocated under paragraph (2) for such entitlement period as the population of such unit bears to the population of all units of local government in that county area to which allocations are made under such paragraph. If the preceding sentence applies with respect to any county area, the total amount to be allocated under paragraph (2) to other units of local government in that county area for the entitlement period shall be appropriately reduced to reflect the amounts allocated under the preceding sentence.

"(6) Entitlement.—

"(A) In general.—Except as otherwise provided in this paragraph, the entitlement of any unit of local government for any entitlement period shall be the amount allocated to such unit under this subsection.

"(B) Maximum per capita entitlement.—The per capita amount allocated to any county area or any unit of local government (other than a county government) within a State under this section for any entitlement period shall not be more than 300 percent of two-thirds of the amount allocated to the State under section 166, divided by the population of that State.

"(C) Limitation.—The amount allocated to any unit of local government under this section for any entitlement period shall not exceed 50 percent of the sum of (i) such government's adjusted taxes, and (ii) the intergovernmental transfers of revenue to such government (other than transfers to such government under this subtitle).

"(D) Entitlement less than $2,500, or governing body waives entitlement.—If (but for this subparagraph) the entitlement of any unit of local government below the level of the county government—

"(i) would be less than $2,500 for any entitlement period ($1,875 for an entitlement period of 9 months), or

"(ii) is waived for any entitlement period by the governing body of such unit,

then the amount of such entitlement for such period shall (in lieu of being paid to such unit) be added to, and shall become a part of, the entitlement for such period of the county government of the county area in which such unit is located.

"(7) Adjustment of entitlement.—

"(A) In general.—In adjusting the allocation of any county area or unit of local government, the Secretary shall make any adjustment required under paragraph (6)(B) first, any adjustment required under paragraph (6)(C) next, and any adjustment required under paragraph (6)(D) last.

"(B) Adjustment for application of maximum per capita entitlement.—The Secretary shall adjust the allocations made under this section to county areas or to units of local governments in any State in order to bring those allocations into compliance with the provisions of paragraph (6)(B). In making such adjustments he shall make any necessary adjustments with respect to county areas before making any necessary adjustments with respect to units of local government.

"(C) Adjustment for application of limitation.—In any case in which the amount allocated to a unit of local government is reduced under paragraph (6)(C) by the Secretary, the amount of that reduction—

"(i) in the case of a unit of local government (other than a county government), shall be added to and increase the allocation of the county government of the county area in which it is located, unless (on account of the application of paragraph (6)) that county government may not receive it, in which case the amount of the reduction shall be added to and increase the entitlement of the State government of the State in which that until of local government is located; and

"(ii) in the case of a county government, shall be added to and increase the entitlement of the State government of the State in which it is located.

"Sec. 169. Definitions and Special Rules for Application of Allocation Formulas.

"(a) In General.—For purposes of this subtitle—

"(1) Population.—Population shall be determined on the same basis as resident population is determined by the Bureau of the Census for general statistical purposes.

"(2) Exempt income.—Exempt income shall mean one-fourth of the annual income designated by the Bureau of the Census as the low-income level for a family of four persons.

"(3) Aggregate exempt income.—Aggregate exempt income for any unit of government shall mean the population of that unit multiplied by exempt income as defined in paragraph (2).

"(4) Income.—Income means total money income from all sources, as determined by the Bureau of the Census, for general statistical purposes.

"(5) Dates for determining allocations and settlements.—Except as provided in regulations, the determination of allocations and entitlements for any entitlement period shall be made as of the first day of the third month immediately preceding the beginning of such period.

"(6) Intergovernmental transfers.—The intergovernmental transfers of revenue to any government are the amounts of revenue received by that government from other governments as a share in financing (or as reimbursement for) the performance of governmental functions, as determined by the Bureau of the Census for general statistical purposes.

"(7) Data used; uniformity of data.—

"(A) General rule.—Except as provided in subparagraph (B), the data used shall be the most recently available data provided by the Bureau of the Census or the Department of Commerce, as the case may be.

"(B) Use of estimates, etc.—Where the Secretary determines that the data referred to in subparagraph (A) are not current enough or are not comprehensive enough to provide for equitable allocations, he shall use such additional data (including data based on estimates) as may be provided for in regulations.

"Income Factor.—

"(1) The income factor for a State, county area, or unit of local government is a fraction—

"(A) the numerator of which is—

"(i) the number of persons in families in that State, county area, or unit of local government below the low-income level, plus the number of unrelated individuals 65 years old or over below the low-income level, plus

"(ii) the number of persons in families with incomes between 100 percent and 125 percent of the low-income level residing in a central city of an urbanized area within that State, county area, or unit of local government, plus the number of unrelated individuals, 65 years old or over who have incomes between 100 percent and 125 percent of the low-income level residing in a central city, of an urbanized area within that State, county area, or unit of local government;

"(B) the denominator of which is the number of persons in families in that State, county area, or unit of local government plus the number of unrelated individuals 65 years old and over.

"(2) The terms used in paragraph (1) are defined in accordance with the definitions used by the Bureau of the Census for general statistical purposes.

"(c) General Tax Effort Factor of States.—

"(1) In general.—For purposes of this title, the general tax effort factor of any State for any period is—

"(A) the net amount collected from the State and local taxes of such State during the most recent reporting year, divided by

"(B) the aggregate income, as defined in paragraph (4) of subsection (a), attributed to such State for the same period, minus the aggregate exempt income attributable to such State for the same period.

"(2) State and local taxes.—

"(A) Taxes taken into account.—The State and local taxes taken into account under paragraph (1) are the compulsory contributions exacted by the State (or by any unit of local government or other political subdivision of the State) for public purposes (other than employee and employer assessments and contributions to finance retirement and social insurance systems, and other than special assessments for capital outlay), as such contributions are determined by the Bureau of the Census for general statistical purposes.

"(B) Most recent reporting year.—The most recent reporting year with respect to any entitlement period consists of the years taken into account by the Bureau of the Census in its most recent general determination of State and local taxes made before the close of such period.

"(d) Income Tax Collections of States.—The income tax collections attributed to any State for any entitlement period shall be equal to the net amount collected from the State individual income tax of such State during the last calendar year ending before the beginning of such entitlement period. The individual income tax of any State is the tax imposed upon the income of individuals by that State and described as a State income tax under section 164(a)(3) of title 26, United States Code.

"(e) Income Tax Effort Factor.—The income tax effort factor of any State for any entitlement period is—

"(1) the income tax collections of that State as defined in subsection (d), divided by

"(2) the aggregate income, as defined in paragraph (4) of subsection (a) attributed to such State for the same period, minus the aggregate exempt income attributable to such State for the same period.

"(f) Tax Effort Factor of County Area.—For purposes of this title, the tax effort factor of any county area for any entitlement period is—

"(1) the adjusted taxes of the county government plus the adjusted taxes of each other unit of local government within that county area, divided by

"(2) the greater of

"(A) the aggregate income (as defined in paragraph (4) of subsection (a)) attributed to that county area, minus the aggregate exempt income attributable to that county area, or

"(B) one-half the aggregate exempt income attributable to such county area for the same period.

"(g) Tax Effort Factor of Unit of Local Government.—For purposes of this title—

"(1) In general.—The tax effort factor of any unit of local government for any entitlement period is—

"(A) the adjusted taxes of that unit of local government, divided by

"(B) the greater of—

"(i) the aggregate income (as defined in paragraph (4) of subsection (a)) attributed to that unit of local government, minus the aggregate exempt income attributable to that unit of local government, or

"(ii) one-half the aggregate exempt income attributable to such unit of local government for the same period.

"(2) Adjusted taxes.—

"(A) In general.—The adjusted taxes of any unit of local government are—

"(i) the compulsory contributions exacted by such government for public purposes (other than employee and employer assessments and contributions to finance retirement and social insurance systems, and other than special assessments for capital outlay), as such contributions are determined by the Bureau of the Census for general statistical purposes,

"(ii) adjusted (under regulations prescribed by the Secretary) by excluding an amount equal to that portion of such compulsory contributions which is properly allocable to expenses for education.

"(B) Certain sales taxes collected by counties.—In any case where—

"(i) a county government exacts sales taxes within the geographic area of a unit of local government and transfers part or all of such taxes to such unit without specifying the purposes for which such unit may spend the revenues, and

"(ii) the Governor of the State notifies the Secretary that the requirements of this subparagraph have been met with respect to such taxes,

then the taxes so transferred shall be treated as the taxes of the unit of local government (and not the taxes of the county government).".

(b) Section 123(a)(1) of the Act is amended by inserting "or D" immediately after "subtitle A".

Sec. 16. (a) Except as provided in subsection (b), the amendments of the Act made by this Act shall take effect at the close of December 31, 1976.

(b)(1) The amendments made by section 6 of this Act shall take effect on the date of enactment.

(2) The amendment made by section 8 of this Act shall take effect at the close of September 30, 1977.

Mr. BROOKS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment in the nature of a substitute be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. BROOKS. Mr. Chairman, this amendment in the nature of a substitute is exactly the same as the bill reported by the Committee on Government Operations; not a comma has been changed. I am offering it solely for the purpose of simplifying the procedure under the 5-minute rule.

My amendment in the nature of a substitute, which is open to amendment at any point, will make it possible for the committee to deal with the substantive provisions of this important legislation in an orderly fashion. While I am opposed to revenue sharing, as chairman of the Committee on Government Operations I am well aware of my responsibility to assure that it receives full and fair consideration in the House. I think the amendment in the nature of a substitute I am offering will provide that.

The Members who spoke yesterday in favor of the subcommittee bill which they intend to offer as a substitute made mention of the fact that it had bipartisan support in the subcommittee. The fact is that the committee bill had even broader bipartisan support. It was approved by a vote of 39 to 3, and none of those 3 votes against it came from the minority side. The amendments adopted by the full committee reflected the position of a majority of the committee's 42 members in each instance. This action represents a broader cross-section of the House than that provided by the 13-member subcommittee.

Mr. Chairman, the House now has its chance to offer and vote on amendments. I want to expedite and simplify that process, and that is why I offer this amendment in the nature of a substitute.

AMENDMENT OFFERED BY MR. HORTON AS A SUBSTITUTE FOR THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. BROOKS

Mr. HORTON. Mr. Chairman, I offer an amendment as a substitute for the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. Horton as a substitute for the amendment in the nature of a substitute offered by Mr. Brooks: Strike out all after the enacting clause and insert in lieu thereof the following: That this Act may be cited as the "Fiscal Assistance Amendments of 1976".

DEFINITION

Sec. 2. As used in this Act the term "the Act" means the State and Local Fiscal Assistance Act of 1972 (31 U.S.C. 1221; 86 Stat. 919).

ELIMINATION OF EXPENDITURE CATEGORIES

Sec. 3. (a) Subtitle A of title I of the Act is amended by striking out section 103.

(b) Section 123(a) of the Act is amended by striking out paragraph (3).

ELIMINATION OF PROHIBITION ON USE OF FUNDS FOR MATCHING

Sec. 4. (a) Subtitle A of title I of the Act is further amended by striking out section 104.

(b) Section 143(a) of the Act is amended by striking out "104(b) or".

EXTENSION OF PROGRAM AND FUNDING

SEC. 5. (a) Section 105 of the Act is amended—

(1) by inserting "or in an appropriation Act" immediately after "as provided in subsection (b)" in subsection (a)(1);

(2) by redesignating subsection (c) as subsection (d);

(3) by inserting immediately after subsection (b) the following new subsection:

"(c) AUTHORIZATION OF APPROPRIATIONS FOR ENTITLEMENTS.—

"(1) IN GENERAL.—There are authorized to be appropriated to the Trust Fund to pay the entitlements hereinafter provided—

"(A) for the period beginning January 1, 1977, and ending September 30, 1977, $4,987,500,000; and

"(B) for the fiscal years beginning October 1 of 1977, 1978, and 1979, $6,650,000,000.

"(2) NONCONTIGUOUS STATES ADJUSTMENT AMOUNTS.—There are authorized to be appropriated to the Trust Fund to pay the entitlements hereinafter provided—

"(A) for the period beginning January 1, 1977, and ending September 30, 1977, $3,585,000; and

"(B) for each of the fiscal years beginning on October 1 of 1977, 1978, and 1979, $4,780,000,"; and

(4) by inserting "; AUTHORIZATIONS FOR ENTITLEMENTS" in the heading of such section immediately after "APPROPRIATIONS".

(b)(1) Subsection (a) of section 106 of the Act is amended to read as follows:

"(a) IN GENERAL.—There shall be allocated an entitlement to each State—

"(1) for each entitlement period beginning prior to December 31, 1976, out of amounts appropriated under section 105(b)(1) for that entitlement period, an amount which bears the same ratio to the amount appropriated under that section for that period as the amount allocable to that State under subsection (b) bears to the sum of the amounts allocable to all States under subsection (b); and

"(2) for each entitlement period beginning on or after January 1, 1977, out of amounts authorized under section 105(c)(1) for that entitlement period, an amount which bears the same ratio to the amount authorized under that section for that period as the amount allocable to that State under subsection (b) bears to the sum of the amounts allocable to all States under subsection (b).".

(2) Section 106(c)(1) of the Act is amended by striking out "section 105(b)(2)" and inserting in lieu thereof "subsection (b)(2) or (c)(2) of section 105".

(3) Section 106(c)(2) of the Act is amended by inserting immediately after "section 105(b)(2) for any entitlement period" the following: "ending on or before December 31, 1976, or authorized under section 105(c)(2) for any entitlement period beginning on or after January 1, 1977,".

(4) Section 107(b) of the Act is amended by redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively, and by inserting after paragraph (5) the following new paragraph:

"(6) SPECIAL RULE FOR THE PERIOD BEGINNING JANUARY 1, 1977.—In the case of the entitlement period beginning January 1, 1977, and ending September 30, 1977, the aggregate amount taken into account under paragraph (1)(A) for the preceding entitlement period and the aggregate amount taken into account under paragraph (1)(B) shall be three-fourths of the amounts which (but for this paragraph) would be taken into account.".

(5) Section 108(b)(6)(D) is amended by inserting after "6 months" the following: ", $150 for an entitlement period of 9 months".

(6) Section 108(c)(1)(C) of the Act is amended by striking out "December 31, 1976," and inserting in lieu thereof "September 30, 1980.".

(7) Section 141(b) of the Act is amended by inserting at the end thereof the following new paragraphs:

"(6) The period beginning on January 1, 1977, and ending September 30, 1977.

"(7) The one-year periods beginning on October 1 of 1977, 1978, and 1979."

MAINTENANCE OF EFFORT; CHANGE OF BASE YEAR

SEC. 6. (a) Section 107(b)(1) of the Act is amended—

(1) by striking out "July 1, 1973," and inserting in lieu thereof "January 1, 1977,"; and

(2) by striking out clause (B) and inserting in lieu thereof the following:

"(B) the similar aggregate amount for the one-year period beginning July 1, 1975, or, until data on such period are available, the most recent such one-year period for which data on such amounts are available.".

(b) Section 107(b)(2) is amended by striking out "beginning July 1, 1971," and inserting in lieu thereof "utilized for purposes of such paragraph".

DEFINITION OF UNIT OF LOCAL GOVERNMENT

SEC. 7. Paragraph (1) of section 108(d) of the Act is amended to read as follows:

"(1) UNIT OF LOCAL GOVERNMENT.—

"(A) IN GENERAL.—The term 'unit of local government' means the government of a county, municipality, or township which is a unit of general government as determined by the Bureau of the Census for general statistical purposes, and which, with respect to entitlement periods beginning on or after October 1, 1977, meets the requirements specified in subparagraph (B), and imposes taxes or receives intergovernmental transfers for substantial performance of at least two of the following services for its citizens: (A) police protection; (B) courts and corrections; (C) fire protection; (D) health services; (E) social services for the poor or aged; (F) public recreation; (G) public libraries; (H) zoning or land use planning; (I) sewerage disposal or water supply; (J) solid waste disposal; (K) pollution abatement; (L) road or street construction and maintenance; (M) mass transportation; and (N) education. Such term also means, except for purposes of paragraphs (1), (2), (3), (5), (6)(C), and (6)(D) of subsection (b), and, except for purposes of subsection (c), the recognized governing body of an Indian tribe or Alaskan Native village which performs substantial governmental functions. For the purposes of this subsection a unit of local government shall be deemed to impose a tax if that tax is collected by another governmental entity from the geographical area served by that unit of local government and an amount equivalent to the net proceeds of that tax are paid to that unit of local government.

"(B) LIMITATION.—To be considered a unit of local government for purposes of this Act, at least 10 per centum of a local government's total expenditures (exclusive of expenditures for general and financial administration and for the assessment of property) in the most recent fiscal year must have been for each of two of the public services listed in subparagraph (A), except that the foregoing restriction shall not apply to a unit of local government which substantially performs four or more of such public services.".

CITIZEN PARTICIPATION; REPORTS

SEC. 8. (a) Section 121 of the Act is amended to read as follows:

"SEC. 121. REPORTS ON USE OF FUNDS; PUBLICATION AND PUBLIC HEARINGS.

"(a) REPORTS ON PROPOSED USE OF FUNDS.—Each State government and unit of local government which expects to receive funds under subtitle A for any entitlement period beginning on or after January 1, 1977, shall submit a report to the Secretary setting forth the amounts and purposes for which it proposes to spend or obligate the funds which it expects to receive during such period as compared with the use of similar funds during the two immediately preceding entitlement periods. Each such report shall include a comparison of the proposed, current, and past use of such funds to the relevant functional items in its official budget and specify whether the proposed use is for a completely new activity, for the expansion or continuation of an existing activity, or for tax stabilization or reduction. Such report shall be in such form and detail as the Secretary may prescribe and shall be submitted at such time before the beginning of the entitlement period as the Secretary may prescribe.

"(b) REPORTS ON USE OF FUNDS.—Each State government and unit of local government which receives funds under subtitle A shall, after the close of each entitlement period, submit a report to the Secretary (which report shall be available to the public for inspection and reproduction), setting forth the amounts and purposes for which funds received during such period have been appropriated, spent, or obligated and showing the relationship of those funds to the relevant functional items in the government's official budget. Such report shall further provide an explanation of all differences between the actual use of funds received and the proposed use of such funds as reported to the Secretary under subsection (a). Such reports shall be in such form and detail and shall be submitted at such time as the Secretary may prescribe.

"(c) PUBLIC HEARINGS REQUIRED.—

"(1) PRE-REPORT HEARING.—Not less than 7 calendar days before the publication (pursuant to subsection (d)(1)(A)(i)) of the report required under subsection (a), each State government or unit of local government which expects to receive funds under subtitle A for any entitlement period beginning on or after January 1, 1977, shall, after adequate public notice, have at least one public hearing at which citizens shall have the opportunity to provide written and oral comment on the possible uses of such funds.

"(2) PRE-BUDGET HEARINGS.—Not less than 7 calendar days before the adoption of its budget as provided for under State and local law, each State government or unit of local government which expects to receive funds under subtitle A for any entitlement period beginning on or after January 1, 1977, shall have at least one public hearing on the proposed use of funds made available under subtitle A in relation to its entire budget. At such hearing, citizens shall have the opportunity to provide written and oral comment to the body responsible for enacting the budget, and to have answered questions concerning the entire budget and the relation to it of funds made available under subtitle A. Such hearing shall be at a place and time that permits and encourages public attendance and participation.

"(3) WAIVER.—The provisions of paragraph (1) may be waived in whole or in part in accordance with regulations of the Secretary if the cost of such a requirement would be unreasonably burdensome in relation to the entitlement of such State government or unit of local government to funds made available under subtitle A.

"(d) NOTIFICATION AND PUBLICITY OF PUBLIC HEARINGS; ACCESS TO BUDGET SUMMARY AND PROPOSED AND ACTUAL USE REPORTS.—

"(1) IN GENERAL.—Each State government and unit of local government which expects to receive funds under subtitle A for any entitlement period beginning on or after January 1, 1977, shall—

"(A) 30 days prior to the public hearing required by subsection (c)(2)—

"(i) publish conspicuously, in at least one newspaper of general circulation, the proposed use report required by subsection (a), a narrative summary setting forth in simple language an explanation of its proposed official budget, and a notice of the time and place of such public hearing; and

"(ii) make available for inspection and reproduction by the public (at the principal office of such State government or unit of local government, at public libraries, if any, within the boundaries of such a unit of local government, and, in the case of a State government, at the main libraries of the principal municipalities of such State) the proposed use report, the narrative summary, and its official budget; and

"(B) within 30 days after adoption of its budget as provided for under State or local law—

"(i) publish conspicuously, in at least one newspaper of general circulation, a narrative summary setting forth in simple language an explanation of its official budget (including an explanation of changes from the proposed budget) and the relationship of the use of funds made available under subtitle A to the relevant functional items in such budget; and

"(ii) make such summary available for inspection and reproduction by the public at the principal office of such State government or unit of local government, at public libraries, if any, within the boundaries of such unit of local government, and, in the case of a State government, at the main libraries of the principal municipalities of such State.

"(2) Waiver.—The provisions of paragraph (1) may be waived, in whole or in part, with respect to publication of the proposed use reports and the narrative summaries, in accordance with regulations of the Secretary, where the cost of such publication would be unreasonably burdensome in relation to the entitlement of such State government or unit of local government to funds made available under subtitle A, or where such publication is otherwise impractical or infeasible.

"(e) Reports Provided to the Governor.—A copy of each report required under subsections (a) and (b) filed with the Secretary by a unit of local government which receives funds under subtitle A shall be provided by the Secretary to the Governor of the State in which the unit of local government is located, in such manner and form as the Secretary may prescribe by regulations.".

(b) (1) Section 123 of the Act is amended by adding at the end thereof the following new subsection:

"(d) Report of the Secretary of the Treasury.—The Secretary of the Treasury shall include with the report required under section 105(a) (2) a report to the Congress on the implementation and administration of this Act during the preceding fiscal year. Such report shall include, but not be limited to, a comprehensive and detailed analysis of the following:

"(1) the measures taken to comply with section 122, including a description of the nature and extent of any noncompliance and the status of all pending complaints;

"(2) the extent to which citizens in recipient jurisdictions have become involved in the decisions determining the expenditure of funds received under subtitle A;

"(3) the extent to which recipient jurisdictions have complied with section 123, including a description of the nature and extent of any noncompliance and of measures taken to ensure the independence of audits conducted pursuant to subsection (c) of such section;

"(4) the manner in which funds distributed under subtitle A have been used, including the net fiscal impact, if any, in recipient jurisdictions; and

"(5) significant problems arising in the administration of the Act and proposals to remedy such problems through appropriate legislation.".

(2) Section 105(a) (2) of the Act is amended by striking out "March 1" and inserting in lieu thereof "January 15".

NONDISCRIMINATION; ENFORCEMENT

Sec. 9. (a) Section 122 of the Act is amended to read as follows:

"Sec. 122. Nondiscrimination Provision.

"(a) (1) In General.—No person shall, on account of race, color, religion, sex, national origin, age, or handicapped status, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity of a State government or unit of local government, which government or unit receives funds made available under subtitle A. The provisions of this paragraph shall be interpreted—

"(A) in accordance with titles II, III, IV, VI, and VII of the Civil Rights Act of 1964, as amended, title VIII of the Civil Rights Act of 1968, and title IX of the Education Amendments of 1972, with respect to discrimination on the basis of race, color, religion, sex, or national origin;

"(B) in accordance with the Rehabilitation Act of 1973 with respect to discrimination on the basis of handicapped status; and

"(C) in accordance with the Age Discrimination Act of 1975 with respect to discrimination on the basis of age, notwithstanding the deferred effectiveness of such Act.

"(2) Exceptions.—

"(A) Funding.—The provisions of paragraph (1) of this subsection shall not apply where any State government or unit of local government proves by clear and convincing evidence that the program or activity with respect to which the allegation of discrimination has been made is not funded in whole or in part, directly or indirectly, with funds made available under subtitle A.

"(B) Construction projects in progress.—

The provisions of paragraph (1), relating to discrimination on the basis of handicapped status, shall not apply with respect to construction projects commenced prior to January 1, 1977.

"(b) Authority of the Secretary.—

"(1) Notice.—Whenever there has been—

"(A) receipt of notice of a finding, after notice and opportunity for a hearing, by a Federal court (other than in a proceeding brought by the Attorney General) or State court, or by a Federal or State administrative agency (other than the Secretary under subparagraph (B)), to the effect that there has been a pattern or practice of discrimination on the basis of race, color, religion, sex, national origin, age, or handicapped status in any program or activity of a State government or unit of local government, which government or unit receives funds made available under subtitle A;

"(B) a determination after an investigation by the Secretary (prior to a hearing under paragraph (4) but including an opportunity for the State government or unit of local government to make a documentary submission regarding the allegation of discrimination or the funding of such program or activity with funds made available under subtitle A) that a State government or unit of local government is not in compliance with subsection (a) (1), the Secretary shall, within 10 days of such occurrence, notify the Governor of the affected State, or of the State in which an affected unit of local government is located, and the chief executive officer of such affected unit of local government, that such State government or unit of local government is presumed not to be in compliance with subsection (a) (1), and shall request the Governor and such chief executive officer to secure compliance. For purposes of subparagraph (A), a finding by a Federal or State administrative agency shall be deemed rendered after notice and opportunity for a hearing if it is rendered pursuant to procedures consistent with the provisions of subchapter II of chapter 5, title 5, United States Code.

"(2) Voluntary compliance.—In the event the Governor or the chief executive officer secures compliance after notice pursuant to paragraph (1), the terms and conditions with which the affected State government or unit of local government agrees to comply shall be set forth in writing and signed by the Governor, by the chief executive officer (in the event of a violation by a unit of local government), and by the Secretary. On or prior to the effective date of the agreement, the Secretary shall send a copy of the agreement to each complainant, if any, with respect to such violation. The Governor, or the chief executive officer in the event of a violation by a unit of local government, shall file semiannual reports with the Secretary detailing the steps taken to comply with the agreement. Within 15 days of receipt of such reports the Secretary shall send a copy thereof to each such complainant.

"(3) Suspension and resumption of payment of funds.—

"(A) Suspension after notice.—If, at the conclusion of 90 days after notification under paragraph (1)—

"(i) compliance has not been secured by the Governor of that State or the chief executive officer of that unit of local government, and

"(ii) an administrative law judge has not made a determination under paragraph (4) (A) that it is likely the State government or unit of local government will prevail on the merits,

the Secretary shall suspend further payment of any funds under subtitle A to that State government or that unit of local government. Such suspension shall be effective for a period of not more than 120 days, or, if there is a hearing under paragraph (4) (B), not more than 30 days after the conclusion of such hearing, unless there has been an express finding by the Secretary, after notice and opportunity for such a hearing, that the recipient is not in compliance with subsection (a) (1).

"(B) Resumption of payments suspended under subparagraph (A).—Payment of the suspended funds shall resume only if—

"(i) such State government or unit of local government enters into a compliance agreement approved by the Secretary in accordance with paragraph (2);

"(ii) such State government or unit of local government complies fully with the final order or judgment of a Federal or State court, if that order or judgment covers all the matters raised by the Secretary in the notice pursuant to paragraph (1), or is found to be in compliance with subsection (a) (1) by such court; or

"(iii) after a hearing, the Secretary finds that noncompliance has not been demonstrated.

"(C) Suspension upon action by Attorney General.—Whenever the Attorney General files a civil action alleging a pattern or practice of discriminatory conduct on the basis of race, color, religion, sex, national origin, age, or handicapped status in any program or activity of a State government or unit of local government, which State government or unit of local government receives funds made available under subtitle A, and the conduct alleged violates the provisions of this section and neither party within 45 days after such filing has been granted such preliminary relief with regard to the suspension or payment of funds as may be otherwise available by law, the Secretary shall suspend further payment of any funds under subtitle A to that State government or that unit of local government until such time as the court orders resumption of payment.

"(4) Hearings; other actions.—

"(A) Preliminary hearing.—Prior to the suspension of funds under paragraph (3), but within the 90-day period after notification under paragraph (3)(A), the State government or unit of local government may request an expedited preliminary hearing by an administrative law judge in order to determine whether it is likely that the State government or unit of local government would, at a full hearing under subparagraph (B) of this paragraph, prevail on the merits on the issue of the alleged noncompliance. A finding under this subparagraph by the administrative law judge in favor of the State government or unit of local government shall defer the suspension of funds under paragraph (3) pending a finding of noncompliance at the conclusion of the hearing on the merits under subparagraph (B) of this paragraph.

"(B) Compliance hearing.—At any time after notification under paragraph (1) but before the conclusion of the 120-day period referred to in paragraph (3), a State government or unit of local government may request a hearing, which the Secretary shall initiate within 30 days of such request. Within 30 days after the conclusion of the hearing, or, in the absence of a hearing, at the conclusion of the 120-day period referred to in paragraph (3), the Secretary shall make a finding of compliance or noncompliance. If the Secretary makes a finding of noncompliance, the Secretary shall (i) notify the Attorney General of the United States in order that the Attorney General may institute a civil action under subsection (c), (ii) terminate the payment of funds under subtitle A, and, (iii) if appropriate, seek repayment of such funds. If the Secretary makes a finding of compliance, payment of the suspended funds shall resume as provided in paragraph (3)(B).

(5) Judicial review.—Any State government or unit of local government aggrieved by a final determination of the Secretary under paragraph (4) may appeal such determination as provided in section 143(c).

"(c) Authority of Attorney General.—Whenever the Attorney General has reason to believe that a State government or unit of local government has engaged or is engaging in a pattern or practice in violation of the provisions of this section, the Attorney General may bring a civil action in an appropriate United States district court. Such court may grant as relief any temporary restraining order, preliminary or pemanent injunction, or other order, as necessary or appropriate to insure the full enjoyment of the rights described in this section, including the suspension, termination, or repayment of funds made available under this Act, or placing any further payments under this title in escrow pending the outcome of the litigation.

"(d) Agreements Between Agencies.—The Secretary shall enter into agreements with State agencies and with other Federal agencies authorizing such agencies to investigate noncompliance with subsection (a). The agreements shall describe the cooperative efforts to be undertaken (including the sharing of civil rights enforcement personnel and resources) to secure compliance with this section, and shall provide for the immediate notification of the Secretary by the Attorney General of any actions instituted under subsection (c) or under any other Federal civil rights statute or regulations issued thereunder.".

(b) Subtitle B of title I of the Act is amended by adding at the end thereof the following new sections:

"Sec. 124. Complaints and Compliance Reviews.

"By March 31, 1977, the Secretary shall promulgate regulations establishing—

"(1) reasonable and specific time limits for the Secretary or the appropriate cooperating agency to respond to the filing of a complaint by any person alleging that a State government or unit of local government is in violation of the provisions of this Act, including time limits for instituting an investigation, making an appropriate determination with respect to the allegations, and advising the complainant of the status of the complaint; and

"(2) reasonable and specific time limits for the Secretary to conduct audits and reviews of State governments and units of local governments for compliance with the provisions of this Act.

"Sec. 125. Private Civil Actions.

"(a) Standing.—Whenever a State government or unit of local government, or any officer or employee thereof acting in an official capacity, has engaged or is engaging in any act or practice prohibited by this Act, upon exhaustion of administrative remedies, a civil action may be instituted by the person aggrieved in an appropriate United States district court or in a State court of general jurisdiction.

"(b) Relief.—The court may grant as relief to the plaintiff any temporary restraining order, preliminary or permanent injunction or other order, including the suspension, termination, or repayment of funds, or placing any further payments under this title in escrow pending the outcome of the litigation.

"(c) Intervention by Attorney General.—In any action instituted under this section to enforce compliance with section 122(a), the Attorney General, or a specially designated assistant for or in the name of the United States, may intervene upon timely application if he certifies that the action is of general public importance. In such action the United States shall be entitled to the same relief as if it had instituted the action.".

AUDITING AND ACCOUNTING

Sec. 10. (a) Subparagraph (A) of section 123(a)(5) of the Act is amended by striking "therefor" and inserting in lieu thereof ", in conformity with subsection (c) of this section," and by inserting at the end thereof the following: "and conduct independent and complete financial audits as required by paragraph (2) of such subsection,".

(b) Section 123(c) of the Act is amended to read as follows:

"(c) Accounting, Auditing, and Evaluation.—

"(1) In general.—The Secretary shall provide for such accounting and auditing procedures, evaluations, and reviews as may be necessary to insure that the expenditures of funds received under subtitle A by State governments and units of local government comply fully with requirements of this title. Such procedures, evaluations, and reviews shall include such independent and complete audits as may be required pursuant to paragraph (2). The Secretary is authorized to accept an audit by a State government or unit of local government of its expenditures if he determines that such audit was conducted in compliance with paragraph (2), and that such audit and the audit procedures of that State government or unit of local government are sufficiently reliable to enable him to carry out his duties under this title.

"(2) Independent audits.—The Secretary shall, after consultation with the Comptroller General, promulgate regulations to take effect not later than March 31, 1977, which shall require that each State government and unit of local government receiving funds under subtitle A conducts during each fiscal year an audit of its finances. Such regulations shall include such provisions as may be necessary to assure the independence and completeness of such audit, but may provide abbreviated or simplified procedures, or less frequent audits, to the extent necessary to ensure that the cost of such audits not be unreasonably burdensome in relation to the entitlement of such State government or unit of local government to funds available under subtitle A. Such regulations shall further provide for the availability to the public of reports on audits conducted under this paragraph for inspection and reproduction as public documents.

"(3) Comptroller general shall review compliance.—The Comptroller General of the United States shall make such reviews of the work as done by the Secretary, the State governments, and the units of local government as may be necessary for the Congress to evaluate compliance and operations under this title.".

Sec. 11. Section 123 of the Act is amended by adding at the end thereof the following new subsection:

"(e) Prohibition of Use for Lobbying Purposes.—No State government or unit of local government may use, directly or indirectly, any part of the funds it receives under subtitle A for the purpose of lobbying or other activities intended to influence any legislation regarding the provisions of this Act. For the purpose of this subsection, dues paid to National or State associations shall be deemed not to have been paid from funds received under subtitle A.".

Sec. 12. (a) Except as provided in subsection (b), the amendments of the Act made by this Act shall take effect at the close of December 31, 1976.

(b)(1) The amendments made by section 5 of this Act shall take effect on the date of enactment.

(2) The amendment made by section 7 of this Act shall take effect at the close of September 30, 1977.

Mr. HORTON (during the reading). Mr. Chairman, I ask unanimous consent that the amendment offered as a substitute for the amendment in the nature of a substitute be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. HORTON. Mr. Chairman, I rise to offer a substitute to extend the State and Local Fiscal Assistance Act of 1972. My substitute is the subcommittee bill, a bipartisan proposal that represents a number of modifications from the existing program.

First, this bill extends the program for 3¾ years. It fixes the level of funding at the annual figure of $6.65 billion, and it provides for long-term funding through the entitlement mechanism. Entitlement is specifically provided in the Budget Control and Impoundment Act in section 401(b). It provides an opportunity for the Appropriations Committee to review the level of funding in the manner they did this year.

The substitute also contains extensive revision in the citizen participation requirements. Public hearings and public access to budget documents are required as is the publication of the reports concerning the proposed and actual use of revenue sharing funds.

The civil rights section has been expanded to require suspension of funds when there has been both a judicial and administrative funding of discrimination.

The key to this proposal is twofold. First of all, it represents a bipartisan effort. It passed the subcommittee on voice vote and contains within it the means by which the revenue sharing program can be continued in a more productive way.

On the other hand, the full committee added several amendments which are not designed to make the program more productive.

The air has been filled with erroneous information on these amendments. One of the most significant blows to revenue sharing was the amendment offered to provide supplemental fiscal assistance. Known as the Fascell amendment, this proposal would put a cap on the funding of the revenue sharing program. I would like to set the record straight on that proposal.

The Fascell amendment will reduce the amount of funds going to the congressional districts of 268 Members.

The amount of money in the revenue sharing program will be set at $6.5 billion, a figure $150 million below the funding level of the last half of this calendar year.

Secondly, the formula, which is supposed to provide additional assistance to needy communities, reduces the amount of funds to 145 out of the 200 largest governments, and for over half of the high unemployment States, no benefit is received.

The other amendments which were added at the full committee are well known to the House through the Dear Colleague letters and the debate yesterday.

These amendments are antirevenue sharing and should not be contained in any legislation which this Congress approves. Through this substitute, a vehicle is provided which will continue revenue sharing and not turn the program into another disastrous congressional decision.

AMENDMENT OFFERED BY MR. FOUNTAIN TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. BROOKS

Mr. FOUNTAIN. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. FOUNTAIN to the amendment in the nature of a substitute offered by Mr. BROOKS: In the amendment of the gentleman from Texas, strike out everything following section 2 and insert in lieu thereof the following:

ELIMINATION OF EXPENDITURE CATEGORIES

SEC. 3. (a) Subtitle A of title I of the Act is amended by striking out section 103.

(b) Section 123(a) of the Act is amended by striking out paragraph (3).

ELIMINATION OF PROHIBITION ON USE OF FUNDS FOR MATCHING

SEC. 4. (a) Subtitle A of title I of the Act is further amended by striking out section 104.

(b) Section 143(a) of the Act is amended by striking out "104(b) or".

EXTENSION OF PROGRAM AND FUNDING

SEC. 5. (a) Section 105 of the Act is amended—

(1) by inserting "or in an appropriation Act" immediately after "as provided in subsection (b)" in subsection (a)(1);

(2) by redesignating subsection (c) as subsection (d);

(3) by inserting immediately after subsection (b) the following new subsection:

"(c) AUTHORIZATION OF APPROPRIATIONS FOR ENTITLEMENTS.—

"(1) IN GENERAL.—There are authorized to be appropriated to the Trust Fund to pay the entitlements hereinafter provided—

"(A) for the period beginning January 1, 1977, and ending September 30, 1977, $4,987,500,000; and

"(B) for the fiscal years beginning October 1 of 1977, 1978, and 1979, $6,650,000,000.

"(2) NONCONTIGUOUS STATES ADJUSTMENT AMOUNTS.—There are authorized to be appropriated to the Trust Fund to pay the entitlements hereinafter provided—

"(A) for the period beginning January 1, 1977, and ending September 30, 1977, $3,585,000; and

"(B) for each of the fiscal years beginning on October 1 of 1977, 1978, and 1979, $4,780,000."; and

(4) by inserting "; AUTHORIZATIONS FOR ENTITLEMENTS" in the heading of such section immediately after "APPROPRIATIONS".

(b)(1) Subsection (a) of section 106 of the Act is amended to read as follows:

"(a) IN GENERAL.—There shall be allocated an entitlement to each State—

"(1) for each entitlement period beginning prior to December 31, 1976, out of amounts appropriated under section 105(b)(1) for that entitlement period, an amount which bears the same ratio to the amount appropriated under that section for that period as the amount allocable to that State under subsection (b) bears to the sum of the amounts allocable to all States under subsection (b); and

"(2) for each entitlement period beginning on or after January 1, 1977, out of amounts authorized under section 105(c)(1) for that entitlement period, an amount which bears the same ratio to the amount authorized under that section for that period as the amount allocable to that State under subsection (b) bears to the sum of the amounts allocable to all States under subsection (b).".

(2) Section 106(c)(1) of the Act is amended by striking out "section 105(b)(2)" and inserting in lieu thereof "subsection (b)(2) or (c)(2) of section 105".

(3) Section 106(c)(2) of the Act is amended by inserting immediately after "section 105(b)(2) for any entitlement period" the following: "ending on or before Deccember 31, 1976, or authorized under section 105(c)(2) for any entitlement period beginning on or after January 1, 1977,".

(4) Section 107(b) of the Act is amended by redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively, and by inserting after paragraph (5) the following new paragraph:

"(6) SPECIAL RULE FOR THE PERIOD BEGINNING JANUARY 1, 1977.—In the case of the entitlement period beginning January 1, 1977, and ending September 30, 1977, the aggregate amount taken into account under paragraph (1)(A) for the preceding entitlement period and the aggregate amount taken into account under paragraph (1)(B) shall be three-fourths of the amounts which (but for this paragraph) would be taken into account.".

(5) Section 108(b)(6)(D) is amended by inserting after "6 months" the following: ", $150 for an entitlement period of 9 months".

(6) Section 108(c)(1)(C) of the Act is amended by striking out "December 31, 1976," and inserting in lieu thereof "September 30, 1980,".

(7) Section 141(b) of the Act is amended by inserting at the end thereof the following new paragraphs:

"(6) The period beginning on January 1, 1977, and ending September 30, 1977.

"(7) The one-year periods beginning on October 1 of 1977, 1978, and 1979."

MAINTENANCE OF EFFORT; CHANGE OF BASE YEAR

SEC. 6. (a) Section 107(b)(1) of the Act is amended—

(1) by striking out "July 1, 1973," and inserting in lieu thereof "January 1, 1977,"; and

(2) by striking out clause (B) and inserting in lieu thereof the following:

"(B) the similar aggregate amount for the one-year period beginning July 1, 1975, or, until data on such period are available, the most recent such one-year period for which data on such amounts are available.".

(b) Section 107(b)(2) is amended by striking out "beginning July 1, 1971," and inserting in lieu thereof "utilized for purposes of such paragraph".

DEFINITION OF UNIT OF LOCAL GOVERNMENT

SEC. 7. Paragraph (1) of section 108(d) of the Act is amended to read as follows:

"(1) UNIT OF LOCAL GOVERNMENT.—

"(A) IN GENERAL.—Term 'unit of local government' means the government of a county, municipality, or township which is a unit of general government as determined by the Bureau of the Census for general statistical purposes, and which, with respect to entitlement periods beginning on or after October 1, 1977, meets the requirements specified in subparagraph (B), and imposes taxes or receives intergovernmental transfers for substantial performance of at least two of the following services for its citizens: (A) police protection; (B) courts and corrections; (C) fire protection; (D) health services; (E) social services for the poor or aged; (F) public recreation; (G) public libraries; (H) zoning or land use planning; (I) sewerage disposal or water supply; (J) solid waste disposal; (K) pollution abatement; (L) road or street construction and maintenance; (M) mass transportation; and (N) education. Such term also means, except for purposes of paragraphs (1), (2), (3), (5), (6)(C), and (6)(D) of subsection (b), and, except for purposes of subsection (c), the recognized governing body of an Indian tribe or Alaskan Native village which performs substantial governmental functions. For the purposes of this subsection a unit of local government shall be deemed to impose a tax if that tax is collected by another governmental entity from the geographical area served by that unit of local government and an amount equivalent to the net proceeds of that tax are paid to that unit of local government.

"(B) LIMITATION.—To be considered a unit of local government for purposes of this Act, at least 10 per centum of a local government's total expenditures (exclusive of expenditures for general and financial administration and for the assessment of property) in the most recent fiscal year must have been for each of two of the public services listed in subparagraph (A), except that the foregoing restriction shall not apply to a unit of local government (i) which substantially performs four or more of such public services or (ii) which has performed two or more of such public services since January 1, 1976, and continues to provide two or more such public services.".

CITIZEN PARTICIPATION; REPORTS

SEC. 8. (a) Section 121 of the Act is amended to read as follows:

"SEC. 121. REPORTS ON USE OF FUNDS; PUBLICATION AND PUBLIC HEARINGS.

"(a) REPORTS ON PROPOSED USE OF FUNDS.—Each State government and unit of local government which expects to receive funds under subtitle A for any entitlement period beginning on or after January 1, 1977, shall submit a report to the Secretary setting forth the amounts and purposes for which it proposes to spend or obligate the funds which it expects to receive during such period as compared with the use of similar funds during the two immediately preceding entitlement periods. Each such report shall include a comparison of the proposed, current, and past use of such funds to the relevant functional items in its official budget and specify whether the proposed use is for a completely new activity, or for tax stabilization or reduction. Such report shall be in such form and detail as the Secretary may prescribe and shall be submitted at such time before the beginning of the entitlement period as the Secretary may prescribe.

"(b) REPORTS ON USE OF FUNDS.—Each State government and unit of local government which receives funds under subtitle A shall, after the close of each entitlement period, submit a report to the Secretary (which report shall be available to the public for inspection and reproduction) setting forth the amounts and purposes for which funds received during such period have been appropriated, spent, or obligated and showing the relationship of those funds to the relevant functional items in the government's official budget. Such report shall further provide an explanation of all differences between the actual use of funds received and the proposed use of such funds as reported to the Secretary under subsection (a). Such reports shall be in such form and detail and shall be submitted at such time as the Secretary may prescribe.

"(c) PUBLIC HEARINGS REQUIRED.—

"(1) PRE-REPORT HEARING.—Not less than 7 calendar days before the submission of the report required under subsection (a), each State government or unit of local government which expects to receive funds under subtitle A for any entitlement period beginning on or after January 1, 1977, shall, after adequate public notice, have at least one public hearing at which citizens shall have the opportunity to provide written and oral comment on the possible uses of such funds.

"(2) PRE-BUDGET HEARING.—Not less than 7 calendar days before the adoption of its budget as provided for under State and local law, each State government or unit of local government which expects to receive funds under subtitle A for any entitlement period beginning on or after January 1, 1977, shall, after adequate public notice, have at least one public hearing at which citizens shall have the opportunity to provide written and oral comment on the possible uses of such funds.

"(2) PRE-BUDGET HEARING.—Not less than 7 calendar days before the adoption of its budget as provided for under State and local law, each State government or unit of local government which expects to receive funds under subtitle A for any entitlement period beginning on or after January 1, 1977, shall have at least one public hearing on the proposed use of funds made available under subtitle A in relation to its entire budget. At such hearing, citizens shall have the opportunity to provide written and oral comment to the body responsible for enacting the budget, and to have answered questions concerning the entire budget and the relation to it of funds made available under subtitle A. Such hearing shall be at a place and time that permits and encourages public attendance and participation.

"(3) WAIVER.—The provisions of paragraph (1) may be waived in whole or in part in accordance with regulations of the Secretary if the cost of such a requirement would be unreasonably burdensome in relation to the entitlement of such State government or unit of local government to funds made available under subtitle A. The provisions of paragraph (2) may be waived in whole or in part in accordance with regulations of the Secretary if the budget processes required under applicable State or local laws or charter provisions assure the opportunity for public attendance and participation contemplated by the provisions of this subsection and a portion of such process includes a hearing on the proposed use of funds made available under subtitles A in relation to its entire budget.

"(d) NOTIFICATION AND PUBLICITY OF PUBLIC HEARINGS; ACCESS TO BUDGET SUMMARY AND PROPOSED AND ACTUAL USE REPORTS.—

"(1) IN GENERAL.—Each State government and unit of local government which expects to receive funds under subtitle A for any entitlement period beginning on or after January 1, 1977, shall—

"(A) 30 days prior to the public hearing required by subsection (c)(2)—

"(i) publish conspicuously, in at least one newspaper of general circulation, the proposed use report required by subsection (a), a narrative summary setting forth in simple language an explanation of its proposed official budget, and a notice of the time and place of such public hearing; and

"(ii) make available for inspection and reproduction by the public (at the principal office of such State government or unit of local government, at public libraries, if any, within the boundaries of such a unit of local government, and, in the case of a State government. at the main libraries of the principal municipalities of such State) the proposed use report, the narrative summary, and its official budget which shall specify with particularity each item in its official budget which will be funded, in whole or in part, with funds made available under subtitle A and, for each such budget item, shall specify the amount of such funds budgeted for that item and the percentage of total expenditures for that item attributable to such funds; and

"(B) within 30 days after adoption of its budget as provided for under State or local law—

"(i) publish conspicuously, in at least one newspaper of general circulation, a narrative summary setting forth in simple language an explanation of its official budget (including an explanation of changes from the proposed budget) and the relationship of the use of funds made available under subtitle A to the relevant functional items in such budget; and

"(ii) make such summary available for inspection and reproduction by the public at the principal office of such State government or unit of local government, at public libraries, if any, within the boundaries of such unit of local government, and, in the case of a State government, at the main libraries of the principal municipalities of such State.

"(2) WAIVER.—The provisions of paragraph (1) may be waived, in whole or in part, with respect to publication of the proposed use reports and the narrative summaries, in accordance with regulations of the Secretary, where the cost of such publication would be unreasonably burdensome in relation to the entitlement of such State government or unit of local government to funds made available under subtitle A, or where such publication is otherwise impractical or infeasible. In addition, the 30-day provision of paragraph (1)(A) may be modified to the minimum extent necessary to comply with State and local law if the Secretary is satisfied that the citizens of the State or local government will receive adequate notification of the proposed use of funds, consistent with the intent of this section.

"(e) REPORT PROVIDED TO THE GOVERNOR.—A copy of each report required under subsections (a) and (b) filed with the Secretary by a unit of local government which receives funds under subtitle A shall be provided by the Secretary to the Governor of the State in which the unit of local government is located, in such manner and form as the Secretary may prescribe by regulation.

"(f) PLANNED USE REPORT TO AREAWIDE ORGANIZATION.—At the same time that the proposed use report is published and publicized in accordance with this section, each unit of local government which is within a metropolitan area shall submit a copy of the proposed use report to the areawide organization in the metropolitan area which is formally charged with carrying out the provisions of section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3334); section 401 of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4231); or section 302 of the Housing and Community Development Act of 1974 (42 U.S.C. 461).".

(b)(1) Section 123 of the Act is amended by adding at the end thereof the following new subsection:

"(d) REPORT OF THE SECRETARY OF THE TREASURY.—The Secretary of the Treasury shall include with the report required under section 105(a)(2) a report to the Congress on the implementation and administration of this Act during the preceding fiscal year. Such report shall include, but not be limited to, a comprehensive and detailed analysis of the following:

"(1) the measures taken to comply with section 122, including a description of the nature and extent of any noncompliance and the status of all pending complaints;

"(2) the extent to which citizens in recipient jurisdictions have become involved in the decisions determining the expenditure of funds received under subtitle A;

"(3) the extent to which recipient jurisdictions have complied with section 123, including a description of the nature and extent of any noncompliance and of measures taken to ensure the independence of audits conducted pursuant to subsection (c) of such section;

"(4) the manner in which funds distributed under subtitle A have been used, including the net fiscal impact, if any, in recipient jurisdictions; and

"(5) significant problems arising in the administration of the Act and proposals to remedy such problems through appropriate legislation.".

(2) Section 105(a)(2) of the Act is amended by striking out "March 1" and inserting in lieu thereof "January 15".

NONDISCRIMINATION; ENFORCEMENT

SEC. 9. (a) Section 122 of the Act is amended to read as follows:

"SEC. 122. NONDISCRIMINATION PROVISION.

"(a)(1) IN GENERAL.—No person shall, on account of race, color, religion, sex, national origin, age, or handicapped status, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity of a State government or unit of local government, which government or unit receives funds made available under subtitle A. The provisions of this paragraph shall be interpreted—

"(A) in accordance with titles II, III, IV, VI, and VII of the Civil Rights Act of 1964, as amended, title VIII of the Civil Rights Act of 1968, and title IX of the Education Amendments of 1972, with respect to discrimination on the basis of race, color, religion, sex, or national origin;

"(B) in accordance with the Rehabilitation Act of 1973 with respect to discrimination on the basis of handicapped status; and

"(C) in accordance with the Age Discrimination Act of 1975 with respect to discrimination on the basis of age, notwithstanding the deferred effectiveness of such Act.

"(2) EXCEPTIONS.—

"(A) FUNDING.—The provisions of paragraph (1) of this subsection shall not apply where any State government or unit of local government proves by clear and convincing evidence that the program or activity with respect to which the allegation of discrimination has been made is not funded in whole or in part, directly or indirectly, with funds made available under subtitle A.

"(B) Construction projects in progress.—The provisions of paragraph (1), relating to discrimination on the basis of handicapped status, shall not apply with respect to construction projects commenced prior to January 1, 1977.

"(b) Authority of the Secretary.—

"(1) Notice.—Whenever there has been—

"(A) receipt of notice of a finding, after notice and opportunity for a hearing, by a Federal court (other than in a proceeding brought by the Attorney General) or State court, or by a Federal or State administrative agency (other than the Secretary under subparagraph (B)), to the effect that there has been a pattern or practice of discrimination on the basis of race, color, religion, sex, national origin, age, or handicapped status in any program or activity of a State government or unit of local government which government or unit receives funds made available under subtitle A;

"(B) a determination after an investigation by the Secretary (prior to a hearing under paragraph (4) but including an opportunity for the State government or unit of local government to make a documentary submission regarding the allegation of discrimination or the funding of such program or activity with funds made available under subtitle A) that a State government or unit of local government is not in compliance with subsection (a)(1), the Secretary shall within 10 days of such occurrence, notify the Governor of the affected State, or of the State in which an affected unit of local government is located, and the chief executive officer of such affected unit of local government, that such State government or unit of local government is presumed not to be in compliance with subsection (a)(1), and shall request such Governor and such chief executive officer to secure compliance. For purposes of subparagraph (A), a finding by a Federal or State administrative agency shall be deemed rendered after notice and opportunity for a hearing if it is rendered pursuant to procedures consistent with the provisions of subchapter II of chapter 5, title 5, United States Code.

"(2) Voluntary compliance.—In the event the Governor or the chief executive officer secures compliance after notice pursuant to paragraph (1), the terms and conditions with which the affected State government or unit of local government agrees to comply shall be set forth in writing and signed by the Governor, by the chief executive officer (in the event of a violation by a unit of local government), and by the Secretary. On or prior to the effective date of the agreement, the Secretary shall send a copy of the agreement to each complainant, if any, with respect to such violation. The Governor, or the chief executive officer in the event of a violation by a unit of local government, shall file semiannual reports with the Secretary detailing the steps taken to comply with the agreement. Within 15 days of receipt of such reports the Secretary shall send a copy thereof to each such complainant.

"(3) Suspension and resumption of payment of funds.—

"(A) Suspension after notice.—If, at the conclusion of 90 days after notification under paragraph (1)—

"(i) compliance has not been secured by the Governor of that State or the chief executive officer of that unit of local government, and

"(ii) an administrative law judge has not made a determination under paragraph (4)(A) that it is likely the State government or unit of local government will prevail on the merits, the Secretary shall suspend further payment of any funds under subtitle (A) to that State government or that unit of local government. Such suspension shall be effective for a period of not more than 120 days or if there is a hearing under paragraph (4)(B), not more than 30 days after the conclusion of such hearing, unless there has been an express finding by the Secretary after notice and opportunity for such a hearing, that the recipient is not in compliance with subsection (a)(1).

"(B) Resumption of payments suspended under subparagraph (A).—Payment of the suspended funds shall resume only if—

"(i) such State government or unit of local government approved by the Secretary in accordance with paragraph (2);

"(ii) such State government or unit of local government complies fully with the final order or judgment of a Federal or State court, if that order or judgment covers all the matters raised by the Secretary in the matters raised by the Secretary in the notice pursuant to paragraph (1), or is found to be in compliance with subsection (a)(1) by such court; or

"(iii) after a hearing, the Secretary finds that noncompliance has not been demonstrated.

"(C) Suspension upon action by Attorney General.—Whenever the Attorney General files a civil action alleging a pattern or practice of discriminatory conduct on the basis of race, color, religion, sex, national origin, age, or handicapped status in any program or activity of a State government or unit of local government which State government or unit of local government receives funds made available under subtitle A, and the conduct alleged violates the provisions of this section and neither party within 45 days after such filing has been granted such preliminary relief with regard to the suspension or payment of funds as may be otherwise available by law, the Secretary shall suspend further payment of any funds under subtitle A to that State government or that unit of local government until such time as the court orders resumption of payment.

"(4) Hearings; other actions.—

"(A) Preliminary hearing.—Prior to the suspension of funds under paragraph (3), but within the 90-day period after notification under paragraph (3)(A), the State government or unit of local government may request an expedited preliminary hearing by an administrative law judge in order to determine whether it is likely that the State government or unit of local government would, at a full hearing under subparagraph (B) of this paragraph, prevail on the merits on the issue of the alleged noncompliance. A finding under this subparagraph by the administrative law judge in favor of the State government or unit of local government shall defer the suspension of funds under paragraph (3) pending a finding of noncompliance at the conclusion of the hearing on the merits under subpragraph (B) of this paragraph.

"(B) Compliance hearing.—At any time after notification under paragraph (1) but before the conclusion of the 120-day period referred to in paragraph (3), a State government or unit of local government may request a hearing, which the Secretary shall initiate within 30 days of such request. Within 30 days after the conclusion of the hearing, or, in the absence of a hearing, at the conclusion of the 120-day period referred to in paragraph (3), the Secretary shall make a finding of compliance or noncompliance. If the Secretary makes a finding of noncompliance, the Secretary shall (i) notify the Attorney General of the United States in order that the Attorney General may institute a civil action under subsection (c), (ii) terminate the payment of funds under subtitle A, and, (iii) if appropriate, seek repayment of such funds. If the Secretary makes a finding of compliance, payment of the suspended funds shall resume as provided in paragraph (3)(B).

"(5) Judicial review.—Any State government or unit of local government aggrieved by a final determination of the Secretary under paragraph (4) may appeal such determination as provided in section 143(c).

"(c) Authority of Attorney General.—Whenever the Attorney General has reason to believe that a State government or unit of local government has engaged or is engaging in a pattern or practice in violation of the provisions of this section, the Attorney General may bring a civil action in an appropriate United States district court. Such court may grant as relief any temporary restraining order, preliminary or permanent injunction, or other order, as necessary or appropriate to insure the full enjoyment of the rights described in this section, including the suspension, termination, or repayment of funds made available under this Act, or placing any further payments under this title in escrow pending the outcome of the litigation.

"(d) Agreements Between Agencies.—The Secretary shall enter into agreements with State agencies and with other Federal agencies authorizing such agencies to investigate noncompliance with subsection (a). The agreements shall describe the cooperative efforts to be undertaken (including the sharing of civil rights enforcement personnel and resources) to secure compliance with this section, and shall provide for the immediate notification of the Secretary by the Attorney General of any actions instituted under subsection (c) or under any other Federal civil rights statute or regulations issued thereunder.".

(b) Subtitle B of title I of the Act is amended by adding at the end thereof the following new sections:

"Sec. 124. Complaints and Compliance Reviews.

"By March 31, 1977, the Secretary shall promulgate regulations establishing—

"(1) reasonable and specific time limits for the Secretary or the appropriate cooperating agency to respond to the filing of a complaint by any person alleging that a State government or unit of local government is in violation of the provisions of this Act, including time limits for instituting an investigation, making an appropriate determination with respect to the allegations, and advising the complainant of the status of the complaint; and

"(2) reasonable and specific time limits for the Secretary to conduct audits and reviews of State governments and units of local government for compliance with the provisions of this Act.

"Sec. 125. Private Civil Actions.

"(a) Standing.—Whenever a State government or unit of local governmeht, or any officer or employee thereof acting in an official capacity, has engaged or is engaging in any act or practice prohibited by this Act, upon exhaustion of administrative remedies, a civil action may be instituted by the person aggrieved in an appropriate United States district court or in a State court of general jurisdiction.

"(b) Relief.—The court may grant as relief to the plaintiff and temporary restraining order, preliminary or permanent injunction or other order, including the suspension, termination, or repayment of funds, or placing any further payments under this title in escrow pending the outcome of the litigation.

"(c) Intervention by Attorney General.—In any action instituted under this section to enforce compliance with section 122(a), the Attorney General, or a specially designated assistant for or in the name of the United States, may intervene upon timely application if he certifies that the action is of general public importance. In such action the United States shall be entitled to the same relief as if it had instituted the action.".

AUDITING AND ACCOUNTING

Sec. 10. (a) Subparagraph (A) of section 123(a)(5) of the Act is amended by striking "therefor" and inserting in lieu thereof ", in conformity with subsection (c) of this section," and by inserting at the end thereof the following: "and conduct independent financial audits in accordance with generally accepted auditing standards as required by paragraph (2) of such subsection,".

(b) Section 123(c) of the Act is amended to read as follows:

"(c) Accounting, Auditing, and Evaluation.—

"(1) In general.—The Secretary shall provide for such audits, evaluations, and reviews as may be necessary to insure that the expenditures of funds received under subtitle A or D by State governments and units of local government comply fully with requirements of this title. Such audits, evaluations, and reviews shall include such independent audits as may be required pursuant to paragraph (2). The Secretary is authorized to accept an audit by a State government or unit of local government of its expenditures if he determines that such audit was conducted in compliance with paragraph (2), and that such audit and the audit procedures of that State government or unit of local government are sufficiently reliable to enable him to carry out his duties under this title.

"(2) Independent audits.—The Secretary shall, after consultation with the Comptroller General, promulgate regulations to take effect not later than March 31, 1977, which shall require that each State government and unit of local government receiving funds under subtitle A or D conducts during each fiscal year an audit of its financial accounts in accordance with generally accepted auditing standards. Such regulations shall include such provisions as may be necessary to assure the independent audits are conducted in accordance with such standards, but may provide for less formal reviews of financial information, or less frequent audits, to the extent necessary to ensure that the cost of such audits not be unreasonably burdensome in relation to the entitlement of such State government or unit of local government to funds available under subtitles A and D. Such regulations shall further provide for the availability to the public of financial statements and reports on audits or informal reviews conducted under this paragraph for inspection and reproduction as public documents.

"(3) Comptroller general shall review compliance.—The Comptroller General of the United States shall make such reviews of the work as done by the Secretary, the State governments, and the units of local government as may be necessary for the Congress to evaluate compliance and operations under this title.".

Sec. 11. Section 123 of the Act is amended by adding at the end thereof the following new subsection:

"(e) Prohibition of Use for Lobbying Purposes.—No State government or unit of local government may use, directly or indirectly, any part of the funds it receives under subtitle A for the purpose of lobbying or other activities intended to influence any legislation regarding the provisions of this Act. For the purpose of this subsection, dues paid to National or State associates shall be deemed not to have been paid from funds received under subtitle A.".

Sec. 12. (a) Except as provided in subsection (b), the amendments of the Act made by this Act shall take effect at the close of December 31, 1976.

(b) (1) The amendments made by section 5 of this Act shall take effect on the date of enactment.

(2) The amendment made by section 7 of this Act shall take effect at the close of September 30, 1977.

Mr. FOUNTAIN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment to the amendment in the nature of a substitute be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

Mr. FOUNTAIN. Mr. Chairman, my amendment can be described very briefly. It consists of the bill approved by the subcommittee after intensive and careful consideration of this matter, together with the seven noncontroversial amendments adopted by the full committee.

Those amendments designed to improve the subcommittee bill would accomplish the following purposes:

First, the Burton amendment liberalizes the definition of an eligible unit of local government by exempting those governments that provided two or more services on January 1, 1976, from the minimum expenditure requirement. Consequently, more township governments would qualify for assistance.

Next, the citizen participation section is changed in these five respects:

First. Mr. Burton's amendment, which relates to the public hearing on the proposed use report, starts the 7 calendar days that must precede that hearing from the time a local government submits the report to the Treasury Department, rather than from the time it is published in a newspaper. Some local governments felt this change was needed to enable them, to comply with State or local laws.

Second. Mr. St Germain's amendment authorizes the Secretary to waive the requirement for a budget hearing if the budget process required by State or local laws assured citizens the opportunity for attendance and participation, and if it includes a hearing on the proposed use of revenue sharing funds. This amendment is intended to accommodate the "town hall" type of meeting used by some small communities.

Third. Another St Germain amendment provides the Secretary limited discretion to modify the requirement for publishing the proposed use report 30 days before the budget hearing if this is necessary to comply with State or local laws and if citizens will receive adequate notification.

Fourth. The Fascell amendment to this section provides that a community's official budget must identify each item that will be funded in whole or in part with revenue sharing funds, and specify the percentage of those funds in each such item.

Fifth. Another Fascell amendment requires each local government within a metropolitan area to submit its proposed use report, for information only, to the areawide planning organization charged with implementing provisions of certain specified Federal laws.

The seventh and final committee amendment included in my bill was offered by Mr. Mezvinsky to clarify that the audits required by the bill are to be conducted in accordance with generally accepted auditing standards, and that pertinent financial documents will be made available for public inspection.

Now, let me identify the major controversial items adopted by the full committee that are omitted from my amendment.

My amendment does not include:

The so-called modernization of Government amendment which sets as a goal for each State the preparation of a "master plan" and "timetable" for modernizing and revitalizing State and local governments. We have all received a number of "Dear Colleague" letters discussing the danger of this proposition.

I have omitted the committee amendment that applies the Davis-Bacon prevailing wage requirements to any construction project receiving as little as 1 cent of revenue-sharing funds. This amendment would be inflationary and highly burdensome for small rural governments.

I have omitted the committee amendment that makes the already strong and comprehensive nondiscrimination section in the subcommittee bill even more stringent. This amendment requires the automatic suspension of a government's entire revenue-sharing entitlement 45 days after the filing of a civil suit by the Justice Department. It also permits civil actions to be brought in court by private citizens before they have utilized the administrative remedies provided in the bill, and permits the court to award attorney fees to prevailing plaintiffs. These provisions could be used to harass smaller local governments that are in full compliance with the law, or are making a genuine effort to comply, but do not have the financial resources to cope with protracted litigation and the suspension of funds.

Except for these undesirable provisions, the subcommittee bill contained in my amendment has essentially the same nondiscrimination provisions as the full committee bill. I should add that with the exception of the two items relating to private citizen suits that I mentioned a moment ago, the subcommittee nondiscrimination section was a compromise sponsored by Ms. Jordan. None of us were completely satisfied with that section, but each of us had to make concessions to obtain politically feasible language. That, I submit, is also the situation in the House as a whole which is composed of Members with very divergent viewpoints on how the civil rights of citizens can best be protected. I sincerely doubt that it is politically possible for this body to accept a more stringent nondiscrimination section than the compromise contained in the subcommittee bill and in my amendment.

The fourth controversial item excluded from my amendment is the supplemental fiscal assistance section sponsored by my good friend, the gentleman from Florida (Mr. Fascell). While I believe there is merit to the intent and objective of the Fascell formula, the reality is that it has not been perfected and it produces very uneven results. In general, it shifts funds from most of the large industrial States that are experiencing declining tax bases and relatively high unemployment to the more rural States. The hard fact is that 35 States would be adversely affected, with some of them—like California, Illinois, New Jersey, and Ohio—especially penalized.

I believe the amendment I have offered is a very desirable and practical alternative for extending the Revenue Sharing Act. It combines the product of the subcommittee's conscientious work with the best of the committee amendments. I urge my colleagues to support it.

Mr. HORTON. Mr. Chairman, will the gentleman yield?

Mr. FOUNTAIN. I yield to the gentleman from New York.

Mr. HORTON. I thank the gentleman for yielding.

I want to commend the gentleman for his amendment, and I would like to ask him a couple of questions so that we can be clear. As I understand the gentleman's presentation, what he has offered as an amendment to the Brooks substitute is the subcommittee bill plus additional amendments which were adopted in the full committee.

Would the gentleman explain just briefly what those amendments are that have been added in the gentleman's amendment?

Mr. FOUNTAIN. That is what I did in my statement. Maybe the gentleman from New York did not hear me explain it.

Mr. HORTON. If the gentleman would explain further, I wish he would set those forth again just briefly.

Mr. FOUNTAIN. We adopted the two St Germain amendments which I have described.

Mr. HORTON. These have to do with reporting requirements?

Mr. FOUNTAIN. That is right.

Mr. HORTON. In essence, they were adopted unanimously in the full committee?

Mr. FOUNTAIN. They were adopted unanimously in the full committee. We also adopted two Fascell amendments.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. Horton, and by unanimous consent, Mr. Fountain was allowed to proceed for 5 additional minutes.)

Mr. HORTON. If the gentleman will yield further, those, again, have to do with reporting requirements?

Mr. FOUNTAIN. That is right.

Mr. HORTON. In other words, what the gentleman has done is present as an amendment the subcommittee bill with those amendments which were adopted in the full committee which were noncontroversial. As I understand the gentleman's amendment, it does not include the so-called Rosenthal amendment, does not include the amendment that was adopted with regard to Davis-Bacon; it does not include the full committee amendment which was adopted—the so-called Fascell amendment—and it does not include the second Jordan civil rights amendment?

Mr. FOUNTAIN. The second Jordan civil rights amendment. The gentleman is right. We also adopted the Mezvinsky amendment which provided some clarifying language in the section relating to auditing.

Mr. HORTON. I would just like to indicate to the gentleman that I support him. I support the amendment that the gentleman has offered to the Brooks substitute, and I urge my colleagues to vote for the Fountain amendment.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. FOUNTAIN. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. I thank the gentleman for yielding.

If I understand it, and maybe I could include the gentleman from New York in this colloquy, the four amendments being eliminated from the full committee bill under the proposal of the gentleman from North Carolina (Mr. Fountain) is the Rosenthal amendment which requires the submission of an annual municipal reorganization plan by local governments; is that correct?

Mr. FOUNTAIN. That is out.

Mr. BROWN of Ohio. That would be taken out, and that would be a burden on local governments. The Fascell amendment would be taken out, and that is essentially an amendment designed to give more assistance to resort communities?

Mr. FOUNTAIN. The Fascell amendment is also taken out.

Mr. BROWN of Ohio. That will be taken out. The amendment requiring nationwide application of Davis-Bacon to all communities throughout the country, which would mean that a lot of communities that I represent would not be able to do any building, would be taken out; is that correct?

Mr. FOUNTAIN. That is correct.

Mr. BROWN of Ohio. And finally the civil rights provisions of the bill that was passed provide local governments are guilty until proven innocent with reference to alleged civil rights violations. If I understand that, it says all that has to happen is for somebody to bring a civil rights case against one and the funding ends until one is proven innocent. Is that correct?

Mr. FOUNTAIN. That is correct. However, still included in the bill is the provision which says that, where there is a complaint of discrimination, the burden is upon the locality to prove by clear and convincing evidence that the revenue-sharing funds were not used in whole or in part, directly or indirectly, in a discriminatory manner. That is still in the bill and I do not like it, but it is there.

Mr. BROWN of Ohio. If the gentleman will yield further, do I understand in the full committee bill the civil rights provisions are more onerous than the busing provisions, because, under the busing provisions with reference to education, if a community is making a good faith effort to resolve its problems, HEW cannot force the communities to use a mandated kind of solution to their problem. But under this provision, even though a good faith effort is being made to resolve the problem, the communities are going to lose this revenue-sharing money until all possible complaints are cleared up. Is that not correct?

Mr. FOUNTAIN. I think that is the situation.

Mr. BROWN of Ohio. And that would be eliminated under this amendment?

Mr. FOUNTAIN. That is eliminated.

Miss JORDAN. Mr. Chairman, will the gentleman yield?

Mr. FOUNTAIN. I yield to the gentlewoman from Texas.

Miss JORDAN. Mr. Chairman, I would like to simply clarify in my own mind and for purposes of the committee what exactly does the gentleman change in the antidiscrimination section which differs from the subcommittee bill? Now my one question is, Is "clear and convincing" still the burden under the gentleman's amendment?

Mr. FOUNTAIN. It is.

Miss JORDAN. Is it also consistent with the subcommittee bill, that, before any funds are terminated, the whole hearings process and due process of law is retained at every stage of any civil rights or discrimination procedure? Does the gentleman retain the due process provisions which were adopted in subcommittee?

Mr. FOUNTAIN. That is retained.

Miss JORDAN. Is it also true under the gentleman's amendment that no funds are precipitously terminated by virtue of an allegation of discrimination for all of the functions of State and local government which use any Federal funds but are limited to only those activities of local government which can show by clear and convincing evidence that they did apply revenue-sharing moneys?

Mr. FOUNTAIN. The gentlewoman is correct.

The CHAIRMAN. The time of the gentleman from North Carolina has expired.

(On request of Mr. Fascell, and by unanimous consent, Mr. Fountain was allowed to proceed for 2 additional minutes.)

Miss JORDAN. Mr. Chairman, if the gentleman will yield, I would like to clarify one point further.

Mr. FOUNTAIN. I yield to the gentlewoman from Texas.

Miss JORDAN. But I do not understand the gentleman's response to the gentleman from Ohio when the gentleman from North Carolina talked about a total loss of funds by a jurisdiction if a discrimination complaint were filed.

Mr. FOUNTAIN. I did not understand the gentleman to mean funds other than revenue sharing, or immediately upon the filing of the complaint. One still would have to go through the process provided in the bill.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. FOUNTAIN. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Chairman, under the full committee provisions, which the gentleman in the well, the gentleman from North Carolina is eliminating by his amendment, when the Attorney General files the complaint the funds are ended right then until that complaint is resolved. Is that correct?

Mr. FOUNTAIN. If the Attorney General brings the suit, the funds would be automatically cut off after 45 days.

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. FOUNTAIN. I yield to the gentleman from Florida.

Mr. FASCELL. Mr. Chairman, I thank the gentleman for yielding.

I am sure we are going to have to get into a deeper discussion on the issue of civil rights, and we should because I am not clear on this either, but I want to clarify just one point in the Record. I admire the gentleman from North Carolina and I know he is a very fair man, and while I consider the substitute he has offered as a step in the right direction, I obviously cannot support it.

The gentleman from Ohio sarcastically and incorrectly referred to the formula amendment, the so-called Fascell amendment. The formula amendment was left out of the gentleman's substitute. The gentleman agreed to the substitution. I am sure the gentleman does not want that in the Record, because the gentleman from Ohio said that the Fascell formula made funds available only to the resort areas. The gentleman from North Carolina knows that is not correct.

Mr. FOUNTAIN. Mr. Chiarman, I agree with the gentleman. However, it is true that many of the industrial enclaves and resort communities, which are the most affluent, would be benefited under the gentleman's proposal.

The CHAIRMAN. The time of the gentleman from North Carolina (Mr. Fountain) has again expired.

(At the request of Mr. Sarbanes, and by unanimous consent, Mr. Fountain was allowed to proceed for an additional 2 minutes.)

Mr. SARBANES. Mr. Chairman, will the gentleman yield?

Mr. FOUNTAIN. I am delighted to yield to the gentleman from Maryland.

Mr. SARBANES. Does the amendment which the gentleman has offered do anything to change or alter the inequitable 145-percent ceiling constraint that now exists under the formula?

Mr. FOUNTAIN. I reply to the gentleman by saying that it does not. That was considered in the subcommittee and it was voted down.

I personally favored raising the 145-percent ceiling. If my amendment is adopted, perhaps it can be taken care of in conference. The gentleman from Florida (Mr. Fascell), in his amendment, was attempting to help the poorer areas and those local governments constrained by the 145-percent limit. However, while I sympathize with his objective, there are serious problems with his formula.

Mr. SARBANES. I understand that, but the difficulty I have with the gentleman's amendment, while it is constructive in some areas, is that it does not move to a middle position from the report of the subcommittee which kept the 145 percent and the Fascell proposal. There should have been some middle proposal included in the gentleman's amendment.

It is my understanding that, under the parliamentary situation now prevailing, if the gentleman's amendment is adopted, I would then be precluded from offering any amendments in order to accomplish the objective of raising the maximum constraint percentage.

Mr. FOUNTAIN. The gentleman is correct. I might say that the Fascell amendment would apply only to the $150 million, not to the regular formula.

Mr. SARBANES. The difficulty is that the regular formula is not allowed to work its way out because a constraint is applied to the regular formula; if the formula which was contained in the bill originally and is now carried forward by the subcommittee were allowed to work itself out, that would be one thing; but a ceiling is imposed upon that formula which adversely affects jurisdictions that are in need.

Mr. FOUNTAIN. Let me say this to the gentleman. If the ceiling is raised, according to our computer analyses many communities would lose money while others would gain unless additional funds were provided. It was the consensus of the committee not to add funds to the bill.

The CHAIRMAN. The time of the gentleman from North Carolina (Mr. Fountain) has again expired.

(At the request of Mr. Drinan, and by unanimous consent, Mr. Fountain was allowed to proceed for an additional 5 minutes.)

Mr. SARBANES. Mr. Chairman, will the gentleman yield further?

Mr. FOUNTAIN. I yield.

Mr. SARBANES. Mr. Chairman, it is my understanding that the proposal put forward was the addition of another $150 million and a lifting of the constraint to 175 percent and that if that were done, there would be no loss to any jurisdiction; is that not correct?

Mr. FOUNTAIN. I am sorry, would the gentleman ask the question again?

Mr. SARBANES. It is my understanding that the proposal that was made was the addition of another $150 million and the lifting of the ceiling to 175 percent. If those two things were done jointly or in tandem, there would be no loss to jurisdictions, they would, in effect, be held harmless.

Mr. FOUNTAIN. That would be the case if an additional $150 million were provided to hold the losers harmless. That is right.

Mr. DRINAN. Mr. Chairman, will the gentleman yield?

Mr. FOUNTAIN. I yield to the gentleman from Massachusetts.

Mr. DRINAN. Mr. Chairman, pursuant to the colloquy that was conducted by the gentleman in the well with our colleague, the gentlewoman from Texas (Ms. Jordan), I would like some further clarification, because I note on page 17183 of the Record in the amendment of the gentleman from North Carolina (Mr. Fountain), that in section 122, it reads as follows:

> The provisions of paragraph (1) of this subsection shall not apply where any State government or unit of local government proves by the preponderance of the evidence that the program or activity with respect to which the allegation of discrimination has been made is not funded . . . by revenue sharing.

Yet I see in the Brooks amendment on page 17173 that the words "clear and convincing evidence" are used.

I wonder if the distinguished gentleman from North Carolina, who is so well versed in this entire subject, would speak again as to the gentleman's previous statement. As I understood it, that "clear and convincing" is the norm, rather than the preponderance of the evidence.

Mr. FOUNTAIN. It is. That is not in my amendment. We still have the language adopted by the subcommittee, as well as by the full committee. State and local governments still have the burden of establishing by clear and convincing evidence that they have not used revenue sharing funds, in whole or in part, directly or indirectly, in the activity in which discrimination is alleged.

Mr. DRINAN. Would the gentleman in the well then concur in a unanimous-consent agreement to change the words, as noted here in the insertion in the Record, from "preponderance of the evidence" to "clear and convincing"?

Mr. FOUNTAIN "Preponderance of the evidence" is not in the amendment that I offered. I believe the gentleman is reading the amendment which I inserted in the Record for another purpose; I would have offered it if I had not offered the amendment now on the floor.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. FOUNTAIN. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Chairman, I just want to make two observations. First, if I understand what the gentleman in the well has offered, it is to use the language that was specifically drawn in the subcommittee, which was supported by the gentlewoman from Texas, the gentleman in the well and myself.

Mr. FOUNTAIN. And, I believe, the gentleman from Massachusetts.

Mr. BROWN of Ohio. And the gentleman from Massachusetts, as it came out of the subcommittee. So, that is something on which there was common agreement at that time.

Now, there was some modification in the full committee which does change the tilt of that language. I might say to my colleague from Florida that I appreciate that he may think that I was being sarcastic. I was trying to be accurate when I characterized his amendment. I read from a comment made about that amendment, that the amendment does add funds for places like Rehoboth Beach, Del., where I do not have any condominium interests; places like Vail, Colo., where I do not have any condominium interests, but it ignores—as the gentleman from New York pointed out in his letter on that amendment—it ignores the major cities, the medium-sized cities which the ACIR certifies as those still with the gravest financial circumstances.

So, in point of fact, it does tend to tilt a little also.

Mr. JONES of Oklahoma. Mr. Chairman, will the gentleman yield?

Mr. FOUNTAIN. I yield to the gentleman from Oklahoma.

Mr. JONES of Oklahoma. Do I understand that the gentleman's substitute does extend for 3¾ years, and also makes it part of the entitlements program?

Mr. FOUNTAIN. It does.

Mr. JONES of Oklahoma. And under the parliamentary situation in which we find ourselves, those of us who do wish a shorter period of time for the extension and who would prefer that this go through the appropriations process, are precluded from amending the gentleman's substitute, is that correct?

Mr. FOUNTAIN. That is my understanding.

Mr. JONES of Oklahoma. I thank the gentleman.

Mr. WYDLER. Mr. Chairman, will the gentleman yield?

Mr. FOUNTAIN. I yield to the gentleman from New York.

Mr. WYDLER. Mr. Chairman, I want to rise in support of this amendment. I think it is an excellent amendment. It takes the best of the subcommittee's work, adds to it the good amendments in the full committee, and takes out the very bad amendments which are in the full committee bill. I think it deserves the support of all those in this House who really want to see the revenue sharing program completed.

AMENDMENTS OFFERED BY MR. JOHN L. BURTON TO THE AMENDMENT OFFERED BY MR. HORTON AS A SUBSTITUTE FOR THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. BROOKS

Mr. JOHN L. BURTON. Mr. Chairman, I offer amendments to the amendment offered as a substitute for the amendment in the nature of a substitute.

The Clerk read as follows:

Amendments offered by Mr. JOHN L. BURTON to the amendment offered by Mr. HORTON as a substitute for the amendment in the nature of a substitute offered by Mr. BROOKS: In the substitute offered by the gentleman from New York, Mr. HORTON, strike out everything after the first section thereof down through section 4 and insert in lieu thereof the following:

DEFINITION

SEC. 2. As used in this Act the term "the Act" means the State and Local Fiscal Assistance Act of 1972 (31 U.S.C. 1221; 86 Stat. 919).

ELIMINATION OF EXPENDITURE CATEGORIES

SEC. 3. (a) Subtitle A of title I of the Act is amended by striking out section 103.

(b) Section 123(a) of the Act is amended by striking out paragraph (3).

ELIMINATION OF PROHIBITION ON USE OF FUNDS FOR MATCHING

SEC. 4. (a) Subtitle A of title I of the Act is further amended by striking out section 104.

(b) Section 143(a) of the Act is amended by striking out "104(b) or".

ABOLITION OF TRUST FUND CONCEPT

SEC. 5. (a) Section 105 of the Act is amended—

(1) by striking out "CREATION OF TRUST FUND;" in the heading of such section;

(2) by striking out subsection (a) and inserting in lieu thereof the following:

"(a) IN GENERAL.—Funds appropriated pursuant to subsections (b) and (c) shall remain available without fiscal year limitation and shall be used for the payments to State and local governments as provided by this title. The Secretary of the Treasury shall report to the Congress not later than January 15 of each year on the operations and payments under this subtitle during the preceding fiscal year.";

(3) by striking out "to the Trust Fund, out of amounts in the general fund of the Treasury attributable to the collections of the Federal individual income taxes not otherwise appropriated" each place it appears in subsection (b) and inserting in lieu thereof "for the purpose of making the payments authorized by this subtitle";

(4) by striking out paragraph (3) of subsection (b); and

(5) by striking out the subsection redesignated (by section 6(a)(1)) as subsection (d), and inserting in lieu thereof the following:

"(d) TRANSFERS TO THE GENERAL FUND.—The Secretary shall from time to time transfer to the general fund of the Treasury any funds available for this subtitle which he determines will not be needed to make payments to State governments and units of local government under this subtitle.".

(b)(1) Section 102 of the Act is amended by striking out "out of the Trust Fund".

(2) Section 107(b)(8) of the Act, as redesignated by section 6(b)(4) of this Act, is amended by striking out "from the Trust Fund".

EXTENSION OF PROGRAM AND FUNDING

In the amendment in the nature of a substitute of the gentleman from New York, Mr. HORTON, strike out everything after section 5 and insert in lieu thereof the following:

MAINTENANCE OF EFFORT; CHANGE OF BASE YEAR

SEC. 7. (a) Section 107(b)(1) of the Act is amended—

(1) by striking out "July 1, 1973;" and inserting in lieu thereof "January 1, 1977,"; and

(2) by striking out clause (B) and inserting in lieu thereof the following:

"(B) the similar aggregate amount for the one-year period beginning July 1, 1975, or, until data on such period are available, the most recent such one-year period for which data on such amounts are available.".

(b) Section 107(b)(2) is amended by striking out "beginning July 1, 1971," and inserting in lieu thereof "utilized for purposes of such paragraph".

DEFINITION OF UNIT OF LOCAL GOVERNMENT

SEC. 7. Paragraph (1) of section 108(d) of the Act is amended to read as follows:

"(1) UNIT OF LOCAL GOVERNMENT.—

"(A) IN GENERAL.—The term 'unit of local government' means the government of a county, municipality, or township which is a unit of general government as determined by the Bureau of the Census for general statistical purposes, and which, with respect to entitlement periods beginning on or after October 1, 1977, meets the requirements specified in subparagraph (B), and imposes taxes or receives intergovernmental transfers for substantial performance of at least two of the following services for its citizens: (i) police protection; (ii) courts and corrections; (iii) fire protection; (iv) health service; (v) social services for the poor or aged; (vi) public recreation; (vii) public libraries; (viii) zoning or land use planning; (ix) sewerage disposal or water supply; (x) solid waste disposal; (xi) pollution abatement; (xii) road or street construction and maintenance; (xiii) mass transportation; and (xiv) education. Such term also means, except for purposes of paragraphs (1), (2), (3), (5), (6)(C), and (6)(D) of subsection (b), and except for purposes of subsection (c), the recognized governing body of an Indian tribe or Alaskan Native village which performs substantial governmental functions. For the purposes of this subsection a unit of local government shall be deemed to impose a tax if that tax is collected by another governmental entity from the geographical area served by that unity of local government and an amount equivalent to the net proceeds of that tax are paid to that unit of local government.

"(B) LIMITATION.—To be considered a unit of local government for purposes of this Act, at least 10 per centum of a local government's total expenditures (exclusive of expenditures for general and financial administration and for the assessment of property) in the most recent fiscal year must have been for each of two of the public services listed in subparagraph (A), except that the foregoing restriction shall not apply to a unit of local government (i) which substantially performs four or more of such public services or (ii) which has performed two or more of such public services since January 1, 1976, and continues to provide two or more such public services.".

SEC. 8. Subtitle B of title I of the Act is amended by inserting immediately after the heading thereof the following new section:

SEC. 120. REVITALIZATION OF STATE AND LOCAL GOVERNMENT.

"(a) POLICY.—It is intended that funds provided under this Act shall encourage the revitalization of State and local governments.

"(b) REVITALIZATION PLANS.—Each State government is urged, but not required, to develop and implement plans for the revitalization of its State and local governments.

"(c) DEFINITION.—The term 'revitalization' means a substantial improvement in efficiency, economy, effectiveness, and responsiveness.

"(d) Reports.—As part of its report under section 121(b), each State shall describe any progress it has made toward the revitalization of its State and local governments. As part of his report under section 105(a), the Secretary shall report to the Congress on the progress toward revitalization reported by each State.

CITIZEN PARTICIPATION; REPORTS

SEC. 9. (a) Section 121 of the Act is amended to read as follows:

"SEC. 121. REPORTS ON USE OF FUNDS; PUBLICATION AND PUBLIC HEARINGS.

"(a) REPORTS ON PROPOSED USE OF FUNDS.—Each State government and unit of local government which expects to receive funds under subtitle A or D for any entitlement period beginning on or after January 1, 1977, shall submit a report to the Secretary setting forth the amounts and purposes for which it proposes to spend or obligate the funds which it expects to receive during such period as compared with the use of similar funds during the two immediately preceding entitlement periods. Each such report shall include a comparison of the proposed, current, and past use of such funds to the relevant functional items in its official budget and specify whether the proposed use is for a completely new activity, for the expansion or continuation of an existing activity, or for tax stabilization or reduction. Such report shall be in such form and detail as the Secretary may prescribe and shall be submitted at such time before the beginning of the entitlement period as the Secretary may prescribe.

"(b) REPORTS ON USE OF FUNDS.—Each State government and unit of local government which receives funds under subtitle A or D shall, after the close of each entitlement period, submit a report to the Secretary (which report shall be available to the public for inspection and reproduction) setting forth the amounts and purposes for which funds received during such period have been appropriated, spent, or obligated and showing the relationship of those funds to the relevant functional items in the government's official budget. Such report shall further provide an explanation of all differences between the actual use of funds received and the proposed use of such funds as reported to the Secretary under subsection (a). Such reports shall be in such form and detail and shall be submitted at such time as the Secretary may prescribe.

"(c) Public Hearings Required.—

"(1) Pre-report hearing.—Not less than 7 calendar days before the submission of the report required under subsection (a), each State government or unit of local government which expects to receive funds under subtitle A or D for any entitlement period beginning on or after January 1, 1977, shall, after adequate public notice, have at least one public hearing at which citizens shall have the opportunity to provide written and oral comment on the possible uses of such funds.

"(2) Pre-budget hearing.—Not less than 7 calendar days before the adoption of its budget as provided for under State and local law, each State government or unit of local government which expects to receive funds under subtitles A or D for any entitlement period beginning on or after January 1, 1977, shall have at least one public hearing on the proposed use of funds made available under subtitles A and D in relation to its entire budget. At such hearing, citizens shall have the opportunity to provide written and oral comment to the body responsible for enacting the budget, and to have answered questions concerning the entire budget and the relation to it of funds made available under subtitles A and D. Such hearing shall be at a place and time that permits and encourages public attendance and participation.

"(3) Waiver.—The provisions of paragraph (1) may be waived in whole or in part in accordance with regulations of the Secretary if the cost of such a requirement would be unreasonably burdensome in relation to the entitlement of such State government or unit of local government to funds made available under subtitles A and D. The provisions of paragraph (2) may be waived in whole or in part in accordance with regulations of the Secretary if the budget processes required under applicable State or local laws or charter provisions assure the opportunity for public attendance and participation contemplated by the provisions of this subsection and a portion of such process includes a hearing on the proposed use of funds made available under subtitles A and D in relation to its entire budget.

"(d) Notification and Publicity of Public Hearings; Access to Budget Summary and Proposed and Actual Use Reports.—

"(1) In general.—Each State government and unit of local government which expects to receive funds under subtitle A or D for any entitlement period beginning on or after January 1, 1977, shall—

"(A) 30 days prior to the public hearing required by subsection (c)(2)—

"(i) publish conspicuously, in at least one newspaper of general circulation, the proposed use report required by subsection (a), a narrative summary setting forth in simple language an explanation of its proposed official budget, and a notice of the time and place of such public hearing; and

"(ii) make available for inspection and reproduction by the public (at the principal office of such State government or unit of local government, at public libraries, if any, within the boundaries of such a unit of local government, and, in the case of a State government, at the main libraries of the principal municipalities of such State) the proposed use report the narrative summary, and its official budget which shall specify with particularity each item in its official budget which will be funded, in whole or in part, with funds made available under subtitle A or D, and, for each such budget item, shall specify the amount of such funds budgeted for that item and the percentage of total expenditures for that item attributable to such funds; and

"(B) within 30 days after adoption of its budget as provided for under State or local law—

"(i) publish conspicuously, in at least one newspaper of general circulation, a narrative summary setting forth in simple language an explanation of its official budget (including an explanation of changes from the proposed budget) and the relationship of the use of funds made available under subtitles A and D to the relevant functional items in such budget; and

"(ii) make such summary available for inspection and reproduction by the public at the principal office of such State government or unit of local government, at public libraries, if any, within the boundaries of such unit of local government, and, in the case of a State government, at the main libraries of the principal municipalities of such State.

"(2) Waiver.—The provisions of paragraph (1) may be waived, in whole or in part, with respect to publication of the proposed use reports and the narrative summaries, in accordance with regulations of the Secretary, where the cost of such publication would be unreasonably burdensome in relation to the entitlement of such State government or unit of local government to funds made available under subtitles A and D, or where such publication is otherwise impractical or infeasible. In addition, the 30-day provision of paragraph (1)(A) may be modified to the minimum extent necessary to comply with State and local law if the Secretary is satisfied that the citizens of the State or local government will receive adequate notification of the proposed use of funds, consistent with the intent of this section.

"(e) Reports Provided to the Governor.—A copy of each report required under subsections (a) and (b) filed with the Secretary by a unit of local government which receives funds under subtitle A or D shall be provided by the Secretary to the Governor of the State in which the unit of local government is located, in such manner and form as the Secretary may prescribe by regulation.

"(f) Proposed Use Report to Areawide Organization.—At the same time that the proposed use report is published and publicized in accordance with this section, each unit of local government which is within a metropolitan area shall submit a copy of the proposed use report to the areawide organization in the metropolitan area which is formally charged with carrying out the provisions of section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3334); section 401 of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4231); or section 302 of the Housing and Community Development Act of 1974 (42 U.S.C. 461).".

(b) Section 123 of the Act is amended by adding at the end thereof the following new subsection:

"(d) Report of the Secretary of the Treasury.—The Secretary of the Treasury shall include with the report required under section 105(a) a report to the Congress on the implementation and administration of this Act during the preceding fiscal year. Such report shall include, but not be limited to, a comprehensive and detailed analysis of the following:

"(1) the measures taken to comply with section 122, including a description of the nature and extent of any noncompliance and the status of all pending complaints;

"(2) the extent to which citizens in recipient jurisdictions have become involved in the decisions determining the expenditure of funds received under subtitles A and D;

"(3) the extent to which recipient jurisdictions have complied with section 123, including a description of the nature and extent of any noncompliance and of measures taken to insure the independence of audits conducted pursuant to subsection (c) of such section;

"(4) the manner in which funds distributed under subtitles A and D have been used, including the net fiscal impact, if any, in recipient jurisdictions; and

"(5) significant problems arising in the administration of the Act and proposals to remedy such problems through appropriate legislation.".

NONDISCRIMINATION; ENFORCEMENT

Sec. 10. (a) Section 122 of the Act is amended to read as follows:

"Sec. 122. Nondiscrimination Provision.

"(a) Prohibition.—

"(1) In General.—No person shall, on account of race, color, religion, sex, national origin, age, or handicapped status, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity of a State government or unit of local government which government or unit receives funds made available under subtitle A or D. The provisions of this paragraph shall be interpreted—

"(A) in accordance with titles II, III, IV, VI, and VII of the Civil Rights Act of 1964, as amended, title VIII of the Civil Rights Act of 1968, as amended, and title IX of the Education Amendments of 1972, with respect to discrimination on the basis of race, color, religion, sex, or national origin;

"(B) in accordance with the Rehabilitation Act of 1973 with respect to discrimination on the basis of handicapped status; and

"(C) in accordance with the Age Discrimination Act of 1975 with respect to discrimination on the basis of age, notwithstanding the deferred effectiveness of such Act.

"(2) Exceptions.—

"(A) Funding.—The provisions of paragraph (1) of this subsection shall not apply where any State government or unit of local government proves by clear and convincing evidence that the program or activity with respect to which the allegation of discrimination has been made is not funded in whole or in part, directly or indirectly, with funds made available under subtitle A or D.

"(B) Construction projects in progress.—The provisions of paragraph (1), relating to discrimination on the basis of handicapped status, shall not apply with respect to construction projects commenced prior to January 1, 1977.

"(b) Authority of the Secretary.—

"(1) Notice.—Whenever there has been—

"(A) publication or receipt of notice of a finding, after notice and opportunity for a hearing, by a Federal or State court, or by a Federal or State administrative agency (other than the Secretary under subparagraph (B)), to the effect that there has been a pattern or practice of discrimination on the basis of race, color, religion, sex, national origin, age, or handicapped status in any program or activity of a State government or unit of local government, which government or unit receives funds made available under subtitle A or D; or

"(B) a determination that a State government or unit of local government is not in compliance with subsection (a)(1) after an investigation by the Secretary, prior to a hearing under paragraph (4), but including an opportunity for the State government or unit of local government to make a documentary submission regarding the allegation of discrimination or the funding of such program or activity with funds made available under subtitle A or D,

the Secretary shall, within 10 days of such occurrence, notify the Governor of the affected State, or of the State in which an affected unit of local government is located, and the chief executive officer of such affected unit of local government, that such State government or unit of local government is presumed not to be in compliance with subsection (a)(1), and shall request such Governor and such chief executive officer to secure compliance. For purposes of subparagraph (A), a finding by a Federal or State administrative agency shall be deemed rendered after notice and opportunity for a hearing if it is rendered pursuant to procedures consistent with the provisions of subchapter II of chapter 5, title 5, United States Code.

"(2) VOLUNTARY COMPLIANCE.—In the event the Governor or the chief executive officer secures compliance after notice pursuant to paragraph (1), the terms and conditions with which the affected State government or unit or local government agrees to comply shall be set forth in writing and signed by the Governor, by the chief executive officer (in the event of a violation by a unit of local government), and by the Secretary and the Attorney General. At least 15 days prior to the effective date of the agreement, the Secretary shall send a copy of the agreement to each complainant, if any, with respect to such violation. The Governor, or the chief executive officer in the event of a violation by a unit of local government, shall file semiannual reports with the Secretary and the Attorney General detailing the steps taken to comply with the agreement. Within 15 days of receipt of such reports the Secretary shall send a copy thereof to each such complainant.

"(3) SUSPENSION AND RESUMPTION OF PAYMENT OF FUNDS.—

"(A) SUSPENSION AFTER NOTICE.—If, at the conclusion of 90 days after notification under paragraph (1)—

"(i) a compliance agreement has not been entered into under paragraph (2),

"(ii) compliance has not been secured by the Governor of that State or the chief executive officer of that unit of local government, and

"(iii) an administrative law judge has not made a determination under paragraph (4) (A) that it is likely the State government or unit of local government will prevail on the merits,

the Secretary shall notify the Attorney General that compliance has not been secured and shall suspend further payment of any funds under subtitles A and D to that State government or that unit of local government. Such suspension shall be effective for a period of not more than 120 days, or, if there is a hearing under paragraph (4)(B), not more than 30 days after the conclusion of such hearing.

"(B) RESUMPTION OF PAYMENTS SUSPENDED UNDER SUBPARAGRAPH (A).—Payment of the suspended funds shall resume only if—

"(i) such State government or unit of local government enters into a compliance agreement approved by the Secretary and the Attorney General in accordance with paragraph (2);

"(ii) such State government or unit of local government complies fully with the final order or judgment of a Federal or State court, if that order or judgment covers all the matters raised by the Secretary in the notice pursuant to paragraph (1), or is found to be in compliance with subsection (a)(1) by such court; or

"(iii) the Secretary finds, pursuant to paragraph (4)(B), that noncompliance has not been demonstrated.

"(C) SUSPENSION UPON ACTION BY ATTORNEY GENERAL.—Whenever the Attorney General files a civil action alleging a pattern or practice of discriminatory conduct on the basis of race, color, religion, sex, national origin, age, or handicapped status in any program or activity of a State government or unit of local government, which State government or unit of local government receives funds made available under subtitle A or D, the conduct alleged violates the provisions of this section, and neither party within 145 days after such filing has been granted such preliminary relief with regard to the suspension or payment of funds as may be otherwise available by law, the Secretary shall suspend further payment of any funds under subtitles A and D to that State government or that unit of local government until such time as the court orders resumption of payment.

"(4) HEARINGS; OTHER ACTIONS.—

"(A) PRELIMINARY HEARING.—Within the first 30 days after notification under paragraph (1)(B), the State government or unit of local government may request an expedited preliminary hearing by an administrative law judge in order to determine whether it is likely that the State government or unit of local government would, at a full hearing under subparagraph (B) of this paragraph, prevail on the merits on the issue—of the alleged noncompliance. Such judge shall render a finding hereunder within the 90-day period after notification under paragraph (1) (B). A finding under this subparagraph by the administrative law judge in favor of the State government or unit of local government shall defer the suspension of funds under paragraph (3) until the 210th day after the issuance of a notice of noncompliance under paragraph (1)(B), or until 30 days after the conclusion of hearings on the merits under subparagraph (B) of this paragraph.

"(B) COMPLIANCE HEARING.—At any time after notification under paragraph (1) but before the conclusion of the 120-day period referred to in paragraph (3)(A), a State government or unit of local government may request a hearing, which the Secretary shall initiate within 30 days of such request. The Secretary may also initiate a hearing in case of a finding in favor of a State government or unit of local government under subparagraph (A) of this paragraph. Within 30 days after the conclusion of a hearing under this subparagraph, or, in the absence of a hearing, within 210 days after issuance of a notice of noncompliance under paragraph (1), the Secretary shall make a finding of compliance or noncompliance. If the Secretary makes a finding of noncompliance, the Secretary shall (i) notify the Attorney General of the United States in order that the Attorney General may institute a civil action under subsection (c), (ii) terminate the payment of funds under subtitles A and D, and, (iii) if appropriate, seek repayment of such funds. If the Secretary makes a finding of compliance, payment of the suspended funds shall resume as provided in paragraph (3)(B).

"(5) JUDICIAL REVIEW.—Any State government or unit of local government aggrieved by a final determination of the Secretary under paragraph (4) may appeal such determination as provided in section 143(c).

"(c) AUTHORITY OF ATTORNEY GENERAL.—Whenever the Attorney General has reason to believe that a State government or unit of local government has engaged or is engaging in a pattern or practice in violation of the provisions of this section, the Attorney General may bring a civil action in an appropriate United States district court. Such court may grant as relief any temporary restraining order, preliminary or permanent injunction, or other order, as necessary or appropriate to insure the full enjoyment of the rights described in this section, including the suspension, termination, or repayment of funds made available under this title, or placing any further payments under this title in escrow pending the outcome of the litigation.

"(d) AGREEMENTS BETWEEN AGENCIES.—The Secretary shall enter into agreements with State agencies and with other Federal agencies authorizing such agencies to investigate noncompliance with subsection (a). The agreements shall describe the cooperative efforts to be undertaken (including the sharing of civil rights enforcement personnel and resources) to secure compliance with this section, and shall provide for the immediate notification of the Secretary by the Attorney General of any actions instituted under subsection (b)(3)(C), subsection (c), or under any other Federal civil rights statute or regulations issued thereunder.".

(b) Subtitle B of title I of the Act is amended by adding at the end thereof the following new sections:

"SEC. 124. COMPLAINTS AND COMPLIANCE REVIEWS.

"By March 31, 1977, the Secretary shall promulgate regulations establishing—

"(1) reasonable and specific time limits for the Secretary or the appropriate cooperating agency to respond to the filing of a complaint by any person alleging that a State government or unit of local government is in violation of the provisions of this Act, including time limits for instituting an investigation, making an appropriate determination with respect to the allegations, and advising the complainant of the status of the complaint; and

"(2) reasonable and specific time limits for the Secretary to conduct audits and reviews of State governments and units of local government for compliance with the provisions of this Act.

"SEC. 125. PRIVATE CIVIL ACTIONS.

"(a) ATTORNEY FEES.—In any action brought to enforce compliance with any provision of this Act, the court may grant to a prevailing plaintiff reasonable attorney fees except where the lawsuit is frivolous, vexatious, brought for harassment purposes, or brought principally for the purpose of gaining attorney fees.

"(b) INTERVENTION BY ATTORNEY GENERAL.—In any action brought to enforce compliance with any provision of this Act, the Attorney General, or a specially designated assistant for or in the name of the United States, may intervene upon timely application if he certifies that the action is of general public importance. In such action the United States shall be entitled to the same relief as if it had instituted the action.".

AUDITING AND ACCOUNTING

SEC. 11. (a) Subparagraph (A) of section 123(a)(5) of the Act is amended by striking "therefor" and inserting in lieu thereof ", in conformity with subsection (c) of this section," and by inserting at the end thereof the following: "and conduct independent financial audits in accordance with generally accepted auditing standards as required by paragraph (2) of such subsection,".

(b) Section 123(c) of the Act is amended to read as follows:

"(c) ACCOUNTING, AUDITING, AND EVALUATION.—

"(1) IN GENERAL.—The Secretary shall provide for such audits, evaluations, and reviews as may be necessary to insure that the expenditures of funds received under subtitle A or D by State governments and units of local government comply fully with the requirements of this title. Such audits, evaluations, and reviews shall include such independent audits as may be required pursuant to paragraph (2). The Secretary is authorized to accept an audit by a State government or unit of local government of its expenditures if he determines that such audit was conducted in compliance with paragraph (2), and that such audit and the audit procedures of that State government or unit of local government are sufficiently reliable to enable him to carry out his duties under this title.

"(2) INDEPENDENT AUDITS.—The Secretary shall, after consultation with the Comptroller General, promulgate regulations to take effect not later than March 31, 1977, which shall require that each State government and unit of local government receiving funds under subtitle A conducts during each fiscal year an audit of its title A or D conducts during each fiscal year an audit of its financial accounts in accordance with generally accepted auditing standards. Such regulations shall include such provisions as may be necessary to assure independent audits are conducted in accordance with such standards, but may provide for less formal reviews of financial information, or less frequent audits, to the extent necessary to insure that the cost of such audits not be unreasonably burdensome in relation to the entitlement of such State government or unit of local government to funds available under subtitles A and D. Such regulations shall further provide for the availability to the public of financial statements and reports on audits or informal reviews conducted under this paragraph for inspection and reproduction as public documents.

"(3) COMPTROLLER GENERAL SHALL REVIEW COMPLIANCE.—The Comptroller General of the United States shall make such reviews of the work as done by the Secretary, the State governments, and the units of local government as may be necessary for the Congress to evaluate compliance and operations under this title.".

CONSTRUCTION PROJECT WAGE RATES

SEC. 12. Section 123(a)(6) of the Act is amended to read as follows:

"(6) all laborers and mechanics employed in the performance of work on any construction project which is funded in whole or part out of its trust fund established under paragraph (1), will be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a-5), and that with respect to the labor standards specified in this paragraph the Secretary of Labor shall act in accordance with Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267) and section 2 of the Act of June 13, 1934 (40 U.S.C. 276c), except that nothing in this subsection shall be construed to cover work performed by a State or local jurisdiction with its own regular, permanent laborers or mechanics;".

PROHIBITION ON USE FOR LOBBYING

SEC. 13. Section 123 of the Act is amended by adding at the end thereof the following new subsection:

"(e) PROHIBITION OF USE FOR LOBBYING PURPOSES.—No State government or unit of local government may use, directly or indirectly, any part of the funds it receives under subtitle A or D for the purpose of lobbying or other activities intended to influence any legislation regarding the provisions of this Act. For the purpose of this subsection, dues paid to National or State associations shall be deemed not to have been paid from funds received under subtitle A or D.".

SUPPLEMENTAL FISCAL ASSISTANCE

SEC. 14. (a) Title I of the Act is further amended by adding at the end thereof the following new subtitle:

"Subtitle D—Supplemental Fiscal Assistance

"SEC. 161. SHORT TITLE.

"This subtitle may be cited as the 'Supplemental Fiscal Assistance Act of 1976'.

"SEC. 162. PAYMENTS TO STATE AND LOCAL GOVERNMENTS.

"Except as otherwise provided in this title, the Secretary shall, for each entitlement period beginning on or after January 1, 1977, pay out of the amounts appropriated under section 163, to each eligible State government, and to each eligible unit of local government, an amount determined under section 164 for such period. Such payments shall be made in installments, but not less often than once for each quarter, and shall be paid not later than 5 days after the close of each quarter. Such payments for any entitlement period may be initially made on the basis of estimates. Proper adjustment shall be made in the amount of any payment to a State government or a unit of local government to the extent that the payments previously made to such government under this subtitle were in excess of or less than the amounts required to be paid.

"SEC. 163. AUTHORIZATION

"There are authorized to be appropriated such sums as the Congress may deem necessary to adequately fund the program established by this subtitle.

"SEC. 164. ELIGIBILITY; DETERMINATION OF AMOUNT OF PAYMENTS.

"(a) ELIGIBILITY.—No State government shall be eligible to receive payments under this subtitle unless, with respect to an entitlement period, its entitlement under section 167 exceeds its entitlement under section 107. No unit of local government shall be eligible to receive payments under this subtitle unless, with respect to an entitlement period, its entitlement under section 168 exceeds its entitlement under section 108.

"(b) PAYMENT OF EXCESS.—Except as provided in subsection (c) the Secretary shall pay—

"(1) to each State government eligible under subsection (a), an amount equal to the amount by which its entitlement under section 167 exceeds its entitlement under section 107; and

"(2) to each unit of local government eligible under subsection (a), an amount equal to the amount by which its entitlement under section 168 exceeds its entitlement under section 108.

"(c) LIMITATIONS.—

"(1) RATABLE REDUCTIONS.—If the sums available under section 163 for any entitlement period for making payments under this subtitle to State governments and units of local government are not sufficient to pay in full the total amount of payments authorized by subsection (b) of this section for that entitlement period, then each such payment for such period shall be ratably reduced. In case additional funds become available for making such payments for any entitlement period during which the preceding sentence is applicable, such reduced payments shall be increased on the same basis as they were reduced.

"(2) PAYMENT LESS THAN $2,500, OR GOVERNING BODY WAIVES PAYMENT.—If (but for this paragraph) the payment to any unit of local government below the level of the county government—

"(i) would be less than $2,500 for any entitlement period ($1,875 for an entitlement period of 9 months), or

"(ii) is waived for any entitlement period by the governing body of such unit,

then the amount of such payment for such period shall (in lieu of being paid to such unit) be added to, and shall become a part of, the payment for such period to the county government of the county area in which such unit is located.

"SEC. 165. MANAGEMENT OF FUNDS.

"(a) MANAGEMENT.—

"(1) IN GENERAL.—Funds appropriated pursuant to section 163 shall remain available without fiscal year limitation and, except as provided in this title, may be used only for the payments to State and local governments as provided by this subtitle.

"(2) REPORT.—The Secretary of the Treasury shall report to the Congress not later than January 15 of each year on the operations and payments under this subtitle during the preceding fiscal year.

"(b) TRANSFER TO GENERAL FUND.—The Secretary shall from time to time transfer to the general fund of the Treasury any moneys available for this subtitle which he determines will not be needed to make payments to State governments and units of local government under this subtitle.

"SEC. 166. COMPUTATION OF ALLOCATION AMONG STATES.

"An amount equal to the amount appropriated under section 105(c)(1) for each entitlement period shall be allocated among the States as follows:

"(a) ALLOCATION ON BASIS OF INCOME FACTOR.—Forty percent of an amount equal to the amount appropriated under section 105(c)(1) for an entitlement period shall be allocated among the States in the same proportion as—

"(1) the population of each State, multiplied by the income factor of that State, bears to

"(2) the sum of the products determined under paragraph (1) for all States.

"(b) ALLOCATION ON BASIS OF TAX EFFORT FACTOR.—Sixty percent of an amount equal to the amount appropriated under section 105(c)(1) for an entitlement period which is not reserved for distribution under this subtitle shall be allocated among the States in the same proportion as the amount allocable to each State under subsection (c) of this section bears to the sum of the amounts allocable to all States under such subsection.

"(c) DETERMINATION OF ALLOCABLE AMOUNT.—

"(1) IN GENERAL.—For purposes of subsection (b) of this section, the amount allocable to a State under this subsection for any entitlement period shall be determined under paragraph (2), except that such amount shall be determined under paragraph (3) if the amount allocable to it under paragraph (3) is greater than the amount allocable to it under paragraph (2).

"(2) GENERAL TAX EFFORT AMOUNT.—For purposes of paragraph (1), the amount allocable to a State under this paragraph for any entitlement period is the amount which bears the same ratio to the total amount allocable under subsection (b) as—

"(A) the population of that State, multiplied by the general tax effort factor of that State, bears to

"(B) the sum of the products determined under subparagraph (A) for all States.

"(3) INCOME TAX EFFORT AMOUNT.—For purposes of paragraph (1), the amount allocable to a State under this paragraph for any entitlement period is the amount which bears the same ratio to the total amount allocable under subsection (b) as—

"(A) the population of that State, multiplied by the income tax effort factor of that State, bears to

"(B) the sum of the products determined under subparagraph (A) for all States.

"SEC. 167. ENTITLEMENTS OF STATE GOVERNMENTS.

"(a) DIVISION BETWEEN STATE AND LOCAL GOVERNMENTS.—The State government shall be entitled to receive one-third of the amount allocated to that State for each entitlement period. The remaining portion of each State's allocation shall be allocated among the units of local government of that State as provided in section 168.

"(b) STATE MUST MAINTAIN TRANSFERS TO LOCAL GOVERNMENTS.—

"(1) GENERAL RULE.—The entitlement of any State government for any entitlement period beginning on or after January 1, 1977, shall be reduced by the amount (if any) by which—

"(A) the average of the aggregate amounts transferred by the State government (out of its own sources) during such period and the preceding entitlement period to all units of local governments in such State, is less than,

"(B) the similar aggregate amount for the one-year period beginning July 1, 1975, or until data on such period are available, the most recent such one-year period for which data on such amounts are available.

For purposes of subparagraph (A), the amount of any reduction in the entitlement of a State government under this subsection for any entitlement period shall, for subsequent entitlement periods, be treated as an amount transferred by the State government (out of its own sources) during such period to units of local government in such State.

"(2) Adjustment where State assumes responsibility for category or expenditures.—If the State government establishes to the satisfaction of the Secretary that since December 31, 1976, it has assumed responsibility for a category of expenditures which (before January 1, 1977) was the responsibility of local governments located in such State, the aggregate amount taken into account under paragraph (1)(B) shall be reduced to the extent that increased State government spending (out of its own sources) for such category has replaced corresponding amounts which for the one-year period utilized for purposes of paragraph (1)(B) it transferred to units of local government.

"(3) Adjustment where new taxing powers are concerned upon local governments.—If a State establishes to the satisfaction of the Secretary that since January 1, 1977, one or more units of local government within such State have had conferred upon them new taxing authority, then, under regulations prescribed by the Secretary, the aggregate amount taken into account under paragraph (1)(B) shall be reduced to the extent of the larger of—

"(A) an amount equal to the amount of the taxes collected by reason of the exercise of such new taxing authority by such local governments, or

"(B) an amount equal to the amount of the loss of revenue to the State by reason of such new taxing authority being conferred on such local governments.

No amount shall be taken into consideration under subparagraph (A) if such new taxing authority is an increase in the authorized rate of tax under a previously authorized kind of tax, unless the State is determined by the Secretary to have decreased a related State tax.

"(4) Special rule for period beginning January 1, 1977.—In the case of the entitlement period beginning January 1, 1977, and ending September 30, 1977, the aggregate amount taken into account under paragraph (1)(A) for the preceding entitlement period and the aggregate amount taken into account under paragraph (1)(B) shall be three-fourths of the amounts which (but for this paragraph) would be taken into account.

"(5) Reduction in entitlement.—If the Secretary has reason to believe that paragraph (1) requires a reduction in the entitlement of any State government for any entitlement period, he shall give reasonable notice and opportunity for hearing to the State. If thereafter, he determines that paragraph (1) requires the reduction of such entitlement, he shall also determine the amount of such reduction and shall notify the Governor of such State of such determinations and shall withhold from subsequent payments to such State government under this title an amount equal to such reduction.

"(6) Transfers to local governments.—An amount equal to the reduction in the entitlement of any State government which results form the application of this subsection (after any judicial review under section 143) shall be made available for distribution to local governments within the State in accordance with section 168. In the event that, because of limits imposed by section 168, any portion of such amount is not properly allocable to local governments, such portion shall be transferred to the general fund of the Treasury.

"Sec. 168. Entitlements of Local Governments.

"(a) Allocation Among County Areas.—The amount to be allocated to the units of local government within a State for any entitlement period shall be allocated among the county areas located in that State so that each county area will receive an amount which bears the same ratio to the total amount to be allocated to the units of local government within that State as—

"(1) the population of that county area, multiplied by the tax effort factor of that county area, multiplied by the income factor of that county area, bears to

"(2) the sum of the products determined under paragraph (1) for all county areas within that State.

"(b) Allocation to County Governments, Municipalities, Townships, Etc.—

"(1) County governments.—The county government shall be allocated that portion of the amount allocated to the county area for the entitlement period under subsection (a) which bears the same ratio to such amount as the adjusted taxes of the county government bear to the adjusted taxes of the county government and all other units of local government located in the county area.

"(2) Other units of local government.—The amount remaining for allocation within a county area after the application of paragraph (1) shall be allocated among the units of local government (other than the county government) located in that county area so that each unit of local government will receive an amount which bears the same ratio to the total amount to be allocated to all such units as—

"(A) the population of that local government, multiplied by the tax effort factor of that local government, multiplied by the income factor of that local government, bears to

"(B) the sum of the products determined under subparagraph (A) for all such units.

"(3) Township government.—If the county area includes one or more township governments, then such township governments shall be treated as units of local government in making the allocation prescribed by paragraph (2) of this subsection.

"(4) Indian tribes and Alaskan native villages.—If within a State there is an Indian tribe or Alaskan native village which has a recognized governing body which performs substantial governmental functions, then before applying subsection (a) of this section there shall be allocated to each such tribe or village a portion of the amount allocated to that State for the entitlement period which bears the same ratio to such amount as the population of such tribe or village within that State bears to the population of that State. If this paragraph applies with respect to any State for any entitlement period, the total amount to be allocated to county areas under subsection (a) shall be appropriately reduced to reflect the amount allocated under the preceding sentence, and the population of any tribe or village receiving such allocation shall not be counted in determining the allocation under subsection (a) of the county area in which such tribe or village is located. If the entitlement of any such tribe or village is waived for any entitlement period by the governing body of that tribe or village, then the provisions of this paragraph shall not apply with respect to the amount of such entitlement for such period.

"(5) Rule for small units of government.—If the Secretary determines that in any county area the data available for any entitlement period are not adequate for the application of the formulas set forth in paragraph (2) with respect to units of local government (other than a county government) with a population below a number (not more than 500) prescribed for that county area by the Secretary, he may apply paragraph (2) by allocating for such entitlement period to each such unit located in that county area an amount which bears the same ratio to the total amount to be allocated under paragraph (2) for such entitlement period as the population of such unit bears to the population of all units of local government in that county area to which allocations are made under such paragraph. If the preceding sentence applies with respect to any county area, the total amount to be allocated under paragraph (2) to other units of local government in that county area for the entitlement period shall be appropriately reduced to reflect the amounts allocated under the preceding sentence.

"(6) Entitlement.—

"(A) In general.—Except as otherwise provided in this paragraph, the entitlement of any unit of local government for any entitlement period shall be the amount allocated to such unit under this subsection.

"(B) Maximum per capita entitlement.—The per capita amount allocated to any county area or any unit of local government (other than a county government) within a State under this section for any entitlement period shall not be more than 300 percent of two-thirds of the amount allocated to the State under section 166, divided by the population of that State.

"(C) Limitation.—The amount allocated to any unit of local government under this section for any entitlement period shall not exceed 50 percent of the sum of (i) such government's adjusted taxes, and (ii) the intergovernmental transfers of revenue to such government (other than transfers to such government under this subtitle).

"(D) Entitlement less than $2,500, or governing body waives entitlement.—If (but for this subparagraph) the entitlement of any unit of local government below the level of the county government—

"(i) would be less than $2,500 for any entitlement period ($1,875 for an entitlement period of 9 months), or

"(ii) is waived for any entitlement period by the governing body of such unit,

then the amount of such entitlement for such period shall (in lieu of being paid to such unit) be added to, and shall become a part of, the entitlement for such period of the county government of the county area in which such unit is located.

"(7) Adjustment of entitlement.—

"(A) In general.—In adjusting the allocation of any county area or unit of local government, the Secretary shall make any adjustment required under paragraph (6)(B) first, any adjustment required under paragraph (6)(C) next, and any adjustment required under paragraph (6)(D) last.

"(B) Adjustment for application of maximum per capita entitlement.—The Secretary shall adjust the allocations made under this section to county areas or to units of local governments in any State in order to bring those allocations into compliance with the provisions of paragraph (6)(B). In making such adjustments he shall make any necessary adjustments with respect to county areas before making any necessary adjustments with respect to units of local government.

"(C) Adjustment for application of limitation.—In any case in which the amount allocated to a unit of local government is reduced under paragraph (6)(C) by the Secretary, the amount of that reduction—

"(i) in the case of a unit of local government (other than a county government), shall be added to and increase the allocation of the county government of the county area in which it is located, unless (on account of the application of paragraph (6)) that county government may not receive it, in which case the amount of the reduction shall be added to and increase the entitlement of the State government of the State in which that unit of local government is located; and

"(ii) in the case of a county government, shall be added to and increase the entitlement of the State government of the State in which it is located.

"Sec. 169. Definitions and Special Rules for Application of Allocation Formulas.

"(a) In General.—For purposes of this subtitle—

"(1) Population.—Population shall be determined on the same basis as resident population is determined by the Bureau of the Census for general statistical purposes.

"(2) Exempt income.—Exempt income shall mean one-fourth of the annual income designated by the Bureau of the Census as the low-income level for a family of four persons.

"(3) Aggregate exempt income.—Aggregate exempt income for any unit of government shall mean the population of that unit multiplied by exempt income as defined in paragraph (2).

"(4) Income.—Income means total money income from all sources, as determined by the Bureau of the Census, for general statistical purposes.

"(5) Dates for determining allocations and entitlements.—Except as provided in regulations, the determination of allocations and entitlements for any entitlement period shall be made as of the first day of the third month immediately preceding the beginning of such period.

"(6) Intergovernmental transfers.—The intergovernmental transfers of revenue to any government are the amounts of revenue received by that government from other governments as a share in financing (or as reimbursement for) the performance of governmental functions, as determined by the Bureau of the Census for general statistical purposes.

"(7) Data used; uniformity of data.—

"(A) General rule.—Except as provided in subparagraph (B), the data used shall be the most recently available data provided by the Bureau of the Census or the Department of Commerce, as the case may be.

"(B) Use of estimates, etc.—Where the Secretary determines that the data referred to in subparagraph (A) are not current enough or are not comprehensive enough to provide for equitable allocations, he shall use such additional data (including data based on estimates) as may be provided for in regulations.

"(b) Income Factor.—

"(1) The income factor for a State, county area, or unit of local government is a fraction—

"(A) the numerator of which is—

"(i) the number of persons in families in that State, county area, or unit of local government below the low-income level, plus the number of unrelated individuals 65 years old or over below the low-income level, plus

"(ii) the number of persons in families with incomes between 100 percent and 125 percent of the low-income level residing in a central city of an urbanized area within that State, country area, or unit of local government, plus the number of unrelated individuals 65 years old or over who have incomes between 100 percent and 125 percent of the low-income level residing in a central city of an urbanized area within that State, county area, or unit of local government;

(B) the denominator of which is the number of persons in families in that State, county area, or unit of local government plus the number of unrelated individuals 65 years old and over.

"(2) The terms used in paragraph (1) are defined in accordance with the definitions used by the Bureau of the Census for general statistical purposes.

"(c) General Tax Effort Factor of States.—

"(1) In General.—For purposes of this title, the general tax effort factor of any State for any period is—

"(A) the net amount collected from the State and local taxes of such State during the most recent reporting year, divided by

"(B) the aggregate income, as defined in paragraph (4) of subsection (a), attributed to such State for the same period, minus the aggregate exempt income attributable to such State for the same period.

"(2) State and local taxes.—

"(A) Taxes taken into account.—The State and local taxes taken into account under paragraph (1) are the compulsory contributions exacted by the State (or by any unit of local government or other political subdivision of the State) for public purposes (other than employee and employer assessments and contributions to finance retirement and social insurance systems, and other than special assessments for capital outlay), as such contributions are determined by the Bureau of the Census for general statistical purposes.

"(B) Most recent reporting year.—The most recent reporting year with respect to any entitlement period consists of the years taken into account by the Bureau of the Census in its most recent general determination of State and local taxes made before the close of such period.

"(d) Income Tax Collections of States.—The income tax collections attributed to any State for any entitlement period shall be equal to the net amount collected from the State individual income tax of such State during the last calendar year ending before the beginning of such entitlement period. The individual income tax of any State is the tax imposed upon the income of individuals by that State and described as a State income tax under section 164(a)(3) of title 26, United States Code.

"(e) Income Tax Effort Factor.—The income tax effort factor of any State for any entitlement period is—

"(1) the income tax collections of that State as defined in subsection (d), divided by

"(2) the aggregate income, as defined in paragraph (4) of subsection (a) attributed to such State for the same period, minus the aggregate exempt income attributable to such State for the same period.

"(f) Tax Effort Factor of County Area.—For purposes of this title, the tax effort factor of any county area for any entitlement period is—

"(1) the adjusted taxes of the county government plus the adjusted taxes of each other unit of local government within that county area, divided by

"(2) the greater of

"(A) the aggregate income (as defined in paragraph (4) of subsection (a)) attributed to that county area, minus the aggregate exempt income attributable to that county area, or

"(B) one-half the aggregate exempt income attributable to such county area for the same period.

"(g) Tax Effort Factor of Unit of Local Government.—For purposes of this title—

"(1) In general.—The tax effort factor of any unit of local government for any entitlement period is—

"(A) the adjusted taxes of that unit of local government, divided by

"(B) the greater of—

"(i) the aggregate income (as defined in paragraph (4) of subsection (a)) attributed to that unit of local government, minus the aggregate exempt income attributable to that unit of local government, or

"(ii) one-half the aggregate exempt income attributable to such unit of local government for the same period.

"(2) Adjusted taxes.—

"(A) In general.—The adjusted taxes of any unit of local government are—

"(i) the compulsory contributions exacted by such government for public purposes (other than employee and employer assessments and contributions to finance retirement and social insurance systems, and other than special assessments for capital outlay), as such contributions are determined by the Bureau of the Census for general statistical purposes,

"(ii) adjusted (under regulations prescribed by the Secretary) by excluding an amount equal to that portion of such compulsory contributions which is properly allocable to expenses for education.

"(B) Certain sales taxes collected by counties.—In any case where—

"(i) a county government exacts sales taxes within the geographic area of a unit of local government and transfers part or all of such taxes to such unit without specifying the purposes for which such unit may spend the revenues, and

"(ii) the Governor of the State notifies the Secretary that the requirements of this subparagraph have been met with respect to such taxes,

then the taxes so transferred shall be treated as the taxes of the unit of local government (and not the taxes of the county government).".

(c) Section 123(a)(1) of the Act is amended by inserting "or D" immediately after "subtitle A".

Sec. 15. (a) Except as provided in subsection (b), the amendments of the Act made by this Act shall take effect at the close of December 31, 1976.

(b)(1) The amendments made by section 6 of this Act shall take effect on the date of enactment.

(2) The amendment made by section 8 of this Act shall take effect at the close of September 30, 1977.

Mr. JOHN L. BURTON (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the Record, and that they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. JOHN L. BURTON. Mr. Chairman, Members of the Committee, what these amendments do is to amend the Horton substitute with the basic factors of the committee bill, with certain changes. First of all, my amendments do not touch on the issue of entitlement; therefore, the Members will be given an opportunity to vote on the merits of entitlement on its own in an amendment that will be offered by the gentleman from Washington, the chairman of the Budget Committee (Mr. Adams).

My amendment makes one correction to the civil rights provision, which is the one provision that there seems to be a great deal of misunderstanding about. It clearly states—clearly states—that civil rights actions concerning revenue-sharing funds are limited to the use to which revenue-sharing funds were committed. It has nothing to do with any other Federal funds, only with the revenue-sharing funds, which, I would point out, the gentlewoman from Texas, the author of this amendment in the full committee, sought to do by unanimous consent and she was denied that unanimous consent.

Second, it eliminates the mandated modernization of State and local government under the so-called Rosenthal amendment and merely states permissively that local and State governments should be revitalized, made, to the extent possible, more economical, efficient and responsive to the needs of the local people.

Mr. HORTON. Mr. Chairman, will the gentleman yield?

Mr. JOHN L. BURTON. I yield to the gentleman from New York.

Mr. HORTON. I thank the gentleman for yielding.

Will the gentleman explain what he is doing with regard to the so-called Rosenthal amendment? Does the gentleman eliminate the Rosenthal amendment?

Mr. JOHN L. BURTON. I will read it for the gentleman:

> It is intended that funds provided under this Act shall encourage the revitalization of State and local governments.
>
> Revitalization Plans. Each State Government is urged, but not required to develop and implement plans for revitalization of its State and local governments.
>
> Revitalization means substantial improvement, efficiency, economy effectiveness and responsiveness, and as part of their normal procedures, no additional reporting requirements.

They add in language whether or not anything has happened in that area.

Mr. HORTON. Mr. Chairman, will the gentleman yield further?

Mr. JOHN L. BURTON. I yield to the gentleman.

Mr. HORTON. Is there any reporting requirement?

Mr. JOHN L. BURTON. No additional reporting requirement. They have to make a report once a year, and they just add a program on this in that report. There are no further reporting requirements.

Mr. HORTON. In other words, the gentleman has not eliminated the Rosenthal amendment, but the gentleman has the Rosenthal amendment with certain modifications.

Mr. JOHN L. BURTON. I eliminated it. I struck it in its entirety, because certainly we do not want to be mandating State and local governments to modernization and permissively state that we hope that part of the utilization of these funds will provide more efficiency, economy and responsiveness in those governments, and no additional reports are required.

Mr. HORTON. Because the amendment was not read, will the gentleman explain again what his amendment does?

Mr. JOHN L. BURTON. I read it. I guess the gentleman did not hear me.

Mr. HORTON. I am sorry, I did not.

Mr. JOHN L. BURTON. "It is intended that funds provided under this act shall encourage the revitalization of State and local governments."

Mr. HORTON. I am not talking about the Rosenthal amendment. I am talking about the gentleman's amendment.

Mr. JOHN L. BURTON. I strike the entire Rosenthal amendment.

Mr. HORTON. I am not talking about the Rosenthal amendment. I am talking about the gentleman's amendment now as it relates to the Horton substitute.

Mr. JOHN L. BURTON. It strikes the Horton substitute, except for that part dealing with entitlements, and restates the full committee bill, with these changes.

Mr. HORTON. What about the civil rights enforcement? Does the gentleman use the language that is in the subcommittee bill?

Mr. JOHN L. BURTON. No. I used the language in the full committee bill, with the addition of the amendment that brought the greatest concern, that of clarifying the fact that any civil rights action taken against revenue-sharing funds must result from discrimination from the use of revenue-sharing funds.

The CHAIRMAN. The time of the gentleman from California has expired.

(By unanimous consent, Mr. JOHN L. BURTON was allowed to proceed for 4 additional minutes.)

Mr. JOHN L. BURTON. Lastly, the amendment removes the funding from the Fascell amendment and restores it to the general revenue-sharing formula, so that everyone is held harmless. But we do keep in the bill the Fascell language, which we do think is meaningful and important in the future.

I will tell the gentleman from Ohio that the millionaires do not live in some of the cities he is talking about. They come and visit there, but the services that are provided are for the elderly persons living in the rural areas.

We do not find anyone with a lot of money living in Vail, Colo. People with a lot of money go there, but the people who live there are primarily elderly people who are not cutting a fat hog in any part of its quarters.

Mr. HORTON. Mr. Chairman, will the gentleman yield?

Mr. JOHN L. BURTON. I yield to the gentleman from New York.

Mr. HORTON. Mr. Chairman, I have a little note here that indicates this—I believe the gentleman said this earlier in explaining the amendment—that he strikes the Fascell funding and the $150 million in the present formula. The substitute I offered does not have the Fascell amendment, but it does contain the $150 million.

Mr. JOHN L. BURTON. I struck it and added new sections where they were appropriate.

Mr. HORTON. Mr. Chairman, I did not understand the answer.

Mr. JOHN L. BURTON. In other words part of it is a replacement for the provisions of the gentleman from New York (Mr. HORTON), and part of it is an added new section. I am sure the gentleman is familiar with the parliamentary situation, just as the gentleman from North Carolina (Mr. FOUNTAIN) is familiar with it.

Mr. HORTON. I understand that, but I am trying to find out what the gentleman does that is different as far as my amendment is concerned, because the substitute does not have the Fascell funding formula in it, but it does have the $150 million in the present formula.

Mr. JOHN L. BURTON. In lieu of the gentleman's amendment, this would be the Brooks substitute with these changes.

Mr. HORTON. What about entitlement?

Mr. JOHN L. BURTON. It does not address itself to entitlement at all.

Mr. HORTON. So the entitlement stays as is?

Mr. JOHN L. BURTON. The entitlement stays as is.

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. JOHN L. BURTON. I yield to the gentleman from Georgia.

Mr. LEVITAS. Mr. Chairman, concerning the last statement the gentleman made, as I understand it, he has offered two amendments to be considered en bloc?

Mr. JOHN L. BURTON. Right.

Mr. LEVITAS. One amendment takes out sections 1 through 5 of what is H.R. 14000 or the subcommittee bill?

Mr. JOHN L. BURTON. In line with the Brooks substitute.

Mr. LEVITAS. And then it picks up with section 7?

Mr. JOHN L. BURTON. It picks up after entitlement, right.

Mr. LEVITAS. And the Brooks substitute is essentially the full committee bill?

Mr. JOHN L. BURTON. Essentially, yes.

Mr. LEVITAS. Mr. Chairman, I thank the gentleman.

Mr. JOHN L. BURTON. Mr. Chairman, I would like to state this again: All the local jurisdictions are held harmless. The funding is provided under the old formula which has been in existence, because if one thing was demonstrated, it was that the formula really was not all that equitable, but we had a policy to hold jurisdiction harmless.

Last, I would like to say this: On this civil rights matter before the subcommittee, what it stated was that before one could even go to court, he had to exhaust every remedy in the world there was, and under the procedures of the Jordan amendment a situation could be going on for a whole year before there could be any determination, plus the fact that they could not even get into that year's timetable until every administrative remedy had been exhausted.

So this takes the best parts of the full committee bill and amends out those things that people found were offensive, and it is eminently better in my judgment than either the Horton substitute or the amendment in the nature of a substitute offered by the distinguished gentleman from Texas (Mr. BROOKS).

The CHAIRMAN. The time of the gentleman from California (Mr. JOHN L. BURTON) has expired.

(On request of Mr. FASCELL and by unanimous consent, Mr. JOHN L. BURTON was allowed to proceed for 4 additional minutes.)

Mrs. SPELLMAN. Mr. Chairman, will the gentleman yield?

Mr. JOHN L. BURTON. I yield to the gentlewoman from Maryland.

Mrs. SPELLMAN. Mr. Chairman, would the gentleman succinctly point out the differences between his amendment and the Fountain amendment?

Mr. JOHN L. BURTON. Mr. Chairman, the Fountain amendment is the subcommittee bill amended upwards. My amendment is the Brooks substitute amended downwards.

Significantly, the differences are these: I remove the funding from Fascell and restore it, but I leave that important language in.

Second, we do carry out that thought that as we are giving out this $24 billion, whatever can be done to make local government more efficient, more economical, and more responsive would be something that would be well appreciated.

Third, we leave the civil rights provision of the Jordan amendment in, with the one amendment that caused trouble, and that is specifically that civil rights enforcement of revenue sharing deals with any discrimination in revenue sharing and not with any other aspects of governmental activity, which is very, very necessary.

These three items came through in the hearings we had: One was that we should have adequate civil rights enforcement; No. 2 was the factor of the lack of citizen participation; and No. 3 was that there just did not seem to be too much accountability.

My amendment in no way provides for further reports or anything else. If we read the Jordan amendment, as I said, we find it would take almost a year for anything to really happen in the area of discrimination enforcement.

Therefore, if the subcommittee thinks we should exhaust all the administrative remedies first, we may as well not have a civil rights provision.

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. JOHN L. BURTON. I yield to the gentleman from Florida.

Mr. FASCELL. Mr. Chairman, I understand with respect to funding that the gentleman's amendment returns the full amount of the funding that the cities and county organizations have been looking for, and that is $6.65 billion; is that correct?

Mr. JOHN L. BURTON. That is absolutely correct.

Mr. FASCELL. It does that by transferring the allocations of $150 million which were made in the full committee bill to the entitlement?

Mr. JOHN L. BURTON. That is exactly correct.

Mr. FASCELL. So that in the gentleman's amendment the entitlement would be for the full $6.65 billion?

Mr. JOHN L. BURTON. That is correct.

Mr. FASCELL. Mr. Chairman, I am not entirely happy with what the gentleman has done, but I will say this, that of the matters that are presented before this body, I say to those who are interested in trying to correct some of the obvious delinquencies and deficiencies that have been demonstrated after 5 years of the administration of the revenue sharing program as against those who would like to just keep it as it is, I think the gentleman probably offers the best choice on the floor here today.

Mr. JOHN L. BURTON. Just in closing, Mr. Chairman, I would state that I know the gentleman from New York (Mr. Rosenthal) is upset with me. I know the gentleman from Florida is not pleased with what I have done to that; but for someone who did not like the concept of this program but supported it in committee, I think it is important that we get moving to provide the funding.

Mr. Chairman, I ask unanimous consent that the section following section 5 of my amendment be allowed to be renumbered and redesignated accordingly.

The CHAIRMAN. Is there objection to the request of the gentleman from California that his amendment be modified?

Mr. LEVITAS. Mr. Chairman, reserving the right to object, would the gentleman from California (Mr. John L. Burton) explain the purpose of the unanimous-consent request?

Mr. JOHN L. BURTON. If the gentleman will yield, yes, I will explain it. In other words, the way things were floating around here in the parliamentary procedure, it was tough to figure out which numbers were going to be used. It is a numbering matter.

Mr. LEVITAS. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

PARLIAMENTARY INQUIRY

Mr. JOHN L. BURTON. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. JOHN L. BURTON. Mr. Chairman, the parliamentary inquiry is this: What, in effect, happens in the numbers that just do not follow?

The CHAIRMAN. The Chair will state that the gentleman's amendments, under the existing situation, are not subject to further amendment.

Mr. JOHN L. BURTON. I understand that, Mr. Chairman.

The CHAIRMAN. Any further amendment would be an amendment in the third degree.

Mr. JOHN L. BURTON. In other words, Mr. Chairman, the substance of the amendment is still there.

The CHAIRMAN. The time of the gentleman from California (Mr. John L. Burton) has expired.

(On request of Mr. Adams and by unanimous consent, Mr. John L. Burton was allowed to proceed for 5 additional minutes.)

PARLIAMENTARY INQUIRY

Mr. HORTON. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. HORTON. Would the Chair explain the parliamentary situation so that we understand what it is that we have before us.

The CHAIRMAN. The Chair will attempt to state what the situation is.

Pending is the amendment in the nature of a substitute offered by the gentleman from Texas (Mr. Brooks), to which is pending an amendment offered by the gentleman from North Carolina (Mr. Fountain), and there is also pending an amendment offered as a substitute by the gentleman from New York (Mr. Horton) to the amendment in the nature of a substitute offered by the gentleman from Texas (Mr. Brooks).

Finally, we have pending amendments offered by the gentleman from California (Mr. John L. Burton) to the amendment offered by the gentleman from New York (Mr. Horton) as a substitute for the amendment in the nature of a substitute offered by the gentleman from Texas (Mr. Brooks).

Mr. HORTON. A further parliamentary inquiry, Mr. Chairman. Would the Chair explain how the voting will proceed on those amendments? Can there be any further amendments, either to the Brooks amendment in the nature of a substitute or to the Horton amendment as a substitute? If not, what is the voting procedure?

The CHAIRMAN. The Chair will state that at the moment no further amendments are in order until at least one amendment is disposed of.

The order in which they would be dealt with would be first the Fountain amendment, then the Burton amendments, and then the Horton substitute amendment.

Mr. HORTON. I thank the Chair.

Mr. ADAMS. Mr. Chairman, would the gentleman yield?

Mr. JOHN L. BURTON. I will yield to the gentleman from Washington in just one moment but first, let me just state for the benefit of those Members who are here, and I hope we all tell our friends, that the adoption of the Fountain amendment would preclude dealing with any further sections. The adoption of my amendment leaves the options open.

Now I yield to the gentleman from Washington.

Mr. ADAMS. Mr. Chairman, this is what my question is directed at. The amendment offered by the gentleman from California (Mr. John L. Burton) would leave open in the Horton substitute amendment, the ability of the Members to amend the section on whether there should be an entitlement, or an entitlement plus appropriations. Is that correct?

Mr. JOHN L. BURTON. That is correct.

Mr. ADAMS. And the gentleman's amendment, at this point, is on that section. That is the only section I am directing my attention to at this point. That section is what was in the original subcommittee bill and which is in the bill as reported from the full committee. In other words, the gentleman has not touched the entitlement?

Mr. JOHN L. BURTON. That is correct, I have not touched the entitlement section in the Horton amendment.

Mr. ADAMS. So if we wish to limit the entitlement to 1¾ years and then go with appropriations beyond that, we would then have to amend the Horton substitute even after the amendment offered by the gentleman from California was adopted. Is that correct?

Mr. JOHN L. BURTON. That is absolutely correct.

PARLIAMENTARY INQUIRIES

Mr. ADAMS. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. ADAMS. My parliamentary inquiry is this, it is the understanding of the gentleman from Washington—and I am asking a question as a parliamentary inquiry—that under the John L. Burton amendment, as it has been offered, the section on whether there should be entitlement or appropriation would be open for amendment if the John L. Burton amendment is adopted?

The CHAIRMAN. The chair will state that the John L. Burton amendment, as drafted, leaves one section of the Horton substitute unamended.

Mr. ADAMS. Is that the section that I am referring to that is open for amendment?

The CHAIRMAN. The Chair will state that the Chair finds that to be an interpretive kind of question.

It is section 6 .

Mr. ADAMS. Section 6 is open?

The CHAIRMAN. That is correct.

Mr. ADAMS. I thank the Chairman.

Mr. Chairman, I have a further parliamentary inquiry.

The CHAIRMAN. The gentleman will state his further parliamentary inquiry.

Mr. ADAMS. Mr. Chairman, my parliamentary inquiry is this, it is my understanding under the Fountain amendment which has been offered, that it closes section 6, so that an amendment to section 6 would not be in order to the Fountain amendment since it is already in the third degree.

The CHAIRMAN. The Chair will state that the Fountain amendment strikes out all after section 2 of the Brooks amendment and inserts a new text.

Mr. ADAMS. I thank the Chairman.

Mr. JOHN L. BURTON. So that for those Members who are interested in seeing entitlement go up to 5¾ years, they will have to vote for my amendment or they will not get a chance.

Mr. Chairman, I would renew my unanimous consent request. I have discussed it with the gentleman from Georgia (Mr. LEVITAS) that we allow the renumbering of the sections.

The CHAIRMAN. Will the gentleman from California restate his unanimous consent, please

Mr. JOHN L. BURTON. Mr. Chairman, I ask unanimous consent that the sections following section 5 of my amendment be redesignated accordingly.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. JOHN L. BURTON. I yield to the gentleman from Florida.

Mr. FASCELL. Mr. Chairman, I want to be sure to follow up on what the colloquy was, first on the parliamentary inquiry by the gentleman from New York (Mr. HORTON) and then subsequently by the gentleman from Washington (Mr. ADAMS) as to what the conditions are here and where we are in this parliamentary situation.

The fact is that the Fountain amendment, as the Chair has already stated——

The CHAIRMAN. The time of the gentleman has again expired.

(On request of Mr. FASCELL, and by unanimous consent, Mr. JOHN L. BURTON was allowed to proceed for 1 additional minute.)

Mr. FASCELL. Mr. Chairman, if I may continue, the Fountain amendment precludes any further amendments, regardless of their nature. Are we in agreement, that is the gentleman from California (Mr. JOHN L. BURTON) and myself, based on what the Chair has said?

Mr. JOHN L. BURTON. Yes, that is correct.

Mr. FASCELL. So that if the Fountain amendment is adopted, that forecloses any further consideration of amendments except amendments to the Horton substitute?

Mr. JOHN L. BURTON. Yes, that is correct.

Mr. FASCELL. If the committee wants any further action?

Mr. JOHN L. BURTON. That is correct. If we really want to reach an entitlement up to 5¾ years, they will not have a chance.

The CHAIRMAN. The Chair will state to the gentleman from Florida (Mr. FASCELL) that the Fountain amendment at this point is not subject to amendment. The gentleman from Florida and the gentleman from California are drawing their own conclusions on the affect of the Fountain amendment, if adopted.

PARLIAMENTARY INQUIRY

Mr. HORTON. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. HORTON. The question I would like to pose is with regard to the amendment that has just been offered to the Horton substitute by the gentleman from California (Mr. JOHN L. BURTON). As I understand it, the amendment is such that the Horton substitute would not be open for amendment except as it relates to that portion that contains the entitlement, section 6.

The CHAIRMAN. The Chair will advise the gentleman that in the event of the adoption of the amendment offered by the gentleman from California, the new text inserted by the amendment would not solely be subject to further amendment. The portion of the substitute offered by the gentleman from New York not amended by the gentleman's amendment would be subject to further amendment.

Mr. HORTON. I have not seen a copy of it, but I understand that leaves out section 6, so that would be open to amendment; is that correct?

The CHAIRMAN. The gentleman is correct.

PREFERENTIAL MOTION OFFERED BY MR. JACOBS

Mr. JACOBS. Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

> Mr. JACOBS moves that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken.

Mr. JACOBS. Mr. Chairman, during the debate in 1972 when this bill originally passed, I said it was a blank check for irresponsibility. Events have proved that statement to be correct: the national debt of more than a half trillion dollars, a military budget of more than a tenth of a trillion dollars, a current deficit of nearly a tenth of a trillion dollars. After everything is said that can be said, there is no Federal revenue to share.

Passing this $30 billion—or this $30 billion nonexistent—bill would be like a drunken bankrupt in a bar saying, "I can whip anybody in town, and drinks on the house for everybody are on me."

I will request when the time is appropriate a rollcall vote.

Mr. ADAMS. Mr. Chairman, will the gentleman yield?

Mr. JACOBS. I yield to the gentleman from Washington.

Mr. ADAMS. I thank the gentleman for yielding.

I have repeatedly stated, so that the Members understand, that I do not believe that this House, and later the other body and the President, should lock in $25 billion worth of spending in a mandatory fashion. The gentleman in the well is correct. This will have to be counted in the deficit, because we have to borrow this money.

What I am proposing as an amendment is a compromise position to arrive at what the gentleman is advocating. If it does not pass, I intend to oppose this bill. It is my position that at least in the next Congress the Committee on Appropriations and the Congress should determine whether or not they want to continue funding this program. If we arrive—and I hope we will—at a budget surplus situation during the next Congress, I might well support at that time appropriating money. If we are still in a deficit position, I think this Congress and the Committee on Appropriations and those who are fiscal conservatives should keep their options open to determine whether or not at that point they want to borrow more money to fund this program.

Mr. JACOBS. I thank the gentleman, whom I admire very much, for his contribution.

I might add, Mr. Chairman, that this motion will not pass, and the gentleman's amendment will not pass, for the simple reason that all across this land county commissioners and mayors and Governors have convinced themselves that there is a Santa Claus and that they can get something for nothing. Having convinced themselves of that, and captaining and majoring political machines throughout the country, they will bludgeon this House of Representatives into giving them money that does not exist, adding go the national debt, adding to the inflation, adding to the decline of the economy, and to the eventual decline of our own country.

Mr. ALEXANDER. Mr. Chairman, will the gentleman yield?

Mr. JACOBS. I yield to the gentleman from Arkansas.

Mr. ALEXANDER. I appreciate the gentleman's yielding.

At the conclusion of the debate in the Committee of the Whole, when the Committee goes back into the full House, I will include in the RECORD an editorial that was in last Sunday's New York Times and is entitled, "Power Follows the Treasury Dollars." Subtitle, "Federal Eyes on City's Budget." The article describes the actions of the Federal Government as it has become more and more involved in the activities of managing the affairs of New York City, where the Federal Government is now assuming a predominant role in managing the financial matters of that city, thereby reducing the local governemnt to a subagency of the Federal Government. This article should be read by every mayor in America who is concerned with preserving the prerogatives of local self-government.

The article referred to is as follows:

FEDERAL EYES ON CITY'S BUDGET—POWER FOLLOWS THE TREASURY DOLLARS

(By Martin Tolchin)

WASHINGTON.—New York City Hall was silent. The Senate Banking Committee and the Treasury Secretary had just laid down the law: No wage increases, reduce fringe benefits, examine rent control and take steps in other areas also considered the city's own business. Yet there were no protestations or anguished cries condemning Federal intervention in the city's internal affairs.

"City Hall is not unhappy," said Robert E. Weintraub, an economist who served as an aide to the Senate Banking Committee, where he helped develop the loan program, then moved to the Treasury Department where he helped administer the program as Director of Capital Markets Policy. He now serves as Staff Director of a House banking subcommittee. "They've got a terrible labor problem. They've got to exert pressure on the unions somehow. They can say, 'Look, we have no choice, we'll lose our Federal loans.' "

The Federal Government is not the only source of such pressure. On Friday the staff of the state-dominated Emergency Financial Control Board made this apparent by rejecting Mayor Beame's three-year austerity budget and calling for additional cuts. But it is the Federal Government's demands to which both state and city are responding.

In the darkest hours of New York City's fiscal crisis, when the city appeared unable to meet its payroll or pay its bondholders and there was no relief in sight, President Ford and Congressional conservatives repeatedly warned that the Federal funds urgently sought by the city would inevitably lead to Federal intrusion into the city's affairs.

"If Mayor Beame doesn't want Governor Carey to run his city, does he want the President of the United States to be acting Mayor of New York City?" President Ford asked newsmen last October. "I see a serious threat to the legal relationships among our Federal, state and local governments in any Congressional action which could lead to disrupting this traditional balance."

The President's words now seem to some to be almost prophetic. Conservatives and many liberals in Congress now believe that the city has made a Faustian bargain in which it gained $2.3 billion in loans, but is losing its soul.

"I think that the end of free tuition in the City University was dictated by Treasury Secretary [William E.] Simon," said Representative Herman Badillo, Bronx Democrat, who believes that the city would be better off in bankruptcy. "Simon is running the city. The problem with capitulating to the Feds is that they're never going to stop. The next goal is elimination of rent control, then the hospital system, then cutting back on the pensions."

The Federal presence is substantial and required. Secretary Simon is authorized by law to determine each month whether new loans should be made. His decision must be based upon the likelihood of repayment, and the city's adherence to its financial plan. The Senate Banking Committee has oversight jurisdiction, and Senator William Proxmire, Wisconsin Democrat and committee chairman who championed the loan legislation, assured his colleagues that he would keep close tabs on the New York situation.

A Treasury Department staff of five—Senator Proxmire is trying to get it enlarged—monitors the city's fiscal affairs closely. The staff reports to Robert A. Gerard, assistant Secretary of the Treasury, who is in almost daily contact with city fiscal officials.

The Senate-Treasury action began the weekend before New York City entered into negotiations with its transit workers. The Senate Banking Committee urged Mr. Simon to "seriously consider" ending the seasonal loans if New York City failed to maintain its three-year wage freeze. The committee also decried rent control as harmful to the city's economy and advised the city and state to confront the rent control "problem" squarely, and, "if necessary take the actions needed to phase out rent control."

In addition, Senator Proxmire urged Secretary Simon to demand substantial reductions in the fringe benefits of city employees—a position the city has now taken in negotiations—as a condition for continuing the Federal loans. Mr. Proxmire, asked if he was intervening in the city's internal affairs, or seeking to have Mr. Simon intervene, replied, "I realize that they (the Treasury Department) shouldn't try to run the city, but they have to help the city resist pressures."

Two days later, Secretary Simon said that he would indeed heed the committee's advice and end the Federal loan program if the city granted any wage increases, including cost of living raises. He had previously urged the city to end rent control, re-examine its hospial system, and free tuition and reduce fringe benefits.

The combined Senate-Treasury one-two punch evoked protests from the municipal labor leaders, who prevailed upon George Meany, President of the A.F.L.–C.I.O., to characterize the Senate Committee report as "an unacceptable attempt at Federal interference in the right of contract."

Mr. Meany said that the report "abuses the committee's legitimate oversight role and turns it into a horsewhip, which Secretary Simon will certainly use on city employees."

City officials were sanguine, however. Deputy Mayor Kenneth S. Axelson called the timing of the Senate report, issued on the eve of the transit negotiations, "a purely fortuitous coincidence."

Meanwhile, the city is expected to have repaid all its Federal loans by June 30, as required by law. There is little doubt that the loans will be continued, despite reports that the city remains acutely fiscally ill. Few expect the Ford Administration to precipitate a fiscal crisis on the eve of a Presidential election.

"The most important thing now is for the city to put the [new] loan requests in, along with some hard data on cash flows, and some progress on labor settlements," Mr. Geard said.

Now a great many people may agree that New York City needs better management, but that is not the point. The point is that more and more each year the long arm of the Federal Government is extending further and further and deeper and deeper into the decisionmaking process of local government. This increasing tendency is contrary to the fundamental concept of federalism. It is a dangerous trend which increases the probability of more power being concentrated in the central government.

I appreciate the gentleman's admonition and I appreciate his yielding to me at this point in the record.

Mr. JACOBS. I thank the gentleman. I might add that nothing is so sad a joke as a joke that people play on themselves. If anybody thinks that manna is going to drop from heaven or that alchemy is going to create this marvelous thing called revenue sharing and provide funding for it, then that person is a grown-up who still believes in Santa Claus.

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. JACOBS. I yield to the gentleman from Georgia.

Mr. LEVITAS. Mr. Chairman, I do not understand how the gentleman is able to single out the revenue-sharing program as the one case which is creating the deficit when there are hundreds of bills which have been passed by this Congress which have created the deficit.

This revenue-sharing program is one that recognizes the necessity for the viability of our cities and States and localities. This is one program that lets the local officials make their decisions and thus it is far from extending the long arm of the Federal Government. Indeed, the whole thrust of revenue sharing is that Federal mandate and Federal interference is removed and those elected officials closest to the people and accountable to them, will make the decisions.

The CHAIRMAN. The time of the gentleman from Indiana has expired.

Mr. LEVITAS. Mr. Chairman, I rise in opposition to the preferential motion.

I think that what we are talking about here is a national priority: aid to our cities, counties, and States which lets local elected officials make decisions and reduce Federal control. This is not the program that has created the national debt. This is not the program that has added the $75 billion of deficit spending this year and will add another $50 billion next year. Indeed this has been one of the most cost-effective programs that we have in the Government.

The gentleman from Indiana says that the cities and counties have become hooked on this money. He thinks we ought to take a close look at what has happened. But the local governments of America are not more hooked on revenue sharing than the local residents are hooked on police services and fire services and sanitation services and the other vital local government services they need. They can stand withdrawal of those services in the same way the citizens would stand for us increasing taxes and lessening the local government services that are required, so perhaps that is what he means by being hooked.

What Congress has done in creating this program is to recognize that the cities and counties and States of this Nation have needs and that, without assistance from the Federal Government in the form of revenue sharing, the property taxes are going to go up in every county and city across America.

Regrettably the Federal Government is going to continue to run up these huge deficits whether or not this program comes in, because if we do not pass this legislation somebody is going to conceive, you sure can bet on it, of another categorical program which is wasteful and which will tie the hands of every local government across America.

For that reason I think we should support the general revenue sharing because it loosens the bonds of the Federal Government and gives the local officials the opportunity to make decisions on behalf of their people.

Mr. JACOBS. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from Indiana.

Mr. JACOBS. Mr. Chairman, in responding to the gentleman, before applying my view, this is identifiable not as revenue sharing, I would answer simply that the term itself is "revenue sharing" which implies very strongly that there is revenue coming into the Federal Government, revenue which is there to share with local governments. I might point out that I believe the interest on the $30 billion that has been sent to the local governments to date is something like $5.5 billion.

Mr. LEVITAS. I understand the gentleman's point but also I would like to indicate the name of this legislation is not "revenue sharing" but is the "State and Local Fiscal Assistance Act" and that is precisely what it is. It is a recognition that the Federal Government has fiscally preempted the State and local governments through the income tax and this is the only means through which we have any way to return to the local officials some of the money collected from their citizens to permit the local officials to spend that money for the local citizens

Mr. ENGLISH. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from Oklahoma.

Mr. ENGLISH. Mr. Chairman, I would like to point out to the gentleman from Georgia, as we did throughout the subcommittee and I think in the full committee, the fact of the matter is the reason we moved to this language, if the gentleman remembers in the 1972 act, when this measure was passed, the language in the original bill was something to the effect that this program would be funded from the surplus in the Federal budget.

Then all of a sudden we are moving from a program that has been at the bottom as far as priority, which is the surplus program, and all of a sudden moving up to the top. We are bringing in another program for which the Congress will not have any authority or cannot make any effort to remove the Federal charge. It seems to me that the very principle that we are dealing with, we should be going the other direction. We should have more programs over which we have control. We should have more programs that we have an opportunity to deal with and not fewer. It seems to me this is the wrong direction to go.

Mr. LEVITAS. Mr. Chairman, I disagree with the gentleman. We have complete control over the program. We are limiting it to 3¾ years. We can abolish it at any time that the Congress has the guts to do it.

Mr. WYDLER. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from New York.

Mr. WYDLER. Mr. Chairman, I agree with the gentleman's statement.

I ask that the preferential motion be defeated. This is a clear vote for the revenue sharing program and those against it can put themselves on record. What the argument comes down to is what priority we give the revenue sharing program, as opposed to all the categorical aid programs for which we also partially borrow the money and give to the States? The money for this program is no more borrowed money than the money we borrow for the categorical programs. To the same extent we borrow a percentage of the Federal spending program for the year, probably about 20 percent of the budget we are spending is borrowed money for every Federal aid program that we have and it is no different in this program than in any other.

The CHAIRMAN. The question is on the preferential motion offered by the gentleman from Indiana (Mr. JACOBS).

Mr. JACOBS. Mr. Chairman, I demand a recorded vote, and, pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee of the Whole appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

The pending business is the demand of the gentleman from Indiana (Mr. JACOBS) for a recorded vote.

A recorded vote was refused.

So the preferential motion was rejected.

Mr. ERLENBORN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Fountain amendment. Mr. Chairman, if the Fountain amendment were adopted, we would have before the House in perfected form the bill as reported by the subcommittee, with several unanimously adopted amendments from the full committee that are improving and perfecting amendments.

Most importantly, we would eliminate three or four very damaging amendments that were adopted in the full Committee on Government Operations. One that I addressed myself to yesterday in general debate was the amendment that the full committee adopted relative to the application of the Davis-Bacon Act. The full committee amendment would remove the 25 percent provision now in the law.

In the law as it is today, if 25 percent or more of the cost of a local construction project comes from revenue sharing funds, then the Davis-Bacon Act applies. With the application of the Davis-Bacon Act comes the necessity of complying with prevailing wages in the area. One of the problems with application of the Davis-Bacon Act is that the area encompasses vast central cities where union wages are paid, and rural areas where, traditionally, union wages are not paid.

If Bacon-Davis applies, those rural areas are required to pay union wages, in effect. So that I believe if the Fountain amendment is adopted and we eliminate that amendment of the full committee and continue to have the 25-percent provision, equity would be done.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I yield to the gentleman from Ohio.

Mr. ASHBROOK. I thank the gentleman for yielding.

Mr. Chairman, I certainly commend the gentleman for bringing this to the attention of the House. It is what one might call one of those sleepers in the bill, which could balloon up expenses. As pointed out, it would bring up the expenses involved here.

Mr. ERLENBORN. I thank the gentleman for his contribution.

Mr. Chairman, the other amendment I addressed myself to yesterday was the Civil Rights amendment in the subcommittee bill. I think it is a carefully drawn Civil Rights provision which strengthens the Civil Rights provision of the law. Yet the full committee adopted, after little discussion, the amendment offered by the gentlewoman from Texas. The gentlewoman from Texas pointed out several provisions which she said were merely technical. One of those provisions, I think, is much more than technical.

The subcommittee version says that in suspension of revenue sharing funds, upon action by the Attorney General, that the Attorney General must first allege that there is a pattern or practice of discrimination. Second, that the conduct alleged violates the provisions of this section.

The amendment offered by the gentlewoman from Texas strikes the words "conduct alleged violates the provision of this section." So that the language will now read, if the full committee version is adopted instead of the Fountain amendment, that whenever the Attorney General files a civil action alleging a pattern or practice of discriminatory conduct on the basis of race, color, religion, sex, national origin, age or handicap status, in any program or activity of a State government or unit of local government—note that "any program or activity of a State government or unit of local government"; it is not limited to those supported by revenue sharing funds—"State government or unit of local government which government or unit receives funds made available under subtitle A or D"—in other words, this is a unit of government which gets any revenue sharing funds—and then it goes on to provide that the revenue sharing funds may be cut off.

The original version, at it came out of the subcommittee, had the additional requirement that there be an allegation that this section was violated. This is now removed. This becomes a free-standing provision, no longer tied to the rest of the section, no longer with the other safeguards that have been carefully drawn. No longer is it necessary to allege that this section was violated or any provision of revenue sharing has been violated. This is now a free-standing Civil Rights enforcement provision. I do not think that was the intention of the gentlewoman from Texas. It was certainly not her avowed intention, when I called this section to her attention as a substantive rather than merely a technical change, and I think she was ready to agree with me and reinstate the language that had been in the subcommittee version.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. ERLENBORN was allowed to proceed for 5 additional minutes.)

Mr. JOHN L. BURTON. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I yield to the gentleman from California.

Mr. JOHN L. BURTON. Mr. Chairman, I appreciate the comments the gentleman made on Civil Rights.

Mr. ERLENBORN. I am not finished yet.

Mr. JOHN L. BURTON. Without getting into the merits of how the gentleman feels about it, the language in my amendment to the substitute amendment offered by the gentleman from New York that clarifies that discrimination for cutting off revenue sharing funds is only for activity in revenue sharing at least addressees itself to the thrust of the gentleman's stated position on Civil Rights.

Mr. ERLENBORN. I thank the gentleman for his contribution. I hope his observation is correct. Not having had an opportunity to read the amendment, I do not know whether or not it does remedy the problem that easily.

Mr. Chairman, again I address myself to the Civil Rights section. Present law provides for remedies to prohibit discrimination, but they are all within government. There is no right of private action.

The subcommittee saw fit—and I think rightfully so—to provide for a right for private civil actions. Again the comprehensive amendment in the nature of a substitute for the civil rights section which was adopted by the committee upon the motion of the gentlewoman from Texas (Miss JORDAN) drastically changes this section.

Let me read from page 34, the first section under "Private Civil Actions," entitled "Standing." It says here that the "person aggrieved" may institute a civil action.

If we look at the language on page 45 of the printed bill which incorporates the amendment offered by the gentlewoman from Texas (Miss JORDAN), we find that section has been stricken. As a matter of fact, there is nothing in the language any longer that specifically says anyone has a right to private civil action. I do not understand why that specific language creating the right to private action has been taken out. I fear that the substitute offered by the gentlewoman had been drafted in haste and that no sufficient attention was given to it, because no longer is there any language saying that anyone has a right to private civil action.

The only place where it appears is in the title. It says, "SEC. 125. PRIVATE CIVIL ACTIONS."

One can either conclude that there is no longer a right to private civil action, in which case the amendment itself as offered by the gentlewoman from Texas (Miss JORDAN) is self-defeating, or one can conclude that there is a right to private civil action but it is no longer limited to being brought by the one aggrieved, because the language, "aggrieved person," has been removed.

Mr. Chairman, I think either interpretation would be intolerable. If we want to have a right to private civil action, it should be limited to being brought by those who are aggrieved. We should not be inviting someone from Massachusetts to go to Los Angeles to start a suit, because in the next section we provide that if he prevails, he may get attorney fees and court costs.

The Jordan amendment seems to be saying that one does not have to be an aggrieved person to start a suit. Some persons could wander about the country looking for places where they could start suits alleging civil rights discrimination. No longer having to be aggrieved persons, they probably would not even have to be residents of that jurisdiction, so it would just be a "happy hunting ground." If a litigant was successful, he could collect attorney fees and court costs.

Mr. Chairman, I think that this would be a very bad interpretation.

In summation, Mr. Chairman, I believe the subcommittee of the Committee on Government Operations did a good job. I think that the work they have done has been described rightfully as a compromise. I think that the several amendments incorporated in the Fountain amendment, which was unanimously adopted in the full committee, improved the work of the subcommittee, and under the parliamentary situation we are faced with, our best course would be the adoption of the Fountain amendment to the Brooks substitute and then the adoption of the Brooks substitute.

Mr. Chairman, I think then real equity would be done, because then we could adopt the bill and say that the gentleman from Texas (Mr. BROOKS) is the "new father of the revenue-sharing program."

Mr. HEINZ. Mr. Chairman, I strongly support the extension of Federal revenue sharing, but I rise in opposition to the Fascell formula included in H.R. 13367, the general revenue-sharing legislation we are debating here today.

Let me say briefly that I applaud efforts to correct any genuine inequities in the present law.

I fail to see, however, how legislation that would take funds away from 36,000 of the Nation's 39,000 local governments would accomplish this.

And, I fail to see how the Federal Government, through a mere formula, can be better qualified than the States themselves in determining where the greater State and local needs may be.

What we would be doing, Mr. Chairman, if we were to implement the so-called Fascell formula, would be to bring fiscal havoc to thousands of our Nation's communities that have come to depend heavily on revenue-sharing funds.

I am particularly upset, Mr. Chairman, at the treatment the State of Pennsylvania receives under the formula in the committee bill. The Nation's third most populous State—a major mining, urban, and agricultural State—actually would lose $2.5 million a year under the Fascell formula contained in H.R. 13367. And that means that regardless of which municipality might gain a few dollars, Pennsylvanians as a whole would lose and be the poorer.

Unfortunately, Mr. Chairman, these figures are all too typical of the treatment Pennsylvania has received recently in terms of Federal funding.

Pennsylvanians receive only 61 cents back on their Federal tax dollar. Only nine other States receive less.

Pennsylvania ranks 35th in receiving funds for public assistance, educational grants, and revenue sharing.

I believe it is grossly unfair to ask Pennsylvanians to support—with their hard-earned tax dollars—a Federal revenue-sharing program that will take money away from most of them and deliver it to other States.

I would urge that the formula in the existing law be kept intact and that the Fascell formula be removed from the bill.

Mr. BROOKS. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the Fountain amendment.

Mr. Chairman, in answer to the suggestion of my friend, the gentleman from Illinois (Mr. ERLENBORN), that I may become known as the "father of revenue sharing," I think the fatherhood of that particular program will be somewhat in doubt for a long time.

I want to say that the amendment offered by the gentleman from North Carolina (Mr. FOUNTAIN) does not contain many of the important features of the full committee bill, such as a strong civil rights position. Most importantly, it would deny Members of the House the right to vote on returning the program to the congressional appropriations process.

The enactment of the Fountain amendment would mean that the next two Congresses will have nothing whatsoever to say during that time about the disbursal of almost $25 billion from the U.S. Treasury. Not only that, but this would be money coming off the top, and this would be given priority over all other Federal programs, such as spending for national defense, for education, for health, and for employment programs. Even the routine operations of the legislative, executive, and judicial branches of our Federal Government would have to be adjusted to meet budget conditions, but not the revenue sharing program.

States and cities would be entitled to that no matter what other pressing needs Congress had to meet.

Mr. Chairman, Congress is making a valiant effort at this point to get some sort of control on this Federal budget; and if the change deserves our complete support, Congress must reserve the right to look at its own budget and decide periodically, in the national interest, how the money it has raised by the taxes it has imposed should be spent.

Mr. Chairman, I intend to support an amendment later that will solve the entitlement appropriations problem in an equitable way. However, if the Fountain amendment is adopted, I, along with all other Members of this House, will be denied that opportunity.

Therefore, Mr. Chairman, I would oppose the Fountain amendment and ask my colleagues to do likewise.

Mr. WYDLER. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the Fountain amendment.

Mr. Chairman, obviously, I have stated my full support for the Fountain amendment. I think this is the proper way for this committee and House to go in extending the revenue-sharing program in a reasonable manner. It will allow local governments to continue to enjoy the benefits of the program without creating new restrictions on the program, unbearable restrictions, in many cases, and without creating a tremendous new bureaucracy to run the program here in Washington and requiring a tremendous new bureaucracy back in the local governments to fill out all the report forms and to comply with all the other requirements that we are imposing on them in the full committee bill.

Mr. Chairman, the Fountain amendment has the genius of taking the subcommittee bill and adding to it the best of the full committee amendments, not the Fascell formula amendment, which is destructive to most of the congressional districts in our country.

Mr. Chairman, let me make it clear to the Members who think they are going to be foreclosed by the Fountain amendment from offering their amendments and not be foreclosed by the Burton amendment, that the passage of either of these two amendments, will foreclose all other amendments to the bill, except that the only difference in the two amendments foreclosing other amendments is that the Burton amendment would allow one other amendment, which would be an amendment to reduce the entitlement period to 1¾ years. The only reason the Members have to vote for the Burton amendment is to try to reduce the entitlement period from 3¾ years to 1¾ years.

Mr. Chairman, if some Members are in favor of doing that, that is a good reason to vote for the Burton amendment; but if they are opposed to that, that is an excellent reason to vote against the Burton amendment.

Mr. Chairman, I state to all of the Members who are for the 3¾-year entitlement, that it is supported by the National League of Cities, and they have just notified me that they oppose the Burton amendment. Also, I have just been notified by Governor Carey of the State of New York that he opposes the Burton amendment and supports the Fountain amendment.

For that reason, Mr. Chairman, if we do not want to reduce the entitlement period we have to vote for the Fountain amendment and against the Burton amendment.

Mr. Chairman, the other thing I want to make eminently clear here is what we are talking about with respect to what we will be able to do in the next Congress and that the next Congress will not have any say in this program. Nothing could be further from the truth. Whether we are making it 1¾ years or 3¾ years, the next Congress has a right to act on this program in any fashion they want to. They can change the entitlement program, if they so decide. They are not foreclosed from taking action on revenue sharing. We should put in the 3¾ years for the local governments. That is important. It gives local governments some stability in understanding and knowing that they will be geting these funds on a regular basis. That is important to them, and it is important to us as well.

Therefore, Mr. Chairman, I urge the Members to vote for the Fountain amendment and vote down the Burton amendment. I think in that fashion we can conclude the consideration of this bill very quickly and end up with a good piece of legislation to take to conference with the Senate.

Mr. JOHN L. BURTON. Mr. Chairman, will the gentleman yield?

Mr. WYDLER. I yield to the gentleman from California.

Mr. JOHN L. BURTON. Mr. Chairman, I thank the gentleman from New York for yielding to me. May I say to the gentleman from New York that Governor Carey must be pretty wise because he has not had a chance to read my amendment.

But, as I understand it, that those of us—in fact, I believe the gentleman from New York is one of us who would like to see the entitlement up to 5¾—who would like to raise the entitlement, could raise the entitlement if my amendment is adopted. Is that correct?

Mr. WYDLER. That would be a possibility, yes. There could also be the possibility that it could be used for a motion to recommit. That is a possibility.

The CHAIRMAN. The time of the gentleman has expired.

Miss JORDAN. Mr. Chairman, I move to strike the requisite number of words and I rise in opposition to the Fountain amendment.

Mr. Chairman, we have heard much discussion about the so-called Jordan amendment, the antidiscrimination provision of the substitute and of the full committee bill. There is nothing really new or different or startling about the antidiscrimination provision of either the full committee bill or the subcommittee bill. Just take one for-instance: The Members heard the gentleman from Illinois (Mr. ERLENBORN) say that one problem with the antidiscrimination provision of the full committee bill was that it would allow a cutoff of all Federal funds without limiting it to general revenue sharing funds only. That is a problem with the amendment, but what the gentleman from Illinois did not tell the Members is that when the gentlewoman from Texas sought to restore that language, which had been deleted, to make the amendment conform to the original intent by unanimous consent, it was the gentleman from Illinois who refused to allow the unanimous-consent request to prevail so that it could be corrected.

Mr. ERLENBORN. Mr. Chairman, would the gentlewoman yield?

Miss JORDAN. Certainly I yield to the gentleman from Illinois.

Mr. ERLENBORN. Mr. Chairman, I thank the gentlewoman for yielding for a correction. If the Members will check the record, they will find it was the gentleman from California (Mr. MOSS) who objected.

Mr. JOHN L. BURTON. If the gentlewoman from Texas will yield, that was not correct, no, no.

Miss JORDAN. If I may proceed and simply say that the record will speak for itself.

There is another problem which the gentleman from Illinois raised with the Members when he said turn to page 45, to section 125, Private Civil Actions and he said there is nothing that says anything about private civil actions until you look at the title of the section. If the Members would just take the time to read that first sentence, it says:

> In any action brought to enforce compliance with any provision of this Act. . . .

Implicit is that an aggrieved party must bring the action. If you are trying to enforce compliance with the act, then you must have some disagreement, some grievance with some provision of the act, otherwise you would not bring an action for compliance with the act.

Mr. ERLENBORN. Mr. Chairman, will the gentlewoman yield?

Miss JORDAN. I will yield to the gentleman from Illinois very, very briefly.

Mr. ERLENBORN. The language that was stricken provided specifically that an aggrieved person might bring the action. The gentlewoman struck the phrase "aggrieved person." Was that meaningless or did it really have the effect of changing what was in the original version that required it be an aggrieved person?

Miss JORDAN. My response to the gentleman from Illinois is that it does not mean that an aggrieved person is meaningless, it means that any reasonable person, perhaps a 5th or 6th grader, might read the section and make the determination that before one brought an action to enforce compliance, they must of necessity be aggrieved.

What other problem is there with the Fountain amendment? Yes, it does retain some of the good provisions of the original antidiscrimination provision of the full committee bill but one thing that it provides for, which, if allowed to remain, would make the antidiscrimination provision absolutely meaningless, and that is the requirement for an exhaustion of administrative remedies before an action could be brought under the nondiscrimination section.

Let me tell the Members, Mr. Chairman, we either believe that the law is the law and that Federal money ought not be used in a discriminatory fashion and so state that, or we make some provision in the law and render it impossible for any person to seek any relief under the antidiscrimination section. My view is that if exhaustion of administrative remedies is allowed to remain, we have in effect said that we want the antidiscrimination section of this bill to have no force or effect regardless of what we say.

What do I mean by that? How do we exhaust our administrative remedies? To how many people do we talk? How many hearings would one have to have in order to make sure that he has absolutely exhausted himself with regards to any remedies the Federal Government made available to him to bring a complaint under this law?

One may go to a State agency, a local agency, a local committee, under State grievance procedures, Federal grievance procedures, or regional grievance procedures. There are any number of proceedings which could be built into such a program.

The CHAIRMAN. The time of the gentlewoman has expired.

(By unanimous consent, Miss JORDAN was allowed to proceed for 2 additional minutes.)

Miss JORDAN. A final word, Mr. Chairman. Many of us have been concerned about the due process provisions under the antidiscrimination provision. If there is a section of the law anywhere where due process of the law is quadrupled, it is in this antidiscrimination section, even if one were to choose the unfortunate subcommittee stance:

A trial in Federal and State courts; provide a finding; a hearing before a Federal administrative agency; a finding; an attorney general may bring a suit; in 45 days the parties may seek some opportunity for preliminary relief before a judgment is made; more due process; an opportunity to make a documentary submission to the Secretary of the Treasury if a State or local entity feels that it has been wrongly accused of violating the antidiscriminatory section of the law; documentary submission; more due process; an opportunity for a quickie administrative hearing before an administrative law judge. One does not have to wait until one can get into Federal court. A quickie hearing; a determination; a decision; and then due process continues.

I would simply say to the Members that this is not a civil rights bill that is unusual or so totally different that we would be taking some action which is anathema to getting the money out of the Federal Treasury and into State and local governments. All we are trying to do is to say that Federal law means Federal law. If we say none of this money shall be used in any way that would discriminate in the various classifications of differences, that should mean that. We have built in a process whereby prohibitions of the use of Federal funds in a manner which would discriminate, could be enforced.

I urge rejection of the Fountain amendment.

The CHAIRMAN. The time of the gentlewoman has expired.

Mr. CRANE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I had intended to offer an amendment to the legislation now before us—an amendment that would not only have insured that local governments would have had more revenue-sharing money to spend, but also that the Federal Government would have had less control over how it was spent. This will be impossible if the Fountain amendment passes, but the content of that amendment is sufficiently sound that I rise in support of it. I need hardly remind my colleagues that back when we first passed revenue sharing in 1972 two of the basic premises arguing strongly in its favor were that: First, State and local governments were hard pressed financially; and, second, the people closest to the problems were in the best position to solve them.

But the Brooks substitute (H.R. 14213) contains a section that would expand the applicability of the Davis-Bacon Act from any project, 25 percent or more of which was financed out of revenue-sharing funds, to any project that was financed with any revenue-sharing funds, regardless of how small a percentage. The section also has been changed so as to prevent temporary employees of State or local governments working on a revenue-sharing financed construction project from being paid at anything less than the highest union scale prevailing in the surrounding area. Both of these provisions will not only drive up the cost of construction for State and local governments but would jeopardize the whole concept of local control over revenue sharing. As is pointed out in the minority views to the committee report, the key issue here is whether Congress should be "using revenue sharing as a vehicle for extending Federal regulations and controls over all facets of State and local government activities."

For that very reason, and because I do not believe that the Federal Government should be taking sides in labor-management relations, my amendment proposed that we not only eliminate expansion of Davis-Bacon from the bill but that we drop it altogether. If it is wrong to apply Davis-Bacon to all construction projects financed in any way by revenue sharing then it is wrong to apply Davis-Bacon to just the larger ones. Philosophically speaking, there is no magic to the 25-percent figure; a project 23-percent financed by revenue sharing is no different from one 26-percent financed through that mechanism.

Philosophy aside, the economics of the situation strongly suggest that it would be wise to disassociate Davis-Bacon from revenue sharing. Not long ago, Dr. Armand J. Thiebolt, Jr., of the prestigious Wharton School of Finance completed a study on the impact of Davis-Bacon in which he concluded that the annual cost of the act to the American taxpayer might well come to $1.5 billion. If anything, such a figure is conservative inasmuch as a 1971 GAO study indicated that Davis-Bacon drove up the cost of Federal construction—estimated at $40 billion a year—projects by 5 to 15 percent.

Examples of the adverse economic impact of Davis-Bacon abound. For example, the April 1975 issue of Reader's Digest gives two case histories that should give every advocate of applying Davis-Bacon to revenue sharing pause for reflection. In one instance, requiring certain Vermont roofers and electricians to be paid at the union scale in effect in Albany, N.Y., 125 miles away, added $42 million to the cost of Government-financed projects. And, in Pittsburgh, requiring union wage scale where 90 percent of all residential construction workers were nonunion added about $9,000 per unit to the cost of a 500-unit public housing project.

My good friend and colleague, TOM HAGEDORN, has cited some other examples. According to a GAO study, one 400 unit public housing project in Oklahoma City had its costs inflated by over $1 million ($1,026,000) thanks to Davis-Bacon while a 50-unit project in the same city wound up costing $208,000 more than it should have for the same reason. Similarly, Davis-Bacon provisions are estimated to have added $100,000 to the cost of a $1.1 million project in Hampton, Va.

With examples such as these, local governments, should have every reason to be concerned about Davis-Bacon and particularly any extension of it as contemplated in H.R. 14213. As my distinguished colleague, JOHN ERLENBORN, noted in his minority views to this bill "over 50 percent of the 39,000 recipients of revenue sharing funds receive less than $7,000." And he goes on to point out that "on an average $100,000 capital construction project by a local community, an increase in cost in excess of

7 percent would eliminate any financial benefit of the program."

Mr. Chairman, the Davis-Bacon Act was passed back in 1931 when conditions were far different than they are today. Even if one accepts the dubious proposition put forth at the time, that there was a need to protect labor union wage scales in the midst of a depression, certainly that argument has lost its validity. If anything the balance of power between labor and management has shifted in favor of the former and economic conditions have improved enormously. In fact, the biggest threats to economic prosperity today are inflation and increased government regulation—both of which would be promoted by the retention of Davis-Bacon provisions in this bill.

If State and local governments are still as hard pressed for funds as proponents suggest, we should be doing everything possible to see that they can get the most out of their revenue sharing dollars. While I have serious reservations about the constitutional propriety of severing the nexus of accountability between the tax gatherers and the tax spenders, it stand to reason that if we are going to continue the revenue sharing program we should do so in a manner that will permit maximum efficiency in the use of funds and a minimum of Federal control. As history has repeatedly shown, those closest to a problem are able to handle it best.

Mr. Chairman, may I finally remind my colleagues that, when this revenue sharing program was first adopted, the anticipation was that there would be, even if there was not at the time, surplus revenue to share. However, with budget deficits totalling over $120 billion in the last 2 years and more of the same predicted, there is obviously no surplus revenue to share. Therefore, the very least we should have done is delete from this bill language that adds to its cost while destracting from its effectiveness. Striking the Davis-Bacon provisions would do that, and would at the same time, get the Federal Government away from siding with a single special interest group that has proved perfectly capable of taking care of itself. Failing that opportunity at this juncture, the least we can do is to continue the existing guidelines embodied in the Fountain amendment and I urge its adoption.

Mr. WYDLER. Mr. Chairman, will the gentleman yield?

Mr. CRANE. I yield to the gentleman from New York.

Mr. WYDLER. Mr. Chairman, I wanted to bring to the attention of the committee a message I just received from the National Association of Counties in which they have informed us that they are opposed to the Burton amendment and support the Fountain amendment.

I thank the gentleman for yielding.

Mr. CRANE. I thank the gentleman.

Mr. ROSENTHAL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in opposition to the Fountain amendment and in support of the Burton substitute.

I want to speak very briefly to what has been bandied about as the so-called Rosenthal amendment. That amendment was adopted in the full committee and I offered the amendment on the theory that if the State and local and community governments were to be the recipients of $25 billion worth of Federal money, then there ought to be one condition precedent to their receiving those funds and that is that they make some modest, nonmandatory effort at moving into the 20th century. That they make some effort at modernizing their units of government.

One of the things revenue sharing has done through the years, and all studies have confirmed this, is that it has frozen into existence, almost into cement, the local governmental units that are unresponsive and inefficient.

It is not up to us in Washington to say what an appropriate form of government ought to be in the communities around the country. All the amendment did, that was adopted in the full committee, was to say that the States make an honest effort, each State legislature, each government make an honest effort at reviewing their own structures of government to ascertain whether or not something could be done to improve their forms of government.

Many people have suggested that one of the great critical problems facing our Nation is the antiquated and inefficient structure of State and local government. I think everyone here can agree there is room for improvement. The amendment merely urged the States to move forward and to report to the Secretary of the Treasury what steps they had taken. It was not mandatory. It is not absolute. It was not even a condition for their receiving the funds. It was an opportunity for the Secretary of the Treasury and the Congress before it refunded this program in the years ahead to make some ascertainment as to whether or not there had been a good faith effort in the communities around the country to be more responsive to the needs of their citizens.

Again I repeat there was nothing mandatory in it at all. However, those who were opposed to this, I think, used rather inflammatory language, they misstated the case, and they said things that were not so.

Now, in the Burton amendment, the gentleman from California has taken the principles of that amendment, the modernization amendment, and I think it is a useful amendment. It is nonmandatory. It merely says that among the things the States and local governments ought to do is to make an effort to modernize, to make an effort to bring a higher quality of government to their citizens.

I would urge all my colleagues to vote down the Fountain amendment that does not include this, and support the Burton amendment that does.

Mr. ADAMS. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the Fountain amendment.

Mr. Chairman, I hope that we will have an opportunity today to vote on limiting the entitlement part of this program; in other words, the back-door spending, the mandatory spending, to a period of no longer than 1¾ years. The Congress can then decide if they want to have the authorization for the fiscal year starting October 1, 1978, fully funded or whether the Committee on Appropriations and the full House will wish to limit it.

Mr. Chairman, there is a very definite reason for this. All year long, I have been fighting these back-door spending programs, despite the complaint of many people that I have not been diligent enough in fighting them. They say, "Why are you picking on revenue sharing?"

I am not picking on revenue sharing. Revenue sharing happens to be the biggest and worst of the back-door spending programs we have.

Therefore, all I am doing with the amendments that I will propose and which the gentleman from Massachusetts (Mr. BOLAND) will propose is to say we should bring this under control. We are running a deficit now. We are trying to project how to get a balanced budget, as we told this House, by the beginning of fiscal year 1978. If we look at the appendix in the back of the committee report on the first budget resolution this year, we see we are on target. We held the deficit to $75 billion last year. We are at $50 billion this year. I hope we will be at $25 billion the following year and balance the budget the next year. At that point, we would have a surplus available for revenue sharing. Revenue sharing would undoubtedly be funded. If we have not reached a balanced budget Congress ought to say maybe this is another way we can balance this budget.

Now, are we being niggardly with the States in terms of the total amount of money that we give to them? I refer to appendix G, of the report on the budget resolution for fiscal year 1977, which states that we are proposing this year to increase in grants-in-aid to the States from fiscal year 1975, when it was $49 billion, to fiscal year 1976, when it was $59 billion—or almost $60 billion—to this year when it is $70 billion.

Now, at some point the House is going to have to decide whether it wants to go with the grants-in-aid that we have or with revenue sharing.

I want to say this, and then I will be happy to yield to the chairman of the committee. This program was proposed in 1962 when we were looking at the potential of a budget surplus. Instead, we in this Congress cut taxes. If we had the same tax base this year that we had in 1962, we would have $86 billion more revenue. We cut those taxes, and State and local governments can raise their taxes and reclaim that money. So the argument that we have not attempted to meet this problem in giving money back at the local level just is not true.

Mr. Chairman, since passage of revenue sharing in 1972 we have not had reform in State and local taxes to pick up additional amounts of money. The antiquated tax systems in the State and local governments, because they have not been corrected since 1972, are not picking up the tax money needed. I have suggested a compromise, to assure revenue sharing money for 2 years under an entitlement so we can have State and local planning for 2 years in advance. Then during the next calendar year the Congress can decide if it wants to appropriate for 2 years in advance.

If we vote down the Fountain substitute, the gentleman from Massachusetts will offer an amendment to accomplish this result and will point out that the chairman and other members of the Appropriations Committee have said they will advance fund this program.

If I offer my amendment, it will provide for advance funding so that we can plan in advance. This will allow the next Congress to look at this in terms of the total budget that we have to face. If we pass the Fountain amendment, it will extend revenue sharing clear through the next Congress, which will never have a chance to pass on this program.

Mr. BROOKS. Mr. Chairman, will the gentleman yield?

Mr. ADAMS. I yield to the gentleman from Texas.

Mr. BROOKS. Mr. Chairman, let me first commend the distinguished chairman of the Budget Committee. Categorical grants, which the representatives of the cities and States and municipalities have said they do not like and they do not want, but what they want is direct aid in the form of revenue sharing, is interesting when we listen to the figures the gentleman from Washington just gave us.

There are $70 billion in categorical grants which the municipalities and States receive annually now. If they do not want those, we ought to just save that $70 billion, and then we could well afford to give them this $6.5 billion.

The CHAIRMAN. The time of the gentleman from Washington has expired.

(On request of Mr. BOLAND and by unanimous consent Mr. ADAMS was allowed to proceed for 5 additional minutes.)

Mr. BOLAND. Mr. Chairman, will the gentleman yield?

Mr. ADAMS. I yield to the gentleman from Massachusetts.

Mr. BOLAND. Mr. Chairman, I want to compliment the gentleman from Washington, the chairman of the Budget Committee, for his excellent statement. I know of no one who has given more time trying to achieve greater fiscal responsibility in the Congress than the gentleman in the well.

As he has so well stated, all he is trying to do here, really, is to shut off backdoor spending. This is nothing new to members of this committee or to the Members of the House of Representatives. For years and years, we have been trying to shut off backdoor spending, and I must say that we have met with considerable success. But in this program we are reverting to backdoor spending in the largest grant program in the history of this Nation. I refer to general revenue sharing.

Sure, all the mayors, the League of Cities, the Conference of Mayors, the National Association of Counties; all the governors are opposed to the amendment that the gentleman from Washington will offer if the Fountain amendment is adopted. They will also oppose the amendment that I will offer if the Fountain amendment is defeated. I will offer the amendment to the Brooks amendment, which has been presented as an amendment in the nature of a substitute.

I think we have to face reality here. I think the compromise that will be offered by myself or offered by the gentleman from Washington is simply one that this committee ought to accept on the basis of fiscal responsibility. We have just as great an obligation to the people of this Nation as the governors of States and the mayors of cities and selectmen and county commissioners have to their constituencies. We are dealing with Federal funds, and I think we have a responsibility to be sure that the programs we approve are beneficial to all the people.

We ought to get a look at them. We will never get a look at them if we continue to appropriate on the basis of entitlement. I hope the amendment which the gentleman from Washington will offer will be adopted, if the Fountain amendment is agreed to. My own judgment is that we ought to defeat the Fountain amendment and get back to the original amendment offered by the gentleman from Texas. I hope the Fountain amendment is rejected.

Mr. ADAMS. I join in the gentleman's statement.

Mr. HORTON. Mr. Chairman, will the gentleman yield?

Mr. ADAMS. I yield to the gentleman from New York.

Mr. HORTON. Mr. Chairman, I appreciate the gentleman yielding to me.

The thing I just want to say to the gentleman is that I do not understand his deep concern about this, because the procedure of entitlement is established in the budget reform bill which we adopted in this Congress, and the amount of the revenue sharing is presented to the Budget Committee which the gentleman shares with great distinction, with great knowledge. I have a great deal of respect for his leadership of that Budget Committee.

That figure is submitted, and was submitted to the Budget Committee. According to the entitlement procedure which, as I say, has been adopted by this Congress, we have knowledge of what is involved, so I do not understand the gentleman's great concern about the amount that is involved here. When the House votes on it, we know we are dealing with $6.65 billion for the next 3¾ years.

Mr. ADAMS. I would state to the gentleman that the problem, simply stated, is this: That in this year's budget, if we go at $413 billion, because of these programs—this is one, and the gentleman has heard me cite others on the floor—we will already have locked in and spent $283 billion.

If we ever want to control the Federal budget of the United States, we are going to have to reduce these mandatory programs and put them under the control of the authorizing committees and the appropriating committees on a regularized basis.

That is what I am asking. I have not tried to wipe out this program for next year or even the following year. I am simply saying that it is a matter of fiscal control. We should not extend it through the next Congress.

I do not blame governors, mayors, county commissioners, and the rest of them. My goodness, if I were a county commissioner and had somebody raise the tax money for the program and send it down to me and have me spend it and have me take credit for doing great things, I would not be critical about it. It is like the farmer putting hay in front of the cow and not getting milk out of the back. I think we have to look at it in the same manner that we are putting the hay in the basket and we are not getting the milk out of the cow. We are rather foolish to do this and not control it from time to time.

The CHAIRMAN. The time of the gentleman from Washington has expired.

(On request of Mr. HORTON, and by unanimous consent, Mr. ADAMS was allowed to proceed for 1 additional minute.)

Mr. HORTON. Mr. Chairman, will the gentleman yield further?

Mr. ADAMS. I yield to the gentleman from New York.

Mr. HORTON. I understand the gentleman's concern about keeping the budget in balance. I share that concern with him very much, as I watch these categorical aid programs move up year after year.

It is true that we are giving a commitment to the Federal Treasury to a certain amount. But that commitment is going to hold steady. Does the gentleman think that any of the programs are going to cost less next year? Does he not think next year that they will increase in amount? Is not that the part that is really uncontrolled? I ask the gentleman that in all honesty. Give me a grant-in-aid program that is costing us less next year than it is costing this year.

Mr. ADAMS. If we pass revenue sharing, we are going to have the community development program either held or reduced. I think in the area of transportation grant-in-aid we are going to have pressure on them.

Mr. HORTON. The gentleman is speaking from his own hopes, not what the Congress will do.

The CHAIRMAN. The time of the gentleman from Washington has again expired.

(On request of Mr. FOUNTAIN, and by unanimous consent, Mr. ADAMS was allowed to proceed for 1 additional minute.)

Mr. FOUNTAIN. Mr. Chairman, will the gentleman yield?

Mr. ADAMS. I yield to the gentleman from North Carolina.

Mr. FOUNTAIN. I thank the gentleman for yielding.

Mr. Chairman, I would like to ask the gentleman a question. I know of the great work the gentleman is doing on his committee.

It is a fact that the Budget Control

Act permits the use of the entitlement mechanism to funding in revenue sharing?

Mr. ADAMS. That is correct.

Mr. FOUNTAIN. The President asked for extension of revenue sharing for 5¾ years, with an annual addition of $150 million a year?

Mr. ADAMS. That is correct.

Mr. FOUNTAIN. The subcommittee took into account the existing economic conditions and problems to which the gentleman referred, and the subcommittee—and the full committee endorsed it—reduced it to 3¾ years.

So I think we have moved in that direction, the direction in which the gentleman is speaking, and I think to go any further than that would be detrimental to the program, particularly for the big cities.

Mr. ADAMS. I thank the gentleman.

I do compliment the subcommittee for making some movement in that direction. The problem is that the 3¾ years would move this program clear through the next Congress, and whoever is elected would never have the chance to pass on it.

The CHAIRMAN. The time of the gentleman from Washington has again expired.

(On request of Mr. BOLAND, and by unanimous consent, Mr. ADAMS was allowed to proceed for 2 additional minutes.)

Mr. BOLAND. Mr. Chairman, will the gentleman yield?

Mr. ADAMS. I yield to the gentleman from Massachusetts.

Mr. BOLAND. I thank the gentleman for yielding.

Mr. Chairman, I take the time only to respond to the gentleman from New York and to the gentleman from North Carolina, with reference to the original legislation which provides, in effect, for entitlement by providing an appropriation in the authorizing legislation itself.

I do not think that we ought to continue that particular sin. We never should have done it in the legislation in the original bill. It should not have been in there, when we adopted it 4 years ago, and it should not be in there now. And, as a matter of fact, in many of the programs with which Members here are familiar, we have had backdoor financing for years. That has been turned around because we recognized the mistake and passed a new budget procedure which takes away backdoor financing. We ought to trust the Congress to do the right thing with revenue sharing. The argument that it was in the basic legisation really is not the issue. The point is we ought not to make the same mistake twice.

Mr. ADAMS. The gentleman is correct. We had a similar argument when the housing bill came up, because then we did the same thing we are doing here when we say, "Put these programs under control," because every spring we are going to have to sit down with the budget itself and go down through the items and decide on how much to budget. Then we have to put a ceiling in on that basis.

Any time we lock in spending for any one of these programs by an entitlement, we put pressure on the remaining programs that come before the Committee on Appropriations and come before this House. I would just remind the Members that the more we lock in, the more some Member's pet project is going to have pressure put on it, because the money has to be appropriated.

Mr. Chairman, I hope the Fountain amendment will be defeated, because then we will have an opportunity, either the gentleman from Massachusetts (Mr. BOLAND) or myself, to offer an amendment to put in this 1¾-year entitlement and then provide the 2 years of appropriations. That funds the program for the whole period, and it puts it into the proper process.

Ms. ABZUG. Mr. Chairman, will the gentleman yield?

Mr. ADAMS. I yield to the gentlewoman from New York.

Ms. ABZUG. Mr. Chairman, for the clarity of some Members who are still, I believe, laboring under some confusion, I would like to ask the gentleman: Should the Fountain amendment be supported——

Mr. ADAMS. I think the Burton amendment should be supported.

Ms. ABZUG. I do, too. I had reference to the Fountain amendment.

The CHAIRMAN. The time of the gentleman from Washington (Mr. ADAMS) has again expired.

(On request of Ms. ABZUG and by unanimous consent, Mr. ADAMS was allowed to proceed for 1 additional minute.)

Ms. ABZUG. Mr. Chairman, if the gentleman will yield further, some Members have some differences concerning this, and I just want to get one thing clear.

Should the Fountain amendment be supported, would the gentleman then proceed to attempt to amend section 6?

Mr. ADAMS. I would offer an amendment to the Burton amendment.

Ms. ABZUG. No, I have reference to the Fountain amendment.

Mr. ADAMS. Perhaps the Burton amendment could be amended at that point.

Ms. ABZUG. No. I mean if the Fountain amendment is adopted, would the gentleman then offer an amendment to section 6?

Mr. ADAMS. I could not. I would offer a different type of amendment.

Ms. ABZUG. I appreciate that, but the gentleman could offer a different type of amendment to accomplish the same effect?

Mr. ADAMS. I believe I could.

Ms. ABZUG. So that in any case the gentleman would offer an amendment with respect to entitlement regardless of which particular substitute is now acted upon?

Mr. ADAMS. That is my intention.

Ms. ABZUG. Mr. Chairman, I thank the gentleman.

Mr. THONE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, because of the complexities of the parliamentary situation, I will probably be foreclosed from offering needed amendments, so I present then now for the record about with other observations of mine on this legislation.

Mr. Chairman, I rise to support the concept of continuing to prohibit the use of general revenue sharing funds for matching purposes. Should the section entitled "Elimination of Prohibition on Use of Funds for Matching" be left in the act, it will make an absolute mockery of every law of this land which requires the requesting governmental unit to contribute funds from local sources in order to receive Federal funds. My beliefs are based on three premises.

First. Philosophically, I am opposed to allowing deficit Federal funds intended for local government utilization to be used to obtain further Federal moneys. It simply does not make fiscal or logical sense. If this Congress, in its wisdom, feels local governments should have more fiscal help, then it is our responsibility to give it to them directly. One of the purposes of the new Budget Act was to get away from back door spending. Yet we would now tell local governments we have this neat, new recipe. "You take $2 Federal money from Fund A—add $8 Federal money from Fund B, and you now have $10 State or local money." Let's just say, "Here is $10 Federal money for local purposes," straight out. No funny business. Then we know—and they know. On the other hand, if we feel some type of State and local matching effort will make a sounder program, let's make it a bona fide effort and not some shell game to put Federal dollars with Federal dollars.

Second. The proponents of elimination of this prohibition have argued loudly about fungibility; that is, since money, once in the State or local treasury, is money, it makes no difference where it comes from. "This is simply a clarification," they say, because even good auditors cannot be sure "where the funds came from." So, the line goes, "since funds are fungible, let us make them eligible to do anything any funds can do." It makes "logical" sense, yet at the same time, the committee added a section which prohibits the use of these funds for lobbying purposes and a requirement, for reporting purposes, "which shall specify with particularity each item in its official budget which will be funded." It seems to me, if fund origination can be determined for these purposes, it certainly can for matching purposes. In my part of the country this type of reasoning is called having your cake and eating it, too.

Third. Finally, I have a constitutional fear. Much of this effort has been to get all funds touched by revenue sharing funds to become Federal funds and make them all subject to all Federal rights and remedies. This may be a valid approach but, if it is, what is the status of all of the other Federal statutes which require matching with local funds. It seems to me no local funds are then available because they have, by definition, been tainted by the Federal funds and cannot legitimately be used. On the other hand, if, it is argued, they are truly local and not tainted, then these other Federal remedies may not lie.

I am convinced we must deal with this as best we can. We either can or cannot determine origination. My conversations with auditors tell me we "mostly" can, and we are better off trying than simply doing whatever is politically expedient at the time. Further, even if it is hard to enforce, this provision acts as a deterrent against large-scale deficit Federal fund "matching" raids by local jurisdictions—and forces each of us to own up to what we are voting for the folks "down home" rather than simply allowing untold, uncontrolled chaos.

A truly ill-conceived, dangerous amendment is the Rosenthal one. Its proponents say it simply requires each State government to prepare and develop a "master plan" and "timetable" for "modernizing" and "revitalizing" State and local governments. It is "permissive"—"helpful."

To me it is not "permissive" or "helpful." It could well be a real blow to our concept of a federal system of government. A first step of admonishment easily leads to the second step of requiring. The second step leads to administering a plan of modernization and revitalization developed in Washington. A time when the Washington bureaucrat will impose his ideas of modern, revitalized government on the 50 States and 39,000 local governments. This almost certainly is a first step toward centralization of government. Certainly, consolidation and efficiency becomes the battle cry as small local governments are dismantled.

Pray tell, however, by what standards are effectiveness and economy to be measured? Are not the standards of the design of State and local governments the province of their own constituencies? If not, they should be. Are we, the Federal Government, the model of efficiency and modernization we ask them to be? No doubt some of these criteria and standards are worthy of consideration. No doubt several of them will be adopted here or there in time, however, that will and should be only if they are adopted by those governments as a response to the needs of that government—not because someone in Washington has willed it to be that way.

The revenue sharing program is not the proper vehicle to carry every idea of improved local government. In fact, a GAO report of a year ago concluded the program was not the vehicle to bring about or even encourage "modernization" of local governments. In part, because it is unclear what modernization is, and in part because the political and administrative problems of establishing a single pattern and enforcing it would be enormous and probably counterproductive.

One of the great values of the federal system is the opportunity it offers for diversity and experimentation. Both exist in this country today, and action that might reduce either deserve long and careful consideration. The ramifications of this amendment must be much more fully considered before it is ever allowed to become law.

Mr. Chairman, the purpose of this Thone amendment is to strike a balance between those requirements which are desirable for large, complex local units of government and the needs of a much larger number of local governments.

The bill, as reported by the Government Operations Committee, requires a public hearing to be held prior to the submission of its proposed use of funds report, and shortly thereafter, another public hearing to be held at least 7 calendar days before it adopts its budget. It then provides the Secretary may waive the requirements of the first public hearing if the cost of such a requirement would be "unreasonably burdensome" to the government in question. This amendment would simply require the Secretary to waive the first hearing requirement for all governments receiving less than $5,000 during the entitlement period.

Why $5,000? Of the 38,800 total governments receiving $4.2 billion per period, 16,900 of these governments receive less than $5,000—a total of $32 million per period. They receive an average of $2,000 apiece—approximately $4.50 per constituent served. More hearings, more publications, more paperwork are not the answer. It cuts out thousands of dollars of wasteful, needless expense and—I might add—untold necessary paperwork. At this level 43 percent of the units of government serve 1.9 percent of the population with eight-tenths of 1 percent of the total funds available.

These communities would still be required to have a prebudget hearing. They are so small they do not need the same highly styled structure others do—in fact, it is counterproductive. They must still account for their constituency—and the Federal Government—for the use of these funds. What they do not have to do is the foolish—for them—things.

Mr. Chairman, the purpose of this Thone amendment parallels my amendment on the prereport public hearing requirement. In this case the bill, as reported out by the Government Operations Committee, requires the proposed use report to be published in a newspaper of general circulation and be made available for inspection and reproduction at the government's principal office and at public libraries within its jurisdiction 30 days before the prebudget hearing. The same procedure is required for its budget within 30 days after adoption.

Each government would still be required to meet all the same requirements except they would not have to publish the proposed use reports and narrative summaries. The bill gives this authority to the Secretary where the cost of such publication would be "unreasonably burdensome" to the Government. This would simply require that all governments receiving less than $5,000 per entitlement period would be so exempted.

Again we are dealing with governments receiving, on average, $2,000 apiece; $4.50 per constituent served; 43 percent of the governments serving 1.9 percent of the population with eight-tenths of 1 percent of the total funds available. Last year, for example, one Nebraska jurisdiction spent $40 of the $200 they received in revenue-sharing funds to comply with the publication requirements. And these requirements were far less rigorous than those in the new bill.

It is obvious to me that equity requires this large number of organizations be exempted from the stringent requirements which, when applied to them, are totally unrealistic when compared with the money involved.

Mr. Chairman, the State and Local Fiscal Assistance Act of 1972 provided for the Davis-Bacon wage standards to be applied to any construction project of a recipient government which received 25 percent or more of the funds for that project from revenue-sharing funds. A provision approved by the committee would make these wage standards apply to all local construction projects, regardless of the percentage of revenue-sharing funds used.

This change was advocated because of the fear, which was not documented, that jurisdictions could avoid the Davis-Bacon wage requirements by simply insuring that no more than 24 percent of any construction expenditure came from revenue sharing funds. Unfortunately, without documentation, the argument is impossible to prove or disprove. However, it is obvious there has been no long, continuing string of complaints under the current law. What has been proven, by studies of the General Accounting Office, is that Davis-Bacon adds from 5 to 15 percent to the cost of Federal construction. Since 43 percent of the 38,000 recipients of revenue-sharing funds receive less than $5,000, an increase of only 5 percent on an average $100,000 capital construction project would eliminate any benefit they accrue from the program.

What this really means is we are willing to mandate an inflationary 5 to 15 percent addition to the cost of all State and local construction in this country to insure some jurisdictions do not avoid the 25-percent rule. Further, the real issue here is not the validity of Davis-Bacon, but rather the impact of using this bill as a vehicle to extend Federal regulations and controls over all facets of State and local government activities.

This body must refrain from the temptation to place our expertise above other government leaders. We must refrain from pursuing the impulse to stir our spoon in every other government's broth. We have sound leadership at all levels—it should be encouraged and assisted, not trammeled on and stifled.

This additional cost is too big a price to pay for no benefit. The Davis-Bacon provision in existing law is sufficiently strong to protect the rights of union pay scales. This bill should retain those provisions as they stand and not broaden them.

Mr. Chairman, under an amendment to the bill in committee, $150 million was skimmed off the top of the moneys available for the program. It was then entitled "Supplemental Fiscal Assistance" to be distributed under a new formula, one where the number of persons below the poverty level is substituted for per capita income and the upper limit is moved from 145 to 300 percent.

The results are devastating. Depending on whose analysis you look at, somewhere 2,584 and 3,392 units of government would receive additional funds under the formula—and approximately 35,000 governments lose money they would have gotten under the old formula and, in many cases, they lose actual dollars. To reduce the current funding level to these governments during times of unprecedented fiscal stress at the local level is unconscionable.

Of the 200 largest governments, 145 lose funds. Of the 20 States with the highest unemployment rates, more than half lose money under the formula. The current formula has been successful. The new proposal, which may be laudable in objective, has questionable validity. What is the purpose of a formula which adds $300,000 to the Chicago allocation and takes $500,000 away from Cook County, Ill. One which does not benefit the large urban industrial States that have been impacted so severely by the recession. One which does not favor States with higher than average unemployment rates. One which does favor Vail, Colo.; Rehoboth Beach, Del.; and Oak Bluffs, Mass.

Finally, the most troublesome aspect of this amendment as drafted is that it freezes the general revenue sharing program at $6.65 billion. It further requires all additional funds ever put into the program to be allocated via the new formula. This means that some 35,000 governments, rich and poor alike, cannot receive any benefits from any increased funding of the program that might occur in the future.

It is my belief one does not solve problems by tinkering with formulas which may render unknown results. The tools are at hand to carefully study these results. This matter should be returned to the subcommittee for further study before action is taken by this House.

Mr. LEVITAS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, first I would like to address myself to the Burton amendment. I believe that the Burton amendment has provided us with the worst of all possible worlds. It keeps all of the garbage provisions that came out in the full committee bill, and it leaves open for destruction one of the most important sections in the entire bill, the entitlement section.

We have already been put on notice that there will be an amendment offered by the gentleman from Washington (Mr. Adams) to take out the entitlement section, and that he will attempt to do this on the Burton amendment approach or, as he has said, otherwise in another way.

I believe any Member who is interested in revenue sharing should take a very close look at the Members who are supporting the Burton amendment, and I think they will find that among their number is not included the greatest group of friends of revenue sharing. The distinguished chairman of the full committee, the gentleman from Texas (Mr. Brooks), is opposed to the Fountain amendment and favors the Burton approach, and I suggest that the gentleman from Texas (Mr. Brooks) has been fully candid with this House; he is unalterably and unabashedly opposed to revenue sharing, and yet he is opposed to the Fountain amendment but supports the Burton approach.

The gentleman from Washington (Mr. Adams) is also supporting the amendment offered by the gentleman from California (Mr. John L. Burton), and the gentleman from Washington is not an avowed friend of revenue sharing.

That is why I say we had better look and see who are the friends of revenue sharing and find out why they are supporting one amendment or the other.

I refer also to the Rosenthal amendment which we have heard so much about. It has been said that the Burton amendment has changed this around and pulled some of its teeth. I suggest to the Members that this is merely the Burton revision of the Rosenthal provision.

Mr. Chairman, this Burton proposal to clean up the Rosenthal provision is still a wolf in sheep's clothing. It is still an attempt to get the camel's nose under the tent, because with that approach we begin to involve the Federal Government in telling State and local governments what is modernization or revitalization or whatever we want to call it. And then we have opened the door for some Secretary of the Treasury to begin to tell every local government across the Nation what is revitalization. That is the beginning of the end of our Federal system.

Mr. Chairman, I suggest that this Burton or Rosenthal proposal is the first step in urging the States to do what we call revitalized government. The next step will be admonishing them to do it, and the third step will be requiring them to do it. Or to do whatever some Federal bureaucrat thinks should be revitalized government. Is the Federal Government a model of revitalization? Physician, heal thyself.

On the subject of entitlements, this is not back-door spending. The Budget Control Act passed by this Congress specifically provides, in section 401, that any amendment or extension of the State and Local Fiscal Assistance Act of 1972 shall not be covered by those provisions and can operate under an entitlement program. Therefore, we are doing nothing more than following the laws passed by the Congress under the Budget Control Act, of which the gentleman from Washington (Mr. Adams) has been such an advocate and such an able caretaker.

Mr. Chairman, I say to the Members that if we do not have entitlements, the very things we are trying to accomplish with revenue sharing will not come about. We want the cities and the counties to put in more citizen benefit programs or keep down property taxes. We want to let them get away from simply buying new fire trucks and building gymnasia, but they will not be able to do that unless they have the assurance long enough in advance in order to plan to use the money wisely and to expend it on those programs that are so important to them.

For that reason, Mr. Chairman, I urge that we defeat the Burton amendment and support the Fountain amendment.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Chairman, I am glad that the gentleman from Georgia (Mr. Levitas) has been trying to clarify what I always understood was the distinction between entitlement and back-door spending.

Mr. Chairman, I point out that the provisions of the Budget Control Act are to be able to set a budget each year, and then we know how much is in the entitlement.

Back-door spending is better defined, I would say, by the food stamp program, which is a general entitlement because we never know how many people are going to make an application or just how much money is going to be obligated for that purpose.

With this provision, however, we know exactly what the amount is every year. It becomes part of our budget and provides for the very best of planning because it is fundamental.

Mr. Chairman, I would like to draw one other analogy with reference to those people whom the gentleman identified as being opposed to revenue sharing. They are opposed to it. What they have said, in effect, is "My friend, let us tie the anchor around your neck, throw you out to sea, and then you swim for shore. We want to help you, but we cannot."

Mr. Chairman, in effect, we have exactly the same result because in many parts of the country these onerous provisions run away with the local governments which say that revenue sharing is as bad as the other programs of the Federal Government.

Mr. LEVITAS. Mr. Chairman, I agree with the gentleman.

The CHAIRMAN. The time of the gentleman from Georgia (Mr. Levitas) has expired.

(On request of Mr. John L. Burton and by unanimous consent, Mr. Levitas was allowed to proceed for 2 additional minutes.)

Mr. JOHN L. BURTON. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from California.

Mr. JOHN L. BURTON. Mr. Chairman, I thank the gentleman for yielding.

I do not know how urging any local government to be more efficient and responsive to its people is doing any kind of disservice to it.

As one of those who was not in love with the program—and I do not know anyone who is really in love with it, except that they think the local officials somehow have some political clout—the full committee, an "unfriendly" committee, voted 39 to 3 to support that proposal or to support something that at least would mean something with respect to citizen participation and civil rights.

Mr. Chairman, I do not believe that my amendment is the worst of both worlds because at least it leaves a clean shot at entitlement rather than an add-on shot.

As the gentleman said, mine is better on civil rights. Mine deals at least with trying to set up a theory of need.

I object to the fact that some Members think I am trying to love it to death.

I supported the bill coming out of committee, and the vote was 39 to 3. If anyone is trying to do an injustice to those local officials, I am not the one.

Mr. ADAMS. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from Washington.

Mr. ADAMS. Mr. Chairman, when the gentleman speaks of entitlement and of the act itself, I do not think he is aware of the real definition of what back-door spending is. Back-door spending is not defined any place in the act.

Back-door spending is where the Congress automatically authorizes the spending of money without going through the appropriations process; and it creates a legal right for the recipient to sue the Government and collect without our ever appropriating it or saying: "We want to give you the money" or "We do not want to give you the money."

Mr. Chairman, this is pure back-door spending.

There are a series of things authorized in the Budget Control Act which says that we can use this kind of mechanism. The issue is, should we?

The CHAIRMAN. The time of the gentleman has again expired.

(On request of Mr. WYDLER, and by unanimous consent, Mr. LEVITAS was allowed to proceed for 2 additional minutes.)

Mr. WYDLER. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from New York.

Mr. WYDLER. Mr. Chairman, I would say that I do not understand the impassioned plea of the chairman of the Committee on the Budget, the gentleman from Washington (Mr. ADAMS) at this point. The gentleman himself is proposing 1¾ years of entitlement. He is proposing that this horrible system be imposed on the Congress and the people, he just wants a little less of it. It is like being a little bit pregnant. So I do not really understand his position.

I would like to read to the Members of the House from a telegram that comes from Gov. Patrick J. Lucey, the chairman of the National Governors' Conference on this very point, and the point is made in the telegram as to why a period of 1¾ years is not going to be good for many States in our country. This telegram was sent to the majority leader of the House, the gentleman from Massachusetts (Mr. O'NEILL) and it states in paragraph 2:

> I understand an amendment will be made to reduce the entitlement period to 1¾ years. The National Governors' Conference opposes this approach. There is no difference between annual appropriations, advanced funding and a 1¾-year entitlement for the nineteen States and local governments with biennial budgets. We simply will not be able to plan and budget the revenue sharing funds.
>
> I urge you and the Members of Congress to support at least the 3¾-year entitlement on behalf of all the States and especially the following nineteen with biennial budgets: Arkansas, Hawaii, Indiana, Iowa, Kentucky, Maine, Minnesota, Montana, Nevada, New Hampshire, North Carolina, North Dakota, Ohio, Oregon, Texas, Virginia, Washington, Wisconsin and Wyoming.

That is signed by Governor Patrick J. Lucey, chairman of the National Governors' Conference.

I thank the gentleman for yielding.

Mr. LEVITAS. Mr. Chairman, I would like to conclude by saying this, that anybody who is interested in supporting my proposed amendment to delete the Rosenthal provision from the bill, I would urge them to vote against the John L. Burton amendment and vote for the Fountain amendment.

The CHAIRMAN. The time of the gentleman has again expired.

(By unanimous consent, Mr. LEVITAS was allowed to proceed for 1 additional minute.)

Mr. LEVITAS. If the Members vote for the Fountain amendment, that will eliminate the Rosenthal provision which I think is one of the most mischievous provisions in this legislation. For that reason, and for that reason only, if the Members are really in favor of assisting the State and local fiscal systems, I suggest one needs to see who is supporting which of these amendments. I suggest to the Members that those who are in favor of the extension of revenue sharing should vote for the Fountain amendment and against the John L. Burton amendment.

Ms. ABZUG. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think the issue is rather well drawn at this point. I believe that the committee has indicated that it wants to support a revenue-sharing program, although many members of the committee have different problems with revenue sharing, as do local city and State officials. No one has suggested that we put together the most perfect proposal, but it is perhaps the best we can put together. I think that the localities, the counties, and States need this revenue and want this revenue in order to maintain their activities and services, particularly at a time like this, which is a very difficult time in our economy as a result of some very incorrect national economic policies. So we want to help find a way in which we can aid all localities to conduct their affairs and the people residing in those localities.

The interesting proposition before us is this: these are Federal funds and we are seeking to distribute these Federal funds to the localities and the people who live in them. Let us not forget that: The people who live in those localities are the beneficiaries of those funds in maintenance of programs and jobs. The Fountain amendment fails to take into consideration that thus far—and no one disputes this—the distribution of those Federal funds has been extremely discriminatory, not against just a few people but against many people: Women and minorities who work in government but who have not been the beneficiaries of these funds. This is so because the concentration and the distribution of these funds has been too limited in areas of government activities which, indeed, discriminate against the hiring of a majority of the population in these localities—women and minorities.

I cannot understand how anybody on the floor of this House could want to do anything but make certain that when we distribute funds to localities which are Federal funds, that all of the people have a right to participate in them and not just some of the people. The facts are legion—legion—I do not have to prove it; the hearings proved it, and the evidence proved it—that, indeed, the distribution of the Federal funds under revenue sharing benefited, primarily, one part of the population: The white, male part of the population. That is untenable, and that is why the Jordan amendment is so essential for us.

The Jordan amendment does not appear in the Fountain substitute. That is No. 1. I do not care what State one comes from. Governor Carey has decided to support revenue sharing with the Jordan amendment, just as every other Governor should and every other mayor and every county executive, because otherwise it would be an improper use of Federal funds, and we should not enact laws which provide for the improper distribution of Federal funds in violation of our own laws and our own commitments. That is No. 1.

No. 2: The Fountain amendment to the substitute does fail also to take care of the rights of labor in each of our localities. It does not matter where we come from, what part of the country we come from. The Davis-Bacon amendment which is covered in the Burton amendment, and provides the proper protection for labor is weakened in the Fountain substitute.

There are some localities and various associations representing localities, counties, and cities who are concerned with protecting the 3¾-year entitlements provision. I agree with them on this, but regardless of whether or not a person supports a 3¾ entitlement, or a modification which is going to be proposed by the chairman of our Budget Committee, we should not support the Fountain substitute.

The CHAIRMAN. The time of the gentleman has expired.

Ms. ABZUG. Mr. Chairman, I ask unanimous consent that I may be allowed to proceed for 2 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentlewoman from New York?

Mr. WYDLER. Mr. Chairman, reserving the right to object, would the gentlewoman from New York yield?

Ms. ABZUG. I will yield to the gentleman in a moment.

Mr. WYDLER. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentlewoman from New York?

There was no objection.

Ms. ABZUG. Mr. Chairman, the reason I would make an appeal to the Members on this floor to vote down the Fountain substitute is because it has the deficiencies of continuing a pattern of discrimination against a majority of the population in each of our localities, and it fails to provide the proper protection for labor. Even if the Fountain substitute were to be adopted, it was stated by the Chairman of the Budget Committee in response to questions I asked that he would seek to amend the 3¾ entitlement provision, so that we do not protect the 3¾ entitlement provision by simply urging support for Fountain. Members who want to protect that 3¾ entitlement cannot preserve it from amendment by voting for the Fountain substitute. Under these circumstances I know that no one would want to vote for a law which is unfair, which is inequitable, which fails to provide equal treatment for women and minorities and proper security for labor in this country.

Therefore I support the Burton amendment. The entitlement question is going to be open for amendment, whether we favor it or not, and therefore it at least lets us put together a fair deal and a square deal with respect to distribution of the funds. Furthermore, the Burton amendment cancels the Fascel amendment, makes the Rosenthal amendment purely voluntary and limits the Jordan amendment to revenue sharing funds only.

Mr. WYDLER. Mr. Chairman, will the gentlewoman yield?

Ms. ABZUG. I yield to the gentleman from New York.

Mr. WYDLER. I thank the gentlewoman for yielding.

I want to point out to the gentlewoman that in her statement she alleged all the money in this program went to white males. I do not think that is true and I do not think that is a proper way to approach the debate on this bill.

Be that as it may, I wanted to point out to the gentlewoman that the gentlewoman from Texas (Miss JORDAN) in fact was the author of the civil rights amendment adopted in the subcommittee, and then she made some further changes in the full committee, but she was the author of the civil rights amendments in both the subcommittee and in the full committee.

The gentlewoman from New York seemed to make a point of it and there are some differences but they are both the product of the gentlewoman from Texas.

Mr. ASHBROOK. Mr. Speaker, I move to strike the requisite number of words.

Mr. Chairman, I strongly support continuation of the general revenue sharing program. This program has played a key role in strengthening State and local governments throughout the Nation. I strongly oppose efforts to make a civil rights bill out of revenue sharing or to use it as a tool to force consolidation of local units of government.

General revenue sharing was first enacted in 1972. It resulted from a belief that the Federal Government had become too powerful at the expense of State and local units of government. There was a growing awareness that we desperately needed to decentralize political power in our federal system. The goal was to channel money and decision-making away from the Federal level and back to the local level.

During the 5 years of its operation revenue sharing has proven to be a great success. More than $30 billion has been distributed to approximately 39,000 units of government. An estimated $31.2 million has been received by local governments in the 17th Congressional District of Ohio. These funds have helped ease the pressure on State and local government budgets.

In fact, the National Association of Counties has called revenue sharing "a lifesaver for State and local government." In a period of high inflation and high unemployment revenue sharing has made the critical difference. Without it basic services and essential projects would either have to be discontinued or funded through higher taxes.

The bill before us would extend this important program for an additional 3¾ years. Frankly, I would have preferred an even longer extension. Local governments should be assured of long-term funding to plan and implement their long-term programs. We should remove uncertainty in budget making for the governmental units that receive the funds.

Nevertheless, the 3¾-year entitlement funding is far better than making the program subject to the annual appropriations process. The House should reject all efforts to shorten the length of funding.

The level of funding would continue at the rate of $6.65 billion annually. Overall, State and local governments would be entitled to $24.94 billion. One unfortunate aspect, however, is the supplemental fiscal assistance provision. This would allocate $150 million of the funds under a revised formula based on the poverty level. The result is that the revenue sharing program would in effect be reduced to $6.5 billion and the thousands of governments which do not benefit from the formula would lose funds.

I would remind my colleagues that revenue sharing is not a welfare program. The purpose is not to have the more affluent areas of the country support areas like New York City. The supplemental fiscal assistance provision should be struck in its entirety.

I also think it is essential that in extending the revenue sharing program we avoid placing crippling restrictions on how the money is spent. One of the key features of the present program is its flexibility. Few restrictions are placed on how the money is to be used. This means that local government officials have great freedom in determining where best to utilize revenue sharing funds.

Unfortunately many liberal Congressmen believe that the Federal Government should use revenue sharing as one more means of intervening in and controlling the activities of local governments. They would emphasize racial and social aspects in the new bill.

One such modification that gained committee approval is the so-called nondiscrimination provision. It would permit the suspension of revenue sharing funds to any local government if a civil action is filed by the Attorney General alleging discrimination on the part of that government whether or not the use of revenue sharing funds is even alleged.

This provision is highly unwarranted and it should be deleted from the bill. It would place in doubt the continuation of revenue sharing funds to each local government.

The potential threat of suspension at any time would seriously interfere with normal budget planning. Local and State officials must know what funding they can count on, if anything at all. I urge the House to remove this uncertainty and reject the view of revenue sharing as a tool of social change.

This is not the only modification that would restrict the independence of local units of government. The Rosenthal amendment which was adopted by the committee would also attach more Federal strings to the revenue sharing program. It would require each State to prepare and develop a master plan and timetable for modernizing and revitalizing State and local governments. In addition, it lays out the criteria to be used in developing this plan and requires each State to submit a report annually on its progress to the Secretary of the Treasury.

This is just one more example of State governments having to become involved in more redtape and paperwork. It also poses a serious threat to small governmental units and our entire federal system of government. In fact, one of the stated goals is "reducing the number of, or eliminating, local governments too small to provide efficient administration or possessing inadequate fiscal resources."

Supporters of the amendment assert there is no requirement that the States do anything along the lines of government reorganization, only that reports be filed. All too often, however, such "no requirement" language in the hands of the bureaucrats turns into detailed rules and regulations that State and local governments must follow. The Rosenthal amendment is clearly the first step in letting some Washington, D.C., bureaucrat impose his view of modern and revitalized government on the 50 States and 39,000 local governmental units across the Nation.

I find it ironic that a program designed to strengthen local government would become the vehicle for even greater Federal domination. I also find it ironic that the Federal Government, hardly a model of efficiency, would be the one to push State and local governments to modernize and revitalize.

Another unwise amendment that won committee approval would apply the Davis-Bacon Act to all public construction funded in whole or in part by revenue-sharing funds. This would increase the costs of construction. The General Accounting Office, a watchdog Government agency, has stated that the Davis-Bacon Act increases total construction costs by 5 to 15 percent.

Perhaps even more important, revenue sharing once again would be used as a method of foisting Federal regulations onto State and local government activities. Once again the Federal Government would be imposing its own judgment on local governmental units.

I strongly urge continuation of the general revenue-sharing program. At the same time, however, I urge my colleagues not to add new Federal restrictions and requirements that would cripple the effectiveness of this program. Support of the Fountain amendment will accomplish these objectives and I will vote to adopt that substitute.

Mr. BEDELL. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from Iowa.

Mr. BEDELL. Mr. Chairman, I rise in opposition to section 9 of the committee bill. This section, so-called modernization of government provision, would create a new title of the State and Local Fiscal Assistance Act intended to encourage the modernization and revitalization of State and local governments. This provision establishes as a goal that each State government should prepare a plan and a timetable for modernizing and revitalizing State and local governments. It would require that each State submit an annual progress report to the Treasury Department on the steps it has taken to achieve this goal.

I have no quarrel with the objective of section 9. Certainly, all of us in this body recognize the need to work for improving the effectiveness and efficiency of government—at the Federal, State, and local levels. However, I do have serious reservations about the impact—both real and psychological—which the committee's modernization of government provision would have on the Federal compact.

Concern has been expressed by both opponents and proponents of the general revenue sharing program that State and local governments are not doing enough to overhaul obsolete government structures, strengthen management capacity, or improve means of delivering services and that if they accept Federal revenue sharing funds, they do have an obligation to the American taxpayer to modernize their procedures. I understand this view, and I am not unsympathetic to it. However, I am concerned that H.R. 13367's modernization of government provision is not as innocuous as its proponents claim, and I fear that it may well constitute a textbook example of the cure being worse than the disease. The supporters of section 9 describe it as "an important first step." The danger is that it would become a first step in the unwarranted intervention of the Federal Government into an area which is of exclusive State jurisdiction under the Constitution.

Section 9—as well intentioned as it no doubt is—implies Federal interference. It is patronizing in emphasis, and potentially damaging in design. It should, in my judgment, be deleted from the bill.

I believe that the general revenue sharing program provides great potential for encouraging initiative and flexibility at the local level. I have confidence that the American people and their elected officials can work together effectively to meet community needs and resolve local problems. And I believe that if we encourage public participation in the governmental process and return decisionmaking authority to the local level, we can make even greater progress in this effort. In this vein, I think that local officials can effectively modernize and reform government machinery, where necessary, without the Federal Government looking over their shoulder and without the extra costs that redtape and annual Federal progress reports will generate. I do not welcome the prospect of having the Federal Government getting involved in restructuring local government, however innocent it may appear on paper, and I urge defeat of the committee bill's modernization of government provision.

Mr. DERWINSKI. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from Illinois.

Mr. DERWINSKI. Mr. Chairman, this bill, as brought to the floor, is not revenue sharing. It is a long step toward a huge glorified grant system.

In fact, since 5 years ago when revenue sharing was first put into operation, Congress now seems on the verge of completely double-crossing local townships, county and State governments. What we should be doing is pursuing the original concept of revenue sharing, which is to return tax revenues to the States and communities where they were paid, with the disposition of these funds to be decided by local elected officials.

Tying strings to revenue sharing funds is a contradiction. I will vote for every substitute and every amendment that is aimed at simplifying the administration of the program and of simplifying the dispersement of funds under this program.

If we do not reaffirm our support of the original revenue sharing concept, we will have demonstrated once again the costly pattern of regimentation by the huge Federal Government structure.

Mr. MOSS. Mr. Chairman, I move to strike the necessary number of words.

Mr. Chairman, I would like to have the attention of the gentleman from Illinois (Mr. ERLENBORN) because during the time when I was absent from the floor the gentlewoman from Texas indicated that the gentleman from Illinois had objected to a request she had to restore language through an amendment, and the gentleman informed the House that he did not object, but that I did. The record of the committee will show that the gentleman reserved first the right to object, page 137 of the hearing transcript, and that he continued to voice disagreement with the gentlewoman from Texas as to advice by the legislative counsel, and then he stated, on page 139 of the transcript that "Further reserving the right to object and I will object," which is not an equivocal statement.

Mr. ERLENBORN. Right.

Mr. MOSS. At that point the chairman stated that "Objection is heard," and then I said of Mr. ERLENBORN that "He is wasting time." He was using the device of further objecting for the purpose of further argument and then with the full and stated objective of objecting. To then take him off his feet, I did object. And then the gentleman from Illinois voted against the amendment offered by the gentlewoman from Texas, and the gentleman from California voted in support of it. He would like to have supported the entire amendment but because of the announced intention of the gentleman from Illinois to, after having propagandized the committee, object, I felt I would take him off his feet.

Mr. ERLENBORN. Mr. Chairman, will the gentleman yield?

Mr. MOSS. Of course I yield to the gentleman from Illinois.

Mr. ERLENBORN. Mr. Chairman, I thank the gentleman for his contribution.

First of all I think it is our prerogative not only in committee but also on the floor to engage in debate and try to convince our colleagues. I really do not think that is propagandizing.

And I thank the gentleman for confirmation of the observation I made that it was the gentleman from California who made the objection and not I. The record is now clear.

Mr. MOSS. The gentleman from Illinois takes the usual liberty with the record. I pointed out he stated "Further reserving the right to object and I will object" and then intending to further hold the committee up while he further discussed the merits of the proposal. I took him off his feet so we could then get on with the voting, it being quite obvious that the courtesy, the normal courtesy of permitting the mover of an amendment to amend further, and that is normally done by unanimous consent, would not be accorded. The gentleman from Illinois accorded no such courtesy to the gentlewoman from Texas.

I took the gentleman off his feet, which as the gentleman knows, was a purely technical move; but the gentleman did object.

Mr. ERLENBORN. I was reserving the right to object. I did not object. The gentleman agrees, I said on the floor that the gentleman from California did object. The gentleman has just confirmed that.

Mr. MOSS. The gentleman from Illinois attempted to convey a false impression and the gentleman from California wants to make abundantly clear there would have been no objection had the normal courtesy been extended by the gentleman from Illinois.

Mrs. SPELLMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have listened to the discussion here today and I must say that I have been astonished by the rhetoric. I had the distinct feeling that the people who are being forgotten here in this Chamber, especially by those who are opposed to revenue sharing, are Mr. and Mrs. John Q. Citizen.

Mr. Chairman, I heard some of my distinguished colleagues express concern about who gets the credit for the spending of this money—whether it is we, the Members of Congress who get credit or whether county or city officials get the credit.

I heard some of my learned colleagues distinguish between their constituents and the constituents of the mayors and the county officials. I have always thought of these good people as our constituents not mine or theirs, but ours. I was of the opinion that this program and indeed, our whole reason for being here day after day is to serve our constituents, to serve our people, to serve our citizens. Certainly, I do not believe for one moment that we are here for the purpose of amassing credits for serving them.

So let us just take a look at this program and see what it really means. This is the State and Local Government Assistance Act. State and local governments were in trouble. They have limited taxing authority. They have to rely for the most part on the property tax, which is the most regressive of taxes. Because I was a county official and was at the time we labored for this act, president of the National Association of Counties, I know that senior citizens all around our Nation were being forced to sell their homes. They could not afford the property tax. So what we attempted to do through the State and Local Government Assistance Act was find some way to help State and local governments help people. That is the purpose of the program, helping people. If we will just stop thinking in terms of Federal money or State money or county money and city money and think about people's money, taxpayers' money, then the whole thing falls into place.

How can we best protect the taxpayers? Well, I know that working with categorical grants is not the way. We worked, and many of you are fully aware of how hard we worked for revenue sharing, because those of us in State, county and city governments felt that we had reached the point where we were suffering from hardening of categories. Those categories were designed here on these floors, in this our Nation's Capitol. They were supposed to fit every government in this Nation and, therefore, they fit no government in this Nation. State, county and city officials had to veer away from the direction of our priorities in order to tangentially reach out for the categorical funds. We were desperate and had no real choice. Categorical grants presented problems. Revenue sharing was a decided improvement.

Now, as to the shortening of the entitlement period, I can assure you that if we want judicious use of these moneys, we have got to guarantee their availability for a sufficiently long period of time, so that local officials can plan to use them and use them properly. If we cut the entitlement period, we will be forcing local governments to use the money for hardware, for something that will be finished in 1¾ years. We must give them enough leeway to plan programs, enough time to enable them to embark on imaginative and productive uses of the funds, and to enable them, when such uses have proven themselves, to have the opportunity over a sufficient period of time, to absorb them into their own budgets.

If we shorten the entitlement period, we do not allow that process to take place. Thus, we defeat the very purpose we are attempting to accomplish here today. I know that the Brooks amendment, as amended by the Fountain amendment, is not Utopia. I strongly support 5¾ years funding as the ideal way for us to go, but I have not found Utopia since I have been in these Halls, nor since I have been in government. Therefore, I will settle for the Fountain amendment as the best of all the alternatives.

If we start hammering out each one of these amendments on the floor, we will surely end up with a patchwork quilt that nobody will be able to live with, and that will be a disservice to this House.

I urge my colleagues to support the Fountain amendment.

Mr. FUQUA. Mr. Chairman, will the gentlewoman yield?

Mrs. SPELLMAN. I yield to the gentleman from Florida.

Mr. FUQUA. Mr. Chairman, I want to thank the gentlewoman for yielding to me. She made a very, very excellent statement outlining in very clear terms what we are trying to do here today.

Another significant point the gentlewoman made was that local governments have been strangled in their taxing efforts. They primarily rely on property taxes for their form of revenue.

The CHAIRMAN. The time of the gentlewoman has expired.

(On request by Mr. FUQUA) and by unanimous consent Mrs. SPELLMAN was allowed to proceed for 1 additional minute.)

Mr. FUQUA. By relying solely on property taxes, it affects more the aged and those of low income brackets than any other groups. The gentleman from Washington, my good friend, said that we had reduced taxes by $87 billion in the last number of years. That may be true, but that is in income taxes and corporate taxes and has not given property taxpayers any relief.

In many areas of my district, and I am sure they are in the gentlewoman's district, they have said that their property taxes would have to increase from 10 to 20 percent in order to make up for the services they are now providing. In many of the categorical grants, we have a question of very tight guidelines, which we apply in this body, and by their implementation cause wasteful use of these funds.

I appreciate the gentlewoman yielding to me. She has made an excellent statement. I hope the Fountain amendment to the Brooks substitute amendment will be agreed to.

Mrs. SPELLMAN. I thank the gentleman. He is absolutely right. In my own district if revenue sharing were defeated, the property tax would have to be increased by 42 cents, and as a result a great many more people would have to sell their homes. They just would not be able to afford to keep them. I thank the gentleman.

Mr. FASCELL. Mr. Chairman, I move to strike the requisite number of words.

Mr. JOHN L. BURTON. Mr. Chairman, will the gentleman yield?

Mr. FASCELL. I yield to the gentleman from California.

Mr. JOHN L. BURTON. I thank the gentleman for yielding to me.

Mr. Chairman, in the event that my amendment is defeated, for those of us concerned about property tax relief, I have an amendment that will guarantee that 20 percent of these funds will be provided for property tax relief.

Mr. FASCELL. I thank the gentleman.

Mr. Chairman, I think it is quite clear to everybody what is happening and why it is happening. I think it is unfortunate, however, that one of my colleagues saw fit to call his work and the work of the subcommittee and the full committee garbage. I think that is very unfortunate. I do not believe that accurately describes the process by which this legislation has come to the floor.

Mr. WYDLER. Mr. Chairman, will the gentleman yield?

Mr. FASCELL. I was not talking about the gentleman.

Mr. WYDLER. I do not see the gentleman that did make the statement on the floor. I think, just to keep the record straight, he did not describe the work product of the full committee. He was describing certain amendments that were adopted in the full committee in those terms. So, I just want to make that clear, because that is what he actually said.

Mr. FASCELL. I am sure the record will speak for itself. I would not be derogatory of the gentleman from New York or of the gentleman from Georgia. I just said that I think it is unfortunate that this kind of language enters into the debate.

What is obviously clear is this: The gut issue is that proponents of Fountain want all the money $6.65 billion and full entitlement of 3¾ years and no other changes that really amounts to anything. That is what the issue boils down to. It has been that from the very first day the bill got into committee, and it is the issue today.

Mr. WYDLER. Mr. Chairman, will the gentleman yield further?

Mr. FASCELL. The gentleman has had a lot of time. I will yield to him later if I get more, but let me at least finish my statement. His tactic is an old one, but let me finish first and I will come back and answer all the questions for which he does not have the answers—but I am sure whatever questions he asks, he already has the answers.

Mr. WYDLER. I hope the gentleman does not use all of his time.

Mr. FASCELL. I will ask unanimous consent and get more time, I hope, and then I will yield to the gentleman. But let me finish my statement.

However, after 5 years of experience, for us to say in this House that there is absolutely nothing wrong with the administration and the implementation of revenue sharing at the local level is to put our head in a sandbox with a hood over it. This committee may not want to face up to it, may not like it, and may want to ignore it. But that is the issue. It seems to me a shame that, with a program as large as this, affecting as many people as it does around the country, that we would ultimately ignore the studies which have been done by the General Accounting Office, independent studies that have taken years, and complaints that are on the record. Some small step should be made to correct those matters. One of them is the so-called Fascell formula, which sought to adjust itself simply to one question, and that is to provide extra funds to those areas of critical need on the basis of poverty, rather than on the present formula which everyone admits has all kinds of distortions in it. The computer runs on the Fascell formula demonstrate very clearly that it does what it set out to do, that is it provides funds to the rural and urban poor.

The New York Times of June 10 carried an editorial which concisely and clearly addresses this issue:

Revenue Sharing Debate

> The Washington lobby of elected officials has been telling the House of Representatives that, in effect, almost nothing in the General Revenue Sharing program should be changed. Their argument flies in the face of intelligent analysis, for it suggests that in spending $30 billion over a five-year period, the nation has learned nothing of value. That is clearly not the case.
>
> The new revenue sharing bill has reported out of the House Government Operations Committee makes a very modest effort to profit from experience. Under this committee's bill, local governments will receive each year at least as much money as they will have been allotted during 1976, the last year of the old program, distributed under precisely the same formula as that written into the old act. However, any money exceeding the amount so distributed would go to those localities which would have benefited under a formula which gives more weight to such factors as need and tax effort than the old formula did.
>
> In practice, during 1977, the first year of the new program, $6.5 billion will be distributed to localities just as it will have been distributed during 1976. Only $150 million will be distributed under the new formula. Though the amount seems small, it will make a significant difference to old poor cities such as New York, which would gain $16 million, Richmond which would gain $1.2 million and Philadelphia, which would gain $7 million.
>
> Though the localities of the nation will lose nothing of what they have gained through revenue sharing, associations of local officials are even opposed to the slight formula modifications which reflect but do not come close to meeting the urban realities of the mid-seventies. In pressing that view upon the House, those officials are inviting Congress to continue its newly acquired but extremely dangerous habit of punishing old cities. It is a road map to urban disaster which the House should reject.

The CHAIRMAN. The time of the gentleman from Florida has expired.

(By unanimous consent, Mr. Fascell was allowed to proceed for 4 additional minutes.)

Mr. FASCELL. Mr. Chairman, I have not finished. I have just barely started. I promised the gentleman from New York I would yield to him.

Mr. WYDLER. Mr. Chairman, I appreciate the gentleman's yielding. I hate to deny a man's premise, but in all honesty, the gentleman from Florida should realize this bill, which is now the subcommittee bill, and the Fountain amendment is far from the bill that a gentleman really supporting revenue sharing would like. We started with the administration bill to provide a program for 5¾ years, to put $150 million a year——

Mr. FASCELL. Mr. Chairman, I refuse to yield further, because the gentleman knows he is trying to make his own case. But I am glad he brought that up. If the gentleman wants to have it for 5¾ years, why does he not have an amendment out here for 5¾ years? He could have it in the Fountain substitute or he could have it in the Horton substitute.

Mr. WYDLER. Will the gentleman yield? I can explain why.

Mr. FASCELL I do not want to yield on that point. The administration bill, by the way, came in here at $6.5 billion. Let us not kid anybody about where the money is. No matter which way we go here today on the Fountain substitute, which I oppose, or the Burton amendment which I support, the cities and the counties are going to get $6.65 billion. Whether we adopt the Burton amendment to the Horton substitute or whether we go with the Fountain amendment, entitlement is left at 3¾ years unless amended. The Burton amendment to the Horton substitute does not affect entitlement.

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. FASCELL. I yield to the gentleman from Georgia.

Mr. LEVITAS. Mr. Chairman, I thank the gentleman for yielding. I would like to address myself to his last statement, and I do that because I realize that emotions are running high and sensibilities are becoming somewhat provoked.

The comment I made was not that the committee's work was garbage. The fact is that I went to some length yesterday to commend the committee and I dwelt upon the good and hard work and the hard efforts made by the committee and the subcommittee, and that indeed the gentleman from Florida (Mr. Fascell) worked very hard and long on these points.

I did refer to the fact, however, that certain of the amendments adopted by the full committee were "garbage." If that in fact offends the sensibilities of the gentleman from Florida (Mr. Fascell), let me revise those comments and refer to them merely as "solid waste."

Mr. FASCELL. Mr. Chairman, that does not offend my sensibilities. I just felt that we could have a learned debate on a more intellectual level.

Mr. WYDLER. Mr. Chairman, if the gentleman will yield, I certainly have a legitimate bone to pick with the gentleman, and I wish he would listen to me.

Mr. FASCELL. I am listening. I yield to the gentleman from New York.

Mr. WYDLER. Mr. Chairman, those of us who support the revenue-sharing concept have compromised a lot to get to the point where we are now supporting the Fountain substitute. We have gone a long way to give up our position on some of these items to other Members. This is a compromise.

Mr. FASCELL. Mr. Chairman, has the gentleman from New York (Mr. Wydler) used all my time again?

The CHAIRMAN. The Chair will state that the gentleman from Florida (Mr. Fascell) has 30 seconds remaining.

Mr. FASCELL. Mr. Chairman, let me conclude, while I still have the opportunity.

I believe we are now considering a very serious matter. I cannot see why, if we want to protect the full amount of the money and protect the entitlement, we have to take on the onus of civil rights issues by supporting the Fountain substitute or any of the other reforms supported by a great many serious people around the country. I do not think we need to do that.

Mr. Chairman, I think we should vote down the Fountain substitute and support the Burton substitute, and then we can take whatever action we want on the matter of entitlement if that issue ever arises. I believe it is imperative to consider the reforms in Burton amendment to the Horton substitute which brings us closer to the full committee bill. A vote for the Fountain amendment to the Brooks amendment in the nature of a substitute precludes consideration of all these reforms and I urge my colleagues not to vote that way.

Mr. BAUCUS. Mr. Chairman, I rise to express my views on the substitute offered by my colleague from North Carolina (Mr. Fountain). As I understand the gist of the substitute, it would eliminate certain reforms added to the subcommittee bill by the full committee, including, among other things, the antidiscrimination provisions, expanded Davis-Bacon coverage, the government modernization requirements and the new allocation formula, known as the Fascell amendment. Of these four so-called reforms, I support the first two and oppose the last two. Since the substitute is so comprehensive, and is, essentially, a take it or leave it proposal, I urge my colleagues to oppose the substitute with the hope that we will have the opportunity later in the day to vote up or down on the individual reforms of the committee bill that would be eliminated by the substitute.

Mr. FRASER. Mr. Chairman, I oppose the Fountain substitute because it eliminates two important provisions of the committee bill. They are the Fascell amendment, which would provide supplemental allocation to areas of high need, and the Rosenthal amendment, which would encourage the modernization of Government.

The Fascell amendment provides that funds appropriated above the current,

$6.5 billion, be allocated through a special formula allotting them to inner city and poor rural areas.

Until special programs can be instituted to aid inner cities, extra revenue sharing can help them survive these difficult times. Federal money should be given to those who need it most, hence, yielding a greater return. Inner city areas are faced with high levels of unemployment and shrinking tax bases. Furthermore, citizens of inner cities require more high-cost government social and police services. Inner cities need these increased government services while they produce decreasing revenues. The Fascell formula would provide some relief for these areas without reducing revenue sharing allotments for other jurisdictions.

I would also like to declare my support for the Rosenthal modernization of Government amendment. If the Federal Government is to continue to give funds to State and local governments, it must encourage them to spend them efficiently. The Rosenthal amendment leaves the initiative and planning for modernization to the State and local governments; it requires them to do nothing.

The tax and administrative structures of many local governments are outmoded, unfair and inefficient. The Rosenthal amendment would not force modernization on State and local governments but it would show the localities that the Federal Government believes action must be taken to modify out-of-date governmental structures.

I support these two provisions because they neither infringe on the rights of the State and local governments nor impose restrictions on the use of revenue-sharing funds. Hence, the goal of revenue sharing, provide Federal funds to State and local governments without burdensome restrictions, and the goal of helping our inner cities are met by the Fascell and Rosenthal amendments.

The CHAIRMAN. The time of the gentleman from Florida (Mr. FASCELL) has expired.

Before putting the question on the Fountain amendment, the Chair will endeavor to restate the parliamentary situation.

Pending before the committee is an amendment in the nature of a substitute offered by the gentleman from Texas (Mr. BROOKS). Pending to the amendment in the nature of a substitute offered by the gentleman from Texas (Mr. BROOKS) is an amendment offered by the gentleman from North Carolina (Mr. FOUNTAIN). Pending also is an amendment offered by the gentleman from New York (Mr. HORTON) as a substitute for the amendment in the nature of a substitute offered by the gentleman from Texas (Mr. BROOKS), and pending also is an amendment to the Horton substitute offered by the gentleman from California (Mr. JOHN L. BURTON).

The Chair will first put the question on the amendment offered by the gentleman from North Carolina (Mr. FOUNTAIN) to the amendment in the nature of a substitute offered by the gentleman from Texas (Mr. BROOKS).

The question is on the amendment offered by the gentleman from North Carolina (Mr. FOUNTAIN) to the amendment in the nature of a substitute offered by the gentleman from Texas (Mr. BROOKS).

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. BROOKS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 233, noes 172, not voting 26, as follows:

[Roll No. 353]

AYES—233

Abdnor
Allen
Ambro
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Archer
Armstrong
Ashbrook
AuCoin
Bafalis
Baldus
Bauman
Beard, Tenn.
Bedell
Bennett
Bergland
Bevill
Boggs
Bonker
Bowen
Breaux
Breckinridge
Brinkley
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Fla.
Burleson, Tex.
Butler
Byron
Carter
Cederberg
Chappell
Clancy
Clausen, Don H.
Cleveland
Cochran
Cohen
Collins, Tex.
Conable
Conlan
Coughlin
Crane
Daniel, Dan
Daniel, R. W.
Davis
de la Garza
Derrick
Derwinski
Devine
Dickinson
Downing, Va.
Duncan, Oreg.
Duncan, Tenn.
Edwards, Ala.
Emery
Erlenborn
Esch
Eshleman
Evans, Colo.
Evans, Ind.
Evins, Tenn.
Findley
Fish
Fisher
Fithian
Flood
Flowers
Flynt
Foley
Forsythe
Fountain
Frey
Fuqua
Gaydos
Gilman
Ginn
Goodling
Gradison
Grassley
Guyer
Hagedorn
Haley
Hamilton
Hammerschmidt
Hannaford
Hansen
Hayes, Ind.
Hébert
Hefner
Heinz
Henderson
Hightower
Hillis
Holland
Holt
Horton
Hubbard
Hughes
Hungate
Hutchinson
Hyde
Ichord
Jarman
Jeffords
Jenrette
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Tenn.
Kasten
Kazen
Kelly
Kemp
Ketchum
Keys
Kindness
Krebs
Krueger
LaFalce
Lagomarsino
Landrum
Latta
Lent
Levitas
Litton
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Lundine
McClory
McCollister
McCormack
McDade
McDonald
McEwen
McHugh
McKinney
Madigan
Mann
Martin
Mazzoli
Michel
Miller, Ohio
Mills
Mitchell, N.Y.
Mollohan
Montgomery
Moore
Moorhead, Calif.
Mosher
Mottl
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nichols
O'Brien
Paul
Pettis
Peyser
Poage
Pressler
Preyer
Pritchard
Quie
Quillen
Railsback
Regula
Rhodes
Risenhoover
Robinson
Rose
Runnels
Ruppe
Russo
Ryan
Santini
Sarasin
Satterfield
Schneebeli
Schulze
Sebelius
Shriver
Shuster
Sikes
Skubitz
Smith, Nebr.
Snyder
Spellman
Spence
Stanton, J. William
Stanton, James V.
Steed
Steelman
Steiger, Wis.
Stephens
Stratton
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thone
Traxler
Treen
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Waggonner
Walsh
Wampler
Whalen
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wilson, Tex.
Wright
Wydler
Wylie
Yatron
Young, Alaska
Young, Fla.

NOES—172

Abzug
Adams
Addabbo
Alexander
Anderson, Calif.
Annunzio
Ashley
Aspin
Badillo
Baucus
Beard, R.I.
Biaggi
Bingham
Blanchard
Blouin
Boland
Bolling
Brademas
Brodhead
Brooks
Brown, Calif.
Burke, Calif.
Burke, Mass.
Burlison, Mo.
Burton, John
Burton, Phillip
Carney
Carr
Chisholm
Clay
Collins, Ill.
Conte
Conyers
Corman
Cornell
Cotter
D'Amours
Danielson
Delaney
Dellums
Dent
Diggs
Dingell
Dodd
Downey, N.Y.
Drinan
Early
Eckhardt
Edgar
Edwards, Calif.
Eilberg
English
Fary
Fascell
Fenwick
Florio
Ford, Mich.
Ford, Tenn.
Fraser
Gibbons
Gonzalez
Green
Gude
Hall
Hanley
Harkin
Harrington
Harris
Hawkins
Hechler, W. Va.
Heckler, Mass.
Hicks
Holtzman
Howard
Howe
Jacobs
Johnson, Calif.
Jones, Okla.
Jordan
Kastenmeier
Koch
Leggett
Lehman
McCloskey
McFall
McKay
Madden
Maguire
Mahon
Matsunaga
Meeds
Melcher
Metcalfe
Mezvinsky
Mikva
Miller, Calif.
Mineta
Minish
Mink
Mitchell, Md.
Moakley
Moffett
Moorhead, Pa.
Morgan
Moss
Murphy, Ill.
Murphy, N.Y.
Murtha
Nedzi
Nix
Nolan
Nowak
Oberstar
Obey
O'Hara
O'Neill
Ottinger
Patten, N.J.
Pattison, N.Y.
Pepper
Perkins
Pickle
Pike
Price
Randall
Rangel
Rees
Reuss
Richmond
Riegle
Rinaldo
Roberts
Rodino
Roe
Rogers
Rooney
Rosenthal
Rostenkowski
Roush
Roybal
St Germain
Sarbanes
Scheuer
Schroeder
Seiberling
Sharp
Shipley
Simon
Sisk
Slack
Smith, Iowa
Solarz
Staggers
Stark
Stokes
Stuckey
Studds
Sullivan
Thornton
Tsongas
Vanik
Vigorito
Waxman
Weaver
Wilson, C. H.
Wirth
Wolff
Yates
Young, Ga.
Young, Tex.
Zablocki
Zeferetti

NOT VOTING—26

Bell
Biester
Clawson, Del
Daniels, N.J.
du Pont
Frenzel
Giaimo
Goldwater
Harsha
Hays, Ohio
Helstoski
Hinshaw
Johnson, Colo.
Karth
Mathis
Meyner
Milford
Passman
Patterson, Calif.
Roncalio
Rousselot
Steiger, Ariz.
Symington
Thompson
Udall
Winn

The Clerk announced the following pairs:

On this vote:

Mrs. Meyner for, with Mr. Roncalio against.

Mr. Passman for, with Mr. Dominick V. Daniels against.

Mr. Mathis for, with Mr. Thompson against.

Mr. Frenzel for, with Mr. Helstoski against.

Mr. DELANEY, Mr. BLOUIN, Mrs. FENWICK, Mr. MURPHY of New York, and Mr. MELCHER changed their vote from "aye" to "no."

So the amendment to the amendment in the nature of a substitute was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY JOHN L. BURTON TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. BROOKS, AS AMENDED

Mr. JOHN L. BURTON. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute, as amended.

PARLIAMENTARY INQUIRY

Mr. HORTON. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman from New York will state his parliamentary inquiry.

Mr. HORTON. Mr. Chairman, it is my understanding that the Fountain amendment to the Brooks substitute was such there could be no further amendments to the Brooks substitute and it is now my understanding that there is a vote on the Burton amendment which is an amendment to the Horton substitute. Is this the correct understanding with regard to the parliamentary procedure at the present time?

The CHAIRMAN. The gentleman from California (Mr. JOHN L. BURTON), the Chair understands, is offering another amendment to the Brooks amendment. Once the Clerk reports the amendment, the gentleman from New York may see whether or not it is in order.

The Clerk read as follows:

Amendment offered by Mr. JOHN L. BURTON to the amendment in the nature of a substitute offered by Mr. BROOKS, as amended: At the end of the Brooks amendment, as amended, add the following:

FUNDS FOR PROPERTY TAX RELIEF

SEC. 11. Section 123(a) of the Act is amended by inserting after paragraph (2) the following new paragraph:

"(3) it will obligate at least 20% of the funds received under subtitle A during each entitlement period beginning on or after January 1, 1977, to specifically decrease taxes on real property;".

PARLIAMENTARY INQUIRY

Mr. HORTON. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state the parliamentary inquiry.

Mr. HORTON. Mr. Chairman, I would like the Chair to explain the parliamentary procedure. Are we amending the Fountain amendment to the Brooks amendment?

The CHAIRMAN. The Chair will state to the gentleman from New York that it is the understanding of the Chair that the amendment offered by the gentleman from California (Mr. JOHN L. BURTON) is a further amendment adding new language at the end of the Brooks amendment, as amended.

The Chair now recognizes the gentleman from California (Mr. JOHN L. BURTON).

Mr. JOHN L. BURTON. Mr. Chairman, for those of us really concerned about tax relief, here is a chance to do something about tax relief. Athough it is an election year, we should not be afraid to bite the bullet for State and local property tax relief. I think there are times we should be statesmen in even an election year and be willing to vote for property tax relief.

This section would provide that 20 percent of the funds will be used in each entitlement year to reduce property taxes.

Now, I know it is unpopular to try to reduce property taxes, but I am willing to go home to my constituents and say, "By God, I did vote to reduce property taxes, and if you want to throw me out of office because of that, you can do it."

Mr. KAZEN. Mr. Chairman, will the gentleman yield?

Mr. JOHN L. BURTON. I am happy to yield to the gentleman from Texas.

Mr. KAZEN. Mr. Chairman, I want to commend the gentleman from California for trying to reduce local taxes; but I think the gentleman is thinking about Federal taxes; is that not so?

Mr. JOHN L. BURTON. No; Federal taxes could have been reduced if we did not give a bushel basket full of $24 billion away here.

Mr. KAZEN. Then we have jurisdiction over local property taxes in the Congress?

Mr. JOHN L. BURTON. No; we have jurisdiction over the Federal funds we give.

Mr. KAZEN. I agree with the gentleman; but what jurisdiction do we have to change the tax structures of the States?

Mr. JOHN L. BURTON. We do not have that jurisdiction. We just allocate funds.

Mr. KAZEN. That is what we are doing by the gentleman's amendment.

Mr. JOHN L. BURTON. No; what we are doing is what we did in the revenue sharing law. There were categories of expenditures and what we are doing in this category of expenditures is saying that 20 percent of this money should be used to reduce local property taxes.

Mr. KAZEN. Is that not dictating a change in the tax structure of the States?

Mr. JOHN L. BURTON. No; not at all. They do not have to use the 20 percent for property tax relief. They can return it to the general fund of the Treasury of the United States for income tax relief.

Mr. KAZEN. I say to the gentleman, I wish I could vote with the gentleman, because I do want to reduce local taxes, but I do not think we have that jurisdiction and I would resist the Federal Government dictating local tax policies.

Mr. JOHN L. BURTON. What we do have is the jurisdiction to say if they wish to have 20 percent of the money to reduce property taxes, they may do it. If they do not want to reduce property taxes, they do not have to use the 20 percent.

Mr. ERLENBORN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, this amendment certainly has a great deal of appeal in listening to it read; however, it occurred to me that it may have some hazards as well. It says, in effect, that any jurisdiction that accepts revenue-sharing funds, even though they may have already by law scheduled increases in their local property taxes, they will have to freeze and reduce local property taxes. It may be that by bond issue or budgets already adopted that already they are committed to increasing local taxation to meet their budgetary needs.

It seems to me that they are either given a choice of cutting off revenue-sharing funds altogether or going back to the people and repealing bond issues, changing their budgets, and so forth.

I think it certainly is a simplistic approach. The gentleman from California, however, I think likes to make simplistic appeals. They do have a great deal of surface appeal; but this, I think, has some booby traps built in and the gentleman being such an avowed opponent of revenue sharing in the gentleman's basic concept is probably not unhappy about the fact that there are booby traps built into it.

Mr. HORTON. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I yield to the gentleman from New York.

Mr. HORTON. Mr. Chairman, I rise in opposition to the amendment.

Mr. HORTON. Mr. Chairman, what the amendment does is to create a categorical grant and puts a restriction on the use of revenue sharing. I oppose the amendment.

Mr. ROSENTHAL. Mr. Chairman, I move to strike the requisite number of words.

Mr. KOCH. Mr. Chairman, will the gentleman yield?

Mr. ROSENTHAL. I yield to my colleague, the gentleman from New York.

Mr. KOCH. Mr. Chairman, I received, as I think a number of Members did, a letter from the Rev. Msgr. James J. Murray, executive director of the Catholic Charities of the Archdiocese of New York in which he raises a question with respect to a provision in the bill and how it would affect church-related schools. That question arises from language that the gentlewoman from Texas (Ms. JORDAN) placed in the bill. I have talked with the gentlewoman from Texas about it.

I would like to have the gentlewoman's comments now, so as to reassure those who have raised the question, as the gentlewoman has reassured me, that their rights are not in any way impaired.

The letter I received raising the issue is as follows:

CATHOLIC CHARITIES
OF THE ARCHDIOCESE OF NEW YORK,
New York, N.Y., June 4, 1976.

Re Anti-discrimination Provisions in Revenue Sharing—H.R. 13367

Hon. EDWARD I. KOCH,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN KOCH: The House Committee on Government Operations has reported H.R. 13367 to continue the Federal Revenue Sharing Program in 1977. The bill as reported includes a new non-discrimination provision (Sec. 122) which, among other changes, adds the word "religion". This word presently is not contained in either Title VI of the Civil Rights Act of 1964 or the present non-discrimination section of the Revenue Sharing Act.

The effect of these provisions would be substantial in New York. Many church-related schools, homes for the aged and child care institutions in New York participate in federal, state and local health, education and welfare programs. Title VI discrimination prohibitions on racial and national origin have been applied to all church-related institutions participating in health, education and welfare programs. Title VI of the Civil Rights Act, however, permits these church-related schools and institutions to grant preference on the basis of religion. This would be prohibited under H.R. 13367 as reported.

I support application of the existing provisions of Federal non-discrimination laws to state or local government programs and activities, whether or not financed by Revenue Sharing funds. However, I oppose adding a new non-discrimination requirement on the ground of "religion" to existing non-discrimination laws regarding federally assisted program and activities.

I urge your strong support for a technical amendment during floor consideration of H.R. 13367 to make clear its intent and to limit the non-discrimination restrictions on state and local programs and activties to the same non-discrimination restrictions as now apply to Federal programs and activities under Title VI of the Civil Rights Act.

Sincerely yours,
Rev. Msgr. JAMES J. MURRAY,
Executive Director.

Would the gentlewoman please respond.

Mr. ROSENTHAL. I yield to the gentlewoman from Texas.

Ms. JORDAN. I thank the gentleman for yielding.

Let it be well understood that the addition of the category "religion" in the antidiscrimination bill under the general revenue-sharing law were not intended are not intended, should not be interpreted as an amendment to title 6 of the 1964 Civil Rights Act. The phrase "religion in terms of an area where discrimination is prohibited" is used in only three civil rights statutes. Title 6 is not one of those three.

When this bill, general revenue sharing, says that the term "religion" is to be interpreted in accordance with already existing civil rights laws, that means, ipso facto, those civil rights laws in which the term "religion" is already used. So, since the word "religion" is not in title 6, we cannot inferentially amend a major title of a civil rights law by simply writing antidiscrimination in an act called general revenue sharing.

Mr. KOCH. I thank the gentlewoman.

Mr. FOUNTAIN. Mr. Chairman, I move to strike the last word, and I rise in opposition to the amendment offered by the gentleman from California.

As a matter of fact, Mr. Chairman, it is contrary to the very purpose and intent of revenue sharing. The purpose of this bill is to provide for a redistribution of some of the Federal tax revenues to State and local governments so that they can perform services, as they see fit to meet the needs of their people. As a matter of fact, the committee eliminated from the revenue-sharing bill, as it was proposed by the President and as it is now a part of the law, the eight priority categories in which the funds must be spent at present.

The amendment would have the effect of turning this revenue-sharing bill into another categorical grant program. That is the very thing we tried to stay away from.

Mr. DRINAN. Mr. Chairman, will the gentleman yield?

Mr. FOUNTAIN. I yield to the gentleman from Massachusetts.

Mr. DRINAN. Mr. Chairman, I want to concur in the words of the distinguished gentleman from North Carolina. As a member of the subcommittee, I do not recall this particular concept ever being raised. It was not in any bill that was under consideration either by the subcommittee or full committee.

Although I appreciate the sentiments and the desire of my colleague, the gentleman from California (Mr. JOHN L. BURTON), I think it would be very unwise to adopt this amendment at this time.

Mr. FOUNTAIN. I thank the gentleman for his contribution.

Mr. POAGE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I am not a member of the committee which worked on this, but I do want to commend that committee and its chairman for their hard work. I think there has been a real effort to work out a solution to an insoluble problem. I think we might as well recognize that as long as we have the form of local, State, and Federal Government we have that we cannot solve this problem by this kind of legislation.

We can break down our form of government, yes—and I think that would be very unwise—after 200 years of successful operation of a government, separating the powers of local government from those of the Central Government. But we cannot place the Federal Government in the position of financing our local governments and still maintain those local governments as independent entities. There is no way we can do it. He who pays the fiddler will always call the tunes. And he who finances the operation of our cities, of our counties, is still going to run that city or county.

Any Member who does not believe that, just look back 10 years and remember what we were told about Federal aid to our public schools. We were told that we needed Federal help to ease the local tax burden but that the Federal Government would never interfere with our local school systems. We got Federal aid but no local tax relief. And what about Federal control. I wish all of our Members who think the Federal Government has not interfered with our local school systems today would stand up. I want to count all of those who feel that there is no Federal interference in our local school systems.

Mr. Chairman, I do not see anybody standing.

I think it is clear that we have reached a point where everybody is confused. I do not think that six Members of this House can tell us where we stand in regard to this bill right now. I know there has been serious effort made to try to work this out so that we can understand it, but we do not know what we are trying to do. The Members do not know what the next vote on the amendment is going to do. We do not know what we have done. We have voted on bills, committee bills, substitutes, amendments, substitutes for the amendments, and all we have proven, in 2 days of discussion with this, is that we have something here that is not going to solve anything unless we are willing to give up a fundamental principle of our federal system.

This most recent amendment, which changes the whole character of what the advocates of this proposal started out to do, emphasizes the confusion of those who are seeking to use Federal money to buy local support. And unfortunately that is all there is to it. My people do not want me to shoot Santa Claus anymore than yours do. But they know Santa Claus ought not be coming in June, but most people know that if you let Santa Claus of the city commissioner spend money they do not raise, and for which they do not have to account, that they are certain, over the years, to spend too freely. I doubt that we could devise a more certain way of assuring a wasteful expenditure of public funds.

I say to the Members that there is not anything to this idea of revenue sharing, except a vote-getting scheme. The Members know they are sharing revenue. The Federal Government has no revenue to share. It can only share and thereby increase its deficit. The people have to pay for it all. All we are doing is shifting taxation from the local agency to Washington and then sending some of the money back again. We do not move that money up here to Washington and back again for free. It takes a lot of money and an army of bureaucrats to affect its transportation. We are not helping anybody. We are not reducing the local or State taxes. Federal "aid" to education did not reduce the burden of local school taxes. The Federal Government is paying much of the school expense in my district today, and the State of Texas is paying more than it was 10 years ago. Yet local taxes have not been reduced 1 penny. We are not going to save anything here. We are simply going to duplicate and add to the cost and, ultimately, I say to the Members, we are going to destroy local government as we know it, because when the Federal Government pays the bills, the Federal Government is going to do just exactly what the author of this amendment suggests. It is going to dictate that certain of this money be used for certain purposes, and we are going to have to accept it because by that time we will have reached a stage where we cannot depend upon our local resources whatsoever. We are going to be dependent upon the big brother in Washington. I just do not believe that the great Federal Government is any better or any more efficient than our county or city commissioners.

I hope we will vote against this entire concept of irresponsible government. I hope we will vote to retain local government and will make that government responsible for its own keep. I hope we will vote against this unsound bill.

Mr. LEVITAS. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I will not take the full 5 minutes, but I do want to oppose and explain the reasons why I think the members of this committee should oppose the amendment. I have no doubt that the amendment offered by our colleague, the getleman from California (Mr. JOHN L. BURTON) is well intentioned. I have no doubt about that. I think the purposes and motives behind the offering of the amendment are most noble.

I would urge the Members of this Committee to resist the siren call of reducing property taxes through this measure, because the amendment offered by the gentleman from California (Mr. JOHN L. BURTON) is, indeed, a siren call, for this reason: What would in effect happen if the Burton amendment is adopted is that it would take away funds which would otherwise be available to the cities and the counties that could be used for reducing property taxes or stopping them from increasing or for providing programs for senior citizens, for the handicapped, for the elderly, for the schools, for drainage projects, for recreation programs, and for all these important programs that the people need and the people want. It would remove the possibility of those programs for funding under the revenue-sharing approach and instead would actually require property taxes to be raised in order to meet the local needs.

I believe the people who would suffer by this particular amendment would be the people we are most trying to benefit, those who are now paying the property taxes for the vital services that are being provided by local governments such as police protection, fire protection, sanitation, and the like.

Mr. Chairman, I would also like to point out to the Members of this Committee that the whole concept of revenue sharing itself is a major means of keeping down local property taxes. That is exactly why I have so strongly supported revenue sharing because it has the effect of keeping down property taxes, and I suggest to the Members of the Committee that one of the reasons it has such great support in this Congress and in this Nation is because it has brought about a reduction and has brought about the ability to keep down property taxes on the overtaxed property taxpayers of America. If we want to destroy that program, if we want to take away the needed services to the people who are receiving them under this program, and if we want to assure raising taxes locally to provide the services, we can adopt the Burton amendment and take away 20 percent of the available Federal revenue sharing funds.

Mr. Chairman, I do not think that is what the Members of the Committee want to do, and, therefore, I urge the Members to defeat the Burton amendment.

Mr. ENGLISH. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from Oklahoma.

Mr. ENGLISH. Mr. Chairman, I would simply like to point out that the gentleman from California (Mr. JOHN L. BURTON) is simply putting this money back into the pockets of the taxpayers, the same taxpayers from whose pockets the money comes to Washington, D.C., and then goes to local officials.

So basically what he is doing is placing it back into the pockets of the local taxpayers and allowing them to make decisions by requiring local officials to justify the need for the spending of these tax funds.

I think this is certainly in the best tradition of this country, and certainly on this anniversary of our Bicentennial it seems to me we should place a little faith in the local taxpayers. We should let them make the decisions. Let us not pass the buck to bureaucrats in Washington, D.C., so that the people no longer have direct control over the spending of this money. Let us require local officials to go to the local people to justify their expenditures on a local level.

Mr. LEVITAS. Mr. Chairman, I thank the gentleman from Oklahoma (Mr. ENGLISH) for his observations. I know that he understands, because he attended diligently the committee proceedings on this, that that is precisely what the general revenue sharing approach does. It permits these funds which the Federal Government has preempted away from the local governments to be returned and to be spent by the local officials elected by the same people, who elect you and me; and then the people can hold the local elected officials accountable and keep their taxes down and at the same time provide the essential services which they need.

Mr. ENGLISH. Mr. Chairman, will the gentleman yield further?

Mr. LEVITAS. I will be glad to yield to the gentleman from Oklahoma.

Mr. ENGLISH. Mr. Chairman, I have one last remark to make.

I would agree that local officials are responsible. Certainly they are as responsible as Federal bureaucrats and other elected officials.

In fact, there is only one group more responsible, and that consists of the taxpayers themselves. They are the ones who should be allowed to determine their own future.

Mr. LEVITAS. Mr. Chairman, the answer to that is that any time the local taxpayers and voters do not like what the local elected officials are doing with revenue sharing funds they have the right at the ballot box to make changes. I think the people have endorsed time and time again the concept of getting some of their money back home, and that is what general revenue sharing does. It sends the money collected from local people back to those who paid it in and lets it be used by the local officials elected by them.

Mr. MOSS. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I support the amendment offered by my colleague, the gentleman from California (Mr. JOHN L. BURTON).

I want to be very candid with the members of the Committee, I opposed revenue sharing when it was first proposed to this body. I felt it was the wrong approach to grant Federal funds to local officials to spend and for the spending of which they would not be accountable because they would not be imposing the taxes that the people were paying. The first pitch in selling revenue sharing or the very first proposal in this House was that it would bring down the burden on local property taxpayers.

Mr. Chairman, that was the original objective; and that was the basis upon which the Members were urged to vote. I did not buy it because I did not believe it.

In looking around the Nation, Mr. Chairman, I do not know of any area where taxes have been reduced. They have grown rapidly. As the gentleman from Texas (Mr. POAGE) pointed out, while we have assumed a greater and greater portion of the cost for education, the taxes have continued to go up at every level and in every kind of special district of local and State government.

At least, this amendment would say that 20 percent of it must be used to do what you told us you were going to do in the first place; reduce the burden on property taxpayer.

After all, probably the most overloaded "critter" in this Nation is the local property taxpayer. This would assure that the burden would be reduced just to the extent of 20 percent of the funds available locally.

Mr. Chairman, it is perfectly legal, I say to the gentleman from Texas (Mr. KAZEN), who questioned the legality. Yes; it is because when we are giving Federal funds, we can condition the use of those funds. I imagine that if we continue to give them out, we will see more and more conditions imposed.

Mr. Chairman, I think that is a bad precedent which we started when we went to revenue sharing. In the first place, we were not sharing revenue; we were sharing deficits, but we are there. It appears that whatever I have to say, this body is going to enact this very unwise piece of legislation. However, let us at least improve it so as to make valid the commitment made to the taxpayers in the first place.

Mr. Chairman, there are those who might worry, as the gentleman who spoke preceding me appears to worry, that somehow or other the local people have endorsed this. Let me point out that I have been in this House from the very first vote on revenue sharing and I have been returned in each and every election since. I have made no secret of my opposition to revenue sharing, and I have been returned with increasing majorities. Consequently, I do not think that the local people are hoodwinked so easily that this somehow is going to provide a magical means of reducing the cost of Government. It is not going to reduce the cost of Government. However, only through this one device, the amendment offered by the gentleman from California (Mr. JOHN L. BURTON), can a meaningful opportunity be provided for a reduction of local property taxes. That is essential because the people might even then have a little bit of money available to fix up some of the property that is overburdened so much now that they cannot afford to maintain it in the way they would like to.

Mr. MARTIN. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the Burton amendment.

Mr. Chairman, as a former county commissioner, I favor the concept of general revenue sharing as a way to assist the local governments in performing their responsibilities.

One reason I favor it is because every cent that a local government receives out of general revenue sharing enables that local government to meet its responsibilities in a way that reduces the local property tax; reduces the local property tax, I say again, from what it would have been in the absence of available general revenue sharing money.

I want to say to the gentleman from North Carolina (Mr. FOUNTAIN) and the gentleman from Georgia (Mr. LEVITAS), who have already spoken, that I join them in their opposition to the Burton amendment, but that I have an entirely different reason.

Mr. Chairman, the Burton amendment will not deprive the citizens in those local communities of the services that have been provided and that could be provided under revenue sharing. It will not reduce property taxes by 1 cent more than they will be reduced by the bill as it has been drawn and presented to us by the committee.

Mr. Chairman, the amendment offered by the gentleman from California (Mr. JOHN L. BURTON) does none of these things. As far as I can tell from reading the amendment, it does not do anything at all. Read it and see; all it says is the following:

> It will obligate at least 20 percent of the funds received under subtitle A during each entitlement period beginning on or after January 1, 1977, to specifically decrease taxes on real property.

It does not indicate whether it will reduce property taxes from what they were last year, or from what they are this year, or from what they are to be the following year or from what they are going to be in the absence of revenue sharing altogether. It has no basis; no point of reference. It will not do anything.

Mr. WYDLER. Mr. Chairman, would the gentleman yield?

Mr. MARTIN. I will yield to the gentleman as soon as I have finished with my statement.

Mr. Chairman, I think that a very simple explanation of this is in order. If a county receives revenue sharing funds, and if the amount received by the county is equivalent to 10 cents on its property tax rate, then all the county has to do is to show that with this revenue sharing money the property taxes would be 10 cents less than they would have been in the absence of revenue sharing money. So, every municipality and every county and local government can comply with the burden of the amendment offered by the gentleman from California (Mr. JOHN L. BURTON).

Now I will yield to the gentleman from New York.

Mr. WYDLER. The truth of the matter is, Mr. Chairman, that it really does not mean anything. If a locality gets $1 million in revenue sharing funds, it would have to take $200,000 under this amendment, and use it to reduce local property taxes. How does it do that? The only way it can do that is not to spend the $200,000 for any project. So we would have to send the project report to Washington for revenue sharing money and they would indicate that they were only going to be spending $800,000 but they really want to get $1 million.

It is a ridiculous amendment when you really analyze it.

Mr. MARTIN. As the gentleman has said, by simple sleight of hand, they can comply with the provisions of the amendment.

Mr. CONABLE. Mr. Chairman, would the gentleman yield?

Mr. MARTIN. I yield to the gentleman from New York.

Mr. CONABLE. Mr. Chairman, I thank the gentleman for yielding to me and I would like to associate myself with his remarks.

There are some Members in this House who cannot resist the temptation to dictate to local governments either through categorical grants or by tying the strings on revenue sharing. This is one such string. We are trying to take their authority over this discretionary money away and place it in Washington. I think it is a serious mistake because our whole purpose in enacting revenue sharing was to give discretionary money to the localities and communities. If local officials and the people in those communities agree that they wish to reduce real estate taxes, then that is up to those localities and the local officials. We should not mandate special uses of the money, and I think local officials should have the responsibility over their own tax rates, in the original spirit of revenue sharing.

Mr. MARTIN. Mr. Chairman, it is one thing to try to dictate to the local governments, but this amendment will only pretend to do so. It will not have the effect of enabling the Members to vote for a reduction in property taxes but will only pretend to do so, tongue-in-cheek. Some reduction in local property taxes is possible from the present bill before us as prepared by the committee. The amendment will not reduce property taxes any more than that. It will only create that impression. We should not trick the people like this.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. MARTIN. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Chairman, I think that the gentleman from North Carolina (Mr. MARTIN) has made a very effective argument when the gentleman points out that under the language of this amendment, a municipality could simply say that without this money their taxes would go up a certain percentage and therefore they are using it here in effect for a reduction in the local property taxes.

Mr. MARTIN. Exactly.

Mr. SEIBERLING. But if that is true, then why should we not adopt the amendment? Because the amendment does not do any harm. I think the gentleman has made a good case for voting for the amendment.

Mr. MARTIN. I have made a good case in opposition to the amendment, it seems to me, because I do not believe that the House of Representatives should be spending its time passing frivolous amendments which do not accomplish anything but that only appear to accomplish something. It should be defeated.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MAGUIRE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to ask the author of the amendment, the gentleman from California (Mr. JOHN L. BURTON) a question.

Mr. Chairman, I am concerned about people who rent in addition to those people who own their own homes. Let me say that I applaud the intentions of the gentleman from California in offering his amendment. I want to make sure that a substantial portion of revenue sharing funds is in fact used to reduce property taxes. But, I also want such benefits to be equally available to those who rent. So, will this amendment benefit people who rent in addition to people who own their homes?

Mr. JOHN L. BURTON. Mr. Chairman, if the gentleman will yield, let me say that it is always the intent in reducing property taxes, that it will also assist in the case of multifamily dwelling apartment houses, that the rents will be reduced if the property taxes are reduced and also there is no pressure on the owners to increase the rents because of the fact that the property taxes have gone down.

One would run into some constitutional problems by trying to discuss this as a renter relief measure in areas where that is prohibited under their constitutions. But it certainly is the intent that any moneys that their reduced taxes in multifamily units would bring about would inure to the benefit of the tenants.

I would further say that I do not consider it a ridiculous strain to provide tax relief for the people. If that is what those on this side of the aisle think, William McKinley is turning over in his grave—God rest his soul. To think that it is a strain on local government to provide tax relief for people is something I never thought I would hear from the distinguished gentleman on the other side.

Mr. MAGUIRE. Mr. Chairman, will the gentleman yield?

Mr. JOHN L. BURTON. I yield to the gentleman from New Jersey.

Mr. MAGUIRE. I thank the gentleman for yielding.

So the gentleman's intent here is to

provide relief both for homeowners and for those who rent?

Mr. JOHN L. BURTON. Right, The tax relief that is given to those who own multifamily units—the benefit of that should also inure to their tenants.

Mr. MAGUIRE. I thank the gentleman.

Mr. HANNAFORD. Mr. Chairman, will the gentleman yield?

Mr. JOHN L. BURTON. I yield to the gentleman from California.

Mr. HANNAFORD. I thank the gentleman for yielding.

I would like to ask my friend and colleague, the gentleman from California a question. I would like to support his amendment, the purpose of it, except that I think it gives a very serious problem to some cities in southern California.

We have in southern California what is referred to as contract cities that get their revenue for operation from a variety of sources other than property taxes, by fees and private contracts, and contracts with the counties for some services. They are members of special-purpose districts that supply a number of their services, and they get a 1-percent sales tax. Many of these are small cities, some not so small but all in great need of this service; but some of them report a zero property tax. What would be the impact of the gentleman's amendment on these cities?

Mr. JOHN L. BURTON. They are in a wonderful position, because it does not address itself to the sales tax. It addresses itself to the property tax. The people on the other side of the aisle cried so many tears about the property tax, that I thought it would help them.

It would not in any way affect contract cities if they do not have any property tax base at all.

Mr. HANNAFORD. If the gentleman will yield further, they do not lose any revenue? They would get the same amount with this?

Mr. JOHN L. BURTON. Yes.

Mr. HANNAFORD. They are not going to lose the 20 percent?

Mr. JOHN L. BURTON. They cannot lose 20 percent when they do not have property tax revenue coming in.

Mr. HANNAFORD. I have not seen the gentleman's amendment, but they are not going to lose the 20 percent?

Mr. JOHN L. BURTON. I would never do anything to offend the contract cities.

Mr. MAGUIRE. Mr. Chairman, will the gentleman yield?

Mr. JOHN L. BURTON. I yield to the gentleman from New Jersey.

Mr. MAGUIRE. I thank the gentleman for yielding.

Would I be correct in thinking that under the gentleman's amendment the 20 percent could be applied at the discretion of a locality as it saw fit? For example, I would hope that localities might choose to give special relief to senior citizens if that was regarded as a priority locally. Would that be possible under the gentleman's amendment?

Mr. JOHN L. BURTON. They certainly could give relief to senior citizens, which might be considered as a strain to us, but to some in an election year might be considered justified.

Mr. METCALFE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have heard a lot of argument today, and I think there has been a lot of confusion because there have been many points of order raised and many points of clarification. I think that there is need now for some clarification because, as I know the revenue sharing bill, there was nothing in the present bill that said anything about property tax relief.

I had an amendment that I wanted to present, but the Fountain amendment prevailed, and, therefore, it precludes me from introducing it. I wanted to make certain that we Members of Congress exercise our responsibility and know exactly where this money is going.

Somebody referred to it as a bushel bag and a Christmas tree. I concur with that thoroughly. I called for a General Accounting Office report in my city and I found out 95 percent of the revenue sharing money went for public safety, which meant for policemen, and that $500,000 was spent on the salaries of policemen, police who were assigned to the Intelligence Division, and, therefore, they were snooping around on all the citizens instead of benefiting the people.

I do not think that was the purpose of revenue sharing when it was passed. I have a report before me by the General Accounting Office pertaining to revenue sharing in 26 governmental units. It shows that in those 26 units 64 percent of their money was spent again on public safety, and then we come to environmental protection 12 percent, and then there is another 8 percent, and then recreation is 5 percent, public transportation is 4 percent, social service for the poor and aged is 3 percent, libraries is 2 percent, and Federal administration is 2 percent. Those are the eight categories that are in the statute.

There is nothing pertaining to property values or the fact that we are going to reduce property taxes. I submit to the Members that this would help. This is a step in the right direction, the Burton amendment. I intend to support it. Why? What is one of the main reasons why our cities are deteriorating? It is simply because people cannot afford to pay for upkeep and maintenance on their houses. That is a main reason. I could conceive in my city if they would apply this 20 percent on tax relief that people might be able to pay their taxes and stay in their particular homes.

We have seen local officials use these funds to pay for projects which had been voted down by the people in bond referendums. According to a report prepared for the Southern Regional Council, Baton Rouge, La., voters twice rejected bond issues for a proposed civic center. Yet, local officials in Baton Rouge circumvented this process by using half of Baton Rouge's $16 million in revenue-sharing funds for 1973 to 1975 to pay for this project. Similarly, in Hinds County, Miss., revenue sharing funds were used to negate two rejections of bond issues to build a new jail.

We have seen local officials use the bulk of their funds in one area—public safety. According to a General Accounting Office report, recipients have been spending over 60 percent of their funds on public safety, to the detriment of other categories such as health, environmental protection, and social services for the poor and the aged. I do not think that when Congress created revenue sharing in 1972 that it intended or expected such a large imbalance in the allocation of these funds to develop, especially when one considers the many diverse problems facing both urban and rural America.

In Chicago, where my district is located, we have seen perhaps the Nation's most dismal failure in the revenue sharing program.

While our neighborhoods have continued to deteriorate, while our elderly have struggled for survival, and while our unemployed have vainly sought work, over 95 percent of Chicago's revenue sharing funds for the fiscal year 1975 were allocated for the police and fire departments, while 5 percent was available for health, recreation, libraries, social services, financial administration and public transportation categories.

Mr. Chairman, H.R. 13367 authorizes a total of $24.95 billion through fiscal year 1980. I think that the needs of the units of government receiving Federal money under this act are established. I do not intend to repeat these needs. There is a critical financial crisis which confronts these local governments. Many may already have programed the Federal allocation into their budget so we can ill afford to disrupt the flow of Federal money.

However, this does not relieve this body of the responsibility it has to carefully oversee the expenditure of these Federal funds. We have to strike a delicate balance between the granting of funds and the exercise of oversight.

PARLIAMENTARY INQUIRY

Mr. MYERS of Pennsylvania. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman from Pennsylvania will state the parliamentary inquiry.

Mr. MYERS of Pennsylvania. Mr. Chairman, is the parliamentary situation such that an amendment is in order to the Brooks amendment?

The CHAIRMAN. There are no amendments in order at this point until at least one of the four pending amendments is disposed of.

Mr. MYERS of Pennsylvania. Is there a pending amendment to the Brooks amendment?

The CHAIRMAN. Yes. The first amendment to be dealt with will be the John L. Burton amendment to the Brooks amendment in the nature of a substitute, as amended.

Mr. MYERS of Pennsylvania. I thank the Chairman.

The CHAIRMAN. Let the Chair state

the situation for the benefit of the Committee, as far as the Chair can.

Mr. HANNAFORD. Mr. Chairman, I was seeking recognition. I move to strike the last word.

Just briefly Mr. Chairman, I would like to point out to my colleagues that having read the amendment, contrary to the author's understanding, it calls for a reduction of 20 percent of revenues for cities unless those revenues are expended for purposes of reducing property taxes.

There are cities in southern California that for various reasons do not have property taxes and which get their funds from State subventions, from sales taxes, from private fee contracts, and from a variety of other sources, and also through native thrift they have no property taxes. Because of this situation the cities would lose 20 percent of their revenue sharing funds. Many of them are poor or small cities. It would be a mistake, I think, to adopt this amendment because of the effect it would have on these contract cities. Because of that I urge a "no" vote on the John L. Burton amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. JOHN L. BURTON) to the amendment in the nature of a substitute offered by the gentleman from Texas (Mr. BROOKS), as amended.

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. JOHN L. BURTON. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 64, noes 340, not voting 27, as follows:

[Roll No. 354]

AYES—64

Allen
Ambro
Bennett
Blanchard
Brinkley
Brooks
Burke, Calif
Burton, John
Burton, Phillip
Carr
Collins, Tex.
Conlan
Corman
Dellums
Downey, N.Y.
Duncan, Tenn.
Early
English
Evans, Ind.
Fascell
Florio
Ford, Mich.
Gibbons
Harkin
Harrington
Harris
Heckler, Mass.
Jacobs
Jones, Okla.
Kelly
Lehman
Lujan
McDonald
Maguire
Metcalfe
Mezvinsky
Miller, Calif.
Minish
Moakley
Moorhead, Pa.
Moss
Mottl
Murphy, N.Y.
Nix
Nolan
Pepper
Pike
Randall
Roe
Rogers
Roybal
Runnels
Schroeder
Seiberling
Slack
Staggers
Stark
Studds
Tsongas
Waxman
White
Wirth
Wolff
Young, Fla.

NOES—340

Abdnor
Abzug
Adams
Addabbo
Alexander
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashbrook
Ashley
Aspin
AuCoin
Badillo
Bafalis
Baldus
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bergland
Bevill
Biaggi
Bingham
Blouin
Boggs
Boland
Bolling
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brodhead
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Butler
Byron
Carney
Carter
Cederberg
Chappell
Chisholm
Clancy
Clausen, Don H.
Clay
Cleveland
Cochran
Cohen
Collins, Ill.
Conable
Conte
Conyers
Cornell
Cotter
Coughlin
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Davis
de la Garza
Delaney
Dent
Derrick
Derwinski
Devine
Dickinson
Diggs
Dingell
Dodd
Downing, Va.
Drinan
Duncan, Oreg.
du Pont
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
Erlenborn
Esch
Eshleman
Evans, Colo.
Evins, Tenn.
Fary
Fenwick
Findley
Fish
Fisher
Fithian
Flood
Flowers
Flynt
Foley
Ford, Tenn.
Forsythe
Fountain
Fraser
Frey
Fuqua
Gaydos
Gilman
Ginn
Gonzalez
Goodling
Gradison
Grassley
Green
Gude
Guyer
Hagedorn
Haley
Hall
Hamilton
Hammerschmidt
Hanley
Hannaford
Hansen
Hawkins
Hayes, Ind.
Hébert
Hechler, W. Va.
Hefner
Heinz
Henderson
Hicks
Hightower
Hillis
Holland
Holt
Holtzman
Horton
Howard
Howe
Hubbard
Hughes
Hungate
Hutchinson
Hyde
Ichord
Jarman
Jeffords
Jenrette
Johnson, Calif.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kazen
Kemp
Ketchum
Keys
Koch
Krebs
Krueger
LaFalce
Lagomarsino
Latta
Leggett
Lent
Levitas
Litton
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lundine
McClory
McCloskey
McCollister
McCormack
McDade
McEwen
McFall
McHugh
McKay
McKinney
Madden
Madigan
Mahon
Mann
Martin
Matsunaga
Mazzoli
Meeds
Melcher
Michel
Mikva
Miller, Ohio
Mills
Mineta
Mink
Mitchell, Md.
Mitchell, N.Y.
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Morgan
Mosher
Murphy, Ill.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nowak
Oberstar
Obey
O'Brien
O'Hara
O'Neill
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Paul
Perkins
Pettis
Peyser
Pickle
Poage
Pressler
Preyer
Price
Pritchard
Quie
Quillen
Railsback
Rangel
Rees
Regula
Reuss
Rhodes
Richmond
Riegle
Rinaldo
Risenhoover
Roberts
Robinson
Rodino
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Ruppe
Russo
Ryan
St Germain
Santini
Sarasin
Sarbanes
Satterfield
Scheuer
Schneebeli
Schulze
Sebelius
Sharp
Shipley
Shriver
Shuster
Sikes
Simon
Sisk
Skubitz
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
Stanton, J. William
Stanton, James V.
Steed
Steelman
Steiger, Wis.
Stephens
Stokes
Stratton
Stuckey
Sullivan
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thone
Thornton
Traxler
Treen
Udall
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Vigorito
Waggonner
Walsh
Wampler
Weaver
Whalen
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Wright
Wydler
Wylie
Yates
Yatron
Young, Ga.
Zablocki
Zeferetti

NOT VOTING—27

Bell
Biester
Clawson, Del
Daniels, N.J.
Frenzel
Giaimo
Goldwater
Harsha
Hays, Ohio
Helstoski
Hinshaw
Johnson, Colo.
Karth
Kindness
Landrum
Mathis
Meyner
Milford
Passman
Roncalio
Rousselot
Steiger, Ariz.
Symington
Thompson
Winn
Young, Alaska
Young, Tex.

Mr. BRADEMAS and Mr. DRINAN changed their vote from "aye" to "no."

Mr. TSONGAS and Mr. MOAKLEY changed their vote from "no" to "aye."

So the amendment to the amendment in the nature of a substitute, as amended, was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. RANDALL TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. BROOKS, AS AMENDED

Mr. RANDALL. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute, as amended.

The Clerk read as follows:

Amendment offered by Mr. RANDALL to the amendment in the nature of a substitute offered by Mr. BROOKS, as amended: At the end of the Brooks amendment as amended on the last page of the amendment as amended, insert at the end thereof the following new section

SEC. . Any hearing required by this Act to be held by a local or State government shall provide senior citizens and senior citizens organizations with an opportunity to be heard prior to the final allocation of any funds provided under the Act pursuant to such a hearing.

Mr. RANDALL. Mr. Chairman, so often and so frequently Members stand in the well to say, "This is a simple amendment." I submit to the Members that I can justify those words at this time. In the parliamentary maze that we have been in, we are now down to some amendments which must be offered, under the existing parliamentary situation at the end of the so-called Brooks amendment, as amended by the Fountain amendment.

All we are asking by our amendment is to add a section which someone might try to oppose because first they would argue is surplusage or second, some may bring to the surface that awful, terrible word, "discrimination," and say we are discriminating in favor of our senior citizens. As to this last contention my response is—so be it—and hallelujah.

Addressing ourselves to the first point, it is not surplusage, because look as long as you will you cannot find any reference in the bill anywhere to senior citizens. Under the old or existing bill our elderly Americans were listed as one category with some preference, but no, not in the present legislation.

Mr. Chairman, I offered this amendment as one who serves as the first chairman of the new House Select Committee on the Aging. As you know, we came into existence at the beginning of the 94th Congress. In the course of hearings which have been held in our first 2 years of existence, we have determined that under the old or existing revenue-sharing bill, not over 1 percent of the total funds have been spent either directly or indirectly for the senior citizens of this country.

This appraisal of the record of revenue sharing is not ours alone, but the major organizations of senior citizens of this country concur in that estimate. Some of the prorevenue sharing organizations, such as the U.S. Conference of Mayors and the National Association of Counties, have made an effort to rebut these figures by saying that maybe only 1 percent has been spent directly, but more than that has been spent indirectly, such as expenditures for police protection and fire protection, and such sundry matters as sewers and water systems. Well, if that is true, then all of the other segments of our society receive just as much indirect benefits, but the youth are provided with all kinds of recreational areas that can be used only by young and middle aged people. Surely we are not going to let the charge be made that most of the indirect benefits from revenue-sharing expenditures are youth-oriented?

Mr. Chairman, you can call the roll of all the local subdivisions of government across the Nation, and you can find precious few that have ever spent any revenue-sharing money even for a senior citizens center. During the time of my chairmanship of the Committee on Aging, I can find no examples of instances in which revenue-sharing funds were used to buy buses to be used to help in the transportation problems of the aging, or to assist in the nutrition programs, or any type of home care assistance.

If the 1-percent figure which we mentioned earlier in these remarks is correct, as being the limit of revenue sharing funds spent on our senior citizens for programs which would benefit them, this figure should be compared with the fact that those over 65 today constitute more than 10 percent of our total population. We have allocated revenue-sharing funds in the past on a per capita basis. Certainly, our senior citizens should be entitled to 10 percent of our revenue-sharing funds.

But, Mr. Chairman, it is the consensus that we may not have strings attached, and I have not offered an amendment providing that this 10 percent be set aside. All I am asking in this amendment is that our senior citizens and senior citizens organizations be given an opportunity to be heard prior to the commitment of funds by our State and local units of government.

What could be any fairer than that? I have confidence that our senior citizens will present themselves at hearings, if they are notified and given an opportunity to appear, to be sure that they receive a fair share of revenue-sharing funds. I hope this amendment will be adopted.

Mr. BROOKS. Mr. Chairman, will the gentleman yield?

Mr. RANDALL. I yield to the gentleman from Texas.

Mr. BROOKS. Mr. Chairman, I will say to my distinguished friend, the gentleman from Missouri (Mr. RANDALL), that I do not see any particular objection to this amendment. I do not think it would hurt anything to permit senior citizens to have an opportunity to see what is going on. I do not think it would cause any additional trouble.

The amendment has pertinence, and if the Republicans do not have any objection, we can move on with this legislation and accept the amendment. The hour is beginning to grow late.

Mr. HORTON. Mr. Chairman, will the gentleman yield?

Mr. RANDALL. I yield to the gentleman from New York.

Mr. HORTON. Mr. Chairman, I appreciate the gentleman's yielding.

Mr. Chairman, I believe this point is covered already. I understand the gentleman's concern. I am concerned about senior citizens, too, but I think they are covered in the bill.

Mr. RANDALL. Mr. Chairman, no where are they covered in the bill. They had a preference at one time. Now they have nothing.

Mr. HORTON. Mr. Chairman, I have no objection to the amendment.

Mr. GRASSLEY. Mr. Chairman, will the gentleman yield?

Mr. RANDALL. I yield very briefly to the gentleman from Iowa.

Mr. GRASSLEY. Mr. Chairman, I want to thank the gentleman from Missouri (Mr. RANDALL) for offering his amendment, and I rise in support of it.

I want to say to the gentleman that he has been a real leader in this area, and I thank him for his efforts.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Missouri (Mr. RANDALL) to the amendment in the nature of a substitute offered by the gentleman from Texas (Mr. BROOKS), as amended.

The amendment to the amendment in the nature of a substitute, as amended, was agreed to.

AMENDMENTS OFFERED BY MR. ROSENTHAL TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. BROOKS, AS AMENDED

Mr. ROSENTHAL. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute, as amended.

The Clerk read as follows:

Amendment offered by Mr. ROSENTHAL to the amendment in the nature of a substitute offered by Mr. BROOKS, as amended: at the end of the Brooks amendment, as amended, insert the following new section:

POPULATION ADJUSTMENT

SEC. 17. Section 109(a)(1) of the State and Local Fiscal Assistance Act of 1972 is amended by inserting immediately before the period at the end thereof the following: ", except that the Bureau of the Census shall make available to the Secretary data to correct for any substantial and systematic undercounting of the residents of any State, and the Secretary shall utilize such data to the extent that it represents a reliable and uniform count of such residents".

Redesignate the following sections and any references thereto accordingly.

POINT OF ORDER

Mr. HORTON. Mr. Chairman, I make a point of order against the amendment.

The CHAIRMAN. The gentleman will state his point of order.

Mr. HORTON. Mr. Chairman, the point of order is that there has already been a substitute to the Brooks amendment in the nature of a substitute, which has been adopted. Therefore, it is out of order to offer another substitute to the Fountain amendment that was adopted to the Brooks substitute.

Furthermore, Mr. Chairman, I have a substitute which is pending, and this would be out of order.

The CHAIRMAN. Does the gentleman from New York (Mr. ROSENTHAL) wish to respond?

Mr. ROSENTHAL. I do, Mr. Chairman.

The gentleman from New York (Mr. HORTON) would have been correct if this were an amendment to an existing substitute that had already been adopted. However, this amendment adds a new section to the Brooks amendment in the nature of a substitute, section 17.

Therefore, Mr. Chairman, the point of order should be overruled.

The CHAIRMAN. The Chair is prepared to rule.

The amendment offered by the gentleman from New York (Mr. ROSENTHAL) is not a substitute or an amendment in the nature of a substitute. It adds new language at the conclusion of the Brooks amendment in the nature of a substitute, as amended.

The Chair therefore overrules the point of order.

POINT OF ORDER

Mr. BAUMAN. Mr. Chairman, I make a point of order against the amendment.

The CHAIRMAN. The gentleman from Maryland will state his point of order.

Mr. BAUMAN. Mr. Chairman, if the gentleman from Maryland heard the reading of the amendment correctly, it amends another statute not now before this body. I know of no reference to anything in this existing legislation before us, and I would make a point of order against the amendment as not being germane. However, I admit that I did not have a copy of the amendment to read.

The CHAIRMAN. Does the gentleman from New York (Mr. ROSENTHAL) care to respond?

Mr. ROSENTHAL. I do, Mr. Chairman.

I respectfully submit that my amendment is germane to this legislation, and therefore, the point of order should be overruled.

The CHAIRMAN. The Chair is prepared to rule.

The Rosenthal amendment is to the same subject matter and amends the same law as the Brooks amendment in the nature of a substitute, as amended, and consequently is in order.

The Chair therefore overrules the point of order.

Mr. ROSENTHAL. Mr. Chairman, this amendment deals with a very serious problem, one that is peculiar to many areas of the country, and it is offered jointly by the gentleman from Florida (Mr. FUQUA) and myself.

It deals with the question of undercounting of population. The net effect of the undercounting of population is that local communities receive less than a fair share of the moneys they would otherwise be entitled to.

Revenue sharing funds, in large part, in many areas are based in population counts, and if there is a reduction or an inequitable count or if the count is inaccurate and thus an undercount, then local communities suffer.

There are a lot of reasons that this occurs. The Bureau of the Census, for various reasons, has been ineffectual in counting certain groups within the country.

One area that particularly occurs in our community of New York City is the question of illegal aliens. The Bureau of Immigration and Naturalization has suggested that there are probably 6 to 8 million aliens living in the United States and that about 1 million live in New York City.

This amendment in no way deals with the legal or illegal questions of their residency here in the States. However, what does happen is this, that they are physically present in local communities such as mine, and thus, they are on rendered services such as hospitals, schools, and many other local community services for which the local communities are not being adequately or properly or equitably compensated.

Mr. Chairman, the General Accounting Office recently did a study on this subject in a report to the House Committee on Post Office and Civil Service entitled, "Programs To Reduce the Decennial Census Undercount." In there they said that in each census some persons are missed and others are double counted.

In that report they said:

> In each census some persons are missed and others are double-counted. For the 1970 census, the Bureau of the Census estimated a net undercount rate of 2.5 percent—about 5.3 million persons.

About 5.3 million people are not being presently counted and are physically present and are not being adjusted for in the revenue sharing formula.

The report went on to state:

> GAO recommends that the Bureau develop methods for estimating the number of illegal aliens so that the undercount can be estimated more accurately in 1980.

The undercounting affects the economy in three major areas, Federal and State projects, Federal and State and local planning, Federal, State, and local political representation.

What the report specifically said is:

> Undercounts can result in a misallocation of Federal funds distributed through formula grants because undercount rates differ between geographic regions. A larger undercount will place one area at a disadvantage with respect to other areas less undercounted when population is used in calculating Federal benefits.

The net effect of this amendment is that if they can find an efficacious way of doing the counting, they can do it. That is all the amendment says.

The Bureau of Immigration and Naturalization has estimated before the subcommittee that they have a plan that is contracted out, for a method for estimating in a reasonable and equitable way for the undercounting. My amendment merely suggests that if they can find a valid way toward estimating those who were undercounted then they ought to be counted and included in the revenue sharing formula.

Mr. FUQUA. Mr. Chairman, will the gentleman yield?

Mr. ROSENTHAL. I yield to the gentleman from Florida.

Mr. FUQUA. Mr. Chairman, I want to thank the gentleman for yielding. I am happy to have been a cosponsor of this amendment with the gentleman from New York and what the gentleman says is true. Not only are there those who are in this country illegally, but there are also many poor people who live in rural areas, and inner city minorities, and others who do not wish to be counted and who try to avoid being counted, so that when they take the next decennial census, that if they find a way to count them that they should be counted because truly, as the gentleman from New York has pointed out, the local communities are having to provide the services for these people, whether they are counted or not counted and whether they are here legally or illegally.

So I hope the House and the committee will see fit in their wisdom to adopt this amendment that the gentleman from New York (Mr. ROSENTHAL) and I have cosponsored.

Mr. BROOKS. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from New York (Mr. ROSENTHAL).

I might say, Mr. Chairman, that this amendment was defeated in the committee.

I think the truth of the matter is that the Government should institute proper methods of reducing the number of illegal aliens that are in this country. I do not think that it is proper to subsidize a city in any way because of the presence of these illegal aliens. I think that the committee reached a wise decision when it turned this amendment down.

I would say to my distinguished friend, the gentleman from New York (Mr. ROSENTHAL) that we have roughly between 6 to 10 million illegal aliens in this country and this at a time when we have unemployment running between 5 to 7 million, depending on how you count it, I really think that we ought not have to subsidize them in any actual manner.

Mr. ROSENTHAL. Mr. Chairman, would the gentleman yield?

Mr. BROOKS. I will be happy to yield to my distinguished friend, the gentleman from New York.

Mr. ROSENTHAL. I would say to the gentleman from Texas that this amendment in no way deals with the question of the legality or illegality of how these people happen to be in this country, but they are here physically and they are in these communities, and even though they are not being counted, they are entitled to the services. The local communities under the revenue sharing formula are not being compensated for the cost paid by the communities for them.

Mr. BROOKS. Let me say to the gentleman from New York that I thoroughly understand the problem. The answer to that is if we can ascertain where these people are from, then we can export them to where they came from, and on that same day.

Mr. ROSENTHAL. Mr. Chairman, let me say to the gentleman from Texas that is not the issue in this bill. That matter, if the gentleman will yield further, as the gentleman well knows, is involved in the Rodino bill now pending before the Committee on the Judiciary.

Mr. BROOKS. Yes.

Mr. ROSENTHAL. That is the bill that deals with that very issue, and when that bill will become legislation and enacted into law, no one knows.

In the meantime, many communities are unfairly and unduly suffering and being prejudiced by their failure to be compensated for human beings in their communities.

Mr. BROOKS. Why should the cities and the towns that harbor the illegal aliens do so and benefit therefrom?

Mr. ROSENTHAL. It is the Federal Government's responsibility to do something about it. New York City cannot send these people away. They do not have the resources. They do not have the law facility.

Mr. BROOKS. They can return the illegal aliens.

The CHAIRMAN. The time of the gentleman has expired.

Mr. FOUNTAIN. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I am extremely sympathetic with the position taken by the gentleman from New York and the gentleman from Florida. We explored the situation. We contacted the Census Bureau and the Department of Commerce, and we were told that there was no way of getting any responsible, accurate estimate. In a letter which I have here, the Census Bureau concluded by saying,

> The issues raised by Congressman Rosenthal are important and of continuing concern to the Bureau, and we will continue to explore these matters.

The point I want to make is that without any responsible or accurate estimate, there is no telling how many millions of dollars would go into New York as a result of a "guesstimate" and thereby take funds from other sections of the country.

Mr. ROSENTHAL. Mr. Chairman, will the gentleman yield?

Mr. FOUNTAIN. I yield to the gentleman from New York.

Mr. ROSENTHAL. I thank the gentleman for yielding.

The General Accounting Office on page 21 of its report says the following:

> By using demographic data such as births, deaths, and immigration statistics, the Bureau has developed an experimental model to derive undercount rates at the State level.

Then they go on to say:

> The Bureau has stated that one of its objectives in 1980 is to develop procedures by

which the undercounts can be distributed so that corrected population counts can be published.

They have indicated they are on the verge of actually making accurate reporting procedures to deal with the undercounts. All the amendment says is if they cannot have efficacious procedures, then count them so that the local communities in isolated fashion do not bear the burden of the responsibility.

Mr. FOUNTAIN. I agree with the gentleman that there is a population undercount, not just in New York City but all over the country.

Mr. ROSENTHAL. All over the country.

Mr. FOUNTAIN. It is a question of distributing the undercount to State and local governments. But they tell us there is no accepted method for distributing the undercount. As a matter of fact, the GAO report to which the gentleman makes reference points this fact out, and says there is no acceptable way of distributing it.

Mr. ROSENTHAL. If the gentleman will yield further, they say exactly the opposite. They say exactly the opposite.

Mr. FOUNTAIN. They refer to the use of experimental techniques by the Census Bureau for the purpose of trying to develop a formula which will be valid and reliable for this purpose.

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. FOUNTAIN. I yield to the gentleman from Florida.

Mr. FASCELL. I thank the gentleman for yielding.

The truth of the matter is that we can distribute any way we want to. That is what we are doing now. We just create any kind of model to try to fit what the program is trying to do. So if we have an undercount, there may not be an acceptable way or a desirable way, or any way to correct it, but the point is we can distribute it. We can distribute the undercount, crank it into the formula. The point is we can construct a model in order to count people in order to make the distribution. That is the way I see it.

Mr. FOUNTAIN. As I understand it, they presently have the authority under existing law to use whatever formulas they have for the purpose of adjusting for an undercount.

Mr. FASCELL. The Chairman is right. The point is they are not doing it. That is what the gentleman from New York says. That is the problem that we have had all along on this thing.

We have assumptions cranked into the distribution formula by ORS simply to get the money out to the cities and counties. That is fine. I have no objection to that. All we are saying is if you have a serious problem with respect to undercount, it does affect a lot of cities, and some effort should be made downtown to correct that. We do not say it would be the best way, but there is no point in continuing the inequity.

Mr. FOUNTAIN. We have continuous oversight over the program, and I can assure the gentleman that our subcommittee will make every effort to the end that they carry out their responsibilities and do something appropriate about determining this undercount. But simply to estimate how many aliens may be in New York City and then allocate funds on that basis would, I think, be rather irresponsible.

Mr. FUQUA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I do not intend to take all the time but I just do want to point out that, as has been pointed out, this is only advisory. We request that if they can develop a reasonable and sound method whereby these undercounts can be accurately reported to the Census Bureau or Treasury Department, they may be used. If it does not work out, then they will not have to do this. But it is only an advisory thing and Congress is going on record indicating that we feel in those areas where there are under counts, particularly in the rural areas and particularly among the poor or among minorities and also including illegal aliens, we will take into consideration the under counts.

It does not say we approve of illegal aliens. I do not. I do not think this Congress does. But all those who are here and are included in the under count we are having to provide services for, including hospital services and libraries and schools, or whatever those services are which are having to be provided.

So I do urge my colleagues to approve this. It is not mandatory. It is only permissive if they can work it out.

Mr. KAZEN. Mr. Chairman, if the gentleman will yield, will these aliens be identified as aliens, as illegal aliens?

Mr. FUQUA. If they can be identified they will be deported of course.

Mr. KAZEN. That is the point. So how can this work?

Mr. FUQUA. They feel they have a method they are contracting for now so they can approve projects and identify the under count not by individuals but as people in the areas, whether they be illegal aliens or minorities or whatever it is, but they are the under count.

Mr. KAZEN. I can agree with every other category except the illegal alien category, because if we were to provide for that then we are saying the Federal Government and the Congress approve of giving illegal aliens whatever services they might need.

Mr. FUQUA. I might point to my good friend that we are having to do that now and we are not being honest with ourselves.

Mr. KAZEN. But if we do it we are not doing it with the consent of the Congress.

Mr. FUQUA. The consent of the Congress only says that if they are here and we are having to provide services then we will give credit for it.

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. FUQUA. I yield to the gentleman from Florida (Mr. FASCELL).

Mr. FASCELL. Mr. Chairman, the point is we are doing it, and the areas where those undercounts live are having to pay for the services, and the areas are not being compensated for those services.

Mr. FUQUA. That is correct. The gentleman from Texas or the gentleman from New York or wherever they might be, from Florida or some other place, wherever they might be, some credit should be given for the undercount.

Ms. HOLTZMAN. Mr. Chairman, will the gentleman yield?

Mr. FUQUA. I yield to the gentlewoman from New York.

Ms. HOLTZMAN. Mr. Chairman, I rise in support of the amendment.

I think the presence of illegal aliens is certainly a Federal responsibility. It is not a local responsibility. There is no city or State or locality that has any right to do anything about those people.

I feel the Federal Government has failed to exercise its responsibility in that area. But we must not put the burden on the particular areas where the people are because the Federal Government has failed to carry out its responsibility.

I am in favor of the amendment. I am skeptical about the ability to count the illegal aliens but if such an effort is developed there is no reason why these areas cannot be compensated.

Mr. FUQUA. The gentlewoman is absolutely correct. It is not the responsibility of local goverment to determine the admission standards for people coming into this country or those people who are in the country. That is the Federal responsibility. But if they can determine and make a reasonable effort to count those people, the areas should be compensated and the method if it can be worked out will be supported. If they are not able to do so, the areas will not be so compensated.

I urge support of the amendment.

Mr. MYERS of Pennsylvania. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I take this time to voice my support of revenue sharing and also I take this time, because I suspect soon we will be limiting time and I do want to make some comments about two amendments I propose to introduce later on. Fearing I will not have time then to explain the amendments I think it would be appropriate to explain them now.

Mr. Chairman, both of the amendments will make the program more efficient and more effective. The first amendment will deal with the entitlement payments of less than $2,000. This amendment would provide that if a jurisdiction receives less than $2,000 for an entitlement period—1 year—the Secretary of the Treasury will make the total entitlement payment not later than 5 days after the close of such entitlement period. In effect this amendment will provide an amount of money to smaller communities in a more usable size and at the same time will result in a number of administrative savings—public hearings and reporting requirements will only be required once, and fewer checks and less paper work will be required at the Federal level.

Quarterly payments of communities that receive less than $2,000 in an entitlement period do not offer the desired flexibility to those communities to properly address the programs and projects that they need, a more desirable alternative than funding regular operating expenses.

Mr. Chairman, the second amendment that I intend to offer would address the subject of cooperative publications.

POINT OF ORDER

Mr. KREBS. Mr. Chairman, a point of order.

The CHAIRMAN. The gentleman will state the point of order.

Mr. KREBS. Mr. Chairman, I make a point of order that the comments of the gentleman in the well are totally unrelated to the subject of the amendment before us.

The CHAIRMAN. The point of order is overruled and the gentleman from Pennsylvania (Mr. MYERS) will proceed.

Mr. MYERS of Pennsylvania. Mr. Chairman, the second amendment that I propose to offer to both these pending substitutes would deal with allowing local communities to save on the costs of publication of their reporting requirements. The public reporting requirements in the original revenue sharing program required repetitive advertising and resulted in a drain of revenue sharing moneys. This amendment provides that governmental units that are required to publish their proposed use reports may join together and give the same disclosures with much less advertising space and at considerable savings of cost. In addition, constituents will be better able to compare projects, budgets and revenue sharing expenditures with other communities who cooperate in this program requirement.

Mr. Chairman, this amendment does not limit in any way the quantity and quality of public disclosures required under the Act. I just show as an example a typical advertisement by a local community. The aim of my second amendment would be to provide the municipalities an opportunity to cooperate with each other and construct a matrix and eliminate repetitive reporting.

Both these amendments, as I indicated earlier, are directed to saving revenue sharing funds, both at the Federal level and the local level.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. ROSENTHAL) to the amendment in the nature of a substitute offered by the gentleman from Texas (Mr. BROOKS), as amended.

The amendment to the amendment in the nature of a substitute, as amended, was rejected.

AMENDMENT OFFERED BY MR. BROWN OF MICHIGAN TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. BROOKS, AS AMENDED

Mr. BROWN of Michigan. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from Texas (Mr. BROOKS), as amended.

The Clerk read as follows:

Amendment offered by Mr. BROWN of Michigan to the amendment in the nature of a substitute offered by Mr. BROOKS; as amended: At the end of the Brooks amendment, insert the following: "Notwithstanding any other provision of this Act, specific compliance with the provisions of Section 8(c) and 8(d) of this Act may be waived in whole or in part in accordance with regulations promulgated by the Secretary if he determines that the processes required to be followed under State or local laws or charter provisions by local units of government substantially assure the notice and opportunity for citizen participation contemplated by the provisions of such sub-sections."

Mr. BROWN of Michigan. Mr. Chairman, I offer this amendment to deal with a special situation under Michigan Law and no doubt the laws of other States. The amendment would permit the Secretary of the Treasury to waive the specific provisions of this Act regarding citizen participation hearings and notice thereof in those cases where the law applicable to such unit of government already assures the kind of public notice and participation contemplated in the bill.

In 1961–62, I was a delegate to the Michigan constitutional convention, and there we established public participation requirements for all local government budget processes. Since that time, additional State statutes and charter provisions have reinforced and implemented the public participation concept. My amendment would allow those local governments to continue to use well established and familiar budget procedures, rather than requiring them to change their procedures only to match a Federal format or even to engage in costly duplicative procedures.

Of course, it would be incumbent on the Secretary of Treasury to satisfy himself that the local budget processes did indeed provide for adequate notice and public participation, before such a waiver could be granted.

I am sure there are other States which already have public participation laws similar to those in Michigan: Those laws may also satisfy the waiver requirements of my amendment and it would be irresponsible for us to impose further costly procedures on your units of government, if in fact satisfactory citizen participation is assured.

Finally, I would point out that a limited version of this amendment was adopted in the Government Operations Committee by a unanimous voice vote in part is presently incorporated in the amended bill before us.

Mr. Chairman, I urge my colleagues to support this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. BROWN) to the amendment in the nature of a substitute offered by the gentleman from Texas (Mr. BROOKS), as amended.

The question was taken; and on a division (demanded by Mr. BROWN of Michigan) there were—ayes 11; noes 22.

So the amendment to the amendment in the nature of a substitute, as amended, was rejected.

AMENDMENT OFFERED BY MR. MINISH TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. BROOKS, AS AMENDED

Mr. MINISH. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute, as amended.

The Clerk read as follows:

Amendment offered by Mr. MINISH to the amendment in the nature of a substitute offered by Mr. BROOKS, as amended: On the last page of the Amendment of the Gentleman from Texas, as amended, insert at the end thereof the following new section:

SEC. 13. Section 108(d)(3) of the Act is amended as follows:

"(3) TOWNSHIPS.—The term "Township" includes equivalent subdivisions of government having different designations (such as "Towns"), and shall be determined on the basis of the same principles as are used by the Bureau of the Census for general statistical purposes, but shall not include any subdivisions of government located in States which have the entirety of their territorial limits divided into general purpose municipalities and townships (as defined by the Bureau of the Census for general statistical purposes), none of which overlap."

Mr. MINISH. Mr. Chairman, the pending amendment is designed to correct a glaring inequity in the present revenue sharing system and one which will be perpetuated under H.R. 13367 unless this amendment is adopted.

The amendment, I emphasize, applies only to a few limited instances wherein the present formula results in highly discriminatory treatment between townships and other kinds of localities. It would not affect those situations in which "townships" truly are different than other localities and ought to be treated differently and it would not alter the components of the formula.

Let me point out that I am a supporter of general revenue sharing, and am offering this amendment only in the hope of strengthening the credibility of the program.

Mr. Chairman, when one examines the schedule of payments to localities in my area of New Jersey during the life of the revenue sharing program, it is apparent to me and to numerous elected officials, as well as to ordinary taxpaying citizens, that gross distortions have occurred in the program by virtue of the distribution formula employed. The present formula, which is generally equitable, results in a different treatment of townships versus other kinds of local governments. In most instances, this is perfectly legitimate, however in some areas it is grossly unfair.

Blind application of the formula, with no consideration of its results, has resulted in communities in the same area, with virtually the same population, similar income levels, identical problems, and comparable tax efforts, receiving greatly divergent revenue sharing payments. The situation would be ridiculous if it were not so serious to the affected communities.

I shall cite just a few examples of a pattern which repeats itself throughout my area. The communities of Verona and Cedar Grove, N.J., border each other, differ in population by only a few hundred, and cover almost identical land areas.

They have similar concerns and tax levels and the same type of mayor-council government. While the per capita income levels of the two communities do differ to some extent, this is not sufficient justification for the township of Cedar Grove receiving six times the amount of revenue sharing money as the borough of Verona. Thus far, under the revenue sharing program, Verona has received a total of $213,333 while Cedar Grove's total is $1,242,151.

In other areas, Montclair and South Orange—nontownships—have received much less per capita than nearby communities despite the fact that the taxes and incomes of these localities do not differ to the extent reflected in their revenue sharing payments. Overall, the town of Montclair received $17.92 per capita from the program and South Orange Village has garnered $15.86. In contrast, Maplewood, a township, received $70.03 per capita.

Irvington and Maplewood also border each other but do differ significantly. Irvington has a population of nearly 60,000, Maplewood less than 25,000. Irvington also has a substantially lower income than Maplewood. Yet, Irvington has received $37.47 per capita, while Maplewood has received $70.30. Why? Because Maplewood is a township.

As I stated, the discrepancies result from the fact that, under the formula, certain types of localities are treated differently simply by virtue of their historical designation.

Generally speaking, townships may indeed be "different" than other kinds of local governments in most parts of the Nation. However, in New Jersey, there are three basic levels of general purpose goverment. That is, the State, 21 counties, and the localities. The latter category includes towns, cities, villages, boroughs, and townships. There is no significant difference between the localities in terms of the type, functions, or powers of their governments. The difference is in name only and it has even been suggested that some municipalities change their name—from "Township of ———" to "Borough of ———" or "Town of ———"—in order to receive more Federal revenue sharing money.

I strongly urge the House to correct this absurb inequity by passing the amendment which states that when, in fact, localities are identical in terms of their powers and duties they shall be treated identically under the formula except that funds would continue to be distributed on the basis of population, income, and tax effort or whatever factors you decide to include.

Mr. DRINAN. Mr. Chairman, will the gentleman yield?

Mr. MINISH. I yield to the gentleman from Massachusetts (Mr. DRINAN).

Mr. DRINAN. I thank the gentleman for yielding.

I have discussed this with the gentleman from New Jersey and, as a member of the subcommittee which drew up this bill, I am very sympathetic to his feeling and his situation.

I wonder if there is any administrative remedy where a modification could be made in this situation, so that the anomalies that he described so ably would not reoccur.

Mr. MINISH. That is what we are trying to do now. We want to correct it here so we do not leave it to anyone who may have the opportunity to do it and refuses to do it.

Mr. DRINAN. I am very sympathetic to it. But in the nature of things, this does change the formula, and the subcommittee and the full committee have not, in fact, altered the formula for allocation in any way.

I am inclined to think that members of the committee would be reluctant to change the formula, when counsel here informs us that he is not certain at all of the implication.

The CHAIRMAN. The time of the gentleman from New Jersey has expired.

(By unanimous consent, Mr. MINISH was allowed to proceed for 3 additional minutes.)

Mr. MINISH. Mr. Chairman, let me say to my friend, the gentleman from Massachusetts, that this is obviously the worst piece of legislation in the 13½ years that I have been here. Here we have two communities side by side, the same taxation effort, same population, one is called a township and receives $1.2 million in revenue sharing funds, the other is called a borough and receives $240,000.

This is certainly not the way to write legislation.

Mr. DRINAN. I agree with the gentleman as to the anomaly of the situation. Can he give us some hard statistics that this will not cause a trigger or a pattern that will cause additional anomalies, through no fault of the gentleman or the people who might accept this?

Mr. MINISH. I do not see that it would.

Mr. DRINAN. I thank the gentleman for his explanation.

Mr. MINISH. Mr. Chairman, I would hope that now that the House is aware of the inequities in the revenue sharing program that it would at least correct this section of the bill. This is an unbelievable situation, and I do not think that anyone who understands this amendment can vote against it.

Mr. FOUNTAIN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am extremely sympathetic with the problem to which the gentleman has referred. The committee considered this matter. The committee defeated a similar amendment that would have allowed localities in States where the entire territory is subdivided into nonoverlapping units of government with different designations, such as city, municipality, township, and so forth, to compete for funds from the same pot, rather than having a separate pot for townships alone and another pot for all types of municipalities.

While we recognize that inequities do occur in some instances under the present formula, the amendment was defeated for several reasons:

First. States are already provided with the option of using an alternative formula for the distribution of these funds to local governments.

Second. A change in local designation can be made to remedy the problem if a township desires to be treated as a municipality, or vice versa, and

Third. The Treasury Department and the Census Bureau were unable to ascertain on the basis of existing data whether or not this amendment would have an undesirable effect in certain States. And we were told that there may be five or six more States that may be affected by the amendment in ways that cannot be anticipated.

Mr. MINISH. Mr. Chairman, will the gentleman yield?

Mr. FOUNTAIN. I yield to the gentleman from New Jersey.

Mr. MINISH. Mr. Chairman, is the gentleman suggesting that if Verona changes its charter to a township they would get $1,200,000?

Mr. FOUNTAIN. They will gain more money, yes. I am not saying it would be $1,200,000. I do not know what the amount would be, but they would gain more money by simply going through that procedure.

Mr. MINISH. If the municipality or the Borough of Verona changes its charter under the State legislation and calls itself a township, then, what the gentleman is telling me is that they can get $1,200,000, assuming that everything else is identical?

Mr. FOUNTAIN. They can get whatever they would be entitled to under the existing formula. They would compete with the townships for it, and in this instance I believe they would receive more money.

Mr. MINISH. That is certainly not the intent of the law, is it?

Mr. FOUNTAIN. If Verona were to become a township, they would compete with the other townships rather than with the municipalities within that county.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey (Mr. MINISH) to the amendment in the nature of a substitute offered by the gentleman from Texas (Mr. BROOKS), as amended.

The question was taken; and on a division (demanded by Mr. HORTON) there were—ayes 24, noes 15.

Mr. HORTON. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from New York (Mr. HORTON) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 158, noes 229, not voting 44, as follows:

[Roll No. 355]

AYES—158

Abzug
Adams
Addabbo
Alexander
Allen
Ambro
Anderson, Calif.
Annunzio
Ashley
Badillo
Bennett
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Brodhead
Brooks
Broomfield
Brown, Mich.
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burton, John
Burton, Phillip
Carney
Carr
Chisholm
Clay
Collins, Ill.
Conte
Corman
Cotter
Danielson
Delaney
Dellums
Dent
Diggs
Dingell
Dodd
Downey, N.Y.
Drinan
Early
Eckhardt
Edgar
Eilberg
Eshleman
Evins, Tenn.
Fary
Fascell
Fenwick
Flood
Florio
Foley
Ford, Mich.
Fraser
Gaydos
Gonzalez
Green
Hall
Harrington
Hawkins
Heckler, Mass.
Heinz
Hicks
Hightower
Holtzman
Howard
Hughes
Jacobs
Keys
Koch
Krebs
Krueger
LaFalce
Lehman
Lloyd, Calif.
Long, Md.
Lundine
McDade
McFall
McHugh
McKinney
Madden
Maguire
Mahon
Matsunaga
Meeds
Metcalfe
Meyner
Mikva
Miller, Calif.
Mills
Minish
Mink
Mitchell, Md.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Morgan
Moss
Murphy, Ill.
Murphy, N.Y.
Myers, Ind.
Natcher
Nedzi
Nix
Nolan
Nowak
O'Hara
O'Neill
Ottinger
Patten, N.J.
Pattison, N.Y.
Pepper
Perkins
Pike
Price
Rangel
Rees
Richmond
Riegle
Rinaldo
Rodino
Roe
Rogers
Rooney
Rosenthal
Rostenkowski
Roybal
Russo
St Germain
Sarasin
Sarbanes
Scheuer
Schneebeli
Schulze
Seiberling
Shipley
Simon
Solarz
Stark
Steed
Stokes
Studds
Traxler
Tsongas
Van Deerlin
Weaver
Wilson, C. H.
Wolff
Yates
Yatron
Young, Ga.
Zablocki
Zeferetti

NOES—229

Abdnor
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Archer
Ashbrook
Aspin
AuCoin
Bafalis
Baldus
Baucus
Bauman
Beard, Tenn.
Bedell
Bergland
Bevill
Blouin
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brown, Ohio
Broyhill
Buchanan
Burleson, Tex.
Burlison, Mo.
Butler
Byron
Carter
Cederberg
Chappell
Clancy
Clausen, Don H.
Cleveland
Cochran
Cohen
Collins, Tex.
Conable
Conlan
Conyers
Cornell
Coughlin
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Davis
de la Garza
Derrick
Derwinski
Devine
Dickinson
Duncan, Oreg.
Duncan, Tenn.
du Pont
Edwards, Ala.
Edwards, Calif.
Emery
English
Erlenborn
Esch
Evans, Colo.
Evans, Ind.
Findley
Fish
Fisher
Fithian
Flowers
Flynt
Ford, Tenn.
Forsythe
Fountain
Frey
Gibbons
Gilman
Ginn
Goodling
Grassley
Gude
Guyer
Haley
Hamilton
Hammerschmidt
Hanley
Hansen
Harkin
Harris
Hayes, Ind.
Hébert
Hechler, W. Va.
Hefner
Henderson
Hillis
Holland
Holt
Horton
Howe
Hubbard
Hungate
Hutchinson
Hyde
Ichord
Jarman
Jeffords
Jenrette
Johnson, Calif.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kastenmeier
Kazen
Kelly
Kemp
Ketchum
Kindness
Lagomarsino
Latta
Leggett
Lent
Levitas
Litton
Lloyd, Tenn.
Long, La.
Lott
Lujan
McClory
McCloskey
McCollister
McCormack
McDonald
McEwen
McKay
Madigan
Mann
Martin
Mazzoli
Melcher
Mezvinsky
Michel
Miller, Ohio
Mineta
Mitchell, N.Y.
Montgomery
Moore
Moorhead, Calif.
Mosher
Mottl
Murtha
Myers, Pa.
Neal
Nichols
Oberstar
Obey
O'Brien
Patterson, Calif.
Paul
Peyser
Pickle
Poage
Pressler
Preyer
Pritchard
Quie
Quillen
Railsback
Randall
Regula
Reuss
Rhodes
Risenhoover
Roberts
Robinson
Rose
Roush
Runnels
Ruppe
Ryan
Satterfield
Schroeder
Sebelius
Sharp
Shriver
Shuster
Sikes
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Spellman
Spence
Stanton, J. William
Stanton, James V.
Steelman
Steiger, Wis.
Stephens
Stratton
Sullivan
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Thone
Thornton
Treen
Ullman
Vander Jagt
Vander Veen
Vanik
Vigorito
Waggonner
Walsh
Wampler
Whalen
White
Whitten
Wiggins
Wilson, Bob
Wilson, Tex.
Wirth
Wright
Wydler
Wylie
Young, Alaska
Young, Fla.

NOT VOTING—44

Armstrong
Beard, R.I.
Bell
Biester
Brown, Calif.
Burgener
Clawson, Del
Daniels, N.J.
Downing, Va.
Frenzel
Fuqua
Giaimo
Goldwater
Gradison
Hagedorn
Hannaford
Harsha
Hays, Ohio
Helstoski
Hinshaw
Johnson, Colo.
Karth
Kasten
Landrum
Mathis
Milford
Passman
Pettis
Roncalio
Rousselot
Santini
Sisk
Skubitz
Staggers
Steiger, Ariz.
Stuckey
Symington
Teague
Thompson
Udall
Waxman
Whitehurst
Winn
Young, Tex.

The Clerk announced the following pairs:

On this vote:

Mr. Thompson for, with Mr. Passman against.

Mr. Biester for, with Mr. Stuckey against.

Mr. Helstoski for, with Mr. Winn against.

Mr. Dominick V. Daniels for, with Mr. Hagedorn against.

Mr. Roncalio for, with Mr. Frenzel against.

Mr. Beard of Rhode Island for, with Mr. Kasten against.

Mr. Fuqua for, with Mr. Teague against.

Mr. Waxman for, with Mr. Mathis against.

Mr. GONZALEZ and Mr. ECKHARDT changed their vote from "no" to "aye."

Mr. HARKIN changed his vote from "aye" to "no."

So the amendment to the amendment in the nature of a substitute, as amended, was rejected.

The result of the vote was announced as above recorded.

Mr. HORTON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I take this time to ask the chairman of the full committee whether it is the intention of the chairman to move to limit debate? We have proceeded for approximately 6 hours. I have had a number of requests from Members that we conclude the debate and get a final vote. I just take this time to ask the chairman what the intention of the gentleman is with regard to possibly limiting debate.

I realize that some Members have not spoken, but I think most Members have spoken. Members have had ample opportunity, I think, to express themselves and to express their views with regard to amendments. I certainly do not want to limit anyone, but I think we have to be reasonable with regard to the time we take.

Mr. BROOKS. In reply to my friend from New York, I would ask if he knows of any amendments on his side which have not been offered yet.

Mr. HORTON. The gentleman from Pennsylvania has one amendment.

Mr. BROOKS. I think we have four amendments on this side. I do not think they will take too much time. One is of major importance, but I would think that we might be able to finish by 6 o'clock if we ask unanimous consent that debate on all amendments on this bill end at 6 o'clock.

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. HORTON. I yield to the gentleman from Florida.

Mr. FASCELL. Mr. Chairman, I do not know what is pending at the desk, but I heard that we have some very important amendments to come up. One is on entitlement; one is on the Davis-Bacon Act, and one is on civil rights. There might be others I do not know about, but those three will certainly be offered, and I do not know if we can do that in the next hour or not.

Mr. DRINAN. Mr. Chairman, will the gentleman yield?

Mr. HORTON. I yield to the gentleman from Massachusetts.

Mr. DRINAN. Mr. Chairman, I have one amendment on civil rights which will take about 90 seconds, because both sides have agreed. I would be happy to bring it up at the appropriate time.

Mr. BROOKS. If there is objection, we will withdraw the request and we can try to finish.

MOTION OFFERED BY MR. HORTON

Mr. HORTON. Mr. Chairman, I move that all debate on the Brooks amendment and all amendments thereto end by 6 p.m.

PARLIAMENTARY INQUIRY

Mr. BAUMAN. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. BAUMAN. Mr. Chairman, is there any reason for the Clerk to read? I do not remember the bill being open at any point to amendment.

The CHAIRMAN. The motion of the gentleman from New York, as the Chair understood it, was that all debate on the Brooks amendment and all amendments thereto end at 6 p.m.

Mr. BAUMAN. So that the motion is in order?

The CHAIRMAN. The motion is in order. It is limited to the Brooks amendment and amendments thereto.

PARLIAMENTARY INQUIRY

Mr. LONG of Maryland. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. LONG of Maryland. Mr. Chairman, of course I believe it is understood that this does not apply to any amendments that are printed in the CONGRESSIONAL RECORD?

The CHAIRMAN. Under the rules of the House, it does not apply to those amendments.

Mr. LONG of Maryland. I thank the Chair.

PARLIAMENTARY INQUIRY

Mr. PICKLE. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. PICKLE. Mr. Chairman, under the proposed time limitation, would the Chair tend to recognize a Member who is not a member of the committee? For instance, the gentleman from Washington (Mr. ADAMS) has an important amendment, and if he is not recognized within the time limitation, would the chairman of the committee let the gentleman be recognized?

Mr. BROOKS. I do not have control of the time. I think the answer, obviously, is that he will be recognized.

The CHAIRMAN. The Chair will state that under limitation of time committee members no longer have priority in seeking recognition. Time is equally allocated.

Mr. PICKLE. I thank the gentleman.

The CHAIRMAN. The question is on the motion offered by the gentleman from New York (Mr. HORTON) that all debate on the Brooks amendment and all amendments thereto be terminated at 6 p.m.

The question was taken; and the Chairman being in doubt, the Committee divided, and there were—ayes 114; noes 31.

So the motion was agreed to.

The CHAIRMAN. Members standing at the time the motion was made will be recognized for approximately 1 minute and 55 seconds each.

The Chair would ask that Members with amendments to be offered seek recognition first, and the Chair would request that Members attempt to address themselves to the amendments.

(By unanimous consent, Messrs. MEEDS, BURLISON of Missouri, FASCELL, and OBEY yielded their time to Mr. ADAMS.)

AMENDMENT OFFERED BY MR. ADAMS TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. BROOKS, AS AMENDED

Mr. ADAMS. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute, as amended.

The clerk read as follows:

Amendment offered by Mr. ADAMS to the amendment in the nature of a substitute offered by Mr. BROOKS, as amended: Add at the end of the Brooks amendment as amended the following new section: SEC. 14. Notwithstanding any other provision of law—

(1) allocations among States of amounts authorized by any provision of the State and Local Fiscal Assistance Act of 1972 as amended by the preceding provisions of this Act (whether such allocations are made under section 106 of such Act or otherwise), for any period beginning on or after October 1, 1978, shall be made only to such extent or in such amounts as are provided in advance by appropriation Acts; and

(2) appropriations made pursuant to section 105 of the State and Local Fiscal Assistance Act of 1972 as amended by the preceding provisions of this Act or pursuant to any other provision of such Act, for any period beginning on or after October 1, 1978, shall be deemed, for purposes of title III of the Congressional Budget Act of 1974 and for only these purposes, to have become available during the preceding fiscal year.

The CHAIRMAN. The gentleman from Washington (Mr. ADAMS) is recognized for approximately 10 minutes.

POINT OF ORDER

Mr. HORTON. Mr. Chairman, I make the point of order against the amendment.

The CHAIRMAN. The gentleman will state it.

Mr. HORTON. Mr. Chairman, as I understand the reading of the amendment, it has to do with entitlement. The Brooks substitute had a provision with regard to entitlement, the Fountain substitute had provisions for entitlement, and now again this is an attempt to change the entitlement provision. Therefore, it is my position that this is out of order and should not be offered.

The CHAIRMAN. Does the gentleman from Washington (Mr. ADAMS) wish to be heard?

Mr. ADAMS. Mr. Chairman, this is a germane amendment, as provided under the rule. It provides for a new section. It is a limitation on what was in the substitute. It does not amend the same section and, therefore, it is in order.

The CHAIRMAN. The Chair is prepared to rule.

The Chair cites Deschler's Procedure, chapter 27, section 27.11:

> While an amendment may not change an amendment already agreed to, it is in order to insert language immediately following the adopted language, and the Chair will not rule on the consistency of that language with the adopted amendment.

The amendment offered by the gentleman from Washington (Mr. ADAMS), does add new language at the end of the Brooks amendment, as amended.

The Chair, in accordance with the precedent, will not rule on the consistency of that language and holds that the amendment is germane and, therefore, the Chair will overrule the point of order.

Mr. LEVITAS. Mr. Chairman, I reserve a point of order against the amendment.

The CHAIRMAN. The gentleman from Georgia (Mr. LEVITAS) reserves a point of order against the amendment.

The gentleman from Washington (Mr. ADAMS) is recognized for 10 minutes in support of his amendment.

Mr. ADAMS. Mr. Chairman, I think it is very important that we go to the essential merits of this amendment. I know the parliamentary situation has been complicated today, but this amendment will provide the sole opportunity that the Members are going to have to determine whether or not this House is going to be fiscally responsible and is going to try to control backdoor spending.

What I have proposed here is a compromise. It does not establish an annual appropriations system which I frankly would prefer but instead provides for advance funding. I would like to see the Committee on Government Operations authorize this each year for 1, 2, or 3 years and maintain its authority, and then I would like to see the Committee on Appropriations come in and say, "We will appropriate" or "We will not appropriate" by looking at all the factors that are involved in that year.

This, instead, is a compromise. It says that the entitlement will be authorized for 2 years in advance so that the mayors and State and county officials will have 2 years in which to do their planning, and from that point forward it goes to the Committee on Appropriations during the last 2 years of this bill for them to determine in their wisdom and then in the wisdom of the House whether or not money should be appropriated for general revenue sharing or whether or not money should be appropriated for categorical aid.

I am going to have to stand in the well of this House, and all the Members of the House are going to have to stand in the well of the House at the end of this year, and look at the deficit figure, and then we will say, "Why is that deficit figure there?" and we will wonder why we cannot control it.

I will tell the Members why we cannot control it. It is because we pass too many entitlement programs and give away the ability of this House and of the other body to decide what we will spend in a year.

This revenue sharing program locks in not just this Congress under the present bill, but it locks in the next Congress as well and goes into the period of the Congress following that. I believe that is wrong.

All I am trying to do is to say procedurally that the next Congress, the 95th Congress, should have an opportunity to look at this program at least through the appropriation process. I know that the Members here want to be responsible and want to say that we are going to make this whole budget process work, and so the second part of this amendment says how we will score it. The way we will score it is this: In the year it is authorized it will be put in budget authority. In the year it is appropriated it will be put in outlays.

There is no magic involved as to how to balance the Federal budget. The reason that I ask that it go forward for only 2 years is that our projections are for putting a $75 billion ceiling on for the last year, a $50 billion ceiling this year, a $25 billion ceiling next year, and zero the following year. At that point this Congress should decide, if we are going to have a surplus, whether we should use it for revenue sharing or not. So the time set forth in the amendment matches the point where we are attempting to balance the budget.

Mr. Chairman, I hope the Members will support this amendment and vote for it. If this amendment is accepted, I can vote for the bill. Otherwise, I am opposed to the bill.

Mr. MAHON. Mr. Chairman, will the gentleman yield?

Mr. ADAMS. I yield to the chairman of the Appropriations Committee.

Mr. MAHON. Mr. Chairman, it is evident that the overwhelming majority of the Members of this House favor the continuation of revenue sharing. Revenue sharing is here to stay, there is no doubt about that. My position is that we should not eliminate Congress from reviewing and funding this program for 3¾ years. We should have advanced funding for 1 year, and then each year thereafter provide an additional year's advance funding. But we should make it an annual action by Congress 1 year in advance in order that the House may deal with this issue on a yearly basis.

We have utilized this concept in some other programs of Government, and there is no reason why we should not use this method of making our system more effective instead of stepping out of the picture for 3¾ years.

I hope the Adams amendment will be supported by the House. Of course, all agencies would like to have advanced funding for years and years, as far as that is concerned, but it is not fitting for Congress to step aside and not examine this program on a yearly basis as we do in other programs of Government.

Mr. Chairman, I am hopeful that this amendment will be adopted. If it is, I will vote for the revenue sharing program. However, if it fails, I cannot in good conscience support the authorization because I feel strongly that we must maintain the integrity of our fiscal procedures in Congress by subjecting this program to the regular legislative and appropriations process.

My vote against the program would be largely a symbolic one, as I realize that Congress will pass and fully fund this program. And I recognize the fact that the cites, counties, and States have become dependent upon the revenue sharing program and I, of course, would do nothing to cause any abrupt changes in it.

If the House approves the revenue sharing program without the pending amendment, the House will have abdicated a major legislative responsibility for 3¾ years. Of course in any event the Committee on Appropriations, which I head, will provide the funds which the entitlement provisions require. I myself will support such funding as chairman of the Committee on Appropriations.

Therefore, I just would hope that we will be able to secure passage of this amendment by the gentleman from Washington (Mr. ADAMS).

Mr. OBEY. Mr. Chairman, will the gentleman yield?

Mr. ADAMS. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Chairman, I thank the gentleman for yielding.

I think it is important for the Members to understand that what the chairman of the Committee on Appropriations and the gentleman in the well are suggesting is a procedure under which local communities will be able to plan. There will be advance financing. This would be almost identical to the process we followed in setting up advance funding for the public broadcasting operation so that they could meet their planning needs and we could still maintain the integrity of our own budget process.

Mr. ADAMS. Mr. Chairman, the gentleman is absolutely right. There will be funding through October 1 of 1978, and next year the Committee on Appropriations sits and meets on it to fund out a year beyond that, so we are way in advance. There is no problem of planning at all. It is a question of coming back and having the opportunity to do the job.

Mr. BAUMAN. Mr. Chairman, will the gentleman yield?

Mr. ADAMS. I yield to the gentleman from Maryland.

Mr. BAUMAN. The gentleman from Maryland has often been critical of the new budget process, mainly because it has produced a projected $50 billion deficit this year. However, I happen to stand with the chairman of the committee on this issue.

The basic power of the Congress is the power of the purse and we should not abdicate that constitutional power.

I can understand why local governments and the associations which represent them nationally would like to have their cake and eat it too, but we, the 94th Congress, should not surrender our control over appropriations and that of future Congresses as well. That, to me, is irresponsible.

Mr. Chairman, we can uphold the principle of revenue sharing and the appropriations process by passing this amendment and the bill, as amended.

I would hope that those who consider themselves fiscal conservatives and who rail against the already established entitlement procedures with respect to food stamps and welfare will remember that the same principle does apply in the entitlement proposal in this bill. It is "backdoor spending" and should not be permitted. I hope the committee will agree with the proposal that the gentleman from Washington (Mr. ADAMS) suggests.

Mr. MEEDS. Mr. Chairman, will the gentleman yield?

Mr. ADAMS. I yield to the gentleman from Washington.

Mr. MEEDS. Mr. Chairman, the bill before the House today is described as an extension of "revenue sharing," but that is a misnomer.

We have had "revenue sharing" in one form or another since the inception of the American Republic. Today, billions of tax dollars collected by the Federal Government are returned to the States and to local governments to improve education, to combat diseases, to provide a buffer against old age and unemployment. Billions more go for housing, transportation, highways, port development, water and sewer projects, and crime control.

In all of these programs, the Congress appropriates the money annually and exercises oversight function. People expect their tax dollars to be spent wisely. Indeed, 2 years ago we passed the Budget Reform and Impoundment Control Act in yet another effort to get the Federal budget under control and get the best deal for our tax dollars.

But now we are asked to pass revenue sharing legislation that would effectively remove the necessary congressional oversight of these funds. The Federal Government would disburse these funds but would not become directly involved or directly responsible for how they are put to use. Tax dollars collected in Albany could easily be used in Santa Monica, without the Federal Government having any control or oversight into the use or function of that money.

In 1972, when I voted against revenue sharing, I maintained that any good government does not separate the power to tax from the power to spend. I still firmly believe this fundamental principle—for one unit of government to spend money raised by another taxing authority without any oversight—is poor government. And, it is bad sense.

Certainly, if this bill were turned around, we would hear plenty of complaints. For example, if we asked the State of Iowa or Washington or New Jersey to send the Federal Government the State sales tax collections and to give the money with no strings, the Governors of these States would resist fiercely. And rightly so.

Yet, the principle is lost when the Federal Government is "sharing" revenue with the localities.

Another point I made in opposition to revenue sharing in 1972, was that revenue sharing was really deficit sharing. And that description is even more accurate today than it was then. For the years 1974–76, the deficit will be $150 billion. Yet, revenue sharing was conceived as a program to disburse Federal surpluses.

Also in 1972, I warned that revenue sharing might bring cutbacks in categorical programs. And this also has come true. The Congress has repeatedly faced veto after veto of many important pieces of legislation—vital to the citizens and the various governmental units throughout the country.

LIMITED EXTENSION

I will, however, reluctantly support a limited extension of the revenue sharing program for the simple reason that many local and State governments are now very dependent upon this source of funding. I certainly understand the position they now finds themselves in.

An abrupt removal of this funding could severely undercut plans already launched by these municipalities, based on expectations of a certain level of revenue sharing funds. However, I hope these municipalities realize that this revenue sharing money is not guaranteed in perpetuity, and that they must plan accordingly.

At the same time, I continue to favor

direct, categorical aid funding for jobs, for housing, for schools, for health. But as I mentioned, this aid is very dependent upon the number of votes we are able to muster in Congress, considering the President's desire to frequently use his veto power.

For example, since May 1, 1975, President Ford has vetoed H.R. 4481—emergency jobs funding, H.R. 4485—emergency housing, H.R. 5901—education funding, and H.R. 5247—public works jobs.

WASHINGTON STATE LOSES

Is revenue sharing the financial saviour of our States and cities? I believe it is not.

For example, billions of dollars flow into Washington State every year in grants, payments, and loans. However, according to a 1975 University of Washington institute of governmental research report, the State of Washington and its cities got only $86.8 million in fiscal year 1974 in Federal revenue sharing funds. In fact, Washington State in 1974 ranked 47th among the 50 States in per capita general revenue sharing payments.

A BETTER WAY—THE PIGGY BACK TAX

Washington State's bad ranking in the revenue sharing picture is not surprising. While the State has a high per capita income, it does not tax personal or corporate income. For example, the taxing power of the cities is limited by the State constitution and other laws. And State laws often allow tax breaks for corporations.

In my opinion, one possible solution to this problem would be a "piggy-back" tax. The State legislatures could impose a surcharge on the Federal taxes paid by individuals and corporations. The Federal Government would pick up all the administrative costs in collecting the tax, and it would be rebated to the State and/or the cities. Then, to encourage this union of taxing and spending powers, the Federal Government could give matching grants to States which make the decision to tax.

LOCAL PROGRAMS ARE RESPONSIVE

Revenue sharing has been severely criticized in studies by the General Accounting Office, the League of Women Voters, the Brookings Institution, and others because, first, the programs emphasize capital improvements and public safety at the expense of human programs; second, there has been discrimination; third, the funds are used to avoid new tax efforts; and fourth, the accountability factor is poor.

While these criticisms may apply nationally, revenue sharing appears to be working fairly well in my cities of Everett and Bellingham, Wash., and in some other Washington State cities.

These cities have programs which are more people-oriented, and this is wise.

However, none of these factors override the principle of separating the taxing and spending powers. I favor a limited extension of revenue sharing, but we must abandon this idea which is so adverse to sound fiscal management and harmful to accountable government. Continuing funding through categorical efforts is the necessary and proper alternative.

Mr. MAGUIRE. Mr. Chairman, will the gentleman yield?

Mr. ADAMS. I yield to the gentleman from New Jersey.

Mr. MAGUIRE. Mr. Chairman, I thank the gentleman for yielding.

I strongly support the gentleman's amendment. I think it is essential for the integrity of the budgetary process which we initiated this last year.

Mr. Chairman, I think a case could be made that it is important to be able to plan several years ahead in a field like housing, or transportation, or defense, or education, or on any of the other important areas on which we legislate year after year here. We have not moved outside the regular budget process to entitlements, even in those cases where perhaps the strongest case could be made.

Mr. Chairman, I think the gentleman's compromise is a good one which does allow planning to take place more than 2 years in advance, but still keeps the process under the budgetary control of Congress, and I commend the gentleman from Washington (Mr. ADAMS) for his amendment.

Mr. LONG of Maryland. Mr. Chairman, will the gentleman yield?

Mr. ADAMS. I yield to the gentleman from Maryland.

Mr. LONG of Maryland. Mr. Chairman, I congratulate the gentleman from Washington (Mr. ADAMS) on his amendment. It removes one of my major objections to revenue sharing, not all of them, but one of them; and I certainly intend to support the amendment.

Mr. KREBS. Mr. Chairman, will the gentleman yield?

Mr. ADAMS. I yield to the gentleman from California.

Mr. KREBS. Mr. Chairman, I would like to associate myself with the remarks of the gentleman from Washington (Mr. ADAMS).

Having served in local government for a period of 5 years as a member of a board of supervisors of my county, and having participated in the budget process, I see absolutely no reason that a local government entity cannot abide by the procedures set forth in this amendment.

Therefore, Mr. Chairman, I would urge the Members of this House to abide by the budgetary process and support the amendment of the gentleman from Washington.

The CHAIRMAN. Does the gentleman from Georgia (Mr. LEVITAS) insist on his point of order?

Mr. LEVITAS. I do not, Mr. Chairman. I withdraw my point of order.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. HORTON).

Mr. HORTON. Mr. Chairman, I rise in opposition to the amendment.

This is the amendment that would remove the entitlement provisions of the Fountain amendment to the Brooks substitute.

This is where the action is. This is where the ball game is, so to speak, as far as revenue sharing is concerned.

I have a copy of a telegram that was sent to the majority leader from Gov. Patrick Lucey. It was read earlier, but many of the Members were not on the floor at the time.

Gov. Patrick J. Lucey is the Chairman of the Committee on Executive Management and Fiscal Affairs of the National Governors' Conference.

> I understand an amendment will be made to reduce the entitlement period to 1¾ years. The National Governors' Conference opposes this approach. There is no difference between annual appropriations, advanced funding and a 1¾-year entitlement for the nineteen States and local governments with biennial budgets. We simply will not be able to plan and budget the revenue sharing funds.

He then goes on and lists some 19 States that would be severely affected by this.

I urge the members of the committee to vote against the amendment offered by the gentleman from Washington (Mr. ADAMS).

The CHAIRMAN. The Chair recognizes the gentleman from North Carolina (Mr. FOUNTAIN).

Mr. FOUNTAIN. Mr. Chairman, I want to associate myself with remarks made by the gentleman from New York. (Mr. HORTON).

I think it would be a great mistake to change the 3¾-year entitlement. The Committee on Government Operations was authorized to use the entitlement provision under the Budget Control Act. And the committee's funding recommendation has been before the Committee on Appropriations. Our committee reduced the duration of the extension from 5-3/4 years, as recommended by the President. And we also rejected the President's proposal for a $150 million annual increment. We have been very fiscally responsible in this matter.

About 16 State legislatures meet only once every 2 years to act on their budgets, and they share a considerable part of their revenue sharing funds with the local communities for education, and so forth. Advance funding of 1 year will not enable those States as well as many local governments, to budget these funds.

It seems to me that this concept is basically different from that of categorical grants. In categorical grants the communities are competing with each other and some never get an opportunity to obtain any money because they do not have the necessary legal and technical talent, to engage in the game of grantsmanship. In this program the Federal Government returns to the local units of government and to the States on a formula basis, every community gets an appropriate share. It is then left to the local community to decide how best to spend its revenue-sharing funds in accordance with local needs and locally determined priorities. And we have included in this bill strong provisions to assure that local citizens have a voice in determining the expenditure of these funds.

The CHAIRMAN. The Chair recognizes the gentleman from Massachusetts (Mr. Conte).

Mr. CONTE. Mr. Chairman, I rise to support the proposal to make the general revenue sharing program subject to the annual congressional appropriations process.

Having been a member of the Appropriations Committee for 18 years, I am concerned about the growth of "back-door spending" programs in the Federal Government which are not subject to any effective fiscal control by the Congress.

Three of every four dollars presently spent by the Federal Government annually are not subject to the appropriations process. These funds are classified as "uncontrollable" under the existing law.

They are not subject to close congressional oversight and direction. Moreover, back-door spending programs run counter to the philosophy of the recent efforts of Congress to strengthen legislative control over the budget.

Leaving the revenue sharing program as an entitlements program would weaken these efforts. As an entitlement program, revenue-sharing recipients have an automatic claim each year to a certain amount of money. Legislative efforts to control entitlement programs can be disrupted by a contrary directive issued by a Federal court.

There is no special justification for the revenue sharing program to be considered an entitlements program. Several programs much larger and having long-term significance—such as funding for defense and education programs—are presently operating under the annual appropriations process. And under this process they are running well.

For my colleagues who are concerned that the appropriations process would not allow communities to receive their funds on time, or that the process would inhibit annual planning, I would focus their attention on the report to the bill submitted by the Appropriations Committee. In this report, the Appropriations Committee promises to provide advance funding for the revenue sharing program a year in advance, so that local governments will know exactly how much money to expect from Washington well in advance of their own budget deadlines.

In providing for a regular appropriation, and not for an entitlement, the Congress will strengthen its legislative control over Federal spending, be better equipped to arrange national priorities, and provide better oversight and direction for this important program.

I support the proposal to put the general revenue sharing program on an annual appropriations basis, and urge my colleagues to adopt it.

The CHAIRMAN. The Chair recognizes the gentleman from Massachusetts (Mr. Boland).

Mr. BOLAND. Mr. Chairman, I rise in support of the amendment.

Mr. PICKLE. Mr. Chairman, will the gentleman yield?

Mr. BOLAND. I yield to the gentleman from Texas.

Mr. PICKLE. Mr. Chairman, I rise in strong support of the amendment.

Mr. Chairman, I would like to reaffirm my support for the amendment in revenue sharing by the distinguished chairman of the House Budget Committee, the gentleman from Washington (Mr. Adams).

The Adams amendment serves as a compromise between "entitlement" funding and funding under the annual appropriations review for the revenue sharing program. It would divide the lengthy 3¾ entitlement period in H.R. 13367 into 1¾ entitlement and the last 2 years would come under congressional review as with the straight authorization process of appropriations. Under this amendment, the next Congress would have the opportunity to review the efficacy of the revenue sharing program and to act on the level of spending during the budget and appropriations process. I strongly feel that such a Federal funding program as the revenue sharing, as with other domestic programs of defense, education, and health, should be subjected to annual review in order to retain congressional responsibility and control over monetary decisions.

The long entitlement period of 3¾ years in H.R. 13367 would add approximately $25 billion of uncontrollable spending to the budget which seems like a particular unjustified step at a time when the Federal deficit is so high and extensive efforts are being made to reduce the mount of uncontrolled spending. The Congress would be placed in a position where they would be mandated to make the authorized appropriations, thereby eliminating any fiscal control or flexibility over such a large Federal program.

Generally, I am not against the revenue sharing program, but I do disfavor spending that goes on for year after year without congressional control or review. With the Adams amendment, the State and local government units would be assured of funding for the next 2 fiscal years with annual appropriations made thereafter on an advance funding basis to assure the government units adequate time for planning. If the Adams amendment is not passed, we will be eliminating congressional fiscal control by forcing two future Congresses to accept the revenue sharing program as authorized in H.R. 13367. Fiscal responsibility exists only with annual congressional review of Federal long-term spending programs.

(By unanimous consent, Mr. Pickle yielded his time to Mr. Boland.)

Mr. BOLAND. Mr. Chairman, I want to compliment the gentleman from Washington, the distinguished chairman of the Budget Committee (Mr. Adams) for this amendment. I know of no man, or few men in this Congress or any other Congress of which I have been a Member, who really has done more to put the Congress on a plane of fiscal responsibility than he has. It has not been an easy task. As a matter of fact, it has been a very difficult task, a very difficult task for him, and I applaud him for the position he has taken.

Mr. Chairman, the amendment offered by the gentleman from Washington (Mr. Adams) is simple and straightforward.

This amendment would strike the entitlement provisions for the last 2 years of the 3¾-year authorization that is before us. In place of these provisions, a straight authorization for appropriations would be substituted.

The amendment would retain the entitlement provision for the first year and three-quarters of the authorization.

Mr. Chairman, this amendment represents a compromise. Many Members preferred that no entitlement provisions remain in this bill, and that the entire bill be subject to the regular legislative and appropriations process, to which all legislation is subjected. However, Mr. Chairman, in the spirit of compromise, and in the spirit of trying to reassure city, county, and State officials that they will receive the revenue-sharing funds proposed in this bill, this amendment is offered.

The adoption of this amendment, in my opinion, will strengthen the budgetary processes which we have all supported and that are envisioned in the new Budget Control Act. If we allow this legislation to pass as it is now structured, we are violating the overall spirit of our new budget legislation.

Entitlement provisions are not uniformly bad. It depends on how they are used and who the recipient is. In the case of "people" programs, entitlement provisions may be appropriate. Such programs as food stamps, welfare, health benefits and veterans benefits create an entitlement that assures recipients they will receive benefits from the Government. But when we deal with units of Government, we are talking about an entirely different matter.

If we were to pass this legislation totally as an entitlement program, then the Congress would be placed in the position of having no choice but to make appropriations as authorized. In my opinion, it is wrong to "straitjacket" the Congress. In a time of changing world conditions, it is essential that Congress arm itself with the tools of choice and flexibility and the ability envisioned in the budget legislation. If revenue sharing is retained solely as an entitlement program, some $25 billion will be added to the uncontrollable columns of the budget and any flexibility that the Congress might otherwise have will be forfeited.

It is not a question of whether Congress is for or against revenue sharing. It is a question of whether or not Congress will proceed in a responsible fiscal manner. Entitlement provisions and other financing devices which circumvent the regular process must be rejected if the Congress is to honor its stated objective of achieving better legislative budget control.

Mr. Chairman, if this amendment is adopted, the Appropriations Committee would proceed promptly in reporting out a bill that contained funding for the first year and three-quarters of the program. Each year thereafter, we would provide funding for 1 year in advance, as long as there is appropriate authorization.

Therefore, at this time next year, when we are considering appropriation bills for fiscal 1978, we would recommend an appropriation for fiscal 1979. For myself, I would pledge to the House, Mr. Chairman, to make the best effort to see that State and local governments receive adequate revenue sharing funding. I urge the adoption of this amendment.

CONCERN ABOUT 1 YEAR'S ADVANCE FUNDING IN STATES WITH BIENNIAL BUDGETS

Mr. Chairman, some concern has been expressed about whether 1 year's advance funding is sufficient—particularly in regard to States with biennial budgets. Obviously the more certainty that a State or local unit of government has about the level of Federal funding that it will receive, the better it can plan its budget. But I would suggest that a State or local government's real problem is not revenue sharing at all, but rather the hundreds of other Federal funding programs that are not even funded on a 1 year's advance basis.

In a relative way, it is fairly easy to estimate the amount of funds that a unit of government is likely to receive under revenue sharing. We all will acknowledge that it is very unlikely that any abrupt, unannounced radical changes are going to be made in a program that affects so many politically influential units of government.

But imagine the difficulty that these same units of government experience in trying to estimate from year to year what amounts are going to be available in various health programs, in public safety programs, in various social programs and all other Federal grant programs—especially when many of these programs are authorized only on an annual basis and actual appropriations may only become available after the local unit of government's fiscal year is well underway.

For example one major State which has a biennial budget estimates that it receives funds from some 600 separate Federal grant programs of which revenue sharing is only one. Dollarwise, Federal funding in this State amounts to 27 percent of the entire State budget while revenue sharing amounts to only 1 percent of the State budget.

Thus, Mr. Chairman, I would suggest that while all States would probably prefer much longer advance funding for revenue sharing in the overall context of State-Federal relations, this is not a serious issue.

The CHAIRMAN. The time of the gentleman has expired.

The Chair recognizes the gentleman from California (Mr. MINETA).

Mr. MINETA. Mr. Chairman, I rise in opposition to the amendment.

Certainty of funding is the most critical issue of all the many that have been discussed in the general revenue sharing debate. I am indeed pleased to see the House Subcommittee on Intergovernmental Relations as well as the House Government Operations Committee recognize that long-term funding of general revenue sharing is necessary to assure success of the program by making it an entitlement program. There are several points which need to be made on this critical issue.

FIRST, LONG-TERM FUNDING IS ESSENTIAL FOR NEEDED LOCAL HUMAN SERVICES PROGRAMS

Substantial criticism has been leveled against this program in the past about the ways in which moneys have been allocated at the local level. The charge has been that not enough moneys have been spent on human services programs. This charge was valid in the early years of the program. But, as the U.S. Conference of Mayors points out in a January 23, 1976 survey, there were two reasons why many local governments used the funds to pick up planned capital improvements during the first year of general revenue sharing. First, the planned capital improvements, deleted by a shortage of local revenues, were ready to go; and second, due to the Nixon impoundments creating a "stop and go" disruption of categorical programs at that time, there was real skepticism on the part of local officials that the program would continue beyond a year or two, which led to a natural reluctance to fund ongoing social services from an uncertain source.

The conference of mayors goes on to point out that—

> By the third and fourth years of revenue sharing, the funds had become a major source of service funding. Cities were able to effectively plan and fund ongoing human services programs because of the certainty of long-range funding.

The present recession-induced fiscal crisis in States and local government, coupled with the declining tax base of major cities and increased service demands, has severely eroded local governments' revenues. As a result, many localities have grave reservations about committing general revenue sharing dollars to desperately needed ongoing human services programs unless they have a guarantee that specific amounts of moneys will be received over a long-term period of time. These localities realize that their local budgetary conditions could prevent them from picking up the costs of these programs if revenue-sharing funds come to a halt. Mayors and other local elected officials are well aware of the intense frustrations which arise when citizens' expectations are raised and, subsequently, not met. As a former mayor, I know that few of my former colleagues would wish to hold out false promises to their people.

Long-term funding is essential. Entitlement provides the necessary certainty because once the legislation has worked its way through the procedures of the Budget Act, including the referral to the Appropriations Committee if necessary—as it did several weeks ago—the funding will be guaranteed for the duration of the program.

SECOND, ENTITLEMENT FINANCING DOES NOT VIOLATE THE HOUSE RULES

Entitlement financing is a recognized form of spending under the Congressional Budget Impoundment and Control Act of 1974. Annual jurisdiction over entitlement programs by the Appropriations Committee was specifically rejected by the House/Senate Conference Committee on the Budget Act. The conferees did agree to provide the Appropriations Committee with a limited 15-day review of entitlement programs if the funding exceeds the dollars provided in the latest budget resolution. An amendment to the entitlement legislation may be offered—pertaining only to the funding level—by the Appropriations Committee and may accompany the bill to the floor. Once an entitlement bill has been enacted into law, payments are made automatically for the duration of the program.

Entitlement legislation is not exempted from any provision of the congressional budget process. It must compete with all other programs for funding in the Congressional Budget Resolution.

AND FINALLY, ENTITLEMENT DOES NOT PREVENT CONGRESSIONAL REVIEW AND SCRUTINY OF THE REVENUE SHARING PROGRAM

Congress can review the program at any time. For example:

Entitlement programs must be included in the Congressional Budget Resolution. The Budget Committee could at any time review the program and recommended that the entitlement be reduced.

The Government Operations Committee has the authority to conduct oversight of the program and could report legislation, at any time, to alter the nature of the entitlement.

During the year the entitlement is being enacted, the Appropriations Committee, in its 15-day referral period, has the opportunity to offer an amendment to the program after reviewing it.

In conclusion, Mr. Chairman, I have received a letter from John Gunther, executive director of the U.S. Conference of Mayors, expressing their support of revenue sharing and of guaranteed long-term financing. I would like to recommend Mr. Gunther's letter to the attention of every Member of this House, and I therefore include it in the RECORD at this point:

U.S. CONFERENCE OF MAYORS,
Washington, D.C., June 8, 1976.

Hon. NORMAN Y. MINETA,
U.S. House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN: As you know, the Conference of Mayors has supported general revenue sharing both as a concept and as a law since the 1960's. We appreciate the efforts you have made in support of this important intergovernmental fiscal reform.

Yesterday the officers of the Conference of Mayors met to review legislation pending before the House. The Mayors directed me to communicate to the members of the House their continued support for the reenactment of revenue sharing consistent with the existing distribution formula and with guaranteed long-term financing.

I know that the situation with respect to House consideration of revenue sharing extension is extremely complicated. But at the appropriate time we sincerely request that you do all that you can to preserve guaranteed long-term financing and the integrity of the distribution formula in the 1972 Act.

Sincerely,

JOHN J. GUNTHER,
Executive Directors.

Mr. CEDERBERG. Mr. Chairman, I offer a preferential motion.

The CHAIRMAN. A second preferential motion is not in order at this time as the pending business before the Committee remains the same as it was when the last preferential motion was offered and defeated. The bill itself has not been amended.

The Chair recognizes the gentlewoman from Maryland (Mrs. Spellman).

Mrs. SPELLMAN. Mr. Chairman, I am amazed to hear this amendment being offered as a compromise. I thought we started with 5¾ years and we compromised to 3¾ years, and now we are being told this is a compromise to 1¾, and I suppose after that we will be compromising to ½.

We are compromising the program if we cut the entitlement period. We are compromising the results that local governments will get. We are compromising the effectiveness of the program.

So I would urge my colleagues by all means to keep the entitlement period long enough so that a governmental unit will have the guarantee that it may start a program that is a worthwhile program and be able to carry it out to a point where it can then be absorbed into its own budget.

If we do not do this, if we cut the time period, we are going to get shoddy use of the funds and instead of saving the taxpayers' money we will be misusing the taxpayers' money.

I strongly urge that we stay with 3¾ years entitlement, and oppose this amendment.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. Patterson).

Mr. PATTERSON of California. Mr. Chairman, I rise in opposition to the amendment.

Today I was not intending to speak but I think we have several points that have to be made.

In the first place, this is not backdoor spending. The Congressional Budget and Impoundment Act, which all of us are proud of and which we voted for, provides for and defines three types of new spending authority, one of which is entitlement financing. I call to the attention of the Members section 401(C) (2) (c) which defines entitlement financing as the authority:

> . . . to make payments (including loans and grants), the budget authority for which is not provided for in advance by appropriation acts, to any person or *government* if, under the provisions of the law containing such authority, the United States is obligated to make such payments to persons or governments who meet the requirements established by such law.

Therefore, entitlement is not backdoor financing. It is the efficient planning of financing.

The local governments need time to plan for their futures. We are trying to get them away from the regressive property tax many of them must rely on entirely.

Entitlement financing is not a form of "back-door" spending. It is subject to carefully defined procedures. For example:

Entitlement legislation is not exempted from any provision of the congressional budget process. It must compete with all other programs for funding in the congressional budget resolution; and it must abide by the calendar requirements established by the Budget Act.

All new entitlement legislation emerging from committee must be referred to the Appropriations Committee if the legislation generates spending over and above the spending that is contained in the most recent budget resolution. The Appropriations Committee is given 15 days to review the legislation, after which it must report the bill to the House floor. An amendment to the entitlement legislation may be offered by the Appropriations Committee and may accompany the bill to the floor. The Appropriations Committee amendment may only pertain to the funding level and not to any other provision of the entitlement legislation. Once on the House floor, the Appropriations Committee amendment—if any—is voted upon, followed by a vote on the entitlement legislation.

Once an entitlement bill has been enacted into law, payments are made automatically for the duration of the program.

ENTITLEMENT FINANCING SPECIFICALLY EXEMPTED FROM ANNUAL APPROPRIATIONS PROCESS

Section 401(C) (2) of the Budget Reform Act defines three types of new spending authority and sections 401 (a) and (b) set forth their relationship to the appropriations process. The Budget Act does not require that all new spending authority be dependent upon subsequent actions by the Appropriations Committees. Distinctions are drawn between the three types of spending and specific exemptions are provided. The first two types of new spending authority—contract and borrowing authority—must contain a provision that funding is effective only to the extent such amounts are provided in a subsequent appropriations act (section 401(a)).

However, the conference committee which reconciled the difference between the House-passed and Senate-passed versions of the Budget Reform Act declined to apply blanket Appropriations Committee jurisdiction to the third type of new spending authority, entitlement financing. Section 401(B), entitlement authority, of the conference report stated:

> The House bill provided that new entitlements could be effective only as provided in appropriation acts (the same procedure as for contract and borrowing authority). The Senate amendment established a procedure for the referral of entitlement legislation to the Appropriations Committees under a 10-day time limit.
>
> The conference substitute, like the Senate amendment, provides that it shall not be in order to consider entitlement legislation which would have an effective date before the start of the new fiscal year. The purpose of this procedure is to make entitlements effectively subject to the reconciliation process. As provided in the conference substitute entitlement legislation would be referred to the Appropriations Committee only if it would generate new budget authority in excess of the allocation made subsequent to the latest budget resolution (as specified in Section 302). The Managers intend the Budget Committees shall provide background information as to such allocations. Such referral would have a 15-day limit, with the Appropriations Committee automatically discharged if it has not reported during this period. The Appropriations Committee may report the bill with an amendment limiting the total amount of new entitlement authority. The Managers emphasize that the jurisdiction of the Appropriations Committees shall relate to the cost of the program and not to substantive changes in the legislation.

In addition, the conference committee agreed to exempt certain types of programs from the new procedures for contract, borrowing, and entitlement authority. These are: all existing social security trust funds; 90 percent self-financed trust funds; general revenue sharing to the extent provided in subsequent legislation; the outlays of certain government corporations; and gifts to the United States.

The entitlement mechanism agreed to by the Government Operations Committee does not activate the revenue-sharing exemption. Instead, it defines revenue sharing as an entitlement program subject to all the provisions of the Budget Reform Act.

The CHAIRMAN. The Chair recognizes the gentleman from Georgia (Mr. Levitas).

Mr. LEVITAS. Mr. Chairman, I rise in opposition to the amendment and state fundamentally that the heart of the program of general revenue sharing, if it is to be meaningful, requires that the entitlement program shall be continued in the form that it is now in the bill. It has already been pointed out that this approach is fully consistent with the Budget Control Act, and, contrary to the assertions of some of the speakers the Members have heard before me that this is a violation of the Budget Control Act, it does not injure the integrity of the budget process. The fact of the matter is that it is written specifically into the Budget Control Act that extensions of the State and Local Financial Assistance Act will be provided for through entitlements if the Congress so decided.

That is what we are doing. There are 39,000 units of government across the Nation who have different fiscal years, who have different methods of financing. They have to dovetail this in with their methods. They cannot wisely use this money. They cannot serve their citizens unless we give them the certainty of the advance funding of this already compromise version of 3¾ years entitlement. If we want to get a dollar's value for a dollar spent, we need to let the local units of government plan and program these funds wisely.

Mr. Chairman, I strongly urge defeat of the amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Texas (Mr. Brooks).

(By unanimous consent, Mr. Long of Maryland yielded his time to Mr. Brooks).

Mr. BROOKS. Mr. Chairman, I want to say that responsible government demands this compromise. Responsible government demands that Congress take a look at this every couple years, at least. It is only $6.65 billion a year. I would say that any State government, any local government that is worth its salt and that wants to be reelected, Republican or Democrat, ought to be able to know how to spend money 1 or 2 years in advance. They cannot even anticipate their own tax base that far in advance. There is no guarantee in my home town that they will have *x* dollars raised locally for tax purposes. A year and three-quarters is a pretty good guarantee.

I want to say that the Committee on Appropriations has been more than generous, more than cooperative. They have agreed to give them 1 year funding in advance. They have agreed to give them that 1¾. This just gives them an entitlement for that same 1¾ years.

The Committee on the Budget has been equally cooperative.

The gentleman from Washington (Mr. Adams) has done an outstanding job. The gentleman from Washington knows that 1 year is better from the Government's standpoint. The gentleman offered this amendment for 1¾ years. I think it is a reasonable proposal.

The Committee on Government Operations did not agree, but I personally strongly agree that any Congressman that hopes to stay in Congress, that wants to live with his conscience, that wants to live in a country that has a $75-billion deficit, and we are trying to share revenues, ought to vote for this amendment. I strongly endorse it and ask for the support of the House.

The CHAIRMAN. The Chair recognizes the gentleman from Nebraska (Mr. Thone).

Mr. O'BRIEN. Mr. Chairman, will the gentleman yield?

Mr. THONE. Mr. Chairman, I yield to the gentleman from Illinois (Mr. O'Brien).

Mr. O'BRIEN. Mr. Chairman, I rise in opposition to the Adams amendment. Mr. Chairman, in response to my request for their opinions, representatives of 24 communities in the 17th District of Illinois have without exception endorsed the concept of revenue sharing, pleading that the Congress continue the program for at least 3¾ years, and, if possible, without additional and burdensome administrative redtape.

Mr. CEDERBERG. Mr. Chairman, will the gentleman yield?

Mr. THONE. Mr. Chairman, I yield to the gentleman from Michigan (Mr. Cederberg).

Mr. CEDERBERG. Mr. Chairman, I rise in opposition to the amendment. I am as jealous as anyone with regard to the prerogatives of our committee; but let me say this: If we believe in the principles of revenue sharing, we should vote against the amendment, because what this amendment will do, and we will find out if it carries over the years, it is going to subject revenue sharing every time it comes up to all kinds of limitations, with 435 different ideas that Members may have. We will come in here and the local communities will be in the position really they are in now.

Mr. Chairman, this bill should have been passed without strings early in the session, so the local communities and local States would know how to plan their own finances. That was the whole purpose of revenue sharing. If we are going to tie it up with this kind of amendment, then we are defeating the very purpose of revenue sharing, which is to give those communities the advance knolwedge of what to do, so that they can plan intelligently. We are asking them to plan. We want them to do that. To pass this amendment, in spite of the fact that, as I say, I have strong feelings for the Committee on Appropriations in this instance, I think it would be a very serious mistake.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. THONE. I yield briefly to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Chairman, I would like to associate myself with the gentleman's remarks. Much as I would like to see us control this, I also have some experience with local government. I do not particularly like the idea of revenue sharing, but if we are going to do it, why not do it with the most efficiency we can and use this money with the most intelligence we have, not dribbling it out of our pockets.

Mr. CEDERBERG. If my colleague will yield further, let me say that I served as mayor of my city, before I came to Congress, for 4 years. It is important for a city official, a city manager, to know what he is expecting. This will destroy that.

The CHAIRMAN. The Chair recognizes the gentleman from Maryland (Mr. Bauman).

Mr. MAHON. Mr. Chairman, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Texas.

Mr. MAHON. Mr. Chairman, there is nothing more certain—and I am speaking here to the mayors and the Governors and community leaders—there is nothing more certain than this, that revenue sharing will be authorized and funded. There is nothing more certain than this, that revenue sharing will be adequately funded by this Congress. There is no doubt about that. There is no basis for a feeling of uncertainty.

So, under those circumstances I can assure State and local officials that their needs will be adequately met and that the will of the Congress will be carried out. It is not a matter of jurisdiction of the Appropriations Committee; it is a matter of the fiscal integrity of the House itself.

Ms. JORDAN. Mr. Chairman, will the gentleman yield?

Mr. BAUMAN. I yield to the gentlewoman from Texas.

Ms. JORDAN. Mr. Chairman, I rise to associate myself with the remarks of the gentleman from Washington and of the gentleman from Texas. It was a horrendous experience to try to take a look at the efficacy of this program after a timelag of 5 years. It makes sense to authorize and appropriate for 1½ years.

Mr. MAHON. I thank the gentlewoman for her contribution. I hope this amendment will be adopted. If it is, no local jurisdiction will lose funds to which it is entitled and the mayors and the leaders of the communities will have no cause for alarm.

I believe in the long run that they too will agree to this position because of their own serious concern about fiscal responsibility.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Washington (Mr. Adams) to the amendment in the nature of a substitute offered by the gentleman from Texas (Mr. Brooks), as amended.

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. HORTON. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 150, noes 244, not voting 37, as follows:

[Roll No. 356]

AYES—150

Adams
Alexander
Annunzio
Archer
Ashley
Baucus
Bauman
Bedell
Bennett
Bevill
Boland
Bolling
Bonker
Brademas
Breckinridge
Brooks
Burke, Calif.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Byron
Carney
Carr
Chappell
Chisholm
Clay
Collins, Ill.
Collins, Tex.
Conte
Conyers
Corman
Coughlin
Crane
Daniel, R. W.
Danielson
Davis
de la Garza
Dellums
Diggs
Dingell
Drinan
Duncan, Oreg.
Early
Eckhardt
Edwards, Calif.
Emery
English
Evans, Ind.
Evins, Tenn.
Fary
Fascell
Fenwick
Findley
Fisher
Flood
Florio
Flynt
Gibbons
Gonzalez
Haley
Harris
Holt
Howard
Howe
Hughes
Hungate
Hutchinson
Ichord
Jacobs
Jarman
Jones, Ala.
Jones, Okla.
Jordan
Kazen
Kemp
Keys
Krebs
Krueger
Lehman
Long, Md.
McDonald
McKay
Madden
Maguire
Mahon
Mann
Meeds
Metcalfe
Mezvinsky
Miller, Calif.
Mills
Minish
Mink
Moakley
Montgomery
Moorhead, Pa.
Moss
Murphy, Ill.
Myers, Ind.
Neal
Obey
Ottinger
Patten, N.J.
Pattison, N.Y.
Paul
Pickle
Pike
Poage
Price
Rees
Richmond
Roberts
Robinson
Rogers
Rosenthal
Rostenkowski
Roush
Roybal
Runnels
Satterfield
Schneebeli
Schroeder
Shipley
Sikes
Slack
Smith, Iowa
Snyder
Staggers
Stark
Steed
Stokes
Studds
Sullivan
Thornton
Tsongas
Ullman
Van Deerlin
Vanik
Waggonner
Wampler
Waxman
Whitten
Wiggins
Wilson, C. H.
Wilson, Tex.
Wright
Yates
Young, Ga.

NOES—244

Abdnor
Abzug
Addabbo
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Armstrong
Ashbrook
Aspin
AuCoin
Badillo
Bafalis
Baldus
Beard, Tenn.
Bergland
Biaggi
Bingham
Blanchard
Blouin
Boggs
Bowen
Breaux
Brinkley
Brodhead
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burke, Fla.
Butler
Carter
Cederberg
Clancy
Clausen, Don H.
Cleveland
Cochran
Cohen
Conable
Cornell
Cotter
D'Amours
Daniel, Dan
Delaney
Dent
Derrick
Derwinski
Devine
Dickinson
Dodd
Downey, N.Y.
Duncan, Tenn.
du Pont
Edgar
Edwards, Ala.
Eilberg
Erlenborn
Esch
Eshleman
Evans, Colo.
Fish
Fithian
Flowers
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fraser
Frey
Gaydos
Gilman
Ginn
Goodling
Gradison
Grassley
Green
Gude
Guyer
Hagedorn
Hall
Hamilton
Hammerschmidt
Hanley
Hannaford
Hansen
Harkin
Harrington
Hawkins
Hayes, Ind.
Hechler, W. Va.
Heckler, Mass.

Hefner
Heinz
Henderson
Hicks
Hightower
Hillis
Holland
Holtzman
Horton
Hubbard
Hyde
Jeffords
Jenrette
Johnson, Calif.
Johnson, Pa.
Jones, N.C.
Jones, Tenn.
Kastenmeier
Kelly
Ketchum
Kindness
Koch
LaFalce
Lagomarsino
Latta
Leggett
Lent
Levitas
Litton
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Lott
Lujan
Lundine
McClory
McCloskey
McCollister
McCormack
McDade
McEwen
McFall
McHugh
McKinney
Madigan
Martin
Matsunaga
Mazzoli
Melcher
Meyner
Michel
Mikva
Miller, Ohio
Mineta
Mitchell, Md.
Mitchell, N.Y.
Moffett
Mollohan
Moore
Moorhead, Calif.
Morgan
Mosher
Mottl
Murphy, N.Y.
Myers, Pa.
Natcher
Nedzi
Nichols
Nix
Nolan
Nowak
Oberstar
O'Brien
O'Hara
O'Neill
Patterson, Calif.
Pepper
Perkins
Pettis
Peyser
Pressler
Preyer
Pritchard
Quie
Quillen
Railsback
Randall
Rangel
Regula
Reuss
Rhodes
Riegle
Rinaldo
Risenhoover
Rodino
Roe
Rooney
Rose
Ruppe
Russo
Ryan
St Germain
Santini
Sarasin
Sarbanes
Scheuer
Schulze
Sebelius
Seiberling
Sharp
Shriver
Shuster
Simon
Skubitz
Smith, Nebr.
Solarz
Spellman
Spence
Stanton, J. William
Stanton, James V.
Steelman
Steiger, Wis.
Stephens
Stratton
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Thone
Traxler
Treen
Udall
Vander Jagt
Vander Veen
Vigorito
Walsh
Weaver
Whalen
White
Wilson, Bob
Wirth
Wolff
Wydler
Wylie
Yatron
Young, Alaska
Young, Fla.
Zablocki
Zeferetti

NOT VOTING—37

Beard, R.I.
Bell
Biester
Brown, Calif.
Burgener
Clawson, Del
Conlan
Daniels, N.J.
Downing, Va.
Frenzel
Fuqua
Giaimo
Goldwater
Harsha
Hays, Ohio
Hébert
Helstoski
Hinshaw
Johnson, Colo.
Karth
Kasten
Landrum
Mathis
Milford
Murtha
Passman
Roncalio
Rousselot
Sisk
Steiger, Ariz.
Stuckey
Symington
Teague
Thompson
Whitehurst
Winn
Young, Tex.

The Clerk announced the following pairs:

On this vote:

Mr. Passman for, with Mr. Helstoski against.

Mr. Mathis for, with Mr. Beard of Rhode Island against.

Mr. Landrum for, with Mr. Dominick V. Daniels against.

Mr. Hébert for, with Mr. Stuckey against.

Mr. Teague for, with Mr. Thompson against.

Mr. Milford for, with Mr. Roncalio against.

Messrs. FORD of Tennessee, RODINO, YATRON, MITCHELL of Maryland, and TREEN changed their vote from "aye" to "no."

So the amendment to the amendment in the nature of a substitute, as amended, was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The Chair announces that, under the time limitation agreed upon earlier, since there are 12 remaining Members to be recognized on their amendments, they each will be recognized for approximately 25 seconds.

The Chair recognizes the gentleman from Massachusetts (Mr. DRINAN), a member of the committee.

AMENDMENT OFFERED BY MR. DRINAN TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. BROOKS, AS AMENDED

Mr. DRINAN. I offer an amendment to the amendment in the nature of a substitute, as amended.

The Clerk read as follows:

Amendment offered by Mr. DRINAN to the amendment in the nature of a substitute, offered by the gentleman from Texas, Mr. BROOKS, as amended: at the end of the Brooks' amendment add a new section, as follows:

SEC. . DEFINITION OF EXHAUSTION OF ADMINISTRATIVE REMEDIES.—As used in Section 125 of this Act, administrative remedies shall be deemed to be exhausted upon the expiration of 60 days after the date the administrative complaint was filed with the Office of Revenue Sharing, or any other administrative enforcement agency, unless within such period there has been a determination by the agency on the merits of the complaint, in which case such remedies shall be deemed exhausted at the time the determination becomes final.

Mr. DRINAN (during the reading). Mr. Chairman, I ask unanimous consent that further reading of the amendment be dispensed with and that it be printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

Mr. BAUMAN. Mr. Chairman, reserving the right to object, we do not know what the amendment says, and, because of the time limitation, I am going to object.

Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

The Clerk concluded the reading of the amendment to the amendment in the nature of a substitute, as amended.

Mr. DRINAN. Mr. Chairman, this is a very simple amendment. It simply says that after the expiration of 60 days it shall be deemed that the administrative remedies have been exhausted.

Mr. Chairman, it is my understanding that our side and the minority side have agreed to accept the amendment. I would yield to the gentleman from Texas (Mr. BROOKS).

Mr. BROOKS. Mr. Chairman, as the gentleman says, we have no objection to the amendment on this side. I think it has been clearly delineated and again say that this side has no objection.

The CHAIRMAN. The time of the gentleman has expired.

The Chair recognizes the gentlewoman from Texas (Miss JORDAN).

Mr. HORTON. Mr. Chairman, will the gentlewoman yield?

Miss JORDAN. I yield to the gentleman from New York.

Mr. HORTON. Mr. Chairman, I appreciate the gentlewoman from Texas (Miss JORDAN) yielding to me. I wish to state that I will accept the amendment that has been worked out between the gentleman from Massachusetts (Mr. DRINAN) and the gentlewoman from Texas (Miss JORDAN).

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts (Mr. DRINAN) to the amendment in the nature of a substitute offered by the gentleman from Texas (Mr. BROOKS), as amended.

The amendment to the amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. The Chair recognizes the gentleman from Michigan (Mr. O'HARA).

AMENDMENT OFFERED BY MR. O'HARA TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. BROOKS, AS AMENDED

Mr. O'HARA. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute, as amended.

The Clerk read as follows:

Amendment offered by Mr. O'HARA to the amendment in the nature of a substitute offered by Mr. BROOKS, as amended: Amend the Brooks amendment by adding the following new section:

Section 123(a)(6) of the Act is amended as follows:

(1) by striking out the words "by contractors or subcontractors".

(2) by striking out the words "25 percent or more of the costs of which project are paid" and inserting "which is funded in whole or part".

(3) by adding at the end thereof a comma and "except that nothing in this subsection shall be construed to cover work performed by a State or local jurisdiction with its own regular permanent laborers or mechanics".

The CHAIRMAN. The Chair recognizes the gentleman from Michigan (Mr. O'HARA).

Mr. CARR. Mr. Chairman, will the gentleman yield?

Mr. O'HARA. I yield to the gentleman from Michigan.

Mr. CARR. Mr. Chairman, at this point, I had intended to offer the following amendment:

AMENDMENT OFFERED BY MR. CARR

I insert at the end of the amendment offered by the gentleman from Texas as amended the following new section:

SEC. —. (a) Section 106 of the Act is amended by inserting at the end thereof the following new subsection:

"(d) SUPPLEMENTAL ENTITLEMENT.—

"(1) IN GENERAL.—Notwithstanding the preceding provisions of this section the amount allocable to a State under this section shall be increased by an amount equal to 10 per centum of the amount to which such State would otherwise be entitled if all public education in such State is financed from sources other than the collection of property taxes.

"(2) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary to increase the entitlements of State governments as provided in paragraph (1).".

(b) Section 108 of the Act is amended by inserting at the end thereof the following new subsection:

"(e) SUPPLEMENTAL ENTITLEMENT.—

"(1) IN GENERAL.—Notwithstanding the preceding provisions of this section the amount allocable to a unit of local government under this section shall be increased by an amount equal to 10 per centum of the amount to which such unit of local government would otherwise be entitled if all public education in the State in which such unit is located is financed from sources other than the collection of property taxes.

"(2) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary to increase the entitlements of units of local governments as provided in paragraph (1).".

(c) The amendments made by this section shall apply with respect to entitlements beginning on or after January 1, 1977.

Redesignate the succeeding section and all references thereto accordingly.

I must before the comma the appropriate line "and in section 16(c)".

This amendment is designed to use revenue sharing to assist and encourage State and local governments to take education off the property tax and alleviate the burden of this unfair and inequitable tax. While many States have realized the need to reduce the regressive property tax, they have not had the means to do so. I propose that we assist them in this effort by giving them a bonus with their revenue-sharing allocation if they remove the financing of education from the property tax.

Local property taxes, of course, constitute the single largest source of revenue for public education in the United States. Recent reform activities in school finance have focused on the fact that this heavy reliance on property taxes has produced inequalities in the ability of local school districts to raise money for school purposes. This, in turn, has focused attention on the tax itself, with particular emphasis on property tax incidence—a reference to the percent of income a household pays for the tax. The conventional wisdom of the past two decades has been that the property tax is regressive in incidence, taking proportionately more from low-income households than from high-income households.

In the past few years numerous States have attempted to reform their school finances by elimination of dependence on the property tax. Since the Serrano against Priest decision by the California State Supreme Court, many courts have held that "a child's education may not be a function of wealth other than the wealth of the State as a whole."

The most damaging criticism of the property tax as the major source of revenue for public schools is that it encourages governmental fragmentation and large-lot zoning. Localities find it in their interest to encourage expensive homes and so-called clean industry and to discourage small homes and families with children. The net result is that districts with high property values can maintain first-rate schools at a low-tax rate while nearby poorer communities must pay increasing rates to buy lesser schools.

It should be noted that unlike sewers, water, and police and fire protection, education has no direct link to property. Financing education with the property tax is bad for education, for people on fixed incomes, and for local government finances.

Yet the property tax continues and becomes increasingly regressive. Regardless of a property owner's income, his property value has probably risen in the last few years—maybe skyrocketed. As the costs of local government have increased, so have property tax rates. Consequently, a property owner has had his tax rate increased on two counts although he may be making little more or even less. Property taxes are extremely regressive for the elderly.

State efforts to reform school finances have either failed or fallen short of their goals. Little disagreement exists about the need for property tax reform—as a means of needed tax relief and equalizing education. But specifically eliminating the property tax as a means of funding education requires other sources of revenues.

In an attempt to assist the States in their efforts to find alternative sources to the property tax, and to encourage them to reduce the property tax burden, I propose that those State and local governments which shift the financing of education from the property tax to some other more equitable tax should receive a revenue sharing bonus which equals 10 percent of their allotment as proposed in this bill. No State would be penalized by reduced funding. My proposal would not force States to eliminate the property tax. It would simply give them the incentive and the means to stop financing education with it and to evaluate their total tax structure.

Mr. Chairman, notwithstanding my intention to offer this amendment, I shall not do so because the present parliamentary situation makes it virtually impossible. As it stands now there is a limitation on debate. Under that limitation I would only have 25 seconds to offer and explain this amendment. It is patently unfair to the House, to the committee and to the American people to legislate in this manner. Therefore, I shall not offer this amendment at this time.

My amendment is in bill form and I and the other supporters of this concept shall return to the committee for hearings and action on this concept next year.

Mr. Chairman, I ask unanimous consent to yield the balance of my time to the gentleman from Michigan (Mr. O'Hara).

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

Mr. MYERS of Pennsylvania. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. O'HARA. Mr. Chairman, what this amendment does is to tighten up the provisions of the Davis-Bacon Act with respect to applying it to revenue sharing so as to close a loophole that has occurred. This whole thing is explained on page 16 of the committee report. It is substantially the same as the provision reported in the committee and in the bill, it merely closes a loophole in Davis-Bacon.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, will the gentleman yield?

Mr. O'HARA. I yield to the gentleman from Pennsylvania.

Mr. MOORHEAD of Pennsylvania. I thank the gentleman for yielding.

This amendment was adopted by the full Committee on Government Operations and should be agreed to.

The CHAIRMAN. The time of the gentleman has expired.

The Chair recognizes the gentleman from Michigan (Mr. Carr).

Mr. CARR. Mr. Chairman, I ask unanimous consent to yield my time to the gentleman from Michigan (Mr. O'Hara).

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

Mr. BAUMAN. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

The Chair recognizes the gentleman from Michigan (Mr. Carr).

Mr. O'HARA. Mr. Chairman, will the gentleman yield?

Mr. CARR. I yield to the gentleman from Michigan.

Mr. O'HARA. To conclude, all this does is tighten up the loophole that some communities have used to avoid the Davis-Bacon provision that is in the law. This is exactly the same as the provision that was in the committee bill, and I hope it will be agreed to.

Mr. HAGEDORN. Mr. Chairman, the effect of the Davis-Bacon provisions in this amendment, by restoring the language of the original committee bill, is simply to diminish the value of the entitlements distributed to State and local governments. It is ironic that in a bill that sought to incorporate a need principle in a segment of revenue-sharing funds, effecting a mild redistribution from tax paying communities to tax spending ones, that it would also have included provisions which worked the exact opposite redistribution. It is clear by now that the primary economic impact of Davis-Bacon, whether in this bill or in the 63 other pieces of legislation in which it is incorporated, is to subsidize the relatively high paid organized construction worker at the expense of both the taxpayer and the less well-off unorganized workers in the same industry. Although skepticism about Davis-Bacon does not yet seem to have touched either House of Congress, there is a rapidly growing appreciation among those on the outside that Davis-Bacon is an anachronistic, antiquated, and wasteful law, costing the Federal Government billions yearly.

GAO has estimated, for example, that it unnecessarily increases Federal construction costs by 15 percent, or $5 to $6 billion annually. Economists Walter Heller, Hendrik Houthakker, Alan Greenspan, and Arthur Burns, advisors to both Republican and Democratic administrations, are in rare agreement as to the damages caused by Davis-Bacon. Disinterested academic studies, such as one done by the Wharton School of Business, have placed Davis-Bacon's cumulative cost at $20 billion. And minority contractors associations have called for its repeal, arguing that it discriminates against those contractors unable to pay the highest union scale wages—usually minority contractors.

The Department of Labor has repeatedly demonstrated that geographical proximity and contiguity play only a limited role in the determination of "prevailing area wage rates." Simply because they are easier to determine, the Department has usually resorted to using wage rates paid in the nearest large city when Federal or federally subsidized construction has occurred in smaller cities or towns. Frequently, too, there is no precedent upon which to base a "prevailing" rate determination in such an area. Extending the imposition of Davis-Bacon upon recipients of revenue-sharing funds, meaning virtually every town and borough in the country, is going to result in the importation to these towns and boroughs of wage rates paid to organized workers in the nearest urban or metropolitan area. I am concerned that, in the process, the unemployment rates and construction stagnation of these areas are also going to be imported.

The obvious effect of the new Davis-Bacon provisions will be to divert revenue-sharing funds from capital improvements and construction projects into social service areas. Opponents of revenue sharing have repeatedly expressed their concern that entitlement communities are not using their funds for the right sort of things. Rather than seeking explicitly to limit the uses to which communities can put their funds, this amendment imposes these priorities through the back door of simply making less favored priorities more costly. At the same time, the bill goes through the farce of eliminating requirements that revenue-sharing funds be used only for certain priority expenditures.

Rather than broadening the applicability of Davis-Bacon enormously as this amendment does, the more rational and progressive public policy would be to repeal it entirely. If the decision of the Federal Government is to use its own revenues in an inefficient manner, discouraging meaningful competition in its construction contracts, that is one thing; but there is no reason why this absurdity has to be imposed upon every governmental entity in the country in the name of revenue sharing.

The CHAIRMAN. The time of the gentleman has expired.

Under the unanimous consent agreement, all time has expired.

Mr. BAUMAN. Mr. Chairman, I have a preferential motion. The bill has been changed. The Jordan amendment was accepted.

The CHAIRMAN. The Chair will advise the gentleman that the business pending before the Committee at the time that the last preferenial motion was offered and defeated was the amendment offered by the gentleman from Texas (Mr. BROOKS). That is still pending before the Committee.

Mr. BAUMAN. Mr. Chairman, has the Jordan amendment been adopted in the interim?

The CHAIRMAN. The bill itself has not been changed. The rules require that not the pending amendment be amended, but that the bill itself be amended before a preferential motion can be renewed.

Mr. BAUMAN. Mr. Chairman, the gentleman from Maryland appreciates the statement of the Chair.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. O'HARA) to the amendment in the nature of a substitute offered by the gentleman from Texas (Mr. BROOKS), as amended.

The question was taken; and on a division (demanded by Mr. O'HARA) there were—ayes 58, noes 85.

RECORDED VOTE

Mr. O'HARA. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 174, noes 218, not voting 39, as follows:

[Roll No. 357]

AYES—174

Abzug
Adams
Addabbo
Ambro
Anderson, Calif.
Annunzio
Ashley
Aspin
Badillo
Baucus
Bennett
Biaggi
Bingham
Blanchard
Blouin
Boland
Bolling
Brademas
Brodhead
Brooks
Burke, Calif.
Burke, Mass.
Burlison, Mo.
Burton, John
Burton, Phillip
Carney
Carr
Chisholm
Clay
Collins, Ill.
Conte
Conyers
Corman
Cotter
Danielson
Delaney
Dellums
Dent
Diggs
Dingell
Downey, N.Y.
Drinan
Early
Eckhardt
Edgar
Edwards, Calif.
Eilberg
Fary
Fascell
Flood
Florio
Ford, Mich.
Fraser
Gaydos
Gilman
Gonzalez
Green
Gude
Hanley
Hannaford
Harrington
Harris
Hawkins
Hayes, Ind.
Hébert
Hechler, W. Va.
Heinz
Hicks
Holtzman
Howard
Johnson, Calif.
Jones, Ala.
Jordan
Kastenmeier
Koch
Krebs
Krueger
Leggett
Lehman
Lloyd, Calif.
Lundine
McCloskey
McDade
McFall
McHugh
Madden
Matsunaga
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Miller, Calif.
Mineta
Minish
Mink
Mitchell, Md.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Morgan
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Nedzi
Nix
Nolan
Nowak
Oberstar
O'Hara
O'Neill
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Peyser
Pickle
Pike
Price
Rangel
Rees
Reuss
Richmond
Riegle
Rinaldo
Risenhoover
Rodino
Roe
Rogers
Rooney
Rosenthal
Rostenkowski
Roybal
Ryan
St Germain
Sarbanes
Scheuer
Seiberling
Shipley
Slack
Smith, Iowa
Solarz
Staggers
Stanton, James V.
Stark
Steed
Stokes
Stratton
Studds
Sullivan
Tsongas
Udall
Van Deerlin
Vanik
Vigorito
Walsh
Waxman
Weaver
Whalen
Wilson, C. H.
Wilson, Tex.
Wirth
Wolff
Wright
Wydler
Yates
Yatron
Young, Ga.
Zablocki
Zeferetti

NOES—218

Abdnor
Alexander
Allen
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Archer
Armstrong
Ashbrook
AuCoin
Bafalis
Baldus
Bauman
Beard, Tenn.
Bedell
Bergland
Bevill
Bowen
Breaux
Breckinridge
Brinkley
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burke, Fla.
Burleson, Tex.
Butler
Byron
Carter
Cederberg
Chappell
Clancy
Clausen, Don H.
Cleveland
Cochran
Cohen
Collins, Tex.
Conable
Cornell
Coughlin
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Davis
de la Garza
Derrick
Derwinski
Devine
Dickinson
Dodd
Duncan, Oreg.
Duncan, Tenn.
du Pont
Edwards, Ala.
Emery
English
Erlenborn
Esch
Eshleman
Evans, Colo.
Evans, Ind.
Evins, Tenn.
Fenwick
Findley
Fish
Fisher
Fithian
Flowers
Flynt
Foley
Ford, Tenn.
Forsythe
Fountain
Frey
Gibbons
Ginn
Goodling
Gradison
Grassley
Guyer
Hagedorn
Haley
Hall
Hamilton
Hammerschmidt
Hansen
Harkin
Heckler, Mass.
Hefner
Henderson
Hightower
Hillis
Holland
Holt
Horton
Howe
Hubbard
Hughes
Hungate
Hutchinson
Hyde
Ichord
Jacobs
Jarman
Jeffords
Jenrette
Johnson, Pa.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kazen
Kelly
Kemp
Ketchum
Keys
Kindness
LaFalce
Lagomarsino
Landrum
Latta
Lent
Levitas
Litton
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
McClory
McCollister
McCormack
McDonald
McEwen
McKay
McKinney
Madigan
Maguire
Mahon
Mann
Martin
Mazzoli
Michel
Mikva
Miller, Ohio
Mills
Mitchell, N.Y.
Montgomery
Moore
Moorhead, Calif.
Mosher
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nichols
O'Brien
Paul
Pettis
Poage
Pressler
Preyer
Pritchard
Quie
Quillen
Railsback
Randall
Regula
Rhodes
Roberts
Robinson
Rose
Roush
Runnels
Ruppe
Russo
Santini
Sarasin
Satterfield
Schneebeli
Schroeder
Schulze
Sebelius
Sharp
Shriver
Shuster
Sikes
Skubitz
Smith, Nebr.
Snyder
Spellman
Spence
Stanton, J. William
Steelman
Steiger, Wis.
Stephens
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Thone
Thornton
Traxler
Treen
Ullman
Vander Jagt
Vander Veen
Waggonner
Wampler
White
Whitten
Wiggins
Wilson, Bob
Wylie
Young, Alaska
Young, Fla.

NOT VOTING—39

Beard, R.I.
Bell
Biester
Boggs
Bonker
Brown, Calif.
Burgener
Clawson, Del
Conlan
Daniels, N.J.
Downing, Va.
Frenzel
Fuqua
Giaimo
Goldwater
Harsha
Hays, Ohio
Helstoski
Hinshaw
Johnson, Colo.
Karth
Kasten
Mathis
Milford
Murtha
Obey
Passman
Roncalio
Rousselot
Simon
Sisk
Steiger, Ariz.
Stuckey
Symington
Teague
Thompson
Whitehurst
Winn
Young, Tex.

The Clerk announced the following pairs:

On this vote:

Mr. Thompson for, with Mr. Passman against.

Mr. Helstoski for, with Mr. Mathis against.

Mr. Dominick V. Daniels for, with Mr. Fuqua against.

Mr. Roncalio for, with Mr. Teague against.

Mr. Beard of Rhode Island for with Mr. Stuckey against.

Mr. Obey for, with Mr. Kasten against.

Mr. Karth for, with Mr. Frenzel against.

Mr. Symington for, with Mr. Milford against.

Mr. Biester for, with Mr. Rousselot against.

Mr. PATTISON of New York changed his vote from "no" to "aye."

So the amendment to the amendment in the nature of a substitute, as amended, was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. MYERS OF PENNSYLVANIA TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE, OFFERED BY MR. BROOKS, AS AMENDED

Mr. MYERS of Pennsylvania. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute, as amended.

The Clerk read as follows:

Amendment offered by Mr. MYERS of Pennsylvania to the amendment in the nature of a substitute offered by Mr. BROOKS, as amended: at the end thereof insert the following new section:

PAYMENTS OF LESS THAN $2,000

SEC. . Section 102 of the Act is amended by striking out the period at the end of the second sentence thereof and inserting in lieu thereof the following: ", except that, where the Secretary determines that the entitlement of a unit of local government to funds made available under this Act for an entitlement period will be less than $2,000, the payment of such entitlement shall be made in a single payment not later than 5 days after the close of the first quarter of such entitlement period.".

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. Myers) to the amendment in the nature of a substitute offered by the gentleman from Texas (Mr. Brooks), as amended.

The amendment to the amendment in the nature of a substitute, as amended, was rejected.

AMENDMENT OFFERED BY MR. MYERS OF PENNSYLVANIA TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. BROOKS, AS AMENDED

Mr. MYERS of Pennsylvania. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute, as amended.

The Clerk read as follows:

Amendment offered by Mr. Myers of Pennsylvania to the amendment in the nature of a substitute offered by Mr. Brooks, as amended: at the end thereof, insert the following new section:

"Sec. . Cooperative Publication.—No provision of this act shall be deemed to prevent units of local government served by the same newspaper of general circulation from combining and consolidating the information required to be published under this act in a single joint publication, provided such joint publication clearly identifies the required information pertaining to each such unit."

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. Myers) to the amendment in the nature of a substitute offered by the gentleman from Texas (Mr. Brooks), as amended.

The question was taken; and on a division (demanded by Mr. Myers) of Pennsylvania) there were—ayes 41, noes 61.

Mr. MYERS of Pennsylvania. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the amendment to the amendment in the nature of a substitute, as amended, was rejected.

AMENDMENT OFFERED BY MR. LONG OF MARYLAND TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. BROOKS, AS AMENDED

Mr. LONG of Maryland. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute, as amended.

The Clerk read as follows:

Amendment offered by Mr. Long of Maryland to the amendment in the nature of a substitute offered by Mr. Brooks, as amended: At the end of the Brooks amendment, as amended, insert the following new section to read as follows:

"Sec. —. No funds authorized by this Act will be available to any State, county, city or other subdivision which does not issue a public report to the Secretary of the Treasury after the close of each entitlement period, specifying the tax impact, whether tax reduction or prevention of tax increase, of the actual use of such funds."

The CHAIRMAN. The question is on the amendment offered by the gentleman from Maryland (Mr. Long) to the amendment in the nature of a substitute offered by the gentleman from Texas (Mr. Brooks), as amended.

The amendment to the amendment in the nature of a substitute, as amended, was rejected.

Mr. NICHOLS. Mr. Chairman, I am pleased that we are today considering the continuation of a program which has done more to revitalize our federalist system than any program since I have been serving in Congress. I am, of course, referring to Federal revenue-sharing programs which would provide $24.9 billion for direct transfer to State and local governments over the next 3¾ years. This concept has done much to return the decisionmaking for dealing with local problems to local elected officials where it should be.

Over the past 4 years I have received many favorable reports from leaders at all levels in my State and in fact my files on this subject of revenue-sharing are replete with correspondence from local officials indicating that many of these cities could not have provided necessary services without these funds.

If general revenue sharing is not continued many of the cities in my district, and in other areas, will no doubt be forced to drastically curtail public safety, environmental protection, health, recreation, and social service programs.

Mr. Chairman, I was a strong supporter of the original revenue-sharing bill and after observing this program for 4 years, I am convinced it must be extended. I am enclosing for the Record a number of letters I have received from leaders in my district strongly supporting this concept:

Wadley, Ala., *February 23, 1976.*

Mayor Fred L. Cauthen,
Roanoke, Ala.

Dear Mayor: In regards to our conversation the other day about Revenue Sharing I don't know what Wadley could have done without the $9,921 dollars we received.

We would have had to raise taxes, there would have been no other way, we had to completely rebuild our Natural Gas System we had no other choice. We spent $1,000 on our recreation program the other on our gas system, I do not at this time see how any small Town can continue to operate and give the services the citizens demand without help. We are having a struggle to get by.

Yours truly,

C. W. Tomblin,
Mayor.

Daviston, Ala., *February 26, 1976.*

To Whom It May Concern:

I have been a citizen of Daviston, Alabama for seventy years. In my adult life I have served, at various times, as Mayor, Council Member and as Town Clerk. Daviston is a rural type community of 300 people and does not have enough local revenue to serve its people and give them the kind of service they really need.

We have been trying for 10 years (since 1966) to get a water system. We live 22 miles from the sheriff of our county, so we need our own police system. We have only one policeman who must be on duty or on call 24 hours each day.

Revenue Sharing Money has helped us to carry out more of our services to our people. We welcomed the boost it gave us, but fear that should it be withdrawn the people would suffer. So we beg of you to continue the Revenue Sharing Program.

Sincerely,

J. B. Thompson,
Clerk.
Ray Dunn,
Mayor.

Prattsville, Ala., *February 13, 1976.*

Re Information for Congressional City Conference, March 14–16, 1976.

Director,
Alabama League of Municipalities,
Montgomery, Ala.

Dear John: Revenue Sharing dollars are vitally needed to sustain our present minimum level of operation. I am reluctant to predict just what impact the loss of revenue sharing would have on the City of Prattville. At the very minimum the following immedate actions would be necessitated:

(1) Decrease Police Department personnel by 43 percent (cut 12 positions).

(2) Decrease Fire Department personnel by 30 percent (cut 9 positions).

(3) Decrease Capitol Improvements budget by 90 percent ($191,000).

The alternative to the above drastic actions would be to increase our sales tax by fifty percent. The present tax burden makes this alternative very impractical.

I cannot over emphasize the very desperate need for continuation of the Revenue Sharing Program.

Sincerely,

C. M. Gray,
Mayor.

Wetumpka, Ala., *March 12, 1976.*

Hon. Bill Nichols,
House of Representatives,
Washington, D.C.

Dear Bill: The Council of the City of Wetumpka would like to take this opportunity to thank you for your support of the Revenue Sharing Program in the past. It has proven to be very beneficial to our City, as well as others.

We would like to impress upon you, and Congress, the importance of these funds being extended. Without Revenue Sharing funds available it will be mandatory that this Council impose an extra sales tax upon the citizens of our City.

It is our feeling that the Revenue Sharing Program is a life-saving source of revenue to cities, particularly to the smaller ones.

Your support of this program will be appreciated.

Sincerely yours,

J. Melvin Gray,
Mayor.

New Site, Ala., *February 14, 1976.*

Mr. Hugh Thompson,
Mayor,
Alexander City, Ala.

Dear Mr. Thompson: I am sending this letter in reference to the Revenue Sharing program. We are unable to have a representative present at the meeting in Washington, we would appreciate you representing us at this meeting.

The Town of New Site depends on this Revenue Sharing program to keep up the maintenance on the water system. If the program is discontinued we will have to bring in more money elsewhere. This means more taxes and possible increases in the present water bills.

We would appreciate your support in this matter.

Sincerely,

Johnnie Cotney,
Mayor.

A REPORT ON GENERAL REVENUE SHARING FUND USE TO DATE, AND IMPACT THAT LOSS OF SUCH FUNDS COULD HAVE ON THE CITY OF ALEXANDER CITY, ALABAMA

Time period April 1, 1972 through March 3, 1976

Total receipts to-date	$888,116.00
Total expenditures to-date	831,056.03
Budgeted but unexpected funds	57,059.97

USE OF FUNDS

To purchase landfill equipment	102,115.34
To purchase fire department equipment	21,063.77
To purchase clerk's office equipment	20,101.52
To purchase capital equipment	143,280.63
To purchase garbage containers for sanitation dept	150,025.40
Payment on natural gas system peak shaving plant (construction)	103,250.00
Transfers to general funds: Partial operating expenses for fire department and sanitation department	434,000.00
Total expended to-date	831,056.03
Balance to-date	57,059.97
Remaining payments to September 30, 1976	119,618.00
Budgeted for various operations during remainder of fiscal year ending September 30, 1976	176,677.97

If the General Revenue Sharing Program is not continued, the City of Alexander City, Alabama, will have to curtail drastically, Public Safety, Environmental Protection, Health, Recreation and Social Services Programs now being furnished to the citizens of the City, or taxes will have to be increased to offset the loss of funds.

The loss of Revenue Sharing Funds would be a severe blow to the City and its citizens.

HUGH THOMPSON,
Mayor.
C. T. PORCH,
City Clerk.

WOODLAND, ALA., *Feb. 19, 1976.*

Mr. PERK CAUTHEN MEYER
Roanoke, Ala.:

In response to your request for information regarding Revenue Sharing according to my records we rec'd the following amounts:

1972	$1,335
1973	2,648
1974	3,670
1975	2,782
To date 1976	804
Total	11,239

All Funds rec'd so far have been spent in making payments on a new Fire Truck and the required advertising in a Local Newspaper. We still owe about $3,000 which will take all of 1976 rec'ts.

I wish you good luck with your efforts in Washington and a nice safe trip.

Very truly,

AMOS WILLIAMS,
Clerk.

DADEVILLE, ALA., *February 23, 1976.*

Mayor HUGH THOMPSON, Jr.,
Alexander City, Ala.

DEAR MAYOR THOMPSON: The City of Dadeville is grateful to you for representing it in Washington on the urgent matter of Revenue Sharing.

Probably the greatest boom to the citizens of Dadeville in this century has been this program.

The indebtedness of the City has been reduced, streets have been paved, a program whereby elderly receive a hot meal five times a week has been put into effect and sixty-five (65) persons are fed daily therein, new restrooms at the local football field have been built, we have added help in the local library, we have been enabled to increase our appropriation to mental health, we have been enabled to participate in schools where those charged with Driving While Intoxicated may be helped, we have enlarged our recreation program, we have bought and put into use a new sanitation truck, we now have an ambulance with trained personnel to aid our people in emergencies and we have more and better police equipment.

All these things which make for a richer and better life in Dadeville are in Dadeville because of Revenue Sharing. The removal of Revenue Sharing will spell their doom.

I cannot be more emphatic when I say, "We can just get along with Revenue Sharing—without it, I shudder to think of what will happen."

Sincerely,

JOE L. SMITH,
Mayor.

CAMP HILL, ALA, *February 23, 1976.*

Re Revenue Sharing Funds
Mayor HUGH THOMPSON,
Alexander City, Ala.

DEAR MAYOR THOMPSON: Loss of Revenue Sharing Funds would be a serious blow to the finances of the Town of Camp Hill. Since 1972 all departments of our Town government have benefited from these funds.

Capital expenditures have included construction of a building for housing the Town's fire truck and purchases of a modern garbage truck, a police car, and a truck for hauling trash and rubbish. Also a public park with tennis courts, basketball goals, baseball diamond, concession stand and picnic area is now nearing completion, having been partly financed by Revenue Sharing funds.

Not only capital outlay, but also the payment of operating expenses has been supplemented by Revenue Sharing money. Included have been police salaries, radio operators' salaries, contributions to the emergency medical services fund, and other general operating expenses.

As we review what has been done with Revenue Sharing money, it is difficult to see how our local government could continue to operate and give the services needed by the people of our town in the event of the loss of these funds.

Sincerely yours,

EDWARD A. PAYNE,
Mayor.

EAST TALLASSEE, ALA.,
February 23, 1976.

Hon. HUGH THOMPSON,
Alexander City, Ala.

DEAR MAYOR THOMPSON: The Town of Carrville has used its Revenue Sharing funds exclusively for the construction of a new City Hall. This building had a large auditorium for public use, and a kitchen for social functions where people could entertain by serving meals.

On November 14, 1975, this building burned. If Revenue Sharing is renewed, the Town will build another city hall, which is much needed by this community. Without a renewal, we foresee no way, at this time, to rebuild.

Very truly yours,

L. T. CALDWELL, Sr.,
Mayor.

WEDOWEE, ALA.,
February 18, 1976.

Re revenue sharing, Town of Wedowee, Ala.
To Whom It May Concern:

DEAR SIR: The Town of Wedowee, Alabama has received $51,500.00 in revenue sharing money.

The money has been spent primarily for public safety. Some has been spent for recreation. Had we not received Revenue Sharing money we would have at least one shift not covered by police protection and our recreation program would be curtailed. Although we have not used these funds directly for health, social, and welfare programs that we participate in, it is quite possible that we could not participate in those programs at all if these funds were not available.

I support the concept of Revenue Sharing and would like to see it continued on an increased basis.

Yours truly,

GEORGE W. PERRY,
Mayor.

ROANIKE, ALA.,
February 20, 1976.

Mr. JOHN F. WATKINS,
Executive Director, Alabama League of Municipaltiies, Montgomery, Ala.

DEAR SIR: In registering our objection to Congress failure to reenact Revenue Sharing we would like to cite the following benefits to our City, for the overall public good could not have been realized without Revenue Sharing.

We have expended some $370,000.00. In the area of public safety we have purchased a fire truck and installed water lines giving fire protection in low income areas, completely renovated and modernized our jail facilities and purchased patrol cars for our police department, expending $145,000.00 in this area. In health we have installed sewer lines in low income areas, organized and established a Medical Clinic dedicated to public health, also purchased a site for a new facility expending some $43,000.00 in this area. We have procured a site or sites for a new library facility and provided new equipment for City offices, expending some $14,000.00 in this area. In the area of recreation we have constructed tennis courts, softball facilities and other aids to recreation expending some $12,000.00 in this area. In the area of public streets and transportation we have invested in two garbage packers, four trucks, one backhoe, one tractor and ripper together with two miles of street paving at a cost of $156,000.00.

We stress very strongly that these public improvements would not have been possible on the basis of taxation available to cities and it was only through Revenue Sharing that such was realized.

Yours truly,

F. J. CAUTHEN,
Mayor.

Mr. AMBRO. Mr. Chairman, I rise in support of H.R. 13367, the Fiscal Assistance Amendments of 1976.

Speaking both as the former supervisor of the town of Huntington on Long Island with its more than 215,000 residents and as the representative of a suburban congressional district, I must emphasize the critical importance of the general revenue-sharing concept for local government. In the past 4½ years, local officials have come to rely on the program as one of the most significant sources of revenue for community projects and regional development.

During that period of steadily deteriorating economic conditions, revenue-sharing funds became essential to local government as an alternative to punishing property tax increases that would have been all but intolerable for a middle class already heavily burdened with the financial demands of government at all levels.

I think it would be fair representation to credit general revenue sharing with providing the means by which local governments survived the recent recession without decimating their principal base of support, the homeowner, through crippling property tax increases.

In returning control and administration of the money to State and local government, revenue sharing is also a welcome departure from the all too common consolidation of everything in Washington that we have seen in recent decades. By stemming the growth of categorical Federal aid programs and replacing them with the no-strings block grant approach, the revenue-sharing concept is a move in the right direction that recognizes the role of each level of government as a responsible partner in our Federal system.

Despite criticism from some areas, I am satisfied that the revenue-sharing program has worked reasonably well and that it has accomplished its goal. I do not believe that some of the proposed changes in this program will add to its effectiveness and may, in fact, diminish what has been an enormously successful undertaking.

The amendment to this legislation offered by Mr. FASCELL of Florida would benefit about 2,600 communities while 37,000 governments that are eligible to participate in the program would lose funds.

Although there are differences over the impact of this amendment, I am convinced that its disadvantages outweigh its benefits.

For example, 145 of the 200 largest State and local governments would lose funds under terms of the amendment. Of the 20 States with the highest unemployment rates, more than half would lose money under the revised formula. Overall, 36 State governments would lose funds.

In effect, this provision puts a cap on the amount of money 37,000 State and local governments would receive during the next 3 years and 9 months since annual increments for inflation that are contained in the current program would only be distributed under the revised supplemental assistance formula that benefits the 2,600 communities at the expense of all the others.

I, therefore, oppose this amendment offered by the gentleman from Florida, but wholeheartedly urge my colleagues to give prompt approval to H.R. 13367.

Mr. PATTISON of New York. Mr. Chairman, on rollcall No. 353, a vote on the Fountain amendment to H.R. 13367, due to the very complicated parliamentary situation, I mistakenly voted "nay" instead of "yea." In the days preceding this vote, I have frequently expressed myself as being against almost all of the provisions contained in the Brooks amendment which were to be struck by Fountain—specifically the Fascell amendment and the Rosenthal amendment. My "nay" vote was simply due to thinking that the result of my "nay" vote was precisely opposite its actual effect.

Mr. RUPPE. Mr. Chairman, I rise today to urge my colleagues to extend the general revenue-sharing program in a form which builds on its basic strengths and respects its underlying purposes.

During its 4½-year life span, this program has not, as some of its supporters originally hoped, dramatically altered the balance of power which exists between the Federal Government and State and local governments. However, it has successfully dealt with many of the problems created by our increasingly top-heavy form of government.

It has helped to ease the burden of State and local taxes by substituting revenues from the more progressive Federal income tax system. It has helped to relieve the fiscal problems of hard-pressed local governments. It has made governmental decisionmaking more accessible mental decisionmaking more accessible to the public. And, it has given individuals at the State and local level increased ability to meet some of the needs they feel need to be met. Moreover, all of this has been accomplished with a minimum of redtape and administrative expense.

Since its inception in 1972, this program has returned $30.2 billion to 39,000 units of government. My congressional district alone has received $49 million. This is a significant sum of money for governmental units which are often dependent on insufficient property tax basis, and it is a sum which has been wisely and responsibly used. Revenue-sharing dollars have been utilized to improve police and fire protection, construct new sewage treatment facilities, fund senior citizen meals programs, upgrade roads and highways, construct essential community buildings, and expand health care opportunities.

I am consequently even more strongly committed to the revenue-sharing program than I was in 1972 and have, in fact, cosponsored the administration's revenue-sharing reenactment bill. This legislation acknowledges the successful record of the revenue-sharing program by extending it for 5¾ years, continuing the present allocation and distribution formula, and providing a $150 million annual increment to combat inflation.

However, I recognize that compromise is the essence of the legislative process. If a simple extension of the existing program proves to be impossible, I could cheerfully support the bill which was fashioned by the House Subcommittee on Intergovernmental Relations. In my view, this measure does a commendable job of addressing the concerns of revenue-sharing critics while remaining true to the basic goals of the revenue-sharing program.

The 3¾-year extension which this measure provides may not be as long as is desirable; but, it is long enough to allow for community planning and program continuity. Similarly, its entitlement system may not be as free from congressional interference as the current trust fund mechanism; but it does avoid the confusion which would be created by submitting the program to the annual appropriations process.

In several respects, the subcommittee bill even improves on the present program. It moves closer to the "no strings attached" ideal by eliminating existing priority categories and removing the prohibition against using revenue-sharing dollars to match other Federal funds. Moreover, it increases community participation in revenue-sharing use decisions by expanding reporting, public hearing, and publication requirements.

However, instead of adopting this sensible compromise approach, the full Government Operations Committee approved a number of amendments which needlessly encumber the revenue-sharing program and drastically alter its basic character. The Rosenthal amendment requiring States and localities to develop and submit to Washington master plans for "modernizing" their governments is particularly disturbing. In fact, this amendment strikes at the very heart of the program by generating an enormous amount of new paperwork and by weakening rather than strengthening our Federal system.

The program is also damaged by an amendment requiring Davis-Bacon prevailing wage standards to be applied to State and local construction projects which use even $1 of revenue-sharing funds. Since over half of all revenue-sharing recipients receive less than $7,000 a year from this program, this amendment would force many governments to spend more in increased construction costs than they receive in revenue-sharing moneys. These governments would, of course, conclude that they could not afford to utilize revenue-sharing dollars for any form of construction, and a great deal of the current flexibility of the program would be lost.

Finally, the Fascell amendment to skim $150 million off from the top of each year's revenue-sharing outlay and redistribute it to "needy" communities is equally ill-advised. While its objectives may be praiseworthy, it will have the practical effect of reducing revenue-sharing funds for some 33,000 governments while increasing them for only 3,000. Moreover, there is by no means a perfect correlation between need and increased funding. Under this amendment, many well-off resort communities like Vail and Rehoboth Beach would receive additional money, while States with the highest unemployment rates and many poor, small, and moderate-sized communities would lose funds. In my view, revenue-sharing dollars are too vital to their recipients to be redistributed in such a haphazard manner.

In conclusion, we essentially have two options open to us today. We can extend the revenue-sharing program in a form which preserves its freedom from Federal redtape, its flexibility, its responsiveness to citizen input, and its ability to meet local needs. Or, we can transform it into an all-purpose tool for interfering in the affairs of State and local governments. I sincerely hope that we will wholeheartedly commit ourselves to the former course and resoundingly reject the latter. As we prepare to celebrate our country's 200th birthday, I can think of no more fitting way to reaffirm our faith in our federal system of government.

Mr. DODD. Mr. Chairman, I rise in support of the Fiscal Assistance Amendments of 1976 (H.R. 13367)—the extension of the general revenue-sharing program for State and local governments.

Since its creation in 1972, the general revenue-sharing program has enjoyed overwhelming support from these jurisdictions and from the general American public. Few other Federal legislative initiatives have sparked such enthusiasm and interest.

The principal reason for this success lies, I think, in the fact that the basic concept of revenue sharing is very sound. We have categorical grant programs, and in some instances, this is the best approach for Federal assistance to take. Through revenue sharing, however, we are able to circumvent many of the administrative costs, and a good deal of the bureaucratic "redtape" which seems so endemic to our Federal Government—and for which it is often and justifiably criticized.

General revenue sharing is financially sound; it is also commendable in terms of returning the decisionmaking for use of Federal funds to the people at the grassroots level, where priorities may be most accurately assessed and funds allocated in the ways most appropriate for each community.

Although this is one of the basic themes of general revenue sharing, and one with which few people disagree as a "concept," the grass roots realities have drawn some criticisms. Many critics contend, for example, that because State and local officials are not as fully accountable for the use of these funds, as they are with other Federal assistance programs, they have not always used the money in ways which might be considered best. I disagree with this interpretation.

I am convinced that in the vast majority of instances, and certainly in my own State of Connecticut, revenue-sharing funds have been used for projects very consistent with the public interest of the community. And, I am pleased that the revenue-sharing extension legislation which we act on today contains specific language requiring the kind of increased citizen participation necessary to assure that the public interest will continue to be served.

This past March I conducted a survey among first selectmen and mayors in the Second Congressional District of Connecticut, which I represent. I wanted to determine the kinds of projects which have been funded under revenue sharing, and the fiscal impact that changes in the program would have on local government units.

Of the 60 questionnaires I sent out to public officials in my district, I am pleased to say that I received 42 responses. Any survey which enjoys a 70-percent rate of response demonstrates quite well, I think, the kind of substantial interest which exists.

I was impressed by the responses to questions on the survey, as well, Mr. Chairman, and I would like to insert the results in the RECORD for the consideration of all of my colleagues:

RESULTS OF REVENUE-SHARING QUESTIONNAIRE TO TOWN OFFICIALS, SECOND CONGRESSIONAL DISTRICT, CONNECTICUT, MARCH 1976

(1) Would your community have to raise taxes without revenue sharing?

40—yes.
2—no.

If yes, can you estimate the increase required?

7—One Mil.
11—Two Mils.
8—Three Mils.
8—Four Mils.
3—Five Mils.
1—Ten Mils.

(2) Without revenue sharing, would your community have to cut back on current programs?

41—yes.
1—no.

If yes, which activity areas would be hardest hit?

14—General Capital Improvements.
12—Public Safety.
11—Recreation.
8—Social Services.
5—Libraries.
5—Health.
4—Public Transportation.
3—Environmental Protection.

(3) How would you rate the degree of citizen participation concerning the establishment of priorities and the expenditure of revenue sharing funds?

13—Very High.
9—High.
12—Moderate.
5—Low.
3—Very Low.

(4) Give examples of revenue sharing expenditures in your community over the past three fiscal years.

24—Public Safety.
24—Recreation.
15—Public Transportation.
12—General Capital Improvements.
10—Hospitals/Health Facilities.
10—Conservation/Environmental Protection.
6—Education.
5—Building Acquisition.
2—Libraries.

(5) One of the issues before Congress is whether general revenue sharing should be funded by regular appropriations subject to yearly review and action by the Appropriations Committees or by "permanent" appropriations for several years. Of the following, which do you think is the best approach?

3—Annual.
4—Two Years.
6—Three Years.
25—Five Years.
3—Ten Years.

Certainly, we must all be concerned that revenue-sharing funds, and all Federal dollars, are being spent wisely. I believe that the response of public officials in my district is ample evidence that this is the case in eastern Connecticut.

I think it is impressive to note that revenue-sharing funds have been used for such important purposes as public safety in 24 towns, public transportation in 15 towns, and hospitals and health facilities in 10 towns. Revenue-sharing funds also helped pay for recreation in 24 communities and for conservation and environmental protection in 10 communities.

It is equally important to observe that some of these same essential public services would have to be cut back if general revenue sharing is not extended. In fact, 41 of the 42 communities reported that, without revenue sharing, they would have to curtail current programs.

Those cuts would have to come from such essential functions as public safety in 12 towns; recreation in 11; social services in 8; and for general capital improvements in 14.

There is no question in my mind, nor in the minds of a majority of my colleagues, I believe, that the program should be extended. I strongly urge that we act favorably on this basic question.

The more difficult question before us at this point is, in extending the program, how can we improve it?

I believe the members of the House Committee on Government Operations rose to this challenge commendably; we have a bill before us which will establish a truly effective, public-oriented program; and, we have amendments before us which can strengthen the program further.

I am hopeful that we will resist efforts to reduce the entitlement to less than 3¾ years. The Government Operations Committee reported this legistation with this entitlement in order to allow State and local governments to plan ahead and be reasonably assured that funds they are counting on will be there when needed.

The overwhelming response of public officials in my district was that the program should be extended with multiyear entitlement. Just this morning I received a telegram from Gov. Ella Grasso of Connecticut expressing this same view, that the 3¾-year entitlement is "essential to the fiscal and planning efforts for both State and local government whose budget making process is seriously hurt by the uncertainty of Federal funding."

The 3¾-year entitlement will not only facilitate long-term planning by the 38,000 government units which now receive revenue sharing funds, but it will encourage more efficient use of this money as well. I strongly urge that this provision be retained.

I take a special interest in the antidiscrimination provisions included in the fiscal assistance amendments. The House Judiciary Subcommittee on Civil Rights and Constitutional Rights, of which I am a member, strongly urged the Government Operations Committee, at my request, that the 1972 Fiscal Assistance Act be amended to prohibit discrimination on the basis of sex, age, and handicapped status. The current prohibitions are against discrimination on the basis of race, religion, or national origin.

I am pleased that the Government Operations Committee saw the need for this additional coverage, and I urge my colleagues to oppose any amendment which would delete this essential civil rights measure.

Finally, Mr. Chairman, I would like to state my opposition to the allocation of the supplemental assistance funds under the Fascell formula. It is clear to me, after reviewing voluminous material provided by the Department of the Treasury comparing the results of the Fascell "poverty" formula to allocation under the standard formula for determining need—the per capita income formula—that the Fascell formula will not achieve its proponents' claims of "getting money to where it's most needed."

Under the Fascell formula, for example, wealthy communities such as Vail, Colo., would be better off than under the per capita income formula simply because there is a substantial year-round regional population which is below the poverty level. Yonkers, N.Y., on the other hand, would lose out despite its evident need for assistance, due to the fact that it happens to be located in Westchester County, where their are relatively few individuals below the poverty line.

In my own district in Connecticut, the areas hardest hit by unemployment would be worse off under the Fascell formula, and the district as a whole would stand to lose nearly $77,000 that it would not lose under the per capita formula. Statewide, Connecticut would lose nearly $550,000 under Fascell. I will oppose the allocation of the supplemental assistance funds under the Fascell formula, and I urge my colleagues to do the same.

The CHAIRMAN. Are there further amendments to the amendment in the nature of a substitute offered by the gentleman from Texas (Mr. Brooks), as amended?

If not, the Chair will recite for the Committee the pending amendments, and the Chair will put the question shortly.

Pending before the Committee is the amendment in the nature of a subtitute offered by the gentleman from Texas (Mr. Brooks), as amended.

Pending also is the amendment offered by the gentleman from New York (Mr. Horton) as a substitute for the amendment in the nature of a substitute offered by the gentleman from Texas (Mr. Brooks), as amended.

Pending also are the amendments offered by the gentleman from California (Mr. John L. Burton) to the amendment offered by the gentleman from New York (Mr. Horton) as a substitute for the amendment in the nature of a substitute offered by the gentleman from Texas (Mr. Brooks), as amended.

The Chair will first put the question on the amendments offered by the gentleman from California (Mr. John L. Burton) to the amendment offered by the gentleman from New York (Mr. Horton) as a substitute for the amendment in the nature of a substitute offered by the gentleman from Texas (Mr. Brooks), as amended.

The question is on the amendments offered by the gentleman from California (Mr. John L. Burton) to the amendment offered by the gentleman from New York (Mr. Horton) as a substitute for the amendment in the nature of a substitute offered by the gentleman from Texas (Mr. Brooks), as amended.

The amendments to the amendment offered as a substitute for the amendment in the nature of a substitute, as amended, were rejected.

AMENDMENT OFFERED BY MR. MYERS OF PENNSYLVANIA TO THE AMENDMENT OFFERED BY MR. HORTON AS A SUBSTITUTE FOR THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. BROOKS, AS AMENDED

Mr. MYERS of Pennsylvania. Mr. Chairman, I offer an amendment to the amendment offered as a substitute for the amendment in the nature of a substitute, as amended.

The Clerk read as follows:

Amendment offered by Mr. Myers of Pennsylvania to the amendment offered by Mr. Horton as a substitute for the amendment in the nature of a substitute offered by Mr. Brooks, as amended: Page 2, immediately before line 4, insert the following new section:

PAYMENTS OF LESS THAN $2,000

Sec. 3. Section 102 of the Act is amended by striking out the period at the end of the second sentence thereof and inserting in lieu thereof the following: ", except that, where the Secretary determines that the entitlement of a unit of local government to funds made available under this subtitle for an entitlement period will be less than $2,000, the payment of such entitlement shall be made in a single payment not later than 5 days after the close of the first quarter of such entitlement period.".

Redesignate the following sections and any references thereto accordingly.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. Myers) to the amendment offered by the gentleman from New York (Mr. Horton) as a substitute for the amendment in the nature of a substitute offered by the gentleman from Texas (Mr. Brooks), as amended.

The question was taken; and on a division (demanded by Mr. Myers of Pennsylvania) there were—ayes 47, noes 118.

Mr. MYERS of Pennsylvania. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the amendment to the amendment offered as a substitute for the amendment in the nature of a substitute, as amended, was rejected.

AMENDMENT OFFERED BY MR. MYERS OF PENNSYLVANIA TO THE AMENDMENT OFFERED BY MR. HORTON AS A SUBSTITUTE FOR THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. BROOKS, AS AMENDED

Mr. MYERS of Pennsylvania. Mr. Chairman, I offer an amendment to the amendment offered as a substitute for the amendment in the nature of a substitute, as amended.

The Clerk read as follows:

Amendment offered by Mr. Myers of Pennsylvania to the amendment offered by Mr. Horton as a substitute for the amendment in the nature of a substitute offered by Mr. Brooks, as amended: Page 13, immediately after line 5, insert the following new paragraph:

"(3) Cooperative publication.—No provision of this subsection shall be deemed to prevent units of local government served by the same newspaper of general circulation from combining and consolidating the information required to be published under this subsection in a single joint publication, provided such joint publication clearly identifies the required information pertaining to each such unit."

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. Myers) to the amendment offered by the gentleman from New York (Mr. Horton) as a substitute for the amendment in the nature of a substitute offered by the gentleman from Texas (Mr. Brooks), as amended.

The amendment to the amendment offered as a substitute for the amendment in the nature of a substitute, as amended, was rejected.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. Horton) as a substitute for the amendment in the nature of a substitute offered by the gentleman from Texas (Mr. Brooks), as amended.

The amendment offered as a substitute for the amendment in the nature of a substitute, as amended, was rejected.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from Texas (Mr. Brooks), as amended.

The amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the Chair, Mr. Studds, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 13367) to extend and amend the State and Local Fiscal Assistance Act of 1972, and for other purposes, pursuant to House Resolution 1269, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. PAUL

Mr. PAUL. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. PAUL. I am, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. Paul moves to recommit the bill (H.R. 13367) to the Committee on Government Operations.

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

RECORDED VOTE

Mr. BROOKS. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 361, noes 35, not voting 35, as follows:

[Roll No. 358]

AYES—361

Abdnor
Abzug
Addabbo
Alexander
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Armstrong
Ashbrook
Ashley
Aspin
AuCoin
Bafalis
Baldus
Baucus
Bauman
Beard, Tenn.
Bedell
Bergland
Bevill
Biaggi
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Bowen
Brademas

Breaux
Breckinridge
Brinkley
Brodhead
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Carney
Carr
Carter
Cederberg
Chappell
Chisholm
Clancy
Clausen, Don H.
Clay
Cleveland
Cochran
Cohen
Collins, Ill.
Conable
Conte
Conyers
Cornell
Cotter
Coughlin
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Davis
de la Garza
Delaney
Dellums
Dent
Derrick
Derwinski
Devine
Dickinson
Diggs
Dingell
Dodd
Downey, N.Y.
Drinan
Duncan, Oreg.
Duncan, Tenn.
du Pont
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
Erlenborn
Esch
Eshleman
Evans, Colo.
Evans, Ind.
Evins, Tenn.
Fary
Fenwick
Findley
Fish
Fisher
Fithian
Flood
Florio
Flowers
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fraser
Frey
Gaydos
Gilman
Ginn
Goodling
Gradison
Grassley
Green
Gude
Guyer
Hagedorn
Haley
Hall
Hamilton
Hammerschmidt
Hanley
Hannaford
Hansen
Harkin
Harrington
Harris
Hawkins
Hayes, Ind.
Hébert
Hechler, W. Va.
Heckler, Mass.
Hefner
Heinz
Henderson
Hicks
Hightower
Hillis
Holland
Holt
Holtzman
Horton
Howard
Howe
Hubbard
Hughes
Hungate
Hutchinson
Hyde
Ichord
Jarman
Jeffords
Jenrette
Johnson, Calif.
Johnson, Pa.
Jones, N.C.
Jones, Tenn.
Jordan
Kastenmeier
Kazen
Kelly
Kemp
Ketchum
Keys
Kindness
Koch
Krebs
Krueger
LaFalce
Lagomarsino
Landrum
Latta
Leggett
Lent
Levitas
Litton
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Lott
Lujan
Lundine
McClory
McCloskey
McCollister
McCormack
McDade
McEwen
McFall
McHugh
McKinney
Madden
Madigan
Maguire
Mann
Martin
Matsunaga
Mazzoli
Melcher
Metcalfe
Meyner
Mezvinsky
Michel
Mikva
Miller, Calif.
Miller, Ohio
Mills
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Mottl
Murphy, Ill.
Murphy, N.Y.
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Hara
O'Neill
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Pettis
Peyser
Pressler
Preyer
Price
Pritchard
Quie
Quillen
Railsback
Randall
Rangel
Regula
Reuss
Rhodes
Richmond
Riegle
Rinaldo
Risenhoover
Roberts
Robinson
Rodino
Roe
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Runnels
Ruppe
Russo
Ryan
St Germain
Santini
Sarasin
Sarbanes
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shriver
Shuster
Simon
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steelman
Steiger, Wis.
Stephens
Stokes
Stratton
Studds
Sullivan
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Thone
Thornton
Traxler
Treen
Tsongas
Udall
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Vigorito
Waggonner
Walsh
Wampler
Waxman
Weaver
Whalen
White
Whitten
Wiggins
Wilson, Bob
Wilson, C. H.
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Zablocki
Zeferetti

NOES—35

Adams
Archer
Badillo
Bennett
Brooks
Burleson, Tex.
Collins, Tex.
Corman
Crane
English
Fascell
Gibbons
Gonzalez
Jacobs
Jones, Ala.
Jones, Okla.
Lehman
Long, Md.
McDonald
McKay
Mahon
Meeds
Moss
Paul
Pickle
Pike
Poage
Rees
Rogers
Roybal
Satterfield
Schneebeli
Sikes
Steed
Wilson, Tex.

NOT VOTING—35

Beard, R.I.
Bell
Biester
Brown, Calif.
Burgener
Clawson, Del
Conlan
Daniels, N.J.
Downing, Va.
Frenzel
Fuqua
Giaimo
Goldwater
Harsha
Hays, Ohio
Helstoski
Hinshaw
Johnson, Colo.
Karth
Kasten
Mathis
Milford
Murtha
Passman
Roncalio
Rousselot
Sisk
Steiger, Ariz.
Stuckey
Symington
Teague
Thompson
Whitehurst
Winn
Young, Tex.

The Clerk announced the following pairs:

Mr. Thompson with Mr. Symington.

Mr. Helstoski with Mr. Giaimo.

Mr. Frenzel with Mr. Bell.

Mr. Roncalio with Mr. Biester.

Mr. Teague with Mr. Passman.

Mr. Dominick V. Daniels with Mr. Burgener.

Mr. Beard of Rhode Island with Mr. Del Clawson.

Mr. Stuckey with Mr. Conlan.

Mr. Mathis with Mr. Brown of California.

Mr. Kasten with Mr. Goldwater.

Mr. Fuqua with Mr. Harsha.

Mr. Downing of Virginia with Mr. Rousselot.

Mr. Hays of Ohio with Mr. Steiger of Arizona.

Mr. Sisk with Mr. Whitehurst.

Mr. Murtha with Mr. Winn.

Mr. Milford with Mr. Young of Texas.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 13367, the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

AUTHORIZING CLERK TO CORRECT SECTION NUMBERS, CROSS-REFERENCES AND PUNCTUATION IN H.R. 13367

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that the Clerk be authorized to correct section numbers, cross-references, and punctuation in the engrossment of H.R. 13367.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

PERMISSION FOR COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION TO HAVE UNTIL MIDNIGHT FRIDAY, JUNE 11, 1976, TO FILE CONFERENCE REPORT ON S. 3201, PUBLIC WORKS EMPLOYMENT ACT OF 1976

Mr. ROE. Mr. Speaker, I ask unanimous consent that the Committee on Public Works and Transportation may have until midnight Friday, June 11, 1976, to file a conference report on the Senate bill S. 3201, an act to authorize the local public works capital development and investment program.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

COMMUNICATION FROM THE CHAIRMAN OF TASK FORCE ON INFORMATION RESOURCES, HOUSE COMMISSION ON INFORMATION AND FACILITIES

The SPEAKER laid before the House the following communication from the Chairman of the Task Force on Information Resources of the House Commission on Information and Facilities; and ordered printed:

WASHINGTON, D.C., *June 8, 1976.*

Hon. CARL ALBERT,
Speaker of the House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: The report entitled, "Information Resources and Services Available From the General Accounting Office," is forwarded herewith for the information of the House under the authority of H. Res. 988 of the 93rd Congress. This report was prepared at the direction of the Task Force on Information Resources of the House Commission on Information and Facilities and has been submitted by the Comproller General of the United States.

Sincerely,

JACK BROOKS,
Chairman.

PERMISSION FOR SUBCOMMITTEE ON CONSERVATION, ENERGY AND NATURAL RESOURCES, OF COMMITTEE ON GOVERNMENT OPERATIONS TO SIT FROM 10 A.M. TO NOON DURING 5-MINUTE RULE TOMORROW

Mr. RYAN. Mr. Speaker, I ask unanimous consent that the Subcommittee on Conservation, Energy and Natural Resources, of the Committee on Government Operations be permitted to sit from 10 a.m. to noon during the 5-minute rule tomorrow.

The SPEAKER pro tempore (Mr. MCFALL). Is there objection to the request of the gentleman from California?

There was no objection.

OTTO ORENSTEIN—A PUBLIC SPIRITED CITIZEN

(Mrs. MINK asked and was given permission to address the House for 1 minute, to revise and extend her remarks and include extraneous matter.)

Mrs. MINK. Mr. Speaker, the Bicentennial celebrations this year give us the opportunity to offer recognition to many individuals who have made valuable contributions in the shaping of our country's history.

Some of the greatest contributions to our democracy are being made today by individuals quietly working within their own communities. It is my privilege at this time to give recognition to and bring to the attention of the Congress an individual in my own community whose persistent efforts and willingness to get involved have resulted in a better community for the people of Hawaii to live in.

Mr. Speaker, Otto Orenstein, whom I have the honor to call a friend, is a true example where an individual can make a difference in government. Over a period of more than a year, he tried to convince the city and county of Honolulu to improve the inadequate public transportation system in the crowded and populous area of Makiki. Because of his determination and tenancity, Dr. Orenstein's singular efforts convinced the city and county of Honolulu to add Makiki to the regular bus routes.

His accomplishment is no small achievement for even those of us in the business of government know how difficult it is to institute and accomplish a change in the bureaucracy. Dr. Orenstein has shown that whether at the State, Federal, or local level, government is most responsive and successful when citizens accept their responsibility toward participating in government.

As a member of the mayor's committee on the status of women of the city and county of Honolulu, Dr. Orenstein has been the leading advocate for the systematic reporting on the numbers of working women in Hawaii. In this regard, he has done statistical studies on the relative position of women in the economy of Hawaii. His most recent accomplishment is called the "Femindex" study which divides the index for each separate occupation and race for the females by the identical category for males.

Dr. Orenstein has also been one of the strongest supporters of our public libraries. As chairman of the library committee of the Makiki Community Association, he has sought to establish a library to serve the growing population of the Makiki community. He continues to press our State and local governments to allocate funds to convert an existing building in the community to serve as the Makiki Community Library. Through his efforts and with the support of the local residents, I am sure his dream will be realized.

Dr. Orenstein's active involvement in government to voice the needs of his community is the kind of citizen input that needs to be replicated in all our communities. In this Bicentennial Year, I commend Otto Orenstein for his many community services and look forward to his continued active participation in our government.

A resolution concerning Dr. Orenstein follows:

> State of Hawaii, Senate Resolution Congratulating Otto Orenstein, A Public Minded Citizen
>
> Whereas, in a democracy it is people who make the government work; and
>
> Whereas, governments, whether state, federal, or local, are most successful when citizens accept their responsibility toward participating in government; and
>
> Whereas, it is the policy of our State to encourage citizen participation through public hearings, workshops, and individual action; and
>
> Whereas, more and more people are showing concern and a willingness to get involved in State and local affairs; and
>
> Whereas, Otto Orenstein is one example of such a citizen; and
>
> Whereas, Otto Orenstein, through diligent effort and a great deal of time, energy, and individual activity over a period of more than one year, convinced the City and County of Honolulu to add the crowded and populous area of Makiki to the regular bus routes; and
>
> Whereas, Otto Orenstein has shown that an individual citizen can, almost singlehandedly, through diligent care and concern, improve a situation in a particular neighborhood; now, therefore,
>
> *Be it resolved* by the Senate of the Eighth Legislature of the State of Hawaii, 1976, that this body congratulate Otto Orenstein as an exemplary instance of one citizen who participated in government; and
>
> *Be it further resolved,* that a certified copy of this Resolution be transmitted to Otto Orenstein.

SOVIET EMIGRATION POLICIES DEFY HELSINKI FINAL ACT

(Mr. ARCHER asked and was given permission to address the House for 1 minute, and to revise and extend his remarks, and include extraneous matter.)

Mr. ARCHER. Mr. Speaker, the nations which signed the Helsinki Final Act all pledged themselves to do everything possible to reunite families that have been separated by political boundaries.

One of the chief signatories to that agreement, the Soviet Union, has blatantly failed to live up to that promise. Because of that failure on the part of the Soviets, Members of Congress are now conducting a vigil on behalf of those families which remain separated.

I would like to bring to my colleagues' attention the case of the family of Marat Osnis, one of all too many tragic cases dramatically detailed in a case history of these families entitled "Orphans of the Exodus."

Marat Osnis is a 28-year-old engineer-mathematician. In 1972 he and his family applied for exist visas to Israel. Shortly thereafter, they all lost their positions; both parents had been working as physicians.

In July of 1972, the parents finally received their treasured visas, but were hesitant to leave their only son behind. But because of the seriousness of their position—being without work, without any means of subsistence—they had no choice but to go. The years that have passed have made this forced separation painful for all of the family. The story of the Osnis family's suffering is well summed up in the following recent letter from Israel:

> I, the mother of an "otkaznik" am adding my voice in the activists' struggle to make aliyah. . . . We have an only son and the separation is a big tragedy for me, the mother, and the whole family. . . .
>
> In July 1972, my husband, mother, and I received permission to leave but my son and his wife were refused under the pretext of "secrecy". . . . We had no choice and were obliged to go, leaving our children in a precarious situation as my son had no work and my son's wife was expelled from the third year of college immediately after applying for emigration to Israel.
>
> Four years have already passed since my son is not working in his profession. Three years have passed since we are in Israel and our son continues to receive refusals. . . . All his appeals to the Chernovtsy OVIR, and Central Moscow OVIR remain without results. . . .
>
> We, here in Israel, and our son in the USSR are suffering from this separation. This young family has been thrown out of normal life . . . not considering already the suffering and pain created by our separation.
>
> I believe that through your struggle and solidarity, you will help greatly the cause of reunion of many Jewish families.

REPRESENTATIVE JACK KEMP THANKS THE ADMINISTRATION AND SALUTES THE BIPARTISAN COOPERATION BEHIND TODAY'S DOT DECISION TO SUPPORT WESTERN NEW YORK'S MASS TRANSIT PROJECT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. Kemp) is recognized for 15 minutes.

Mr. KEMP. Mr. Speaker, today, our Nation's distinguished Secretary of Transportation, the Honorable William T. Coleman, Jr., announced that he—in conjunction with Mr. Robert E. Patricelli, Urban Mass Transportation Administrator—has made a decision in principle to provide $269 million as the Federal share of constructing a $336 million light rail, rapid transit system in Buffalo, N.Y.

I publicly want to thank our President, Gerald R. Ford, for his commitment to helping assure the economic vitality of Buffalo and the Northeast United States.

Secretary Coleman has estimated that the first phase of this long-planned transit project will create 6,700 new jobs in western New York. Additionally, this project is certain to have a widespread, rippling effect throughout our community's economy for the benefit of manufacturing, service, and retail enterprise as well as contractors and subcontractors.

And when the first, 6.4-mile segment of this system begins operating within 6 years, it will provide a new dimension in our community's overall transportation network, bringing people closer to jobs, to schools, health care, recreation, entertainment, and other needs and broadened opportunities.

And, the second phase of construction is to include the new campus of the State University in Amherst.

Mr. Speaker, one of the reasons that our Federal Government has decided to participate in this worthy project is a written commitment between contractors and construction unions to avoid work stoppages and lockouts during the term of the project. Another provision of that agreement, conveyed last month to Administrator Patricelli, calls for both trades unions and contractors to provide expertise to construct the project in the most cost-effective and most expeditious manner.

When cost overruns resulting from controllable delays as well as inflation are almost epidemic on most federally assisted projects in our country, we from western New York are proud of this agreement pioneered by our labor leaders and contractors. We believe it can become a model for the Nation for the benefit of all American taxpayers.

With your permission, Mr. Speaker, I would like to include the text of that agreement at this point in my remarks, Certainly, it was a key that unlocked the door to today's decision.

The agreement follows:

Statement to Mr. Robert E. Patricelli, Administrator U.S. Urban Mass Transportation Administration May 15, 1976

The Construction Industry of Western New York, fully aware of the benefit which our Mass Transit Project entails for this Community and its citizens, desires to provide Mr. Robert E. Patricelli, Administrator of the U.S. Urban Mass Transportation Administration, with the following position of our Industry with respect to this project and its continuing viability through completion.

Should the project be approved, the Western New York Construction Industry Coalition for Economic Recovery, hereby stipulates that it will serve in the capacity as an Advisory Committee to work with UMTA, the Niagara Frontier Transportation Authority and others in a liaison role as is deemed necessary to complete the project in the most cost-effective and expeditious manner.

Composed of representatives of the Building Trades, the Contractors, and representatives of the appropriate professions, the Advisory Committee will be available for prebid conferences for the purpose of providing expertise on cost savings and for providing other assistance beneficial to the avoidance of cost overruns.

We—the undersigned—further stipulate that we will be fully responsive and responsible for our commitment in principle to assure that there will be no work stoppages, nor lockouts, during the term of the project.

Another decisive factor in tipping the scales in favor of Federal support of the light rail transit system in Buffalo, according to Administrator Patricelli, was the "strong citizen participation program which has demonstrated community support."

Mr. Speaker, it has been my great pleasure to be associated with this support since 1971 and with everyone at the State and Federal levels as well as those in the local community who contributed to the long-awaited commitment made today by Secretary Coleman.

Quite literally, I could cite the support of the overwhelming majority of citizens of western New York. But for the record, I should like to mention our former colleague, the Honorable Thaddeus J. Dulski who now represents New York Gov. Hugh Carey. Also, I wish to thank Senators James Buckley and Jacob Javits; my congressional colleagues Henry J. Nowak and John J. LaFalce, our former colleague Henry P. Smith III; the Honorable William Miller who once sat in this body and who worked so hard for this project when he was chairman of the Niagara Frontier Transportation Authority; Buffalo Mayor Stanley M. Makowski; Erie County Executive Edward V. Regan; Don Blair, the president of the Buffalo Building Trades; George Wessel, president of the Buffalo AFL–CIO Council; Robert Logan, executive vice president of the Construction Industry Employees Association; Mr. Delmar L. Mitchell, president of the Buffalo Common Council; and Jack Sharpe, supervisor of the town of Amherst.

The consistent and unselfish support of Lewis J. Harriman, chairman of the Area Transportation Committee and Mrs. Frank Ross, chairman of No Overhead Transit and mobilizer of petition and letter writing efforts to the White House and DOT has inspired all of us. Former Supervisor Al Dekdeburn of Amherst deserves our thanks as well.

Our thanks and recognition must also go to former UMTA Administrators Carlos Villarreal and Frank Herringer; to Raymond Warner of DOT whose patience and counsel have been invaluable; to Jerry Premo, UMTA's Assistant Administrator for Capital Assistance; to Chuck Graves, UMTA's Director for Planning Assistance; and John Taylor, UMTA's Director for the New York Region.

Chet Hardt, chairman of the NFTA, Ken Knight, the general manager of NFTA Metro Construction and their team of experts are outstanding. Credit must be given Dan Hoyt, Buffalo's director of transportation; Dick Danforth, deputy commissioner of community development for Buffalo; Roger Hooker, Jr., now Assistant Secretary of Transportation and former director of the New York State Washington office; New York State Transportation Commissioner Raymond T. Schuler; NFTA Executive Director Ed Fallon and all the members of Western New York Construction Industry Coalition for Economic Recovery including Messrs. Bernard J. Shevlin, John M. Fuhrmann, Lawrence J. Stroh, Frank A. Scibetta, Arthur H. Davis, Larry Reger, Joseph F. Colern, Donald M. Winkle, James Joseph McGovern, Buddy Bodewes, Frank L. Ciminelli, and George Cuddihy.

Mr. Speaker, today's decision is one of the high points of my service to date as a Representative of the people of western New York. At this point, I include the news release issued this morning by Secretary Coleman:

Department of Transportation News

A decision in principle to provide up to $269 million to assist in building a light rail transit system in Buffalo was announced today by U.S. Secretary of Transportation William T. Coleman, Jr.

The Secretary termed the decision in principle that the Department's Urban Mass Transportation Administration (UMTA) would support this project, "a major step forward in providing needed public transportation and thereby assisting in efforts to revitalize Buffalo." He said that the willingness of construction contractors and unions to sign a written no-strike agreement for the duration of construction, together with the innovative proposal to create a downtown transit mall with the light rail line operating on the surface in an auto-free zone, were key elements in the Department's favorable decision. He further estimated that the project would create 6,700 new jobs, based on the experience of other recent transit construction programs.

The Buffalo proposal, prepared by the Niagara Frontier Transportation Authority (NFTA), consists of a 6.4 mile light rail line connecting downtown Buffalo with the existing State University at Buffalo campus. About 1.2 miles of the line would be on the surface in a downtown mall, with the rest in subway. The Buffalo system is planned for later extensions to more distant suburban communities if and as funding becomes available.

UMTA Administrator Robert E. Patricelli said that UMTA's decision was a "commitment in principle, subject only to satisfaction of the necessary legal and environmental clearances." Under Federal law, actual provision of final engineering and construction funds must await the preparation and circulation of a final Environmental Impact Statement. This environmental clearance process will move forward on schedule while the NFTA carries out necessary engineering on its transit proposal. Service is currently projected to begin in 1982.

Secretary Coleman said that "we recognize the role of major transit investments in helping to revitalize our central cities. Where States and localities have put their own money and commitment on the line to that end, and where the transportation merits support the project, we will join as partners." The State of New York has already committed $102 million to the project, more than enough to provide the required non-Federal matching share.

Patricelli said that Buffalo had conscientiously performed the required analysis of bus and rail alternatives, and that it showed that light rail, over the long run, would be about as cost effective as buses. Factors that tipped the scales in favor of rail, he said, were:

The corridor in question has limited available street and highway capacity for use by buses, and rail would be more reliable during Buffalo's extreme winters;

The rail line would have a greater urban development impact, adding to the $250 million already committed from public and private sources to downtown Buffalo in recent years;

UMTA had previously committed to sponsor a new light rail system somewhere in the country as a demonstration of what that technology could do;

The community strongly preferred light rail over buses, and there had been a strong citizen participation program which had demonstrated community support.

Buffalo is the nation's eighth most densely populated central city and urbanized area.

EIGHT POINT CONCEPTUAL AGREEMENT WITH PANAMA VIOLATES HAY-PAUNCEFOTE TREATY OF 1901 WITH GREAT BRITAIN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kentucky (Mr. Snyder) is recognized for 10 minutes.

Mr. SNYDER. Mr. Speaker, on February 7, 1974, Secretary Henry Kissinger announced his agreement with Foreign Minister Tack of Panama on eight points or principles to guide the negotiations of a new Panama Canal treaty. Point 2 states:

The concept of perpetuity will be eliminated. The new treaty concerning the lock canal shall have a fixed termination date.

Point 4 states:

The Panamanian territory in which the canal is situated shall be returned to the jurisdiction of the Republic of Panama. The Republic of Panama, in its capacity as territorial sovereign, shall grant to the United States of America, for the duration of the new interoceanic canal treaty and in accordance with what that treaty states, the right

> to use the lands, waters and airspace which may be necessary for the operation, maintenance, protection and defense of the canal and the transit of ships.

Point 6 contains this sentence:

> The treaty shall also provide that Panama will assume total responsibility for the operation of the canal upon the termination of the treaty.

Mr. Speaker, I will for the moment pass over the fact that the territory in which the canal is situated is U.S. territory, not Panamanian. Panama has only reversionary rights to that territory should we ever decide to give it up.

What is of the essence, however, is that the new treaty is to have a fixed termination date, Panama is to take over total responsibility for the canal after that date, and whatever rights we shall have to use necessary lands, waters, and airspace for the operation, maintenance, protection, and defense of the canal and the transit of ships, will be granted only for the duration of the new interoceanic canal treaty.

Mr. Speaker, any U.S. rights beyond that new treaty's termination date, are for all intents and purposes, simply non-negotiable.

Once we yield the perpetual sovereignty and control we currently exercise over the Canal Zone "to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights, power or authority," to quote the treaty in force, we have no assurance whatever that the Panamanian Government, whatever or whoever it may be at the time, will not simply abrogate the new treaty and deny us whichever right or rights it chooses to, before its termination date.

But there is a most important consideration that seems to have been overlooked, or perhaps ignored.

Mr. Speaker, the United States of America is a high contracting party to the Hay-Pauncefote treaty of November 18, 1901 with Great Britain. The Senate advised ratification December 16 and the President ratified the treaty on December 26 of that year. Great Britain ratified it on January 20, 1902. Ratifications were exchanged in Washington on February 21, 1902, the date the treaty entered into force.

Mr. Speaker, the Department of State has published a document entitled, "Treaties in Force, a List of Treaties and Other International Agreements of the United States in Force on January 1, 1976." On page 277 of that document is listed the treaty of which I speak, under the general heading, "Canal Rights," in the section dealing with our agreements with the United Kingdom.

I am not aware of the abrogation of the treaty since January 1, by either the United States or Great Britain.

Mr. Speaker, the Hay-Pauncefote treaty superceded the Clayton-Bulwer treaty of April 19, 1850. That agreement stated in article I:

> The Governments of the United States and Great Britain hereby declare, that neither the one nor the other will ever obtain or maintain for itself any exclusive control over the said Ship-Canal; agreeing, that neither will ever erect or maintain any fortifications commanding the same . . .

The 1901 treaty nullifying those two provisions was sought by the United States for years after we determined upon an "American Policy," a policy which in the words of President Rutherford B. Hayes and former President Ulysses S. Grant, insisted upon "An American canal, on American soil, under American control."

Mr. Speaker, what President Theodore Roosevelt acquired and built under the mandate of the Spooner Act of 1902, was precisely that, and it has remained precisely that to the present day, an American canal, on American soil, under American control—for the good of the entire world.

The Hay-Pauncefote treaty consists of five articles, the first of which abrogates the Clayton-Bulwer treaty. Article II gives to the United States the exclusive right to construct, regulate and manage the canal. Article III, which I shall quote further, obliges the United States to adopt "as the basis of the neutralization of such ship canal," rules akin to those in the 1888 Convention of Constantinople for the free navigation of the Suez Canal. Article IV provides that no change of sovereignty of the country traversed by the canal shall affect its neutralization. The last article provides terms of ratification.

Mr. Speaker, the obligations of the United States are spelled out clearly in article III and article IV.

Chief among them are paragraphs 1 and 2 from article III, and article IV in full, as follows:

> 1. The canal shall be free and open to the vessels of commerce and of war of all nations observing these Rules, on terms of entire equality, so that there shall be no discrimination against any such nation, or its citizens or subjects, in respect of the conditions or charges of traffic, or otherwise. Such conditions and charges of traffic shall be just and equitable.
>
> 2. The canal shall never be blockaded, nor shall any right of war be exercised nor any act of hostility be committed within it. The United States, however, shall be at liberty to maintain such military police along the canal as may be necessary to protect it against lawlessness and disorder.

Article IV:

> It is agreed that no change of territorial sovereignty or of the international relations of the country or countries traversed by the before-mentioned canal shall affect the general principle of neutralization or the obligation of the High Contracting Parties under the present Treaty.

Mr. Speaker, how can the United States of America live up to these obligations—which have no termination date—by turning total responsibility for the canal over to the Republic of Panama?

How can the United States live up to these obligations by surrendering our control of the lands, waters, and airspace necessary for the operation, maintenance, protection, and defense of the canal and the transit of ships?

Mr. Speaker, the answer is that we cannot.

I submit that the 8-point agreement Secretary Kissinger entered into with Foreign Minister Tack of Panama is itself a flagrant violation of the obligations and implications of the Hay-Pauncefote treaty with Great Britain.

In my belief, the Secretary of State has placed this Nation in a highly embarrassing position in regard, not only to Great Britain, but the whole world, by pursuing a foolhardy treaty arrangement with one nation that a treaty in force with another country clearly precludes.

I am led to wonder, in view of this, whether the Secretary of State has informed the President that he is obliged by the Hay-Pauncefote treaty to move immediately and forcefully against any hostile acts, or any disorders, such as those which are being threatened by Panama's Gen. Omar Torrijos, unless we agree to give him the Canal Zone and the canal.

The full text of the Hay-Pauncefote treaty follows:

TREATY BETWEEN THE UNITED STATES AND GREAT BRITAIN TO FACILITATE THE CONSTRUCTION OF A SHIP CANAL—(HAY-PAUNCEFOTE TREATY)

[Signed at Washington, November 18, 1901; ratification advised by the United States Senate, December 16, 1901; ratified by the President, December 26, 1901; ratified by Great Britain, January 20, 1902; ratifications exchanged at Washington, February 21, 1902; proclaimed at Washington, February 22, 1902.]

[ARTICLES]

[I. Convention of April 19, 1850.
II. Construction of canal.
III. Rules of neutralization.
IV. Change of sovereignty.
V. Ratification.]

The United States of America and His Majesty Edward the Seventh, of the United Kingdom of Great Britain and Ireland, and of the British Dominions beyond the Seas, King, and Emperor of India, being desirous to facilitate the construciton of a ship canal to connect the Atlantic and Pacific Oceans, by whatever route may be considered expedient, and to that end to remove any objection which may arise out of the Convention of the 19th April, 1850, commonly called the Clayton-Bulwer Treaty, to the construction of such canal under the auspices of the Government of the United States, without impairing the "general principle" of neutralization established in Article VIII of that Convention, have for that purpose appointed as their Plenipotentiaries:

The President of the United States, John Hay, Secretary of State of the United States of America;

And his Majesty Edward the Seventh of the United Kingdom of Great Britain and Ireland, and of the British Dominions beyond the Seas, King, and Emperor of India, the Right Honourable Lord Pauncefote, G.C.B., G.C.M.G., His Majesty's Ambassador Extraordinary and Plenipotentiary to the United States;

Who, having communicated to each other their full powers which were found to be in due and proper form, have agreed upon the following Articles:—

ARTICLE I

The High Contracting Parties agree that the present Treaty shall supersede the aforementioned Convention of the 19th April, 1850.

ARTICLE II

It is agreed that the canal may be constructed under the auspices of the Government of the United States, either directly at its own cost, or by gift or loan of money to individuals or Corporations, or through subscription to or purchase of stock or shares, and that, subject to the provisions of the present Treaty, the said Government shall have and enjoy all the rights incident to such construction, as well as the exclusive right of providing for the regulation and management of the canal.

ARTICLE III

The United States adopts, as the basis of the neutralization of such ship canal, the following Rules, substantially as embodied in the Convention of Constantinople, signed the 28th of October, 1888, for the free navigation of the Suez Canal, that is to say:

1. The canal shall be free and open to the vessels of commerce and of war of all nations observing these Rules, on terms of entire equality, so that there shall be no discrimination against any such nation, or its citizens or subjects, in respect of the conditions or charges of traffic, or otherwise. Such conditions and charges of traffic shall be just and equitable.

2. The canal shall never be blockaded, nor shall any right of war be exercised nor any act of hostility be committed within it. The United States, however, shall be at liberty to maintain such military police along the canal as may be necessary to protect it against lawlessness and disorder.

3. Vessels of war of a belligerent shall not revictual nor take any stores in the canal except so far as may be strictly necessary; and the transit of such vessels through the canal shall be effected with the least possible delay in accordance with the Regulations in force, and with only such intermission as may result from the necessities of the service.

Prizes shall be in all respects subject to the same Rules as vessels of war of the belligerents.

4. No belligerent shall embark or disembark troops, munitions of war, or warlike materials in the canal, except in case of accidental hindrance of the transit, and in such case the transit shall be resumed with all possible dispatch.

5. The provisions of this Article shall apply to waters adjacent to the canal, within 3 marine miles of either end. Vessels of war of a belligerent shall not remain in such waters longer than twenty-four hours at any one time, except in case of distress, and in such case shall depart as soon as possible; but a vessel of war of one belligerent shall not depart within twenty-four hours from the departure of a vessel of war of the other belligerent.

6. The plant, establishments, buildings, and all works necessary to the construction, maintenance, and operation of the canal shall be deemed to be part thereof, for the purposes of this Treaty, and in time of war, as in time of peace, shall enjoy complete immunity from attack or injury by belligerents, and from acts calculated to impair their usefulness as part of the canal.

ARTICLE IV

It is agreed that no change of territorial sovereignty or of the international relation of the country or countries traversed by the before-mentioned canal shall affect the general principle of neutralization or the obligation of the High Contracting Parties under the present Treaty.

ARTICLE V

The present Treaty shall be ratified by the President of the United States, by and with the advice and consent of the Senate thereof, and by His Britannic Majesty; and the ratifications shall be exchanged at Washington or at London at the earliest possible time within six months from the date hereof.

In faith whereof the respective Plenipotentiaries have signed this Treaty and thereunto affixed their seals.

Done in duplicate at Washington, the 18th day of November, in the year of Our Lord one thousand nine hundred and one.

PAUNCEFOTE.
JOHN HAY.

INTERNATIONAL MONETARY POLICIES, GOLD, AND AMERICAN POCKETBOOKS—II

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ) is recognized for 5 minutes.

Mr. GONZALEZ. Mr. Speaker, for years, governments have been struggling with the question of gold. Generations of western leaders, all the way back to the dawning of nation-states, have sought and used gold as money. But in more recent times, the utility of gold has been open to question. It has seemed dangerous and silly to tie any country's money supply to gold; its value fluctuates, and the need for international liquidity simply cannot be rationally related to the amount of gold that is dug out of the ground. So during recent decades, nations have moved away from gold as the absolute basis of monetary values, toward a system that is more flexible and reasonable; one that promises greater stability, greater international commerce, and greater prosperity throughout the world. Today, gold has no practical use as a monetary asset.

But the inexorable fact remains that perhaps the majority of all the gold ever found on this planet is held by governments. It is no longer a part of the monetary system, for any practical purpose—but there it sits, and no one can quite figure out what to do with it.

Gold after all is practically indestructible. It cannot be rendered valueless, any more than the alchemists of old could turn a base metal into gold. It cannot be destroyed, since it is hardly within man's power to add to or diminish any part of matter, be it gold or be it dirt. It cannot be wished away, for people still equate Fort Knox with the national storehouse of value, no matter how unreal this notion may be. What governments have spent generations hoarding and acquiring simply cannot be made to vanish without some pain and confusion.

While the United States wants to eliminate gold as part of the monetary system of the world, other governments oppose this idea. Thus we sponsor moves to sell or give away national and international gold holdings, and governments like France seize the opportunity to buy gold, revalue their holdings, and work toward reimposition of gold as a central bulwark of the world monetary system.

If there is not close agreement on monetary principles, no real solution to international disagreements is possible. Since there is considerable argument about the role of gold in the future of world commerce, there has been practically no action on the question. The most recent agreements, reached at Jamaica, seem to do more for restoring gold to the throne than to drive it from the castle altogether. This could have serious consequences for the world, for this country, and for our people.

The International Monetary Fund has decided that it will sell off a significant part of its gold hoard. Some of the proceeds will be returned to its members, who put the gold into IMF vaults to start with. Some of the proceeds will be used to provide development assistance funds to countries that are badly in need of help.

The scheme sounds fine, but the rub is that nobody is going to buy any significant part of this gold hoard—except governments. For hundreds of years, governments have been the true acquisitors of gold, and they still are. Nobody makes any pretense about the real customers of the IMF gold auction—those customers are governments that happen to like gold and would like to restore it as the keystone of international money. In short, while the IMF is trying to move away from gold, a number of its members are doing the very opposite—and are getting help from the IMF itself.

Most countries value their gold holdings at an official price, which today is $42 per ounce. But if these gold holdings are valued at the market price, the owners are able to triple their reserve values overnight. The IMF permits this, and France has in fact revalued its gold reserves. It is very much in the interest of France to keep the price of gold as high as possible. This is one good reason for the Government of France to have a strong interest in keeping the IMF auctions from driving down gold prices. Interestingly enough, the first IMF auction produced a price almost identical to the market price that then prevailed. Even though the IMF never revealed who bought the 780,000 ounces of gold that day, it seems clear that governments acquired most of it—those same governments that want to revalue their holdings, if they have not already done so, and which have the strongest interest in keeping the value of gold at a high level.

Aside from the gold-fanciers of assorted governments, Third World countries also have an interest in keeping a high gold price. This is true because under the IMF auction system, the Third World gets the profit on the sale—that is, they get the difference between the official price of gold and the sales price. The higher the price, the better off these countries are going to be. Moreover, there will come a stage when these countries can elect to take cash or gold from the IMF. Any way you look at it, gold is suddenly far more important to these countries than it ever was before.

If it happens that some substantial number of countries do revalue their gold holdings, the result will be a sudden increase in world monetary reserves—an unplanned, wholly irrational increase. The result can only be a general tendency toward inflation.

Gold may never be set up as the arbiter of monetary values again. Yet it has not disappeared from the monetary scene, and the events of recent months have done more to strengthen its role than to diminish it. Far from creating a more rational world, the international ministers of finance have done much to make it less rational.

It is true that par values no longer have any real function. We will in fact be asked soon to eliminate par value for the dollar, since the value of our currency is more measurable in terms of other currencies than anything else. Yet, even as we take this step, it seems likely that the next 15 IMF gold sales will each add more pressure to the arguments of those who want gold to be more, not less, of a factor in settling international transactions. Fittingly enough, the auctions end at about the same time as the agreements do that preclude the gold fanciers from doing what they really want to. But then, they do not want to act seriously until the weight of events is more on their side—and they are confident it will be.

In time, then, we may see a general revaluation of gold holdings—and a consequent rise in world reserves. When and if that time comes, whatever stability we have will be threatened by renewed pressures of inflation.

The United States could, of course, try to drive down the price of gold through unilateral sales. It seems unlikely that we would do so. Ironically, those who want most to undo the efforts of our country to eliminate gold from the monetary system are also allies, whom we do not want to offend.

All of this is more than a little remote. The future is never clear; and in the dark and twisting tunnels of world finance, few have any interest. Yet much of the economic future depends on the decisions of international finance ministers.

PERSONAL EXPLANATION AS TO VOTES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. Danielson) is recognized for 5 minutes.

Mr. DANIELSON. Mr. Speaker, I was in my district on Monday, June 7 and Tuesday, June 8 and, therefore, missed five rollcall votes. I would like the Record to show how I would have voted had I been present on those days.

Rollcall vote No. 335. H.R. 13567, to amend the Small Business Act and the Small Business Investment Act of 1958. It passed by a vote of 341 yeas to 2 nays. I would have voted "yea."

Rollcall vote No. 337. H.R. 5621, to authorize the Secretary of the Interior to establish the Valley Forge National Historical Park in the Commonwealth of Pennsylvania. It passed by a vote of 364 yeas to 4 nays. I would have voted "yea."

Rollcall vote No. 338. H.R. 2177, exemption from duty of certain components and materials installed in aircraft previously exported from the United States. It passed by a vote of 359 yeas to 4 nays. I would have voted "yea."

Rollcall vote No. 339. H.R. 13500 to amend the Internal Revenue Code of 1954 with respect to influencing legislation by public charities. It passed by a vote of 355 yeas to 14 nays. I would have voted "yea."

Rollcall vote No. 340. H.R. 9549, to provide for the establishment of the Old Ninety-six Star Fort National Battlefield in the State of South Carolina. It passed by a vote of 359 yeas to 7 nays. I would have voted "yea."

FURTHER TALKS WITH NORTH VIETNAM ON MIA'S

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Mississippi (Mr. Montgomery) is recognized for 5 minutes.

Mr. MONTGOMERY. Mr. Speaker, a few days ago there was a report in the press quoting VFW members from Michigan as saying the North Vietnamese Embassy officials in Paris had indicated to them that there were still some American servicemen being held prisoner in Indochina. Since this report was vastly different from what our Select Committee of MIA's had been told a few months ago in Paris and Hanoi, I contacted the North Vietnamese Embassy this past Monday to determine if they were retracting their previous statement to the committee members. While we would very much like to discover that North Vietnam is still holding prisoners, I must, unfortunately, report to my colleagues that the VFW delegation evidently misinterpreted the North Vietnamese remarks during their discussions.

I regret very much the misunderstanding that has developed, because I am afraid it holds out false hopes for the families of the MIA's. In order to keep my colleague informed on what the Select Committee on MIA's is doing, I include at this point a copy of the press release we issued explaining the sequence of events:

Further Talks With North Vietnam on MIA's

Washington, D.C.—In a telephone conversation with North Vietnamese officials in Paris today, Congressman G. V. Montgomery, D-Miss., was told that the Michigan VFW delegation evidently misunderstood comments made by the North Vietnamese last Friday relative to U.S. servicemen missing in Indochina.

Mr. Montgomery is chairman of the House Select Committee on Missing Persons in Southeast Asia charged with developing information that will lead to a full and factual accounting of missing servicemen, return of any prisoners and repatriation of remains of any dead.

The VFW delegation had traveled to Paris last week for the purpose of delivering an 80,000-name petition, including the signature of President Ford, to the North Vietnamese requesting information on the MIA's. Upon return, the delegation reported they were given a strong impression Hanoi still holds some American prisoners of war.

"In the overseas call today, First Secretary Do Thanh repeatedly said that they evidently had been misinterpreted last Friday. His specific words were 'It was misheard. It is not true. The Vietnamese have long since returned all live POW's and do not hold any,'" Chairman Montgomery stated.

The lawmaker noted that he contacted the North Vietnamese officials today because the VFW report was contrary to what the Select Committee on MIA's had been told in earlier lengthy discussions in Paris and Hanoi, and "we wanted to determine if the North Vietnamese were changing their previous statement to us.

"While it goes without saying that we do not and cannot accept as absolute truth the North Vietnamese statements that no Americans are still being held as prisoner, we unfortunately have not developed any information to the contrary thus far in our committee's investigations," Mr. Montgomery pointed out. "The collective judgment of the U.S. intelligence community, as well as the Select Committee's independent investigations to date, has revealed no concrete or provable information to support the hoped-for premise that live Americans might still be held in Indochina or elsewhere as a result of the conflict in Southeast Asia.

"However, our committee will continue its intensive investigation in order to develop any shred of information that will provide a complete and factual accounting of American MIA's. The Select Committee would also like to express its appreciation to the Michigan VFW delegation and other concerned Americans who are making a sincere effort to focus international public opinion on the fate of U.S. servicemen missing in action," Chairman Montgomery concluded.

SHLAUDEMAN TESTIMONY

(Mr. HARRINGTON asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. HARRINGTON. Mr. Speaker, I am submitting for the Record testimony given by Ambassador Harry W. Shlaudeman on three occasions before committees of the Congress which I believe is relevant to his present nomination by the President to be Assistant Secretary of State for Inter-American Affairs. The full record of the testimony demonstrates the lack of candor and intentional misleading of Congress which all too often has characterized the Executive's relationship to Congress.

The material follows:

[May 25, 1976 (Senate Foreign Relations Committee)]

Statement of Mr. Harry W. Shlaudeman, of California, a Foreign Service Officer of Class 1, to be Assistant Secretary of State for Inter-American Affairs

Mr. Shlaudeman. Well, first of all, Senator, as I testified here previously, I had never heard the word "destabilization" until Congressman Harrington used it. I think the Church Committee report indicates quite clearly that the United States government was not involved in the coup that overthrew Allende. I still believe, as I testified then, that the activities, these payments of money to political parties and to media, were in furtherance of their survival, and this was my understanding at the time.

I still believe that was the result.

Senator Pell. Would you please talk a little louder.

Mr. Shlaudeman. Yes, sir. I am sorry.

I just said, as I testified here the last time, I believe the support given by the United States government to these political parties and to the media resulted in their survival. This was the issue as I understood it. This is the way I still understand it.

I should say further, as the Church Committee report indicates, I had never heard of Track 2, of this attempt to foment a military coup in 1970.

Senator Pell. Your point being that the $250,000 given to the Chilean congressmen was to help them survive?

Mr. Shlaudeman. As far as I know, no money was ever given to any Chilean congressmen.

Senator Pell. To the best of your knowledge, then, no money was passed to any Chilean congressman?

Mr. Shlaudeman. That is true.

Senator PELL. And basically then, your view of the action was to permit the survival of the anti-communist or the anti-Marxist forces there, whereas others say that it was used to secure the overturn?

Mr. SHLAUDEMAN. That is exactly where the difference lies.

Senator PELL. Well, you are saying the glass is half full, and they are saying it is half empty.

Mr. SHLAUDEMAN. Yes.

Senator PELL. I think the Church report covers it. It is agreed that an attempt could be made for American business to take steps to ally the U.S. government for immediate economic issue.

In other words, you were first trying to do it through an economic way.

Is that right?

Mr. SHLAUDEMAN. The Church Committee report on the involvement of ITT in allegedly helping to finance the political activities during that period—this was unknown to me. I know nothing about it. I was not informed of it at the time.

Senator PELL. You were not informed of the activities of ITT? Presumably the Ambassador at the time was informed.

Mr. SHLAUDEMAN. That is right.

I believe the Committee report says that the station chief did inform him in a general way; but I was unaware of it.

Senator PELL. It was under the letter of instruction that the Ambassador was informed?

Mr. SHLAUDEMAN. Apparently, though, they did inform me of other things, which were quite clear.

Senator PELL. On this particular question, did you want to follow up at all on the Chilean side of it?

I have some other general questions.

Senator JAVITS. Yes.

There is a statement in the Church Committee report that has been called to my attention.

On page 229, this is the Report on Alleged Assassination Plots on Foreign Leaders. It reads as follows:

"On June 18, 1970, the U.S. Ambassador to Chile, Edward Korry, submitted a two phased proposal to the Department of State and the CIA for review. The first phase involved an increase in support to the anti-Allende campaign. The second was a contingency plan to make 'a $500,000 effort in Congress to persuade certain shifts in voting on 24 October, 1970.' On June 27, 1970, the 40 Committee," which is our own, at the White House, "increased funding for the anti-Allende spoiling operation to the tune of $90,000. A decision on Ambassador Korry's second proposal was deferred pending the results of the September 4 election."

Did you know anything about this?

Mr. SHLAUDEMAN. I knew of that proposal. Yes, Senator.

Senator JAVITS. But this is a two track proposal. They call it two phase, but it is a two track proposal.

Mr. SHLAUDEMAN. I believe the report describes the second track as being an attempt to foment a military coup. That was the term given to it in the report: Track 2.

Senator JAVITS. In other words, this is not the same. You claimed you knew about this one, but this is not the same thing?

Mr. SHLAUDEMAN. That is right, Senator.

Senator JAVITS. Did you have any contact with the CIA when you were in Chile?

Mr. SHLAUDEMAN. With the station, yes, of course.

Senator JAVITS. With the station.

Did the station inform you about Track 2?

Mr. SHLAUDEMAN. It did not.

Senator JAVITS. What about Korry? Did he inform you or consult with you about it?

Mr. SHLAUDEMAN. Sorry, according to the report, was not informed either.

Senator JAVITS. So, the only matter that you were informed of was the first phase involved in increase in support to the anti-Allende program.

What does that mean?

Mr. SHLAUDEMAN. Well, as I understood the program, Senator, this was a general program, not financing any candidate or party, but an attempt to finance media propaganda against Allende. This was the general program.

Senator JAVITS. The second, it says, was a contingency plan to make, "a $500,000 effort in Congress to persuade certain shifts in voting before October, 1970." Now, that is bribery, is it not?

Mr. SHLAUDEMAN. That was apparently the intention, but nothing ever came of it.

Senator JAVITS. In other words, you knew about that, but you claim no money was passed?

Mr. SHLAUDEMAN. No money was passed.

Senator JAVITS. As far as you knew?

Mr. SHLAUDEMAN. As far as I knew.

Senator JAVITS. The Church Committee says there was a $250,000 contingency fund to bribe Chilean congressmen. You say this money was never used?

Mr. SHLAUDEMAN. As far as I knew.

Mr. JAVITS. Never used?

Mr. SHLAUDEMAN. Never used.

Senator JAVITS. But nonetheless you did know about a plan which contemplated that kind of activity?

Mr. SHLAUDEMAN. I did, Senator Javits.

Senator JAVITS. Therefore when you testified before both Committees, why did you say you knew nothing about "destabilization activities?"

Mr. SHLAUDEMAN. This was all the pre-election period; the pre-Allende period. As I say again, I never heard the word "destabilization."

Senator JAVITS. Well, bribing congressmen to cause them to vote a given way is pretty hot stuff, is it not?

Mr. SHLAUDEMAN. I would think so. I would think so.

Senator JAVITS. So, is it fair to say—we might just as well face the reality—is it fair to say you knew about it, and that you were not asked to approve it? Were you?

Mr. SHLAUDEMAN. I was not.

Senator JAVITS. But you knew about it?

Mr. SHLAUDEMAN. I knew about it.

Senator JAVITS. The fact is it did not come off. But you did know that this was the plan that Korry had submitted?

Mr. SHLAUDEMAN. I did know that this proposal had been made.

Senator JAVITS. You did not object to it?

Mr. SHLAUDEMAN. Frankly, Senator, it was a failed plan from the outset, and I made that point.

Senator JAVITS. That is, you did not believe it would work.

Mr. SHLAUDEMAN. I did not.

Senator JAVITS. Did you make that point with the Ambassador?

Mr. SHLAUDEMAN. Uh-huh.

Senator JAVITS. Otherwise you did not take exception?

Mr. SHLAUDEMAN. I did not.

Senator JAVITS. Thank you very much, Mr. Chairman.

Senator PELL. When you say you took exception to the recommendations, did you take exception verbally or in writing?

Mr. SHLAUDEMAN. Verbally.

Senator PELL. Surely the plan or the phase involved embassy staff meetings at which you participated, did it not?

Mr. SHLAUDEMAN. I cannot recall in this particular instance. I cannot remember how the plan was developed.

Senator PELL. It was inconceivable the Ambassador would dream it up all by himself, especially to you, and then send it back in. These things, as you well know, usually come from a country team effort.

Mr. SHLAUDEMAN. Uh-huh.

I do not believe that was the case in this case.

Senator PELL. I thought earlier you said that you did not know about spending money to influence votes in the Chilean congress?

Mr. SHLAUDEMAN. I said no money was spent as far as I know.

Senator PELL. I see.

In other words, the $500,000 contingency plan to influence the Congressional vote was never spent?

Mr. SHLAUDEMAN. As far as I know, Senator.

Senator PELL. As the DCM, you must have participated on a reasonably equal basis in the formulation of the plan of Phase 1. I do not see how you could not have.

You say you do not recall the meetings at which this was discussed?

Mr. SHLAUDEMAN. There were an awful lot of meetings at that time. I do not, in this particular case. I do not recall the details of the plan or how it was submitted. But I do recall this part of it.

Senator PELL. Do you have anything more to ask?

Senator JAVITS. Just that I think that the interchange between Ambassador Schlaudeman and Senator Biden, which took place on February 26, 1975, ought to be incorporated in this record.

I will read it, just so Mr. Shlaudeman can correct anything he wishes. It reads as follows:

"Senator BIDEN."—this is on page 73—"You said you did have some knowledge. What did you say before?"

"Mr. SHLAUDEMAN. Well, I think before you came in, Senator, I said that my knowledge of these activities extends exactly to what the President said last September." That would mean September, 1974.

"Senator BIDEN. Which was?"

"Mr. SHLAUDEMAN. That support was given to the parties and to media which were under a very great strain. I know nothing. As I said just now, I do not believe there was any attempt to undermine or subvert or overthrow the government of Allende."

"Senator BIDEN. So then you would not interpret the funneling of money to opposition groups as being an attempt to subvert or otherthrow?"

"Mr. SHLAUDEMAN. That is right. As I understood and understand the policy, Senator, that was not the purpose. The purpose was, as the President said, to permit these institutions to continue to exist, looking ahead to re-election."

Is that it? Is that correct?

Mr. SHLAUDEMAN. Thank you, Senator.

That is it, absolutely.

Senator PELL. Thank you.

Now, what positive actions have you taken or have you expressed yourself concerning human rights?

Mr. SHLAUDEMAN. It was interesting in listening to Professor Birns statement.

I have had a long interest in the Inter-American Human Rights Commission. Prior to the Commission's report on Chile, the only other on-site, in-country investigation it has ever made was in the Dominican Republic in 1965 and 1966. I was there at that time as an assistant to Ambassador Bunker, who had under him and the fellow members of his committee the entire OAS mission there. It was through our efforts that this investigation was made.

I participated. I assisted the investigation actively. I think it was a landmark case, a breakthrough in this whole question of international action on human rights.

I believe in the question of human rights, Senator, that in Latin America there must be a consensus among the countries on international action, that it is the Inter-American Human Rights Commission that must be fortified and strengthened and must play a more active role in bringing us to solutions in this very difficult area.

I certainly intend as Assistant Secretary, if I am confirmed, to work on that, to give all possible support to their efforts.

Senator PELL. If you are confirmed, do you have any specific thoughts as to what you would do to beef up this side of your responsibility?

Mr. SHLAUDEMAN. Yes.

On the question of the Commission I would hope that we could develop some proposals for strengthening the Commission staff, for giving it more expertise, and basically for arriving—and this will be a subject that I am sure will be addressed in Santiago—for arriving at some system whereby we have a general acceptance on the part of the inter-American community of the Commission and of its role.

Senator PELL. If you are confirmed, do you plan to attend the Santiago session on June 4?

Mr. SHLAUDEMAN. If I am confirmed, Senator, I do.

Senator PELL. Will Secretary Kissinger be there?

Mr. SHLAUDEMAN. Probably. That is my understanding? Probably—although no final decision has been taken.

Senator PELL. Will human rights issues come up at that conference?

Mr. SHLAUDEMAN. Very definitely. Very definitely.

Senator PELL. Your intention, then, would be to take a leading role?

Mr. SHLAUDEMAN. Absolutely.

Senator PELL. What do you think the United States could do to bring about a greater respect for human rights in the Western Hemisphere?

Mr. SHLAUDEMAN. In this hemisphere, I think that in the first place my predecessor and the Secretary have done a great service in bringing us, and I must say with very intensive encouragement from the Congress, in bringing us into a position where we can talk about human rights in terms our own values and the values of the hemisphere. I think we can continue to make progress in that field.

Again, I think the most positive thing we can do is to strengthen international machinery and to work toward a consensus in the hemisphere that this is a legitimate concern of other countries, that it is not interference in their internal affairs, that there is an international concern for what governments do to their people.

As I say, it is a legitimate concern.

Senator PELL. I was struck by your statement that you feel the Secretary, and presumably the Administration, has taken the lead in this regard. I would say that there are many nations that have taken a greater interest in human rights than the United States Government.

Mr. SHLAUDEMAN. I did not mean that if I said it, Senator . . . I meant that we have established, he and Mr. Rogers have taken the lead in establishing a position for the United States, a position which I think in the past we did not have.

Senator PELL. You are right. We are starting perhaps from ground zero.

In this morning's news it was reported that Cuban Premier Castro wrote to Olaf Palme informing him that Cuban forces were gradually being withdrawn from the government of Angola and would totally be out of that nation by the end of the year. As you know, last week, Cuban Deputy Premier Rodriguez said in Tokyo that Cuba had no intention of sending troops to Rhodesia and also that Cuba would only respond to requests from what they considered were governments, which was the case of the MPLA in Angola.

Would not these statements indicate a more conciliatory stance on the part of Cuba?

Mr. SHLAUDEMAN. I hope so. I mean, I think it is something that we will have to look at. Of course, their actions will, I am sure, determine the validity of the statements.

Senator PELL. Rodriguez's comments were coupled with statements that Cuba is prepared to normalize relations with the United States if the economic blockade is first ended. This is also the statement that he made to Senator Javits when we were down there, which has been their position right along.

Do you believe that the time has come when we could start, perhaps, to normalize relations with Cuba?

Mr. SHLAUDEMAN. Well, I think as long as—and I think I understand this to be the Administration's position, and it would be my view too—that as long as they have military forces in Angola, and as long as they are attacking and intervening really in the internal affairs of our country through their attacks on the Puerto Rican situation, that normalization would be very difficult. This would be my view.

Senator PELL. But if the troops are actually being withdrawn from Angola, do you believe that would leave the Puerto Rican situation as the main exacerbation? Do you feel that would be enough to justify the continuation of the present hard line?

Mr. SHLAUDEMAN. Well, if I recall, when I was here a year and a half ago, the Secretary made a speech in which he said that the state of permanent antagonism, of permanent hostility was not to the advantage of either country. I must say that the reaction from the other side does not seem to me to be very forthcoming. There are obviously very many difficult issues between us. These two, right now, would seem to me to be a very important block toward a movement in the other direction.

Senator PELL. Would you enlarge a little bit on what you feel they are doing vis a vis Puerto Rico?

Mr. SHLAUDEMAN. I must say I am not really terribly well informed on that. I have been away, as you know, for over a year.

They have historically taken the position that the repeated expressions of public will by the people of Puerto Rico in their elections are invalid, and that a very small minority of the population which demands total independence is the real voice of Puerto Rico. They have constantly brought this issue to the United Nations, where I do not believe it belongs.

I would regard that, as I said, as interference in our internal affairs.

Senator PELL. Thank you.

Do you have any further questions?

Senator JAVITS. Yes.

I would like to ask you this.

What do you feel personally about Cuba? Do you think we ought to normalize our relations with them the moment we can?

Mr. SHLAUDEMAN. I personally feel, Senator, and I have spent a good deal of time on this issue in the past, that it is going to be, and I believe you and I have talked about this before privately, I think it is going to be a very difficult issue, a very difficult negotiation, when and if the time comes that we can move in that direction.

I believe personally that, as the Secretary said, a state of permanent hostility or antagonism is not advantageous.

Senator JAVITS. I do not know where I get the impression, Mr. Shlaudeman, but I do get the impression, that you are a little cooler on normalization of relations with Cuba than perhaps others might be in your place as Assistant Secretary.

Mr. SHLAUDEMAN. I do not believe that is true, Senator. I do not think so.

Senator JAVITS. What about your record over the years? You have been pretty hard line on Cuba, have you not?

Mr. SHLAUDEMAN. I have not really. Except for this brief period here in 1972 and 1973, I have not had much to do with Cuba.

Senator JAVITS. You are not necessarily wrong. I am only saying that we would like to know your general attitudes. You have expressed them in the best way that you can.

Mr. SHLAUDEMAN. Yes, I realize that.

Senator JAVITS. The other thing I wanted to ask you—we will have to draw our own conclusions on this thing from what you have said—and by the way, there is no beam in my eye on Cuba. I would not necessarily be against you, even if I thought you were more hard line, if you thought that was desirable.

Mr. SHLAUDEMAN. I understand that.

Senator JAVITS. The last thing I wanted to ask you is this.

I had a very bad experience with the Embassy in Santiago on the killings which took place incident to this coup. We had a young fellow from New York named Charles Horman, who became a celebrated case, who was early seized and quickly assassinated. He was a film maker down there. I thought the attitude of the Embassy was very derelict in its zealous protection of Americans, in the followup, even in finding the poor boy's body and in helping his family. I really was appalled, and I raised the devil about it, as you probably remember.

Now this is a terrible tragedy and it is gone. But you would be involved in such things if you were confirmed as Assistant Secretary.

What is your attitude about things like they did? Did you know anything about the Horman case? What is your attitude in general?

Mr. SHLAUDEMAN. Well, I think the Horman case and another case at that time produced a GAO report, which I have read.

Senator JAVITS. Right.

Mr. SHLAUDEMAN. I think generally there are areas that we can strengthen ourselves in, in the protection of Americans. I think some of the recommendations in that report were quite good. After that case I participated in drafting a circular of instruction for setting up new procedures for reporting to the Department on these problems, and I can assure you I will follow it very closely and try to improve our performance in these fields.

I think in this particular case that there were mitigating circumstances. But I quite understand, Senator, your concern.

Senator JAVITS. Do you feel personally a certain militancy that the American Ambassador and the American Consul should have? That really offended me very deeply. I mean, if I had been an Ambassador, I would not care who was there, the good or the bad guys, I would have stormed into that place and wrapped an American flag around me and raised sheer hell. Let them get at me rather than Horman. I can get out a lot easier.

Mr. SHLAUDEMAN. I understand, Senator, and I do feel that vigorous action in these cases is required.

Senator JAVITS. And you will see that that attitude prevails among all of the people who serve our country?

Mr. SHLAUDEMAN. I will indeed.

Senator JAVITS. The last thing I wanted to ask you was this.

We drafted a section on human rights in the new mutual security bill.

Have you read it?

Mr. Shlaudeman. I have not, Senator.

Senator Javits. Would you be kind enough to read it and give us an answer as to whether you agree with it and would enforce it fully.

Mr. Shlaudeman. Fine. I will do that.

[Senate Foreign Relations Committee, Feb. 26, 1975]

STATEMENT OF HARRY W. SHLAUDEMAN

Senator Sparkman. First let me ask you a couple of questions. I assume you have filled out the questionnaire that we have relating to your financial situation.

Mr. Shlaudeman. Yes, I have.

Senator Sparkman. And of course you are in office now.

Mr. Shlaudeman. Yes, I am.

Senator Sparkman. And you tell us in this open meeting that you have no holdings or any interests that would in any way constitute a conflict of interest in the holding of this office.

Mr. Shlaudeman. Yes, I filed the statement, Mr. Chairman.

Senator Sparkman. Now furthermore, we ask this question regularly of appointees. If confirmed to this office will you hold yourself ready to respond to requests from this Committee or any other appropriate committe of Congress to appear and answer questions that may be put to you without reservation?

Mr. Shlaudeman. I will, indeed, Mr. Chairman.

Senator Sparkman. Now will you proceed?

Mr. Shlaudeman. I will be very brief. I realize that time is short.

I would like to make just two very brief comments. First, with respect to the testimony that Fr. Driscoll offered. I am aware that some opposition to my nomination has been expressed in Venezuela. I believe that it comes from a misunderstanding, a misunderstanding of who I am and what my career has been. And I have every confidence in the fair play and openmindedness of the Venezuelan people. And I hope that they will find me, if I am, in fact, confirmed by the Senate, the friend that I mean to be to the Venezuelan people.

With respect to the previous testimony, the descriptions of what these alleged activities were in Chile do not in any way correspond with my understanding of United States policy or of United States activities in Chile.

My understanding was and is precisely what the President said last September was the extent of those activities, and I know nothing and I do not believe that there was any attempt to subvert or to overthrow the Chilean government, nor was there any involvement by the United States in a coup.

Thank you, Mr. Chairman.

Senator Sparkman. In other words, you are telling us that you had no hand in the overthrow of the Allende government.

Mr. Shlaudeman. That is exactly right, Mr. Chairman. To my knowledge, there was no U.S. involvement.

Senator Sparkman. I want to say this, Mr. Shlaudeman, you were the number two man to Ambassador Davis, were you not?

Mr. Shlaudeman. I was, indeed.

Senator Sparkman. We have had Ambassador Davis before us at least twice now. Once was right at the time and then more recently we had him before us just a few days ago. And nothing was ever said in any one of those hearings, as I recall, that brought your name into it at all. It may not be good reasoning on my part. It seems rather strange that going through all of those hearings, as we did, that you have been deeply involved in this. As some have indicated, we would have heard your name mentioned.

Mr. Shlaudeman. Well, let me say, Mr. Chairman, as I said before, my knowledge of these activities in Chile extended to what the President said in September. I know nothing of any attempt to subvert anybody or overthrow the government of Allende. I have never said, and I think a reading of my testimony on June 12th so indicates that I was completely ignorant of these matters.

And as I say, I simply do not believe that the characterizations you have heard here today of U.S. policy or U.S. activities in Chile were correct.

The Chairman. Did you read the published testimony of Mr. Helms?

Mr. Shlaudeman. Yes, I did, Mr. Chairman.

The Chairman. Have you read the reported testimony of Mr. Colby?

Mr. Shlaudeman. I never have, Mr. Chairman.

The Chairman. Well, Mr. Helms did deal with the CIA activity in Chile, but I do not recall that he ever made any reference to you in that connection, and I do not recall in all the interrogation of Mr. Davis that at any time anybody made any reference to you. Senator Biden.

Senator Biden. Thank you, Mr. Chairman.

Mr. Shlaudeman, I should begin by admitting my general lack of knowledge in this area. I am new to the Committee, as you know, and my following the events in Chile extended not much beyond the "New York Times". I know I am not supposed to admit to that either, but it is true.

Since being appointed to the Committee, I have tried my best to make myself aware of whatever testimony has been given thus far, both in Executive Session and in Open Session, and regardless of the knowledge, or lack of knowledge, I sympathize with your position. You are sort of caught between the rock and the hard spot, but I would like to clarify a few points, if I may, for me, and it would probably be repetitious for both the audience and for the Chairman, but it will help me a bit.

You stated earlier, and I am not sure what you stated earlier, that, did you say, I never said before that I had no knowledge?

Mr. Shlaudeman. That is correct.

Senator Biden. You said you did have some knowledge? What did you say before?

Mr. Shlaudeman. Well, I think before you came in, Senator, I said that my knowledge of these activities extends exactly to what the President said last September.

Senator Biden. Which was?

Mr. Shlaudeman. That support was given to parties and to media which were under very great strain. I know nothing, and, as I said just now, I do not believe there was any attempt to undermine or subvert, or overthrow the Government of Allende.

Senator Biden. So, then you would not interpret the funneling of money to opposition groups as being an attempt to subvert or overthrow?

Mr. Shlaudeman. That is right. As I understood, and understand, the policy, Senator, that was not the purpose. The purpose was, as the President said, to permit these institutions to continue to exist, looking ahead towards reelections.

Senator Biden. I have two problems: one which I have not yet resolved, and were you, I would be offended by the fact that I had not yet resolved it, and that is the veracity of your prior testimony, that is whether or not there are any inconsistencies. I have reviewed it, but I am not totally familiar with it, and that is one problem I have.

The second problem I have is almost more serious in my mind, and that is, if, in fact, the host government is opposed—and I would like to explore that—is opposed to your appointment, how will that affect your ability to represent this nation in such a sensitive spot, and maybe you could elaborate on that.

Mr. Shlaudeman. Along the first point, Senator, I have reviewed my testimony, myself, and I am satisfied certainly that I did not lie and that I made every effort to be as forthcoming as I could, because, as you see, it was a very difficult circumstance.

With respect to the attitude of the Government of Venezuela, I have no indication that they oppose my coming or are not prepared to accept me, and, as I said a little earlier, I think that there is some misunderstanding in Venezuela arising from reports of various kinds about me and my career and who I am and what I stand for. I am quite confident, if I were to be confirmed, that the Venezuelans, in general, and the Government, in particular, would find me an effective, I hope, representative of my Government and a friend of theirs, and a supporter of their great democratic tradition.

Senator Biden. It is obvious that your appointment has created some little concern, to say the least, and I, as I said with regard to Mr. Davis, who I think is a fine man, I wonder whether or not were we appointing either you or Mr. Davis to be Ambassador to England or France or Italy, and there was the same amount of controversy and storm, whether or not you would persist in that appointment. Again, I have not been around long enough to know whether or not we would. I suspect we might consider it longer. The Administration might consider it in a different light than we apparently are now, but I am a little concerned about what constitutes, in your mind, covert activities; that phrase is used interchangeably here a lot.

Witnesses in testimony several days ago, in regard to Mr. Davis and you, today, I think we are referring to activiites such as pumping money into opposition parties, or newspapers, or whatever, as being covert activities, and you, today, viewed that action as not being an action which had a destabilizing effect. You viewed it as a stabilizing effect, is that correct?

Mr. Shlaudeman. Well, let me say, first of all, that the word destabilizing. What I do know about the Colby testimony was in the "New York Times" in which he said he never used the word then and that it was not a fair description of U.S. policy during this, and I personally had never heard the word before as it was used.

Covert activity, obviously, as you say Senator, there are all kinds of activity which can be described as covert in the sense that they are done in secret. That can obviously take a wide range. What I have been saying is not that covert activities did not take place, but that they were not intended to, nor did they, in my view, result in the overthrow or the undermining or the destabilization of the Allende Regime.

Senator Biden. Well, that was going to be my next question. In light of what you have learned since your post there, have you changed your view?

Mr. Shlaudeman. No, I have not, Senator.

Senator Biden. Now, in your prepared statement to the House Foreign Affairs Subcommittee on June 12, 1974, you said, and I quote, "Despite pressures to the contrary, the U.S. Government adhered to a policy of nonintervention in Chile's internal affairs during the Allende period." Now, what exactly were these, or, first of all, did you say that? I guess that is a start.

Mr. Shlaudeman. Yes, that was from a prepared statement which was designed, and I must say not very effectively, to counter these continuing arguments, these continuing allegations that we were, in fact, involved in the overthrow of Allende and that we did intervene in the Chilean political structure, to overthrow him. That was what was meant, and that is certainly what the entire thrust of the testimony and, I think, of the statement is.

This whole question, and I realize that it is open to a number of judgments as to whether such activity can be regarded as truly directed at interfering or in manipulating a political result in Chile, I think that is open to question. My impression, my feeling was that that was not the case.

Senator BIDEN. Well, Mr. Shlaudeman, do you not think that if the Russian Government pumped in, to make up for the difference in size, pumped in $10 billion or $20 billion into the, I will say, the Republican Party in a national election, or into the Socialist Party, or whatever party it was, and it came directly from Moscow, that that would be viewed domestically as having, as being intervention in domestic politics? I mean, I do not know how we get away from that. We would be a little upset, would we not?

Mr. SHLAUDEMAN. We would, indeed. I think that was, as the President stated, that the circumstances in this case came from the conclusion, as I understand it, that the long-existing parties and institutions were, in fact, under threat of their survival.

Senator BIDEN. Were you any part of making that recommendation to the Administration, prior Administration, that they were in danger?

Mr. SHLAUDEMAN. Obviously, I participated in formulating the reports in which these decisions were taken. I had nothing to do with the decision-making process.

Senator BIDEN. Well, I mean, did you plead the case?

Mr. SHLAUDEMAN. I did not.

Senator BIDEN. Did you say, we need a million dollars coming in here, or whatever dollar amount?

Mr. SHLAUDEMAN. Senator, as the number two man in the Embassy, I was not in a position to make that case.

Senator BIDEN. With all due respect, the number two man in my office, assuming I am number one man, which I am not always sure of, the number two man in my office, he pleads very diligently. The number—I do not know, whatever number she is—but the young woman who advises me in this Committee, she is not at all reluctant to pass up very specific questions and to plead a very specific line of questioning, so I am not sure you have answered my question.

Mr. SHLAUDEMAN. Well, let me say that I certainly supported the decisions when they were taken, and I certainly thought at the time that there was good reason for these decisions.

Senator BIDEN. Boy, I would make a hell of a diplomat, would I not?

Well, the one other part of that question and Mr. Chairman, you have been very gracious to me—

The CHAIRMAN. Well, let me say I am about to turn it over to you. I had a 4:30 appointment in my office with a representative of a foreign government, and he is waiting for me.

I would like to say this before I go. Senator Biden. I brought it out a while ago that the Venezuelan Government has accepted this nomination, and something was said in some of the earlier testimony about the present strained relations with Venezuela. Venezuela has always been one of our very best friends, and it still is. The trade bill that was passed by Congress, unfortunately, I think, placed Venezuela and Ecuador on the blacklist, because they had gone up in the price of oil, along with the OPEC countries.

I think it was a comedy of errors, perhaps, on both sides, and I hope that it can be straightened out. I do not approve of the action that was taken with reference to Venezuela and Ecuador. They have been our good friends, and I hope we will be able to straighten out relations.

You are familiar with that estrangement, are you not?

Mr. SHLAUDEMAN. I am, indeed, Mr. Chairman, and I agree entirely, and I hope, indeed, that we can straighten out this problem.

The CHAIRMAN. Well, if I may be excused, I will leave it with said Senator Biden to go ahead.

Senator BIDEN (presiding). Thank you, Mr. Chairman.

I just have a few more questions, and I will not delay you.

Get back to that statement that you said, despite pressures to the contrary, I wonder what those pressures to the contrary were. Maybe you could explain them.

Mr. SHLAUDEMAN. Well, let me say quite frankly, Senator, that in Chile, in those days, there were substantial areas of, let us say, the political community which were more interested in subversion than in the normal political process, and certainly, so far as I know, we had nothing to do with these people.

Senator BIDEN. And you say, political pressures. Do you mean Chilean?

Mr. SHLAUDEMAN. I am talking about Chile now.

Senator BIDEN. You are not talking about pressure from within the quarters of this country?

Mr. SHLAUDEMAN. No.

Senator BIDEN. How about third countries?

Mr. SHLAUDEMAN. No, Senator.

Senator BIDEN. Let me just tell you candidly where I am with regard to you, Mr. Shlaudeman. I do not know where I am. I am concerned that simultaneous with the start-up of the new Select Committee, your appointment and Mr. Davis' appointment, and I say candidly even though there has been less fault raised about Mr. Davis than you, I have more concern about Mr. Davis than you, because there has been more opposition stated by African nations that I am aware of, than there has been by South American nations, which I take into consideration very strongly.

Simultaneously, we have your appointments and the investigation going on, and what in the devil will happen, and I am not just asking a rhetorical question, but what in the devil will happen if that Select Committee comes down with information and findings which is inconsistent with the appointment of either you or Mr. Davis. And, I just want you to know it is troubling me. I do not honestly know which way I am going to go in Executive Session when it comes to your nomination. It will, obviously, be made very public by me and others, which way I go, but I would like to say, if I were you, if I had sat through all of this and the comments that were being made about me, and maybe I would give Senator Clark a few moments to look through his notes and he may have some questions, and I would be happy to yield to him.

Senator CLARK. I have no questions.

Senator BIDEN. On June 12, 1974, you also said, "We had nothing to do with the political destabilization of Chile," the word you never heard of that you used, "the U.S. had nothing to do with it."

On April 22, 1974, and this is going through old ground again, but I want to get it out, CIA Director Colby said in Executive Hearings, that the State Department officials at the Santiago Embassy were aware and participated in the planning of CIA covert operations in Chile.

I assume if, in fact, Mr. Colby was accurate in what he said, and you are accurate in what you said, that the reconciliation of those two statements is that you did not view the pumping of money into opposition sources as being either destabilizing and did not lead to the decline. Is that how they reconcile?

Mr. SHLAUDEMAN. That is right. It is also true, Senator, that Mr. Colby did say in a letter published in the "New York Times" that he had not used that word, and he did not regard the use of that word as a fair description of our policy in Chile.

Senator BIDEN. Well, although I have great respect for The Gray Lady, I am not sure that—well, I guess I had better not say any more. I do not have any more questions.

Senator CLARK. Just one question. As you know, Venezuela has become, in recent months, the leader or the spokesman for, or the leader and spokesman, I guess, for a group of Latin American countries that are disenchanted by the United States' nonpolicy toward our neighbors in the South, and the greatest irritation, as you are well aware, is the much-publicized Title V of the 1974 Trade Act which threatens punitive trade restrictions on countries which organize producers associations.

Now, although a member of OPEC, Venezuela did not participate in last year's embargo, as you recall, and, given these circumstances, how shall we move diplomatically with respect to Venezuela? What do you foresee our doing in that light?

Mr. SHLAUDEMAN. Well, first of all, Senator, we did oppose, and the Administration opposed, and Secretary Kissinger, this particular rigidity in the Act, and certainly I very strongly believe that it should be removed, and I certainly understand fully the feeling in Venezuela that after this long historical experience of being a major petroleum supplier to the United States, and particularly, one during the boycott, that this was not just and not fair.

My understanding is that consultations are going on now on this subject between the Department and the Senate, and I hope it can be resolved, and I know, too, that there are two amendments one offered by Senator Bentsen and one by Senator Kennedy, which would, in different ways, resolve this problem. And, I think it is a very important problem.

Senator CLARK. I have no other questions that, as I understand, have not already been asked.

Do you have any other questions?

Senator BIDEN. I have one last question, Mr. Shlaudeman. Were you prior to being assigned to the Embassy in Santiago, Acting Director of the Office of Research and Analysis for American Republics within the State Department's Bureau of Intelligence and Research?

Mr. SHLAUDEMAN. For six months, yes.

Senator BIDEN. And, in that capacity, were you not apprised of, and in fact quite familiar with, the operations of the CIA. I mean, would that not make you more familiar with, or would it?

Mr. SHLAUDEMAN. I was not, no sir. That particular job is a research job. I had considerable dealings with the overt research side, but for the others, no.

Senator BIDEN. You are telling me that, in that capacity, that you had neither responsibilities nor an awareness?

Mr. SHLAUDEMAN. No, I had no liaisons in that function, in that job.

Senator BIDEN. I do not mean to suggest by the question that I have any evidence to the contrary.

Mr. SHLAUDEMAN. I realize that the functions of that particular bureau are sometimes misunderstood, and people are regarded as one way or another in being associated with covert activities because they happen to work in that.

Senator BIDEN. Maybe for the record, and if you think it is inappropriate and would be too revealing, then you can tell me so, and I would raise it in an Executive Session.

Mr. SHLAUDEMAN. I would be happy to go over that with you. I would prefer to do it privately, because it is a little complicated, but I can assure you that that particular office did not deal with the CIA.

Senator BIDEN. So that if, in fact, there were covert activities being planned, you in your capacity as the Director of the office which I stated earlier, you would not be aware of that as a consequence of that directorship?

Mr. SHLAUDEMAN. That is exactly correct.

Senator BIDEN. You have answered my question. Thank you very much. I have nothing further.

Thank you very much, Mr. Shlaudeman. The Committee will stand in adjournment.

(Whereupon, at 4:55 o'clock p.m., the Committee adjourned, subject to the call of the Chair.)

[June 12, 1974, House Foreign Affairs Committee]

STATEMENT OF HARRY W. SHLAUDEMAN, DEPUTY ASSISTANT SECRETARY FOR INTER-AMERICAN AFFAIRS, DEPARTMENT OF STATE

Mr. SHLAUDEMAN. Mr. Chairman, first of all I would like to introduce Mr. Arnold Isaacs, who is accompanying me today. Mr. Isaacs is the officer in charge of Chilean Affairs in the Department of State. He served in Chile with me and knows the country well.

If I could, I will proceed to read my statement.

The Department has been following with attention and interest these hearings on developments in Chile. We have carefully read the testimony and the various reports introduced here. The concern for the protection of human rights in Chile is one we share with you and with Chileans of all walks of life who must have the ultimate responsibility for the course of events in their country. While we recognize where that responsibility lies, we are not indifferent to what happens in Chile. We have not and could not be indifferent in the case of a country with which our ties of history and common endeavor are so strong.

The observance of human rights is an important factor affecting our relations with other countries; however, it is not the only factor. Secretary Kissinger noted last week that these relations must depend on a wide variety of factors in addition to what he called "moral approbation." As he said, we prefer democratic governments and attempt to exercise our influence to that end; but we also know we cannot impose our political and legal structures on others. My remarks on Chile and U.S. policy toward Chile should be understood in those terms—in light of the commitment strongly affirmed by the Secretary to the hemispheric principle of nonintervention.

CHILE AND THE UNITED STATES

One of the most striking developments in United States-Latin American relations over the past decade is that while we continue to share in this hemisphere most of the aspirations that inspired the Alliance for Progress, we have come to recognize that they are not all equally or easily attainable. We have come to understand some of the limits of excessive dependence on externally-inspired programs.

Chile illustrates this process well. Chile's history of democracy has frequently provided special opportunities for cooperation. At the start of the Alliance for Progress, the United States and Chile adopted an ambitious program of cooperation for development. This program was strengthened after the election of a christian democratic government in 1964.

As time passed, the level and degree of United States participation in Chilean development began to decline. It was recognized on both sides that our activities should be limited to avoid the appearance of paternalism and interventionism. Higher foreign exchange receipts in the latter years of the Frei government were also a factor. The United States undertook no significant development lending in Chile after 1968.

The election of a socialist government in 1970 posed many new problems, but our policy was to have the kind of relations with that government that it wished to have with us. Previous trends toward lesser involvement continued. But we did maintain those programs that had proved of enduring value under the previous government: The Peace Corps and Food for Peace, technical training, community development, military assistance, narcotics control and various forms of scientific research and collaboration.

When the Allende government fell last September, much of the continuity of relations was unaffected. We continued the same assistance programs in effect under the Allende regime. The military assistance program, for example, has been unaffected. It has historically been of roughly the same magnitude as those carried on with the larger countries of the Andean group. Like the other major South American countries, Chile has received no grant United States materiel assistance since 1968. We have had no public safety program of police assistance to Chile except for one communications project in the late 1960's. I should note that cooperation in military training and modernization goes back more than a quarter of a century now and constitutes an essential nonpartisan contribution to regional stability.

If I were therefore to characterize the general evolution of our relations with Chile over the past decade, I would have to conclude that they have been remarkably in tune with the general evolution of our policy toward the rest of Latin America. We have passed from a phase of activism often criticized as highly paternalistic for its attempts to encourage development along lines similar to those of the United States to a period in which we place greater emphasis on policies designed to foster common interests on a basis of mutuality.

HUMAN RIGHTS

One of the major lessons of the past decade is that the United States is not and cannot be responsible for everything that happens in Latin America. It is not and has not been responsible for the course of events in Chile.

As I have said, however, this does not mean indifference. As Americans, we attach great importance to human rights and to their protection everywhere. As Americans also, we are concerned that the advancement of human rights be a practical reality, not an abstraction. We must be concerned with the effectiveness of our support for human rights. That is why this hearing is so important. That is why responsible expressions of concern are so necessary. I might add parenthetically that I say "responsible" not because I arrogate to myself a judgment of the internal Chilean situation, nor because I wish to substitute my moral standards for those of others, but out of a concern that we recognize the limits of our influence so that what we do may be most effective.

For our efforts to be effective they must be credible. They must show an awareness not only of the abstract principles to whose universal realization we are dedicated but also of the practical conditions under which they must be promoted.

Chile today is still recovering from the convulsions of an unprecedented situation—what an earlier witness described here as a "trauma." The polarization and political antagonisms generated by events of the past decade and more specifically of the past 2 years have scarred Chilean society and affected Chilean democracy, but they have not destroyed it. Most Chileans, whether in government or out, whether supporters of current policies or critics, are imbued not only with the historic aspirations of Chilean democracy but with the pride that tradition has engendered.

Like friends of Chile everywhere, we should do what we can to help at this time of need. Tempered by the experiences of the past decade, our assistance programs today are as nonpartisan and balanced as they have ever been. They seek to provide material help and security to a nation whose trials have led it to feel beleaguered. As public order and confidence are restored, it is our hope and belief that the bitterness and conflict of these past few years will dissipate.

Despite pressures to the contrary, the U.S. Government adhered to a policy of nonintervention in Chile's internal affairs during the Allende period. That policy remains in force today. Yet our concerns, differing according to the needs of the times, have also been well known.

The remainder of this statement addresses the specific questions posed by the chairmen in their letter of May 21 to Governor Holton.

First, with respect to the legal situation in Chile, we should note that the governing junta has declared a state of siege—in accordance with existing provisions of the Chilean Constitution—under which a wide variety of civil liberties can be suspended and by which the government may detain individuals without formal charges for the duration of the condition of "internal unrest." I would also note here that one of the difficulties in assessing the Chilean situation is our tendency to make comparisons with American or Anglo-Saxon legal practice.

Recently, however, the Chilean junta has stated publicly that no one would be held indefinitely without charge, and increasingly formal charges are being formulated against detainees and the pace of trials is accelerating. Under its emergency powers the Chilean Government has detained several thousand persons for investigation of suspected illegal activity. Detention pending investigation to determine whether or not charges are sufficient to formulate an indictment is, as I have indicated, common practice in Chile under civil law procedures antedating the coup. Many persons have been released and others, we understand, have been tried and sentenced to relatively short prison terms or internal exile; some have been acquitted; still others have received more severe sentences.

In the first months after the coup there were a number of executions. However, the decree permitting summary executions was soon rescinded and so far as we know there have been no executions carried out for some months. Furthermore, the junta has asked to review all military court sentences of capital punishment, and a number of death sentences have been commuted in recent days. International experts have been permitted to observe trial procedures.

The Chilean authorities have acknowledged instances of mistreatment of detainees; they have declared that such abuses are not sanctioned, and that persons responsible for them are being tried and punished.

We are not in a position to judge the degree to which Chileans may have lost jobs for "arbitrary or ideological reasons." We would note that there is an effort in both the public sector and in those private firms which were intervened by the Allende government to reduce personnel who were added to the payroll by the previous government for allegedly political reasons. These reductions in force are reportedly being made in the interests of more efficient operation. I note that the Chilean Government has recently consented to receive a factfinding team from the International Labor Organization.

A number of university schools and departments were recessed after the change in government. Activities in some cases were suspended for the remainder of the academic year, but most institutions are now functioning normally. The authorities have forbidden political activities on campus.

Like its two predecessors, the new government has announced a full reform of the educational system at all levels with the object of better meeting Chile's manpower needs. The currently proposed reorganization seems to draw heavily on the reforms instituted by the Frei government.

With the exception of persons in custody, or in asylum in foreign embassies awaiting permission to depart (the latter now number less than 50); there are no unusual impediments to leaving Chile. An exit tax of 50,000 escudos (about $70) is applicable to all departing residents, Chileans and non-Chileans alike.

With respect to U.S. assistance, current projections for fiscal year 1975 call for approximately $800,000 in grant military assistance (all of it for U.S. and overseas training in various professional areas for the three armed services); $20.5 million has been projected under the foreign military sales credit program for the purchase of equipment. This is the same figure for Peru and is comparable to the amounts programed for the other larger Andean countries. Allocations within that amount have not been made.

On the economic side, a $20 million loan is being planned for the coming fiscal year to strengthen small farmer cooperatives and increase food production in that sector. A $5 million loan is contemplated to support Chile's ongoing programs in nutrition. Supplementing this would be $1 million of grant technical assistance funding principally in the agricultural sector. This will continue the people-to-people type activities of recent years. Also being planned is Public Law 480 title I assistance to help make up the 1973–74 harvest shortfall. Chile's most acute problem is in this area. Continuing heavy food imports will be required. Two million dollars in Public Law 480 title II donations is also projected.

The Department has taken into consideration the totality of U.S. policy interests in planning for U.S. assistance to Chile. Congressional interest in human rights, as exemplified in sections 32 and 35 of the Foreign Assistance Act, has, of course, been carefully borne in mind. It is to be hoped that our assistance in reestablishing a sound economy in Chile will contribute to hastening the return of normal internal conditions while improving living standards.

The Department has followed human rights developments closely. We have endorsed and supported the work in Chile of the International Committee of the Red Cross and the United Nations High Commissioner for Refugees. We have consulted with the Chilean Government regularly on problems in this area and the government is fully aware of our longstanding views on human rights.

We have no special restrictions on the entry of Chileans into the United States. Since the Western Hemisphere quota is greatly oversubscribed, as a practical matter there is little opportunity for a Chilean who has recently applied for an immigrant visa to enter the United States without a substantial wait. Although the statistic, as a consequence, has little meaning in the context of our present discussion, between September 11, 1973, and May 29, 1974, 409 Chileans and 62 non-Chileans received immigrant visas from our Embassy in Santiago. During this period 29 immigrant visa applications were disapproved and the reasons for denial were fraud and misrepresentation (4), likelihood of becoming a public charge (5), and inadequate documentation (20).

Under special preparole procedures instituted in response to a United Nations High Commission for Refugees (UNHCR) request for resettlement opportunities for third-country refugees, as of May 29 we had processed 141 applications of which 25 had been approved. The latter figure included 13 Chilean dependents. Of the 91 disapprovals, it was judged that 71 could either return to their countries of origin and/or continue to live in Chile without apparent fear of political persecution; 8 were disapproved under the security provisions of the Immigration and Nationality Act; and 12 were dependents who could not be approved because principal family members were disapproved. Eleven applications were not acted upon when the applicants accepted relocation elsewhere. Fourteen applications are still being processed.

The Department has supported the interest and efforts of the Inter-American Human Rights Commission with regard to Chile and applauds the Chilean Government's decision consenting to an IAHRC visit. The Chileans are aware of our position.

The role of the Bureau of Inter-American Affairs during consideration of the Chilean situation by the United Nations Human Rights Commission and the United Nations Economic and Social Council was the normal one in which the affairs of a country in a given bureau are being dealt with by United Nations organs. In such cases, the geographic bureau and the Bureau of International Organizations share responsibility for formulating the U.S. Government's position.

Mr. Chairman, as always the Department is interested in the views of members of the subcommittees, and I can assure you that they will be very carefully considered by all of us who work on these matters.

If I could, there are a couple of things I would like to add, not really as part of my prepared statement but more or less as afterthoughts. On the question of asylees, Mr. Chairman, just this morning I received a telegram, which I have here, from the Embassy in Santiago reporting on that situation. It says that all asylees in Latin American Embassies have now been issued safe conducts. Only 32 asylees remain in 9 European Embassies, distributed among Austria, Finland, France, Netherlands, Italy, Norway, Germany, Sweden, and Switzerland. My understanding is that all of these people will be issued safe conducts within the next few days with the possible exception of Italy where I gather there is some problem with respect to the lack of diplomatic relations between the two countries.

The question has been raised and has appeared in the press about the activities of the International Committee for the Red Cross in Chile. I also had another telegram from the Embassy stating that we have been assured by the Chilean Foreign Ministry that permission has been granted the International Committee of the Red Cross to continue their visits to detainees and that this authorization has apparently been available in written form for some time but that there was a problem in communications.

One further point. I read with great interest the testimony of Ambassador Oliver before the two subcommittees and I would like to add a clarification of a point which may not be essential but is of some interest. In his testimony here Ambassador Oliver discussed with his customary erudition various aspects of Chilean law and judicial practice. I thought it was extremely enlightening testimony and I think very useful.

However, in one passage he may have left a misimpression. He said that in time of peace the code of military justice and the court martial system of Chile have authority only over military offenses committed by armed services personnel. In fact, there is a rather long, established system of trial of civilians by military tribunals in certain kinds of offenses in Chile under its long-existing constitution. For example, alleged slander or subversion directed against the armed forces have for some years been tried in military courts in Chile.

Chile's internal security law provides for military trial in other instances deemed to be a direct threat to the security of the Nation. For example, I recall vividly myself that the civilians who were allegedly involved in the 1970 assassination of General Schneider were tried and convicted in some cases by military courts.

A wide-ranging gun control bill was passed during the Allende period and signed into law by President Allende and it provided for military search and seizure, military investigation and military trial in the case of civilians accused of possessing arms illegally, forming illegal armed bands and the like.

That is all.

Mr. FASCELL [presiding]. Thank you, Mr. Shlaudeman. I appreciate the additional statement because it seemed to me there was a very vivid difference in something Mr. Oliver said before the subcommittee. He stated that in looking at these problems from a legal standpoint we ought to be cautious about making a comparison between Anglo-Saxon jurisprudence and the jurisprudence of Chile. Mr. Oliver made a very careful search of laws he found there. Then yesterday we heard the testimony of Mr. Clark who said that in his judgment the military trials were not trials. I think clearly he is making a comparison with international law and the other law. I suppose those two statements could be easily reconciled but it seems to underscore the difficulty at least in the legal aspect. I am not talking about any of the other problems—jailing, long sentences, etc.

What is the status of the efforts to determine the circumstances surrounding the death of the two Americans that occurred during, following, or before the coup?

Mr. SHLAUDEMAN. Well, Mr. Chairman, you refer to Mr. Horman and Mr. Teruggi, I believe. In the Teruggi case we have brought to the attention of the Chilean Government further indications of what might have happened and they have informed us that they continue to pursue the investigation. I believe in the case of Mr. Horman that no further investigation is presently underway. I think in general it can be said first that these two tragic events occurred in those first very confused days after the development of September 11 and that in neither case, as I believe we have pointed out in the testimony several times up here, was the Embassy of the United States aware that either one of these gentlemen was in Chile until after their most unfortunate deaths.

Mr. FASCELL. You state that the Department has regularly discussed the question of human rights with the Chilean Government. Have you, the Ambassador, or someone specifically discussed with the Chilean Government the actions and feelings of the U.S. Congress on the subject?

Mr. SHLAUDEMAN. Yes, indeed, Mr. Chairman. I can say that quite categorically and we certainly have discussed provisions of section 32 and section 35 of the Foreign Assistance Act.

Mr. FASCELL. Has representation been made to the Chilean Government that the fundamental human rights are important to credit sales and other matters pending consideration by the United States?

Mr. SHLAUDEMAN. I think, Mr. Chairman, without going into the substances of these interchanges with the Cuban Government——

Mr. FASCELL. The Chilean Government.

Mr. SHLAUDEMAN. The Chilean Government.

Mr. FASCELL. That is next week.

Mr. SHLAUDEMAN. And I expect to be here, too.

Without going into the substance of these exchanges, I can say quite confidently that they are indeed aware of the concern of the Congress in these matters and of the relationship between these matters and the assistance.

Mr. WHALEN. May I intervene. I understand there is another country in Latin America that is certainly well aware of the comments and views of our Foreign Affairs Committee. I don't know whether you read the paper this morning.

Mr. FASCELL. Did they take out after you again, Congressman Whalen?

Mr. WHALEN. No. I will talk to you privately about it. I don't want to create any more problems than have already been created.

Mr. FASCELL. Fine.

I don't want to attribute agreement to anybody on this subcommittee or to any groups, Mr. Secretary, but there seems to be a reasonable consensus that could be arrived at with respect to direct economic assistance in the humanitarian sense to the peoples of any country with certain obvious exceptions. There is a consensus on the need for food programs—agricultural improvement.

There certainly is not a similar consensus with respect to either military sales or military grant assistance to the Government of Chile. That raises a question of the rationale being used in the consideration of the request for fiscal 1975. Is there a program ongoing in 1974?

Mr. SHLAUDEMAN. Oh, yes, indeed.

Mr. FASCELL. Is that a carryover from the old program?

Mr. SHLAUDEMAN. We look at the whole thing as a carryover but there is a——

Mr. FASCELL. What do you mean by that, you look at the whole thing as a carryover?

Mr. SHLAUDEMAN. We regard this, Mr. Chairman, as a continuing program which has been going on for some years. In fiscal year 1974——

Mr. FASCELL. Excuse me. Was the inference that you had a program with the Allende government?

Mr. SHLAUDEMAN. Yes, indeed. We certainly did. The program was both in grant military training and in foreign military credit sales.

Mr. FASCELL. So the Department looks at the request for fiscal 1975 in both the economic sense and in the military sense as a continuation?

Mr. SHLAUDEMAN. Exactly.

Mr. FASCELL. All right. Why should there be any further military assistance to the present government in Chile? Is there an external threat? Is there an internal threat?

Mr. SHLAUDEMAN. Mr. Chairman, we do consider the ongoing military relationship in all of the countries of Latin America as part of our overall relationship. We believe that assistance in this area, including training assistance and foreign military sales programs, contribute in a balanced and nonpartisan way to stability in the area. We continue to sell some military equipment to meet national security needs. These needs, Mr. Chairman, we believe have to be essentially defined by the countries concerned themselves.

We do not concentrate our military programs in this area. As I noted in my statement, there has been no grant materiel assistance in Chile and in most of the other countries in Latin America since 1968. Our relationship with Chile in this area is relatively modest, but as I say it is important to us and we hope it has importance for the Chilean Government.

I think the Secretary remarked in appearing before this committee last week that our experience over the last few years of perhaps denying certain sales of arms to certain countries in Latin America for reasons which may have had some validity or appeared to have some validity over the past few years has not been particularly successful, and as he remarked it has provided access for others while denying access to ourselves. I think he also made the point that we have no intention, no desire to enter into any kind of arms race on the west coast of Latin America, that our purpose and our hope is that this relationship will contribute to a modest degree to a feeling of stability in the area.

Mr. FASCELL. I think we ought to put perspective on the question at this juncture: that there is a considerable division of opinion on military assistance generally, and substantial support for a proposition that there should not be any military assistance going to any government particularly in Latin America. So the context of the question on Chile relates to human rights and also to a broader issue of whether the United States ought to be involved in either grant or credit sales of military assistance to any country in Latin America.

The point here is on the question of human rights but on the economic side we also must consider whether $20.5 million of military credit sales won't weaken the economic side. Don't they have enough economic trouble already?

Mr. SHLAUDEMAN. I think, Mr. Chairman, to speak quite frankly to that point, that this is a determination that the Chileans themselves must make.

Mr. FASCELL. You mean they are going to spend the money because it is a credit sale?

Mr. SHLAUDEMAN. I said this is a determination they are going to make. I must say that the history of purchases of military equipment by the armed forces in Chile over the last decade or so has been quite moderate in extent and I think quite well planned and certainly fully rationalized.

On the question of military assistance, I would just make my own observation that there is some question in my mind as to whether foreign military sales credits, which make up the vast bulk of this relationship in Latin America, are really assistance at all. It does not appear to me that they are concessional in most cases. This would be my observation on this.

Mr. FASCELL. I have many other questions but in order to yield to my colleagues sufficient time I will stop with this last one at this moment.

It seems to me that one of the factors that has to be given consideration in terms of relationships between two countries is the issue of human rights. It is important for us to know whether the moral persuasion of the United States is being used, whether it is being used effectively, whether there is an adequate reaction to it and whether there is a point in time at which you could begin "normal" relationships with that government in terms of consideration of either economic or military assistance.

Has the Department given consideration to the fact and do they take the position that the representations by the United States and other interested organizations have had some impact on the human rights issue in Chile?

Mr. SHLAUDEMAN. Yes, Mr. Chairman. Well, first of all I would prefer to characterize these interchanges with the Chilean Government as consultations.

Mr. FASCELL. Not formal representation?

Mr. SHLAUDEMAN. Yes.

Mr. FASCELL. I just used the wrong word; thank you for correcting it.

Mr. SHLAUDEMAN. I would say, and this is very strongly my own view and I think it is certainly shared in the Department and in our Embassy in Santiago, that the Chilean Government is responsive to responsible international opinion on a number of subjects and in a number of areas. I think to me in any it has been impressive the number of commissions, the number of observers, the number of people who have gone to Chile and have been admitted and in many cases assisted by the Chilean Government in their investigations which in some cases at least did not turn out to be all that friendly. I think it shows a sense of responsibility in the sense of commitment to live up to international responsibilities which I think is most commendable.

Mr. FASCELL. I will defer now and allow my colleague Congressman Whalen to proceed.

Mr. WHALEN. Thank you, Mr. Chairman.

Mr. Secretary, you didn't specifically respond to the question that was posed in the chairman's letter of May 23. I am referring to the number of executions. Do you have any figure on that?

The reason I raise the question, the figure of 50,000 was bandied about at yesterday's meeting. I don't know whether that refers to total deaths or whether it means executions.

Mr. SHLAUDEMAN. Well, in no case, sir, would we agree in any way with any such figure. We don't believe that this is by any means the finding by responsible observers.

If I could just run over what we do have on this point. Summary executions of armed resisters—that is, people with arms in their hands—were authorized by decree shortly after the fall of Allende.

Mr. WHALEN. May I just interrupt here, Mr. Secretary?

Mr. SHLAUDEMAN. Yes.

Mr. WHALEN. Armed resisters—when we refer to execution is this shooting them on the spot?

Mr. SHLAUDEMAN. Summary execution would be at least without trial, certainly.

There were in addition, we believe, some persons executed after trial. However, this decree was rescinded; the other case refers to people sentenced to capital punishment.

Mr. WHALEN. Could you give us a figure on the summary executions?

Mr. SHLAUDEMAN. Yes, I was just coming to that.

In the case of those sentenced after trial, this also has now been made a matter of review at the highest level of the Chilean Government and we know of no executions in Chile since the first of the year. The Chilean Government did announce a total of 67 persons executed in both categories; that is summary executions and those after trial. We have seen other reports that would put that figure at approximately 100 and it may be that there are some counting differences here.

The last announced execution was in mid-December. These figures do not include approximatley 40 reported deaths of persons allegedly attempting to escape. The Embassy reports no confirmed instances of executions this year. In April the junta announced that all death sentences by military courts would have to be reviewed by a member of the junta itself, and we know of no case since then in which the death sentence has not been commuted.

Now on the question of total figures, I have seen some extraordinary statements on this subject, including a statement in some article recently, that the CIA had furnished the figure of 25,000 people who had been killed in these events. I am assured by the Agency that this is not the case. Most estimates we have seen by responsible observers, including the press generally, have run around 2,000.

Mr. WHALEN. This would be executions?

Mr. SHLAUDEMAN. No, this would be those actually killed in one form or another during the course of these very turbulent and very violent events.

Mr. WHALEN. Do you have anything further to report with respect to the International Red Cross? As I understand it they have been denied admission by the government of Chile.

Mr. SHLAUDEMAN. Yes, sir. I did, I believe before you came in, read a telegram that we had from our Embassy in Santiago saying that they had been assured by the foreign ministry in Santiago that such permission—that is, permission to visit detainees—had been granted and furnished in writing and was available to the Red Cross.

Mr. WHALEN. You said you gave consideration to sections 32 and 35 but passed over it pretty quickly with very little comment.

Could you elaborate and give us the circumstances under which this was discussed and the reasons why, in effect, these sections were ignored?

Mr. SHLAUDEMAN. Yes, I can indeed address that question.

Basically, as I said in my statement, as I tried to convey here we do indeed give serious consideration to these considerations both in the case of Chile and in the case of other countries.

The phrasing of the section, referring now to section 32, does create some uncertainty regarding how or in what way it might apply to the Chilean situation. This is referring to political prisoners.

The Chilean constitution's state of siege provisions include the power of detaining individuals without charge or trial; that is, preventive detention. This practice is used widely in situations of this kind in Latin America. The Chilean Government has said that there are no political prisoners for reasons other than public security; that is, there are no political prisoners of conscience, that those detained are for reason of public security or because they are to be charged with crimes under statutes predating the coup.

The Chilean Government has said it will release all detainees when the emergency ceases or before then when investigation shows there to be no compelling reason for continuing to hold them.

Many detainees have been released, and I think testimony before these subcommittee has shown the number of prisoners has decreased over the last weeks and months. The Chilean Government, I might also observe, has stated categorically on a number of occasions that membership in a Marxist political party is not cause for imprisonment or detention. In fact, this simply could not exist in Chile because there are so many people who belonged to such parties. There are members of Marxist parties who continue in the university and other places.

Mr. WHALEN. Mr. Secretary, do I understand you to infer that the conditions to which section 32 are addressed do not pertain in Chile?

Mr. SHLAUDEMAN. Let me say this. We have given very careful consideration to the language of section 32 and we have not made a formal finding. We have considered section 32 along with a number of other considerations in addressing this problem, and when I say we have given importance to it I mean exactly that. I have described for you, I think, some of the circumstances surrounding the situation in Chile which would cast some doubt, some question on its immediate applicability.

I quite recognize, as I believe was recognized in the Congress at the time, that the language is somewhat difficult.

In section 35, the President was asked to request protection of human rights. You are well aware of those provisions. The Chilean Government, as I have stated, is well aware of our views. The President has been asked to support humanitarian initiatives by the United Nations High Commissioner for Refugees by the International Committee for the Red Cross, and by voluntary agencies to meet emergency relief needs.

We have cooperated fully with the United Nations High Commissioner. We have informed the United Nations High Commissioner of our willingness to accept refugees for resettlement under the special preparole procedures I referred to. The High Commissioner has made an appeal to the international community for financial assistance for resettlement and integration of Chilean refugees in other countries, and the United States is studying this request sympathetically.

We have also endorsed and supported the elections, would that be in variance with the Red Cross, including donations of $25,000 plus blankets and other supplies. Our contribution has also supported the activities of the Intergovernmental Committee on European Migration.

In the case of the Inter-American Human Rights Commission, which is also referred to in section 35, we have certainly supported its activities and this I believe you know. The Commission will be going to Chile in July; the Executive Secretary has already been there twice, I believe.

Mr. WHALEN. Thank you, Mr. Chairman.

Mr. FASCELL. Congressman Fraser.

Mr. FRASER. Thank you, Mr. Chairman.

Mr. Secretary, how long did you serve in Chile?

Mr. SHLAUDEMAN. Four years, Mr. Chairman.

Mr. FRASER. What were the dates of that service?

Mr. SHLAUDEMAN. I arrived in Chile on the 15th of June in 1969 and left at the end of the first week of June in 1973.

Mr. FRASER. What was your position?

Mr. SHLAUDEMAN. I was the Deputy Chief of Mission.

Mr. FRASER. You were there during the election period in Chile.

Mr. SHLAUDEMAN. I was there during the last year—year and a half—of the administration of Eduardo Frei. I was there during the election and during most of the 3 years of the Allende period—not all of it.

Mr. FRASER. Your statement is the Department's response to questions we submitted which relate to the current situation in Chile with respect to human rights and the responsiveness of U.S. policy to that situation. Your statement deals with those questions with varying degrees of specificity. However, your statement also describes the general policy of the United States toward Chile not only currently but over the recent past. Since your statement deals with the recent past, I would like to ask you several questions.

Mr. SHLAUDEMAN. Yes.

Mr. FRASER. You state that the U.S. position toward the Chilean country was essentially one of political neutrality, is that right?

Mr. SHLAUDEMAN. Yes, indeed. I said nonintervention, I believe.

Mr. FRASER. Nonintervention. If it was a fact—I am putting this hypothetically—that the U.S. Government furnished money covertly to opposition political parties, and I am now using the term "opposition" to mean parties that were opposed to the Allende parties, in your judgment, would that be at variance with the policy of nonintervention?

Mr. SHLAUDEMAN. Yes, indeed; I would think so. I think Mr. Kubisch has stated quite clearly that we had no participation in the coup, in financing the strike or in financing the other activities that led to the coup, and that would certainly be my position.

Mr. FRASER. Let me just restate the question. You said that Mr. Kubisch had informed you that we had no direct role or we played no direct role with respect to the coup, the strike, or the events that led up to the coup.

Mr. SHLAUDEMAN. Yes.

Mr. WHALEN. Mr. Chairman, might I interrupt? I don't know what your line of questioning is. How do you define the word "we"? Is that the State Department, the U.S. Government and all of its agencies?

Mr. FRASER. Well, I assume that we are talking about the U.S. Government in all of its various manifestations.

Mr. SHLAUDEMAN. Yes.

Mr. FRASER. My question, however, was not limited to the coup period or the period immediately preceding the coup. For example, if it were a fact—and I want to emphasize that I am stating this hypothetically—that the United States had furnished money to the opposition political parties in the 1970 elections, would that be in variance with the provisions of nonintervention?

Mr. SHLAUDEMAN. I believe what you are referring to, Mr. Chairman, is testimony I have seen elsewhere and newspaper stories regarding certain purported financing activities in the 1970 election and I really cannot, at this moment, comment on them. I believe they have been handled elsewhere. When I said, "nonintervention," I referred specifically to our attitude and our activities toward the Allende government—that we had nothing to do with its fall.

Mr. FRASER. I understand that you are emphasizing that we had nothing to do with its fall.

Mr. SHLAUDEMAN. Yes.

Mr. FRASER. My questions now relate to the 1970 election and in a moment I am going to ask you about the years following that.

Do you agree that if it turned out to be a fact that the United States furnished money covertly to opposition political parties in the 1970 election that that would be at direct variance with the publicly stated position of nonintervention?

Mr. SHLAUDEMAN. Yes.

Mr. FRASER. Are you now prepared to state flatly that we followed a policy of nonintervention through the 1970 election, including the campaign that preceded it and the election itself?

Mr. SHLAUDEMAN. To rephrase your question if I could, you are asking, did we finance political parties in the 1970 election? Is that right?

Mr. FRASER. If you want to rephrase it that way, I am prepared to have you answer it.

Mr. SHLAUDEMAN. As far as I know, we did not.

Mr. FRASER. Insofar as you have knowledge of the facts—whether directly or indirectly—what you are stating to the subcommittee is that we did not provide any direct assistance to parties which were in opposition to the election of Allende during the 1970 elections?

Mr. SHLAUDEMAN. I am saying that, as far as I know, Mr. Chairman, we provided no direct assistance to any political party in Chile during that election. Now I have seen, as I have said, this other testimony about other types of financing which I am not in a position to address.

Mr. FRASER. I want to make it clear what you are saying. You are saying so far as you know. Am I at liberty to construe that to mean that so far as you have knowledge of the U.S. policy during that period?

Mr. SHLAUDEMAN. As far as I have knowledge; yes.

Mr. FRASER. That is, you are saying that you have no knowledge which has come to you either directly or indirectly from within the Department or from any of the other Government agencies of the United States—you have no information, that is, that the United States did channel money covertly to these other political parties?

Mr. SHLAUDEMAN. That is right. Now we are talking about the 1970 election?

Mr. FRASER. Yes, and the campaign that preceeded it.

Mr. SHLAUDEMAN. Yes.

Mr. FRASER. Now I want to turn to the period immediately following that, the subsequent 2 or 3 years. I am not talking about the coup but the period after Allende came to power. If it turned out to be a fact that the United States channeled money covertly to opposition political parties, would that be at variance with the policy of nonintervention?

Mr. SHLAUDEMAN. Well, I am not sure; I am not sure that it would be. I would like to think about that. It would not necessarily be. It would depend on what the purpose was.

Mr. FRASER. Well, perhaps you could enlarge on your inability to respond to that question.

Mr. SHLAUDEMAN. I think when we are talking about nonintervention in this context, we are talking about the charges that have been leveled against the U.S. Government around the world that we were responsible for the fall of the Allende government, that we financed these activities which brought him down. I can say quite flatly that we did not.

Now we had other activities in Chile. The definition of nonintervention can be very narrow or very broad. We continued, as I have said in my statement, a number of activities including technical training, scholarships, that kind of thing. Now whether this can be taken as intervention or not, I would leave to somebody else.

Mr. FRASER. Mr. Secretary, you are sort of walking around the question. Maybe I should put it to you directly. Did the U.S. Government covertly supply money to opposition political parties following the 1970 election?

Mr. SHLAUDEMAN. Well, I would like to postpone that question because I understand how serious you regard it and I would like to discuss it at a later time in executive session.

Mr. FRASER. Well, you have stated, however, that the U.S. policy was one of nonintervention, isn't that right?

Mr. SHLAUDEMAN. Yes, I have.

Mr. FRASER. You have claimed that to be the public policy of the United States during that period.

Mr. SHLAUDEMAN. And the private policy, too.

Mr. FRASER. Now as long as you have made that assertion it seems to me that we ought to explore what activities might have gone on that might be inconsistent with that.

Mr. SHLAUDEMAN. Yes.

Mr. FRASER. In other words, we cannot put one face on publicly and then privately have something else.

Mr. SHLAUDEMAN. I agree with you. I agree with you.

Mr. FRASER. Do you agree that in the light of the testimony and statements that have been given to the American public and to Congress—which has a special responsibility—that we are entitled and it would be wise public policy to have these facts fully disclosed?

Mr. SHLAUDEMAN. Yes, I would.

Mr. FRASER. Would you then be prepared to respond to the question?

Mr. SHLAUDEMAN. I would say that I am not really the one who is qualified to respond to this question. I would say that the entire question is one that would be better addressed in another forum in another circumstance.

Mr. FRASER. Let me put the question this way. Are you prepared today to deny an assertion that the United States funneled money covertly to opposition political parties following the 1970 election in Chile?

Mr. SHLAUDEMAN. I am not. I have said before what I had to say.

Mr. FRASER. You are not in a position to say——

Mr. SHLAUDEMAN. I am not in a position to either deny or affirm.

Mr. FRASER. Do you have knowledge of the facts?

Mr. SHLAUDEMAN. I am not sure.

Mr. FRASER. Do you have knowledge of some facts pertaining to that?

Mr. SHLAUDEMAN. Again I would prefer not to go beyond what I have said.

Mr. FRASER. Mr. Secretary, I want to make it very clear that you are leaving the implication and I am making the inference that the United States was engaged in some kind of covert activity in support of opposition political parties following the 1970 election in Chile.

Mr. SHLAUDEMAN. I think I have to be careful about what I say on this subject because I do want to be accurate. [Laughter.] I think we have to be very precise about what we are talking about.

Mr. FRASER. That is what I would like to do.

Mr. SHLAUDEMAN. I would like to have an opportunity to consult others before I answer this question. Now the inference you draw is an inference which I do not necessarily accept by any means.

Mr. FRASER. But you are not prepared to deny it?

Mr. SHLAUDEMAN. But I am not prepared at this moment to go into this particular topic in the kind of depth that you would like to go into.

Mr. FRASER. Let me just ask this so we understand how we are leaving this point. You do agree that you have some knowledge of the facts?

Mr. SHLAUDEMAN. Of course I do. Of course I do.

Mr. FRASER. You do have knowledge of the facts?

Mr. SHLAUDEMAN. Yes.

Mr. FRASER. On the basis of that knowledge you are not prepared to deny that the United States funneled money covertly to opposition political parties after the 1970 election in Chile?

Mr. SHLAUDEMAN. I would like to be careful about what I say in response to that question.

Mr. FRASER. Now I would like to have you respond to the question.

Mr. SHLAUDEMAN. As I said, I would like to address it in another forum at another time.

Mr. FRASER. Mr. Secretary, what is the point of making the assertion that we follow the policy of nonintervention? You agreed that if we had channeled money in the 1970 election that would have constituted a departure from nonintervention.

Mr. SHLAUDEMAN. Yes, indeed.

Mr. FRASER. But you claim no knowledge of the facts.

Mr. SHLAUDEMAN. No. In the case of the 1970 election I believe what I said was that to my knowledge no direct support was channeled to any political party.

Mr. FRASER. Well, let's go to the word "direct." If money was channeled——

Mr. SHLAUDEMAN. And that again, as I said before, relates to other testimony before another committee which I think should be really raised with the person who gave the testimony in the first place.

Mr. FRASER. Mr. Secretary, if money went through other political parties such as in Europe and came back to Chile, would you conclude that was a direct form of aid?

Mr. SHLAUDEMAN. This is getting in a very complicated situation. I know of no money that went through Europe. As I have said before, I think I will just stand on what I have said, that I know of no direct assistance to political parties in the 1970 election and that with respect to these activities which are alleged after the 1970 election I do not accept the implication that we intervened or that we in any way conducted an interventionist policy. With respect to your specific questions about specific activities in Chile at that time, I would prefer to have an opportunity to make sure that I am precisely correct when I answer.

Mr. FRASER. Would you be then agreeable to returning to the subcommittee after you have rechecked the facts and respond as fully as you can to the question which I have put to you?

Mr. SHLAUDEMAN. I would have to check that, too. I will certainly endeavor to make certain that the Congress is informed on this point.

Mr. FRASER. What about the public?

Mr. SHLAUDEMAN. Well, I will leave that to others. This is a determination I cannot make.

Mr. FRASER. Our questions were not directed to past policy, but you volunteered information in your statement on this question. You have stated that U.S. policy was one of nonintervention. Yet, when I asked you about something that in my judgment at least, and I think in the judgment of others, would constitute a form of intervention you are unwilling to be directly responsive. I think this testimony is unacceptable.

Mr. SHLAUDEMAN. I am not sure I am fully informed.

Mr. FRASER. You seem to be fully enough informed that you are unwilling to respond directly to the question. [Laughter.]

Mr. SHLAUDEMAN. First of all, regarding your comment about my volunteering the nature of past U.S. policy in Chile, the reason I did that, of course, was because, as I said in my opening statement, human rights is a part of overall policy considerations and I thought it was important to put that in this context, and that is why it was done. I continue to say that we did pursue a nonintervention policy and we did not have anything to do with Chilean events. This is my statement.

Mr. FRASER. Well, I find this very troubling because if, in fact, we did channel money to opposition political parties after 1970, I would conclude that that was not a policy of nonintervention. Now you have information on this point but you are unwilling to disclose it.

Mr. SHLAUDEMAN. No, I do not have information on this point; at least I am not sure I do. Let me say that the financing of political activities in Chile which has been the subject of great interest and great speculation over the years is not a subject I am an authority on, and that I have read newspaper articles about this sort of thing going back many years. I do not know all the ins and outs. I do know that what took place in Chile when I was there between 1969 and 1973 was the result of Chilean actions and Chilean history and not external influences.

Mr. FRASER. Well, if I can paraphrase what I think you said: You said whatever we did was not what ultimately led to the overthrow of Allende.

Mr. SHLAUDEMAN. I can say that more than in a paraphrase. I can say that whatever the United States did or did not do, it had very little, if any, effect on the outcome of the events in Chile. Chile is a country with an extremely complicated social and political history and what happened in Chile was a result of that history—it was not due to external influences, ours or anybody else's.

Mr. FRASER. I am not really raising that question with you, Mr. Secretary. I would agree with your conclusions that, as with most countries, it is internal forces that tend to dictate the course of events. I am trying to find out whether the American public has been deceived.

Mr. SHLAUDEMAN. As far as I know, no statements have been made that are deceptions about Chile, in my time at least.

Mr. FRASER. If the United States did funnel money covertly to political parties following the Allende election, I think those actions constituted a policy of inervention. You may not agree with that conclusion but I think the American public is entitled to know because I think at least it is a reasonable conclusion that the United States has followed a policy of intervention, and for the Department spokesman or anyone else in the executive branch to, in effect, assert otherwise, it seems to me is a form of deception to the American public. You are not willing to tell us what you know about the matter. You want to confer with others.

Mr. SHLAUDEMAN. I am not really prepared for that. Yes, that is right.

Mr. FASCELL. Mr. Harrington.

Mr. HARRINGTON. I will defer for the moment.

Mr. FRASER. I will stop. I have taken more time than I should have.

Mr. FASCELL. Mr. Harrington.

Mr. HARRINGTON. Mr. Shlaudeman, I am personally pleased that after repeated efforts, and by accident rather than design, we find ourselves back where I think we should be—conducting an inquiry into the origins of American policy and attitudes toward the Chilean Government and the manner of its institution. More imporantly we are seeking an understanding, in an era of well-broadcast pluralism, of the apparent dichotomy as practiced in hemispheric politics. I don't know that I am not going to add to the obvious discomfiture on your part or that I will be any more successful in geting a substantive degree of response to the questions that have been posed by Mr. Fraser.

Let me say that in considering the kind of ambiguity and straddling—and I should be less polite than that—that has characterized your Department's role, the role of the CIA, and the quiescence on the other parts of Government imposed by the executive branch, I find an affort to the kind of atmosphere you interpret as being one in which you operate in Washington, and let me suggest that your being a chief contributor to that kind of atmosphere enables it to continue to have substance.

Let me go to your role during a 4-year period in Chile, if I can. You came to the country in 1969. What was your position then?

Mr. SHLAUDEMAN. Deputy Chief of Mission.

Mr. HARRINGTON. To whom?

Mr. SHLAUDEMAN. To Ambassador Edward Korry.

Mr. HARRINGTON. How long was the Ambassador's tenure?

Mr. SHLAUDEMAN. He departed in September or October of 1971.

Mr. HARRINGTON. When was he formally replaced at the ambassadorial level?

Mr. SHLAUDEMAN. The next day.

Mr. HARRINGTON. By Ambassador Davis?

Mr. SHLAUDEMAN. By Ambassador Davis.

Mr. HARRINGTON. And your role then?

Mr. SHLAUDEMAN. The same.

Mr. HARRINGTON. Remained the same?

Mr. SHLAUDEMAN. Yes.

Mr. HARRINGTON. So that for the entire period of approximately 4 years, you were in the No. 2 State Department position in the Embassy?

Mr. SHLAUDEMAN. I was.

Mr. HARRINGTON. Let me mention again—since I think it is the sort of thing that sets the tone for what I think is underlining the questions asked of you by Congressman Fraser—a number of different statements, some yours and some attributed to others. I think these statemens are the proper coloration for this kind of proceeding, since we perhaps get beyond the symbolism, for once, in our collective efforts in this area.

You refer on page 1 of your testimony to Secretary Kissinger's comments last week indicating that he prefers democratic governments and attempts to exercise our influence to that end.

On page 2, again, the commitment is strongly affirmed by the Secretary to the hemispheric principle of nonintervention.

On page 3, it is stated that our policy was to have the kind of relations with that government—meaning the Allende government—they wished to have with us.

On page 4, under the subtitle "Human Rights," a statement is made again referring to the Allende period: "It [the United States] is not and has not been responsible for the course of events in Chile."

On page 5, referring to responsible expressions of concern that are deemed needed, your own language reads:

"I might add parenthetically that I say "responsible," not because I arrogate to myself a judgment of the internal Chilean situation, nor because I wish to substitute my moral standards for those of others, but out of a concern that we recognize the limits of our influence so that what we do may be most effective."

Again on page 5, and I will stop this momentarily:

"The polarization and political antagonisms generated by events of the past decade and more specifically of the past two years have scarred Chilean society and affected Chilean democracy."

On page 6:

"Despite pressures to the contrary, the United States Government adhered to a policy of non-intervention in Chile's internal affairs during the Allende period."

What is "democratic government" as you use it in this sense?

Mr. SHLAUDEMAN. I would say representative government. Institutional representative government.

Mr. HARRINGTON. Did the definition appear apt at all or does it in terms of the coming into power of Allende in 1970?

Mr. SHLAUDEMAN. You mean the act of the election itself?

Mr. HARRINGTON. Yes.

Mr. SHLAUDEMAN. Certainly.

Mr. HARRINGTON. The legitimacy of the election itself?

Mr. SHLAUDEMAN. Certainly. I think there is an argument about the wisdom of having an election under those conditions without a runoff but this was the Chilean constitutional procedure.

Mr. HARRINGTON. In the specific context of a runoff, let me follow the line of questioning that Congressman Fraser engaged in. If it were a fact that there was an effort made, initiated locally by both State Department and CIA activity, and approved by the amalgam of interdepartmental presences in the National Security Council, called the Committee of 40, to involve themselves in an influencing of the vote of the Chilean Congress in the period after Allende's election, to in effect bribe or to change or to alter the result of that election, would you consider that an act of influence in the worst sense of that word?

Mr. SHLAUDEMAN. Let me say first of all that I cannot comment on this amalgam of committees you are referring to. I do know that no such effort was made in Chile.

Mr. HARRINGTON. You know that to your own knowledge?

Mr. SHLAUDEMAN. Yes.

Mr. HARRINGTON. No such effort was made?

Mr. SHLAUDEMAN. No.

Mr. HARRINGTON. Would you give that broad denial to a plan being conceived for that purpose?

Mr. SHLAUDEMAN. That I don't know. I can't comment on that. All I can tell you is that in Santiago at the time no such effort was made.

Mr. HARRINGTON. But you can't comment to your own knowledge on the plan that would have been initiated?

Mr. SHLAUDEMAN. No. No, I know of no such.

Mr. HARRINGTON. To go to August of last year, do you have any specific knowledge of the authorization of funding for continued efforts toward political destabilization of the Allende regime?

Mr. SHLAUDEMAN. There was no such funding. Of that I am quite sure.

Mr. HARRINGTON. Was there a plan approved that would have authorized the funding?

Mr. SHLAUDEMAN. Not to my knowledge. I never heard of any such plan.

Mr. HARRINGTON. I at this point quit, Mr. Chairman.

Mr. FASCELL. I am very much interested in the pursuit of the discussion of this but frankly not with you. I just can't see where that leads and I have had that feeling all along. We went through this with Mr. Kubisch. It seems to me you have been very forthcoming. While I am not taking up sides on the issue yet I commend you for your effort.

The diffusion of responsibility and power in the Government leads to all kinds of confusion and difficulties. The people who suffer the most in my judgment are the American people. Simply from either a lack of knowledge, misunderstanding, misconception, or just a lack of truth make it difficult to understand what has happened. All of that ought to be corrected if it is at all possible.

I am not unmindful of the fact that a lot of people are against military assistance because that is viewed as intervention. There are a lot of people who feel just as strongly about economic assistance. We also have a lot of people who feel very strongly that there should not be any North American business anywhere and certainly not in Latin America because this is viewed as intervention. I suppose a case could be made for all of those points of view.

Mr. SHLAUDEMAN. Right.

Mr. FASCELL. The problem that exists, however, is still one of formal, definitive, decisive action—planned action by the U.S. Government as policy—which would be identified one way in private and another way in public. I think that if that occurs it is reprehensible. Certainly the Congress ought to address itself to that problem. I think that position has been made quite clear by the questions that have been asked by my colleagues and all of us here are concerned about this subject. In any event I want to commend you for discussing the issues with us as well and as freely as you could.

Mr. FRASER. I had a few more questions.

Mr. Secretary, when Mr. Allende was elected in Chile would it be a reasonable statement that the White House and the State Department looked on that victory of Mr. Allende as a defeat for the United States?

Mr. SHLAUDEMAN. I don't speak for the White House or the State Department. I was in Santiago at the time. I believe that our policy on that question, our reaction to it, was expressed explicitly by the President shortly thereafter to the point that we would, as I said in my statement, have the kind of relations with the Chilean Government that it wished to have with us. Now about other impressions or thoughts, I don't know.

Mr. FRASER. Well, among those in the State Department actively concerned with the United States-Chilean relations, is it a fair statement to say that the victory of Mr. Allende was considered as a defeat for the United States?

Mr. SHLAUDEMAN. I would not really put it in that way at all, Mr. Chairman. It does not seem to me that there are defects or victories for the United States involved in such events. Now it certainly was a setback for U.S. policy in Chile when the Allende government expropriated a very large amount of U.S. property. That would be a practical specific consideration.

Mr. FRASER. Does the State Department think that the overthrow of Allende was in the interests of the United States?

Mr. SHLAUDEMAN. I am sorry. My colleague reminded me it was expropriation without compensation.

I would say no, no.

Mr. FRASER. In other words, I am not talking about your judgment but the prevailing view in the Department of State.

Mr. SHLAUDEMAN. You are saying would this be regarded as a victory for the U.S. policy? No.

Mr. FRASER. Did the overthrow of Allende serve the interests of the United States?

Mr. SHLAUDEMAN. I would say not necessarily. This remains to be seen. It is something that history will determine.

Mr. FRASER. In the Economic and Social Council, there was recently adopted a resolution calling upon Chile to observe human rights. The Social Committee of the Council adopted the resolution by a vote of 41 in favor, none against, and 2 abstentions. The two abstentions were the United States and Chile. Does this not raise a serious question about the commitment of the United States to protect human rights in Chile?

Mr. SHLAUDEMAN. The United States subsequently did support the resolution, and our representative had instructions to vote for it in plenary session. I am told the reason for the abstention was the introduction by the Soviet Union of an amendment at the last moment on which he had no instructions and that he felt under that circumstance he should not go beyond his instructions.

The Soviet amendment referred to various people in Chile—various individuals, five of them, I think—as being in imminent danger of losing their lives. This was the same statement that had been made in the resolution introduced by the Soviet Union previously in the Human Rights Council concerning the five people who were then still alive and still are. This may have had something to do with his doubt as to whether he should go along with it.

Mr. FRASER. In the Dominican Republic situation, the United States intervened to prevent the overthrow of the Government by a leftwing movement. Few, if any, Americans died in that instance.

In Chile, when a rightwing movement overthrew the Government, we did not intervene. Several Americans died. The U.S. Embassy has been seriously criticized regarding its efforts to protect these Americans.

Why didn't we show the same concern for American lives in the Chile situation as we did in the Dominican Republic?

Mr. SHLAUDEMAN. First of all, I am not sure your statement is accurate, Congressman. As I recall, and I would have to check this again, there were American citizens who were killed during the Dominican problem. I would say again, as I said earlier, that the loss of these two lives in Chile was a tragic circumstance indeed.

Mr. FRASER. Mr. Secretary, my impression from your testimony is that you believe that the Chilean Government is responding reasonably and rationally to the problems which they face. In your statement, I do not find any criticism by the United States of any violation of human rights in Chile—at least I found none in your statement.

Mr. SHLAUDEMAN. I think, Mr. Chairman, you might read the statement again. I do not think that; and it is not my role, my purpose, or my intent here to try to defend the Chilean Government. The statement tries to convey an accurately as we can both U.S. policy and what we know of the events in Chile, and it also tries to reflect what I believe has been some gratifying progress in this field by the Chilean Government and what we hope will be further progress.

Now, I would be the last to say that these problems have not occurred in Chile and that there have not been abuses. The Chilean Government has acknowledged this. I can say that I believe—and I believe the evidence confirms this or at least indicates it—that these abuses and these violations of human rights, certainly in the case of torture which has been alleged, is not the policy of the Chilean Government.

Mr. FRASER. Is it your view that the actions of the present Government in Chile are consistent with the Constitution of Chile?

Mr. SHLAUDEMAN. Obviously not. Obviously they have suspended parts of the Constitution. Some of their actions, I would think as an outside observer, are consistent with the Constitution, and some are not.

Mr. FRASER. Which actions are consistent with it?

Mr. SHLAUDEMAN. Well, the Constitution is like most Latin American constitutions, a long and detailed document. As I said, I am not here to defend the Chilean Government; I would not like to go into everything that they have done or not done. I can say that the supreme court still sits, that the judiciary is still in place, that they have stated that——

Mr. FRASER. You are not asserting that the supreme court is playing any role with respect to the trials that are currently under way?

Mr. SHLAUDEMAN. I am not, Mr. Chairman. I believe Ambassador Oliver testified to that at some length. I could read this statement issued by the Chilean Government if you would like. I could read a paragraph here which seems to give their position. As I say, I am not really qualified to speak for the Chilean Government.

"The 'Universal Declaration of Human Rights' fixes a reasonable and logical limitation on the rights and liberties it proclaims. No one is empowered to undertake and develop activities which tend toward the suppression of the same right and liberties which is precisely the license which Marxism cynically claims," and so forth.

I think that is primarily the position.

Mr. FRASER. Of the Departtment?

Mr. SHLAUDEMAN. This was a statement of the Chilean Government, Mr. Chairman.

Mr. FRASER. No, I understand that you are reading their statement, but——

Mr. SHLAUDEMAN. I was trying to reflect what my understanding of their position is.

Mr. FRASER. For example, when they try people under decrees that have been issued after the actions for which people are being tried, would you agree that that is not consistent either with the Chilean Constitution or any fundamental concept of fairness?

Mr. SHLAUDEMAN. I would say that there is certainly a very serious question in that area. I have learned that the Bar Association of Chile has discussed this issue at length, that it is studying a paper at the present time, and I believe it is about to make some proposals to the Government on that score.

Mr. FRASER. What is the position of the Department on that practice? Do we regard that as a violation of the rights of Chilean citizens?

Mr. SHLAUDEMAN. I would not like, Mr. Chairman, to go into our judgment of each one of these internal actions. As I have tried to indicate, we certainly have done what we could to encourage a return to a more normal situation and to the full sway of Chilean law in Chile. The question of Chilean law, given Chile's long and exceeding proud legal traditions, is one that I think bothers all Chileans and all friends of Chile, not just now but also going back into the Allende government when it was felt at least on the part of the opposition and those who were unhappy with events in Chile that the law had been degraded because of the refusal of the executive branch of the Government to carry out the written orders of courts of law.

This whole process, I think, has led to putting Chilean law and the Chilean legal tradition into some jeopardy. I think, as Ambassador Oliver reflected here—certainly this is my impression—that there is great concern in the legal community in Chile about this, and that they are doing what they can about it.

Mr. FRASER. Mr. Secretary, how violent would the deprival of human rights in Chile have to be before it would influence our policy toward Chile?

Mr. SHLAUDEMAN. I have not said that it has not influenced our policy.

Mr. FRASER. I don't find anything in your statement about economic assistance or military assistance that would suggest that there has been any deviation or deflection in our relations with Chile on account of what has happened.

Mr. SHLAUDEMAN. Deviation from when?

Mr. FRASER. Well, you have said that the amount of military credit sales is consistent with the amount that we are giving some of the other countries in Latin America, that generally our aid programs are consistent with what we are doing for other countries. Consequently, I don't find in your statement any indication that human rights considerations had any practical effect on shaping U.S. relations with Chile.

Mr. SHLAUDEMAN. Well, as I tried to indicate in my statement, this is a part of the large relationship; that is, a part which has to be weighed against other parts. We believe that the relationship itself is and will prove to be helpful in dealing with these problems because it does have some influence on the course of events in Chile and that it will prove to have been helpful in that regard.

Mr. FRASER. Since the military coup in Greece in 1967, we have had essentially the same statements from the Department with respect to the Government of Greece, and there has not been any significant restoration of democratic liberties. Is there any reason to think there will be a different pattern in Chile?

Mr. SHLAUDEMAN. I cannot talk about Greece but as I said in my statement I personally have considerable faith in the Chilean tradition and Chilean social attitudes. I think these are already reflected. I don't think that Chile is a totalitarian state now or will be in the future.

Mr. FRASER. You are saying it is not now a totalitarian state?

Mr. SHLAUDEMAN. I should say not.

Mr. FRASER. The Government that is in control of the instruments of power in Chile derives its legitimacy from what source?

Mr. SHLAUDEMAN. I don't believe—at least, Mr. Chairman, that would not be my definition. My definition of totalitarianism would not relate to the source of power but rather to the conduct of the Government. I believe, as a matter of fact, there is a considerable degree of personal freedom still in Chile.

Mr. FRASER. You don't consider the Chilean Government totalitarian?

Mr. SHLAUDEMAN. That would not be my definition. My definition of a totalitarian government would be one with an exclusive monopoly on power which is not the case in Chile.

Mr. FRASER. With whom does the existing government share power?

Mr. SHLAUDEMAN. I think you would find a wide variety of groups, of activities. Chile is not a monolithic state.

Mr. FRASER. Where is formal governmental power?

Mr. SHLAUDEMAN I think as Ambassador Oliver said in his statement, there is no ideological—there is no jackbootism, as I think he called it. I think these are the things you associate with totalitarianism. I am not saying this is a democratic order of any kind but I am saying that I have faith in the future in Chile and great respect for the Chilean people.

Mr. FRASER. Despite the fact that political parties have been abolished?

Mr. SHLAUDEMAN. Have been suspended.

Mr. FRASER. Hasn't the congress been dissolved?

Mr. SHLAUDEMAN. Political parties have been suspended except for the Marxist parties. Congress has been recessed.

Mr. FRASER. People are being tried for actions that have been committed before the decree making them unlawful, lawyers are being ousted from cases in which they raise the issue of jurisdiction or the authority of the military court—and you say that is not a totalitarian society?

Mr. SHLAUDEMAN. Yes; I would say it is not. I find myself in the position of doing what I really do not want to do, which is defending the Chilean Government.

Mr. FRASER. You have done it very effectively this afternoon, Mr. Secretary, and your last statements are the most astonishing of all. I don't know what it would take in your judgment to have a totalitarian society.

Mr. SHLAUDEMAN. Well, I just can't believe that the Chilean society is totalitarian, Mr. Chairman.

Mr. FRASER. No society is, it is the government.

Mr. SHLAUDEMAN. Or that it is trying to make the Chilean society totalitarian with thought control.

Mr. FRASER. If there were a coup d'etat by the U.S. military forces, and they exercised governmental power, suspended the Constitution, recessed the Congress, issued preemptory decrees and tried people without appeals, or habeas corpus, you would not call that a totalitarian government either I gather.

Mr. SHLAUDEMAN. I think we have a difference in semantics.

Mr. FRASER. Probably it is a fairly important difference for one who is being tried.

Mr. SHLAUDEMAN. Well, Mr. Chairman, since we have gotten this far let me say some of the things that I believe you would find in Chile and in many other countries with authoritarian governments which are not totalitarian and that is that there continues to exist in Chile freedom of association.

Mr. FRASER. Except political association.

Mr. SHLAUDEMAN. Yes.

There continues to exist a number of diverse and extremely active groups, some of which are quite critical of the Chilean Government and publicly so.

Mr. FRASER. What about freedom of the press?

Mr. SHLAUDEMAN. Freedom of the press in this instance is minimal. It is minimal. It is minimal in most places, unfortunately, in Latin America.

Mr. FRASER. Is there government interference with the press?

Mr. SHLAUDEMAN. There is. I would say certainly that there is self-censorship.

Mr. FRASER. Isn't it self-censorship with the threat of action by the Government?

Mr. SHLAUDEMAN. Well, obviously one accepts self-censorship in anticipation of problems.

Mr. FRASER. What about trade unions?

Mr. SHLAUDEMAN. Trade unions, I notice that the ILO is sending a mission there. I notice also that trade unions have held meetings recently and that the right to strike is not among the rights available to the Chilean people. The trade unions do exist and I believe do form the framework for a future trade union movement in Chile.

Mr. FRASER. Hasn't the Government discharged people from the universities?

Mr. SHLAUDEMAN. Yes, and there again in some cases by their own faculties. I won't go into that. These are rather complicated procedural issues.

Mr. FRASER. Political parties suspended, congress in recess, no elections, summary trials, suspension of the right of habeas corpus. Mr. Secretary, you are a great apologist for an authoritarian regime.

Mr. SHLAUDEMAN. I am not trying to apologize for them and if I have given that impression I very much regret it.

What has happened in Chile has happened. I don't think that there is anybody who does not regret it and I don't think that here are any Chileans of good will who don't regret it.

Mr. FRASER. Will you then explain how the U.S. interests are served by maintaining relations—not diplomatic because I agree those should not be broken—but relations which include military assistance to that government? Why should we give military assistance to an illegal government which has suspended the rights of its own citizens?

Mr. SHLAUDEMAN. Well, as I said before, Mr. Chairman, I think it is part of this larger relationship that I was talking about. I think it is a relationship which has existed over a good length of time. I think it is a relationship that is helpful in maintaining a certain degree of stability in that part of the world and maintaining ties between the United States and that country.

Mr. FRASER. In the recent Guatemala elections, did the United States make any effort to keep them honest?

Mr. SHLAUDEMAN. I am sure not. I have no knowledge of the Guatemala elections but I am sure that is the case.

Mr. FRASER. You have no knowledge of them?

Mr. SHLAUDEMAN. Well, I have no direct knowledge. I don't deal with Guatemala.

Mr. FRASER. You just have the southern area?

Mr. SHLAUDEMAN. Well, I have the Andean countries and the Caribbean. Yes, I understand. I am sure there was no U.S. intervention in the Guatemalan elections.

Mr. FRASER. I apologize to the committee for the time I have taken.

Mr. Secretary, your view of the Chile Government and what our relationship should be with it is at great variance with my views. I hope that some day the Department will undertake a greater expression of concern for the human rights of people in the conduct of foreign policy. I cannot believe that our present policy toward Chile is in the interest of the United States. I hope the American people will get the full story some day as to exactly the kinds of intervention we did practice during the tenure of President Allende. I think that it is important; otherwise, we have lost control over a very important segment of our Government.

Thank you, Mr. Chairman.

Mr. FASCELL. Mr. Harrington, you had some further inquiry?

Mr. HARRINGTON. In justice to the best of both worlds, Mr. Shlaudeman, that you seem to want to occupy, on the one hand you want to tell us unequivocally, and without there being that pause and that careful semantic usage, that you can say that there was no American participation in the coup, no contribution to the truckers' strike or to a variety of other things that in a positive way led to the fall of the Allende government. The unequivocal character of those statements seem to me to presuppose a rather broad range of knowledge on your part.

But when it comes to questions that go to influencing events politically in Chile, whether it be affecting the outcome of a congressional election with a write-in candidate or whatever, a very careful distinction is drawn in your knowledge in that area.

Mr. SHLAUDEMAN. I don't follow you, I guess. There is a distinction between what?

Mr. HARRINGTON. I am just suggesting that I think that you want us, on the one hand, to accept what is essentially an ability to stay firmly fixed in a period immediately preceding September 11 and thereafter, while on the other hand there is that general unwillingness to engage, whether it be on the part of myself or Congressman Fraser, in a substantive discussion of the course of events that led up to September 11, and particularly the origins of our policy and its development.

Let me go back because I am interested in a couple of other things in this area.

What period of time have you devoted of your lifetime to State Department activity in a formal way?

Mr. SHLAUDEMAN. Just about 19 years. Yes, 19 years, just about.

Mr. HARRINGTON. And out of this relationship in a variety of different contexts, I assume as an outside viewer—and that of outside viewer is perhaps most of the role the Congress occupies—there is a relationship which develops in the course of Embassy duty or State Department duty with something called the CIA—shared roles to a degree?

Mr. SHLAUDEMAN. Not shared roles; certainly not.

Mr. HARRINGTON. You are aware that the Agency exists.

Mr. SHLAUDEMAN. I am aware that the Agency exists, Congressman; yes.

Mr. HARRINGTON. You are aware of its presence in countries that you have been in?

Mr. SHLAUDEMAN. Oh, yes, indeed.

Mr. HARRINGTON. You are familiar to a degree, as perhaps a spectator, with their general method of operation?

Mr. SHLAUDEMAN. Yes. What is it that you are driving at, Congressman?

Mr. HARRINGTON. What I am driving at, is what you persist in not basically wanting to admit. You want to disavow in a specific way any active participation in certain events; but when it comes to planning, when it comes to other kinds of events which go to political destabilization that happen or emerge or at least emerge in the eyes of some, it becomes a lot more difficult to get you to discuss those events in specific terms.

Mr. SHLAUDEMAN. Well, I think I have said—and I will repeat again—we had nothing to do with the political destabilization in Chile, the U.S. Government had nothing to do with it. I think this destabilization was produced by events in Chile and by Chile's history.

Mr. HARRINGTON. Have we spent, to your knowledge, from any source that would be U.S. funding, any moneys that were directed toward either the support of policies or individuals which had as a purpose political destabilization—prior to the Allende period and during the Allende period?

Mr. SHLAUDEMAN. Certainly there was never any intent on the part of the United States to produce political destabilization. If by that you mean what happened, certainly not.

Mr. HARRINGTON. Well, that is not really responsive to the question. Did we spend U.S. funds to your knowledge?

Mr. SHLAUDEMAN. For political destabilization, no; not to my knowledge.

Mr. HARRINGTON. On behalf of political activity or whatever one wants to call it?

Mr. SHLAUDEMAN. I have said before on the question of what specifically was done over the year in Chile that I would prefer to address this in another forum or perhaps, as the chairman suggests, that somebody more qualified do so.

Mr. HARRINGTON. What is the other forum?

Mr. SHLAUDEMAN. I don't know; perhaps executive session.

Mr. HARRINGTON. Are you prepared to say that you could be more forthcoming, even with the degree of knowledge that you bring to this subject, in executive session?

Mr. SHLAUDEMAN. I really don't know, sir.

Mr. HARRINGTON. Well, why bother to make the suggestion?

Mr. SHLAUDEMAN. Well, I am certainly prepared to come back and talk to you gentlemen again if you would like to in executive session.

Mr. FASCELL. As far as——

Mr. HARRINGTON. With all appreciation for the chairman's patience with me over the years, let me just disavow any silence or any kind of commendation for what I would have described earlier as a lack of forthrightness when it comes to what I suspect you are aware of fully and what I suspect you participated in specifically and what I suspect has been an ongoing policy as a part of this Government during the Allende period.

Mr. SHLAUDEMAN. I am sorry you feel that way, Congressman.

Mr. FASCELL. Mr. Steele.

Mr. STEELE. Mr. Secretary, I think one of the main issues we have to address here is how the U.S. Government can be most effective in playing a role that will help influence Chile in taking a direction which is positive in our view and in view of the direction we would like to see the world itself, the international community, go.

I remember about 5 years ago a study the State Department did that showed that in every single instance where we had cut aid or we had otherwise reduced our relations with foreign governments—whether it be Cuba, Egypt, et cetera—we lost influence in those countries. In fact we have to balance, as I think you are pointing out, our ability to maintain some kind of leverage, some kind of ability to exercise influence.

As I understand your position, it is that by maintaining the relationships at the present time we have more opportunity and more possibilities of exerting influence than we would if we were to reduce or cut those relationships or aid. I don't mean for you to repeat your presentation, but in conclusion I just want to make sure I do understand that to be your position. Is that correct?

Mr. SHLAUDEMAN. Yes, indeed, and I think a cooperative relationship would benefit us both. This is basically the thrust of our policy in Latin America—to create cooperative relationships which will advance the interests of both countries. I think also, as I have said on a number of occasions during this hearing, that the relationship between the United States and Chile is an important one in terms of the future in Chile. I think this relationship is valuable to them and I think it is valuable to us over the years.

Mr. STEELE. Thank you.

Mr. FASCELL. Thank you, Mr. Secretary. We appreciate your time, your testimony, and your efforts to be responsive to the questions of the members of the subcommittees.

The subcommittees stand adjourned subject to the call of the Chair.

[Whereupon, at 4:20 p.m., the subcommittees adjourned.]

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. RANDALL, for Friday, June 11, 1976, on account of official business to appear as speaker before Missouri Association of Professional Engineers and Architects.

Mr. DOMINICK V. DANIELS (at the request of Mr. O'NEILL) for June 10 through June 18, on account of official business.

Mr. HELSTOSKI (at the request of Mr. O'NEILL), for June 10 and 11, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. LOTT) to revise and extend their remarks and include extraneous material:)

Mr. KEMP, for 15 minutes, today.

Mr. RAILSBACK, for 5 minutes, today.

Mr. SNYDER, for 25 minutes, today.

(The following Members (at the request of Mr. HOWE), to revise and extend their remarks, and to include extraneous matter;)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. DANIELSON, for 5 minutes, today.

Mr. DODD, for 5 minutes, today.

Mr. KOCH, for 10 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. HARRINGTON, and to include extraneous matter notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $3,504.

Mr. FASCELL and to include extraneous matter during 5-minute rule on H.R. 13367.

(The following Members (at the request of Mr. LOTT) and to include extraneous material:)

Mr. WIGGINS.

Mr. QUIE in two instances.

Mr. ESCH.

Mr. SYMMS.

Mr. GRASSLEY.

Mr. KASTEN.

Mr. RUPPE.

Mr. GILMAN.

Mr. WALSH.

Mr. CONTE.

Mr. FINDLEY.

Mr. ASHBROOK in four instances.

Mr. DU PONT.

Mr. KEMP in two instances.

(The following Members (at the request of Mr. HOWE) and to include extraneous matter:)

Mr. ANDERSON of California in three instances.

Mr. GONZALEZ in three instances.

Mr. ROSTENKOWSKI.

Mr. MATSUNAGA.

Mr. CARNEY in two instances.

Mr. WON PAT.

Mr. RICHMOND.

Mr. TEAGUE.

Mr. WHITE.

Mr. FRASER in two instances.

Mr. FAUNTROY.

Mr. DOWNEY of New York.

Mr. NOLAN.

Mr. EILBERG.

Mr. ROSENTHAL.

Mr. FORD of Michigan.

Mrs. SULLIVAN.

Mr. RANGEL.

Mr. BLANCHARD.

Mr. MILLER of California.

Mr. EDWARDS of California in three instances.

Mr. LLOYD of California.

Mr. FARY.

Mr. BEVILL.

Mr. AMBRO.

Mr. SCHEUER.

ADJOURNMENT

Mr. HOWE. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 53 minutes p.m.), under its previous order, the House adjourned until tomorrow, Friday, June 11, 1976, at 10 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3464. A letter from the Under Secretary of Health, Education, and Welfare, transmitting a draft of proposed legislation to extend the authority for planning grants to States for career education programs, and to repeal certain education program authorities; to the Committee on Education and Labor.

3465. A letter from the Acting Director, Office of Regulatory Review, Department of Health, Education, and Welfare, transmitting proposed regulations governing the administration of the regional education program under section 625 of the Education of the Handicapped Act, as amended, pursuant to section 431(d)(1) of the General Education Provisions Act, as amended; to the Committee on Education and Labor.

3466. A letter from the Attorney General, transmitting notice of a proposed new time utilization recordkeeping system for the FBI, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

3467. A letter from the Chairman, Privacy Protection Study Commission, transmitting the first annual report of the Commission, pursuant to section 5(g) of Public Law 93–579; to the Committee on Government Operations.

3468. A letter from the Chairman, Securities and Exchange Commission, transmitting a report on the progress of the Commission's study and investigation of "nominee" and "street name" registration of securities, required by section 12(m) of the Securities Exchange Act of 1934, as amended (89 Stat. 119); to the Committee on Inerstate and Foreign Commerce.

3469. A letter from the Chairman, House Commission on Information and Facilities, transmitting a report prepared at the direction of the House Commission on Information and Facilities by the Comptroller General of the United States on the information resources and services available to the House of Representatives, pursuant to section 204 of House Resolution 988, 93d Congress (H. Doc. No. 94–522); ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MAHON: Committee on Appropriations. Report on Appropriations Committee recommendations compared with the allocation of budget totals to the appropriations committee for fiscal year 1977 (Rept. No. 94–1238). Referred to the Committee of the Whole House on the State of the Union.

Mr. MOAKLEY: Committee on Rules. House Resolution 1283. Resolution providing for the consideration of H.R. 9398. A bill to amend the Public Works and Economic Development Act of 1965 to extend the authorizations for a 3-year period. (Rept. No. 94–1249). Referred to the House Calendar.

Mr. BOLLING: Committee on Rules. House Resolution 1284. Resolution providing for the consideration of H.R. 13777. A bill to establish public land policy; to establish guidelines for its administration; to provide for the management, protection, development, and enhancement of the public lands; and for other purposes (Rept. No. 94–1250). Referred to the House Calendar.

Mr. MURPHY of Illinois: Committee on Rules. House Resolution 1285. Resolution waiving certain points of order against H.R. 14231. A bill making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1977, and for other purposes (Rept. No. 94–1251). Referred to the House Calendar.

Mr. PEPPER: Committee on Rules. House Resolution 1286. Resolution waiving certain points of order against H.R. 14233. A bill making appropriations for the Department of Housing and Urban Development, and for sundry independent executive agencies, boards, bureaus, commissions, corporations, and offices for the fiscal year ending September 30, 1977, and for other purposes (Rept. No. 94–1252). Referred to the House Calendar.

Mr. MOAKLEY: Committee on Rules. House Resolution 1287. Resolution waiving certain points of order against H.R. 14234. A bill making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1977, and for other purposes. (Rept. No. 94–1253). Referred to the House Calendar.

Mr. LONG of Louisiana: Committee on

Rules. House Resolution 1288. Resolution waiving certain points of order against H.R. 14235. A bill making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1977, and for other purposes. (Rept. No. 94–1254). Referred to the House Calendar.

Mr. DELANEY: Committee on Rules. House Resolution 1289. Resolution waiving certain points of order against H.R. 14236. A bill making appropriations for public works for water and power development and energy research, including the Corps of Engineers—Civil, the Bureau of Reclamation, power agencies of the Department of the Interior, the Appalachian regional development programs, the Federal Power Commission, the Tennessee Valley Authority, the Nuclear Regulatory Commission, the Energy Research and Development Administration, and related independent agencies and commissions for the fiscal year ending September 30, 1977, and for other purposes. (Rept. No. 94–1255). Referred to the House Calendar.

Mr. PEPPER. Committee on Rules. House Resolution 1290. Resolution waiving certain points of order against H.R. 14239. A bill making appropriations for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies for the fiscal year ending September 30, 1977, and for other purposes. (Rept. No. 94–1256). Referred to the House Calendar.

Mr. PEPPER: Committee on Rules. House Resolution 1291. Resolution waiving certain points of order against H.R. 14260. A bill making appropriations for Foreign Assistance and related programs for the fiscal year ending September 30, 1977, and for other purposes. (Rept. No. 94–1257). Referred to the House Calendar.

Mr. LONG of Louisiana: Committee on Rules. House Resolution 1292. Resolution waiving certain points of order against H.R. 14262. A bill making appropriations for the Department of Defense for the fiscal year ending September 30, 1977, and for other purposes. (Rept. No. 94–1258). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. McCORMACK (for himself and Mr. GINN):

H.R. 14290. A bill to establish in the Energy Research and Development Administration a program of research, development, and demonstration designed to promote energy conservation for residential, commercial and industrial buildings and develop methods for calculating life cycle capital and operating costs relating to energy consumption for such building; and to provide through the General Services Administration for the demonstration of energy conservation technology and equipment in Federal buildings; jointly to the Committees on Science and Technology, and Public Works and Transportation.

By Mr. PHILLIP BURTON (for himself, Mr. DON H. CLAUSEN, Mr. HALEY, Mr. SKUBITZ, Mr. KASTENMEIER, Mr. STEIGER of Arizona, Mrs. MINK, Mr. RUPPE, Mr. MEEDS, Mr. LAGOMARSINO, Mr. STEPHENS, Mrs. PETTIS, Mr. VIGORITO, Mr. KETCHUM, Mr. WON PAT, Mr. DE LUGO, Mr. BENITEZ, Mr. MILLER of California, Mr. LUJAN, Mr. JOHNSON of California, Mr. MELCHER, Mr. SEIBERLING, Mr. ECKHARDT, Mr. BYRON, and Mr. WEAVER):

H.R. 14291. A bill to provide for an elective Governor and Lieutenant Governor of American Samoa, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. PHILLIP BURTON (for himself, Mr. SANTINI, Mr. CARR, and Mr. RISENHOOVER):

H.R. 14292. A bill to provide for an elective Governor and Lieutenant Governor of American Samoa, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. EDWARDS of California:

H.R. 14293. A bill to amend title 38, United States Code, to provide comprehensive mental health, psychosocial readjustment services, counseling and other services necessary or appropriate for the effective treatment, rehabilitation or readjustment of veterans and their dependents who are experiencing psychosocial readjustment problems resulting from military service or readjustment from military service; to the Committee on Veterans' Affairs.

By Mr. ENGLISH:

H.R. 14294. A bill to require that imported honey and honey products made in whole or in part of imported honey be labeled "imported", to provide for the inspection of imported honey products, to require that imported honey and honey products comply with certain minimum standards of sanitation, and for other purposes; to the Committee on Agriculture.

By Mrs. FENWICK (for herself, Mr. MATSUNAGA, Mr. HYDE, Mr. HILLIS, Mr. DENT, and Mr. ANNUNZIO):

H.R. 14295. A bill to amend the Bankruptcy Act to provide a priority for certain debts to consumers; to the Committee on the Judiciary.

By Mr. HUGHES:

H.R. 14296. A bill to impose a mandatory prison sentence upon any person convicted of using a firearm to commit a crime of violence; to the Committee on the Judiciary.

By Mr. HYDE:

H.R. 14297. A bill to increase for a 5-year period the duty on certain hand tools, and for other purposes; to the Committee on Ways and Means.

By Mr. MONTGOMERY (for himself, Mr. ROBERTS, Mr. HAMMERSCHMIDT, Mr. WYLIE, Mr. TEAGUE, Mr. BRINKLEY, Mr. HEFNER, Mr. MOTTL, Mr. GUYER, Mr. SATTERFIELD, Mr. EDWARDS of California, Mr. CARNEY, Mr. WOLFF, Mr. CORNELL, Mr. BEARD of RHODE ISLAND, Mr. EDGAR, Mr. McHUGH, Mrs. HECKLER of Massachusetts, Mr. HILLIS, Mr. ABDNOR, Mr. WALSH, Mr. HANSEN, Mr. O'BRIEN, Mr. FREY, and Mr. JONES of Oklahoma):

H.R. 14298. A bill to amend title 38 of the United States code to increase the rates of disability and death pension and to increase the rates of dependency and indemnity compensation for parents, and for other purposes; to the Committee on Veterans' Affairs.

H.R. 14299. A bill to amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans; to increase the rate of dependency and indemnity compensation for their survivors; and for other purposes; to the Committee on Veterans' Affairs.

By Mr. NOLAN:

H.R. 14300. A bill to amend the Federal Crop Insurance Act to extend crop insurance coverage under such act to all areas of the United States and to all agricultural commodities and for other purposes; to the Committee on Agriculture.

By Mr. RISENHOOVER (for himself, Mr. JONES of Oklahoma, and Mr. JARMAN):

H.R. 14301. A bill to provide for the initiation of construction of the remaining features within the Wichita River Basin to reduce natural salt pollution; to the Committee on Public Works and Transportation.

H.R. 14302. A bill to provide for the regular initiation of construction of the project for water quality control in the Arkansas-Red River Basin, Texas, Oklahoma, and Kansas; to the Committee on Public Works and Transportation.

H.R. 14303. A bill to provide for initiation of construction of the natural salt pollution control features required for area IV of the Arkansas-Red River Basin, Texas, Oklahoma, and Kansas project, prior to the approval required by section 201 of the Flood Control Act of 1970; to the Committee on Public Works and Transportation.

By Mr. ROBINSON:

H.R. 14304. A bill to amend the Communications Act of 1934 to authorize interstate toll service connection between small telephone companies without a certificate of public convenience and necessity; to the Committee on Interstate and Foreign Commerce.

By Mr. RUNNELS (for himself, Mr. UDALL, Mr. FRASER, Mr. HOWARD, Mr. WON PAT, Mrs. MEYNER, and Mr. GUDE):

H.R. 14305. A bill to create within the Energy Research and Development Administration the position of Assistant Administrator for Solar and Geothermal energy and Conservation, and for other purposes; to the Committee on Science and Technology.

By Mr. RUPPE (for himself, Mr. BERGLAND, Mr. THOMPSON, and Mr. BOB WILSON):

H.R. 14306. A bill to authorize the construction and operation of a natural gas pipeline from the North Slope of Alaska across Canada to domestic markets, and for other purposes; jointly, to the Committees on Interstate and Foreign Commerce, Interior and Insular Affairs, and Public Works and Transportation.

By Mr. SANTINI:

H.R. 14307. A bill to reaffirm the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce; to grant additional authority to the Federal Communications Commission to authorize mergers of carriers when deemed to be in the public interest; to reaffirm the authority of the States to regulate terminal and station equipment used for telephone exchange service; to require the Federal Communications Commission to make certain findings in connection with Commission actions authorizing specialized carriers; and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. SCHEUER:

H.R. 14308. A bill to grant immigrant visas to certain nationals of Italy who were victims of the earthquakes which occurred on or about May 6, 1976, in the Friuli region of Italy, and for other purposes; to the Committee on the Judiciary.

By Mr. SCHEUER (for himself, Ms. BURKE of California, Mr. CONTE, Ms. HOLTZMAN, Mr. MAGUIRE, Mr. PEPPER, Mr. RANGEL, Mr. ROYBAL, and Mr. STOKES):

H.R. 14309. A bill to establish a national system of maternal and child health care; jointly to the Committees on Interstate and Foreign Commerce, and Ways and Means.

By Mr. STEELMAN (for himself and Mr. ECKHARDT):

H.R. 14310. A bill to conduct a study of nonstructural alternatives to the Trinity River project and to prepare a Trinity Natural River plan; to the Committee on Public Works and Transportation.

By Mrs. SULLIVAN (for herself, Mr. METCALFE, Mr. McFALL, Mr. SNYDER, Mr. BIAGGI, Mr. DOWNING of Virginia, Mr. BOWEN, Mr. HUBBARD, Mr. RINALDO, Mr. RUPPE, and Mr. MURPHY of New York):

H.R. 14311. A bill establishing certain accounting standards relating to the Panama Canal Company; to the Committee on Merchant Marine and Fisheries.

By Mr. SYMMS:

H.R. 14312. A bill to amend the Internal Revenue Code of 1954 to increase the exemption for purposes of the Federal estate tax, to increase the estate tax marital deduction, and to provide an alternate method of valuing certain real property for estate tax purposes; to the Committee on Ways and Means.

H.R. 14313. A bill to repeal the earning limitation of the Social Security Act; to the Committee on Ways and Means.

By Mr. EDGAR (for himself, Mr. Fithian, Mr. Obey, Mr. Peyser, Mr. Railsback, Mr. Rangel, Mr. Roe, Mr. St Germain, Mr. Scheuer, Mr. Steelman, Mr. Studds, Mr. Tsongas, Mr. Vanik, Mr. Vander Veen, Mr. Weaver, Mr. Whalen, Mr. Wirth, Mr. Young of Georgia, Mr. Bowen, Mr. Vigorito, Mr. Mezvinsky, Mr. Simon, and Mr. Stark):

H.R. 14314. A bill to amend title 38 of the United States Code in order to extend under certain circumstances the delimiting period for completing veterans' education programs and to provide a teach-down period for veterans who have committed themselves to furthering their education; to the Committee on Veterans' Affairs.

By Mr. HUNGATE:

H.R. 14315. A bill to amend the Tariff Schedules of the United States; to the Committee on Ways and Means.

By Mr. MINETA (for himself, Mr. Badillo, Mr. Beard of Rhode Island, Mr. Bedell, Mr. Bingham, Mr. Blanchard, Mrs. Burke of California, Mr. John L. Burton, Mr. Edwards of California, Mr. Helstoski, Mr. Koch, Mr. Lehman, Mr. McHugh, Mr. Matsunaga, Mr. Mazzoli, Mr. O'Neill, Mr. Rees, Mr. Ryan, Mrs. Schroeder, Mrs. Spellman, Mr. Stark, Mr. Tsongas, Mr. Waxman, Mr. Miller of California, and Mr. Dodd):

H.R. 14316. A bill to direct the Administrator of the Federal Aviation Administration to promulgate noise standards for certain aircraft in order to reduce noise emissions and to improve the human environment, and to provide certain payments to operators of the aircraft required to meet the noise standards in order to permit the operators to retrofit or replace such aircraft; to the Committee on Public Works and Transportation.

By Mr. REES (for himself and Mr. J. William Stanton):

H.R. 14317. A bill to amend the Securities Exchange Act of 1934 to impose certain notification and other requirements with respect to tender offers; to the Committee on Interstate and Foreign Commerce.

H.R. 14318. A bill to create a committee on Foreign Investment in the United States to monitor the impact of foreign investments in the United States, both direct and portfolio, and to provide preinvestment guidance to potential foreign investors; jointly, to the Committees on International Relations, and Banking, Currency and Housing.

By Mr. ROGERS (for himself, Mr. Preyer, Mr. Symington, Mr. Scheuer,, Mr. Waxman, Mr. Florio, Mr. Carney, Mr. Maguire, Mr. Heinz, and Mr. Madigan):

H.R. 14319. A bill to amend the Public Health Service Act and the Social Security Act to revise and improve the authorities under those acts for the regulation of clinical laboratories; to the Committee on Interstate and Foreign Commerce.

By Mr. SIMON:

H.R. 14320. A bill to amend the Federal Food, Drug, and Cosmetic Act to require reporting with respect to adverse drug reactions; to the Committee on Interstate and Foreign Commerce.

By Mr. YATRON:

H.R. 14321. A bill to establish an office within the Congress with a toll-free telephone number, to be known as the Congressional Advisory Legislative Line (CALL), to provide the American people with free and open access to information, on an immediate basis, relating to the status of legislative proposals pending before the Congress; to the Committee on House Administration.

By Mr. ZEFERETTI (for himself, Mr. Biaggi, Mr. Phillip Burton, Mr. Murphy of New York, Mr. Scheuer, Mr. Yates, Mr. Harris, Mrs. Spellman, Mr. Russo, Mr. Addabbo, and Mr. Dent):

H.R. 14322. A bill to amend the District of Columbia Police and Firemen's Salary Act of 1958 to provide for an initial increase in the rates of compensation of officers and members of the U.S. Park Police force and for the future adjustment of such rates in accordance with the Federal pay comparability system, to establish a U.S. Park Police Retirement and Relief Board, and to require submittal of a proposed codification of laws relating primarily to the U.S. Park Police; to the Committee on the District of Columbia.

By Mr. KASTEN:

H.J. Res. 981. Joint resolution designating the week beginning October 3, 1976, as World War I Overseas Flyers Week; to the Committee on Post Office and Civil Service.

By Mr. REES (for himself and Mr. J. William Stanton):

H.J. Res. 982. Joint resolution directing the President through the Secretary of the Treasury to convene an international conference of finance ministers to work toward the establishment of a code of conduct for international investors and for countries which serve as the source of or host for international investment; to the Committee on International Relations.

By Mr. ARCHER:

H. Res. 1280. Resolution to provide that the House Restaurant and the cafeteria and other food service facilities of the House of Representatives shall be privately operated on a self-sustaining basis by persons under contract with the House; to the Committee on House Administration.

By Mr. DELANEY:

H. Res. 1281. Resolution concerning committee hearings on the future telecommunications policy of the Nation; to the Committee on Interstate and Foreign Commerce.

By Mr. YOUNG of Alaska (for himself, Mr. Meeds, Mrs. Collins of Illinois, Mr. Duncan of Oregon, Mr. Gilman, Mr. Rees, Mr. Reuss, and Mr. Roybal):

H. Res. 1282. Resolution to recommend that the Board on Geographic Names approve a proposal to name two mountains in Alaska after the late Congressmen Hale Boggs and Nick Begich; to the Committee on Interior and Insular Affairs.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 6218

By Mr. HUGHES:

On page 123, strike the period and quotation mark at the end of line 9, and insert immediately after line 9 the following new section:

"Sec. 29. Restrictions on Employment.—No full-time officer or employee of the Department of Interior who was at any time during the twelve months preceding the termination of his employment with the Department compensated at a rate in excess of the annual rate of basic pay for grade GS-14 of the General Schedule, shall accept, for a period of two years after the date of termination of employment with the Department, employment or compensation, directly or indirectly, from any person, persons, association, corporation or other entity, subject to regulation under this Act.".

On page 177, after line 2, add the following new section:

"RULE AND REGULATION REVIEW

"Sec. 505. (a) Any rule or regulation issued under authority of this Act after the date of enactment of this section may by resolution of either House of Congress be disapproved, in whole or in part, if such resolution of disapproval is adopted not later than the end of the first period of 60 calendar days when Congress is in session (whether or not continuous) which period begins on the date such rule or regulation is finally adopted by the Department or agency adopting same. The Department or agency adopting any such rule or regulation shall transmit such rule or regulation to each House of Congress immediately upon its final adoption. Upon adoption of such a resolution of disapproval by either House of Congress, such rule or regulation, or part thereof, as the case may be, shall cease to be in effect.

"(b) Congressional inaction on or rejection of a resolution shall not be deemed an expression of approval of such rule."

H.R. 13179

By Ms. HOLTZMAN:

Page 10, immediately after line 9, insert the following new section:

"DISCRIMINATION

"Sec. 14. None of the funds authorized to be appropriated for the Department of State by this Act may be used to disseminate any information about opportunities for, or participate or otherwise assist in the negotiation of, any contract or arrangement (involving trade or any other subject) with a foreign country, individual, or entity, if the Department of State has reason to believe that—

"(1) any United States person (as defined in section 7701(a)(30) of the Internal Revenue Code of 1954) would be prohibited from entering into such contract or arrangement, or

"(2) such contract or arrangement would require that any such person be excluded from participating in the implementation of such contract or arrangement,

on account of the race, religion, national origin, or sex of such person in the case of an individual or, in the case of a partnership, corporation, association, or other entity, any officer, employee, agent, director, or owner thereof."

By Mr. OBERSTAR:

Page 10, immediately after line 9, add the following new section:

"INTERNATIONAL JOINT COMMISSION

"Sec. 14. After the date of enactment of this Act, any commissioner of the International Joint Commission appointed on the part of the United States, pursuant to article VII of the treaty between the United States and Great Britain relating to boundary waters between the United States and Canada, signed at Washington on January 11, 1909 (36 Stat. 2448; TS 548; III Redmond 2607), shall be appointed by the President by and with the advice and consent of the Senate."

By Mr. SNYDER:

On page 10 immediately after line 9 add the following new section:

"Sec. 14. None of the funds authorized to be appropriated in this Act shall be used for the purpose of negotiating or entering into any treaty or other agreement that would ultimately yield United States control over the Canal Zone and Panama Canal as long as the United States remains a High Contracting Party to the Hay-Pauncefote Treaty of 1901 in force with Great Britain, which imposes upon this country the obligation to uphold 'the general principle of neutralization' of the canal; to maintain it 'free and open to the vessels of commerce and of war of all nations observing these Rules, on terms of entire equality, so that there shall be no discrimination against any nation, or its citizens or subjects, in respect to the conditions or charges of traffic, or otherwise'; to insure that 'the canal shall never be blockaded, nor shall any right of war be exercised nor any act of hostility be committed within it'; and 'to protect it against lawlessness and disorder.'"

FACTUAL DESCRIPTIONS OF BILLS AND RESOLUTIONS INTRODUCED

Prepared by the Congressional Research Service pursuant to clause 5(d) of House rule X. Previous listing appeared in the CONGRESSIONAL RECORD of June 9, 1976, page 17191:

HOUSE BILLS

H.R. 13786. May 13, 1976. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Grants additional authority to the Federal Communications Commission to authorize mergers of carriers when deemed to be in the public interest. Reaffirms the authority of the States to regulate terminal and station equipment used for telephone exchange service. Requires the Federal Communications Commission to make specified findings in connection with Commission actions authorizing specialized carriers.

H.R. 13787. May 13, 1976. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Grants additional authority to the Federal Communications Commission to authorize mergers of carriers when deemed to be in the public interest. Reaffirms the authority of the States to regulate terminal and station equipment used for telephone exchange service. Requires the Federal Communications Commission to make specified findings in connection with Commission actions authorizing specialized carriers.

H.R. 13788. May 13, 1976. Interstate and Foreign Commerce; Judiciary; Banking, Currency and Housing; Ways and Means. Amends the Comprehensive Drug Abuse Prevention and Control Act of 1970 to impose minimum penalties for specified opiate-related offenses. Amends the Federal Rules of Criminal Procedure to require a hearing to determine whether a term of imprisonment and parole eligibility is mandatory for an opiate-related offense.

Establishes considerations for judicial officers setting conditions for release of any person charged with an opiate-related offense. Makes proceeds of such offenses subject to forfeiture to the United States.

Requires persons exporting or importing monetary instruments in amounts exceeding $5,000 to file a report of such transport.

H.R. 13789. May 13, 1976. Interior and Insular Affairs. Authorizes the Architect of the Capitol to perform such work as may be necessary to prevent further deterioration of historically significant sections of the Congressional Cemetery.

Directs the Secretary of the Interior to conduct a study for the purpose of formulating proposals for the renovation and maintenance of such areas by the United States.

H.R. 13790. May 13, 1976. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Grants additional authority to the Federal Communications Commission to authorize mergers of carriers when deemed to be in the public interest. Reaffirms the authority of the States to regulate terminal and station equipment used for telephone exchange service. Requires the Federal Communications Commission to make specified findings in connection with Commission actions authorizing specialized carriers.

H.R. 13791. May 13, 1976. Government Operations. Establishes the Commission on Organization of the Executive Branch of the Government. Directs the Commission to study the present organization and methods of operation of all agencies of the Executive branch to determine what changes are necessary to improve the efficiency and to eliminate unnecessary functions of such agencies.

H.R. 13792. May 13, 1976. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Reaffirms the authority of the States to regulate terminal and station equipment used for telephone exchange service. Requires the Federal Communications Commission to make specified findings in connection with Commission actions authorizing specialized carriers.

H.R. 13793. May 13, 1976. Government Operations; Rules. Requires the President to submit to Congress, on the last days of January 1978 through 1981 reports of the effect of Federal agency activity upon specified portions of the private economic sector along with his recommendations for reform of such activity.

Requires Congress to take action on any such proposals made by the President.

H.R. 13794. May 13, 1976. Interstate and Foreign Commerce. Authorizes the Secretary of Health, Education, and Welfare, for the purpose of recruiting and retaining officers and employees of the Department who demonstrate unusual talents and abilities or who have major supervisory duties, to give an annual bonus not to exceed $15,000 to such officers and employees. Restricts the number of recipients to 25 in a fiscal year.

H.R. 13795. May 13, 1976. Government Operations; Interstate and Foreign Commerce. Abolishes the Federal Energy Administration created by the Federal Energy Administration Act of 1974. Transfers the functions of enumerated offices of the Administration to specified agencies.

H.R. 13796. May 13, 1976. Interstate and Foreign Commerce. Eliminates the requirement, under the Federal Food, Drug, and Cosmetic Act, that new drugs will be regulated according to their effectiveness. States that such drugs will be regulated solely to assure their safety.

H.R. 13797. May 13, 1976. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Grants additional authority to the Federal Communications Commission to authorize mergers of carriers when deemed to be in the public interest. Reaffirms the authority of the States to regulate terminal and station equipment used for telephone exchange service. Requires the Federal Communications Commission to make specified findings in connection with Commission actions authorizing specialized carriers.

H.R. 13798. May 13, 1976. Ways and Means. Amends the Tariff Schedules of the United States to increase for a five-year period the customs duty on specified hand tools.

H.R. 13799. May 13, 1976. Veterans' Affairs. Increases certain fees paid by the Administrator of Veterans' Affairs for reports and certifications submitted by educational institutions and joint apprenticeship training committees.

H.R. 13800. May 13, 1976. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 13801. May 13, 1976. Judiciary. Authorizes the admission of a certain individual to the United States for permanent residence.

H.R. 13802. May 13, 1976. Judiciary. Authorizes classification of a certain individual as a child for purposes of the Immigration and Nationality Act.

H.R. 13803. May 13, 1976. Judiciary. Declares certain individuals lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 13804. May 13, 1976. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to a certain individual in full settlement of such individual's claims against the United States arising from the loss of household goods and personal property destroyed by fire while being transported.

H.R. 13805. May 17, 1976. Interstate and Foreign Commerce. Directs the Secretary of Health, Education, and Welfare to establish a National Diabetes Advisory Board to insure the implementation of a long-range plan to combat diabetes. Authorizes the Secretary to make grants to scientists who have shown productivity in diabetes research for the purpose of continuing such research. Authorizes, under the Public Health Service Act, the appropriation of specified sums for the purposes of making grants to centers for research and training in diabetic related disorders.

SENATE—*Thursday, June 10, 1976*

(Legislative day of Thursday, June 3, 1976)

The Senate met at 8 a.m., on the expiration of the recess, and was called to order by Hon. PATRICK J. LEAHY, a Senator from the State of Vermont.

PRAYER

The Reverend Robert A. Wells, director of missions, Nevada Baptist Association, Reno, Nev., offered the following prayer:

Heavenly Father, we bow together in prayer to ask You to bless our Nation. Bless these, Thy servants who have been elected by their fellow citizens to serve in this high office. Let Your divine hand guide them in every decision they face. Your Word has declared that "the powers that be are ordained of God." Let each Member act as one under divine appointment.

In this year when we reach a special milestone in the life of our country, help each of us to strive to live up to the goals set by our Founding Fathers. May we ever be mindful that they pledged their "lives, fortunes, and sacred honor" to make this liberty possible for us all. May Thy spirit be upon the Members of this august body to give them wisdom and strength to keep the Republic free and strong.

With thanksgiving for past blessings, we ask You to make us a blessing to others.

In Thy name we humbly place this prayer before Thee. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., June 10, 1976.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. PATRICK J. LEAHY, a Senator from the State of Vermont, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

Mr. LEAHY thereupon took the chair as Acting President pro tempore.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Does the majority leader seek recognition?

Does the acting minority leader seek recognition?

Mr. HELMS. Mr. President, on behalf of the minority leader I yield back his time.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Kansas (Mr. DOLE) is recognized for not to exceed 15 minutes.

THE NATIONAL FULL EMPLOYMENT AND ANTI-INFLATION ACT OF 1976—S. 3543

Mr. DOLE. Mr. President, the Senate may sometime in the next few months be considering a bill which would guarantee a job at fair rates of compensation for every person seeking work and mandates of 3-percent adult unemployment rate. By setting forth utopian goals and guarantees this proposal—S. 50, the Humphrey-Hawkins bill—has attracted widespread public attention. Indeed, endorsement of this proposal seems to have become a prerequisite for seeking the Democratic Presidential nomination.

The Senator from Kansas and the distinguished Senator from Pennsylvania today introduce an alternative—a national full employment policy bill which deals with national economic goals, in a balanced, responsible, and realistic manner. Rather than offering utopian promises, the bill we introduce provides for a careful consideration of national goals in the real and complex economic world in which we live.

Mr. President, a brief description of this bill—the Full Employment and Anti-Inflation Act—will serve to highlight the features of this full employment proposal and contrast it with corresponding provisions of the Humphrey-Hawkins bill.

SELECT COMMITTEE

First, our full employment bill will establish a Select Committee on Long-Run Economic Goals and Policy. Congress has never determined in fact what levels of employment are attainable and sustainable; Congress has never established as policy what level of employment is our national objective. To study this difficult and sensitive issue, and to report and recommend national economic goals would be the primary responsibility of the select committee.

EFFECTS OF S. 50 UNKNOWN

This feature of my proposal is in sharp contrast with the Humphrey-Hawkins bill, which would establish 3 percent adult unemployment as our one and only specific national economic goal.

Mr. President, the Senator from Kansas would like nothing better than to see unemployment of 3 percent or less throughout this country. It might be politically expedient to jump on the bandwagon and support that specific goal. It sounds good. But I do not want to set an irrevocable course for 3-percent unemployment if with it comes 10-percent inflation and a $25 billion budget deficit and other untold side effects.

A recent Congressional Budget Office analysis has put the potential budgetary cost of S. 50 at $16 billion to $44 billion—the very range of these numbers shows an alarming uncertainty. The same analysis puts the inflation effect at an added 2 percent when the employment goal is reached.

Maybe this would not happen. Maybe we can achieve the goal set out in the Humphrey-Hawkins bill without undesirable, or at least unacceptable consequences. The simple and undeniable fact is that we do not know. No one in this Chamber knows that this objective can be achieved.

To pretend that we know that we can have 3-percent unemployment—now, next year, or in 10 years—is to hold up false hopes.

This employment goal is to be achieved by declaring that everyone has a right to a "useful job at fair rates of compensation." Mr. President, the unemployment problem cannot be solved in a meaningful way, if at all, by declaring an open-ended commitment on the Federal budget and the American taxpayer. Congress is often accused of being callous to the problems of the disadvantaged when considerations of the budget and of Government finances are raised. We are accused of ignoring the "human variables." Between those who raise these factors and those who dismiss them exists a difference of method and theory, not a difference of compassion and concern. To ignore the inevitable economic relations between employment, inflation, budget deficits, and Government activity in pursuit of a simple objective is to invite, if not insure, failure to achieve and sustain the full employment objective.

Mr. President, the Senator from Kansas is in favor of full employment. Indeed, I would like to achieve what Dr. Arthur Burns suggested at Budget Committee hearings—zero unemployment. Zero involuntary unemployment, that is. But what rate of actual voluntary unemployment that implies I do not pretend to know. This depends on the compatibility of labor force skills with the job needs of private business, on the composition of the labor force—teenage, men, women, elderly, minorities, and on the frequency and duration of job search.

In a dynamic economy and society, these factors have been changing over the last two decades. So it will not do to look back to "the good old days"—to take selected years like 1953 or 1969—and assert that because we had 3-percent unemployment then, we can do it again now.

NEED FOR LONGRUN GOALS

The Senator from Kansas does feel that we need to take a close look at our longrun employment goals—and other goals—to determine, as explicitly as this world of uncertainty and change will allow, what these goals should be. It is to the credit of the Humphrey-Hawkins proposal that our attention has been focused on this very important matter.

If we do not now address this issue, then a familiar scene will unfold in 1978 or 1979. With continuing economic recovery the unemployment rate will be down to reasonable levels—in the neighborhood of 5 percent perhaps. At that time, there will be sharp disagreement over whether that is low enough.

Some will assert that the Nation should and can do better, and will argue for job programs and general economic stimulus. Others will counsel fiscal restraint and budget surpluses. There will still be no consensus as to what our longrun goal or goals are, and therefore whether we have arrived. It is vital to our year-to-year economic policy decisions to resolve this issue. As the Nation's economy continues its recovery and experiences rapid employment gains, when is the right time to edge our national policies away from rapid job creation and toward sustaining moderate growth? As we approach what unemployment rate—3 percent, 4 percent, 5 percent?

Mr. President, we propose to face this issue head on by setting in motion an expeditious process by which Congress will determine in a realistic, well-informed, and responsible manner our long-range national economic goals.

PERMANENT PRIVATE EMPLOYMENT

A second distinctive feature of the bill introduced today is its strong emphasis on permanent and productive employment in the private sector of the economy and on private incentives. The high priority placed on this approach to increasing employment is best conveyed by the amendment to the Employment Act of 1946 contained in our bill. A new section 2(c) of that statute would read:

> The Congress further declares that it is the policy of the Federal government in achieving the goals determined pursuant to this Act to rely to the maximum extent

practicable on measures which encourage, enhance, and motivate employment opportunities in the private sector of the economy.

HUMPHREY-HAWKINS AND GOVERNMENT JOBS

In contrast, the Humphrey-Hawkins bill pays only lipservice to maximizing employment through the mechanisms of our free-enterprise system. One can easily read between the lines to realize the implications of the Humphrey-Hawkins bill for public employment. An unemployment goal of unknown compatibility with our labor markets and overall economy together with a guarantee of a useful job at "fair rates" of compensation for all seeking employment, the result is the Government as employer of last and extensive resort.

The Congressional Budget Office report estimates that public employment of 2 million would be expected under certain assumptions and could be as high as 4 million under other circumstances. Is this what we want? Is this what the people want?

Perhaps this will not be found objectionable. Perhaps some permanent public jobs will ultimately be found necessary and desirable in conjunction with our employment goal. Whatever the case, the Congress and the people should be fully aware of the likely consequences and requirements imposed by the goals they adopt. Congress should bear clearly in mind that any financing of such permanent jobs by Government deficits will bring on inflation. Such permanent public jobs must, therefore, be tax financed. Involved would be a transfer and redistribution of income as in existing income support programs. The transfer would be more substantial in that public job holders would be paid "fair rates of compensation".

PRIVATE EMPLOYMENT DECISIONS

I fear that the extensive Government employment implied by S. 50 would necessitate unwarranted and unacceptable interference with private, voluntary employment decisions that are so basic to the vitality of our social and economic system.

In a free society, people quit jobs to look for one they may like better. People are released from jobs and thereby forced to look for one that is more appropriate to their skills. These people spend a period of time looking for other employment that depends on many factors—including their accumulated cushion of savings off which they can temporarily live, and the strength of their preferences about the type of work they will accept. The dimensions of these private decisions change over time and depend critically on the structure of the economy and the labor force and on the dynamic nature of the economic situation.

It is entirely possible that 4 percent or 5 percent of the labor force could be voluntarily and temporarily unemployed—for a relatively short duration—in the process of jobs search.

If this is the case, what would the Humphrey-Hawkins bill have us do? Would the Federal Government provide temporary havens for some as they look for "satisfactory" jobs, so that the "official" unemployment rate could be forced down to 3 percent?

If some unemployed engaged in extended job search because they find available jobs unappealing, would the Humphrey-Hawkins supporters have us provide pleasant, less onerous jobs? And if so, what prevents those private jobs from remaining unfilled?

In paying lip-service to the free enterprise system and private sector employment, would the Government force people to take available jobs which these individuals would otherwise pass over for reasons of personal preference and choice?

These are just some of the questions that the Humphrey-Hawkins bill raises and leaves unanswered.

Mr. President, the bill we introduce today suggests that we do know that the answer to our employment problems does not lie in Government jobs. Whereas S. 50 turns all too quickly and willingly to Government jobs for a solution, our bill establishes the strong presumption that high levels of employment will be sought and found through private employment. It charges Congress with the task of pulling together existing and perhaps new approaches to assisting the mechanisms, the functioning, and the incentives of the private economy. It asks Congress to consider more extensive use of techniques such as the employment tax credit proposed in the Employee Assistance Act introduced by the Senator from Kansas.

It recognizes that what this Nation's Government can do directly for employment with great effort in 1 year, the private sector can do with ease in 1 month, only to repeat that achievement the next. Last month alone, 300,000 jobs were added to the economy; the month before 700,000 jobs.

INFLATION GOAL

Mr. President, in addition to addressing the problems of unemployment, the national economic policy bill we introduce today includes consideration of economic goals that affect the 92.7 percent—and increasing percent—of the labor force that is employed. Inflation, the burden of taxation, and public borrowing should not and cannot be ignored. In the real world these economic factors are closely and inextricably related to employment.

We must seek high levels of employment as a national goal in a manner and through policies that are consistent with price stability and budgetary responsibility. These, too, are essential national economic goals.

HUMPHREY-HAWKINS INFLATIONARY

The narrow focus of the Humphrey-Hawkins bill on one goal, to the virtual exclusion of other important and closely related factors, is disturbing. We share with those who have sponsored and endorsed this bill a deep concern about unemployment. We fully recognize the social and economic costs of unemployment and the incongruity of idle people and idle production ability. Perhaps economic policies of the past have paid too little attention to these costs and have focused too much on more easily measurable concepts. Even if this was the case, this neither justifies nor establishes the wisdom of ignoring these factors. It is a simple fact of economic life that along with employment, we must consider inflation, the budget, deficits, and other factors.

Have we not learned that rapid inflation is the undoing of high employment, both through economic effects and through policies to control inflation?

Is it not the nearly unanimous consensus of economists that Federal budget deficits when an economy is fully employed leads to inflation?

The Humphrey-Hawkins proposal does not disregard inflation entirely, but does address it too little and unrealistically. It asks the President to include in his yearly economic plan a list of comprehensive anti-inflation policies. But this lipservice to inflation does nothing to change the fact that if the declared employment goal is unrealistic, if it goes beyond a level consistent with the voluntary unemployment necessary to labor mobility and job search, then inflation is avoidable. Further, if budget—fiscal—and monetary policies are focused on supporting the demand for products and for labor that accompanying that unemployment rate, then no amount of manipulating lesser policies will stop inflation. Only extensive wage and price controls—along with the extensive employment planning—could restrain prices. If, as legislators, we do a little planning of our own now by looking down the road to see where the Humphrey-Hawkins commitment may lead us—it is clear that the blessings are not unmixed.

Mr. President, the national full employment bill we introduce today establishes the select committee to take that look and in order that we may set our long-range sights on ambitious but realistic economic goals.

The very composition of that select committee—drawing from the Budget Committees, the Finance Committee, and the Ways and Means Committee as well as the Joint Economic Committee—reflects a balanced approach to considering these goals.

NO PLANNING BUREAUCRACY

Mr. President, conspicuously absent from the bill offered today is any bureaucratic planning apparatus. We propose, instead, only a select committee to study and recommend long-range economic goals and related policies. The institutions and mechanisms already in existence are entirely adequate for acting on these recommendations and pursuing these goals. They need only be used more effectively.

HUMPHREY-HAWKINS AND NATIONAL PLANNING

By contrast, there can be no mistaking that the Humphrey-Hawkins proposal is the beginning blueprint for extensive national economic planning.

The terminology clearly reflects the intent:

A "full employment and balanced growth plan";

A "comprehensive planning framework";

A "comprehensive information system";

A new "full employment office" in the Department of Labor;

"Reservoirs of employment projects";

A "division of full employment and balanced growth" in the Congressional Budget Office; and

An "Advisory Committee on Full Employment and Balanced Growth".

Perhaps the authors have in mind absorbing all the unemployed in the course of developing the plan to reduce unemployment.

Mr. President, this Congress and the executive branch has sufficient mechanisms for determining and coordinating national policies so as to generate maximum job opportunities. We have, quite simply, failed to act decisively. Rather than additional planning bureaucracy, we need only to determine the proper long-run goals and to declare that Congress must act—in a consistent and coordinated manner—on policies to achieve those goals.

We provide for planning that involves a realistic appraisal of attainable economic goals. But we reject planning implied by an inflexible commitment to a single national goal.

RENEWED COMMITMENT

When the Humphrey-Hawkins bill was first introduced, it was hailed by its sponsors as the panacea for our unemployment problems. The implications of this bill with regard to inflationary effects, the number of Government jobs, undermining private employment incentives, and the cost to the Federal Government have since become apparent. The Humphrey-Hawkins bill has done what many of us would have thought impossible—it has forced nearly unanimous agreement among economists. The concensus is, however, that the Humphrey-Hawkins bill is unworkable.

In response, its sponsors have indicated their willingness to amend S. 50 to eliminate its objectionable features.

Mr. President, we are convinced that no amount of cosmetic changes will be sufficient to salvage a workable full employment bill. At the same time, we are reluctant to lose the one redeeming aspect of this proposal—the focus of congressional attention on this Nation's long-run employment and other economic goals.

We do not want to let the opportunity for a renewed and realistic commitment to full employment slip away.

Mr. President, it is for this reason that we introduce the National Full Employment and Anti-Inflation Act as a substitution measure.

We believe the process that would be set in motion by this act can set this Nation on a path to maximum and sustained employment, stable prices, and budgetary responsibility.

A CLEAR CHOICE

Congress will now have before it two proposals for seeking national economic goals. It will have an alternative—and I think superior—way to respond to the justifiable cry for full employment.

It is up to the American people and their representatives to recognize which approach is the true path to full employment.

The difference between the two approaches are vitally important.

It is a difference between one preconceived and unfounded goal versus carefully considered, consistent, and sustainable goals.

It is a difference between private sector employment and extensive public employment.

It is a difference between national economic planning or programing versus flexible policies consistent with free enterprise and free choice.

It is a difference between goals that serve the interest of all workers and one goal that attempts to solve only the problems of the unemployed.

It is a difference between recognizing congressional responsibility and past failures of Congress to act and passing the buck to the President.

Mr. President, I ask unanimous consent that two articles from the Monday, June 7, 1976, edition of the Washington Post be printed in the Record. The first article is the lead editorial, "Jobs and the Jobless;" the second is an excerpt from testimony given by Dr. Charles Schultze of the Brookings Institution together with the National Full Employment and Anti-Inflation Act of 1976, and an explanation of its major provisions.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the Washington Post, June 7, 1976]

JOBS AND THE JOBLESS

The unemployment rate fell a bit last month, another welcome sign that things are moving in the right direction. But they are moving slowly. There are still 6.9 million people out of work. Nothing has happened to change basically the expectation that unemployment will remain over 6 per cent for the next couple of years. Unemployment is bad for people. What's the remedy?

A good many Democrats in Congress argue that the remedy is the Humphrey-Hawkins bill, which is intended to pull the adult rate down to 3 per cent within four years. If "adult" means everybody over 16, as it does in the version reported in the House, that means a lower rate than the country has ever had except in wartime. All of the Democratic presidential candidates have blessed the bill, although with varying degrees of enthusiasm. It is very likely to become a campaign issue. As we have observed before, the bill is a mixture of noble intentions and unworkable means to pursue them. In recent weeks we have published responses from both of the bill's authors, Sen. Hubert H. Humphrey (D–Minn.) and Rep. Augustus F. Hawkins (D–Calif.). Today we print on the opposite page an analysis by Charles L. Schultze, taken from his testimony before a Senate subcommittee. This testimony has had an unusual impact on the debate over the month since it was delivered, and it offers readers an opportunity to see for themselves what is involved here.

Dr. Schultze is altogether persuasive when he argues that this attempt to make the federal government the employer of last resort would prove, in practice, intolerably inflationary. He also warns that the country will not sustain employment policies that push the inflation rate sharply upward. After the past two years' experience, can anyone doubt that he is right? Ask yourself what you would have thought if someone had told you, in 1973, that the unemployment rate was going to rise to 8.9 per cent—and, as a result, the country would turn slightly to the right in its politics. It happened, of course, because of the fierce inflation rate that had preceded the recession and helped to cause it.

The central danger in this bill is that it offers the hope—a false hope, sadly—that one walloping goodhearted bill can eliminate permanently the plague of unemployment from American society. Nothing in this bill is more disquieting than the nature of the defense that the bill's architects offer. What if it turns out to cost a great deal more than they estimate? They reply that Congress could simply refuse to appropriate further funds. That escape does not sit square with the unqualified promise that the bill itself makes. In the House version, it declares the right of all Americans over 16 to opportunities for useful paid employment, and states that the President shall provide those opportunities if the private economy does not.

This country had a good deal of unhappy experience in the 1960s under the Johnson administration with ambitious social legislation that never kept its promises. There was the promise that poverty would be eliminated in 10 years. The 10 years are gone, but poverty is not. The Model Cities program was going to rebuild the American slums, but here in Washington the corridors of riot destruction are now growing their ninth annual crop of weeds. One of the great lessons of the 1960s was that simply legislating a goal does not guarantee success. Another great lesson was that if the country legislates goals and then abandons them, the effect is deeply harmful in the cynicism and distrust that it generates among those people who need help most.

The test of social legislation is not merely whether its intentions are pure and good. The test is also whether it seems likely to work effectively in practice. Dr. Schultze and others have also made a highly interesting proposal for agreements between labor and government to hold down wage increases but hold up workers' purchasing power when labor markets get tight. There are many other kinds of legislation that need to be explored—especially those focused where the unemployment is greatest, among young people and among blacks. Perhaps the time has come to begin experimenting with subsidized wages for inexperienced workers. It is important not to let the unemployment debate become polarized between the people who want an instant solution and the people who are prepared to tolerate a 6 per cent rate indefinitely. Congress cannot abolish unemployment by passing this one bill. But it has many more realistic alternatives to speed up the present painfully slow descent of the unemployment rate.

[From the Washington Post, June 7, 1976]

EMPLOYMENT AND INFLATION

(By Charles L. Schultze)

The Full Employment and Balanced Growth Act of 1976, S.50, addresses the most important domestic problem of this decade—high and persistent unemployment. The chief obstacle to overcoming that problem, both politically and economically, is inflation. I believe that S.50 does not sufficiently recognize that fact, and hence needs to be changed in a number of important respects. Moreover, the combination of the "employer-of-last-resort" provisions in this bill and the wage standards that go with it threatens to make the inflation problem worse. These sections, particularly, need extensive reworking.

The emphasis that S.50 puts upon the goal of full employment is, in my view, quite proper. We are a society in which not only economic rewards but status, dignity, and respect depend heavily on a person's place in the work force. The single most important contribution toward solving the major social problems of this generation—deteriorating inner cities, inequality among the races and between the sexes, high and still rising crime rates, poverty, insecurity, and hardship for a minority of our citizens—

would be a high level of employment and a tight labor market.

However valuable some of the federal government's manpower training and other social programs may be, they cannot hold a candle to the efficacy of a tight labor market. Necessity is the mother of invention. When 4 million business firms are scrambling for labor in a highly prosperous economy, it suddenly turns out that the unemployable become employable and the untrainable trainable; discrimination against blacks or women becomes unprofitable. In World War II, to choose a dramatic example, we pushed the unemployment rate below 2 per cent. And the result of that tight labor market was revolutionary. Black-white income differentials shrank faster than in any subsequent period; the income distribution became sharply more equal; employers scoured the back-country farm areas and turned poor and untrained sharecroppers into productive industrial workers, whose sons and daughters became the high school graduates of the 1950s and whose grandchildren will shortly begin to enter college in droves.

The importance that S.50 attaches to high employment, therefore, is not misplaced. The nation cannot afford over the next decade to settle for a relatively sluggish economy and a high unemployment rate.

What stands in the way of full employment?

The basic problem with achieving and maintaining full employment is not that we lack the economic tools to generate increased employment. The traditional weapons for stimulating economic activity—easy money, tax cuts, and government spending for worthwhile purposes—are perfectly capable of generating an increased demand for public and private goods and services, thereby inducing employers to hire more workers. Moreover, we do not need to have the government hire people directly on special programs of public service employment as a long run device to reduce unemployment. The real problem is that every time we push the rate of unemployment toward acceptably low levels, by whatever means, we set off a new inflation. And in turn, both the political and the economic consequences of inflation make it impossible to achieve full employment or, once having achieved it, to keep the economy there.

With unemployment now at 7.5 per cent, the problem is not an immediate one. A rapid recovery could continue for the next year and a half or so, pushing the unemployment rate down steadily, without setting off a new inflation. But experience in the postwar period to date strongly suggests that once the overall rate of unemployment edges below 5.5 per cent or so, and the rate of adult unemployment gets much below 4.5 per cent, inflation will begin to accelerate.

Inflation can occur for other reasons—as it did from crop shortages and oil price hikes in 1973. And inflation, once started, can persist stubbornly for a while even when unemployment has risen sharply. Despite these complications, it is still highly likely that pushing the adult unemployment rate to the 3 per cent target of S. 50 would generate substantial inflation in the absence of major new tools for inflation control.

There is, among economists, a division of opinion about whether the resultant inflation would be a high but steady rate or an ever-accelerating rate. If the latter view is correct, then keeping employment to the 3 per cent target would eventually become impossible, since no economy could stand an ever increasing rate of inflation. One of the reasons we do not know the answer to this controversy is that the political consequences of inflation have been such that the nation has never persisted in holding adult unemployment to 3 per cent for many years running.

I believe, therefore, that a realistic view of both the economics and the politics of inflation and unemployment lead to one central conclusion: The stumbling block to low unemployment is inflation; the supporter of a full employment policy must of necessity become a searcher for ways to reduce the inflation that accompanies full employment.

The central problem is that when the overall unemployment rate gets down into the neighborhood of 5 per cent, the job market for experienced prime age workers becomes very tight. There are many unfilled job vacancies and not many unemployed in this age group. The large number of younger unemployed workers do not move in to fill these vacancies. As a consequence, wages are bid up sharply and prices begin to rise, even though the overall unemployment rate is still high.

One approach to this problem lies in the whole panoply of job counseling, training and placement services for youth. Federal efforts in this direction should be continued and expanded. And a carefully structured public service program for youth could also contribute. (Strangely, the "employer-of-last-resort" program in S.50 is restricted to adult workers.) But in all honesty, the record of recent years does not warrant a confident hope that such programs can be the principal solution to the problem.

Sec. 206(d) of S.50 establishes a major new policy—the federal government is pledged to become the employer-of-last-resort for those who cannot find work elsewhere. Sec. 206(e) (4) provides that a person shall be eligible for an employment opportunity under this section if, among other things, he or she has not refused to accept a job that pays whichever is the *highest* of either the prevailing wage for that job or the wage paid in the government-created "employer-of-last-resort" job. In turn, Sec. 402 sets up a standard for wages in the "last-resort" jobs that is bound to be highly inflationary.

Under Sec. 402(c)(1), for example, the wage paid for a "last-resort" job in which a state or local government is the employing agent must be equal to that paid by the same government for people in the same occupation. But in states or cities with union agreements for municipal employees, and in many cases even without union agreements, the wage for a low-skill or semi-skilled municipal job is often higher than the wage paid for the same jobs in private industry. Given the provisions of Sec. 206(d), a person can turn down a private industry job and still be eligible for a "last-resort" job, so long as the latter pays more than the former, and in many cases it will. An unskilled laborer earning, say, $2.50 an hour in private industry can afford to quit, remain unemployed for four to six weeks (or whatever time might be needed to be eligible), then claim a "last-resort" job paying (on municipal wage scales) $3.50 to $4.50 an hour, and come out way ahead.

This would show up in heightened form in any "last-resort" jobs created in construction work, since Sec. 402 requires Davis-Bacon wages, which in practice are set at the construction union wage scale in the nearest large city.

It is clear that in any area where municipalities or non-profit institutions pay higher scales for relatively unskilled or semi-skilled labor than does private industry, the wage scales in private industry will quickly be driven up to the higher level. Otherwise there would be a steady drain of labor away from private industry into "last-resort" jobs. A new and much higher set of minimum wages would be created.

The direct and indirect effects of this on the inflationary problem would be extremely serious, once the bill was in full operation. Labor would become very scarce over a broad range of semi-skilled and unskilled jobs in private industry. Wage rates would rise sharply and prices would follow; the size of the government's job programs would grow rapidly, as workers left lower paying private jobs for the higher wages stipulated in Sec. 402.

Once you begin to ask how to correct this problem, the dilemma of any "government-as-employer-of-last-resort" provision becomes clear. When the unemployment rate is below 5 or 5.5 per cent, most unemployment is *not* long term. Among adult males, unemployment often consists of a period of four to eight weeks after a layoff before a new job is found. Among many teenagers unemployment in such times is not a steady thing, but a period between two relatively low paying jobs. What wages do you pay in the "last-resort" jobs? If you pay low enough wages so as not to attract many people from their existing jobs, you have a very unattractive program. Many private jobs are low-paying, and the only way to avoid attracting people from private industry is to set the "last-resort" wages very low indeed. But then, except in periods of high unemployment, when even very low paying jobs aren't available, who wants the program? If you set the wage somewhat higher—even if not absolutely high—it will still exceed the wages of many people with a current job in private industry. If so, it will begin to cause an exodus from private industry, and drive up wages and prices.

Special public service employment during periods of recession is a useful tool of counter-cyclical policy. Government-financed summer employment for school age youths makes sense. And, in good times, public service employment, paid at unemployment compensation rates, may be the most appropriate way to provide for that relatively small number who have exhausted their unemployment compensation. (This would, however, imply unequal pay for equal work.) But the concept of government as employer of last resort is not a workable method of pushing the overall unemployment rate down to very low levels.

I think that there would be merit in reorganizing the bill so that it jointly addressed the inflation and unemployment problems, and explicitly pointed in the direction of preventing the inflation acceleration that goes with low unemployment.

S. 3543

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Full Employment and Anti-Inflation Act of 1976".

STATEMENT OF FINDINGS

SEC. 2. (a) The Congress finds that the Nation has experienced recurrent periods of high unemployment and has experienced high rates of inflation. The Congress further finds that these two national problems are closely related and that this Nation has been unable to sustain high levels of employment in an environment of substantial inflation.

(b) The Congress further finds that Government programs and policies have significantly affected the rates of unemployment and inflation experienced by the Nation.

(c) The Congress further finds that the Congress has at no time determined as a matter of fact or of national policy—

(1) what level of employment (as a percent of the labor force) is attainable and sustainable in the long run within the context of the limitations and constraints imposed by the structure and dynamic nature of our mixed government—free enterprise economy; or

(2) what rate of inflation, if any, is either acceptable or unavoidable in conjunction with the determinations in the preceding paragraph.

(d) The Congress further finds that effective full employment and stable economic growth policies should be based on viable long run economic goals set by the Congress.

TITLE I—ESTABLISHMENT OF GOALS, PLANNING, AND GENERAL ECONOMIC POLICIES

STATEMENT OF PURPOSE

SEC. 101. It is the purpose of this title to declare the general policies of this Act, to provide for the development of long-range full employment and stable growth policies, to provide a process under which annual economic goals are proposed, reviewed, and established, to ensure that monetary, fiscal, anti-inflation, and general economic policies are consistent with achievement of the annual economic goals and support the goals and priorities of full employment and stable growth policies, and generally to supplement the purposes and policies of the Employment Act of 1946.

DECLARATION OF POLICY

SEC. 102. (a) Section 2 of the Employment Act of 1946 (15 U.S.C. 1021) is amended to read as follows:

"DECLARATION OF POLICY

"SEC. 2. (a) The Congress hereby declares that it is the continuing policy of the Federal government with the assistance and cooperation of workers, businesses, consumers, and State and local governments, to use all means consistent with free competitive enterprise, to create and maintain conditions which (1) promote productive and useful employment opportunities, including self-employment, for all those able, willing, and seeking to work, and (2) promote stable growth and purchasing power.

"(b) The Congress further declares that it is the policy of the Federal government to direct and coordinate its policies so as to achieve long-run economic and non-economic goals as are determined pursuant to this Act.

"(c) The Congress further declares that it is the policy of the Federal government in achieving the goals determined pursuant to this Act to rely to the maximum extent practicable on measures which encourage, enhance, and motivate employment opportunities in the private sector of the economy.

"(d) The Congress further declares that it is the policy of the Federal government that the Federal expenditures shall not exceed Federal revenues in any fiscal year, as set forth in the Concurrent Resolution on the Budget for that fiscal year, for which the average rate of employment anticipated in that year is within one-half of one percent of the national employment rate determined pursuant to this Act.

"(e) The Congress further declares that it is the policy of the Federal government to supplement general monetary and fiscal policies used in implementing the policy of the preceding subsection by (1) pursuing economy in government, (2) establishing a procedure for a zero-based review and evaluation of government programs, (3) the reform of government rules and regulations, (4) the correction of structural limitations in the economy that prevent or seriously impede competition in private markets, (5) free and stable economic relations with other Nations, and other measures as may be appropriate."

ECONOMIC GOALS OF CONGRESS

SEC. 103. (a) There is established a Joint Select Committee on Long-Run Economic Goals and Policies. The Select Committee shall be composed of the Chairman and ranking Minority member, or their designates, of the Committee on the Budget of the Senate and the House of Representatives, the Chairman and Vice Chairman and the ranking Minority members from the Senate and House of Representatives, or their designates, of the Joint Economic Committee, and the Chairman and ranking Minority member, or their designates, of the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

(b) The Select Committee shall—

(1) conduct a study of sustainable long-run economic goals, including—

(A) the viable and sustainable long-run levels of employment, as a percentage of the civilian labor force, together with consideration of costs and benefit associated with such levels and the role of public private employment in achieving and sustaining such levels of employment;

(B) sustainable long-run rates of inflation their relationship with other economic variables, and the costs and benefits associated with such rates of inflation; and

(C) sustainable long-run rates of real economic growth together with requisite levels of savings and investment in the economy and the attendant changes in living standards and the incidence of poverty (level and distribution of per capita income) and their relationship to other economic and non-economic variables;

(2) solicit the advice of workers, business, agriculture, consumers, State and local government, and the public at large, through hearings, analysis, opinions, and recommendations on programs and policies;

(3) report to the Congress, no later than one hundred and eighty days after the effective date of this Act, the findings of the study initiated under paragraph (1);

(4) submit to the Congress legislative recommendations which set forth such long-run economic goals as are deemed appropriate and advisable; and

(5) report to the Congress its findings and recommendations with regard to specific policies to achieve the long-run goals set forth in paragraph (3), which shall—

(A) incorporate, to the maximum extent possible, incentives for employment in the private sector of the economy;

(B) incorporate, to the maximum extent possible, automatic mechanisms to counteract economic fluctuations;

(C) incorporate, to the extent necessary, incentives for private savings and investment in the economy;

(D) incorporate, to the extent possible, incentives to increase the supply and restrain the price of goods and services which contribute significantly to inflation;

(E) include recommendations to eliminate unemployment which is the result of discrimination on the basis of race, color, national origin, sex, or age;

(F) include recommended responses to external or uncontrollable economic shocks to the economy;

(G) minimize to the extent possible the cost of such policies to the Federal government and to State and local governments;

(H) include recommendations, where appropriate, for the alternation or elimination of existing government programs; and

(I) include description and quantitative estimates, wherever practicable, of the costs incurred by Federal, State, and local governments and the costs and benefits to private individuals and to the economy.

(c)(1) The study required by paragraph (1) of subsection (b) shall be conducted with the assistance of the staffs of the Committees set forth in subsection (a) together with the Council of Economic Advisers and the Congressional Budget Office.

(2) Such recommendations shall be referred to the appropriate jurisdictional committee of the Congress. Such committees shall report no later than ninety days thereafter such legislation as is determined to be practicable and necessary for the implementation of the recommendations made by the Select Committee.

(d) Vacancies in the membership of the Select Committee shall not affect the power of the remaining members to execute the functions of the Select Committee, and shall be filled in the same manner as in the case of the original selection. The Select Committee shall select a chairman and a vice chairman from among its members.

(e) The Select Committee, or any duly authorized subcommittee thereof, is authorized to sit and act at such places and times during the sessions, recesses, and adjourned periods of Congress, to require by subpoena or otherwise the attendance of such witnesses and the production of such books, papers, and documents, to administer such oaths and affirmations, to take such testimony, to procure such printing and binding, and to make such expenditures, as it deems advisable. The Select Committee may make such rules respecting its organization and procedures as it deems necessary, except that no recommendation shall be reported from the Select Committee unless a majority of the Select Committee assent. Subpoenas may be issued over the signature of the chairman of the Select Committee, and may be served by such person or persons as may be designated by such chairman or member. The chairman of the Select Committee or any member thereof may administer oaths or affirmations to witnesses.

(f) The Select Committee is authorized—

(1) to appoint, on a permanent basis, without regard to political affiliation and solely on the basis of fitness to perform their duties, not more than six professional staff members and not more than six clerical staff members;

(2) to prescribe their duties and responsibilities;

(3) to fix their pay at respective per annum gross rates not in excess of the highest rate of basic pay, as in effect from time to time, of the General Schedule of section 5332(a) of title 5, United States Code; and

(4) to terminate their employment as the select committee may deem appropriate.

(g) To enable the Select Committee to exercise its powers, functions, and duties under this Act, there are authorized to be appropriated for each fiscal year such sums as may be necessary, to be disbursed by the Secretary of the Senate on vouchers signed by the chairman or vice chairman.

ECONOMIC GOALS AND ECONOMIC REPORT OF THE PRESIDENT

SEC. 104. Section 3 of the Employment Act of 1946 is amended to read as follows:

"ECONOMIC REPORT OF THE PRESIDENT

"SEC. 3. (a) The President shall transmit to the Congress not later than January 20 of each year an economic report (hereinafter called the 'Economic Report') setting forth for each year—

"(1) current and foreseeable trends in the levels of employment, production, and purchasing power and review and analysis of economic conditions affecting these economic trends in the United States;

"(2) annual numerical goals for employment, production, and purchasing power that are designed to achieve and sustain stable growth and full employment of the Nation's human and capital resources which are consistent with such long-run national economic goals as are established under this Act;

"(3) the programs and policies for carrying out the policy declared in section 2 of this Act, as well as the numerical economic goals for paragraph (2) of this subsection, together with such recommendations for legislation as the President deems necessary or desirable in order to implement such programs and policies;

"(4) the budgetary impact of such programs and policies in the short-run, for the fiscal year in which they are proposed and the four subsequent fiscal years; and

"(5) anti-inflation policies and recommendations, including, but not necessarily limited to—

"(A) recommendations and assumptions on the use of monetary policy in conjunction with fiscal policy appropriate to the achievement of the economic goals contained in the Economic Report;

"(B) programs and policies for increasing the supply of goods, services, labor, and capital in markets which are subject to exceptional inflationary influences;

"(C) encouragement to labor and management to increase productivity within the national framework of full employment through voluntary arrangements in industries and economic sectors; and

"(D) recommendations to strengthen and enforce the anti-trust laws and such other recommendations as are necessary to increase competition in the private sector.

"(b) The Chairman of the Federal Reserve Board shall submit a report in conjunction with the Economic Report which shall analyze the economic goals and policies contained in such Economic Report and the effect of such goals and policies on monetary policy.

"(c) Each appropriate committee of the Senate and of the House of Representatives shall—

"(1) in conjunction with its March 15 report to the Budget Committee, report its initial findings and recommendations with regard to the policies and legislation recommended in conjunction with the Economic Report; and

"(2) report its final actions and justification for such actions with regard to such policies and legislation no later than July 15."

REVIEW OF GOVERNMENT PROGRAMS

SEC. 105. (a) The Congress finds that there exists duplication and contradiction among government programs and policies. The Congress further finds that a particular lack of coordination and consistency among government programs intended to deal with cyclical, structural, and regional unemployment has prevented more productive utilization of the nation's labor and capital resources.

(b) It is the purpose of this section to bring about improved efficiency and economy in the Federal government, to bring about a reduction of government obstacles to more complete and productive utilization and allocation of our economy's resources, and to bring about more effective coordinated policies to increase employment.

(c) The Congress shall establish procedures for the effective oversight of all government programs and policies. Such oversight procedures shall include a comprehensive budget review of every government program not less than once in every four year period which shall consist of—

(1) a comprehensive estimate of all costs incurred by Federal, State, and local governments in conjunction with such programs or policies; and

(2) a comprehensive description and quantitative estimation, wherever practicable, of the costs and benefits to individuals and to the private sector of the economy of such programs and policies.

(d) The program contained within functional category 500 of the budget and policies affecting education, training, and employment shall receive first review under the procedures established pursuant to this Act. Each such review shall be completed and findings and specific recommendations shall be reported to Congress not later than one year after the effective date of this Act.

(e) Pursuant to section 205 of this Act, the programs contained within functional category 600 of the budget and the policies affecting the provisions of income assistance shall receive second reviews under the procedures established pursuant to this Act. Each such review shall be completed and findings and specific recommendations shall be reported to Congress not later than fifteen months after the effective date of this Act.

(f) The President shall include in each Economic Report recommendations for improving the efficiency and effectiveness of government programs and policies, including, but not limited to—

(1) educational, vocational, and employment programs and policies; and

(2) income assistance programs and policies.

(g) The procedures provided in subsection (c) of this section shall become effective not later than ninety days after the effective date of this Act.

TITLE II—COORDINATION OF FEDERAL, STATE AND LOCAL GOVERNMENT ACTIVITIES AFFECTING EMPLOYMENT

STATEMENT OF PURPOSE

SEC. 201. (a) It is the purpose of this section to direct the President to study particular causes of cyclical, structural, regional, and youth unemployment, to study the relationship and compatibility of employment programs, policies, and incentives with income support programs, and to report his findings and recommendations in order to assist the Congress in the modification and implementation of existing programs and policies and the formulation of new programs and policies to achieve the national economic goals determined pursuant to this Act.

(b) The reports and recommendations submitted to Congress pursuant to this title shall be submitted no later than ninety days after the effective date of this Act and shall be jointly referred to the Committees designated in this title and to the Committee on Finance in the Senate and the Committee on Ways and Means in the House of Representatives, where appropriate, and to any other Committee as may be appropriate. Such Committees shall report to Congress their actions and justifications for such actions no later than one hundred and eighty days thereafter.

FEDERAL COORDINATION REQUIREMENT

SEC. 202. (a) The Congress finds that there exists a significant lack of coordination and consistency among programs and policies affecting employment at the Federal, State, and local levels.

(b) In order to improve such coordination and consistency, the President shall submit to Congress recommendations with regard to existing and alternative policies and programs, including legislative proposals where appropriate, designed to—

(1) improve the coordination between the Federal government and State and local governments of programs and policies intended to increase employment and employment opportunities by means of education, training, job placement, employment incentives, and public employment; and

(2) strengthen the financial condition of State and local governments in time of recession in order to assure continued employment necessary to the uninterrupted provision of essential public services, including, but not be limited to consideration of—

(A) a program of automatically implemented countercyclical grants to State and local governments;

(B) a program of automatically implemented countercyclical loans to State and local governments; and

(C) changes in the financial responsibility for income support and public service programs among the Federal, State, and local governments.

(c) Recommendations submitted under this section shall be referred to the Select Committee on Long-Run Economic Goals and Policies and to the Committee on Government Operations of the Senate and of the House of Representatives.

REGIONAL EMPLOYMENT POLICIES

SEC. 203. (a) The Congress finds that there exists throughout the Nation regions and areas of consistently and exceptionally high unemployment.

(b) The President shall submit to Congress recommendations, designed to reduce the under-utilization of human and capital resources due to the geographical distribution and limited mobility of such resources within the country. Such recommendations shall be based on a study of the factors contributing to such distribution and mobility. Such study shall include consideration of—

(1) the effects of Federal government tax, expenditure, and employment programs and policies;

(2) the effects of State and local government policies and practices; and

(3) the effects of social and political factors.

(c) Recommendations submitted under this section shall include, but not be limited to—

(1) measures to correct Federal policies that have an adverse economic impact upon particular regions and areas;

(2) measures to encourage private sector production and employment to locate within depressed regions and areas, where appropriate; and

(3) measures to encourage and assist the relocation of people in areas of improved job opportunities, where appropriate.

(d) Recommendations submitted under this section shall be referred to the Select Committee on Long-Run Economic Goals and Policies and to the Committee on Labor and Public Welfare and the Committee on Public Works of the Senate and to the Committee on Education and Labor and the Committee on Public Works and Transportation of the House of Representatives.

STRUCTURAL EMPLOYMENT

SEC. 204. (a) The Congress finds that the persistent failure of the skills of the labor force to fully meet the needs of employers is a significant cause of structural unemployment. The Congress further finds that in a dynamic and free enterprise economy such skills and needs are subject to continuous change and that some structural unemployment associated with such changes is unavoidable. The Congress further finds that there has been insufficient coordination and design of policies and programs of the Federal government to minimize such unemployment.

(b) In order to minimize such structural unemployment, the President shall—

(1) direct the National Commission on Manpower Policy to develop five year projections of the age, sex, education, and skill characteristics of the labor force and of labor needs based on commercial and industrial growth projections;

(2) study and review the appropriateness and effectiveness of existing and alternative employment and training mechanisms and programs and other related programs and policies. In conducting such study and review, the President shall consider—

(A) the relationship between school and work and ways to more closely align the elementary, secondary, and vocational curricula with the job needs of the Nation; and

(B) the reallocation of government funds and incentives among existing or proposed programs for educational, vocational, on-the-job training, temporary wage subsidies to private employers, and other uses and programs.

(c) Recommendations submitted under this section on Long-Run Economic Goals and Policies shall be referred to the Select Committee and to the Committee on Labor and Public Welfare of the Senate and to the Committee on Education and Labor of the House of Representatives.

YOUTH EMPLOYMENT POLICIES

SEC. 205. (a) The Congress finds that—

(1) unemployment and underemployment among youths is inordinately high and is a major contributing factor to the Nation's overall unemployment rate;

(2) social and economic problems in both urban and rural areas of the Nation are related to the chronic high levels of unemployment among youths;

(3) these special youth unemployment problems, if not addressed by Federal, State, local and private sector economic policies, may lead to more serious unemployment problems in the long run, including dependency on public sources of economic support at great cost to Federal, State, and local governments; and

(4) a well coordinated youth jobs program focused on creating productive, rewarding, and potentially permanent jobs in the private sector could ameliorate many of the above problems associated with high youth unemployment.

(b) In order to reduce youth unemployment, the President shall transmit to Congress recommendations relating to youth employment which—

(1) utilize and alter, where appropriate, the resources and facilities of existing youth employment and training programs that are designed to provide job opportunities for youth; and

(2) provide policies to encourage employment of youth in rewarding and skill-creating jobs, with particular emphasis on private sector employment.

(c) In formulating such legislative proposals, the President shall consider, among possible alternatives, policies designed to—

(1) fully coordinate existing and proposed youth employment activities with other Federal, State, and local manpower programs;

(2) increase the emphasis of existing secondary education programs on creation of technical skills which will more readily enable high school graduates to find productive work;

(3) encourage a smoother transition from school to work through a more effective relationship between educational and employment institutions, such as businesses, employer associations, labor unions, and Federal, State and local governments;

(4) develop methods for combining training with work including apprenticeship and on-the-job training in the private sector;

(5) enable private business to employ youths in skill-creating jobs at reduced costs to such businesses through tax incentives or direct government subsidies; and

(6) provide temporary job opportunities to youths in public service employment at the State and local levels.

(d) Recommendations submitted under this section on Long-Run Economic Goals and Policies shall be referred to the Select Committee and to the Committee on Labor and Public Welfare of the Senate and to the Committee on Education and Labor of the House of Representatives.

INCOME MAINTENANCE AND FULL EMPLOYMENT

SEC. 206. (a) Congress finds that to achieve the long-run national economic goals, the integration of existing public and private income maintenance programs with full employment and stable growth policies is essential. Such integration should in a consistent manner provide for—

(1) adequate income maintenance among those who are unable to engage in full-time employment;

(2) maximum incentives to individuals for the substitution of employment for income maintenance; and

(3) maximum incentives to private employers for the employment of those individuals receiving income maintenance assistance.

(b) To assist the Congress in achieving such integration, the President shall submit to Congress recommendations for the improved integration and simplification, where appropriate, of income maintenance and employment policies. Such recommendations shall be based on a study analyzing the relationship of income maintenance needs, existing and alternative income maintenance programs, and employment incentives and full employment policies, and shall be designed in such a way as to insure that employment is substituted for income maintenance to the maximum extent possible.

(c) Such recommendations shall be referred to the Select Committee on Long-Run Economic Goals and Policies and to the Committee on Labor and Public Welfare and the Committee on Finance of the Senate and to the Committee on Education and Labor and the Committee on Ways and Means of the House of Representatives.

National Full Employment and Anti-Inflation Act of 1976

Major Provisions of the Dole-Scott bill are as follows:

Establishes a (joint) Select Committee to study and recommend within 180 days, long-range economic goals and policies. Select Committee membership drawn from Budget, Finance, Ways and Means, and Joint Economic Committees. (Sec. 103)

Economic goals to be considered include the rate of inflation and the federal budget, as well as the rate of unemployment. (Sec. 103)

Directs reliance to the maximum extent possible on measures which encourage, enhance, and motivate private sector employment in achieving full-employment goals. (Sec. 102, 103)

Mandates a balanced federal budget (or surpluses) whenever full employment is achieved. (Sec. 102)

Call for establishing, with 90 days, a Congressional process to review all federal programs to eliminate duplication and improve coordination, beginning with those affecting employment and training. (Sec. 105)

Requires review of government programs to include comprehensive estimate of the cost of federal programs to state and local governments. (Sec. 105)

Recommendations from the President on improved and more coordinated use of policies to reduce regional, structural, and youth unemployment. (Sec. 203, 204, 205)

Recommendations from the President on improved integration and consistency of employment and income support programs. (Sec. 206)

Recommendations from the President for alleviating recession-induced financial and employment problems of state and local governments. (Sec. 202)

Recommendations from the President on improved coordination of all federal, state, and local employment programs and policies. (Sec. 202)

Action on President's recommendations by the appropriate committees required. (Sec. 201)

President's yearly economic report and recommendations to be consistent with long-range economic goals. (Sec. 104)

Congressional Committees required to act within 90 days on employment and anti-inflation recommendations of the President, as contained in his Economic Report. (Sec. 104)

President's Economic Report to be accompanied by an ecomonic report from the Chairman of the Federal Reserve. (Sec. 104)

Humphrey-Hawkins Bill

The major provisions of the "Full Employment and Balanced Growth Act" are the following:

All adult Americans, 16 years or older, able and willing to work have the right to useful paid employment at fair rates of compensation. (Sec. 102)

Long-term full employment goal set at 3% adult unemployment to be achieved as soon as possible, but not later than four years. A long-range economic planning process will be established through the Council of Economic Advisors to analyze current economic conditions, to set long-range economic goals, and to propose programs to achieve such goals. (Sec. 104)

The President in each annual Economic Report must recommend *numerical* goals for employment, production, and purchasing power, and policies to achieve those goals. (Sec. 103)

Monetary (and fiscal policies) must accommodate full employment and balanced growth. Annual Report to Congress by Federal Reserve Board required. (Sec. 106)

Creates Full Employment Office in Department of Labor to provide employment opportunities for all adult Americans *either by assisting them in obtaining employment in the private sector or by creating employment projects.* (Sec. 206)

Full employment policies must provide quality jobs and eliminate substandard earnings. (Sec. 207)

The *President* is required to develop within 90 days a comprehensive plan to reduce high unemployment stemming from cyclical trends in the economy, create a permanent countercyclical grant program to assist state and local governments, and submit a comprehensive program to provide employment opportunities for youth. (Sec. 202, 203, 204)

The President must annually submit a plan to improve the efficiency and economy of the Federal government. This plan must include an annual assessment of 20% of the Federal budget. (Sec. 105)

The President's annual Economic Report must include a comprehensive list of anti-inflation policies. (Sec. 107)

A twelve-member private Advisory Committee will be established to assist in implementing this act. (Sec. 109)

The Joint Economic Committee will review the President's annual economic goals and report their recommendations to the Budget Committee. (Sec. 303)

Each Committee will report to the Joint Economic Committee on the President's long-range economic plan and policies. (Sec. 304)

Mr. RANDOLPH. Mr. President, will my colleague yield?

Mr. DOLE. Yes, I yield.

Mr. RANDOLPH. The Senator has discussed, and quite properly, the problems of public works and jobs for unemployed Americans. I hope that he will join with the membership of the Senate in a few days in the passage of the legislation agreed to last evening between the conferees of the Senate and the House on the Public Works Employment Act.

My able colleague will recall the difficulty that we had at an earlier period when, after the veto by the President of earlier legislation on this subject, the Senate, by three votes, could not override that veto.

My colleague will also remember that the ranking minority member of the Committee on Public Works, Senator BAKER of Tennessee, and I, spoke here in the Senate Chamber just a few minutes after that vote was taken. We said, in effect, that we would go back to the drafting board and hoped to bring the Senate a measure that we felt the President of the United States could sign into law.

That was done by the membership of the Committee on Public Works and the measure, S. 3201 passed this body by an overwhelming vote. Similar legislation, although different in amounts of money and some triggering procedures, passed in the House. Now the conference report has been agreed to and for the information of my colleagues, I want to say that the principal feature of the conference report legislation is $2 billion for local public works construction projects. The bill also authorizes an additional $700 million for construction of sewage treatment facilities. The compromise legislation provides $1.25 billion in revenue-sharing funds to be distributed on the basis of employment levels. The total amount is more than $2 billion below the vetoed bill.

This conference report is a sincere attempt to meet the President's objections to the earlier measure and yet provide a program that will place unemployed American workers—especially in the construction industry—in productive jobs. I believe that we have succeeded in both efforts and hope that members of the Senate will join in bringing this measure into law.

Mr. HUGH SCOTT. Mr. President, I join enthusiastically with the Senator from Kansas in introducing a bill which provides the Congress with a responsible way of addressing the long-run economic objectives of this Nation and of focusing on the persistent and related problems of unemployment and inflation. The full Employment and Anti-Inflation Act recognizes the need to look beyond the next fiscal year—to our future national economic goals and policies.

At the same time, it rejects extensive and cumbersome national planning, additional bureaucratic apparatus, and government job guarantees.

The Senator from Kansas has very capably described and elaborated on the proposal we introduce today. I would like to provide a few additional perspectives.

First, our bill strongly emphasizes permanent employment in the private sector of the economy as the solution to unemployment problems. In doing so, it recognizes that guaranteed Government jobs as a response to unemployment is no solution at all; such an approach contains the seeds of other, more serious problems. We do not at all preclude the possibility of direct Government involvement in providing employment opportunities, but it is clear to us that this involvement must serve only as a means to permanent private employment.

The role of Government jobs in economic recovery has undergone vigorous debate for years. Our bill does not prejudge this issue, and we will be very interested in the recommendations of the select committee on this question. It does, however, relegate a government jobs solution to a priority below job creation in a free market and requires that any permanent government jobs be paid for forthrightly—from tax revenues.

Second, our bill recognizes the difficulty of determining what this Nation's long-run economic goals should be. Several committees in each Chamber have responsibility for decisions that have a major affect on the economy. With regard to the pace of economic activity, tax laws may stimulate or restrain, general spending may inflate or deflate demands, and employment programs may encourage or discourage further employment gains.

The new budget process is designed to coordinate and reconcile these effects for each fiscal year as it comes along. But the Budget Committee's responsibility for long-run objectives is not clear. The existence of the budget process and the Budget Committees will not preclude serious and potentially damaging disagreement about when we have arrived at full employment, or where to avoid overstimulating the economy.

We are suggesting as the best way to head off this problem, a joint select committee drawn from the committees of most relevant jurisdiction. Based on a pooling of their expertise and perspectives, this group should be able to provide Congress with well-balanced recommendations on long-run goals and policies. We clearly reject resolution of this issue by pulling a single, arbitrary, one-dimensional number—such as 3 percent unemployment—out of the thin air. Our bill rejects buying an apparent solution to the recognized problems of 7 percent of our workers at the cost of creating serious problems of inflation for 93 percent of our workers—indeed, for 100 percent—of our people. Apparent winners under make-work would shortly become losers through double digit inflation.

I would, finally, stress the absence of any additional bureaucratic apparatus, or any specific new programs at this time. Congress has over the years been vitally concerned about employment problems. It has in good faith created programs to try to solve these problems. But it has failed to fully coordinate and to perfect these programs.

According to the most recent report of the Commission on Manpower Policy, even the most recent attempt to deal with unemployment—the Comprehensive Employment and Manpower Training Act—suffers from a serious lack of direction and coordination.

We have in place the institution to deal with the unemployment problem; we also have in existence most of the types of programs. What we lack is congressional coordination and action. The bill we introduced would provide what is lacking—expedient study and action. The select committee would be required to report to Congress within 180 days and the other committees to act within another 90 days.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. The time allotted to the Senator from Kansas has expired.

Mr. MANSFIELD. Mr. President, may I be recognized under the time allocated to the leadership through the courtesy of the Senate?

The ACTING PRESIDENT pro tempore. The Senator is recognized.

Mr. MANSFIELD. I yield 2 minutes to the distinguished Senator from West Virginia (Mr. RANDOLPH).

JAMES A. FARLEY

Mr. RANDOLPH. Mr. President, I appreciate the cooperation of the distinguished majority leader (Mr. MANSFIELD) in providing me with the opportunity to express a brief and heartfelt tribute to a friend. I refer to Jim Farley, my cherished friend of 44 years, who died peacefully in his apartment in the Waldorf Towers in New York City, yesterday. Our friendship which began in 1932 was strengthened in the intervening years and continued during his productive lifetime. Jim Farley was a very decent man. He was a very honorable man. He was a very respected man. I recall his many visits to our State of West Virginia.

He had a remarkable memory for names and faces. Franklin Roosevelt, in a sense, was the charmer and dynamic leader. Behind him and beside him was a gifted political leader who laid the groundwork and organized the successful campaigns for FDR in 1932 and 1936.

He chaired the Democratic National Committee and was the Postmaster General of our Republic. Even though he was a successful businessman, politics was ingrained into the very being of this man who possessed character and conviction. When he died, I feel an era in American political history died too.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. RANDOLPH. I yield.

Mr. MANSFIELD. I wish to join the distinguished Senator from West Virginia in what he had to say about James Farley. I did not know Mr. Farley at the beginning of the New Deal, as the distingnished Senator from West Virginia did, who happened to serve in the House at that time, but I join with him in expressing a sense of personal loss of a very great man, an excellent politician, and a man of dedication.

Mr. THURMOND. Mr. President, I associate myself with the remarks made by the able Senator from West Virginia concerning the late James A. Farley.

I had the pleasure of being a delegate to the 1932 Democratic Convention at which Mr. Roosevelt was nominated. Mr. Farley was active, he mad many friends, he organized a campaign, and he was an unusual political strategist.

As he went around the country for some time before that convention, he had a notebook in which he wrote down the names of people he felt would help in that campaign. He later told me it was one of the most valuable things he had ever done in politics.

He truly was a great politician, a great man, a great American, and our country has lost an outstanding citizen.

Mr. RANDOLPH. I thank my friend from South Carolina.

REVEREND ROBERT A. WELLS

Mr. CANNON. Mr. President, I am pleased to call the attention of this body to the invocation delivered this morning by the Reverend Robert A. Wells, of Reno, director of Missions for Southern Baptists in northern Nevada.

Reverend Wells has earned his reputation as our outstanding servant of his community. In addition to his present duties, he serves as minister-at-large for the churches in all of northern Nevada, which comprises half my State.

Reverend Wells is also a member of the Kiwanis with perfect attendance for over 25 years, joining soon after his college and seminary days were completed. He is currently serving as member of the Kiwanis Club of Reno—Mount Rose board of directors. For the past 7 years Reverend Wells has been assisting in the Junior Olympics for the northern Nevada area by presenting the opening prayer for these young people prior to their competition.

I am pleased to have my distinguished constituent serve as Senate Chaplain today.

I ask unanimous consent that a letter from the Kiwanis Club of Reno-Mount Rose to me be included at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

KIWANIS CLUB OF
RENO-MOUNT ROSE,
Reno, Nevada, May 28, 1976.

Senator HOWARD W. CANNON,
Senate Office Building,
Washington, D.C.

DEAR SENATOR CANNON: Our Board of Directors voted at their May meeting to write a letter for you to include in the Congressional Record on June 10th, 1976. This letter is about our own Rev. Robert A. Wells who is to open the Senate with prayer on that day.

Rev. Wells is a Kiwanian with over 25 years of perfect attendance. He is currently serving as a member of our Board of Directors. Our club sponsored the Registration 76—voter's registration campaign in April of this year and annually sponsors the Junior Olympics for the Northern Nevada area. This year more than 700 youths participated with a record number of track records being broken. One past participant in these Junior Olympic events is a strong contender for the International Olympics this summer. For the past seven years Rev. Wells has been assisting these events by presenting the opening prayer for these young people to give their best.

The Reno Mt. Rose Kiwanis Club would like to commend Senator Howard W. Cannon for nominating Rev. Robert A. Wells, Director of Missions for Southern Baptists in Northern Nevada and the Lake Tahoe Area of California. He has helped to make ours a club that truly serves in our community. We consider it an honor to our club to have him in the United States Senate on this day, June 10th, 1976.

Sincerely,

JON E. MADSEN,
President.

AUTHORIZATION FOR COMMITTEE ON FINANCE TO FILE REPORT BY END OF SESSION TODAY

Mr. LONG. Mr. President, I ask unanimous consent that the Committee on Finance be permitted to file a committee report before the close of the session today.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

DESTRUCTION OF CERTAIN RECORDS BY THE CENTRAL INTELLIGENCE AGENCY

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD a series of letters relative to the destruction of certain records by the Central Intelligence Agency.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

CENTRAL INTELLIGENCE AGENCY,
Washington, D.C., June 2, 1976.

Hon. MIKE MANSFIELD,
U.S. Senate, Office of the Majority Leader,
Washington, D.C.

DEAR SENATOR MANSFIELD: On 27 January 1975, following adoption of S. Res. 21 creating the Select Committee on Intelligence, you and Senator Hugh Scott requested that the Central Intelligence Agency "not destroy, remove from [its] possession or control, or otherwise dispose or permit the disposal of any records or documents which might have a bearing on the subjects under investigation, including but not limited to all records or documents pertaining in any way to the matters set out in section 2 of S. Res. 21."

In response to this request, the Agency placed in effect a complete moratorium on the destruction of records, including normal administrative records scheduled for routine destruction.

The purpose of this letter is to advise you that it is our intention to proceed with destruction of records, now that the Select Committee has completed its investigation and issued its final report. We have so advised Senator Church.

Along with the backlog of routine administrative records, the Agency will destroy records which were collected and maintained by the Agency and which were subject to investigation by the Rockefeller Commission and the Select Committee. The Agency is required to destroy much of this latter material by the Privacy Act of 1974 (P.L. 93-579) and by Executive Order 11905. Of course, all records destruction will be fully consistent with other applicable laws, Presidential directives, and the requirements of pending litigation and Justice Department investigations.

I trust you agree that this action is now necessary and appropriate, and I would appreciate your confirmation of this understanding.

I am sending a duplicate of this letter to Senator Hugh Scott.

Sincerely,

GEORGE BUSH,
Director.

OFFICE OF THE MAJORITY LEADER,
Washington, D.C., June 7, 1976.

Hon. DANIEL K. INOUYE,
Chairman, Select Committee on Intelligence,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: We have received a letter from the Honorable George Bush, Director of the Central Intelligence Agency, relative to the destruction of papers and material which he has held for sometime relative to our request. Our action was taken to facilitate the inquiry being undertaken by your predecessor commitee under the chairmanship of Senator Frank Church.

In view of the fact, as we assume, that all of Senator Church's committee records have been turned over to your permanent Select Committee, we would appreciate your advising us as to whether or not you want our original letter to stand and the papers and other materials to still be held. Could you give us the judgment of you and your Committee on this matter?

With best wishes, we are

MIKE MANSFIELD,
Majority Leader.
HUGH SCOTT,
Republican Leader.

SELECT COMMITTEE ON INTELLIGENCE,
Washington, D.C., June 8, 1976.

Hon. MIKE MANSFIELD,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MANSFIELD: I have received your letter of June 7, 1976, concerning the destruction of records held by the intelligence agencies pursuant to your letter of January 1975.

The Select Committee on Intelligence will discuss this matter at its next meeting on Wednesday, June 9, which you are invited to attend. I will report the views of the Committee following the conclusion of that meeting.

With kind regards.

Aloha,

DANIEL K. INOUYE,
Chairman.

SELECT COMMITTEE ON INTELLIGENCE,
Washington, D.C., June 9, 1976.

Hon. MIKE MANSFIELD,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MANSFIELD: The Select Committee on Intelligence met today to consider, as you requested, the question of destruction of certain records by the intelligence agencies of the U.S. Government and to make recommendations for action. The Committee is unanimously of the opinion that there should be a moratorium on the destruction of these records for approximately six months and that notice should be given of the moratorium on destruction so that those who may wish to take legal or other action may do so.

It is further the recommendation of the Committee that the CIA and other intelligence agencies should submit an inventory of the records to be destroyed to the Select Committee, and that the Select Committee staff should review documents intended to be destroyed.

With kind regards,

Aloha,

DANIEL K. INOUYE,
Chairman.

(This same letter to Senator Hugh Scott.)

OFFICE OF THE MAJORITY LEADER,
Washington, D.C., June 10, 1976.

Hon. GEORGE BUSH,
Director, Central Intelligence Agency, Washington, D.C.

DEAR MR. DIRECTOR: With reference to your letter of June 2, we took up the substance of your communication with the Honorable Daniel K. Inouye, Chairman of the Select Committee on Intelligence, United States Senate, and received from him a reply under date of June 9, 1976, which we enclose along with copies of our letter to Chairman Inouye under date of June 7 and his reply to us under date of June 8.

We concur wholeheartedly in the decision of the Committee that "there should be a moratorium on the destruction of these records for approximately six months and that notice should be given of the moratorium on destruction so that those who may wish to take legal or other action may do so."

As ex officio members of the Select Committee on Intelligence, we approve fully of the Committee's recommendation "that the CIA and other intelligence agencies should submit an inventory of the records to be destroyed to the Select Committee, and that the Select Committee staff should review documents intended to be destroyed."

With best personal wishes and our highest regards, we are

Sincerely,

HUGH SCOTT,
Republican Leader.
MIKE MANSFIELD,
Majority Leader.

Mr. MANSFIELD. I yield back the remainder of my time.

THE ANTITRUST IMPROVEMENTS ACT OF 1976

The ACTING PRESIDENT pro tempore. The Senate will now resume consideration of H.R. 8532, which the clerk will state.

The legislative clerk read as follows:

A bill (H.R. 8532) to amend the Clayton Act to permit State attorneys general to bring certain antitrust actions, and for other purposes.

The Senate resumed consideration of the bill.

Mr. MORGAN. Mr. President, I ask unanimous consent that Mr. Herb Jolovitz of Senator LEAHY's staff be allowed the privileges of the floor during the consideration and vote on this bill and all amendments thereto.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AMENDMENT NO. 1752

Mr. ALLEN. Mr. President, I call up my amendment 1752.

The ACTING PRESIDENT pro tempore. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Alabama (Mr. ALLEN) proposes amendment No. 1752:

Strike all of title IV starting with page 27, line 7, through page 32, line 18.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment of the Senator from Alabama.

Mr. MORGAN. Mr. President, as I recall, this amendment has been considered before. Mr. President, parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator will state his inquiry.

Mr. MORGAN. Was not this same amendment considered yesterday and tabled?

The ACTING PRESIDENT pro tempore. Not according to the record of the legislative clerk, I am advised.

Mr. MORGAN. Mr. President, parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator will state it.

Mr. MORGAN. Was not the amendment or one substantially like it considered and defeated yesterday? My records indicate that it was.

Mr. ALLEN. Mr. President, this amendment has never come before the Senate.

The ACTING PRESIDENT pro tempore. This amendment in this form is identical to an amendment that was tabled on yesterday, so the amendment is not in order.

Mr. MORGAN. Is not in order?

The ACTING PRESIDENT pro tempore. That is correct.

The bill is now open for further amendment.

QUORUM CALL

Mr. ALLEN. I suggest the absence of a quorum, the first time I have done that in 2 weeks.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk called the roll and the following Senators answered to their names:

[Quorum No. 19 Leg.]

Allen
Byrd, Robert C.
Dole
Fannin
Haskell
Helms
Hruska
Javits
Leahy
Mansfield
Montoya
Morgan
Moss
Percy
Randolph
Ribicoff
Scott, Hugh
Taft
Thurmond

The ACTING PRESIDENT pro tempore. A quorum is not present.

Mr. ROBERT C. BYRD. Mr. President, I move that the Sergeant at Arms be instructed to request the attendance of absent Senators.

The motion was agreed to.

The ACTING PRESIDENT pro tempore. The Sergeant at Arms will execute the order of the Senate.

Pending the execution of the order, the following Senators entered the Chamber and answered to their names:

Ford
Garn
Humphrey
McGovern
Sparkman
Stennis
Talmadge
Young

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. BUMPERS), the Senator from Idaho (Mr. CHURCH), the Senator from Michigan (Mr. PHILIP A. HART), the Senator from Hawaii (Mr. INOUYE), the Senator from Louisiana (Mr. LONG), the Senator from Rhode Island (Mr. PASTORE), the Senator from Missouri (Mr. SYMINGTON), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I also announce that the Senator from Indiana (Mr. BAYH) is absent because of illness.

Mr. HUGH SCOTT. I announce that the Senator from New York (Mr. BUCKLEY), the Senator from New Jersey, Mr. CASE), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from Nevada (Mr. LAXALT), the Senator from Maryland (Mr. MATHIAS), the Senator from Virginia (Mr. WILLIAM L. SCOTT), the Senator from Vermont (Mr. STAFFORD), the Senator from Alaska (Mr. STEVENS), and the Senator from Connecticut Mr. WEICKER) are necessarily absent.

Mr. ROBERT C. BYRD. Mr. President, I move that the Sergeant at Arms be directed to compel the attendance of absent Senators.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from West Virginia. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. BUMPERS), the Senator from Florida (Mr. CHILES), the Senator from Idaho (Mr. CHURCH), the Senator from New Hampshire (Mr. DURKIN), the Senator from Missouri (Mr. EAGLETON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Alaska (Mr. GRAVEL), the Senator from Michigan (Mr. HART), the Senator from Indiana (Mr. HARTKE), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Hawaii (Mr. INOUYE), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Louisiana (Mr. LONG), the Senator from Washington (Mr. MAGNUSON), the Senator from Missouri (Mr. SYMINGTON), the Senator from New Hampshire (Mr. McINTYRE), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Georgia (Mr. NUNN), the Senator from Rhode Island (Mr. PASTORE), the Senator from Illinois (Mr. STEVENSON), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I also announce that the Senator from Indiana (Mr. BAYH) is absent because of illness.

Mr. HUGH SCOTT. I announce that the Senator from New York (Mr. BUCKLEY), the Senator from New Jersey (Mr. CASE), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from New York (Mr. JAVITS), the Senator from Nevada (Mr. LAXALT), the Senator from Maryland (Mr. MATHIAS), the Senator from Virginia (Mr. WILLIAM L. SCOTT), the Senator from Vermont (Mr. STAFFORD), the Senator from Alaska (Mr. STEVENS), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

The result was announced—yeas 65, nays 1, as follows:

[Rollcall Vote No. 265 Leg.]

YEAS—65

Abourezk
Allen
Baker
Bartlett
Beall
Bellmon
Bentsen
Biden
Brock
Brooke
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Clark
Cranston
Culver
Curtis
Dole
Domenici
Fannin
Fong
Ford
Garn
Glenn
Hansen
Hart, Gary
Haskell
Hatfield
Hathaway
Helms
Hruska
Huddleston
Humphrey
Jackson
Kennedy
Leahy
Mansfield
McClellan
McClure
McGee
McGovern
Morgan
Moss
Muskie
Nelson
Packwood
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Sparkman
Stennis
Stone
Taft
Talmadge
Thurmond
Tower
Williams
Young

NAYS—1

Metcalf

NOT VOTING—34

Bayh
Buckley
Bumpers
Case
Chiles
Church
Durkin
Eagleton
Eastland
Goldwater
Gravel
Griffin
Hart, Philip A.
Hartke
Hollings
Inouye
Javits
Johnston
Laxalt
Long
Magnuson
Mathias
McIntyre
Mondale
Montoya
Nunn
Pastore
Scott, William L.
Stafford
Stevens
Stevenson
Symington
Tunney
Weicker

So the motion was agreed to.

The PRESIDING OFFICER (Mr. HUDDLESTON). A quorum is present.

COMMITTEE MEETINGS

Mr. MANSFIELD. Mr. President, I indicated on Monday last on behalf of the joint leadership and on yesterday on my own behalf that I would object to committee meetings henceforth except under the most extraordinary circumstances.

It is my understanding that the Subcommittee on Agricultural Credit and Rural Electrification is having a scheduled hearing for today with witnesses from five States who are on hand and that the Committee on Interior and Insular Affairs will hold oversight hearings on implementation of the Alaska Native Land Claims Settlement Act, and a number of Alaskans, Indian Aleuts, and others, have come to the city, to the Capitol for the purpose of testifying.

Mr. President, I ask unanimous consent that those two committees may have permission to meet until no later than 12 o'clock noon today.

The PRESIDING OFFICER. Is there objection?

Mr. ALLEN. Mr. President, reserving the right to object, and I shall not object, I ask the majority leader if the exception is going to be the rule or is the majority leader going to really limit the committees to meet?

Mr. MANSFIELD. The majority leader will do his best to limit committee meetings and object to them except, as I have indicated, twice this week under the most extraordinary circumstances.

Mr. ALLEN. I have no objection.

Mr. MANSFIELD. And I tried to give the Senate 2 days' notice as to what the intent of the joint leadership was. I think these are extraordinary circumstances.

Mr. ALLEN. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE ANTITRUST IMPROVEMENTS ACT OF 1976

AMENDMENT NO. 1755

Mr. ALLEN. Mr. President, I call up my amendment No. 1755.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

> The Senator from Alabama (Mr. ALLEN) proposes amendment No. 1755.

The amendment is as follows:

> Strike all of title II starting on page 3, line 4, through page 20.

The PRESIDING OFFICER. Who yields time?

Mr. ALLEN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. ABOUREZK. Mr. President, I move to lay on the table that amendment, and I ask for the yeas and nays.

Mr. ALLEN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered on the motion to lay on the table.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. BUMPERS), the Senator from Idaho (Mr. CHURCH), the Senator from Colorado (Mr. GARY HART), the Senator from Michigan (Mr. PHILIP A. HART), the Senator from Indiana (Mr. HARTKE), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Hawaii (Mr. INOUYE), the Senator from Louisiana (Mr. LONG), the Senator from Washington (Mr. MAGNUSON), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Minnesota (Mr. MONDALE), the Senator from Rhode Island (Mr. PASTORE), the Senator from Mississippi (Mr. STENNIS), the Senator from California (Mr. TUNNEY), and the Senator from Missouri (Mr. SYMINGTON) are necessarily absent.

I also announce that the Senator from Indiana (Mr. BAYH), is absent because of illness.

I further announce that, if present and voting, the Senator from Indiana (Mr. BAYH), the Senator from Indiana (Mr. HARTKE), the Senator from Rhode Island (Mr. PASTORE), the Senator from Minnesota (Mr. HUMPHREY), and the Senator from Washington (Mr. MAGNUSON) would each vote "yea."

Mr. HUGH SCOTT. I announce that the Senator from New York (Mr. BUCKLEY), the Senator from New Jersey (Mr. CASE), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from Nevada (Mr. LAXALT), the Senator from Maryland (Mr. MATHIAS), the Senator from Virginia (Mr. WILLIAM L. SCOTT), the Senator from Ohio (Mr. TAFT), and the Senator from Connecticut (Mr. WEICKER), are necessarily absent.

The result was announced—yeas 51, nays 24, as follows:

[Rollcall Vote No. 266 Leg.]

YEAS—51

Abourezk
Baker
Beall
Biden
Brock
Brooke
Burdick
Byrd, Robert C.
Cannon
Chiles
Clark
Cranston
Culver
Durkin
Eagleton
Fong
Ford
Glenn
Gravel
Haskell
Hatfield
Hathaway
Huddleston
Jackson
Javits
Johnston
Kennedy
Leahy
Mansfield
McGee
McGovern
Montoya
Morgan
Moss
Muskie
Nelson
Nunn
Packwood
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Schweiker
Scott, Hugh
Stafford
Stevens
Stevenson
Williams
Young

NAYS—24

Allen
Bartlett
Bellmon
Bentsen
Byrd, Harry F., Jr.
Curtis
Dole
Domenici
Eastland
Fannin
Garn
Hansen
Helms
Hollings
Hruska
McClellan
McClure
Metcalf
Roth
Sparkman
Stone
Talmadge
Thurmond
Tower

NOT VOTING—25

Bayh
Buckley
Bumpers
Case
Church
Goldwater
Griffin
Hart, Gary
Hart, Philip A.
Hartke
Humphrey
Inouye
Laxalt
Long
Magnuson
Mathias
McIntyre
Mondale
Pastore
Scott, William L.
Stennis
Symington
Taft
Tunney
Weicker

So the motion to table Mr. ALLEN's amendment (No. 1755) was agreed to.

The PRESIDING OFFICER. The question now recurs on the amendment No. 1701.

Mr. TOWER. Mr. President, I ask unanimous consent that I may yield to the Senator from Connecticut (Mr. RIBICOFF) for 30 seconds, without losing my right to the floor, for a unanimous-consent request.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXTENSION OF TIME FOR FILING COMMITTEE REPORT ON S. 2715

Mr. RIBICOFF. Mr. President, I ask unanimous consent that the Committee on Government Operations have an additional 15 days to report back on S. 2715.

The PRESIDING OFFICER. Without objection, it is ordered.

THE ANTITRUST IMPROVEMENTS ACT OF 1976

Mr. TOWER. Mr. President, I rise in defense of the secrecy of grand jury proceedings. Such secrecy is vital to the administration of criminal justice in this country. It is also necessary to the civil enforcement of the laws, since so many Federal civil actions begin with information discovered in grand jury proceedings. Yet the bill before us will toss away this essential element—and for no purpose other than to give ready-made suits to lawyers who go to sleep dreaming of no-work contingency fees.

I. S. 1284 DANGEROUSLY EXPOSES GRAND JURY TESTIMONY

I am talking about section 202(1) of S. 1284. It reads, in relevant part:

> Any person that institutes an action under this act may, . . . after completion of *any* civil or criminal proceeding instituted by the United States . . . inspect and copy any documentary material produced in and the transcript of such grand jury proceeding concerning the subject matter of such person's civil action.

In other words, after the United States does all the work to prepare for a suit and brings it, any lawyer can dig up a client and have free access through all and any grand jury proceedings in order to bring a suit of his own. He gets to know who said what about whom—it becomes a matter of public record that John Doe gave the information which sent someone to jail or cost him a fortune in damages. What is the benefit to be gained from such exposure? The majority report passes it off pretty lightly in its two sentence evaluation:

> Section 202 is a determination that the reasons for grand jury secrecy are generally no longer relevant after the Department has completed the criminal or civil proceedings which arose out of the grand jury investigation. It is contrary to the efficient and economic administration of justice to require private plaintiffs to expend time and effort in developing facts which have already been developed before the grand jury.

I submit that saving money on discovery is not a valid basis for exposing grand jury witness testimony to the world. Such exposure will inevitably lead to one of two results: The witness with a lawyer will know to say as little as possible, crippling the effectiveness of grand jury investigation. The poor fellow without a lawyer who walks in believing that grand jury testimony is really secret and tells all will find himself open to whatever sort of retaliation someone who has been sent to jail might devise.

II. THE HISTORY AND CURRENT STATUTE ON GRAND JURY PROCEEDINGS MANDATE SECRECY

The bill trifles lightly with a practice first instituted in 1368 when "Le Graunde Inquest"—the English body which lodged criminal charges—adopted the custom of hearing witnesses in private. At first all proceedings, from the investigation to the deliberation, were held completely in private. In the last 75 years or so, the prosecutor has been allowed to partake in the investigatory phase of the grand jury's proceedings. At no time has anyone else had any right of access to the testimony given to the grand jury or to its deliberations. This concern with grand jury secrecy is now embodied in the Federal Rules of Criminal Procedure. The provision reads, in relevant part:

> (e) Secrecy of Proceedings and Disclosure. Disclosure of matters occurring before the grand jury other than its deliberations and the vote of any juror may be made to the attorneys for the government for use in the performance of their duties. Otherwise a juror, attorney, interpreter, stenographer, operator of a recording device, or any typist who transcribes recorded testimony may disclose matters occurring before the grand jury only when so directed by the court preliminarily to or in connection with a judicial proceeding or when permitted by the court at the request of the defendant upon a showing that grounds may exist for a motion to dismiss the indictment because of matters occurring before the grand jury.

This rule is then reflected in Rule 34 of the Federal Rules of Civil Procedure, which bars the civil discovery of any privileged information, including grand jury testimony.

III. THE CONCERN FOR RETALIATION

A. THE SUPREME COURT HAS EXPRESSED FEARS ABOUT THE RELEASE OF GRAND JURY TESTIMONY

This concern for secrecy is a virtual turning point in the law. It is based on the very real fear of retaliation against grand jury witnesses. And, the courts have not had any trouble in protecting the grand jury process when the only purpose behind exposing witnesses is to make things cheaper for future plaintiffs. In Proctor and Gamble against United States, the Government had drawn a grand jury to investigate potential violations of Sherman Act sections 1 and 2. As in cases envisioned under the new act, the Government used the investigation as the basis for a civil suit. The defendants in that civil suit wanted to inspect the grand jury materials on which the Government based its suit. Now defendants certainly have a greater interest in where the Government is getting its information than do the plaintiffs envisioned in the current act. Yet the Supreme Court said "no." Its reasoning encapsules my opposition to the bill before us.

> On the merits we have concluded that "good cause," as used in Rule 34, was not established. The Government as a litigant is, of course, subject to the rules of discovery. At the same time, we start with a long-established policy that maintains the secrecy of the grand jury proceedings in the federal courts. The reasons are varied. One is to encourage all witnesses to step forward and testify freely without fear of retaliation. The witnesses in antitrust suits may be employees or even officers of potential defendants, or their customers, their competitors, their suppliers. The grand jury as a public institution serving the community might suffer if those testifying today knew that the secrecy of their testimony would be lifted tomorrow. This "indispensable secrecy of grand jury proceedings," . . . must not be broken except where there is a compelling necessity. There are instances when that need will outweigh the countervailing policy. But they must be shown with particularity.
>
> No such showing was made here. The relevancy and usefulness of the testimony sought were, of course, sufficiently established. If the grand jury transcript were made available, discovery through depositions, which might involve delay and substantial costs, would be avoided. Yet these showings fall short of proof that without the transcript a defense would be greatly prejudiced or that without reference to it an injustice would be done.

The Supreme Court is here reflecting a concern for retaliation that stretches back to the first times in which release of a grand jury transcript was requested. It is not surprising that the courts—or anyone concerned with the way the criminal justice system runs—would think about the problem of retaliation and come up with a strict test. And perhaps what disturbs me most about what the majority report is trying to do here is that rather than come out and say that they are changing the law, the authors claim that liberal disclosure of grand jury testimony already is the law. It is not—and the cases they cite do not support their proposition. Courts do not allow disclosure merely to avoid the cost of discovery.

B. THE MAJORITY REPORT MISREPRESENTS THE STATE OF THE LAW ON GRAND JURY SECRECY

The report mentions six cases in its discussion of what it sees as current trends in the law. The relevance of two of them escape me. In both, in re Cement-Concrete Block Chicago Area Grand Jury Proceedings, and U.S. Industries, Inc., against U.S. District Court for the Southern District of California, the defendant corporate employers had already inspected the grand jury transcripts. Thus, there was not much more harm that could be done to witnesses when others asked to see testimony given by employees. The employers would be the ones most likely to retaliate.

The analysis by the court in the Cement case is somewhat at variance with the "trend" that the committee portrays it as representing:

> The only remaining basis for requiring the continued secrecy of the grand jury transcripts is the fourth, the need to encourage witnesses to testify without the fear of retaliation.
>
> This reason has special relevancy in antitrust suits where witnesses are often employees or even officers of potential defendants. That factor, however, has been partially vitiated because the respondents previously inspected the grand jury transcripts of their employees during the course of the prior criminal proceedings. Any danger of recriminations by these employers would have been effected by the initial disclosure of the same material. There remains, of course, the possibility of retaliation from sources other than the witnesses' employers. This court is of the opinion that this danger may be obviated by limiting the disclosure to the attorneys of record in *State of Illinois v. Ampress Brick Company, Inc.* for use in that litigation only for the purposes of impeachment, refreshing the witness' recollection and testing credibility.

In two other cases that the report cites, Atlantic City Electric Co. against A. B. Chance Co., and in Consolidated Edison Co. of New York against Allis-Chalmers Mfg. Co., the testimony was only made available after the litigants had attempted their own discovery, but where witnesses could not remember facts which were important in the new case and had been covered in the old, or where there were significant discrepancies between the new and the old testimony.

Finally, the two cases they cite that I like best are United States against Amazon Industrial Chemical Corp., and Washington against American Pipe & Construction Co. These two cases talk about the release of data to third parties—but when you get to the bottom line neither of them allow it. In Amazon, a 1931 case, there is talk about the reasons for grand jury secrecy—but the case only involved the propriety of having a stenographer in the room to make a transcript for the prosecutor, a dead issue ever since that time. In American Pipe, the Federal attorneys who handled a Federal grand jury merely suggested deposition questions to the State attorneys who were the plaintiffs in a new suit.

C. IN REALITY THE COURTS HAVE UNANIMOUSLY REJECTED EXPOSURE OF GRAND JURY TRANSCRIPTS WHEN ONLY TO SAVE THE COST OF DISCOVERY

So what is the law? As the Supreme Court has ruled, and as has been repeated over and over, when a request for disclosure is only for the purpose of avoiding the cost of discovery, it must be turned down. Let me read what courts from all over the country have said: In a recent Northern District of Illinois case, Corona Construction Co. against Ampress Brick Co., the private plaintiffs wanted all the documents that the Antitrust Division had gathered through a grand jury in its criminal investigation against the same defendants. The Court unequivocally said no:

> It is important to the proper disposition of the instant motions to understand the traditional secrecy of the grand jury and its evidence. In this country as in our English heritage the grand jury acts in secret. From earliest times it has been the policy of the law to shield the proceedings of grand juries from public scrutiny. While the grand jury is, in a sense, a part of our court system, when exercising its traditional functions it possesses an independence which is unique. Its authority is derived from none of the three basic divisions of our government, but rather from the people themselves.
>
> With the grand jury came its time-honored policy of secrecy. With the exception of a clear demonstration by a party of a most compelling particularized need, nothing in the history of the grand jury appears to justify the piercing of this veil of secrecy by third persons for the purposes of a civil proceeding. The idea that information obtained from the perusal of material in the possession of a grand jury may be used for the purposes of a civil proceeding is in direct conflict with the policy of secrecy of grand jury proceedings. The grand jury as a public institution serving the community might well suffer if those testifying or submitting documents today knew that the secrecy of their testimony or evidence would be lifted tomorrow.

The Court then went on to say:

> In passing, this Court will note that it is questionable whether the plaintiffs have met their burden of demonstrating a sufficient "particularized need" to merit disclosure of grand jury information. Mere savings of a monetary burden will not suffice to bring the Court's discretion into play under Rule 6(e) of the Federal Rules of Criminal Procedure or Local Criminal Rule 1.04(e).

Now, the court was not just giving its opinion. It cited during the above discussion eight Supreme Court opinions, Blackstone, Pollock, and Maitland's History of English Law, and Holdsworth's History of English Law. And, if there is that much authority it is because it is one of the most commonsense ideas that people do not like to give information when the subject of it will be put in a lot of trouble and will know who gave it. And there is no legal mechanism in the world which will force people to talk if they know that they will be vulnerable to some illegal forms of retaliation.

Let me note a couple of other cases rejecting this idea that saving the plaintiff money is a good reason to abolish grand jury privacy. In the northern district of California, in Hancock Brothers against Jones, the Government had conducted a grand jury investigation of defendants and brought criminal charges. The defendants had pleaded nolo contendere and their sentencing reports contained information from the grand jury proceedings. Now some new plaintiffs wanted to get hold of these reports. Again, without surprise, the court said no:

> Only if a compelling necessity has been shown with particularity would disclosure be proper. *United States* v. *Proctor & Gamble Co.* Cases allowing disclosure illustrate circumstances under which there is a compelling need to overcome the policy of grand jury secrecy. . . . The need for disclosure becomes particularly important when a defendant is seeking access to grand jury information in connection with a criminal prosecution against him.
>
> No compelling necessity for disclosure has been made apparent to the Court in this case. The only reasons for disclosure advanced by the plaintiffs here are the avoidance of expense and additional work, in order to recoup alleged financial losses in civil actions. This advantageous use of discovery procedures exists in every civil suit that follows a decree in favor of the government based on violation of the antitrust laws. Mere convenience is not enough to encroach upon the secrecy of grand jury proceedings.

In Minnesota against United States Steel Co., four States attempted to avoid the cost of discovery by inspecting Federal grand jury data in a case brought by the United States against the same defendants. This request was, naturally, rejected by the district court for Minnesota:

> Defendants represent to the court that they have neither had nor do they have access to the information sought. Some of what defendants know of the grand jury proceeding was gleaned from government summaries of certain grand jury testimony with the witnesses' names deleted by the court. These summaries were made in conjunction with the government's motion for sentencing in the criminal proceedings previously mentioned. The information plaintiffs seek to discover here is stated never to have been disclosed to defendants. The major reason for secrecy of proceedings at this late stage is to prevent intimidation of future grand jury witnesses who might believe their names would be released if names were disclosed here, and hence be reluctant to testify . . . Witnesses' names are matters before the grand jury and so are entitled to secrecy . . . Plaintiffs have cited no decision going so far as to permit violation of grand jury secrecy merely for purposes of discovery by plaintiffs in a subsequent civil suit against the same defendants. In sum, plaintiffs have failed to bear their burden at this point in the litigation which is a prerequisite to revealing grand jury information. The normal routes of civil discovery will well give plaintiffs adequate opportunity to prepare their case. Mere savings of monetary burden will not suffice to bring the court's discretion into play under Rule 6(e), Fed.R.Crim.P.

So we have been snookered. The majority report tells us that what is not the law is the law. The majority report seems to forget what the Supreme Court has said about grand jury secrecy and how courts around the country have treated the plaintiff whose sole basis for access to the files is that he wants a free ride. All of the courts have referred to the dread possibility of retaliation as the basis for concealing grand jury proceedings.

IV. THE RADICAL CHANGE PROPOSED IN S. 1284 WILL, IN TURN, MAKE ADMINISTRATION OF THE CRIMINAL JUSTICE SYSTEM DANGEROUSLY DIFFICULT

Looking at the larger picture this in turn chops at the very roots of the criminal justice system. It seems inconceivable to me that a committee could get so wrapped up with the antitrust aspects of a piece of legislation that it would not even let us in on the fact that they are making the process of indictment an Olympic activity.

The fifth amendment to our Constitution says:

> No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury. . . .

The crucial decisionmaking power, and the wide range of tools given to the grand jury to help it decide whether to swear out an indictment have recently been reemphasized by the Supreme Court in Branzburg against Hayes:

> The investigative power of the grand jury is necessarily broad if its public responsibility is to be adequately discharged. . . . The role of the grand jury as an important instrument of effective law enforcement necessarily includes an investigatory function with respect to determining whether a crime has been committed and who committed it. To this end it must call witnesses, in the manner best suited to perform its task. "When the grand jury is performing its investigatory function into a general problem area . . . society's interest is best served by a thorough and extensive investigation." *Wood v. Georgia*, 370 U.S. 395, 392 (1962). A grand jury investigation "is not fully carried out until every available clue has been run down and all witnesses examined in every proper way to find if a crime has been committed." *United States v. Stone*, 429 F.2d 138, 140 (CA2 1970). Such an investigation may be triggered by tips, rumors, evidence proffered by the prosecutor, or the personal knowledge of the grand jurors. *Costello* v. *United States*, 350 U.S. at 362. It is only after the grand jury has examined the evidence that a determination of whether the proceeding will result in an indictment can be made.

These very same words were repeated by the Supreme Court in 1974 in United States against Calandra.

In order to carry out its extensive investigatory function a Federal grand jury has nationwide service and can compel the appearance of witnesses. These witnesses must testify outside of the presence of their lawyer and can be questioned by either the prosecutor or members of the grand jury. Most importantly, the grand jury can compel witnesses to give testimony that would be inadmissible in court. The Supreme Court has noted, in the Calandra case, of the evidence that the grand jury may require:

> The grand jury may compel the production of evidence or the testimony of witnesses as it considers appropriate, and its operation generally is unrestrained by the technical procedural and evidentiary rules governing the conduct of criminal trials. "It is a grand inquest, a body with powers of investigation and inquisition, the scope of whose inquiries is not to be limited narrowly by questions of propriety or forecasts of the probable result of the investigation, or by doubts whether any particular individual will be found properly subject to an accusation of crime.

Now, let us have the records open to the public and see what happens. Those with incriminating information can be pulled in from anywhere. They can be asked questions about anything relevant to the case, even if they could not be asked those questions in open court. What will happen:

First. Many people who believe it is their obligation will answer the questions to the best of their ability. That retaliation which the Supreme Court—and I—so fear may then manifest itself. They may be economically deprived; or worse, innocent blood could lie with the authors of this bill.

Second. Others will simply refuse to cooperate. They will be afraid that some comment that they make could be the one which incriminates the target of the investigation. By refusing to cooperate the witness will subject himself to civil or criminal contempt and can be thrown in jail. A person subject to civil contempt does not purge himself and therefore free himself until he has complied with the grand jury demand. There is the terrifying prospect of an innocent person wallowing in jail week after week as he contemplates whether the potential defendant will mete out an even greater punishment. Thus, innocent people are thrown in jail because the Goverment refuses to protect them. Another chapter for Alice in Wonderland.

We should also remember what this refusal to cooperate will do to the investigation itself. It will deprive the jurors of information on which they could base a complaint. A grand jury which remains true to its task will not bring indictments against many who are criminals. Other grand juries may be tempted to proceed on less than adequate evidence. This will lead to the indictment and consequent humiliation of many who are innocent.

The fact that the grand jury cannot get adequate information will also hurt governmental enforcement of our civil laws. Many times civil suits are based on information first learned during a grand jury investigation. So not only criminals go free. Many of those who should repay damages to the Government, or correct illegal practices will not have to since the Government will not know to sue. The taxpayer and consumer lose on this score.

Third. Finally, I imagine, the great bulk of witnesses, unhappy with either of the above prospects, will engage in "minimum feasible cooperation." They will provide as little information as possible to avoid contempt.

They will interpret questions narrowly so as to give the shortest answer; they will select only what they consider is the least incriminating evidence they have; and they will raise every conceivable privilege against answering at all, whereas before they would have answered. The result will be much the same as if they refused to answer at all—grand juries will not have sufficient evidence to decide whether or not to indict. Many of the guilty will go free, many of the innocent suffer humiliation. Moreover, our Government will not become aware of information necessary for the institution of civil suits.

These effects will be felt in every criminal investigation and wherever the Government uses grand jury information to bring civil actions—remember, the future plaintiff gets access to any grand jury testimony, as long as he is bringing an antitrust action. But it is ironic to see what the effect will be in the antitrust area specifically.

If price fixers are not subject to criminal trials, what will happen to enforcement of the antitrust laws? Criminal penalties are a vital part of the antitrust effort and they will be significantly crippled by the pending legislation. We recognized the power of this enforcement mechanism only recently in the Antitrust Procedures and Penalties Act of 1974 which increased penalties for violation of Sherman Act sections 1 and 2 to a possible $1,000,000 for corporations and $100,000 and 3 years in jail for individuals.

Nor can we forget the force of ineffective grand jury investigations on the Antitrust Division's civil practice. Information garnered in grand jury investigations frequently forms the basis for subsequent civil suits by the Division. It will not be possible, of course, to bring many of these suits when it is impossible to gather information from witnesses.

In sum, it seems highly unlikely to me that this bill will lead to more effective enforcement of the antitrust laws. I think it is far more likely to make the gathering of evidence an extremely difficult activity, leading to less effective enforcement. It will more generally straightjacket enforcement of other Federal criminal and civil laws. Along the way, it will expose countless witnesses to retaliation from potential defendants or the awful spectacle of imprisonment by the United States.

V. WHILE THE SPONSORS ARE WILLING TO EXPOSE WITNESSES TO GREAT DANGER IN ORDER TO AID FUTURE PLAINTIFFS, THEY WILL NOT SHOW THE SLIGHTEST FLEXIBILITY TO AID PRESENT DEFENDANTS

The idea that the fear of retaliation will cause witnesses to dry up is not so hard to understand. And what I find a little ironic—not to say hypocritical—is that the majority report uses this very same rationale where it is much less justified, but where, coincidentally I am sure, it handcuffs the defendant instead of the plaintiff.

For, the report concludes that it is better practice to have civil investigative demand depositions taken out of the presence of targets of the investigations. The reasoning goes as follows:

> The confidentiality of the testimony of a person with a CID for the taking of an oral deposition is further preserved by the provisions of Section 201(i) which exclude from the place where the examination is held all persons except the witness, his counsel, the hearing officer and the stenographer. This provision is intended to protect the witness against retaliation by those firms or individuals who are under investigation.

Of course, if the individual who is under investigation were present, he would be able to explain what the informant is saying, or cross examine the informant, so that the Justice Department could better assess whether to bring suit. If suit is brought, the defendant will be better able to prepare since he will know the basis of the allegations. But the bill before us says all this must go by the by since the potential defendant may retaliate against the witness.

Here, the investigation will serve as the basis for a civil suit, rather than the criminal indictment that the grand jury may bring. Is there anybody who doubts that the fear of retaliation is greater when a witness may be sending a person to jail rather than merely subjecting him to an injunction? And, is there anybody who doubts that it is more important to help a defendant avoid suit or defend against it, as compared to making the job easier for the next plaintiff?

Yet this bill has these priorities completely reversed. It exposes the witness who will be subject to greater retaliation, simply to aid future plaintiffs. It refuses to expose a witness to a possibility of lesser retaliation in order to help a defendant avoid prison.

Under what theory can legislation come out the way it does? Only one—we are not getting enough businessmen, the originators must think, and the way to solve the problem is to give a Federal grant-in-kind to the plaintiffs' bar and to tie a blindfold around the eyes of businessmen. Oh yes; let the witness fall where he may.

VI. THERE IS A FINAL SNUB FOR THE CID WITNESS—HE IS NOT EVEN GIVEN A COPY OF HIS OWN TESTIMONY

This absolute disregard for the witness is finally displayed in a third provision of this act which I find troubling. The legislation does not let a CID witness get a copy of his own testimony. The provision here reads:

> Upon payment of reasonable charges therefor, the witness shall be permitted to inspect and copy the transcript of his testimony to the extent and in the circumstances that he would be entitled to do so if it were a transcript of his testimony before a grand jury; and there may be imposed on such inspection and copying such conditions as the interests of justice require.

What is the standard for release of grand jury testimony to a witness? Here is another place where the majority report blows a little smoke. The majority says:

> The witness is entitled to inspect and copy a transcript of his testimony to the extent that he would be permitted to do so if it were a transcript of testimony before a Federal grand jury. In other words, the witness must file a motion for leave to inspect and copy before the Federal district where the deposition was taken and make a showing of "particularized and compelling need" for such testimony. This provision is intended to prevent witnesses from circulating transcripts of their testimony among targets of the investigation.

So first we are told that the standard for a witness to get a copy of his transcript is one of "particularized and compelling need" for such testimony. This may surprise the courts since the judiciary has suggested something else. In in re Russo, a witness was put in jail for contempt because he refused to testify unless he was given a copy of his testimony. The judge ordered that he be given such a transcript. His reasoning is worth quoting at length:

> The absence of criticism of Rule 6(e) is easily explained. An examination of the justifications for the policy of grand jury secrecy demonstrates that requiring secrecy of witnesses would serve no purpose. Of the justifications hereinbefore quoted, the first is inapposite. Permitting a witness to disclose his testimony does not interfere with the jurors' ability to deliberate and vote in secrecy. The second justification, that secrecy frees the witness from the apprehension that his testimony may be disclosed and encourages full disclosure by the witness, is most important. Professor Wigmore contends that the nondisclosure of a witness' testimony is a privilege of the witness himself. 8 Wigmore, Evidence § 2362. The privilege is not the grand jurors "for he is merely an indifferent mouthpiece of the disclosure"; nor is it the government's, for "the state's interest is merely the motive for constituting the privilege".
>
> "[T]he privilege", he concludes, "must therefore be that of the witness, and rests upon his consent." Wigmore, supra at 736. Rule 6(e) is entirely consistent with this position. It permits the witness—and only the witness—to disclose the content of his testimony, at least until an indictment has issued or justice otherwise requires disclosure. . . .
>
> A witness before a grand jury, then, is not presently bound to secrecy in any regard. This court can conceive of no reason why furnishing a witness a written transcript of his testimony should interfere with the valid functions of the grand jury any more than does the existing practice. The provision of a transcript does not weigh differently on the justifications for secrecy than the present rule. In addition, providing a transcript will further the interests of justice and benefit the grand jury and the witness. As the Advisory Committee noted, every witness is entitled to relate the proceedings to his attorney. Indeed, this is essential to safeguard the witness' rights and interests. A written transcript will insure that the attorney is provided an accurate record of the proceedings. Further, the existence of a written transcript would minimize the possibility of the witness' publicizing false information regarding the grand jury proceedings; a possibility which bothered government counsel in this case. . . .
>
> It is important to note that providing a witness a transcript does not force him to divulge the contents of his testimony. Under existing practice, the witness may voluntarily disclose the substance of his testimony to whomever he chooses—his attorney, an associate, the person under investigation, or the news media. On the other hand, he need make no such disclosure if he so prefers. The courts will not require such disclosure absent a showing of "compelling necessity". . . The availability of a transcript does not affect

> these options. The witness is free to keep the transcript confidential or reveal it.
>
> It is the conclusion of this court, therefore, that furnishing a grand jury witness a transcript of his testimony shortly after his appearance is not inconsistent with valid reasons for grand jury secrecy and will not diminish the effectiveness of the grand jury system or interfere with governmental efforts to investigate crime. . . .
>
> The government further argues that a grand jury witness must show a "particularized need" to obtain a transcript. The "particularized need" test was formulated by the Supreme Court in *United States v. Proctor & Gamble Co.*, . . . The Court relied heavily upon one justification of the rule of secrecy: "[T]o encourage all witnesses to step forward and testify freely without fear of retaliation." As hereinbefore discussed, providing a witness a transcript of his own testimony is not inconsistent with this policy. Nor is it inconsistent with other justifications there recognized by the Court. . . . *Accordingly, this court finds that a witness need make no showing of "compelling necessity" or "particularized need" to be entitled to a written transcript of his testimony. He must show only that his testimony was recorded and a transcript can be made.* (Emphasis added).

So there seems to be some rewriting of history here—but I guess we should make any sacrifices necessary so that the sponsor's antitrust views can prevail.

I think it is important to remember that a witness can have a vital interest in acquiring a copy of his testimony for extrajudicial purposes too. When Representative BIAGGI was running for the position of mayor of New York City, a newspaper article came out which said that he had refused to answer many questions during a grand jury proceeding on the grounds that he might incriminate himself. After both the Congressman and the United States made a variety of motions for release of testimony the court ordered a release—so long as all the names were deleted so there could be no retaliation. This was a satisfactory way of taking care of another possible harm that can come to a witness before a grand jury—that of gossip as to what he told the grand jury.

But is it a "compelling and particularized" need as the statute demands? I do not know; we will have to wait for the courts to interpret the statute. Meanwhile, a man's career may be ruined. Why? Well the only reason offered by the committee is that a witness may pass the transcript to the targets of an investigation. This reason, to be blunt, is not worth 2 cents—right now a witness can go and tell everything he remembers to anybody he feels like. The witiness is not bound to secrecy in any way. Maybe before committing this little bit of reasoning to paper, the authors of the report should have read in re Langswager, in re Alvarez and in re Minkoff.

Now, a witness needs that transcript to make sure he has not perjured himself, to insure that his attornev has an accurate record of the proceedings and to minimize the possibility that any disclosure that he, in his discretion, does make, is inaccurate. Since there is no way to keep him from talking about the nature of the interrogation to a potential target if he wants to, there is nothing to be gained from withholding the transcript from him. I think that the provision requiring a witness to show a "compelling and particularized need" really shows a particularized callousness on the part of the authors of this bill—to the needs of witnesses.

VIII. CONCLUSION

In passing this bill, Congress would be making the following judgments:

First. We should make considerable sacrifices in the enforcement of our criminal laws by depriving grand juries of the information which is vital to an indictment.

Second. We should, in turn, limit the government's ability to serve the public interest by depriving it of information derived from grand jury investigations which would be used in civil suits.

Third. We should impose a great ordeal upon each grand jury witness—he may be thrown in jail if he refuses to answer questions which make him vulnerable to retaliation, or if he answers such questions, he may be subject to that retaliation.

Fourth. We should keep from the witness a copy of his testimony so that he will be unable to absolutely insure its accuracy, prepare for any legal defense he may need, or clear himself in any extrajudicial situation.

Why are we doing this? The simple reason for all of these radical changes in the administration of our public laws is to make it cheaper for plaintiffs to shop around to get the evidence which will let them bring a suit subsequent to one that the government has brought.

Unfortunately, Senators will not get an analysis of these considerations from the majority report. For, in one policy matter after another, the report has made the erroneous assertion that, in fact, no choice is being made. The report continually claims that what the sponsors would like the law to be already is the law—they are just tidying up by codifying it. But this is not the case. And I think that the trade is not worth it. I cannot see us freeing criminals, humiliating innocents, crippling the public enforcement of our laws and exposing witnesses to terrible retaliation in order to make things cheaper for plaintiffs searching for a target. I plan to vote against this measure.

AMENDMENT NO. 1769

Mr. TOWER. Mr. President, I call up amendment No. 1769 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

> The Senator from Texas (Mr. TOWER) proposes amendment No. 1769.

The amendment is as follows:

> On page 31, line 11, strike the word "person," and insert in lieu thereof: "State agency".

QUORUM CALL

Mr. TOWER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk called the roll, and the following Senators entered the Chamber and answered to their names:

[Quorum No. 20 Leg.]

Abourezk
Allen
Bellmon
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Chiles
Fong
Garn
Hart, Gary
Hollings
Leahy
Mansfield
McClure
McGee
Pell
Randolph
Scott, Hugh
Sparkman
Stone
Talmadge
Tower
Young

The PRESIDING OFFICER. A quorum is not present.

Mr. MANSFIELD. Mr. President, I move that the Sergeant at arms be directed to compel the attendance of absent Senators.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Montana.

Mr. MANSFIELD. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. BUMPERS), the Senator from Idaho (Mr. CHURCH), the Senator from Michigan (Mr. PHILIP A. HART), the Senator from Hawaii (Mr. INOUYE), the Senator from Louisiana (Mr. LONG), the Senator from Rhode Island (Mr. PASTORE), the Senator from Missouri (Mr. SYMINGTON), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I also announce that the Senator from Indiana (Mr. BAYH), is absent because of illness.

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from New Jersey (Mr. CASE), the Senator from Arizona (Mr. GOLDWATER), the Senator from Nebraska (Mr. HRUSKA), the Senator from New York (Mr. JAVITS), the Senator from Maryland (Mr. MATHIAS), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

The result was announced—yeas 83, nays 1, as follows:

[Rollcall Vote No. 267 Leg.]

YEAS—83

Abourezk
Allen
Bartlett
Beall
Bellmon
Bentsen
Biden
Brock
Brooke
Buckley
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Clark
Cranston
Culver
Curtis
Dole
Domenici
Durkin
Eagleton
Eastland
Fannin
Fong
Ford
Garn
Glenn
Gravel
Griffin
Hansen
Hart, Gary
Hartke
Haskell
Hatfield
Hathaway
Helms
Hollings
Huddleston
Humphrey
Jackson
Kennedy
Laxalt
Leahy
Magnuson
Mansfield
McClellan
McClure
McGee
McGovern
McIntyre
Metcalf
Mondale
Montoya
Morgan
Moss
Muskie
Nelson
Nunn
Packwood
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Scott, William L.
Sparkman
Stafford
Stennis
Stevens
Stevenson
Stone
Taft
Talmadge
Thurmond
Tower
Williams
Young

NAYS—1

Johnston

NOT VOTING—16

Baker
Bayh
Bumpers
Case
Church
Goldwater
Hart, Philip A.
Hruska
Inouye
Javits
Long
Mathias
Pastore
Symington
Tunney
Weicker

So the motion was agreed to.

The PRESIDING OFFICER. A quorum is present.

Mr. ABOUREZK. Mr. President, the Tower amendment, which was introduced by Senator Griffin originally, would gut this legislation totally. It, in effect, prohibits a State from retaining any private attorney to represent the State in parens patriae actions. Of the 50 States, only California and New York are presently financially capable of representing themselves in antitrust actions. The other States do not have the resources. For example, the attorney general of the State of Arkansas himself makes only $6,000 a year. This would totally gut the bill. I move to lay the amendment on the table. I ask for the yeas and nays.

Mr. HELMS. Will the Senator withhold that?

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. Bumpers), the Senator from Idaho (Mr. Church), the Senator from Michigan (Mr. Philip A. Hart), the Senator from Hawaii (Mr. Inouye), the Senator from Louisiana (Mr. Long), the Senator from Rhode Island (Mr. Pastore), the Senator from Missouri (Mr. Symington), and the Senator from California (Mr. Tunney) are necessarily absent.

I also announce that the Senator from Indiana (Mr. Bayh) is absent because of illness.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. Pastore) and the Senator from Indiana (Mr. Bayh) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. Baker), the Senator from New Jersey (Mr. Case), the Senator from Arizona (Mr. Goldwater), the Senator from Maryland (Mr. Mathias), and the Senator from Connecticut (Mr. Weicker) are necessarily absent.

The result was announced—yeas 59, nays 27, as follows:

[Rollcall Vote No. 268 Leg.]

YEAS—59

Abourezk
Beall
Bentsen
Biden
Brock
Brooke
Burdick
Byrd, Robert C.
Cannon
Chiles
Clark
Cranston
Culver
Durkin
Eagleton
Fong
Ford
Glenn
Gravel
Hart, Gary
Hartke
Haskell
Hatfield
Hathaway
Huddleston
Humphrey
Jackson
Javits
Johnston
Kennedy
Leahy
Magnuson
Mansfield
McGee
McGovern
McIntyre
Metcalf
Mondale
Montoya
Morgan
Moss
Muskie
Nelson
Nunn
Packwood
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Sparkman
Stafford
Stevenson
Taft
Williams

NAYS—27

Allen
Bartlett
Bellmon
Buckley
Byrd,
  Harry F., Jr.
Curtis
Dole
Domenici
Eastland
Fannin
Garn
Griffin
Hansen
Helms
Hollings
Hruska
Laxalt
McClellan
McClure
Scott,
  William L.
Stennis
Stevens
Stone
Talmadge
Thurmond
Tower
Young

NOT VOTING—14

Baker
Bayh
Bumpers
Case
Church
Goldwater
Hart, Philip A.
Inouye
Long
Mathias
Pastore
Symington
Tunney
Weicker

So the motion to lay on the table was agreed to.

Mr. ALLEN addressed the Chair.

The PRESIDING OFFICER (Mr. Clark). The Senator from Alabama.

Mr. ALLEN. Mr. President, I believe that eventually the way out of the dilemma that we have before us is to table or to indefinitely postpone the Hart-Scott substitute so that we can then add to the House bill whatever compromise is reached here in the Senate. But I do not believe the compromise has yet been reached.

For that reason, I move to indefinitely postpone the pending bill.

Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. I have to say to my good friend—and he is my good friend and I am his friend—that this is a dilatory motion because it would delay action on this measure.

The underlying purposes of cloture would be thus undermined.

I make the point of order that the motion is a dilatory motion.

Mr. ALLEN. Mr. President, it is not a dilatory motion because it would end the matter. It does not delay the matter, it would end the matter. So, far from being a dilatory motion, it is a motion that will bring the issue to a head at this time, and I insist on my motion.

Mr. ROBERT C. BYRD. Mr. President, I realize that no debate is in order on a point of order, but I hope the Chair will indulge me for just a moment. I want to respond to the Senator on that point.

Mr. President, the cloture rule says that this business on which cloture has been invoked shall be before the Senate to the exclusion of all other business until "disposed of."

Now, indefinitely postponing will not dispose of it. We have to dispose of this measure up or down.

I make the point of order that it is not only dilatory on the basis that it would delay, but that it would avoid disposing of the measure as the rules require.

Mr. ALLEN. Of course, disposing of the matter would indefinitely postpone it. That would be the disposition of it.

Mr. McCLURE addressed the Chair.

The PRESIDING OFFICER. The Chair rules that a motion to indefinitely postpone is a final disposition of the matter and that point of order is not well taken. As to whether such a motion is dilatory, the Senate has never previously decided this question. Therefore, the Chair, as is his prerogative, submits that question to the Senate for its decision:

Mr. McCLURE. A parliamentary inquiry.

The PRESIDING OFFICER. Is it the sense of the Senate that this motion is dilatory, is the question before the Senate?

Mr. ALLEN. This is the first time it has been made?

The PRESIDING OFFICER. The Senator from Idaho may state his parliamentary inquiry.

Mr. McCLURE. Is this subject now debatable?

The PRESIDING OFFICER. It is not debatable but debate has been permitted.

Mr. McCLURE. It is not debatable.

A further parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. McCLURE. If the Senate would vote that a motion to indefinitely postpone is a dilatory tactic under cloture, would that also apply to any other motions, such as a motion to table, a motion to rerefer?

The PRESIDING OFFICER. No, it would not. It applies only to this motion.

Mr. McCLURE. Would not the same argument be applicable to any other motion, other than debate and final vote up and down on the motion?

Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that this motion to indefinitely postpone is dilatory? It does not apply necessarily to any other motion. It is not debatable.

Mr. ROBERT C. BYRD. I ask for the regular order.

Mr. ALLEN. I call for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. ALLEN. What is the question, Mr. President? State the question.

The PRESIDING OFFICER. An "aye" vote would hold the motion dilatory, a "no" vote would not.

The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. Bumpers), the Senator from Virginia (Mr. Harry F. Byrd, Jr.), the Senator from Idaho (Mr. Church), the Senator from Michigan (Mr. Philip A. Hart), the Senator from Hawaii (Mr. Inouye), the Senator from Rhode Island (Mr. Pastore), the Senator from Missouri (Mr. Symington), and the Senator from California (Mr. Tunney), are necessarily absent.

I also announce that the Senator from Indiana (Mr. Bayh), is absent because of illness.

I further announce that, if present

and voting, the Senator from Indiana (Mr. BAYH) and the Senator from Rhode Island (Mr. PASTORE), would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from New Jersey (Mr. CASE), the Senator from Arizona (Mr. GOLDWATER), the Senator from Maryland (Mr. MATHIAS), the Senator from Ohio (Mr. TAFT), and the Senator from Connecticut (Mr. WEICKER), are necessarily absent.

The result was announced—yeas 49, nays 36, as follows:

[Rollcall Vote No. 269 Leg.]

YEAS—49

Abourezk
Allen
Bentsen
Biden
Burdick
Byrd, Robert C.
Cannon
Clark
Cranston
Culver
Durkin
Eagleton
Fong
Ford
Glenn
Gravel
Hart, Gary
Hartke
Haskell
Hathaway
Hollings
Huddleston
Humphrey
Jackson
Kennedy
Leahy
Magnuson
Mansfield
McGee
McGovern
McIntyre
Metcalf
Mondale
Montoya
Morgan
Moss
Muskie
Nelson
Pell
Percy
Proxmire
Randolph
Ribicoff
Schweiker
Stennis
Stevens
Stevenson
Stone
Williams

NAYS—36

Bartlett
Beall
Bellmon
Brock
Brooke
Buckley
Chiles
Curtis
Dole
Domenici
Eastland
Fannin
Garn
Griffin
Hansen
Hatfield
Helms
Hruska
Javits
Johnston
Laxalt
Long
McClellan
McClure
Nunn
Packwood
Pearson
Roth
Scott, Hugh
Scott, William L.
Sparkman
Stafford
Talmadge
Thurmond
Tower
Young

NOT VOTING—15

Baker
Bayh
Bumpers
Byrd, Harry F., Jr.
Case
Church
Goldwater
Hart, Philip A.
Inouye
Mathias
Pastore
Symington
Taft
Tunney
Weicker

So it was the sense of the Senate that the motion was dilatory.

(During the preceding vote Mr. GARY HART assumed the chair as Presiding Officer.)

Mr. ALLEN. Mr. President, I changed my vote from "nay" to "yea." I give notice that I will, before the bill has been disposed of, make an effort to have this vote reconsidered, because the vote should not be allowed to stand on account of the effect on the Senate's good name and prestige of making a ruling of this sort.

I will not make the motion now, but I will eventually.

Mr. ROBERT C. BYRD. Well, now, Mr. President, the Senator has stated that he changed his vote in order to move to reconsider.

Mr. President, the Senate, when it voted by a vote of whatever it was—a minimum of 60 votes—to invoke cloture on this bill, indicated that it was the will of the Senate that the Senate act on this bill, and that it act with some haste. That is what the cloture rule is all about. The Senate did not vote to invoke cloture on this bill to indefinitely postpone it. It was the will of the Senate that cloture be invoked on this bill, and that this bill be the business to the exclusion of all other business until disposed of.

If the Senate had wanted to indefinitely postpone this measure, it would have done it, rather than invoke cloture.

Cloture is a parliamentary beartrap. It restricts many of the normal rights of Senators under the rules. I maintain that when the Senate invoked cloture, it did not mean to indefinitely postpone this measure, it meant to get action on it, up or down—amended or not amended—and action fast; and I maintain, therefore, that a motion, after cloture has already been invoked, to indefinitely postpone action on a measure is a dilatory motion.

The Senate has upheld that view. The Senator from Alabama has changed his vote. There was a 13-vote spread. A motion to reconsider would be dilatory, particularly a motion to reconsider this vote, because there is a 13-vote spread, with the Senate having decided that the motion to indefinitley postpone—under cloture—was dilatory.

If the Senator from Alabama wants to make a motion, let him make it now, and I will make a motion that his motion to reconsider is dilatory under the circumstances, if he cares to make it

He changed his vote in order to move to reconsider.

Does the Senator want this vote to reconsider? If he does, I will make the motion to reconsider. I cannot make it because I voted with the prevailing side. Does the Senator intend to make that motion?

Mr. ALLEN. The fact that the Senator voted with the prevailing side is what entitles him to make the motion.

Mr. ROBERT C. BYRD. The Senator is correct.

Senators like myself do get confused from time to time under stress and strain.

Does the Senator want a motion to reconsider made?

Mr. ALLEN. The Senator from Alabama said that, before the passage of the bill unless the motion were made prior to that time, he would make that motion. That is all the Senator from Alabama has to say.

Mr. ROBERT. C. BYRD. All right. If the Senator makes this motion, I will make the point of order that his motion is dilatory. He has his opportunity right now.

Mr. McCLURE addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. McCLURE. Mr. President, I will use only a few minutes of the time that I have remaining on this bill at this time. I do not intend at this time to discuss at length the merits of the bill.

But I am profoundly disturbed with the direction that this Senate is taking. If I understand the arguments that are now being made they are that individual Members of the Senate are no longer to be accorded their rights under the rules once cloture has been invoked and that the rights of individual Members will be subject to the cloture momentum, which the distinguished Senator from West Virginia has indicated it is his belief was intended by the cloture motion, and the Senate, having adopted the cloture motion, that action will of itself deprive individual Members of the rights which they would otherwise have under the rule, and the only right that they will have remaining to them is the right to debate the bill for 1 hour, period, and call up the amendments which have been printed if they have not used up their hour.

We saw yesterday an abortive, at least a tentative, attempt to cut off the right to call up amendments if indeed the hour of the individual Member had been used up, even to the extent of saying that the reading of the amendment which can be suspended only by unanimous consent would use up the hour of the individual Member. It seems to me that we are seeing a progressive limitation upon the rights of the individual Members that is not characteristic of this Senate.

I realize that emotions are running high and perhaps this is not the time to explore some of those issues. Perhaps at a later time, when we are not embroiled in the midst of the parliamentary impasse when tempers are less inflamed than they may be right now, when emotions are not as high as they have been the last day or two, we can more dispassionately look at the effects of the precedents that are being established or in the danger of being established in this body.

Mr. STEVENS. Mr. President, will my friend yield?

Mr. McCLURE. Our distinguished majority leader yesterday indicated that one of the things that distinguishes this body among all the parliamentary bodies of the world is our ability to protect the right of individual Members to be heard.

I served in the other body, as many Members of this body did, and we saw how the rules were being used progressively against the rights of individual members, not to protect the rights of individual Members. I saw in the other body, as most observers of the political scene recognized, that the Parliamentarian in the other body is the extension of the Speaker, not a dispassionate interpreter of the rules but an extension of the will of the Speaker. I do not want to see that happen in this body. It has not been characteristic of this body. I do not want this to occur in the Senate.

But I think as we get involved in the temper of this debate and in what I think are the legitimate concerns of individual Members, we may so erode the rights and the concept of free and open debate in this body that we will have changed the character of the Senate, and I hope that before we are through with this that cooler and wiser heads may prevail and that we will not be impelled into actions which become relatively irresponsible.

I yield to my friend from Alaska.

Mr. STEVENS. On my time if I might, I voted——

Mr. ROBERT C. BYRD. Mr. President, did the Senator yield to the Senator on his time?

The PRESIDING OFFICER. Does the Senator from Alaska seek recognition?

Mr. STEVENS. I do seek recognition.

Mr. ROBERT C. BYRD. Mr. President, I am seeking recognition also.

Mr. STEVENS. I hope my friend from West Virginia will allow me to clarify one point.

Mr. ROBERT C. BYRD. Yes.

Mr. STEVENS. I voted in support of that motion, Mr. President, because my memory is there had been a motion to table that Hart-Scott amendment and that had been reconsidered.

Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. STEVENS. Is that not correct? There was a motion to table that and a motion to reconsider the Hart-Scott amendment, and this is a motion to indefinitely postpone the same amendment. I believe that is dilatory, and I urge my friend not to draw this precedent into being broader than it really is, because some of us feel that once we had a motion that has the same effect, the motion was made, and the motion to reconsider was not made on that. Is that the Record?

The PRESIDING OFFICER. The Chair is investigating the Record at this point to make sure.

Mr. STEVENS. The Record can be searched later. I do not want to delay it. I do believe there is not as broad a precedent as some friends indicate.

Mr. ROBERT C. BYRD. Will the Senator yield for a question?

Mr. STEVENS. I yield.

Mr. ROBERT C. BYRD. The Senator has made an excellent point. Not only has the motion been made and rejected to table the Hart-Scott substitute, but, if my recollection is correct, I believe the motion has also been made and rejected to table the bill. So the Senate has had at least two opportunities to express its will against summarily disposing of this substitute and the bill in that manner.

Mr. STEVENS. I want the Record to show that this precedent is not a precedent that a motion to postpone indefinitely becomes dilatory under cloture unless there is some prior conduct which indicates we had attempted to dispose of the same amendment once before. At that time, I think the Senate has worked its will, and I voted to hold that a dilatory motion. I think there is a time when we must say that, if the Senate had an opportunity to consider and dispose of the amendment, repeated attempts to dispose of the same amendment can become dilatory at some time.

Mr. McCLURE. Mr. President, will the Senator yield for a question?

The PRESIDING OFFICER. In response to the Senator from Alaska, the motion was made to table the entire bill last night at the previous session, and the vote was 18 to 65. It was not reconsidered, however.

Mr. ROBERT C. BYRD. Mr. President, the distinguished Senator from Alabama wishes to wait and have the Senate reconsider this matter later. So, I view this as a threat that is being held over the head of the leadership to bring up a motion at a later time. I think the Senate has expressed its will as to the dilatoriness of the motion to indefinitely postpone, and I think that the time to make the motion to reconsider is now. If the Senator wishes to make that motion to reconsider now, he may do so. If he does not, I shall make the motion to reconsider.

Mr. ALLEN. Mr. President, will the Senator yield?

Mr. CANNON. Mr. President, will the Senator yield?

Mr. ALLEN. Mr. President, will the Senator yield for a question?

Mr. ROBERT C. BYRD. I make the motion to reconsider first.

Mr. ALLEN. Will the Senator yield?

Mr. MANSFIELD. I move to lay that motion on the table, and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. McCLURE. Mr. President, will he withhold that?

Mr. ROBERT C. BYRD. Will the Senator from Montana withhold that motion?

Mr. MANSFIELD. I withhold that.

Mr. CANNON. Mr. President, I have not had much to say in the course of the debate on this bill, but I think we have started on a course of action——

The PRESIDING OFFICER. Will the Senator from Nevada suspend until we straighten this out?

The Senator from Montana has made a motion to table. Does he withdraw that motion?

Mr. MANSFIELD. Yes.

The PRESIDING OFFICER. The motion is withdrawn.

The Senator from Nevada.

Mr. CANNON. Several times in the course of consideration of this bill we have started down a road that I think is a very dangerous road to travel, and I think this is one right now. I voted with the majority on that last vote, but I can well understand the situation where we might later in the course of this consideration desire to have a reconsideration of that motion to indefinitely postpone. If I understand it correctly, we have Senators who are trying to work out a compromise.

If we get ourselves in a position that a compromise cannot be offered except by unanimous consent, then one person could block it. On the other hand, if there is still open a motion to reconsider, a move to indefinitely postpone, it would give us the opportunity to consider a proposed amendment or a proposed compromise, even though several people might object to it.

So I think we might lock ourselves, parliamentarywise, into a situation that we might regret if a compromise is offered later.

As I said, I voted with the majority and the distinguished majority whip, and I hope he will not make the motion to reconsider so that it can be tabled and thus lock us into a course of action we might regret later. I think we are protected adequately.

The PRESIDING OFFICER. The Chair wishes to correct the Senator from Nevada.

The motion to reconsider would be to the sense of the Senate as to the question of whether the motion by the Senator from Alabama was dilatory. We have never actually voted on the motion to indefinitely postpone.

Mr. CANNON. But if it is locked in by a tabling motion that it was dilatory, then that closes it out. That is precisely the same effect.

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. I say to my distinguished friend that—if I understand correctly the parliamentary situation—this motion to reconsider is not debatable, because it is a motion to reconsider the vote on a point of order which was not debatable. So the motion to reconsider is not debatable. Am I correct?

The PRESIDING OFFICER. A motion to reconsider a nondebatable motion is nondebatable.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to proceed for 30 seconds, on my time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, in answer to my distinguished friend from Nevada, there is a way to get around that situation, also, and we demonstrated that last night—either by unanimous consent, which was objected to, or by going through rule XL. We can get any compromise the Senator wants before the Senate, if two-thirds of the Senate upholds a motion to suspend the rules.

Mr. ALLEN. Mr. President, will the Senator yield for a question?

Mr. ROBERT C. BYRD. I yield.

Mr. ALLEN. I ask the Senator this: If the Senator from Alabama makes a motion to reconsider, it will be dilatory, and now the Senator from West Virginia is making the same motion. Is it now dilatory?

Mr. ROBERT C. BYRD. Mr. President, to delay would be to stall. I move to reconsider.

Mr. MANSFIELD. I move to lay that motion on the table.

Mr. ALLEN. I ask for the yeas and nays.

The PRESIDING OFFICER. Did the Senator from Montana offer a tabling motion?

Mr. MANSFIELD. Yes.

Mr. ALLEN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays are requested on the motion to table. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. Bumpers), the Senator from Virginia (Mr. Harry F. Byrd), the Senator from Idaho (Mr. Church), the Senator from Michigan (Mr. Philip A. Hart), the Senator from Hawaii (Mr. Inouye), the Senator from California (Mr. Tunney), and the Senator from Washington (Mr. Magnuson), are necessarily absent.

I also announce that the Senator from Indiana (Mr. Bayh), is absent because of illness.

I further announce that, if present and voting, the Senator from Indiana (Mr. BAYH), would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from New Jersey (Mr. CASE), the Senator from Arizona (Mr. GOLDWATER), the Senator from Ohio (Mr. TAFT), and the Senator from Connecticut (Mr. WEICKER), are necessarily absent.

The result was announced—yeas 48, nays 39, as follows:

[Rollcall Vote No. 270 Leg.]

YEAS—48

Abourezk
Bentsen
Biden
Burdick
Byrd, Robert C.
Clark
Cranston
Culver
Durkin
Eagleton
Fong
Ford
Glenn
Gravel
Hart, Gary
Hartke
Haskell
Hathaway
Huddleston
Humphrey
Jackson
Javits
Kennedy
Leahy
Long
Mansfield
Mathias
McGee
McGovern
McIntyre
Metcalf
Mondale
Montoya
Morgan
Moss
Muskie
Nelson
Pastore
Pell
Percy
Proxmire
Randolph
Ribicoff
Schweiker
Stevens
Stevenson
Symington
Williams

NAYS—39

Allen
Bartlett
Beall
Bellmon
Brock
Brooke
Buckley
Cannon
Chiles
Curtis
Dole
Domenici
Eastland
Fannin
Garn
Griffin
Hansen
Hatfield
Helms
Hollings
Hruska
Johnston
Laxalt
McClellan
McClure
Nunn
Packwood
Pearson
Roth
Scott, Hugh
Scott, William L.
Sparkman
Stafford
Stennis
Stone
Talmadge
Thurmond
Tower
Young

NOT VOTING—13

Baker
Bayh
Bumpers
Byrd, Harry F., Jr.
Case
Church
Goldwater
Hart, Philip A.
Inouye
Magnuson
Taft
Tunney
Weicker

So the motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I thank the Chair.

Mr. President, with reference to the remarks by the distinguished Senator from Idaho—may we have order, Mr. President.

The PRESIDING OFFICER. Will the Senators take their seats. The Senator will suspend until the Senators take their seats or remove themselves to the cloakroom.

Mr. HELMS. I thank the Chair.

Mr. President, with reference to the remarks of the distinguished Senator from Idaho a few moments ago prior to the immediately preceding vote, the Senator from North Carolina wishes to say that he reveres the Senate and, particularly, its traditions and what our Founding Fathers intended that it means in terms of preserving the freedom of the American people.

I know that there is a sharp division of opinion on this bill, and certainly I respect those who disagree with me on it, but I hope that somehow both sides can restrain themselves from yielding to an emotionalism which, in the first place, is not becoming to the Senate and, second, may do far more harm than any of us here today can imagine.

Now, I greatly respect the Senate rules, and many times the Senate rules have operated adversely to the interests of the Senator from North Carolina. But I accept them, and I respect them. It is regrettable to me to see threats of changing the rules by setting unwise precedents in a moment of high emotionalism. This would be a tragic mistake that could come back to haunt all of us.

As a boy, I was taught in school that the U.S. Senate was the last tribunal in the world where a Member could get up and express himself to the fullest extent. The Senate was intended to be a body of restraint, of calm reason, of full deliberation. But if we now derogate the meaning of the Senate, if we so obliterate the difference between this body and the House of Representatives in terms of rules and procedures, then we will have done great injury to the country in the long run.

The skies will not fall, Mr. President, if every Senator is allowed his full say on this bill. Why, then, all the haste? Why all the threats? Why all of the devices to race this bill into enactment? I contend, Mr. President, that the Nation will not suffer if this bill is delayed a few days. In fact, the American consumer will be far better off if it never passes at all.

But if it is passed I will accept it. I happen to feel that it is badly named, to start with. I think it ought to be called "The Lawyers' Relief Fund of 1976" or "The Ripoff of the Consumer Act of 1976." But that is beside the point.

I regret any threat to change the rules just because a Senator wants to pursue a bill that a minority does not like. I feel that any Senator who, because of the power he may happen to possess at the moment, is successful in changing the rules to suit his convenience will live to regret it.

I say these things, Mr. President, with the greatest respect for those who have participated in the emotional outbursts, if they may so be characterized. I understand their frustration. I have occasionally been frustrated myself, but I think we ought to stand back and look at the long-range effect of what we will do if we change the rules of the Senate and limit the freedom of Senators to exercise their full rights.

Mr. President, I want to devote such time as I may have remaining to title V of this bill, which amends the Clayton Act, to create new governmental authority with respect to acquisitions. In general terms, the title provides that a notice of acquisition is to be filed with the Government prior to closing. After filing, a waiting period is established during which the acquisition may not be closed without Government's consent. For major acquisitions, of course, the waiting period is 60 days.

If the Government requests additional information, then it may extend the period until 30 days after all of the information is finally submitted.

Major acquisitions are principally those which result in an entity, after the transactions, with assets or net annual sales in excess of $100 million. For other acquisitions, the FTC has discretion to determine whether to impose a notification requirement and to fix the duration of the waiting period.

Now, if during the waiting period the Government issues a complaint challenging the acquisition, it may obtain a court order which, first, prohibits the closing of the acquisition pending litigation or alternatively, second, permits closing, but requires the acquired operation be separately maintained pending litigation.

The court must issue either order at the request of the Government. The provision provides that the court shall—and I emphasize the word "shall"—enter an order, first, prohibiting closing if the Government certifies that it believes the public interest requires relief pendente lite or second, requiring separate status "upon application" by the Government.

There is an additional unintelligible requirement that if the acquired operation is separately maintained and the Government ultimately prevails, the acquired operation and its profits must be divested for an amount no greater than the original purchase price.

The notification requirements of title V are to be implemented by the Federal Trade Commission, which has authority in this connection to prescribe accounting methods for reports.

The other provisions of the bill apply to either the Antitrust Division or the Federal Trade Commission. Both are to be notified. The waiting period applies to the deliberations of both, and either may seek court orders.

The basic sanction under the bill is a provision of civil penalties of $10,000 a day for each day of a holding of stock or assets in violation of that provision.

Finally, the title makes clear that the failure of the Government to act with respect to an acquisition during the waiting period does not bar a later antitrust challenge.

Mr. President, the title changes existing practice and authority in three significant respects: First, the FTC already requires the filing of a premerger notification report and, as a practical matter, the need to file before merger establishes a de facto limited waiting period. But title V creates a long mandatory waiting period which may be further enlarged.

Second, the FTC and the Department of Justice now have authority to seek a court order prohibiting the closing of an acquisition or requiring the maintenance of an entity in separate status. Although title V also uses court orders, it effectively grants to the Government agency, rather than to the court, control over the issuance and terms of the orders. Third, if the Government prevails in litigation, the court has discretion to order divestiture and specify the other terms of relief; title V, in the case where a closing has been permitted under separate status order, removes court discretion and compels the issuance of a divestiture order in terms which set a mandatory maximum price for the divestiture itself.

The basic problems raised by the title, title V, originate in the substitution of Government fiat for an objective judicial judgment with respect to whether it is appropriate to bar an acquisition or maintain an entity in separate status until all litigation is completed. Obviously, this means that so long as the Government is willing to file a complaint, it can prohibit closing the acquisition regardless of the likelihood of the Government's success on the merits and regardless of whether it might be possible otherwise to preserve the assets for appropriate divestiture or other relief should the Government ultimately prevail.

In that connection, Mr. President, regardless of any arguments, specious or otherwise, that have been presented on this floor, the Senator from North Carolina finds it unconscionable that the Government with all of its lawyers, the State attorneys general with all of their lawyers, are, first, empowered to go out and make deals with law firms for legal assistance on a contingency fee basis. Then, even when the defendant is found innocent, this Senate has voted at least twice against reimbursing the defendant for his expenses in connection with defending himself against frivolous charges brought against him by his own Government.

The Senator from North Carolina is not a lawyer, but he understands simple justice. If we are going this far into this kind of lawyers' relief act, we ought to think about the citizen who may be frivolously harassed, intimidated, and prosecuted unjustly at immense cost to him. He ought to be reimbursed for the cost of defending himself.

I happened to run across in Time magazine of May 3, 1976, Mr. President, a little item which illustrates just how far we are headed with these harassing class action lawsuits.

The article begins:

> Can I show you something in a suit, sir? the investment counselor might say unctuously. A lawsuit I mean. A really blue-chip group of defendants and prospects for an impressive award of damages.

What they are talking about, Mr. President, is selling shares in a lawsuit, and this legislation that we are dealing with today says to the Government bureaucrats and the lawyers: "Boys, that is the thing to do. That is the thing to do, go at them, get together, involve yourselves"—in lucrative lawsuits.

This Time magazine article says:

> Buying shares in a lawsuit? Why not, asks Manhattan Attorney Carl E. Person, who has reason to believe that he is on his way to creating just such an investment possibility

So, Mr. President, these law firms are now going to share the wealth.

I want to say to the Senator from Illinois that I am referring to a Time magazine article reporting on a law firm's scheme to sell shares in the kind of lawsuits that will be encouraged by the legislation now before the Senate.

The article continues:

> Person is currently representing a small group of auto brokers in a complex, $300 million antitrust suit against the big four automakers, many of their New York franchise owners, and some of the New York newspapers they advertise in. To help him match the resources available to such weighty opposition, Person asked a federal judge to authorize two approaches guaranteed to horrify the bar.

If the bar associations of this country are not horrified, they should be.

The two approaches Mr. Person wanted, according to Time magazine:

> (1) the hiring of expert witnesses on a contingency basis under which they would be paid only if Person's clients won, and (2) allowing Person's clients to sell shares in the outcome of the suit to finance the costs (estimated at $1 million) of the action, which is already 5½ years old. While Federal Judge John F. Dooling Jr. did not rule directly on Person's claim, he has issued an opinion strongly implying that the lawyer has a point.

Mr. President, we are talking about the consumer who ultimately will be ripped off as a result of this legislation because all expenses of business are passed along to the consumer. Otherwise there will be no profit. If there is no profit, then there will be no business.

Mr. President, may I ask how much time the Senator from North Carolina has remaining?

The ACTING PRESIDENT pro tempore (Mr. LEAHY). The Senator has remaining 8 minutes.

Mr. HELMS. Mr. President, I ask unanimous consent that the article in Time magazine be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SUITS FOR SALE

"Can I show you something in a suit, sir?" the investment counselor might say unctuously. "A lawsuit I mean. A really blue-chip group of defendants and prospects for an impressive award of damages." Buying shares in a lawsuit? Why not, asks Manhattan Attorney Carl E. Person, who has reason to believe that he is on his way to creating just such an investment possibility.

Person is currently representing a small group of auto brokers in a complex, $300 million antitrust suit against the big four automakers, many of their New York franchise owners, and some of the New York newspapers they advertise in. To help him match the resources available to such weighty opposition, Person asked a federal judge to authorize two approaches guaranteed to horrify the bar: 1) the hiring of expert witnesses on a contingency basis under which they would be paid only if Person's clients won, and 2) allowing Person's clients to sell shares in the outcome of the suit to finance the costs (estimated at $1 million) of the action, which is already 5½ years old. While Federal Judge John F. Dooling Jr. did not rule directly on Person's claim, he has issued an opinion strongly implying that the lawyer has a point.

NEW MARKET

The bar's traditional ban on contingency fees for witnesses rates on the fear that they would hype their testimony—or worse—to increase the likelihood of victory and thus of getting paid. But Judge Dooling thinks the danger of distorted testimony is not significantly greater than in cases in which a witness is paid a straight fee for his presumably favorable expertise. As for the remarkable idea of selling shares in the ultimate damages, if any, the judge said that the law did not appear to prevent Person's plaintiffs from selling such shares, so long as investors had no say in how the case was fought legally.

Person had already become something of a bar rattler as one of a handful of attorneys who pressed legal claims that helped force the American Bar Association to reconsider its ban on lawyer advertising. Now, armed with the Dooling ruling, Person has asked the New York City bar about the ethics of his share sale, and is talking about a whole new stock market for lawsuits.

Mr. HELMS. Mr. President, while title V theoretically contemplates that there may be cases in which an acquisition may be closed with the acquired operations maintained in a separate status, that possibility is not in fact a realistic alternative under the bill. This is because of the mandatory relief of divestiture which the court must order in all circumstances where the Government ultimately prevails. Any potential defendant who proceeded to close with Government "permission" would forego the possibility, in an appropriate case, of obtaining ultimate relief other than divestiture—or if circumstances change substantially—even some modified form of divestiture suitable to the change of circumstances. Any such defendant would also be directly penalized by having to bear all of the risk: First, of loss in the value of the separate entity; second, of actual loss of any return on invested capital—even that return which might normally be realized elsewhere; or third, of all efforts or additional investment expended in the entity's behalf. Indeed, the mandatory relief in fact acts to deter successful operation of the separate entity pending litigation.

The net effect of the title is to enable the Government to thwart acquisitions whether or not they violate the antitrust laws and even in circumstances where there is no intention of bringing suit. The opportunities for delay by the Government during the waiting period plus the opportunities to prohibit the acquisition pending suit enable the Government during the waiting period plus the opportunities to prohibit the acquisition pending suit enable the Government to confront any company with a mandatory prospect that it will not be possible to consummate an acquisition for many years. Few companies, faced with that prospect, will be willing to pursue an acquisition should the Government indicate its displeasure and even fewer still will pursue it once litigation is begun.

Were all acquistion "bad" this proposal might make sense. But of course they are not. They are a practical way of allocating resources and clearly may promote the full workings of a competitive system. For this reason it is important to look closely at the justification proffered for the extreme result proposed by the bill.

The primary justification offered for the veto is the difficulty of obtaining satisfactory relief pending litigation. In the view of Assistant Attorney General Kauper, the Department of Justice has not been successful in obtaining preliminary injunctive relief in many cases "precisely because courts seem too willing to accept the proposition that divestiture is adequate relief—after trial—and thus preliminary relief is unnecessary."[1] I quite agree that divestiture is not in some cases an adequate remedy. As the

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[1] Statement of Assistant Attorney General Kauper at p. 34.

Assistant Attorney General properly reasons, assets and personnel can be scrambled, making it difficult to restore the status quo ante and contributing to delays.

On the other hand I am far less certain about the Department's modesty with respect to its current lack of success. In a partial review encompassing some 51 relevant cases brought during the past 10 years[2] I have found only one instance in which the Department failed to obtain either a preliminary injunction, or other interim relief in a case which it ultimately won on the merits. Indeed, in 47 of the 51 cases the Department obtained relief in some form either because: First, the court issued or the parties stipulated to a preliminary injunction, or hold separate order, or some form of interim relief; second, the court adopted a consent judgment or combined the hearing on the preliminary relief with a hearing on the merits wtihin a few months—often a few days—after the suit was filed; or third, the transaction was abandoned by the parties.[3] The Department, of course, may be privy to much information we do not now have. But this type of record does not suggest that the Department requires a veto power to buttress its present authority.

Although the Assistant Attorney General did not say so explicitly, the Government's complaint may be that hold-separate orders do not constitute a sufficient form of preliminary relief in all circumstances. In the absence of specifics, the issue is difficult to address. In some cases, courts have granted complete injunctive relief where they viewed hold-separate orders inadequate. In others, courts have permitted consummation of the acquisition but have directed the acquiring company not to interefere in the activities and management of the acquired company. And in still others, courts have modified the terms of the preliminary relief initially granted as changing circumstances dictated during the pendency of the action. I am not aware of any pattern of hostility to the Department or of any blind acceptance of the notion that ultimate divestiture is always an adequate remedy at law or that hold-separate orders are always sufficient for the Government's purposes. To the contrary, what appears—at least on the surface—is discretion exercised by judges who like everyone else can make some mistakes but who appear to be doing reasonably well.

There are, of course, other alternatives if it is a prompt certainty of result that is desired. The Bank Merger Act addresses the veto power issue, but in a wholly different way. Under the act, the Department has a limited time within which to challenge a bank merger. If the Department files suit within the statutory time period, the statutory stay goes into effect. If the Department does not challenge the merger, then it may go forward and the Department is thereafter barred from attacking it. This approach eliminates all uncertainty in the marketplace. It affords the effective veto of a statutory stay for the trade off of insulation of the unchallenged merger from later attack.

In any event, even the Department of Justice itself balks at the suggestion of a veto power in the form of unreviewable authority to impose an injunction. The Assistant Attorney General agrees that it is not "appropriate to give such unreviewable and irrevocable discretion to any Government agency," and urges that the district courts be given some discretion to lift stays.[4] Unfortunately the standard suggested to govern the exercise of that discretion does not comport with this express concern for it leaves the automatic stay virtually as proposed in title V. Thus, Mr. Kauper suggests that the courts be given discretion to lift a stay "only upon a showing by the defendant of irreparable harm, or that the suit is arbitrary or capricious."[5] I do not know how a defendant could show irreparable harm save for a rare case such as impending bankruptcy. And to require a defendant to prove that the Government's suit is arbitrary or capricious is to require him to prove more than he would have to prove on the merits.

The urge to deprive the courts of their discretion is an urge I can understand. Courts can and do make erroneous judgments and market conditions can change so that divestiture is more difficult than it would otherwise have been. Besides, no litigator likes to lose motions for preliminary injunction. But the alternative, for many of the same reasons, is no merger or acquisition at all—for as I have said, the power indefinitely to delay a merger is, because market conditions change, the power to veto. The difference is that under current law, two independent branches of Government can and must exercise independent judgment, one in deciding whether to seek relief and the other in deciding whether to grant it. Under the proposed scheme, the decision is wholly unilateral—and for that reason subject to abuse. It is the present circumstance we should clearly prefer.

AMENDMENT NO. 1720

Mr. President, I call up my amendment numbered 1720 and ask that it be stated in full.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an amendment numbered 1720:

Delete the text at page 34, line 12 through page 35, line 7; at page 35, line 8, renumber "(3)" to "(2)"; and at page 35, line 13, following "Code," delete the period and add the following: "*Provided, however*, That only such information and documentary material as is customarily prepared and maintained in the ordinary course of business by the person or persons filing such notification shall be required to be filed pursuant to this section. All information and documentary material submitted pursuant to this section shall be considered confidential under section 1905 of title 18, United States Code, and shall not be disclosed, except that such information may be disclosed to other officers or employees concerned with carrying out this section, or may be disclosed under appropriate protections against public disclosure when relevant in any proceeding under this section. Nothing in this section shall authorize the withholding of information by the Commission or the Assistant Attorney General from the duly authorized committees of the Congress acting pursuant to compulsory process.".

Delete page 35, lines 14 through 25.

Mr. HELMS. Mr. President, I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. The Senator from South Dakota.

Mr. ABOUREZK. I raise a point of order against amendment No. 1720 on the grounds that it amends the bill in more than one place.

The ACTING PRESIDENT pro tempore. An amendment consisting of two provisions amending a bill at different points is, in fact, two amendments and cannot be offered together if the question is raised except by unanimous consent. The Chair rules the point of order is well taken.

Mr. HELMS. The Senator's point of order is well taken. I comment him for catching it. I will use that as an illustration that I believe in going by the rules, and that Senators ought to be careful about setting precedents that, in effect, change the rules of the Senate.

AMENDMENT NO. 1725

Mr. HELMS. Mr. President, I call up amendment No. 1725.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an amendment No. 1725:

Delete the text at page 33, lines 11 through 23, and substitute therefor the following:

"(1) stock or assets of a manufacturing company with sales or assets of $10,000,000 or more is or are being acquired and the combined sales or assets of the acquiring and acquired persons exceed $250,000,000; or

"(2) stock or assets of a nonmanufacturing company with assets of $10,000,000 or more is or are being acquired and the combined sales or assets of the acquiring and acquired persons exceed $250,000,000.".

Mr. HELMS. Mr. President, I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ABOUREZK. Mr. President, this amendment raises the jurisdictional threshold provisions from $100 million to $250 million. The $100 million test is supported by the administration. It is estimated that about 100 transactions per year will be reported under this $100 million test. The antitrust authorities have power to waive the notification and exempt transactions. Arbitrarily increasing the threshold to $250 million will eliminate a number of mergers that could be anticompetitive and which should be reported.

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[2] Cases were treated as irrelevant for our purposes when Department actions were filed more than one year after the acquisition.

[3] The four cases where the Department was "unsuccessful" deserve some discussion. In only one did the court deny a preliminary injunction and subsequently order divestiture. In two other cases the Department's requested relief was denied because the court found no reasonable probability of illegality, and the Government ultimately lost on the merits. In the fourth case, a consent decree was subsequently entered in when the Department obtained approximately one-third of the relief it had initially requested.

[4] Statement at p. 34.

[5] Statement at p. 34.

Mr. HELMS. Mr. President, I would mention that the Chairman of the Federal Trade Commission has endorsed this bill.

Have the yeas and nays been ordered?

The ACTING PRESIDENT pro tempore. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. BUMPERS), the Senator from Virginia (Mr. HARRY F. BYRD, Jr.), the Senator from Idaho (Mr. CHURCH), the Senator from Michigan (Mr. PHILIP A. HART), the Senator from Hawaii (Mr. INOUYE), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I also announce that the Senator from Indiana (Mr. BAYH) is absent because of illness.

I further announce that, if present and voting, the Senator from Indiana (Mr. BAYH) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from New Jersey (Mr. CASE), the Senator from Arizona (Mr. GOLDWATER), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

The result was announced—yeas 27, nays 62, as follows:

[Rollcall Vote No. 271 Leg.]

YEAS—27

Allen
Bartlett
Bellmon
Brock
Buckley
Curtis
Dole
Eastland
Fannin
Fong
Garn
Hansen
Hatfield
Helms
Hruska
Javits
Laxalt
McClellan
McClure
Percy
Roth
Scott, William L.
Stone
Taft
Thurmond
Tower
Young

NAYS—62

Abourezk
Beall
Bentsen
Biden
Brooke
Burdick
Byrd, Robert C.
Cannon
Chiles
Clark
Cranston
Culver
Domenici
Durkin
Eagleton
Ford
Glenn
Gravel
Griffin
Hart, Gary
Hartke
Haskell
Hathaway
Hollings
Huddleston
Humphrey
Jackson
Johnston
Kennedy
Leahy
Long
Magnuson
Mansfield
Mathias
McGee
McGovern
McIntyre
Metcalf
Mondale
Montoya
Morgan
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Proxmire
Randolph
Ribicoff
Schweiker
Scott, Hugh
Sparkman
Stafford
Stennis
Stevens
Stevenson
Symington
Talmadge
Williams

NOT VOTING—11

Baker
Bayh
Bumpers
Byrd, Harry F., Jr.
Case
Church
Goldwater
Hart, Philip A.
Inouye
Tunney
Weicker

So Mr. HELMS' amendment (No. 1725) was rejected.

Mr. GARN. Mr. President, I shall quote a statement of Mr. Philip A. Lacovara on constitutional issues raised by the proposed "fluid recovery" damages provisions of S. 1284 which were submitted to the Committee on the Judiciary:

During my testimony before the Committee on March 3, 1976, I referred to some of the cases casting grave doubt on the constitutional validity of those provisions of Title IV of S. 1284 that would codify the judicially discredited "fluid class recovery" mechanism. Those provisions, proposed Sections 4C(c)(1) and (2), would authorize "damages" in any *parens patriae* suit brought by a State attorney general—as well as in any private antitrust class action brought on behalf of natural persons—to be "proved and assessed in the aggregate" on the basic of statistical estimates "without separately proving the fact or amount of individual injury or damage to such natural persons," and would provide that the fund so created should be distributed in accordance with state law or as the district court may "in its discretion" authorize. These provisions raise several levels of constitutional problems. I intend merely to point out these problems without embarking on a full analysis of them.

I. ACTUAL PROOF OF THE FACT AND AMOUNT OF INJURY IS CONSTITUTIONALLY REQUIRED

The avowed object of Title IV is to overrule a long and growing line of cases holding that class actions for alleged injuries to large numbers of consumers, whether brought by State attorneys general or by private counsel, cannot be maintained under Rule 23 of the Federal Rules of Civil Procedure. Although many of the decisions speak exclusively in terms of the requirements of Rule 23, other courts have frankly recognized that the Advisory Committee which drafted Rule 23 was guided by basic concepts of due process and fundamental fairness. Thus, before this Committee recommends dispensing with those requirements of Rule 23 which the courts have held to preclude entertaining massive actions for consumer claims in litigated cases, the Committee must consider the Constitutional underpinnings of such requirements as actual notice to interested persons, actual proof of injury, and the trial of damage claims by jury. Respect for Constitutional rights is frequently inconvenient, and often interferes with what some persons would consider expedient. Title IV rather brazenly disregards these vital concerns.

A. Proof of actual injury

The crux of Title IV seems to be the aggregation-of-damages provision. One feature of this section would dispense with the need to prove "the fact or amount of individual injury or damage." This language is designed to repudiate the cases holding that such proof is required in a Rule 23 class action and that the need to have such issues proved individually before a jury (if demanded) renders massive consumer class claims "unmanageable" within the meaning of Rule 23.

But the attempt to wipe out that requirement of actual proof by legislative fiat is impermissible. The desire to deal with the unmanageability of these individually minute claims cannot justify an attempt to abrogate the underlying Constitutional requirements which Rule 23 codifies.

It is axiomatic in our legal system that damages can be claimed by one person from another only upon adequate proof (a) that the defendant committed a legal wrong; (b) that the wrong actually injured the plaintiff; and (c) that the plaintiff suffered damage in a reasonably ascertainable amount. Title IV's provision for recovering alleged damages to consumers in a *parens patriae* action cannot avoid these requirements. The Supreme Court's treatment of the "pass-on" issue in *Hanover Shoe, Inc.* v. *United Shoe Machinery Corp.*, 392 U.S. 481 (1968), illustrates the point. There, an antitrust defendant contended that the plaintiff whom the defendant had allegedly overcharged in renting certain machinery to it had not borne the financial injury but had "passed on" the overcharges to the persons who purchased the goods the plaintiff manufactured with the machinery. The Court rejected the defense on sound economic and policy grounds, holding the possibility of recoupment from others irrelevant. The Court quoted (392 U.S. at 490) Justice Holmes' opinion in *Southern Pacific Co.* v. *Darnell-Taenzer Lumber Co.*, 245 U.S. 531, 533–34 (1918):

"The general tendency of the law, in regard to damages as least, is not to go beyond the first step. As it does not attribute remote consequences to a defendant so it holds him liable if proximately the plaintiff has suffered a loss. . . . The [defendant] carrier ought not to be allowed to retain his illegal profit, and the only one who can take it from him is the one that alone was in relation with him, and from whom the carrier took the sum. . . ."

The Court in *Hanover Shoe* explained why the law does not ordinarily treat the ultimate consumer as the person injured by an antitrust violation committed by someone in the manufacturing/distribution chain with whom the consumer did not deal directly. Justice White's opinion noted that the "mere fact that a price rise followed an unlawful increase" does not show that the increase was the result of the violation. (392 U.S. at 493 n. 9) The consumer would be the injured party entitled to sue for damages only in the rare case where it was *provable* that an illegal overcharge had automatically been "passed on" to him—and if there were several levels of business activity between the violator and the consumer, the plaintiff consumer would have to prove a pass-on at each level. The Court thus aptly noted that, since proving that the ultimate consumer rather than the immediate purchaser was the injured party "would require a convincing showing of virtually unascertainable figures, the task would normally prove insurmountable." 392 U.S. at 493.

Unavoidable but impossibly speculative requirements of actual proof were also recognized in *Hawaii* v. *Standard Oil Co.*, 405 U.S. 251 (1972), where the Supreme Court refused to recognize a State's claim to sue as *parens patriae* to recover damages to its "general economy" allegedly occasioned by an antitrust violation. Justice Marshall's opinion for the Court pointed out, among other things: "The lower courts have been virtually unanimous in concluding that Congress did not intend the antitrust laws to provide a remedy for all injuries that might conceivably be traced to an antitrust violation." 405 U.S. at 263 n. 14. The Court also held that, in authorizing treble damage suits by a person "injured in his business or property", 15 U.S.C. § 15, Congress was referring "to commercial interests or enterprises". 405 U.S. at 264. This focus reflects the almost imponderable difficulties of establishing whether consumers are injured in any amount and what that amount could conceivably be. Congress cannot validly sweep away these practical problems of proof of injury in antitrust cases—or any other cases—by simply declaring such proof unnecessary. See, *e.g.*, *Leary* v. *United States*, 395 U.S. 6, 29–36 (1969).

Title IV would stand on its head these settled principles by jumping down to the consumer level and substituting surmise and speculation, on a class-wide basis, for proof of actual individual injury. Such a facile device cannot be sustained. Depending on the myriad ways in which a particular product reaches a particular consumer, he may or may not have absorbed some or all of an illegal overcharge collected by the manufacturer of that product—or, even more remotely, of some component of it. That must be a matter of proof on an individual basis, and if a jury trial is demanded, the fact *and* amount of injury must be made the subject of a jury's consideration. Otherwise, there is a real danger that duplicative damages will be assessed: on the basis of actual proof of injury by a commercial purchaser and on the basis of estimates and aggregation at the consumer level. It was for this reason, in part, that Justice Marshall—certainly no foe of efforts to assure justice for the wronged—stated flately in his opinion for the Court in *Hawaii:*

"*Parens patriae* actions may, in theory, be related to class actions, but the latter are definitely preferable in the antitrust area. Rule 23 provides specific rules for determining the appropriate plaintiff class, establishes who is bound by the action, and effectively prevents duplicative recoveries." 405 U.S. at 266.[1]

In this connection, the Committee must also consider the Supreme Court's holdings in *Warth* v. *Seldin,* 422 U.S. 490 (1975), which had been brought as a class action by individuals claiming to represent others similarly situated and by associations claiming to represent their members. Beyond injunctive relief (which was refused), the plaintiffs sought damages. The Court's analysis in rejecting the damage claim by a home builders association is instructive. After noting that it was not the plaintiff association that had allegedly been damaged but some of its individual members, the Court continued (422 U.S. at 515–16):

"No award therefore can be made to the association as such. Moreover, in the circumstances of this case, the damages claims are not common to the entire membership, nor shared by all in equal degree. To the contrary, whatever injury may have been suffered is peculiar to the individual member concerned, and *both the fact and extent of injury would require individualized proof.* Thus, to obtain relief in damages, each member of Home Builders who claims injury as a result of respondents' practices must be a party to the suit . . ." (Emphasis added.)

In short, in a group damage action where actual injury to individuals may or may not have occurred, and if it occurred it may have involved different amounts of damages, there is simply no lawful substitute for individual proof of both the fact *and* amount of injury—precisely what Title IV purports to disregard.

B. The "fluid class recovery" concept

The attempt to by-pass these constitutional requirements and settled policies ultimately turns on the "fluid class recovery" device which Title IV would adopt. In essence, the concept disregards the question of actual injury to individual consumers, presumes injury to the class of consumers as a whole, creates liability "in the air", and, in light of the practical disinterest of consumers in tiny *pro rata* shares, provides for the bulk of the "compensation" recovered to be applied to miscellaneous court-approved projects or to escheat to the State.

In the class-action setting this approach has been branded as unconstitutional, and a mere change in labels will not transform it into an acceptable device. The most eloquent statement of this position came in Judge Medina's opinion in "Eisen III", *Eisen* v. *Carlisle & Jacquelin,* 479 F.2d 1005 (2d Cir. 1973), vacated on other grounds, 417 U.S. 156 (1974).[2] Judge Medina firmly rejected the attempt to have the "class as a whole" treated as the real party in interest, with the "claims of the individual members of the class becom[ing] of little consequence" (479 F.2d at 1017–18):

Even if amended Rule 23 could be read so as to permit any such fantastic procedure, *the courts would have to reject it as an unconstitutional violation of the requirement of due process of law.* . . . We hold the "fluid recovery" concept and practice to be illegal, inadmissible as a solution of the manageability problems of class actions and wholly improper." (Emphasis added.)

Efforts to present this theory elsewhere have met with similar rebuffs on the firmest grounds. For example, Circuit Judge Ely, another judge considered to be in the vanguard of protecting individual rights, nevertheless rejected the plaintiff's arguments in the *Hotel Telephone* case that "the individual questions arising from the damage claims [of an enormous consumer class] can be solved by allowing damages in the form of fluid recovery. . . ." *In re Hotel Telephone Charges,* 500 F.2d 86, 89 (9th Cir. 1974). Distinguishing those instances where this device had been accepted by defendants as part of a settlement (such as in the *Tetracycline Antibiotic Drug Litigation*), Judge Ely's opinion stated:

"We agree with the decision reached in *Eisen* v. *Carlisle & Jacquelin,* 479 F.2d 1005 (2d Cir. 1973), that allowing gross damages by treating unsubstantiated claims of class members collectively significantly alters substantive rights under the antitrust statutes." 500 F.2d at 90.

In that opinion, Judge Ely echoed Judge Medina's reasoned observation in *Eisen III* that rhetorical statements "about 'disgorging sums of money for which a defendant may be liable', or the 'prophylactic' effect of making the wrongdoer suffer the pains of retribution . . . do little to solve specific legal problems." 479 F.2d at 1013. After referring to that language, Judge Ely put the issue this way (500 F.2d at 92):

"The antitrust laws focus on the compensation of parties *actually injured,* presupposing that a *plaintiff can prove that he was in fact injured* as a proximate result of an antitrust violation, *Hawaii* v. *Standard Oil Co.,* 405 U.S. 251 (1972). The fact that the injured plaintiff is allowed treble damages does not change the basic nature of the private antitrust action as an action intended to compensate. When, as here, there is no realistic possibility that the class members will in fact receive compensation, then monolithic class actions raising mind boggling manageability problems should be rejected." (Emphasis added.)

An even more insistent posture was adopted by another panel of the Ninth Circuit in the real estate brokerage commission case, *Kline* v. *Caldwell, Banker & Co.,* 508 F.2d 226 (9th Cir. 1974). In that massive class-action case, the Court noted that "plaintiffs must prove both that the defendants' conduct contravened section 1 [of the Sherman Act] *and* that the plaintiffs suffered injury as a direct result of the illegal conduct." 508 F.2d at 230–31 (emphasis in original). The Court held that, because "[p]roof of injury is *an essential substantive element* of the successful treble damage action" (508 F.2d at 233; emphasis added), each class-member would have to prove to a jury that he had sustained actual injury resulting from a particular defendant's violation. Judge Duniway's concurring opinion expressed alarm at the practical consequences of entertaining the "judicial juggernaut" that plaintiffs and their counsel sought to create there. 508 F.2d at 236. He insisted that it would be necessary for "each such 'plaintiff' " in the alleged class of 400,000 to prove actual injury *and* the amount of *his* damages. He explained (*ibid.*):

"It is inconceivable to me that such a case can ever be tried, unless the court is willing to deprive each defendant *of his undoubted right to have his claimed liability proved, not by presumptions of assumptions, but by facts,* with the burden of proof upon the plaintiff or plaintiffs, and to offer evidence in his defense. The same applies, if he is found liable, *to proof of the damage of each 'plaintiff'.*" (Emphasis added.)

These decisions follow the Ninth Circuit's refusal to entertain a *parens patriae* suit by the State attorney general in *California* v. *Frito-Lay, Inc.,* 474 F.2d 774 (9th Cir. 1973), *cert. denied,* 412 U.S. 908 (1973).

There the court held the device unauthorized by law, and criticized the *parens patriae* mechanism on grounds equally applicable to the pending legislation: "To a greater or lesser degree these [*parens patriae*] theories attempt to utilize class action principles *without the class action safeguards* so carefully worked out by the drafters." 474 F.2d at 777 n. 11, emphasis added). Although the court commended the problem of consumer protection to the attention of Congress, it was careful not to endorse the *paren patriae* in balanced safeguards.[3]

Later opinions of the Ninth Circuit, as we have seen, make clear that statutory codification of the *parens patriae*/fluid class recovery concept is not the kind of solution to the problem that the court would or could approve.

And other courts as well have rebuffed the *parens patriae*/fluid recovery concept. In *Pfizer* v. *Lord,* 522 F.2d 612 (8th Cir. 1975), the Eighth Circuit ordered dismissal of a *parens patriae* case brought under the antitrust laws by foreign governments on behalf of their citizens. It noted that a "strong preference for class actions over *parens patriae* has been repeatedly expressed" by the courts and that this preference is based on the "safeguards" built into Rule 23 to insure the basic fairness which the *parens patriae* device circumvents. 522 F.2d at 618.

Recently, the District Court for the District of South Carolina, in a lengthy and careful opinion, continued the trend of judicial repudiation of "fluid class recovery" which Title IV would try to overrule. See *Windham* v. *American Brands, Inc.,* ---- F. Supp. ---- (D.S.C. 1975) (CCH Trade Cas. ¶60,530). The court there refused to tolerate the " 'fluid recovery' theory of damages" that had been used in the settlement of the *Tetracycline Antibiotic Drug Litigation,* noting that that approach "has been rejected by subsequent opinions, the reasoning of which this Court adopts" (quoting *Eisen III's* language) (p. 67,345). The court stated in no uncertain terms that liability and damage must be proved individually, holding: "Aside from proof of liability, determining the amount of damages and a proper distribution thereof would result in *an unfair trial if a fluid recovery approach were utilized* . . . ." (p. 67.346).

The overwhelming weight of judicial authority, therefore, rejects the *parens patriae*/fluid recovery mechanism embodied in Title IV of S. 1284 as an unfair and unconstitutional expedient whose defects cannot be cured by inclusion in a statute.

C. Actual notice

Finally, the premise of Title IV is that there ought to be a remedy for consumers injured by antitrust violations. No one questions the basic principle that the legal rights to be asserted by a State attorney general are those belonging to consumers. It has long been settled that a person whose interests are being litigated in a proceeding to which he is not a named party is constitutionally entitled to notice of that fact and the concomitant opportunity to decide *for himself* whether he wants *his* claim pressed at all, in that suit or elsewhere. Rule 23, as interpreted by the Supreme Court in *Eisen* v. *Carlisle & Jacquelin,* 417 U.S. 156 (1974), requires individual notice of all reasonably identifiable class members.

Proposed Section 4C(b)(1) of Title IV, however, would instead direct that notice of a *parens patriae* action be given "by publication" unless the court finds that such notice would be "manifestly unjust as to

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Footnotes at end of article.

any person or persons". Such a procedural short-cut is at odds with the due-process requirements undergirding both Rule 23 and *Eisen.*

In *Eisen,* the Supreme Court expressly noted that Rules 23's provisions requiring actual notice if at all possible were intended by the draftsmen ". . . 'to fulfill requirements of due process to which the class action procedure is of course subject' . . ." 417 U.S. at 173. The Court then noted: "The [Advisory] Committee explicated its incorporation of due process standards by citation to *Mullane* v. *Central Hanover Bank & Trust Co.,* 339 U.S. 306 (1950), and like cases." 417 U.S. at 174. In *Eisen* the Court described *Mullane* as holding "that publication notice could not satisfy due process where the names and addresses of the beneficiaries [the interested persons] were known." *Ibid.* The Court also noted its application of this same principle in *Schroeder* v. *City of New York,* 371 U.S. 208 (1962), where it held that due process "required rejection of notice by publication where the name and address of the affected person were available." *Ibid.*

Thus, Title IV's effort to treat *Eisen* as simply involving a matter of interpretation of Rule 23 and to make notice by publication presumptively sufficient for *parens patriae* actions disregards the undeniable fact that Rule 23's provisions in this regard reflect a constitutional imperative which Congress should not be induced to try to flout.

II. A STATE ATTORNEY GENERAL MAY LACK CONSTITUTIONAL STANDING TO SUE

A basic requirement of the Constitutional plan for federal courts under Article III is that these courts can only entertain "cases or controversies". This limitaion has been construed by the Supreme Court as having a variety of manifestations, one of which is the requirement that a plaintiff invoking the jurisdiction of the courts to allege that the defendant has done something improper and to seek some redress must establish his "standing" to do so. The Supreme Court's most recent major expression on this point came in *Warth* v. *Seldin,* 422 U.S. 490 (1975). While acknowledging that Congress has some authority to lift certain court-imposed "prudential" barriers to standing, the Court emphasized that Congress does not have a completely free hand in authorizing prospective litigants to represent and assert the rights of others (422 U.S. at 501):

". . . Congress may grant an express right of action to persons who otherwise would be barred by prudential standing rules. Of course, Art. III's requirement remains: the plaintiff still must allege *a distinct and palpable injury to himself,* even if it is an injury shared by a large class of other possible litigants. *E.g., United States* v. *SCRAP,* 412 U.S. 669 (1973)." (Emphasis added)

In that case, the Court denied a variety of plaintiffs, including various trade associations, public interest groups, and individuals the standing to maintain actions for damages or for injunctive relief, under the federal civil rights laws and various Constitutional amendments, challenging a municipality's restrictive zoning practices. The Court held that none of the plaintiffs was able to allege and prove a direct and palpable *personal* injury from the allegedly illegal conduct. Since these principles are founded upon the Constitutional limits on federal judicial power, it would seem plain that a State official could not validly be authorized to go into a federal court to recover "damages" allegedly incurred by others unless he satisfies the constitutional requirement, codified in Rule 23, that he must be a member of the class he seeks to represent.[4] Otherwise, no matter how worthy the goal, the *parens patriae* device is simply not one the Constitution allows.

CONCLUSION

This Committee certainly has an obligation to oversee the strict enforcement of the antitrust laws. But it has an even higher duty to insure that any mechanisms intended to promote antitrust enforcement comport with overriding interests of Constitutional fairness. While the objectives of Title IV may seem reasonable, the means chosen are simply at odds with Constitutional due process.

FOOTNOTES

[1] Proponents of the "aggregation of damages" device point to cases like *Bigelow* v. *RKO Radio Pictures, Inc.,* 327 U.S. 251 (1946), and *Story Parchment Co.* v. *Paterson Parchment Paper Co.,* 282 U.S. 555 (1931), to support its validity. Those cases furnish no such support. In those cases, individual plaintiffs who were directly injured by the antitrust violations of the defendants (with whom they dealt), established both the fact of injury and the amount of damage. All the cases, fairly read, support is the unquestioned proposition that, once actual personal injury is proved, the plaintiff's burden to show the amount of damages can be met if damages are shown with reasonable reliability. The cases say nothing about aggregating claims and dispensing with the need for individual proof.

[2] At the Committee hearing on March 3, 1976, a member of the Committee's staff suggested that the force of *Eisen III* had been undercut by the Supreme Court's later action vacating the judgment of the court of appeals. Significantly, all portions of the Supreme Court's treatment of Judge Medina's opinion reflect explicit approval of his analysis of the questions the Court found it necessary to reach. It was not his opinion that was vacated, merely the formal judgment of the court of appeals. This action was explained (417 U.S. at 179 n. 16) as allowing the plaintiff an opportunity to amend his complaint, without prejudice, to try to allege a smaller class. The Second Circuit had ordered dismissal with prejudice. And as shown below, other courts have continued to treat Judge Medina's opinion as authoritative.

[3] See 474 F. 2d at 776 n. 9, saying of the *parens patriae* device indistinguishable from that proposed in Title IV: "No matter how it is labeled, a basic problem still exists. The class action safeguards of Fed. R. Civ. P. 23 are absent."

[4] Of course, where the State has itself suffered its own direct injury, its Attorney General may have standing to sue as a representative of a class *of which the State is a member.* That, however, is likely to be the exceptional case, and is already permissible under Rule 23.

AMENDMENT NO. 1741

Mr. President, at this time, I call up amendment No. 1741.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Utah (Mr. GARN) proposes amendment No. 1741.

On page 27 strike all starting with line 8 and continuing through page 32, line 18, and add the following:

SEC. 401. The Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914 (15 U.S.C. 12 et seq.), is amended by inserting immediately after section 4B the following new sections:

"ACTIONS BY STATE ATTORNEYS GENERAL

"SEC. 4C. (a) Any State attorney general may bring a civil action, in the name of the State, in the district courts of the United States under section 4 of this Act, and such State shall be entitled to recover threefold the damages and the cost of suit, including a reasonable attorney's fee, as parens patriae on behalf of natural persons residing in such State injured by any violation of the Sherman Act.

"(b) In any action under subsection (a) the court may in its discretion, on motion of any party or on its own motion, order that the State attorney general proceed as a representative of any class or classes of persons alleged to have been injured by any violation of the Sherman Act, notwithstanding the fact that such State attorney general may not be a member of such class or classes.

"(c) In any action under subsection (a), the State attorney general shall, at such time as the court may direct prior to trial, cause notice thereof to be given by publication in accordance with applicable State law or in such manner as the court may direct; except that such notice shall be the best notice practicable under the circumstances.

"(d) Any person on whose behalf an action is brought under subsection (a) may elect to exclude his claim from adjudication in such action by filing notice of his intent to do so with the court within sixty days after the date on which notice is given under subsection (c). The final judgment in such action shall be res judicata as to any claim arising from the alleged violation of the Sherman Act of any potential claimant in such action who fails to give such notice of intent within such sixty-day period, unless he shows good cause for his failure to file such notice.

"(e) An action under subsection (a) shall not be dismissed or compromised without the approval of the court, and notice of the proposed dismissal or compromise shall be given in such manner as the court directs.

"(f) In an action under subsection (a) or (b), the court may in its discretion award a reasonable attorney's fee to a defendant upon a finding that the action is frivolous or that the State attorney general has acted in bad faith, vexatiously, wantonly, or for oppressive reasons.

"MEASUREMENT OF DAMAGES

"SEC. 4D. In any action under section 4C (a) or (b), in which there has been a determination that the defendants agreed to fix prices in willful violation of the antitrust law, damages may be proved and assessed in the aggregate by statistical or sampling methods, by the computation of illegal overchanges, or by such other reasonable system of estimating aggregate damages as the court in its discretion may permit without the necessity of separately proving the individual claim of, or amount of damage to, persons on whose behalf the suit was brought: *Provided,* That any damages awarded against a defendant which are provided and assessed in the aggregate as provided in this section shall be reduced to actual damages and the cost of suit, including reasonable attorneys' fees, if the defendant establishes that he acted in good faith and without reasonable grounds believe that the conduct in question violated the antitrust laws.

"DISTRIBUTION OF DAMAGES

"SEC. 4E. Damages recovered under section 4C(a) shall be distributed in such manner as the district court in its discretion may authorize, subject to the requirement that any distribution procedure adopted afford each person a reasonable opportunity to secure his appropriate portion of the damages awarded less unrecovered costs of litigation and administration.

"ACTION BY ATTORNEY GENERAL OF THE UNITED STATES

"SEC. 4F. (a) Whenever the Attorney General of the United States has brought an action under section 4A of this Act, and he has reason to believe that any State attorney general would be entitled to bring an action under section 4C(a) based substantially on the same alleged violation of the Sherman Act, he shall promptly give written notification to such State attorney general with respect to such action.

"(b) To assist a State attorney general in evaluating the notice and in bringing any action under section 4C of this Act, the Attorney General of the United States shall, upon request by such State attorney general, make available to him, to the extent permitted by law, any investigative files or other materials which are or may be relevant or material to the actual or potential cause of action under section 4C.

"DEFINITIONS

"SEC. 4G. For purposes of this section and sections 4C, 4D, 4E, and 4F:

"(1) The term 'State attorney general' means the chief legal officer of a State, or any other person authorized by State law to bring actions under this Act; except that such term does not include any person employed or retained on a contingency fee basis.

"(2) The term 'State' means a State, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

"(3) The term 'Sherman Act' means the Act entitled 'An Act to protect trade and commerce against unlawful restraints and monopolies,' approved July 2, 1890 (15 U.S.C. 1, et seq.).

"(4) Teh term 'natural person' does not include proprietorships or partnerships.

"SEC. 4H. This title shall not be applicable in a particular State until that State shall provide by law for its applicability as to such State.".

SEC. 3. The Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914 (15 U.S.C. 12 et seq.), is amended—

(1) in section 4B (15 U.S.C. 15b), by striking out "4 or 4A" and inserting in lieu thereof "4, 4A, or 4C",

(2) in section 5(b) (15 U.S.C. 16(b)), by striking out "private right of action" and inserting in lieu thereof "private or State right of action"; and by striking out "section 4" and inserting in lieu thereof "section 4 or 4C"; and

(3) by adding at the end of section 16 (15 U.S.C. 26) the following: "In any action under this section, the court shall award reasonable attorneys' fees to a prevailing plaintiff.".

Mr. HELMS. Mr. President, will the Senator yield?

Mr. GARN. I yield to the Senator from North Carolina.

Mr. HELMS. Mr. President, I ask for the yeas and nays on the amendment.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment. The clerk will call the roll.

Mr. ABOUREZK. Mr. President, was the amendment No. 1741?

The ACTING PRESIDENT pro tempore. That is correct. The Chair understands it is amendment No. 1741.

Mr. ABOUREZK. This amendment, Mr. President, substitutes the provisions of the House-passed bill for the Senate parens patriae provisions. Additionally, it would preclude the provisions from becoming effective as to a particular State unless such State enacts legislation providing for its applicability, so the committee opposes this amendment.

I move to table the amendment. I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. BUMPERS), the Senator from Virginia (Mr. HARRY F. BYRD, JR.), the Senator from Idaho (Mr. CHURCH), the Senator from Michigan (Mr. GARY HART), the Senator from Hawaii (Mr. INOUYE), the Senator from Montana (Mr. METCALF), the Senator from California (Mr. TUNNEY), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I also announce that the Senator from Indiana (Mr. BAYH), is absent because of illness.

I further announce that, if present and voting, the Senator from Indiana (Mr. BAYH), would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from New Jersey (Mr. CASE), the Senator from Arizona (Mr. GOLDWATER), the Senator from Connecticut (Mr. WEICKER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The result was announced—yeas 57, nays 29, as follows:

[Rollcall Vote No. 272 Leg.]

YEAS—57

Abourezk
Beall
Biden
Brock
Brooke
Burdick
Byrd, Robert C.
Cannon
Clark
Cranston
Culver
Durkin
Eagleton
Fong
Ford
Glenn
Gravel
Hart, Gary
Hartke
Haskell
Hatfield
Hathaway
Huddleston
Humphrey
Jackson
Javits
Johnston
Kennedy
Leahy
Long
Magnuson
Mansfield
Mathias
McGee
McGovern
McIntyre
Mondale
Montoya
Morgan
Moss
Muskie
Nelson
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Schweiker
Scott, Hugh
Sparkman
Stafford
Stevens
Stevenson
Symington

NAYS—29

Allen
Bartlett
Bellmon
Bentsen
Buckley
Chiles
Curtis
Dole
Domenici
Eastland
Fannin
Garn
Griffin
Hansen
Helms
Hollings
Hruska
Laxalt
McClellan
McClure
Nunn
Roth
Scott,
  William L.
Stennis
Stone
Taft
Talmadge
Thurmond
Tower

NOT VOTING—14

Baker
Bayh
Bumpers
Byrd,
  Harry F., Jr.
Case
Church
Goldwater
Hart, Philip A.
Inouye
Metcalf
Tunney
Weicker
Williams
Young

So the motion to lay on the table was agreed to.

Mr. BIDEN assumed the chair at this point.

Mr. CURTIS. Mr. President, I respect the views of every Senator, as all of us should. I am sure that everyone approaches this legislation with the idea of serving the economy of our country in the very best way, as they see it. I believe, however, the proponents of this legislation should reexamine their position. This is a piece of legislation which expands the power of Government. This is a piece of legislation that will add to the regulation, the harassment, the control of various aspects of our private enterprise economy.

The reason I say the proponents ought to reassess their position is this: I do not think one needs to be an expert to gather the information that the grass roots of America are sick and tired of overregulation by Washington.

If the Presidential primaries mean anything, they mean that the people do not like to have our economy overregulated.

It is rather ironical that candidates for office now, and no doubt this fall, get up and declare themselves against an excessive amount of Government regulation. Yet Government regulation expands all the time. Somebody votes for it. If this proposal now before us is enacted into law, those who are responsible for its enactment must carry the burden of a further regulation of the lives of our people.

Sometimes it is thought and said that antitrust laws are something that go after the giants. Well, that is not the history of the record. What has the Department of Justice been doing in recent years? Making giants behave? No. One of their chief targets is associations of individuals, associations of small business people. A suit is brought on the east coast which assesses damages against an association of realtors in a far western State. Those individual holders of a real estate license are not the corporate giants of our country, yet many of them have been placed in jeopardy.

This bill gives the power and direction for a continuation of those excesses, not only against associations of realtors, but against unions, organizations, business associations, and professional associations.

This proposal would significantly revamp the antitrust substance and distort fair procedures by making some very revolutionary changes.

This legislation will increase the power of the Justice Department to go to businesses all over the country to inspect, to demand records, to do other things—not in a courtroom, not at all. They are giving that power to bureaucrats who will run all over the country to do these things.

Mr. President, instead of adding to the burdens of our citizens, instead of enlarging the scope of Government, instead of setting into motion more bureaucrats running over the country, harassing and destroying our economy, we should be about our business of reducing the expenditures of this Government, of balancing the budget, of repealing the Occupational Safety and Health Act, and freeing our people from the clutches of an overweight, overfed, arrogant bureaucracy in Washington.

I believe that is what the people of the country are saying.

We can camouflage this bill and promise it is going to do a lot for people.

It never has. It has never lowered the price to consumers. Some of these recent actions have led to raising the price. It does increase the power of the Government over the lives and businesses of our people.

Mr. President, I am not an authority on antitrust legislation, but I respect those people who are. As I said the other day, no man in the United States has worked harder and longer on antitrust legislation than my distinguished colleague (Mr. HRUSKA). Yet we have the shameful procedure that here for several days, as a result of months and years of study of the antitrust laws, he would offer an amendment of real substance—not frivolous amendments—and because of the tyranny of the majority they would be tabled.

Let us not let anyone go out and put on a pious front this fall, and say, "I am against Government regulation; I am against enlarging the Government; I am against letting bureaucrats have authority to harass citizens and businesses." Mr. President, that is what the proponents of this legislation are doing today. There is not any of them who can offer any proof that what they propose here will really help the consumers.

This is a bill for the relief of bureaucrats, and to have more of them. And, when we have more bureaucrats, it means increased Government expenses for traveling and hotels and all of these other things for these enemies of the people who come around and harass the citizens.

Just the other day I put in the RECORD a speech about the pamphlet the "Occupational Health and Safety Act" people in the Department of Labor printed on the care of cattle. It not only wastes the people's money, but it is most insulting to all the farmers and ranchers of the country. A book in big print, written for kindergarten people, like a Dick and Jane book, telling them how to be careful around cattle.

Those things happen because Congress votes too much power, because we authorize too many bureaucrats and we give them too much money and nothing constructive to do.

I say if you want some more of that, enact this bill. Mr. President, I said a bit ago that I was not an authority on antitrust matters, but I do respect those people who are, such as my distinguished colleague, Senator HRUSKA, or the distinguished Senator from Alabama (Mr. ALLEN).

But also, we have the opportunity in Congress, under our committee system, to get the opinions of other experts. The American Bar Association is made up of a great many fine lawyers over the country. They operate in sections. Whether you are dealing with taxes, antitrust law, criminal procedure, or whatever it is, you can get some of the finest legal minds on that subject.

With reference to antitrust matters, Mr. Ira M. Millstein testified, and I wish to quote from what he had to say.

He said:

> Section 4C(c)(1) of Title IV would authorize the use of sampling or statistical measures for determining damages in antitrust *parens patriae* suits. After hearings were closed and based on no testimony of which we are aware, the Committee print made three dramatic additions to this already dramatic proposal for aggregating damages. First, it permitted statistical and sampling theories to be used in private class actions as well as in *parens patriae* cases; second, it did not limit such private class action damage aggregations to the Sherman Act; the provision apparently applies to actions under all the antitrust laws; third, the words "without separately proving the fact or amount of individual injury . . ." were added thus apparently further changing age-old concepts of injury and damages. We will today discuss these attempts to change historic injury and damage concepts.

I am quoting from Mr. Millstein's testimony.

> Sections 1 and 2 of the Sherman Act have not been amended in substance since 1890; yet, the July 28th Subcommittee print, based on no testimony of which we are aware, and following the close of hearings, inserted the first substantive change in Section 2 of the Sherman Act in 86 years. Section 704 of the Committee print would totally alter the offense of attempt or conspiracy to monopolize.[1] We will discuss this today.
>
> Study also indicated that Title I, another significant proposal, had apparently not been fully considered during the hearings before the Subcommittee. We will discuss Title I today.
>
> In addition to the foregoing, our concern about the Subcommittees' July 28th draft has been heightened by the fact that during the course of the hearings before the Subcommittee the Assistant Attorney General in charge of the Antitrust Division had indicated reservations and concerns about, if not actual opposition to, certain significant portions of various titles of S. 1284, and the Subcommittee seemed not responsive to these concerns. For example:
>
> He indicated that the Administration could support Title III if the present $100 minimum penalty was retained[2]—and the Subcommittee did not respond; he urged the deletion (in Title IV) of damages based on injury to the state's general economy[3]—and again the Subcommittee did not respond; he urged the deletion in Title V of provisions requiring the court to determine the purchase price of acquired stock or assets after consummation of the acquisition, as well as the "hold separate" language during the pendency of litigation, and the escrow of profits during the litigation. He also requested in Title V that the Department of Justice have concurrent jurisdiction to issue regulations along with the FTC; and he recommended that Title V deal directly with the confidentiality issue, preserving confidentiality. He suggested finally that tender offers be treated in a different manner than they had been.[4] The Subcommittee responded to none of these suggestions.
>
> As to Title VI he urged its deletion,[5] but Title VI was not deleted by the Subcommittee. Finally as to Title VII he suggested deletion of Sections 702 and 703,[6] and opposed the expansion of Robinson-Patman Act jurisdiction[7] in Section 701. The Subcommittee responded to none of these suggestions.

This is Mr. Millstein; I am still quoting:

> In all events, the Council of our Section determined at its August 1975 meeting to develop a position on all of S. 1284. The Council's essential concern was that the July 28th Subcommittee draft was not simply a procedural reform which largely codified existing law and furthered the interests of fair procedures. It is rather a proposal which could significantly revamp antitrust substance and distort fair procedure by, among other things: changing the substance of the Sherman Act for the first time in 86 years; significantly adding to the powers of the Department of Justice; impeding legitimate merger and acquisition activity; and expanding and revising injury and damage concepts in apparently revolutionary ways.
>
> The persons appearing before you today drafted, in August 1975, a position on S. 1284 and presented it to the Council of the Antitrust Law Section, which modified and then adopted it. The Section's recommendations were considered and approved by the Board of Governors of the American Bar Association at its meeting on October 16 and 17, 1975. The Council's action was published in a newsletter to the over 9,000 members of the Section.

It goes on to say:

> I would appreciate the American Bar Association's position being made part of this record and request it be considered by this Committee in its deliberations on S. 1284. I understand that the ABA's Washington office distributed these resolutions earlier to members of this Committee.

In discussing the bill he goes on:

> Additionally, in Section 201(d) of Title II, after the Subcommittee's hearings were closed, the Department of Justice was authorized to use the civil investigative demand not only for its traditional antitrust investigations but also to obtain "any information, relevant to a . . . federal administrative or regulatory agency proceeding." This seems to be a vast new expansion of Department of Justice authority to discovery in all Federal agency proceedings. This change was apparently made because the original language of S. 1284 was obscure in its intendment to accomplish such an objective. Through inadvertence, the ABA Resolution does not deal with this problem. We would nevertheless like today to present the views of the four of us on this subject.
>
> We will hereafter divide the task of elaborating on the various titles as follows:
>
> Mr. Pollock will discuss Title II; Mr. Holmes, Title IV; Ms. Fox, Title V; and I will then discuss, time remaining, Titles I, III, VI, and VII.
>
> The purpose of our presentations—which elaborate upon the American Bar Association Resolutions and Report now placed in the record—is this: The Committee will note that the ABA position is not one of flat opposition to S. 1284. It recognizes Congress' concern with procedural areas which may warrant change. But, the matters which are being dealt with in S. 1284 are for the most part legally technical, hence the criticisms and comments which we have on S. 1284 must be legally technical. S. 1284 is a closely drafted lawyer's bill—it is not simple policy at all. Frequently it has been difficult to discern just what is intended. We therefore seek to use this opportunity to attempt to explain what may appear as shorthand in the American Bar Association report itself, to make

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[1] We have been advised that Senators Hart and Scott have recently proposed certain amendments to S. 1284 which have not yet been acted upon. Among them would be a proposal to eliminate Section 704. We shall, where appropriate, comment on others of these proposed amendments.

[2] Hearings on S. 1284 at 662 (Letter from Thomas E. Kauper to Philip A. Hart, July 22, 1975.)

[3] Hearings on S. 1284 at 94.

[4] Hearings on S. 1284 at 97–99.

[5] Hearings on S. 1284 at 100–102.

[6] Hearings on S. 1284 at 102–103.

[7] Hearings on S. 1284 at 1109–1110 (Letter from Thomas E. Kauper to Philip A. Hart, July 7, 1975.)

certain additional comments, and to make ourselves available for questioning by this Committee and its staff. We believe that based upon our testimony today, constructive changes can be made in S. 1284 to alter it where in our opinion it needs alteration, and to clarify or improve certain portions where appropriate procedural change may be desired by the Congress.

Mr. President, I read from the testimony of Mr. Earl E. Pollock, who speaks in reference to title II:

Title II would significantly amend the Antitrust Civil Process Act of 1962, 15 U.S.C. §§ 1311–1314. The amendments would vest in the Department of Justice far-ranging investigatory powers comparable to those of a grand jury as well as many powers which not even a grand jury possesses.

Under the present statute, the Department of Justice may serve a pre-complaint civil investigative demand for documents upon any corporation or other business entity for the purpose of determining whether the recipient is or was engaged in illegal activities under the antitrust laws. The present law limits "CID's" to companies under investigation, excludes natural persons, protects the confidentiality of the documents by forbidding transmission outside the Department, and limits use of the documents to actions resulting from the investigation.

Title II would enormously expand the Department's authority to demand information and would eliminate many of the most important safeguards incorporated in the present statute. In particular, the bill would permit the Department to use CID's to obtain pre-complaint discovery (1) against natural persons as well as legal entities, (2) by oral testimony and written interrogatories as well as the production of documents, (3) from third party witnesses as well as from the targets of the investigation, (4) regarding planned mergers and joint ventures as well as past and present conduct, and (5) for use in the proceedings of regulatory agencies as well as in antitrust investigations. The bill also removes the principal safeguards to protect confidentiality of the information.

Our essential position is: *Congress should restrict the Department's CID power to obtaining discovery from the targets of a civil antitrust investigation.*

Consistently with that principle, the American Bar Association supports amendment of the Antitrust Civil Process Act to authorize CID's (1) with respect to planned mergers and joint ventures, (2) against natural persons who are targets of the investigation, and (3) to obtain written interrogatory answers from investigation targets.

On the other hand, consistently with the principle, we oppose expansion of the CID power (1) against third parties and (2) to obtain discovery for use in administrative proceedings of other agencies.

In the event that the CID power is extended to third parties, there must be procedural safeguards suggested below to reduce the likelihood of prosecutor excess and citizens abuse. Such protections should include in each CID identification of the target of the investigation and a full description of the nature of the investigation, including applicable provisions of law and the nature of the conduct constituting the alleged antitrust violation which is under investigation. Further, counsel for the target should have full rights of participation and access when the CID is used against third parties. Importantly, confidentiality must be assured.

Finally, should use of the CID be extended to regulatory and administrative proceedings, it must be confined to the Antitrust Division's traditional mission of promoting competition as it may relate to those proceedings. The proper definition of this relationship is nowhere found in the hearings on the bill. Such profound problems of definition should be answered before proposals such as this becomes law.

The extraordinary scope of Title II is perhaps most dramatically illustrated by its provisions for the taking of oral testimony by government prosecutors. Under the bill, whenever the Antitrust Division "has reason to believe that any person [no matter how innocent of any wrong doing he may be] . . . may have any information, relevant to a civil antitrust investigation or Federal administrative or regulatory agency proceeding," that person may be required, under threat of severe criminal penalties, to appear before Division attorneys for interrogation. The examination would be under oath. There would be no hearing officer present to prevent improper interrogation. The witness may have counsel present but counsel would be forbidden to have any part in the proceeding except to state briefly on the record objections to particular questions "on the grounds of privilege or other lawful grounds." All other persons (except for Department personnel and the court reporter) would be excluded.

In the case of an antitrust investigation, the witness would be advised of the nature of the investigation. In the case of an inquiry relating to regulatory and administrative agency proceedings, the witness need be advised of nothing. In either event, the Department would not be obliged to advise the witness whether he is a potential defendant in any action, civil or criminal. If the witness elects to invoke the privilege against self-incrimination, the privilege may be over-ridden by a grant of use immunity. The witness would have only a qualified—and very limited—right to a copy of the transcript of his own testimony (and no right to copies of transcripts of testimony of others).

Furthermore, where the testimony is taken from a third party witness, the targets of the investigation would receive no notice of the hearing, would have no opportunity to participate or even be present, and have no right to obtain a copy of the transcript after the hearing.

The American Bar Association believes that some of the changes proposed in Title II are in the public interest. More specifically, we support amendment of the Antitrust Civil Process Act to authorize the Department to utilize CID's with respect to planned mergers and joint ventures; confined to targets of the Department's investigation, such additional authority would seem to be in accord with the basic objectives of the 1962 Act. We also do not object to extension of the CID power to authorize written interrogatories to targets of the investigation. In addition, where individuals are the targets of the investigation, there would appear to be no substantial reason for barring use of the CID to obtain documents or interrogatory answers from such persons (subject, of course, to the privilege against self-incrimination).

However, the other major changes proposed in Title II raise questions of the utmost gravity concerning traditional requirements of fair procedure, the proper role of law enforcement officers, and the possible abuse of governmental power. These considerations were strongly emphasized in the deliberations which ultimately resulted in the 1962 Antitrust Civil Process Act. Thus, the 1955 Report of the Attorney General's National Committee to Study the Antitrust Laws—while endorsing the basic concept of the CID—also stated (pp. 345-46):

"We reject the proposal for legislation authorizing the Department of Justice to issue the type of administrative subpoena typically employed by regulatory agencies. Unlike the Federal Trade Commission, for example, the Department of Justice is entrusted only with law enforcement. The grant of subpoena powers suggests broader regulatory powers, structural reorganization, a system of hearing officers and a panoply of administrative procedural protections which the Committee is not prepared to recommend. *We would, in addition, disapprove any subpoena power that would permit prosecuting officers in antitrust investigations to summon sworn oral testimony by placing businessmen under oath in the absence of a hearing officer and like safeguards. Such authority is alien to our legal traditions, readily susceptible to grave abuse and, moreover, seems unnecessary.*" (Emphasis added; footnotes omitted.)

Similar reservations about lodging inquisitorial powers in prosecutors were repeatedly expressed in the Congressional hearings and debates preceding adoption of the Antitrust Civil Process Act. (The American Bar Association, among others, objected to proposals to compel testimony and other pre-complaint discovery from third-party witnesses.) After reviewing the legislative history, one court noted "the tremendous concern shared by the committees, and others concerned with the bill, that it be surrounded by adequate safeguards and proper limitations on its scope" and pointed out that "A real fear was expressed as to the danger of improper use of investigative power." *United States* v. *Union Oil Co. of California*, 343 F.2d 29, 35 (9th Cir. 1965) (footnotes omitted).

Certainly, there is nothing in our Nation's experience since the 1962 Act which serves to reduce "the danger of improper use of investigative power" or the need for "adequate safeguards and proper limitations." *In our view, Congress was correct to restrict the Department's CID power to obtaining non-testimonial discovery from the targets of a civil antitrust investigation, and should adhere to that restriction in amending the Act.*

The possible ramifications of abandoning that restriction are enormous. Many antitrust investigations and regulatory proceedings involve entire industries; in such instances, the Antitrust Division would probably have "reason to believe" that there may be literally thousands of persons—competitors, suppliers, customers in addition to the targets of the investigation—who "may have any information, relevant to a civil antitrust investigation or Federal administrative or regulatory agency proceeding." Under the bill, every such person—in the Division's discretion—would be subject to CID's requiring him to appear before Division prosecutors for interrogation, to answer written interrogatories, to produce documents, "or to furnish any combination thereof." Government prosecutors, we believe, should not have such sweeping powers as a matter of principle; and furthermore we are unaware of any showing by the Division that it needs such sweeping powers for effective enforcement of the antitrust laws.

For the reasons stated, we are highly doubtful of the wisdom of extending the CID power to include any testimonial interrogation. If Congress, despite its prior rejection of such proposals, were determined to provide such new authority, we would urge that it be limited to the targets of the investigation. In addition, the bill should confirm the right of any witness examined under this procedure to make all objections permissible under the Federal Rules; to refuse to answer or terminate the examination when appropriate under those Rules; to review, correct, and certify the transcript of his testimony; and to recevie a copy of the transcript.

If testimonial interrogation is permitted and is not limited to the targets of the investigation, then Congress, we believe, must provide further safeguards to protect the rights of those being investigated. As is the case with any governmental institution charged with prosecutorial responsibilities, the Department of Justice will surely prove a more worthy repository for Congressional and public trust if its discretion to investigate in the antitrust field is properly limited by traditional requirements of due process and confidentiality.

First, the bill ought to provide expressly, as the present law now requires, that the new procedures require a preliminary identification of the targets of the investigation. At the time of the initiation of the investigation, the Department should provide proper written notice to the targets of the investigation, including a description of the nature of the investigation, the applicable provision of law, and the particular matters which are subject to investigation. Such identification and notice are a necessary foundation for the targets' collection of information responsive to the investigation and for the preparation of an appropriate defense. The written notice should also define the parameters of the investigation. Unlike the present bill, the Federal Rules of Civil Procedure are specifically framed to limit the scope of proper discovery to the subject matter of the pleadings in order to avoid unnecessary expense and improper intrusions into privacy; under Title II, which specifies no similar reference point, government investigators may be tempted to venture far afield in their investigative demands.

Second, counsel for a target of the investigation should have proper notice of the taking of any oral testimony, whether of another target or a third party, and should have the right to attend, to cross-examine witnesses, and to lodge appropriate objections to any testimony offered, since such testimony may well be used by the government at trial in a subsequent action or in some ancillary proceedings involving the target's interests. For the same reason, counsel should have access, subject to appropriate protective orders to ensure confidentiality, to all materials collected under these procedures, including deposition transcripts, documents and interrogatory answers.

Finally, the confidentiality of all materials produced pursuant to procedures under Title II should be preserved to the maximum extent. Toward that end, such materials should be exempted from the disclosure provisions of the Freedom of Information Act.[1] Further, we oppose the provisions in Title II [§ 201 (e)] which would permit the Antitrust Division to use CID-obtained information in any other cases or proceedings (including proceedings of other agencies) in which the Division is involved and to turn over such information to the Federal Trade Commission for use in any matter under its jurisdiction. Adoption of these provisions would, for all practical purposes, make the confidentiality of the information subject entirely to the discretion of Division and Commission personnel and would thereby destroy one of the key safeguards built into the 1962 Act.

There remains for consideration the provisions in Title II which would authorize the Department to utilize its present and proposed investigative powers not only in connection with "a civil antitrust investigation" (the present scope of the Antitrust Civil Process Act) but also any "Federal administrative or regulatory agency proceeding". We oppose this extension of the Department's authority. As stated above, we believe that the CID power should be confined to use against targets of civil antitrust investigations, and should not be permitted against third parties who may merely have "any information, relevant to a civil antitrust investigation". Even more clearly, we believe that the CID powers should not be allowed where there is no civil antitrust investigation and where the Department is merely seeking information to use for some undefined purpose in an administrative or regulatory proceeding being conducted by another federal agency.

In these circumstances, the Department should—like all others participating in the proceeding—use the discovery techniques available under the procedures of the other agency. If those procedures should be deficient, consideration should be given to statutory or administrative modification of those procedures. But we see no justification for superimposing on such agency procedures an extraordinary set of special investigative powers which one participant—the Department of Justice—would possess to the exclusion of all other participants in the proceeding. Indeed, adoption of this aspect of Title II would mean, in effect, authorization to the Department to conduct ancillary proceedings of its own every time it chose in its discretion to participate in the proceedings of another agency.

The implications of such authority are, to say the least, far-reaching. Extension of the Department's CID powers to proceedings of other agencies—although styled only a procedural revision—would make changes of great significance in the relationship of the Department and other agencies. Whether such changes are good or bad is beyond the scope of this statement. We believe, however, that such changes are too important to make by indirection without facing the difficult issues which they present.

The PRESIDING OFFICER (Mr. BIDEN). The Senator's time of 1 hour under the cloture petition has expired.

QUORUM CALL

Mr. CURTIS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk called the roll and the following Senators entered the Chamber and answered to their names:

[Quorum No. 21 Leg.]

Allen
Bentsen
Biden
Brock
Brooke
Burdick
Byrd,
  Harry F., Jr.
Cannon
Chiles
Culver
Curtis
Durkin
Fannin
Fong
Ford
Garn
Glenn
Gravel
Griffin
Hart, Gary
Helms
Hruska
Huddleston
Humphrey
Javits
Long
Mansfield
McClure
McGee
McIntyre
Mondale
Morgan
Moss
Pearson
Percy
Sparkman
Stennis
Stevens
Stone
Taft
Talmadge
Thurmond
Tower
Williams
Young

The PRESIDING OFFICER. A quorum is not present.

Mr. MORGAN. Mr. President, I move that the Sergeant at Arms be directed to request the attendance of absent Senators.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from North Carolina.

The motion was agreed to.

The PRESIDING OFFICER. The Sergeant at Arms will execute the order of the Senate.

Pending the execution of the order, the following Senators entered the Chamber and answered to their names:

Abourezk
Bartlett
Beall
Bellmon
Buckley
Byrd, Robert C.
Case
Clark
Cranston
Dole
Domenici
Eagleton
Eastland
Hansen
Hart, Philip A.
Hartke
Haskell
Hatfield
Hathaway
Hollings
Jackson
Johnston
Kennedy
Laxalt
Leahy
Magnuson
Mathias
McClellan
McGovern
Metcalf
Montoya
Muskie
Nelson
Nunn
Packwood
Pastore
Pell
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Scott,
  William L.
Stafford
Stevenson
Symington

The PRESIDING OFFICER. A quorum is present.

Mr. FANNIN. Mr. President, while I am opposed to the so-called parens patriae legislation, I must commend its sponsors for their skill in packaging and marketing. How can one oppose a measure entitled "parens patriae," meaning "father of the country?" It conjures up visions of George Washington handing ice cream cones to children on the lawns of Mount Vernon.

In addition to providing the bill with an appealing title, the measure's proponents evoke images of Robin Hood, robbing the rich to give to the poor, in describing the merits and need for the bill. According to them, the wicked robber barons of today are the U.S. corporations. These are the same corporations for whom most of our constituents work.

Yet, if the bill's proponents are to be believed, most of these corporations are viciously and unfairly gouging the poor—those same constituents of ours.

But in comparing this proposal with the legend of Robin Hood, I was struck by both points of similarity and points of difference.

In the first place, in the legend of Robin Hood, Robin Hood and his merry men stole only to give to the poor.

While this is the promise of the parens patriae bill, it is not reality, unless one views the lawyers as poor, downtrodden yeomen. The real beneficiaries of parens patriae legislation are not a put-upon citizenry, but the State attorneys general, their legal cronies, and the legal profession generally.

This legislation allows the State attorney general to reward his lawyer friends by retaining them to bring a parens patriae action for a contingent fee which would come, not from the State, but from the defendant's treasury and which could amount to millions of dollars.

It is conceded by the bill's proponents that in an action of the type contemplated by this bill, the actual damages alleged to be suffered by the individual consumers may be quite small. However, when the parens patriae group includes all the citizens of the State, their small individual damages when combined can total millions of dollars. When trebled, this can become hundreds of millions of dollars—perhaps exceeding the assets of the corporate defendants.

In such a situation, who is the exploiter and who the victim?

It is clear that the lawyers receiving large fees are neither exploited nor victimized by this bill.

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[1] Assistant Attorney General for Antitrust Kauper testified on May 7, 1975, as follows in support of the preservation of confidentiality:

"We would favor clear and complete exemption from FOIA for any information, in whatever form, obtained through a CID. By definition, such information is investigatory and frequently consists of confidential business data. While it would thus probably be exempt from disclosure in any event, we strongly favor specific statutory language to that effect."

It is clear that the defendant corporations may very well be exploited and victimized.

It is equally clear that the consumer who is offered a potential for reward may be exploited and victimized by the ripoff of a large part of any recovery by the State attorney general's cocounsel or cronies.

Robin Hood and his merry men did rob. A type of modern-day highway robbery is what this bill would authorize, in the form of a lawsuit involving hundreds of thousands of dollars, perhaps millions of dollars of costs and a potential liability of hundreds of millions of dollars. Under those circumstances, defendants will be forced to settle even remote claims, because the risks of loss are so astronomical, not because the suit has merit.

This vast amount of power is bestowed upon the State attorneys general, creating large temptations for abuse. Given the opportunity of bringing a lawsuit with a potentially huge financial recovery at no cost to the State, who would not agree with private counsel, on a contingency basis, to such action?

What is there to convince a lawyer to accept a reasonable settlement when the size of his fee is determined by the size of the judgment?

Mr. President, this bill does evil in the name of good. It should not be enacted.

What do the people in my State of Arizona think? Here is a letter from a man in Lake Havasu City, Ariz. That is known as a spot where they also have a London Bridge and it is not falling down. But in that country are located very fine areas where we have many people who are retired and many people who have gone there for employment.

He writes to me and says:

LAKE HAVASU CITY, ARIZ.,
May 2, 1976.

Senator PAUL FANNIN,
Dirksen Senate Building,
Washington, D.C.

DEAR SENATOR FANNIN: Senate Bill S. 1284 must not become law in its present form. It is restrictive, bureaucratic and plain antibusiness. It is another big-brother-looking-over-your-shoulder thing and we are hampered with too much of this type of legislation now.

I am just a little guy out here in God's country (Lake Havasu City, Arizona) but even I can see the folly in ever increasing government intervention in all business both large and small. This, surely, is not one of the things that helped make America great!

Please vote against S. 1284

Respectfully,

E. J. LAPOINTE.

Mr. President, here is a letter from a small refrigeration company. The are a company, a rebuilder of refrigeration equipment, that is going along fairly, but they are very concerned about this legislation. This is what the president, James S. Simon, has to say:

[Telegam]

HERMETIC REFRIGERATION CO., INC.

As a corporation with substantial manufacturing facilities located in your State, we strongly urge you to vote against the passage of the antitrust reform bill (S. 1284).

The trade regulation enforcement procedures, currently in effect, have proved to be more than adequate and further Governmental intrusion into this area can only cause unnecessary harassment of corporate enterprise.

We cannot believe the consumer will be benefited through this legislation. It appears to us that the additional costs which are incurred by corporations pursuant to S. 1284 enforcement will, undoubtedly, be reflected in higher prices of their products.

Your assistance in defeating S. 1284 will be appreciated.

JAMES S. SIMON, *President.*

Now, they consider this is an antijob bill, not an antitrust bill.

The Phoenix Redi-Mix Co. is a small company in Arizona, but they do have a number of employees and they are very concerned about this legislation. They say:

PHOENIX REDI-MIX CO.,
Phoenix, Ariz., April 27, 1976.

Senator BARRY GOLDWATER
U.S. Senate Office Building,
Washington, D.C.

DEAR SENATOR GOLDWATER: Based on the assumption that you are familiar with the recent anti-trust siege of the Arizona State Attorney General, I think the following comments should be of interest to you as a legislative leader. I realize that in your official capacity as a United States Senator you have no jurisdiction in this matter. I chose, however, to write to you, with copies to others, because of your record as a straight talking, stand up politician.

The basic problem we are encountering is the "shotgun" approach being used in these investigations. We agree, in part, with the need for certain statutorial restraints on business in order to protect the rights of the consumer. We also have no quarrel with the Attorney General's right to investigate where probable cause exists. What we do object to is the "fishing" techniques being employed by Mr. Babbitt which, although I am sure he could care less, are extremely expensive for both the taxpayer and the business community.

We were recently served with a series of document demands and interrogatories which were absolutely staggering. No specific suspicions or charges were put forth, only a demand to answer and produce. The cost to us of providing the information has approached $6,000.00 in attorney's fees, reproduction costs, and other miscellaneous expenses, not including management hours spent. An example of what that means to a small business is that for 1975, one of the toughest years anyone remembers, that $6,000.00 would have put us on the black side of the balance sheet for the year.

We are painfully aware of the anti-business sentiment pervading the liberal ranks in our country today, but are we really going to be placed in the position of having to prove our innocence before we are charged Where do we go to recover that loss? How long must we wait in limbo before we know if the issue has been dropped or if more funds will be required to stave off the next installment of this "witch hunt"?

A recent editorial in Business Week (April 26, 1976, "Tightening Up Antitrust") outlines three proposed amendments to the present antitrust law, which are now pending in Congress. Two of the three are of dubious nature, to say the least, but the third is utterly ridiculous and its passage could go a long way toward the total shutdown of a now beleaguered economy which has always had a strong, vital, and free business community as its foundation. The idea of implanting authority with a state attorney general to bring massive damage suits on behalf of citizens allegedly damaged by business conspiracies is one of the most frightening prospects I can imagine. Votes would no longer be a problem, because they could and would be bought. No one but the attorneys would get any money because no system has been devised to dole out the treasure to good old "John Q. Public". And few businessmen would have either the capital or the heart to expose themselves to the possibility of becoming a political football.

Our own Mr. Babbitt recently admitted in a local radio interview that no plan was at hand to equitably disperse funds from the bread companies fiasco to the public. He did hasten to point out that everyone must realize that the total "kitty" would be substantially reduced by attorney's fees before any dispersement began.

We write to you not as the accused looking for an out, but as concerned businessmen who do not think our country can stand much more of the liberal onslaughts against business. Where the hell will people work if they manage to strangle us all? Too few of the people making our rules and passing judgment on our actions, have ever met a payroll and that is no small order. I wonder if their efforts will not eventually backfire. If business can be forced to spend sums of money on matters of such questionable validity do you think prices might eventually begin to reflect those contingencies? I think they might!

Respectfully yours,

THOMAS M. VALENTE,
President.

Mr. President, I have several letters that express the great concern of the officials of the companies and, certainly, I think reflect the fear of employees in many instances because they feel that this is an antijobs bill.

Here is one from Clark Halls & Associates, Realtor. This is a small real estate company in one of our communities, Mesa, and it states:

CLARK HALLS & ASSOCIATES, REALTOR,
Mesa, Ariz., March 13, 1967.

Senator PAUL FANNIN,
Senate Office Building,
Washington, D.C.

DEAR SENATOR FANNIN: I wish to strongly voice my objection to HR 8532 together with any proposed legislation attached thereto.

I am very concerned that our elected officials are bowing to pressure by groups concerned with "consumer protection" and are passing legislation that ties the hands of those private industries upon which our nation relies so strongly. The red tape that follows consumer protection legislation has an inflationary effect which is difficult to measure. Each piece of legislation further discourages small private business and strengthens big business. With each piece of new legislation, government employment must grow to enforce the new law.

I believe that if the same effort and money were spent in attempting to educate the public and business to implement the Golden Rule and deal fairly that we would have much better results on a voluntary basis rather than laws that restrict business, add to the costs of goods and services and create reasons for people to see how the law might be bent to give them the advantage that they seem to have lost.

I feel that we have come so far with so many laws that REQUIRE businesses to trade fairly to the point of outlining step by step what they can and cannot do, setting up regulating and enforcing agencies to ensure that no consumer is done an injustice, that we now think this is the only way to approach the problems of today. I don't feel it naive to think that the citizens of our country, whether consumers or merchants, would not respond to less restrictions and red tape, bureaus and agencies, inspectors, deputies, etc. in exchange for simple fair treatment to all (if they were so inclined to do otherwise in the first place). A fraction of the money spent in supporting regulating agencies could be spent to motivate the nation to a continued sense of fairness.

We must reverse the present trend or the nation will become so boggled with rules of compliance that goods will cost so much more and taxes will increase to support the growing enforcement agencies that there would one day be a revolt by consumers and merchants against the maze of laws and regulations that we so wisely put upon ourselves. Who will initiate this change? Will you please give it your consideration now.

Sincerely,

L. CLARK HALLS,
Clark Halls & Associates, Realtor.

Mr. President, I ask unanimous consent that certain letters which I have received pertaining to this subject be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the Record, as follows:

ARIZONA ASSOCIATION OF REALTORS,
Phoenix, Ariz., March 19, 1976.

Senator PAUL FANNIN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR FANNIN: The Arizona Association of REALTORS urgently requests your assistance in defeating Senate Bill. S. 1284. We are opposed to the bill for the following reasons:

1. The "selective power of enforcement" which these legislative proposals vest in the states gives the states the effective power to bankrupt any business which they determine to attack.

2. There are no legitimate purposes to be served by the proposals which are not already better served by existing anti-trust laws.

3. The danger that this power, delegated to popularly elected, politically oriented state Attorney Generals, will be used as a means of political blackmail and coercion of business.

4. The monetary recovery ultimately received by a citizen in a suit brought by a state Attorney General may amount only to pennies but may still force a business firm into bankruptcy.

5. The financial inability of the small business man to defend himself on the merits in an anti-trust suit of the type proposed.

As always, your willingness to listen to our needs is greatly appreciated.

Respectfully yours,

DON YULE.

REALTY EXECUTIVES, REALTORS,
Scottsdale, Ariz., March 16, 1976.

Re S. 1284 and H.R. 8532.

Senator PAUL FANNIN,
Senate Office Building,
Washington, D.C.

DEAR MR. FANNIN: We urge you to defeat these proposed bills inasmuch as they are a threat to the American way of life of being able to pursue an independent business life. They encourage the legal profession to harass us to the point of economical elimination. The past several years of recession have been burden enough without further danger to business.

These bills further bureaucratic power to entagle and harass the small business person and defeat us out of proportion to the benefit any injured party may obtain. Our industry is already actively policing ourselves to preserve an honorable position in the marketplace.

Very truly yours,

REALTY EXECUTIVES.

MESA-CHANDLER-TEMPE
BOARD OF REALTORS,
Mesa, Ariz., March 4, 1976.

Hon. PAUL J. FANNIN,
Senate Office Building,
Washington, D.C.

DEAR SENATOR FANNIN: The members of the Mesa-Chandler-Tempe Board of Realtors are deeply concerned about the effects of S1284 and urge you to do all that you can to defeat this measure.

This bill would authorize state attorneys general and private legal counsel to transfer some causes for action under the Sherman Antitrust Act to the states. The proposal compels mandatory awards to the states of triple what is thought to be damage to the state's general economy or to the individual states residents in the aggregates, with no requirement for proof of either the fact or the amount of any individual inquiry. It would also award attorney's fees and other expenses of litigation.

In opposing this we would like to stress the danger in bringing antitrust action into politics by giving fifty attorneys general the power to bankrupt business firms through huge damage claims, powers that go far beyond those now possessed by the U.S. Department of Justice, and the obvious financial inability of the small businessman to defend himself in a costly, frivolously based action, when attorneys general have the power and unlimited financial strength of the states for such prosecutions.

Sincerely yours,

ALFORD O. LEFFLER,
President.

JOHNSON & JOHNSON AGENCY, INC.,
Phoenix, Ariz., March 3, 1976.

Senator PAUL FANNIN,
Dirksen Building,
Washington, D.C.

DEAR SENATOR FANNIN: I am writing to let you know of my deep concern for the dangers and probable injustice that would ensue from the passage of Senate Bill 1284 and its counterpart HR-8532, bills which could, if passed, have serious effect on the real estate business. In the current slang being used, I would label it a "rip-off" to the consumer, definitely a shakedown of corporations and a great "Bicentennial Money Machine" for antitrust entrepreneurs. As I study the bill, it appears to primarily enrich those attorneys who seek to file class action suits with very little prospects that the actual plaintiff will receive anything at all.

I would hope that you will again voice your strong opposition to this very faulty legislation. Remember, the financial inability of the small businessman to defend himself in a costly and frivously based action would be taken advantage of. Secondly, there is the threat to the health of our industry and the economy, at a time when the recession appears to be substantially behind us. Third, the danger in politicizing antitrust enforcement by giving fifty Attorneys General the power to bankrupt business firms through huge damage claims—powers that go far beyond those now possessed by the U.S. Department of Justice, should be apparent.

Senator Fannin, your efforts in defeating this ill-conceived legislation will be greatly appreciated!

Sincerely,

MELVYN D. JOHNSON, CLU, CFP

DESERT SAGE REALTY,
Tempe, Ariz

Senator PAUL FANNIN,
Senate Office Building
Washington, D.C.

Re House bill H.R. 8532 and Senate bill S. 1284.

DEAR SIR: As a member of the Arizona Association of Realtors, I implore you to vote against Senate Bill S. 1284. The proposals are carefully designed and calculated to make the cost to business of defending itself in its legal rights so prohibitive in terms of expenses and risk, as to place business wholly and completely at the mercy of the government.

The bills would authorize State Attorneys General and auxiliary private legal counsel, operating on a contingent fee basis to seek and recover treble damages for alleged violations of the anti-trust laws, without the need of proving either the fact or amount of any individual injury.

The danger that this power, delegated to popularly elected politically oriented State Attorney Generals, will be used as a means of political blackmail and coercion of business.

Please vote against this bill.

Sincerely,

WILLIAM D. WYSE.

MESA, ARIZ.
March 3, 1976.

Senator PAUL FANNIN
U.S. Senate
Washington, D.C.

I request that you promptly voice your opposition to Senate Bill 1284 on the ground it would be a severe blow to free enterprise further the danger of this power delegated to the attorney general could be used as a means of political blackmail and coercion of business.

Respectfully,

Realtor JOHN R. CLEMENTS.

AMENDMENT NO. 1727

Mr. FANNIN. Mr. President, I call up amendment No. 1727.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Arizona (Mr. FANNIN) proposes an amendment numbered 1727:

The amendment is as follows:

Amend the title so as to read: "An Act to improve and facilitate the expeditious and effective enforcement of the antitrust laws, and for other purposes.".

Mr. FANNIN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered

Mr. HELMS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. The Chair wishes to make a statement.

The amendment, being to the title of the bill, is out of order at this time. It will not be in order until action on the bill has been completed.

Mr. FANNIN. The Chair states that the amendment is not in order. Does the Chair realize that this is an amendment by the sponsor of the legislation?

The PRESIDING OFFICER. But it is an amendment to amend the title. The title is not a part of the bill. It cannot be acted upon at this time. It cannot be acted upon until such time as the bill is enacted, or it is out of order.

AMENDMENT NO. 1708

Mr. HELMS. Mr. President, I call up amendment No. 1708.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. HELMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 6, following line 25 add a new paragraph to read as follows:

"(3) require the production of documents or answers to written interrogatories from natural persons or the giving of oral testimony unless the district court of the United States for the judicial district within which such person resides is provided with the facts that the Antitrust Division believes that the documents, answers to written interrogatories, or oral testimony would establish and finds that there is reason to believe that the information sought (i) is necessary for determining whether a complaint can be made out against the alleged antitrust violation, (ii) is unavailable from other sources within the United States Government or from a demand for the production of documentary material by a person under investigation, and (iii) will not be provided voluntarily.".

Mr. HELMS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. I thank the Chair.

Mr. MORGAN. Mr. President, I believe this is substantially the amendment we considered on a previous occasion. Mr. President, I would simply say that this amendment is opposed by the administration and was recently rejected by the House Judiciary Committee. A similar amendment was rejected by the Senate Judiciary Committee. Therefore, I urge the defeat of this amendment. In the interest of giving the Senate an opportunity to work its will, I will not move to table it but let the Senate vote on the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. Bumpers), the Senator from Idaho (Mr. Church), the Senator from Hawaii (Mr. Inouye), and the Senator from California (Mr. Tunney), are necessarily absent.

I further announce that the Senator from Oregon (Mr. Talmadge), is absent on official business.

I also announce that the Senator from Indiana (Mr. Bayh), is absent because of illness.

I further announce that, if present and voting, the Senator from Indiana (Mr. Bayh), would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. Baker), the Senator from Arizona (Mr. Goldwater), and the Senator from Connecticut (Mr. Weicker), are necessarily absent.

The result was announced—yeas 16, nays 75, as follows:

[Rollcall Vote No. 273 Leg.]

YEAS—16

Allen
Brock
Buckley
Curtis
Fannin
Garn
Hansen
Helms
Hollings
Hruska
Laxalt
McClure
Pearson
Scott, William L.
Thurmond
Tower

NAYS—75

Abourezk
Bartlett
Beall
Bellmon
Bentsen
Biden
Brooke
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Clark
Cranston
Culver
Dole
Domenici
Durkin
Eagleton
Eastland
Fong
Ford
Glenn
Gravel
Griffin
Hart, Gary
Hart, Philip A.
Hartke
Haskell
Hatfield
Hathaway
Huddleston
Humphrey
Jackson
Javits
Johnston
Kennedy
Leahy
Long
Magnuson
Mansfield
Mathias
McClellan
McGee
McGovern
McIntyre
Metcalf
Mondale
Montoya
Morgan
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Sparkman
Stafford
Stennis
Stevens
Stevenson
Stone
Symington
Taft
Williams
Young

NOT VOTING—9

Baker
Bayh
Bumpers
Church
Goldwater
Inouye
Talmadge
Tunney
Weicker

So Mr. Helms' amendment (No. 1708) was rejected.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER (Mr. Packwood). Without objection, it is so ordered.

Mr. HELMS. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from North Carolina has 23 minutes remaining.

Mr. HELMS. I thank the Chair.

Mr. LAXALT. Mr. President, an examination of the Record indicates that no specific reference has been made for the inclusion of the minority views in connection with S. 1284. If I may, I should like to read some of those views into the Record, so that they will be available for the consideration of Senators in tomorrow's Record:

Minority Overview of S. 1284

The so-called Hart-Scott Antitrust Improvements Act of 1976 is a hodge-podge of unrelated, complex, and highly technical provisions, which collectively would enact the most revolutionary revisions of the antitrust laws since the Clayton Act of 1914.

Notwithstanding its far-reaching impact, S. 1284 is the defective product of hasty and ill-considered action by the Judiciary Committee's Subcommittee on Antitrust and Monopoly. The majority of this subcommittee is embarked on an ambitious program to restructure the economic system of the United States in this bicentennial year of 1976, precluding essential consideration and analysis of the contents and implications of S. 1284 and other revolutionary legislative proposals.

As a result, particularly due to the subcommittee's failure to afford adequate deliberation and the subcommittee's disregard of the evidence in the hearing record, S. 1284 is unjustified, unnecessary, unfair, and unconstitutional in critical respects—for the reasons to be detailed in this minority report.

Inadequate committee consideration of S. 1284's provisions and their far-reaching implications

Over the objection of Senators to the packaging of important, diverse, and complex provisions into a confusing 35 page legislative proposal thwarting careful analysis in the subcommittee hearings, the subcommittee held just 5 hearing days in May and June, 1975. Extensive statements of key Government officials became available to Senators only on the very days of their testimony, preventing meaningful study and examination of the witnesses.

Despite the aim of key provisions to reorder court priorities, and to change established practice under the Federal Rules of Civil Procedure, and notwithstanding the bill's foreseeably substantial impact upon the judicial system, the judiciary branch was not consulted or invited by the subcommittee to contribute recommendations and views from the standpoint of judicial resources or judicial administration.

Without any explanatory report by the majority, a substantially revised version of the bill, containing many complicated and broadening revisions, was published on July 28, 1975, as a committee print. These July 28, 1975, changes were never analyzed or explained to subcommittee members. Important and unexplained revisions included extensions of the so-called *parens patriae* provisions in title IV to permit State-retained *private* attorneys to bring large antitrust actions on behalf of State residents, and provisions to facilitate large money recoveries by overturning established indicial safeguards in *private* antitrust class actions even *without* State participation.

These subcommittee actions were deplored in a resolution by the American Bar Association on October 16 and 17, 1975, as follows:

"* * * the American Bar Association expresses its profound concern over the apparent departure from established legislative procedures for the consideration of matters of such importance as S. 1284, in that a number of the provisions within the conglomeration of substantive and procedural changes to the antitrust laws which the bill would make, including the findings and declaration of policy: (i) have not been the subject of full legislative hearings or any meaningful analysis as to their potential consequences upon the free enterprise system (title I, sections 701, 704); (ii) have been offered for serious legislative consideration despite the absence of any showing of compelling need which would justify such significant changes" (portions of titles II, III, and VII).

On subsequent request by Senators, 3 more days of hearings were held in February and March, 1976, to hear nine witnesses expressing opposition to the bill as modified by the committee print. Neither the chairman nor any member of the subcommittee majority attended.

Accepting some minor or cosmetic modifications, and dropping some provisions, the majority voted on April 6 to recommend enactment of the entire S. 1284 package.

Significantly, the 135-page majority report, which purports to explain and justify the 77-page fine print of this complex legislation, fails to quote or refer to any of the 1976 testimony or statements filed subsequently in opposition to the revised S. 1284. The majority report likewise ignores the testimony and statements by the American College of Trial Lawyers, the American Bar Association, Prof. Milton Handler, the United States Chamber of Commerce, and others opposing the bill in most respects in the 1975 hearings.

Surprisingly, the majority report purports to claim the support of the President and the administration for S. 1284, notwithstanding the President's expressed opposition on March 17, 1976, to kep provisions of title IV as contained in companion House proposals.[1] The report also ignores major modifications, partially responsive to the administration's concerns, adopted by the House prior to its passage on March 18 of H.R. 8532, a substantially modified "*parens patriae*" proposal which eliminates some of the most objectionable features of S. 1284's title IV. For example, the House bill expressly bans *parens patriae* actions by State-employed private lawyers on contingency fees, applies important provisions only to State-filed *parens patriae* actions rather than in private antitrust class actions generally, and authorizes "aggregated" damage recoveries only in willful price-fixing cases rather than all possible "restraints of trade." (Appendix 3.)

In our view, therefore, the deficient legislative procedures followed by the subcommittee produced a thoroughly defective and objectionable bill, to be detailed in the textual discussion under the following captions:

Fundamental defects make S. 1284 unfair, unjustified, unconstitutional, and unworthy of enactment

Each of S. 1284's four substantive titles is built on the defective foundation of title I, and contains additional substantive, procedural, and constitutional infirmities demonstrated in the subcommittee's hearing record.

Title IV's *parens patriae* concept politicizes antitrust enforcement by giving "White Horse" State attorneys general the power to bankrupt business firms with multimillion dollar antitrust claims.

A. Private attorneys bringing anitrust damage actions for millions of State residents will reap huge fees by fomenting litigation and "blackmail settlements."

B. Title IV penalizes far more than price fixing and extends to the entire Sherman Act, thereby creating huge exposures for unforeseeable violations particularly by smaller firms and professional or service groups, and even media or labor unions, under recent court interpretations.

C. Title IV unconstitutionally awards heavy recoveries without proof of injury, not only in actions by the State, but in all private class actions, and destroys essential safeguards against class action abuses.

D. The constitutional defects of title IV are aggravated by its blatantly unconstitutional retroactive forfeitures penalizing business conduct long predating enactment.

S. 1284 is opposed *in toto* by the 200,000 member American Bar Association, the United States Chamber of Commerce, the Business Roundtable, the National Association of Manufacturers, the Grocery Manufacturers of America, Inc., and in important part by the New York State Bar Association, the American College of Trial Lawyers, the New York State Consumer Protection Board, and even the Federal Trade Commission, and other groups.

Of the "majority of the antitrust section of the Federal Bar Association responding to a questionnaire," a majority did *not* support the basic *parens patriae* authorization in title IV, and rejected the automatic stay and hold separate provisions in title V. (Hearings on S. 1284 before the Subcommittee on Antitrust and Monopoly of the Senate Committee on the Judiciary, 94th Cong., 1st Sess., pt. 2, at 580–581 (1975.)

E. The heavy contingent liabilities of business firms subject to huge *parens patriae* actions will inevitably hurt business financing, threatening expansion and employment, while the lawyers collect large fees and the public foots the bill through higher prices.

F. Further proliferation of large antitrust actions stirred up by title IV will overwhelm already overloaded court dockets, draining judicial resources, and thwarting speedy criminal trials.

G. Since the 1974 stiffened criminal antitrust penalties now provide effective deterrence for willful antitrust violators, all antitrust remedies should be reassessed in an objective study by experts who are removed from the self-serving pressures of ambitious State officials and enterprising antitrust lawyers advocating title IV.

Title II confers powers of secret inquisition on the Justice Department that Congress rejected just 14 years ago, in the face of evidence that refutes any legitimate need for their adoption now, and arbitrarily destroys the historic secrecy of grand jury proceedings to facilitate private antitrust treble damage suits.

A. As Congress recognized 14 years ago, granting the investigatory powers of the FTC and other independent regulatory agencies to the prosecutorial arms of the Federal Government is alien to our traditions and susceptible to abuse.

B. The Department of Justice has not demonstrated sufficient need for title II to justify its burdens and potential for abuse.

C. Title II dilutes even the 1962 act's existing safeguards, which thus become wholly inadequate to protect against abuse of the new powers.

D. Title II arbitrarily abolishes traditional grand jury secrecy, in order to facilitate private antitrust treble damage actions, and for no public purpose.

Title V would give the Government arbitrary fiat powers to prevent any business acquisition regardless of size or competitive impact, and runs counter to basic antitrust policies by inhibiting the competitive, efficient formation and allocation of capital resources.

A. The automatic stay provisions, permitting the Government to stop and kill *any* acquisition, are contrary to fundamental concepts of fairness and due process.

B. The Bank Merger Act, involving a totally regulated industry is no precedent for automatic stays of acquisitions in free and competitive sectors of the economy.

C. Title V's premerger notification provisions are unjustifiably broad, reaching too many transactions and delaying them too long.

D. Since the so-called "merger problem" is a myth, and the Government already has adequate powers to prevent anticompetitive mergers, title V is a *deadly* cure for an imaginary disease.

Lacking any justification or showing of need, title III is an ill-conceived mish-mash of unrelated amendments which unwisely expose local business transactions to Federal antitrust sanctions, inflict shocking new antitrust forfeitures, change court procedures in disregard of the judiciary's views, and authorize more antitrust lawyers' fees.

A. Extension of the Clayton Act to local transactions is unjustified and unnecessary, and the ill-conceived Sherman Act amendments would create shocking forfeitures.

B. No justification exists for legislative reordering of court priorities and procedures, without the judiciary's advice and without providing required appropriations.

C. The provision to compel information protected by foreign laws was universally opposed before the committee, by the Justice Department, by the State Department, by the Federal Trade Commission, by the American Bar Association and others.

D. Provision of mandatory legal fees in private injunction actions can only foment more antitrust litigation.

Title I's declaration of policy underlying S. 1284's substantive titles is based on myths and misconceptions about concentration, which expose the faulty foundation upon which the entire edifice is built.

"PARENS PATRIAE" AMENDMENTS (TITLE IV)

Huge parens patriae antitrust actions by State officials and State-retained private lawyers will benefit mainly ambitious attorneys general and enterprising lawyers, to the serious detriment of the public paying for such costly litigation.

We vigorously oppose the so-called *parens patriae* amendments of title IV, as the most obnoxious part of S. 1284's so-called antitrust "improvements" package.

What is *parens patriae?* The *parens patriae* concept comes from the English constitutional system, under which the King exercised certain powers as "fathers of the country."[1]

But the U.S. Supreme Court has ruled that *parens patriae* is *not* a proper vehicle for money recoveries by States under the antitrust laws. In 1972, the Supreme Court held that Hawaii could *not* recover treble damages under the antitrust laws for injury to the State's "general economy." *Hawaii* v. *Standard Oil Co.*, 405 U.S. 251 (1972). Like other parties, the State could recover only for injuries to its own commercial interests.

The Supreme Court stressed that State *parens patriae* actions were no substitute for the right of injured individuals to recover for antitrust violations. The Court noted specifically that "Rule 23 of the Federal Rules of Civil Procedure provides for class actions that may enhance the efficacy of private actions by permitting citizens to combine their limited resources to achieve a more powerful litigation posture. * * * The fact that a successful antitrust suit for damages recovers not only the costs of the litigation, but also attorney's fees, should provide no scarcity of members of the Bar to aid prospective plaintiffs in bringing these suits." 405 U.S. at 266.

The *Hawaii* case was followed by the *Frito-Lay* decision, holding that California could *not* sue as *parens patriae* to recover antitrust treble damages as a representative of its citizens consumers. 474 F.2d 774 (9th Cir. 1973). Instead, such claims were to be asserted by *private* treble damage actions, by individuals or through class actions under the "so carefully worked out" safeguards of the Federal Rules of Civil Procedure.

The purpose of title IV (parens patriae) is to overturn these landmark court decisions, and to wipe out the safeguards which were "so carefully worked out" by the courts to preserve traditional requirements of fairness and due process of law. The very type of oppressive, abusive, or unmanageable antitrust case previously thrown out of court for violating the safeguards of the Federal rules would be brought back to life by title IV. The worst abuses of the class action device, which the courts sought to ban from the judicial system, would come back in the guise of a title IV *parens patriae* action by a State attorney general or by a State-retained private attorney.

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[1] The majority's repeated invocations of President Ford and the administration is as specious as its parade of ostensible S. 1284 supporters. President Ford on March 17, 1976, seriously questioned the whole "*parens patriae* concept" (letter to Rep. John J. Rhodes); and the administration on Feb. 19, 1976, opposed enactment of any premerger stay provision (letter, Deputy Attorney General Tyler to Senator Hart).

[1] As the Supreme Court wrote, "Traditionally, the term was used to refer to the King's power as guardian of persons under legal disabilities to act for themselves. For example, Blackstone refers to that sovereign or his *representative* as 'the general guardian of all infants, idiots, and lunatics,' and as the superintendent of 'all charitable uses in the kingdom.' In the United States, the 'royal prerogative' and the 'parens patriae' function of the King passed to the States." 405 U.S. 251, 257 (1972).

In our view, title IV will not achieve its professed purpose of compensating consumers victimized by price fixing conspiracies of large corporations, for which no adequate redress is said to exist, thus permitting antitrust malefactors to retain their "ill-gotten gains."

On the contrary, Clayton Act section 4 *now* provides treble damage recoveries for all meritorious claimants actually injured by antitrust violations. And "class actions" under Rule 23 of the Federal Rules of Civil Procedure *now* authorize just recoveries by multiple claimants, subject to safeguards to prevent abuse and unfairness.

Nor will title IV satisfy any demonstrated need for additional deterrents to antitrust violations. The 1974 Penalties and Procedures Act greatly increases antitrust penalties with stiffened jail terms of 3 years and $1 million fines, and although it is technically effective only as of 1976, its impact has already been felt in steeper fines by the courts.[1]

While thus unnecessary for deterrence or redress to injured parties, title IV's *parens patriae* proposals open a Pandora's box of evils far outweighing any possible benefits to consumers, for which the public will pay a heavy price.

A. TITLE IV'S PARENS PATRIAE CONCEPT POLITICIZES ANTITRUST ENFORCEMENT BY GIVING "WHITE HORSE" STATE ATTORNEYS GENERAL THE POWER TO BANKRUPT BUSINESS FIRMS WITH MULTIMILLION-DOLLAR ANTITRUST CLAIMS

Overshadowing any conceivable title IV benefits is the evil of authorizing 50 State attorneys general to file huge damage claims against business firms in the name of millions of State residents, with its consequent potential for punitive or political abuse of power.

As summarized by Professor Richard A. Posner, a noted antitrust scholar and former Federal Trade Commission and Justice Department official, who criticized S. 1284 as "a serious mistake" and "among the worst" ways to secure consumer redress:

"State attorneys general might file groundless antitrust suits designed for purposes of political self-aggrandizement. We must be realistic and recognize that attorneys general are politicians who have been known to use their office to advantage a political career. The temptation to file a multibillion-dollar suit for publicity purposes would in some cases, I fear, prove overwhelming. * * * I fear, in short, that S. 1284 would turn the antitrust laws into a political football." (Letter to Senator Philip Hart, March 3, 1976). (Attached hereto as appendix 9)

Comparable concerns were expressed in the testimony of Representative Charles Wiggins, an experienced litigation attorney and Member of the House Committee on the Judiciary, who appeared before this committee:

"[T]he individual State attorneys general might see some advantage for them in getting on a white horse and leading the charge in their State against an oil company, for example, and if one succeeds in New York, it will spread like wildfire, in my opinion, around the country as each attorney general jumps on the bandwagon and attempts to extract a settlement for the benefit of the consumer." (Hearings, pt. 3 at 109–110.)

In his opinion, under title IV, "every manufacturer in this country engaged in commerce is looking at, at least, the threat of a club in the hands of a politically elected can drive that business completely out of business." (Hearings, pt. 3 at 101.)

The "political self-aggrandizement" by "white horse" State attorneys general is documented by the history of past antitrust activities by State officials bringing highly publicized antitrust actions. A snackfood manufacturer was sued by the attorney general of California; sugar companies have faced claims by the attorneys general of California, Oregon, Washington and other States; drug companies faced claims of several billion dollars by nearly every State in the Union, and the oil companies, always popular political targets, have been sued by Hawaii, Kansas, Connecticut, California and Florida.

For example, the Fifth Circuit Court of Appeals recently wrote that—

"In July of 1973, the State of Florida through its attorney general commenced an *ambitious and highly publicized* antitrust action against 17 major oil companies in federal district court."

The Florida attorney general charged "a worldwide scheme of anticompetitive activities in the production, transportation, refining, and marketing of petroleum and petroleum products," and asked the court to award treble damages, divestiture, and injunctive and declaratory relief.[2] Within a short time, such actions to break up the oil companies were also brought by the attorneys general to Connecticut, Kansas, and California, claiming similar relief and damages.[3]

The potential is plain for "ambitious and highly publicized antitrust action" against not only big oil companies but all other business firms, claiming huge damage recoveries on claims of questionable merit.

Abuse of *parens patriae* treble damage actions is not limited to State officials tilting at the corporate giants. Oil companies or other large business firms may be tempting targets in one State. Other ambitious State attorneys general may attack the media for price or advertising rate collusion, or other antitrust infractions, on behalf of millions of newspaper or magazine readers or television viewers. As noted in our hearings, labor unions, which have only a partial and diminishing antitrust exemption, may be sued or named as antitrust co-conspirators by a "white horse" State attorney general riding to battle.

Under the much more limited existing authorizations of State antitrust law, ambitious State attorneys general have already filed highly publicized antitrust claims against groups of dentists,[4] contractors,[5] and real estate brokers.[6]

Far greater opportunities exist under title IV to file politically tempting antitrust cases against doctors, brokers, accountants, and other service groups, whose advertising and rate practices have come into recent antitrust exposure under changing antitrust interpretations.

In our view, no justification exists for the Congress to endow politically ambitious State officials with such vast powers to destroy business firms. The Antitrust Division of the U.S. Department of Justice has a long tradition of nonpolitical professionalism, which constrains its enforcement activities. But, as Professor Posner points out:

"It is a salutary limitation on the powers of the attorney general of the United States that he is not empowered to bring money actions under the antitrust laws (other than for actual damages to the United States in its proprietary capacity." (Letter to Senator Hart, March 3, 1976). (Attached hereto as appendix 9).

Since the Justice Department is limited to recovering single damages and only for monetary injury actually sustained by the United States in its proprietary capacity, there is no rational basis for title IV's investiture of 50 politically-oriented State Attorneys General with powers far beyond those of the U.S. Department of Justice to destroy business firms with astronomical treble damage claims on behalf of millions of State residents.

The Senate should heed President Ford's expressed concerns as to such far-reaching federalization of the "*parens patriae*" concept. The President, expressing his "serious reservations concerning the *parens patriae* concept" of the counterpart House proposal, on March 17, 1976, wrote to Minority Leader Rhodes:

"I question whether Federal legislation is desirable which authorizes a State attorney general to sue on behalf of the State's citizens to recover treble damages that result from violations of the Federal antitrust laws. The States have the ability to amend their own antitrust laws to authorize parens patriae suits in their own courts. If a State legislature, acting for its own citizens, is not convinced the parens patriate concept is sound policy, the administration questions whether the Congress should bypass the State legislatures and provide State attorneys general with access to the Federal courts to enforce it.[7] " (Attached hereto as appendix 1)

B. PRIVATE ATTORNEYS BRINGING ANTITRUST DAMAGE ACTIONS FOR MILLIONS OF STATE RESIDENTS WILL REAP HUGE FEES BY FOMENTING LITIGATION AND "BLACKMAIL SETTLEMENTS"

The destructive potential of irresponsible assaults by State officials is magnified by title IV's contemplation that private lawyers may be deputized by the States to bring large *parens patriae* actions. The wisdom of the ages is reflected in the Italian proverb that "A lawsuit is a fruit tree planted in a lawyer's garden."[8] Plaintiffs' and defendants' lawyers alike will long feast in title IV's orchards, at the public's expense.

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[1] Thus, the 1975 antitrust fines won by the Antitrust Division were *double* those in 1974. Antitrust Chief Kauper recently testified that "judges are more sympathetic in terms of fines at higher levels. Now, we are not really operating under the new provisions of the [1974 act], which, of course, would greatly increase the maximum fines, but I think it is true that judges are aware of congressional action with respect to that and have been in essence setting fines higher than in the past." Hearings before a subcommittee of the House Committee on Appropriations, 94th Cong., 2d Sess., pt. 4, at 341.

[2] Florida ex rel. *Shevin* v. *Exxon Corp.*, 525 F. 2d 1377 (5th Cir. 1976). (Emphasis supplied)

[3] *See In re Petroleum Products Antitrust Litigation*, Docket 150, J.P.M.L.

[4] Ohio ex rel, *Brown* v. *Alliance Dental Society* (Ohio Court of Common Pleas, No. 76–96, filed January 27, 1976).

[5] *New Jersey* v. *Bergen Asphalt Co.*, filed May 20, 1975, No. 75–861, D. N.J. (claims Federal and State violations).

[6] E.g., *Washington* v. *Multiple Listing Service of Spokane, Inc.* (Superior Ct., Spokane, Wash., No. 221806); *California* v. *San Diego Board of Realtors*, et al. (Superior Ct., San Diego, Calif., No. 375827).

[7] No satisfactory resolution has been made of the constitutional question raised by the proposed enforcement of Federal forfeitures by State officials. The Supreme Court has held that the enforcement functions of the Federal Elections Commission are unconstitutional under article II, sec. 2, cl. 2, because "primary responsibility for conducting civil litigation in the courts of the United States for vindicating public rights" is a function which "may be discharged only by 'officers of the United States,' " duly appointed pursuant to article II, sec. 2, cl. 2. *Buckley* v. *Valeo*, —— U.S. ——, 44 U.S.L.W. at 4164 (Jan. 30, 1976). For example, the Federal Food, Drug, and Cosmetics Act authorizes State level investigations only by State employees "commissioned by the Secretary as an officer of the Department" of HEW under article II. Section 702(a), 21 U.S.C. 372(a) (1970 ed.).

Title IV contemplates that private attorneys may become qualified by State implementing legislation to bring Federal *parens patriae* antitrust cases. Thus, section 4F(1) provides that:

"The term 'State attorney general' means the chief legal officer of a State, *or any other person authorized by State law to bring actions under section 4C of this act,* and shall include the corporation counsel of the District of Columbia."

Such deputization of private counsel as States attorney general, by State enactment of implementing legislation under title IV to enforce the new section 4F(1) Federal/State antitrust cause of action, aggravates the vast abuse potential of title IV.

The history of private attorneys' abuse of *existing* antitrust class action procedures, deplored by many courts, is a bad omen for the future.

Overpowering temptations for extortionate recoveries arise when the plaintiffs are a mass of unidentified individuals with minuscule claims, represented by private counsel whose legal fees are the largest piece of the action.

Will State officials turn away the private attorneys waiting in the wings to file massive *parens patriae* claims on behalf of State residents, at no cost to the State treasury, in the expectation of securing and dividing large recoveries?

Will not title IV generate irresistible incentives to enterprising lawyers to foment large antitrust litigation, with the lucrative lure of what Chief Judge Friendly deplored as "blackmail settlements"?[9]

Our record is replete with the lessons of the past abuses. These are exemplified by the California antitrust class action claiming $750 million in treble damages against 2,000 real estate brokers, jointly and individually. Judge Duniways opinion pointed up this clear and present danger:

"The real bonanza in a case like this, if it is won, will go to counsel. * * * I venture to suggest that none of the class action features of this case was dreamed up by the named plaintiffs, but that all of them are the brain children of their attorneys. * * * I doubt that plaintiffs' counsel expect the immense and unmanageable case that they seek to create to be tried. What they seek to create will become (whether they intend this result or not) an overwhelmingly costly and potent engine for the compulsion of settlements, whether just or unjust. Most, though by no means all, real estate brokers are small business men. They cannot afford even to participate in such an action as this, much less to defend it effectively." *Kline* v. *Coldwell, Banker & Co.*, 508 F.2d 226, 237–238 (9th Cir. 1974).

Illustrating another abuse where the lawyers filed suit on behalf of themselves as clients, the Ninth Circuit Court of Appeals condemned a similar class action for $80 million; that is, $2 per claimant, claiming a price-fixing conspiracy by 600 hotels raising room rates. As the court wrote:

"In view of the nonexistent, or minuscule, recoveries that are likely to accrue to the supposedly intended beneficiaries, it is not surprising that most of the named plaintiffs are attorneys acting as counsel for themselves. * * *

"[T]his action has been primarily generated and financially supported by the lawyers who possibly stand to realize astronomical fees, and not by the individuals whose potential claims in any event are de minimis. * * *" *In re Hotel Telephone Charges,* 500 F.2d 86, 91 (9th Cir. 1974).

In an action seeking to recover a $1 surcharge on automobile rentals for a class of 1.5 million persons, the court refused to certify the class, stating:

"The difficulty I have with this situation lies in the fact that the possible recovery of Mr. Cotchett as a member of the class is far exceeded by the financial interest Mr. Cotchett might have in the legal fees engendered by this lawsuit," *Cotchett* v. *Avis Rent-A-Car System, Inc.*, 56 F.R.D. 549, 554 (S.D.N.Y. 1972).

The real beneficiaries of such antitrust actions have been the lawyers. Contingent fee awards of $5 million in a $22 million settlement, and $2.2 million in a $26 million settlement are recorded.[10] Other courts have pointed to the "minuscule recoveries by [class actions'] intended beneficiaries while lawyers have reaped a golden harvest of fees."[11]

In our hearings former Mayor Alioto, a successful and experienced antitrust class action specialist, frankly told our committee that antitrust class actions have "become so lucrative to some lawyers they kind of leap into the thing; so lucrative that they will not take any other kind of actions."[12]

Prof. Milton Handler, a dean of the Nation's antitrust profession, warned against "encouraging a coterie of plaintiffs' lawyers from fomenting consumer class litigation for the purpose of generating gigantic legal fees, without regard to the interests of the consumers themselves." (Hearings pt. 3 at 141).

Also, virtually all massive antitrust class actions are settled, and never go to trial to decide their merits. For, how many business firms can withstand the pressure of a multimillion-dollar antitrust complaint, even when convinced of their innocence? How many companies can stand the crushing burdens and costs of massive antitrust pretrial discovery?[13] Who could afford *not* to settle, when faced with a huge title IV claim carrying the imprimatur of a sovereign State, in the antitrust field where litigation costs are uniquely heavy and the outcome is typically uncertain under shifting legal interpretations?

Even in private antitrust class actions without title IV's muscle of the State attorney general as plaintiff, according to the Second Circuit:

"There is reason to believe that the practical effect of these procedures, and the fact that possible recoveries run into astronomical amounts, generate more leverage and pressure on defendants to settle, even for millions of dollars, and in cases where the merits of the class representative's claim is to say the least doubtful, than did the old-fashioned strike suits made famous a generation or two ago by Clarence H. Venner." *Eisen* v. *Carlisle & Jacquelin,* 479 F.2d 1019.

As former Deputy Solicitor General Philip Lacovara testified:

"Once a *parens patriae* complaint is filed, with possible recoveries reaching the hundreds of millions of dollars, how could a prudent businessman, still presumptively innocent of any wrongdoing, fail to reach an out-of-court settlement? The *parens patriae* concept is, in short, the mechanism for systemized injustice." (Hearings, pt. 3 at 123.)

And the American College of Trial Lawyers submitted that:

"* * * No large consumer class action [has] been litigated through trial to a determination of damages. The enormous litigation expenses and undefined but potentially massive damages awards, often in excess of the defendants' net worth, have forced defendants to seek the insurance policy of a 'global' settlement of all potential claims, irrespective of the merits of the claims." (Hearings, pt. 1 at 523.)

Several drug companies, faced with claims potentially amounting to several billion dollars, settled with 49 States for over $200 million, even though the judge who approved the settlement involving 44 States believed the plaintiff's chances of recovery at trial should "realistically be called slight." *West Virginia* v. *Chas. Pfizer & Co.*, 314 F. Supp. 710 (S.D.N.Y. 1970), *aff'd,* 440 F. 2d 1079 (2d Cir. 1971). The cases were litigated anyway, in a criminal prosecution and then in a civil suit by a State which refused to settle. Notably, each court found that there had been *no violation* of the antitrust laws at all. *United States* v. *Chas. Pfizer & Co., Inc., et al.*, 367 F. Supp. 91 (S.D.N.Y. 1973); *North Carolina* v. *Chas. Pfizer & Co., Inc.*, 384 F. Supp. 265 (E.D.N.C. 1974), *aff'd,* ——— F. 2d ——— (4th Cir. 1976).

Former Senator Sam Ervin, an astute jurist, aptly described the facts of life in antitrust litigation:

"In the antitrust field * * * many people agree to a settlement because it is cheaper to reach a settlement and pay certain sums of money than it is to litigate. * * * I know many cases that are settled because it is cheaper to settle them, cheaper to buy

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By contrast, title IV would authorize 50 State attorneys general, and the corporation counsel of the District of Columbia, who are *not* appointed by the President, or in any other fashion under article II, to collect forfeitures in excess of any "compensatory basis" for violations of *Federal* antitrust laws. Obviously no precedent for such enforcement of Federal penalties by State officials exist in *Georgia* v. *Pennsylvania Railroad,* 324 U.S. 439 (1945), which recognized a State attorney general's right to seek Federal injunctions to halt antitrust violations injuring the State's economy.

[8] *Illinois* v. *Harper & Row Publishers, Inc.*, 55 F.R.D. 221 (N.D. Ill. 1972).

[9] Friendly, *Federal Jurisdiction: A General View* 120 (1973).

In one case, after a $16 million settlement, $2.3 million was paid to the lawyers, including nearly $1 million to the Attorney General and his assistant, personally; the court held that these officials were permitted to practice law while in public office. See *Washington* v. *O'Connell,* 523 P. 2d 872 (Wash. Sup. Ct. 1974).

The majority report cannot gainsay that "blackmail settlements" will be the ultimate result of title IV: the majority's report says the *parens patriae* action "is patterned after" a list of decisions, nearly all of which in fact were settled cases. (pp. 42–43 majority report).

[10] *Lindy Bros. Buildings, Inc., of Philadelphia* v. *American Radiator & Standard Sanitary Corp.*, 341 F. Supp. 1077 (E.D. Pa. 1972); *Philadelphia Electric Co.* v. *Anaconda American Brass Co.*, 47 F.R.D. 557 (E.D. Pa. 1969), analyzed in Amicus Brief for American College of Trial Lawyers, p. 21, in *Eisen* v. *Carlisle & Jacquelin,* 417 U.S. 156 (1974).

[11] *Free World Foreign Cars, Inc.* v. *Alfa Romeo,* 55 F.R.D. 26, 30 (S.D.N.Y. 1972).

[12] Hearings pt. 1 at 359.

[13] In one big recent antitrust case, "hundreds of millions of documents will be produced." *In re IBM Antitrust Litigation,* 328 F. Supp. 509, 510 (J.P.M.L. 1971), The electrical equipment litigation involved 1.5 million documents. Peterson, Jr. & McDermott, Multi-district Litigation; New Forms of Judicial Administration, 56 A.B.A.J. 737, 738 (1970).

The recently settled Western Liquid Asphalt Litigation (Civ. No. 50173, N.D. Cal.) involved several hundred thousand documents; some 290 depositions, taken in approximately 40 locations, totaling some 30,000 transcript pages.

In *Control Data Corp.* v. *IBM*, 248 depositions were taken totaling 126,000 transcript pages; In *Telex* v. *IBM*, 233 depositions, totaling 107,000 transcript pages, and in *United States* v. *IBM,* 1,265 depositions, totaling 144,000 transcript pages. See Kirkham, "Problems of Complex Civil Litigation" (National Conference on Causes of Popular Dissatisfaction with the Administration of Justice, Apr. 9, 1976).

your peace, than it is to seek justice. I have recommended that to clients many times myself."[14]

Representative Wiggins, explaining in our hearings the House counterpart bill's prohibition on "contingency fee arrangements" with private lawyers pointedly testified:

"* * * [T]he plaintiffs' Bar, if this bill is passed, might well seek out States and seek to represent the States, commissioned as an Attorney General for the purposes of the suit, in class actions on a contingency basis."

"* * * The House adopted an amendment to the bill which prohibits State attorneys general from entering into a contingent fee arrangement with private counsel representing the State in these matters * * * The reality here is that the attorneys have the largest single economic stake in the recovery * * *

"I do not care what the percentage is, it is clearly the largest sum to be paid out of the award. The promise of large fees provides an improper incentive for private counsel to seek States, so as to be permitted to maintain actions on their behalf. It permits the opportunity for abuse by encouraging improper relationships between private counsel and State attorneys general. I think that the public interest will be served by discouraging that potential for abuse, by denying contingency relationships." (Hearings, pt. 3 at 101, 105.)[15]

Even the majority favoring title IV is obviously aware of these grave abuse potentials of private antitrust entrepreneurs working hand in glove with willing State officials. This awareness is reflected in several title IV "protective" provisions, whose inadequacy underscores the need to root out the evil at its source.

Thus, (1) section 4C(e) would require the court to determine the plaintiffs' attorneys' fees; (2) section 4C(f) would authorize payment of *defendants'* attorneys' fees if the suit is brought "in bad faith, vexatiously, wantonly, or for oppressive reasons"; and (3) section 4C(d) would require notice and court approval before a suit could be settled.

But section 4C(e)'s determination of plaintiff's attorneys' fees by the court adds nothing to existing law, and the criteria for fee awards remain highly uncertain.[16] Section 4C(f)'s discretionary authorization for attorneys' fees awards to a prevailing defendant, upon a "finding that the State attorney general acted in bad faith, vexatiously, wantonly, or for oppressive reasons" is no match for the *mandatory* attorneys' fees to prevailing plaintiffs by section 4C(a)(2). Also, it creates a wholly unrealistic proof burden, impossible to meet except in extreme cases where criminal or disciplinary sanctions would apply anyway. Actually, the majority report assumes that the advice of "competent counsel," presumably including the private counsel handling the case, would nullify even this grudging chance for redress to the victim. (Majority report, p. 54.)

Finally, courts in the past *have* approved multimillion dollar attorneys' fees for plaintiffs' counsel obtaining large settlements from defendants. In the *Tetracycline* drug litigation, plaintiffs' attorneys have been awarded fees of over $41 million to date. In the *Gypsum* cases, $10 million of a $75 million settlement fund went to plaintiffs' attorneys' fees. *In re Gypsum* cases, 1974 CCH Trade Case ¶ 75,272 (N.D. Cal. 1974).

Would not the still larger recoveries possible in massive *parens patriae* actions from frightened defendants, on behalf of millions of nameless State residents, generate even larger attorneys' fees *with* court approval? Is not such court approval of large fees out of settlement funds inevitably when neither the anonymous individual plaintiffs nor the capitulating defendants buying their peace have a real incentive to blow the whistle on the fees of overreaching lawyers?

Mr. ROBERT C. BYRD. Mr. President, will the distinguished Senator yield to me for 2 minutes to speak on a nongermane matter, with the understanding that he not lose his right to the floor, and with the understanding and with the provision that the 2 minutes be charged against my time, not to exceed 2 minutes?

Mr. LAXALT. The Senator from Nevada will yield.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATOR ROBERT C. BYRD RELEASES DELEGATES TO GOVERNOR CARTER

Mr. ROBERT C. BYRD. Mr. President, it is now apparent that Governor Carter is headed toward a first ballot victory at the Democratic National Convention. And, in the interest of party unity, I shall immediately notify the 31 delegates pledged to me as a result of the May 11 West Virginia primary, that I am releasing them from their pledges to support me at the convention.

I very much appreciate their efforts and their dedication in support of my candidacy.

I congratulate Governor Carter. He has worked tirelessly in his campaign for the nomination, and he has taken his case directly to the people; and he has emerged as a man who has the potential to unite not only the Democratic Party but also the Nation.

I originally thought that the Democratic National Convention would be a multiballot, wide-open process. I felt that, if the West Virginia delegation were pledged to me, our State would have a greater voice than it would if the support of the West Virginia delegates were scattered among several candidates.

I am deeply grateful for the strong support of West Virginians, and I will continue to serve our State and our people to the best of my ability in the U.S. Senate.

Mr. RANDOLPH. Will the Senator yield to me?

Mr. ROBERT C. BYRD. Yes.

Mr. President, with the same understanding and the same protections for the Senator who now holds the floor and who yielded to me.

The PRESIDING OFFICER. The Senator from West Virginia (Mr. RANDOLPH).

Mr. RANDOLPH. Mr. President, I believe Senator BYRD has acted properly. We in West Virginia have supported Senator BYRD for the nomination of the Democratic Party for the Presidency of the United States. In our primary on May 11, we gave to him 89 percent of the vote cast. This, of course, is proof positive of the support and confidence that West Virginians have in the leadership of my colleague.

In this instance, perhaps I can speak for the other delegates. I have had the opportunity to serve as the honorary chairman in West Virginia of Senator BYRD's Presidential primary campaign. As the Senator has indicated, he entered into the contest fully cognizant of the many candidates and of the situations that would possibly develop in the primaries and later at the convention. But he has acted today—and I mention it again—with propriety and with good taste, and with a realism which he has always expressed and practiced.

So his stature does not diminish when he releases delegates from their pledges of support—and I am one of those who will be at the convention in New York. Indeed, he has strengthened his standing with the people—not only of West Virginia, but the members of the Democratic Party from the standpoint of a national constituency.

I do not wish to say who at the moment will be elected President of the United States. I do think, however, that in the campaigns that shall be carried on in the various States after the two nominees have been chosen, the dialog of democracy will be a part of the current history of this country. And I believe the American people in this Bicentennial Year will participate in greater degree with the use of the ballot, which is not just a piece of paper, but a franchise of freedom.

Once again, I congratulate the Senator and emphasize that West Virginians have been delighted to stand with him, to work with him, and now to trust in his judgment as we move forward from this point.

Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. I thank my senior colleague.

I have at all stages of my effort said it had to be a limited effort because of my responsibilities in the leadership in the Senate, which I indicated at the beginning I would not walk away from.

But at all stages, I consulted with my senior colleague and it was after consulting with him yesterday and today on this action I have taken that it was felt wise on the part of both of us, and others of my friends, to take the course that I have taken.

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[14] Hearings on S. 3201 before the Senate Committee on the Judiciary, 91st Cong., 2d sess. at 116, 118 (1970).

[15] Possible evasion of such an overly specific ban on "contingency fee" retainers, by private attorneys' participation on a volunteer or another nominal basis yet permitting them to share in the fruits of large settlements, warrants a total prohibition on participation by private counsel *in any part of the proceeds of parens patriae* litigation.

[16] Third circuit litigation to establish criteria and award fees in a *settled* antitrust case has been pending for years without definitive rulings, and many more years may pass before the law is settled. *Lindy Bros. Builders, Inc. of Philadelphia et al v. American Radiator & Standard Santitory Corp.*, 341 F. Supp. 1077 (E.D. Pa. 1972), *vacated* 487 F. 2d 161 (3d Cir. 1971), *opinion after remand* 382 F. Supp. 999 (E.D. Pa. 1974), now on appeal to third circuit.

In connection with the "reasonable attorneys' fee" to be awarded under section 4C (a)(2) (and again by title III, section 304) the majority report purports to list a host of "other expenses" which might be awarded, which is not consistent with the way the bill is actually phrased. Under standard principles of statutory construction, by providing for the payment of costs, attorneys' fees, and "other" expenses, the "other" expenses include items only within the general categories expressly listed, such as actual court filing fees, witness fees, transcript costs, plus reasonable attorneys' fees separately provided.

I want to express my gratitude to my colleague for all of his understanding, support, and good counsel all the way.

Mr. ALLEN. Will the Senator yield to me briefly under the same conditions?

The PRESIDING OFFICER. The Senator from Nevada has the floor.

Mr. ROBERT C. BYRD. Mr. President, I ask that the Senator from Nevada yield to me again under the same circumstances and that I might yield to the Senator from Alabama.

Mr. LAXALT. I am happy to yield.

I should note for the record that perhaps it is the height of irony for the Senator from Nevada, who is the national chairman for Ronald Reagan, to yield to the Jimmy Carter rally on the Senate floor.

But we are looking forward after a few details between now and August, to counter his candidate.

I am happy to yield now.

Mr. ALLEN. I commend the distinguished Senator from West Virginia (Mr. Robert C. Byrd) for the action he has taken this afternoon. It is entirely characteristic of his generosity and his statesmanship.

I have watched the distinguished Senator's candidacy with friendly interest. I was not able to pledge to him my support in his race because I did support the distinguished Governor of Alabama, Mr. Wallace, which the distinguished Senator from West Virginia well understood. But I was observing his race with friendly interest.

I told him that if he did become the nominee I would support him actively and I predicted that he would sweep the South, which I feel he would have.

I want to state my conviction that the distinguished Senator from West Virginia, though he was not successful in his race, can rest assured that his colleagues feel that he is of Presidential caliber.

Mr. ROBERT C. BYRD. Mr. President, I thank my friend from Alabama.

As always, he is most generous in his praise, he is courteous and considerate, and I am delighted to have him as my friend.

What he has just stated is accurate as to our previous conversations. I thank him again and again.

I thank the Senator from Nevada.

THE ANTITRUST IMPROVEMENTS ACT OF 1976

The PRESIDING OFFICER. The Senator from Nevada.

Mr. LAXALT. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I have cleared this request with Mr. Helms, and I feel it is agreeable to others.

I ask unanimous consent that there be considered to have been a period for the transaction of routine morning business today so that Senators may have the opportunity to enter bills, resolutions, statements, et cetera, into the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE HOUSE

At 4:52 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following bills, with amendments, in which it requests the concurrence of the Senate:

S. 18. An act to amend the act of August 31, 1922, to prevent the introduction and spread of diseases and parasites harmful to honeybees, and for other purposes;

S. 98. An act to establish the Klondike Gold Rush National Historical Park, and for other purposes;

S. 2642. An act to authorize the Secretary of the Interior to establish the Ninety Six and Star Fort National Historic Site in the State of South Carolina, and for other purposes; and

S. 3052. An act to amend section 602 of the Agricultural Act of 1954.

The message also announced that the House insists upon its amendments to the bill (S. 327) to amend the Land and Water Conservation Fund Act of 1965, as amended, to establish the national historic preservation fund, and for other purposes, disagreed to by the Senate; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. Taylor of North Carolina, Mr. Johnson of California, Mr. Kazen, Mr. Bingham, Mr. Seiberling, Mr. Eckhardt, Mr. Howe, Mr. Skubitz, Mr. Sebelius, and Mrs. Smith of Nebraska were appointed managers of the conference on the part of the House.

The message further announced that the House has passed the following bills in which it requests the concurrence of the Senate.

H.R. 2177. An act to exempt from duty certain aircraft components and materials installed in aircraft previously exported from the United States where the aircraft is returned without having been advanced in value or improved in condition while abroad;

H.R. 3052. An act to amend section 512(b)(5) of the Internal Revenue Code of 1954 with respect to the tax treatment of the gain on the lapse of options to buy or sell securities;

H.R. 3055. An act to amend certain provisions of the Internal Revenue Code of 1954 relating to distilled spirits, and for other purposes;

H.R. 5621. An act to authorize the Secretary of the Interior to establish the Valley Forge National Historical Park in the Commonwealth of Pennsylvania, and for other purposes;

H.R. 7792. An act to designate the Alpine Lakes Wilderness, Mount Baker-Snoqualmie and Wenatchee National Forests, in the State of Washington;

H.R. 8656. An act to amend the tariff schedules of the United States in order to provide for the duty-free importation of loose glass prisms used in chandeliers and wall brackets;

H.R. 13246. An act to amend the Securities Exchange Act of 1934;

H.R. 13325. An act to amend the Regional Rail Reorganization Act of 1973 to authorize additional appropriations for the U.S. Railway Association;

H.R. 13500. An act to amend the Internal Revenue Code of 1954 with respect to influencing legislation by public charities;

H.R. 13567. An act to amend the Small Business Act and the Small Business Investment Act of 1958;

H.R. 13713. An act to provide for increases in appropriation ceilings and boundary changes in certain units of the National Park System, and for other purposes;

H.R. 13899. An act to delay the effective date of certain proposed amendments to the Federal Rules of Criminal Procedure and certain other rules promulgated by the U.S. Supreme Court.

The message also announced that the House has agreed to the following concurrent resolutions in which it requests the concurrence of the Senate:

H. Con. Res. 651. A concurrent resolution expressing the sense of Congress regarding democracy in Italy and participation by Italy in North Atlantic Treaty Organization; and

H. Con. Res. 652. A concurrent resolution directing the clerk of the House to make a correction in the enrollment of the bill (H.R. 11559) entitled "An act to authorize appropriations for the saline water conversion program for fiscal year 1977."

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

The message also announced that the Speaker has signed the following enrolled bills and joint resolutions:

S. 532. An act to authorize the Secretary of Agriculture to amend retroactively regulations of the Department of Agriculture pertaining to the computation of price support payments under the National Wool Act of 1954 in order to insure the equitable treatment of ranchers and farmers.

S. 1466. An act to amend the Public Health Service Act to provide authority for health information and health promotion programs, to revise and extend the authority for disease prevention and control programs, and to revise and extend the authority for venereal disease programs, and to amend the Lead-Based Paint Poisoning Prevention Act to revise and extend that act.

S. 2760. An act to amend the Indochina Migration and Refugee Assistance Act of 1975 to provide for the inclusion of refugees from Laos.

S. 3187. An act to extend the authorization of appropriations for the National Commission on New Technological Uses of Copyrighted Works to be coextensive with the life of such Commission.

S.J. Res. 168. A joint resolution to provide for the reappointment of James E. Webb as a Citizen Regent of the Board of Regents of the Smithsonian Institution.

H.J. Res. 92. A joint resolution relating to the publication of economic and social statistics for Americans of Spanish origin or descent.

The enrolled bills and joint resolutions were subsequently signed by the Acting President pro tempore (Mr. Leahy).

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. Leahy) laid before the Senate the following letters, which were referred as indicated:

Contract Disputes Between the Navy and Certain of Its Major Shipbuilders

A letter from the Deputy Secretary of Defense, relating to contract disputes between the Navy and certain of its major shipbuilders; to the Committee on the Judiciary.

Federal Support to Universities, Colleges, and Selected Nonprofit Institutions, Fiscal Year 1974

A letter from the Director of the National Science Foundation, transmitting the analytical portion of the report "Federal Support to Universities, Colleges, and Selected Nonprofit Institutions, Fiscal Year 1974" (with an accompanying report); to the Committee on Labor and Public Welfare.

Report on the State Reimbursement Program

A letter from the Administrator of the Federal Energy Administration transmitting, pursuant to law, the President's report on the State reimbursement program (with an accompanying report); to the Committee on Interior and Insular Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LONG, from the Committee on Finance, with amendments:

H.R. 10612. An act to reform the tax laws of the United States (Rept. No. 94–938).

HOUSE CONCURRENT RESOLUTION PLACED ON CALENDAR

The concurrent resolution (H. Con. Res. 651) resolution expressing the sense of Congress regarding democracy in Italy and participation by Italy in North Atlantic Treaty Organization was placed on the calendar.

HOUSE BILLS REFERRED

The following bills were each read twice by their titles and referred as indicated:

H.R. 2177. An act to exempt from duty certain aircraft components and materials installed in aircraft previously exported from the United States where the aircraft is returned without having been advanced in value or improved in condition while abroad; to the Committee on Finance.

H.R. 3052. An act to amend section 512 (b) (5) of the Internal Revenue Code of 1954 with respect to the tax treatment of the gain on the lapse of options to buy or sell securities; to the Committee on Finance.

H.R. 3055. An act to amend certain provisions of the Internal Revenue Code of 1954 relating to distilled spirits, and for other purposes; to the Committee on Finance.

H.R. 5621. An act to authorize the Secretary of the Interior to establish the Valley Forge National Historical Park in the Commonwealth of Pennsylvania, and for other purposes; placed on the calendar.

H.R. 7792. An act to designate the Alpine Lakes Wilderness, Mount Baker-Snoqualmie and Wenatchee National Forests, in the State of Washington; to the Committee on Interior and Insular Affairs.

H.R. 8656. An act to amend the tariff schedules of the United States in order to provide for the duty-free importation of loose glass prisms used in chandeliers and wall brackets; to the Committee on Finance.

H.R. 13246. An act to amend the Securities Exchange Act of 1934; to the Committee on Banking, Housing and Urban Affairs.

H.R. 13325. An act to amend the Regional Rail Reorganization Act of 1973 to authorize additional appropriations for the U.S. Railway Association; to the Committee on Commerce.

H.R. 13500. An act to amend the Internal Revenue Code of 1954 with respect to influencing legislation by public charities; to the Committee on Finance.

H.R. 13567. An act to amend the Small Business Act and the Small Business Investment Act of 1958; to the Committee on Banking, Housing and Urban Affairs.

H.R. 13713. An act to provide for increases in appropriation ceilings and boundary changes in certain units of the National Park System, and for other purposes; to the Committee on Interior and Insular Affairs.

H.R. 13899. An act to delay the effective date of certain proposed amendments to the Federal Rules of Criminal Procedure and certain other rules promulgated by the U.S. Supreme Court; to the Committee on the Judiciary.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. DOLE (for himself and Mr. Hugh Scott):

S. 3543. A bill to establish national full employment and related economic goals and for other purposes. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. BARTLETT:

S. 3544. A bill to require an annual contribution to the United States from U.S. territories and possessions which impose income taxes. Referred to the Committee on Finance.

By Mr. FONG:

S. 3545. A bill for the relief of Chu York Lui, also known as Cheu Wah Lui; Man Ying Lui, also known as Man Ying Wong Lui; Lui Lui; and Chung Cheung Lui. Referred to the Committee on the Judiciary.

By Mr. JOHNSTON:

S. 3546. A bill to authorize the establishment of the Jean Lafitte National Park in the State of Louisiana, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. HUMPHREY:

S. 3547. A bill to amend title 38 of the United States Code in order to extend the delimiting period for completing programs of education for veterans pursuing such programs at the close of such period. Referred to the Committee on Veterans' Affairs.

By Mr. BUCKLEY:

S. 3548. A bill to protect the shoreline of Lake Ontario. Referred to the Committee on Public Works.

By Mr. DOLE (for himself and Mr. McGovern):

S. 3549. A bill to establish a National Agricultural Research Policy Advisory Board, and for other purposes. Referred to the Committee on Agriculture and Forestry.

By Mr. GRAVEL (for himself and Mr. Stevens):

S. 3550. A bill to authorize construction of the Watana and Devil Canyon units of the Upper Susitna Basin project and related transmission facilities; and

S. 3551. A bill to facilitate and expedite the provision of hydroelectric power at water resources development projects to be constructed by the Department of the Army Corps of Engineers. Referred to the Committee on Public Works.

By Mr. BROCK:

S. 3552. A bill to provide for an investigation of the character and past activities of potential Vice Presidential nominees by the Federal Bureau of Investigation. Referred to the Committee on Rules and Administration.

By Mr. HRUSKA (for himself, Mr. Eastland, and Mr. Hugh Scott) (by request):

S. 3553. A bill to define the jursidiction of U.S. courts in suits against foreign states, the circumstances in which foreign states are immune from suit and in which execution may not be levied on their property, and for other purposes. Referred to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DOLE (for himself and Mr. Hugh Scott):

S. 3543. A bill to establish national full employment and related economic goals and for other purposes. Referred to the Committee on Banking, Housing and Urban Affairs.

(The remarks of Mr. Dole and Mr. Hugh Scott on the introduction of the above bill appear earlier in today's Record.)

By Mr. BARTLETT:

S. 3544. A bill to require an annual contribution to the United States from U.S. territories and possessions which impose income taxes. Referred to the Committee on Finance.

Mr. BARTLETT. Mr. President, today I am introducing legislation which will provide for a percentage of Federal income taxes imposed on U.S. citizens living in U.S. possessions and territories to be paid to the Federal Treasury. Though presently the citizens of these territories pay taxes under Federal law, none of the revenues are paid to the Federal Treasury but are retained by the territorial government.

In recent months the Congress, after lengthy debate, passed legislation that makes the Northern Marianas Islands a commonwealth in political union with the United States. During the Armed Services Subcommittee hearings on this legislation, I expressed great concern that the covenant provided for no payment of Federal taxes directly to the U.S. Treasury.

Rather than single out the Northern Marianas for what could be regarded as unequal treatment among all of the territories and other possessions of the United States, I am introducing legislation which would address the issue equitably and in relation to all U.S. possessions.

Mr. President, Federal programs abound for Puerto Rico, the Northern Marianas, the Virgin Islands, Guam, and other possessions. The indigenous population has U.S. citizenship and the many benefits that are derived therefrom.

A look at several of the Federal programs for one of the territories, Puerto Rico, underlines the extent of Federal assistance to U.S. possessions.

In fiscal year 1975 Puerto Rico received $26.5 million for social and rehabilitation services, $8.7 million more than my own State of Oklahoma received in this category. For low-rent public housing Puerto Rico received $40 million, compared with $18 million for Oklahoma.

Facilities grants for economic development in Puerto Rico totaled $11.2 million, the highest of any State or territory. Disaster relief assistance to Puerto Rico amounted to $11.2 million, the highest of any State or territory. Puerto Rico received $41 million for elementary and secondary education, $10 million more than Oklahoma received. In total Federal aid to States and territories for fiscal year 1975, Puerto Rico received $630 million. That exceeds the amount received by 24 of the 50 States.

Mr. President, I do not mean to single out Puerto Rico necessarily, but it serves as a startling example of what has happened with Government programs.

Obviously the association between the United States and its territories provides mutual benefits. However, it also implies mutual responsibilities. I believe the citizens of these territories can acknowledge this, further enhancing their relationship with the United States.

I am not asking for increased taxation, or that a "new" tax be levied, with this legislation. The population already pays taxes under Federal law, I ask only that a modest portion of it be paid to the U.S. Treasury instead of being retained by the territorial governments or rebated to the population.

By Mr. JOHNSTON:

S. 3546. A bill to authorize the establishment of the Jean Lafitte National Park in the State of Louisiana, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

Mr. JOHNSTON. Mr. President, I am introducing today a bill to establish Jean Lafitte National Park in the beautiful bayou area south of New Orleans.

National park designation is traditionally granted to those areas which possess national significance through the presence of either diversified natural features or significant natural or historical landmarks. The area of the proposed Jean Lafitte National Park fully meets these criteria.

The area that I am proposing for national park status includes the Mississippi Delta west of the river and south of New Orleans, in a region threaded by the Barataria Waterway. This region of bayou, marsh, and swamp is marked by a variety of significant historical, cultural, and natural features. These often diverse features are linked by the historic figure Jean Lafitte, whose career as a patriot, privateer, and hero of the battle of New Orleans best exemplifies the history of man's use of and impact upon this unusual area.

Historically, the area represents a blend of ethnic and national heritages unique in the United States. The lingering influences of Spain, France, and England, and the remaining traces of Creole and African culture produce a potpourri of architecture, people, and lifestyles.

In natural resources, the site may be labeled an area of totally natural evolution. The area is marked by grand moss-covered oaks. It is representative of the most extensive marsh ecosystem in the United States and contains many unique topographical, geological, and biological characteristics.

Mr. President, a significant national presence is necessary to preserve this valuable area. Salt water is being introduced into fresh water areas through man-made canals in the ecosystem. Modern subdivisions and commercial enterprises are moving southward toward the once undisturbed bayou lands and waterways. Bringing the Jean Lafitte area into the National Park System would assist the State and local governments to most effectively preserve and interpret its multiple resources values.

Mr. President, while I realize that time will probably not allow final action on this matter this Congress, I believe that it is important to begin serious discussion of this proposal immediately. I would hope that hearings may be conducted later this year in both Washington and Louisiana to delineate the various issues involving this National Park designation. Early in the next congressional session I intend to introduce a final version of this legislation which may be quickly and favorably acted upon by the Congress.

I must emphasize that this bill does not necessarily represent a final solution to the question of preserving and developing these resources. Rather, it should serve as a beginning for discussion. I am confident that a great number of our citizens will come forward to share their expertise and insight on this matter and that we may eventually shape a piece of legislation which will most effectively achieve an appropriate national park status for the area.

I am extremely hopeful that we will be able to preserve for ourselves and for future generations the unique cultural and natural heritage of the Jean Lafitte area.

By Mr. HUMPHREY:

S. 3547. A bill to amend title 38 of the United States Code in order to extend the delimiting period for completing programs of education for veterans pursuing such programs at the close of such period. Referred to the Committee on Veterans' Affairs.

EDUCATION BENEFITS FOR VETERANS MUST BE EXTENDED

Mr. HUMPHREY. Mr. President, I am seriously concerned about the estimated 3.6 million post-Korean veterans in this country who have had their eligibility for educational benefits cut off as of May 31, 1976. Some 483,000 of these veterans were enrolled in approved programs.

It is estimated that this will affect more than 71,500 veterans in my State of Minnesota who had military service between 1955 and 1966. About 7,500 of these veterans were enrolled in approved programs on May 31. I do not know how many of these students will be unable to continue their education and training. But my guess is that a substantial number will now have to drop out for lack of finances. Many will be left to confront the harsh reality of severe unemployment among young veterans.

For various reasons these veterans have not completed their educational training within the 10-year time limit. Many of these are Vietnam era veterans who originally were drafted under Selective Service. Because of the policy of allowing "student deferments," many of those who were called upon to serve in Vietnam were those whose financial situation did not allow them to attend college. Some did not have a high school background. Special programs providing refresher and remedial work were necessary for many to gain entrance to institutions of higher education. Therefore, it can be argued that cutting off educational benefits now for these veterans gives them a further reason to believe that economic discrimination is, indeed, practiced by their Government.

The cost of higher education has steadily risen, and only since 1972 has Congress raised the GI bill benefits to take this into consideration.

Although GI bill education benefits were first enacted as "readjustment benefits," they have always been much more than simply an aid in the transition from military to civilian life. And this investment has been more than repaid in better jobs with higher wages for veterans and additional tax revenues for the Government.

Mr. President, On March 12, 1976, I discussed this important matter in a letter to my distinguished colleague, Senator HARTKE, chairman of the Senate Veterans' Affairs Committee. He replied to my concern by pointing out the tremendous strains on resources in the budget this year. We do have budget limitations, but where is a sense of priorities when young veterans are denied an equal chance to pursue a higher education?

The recently passed first budget resolution sets target levels for increased benefits and services, including cost-of-living increases in pensions, compensation, and education. These are all past due and certainly priority items, but we also did leave some room for new initiatives that Congress may enact, such as the extension of the GI bill from 36 to 45 months and further improvements in pension benefits. Some extension of the delimiting date for education benefit entitlement could be included among these new initiatives allowed for in the coming fiscal year when we consider the final budget resolution.

Post-Korean and Vietnam veterans are not generally as well organized as the larger veterans organizations and perhaps for this reason we are not sufficiently aware of their needs. Equity demands that efforts be made to serve these veterans who had counted on pursuing an education in order to improve their job outlook upon return from military service.

I have therefore joined in sponsoring legislation introduced earlier this year by Senator HUGH SCOTT to extend for 5 years the GI bill delimiting date for educational benefits. I am hopeful that the Senate Committee on Veterans' Affairs will consider this important legislation at the earliest possible time. This legislation would affect the approximately 3.6 million veterans whose entitlement eligibility would otherwise have been terminated.

If we cannot do this, then alternatively, at the very least, I believe we should provide to those enrolled as of May 31 and who have entitlement remaining, the opportunity to complete their training. This would affect, I understand, at the outside, some 483,000 veterans who would then be able to finish their programs.

I am today introducing legislation addressed to this immediate need. My bill would extend the delimiting period for completing programs of education for veterans who were pursuing such programs as of May 31, 1976.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 3547

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1662(a) of title 38, United States Code, is amended by inserting immediately before the period at the end thereof the following: "; except that if any eligible veteran is pursuing a program of education under this chapter at the close of such 10-year period, educational assistance shall continue to be afforded to such veteran until the veteran completes such program, or until the veteran ceases to pursue such program whichever first occurs".

By Mr. BUCKLEY:

S. 3548. A bill to protect the shoreline of Lake Ontario. Referred to the Committee on Public Works.

Mr. BUCKLEY. Mr. President, I am today introducing legislation that would require that the U.S. Army Corps of Engineers and other Federal agencies take immediate action, consistent with their legal responsibilities, to lessen shoreline erosion along Lake Ontario caused by the artificially maintained high lake levels..

The high levels of water in the lake have been destructive throughout the Great Lakes. But this has been a particular problem along Lake Ontario, damaging public and private property alike.

Because of their concern for this problem, the chairman of the Committee on Public Works, Mr. Randolph, and the chairman of the Subcommittee on Water Resources, Mr. Gravel, have scheduled a hearing on this question in Rochester, N.Y., next Tuesday, which I will chair.

At that time, I intend to find out why the work performed since I last visited the area more than a year ago has proven so ineffective, and what the effects would be if the lake's level were reduced and held at a more normal, traditional elevation. I intend to find out if the property owners are being forced to bear the cost of erosion in order that the planners can scrape out an extra kilowatt or two of hydroelectric generation, or to keep the lake as deep as possible for shipping. While these may be desirable goals, the people who work and live along the lake must be forced to sacrifice their interests.

Mr. President, my proposed bill calls for a modest beginning. I recognize that it may well need modification after it is introduced. But I believe it is important that we make a beginning. This beginning would require that all Federal agencies give priority to lessening the loss of property to the people of New York and, of course, to our neighbors in Canada.

Mr. President, I ask unanimous consent that the legislation be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 3548

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that this Act shall be known as the "Lake Ontario Protection Act of 1976".

Sec. 2. The Secretary of the Army, acting through the Chief of Engineers, is directed to develop a plan for shoreline protection and beach erosion control along Lake Ontario, and report on such plan to the Congress as soon as practicable. Such report shall include recommendations on measures of protection and proposals for equitable cost sharing, together wtih recommendations for regulating the level of Lake Ontario to assure maximum protection of the natural enviroment and to hold shoreline damage to a minimum.

Sec. 3. Until the Congress receives and acts upon the report required under section 2 of this Act, all Federal agencies holding responsibilities affecting the level of Lake Ontario shall, consistent with existing authority, make every effort to discharge such responsibilities in a manner so as to minimize damage and erosion to the shoreline of Lake Ontario.

Sec. 4. There is authorized to be appropriated to carry out this Act such sums as may be necessary.

By Mr. DOLE (for himself and Mr. McGovern):

S. 3549. A bill to establish a National Agricultural Research Policy Advisory Board, and for other purposes. Referred to the Committee on Agriculture and Forestry.

NATIONAL AGRICULTURAL RESEARCH POLICY ACT OF 1976

Mr. DOLE. Mr. President, today I am introducing the National Agricultural Research Policy Act of 1976.

The purpose of this legislation is to place increased emphasis on agricultural research so that the food and fiber needs of our consumers can be met in the future.

I am pleased that the Senator from South Dakota (Mr. McGovern) is joining me in introducing this bill.

SUCCESSFUL RECORD

The record of past successes in agricultural science is impressive. The U.S. Department of Agriculture, universities, foundations, and private enterprise have all made important contributions. Today, a single American farmworker supplies enough food and fiber for 56 people.

COMPLACENCY

But the problem is that past success seems to have created a feeling of complacency. Expenditures on agricultural research have not kept up with inflation during recent years. For example, in 1965, agricultural research funding from Federal, State agricultural experiment stations, and industry sources was estimated at $854 million. A comparable estimate for 1975 was about $1.6 billion. However, after discounting for inflation, the 1975 expenditure had less purchasing power than the amount spent in 1965.

The President's budget request for the major research arm of the U.S. Department of Agriculture, the Agricultural Research Service, for fiscal 1977 is only about 60 percent of what it was 10 years ago in constant dollars.

It is also informative to compare resources for agricultural research with other sectors of the economy. Suppose we look at the 1977 budget. The President requested that total research and development budget authority be expanded by 11 percent for 1977. This compared to a total budget authority increase of 6.1 percent. The increase for agricultural research was only 5 percent. Thus, agricultural research came up short when compared to total research, the total budget, and inflation, should the latter exceed 5 percent.

Beyond the immediate concern of dollar expenditures, however, is the knowledge that available research funds have had to be stretched again and again to cover emerging new needs. Human nutrition, environmental quality, and energy availability are examples of worthy research priorities. At the same time though, these priorities have forced reductions in production and marketing research.

NEW DEMANDS

Demands for more food production continue to grow. Even with the declining birthrate in the United States, our population is expected to increase from 214 million to 270 million by the year 2000. Worldwide population is expected to increase from 4 billion to at least 6 billion during the same period.

Furthermore, as we look to the future, it appears that it will not be as easy to turn on the spigot of agricultural production as it has been in the past. We no longer have 60 million acres being held out of production as in the early 1970's. In many areas, chemical fertilizers have reached a point of diminishing returns. Crop yields appear to be nearing a biological ceiling unless there is a research breakthrough.

In 1974, the Economic Research of USDA gave this assessment of past research accomplishments and our prospects for the future:

> An extensive inquiry was made into the root causes of productivity change in agriculture. Factors considered were: Mechanization, hybridization, fertilization, and pesticides. Change in aggregate agriculture productivity was made a function of changes in the adoption of these major technologies. There is strong evidence that these few technologies were responsible for the bulk of productivity change during this century. Since most of the major technologies were nearly exploited by 1960, the productivity increase has slackened since that time. For the future, minor technologies will contribute a modest improvement in productivity but major change will have to wait the discovery of new major technology.

This means the day has passed when we can take for granted our excellent past record in bettering our agricultural performance.

FRAGMENTATION OF RESEARCH

While the evidence strongly suggests that there is a need for upgrading the priority given to agricultural research expenditures in this country, increased coordination of research is also needed. In addition to USDA, many colleges and universities—including the land-grant colleges, State agricultural experiment stations, the National Science Foundation, the National Institutes of Health, the Department of Health, Education, and Welfare, the Environmental Protection Agency, and the Energy Research and Development Administration all carry out some farm-related research.

Such fragmentation greatly hinders our ability to focus the vast research capabilities of this Nation on the research needs of highest priority.

In short, this country needs to revitalize agricultural research through increased funding and better coordination. Then we can begin to tackle basic research in such promising areas as: Photosynthesis; nitrogen fixation; crop and livestock protection; water and nutrient efficiencies; genetics; biochemical aspects of handling and processing of crops, livestock, and fish; soil and water relationships; and alternative market arrangements.

This legislation is being introduced so that these goals can be realized.

PROVISIONS OF THE BILL

To accomplish the purposes outlined here, the bill:

First. Establishes one additional Assistant Secretary of Agriculture position to perform such duties as the Secretary may direct, including carrying out the purposes of this act.

Second. Creates a 22-member National Agricultural Research Policy Advisory Board to advise the Secretary of Agriculture on programs, policies, and goals of research and education.

Third. Provides for coordination and authorizes $7,500,000 for human nutrition research in the fiscal year ending September 30, 1977.

Fourth. Contains authorization for mission-oriented research grants to all colleges and universities having demonstrable capacity in agricultural research.

Fifth. Establishes a new competitive grant program to be awarded to Federal agencies, research institutions, organizations, and individuals for the purpose of carrying out agricultural research with authorized funding for this program of $15,000,000 in fiscal 1977, and such sums as may be necessary for the two subsequent fiscal years up to a total of $150,000,000 for all 3 years.

Sixth. Raises the authorization for existing agricultural research programs and for sections 5 and 6 of this act to a total of $600,000,000 for the year ending September 30, 1977.

Mr. President, I believe that we must put increased emphasis on agricultural research in this country. Consumers in the future will depend on the action we take now. We cannot afford to shun our responsibility.

It is my understanding that this legislation has been unanimously reported out of the House Agriculture Committee. The executive branch supports it. I strongly urge my colleagues in the Senate to support it, also.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3549

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. That this Act may be cited as the "National Agricultural Research Policy Act of 1976".

FINDINGS, DEFINITIONS, AND PURPOSES

Findings

SEC. 2. (a) The Congress finds that—

(1) agricultural research, which includes research on food, nutrition, and fiber as well as timber growth and utilization and on other agricultural commodities, is vital to the Nation's well-being;

(2) the projected increase in the population of the United States, together with the worldwide population expansion, places increasing demands on agricultural production in the United States;

(3) agriculture and agricultural production are a national resource and should be supported by a strong system of agriculturally related research, resident instruction, and extension;

(4) more intensive research and extension programs oriented to the specific, known needs of small-farm operators are essential to the preservation of the family farm system in this country;

(5) meeting the Nation's needs for wood products, consistent with the principles of multiple use and sustained yield, is in the national interest;

(6) the production of healthy animals and plants is essential to insure a safe food supply for the Nation;

(7) expanding exports of agricultural commodities is essential for maintaining a positive balance of payments in international trade;

(8) the public wants plentiful supplies of quality agricultural and forestry products at reasonable prices;

(9) agricultural research and extension costs have risen more rapidly than appropriations;

(10) various factors such as energy, the environment, and social, political, and economic considerations should be incorporated into planning for the agricultural sciences;

(11) the level of Federal support for the agricultural sciences, including research, conducted by the United States Department of Agriculture, and research and extension conducted by the land-grant colleges, State agricultural experiment stations, and other colleges and universities engaged in agricultural research and the training of agricultural research engineers and scientists, should be substantially increased;

(12) it is important to assure that the results of agricultural research be effectively communicated to farmers and all other users who can benefit therefrom; and

(13) this Nation has an opportunity and a responsibility to use its preeminence in the field of agricultural research to assist chronic food deficit developing countries to increase their own food production for domestic use.

Definitions

(b) For purposes of this Act:

(1) The term "agricultural research" shall include research into the laws and principles underlying the basic problems of agriculture in its broadest aspects. This term shall include, but not be limited to, those subject areas described or defined in section 1 of the Act of June 29, 1935, as amended (7 U.S.C. 427), section 7 of the Act of October 10, 1962 (16 U.S.C. 582a–6, commonly known as the McIntire-Stennis Act), section 203 of the Agricultural Marketing Act of 1946 (7 U.S.C. 1622), the Act of May 22, 1928, as amended (16 U.S.C. 581 et seq.), and the manual of Classification of Agricultural and Forestry Research prepared by the Research Classification Subcommittee of the Agricultural Research Policy Advisory Committee.

(2) The term "mission-oriented agricultural research" includes agriculturally related research on fundamental scientific problems with regard to which—

(A) there is a need already in existence for the new knowledge that would be generated by this research;

(B) the research has a strong potential to be of benefit to mankind; and

(C) the research deals with more than an unproven concept.

(3) The word "Board" means the National Agricultural Research Policy Advisory Board established pursuant to section 4 of this Act.

(4) The word "Secretary" means the Secretary of Agriculture.

PURPOSES

(c) The purposes of this Act are—

(1) to emphasize agricultural research and education as distinct missions of the United States Department of Agriculture;

(2) to encourage and facilitate the development and implementation of more efficient and environmentally sound methods of producing, processing, marketing, and utilizing food, fiber, and wood products;

(3) to provide for research on human nutrition in order to maximize the health and vitality of the people of the United States; and

(4) to provide a mechanism for identifying the Nation's highest priorities for agricultural research, to assure that high priority research is effectively implemented, and to be certain that all research related to agriculture is effectively planned, coordinated, and evaluated.

COORDINATION OF AGRICULTURAL RESEARCH

SEC. 3. (a) The Secretary shall—

(1) coordinate and disseminate all agricultural research information, conducted or financed by or affiliated with the United States Department of Agriculture, and to the maximum extent practicable after consultation with other Federal departments and agencies coordinate all such research and the dissemination of information related thereto;

(2) keep abreast of developments in, and the Nation's needs for, agricultural research and education and represent the needs for such research and education in deliberations within the United States Department of Agriculture and the executive branch of the United States Government, and with the several States and their educational and research institutions, private educational institutions, agricultural and related industries, and other interested institutions and groups;

(3) designate an officer or employee of the United States Department of Agriculture as cochairman of the National Agricultural Research Policy Advisory Board established pursuant to section 4 of this Act;

(4) establish pursuant to the provisions of title 5, United States Code, governing appointments in the competitive service, an appropriate staff to assist him in carrying out the provisions of this Act and to provide such staff support for the Board as he deems necessary. The Secretary shall appoint from such staff one person to serve as the Executive Secretary of the Board; and

(5) provide liaison with other units within the executive branch which are involved in agricultural research activities in other countries.

(b) In addition to the Assistant Secretaries of Agriculture now provided for by law, there shall be one additional Assistant Secretary of Agriculture, who shall be appointed by the

President, by and with the advice and consent of the Senate, who shall perform such duties as the Secretary may direct, including, but not limited to, such duties as are necessary to carry out the purposes of this Act, and he shall receive compensation at the rate now or hereafter prescribed by law for Assistant Secretaries of Agriculture.

(c) Paragraph (11) of section 5315 of title 5, United States Code, is amended by striking the number which appears in parentheses following the phrase "Assistant Secretaries of Agriculture" and inserting the next higher number.

ESTABLISHMENT OF NATIONAL AGRICULTURAL RESEARCH POLICY ADVISORY BOARD

SEC. 4. (a) There is established within the United States Department of Agriculture a permanent board to be known as the National Agricultural Research Policy Advisory Board.

(b) The Board shall consist of twenty-two members appointed by the Secretary as follows:

(1) two representatives from the United States Department of Agriculture, one from the Agricultural Research Service and one from the Cooperative State Research Service;

(2) five representatives from colleges and universities engaged in agricultural research;

(3) one representative from each of the following organizations upon the recommendation of the head of such organization:

(A) the National Academy of Sciences;

(B) the National Science Foundation;

(C) the Office of Technology Assessment of the Congress of the United States;

(D) the Environmental Protection Agency;

(E) the Food and Drug Administration, United States Department of Health, Education, and Welfare; and

(F) the Agency for International Development.

(4) nine representatives from the following types of organizations, as designated by the Secretary:

(A) two from national farm organizations;

(B) one from a national forestry organization;

(C) two from agricultural commodity associations;

(D) one from a national environmental organization;

(E) one from a national veterinary medical association;

(F) one from a national consumer organization; and

(G) one from a private sector organization involved in development programs and issues in developing countries.

(c) The Board shall be chaired jointly by the designee of the Secretary and a member of the Board elected by the Board.

(d) The Board's responsibilities shall include, but not be limited to—

(1) establishing appropriate means for evaluating the economic, environmental, and social impacts of research and extension programs related to the agricultural, food, and nutrition sciences;

(2) reviewing programs, policies, and goals of the agricultural research and extension agencies of the Department of Agriculture and the agricultural research and extension portions of programs in other agencies having primary missions outside of such Department, including colleges and universities;

(3) providing a forum for the exchange of information on plans and programs of other Federal agencies sponsoring or conducting research and education programs related to agriculture, food, and nutrition, including information to be provided through the Federal Council on Science and Technology;

(4) developing and recommending national policies, priorities, and strategies for agricultural research and education for both the short and the long term for consideration by the Department of Agriculture and other agencies and institutions conducting agricultural research; and

(5) reviewing and making recommendations to the Secretary with regard to the allocation of funds for all programs of research and extension carried out by the Department of Agriculture.

(e) In formulating its recommendations to the Secretary, the Board may obtain the assistance of United States Department of Agriculture employees, and to the maximum extent practicable and after appropriate consultations, obtain the assistance of employees of other Federal departments and agencies conducting related research, and of appropriate representatives of land-grant and other colleges and universities, State agricultural experiment stations, and other non-Federal organizations conducting significant programs in the agricultural sciences.

(f) While away from their homes or regular places of business in the performance of services for the Board, members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, in accordance with applicable laws.

(g) In the event a vacancy should occur on the Board it shall be filled in the same manner as provided in subsection (b) of this section.

(h) No later than January 31 of each year, the Board shall submit a report on its activities during the preceding fiscal year to the President and the House Committee on Agriculture, the House Committee on Appropriations, the Senate Committee on Agriculture and Forestry, and the Senate Committee on Appropriations. The report may include the separate views of members of the Board. The first report shall be due following the first complete fiscal year after the enactment of this Act. The second annual report shall include a long-range plan for Agricultural Research and Extension, to be updated every five years.

COORDINATION OF HUMAN NUTRITION RESEARCH

SEC. 5. In order to promote the coordination of Human nutrition research within the Department of Agriculture, the Secretary shall conduct a continuing inventory of ongoing human nutrition research projects being conducted or funded by the Department. The Secretary shall submit a report to Congress not later than March 1 of each year with respect to such inventory of research projects, including their progress and results.

GRANTS FOR MISSION-ORIENTED RESEARCH

SEC. 6. (a) In addition to any other grants made under Federal law, the Secretary is authorized to make grants to land-grant colleges and universities eligible for assistance under the Acts of July 2, 1862 (commonly known as the First Morrill Act), and of August 20, 1890 (commonly known as the Second Morrill Act), the Tuskegee Institute, and to State agricultural experiment stations eligible for assistance under the Act of March 2, 1887 (commonly known as the Hatch Act), and to all colleges and universities having demonstrable capacity in agricultural research as determined by the Secretary, to carry out mission-oriented agricultural research. These grants shall be made without regard to matching funds being provided by the States in which the recipients are located. The Secretary shall limit allowable overhead costs to those necessary to carry out the purposes of a grant.

(b) Section 3(c)(4) of the Act of March 2, 1887, as amended (7 U.S.C. 361(c)(4)), is hereby repealed.

COMPETITIVE GRANT PROGRAM

SEC. 7. In addition to any other grants made under Federal law, the Secretary is further authorized to make grants, on a competitive basis, to Federal agencies, research institutions, organizations, and individuals for the purpose of carrying out agricultural research. These grants shall be made without regard to matching funds being provided by the States in which the recipients are located. The Secretary shall limit allowable overhead costs to those necessary to carry out the purposes of a grant.

AUTHORIZATION OF APPROPRIATIONS

SEC. 8. (a) Except as provided in subsection (b), there is authorized to be appropriated for the purposes of carrying out the provisions of section 7 of this Act $15,000,000 for the fiscal year ending September 30, 1977, and such sums as may be necessary for the two subsequent fiscal years ending September 30, 1978, and September 30, 1979, except that the total amount of such appropriations shall not exceed $150,000,000 during the three-year period beginning October 1, 1976, and ending September 30, 1979, and not in excess of such sums as may thereafter be authorized by law for any subsequent fiscal year.

(b) There is authorized to be appropriated for the purpose of conducting human nutrition research under this Act $7,500,000 for the fiscal year ending September 30, 1977, and such sums as may be necessary to carry out such research for each of the fiscal years ending September 30, 1978, and September 30, 1979, and not in excess of such sums as may thereafter be authorized by law for any subsequent fiscal year.

AUTHORIZATIONS FOR OTHER PROGRAMS

SEC. 9. Notwithstanding any authorization for appropriations for agricultural research in any Act existing prior to the date of enactment of this Act there is authorized to be appropriated for the fiscal year ending September 30, 1977, a total of $600,000,000 for those agricultural research programs existing prior to the enactment of this Act and for sections 5 and 6 of this Act, and not in excess of such sums as may thereafter be authorized by law for any subsequent fiscal year.

By Mr. GRAVEL (for himself and Mr. STEVENS):

S. 3550. A bill to authorize construction of the Watana and Devil Canyon units of the Upper Susitna Basin project and related transmission facilities; and

S. 3551. A bill to facilitate and expedite the provision of hydroelectric power at water resources development projects to be constructed by the Department of the Army Corps of Engineers. Referred to the Committee on Public Works.

Mr. GRAVEL. Mr. President, today I am introducing two bills, separate but interrelated. One would authorize construction of the Watana and Devil Canyon units of the Upper Susitna Basin project in Alaska. The other, the Hydroelectric Power Development Act of 1976, would facilitate and expedite the provision of hydroelectric power at water resources development projects to be constructed by the U.S. Army Corps of Engineers.

UPPER SUSITNA PROJECT

The Upper Susitna Basin project is located between Anchorage and Fairbanks. When completed, it will provide power to meet the projected needs of 75 percent of the population of Alaska. The project, shortly to be recommended by the Corps of Engineers, will consist of two dams at the Devil Canyon and Watana sites on the Susitna River. The cost is estimated to be $1.5 billion.

Mr. President, this is the largest, most costly Corps of Engineers project ever to come before the Congress. The $1.5 billion estimate is predicated on optimum funding. If corps engineering and construction capability are utilized to the maximum, the project can be completed in 14 years—4 years for preconstruction planning and 10 years construction time.

CORPS CIVIL WORKS PROGRAM

The civil works program of the Army Corps of Engineers faces a financial squeeze, as do most other Federal programs. While the $2.2 billion requested for the corps in the fiscal year 1977 budget is the highest ever, in terms of actual dollar value the budget request is less each year.

Not only have total amounts drastically decreased in value, but the distribution of the money has also changed. In 1967, nearly 75 percent of appropriated funds was designated for construction and about 14 percent was for operation and maintenance. The ratio has shifted over the last 10 years. The percentage allocated to construction has dropped from 75 to 58 percent, and operation and maintenance has increased from 14 to nearly 27 percent.

For 2 years the administration has not included any money for new construction starts. New planning starts have also dropped to virtually nothing.

The message is clear. Money appropriated for the civil works program of the Corps of Engineers is being used, for the most part, for finishing construction work now underway and operating and maintaining completed projects. It is obviously the administration's intent to phase out Federal involvement in water resources projects. This is evident not only in the budgetary process, but in recent recommendations of Presidential commissions such as the National Water Commission and repeated administration proposals to levy user fees or taxes on projects for recovery of construction, operation, and maintenance costs.

There are those who will say that circumstances will change if a Democratic President is elected this fall. I take issue with this view. The economic situation this Nation faces will remain critical regardless of which party is in the White House. We must select priorities among our national programs. I strongly doubt that the water resources program will climb much higher on the list of priorities of any administration, be it Republican or Democratic.

Mr. President, what does this mean in terms of the Lower Susitna project, which is vital to the people of Alaska?

The preconstruction planning alone of the Lower Susitna project is estimated at $50 million over a 4-year period. At an average of $12.5 million per year, that is over 50 percent of the $22.2 million requested for advanced engineering and design for projects in all 50 States in the fiscal year 1977 budget request.

Under optimum funding, the corps estimates 10 years of construction. At a total price tag of $1.5 billion, this averages out to $150 million per year. The total corps construction budget request for all 50 States in fiscal year 1977 is $1.3 billion. Demands for Lower Susitna for 1 year would consume 12 percent of construction funds allotted to the entire country.

It is obvious that optimum funding for this one project in Alaska is a pipe dream. In the real world, under present procedures, it will take years and years to complete construction of Lower Susitna. With an annual construction cost inflation rate in Alaska of 15 percent, the $1.5 billion price tag will balloon into a nightmare figure in no time.

HYDROELECTRIC POWER DEVELOPMENT ACT OF 1976

Hydroelectric power is the most economical and environmentally acceptable solution to energy needs in many areas of this country. Construction of federally authorized power projects is not keeping pace with our energy needs, and thus is not being utilized to its capacity. This is the case even though development of our hydroelectric potential could make a substantial contribution to energy independence.

Mr. President, the second bill I am introducing today will provide a feasible and speedy means to vastly increase the hydroelectric power capability of this country with no additional financial burden to the Federal Government. While I anticipate that the first project to be built under this new procedure will be the Upper Susitna development, other projects in other parts of this country will benefit in the future.

The traditional formula for Corps of Engineers hydroelectric power projects is for the corps to plan and construct the project. The Federal Government then turns over the sale of the power from the facility to a marketing agency, which uses the revenues to repay the Federal Treasury for the cost of construction.

The bill I am introducing today will provide a mechanism whereby non-Federal public entities would be able to finance hydropower projects as construction proceeds. This would be done by the sale of bonds which would establish a cash flow to pay construction costs as fast as engineering capability dictates.

Actual planning and construction of such projects would be done by the U.S. Army Corps of Engineers in the traditional manner. The only change in the existing program would be the method of financing.

The legislation would establish a revolving fund from which public and nonprofit entities could borrow front-end money to set up the financial structure for funding of federally authorized Corps of Engineers hydropower projects. This fund would also be used for preconstruction planning and related activities for such projects.

The measure will also stipulate that the United States is to assume the responsibility for paying all increased costs caused by any construction delays or unforeseen contingencies. If for any reason the project is halted before completion, the non-Federal power authority shall be fully reimbursed for any losses suffered. This provides Federal indemnification of a completed project, thus making bond guarantees unnecessary.

At the same time, any delays or failures attributable to the inability of a non-Federal power authority to meet its obligations shall not be the responsibility of the Federal Government.

The hydroelectric power development fund established by this legislation could be used for small projects as well as large ones. Enactment of this bill will help our country meet its energy needs in a far faster, more economical way than by the existing procedure, and at less cost to both the Federal Government and to the States.

Mr. President, these two measures will be referred to the Public Works Committee. The Water Resources Subcommittee, which I chair, will hear testimony on these and other pending bills in hearings beginning next week. I urge my colleagues in the Senate to join me in supporting these proposals when they are considered on the Senate floor.

By Mr. BROCK:

S. 3552. A bill to provide for an investigation of the character and past activities of potential Vice Presidential nominees by the Federal Bureau of Investigation. Referred to the Committee on Rules and Administration.

Mr. BROCK. Mr. President, the long primary process is now at an end, and our election focus will now be directed toward the national conventions. Thus, for the next few weeks, the potential Presidential nominees will receive intense analysis by the media and by the voting public, prior to the moment when each party selects its standard bearer.

Then what happens? The next order of business will be for a very tired nominee and an equally tired staff to pick a running mate for the Presidential candidate—his Vice Presidential nominee. That position is only a heartbeat away from the Presidency, and it is a position which 4 times in the past 25 years has led to the Presidency itself. As the process begins on nomination night, chances are all too good that the person chosen to fill the slot of the Vice Presidential nominee will be selected with perhaps a too cursory check and too superficial thought.

This procedure has led to embarrassment to both parties in the past 4 years. Yet, virtually nothing has been done to improve the system of selecting Vice Presidents.

Two weeks ago, there was an offer extended by President Ford to the Democratic nominee for the use of the services of the FBI to investigate potential Vice Presidential choices.

Mr. President, I think this is a step in the right direction. Three years ago, I offered this system of background information gathering.

I applaud President Ford for making such an offer, but I must point out that there may be two shortcomings in this offer.

First, there are some questions as to whether potential candidates can be investigated without a specific law, such as the one I suggest. Second, and perhaps more important, the President's proposal contains no safeguards and, indeed, could not have legal safeguards without the passage of a law such as the one I now propose.

If a procedure is to be established for the investigation of a potential Vice Presidential nominee, we must insure that there are adequate safeguards to accompany it. I was intrigued upon hearing the directors of our intelligence operations testify earlier this year before the Government Operations Committee that they would welcome a set of established procedures for such investigations.

While safeguards and procedures are vitally important, I must also point out that FBI background investigations are very standard procedure. All of our military and Foreign Service officers have background investigations as do many other senior officials throughout the Government and congressional staffs. If a person cannot pass a check that our military and Foreign Service people must, he should not be the Vice President.

President Ford mentioned that during the course of his selection as Vice President, he was the subject of a searching inquiry by over 400 agents. And of course, Vice President Rockefeller underwent a 4-month investigation and confirmation process, even though he had been in the forefront of public scrutiny for some 20-odd years. Yet, a Vice Presidential nominee in July and August will literally be chosen overnight.

An FBI check is not unprecedented. In fact, it might actually be considered a standard practice.

However, if it is going to become a continuous standard practice, we will need established procedures and safeguards.

With this in mind, I am once again introducing my bill to provide for an investigation of the character and past activities of potential Vice Presidential nominees by the FBI. Although this bill is especially for nominating procedures, it would also establish procedures for 25th amendment cases.

Briefly, this measure would allow, but not require, principal Presidential candidates the opportunity, to submit the names of 10 possible candidates for Vice President to the FBI. The investigation of the contenders shall consist of the normal procedures used for a top-secret clearance. The results of the investigation would be released only to the winner of the Presidential nomination, or the President, and only with the written consent of the person investigated. Also, only the Presidential candidate himself and one other staff member chosen by the candidate may view the records.

An FBI agent would serve as custodian of the records. After the selection of the Vice President, all investigation reports, including that of the Vice Presidential nominee shall be destroyed. It will be a Federal offense of up to 5 years imprisonment and a $50,000 fine for unlawful disclosure of the results of any investigation.

Mr. President, there have been other reforms suggested. While many have merit, I think that my investigation procedure is rather seminal to any true reform. I ask unanimous consent that my statement before the Republican National Committee in 1974 be printed in the Record at this point, together with the text of the proposed legislation.

There being no objection, the bill and statement were ordered to be printed in the Record, as follows:

S. 3552

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for purposes of this Act, the term—

(1) "Presidential primary" means any election held for the expression of a preference by the voters of a State for the nomination of a candidate for election to the office of President;

(2) "political party" means any political party whose candidate for election to the office of President in the most recently conducted Presidential election received more than 10 per centum of the total number of votes cast throughout the United States for all such candidates, treating votes cast for the election of Presidential and Vice-Presidential electors who are affiliated with a political party as votes cast for the Presidential candidate of that party;

(3) "national nominating convention" means a convention held by a political party for the purpose of nominating the candidate of that party for the office of President; and

(4) "Presidential candidate" means an individual who—

(A) is qualified under the Constitution to serve as President if elected to that office; and

(B) files with the Attorney General, not later than 30 days before the date on which the national nominating convention of a political party is scheduled to begin—

(i) a statement in writing personally signed by him stating that he is a candidate for nomination of that party for election to the office of President, and

(ii) a substantial number of statements in writing each of which is personally signed by a delegate entitled to vote in such convention for the selection of the candidate of that party for election to the office of President stating that such delegate intends to vote for the nomination of that individual as the candidate of that party for election to the office of President when the convention is held.

For purposes of clause (ii), an individual shall be considered to have furnished a substantial number of statements from delegates to the national nominating convention of a political party if he has furnished the greatest, next greatest, or third greatest number of statements from such delegates in comparison to the number of statements furnished by all other such individuals, or if he has furnished statements from 10 per centum of such delegates.

Sec. 2. (a) (1) Whenever there is a vacancy in the office of the Vice President, the President may, in writing, request that the Attorney General investigate not more than 10 individuals listed in such request by the President as potential Vice Presidential nominees.

(2) A Presidential candidate may, in writing, request the Attorney General to investigate not more than 10 individuals listed in such request by the Presidential candidate as potential Vice-Presidential nominees.

(3) The Attorney General, upon receiving a written request from the President under paragraph (1) or from a Presidential candidate under paragraph (2), shall direct the Federal Bureau of Investigation to conduct an investigation of the individuals listed in such request. The investigation shall be of the same nature, extent, and scope as an investigation conducted by the Federal Bureau of Investigation in connection with the granting of a top secret security clearance to any individual employed by the United States.

(b) The Attorney General shall notify each individual who is the subject of an investigation conducted under this Act when such investigation is completed and shall give such individual an opportunity to review the evidence and information obtained through such investigation. No evidence or information obtained by an investigation conducted under subsection (a) shall be released to any person without the written consent of the individual who is the subject of the investigation.

(c) If an individual investigated under subsection (a) consents in writing, as provided under subsection (b), to the disclosure of the evidence and information obtained in that investigation, the Attorney General shall permit inspection of such evidence and information by the President who requested the investigation and by one other person designated by the President, or by the Presidential candidate who requested the investigation and by one other person designated by such candidate, but only if such candidate has been nominated by the national nominating convention of the political party with which he is affiliated. Any such inspection shall be carried out on premises designated by the Attorney General and in the presence of an employee of the Federal Bureau of Investigation who shall be the custodian of such evidence and information. No copy, record, or memorandum of any matter contained in such evidence and information shall be made by the candidate or the person designated by the candidate to inspect the evidence and information, and no part of such evidence or information shall be removed from the custody of the Federal Bureau of Investigation.

Sec. 3. (a) Upon the nomination of a candidate for the office of Vice President by the President acting under the Twenty-fifth Article of Amendment to the Constitution of the United States, all evidence and information relating to such candidate obtained from an investigation authorized in section 2 shall be forwarded to the appropriate committees of the Congress. Upon the confirmation of such candidate by and with the advice and consent of the Senate, all evidence and information relating to other potential Vice-Presidential nominees obtained from an investigation authorized in section 2 shall be destroyed, and no memorandum, copy, or other record of such evidence or information shall be retained.

(b) Upon the nomination of a candidate for election to the office of Vice President by the national nominating convention of a political party, all evidence and information relating to potential Vice-Presidential nominees of that party obtained from an investigation authorized in section 2 shall be destroyed, and no memorandum, copy, or other record of such evidence or information shall be retained.

Sec. 4. No evidence or information obtained under or in connection with an investigation carried out under this Act shall be admissible in any proceeding before any court of the United States or of any State.

Sec. 5. The disclosure, release, or retention of evidence or information in violation of the provisions of this Act shall be punishable by a fine not to exceed $50,000, imprisonment for not to exceed five years, or both.

Statement of Senator Bill Brock

Mr. Chairman: The events of the past two years have amply demonstrated that we have to take a hard look at the methods we now use to choose our Vice Presidents. It is actually unfortunate that it has taken so-called "scandals" to make us address this problem, when in actuality, as we look at the Vice Presidential office since World War

II, we see that three Vice Presidents have become Presidents—Truman, Johnson and Nixon, while another Vice President, Hubert Humphrey, was a serious Presidential nominee. In short, the Vice Presidential office has take on great importance, and it is unfortunate that it took problems in both our parties to bring about serious consideration of reform.

I have given this matter serious thought and, in fact, have introduced a bill, S. 2741, that could perhaps deal with the problems that have plagued the Vice Presidential candidates of both our parties. Briefly, my bill provides for a standard "top secret" clearance check of potential Vice Presidential candidates that the Presidential candidate could read before he made his selection.

Before explaining my bill, however, I would first like to establish some guidelines or standards, a touchstone that should be used for the selection of Vice Presidential candidates; then second, review some of the proposals for change now being advocated in the press and elsewhere.

STANDARDS FOR CHOOSING A VICE PRESIDENT

What are the standards and guidelines we should try to aim at for choosing a V.P.? The list of standards for the man who stands a heart beat away from the President is endless, but I have tried to conceptualize them under four general headings:

I. Integrity.
II. Compatibility with President.
III. Political Pragmatism.
IV. Democratic and Fair.

I. Integrity

Obviously, the man who may well be President should be a man of integrity. This is the primary standard, yet it is the one most neglected under present V.P. selection procedures. A Presidential candidate must survive anywhere from three years to a minimum of six months of scrutiny by the fourth estate, and no man with skeletons in his closet can survive that scrutiny. A V.P., however, is chosen overnight, and although ostensibly is a man of character and integrity, as past events have shown, this is not always the case. Thus, the first requirement for any solution is to select a procedure to ensure that only men of integrity are chosen.

II. Compatibility

The man chosen for the job must be compatible with the Presidential candidate. Although many have suggested that a Vice President should often take opposing views on issues, in practicality, this would be utter nonsense and even dangerous. According to some, the then V.P. Humphrey was totally opposed to President Johnson's Vietnam policies, and they feel he should have spoken, but would this have served the country well? Think of the effect on allies, or worse, enemies if a President was in ticklish negotiations on one path, while his V.P. was advocating another.

I am not suggesting that a V.P. becomes a complete lackey of the President. But he must be a man of the same general persuasion. Thus, another requirement is that the Presidential candidate must have a strong voice in the selection of the V.P.

III. Political Pragmatism

Despite the outcry of some, political considerations must be allowed to be a criterion for the selection of the Vice President. I do not mean the backroom, smoke-filled room type politics, but honest, open politics.

What I mean by this is that there must be room for maneuvering in such areas as trying to obtain a balanced ticket or using the V.P. selection to try to heal party wounds. Some people say that Humphrey lost the 1968 election because he could not heal the wounds of the Democratic left, and I think that I can safely say that had John Kennedy not picked Lyndon Johnson as his V.P., he would have lost the election.

Thus, another requirement and standard is that any selection process of the V.P. must be allowed to cope with realistic politics. There is nothing dishonorable in honest, open politics.

IV. Democratic and Fair

Any method used to choose the V.P. candidate must be as fair and democratic as possible. The most obvious method would be for the V.P. candidate to also run (as some have suggested, and which I will mention later), but this would not always be commensurate with the other standards, namely: II. Compatibility, and III. Political Pragmatism.

Another requirement therefore is that the selection process should be as democratic and fair as possible under the circumstances.

Now, let me review and comment on some of the suggestions now being used or proposed for the Vice Presidential selection process.

To the best of my knowledge, there are now about ten methods used or being proposed:

1. Traditional Method.
2. Vice President as Candidate.
3. Immediate Declaration by Presidential Candidate.
4. Runner-up as Vice Presidential Candidate.
5. Self Nomination.
6. Open Convention.
7. 48 Hour Delay in Convention.
8. Special Convention.
9. 25th Amendment-type Method.
10. Prè-investigations.

1. Traditional Method

The traditional method is, of course, to let the Presidential candidate "pick" his choice. This usually makes the candidate compatible with the President, although not necessarily so, because this method also satisfies another criteria, Political Pragmatism, which has in the past made Presidential candidates choose incompatible, yet politically pragmatic people. This method is democratic and fair to the extent that the convention, elected officials, do confirm the man, yet they usually have little choice.

But, this method has obvious shortcomings.

2. The Vice President as Candidate

This was the method used by Endicott Peabody during 1972, and, quite frankly, it is the most appealing from the "democratic" viewpoint. Since he ran as a candidate, one would think that he would have been under close scrutiny, and thus passed his "integrity" test, but in fact, he was almost completely ignored by the press. However, were this the standard procedure, the press might pay more attention to V.P. candidates, but they would probably still be overshadowed by the Presidential race.

This method has two major drawbacks, however, it does not insure compatibility, and could even worsen this element, since over the campaign period the V.P. would have built his own constituency. Also, this might fail the political pragmatism test.

3. Immediate Declaration by Presidential Candidate

In a recent article, James I. Loeb has suggested that Presidential candidates immediately make known their choice. Like the "V.P. as Candidate" notion, this has some immediate appeal. It certainly passes the compatibility and democratic requirements, and probably also would take care of the "integrity" test.

But, what about the political pragmatic requirements? As the author himself points out, who would choose to be "second" on a ticket but even worse, this would eliminate Kennedy-Johnson type tickets, or, looking into the future, a Reagan-Percy type ticket. In short, immediate declaration type tickets would tend to polarize the party, which, in my estimation, is bad, and/or would eliminate Kennedy-Johnson type tickets.

4. Runner-up as Vice Presidential Candidate

It has been suggested by many that the runner-up should become the Vice Presidential candidate, and this, of course, does happen often. But, what about the situation where the Presidential candidate and runner-up are from completely different wings of the party? For politically pragmatic reasons, they may want to join forces to "heal party wounds," however, I would hate to see a situation where they were "forced" to join together.

5. The Self-Nomination Method

At the 1972 Democratic Convention, we saw Senator Gravel use the novel method of nominating himself. I believe that Senator Gravel was deadly serious, and I know him to be an honorable man. However, this type of method could be used by demagogues, plus, it fails all four tests for election of a V.P.

6. An Open Convention

I must admit that an open convention has quite a bit of appeal to me, but under certain limitations. I would not favor the completely open convention as done by Adlai Stevenson in 1956, because, again, I think you might come up against the compatibility problem. What I would like to see, however, is an open convention, whereby the Presidential candidate announces the name of two or three persons, and lets the convention choose. This would be fair and democratic as possible while fitting in with the realities of compatibility and political pragmatism.

However, this still does not get at the "integrity" issues, because, once again, a virtual unknown could still be chosen as Vice President with the same results.

7. 48 Hour Convention Delay

Senator Humphrey has suggested an extra day for the convention with a day between the selection of the President and the Vice President. The obvious reason is to avoid the rush to choose the V.P. But I don't think a 48 hour delay is going to be sufficient time to get at the integrity of a man. It does give the Presidential candidate more time to look over the field, and thus meets the compatibility and political tests, and is as democratic as any present method, since the elected delegates have the final selection, but it does not get at the "integrity" question.

8. A Special Delayed Convention

In 1972, the Democrats used a special convention to choose Shriver and Senator Humphrey has mentioned this as a method if the Presidential candidate desires more time. This would give the party time to look into a candidate's "integrity," but I believe that it fails the other three requirements. First, it is not democratic, but smacks of the old backroom politics picked by the party bosses.

Second, this could definitely jeopardize the compatibility requirement, since, as we have seen all too often the party structure has a different philosophy from the convention delegates who are "elected" officials.

Third, this is not politically feasible since, for the same reasons cited in two (2), the Presidential candidate could find himself with a politically unacceptable partner who happened to be the favorite of the party.

We must remember that even though V.P.'s have become increasingly important, and often gone on to be Presidents, people still are voting for the President and he should have the right to have a strong input for a V.P. of his choice.

9. 25th Amendment-type Proposals

It has been suggested by some, and with a constitutional amendment by Senator Griffin, that the Presidential candidates run alone, and then afterwards use some sort of 25th Amendment-type proposal to choose the Vice President. There is a certain amount of appeal for this, especially if you are worried about the integrity of the Vice President. Gerald Ford underwent probably the most careful and close scrutiny of anyone ever nominated for anything.

Although this has appeal, there is one major drawback in this approach that bothers me. I believe that in a democracy the people should have a chance to vote for their Vice President, and that any man chosen should be subject to the requirements of running for office.

10. Investigation Method

Unless the Vice Presidential candidate hits the campaign road for the entire period and comes under press scrutiny, the only way to satisfy the "integrity" problem is by using some sort of investigative method. Considering the fact that only one recent Vice President, Johnson, was under the press survey, while most were relatively unknown, I think that we do need some sort of investigative method for choosing our Vice Presidential candidates.

The Democrats have suggested, and then rejected, a special Party Board to go into the background of potential Vice Presidential candidates. I think the Democrats wisely concluded that any such private dossier system could be easily misused.

I have introduced a bill, S. 2741, that would take care of this investigative problem under standard government procedures. My bill would allow leading candidates to supply the FBI with a list of up to ten names of a standard "top secret" investigation, at least sixty days prior to the convention. In my estimation, this would satisfy all four standards for choosing a V.P. It should take care of the most serious problem—that of integrity. With a choice of ten, I believe that it would also satisfy the "compatibility" and "political pragmatism" tests. And, since the man would still have to be confirmed by the elected delegates, it would be as democratic and fair as any other method.

My proposal would be a change in the law while this committee is really concerned with convention rules. I have two that I would like to suggest:

(1) I endorse the Humphrey proposal that we need a 48 hour delay between the selection of the Presidential candidate and his choosing a Vice Presidential selectee, and

(2) I like the idea that the convention should have some kind of open choice of candidates, but I think that the Presidential candidate should be allowed to choose the two to five candidates.

However, I would like to point out that these suggestions, a 48 hour delay, and an open convention would still not solve the integrity problem, unless the provisions of my bill, S. 2741, are available to the Presidential candidates.

What I suggest in my plan, a "top secret" security clearance check on prospective Vice Presidents raises the specter of civil rights and invasion of privacy, which, quite frankly, have bothered me, but I would like to point out certain items:

(1) A top secret security clearance is a standard clearance required of virtually all our military and foreign service officers and many serious officials in other agencies, and, if a man cannot measure up to those standards, then he should not be Vice President.

(2) Jerry Ford went through a considerably more detailed inspection than I suggest, and I did not hear any civil libertarian object.

(3) There are six personal safeguards in my bill:

First, a person first fills out a personal information background form, and since this is voluntary, the potential candidate could refuse initially.

Second, the report could only be released with the written permission of the person involved.

Third, only the Presidential candidate and one advisor are allowed to look at the reports.

Fourth, there are stiff penalties for disclosing information from these reports.

Fifth, information obtained by the investigation cannot be used against the persons.

Sixth, and finally, the reports are destroyed after the selection.

Although I hate to suggest such a bill, I think that the events of past years have shown that we need better information on our Vice Presidential candidates, especially since so many may eventually become President. The President of the United States simply must be a man above reproach.

By Mr. HRUSKA (for himself, Mr. Eastland, and Mr. Hugh Scott) (by request):

S. 3553. A bill to define the jurisdiction of U.S. courts in suits against foreign states, the circumstances in which foreign states are immune from suit and in which execution may not be levied on their property, and for other purposes. Referred to the Committee on the Judiciary.

FOREIGN SOVEREIGN IMMUNITY REFORM

Mr. HRUSKA. Mr. President, today I am introducing by request a bill, for myself, the senior Senator from Mississippi and the senior Senator from Pennsylvania, S. 3553, to facilitate and depoliticize litigation against foreign states by defending the scope of, and setting forth the procedures for asserting the jurisdictional immunity of foreign states in U.S. courts.

With the exception of several technical amendments, this bill is identical with S. 566 which Senator Scott and I introduced in the 93d Congress. Prepared jointly by the Departments of Justice and State, S. 3553 represents the answer of a number of legal scholars to a major problem faced by plaintiffs who seek to bring suit against a foreign state—how to deal with that state's assertions of foreign sovereign immunity.

At present, a foreign state which wishes to assert sovereign immunity from jurisdiction, attachment, or execution by this country's courts will often request the Department of State to make a formal suggestion of immunity to the court. This suggestion of immunity is rendered by the Department of State through certain administrative procedures after consulting the uncodified rules of foreign sovereign immunity. A principal purpose of this bill is to transfer the determination of sovereign immunity from executive branch to the judicial branch, thereby reducing the foreign policy implications of immunity determinations and assuring litigants that these often crucial decisions are made on legal grounds and under procedures which will maximize due process. The Department of State would be freed from pressures from foreign governments to suggest immunity and from any adverse consequences resulting from the unwillingness of the Department to support immunity.

At the moment there is no statutory procedure for service of process to obtain in personam jurisdiction over a foreign state. This bill would provide such a procedure and would render unnecessary the practice of seizing and attaching the assets of a foreign government for the purpose of securing jurisdiction.

Under the present law and practice a plaintiff obtaining a judgment against a foreign state cannot normally execute on that judgment, even if commercial-type assets have already been attached to establish jurisdiction. The bill seeks to restrict this broad immunity from execution and to conform the execution immunity rules more closely to the jurisdiction immunity rules.

If enacted, the draft bill would redefine and codify the so-called "restrictive theory" of sovereign immunity which has guided the State Department's immunity determinations since 1952. The proposal would prohibit foreign states from claiming immunity in U.S. courts with respect to acts or transactions that are commercial in nature, regardless of any claim of underlying purpose. Special provision has been made for counterclaims and for claims involving the public debt of a foreign state.

Of course this bill deals only with jurisdiction; the substantive law of liability would remain unchanged. Nor would the bill affect diplomatic or consular immunity, nor the assignment nor allocation of liability between or among entities of a foreign government.

All practitioners in this complicated area of international law appear to agree that it is important that the Congress define and set forth in one place in the U.S. Code the comprehensive rules of sovereign immunity, the jurisdiction of the U.S. district courts in cases involving foreign states, the procedures for commencing a lawsuit against foreign states in both Federal and State courts and the circumstances under which attachment and execution may be obtained against the property of foreign states in both Federal and State courts.

Mr. President, it is my belief that this bill, which has been drafted after many years of careful study by the Department of Justice and State, will serve as a useful vehicle for the Senate to study reform in the law of international litigation. It is my hope that this measure will receive early consideration and that its merits will be discussed fully by this body.

Mr. President, I ask unanimous consent that the text of the bill, the letter of transmittal from the Deputy Attorney General and the Deputy Secretary of State, and a sectional analysis of the bill, be printed in the Record.

There being no objection, the bill and material were ordered to be printed in the Record, as follows:

S. 3553

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Foreign Sovereign Immunities Act of 1976."

Sec. 2 (a) That chapter 85 of title 28, United States Code, is amended by inserting immediately before section 1331 the following new section:

"§ 1330. Actions against foreign states

"(a) The district courts shall have original jurisdiction without regard to amount in controversy of any nonjury civil action against a foreign state as defined in section 1603(a) of this title as to any claim for relief in personam with respect to which the foreign state is not entitled to immunity either under sections 1605–1607 of this title or under any applicable international agreement.

"(b) Personal jurisdiction over a foreign state shall exist as to every claim for relief over which the district courts have jurisdiction under subsection (a) where service of process has been made under section 1608 of this title.

"(c) For purposes of subsection (b), an appearance by a foreign state does not confer personal jurisidiction with respect to any claim for relief not arising out of any transaction or occurrence enumerated in sections 1605–1607 of this title."; and

(b) by inserting in the chapter analysis of that chapter before—

"1331. Federal question; amount in controversy; costs." the following new item:

"1330. Actions against foreign states.".

Sec. 3. That section 1332 of title 28, United States Code is amended by striking subsections (a)(2) and (3) and substituting in their place the following:

"(2) citizens of a State and citizens or subjects of a foreign state;

"(3) citizens of different States and in which citizens or subjects of a foreign state are additional parties; and

"(4) a foreign state defined in section 1603(a) of this title, as plaintiff and citizens of a State or of different States."

Sec. 4(a) That title 28, United States Code, is amended by inserting after chapter 95 the following new chapter:

"Chapter 97.—Jurisdictional Immunities of Foreign States

"Sec.
"1602. Findings and declaration of purpose.
"1603. Definitions.
"1604. Immunity of a foreign state from jurisdiction.
"1605. General exceptions to the jurisdictional immunity of a foreign state.
"1606. Claims involving the public debt.
"1607. Counterclaims.
"1608. Service of process; time to answer; default.
"1609. Immunity from attachment and execution of property of a foreign state.
"1610. Exceptions to the immunity from attachment or execution.
"1611. Certain types of property immune from execution.

"§ 1602. Findings and declarations of purpose

"The Congress finds that the determination by United States courts of the claims of foreign states to immunity from the jurisdiction of such courts would serve the interests of justice and would protect the rights of both foreign states and litigants in United States courts. Under international law, states are not immune from the jurisdiction of foreign courts in so far as their commercial activities are concerned, and their commercial property may be levied upon for the satisfaction of judgments rendered against them in connection with their commercial activities. Claims of foreign states to immunity should henceforth be decided by courts of the United States and of the States in conformity with the principles set forth in this chapter.

"§ 1603. Definitions

"For purposes of this chapter—

"(a) a 'foreign state', except as used in sections 1606 and 1608 of this title, includes a political subdivision of a foreign state or an agency or instrumentality of a foreign state as defined in subsection (b).

"(b) an 'agency and instrumentality of a foreign state' means any entity

"(1) which is a separate legal person, corporate or otherwise, and

"(2) which is an organ of a foreign state or political subdivision thereof, or a majority of whose shares or other ownership interest is owned by a foreign state or political subdivision thereof, and

"(3) which is neither a citizen of a State of the United States as defined in sections 1332 (c) and (d) of this title, nor created under the laws of any third country.

"(c) the 'United States' includes all territory and waters, continental or insular, subject to the jurisdiction of the United States.

"(d) a 'commercial activity' means either a regular course of commercial conduct or a particular commercial transaction or act. The commercial character of an activity shall be determined by reference to the nature of the course of conduct or particular transaction or act, rather than by reference to its purpose.

"(e) a 'commercial activity carried on in the United States by a foreign state' means commercial activity carried on by such state and having substantial contact with the United States.

"§ 1604. Immunity of a foreign state from jurisdiction

"Subject to existing and future international agreements to which the United States is a party, a foreign state shall be immune from the jurisdiction of the courts of the United States and of the States except as provided in sections 1605–1607 of this chapter.

"§ 1605. General exceptions to the jurisdictional immunity of a foreign state

"(a) A foreign state shall not be immune from the jurisdiction of courts of the United States or of the States in any case—

"(1) in which the foreign state has waived its immunity either explicitly or by implication, notwithstanding any withdrawal of the waiver which the foreign state may purport to effect except in accordance with the terms of the waiver;

"(2) in which the action is based upon a commercial activity carried on in the United States by the foreign state; or upon an act performed in the United States in connection with a commercial activity of the foreign state elsewhere; or upon an act outside the territory of the United States in connection with a commercial activity of the foreign state elsewhere and that act causes a direct effect in the United States;

"(3) in which rights in property taken in violation of international law are in issue and that property or any property exchanged for such property is present in the United States in connection with a commercial activity carried on in the United States by the foreign state; or that property or any property exchanged for such property is owned or operated by an agency or instrumentality of the foreign state and that agency or instrumentality is engaged in a commercial activity in the United States;

"(4) in which rights in property in the United States acquired by succession or gift or rights in immovable property situated in the United States are in issue; or

"(5) not otherwise encompassed in paragraph (2) above, in which money damages are sought against a foreign state for personal injury or death, or damage to or loss of property, occurring in the United States and caused by the tortious act or omission of that foreign state or of any official or employee of that foreign state while acting within the scope of his office or employment; except this paragraph shall not apply to

"(A) any claim based upon the exercise or performance or the failure to exercise or perform a discretionary function regardless of whether the discretion be abused, or

"(B) any claim arising out of malicious prosecution, abuse of process, libel, slander, misrepresentation, deceit, or interference with contract rights.

"(b) A foreign state shall not be immune from the jurisdiction of the courts of the United States in any case in which a suit in admiralty is brought to enforce a maritime lien against a vessel or cargo of the foreign state, which maritime lien is based upon a commercial activity of the foreign state, provided that

"(1) notice of the suit is given by service of a copy of the summons and of the complaint to the person, or his agent, having possession of the vessel or cargo against which the maritime lien is asserted; but such notice shall not be deemed to have been served, nor may it thereafter be served, if the vessel or cargo is arrested pursuant to process obtained on behalf of the party bringing the suit—unless the party was unaware that the vessel or cargo of a foreign state was involved, in which event the service of process of arrest shall be deemed to constitute valid service of such notice; and

"(2) notice to the foreign state of the commencement of suit as provided in section 1608 of this title is initiated within ten days of the service of process as provided in subsection (b)(1) of this section.

"'Whenever notice is served under subsection (b)(1) of this section, the maritime lien shall thereafter be deemed to be an in personam claim against the foreign state which at that time owns the vessel or cargo involved; *provided that* a court may not award judgment against the foreign state in an amount greater than the value of the vessel or cargo upon which the maritime lien arose, such value to be determined as of the time notice is served under subsection (b)(1) of this section.

"(c) As to any claim for relief with respect to which a foreign state is not entitled to immunity under this section or under section 1606 or 1607 of this chapter, the foreign state shall be liable in the same manner and to the same extent as a private individual under like circumstances; but a foreign state itself, as distinguished from a political subdivision thereof or from an agency or instrumentality of a foreign state, shall not be liable in tort for interest prior to judgment or for punitive damages;

"If, however, in any case wherein death was caused, the law of the place where the action or omission occurred provides, or has been construed to provide, for damages only punitive in nature, the foreign state shall be liable for actual or compensatory damages measured by the pecuniary injuries resulting from such death which were incurred by the persons for whose benefit the action was brought.

"§ 1606. Claims involving the public debt

"(a) For purposes of this section, a 'foreign state' shall not include a political subdivision of a foreign state or an agency or instrumentality of a foreign state.

"(b) Notwithstanding the provisions of section 1605 of this chapter, a foreign state shall be immune from the jurisdiction of the courts of the United States and of the States in any case relating to debt obligations incurred for general governmental purposes unless—

"(1) the foreign state has waived its immunity explicitly, notwithstanding any withdrawal of waiver which the foreign state may purport to effect except in accordance with the terms of the waiver; or

"(2) the case arises under provisions codified as sections 77a through 80b–21 of title 15, United States Code, as amended, or any other statute which may hereafter be administered by the United States Securities and Exchange Commission.

"§ 1607. Counterclaims

"In any action brought by a foreign state, or in which a foreign state intervenes, in a court of the United States or of a State, the foreign state shall not be accorded immunity with respect to any counterclaim.

"(a) for which a foreign state would not be entitled to immunity under sections 1605 and 1606 of this chapter had such claim been brought in a separate action against the foreign state; or

"(b) arising out of the transaction or occurrence that is the subject matter of the claim of the foreign state; or

"(c) to the extent that the counterclaim does not seek relief exceeding in amount or differing in kind from that sought by the foreign state.

"1608. Service of process; time to answer; default

"Subject to existing and future international agreements to which the United States is a party—

"(a) service in the courts of the United States and of the States shall be made upon a foreign state or political subdivision of a foreign state:

"(1) by delivering a copy of the summons and of the complaint in accordance with any special arrangement for service between the plaintiff and the foreign state or political subdivision; or

"(2) if no special arrangement exists, and if service is reasonably calculated to give actual notice,

"(A) by service of a copy of the summons and of the complaint, together with a translation into the official language of the foreign state, as directed by an authority of the foreign state or of the political subdivision in response to a letter rogatory or request, or

"(B) by sending a copy of the summons and of the complaint, together with a translation into the official language of the foreign state, by any form of mail requiring a signed receipt, to be addressed and dispatched by the clerk of the court to the official in charge of the foreign affairs of the foreign state which is, or whose political subdivision is, named in the complaint; or

"(3) if proof of service is not made within 60 days after service has been initiated under paragraphs (1) or (2) of this subsection, and if

"(A) the claim for relief arises out of an activity or act in the United States of a diplomatic or consular representative of the foreign state for which the foreign state is not immune from jurisdiction under secton 1605 of this title, or

"(B) the foreign state uses diplomatic channels for service upon the United States or any other foreign state, or

"(C) the foreign state has not notified the Secretary of State prior to the institution of the proceeding in question that it prefers that service not be made through diplomatic channels,

by sending two copies of the summons and of the camplaint, together with a translation into the official language of the foreign state, by any form of mail requiring a signed receipt, to be addressed and dispatched by the clerk of the court, to the Secretary of State at Washington, District of Columbia, to the attention of the Director of Special Consular Services, and the Secretary shall send one copy through diplomatic channels to the foreign state and shall send a certified copy of the diplomatic note to the clerk of the court in which the action is pending. The Secretary shall maintain and publish in the Federal Register a list of foreign states upon which service may be made under subparagraphs (B) and (C) of this paragraph, and such list shall be conclusive for purposes of subparagraphs (B) and (C);

"(b) service in the courts of the United States and of the States shall be made upon an agency or instrumentality of a foreign state:

"(1) by delivering a copy of the summons and of the complaint in accordance with any special arrangement for service between the plaintiff and the agency or instrumentality; or

"(2) if no special arrangement exists, by delivering a copy of the summons and of the complaint to an officer, a managing or general agent or to any other agent authorized by appointment or by law to receive service of process in the United States; or

"(3) if service cannot be made under paragraphs (1) or (2) of this subsection, and if service is reasonably calculated to give actual notice,

"(A) by service of a copy of the summons and of the complaint, together with a translation into the official language of the foreign state, as directed by an authority of the foreign state or of a political subdivision in response to a letter rogatory or request, or

"(B) by sending a copy of the summons and of the complaint, together wtih a translation into the official language of the foreign state, by any form of mail requiring a signed receipt, to be addressed and dispatched by the clerk of the court to the agency or instrumentality to be served, or

"(C) as directed by order of the court consistent with the law of the place where service is to be made;

"(c) for the purposes of this section, service of process shall be deemed to have been made—

"(1) in the case of subsections (a)(1) and (b)(1), when delivered in accordance with the terms of the special arrangement;

"(2) in the case of subsections (a)(2)(A) and (b)(3)(A), when delivered as directed by an authority of the foreign state or political subdivision;

"(3) in the case of subsections (a)(2)(B) and (b)(3)(B), when received abroad by mail, as evidenced by the returned, signed receipt;

"(4) in the case of subsection (b)(2), when delivered to an officer, managing or general agent or appointed agent in the United States;

"(5) in the case of subsection (a)(3), when sent through diplomatic channels, as evidenced by a certified copy of the diplomatic note of transmittal;

"(6) in the case of subsection (b)(3)(C), when served as directed by order of the court.

"(d) in any action brought in a court of the United States or of a State, a foreign state, a political subdivision thereof, or an agency or instrumentality of a foreign state shall serve an answer or other responsive pleading to the complaint or to a cross-claim, or a reply to a counterclaim, within 60 days after the service of the pleading in which a claim is asserted; and

"(e) no judgment by default shall be entered by a court of the United States or of a State against a foreign state, a political subdivision thereof, or an agency or instrumentality of a foreign state, unless the claimant establishes his claim or right to relief by evidence satisfactory to the court. A copy of any such default judgment shall be sent to the foreign state or political subdivision in the manner prescribed for service of process in this section.

"§ 1609. Immunity from attachment and execution of property of a foreign state

"Subject to existing and future international agreements to which the United States is a party, the property in the United States of a foreign state shall be immune from attachment and from execution except as provided in sections 1610 and 1611 of this chapter.

"§ 1610. Exceptions to the immunity from attachment or execution

"(a) The property in the United States of a foreign state, as defined in section 1603(a) of this chapter, used for a commercial activity in the United States, shall not be immune from attachment in aid of execution, or from execution, upon a judgment entered by a court of the United States or of a State after the effective date of this Act, if—

"(1) the foreign state has waived its immunity from attachment in aid of execution or from execution either explicitly or by implication, notwithstanding any withdrawal of the waiver the foreign state may purport to effect except in accordance with the terms of the waiver, or

"(2) the property is or was used for the commercial activity upon which the claim is based, or

"(3) the execution relates to a judgment establishing rights in property which has been taken in violation of international law or which has been exchanged for property taken in violation of international law, or

"(4) the execution relates to a judgment establishing rights in property—

"(A) which is acquired by succession or gift, or

"(B) which is immovable and situated in the United States, provided such property is not used for purposes of maintaining a diplomatic or consular mission or the residence of the Chief of such mission, or

"(5) the property consists of any contractual obligation or any proceeds from such a contractual obligation to indemnify or hold harmless the foreign state or its employees under a policy of automobile or other liability or casualty insurance covering the claim which merged into the judgment.

"(b) In addition to subsection (a), any property in the United States of an agency or instrumentality of a foreign state engaged in commercial activity in the United States shall not be immune from attachment in aid of execution, or from execution, upon a judgment entered by a court of the United States or of a State after the effective date of this Act, if—

"(1) the agency or instrumentality has waived its immunity from attachment in aid of execution or from execution either explicitly or implicitly, notwithstanding any withdrawal of the waiver the agency or instrumentality may purport to effect except in accordance with the terms of the waiver, or

"(2) the judgment relates to a claim for which the agency or instrumentality is not immune by virtue of sections 1605(a) (2), (3) or (5), or 1605(b) of this chapter, regardless of whether the property is or was used for the activity upon which the claim is based.

"(c) No attachment or execution referred to in subsection (a) and (b) of this section shall be permitted until the court has ordered such attachment and execution after having determined that a reasonable period of time has elapsed following the entry of judgment and the giving of any notice required under section 1608(e) of this chapter.

"(d) The property of a foreign state, as defined in section 1603(a) of this chapter, used for a commercial activity in the United States, shall not be immune from attachment prior to the entry of judgment in any action brought in a court of the United States or of a State, or prior to the elapse of the period of time provided in subsection (c) of this section, if—

"(1) the foreign state has explicitly waived its immunity from attachment prior to judgment, notwithstanding any withdrawal of the waiver the foreign state may purport to effect except in accordance with the terms of the waiver, and

"(2) the purpose of the attachment is to secure satisfaction of a judgment that has been or may ultimately be entered against the foreign state, and not obtain jurisdiction.

"§ 1611. Certain types of property immune from execution

"(a) Notwithstanding the provisions of section 1610 of this chapter, the property of those organizations designated by the President as being entitled to enjoy the privileges, exemptions, and immunities provided by the International Organizations Immunities Act shall not be subject to attachment or any other judicial process impeding the disbursement of funds to, or on the order of, a foreign state as the result of an action brought in the courts of the United States or of the States.

"(b) Notwithstanding the provisions of section 1610 of this chapter, the property of a foreign state shall be immune from attachment and from execution, if—

"(1) the property is that of a foreign central bank or monetary authority held for its own account, unless such bank or authority, or its parent foreign government, has explicitly waived its immunity from attachment in aid of execution, or from execution, notwithstanding any withdrawal of the waiver which the bank, authority or government may purport to effect except in accordance with the terms of the waiver; or

"(2) the property is, or is intended to be, used in connection with a military activity and

"(A) is of a military character, or

"(B) is under the control of a military authority or defense agency."; and

(b) That the analysis of "Part IV.—Jurisdiction and Venue" of Title 28, United States Code, is amended by inserting after—

"95. Customs Court.".

the following new item:

"97. Jurisdictional Immunities of Foreign States.".

SEC. 5. That section 1391 of title 28, United States Code, is amended by adding at the end thereof the following new subsection:

"(f) A civil action against a foreign state as defined in section 1603(a) of this title may be brought—

"(1) in any judicial district in which a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of property that is the subject of the action is situated;

"(2) in any judicial district in which the vessel or cargo of a foreign state is situated, if the claim is asserted under section 1605(b) of this title;

"(3) in any judicial district in which the agency or instrumentality is licensed to do business or is doing business, if the action is brought against an agency or instrumentality of a foreign state as defined in section 1603(b) of this title; or

"(4) in the United States District Court for the District of Columbia if the action is brought against a foreign state or political subdivision thereof.

SEC. 6. That section 1441 of title 28, United States Code, is amended by adding at the end thereof the following new subsection:

"(d) Any civil action brought in a State court against a foreign state as defined in section 1603(a) of this title may be removed by the foreign state to the district court of the United States for the district and division embracing the place where such action is pending. Upon removal the action shall be tried by the court without jury. Where removal is based upon this subsection, the time limitations of section 1446(b) of this chapter may be enlarged at any time for cause shown."

SEC. 7. If any provision of this Act or the application thereof to any foreign state is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SEC. 8. This Act shall take effect ninety days after the date of its enactment.

DEPARTMENT OF STATE,
Washington, D.C.

Hon. NELSON A. ROCKEFELLER,
President of the Senate.

DEAR MR. PRESIDENT: The Department of State and Department of Justice submit for your consideration and appropriate reference the enclosed draft bill, entitled "To define the circumstances in which foreign states are immune from the jurisdiction of United States courts and in which execution may not be levied on their assets, and for other purposes." This is a proposed revision of the draft bill which was submitted in a letter (enclosed) to the President of the Senate dated January 16, 1973, and subsequently introduced by Senators Roman Hruska and Hugh Scott as S. 566 and by Senator William Fulbright as S. 771. A revised Section-by-Section Analysis explaining the provisions of the bill in some detail is also enclosed. A hearing was held on the companion bill H.R. 3493 before the Subcommittee of the Judiciary in the House of Representatives in the first session of the Ninety-Third Congress on June 7, 1973.

The broad purposes of this legislation—to facilitate and depoliticize litigation against foreign states and to minimize irritations in foreign relations arising out of such litigation—remain the same. To this end the revised bill, like its predecessor, would entrust the resolution of questions of sovereign immunity to the judicial branch of Government. The statute would codify and refine the "restrictive theory" of sovereign immunity which has guided United States practice with respect to jurisdiction originally set forth in the letter of May 19, 1952, from the Acting Legal Adviser, Jack B. Tate, to the Acting Attorney General Philip B. Perlman. It would also replace the absolute immunity now accorded foreign states from execution of judgment with an immunity from execution conforming more closely to the restrictive theory of immunity from jurisdiction. The measure also includes provisions for service of process, venue, and jurisdiction in cases against foreign states which would make it unnecessary to attach the assets of foreign states for purposes of jurisdiction.

Numerous technical changes have been made in the bill on the basis of the hearing in the House of Representatives, commentaries in a number of legal journals, and extensive discussions which have been held with members of the bar as well as the reports and recommendations of committees of several bar associations. A number of these technical revisions are important, but none of them alters the basic concept of the legislation as originally submitted.

The most important changes include (1) further definition of "commercial activity carried on in the United States by a foreign state" and "public debt" in Section 1603; (2) clarification of the limitations of immunity in tort actions (Section 1605(5)), in respect of counterclaims (Section 1607), and in case of execution of judgment (Section 1610); and (3) substantial revision of Section 1608 relating to service of process to conform with Article XXII of the Convention on Diplomatic Relations, signed at Vienna April 18, 1961, and with the Federal Rules of Civil Procedure.

In addition, important new provisions have been added to preserve the jurisdiction of the courts of the United States in cases in which a suit in admiralty is brought to enforce a maritime lien against a vessel or cargo of a foreign state (Section 1605(b)), and to avoid interference with disbursements to foreign states by certain international organizations located in the United States (Section 1611(a)). These and other changes are discussed in the enclosed Analysis.

The Departments of State and Justice believe that this revised draft bill is worthy of and will receive the support of the bar and would welcome hearings before the appropriate committees of the House to consider this measure as soon as possible.

The Office of Management and Budget has advised that there is no objection to the enactment of this legislation from the standpoint of the Administration's program.

Sincerely,

ROBERT S. INGERSOLL,
Deputy Secretary of State.
HAROLD R. TYLER, JR.
Deputy Attorney General.

FOREIGN SOVEREIGN IMMUNITIES ACT OF 1976—SECTION-BY-SECTION ANALYSIS

This bill, entitled the "Foreign Sovereign Immunities Act of 1976," sets forth the sole and exclusive standards to be used in resolving questions of sovereign immunity raised by foreign states before federal and state courts in the United States. It is intended to preempt any other state or federal law (excluding applicable international agreements) for according immunity to foreign sovereigns, their political subdivisions, their agencies and their instrumentalities. It is also designed to bring U.S. practice into conformity with that of most other nations by leaving sovereign immunity decisions exclusively to the courts, thereby discontinuing the practice of judicial deference to "suggestions of immunity" from the Executive Branch. (See *Ex Parte Peru,* 318 U.S. 578, 588–589 (1943).)

The bill is not intended to affect the substantive law of liability. Nor is it intended to affect either diplomatic or consular immunity, or the attribution of responsibility between or among entities of a foreign state—e.g., whether the proper entity of a foreign state has been sued, or whether an entity sued is liable in whole or in part for the claimed wrong.

Aside from setting forth comprehensive rules governing sovereign immunity, the bill prescribes: the jurisdiction of United States district courts in cases involving foreign states; procedures for commencing a lawsuit against foreign states in both federal and state courts; and circumstances under which attachment and execution may be obtained against the property of foreign states to satisfy a judgment against foreign states in both federal and state courts.

Constitutional authority for enacting such legislation derives from Congress' power to prescribe the jurisdiction of federal courts (Art. I, Sec. 8, Cl. 9; Art. III, Sec. 1); to define offenses against the "Law of Nations" (Art. I, Sec. 8, Cl. 10); to regulate commerce with foreign nations (Art. I, Sec. 8, Cl. 3); and "to make all Laws necessary and proper for carrying into Execution . . . and . . . Powers vested . . in the Government of the United States," including the judicial power of the United States over controversies between "a State, or the Citizens thereof, and foreign states . . ." (Art. I, Sec. 8, Cl. 18; Art. III, Sec. 2, Cl. 1). See *National Bank* v. *Republic of China;* 348 U.S. 356, 370–71 (1955) (Reed J., dissenting); *cf. Banco Nacional de Cuba* v. *Sabbatino,* 376 U.S. 398, 425 (1964).

This section-by-section analysis supersedes the section-by-section analysis that accompanied the earlier version of the bill (i.e., S. 566 and H.R. 3493, 93d Cong., 1st Sess.); the prior analysis should not be consulted in interpreting the current bill and its provisions, and no inferences should be drawn from differences between the two.

SEC. 2. JURISDICTION IN ACTIONS AGAINST FOREIGN STATES

Section 2 of the bill adds a new section 1330 to Title 28 of the United States Code, and provides for subject matter and personal jurisdiction of U.S. district courts over foreign states and their political subdivisions, agencies and instrumentalities. Section 1330 provides a comprehenisve jurisdictional scheme in cases involving foreign states. Such broad jurisdiction in the federal courts should be conducive to uniformity in decision, which is desirable since a disparate treatment of cases involving foreign governments may have adverse foreign relations consequences. Plaintiffs, however, will have an election whether to proceed in federal court or in a court of a State, subject to the removal provisions of Section 6 of the bill.

(a) *Subject Matter Jurisdiction.* Section 1330(a) gives federal district courts original jurisdiction in personam against foreign states (defined as including political subdivisions, agencies and instrumentalities of foreign states). The jurisdiction extends to any claim with respect to which the foreign state is not entitled to immunity under Sections 1605–1607 proposed in the bill, or under any applicable international agreement of the type contemplated by the proposed Section 1604.

As in suits against the United States Government, jury trials are excluded. See 28 U.S.C. 2402. Actions tried by a court without jury will tend to promote a uniformity in decision where foreign governments are involved.

In addition, the jurisdiction of district courts in cases against foreign states is to be without regard to amount in controversy. This is intended to encourage the bringing of actions against foreign states in federal courts. Under existing law, the district courts have diversity jurisdiction in actions in which foreign states are parties, but only where the amount in controversy exceeds $10,000. 28 U.S.C. 1332(a)(2) and (3). (See analysis of Section 3 of the bill, below.)

(b) *Personal Jurisdiction.* Section 1330(b) provides a federal long-arm statute over foreign states (including political subdivisions, agencies and instrumentalities of foreign states). It is patterned after the long-arm statute Congress enacted for the District of Columbia. Pub. L. 91–358, § 132(a), Title I, 84 Stat. 549. Two criteria must be met: (1) the claim must be one over which the district courts have original jurisdiction under Section 1330(a), meaning a claim for which the foreign state is not entitled to immunity; and (2) proper service of process must be made under the new Section 1608 in the bill.

The first criterion necessitates a substantial contact or other nexus between the United States and the challenged activity of the foreign state. Cf. *International Shoe Co. v. Washington,* 326 U.S. 310, 316 (1945) and *McGee v. International Life Ins. Co.,* 355 U.S. 220, 223 (1957). Thus, the activities which under Sections 1605–1607 in the bill deny to a foreign state immunity from suit involve either a nexus with the United States or a waiver by the foreign state of its immunity from jurisdiction.

(c) *Effect of an Appearance.* Section 1330 (c) states that a mere appearance by a foreign state in an action does not confer personal jurisdiction with respect to claims which could not be brought as an independent action under this bill. The purpose is to make it clear that a foreign state does not subject itself to claims unrelated to the action solely by virtue of an appearance before a U.S. court. While the plaintiff is free to amend his complaint, he is not permitted to add claims for relief not based on transactions or occurrences listed in the bill. The term "transaction or occurrence" includes each basis set forth in Sections 1605–1607 for not granting immunity, including waivers.

SEC. 3. DIVERSITY JURISDICTION AS TO FOREIGN STATES

Section 3 of the bill amends those provisions of 28 U.S.C. 1332 which relate to diversity jurisdiction of U.S. district courts over foreign states. Since jurisdiction in actions against foreign states is comprehensively treated by the new Section 1330, a similar jurisdictional basis under Section 1330 becomes superfluous. The amendment deletes references to "a foreign state" now found in paragraphs (2) and (3) of 28 U.S.C. 1332(a), and adds a new paragraph (4) to provide for diversity jurisdiction in actions brought by a foreign state as plaintiff. These changes would not affect the applicability of Section 1332 to entities that are both owned by a foreign state and are also citizens of a state of the United States as defined in 28 U.S.C. 1332 (c) and (d). See analysis to Section 1603(b).

SEC. 4. NEW CHAPTER 97: SOVEREIGN IMMUNITY PROVISIONS

Section 4 of the bill adds a new Chapter 97 to Title 28, U.S. Code, which sets forth the legal standards under which federal and state courts would henceforth determine all claims of sovereign immunity raised by foreign states and their political subdivisions, agencies and instrumentalities. The specific sections of Chapter 97 are as follows:

SECTION 1602. FINDINGS AND DECLARATION OF PURPOSE

Section 1602 sets forth the central premise of the bill: that decisions on claims by foreign states to sovereign immunity are best made by the judiciary on the basis of a statutory regime which incorporates standards recognized under international law.

Although the general concept of sovereign immunity appears to be recognized in international law, its specific content and application have generally been left to the courts of individual nations. There is, however, a wide acceptance of the so-called "restrictive theory" of sovereign immunity—i.e., that the sovereign immunity of foreign states should be "restricted" to cases involving acts of a foreign state which are sovereign or governmental in nature, as opposed to acts which are either commercial in nature or those which private persons normally perform. This restrictive theory has been adhered to by the Department of State since the "Tate letter" of May 19, 1952. 26 *Dept. of State Bull.* 984 (1952).

SECTION 1603. DEFINITIONS

Section 1603 defines five terms that are used in the bill:

(a) *Foreign State.* Subsection (a) defines the term foreign state as used in all provisions of Chapter 97, except Sections 1606 and 1608. In those latter two sections, the term "foreign state" refers only to the sovereign state itself.

As the definition indicates, the term "foreign state" as used in every other section of Chapter 97 includes not only the foreign state but also political subdivisions, agencies and instrumentalities of the foreign state. The term "political subdivisions" includes all governmental units beneath the central government including local governments.

(b) *Agency or Instrumentality of a Foreign State.* Subsection (b) defines an "agency or instrumentality of a foreign state" as any entity (1) which is a separate legal person, (2) which is an organ of a foreign state or of a political subdivision of a foreign state, or a majority of whose shares or other ownership interest is owned by a foreign state or by a foreign state's political subdivision, and (3) which is neither a citizen of a State of the United States as defined in 28 U.S.C. 1332(c) and (d) nor created under the laws of any third country.

The first criterion, that the entity be a separate legal person, is intended to include a corporation, association, foundation or any other entity which, under the law of the foreign state where it was created, can sue or be sued in its own name, contract in its own name or hold property in its own name.

The second criterion requires that the entity be either an organ of a foreign state (or of a foreign state's political subdivision), or that a majority of the entity's shares or other ownership interest be owned by a foreign state (or by a foreign state's political subdivision). If such entities are entirely owned by a foreign state, they would of course be included within the definition. Where ownership is divided between a foreign state and private interests, the entity will be deemed to be an agency or instrumentality of a foreign state only if a majority of the ownership interests (shares of stock or otherwise) is owned by a foreign state or by a foreign state's political subdivision.

The third criterion excludes entities which are citizens of a state of the United States as defined in 28 U.S.C. 1332(c) and (d)—for example, a corporation organized and incorporated under the laws of the State of New York but owned by a foreign state. See *Amtorg Trading Corp. v. United States,* 71 F. 2d 524 (C.C.P.A. 1934). Also excluded are entities which are created under the laws of third countries. The rationale behind these exclusions is that if a foreign state acquires or establishes a company or other legal entity in a foreign country, such entity is presumptively engaging in activities that are either commercial or private in nature.

An entity which does not fall within the definitions of Section 1603(a) or (b) would not be entitled to sovereign immunity in any case before a federal or state court. On the other hand, the fact that an entity is an "agency or instrumentality of a foreign state" does not in itself establish an entitlement to sovereign immunity. A court would have to consider whether one of the sovereign immunity exceptions contained in the bill (see Sections 1605–07 and 1610–11) was applicable.

As a general matter, entities which meet the definition of an "agency or instrumentality of a foreign state" could assume a variety of forms, including a state trading corporation, a mining enterprise, a transport organization such as a shipping line or airline, a steel company, a central bank, an export association, a governmental procurement agency or a department or ministry which acts and is suable in its own name.

(c) *United States.* Paragraph (c) of Section 1603 defines "United States" as including all territory and waters subject to the jurisdiction of the United States.

(d) *Commercial Activity.* Paragraph (c) of Section 1603 defines the term "commercial activity" as including a broad spectrum of endeavor, from an individual commercial transaction or act to a regular course of commercial conduct. A "regular course of commercial conduct" includes the carrying on of a commercial enterprise such as a mineral extraction company, an airline or a state trading corporation. Certainly, if an activity is customarily carried on for profit, its commercial nature could readily be assumed. At the other end of the spectrum, a single contract, if of the same character as a contract which might be made by a private person, could constitute a "particular transaction or act."

As the definition indicates, the fact that goods or services to be procured through a contract are to be used for a public purpose is irrelevant; it is the essentially commercial *nature* of an activity or transaction that is critical. Thus, a contract by a foreign government to buy provisions or equipment for its armed forces or to construct a government building constitutes a commercial activity. The same would be true of a contract to make repairs on an embassy building. Such contracts should be considered to be commercial contracts, even if their ultimate object is to further a public function.

By contrast, a foregin state's mere participation in a foreign assistance program administered by the Agency for International Development (AID) is an activity whose essential nature is public or governmental, and it would not itself constitute a commercial activity. By the same token, a foreign state's activities in and "contacts" with the United States resulting from or necessitated by participation in such a program would not in themselves constitute a sufficient commercial nexus with the United States so as to give rise to jurisdiction (see Section 1330) or to assets which could be subjected to attachment or execution with respect to unrelated commercial transactions (see Section 1610 (b)). However, a transaction to obtain goods or services from private parties would not lose its otherwise commercial character because it was entered into in connection with an AID program. Also public or governmental and not commercial in nature, would be the employment of diplomatic, civil service or military personnel, but not the employment of American citizens or third country nationals by the foreign state in the United States.

The courts would have a great deal of latitude in determining what is a "commercial activity" for purposes of this bill. It has seemed unwise to attempt an excessively precise definition of this term, even if that were practicable. Activities such as a foreign government's sale of a service or a product, its leasing of property, its borrowing of money, its employment or engagement of laborers, clerical staff or public relations or marketing agents, or its investment in a security of an American corporation, would be among those included within the definition.

(*e*) *Commercial Activity Carried on in the United States by a Foreign State.* As paragraph (d) of Section 1603 indicates, a commercial activity carried on in the United States by a foreign state would include not only a commercial transaction performed and executed in its entirety in the United States, but also a commercial transaction or act having a "substantial contact" with the United States. This definition includes cases based on commercial transactions performed in whole or in part in the United States, import-export transactions involving sales to, or purchases from, concerns in the United States, business torts occurring in the United States (*cf.* § 1605(a)(5)), and an indebtedness incurred by a foreign state which negotiates or executes a loan agreement in the United States, or which receives financing from a private or public lending institution located in the United States (e.g. loans, guarantees or insurance provided by the Export-Import Bank of the United States). It will be for the courts to determine whether a particular commerical activity has been performed in whole or in part in the United States. This definition, however, is intended to reflect a degree of contact beyond that occasioned simply by U.S. citizenship or U.S. residence of the plaintiff.

SECTION 1604. IMMUNITY OF FOREIGN STATES FROM JURISDICTION

New Chapter 97 of Title 28, United States Code, starts from a premise of immunity and then creates exceptions to the general principle. The chapter is thus cast in a manner consistent with the way in which the law of sovereign immunity has developed. Starting the basic principle in terms of immunity may be of some advantage to foreign states in doubtful cases, but, since sovereign immunity is an affirmative defense which must be specially pleaded, the burden will remain on the foreign state to produce evidence in support of its claim of immunity.

The immunity from jurisdiction provided in Section 1604 applies to proceedings in both federal and state courts. Section 1604 would be the only basis under which a foreign state can claim immunity from the jurisdiction of any federal or state court in the United States.

All immunity provisions are made subject to "existing" treaties and other international agreements to which the United States is a party. In the event of any conflict with this bill, provisions in treaties and international agreements would control. They include *inter alia* treaties of friendship, commerce and navigation and bilateral air transport agreements which contain provisions relating to the immunity of foreign states. Similarly, this bill would not alter the rights or duties of the United States under the NATO Status of Forces Agreement or similar agreements with other countries; nor would it alter the provisions of commercial contracts, or existing and future agreements to which the United States is a party, calling for exclusive nonjudicial remedies through arbitration or other procedures for the settlement of disputes.

The immunity provisions are also subject to "future" international agreements. Included in this concept is the possibility of a future international convention on sovereign immunity, just as there are in existence at present international conventions on diplomatic and consular immunity.

SECTION 1605. GENERAL EXCEPTIONS TO THE JURISDICTIONAL IMMUNITY OF FOREIGN STATES

Section 1605 sets forth the general circumstances in which a claim of sovereign immunity by a foreign state, as defined in Section 1603(a) would not be recognized in a federal or state court in the United States.

(a)(1) *Waivers.* Section 1605(a)(1) treats explicit and implied waivers by foreign states of sovereign immunity. With respect to explicit waivers, a foreign state may renounce its immunity by treaty, as has been done by the United States with respect to commercial and other activities in a series of treaties of friendship, commerce, and navigation, or a foreign state may waive its immunity in a contract with a private party. Since the sovereign immunity of a political subdivision, agency or instrumentality of a foreign state derives from the foreign state itself, the foreign state may waive the immunity of its political subdivisions, agencies or instrumentalities.

With respect to implicit waivers, the courts have found such waivers in cases where a foreign state has agreed to arbitration in another country or where a foreign state has agreed that the law of a particular country should govern a contract. An implicit waiver would also include a situation where a foreign state has filed a responsive pleading in an action without raising the defense of sovereign immunity.

The language, "notwithstanding any withdrawal of the waiver which the foreign state may purport to effect except in accordance with the terms of the waiver," is designed to exclude a withdrawal of the waiver both after and before a dispute arises except in accordance with the terms of the original waiver. In other words, if the foreign state agrees to a waiver of sovereign immunity in a contract, that waiver may subsequently be withdrawn only in a manner consistent with the expression of the waiver in the contract. Some court decisions have allowed subsequent and unilateral rescissions of waivers by foreign states. But the better view, and the one followed in this section, is that a foreign state which has induced a private person into a contract by promising not to invoke its immunity cannot, when a dispute arises, go back on its promise and seek to revoke the waiver unilaterally.

(a)(2) *Commercial Activities Having a Nexus with the United States.* Section 1605 (a)(2) treats what is probably the most important instance in which foreign states are denied immunity, that in which the foreign state engages in a commercial activity. The definition of a "commercial activity" is set forth in Section 1603(d) of the bill, and is discussed in the analysis to that section.

Section 1605(a)(2) mentions three situations in which a foreign state would not be entitled to immunity with respect to a claim based upon a commercial activity. The first of these situations is where the "commercial activity [is] carried on in the United States by the foreign state." This phrase is defined in Section 1603(e) of the bill. See the analysis to that section.

The second situation, an "act performed in the United States in connection with a commercial activity of the foreign state elsewhere," looks to conduct of the foreign state in the United States which relates either to a regular course of commercial conduct elsewhere or to a particular commercial transaction concluded or carried out in part elsewhere. Examples of this type of situation might include: a representation in the United States by an agent of a foreign state that leads to an action for restitution based on unjust enrichment; an act in the United States that violates U.S. securities laws or regulations; the wrongful discharge in the United States of an employee of the foreign state who has been employed in connection with a commercial activity carried on in some third country.

Although some or all of these acts might also be considered to be a "commercial activity carried on in the United States," as broadly defined in Section 1603(e), it has seemed advisable to provide expressly for the case where a claim arises out of a specific act in the U.S. which is commercial or private in nature and which relates to a commercial activity abroad. It should be noted that the acts (or omissions) encompassed in this category are limited to those which in and of themselves are sufficient to form the basis of a cause of action.

The third situation—"an act outside the territory of the United States in connection with a commercial activity of the foreign state elsewhere and that act causes a direct effect in the United States"—would embrace commercial conduct abroad having direct effects within the United States which would subject such conduct to the exercise of jurisdiction by the United States consistent with principles set forth in Section 18, *Restatement of the Law, Second, Foreign Relations Law of the United States* (1965).

Neither the term "direct effect" nor the concept of "substantial contacts" embodied in Section 1603(e) is intended to alter the application of the Sherman Antitrust Act, 15 U.S.C. 1, *et seq.* to any defendant. Thus, the bill does not affect the holdings in such cases as *United States* v. *Pacific & Arctic Ry. & Nav. Co.*, 228 U.S. 87 (1913), or *Pacific Seafarers, Inc.* v. *Pacific Far East Line, Inc.*, 404 F. 2d 803 (D.C. Cir. 1968), cert. denied, 393 U.S. 1093 (1969).

(a)(3) *Expropriation Claims.* Section 1605(a)(3) would, in two categories of cases, deny immunity where "rights in property taken in violation of international law are in issue." The first category involves cases where the property in question or any property exchanged for such property is present in the United States, and where such presence is in connection with a commercial activity carried on in the United States by the foreign state, or political subdivision, agency or instrumentality of the foreign state. The second category is where the property, or any property exchanged for such property, is (i) owned or operated by an agency or instrumentality of a foreign state and (ii) that agency or instrumentality in engaged in a commercial activity in the United States. Under the second category, the property need not be present in connection with a commercial activity of the agency or instrumentality.

The term "taken in violation of international law" would include the nationalization or expropriation of property without payment of compensation required by international law. It would also include takings which are arbitrary or discriminatory in nature. Since, however, this section deals solely with issues of immunity, it in no way affects existing law on the extent to which, if at all, the "act of state" doctrine may be applicable.

(a)(4) *Immovable, Inherited and Gift Property.* Section 1605(a)(4) denies immunity in litigation relating to rights in real estate and in inherited or gift property located in the United States. It is established that, as set forth in the "Tate Letter" of 1952, sovereign immunity should not be granted in actions with respect to real property, diplomatic and consular property excepted. 26 *Dept. of State Bulletin* 984 (1952). It does not matter whether a particular piece of property is used for commercial or public purposes.

It is maintainable that the exception mentioned in the "Tate Letter" with respect to diplomatic and consular property is limited to questions of attachment and execution and does not apply to an adjudication of rights in that property. Thus the Vienna Convention on Diplomatic Relations, concluded in 1961, provides in Article 22 that the "premises of the mission, their furnishings and other property thereon and the means of transport of the mission are immune from search, requisition, attachment or execution." Actions short of attachment or execution seem to be permitted under the Convention, and a foreign state cannot deny to the local state the right to adjudicate questions of ownership, rent, servitudes, and similar matters, as long as the foreign state's possession of the premises is not disturbed.

There is general agreement that a foreign state may not claim immunity when the suit against it relates to rights in property, real or person, obtained by gift or inherited by the foreign state and situated or administered in the country where the suit is brought. As stated in the "Tate Letter," immunity should not be granted "with respect to the disposition of the property of a deceased person even though a foreign sovereign is the beneficiary." The reason is that, in claiming rights in a decedent's estate or obtained by gift, the foreign state claims the same right which is enjoyed by private persons.

(a)(5) *Non-Commercial Torts.* Section 1605(a)(5) is directed primarily at the problem of traffic accidents but is cast in general terms as applying to all tort actions for money damages, not otherwise encompassed by Section 1605(a)(2) relating to commercial activities. It denies immunity as to claims for personal injury or death, or for damage to or loss of property, caused by the tortious act or omission of a foreign state or its officials or employees, acting within the scope of their authority; the tortious act or omission must occur within the jurisdiction of the United States, and must not come within one of the exceptions enumerated in the second paragraph of the subsection.

As used in Section 1605(a)(5), the phrase "tortious act or omission" is meant to include causes of action which are based on strict liability as well as on negligence. The exceptions provided in subparagraphs (A) and (B) of Section 1605(a)(5) correspond to many of the claims with respect to which the United States Government retains immunity under the Federal Tort Claims Act, 28 U.S.C. 2680(a) and (h).

Like other provisions in the bill, Section 1605 is subject to existing and future international agreements (see Section 1604) including Status of Forces Agreements; if a remedy is available under a Status of Forces Agreement, the foreign state is immune from such tort claims as are encompassed in Sections 1605(a)(2) and 1605(a)(5).

Since the bill deals only with the immunity of foreign states and not its diplomatic or consular representatives, Section 1605(a)(5) would not govern suits against diplomatic or consular representatives but only suits against the foreign state. It is noteworthy in this regard that while the Vienna Convention on Consular Relations of 1963 expressly abolishes the immunity or consular officers with respect to civil actions brought by a third party for "damage arising from an accident in the receiving State caused by a vehicle, vessel or aircraft," there is no such provision in the Vienna Convention on Diplomatic Relations of 1961. Consequently, no case relating to a traffic accident can be brought against a member of a diplomatic mission.

The purpose of Section 1605(a)(5) is to permit the victim of a traffic accident or other noncommercial tort to maintain an action against the foreign state to the extent otherwise provided by law. See, however, Section 1605(c).

(b) *Maritime Liens.* Section 1605(b) denies immunity to a foreign state in cases where (i) a suit in admiralty is brought to enforce a maritime lien against a vessel or cargo of that foreign state, (ii) the maritime lien is based upon a commercial activity of the foreign state, and (iii) the conditions in paragraphs (1) and (2) of Section 1605(b) have been complied with.

The purpose of this subsection is to permit a plaintiff to bring suit in a United States district court arising out of a maritime lien involvng a vessel or cargo of a foregn sovereign without arresting the vessel, by instituting an *in personam* action against the foreign state in a manner analogous to bringing such a suit against the United States. *Cf.* 46 U.S.C. 741, *et seq*. In view of Section 1609 of the bill, Section 1605(b) is designed to avoid arrests of vessels or cargo of a foreign state to commence a suit. Instead, as provided in paragraph (1), a copy of the summons and complaint must be served either on the master or other person having possession of the vessel and cargo against either of which the maritime lien is asserted, or on their agent (such as the second in command of the ship). If, however, the vessel or its cargo is arrested or attached, the plaintiff will lose his *in personam* remedy and the foreign state will be entitled to immunity—except in the rare case where the plaintiff was unaware that the vessel or cargo of a foreign state was involved. This would be a rare case because the flag of the vessel, the circumstances giving rise to the maritime lien, or the information contained in ship registries kept in ports throughout the United States should make known the ownership of the vessel in question, if not the cargo. If, however, the vessel or cargo is mistakenly arrested, such arrest or attachment must, under Section 1609, be immediately dissolved when the foreign state brings to the court's attention its interest in the vessel or cargo and, hence, its right to immunity from arrest.

Under paragraph (2), the plaintiff must also be able to prove that the procedures for service of process under Section 1608 (a) or (b) commenced—for example, that the clerk of the court has mailed the requisite copies of the summons and complaint, etc. The plaintiff need not show that service has actually been made under Section 1608(c). The reason for this second requirement is to help make certain that the foreign state concerned receives prompt and actual notice of the institution of a suit in admiralty in the United States, even if the copies served on the master of the vessel should fail to reach the foreign state.

(c) *Scope of Liability When Immunity is not Accorded.* Section 1605(c) makes clear that if the foreign state, political subdivision, agency or instrumentality is not entitled to immunity from jurisdiction, liability exists as it would for a private party under like circumstances. However, the tort liability of a foreign state itself (but not of a political subdivision, agency or instrumentality of a foreign state) does not extend to interest prior to judgment or to punitive damages. Under current international practice, punitive damages are usually not assessed against foreign states. See, 5 *Hackworth, Digest of International Law,* 723–26 (1943); Garcia-Amador, *State Responsibility,* 94 *Hague Recueil des Cours* 365, 476–81 (1958). This subsection is based upon 28 U.S.C. 2674, which places similar limitations on the liability of the United States Government in tort.

SECTION 1606. CLAIMS INVOLVING THE PUBLIC DEBT.

Section 1606 provides for the immunity of a foreign state itself (as opposed to its political subdivisions, agencies or instrumentalities) in cases relating to the public debt of the foreign state.

Subsection (b) relates to the immunity of a foreign state with respect to debt obligations incurred for general governmental purposes and backed by the full faith and credit of the foreign state. Such immunity was recognized in dictum in *Victory Transport, Inc. v. Comisaria General de Abastecimientos y Transportes,* 336 F.2d 354 (2nd Cir.), cert. denied, 381 U.S. 934 (1964). Where the underwriters of such securities regard immunity as detrimental to the success of the issue, the foreign government may surrender its immunity by express waiver.

Section 1606(b) embodies the generally accepted view that the immunity of the central government of a state for public debts is not shared by is subordinate political entities or agencies or instrumentalities of the foreign state. Immunity with respect to the public debt of political subdivisions, agencies or instrumentalities would be governed by other provisions of the bill, such as Section 1605(a)(2). Thus, in cases where an agency or instrumentality, such as a central bank, incurs an indebtedness for general governmental purposes which constitutes an obligation backed by the full faith and credit of the foreign state, Section 1606(b) would apply only to the obligation of the foreign state and not to that of the agency or instrumentality.

Section 1606(b)(1) provides for explicit waivers of immunity in public debt cases. The waiver must be that of the foreign state. Where the debt obligation is incurred through an agency or instrumentality of the foreign state, a waiver from the agency or instrumentality would be deemed to be a waiver of the foreign state only where the waiver is made in the name of the foreign state. Section 1606(b)(2) preserves any remedies under the Federal Securities Laws applicable to foreign states. In applying Section 1606(b), courts will have to determine whether a debt obligation is for *general* governmental purposes or for a *specific* governmental or other purpose.

SECTION 1607. COUNTERCLAIMS

Section 1607 applies to counterclaims against a foreign state which brings an action or intervenes in an action in a federal or state court. It would deny immunity in three situations. First, immunity would be denied as to any counterclaim for which the foreign state would not be entitled to immunity under Sections 1605 and 1606, if the counterclaim had been brought as a direct claim in a separate action against the foreign state. This provision is based upon Article I of the European Convention on State Immunity.

Second, even if a foreign state would otherwise be entitled to immunity under Sections 1604–1606, it would not be immune from a counterclaim "arising out of the transaction or occurrence that is the subject matter of the claim of the foreign state." This is the same terminology as that used in Rule 13(a) of the Federal Rules of Civil Procedure and is consistent with Section 70 (2)(b), *Restatement of the Law, Second, Foreign Relations Law of the United States* (1965). Certainly, if a foreign state brings or intervenes in an action based on a particular transaction or occurrence, it should not obtain the benefits of litigation before U.S. courts while avoiding any legal liabilities claimed against it and arising from that same transaction or occurrence.

Third, notwithstanding that the foreign state may be immune under subsections (a) and (b), the foreign state nevertheless would not be immune from a counterclaim to the extent that the counterclaim seeks relief neither exceeding in amount nor differing in kind from that sought by the foreign state. Subsection (c) codifies the rule enunciated in *National Bank v. Republic of China*, 348 U.S. 356 (1955).

SECTION 1608. SERVICE OF PROCESS; TIME TO ANSWER; DEFAULT

Section 1608 sets forth the exclusive procedures with respect to service of process on, the filing of an answer or other responsive pleading by, and obtaining a default judgment against a foreign state or its political subdivisions, agencies or instrumentalities. These procedural provisions are intended to fill a void in existing federal and state law.

All of the provisions of Section 1608 are made "subject to existing and future international agreements to which the United States is a party." As in Sections 1604 and 1609, this language contemplates the possibility of a future international convention on sovereign immunity, and in particular on procedures to be used in litigation against foreign states. An "existing" international agreement which is applicable is the Hague Convention on Service Abroad of Judicial and Extrajudicial Documents, 20 UST 361, TIAS 6638 (1965).

(a) *Service on Foreign States and Political Subdivisions.* Subsection (a) of Section 1608 sets forth the exclusive procedures for service of process on a foreign state, or political subdivision thereof, but not on an agency or instrumentality of a foreign state which is covered in subsection (b). There is a hierarchy in the methods for serving process under subsection (a). Paragraph (1) provides for service in accordance with any special arrangement which may have been agreed upon between a plaintiff and the foreign state or political subdivision. If such an arrangement exists, service must be made under this method. The purpose of subsection (a)(1) is to encourage potential plaintiffs and foreign states to agree by contract for a procedure on service of process.

If no special arrangement exists, subsection (a)(2) provides two alternative methods of service. The first method, set forth in subparagraph (A), involves the transmittal of "a letter rogatory or a request" for ultimate service in a foreign country. This method is currently provided under Rule 4(i)(B), F.R. Civ. P., for service on nonresident defendants. The Department of State has the authority to transmit letters rogatory from a court in the United States to authorities in foreign countries, under 28 U.S.C. 1781(a)(2). The transmittal of letters rogatory or requests may also be governed by international agreements such as the Hague Convention on Service Abroad of Judicial and Extrajudicial Documents, *supra*. Service under a letter rogatory or request under such international agreements would be "directed by an authority of the foreign state" within the meaning of subparagraph (A).

The alternative method, set forth in Subparagraph (B), is for service by mail on the foreign minister or other official in charge of the foreign affairs of the foreign state. This method is based on Rule 4(i)(D), F.R. Civ. P.

Subsection (a)(3) provides, as a method of last resort, service through diplomatic channels. It is applicable only if 60 days have elapsed since service was initiated under any method provided in subsections (a) (1) or (2) and if proof of service has not been made.

However, the method for direct service through diplomatic channels cannot be resorted to in every case. One situation where it is available is where the claim is against a foreign state arising from an act of a diplomatic or consular representative of a foreign state. Such acts might include the entering into a contract to construct an embassy or a consulate, or a traffic accident caused by a diplomatic or consular representative acting within the scope of his employment for which the foreign state is liable under the doctrine of *respondent superior*. Not included are personal claims against diplomatic or consular representatives as individuals, which again are not covered by this statute.

The only other situations where this method of direct service through diplomatic channels may be resorted to are set forth in subparagraphs (B) and (C) of subsection (a)(3). A list maintained by the Secretary of State and published in the Federal Register shall be conclusive evidence of whether a foreign state may be subject to service through diplomatic channels under subparagraphs (B) or (C).

In those cases where direct service may be made through diplomatic channels, the transmittal of a copy of the summons and complaint with translation by diplomatic note will in itself constitute service. This is to be distinguished from the transmittal of a letter rogatory by the Department of State, which is simply an administrative step leading to the ultimate service in a foreign country under the direction of a foreign authority, usually a foreign court.

(b) *Service on Agencies or Instrumentalities.* Subsection (b) of Section 1608 provides the methods under which service shall be made upon an agency or instrumentality of a foreign state, as defined in Section 1603 (b). Again, service must always be made in accordance with any special arrangement for service between a plaintiff and the agency or instrumentality. If no such arrangement exists, then service must be made under subsection (b)(2) which provides for service upon officers, or managing, general or appointed agents in the United States of the agency or instrumentality.

If there is no special arrangement and if the agency or instrumentality has no representative in the United States, service may be made under one of the three methods provided in subsection (b)(3). The first two of these methods, provided in subparagraphs (A) and (B), are identical to methods applicable to service on a foreign state or political subdivision under subsection (a)(2).

The third method, in subparagraph (C), authorizes a court to fashion a method of service, for example under Rule 83 F.R. Civ. P., provided the method is "consistent with the law of the place where service is to be made." This latter language takes into account the fact that the laws of foreign countries may prohibit the service in their country of judicial documents by process servers from the United States. It is contemplated that no court will direct service upon a foreign state by appointing someone to make a physical attempt at service abroad, unless it is clearly consistent with the law of the foreign jurisdiction where service is to be attempted. It is also contemplated that the courts will not direct service in the United States upon diplomatic representatives, *Hellenic Lines Ltd.* v. *Moore,* 345 F. 2d 978 (D.C. Cir. 1965), or upon consular representatives, *Oster* v. *Dominion of Canada,* 144 F. Supp. 746 (N.D.N.Y. 1956), *aff'd* 238 F. 2d 400 (2d Cir.)

(c) *When Service is Made.* Subsection (c) of Section 1608 establishes the time when service shall be deemed to have been made under each of the methods provided in subsections (a) and (b).

(d) *Time to Answer or Reply.* Subsection (d) of Section 1608 gives each foreign state, political subdivision thereof or agency or instrumentality of a foreign state or political subdivision up to 60 days from the time service is deemed to have been made in which to answer, file a responsive pleading or other reply to a pleading or counterclaim. This corresponds to similar provisions applicable in suits against the United States or its officers or agencies. Rule 12(a), F.R. Civ. P.

(e) *Default Judgments.* Subsection (e) of Section 1608 provides that no default judgment may be entered against a foreign state, or its political subdivisions, agencies or instrumentalities, "unless the claimant establishes his claim or right to relief by evidence satisfactory to the court." This is the same requirement applicable to default judgments against the United States Government under Rule 55(e), F.R. Civ. P. In determining whether the claimant has established his claim or right to relief, it is expected that courts will take into account the extent to which the plaintiff's case depends on appropriate discovery against the foreign state. Once the default judgment is entered, notice of such judgment must be sent in the manner prescribed for service of process in Sections 1608(a) or (b).

Special note should be made of two means which are currently in use in attempting to commence litigation against a foreign state. First, the current practice of attempting to commence a suit by attachment of a foreign state's property would be prohibited under Section 1609 in the bill, because of foreign relations considerations and because such attachments are rendered unnecessary by the liberal service and jurisdictional provisions of the bill. See the analysis to Section 1609.

A second means, of doubtful validity, involves the mailing of a copy of the summons and complaint to a diplomatic mission of the foreign state. Section 1608 precludes this method so as to avoid questions of inconsistency with Section 1 of Article 22 of the Vienna Convention on Diplomatic Relations, 23 UST 3227, TIAS 7502 (1961), which entered into force in the United States on December 13, 1972. Subsequent to the introduction of S. 566 and H.R. 3493, 93rd Cong. 1st Sess., several foreign governments brought to the attention of the department of State that the drafters of the Vienna Convention had construed Article 22 as prohibiting the service of any process or writ, "even by post, within the premises of a diplomatic mission." The United States has formally acknowledged this view. See 71 *Dept. of State Bull.* 458–59 (1974). Service on an embassy by mail would be precluded under this bill.

SECTION 1609. IMMUNITY FROM ATTACHMENT AND EXECUTION OF PROPERTY OF A FOREIGN STATE

As in the case of Section 1604 of the bill with respect to jurisdiction, Section 1609 states a general proposition that the property, of a foreign state as defined in Section 1603(a), is immune from attachment and from execution, and then exceptions to this propostion are carved out in Sections 1610 and 1611. Here, it should be pointed out that neither Section 1610 nor 1611 would permit an attachment for the purpose of obtaining jurisdiction over a foreign state or its property. For this reason, Section 1609 has the effect of precluding attachments as a means for commencing a lawsuit.

Attachment of foreign government property for jurisdictional purposes has been recognized "where under international law a foreign government is not immune from suit" and where the property in the United States is commercial in nature. *Weilamann* v. *Chase Manhattan Bank,* 21 Misc. 2d 1086, 192 N.Y.S. 2d 469 (Sup. Ct. N.Y. 1959). Even in such cases, however, it has been recognized that property attached for jurisdictional purposes cannot be retained to satisfy a judgment because, under current practice, the property of a foreign sovereign is immune from execution.

Attachments for jurisdictional purposes have been criticized as involving United States courts in litigation not involving any significant U.S. interest or jurisdictional contacts apart from the fortuitous presence of property in the jurisdiction. Such cases frequently require the application of foreign law to events which occur entirely abroad.

Such attachments can also give rise to serious friction in the United States foreign relations. In some cases, plaintiffs obtain numerous attachments over a variety of foreign government assets found in various parts of the United States. This shotgun approach has caused significant irritation to many foreign governments.

At the same time, one of the fundamental purposes of this bill is to provide a long-arm statute that makes attachment for jurisdictional purposes unnecessary in cases where there is a nexus between the claim and the United States. Claimants will clearly benefit from the expanded methods under the bill for service of process on a foreign state (Section 1608), as well as from the certainty that such service will, under Section 1330(b) of the bill, confer personal jurisdiction over a foreign state in federal courts as to every claim for which the foreign state is not entitled to immunity. The elimination of attachment as a vehicle for commencing a lawsuit will ease the conduct of foreign relations by the United States and help eliminate the necessity for determinations of claims of sovereign immunity by the State Department.

SECTION 1610. EXCEPTIONS TO IMMUNITY FROM ATTACHMENT OR EXECUTION

Section 1610 sets forth circumstances under which the property of a foreign state is not immune from attachment or execution to satisfy a judgment. Though the enforcement of judgments against foreign state property remains a somewhat controversial subject in international law, there is a marked trend toward limiting the immunity from execution.

A number of treaties of friendship, commerce, and navigation concluded by the United States permit execution of judgments against foreign publicly-owned or controlled enterprises (e.g., Treaty with Japan, April 2, 1953, Art. 18(2), 4 UST 2063, TIAS 2863). The widely ratified Brussels Convention for the Unification of Certain Rules relating to the Immunity of State-Owned Vessels, April 10, 1926, 196 L.N.T.S. 199, allows execution of judgments against public vessels engaged in commercial service in the same way as against privately owned vessels.

Although not a party to this treaty, the United States follows a policy of not claiming immunity for its publicly owned merchant vessels, both domestically, 46 U.S.C. 742, 781, and abroad, 46 U.S.C. 747; 2 *Hackworth, Digest of International Law,* 438–39 (1941). Articles 20 and 21 of the Geneva Convention on the Territorial Sea and the Contiguous Zone, April 29, 1958 (15 UST 1606, TIAS 5639), to which the United States is a party, recognize the liability to execution under appropriate circumstances of state-owned vessels used in commercial service.

However, the traditional view in the United States concerning execution has been that the property of foreign states is absolutely immune from execution. *Dexter and Carpenter, Inc. v. Kunglig Jarnvagsstyrelsen,* 43 F.2d 705 (2d Cir. 1930). Even after the "Tate Letter" of 1952, this continued to be the position of the Department of State and of the courts. See, *Weilamann v. Chase Manhattan Bank,* 21 Misc. 2d 1086, 192 N.Y.S. 2d 469, 473 (Sup. Ct. N.Y. 1959). Sections 1610 (a) and (b) are intended to modify this rule by partially lowering the barrier of immunity to execution, so as to make this immunity conform more closely with the provisions on jurisdictional immunity in the bill.

(a) *Execution Against Property of Foreign States.* Section 1610(a) relates to execution against property of a foreign state, including a political subdivision, agency or instrumentality of a foreign state. The term "attachment in aid of execution" is intended to include attachments, garnishments and supplemental proceedings available under applicable federal or state law to obtain satisfaction of a judgment. See Rule 69, F.R. Civ. P. The property in question must be used for a commercial activity in the United States. If so, attachment in aid of execution, and execution, upon judgments entered by federal or state courts against the foreign state would be permitted in any of the circumstances set forth in paragraphs (1)–(5) of Section 1610(a).

Paragraph (1) relates to explicit and implied waivers, and is governed by the same principles that apply to waivers of immunity from jurisdiction under Section 1605(a)(1) of the bill. A foreign state may have waived its immunity from execution inter alia by the provisions of a treaty, a contract, an official statement, or certain steps taken by the foreign state in the proceedings leading to judgment or to execution. As in Section 1605 (a)(1), a waiver on behalf of an agency or instrumentality of a foreign state may be made either by the agency or instrumentality or by the foreign state itself.

Paragraph (2) of Section 1610(a) denies immunity from execution against property used by a foreign state for a commercial activity in the United States, provided that the commercial activity gave rise to the claim upon which the judgment is based. Included would be commercial activities encompassed by Section 1605(a)(2). The provision also includes a commercial activity giving rise to a claim with respect to which the foreign state has waived immunity under Sections 1605(a) (1). In addition, it includes a commercial activity which gave rise to a maritime lien with respect to which an admiralty suit was brought under Section 1605(b). One could, of course, execute against commercial property other than a vesesel or cargo which is the subject of a suit under Section 1605(b), provided that the property was used in the same commercial activity upon which the maritime lien was based.

The language "is or was used" in paragraph (2) contemplates a situation where property may be transferred from the commercial activity which is the subject of the suit in an effort to avoid the process of the court. This language, however, does not bear on the question of whether particular property is to be deemed property of the entity against which the judgment was obtained. The courts will have to determine whether property *in the custody of* an agency or instrumentality is property *of* the agency or instrumentality, whether property held by one agency should be deemed to be property of another, whether property held by an agency is property of the foreign state. See *Prelude Corp. v. Owners of F/V Atlantic,* 1971 A.M.C. 2651 (N.D. Calif.); *American Hawaiian Ventures v. M.V.J. Latuharhary,* 257 F. Supp. 622, 626 (D.N.J. 1966).

Paragraph (3) would deny immunity from execution against property of a foreign state which is used for a commercial activity in the United States and which has been taken in violation of international law or has been exchanged for property taken in violation of international law. See the analysis to Section 1605(a)(3).

Paragraph (4) would deny immunity from execution against property of a foreign state which is used for a commercial activity in the United States and is either acquired by succession or gift or is immovable. Specifically exempted are diplomatic and consular missions and the residence of the chiefs of such missions. This exemption applies to all of the situations encompassed by Sections 1610(a) and (b): embassies and related buildings could not be deemed to be property used for a "commercial" activity as required by Section 1610(a); also, since such buildings are those of the foreign state itself, they could not be property of an agency or instrumentality engaged in a commercial activity in the United States within the meaning of Section 1610(b).

Paragraph (5) of Section 1610(a) would deny immunity with respect to obligations owed to a foreign state under a policy of liability insurance. Such obligations would after judgment be treated as property of the foreign state subject to garnishment or related remedies in aid or in place of execution. The availability of such remedies would, of course, be governed by applicable state or federal law. Paragraph (5) is intended to facilitate recovery by individuals who may be injured in accidents, including those involving vehicles operated by a foreign state or by its officials or employees acting within the scope of their authority.

(b) *Additional Execution Against Agencies and Instrumentalities Engaged in Commercial Activity in the United States.* Section 1610(b) provides for execution against the property of agencies or instrumentalities of a foreign state in circumstances additional to those provided in Section 1610(a). However, the agency or instrumentality must be engaged in a commercial activity in the United States. If so, the plaintiff may obtain an attachment in aid of execution or execution against *any* property, commercial and noncommercial, of the agency or instrumentality, but only in the circumstances set forth in paragraphs (1) and (2).

Paragraph (1) denies immunity from execution against any property of an agency or instrumentality engaged in a commercial activity in the United States, where the agency or instrumentality has waived its immunity from execution. See the analysis to paragraph (1) of Section 1610(a).

Paragraph (2) of Section 1610(b) denies immunity from execution against any property of an agency or instrumentality engaged in a commercial activity in the United States in order to satisfy a judgment relating to a claim for which the agency or instrumentality is not immune by virtue of Section 1605(a)(2), (3) or (5), or 1605(b). Property will be subject to execution irresponsive of whether the property was used for the same commercial or other activity upon which the claim giving rise to the judgment was based.

Section 1610(b) will not permit execution against the property of one agency or instrumentality to satisfy a judgment against another, unrelated agency or instrumentality. See *Prelude Corp. v. Owners of F/ Atlantic,* 1941 A.M.C. 2651 (N.D. Calif.). There are compelling reasons for this. If United States law did not respect the separate juridical identities of different agencies or instrumentalities, it might encourage foreign jurisdictions to disregard the juridical divisions between different U.S. corporations or between a U.S. corporation and its independent subsidiary. However, a court might find that property held by one agency is really the property of another. See the analysis to Section 1610(a)(2).

(c) *Necessity of Court Order Following Reasonable Notice*. Section 1610(c) prohibits attachment or execution under Sections 1610 (a) and (b) unless the court has issued an order for such attachment and execution.

In some jurisdictions in the United States, attachment and execution to satisfy a judgment may be had simply by applying to a clerk or to a local sheriff. This would not afford sufficient protection to a foreign state. This subsection contemplates that the courts will exercise their discretion in permitting execution. Prior to ordering attachment and execution, the court must determine that a reasonable period of time has elapsed following the entry of judgment, or in cases of a default judgment, since notice of the judgment was given to the foreign state under Section 1608(e). In determining whether the period has been reasonable, the courts should take into account procedures, including legislation, that may be necessary for payment of a judgment by a foreign state, which may take several months. Courts should also take into account representations by the foreign state of steps being taken to satisfy the judgment.

(d) *Attachments Upon Explicit Waiver to Secure Satisfaction of a Judgment*. Section 1610(d) relates to attachment against the property of a foreign state, or of a political subdivision, agency or instrumentality of a foreign state, prior to the entry of judgment or prior to the lapse of the "reasonable period of time" required under Section 1610 (c). Immunity from attachment will be denied only if the foreign state, political subdivision, agency or instrumentality has explicitly waived its immunity from attachment prior to judgment, and only if the purpose of the attachment is to secure satisfaction of a judgment that has been or may ultimately be entered against the foreign state, etc., in the same action. This subsection provides, in cases where there has been an explicit waiver, a provisional remedy to prevent assets from being dissipated or removed from the jurisdiction in order to frustrate satisfaction of a judgment.

SECTION 1611. CERTAIN TYPES OF PROPERTY IMMUNE FROM EXECUTION

Section 1611 exempts certain types of property from the immunity provisions of Section 1610 relating to attachment and execution.

(a) *Property Held by International Organizations*. Section 1611(a) precludes attachment and execution against funds and other property of certain international organizations. The purpose of this subsection is to permit international organizations designated by the President pursuant to the International Organizations Immunity Act, 22 U.S.C. 288 *et seq.*, to carry out their functions from their offices located in the United States without hinderance by private claimants seeking to attach the payment of funds to a foreign state; such attachments would also violate the immunities accorded to such international institutions. See also Art. 9, Section 3 of the Articles of Agreement of the International Monetary Fund. International organizations covered by this provision would include, *inter alia*, the International Monetary Fund and the World Bank. The reference to "international organizations" in this subsection is not intended to restrict any immunity accorded to such international organizations under any other law or international agreement.

(b) *Central Bank Funds and Military Property*. Section 1611(b)(1) provides for the immunity of central bank funds from attachment or execution. It applies to funds of a foreign central bank or monetary authority which are deposited in the United States and "held" or the bank's or authority's "own account"—i.e., funds used or held in connection with central banking activities, as distinguished from funds used solely to finance the commercial transactions of other entities or of foreign states. If execution could be levied on such funds without an explicit waiver, deposit of foreign funds in the United States might be discouraged. Moreover execution against the reserves of foreign states could cause significant foreign relations problems.

Section 1611(b)(2) provides immunity from attachment and execution for property which is, or is intended to be, used in connection with a military activity and which fulfills either of two conditions: the property is either (A) of a military character or (B) under the control of a military authority or defense agency. Under the first condition, property is of a military character if it consists of equipment in the broad sense—such as weapons, ammunition, military transport, warships, tanks, communications equipment. Both the character and the function of the property must be military. The purpose of this condition is to avoid frustration of United States foreign policy in connection with purchases of military equipment and supplies in the United States by foreign governments.

The second condition is intended to protect other military property, such as food, clothing, fuel and office equipment which, although not of a military character, is essential to military operations. "Control" is intended to include authority over disposition and use in addition to physical control, and a "defense agency" is intended to include civilian defense organizations comparable to the Defense Supply Agency in the United States. Each condition is subject to the overall condition that property will be immune only if its present or future use is military (e.g., surplus military equipment withdrawn from military use would not be immune). Both conditions will avoid the possibility that a foreign state might permit execution on military property of the United States abroad under a reciprocal application of the Act.

SEC. 5 VENUE

This section amends 28 U.S.C. § 1391, which deals with venue generally. Under the new subsection (f), there are four express provisions for venue in civil actions brought against foreign states, political subdivisions or their agencies or instrumentalities.

(1) The action may be brought in the judicial district where "a substantial part of the events or omissions giving rise to the claim occurred." This provision is analogous to 28 U.S.C. § 1391(e), which allows an action against the United States to be brought, *inter alia*, in any judicial district in which "the cause of action arose." The test adopted, however, is the newer test recommended by the American Law Institute and incorporated in S. 1876, 92d Cong., 1st Sess., which does not imply that there is only one such district applicable in each case.

In cases where property or rights in property are involved, the action may be brought in the judicial district in which "a substantial part of the property that is the subject of the action is situated." No hardship will be caused to the foreign state if it is subject to suit where it has chosen to place the property that gives rise to the dispute.

(2) If the action is a suit in admiralty to enforce a maritime lien against a vessel or a cargo of a foreign state and if the action is brought under the new Section 1605(b) in this bill, the action may be brought in the judicial district in which the vessel or cargo is situated at the time notice is served pursuant to Section 1605(b)(1).

(3) If the action is brought against an agency or instrumentality of a foreign state, as defined in the new Section 1603(b) in the bill, it may be brought in the judicial district where the agency or instrumentality is licensed to do business or is doing business. This provision is based on 28 U.S.C. § 1391 (c).

(4) If the action is brought against a foreign state or political subdivision, it may be brought in the United States District Court for the District of Columbia. It is in the District of Columbia that foreign states have diplomatic representatives and where it may be easiest for them to defend. New subsection (f) would, of course, not apply to entities that are owned by a foreign state and are also citizens of a state of the United States as defined in 28 U.S.C. 1332 (c) and (d). For purposes of this bill, such entities are not agencies or instrumentalities of a foreign state. See the analysis to Section 1603(b).

As with other provisions in 28 U.S.C. 1391, venue under the new subsection (f) could be waived by a foreign state, such as by failing to object to improper venue in a timely manner. See Rule 12(h), F.R. Civ. P.

SEC. 3. REMOVAL OF CASES FROM STATE COURTS

The bill adds a new provision to 28 U.S.C. 1441 to provide for removal to a federal district court of civil actions brought in the courts of the state against a foreign state or a political subdivision, agency or instrumentality of a foreign state. In view of the potential sensitivity of actions against foreign states and the importance of developing a uniform body of law in this area, it is important to give foreign states clear authority to remove to a federal forum actions brought against them in the state courts. New subsection (d) of Section 1441 permits the removal of any such action at the discretion of the foreign state, even if there are multiple defendants and some of these defendants desire not to remove the action or are citizens of the state in which the action has been brought.

As with other removal provisions, a petition for removal must be filed with the appropriate district court in a timely manner. 28 U.S.C. 1446. However, in view of the 60 day period provided in Section 1608(c) in the bill and in view of the bill's preference that actions involving foreign states be tried in federal courts, the time limitations for filing a petition of removal under 28 U.S.C. 1446 may be extended "at any time" for good cause shown.

Upon removal, the action would be heard and tried by the appropriate district court sitting without a jury. *Cf.* 28 U.S.C. 2402, precluding jury trials in suits against the United States. Thus, one effect of removing an action under the new Section 1441(d) will be to extinguish a demand for a jury trial made in the state court. *Cf.* Rule 81(c), F.R. Civ. P. Because the judicial power of the United States specifically encompasses actions "between a State, or the Citizens thereof, and foreign States" (U.S. Constitution, Art. III, Sec. 2, Cl. 1), this preemption of state court procedures in cases involving foreign sovereigns is clearly constitutional.

This section, again, would not apply to entities owned by a foreign state which are citizens of a state of the United States as defined in 28 U.S.C. 1332(c) and (d), or created under the laws of a third country.

SEC. 7. SEVERABILITY OF PROVISIONS

This action provides that if a portion of the Act of any application of the Act should be found invalid for any reason, such invalidity would not affect any other provision or application of the Act.

SEC. 8. EFFECTIVE DATE

This section establishes that the effective date of the Act shall be 90 days after it becomes law. A 90-day period is deemed necessary in order to give adequate notice of the Act and its detailed provisions to all foreign states.

Mr. HUGH SCOTT. Mr. President, in the last Congress, Senator Hruska and I introduced legislation identical to the legislation we introduced today. Today I again join with the distinguished Senator from Nebraska (Mr. Hruska) "to define the circumstances in which foreign states are immune from the jurisdiction of U.S. courts and in which execution may not be levied on their assets, and for other purposes." This legislation has been jointly prepared by the Departments of State and Justice and is an important milestone in the foreign relations law of the United States. As our trade and other commercial arrangements with foreign governments increase, it will be increasingly important to have a modern regime for dealing with the sovereign immunity issues regulated by this bill.

The central principle of the bill is to make the question of a foreign state's entitlement to jurisdictional immunity an issue justiciable by the courts. As the situation now stands, the courts normally defer to the view of the Department of State on issues of sovereign immunity, which puts the Department in the difficult position of effectively determining whether the plantiff will have his day in court. If the Department suggests immunity, the court will normally honor the suggestion, and the case will be dismissed for want of jurisdiction. If the Department does not suggest immunity, the court may either take the silence of the Department as an indication that immunity is not appropriate or will determine the question itself, with due regard for the policy of the Department and the views expressed in the past by the courts.

While the Department has provided internal procedures which will give both the plaintiff and the defendant foreign state a hearing, it is not satisfactory that a department, acting through administrative procedures, should in the generality of cases determine whether the plaintiff will or will not be permitted to pursue his cause of action. Questions of such moment appear particularly appropriate for resolution by the courts, rather than by an executive department.

The bill also sets out a comprehensive regime for the courts to follow in making determinations of immunity. That regime is based largely on the restrictive theory of immunity which has been followed by the Department since the "Tate Letter" was promulgated in 1952. The bill does, however, mawe a number of changes intended to fill gaps in the existing law. Thus, it would provide a clear method of service of process on foreign states and end the unfortunate practice of attaching the assets of foreign states for purposes of obtaining jurisdiction. It would also enable recovery against foreign states in cases of personal injury or property damage and would permit execution against the assets of a foreign state in cases related to their commercial rather than their governmental activities.

Since the subject matter of this bill relates to our international legal obligations, the Department of State has indicated that when the bill is enacted it would propose, subject to Senate approval, that the United States file a declaration accepting the compulsory jurisdiction of the International Court of Justice, on condition of reciprocity, with respect to disputes concerning the immunity of foreign states. Such a declaration would recognize the common interest of all nations in reciprocally applicable rules concerning the immunity of foreign states.

It is our earnest hope that this year the Senate will act on this important legislation.

ADDITIONAL COSPONSORS

S. 2348

At the request of Mr. Hartke, the Senator from Illinois (Mr. Stevenson) was added as a cosponsor of S. 2348, a bill to amend section 4940 of the Internal Revenue Code of 1954 to change the excise tax on the investment income of private foundations from 4 percent to 2 percent.

S. 2872

At the request of Mr. Gary Hart, the Senator from Wisconsin (Mr. Nelson) was added as a cosponsor of S. 2827, the Federal Energy Administration Extension Act of 1976.

S. 2910

At the request of Mr. Schweiker, the Senator from New Jersey (Mr. Case) was added as a cosponsor of S. 2910, a bill to establish the National Diabetes Advisory Board and to insure the implementation of the long-range plan to combat diabetes.

S. 3151

At the request of Mr. Robert C. Byrd, the Senator from Colorado (Mr. Haskell) was added as a cosponsor of S. 3151, to establish a program for analyzing information with respect to multinational enterprises.

S. 3227

At the request of Mr. Humphrey, the Senator from Utah (Mr. Moss) was added as a cosponsor of S. 3227, a bill to accelerate solar energy research and development within the Energy Research and Development Administration, and for other purposes.

S. 3318

At the request of Mr. Gary Hart, the Senator from Colorado (Mr. Haskell) was added as a cosponsor of S. 3318, the Federal Agency Pilot Termination and Review Act of 1976.

S. 3359

At the request of Mr. Chiles, the Senator from Indiana (Mr. Hartke) was added as a cosponsor of S. 3359, to establish a Commission on Federal Aid Reform.

S. 3509

At the request of Mr. Stone, the Senator from South Carolina (Mr. Thurmond) was added as a cosponsor of S. 3509, a bill to amend title II of the Social Security Act.

S. RES. 460

At the request of Mr. Mansfield, the Senator from South Dakota (Mr. McGovern) was added as a cosponsor of Senate Resolution 460, relating to the allocation of oil from the North Slope.

AMENDMENT NO. 1780

At the request of Mr. Jackson, the Senator from Wisconsin (Mr. Nelson) was added as a cosponsor of Amendment No. 1780, intended to be proposed to S. 2872, the Federal Energy Administration Extension Act of 1976.

SENATE RESOLUTION 461—SUBMISSION OF A RESOLUTION DISAPPROVING PROPOSED DEFERRAL OF CERTAIN BUDGET AUTHORITY

(Referred to the Committee on Appropriations, the Committee on the Budget, and the Committee on Interior and Insular Affairs jointly, pursuant to the order of January 30, 1975.)

Mr. MOSS submitted the following resolution:

S. Res. 461

Resolved, That the Senate hereby disapproves the proposed deferral of budget authority in the amount of $688,420 for the Secretary of the Interior to design a metallurgy research center to be established on the Fort Douglas Military Reservation, Utah (deferral number D76–110), as transmitted by the President to the Congress on May 13, 1976, under section 1013 of the Impoundment Control Act of 1974.

AMENDMENTS SUBMITTED FOR PRINTING

TAX REFORM ACT OF 1976—H.R. 10612

AMENDMENT NO. 1807

(Ordered to be printed and referred to the Committee on Finance.)

Mr. HASKELL. Mr. President, on May 12, 1976, I submitted an amendment on natural resource tax preferences to H.R. 10612. That amendment, No. 1638, however due to clerical error, does not contain an important provision limiting the deductions for percentage depletion to the recovery of cost which I had intended to be part of the bill.

Today, I submit a corrected draft of that amendment and I ask unanimous consent that it be printed in the Record.

There being no objection, the amendment was ordered to be printed in the Record, as follows:

Amendment No. 1807

On page 5, insert after the last line the following:

TITLE XX—REPEAL AND AMENDMENT OF CERTAIN PROVISIONS RELATING TO NATURAL RESOURCES

Sec. 2001. Amendment of section 263(c).
Sec. 2002. Repeal of section 272.
Sec. 2003. Repeal of section 616.
Sec. 2004. Repeal of sections 631 and 632.
Sec. 2005. Repeal of section 1231(b)(2).
Sec. 2006. Allowance for depletion limited to cost.
Sec. 2007. Recommendations of technical changes by the Secretary of the Treasury.
Sec. 2008. Effective date.

On page 661, after line 16, insert the following:

TITLE XX—REPEAL AND AMENDMENT OF CERTAIN PROVISIONS RELATING TO NATURAL RESOURCES

SEC. 2001. AMENDMENT OF SECTION 263(c).

Section 263(c) (relating to intangible drilling and development costs in the case of oil and gas wells) is amended by inserting after "Congress" the following: "except that such regulations shall limit the option to deduct such expenses to expenses which are attributable to intangible drilling and development costs of oil and gas wells other than exploratory wells".

SEC. 2002. REPEAL OF SECTION 272.

(a) Repeal.—Section 272 (relating to disposal of coal or domestic iron ore) is repealed.

(b) Technical and Conforming Amendment.—The table of section for part IX of subchapter B of chapter 1 is amended by striking out the item relating to section 272.

SEC. 2003. REPEAL OF SECTION 616.

(a) Repeal of Section 616.—Section 616 (relating to development expenditures) is repealed.

(b) Technical and Conforming Amendment.—The table of sections for part I of subchapter I of chapter I is amended by striking out the item relating to section 616.

SEC. 2004. REPEAL OF SECTION 631 AND 632.

(a) Repeal.—Sections 631 (relating to gain or loss in the case of timber, coal, or domestic iron ore) and 632 (relating to sale of oil and gas properties) are repealed.

(b) Technical and Conforming Amendment.—The table of sections for part III of subchapter I of chapter 1 is amended by striking out the items relating to sections 631 and 632.

SEC. 2005. REPEAL OF SECTION 1231(b)(2).

Section 1231(b)(2) (relating to timber, coal, or domestic iron ore) is repealed.

SEC. 2006. ALLOWANCE FOR DEPLETION LIMITED TO COST.

(a) In General.—Part I of subchapter I of chapter 1 (relating to deductions for natural resources) is amended by adding after section 612 the following new section:

"SEC. 612A. DEPLETION ALLOWANCE LIMITED TO BASIS.

"The aggregate of any amounts allowed for depletion for any taxable years under this subchapter with respect to any property shall not exceed the adjusted basis (provided in section 1011 for the purpose of determining the gain upon the sale or other disposition of such property) of such property. If the aggregate amounts allowed for depletion for taxable years beginning on or before December 31, 1976, with respect to any property exceed the adjusted basis of such property, such excess shall not be treated as disallowed by reason of this section but no further depletion allowance may be taken under this subchapter for such property.".

(b) Conforming Amendment.—The table of sections for such part is amended by inserting after the item relating to section 612 the following new item:

"Sec. 612A. Depletion allowance limited to basis.".

SEC. 2007. RECOMMENDATION OF TECHNICAL CHANGES BY THE SECRETARY OF THE TREASURY.

The Secretary of the Treasury or his delegate shall, as soon as is practical but not later than 90 days after the date of enactment of this Act, submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a draft of any technical and conforming changes in the Internal Revenue Code of 1954 which are necessary to reflect throughout the Code the changes in the substantive provisions of law made by this title.

SEC. 2008. EFFECTIVE DATE.

The amendments made by this title apply to taxable years beginning after December 31, 1976.

NATURAL GAS ACT AMENDMENTS OF 1976—S. 3422

AMENDMENT NO. 1808

(Ordered to be printed and to lie on the table.)

Mr. ABOUREZK submitted an amendment intended to be proposed by him to the bill (S. 3422) to regulate commerce to assure increased supplies of natural gas at reasonable prices for consumers, and for other purposes.

AMENDMENTS NOS. 1809 THROUGH 1816

(Ordered to be printed and to lie on the table).

Mr. ABOUREZK. (for himself and Mr. HASKELL) submitted eight amendments intended to be proposed by them jointly to the bill (S. 3422), supra.

FOREIGN MILITARY SALES—S. 3439

AMENDMENT NO. 1817

(Ordered to be printed and to lie on the table.)

Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill (S. 3439) to amend the Foreign Assistance Act of 1961 and the Foreign Military Sales Act, and for other purposes.

NOTICE OF HEARINGS

Mr. JACKSON. Mr. President, I wish to announce for the information of the Senate and the public the scheduling of a public hearing before the Interior and Insular Affairs Committee.

The hearing is scheduled for June 17, 1976, beginning at 10 a.m. in room 3110 of the Dirksen Senate Office Building. Testimony is invited regarding S. 2630 and its House-passed companion measure, H.R. 10138. These bills would amend the Youth Conservation Corps Act of 1970 (84 Stat. 794) by creating a Young Adult Conservation Corps to employ young adults between the ages of 19 and 24 on a year round basis to undertake important conservation work on the Nation's public lands.

For further information regarding the hearing you may wish to contact Mr. Thomas Williams of the Interior Committee staff on 224-9894. Those wishing to submit a written statement for the hearing record should write to the Interior and Insular Affairs Committee, room 3106, Dirksen Senate Office Building, Washington, D.C. 20510.

NOTICE OF HEARING

Mr. CHURCH. Mr. President, I announce for the information of the Senate and the public, the scheduling of a hearing before the Subcommittee on Energy Research and Water Resources of the Senate Committee on Interior and Insular Affairs.

The hearing is scheduled for June 24, beginning at 10 a.m. in room 3110 of the Dirksen Senate Office Building. Witnesses have been invited to testify on S. 3542, a bill to authorize the Secretary of the Interior to make compensation for damages arising out of the failure of the Teton Dam.

The flooding following the failure on June 5, 1976 of the Teton Dam in Idaho has caused exentive personal injury, loss of life and damage to property. This hearing is intended to receive testimony from invited witnesses who have been requested to comment upon legislation designed to compensate injured parties for losses incurred from this tragedy.

For further information regarding the hearing you may wish to contact either Mr. Dan Dreyfus on extension 4-7141 or Mr. Ben Yamagata on extension 4-1076.

ADDITIONAL STATEMENTS

ANDREA PALLADIO

Mr. MATHIAS. Mr. President, the fullest enjoyment of life requires not only that we live in a salubrious climate, but also that we appreciate it. In order to adequately appreciate any aspect of life we must first understand it. And that includes the urban climate which we inhabit and especially the architecture of its structures.

Wolf Von Eckardt, the distinguished architectural critic of the Washington Post, has used the occasion of the opening of two great museum exhibitions to comment on the dominance of Palladian design in the city of Washington and as impact on our lives.

The two exhibits are "The Eye of Thomas Jefferson" at the National Gallery of Art and the Italian Exhibit of Palladian Models in the Corcoran Gallery atrium. They can both teach us a great deal about the city in which we work and the style it has set for the Nation.

In both exhibits the genius of Andrea Palladio is a constant theme. Mr. Von Eckardt calls him "without doubt, the most influential architect of all time." To visit these shows simply for pleasure is rewarding, even without reference to them as educational experiences.

But they are educational and Wolf Von Eckardt gives us a helpful introduction to Palladio and his work in a column published in the Washington Post on May 22, 1976. He describes Palladio's background, training, and aspirations. He notes that Palladio was both a functionalist and a romanticist. He lists Palladio's disciples: Goethe, Lord Burlington, Ledoux, and most significantly for us, Thomas Jefferson. I ask unanimous consent that Mr. Von Eckardt's article be printed the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE ROMANTICIST OF INSPIRATION

(By Wolf Von Eckardt)

Just in time for next month's opening of a grand Thomas Jefferson exhibition at the National Gallery, the Italians have sent us a reminder of where the inspiration for the architecture of both Jefferson and the National Gallery came from.

It came directly from Andrea Palladio, a contemporary of Michelangelo and, without doubt, the most influenctial architect of all time. You can still see his influence in the columns and pediments of what suburban home builders advertise as "Colonial."

The Italian reminder comes in an exhibit of 15 superbly detailed wood models of Palladio's most exciting buildings. Some models are as large as 60 square feet, and there are photo panels illustrating Palladio's work and influence.

A Bicentennial birthday present from the Italian government, the show officially opens June 1 in the Corcoran Gallery atrium. A part of this exhibition has been shown at the University of Virginia in Charlottsville in tribute to America's most outstanding Palladian, Thomas Jefferson, the university's architect.

Palladio, known for the first 30 odd years of his life as Andrea do Pietro, was born of poor parents in Padua, Italy, in 1508. He started his career as a stonemasion at 13 and did most of his work in Vicenza, near Venice.

Palladio was hired to work on the first Renaissance villa in Vicenza, built for Court Giangiorgio Trissino, who was a poet, dramatist, philologist and archeologist. The villa was to serve as a kind of humanistic academy for young nobles, a training center for Renaissance men, so to speak.

Trissino invited the common stonemason to join his aristocratic students, taught him engineering, topography, military sciences and all the other disciplines a Renaissance architect had to know, particularly the archeology of ancient Rome. Trissino also changed his protege's name to Palladio, an oblique reference to the wisdom of Pallas Athena.

Palladio studied, measured and drew the remains of Roman architecture and published a guidebook to Rome's antiquities, but was not interested in reconstructing ancient ruins, or recreating classic Roman architecture. He used Roman columns, the various classical orders and moldings and, most of all, the principles of classic symmetry and harmony much as a poet uses words—as a means to express his own creations.

His works—mostly country houses and city palaces, but also some churches—are compositions of simple geometric forms such as spheres, pyramids and cylinders. He was basically a cubist.

He was also a functionalist, who strongly believed that the facade of a building should express what is going on inside. Though he never put it that way, his credo was that form follows function. His houses were designed for comfort and the efficient operation of large households with many servants. Many of them had to accommodate the complex activities of large-scale farming. All are carefully placed in the landscape.

Most of all, Palladio was a romanticist. In contrast to cool, mathematical simplicity of Doric temples or Mies van der Rohe's steel and glass buildings, Palladio's architecture is almost voluptuous, designed to appeal to the emotions. His style is perhaps best characterized as romantic classicism.

His work is not ostentatious. In fact, Palladio was an economical architect, working mostly with rough brick which was then veneered with stucco, molded and painted at times to look like stone.

Palladio's success and lasting influence is largely due to his famous "Quattro Libri dell'Architettura," or "Four Books on Architecture," in which he espouses his architectural rules and theories and describes his work in which his rules and theories are often disregarded. "Quattro Libri" was the most effective public relations effort ever undertaken by an architect, beating even Frank Lloyd Wright's cape and porkpie hat.

The book is still in circulation. The latest translation into Polish, was made in 1955.

The first English translation was made 32 years after Palladio's death in 1580 by Inigo Jones who, along with the book and Palladio drawings, brought Palladianism to England. Jones' architecture marked the end of Gothic medievalism and the beginning of a new era that also saw Shakespeare's plays and italic handwriting.

Palladianism was ahead of the times. Its great flowering came almost two centuries later in the era which invented the word "civilization" (at that time meaning civilized manners rather than plumbing, supersonic planes and hydrogen bombs) and which is often called the Age of Enlightenment.

It happened spontaneously in most of the western world. The German Johann Wolfgang von Goethe made straight for Palladian villas the minute arrived in Italy. The French architect Claude-Nicolas Ledoux built Palladian buildings all over France. The British Lord Richard Boyle Burlington became the high priest and patron of an often dogmatic Palladianism and Jefferson brought it to America.

Jefferson, as you will see in the National Gallery show (which was largely the creation of program director W. Howard Adams), set out to "shape the new nation's tastes as well as its laws."

Architecture, noted Jefferson, "is my delight and putting up and tearing down one of my favorite amusements." And how, he asked "is a taste of this beautiful art to be formed unless we avail ourselves of every occasion when public buildings are to be created, of persenting them as models for their study and imitation."

While Secretary of State, Jefferson was in charge of public buildings, doing less but better than the General Services Administration which supposedly forms our taste today.

Jefferson looked upon Palladio as his master in the art of architecture, although he was inspired to Palladianism by indirect sources as well.

For one, he studied classic architecture, preferring Roman to Greek—at least until Greece's War of Independence in 1820 inspired a national mania for everything Greek, including Greek Revival architecture.

Jefferson was also much taken by the French interpretations of Palladian design. He took Maria Cosway to visit the Pavilion de Louveciennes which Ledoux had designed for Mme. du Barry. And he would gaze for hours on Pierre Rousseau's new Hotel de Selm in Paris which had been completed in 1782. Monticello and Jefferson's design for the University of Virginia which he conceived as an "academic village," reflect these influences.

Architect Jefferson, however, never copied. Palladio gave him a vocabulary to express his own romantic classicism, much as Roman architecture had served Palladio.

Palladio's influence in this country was not confined to Jefferson. William Thornton's design for the U.S. Capitol and, even more dramatically, for Tudor Place at 31st Street and Q Streets in Georgetown; William Buckland's Gunston Hall; and numerous other buildings everywhere in the young nation promised to make Palladian a national style, "a fresh American architecture."

A new wave of (often over-sized) Palladianism came at the turn of this century from the Ecole des Beaux Arts in Paris. Andrea Palladio would have been happy with the "City Beautiful" at Chicago's Columbian Exposition of 1893, which Dr. Dillon Ripley now wants to repeat in 1993.

Two of Washington's finest beaux arts buildings can be traced directly to Palladio's work. One is the Paul Cret's 1910 Pan-American Union and the other is John Russell Pope's 1941 National Gallery of Art.

Come to think of it, when he designed the Dumbarton Oaks Pre-Columbian Museum in 1963, Philip Johnson might well have had Palladio in the back of his mind. Every true architect does.

LOW-INCOME HOUSING

Mr. PROXMIRE. Mr. President, the Senate and House are currently beginning conference negotiations on S. 3295, the Housing Amendments of 1976. This bill provides crucial funding authority for programs to meet housing needs and to generate jobs in the depressed construction industry.

The Senate-passed bill has been structured to narrow some of the current discretionary powers of the Department of Housing and Urban Development in allocating housing funds, and to require minimum funding in certain vital areas where HUD has clearly demonstrated its unwillingness to carry out the intent of Congress. HUD Secretary Carla Hills has opposed these and other provisions of the Senate bill, and at the time of its floor consideration circulated a letter raising her objections to them.

Mrs. Hill's letter contained a considerable number of misleading or unsubstantiated statements, which have in turn prompted a detailed, written response by the Ad Hoc Low-Income Housing Coalition. This group, which represents a number of housing assistance organizations, has addressed Mrs. Hills' arguments point by point. In view of the impending action by the conference committee on S. 3295, I ask unanimous consent to have the coalition's response to Mrs. Hills printed in the RECORD.

There being no objection, the response was ordered to be printed in the RECORD, as follows:

CRITIQUE OF HUD COMMENTS ON S. 3295, HOUSING AMENDMENTS OF 1976

On April 24, HUD Secretary Carla Hills wrote to Senator John Tower describing the Senate "Housing Amendments of 1976," S. 3295, as "unacecptable" and stated that both she and the Office of Management and Budget would recommend a veto if enacted in its present form. Nevertheless, the Senate subsequently passed the bill by a vote of 55 to 24.

The letter is replete with misconceptions about the history and achievements of federal housing programs, the background of Section 8, current costs, and Congressional intent. While the action of the Senate could be considered a rebuttal in itself, it seems to us important to make this public statement.

I. TRADITIONAL PUBLIC HOUSING

The Hills letter correctly states that "the Senate bill would alter dramatically the mix of federal housing programs." It does this by providing a set-aside of $200 million for the traditional public housing program, a level which the Hills letter notes is the highest in its 40-year history.

Relative costs

Hills states that this will have a negative impact on dollar effectiveness. However, HUD's own FY '77 budget implies that the cost of traditional public housing is far less than Section 8. Based on FY '76 projections, the average cost per unit in annual contract authority for traditional public housing is $2,400, while a Section 8 new or substantially rehabilitated unit costs $3,900. For FY '77, the same pattern holds, with $2,833 per unit for public housing cost and $4,200 for Section 8. In fact, the real FY '77 public housing cost would probably be less, because the $2,833 figure is based exclusively on the more expensive costs for Indian units. Even considering the indirect cost of the subsidy for tax-exempt bonds and the cost for operating subsidies, Mrs. Hills' contention that use of public housing in place of Section 8 will "impact negatively" on the dollar effectiveness simply does not make sense!

Congressional intent

The Hills letter states that "Congress itself determined to replace public housing." This statement stretches the truth to its limits. The following conference report language accompanying the Housing and Community Development Act of 1974 speaks for itself.

"The conferees believe it is desirable to continue the traditional low rent public housing program in tandem with the new Section 23 program at least until this new 23 program has proven itself viable in all housing market areas. This allocation for low rent public housing assistance will give the Secretary of HUD the flexibility she will need to phase in the new program in a manner that will not be prejudicial to rural or urban areas where the concepts inherent in that program, such as 'market rentals,' may not be immediately or easily applicable."

It has unfortunately become very clear that these Section 8 concepts, as well as others, have not been "immediately or easily applicable." As a result, an expansion of the traditional public housing program is clearly called for, in line with the original Congressional intent. In this way, thousands of needy elderly and low-income families will be provided with decent housing which has been denied them while the Section 8 program has failed to function properly.

Public housing "disadvantages"

Mrs. Hills claims that the disadvantages of traditional public housing are multifold, yet she ignores the fact that tens of thousands of low-income Americans who would otherwise be forced to live in totally inadequate housing are living in far better conditions because of the traditional public housing program. She ignores the fact that the traditional public housing program has a proven track record in both urban and rural areas, for elderly and family, while Section 8 still offers little more than exaggerated promises.

Specifically, Mrs. Hills refers to four problems with public housing: increased operating subsidies, the concentration of social problems, the exclusion of the private market, and something called "horizontal inequities."

Operating subsidies have, indeed, dramatically increased, but the primary cause has been the tremendous inflation in operating costs, not inherent problems in the public housing program. The fact that public housing tenants tend to be the lowest income people and that operating costs rise faster than tenant incomes is also a major factor in the increase in operating subsidies. These same problems will afflict the costs of Section 8, but Mrs. Hills does not deal with that issue.

Where "social problems" are concentrated in public housing projects, they tend to be older projects built during the 1950s. During that period, housing authorities were forced to build giant, highrise housing projects, because land was not readily available and writedowns through the redevelopment process were also generally not available.

There is no reason to believe that this type of public housing construction would be repeated. In fact, current law prohibits highrise construction, except for the elderly.

The letter refers to "the exclusion of private sector involvement or private market discipline from the program's operation." In fact, the private market was much more satisfied with its role in the traditional public housing program where the private builder/developer is only responsible for development of the project. Management is the responsibility of the public housing authority, which has much greater experience with low-income tenants. The fact is also that Section 8 has not been subject to private market discipline, since private developers have proven unable to live within its constraints and thus virtually no new construction starts have been recorded for the program.

Finally, Mrs. Hills refers to "horizontal inequities." Presumably, this means similar income tenants pay different rents under Section 8 than under public housing. We have stated many times before that we also favor consistency. Therefore, we recommend that the public housing rent formula be adopted for use in the Section 8 program, to eliminate "horizontal inequities."

Processing

The Hills letter contends that Section 8 can deliver housing to needy families more quickly than public housing, and cites a two-year timetable from reservation of funds to completion. However, this can only be an estimate, since the Section 8 program has been in existence for less than two years, and as already mentioned, virtually no construction starts have been recorded. In addition, there is no inherent reason why there should be any appreciable difference in the processing time of Section 8 new construction vs. public housing, particularly through the turnkey process. The difference is only in the policy at the Secretary level. If the Secretary directed the area offices to process traditional public housing as quickly as Section 8, there is no reason why it could not be accomplished.

New construction emphasis

The letter contends that the set-aside within the housing program, requiring new construction, destroys HUD's flexibility to adapt to the conditions and needs of individual communities. This ignores the fact that HUD has already denied itself the flexibility to adapt to conditions and needs of individual communities by arbitrarily assigning Section 8 reservations primarily to existing housing rather than new construction. It has also greatly limited local flexibility by making the new construction program virtually unworkable. In particular, HUD's insistence on determining rents on the basis of comparable units rather than on construction and operating costs has been a major deterrent to the program's success. This is a totally administrative decision on HUD's part.

In fact, the set-aside for new construction is approximately the proportion of new construction needs identified in local housing assistance plans. Since the set-asides are on a national basis, each locality is essentially free to choose the mix of units that it wants.

The letter states that the emphasis on new construction increases the cost of housing. Obviously, new housing is more expensive than existing housing, but the emphasis on new construction adds to the total stock of housing available, whereas use of existing housing only increases the housing shortage for low- and moderate-income families and the elderly and, in the long run, drives up the cost of existing housing. The use of new construction also generates thousands of jobs in the construction and related industries, jobs which are not generated by the use of existing housing.

Administrative considerations

The Hills letter contends that public housing is more staff intensive and that the separate set-asides would create an "administrative nightmare." No evidence is produced to support these statements, which would appear to have more to do with HUD's basic competence to carry out programs than with the requirements of the bill. Conceivably, starting from scratch, a case could be made for the HUD position, but the letter ignores the fact that HUD has some 3,000 housing assistance plans prepared by local communities, identifying their basic needs for new construction or existing housing, which can be used as a basis for making allocations.

Federal borrowing

The letter states that budget authority would be increased by $3.8 billion. This is technically true, resulting from a formula under which Section 8 commitments for new construction, except those financed through state agencies, are multiplied by 20 years to get budget authority, while public housing is multiplied by 40 years. However, the figures are only an artificial means of estimating the costs to the federal government over the life of the contract. The implication that an increase in budget authority would generate an increase in federal borrowing is totally misleading. Such borrowing as will be done to finance either Section 8 or public housing will be done by state and local authorities. The federal outlays each year would not be affected by the change to public housing and would be provided from tax revenues, not from additional federal borrowing.

II. MODERNIZATION FUNDS

The Hills letter plays a real numbers game in opposing the $60 million set-aside for modernization. The letter first claims that this is more than housing authorities can absorb. Yet it produces no evidence to substantiate this claim. The fact that there has never been this much available is hardly proof that LHAs could not absorb the $60 million. In fact, HUD effectively controls the capacity of LHAs to use additional funding through its regulations and permissible administrative funding levels for LHAs. The letter goes on to note that from 1968 through 1975 HUD provided $1.5 billion in modernization assistance to local housing authorities, of which less than $900 million had been drawn down as of June 30, 1974. Yet HUD itself, in testimony on community development, has pointed out that the level of draw down is not an accurate reflection of required authorization levels.

The tremendous need for modernization funds cannot be disputed. Former Assistant Secretary for Housing Management Crawford testified before the House HUD Appropriations Subcommittee in April 1975 that there is a backlog of $2.8 billion in capital cost requirements for public housing modernization.

III. SECTION 235 HOMEOWNERSHIP ASSISTANCE

While the public housing program is geared to the needs of the lowest-income Americans, the Section 235 homeownership program is designed to meet the needs of moderate-income Americans. The Hills letter objects to the increased program level envisioned in the Senate bill. However, as the Senate Committee report notes, the Administration has moved at a very slow pace since the reactivation of the program in October.

Section 235 offers a relatively inexpensive means to increase homeownership opportunities for many moderate-income families and, in at the same time, to greatly stimulate the depressed construction industry. This bill would increase the Section 235 authorization to a level that would allow financing of about 450,000 homes over a two- to three-year period. The 1968 National Housing goals called for 600,000 assisted units per year, but the Administration has proposed less than half of that for FY '77. This increase in Section 235, along with the shift to public housing, would provide the opportunity to much more closely meet that goal.

IV. EXTENSION AND EXPANSION OF SECTION 516(b)

The Hills letter opposes the extension and expansion of Section 518(b) which provides owners of FHA-insured homes the opportunity to be reimbursed for serious structural defects present in the home when purchased. Currently, only those homes purchased between 1968 and 1973 are eligible. Section 10 of S. 3295 would extend the program to cover houses insured between 1973 and 1976, as well as cover future FHA-insured sales. The owner would have only one year, either from enactment of the law or from date of purchase following enactment, to apply for reimbursement.

Ms. Hills' opposition is based primarily on the contention that this would "add a new element to FHA insurance . . ." However, the fact is that Section 518(b) has been an ongoing feature of FHA insurance for selected homes, those purchased between 1968 and 1973. By making it a permanent feature, equity for all FHA-insured homeowners would be assured. It is hardly equitable that someone who bought a home in December 1972 should be covered, while someone who purchased an FHA-insured home several months later would not be covered.

If FHA has, indeed, corrected many of its appraisal and inspection problems which originally led to enactment of the Section 518(b) program, then FHA should be faced with very limited claims for homes purchased in the future, thus reducing the administrative and cost requirements of the program. Indeed, to date HUD has only spent $7.2 million for reimbursement on 9,013 applications.

V. SECTION 202—HOUSING FOR THE ELDERLY AND HANDICAPPED

Providing financing for an additional 100,000 units for the elderly is, again, "unrealistic," according to the Hills letter. Instead, she contends that the level proposed in the budget—enough for 15,000 units—is "a reasonable one which balances our staff resources with the popularity of the program." With unfunded applications for 200,000 units on hand, with millions of elderly people living in housing which they cannot afford and which frequently does not meet basic standards of decency, this callousness is the clearest indication in the entire letter that HUD has no intention of considering expansion of its programs to meet the critical housing needs. The proposed funding level would allow an expanded housing program for the elderly of about 35,000 units per year over a three-year period. There are already sufficient approvable applications on hand to utilize the full authorization. In addition, contrary to Ms. Hills' contention, the Section 202 program does not have a significant impact on the budget, because it is a revolving loan fund.

VI. COMMUNITY DEVELOPMENT

The Hills letter claims that any extension of categorical programs, such as Sections 312 (rehabilitation) and 701 (planning), are contrary to Congressional intent in the Housing and Community Development Act of 1974. This intent was to provide local communities the discretion, within broad guidelines, to choose the community development activity which is consistent with the need in that local community.

However, as with the other Hills criticisms, some important factors are overlooked. First of all, she refers to the reestablishment of two categorical programs—Section 312 rehabilitation loans and Section 701 planning grants. In fact, these programs have been ongoing, and the bill would simply extend their authorizations at somewhat higher levels. On several occasions subsequent to passage of the Housing and Community Development Act, Congress has reaffirmed its support for these programs.

Secondly, many communities cannot use the community development block grant funds for these purposes, either because of state or local constitutional obstacles or because the CD block grant is too limited or not available at all.

SECTION 312 REHABILITATION LOANS

The Administration has reportedly emphasized the need to rehabilitate housing, but has consistently obstructed the smooth operation of the historically successful Section 312 program. There has been an extremely low delinquency rate, usually around 4%, and only 40 loans have had to be repossessed.

While rehabilitation has been a high priority in CD block grant plans, the local demand has far exceeded the available funds, considering the competitive demand for other CD purposes. Thus, instead of supplanting local decision making, the Section 312 program can effectively supplement local demand for CD funds.

As noted previously, state constitutional prohibitions put into question the ability of communities in 24 states to administer grant and loan programs. For these communities, Section 312 offers a means to continue or initiate effective rehabilitation programs in conjunction with their other CD activities.

Therefore, for all of these reasons, the Section 312 program should be continued at an expanded level.

Section 701 planning grants

The Hills opposition to a Section 701 program funded at a higher level than the very limited program of $25 million envisioned by the Administration once again overlooks several important considerations. While Hills contends that CD block grant money can be used for planning programs, she does not deal with the fact that Section 701 monies can be used for a broader range of activities than CD money, such as A–95 review process, land use (which is required as part of the comprehensive planning process, transportation, etc. The $25 million level is also not sufficient for the thousands of communities currently or potentially funded with Section 701 monies, but ineligible for CD entitlement funds.

The Section 701 program has succeeded in the past in coordinating the variety of planning functions, in fostering regional cooperation, and in building the management capacity of state and local governments. All of these are essential to effective implementation of community development activities at the state and local level.

Therefore, Section 701 planning grants should be funded at a considerably higher level than the Administration's proposed $25 million level.

VII. CONCLUSION

The 1974 Act, to which Hills pays lip service when it serves her purpose, reiterated the 1968 goal of 600,000 subsidized housing units annually. The Administration, in its budget proposal for FY '77, proposed less than 300,000 newly constructed or rehabilitated units in all, of which only about 230,000 were HUD units, with the balance from the Farmers Home Administration.

S. 3295 offers the opportunity to begin to approach the National Housing Goals, through increased authorization and emphasis on programs that can produce desperately needed housing for low- and moderate-income Americans.

DEMOCRACY IN SPAIN

Mr. LAXALT. Mr. President, in my view, the Basque people are rightly concerned about the slow pace of democratization of the Spanish regime. It is imperative that the new Juan Carlos government not duplicate the repression characteristic of the Franco years. Moreover, it is vital that this be kept in mind as the Senate debates the Treaty of Friendship and Cooperation between the United States and Spain.

Recently, I had occasion to meet with Pedro de Beitia, the delegate of the Basque Government in the United States, whom I have known and respected for some time. Mr. de Beitia has provided me with documentation which describes the deplorable conditions under which the Basque population in Spain is currently forced to live. Perhaps most significant among that documentation for my colleagues in the Senate is the Basque Government's "Statement about the Treaty of Friendship and Cooperation with Spain" which urges that the Senate make clear in its resolution that it intends the administration to evaluate carefully the degree of democratization in Spain before implementing the provisions of the treaty pertaining to economic and military assistance for that country.

Mr. President, owing to the importance of this matter and the imminence of Senate debate upon it, I ask unanimous consent that Mr. de Beitia's documents be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE BASQUE PEOPLE IN THE POST-FRANCO ERA

(NOTE.—A speech given by Juan de Ajuriaguerra, a leader of the Basque Nationalist Party, at the closing session of the Third Congress of the Spanish Christian Democratic Movement on February 1, 1976, in Madrid. The Spanish Movement is a wing of the European Christian Democratic Union.)

We, members of the Basque Nationalist Party, are only part of a small people whom history has lost. Our aspiration is not only to see that our people do not become extinct, but also to restore the fullness of their personality so that they may contribute to democratic progress in common with other peoples. For over the centuries our people have lived on the defense against others who are more numerous and have reached a higher plateau of cultural development. We have our own language, our own perceptions, and our own philosophy of life, and we are tenacious in our convictions and traditions, faithful to our word, and steadfast in our agreements.

Centuries before declarations of human rights and even the appearance of institutions such as habeas corpus and representative parliaments, our people achieved degrees of freedom and democracy that were perhaps unique in Europe. At the height of absolutism, we knew how to limit royal power and guard our political freedoms while we coexisted with other peoples and took part in great historical undertakings under the Spanish or French crowns.

The establishment of Jacobin liberalism causes our political status and laws to be considered privileges contravening the sacred principle of equality under law.

What was possible under the old regime became impossible under the new liberal system, and in the 19th century, wracked by civil wars that left our people weakened and ruined, our Fueros were seized in the name of freedom and unity. Next July 21 will mark the one hundredth anniversary of the formal abolition of the Fueros. It is stated in the nullifying act that with it "the great task of national unity has reached culmination . . ." Gentlemen, that was the first time the Basques were ever called separatists!

Perhaps more than one of you believes that the Basque confrontations with the Spanish state began in 1936. No, since those fateful days of the 19th century our people have constantly clamored—sometimes as moderates and occasionally as extremists—for restoration of the Fueros and political sovereignty, or without renouncing those at least for an autonomous government.

The framework of the second Spanish Republic offered the Basques the first opportunity since the suppression of the Fueros to achieve political autonomy through the ballot. First within the Society of Basque Studies and later in political struggle men of all parties—nationalists, traditionalists, liberals, republicans, and later socialists—drew up and expounded to the people a plan for autonomy which they approved overwhelmingly. Six long years of political battle and above all the unleashing of the civil war that hastened the process resulted in the statute of autonomy of October 1936. Though more limited in scope than the statute the people had approved three years earlier and sadly excluding Navarre in consequence of the shady maneuvers of political bosses, it gave the three provinces of the Basque country a common political framework. In this way a political process basically led by the Basque Nationalist Party reached culmination. Since then—and I say this with no spirit of boasting—the party has remained honest and impeccably democratic. We struggle without hatred, without staining our hands, and with nobility.

On that July 18, 1936, there fell on our shoulders the terrible responsibility of deciding the posture our party should adopt in the face of the armed conflict then rising in Spain. On the one hand was our traditional support of the Catholic hierarchy, which had opted for the rebellion, and on the other was our faithfulness to democracy and the cause of our people. We chose, and I continue to believe correctly, the cause of the Republic. We went into the streets with empty hands—with scarcely any military cadres, with ridiculous armament, without preparation of any kind. We had to improvise police, military, and administrative forces.

We were conquered and the calvary of our people began anew: exile, jails, shootings, dismissals, and confiscations. Our language was erased even from cemetery stones and the hulls of our fishing boats, our culture was proscribed, our teachers were dismissed, our incipient Basque university was closed, and our institutions were liquidated.

Our party continued struggling in long secrecy.

Perhaps our people might have forgotten that tragedy and the passage of years might have scarred over the wounds of war and occupation.

No, part of our youth who had never known the war but who were suckled in oppression demanded more energy from us in our political struggle. When our party did not offer them the channels of violence they advocated as the only response to the violence of the state, and carried away by passion for the people though drinking from ideological springs different from ours, they chose armed struggle. Our people saw themselves submerged ever more in the dialectic of violence that always leads to bloodshed and hatred. Thus recently—and it is painful to say so—our people have been torn among themselves.

When weapons speak all political dialogue and any democratic process become impossible. But we continue to be persuaded that the use of force does not solve problems. Though we have developed differently, we all share a common Christian inspiration and we have arrived at a greater mutual understanding and the common conviction that the democratic way is the only one capable of offering a framework for the solution of the problems, needs, and aspirations of all kinds that sometimes stir our society turbulently.

Not the least of these problems is our own, the Basque problem. Our people were defeated but not conquered. What was thought could be suppressed by force has emerged with a momentum and techniques of struggle unknown until now in our country.

In a commitment to searching for a solution, the government itself now intends to apply corrective measures. But the government is not capable of solving the Basque problem. The obvious failure of force has become quite clear: dialogue requires a democratic framework that the government manifestly cannot offer.

Reconciliation is not a unilateral act. It requires the honest and sincere collective action of all parts of society and the firm will to remedy injustices committed not only during the civil war but also afterward. There are prisoners to free, exiles to repatriate, cripples to aid, officials to reinstate and indemnify, and property to restore, including the headquarters and buildings of the democratic parties and labor unions and the buildings and machinery of the press. Restoration of the latter would enhance the possibility that our press could again appear.

We do not wish another war and we favor peace and reconciliation. Nevertheless, we have been called a terrorist political organization in a recent and lamentable decree-law. At the height of the civil war they censured us for ingenuousness and lack of political capacity because we tried in every way possible to safeguard the life and property of persons, religion, law, and public order since on evacuating Bilbao we strove to pass through the enemy lines safe and sound all prisoners who were in our hands and, despite higher orders, to preserve intact the heavy industry of Vizcaya because our people had to continue living. They have called us naive, I repeat, but they have never called us terrorists. Forty years have had to pass for them to call us terrorists in nothing less than a decree-law. Where is the will to reconciliation?

It is the future that concerns us. We do not intend to dwell on the past, but rather to find valid alternatives for our people. We are only a part of them, but our Basque roots are deep. To the extent that we are politically strong, we know how to interpret their concerns and find satisfactions for their problems.

We struggle for the political autonomy of the Basque people, an autonomy that requires the restoration of its total personality, its cultural development in all aspects, the creation of a free economic and social structure, and the recovery of our people's joy in living through formulas drawn from our own historical experience and that of other truly democratic peoples without need to rely on totalitarian and dehumanizing dogmas.

We struggle for a free and united Europe based on peoples and not on artificial political states. For a Europe in which we are all united in a common task. For a Europe in which we in our turn can unite ourselves with our brothers, the Basques who are now French citizens.

This is our political task, for which we ask your understanding and support. We also offer you our collaboration in the task of creating just structures for this State to which we all belong, in the task of eliminating imbalances between the Iberian peoples, and of contributing to their prosperity and well-being.

It is time that the distrust and hatred stop and that personal and group egotisms be overcome.

Other times are coming. Times in which you will have to defend your cultural and linguistic values before the thrust of languages that are monopolizing commerce, culture, and communications. Perhaps only then will you feel what we feel now.

Statement About the Treaty of Friendship and Cooperation With Spain

Recent information from Spain, both direct and in press reports, indicates that the government in Madrid is experiencing internal conflict about the degree of democratization that should take place in the country. Although the return of civil liberties, the holding of free elections, and other steps required for a genuine evolution toward a democratic way of life were promised when the monarchy was restored in November 1975, our information leads us to believe that the government's reformist ministers, such as Jose Areilza, the foreign minister and former ambassador to the United States, are encountering grave difficulties in carrying out their program of liberalization. The conservative prime minister, Carlos Arias Navarro, and adherents of the Franco regime in the army appear to be doing their utmost—against the wishes of King Juan Carlos—to slow the speed of democratization (see *Newsweek*, April 26, 1976, page 49). The future of democracy in Spain is thus in serious doubt.

Observing these trends, the countries of the Common Market and North Atlantic Treaty Organization have informed the Spanish government that they will not begin negotiations toward Spain's reentry into the mainstream of European life until there is evidence that it is pursuing concrete steps toward democratization.

Therefore, on behalf of the Basque Government, I respectfully suggest that in considering ratification of the Treaty of Friendship and Cooperation with Spain, the United States Senate express in its resolution its sense that the Administration should carefully determine the degree of democratization or lack thereof in the political system of Spain in implementing those provisions of the treaty related to Export-Import Bank credits, other funds destined for Spain, and the provision of military material to that country.

Pedro de Beitia,
Basque Delegate.

Washington, D.C., *May 11, 1976.*

PRELIMINARY NOTIFICATION PROPOSED ARMS SALES

Mr. HUMPHREY. Mr. President, section 36(b) of the Foreign Military Sales Act requires that Congress receive notification of proposed arms sales under that act in excess of $25 million. Upon receipt of such notification, the Congress has 20 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

Pursuant to an informal understanding, the Department of Defense has agreed to provide the committee with a preliminary notification 20 days before transmittal of the official notification. The official notification will be printed in the Record in accordance with previous practice.

I wish to inform Members of the Senate that such a notification was received on June 9, 1976.

Interested Senators may inquire as to the details of this preliminary notification at the offices of the Committee on Foreign Relations, room S-116 in the Capitol.

PRESIDENTIAL PRIMARIES

Mr. BELLMON. Mr. President, Tuesday of this week marked the close of the Presidential primaries for this Presidential election. It is almost inconceivable that through 200 years of political action that we continue to engage in this method of selecting the person who will lead this great Nation for a period of the next 4 years.

While there are some who will stand by the system and praise it for its ability to eliminate the unworthy, these plaudits generally come from those who have endured the process and emerged victorious.

As a practical matter the system is a chaotic maze of rules, regulations, requirements and unwritten traditions which result in a physically and financially exhausting procedure that only the strong of heart and the deepest of pockets can endure.

How can we say that the primary system which we have embraced over the years is a participatory democracy when only a small percentage of the electorate are actually involved? What is honest about a system that permits Democrats to choose the Republican candidates and Republicans to choose the Democratic candidates by virtue of the "cross-over vote"? What is good about a system where the "winner-take-all" mandate does not reflect the true individual voter preference? Where is the justice in a system that permits a candidate, who may ultimately have to answer to all the people, to participate only in favorable primaries and ignore the remainder? What is democratic about the convention system where the best political wheeler-dealer has the opportunity to trade future favors for delegates needed to tie down the nomination? How is the public interest served by political trades that may serve the interests of the candidate but which are not necessarily in the public or national interest? What is representative about a system in which a militant minority can seize the delegate selection process by dominating precinct caucuses and county conventions and thereafter freezing out all elements with which they disagree?

Why do we allow the process to be distorted even further by "first" primary significance and a time period for the various primaries from the first to the last which is financially and physically exhausting.

When you combine all of these factors with a myriad of conflicting rules for each of the some 55 forums, it is difficult to make a finding that our system is what we really want it to be; that is, a system of the people, by the people and for the people.

Mr. President, I sincerely hope that this body will approve legislation during the next Congress which will bring about a system that will be more responsive to the people whom we wish to serve.

There are currently several bills which are pending prepared by my distinguished colleagues because they have seen the need either through observation and/or participation.

Soon after the new Congress convenes, a high priority must be given to legislating a better Presidential nominating procedure. The system must provide for wider participation, it must give equal importance to each section of the country and each voter, the time and expense involved must be reduced and the system must be purified so that in so far as possible it truly represents the will of the American voter.

Mr. President, Davis S. Broder wrote an article entitled "The Paradoxes of the Primaries," which appeared in Wednesday's Washington Post. I commend it to review by my colleagues and ask unanimous consent that it be printed in the RECORD.

In conclusion, a look at the record will reflect that some 4 months have passed since the "first primary." I submit that 200 years have passed and that we should not let another year pass before we take action.

Let us now move into an era of political responsibility in the conduct of the single most important process—the nomination and election of the President of the United States of America.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE PARADOXES OF THE PRIMARIES

(By David S. Broder)

Well, the primaries are over, and the country has survived. The only serious damage that was done was the shattering of a lot of conventional wisdom and journalistic cliches. And, of course, the wreckage of some inflated ambitions.

A weary reporter, unpacking his suitcase and sorting through his jumbled impressions of the last five months, is struck by the paradoxes of the primary season. Almost any generalization is immediately contradicted.

The primaries are described as elimination contests, and of the dozen Democratic candidates who tried, 11 are now eating the winner's dust. But the Republicans began with two candidates who might win—and that's still the situation today.

Before 1976, all pundits knew you couldn't challenge an incumbent President in a time of peace and growing prosperity. Ronald Reagan proved that wrong.

But we also knew that an incumbent could not survive a primary defeat without being forced from the race. Gerald Ford has been beaten a dozen times—and he's still running.

We knew from Ed Muskie's unhappy experience that no one could run in all the primaries without being exhausted and defeated. But no one told Jimmy Carter, so he did it—and beat the odds.

Carter demonstrated the importance of early victories in establishing momentum. But no one told Reagan that rule, so he blew the first five primaries—and still came roaring back.

A dozen other cliches were bent and twisted in this winter and spring competition. And if you ask why there were so many contradictions and surprises, the answer is that there is very little "system" in our presidential selection system.

The political parties—whose nominations are still the prizes in this primary game—are increasingly irrelevant to its outcome. They have lost their old role as mechanisms for recruiting, evaluating and selecting candidates for successively higher levels of government responsibility. Increasingly, they are viewed by the contestants as vestiges of the past, obstacles to overcome on the way to the plebiscite in November.

The power of selection has been given to the people—but under circumstances and conditions that are almost guaranteed to distort the public choice. Those who actually vote in the primaries constitute a painfully small fraction of the national electorate. And the rules for determining who can vote and how the votes will be counted are so antique as to defy logic.

In Oregon, a conscientious citizen who had registered in advance could vote only in the party in which she had registered. If she were a registered Independent, she could not vote in the primary at all. But a sluggard who delayed until primary day, could walk into the courthouse, register and vote on the spot—in whichever primary she preferred.

That's crazy. But the counting rules made the concept of the "public voice" even more ludicrous. In the Republican party, a million votes were worth no delegates in California—if someone else got a million and one. But 9,000 votes in Rhode Island gave Mr. Ford all 19 of its delegates.

The primaries are supposed to bring the candidates close to the people. But the Reagan campaign revived only when he stopped shaking hands and headed for a Hollywood television studio to film his half-hour speech.

The imperatives of mass communication reduced Morris Udall, the most issue-oriented Democrat, to using cartoon caricatures and jack-in-the-box comics as TV spots. And Carter, who began by saying he was seeking an intimate, personal relationship with the voters, ended his campaign by deciding the best way to reach them was to buy five minutes of simultaneous time on all three networks.

The primary campaign gave us a sharper focus on the candidates. But it remains to be seen how relevant the Reagan-Ford disputes on Panama and Rhodesia or the efforts to probe Carter's mysterious tax reform and government reorganization "plans" will be to what happens at the White House in the next four years.

Despite the efforts to promote meaningful debates, the Republican contenders never appeared together. And Carter mostly snoozed or sulked when forced to share the platform with his rivals.

The only real issue that emerged was the choice of an "insider" or an "outsider." And there the primaries had a great effect. They help the "anti-" candidates—those whose credentials are most suspect in the eyes of their political peers. Neither Carter nor Reagan would have had a prayer in a convention dominated by those in their parties with whom they will have to work—in Washington and the states—if elected President.

But the primaries don't belong to the politicians. They belong to "the people," or those of them that bother to vote and are lucky enough to have their votes counted in this complex game. One hopes the product will be better than the process.

GENOCIDE TREATY

Mr. PROXMIRE. Mr. President, one of the worst offenders of the crime of genocide before the action was outlawed by the United Nations was the Nazis extermination of 6 million Jews, 2½ million Poles, hundred of thousands of Czechs, Serbs, and Russians.

When the Nuremberg trials convened, it was decided that the Nazis could not be punished for acts of genocide committed prior to 1939. The Nuremberg tribunal which tried war criminals for crimes against humanity refused to consider outrages occurring before the war on the grounds that no international law was violated. Had the Genocide Convention been in existence two decades ago those who perpetuated atrocities between 1933 and 1939 could have been brought to justice.

This situation displays the same kind of inaction that was brought against those responsible for the Armenian massacres even though Turkey and her German allies were defeated in World War I. There is evidence on the record that Hitler duly noted this fact when he prepared his program of exterminations. Documents introduced at the Nuremberg trials contain the following statement made by Hitler in August 1939 just before the invasion of Poland:

> What the weak western European civilization thinks about me does not matter. . . . I have sent to the East only my Death's head units with the order to kill without pity or mercy all men, women and children of the Polish race and language. Only in such a way will we win the vital space we need. Who still talks nowadays of the extermination of the Armenians?

It is quite apparent from the previous statement that Hitler interpreted the world's inaction on the Armenian massacres as tacit consent to do as he pleased. Why should the world stop him when they have always failed in the past to show concern?

The Genocide Treaty is the document that displays the world's outrage and concern over acts of genocide. Yet the United States has refused to ratify this important document. In the interest of further international peace and safety, in the hope of eliminating all future crimes against humanity, I urge my colleagues to join me in support of the Genocide Convention accords.

CORPORATE FOREIGN SOURCE INCOME

Mr. TAFT. Mr. President, I understand that a move will be made to amend the tax reform bill to eliminate the tax credit for taxes paid on foreign source income, and to substitute a much smaller exemption from gross income instead.

This would subject income of American firms earned overseas to double taxation. Having paid tax at, say, a 50-percent rate on earnings in a foreign country, a company subjected to further U.S. taxes on its after tax foreign income would find its total tax burden in the neighborhood of 73 percent, a level which would clearly place firms based in the United States at a competitive disadvantage in world markets.

American firms would either have to spin off their foreign subsidiaries, in effect becoming two companies, one foreign and one domestic, or shift their corporate headquarters and nationality to another country. Either method would avoid the tax burden, and either method would cost the United States tax revenue and jobs.

As New York City found out when its proposed increase in the stock transfer tax began to drive brokerage houses to New Jersey, no government is immune to the market forces of competition. If taxes are too high relative to what New York has to offer, firms move to New Jersey. If taxes are too high relative to what the United States has to offer, firms move to Europe, Bermuda, the Bahamas, or elsewhere. It is usually just a simple change of corporate citizenship, with no substantial transfer of assets or personnel. Nothing could be easier.

This scenario is not just a pipedream. The exodus has begun. I ask unanimous consent to have printed in the RECORD a Wall Street Journal article describing the reorganization along just such lines of Sea Containers, Inc.

If mere talk in the Congress can push firms into this type of move, I hate to think what actual passage of such a provision would produce.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal,
June 9, 1976]

SEA CONTAINERS, INC.

A small multinational "unbundles" to elude U.S. taxes and restrictions.

You might call the arrangement Siamese shares. Sea Containers Inc., a U.S.-based lessor of modular cargo containers and other equipment, is spinning off its Bermuda subsidiary as a stock dividend. After June 18, Sea Containers shareholders also will hold one share of the newly independent Bermuda concern for each Sea Containers share. In an unusual ploy, Sea Containers changed its bylaws to stipulate that the two stocks trade only in tandem. On that basis, the newly independent Bermuda company is being listed on the New York Stock Exchange along with its former parent. The new company's shares will be printed on the back of Sea Container certificates.

One reason is to avoid U.S. corporate taxes on the Bermuda subsidiary's modest earnings. Its dividends will be taxed directly to its shareholders. But the key reason, says Sea Containers' annual report, is to avoid U.S. restrictions on multinational concerns. James B. Sherwood, president, fears that with the turmoil over improper payments, Congress will saddle U.S.-based multinationals with burdensome restrictions.

"We are no match for Congress, no matter how wrong they may be," Sherwood says. "We feel the best defense is to segregate out a portion of our foreign activities."

JAMES FARLEY DIES, FDR POLITICAL AIDE

Mr. McGEE. Mr. President, a model politician for us all, James "Big Jim" Farley died Wednesday night in New York at the age of 88. He truly was a great American.

Many may claim to be party loyalists, faithful servants to the United States and leaders but if we fail to reach the top of the mountain of dedication scaled by Jim Farley, we have not done enough. His death brings reflection on his life and therefore should reset some goals—to emulate his drive—to follow in his footsteps toward a stronger Democratic Party and adherence to American principles.

He lived a more than full life, not only in his number of years but in what he put into those years.

I know his interest was keen in election drama and we must have taken to his resting place a feeling of great faith that our system, although highly criticized sometimes, is ever strong and will continue to produce able leaders. It is a shame his life came to an end in the middle of the political dramas unfolding this year and that he could not attend the National Democratic Convention next month and witness as well as play a role in the choosing of our nominee.

His spirit, the spirit of the Democratic Party, will be there to guide us.

Words are all we have to note the passing of this great man and I ask unanimous consent that an article in today's Washington Post by Kenneth Crawford on James Farley be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

JAMES FARLEY DIES, FDR POLITICAL AIDE

(By Kenneth Crawford)

James A. Farley, the political genius of President Franklin D. Roosevelt's New Deal, died yesterday at his home in the Waldorf Towers in New York. He was 88.

Mr. Farley's body was discovered in his bed by a maid. His doctor said he had died of cardiac arrest.

Mr. Farley managed the first two Roosevelt campaigns but broke with the President in 1940, and became a candidate himself for the Democratic nomination. He knew he couldn't win when Mr. Roosevelt decided to defy the anti-third-term tradition. But Mr. Farley went through with his candidacy anyway to dramatize his disapproval of a third-term presidency.

Mr. Farley served as Postmaster General and Democratic National Committee chairman from 1933 through 1940.

Born in the Hudson River community of Grassy Point, N.Y., of second-generation Irish-American parents, one of five sons, his aptitude for politics and baseball made him something of a local celebrity before he was fully grown. He was elected chairman of the town Democratic committee before he was old enough to vote. He was a phenomenon even among the Irish at a time when political competition in any Irish community was intense.

Mr. Farley's basic political tool was his phenomenal memory for faces and the names that went with them. He shook thousands of hands in his career and managed to remember the identity of most of the shakers, and often of wives and children as well. He could summon up the names of people he hadn't seen in years.

Mr. Farley graduated from high school after 2½ years in attendance and from Packard Commercial School in New York after one year. From then on, until he became involved in Roosevelt's political career, he mixed business and politics, organizing a building supply company in New York, serving three terms as town clerk, one term in the state legislature, several years as a member and then chairman of the New York State Athletic Commission, and as a New York Port warden by appointment of Gov. Alfred E. Smith.

By the time Roosevelt ran for governor of New York in 1928, Mr. Farley had become secretary of the New York State Democratic Committee, supporting Smith for President and Roosevelt for governor. Smith lost but Roosevelt won, a circumstance that led to strained relations between Smith and Roosevelt. Mr. Farley threw in with Roosevelt. When Roosevelt ran for re-election in 1930, Mr. Farley advanced to chairmanship of the state committee.

Then for the next two years, he and Louis Howe, a gnomelike ex-newspaper man, devoted themselves to planning the first Roosevelt presidential campaign. Howe was the inside man, remaining close to the governor; Mr. Farley, by this time a seasoned politician, a dominating six-foot, three-inch, gum-chewing (he neither smoked nor drank) presence in any political gathering, was the outside man.

An Elks convention in Seattle in 1931 provided the first excuse for a Farley cross-country trek as a Roosevelt missionary. He stopped along the way making friends and rounding up potential supporters for the 1932 campaign. Many similar expeditions followed.

By the time of the Chicago convention that nominated Roosevelt for the first time, Mr. Farley was 44 and had been actively engaged in politics for 23 years. He had come a long way since his first casual meeting with Roosevelt in 1920, when Roosevelt was the vice presidential nominee running with James Cox on the Democratic ticket. That same year, Mr. Farley married Elizabeth Finnegan of Haverstraw, N.Y., who later refused to live in Washington or to be discreet about her distaste for the Roosevelt family, which she considered snobbish.

The 1932 convention was no pushover for the New Yorkers. Howe and Farley had to make a deal promising the vice presidency to John Garner of Texas, William Randolph Hearst's candidate for the presidency, to put Roosevelt over. Electing their man over President Herbert Hoover in the midst of the Great Depression was less troublesome.

The dramatic bank closings, the exhilarating one hundred days of New Deal near-revolution and Roosevelt's radio magic made Mr. Farley's job fairly simple in 1936, when he accurately predicted that Alfred Landon, the Republican nominee, would carry only two New England states against Roosevelt.

Mr. Farley's differences with Roosevelt became more frequent and more abrasive as the second term progressed. He opposed the President's largely unsuccessful campaign to "purge" Democratic congressmen and senators who had opposed his so-called Supreme Court packing plan. He was unsympathetic with some of Roosevelt's efforts to help the British against Hitler by circumvention of neutrality laws, especially the destroyers-for-islands swap.

As 1940 approached, Mr. Farley joined Garner and Secretary of State Cordell Hull in a concerted effort to prevent Roosevelt from continuing in office when his second term expired. All three were potential candidates to replace Roosevelt. Mr. Farley thought at one point that he had elicited a commitment from Roosevelt not to run again. He told Roosevelt that he planned to enter the Massachusetts primary election and the President didn't object. Garner also announced his candidacy.

But Roosevelt kept postponing an announcement of his intentions and his silence was correctly interpreted by members of his White House inner circle, to which Mr. Farley no longer belonged, that he would accept a draft in view of the critical international situation. At the Chicago convention in 1940 Mr. Farley's name was placed in nomination by Sen. Carter Glass of Virginia. But it was a symbolic and futile gesture. The Roosevelt draft was on.

Glass's speech was at first drowned out in boos. It was the year of "the voice from the gutter"—Chicago Mayor Edward Kelly's device for stampeding the convention, Nevertheless, Mr. Farley swallowing his anger and frustration, made the motion to nominate Roosevelt by acclamation. Relations between Roosevelt and Mr. Farley from then on were civil but nothing more. Mr. Farley resigned both the postmaster generalship and the chairmanship of the national committee.

Efforts by Eleanor Roosevelt and others to persuade him to return to the chairmanship for the 1940 campaign were unavailing.

Returning to New York, Mr. Farley wrote several magazine articles and a book telling his side of the Roosevelt-Farley story. His recollections were frank, critical and just short of rancorous. He settled into private business as a Coca-Cola Co. executive in charge of foreign sales. After his wife's death in 1955, he moved into the Waldorf Towers where he lived thereafter.

He gradually withdrew from active politics although serving for a while in his old position as chairman of the Democratic State Committee. In 1958, he announced for the Democratic nomination for the U.S. Senate from New York in June but withdrew in August at the state convention when he did not have enough support to win the nomination.

He spoke out occasionally on domestic and foreign affairs. At one point, he expressed "contempt" for the position on the Vietnam War taken by Sen. Robert Kennedy and Sen. William Fulbright.

Besides his membership in the Elks, Mr. Farley belonged to the Friendly Sons of St. Patrick, the Ancient Order of Hibernians, the Eagles, the Red Men and the Knights of Columbus. He was a holder of many honorary academic degrees, all of which he once said he would gladly trade for an earned B.A. His books were "Behind the Ballots," 1938, and "Jim Farley's Story," 1948.

In recent years, Mr. Farley had continued to walk daily from his apartment to his Madison Avenue office, where he spent the days as honorary chairman of Coca-Cola Export Corp.

He also kept up on politics, telling an interviewer recently that he looked forward to the Democratic National Convention next month in New York.

Mr. Farley, who had not endorsed a candidate, gave the Democrats a "very good chance of winning the 1976 presidential election—if the reformers don't lose it again."

He is survived by three children, Mrs. Glenn O. Montgomery, Mrs. Edward J. Hickey and James A. Farley, Jr.

DESEGREGATION AND THE CITIES: PART XV—CONGRESS AND THE POLITICS OF BUSING

Mr. JAVITS. Mr. President, each year, for the past decade, there has been antibusing legislation before Congress. Each year the House has passed some measure intended to restrain either the courts or HEW—or both—from enforcing desegregation law. Vast amounts of congressional time have been spent in floor battles, complex conference committee negotiations, attempts to respond to dramatic statements from the White House, and efforts to hold together coalitions to defeat unconstitutional legislation.

Since 1970 the Senate has been very closely divided on the busing issue. Each year there has been an attempt to draft some kind of an antibusing amendment which does not put the legislative branch in direct constitutional confrontation with the judiciary. To the Senate's credit, it has turned back such proposals, but by the narrowest of margins on several occasions. Last year, however, the Senate did act gravely to weaken the 1964 Civil Rights Act on an appropriation bill. This year we will again face amendment confronting the courts.

Congress has spent much debate on this issue, with the busing debate often overshadowing all substantive issues in an education bill. The result, however, has been virtually invisible. Congress has not stopped the courts from performing their constitutional duties, because Congress cannot deny a remedy for a constitutional wrong. The reason for this limit on Congress' power is inherent in the very idea of a Constitution. For example, if the Constitution guaranteed freedom of press, but Congress could pass a law saying that no court could order a local police chief to return seized copies of a newspaper he disapproved of, the constitutional right would rapidly become meaningless.

The congressional mood in the 1970's has been similar to the response of southern State legislatures to Supreme Court decisions in the 1950's. The attitude has been that since people are angry, we should pass legislation, even though it is probably unconstitutional and even through it will arouse false expectations of continued discriminations. Some find themselves drafting and debating measures to cut off gas, but only for those buses operating to end unconstitutional discrimination and to deny legal services, but only to poor minority parents attempting to assert their children's rights to a nondiscriminatory education. Congress cuts off Federal aid money for busing costs, even though southern officials appeal for the help and everyone knows it will not stop any bus but merely weigh an extra burden on the local school budget. Congress assails judicial intervention, but then removes the powers of the administrative agency that might provide an alternative and refuses to assume responsibility to devise a national policy to realize constitutional goals.

It may be well, before this year's battle, to look back at the long list of futile legislative efforts relating to urban desegregation. Today's insert includes a summary of legislative activity by the Congressional Research Service. The report would be much longer if it explained all of the many secondary proposals of the past decade. In retrospect, it is a shameful record of negativism, a record disturbingly like that of the southern State legislatures in the massive resistance period. "As long as we can legislate," one Deep South legislator commented in 1956, "we can segregate." It turned out that he was wrong. Not only is it wrong, but it is destructive to our communities to prolong and deepen the division and to offer neither guidance nor aid to school officials who must comply with court orders to maintain law and order.

After the CRS summary, I am inserting an article by Michael Wise of the University of Notre Dame Center for Civil Rights. Wise's article provides an excellent overview of our last Presidential election year busing battle. Finally, for the information of those who may not remember the details, I am including Patrick E. McCauley's summary of the efforts of the southern legislatures to nullify the Brown decision. Some of the contemporary parallels should be evident.

The attitude evident in some of Congress debates recalls a comment of a Mississippi State senator in 1964. "The bill may be unconstitutional," he said of a measure aimed at civil rights volunteers, "but it can't do us any harm." It may not do "us" any harm if we mean those who would nullify the Constitution, but it will harm our children and it can only undermine the efforts of our Nation and of our most outstanding educators.

I ask unanimous consent that the material be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

FEDERAL LEGISLATIVE RESPONSE

Since the passage of the Civil Rights Act of 1964, the Congress has shown concern over the use of busing for desegregation and especially for the purpose of achieving racial balance among the schools of a school district, as opposed to the purpose of eliminating legally imposed dual school systems. In fact, the Act contains provisions excluding from the definition of desegregation the assignment of students in order to overcome racial imbalance, and refusing to confer upon U.S. officials or courts the power to require transportation of students to achieve racial balance.

Between 1966 and 1969, the Congress several times added provisions to education bills forbidding Federal officials to require busing to achieve racial balance. In considering the Labor-HEW Appropriations for FY 1969, the Congress for the first time adopted the so-called Whitten Amendments, which forbid the use of appropriated funds for busing, or the withholding of appropriated funds to induce busing. In subsequent years the House has attached the Whitten amendments to annual Office of Education appropriations in a form applicable to all busing, but the Senate has limited the stricture to busing for the purpose of achieving racial balance, or has added the phrase "except as constitutionally required"; the Senate versions have been contained in the final enactments.

The Education Amendments of 1972 contained two titles relating to desegregation and school busing. Title VII, the Emergency School Assistance Act, provides funds to assist school districts to meet the special expenses incident to desegregation pursuant to a court order or a voluntary desegregation plan. Title VIII concerns the assignment or transportation of students. It prohibits the use of Federal funds for the transportation of students or teachers to overcome racial imbalance or to carry out a desegregation plan in any school unless voluntarily requested by school officials. Funds for transportation may not ever be used when there is a health risk to the children due to time or distance of travel, when the educational process is impinged upon, or when the children to be transported will receive educational opportunities inferior to those previously provided. Federal pressure on local school boards to use busing for purposes of desegregation is forbidden unless constitutionally required. Parents of children being transported to school under court order can appeal to the courts if the time or distance risks the child's health or significantly impinges upon the educational process.

Although the busing provisions of the 1972 Education Amendments expanded the restriction on use of Federal funds for busing to include busing to eliminate dual school systems where a local school district has not voluntarily sought to use Federal funds for such busing, the opponents of busing continued to seek even stronger anti-busing legislation. In 1972, President Nixon proposed the Student Transportation Moratorium Act of 1972 and the Equal Educational Opportunities Act of 1972. The purpose of the Student Transportation Moratorium Act was to impose a moratorium on implementation of court-ordered busing plans or desegregation plans under Title VI of the Civil Rights Act of 1964 to give Congress time to fashion a clear, uniform standard of requirements for reassignment and busing in desegregating schools. The Equal Educational Opportunities Act was framed to provide these standards of desegregation and busing. If enacted, these standards would have severely restricted the power of Federal courts to order busing in desegregation cases, and would have placed an absolute restriction against ordering the busing of schoolchildren to any appropriate school other than that nearest or next-nearest to their place of residence. The House passed the Equal Educational Opportunities Act, but the Senate refused to end debate, so the Act died; the Student Transportation Moratoroum Act was not reported out of committee in either House.

The 93d Congress witnessed the introduction of numerous bills and resolutions which, in one fashion or another, were apparently intended to limit the busing of students as a remedial feature of Federal desegregation orders. Some of these measures were embodied in proposals to amend the Constitution so as to prohibit, in whole or in part, the busing of students for purposes of desegregation. Others were framed in terms of proposed legislation directed to this same end. In April 1973, the Senate Judiciary Committee held hearings on several proposed Constitutional Amendments, including S.J. Res. 14, S.J. Res. 28, S.J. Res. 35, S.J. Res. 47 and S.J. Res. 161, which provided that "no public school student shall, because of his race, creed, or color, be assigned to or required to attend a particular school." Further hearings were held by the Committee during the second session on S. 179, S. 287, S. 619, S. 1737, and S. 2336, proposing legislative limits on the busing of school children. No further action was taken on any of these proposals, however.

Two measures relating to the question of school desegregation and the busing of students were passed by the 93d Congress as amendments to major authorization and appropriations bills. The first of these, short-titled "Equal Educational Opportunities and the Transportation of Students," was enacted at Title II of H.R. 69, the Education Amendments of 1974 (P.L. 93–380, enacted Aug. 24, 1974). Title II specifies practices which are to be considered violations of the Due Process and Equal Protection clauses of the Fourteenth Amendment and remedies which courts may and may not order to correct such violations.

Proscribed practices include the deliberate segregation of students by race, color, or national origin; the failure of an educational agency which has formerly practiced deliberate segregation to take affirmative steps to remove vestiges of segregation; the assignment of students to schools other than those nearest or next nearest to their places of residence if such assignment results in a greater degree of segregation than would otherwise be the case; discriminatory hiring and faculty assignment practices; transfer of students with a segregatory purpose; and failure to take appropriate steps to overcome language barriers faced by some students.

Permitted remedies, which must be applied in the following order until compliance with desegregation standards is achieved, include: assignment of students to schools closest to their places of residence, with or without consideration of physical barriers as well as school capacities and program offerings; voluntary transfers by students from schools where their race is the majority to schools where it is a minority; creation or revision of attendance zones; construction of new schools and closing of inferior ones; establishment of magnet schools; and development and implementation of any other plan which is "educationally sound and administratively feasible," provided that it does not require the transportation of any student to a school other than that "closest or next closest" to his or her home.

Title II also contains certain other purported limitations on Federal Court busing orders. First, the Act provides that existing orders shall terminate, and no additional transportation be required, where the court finds that an educational agency is in compliance with constitutional standards. A provision permitting reopening of decided desegregation cases was modified to limit the right to those cases where the time or distance of travel "is so great as to risk the health of the student or impinge his or her educational process." The Act also incorporates a limitation on cross-district busing and another delaying implementation of mid-year busing orders.

A final provision prohibits the use of Federal funds for the transportation of students to carry out a plan of desegregation. Of particular significance, however, is the inclusion of specific language in Title II providing that nothing in its provisions "is intended to modify or diminish the authority of the Courts of the United States to enforce fully the fifth and fourteenth amendments to the Constitution of the United States." This phrase, coupled with the *Swann* and other courts' identification of busing as constitutionally permissable, however, tends to obfuscate the interpretation of busing restrictions embodied in Title II. It is noteworthy that Title II does not prohibit the voluntary adoption and enactment of a lawful plan for integration, even if it is at variance with Title II provisions.

In its final weeks, the 93d Congress also passed H.R. 16900 (P.L. 93–554), providing supplemental appropriations for several Federal departments and agencies. This bill contained an amendment prohibiting, in effect, the Department of Health, Education, and Welfare from withholding funds from school districts to compel them to "classify or assign" students and teachers to classes and schools on the basis of race, religion, sex, or national origin unless such action is necessary to enforce Federal anti-discrimination laws. In addition, H.R. 15580 (P.L. 93–517), the Supplemental Appropriations bill for the Departments of Labor and Health, Education, and Welfare, contained language prohibiting the use of its appropriated funds for busing or to force a school district to bus students to achieve racial balance.

Two amendments intended to limit the ability of the Department of HEW to order pupil busing for desegregation purposes have been added during Senate floor consideration to H.R. 8069, the Labor-HEW Appropriations bill for FY 1976. The amendment introduced by Mr. Biden, as modified, would prohibit HEW from requiring transportation for reasons of race ". . . *unless such transportation is specifically required by a final decree of a court of law.*" This so-called Biden Amendment also states that funds under the Labor-HEW Appropriations bill shall be used in a manner consistent with the Fifth and Fourteenth Amendments to the United States Constitution and Title VI of the Civil Rights Act of 1964. The amendment introduced by Mr. Byrd of West Virginia to H.R. 8069 would forbid HEW to require that transportation of any student to a school other than the one closest to his home in order to comply with Title VI of the Civil Rights Act of 1964. H.R. 8069 was passed by the Senate on Sept. 26, 1975, and was reported from Conference on Dec. 2; the bill now contains only the Byrd amendment. Further action occurred in the House when it accepted the Byrd amendment (Dec. 4, 1975), and in the Senate when the amendment also was accepted (Dec. 8, 1975). This bill, however, was vetoed by the President and overriden, in the second session of the 94th Congress.

LEGISLATION

In the 94th Congress, three bills have become law that include provisions dealing with busing, each containing language to prohibit the use of funds for busing or to force a school system considered desegregated under the Civil Rights Act of 1964 (P.L. 88–352) to bus students to achieve racial balance:

P.L. 94–32 (H.R. 5899).

Second Supplemental Appropriation Act. Makes supplemental appropriations for FY75 for various agencies, departments, and other entities of the Federal Government. The bill was enacted into law on June 12, 1975.

P.L. 94–94 (H.R. 5901).

Education Division and Related Agencies Appropriations Act. Appropriates specified sums for the Education Division and related entities. The bill was enacted into law on Sept. 10, 1975.

P.L. 94–2061 (H.R. 8069).

Departments of Labor and Health, Education, and Welfare Appropriation Act. Makes appropriations for the fiscal year ending June 30, 1976, and for the period ending Sept. 30, 1976, to the Department of Labor, Department of Health, Education, and Welfare, and other related Federal entities. Two amendments intended to limit the ability of the Department of HEW to order pupil busing for desegregation purposes were added during Senate floor consideration. The amendment introduced by Mr. Biden, as modified, would prohibit HEW from requiring transportation for reasons of race " . . . *unless such transportation is specifically required by a final decree of a court of law.*"

The Biden Amendment also states that funds under the Labor-HEW Appropriations bill shall be used in a manner consistent with the Fifth and Fourteenth Amendments to the United States Constitution and Title VI of the Civil Rights Act of 1964. The amendment introduced by Mr. Byrd of West Virginia would forbid HEW to require the transportation of any student to a school other than the one closest to his home in order to comply with Title VI of the Civil Rights Act of 1964. Reporting on Dec. 2, 1975, the Conference Committee decided to retain only the Byrd amendment, limiting HEW's requirement of busing. In the House the Byrd amendment was accepted on Dec. 4, 1975, and the Senate accepted it again on Dec. 8, 1975. H.R. 8069 was vetoed by the President; however, the House overrode the veto on Jan. 27, 1976, and the Senate overrode the veto on Jan. 28, 1976. The bill is now law.

In addition, language had been added in the House to an energy bill, H.R. 7014, Energy Conservation and Oil Policy. This language would have stopped the use of fuel for buses used in desegregation; however, the language was dropped in conference.

Also of interest is a bill introduced by Rep. Preyer, H.R. 10146, the National Educational Opportunities Act of 1975. This bill would allow for voluntary integration, sometimes using busing, and would offer Federal financial backing to State and local education agencies that would undertake such plans. Hearings were held on H.R. 10146; no other action has been taken. A successor bill, H.R. 12558, has been introduced by Rep. Preyer, changing some of the sections of H.R. 10146. No action has been taken on it as yet.

A bill introduced by Senator Jackson, S. 2884, would refer busing cases in Federal Courts to three-member Federal court judge panels, and would have them undertake a specific review of the circumstances under which they would order a busing plan; it would also call for the continuation of funding to the Emergency School Aid Act, with a concentration on local education agencies. The bill would also express the disapproval of busing for desegregation by Congress. As other bills, introduced by Senator Roth, S. 2937, would relate to busing in terms of referring cases dealing with schools to state courts instead of to Federal courts. There has been no action on these bills.

Another bill was also introduced by Rep. Koch, H.R. 12548, which would establish a Commission on School Integration. The Commission would work for a year evaluating school desegregation.

On the Senate floor, amendments were recently proposed for a Federal judgeship bill, S. 287. An amendment by Mr. Scott of Virginia that would have required that no Federal court have any jurisdiction to hear or decide cases involving public schools, and an amendment by Mr. Roth that would require that no Federal court would have jurisdiction to enter a decree requiring the transportation of students or teachers in order to carry out a plan of racial desegregation of any school or school system, were both defeated on roll call votes on Apr. 1, 1976.

HEARINGS

U.S. Congress. House. Committee on Education and Labor. Equal Educational Opportunities Act. Hearings, 92d Congress, 2d session, on H.R. 13915. 3 parts. Washington, U.S. Govt. Print. Off., 1972.

Hearings held Mar. 27–29; Apr. 11–13, 18, 19, 24, and 28; July 25, 26, 28, and 31; and Aug. 1, 1972; Washington, D.C.

U.S. Congress. House. Committee on the Judiciary. Subcommittee No. 5. Proposed amendments to the Constitution and legislation relating to transportation and assignment of public school pupils. Hearings, 92d Congress, 2d session. 3 parts. Washington, U.S. Govt. Print. Off., 1972.

"Serial No. 82–32"

U.S. Congress. Senate. Committee on the Judiciary. Proposing amendments to the Constitution relative to assignment and transportation of school children. Hearings, 93d Congress, 1st session, on S.J. Res. 9, 14, 28, 35, 36, and 37. Apr. 10–12, 1973. Washington, D.C. (Not published)

U.S. Congress. Senate. Committee on the Judiciary. Subcommittee on Constitutional Rights. Busing of school children. Hearings, 93d Congress, 2d sesson, on S. 179, 287, 619, 1737, and 2336. Feb. 19–21, 1974. Washington, U.S. Govt. Print. Off., 1974. 384 pages.

U.S. Congress. Senate. Committee on Labor and Public Welfare. Neighborhood Schools Act. Hearings, 93d Congress, 2d session, on S. 503. Dec. 10, 1974. Washington, U.S. Govt. Print. Off., 1974.

U.S. Congress. Senate. Committee on Labor and Public Welfare. Subcommittee on Education. To further the achievement of equal educational opportunities. Hearings, 92d Congress, 2d session, on S. 3395. Washington, U.S. Govt. Print. Off., 1972. 1393 pages.

Hearings held Mar. 24 and 28–30; Apr. 6 and 19; and Sept. 25, 1972.

REPORTS AND CONGRESSIONAL DOCUMENTS

Nixon, Richard M. Schoolbusing: Message from the President of the United States (H. Doc. No. 92–195). Congressional record [daily ed.] v. 118, Mar. 20, 1972: H2211–H2217.

U.S. Congress. Conference Committee. Conference report on H.R. 69, the Education Amendments of 1974. Washington, U.S. Govt. Print. Off., 1974. (93d Congress, 2d session. House. Report No. 93–1211)

U.S. Congress. Conference Committee. Conference Report on H.R. 15580, Departments of Labor and Health, Education, and Welfare Appropriations Act. Washington, U.S. Govt. Print. Off., 1974. (93d Congress, 2d session. House. Report no. 93–1489)

U.S. Congress. Conference Committee. Conference Report on H.R. 16900, Supplemental Appropriations for 1974. Washington, U.S. Govt. Print. Off., 1974. (93d Congress, 2d session. House. Report No. 93–1503)

U.S. Congress. House. Committee on Appropriations. Departments of Labor and Health, Education, and Welfare Appropriations Act; report to accompany H.R. 15580. Washington, U.S. Govt. Print. Off., 1974. (93d Congress, 2d session. House. Report no. 93–1140)

Supplemental Appropriations for 1975; report to accompany H.R. 16900. Washington, U.S. Govt. Print. Off., 1974. (93d Congress, 2d session. House. Report no. 93–1378)

U. S. Congress. House. Committee on Education and Labor. Equal Educational Opportunities Act of 1972; report together with minority, additional minority, separate, and individual views to accompany H.R. 13915. Washington, U.S. Govt. Print Off., 1972. 50 p. (92d Congress, 2d session. House. Report no. 92–1335)

U.S. Congress. Senate. Committee on Appropriations. Departments of Labor and Health, Education, and Welfare Appropriations Act; report to accompany H.R. 15580. Washington, U.S. Govt. Print. Off., 1974. (93d Congress. 2d session. Senate. Report no. 93–1146)

Supplemental Appropriations for 1975; report to accompany H.R. 16900. Washington, U.S. Govt. Print. Off., 1974 (93d Congress, 2d session. Senate. Report no. 93–1296)

U.S. Congress. Senate. Select Committee on Equal Educational Opportunity. Selected court decisions relating to equal educational opportunity. Committee Print. 92d Congress, 2d session. Washington, U.S. Govt. Print Off., 1972. 663 p.

Report of the Select Committee on Equal Educational Opportunity, United States Senate. Washington, U.S. Govt. Print. Off., 1972. 440 p.

At head of title: 92d Congress, 2d session. Committee Print.

CHRONOLOGY OF EVENTS

January 28, 1976—The Senate overrode the President's veto, as did the House on January 27, 1976.

December 19, 1975—The President vetoed H.R. 8069.

December 18, 1975—Hearings were held on H.R. 10146.

December 8, 1975—Senate accepts Byrd amendment to H.R. 8069.

December 4, 1975—House accepts Byrd amendment to H.R. 8069.

December 2, 1975—H.R. 8069 was reported from conference, including the Byrd Amendment.

September 26, 1975—H.R. 8069 was passed by the Senate, including amendments introduced by Mr. Biden (as modified) and Mr. Byrd of W. Va.

April 21, 1975—The U.S. Supreme Court refused to rule on two school desegregation cases that may involve a metropolitan attendance plan (*U.S. and Donny Buckley* v. *Board of Commissioners of Indianapolis* and *Jefferson County* v. *Newburg Area Council*).

December 27, 1974—H.R. 16900 was enacted as P.L. 93–554, including the Senate-amended Holt Amendment.

December 16, 1974—H.R. 16900 with the conference version of the Holt Amendment, as amended by the Senate, was accepted by the House.

December 14, 1974—The Senate accepted the conference version of the Holt Amendment, but added an amendment allowing the use of money appropriated under the bill to compel schools to assign students and teachers according to race, religion, sex, and national origin where it is required to enforce nondiscrimination provisions of Federal law.

December 7, 1974—H.R. 15580 was enacted as P.L. 93-517.

December 4, 1974—The House accepted the conference report on H.R. 16900.

November 26, 1974. The conference report on H.R. 16900 was released with the Holt Amendment included, but in amended form. The conference version prohibits the use of money appropriated under this bill from being used to compel school systems to assign students and teachers by race, religion, sex, or national origin; or to classify students and teachers by race, religion, sex, or national origin.

The Senate and House approved the conference report of H.R. 15580.

November 21, 1974. The conference report on H.R. 15580 was released; this included provisions prohibiting the use of money appropriated under the bill from being used for busing.

November 20, 1974. H.R. 16900 was passed in the Senate, but the Helms Amendment (the same as the Holt) was rejected.

Octpber 9, 1974. H.R. 16900 was reported out of the Senate Appropriations Committee, but without the Holt Amendment.

October 1, 1974. The House accepted the Holt Amendment to H.R. 16900, prohibiting the use of funds appropriated under the bill from being used to compel schools to maintain statistics on its students and teachers by race, religion, sex, or national origin; from classifying them by race, religion, sex, or national origin; and from assigning students and teachers by race, religion, sex, or national origin.

September 25, 1974—The House Appropriations Committee reported out H.R. 16900, Supplemental Appropriations for 1975.

September 18, 1974—H.R. 15580, amended, was passed by the Senate (conference requested).

August 21, 1974—H.R. 69 was enacted into law (P.L. 93-380).

July 31, 1974—The House approved the conference report on H.R. 69, the Education Amendments of 1974, which contains compromise busing strictures reported by House-Senate conferees. The measure limits the courts' authority to order busing of schoolchildren "except that the[se] provisions . . . are not intended to modify or diminish the authority of the court of the United States to enforce fully the fifth and fourteenth amendments to the Constitution of the United States." Another provision prohibits the use of federal funds for the transportation of students to carry out a plan of desegregation. The measure was sent to the President for his signature.

July 25, 1974—The U.S. Supreme Court vacated a lower court decision ordering interdistrict remedial relief in the Detroit school desegregation case (*Milliken* v. *Bradley*, No. 73-434).

July 24, 1974—Conference report on H.R. 69 was approved by the Senate.

June 27, 1974—H.R. 15580, amended, appropriations bill for the Departments of Labor and Health, Education, and Welfare, was passed by the House.

May 20, 1974—H.R. 69, with provisions of S. 1539 inserted, was passed by the Senate.

March 27, 1974—H.R. 69 was passed by the House.

June 21, 1973—The Supreme Court affirmed the lower court orders implementing a school desegregation plan for the City of Denver, Colorado (*Keyes* v. *School District No. 1*, 413 U.S. 186 (1973)).

June 12, 1973—The Sixth Circuit Court of Appeals affirmed the district court order mandating the cross-district busing of school children between the city of Detroit and 53 surburban school districts (*Bradley* v. *Milliken*, 484 F. 2d 215.

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CONGRESS, BUSING, AND FEDERAL LAW

(By Michael Wise)

Since the Supreme Court's 1954 *Brown* decision, the Federal courts have played the major role in desegregating the Nation's public schools. Such leadership by the courts is not necessarily mandated by the Constitution. The Chief Executive and the Congress have not only the power but the duty to ensure black children's rights to equal educational opportunities.

The history of school desegregation since 1954 records, however, that few and mainly ineffective actions have been taken by these two branches to meet such Constitutional responsibility. In fact, particularly since the Supreme Court's decision in *Swann v. Charlotte-Mecklenburg*, the Executive and a majority of Congress have come to the point of actively opposing court decisions defining what school districts must do to end segregation.

Not until ten years after the Brown decision did Congress provide assistance toward desegregating public schools. Up until that time, private citizens and groups had used the courts methodically to strike down the various techniques used in the South's massive resistance. These private parties could accomplish only token desegregation. In the 1964-65 school year, only 2.25 percent of all black children attended school with whites in the 11 States of the old Confederacy.

In the Civil Rights Act of 1964, however, the Congress included provisions designed to speed up the process of desegregation. Title IV required the Department of Health, Education, and Welfare to report on the progress of public school desegregation, and authorized financial and technical assistance to school districts undergoing desegregation. Title IV also authorized the Attorney General to bring suit to desegregate public schools or colleges on behalf of individuals who were unable to bring private suits for various reasons.

Title VI of the 1964 Civil Rights Act was perhaps even more important. It provided that no program or activity receiving Federal financial assistance could discriminate against anyone on the ground of race, color, or national origin. Much of the school desegregation accomplished in the late 1960's and early 1970's was brought about by HEW enforcement of Title VI regulations under the threat of withholding Federal funds from school districts which failed to comply.

The Civil Rights Act of 1964 did not become law easily. The full efforts of the bill's proponents in both the House and Senate, of civil rights groups, and of President Johnson and his administration were necessary to win its enactment.

Yet even as Congress took its first, long overdue step, issues were arising which would turn congressional efforts away from implementing school desegregation toward directly opposing it.

In large part the development of these issues stemmed from the growing realization that most Northern school districts with large minority student populations were as racially segregated, in fact, as those in the South. Partially in order to solidify Northern support, Title IV explicitly sought to draw a distinction between *de jure* segregation, imposed by law, and *de facto* segregation, occurring by circumstances rather than official conduct. The definition of desegregation contained in the Act was amended to say that the word would "not mean the assignment of students to public schools in order to overcome racial imbalance."

The amendment's sponsor, Representative William Cramer (R-Fla.), explained its intent thusly:

The purpose is to prevent any semblance of congressional acceptance or approval of the concept of "*de facto*" segregation or to include in the definition of "desegregation" any balancing of school attendance by moving students across school district lines to level off percentage where one race outweighs another.

The amendment was accepted without objection by the chief sponsor of the 1964 Civil Rights Act, Chairman Emanuel Celler of the House Judiciary Committee.

Title IV contained another provision concerning the *de jure—de facto* distinction. The provision which authorizes the Attorney General to file desegregation suits included this limitation:

". . . nothing herein shall empower any official or court of the United States to issue any order . . . requiring the transportaion of pupils or students from one school to another or one school district to another in order to achieve . . . racial balance, or otherwise enlarge the existing power of the court to insure compliance with constitutional standards."

These examples show that as Congress took its first positive steps toward assisting desegregation, it was already becoming embroiled in disputes which would change the posture of the majority to one of hostility toward the courts and school desegregation.

The shift in congressional opinion reflected the shift of public opinion in general. When the 1964 and 1965 civil rights act were passed, the public consensus in support of the civil rights movement was at its peak. Millions of Americans had seen the police brutality against peaceful civil rights demonstrators in Birmingham and Selma on television and perceived the civil rights movement as merely an attempt to adjust the aberration of the South. They had been moved by the thousands of peaceful demonstrators of Dr. Martin Luther King's March on Washington.

By the fall of 1966, however, the consensus in support of civil rights efforts had largely evaporated with the smoke of Northern urban riots and with the cries of "black power" that splintered the civil rights movement itself.

The ebbing of Congressional support for civil rights was clearly shown when President Johnson's proposed Civil Rights Act of 1966 was rejected. That legislation encompassed several subjects, but it became a vehicle by which many Southern legislators expressed their opposition to the desegregation guidelines applied to Southern school districts by HEW.

Numerous amendments were proposed to protect freedom-of-choice desegreation plans which had in fact left the races almost totally separated. One House amendment requiring HEW to accept such plans was defeated by the close margin of 127 to 136.

The House did adopt another amendment which would have prevented HEW from requiring "assignment of students to public schools in order to overcome racial imbalance." Although the House grudgingly passed a mutilated form of President Johnson's proposal, the bill died quickly in the Senate because its supporters were unable to override a Southern filibuster.

Congressional concern about desegregation began to focus on how far school districts would be required to go in order to achieve a unitary, unsegregated school system.

Growing out of that fundamental question were a number of other concerns: Were the North and West included in these requirements or shielded by the *de facto—de jure* distinction? Was a balancing of the races required in the schools? Could established school district lines be ignored by courts seeking to end segregation? But the issue which had the greatest effect on Congress was the highly emotional controversy over busing.

The busing controversy arose as a reaction to later court-ordered desegregation plans. In 1968 the Supreme Court ruled that so-called "free choice" plans were acceptable only if they actually abolished racially identifiable schools.

The Court also held that a school district must come up with a desegregation plan "which promises realistically to work and promises realistically to work now." In line with that directive, the Supreme Court rejected attempts of the newly-installed administration to delay desegregation in Mississippi and Louisiana school districts.

On March 24, 1970, President Nixon called on Congress to enact a two-year $1.5 billion expenditure to assist communities desegregating under court or administrative order and those seeking voluntarily to integrate their schools. On May 21, 1970, he issued a second message calling on Congress to appropriate $150 million immediately to assist desegregation in these districts.

Congress appropriated $75 million in August 1970 as "The Emergency School Assistance Program." The program was criticized by some as rewarding those school districts which had most resisted school desegregation. It was continued annually, however, until the Congress acted on the President's major proposal, the Emergency School Aid Act, in 1972. By that time the act had become enmeshed in the busing controversy that so pre-occupied the 92nd Congress.

Opposition to school desegregation in the 92nd Congress grew in intensity as the Federal courts began to require busing as a remedy in larger urban areas. The issue of whether the lower Federal courts could order busing—indeed, whether they were required to order busing—reached the Supreme Court in the case of *Swann v. Charlotte-Mecklenburg Board of Education*. In that case, a U.S. District Court ordered a desegregation plan which required a substantial increase in student transportation—about twice as many students as the district had transported previously.

In its 1971 *Swann* decision, the Supreme Court for the first time considered the remedial actions which the District courts could order to create a unitary school system. The Court's unanimous opinion discussed and approved several remedies, and specifically upheld the student transportation provisions of Judge James McMillan's order.

The Supreme Court indicated only one limitation. It stated: "An objection to transportation of students may have validity when the time or distance of travel is so great as to risk either the health of the children or significantly impinge on the educational process."

Reaction to the Court's decision came quickly. In Congress, antibusing forces tried three approaches to undermine the *Swann* decision.

First, many members began an effort supported by the White House to add antibusing amendments to pending education legislation. They were successful, at least in part.

Second, many members rallied behind the comprehensive legislation proposed by the President which attempted to prescribe what remedies the courts could order and to restrict greatly the use of busing.

Third, the continuing efforts to prohibit busing by constitutional amendment received greatly increased support. Each of these efforts will be discussed in some detail.

THE EDUCATION AMENDMENTS OF 1972

The Supreme Court announced the *Swann* decision April 20, 1971. The following day the White House issued a statement saying that the decision was the law of the land and must be followed by all school districts. The statement also indicated that HEW and the Justice Department would live up to their statutory responsibilities to enforce the law.

Soon, however, the administration reversed its position and joined those opposing the *Swann* decision. On July 30, 1971, HEW informed all school districts that no funds would be granted under the Emergency School Assistance Program to meet the cost of additional student transportation required by court order. That policy had a severe impact on several school districts facing large first-year costs to implement court orders. Furthermore, it was contrary to the Emergency School Assistance Program's aim of helping local school districts desegregate.

On August 3, 1971, the Administration requested the Congress to amend the Emergency School Aid to prohibit using funds to pay for busing. At that time the bill was pending in the House Education and Labor Committee, and had already passed the Senate without such a limitation. The Emergency School Aid Act eventually became Title VII of the omnibus Education Amendments of 1972, with its antibusing amendments grouped separately under Title VIII.

The majority of the House, whose members faced reelection in 1972, responded quickly to the antibusing pressure which mounted after the *Swann* decision. In fact, the adamancy of the House in insisting on strong antibusing provisions at times threatened enactment of the entire package of Education Amendments, which included several other programs.

The House debated the Education Amendments for almost a week before approving the bill by a vote of 332 to 38 on November 4, 1971. Several antibusing proposals were added to the bill on the floor in a session which lasted past midnight.

The most far-reaching of these was known as the Broomfield amendment. It would have postponed enforcing any Federal district court order requiring students to be transferred and transported "for the purposes of achieving a balance among students with respect to race, sex, religion, or socioeconomic status" until all legal appeals had been exhausted. Another, the Green amendment, prohibited Federal executive agencies from requiring or even urging local school districts to use State and local funds for busing.

A third, the Ashbrook amendment, prohibited the use of Federal funds for busing to overcome racial imbalance or to desegregate any school system.

The Education Amendments of 1972, including the antibusing provisions, then went to the Senate, where supporters of school desegregation were in a stronger position than their colleagues in the House. The Senate rejected the House antibusing proposals, as well as other potentially even more damaging amendments proposed in the Senate to limit the jurisdiction of Federal courts.

Instead, the Senate adopted the milder compromise provisions proposed by Majority Leader Mike Mansfield and Minority Leader Hugh Scott. The Scott-Mansfield amendment allow Federal funds to be used for transportation under desegregation plans or orders if local school authorities requested it and if the *Swann* standard concerning children's health and education was met. Several other less significant antibusing proposals were also adopted.

Shortly after the Senate completed its action March 1, 1972, the House appointed its conferees and took the unusual step of instructing them to insist on the antibusing provisions. On May 11, during the course of the long House-Senate conference, the House made the even more unusual move of repeating its instructions.

The joint conference committee met for more than two months, and its final 15-hour session lasted all night. The compromise adopted by the conference committee retained the House amendments, but contrary to House instructions, they were tempered with language from the Scott-Mansfield amendment.

The Broomfield amendment stayed, but a provision was added to make it inoperative after January 1, 1974. The conferees agreed to prohibit the use of Federal funds for busing, "except on the express written voluntary request of appropriate local school officials."

In addition, Federal funding was prohibited if the transportation violated the *Swann* standard of risk to health or education, or if the educational opportunities at a student's new school were substantially inferior to his old one.

The amendment prohibiting Federal officials from urging schools to use their own funds for busing was retained, "unless constitutionally required." The conference committee also retained the other less significant Senate amendments.

The Senate approved the conference report on May 24, 1972, by a vote of 63 to 15, and the House finally approved the report on June 8, 1972, by a vote of 218 to 180.

In his remarks at the signing ceremony June 23, 1972, the President denounced Congress for not passing stronger antibussing provisions and characterized those enacted as "inadequate, misleading, and entirely unsatisfactory."

The President's prediction concerning the effectiveness of the most damaging provision, the Broomfield amendment, was correct. In *Drummond v. Acree,* Supreme Court Justice Powell held that the language concerning racial balance did not affect desegregation orders because those orders are intended to eliminate the dual school system, not to establish racial balance.

THE STUDENT TRANSPORTATION MORATORIUM ACT

On March 16, 1972, shortly after the Senate-House conference committee began its work on the Education Amendments, President Nixon made a nationally televised address in which he strongly criticized "massive busing" and announced that he was sending legislation to the Congress designed to limit busing.

The following day he proposed the Student Transportation Moratorium Act of 1972 and the Equal Educational Opportunities Act of 1972.

The Student Transportation Moratorium Act was uncomplicated. It proposed that the Congress make a number of findings of fact stating, in essence, that the courts were ordering excessive busing.

To halt such busing and to give Congress time to formulate a permanent solution, the measure would have delayed any desegregation court order or HEW plan requiring student transportation until July 1, 1973, or until Congress enacted further anti-busing legislation. The Moratorium Act did not apply to voluntary busing plans.

In the House, the Student Transportation Moratorium Act was referred to the Judiciary Committee. Its Chairman, Representative Emanuel Celler of New York, was a staunch supporter of minority rights.

Under great pressure from antibusing Representatives, Celler had already reluctantly began hearings on proposed constitutional amendments to restrict student transportation. Following introduction of the Moratorium Act, these sessions were expanded to include the President's proposal.

After extensive hearings the Committee took no action. In the Senate, the Judiciary Committee did not even hold hearings on the proposed moratorium.

The Moratorium Act failed for several reasons. The bill was strongly attacked by civil rights groups, labor organizations, and legal scholars as an unconstitutional attempt to overturn the Supreme Court's directive that desegregation must take place at once.

Moreover, few Southerners were willing to push for the bill since it would halt only new busing orders. In most Southern jurisdictions, busing orders were already being implemented.

Finally, when it seemed that the House Committee on Education and Labor would take action on the Equal Educational Opportunities Act, busing opponents redirected their efforts toward enacting that bill.

THE EQUAL EDUCATIONAL OPPORTUNITIES ACT

The Equal Educational Opportunities Act was a much more complex proposal. Its text began with the somewhat contradictory declaration that it is the policy of the United States to give all children equal educational opportunity regardless of race, and that the neighborhood is an appropriate basis for public school assignments.

The act went on to declare that its purpose was "to provide Federal financial assistance to educationally deprived students and to specify appropriate remedies for the orderly removal of the vestiges of the dual school system."

Title I redirected funds already appropriated for compensatory education programs. No new monies were authorized or appropriated under the title. Its inclusion may have been primarily a tactical manuever to ensure that the bill was referred in the House to the Committee on Education and Labor rather than to Representative Celler's Judiciary Committee.

Title IV of the act contained the most controversial provisions—those which sought to limit busing. First, the title erected several conditions to be met before busing could be ordered. Second, it flatly prohibited any increase in the average daily time or distance or in the average daily number of elementary school students transported before desegregation.

Third, increases in the transportation of secondary students could not be ordered until all alternatives had been exhausted, and then only with the adoption of long-range plans for alternative desegregation methods. Increases would be stayed at the request of a school district until all appeals were exhausted.

Title IV contained three other significant provisions. One prohibited, in effect, court-ordered metropolitan school desegregation. Another authorized the reopening of all existing court orders to make them conform with provisions of the Act.

In addition, Title IV required that the transportation provisions of any court order lapse after 5 years of good-faith compliance and that other desegregation provisions of court orders lapse after 10 years.

President Nixon proposed the Equal Educational Opportunities Act at a time when active campaigning for the 1972 elections had already begun, and shortly after Gov. George Wallace had won an overwhelming victory in the Florida primary where busing was a major campaign issue. After the President announced his proposals to limit busing, Governor Wallace stated: "I knew the message from Florida would get to Washington pretty quick."

Representatives who opposed busing, particularly those from districts where busing plans were on the horizon, applied enormous pressure to ensure that they would have an opportunity to vote against it before Congress adjourned for the election.

The act's opponents on the House Education and Labor Committee attempted to delay action as long as possible. They reasoned that the bill was likely to be reported out of the Committee and would then certainly be adopted by the House. They hoped, however, that House passage would come so late in the session that the Senate would not have time to act on the measure before adjournment. Unless the Congress took the highly unusual step of holding a post-election session, the proposal would then die.

These opponents were able to delay the bill, but they were unable to soften it. The bill reported out of committee was even more of a threat to continued school desegregation than the original proposal.

The committee threw out the administration's plan prohibiting any increase in the average time, distance, or number of students transported and substituted a provision limiting busing to the closest or next closest appropriate school. This limitation was absolute for elementary school students. Further busing could be ordered for secondary school students only in the absence of any other adequate remedy.

The full House began considering the act on the afternoon of August 17. In the early morning hours of August 18, the House passed the measure with even more restrictive amendments by the overwhelming vote of 282 to 102.

The floor debate was heated and long, but antibusing Representatives clearly had their day. They amended the statement of national policy to read that the neighborhood is *the* appropriate basis for public school assignment rather than just *an* appropriate basis. They added sections declaring that once a court determined that a school district was satisfactorily desegregated, population shifts occurring thereafter shall not constitute cause for additional desegregation.

The House also removed any distinctions between transportation orders involving elementary and secondary students. As amended, the bill flatly prohibited the transportation of any student beyond the closest or next closest school.

Other changes were made in the committee bill. The section authorizing the reopening of past desegregation cases was reinstated. New sections were added prohibiting additional busing to overcome resegregation resulting from residential shifts, prohibiting busing if no person were excluded from any school because of race, and terminating any desegregation order if the school system had become unitary.

Although the bill passed by the House was much more regressive than the administration's original proposal, supporters of desegregation were not totally disheartened. The tactic of delay in the Committee on Education and Labor had been fairly successful; adjournment was only weeks away.

Opponents hoped that when the bill was sent to the Senate it would be referred under normal procedure to the Committee on Labor and Public Welfare chaired by Senator Harrison A. Williams (D-N.J.). He and the Chairman of the Subcommittee on Education, Senator Claiborne Pell (D-R.I.), could ensure that it would not be reported to the Senate floor for action.

The bill was not so easily defeated, however. When it was formally transmitted from the House to the Senate, Senator James B. Allen (D-Ala.), a staunch opponent of busing, used a little-known procedural rule which resulted in the bill being placed directly on the Senate calendar.

When the bill reached the floor, however, liberal supporters of school desegregation turned the tables on the opposition by launching a filibuster. It began October 6, 1972.

On October 12, after the third unsuccessful cloture attempt, the Senate voted to take up other pending business. The Equal Educational Opportunities Act had died as far as the 92nd Congress was concerned.

CONSTITUTIONAL AMENDMENTS TO PROHIBIT BUSING

The attempt to enact a constitutional amendment was the third and least successful effort to limit busing following the *Swann* decision. Numerous similar amendments were proposed in both the House and the Senate, but most supporters of the amendment strategy focused their efforts on a joint resolution introduced by Representative Norman F. Lent (R-N.Y.). The Lent amendment stated that:

Section 1. No public school student shall, because of his race, creed, or color, be assigned to or required to attend a particular school.

Section 2. Congress shall have the power to enforce this article by appropriate legislation.

The Lent amendment was referred, with others, to the House and Senate Judiciary Committees. In the Senate, Chairman James O. Eastland (D-Miss.) supported such amendments but the Chairman of the Subcommittee on Constitutional Amendments, Senator Birch Bayh (D-Ind.), did not. In the House, Chairman Celler of the Judiciary Committee was unalterably opposed.

For most of 92d Congress the proposals lay dormant. But as the November elections came closer, the pressure for action mounted in the House.

Antibusing Representatives tried to circumvent Chairman Celler. A discharge petition to force the Lent amendment out of committee eventually received over 150 signatures.

In response to the discharge effort and to other pressures, Chairman Celler began hearings on antibusing amendments in March of 1972, but no resolution proposing such an amendment was ever reported out of his Committee.

Congressioinal supporters of antibusing amendments also sought the President's support, and he announced that he did not oppose amending the Constitution to prohibit busing. However, in his March 16, 1972 television address the President indicated that a constitutional amendment was unacceptable "as an answer to the immediate problem" because that approach had "a fatal flaw—it takes too long."

THE BUSING CONTROVERSY AND THE 93D CONGRESS

A great number of proposals designed to prevent busing and otherwise limit desegregation have already been introduced in the 93d Congress. In general these bills follow the same approaches used before.

The proposed constitutional amendments are identical or similar to the Lent amendment. In the 92d Congress hearings were not held on such amendments until the second session. This year, Senator Eastland has already recalled antibusing amendments from the Subcommittee on Constitutional Amendments, and he conducted three days of hearings in April.

Other bills resembling the Student Transportation Moratorium Act and the Equal Educational Opportunities Act have already been introduced to limit busing, although the administration has not yet resubmitted its own proposals. Previously, its antibusing bills have all been designed to limit the legal remedies applied by the courts. Speculation this year is that the White House will sponsor another approach—attempts to limit the jurisdiction of the lower federal courts and funnel all cases through the state courts before they could be appealed to the Supreme Court. Such measures have already been introduced in the Senate.

Other bills have been proposed removing the language regarding "racial balance" in order to force the Federal courts to uphold the Broomfield amendment. Hearings on these measures will most likely be held after the administration makes its recommendations.

Busing opponents undoubtedly will not wait for committee action on the comprehensive proposals, however. They are likely to try to add busing restrictions to pending legislation as they did in the 92d Congress.

The prospects of defeating antibusing legislation again are discouraging. In the last years of the Johnson administration, congressional supporters of school desegregation received the full support of the administration in their successful efforts to defeat attempts to bring that process to an end. Now, however, particularly after the *Swann* decision, supporters of continued desegregation have been increasingly isolated, opposed by an apparent majority in Congress and by the Executive as well.

Only a filibuster in the last days of the 92d Congress brought about defeat of the misnamed Equal Educational Opportunities Act. While some of the pressure against busing has been mitigated by the Court's recent decision disallowing metropolitan school desegregation in Richmond, Va., those who still cherish the goal of an equal education for all children must regard the 93d Congress with real apprehension.

"Be It Enacted"

(By Patrick E. McCauley)

"I am utterly opposed to any form of mixing of the races, now and forever. I'll be glad to come back to the legislature at any time at my own expense to keep Negroes out of white schools."

So spoke Florida's Hamilton County Representative J. W. McAlpine on June 1, 1955, after the U.S. Supreme Court announced that "all provisions of Federal, state or local law requiring or permitting . . . discrimination must yield." Not all 1,790 legislators in the southern states which have acted to counter the Court's pronouncement have been as vehement. Representative Barefoot Sanders of Dallas County, Texas, said in response to the same 1955 decision: "I can't see that any legislation here is necessary. I doubt that we could legislate validly in any way except to implement the Supreme Court's decision."

However, events then in progress, which are continuing now, indicate that a majority of legislators—in Texas, Florida and nine other states—are determined, whether by conviction or compulsion, to oppose the Supreme Court's decisions.

In this determination there seemed fulfillment of the prophecy of the late Justice Robert Jackson that the school segregation decisions would provoke "a generation of litigation." During the three years since those far-reaching decisions were announced, the stream of legislation has been almost continuous. At least 136 new measures have been enacted and ratified, all of them aimed at delaying, controlling or preventing desegregation of the schools. Here, indeed, is the stuff litigation is made of.

But the issue has not proved to be as clear-cut as Justice Jackson foresaw it. For prior to 1954, there were in 17 states and the District of Columbia 79 specific provisions requiring that separate schools be established for white and Negro children and providing for their maintenance on an equal basis. In 15 states these provisions were embedded in the state constitutions. All save Louisiana had statutory provisions for implementing the constitutional requirements.

The scope of the *Brown* decisions as they applied to these pre-1954 segregation laws was a legal question. But the centering of southern opposition to the decisions in the state legislatures changed the nature of the problem. Some seemingly clear-cut issues of law grew obscure in the hazy terrain of fundamental authority and jurisdiction. The issue when viewed from this standpoint glares forth as a political one in the broadest sense. This is not only because it involves a central function of politics, which is making the laws, but also because it raises questions in dissimilar jurisdictions to which there is no answer but a political one. The courts on the one hand seek to abide by the guiding principles of the judicial hierarchy. On the other hand, the legislators seek to preserve their prerogatives and what they conceive to be basic states' rights.

The mode of operation in the two jurisdictions is different, too. The atmosphere of the legislative hall is more susceptible to oratory than is the judicial chamber. One consequence is that in the debate over basic issues between the two jurisdictions, the legislative is apt to speak out in more fiery terms. The Georgia legislature, for example, in 1957 resolved to impeach six U.S. Supreme Court justices whom it accused of being "guilty of attempting to subvert the Constitution of the United States and of high crimes and misdemeanors in office." And Mississippi in 1956 sought to provide fines, imprisonment and civil liability for Federal officers who sought to enforce desegregation in that state. The bill was adopted, but vetoed.

Such measures may be "tomfoolery . . . pernicious . . . [and] a conglomerate of political overtures." The Georgia impeachment resolution was so labeled by its opponents in the legislature. However, they demonstrate the pervasiveness of the attitude of determinded resistance, and the extent to which legislatures are apt to go.

Thus far, when it has come to education problems alone, action has been more deliberate. Still, Virginius Dabney, editor of the *Richmond Times-Dispatch*, was prompted to observe early in 1957: "I am deeply troubled by the thought that the growing intensity in some eight or nine southern states may disrupt, and even close down entirely, the systems of public education in several of these states."

Indeed, in no less than six states the legislative groundwork has been laid for just such an eventuality. For all its finality and rather wide acceptance this step is intended as only a last stand defense against desegregation.

During the three years since the Supreme Court decisions, the legislative pattern of resistance has moved along these lines:

1. Pupil placement laws in at least eight states have been enacted to control, if not to restrain, desegregation.
2. Abolition of public schools has been authorized in six states as a last resort.
3. Financial aid to students who wish to attend segregated, private, non-sectarian schools in the event public schools are either closed or mixed has been provided in four states.
4. Curtailment of court attacks on segregation laws has been the aim of new laws in four states.
5. Miscellaneous statutes have been enacted affecting compulsory attendance, teacher tenure, transportation, and use of funds for desegregated education. Primarily these acts have been designed to adjust general education laws to the new legislation bearing directly on the segregation issue.
6. Resolutions of interposition, nullification or protest against the Supreme Court decisions have been adopted in all of the resisting states.

In the mid-South, much of this legislation has been presented and enacted in the form of studied programs. North Carolina's 1956 General Assembly adopted the Pearsall Plan, covering points two and three above. The Virginia Assembly early in 1956 adopted a portion of the Gray Plan, providing tuition grants, and then followed later in the year with the "massive resistance" program sponsored by Governor Thomas B. Stanley which went far beyond the original Gray proposals. In 1957 the Arkansas and Tennessee legislatures accepted programs of four and five bills, respectively, offered by the governors of those states. And the Texas General Assembly of 1957 also considered a program of 11 bills, most of them recommended by a governor's committee, but introduced piecemeal by several east Texas sponsors. Two laws finally were adopted.

In the five Deep South states, the segregation bills introduced have been too numerous to be considered as compact programs, save for the Louisiana 1954 enactments which followed the original *Brown* decision by about a month.

The 1956 Mississippi legislature considered a score of bills bearing directly on school segregation. The Georgia legislature had at least 16 such measures before it, and South Carolina's Assembly considered no less than 23. The Alabama Assembly in 1955 special session saw 25 school segregation bills introduced, and in 1957 was expecting the number to reach 40 during a regular session stretching into the summer.

Not all the segregated states met the decisions with legislation. No legislative action was consummated in the complying states of Missouri, Maryland, Kentucky, West Virginia and Delaware. And only Oklahoma has new laws designed to further, rather than to delay or prevent, the desegregation process.

The legislative pattern for compliance in Oklahoma has followed this course:

1. The constitution has been amended to eliminate the dual budget which prior to 1955 was a major element in the segregated school system.
2. A new school code has been adopted which, while including some segregation features, generally has permitted execution of the state board of education policy favoring desegregation through application of fiscal pressures to segregated school districts.

There is an air of anomaly about the whole situation in the resisting states. In view of Federal court rulings to the contrary, how can state legislatures continue to adopt measures with any reasonable hope of maintaining segregation? Part of the explanation lies in the determination of the legislatures to pitch the problem on the fundamental political plane. Furthermore, many legislators believe that constituents expect their representatives to take some action to shield them against the Supreme Court decisions. This is particularly evident in such states at Tennessee, Texas and Florida. One east Texan told his senator during the 1957 session, "I don't care what the Supreme Court said, east Texans don't want Negroes and white folks segregatin' around together."

Governor LeRoy Collins of Florida mirrored an executive viewpoint while condemning the interposition of the 1957 legislature in his state. He said, "I am confident the legislators didn't want to do it. They were under the pressure of desperation on the part of many citizens back home, while those citizens who opposed it remained silent."

In greater part, perhaps, the explanation lies in the innate political conservation of the South. Virginius Dabney in *Below the Potomac* (D. Appleton-Century, 1942) stated this bluntly, noting that "the South has long been the most conservative section of the country with respect to social and labor legislation, and its individual states are all backward in this regard." In any case the question is not wholly one of education, or satisfying voters, or even of race. These matters, while considered of vast importance, have merely served to crystallize the long-fragmented resistance to Federal encroachment on states' rights.

The Black Belts

This movement takes on racial overtones because it is centered, in seven states, in the Black Belts, the areas once so named because of the deep, rich black soil, but now identified as those sections with heaviest Negro population. (For purposes here, the Black

Belt is limited to contiguous counties having Negro populations ranging over or near 50 percent.) These states are Alabama, Georgia, Louisiana, Mississippi, North Carolina, South Carolina and Virginia. In each of them the Black Belts exercise disproportionate influence in the legislatures. But in all of them they have representation out of proportion to their populations.

* * * * *

The determination of legislatures to preserve segregation and at the same time to strike a blow for states' rights has been inexhaustible. In searching for the best defensive ground, the school issue has first been localized, then centralized. At one moment, school districts are deemed the strongest point from which to repel the assaults, and at another moment the state capitol. If, in the process, some confusion arises, no great harm is done. For this serves to delay desegregation while the ultimate defensive barrier is being perfected.

LEGISLATIVE PATTERNS

In those states seeking to resist or control desegregation the main bulwark has been erected along the lines of one of the earliest conceived defenses. It consists in elaborating upon the inherent powers of local school boards to assign students to particular schools on the basis of educationally feasible criteria. As this idea, in its current stage of development, is tested in the courts, it assumes more the features of a controlling factor than a deterrent to integration.

Every state except Georgia has enacted a measure of this kind, and the Georgia legislators considered it in 1956. In nine states there is considerable uniformity as to methods, criteria and appeals procedures. The concept originated in the Mississippi Assembly's 1954 session prior to the *Brown* decision. Louisiana's Act 556 of the same year specified that local superintendents henceforth would designate the school each child should attend. In 1955, the North Carolina legislature adopted a similar plan in which the criteria for assignment, or placement, were spelled out in general terms and a procedure of administrative appeal was established. Later that year, the Alabama Assembly enlarged on the idea by listing the specific sociological and psychological factors upon which assignments would be made.

In 1956 and 1957, legislatures in Florida, Virginia, Tennessee and Texas expanded the list of factors (ultimately including more than 30). And the electorate in Arkansas in a 1956 referendum approved a similar provision.

Typical of the assignment laws, except that it is permissive rather than mandatory, is the Tennessee act. This law contains the most extensive list of assignment factors, many of which are included, in much the same language, in the placement acts of the other states. It provides:

"That in determining the particular public school to which pupils shall be assigned, the board of education may consider and base its decision on any one or more of the following factors: available room and teaching capacity in the various schools; the geographical location of the place of residence of the pupil as related to the various schools of the system; the availability of transportation facilities; the effect of the enrollment on the welfare and best interests of such pupil and all other pupils in said school as well as the effect on the efficiency of the operation of said school; the effect of the admission of new pupils upon established or proposed academic programs; the suitability of established curricula for particular pupils; the adequacy of the pupil's academic preparation for admission to a particular school and curriculum; the scholastic aptitude and relative intelligence or mental energy or ability of the pupil; the psychological qualifications of the pupil for the type of teaching and association involved; the effect of admission of the pupil upon the academic program of other students in a particular school or facility thereof; the effect of admission upon prevailing academic standards at a particular school; the psychological effect upon the pupil of attendance at a particular school; the effect of any disparity between the physical and mental ages of any pupil to be enrolled, especially when contrasted with the average physical and mental ages of the group with which the pupil may be placed; the sociological, psychological and like intangible social scientific factors as will prevent, as nearly as possible, a condition of socio-economic class consciousness among the pupils; the possibility or threat of friction or disorder among pupils or others; the possibility of breaches of the peace or ill will or economic retaliation within the community; the home environment of the pupil; the maintenance or severance of established social and psychological relationships with other pupils and with teachers; the choice and interests of the pupil; the sex, morals, conduct, health and personal standards of the pupil; the request or consent of parents or guardians and the reasons assigned therefor; together with any and all other factors which the board may consider pertinent."

In common with the other placement acts, the Tennessee statute sets out the procedure for appeals from local school boards' decisions. First, the local school board itself must be asked to review its decision. Then the question may be taken into the state courts. Some states' assignment acts provide for appeals to state boards of education, and Virginia's provides for appeals to the governor, in whose name the original assignment decisions are made by a special state placement board of three members. A feature unique to the Virginia act is the vesting of the assignment authority in the state board rather than the local boards where it traditionally resides.

Behind these statutes is reliance on two principles. The first is the inherent power of school boards to assign pupils to the schools under their jurisdictions. Next comes the legal principle of requiring exhaustion of "administrative remedies" before seeking relief in the courts. At the base of it all is the supposition that racial differences are sufficient to result in substantial segregation if pupils are classified along strictly educational, aptitudinal, sociological and psychological lines, without regard to race. None of the placement laws mentions race, but the Texas statute specifies that neither national origin nor language shall be considered in assigning students, an obvious reference to another minority group prevalent in that state, the Latin-Americans.

Pupil assignment in 1957 appeared as the focal point of legislative resistance to the school decisions for one paramount reason. Of the legislation thus far tested in court, only placement has been given tentative approval. Even this was not universal. The Louisiana placement act was declared "invalid" on its face in the first court test of post-1954 legislation for two reasons: it left too much to the discretion of the assigning authority, which in this case was the district superintendent; second, the district court said (in a decision upheld by the U.S. Supreme Court) the Louisiana act was adopted to implement a companion act which required separate schools for white and Negro children. In a similar case, the Virginia placement act was called "invalid on its face" because the "efficient" system of education it was designed to provide was defined in a companion act as "separate." In both the Louisiana and the Virginia cases, the courts went behind the placement acts to determine the intent for which they were adopted.

The pupil assignment concept, however, was approved in effect in a case involving the North Carolina statute which a circuit court upheld in part. The U.S. Supreme Court declined to review the decision. The lower court approved the inherent powers of local school boards to assign students on the basis of educationally feasible criteria and the necessity of exhausing administrative remedies before seeking relief in Federal courts. The court meanwhile frowned on a provision that appeals procedures be carried through the state courts.

The shortcoming of the placement concept, from the determined segregationist point of view, is that, fairly administered, it can only control and not prevent desegregation. This was recognized in many of the legislatures which have chosen the placement course. William T. Joyner, vice chairman of the North Carolina Advisory Committee on Schools which designed and recommended for adoption the North Carolina assignment bill, has said:

"I think that some mixing in the schools is inevitable and must occur. I think that the result of free choice and honest assignment according to the best interest of the child will be separation so substantially complete as to be tolerable to our people. . . . I do not hesitate to advance my personal opinion and it is that the admission of less than 1 per cent—for example, one-tenth of 1 per cent—of Negro children to the schools heretofore attended only by white children is a small price to pay for the ability to keep the mixing within bounds of reasonable control."

This is not likely to suffice in some of the strongly resisting states. In Virginia, the first state to implement its assignment plan to any significant degree, difficulties have arisen. In the spring of 1957 when the first 1,500 applicants, mostly recent newcomers to the state, were assigned to schools there was a question what the result was going to be. While the application forms used in administering the placement act show no race, it was suspected that the birth certificates required along with the applications would do so. However, since some out-of-state birth certificates did not indicate race, the Pupil Placement Board was frankly in a quandary. Should placement result in some mixing, the schools so affected would be cut off from state funds and closed by the governor under provision of other legislation.

This, indeed, was the intent of the Virginia legislative program which provided that if the placement failed to prevent desegregation, the last resort, school-closing measures, would become operative.

CLOSING THE SCHOOLS

At this point the more drastic legislation takes on its greatest significance. In six states, at least, if efforts to deter litigation do not succeed, the last-stand defense against desegregation is closing the public schools. Georgians in 1954 ratified a constitutional amendment to end state support for schools receiving both white and Negro pupils. A 1952 statute provided for education expense grants for children who, in this event, would attend private schools. The South Carolina constitution was amended in 1952, repealing the provision that required "a liberal system of free public schools for all children between the ages of six and twenty-one." A Mississippi amendment was ratified in 1954 giving both the legislature and the local electorates authority to close schools. An amendment to the Alabama constitution was approved in 1956 replacing the requirement that separate free public schools be maintained with this statement of policy: ". . . nothing in this Constitution shall be construed as creating or recognizing any right to education or training at public expense." A North Carolina enactment of 1956 permits local electorates to decide whether public education shall be continued in the event of desegregation. And a Virginia statute of 1956 provides for automatic closing of desegregated schools until they can be reopened on a segregated basis.

Most other legislation was designed largely to adjust general education laws to such eventualities. Alabama, Georgia, North Carolina and Virginia have provided for state grants for private education. Compulsory attendance laws have been modified in Alabama, Arkansas, Louisiana, Georgia and Virginia, and repealed outright in Mississippi and South Carolina. Sale or lease of unneeded public education facilities to private, nonsectarian corporations has been approved in Alabama, Georgia, Mississippi and South Carolina. The use of public funds for desegregated schools, which would be closed anyhow, has been prohibited in Georgia, Louisiana, South Carolina and Virginia. South Carolina appropriations bills for schools and parks since 1955 have specified the funds could be used only for segregated facilities. Teacher tenure has been abolished in North Carolina and South Carolina and modified in Alabama (by local act), Florida, Louisiana, Mississippi and Virginia.

None of this legislation has been tested in the courts because none of it has been implemented—yet. That it will be used, in the last resort, there is said to be no doubt. And here will develop the showdown between Federal judicial authority and state legislative authority. The issues will be whether Federal courts can order state legislatures to appropriate funds for education and whether maintenance of education is, in fact, a function states must perform.

But before these issues can be joined, another question must be resolved. It is whether states can curtail activities within their borders designed to promote litigation. This has been the end sought directly in Mississippi, South Carolina, Virginia and Tennessee by laws against barratry, champerty, and running and capping, which seek to curb solicitation of law suits and filing of suits without consent of the parties plaintiff. Like other, more general laws in Alabama, Arkansas and Louisiana, they have been aimed primarily at the National Association for the Advancement of Colored People. The Virginia statutes in this category were under attack by the NAACP in the spring and summer of 1957.

In addition to these rather uniform trends in legislation, several of the states have launched out in other directions. Louisiana, for example, is the only state thus far to adopt a program for resegregating its colleges. In widely varying ways, the legislatures of Florida, South Carolina, Mississippi and Georgia have given their governors broad powers to cope with disorders arising from racial questions. The Louisiana legislature in 1956 specified that school suits henceforth must be directed against the state rather than the local board and then withdrew state consent to be sued. Tennessee legislatures sought to dull the edge of racial desegregation by authorizing segregation by sex.

Ends and means

In many of the legislatures which adopted the new racial laws, all was not harmonious. The disagreements, however, were more often over means than ends. In Virginia, administration forces of Governor Thomas Stanley shoved through enactments which went beyond measures proposed by the legislative study committee. In the debate whether the pupil assignment plan, originally opposed by the governor, should provide for state or local administration, these views were heatedly advanced:

Senator Stuart B. Carter of Botetourt County, the only legislator who publicly admitted a "conscientious belief in integration," argued that abandoning segregation represents a "great change" but is inevitable. Therefore, he said, "the best method of making the change is to have gradual orderly integration where necessary controlled and regulated by the people in the school district."

Countered Senator A. S. Harrison, Jr., of Lawrenceville: "And who plays God to decide which superior colored child [should be integrated]?"

In Florida, when the legislature in 1956 sought to go beyond what had been proposed by the administration, Governor Collins in an unprecedented move dissolved the special session. And in Texas, two senators from districts with heavy Latin-American constituencies spelled by four others carried on a 36-hour filibuster against the pupil assignment bill. They indicated they would employ the same tactic against every one of the 11 segregation bills introduced in the 1957 session.

They work together

The essential uniformity of all states' major defenses against school desegregation suggests close liaison among them. For the most part, this has been another legislative responsibility and was handled largely through the study committees authorized to compile and recommend pro-segregation laws. Subsequently the committee procedure has been expanded. In Florida, South Carolina and Virginia, specific legislation has empowered committees to investigate NAACP activities. In Arkansas and Mississippi, State Sovereignty Commissions have been directed to "protect the sovereignty of the state . . . from encroachments thereon by the Federal government." In North Carolina, South Carolina, Louisiana and Alabama continuing studies of segregation matters have kept legislative bodies busy.

In Texas, Tennessee, Arkansas, North Carolina and Florida, committees appointed by the governors designed the legislative programs. Similarities in form and verbiage, however, indicate that these groups, too, maintained liaison with segregation study groups in other states. And in Alabama, a substantial part of the contact was maintained through informal channels of the White Citizens Councils with which several influential legislators are associated.

Backing the decision

Thus, most legislation adopted as a consequence of the Supreme Court decisions has been almost wholly designed to prevent, delay or control desegregation. As we have seen, only in Oklahoma have measures been enacted to enhance the desegregation process. In West Virginia, the 1957 General Assembly adopted legislation recognizing desegregation as a *fait accompli*.

The Oklahoma integration legislation came in 1955. It was in the form, first, of a constitutional amendment combining the separate white and Negro school budgets, and, second, a new school code. The amendment was considered as a segregation issue only in that schoolmen had viewed desegregation in Oklahoma largely as a budgetary problem. Under the amendment, a four-mil levy restricted for use in Negro schools was replaced by a general levy of the same amount for all schools.

In debating the proposed amendment, the argument was raised that it would "open the floodgates to desegregation." Neither then nor later in debate on revision of the school code did the segregation issue prove a significant factor.

Among the statutory changes embodied in the new code were sections providing for maintenance of schools on military reservations in conformity with "all Federal laws and requirements." But at least one segregation section of the 1951 school code was carried over into the 1955 and 1957 laws largely intact. Others were revised to delete references to the dual budget but kept requirements for separate schools. And a new section was added in 1955 giving local school boards specific powers "to designate the schools to be attended by children of the district."

However, the revisions were sufficient to enable the state school board to implement its policy favoring desegregation by applying fiscal pressure to districts with dual school systems.

In other desegregating states, little legislative action has been taken. Missouri legislators in 1957 repealed school segregation statutes which previously had been declared unenforceable by the state attorney general, though similar repeal efforts had failed in 1955. Maryland's Assembly in 1957 refused, as it has perennially, to ratify the Fourteenth Amendment under which the school segregation cases were decided. One measure with segregationist backing got through the 1957 Assembly, providing for popular election of the Talbot County school board. It was vetoed.

And Delaware's legislature, with some inconsistency, has retained one feature of its segregated schools in budgetary matters. In its 1955 school construction bill it continued to designate Negro schools with the initial "C". However, the designation now is defined as indicating a school supported entirely by state funds. Negro schools in Delaware traditionally have been wholly state-supported.

Legislatures v. courts

In the resisting states and in at least three complying states the primary purpose of legislation has been to minimize the results of the school segregation decisions. The issue in its broadest sense has become largely a political one, pitting Federal judicial authority against state legislative prerogative. The courts have asserted themselves through their formal decrees and opinions, the legislatures through their enactments and resolutions.

Since early in 1956, six state legislatures—in Alabama, Florida, Georgia, Louisiana, Mississippi and Virginia—have sought to dramatize the issue by resolutions of interposition or nullification. Four states—North Carolina, South Carolina, Tennessee and Texas—have employed resolutions of protest against Federal encroachment upon states' rights. Arkansas voters approved both interposition and nullification proposals. Quite uniformly the resolutions have cited conflicts of state and Federal authority and with substantial consistency have called for constitutional amendment to resolve the issue. Four of the resolutions have declared the school segregation decisions "null and void."

Cue to Congress

The same general notion expressed in the state resolutions of interpretation or protest was carried through on the national level by the "Declaration of Constitutional Principles," signed by 77 congressmen and 19 senators. Generally known as the Southern Manifesto, this document labeled the school segregation decisions a "clear abuse of judicial power [which] climaxes a trend in the Federal judiciary undertaking to legislate in derogation of the authority of Congress and to encroach upon the reserved rights of the states and the people."

Pointing up the issue, the Manifesto said:

"Though there has been no constitutional amendment or act of Congress changing this established legal principle [the separate but equal concept] almost a century old, the Supreme Court of the United States, with no legal basis for such action, undertook to exercise their naked judicial power and substituted their personal political and social ideas for the established law of the land.

"This unwarranted exercise of power by the Court, contrary to the Constitution, is creating chaos and confusion in the states principally affected . . .

"With the gravest concern for the explosive and dangerous conditions created by this decision and inflamed by outside meddlers:

"We reaffirm our reliance on the Constitution as the fundamental law of the land.

"We decry the Supreme Court's encroachments on the rights reserved to the states and to the people, contrary to the established law, and to the Constitution.

"We commend the motives of those states which have declared the intention to resist forced integration by any lawful means."

Southern congressmen subsequently have introduced a large number of bills for the purpose of implementing this statement of principle. Included have been bills (1) to reduce the appellate jurisdiction of the Supreme Court; (2) to curb the Court's authority to reverse previous decisions; (3) to specify that sole jurisdiction over school systems shall be exercised by the states.

While the chance these measures have of adoption in the Congress may be subject to debate, they do serve to underscore the determination of southern lawmakers to write the statute books of one-fourth of the American of their states and to resist unequivocally what they conceive to be judicial encroachments upon their prerogatives.

The crowded books

So, for the most part, have white southerners spoken, or seemed to speak, through their state legislators. (There are no Negroes in legislatures in any mid-South or Deep South state and less than a handful in the border states.) The absence of legislation, or a bare minimum of enabling legislation, distinguish the border state approach—and hence speak for a broader degree of acceptance of the Supreme Court decisions. The spate of laws elsewhere, with large majorities and even unanimous votes recorded in their favor, must be taken to speak for the temper of the rest of the region. There, the incessant demand from segregationists outside legislative halls as within them has been: "*Do* something!"

As this is an era of litigation, so it is a time of legislation. More state laws dealing with school segregation have been enacted in the last three years than in all the modern history of the southern region. Perhaps no other issue has brought for such long periods legislative preoccupation with the authority and rights and sensibilities of states as opposed to authority from Washington: after all, only six months passed before secessionists got the upper hand in every legislature of the old South.

What will be the sum total of this extraordinary and unprecedented activity of 1954–57 in its effect on the overriding domestic issue of the day is yet to be seen. At any rate, the record is there—and is growing—on the statutes affecting racial issues in the schools states.

CLIMATE AND AGRICULTURE

Mr. HUMPHREY. Mr. President, recently the Subcommittee on Environment and Atmosphere of the House Committee on Science and Technology held a very informative series of hearings on the need for a national climate program. The purpose of these hearings was to review the state of the art of climate-related research and technology, increase public and congressional awareness of the impact climate changes may have on us, and discuss the proposed legislation calling for the development of a national climate program. The goals of such a program would be the: Development of a climate impact warning system to provide both timely warnings and assessments of the risks of future climate impacts;

Improvement of current monthly and seasonal temperature and precipitation predictions, particularly with respect to their impact on food production, availability of water resources, and energy consumption;

Development of mathematical-computer systems for the modeling, simulation, and prediction of climate and man's effects on climate; and

Development of a global climate monitoring system, including the monitoring of oceanic thermal characteristics, the Earth's energy balance, and the upper atmosphere for trace constituents, to support early warning and prediction efforts.

I would like to call the attention of my colleagues to the testimony of Stephen H. Schneider, deputy head of the climate project at the National Center for Atmospheric Research.

In his testimony, Dr. Schneider points out that while the possibility of a world food/climate crisis has elicited strong debate, it is urgent that we put into action the most effective effort possible to determine what is certain about climate change and the impacts of such change. Dr. Schneider warns:

> What is unprecedented, I believe, is the dangerous vulnerability our global food producing systems face from even seemingly small variations in climate. This increasing vulnerability is not so much a consequence of the expectation of a continuously deteriorating climate, but rather a manifestation of our inability as a global society to build into our means of survival sufficient flexibility and reserve capacity to hedge against even the highly precedented variations in climate that have been documented in history.

I have long urged the creation of a grain reserve system as a part of a comprehensive U.S. food policy. Dr. Schneider lucidly discusses yet another reason why we should adopt such a policy.

During the past few years, the vagaries of weather have made a mockery of our global projections of grain supplies. Unfavorable weather for agricultural production has led to higher food prices and cut our reserves to historically low levels.

Many people have suggested that new technologies in agricultural production reduce the need for our concern about the impact of climate changes. Dr. Schneider reaches a conclusion similar to that of The Institute of Ecology in its study entitled "Food Producing Ecosystems in Changed Climates." A recent article in the Des Moines Register summed up the difference between their preliminary findings and the Department of Agriculture's view on technology and climate change:

> The USDA contends technology and use of fertilizer, pesticides, and hybrid grains has, in effect, insulated the U.S. from a major crop failure due to weather, and reserves aren't needed as a cushion. The Institute of Ecology Scientists say their studies indicate technology has done little or nothing to affect the percentage of grain lost per acre due to adverse weather.

I believe it is time that we acknowledge our sparse understanding of climate and the fragile relationship between climate and not only our food supply but also other precious natural resources. Dr. Schneider concludes his testimony by stressing:

> While it cannot be stated with certainty that increased effort and resources in the field of climatic studies will provide immediate payoffs in terms of forecast capability, it must be said that the costs of our ignorance of the knowledge and workings of the climatic system may already be unacceptably high and that while assurance of success cannot be guaranteed, the value of obtaining better understanding of the climatic system makes this scientist comfortable with the feeling that support for climatic research is a worthwhile hedge against potential climatic crises.

Mr. President, I ask unanimous consent that this testimony be printed in the Record.

There being no objection, the testimony was ordered to be printed in the Record, as follows:

CLIMATIC CHANGE AND THE WORLD PREDICAMENT

(Statement of Stephen H. Schneider)

(Figures cited in text not printed in the Record.)

I. Climate Change: No Longer a Subject for Small Talk.

Considerable concern and attention has recently been focussed on the prospect of a world food/climate crisis. This concern was heightened by the disturbing weather events of 1972, which resulted in a halving of global food reserves and more than a doubling of some food prices. Fluctuations in world food production are the most obvious manifestations of climatic variability, yet despite the clear message from the events of 1972 the potential seriousness of a world food/climate crisis is still a controversial issue. For example, Reid Bryson of the University of Wisconsin has stated that there is climatic change in process, and if the trends continue perhaps as many as half a billion people could starve in the next few decades. On the other hand, U.S. Secretary of Agriculture Earl Butz has intimated that such statements are at best without scientific basis and at worst apocalyptic nonsense. As we explore in this testimony some of the issues which led to this controversy, one element becomes abundantly clear: that issues of climatic change are both fraught with tremendous uncertainties and it is crucial that those uncertainties be narrowed as quickly as possible if we are to avoid potential disasters. It is my hope that these hearings can contribute to the latter goal, and I appreciate the opportunity to offer my views.

In addition to the obvious connection between climatic changes and food production, climate problems are deeply implicated in other aspects of the "human predicament" (i.e., problems of world population, resources, environment, and the condition of human kind). It is important to study climate-related aspects of these problems for a variety of reasons:

(1) Climate change can be both a global and potentially irreversible consequence of human indifference to natural systems.

(2) The climatic system does not conform to the prevailing concept of "national sovereignty"; thus, the possibilities of climatic shifts in one area being connected to changes elsewhere provide an opportunity for international cooperation; these possible relationships could even serve as a symbol of global interdependence to encourage greater world unity and movement away from the often selfish and short-sighted goals of nation-states. On the other hand, the inter-

connections of the climatic system could also provide a cause for international conflict.

(3) Climatic processes are not well understood, yet potential climatic changes could be serious; this case exemplifies dilemmas that will arise with increasing frequency over critical political issues that contain an important, but uncertain, scientific component. That is, the climate may well be understood "enough" to begin immediate and perhaps extensive actions to prepare for possible but uncertain dangers that present knowledge suggests may be ahead.

(4) Considering their immediate importance, problems of climatic change have been given relatively little detailed attention in most of the debates on the world predicament.

Let me emphasize at the outset, however, that I am not forecasting the "end of the world." I do not think it likely that the next ice age will be upon us before the end of the Bicentennial, nor do I anticipate, on the other hand that the polar ice caps will soon melt and cause flooding of our coastal cities, permanently curing the problems of urban decay. While these climatic doomsday extremes cannot be completely ruled out as possibilities even as early as the next century, my greatest concern for the next few decades is for seemingly much less dramatic fluctuations in the climate—variations that are not unprecedented in the climatic history of the past few centuries.

What is unprecedented, I believe, is the dangerous vulnerability our global food producing systems face from even seemingly small variations in climate. This increasing vulnerability is not so much a consequence of the expectation of a continuously deteriorating climate, but rather a manifestation of our inability as a global society to build into our means of survival sufficient flexibility and reserve capacity to hedge against even the highly precedented variations in climate that have been documented in history. Of course, the wisdom of building a safety factor into our food producing systems is not a new concept. In the Biblical Book of Genesis, Joseph issued a long range climate forecast with a skill far beyond the best efforts of modern science: he warned that seven fat years would be followed by seven lean years and counseled that Pharaoh save up grain in the good years to ensure Egypt's survival in the inevitable lean ones. The Pharaoh, unfettered by the ideological constraints of the "free market philosophy" or the political imperatives of inefficient agricultural collectives, took Joseph's advice and implemented the first recorded example of the principle of prudence I call "The Genesis Strategy": to build sufficient diversity and margins of safety into the means of our survival to insure our ability to sustain some adversity—be it bad weather, an attack of pests, or an embargo from an oil cartel—without catastropic consequences. Food is the most obvious material with which to practice the Genesis Strategy, so I will take a brief look at some of the reasons I believe the world may be facing a serious food/climate crisis in the next few decades.

II. *The Potential for a World Food/Climate Crisis: The Short-Term Phase.*

Considerable concern and attention has recently been focused on the prospect of a world food/climate crisis. This concern was heightened by the disturbing weather events of 1972, which, as I said earlier, resulted in a halving of global food reserves and more than a doubling of some food prices. Let us examine this world situation briefly, for the demand for U.S. grains will depend not only on the production in the United States but also on the stability of the food supply *outside* of the U.S. (Much of what follows is excerpted verbatim from the book *The Genesis Strategy: Climate and Global Survival*, by S. H. Schneider with L. E. Mesirow, Plenum Press, New York, 1976, 419 pp, from which additional details and references to other work can be obtained.)

The year 1972 was a bad one for crops in many places outside of North America, and some weather experts think it could well presage a return to times of higher climatic variability and the attendant likelihood of severe food disasters. In that year a coincidence of climatic disruptions occurred in many parts of the world, among them damaging floods in the American Midwest and elsewhere; the warming of the coastal waters of Peru, which results in a near collapse of the economically and nutritionally important anchovy catch; the continuation of drought in the Sahel, with the consequent migration and starvation of some of its population; a few-weeks delay in the onset of the life-giving monsoon rains in much of India; and a drought in the Soviet Union so serious that it led directly to the infamous Soviet wheat purchases from the United States and Canada.

In view of these adverse conditions, it is not surprising that in 1972 world food production was reduced by roughly 1 percent from the previous year, the first such reduction in nearly a decade, a period during which total food production increased by nearly 3 percent per year. The variable weather of 1972 reduced grain reserves from enough to feed the world for sixty-nine days to about only a month's supply by mid-1974, according to food expert Lester Brown. The price of wheat also rose dramatically because of its short supply, making additional purchases more difficult than ever for the poorer countries of the hunger belt, a term referring to the belt of highly populated relatively poor nations spanning the globe in mostly tropical and subtropical zones.

There is considerable debate among climate researchers as to whether the unusual events of 1972 were coupled with the occurrence of a "cooling trend," which has been documented mostly in the middle to high latitudes of the northern hemisphere. However, because of the slowness with which climatologists are able to assemble and analyze the world-wide collections of climatological data, climatologists often find themselves in the ironic position of knowing very little, statistically speaking, of the five-year period they have just lived through. Furthermore, many areas of the northern hemisphere are uncovered by thermometers and much of the southern hemisphere remains unobserved. *Therefore it is not yet possible to tell whether, in fact, the globe has been experiencing a cooling trend in recent years,* although it is certain that much of the middle and higher latitudes of the northern hemisphere was cooling during the 1960s and early 1970s. Thus, we cannot be certain whether the celebrated cooling trend has continued beyond 1972 or 1973, even in the northern hemisphere. On the other hand, the kinds of temperature fluctuations that have been observed in the past few hundred years are not unusual in the perspective of climatic history and should not be considered as guaranteed omens of a continuously deteriorating climate. The main point here is that one should not glibly assume that the climatic conditions of the very recent past will be maintained indefinitely, rather the climatic events of the past several centuries are quite likely to recur. (In fact, in the absence of an adequate theory of climate with which to predict the future such an "actuarial" approach to climatic prediction is the only viable option.) This uncertainty over the likelihood for increased climatic variability is particularly damaging today, with world food stocks dangerously depleted and population growth maintaining its inexorable onward march.

Let us take a closer look at the influence of weather variability on cereal grain yields in the North American granary.

Consistently high crop yields depend on many factors: water, good seed stock, maintenance of genetic variability of crops, fertilizer, high productivity of the soils, pesticides, the pest-control services of natural ecosystems, good management skills of the farmer, capital to acquire and maintain technology, and stable climatic conditions. The major technological input is chemical fertilizers, especially on fields planted with high-yielding crop strains. Figure 1 shows crop yields up to 1973 for the case of corn in Missouri. The dramatic increase in yield per acre since about 1950 is coincidental with the dramatic increase in fertilizer, a coincidence that is not accidental.

The actual annual yields of corn do, however, vary considerably from one year to the next. The scatter of individual annual yields away from the long-term trend line (the solid curve on Fig. 1) indicates that before the mid-1950s the deviation of yields from the long-term trend was considerably larger than for the two decades after the mid-1950s. That is, after about 1956 the actual values of yields per acre each particular year (represented by the dots or squares on Fig. 1) are closer to the trend line (the solid line drawn through the middle of the dots). Thus, we can see that after the mid-1950s not only did yield per acre go up dramatically, but the *percentage* variability of yield per acre went down (represented by the diminishing scatter of the dots away from the trend line).

It is tempting to conclude that improved agricultural technology has also accounted for the reduced percentage variability in corn yields since 1956. In fact, there are people who have pointed to the reduced yield variability since the 1950s as an implicit justification for the policy of reducing our government's food reserves holdings. These people argue that since technology has reduced the vulnerability of crop yields to weather variations, large food reserves are now less necessary than in the past. However, this argument fails, as we shall see, to consider that weather played a significant role in the almost 20-year period of high crop yields and low yield variability.

Since the U.S. is the principal grain exporting nation in the world, and since U.S. agricultural exports provide not only an important economic benefit to the U.S., but an essential backstop against famine elsewhere, it is important to inquire as to what might be the outlook for drought in the U.S. plains.

III. Droughts in the High Plains: A Precedented Event.

With some exceptions, such as the recent half dozen years of drought in the Sahelian zone of Central Africa, most of the years between 1956 and 1972 were blessed with remarkably favorable climatic conditions for agricultural production, particularly in North America. For example, in the five midwestern wheat-belt states in the United States, data compiled by Donald Gilman of the U.S. National Weather Service, Extended Forecast Branch, show that the period from 1955 to 1973 was marked by summer rainfall generally greater than the long-term average and summer temperatures slightly lower than this average, precisely the optimum conditions for high crop yields in this important agricultural region.

The darkened parts of the graph in Fig. 2 indicate above- or below-normal values of temperature or rainfall, depending on their location above the midline. The most obvious feature is the nearly unbroken ten-year streak during the 1930s, which was characterized by above-normal temperatures and below-normal rainfall. That period marked the great American drought that eventually caused that previously fertile area to be called the dust bowl. Literature and history are filled with accounts of the devastating effects of the drought, how blowing sand and endless stretches of dry, hot, dusty summer days ruined crops, wiped out family farms, and spawned massive migrations—from Oklahoma to California, for example. The reinforcing coincidence of the dust bowl and the Great Depression of the 1930s created as menacing a threat to the stability of the American democracy as any since the American Civil War, and although the unfavorable climate did not cause the depression, it doubtedly aggravated an already grim situation.

Other droughts (i.e., periods characterized by below-normal summer rainfall and above-normal summer temperature) have occurred in the 1910–15 period and the early 1950s (Fig. 2). In fact, longer records indicate evidence for a periodicity of about twenty to twenty-two years for high plains droughts over the past hundred years or so. Dr. Walter Orr Roberts, who has long studied these seemingly cyclical droughts, suggests that they may be connected to sunspot cycles observed on the face of the sun. Unfortunately, a physical theory explaining such a hypothesis is still not available. The main point, one he often repeats, is that high plains droughts seem to recur at regular intervals and thus, regardless of their cause, we should be prepared for them and their effect on crop yields, soil erosion, and food scarcity. (He also points out the next such drought is "due" in the mid-to-late 1970s!)

Now, we can compare the remarkably high yield and low yield variability period of the late 1950s and 1960s shown on Figure 1 with the weather in the high plains shown in Figure 2. Returning again to Gilman's findings (Fig. 2), one more important feature must be recognized. That is, directly following the 1950s drought the next fifteen years or so in the wheat belt saw nearly uniform summer climatic conditions: slightly higher than normal rainfall and below-normal temperatures—conditions that are ideal for high crop yields in the plains. Thus, we can see that the period of massive technological improvements in agriculture (when crop yields rose steadily and at the same time the variability in crop yields per acre from harvest to harvest decreased) was also one where the weather was abnormal, that is, abnormally good for growing. Until recently, nearly everyone has overlooked the fact that the weather during this period was also unusually favorable.

A study by Dean Louis M. Thompson of Iowa State University and Dr. James McQuigg of the National Oceanic and Atmospheric Administration at Columbia, Missouri has shown just how critical the fifteen nearly consecutive good growing years were to the maintenance of high yields and (particularly) to the low variability of yields. The study suggests that the chances of enjoying such a favorable growing climate for another fifteen years are quite low. Food reserves may not have seemed necessary in the recent past because some believed that technology had significantly reduced the chances of weather-related crop failures, thus rendering the need for reserves, at least by implication, somewhat superfluous. I believe this to be a dangerous assumption.

IV. The Interim Phase: Increasing Agriculture and Decreasing Population Growth Rates.

Although I have argued that variations in the climate occurring at times of depleted food reserves could produce serious fluctuations in food production which, in turn, could lead to price rises in well-fed countries and famines elsewhere, the fundamental future threat to global stability is not so much climatic, but rather the classical difficulty: food production might increase at a slower rate than the rate of population growth.

It is often argued that population growth in developing countries will become self-limiting as their standard of living increases—the so-called "demographic transition." Thus, rather than putting the brakes on development, advocates of this theory call for more development, which is often translated into calls for increased food production, industrialization and energy consumption. Let us take a look at the role of energy in food production through the case of U.S. agriculture.

In an article in *Science*, John and Carol Steinhart of the University of Wisconsin traced the energy component in the U.S. food system. Their study demonstrated how farm output in the U.S. has risen with increased energy use and how, in recent times, there has been a leveling-off of that food output despite still increasing energy inputs. This relationship is shown in Figure 3. Thirty to forty years ago only a few calories of energy input to the U.S. food system could buy a calorie of food output, whereas in 1975 it took more than 10 calories of energy input to get the same result, as seen on Figure 4. This suggests that in energy terms, at least, the U.S. agricultural system is no longer efficient but rather approaching a law of diminishing returns.

The U.S. agricultural system is, of course, highly productive, but it is not clear that U.S. farmers will be able to increase their productivity in the future at anywhere near the same rate that productivity increased during the 1950s and 1960s, without technological breakthroughs that cannot now be guaranteed.

Fortunately, most nations in the world, particularly those poorer nations in the hunger belt, do not have energy inefficient agricultural systems, but rather very unproductive ones. Therefore, there is much room for optimism that global world food productivity could be raised significantly since many nations have energy inputs to their agricultural systems well below the levels of energy input to the U.S. and other highly technological, energy-intensive agricultural systems. In fact, much of the optimism expressed by those who claim the world can support many more than its present population of four billion people, comes from the fact that global energy applications to agriculture in poorer countries are still well below that of the technological countries, and thus the hope exists that other nations could increase their productivity along the lines of the U.S. system or other developed agricultural systems.

Unfortunately, the application of technology, particularly energy, to improve the human conditions is also accompanied by a disagreeable by-product we call pollution. This, of course, leads to the now classical conflict between "environmental" interests, who wish to abate pollution, and economic and development interests, who are willing to accept pollution as an unfortunate but unavoidable by-product of development.

V. Theory of Climatic Change.

Before describing some of the theories of climate change, let me first review how climate works. Weather in our latitudes is directly related to conditions elsewhere on the earth. Sunlight hits the earth with more of it intercepted in the tropics than in the poles. Some of that sunlight is reflected from air molecules, the earth's surface, dust, and clouds, and thus cannot be absorbed to warm the planet. At the same time, the remaining 70 percent of the energy which is absorbed causes the temperature of the planet to increase. Like any object, the earth gives off infrared radiation proportional to its temperature. Warm air rises in the equatorial regions, which are heated in excess of their outgoing infrared radiation, and travels toward either pole. As the earth rotates, the equator is spinning around faster than the poles; consequently, when the warm air moves outward it takes with it this momentum, this speed of equator, forming westerly winds in our latitudes.

The amount of air that moves toward the poles from the heated equator depends on the differences in temperature between the equator and the poles. If the poles are cold relative to the tropics, then the vigor of the circulation system is stronger; as a result in winter we experience more storm systems and the jetstream is very fast. As many of us are aware, in the winter, the flight from the East to the West Coast takes much longer than the return trip, whereas in summer the flight time is almost the same.

To some extent one can say that virtually everything in the climate system is coupled to everything else; any large-scale push in one place causes a bulge somewhere else, but these are not all equal in magnitude. It is the task of climate theory to determine what those magnitudes are.

Since the sun is our major energy source, an obvious theory of climate change concerns fluctuations in the output of the sun. At the present time, fluctuation at very low and very high wavelengths has been determined but we do not know to better than about one percent what the total output of energy from the sun is and how it varies. Therefore, it is very difficult to determine if previously observed planet warmings and coolings are directly caused by changes in solar output. Some attention is now being directed to efforts to develop methods which will yield more accurate measurement; this task requires a difficult development process but it surely can be done if given impetus comparable to its importance.

Another theory is related to the fact that the earth's orbit varies slightly with respect to the sun; for example, the relative location of the poles changes from summer to winter over periods of 10,000 to 100,000 years. This theory has been used to explain long-term ice ages, but it certainly cannot account for climatic fluctuations like the "little ice age" and the short-term variations which wreak havoc with our crops. In addition, changes in atmospheric dust and carbon dioxide as well as changes in the land have been postulated; the continents have drifted around for millions of years, clearly causing a climate change, but that factor is not very important for climatic changes over less than a million years.

The oceans are a critical component of climate. They have vast capacity for energy storage and they can release their energy on time scales of days to hundreds of years. This process may very well be responsible for short-term fluctuations. Internal oscillations in the climate system (consisting of the atmosphere, oceans, land, and glaciers) have also been postulated: whereas one might perceive short-term climate changes as being forced by external causes, they could, in fact, represent redistributions of energy among glaciers, oceans, and atmosphere.

In addition to natural causes, the effects of human activity must be considered in relation to recent climate changes. Some of these are discussed in the next section.

How does one judge the relative effect of these factors on climatic change? It is a difficult task to separate out quantitatively the cause-and-effect linkages from the many factors of comparable magnitude tending in opposite directions. As with any science, the process of developing a quantitative theory of climate begins with observations from which hypotheses are generated. The next step is to design experiments. Only a limited number of experiments can be carried out in the atmosphere. Moreover, it would be nearly impossible to devise a laboratory simulation of the complex, nonlinear interactions which produce the earth's climate. One can learn a good deal about individual processes from studying other planets which obey the same laws of physics as the earth. Without a twin earth, however, the only way to simulate the earth's atmosphere and oceans effectively is by means of mathematical models.

There are many different kinds of models ranging from simple one-dimensional forms that focus solely on the vertical part of the atmosphere to highly sophisticated representations of the atmosphere and oceans. Any analysis of long-term climate variations requires coupling of models of the atmosphere, the oceans, and even the cryosphere. In addition, while many processes are included in such models, there is no certainty that they have been included correctly. To the extent that we can define which processes are represented correctly, these models might have some utility for climate studies in the near future.

VI. Climatic Barriers to Long-Term Energy Growth.

Industrialized peoples, with their higher standards of living, rapidly became dependent on the extensive use of energy to turn their wheels, heat their buildings, produce their electricity, and grow, store, and transport their food. Most of the energy liberated is derived from fossil fuels—coal, gas, and oil—whose burning is accompanied by a variety of atmospheric pollutants. One form of such pollution that affects the entire atmosphere is the release of carbon dioxide (CO_2) gas. Even though it makes up a small fraction (less than one one-thousandth) of the gases that comprise the atmosphere, CO_2 is crucial in determining the earth's temperature because it traps some of the earth's heat (to produce the so-called "greenhouse effect"). Human activities have already raised the CO_2 content in the atmosphere by about 10%.

Figure 5 shows two estimates made of this phenomena. In Figure 5a the projection made by Dr. Lester Machta of the National Oceanic and Atmospheric Administration in 1971 is shown. This is a good example of the consequence of the exponential growth in the use of energy. The figure shows that over the past 110 years, the time in which the industrial revolution took off on a world-wide basis, atmospheric carbon dioxide has risen by about 10%. Theoretical arguments suggest that such an increase might increase the earth's surface temperature by several tenths of a degree Celsius.

In fact, the earth's temperature did warm by about 0.5° C to about the middle of the 1940s. However, it is well documented that the northern hemisphere temperature, at least, cooled significantly since the 1940s. Therefore some people have argued that the CO_2-greenhouse warming theory could not be correct. However, the rise in temperature to the middle of the twentieth century was only about half a degree Celsius and therefore not at all unprecedented in climatic history.

Whether the effects of the carbon dioxide were contributing to that trend, and were therefore, bucking a natural cooling period after 1945, or whether the theory is wrong and the carbon dioxide-greenhouse theoretical estimates are too high, is not a determination that can yet be made for the simple reason that the fluctuations in climate that have occurred to date could either be a result of natural causes or influenced to some extent by human activities (such as the injection of carbon dioxide).

Since there is no precedent in climatic history for such increasing carbon dioxide from which we could look at the response of the real atmosphere system to an increase in CO_2, we have no alternative but to attempt to estimate the potential effects of this pollutant from theoretical models of climatic change, mathematical constructs built to augment the limited ability of our physical laboratory to understand and model the actual climatic system. Notice from Figure 5, that although the first 10% increase in carbon dioxide took place in about 110 years, because of the exponential nature of the consumption of energy and the burning of fossil fuels we can see that the next 10% increase will take only about 20 years and the next 10% increase beyond that only about 10 years. By this time the climatic impact of the carbon dioxide should (according to the model calculations) cause a climatic warming of about 1° C—a warming as large as any that has occurred in modern climatic history.

Whether such a warming would influence the extent of ice and snow at the polar caps or influence the level of the world's oceans cannot be said with certainty. Neither can it be said whether such a warming would push the grain belts of the world northward by several hundred miles thereby disrupting the present patterns of agriculture. These, of course, are possibilities, but climatic theory is yet too crude to be certain. The most perplexing aspect of this dilemma is that the only certain proof that the carbon dioxide-greenhouse theory is correct, will come when the atmosphere itself "performs the experiment" of proving present estimates too high—or too low. If the present rates of fossil fuel energy use continue, the climatic system will perform this experiment within a generation.

The estimates that Machta made in 1971 were based on a very limited sample of data, and therefore no one could be sure how reliable his projections would be. In fact, more recent data suggests that his inadequate data base was reflected in the fact that his more recent estimates were different from his earlier estimates. Figure 5b shows Machta's estimate of the CO_2 content in the atmosphere, an estimate he made in 1974, several years after his earlier estimate shown on Figure 5a. Notice that the uncertainties in the earlier data did not automatically reduce his estimate, as some people believe uncertainties will always do, but rather his new estimates suggest that the CO_2 concentrations of the atmosphere will be larger than originally thought based on the uncertain data base several years earlier.

Perhaps, the next increment in our knowledge will bring the answer back the other way, but the important point remains: uncertainty in present scientific estimates of potential climatic consequences of increased energy use is not biased toward optimism. The sword of uncertainty cuts in two directions, and thus we must face the uncomfortable reality that the only estimates we can make of potential human impacts on climate generally involve the use of uncertain mathematical models of the climate, models that must rely on tentative physical theories whose verification comes very slowly because of a limited data base of atmospheric and oceanic variables.

Figure 6 shows the considerable complexity involved in constructing one of these models. The figure shows the so-called "feedback loops" that exist between various processes in the climatic system. For example, if carbon dioxide increases really would lead to a warming of the surface, would that not evaporate more water, thereby creating more cloudiness, which in turn would block some of the sunlight from reaching the earth's surface, thereby mitigating the warming effect of the CO_2? Such a "negative" feedback mechanism would lead to a dampening of the CO_2-induced warming. On the other hand, if the CO_2 warmed the earth's surface, it would melt some ice and snow near the polar cap. This region that was previously covered with ice or snow would then be darker than the white ice or snow it replaced. This darker region would absorb more sunlight thereby enhancing the CO_2 warming effect. This "positive" climatic feedback mechanism could act to destabilize the climate if perturbed by some human influence, such as CO_2. Unfortunately climatic theory is still incapable of resolving even the direction of the total sum of all atmospheric and oceanic feedback mechanisms, and thus the best estimates we are capable of making generally relate one variable, such as an increase in carbon dioxide, to a single response, such as an increase in earth's surface temperature.

Whether the collective "soup" of all atmospheric and oceanic feedback mechanisms will ultimately render our present estimates high or low is too soon to tell, but it is urgent that the error bars in our estimates be narrowed so that society will be better able to make judgments as to the timing and magnitude of potential climatic changes caused inadvertently as a consequence of human activities, activities often designed to improve the human condition.

Carbon dioxide is not the only by-product of the burning of fossil fuels. Another form of atmospheric pollution results from the introduction of dust and smoke particles, which, when suspended in air, are called atmospheric aerosols. The word "aerosols" is merely a term used to describe the suspension of any kind of particle in a gas. These particles can be solid like dust, sand, ice, and soot. Or, they can be droplets like the water particles in clouds and fog or the liquid chemicals that are dispensed as droplets from aerosol spray cans.

The air contains trillions upon trillions of aerosol particles, which, like CO_2, comprise only a minute fraction of the total atmospheric mass. Despite their relatively small volume, aerosols can affect our climate, primarily by absorbing and scattering back to space some of the sunlight that could have otherwise reached the earth's surface. Industry is not the only human activity that causes aerosols. They are also produced in great quantities by the widespread primitive agricultural practice of slash-and-burn, where large quantities of vegetation are purposefully burned to clear land.

A consensus among scientists today would not be forthcoming as to whether an increase in aerosols would result in a cooling of the climate or a warming of the climate, for aerosols will cool the climate if they are relatively whiter than the surface over which they lie, or, alternatively, they will warm the earth, if they are relatively darker than the surface over which they are floating. The dust that exists in the earth today, is highly nonuniform in both geographic distribution and relative brightness as compared to the underlying surface. Therefore, we cannot yet be sure whether dust contributes to climatic warming or, alternatively, has been implicated in the recent cooling.

My own feeling is that climatic theory is still too primitive to prove with much certainty whether the relatively small increases in CO_2 and aerosols up to 1976 have been responsible for the observed climatic changes we have recently documented. I do believe, however, that if concentrations of CO_2, and perhaps aerosols, continue to increase, demonstrable climatic changes could occur by the end of this century, if not sooner; recent calculations suggest that if present trends continue a threshold may soon be reached after which the effects would be unambiguously detectable on a global basis. Problematically, by that point it may be too late to avoid the dangerous consequences of such an occurrence, for as I have said, certain *proof* of present theories can come *only* after the atmosphere itself has "performed the experiment."

The climatic disruption from energy consumption is proportional to the total amount of energy used, which is equal to the population size multiplied times the per capita energy-consumption level. Thus, a greater level of consumption per capita is possible (with no additional environmental risk) if the total population size is smaller. Delay in achieving reduced population growth rates might just mean that there would be too many people on earth to achieve a high per capita energy-consumption level world wide without the risk of severe climatic changes; in that case, the world would face increasingly intense pressures for the redistribution of wealth at a time of fixed levels of energy consumption. The unstable political climate that situation implies is most ominous indeed. The price of ignorance can indeed be very high.

VII. Decision Making: Can We Wait for Scientific Certainty?

Perhaps the greatest threat to our future security lies in a common misinterpretation by many citizens and decision makers of the loud and confusing debate among experts over the technical components of many public policy issues of future survival; that is, uncertainty in science suggests merely that we study more before we worry—or act.

Many people probably don't know whose opinion to trust on the bewildering issues of climate change, technology, and human survival. Unfortunately, the remaining choice is to trust no one, thereby avoiding the issues, a course of action that inevitably translates into maintenance of the status quo. Since measures designed to enhance the likelihood of catastrophe-free, long-term survival can be as expensive as they are uncertain of efficacy, it is tempting to rationalize postponement of action on these perplexing matters until the scientists, economists, moralists, politicans, or other leaders of the debate are unanimous, or at least seem more certain, about what they are saying.

At the same time, we often become preoccupied with more immediate crises—inflation, recession, taxes—and lose sight of the more distant calamities ahead. Unhappily, most democracies, like the United States, are in general responsive to relatively short-term concerns; and mechanisms must be devised immediately to encourage elected representatives (or even hard-fisted leaders in more totalitarian states) to place first priority on longer-term issues of human survival (perhaps by adopting some form of disaster insurance at an international level). A change in political consciousness, and ultimately political process, is essential.

But such forward-looking consciousness is a rare commodity. Returning to the case of climatic variability and a safe level of food reserves, I recall an incident in June, 1974, that I am fond of repeating, when Reid Bryson of the University of Wisconsin and I were arguing for just such a margin of safety with an Agriculture Department official before an audience of White House policy-makers. We pointed out that there has been over the past hundred years or so a drought of some significance in the Great Plains of the United States roughly every twenty to twenty-two years. Some researchers claim that these droughts are related to sunspot cycles, and others dispute this thinking as unfounded.

We stressed that, regardless of possible causes for the droughts, the important consideration is that the next such drought is "due" in the mid-1970s and thus prudence suggests that we be prepared with adequate food reserves, soil conservation practices, . . . But food reserves are expensive and depress future prices for farmers and grain traders, we were told by the official at the briefing We agreed. However, he went on to repeat Agriculture Secretary Butz's belief that the government should nonetheless stay out of the food reserves business regardless of the climatic risk. We protested that no one besides the federal government would voluntarily build up enough supplies to hedge against weather variability such as the twenty-two year drought cycle. Then a voice from the back of the room taught us a lesson. "Around here," he said sarcastically—referring to the terms of office of the U.S. congressional representatives, president, and senators—"the only cycles that count are the two-, four-, and six-year cycles."

This points out an apparent mismatch in time scales that could be one of our greatest threats. Whereas the climate can fluctuate over decadal periods or the adverse environmental and social consequences of premature deployment of large-scale technologies often are felt on the time scale of a generation, the political process is most effective in dealing with problems on yearly time scale. As the threats to our long-term survivability grow, this mismatch becomes, I believe, increasingly more serious.

VIII. Understanding and Predicting Climatic Change: The Need to Reduce Uncertainty.

This difficult situation is made even more trying by the inability of present climatic theory and observations to provide more than order of magnitude estimates of the possibilities for climatic variability and their effect on food production on the one hand or the influence of technologies that create atmospheric pollution to affect the climate on the other hand. Therefore, it seems prudent that attempts to decrease the wide range of uncertainty about these climatic issues can go a long way toward helping decision makers choose policies that will both hedge against dangerous possibilities and at the same time minimize wasteful inhibition of needed development. In the short run we need to take a careful look at the kinds of climatic fluctuations that have occurred in the past.

This actuarial approach to climatic forecasting can help to tell us the kinds of food production fluctuations that could occur in the future if the weather of the past recurs. In the absence of forecast ability that is the best forecast that can be made. The notable efforts of Dr. James McQuigg and his colleagues at Columbia, Missouri of the National Oceanic and Atmospheric Administration in conjunction with the U.S. Department of Agriculture to look at food-climate relationships in the U.S. plains should be extended to other major granaries, not only in the United States and Canada but elsewhere in the world.

At the same time studies aimed at determining the feasibility of predicting average weather in major granaries a month to a season in advance should be strengthened, but it must be recognized that this is a very difficult problem, one that has both observational and theoretical difficulties. Nevertheless, the value of such a forecast would seem to me to justify enhanced efforts at determining, at the least, the likelihood that such prediction is possible, let alone determination of factors that would permit such a prediction.

On the other hand, a second kind of predictive skill is needed: the ability to predict a change of the long-term average climate from human-induced changes in environmental conditions, such as the carbon dioxide level or heat released from power plant electricity generation. This predictability would not tell us the chronological way the climate would change from one season to the next or one year to the next, but rather would provide the mean or average picture of how the long-term statistics of the climate could change with external forcings like CO_2 increase. Considerable optimism is justified, I believe, that such prediction is feasible, since a very large externally changing forcing function, namely the seasonal march of the sun through the sky, causes a very large and predictable climatic signal, namely, the seasons.

Thus, we have demonstrable evidence that large-scale changes in the forcing of the climate system will cause detectable and reasonably predictable responses. As the impact of human activities grows in magnitude, it will be easier for us to demonstrate their influence on the climate and to predict them. This task requires further development of mathematical models of the climate, since these are the only tools that can test the response of the system to forcing functions for which the system has no previous experience. The difficulty we encountered at the outset is that verification of these models is often based on their ability to reproduce the known variations in the atmosphere such as the seasonal cycle.

Therefore in order to verify these models for a problem such as determining the effect of carbon dioxide on the global climate, we must make these models reproduce known, but different, variations in the climate, such as the seasons. In order to gain confidence in their veracity, we must test any such models predictions against observations not only for atmospheric temperature, but also for variations in precipitation, radiation fluxes going up into space, changes in he reflectivity of the earth, and winds. Therefore, a companion observational program capable of providing data sets that are needed to verify the fidelity of the predictions of climatic models must be undertaken if we are to improve our confidence in the predictions of these models for problems of human impact on climate. Such a data set is necessary in its own right, to perform actuarial analyses of climatic variability.

Let me conclude by pointing out that many of the difficulties in predicting climate will require increased understanding in order to bring about improvements. The problem does not necessarily lend itself to quick "engineering solutions," whereby a large influx of effort and resources for a short time will provide a quick payoff. Rather, the commitment, I believe, is to a continuous and perhaps expanding level of effort, where that level is determined in part by the progress at previous stages. Unsolved scientific problems like climatic predictability are best pursued through the market place of ideas, and thus I would prefer to see the effort spread among many independent research centers rather than accumulated into a central command. On the other hand, centralized tracking of progress at various remote institutions could help considerably by increasing cross-communications and insuring that important aspects of research do not fall between the cracks.

In conclusion, while it cannot be stated with certainty that increased effort and resources in the field of climatic studies will provide immediate payoffs in terms of forecast capability, it must be said that the costs of our ignorance of the knowledge and workings of the climatic system may already be unacceptably high, and that while assurance of success cannot be guaranteed, the value of obtaining better understanding of the climatic system makes this scientist comfortable with the feeling that support for climatic research is a worthwhile hedge against potential climatic crises.

EXPORT-IMPORT BANK FINANCING NOTIFICATION

Mr. PROXMIRE. Mr. President, I call to the attention of my colleagues a communication I have received from the Export-Import Bank pursuant to section 2 (b) (3) of the Export-Import Bank Act notifying the Congress of a proposed Eximbank loan and guarantee to assist the construction of a nuclear powerplant in Spain. Section 2(b) (3) of the act requires the bank to notify the Congress of any proposed loan, guarantee, or combination thereof in amount of $60 million or more at least 25 days of continuous session of the Congress prior to the date of final approval. Upon expiration of this period, the Bank may give final approval to the transaction unless the Congress dictates otherwise.

In this case, the Bank proposes to extend a loan in the amount of $81,466,000 and a guarantee of loans by private lenders in the amount of $51,842,000 to three Spanish electric utility companies to assist the construction and initial operation of a 930-megawatt nuclear powerplant in Spain. Eximbank's participation will cover 82.8 percent of the total cost of U.S. goods and services for the project. The loan will bear interest at 8 percent per annum, and the loan and the guaranteed private loans will be repayable over a 10-year and a half-year period beginning March 10, 1983.

I ask unanimous consent that the letter from Eximbank pertaining to this transaction together with the accompanying materials be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EXPORT-IMPORT BANK
OF THE UNITED STATES,
Washington, D.C., June 2, 1976.

Hon. WILLIAM PROXMIRE,
Chairman, Senate Committee on Banking, Housing and Urban Affairs, Dirksen Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: In accordance with section 2(b)(3) of the Export-Import Bank Act of 1945, I have reported to the President of the Senate and the Speaker of the House of Representatives on an application currently pending consideration by the Bank. I respectfully furnish herewith a copy of this statement for your consideration.

Sincerely,

STEPHEN M. DUBRUL, Jr.

EXPORT-IMPORT BANK
OF THE UNITED STATES,
Washington, D.C., June 2, 1976.

Hon. NELSON A. ROCKEFELLER,
President of the Senate,
U.S. Capitol, Washington, D.C.

DEAR MR. PRESIDENT: Pursuant to Section 2(b)(3) of the Export-Import Bank Act of 1945, as amended, Eximbank hereby submits a statement to the United States Senate with respect to the following transaction involving U.S. exports to Spain:

A. DESCRIPTION OF TRANSACTION

1. Purpose

Eximbank is prepared to extend a direct credit of $81,466,000 to three Spanish electric utilities—Empresa Nacional Hidroelectrica del Ribagorzana, S.A. (ENHER), Hidroelectrica de Cataluna, S.A. (HEC) and Hidroelectrica del Segre, S.A. (SEGRE) (Borrowers) and to guarantee loans by private financial institutions to the Borrowers in the amount of $51,842,000. Repayment of the Eximbank credit and the loans guaranteed by Eximbank will be unconditionally guaranteed by Instituto Nacional de Industria, Banco Urquijo, Banco Hispano Americano, Banca Catalana and Banco Industrial de Cataluna (Guarantors). The participation of each Borrower and Guarantor will be as follows:

Guarantor, borrower, and percent of financing:

Instituto Nacional de Industria, ENHER, 59 percent.

Banco Urquijo and Banco Hispano Americano, HEC, 30 percent.

Banca Catalana and Banca Industrial de Cataluna, SEGRE, 11 percent.

The purpose of the Eximbank financing is to facilitate the purchase from the United States of goods and services required for the construction and initial operation of one 930 MW nuclear power plant to be located in the Province of Tarragona and designated as the Vandellos 2 project. The power plant, when completed, will serve the Catalonian region of Northeast Spain, in which the Barcelona metropolitan area forms the dominant market, and will be directly tied into the Spanish national power grid. Ownership of the project will be 54% by ENHER, 28% by HEC, 10% by SEGRE and 8% by Fuerzas Electricas de Cataluna, S.A.

The principal portion of the U.S. equipment and material which is to be financed by Eximbank will be manufactured in the United States by Westinghouse Electric Corporation. The related services will be performed by Westinghouse and other United States firms. The estimated total project construction cost is $836,300,000 of which $161,008,000 represents purchases of United States goods and services, including the initial fuel fabrication costs estimated to be approximately $16,002,000.

Exports of the equipment and fuel will be made within the framework of a bilateral Agreement for Cooperation Between the Government of the United States of America and the Government of Spain Concerning Civil Uses of Atomic Energy, which entered into force on June 28, 1974. Safeguard provisions required by that bilateral Agreement for Cooperation were implemented by a trilateral Agreement to Amend the Agreement of 9 December 1966 Between the International Atomic Energy Agency, the Government of Spain and the Government of the United States of America for the Application of Safeguards, which also entered into force on June 28, 1974.

Under Spanish procedures, the electric utility companies receive commitments from ENUSA, the Spanish nuclear fuel agency, for the supply of enriched uranium for fuel when needed for specific nuclear plants. ENUSA draws on various global sources for enrichment services, including the U.S. Energy Research and Development Administration. At present, ENUSA has an open commitment from ERDA to supply fuel enrichment services for several additional Spanish nuclear power plants, but a required "Appendix" to that contract which would make the commitment apply specifically to fuel for Vandellos 2 has not yet been negotiated. Thus, the Eximbank financing support for the initial fuel applies only to fabrication costs and not to enrichment services.

Export licenses must be obtained from the Nuclear Regulatory Commission before export of the equipment and fabricated fuel for the Vandellos 2 project.

2. Identity of the parties

ENHER, incorporated in 1946, is a "national enterprise" corporation controlled by Instituto Nacional de Industria, an autonomous agency of the Spanish State established in 1941 to promote the establishment and reorganization of industrial enterprises important to the economic development of Spain. ENHER is the 6th largest electric utility enterprise in Spain.

HEC was incorporated in 1946 and is the 12th largest electric utility in Spain. It is privately owned and its shares are traded on the Barcelona stock exchange.

SEGRE, a closely-held private company, is the 21st largest electric utility in Spain.

Banco Urquijo, headquartered in Madrid, was incorporated in 1918 and is the oldest and largest industrial bank in Spain. In addition to 7 branches in Spain, the bank has representative offices in New York and in Buenos Aires.

Banco Hispano Americano, a private bank headquartered in Madrid, was established in 1900. In addition to 749 branches in Spain, this bank maintains representative offices throughout Central and South America and Germany.

Banca Catalana, headquartered in Barcelona, is a private bank whose antecedents date back to 1904. Incorporated in 1960, this bank has a network of 54 branches throughout Spain and representative offices in London, New York and Paris.

Banco Industrial de Cataluna, a private industrial bank established in 1965, is headquartered in Barcelona.

Fuerzas Electricas de Cataluna, S.A., a privately-owned company established in 1951 and headquartered in Barcelona, is Spain's 3rd largest electric utility. It will be an 8% owner of the Vandellos 2 project, but will not be a borrower in this transaction.

3. Nature and use of goods and services

The principal goods to be exported from the United States for use in the construction and initial operation of the project will consist of a nuclear steam supply system and components. In addition, Westinghouse and other United States firms will perform various related technical services in connection with the design, installation, fuel fabrication and start-up operations of the nuclear power plant.

B. EXPLANATION OF EXIMBANK FINANCING

1. Reasons

The proposed extension of credit by Eximbank in the amount of $81,466,000 and the guarantee of $51,842,000 of private financing will result in the export of $161,008,000 of United States goods and services.

Eximbank perceives no adverse impact on the United States economy from the export of these goods and services. This transaction will have a favorable impact not only on the United States balance of payments, but also on employment for substantial numbers of United States workers at a time when there have been nuclear power equipment cancellations and deferrals in the United States and when foreign orders have become a vital portion of United States nuclear power equipment manufacturers' business which enables those manufacturers to retain specialized engineering and technical staffs and production work forces. Westinghouse estimates that, for itself and its subcontractors (expected to include, among others, Bechtel Corporation, Combustion Engineering, Cameron Iron Works, Speedway Machine and Tool, Lukens Steel, Allis-Chalmers and Esco Corporation), the Vandellos 2 project will generate 7,500 direct man/years of work in more than 30 cities in at least 18 states.

Although competitive prices and dependable performance by U.S. suppliers, together with the availability of Eximbank financial assistance, has resulted in repeat orders of nuclear plants from the United States, manufacturers in Germany, France, Japan, Canada and Sweden are today fully capable of supplying complete nuclear steam supply systems. These countries, together with Switzerland, the United Kingdom, Italy and others, are capable of supplying all or part of the equipment for the Vandellos 2 project at competitive prices and delivery schedules. The latest Spanish nuclear power plant, awarded in July, 1975, went to German suppliers. With respect to Vandellos 2, there was intense French competition with highly favorable financing terms offered through the French government-supported export agency, COFACE. Recent experience indicates that suppliers from these countries are continuing their intense marketing efforts in Spain and the the national export credit agencies of these countries will continue to aggressively support their manufacturers.

In view of the magnitude of the transaction and the existence of foreign competition, Eximbank's credit and guarantee are necessary to secure this sale for United States Manufacturers.

2. *The financing plan*

The total cost of United States goods and services to be purchased by the Borrowers is $161,008,000, which will be financed as follows:

	Plant costs	Fuel costs	Total	Percent of U.S. costs
Cash payment	$24, 946, 000	$2, 754, 000	$27, 700, 000	17.2
Eximbank	73, 370, 000	8, 096, 000	81, 466, 000	50.6
Private guaranteed loans	46, 690, 000	5, 152, 000	51, 842, 000	32.2
Total	145, 006, 000	16, 002, 000	161, 008, 000	100.0

(a) Eximbank Charges.—The Eximbank credit will bear interest at the rate of 8% per annum, payable semiannually. A commitment fee of 0.5% per annum will also be charged on the undisbursed portion of the Eximbank credit. In addition, Eximbank will charge a guarantee fee of 0.75% per annum on disbursed amounts of the guaranteed loans and a commitment fee of 0.125% on undisbursed amounts of the guaranteed loans.

(b) Repayment Terms.—The Eximbank credit and private guaranteed loans for the nuclear plant costs, totalling $145,006,000, will be repaid by the Borrowers in 21 semiannual installments beginning March 10, 1983, of which the first 8 and a portion of the 9th installment shall be applied to repayment of the private guaranteed loans and a portion of the 9th installment and all of the last 12 installments shall be applied to repayment of the Eximbank direct credit.

The Eximbank credit and private guaranteed loans for the fuel fabrication costs, totalling $16,002,000, will be repaid by the Borrowers in 10 semiannual installments beginning March 10, 1983, of which the first 3 and a portion of the 4th installment shall be applied to repayment of the private guaranteed loans and a portion of the 4th installment and all of the last 6 installments shall be applied to repayment of the Eximbank credit.

Sincerely,

STEPHEN M. DUBRUL, Jr.

ENERGY CONSERVATION

Mr. CLARK. Mr. President, the energy issue demands the utmost concern from every American. The reason is simple: statistics show that the United States will exhaust its oil and gas reserves by the turn of the century.

The 1973–74 Arab oil embargo created a temporary panic among Americans. But once it was lifted and once the lines at the gasoline pumps disappeared, energy consumption zoomed and conservation efforts were quickly forgotten.

The energy crisis, however, is a long-term problem. We now import 31 percent of our oil; analysts project that by the end of this year we will be importing 44 percent of our oil. Seventy-five percent of the energy that we used is derived from oil and natural gas. Our own supply of these resources is limited, and our dependence on imports is subject to embargoes. Gasoline shortages are already expected to occur this summer because of the Bicentennial. Gasoline consumption now exceeds the rate for 1975 by 7.5 percent, and a 3- to 4-cent-per-gallon jump in prices is expected during the next few months. Steps have to be taken now in an effort to prevent a severe energy crisis in the future.

The consensus among experts on this issue is that there are certain measures which, if taken now, could help alleviate an energy shortage in later years. A conscious effort by everyone to avoid wastage is tantamount to an increase in production. The establishment of Government policies to regulate energy consumption is another possible step. A mile-per-gallon improvement in automobile performance contributes to a decrease in gasoline consumption. Development of other fuel sources in the United States such as coal, nuclear power, solar and geothermal energy may provide viable substitutes for oil and natural gas. But extensive research will be required to develop these resources. If started now, however, significant results could be achieved by the 21st century.

Now is the time to take action—not when the gas pumps go dry. Public awareness is the key to progress on this issue, which is why I commend the following articles to all concerned citizens: "Oil: A Glut—and a Crisis," Newsweek, May 24, 1976; "Energy: A Return to Complacency?", the Washington Post, May 21, 1976; and "Uncertainty Clouds the Optimism on Oil," the New York Times, May 28, 1976. I ask unanimous consent that these articles be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From Newsweek, May 24, 1976]

OIL: A GLUT—AND A "CRISIS"

The cry of "wolf" was sounding again in the land last week. The summer tourist season is coming, warned Texaco president John K. McKinley, and consumers have been guzzling gasoline faster than ever; if that keeps up, shortages might develop.

Hardly anybody was listening. For one thing, similar dire predictions have come nearly every summer and every winter since the Arab boycott of 1973, and in the event, nothing like a real shortage has materialized. For another, an actual oil glut is sloshing around the world today. The evidence is everywhere. Gasoline price wars have flared up spottily across the country. Detroit's automakers are swamped with demands for big gas-drinking cars, while the subcompacts go begging. And just last week, two oil companies were forced to cut prices on heavy fuel oil because of an oversupply.

Is the energy crisis a thing of the past? Almost despairingly, energy officials in Washington insist that it is a continuing major problem, with the worst yet to come. But a recent industry poll found that most most Americans thought the crisis had vanished with the gasoline queues of 1973–74—and many of them thought the episode had been a hoax engineered by the big oil companies. The industry's record profits and repeated calls for price increases have done little to change that opinion, and the babble of conflicting statements from top-level officials hasn't helped, either. Treasury Secretary William Simon, for instance, said in a speech last month that "the energy crisis ended, and we weathered the storm"; a week later, he said the nation couldn't stand another Arab embargo.

That same confusion is reflected in the news of any week. After more than two years of talk, no comprehensive Federal energy policy has been developed. Congressmen simultaneously debate bills that would break the oil industry into competing pieces, give it more incentives to produce synthetic fuels and remove price controls from the fossil fuels sold now. Crude-oil prices have quadrupled, but oilmen say they aren't high enough to warrant exploring for more oil. Amid calls for rapid development of nuclear energy and the nation's vast coal deposits, environmental-protection rules are issued and states vote on whether to ban nuclear plants.

In truth, talk of an energy crisis has always been premature: the embargo was a temporary disruption that pointed up a long-term danger. And even in the long run, there is plenty of energy available to power any conceivable world need for centuries to come. But it is also true that the supply of easily obtainable oil must inevitably run out in the next few decades, posing huge problems of transition to other sources—and that meanwhile, the U.S. and its partners will be increasingly dependent on supplies from the Organization of Petroleum Exporting Countries, and thus vulnerable to embargoes. To put both problems in perspective, Newsweek correspondents have talked with experts in industry, government and academic observation posts. The questions, and their answers:

ANOTHER EMBARGO?

The U.S. is vulnerable. Oil and natural gas account for nearly 75 per cent of the nation's energy consumption, but production of the U.S.'s own crude oil has dropped 16 per cent since the embargo, and production of natural gas has fallen 11 per cent in the past two years. Imports now account for a staggering 45 per cent of total U.S. oil consumption, vs. 32 per cent before the embargo. The situation is growing worse; it is estimated that half of all imports in 1976 will come from Arab states.

"There's not a man smart enough to know if and when the embargo weapon will be used again," says vice chairman Herman J. Schmidt of Mobil Oil Corp. If an embargo should happen, the U.S. could survive the shortage by rationing and appealing to the patriotic instincts of its people—perhaps for as long as a year. "It would be like the London blitz," says Charles T. Maxwell, a Wall Street energy analyst. "People would voluntarily save vast amounts of fuel and keep industry running."

The U.S. also could fall back on its agreement with other industrialized nations to allocate world oil supplies in the event of another embargo. And as a precaution, Congress has ordered the gradual buildup of an emergency oil reserve, to be stored in abandoned salt mines. John H. Lichtblau, head of the Petroleum Industry Research Foundation, says that by 1983 the U.S. should have enough oil in storage to ride out an embargo of six to ten months without calling on American consumers and businessmen to make great sacrifices.

Several promising new sources of oil might also help in the event of a cutoff by the Arabs. Oil from the vast reserves of Alaska's North Slope is to begin flowing south next year. In addition, significant amounts of oil and gas have been discovered in other sections of Alaska, beyond the Mississippi Delta, offshore from Santa Barbara, in southwest Wyoming and in the so-called overthrust area in the Rocky Mountains. The experts caution, however, that no matter how welcome these finds, they only postpone the day of America's energy reckoning. With production from old U.S. wells on the downtrend, the North Slope's eventual production of 2 million barrels of oil a day will mean that imports will stop increasing for just two years. They will then resume their upward trend to meet continually rising demand.

CAN OPEC HANG TOGETHER?

A breakup of the cartel would be the best protection against the high cost of oil and future embargoes. The problem is that OPEC has been the most successful cartel in economic history, weathering even a lengthy world recession that severely crimped demand for its oil. "It's a club that produces very rich rewards for its members if they play by the rules," says Maxwell.

The key to OPEC's strength is Saudi Arabia, which controls an awesome 24 per cent of the world's known reserves and can cut back production at will without suffering a damaging drop in revenues. Thus far, the production cut-backs needed to bolster the cartel have been largely at Saudi Arabia's expense. Other members find even their new oil wealth stretched to pay for all the things they now want; Iran, for instance, is so strapped for money that Boeing Co. and Northrop Corp. confirmed last week that they are considering bartering their military planes for oil rather than cash—a deal that might violate OPEC's quotas or price restrictions, and thus put the cartel to intolerable strain. "I don't believe the bums can stick together forever," says one American executive.

So far, however, the alliance has held—and it may well vote to raise prices by another 5 to 8 per cent at its meeting next week in Bali.

WHEN WILL THE OIL RUN OUT?

Bluntly, nobody knows. In recent years, new discoveries have raised the total of proved reserves at about the same pace as production has grown, so that the world's remaining known oil has fluctuated at about 35 years' supply (chart, page 70). Recent months have brought huge new discoveries that promise at least some extension of the deadline. "Canada's Mackenzie Delta is loaded with oil and gas," says Robert L. Parker, head of Parker Drilling Co. He reports that oil has also been hit in such disparate places as Chad, Kenya and Pakistan in recent months. "All these new discoveries have yet to be turned into [reserve] numbers, but the cumulative effect will be good," he says.

There is also some hope for major new finds around the world, and geologists have recently found promising indications in areas ranging from the Bering Sea to Australia's continental shelf. Some even hope that the world's reserves might be doubled. But even so, the day of reckoning is inevitable—and much of the oil to be found will be remote and expensive to drill and transport. To maintain a 35-year supply of reserves by 1985, says Dr. Herman Franssen, an analyst for the Library of Congress, new discoveries would have to amount to 495 billion barrels between now and then—and no single deposit thus far found has been more than one-sixteenth the size of Saudi Arabia's 160 billion barrels of reserves.

In the U.S. itself, the expert consensus is that oil and gas reserves will probably be exhausted about the turn of the century. This is based on the assumption that demand will rise at a modest 2.5 per cent annual rate between now and then, and that imports will average only 35 per cent of consumption.

WHAT ABOUT OTHER SOURCES?

The U.S. has many—and could easily be self-sufficient in energy if they could be developed on a large scale. But each of the substitute fuels has problems of its own. The United States, for example, is the Middle East of coal, with enough under ground to last for centuries. But much of the coal is high in pollutants, and production of cleaner, low-sulfur coal in the West is being delayed by environmental disputes about strip mining and how to get the coal to market. Productivity in the coal mines has declined sharply in recent years, because of factors ranging from safety regulations to wildcat strikes.

Nuclear power once looked like the answer to all conceivable energy problems; in the euphoria of the early 1960s, its advocates held that it would be too cheap to be worth metering. But inflation has raised the construction costs above those most fossil-fueled plants, and a rash of safety questions has produced deep misgivings about nuclear installations around the country. Almost 70 per cent of the nuclear plants that had been scheduled to come on line by 1985 have been canceled or delayed, and further problems loom in a wave of referendums in the coming elections. Californians will vote—June 8 on a proposal that the industry says would kill the possibility of any future nuclear plant in the state. Similar referendums are due in Colorado and Oregon, and petitions are circulating in eight other states. It was only last year that nuclear power finally surpassed wood as an energy source in the U.S., and most experts now don't expect it to provide much more than 16 per cent of the U.S. total by 1985.

Technology exists to produce oil or gas from coal and shale, but the costs are estimated as high as $30 a barrel. Several companies seem to have lost interest in shale as a result. "The more I look at the alternative resources to cheap oil and gas, the more appalled I am at the cost," says Roger Sant, outgoing assistant Federal energy administrator. Exotic energy sources, such as the tides, geysers, fusion and the sun (box, page 68) have potential for the future—but that means many, many years into the future.

CAN CONSERVATION HELP?

By conserving energy, says Sant, "we could stop our energy growth right now." Fifty per cent of all energy generated in the U.S. is wasted. When oil was cheap, it made little difference that half of the air-conditioning load of a typical New York office building was consumed just to offset the heat coming off its lights. But with OPEC oil costing more than five times what it did in 1970, it matters very much—and cost-conscious businesses are reacting accordingly. Just how much has been saved is unclear because the recession also reduced demand, but the amounts seem to be substantial. Allied Chemical Corp., for example, has found that by modifying its processes to keep energy from escaping, it is saving $20 million a year. Consumers can make a difference, too. By 1985 new cars must average 27.5 miles a gallon of gasoline, and most of the nation's 47 million single-family homes are poorly insulated. By one estimate, simple conservation measures could save the equivalent of 7 million barrels of oil daily.

WHY HASN'T GOVERNMENT ACTED?

"There never has been a broad perception up here of what the energy crisis was," says Greenville Garside, special counsel to the Senate Interior Committee. "Even during the worst days of the embargo, you couldn't get a majority of Congress to pass emergency rationing authority." Washington isn't sound asleep, however. Congress passed a bill late last year extending controls on oil but allowing prices to rise gradually as an incentive to production. The Senate is currently considering a bill to provide loan guarantees for programs that would save huge amounts of energy by insulating and otherwise modifying buildings. And this week, FEA head Frank Zarb and Commerce Secretary Elliot Richardson will ask Congress to put a ceiling on imports.

But to limit oil imports, and therefore the supply of energy, would mean that some voter might be forbidden to drive his car as often as he liked, or that a manufacturer might not get all the petrochemicals he wants—and the nation's lawmakers are understandably reluctant to impose such hardship. Even a perfect solution to all the country's energy problems, says Rep. George Brown of California, would cause "suffering for some, both economic and physical, and obscene profits and greater economic power for others." It's hardly surprising, then, that energy has barely been mentioned in the 1976 Presidential election campaign.

As many experts see it, however, there will be no solutions unless the government sets the basic policy. "If we're to rely entirely on the market to signal investments required to meet energy goals nine years in the future, the signals would come too late," says president Thornton Bradshaw of Atlantic Richfield Co. "The industry is simply not capable [on its own] of achieving certain objectives that are clearly vital to the well-being of the nation." To compound the problem, many congressmen want to blunt the industry's market power. NEWSWEEK has learned that the Senate Judiciary Committee will almost surely approve a bill to force a breakup of the giant companies. Passage of the bill is a long shot indeed, but industry spokesmen have warned that the mere threat could delay key investments for years—and at least some oilmen even threaten to move out of the country.

WHAT CAN BE DONE NOW?

If the Arabs clamp on another embargo in the next few years, the U.S. can only pray for the best. But in the longer run, the country does have time to plan for a smooth transition to other fuels. In all probability, the result will be an undramatic mix of new energy sources, with coal providing the bulk of the new power simply because it's cheap and it's there. But getting from here to there won't be easy. "The entire transition from an oil-and-gas economy to a coal-nuclear-solar economy is an enterprise of staggering proportions," says Vincent McKelvey, director of the U.S. Geological Survey, "and we have only the barest glimpse of the true nature and dimensions of the task before us."

Conservatives opt for a free-market approach, beginning by deregulating oil and gas and thus letting prices rise to the point where they would encourage development of new sources and also make development of higher-cost substitutes look attractive again. Higher prices would also force both industry and consumers to save energy. Liberals argue that unfettered prices would be unfair and disruptive; they prefer to keep a lid on prices and to encourage conservation and the search for alternate fuels through various government incentives and central planning.

Either approach has its drawbacks—but then, fortunately or not, it's a safe bet that neither will really be tried. Given the national penchant for scrambling from one crisis to the next, plus the fact that outside forces will play at least as large a part as national plans in deciding the outcome, the energy crisis will be resolved in the end by some combination of market forces, luck, planning and good judgment. And luck is probably most important of all.

(David Pauly with James Bishop Jr., in Washington and bureau reports.)

[From the Washington Post, March 21, 1976]

ENERGY: A RETURN TO COMPLACENCY?

The energy problem is still very much with us and could well become a burning issue very soon again. Oil reserves are limited and one can foresee the world again getting into a supply/demand situation similar to that of late 1973 with its higher prices and periodic shortages. This could lead, in the long-term, perhaps even in my lifetime, to a situation where there simply will not be enough energy available to sustain economic and social progress unless something is done about it and soon.

The greatest danger is public complacency. In the '60s the world grew accustomed to the idea of an abundant supply of energy at low prices that would be available indefinitely. But the harsh realities of the 1973–74 energy crisis with its long lines at gas stations and, more seriously with increased unemployment and accelerated inflation, which brought world economic progress to a halt, brusquely brought home the fragility of the existing structures of energy supply, demand and prices.

It was this crisis that generated the Washington conference of February 1974, called at Secretary of State Kissinger's initiative, which in turn led to the creation of the International Energy Agency, an autonomous body of 18 nations of the industrialized world based in Paris within the framework of the Organization for Economic Cooperation and Development (OECD).

Since its founding in November 1974, IEA has galvanized its members' national efforts to use energy resources more economically and to enlarge energy choices. More than that, a demonstrable increase in international cooperation and commitment has already been achieved within the IEA. Contrary to the situation in 1973, a political platform is now available where industrialized countries can discuss and decide upon intricate energy issues. An emergency sharing system in case of oil shortages has been worked out and a comprehensive longterm program has been agreed to that covers conservation, the development of alternative energy resources, and cooperative energy research and development efforts. As an active observer in the north-south dialogue; the IEA has submitted a number of basic analytical papers that have provided an objective basis for discussion.

Thus, substantial progress has already been made in the IEA. But this is not enough.

Unfortunately, the world is in danger of once again slipping back into the complacency of the '60s. Short-term supply difficulties have been overcome and over-capacity currently exists. National economies are again on the upswing and the inflation rate is abating. The public seems to have become accustomed to higher prices and to the comfortable feeling that the energy crisis has ended.

It cannot be emphasized too strongly that this is a very dangerous illusion. Energy cannot be looked upon as a short-term problem. It is very much a medium and longterm issue that requires action now.

Barring further unexpected political or economic developments, it seems clear that the rate of economic growth and energy demand will continue upward, possibly resulting in a renewed seller's market as early as 1979. It may sound nightmarish but one can easily imagine a number of scenarios resulting in a shortage of oil in the medium term even without a political crisis in the Middle East.

In the long term, we must face the fact that we are going to run out of depletable energy resources—the availability of oil has limitations that can already be calculated. We must take immediate steps to change the bulk of our energy supply from oil and other non-renewable resources to renewable resources such as solar, nuclear fusion, and geothermal power.

This obviously cannot be done overnight due to the long lead times required for the development of new technologies. Economic implementation of nuclear energy, for example, required 30 years from the time of the first pilot plant.

It is clear that current efforts are not sufficient to avoid severe energy shortages early in the 21st century and corresponding economic and social consequences. Efforts must be stepped up:

(1) We must make a realistic assessment of the energy situation going beyond the usual formulation of future world energy scenarios. Concrete targets must be set and reached in the short, medium, and longer term.

(2) We must take stock of existing energy and related economic structures both on a national and international level and build and improve upon them. The necessary changes must be made smoothly, without creating additional frictions damaging to harmonious, economic progress.

(3) Market principles will have to be reinforced and stimulated by policy action and incentives.

In concrete terms, what does this mean?

First, we must move away as quickly as possible from the highly dangerous course of a one-sided energy economy based on oil if we are to avoid the economic and social breakdown from which the world has just escaped. OPEC countries cannot be expected to act as the ultimate balance for energy supply and demand indefinitely. Quite independently of general political considerations, individual OPEC countries will limit their production for quite sound and valid economic reasons, just as industrialized countries also do with their resources.

But we must be realistic and recognize that nuclear power and coal are the only real alternatives to oil over the short and medium term. "Solar," "fusion," "geothermal," etc., cannot be a panacea to our problems for, at the very least, another 20 or 30 years. Therefore a far more positive approach must be taken toward the accelerated development of coal and nuclear power, in tandem with increased efforts to satisfactorily resolve attendant environmental and safety problems.

Second, we must stop looking upon energy as an abundant, wasteable resource. Public awareness of the need for energy conservation must be increased and people's habits and attitudes toward energy consumption must be significantly altered. Industry must look at its consumption habits and patterns. Industry also must seize the opportunity for new markets for already existing conservation equipment and more energy efficient appliances. Government policies must be implemented to provide the proper incentives, and where necessary, regulation for eliminating wasteful consumption. Energy conservation does not have to mean a reduced standard of living. On the contrary, it may well lead to better health and well-being.

Third, "solar," "fusion," "geothermal," etc., must be assessed for their longterm value and developed into an economically viable energy source for the 21st century. But they won't be unless hard, intensive and costly efforts are begun today to lay the groundwork for resolving the many complex problems that still stand in the path of widespread use.

Fourth, as we have seen, there already have been radical changes in energy structures as the decisionmaking power for oil production and pricing has shifted from the oil companies and purely market forces to the oil producing countries. Further changes can be anticipated—the growth in national oil companies and the even greater involvement of both producer and consumer governments. We must channel these changes in such a way as to avoid frictions and a dangerous loss of flexibility in the world energy market.

The changing relationship between government and industry, the modified role of the market, and the increased complexity, cost, and lead times for energy exploration and development cast doubt on whether purely market forces can, by themselves, assure sufficient energy supplies in the future. We have to create a reliable investment climate and encourage increased energy investment. We must avoid the atmosphere of uncertainty that has already been created by the new power achieved by OPEC, and that has been aggravated by the uncertain energy policies of some industrialized nations.

The task ahead for all of us is a difficult one, but it can and must be done. Public complacency and lack of international understanding and cooperation are principal obstacles. The opportunity and time is now for the industrialized countries, in close cooperation with the oil producing and energy deficient developing countries to make substantial progress toward solving our medium and long energy problems.

[From the New York Times, May 28, 1976]

UNCERTAINTY CLOUDS THE OPTIMISM ON OIL

(By William D. Smith)

Although 1976 is expected to be the most stable year since the Arab oil embargo as far as the energy situation is concerned, the generally optimistic outlook is eroded by underlying uncertainty.

Most informed analysts see plentiful world supplies of crude oil and petroleum products. The Organization of Petroleum Exporting Countries, now meeting on the island of Bali in Indonesia, is not expected to increase prices sharply—most estimates are of a 5 to 10 percent advance.

There is a world surplus of refining capacity and tankers—making any logistical supply tightness unlikely—and despite continuing unrest in the Middle East, no major dispute between producing and consuming countries is expected.

However, the underlying situation is marked by elements of uncertainty. These include:

The indecision of consuming nations on long-range energy policies.

The growing dependence of the United States, the largest consuming nation, on oil from members of the Organization of Petroleum Exporting Countries, the producer cartel.

The pace at which the economies of the United States and other countries improve.

The possibility of a tight gasoline supply situation this summer, with noticeably higher prices for motor fuel and a need for imports to meet demand.

"There is more uncertainty this year in short-term forecasting than ever before," according to Sam Schwartz, senior vice president and economist of the Continental Oil Company. "We are all trying to sift out how much of the recent demand declines came from weather, the new conservation ethic, higher prices and the economic recession."

While oil usage dropped 5.8 percent in the United States between 1973 and 1975, energy experts predict an increase of 3 to 6 percent in petroleum demand this year. In the first three months of 1976, domestic consumption of petroleum products increased by 3.3 percent of 1975.

The advance was led by gasoline, for which demand increased 6.2 percent to 6.6 million barrels a day, due in a large degree to what Eugene L. Nowak, energy analyst for Blyth Eastman Dillon calls the "Bicentennial Motoring Binge." The Federal Energy Administration said that in its most recent reporting period the nation's pace of gasoline consumption ran 8 percent ahead of 1975.

On the supply side the worldwide situation appears positive. "Barring a major political upheaval there is no possibility of an oil shortage for at least the next five years," according to John Lichtblau, head of the Petroleum Industry Research Foundation.

In the first quarter of this year, OPEC had a surplus producing capacity of some 10 million barrels a day, an amount no probable growth in consumption could absorb over the next two years.

While the world supply of oil and natural gas appears likely to be adequate into the next century, the situation in the United States is not so optimistic. Oil production peaked in 1970 at 9.6 million barrels a day, has now fallen to 8.1 million barrels and is expected to fall even lower by the end of the year.

With demand for oil in the United States expected to rise to 17.1 million to 17.5 million barrels a day this year, imports obviously will have to bridge the gap.

At the start of this decade about 23 percent of all oil consumed in this country came from foreign sources, mostly Canada and Venezuela. By the summer of 1973, just before the Arab embargo, about 38 percent of American oil demand was being met by foreign oil, with the bulk, however, still coming from the Western Hemisphere.

The recession, conservation, higher prices and weather reduced consumption to 16 million barrels a day in April 1975 and imports to around 31 percent.

Demand and with it imports have been rising steadily since then. In the second week of March, imports rose to a record 8.2 million barrels a day, exceeding for the first time output from wells in the United States. Analysts believe that imports may provide as much as 44 percent of American demand this year.

The failure of competitive energy sources such as nuclear power and coal to increase their contribution as fast as had been expected has been a major factor in increasing imports, according to Charles T. Maxwell, energy analyst for the Wall Street investment firm of Cyrus J. Lawrence.

While the growth of imports is a matter of concern, the fact that the Arab nations are capturing an ever greater proportion of the American market is considered probably even more significant.

According to the Petroleum Industry Research Foundation, the Eastern Hemisphere in 1975 accounted directly and indirectly for 63.2 percent of all United States oil imports, marking the first time in history that most United States oil imports came from outside the Western Hemisphere. The Arab nations supplied 28.4 percent of United States oil imports last year, up from 16 percent in 1973. This was 11 percent of all American oil demand, compared with about 6 percent in 1973.

Federal Energy Administrator Frank Zarb has warned that an oil embargo at present would leave the United States in a considerably worse position than during the 1973-74 embargo. "Next time we won't have any lines because we won't have any gasoline," he said.

While Mr. Zarb and some other Government and Congressional figures believe that the United States can be made virtually embargo-proof by 1985, most energy experts appear to see a considerable amount of wishful thinking in this assessment. Indeed, many independent analysts believe that the United States will be importing from 50 to 60 percent of its oil needs by 1985, with almost all of it coming from OPEC and the Arab states.

Avoiding this degree of dependence on foreign sources involves increasing domestic production of energy and conservation efforts. The United States is doing poorly on both counts, according to most informed sources.

The International Energy Agency disclosed earlier this year, that the United States had the poorest record among its 18 member nations in energy conservation last year.

Harvey N. Morris, president of Fuel Economy Consultants, contends that the United States, despite some positive steps by industry, "has not even begun serious energy conservation."

The institution of a program for the creation of a strategic oil reserve is generally considered one of the few positive steps taken thus far by the Government.

A Federal Government economist has offered this judgment: "When historians 100 years from now write the history of the United States, they will record that the chief failure of the American Government during this century was not Vietnam, not Watergate but the abject dereliction of duty with regards to the nation's energy problems."

AN ALTERNATIVE TO ENVIRONMENTAL REGULATIONS

Mr. GARY HART. Mr. President, the Congress has for a number of years explored and utilized regulatory approaches to pollution control. These approaches have often been ineffective in improving environmental quality.

While no one ever believed that the goals expressed in our pollution laws would be either cheap or easy to achieve, the costs must be considered carefully. The difference between efficient and inefficient control strategies may mean a difference of billions of dollars, and a dramatic difference in the speed of compliance.

In some cases, Federal pollution control regulation has become a method for procrastination. Attempting to distribute the regulatory burden equitably and efficiently has resulted in regulations so hopelessly tied up in both the legal and political arena that it is beginning to occur to many of us that we must give careful consideration to alternative policies.

As part of its informational service, the Environmental Study Conference recently sponsored a panel discussion on one alternative approach—pollution taxes or effluent and emissions fees. Representative TIMOTHY WIRTH and I had the pleasure of moderating this panel which included a number of distinguished members.

Charles L. Schultze, senior fellow at the Brookings Institution and professor of economics at the University of Maryland urged that pollution taxes become an integral part of the market price determination. Placing a price on the use of scarce environmental resources, Schultze maintained, would provide a continuous incentive to develop and adopt the most effective pollution control technologies.

Dr. Nina Cornell, also of the Brookings Institute, accompanied Dr. Schultze and provided a number of informative answers to audience questions.

Leonard Lee Lane, director of education, Public Interest Economics Center, expanded on Dr. Schultze's presentation and discussed his thoughts on why Congress has not been more receptive to the idea of pollution taxes. Mr. Lane has written several articles on this subject in Tax Notes.

Dan Cannon, of the National Association of Manufacturers, defended the present regulatory pollution control legislation. He argued that fees would detract from business expenditures on pollution for both pollution control technology and research and development. Industry, Mr. Cannon continued, needs precise standards to plan future capital expenditures.

David W. Tundermann, of the Council on Environmental Quality, also outlined the legal and economic drawbacks of the regulatory approach. He then presented another approach to pollution control implemented in Connecticut where pollution fees depend on the business costs of complying with pollution limits. Fees decline as control technology is adopted. Mr. Tundermann found Connecticut's approach to be flexible, objective, and precise and that this approach sharply limited the possibility of bureaucratic overzealousness on the part of the enforcing agency. The Connecticut program has, according to Mr. Tundermann, been supported by most of Connecticut's business community.

Dr. Schultze's extemporaneous presentation at this panel discussion is an excellent introduction to pollution, prices, and public policy, and I ask unanimous consent that an edited transcript of his remarks be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

STATEMENT OF CHARLES L. SCHULTZE AT ESC BRIEFING ON POLLUTION TAXES, MAY 26, 1976

The basic problem is that since the industrial revolution, we have treated environmental resources as free resources; free to everybody to use as a dump and as a sink. There has been no incentive to economize on their use; in fact there is an incentive to use as much as possible of these resources. The impact on society is serious and pervasive. Raw materials, production techniques, and consumer products are designed and chosen as if environmental resources were free, and chosen without concern for environmental consequences. The true environmental costs are not accounted for. Take bleached versus unbleached household paper as a very mundane example. The pollution consequences of producing unbleached paper are far less than for bleached paper. But since the environmental cost of bleaching is not charged into the product price there is no incentive for society anywhere to take that into account when it decides what products to produce and what products to buy. Because environmental resources are free, industry and consumers are biased towards using as much as possible of them.

The market system that we have is incredibly efficient in sending out and responding to price and cost signals. Now they may be the wrong or the right signals. Labor is a case where the market response to price signals is good. Labor is costly. You have to pay a wage rate for it. It is very important in the production process. So, society has bent over backwards by way of the production techniques it chooses and new technology it finds to reduce the amount of labor per unit of output. As a result, every thirty years the amount of labor per unit of output is havled, or in other words, productivity doubles. During the past 100 years, therefore, productivity has increased eight fold, because labor is expensive. This is a fundamental reason for the improvement in our living standard.

Two examples where the system responds marvelously efficiently to the wrong signals: In the public utility area, the pricing system provides cheaper and cheaper rates the more power you use; block rates. At the upper end of the rate schedule, rates are below the long run cost of adding additional electrical utility capacity. Over the last twenty years, the system has responded beautifully increasing electrical capacity and production by leaps and bounds, and excessively, as signals were sent out all over the economy saying that we are going to charge you less for that last unit of electricity than its full cost.

Mass transit subsidy: The federal government has subsidized capital costs, not mass transit ridership. So, people build great monumental wonders which incredibly use capital, are highly automated, and terribly expensive. In cities which get subsidies for buying new buses but not subsidies for maintaining and operating buses, those buses are not maintained and operated over about half the life that they could be operated for, because the city can buy new ones with a large federal subsidy.

The fundamental point is that society is tremendously efficient in doing what the price and cost signals indicate. And we have sent out the signal that environmental resources are free.

In choosing an approach when we began to address environmental problems, we did not change the price signals, but we regulated; we set up a central regulatory bureaucracy to tell everyone precisely how to run each business and how to reduce environmental pollution. For a long time we set ambient standards for water and for air and then, in effect, relied on the courts to enforce ambient standards against individual violators. Given the rules of judicial procedure and evidence, tracing a violation of an ambient standard to any one polluter was not possible. That approach was a dismal failure and we had to step back.

Then in the 1970 water amendments and the 1972 air amendments we told EPA to go in and set emission standards for air and water plant by plant, firm by firm. We now regulate directly. When you look at what EPA has to do it makes your head swim:

By 1977 a deadline has been set for achieving effluent limitations for point sources, other than publicly owned treatment works, which require the application of the best practicable control technology currently available.

By 1983, EPA must set effluent limitation requiring the application of the best available technology economically achievable.

In addition, in establishing these guidelines, EPA is charged to take into account the age of equipment and facilities involved and the production and engineering processes employed.

To avoid court challenges EPA is forced into a determination plant by plant, process by process, almost subprocess by subprocess, and age of plant and equipment by age of plant and equipment, not only of effluent standards, but also of appropriate technology. There are 55 thousand point sources of water pollution in this country. With air pollution we have essentially the same problem as with water pollution and similar regulatory methods and enforcement.

Once the limits are set, there is no incentive to go any further. With respect to the best available technology, there is an incentive not to innovate and find new ways to control pollution. What incentive is there to invent something that raises your costs. The regulatory method is not future oriented. What are the long term implications? We are selfish. We are setting our eyes far too much on immediately achievable objectives by only asking what can we do with present technology. This is not a short run problem. It is a problem for our children and our children's children. There are a fixed quantity of air and water resources for us to enjoy. The impact of industrial society on these resources is pervasive. It is critical that appropriate technology be continuously invented and stimulated for maintenance of a reasonably affluent and working modern society. In turn, institutional structures and social incentives must be established to get the whole system to bend its efforts toward achieving this long run task.

We can follow two approaches: we can preach to urge people to change their lifestyles; this is the "religious" approach and an important one. We can also change the incentives that confront people. We have to make it profitable and rewarding to be continually searching for ways to make a modern society livable and viable under a limited number of scarce environmental resources. The future of society depends on conserving those resources.

With respect to effluent and emission charges, we can change the price signals we are sending out and pervasively and universally send out the enforceable signal that the environment is scarce, we have got to economize on it, under effluent charges it costs to pollute and conversely a firm can make money otherwise by reducing pollution and therefore its effluent taxes and charges.

A basic characteristic of pollution control is that as the percentage of pollutants removed increases, the costs of going even further rise as you get more ambitious: a rising cost curve. Therefore, you can set effluent taxes to get any objective you want. If the tax is set low then clearly it is profitable to pay the charge and continue to pollute rather than a cleanup. As you raise the charge, the profit break even point at which you clean up pollution becomes more and more stringent. This avoids that all or nothing showdown of regulatory standards: do you put scrubbers in or do you not. We all know who wins this "game of chicken" 90 percent of the time. Rather than shut down an industry the standard is modified or postponed by the government. Therefore, we now usually do not shut down. This is an all or nothing situation rather than a gradual process of raising pollution taxes to make it more and more expensive to pollute and thereby creating more and more incentives to change the production process—rather than these all or nothing games of chicken in the courts and in Congress.

There are now enough studies done to give the idea of how to begin using the tax approach for common pollutants. Obviously, for toxic chemicals and certain heavy metals economic incentives are not the answer; flat prohibition still is. However, for some of the most pervasive problems in the energy-environment tradeoff and in areas of fundamental pollutants of air and water we can begin. It will take a long time to learn how to do it right. You cannot set up a new structural system overnight. But we must begin to send out the enforceable signal that it is very important to do something about environmental pollution and clean up pollution, a signal which is enforceable because it sets up incentives and rewards for compliance and stronger and stronger penalties for those who do not.

PROGRESS TOWARD THE SHEPAUG RIVER'S PRESERVATION

Mr. RIBICOFF. Mr. President, one of the Northeast's most scenic and historic rivers is the Shepaug River in western Connecticut. Much of this river remains close to its original state and it has been almost totally untouched by the spread of industrial development, roads, and power lines. I have had the unique and enjoyable experience of traveling along a portion of this stream by canoe and have marveled at its beauty and tranquility.

Unfortunately, as the area becomes more urbanized and development of the region is accelerated, the Shepaug has become seriously threatened. Planners have identified four sites for the possible damming of the river and consideration has been given to erecting a 345 kilovolt transmission line cutting a path parallel to the Shepaug. In order to provide the protection which this river so richly deserves, I authored legislation in the 93d Congress to add the Shepaug to the National Wild and Scenic Rivers System.

In January 1975, the Shepaug was one of 29 rivers added to a study list for potential addition to the National Wild and Scenic Rivers System. In this connection, the Interior Department's Bureau of Outdoor Recreation earlier this week held 2 days of public meetings in Connecticut to inform interested persons and groups of the scope of the study to be undertaken by an interagency field task force and to receive statements and comments on the inclusion of the Shepaug in the national system.

I am, of course, delighted by this important development. The inclusion of the Shepaug under the National Wild and Scenic Rivers Act will protect it against the construction of power dams and other encroachments which would destroy the integrity of this beautiful river and the surrounding land.

Mr. President, I ask unanimous consent to have printed in the RECORD a statement I submitted to the Bureau of Outdoor Recreation in support of the Shepaug River's addition to the national system and the Bureau's formal announcement of the study.

There being no objection, the statement and study were ordered to be printed in the RECORD, as follows:

STATEMENT OF HON. ABRAHAM RIBICOFF

When it passed the Wild and Scenic Rivers Act in 1968, the Congress declared it to be a national policy to preserve, in their free-flowing condition, certain rivers possessing unique qualities. These rivers and the environment immediately surrounding them are also to be protected for the benefit and enjoyment "of present and future generations." In addition, an objective of this measure is to prevent the ruin of these rivers through the construction of dams or other structures in or near the river systems or any other action which would impair their water quality or scenic beauty.

The goals of the Wild and Scenic Rivers Act would be amply fulfilled by including Western Connecticut's Shepaug River. This scenic and historic stream has been virtually untouched since the time Native Americans lived in the area as long as 9,000 years ago. However, located as it is in the rapidly-developing and highly urbanized Northeast region, the Shepaug River is seriously threatened by modern technology and many of the area's residents have voiced deep and legitimate concerns.

This truly unique river has been properly described as one of the very last, largely undeveloped major watersheds in southern New England—if not the only one! Over 25 miles of forested hills are scarcely broken by three small, rural communities. I have traveled by canoe along a stretch of this lovely river and have been impressed with its beauty and tranquility. Also important is the fact that the river is within only an hour's drive of ten Connecticut cities. What a treasure for the citizens of these locations and other who visit our state!

Certain sections of this river provide outstanding white water conditions and, each year, countless numbers of canoers and kayakers ply the challenging currents. Because of an excellent water quality trout abound and the Shepaug provides outstanding opportunities for sports fishermen. Another value of the Shepaug was appropriately described by one of my constituents who wrote a couple of years ago. "Many people enjoy the free flowing water, some for fishing, some for swimming, some just to watch the currents bubble around a rock."

In addition to the scenic beauty of this invaluable natural resource, the Shepaug is rich in history. The Shepaug Valley Archaeological Society reports that there is evidence of an Indian encampment between every half mile or mile along the entire river valley. Further, the first dwelling plans found in the northeast for settlements dating back to 1,000 B.C. and 1,500 B.C. have been found in the Shepaug Valley. This fine organization observed that "The Shepaug River Valley is a unique laboratory for the study of pre-historic man."

Unfortunately, as all too often happens in this era of technological development and ever-expanding modernization, the Shepaug has been seriously threatened by "progress." Four sites for the possible damming of the river have been identified and a 345 Kv transmission line traversing a path parallel to the river has been considered. If implemented, these proposals would have a devastating impact on the river's scenic, historic and ecological features. Some areas might be flooded and, in others, paved roads might be constructed to sites which can now only be reached by foot. The wilderness character of the river's setting would be totally destroyed and the idyllic pleasures which are now offered would be lost forever. It would be a genuine tragedy to permit this to occur. It was for this reason that I authored legislation over two years ago to add the Shepaug River to the list to be studied for protection under the Wild and Scenic Rivers System.

Without the protection afforded by Public Law 90-542, the river's days of beauty and tranquility will certainly be numbered. Not only Connecticut but the entire nation will be much poorer if we allow one more priceless natural resource such as the Shepaug to be squandered. The dams and power lines which have been suggested would create irreparable harm and would forever preclude the future enjoyment of the Shepaug. Only by its addition to the National Wild and Scenic Rivers System can the Shepaug be protected from commercial development and pollution. I believe that the evidence presented during the course of the Bureau of Outdoor Recreation's hearings and evaluations will amply demonstrate that the Shepaug meets all criteria for addition to the system. I urge, therefore, that the Bureau and other appropriate agencies give this matter full and careful consideration with a view toward recommending to the Secretary of the Interior and, in turn, to the President and the Congress that the Shepaug be granted the protection of PL 90-542, and regulations issued under this law, and that it be added to the National Wild and Scenic Rivers System.

The Shepaug River—A Possible Addition to the National Wild and Scenic Rivers System

On October 2, 1968, the Congress of the United States enacted the Wild and Scenic Rivers Act, Public Law 90-542. In this Act, the Congress declared it:

". . . to be the policy of the United States that certain selected rivers of the Nation which, with their immediate environments, possess outstandingly remarkable scenic, recreational, geologic, fish and wildlife, historic, cultural, or other similar values, shall be preserved in free-flowing condition, and that they and their immediate environments shall be protected for the benefit and enjoyment of present and future generations."

The Act established the National Wild and Scenic Rivers System, designated eight rivers as initial components of the system, and identified 27 rivers for study as potential additions to the National System. In January 1975, the Act was amended, by placing 29 additional rivers in the study category, one of which is the Shepaug River. The Bureau of Outdoor Recreation has been assigned the responsibility of conducting the Shepaug Study.

The Shepaug and its major branch, the Bantam River, will be studied. This area includes portions of the towns of Southbury, Bridgewater, Roxbury, Washington, Morris, Warren, Litchfield, Goshen, and Cornwall. Of primary concern is the river and its immediate environment.

The study is to:

(1) Evaluate the river and its environment;

(2) Determine which portions, if any, qualify for inclusion in the National Wild and Scenic Rivers System; and

(3) Propose a management program for the river which will accomplish the objectives of the Act.

Evaluation of the Shepaug will focus on its:

Free-flowing condition.
Water quality.
Scenic quality.
Fish and wildlife quality.
Recreation potential.
Accessibility.
Shoreline development.
Geologic features.
Cultural and historical values.

The Bureau of Outdoor Recreation will be leading an interagency field task force composed of Federal and State agencies. Representatives from Connecticut's Department of Environmental Protection, the Northwest Connecticut Regional Planning Agency, the Kings Mark Resource Conservation and Development Project, the Litchfield Hills Regional Planning Agency, and the Litchfield County Soil Conservation District have been invited to participate in the study and other groups will be contacted as the study progresses.

The public information meetings announced by this brochure are being held to bring the general public into the planning process and to promote awareness and understanding of the Wild and Scenic Rivers Program. Most importantly, the study group assigned to study the Shepaug River needs to be aware of and understand how the public feels about the river and its values. The study group is also interested in what problems are occurring on the river and how the river can best be managed to overcome these problems. Your knowledge and ideas are essential to the development of a truly meaningful report which will be used to decide the future of the Shepaug.

Public meetings have been scheduled to acquaint the public with the Shepaug Study as follows:

June 7, 1976—7:30 pm: Shepaug Middle School Auditorium, South Street, Washington, Connecticut.

June 8, 1976—8:00 pm: State Capital Building, Judiciary Room 3rd Floor, Hartford, Connecticut.

Those wishing to provide written comments or statements on any aspect of the study should address correspondence to:

Regional Director, Northeast Region, Bureau of Outdoor Recreation, 600 Arch Street, Philadelphia, PA 19106.

During the summer and early autumn months, the Shepaug Study Team will be gathering and evaluating information on the River. A second series of public meetings to discuss the study findings will be held later in the fall. Then, over the winter and spring, a draft report and environmental impact statement will be prepared for review by Federal, State and local agencies, by groups and individuals. By the end of 1977, we will prepare a final report on the Shepaug for the Secretary of the Interior, which he can then submit to the President and Congress for consideration. We will be keeping you informed of the study's progress through further mailings.

THE KENNEDY COMMENCEMENT ADDRESS AT AMERICAN UNIVERSITY, JUNE 10, 1963

Mr. PROXMIRE. Mr. President at a time when foreign policy issues again have become prominent during a heated national election campaign, we need to stand back and ask very simple questions: What does American stand for in the world? What is our true foreign policy?

Can it be said that we stand for the principle of one man-one vote when we provide military and economic aid to dictatorships throughout the world?

Can it be said that we stand for representative democracy when there is no indication of that consideration when we form alliances?

Can it be said that we are the champion of human dignity and basic rights when the U.S. Senate has yet to pass the Genocide Convention?

Are we peacekeepers when our foreign military sales have mushroomed from $1 billion to $12 billion in 6 years?

And what of peace itself—that distant fleeting promise that somehow never comes closer? Not the peace of total security which comes from rational decisions and the allevation of the causes of war.

Vietnam, Angola, Lebanon, Cyprus, Ireland—the globe has sprouted with the seeds of war. To what should we look for guidance? Where is our national will expressed clearly? Of what can we remain proud?

Many of the answers can be found in one place, with one speech by one of the most loved and respected leaders of our time. President Kennedy offered us his vision of the kind of peace this Nation should seek in his address to the commencement at American Univerity 13 years ago today.

His speech needs no commentary. It stands alone. Simple, dramatic. Ringing clear.

Mr. President I ask unanimous consent that President Kennedy's speech be printed in the Record.

There being no objection, the address was ordered to be printed in the Record, as follows:

Commencement Address at American University in Washington, June 10, 1963

President Anderson, members of the faculty, board of trustees, distinguished guests, my old colleague, Senator Bob Byrd, who has earned his degree through many years of attending night law school, while I am earning mine in the next 30 minutes, ladies and gentlemen:

It is with great pride that I participate in this ceremony of the American University, sponsored by the Methodist Church, founded by Bishop John Fletcher Hurst, and first opened by President Woodrow Wilson in 1914. This is a young and growing university, but it has already fulfilled Bishop Hurst's enlightened hope for the study of history and public affairs in a city devoted to the making of history and to the conduct of the public's business. By sponsoring this institution of higher learning for all who wish to learn, whatever their color or their creed, the Methodists of this area and the Nation deserve the Nation's thanks, and I commend all those who are today graduating.

Professor Woodrow Wilson once said that every man sent out from a university should be a man of his nation as well as a man of his time, and I am confident that the men and women who carry the honor of graduating from this institution will continue to give from their lives, from their talents, a high measure of public service and public support.

"There are few earthly things more beautiful than a university," wrote John Masfield, in his tribute to English universities—and his words are equally true today. He did not refer to spires and towers, to campus greens and ivied walls. He admired the splendid beauty of the university, he said, because it was "a place where those who hate ignorance may strive to know, where those who perceive truth may strive to make others see."

I have, therefore, chosen this time and this place to discuss a topic on which ignorance too often abounds and the truth is too rarely perceived—yet it is the most important topic on earth: world peace.

What kind of peace do I mean? What kind of peace do we seek? Not a Pax Americana enforced on the world by American weapons of war. Not the peace of the grave or the security of the slave. I am talking about genuine peace, the kind of peace that makes life on earth worth living, the kind that enables men and nations to grow and to hope and to build a better life for their children—not merely peace for Americans but peace for all men and women—not merely peace in our time but peace for all time.

I speak of peace because of the new face of war. Total war makes no sense in an age when great powers can maintain large and relatively invulnerable nuclear forces and refuse to surrender without resort to those forces. It makes no sense in an age when a single nuclear weapon contains almost ten times the explosive force delivered by all of the allied air forces in the Second World War. It makes no sense in an age when the deadly poisons produced by a nuclear exchange would be carried by wind and water and soil and seed to the far corners of the globe and to generations yet unborn.

Today the expenditure of billions of dollars every year on weapons acquired for the purpose of making sure we never need to use them is essential to keeping the peace. But surely the acquisition of such idle stockpiles—which can only destroy and never create—is not the only, much less the most efficient, means of assuring peace.

I speak of peace, therefore, as the necessary rational end of rational men. I realize that the pursuit of peace is not as dramatic as the pursuit of war—and frequently the words of the pursuer fall on deaf ears. But we have no more urgent task.

Some say that it is useless to speak of world peace or world law or world disarmament—and that it will be useless until the leaders of the Soviet Union adopt a more enlightened attitude. I hope they do. I believe we can help them do it. But I do believe that we must reexamine our own attitude—as individuals and as a Nation—for our attitude is as essential as theirs. And every graduate of this school, every thoughtful citizen who despairs of war and wishes to bring peace, should begin by looking inward—by examining his own attitude toward the possibilities of peace, toward the Soviet Union, toward the course of the cold war and toward freedom and peace here at home.

First: Let us examine our attitude toward peace itself. Too many of us think it is impossible. Too many think it unreal. But that is a dangerous, defeatist belief. It leads to the conclusion that war is inevitable—that mankind is doomed—that we are gripped by forces we cannot control.

We need not accept that view. Our problems are manmade—therefore, they can be solved by man. And man can be as big as he wants. No problem of human destiny is beyond human beings. Man's reason and spirit have often solved the seemingly unsolvable—and we believe they can do it again.

I am not referring to the absolute, infinite concept of universal peace and good will of which some fantasies and fanatics dream. I do not deny the value of hopes and dreams but we merely invite discouragement and incredulity by making that our only and immediate goal.

Let us focus instead on a more practical, more attainable peace—based not on a sudden revolution in human nature but on a gradual evolution in human institutions—on a series of concrete actions and effective agreements which are in the interest of all concerned. There is no single, simple key to this peace—no grand or magic formula to be adopted by one or two powers. Genuine peace must be the product of many nations, the sum of many acts. It must be dynamic, not static, changing to meet the challenge of each new generation. For peace is a process—a way of solving problems.

With such a peace, there will still be quarrels and conflicting interests, as there are within families and nations. World peace, like community peace, does not require that each man love his neighbor—it requires only that they live together in mutual tolerance, submitting their disputes to a just and peaceful settlement. And history teachers us that enmities between nations, as between individuals, do not last forever. However fixed our likes and dislikes may seem, the tide of time and events will often bring surprising changes in the relations between nations and neighbors.

So let us persevere. Peace need not be impracticable, and war need not be inevitable. By defining our goal more clearly, by making it seem more manageable and less remote, we can help all peoples to see it, to draw hope from it, and to move irresistibly toward it.

Second: Let us reexamine our attitude toward the Soviet Union. It is discouraging to think that their leaders may actually believe what their propagandists write. It is discouraging to read a recent authoritative Soviet text on *Military Strategy* and find, on page after page, wholly baseless and incredible claims—such as the allegation that "American imperialist circles are preparing to unleash different types of wars . . . that there is a very real threat of a preventive war being unleashed by American imperialists against the Soviet Union . . . [and that] the political aims of the American imperialists are to enslave economically and politically the European and other capitalist countries . . . [and] to achieve world domination . . . by means of aggressive wars."

Truly, as it was written long ago: "The wicked flee when no man pursueth." Yet it is sad to read these Soviet statements—to realize the extent of the gulf between us. But it is also a warning—a warning to the American people not to fall into the same trap as the Soviets, not to see only a distorted and desperate view of the other side, not to see conflict as inevitable, accommodation as impossible, and communication as nothing more than an exchange of threats.

No government or social system is so evil that its people must be considered as lacking in virtue. As Americans, we find communism profoundly repugnant as a negation of personal freedom and dignity. But we can still hail the Russian people for their many achievements—in science and space, in economic and industrial growth, in culture and in acts of courage.

Among the many traits the peoples of our two countries have in common, none is stronger than our mutual abhorrence of war. Almost unique, among the major world powers, we have never been at war with each other. And no nation in the history of battle ever suffered more than the Soviet Union suffered in the course of the Second World War. At least 20 million lost their lives. Countless millions of homes and farms were burned or sacked. A third of the nation's territory, including nearly two-thirds of its industrial base, was turned into a wasteland—a loss equivalent to the devastation of this country east of Chicago.

Today, should total war ever break out again—no matter how—our two countries would become the primary targets. It is an ironic but accurate fact that the two strongest powers are the two in the most danger of devastation. All we have built, all we have worked for, would be destroyed in the first 24 hours. And even in the cold war, which brings burdens and dangers to so many countries, including this Nation's closest allies—our two countries bear the heaviest burdens. For we are both devoting massive sums of money to weapons that could be better devoted to combating ignorance, poverty, and disease. We are both caught up in a vicious and dangerous cycle in which suspicion on one side breeds suspicion on the other, and new weapons beget counterweapons.

In short, both the United States and its allies, and the Soviet Union and its allies, have a mutually deep interest in a just and genuine peace and in halting the arms race. Agreements to this end are in the interests of the Soviet Union as well as ours—and even the most hostile nations can be relied upon to accept and keep those treaty obligations, and only those treaty obligations, which are in their own interest.

So, let us not be blind to our differences—but let us also direct attention to our common interests and to the means by which those differences can be resolved. And if we cannot end now our differences, at least we can help make the world safe for diversity. For, in the final analysis, our most basic common link is that we all inhabit this small planet. We all breathe the same air. We all cherish our children's future. And we are all mortal.

Third: Let us reexamine our attitude toward the cold war, remembering that we are not engaged in a debate, seeking to pile up debating points. We are not here distributing blame or pointing the finger of judgment. We must deal with the world as it is, and not as it might bave been had the history of the last 18 years been different.

We must, therefore, persevere in the search for peace in the hope that constructive changes within the Communist bloc might bring within reach solutions which now seem beyond us. We must conduct our affairs in such a way that it becomes in the Communists' interest to agree on a genuine peace. Above all, while defending our own vital interests, nuclear powers must avert those confrontations which bring an adversary to a choice of either a humiliating retreat or a nuclear war. To adopt that kind of course in the nuclear age would be evidence only of the bankruptcy of our policy—or of a collective death-wish for the world.

To secure these ends, America's weapons are nonprovocative, carefully controlled, designed to deter, and capable of selective use. Our military forces are committed to peace and disciplined in self-restraint. Our diplomats are instructed to avoid unnecessary irritants and purely rhetorical hostility.

For we can seek a relaxation of tensions without relaxing our guard. And, for our part, we do not need to use threats to prove that we are resolute. We do not need to jam foreign broadcasts out of fear our faith will be eroded. We are unwilling to impose our system on any unwilling people—but we are willing and able to engage in peaceful competition with any people on earth.

Meanwhile, we seek to strengthen the United Nations, to help solve its financial problems, to make it a more effective instrument for peace, to develop it into a genuine world security system—a system capable of resolving disputes on the basis of law, of insuring the security of the large and the small, and of creating conditions under which arms can finally be abolished.

At the same time we seek to keep peace inside the non-Communist world, where many nations, all of them our friends, are divided over issues which weaken Western units, which invite Communist intervention or which threaten to erupt into war. Our efforts in West New Guinea, in the Congo, in the Middle East, and in the Indian subcontinent, have been persistent and patient despite criticism from both sides. We have also tried to set an example for others—by seeking to adjust small but significant differences with our own closest neighbors in Mexico and in Canada.

Speaking of other nations, I wish to make one point clear. We are bound to many nations by alliances. Those alliances exist because our concern and theirs substantially overlap. Our commitment to defend Western Europe and West Berlin, for example, stands undiminished because of the identity of our vital interests. The United States will make no deal with the Soviet Union at the expense of other nations and other peoples, not merely because they are our partners, but also because their interests and ours converge.

Our interests converge, however, not only in defending the frontiers of freedom, but in pursuing the paths of peace. It is our hope—and the purpose of allied policies—to convince the Soviet Union that she, too, should let each nation choose its own future, so long as that choice does not interfere with the choices of others. The Communist drive to impose their political and economic system on others is the primary cause of world tension today. For there can be no doubt that, if all nations could refrain from interfering in the self-determination of others, the peace would be much more assured.

This will require a new effort to achieve world law—a new context for world discussions. It will require increased understanding between the Soviets and ourselves. And increased understanding will require increased contact and communication. One step in this direction is the proposed arrangement for a direct line between Moscow and Washington, to avoid on each side the dangerous delays, misunderstandings, and misreadings of the other's actions which might occur at a time of crisis.

We have also been talking in Geneva about other first-step measures of arms control, designed to limit the intensity of the arms race and to reduce the risks of accidental war. Our primary long-range interest in Geneva, however, is general and complete disarmament—designed to take place by stages, permitting parallel political developments to build the new institutions of peace which would take the place of arms. The pursuit of disarmament has been an effort of this Government since the 1920's. It has been urgently sought by the past three administrations. And however dim the prospects may be today, we intend to continue this effort—to continue it in order that all countries, including our own, can better grasp what the problems and possibilities of disarmament are.

The one major area of these negotiations where the end is in sight, yet where a fresh start is badly needed, is in a treaty to outlaw nuclear tests. The conclusion of such a treaty, so near and yet so far, would check the spiraling arms race in one of its most dangerous areas. It would lace the clear powers in a position to deal more effectively with one of the greatest hazards which man faces in 1963, the further spread of nuclear arms. It would increase our security—it would decrease the prospects of war. Surely this goal is sufficiently important to require our steady pursuit, yielding neither to the temptation to give up the whole effort nor the temptation to give up our insistence on vital and responsible safeguards.

I am taking this opportunity, therefore, to announce two important decisions in this regard.

First: Chairman Khrushchev, Prime Minister Macmillan, and I have agreed that high-level discussions will shortly begin in Moscow looking toward early agreement on a comprehensive test ban treaty. Our hopes must be tempered with the caution of history—but with our hopes go the hopes of all mankind.

Second: To make clear our good faith and solemn convictions on the matter, I now declare that the United States does not propose to conduct nuclear tests in the atmosphere so long as other states do not do so. We will not be the first to resume. Such a declaration is no substitute for a formal binding treaty, but I hope it will help us achieve one. Nor would such a treaty be a substitute for disarmament, but I hope it will help us achieve it.

Finally, my fellow Americans, let us examine our attitude toward peace and freedom here at home. The quality and spirit of our own society must justify and support our efforts abroad. We must show it in the dedication of our own lives—as many of you who are graduating today will have a unique opportunity to do, by serving without pay in the Peace Corps abroad or in the proposed National Service Corps here at home.

But wherever we are, we must all, in our daily lives, live up to the age-old faith that peace and freedom walk together. In too many of our cities today, the peace is not secure because freedom is incomplete.

It is the responsibility of the executive branch at all levels of governments—local, State, and National—to provide and protect that freedom for all of our citizens by all means within their authority. It is the responsibility of the legislative branch at all levels, wherever that authority is not now adequate, to make it adequate. And it is the responsibility of all citizens in all sections of this country to respect the rights of all others and to respect the law of the land.

All this is not related to world peace. "When a man's ways please the Lord," the Scriptures tell us, "he maketh even his enemies to be at peace with him." And is not peace, in the last analysis, basically a matter of human rights—the right to live out our lives without fear of devastation—the right to breathe air as nature provided it—the right of future generations to a healthy existence?

While we proceed to safeguard our national interests, let us also safeguard human interests. And the elimination of war and arms is clearly in the interest of both. No treaty, however much it may be to the advantage of all, however tightly it may be worded, can provide absolute security against the risks of deception and evasion. But it can—if it is sufficiently effective in its enforcement and if it is sufficiently in the interests of its signers—offer far more security and far fewer risks than an unabated, uncontrolled, unpredictable arms race.

The United States, as the world knows, will never start a war. We do not want a war. We do not now expect a war. This generation of Americans has already had enough—more than enough—of war and hate and oppression. We shall be prepared if others wish it. We shall be alert to try to stop it. But we shall also do our part to build a world of peace where the weak are safe and the strong are just. We are not helpless before that task or hopeless of its success. Confident and unafraid, we labor on—not toward a strategy of annihilation but toward a strategy of peace.

NOTE: The President spoke at the John M. Reeves Athletic Field on the campus of American University after being awarded an honorary degree of doctor of laws. In his opening words he referred to Hurst R. Anderson, president of the university, and Robert C. Byrd, U.S. Senator from West Virginia.

FISCAL YEAR 1977 FUNDING FOR FORESTRY PROGRAMS

Mr. HUMPHREY. Mr. President, I wish to share with this body a recent letter which I sent to Senator ROBERT C. BYRD, chairman of the Subcommittee on Interior Appropriations, which handles funding for national forest programs.

In my letter to Senator BYRD, I outlined a number of areas in which I felt that the administration funding request for fiscal year 1977 was not adequate. In developing the Forest and Rangeland Renewable Resources Planning Act of 1974 and the pending Forestry Management Act of 1976, one of the major and recurring problems has been the inadequate funding of forestry programs in recent years.

While we may develop a sound program for the future which is based on the best current available data, if we do not provide the funds to carry through on this program, we have failed our people in terms of meeting the renewable resource opportunities which are available.

I also included along with my letter, a table outlining the actual funding for particular activities in fiscal year 1976, the administration's request for fiscal year 1977, and finally my recommended funding for the coming year. The requests which I made are by and large very modest, and they represent investments which will bring returns both in terms of revenue and generated employment.

Mr. President, I ask unanimous consent that this letter and table be printed in the RECORD.

There being no objection, the letter and table were ordered to be printed in the RECORD, as follows:

COMMITTEE ON FOREIGN RELATIONS,
Washington, D.C., May 24, 1976.

Hon. ROBERT C. BYRD,
Chairman, Subcommittee on Interior, Committee on Appropriations, U.S. Senate,
Washington, D.C.

DEAR MR. CHAIRMAN: I am writing to urge that your committee consider a number of funding increases in various forestry programs for fiscal 1977.

As you are aware, when we passed the Forest and Rangeland Renewable Resources Planning Act of 1974, it was clearly evident that among the major problems relating to our forestry programs are an inadequate level of funds for a number of programs and inadequate attention to ways to meet our long-term needs in terms of planning for the future. During the recent discussions over new legislation to reform the management of our National Forests, it again became clear that the Administration has not requested adequate funding for many of these programs if we are to meet our long-range requirements for all of the benefits which derive from our National Forests. When the Forest Service testified at these recent hearings, Mr. McGuire conceded that the Administration had not asked for adequate funding to meet the goals and objectives as outlined in the Administration's Program.

I am attaching a list which outlines my recommended changes in funding for particular programs or activities.

For insect disease control I would recommend a modest increase over the Administration's request which is well below the FY 1976 Program. This funding is needed to prevent epidemic and environmental damage and hold losses from insect diseases to a minimum.

For state and private forestry cooperation the Administration again requests less money than was utilized in FY 1976. I would recommend a modest increase since 60 percent of the nation's timber holdings are on farms and small holdings, but they produce far less than they are capable. We need to stimulate production on these holdings rather than discourage it.

The Administration requests an increase in this area, but I would suggest further increases to cover a number of research activities covered elsewhere. We need to carry out research on re-cycled material and ways of better utilizing down and dead timber. We also need to carry out research related to our Forest and Rangeland Renewable Resources Planning Act of 1974. In addition, additional funding is needed for our North Central Forest Survey. The data is being collected over a 15-year period for this study, and our foresters are concerned that this information will be out of date by the time the study is accomplished. We need to speed up this survey and increase the funding for this activity by at least $250,000 annually.

For reforestation and stand improvement the Administration has requested a $1 million increase which would not even stay even with increasing program costs. The program to reseed our forests is now well behind schedule, and we need to make the necessary investment which will lead to improved timber harvests in the future.

The Administration has not requested any FY 1977 funds for the Youth Conservation Corps. This activity has long been a great benefit to our young people and our national conservation needs. The Administration plans to stretch the $35 million provided in FY 1976 over two years. While this fiscal year is almost over, I would recommend that we provide at least $20 million for FY 1977 in order to bring this important and useful program back to a reasonable level.

For wildlife and fish habitat programs the Administration has requested a very modest increase in funding which should be increased further. At our recent hearings on forestry management legislation, it was very evident that the emphasis on fish and wildlife needed to be increased and the corresponding funding for these programs.

For rangeland management, I am recommending a modest increase above the Administration's request. Here again the condition of our rangelands is well below what is a desirable management level.

For soil and water management activities, I am again requesting an increase above the requested level of the Administration. We need to invest more resources in improving our soil and water resources and developing improved planning for the future.

For roads and trails, I would recommend increasing the total funding for this program over the Administration's request.

In addition, I would recommend that the amount directly appropriated for roads and trails be increased so that the amount of money under the timber purchaser contracts can be reduced. This was a particular concern of our Committee on Agriculture and Forestry and the Interior and Insular Affairs Committee as we discussed forestry management legislation. The members of the two committees were particularly concerned over the impact which increased timber purchaser contract road construction has had on our local communities. Changing the proportion of funds to place greater emphasis on direct appropriations for road construction would be in line with the thrust of S. 3091 as reported to the Senate.

While I have suggested a number of increases in these programs, they are generally very modest amounts. In addition, they carry, I believe, potential for later increases in benefits from our National Forests, and there is also the more immediate prospect of increasing employment throughout the nation. I believe that the requested amounts would represent a sound investment for now and the future.

I appreciate the cooperation which your Subcommittee has given to my recommendations in the past.

Sincerely,

Hubert H. Humphrey.

RECOMMENDED FUNDING FOR FORESTRY PROGRAMS

[In millions of dollars]

Program or activity	Fiscal year 1976 funding	Administrative request for fiscal year 1977	Humphrey request for fiscal year 1977
Insect disease control	22.8	15.0	25
State and private forestry cooperation	33.0	24.8	35
Forestry research	80.0	84.7	95
Reforestation and stand improvement	62.0	63.0	75
Youth Conservation Corps	35.0		20
Wildlife and fish habitat	11.0	13.5	15
Rangeland management	19.0	23.5	25
Soil and water management	17.8	19.5	25
Roads and trails	345.0	370.0	400
(Direct appropriation)	(175.0)	(170.0)	(250)
(Timber purchaser contract)	[1] (170.0)	(200.0)	(150)

[1] Estimate.

INDIAN WATER RIGHTS

Mr. PHILIP A. HART. Mr. President, on April 13, Senator Kennedy introduced S. 3298, the Central Arizona Indian Tribal Water Rights Settlement Act. As I understand it, the bill is an outgrowth of oversight hearings held last year by the Senate Committee on Interior and Insular Affairs on the water rights of the tribes of the Ak Chin Reservation, the Fort McDowell Reservation, the Gila River Reservation, the Papago Reservation, and the Salt River Pima-Maricopa Reservation. At those hearings representatives of the five tribes testified that they were not receiving their lawful share of water on their reservations. This testimony further substantiated information Senator Kennedy had obtained in 1972 through field hearings on the protection of Indian rights by various Federal agencies conducted by the Subcommittee on Administrative Practice and Procedure, which he chairs, and on which I am privileged to serve.

Despite the fact that the Federal Government clearly has an obligation to protect Indian natural resources, that the courts have repeatedly determined that Indian tribes are entitled to reserved water rights and that the Congress has acted on legislation over the years in effect recognizing and supporting these judicial interpretations of the Indian tribes' rights to water, we are told that the reservations of the five tribes have not been supplied adequately with water.

Under these circumstances, I support Senator Kennedy's effort to provide a legislative alternative for these tribes and am pleased to go on record as a cosponsor of the bill. While some aspects of the legislation give me problems, I am hopeful we will move to early hearings and that we will eventually be able to assure that the water needs of these tribes are met.

FCC TELLS BROADCASTER WHAT TO BROADCAST: APPEAL UNLIKELY

Mr. PROXMIRE. Mr. President, the Government has told a news disseminator what to disseminate, and that action may not be appealed to the courts.

If that news disseminator had been a newspaper, I venture most of the Members of this body would be up on the floor making speeches denouncing the action.

But, the disseminator was only a radio station licensee in Clarksburg, W. Va.

The broadcaster's lawyer says, "It's easier for a station to comply than argue."

And that is the power of Government over the press that the first amendment was designed to fight.

Mr. President, I ask unanimous consent that a news story on the FCC ruling that appeared in Wednesday's Washington Star be printed at this point in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

FCC Gets Into TV News Judgment

(By Stephen M. Aug)

The Federal Communications Commission, in a precedent-setting decision, today ordered a small West Virginia radio station to give more coverage to strip mining.

The ruling marks the first time the FCC has ordered a broadcaster to cover a particular issue. Historically, the commission has left the matter of news judgment up to the broadcaster.

The FCC ruling, by a 7–0 vote, was aimed at WHAR in Clarksburg, W. Va. The station had refused to broadcast a tape sent by Rep. Patsy Mink, D-Hawaii, opposing strip mining. The tape had been sent as an answer to a taped pro-strip mining message sent out by the U.S. Chamber of Commerce. WHAR argued that since it hadn't broadcast the pro-strip mining message, it didn't have to air the other side.

Mink filed a complaint, along with the Environmental Policy Center and a resident of Clarksburg, O. D. Hagedorn. They complained that the station has an obligation to broadcast all controversial issues of public importance to a community.

The complaint dealt with a generally-overlooked and unenforced section of the FCC's Fairness Doctrine. As interpreted by the commission, the doctrine says that a broadcaster must cover important issues, and when the issues are covered, presentation must be reasonably balanced. All broadcasters are aware of the requirement for balance, which the FCC frequently enforces, but little has been said about a broadcaster's refusal to cover an issue. In fact, the FCC in the past has always rejected attempts to require broadcasters to cover specific issues.

In the Clarksburg case, however, the FCC said that while the station may have broadcast some wire service news accounts of the strip mining issue; it has never shown that it had dealt with the local ramifications of strip mining or legislation that would put severe restrictions on such mining.

William P. Bernton, the lawyer representing WHAR, said it was unlikely his client would appeal the ruling. "It's a very important principle of law," Bernton said, "but it's a principle of law more important to a network than to a small station in Clarksburg, W. Va. It's easier for a station to comply than argue."

Mr. PROXMIRE. Mr. President, it makes no difference whatsoever what the issue is. What matters is that the FCC—an agent of the Government—has ordered a member of the so-called free press what to broadcast.

So this broadcaster has to put on the air coverage of strip mining.

What will be the subject of the next order?

Did it make any difference that a Member of the House of Representatives made the complaint? I do not know. It is not for me to judge. But I wonder what would have been the result if Mrs. Plain Jane of Clarksburg had made the complaint?

I raise that question, not in ridicule, not in jest. I raise it because of the nature of the first amendment. The first amendment was put in the Constitution as a weapon for the people to use against their Government.

When an officer of the Government can complain against a private citizen, albeit the private citizen is licensed by the Government, and the Government can order that private citizen to disseminate an idea not his own, then, I say, the first amendment has been violated.

Yet, the FCC's order would be just as dangerous to the Constitution if a Member of Congress had not been the complainant.

The fact that the FCC has ordered both sides of the strip-mining issue to be aired may ameliorate the constitutional problem to some. But to me it is exactly the same as if the order had been to air one side and not the other.

Any order by the Government to broadcast anything—even though that order not specify the exact words to be used—is obviously in violation of the first amendment.

And, if the broadcaster does not appeal—a dangerous precedent could be set. What broadcaster will dare to stand up to the FCC when his license is in danger.

On June 7, the FCC issued an order telling Star Stations, Inc., to cease operating radio stations WIFE-FM, Indianapolis, KOIL and KOIL–FM in Omaha, and KISN in Vancouver, Wash., on September 2, 1976. Those are the stations denied renewal applications on January 31, 1975, because of "serious misconduct." Among that serious misconduct was something that is reprehensible—ordering the slanting of news in two U.S. Senate races. But is that for the Government to punish? The public could punish by losing faith in the stations' news and tuning them out.

For the Government to punish is for the Government to control thought.

What other Government agency can directly order a business to stop, to cease operating? Even in the antitrust matters, where corporations are found guilty of price fixing and are fined millions of dollars, there is no direct order to stop functioning as a business. And in those antitrust cases, the freedom of speech and of a free press—the freedom of thought—is not involved.

Mr. President, I ask unanimous consent that the FCC's news release on the Star Stations case be printed in the RECORD at the end of this statement.

The PRESIDING OFFICER. Without objection, it is so ordered. (See exhibit 1.)

Mr. PROXMIRE. Mr. President, it is time that the meaning of the first amendment in concrete terms be debated.

Liberties are eroded. The erosion is getting worse.

When the landslide comes it will be fast.

But none can say there were no warnings.

EXHIBIT 1

STAR STATIONS, INC. ORDERED TO CEASE OPERATING

The Commission has ordered Star Stations, Inc., parent corporation of the licensees of WIFE–FM, Indianapolis, KOIL and KOIL–FM, Omaha, and KISN, Vancouver, Wash., to cease operating the stations at 12:01 A.M., local time September 2, 1976.

Star Stations of Indiana, Inc., is licensee of WIFE–FM; Central States Broadcasting, Inc., is licensee of KOIL and KOIL–FM; and Star Broadcasting, Inc., is licensee of KISN.

On January 31, 1975, the Commission denied the renewal applications for the stations, including WIFE(AM), on grounds that serious misconduct had occurred in the operation of the stations, that Star's chief stockholder, Don Burden, was intimately involved in the misconduct, and that Star Stations must be held responsible. It also authorized continued operation of the stations until 30 days after final disposition of appeal.

Last December 11, the U.S. Court of Appeals for the District of Columbia Circuit affirmed the Commission's decision without opinion. On May 23, 1976, the U.S. Supreme Court denied Star's request for review.

The mandate of the Court of Appeals was issued June 3, 1976. The FCC said this constituted "final disposition of that appeal" as contemplated by its January 31, 1975 action.

However, in order to provide a reasonable period of time for the orderly termination of operations, the FCC gave Star 90 days to continue operation of the stations in place of the 30 days originally specified.

The Commission said the stations' call signs would be deleted when operations were terminated. It required, however, nighttime lighting of all transmission towers until they either are dismantled or relicensed for radio transmission purposes.

Action by the Commission, June 2, 1976, by Order. Commissioners Wiley (Chairman), Lee, Hooks, Quello, Washburn and Robinson.

This is an unofficial announcement of the Commission's action. Release of the full text of the Commission's order constitutes official action. See MCI v. FCC, 515 F. 2d 385 (D. C. Circ. 1975).

DEATH OF JAMES FARLEY

Mr. MUSKIE. Mr. President, Jim Farley was a good friend and a good Democrat. He lived a life of service to his country and his party. As a young man just entering politics, I admired his forthrightness and integrity. He was a model for many of us in those exciting times. As anyone who knew him can testify, he never minced words. He always said what he thought, and he always did what he said he would do. These are qualities that we need in our public life, and qualities for which we will remember Jim Farley. I join his family and friends in mourning his death.

HEARINGS ON YOUNG FARMERS HOMESTEAD ACT

Mr. McGOVERN. Mr. President, earlier today the Subcommittee on Agricultural Credit and Rural Electrification of the Committee on Agriculture and Forestry held initial hearings on the Young Farmers Homestead Act. The subcommittee heard four outstanding witnesses who gave clear and constructive evaluations of the legislation and made valuable suggestions for improving the provisions of the act.

This bill is cosponsored by 17 members of the Senate, many of whom are not members of the Agriculture Committee including the distinguished majority leader (Mr. MANSFIELD). For their information of other Senators who are interested in the progress of the bill, I ask that my opening statement, the statement of Ben Radcliffe, president of the South Dakota Farmers Union, the testimony of C. P. Moore, president of the Northwestern National Bank of Sioux Falls, S.D., on behalf of the American Bankers Association, the statement of Charles L. Frasier of the National Farmers Organization, and the statement of C. K. Caldwell, deputy governor of the Farm Credit Administration, be printed in the RECORD.

There being no objection, the statements were ordered to be printed in the RECORD, as follows:

OPENING STATEMENT OF SENATOR GEORGE McGOVERN

I am pleased today to open hearings on a bill which in a relatively short time has gained widespread interest and has a sizable constituency throughout the agricultural community of the nation—the Young Farmers Homestead Act. It is cosponsored by seventeen of my colleagues in the Senate and has been introduced by a number of members in the House of Representatives.

During the entire span of my public life, I have talked to young men and their wives about the problems they were having in obtaining sufficient credit to buy land. This problem of preserving and enlarging credit lines for land acquisition is possibly the most important question facing the family farm in the last quarter of this century. If we fail to respond to this need we will make the family farm a museum piece by the year 2000. There is not one of us who does not know of the inroads corporations (agribusiness oriented or otherwise) are making in acquiring tillable acres. There is not one of us who does not view with alarming growing tendencies of vertical integration in the food chain. But, how many of us are willing to break new ground in the conventional concepts of agricultural credit?

The time has come to ask hard questions of ourselves, to seriously evaluate our dedication to traditional concepts of rural life, if in fact we intend to give more than lip service to them, and to open new ground where past experience is clearly inadequate. Commercial banks, the Farm Credit Administration, and the Federal Land Bank System have been the very life blood of our rural community since days of early settlement. They are a fraternity to whom we shall be forever grateful and to whom thousands of farmers owe their very lives. For those reasons, we have asked them to join with us in seeking solutions to new problems. I am grateful to them for their willingness to appear as witnesses and share with us their own responsiveness to the needs they recognize.

As an official member of this Committee, I travelled last fall to the nearby Province of Saskatchewan to examine a program they were operating to encourage young farmers and to assist them in maintaining a continuity of occupancy of a tract of land from one generation to the next. Though the Canadian Experiment is based on a number of factors that may not be compatible with our concept of land tenure, I did find sufficient merit in the program to start thinking of ways its best features could be implemented in America. The experience in itself made me resolve to redouble my own efforts to try to come up with some innovative responses to those young farmers to whom I had in the past only been able to offer encouragement and best wishes. Thus, on October 30th of last year, I introduced the Young Farmers Homestead Act. It was viewed with enthusiasm in most circles and coolness in others. It did in all circles provide the forum for which it was intended—to create a national dialogue on a pressing national issue.

I want all to understand that I do not view the proposal I have made to be inviolate; difficult problems demand extended scrutiny, expert evaluation, and careful analysis. We are here today for that purpose, we meet in that spirit, and we unite in that concern. To those who say there is no problem or to those who say methods of the past can continue to furnish us with a secure future, I say we must all accept our share of the responsibility for the future of the U.S. family farm. To those who want to tread new ground, I say "Welcome." Let us solve new problems in the manner those who went before us rose to meet new challenges.

My office has received over a thousand letters endorsing the legislation and we have distributed over 8,000 reprints from the Congressional Record at the time the bill was introduced. As I have traveled about the country, I'm often surprised to be asked as many questions about this bill as I am, say, about the situation in the Middle East. Numerous publications have written and editorialized on the Act. For purposes of the record, I submit these articles of support and comment and request they be printed as part of the proceedings of these hearings.

Prior to hearing testimony let me announce that the Independent Bankers Association has expressed a willingness to testify but, unfortunately, its leadership is engaged in a week long conference elsewhere on some of the same problems we are discussing here today. For that reason I ask that the record of these hearings be kept open for a period of two weeks so that group and others who wish to file statements will have the opportunity to do so.

STATEMENT OF BEN RADCLIFFE

Chairman McGovern and Members of the Subcommittee:

My name is Ben Radcliffe. I am Chairman of the Executive Board of the National Farmers Union and President of the South Dakota Farmers Union, our State's largest farm organization. I also own a farm in Spink County, South Dakota, which I operated prior to my election as Farmers Union President. My current residence is in Huron, South Dakota.

I sincerely appreciate this opportunity to testify here today before this Agricultural Credit and Rural Electrification Subcommittee of the Senate Agriculture Committee. I consider it a real honor to appear here to urge your favorable action on the Young Farmer Homestead Act, S. 2589, introduced by our State's great senior United States Senator, George McGovern.

One-hundred and fourteen years ago, President Abraham Lincoln signed the original Homestead Act of 1862. His goal, and the goal of Congress, was to open up the Great Plains to settlement. But, the Homestead Act also reaffirmed a continuing federal commitment to family farming. Lincoln knew that independent family farmers were the backbone of the Republic and in multiplying the numbers of family farmers, he was multiplying the strength of these United States.

Over the next 30 years or so, the Homestead Act offered to millions of native Americans and European immigrants the opportunity to own and operate their own farms. And, in what was to become South Dakota, family farming became a way of life.

But, today that way of life is being threatened as never before. Statistics from the U.S. Agricultural Census show that our State has lost about 1,000 farms per year for at least the last ten years. Recently that rate has declined a bit. Mostly because we now have fewer farmers left to lose and because off-farm employment opportunities are few.

In the 1970's it has become next to impossible for a young farmer to get into agriculture. In South Dakota—as across the Nation—the aspiring young farmer is faced with a triple obstacle—inadequate and unstable farm prices, accompanied by escalating production costs and soaring land values.

Rising farm land values are making it increasingly difficult for farm families to pass their land on from one generation to the next. The burden of an out-dated estate tax system often means that a portion of the family farm must be sold to meet Federal and State estate taxes. And this may mean that the deceased farmer's son or daughter is left with an uneconomic unit, unable to support a family.

If rising land prices make it difficult to inherit land, they make it virtually impossible for young farmers to get started without the aid of a wealthy relative.

South Dakota Farmers Union recently conducted a survey which revealed land prices ranging anywhere from a low of $30 per acre up to $1,300 per acre. The average price was approximately $320. And, I believe it should be pointed out that by national standards, much of this land could be classified as semi-arid. While these prices are for South Dakota, the situation is much the same elsewhere across the United States. If anything, it is more aggravated in eastern and southern states.

It should be obvious, then, that the availability of credit is crucial to the future of any young farmer who aspires to own his own land. But the current situation in South Dakota could only be described as grim.

Last summer, when we surveyed the availa- farm land—unless he can get substantial help from a father or other relative.

We found that only the Federal Land Bank and the Farmers Home Administration are willing to make long term loans for the purchase of land. But, even they indicated inability to provide full funding. Both institutions told us that the young farmer would need to get additional help from private banks and suggested getting a relative to help out.

A second conclusion of the Farmers Union survey showed that beginning farmers are subjected to a higher rate of interest than that facing established farmers. The average interest rate totalled about nine percent.

We further investigated the credit obstacles lying in the path of young farmers through a mailed survey of young South Dakota farmers which we conducted early this year (see summary attached). We were particularly interested in the credit experiences of the young farmers and their feelings toward the leading sources of credit for purchase of land: the Federal Land Bank and the FHA.

Of the 553 farmers who responded to the survey, 63 percent reported they had attempted to borrow money for purchase of a farm. Of those who attempted to borrow money, 64 percent had gone to the FHA while 29 percent had attempted to borrow through the Federal Land Bank. More than half had also attempted to secure a loan at other local lending institutions. Many of these young farmers should have been in a better position to borrow than a beginning farmer starting from scratch, since 67 percent already owned at least some land.

The responses of those young farmers who had their loan requests turned down to give a good indication of the inadequacies of the current farm credit system in the United States.

Again and again young farmers reported being turned down because the FHA or Land Bank couldn't or wouldn't loan the full amount needed.

One young farmer reported that he was approved for a loan by the FHA, but their appraisal was $90 per acre under what the land sold for and he couldn't raise the additional $14,000.

Others told us the FHA refused to take a chance on them since they were attempting to start from scratch. Another young farmer said the FHA had told him they were out of money and 19 people would already be in line ahead of him when some funds did become available.

More than 200 young farmers also took time to give us their opinion of the Farmers Home Administration. Those opinions were mixed, but the prevalent sentiment was critical of both the FHA's attitude toward beginning farmers and its inability to provide adequate funding.

One young farmer told us, and I quote: "My opinion of FHA is that you have to own land or have enough cattle to back you up or they won't loan you any money. They don't give you a chance."

Those young farmers who had a favorable opinion of FHA noted that the agency is often much too slow in approving loans.

In offering criticism of today's farm lending institutions, we are not telling you that they are not needed and that they do not provide a vital service to rural America. They are and they do. What we are attempting to get across is our conviction, based on what we have learned from farmers from throughout our State, that the FHA, the Federal Land Bank and other institutions are not doing the full job—that for one reason or another they are unable to fully meet the growing credit needs of today's young farmer and they are especially deficient in their ability to assist the beginning farmer who isn't already backed up by land and machinery.

But, perhaps one of the most significant statistics resulting from our survey of young farmers was this—fully 93 percent of these beginning farmers hope to eventually own their own farms. To me that seems to be clear testimony that family farming can survive as a way of life in South Dakota—provided that we as a Nation are willing to make sure young farmers have the opportunity they need to get a start.

It was that belief, along with the solid endorsement of the Saskatchewan Land Bank concept voiced by South Dakota Farmers Union delegates at our State convention in Huron, that led us to support Senator McGovern's Young Farmer Homestead Act. It also led us to work for passage of the South Dakota Homestead Lands Act in Pierre.

We are convinced that a new alternative to present systems of farm financing and present sources of farm credit is needed. And we are convinced that the basic concept of government aid to beginning farmers developed in the Canadian province of Saskatchewan and adapted to the United States in Senate Bill 2589, can provide that alternative.

There are several features of the Young Farmers Homestead proposal which, we believe, can make it successful in enabling young couples to begin farming with some strong prospects for success:

1. The creation of a Federal Farm Assistance Corporation, which could purchase family-sized farm and ranch units at price appraisals made by the USDA Farmers Home Administration, would help keep the land from being acquired by corporations or investors not intending to farm the land themselves.

2. The leasing of these farms by the Federal Farm Assistance Corporation to deserving and qualified young farmers for periods of two to five years would make it possible for these persons to get started in farming without the huge down payment associated with purchasing a farm today.

3. The period of two to seven years during which the young farmer would lease the land would enable him to establish the equity which would be helpful to him in exercising the option to buy the land. The equity established under this proposal would facilitate the financing of the purchase of the land, through the Farmers Home Administration, the Federal Land Bank system, through regulation commercial channels or through private sources.

4. Since the Federal Farm Assistance Corporation would issue bonds, debentures or notes to raise the capital for purchase of farm land and because the corporation would recover the investment plus the major part of the appreciation of land values during the period of leasing, there would be no net cost to the federal government eventually in operating this program.

5. The limitation on appraised value of units which could come under this program ($200,000) would tend to encourage family-size buildings.

It has been asserted by the opponents of this plan that it would somehow result in widespread government ownership of United States farm land. Nothing could be further from the truth. Farmers Union has always been committed to private ownership of the land by independent family farmers. We are supporting the Young Farmer Homestead Act because it will strengthen private ownership and the family farm system—the very basis of our American free enterprise system.

It is also claimed by opponents that the Saskatchewan program, which was the original model for both Senator McGovern's bill and the South Dakota Homestead proposal, provides "special favors" for what one critic called "worthless bums."

Farmers Union members have always felt that there should be no stigma attached to being a small farmer. Indeed, when South Dakota Farmers Union members went to Saskatchewan they found the young farm families involved in the Land Bank program to be decent, likeable and upstanding.

CONCLUSION

What we are faced with today is a national crisis. A crisis in land tenure. Unless we act soon the family farm system that has served America so well may soon be phased out of existence.

Potentially as important as it could be, the Young Farmer Homestead Act alone would not be the total answer to the plight of the family farmer—we need tax reform—we need reform of our outdated estate tax system—we need international commodity agreements—we need a national policy on food.

In this bicentennial year, what more appropriate gesture could we make then to renew our national commitment to independent family agriculture. I ask you to support the Young Farmer Homestead Act.

Thank you.

SUMMARY: YOUNG FARMER SURVEY

1. Average Age=32.69.

Approximately 3,000 questionnaires sent to members and non-members. 553 returned the questionnaire for a return rate of 18.4%.

2. Counties represented: Aurora, Beadle, Bennett, Bon Homme, Brookings, Brown, Brule, Buffalo, Butte, Charles Mix, Clark, Clay, Codington, Corson, Davison, Day, Deuel, Douglas, Edmunds, Fall River, Faulk, Grant, Gregory, Haakon, Hamlin, Hand, Hanson, Harding, Hughes, Hutchinson, Hyde, Jackson, Jerauld, Jones, Kingsbury, Lake, Lawrence, Lincoln, Lyman, McCook, Marshall, Meade, Miner, Minnehaha, Moody, Pennington, Perkins, Potter, Roberts, Sanborn, Shannon, Spink, Sully, Tripp, Turner, Union, Walworth, Yankton, Ziebach; Boyd County, Nebraska; Richland County, North Dakota.

3. Are you in a farming partnership? Yes=208 or 41%; No=301 or 59%.

4. Do you rent land? Yes=431 or 81%; No=101 or 19%.

Average acreage rented (of those only renting)=646.38.

Average acreage rented (who also own land)=561.36.

Total acreage rented=250,227.83. Average total rented=588.77.

About half of all respondents who indicated that they rent were on some type of a share crop basis for at least part of their acreage.

The average cash rent being paid by the recipients is $14.60 per acre. The rental rates ranged from a low of $1.50 per acre to a high of $60.00 per acre.

5. Do you own land? Yes=369 or 67%; No=178 or 33%.

Average acreage owned (of those also renting)=543.01 acres.

Average acreage owned (of those who only own)=663.02 acres.

Total acreage owned=210,756.80 acres.

Total acreage farmed (rented, owned, or both)=460,984.63 acres.

Average total acreage farmed=891.65 acres.

6. Is this amount adequate for farming in your area? Yes=227 or 46%; No=265 or 54%.

7. If you have purchased land, when did you buy?

Ranged from 1954 to 1975, largest number of purchases=1973, average=1970.

8. In percentages, how much did you have to put down on the land?

Average amount down=25%.

9. Do you desire to own farmland? Yes=511 or 93%; No=40 or 7%.

10. What are average land prices in your area?

Average price per acre=$320.25.

Prices ranged from $30 per acre to $1,300 per acre.

11. Is there land for sale in your area? Yes=335 or 64%; No=186 or 36%.

12. Have you ever attempted to secure money for the purchase of a farm? Yes=328 or 63%; No=196 or 37%.

13. Did you try at a federal agency (FHA or Land Bank)? Yes=(FHA) 245 or 64%, (Land Bank) 113 or 29%; No=37 or 7%.

14. Did you try at other institutions, locally? Yes=168 or 53%; No=150 or 47%.

Sources mentioned: P.C.A., Local Bank(s), Individuals.

TESTIMONY OF C. P. (BUCK) MOORE

My name is C. P. (Buck) Moore. I am president of the Northwestern National Bank of Sioux Falls, South Dakota, and I am here today as a member of the Executive Committee of the Agricultural Bankers Association. I have been directly involved in agricultural lending for 26 years with all but the first two of these years as an agricultural banker. The bank I am associated with has $260 million in deposits, ranks 24th among the top 100 agricultural bank lenders, and serves several communities in southeastern South Dakota, all of which have an agricultural-based economy.

The American Bankers Association is a national trade association to which 91 percent of the nation's 14,700 banks belong. Our industry is vitally interested in agriculture. This is demonstrated by the fact that one-half of the banks are in communities of less than 5,000 population. Eight out of ten banks make agricultural loans, which totaled over $26 billion at the beginning of this year. As an agricultural banker I'm pleased to have the opportunity to speak to you about the future of farm credit with special focus on its availability to young people entering agriculture.

I should like, first, to state some general beliefs about agriculture and the opportunities for young people; second, comment on the Young Farmers Homestead Act of 1975; and third, outline an action agenda to assure management and ownership succession for agricultural production.

AGRICULTURE AND OPPORTUNITIES FOR YOUNG PEOPLE

Our type of family farm agriculture has been excellent for this country. It serves all segments well, probably more efficiently than anywhere else in the world. This structure needs to be preserved. To do so, we must ensure that young people are able to move into agricultural production with a reasonable opportunity for success. We must continually find ways to maintain a competitive, individual entrepreneurship environment as the best method to maximize our country's agricultural production efficiency. And this means opportunities in farming and ranching must be at least equal to other business opportunities facing young men as they choose a life's work.

There are several ways today by which young people are able to start farming and ranching. Some begin by part-time croppling or livestock operations while continuing to earn their family living needs by off-the-farm jobs. Others begin by "partnering" with relatives and gradually "buying" or acquiring enough equity to go on their own. Still others negotiate "start-up" loans from conventional lenders, relying on the guarantee of the father or some other responsible individual to provide lender's security.

Some young people use combinations of banks, insurance companies, Farmers Home Administration (FmHA), Federal Land Bank, and private individual sources. An example would be a young couple who have the desire and ability to meet the management requirements but very little capital. Basically they need to carry a loan which gives them the necessary equipment and breeding livestock and first-year operating expenses until income starts to flow. The land unit would probably be leased on a crop-share basis. Purchase of land is not necessary and perhaps not wise until the basic operation is going and the necessary cash flow for land debt servicing is available. Further, the couple may not want to tie themselves to the debt on land until they have had several years of operating experience.

Under these conditions the FmHA might set up intermediate-term credit, using a term of up to seven years repayment, which would provide for the purchase of assets held as personal property—brood cows, machinery, vehicles, and so forth. Collateral for this loan would be these same assets as well as the annual crop and livestock increase. Then, to meet operating expenses, a local bank might extend a loan based on the FmHA subordination to their lien on the crop and/or livestock increase to give necessary collateral support to the loan. This would allow an "in and out" seasonal line and first call on repayment to the extender of the production expenses. This particular kind of arrangement has worked well on many occasions, but requires a three-way cooperative effort among the bank, FmHA, and the young farmer/rancher couple.

Another variation might be a joint approach to land financing when the young operator is ready to buy. The Federal Land Bank might carry the first lien on the land and the FmHA a second lien, with the total financing being 100 percent of the agreed upon value. The individual seller might also be in a subordinated position under certain circumstances.

The Federal Land Bank has a deferred payment plan—interest only for the early years with an amortization schedule that may be as low as 50 percent of the debt paid at the end of the term. The FmHA has a 40-year repayment program. Insurance companies are also an important lender in some regions in providing long-term farm credit. This combination of credit can be a useful tool in the acquisition of land. Under proposed legislation which would increase the FmHA individual loan limits, the benefits of the program to the agricultural community would be enhanced.

Innovative future planning in agricultural lending to develop a system where a portion of land debt might be more perpetual than we have seen in the past would allow more ownership capital growth for funding the balance of the personal property assets needed in production. This arrangement would be similar to bonded debt handled by a large company.

All lenders—insurance companies, Federal Land Bank Associations, Production Credit Associations, and banks—can do more to help finance young farmers. It only takes an attitude change, solid educational effort on the methods and tools presently available, and some research and development to make improved changes with an existing lending program.

One of the things that concerns me most, in view of the many sources of credit available to the young farmer today, is that he must be careful not to get himself into debt too far. Loss through adverse weather or unfavorable market conditions, coupled with a large capital debt, can become unmanageable. The lender must be willing to spend the extra time in helping to put together short- and long term goals and in evaluating the young farmer's projections for the future.

The positive and negative aspects of financing the young farmer must be looked at. On the negative side, we see lack of experience, shortage of collateral, no past record to indicate trends in business or management capability, or lack of mature judgment. On the positive side, we see youth, energy, intelligence, better planners than their fathers, innovators in modern technology, and progressive thinkers. A lack of financial stability makes it mandatory that projections and cash flow be used in determining the profitability of the business. Qualified bank personnel supervision at the outset is a must until the young farmer gains enough experience to continue on his own.

It is assumed by many that one must have a very large capital base to start farming or ranching. This is simply not true. Young farmers know that they have to start out with some kind of a base, and many use various means to acquire it: rented land, using machinery in exchange for labor, wife working at an outside job, small labor intensive hog farrowing operations, winter job, growing light calves (takes a lot of care) which a larger operator cannot provide. For these kinds of operators who have the initiative, enthusiasm, and imagination that it takes to grow, opportunities will present themselves the way—opportunities to buy land and equipment based on their ability to expand their credit lines. They should use credit as a tool, not as a crutch. They should not use an overextended line of credit to begin their farming operations.

As we improve our programs for financing young farmers, we should recognize these points.

Farming in the short run can be a relatively high risk business.

There is a need for some capital base.

The capital base will vary: It may be a farmer's ability, leased assets, outside income, Dad's help or other's.

Banks and other lenders need to make a commitment to finding satisfactory methods and funds to start capable young farmers in agriculture.

The banker must be qualified, with an expertise in agriculture, to do the job.

It takes patience, understanding, and sound planning on the part of the banker or other lenders.

Farming cannot be just a "way of life"—it must be profit oriented.

The young farmer wants and should have living conditions on a par with what other business opportunities provide.

Getting together with a young farmer will be a long and gratifying romance.

Young, successful farmers are good planners.

Financing young farmers is an investment in the future.

An increasing number of young people are coming back into farming.

This final point is significant. We had the opportunity last November at our National Agricultural Conference to hear Dr. D. B. Varner, president of the University of Nebraska. He gave an excellent, optimistic address on the opportunities for young people in agriculture. Dr. Varner reported the results of a survey done by 14 midwestern colleges of agriculture which showed that in 1974, 24 percent of the graduates returned to the business of production agriculture. He pointed out that this was a surprising finding, since a short 5 years earlier a comparable survey found that only 10 percent finishing agricultural college went back to farming.

It is gratifying that there are people in government, the financial world, and agricultural communities making an effort to meet the challenge of the increasing dilemma of providing high risk capital for young people in agriculture. We need to find ways for the risk to be shared by all. These young people need our assistance. But, above all, we need them—young people in the business of farming for the future.

To summarize:

There are tools available to finance young farmers—however we need to be more innovative.

Success in financing young farmers results from identifying those who can truly manage their business and are motivated to do so; and offering a "credit package," including planning for short-, intermediate-, and long-term credit, that is structured so that the cash flow which the young farmer will normally generate will service the debt.

Periodic farm visits by the lender help to establish creditability and demonstrate the lender's interests in the farm family's future success.

The use of the FmHA programs, along with the bank's system, helps our "batting average" for successfully financing young farmers.

Failure on the part of the young farmer is generally due to:

Lack of management ability.

Overextension of credit resulting from merchant credit which the bank is not aware of, or the bank's failing to face up to a critical loan situation before it is in trouble.

Neglecting to completely analyze the loan request so that the total needs are not determned or the repayment program not properly evaluated—usually resulting in overestimating repayment and underestimating expenses.

A general lack of attention to business on the part of the farmer/rancher and lack of interest on the part of the lender.

YOUNG FARMERS HOMESTEAD ACT OF 1975

I have attempted to point out that the basic tools are available to aid young people. However, some definite steps should be taken by Congress to increase the effectiveness of these tools. I will cite these actions in a moment, but before doing so, I would like to make a few observations about the Young Farmers Homestead Act proposal.

The objective of this proposal is highly commendable. It has been helpful in creating a dialogue as to the requirements of young people entering farming. We urge this committee to continue its review of the opportunities for young people entering agriculture.

Two major basic concerns about this proposal are:

1. We believe it is economically unsound for the federal government to compete in the marketplace for a scarce resource—farmland. We are concerned about the inflationary effect on farmland. High and rapidly rising land prices are already a major obstacle for entry into farming. It is doubtful that good farmland in the midwest could be purchased at today's FmHA appraisals. We believe the interference and disruption to local farmland markets and the adverse effect on existing farmers needing to expand is too high a price to pay.

2. The overall program does not appear to be helpful to young farmers in establishing an economical unit. We see these problems:

The proposal is not limited to good managers, which our experience clearly indicates is a must. In fact, the program would encourage others not committed to farming as a full-time career to move into agriculture part-time.

The proposal does not address the real problem for a young person—that of obtaining needed operating money. In fact, because of its strict crop lien requirements, it would prevent needed outside financing.

The program would saddle a young family with a heavy debt on fixed assets, resulting in an excessive drain on their cash flow. Such a concentrated heavy debt loan can quickly ruin a young family.

The program places greatest emphasis on the ownership of land as a primary objective for a young person. Instead, we believe the emphasis should first be the establishment of an adequate size operation with sufficient cash flow to service the debt and support the family unit. The $200,000 limitation would allow only a 100-acre cropping operation in the midwest—too small to be successful.

Each individual farmer's situation is different, and as I indicated earlier, his options for establishing a needed capital base will be different. We therefore believe there is considerable wisdom in Congress focusing its attention on the strengthening of a variety of existing loan programs which would allow lenders to customize loan programs to the needs of each farm family.

ACTION AGENDA FOR YOUNG FARMERS

The following action agenda is suggested for assuring that a new generation will manage the business of food production, and it will call for a combination of actions by public and private sectors.

The first dimension is to allow an environment which offers profit opportunities. The favorable income conditions of recent years is at least one of the reasons we have enjoyed an increase in the proportion of college graduates returning to the business of production farming. Credit is not a substitute for income.

A second dimension, and one that has been greatly overlooked, is the preservation of capital resources in agricultural production. Each generation in agriculture seems to be faced with a recapitalization and refinancing of the business. This problem is being addressed by Congress in its reform of the estate tax laws, and the ABA's support of a change to reduce the tax burden has been presented to the appropriate committees. We would like to offer, however, an additional suggestion relating to the taxation of farm property transfers to the next generation: We urge that consideration be given to the establishment of a tax incentive for the early (before death) transfer of complete farm operations—personal property, land, or a combination of both. Such a tax incentive could make an orderly transfer of farms possible. While we are not prepared today to lay before you a complete, workable tax incentive plan, we do feel it merits your exploration. We certainly would welcome the opportunity to work with you.

Some specific things we feel should be done to maximize the effectiveness of existing FmHA loan programs are outlined below. We admit, though, that much can be accomplished through a more positive attitude and broader awareness among those of us in the lending business. This is one of the primary objectives of the ABA's Agricultural Bankers Division, and on June 24, we will release a new publication entitled Agricultural Lending: Sources of Funds. Its purpose is to inform bankers of new opportunities available for them to work with other agricultural lending organizations in ensuring a good supply of farm credit in their communities.

The principal legislative proposals we feel deserve your favorable consideration are:

1. Increase in the FmHA individual farm loan limits for both the operating and ownership programs. The doubling of the loan size and the elimination of the overall debt ceiling (for farm ownership loans) under the guaranteed program recommended in S. 3114 is a minimum action that should be taken by Congress. We have previously recommended that limits for the guaranteed farm program be handled administratively, putting the farm program more in line with business and industrial loans. Our immediate and primary concern is for an increase in the operating loan limit to provide adequate operating capital for an efficient family farm unit. This would be especially applicable to the young farmer.

2. Separate funding for the loan levels for direct and guaranteed loan programs. Under current law and regulations, direct and guaranteed loans are charged against a single amount established in an appropriation act. We believe guaranteed and direct loans should be funded separately.

Direct loan appropriations should be set at the level of loans to be made, since the funds come from the government. However, guaranteed loan funds come from private sources and the amount established should represent only a proportion of the total amount to be loaned. We suggest an initial leveraging of one to ten—one dollar of appropriation for ten dollars of loan outstanding. The absence of separate funding arrangements has been the primary reason the farm guaranteed loan programs have not been used because, under the present arrangement, the limited FmHA dollars could be most effectively utilized through direct loans under subordinated arrangements with private lenders.

3. The present interest rate subsidy in the farm program has seriously limited its expansion. We believe it is in the long-term interest of farmers, including young farmers, to allow interest rates to seek a market level or certainly a rate not less than the cost of money to the Treasury. Therefore, we recommend that FmHA direct lending be at no less than the cost of money to the Treasury and that all the guaranteed loan program be at local negotiated rates. However, if an interest rate subsidy is essential in the guaranteed program, it should be confined to the farm ownership loan, and the rate should not be less than the cost of money to the Treasury.

4. One of the major problems facing the FmHA—certainly in the field offices—is the overload of new programs. The workload of serving FmHA programs has increased, particularly in housing programs. Bankers increasingly have become concerned about this impact on the ability of FmHA people to administer the farm programs, especially the time-consuming need to work with young people. We strongly urge Congress to give high priority to providing the FmHA the resources—personnel and systems—and the authority needed to effectively service farm loans. The agency's personnel squeeze has resulted in a "time drain" away from agriculture.

It is important to realize that because of the above barriers, we have not had a real opportunity to test the guaranteed FmHA farm loan programs. We believe, therefore, that these changes should be Congress' first action to help the young farmer. The agricultural bankers, through the ABA, offer their full support.

STATEMENT OF CHARLES L. FRAZIER: S. 2589

Mr. Chairman and Members of the Subcommittee, I appreciate the opportunity to comment on provisions of S. 2589, the Young Farmers Homestead Act of 1975. It should first be noted that there is a need for financing to enable additional young couples with a background in farming and ranching to own and operate their own units, in addition to commercial and government sources now available. Although the Board Members and Administrators of the Farm Credit system and the Farmers Home Administration have undertaken to meet this challenge, there are a number of young people who are perfectly capable of operating efficient units but who are leaving the farm communities today because of the tremendous capital requirements involved in ownership. Some of them cannot qualify for enough credit to handle the purchase of land, machinery and livestock even though they are quite capable.

You are to be commended for undertaking to meet this need and particularly for having drafted a bill that extends a reasonable opportunity to some of these young farmers and ranchers without incurring any great expense or risk of loss to the American taxpayer. The lease and purchase arrangement would fill a big gap in the credit sources now available.

The problem of many of these young couples is perhaps analogous to the situation faced by others who also aspire to enter the business world. In the 'old days', an ambitious young man would start a small business on his own with a minimum of capital and a lot of his own labor—with good luck he could expand and build it into an operation of respectable size over a period of years. Today he faces a severe form of competition from the large chains, the franchise operators and a system of distributing manufactured products that almost precludes his entry into the business field in anything except the service industries.

I use this analogy to illustrate a problem in farming. Although, thankfully, we do not yet have super-chain or franchise farming in the case of most of our major commodities, it must be acknowledged that in many of our highly productive areas, the land is now in strong hands.

One should not necessarily attribute this to greed or the old-fashioned joke about the farmer who only wanted to own all the pieces of land adjoining his own—it must be recognized that the tremendous outlays that are necessary for modern machinery, energy, chemicals, labor and interest, coupled with the risks of wildly fluctuating commodity prices, have forced many of our farm operators to undertake questionable expansion of their units. Regardless of whether many purchases are wise, they have occurred and they have increased land prices dramatically. In some instances, I suspect that they have bid against one another simply because they were in a position to finance additional land purchases, but knowing all the time that the price being paid could not be justified by current commodity prices.

The breadth and serious nature of this problem was anticipated in a conference on the financial needs of young farmers conducted by the Farm Credit Administration in February, 1974. In that Conference, Professor John K. Brake of Michigan State University, predicted: "It seems likely that in the coming few years we will continue to see violent price fluctuations both in some of the resources we need for farm production and in the prices of many products we produce . . . these fears are not improved by what our government tells us, because the government itself has a substantial credibility problem . . . I suspect we will continue to see periodic shortages of important resources required in farm production."

We had some young farmer members in that conference. They verify the urgency of new credit arrangements if we are to have sufficient entry by young producers to maintain the industry.

Even though the Federal Land Bank in 1974 made 24.4% of their loans to young purchasers who were 34 years of age and younger, they loaned only 17% of their funds to this group. Another 27% of the funds went to the group in the 35–44 year age bracket. The joint loans made by the FCA units and FmHA agents were commendable but not the whole answer.

LAND PURCHASES

There are provisions in the bill that are particularly deserving of favorable comment. The provisions of Section 7 relating to purchase and leasing of these lands seems to be framed clearly to establish that the government will not plunge into the real estate market in any given locality, bidding against farm operators who may really need additional land to constitute economic units of their own. The language of the provision appears to assure that the corporation would be a standby purchaser at appraised current market values. I would assume that testimony in this hearing and any report that accompanies favorable action on the bill would make it clear that appraised values to be established for purposes of this program should relate clearly to the value of the land as a farm production unit. I would recommend the use of this program in those communities where speculative development is not a factor. These leasing arrangements and purchasing opportunities should be made available to young couples who show some evidence of interest and success in agricultural production. The program should not be made a vehicle for recreational development or business ventures of a non-farming nature.

LEASE AND SALE ARRANGEMENTS

The provisions relating to the selling prices of the farm unit are especially well designed. Section 8(c) guarantees that the land will be sold at no less than the original taxpayer investment. This requirement, coupled with the vesting arrangement that will discourage speculative planning on the part of the purchaser and an established interest rate designed to recover the government's costs, extends a fair deal to the young purchasers.

Our reservations or points of caution relate to the use of the program rather than specific provisions of the bill. Perhaps the language of the bill need not be modified, but the thrust of the legislation and its accompanying report should caution the administrators to avoid entering the real estate market in those areas where the demand for land has pushed prices to exceptionally high levels. By the same token they may not do young couples any particular favor by encouraging them to start farming on land of marginal productive capacity. In other words, the purpose of the program may be best served by offering the lease and purchase arrangement in communities where the average age of current operators is high, where there are a number of young farmers with some training and experience, and where fairly productive land is available at reasonable prices.

FARM INCOME AND OFF-FARM EARNINGS

It is suggested that you limit the availability of the program to those young couples who will either live on the land or in a residence close-by in order to improve their chance of becoming successful farmers or ranchers.

Farm production expenses increased by $13 billion or 25% in 1973 alone. In 1960 farmers and ranchers earned only 42% of their income from all sources off the farm (about $8.5 billion). To cope with inflated costs of operation, however, the non-farm income amounted to $17.4 billion, or 51% of the total farm income, by 1970.

The rate of increase of operation may have slowed, but so have commodity prices. In this lease and purchase program, it would appear unwise to preclude the young operators from outside earnings. Steps should be taken, however, to assure that it is offered to potential users who intend to derive their principal income from farming or ranching. It should not be regarded as a source of income supplemental to some other earning activity.

PUBLIC ACCEPTANCE

Perhaps it should be recognized that a number of farmers or ranchers who now have economic units and plans to convey them to the next generation will resent having the government purchase land in their communities. Their recent experience in commodity programs, export embargoes, regional land use planning efforts and other Government endeavors of questionable character have provided a reasonable basis for concern about vacillating policies coming out of the Government. Those who do not need this program will, of course, be slow to accept it.

There are some older farm owners, however, who may need to seek a buyer as they near retirement and need their funds for another home. This program would offer a means of transferring ownership to the younger generation in a manner that neither could afford in its absence.

There is a broader consideration—one of national policy. Some authorities who have analyzed the tremendous current costs of land ownership and farm operation have concluded that food production must inevitably be financed on a continuing debt basis. This attitude accepts the view that the farming unit must be continually expanded, that no single generation can ever pay it off and that in all probability farming will evolve into a system in which one set of individuals owns the land while another services as large and efficient tenant operators.

I am not ready to buy it. That policy will not be in the best interests of all our people. It is not in keeping with the spirit in which the farming communities developed throughout our short history. It does not promise stability in those local communities or continued existence of the social structures we regard so highly. An effort must be made to continue the operation of reasonably sized units owned and operated by people who are proud of their land and want to take care of it.

In summary, my comments are designed to encourage more thought and discussion of the bill. There is a definite need for additional financing for those young persons who want to farm but who are not able to marry or inherit going farm operations. At this time I have not had any wide-ranging comments from members of the organization. Many of them are not familiar with this legislation at this time. It occurs to me that both the provisions of the bill and the need for such legislation deserve the fullest consideration.

STATEMENT BY C. K. CARDWELL

Mr. Chairman and Members of the Subcommittee on Agricultural Credit and Rural Electrification.

My name is C. K. Cardwell, I am Deputy Governor of the Farm Credit Administration, which as you know, is an independent Federal Agency responsible for the regulation, supervision and examination of the borrower-owned banks and associations that comprise the cooperative Farm Credit System. The System provides credit and closely related services to farmers, ranchers, producers, and harvesters of aquatic products, agricultural and aquatic cooperatives, rural homeowners, and certain businesses providing farmers with services essential to their on-farm operating needs.

I appreciate the opportunity to appear before this Subcommittee and applaud your committee for taking interest in seeking ways to assist young farmers.

The Farm Credit System has a long standing interest in young farmers and has traditionally served young farmers. As a cooperative lending system our lending institutions have long recognized that the future of agriculture depends upon the success of young farmers.

Interest in serving young farmers in the Farm Credit System has resulted in the development of specific actions to provide sound credit to finance beginning farmers.

In 1969–70 a Commission on Agricultural Credit, which provided this Committee with a complete copy of its report at the time of the development of the Farm Credit Act of 1971, addressed the issue of serving young farmers. This commission suggested that it should be a goal of the Farm Credit System to "provide greater opportunity for competent young farmers to obtain adequate amounts of credit consistent with sound lending practices while recognizing the well-being of the applicant and reasonable protection for the lender."

Following the implementation of the Farm Credit Act of 1971, a major undertaking by the Farm Credit System, a conference of young farmers was held in February of 1974 in Indianapolis, Indiana to discuss financial obstacles to getting started in farming. This conference provided a helpful insight into the problems young farmers encounter in the early years of farming. A summary report of the conference is attached to this statement for your review.

In response to the findings of this conference the Federal Farm Credit Board established a System objective for financing young farmers. This objective urged the district banks and associations to develop specific programs to assist in the financing of young farmers. Amendments to the System's regulations were made to facilitate this objective. Most of the Farm Credit districts now have district policies for finanicng young farmers with a varying degree of program implementation in this area.

The Farm Credit System is currently assisting many young farmers with financing. A review of existing data on farmers currently being served by the Farm Credit System, revealed the following observations:

The most recent agricultural census shows that 12% of the farmers were under 35 years of age, whereas within the Farm Credit System, about 25% of the borrowers were under 35 years of age.

While 17% of all Federal Land Bank borrowers in 1975 used second mortgage financing about 28% of the young farmer group (less than 35 years of age) used second mortgage financing.

About 7% of all Land Bank borrowers had either joint or subordinated loans with the Farmers Home Administration while 15% of the young farmers served by the Land Banks used this method of financing. We believe our programs of working with FmHA are working well and are helping entry farmers. Improvement could be made in the Farmers Home Administration guarantee program to further assist young farmers through the Farm Credit System.

Young farmers were highly leveraged as almost half of the young farmers had debt to asset ratios of 50% or more whereas only 25% of all borrowers had such debt to asset ratios.

In spite of high leverage, the percentage of farm income used for annual debt payments of young farmers did not differ significantly from all borrowers.

With regard to the Young Farmers' Homestead Act—S. 2589—we have reviewed this proposal with interest. This program for assisting entry farmers has been reviewed by the Federal Farm Credit Board and has been discussed within the Farm Credit System. The Federal Board, as previously stated, is very interested in encouraging the System in working with young farmer and entry farmer programs and is pleased that the committee is considering this problem facing agriculture. We have some concerns about the specific proposal under discussion today and offer the following observations as constructive criticism for the benefit of the Committee as it reviews this proposal.

We assume that the committee will develop cleared definition of a young farmer (age, net worth, net income, etc.). Permissability of off-farm work or the operation of additional farm units should be discussed to prohibit speculation.

Of major concern is the basic assumption of this legislation that there will be continued rapid inflation of land values to provide for the development of an equity base for a young farmer. We are concerned about Government support of a concept based on inflationary rises in land values and doubt that it is a sound business principle because it provides equal support to both good and poor management. Starting young farmers in a business based on the assumption that inflation will create their success does not provide a favorable basis upon which to make good financial decisions. Such decisions should instead concentrate on selection of young people with high potential.

Currently farmers are finding it increasingly difficult to make needed land purchases for expansion of farm units to assure viable enterprises. This program could have the effect of creating the entry of an additional market force which would intensify this problem by providing excessive competition for fixed resource with the resultant price escalation effects.

The financing of young farmers requires a large outlay of funds for operating as well as capital needs for farm units. We are concerned that this proposal may not adequately address the young farmer's short and intermediate term capital needs upon entering agriculture. In this bill the placement of a lien on crops by the corporation would deter lenders, other than the Farmers Home Administration, from loaning operating money; thus discouraging a gradual transition to conventional financing.

Without major controls on eligibility and resale, the purchase of the land by the government may provide a special opportunity for speculators to gain through this program.

Farming today requires large amounts of capital plus major management skills and capabilities. Land ownership is only one method of entry into agriculture. We urge the Committee to make a full review of this proposal and hope additional programs can be developed to assist aspiring young people seeking to enter agriculture as a career.

Mr. Chairman, we thank you for the opportunity to present this statement. We shall be pleased to respond to any question that you or the members of the committee may have and offer our further assistance as you work on legislation in this regard.

FINANCIAL NEEDS OF YOUNG FARMERS

On February 25–27, 1974, one hundred and five of the nation's top young farmers met in Indianapolis, Indiana, to discuss financial obstacles to getting started in farming. This is a summary of financial problems they said young farmers encounter, with some alternatives they suggested for solving them—in effect, their advice to today's and tomorrow's farmers and their lenders.

The Conference was called by the Farm Credit System whose Federal Land Banks, Federal Intermediate Credit Banks, and Banks for Cooperatives sponsored participants, along with the four national farm organizations—American Farm Bureau Federation, National Farmers Union, National Grange, and National Farmers Organization. The Farm Credit System, as with most others in agriculture, has been concerned over the declining number of young men in farming.

The Commission on Agricultural Credit, a blue-ribbon panel of farm leaders, in 1970 urged the Farm Credit System to give special attention to young farmers' credit needs. And the ensuing Farm Credit Act of 1971, primarily through liberalized restrictions on Federal land bank lending, did permit the Farm Credit banks and associations to go further in financing beginning farmers.

This Conference was called to learn first-hand from these successful young farmers what financial difficulties they encountered in their early years in farming and how they overcame them. The sponsors hoped to learn not only what farm problems most concern them today and what financial aids they need to maintain successful farm operations, but also what financial aids they would need if they were starting out in the farming business today. This insight will assist Federal Land Banks, Production Credit Associations, and other lenders, to adjust present lending practices and possibly initiate new services to meet more effectively the young farmer's special needs.

Young farmers attending the Conference represented 40 states and Puerto Rico. Their average age was 33 and most of them had been in farming about ten years. The following is a summary of financial and related needs as they stated them in small discussion groups.

YOUNG FARMERS' FINANCIAL NEEDS

1. Adequate Credit "to get the job done." The consensus of the Conference was that lenders should help enable qualified young men with limited resources to get started in farming. As one young man put it, "We have certain financial requirements when we begin farming, and we don't need just 70 to 80 percent of these requirements. We need it all."

There was criticism of lenders who emphasize only collateral in making loans. The comment was made that, "Lenders emphasize collateral rather than capacity, and this isn't right. Lenders should provide a program for advising and financing young farmers with credit officers who are specialists in working with young farmers."

The group said one of the problems is that young farmers are treated by lenders the same as all other farmers. Lenders often lack an understanding of young farmers' goals, objectives, and abilities.

Many of the young farmers asked lenders to provide special loan programs to finance entry into farming. But they were careful to say they were not asking for a handout. They recognized that, "A 23-year-old young farmer presents a serious financing problem. Often he can't get credit because the lender is afraid to make a bad loan."

Greater lender control of the farming operation was suggested as a possible approach for obtaining adequate credit. As one discussion group reported, "The young farmer would be willing to work closely with the lender on management of the operation. During this period, the lender would keep in close contact and give advice when important management decisions are to be made."

Several young farmers observed that supervisory agencies often put pressure on local farm lenders if they have many marginal loans. In a local situation, they said, young borrowers should not be deprived of a loan as a result of where they live or because a lender already has a number of marginal loans.

"We recommend that farm lenders set aside a certain percentage of money for high risks," one discussion group urged. "This money could be used to help young farmers get started who lack the necessary financial stability needed to secure a good loan, and to provide 100 percent financing in certain circumstances." Still another suggestion was to provide an insurance fund for high-risk loans to young farmers.

2. Credit Terms Tailored to the Young Farmer's Situation. Conferees requested loan terms that recognize their shortages of capital in the beginning years. One suggestion was that terms defer payment on the principal of a loan "on breeding cattle loans up to three years and other farm enterprises that require more than one year before they start generating cash." Lenders might provide such other terms as "balloon payments" at the end of some real estate financing.

Farm lenders were requested to provide beginning young farmers low-equity financing—up to 90 or 100 percent financing to a qualified young man. They recognized there is an added cost to high-risk financing and indicated a willingness to pay the price. The view of many in the group was that low-equity borrowers would be ready to pay a higher interest rate in order to get financing.

Although calling for special loan terms which recognize their problems, the young farmers did not ask for a give-away program. As one young farmer stated it, "There still should be a reasonable repayment of debt."

Farm lenders also were urged to consider leasing programs as additional means to help young farmers. It was suggested, for example, that "Federal Land Banks consider purchasing land and then leasing or selling the land to beginning farmers on contract. Production Credit Associations might get into machinery and livestock leasing programs."

3. Business Counseling and Financially-Related Services. The young farmers said they need help with important business decisions and asked lenders to provide a number of professional counseling services. Among them were legal counseling, insurance planning, record analysis, tax guidance, and financial management.

Lenders should have on their staffs, some of the young farmers said, management specialists who can analyze their operations and put their fingers on potential problems. In addition to offering helpful suggestions, the lender should make available related services that are appropriate, and can be provided effectively and efficiently. On the other hand, some concern was raised that specialized agricultural credit services not be jeopardized by excessive concentration on other services.

A number of young farmers suggested lenders assist with such business arrangements as leases, contracts, partnerships and family corporations and with estate planning. They asked lenders to help evaluate their insurance programs and advise on what insurance is needed for the beginning farmer.

Conferees said lenders could be of significant help in the job of "passing on from father to son an ongoing farming operation." Similarly, they were of the opinion that lenders could help a young farmer trying to get into the business make contact with an older farmer wanting to sell his farm.

About half of the young farmers were using electronic farm record keeping programs in their farm operations. They said lenders could be of considerable assistance in helping analyze their farm records and in planning major management decisions.

The conferees acknowledged that there are additional costs to the lender in providing such services. And they said they would be willing to pay for them.

4. Better Lender-Borrower Communications. The conferees voiced an almost unanimous view that lines of communication between lenders and young farmers are weak and need improvement. Most of all, they want lenders to make "on-the-farm visits."

As one discussion group stated it, "We want to emphasize that progressive, skilled young farmers want the lender to visit them on the farm and become personally aware of their operation. During these visits, the lender can help the young farmer with financial planning. A good lender works with the beginning farmer as well as the established borrower."

Another group put it this way—"Credit managers need to spend more time with the prospective young-farmer borrower; more personal attention. This would help close the communication gap."

Also in the area of communications, several young farmers asked that if a loan application is turned down the young farmer should be told why and given advice on how to improve the application. He should be informed of any appeal procedure for a hearing on his credit "turn down."

5. Need for Better-Trained Lenders. Throughout the Conference discussions, a number of the young farmers expressed desires for lenders who are more up on the latest farming methods and who can give sound financial advice. In general, they asked lenders for better-trained, more knowledgeable credit men to work with them.

Farm finance officers should be full-time in the business, a young farmer commented. They should be forward-looking and willing to accept changes in farming and marketing.

One discussion group described the local farm lender as "a very important individual." Another group said, "He should be able to determine what a sound, potentially successful credit application should be. And he should be able to assist us in making capital investment decisions, such as whether to purchase a new tractor or to use credit for fertilizer, purchase land, or other production units such as cattle."

6. Greater Cooperation Between Lenders. Competition and a lack of cooperation among farm lenders, in the view of some of the young farmers, works to their disadvantage. They urged lenders to work together in trying to help qualified young farmers get started. In the Farm Credit System, for example, they asked that the Federal Land Bank Associations and Production Credit Associations develop a financing package for a young farmer, preferably with one loan officer handling all the credit arrangements.

When lenders are unable to provide all of the financing that a young farmer needs, they asked that lenders help find additional financing—the amount the lender can't provide. In brief, they asked all farm lenders—Farmers Home Administration, PCA, Land

Banks, commercial banks, insurance companies, and individuals—to work together in the best interest of the young farmer.

In addition to these six needs the Conference identified as major problems for young farmers, the group listed several others they considered important. They asked that lenders strive to expedite the processing of loan applications so that farmers can know where they stand with their financing. They urged mortgage lenders to use up-to-date land values in appraising farms for a loan.

Addressing themselves specifically to the Farm Credit System, several young farmers urged local associations to develop a greater appreciation for beginning farmers and their financial problems. They suggested that more young farmers be elected to local Federal Land Bank Association and Production Credit Association boards of directors. Another suggestion was that local boards establish advisory committees of young farmers as a communication link. Local boards of directors were asked to find ways to provide input from young farmers on a regular basis.

PROBLEMS FOR FARMERS

In addition to identifying financial problems in getting started in farmng, the young farmers discussed general farm problems which give them concern about the future of agriculture.

1. Land—High Prices and Availability. The conference of young farmers was virtually unanimous in the view that land is overpriced for purposes of farming. They reported that across the country land prices are being pushed sharply upward by nonfarm buyers (for development and speculation) and by the big operators. The strong pressure on prices moved one discussion group to ask, "Will rental of land be the only way young farmers can begin farming?"

But more disturbing to the young farmers than the price of land was the question of availability. Many of them recounted recent incidents in their communities where farm land had been purchased by urban buyers and withdrawn from farm production, often through neglect.

By a show of hands, the young farmers were nearly unanimous in their view that legislation will be needed to assure the continued availability of good land for farming. Zoning in rural areas was reported by many as not adequately reflecting the need for protecting prime farm land for farming only. They expressed the need for farmers to become involved on planning and zoning boards.

2. Marketing Farm Products—Markets, Transportation, World Trade. Many of the young farmers expressed doubts about their abilities to effectively market their farm products. They commented that they had been trained by the schools and agricultural colleges largely in how to produce food effectively but had received little training in effective marketing. They asked for training programs that would equip them with skills in this area of their farm business.

Most had had only limited experience with contracts and hedging, indicating it was "not for neophytes or the unskilled." Several young farmers asked for better current market information and discussed merits of a "money checkoff system to promote sales and marketing of our products in all areas."

Foreign sales of farm products were largely recognized as important to farm markets. Several suggested the U.S. work toward freer trade in the world markets with a minimum of export-import controls.

Transportation was recognized across the country as a major marketing problem. The movement of goods both in and out of rural communities is often hampered by an inadequate transportation system.

3. Environmental Controls on Farming. Numerous young farmers commented that environmental protection regulations on farming are a problem for them now and they are worried how they can carry the burden in coming years. "We recognize the need for regulation, but there must be an agricultural input in the design and implementation of these controls," one young farmer stated. Frequent changes in environmental standards that make major agricultural investments prematurely obsolete create unnecessary burdens.

Conferees said controls on use of chemicals in producing and processing food products often are harsh and imposed by people who are not responsible for the potential financial loss to the producer. "We want equal treatment through tax breaks and other means of sharing the costs of pollution controls," one discussion group said. They urged young farmers to get involved in setting environmental controls, "So we can live with the rules."

4. Consumer Understanding of Farmers' Problems. The lack of understanding of farming among the majority of Americans was recognized as a major problem for a stable, profitable agriculture. Most discussion groups expressed the view that the general public fails to understand the time lags in farm production cycles and the importance of prospects for a profit in farmers' decisions to increase or decrease production.

The group pointed to a need for educating the consumer about the economics of farming. They were of the opinion that the public is not getting adequate or accurate information on current farming conditions. "Farmers must make a greater effort to tell their story to the consumer," was the conclusion of many of the young farmers.

In addition to these four concerns, the Conference discussed problems of unstable farm prices, shortages of farm supplies, inflation, and continued availability of credit.

WHO ARE THE TOP YOUNG FARMERS?

Virtually all of the young farmers were married and more than half have a college education. They started farming on average ten years ago with assets of $30,000 about equally divided between equity and debt capital. But they were able to greatly expand their earning capability beyond that provided by the meager financial resources by renting and jointly operating other farms. In fact, for each $1 of their own equity, they were associated with or controlled nearly $6 of other farm resources including land, machinery and livestock.

Today, their assets total over $300,000 of which nearly three-fifths represents their own equity. Rapid progress between 1963 and 1974 was due to inflation (especially in land values), nonfarm income—earned partly by the wife, and gifts and inheritance. However, less than one-fifth of these farmers reported gifts and inheritance in the past ten years. Thus, most of their financial progress was due to their own efforts and decisionmaking abilities.

When they started farming, parents, relatives and friends were their single largest source of credit. Today, with debts averaging about $130,000, the largest single source of credit is the Farm Credit System.

CONFERENCE FORMAT

The Indianapolis meeting was designed primarily as a "listening conference." The young farmers spent over six hours in small group discussions where they discussed their farm financial experiences. Several farm and credit leaders also participated, primarily to stimulate discussion and focus attention on agricultural questions. Secretary of Agriculture Earl L. Butz addressed the group on "Decisions for Opportunity in Agriculture." "The Future of Farming" was the topic of Representative Jerry Litton, of Missouri, member of the House Agriculture Committee.

Two agricultural economists presented papers for discussion. Dr. Richard L. Feltner of the University of Illinois highlighted "Economic Problems and Opportunities Facing Farmers" while Dr. John R. Brake of Michigan State University reported on "Problems Young Farmers Face in Getting and Managing Capital." A panel of farm lenders related "Our Experiences in Lending to Young Farmers," after which a panel of young farmers reported on "Our Experiences with Lenders."

Co-chairmen of the meeting were Steve Brown, a young farmer from Frankfort, Indiana, and W. Malcolm Harding, Deputy Governor of the Farm Credit Administration. Other participants included officers of the Federal Land Banks, Federal Intermediate Credit Banks, and Banks for Cooperatives; representatives of the farm organizations; and staff members of the Farm Credit Administration.

The young farmers reported conclusions on their financial and related needs, as summarized above, at the closing session. E. A. Jaenke, Governor of the Farm Credit Administration, assured the conferees their comments would be reported not only to the Farm Credit System but to other farm lenders, farm organizations, agricultural committees of the Congress, appropriate Government agencies, and others who may have an interest in what young men need today to succeed in farming.

The FCA Governor also requested the Farm Credit Bank officers who attended the Conference to review Federal Land Bank and Production Credit Association services to young farmers in light of the needs expressed at the Indianapolis meeting. He asked them to develop recommendations on how the System might improve young farmer services for consideration by the Federal Farm Credit Board at its next regular meeting in April.

HOME LOANS AND FAIR HOUSING

Mr. PROXMIRE. Mr. President, the lead editorial in last Saturday's Washington Post called attention to the failure of the bank regulatory agencies to enforce the law against discrimination in mortgage lending.

The Post rightly points out that the drift of American society into two unequal societies, one mostly white, suburban and affluent, the other largely black and poor, has continued since the Kerner Commission issued its warning in 1968.

Home ownership has traditionally been a ticket into the middle class. If that avenue is closed to many minorities because banks think minorities are poor risks or that their neighborhoods are "declining," the dangerous apartheid described by the Kerner Commission will only deepen.

The Banking Committee held oversight hearings on fair lending last March. The committee found that the three commercial bank regulatory agencies have totally failed to take steps to make sure that lenders under their supervision are complying with the law. The Federal Home Loan Bank Board, which supervises savings and loan associations, does a better job, but has a long way to go.

The committee is continuing close oversight as these agencies begin to develop a more positive approach to enforcement of the Fair Housing Act as it applies to mortgage lenders. We expect that the regulatory agencies in their training programs, their regular bank examinations, their cooperation with the

Justice Department, will finally begin to enforce the law. We expect them to issue regulations under the 1968 act, and to require recordkeeping to facilitate a serious compliance program.

I ask unanimous consent to have printed in the Record a copy of the Post editorial.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

Home Loans and Fair Housing

In 1968, when the Kerner Commission warned that American society was drifting toward "two societies, one black and one white, separate and unequal," Congress passed a law that could have helped to prevent that drift. The Fair Housing Act of 1968 declared it the policy of the United States "to provide, within constitutional limitations, for fair housing throughout the United States." To achieve that end, the law prohibited banks and savings and loan associations from discriminating by sex and race in providing mortgages. The enforcement burden for that policy falls on the Department of Housing and Urban Development and on the four banking industry regulatory agencies: The Federal Reserve Board, the Comptroller of the Currency, the Federal Deposit Insurance Corporation and the Federal Home Loan Bank Board.

Five years ago, 13 major civil rights and housing groups petitioned those four banking agencies to establish antidiscrimination regulations for the banks and to begin collecting data that would help to evaluate the degree to which the banks' mortgage policies conformed with the law. Today, five years after that petition and eight years after the passage of the law, very little has happened. Only the Federal Home Loan Bank Board has written regulations against discrimination into its examination procedures. None of the agencies has begun keeping the kind of records that would show the racial pattern of loan-granting procedures. Under such circumstances, it is not surprising that none of the agencies has ever made a formal finding of discrimination by any of the banks it supervises. The Fed even ignores Justice Department proposals that they join forces to look into the racial situation in mortgage lending.

The bank regulatory agencies are now being prodded from two directions to meet their responsibilities under the law—and thus their responsibilities to the whole of society. Ten civil rights groups have sued the agencies, asking the courts to instruct them to do what they should have been doing all along on their own. And Sen. William Proxmire, who heads the Banking, Housing and Urban Affairs Committee, has held hearings that have given some visibility to this problem.

The testimony presented in court and on Capitol Hill is consistent. It appears to show that the agencies have all but ignored the Fair Housing Act and that discrimination against minority persists in the banking industry. What the ordinance indicates is that the mortgage turndown rate for minorities across the country is double or, in some instances, even triple the turndown rate for whites in the *same state of creditworthiness*.

The result of this mortgage discrimination is of concern to all of us—the Kerner report suggested. For what it means is that the central cities remain black and the surburbs remain white; the painful consequences of this are all too evident in the explosions over school desegregation. Blacks kept from purchasing homes near suburban jobs are thus helped to remain jobless. Redlining, the practice of refusing to grant mortgages in central city neighborhoods, accelerates decay and inflicts social wounds whose true cost cannot even be calculated.

The bank regulatory agencies have undertaken a broad responsibility to see to it that the principle of fair housing be applied to bank home mortgages. Yet their examinations continue to be strictly limited to matters bearing on the financial health of banking institutions. This is not an insignificant area of neglect. For the aspect of the job that they ignore—a careful and faithful monitoring of the banks for discriminatory practices—concerns the health of the whole of society.

NUCLEAR WEAPON FREE ZONES

Mr. CLARK. Mr. President, traditionally, efforts at preventing the proliferation of nuclear weapons have concentrated on the Treaty for the Prohibition of Nuclear Weapons—NPT—of 1968. Unfortunately, experience has shown the treaty's shortcomings. In the eyes of some nations, it discriminates against the nuclear have-nots. Nonsignators may be deprived of access to nuclear technology for peaceful uses. And, finally, the NPT has done little to check the spiraling arms race between the United States and the Soviet Union.

The shortcomings of the NPT suggest the merits of investigating other means of checking proliferation. Thus, there has been the proposal to broaden the responsibilities of the International Atomic Energy Agency—IAEA—safeguard programs. Supplier states are being urged to deliver nuclear technology only under the most stringent safeguards. Proposals are also being discussed to restrict uranium enrichment, plutonium separation, fuel fabrication, and waste treatment disposal facilities on a regional basis.

Finally, there is considerable discussion of the potential of nuclear weapons free zones. By definition, nations within the agreed zone would neither acquire, manufacture, nor possess nuclear weapons. Nuclear weapon states outside the zone would respect the zone's denuclearized status.

At a recent conference of the Stanley Foundation, an Iowa institution respected for its study and research in the field of foreign relations, a distinguished panel of experts discussed current thinking on such zones. I ask unanimous consent that a part of the panel's report be printed in the Record.

There being no objection, the report was ordered to be printed in the Record, as follows:

Report of the Rapporteur

INTRODUCTION

The proliferation of nuclear weapons is a clearly accelerating danger confronting all nations. The results of a conflict in which nuclear weapons were utilized (whether deliberately or by accident) would have devastating effects on civilization, and in particular on the advanced industrialized nations. Unfortunately, the risks of such an occurrence seem to be heightening with the unavoidable spread of nuclear technology and the accompanying accumulation of the requisite knowledge and material for the development of nuclear weapons of mass destruction.

International efforts to control the spread of nuclear weapons have generally centered upon the Treaty for the Prohibition of Nuclear Weapons (NPT) of 1968 which in part relies on the safeguard activities of the International Atomic Energy Agency (IAEA). However, international efforts for the control of nuclear proliferation have floundered on such difficult and complex issues as vertical disarmament (by nuclear weapon states), security guarantees to the non-nuclear weapon states, and peaceful nuclear explosives (PNEs). Despite the ratification of nearly 100 nations, the NPT has not been ratified by many threshold nations, nor by 3 of the 6 nations that have thus far detonated a nuclear explosive device. The Non-Proliferation Treaty Review Conference, held in the summer of 1975, in Geneva, produced no breakthroughs and little genuine progress, and provided few incentives for non-party states to become parties to the NPT.

As international efforts based on the NPT have failed to produce adequate results, attention has shifted somewhat to the potential for the regional management and control of nuclear weapons via proposals for "nuclear-weapon-free zones." Interest in nuclear-weapon-free zones was clearly illustrated by the several resolutions of the 29th U. N. General Assembly (and the inclusion of similar items in the agenda of the 30th General Assembly); in the call by Secretary-General Waldheim for the creation of new nuclear-weapon-free zones in the introduction to the "Report of the Secretary-General on the Work of the Organization" (for 1974–75); and the results of the Ad Hoc Group of Qualified Government Experts established by the Conference of the Committee on Disarmament.[1] The regional approach is viewed as complementing the international non-proliferation efforts, but also as providing certain additional benefits due in part to the completeness of the anticipated obligations of the parties. That is, while no agreed definition exists, the concept of nuclear-weapon-free zones is generally believed to include a prohibition of the development or importation of nuclear weapons by all nations within the zone. Furthermore, the one existing zone (Latin America) and many of the proposed zones include the concept of the total absence of nuclear weapons from the area which amounts to a prohibition of foreign nuclear bases, a notable loophole in the NPT. Above all the existing and proposed zones envision a legally binding commitment by the nuclear weapon powers not to use or threaten to use nuclear weapons against the countries in the zone, a commitment which is absent from the NPT. Also nuclear-weapon-free zones, by their very nature, involve fewer actors and may thereby be more easily implemented than international efforts with a goal of universality. Finally, regional efforts may have a decided advantage in attracting the participation of some nations that might feel a greater obligation to participate in regional rather than international efforts.

The objective of the Conference on Nuclear-Weapon-Free Zones was to discuss the prospects for the regional control of nuclear weapons, and to advance proposals for implementation of nuclear-weapon-free zones in different parts of the world. Latin America was chosen as an example of a partially successful zone, and case studies included Africa, the Middle East and South Asia. Other zones were only briefly discussed. Finally, the difficulties of implementation of nuclear-weapon-free zones were considered.

I. LATIN AMERICA

The Treaty for the Prohibition of Nuclear Weapons in Latin America (Treaty of Tlatelolco) was signed in 1967, and represents the first example of the establishment of a nuclear-weapon-free zone in a major populated region of the world. The Treaty prohibits the development or production, as well as the receipt or installation, of nuclear weapons by any Latin American country.[1] A further restriction pledges the ratifying nations not to permit the deployment of nuclear weapons on their territory (i.e., no foreign nuclear weapon bases). Further, the Latin American nations are required to emplace their nuclear activities under the IAEA safeguard system. The Treaty is currently in effect for 20 Latin American nations, excluding Argentina, Brazil, and Chile. Four of the five nuclear weapon states (excluding the Soviet Union) have signed an additional Protocol to respect the denuclearized status of the zone including an understanding not to use nuclear weapons against the parties to the Treaty. India is also considered a nuclear weapon state according to the definition included in Article 5 of the Tlatelolco Treaty. Consequently India has been requested to sign Protocol II. (India has declined to do so.) Also, two countries having territorial interests in the Americas, Great Britain and the Netherlands, have signed a separate protocol whereas the United States and France have thus far refused.

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[1] Special Report of the Conference on the Committee on Disarmament Transmitting a Comprehensive Study of the Question of Nuclear Weapons Free Zones in All Its Aspects (CCD 476, August 28, 1975; A/10027/ADD1 and Annex I and II).

The Organization for the Prohibition of Nuclear Weapons in Latin America (OPANAL) was established in 1969 under the terms of the Treaty. With headquarters in Mexico City, OPANAL is a sophisticated control mechanism composed of three principal organs: General Conference, Council and Secretariat. The Treaty's control system includes, in addition to bilateral safeguard agreements with the IAEA, semiannual reports by the parties to OPANAL pledging that no activities have occurred in violation of the Treaty. OPANAL's General Secretary may request special reports from the parties pertaining to circumstances connected with compliance of the Treaty, and most importantly, special inspections may be administered by the Secretariat under Council direction within the territory of any Latin American party under suspicion. This is a policy of "inspection by demand" and all parties have agreed to give full and free access to all places within their territory. The results of the inspections may lead to a special session of the General Conference of OPANAL, and may be submitted to the U.N. Secretary-General for action by the United Nations.

Participants considered two questions relative to the Latin American nuclear-weapon-free zone: (1) What are the major obstacles confronting the Tlatelolco Treaty in fully achieving its objective of preventing nuclear proliferation in Latin America and (2) what are the implications of the Latin American nuclear-weapon-free zone to other regions? It was generally agreed that the question of PNEs represents one of the most difficult and complex obstacles to the full success of the Latin American zone. It was pointed out that the majority of Latin American nations for whom the Treaty is in force have interpreted the Treaty as not permitting indigenously produced PNEs. Specifically, such nations are of the opinion that Article 18 of the Tlatelolco Treaty ("explosions for peaceful purposes") is restricted by Articles 1 ("obligations") and 5 ("definition of nuclear weapons").

This interpretation is not shared by Argentina and Brazil, and is considered a major reason for their failure to adhere to the Treaty. It was believed by the majority of participants that the most suitable solution to the PNE question, both in Latin America and elsewhere, was for rapid progress to be made on the organization of an international peaceful nuclear explosive program—a "PNE" regime. Such a regime, it was believed, should regulate PNE detonations in both nuclear and non-nuclear weapon states whenever such detonations appear to have demonstrated usefulness. Following the establishment of an international PNE regime, a cooperative effort could be developed with existing regional machinery. In the case of Latin America, it was pointed out, the Tlatelolco Treaty includes a detailed format outlining the manner in which a PNE could be utilized in the region (Article 18, Paragraphs 2–4). Such a format, it was believed, might serve as a model to other regions.

A second difficulty with respect to securing the objectives of the Latin American nuclear-weapon-free zone is the issue of transit of nuclear weapons through the zone. The Tlatelolco Treaty left the question of the banning of transit of nuclear weapons up to each country to determine in the free exercise of its sovereignty. Mexico is the only Latin American nation that has chosen to implement such a ban. The question is further complicated due to the conflicting positions of the two superpowers, the United States having stated that if transit were forbidden it could not adhere to the Treaty, whereas the Soviet Union has cited the absence of any prohibitions of transit as a critical impediment to its participation. Most participants in this conference, although recognizing that the transit of nuclear weapons was an issue of principle, nonetheless believe the issue to be of insignificant importance to warrant failure to support the zone. In this regard it was pointed out that, in permitting each party to determine its own policy regarding transit of nuclear weapons, the Treaty was awarding no particular advantage to any nuclear weapon states. It was suggested that the complications the transit issue has created for full implementation of the Latin American nuclear-weapon-free zone should be noted by those seeking to establish zones in other regions.

A third difficulty confronting the full implementation of the Latin American nuclear-weapon-free zone is the extensive zone of applicability. This zone of application, which is to come into operation after the full implementation of the Treaty, has presented difficulties to both superpowers. However the United States has chosen to deal with this question by an interpretive statement whereas the Soviet Union has cited this as a principal reason for declining to support the Tlatelolco Treaty. It has been claimed that the fully extended zone would represent a unilateral modification of international law. Supporters of the Treaty have pointed out numerous precedents for treaties applying to major areas of the high seas including the specific zone of application of the Treaty of Tlatelolco; and that, in any event, if all nuclear weapon states agree to respect the extended zone, the fact would create valid extension or confirmation of international law. Participants were of the opinion that the intended zone of applicability is an issue that should be closely studied as nuclear-weapon-free zone proposals are considered for other regions. In particular, the views of nations outside the region should be considered on this question.

A final issue of explicit significance to the Latin American zone is the failure of the United States (and France) to ratify Additional Protocol 1 designed for outside states having territorial interests in the Americas. U.S. refusal to ratify was believed due in part to Cuba's failure to cooperate with the Tlatelolco Treaty, and in part to a desire not to restrict itself with respect to nuclear weapons in certain of its possessions in the area. One proposal receiving support of some participants was that the United States might consider placing a portion of its territories in the zone of application of the Tlatelolco Treaty. It was suggested that the United States might consider differentiating between certain territories considered as an integral part of the United States and those that are not, thus permitting the Treaty of Tlatelolco to apply to the latter group.

II. AFRICA

Proposals for an African nuclear-weapon-free zone were made initially in 1960, followed by a U.N. General Assembly resolution in 1961. The concept was supported by the Organization of African Unity (OAU) in 1964, and approved again by the U.N. General Assembly in 1965. Yet another resolution was introduced and adopted unanimously by the 29th General Assembly.[2] Participants noted that the motivation for an African nuclear-weapon-free zone has always been a reaction to external factors, rather than to fear of development of nuclear weapons by a black African state. In the early 1960's the impetus was French testing in the Sahara, and the current effort is due in part to a fear of South African development of nuclear technology (indigenously, and as a result of cooperation with the Federal Republic of Germany).

Participants noted certain analogies between the early stages of the Latin American denuclearization effort and the current African situation. The Latin American effort was also, in part, a reaction to external events, including the Cuban missile crisis, and a fear of possible nuclear weapon state involvement in the region. In addition, at the outset of the effort which culminated in the Tlatelolco Treaty, Latin American nations were not advanced in nuclear technology. It was suggested that the relative lack of nuclear technological development of African nations is a definite asset to the effort to create an African nuclear-weapon-free zone agreement. In this regard, delay in implementing a zone may greatly increase the difficulty of ever creating such a zone, as the momentum of nuclear technology develops in Africa.

At present, the African effort is simply a general declaration of principles, enjoying unanimous U.N. approval. There has been no effort to translate it into a legal instrument, as has been done in Latin America. The principal obstacle to establishment of an African nuclear-weapon-free zone is, ironically, the very factor providing some of the impetus: South Africa. The fact that South Africa is developing a nuclear capability is causing some African nations to doubt the wisdom of proceeding toward instituting a treaty, while some others believe that the creation of such a zone might have a restraining influence on South Africa's decision whether or not to become a nuclear weapon state. In this regard, some suggested that an African zone might be established contingent upon South African cooperation and respect for such an agreement. Others disagreed, stating that this would, in effect, provide South Africa with a veto over creation of a zone. Similarly (although on a much lower scale of priorities), the fact that certain North African states (Egypt and Libya) are involved in the Middle Eastern struggle, and may have nuclear aspirations, is a complicating factor. However, it was noted that the recent agreement between Egypt and Israel has raised hopes for an eventual overall Middle Eastern settlement. Such an occurrence would be a positive factor for the creation of an African nuclear-weapon-free zone for all of the continent outside of South Africa.

A secondary obstacle mentioned by several participants is the failure of the nuclear weapon states to give some assurance that at least "negative assurances" (essentially non-first use pledges) will be provided if progress is made toward an African nuclear-weapon-free zone with precisely defined goals. It was suggested that the nuclear weapon states should more closely study the African proposal, and seek to give more creative support to it.

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[2] A similar resolution was passed by the recently completed 30th General Assembly.

Despite definite obstacles, most believe that Africa represents one of the most promising areas in the world for the creation of a nuclear-weapon-free zone. One possible approach for implementation much discussed at the conference was a sub-regional nuclear-weapon-free zone comprised initially of only sub-Saharan black African nations. In this regard the formula embodied in Article 28 of the Treaty of Tlatelolco could offer some guidance. That is, an African subregional zone could be created which would leave each African state free to determine the importance of South African participation (and/or that of Egypt and Libya). For those black African nations believing there is at present an overriding community of interests to ban nuclear weapons from Africa, the zone would go into immediate effect. Others could designate their participation contingent upon other external events, such as South African participation (much in the same manner as Brazil's position relative to the Tlatelolco Treaty). Under accepted international practice, such nations, assuming they signed an agreement, are morally bound not to undertake actions counter to the objectives of the agreement, as reflected in Article 18 of the Vienna Convention Law of Treaties.

The most important element of this approach is to make a beginning, with a small nucleus of black African states, and build from that point into a more all-inclusive agreement. Of particular significance is the creation of an ad hoc body such as the Preparatory Commission for the Denuclearization of Latin America (COPREDAL) working continually to prod and push for the success of the zone. One possible obstacle is the fear that such an approach might introduce a divisive element into the overriding goal of black African unity.

With this in mind, it was suggested that an ad hoc body might have a working relationship with the OAU without actually being part of that body. In support of the efficacy of such an ad hoc body, it was noted that at present there are the beginnings of regional economic groupings in Africa, and the precedent could well be extended to other areas such as a sub-regional nuclear-weapon-free zone.

A final factor, suggested by the Latin American model, is considered vitally important to the success of an African nuclear-weapon-free zone: the dedication and perseverance of one or more African governments and a respected African personality (1) convinced that the creation of a nuclear-weapon-free zone will enhance the security of the entire African continent, and (2) willing to exercise some initiative and leadership in this regard.

III. SOUTH ASIA

The prospects for establishment of a South Asian nuclear-weapon-free zone must be considered in a different light from that of Latin America and Africa, due to the fact that one nation in the proposed zone, India, has detonated a nuclear explosive device. Two resolutions were passed by the 29th U.N. General Assembly, sponsored by Pakistan and India respectively.[3] The Pakistan-sponsored resolution proposed the creation of a South Asian zone, and recommended that the nations in the region begin consultation directed at its establishment. In turn, India's resolution emphasized that the initiative for such a zone should originate indigenously after careful prior consultation among the nations that would be included in the zone.

Participants believe there are several difficult issues that must be resolved for there to be any meaningful progress in establishment of a South Asian zone. One such issue is the area of application for the zone. "South Asia," it was agreed, is often a loosely defined term, but a nuclear-weapon-free zone for the region might include Sri Lanka, Bangladesh, India, Pakistan, and possibly Afghanistan and Iran. However, some questioned if South Asia was not really a subregion of Asia and the Pacific, arguing that a nuclear-weapon-free zone could not be created without including other key nations from these areas.

Another question concerns the implication of the proximity of a major nuclear weapon state, China. Participants disagreed as to whether China was a principal impediment or major impetus to the creation of the zone, but all were of the opinion that Chinese respect for a zone was essential. Some believed Chinese support very likely. An interrelated question concerned the effect of current military alliances existing between regional and non-regional nations upon the chances for creation of the zone. Most participants, while appreciating complexities raised by the issue, did not believe this to be an insurmountable problem. What is relevant on this question is the ability of the nations to assume a nuclear-weapon-free status in line with the dictates of an agreement. In short, if the nations of the region believe there is a community of interest to establish a zone, current military alliances should not be an impediment.

Perhaps the most difficult issue to reconcile with the concept of a South Asian nuclear-weapon-free zone is India's detonation of a PNE. There was no basic disagreement among participants on the lack of a distinction between a PNE and a nuclear weapon. Indeed, some argued that, as India is now a nuclear weapon state, a South Asian nuclear-weapon-free zone logically must exclude the nation. Rather, it was argued the nations of the region should proceed immediately to create a zone without India. In time, it was believed, the established nuclear-weapon-free zone agreement could demonstrate its ability to enhance the security of its member nations, and India might be persuaded to give binding guarantees of respect.

However, others were of the opinion that the attempt should be made to formulate a regional agreement that would include India. India, it was noted, has made explicit in various international forums (including a formal note in 1975 to OPANAL) its determination not to develop nuclear weapons. Given the prevailing circumstances, it is desirable for other nations not to assume postures likely to force India from its current intermediate status (as a "PNE state" or "nuclear capable state") toward development of a weapon system. Rather, it was argued that the world community should seek to encourage India's current posture by supporting the creation of a South Asian nuclear-weapon-free zone.

Without major new initiatives from within the region, it was agreed, the prospects for a South Asian nuclear-weapon-free zone are not good. A critical element to long-term hopes for success is protracted, in-depth, bilateral consultations between India and Pakistan. There are some indicators that such a dialogue has begun, and most certainly it should be encouraged. From this point of view, it was argued that it may be desirable to de-emphasize, for a period, the more public multilateral route via U.N. General Assembly resolutions (however useful they may have been to spotlight the concept of a South Asian nuclear-weapon-free zone). Thus, the nucleus for such a zone may well be a bilateral Pakistan-India security arrangement later broadened to include other nations in the region under a more all-inclusive arrangement.

Finally, it was stressed that the nuclear weapon states (Soviet Union, United States and China) having security relationships with key countries in the area should seek to foster an atmosphere which would permit the creation of a nuclear-weapon-free zone. For the present, broadly worded statements of willingness to support a zone should the nations of the area agree, would be sufficient. When a more all-inclusive regional security arrangement (which might be a nuclear-weapon-free zone agreement) is negotiated, then "positive guarantees" by the nuclear weapon states may be a necessity.

IV. MIDDLE EAST

Prospects for establishment of a nuclear-weapon-free zone in the Middle East are affected by several factors: the lack of formal diplomatic contacts between the contending nations; the strong likelihood that at least one nation (Israel) has developed nuclear weapons or is very near to doing so, while certain Arab states have a growing potential nuclear capacity; the nearing of a nuclear delivery capability capacity in one or more Middle Eastern nations; and the continuation of protracted minor violence with the ever-present possibility of a major large-scale conflict. It was against this background that Iran, joined by Egypt, sponsored a resolution in the 29th U. N. General Assembly for the creation of a Middle Eastern nuclear-weapon-free zone. The resolution, which was adopted by the General Assembly without Israeli support, asked the Secretary-General to make an inquiry concerning prospects for the establishment of a zone. All nations in the region supported the general concept of a nuclear-weapon-free zone in their replies, but also included certain prerequisite demands clearly unacceptable, at the present time, to the contending parties in the Middle Eastern struggle. Most Arab nations stated the necessity of prior assurances by Israel not to develop nuclear weapons, as well as Israeli ratification of the NPT. Israel in turn called for direct consultations, including an all-Mideast conference, to consider the question of establishment of a Middle Eastern nuclear-weapon-free zone.[4]

Generally, the proposed zone is thought to include Bahrain, Quatar, Kuwait, Iran, Iraq, Syria, Jordan, Israel, the two Yemens, Oman, Saudi Arabia and Egypt. Some believed Libya should also be included. However, a zone including some of the aforementioned countries and guaranteed by the two superpowers is not discounted.

The seriousness of any effort to create a Middle Eastern nuclear-weapon-free zone must be weighed against the widely held opinion of experts that Israel already has perfected several nuclear weapons even if none has been tested. In this regard, it was noted Israel is well aware that nuclear weapons cannot guarantee its national security, inasmuch as similar weapons sooner or later can be developed or acquired by its adversaries. Further, in a future Middle Eastern conflict, Israel is far more vulnerable to nuclear attack than the more geographically dispersed Arab nations. Ultimately, it was believed a regional nuclear-weapon-free zone may be perceived to be in the national interest of all Middle Eastern nations.

Most discussion centered upon the means to advance the concept of a Middle Eastern nuclear-weapon-free zone from its current impasse. Some questioned the wisdom of continued effort through the United Nations. Although it was recognized that, as with the South Asian initiative, a public and visible effort via a U.N. resolution could be justified "to get the ball rolling," the most auspicious future route may be in other forums. Those having this view questioned the effectiveness of U.N. General Assembly resolutions and noted, in particular, Israeli reticence concerning an initiative supported by the General Assembly which did not envisage direct negotiations by all parties on an equal footing. U.N. involvement in the future should be limited to post facto approval of an agreement negotiated elsewhere. Others believed that direct long-term U.N. involvement in the effort to create a Middle Eastern nuclear-weapons-free zone was essential to give an essence of permanency to an agreement. Evidence of U.N. involvement, enjoying wide international support, was also felt necessary in order to gain the prerequisite support of the two superpowers.

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[3] Yet another resolution was approved by the 30th General Assembly.

[4] Another resolution for a Middle Eastern nuclear-weapon-free zone was passed by the 30th General Assembly.

The critical importance of the two superpowers to the creation of a Middle Eastern nuclear-weapon-free zone was emphasized by most participants. The superpowers are more deeply and dangerously involved in the Middle East than in any other area being currently proposed for a nuclear-weapon-free zone.[5] Superpower guarantees, of both a positive and negative nature, are an essential prerequisite for both Israel and the major Arab countries to reach an agreement for a nuclear-weapon-free zone. Such guarantees must be of a credible nature (as distinguished from the somewhat meaningless U.N. Security Council Resolution 255 of July, 1968, which was found insufficient by India).

There was general consensus that the likelihood of a Middle Eastern nuclear-weapon-free zone in the near future is not high and, in any event, its creation could occur only as part of an overall comprehensive peace settlement for the entire region. This being said, it is believed that the concept of a nuclear-weapon-free zone could be a positive element in the search for a peace settlement and that it should be given high priority in any ongoing bilateral negotiations, and in any reconvening of the Geneva discussions on the Middle East. In the interim period, while substantive negotiations are under way, all nations within the region (and external nations) are urged not to undertake any action likely to udercut the later creation of a nuclear-weapon-free zone.

V. OTHER ZONES

The group briefly considered the possibilities for establishment of nuclear-weapon-free zones in other areas, including Nordic countries, the Balkans, South Pacific, and the Indian Ocean. With respect to the Nordic area it was noted that efforts to create a nuclear-weapon-free zone are currently in abeyance, with no formal consultations under way among the nations themselves, or at the United Nations. It was pointed out that all Nordic nations have signed and ratified the NPT and thus, in at least a partial sense, the region is committed to banning nuclear weapons. It is also true that some of the earliest proposals related to nuclear non-proliferation originated in the Nordic area (Sweden's initiative for a "non-nuclear club" in 1961, and that of President Kekkonen of Finland for a Nordic nuclear-free zone in 1963).

The principal obstacle to the creation of a Nordic nuclear-weapon-free zone continues to be the possible disturbing of existing military agreements. As members of NATO, Norway and Denmark are committed to permit nuclear weapons in their territory during times of war (although not during peace time), and Finland pursues a policy of neutrality while retaining a specific security obligation with the Soviet Union. Sweden, being a neutral nation with the capability of developing nuclear weapons, is no doubt the critical element as regards future establishment of a nuclear-weapon-free zone. In this respect, mention was made of a recent Swedish proposal[6] that a Nordic nuclear-weapon-free zone might prohibit nuclear weapons that could threaten the nations within the zone (i.e., medium-range ballistic missiles and tactical nuclear weapons), but still permit strategic missiles. In this manner, it was believed, the complicating question of alliance commitments might be circumvented.

All agreed that the prospects for an early creation of a Nordic nuclear-weapon-free zone are not high. However, it was generally believed that an agreement might be possible, if there were persistent careful preparation and if leadership were exercised by several nations in the region. Ultimately, however, the most likely possibility for establishment of a Nordic nuclear-weapon-free zone may be in the context of an overall European security arrangement (which could include creation of a nuclear-weapon-free zone in central Europe).

It was believed that there is a possibility for the eventual creation of a nuclear-weapon-free zone in the Balkans. Such a zone might include Romania, Yugoslavia, Albania and Bulgaria, and also Greece and Turkey if it were linked to creation of a zone in central Europe and an overall European settlement. At present there is no effort under way at the United Nations, although Romania is carrying out informal contacts with nations in the area.

The effort initiated by New Zealand and Fiji during the 29th General Assembly for the creation of a nuclear-weapon-free zone in the South Pacific was stimulated by French nuclear tests in the area and raises the difficult question of inclusion of vast areas of the high seas. The proposal anticipates an area extending from Australia and Malaysia to the coasts of Chile and Ecuador, i.e., the whole Southern Pacific area. It was believed that this initiative will involve questions of greater magnitude and difficulty than those encountered by supporters of the Latin American nuclear-weapon-free zone agreement in its objective of denuclearizing extensive areas of ocean space around South America. Participants were not optimistic as to the possibilities for the creation of a nuclear-weapon-free zone in the South Pacific.

The concept of an Indian Ocean zone of peace differs somewhat from that of a nuclear-weapon-free zone. As envisioned by its sponsors, the zone would apply only to the high seas and not to the land area of the nations bordering on the Indian Ocean. Its specific objective is to prevent the build-up of conventional or nuclear weapon bases (such as the proposed U.S. base in Diego Garcia or the alleged Soviet base in Somalia) by external powers. It does not apply to military bases established by states within the region. It was noted that almost all of the countries within the region have publicly stated their approval of the idea, and a conference on means to implement the proposal is anticipated in 1977.

VI. IMPLEMENTATION OF NUCLEAR-WEAPON-FREE ZONES

A. Incentives

There are no all-inclusive formulas for implementing nuclear-weapon-free zones. As the previous material has indicated, movements for the establishment of future zones will encounter formidable obstacles. Among those areas currently being supported, at the United Nations and elsewhere, for nuclear-weapon-free zones, each has unique difficulties which will not necessarily apply to other prospective zones. Establishment of future zones will be a complex and lengthy undertaking, requiring intelligent and sustained effort. However, the group did seek to identify and discuss some factors considered relevant to implementation of all proposed zones.

The question of impetus for support by nations for a zone was raised. The point was made that nations generally use nuclear-weapon-free zone proposals as a means to pursue other objectives more central to their foreign policy goals. Often the impetus is a reaction to an external event perceived to be prejudicial to the national interest, e. g., the Cuban missile crisis, French nuclear tests in the Sahara or South Pacific, a growing South African or Israeli nuclear capability, and the Indian PNE. However, far more is needed than just the immediate catalytic effect of an external event to complete a nuclear-weapon-free zone agreement. The zone must be envisaged as an effective means of increasing the security of all the participants and not just of some of them at the expense of others.

To *sustain* an effort to create a nuclear-weapon-free zone, there must develop a clear community of interests among the nations within region as to the desirability of the goal. Here it may be useful to draw a distinction. The goal, or long-term sustaining factor, may be, for example, a collective desire to "opt out" and remove the region from the sphere of competition and confrontation between current nuclear weapon states. This was an important element in the initial success of the Latin American zone, and is a factor in some other prospective zones such as the Nordic area and possibly black Africa. However, in other areas the sustaining factor may be a desire to achieve regional peace and stability. For example, the immediate cause for a proposal for a South Asian zone was clearly the Indian PNE, but the long-term success will come only through development of a commonly shared community of interests to avoid potentially disastrous nuclear competition. This could also eventually prove true for the Middle East and Africa.

An inter-related question is the importance of alliances on the prospects of success of nuclear-weapon-free zones. In all prospective zones, nations are party to security relationships with both regional and non-regional nations. In some cases, particularly strong alliance relationships will clearly impede the likelihood of cooperation with regional nuclear-weapon-free zones. However, it was believed that as nuclear-weapon-free zones and military alliances share, in part, a similar basic desire for national security, they need not necessarily conflict. In many cases membership in an alliance need not preclude cooperation with a nuclear-weapon-free zone agreement. Ultimately, if nations become convinced that a nuclear-weapon-free zone can provide security, military alliance relationships may lessen in importance.

Recognition of linkages between existing and prospective zones may be an important factor affecting implementation. The discussions among African leaders in the early 1960's stimulated the Latin American effort. At present the example of the progress achieved by the Latin American zone is providing an important model for other prospective zones. In particular, the established machinery, OPANAL, is setting important precedents which may be carefully studied in other regions.

Perhaps the most discussed element affecting the success of nuclear-weapon-free zones is the degree of support granted by nuclear weapon states. All agreed that support by the nuclear weapon states was important, but there were sharp differences as to the extent such support has been forthcoming thus far. Some charged that both superpowers have been excessively reluctant in failing to promise even negative guarantees to nations desirous of creating a nuclear-weapon-free zone. These individuals emphasized the immense psychological value of superpower support to the eventual success of nuclear-weapon-free zone effort. At the very least, it was argued that all nuclear weapon states could afford to encourage nuclear-weapon-free zones via policy declarations of strong, if general, support, while understandably retaining their final positions until details are worked out by the parties.

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[5] The other obvious area, central Europe, has not been the subject of recent proposals.

[6] Anders Thunborg (Undersecretary of State, Swedish Ministry of Foreign Affairs), "Nuclear Weapons and the Nordic Countries Today—A Swedish Commentary," in *A Nuclear Free Zone and Nordic Security,* Finnish Institute of International Affairs, 1975.

Others believed that the refusal of the superpowers to agree in advance to support the zones is not an inhibiting factor. On the contrary, too much emphasis on this factor, it was believed, can undercut the entire effort. It was argued, for example, that the lack of a prior commitment did not adversely affect the Tlatelolco Treaty. If there is a community of interest among states in a region they will proceed toward the goal without prior commitment by nuclear weapon states. Further, it was emphasized that nuclear weapon states have global involvements which transcend regional interests and may often complicate their ability to give prior support for efforts to create nuclear-weapon-free zones.

Most participants, however, leveled a basic criticism at the two superpowers for creating and perpetuating a discouraging environment not conducive to the creation of nuclear-weapon-free zones. That, is the superpowers have, through their generally uninhibited nuclear arms race, enhanced the perceived worth of nuclear weapons to non-nuclear weapon states. The ongoing Strategic Arms Limitations Talks have produced very limited results. The failure of the two superpowers to negotiate a comprehensive test ban agreement or to develop a joint posture on PNEs is also a factor creating an unfavorable climate for new regional efforts to ban nuclear weapons.

Similarly it was argued that substantial responsibility for nuclear proliferation must fall upon nuclear supplier states, particularly those with the capability of exporting a complete fuel cycle (enrichment and reprocessing facilities). It was believed that if current discussions produce a code of conduct for nuclear supplier nations, this would facilitate the establishment of new nuclear-weapon-free zones.

B. Regional nuclear energy centers

The question of multilateral regional nuclear energy centers (grouping uranium enrichment, fuel fabrication, spent fuel reprocessing and storage and waste disposal facilities in a central location) was briefly discussed. The concept has been emphasized recently by U.S. policy makers, and is the subject of ongoing discussions among nuclear supplier nations. Regional nuclear energy centers are favored as a possible means to prevent nuclear proliferation on a regional basis by creating a degree of interdependence in the nuclear fuel cycle among nations in the area. Their creation can also serve to greatly lessen the possible dangers of nuclear theft and terrorism. Regional nuclear energy centers may pay economic dividends through economies of scale.

In addition, if a number of countries in a region cooperate in such an effort they will be in a better bargaining position with nuclear supplier nations. Regional nuclear energy centers may also provide the advantage of granting less developed countries access to advanced nuclear technology. Finally, it was emphasized that nuclear weapon states, for a variety of economic and security considerations, may find it very much in their interests and provide the capital for the creation of regional nuclear energy centers in the future.

Participants believed there was a natural affinity between nuclear-weapon-free zones and regional nuclear energy centers. The optimum area for establishment of a regional nuclear energy center, it was argued, is in an existing nuclear-weapon-free zone. Regional nuclear energy centers will provide incentive to, and reinforce, existing nuclear-weapon-free zones by providing additional security to its members. Particular attention was drawn to the opportunity presented by the existing Latin American nuclear-weapon-free zone. It was argued that OPANAL represents the nucleus of an organization that could eventually provide the framework for a future nuclear energy center in Latin America. In order for this to occur, however, OPANAL must evolve from its current somewhat negative posture to one of *promotion and control* of the peaceful uses of nuclear energy.

It was recognized that the prospects for establishment of regional nuclear energy centers—and their linkage to nuclear-weapon-free zones—are complicated with unresolved issues. In addition to the important question of funding, another central question is what body will operate as the control mechanism for regional nuclear energy centers. Most believed it should be an independent regional organization such as OPANAL, although in other areas (such as Africa or South Asia) an entirely new organization would have to be created. Cooperation between the regional organization and the IAEA would also be an important element, although several argued that the IAEA would require major reorganization to ensure adequate representation by all nations.

In summary, all believed that linkage of regional nuclear energy centers and regional nuclear-weapon-free zones may provide important new economic and security opportunities which should be carefully considered by all nations.

CONCLUSION

Nuclear-weapon-free zones represent a very hopeful method of inhibiting the development and utilization of nuclear weapons through regional mechanisms. While complex political obstacles serve to limit prospects for establishment of new zones in all prospective regions under consideration, the outlook is far from hopeless. Most assuredly the nuclear weapon states would be encouraged to re-examine their prevailing reluctance concerning such regional endeavors, and develop new methods for creating encouragement. Ultimately, however, successful creation of new nuclear-weapon-free zones will be measured by the degree of leadership and support from the nations within the region. They will benefit, and they must lead.

PETROLEUM INDUSTRY

Mr. THURMOND. Mr. President, the Committee on the Judiciary has before it for consideration a bill which would drastically affect the existing structure of the petroleum industry. S. 2387, the so-called vertical divestiture bill, would in effect require the top 18 oil companies to split up into their component parts within 5 years if certain tests as to bigness were met.

Currently the committee has been taking testimony from administration witnesses on the merits of divestiture, and these officials have raised some very important issues which I know all Senators will want to consider very carefully should S. 2387 come to the floor for voting.

On June 3 the committee heard from Rod Hills, Chairman of the Securities and Exchange Commission. Mr. Hills had some highly significant comments to make about the effect he perceived on the entire petroleum industry from a financial standpoint should a bill like S. 2387 become law. Because of the extreme importance of this subject to the entire country, and particularly to the energy independence of the United States, I ask that Mr. Hills' testimony be printed in full in the RECORD following these remarks so that my colleagues may have the benefit of his views.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

TESTIMONY OF THE HONORABLE RODERICK M. HILLS

Mr. Chairman, I am pleased to have been invited to comment on S. 2387 which would compel the divestiture by the major oil companies of certain of their operations within five years following its enactment. However, I wish to emphasize the fact that my comments today represent only my views and not those of the Commission.

The financial condition of American business is of vital concern to the Securities and Exchange Commission. It is as much the responsibility of the Commission to point out possible obstacles to necessary capital formation as it is to police the system against abuses.

I intend to concentrate my remarks this morning on a discussion of the effects that the divestiture contemplated by S. 2387 could have on the ability of the petroleum industry to raise capital in the U.S. securities markets, both during the period of transition while the divestitures are being effected and after the implementation of divestiture.

GENERAL CAPITAL REQUIREMENTS

Until relatively recently, the major oil companies relied primarily upon internally generated funds to finance capital expenditures, occasionally supplementing these funds with the proceeds of debt financing. Over the last ten years, however, oil companies have been forced to place increasing reliance upon external funding to finance their rapidly growing capital requirements. For example, between 1966 and 1973, debt as a percent of equity for all oil companies increased from 19.9 percent to 28.8 percent, compared with a fairly stable ratio of approximately 17 percent in the preceding five years.

These growing capital requirements include funds needed for crude oil production and transportation from the North Slope in Alaska; for converting refineries from processing low sulfur U.S. crude oil to high sulfur imported crude; for expansion of very costly offshore exploration and drilling; and for developing technology to efficiently extract oil from shale and tar sands. Also, the repeal last year of the oil depletion allowance means that more funds will have to be raised externally than otherwise would have been the case.

These factors are likely to force the oil companies to seek increasingly larger amounts of external financing over the next decade. In fact, some projections indicate that the capital needs of the domestic petroleum industry for the period 1976–1985 will approximate as much as $460 billion, or more than $40 billion a year as compared to approximately $9 billion a year over the preceding ten years.

This capital will have to be raised at a time when the capital requirements of the U.S. economy as a whole are escalating rapidly. It has been estimated that investment outlays of $4 to $4½ trillion will be required for the U.S. economy over the next decade, of which $1 trillion would be needed for exploration and development of coal, oil and gas resources, construction of nuclear power and utility plants and development of other facilities to meet our energy needs.

Under circumstances of enormous capital demand, lenders and equity investors faced with alternative investment opportunities tend to allocate their capital to those industries and companies which offer the best investment prospects in terms of financial stability, growth in earnings and general economic viability. Investors providing long-term debt to capital-intensive industries search for as high a degree of certainty as possible that the operation can provide adequate earnings on a continuing basis capable of servicing the debt.

TRANSITIONAL PERIOD OF DIVESTITURE

The passage of S. 2387 would create substantial uncertainty with respect to the prospects of the petroleum industry during the transitional period when divestitures were being effected. Although under the terms of the Bill such divestitures are required to be completed within five years, I believe that experience with other, less complicated divestiture proceedings would support the conclusion that divestiture would take substantially longer.

The Commission's experience with divestitures under the Public Utility Holding Company Act of 1935 provides an instructive example. The Act required the Commission as soon as practicable after January 1, 1938, to require each registered public utility holding company system to divest itself of properties that did not comply with the Act's geographical integration and corporate simplification requirements. Although the industry involved was far smaller in terms of assets and classes of persons affected than today's oil industry, the divestiture proceedings in many cases were not completed until the mid-1950's, a period of 15 to 20 years. The Act required elimination of much of the holding company superstructure and distributon or sale of the securities of the subsidiary operating companies; it did not normally require operating companies to undertake the considerably more complex task of dismembering operating assets as does S. 2387. Nevertheless, the process took 3 to 4 times as long as the period contemplated by S. 2387 for what amounts to significantly more major surgery.

Even a conceptually simple divestiture can become extremely complicated in practice. For example, Columbia Gas & Electric Corporation, a registered holding company, was required under the Act to divest itself of all its stockholdings in its subsidiary, Panhandle Eastern Pipe Line Company. Although none of the parties disputed the necessity of the divestiture, it took from January 1936, when Columbia accepted a consent decree in Federal court for termination of its control of Panhandle, to March 1943 to complete. The difficulties resolved included a needed recapitalization of Panhandle and the terms on which various related properties were to be transferred to it, the manner in which Panhandle's continuing capital needs should be provided for during the proceeding, and extensive litigation and appeals by various classes of security holders whose rights had to be radically adjusted in a fair and equitable manner. [See *Columbia Gas and Electric Corp.*, 12 SEC § 218 (1942).]

These problems will be greatly magnified if S. 2387 becomes law. Within five years of the enactment of the Bill, as many as 30 separate oil companies could be offered for sale. In the presence of this over-supply of petroleum facilities in the resale market, it seems unlikely that many of the facilities could be sold for cash.

Few U.S. corporations would be able to provide the multi-billion dollar cash payments necessary to acquire the capital-intensive operations of these facilities; some potential purchasers would be foreign nationals. Few, if any, oil companies not directly affected by the legislation would be in a position to generate the required cash; firms in other industries would be deterred by the relatively high risk confronting the restructured oil industry, particularly in view of the overall uncertainty that would pervade the petroleum industry with respect to future growth and profitability.

Another common method of divestiture is spinning off facilities to existing stockholders of the divesting firm. This method was used in many of the public utility holding company cases and, in fact, was used by the Standard Oil Holding Company in the historic 1911 divestiture case. However, the differences between those divestitures and the divestitures contemplated by S. 2387 are significant. In the case of Standard Oil and many of the public utility holding companies, divestiture was accomplished by spinning off completely integrated operating units on a geographic basis, rather than carving up the assets of operating entities.

Regardless of the form they take, the divestitures proposed by S. 2387 will necessarily be delayed because of the necessity of reorganizing the terms of the outstanding debt securities of the affected oil companies and determining how the debt should be allocated among the operating assets being spun off. Eighteen major oil companies could fall within the requirements of this Bill. These companies have total assets of more than $160 billion and long-term debt outstanding in the amount of more than $20 billion. An allocation formula must either be agreed upon by each corporation and the holders of the outstanding debt, or forced upon the parties by the courts or the Federal Trade Commission. Resolution of this issue can be expected to be a complicated and lengthy process and could require as a last resort some form of federal debt guarantee.

Mr. Chairman, I have taken the time to point out the difficulties in completing any divestiture process in order to suggest that there will be a transitional period, which must certainly last for 10 or more years, during which time the business prospects of the affected operations of each of the major firms will be clouded with uncertainty.

To the extent that the future of a particular operation of an oil company subject to the Bill is in doubt during the transitional period, the company will be unable to provide investors with the certainty they require as to its ability to make payments of principal and interest on its long-term debt.

The result will almost certainly be that for certain companies, debt will be available only at a significantly higher interest cost than would have been the case prior to the commencement of divestiture proceedings. For others, it may be available only to the extent that the debt is secured by liens on particular assets. Although a limited amount of such secured financing is likely to be available regardless of the uncertainty affecting the industry, existing unsecured creditors may be expected to contest such new secured financings in order to protect their unsecured investments, particularly if the new financing does not provide them equal security.

To the extent that companies in the process of divestiture are unable to secure financing at all during the transitional period because of uncertainties with respect to the future nature, size and prospects of the divested operation, either their normal growth will be restricted or we will be forced to resort to the undesirable alternative of federal financial assistance to facilitate the divestiture program.

CAPITAL FORMATION IN THE POST-DIVESTITURE PERIOD

Even after divestiture has been completed, the divested companies are likely to experience continued difficulty in raising capital until they establish a sustained record of successful earnings. In the interim, much of the divested industry will undergo a period marked by growing obsolescence of plant and equipment and an inability to finance new projects, with resulting costs to the U.S. energy effort.

Certain economies of scale which are now present in the integrated oil industry will be lost as a result of divestiture. For example, managerial and other administrative services will have to be duplicated, and inventory and storage facilities will have to be increased to protect against fluctuations in demand and the uncertainties of pipeline availability. Divestiture will also eliminate the existing ability of integrated firms to transfer funds from areas enjoying cash surpluses to those suffering cash shortages, such as from refining to transportation or vice versa. This will require divested firms to maintain higher levels of working capital and consequently will increase the amount of external financing required.

In addition, there will be a greater element of risk attached to investment in the divested segments of an oil operation; the size and integrated operations of today's oil companies gives many investors confidence in their ability to withstand substantial unexpected adversity. To compensate for increased risk, investors require an increased return on their investment.

Let me cite one example of greater risk that will be attached to divested operations.

The credit rating of bonds issued to finance pipelines owned by two or more oil companies has uniformly been rated "A" or better by Moody's Investors Service, whereas most experts agree that an independently owned pipeline with an equivalent capital structure, but which depends only on its own credit and assets, would probably qualify for only a "Baa" rating under the best of circumstances. Debt issues by pipeline companies owned by two or more oil companies attract a higher credit rating because of the certainty provided by the agreements of the shipper-owners to ship sufficient amounts of petroleum through the pipeline to provide revenues to pay the interest and principal on the debt and to advance funds necessary to cover any deficiency.

These "throughput and deficiency agreements" are essentially debt guarantees. It is uncertain whether oil companies would agree to guarantee the debt of an independent pipeline company. In the absence of such an agreement, however, investors are likely to find the prospects of pipeline revenues uncertain and to require a higher rate of return on their investment, or not to lend at all.

The following chart, which illustrates the average interest cost in 1975 on debt according to the four classifications on bond ratings issued by Moody's Investors Service, demonstrates that a company with a "Baa" rating issuing debt in that year would have had to pay interest at an annual rate approximately .74 percent higher than that incurred by a company with an "A" rating and 1.42 percent higher than one with an "Aa" rating:

Rating	Average yield (percent)	Increase in percentage point from higher rating
Aaa	8.83	....
Aa	8.97	0.14
A	9.65	0.68
Baa	10.39	0.74

As of early 1975, an estimated $8.6 billion of new pipeline joint ventures were planned for the United States. Assuming that S. 2387 were in effect and that this capital had to be raised by independently owned pipeline companies at a rate of interest approximately 1 percentage point higher than otherwise, the additional cost to the pipeline companies would be more than $80 million annually, which could be passed on in higher prices to the public.

The pipeline example illustrates only the increased cost that could be involved in divesting a pipeline from two or more shipper-owners, but it may be an indication of the increased cost of capital to the entire petroleum industry should the divestiture required by S. 2387 occur.

Not only would financing *costs* rise for the companies resulting from the divestiture, financing *needs* as a whole could exceed those currently forecast for the vertically integrated firms, since breaking the industry into a series of smaller firms could lead to the development of duplicate capacity.

CONCLUSION

Mr. Chairman, I have tried to be as precise as possible about only one facet of the proposed economic and social issues raised by S. 2387 because I believe from this point alone a number of concerns are raised.

First, in my judgment, the immense complexities of the divestiture program to be caused by S. 2387 cannot possibly be solved without eventual major government intervention. Federal loan guarantees or other forms of Federal assistance to solve capital raising problems for some newly formed companies are but a small part of it. In some cases, government appointed receivers may be forced to take over faltering divestiture plans simply because there will be no other way to separate those companies which are honestly trying, but fail, and those whose efforts will be half-hearted.

Second, S. 2387 would certainly impede the capital raising capacity of the oil industry at precisely the time that we need as a nation to have immense amounts of new capital devoted to developing new energy supplies. The Bill would, therefore, encourage an even greater federal intrusion into our economy in the form of federal financial assistance to energy companies. Federal assistance inevitably leads to federal involvement in management. I suggest that the emergence of federally controlled firms could be the inescapable result of S. 2387.

Third, the mere existence of firms with federal support will further inhibit the success of the independent firms created through the divestiture requirements of S. 2387.

From all of this, I suggest that the real issue here is whether we are willing to accept the risk that the oil industry may eventually be nationalized. At the very least, it is likely to be subject to increasing federal intrusion and control. If the Congress and the public are so concerned about the anti-competitive practices by some oil companies in the past and have as little confidence in our existing anti-trust laws as S. 2387 would suggest, then the nation should face squarely the issues of federal control of the oil industry.

S. 2387 would, I believe, lead eventually to major federal involvement in the oil industry, but only after a severe disruption of our existing capacity over many years. Such an interruption of our capacity to expand our energy supplies is surely not in the national interest.

Let me conclude by asserting these economic facts:

(1) However severe the anti-competitive practices of some oil companies may have been in the past and however impotent our anti-trust laws may have been, we have not given free competition a chance to work in this new era of energy shortage. Our control over prices and allocation has distorted the free markets to such a degree that we can make no fair assessment of how the free markets could work in the generation ahead.

(2) However anti-competitive we may judge the oil industry to be, any fair evaluation makes it clear beyond reasonable doubt that there are many industries that are less competitive.

I would like to submit as an exhibit for the record a table which sets forth the degree of concentration in major industrial sectors of the United States in terms of the percentage of shipments accounted for by the largest companies in each industry. The table demonstrates that the petroleum refining industry does not rank among the fifteen most concentrated industries in the U.S., when analyzed in terms of the value of 1972 shipments accounted for by the four largest companies, and it does not rank among the ten most concentrated industries even when analyzed in terms of the value of shipments accounted for by the eight largest companies.

Mr. Chairman, the costs of dismembering the intergrated oil companies appear to me to be high, and likely to stretch out over a period of time that will surely exceed the five years specified in the Bill as a transition period. These costs, of course, must be weighed against the probable benefits of the Bill to the public, primarily in the forms of lower prices for oil products, or better quality oil products and services.

While the Bill may eliminate existing anti-competitive traits in the oil industry, there is no evidence that the resulting market structure will lead to lower prices and better products and services because of lower operating efficiencies in smaller scale firms. The Bill holds out the possibilities of highly uncertain benefits in exchange for substantial and long-lasting costs.

Finally, Mr. Chairman, let me suggest that the problem perceived by members of Congress may be achieved by a different course of action taken under existing laws. The Energy Policy and Conservation Act, enacted in December 1975, authorizes the gathering of increased information about the oil industry, which should be helpful in monitoring and checking anti-competitive behavior. Similarly, the winding down of the price controls and allocation rules that now inhibit energy development in the country will enhance competition. If a careful and complete examination of precise anti-competitive behavior is undertaken, meaningful anti-trust action may be possible.

Also, if proper incentive and financial support is given to develop alternative energy sources, we can develop a more competitive atmosphere.

In summary, I believe we currently possess the necessary weapons to combat any anti-competitive behavior in the oil industry and that the legislation under consideration poses serious risks to the capital formation process without giving any assurance of providing greater benefits to the public. At this juncture in the nation's history, we urgently need to encourage investment in energy companies to provide the necessary capital to meet our expanding energy requirements.

Thank you, Mr. Chairman.

Concentration ratios for major industrial sectors of the United States

	Percentage of value of shipments accounted for by the largest 4 companies	
Sector:	*1967*	*1972*
Primary aluminum	[1]	79
Flat glass	94	92
Motor vehicles	92	93
Primary copper	77	72
Tires and inner tubes	70	73
Aircraft	69	66
Industrial gases	67	65
Alkalines and chlorine	63	72
Synthetic rubber	61	62
Blast furnaces and steel mills	48	44
Industrial trucks and tractors	48	50
Semiconductors	47	57
Weaving mills (synthetic)	46	39
Ship building and repairing	42	47
Construction machinery	41	43
Lubricating oil and greases	38	31
Fertilizers	35	35
Petroleum refining	33	31
Weaving mills (cotton)	30	31

	Percentage of value of shipments accounted for by the largest 8 companies	
Sector:	*1967*	*1972*
Primary aluminum	100	92
Flat glass	98	[1]
Motor vehicles	98	99
Primary copper	98	100
Tires and inner tubes	88	90
Aircraft	89	86
Industrial gases	84	81
Alkalines and chlorine	88	91
Synthetic rubber	82	81
Blast furnaces and steel mills	66	65
Industrial trucks and tractors	62	66
Semiconductors	65	70
Weaving mills (synthetic)	54	54
Ship building and repairing	59	63
Construction machinery	53	54
Lubricating oils and greases	50	44
Fertilizers	55	53
Petroleum refining	57	56
Weaving mills (cotton)	48	48

[1] The government withholds these data to avoid disclosing information about individual companies.

Source.—1967 and 1972 Census of Manufacturers: Concentration Ratios in Manufacturing, Washington, D.C. Department of Commerce, Bureau of the Census.

DIRECTOR CURRIE CAUTIONS ON SOVIET MISSILE GAINS

Mr. THURMOND. Mr. President, Director Malcolm R. Currie, director of defense research and engineering, recently warned reference the accelerating threat posed by Soviet progress in missile technology.

While Director Currie's remarks covered the full range of missiles, he gave proper emphasis to tactical and cruise missiles. Developments in this area may well change the course of modern warfare. Thus, it is particularly disappointing that the Senate has reduced the research funds requested by the Department of the Navy to develop and test these vital new weapons systems.

While a new arms race is desired by no one, it is nevertheless essential that our country at least press forward in research and development in the long-range missile field. This will enable us to remain out front and avoid a technological shock such as was the case when the Soviets launched Sputnik I.

Some in Congress seem to forget that the Soviets have outpaced us in the battlefield tactical missile area and that should be warning enough. We must press forward in not only the battlefield tactical missile field but in the more vital strategic cruise missiles which unfortunately may make arms settlements such as SALT impossible to achieve.

While it is my opinion it will be necessary for our country to produce both long-range tactical and strategic missiles, it is unthinkable to deny funds needed for full development.

Thus, it is my hope the Senate-House conference on the military procurement bill will reach an agreement enabling us to move forward in a way consistent with the action taken in both Houses.

Mr. President, I ask unanimous consent that an article entitled "Currie Cautions on Soviet Missile Gains," which appears in the May 24, 1976, issue of Aviation Week & Space Technology, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

CURRIE CAUTIONS ON SOVIET MISSILE GAINS

(Malcolm R. Currie, director of Defense research and engineering, recently warned against U.S. complacency because of this nation's supposed lead over the Soviet Union in tactical missile systems and suggested that the days of the aircraft carrier and manned air-combat aircraft may be numbered. Text of Currie's speech before the Joint Tactical Missile Conference of the American Defense Preparedness Assn. in Costa Mesa, Calif., is printed below—Ed.)

If there is any single dominating trend in weaponry, it is for missiles of all kinds to become more accurate and more destructive. I believe this trend will continue. Missiles and precision guided munitions will continue to transform the nature of warfare by making the precision application of force at a distance a reality. As we look to the future, no technology will dominate warfare more than that discussed at this conference.

Discussions in Washington on the future of tactical missiles have been recently focused by the cruise missile issue with respect to SALT. We have had to think out some of the future implications of technology in establishing limits to our negotiating positions. I can tell you that the President has been personally involved in these technical discussions and understands clearly what the potential implications are of this technology—and the fact that missiles are only just beginning to fulfill their promise of the last 25 years.

I can also tell you that the Soviets understand this—perhaps even better than we.

The published objective of this conference refers to ". . . emphasis on innovative solutions which will continue to enable the United States to maintain leadership in tactical weaponry at an affordable cost. . . ." Perhaps we should begin by questioning this comforting premise that we have leadership across the board in tactical missiles. We have absolutely no cause for the complacency that it might imply.

SOVIET CHALLENGE

The Soviets have made impressive progress over the last decade in tactical missiles, and their momentum is strong. During this period they have developed and deployed at least 24 systems; we have developed no more than 16. While we lead in most component technologies, they have done an impressive job in perceiving important and real requirements and in matching their technology to these requirements and getting the systems into production. Their systems concepts have often been superior to ours.

The Soviet pace in developing new surface-to-air missiles has been dramatic. I can only characterize our pace as glacial. Their state of the art is not far behind ours, perhaps ahead in some areas. They have achieved large numbers; they have achieved high mobility; they have achieved great diversity against our defense suppression techniques; and they have complementary coverage with at least eight systems. Their SA–9 was fielded before our Chaparral and their SA–8 has beat our fielding of the Roland by a number of years.

They are working the anti-radiation missile area hard, with pretty good knowledge of our own electronic countermeasure techniques. We lead, I believe, in air-to-surface precision guided weapons, but they have an aggressive R&D program. We have many technological opportunities to achieve improvements: night and all-weather attack, for example. But we also need to achieve simplicity, low cost and reliability.

While we lead in air-to-air missiles, the Soviets pioneered anti-ship missiles and in doing this have transformed naval warfare. They have deployed a large number of sophisticated systems including some with dual-mode sensors and features which enable remote targeting from a global targeting system. Their lastest ship-launched cruise missile comes in at better than Mach 2.

The Soviets beat us in early development of anti-tank guided missiles and they lead us in inventory, which is interesting when you consider that they have five times as many tanks as we do. Technologically, our systems have better accuracy, but we have a numbers problem and our superior guidance may be more vulnerable to countermeasures than their simpler, harder-to-use techniques. They have put a great deal of emphasis on crew protection by installing their anti-tank guided missiles in armored vehicles and by designing the guidance so that the launcher can be remote from the gunner.

The Soviets have more than seven new tactical missile systems under development. In several instances they are achieving common usage by their army and navy, a feat which I sometimes think is well beyond our own state-of-the-art.

MEETING THE CHALLENGE

My message is simply that we cannot afford the comforting thought that we are "ahead in tactical missile technology" and that therefore all is well and we must only address the problem of retaining this lead. In fact, on overall balance, this might not even be true. Certainly our lead of the past is, at the very least, being seriously eroded by a very large investment and momentum on the Soviet side. It is incumbent on us to feel a sense of urgency and to get our act together quickly for the future.

And, I believe that in the arena of tactical missiles—with a sense of purpose and vision of what hangs in the balance—we can compete and we can win.

It is axiomatic that we should force the competition with our adversary into an arena in which we can be successful, where our leverage is the highest. Over the long haul I do not visualize us competing with the Soviets on a one-to-one basis—tank for tank, ship for ship, artillery piece for artillery piece or even airplane for airplane. In each of these areas we can perhaps achieve some measure of superiority on a unit basis, but that advantage can soon be overcome by sheer numbers.

Therefore, we should compete in areas which can neutralize the massive Soviet investments and render them impotent. We must compete in an arena in which technological content over a range of the most challenging and difficult basic technologies will be dominant—and then make up our minds nationally to win that competition. Tactical missiles and precision munitions constitute such an arena. I view this field as one that can build directly on the great inherent strengths of our system—strong basic science coupled to application, creative innovation, quality and accommodation to change. I am willing to rest our future on these qualities.

Change is difficult at best—but resistance to change is the greatest danger any nation can face.

Right now our R&D and acquisition budgets are still dominated by platforms—by airplanes, ships and tanks. And the balance between the proved traditional and the speculative new is difficult to maintain.

But missile technology—our choice and our imperative for maintaining the balance of military power in the future—is already demonstrating its power to change traditional military doctrine and forces rather suddenly. The new tanks we are building may well be the last generation of their kind. The surface Navy, dominated by the $2-billion carrier and projected as such into the 21st Century, might be changed drastically—I think it will be. Air-to-air combat is now close to the limits of physiological endurance. I believe that new forms of weapons will replace the large main battle tank, the supercarrier and the all-mission manned aircraft sooner or later—and we must be ready with concepts and technologies that will force obsolescence in areas where the Soviets have a vast investment in numbers. Our eventual survival may depend on our willingness and ability to do this.

BASIS FOR THE FUTURE

What are some of the considerations which should shape our thinking about the future of tactical missiles?

We can all agree that technology is centrally important to our ability to reach out and create those new capabilities which will transform the nature of warfare always with the balance in our favor. I am impressed by the tremendous breadth of evolving technologies in propulsion, in new forms of microelectronics and microprocessing, in materials, in sensors, in guidance, in warheads, in multi-spectral imaging seekers. These represent the cream of our advanced technologies in this nation and will be at the heart of the new missile capabilities on which deterrence and our security will be based.

But I want to make the point that technology per se is not enough. It should be viewed as only one element in shaping the future of tactical missiles. It is increasingly important that they be conceived and designed in a much broader context than what technology alone will make possible.

Equally important to technology is its innovative use in the overall military context. That is why I believe that the development of tactics is every bit as important as hardware and must be made an explicit and integral part of the design evolution and development process. That is why I believe that missile design must be much more intimately related to the overall target acquisition and command and control system than has often been the case. That is why I believe that realization of the full potential of tactical missiles may have less to do with technology than how we think about using that technology and that innovative uses in the broad context of military strategy and tactics may well determine the course of future warfare. It is in this context that I worry about technological surprise. I don't think we will be surprised by the appearance of the unforeseen new weapon or revolutionary technology which can decisively affect the outcome of a battle or a war. But we may well be surprised by the innovative use of a technology which can be decisive, even if only temporarily so. And since a future conflict may be decided early by forces in being at the outset of hostilities, a temporary advantage through technological surprise may be enormously important.

History provides some examples of advantage through superior understanding of the significance and impact of new technologies. The German employment of tanks against the French and British in 1940 is one such example. If anything, German tanks were inferior to those of their opponents, yet the Germans understood the fundamental potential of armored units used offensively and supported by aircraft in the context of the battlefield environment of the time, and from this understanding devised combined arms tactics which were devastatingly successful—and which are still copied.

We might well ask ourselves why the Soviets, with inferior component technology at the time, understood before we did the potentially revolutionary impact of cruise missiles on naval warfare.

The main point is that, along with the evolution of technology per se, missile designers must always think differently about their use—tear down the barriers of tradition, of bureaucratic inertia and thinking, of service roles and missions, of familiar scenarios projected from experiences of the past. The world is changing fast. The opportunities are there and our failure to perceive them first could be fatal.

VETERANS UNEMPLOYMENT

Mr. THURMOND. Mr. President, I have recently read a very perceptive article by National Commander in Chief Thomas C. Walker of the Veterans of Foreign Wars on veterans unemployment.

Even though the current unemployment figures for veterans have improved over the past year, they are still disturbing when they are compared to nonveterans.

I have long felt that the Veterans Employment Service, under the able leadership of Ralph E. Hall, has the substantive tools and the necessary community cooperation to carry out its mission. Unfortunately, however, the Veterans Employment Service does not have the organizational clout to follow through on that mission.

On February 19, 1975, together with Senators Hartke, Hansen, and Stafford, I introduced S. 760, a bill to provide for an Assistant Secretary of Labor for Veterans Employment. What we need is a full-time spokesman for veterans at the highest policy level within the Department of Labor.

The article by National Commander in Chief Walker points out some of the problems with which an Assistant Secretary of Labor for Veterans Employment would have to deal. If we had a Government official with sufficient authority and organizational clout, as an Assistant Secretary of Labor for Veterans Employment would have, I believe it would solve a number of problems which National Commander in Chief Walker has mentioned in his excellent article.

Mr. President, for the benefit of my colleagues, I ask unanimous consent that the article, "The Unemployed Veteran", by National Commander in Chief Thomas C. Walker, which appeared in the June 1976 VFW magazine, be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

The Unemployed Veteran

(By Thomas C. Walker, VFW Commander in Chief)

To many veterans, especially of the Vietnam Era, there is nothing worse than to want a job and not be able to get one.

Home from the war, finished with school or vocational training, or just ready to make a contribution by good, honest labor, he wants to work.

On top of that, a veteran! Mature, disciplined, traveled, made decisions on his own, perhaps had a couple of men working for him. Ready, willing and able.

Does he have a job?

Over 600,000 Vietnam veterans don't.

While the jobless rates are coming down, several months ago over 10% of all veterans from 20 to 34 were out of work and looking for jobs. What is worse, about one out of every five of the youngest veterans from 20 to 24 was without a job. That percentage was more than double the national average.

Why? Well, for many reasons. You can't make a private employer hire someone he doesn't want to hire. Some veterans have chips on their shoulders. There are many other reasons which may keep a small number of veterans from jobs. But, unfortunately, there seems to be an even sorrier reason in an area where there should be a lever to get a veteran a job.

Congress, reflecting the will of the people, fully realized that there must be provisions in the law to get returning veterans jobs. Bills were passed to assure that veterans received preference in federal jobs and priority in the public market for jobs. Because some employers were hesitant to get with the spirit of Congress' intent, the legislators went one giant step further. They passed a law giving special and added emphasis to veterans service and required affirmative action on the part of employers with federal contracts of $10,000 or more in the hiring of veterans.

What's wrong then? Why are so many veterans out of work?

Put simply, it appears that few care.

When Congress passed the laws—the first about four years ago—it told the Department of Labor what to do. About two years later, Congress directed Labor to do more. As of this writing, Labor has yet to issue regulations implementing the affirmative action to be taken to hire a Vietnam veteran.

Only recently has an office been established to police the program which requires contract compliance with the laws. Contractors can truthfully say they have never received rules and regulations telling them how to enforce a contract which will give veterans priority.

What is really damaging to the veteran is that when the law was written it defined a veteran for the purposes of that law as one who was within four years of discharge. Thousands are losing their privileged status while regulations await publication.

Concerned with the failure to issue the rules, Congress held oversight hearings last fall. The Labor Department promised the rules and regulations would be issued in January of this year. They still had not been issued as late as April.

In 1973, a sweeping act to promote the hiring of large groups of unemployed was passed. It was the Comprehensive Employment and Training Act (CETA) and should have eased the veterans problem. A complicated formula issues federal money for public service jobs according to recommendations from local planning councils that also oversee the hiring of the large groups of unemployed.

But two years after the act, the regulation—Technical Assistance Guide for Veterans—is only in the final draft. The act also limits time to four years after discharge for assistance. Yet the Vietnam War for all practical purposes ended with the withdrawal of the last American from Saigon on March 29, 1973. However, eligibility continued for those entering the services until May 7, 1975, the termination of the war.

To compound the problem, the office concerned with the hiring of the veteran—the Veterans Employment Service—has such a low place in the Labor Department that it has little say in forming department policy. The V.F.W. has long held that the director of this service should be an assistant secretary of labor.

Here's how the hiring of a veteran should work as defined by the laws passed by Congress.

He goes to the U.S. Veterans Assistance Center, U.S. Employment Office or State Employment Agency where job openings are listed. If a private employer has a government contract of $10,000 or more, or has pledged jobs, the veteran is referred ahead of others for an interview. This applies also to the federal government. The job must be held for a veteran for 48 hours before being filled by a nonveteran.

Sounds great, but veterans make up the largest unemployed group in the country.

The government "contracts out" jobs to companies not subject to the federal law. Rules are not published, so there is little enforcement of the regulations. Compliance with contract laws goes unchecked because those regulations have not been sent to the contractor. Complaints of noncompliance can be counted on both hands because rules for complaining are not in the regulations yet. CETA funds for public service jobs go unclaimed because local planning councils don't have veterans organization representation on them. Companies pledge veterans jobs and then don't hire the veteran. Goals are not met. And as an indication of the hiring of veterans, the Labor Department is 28th out of 32 federal agencies.

Further, the 1974 GI Bill requires the federal government itself to carry out affirmative action plans to hire, place and advance in employment disabled veterans. Yet 16 federal agencies failed even to submit plans for the hiring of disabled veterans, men who have risked their lives in service to their nation. Four other governmental agencies submitted plans which were disapproved. Here again, the law was being ignored by almost 25% of the various agencies that make up our federal government.

What can be done? The V.F.W. will continue to press for Congressional pressure to get the regulations out to the users. Post Employment Officers must be aware of the provisions of the laws. Unless the professionals know, the veteran will continue to be unemployed.

The V.F.W. should be represented on each CETA local council. Those interested should ask the prime sponsors of these councils in the community for a seat. Become active in promoting local public service projects and active in hiring the veteran to do the work.

Award V.F.W. Employment Citations to those employers hiring veterans.

Know your employment rights as a veteran and the method of filing a complaint for noncompliance with the regulations.

There are jobs for veterans. Let's have the V.F.W. help get them for veterans.

BOBBY HACKETT

Mr. PELL. Mr. President, it is with great sadness that I note the death on Monday of Bobby Hackett.

Bobby Hackett was a superb musician whose renditions of jazz and pop music in concerts and recordings, brought joy to millions of Americans.

Bobby Hackett was a native of Rhode Island and began his musical career in Providence when he left school at the age of 14 to play in a restaurant orchestra.

He developed a unique cornet style described by music critics as a blend of the best of the great Bix Beiderbeck and the legendary Louis Armstrong.

Mr. President, we in Rhode Island have been very proud to claim Bobby Hackett as one of our own through his brilliant career. And it is with particular sadness, too, that we mourn his passing. I extend deepest sympathy to his wife, his children, and grandchildren.

Mr. President, I ask unanimous consent that articles on the brilliant career of Bobby Hackett, from the New York Times, the Boston Globe, and the Washington Star be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Star, June 8, 1976]

BOBBY HACKETT, 61, DIES; JAZZ GIANT OF THE HORN

(By John Segraves)

Robert L. "Bobby" Hackett, the little cornetist-trumpet player who developed into one of the biggest stars on the popular music scene, both as a soloist and with numerous name bands, died yesterday in Chatham, Mass. He was 61.

Hackett, who in recent years had been playing night clubs across the country despite a lung ailment which had been plaguing him on and off the stage, was stricken at his home by an apparent heart attack. Death came about 5 a.m.

The soft-spoken jazz giant's last appearance in the Washington area was about a month ago when he played the Maryland Inn at Annapolis. Shortly afterward he entered a Cape Cod hospital for further lung treatment and was released last week. He opened last Saturday night at the Wequasset Inn in East Harwich, Mass., where he was leading a seven-piece band.

Chatham police said they received a phone call from Hackett's nephew at 4:53 a.m. that his uncle was in the midst of a heart attack. Efforts by police and fire department rescue squads to revive him failed.

He was born in Providence, R.I., and, as has been the case with many musicians who went on to become national names, he did not start out as a horn player. The violin was his first choice.

But it wasn't long before he switched to the trumpet, then the cornet. By the time he was in his mid-teens, Hackett was performing professionally and with some of the more illustrious leaders of the big-band era. His mellow, round notes and dedication to original melody as well as improvisation soon made him one of the more sought-after horn players in the nation.

In the '30s and '40s he played with such bands as Paul Whiteman, Horace Heidt, Benny Goodman (who gave him constant exposure), Glenn Miller, Louis Armstrong and Glen Gray.

It was with Miller in the early '40s that Hackett began to build a reputation as a superior purveyor of sweet jazz which remained until death.

Out of that era with Miller his solo work on such hit tunes as "String of Pearls," "Serenade in Blue" and "Sweet Eloise" skyrocketed him to international fame. Although "I Can't Get Started With You" originally was known as "belonging" to the late Bunny Berrigan, the number also become practically obligatory for Hackett after Berrigan's death whether Bobby was playing in a concert hall such as the Kennedy Center or a club, like Georgetown's Blue Alley, where he last worked in February.

His solo efforts with the Jackie Gleason orchestra in the late '50s and early '60s also brought him new fans and kept the old ones via television and records.

Hackett also worked spasmodically in the studios of the American Broadcasting Co., but his love of in-person performing always lured him back to the road, which despite its hectic pace and lifestyle, was his first love.

He played Blues Alley often and before large crowds, at times as a soloist backed by the cabaret's house group or with trombonist Vic Dickenson. Hackett still was demonstrating the sweet, sophisticated jazz that influenced so many musicians and attracted so many fans to Blues Alley.

He is survived by his widow, Edna; a daughter, Barbara; a son, Ernest; two grandchildren and a brother and sister in Providence.

The music world has suddenly become a little poorer.

[From the New York Times, June 8, 1976]

BOBBY HACKETT, THE CORNETIST, DEAD AT 61

(By John S. Wilson)

Bobby Hackett, the cornetist whose mellow tone and graceful style made him a favorite of both jazz and pop music audiences, died yesterday after a heart attack at his home in West Chatham, Mass. He was 61 years old.

Although Mr. Hackett had just returned from a two-week stay in a hospital for the removal of fluid from his lungs, he had maintained a busy schedule of performances and was due to appear in Boston on June 17 with Arthur Fiedler and the Boston Pops.

Mr. Hackett's playing often reminded some listeners of that of Bix Beiderbecke, one of the great pioneer jazz musicians of the 1920's. But his basic jazz inspiration was Louis Armstrong.

"I heard my first Armstrong record in a Providence department store when I was a kid," he once said, "and it turned me around. The sound never left me."

Whitney Balliett described Mr. Hackett in The New Yorker as "a unique and extremely successful alloy of Beiderbecke and Armstrong."

"His tone," Mr. Balliett wrote, "which is quiet and shining, resembles Beiderbecke's and so does his three-steps-up, two-steps method of improvising. But his sustained notes and way of playing just behind the beat and of occasionally slipping into double time are straight out of Louis Armstrong."

Beyond these sources, Mr. Hackett had his own philosophy and good music, which was reflected in his playing.

"Music should be pretty," he said "You should hear and recognize the melody. And real greatness is in simplicity. Simple things are the hardest to play and the easiest to listen to."

The musician, a short, trim man who sometimes wore a thin mustache and whose hair was described in earlier years as "patent leather," was born on Jan. 31, 1915, in Providence, R.I. Robert Leo Hackett, the sixth of nine children of a blacksmith, started playing guitar at the age of 8. He picked up the violin two years later and left school at 14 to play in an orchestra in a Chinese restaurant, where he worked three sessions a day, seven days a week, for $12 a week.

Meanwhile he had acquired a cornet, which his brother had bought for $5 in a pawn shop. He made his first money as a cornetist when Cab Calloway's orchestra, playing at a ballroom near Providence, was lacking a trumpet player and he was urged to fill in. Later, when he was playing as a guitarist and occasional cornetist in the band in a Syracuse hotel, the hotel manager told the bandleader that if Mr. Hackett "played one more solo on the cornet the whole band would be fired."

After spending the summer with a band on Cape Cod that included Pee Wee Russell, the clarinetist, and working in Boston speakeasies, Mr. Hackett came to New York in the mid-1930's with a reputation as the successor to Bix Beiderbecke, who had died in 1931.

His first recording in New York was as part of a studio group backing the Andrews Sisters on their first hit, "Bei Mir Bist due Schoen," on which he played a brief cornet solo that enlivened the record. He led his own small groups at Nick's in Greenwich Village and briefly led a big band, which left him so deeply in debt that he joined one of the successful nonjazz orchestras of the late 30's, Horace Heidt and His Musical Knights, playing third trumpet.

When extensive work on his teeth made it impossible for him to play brass, he was hired by Glenn Miller, then at the height of his popularity as a guitarist. In his two years with the Miller band, Mr. Hackett's most notable contribution was not on guitar, but on a 12-bar cornet solo in the middle of "A String of Pearls." When Mr. Miller broke up his band to enter the Army Air Forces, Mr. Hackett joined Glen Gray's Casa Loma orchestra, a once-famous band that was on its last legs.

After World War II he spent 15 years as a studio musician with ABC. In 1951 he made the first of a series of six mood-music albums released under Jackie Gleason's name, on which he played romantic melodies anonymously against a setting of strings.

For the last 15 years Mr. Hackett led various groups of his own or worked as a soloist. In 1971, after living in Queens for many years, he bought a house in West Chatham and frequently played on Cape Cod. In 1972 he formed a record company, Hyannisport Records, on which he released two disks by his own groups.

He is survived by his wife, Edna; a son, Ernest; a daughter, Barbara Traynor, and three grandchildren.

[From the Boston Globe, June 8, 1976]

JAZZ CORNETIST BOBBY HACKETT, 61

(By Ernie Santosuosso)

CHATHAM.—Robert L. (Bobby) Hackett, whose melodic jazz improvisations set the cornet style for a generation of musicians, died yesterday morning at his home on Indian Hill road of an apparent heart attack. He was 61. Hackett, whose career was launched with such bands as Paul Whiteman, and Glen Gray, became a jazz giant.

And despite failing health in recent years, it was "the show must go on" in Bobby's book. He'd refuse to miss a gig even if it meant hospitalization.

Lately, the celebrated cornetist found it necessary to have fluid drained from his lungs, from time to time, in order to be able to work an engagement.

Only two summers ago, the dimunitive Hackett lay gravely ill in a diabetic coma but rallied—amazingly—to resume playing.

During the Benny Goodman concert held last February in Symphony Hall, few among the capacity crowd were aware that Hackett had gone to the all-star concert directly from the hospital.

Born in Providence, Bobby first studied the violin but switched to the trumpet and eventually to the cornet. In later years, envelopes containing his correspondence would invariably be imprinted: "It's a Cornet," a humorous allusion to the often incorrect identification made of his favorite musical instrument.

Hackett had traded solos with Louis Armstrong and Dizzy Gillespie and had been a virtual fixture at the Newport Jazz Festival. During the late '50s, he was featured in a number of big-selling "mood music" albums with comedian Jackie Gleason and an orchestra deep in lush strings.

For fans of the big band era, his impeccable legato solo on the Jerry Gray composition, "String of Pearls," with the Miller band in 1942 remains a classic. Hackett joined that organization as an unobtrusive rhythm guitarist, but several cornet charts were added to the band's book, such as "Sweet Eloise" and "Serenade in Blue."

His relatively small size belied remarkable breath control and his phrasing, particularly on ballads, was widely respected by his peers.

"He was one to the major jazz trumpet voices—one of maybe a half-dozen I'd put in that category," said Herb Pomeroy, a member of the Berklee College of Music faculty for 20 years and himself a jazz trumpeter. "He remained one of the most melodic jazz improvisers.

His music was very simple, not involved at all. But in its simplicity it was very strong," Pomeroy said.

Flugelhornist-trumpeter Clerk Terry had his special memories of the gentle man who had lived on Cape Cod.

"Everybody I know loved Bobby," said Terry. "I just talked to Dizzy (Gillespie) and both of us observed a moment of silence.

"I'll never forget the trip the three of us took to Japan. He was such a sweet, kind human being. He had to go out on the street the morning after the concert and buy us a gift."

Recently, in an act of reciprocity, Terry had a cornet bag handmade and shipped to Hackett from California. Unfortunately, the wrong size was sent out.

"It's ironic," added Terry. "Sunday night I was playing with the World's Greatest Jazz Band at a private date in Lincoln and had earlier written to Bobby to send the bag back and it would be replaced. Then, I got word from him on Sunday that the bag was on its way. Today I learned he had died and the bag arrived here within moments."

Mr. Hackett leaves his wife Edna (Lee), a son, Ernest, and daughter, Barbara.

A funeral Mass will be celebrated at noon Thursday in Holy Redeemer Church. Burial will be in Seaside Cemetery.

LET THE FEA EXPIRE

Mr. GARN. Mr. President, in this election year, I do not suppose there is one Senator who has not had his constituents tell him that they are tired of the constant growth of Government. Now I know there are people who can cite us figures proving that Government is not really getting bigger year after year, but the people of this Nation do not believe it, and I think they are right.

The experience we are now having with the Federal Energy Administration shows why they do not believe it. Here is a classic example if the creation of a temporary agency, designed to deal with a limited emergency situation, growing and growing years after the emergency has disappeared down the road.

The authority of the FEA will, in the normal course of events, expire at the end of this month. Of course, there is legislation which would extend its life, and that legislation will no doubt be before us soon.

Mr. President, I intend to oppose the extension of the Federal Energy Administration. I opposed the imposition of wage and price controls, of course, and strongly protested their continuation for petroleum when other controls were lifted. In my view there is no justification for them, and they are extremely harmful. The abolition of the FEA will not eliminate the controls, of course, though I wish it would. What it will do is eliminate the symbol, and the group of employees with a vested interest in continuing controls in effect. I believe, Mr. President, that eliminating this group of civil servants will significantly reduce the pressure to keep controls and allocation authorities in place.

For that reason, I intend to vote for Senator Bartlett's amendment which would simply allow FEA to expire at the end of June. Should this amendment fail, I will then support Senator Pearson's substitute, which provides for a simple 3 month extension. There is no reason to allow this bureaucracy to live on into the next fiscal year.

I am convinced, Mr. President, that the American people want action on governmental growth. The example of the FEA provides the best way to show them that we are serious when we talk about cutting out the fat. There are no functions of FEA that cannot be provided better by other agencies. Now is the time to let FEA go the way of all the Earth.

THE ANTITRUST IMPROVEMENTS ACT OF 1976

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. CRANSTON. I object.

The PRESIDING OFFICER. Objection is heard.

The assistant legislative clerk resumed the call of the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. CRANSTON. I object.

The PRESIDING OFFICER. Objection is heard.

The assistant legislative clerk resumed the call of the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I yield myself 1 minute, and I shall yield that 1 minute to the Senator from Maine.

AMENDMENT OF THE COMPREHENSIVE ALCOHOL ABUSE AND ALCOHOLISM PREVENTION, TREATMENT, AND REHABILITATION ACT

Mr. HATHAWAY. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 3184.

The PRESIDING OFFICER (Mr. Bellmon) laid before the Senate the amendments of the House of Representatives to the bill (S. 3148) to amend the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970, and for other purposes.

(The amendments of the House are printed in the Record of May 21, 1976, beginning at page 15077.)

Mr. HATHAWAY. Mr. President, I move that the Senate disagree to the amendments of the House to S. 3184 and request a conference with the House on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. Hathaway, Mr. Williams, Mr. Randolph, Mr. Kennedy, Mr. Mondale, Mr. Cranston, Mr. Durkin, Mr. Schweiker, Mr. Javits, Mr. Beall, and Mr. Laxalt conferees on the part of the Senate.

Mr. HATHAWAY. I thank the Chair.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONSIDERATION OF CERTAIN MEASURES ON THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of Calendars Nos. 816, 845, 876, 878, 879 through 884, to be followed by 871, a resolution in which Senators Pastore, Brooke, and Domenici are interested.

The PRESIDING OFFICER. Without objection, it is so ordered.

WINTER OLYMPIC GAMES 1980

The Senate proceeded to consider the bill (S. 2184) to authorize the Secretary of Commerce to participate in the organization for planning, design, and construction of facilities in connection with the 1980 Olympic winter games at Lake Placid, N.Y., which had been reported from the Committee on Commerce, with an amendment to strike out all after the enacting clause and insert the following:

That the Congress declares it to be desirable to the long-term interest of the United States that the Federal Government contribute to the construction of the permanent, unique sports facilities for the thirteenth international winter Olympic games which are to be held in the United States at Lake Placid, New York, in 1980.

Sec. 2. (a) The Secretary of Commerce is authorized to assist the Lake Placid 1980 Olympic Games, Incorporated, a not-for-profit corporation of the State of New York, or any appropriate public authority in planning, designing, or constructing the permanent, unique sports facilities necessary for the thirteenth winter Olympic games, specifically those facilities needed for speed skating, figure skating, 90-meter ski jump, and luge events.

(b) The Secretary may provide such assistance by making grants not to exceed a total of $28,000,000 to finance 100 per centum of the estimated cost of providing such facilities: *Provided,* That he may also make additional grants not to exceed 50 per centum of any costs over this amount which shall be attributable to increases in construction costs over costs projected as of January 1, 1976.

(c) The Secretary shall use authorities and funding presently and otherwise available to the maximum extent possible.

(d) Any assistance extended under title I of the Public Works and Economic Development Act of 1965, as amended, for the purpose of this Act, shall be excluded from the limitation of section 103 and the requirements for a non-Federal matching share as provided by section 101(c) of the Public Works and Economic Development Act.

Sec. 3. There is authorized to be appropriated such sums as may be necessary to carry out provisions of this Act, such funds to remain available until expended.

Mr. JAVITS. Mr. President, I am pleased to bring to the floor of the Senate this authorization legislation for the funding of the 1980 winter Olympic games, which will be hosted by the United States and held at Lake Placid, N.Y.

I introduced this bill, along with Senator BUCKLEY, on July 26, 1975 and have been working with both the administration and my colleagues for its passage since that date.

Fortunately, the President, who knows of the great benefits to be derived from amateur sports generally and the Olympic movement specifically, endorsed the concept of Federal participation in the funding of the games and requested funding in the language that is before this body today.

Although the language is somewhat different than as introduced, the purpose and effects will be the same. This is a joint endeavor, among the area, the State of New York, and the Federal Government, and together I am confident these Olympic games will be as successful as any held.

The bill before us specifically provides for Federal funding on four sports event facilities: The speed skating rink and associated facilities; all figure skating facilities; the 90 meter ski jump; and, the luge events. Although these are explicitly listed, the bill also permits the funding of other sports and support facilities that may be necessary for the successful hosting of these Olympic games. Funding for these other facilities will be available through title I of the Public Works and Economic Development Act, and for these purposes the non-Federal share and the limitation of section 103 shall not be applicable.

I am hopeful that the House will promptly pass a similar version of this bill so that we can quickly go to conference and send this bill to the President for his signature. The 1980 date, although it may seem like a long way off, is rapidly approaching in terms of the lead times necessary for the construction of these facilities. It is imperative that federal funding begin to flow during the 1977 fiscal year, and I believe because of the cooperation of the members of the Commerce Committee that result will be achieved.

I urge my colleagues to support this bill.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read:

A bill to authorize appropriations for the winter Olympic games, and for other purposes.

EMERGENCY MEDICAL SERVICES AMENDMENTS OF 1976

The Senate proceeded to consider the bill (S. 2548) to revise and extend the authorizations of appropriations in provisions of title XII of the Public Health Service Act relating to emergency medical services systems, and for other purposes which had been reported from the Committee on Labor and Public Welfare with an amendment to strike out all after the enacting clause and insert an amendment in the nature of a substitute.

Mr. MANSFIELD. Mr. President, I send an amendment to the desk on behalf of the Senator from California (Mr. CRANSTON).

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from California (Mr. CRANSTON) for himself, Mr. Stafford, and Mr. Randolph proposes an amendment.

The amendment is as follows:

On page 10, line 19, and on page 14, line 11, after "achievement" and before the comma, insert in each place "(including assurances from private and volunteer organizations, associated with and involved in the operation and delivery of emergency medical services, of continued participation and support of the system)".

On page 17, line 18, after "area" insert a comma and "or to the dependence of such jurisdiction or jurisdictions on the provision of services through voluntary activities,".

Add at the end of the bill the following new section:

SEC. 17. Section 208 of the Public Health Service Act is amended by adding at the end thereof the following new section:

Section 208 of the Public Health Service Act is amended by adding at the end thereof the following new section:

"(h)(1) The Secretary may, under such rules and regulations as he may prescribe, pay for—

"(A) the cost of preparing and transporting to their former homes in the United States or to places not more distant, the remains of civilian or commissioned personnel of the Service who are citizens of the United States and of the members of their families who may die abroad or while in travel status;

"(B) the cost of treatment of an illness or injury, which requires hospitalization or similar treatment, incurred by civilian or commissioned personnel of the Service who are citizens of the United States while such personnel are located abroad;

"(C) that portion of the cost of treatment of each illness or injury, which requires hospitalization or similar treatment, incurred by dependents, while located abroad, of those civilian or commissioned personnel of the Service, who are citizens of the United States, stationed abroad, that exceeds $35 per day and up to a maximum of one hundred and twenty days of treatment for such illness or injury, except that such maximum limitation shall not apply whenever the Secretary, on the basis of professional medical advice, shall determine that such illness or injury clearly is caused by the fact that such dependent is or has been located abroad;

"(D) those travel expenses of civilian or commissioned personnel of the Service who are citizens of the United States or their dependents, who require medical care for illness or injury, incurred while stationed abroad in a locality where there is no qualified person or facility to provide such care, to transport such persons to the nearest locality where suitable medical care can be obtained. If any such personnel or dependents are too ill to travel unattended, or in the case of dependents too young to travel alone, the Secretary may also pay the round-trip travel expenses of an attendant or attendants.

"(2) The Secretary may enter into agreements with the Department of State to carry out the provisions of Subparagraph (1).".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. KENNEDY. Mr. President, as chairman of the Senate Health Subcommittee, I am delighted to bring to the Senate S. 2548, which extends the vitally important Emergency Medical Systems Act for an additional 3 years through 1979.

The basic purpose of the committee bill is to extend the authorizations of appropriations for 3 fiscal years for those programs authorized by title XII of the Public Health Service Act, "Emergency Medical Services Systems," and section 776 of that act, "Training in Emergency Medical Services." In addition, the committee bill adds a new part B to title XII authorizing the support of activities to demonstrate the effectiveness of burn injury treatment modalities, and to carry out research and provide training in the treatment and rehabilitation of burn victims in connection with such activities.

The committee bill includes provisions which strengthen the ability of the regional entity coordinating an emergency medical services—EMS—system to operate such a system. In addition, the committee bill includes provisions to improve the coordination between the administration of the grant programs for EMS systems, for research in emergency medical techniques, methods, devices, and delivery, and for EMS training.

SUMMARY OF PROVISIONS

The committee bill:

First. Extends the authorization of appropriations for the transition quarter plus 3 fiscal years, fiscal year 1977 through fiscal year 1979, for grants and contracts for the development of EMS systems, for research in emergency medical techniques, and for training in emergency medicine; and authorizes appropriations for a new burn injury program for 3 fiscal years.

The total amount authorized for 3 years and the transition quarter for systems development is $200.083 million, for research is $15 million, and for the burn injury program is $14 million, and for 4 years for training is $40 million, as shown in the following table:

TABLE 1.—AUTHORIZATIONS OF APPROPRIATIONS IN S. 2548 (AS REPORTED)

[In millions of dollars]

	1976	Transition quarter	1977	1978	1979	Total
Sec. 1207(a) (systems development)		5,083	50	70	75	200.083
Sec. 1207(b) (research)			5	5	5	15
Sec. 1221(c) (burn injuries)			3	5	6	14
Sec. 776 (training)	10		10	10	10	40
Total	10	5.083	68	90	96	269.083

Second. Adds new earmarking provisions so as to earmark a minimum of 5 percent and set a maximum of 10 percent for planning grants for fiscal years 1977 and 1978, set a maximum of 75 percent for grants for the initial establishment and operation of an EMS system, and set a maximum of 45 percent for grants for the expansion and improvement of an EMS system for fiscal years 1977, 1978, and 1979; for fiscal year 1976, eliminates the current earmarks and substitutes maximum limitations of 10 percent for planning, 75 percent for initial establishment, and 45 percent for expansion and improvement of EMS systems.

Third. Extends the authority to make planning grants or contracts and to make a first-year grant for the establishment and operation of an EMS system through fiscal year 1978.

Fourth. Authorizes a second planning grant to assist an entity in planning for the expansion and improvement of a system in connection with an application for a grant under section 1204—expansion and improvement—to assist a State to update a statewide plan, or, prior to October 1, 1976, to assist an entity in meeting the new application requirements for a section 1203 or 1204 grant proposed in the reported bill.

Fifth. Establishes new stipulations with respect to local matching and procedures for applications for initial establishment and operation, and for expansion and improvement, of EMS systems which require assurances that the local governmental units included in the system's service area will support and cooperate with the regional EMS system, and will provide assurances of continued financial support for the regional entity after the termination of Federal support.

Sixth. Clarifies and expands and makes more specific certain of the 15 requirements of a comprehensive EMS system.

Seventh. Specifies a maximum period of 5 years of grant support for the development of an EMS system, not including a second planning grant.

Eighth. Specifies that the identifiable administrative unit through which the Secretary is required to administer the EMS systems program shall be a unit specializing in emergency medical services.

Ninth. Specifies that the responsibilities of the Interagency Committee on Emergency Medical Service shall include the development and publication of a comprehensive plan for coordination of federally-supported EMS-related activities.

Tenth. Authorizes grants for the establishment, operation, and improvement of programs to demonstrate the treatment and rehabilitation of burn victims, and to conduct research and provide training in such treatment and rehabilitation.

Eleventh. Amends section 776 of the Public Health Service Act—training in emergency medical services—to require that, to the extent practicable, a uniform funding cycle be established to facilitate application for systems and training grants.

Twelfth. Requires projects for either initial establishment and operation, or expansion and improvement, to submit reports or the results of the programs supported by such grants to the Secretary and the Interagency Committee on Emergency Medical Services.

Thirteenth. Clarifies that research contracts may be made with public entities as well as with private nonprofit entities; and specifies that emphasis in the research program should be placed on methods to improve the delivery of emergency medical services.

Fourteenth. Provides an exception for grants awarded under section 301 of title IV, as well as title VII—currently expected under present law—from the prohibition against awarding grants for any project which would be eligible to receive title XII funds; and permits the Secretary to waive the requirement that an applicant for support for a training project must apply and fail to receive grant support under all other appropriate training authorities of the Public Health Services Act, if the Secretary determines that adherence to such requirement would be futile or unreasonably burdensome.

Mr. President, this is an excellent piece of legislation. The architect of this program is my good friend and colleague from California, ALAN CRANSTON. He has been deeply concerned with the need to improve emergency medical services in his own State and throughout the Nation. As one of the most diligent and creative members of the Health subcommittee, he has been willing to assure the contribution and expansion of high quality emergency medical services.

S. 2548 is a tribute to the excellence of Senator CANSTON's effort in this respect. It was unanimously reported by the committee. I urge its adoption.

Mr. President, I also support the Cranston-Stafford amendment to this bill. The first part of this amendment furnishes necessary clarifying language to the EMS bill itself. The second part of this amendment corrects a deficiency in existing Public Health Service law, and has been approved by the Department. A recent case made it evident that HEW does not have the necessary authority to adequately care for the medical needs of its commissioned and civilian personnel working abroad. This new language corrects that deficiency.

Mr. President, I urge the passage of S. 2548.

Mr. JAVITS. Mr. President, as ranking minority member of the Committee on Labor and Public Welfare, which favorably ordered the pending bill reported to the Senate, I ask my colleagues to join in giving their approval to this legislation. The "Emergency Medical Service Systems Amendments of 1976" would extend and improve Public Law 93–154.

I consponsored the original legislation with Senator CRANSTON, as well as the bill now under consideration, and I strongly support the contribution that this program has already made and would continue to make in addressing major health needs of the American people.

These amendments provide for a continuing Federal program of support and guidance for a wide variety of public and nonprofit agencies and consortia to plan, work, and deploy their energies and resources together to meet the needs of local regions that often transcend political boundaries.

I agree with Senator CRANSTON and my fellow committee members that we must continue to nurture this program that has been enthusiastically and productively used by an increasing number of communities, in both rural and urban areas, as a catalyst for local initiative. This program is an excellent investment that has already paid handsome returns.

The bill would extend the authorities for planning, initial establishment and operation, and expansion and improvement grants for an additional 3 years. Based on recommendations received by the General Accounting Office, it would require strong assurances and demonstration of community-based support, without jeopardizing the situation of financially hard-pressed communities that continue to show their good faith, energy, and commitment to the program.

The bill makes needed administrative adjustments and it clarifies and improves the important areas of program evaluation and research into the best means of providing emergency care to preserve life and health. I believe that such systematic understanding and contributions to new knowledge—which can be transferred nationwide—provide a very crucial long-term benefit from this program.

The new Burn Treatment program provided in this bill is carefully conceived. It is a modest yet important first step toward developing, evaluating, and integrating badly needed burn care services into a total system of emergency medical services, responding to a wide range of local needs and opportunities. The program calls not only for services, but also for training and research about this vital problem that the health care system ameliorate.

I congratulate my distinguished colleague, Senator CRANSTON, for the leadership he has demonstrated in authoring the legislation. Thanks to his efforts and keen insight, this measure builds on the experiences of this new program that began operating in 1974—both the great successes and the lessons to be learned—and thus paves the way for an even stronger program.

Mr. CRANSTON. Mr. President, I want first to thank the distinguished chairman of the Health Subcommittee (Mr. KENNEDY) for his leadership and for the cooperation he has given me in the consideration of this legislation. Working together, I believe we have developed a good piece of legislation which will promote the establishment of comprehensive systems for providing emergency medical services.

Mr. President, I am delighted that today the Senate will be considering S. 2548, the Emergency Medical Services Amendments of 1976, which I introduced on October 22, 1975, with broad bipartisan support, and which has been sponsored now by virtually all members of the Committee on Labor and Public Welfare as well as other leaders of the Senate, to extend the authorizations of appropriations and make certain improvements in the Emergency Medical Services Systems Act of 1973—Public Law 93-154. The EMS Act, which I authored in the Senate, was enacted in November 1973 with strong bipartisan support. That act added to the Public Health Service Act a new title XII for EMS systems and research grants and contracts and added to title VII of that act a new section 776 for EMS training grants.

BACKGROUND

NEED FOR THE 1973 ACT AND CONTINUATION OF THE PRESENT EMS PROGRAM

In the early 1970's, Mr. President, Congress recognized that a major deficiency in the provision of health care in many communities was the inability to respond immediately and effectively to an emergency medical crisis. These deficiencies were and still are shared in varying degrees by all communities—rich or poor, urban or rural. In the rural area, the greatest problem is undoubtedly the vast distances to be covered coupled with the lack of medical resources. In the urban area, the problem can be caused by a multiplicity of resources which, due to their maldistribution, lead in some cases to competition among neighborhood facilities to provide care to the emergency victim, and in other cases to an inability to provide that care. Urban areas suffer seriously from a lack of coordination of existing resources, a duplication of some, and in some cases from a lack of highly specialized resources which are essential for the provision of comprehensive emergency medical care in a community.

Mr. President, the numbers of preventable deaths and disabilities resulting from medical emergencies are grim evidence of the compelling need for action to deal with this problem.

Estimates are that 15 to 20 percent of the deaths due to traumatic injury could be saved each year by improved emergency medical services. This would result in 60,000 lives saved, based on estimates by the National Academy of Sciences. Accidental injury is the leading cause of death among all persons aged 1 to 38 and is the fourth highest cause of all deaths in the United States. In 1972, traumatic injury resulted in 117,000 deaths and 11,500,000 cases of disabling injury.

Heart attack is the leading cause of death in the United States. In 1972, over 675,000 deaths were due to ischemic heart disease and myocardial insufficiencies. About one-half the heart attack deaths occurred within 2 hours of the attack and before the patient arrived at the hospital. The American Heart Association estimates that between 15 and 20 percent of prehospital coronary deaths could be prevented if proper care were administered at the scene en route to an appropriate medical facility.

According to the National Center for Health Statistics, there were approximately 68,000 deaths involving newly born infants in 1971. Many of these deaths could be prevented with an appropriate interhospital referral system to identify the newly born infant with a threatened chance of survival and to transport the infant to intensive care facilities.

It has also been estimated that 5,000 deaths each year caused by drowning, poisoning, and drug overdoses, could be prevented with improved emergency medical services, provided immediately at the scene of the accident.

Mr. President, these factors are convincing evidence of the importance of the establishment of systems to provide a network of comprehensive EMS systems throughout the Nation.

PROVISIONS OF THE PRESENT ACT

Mr. President, Public Law 93-154, the Emergency Medical Services Systems Act of 1973, authorizes grants to communities to support the planning, establishment, development, or expansion of comprehensive EMS systems. Eligible grantees are States, local units of government, public entities administering a compact or other regional arrangement or consortium, or a public or nonprofit private entity representing the units of government in the region for which a system is proposed.

Such applicants must submit with their application a proposal indicating how the community it represents will develop a comprehensive EMS system utilizing to the best effect existing health resources, facilities, and personnel. The proposal must cite gaps in the community's ability to provide services and the steps that will be taken to overcome such deficiencies. Title XII specifies 15 basic components of a comprehensive EMS system which all applicants must provide assurances of meeting or being able to meet within a specified period of time.

Mr. President, these 15 components were derived from testimony received in both the Senate and House during consideration of the Act in the 93d Congress and represent the basic requirements for a comprehensive EMS system. These basic components include such things as well-trained personnel, adequate and centralized communications capability, adequate transportation systems, categorized and nonduplicative facilities, access to specialized medical care units, and assurances that services will be provided without regard to an individual's ability to pay, among other requirements.

In addition to grant support for development of an EMS system, the act also provides for specific project grant and contract support for research and training programs in emergency medical services or techniques.

ACHIEVEMENTS UNDER THE EMERGENCY MEDICAL SERVICES SYSTEMS ACT

IMPLEMENTATION OF REGIONAL CONCEPT

Mr. President, a basic premise of the EMS program as developed in the 93d Congress was that in order for effective and comprehensive emergency medical services to be provided efficiently, a system must contain sufficient resources to meet the wide variety of demands made upon it in medical emergencies. Since the entire range of services may not be available to a small local governmental unit, title XII provides that grants and contracts may be awarded, on a priority basis, to governmental units or combinations thereof—namely: first, States; second, political subdivisions; or third, regional arrangements, compacts, or consortiums.

It was the Congress view that such entities would serve a geographical area of sufficient size, population, and economic diversity to establish and maintain a system that would be able to provide emergency medical services in an economical and effective manner.

In implementing the provision of title XII, the Emergency Medical Services Division, established in the Health Services Administration pursuant to section 1208, has provided technical assistance to States and local communities in their efforts to develop regional EMS systems.

Each of the 50 States has now designated a responsible agency for coordinating EMS within the State. Throughout the Nation, 300 EMS regions have been defined. The current status of planning and development of the EMS regions is shown in the following table:

TABLE 1.—*Cumulative title XII grant authority*

Status of EMS activity:	*Total number of regions*
No activity	65
Section 1202 planning	125
Section 1203 (1st year) establishment	73
Section 1203 (2d year) establishment	10
Section 1204 (1st year) improvement	19
Section 1204 (2d year) improvement	8
Total	300

The above figures show that out of the 300 EMS regions in the country 190 regions have not entered into the active implementation phase of the program, 83 regions are in the initial establishment phase, and 27 regions are in the expansion or improvement phase.

Mr. President, a second basic premise of title XII, in addition to that of regionalization, was that of encouraging the most effective utilization of all health resources in the region such as health care personnel, facilities, equipment, and specialized treatment facilities, which relate to the emergency patient. It was felt that, in addition to providing services on a regional basis to meet medical emergencies, an EMS system could become a catalyst for organizing the community's health facilities and other resources in a systematic manner, so that essential services would always be available and unnecessary duplication would be avoided. The process of developing an EMS system can help a region recognize natural patterns of health care utilization and indicate how resources can best be organized to meet the EMS service demand as well as normal patient demand patterns.

The HEW guidelines for applicants are designed to enable them to ascertain the degree to which they are able to assure meeting the 15 components required for eligibility by title XII and thereby to measure the community's ability to provide essential emergency medical services.

These guidelines serve a multiple purpose. First, they serve as a guide to those communities which are in the planning stage to assess the degree to which their existing resources are capable of achieving a competent and comprehensive system. Second, they force the applicant to examine its proposal for establishing an EMS sytem in terms of completeness and ultimate effectiveness. Third, they provide a meaningful measure by which the application can be reviewed for acceptability by HEW.

These guidelines require the applicant to take a hypothetical set of patients, suffering from the most frequently endured and serious medical emergencies, and follow them through the process necessary to reach the most specialized level of care needed to care for the injury sustained. In this progression through an emergency medical situation, the adequacy of each of the 15 required components is tested, bringing to the surface any hidden or unsuspected gaps in the community's ability to provide services to residents or visitors in an emergency situation. Through this process the application for Federal grant support will be directed toward correcting these deficiencies and Federal funds will be directed at enabling the community to develop an effective and comprehensive system for providing emergency medical services.

Mr. President, I believe programs supported under title XII have made substantive progress to improve the availability of resources, the rapid access to EMS services, and the quality of care provided emergency patients.

EMS SYSTEM GRANT PROGRAM

Mr. President, section 1202 (Feasibility Studies and Planning), section 1203 (Establishment and Initial Operation), and section 1204 (Expansion and Improvement), authorize support through grants or contracts for the overall development and implementation of EMS systems.

During the first 2 years of the program, a concerted effort has been made by the EMS division to work with States and units of local government to define a national network of EMS regions. The EMS program has now completed its work with the States and has defined 300 EMS regions for the Nation.

During the first 2 years of the program, 235 of the 300 designated regions have received funding under title XII.

The following table shows a year-by-year summary of the grant activity provided under the EMS Act:

TABLE 2.—ANNUAL TITLE XII EMS SYSTEM FUNDING ACTIVITY

FISCAL YEAR 1974

Section of act	Number of—		Amount	Population served
	Grants	Regions		
1202	53	90	$2, 250, 000	63, 000, 000
1203	21	27	10, 400, 000	18, 900, 000
1204	11	9	4, 350, 000	6, 300, 000
Total	85	126	17, 000, 000	88, 200, 000

Note: 85 grants covering 126 regions and serving a population of 88,200,000 were awarded in the amount of $17,000,000.

FISCAL YEAR 1975

Section of act	Number of—		Amount	Population served
	Grants	Regions		
1202	56	82	$4, 617, 800	57, 400, 000
1203	49	66	19, 500, 000	46, 200, 000
1204	11	26	8, 125, 000	18, 290, 000
Total	116	174	32, 242, 800	121, 800, 000

Note: 116 grants, covering 174 regions and serving a population of 121,800,000 were awarded in the amount of $32,242,000.

The discrepancy between the number of grants and the number of regions, Mr. President, is due to grants being made to States which in turn subcontract with regions within the State to establish systems coordinated on a statewide basis.

Mr. President, in developing the Emergency Medical Services Systems Act in the 93d Congress, special requirements were included mandating that not less than 20 percent of the sums appropriated for the support of EMS systems would be used for the development of systems in rural areas. I have been advised that in implementing title XII well over 20 percent of the grant support has been made available to such rural areas or to regional systems including rural areas within the system's service area.

RESEARCH

A second new authority in title XII, section 1205 provides grant support for research in emergency medical techniques, methods, devices, and delivery. Under section 1205, research has been supported in such important fields as evaluating the various emergency medical devices and related rescue and extrication equipment; studying the barriers which may arise in a large urban system in serving the needs of a small population group with limited English-speaking ability and differing cultural values; evaluating the effectiveness of emergency medical technician training; identifying the special needs of rural EMS systems; and the development of diagnostic and prognostic methods in treating critically ill emergency victims.

Mr. President, these areas offer real promise of yielding findings of great usefulness to the medical community in providing care to emergency patients in the future.

Research under the Act was intended to provide operating methods, technology, and management tools to assist in planning, organizing, and evaluating EMS systems. Studies of this sort require the use of techniques of various disciplines, such as systems analysis, biomedical engineering, organizational research, economic analysis, and quality assessment. Responsibility for the EMS research program has been assigned to the National Center for Health Services Research (NCHSR) in the Health Resources Administration.

During the first year, four high-priority areas of need for research were identified by that center. They were one, measures of effectiveness; two, system description and relationships; three, policy issues, and four, techniques and devices. Within these major program areas, individual projects are being planned to meet specified objectives. The number and dollar amount of new projects funded, by program area, to date are shown in the following table:

TABLE 3.—CUMULATIVE TITLE XII RESEARCH GRANT ACTIVITY

Program area	Projects	
	Number	Amount
Measures of effectiveness	22	$4, 229, 442
Systems descriptions and relationships	12	1, 082, 563
Policy issues	3	686, 308
Techniques and devices	7	2, 229, 058
Total	44	8, 227, 371

I believe EMS research has now progressed to a point where some essential tools have been constructed which make it possible to emphasize research leading toward solutions of complex EMS systems problems, such as evaluation of the efficiency and effectiveness of EMS systems, quality assurance in emergency care, cost-benefits of space-age technology in EMS use, and feasible ways to provide emergency services in rural and remote areas.

EMS TRAINING

Mr. President, the third program authorized in Public Law 93–154 is the support of the costs of training programs in the techniques and methods of providing emergency medical services—section 776.

Originally, this authorization was made for fiscal year 1974 only, so that its expiration would be coterminous with the expiration of the other training authorities of the Public Health Service Act.

During consideration of legislation extending title VII of the Public Health Service Act during the 93d Congress, provisions for extending the authority for EMS training were included in both the House- and Senate-passed bills. However, the two Houses failed to come to an agreement and the 93d session ended without section 776 being extended.

Under section 776, $6.6 million was appropriated for fiscal year 1974 and made available for obligation through the first quarter of fiscal year 1975. All the funds were obligated by September 30, 1975, and, as a result, 76 grants and two contracts were awarded which have provided support for programs in which about 25,000 emergency medical technicians, 4,000 nurses, and 1,200 physicians as well as 6,000 other types of health care personnel were trained in EMS fields at all appropriate levels.

Included among those trained were about 100 individuals who would be capable of providing the expertise necessary to coordinate and manage an EMS system. It is expected that these individuals will be of great value in administering or developing comprehensive EMS systems in many communities.

The 1,200 physicians and 4,000 nurses trained for the rigorous demands of the emergency room will also be of great value to existing and developing EMS systems. The emergency room physician and the emergency room nurse are highly trained individuals who can deal with competence and skill with the incredibly taxing and hectic demands and conflicting priorities of the emergency room. No less important is the emergency medical technician who is the first person in most cases to provide any medical assistance to an emergency victim. The 25,000 technicians trained in programs receiving section 776 support will provide this critical service in many communities throughout the Nation.

As more EMS systems are developed, more of these personnel can be effectively used in the lifesaving work to which they are dedicated. The authority for training such individuals has enabled many communities to provide good emergency medical services utilizing a well-trained team of physician, nurse, and technician, which is the optimum method of providing services.

S. 2548, AS REPORTED

The committee has found, Mr. President, that the experience gained under the authorities of the Emergency Medical Service Systems Act of 1973 indicates the program has resulted in substantial improvement in the ability to provide comprehensive emergency medical services in those areas where support has been made available. However, there still remain 190 regions out of the 300 identified nationwide which have not entered the active implementation phase of establishing an EMS system. Thus, there is firm justification for extending the authorizations of appropriations enacted in the 1973 Act so that those communities which have already made strong efforts to establish a system will be given the additional support necessary to complete that effort, and those communities which have not yet been assisted will be given an opportunity to begin this effort.

FUNDING ALLOCATION

During consideration of S. 2548 in the committee, Mr. President, the members carefully considered the possibility of eliminating totally the earmarking provisions in current law with respect to sections 1202, 1203, and 1204 grants and contracts. We decided to adopt a new system which would retain the original concept of a mandated diversity in supporting EMS systems at different stages of development while providing HEW with sufficient flexibility to meet changing program needs.

The committee bill provides for an earmark of a minimum of 5 percent and sets a maximum of 10 percent for section 1202 planning grants in fiscal years 1977 and 1978; and for fiscal years 1977, 1978, and 1979, sets a maximum of 75 percent for section 1203 grants for the initial establishment and operation of systems and a maximum of 45 percent for section 1204 grants for the expansion and improvement of a system.

Mr. President, this more flexible funding allocation system will help insure that funds are available for the 65 regions which have not yet made application for support as well as for those regions moving into more advanced stages of development.

SECOND PLANNING GRANT

The committee bill authorizes a second planning grant to assist entities in developing the expertise necessary to qualify for a section 1204 grant for the expansion and improvement of a system, or to assist an entity in meeting the new application requirements proposed in the reported bill. I believe these second planning grants may often need to be awarded concurrently with a section 1203 grant. In any event, such a second planning grant would not be considered as a separate year for purposes of the 5-year limitation on Federal grant support for systems development.

NEW APPLICATION REQUIREMENTS

Mr. President, impressive testimony was presented during hearings from the General Accounting Office—GAO, which had conducted a review of 12 EMS grantees during calendar year 1975. The GAO, while concluding that, with the aid of Federal funds authorized under title XII, communities throughout the country have been able to upgrade their EMS resources, found a major problem in the lack of control over financing and operating the system given to the regional entity responsible for managing the system by the participating governments.

Mr. President, the GAO found that most of the administrative costs of the regional management entities were being initially financed with grant funds awarded under title XII, as were some of the operating costs to achieve regionalization of emergency medical services such as conforming standard record forms or developing central communications towers. In the case of the costs of providing the services, the GAO reported, the bulk of the costs were borne by the local government units or by private providers. While this division of cost-bearing responsibility serves to support the operation of a regional EMS system during the years the system is receiving grant support, it does not lay a firm base for continued operation of the particular system once Federal funds are terminated.

A major finding of the GAO report was as follows:

Regional management entities are having difficulty identifying firm sources of permanent financing of administrative and operating costs that are being initially borne by Federal grant funds. In addition, they have little control over the level of emergency medical services being provided by local governments and EMS providers.

These regional entities must rely on the local units of government represented within the system's service area for operating authority and for continued financial support after the termination of Federal funding. Without firm assurances from those governments of a willingness to sustain the program financially and to permit the regional entity the authority to insure adequate service coverage for each community within the system, the possibility is strong that progress toward real coordination of services will deteriorate or disappear once Federal funding terminates.

It is apparent that grants made to support the establishment of EMS systems provide the incentives that permit a community to overcome the initial most difficult obstacles hindering regionalization of emergency medical services. Once the system is in place, it should be fully supported both financially and substantively by the communities it serves. To achieve this self sufficiency and assure continued coordinative authority for the regional entity, the committee bill establishes a system of incremental financial responsibility on the part of local governmental units as well as submission of evidence of executive or legislative action by such units pledging support and cooperation with the regional or statewide EMS system.

The committee bill provides that 25 percent of the non-Federal share of the first-year costs of a grant for initial establishment and operation (1203) or expansion and improvement (1204) and 50 percent of the non-Federal share of the second year costs in each case, must be in cash, and must be made available to the regional entity responsible for administering the operation of the system for use in defraying the costs, including administration, of the system during the period of 1203 support and for use in supporting the costs of expansion and improvement during the period of 1204 support.

Mr. President, I would like to clarify several points which have been raised with regard to this cash match.

Some EMS systems directors have asked whether the cash match is to be applicable to each element of an EMS system or, rather, if it is to be applicable to the total system. That is, they question whether, in the case of a grant to assist the community to purchase ambulances, to train paramedics, and to support the regional management of the system, the local participating governments would be required to contribute in the first year of the grant 25 percent of the costs of each of these components—of the ambulances, of the training, and of the operation of the system? This is not what is intended, Mr. President. Rather, when the required non-Federal share of the grant is $100,000, the only requirement is that the cash match be equivalent to $25,000 and made available to the regional system, not that it be composed of any particular mix of types of assistance.

Mr. President, it has also been brought to my attention that many EMS systems directors have questioned their ability to meet the requirements in S. 2548, as reported, concerning a cash match and have questioned as well the advisability of requiring that the cash match be made available to the regional entity responsible for administering the EMS system. They have stressed that each system is unique—that the regional entity can in some cases represent an authority which has exclusive power and authority over the system's components or it can be an entity which serves primarily to coordinate the components of the various local jurisdictions within the system. In other areas, a federation of local units of government which reciprocally agrees to coordinate EMS activities and utilizes the regional entity to administer a unified communications network linking ambulances and hospitals in the system's area can achieve an EMS system that will vastly improve the quality of care provided to its population. Thus, a good case has been made that a more formal structure may not be necessary or achievable in every case and that, in view of the variations frequently found in EMS systems, each system should be given discretion to develop the regional arrangement best suited to its needs.

I would like to clarify at this point, Mr. President, that the term "cash" as used in the amendments to sections 1203, 1204, and 1206 is not intended in any way to abrogate, but rather to incorporate, the definition used in the general HEW grants regulations, subtitle A of title 45, part 74, subpart G, paragraph 74.5.1, of the Code of Federal Regulations. This definition is as follows:

> "Cash Contributions" means the grantees' cash outlay, including the outlay of money contributed to the grantee by third parties. Unless authorized by Federal regulation, outlays charged to other Federal grants or to Federal contracts may not be considered as grantees cash contributions.
>
> "In-kind Contributions" represent the value of non-cash contributions provided by the grantee or third parties, in-kind contributions may consist of charges for real property or-non-expendable personal property of the value of goods and services directly benefiting and specifically identifiable to the grant supported activity. Unless otherwise authorized by Federal regulation, charges for property purchased wholly with Federal funds and charges based on the Federal share of the value of property purchased with Federal funds may not be considered as the grantees in-kind contribution.

Thus, the bill's requirement that the application include assurances that such cash—as defined in general HEW regulations—be made available to the regional entity must be read in a way consistent with that general definition. The results of this construction is that the words "made available to" do not necessarily connote a transferring of actual currency, but rather that the participating units of local government have negotiated and reached agreement with the regional entity respecting the degree of their contributions and the number of EMS components to be supported thereby in the local community which are determined to be essential to the operation of the EMS system and which can, therefore, be counted toward the required "cash" contribution of the community.

The result of such a negotiation process could then be embodied in a formal letter from the governmental jurisdiction in question "putting up" or "making available" to the entity the agreed-upon amount for the agreed-upon purpose—such as, for example the salary, to be paid by the jurisdiction, of two ambulance attendants—to be used in defraying operating costs, in the case of a section 1203 grant. The intention here is to bring the parties together in such a negotiation and to strengthen the relatively weaker hand of the regional entity in this process.

Such good faith negotiation as to the quality and the quantity of the many elements which make up an EMS system is an integral part of a coordinated EMS system. These decisions must be made on a regional basis and must be the result of joint discussions and agreements which are geared to providing the most comprehensive emergency medical services to the entire system area in the most cost effective and efficient manner. Whether the regions are developed by a decision on the part of the participating local units of governments, or by a statewide agreement to establish regions within the State, the concept underlying the reported bill is that their success depends on the extent to which they are a cooperative venture conforming to the regional concept of the EMS Act.

I believe this clarification should allay most of the concerns being expressed about the application of the new cash requirements.

Additional concerns have been expressed, Mr. President, particularly in those States which rely for a great deal of their emergency medical services on services provided on a volunteer basis. In these communities, the heavy expenses of developing an EMS system generally occur in the beginning when the crucial efforts are made to upgrade ambulances and communications equipment and to train paramedical personnel. Once these goals have been achieved, the expenses of the system may be reduced considerably and would consist of the ongoing costs of maintaining a coordinating office, upkeep of equipment, and continuing training of personnel, as well as training of new replacement personnel.

These complexities have been brought to our attention only very recently, and I believe they indicate that, while clarification of terms used can resolve many of the concerns that have been expressed, S. 2548 as reported does require some minor changes to create the flexibility necessary to meet the needs of various community situations.

For example, the distinguished Senator from Vermont (Mr. STAFFORD) has brought the concerns of his State to my attention specifically. Similar concerns have also been expressed by the distinguished Senator from West Virginia (Mr. RANDOLPH). I believe that the clarifications I have outlined meet many of these very legitimate concerns, and it will be my intention, when we are in Conference with the House, to attempt to secure the agreement of the other body to such clarifications either in the legislative language or accompanying explanatory statement.

On the question of communities dependent on voluntary services, however, we—the Senators from Vermont and West Virginia and I—have worked out a clarifying amendment to take into account the needs of such communities dependent on voluntary services so that the financial distress exception provision—on page 17 of the reported bill—will apply to permit a community to demonstrate—and thereby obtain an exception to that extent, in whole or in part—that it would be onerous and unfair for it to have to produce "cash" in an amount up to the value of the so-called in kind voluntary services comprised within the EMS system and for which services other grantees are being credited with "putting up" hard "cash" matching amounts.

Our clarifying amendment also makes a conforming change on page 10 and 14 of the bill with regard to applications for both section 1203 and 1204 grants, so that the assurances an applicant must give, accompanied by specific plans showing step-by-step achievement, of compliance with each of the 15 requirements of an EMS system set forth in title XII, would encompass assurances from those private and volunteer organizations which are associated with and involved in the operation and delivery of that EMS system of continued participation and support of the regional system subsequent to the termination of Federal grant support.

I very much hope that these clarifications in the bill and legislative history will be agreeable to my distinguished colleague from Vermont and that he will work with me to assure that we produce procedures that will be workable and will still retain the concept of regional emergency medical services systems and a commitment on the part of the local area to continue the system after the termination of Federal grant eligibility. I want to assure the distinguished Senator from Vermont that I will not be satisfied with any agreement reached in conference on the "cash" match issue until he is.

Mr. STAFFORD. I appreciate the willingness of the Senator from California (Mr. CRANSTON) to enter the Conference with an open mind on ways in which the concerns he has accurately summarized can be ameliorated so that those communities which have shown a sincere determination to establish comprehensive EMS systems will be able to do so. I thank him for his assurances of working to achieve this. I certainly will be glad to join with him in these efforts.

I would like to ask the distinguished Senator from California if the provisions he is referring to with respect to the "cash" matching requirement appear on page 11, lines 1 to 16; page 12, lines 19 to 25; and page 13, lines 1 to 22?

Mr. CRANSTON. Yes, those are precisely the provisions I have been seeking to clarify in my discussion today.

With the 4 years of firm support provided the regional entity under the provisions to the reported bill, Mr. President, I believe the regional entity should have experienced the operational authority necessary to demonstrate the benefits that accrue to the region with a central coordinating and administering agent for emergency medical services. The program by then should have proven its effectiveness and the local units of government should be disinclined to terminate their support.

There is reason to believe that the cash matching requirements can be met by most communities. However, in recognition of the possibility there may be some communities in extreme financial distress, which, although unable to produce the total cash match at the time of the grant award, would be able to sustain the program after the termination of Federal grant support, the committee bill authorizes appropriate adjustment of the requirements where a community has demonstrated to the satisfaction of the Secretary its inability to meet, in whole or in part, the cash non-Federal share requirements.

ADMINISTRATION AND EVALUATION OF THE EMS PROGRAM

Mr. President, testimony presented to the committee indicated that the grantees were receiving substantial guidance in developing their systems from the national and regional offices of the Emergency Medical Services Division. However, it was reported that budgetary allocations to the Division did not permit sufficient staff or travel capability in the regional or national offices to provide the depth of technical assistance required by many grantees.

In addition, it has been brought to the committee's attention that a greater coordination between the training and research programs related to emergency medical services and the systems supported by the Emergency Medical Services Division would be beneficial to all programs involved.

Accordingly, the committee bill adds several new administrative responsibilities with respect to the identifiable administrative unit, which the committee bill specifies as a unit specializing in emergency medical services. These new requirements would give the unit the right to concur in regulations, guidelines, funding priorities, and grants proposed for training programs supported under section 776 and for research programs supported under section 1205. In addition, the unit's experience should be of value to other programs related to emergency medical services supported by the Public Health Service Act and thus the committee bill requires that the unit be consulted with respect to regulations, guidelines, and funding priorities for such programs.

The committee bill also requires the unit to publish criteria for collecting necessary data and for evaluating projects, including the burn programs newly authorized by the bill, funded under title XII. I believe that these criteria can be of valuable assistance to regional EMS systems by providing them guidance in the early stages of establishment. Such collection of uniform data should facilitate evaluation of relative effectiveness among EMS systems throughout the Nation.

The workbooks recently developed by the Emergency Medical Services Division provide a strong base for this requirement.

In this connection, the committee bill deletes the requirement that each regional EMS system must provide for independent review and evaluation of the services provided in its area, and instead requires each regional system to provide appropriate information to the Secretary so that independent evaluation can be provided for by the section 1208 administrative unit.

I recognize that these additional responsibilities cannot be carried out if the administrative unit and its regional offices are not provided the funds necessary to support the staff required to do so. The committee bill, therefore, earmarks up to 7 percent but not more than $3 million of the sums appropriated pursuant to section 1207(a) each year for administration, including salaries of all unit personnel, technical assistance, data gathering and information dissemination, monitoring, and independent evaluation. This earmark is additionally intended to provide support for the Interagency Committee on Emergency Services.

COORDINATION OF FEDERAL PROGRAMS RELATED TO EMERGENCY MEDICAL SERVICES

Mr. President, a second major finding of the GAO review was the lack of coordination in administering various Federal programs supporting EMS related programs, as well as the lack of coordination at the local level to encourage development of regional EMS systems through the grant support programs of the various Federal agencies.

Coordination of Federal programs was recognized as an important element in developing a rational approach to correcting the Nation's deficiencies in providing emergency medical services when the Emergency Medical Services Systems Act of 1973 was enacted in the 93d Congress. At that time, the act established the Interagency Committee on Emergency Medical Services and charged it with evaluating the adequacy and soundness of Federal programs, and providing for the communication and exchange of information necessary to maintain the coordination and effectiveness of those Federal programs.

THE INTERAGENCY COMMITTEE ON EMERGENCY MEDICAL SERVICES

The Interagency Committee on Emergency Medical Services was established shortly after enactment of Public Law 93–154 and has met five times since the enactment of the act.

The Interagency Committee has fostered improved communications among Federal agencies involved in EMS and has sponsored a publication entitled "Federal Program Resources Guide for EMS" which lists 64 Federal programs that provide funds, technical assistance or services related to EMS. In addition, the committee through its work groups has initiated actions to complete development of a curriculum for the EMT-paramedic, and is considering problems related to communications planning, communications operations, and the development of standards for the patient compartment of air ambulances.

While progress has been made by the Interagency Committee to improve information exchange and to focus on technical problems associated with the delivery of EMS and provide national coordinated Federal guidance, the committee feels that the Interagency Committee should take more positive action to coordinate Federal activity in such areas as conjoint grant applications and coordinated funding of EMS region.

The committee was aware of the activities of the EMS program and the Interagency Committee to improve the coordination of Federal programs for the care of critical patients such as spinal cord centers, poison control centers, burn centers, et cetera. I believe that this activity should continue to expand and that the appropriate statutory authorities should be used to support the development of these specialized care centers in concert with the emerging EMS systems regions.

Despite these activities, we have been advised that regional EMS systems wishing to utilize additional Federal funding sources were not made aware of the availability of additional Federal funding sources which would have enabled them to complement their program. The GAO review found that in some cases, other organizations in the same geographic area served by a regional entity supported by title XII were receiving EMS equipment which was not made available to or coordinated with the regional system.

To avoid this duplication and the potential for poor utilization of essential equipment, the reported bill provides for increased responsibilities for the Interagency Committee, including the development of a comprehensive plan for the coordination of federally supported activities related to emergency medical services, as well as dissemination to all Federal grant award offices as well as grantees of a coordinated description of sources of Federal support for the purchase of vehicles and communications equipment and for training activities. The committee is charged with developing recommended standards with respect to equipment and training related to emergency medical services as well.

In addition, Mr. President, to encourage coordinated use of Federal programs the committee bill provides that grant recipients under title XII shall make maximum utilization of training support and ambulance and communications equipment available under the Highway Safety Act, as well as communications equipment made available under the law enforcement assistance legislation.

COMPONENTS OF AN EMERGENCY MEDICAL SERVICES SYSTEM

The 15 required components of a comprehensive emergency medical services system established in title XII have formed the backbone of the implementation of the act. These components have provided the base for the guidelines used in directing applicants in the development of applications, and in providing a meaningful measure by which the application can be reviewed for acceptability by the granting authority. Testimony presented during hearings on S. 2548 indicated that some modest changes would further strengthen the program and resolve certain ambiguities.

The committee bill thus makes the required elements of the communications system component more specific, by requiring that the system have the capability to communicate with individuals having auditory and other sensory handicaps, and, in addition, where the primary language of a substantial proportion of the population served is not English-speaking, have the ability to communicate in that language. The requirement with respect to persons with sensory handicaps is designed to require that systems have the receiving and sending capacity of a device such as a teletypewriter through which a person with a sensory impairment can gain access to the EMS system; it is not in any way intended to require or authorize expenditures for the acquisition of such devices for particular handicapped individuals.

In addition, Mr. President, the regional entity is required to make maximum use of communications equipment and systems made available to the community under the Highway Safety Act and the Law Enforcement Administration legislation. During hearings on S. 2548, we heard testimony which demonstrated the value of the applicability of support from these sources to a communications network serving all public agencies—that is, fire, police, and medical emergencies, in an area. It has been estimated that medical emergencies initiate less than ten percent of the demands upon such a coordinated system. With that experience, it would seem advantageous for regional EMS systems to coordinate their communications system with that of other public agencies in the area.

Additional modifications to the 15 requirements require the coordination of transportation equipment made available under the Highway Safety Act with that made available under title XII, and delete the requirement that the regional system be responsible for obtaining independent evaluation of the system, requiring instead that the system collect and provide the necessary information to the Secretary so that evaluation can be conducted through the administrative unit in the Department of HEW responsible for administering the EMS program.

TRAINING IN EMERGENCY MEDICAL SERVICES

Mr. President, when Congress developed the 1973 Act, the members of the Senate and House Committees were cognizant of the need to avoid proliferation and duplication of training grant authorities. For that reason, the authority for training in emergency medical services was added to title VII as section 776. Placing the EMS training authority in title VII has meant that the authority has been administered by the Health Resources Administration which administers other health training authorities. This organizational placement has drawn upon the experience of that Administration in health manpower training programs to enhance the administration of the EMS training program and has also made the expertise of the review procedures of that Administration available for review and evaluation of grant applications for EMS training.

With the termination of the authorizations of appropriations for this authority in fiscal year 1974, there has been only one year of experience under this program. Some dissatisfaction has been expressed by grantees about the bifurcation of the administration of the training authority and the title XII systems support authority.

It has been suggested that the authority for training grants should be transferred into title XII on the grounds that those persons most familiar with the operation of an EMS system would be most competent to determine the types of personnel needed and the appropriate training priorities for EMS personnel.

We considered this suggestion during committee markup of S. 2548 and determined that the success of the training program in terms of effecting improvement of the quality of emergency medical services would be most effectively achieved through the close collaboration of those officials in the Health Resources Administration most knowledgeable with regard to training programs with the personnel in the EMS administrative unit in the Health Services Administration.

Provisions in the committee bill giving the EMS administrative unit, established pursuant to section 1208, the right to concur in the regulations, guidelines, funding priorities, and application forms, as well as grant and contracts made under section 776, are designed to achieve this coordination. The bill further requires that that unit be consulted in advance of the issuance of such regulations, guidelines, and funding priorities where other programs authorized by the Public Health Service Act provide support for training in emergency medical services.

In addition, greater applicability of training programs to EMS systems will be enhanced by provisions in the committee bill specifying that a hospital as well as an entity eligible for systems support under title XII would be eligible for a training grant or contract under section 776. However, this provision requires, in the case of training—other than the training of basic emergency medical technicians—that the EMS entity have arrangements with an appropriate educational institution for the training program.

Applicants have also experienced considerable difficulty in dealing with the complexities in existing law relating to applications for training support. Current law includes a provision requiring any applicant, which includes a training component in its application for EMS systems support, to submit a separate application for that training component to all other training authorities under title VII or title VIII of the Public Health Service Act, and to fail to be awarded a grant under those authorities, before being eligible to use its title XII support for training purposes. In practice, this requirement has led to considerable effort on the part of grant applicants to make the required applications, many of them requiring that conflicting deadlines be met.

The committee bill addresses these problems in two ways. First, to prevent any unnecessary expenditure of time and funds on the part of the applicants, the committee bill permits the Secretary to waive the requirement for applying for support under all training authorities, where the filing of the application would be futile or unreasonably burdensome. To alleviate further the complexities of this procedure, the committee bill also requires that a uniform funding cycle be established for the grant review and award process under section 776 and title XII, and that funding priorities and emphases be coordinated between the two programs. The greater coordination between the EMS Division and the training grant programs mandated by the committee bill should alleviate this problem also.

During the hearings on S. 2548 testimony was presented demonstrating that there is a need for special training programs for physicians in emergency medicine. Projections have been made by the American College of Emergency Physicians that as many as 180 emergency medicine residency training programs will be needed by 1980 in order to meet projected emergency medical physician manpower needs by the year 2000. Today there are only 32 such residencies. It is recognized that emergency physicians require particular competence and training to deal with the unique character of emergency medical problems. However, the committee believed that the specific number of emergency medicine residencies needed can best be determined as a part of currently contemplated national and local efforts to study and plan for post-graduate medical education.

The Committee on Labor and Public Welfare, on which I am privileged to serve, has, in considering other legislation, made it clear that steps must be taken to alleviate the problems arising from the specialty maldistribution of physicians. Although I recognize that the emergency room should not—optimally—be used as a primary care facility, the fact remains that until problems of geographic and specialty maldistribution are ameliorated, the emergency room physician will be called upon to provide primary care to a substantial element of the community—from primary care to the most critical care. At present, of the care provided in emergency rooms, only 10 percent is specialized care. In many communities, the emergency room physician is, in fact the general physician. Training programs for this professional, therefore, can serve to improve the quality of health care provided to major sectors of the population.

During hearings on S. 2548, Mr. President, the committee also received testimony indicating that physicians currently serving in emergency rooms could benefit from continuing education programs and on-the-job training in emergency medical procedures. To date, more than 90 percent of the estimated 15,000 phyisicians providing emergency medical care are mid-career or second-career physicians who have reached no formalized training in emergency medicine. In view of the demonstrated need for additional training of physicians to staff emergency rooms, the committee bill earmarks for the development of programs for the training of emergency physicians a portion of the funds appropriated for carrying out the section 776 EMS training program. I believe immediate results can be obtained in terms of improved emergency services through upgrading the ability of those physicians currently staffing emergency rooms and that this type of training should receive substantial support under the revised authorities of section 776, along with programs to develop residency training programs.

RESEARCH IN EMERGENCY MEDICAL TECHNIQUES

Mr. President, I believe that every effort should be made to insure that the results of research supported under section 1205 are made known to those individuals in the community responsible for carrying out EMS programs and be applied to existing systems where appropriate. In particular, I believe the special characteristics of rural areas should be considered in those research programs the purpose of which is to improve the provision of emergency medical services promptly and efficiently.

Consistent with the committee's decision that the expertise of the administrative unit responsible for administering the EMS systems program should be utilized in all programs related to emergency medical services supported under the Public Health Service Act, the committee bill provides that the administrative unit shall have the right to concur in regulations, guidelines, funding priorities, and grants and contracts made under section 1205. This close cooperation and consultation should be of benefit to both the services program and the research program, and should result in substantive advances in efforts to improve the techniques and technology involved in the provision of emergency medical services.

TECHNICAL AND CONFORMING CHANGES

Mr. President, a number of technical, clarifying, and conforming changes are made to title XII. The more substantive include the extension of the expired authority for awarding planning grants under section 1202 and first year initial establishment and operation grants under section 1203. The committee bill also makes the provision renewing the first year section 1203 grant authority effective in fiscal year 1976, so that the grant cycle scheduled for June will be authorized to award grants for that purpose, and applications for that purpose will be considered on a competitive basis with applications for other stages of systems development. In addition, in order to enable HEW to monitor the development of EMS systems and provide the necessary technical assistance to the grantees, each grantee is required to submit reports on the results of such project at intervals prescribed by the Secretary. An identical reporting requirement is currently mandated for grantees receiving planning support, and the new provisions in the committee bill apply the identical requirements to grantees of sections 1203 and 1204 awards.

The committee bill would amend title XII to correct the inadvertent application of the prohibition in that act against new grant or contract support under the Public Health Service Act for any project which would be eligible to receive title XII funds unless all title XII funds authorized have been appropriated and obligated, to Public Health Service Act grants or contracts for research in emergency medical techniques, methods, devices, and delivery which are eligible for support under section 1205.

The amendment would except from this prohibition grants and contracts made under the authorities of section 301, the general research authority of the Public Health Service Act, and title IV of the Public Health Service Act, governing programs of the National Institutes of Health.

In developing Public Law 93–154, this provision was intended to insure that support for emergency medical services would be provided only to grantees able to meet the requirements or to give assurances of meeting the requirements of comprehensiveness which characterizes grant support under title XII. The intention was not to prohibit research carried out by the National Institutes of Health or by the National Center for Health Services Research and Development. These agencies have an important role to play in supporting research in many areas affecting emergency medical services. The National Heart and Lung Institute, for instance, is authorized by Public Law 92–423, the National Heart, Blood Vessel, Lung, and Blood Act of 1972, as amended, to conduct demonstration programs in the application of research in emergency medical services and techniques to heart, blood, and lung diseases. The National Institute of General Medical Sciences supports the development of trauma and burn centers. The continuation of research in these areas is vital and would be wholly complementary to implementation of the provisions of title XII. The amendment made by the committee bill would remove any reason to interpret this provision as restricting research programs.

This provision is similar to a proposal included in legislation proposed by the administration last year.

BURN INJURIES

Persons with burn injuries most frequently receive their initial treatment through the local EMS system which then is responsible for referring the patient to the appropriate level of care.

I have been very impressed with the magnitude of the burn problem in the United States, and the need for a coordinated effort on a regional basis to reduce several facets of that problem. However, before steps can be taken to reduce the problem more information and data must be gathered on which to base a major effort.

Mr. President, there is a clear need to improve the delivery of burn care, the national understanding of the magnitude of the burn problem, the utilization of current resources, the support and appropriate placement of treatment programs, specialized training for physicians, nurses and ancillary professional and paramedical personnel, and programs for rehabilitation; to establish evaluation methodologies on a regional basis—to provide epidemiological data on burn incidence, the tracking of patients to the most appropriate levels of care, and immediate and long-term treatment and rehabilitation outcomes; and to obtain comparative cost data for systems of burn care.

Good burn care requires careful planning and coordination on a regional basis. This raises complex questions regarding facility and professional relationships, including the reporting of burn injuries and the evaluation of treatment, particularly since appropriate regions may cover more than one Health Service Area, and may cross State boundaries. Systems planning funded under title XII has spearheaded regional planning with respect to the overall trauma problem. Additional legislative authority is needed however, to extend this approach to the area of burns, which raises certain unique problems in the complexity and duration of the treatment and rehabilitation of its more severe victims.

The committee bill adds a new part to title XII to authorize grants for the establishment, operation, and improvement of programs to demonstrate the treatment and rehabilitation of burn victims, to conduct research in the treatment and rehabilitation of burn victims, and to provide training in the treatment and rehabilitation of burn victims. The provision provides for priority to be given, in supporting any such programs, to programs in areas in which such services are not being adequately provided and which are in, or accessible to, the service area of an EMS system.

I believe this provision will provide the authority to conduct a burn demonstration program over a 3-year period, based on a regional concept, which would demonstrate the treatment and rehabilitation of burn patients, and provide a basis for determining where a Federal investment would be most effective in the future.

In order for such a program to provide the information necessary to determine the Federal role in mounting a burn program, it must include alternative patterns of care, be based in sites offering a representative geographic and population density mix, and must be competent to develop the information necessary to make rational decisions for future programs.

The committee believed coordination between burn treatment regions and regional EMS systems can contribute substantially to improved treatment of burn injuries through coordinated triage and transfer arrangements, and believe sites chosen for the demonstration program should have access to systems supported under part A of title XII.

It is intended that this demonstration program will provide guidance as to how systems for burn care can best be developed. Alternative patterns need to be evaluated, to help provide the proper balance between maintaining referral patterns for the most advanced facilities, which will carry the burden of leadership in teaching and research, and providing quality care in institutions as close as possible to the patient's home.

Demonstration efforts should also consider the role of training programs, the applicability of regional and State burn registries, and the evaluation of current and future research results, treatment protocols, rehabilitation programs, and project and cross-project evaluation. The committee bill provisions described in the section immediately below on "reports" should contribute substantially to the development of data to facilitate the evaluation processes.

I am particularly aware of the need to improve at all levels the training of those who will provide burn care either on a full-time basis or as part of their health care practice. Especially important is the training of those medical and nursing professionals needed to direct programs in existing or proposed facilities. Some of this training can be done in conjunction with EMS training.

In connection with support for the continuation of research for the treatment and rehabilitation of burn victims, I believe HEW should continue to use existing authorities in the National Institute of General Medical Sciences to support basic and applied biomedical research. I also feel that prompt emphasis should be given to the application of research findings which have been reported and await development.

REPORTS

Mr. President, the committee bill directs the Secretary to conduct studies to identify those categories of patients who should be included in a uniform reporting system in order to develop meaningful data on the effectiveness of EMS systems and burn programs.

Identification of those categories of patients together with the development of a uniform reporting system should provide much valuable documentation of effective treatment mechanisms utilized in EMS systems and in burn programs.

TRANSFER OF EQUIPMENT

Mr. President, a problem has arisen with respect to equipment purchased for seven communities which had received contracts from HEW for the improvement of emergency medical services under a demonstration program prior to the enactment of the Emergency Medical Services Systems Act of 1973. Under general contract law, equipment purchased with Government funds must revert to the Government upon the conclusion of the contract. Thus, those seven communities which had contracts for developing emergency medical systems now have a total of about 7 million dollars' worth of equipment which technically should revert back to the Federal Government unless it is purchased by the community. This equipment is now an integral part of these communities' EMS system, and the Department of HEW has advised the Committee on Labor and Public Welfare that the communities do not have the financial resources to purchase it.

The committee bill, therefore, includes a provision, approved and drafted by the administration—with OMB approval—to permit HEW to vest, in the seven EMS systems supported under the demonstration program prior to enactment of the EMS Act, title to equipment purchased with these prior contract funds. These systems are in Jacksonville, Fla., and the eight surrounding counties; seven counties in southeastern Ohio; the State of Illinois; the State of Arkansas; three counties in southern California; Baltimore, Md., and the six surrounding counties; and the five northern counties of Arizona.

AMENDMENT TO THE NATIONAL ARTHRITIS ACT OF 1974

Mr. President, the committee bill amends the National Arthritis Act of 1974, which I also authored, to extend the life of the National Commission on Arthritis until December 31, 1976. Extending the life of the Commission until that date beyond its present early June expiration date will provide continuity, and retain the experience of the Commission members for the National Institutes of Health, as the new program, recommended by the Commission, is considered and implemented.

Such an extension was recently enacted for the National Commission on Diabetes Mellitus in an amendment to the Health Research and Health Services Amendments of 1976 (Public Law 94-278).

Mr. President, the costs of this bill are reasonable. I ask unanimous consent to insert in the Record at this point a table showing the costs of S. 2548 if all funds authorized are appropriated.

There being no objection, the table was ordered to be printed in the Record, as follows:

TABLE 1.—AUTHORIZATIONS OF APPROPRIATIONS IN S. 2548 AS REPORTED

[In millions of dollars]

	1976	Transition quarter	1977	1978	1979	Total
Sec. 1207(a) (systems development)		5.083	50	70	75	200.083
Sec. 1207(b) (research)			5	5	5	15
Sec. 1221(c) (burn injuries)			3	5	6	14
Sec. 776 (training)	10		10	10	10	40
Total	10	5.083	68	90	96	269.083

Mr. CRANSTON. Mr. President, I ask unanimous consent that a detailed section-by-section analysis of S. 2548 as reported from committee, be printed in the Record at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

CONCLUSION

Mr. CRANSTON. Mr. President, adoption of S. 2584 will enable communities across the Nation to meet the great need of providing adequate and immediate care to victims of accident and sudden illness. It will help prevent the avoidable tragedies of long-term disabilities or death which too often result from inadequate care at the time of the emergency.

I would like again to express my admiration and thanks for the leadership provided in the development of this legislation by the distinguished Senator from New Jersey (Mr. Williams), chairman of the Committee on Labor and Public Welfare, and by the distinguished Senator from Massachusetts (Mr. Kennedy), chairman of the Subcommittee on Health, as well as by the distinguished respective ranking minority committee and subcommittee members, the Senator from New York (Mr. Javits) and the Senator from Pennsylvania (Mr. Schweiker). The Senator from West Virginia (Mr. Randolph) also was of tremendous assistance in the development of the bill's provisions, and many of the suggestions made in his bill, S. 2673, were incorporated into S. 2548.

I look forward to working with my colleagues in the other body to accommodate our differences and enact a bill that will strengthen the efforts in the Nation's communities to improve emergency medical services.

I urge the full support of the Senate for S. 2584 as reported and amended on the floor today.

Exhibit 1 follows:

Exhibit 1

Section-by-Section Analysis of S. 2548 as Reported

SECTION 1

Subsection (a) provides that this Act may be cited as the "Emergency Medical Services Amendments of 1976."

Subsection (b) declares that whenever in the Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act.

SECTION 2

Amends paragraphs (4) and (5) of section 1201 of tile XII, Public Health Service Act, by striking out the present reference to the section 314(b) areawide health planning agency and reference to the section 314(b) plan and substituting a reference to a section 1521 State health planning and development agency and a reference to a section 1515 health systems agency. Defines a "section 1521 State health planning and development agency" as the state agency designated to perform state health planning and development functions under section 1521(b)(3) of title XV, Public Health Service Act. A "section 1515 health systems agency" is defined as a health systems agency designated to perform area health planning functions under section 1515 of title XV, Public Health Service Act. The term "health systems plan" is defined as a health systems plan referred to in section 1513(b)(2) of title XV, Public Health Service Act.

SECTION 3

Makes a series of amendments to present section 1202 of title XII, Public Health Service Act, to extend the authority of the Secretary to make grants and enter into contracts with eligible entities for planning (A) the establishment and operation of, or (B) the expansion and improvement, or (C) both, of a EMS system to authorize the Secretary to make a second grant or contract under defined circumstances; and to delete the reference to the section 314(b) Statewide planning agency and to substitute in lieu thereof a reference to the section 1515 health systems agency.

Clause (1) of section 3 amends subsection

(a) by clarifying the authority of the Secretary to make grants to and enter into contracts with eligible entities for the purpose of planning (A) the establishment and operation, or (B) the expansion and improvement, or (C) both, of an EMS system.

Clause (2) of section 3 amends paragraph (1) of subsection (b) by adding reference to the exception provided by clause (3) of this section.

Clause (3) of section 3 adds a new paragraph (2) to subsection (b) providing authority to the Secretary to make a second grant or contract under subsection (a) respecting an EMS system to which a grant or contract described in paragraph (1) has been made, when he determines that such a grant is necessary (A) to assist an entity in planning for expansion and improvement of such system in connection with an application for an initial year of support under section 1204, (B) to assist a State to update a Statewide plan, or (C) prior to October 1, 1976, to assist an entity in planning to meet the new requirements added to sections 1203 and 1204 by the Emergency Medical Services Amendments of 1976.

Clause (4) of section 3 deletes the reference to a section 314(b) areawide health planning agency and substitutes in lieu thereof a reference to a section 1515 health systems agency and requires that an application for grants or contracts under section 1202 contain assurances satisfactory to the Secretary that the planning will be conducted in cooperation with such section 1515 health systems agency.

SECTION 4

Clause (1) contains a series of amendments to present section 1203 requiring that (A) a second grant under section 1203 may not be made unless the entity submits with an application (1) specified assurances from the executive or legislative governing bodies in the local jurisdiction of support and cooperation with regional or Statewide EMS systems, (2) assurances of continued financial support, and (3) assurances and specific plans for compliance with each of the requirements of present section 1206(b) (4) (C); (B) no grant or contract under section 1203 may be made after September 30, 1979, to an entity which did not receive a grant for the preceding fiscal year; (C) in regard to the first grant or contract under section 1203 in each case no less than 25 percent of the non-Federal share of the operating costs shall be in cash which shall be made available to the regional entity responsible for administering the operation of the system; and (D) in regard to the second grant or contract under section 1203, in each case no less than 50 percent of the non-Federal share of the operation costs shall be in cash which must be made available to the regional entity responsible for administering the operation of the system. Clause (2) adds a new paragraph at the end of present section 1203 requiring that reports of each establishment or initial operation project be submitted to both the Secretary and the Interagency Committee on Emergency Medical Services.

Clause (1) (A) of section 4 adds a new sentence at the end of subsection (c) (2) requiring that a second grant or contract may no be made under section 1203 unless the entity submits with an application for assistance under this section (A) copies of formal resolutions or proclamations of the executive or legislative governing bodies in the local jurisdiction included in the system's service area (i) pledging each such jurisdiction's support and cooperation with the regional, or Statewide, EMS system, and (ii) providing assurances of financial support in the year subsequent to that for which financial assistance is sought which in the aggregate will maintain the system at a level equal to that sought in the application; and (B) assurances, accompanied by specific plans indicating step-by-step achievements, of compliance with each of the requirements of section 1206(b) (4) (C) by the conclusion of the maximum period for support for an EMS system under part A of title XII, Public Health Service Act.

Clause (1) (B) of section 4 amends subsection (c) (3) to extend to September 30, 1979, the date after which no grant or contract may be made under section 1203 to an entity which did not receive a grant or contract for the preceding fiscal year.

Clause (1) (C) of section 4 amends subsection (c) (4) (A) to require that no less than 25 percent of the non-Federal share of operation costs of a first grant or contract made under section 1203 shall be in cash and requires further that the grant or contract shall provide that such amount shall be made available to the regional entity responsible for administering the operation of the system for use in defraying operating costs or otherwise to carry out the administration of the system.

Clause (1) (D) of section 4 amends subsection (c) (4) (B) to require that no less than 50 percent of the non-Federal share of a second grant or contract made under section 1203 shall be in cash and requires further that the grant or contract shall provide that such amount shall be made available to the regional entity responsible for administering the operation of the system for use in defraying operating costs or otherwise to carry out the administration of the system.

Clause 2 of section 4 adds a new paragraph (6) to subsection (c) directing that reports of the results of each establishment or initial operation project assisted under section 1203 be submitted to the Secretary and to the Interagency Committee on Emergency Medical Services at such intervals as the Secretary may prescribe and directing that a final report of such results shall be transmitted to the Secretary and such Committee not later than one year from the expiration of the last year for which a grant or contract was made under section 1203 for such project.

SECTION 5

Amends section 1204 by deleting present subsection (b) and adding new subsection (b) and (c) which specify the authority of the Secretary to make grants or enter into contracts under this section for projects' costs of expansion and improvement of EMS systems and require annual reports of such projects.

New subsection (b) provides that:

(1) Each grant or contract shall be made for the projects costs of expansion and improvement of a system in the year for which the grant or contract is made.

(2) Except as provided in new paragraph (3) (C), the Secretary may make only one additional grant or contract to that system and he may make that one additional grant or contract only if, after review of the first nine months' activities of the applicant, he determines that the project is satisfactorily progressing.

(3) (A) Subject to section 1206(f), the amount of the first grant or contract under this section may not exceed 50 percent of the expansion or improvement costs unless the applicant demonstrates an exceptional need for financial assistance in which case the grant or contract may not exceed 75 percent of such costs, and in each case no less than 25 percent of the non-Federal share shall be in cash which shall be made available to the regional entity responsible for administering the operation of the system for use in defraying the cost of improvement and expansion of the system.

(B) The amount of the second grant or contract under this section may not exceed 25 per centum of such costs unless the applicant demonstrates an exceptional need for financial assistance in which case the grant or contract may not exceed 50 per centum of such costs and in each case no less than 50 per centum of the non-Federal share be in cash which shall be made available to the regional entity responsible for administering the operation of the system for use in defraying the costs of improvement and expansion of the system.

(4) No grant or contract can be made under section 1204 unless the entity submits with an application for assistance under such section (i) copies of resolutions or proclamations of the executive or legislative governing bodies in the local jurisdictions included in the system's service area (I) attesting to their endorsement and support of a specific forecast and detailed financial plan demonstrating the system's ability to carry out and maintain the level of expanded or improved activity to be achieved under such grant or contract, and (II) pledging each such jurisdiction's support and cooperation with the regional or Statewide EMS system, and (ii) assurances accompanied by specific plans showing step-by-step achievement, of compliance with each of the requirements of section 1206(b) (4) (C) by the conclusion of the maximum period for support for an emergency medical services system under part A, title XII, Public Health Service Act.

(5) A second grant or contract may not be made under section 1204 unless the entity submits with an application for assistance under section 1204 evidence of substantial progress in the legislative or executive process in the local jurisdiction included in the system's service area toward providing the requisite budgetary support under new subparagraph (A) of this new paragraph with the application for a first year of support under this *section*.

New subsection (c) provides that prior to October 1, 1976, the Secretary may make a third grant under this section to an eligible entity to enable it to achieve the capacity for self-sufficiency required by the amendments made to section 1204 by the Emergency Medical Services Amendments of 1976.

New subsection (c) requires that reports of the results of any expansion and improvement project assisted under section 1204 to be submitted to the Secretary and the Interagency Committee on Emergency Medical Services at such intervals as the Secretary may prescribe, and requires a final report of such results to be transmitted to the Secretary and such Committee not later than one year from the expiration of the last year for which a grant or contract was made under section 1204 for such project.

SECTION 6

Amends section 1205 by clarifying contracts under such section may be made to public entities; and requiring that (A) emphasis in awarding research grants or contracts be placed on identifying and utilizing techniques to apply the results of such research to improve the delivery of emergency medical services to rural areas; (B) reports under section 1205 contain recommendations and a plan of action for applying the results of research to improve the delivery of emergency medical services; and (C) no regulation, guideline, funding priority, application form, grant or contract shall be established or made under section 1205 without the concurrence of the identifiable unit required under new section 1208.

Clause (1) of section 6 clarifies that contracts may be made to public entities under section 1205.

Clause (2) of section 6 adds a new sentence at the end of present subsection (a) requiring that in awarding grants or contracts for research relating to the delivery of emergency medical services in rural areas, emphasis shall be placed on identifying and utilizing techniques and methods to apply the results of such research to improve the delivery of emergency medical services in such areas.

Clause (3) of section 6 adds a new sentence at the end of present subsection (c) requiring that reports under section 1205 shall contain recommendations and a plan of action for applying the results of research to improve the delivery of emergency medical services.

Clause (4) of section 6 adds a new subsection (d) requiring that no regulation, guideline, funding priority, application form, grant or contract shall be established or made under this section without the concurrence of the identifiable administrative unit required under section 1208.

SECTION 7

Amends section 1206 by limiting to five the total number of years of support under Part A, title XII, Public Health Service Act by (A) substituting for the reference to a 314(b) agency reference to a section 1521 State health planning agency and a section 1515 health systems agency; (B) requiring that an EMS service system meet the specified requirements within the total period of eligibility under section 1203 or 1204; (C) providing that the non-Federal share cash requirements under new section 1203(c)(4) and 1204(b)(2) shall not apply to the extent that an applicant demonstrates inability, due to extreme financial distress, to meet such requirement; (D) permitting appropriate alternative coordinated emergency telephone procedures, and requiring that EMS systems have the capability to communicate with individuals having auditory and sensory handicaps, and to communicate in the language of predominant non-English-speaking population groups in the system's service area; (E) requiring that the system make maximum use of communications equipment and systems under several authorities; (F) requiring maximum use of vehicles made available under authority of the Highway Safety Act; (G) modifying the patient transfer requirement; (H) requiring the systems to provide for the capacity for objective review and evaluation and make reports of such reviews; (I) deleting subsection (b)(5); (J) adding to permissible EMS research, even if title XII authorities are not fully funded, research under Public Health Service Act section 301 or title IV in addition to title VII; (K) clarifying the prohibition on awarding grants so that it is contingent on appropriation and obligation of grants for systems development only; and (L) providing that the required filing of applications under title VII or VIII may be waived if the applicant has demonstrated that the filing would be futile or unreasonably burdensome.

Clause (1) of section 7 adds, at the end of present subsection (b)(1) a provision, that, notwithstanding any other provision of part A of title XII, Public Health Service Act, not including a second planning and feasibility grant or contract under section 1202(b)(2), no applicant shall receive more than a total of five years' support under such part.

Clause (2) of section 7 deletes subclauses (i) and (ii) of subsection (b)(3)(D) and adds, in lieu thereof, a new subclause requiring that no application for a grant or contract under section 1202 may be approved unless the appropriate section 1521 State health planning and development agency and section 1515 health systems agency have had not less than thirty days in which to comment on the application.

Clause (3)(A) of section 7 amends subparagraph (B)(i) by clarifying that the period within which an EMS system must meet each of the application requirements set forth in subparagraph (A) may extend to the total period of eligibility for assistance under section 1203 or 1204, whichever is applicable.

Clause (3)(B) of section 7 provides that if an applicant submits an application for a grant or contract under section 1203 or 1204 and demonstrates to the satisfaction of the Secretary the inability of the applicant, due to the extreme financial distress of one or more of the governmental entities for the local jurisdiction or jurisdictions comprising the substantial portion of the system's service area to meet, in whole or in part, the new cash non-Federal share requirements added to sections 1203(c)(4) and 1204(b)(2) by sections 4 and 5 of the Committee bill, such new requirements shall not apply to the extent of such demonstrated inability.

Clause (3)(C) of section 7 makes various new system components in subparagraph 4(c)(iii): (A) an appropriate alternative coordinated emergency telephone procedure as an alternative to 911; (B) the capability to communicate with individuals having auditory and other sensory handicaps and in the language of the predominant population groups with limited English-speaking ability in the system's service area; the (C) maximum use of communications equipment and systems made available under the authorities of the Highway Safety Act (23 U.S.C. 402; 80 Stat. 718, as amended) and title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 1731 et seq., 87 Stat. 197 et seq.).

Clause (3)(D) of section 7 makes a new component requirement in subparagraph (4)(c)(iv) that the applicant shall make maximum use of vehicles made available under authorities of such Highway Act.

Clause (3)(E) of section 7 clarifies that transfer of patients shall be done where feasible in subparagraph (4)(c)(x).

Clause (3)(F) of section 7 clarifies that patient record keeping systems must be coordinated in lieu of standardized in subparagraph 4 (C)(x).

Clause (3)(G) of section 7 deletes subparagraph (4)(C)(xiii) and, in lieu thereof, adds a new subparagraph which revises the evaluation component to require that the applicant (A) provide capacity for periodic and objective review and evaluation of the extent and quality of the emergency health care services provided in the system's service area (including consideration of management performance, process measures, and patient outcomes), and (B) submit to the Secretary the reports of any such review and evaluation and the data collected to carry out this requirement.

Clause (4) of section 7 deletes subsection (b)(5), requiring the Secretary to provide technical assistance to applicants. This requirement is added by section 9 of the Committee bill to the duties of the administrative unit established pursuant to section 1208.

Clause (5)(A) of section 7 adds grants awarded under section 301 or title IV to those grants excepted from the prohibition against awarding grants for projects which would be eligible for title XII support.

Clause (5)(B) of section 7 clarifies that such prohibition against awarding grants is dependent upon the appropriation and obligation of the funds authorized to be appropriated for systems development only.

Clause (6) of section 7 adds in subsection (f)(2) a new clause permitting the Secretary to authorize the recipient of a grant or contract under section 1203 or 1204 to use funds under such grant or contract for any training program in connection with an EMS system without requiring the applicant to file an application under title VII or VIII when the applicant has demonstrated to the satisfaction of the Secretary that the filing of such an application would be futile or unreasonably burdensome.

SECTION 8

Amends section 1207 by (A) authorizing appropriations for grants or contracts under sections 1202, 1203, and 1204, for fiscal years 1976, 1977, 1978, and 1979; (B) requiring that not more than 10 percent of such sums be made available only for grants and contracts under section 1202; (C) changing the section 1203 earmark of 75 percent to a maximum funding limit; (D) changing the section 1204 earmark of 25 percent to a maximum funding limit of 45 percent; and (E) by extending the authorizations of appropriations for EMS research for three additional years.

Clause (1) of section 8 amends subsection (a)(1) by authorizing the appropriation of $5,083,000 for the transition quarter, by extending the authority to support grants under section 1202 through fiscal year 1978, and by authorizing to be appropriated for grants under sections 1202, 1203, and 1204, $50,000,000 for fiscal year 1977, and $70,000,000 for fiscal year 1978; and for grants and contracts under sections 1203 and 1204, $750,000,000 for fiscal year 1979.

Clause (2) of section 8 deletes present subsection (a)(4)(A) and adds, in lieu thereof, a new such subsection requiring that not more than 10 percent of such sums shall be made available only for grants and contracts under section 1202 (relating to feasibility studies and planning) for fiscal year 1976.

Clause (3) of section 8 redesignates clause (A) and (B) in subsection (a)(4) as (B) and (C), respectively.

Clause (4) of section 8 changes the section 1203 earmark of 75 percent to a maximum funding limit of 75 percent for fiscal year 1976.

Clause (5) of section 4 changes the section 1204 earmark of 25 percent to a maximum funding limit of 45 percent for fiscal year 1976.

Clause (6) of section 8 adds a new paragraph (5) at the end of subsection (a) which requires that of the sums appropriated under paragraph (1) for fiscal year 1977, and the succeeding fiscal year, at least 5 per centum but not more than 10 per centum of such sums for each such fiscal year shall be made available only for grants and contracts under section 1202 for such fiscal year, and of the sums appropriated under paragraph (1) for fiscal year 1977, and the succeeding two fiscal years, not more than 70 per centum of such sums for each such fiscal year shall be made available only for grants and contracts under section 1203 for such fiscal year, and not more than 45 per centum of such sums for each such fiscal year shall be made available only for grants and contracts under section 1204 for such fiscal year.

Clause (7) of section 8 authorizes the appropriation of $5 million in fiscal years 1977, 1978, and 1979 for research grants and contracts under section 1205.

SECTION 9

Revises section 1208 to define more specifically the administrative unit responsible for administering EMS programs and its functions.

Subsection (a) of the new section provides that the Secretary shall administer the program of grants and contracts (except for grants and contracts under section 1205) authorized by this part through an identifiable administrative unit specializing in emergency medical services within the Department of HEW.

Subsection (b) of the new section provides that such administrative unit shall—

(1) be responsible for collecting, analyzing, cataloging, and disseminating all data useful in the development and operation of EMS

systems, including data derived from reviews and evaluations of EMS systems assisted under sections 1202, 1203, and 1204;

(2) publish suggested criteria for collecting necessary information from, and for evaluation of, projects funded under this title;

(3) concur in the regulations, guidelines, funding priorities, application forms, grant awards, and contracts with respect to the research program under section 1205 and the training program under section 776;

(4) be consulted in advance of the issuance of regulations, guidelines, and funding priorities for research and training related to emergency medical services carried out under any other authorities of the Public Health Service Act;

(5) provide technical assistance and monitoring with respect to grant and contract activities under sections 1202, 1203, and 1204; and

(6) provide for periodic independent evaluation of the effectiveness and coordination of programs carried out under this part A and section 776:

Subsection (c) of the new section provides that not less than 7 percent of the funds appropriated each year under section 1207(a)-(1) shall be set aside for administration (including salaries of all unit personnel), data gathering and dissemination, technical assistance, monitoring, and independent evaluation, and to support the Interagency Committee established under section 1209, but in no event shall more than $3,000,000 be so set aside.

SECTION 10

Amends section 1209 by adding to subsection (a) a new subparagraph (2) setting forth responsibilities of the Interagency Committee on Emergency Medical Services.

New paragraph (2) of subsection (a) provides that not later than July 1, 1977, the Interagency Committee on Emergency Medical Services shall—

(1) develop and publish (i) a coordinated, comprehensive Federal EMS funding and Federal resource-sharing plan (designed to enhance the effectiveness of Federal programs of assistance for emergency medical services and related activities, including communication and transportation systems of public safety agencies, and to promote the maximum feasible joint and coordinated Federal funding and operation of such programs and systems in order to establish integrated response capabilities to medical emergencies, including a report with respect thereto containing any recommendations for legislation as may be necessary to insure such response capabilities); and (ii) a coordinated description, to be disseminated to all participating and other relevant Federal agencies' regional offices and funding recipients, of sources of Federal support for the purchase of vehicles and communications equipment as well as for training activities;

(2) develop and publish recommended uniform standards of quality and health and safety with respect to all equipment (including communications and transportation equipment) and training related to emergency medical services; and

(3) with the Secretary, utilizing all authorities available to him, take all feasible steps to encourage States to reinforce, through appropriate actions, the minimum quality and health and safety standards recommended by the Committee pursuant to such standards.

Section 10 also amends subsection (e) to specify that reports of reviews and evaluations of EMS systems assisted under section 1202 shall be made available to the Interagency Committee as well as reports of systems assisted under sections 1203 and 1204.

SECTION 11

Amends section 776 by (A) expanding the authority of the Secretary to make grants for training in emergency medical services to include as eligible applicants, hospitals and certain EMS systems meeting the qualifications of section 1206(b)(4), and to include development of programs and training of physicians in emergency medicine; (B) requiring activities under section 776 to have the concurrence of the administrative unit required under section 1208(a); (C) providing for, to the maximum extent practicable, a uniform funding cycle under section 776 and title XII, Public Health Service Act; and (D) authorizing appropriations through fiscal year 1979, and earmarking a defined proportion of such sums as may be appropriated for assistance in the training of physicians in emergency medicine.

Clause (1) of section 11 authorizes the Secretary to make grants and enter into contracts with hospitals or a State, a unit of general local government, or any other public entity which has established an EMS system or given adequate assurances that it will establish such a system which meets the requirements of section 1206(b)(4) and (except with respect to the training of basic emergency medical technicians) which has entered into a contract or other agreement with an appropriate educational entity for the training program in question to assist in meeting the cost of training programs in the techniques and methods of providing emergency medical services; and provides that such grants or contracts may include program development and training of physicians in emergency medicine.

Clause (2) of section 11 extends the authorizations of appropriations through fiscal year 1979 at $10,000,000 annually and provides that of the funds appropriated under paragraph (1) for any fiscal year—

(A) if the amount appropriated does not exceed $6,600,000, the Secretary shall obligate an amount not to exceed $1,250,000 or 20 percent of the amount appropriated, whichever is the lesser, or

(B) if the amount appropriated exceeds $6,600,000, the Secretary shall obligate $1,250,000 plus 50 percent of the sums appropriated above that amount,

to assist in program development and training of physicians in emergency medicine.

Clause (3) of section 11 adds new subsections (e) and (f) to section 776.

New subsection (e) provides that no regulation, guideline, function, priority, application form, or training grant shall be established or made under this section without the concurrence of the administrative unit required under section 1208(a).

New subsection (f) provides that, to the maximum extent practicable, the Secretary shall establish a uniform funding cycle to facilitate applications for grants and contracts under title XII and under section 776, and to facilitate coordinated funding priorities and emphases between programs carried out under those authorities.

SECTION 12

Provides that sections 1201 through 1210 of title XII shall be redesignated as part A and adds a new part B which provides for the support of demonstration programs in the treatment of burn injuries and related research and training.

New section 1221 provides:

(a) The Secretary may conduct and make grants to and enter into contracts with public or private non-profit entities and, with respect to research, enter into contracts with public or private entities and individuals, for the support of programs for the establishment, operation, and improvement of activities to (1) demonstrate the effectiveness of various modalities of treatment and rehabilitation of individuals injured by burns, (2) carry out research in the treatment and rehabilitation of such individuals, or (3) provide training in such treatment and rehabilitation and in such research.

No grant or contract may be made under subsection (a) unless an application therefor has been submitted to, and approved by, the Secretary, in such form and manner and containing such information as the Secretary may require. In considering applications under this section, the Secretary shall give priority to applications for programs which (1) will provide services within a geographical area in which services are not currently being adequately provided and (2) are in or accessible to the service areas of an EMS system meeting the requirements of section 1206(b)(4).

(c) For purposes of carrying out subsection (a), there are authorized to be appropriated $3,000,000 for fiscal year 1977, $5,000,000 for fiscal year 1978, and $6,000,000 for fiscal year 1979.

SECTION 13

Provides that notwithstanding any other provision of law, the Secretary of HEW is authorized to vest title to equipment purchased with contract funds under the seven contracts for EMS demonstration projects entered into in 1972 or 1973 under section 304 of the Public Health Service Act (as in effect at the time the contracts were entered into) in the contractors or their subcontractors without further obligation to the Government or on such other terms as the Secretary considers appropriate.

SECTION 14

Provides that the Secretary of HEW shall conduct studies to identify the categories of patients which should be included in a uniform reporting system used to evaluate the effectiveness of EMS systems and burn programs in reducing death and disability. Not later than eighteen months after the date of enactment of the Committee bill, the Secretary shall report to the Congress the results of such studies. Such report shall include such recommendations for legislation relating to such a uniform reporting system as the Secretary determines is appropriate.

SECTION 15

Provides that all amendments and provisions shall be effective on July 1, 1976, except that the following shall be effective on enactment:

1. Section 2—making amendments conforming references to section 314 (a) and (b) agencies to new title—XV agencies.
2. Section 3—clarifying purposes for which planning grants may be made and permitting second planning grants under certain circumstances.
3. Section 4(1)(B)—permitting a first-year section 1203 grant through fiscal year 1978.
4. Section 8—authorizing appropriations and making changes in the earmarking requirements for such appropriations.
5. Section 10—setting forth duties and functions of the Interagency Committee on Emergency Medical Services.
6. Section 12—establishing a new burn injury treatment, research, and training program.
7. Section 13—authorizing HEW to vest title to equipment purchased with demonstration project contract funds in the grantee.
8. Section 14—mandating studies to identify categories of patients which should be included in a uniform reporting system.

SECTION 16

Amends section 3(j)(2) of the National Arthritis Act of 1974 to extend the life of the National Commission on Arthritis until December 31, 1976. Under present law, the Commission is to expire thirty days after it submits its report, which it did on May 6, 1976.

Mr. WILLIAMS. Mr. President, the Emergency Medical Services System Act of 1973 was passed by Congress with substantial bipartisan support. We recognized that many communities did not have the ability to meet an emergency medical crisis immediately and effectively. These deficiencies still exist within many communities irrespective of the wealth or urban-rural nature of different local areas.

The National Academy of Sciences has estimated that improved emergency medical services could save as many as 60,000 lives a year. This figure represents a substantial percent of the deaths due to traumatic injury each year.

Mr. President, this is not a peripheral health care problem. Accidental injury is the leading cause of death for persons below the age of 38. For example, in 1972 accidents resulted in 117,000 deaths and more than 11 million disabling injuries. These deaths and injuries include infants who need intensive care, drownings, poisoning, drug overdoses, and automobile accidents. Recovery from these accidents could be substantially reduced with an improved emergency medical services system. It is to this end that we must now extend and amend Public Law 93-154 with the Emergency Medical Services Amendments of 1976.

Mr. President, the provisions of this bill specify 15 basic components of an EMS system which all applicants must provide assurances of meeting or being able to meet within a specified period of time. These basic components include such things as well-trained personnel, adequate and centralized communications capability, adequate transportation systems, categorized and nonduplicative facilities, access to specialized medical care units, and assurances that services will be provided without regard to an individual's ability to pay, among other requirements. In addition to grant support for development of an EMS system, the act also provides for specific project grant and contract support for research and training programs in emergency medical services or techinques.

Mr. President, there is a great need to coordinate emergency medical services because small local communities do not have sufficient resources to meet the wide variety of demands made upon them for emergency medical services. Accordingly, funds for EMS systems are to be awarded on a priority basis for regional arrangements or consortium agreements. Such entities will serve a geographical area of sufficient size, population, and economic diversity to establish and maintain a system that would be able to provide emergency medical services in an economical and effective manner.

This concept of regionalization of EMS systems has been initiated by the 1973 law and must be given the time to develop fully. Currently there are 190 regions out of 300 in the country that have not yet entered into the active implementation phase of the program.

Mr. President, it is further intended by this legislation that the process of developing an EMS system can help a region recognize natural patterns of health care utilization and indicate how resources can best be organized to meet the EMS service demand as well as normal patient demand patterns. In this regard, an additional benefit of this legislation is that of encouraging the most effective utilization of all health resources in the region such as health care personnel, facilities, equipment, and specialized treatment facilities, which relate to the emergency patient. It was felt that, in addition to providing services on a regional basis to meet medical emergencies, an EMS system could become a catalyst for organizing the community's health facilities and other resources in a systematic manner, so that essential services would always be available and unnecessary duplication would be avoided.

I therefore believe, Mr. President, that there is ample justification for extending the 1973 Emergency Medical Services Act. This extension will make available to these communities that have made a sincere effort to establish a system, the additional support necessary to complete that effort. It will also give communities which have not yet been assisted the opportunity to begin to develop much needed emergency medical services systems.

Mr. President, in closing, I believe that the Senate owes a deep debt of gratitude to the Senator from California (Mr. CRANSTON) for his careful attention to this important bill and the manner in which he enabled the legislation to so smoothly move through the committee and this body.

The PRESIDING OFFICER. If there are no further amendments, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 2548

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) this Act may be cited as the "Emergency Medical Services Amendments of 1976".

(b) Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act.

SEC. 2. Paragraphs (4) and (5) of section 1201 are amended to read as follows;

"(4) The term 'section 1521 State health planning and development agency' means the agency of a State designated under section 1521(b)(3).

"(5) The term 'section 1515 health systems agency' means a health systems agency designated under section 1515, and the term 'health systems plan' means a health systems plan referred to in section 1513(b)(2).".

SEC. 3. Section 1202 is amended by—

(1) striking out all after "feasibility of" in subsection (a) and inserting in lieu thereof "and (2) planning (A) the establishment and operation, or (B) the expansion and improvement, or (C) both, of an emergency medical services system.";

(2) striking out "If" in subsection (b) and inserting in lieu thereof "(1) Except as provided in paragraph (2) of this subsection, if";

(3) inserting after paragraph (1) (as redesignated by clause (2) of this subsection) of subsection (b) the following new paragraph:

"(2) The Secretary may also make a second grant or contract under subsection (a) respecting an emergency medical services system will respect to which a grant or contract described in paragraph (1) has been made, when he determines that such grant is necessary (A) to assist an entity in planning for expansion and improvement of such system in connection with an application for an initial year of support under section 1204, (B) to assist a State to update a statewide plan, or (C) prior to October 1, 1976, to assist an entity in planning to meet the new requirements added to sections 1203 and 1204 by the Emergency Medical Services Amendments of 1976."; and

(4) amending subsection (d)(3)(A) to read as follows: "(A) with each section 1515 health systems agency whose health systems plan covers (in whole or in part) such area, and".

SEC. 4. Section 1203 is amended by—

(1)(A) inserting at the end of subsection (c)(2) the following new sentence: "A second grant or contract may not be made under this section unless the entity submits with an application for assistance under this section (A) copies of formal resolutions or proclamations of the executive or legislative governing bodies in the local jurisdictions included in the system's service area (i) pledging each such jurisdiction's support and cooperation with the regional, or statewide, emergency medical services system, and (ii) providing assurances of financial support in the year subsequent to that for which financial assistance is sought which in the aggregate will maintain the system as a level equal to that sought in the application; and (B) assurances, accompanied by specific plans indicating step-by-step achievement (including assurances from private and volunteer organizations, associated with and involved in the operation and delivery of emergency medical services, of continued participation and support of the system), of compliance with each of the requirements of section 1206(b)(4)(C) by the conclusion of the maximum period for support for an emergency medical services system under this part.";

(B) striking out in subsection (c)(3) "June 30, 1976," and inserting in lieu thereof "September 30, 1979,";

(C) inserting in subsection (c)(4)(A) "and in each case no less than 25 percentum of the non-Federal share shall be in cash, and the grant or contract shall provide that such amount shall be made available to the regional entity responsible for administering the operation of the system for use in defraying operating costs or otherwise to carry out the administration of the system;" after "year;"; and

(D) inserting in subsection (c)(4)(B) before the period a semicolon and "and in each case no less than 50 per centum of the non-Federal share shall be in cash, and the grant or contract shall provide that such amount shall be made available to the regional entity responsible for administering the operation of the system for use in defraying operating costs or otherwise to carry out the administration of the system"; and

(2) inserting at the end thereof the following new subsection:

"(6) Reports of the results of each establishment and initial operation project assisted under this section shall be submitted to the Secretary and the Interagency Committee on Emergency Medical Services at such intervals as the Secretary may pre-

scribe, and a final report of such results shall be transmitted to the Secretary and such Committee not later than one year from the expiration of the last year for which a grant or contract was made under this section for such project.".

SEC. 5. Section 1204 is amended by—

(1) amending subsection (b) to read as follows:

"(b) (1) Each grant or contract for a project under this section shall be made for the project's costs of expansion and improvement of a system in the year for which the grant or contract is made. Except as provided in paragraph (3) (C), if a grant or contract is made under this section for a system, the Secretary may make one additional grant or contract for that system if he determines, after a review of the first nine months' activities of the applicant carried out under the first grant or contract, that the applicant is satisfactorily progressing in the expansion and improvement of the system in accordance with the plan contained in his application (pursuant to section 1206(b) (4)) for the first grant or contract.

"(2) Subject to section 1206(f)—

"(A) the amount of the first grant or contract under this section for an emergency medical services system may not exceed (i) 50 per centum of the expansion and improvement costs (as determined pursuant to regulations of the Secretary) of the system for the year for which the grant or contract is made, or (ii) in the case of applications which demonstrate an exceptional need for financial assistance, 75 per centum of such costs for such year; and in each case no less than 25 per centum of the non-Federal share shall be in cash, and the grant or application shall provide that such amount shall be made available to the regional entity responsible for administering the operation of the system for use in carrying out the expansion and improvement of the system; and

"(B) the amount of the second grant or contract under this section for a project for a system may not exceed (i) 25 per centum of the expansion and improvement costs (as determined pursuant to regulations of the Secretary) of the system for the year for which the grant or contract is made, or (ii) in the case of applications which demonstrate an exceptional need for financial assistance, 50 per centum of such costs for such year; and in each case no less than 50 per centum of the non-Federal share shall be in cash, and the grant or application shall provide that such amount shall be made available to the regional entity responsible for administering the operation of the system for use in carrying out the expansion and improvement of the system.

"(3) (A) No grant or contract may be made under this section unless the entity submits with an application for assistance under this section (i) copies of resolutions or proclamations of the executive or legislative governing bodies in the local jurisdictions included in the system's service area (I) attesting to their endorsement and support of a specific forecast and detailed financial plan demonstrating the system's ability to carry out and maintain the level of expanded or improved activity to be achieved under such grant or contract, and (II) pledging each such jurisdiction's support and cooperation with the regional, or statewide, emergency medical services system, and (ii) assurances, accompanied by specific plans showing step-by-step achievement (including assurances from private and volunteer organizations, associated with and involved in the operation and delivery of emergency medical services, of continued participation and support of the system), of compliance with each of the requirements of section 1206(b) (4) (C) by the conclusion of the maximum period for support for an emergency medical services system under this part.

"(B) A second grant or contract may not be made under this section unless the entity submits with an application for assistance under this section evidence of substantial progress in the legislative or executive processes in the local jurisdictions included in the system's service area toward providing the requisite budgetary support to carry out the forecast and detailed financial plan submitted under subparagraph (A) of this paragraph with the application for a first year of support under this section.

"(C) Prior to October 1, 1976, the Secretary may make a third grant under this section to an eligible entity to assist such entity to achieve the capacity for self-sufficient required by amendments made to this section by the Emergency Medical Services Amendments of 1976."; and

(2) inserting at the end thereof the following new subsection:

"(c) Reports of the results of any expansion and improvement project assisted under this section shall be submitted to the Secretary and the Interagency Committee on Emergency Medical Services at such intervals as the Secretary may prescribe, and a final report of such results shall be transmitted to the Secretary and such Committee not later than one year from the expiration of the last year for which a grant or contract was made under this section for such project.".

SEC. 6. Section 1205 of such Act is amended by—

(1) inserting in subsection (a) "and enter into contracts with" before "public";

(2) inserting at the end of subsection (a) the following new sentence: "In awarding grants or contracts for research relating to the delivery of emergency medical services in rural areas, emphasis shall be placed on identifying and utilizing techniques and methods to apply the results of such research to improve the delivery of emergency medical services in such areas.";

(3) inserting at the end of subsection (c) the following new sentence: "Such reports shall contain recommendations and a plan of action for applying the results of research to improve the delivery of emergency medical services."; and

(4) inserting at the end of such section the following new subsection:

"(d) No regulation, guideline, funding priority, application form, grant, or contract shall be established or made under this section without the concurrence of the identifiable administrative unit required under section 1208.".

SEC. 7. Section 1206 of such Act is amended by—

(1) inserting at the end of subsection (b) (1) the following new sentence: "Notwithstanding any other provision of this part, no applicant shall receive more than a total of five years of grant or contract support under this part, not including a second planning and feasibility grant or contract under section 1202(b) (2)."

(2) amending subclauses (i) and (ii) of subsection (b) (3) (D) to read as follows:

"(i) section 1521 State health planning and development agency of each State in which the service area of the emergency medical services ssytem for which the application is submitted will be located, and

"(ii) section 1515 health systems agency whose health systems plan covers (in whole or in part) the service area of such system,";

(3) amending subsection (b) (4) by—

(A) inserting in subparagraph (B) (i) a comma and "or the total period of eligibility for assistance under section 1203 or 1204, whichever is applicable" after "application is made";

(B) inserting after subparagraph (B) (ii) the following new division:

"(iii) If an applicant submits an application for a grant or contract under section 1203 or 1204 and demonstrates to the satisfaction of the Secretary the inability of the applicant, due to the extreme financial distress of one or more of the governmental entities for the local jurisdiction or jurisdictions comprising the substantial portion of the system's service area, or to the dependence of such jurisdiction or jurisdictions on the provision of services through voluntary activities, to meet, in whole or in part, the new cash non-Federal share requirements added to sections 1203(c) (4) and 1204(b) (2) by the Emergency Medical Services Amendments of 1976, such new requirements shall not apply to the extent of such demonstrated inability.";

(C) striking out in subparagraph (C) (iii) the comma and "and" after "number 911" and inserting in lieu thereof "or an appropriate alternative coordinated emergency telephone procedure,"; and inserting before the semicolon at the end thereof a comma and "(IV) will have the capability to communicate with individuals having auditory and other sensory handicaps and in the language of the predominant population groups with limited English-speaking ability in the system's service area, and (V) makes maximum use of communications equipment and systems made available under the authorities of the Highway Safety Act (23 U.S.C. 402; 80 Stat. 718, as amended) and title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3731 et seq.; 87 Stat. 197 et seq.)";

(D) inserting in subparagraph (C) (iv) (I) "and shall make maximum use of vehicles made available under the authorities of such Highway Safety Act," after "equipment";

(E) inserting in subparagraph (C) (x) "all feasible" before "transfer";

(F) striking out in subparagraph (4) (C) (xi) "standardized" and inserting in lieu thereof "coordinated"; and

(G) amending subparagraph (4) (C) (xiii) to read as follows:

"(xiii) provides (I) capacity for periodic and objective review and evaluation of the extent and quality of the emergency health care services provided in the system's service area (including consideration of management performances, process measures, and patient outcomes), and (II) for submission to the Secretary of the reports of any such review and evaluation and the data collected to carry out this requirement;";

(4) repealing subsection (b) (5);

(5) (A) striking out in the first sentence of subsection (e) "title VII" and inserting in lieu thereof "section 301 or title IV or VII"; and

(B) striking out in clause (1) of such subsection "1207" and inserting in lieu thereof "1207(a)"; and

(6) inserting in subsection (f) (2) "(A) has" after "applicant", and inserting before the period a comma and "or (B) has demonstrated to the satisfaction of the Secretary that the filing of such an application would be futile or unreasonably burdensome".

SEC. 8. Section 1207 is amended by—

(1) (A) striking out in subsection (a) (1) "and" before "$60,000,000" and inserting before the semicolon a comma and "$70,000,000 for the fiscal year ending June 30, 1976, $5,083,000 for the period beginning July 1, 1976, and ending September 30, 1976, $50,000,000 for the fiscal year ending September 30, 1977, and $70,000,000 for the fiscal year ending September 30, 1978"; and

(B) striking out in subsection (a) (1) all after "section 1203 and 1204," and inserting in lieu thereof "there are authorized to be appropriated $75,000,000 for the fiscal year ending September 30, 1979.";

(2) amending subsection (a) (4) (A) to read as follows:

"(A) not more than 10 per centum of such sums shall be made available only for grants and contracts under section 1202 (relating to feasibility studies and planning) for such fiscal year, and";

(3) redesignating clauses (A) (as so amended) and (B) in subsection (a)(4) as (B) and (C), respectively;

(4) striking out in clause (B) as so redesignated) "75" and inserting in lieu thereof "not more than 75";

(5) striking out in clause (C) (as so redesignated) "25" and inserting in lieu thereof "not more than 45";

(6) inserting at the end of subsection (a) the following new paragraph:

"(5) Of the sums appropriated under paragraph (1) for the fiscal year ending September 30, 1977, and the succeeding fiscal year, at least 5 per centum but not more than 10 per centum of such sums for each such fiscal year shall be made available only for grants and contracts under section 1202 for such fiscal year, and of the sums appropriated under paragraph (1) for the fiscal year ending September 30, 1977, and the succeeding two fiscal years, not more than 70 per centum of such sums for each such fiscal year shall be made available only for grants and contracts under section 1203 for such fiscal year, and not more than 45 per centum of such sums for each such fiscal year shall be made available only for grants and contracts under section 1204 for such fiscal year."; and

(7) striking out in subsection (b) "two" and inserting in lieu thereof "five".

SEC. 9. Section 1208 is amended to read as follows:

"ADMINISTRATION

"SEC. 1208. (a) The Secretary shall administer the program of grants and contracts (except for grants and contracts under section 1205) authorized by this part through an identifiable administrative unit specializing in emergency medical services within the Department of Health, Education, and Welfare.

"(b) Such administrative unit shall—

"(1) be responsible for collecting, analyzing, cataloging, and disseminating all data useful in the development and operation of emergency medical services systems, including data derived from reviews and evaluations of emergency medical services systems assisted under sections 1202, 1203, and 1204;

"(2) publish suggested criteria for collecting necessary information from, and for evaluation of, projects funded under this title;

"(3) concur in the regulations, guidelines, funding priorities, application forms, grant awards, and contracts with respect to the research program under section 1205 and the training program under section 776;

"(4) be consulted in advance of the issuance of regulations, guidelines, and funding priorities for research and training related to emergency medical services carried out under any other authorities of this Act;

"(5) provide technical assistance and monitoring with respect to grant and contract activities under sections 1202, 1203, and 1204; and

"(6) provide for periodic independent evaluation of the effectiveness and coordination (including salaries of all unit person- and section 776.

"(c) Not less than 7 per centum of the funds appropriated each year under section 1207(a)(1) shall be set aside for administration of programs carried out under this part nel), data gathering and dissemination, technical assistance, monitoring, and independent evaluation, and to provide support for the interagency committee established under section 1209, but in no event shall more than $3,000,000 be so set aside.".

SEC. 10 Section 1209 is amended by—

(1) inserting in subsection (a) "(1)" after "(a)"; and inserting at the end of such subsection the following new paragraph:

"(2) Not later than July 1, 1977, the Interagency Committee on Emergency Medical Services shall—

"(A) develop and publish (i) a coordinated, comprehensive Federal emergency medical services funding and Federal resource-sharing plan (designed to enhance the effectiveness of Federal programs of assistance for emergency medical services and related activities, including communication and transportation systems of public safety agencies, and to promote the maximum feasible joint and coordinated Federal funding and operation of such programs and systems in order to establish integrated response capabilities to medical emergencies, including a report with respect thereto containing any recommendations for legislation as may be necessary to insure such response capabilities), and (ii) a coordinated description, to be disseminated to all participating and other relevant Federal agencies' regional offices and fund recipients, of sources of Federal support for the purchase of vehicles and communications equipment as well as for training activities;

"(B) develop and publish recommended uniform standards of quality and health and safety with respect to all equipment (including communications and transportation equipment) and training related to emergency medical services; and

"(C) with the Secretary, utilizing all authorities available to him, take all feasible steps to encourage States to reinforce, through appropriate actions, the minimum quality and health and safety standards recommended by the Committee pursuant to clause (B)."; and

(2) striking out in subsection (e) "section 1203 or 1204" and inserting in lieu thereof "section 1202, 1203, or 1204".

SEC. 11. Section 776 is amended by—

(1) amending subsection (a) by—

(A) inserting "hospitals and" after "with";

(B) inserting after "entities" a comma and "or a State, a unit of general local government, or any other public entity which has established an emergency medical services system or given adequate assurances that it will establish such a system which meets the requirements of section 1206(b)(4) and (except with respect to the training of basic emergency medical technicians) which has entered into a contract or other agreement with an appropriate educational entity for the training program in question,"; and

(C) inserting "(1)" after "including", and by inserting a comma and "and (2) program development and training of physicians in emergency medicine" after "services";

(2) redesignating subsection (e) as (g) and amending such subsection (as so redesignated) by—

(A) inserting "(1)" after "(g)";

(B) inserting before the period at the end thereof a comma and "and each of the next five fiscal years"; and

(C) inserting after paragraph (1) (as redesignated by clause (A)) the following new paragraph:

"(2) Of the funds appropriated under paragraph (1) for any fiscal year—

"(A) if the amount appropriated does not exceed $6,600,000, the Secretary shall obligate an amount not to exceed $1,250,000 or 20 per centum of the amount appropriated, whichever is the lesser, or

"(B) if the amount appropriated exceeds $6,600,000, the Secretary shall obligate $1,250,000 plus 50 per centum of the sums appropriated above that amount,

to assist in program development and training of physicians in emergency medicine."; and

(3) inserting after subsection (d) the following new subsections:

"(e) No regulation, guideline, function, priority, application form, or training grant shall be established or made under this section without the concurrence of the administrative unit required under section 1208(a).

"(f) To the maximum extent practicable, the Secretary shall establish a uniform funding cycle to facilitate applications for grants and contracts under title XII and under this section and to facilitate coordinated funding priorities and emphases between programs carried out under such authorities.".

SEC. 12. Title XII is further amended by—

(1) inserting "PART A—ASSISTANCE FOR EMERGENCY MEDICAL SERVICES SYSTEMS" after the heading for the title;

(2) striking out "this title" each place it appears in sections 1201 through 1210 and inserting in lieu thereof "this part"; and

(3) inserting after section 1210 the following new part:

"PART B—BURN INJURIES

"SEC. 1221. (a) The Secretary may conduct and make grants to and enter into contracts with public or private nonprofit entities and, with respect to research, enter into contracts with public or private entities and individuals, for the support of the programs for the establishment, operation, and improvement of activities to (1) demonstrate the effectiveness of various modalities of treatment and rehabilitation of individuals injured by burns, (2) carry out research in the treatment and rehabilitation of such individuals, or (3) provide training in such treatment and rehabilitation and in such research.

"(b) No grant or contract may be made under subsection (a) unless an application therefore has been submitted to, and approved by, the Secretary. Such application shall be submitted in such form and manner and contain such information as the Secretary may require. In considering applications under this section, the Secretary shall give priority to applications for programs which (1) will provide services within a geographical area in which services are not currently being adequately provided and (2) are in or accessible to the service areas of an emergency medical services system meeting the requirements of section 1206(b)(4).

"(c) For purposes of carrying out subsection (a), there are authorized to be appropriated $3,000,000 for the fiscal year ending September 30, 1977, $5,000,000 for the fiscal year ending September 30, 1978, and $6,000,000 for the fiscal year ending September 30, 1979.".

SEC. 13. Notwithstanding any other provision of law, the Secretary of Health, Education, and Welfare is authorized to vest title to equipment purchased with contract funds under the seven contracts for emergency medical services demonstration projects entered into in 1972 or 1973 under section 304 of the Public Health Service Act (as in effect at the time the contracts were entered into) in the contractors or their subcontractors without further obligation to the Government or on such other terms as the Secretary considers appropriate.

SEC. 14. The Secretary of Health, Education, and Welfare shall conduct studies to identify the categories of patients which should be included in a uniform reporting system used to evaluate the effectiveness of emergency medical services systems and burn programs supported under title XII of the Public Health Service Act in reducing death and disability. Not later than eighteen months after the date of enactment of this Act, the Secretary shall report to the Congress the results of such studies. Such report shall include such recommendations for legislation relating to such a uniform reporting system as the Secretary determines is appropriate.

SEC. 15. The amendments made by this Act to the Public Health Service Act shall be effective on July 1, 1976, except for sections 2, 3, 4(1)(B), 8, 10, 12, 13, and 14 which shall be effective upon enactment.

Sec. 16. Section 3(j)(2) of the National Arthritis Act of 1974 (Public Law 93-640; 88 Stat. 2221) is amended to read as follows:

"(2) The Commission shall cease to exist on December 31, 1976.".

Sec. 17. Section 208 of the Public Health Service Act is amended by adding at the end thereof the following new section:

"(h)(1) The Secretary may, under such rules and regulations as he may prescribe, pay for—

"(A) the cost of preparing and transporting to their former homes in the United States or to places not more distant, the remains of civilian or commissioned personnel of the Service who are citizens of the United States and of the members of their families who may die abroad or while in travel status;

"(B) the cost of treatment of an illness or injury, which requires hospitalization or similar treatment, incurred by civilian or commissioned personnel of the Service who are citizens of the United States while such personnel are located abroad;

"(C) that portion of the cost of treatment of each illness or injury, which requires hospitalization or similar treatment, incurred by dependents, while located abroad, of those civilian or commissioner personnel of the Service, who are citizens of the United States, stationed abroad, that exceeds $35 per day and up to a maximum of one hundred and twenty days of treatment for such illness or injury, except that such maximum limitation shall not apply whenever the Secretary, on the basis of professional medical advice, shall determine that such illness or injury clearly is caused by the fact that such dependent is or has been located abroad;

"(D) those travel expenses of civilian or commissioned personnel of the Service who are citizens of the United States or their dependents, who require medical care for illness or injury, incurred while stationed abroad in a locality where there is no qualified person or facility to provide such care, to transport such persons to the nearest locality where suitable medical care can be obtained. If any such personnel or dependents are too ill to travel unattended, or in the case of dependents too young to travel alone, the Secretary may also pay the round trip travel expenses of an attendant or attendants.

"(2) The Secretary may enter into agreements with the Department of State to carry out the provisions of Subparagraph (1)."

OZARK-JETA TAYLOR LOCK AND DAM

The bill (S. 3063) designating Ozark Lock and Dam on the Arkansas River as the "Ozark-Jeta Taylor Lock and Dam", was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Ozark Lock and Dam, Arkansas River, Arkansas, authorized by the Rivers and Harbors Act of 1946 approved July 24, 1946, shall hereafter be known as the Ozark-Jeta Taylor Lock and Dam, and any law, regulation, document, or record of the United States in which such project is designated or referred to shall be held to refer to such project under and by the name of "Ozark-Jeta Taylor Lock and Dam".

TERRY SCHRUNK PLAZA

The bill (S. 1971) to designate the plaza area of the Federal Building, Portland, Oreg., the "Terry Schrunk Plaza," was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the plaza fronting the Federal Building, 1220 Southwest Third Street, and bounded on the north by Madison Street, on the south by Jefferson Street, on the east by Third Avenue and on the west by Fourth Avenue, Portland, Oregon, is hereby designated as the "Terry Schrunk Plaza".

Sec. 2. Any reference in a law, map, regulation, document, record, or other paper of the United States to such plaza shall be held to be reference to the "Terry Schrunk Plaza".

DISPLAY OF CERTAIN HISTORICAL DOCUMENTS IN THE CAPITOL

The bill (S. 3475) relating to the display of certain historical documents within the U.S. Capitol Building during the calendar year 1976, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That nothing contained in the provisions of section 1815 of the Revised Statutes of the United States (40 U.S.C. 189), or any other law, shall be construed as prohibiting the Architect of the Capitol, during the Bicentennial year, from displaying, in such manner and within such area of the United States Capitol Buildinig, as the Architect of the Capitol, with the approval of the Joint Committee on the Library, shall determine, the historical drawings which resulted from the architectural competition held in 1793 for the design of the United States Capitol Building.

Sec. 2. For the purpose of displaying such historical drawings in the United States Capitol Building, the Architect of the Capitol, under the direction of the Joint Committee on the Library, is authorized to enter into such arrangements or agreements as may be necessary in order to assure the protection of the aforementioned drawings while such drawings are under his supervision.

ADDITIONAL EXPENDITURES FOR THE COMMITTEE ON INTERIOR AND INSULAR AFFAIRS

The resolution (S. Res. 451) authorizing additional expenditures for the Committee on Interior and Insular Affairs for routine purposes, was considered and agreed to, as follows:

Resolved, That the Committee on Interior and Insular Affairs is authorized to expend from the contingent fund of the Senate, during the Ninety-fourth Congress, $45,000 in addition to the amount and for the same purposes, specified in section 134(a) of the Legislative Reorganization Act of 1946 and in S. Res. 169, agreed to June 6, 1975.

FRAUD AND ABUSE AMONG CLINICAL LABORATORIES

The resolution (S. Res. 454) authorizing the printing of additional copies of Senate Report 94–   entitled "Fraud and Abuse Among Clinical Laboratories was considered and agreed to, as follows:

Resolved, That there be printed for the use of the Special Committee on Aging four thousand five hundred additional copies of its report to the Senate entitled "Fraud and Abuse Among Clinical Laboratories" (Senate Report 94–   ).

ELECTION LAW GUIDEBOOK

The resolution (S. Res. 455) authorizing the printing of a revised edition of the "Election Law Guidebook" as a Senate document, was considered and agreed to, as follows:

Resolved, That a revised edition of Senate Document Numbered 93-84, entitled "Election Law Guidebook", be printed as a Senate document, and that there be printed one thousand six hundred additional copies of such document for the use of the Committee on Rules and Administration.

FEDERAL ELECTION CAMPAIGN LAWS RELATING TO THE U.S. HOUSE OF REPRESENTATIVES

The resolution (H. Con. Res. 640) authorizing the printing of 15,000 copies of "Federal Election Campaign Laws Relating to the United States House of Representatives," was considered and agreed to.

BACKGROUND INFORMATION ON THE FOREIGN RELATIONS COMMITTEE

The Senate proceeded to consider the concurrent resolution (S. Con. Res. 115) authorizing printing of background information on the Foreign Relations Committee as a Senate document, which was reported from the Committee on Rules and Administration with an amendment on page 1, in line 2, to strike out "an illustration" and insert in lieu thereof "illustrations".

The amendment was agreed to.

The concurrent resolution, as amended, was agreed to, as follows:

Resolved by the Senate (the House of Representatives concurring), That there be printed with illustrations as a Senate document background information relating to the history of the Senate Committee on Foreign Relations in connection with its one hundred and sixtieth anniversary (1816–1976); and that there be printed for the use of that committee seven thousand five hundred additional copies of such document.

Mr. MANSFIELD. Mr. President, I ask concludes the call of the unobjected-to measures on the calendar.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, that unanimous consent that the Senate turn quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

U.S. POLICY WITH RESPECT TO LEBANON

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the to the consideration of Calendar No. 864, Senate Resolution 448, and that there be a 5-minute limitation, the time to be divided between the Senator from New York (Mr. JAVITS) and the Senator from South Dakota (Mr. ABOUREZK).

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 448) urging United States policy with respect to Lebanon.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana?

There being no objection, the Senate proceeded to consider the resolution.

Mr. JAVITS. Mr. President, under the leadership of our chairman (Mr. Sparkman) and ranking minority member (Mr. Case), we adopted, as an element of the military security bill which is going to be before us immediately after the disposition of the antitrust bill, a resolution respecting Lebanon, which was included in the bill, but when Senator Abourezk and I and other Senators testified before the Middle East Subcommittee of the Foreign Relations Committee, it emerged that the situation in Lebanon was of such a critical nature that we should act with respect to that element of the military security bill by separate resolution.

Mr. President, this is the separate resolution which resulted.

To dramatize for the Senate the fact that this has no relation to any attitude which any Senator had on the Arab-Israel struggle, it is perhaps best characterized by Senator Abourezk joining with me as a sponsor, in view of the fact that our views on that particular issue were so diverse and so very well known.

Mr. President, the situation in Lebanon is nothing but a human and political tragedy. In my judgment, it would be tremendously against peace in the world and the national interest of the United States if Lebanon were partitioned in blood, which is what it would mean if the situation continued to deteriorate there.

Therefore, I urge the Senate to adopt this resolution.

Mr. President, our chairman is here. I ask unanimous consent that 1 minute be added to my time so that our chairman may be heard from on this subject.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SPARKMAN. Mr. President, I simply want to give my support to what the Senator from New York has said. The committee was unanimous in support of this proposal.

I believe it would be tragic for Lebanon to be torn up and peace be threatened even more so in that part of the world. I hope the Senate will unanimously support this resolution.

Mr. ABOUREZK. Mr. President, I thank the chairman of the Foreign Relations Committee and Senator Javits for their efforts in bringing out this resolution. They also added $20 million in authorization for humanitarian assistance and partial reconstruction in Lebanon.

At this time, I am not able to talk about the tragedy occurring over there, nor can I predict when it will end, but I applaud the committee and the Senate in acting on this resolution. I move its adoption.

Mr. JAVITS. Mr. President, I ask unanimous consent that Senator Percy be added as a cosponsor of this resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the resolution.

The resolution (S. Res. 448) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. Res. 448

Whereas Lebanon has been a long time friend of the United States; and

Whereas Lebanon is a peaceful country which has consistently attempted to maintain a noncombatant position in the current Middle East situation; and

Whereas the current disorder constitutes a tragedy in domestic terms and a threat to the peace and stability of the region and the world; and

Whereas the current disorder has taken so many lives and caused so much physical and psychological damage to Lebanon:

Now, therefore be it

Resolved, That it is the sense of the Senate that the Government and people of the United States welcome the election of a new President by the Assembly of Lebanon and anticipate an end to the civil strife in Lebanon which has taken so many lives and caused so much physical and psychological damage to a democratic, pluralistic society which has traditionally maintained close, cordial, and cooperative relations with the United States; and be it further

Resolved, That the Congress welcomes the President's requests for appropriate funds to assist in the relief and rehabilitation of victims of the armed strife which has caused so much damage to the essential fabric of life in Lebanon over the past year; and be it further

Resolved, That the Congress urges the President to declare the willingness of the United States to participate in multilateral assistance programs to help in the reconstruction of the bady damaged national infrastructure of Lebanon for the purpose of speeding a return to normal economic conditions of prosperity there; and be it further

Resolved, That the Congress urges the President immediately to request the Secretary General of the United Nations to renew his appeal for a cease-fire in Lebanon to use his good offices for that purpose and call for such other United Nations action as may be appropriate.

The Secretary of the Senate is directed to transmit a copy of this resolution to the President of the United States and to the Secretary of State.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. ABOUREZK. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TIME-LIMITATION AGREEMENT—H.R. 3348

Mr. MANSFIELD. Mr. President, I ask unanimous consent—and this has been cleared with the distinguished acting Republican leader and the distinguished senior Senator from California (Mr. Cranston)—that when Calendar No. 847, H.R. 3348, an act to amend title 38, United States Code, in order to extend and improve the program of exchange of medical information between the Veterans' Administration and the medical community, and for other purposes, is called up tomorrow, hopefully, there be a time limitation on one-half hour on the amendment to be offered by Mr. Griffin.

Mr. JAVITS. May we ask the leader, Mr. President, if there are any other limitations of time on this bill?

Mr. MANSFIELD. No.

Mr. JAVITS. Is this the emergency medical bill?

Mr. MANSFIELD. This is H.R. 3348.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

TIME LIMITATION AGREEMENT—SENATE CONCURRENT RESOLUTION 105

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when Calendar No. 871, Senate Concurrent Resolution 105, a concurrent resolution expressing the sense of Congress regarding democracy in Italy and participation by Italy in North Atlantic Treaty Organization, is brought up at the beginning of business tomorrow, providing there is a compromise agreement with the Senate as debated and passed, that in that contingency it be in order early tomorrow morning to turn to the consideration of Calendar No. 871, Senate Concurrent Resolution 105; that there be a time limitation of not to exceed 1 hour, the time to be equally divided between the distinguished Senator from Massachusetts (Mr. Brooke), the distinguished Senator from New Mexico (Mr. Domenici), and the distinguished Senator from Rhode Island (Mr. Pastore), or whomever they may designate.

Mr. JAVITS. Mr. President, that leaves no time for any member of the Committee on Foreign Relations.

Mr. MANSFIELD. That is correct, but has the Senator looked at the schedule lately?

Mr. JAVITS. I have.

Mr. BROOKE. I will say there will be time for anyone who wishes to present a statement on this matter.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Without objection, it is so ordered.

THE ANTITRUST IMPROVEMENTS ACT OF 1976

Mr. ROBERT C. BYRD. May I have the attention of all Senators, please?

Mr. President, various Senators have been in consultation a considerable number of hours throughout today in an effort to develop a compromise amendment to the Hart-Scott substitute, a compromise which would have broad based support, and such a compromise is now ready.

Among those Senators who have been in these deliberations are Mr. Philip A. Hart, Mr. Hruska, Mr. Allen, Mr. Percy, Mr. Kennedy, Mr. Javits, Mr. Abourezk, and Mr. Chiles. And there are others.

In a moment, I shall ask unanimous consent that this unprinted amendment be in order to be considered by the Senate, and that a time be set for a vote thereon, for a vote on the Hart-Scott substitute, as amended, and for a vote on H.R. 8532, as amended.

This amendment is in all respects but one, similar to the Byrd-Griffin amendment for which unanimous consent was sought yesterday. The amendment is similar in the following respects:

First. It strikes all of the automatic temporary restraining order provisions from title V. The present bill permits the Government to obtain an automatic temporary restraining order for 30 days, with a possible extension for as much as 30 more days for good cause shown. This compromise amendment is identical to that offered yesterday in that all of these provisions would be stricken from title V.

Essentially, this will leave the premerger notification scheme intact with additional language, that when the Government does seek a preliminary injunction the proceedings will be in every way possible expedited.

Second. As in yesterday's compromise offer, percentage contingency fees are prohibited in parens patriae actions where the State attorney general retains private counsel.

Third. This compromise proposal on the part of Mr. Chiles, myself, and others, as in yesterday's compromise offer, provides that treble damage awards in which the fluid class recovery method is utilized are limited to two offenses: One, price fixing, and two, the procurement of a patent by fraud, other than technical fraud or the enforcement of such patent.

Unlike yesterday's amendment, the fluid class recovery method of computing or aggregating damages cannot be used for other per se offenses. This represents a further compromise on the part of the sponsors of the substitute, the Senator from Michigan (Mr. Philip A. Hart) and the Senator from Pennsylvania (Mr. Hugh Scott).

Mr. President, this is the unanimous consent agreement which has been worked out on a preliminary basis among the Senators whom I have already named, and if I have overlooked a name I know that Senators will understand such an inadvertency.

May I say that if this unanimous-consent agreement is adopted, the negotiations to suspend paragraph 2 of rule XXII of the Senate, as allowed by rule XL of the Senate, will not be made.

UNANIMOUS-CONSENT AGREEMENT

I ask unanimous consent that it be in order to offer and to consider en bloc the Chiles-Byrd compromise amendment to amendment 1701, the Hart-Scott substitute; that the vote on the Chiles-Byrd compromise occur no later than 7:45 p.m. today; and, if adopted, that the vote on the Hart-Scott substitute—amendment No. 1701, as amended—occur immediately thereafter, with no intervening debate, amendments, or motions; and if it is adopted, that the vote on H.R. 8532, as amended, occur immediately thereafter with no intervening debate or motions;

Provided further, that the distinguished Senator from Michigan (Mr. Philip A. Hart) or his designee and the distinguished Senator from Nebraska (Mr. Hruska) or his designee shall be entitled to not to exceed 1 hour each of debate prior to the vote on the Chiles-Byrd, and others, compromise amendment;

Provided further, that it be in order to ask for the yeas and nays on all three of those votes at any time, with one show of seconds; and

Provided further, that on the two backup rollcall votes—I am contemplating three votes in succession—there be a time limitation on each of those two backup rollcall votes of 10 minutes, with the warning bell sounded after 2½ minutes.

The PRESIDING OFFICER. Is there objection?

Mr. GRIFFIN. Mr. President, it is understood that amendments to these amendments would not be in order?

Mr. ROBERT C. BYRD. The question is quite appropriate, and it should be so understood.

Mr. HARRY F. BYRD, JR. Mr. President, reserving the right to object, would it be possible to make that time earlier than 7:45?

Mr. ROBERT C. BYRD. I am afraid it would not. This has been agreed upon among the several Senators. Some of the time might be yielded back. It is not later than that time.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. MANSFIELD. The request is that it will not be later than 7:45?

Mr. ROBERT C. BYRD. The majority leader is correct; and this would obviate not only the negotiations to suspend the rule, but it would also obviate a cloture vote on the House bill.

Mr. HRUSKA. Mr. President, reserving the right to object, and I shall not object—in fact, at the conclusion of my remarks I shall join in the unanimous-consent request—this unanimous-consent request pertains to a so-called compromise in regard to the final disposition of the measures before us, H.R. 8532.

I think we ought to understand the real nature of the unanimous-consent request——

Mr. PASTORE. May we have order, Mr. President? This is important.

The PRESIDING OFFICER. The Chair agrees with the Senator from Rhode Island. The Senate will be in order.

Mr. HRUSKA. Especially since it is referred to as a compromise. The real meaning of "compromise," as I understand it, is that there is a settlement or an adjustment, or perhaps an agreement on several points of difference.

In that sense, what we have before us is not a compromise as much as it is a proposal. It is a proposal which consists of a series of amendments, which will be the sum total of the amendments that will be acted upon before the final passage vote on this measure. The amendment process will be limited to those amendments that are contained in this proposal.

The adjustment, as among the Senators who participated in the conference, is this: That debate before final passage will be limited to these amendments contained in this proposal. There will be full freedom, and there was full freedom on the part of each Senator, not only those who attended the conference, but also all Members of the Senate; they are free to advocate, resist, debate against and vote against, or debate for and vote for, the measure.

The purpose is to bring to a close what has promised to be a very extended consideration of this bill, and it was thought that perhaps by this means, each party giving a little bit and gaining a little bit, we could reach the point where, after having acted on this so-called compromise proposal, we would then be ready to vote upon the Hart-Scott substitute; and in the event that it is approved, that we will then make it a part of H.R. 8532, eliminating all of that House-passed bill except the enacting clause and its number.

It will simplify the process, round it out, and bring it to a conclusion on a much more satisfactory basis for everyone concerned, not only in this Chamber but also in the other body and eventually in the White House, if it ever gets there, for the purpose of the President deciding whether he wants to sign it or not.

It was in that spirit that we labored, and I was pleased, personally, with the spirit of good faith and good will that prevailed there, notwithstanding our rather sharp differences as to some of the substance of the amendments which we are about to discuss.

So I suggest to my colleagues, Mr. President, that it would be well to join in this unanimous-consent request, and go along with the very reasonable and highly fruitful path which it describes.

Mr. ROBERT C. BYRD. Mr. President, I thank the Senator for his comments, and for his cooperation and counsel during the conference.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia? Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, will someone yield me 1 minute?

Mr. ROBERT C. BYRD. Yes, we will.

Mr. ABOUREZK. Mr. President, I send the amendment to the desk.

Mr. MANSFIELD. No, no, I seek recognition.

Mr. ROBERT C. BYRD. Mr. President, I ask that the clerk first state the amendment.

The assistant legislative clerk read as follows:

The Senator from Florida (Mr. Chiles), for himself and others, proposes an unprinted amendment—

Mr. ABOUREZK. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with. It was described in full a moment ago.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 29 of amendment No. 1701, strike out lines 1 through 8 and insert in lieu thereof the following:

"(c) (1) In any action under section 4C(a) (1) in which there has been a determination that a defendant agreed to fix prices or in which it has been determined that a defendant engaged in the procurement by fraud (other than technical fraud) of a patent or the enforcement of a patent procured by fraud (other than technical fraud) in violation of the antitrust laws, damages may be proved and assessed in the aggregate by statistical or sampling methods, by the computation of illegal overcharges, or by such other reasonable system of estimating aggregate damages as the court in its discretion may permit without the necessity of separately proving the individual claim of, or amount of damage to, persons on whose behalf the suit was brought.

On pages 40 and 41, strike out paragraphs (1), (2) and (3) of subsection (d) and insert in lieu thereof the following:

"(1) upon the filing of such certification the chief judge of such district court shall immediately notify the chief judge of the United States Court of Appeals for the circuit in which such court is located, who shall designate a United States district judge to whom such action shall be assigned for all purposes; and

"(2) the motion for a preliminary injunction shall be set down for hearing by the district judge so designated at the earliest practicable time, shall take precedence over all matters except older matters of the same character and trials pursuant to 18 U.S.C. 3161, and shall be in every way expedited.".

On pages 42 and 43, strike out subsection (g).

On page 31, line 14, insert the following before the period: ", except that such term does not include any person employed or retained on a contingency fee based on a percentage of the monetary relief awarded under this section".

The PRESIDING OFFICER. Who yields time?

Mr. HRUSKA. Has the unanimous-consent request been agreed to?

Mr. ABOUREZK. Yes; it has been agreed to.

I yield 1 minute to the majority leader.

LEGISLATIVE PROGRAM

Mr. MANSFIELD. Mr. President, for the information of the Senate, if this matter is satisfactorily concluded tonight, it is the intention of the leadership tomorrow to turn to the consideration of the Italian resolution, the Valley Forge National Park bill, Calendar No. 847, having to do with improving the program of exchange of medical information between the Veterans' Administration and the medical community, and also the unfinished business, the foreign military arms sales bill will be laid before the Senate.

ORDER TO RECESS UNTIL 8 A.M. TOMORROW

Mr. MANSFIELD. Mr. President, if we can get this agreement disposed of satisfactorily tonight, and it looks pretty good at the moment, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 8 o'clock tomorrow morning.

Mr. PERCY. Mr. President, reserving the right to object, if we finish tonight, could we come in at 9 o'clock tomorrow morning?

Mr. MANSFIELD. No.

Mr. PERCY. I tried.

Mr. MANSFIELD. The reason is we have the Italian resolution first, but the main reason is that if we do this we will not be in session on Saturday, as I have been saying we would if we were still on the pending business.

Mr. PERCY. What is the estimate of the leadership as to when we will finish tomorrow?

Mr. MANSFIELD. Sometime during the day.

Mr. PERCY. Could the majority leader be a little more specific? How much more business do we have?

Mr. MANSFIELD. Quite a lot. If we can clear anything else up, we will do it. Just look at the Calendar and look at the clock, and there are the conventions.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. LONG. Mr. President, reserving the right to object, I have here the committee report on the tax bill.

Mr. MANSFIELD. We hope to get to that Tuesday, may I say to the chairman of the Committee on Finance.

Mr. LONG. I am not sure in my mind whether if we quit over the weekend we will have enough layover days to have the bill before the Senate.

ORDER FOR CONSIDERATION OF TAX REFORM BILL ON TUESDAY, JUNE 15, 1976

Mr. MANSFIELD. Mr. President, I ask unanimous consent that as to the tax reform measure (H.R. 10612), which has been reported favorably by the Committee on Finance and will be reported to the calendar before midnight tonight, it be in order to take up that legislation on Tuesday next. I do so because of the time limitations involved.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HUGH SCOTT. Mr. President, will the Senator yield?

Mr. JAVITS. Mr. President, may I ask the leader what that does to the mutual security bill that he said we would lay before the Senate tomorrow?

Mr. MANSFIELD. We should finish it by then.

Mr. JAVITS. Tomorrow?

Mr. MANSFIELD. Yes. That is what Senator HUMPHREY says. If we do not do it tomorrow we will do it Saturday or Monday.

Mr. JAVITS. That is all right. Will the majority leader be specific? Really, this is getting to be confusing.

Mr. MANSFIELD. It will be disposed of before we take up the tax bill.

Mr. JAVITS. I thank the majority leader.

Mr. HUGH SCOTT. Mr. President, will the distinguished majority leader yield before we get away from this?

Mr. MANSFIELD. Will the Chair rule on my unanimous-consent request to take up the tax bill on Tuesday?

The ACTING PRESIDENT pro tempore. The Chair has ruled on it. It is so ordered.

Mr. MANSFIELD. I thank the Chair.

Mr. HUGH SCOTT. Mr. President, if the Senator will yield, I am very anxious that the Valley Forge bill come up and come up as fast as possible. I have been notified that there may be objection on this side if it is brought up before the next pending business.

Mr. GRIFFIN. The military sales bill.

Mr. HUGH SCOTT. That is, as I understand, the military sales bill.

Mr. MANSFIELD. It will not be before the pending business, but afterward.

Mr. HUGH SCOTT. That would be in the regular order.

Mr. MANSFIELD. That is correct.

Mr. HUGH SCOTT. There is no reason to object to the regular order.

Mr. MANSFIELD. That is correct.

Mr. HUGH SCOTT. Therefore, I shall not interpose an objection on my side. It, of course, runs entirely contrary to my own desire to dispose of this bill.

Mr. LONG. Mr. President, will the Senator yield 2 minutes to me?

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. HARRY F. BYRD, JR. I yield to the Senator from Louisiana.

Mr. ABOUREZK. Mr. President, I reserve the remainder of the time allotted to me.

Mr. LONG. Mr. President, will the Senator yield me 30 seconds?

Mr. ABOUREZK. All right. I yield 30 seconds to the Senator from Louisiana.

Mr. LONG. Mr. President, I send to the desk the report on the tax reform bill together with the committee amendments.

The ACTING PRESIDENT pro tempore. The report is received.

Mr. MANSFIELD. If the situation works out tonight, as we all anticipate, there will be no objections to committees meeting tomorrow under the usual procedure and if tomorrow works out as anticipated, and I think that the prospects are good, there will be no Saturday session. The reason there will be no Saturday session is that we will have no legislation available that day. But beginning next week, with the conventions coming on, it may well be that we will have to operate on a 6-day-a-week basis.

I thank the Senator, and I thank the Senate.

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator from Montana yield to the Senator from Virginia?

Mr. MANSFIELD. I yield.

Mr. HARRY F. BYRD, JR. Somewhat earlier the majority leader asked unanimous-consent agreement as to Calendar 871, the Concurrent Resolution 105.

Mr. MANSFIELD. Yes.

Mr. HARRY F. BYRD, JR. The Senator from Virginia did not object to the time limitation. In reading the proposal, and I favor the thrust of the concurrent resolution, I noticed that there is financing involved. As I recall, with the time restraint, there might be too little time to explore the financial aspects of this resolution. I favor the thrust of the resolution, but I am concerned about the financing.

Mr. MANSFIELD. May I say that this is a resolution expressing the sense of Congress, so it is not an authorizing resolution in the strict sense, by means of which such an instrument would be followed up by appropriation. It is a sense of Congress resolution, and that is something which does not have the validity of law, as we understand statutory legislation.

Mr. HARRY F. BYRD, JR. That is certainly true, but I would like to have reasonable time in debate to ascertain a little something about the proposed financing.

ALLOCATION OF TIME TO SENATOR HARRY F. BYRD, JR.—SENATE CONCURRENT RESOLUTION 105

Mr. MANSFIELD. Mr. President, we have an hour on S. Con. Res. 105, and it has been distributed to Senators BROOKE, DOMENICI, and PASTORE.

I ask unanimous consent that the remaining 15 minutes be allocated to the distinguished Senator from Virginia (Mr. HARRY F. BYRD, JR.).

Mr. HARRY F. BYRD, JR. I thank the Senator.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE ANTITRUST IMPROVEMENTS ACT OF 1976

The Senate continued with the consideration of the bill (H.R. 8532) to amend the Clayton Act to permit State attorneys general to bring certain antitrust actions, and for other purposes.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. HRUSKA. Mr. President, I yield 15 minutes to the Senator from Alabama.

Mr. ALLEN. Mr. President, I favor strong but fair antitrust legislation. As a matter of fact, some of my predecessors in Congress played an outstanding role in securing the enactment of some of the antitrust legislation presently on the Nation's statute books: Gen. John T. Morgan, one of Alabama's great Senators, served in the Senate from 1877 to 1907.

The ACTING PRESIDENT pro tempore. May we have order in the Chamber and in the galleries so the Senator from Alabama can be heard?

The Senator may continue.

Mr. ALLEN. And in the 1890's he was one of the outstanding advocates and authors of antitrust legislation.

The Clayton Antitrust Act was authored by Representative Henry D. Clayton of Alabama. And this tradition of support of antitrust legislation has come down to Alabama's delegation in the House and Senate.

I feel that antitrust legislation should be fair, protect the consumer, and afford adequate protection from unfair harassment for those against whom antitrust proceedings are brought. I do not believe that the chief beneficiaries of antitrust suits should be the attorneys, employed by State attorneys general, who operate on contingent fees because all too often the attorneys have been the main beneficiaries of antitrust proceedings.

So it was the hope of the Senator from Alabama that we could agree upon legislation that would be fair to the general public, to the consumer, to the States, and to prospective defendants in these actions.

Mr. President, I believe that the amendment that has been offered by unanimous consent will bring much needed improvement to the substitute before the Senate. Already, some major improvements have been made in the pending legislation by the Senate.

In my judgment, the offer of compromise that has been made has resulted in large measure from the fact that there has been extended debate on this subject. In extended debate, a measure receives very close and careful and studious attention by the Members of the Senate. Focus can be had on the defects in the bill, and efforts can be made to correct some of those defects.

I do feel, however, that there is a tendency on the part of the leadership to move too quickly to cloture before a consensus can be arrived at in the Senate; because once cloture has been voted, the Senate is in a straitjacket. It is limited to the amendments at the desk that were filed prior to the start of the cloture vote. They cannot be changed by so much as a period or a comma without unanimous consent, and all too often that is not given. So I believe that the leadership would do well to move cautiously in filing cloture motions.

There is a possibility that this legislation could have been passed sooner had cloture not been invoked, because it would have allowed the Members of the Senate to shape and improve and perfect and polish this legislation by having the flexibility of offering amendments and amendments to amendments as changes took place in the legislation.

I submit, too, Mr. President, that cloture may well not be the quickest way to obtain passage of the legislation. We have been on this measure, since cloture was invoked, some 5 or 6 days, some 8 days in all. But the moving to cloture did not hasten the passage of this bill at all, in the judgment of the Senator from Alabama. The imposition of cloture put the Senate at a great disadvantage in seeking to shape and perfect this bill.

So I am hopeful that the leadership, in the days ahead, will not be so cloture happy, so trigger happy. Filing cloture motions the very day the legislation is brought up in the Senate is not conducive to harmonious relations.

Mr. President, I must mention again, even though we are now in a spirit of conciliation and agreement, that it is entirely likely that this legislation, after the adoption of cloture, was fought harder, was resisted more, was battled with greater dedication, because of the fact that on Friday a week ago, this matter was brought before the Senate in a method the Senator from Alabama feels was contrary to the Senate rules.

I serve notice right now that on occasions when the Senator from Alabama does not receive the equal protection of the Senate rules as legislation is rammed through the Senate, the Senate is going to see a continuation of efforts to prevent passage of the legislation as to which the rules are not equally applied.

I must also express regret that the Senate, acting at the behest of the leadership, has seen fit to change rules of the Senate on the floor by the raising of points of order and getting rulings from the Chair or from a vote of the Senate, showing a very shortsighted attitude—both the leadership and the membership of the Senate on the side of the majority. When I speak of the majority, I am not talking about the majority party. I am talking about the majority philosophy as to particular legislation.

This attitude has been shortsighted, because we have many, many decades and centuries for the Senate to exist, and just to get one piece of legislation passed, the Senate has overturned time-honored rules in the Senate. That is a shortsighted policy, because we have to live with these rules after this bill is passed. I say it is a shortsighted policy to overturn Senate rules just to get one bill passed. I decry that sort of attitude and that policy.

On one occasion, the distinguished majority leader sought to charge against the Senator from Alabama—on the short period of 1 hour that was accorded him after cloture was invoked—the time it took for the clerk to read the amendments that the Senator from Alabama offered. He made a point of order. The Parliamentarian, knowing full well that the practice for 50 years in the Senate has been not to charge a Senator with time for amendments, in order not to offend the leadership, sought to submit that question to the Senate, knowing full well what the Senate would do—or thinking he knew full well what the Senate would do. But he did not know what the Senate would do, because we had a near rebellion here on the floor of the Senate. The majority leader, using fine wisdom and discretion, withdrew his point of order.

The point I am making, Mr. President, is that no piece of legislation is important enough for the Senate to stultify itself by changing the rules of the Senate—not by normal procedures provided by the rules, but by sheer power of votes in the Senate.

So, yes, this is a great improvement on the legislation that was offered. But I point out again that cloture may not be the easiest way to get a bill passed. It is not the best way. When I feel that the Senate has not had the opportunity to shape legislation on the floor of the Senate and cloture is resorted to, you are going to see the Senator from Alabama making a point of that.

The ACTING PRESIDENT pro tempore. The time of the Senator from Alabama has expired.

Mr. ALLEN. I thank the Chair.

Mr. ABOUREZK. Mr. President, I ask unanimous consent that a member of my staff, Lisette McSoud, be entitled to floor privileges.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ALLEN. I have a few questions I would like to ask of the distinguished manager of the bill and the distinguished Senator from New York (Mr. JAVITS). At such time as he comes in, I would like to propound two questions to each of them for the purpose of legislative history.

Mr. ABOUREZK. Mr. President, I yield myself 5 minutes.

At this point, I want to express the thanks of the chairman of the Antitrust Comittee (Mr. PHILIP A. HART) and myself and Senator KENNEDY to the following people: Senator MORGAN of North Carolina, who is not a member of the committee, but who performed very adequately as floor manager of this legislation; and to the following staff members: Bernie Nash, Chuck Ludham, Buck O'Leary, Tom Susman, Pat Springer, Harrison Wellford, and Jon Fleming, who have all been living over here on the Senate floor for the past 2 or 3 weeks. My thanks to all those people.

I want to respond briefly, if I may, to the statement of the Senator from Alabama. I guess it is "darned if you do and darned if you don't" when it comes to cloture. His statement is that we perhaps invoked cloture too quickly to allow full and free debate on this issue. The history of our experience with matters of this kind when there is such strong opposition from certain Members of the Senate to any kind of legislation is that if we do not invoke cloture, the time is dragged out unreasonably. The point he is trying to make is that if we do invoke cloture too quickly, the time will be dragged out unreasonably.

I want to say about this legislation that I am dissatisfied with the compromise, although I will accept it. I think that we have established, even in the compromise itself, the very important principle that State attorneys general can bring a civil antitrust action for a violation of certain laws, primarily price-fixing and fraudulent patent procurement. I think that is an important principle to establish. I do not think, though, that we ought to say that this is the end of the parens patriae extension. I think the concept ought to be later extended, next year, and we ought to look at it between this year and next year to other violations of the Sherman Act, such as division of markets, group boycotts, division of customers, tie-in agreements, reciprocal dealing, refusals to deal, and agreements to limit production, all of which act in restraint of trade and gouge the consumer.

I think that it is important to note that passage of this compromise will not indicate that the Senate feels these other per se violations are any less damaging to consumers than price fixing and patent procurement on the grounds of fraud. I think it is a good step. I would have much rather seen it go farther. I would have much rather seen a stronger bill. However, exigencies of the situation required that we do this kind of compromising.

I reserve the remainder of my time.

Mr. ALLEN. Will the Senator yield so I can make these inquiries of him?

Mr. ABOUREZK. Yes.

Mr. ALLEN. Then I shall also ask them of Senator JAVITS.

As the Senator full well realizes, it is not possible, in deciding on the exact wording of an amendment or of a bill, to cover every possible contingency. Therefore, it becomes useful to discuss on the Senate floor just what is meant by the language of an amendment. Is that not correct?

Mr. ABOUREZK. That is correct.

Mr. ALLEN. In that connection, I should like to state that I notice that in the second line of the text of the Chiles-Byrd compromise, the authors have used the phrase "a defendant agreed to fix prices." They used later in the text the phrase, "a defendant has engaged in the procurement by fraud—other than technical fraud of a patent or the enforcement of a patent procured by fraud—other than technical fraud."

If a determination had been made that one or more defendants, but not all defedants, had agreed to fix prices or that one or more defendants, but not all defendants, had engaged in the procurement by fraud of a patent or enforcement of a patent by fraud, would the Chiles-Byrd compromise permit damages to be—here I quote again from the text of the amendment—"proved and assessed in the aggregate by statistical or sampling methods, by the computation of illegal overcharges, or by such other reasonable system of estimating aggregate damages as the court in its discretion may permit" against those codefendants as to whom no such specific determination had been made?

Mr. ABOUREZK. The answer to the Senator's question is no.

Mr. ALLEN. I thank the Senator.

One further question, then: If no such specific determination had been made as to certain codefendants or a single codefendant but had been made with respect to certain other codefendants or some other single codefendant, would the Chiles-Byrd compromise, with respect to those defendants as to whom no such determination had been made, permit dispensing with the otherwise necessary separate proof of the individual claim of, or amount of damage to, persons on whose behalf the suit was brought?

Mr. ABOUREZK. The answer to that question is "yes" as to the defendants against whom a determination has been made, and "no" as to those defendants against whom no such determiation has been made.

Mr. ALLEN. I thank the Senator.

Mr. JAVITS. Mr. President, will the Senator yield to me?

Mr. ALLEN. The Senator from South Dakota has the floor.

Mr. ABOUREZK. Senator HRUSKA yielded the floor to the Senator from Alabama.

Mr. ALLEN. Yes, I yield, but I intended to propound the very same question to Senator JAVITS.

Mr. JAVITS. I know, and I will answer it. My answers are exactly those made by Senator ABOUREZK. The point is—and I do not intend anything I now say to change in any way the flat no-yes-no—that the words "a defendant" which will be found in the first amendment relating to page 29 in the second and third lines of the amendment mean a defendant severally and not collectively.

Mr. ALLEN. Yes, sir.

Mr. JAVITS. And that is the reason for the replies being proper as an interpretation of this particular section.

Mr. ALLEN. Yes, sir. I thank the Senator very much. That was my understanding and I am glad the Senator confirmed it, both Senators.

I yield back the remainder of my time.

Mr. ABOUREZK. How much time is remaining for each side, Mr. President?

The ACTING PRESIDENT pro tempore. Senator HART has 49 minutes remaining; Senator HRUSKA has 45 minutes remaining.

Mr. CHILES. Mr. President, will the Senator yield?

Mr. ABOUREZK. Yes. How much time does the Senator need?

Mr. CHILES. I just want 5 minutes.

Mr. ABOUREZK. Five minutes.

Can I, before the Senator does that, do this? I want to establish some legislative history, and I have a question to ask of Senator HART on section 304 with respect to the effective date of attorney's fees.

I note that section 304 of the bill provides for payment of expenses and attorneys' fees of plaintiffs who substantially prevail in an action under 15 U.S.C. 2. I also note that pursuant to section 306(d), the effective date of this provision shall be the date of enactment of this bill.

Does this mean that following the usual rule, as in such cases as *Bradley* v. *School Board of the City of Richmond*, 416 U.S. 696 (1974), actions brought prior to the date of enactment of this provision, yet decided after the date of enactment, will still be eligible for such attorneys' fees awards?

Mr. PHILIP A. HART. The answer is "yes," under that case and a number of other comparable cases.

Mr. ABOUREZK. I yield 5 minutes to the Senator from Florida.

Mr. CHILES. Mr. President, yesterday when I was proposing to ask unanimous consent to bring up a modified amendment, I discussed the provisions of that modified amendment. That was not brought up on yesterday because it appeared that there was going to be objection. All of those proposals went to title IV of this particular bill.

At that time, during that discussion though, we did have a colloquy to try to establish legislative intent on that particular amendment. The language that was going to be in that modified amendment is the same language that is in title IV of the present compromise amendment that we are working, and in that we have—there is no word requiring willfulness or wrongful action on the part of the price fixer. That has given some concern to many people, and I think what I want to make clear, as we were trying to in our colloquy yesterday, is that it is the legislative intent that we are trying to codify the present case law in regard to price fixing and that we are not attempting to change that one way or the other.

In connection with that, I would first ask unanimous consent that the colloquy between Senator PERCY, myself, and Senator MORGAN as appears in the RECORD of yesterday starting with the bottom paragraph, third column on page 17277 through the second column to the seventh paragraph on page 17278 be printed in the RECORD at this time and made a part of the legislative history of this act. I ask unanimous consent for that.

There being no objection, the colloquy was ordered to be printed in the Record, as follows:

Mr. Chiles. I would have to reply to the distinguished Senator that I am not competent to answer that question as to how much of a word of art it is. I believe, though, that I can say that the fear the Senator has is shared by many who feel that "per se" is a term one can simply plead, that there is a per se violation. I do not think the case law is very clear as to what meaning it does have, putting it in antitrust violations.

By the same token, I want to point out that the word "willful" is also a word that has not really been used in antitrust before. That is why the Senator from Florida wants to leave that out. It is in the amendment that I am going to call up, but because "willful" is a word that is used in criminal cases and expresses a specific sort of willful criminal intent, I am uncomfortable with that word. While there are many people on the other side of this question who want to put this word in, I think it is not necessary because I think the case law is pretty clear. I hope to establish this further, as I say, in a colloquy. I think right now the case law is clear that in a price-fixing case there has to be some conversation, there has to be some overt act, there has to be really some sort of intentional act of at least two parties to get together to fix prices. They have not allowed just parallel pricing, the fact that two people happen to come up with the same price. They have not allowed these things that are less than some sort of an intent to be formed.

For that reason, I want to strike "willful" because I do not know what "willful" means on the other side if it is put in. Is the burden of proof increased so much that we change the law we have been operating under since the 1890's? Because I am uncomfortable with that I do not want to bring it up with the word "willful" in it, so far as I am concerned.

Mr. Johnston. Will the Senator agree with me that the use of a phrase like "per se violation" would leave this law, unless it is otherwise made very clear by the jurisprudence—and I doubt that—in such a state of ambiguity that courts would be able to reach out and call anything a per se violation or not a per se violation? Would the Senator agree with me that the term "per se" used in this context is almost utterly without meaning, and without meaning as far as the jurisprudence in other fields is concerned? Would the Senator agree with that?

Mr. Chiles. I would agree that I have the same fear that the Senator from Louisiana has. I am not sure that I can say that I know enough about the actual case law in this particular field that I can intelligently answer because it is not a field in which I have practiced. I never got into this rich practice in my country practice. I am not sure how many people do understand it; but I have the fear that the Senator has.

I yield to the distinguished Senator from Illinois.

Mr. Percy. Mr. President, first I would like to make it perfectly clear that I am a cosponsor of the compromise that has been offered, but I do commend the distinguished Senator from Florida if somehow or other we do not move ahead with that to now present something that we can give consideration to, which would move this body forward toward agreement. I commend him, and I would be pleased to cosponsor the amendment with or without the word "willful" in it. I would certainly support his unanimous-consent request on that.

Mr. President, I would first like to ask for a clarification as to the intent and meaning of the amendment. I ask this question of my distinguished colleague from Florida. Am I correct in the following: this amendment is designed to prevent use of the aggregation of damages provision in cases of price fixing only as that is defined by current law today—that is, where there are actual communications and overt acts intended to further the price-fixing conspiracy—and the amendment is not intended to be used in situations like conscious parallelism, comparative pricing, or other doctrines not illegal today?

Mr. Chiles. That is correct. In addition to giving my answer on that, I would like to ask the distinguished Senator from North Carolina, because he knows much more about this field than I do, and the distinguished Senator from Michigan if they would comment on whether their feeling would be that the interpretation that the Senator and I are placing on that is correct. It certainly would be my intent in offering it that it would not be at all to change existing case law. But because I cannot say fully what the case law is now or with a great degree of confidence I would like to ask the distinguished Senator from North Carolina if he would share with us his knowledge of the subject.

Mr. Morgan. Mr. President, in effect, what we would be doing would be codifying the present case law and existing law. As I understand that law to be, it is substantially as stated by the Senator from Illinois. It would have to be a conscious act. The mere incidental parallel pricing would not constitute price fixing, in my opinion. It would have to be something that would be knowingly done.

Someone mentioned the words "knowingly," "consciously," "willful"' being words of art and they always give the courts difficulty. But also as the distinguished Senator from Florida pointed out, to add the word "willful" would almost carry a connotation that from now on we are going to require a greater degree of proof. Willful would almost imply criminal.

I think the distinguished Senator from Illinois has correctly stated what is basically the case law with regard to proof.

Mr. Percy. The Senator from Illinois thinks it is extraordinarily important that we do clarify that point and make that point a part of the legislative history of this legislation. I think it does go to the heart of some of the objections which have been raised by the minority in this case.

I have a further question. I want to be sure that we preserve the nonretroactive nature of title IV. Would I be correct in saying further that this amendment is also not designed to permit use of the aggregation of damages where the Supreme Court or Congress reverses prior decisions granting exemptions or immunity from the antitrust laws would be the case, for instance, if the Supreme Court were to reverse or alter some of its exclusive jurisdiction on immunity cases?

I put that question to the distinguished Senator from Florida.

Mr. CHILES. I would like to yield to the distinguished Senator from North Carolina.

Mr. MORGAN. The answer to your question with regard to the amendment proposed to be offered by the Senator from Florida, as well as the amendment which has been offered by the distinguished Senator from West Virginia, would not affect the nonretroactive provisions. Senator Mathias and myself earlier this week offered an amendment striking out the retroactive application and limited the application of all provisions of title IV to future violations only. Neither of the proposed amendments would change that.

Mr. PERCY. I thank my distinguished colleague. In talking with representatives of businesses, of law firms, and I might say representatives of the administration, there have been some deep concerns in this matter. I do feel that amendment 1751 offers a reasonable solution. It would clarify many of these points. Therefore, Mr. President, I wish to indicate again my support for the amendment, certainly based on the clarification that we have had and this legislative history, and this amendment offered by the Senator from Florida to the Hart-Scott antitrust legislation.

It would limit the aggregation of damages to those cases where the parties have agreed to fix prices in willful violation of the antitrust laws, or, in the case of the amendment if adopted, if we eliminate the word "willful" there. In other words. State attorneys general using the parens patriae provision would have to prove injury to all members of the allegedly injured class in all cases except those involving willful disregard of the Federal antitrust laws.

This proposed amendment would also—and I think this is extremely important at this stage—conform the language in the Hart-Scott substitute with regard to aggregating damages to the House adopted language. In my view, this amendment offers a reasonable compromise to a portion of this legislation which has left the Senate in its present procedural quagmire.

It has been reasonably clear in the hearings on this antitrust bill that congressional concern has focused principally on the need to find a viable method of facilitating a recovery in price-fixing cases which are characterized by the existence of many claims for relatively small amounts. The proposed amendment deals specifically and clearly with that problem, and avoids the possible pitfall of extending the aggregation of damages concept to numerous other situations with results that may not be fully appreciated at this time.

Mr. President, I hope that my colleagues will support this amendment. It would give the State attorneys general broad new authority to sue for damages in willful price fixing cases. It has been adopted by the House of Representatives, and I understand that it has been accepted by the President, or would be acceptable to the President, to the best of my knowledge.

In the spirit of compromise. I hope that we can accept this language now, so that we could give some consideration to other parts of this bill.

Certainly the Senator from Illinois would like very much to see modifications in the section involving prenotification on mergers. I have already expressed my deep concern about those sections as being really unreasonable, and also a disservice to the Justice Department and a disservice to American industry, and I think to the American consumer.

I would hope, in the spirit of compromise, that we could moderate some of those provisions to take out the most onerous and less useful features. But I do feel that the amendment now being offered by the distinguished Senator from Florida would move this body forward, and I hope move us toward where we can reach a consensus.

Mr. Morgan. Mr. President, if I may say so, I think the amendment that the Senator from Florida proposes to offer later on does approach the amendment offered by the Senator from West Virginia. It does not go as far as I think that the Senate must go, but I think those are matters that, if the amendment comes before the Senate for debate, we can then discuss. But for the sake of legislative history, whatever that is worth—I never found it worth very much in court when I was practicing—let me say I am not sure I agree with all that the Senator from Illinois said about having to prove damages to every member of the class.

I prefer not to argue it now; I just simply say that I am not sure I would agree for the purposes of legislative history.

If I may say one other thing, we are

going to be considering the question of what is a per se violation. To those who are not lawyers, per se is a word of art that we lawyers use, which means an act which, in itself, would be a known violation.

To quote from two cases, in the Northern Pacific case, the court said:

"[T]here are certain agreements or practices which because of their pernicious effect on competition and lack of any redeeming virtue are conclusively presumed to be unreasonable and therefore illegal. . . ."

There the principle of per se unreasonableness applies. To use another word, in United States against Topco Associates, the court stated:

"This Court has reiterated time and time again that [*per se* offenses] are naked restraints of trade with no purpose except stifling of competition."

Where two businesses, for instance, agree to stay out of each other's territory, or two businesses agree to reduce production in order to eliminate competition. I will be prepared tomorrow to give some more examples on that.

Mr. CHILES. Mr. President, what in effect this does, I think, is to set legislative history that as we are attempting to go with the present case law; we are not attempting to enlarge that nor to decrease that in any way, and that present case law has required some form of an overt act or some kind of conversation or some kind of a conspiracy or something between the parties; it has not been based on conscious parallelism or some of these other devices that people seem to be afraid of in this regard.

I think there is also a concern, Mr. President, in regard to——

Mr. ABOUREZK. Mr. President, will the Senator yield briefly?

Mr. CHILES. I yield.

Mr. ABOUREZK. Only to concur on that point. We are not either enlarging or detracting from existing case law. I want to make that clear.

Mr. CHILES. I thank the distinguished Senator from South Dakota.

The other point I think we need to make for the legislative record deals with the fraudulent procurement of a patent, and I think there should be some history set forth in the record on that.

I see the distinguished Senator from Illinois is on the floor and the distinguished Senator from New York, and I think it is important that we establish the case law in regard to that in what we are attempting to do.

I would yield to the distinguished Senator from New York and the distinguished Senator from Illinois or ask them to join in this colloquy, if they would, as we establish this history.

Mr. JAVITS. Mr. President, if the Senator will yield to me, the words of art used with relation to a certain type of damages are reflected by the first section of the amendment which is before us. It appears at page 29 and begins at line 1 of the bill. The words used are as follows:

> Procurement by fraud of patent (other than technical fraud) or the enforcement of a patent procured by fraud (other than technical fraud) in violation of the antitrust laws.

My reply is as follows, and I would like, if it is accurate, to have Senator ABOUREZK, Senator PERCY, and, hopefully, Senator HRUSKA make any comment they choose to on what I am about to say. This is the statement respecting these particular provisions.

The intent of all parties with respect to the legislation is to codify the language of the Supreme Court of the United States in Walker Process Equipment, a case reported in 86 S. Ct. 347, decided in 1965.

That case held, and I quote from that case at page 350 of the decision, which reads as follows:

> Walker's counterclaim alleged that Food Machinery obtained the patent by knowingly and willfully misrepresenting the facts to the Patent Dffice. Proof of this assertion would be sufficient to strip Food Machinery of its exemption from the antitrust laws.

I interpolate there that by the word "exemption" we mean the exemption conferred by a patent because a patent is, in a sense, a trust, a monopoly.

The ACTING PRESIDENT pro tempore. The 5 minutes allotted to the Senator from New York have expired.

Mr. ABOUREZK. I yield 5 minutes more.

Mr. JAVITS. That is the end of my interpolation, and I continue to read from the decision:

> By the same token, Food Machinery's good faith would furnish a complete defense. This includes an honest mistake as to the effect of prior installation upon patentability—so-called "technical fraud."

This explanation of intent is also to be added to by another sentence from the decision also appearing at page 350 which reads as follows:

> It must be remembered that we deal only with a special class of patents, i.e., those procured by intentional fraud.

There is a note attached to the decision, a sentence in connection with the first quotation I read, and the note, note 5, reads as follows:

> This conclusion applies with equal force to an assignee who maintains and enforces the patent with knowledge of the patient's infirmity.

Mr. President, I ask unanimous consent that the whole decision in Walker Processing be printed in the RECORD.

There being no objection, the decision was ordered to be printed in the RECORD, as follows:

[382 U.S. 172]

WALKER PROCESS EQUIPMENT, INC., PETITIONER, v. FOOD MACHINERY AND CHEMICAL CORPORATION

Argued Oct. 12, 13, 1965.

Decided Dec. 6, 1965.

Patent infringement suit. The defendant filed a counterclaim. The United States District Court for the Northern District of Illinois, Eastern Division, dismissed the infringement complaint and the amended counterclaim, without leave to amend and with prejudice. The defendant appealed. The Court of Appeals for the Seventh Circuit, 335 F.2d 315, affirmed. Certiorari was granted. The Supreme Court, Mr. Justice Clark, held that the enforcement of a patent procured by fraud on the patent office may be violative of the Sherman Act provided the other elements necessary to a Sherman Act case are present, and that in such event the treble damage provisions of the Clayton Act would be available to an injured party. The court further held that the case should be remanded for the counterclaimant to clarify the asserted violations of the Sherman Act and to offer proof thereon.

Reversed and remanded.

1. Monopolies—12(15), 28(1.2)

The enforcement of a patent procured by fraud on patent office may be violative of the section of the Sherman Act relating to monopolies providing the other elements necessary to such a case are present, and in such event the treble damage provisions of the Clayton Act would be available to an injured party. Sherman Anti-Trust Act, § 2, 15 U.S.C.A. § 2; Clayton Act, § 4, 15 U.S.C.A. § 15.

2. Federal Civil Procedure—1835

Allegations of counterclaim are taken as true on motion to dismiss.

3. Monopolies—28(1.6)

A private suit for treble damages for Sherman Act monopolization practiced under patent procured by fraud is not barred by rule that only United States may sue to cancel or annual a patent. Sherman Anti-Trust Act, § 2, 15 U.S. C.A. § 2; Clayton Act, § 4, 15 U.S.C.A. § 15.

4. Monopolies—28(1.6)

The interest in protecting patentees from innumerable vexatious suits cannot be used to frustrate the assertion of rights conferred by the antitrust laws.

5. Patents—283(1)

A person sued for infringement may challenge validity of patent on various grounds, including fraudulent proceurement.

6. Declaratory Judgment—232

The validity of a patent may be tested under the Declaratory Judgment Act. 28 U.S.C.A. § 2201.

7. Monopolies—28(1.6)

An injured party may attack the misuse of patent rights.

8. Patents—1, 283(1)

A patent by its very nature is affected with a public interest; it is an exception to general rule against monopolies and to right to access to a free and open market; the far-reaching social and economic consequences of a patent give the public a paramount interest in seeing that patent monopolies spring from backgrounds free from fraud or other inequitable conduct and that such monopolies are kept within their legitimate scope.

9. Monopolies—12(15)

Proof that one has obtained patent by knowingly and willfully misrepresenting facts to patent office would be sufficient to strip owner of its exemption from the antitrust laws; this conclusion applies with equal force to an assignee who maintains and enforces the patent with knowledge of the patent's infirmity; by the same token, the owner's good faith would furnish a complete defense, and this includes an honest mistake as to the effect of prior installation upon patentability, or so-called "technical fraud." Sherman Anti-Trust Act, § 2, 15 U.S.C.A. § 2; Clayton Act, § 4, 15 U.S.C.A. § 15.

10. Monopolies—12(15)

To establish monopolization or attempt to monopolize a part of trade or commerce under Sherman Act by maintenance and enforcement of patent obtained by fraud on patent office, it would be necessary to appraise the exclusionary power of the illegal patent claim in terms of the relevant market for the product involved. Sherman Anti-Trust Act, § 2, 15 U.S.C.A. § 2.

11. Monopolies—12(1.10)

The area of per se violations of Sherman Act is carefully limited. Sherman Anti-Trust Act, § 2, 15 U.S.C.A. § 2.

12. Appeal and Error—1177(5)

Where private counterclaim for treble damages for Sherman Act monopolization practiced under guise of patent allegedly procured by fraud on patent office was dismissed, not because counterclaimant failed to allege the relevant market, the dominance of the patented device therein, and injurious consequences to counterclaimant of patent's enforcement, but rather on ground that United States alone may "annul or set aside" a patent for fraud in procurement, the case would be remanded for counterclaimant to clarify asserted violations of Sherman Act and to offer proof thereon. Sherman Anti-Trust Act, § 2, 15 U.S.C.A. § 2; Clayton Act, § 4, 15 U.S.C.A. § 15.

Charles J. Merriam, Chicago, Ill., for petitioner.

Daniel M. Friedman, Washington, D.C., for the United States, as *amicus curiae*.

Sheldon O. Collen, Chicago, Ill., for respondent.

Mr. Justice Clark delivered the opinion of the Court.

[1] The question before us is whether the maintenance and enforcement of a patent obtained by fraud on the Patent Office may be the basis of an action under § 2 of the Sherman Act,[1] and therefore subject to a treble damage claim by an injured party under § 4 of the Clayton Act.[2] The respondent, Food Machinery, & Chemical Corp. (hereafter Food Machinery), filed this suit for infringement of its patent No. 2,328,655 covering knee-action swing diffusers used in aeration equipment for sewage treatment systems.[3] Petitioner, Walker Process Equipment, Inc. (hereafter Walker), denied the infringement and counterclaimed for a declaratory judgment that the patent was invalid. After discovery, Food Machinery moved to dismiss its complaint with prejudice because the patent had expired. Walker then amended its counterclaim to charge that Food Machinery had "illegally monopolized interstate and foreign commerce by fraudulently and in bad faith obtaining and maintaining * * * its patent * * * well knowing that it had no basis for * * * a patent." It alleged fraud on the basis that Food Machinery had sworn before the Patent Office that it neither knew nor believed that its invention had been in public use in the United States for more than one year prior to filing its patent application when, in fact, Food Machinery was a party to prior use within such time. The counterclaim further asserted that the existence of the patent had deprived Walker of business that it would have otherwise enjoyed. Walker prayed that Food Machinery's conduct be declared a violation of the antitrust laws and sought recovery of treble damages.

The District Court granted Food Machinery's motion and dismissed its infringement complaint along with Walker's amended counterclaim, without leave to amend and with prejudice. The Court of Appeals for the Seventh Circuit affirmed, 335 F.2d 315. We granted certiorari, 379 U.S. 957, 85 S.Ct. 657, 13 L.Ed.2d 553. We have concluded that the enforcement of a patent procured by fraud on the Patent Office may be violative of § 2 of the Sherman Act provided the other elements necessary to a § 2 case are present. In such event the treble damage provisions of § 4 of the Clayton Act would be available to an injured party.

I.

[2] As the case reaches us, the allegations of the counterclaim, as to the fraud practiced upon the Government by Food Machinery as well as the resulting damage suffered by Walker are taken as true.[4] We, therefore, move immediately to consideration of the legal issues presented.

Both Walker and the United States, which appears as *amicus curiae*, argue that if Food Machinery obtained its patent by fraud and thereafter used the patent to exclude Walker from the market through "threats of suit" and prosecution of this infringement suit, such proof would establish a prima facie violation of § 2 of the Sherman Act. On the other hand, Food Machinery says that a patent monopoly and a Sherman Act monopolization cannot be equated; the removal of the protection of a patent grant because of fraudulent procurement does not automatically result in a § 2 offense. Both lower courts seem to have concluded that proof of fraudulent procurement may be used to bar recovery for infringement, Precision Instrument Mfg. Co. v. Automotive Maintenance Machinery Co., 324 U.S. 806, 65 S.Ct. 993, 89 L.Ed. 1381 (1945), but not to establish invalidity. As the Court of Appeals expressed the proposition, "only the government may 'annul or set aside' a patent," citing Mowry v. Whitney, 14 Wall. 434, 20 L.Ed. 858 (1872). It went on to state that no case had "decided, or hinted that fraud on the Patent Office may be turned to use in an original affirmative action, instead of as an equitable defense. * * * Since Walker admits that its anti-trust theory depends on its ability to prove fraud on the Patent Office, it follows that * * * Walker's second amended counterclaim failed to state a claim upon which relief could be granted." 335 F.2d, at 316.

II.

[3, 4] We have concluded, first, that Walker's action is not barred by the rule that only the United States may sue to cancel or annul a patent. It is true that there is no statutory authority for a private annulment suite and the invocation of the equitable powers of the court might often subject a patentee "to innumerable vexatious suits to set aside his patent." Mowry, supra, 81 U.S. at 441. But neither reason applies here. Walker counterclaimed under the Clayton Act, not the patent laws. While one of its elements is the fraudulent procurement of a patent, the action does not directly seek the patent's annulment. The gist of Walker's claim is that since Food Machinery obtained its patent by fraud it cannot enjoy the limited exception to the prohibitions of § 2 of the Sherman Act, but must answer under that section and § 4 of the Clayton Act in treble damages to those injured by any monopolistic action taken under the fraudulent patent claim. Nor can the interest in protecting patentees from "innumerable vexatious suits" be used to frustrate the assertion of rights conferred by the antitrust laws. It must be remembered that we deal only with a special class of patents, i.e., those procured by intentional fraud.

[5–8] Under the decisions of this Court a person sued for infringement may challenge the validity of the patent on various grounds, including fraudulent procurement. E.g., Precision Instrument Mfg. Co. v. Automotive Maintenance Machinery Co., 324 U.S. 806, 65 S.Ct. 993, 89 L.Ed. 1381 (1945); Hazel-Atlas Co. v. Hartford-Empire Co., 322 U.S. 238, 64 S.Ct. 997, 88 L.Ed. 1250 (1944); Keystone Driller Co. v. General Excavator Co., 290 U.S. 240, 54 S.Ct. 146, 78 L.Ed. 293 (1933). In fact, one need not await the filing of a threatened suit by the patentee; the validity of the patent may be tested under the Declaratory Judgment Act, 28 U.S.C § 2201 (1964 ed.). See Kerotest Mfg. Co. v. C–O Two Fire Equipment Co., 342 U.S. 180, 185, 72 S.Ct. 219, 222, 94 L.Ed. 200 (1952). At the same time, we have recognized that an injured party may attack the misuse of patent rights. See, e.g., Mercoid Corp. v. Mid-Continent Investment Co., 320 U.S. 661, 64 S.Ct. 268, 88 L.Ed. 376 (1944). To permit recovery of treble damages for the fraudulent procurement of the patent coupled with violations of § 2 accords with these long-recognized procedures. It would also promote the purposes so well expressed in Precision Instrument, supra, 324 U.S. at 816, 65 S.Ct. at 998:

> "A patent by its very nature is affected with a public interest. * * * [It] is an exception to the general rule against monopolies and to the right to access to a free and open market. The far-reaching social and economic consequences of a patent, therefore, give the public a paramount interest in seeing that patent monopolies spring from backgrounds free from fraud or other inequitable conduct and that such monopolies are kept within their legitimate scope."

III.

[9] Walker's counterclaim alleged that Food Machinery obtained the patent by knowingly and willfully misrepresenting facts to the Patent Office. Proof of this assertion would be sufficient to strip Food Machinery of its exemption from the antitrust laws.[5] By the same token, Food machinery's good faith would furnish a complete defense. This includes an honest mistake as to the effect of prior installation upon patentability—so-called "technical fraud."

[10] To establish monopolization or attempt to monopolize a part of trade or commerce under § 2 of the Sherman Act, it would then be necessary to appraise the exclusionary power of the illegal patent claim in terms of the relevant market for the product involved. Without a definition of that market there is no way to measure Food Machinery's ability to lessen or destroy competition. It may be that the device—knee-action swing diffusers—used in sewage treatment systems does not comprise a relevant market. There may be effective substitutes for the device which do not infringe the patent. This is a matter of proof, as is the amount of damages suffered by Walker.

[11] As respondent points out, Walker has not clearly articulated its claim. It appears to be based on a concept of per se illegality under § 2 of the Sherman Act. But in these circumstances, the issue is premature. As the Court summarized in White Motor Co. v. United States, 372 U.S. 253, 83 S.Ct. 696, 9 L.Ed.2d 738 (1963), the area of per se illegality is carefully limited. We are reluctant to extend it on the bare pleadings and absent examination of market effect and economic consequences.

[12] However, even though the per se claim fails at this stage of litigation, we believe that the case should be remanded for Walker to clarify the asserted violations of § 2 and to offer proof thereon. The trial court dismissed its suit not because Walker failed to allege the relevant market, the dominance of the patented device therein, and the injurious consequences to Walker of the patent's enforcement, but rather on the ground that the United States alone may "annul or set aside" a patent for fraud in procurement. The trial court has not analyzed any economic data. Indeed, no such proof has yet been offered because of the disposition below. In view of these considerations, as well as the novelty of the claim asserted and the paucity of guidelines available in the decided cases, this deficiency cannot be deemed crucial. Fairness requires that on remand Walker have the opportunity to make its § 2 claims more

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[1] 26 Stat. 209, 15 U.S.C. § 2 (1964 ed.): "Every person who shall monopolize, or attempt to monopolize, or combine or conspire with any other person or persons, to monopolize any part of the trade or commerce among the several States, or with foreign nations, shall be deemed guilty of a misdemeanor * * *."

[2] 38 Stat. 731, 15 U.S.C. § 15 (1964 ed.): "Any person who shall be injured in his business or property by reason of anything forbidden in the antitrust laws may sue therefor in any district court of the United States in the district in which the defendant resides or is found or has an agent, without respect to the amount in controversy, and shall recover three-fold the damages by him sustained, and the cost of suit, including a reasonable attorneys' fee."

[3] The patent in question was issued in the name of the inventor, Lannert. But he had previously assigned the patent rights to his employer, Chicago Pump Company, a division of Food Machinery.

[4] See, e.g., United States v. New Wrinkle, Inc., 342 U.S. 371, 376, 72 S.Ct. 350, 352, 96 L.Ed. 417 (1952).

[5] This conclusion applies with equal force to an assignee who maintains and enforces the patent with knowledge of the patent's infirmity.

specific, to prove the alleged fraud, and to establish the necessary elements of the asserted § 2 violation.

Reversed and remanded.

Mr. Justice Harlan (concurring).

I join the Court's opinion. I deem it appropriate, however, to add a few comments to what my Brother Clark has written because the issue decided is one of first impression and to allay possible misapprehension as to the possible reach of this decision.

We hold today that a treble-damage action for monopolization which, but for the existence of a patent, would be violative of § 2 of the Sherman Act may be maintained under § 4 of the Clayton Act if two conditions are satisfied: (1) the relevant patent is shown to have been procured by knowing and willful fraud practiced by the defendant on the Patent Office or, if the defendant was not the original patent applicant, he had been enforcing the patent with knowledge of the fraudulent manner in which it was obtained; and (2) all the elements otherwise necessary to establish a § 2 monopolization charge are proved. Conversely, such a private cause of action would *not* be made out if the plaintiff: (1) showed no more than invalidity of the patent arising, for example, from a judicial finding of "obviousness," or from other factors sometimes compendiously referred to as "technical fraud"; or (2) showed fraudulent procurement, but no knowledge thereof by the defendant; or (3) failed to prove the elements of a § 2 charge even though he has established actual fraud in the procurement of the patent and defendant's knowledge of that fraud.

It is well also to recognize the rationale underlying this decision, aimed of course at achieving a suitable accommodation in this area between the differing policies of the patent and antitrust laws. To hold, as we do, that private suits may be instituted under § 4 of the Clayton Act to recover damages for Sherman Act monopolization knowingly practiced under the guise of a patent procured by deliberate fraud, cannot well be thought to impinge upon the policy of the patent laws to encourage inventions and their disclosure. Hence, as to this class of improper patent monopolies, antitrust remedies should be allowed room for full play. On the other hand, to hold, as we do not, that private antitrust suits might also reach monopolies practiced under patents that for one reason or another may turn out to be voidable under one or more of the numerous technicalities attending the issuance of a patent, might well chill the disclosure of inventions through the obtaining of a patent because of fear of the vexations or punitive consequences of treble-damage suits. Hence, this private antitrust remedy should not be deemed available to reach § 2 monopolies carried on under a nonfraudulently procured patent.

These contrasting factors at once serve to justify our present holding and to mark the limits of its application.

Mr. JAVITS. Mr. President, the reason that the parties who worked out this language used the words "technical fraud" was the use of those same words to characterize completely both citations I have read in the Walker Processing decisions.

Therefore, to know what we mean by "technical fraud" any court or any person has but to refer to the two excerpts that I have read, it being the intent of the parties that those words "technical fraud" shall encompass the assertions made in those two excerpts from Walker Processing.

Mr. CHILES. I thank the distinguished Senator from New York for that explanation.

He is a cointroducer of the amendment, he was the drafter of that particular section, and I think that was the agreement also of the parties to the compromise, that that was the intent and exactly what we were attempting to do in the language we put in the amendment.

I wonder if the distinguished Senator from Illinois has further comments he would like to make in this regard?

Mr. PERCY. Mr. President, I would, first of all, like to express great admiration to the Senator, my distinguished colleague from Florida, for the part he has played in this compromise. Our distinguished colleagues, Senator ABOUREZK, Senator HRUSKA, Senator ALLEN, Senator HART, Senator KENNEDY, Senator JAVITS, as well as Senator CHILES have worked diligently on this.

In listening very carefully to the clarification as to what was intended in the amendment by those who participated in the compromise, I am reminded of the fact once again that we are deeply indebted to have in the Senate what I look upon as the Barbara Walters of the U.S. Senate.

If she is worth $1 million a year to television, Senator JAVITS is worth $1 million a year to the American taxpayer. He gets the same salary as the rest of us, even those of us without legal degrees. But his judgment, his perception of the law, and the work he did in helping guide us in reaching this compromise, so that we would come up with a statute that would be acceptable to consumers and producers, was absolutely invaluable.

We are deeply grateful to Senator HRUSKA for the important part he has played in bringing us to this compromise position, even though he disagrees, as I do, with certain provisions of it.

I think it very important that we keep the important parallel between price fixing allegations and allegations of fraud on the Patent Office when these concepts are the basis for the use of fluid recovery.

An allegation of price fixing requires assertion of facts showing intentional misconduct. That is implicit in the charge. We should make this equally clear in alleging fraud on the Patent Office. I think the amendment is clear that it is only intentional fraud on the Patent Office that will justify using the fluid recovery mechanism.

I certainly am grateful for the interpretation that has been given to this section by the distinguished Senator from New York as well as his citation from the Walker Processing case.

Mr. President, the Senator from Illinois would like 10 minutes at some appropriate time to make general comments and I ask that someone yield me sufficient time for that. Will the distinguished Senator from Nebraska?

Mr. HRUSKA. I yield 10 minutes to the senior Senator from Illinois.

Mr. ABOUREZK. Before he gets to that, I might make a response in reference to its definition in the legislative history on the term "procurement by fraud of the patent other than by technical fraud."

Perhaps the Senator from Illinois went just a little bit beyond what we intended in the agreement on this compromise amendment. But I want to clarify for everybody, while everybody is here, the intent of all the parties on this amendment, and the managers of the bill and the authors of the amendment, that it is merely to codify the Supreme Court decision in Walker Processing, cited at 382 U.S. 172, decided in 1965, and that decision has been printed in the RECORD. The courts deciding on this term should refer to that existing case law as we intended it.

Mr. PERCY. That is exactly the understanding of the Senator from Illinois and, certainly, the judgment of the court in that case where the court said:

> It must be remembered that we deal only with a special class of patents, i.e., those procured by intentional fraud.

All we are doing is codifying then in this statute exactly what the court has said.

Mr. HRUSKA. If the Senator will yield on my time for comment on that point, Mr. President, this Senator had in mind a different approach to the definition of fraud. It was thought for a while it should be willful fraud. That is what the committee decided at certain stages of its consideration. It was later modified and another alternative was intentional fraud.

There is some psychological disadvantage to that and both terms were discarded in favor of the words cited by the Senators already, particularly Senator JAVITS:

> Fraud (other than technical fraud).

Inasmuch as technical fraud is defined with precision and in ample fashion in the decisions of the Supreme Court, it was considered that this would be the better way to handle this particular point. That was the outcome of it, and I am perfectly happy with it.

I am very happy at the colloquy occurring on the floor here because it will make very clear what the committee intended and what will be expected of the courts when they come to apply this particular section.

I now yield 10 minutes to the Senator from Illinois.

Mr. PERCY. I thank the Senator.

Mr. President, I certainly urge the Senate to support the amendment now being offered to the Hart-Scott substitute to H.R. 8532.

This amendment would allow for the aggregation of damages in state attorney general parens patriae antitrust lawsuits only in cases of price fixing and fraudulent procurement of patents. The granting of this broad new authority to state attorney generals offers the possibility of greatly invigorating antitrust law enforcement in this country. At the same time it would ensure that the aggregation of damages concept would be used only in those cases where a clear and flagrant disregard for the Nation's antitrust laws had taken place.

In my judgment, no responsible businessman could in good conscience oppose fair and reasonable implementation of this statute.

The whole economic system in this country is based on the proper functioning of a free marketplace so that if there is a tremendous demand, supply will increase. An adequate supply will bring prices to a fair level. However, if groups of manufacturers, distributors, wholesalers, or retailers, get together and somehow fix prices, they are subverting the very system that we believe in. This would lead to a controlled market.

I have been very pleased with the understanding of this problem gained in the American business community since this debate began several weeks ago.

There were great fears about this legislation, but as the debate has proceeded, frustrating as it has been, difficult as it has been, and tempers as tight as they have been on occasion, it has served an extraordinarily useful purpose.

Some of the most responsible business groups in this country have come to realize the necessity of legislation in this field providing that it is responsible and reasonable, and that it protects the free marketplace. The U.S. Chamber of Commerce, the National Association of Manufacturers, and the Business Roundtable have all recognized that reasonable legislation in the antitrust field is in the best interest of American business and consumers.

Mr. President, I would like to point out to my colleague the colloquy between Senator CHILES and myself during the debate on his amendment late yesterday afternoon referred to previously today by the distinguished Senator from Florida. At that time, the Senator from Florida indicated that, with respect to price-fixing, his amendment is designed to permit the use of the aggregation of damages concept only in those cases of price-fixing as defined in current law today. That colloquy is set out in the RECORD on page 17277.

As has been indicated, the parens patriae section of the Chiles amendment would also permit parens patriae suits in cases of the procurement by fraud of a patent. Certainly, I think nothing that has been done in the compromise changes at all the legislative history established during the debate yesterday.

Mr. President, the Chiles-Byrd amendment also moves in the direction that I have long favored on the issue of premerger notification. The new language would eliminate the automatic stay provision of the Hart-Scott bill and revert to current law on the issuance of restraining orders and injunctions.

While I feel that the 30-day premerger notification period carries certain dangers with it, dangers to the consumer, dangers to the producer, and certain problems with respect to even the Justice Department itself, I recognize this provision is necessary to the compromise and that it was arrived at through the process of negotiation. Therefore, I now support it.

Mr. President, this amendment will prohibit the use of percentage contingency fee arrangements under the parens patriae title of the Hart-Scott legislation. State attorneys general would be allowed to hire outside attorneys under this amendment but only at hourly rates. I understand that this has always been the intent of Senator HART and Senator SCOTT, and I am pleased that this intent will not be made explicit.

Mr. President, on the question of price fixing, according to testimony before the Congress by Assistant Attorney General Thomas Kauper, it is estimated to cost the public $80 billion annually. It seems to me that in the compromise amendment to the parens patriae provision we are dealing with the area of greatest antitrust abuse. This legislation should greatly help in preventing price-fixing, which I understand to be the most egregious antitrust abuse. It will no longer be practiced without concern for the legal consequences.

However, I do not want anyone to believe that the Senate, by restricting the application of aggregate damages to price-fixing, is inclined to let those who violate the antitrust laws through practices other than price-fixing—such as through restriction of output, bid-rigging, division of markets or customers, and so on—to go scot-free. Of course, this bill does not alter the substantive law whereby all those who can prove their damages as a result of one of these practices can recover those damages. Individual damages are authorized if the suit is brought by a State attorney general and the law now authorizes treble damages if suit is brought by anyone else, including private parties or the Attorney General. Nor should anyone believe they can now restrict output or otherwise violate the law because Congress is primarily concerned with price-fixing in this bill.

I intend to send a letter to the Attorney General asking the Attorney General to report to the Senate 1 year after the enactment of this legislation as to the success of this measure in reducing price-fixing and other antitrust violations and any problems the language of the bill presents. In particular, I will ask the Attorney General to determine whether those people who previously would have fixed prices are continuing to do so in the same volume, and whether these people are violating the Sherman Act in some other significant way because of the limitations on aggregation in title IV. I am particularly concerned that violations of section 1 of the Sherman Antitrust Act other than price-fixing not become the new customary methods for avoidance of competition in the marketplace. We need this report so that the Senate and the entire Congress will be alerted to the possible need for extension of the aggregated damages provision of title IV of this bill to cover antitrust violations other than price fixing.

Mr. President, I believe the bill we are considering today to be landmark legislation. The compromise that has been worked out by all sides prohibits State attorneys general from using aggregated damages to ascertain the size of recovery in any cases other than price-fixing and fraud on the patent office. I support this compromise. It opens a major new area for effective enforcement of the antitrust laws.

In conclusion, Mr. President, once again I commend my former colleagues in business for recognizing the need for responsible antitrust laws designed to maintain a free and open marketplace. I have been out of the business world for better than a decade now. I have seen a transition in the attitude of the U.S. Chamber of Commerce and the National Association of Manufacturers, who have just announced their merger. I have also seen a transition on the part of the Business Roundtable and other business groups. I have seen a far more progressive attitude on their part.

Rather than protecting all business interests regardless of whether they conflict with statutes or the public interest, these organizations have become adamant in their opposition to abuses that subvert the very free market system that we are trying to protect.

It is the interest of business to support and back all legislation designed to keep our market free and competitive. That is what the free enterprise system means and that is what we are trying to preserve.

Mr. HRUSKA. Mr. President, I yield 5 minutes to the Senator from New York.

Mr. JAVITS. Mr. President, I shall support this amendment en bloc. I think it is a very fair and rational solution of what divided us so sharply. I wish to pay tribute not only to the proponents, as Senator PERCY has so very eloquently done for all of us, but to the opponents. That role, Mr. President, is often very sticky, very difficult, very unpopular. But it has now brought a result.

Whatever one may say about individual amendments, dilatory motions, and so on, it is a fact that determined opposition brings us often to consideration which we never thought we would entertain.

I would also like to say to Senator ABOUREZK and his colleagues, especially Senator HART, who is not in the Chamber at the moment, that their fidelity and devotion to what was for Senator HART a 10-year-old work was very inspiring. We love Senator HART as we have loved few men in this body. Equally inspiring was his willingness to utter those words which are the pride of any man and woman, "I am persuaded."

The really was a very great and credible enterprise to the Senate of the United States.

Mr. President, the amendment deals with the three most serious problems:

The assessment of so-called liquid damages, which has raised much thought and is now pretty well refined to what would probably be criminal acts of a kind particularly obnoxious to society in respect to price fixing or fraud on the patent office.

Second, a number of us were worried about percentage contingency fees as being demeaning to any government office, whether it is a State attorney general or a Federal attorney general. That has been dealt with very effectively.

And finally, we were deeply concerned about automatic stays to mergers to be issued by courts without probable cause or any likelihood of a successful litigation.

We are a capitalist society: 85 percent of our people profit from it enormously;

15 percent are disadvantaged. But we do not want to turn that pyramid upside down because we know it will not help the 15 percent to drag the 85 percent down. The best hope of the 15 percent is if the society can produce enough to see that they get a fair break.

Finally, Mr. President, my interest in the fact that the antitrust laws are not only an economic situation but an economic law too is very deep. For 10 years I have tried to bring about the appointment of a commission which would consider the fundamental antitrust policy of our country as a profound public and political policy. It is a matter of enormous gratification to me, and I think of greatest importance to our country, as the 2 years ahead will reveal, not only that we have at long last authorized, as we will do in this legislation the way to enforce existing antitrust laws, but that we have accepted the challenge of evaluating whether the existing antitrust laws and their underlying concepts that we now propose to enforce more sharply really are in the highest interest of our country.

This, to me, ranks equally with our determination to enforce the law as it is, and I hope it will have that attention from the Senate and the President which it so richly deserves, and that it will have the full support of the business community.

Mr. HRUSKA. Mr. President, I yield 10 minutes to the Senator from South Carolina.

Mr. THURMOND. Mr. President, I rise in opposition to H.R. 8532 and S. 1284.

On June 2, I read an article in the Washington Post: "Antitrust Bill Cloture Vote Said in Doubt." A carefully woven thread through this article is that H.R. 8532 and S. 1284 are bills, which are aimed at big business. The proponents of these bills and the Washington Post do not like to dwell on the opposition of small business. On May 25, I put into the Congressional Record the stamp of disapproval for S. 1284 and H.R. 8532 by small business in my State. On that day, I brought a few of the many letters I have received from small businessmen who oppose S. 1284 and H.R. 8532. Other Senators wanted to speak that day and I did not include all of the letters I brought with me into the Record. Today, again, as a reminder of the concern of the small businessman, I will take a few minutes to give the Senate the small businessman's point of view.

Mr. President, I have a letter from Greenville, S.C., from George L. Wrenn, which reads as follows:

> The Antitrust Act, S. 1284, appears to be just another business harassment seemingly aimed at big business but one that would have disastrous effect on medium and small business. It is open-ended for any enterprising lawyer to build big, fat fees out of minor or even questionable violations.
>
> Please don't forget who pays for unnecessary business harassment. It's the public. Also please don't forget that business freedom must be present if we are to have individual freedom as we know and cherish it.
>
> Please oppose S. 1284 and, if necessary, join in a filibuster to stop it.

I have a letter here from R. M. Yonce and Gary A. Hall of Ninety Six, S.C.

Mr. ABOUREZK. Mr. President, will the Senator yield? We have not yet obtained the yeas and nays on these votes.

Mr. THURMOND. I yield for that purpose.

Mr. ABOUREZK. Mr. President, at this point I ask for the yeas and nays.

The PRESIDING OFFICER. There was unanimous consent granted for a request for the yeas and nays to be in order on all three votes with one show of hands. Is that the Senator's request?

Mr. ABOUREZK. That is what we are requesting now.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second. The yeas and nays are ordered on all three votes.

Mr. THURMOND. The letter reads:

> We were just made aware of the omnibus antitrust bill (S. 1284). The Senators that are pushing this bill must not be familiar with the Textile Industry at all. Our competition is as keen as we have ever seen it. We see this every day in the quality requirements that are demanded by our customers.
>
> We are wholeheartedly against S. 1284, which would allow the Department of Justice, State Attorneys General and Public Law Firms act as justice and jury in antitrust matters.
>
> We would appreciate your concern in this matter.

I have a letter here from Kenneth L. Wilson of Greenwood, S.C.:

> I would like to advise you of my opinion on the Anti Trust Bill S. 1284. I feel that this would be another in the many steps that our Federal Government is taking to encroach upon private business. I feel that this is a trend that is unhealthy for our country, therefore, I oppose this bill.

I have a telegram from A. A. Fretwell, Spartan Grain & Mill Co., Spartanburg, S.C.

> We strongly urge you to oppose the following: S. 1284, H.R. 8532.

I have a letter from Guaranty Bank & Trust Co. of Florence, S.C.:

> I am just wondering what happened to the so-called Antitrust Improvements Act S. 1284. Of course I know you did everything you could to defeat this legislation because it certainly was . . . as I am sure you realize . . . a very obnoxious bill.

I have a wire here from Nancy Fashions, Morton Levy, manager, Spartanburg, S.C.:

> Senate bill S. 1284 should be defeated. We do not need the added burden of time and expense to defend ourselves against trumped up charges by people who have nothing else to do except cause trouble and add cost which the public would have to pay in added cost of production. We are tired of harassment by everyone and would like to be able to run our business for a change.
>
> The time, financial and other considerations make this a bad law and besides we already have Federal laws, why add 50 States to our problem? Please do all possible to defeat this bill. Please let me know if you can.

I have a letter from John C. Dunson, of Charleston, S.C.:

> We urge you to vote against Senate Bill No. 1284 allowing states to instigate antitrust suits.
>
> Businessmen and corporations already have enough harassment without adding this burden to their backs.

I have a letter from David R. Motes of Laurens, S.C.:

> Dear Senator: As a realtor, I would like to ask your support in defeating Senate Bill S. 1284.

I have a letter from Conner Realty Co., a letter from Read and Read of Charleston, S.C., and a letter from James A. Chapman, Jr., of Inman Mills, Inman, S.C. I ask unanimous consent that these letters be printed in the Record following those I have read.

There being no objection, the letters were ordered to be printed in the Record, as follows:

Conner Realty Co., Inc.
March 4, 1976.

Hon. Strom Thurmond,
U.S. Senate,
Washington, D.C.

Dear Sir: I am writing to request your assistance in defeating S. Bill-1284 and its counterpart H.R. Bill-8532. These bills would create a new statutory cause of action, authorizing state attorneys general and auxiliary private legal counsel to use the Federal Courts to transfer "illegal profits" or monopoly "overcharges" from business firms to the states.

The vehicle utilized would be the Sherman Anti-Trust Act and the bills, if passed, could subject real estate brokerage offices to potential liability of millions of dollars.

The proposal contained within these bills compels mandatory awards to the states of triple what is thought to be "damage" to the states "general economy" or the individual state residents in the aggregates, with no requirement for proof of either the fact or the amount of any individual injury. It would also award attorney's fees and "other expense of litigation".

In this connection, a 1974 class action antitrust case serves as an example of the abuses this proposed law could well bring about. In that case, triple damages of $750 million were asked against 2,000 Los Angeles real estate brokers, jointly and collectively.

I am strongly opposed to this legislation for the following specific reasons:

The financial inability of the small businessman to defend himself in a costly, frivolously based action.

The threat to the health of our industry and the economy, at a time when the recession appears to be substantially behind us.

The danger in politicizing anti-trust enforcement by giving 50 attorneys general the power to bankrupt business firms through huge damage claims; powers that go far beyond those now possessed by the U.S. Department of Justice.

The continuing in-road of both Federal and State regulatory agencies in controlling and over regulating the real estate industry, thereby eliminating the "free enterprise" concept and forcing many small real estate brokers, either out of business or to combine with national type marketing organizations in order to survive the regulatory on-slaught.

Your support in defeating this legislation will be greatly appreciated by both myself and all my colleagues in the real estate profession.

Sincerely,
Conner Realty Co., Inc.,
Lloyd C. Conner, *Realtor*.

Read & Read, Realtors,
Charleston, S.C., April 13, 1976.

Re Antitrust Reform Act, S. 1284/H.R. 8532.
Hon. Strom Thurmond,
Senate Judiciary Committee, Dirksen Office Building, Washington, D.C.

Dear Senator Thurmond: I wish to voice my concern and objection to the above captioned legislation.

I am sure that the proponents of this bill had admirable intentions, however, after analyzing the contents of this legislation I, as an American businessman, am concerned this legislation if passed could result in frivolous litigation and action the cost of which could bankrupt the small businessman. It would definitely result in a threat to the country's economy at a time when the recession appears to be subsiding and business improving.

I am sure you are aware of this legislation and its ramifications and I request that you vote against its passage into law.

Respectfully submitted,

EMERSON B. READ.

INMAN MILLS,
Inman, S.C., February 23, 1976.

Re S. 1284—Judiciary Committee.

Hon. STROM THURMOND,
Senate of the United States, Senate Office Building, Washington, D.C.

DEAR STROM: It has been brought to my attention that the above number legislation is in the Judiciary Committee and is designed to tighten up on anti-trust procedures. If there is anything we don't need, it is continued federal and state meddling in private business affairs.

Under Title II is proposed to give the Justice Department new investigatory powers to conduct virtual witch hunts within our companies.

Under Title IV, the states' attorney generals could sue for damages due to alleged anti-trust activities, either floating damages or general damages. This is extremely dangerous where, as you know, many attorney generals use this office as a political spring board to higher elective offices.

Under Title V, the subject of the prenotification of mergers is proposed to be so strict that it would make it most difficult for honest men to do business.

I realize that you are opposed in principle to this type legislation and hope you will redouble your efforts to see that it never comes out of the committee.

Sincerely,

JAMES A. CHAPMAN, Jr.

Mr. THURMOND. Mr. President, I also ask unanimous consent to have printed in the RECORD an article published in the Yale Law Journal, volume 85, No. 5, written by Milton Handler and Michael D. Blechman, entitled "Antitrust and the Consumer Interest: The Fallacy of Parens Patriae and a Suggested New Approach."

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ANTITRUST AND THE CONSUMER INTEREST: THE FALLACY OF PARENS PATRIAE AND A SUGGESTED NEW APPROACH

(By Milton Handler and Michael D. Blechman)

In recent years, a widespread assumption has developed in many quarters that the best way to protect consumers under the antitrust laws is through novel procedural devices which would permit very large numbers of small damage claims to be asserted in massive lawsuits. This view has been reflected in proposals for *parens patriae* and fluid class actions which have been rejected by the courts, but which are now being considered by the Congress as part of two pending antitrust bills of immense potential importance.

As we shall show, the history of the *parens patriae* and fluid class innovations and a consideration of how they will function in practice suggest that this approach will neither confer significant benefits on consumers nor provide a workable deterrent for enforcing the antitrust laws in their interest. Therefore, the time has come to consider alternative means for realizing these objectives. Thus, if we separate the problem of deterrence from that of compensation, it is clear that a great deal could and should be done to guide and improve the Government's enforcement efforts so that they will produce far more economic benefit for consumers than is the case today. The problem of compensation can then be dealt with on its own terms by providing vehicles for reparation in those cases where compensation is in fact meaningful to the consumers themselves.

I. THE SEARCH FOR A PROCEDURAL PANACEA

The effort to develop a procedural device for asserting small individual antitrust claims on behalf of massive groups of consumers had its initial impetus in the 1966 amendments to Rule 23. Prior to that time, a class action for treble damages was in effect a permissive joinder device which required affirmative action by any class member wishing to be represented in the lawsuit. By virtue of the 1966 amendments, however, each person within the category defined by the plaintiff in his complaint automatically became a member of a litigating class unless he took the steps required by law to "opt out." Thus, the consumer who had little or no financial stake in a lawsuit and who was therefore unlikely to take any action at all would, for that very reason, be included in the class. Consequently, a plaintiff's counsel could purport to represent very large classes with aggregate claims of astronomical dimension simply by drafting appropriate language in a pleading. It is doubtful that the draftsmen intended or even contemplated such results. Nevertheless, these new possibilities under Rule 23 led to the commencement of suits alleging such prodigious classes as 1½ million purchasers of bread in Philadelphia, tens of millions of retail purchasers of gasoline in various states, 20 to 40 million buyers of General Motors automobiles, 40 million hotel customers, all homeowners in the United States, all consumers of eggs in the United States, and even all 200 million or more persons in the United States.

As a seeming procedural key for opening up the federal courts to millions of aggrieved consumers, the class action was hailed as "one of the most socially useful remedies in history." In fact, however, the reality never came close to matching the promise of this supposed panacea. As noted by Judge Medina in *Eisen v. Carlisle & Jacquelin*, "not a single one of these class actions including millions of indiscriminate and unidentifiable members has ever been brought to trial and decided on the merits." In some instances consumers were found to have suffered no compensable injury. In other instances the courts refused to certify classes because, among other defects, the sheer burden of processing millions of small claims through discovery and trial rendered the actions unmanageable. What is more, the supposed benefits to individual consumers were often so inconsequential that in the view of some courts the attorneys rather than the class members constituted the real parties in interest.

In an effort to meet some of these problems, state *parens patriae* suits were introduced to the antitrust landscape in the early 1970's. Actually, two distinct kinds of *parens patriae* claims were asserted under quite different legal theories. In the first category, the states sought to extend their traditional powers to protect the interest of idiots, lunatics, and other incompetents by purporting to sue on behalf of their consumer-citizens allegedly injured by a claimed antitrust violation. The purpose of this kind of action was to allow the states to keep for their own use any unclaimed damages that might be recovered on the consumers' behalf. Since this procedural innovation circumvented all of the safeguards of Rule 23, it not surprisingly received short shrift in the courts. Moreover, just as the appointment of a guardian *ad litem* does not change the substantive rights of an incompetent party, this type of *parens patriae* could not in any event obviate the need to prove individual injury to each consumer on whose behalf suit was brought.

To overcome this obstacle, a second type of *parens patriae* action was devised which attempted to avoid the need for proving damages to individuals by relying instead on putative injury to the so-called general economy of the state itself. This second category of *parens patriae* was rejected by the Ninth Circuit in *Hawaii v. Standard Oil of California* on the ground that the "general economy" of a state is an "abstraction" which the court doubted could be the subject of independent harm. The Supreme Court affirmed, pointing out, among other things, that "[a] large and ultimately indeterminable part of the injury to the 'general economy' . . . is no more than a reflection of injuries to the 'business or property' of consumers. . . ."

The final judicial innovation for circumventing the problems of asserting treble damage claims based on supposed injuries to consumers was the "fluid class" device proposed by the plaintiff and accepted by the district court in *Eisen v. Carlisle & Jacquelin*. That case involved an alleged class of some 6 million odd-lot traders on the New York Stock Exchange who were estimated to have been overcharged an average of $1.30 per class member for brokerage services during the relevant period. As might have been expected in view of the modest stakes involved for each individual investor, "[n]o claimant in the six years of the progress of the action had shown any interest in Eisen's claim."

The district court had initially held the class action unmanageable because of the large size of the class and the minuscule size of the individual claims. On remand from the court of appeals, it adopted a "fluid recovery" procedure under which damages would be awarded in the aggregate to "the class as a whole." Those persons actually injured and wishing to file claims (which were expected to be relatively few in number) were to be paid out of the fund created by the aggregate damage recovery. The remainder of the fund would be disbursed by reducing future odd-lot brokerage fees by some judicially set amount until the fund was depleted—in effect distributing the "excess" damage recovery to future odd-lot purchasers, regardless of whether or not such persons had bought during the alleged conspiracy and therefore even arguably had suffered some injury.

The Second Circuit rejected this innovation, not merely because of the violence it did to Rule 23, but also "as an unconstitutional violation of the requirement of due process of law." If constitutional requirements were observed, the court noted, the alleged class would be unmanageable and the costs of processing individual claims would render the amounts payable to individual class members "so low as to be negligible."

Having come to a dead end in the courts, the search for a procedure to vindicate small consumer claims in antitrust suits moved to the Congress. One bill recently passed by the House and another presently pending in the Senate would adopt through legislation the devices of *parens patriae* and fluid class suits rejected in the courts. The proposed legislation would empower the attorney general of any state to bring *parens patriae* suits for damages sustained by natural persons residing in the state. The bills further provide that in *parens patriae* suits asserting the individual damage claims of state residents and in class actions brought *patriae* suits for damages sustained by natural persons, "damages may be proved and assessed in the aggregate" using unspecified statistical, sampling, and other estimating methods. The legislation does not indicate what is to happen in class actions after such an "aggregate" damage fund is created. The bills provide that in *parens patriae* suits, unless specified by state law, the court shall have discretion to dictate a method of distribution, with the caveat that each of the purportedly injured natural persons on whose behalf suit was brought shall have a reasonable opportunity to secure his "appropriate portion" of the fund. Thus, the pending legislation would permit precisely the kind of "fluid recovery" procedure which the Second Circuit rejected in *Eisen*.

The foregoing history suggests that the development of the fluid recovery and *parens patriae* devices has been predicated upon certain assumptions of questionable validity. The first is that the problems of proof of injury and manageability which rendered consumer class actions unworkable are mere technical difficulties that may be overcome by legal ingenuity. Supporters of the proposed legislation seem to assume that judicial rejection of *parens patriae* and fluid classes has been based on precedential or doctrinal grounds that may be legislatively overruled. A second, more important assumption helps explain the persistent conviction that, despite all problems, some means must be found to provide an effective consumer treble damage remedy. This is the view that, in any given case, the defendants have gouged the public and wrongfully extracted from consumers a "pot of gold" which now lies secreted in their corporate coffers. It is assumed that justice requires that some way be found to get the consumer back his money or, if that is impossible, at least to make the defendants disgorge their illegal profits and deter others from similar violations.

In order to determine the extent to which these assumptions are justified, it is useful to consider how the proposed legislation will actually work when applied to the kinds of antitrust violations that are occurring in the economy today. In order to do this, we have examined the Commerce Clearing House Reports for the past five years describing the 346 civil and criminal actions commenced during that time by the Department of Justice. These Reports provide a unique source of information about the suits brought by the Government (which, in turn, reflect the Antitrust Division's perception of existing violations warranting government action). Moreover, the Reports constitute the best available universe for any statistical study of antitrust enforcement. This body of data is particularly relevant for present purposes since the proponents of the pending *parens patriae* bills themselves rely upon the record of recent Justice Department actions to prove what they believe to be need for the remedial legislation.

As we examine the cases brought during the last five years, we will see that the proposed legislation is predicated on a false conception of the kinds of antitrust violations occurring in the economy, their impact on consumers, and the likely effects of a *parens patriae* remedy.

We turn first to the vast majority of cases where antitrust violations have occurred at levels in the chain of distribution so remote from consumers as to make it virtually impossible for them either individually or as a class to prove that they suffered any compensable injury at all, much less the amount of their alleged damages. Such cases are further complicated by the fact that multiple, conflicting claims are typically asserted by persons at different levels in the chain of distribution based on the same alleged overcharge. As we shall show, neither the *parens patriae* nor fluid recovery devices provide solutions to the very real problems of proof of injury and manageability presented by these cases.

Next, we will examine the relatively small number of alleged price-fixing conspiracies in which consumers are directly affected, and where the new legislation therefore might have an impact. We shall show that the nature of both the violations and the defendants involved in such cases bear little resemblance to the stereotypes apparently envisioned by the proponents of the pending bills. We shall then go on to discuss the welter of practical, policy, and constitutional objections which render *parens patriae* inadequate both as a deterrent and as a compensatory remedy even where it has potential application.

An analysis of the inadequacies of the proposed legislation, however, does not solve the problem of how the antitrust laws may best be enforced to benefit consumers. Therefore, in the final section of this article, we shall suggest some alternative solutions which we believe will help to realize the objectives of the pending bills far more effectively and without the problems raised by *parens patriae* and fluid class actions.

II. ANTITRUST VIOLATIONS AFFECTING CONSUMERS INDIRECTLY

It is clear that many of the proponents of *parens patriae* envision the typical antitrust violation as a price-fixing conspiracy in which overcharges are exacted by the defendants in sales to consumers. In fact, however, only 45 of the 346 government cases brought in the past five years alleged horizontal price-fixing at the retail level; and, as we shall argue in Part III below, even in that small category it is doubtful in many cases that the violation in question actually resulted in overcharges to consumers. What is more, the farther one moves from retail price-fixing, the more problematic and difficult it becomes to prove injury to consumers.

A. Horizontal Price-Fixing

Even in the area of horizontal price-fixing, with its generally quantifiable overcharge, the great majority of government suits involve conspiracies which affect consumers, if at all, only in an indirect and uncertain manner. In most of these cases the price-fixed item is a minor component of the product or service that the consumer purchases. For example, many of these suits have involved items such as gypsum wall board and plaster, gas vent pipe, plastic pipe fittings, concrete and concrete block, toilet seats, and overhead garage doors—items which consumers typically acquire only as component parts of new or used houses. Similarly, the Department has charged price-fixing conspiracies affecting zipper sliders, which consumers ultimately acquire as part of the clothing they purchase, and paper labels, which are put on some bottles and cans and thus purchased as a minor incident to food and beverages. Even further removed from consumers are the conspiracies charged by the Government affecting the prices of, for example, diamond grit used for industrial grinding, chromite sand used to make molds for steel ingot, nylon netting used for shrimp and salmon fishing, and chemicals used to make plastics and herbicides, all of which have only the most speculative effect on the prices of goods or services actually sold to consumers. On the other hand, in another group of cases involving local price-fixing conspiracies by wholesalers of bread, dairy products, meat, eggs, and produce, consumers do purchase the price-fixed items as such, but only after they have been bought and sold at one or more intervening levels in the chain of distribution.

1. The problem of proving pass-on

The problem in all of the situations in which the consumer does not deal directly with an alleged price-fixer is that he cannot establish a claim merely by proving that an antitrust violation has occurred; rather, in order to show that he has been injured, the consumer must also demonstrate that an overcharge reached him by being passed from one level to another in the chain of distribution.

The extreme (indeed, insuperable) difficulty of providing adequate proof of the pass-on of an overcharge was articulated by Justice White in his now classic opinion in *Hanover Shoe, Inc. v. United States Shoe Machinery Corporation*. The plaintiff in that case was a shoe company which claimed that the defendant's unlawful policy of leasing, as opposed to selling, its shoe manufacturing machinery had raised the total cost plaintiff paid for use of the machinery in question. By way of defense, the defendant argued that the plaintiff had suffered no injury since it had "passed-on" any overcharge to its own customers by increasing the prices at which it sold shoes.

In rejecting this defense, the Court stressed the virtual impossibility of establishing a causal link between an overcharge incurred by a buisness in acquiring supplies or equipment and the pricing decisions of that company's executives in the different and presumably competitive market in which it sells. Justice White noted:

"Normally the impact of a single change in the relevant conditions cannot be measured after the fact; indeed a businessman may be unable to state whether, had one fact been different (a single supply less expensive, general economic conditions more buoyant, or the labor market tighter, for example), he would have chosen a different price."

Indeed, even in the best possible circumstances, where "it could be shown that the buyer raised his price in response to, and in the amount of, the overcharge," it would still be impossible to prove that the buyer's price increase represented the pass-on of that overcharge since there would remain the nearly insuperable difficulty of demonstrating that the particular plaintiff could not or would not have raised his prices absent the overcharge or maintained the higher price had the overcharge been discontinued.

In short, in what the Supreme Court referred to as "the real economic world rather than an economist's hypothetical model," it is inherently impossible to reconstruct with any reasonable certainty the subjective dynamics of a past pricing decision, much less determine what that decision would have been if a particular input had been less expensive. In his opinion Justice White recognized only one exception to this general rule—the case of preexisting cost-plus contracts and like arrangements where the impact of a single cost item on price can be determined with mathematical certainty without regard to competitive market conditions and without inquiry into the mental processes of individual businessmen seeking to evaluate the subtle play of economic forces.

Some two years later, the same "insuperable" evidentiary obstacles which had led Justice White to reject a claim of pass-on by way of defense were relied on by Judge Lord in dismissing the claims of an alleged homeowner class in the *Plumbing Fixtures* litigation. The defendant manufacturers in that case were charged with price-fixing on tubs, toilets, sinks, and similar items. In order to recover, however, a member of the homeowner class would have had to prove: (1) that, because of the conspiracy, the plumbing fixtures ultimately installed in his house had been sold by a defendant to a wholesaler at a price that included an overcharge; (2) that the wholesaler had passed on part of the overcharge by selling the fixtures to a plumbing contractor at an inflated price; (3) that some of the overcharge was again passed on in the bid for the combined package of labor and materials that the plumbing contractor submitted to the builder; and (4) that the price at which the builder sold the class member his home also contained an overcharge. Those homeowner claimants that had bought used rather than new homes would in addition have had to show that each time their houses changed hands the purchase price was inflated by some part of the amount by which the defendant-manufacturer had originally overcharged the wholesaler for the plumbing fixtures.

A number of factors combined to make it apparent that the homeowners in the *Plumbing Fixtures* case could not possibly have proven their claims. For one thing, unlike the situation in *Hanover Shoe,* they would have had to prove not one, but a series of pass-ons. Second, the plumbing fixtures which were actually involved in the alleged conspiracy were a very small part of the cost of the homeowners' houses. The maximum overcharge on the fixtures in a typical two-bathroom house was estimated by the court to be between $10 and $20, while the total prices for the homes that the class members purchased ranged from $20,000 to $30,000. The court was understandably reluctant to believe that, but for a $10 overcharge on plumbing fixtures at the manufacturer level, a builder or former owner would have sold a $30,000 house for $29,000.

What is particularly significant about these considerations is that, far from being unique to *Plumbing Fixtures,* they apply equally to the gas vent pipe, concrete block, plastic pipe fittings, wall board, zipper slider, paper label, and other alleged conspiracies charged in many recent government suits involving substantially similar chains of distribution, and, of course, *a fortiori* to the cases involving equipment and raw materials even more distantly removed from the level at which consumers purchase. Virtually all of the courts that have considered the matter agree that in such cases—which account for the overwhelming mass of price-fixing conspiracies as reflected in five years of government suits—consumers cannot possibly establish compensable claims.

A more difficult problem is presented by those situations where consumers purchase the price-fixed item itself from an intervening seller. Although courts have found that the obstacles to proving passion discussed in *Hanover Shoe* likewise bar consumer suits against wholesalers of bread and eggs, the court in *Boshes* v. *General Motors Corporation* took the position that retail purchasers of automobiles might be able to prove injury resulting from price-fixing and monopolization at the manufacturer level because they bought the product in the same form as the defendant sold it and not (like the homeowners in *Plumbing Fixtures*) "as a small component or derivative of something else."

The problem with relying on this distinction is that it fails to deal with the basic rationale for *Hanover Shoe*—the inherent impossibility of reconstructing pricing decisions in intervening markets. The *Boshes* court noted that the "retail automobile business is notorious for its haggling," that "buyers 'shop around' to get the best price," and that "[p]rices vary even among identical automobiles sold by different dealers." If, as the Supreme Court held, the difficulties of proving a pass-on are insuperable even where it can be shown that the first buyer "raised his price in response to, and in the amount of, the overcharge," it would be at least equally unavailing to try to determine whether a particular dealer passed on or absorbed an overcharge on a particular automobile in the admittedly volatile and highly competitive retail automobile market. In short, so long as the consumer is insulated by a reasonably competitive intervening market, *Hanover Shoe* itself suggests that there is no reasonable basis for distinguishing cases involving goods ultimately purchased intact by consumers from those dealing with equipment or materials used to produce consumer goods.

A number of courts and commentators, finding the disallowance of consumer claims to be an undesirable and overly harsh result, have criticized the application of *Hanover Shoe* in *Plumbing Fixtures* and like cases. The problem, however, is that none of these critics has adequately come to grips with the hard factual considerations upon which the rejection of allegations of pass-on has been based.

Judge Lord's decision has been said to represent an overly "literal" application in favor of defendants of a principle established by the Supreme Court for the benefit of plaintiffs. One recent opinion has even suggested that he should instead have interpreted *Hanover Shoe* in light of the "result orientation with which the Court has approached the whole area of private treble damage litigation." In other words, according to this school of thought, when Justice White referred to the difficulties of proving pass-on as "insuperable," he really meant that they were insuperable for defendants only, and that somehow a way would be found to allow plaintiffs faced with the identical evidentiary problems to prevail. Not only does this view manifest a cynicism which undermines confidence in the judicial process; it also fails to take into account the solid factual basis upon which Justice White's analysis rests. The Court's statements of the virtual impossibility of reconstructing the decision-making process by which Hanover priced its shoes were predicated upon specific observations about what the Court itself characterized as the "real economic world." Those same factual conditions obviously would have had to apply to an effort by a consumer of shoes to disentangle precisely the same pricing decisions by the shoe manufacturer (as well as subsequent pricing decisions by wholesalers and retailers) in seeking to establish a claim.

The courts which have refused to apply *Hanover Shoe* to bar consumer claims generally treat the entire issue as a question of standing. They accordingly reject the *Plumbing Fixtures* decision as an erroneous attempt to insert a requirement of privity into the law of standing, pointing out (correctly) that such a rule would be inconsistent with at least the target area test of standing adopted by some circuits. However, the disallowance of the homeowner's claims in *Plumbing Fixtures* had nothing more to do with standing than did the Supreme Court's refusal to recognize the pass-on defense in *Hanover Shoe.* Instead, both decisions were based upon a realistic assessment of the evidentiary problem involved and the unlikelihood that the pass-ons in question could ever be proven.

Such practical questions of the possibilities and methods of proof are neatly avoided in the cases which treat pass-on as an issue of standing. In the *Master Key* case, the Second Circuit suggested that the plaintiffs might be able to prove injury merely by establishing that there had been an overcharge and that they were consumers of the product in question, apparently not even considering the possibility that any overcharge might have been absorbed in its entirety by persons at intervening levels in the claim of distribution. In the *Western Liquid Asphalt Cases* the court ducked the issue of how injury could be proven by relying on the lower court's assumption that some portion of the alleged overcharge had been passed on to the plaintiffs. In *Carnivale Bag Co. v. Slide-Rite Manufacturing Corporation,* the court merely ruled that the issue of whether the plaintiffs could prove their claims was irrelevant to the defendants' motion to dismiss, which was denied on the ground that the plaintiffs were in the "target area" of the alleged violation and therefore had standing.

While the question of whether pass-on can ever be proven in any of those cases thus lies in abeyance, the affidavits referred to in some of the opinions suggest that the Supreme Court's prognosis of the futility of such an effort is likely to be bore out. In the *Master Key* litigation, for example, Judge Blumenfeld based his denial of the defendants' motion for summary judgment in part on an affidavit of the plantiffs' economist stating that the builders' hardware involved in that case was sold in a market characterized by inelastic demand. The court's opinion quotes with approval the economist's conclusion that " '[w]hen demand is very inelastic, increases in costs due to an overcharge will be passed on in full.' " Ironically, this is precisely the argument raised and rejected in *Hanover Shoe.* There, the defendant maintained that there could be no injury where [an] overcharge is imposed equally on all of a buyer's competitors and where the demand for the buyer's product is so inelastic that the buyer and his competitors could all increase their prices by the amount of the cost increase without suffering a consequent decline in sales.

Indeed, it was in response to this very claim that the Court made its much quoted statements about the "insuperable difficulty" of recreating pricing decisions "in the real economic world rather than an economist's hypothetical model."

While one may sympathize with the reluctance of some courts to disallow consumer claims, rulings which postpone decisions on the pass-on issue confer no benefit on consumers if those rulings merely afford consumers an opportunity to demonstrate in agonizing detail the futility of attempting to meet their burden of proof. If Justice White in *Hanover* and Judge Lord in *Plumbing Fixtures* were correct in their perception of the "real economic world"—and thus far no court or commentator has demonstrated the contrary—then it must be accepted as a fact of economic life that any injury to consumers resulting from the vast majority of price-fixing conspiracies which occur at levels other than retail is inherently incapable of being proven. Consequently, the proposed *parens patriae* bills now before Congress are likely to prove a cruel disappointment. The whole approach for protecting consumers which they embody is predicated on the erroneous assumption that consumers have viable treble damage claims in at least a significant body of antitrust suits. Since, as we have seen, this is not likely to be true even with respect to most price-fixing cases, the expectations raised by the *parens patriae* and class action innovations cannot possibly be realized.

This conclusion is in no way altered by the provision in the pending bills allowing damages [to] be proved and assessed in the aggregate on the basis of statistical or sampling methods, or such other reasonable method of estimation as the court in its discretion may permit, without separately proving the fact or amount of individual injury or damage. . . .

If the problems of proving pass-on are insuperable on an individual basis, it is difficult to imagine how much difficulties could be overcome by aggregation, or what statistical, sampling, or estimating methods would conceivably be relevant to such an endeavor. If there is more than one level of buyers and sellers in the chain of distribution, merely showing an overcharge by, for example, the manufacturers surely would be insufficient, since the possibility (indeed, the likelihood) that consumers were insulated to some degree from any overcharge by the operation of intervening markets would make it impossible to infer the extent to which either the class as a whole or any of its members were injured.

Similarly, a mere showing that prices increased at the retail level or even at each of the other intervening levels of the chain of distribution would not be sufficient to prove pass-on. As the *Hanover* Court pointed out with respect to the stronger hypothetical case of an intervening buyer raising his price in response to and in the amount of an overcharge, a pass-on still could not be proven because of the "nearly insuperable difficulty" of demonstrating that the intervening seller would not have raised his prices in any event. Obviously, expanding the same proof to cover the "aggregate" injury of an entire class would not serve to cure the defect Justice White perceived. Indeed, it was just such an attempted class-wide showing of pass-on, based on economists' arguments and statistics, that the Supreme Court rejected in *Hanover Shoe* itself.

2. The Multiple Recovery Problem

There appears to be a consensus among all courts that have considered the matter that the problems of proving pass-on must be handled in such a way as to avoid duplicative recoveries for the same alleged overcharge. If, for example, the plaintiff manufacturer in *Hanover Shoe* is permitted to recover three times the overcharges it paid, without any reduction for subsequent pass-on, then a different rule cannot be invoked to allow all of the wholesalers, retailers, and consumers who purchased Hanover's shoes to recover likewise for three times the same overcharges. To expose a defendant to multiple recoveries in such circumstances would subject it to, not three-fold, but six-fold or more damages for a single violation. In fact, the penalty would vary with the length of the chain of disrtibution (each new level adding another treble damage exposure), rather than the gravity of the offense, thus creating a singularly arbitrary mechanism for punishing or deterring violators. Such multiple recoveries cannot be justified in terms of compensation since, by hypothesis, permitting all of the claimants to recover will allow some if not most to enjoy full or partial windfalls.

Accordingly, even those courts and commentators that treat pass-on as a question of standing recognize that something must be done either to avoid or to solve the multiple recovery problem. In the *Master Key* litigation, for example, Judge Blumenfeld took the position that the possibility of double liability might be obviated by the doctrine of collateral estoppel. Under this theory, if an indirect purchaser (such as a consumer) established a claim by proving an unbroken series of pass-ons, the judgment in that case could be asserted by the defendant against all subsequent claimants higher up in the chain of distribution as conclusively establishing that they had passed on any overcharge and therefore suffered no injury. In fact, this notion has no support in the law of collateral estoppel. Findings of fact in one action may be used under certain circumstances in a subsequent lawsuit only against a party to the first action who had a full and fair opportunity to litigate the factual issues in question. Therefore, persons higher in the chain of distribution would not be bound by a prior ruling in another case that they had passed on an overcharge; indeed, they no doubt could successfully contest any such assertion by defendants by relying on the controlling authority of *Hanover Shoe*. Similarly, even if the party who purchased the price-fixed product directly recovered the entire overcharge, a consumer who bought the product would not be barred by collateral estoppel from seeking an additional recovery in a subsequent case.

Another device used by some courts to avoid dealing with the problem of multiple recoveries is to rely on the statute of limitations in situations where conflicting claimants are either already barred or, the court hopes, soon will be barred by their failure to file claims. While the court facing the latter situation may ignore the issue for the time being, the assertion of conflicting claims must always be regarded as a real possibility until the stature has actually run, since it is hardly unusual for class actions on behalf of large numbers of new claimants to be filed just before the running of the statute. Furthermore, in most cases—particularly where large amounts of money are at stake—conflicting claims are asserted as a matter of course either in the same lawsuit or in separate actions consolidated for pre-trial proceedings, and the courts therefore must deal directly with the problems of preventing multiple recoveries.

In such circumstances, those courts which have declined to follow *Hanover Shoe and Plumbing Fixtures* on the assumption that the amount of pass-on are susceptible to proof have concluded that each overcharge must be divided up in accordance with what the interests of the conflicting claimants are proven to be. In the *Western Liquid Asphalt Cases*, for example, the Ninth Circuit ruled that damages had to be apportioned among the claimants at various levels in the chain, with intermediaries (such as contractors) recovering for those portions of an overcharge they in fact absorbed and with the ultimate consumers (public entities which had contracted for the repair or construction of roads) recovering for only that portion of the overcharge actually passed on through all prior levels.

Western Liquid Asphalt did not involve any class actions. In *City and County of Denver v. American Oil Co.*, however, the court considered the same problem of allocating overcharges in the context of even a small alleged class of 126 public entities, and recoiled at the prospect. It noted that in order to trace an overcharge even on a simple paving job, the cost of the asphalt would have to be broken out of the bid and an inquiry made as to the precise extent, if any, to which that cost influenced the price charged for the paving contract as a whole. The court observed that, while the calculation for the paving contract would not be simple, it would be "child's play" as compared to "tracing the cost of asphalt into the cost of a 10-mile stretch of new highway blasted out of the Colorado mountains." Describing the ways in which proof of pass-on and injury would vary from claimant to claimant, the court concluded that "[t]o try this case as a class action might be an accountant's paradise, but it would be a court's purgatory."

Not unsurprisingly, in the *Boshes* case, where the alleged class consisted of 30 to 40 million persons instead of a mere 126, Judge Decker came to the same conclusion that the need to determine in each instance whether a retailer had absorbed or passed on a putative overcharge rendered the lawsuit hopelessly unmanageable as a class action.

The *parens patriae* bills presently before Congress are calculated to increase dramatically the number of conflicting claims with which the courts will have to deal, since the bills would invite the states to assert consumer claims in virtually all large antitrust litigations. For example, while only purchasers of zippers have thus far sued in the zipper slider case, if the proposed legislation becomes law the states would presumably feel obligated to protect the "natural persons" residing within their borders who purchased zippers as part of clothing. In those cases where only the owners of apartment houses have thus far asserted claims in competition with wholesalers, subcontractors, and general contractors on account of allegedly price-fixed items (such as plumbing fixtures) included in such structures, the states may well consider it their duty to try to vindicate the competing claims of tenants.

The problem, however, is that unlike the present class action rule, the proposed *parens patriae* procedures would not allow courts the escape mechanism of declaring the suit unmanageable. Hence, any court unlucky enough to be chosen as the forum for a state *parens patriae* action would have no option but to adjudicate the claims brought before it, however numerous and minuscule they might be. To determine what this would mean in practice, one might consider that, according to the House Committee Report, the new legislation is specifically intended to cover the kind of case in which it is claimed that 50 million consumers have each suffered $1 in damages. Since a case of that magnitude is likely to arise only where the alleged violation is remote from consumers in the claim of distribution, the court would have to find some way to adjudicate the rights of 50 million consumers, not only as against the defendants, but also as against competing classes of plaintiffs at other levels in the chain of distribution. Each class of plaintiffs, of course, is likely to claim that, to the extent there are very illegal overcharge, they were the ones who absorbed it. This enterprise will consume lifetimes of judicial energy without any possibility of producing meaningful recoveries for the individual consumers.

The draftsmen of the proposed bills may hope that these problems can be obviated by provisions in the legislation for proof of injury to a class "in the aggregate" based on statistical or sampling methods or some other "reasonable system of estimating aggregate damages." But in fact, as we have shown, the problems of proving even the existence of a pass-on do not become any easier simply by shifting the focus from the individual to the class; this is true a *fortiori* if one proceeds on the assumption that pass-ons can be proven, so that the problem becomes one of determining as a factual matter what portion of each overcharge was borne by each of the various claimants at the different levels in the distribution chain. Again, "sampling or statistical methods" cannot solve the problem. To take the circumstances of the *Boshes* case, convincing testimony by some percentage or even all of a group of retailers chosen as a sample that they absorbed all overcharges has no probative value with respect to some other retailer who may have sold a particular car at a higher price in entirely different economic circumstances.

In sum, the proposed *parens patriae* bills would require the courts to deal with antitrust litigation on an unprecedented scale involving conflicts between competing claimants and possible duplication between different types of State *parens patriae* claims, all without any guidance as to how the multitude of ensuing problems are to be dealt with. Since these suits are likely to involve antitrust violations which actually resulted in no compensable harm to consumers at all or where, at best, consumers will be pitted in a costly struggle against other claimants that is likely to dissipate any meaningful recovery, one might well question—before the bills become law—whether the burdens to be thrust on the courts really have any social justification whatsoever and whether the kinds of lawsuits to be engendered are rationally calculated to serve the consumer interest.

B. Other Types of Antitrust Violation

Of the 346 civil and criminal actions commenced by the Department of Justice during the 1971–1975 period, 159 actions alleged violations other than price-fixing. A consideration of these cases demonstrates that the further one moves from price-fixing, with its generally ascertainable element of overcharge, the more difficult it becomes to prove that consumers have suffered any compensable injury at all, and, consequently, the more irrelevant *parens patriae* actions and fluid recoveries become to any real effort at protecting consumers.

Five of the cases brought by the Government during the period studied involved tie-ins—the sale or licensing of one item on the condition that the purchaser also buy a second item. In each case, competitors foreclosed from selling the tied product clearly would have suffered compensable harm, but buyers could claim to be injured only if they were forced either to buy something they did not want or to pay more for the tied product than would have been the case without the tie. While this leaves open the possibility that consumers who are the direct targets of a tie-in might have viable treble damage claims, the record revealed by the government suits indicates that such tie-ins as actually occur in the economy are generally far removed from consumers in the chain of distribution. In one case, a defendant would only allow its grain elevator companies also used its stevedoring services in a given port to be used if the shipping in unloading their grain; in another case, several defendant copper companies were charged with licensing their patented plumbing system only to persons who agreed to build it with copper pipe. Clearly, it would be an insuperable task to show that the effects of such alleged violations actually penetrated through all of the intervening stages of the economy, causing individual consumers some quantifiable injury.

Some 20 government suits during the past five years involved horizontal territorial divisions (including those resulting from restrictive licensing arrangements) and customer allocations. The likely effect of such violations on consumers varies from case to case. For example, in *United States* v. *Topco Associates, Inc.*, the territorial division allowed the defendant grocery stores to sell their own brands in competition with those of the large supermarket chains, and thus probably increased competition at the consumer level. Horizontal market allocation schemes may generally reduce competition, but in many cases the injury is very difficult to measure in terms of money damages. The problem of proving a compensable injury to consumers is aggravated by the fact that most of the cases brought by the Government in this area involve companies at the production level (for example, producers of lithium and publishers of books), so that once again consumers are insulated from the effects of the violation by persons at several intervening steps in the chair of distribution, each of whom presumably bought and sold in a reasonably competitive market. While it is theoretically possible that a market division conspiracy directly affecting consumers might be shown to produce ascertainable overcharges, few of the cases brought by the Justice Department during the past five years appear to fit in this category.

Another 22 government civil and criminal actions charged various defendants with monopolization, attempted monopolization and conspiracies to monopolize under § 2 of the Sherman Act. Some § 2 violations—such as the monopolization of automobiles charged in *Boshes*—might be shown to have resulted in overcharges to consumers, but for the insulation of intervening levels in the distribution chain. But in most of the government actions the likelihood of showing any overcharge was further reduced by the nature of the alleged violation itself. In several of these cases (such as those involving monopolization of mobile home transportation and airline routes), the alleged wrongdoing related to proceedings before an administrative agency which was empowered to grant certificates of convenience and necessity and regulate rates, and which quite possibly protected consumers from any overcharges resulting from the alleged violations. When the major networks were charged with monopolizing prime time TV entertainment programs, there was again no possible relationship between the alleged violation and any identifiable out-of-pocket loss to consumers. Indeed, in many instances (for example, the Justice Department's suits alleging monopolization of electronic components, replacement tires, milk, and wholesale books and magazines), an important means by which the defendant supposedly monopolized was through predatory pricing and the offering of free additional benefits to customers—all of which should have had a beneficial rather than an adverse impact on consumers in the short run, however harmful the resulting impairment to competition might have eventually proved to be over the long run.

Another major category of government antitrust actions consists of alleged violations related primarily to the defendants' purchasing function. Twenty such suits have been brought, *inter alia*, against various lumber companies charged with conspiracy to eliminate competition among themselves in the purchase of public timber, against firms charged with conspiracy to boycott a particular vendor, and against many different defendants, in a wide variety of industries, charged with unlawful reciprocity (using their purchasing power to gain an unfair advantage in the sale of their products by buying from those suppliers who reciprocate by purchasing from them). All of these practices distort competition to some degree and therefore arguably injure consumers in a general way; however, it is difficult to see how any of these violations would result in specific, quantifiable injury to consumers as opposed to the vendors and competitors who are often directly injured. Indeed, many of these practices tend to lower the costs which producers of consumer goods pay for raw materials, so that the effect on consumer prices, if any, would be downward rather than upward.

Finally, 57 government suits during the 1971–1975 period have dealt with mergers. Turning first to those involving horizontal mergers between actual competitors, there is considerable doubt as to which, if any, of these actual or proposed acquisitions did result, or (if not enjoined prior to consummation) would have resulted, in any harm whatsoever to consumers, compensatory or otherwise. In many cases after *United States v. Von's Grocery Co.* and *United States v. Pabst Brewing Co.*, mergers were attacked because they would have increased concentration in a given industry, even though the economic consequences of such increased concentration were at best speculative. Even where a clear violation of § 7 of the Clayton Act can be made out, appraising the economic effects of a change in industry structure involves so many imponderables that there is no way to translate a tendency to lessen competition into a measurable effect on price, much less show a specific impact on individual consumers. The impossibility of showing compensable harm to consumers from a merger becomes even more obvious when we consider vertical acquisitions and, *a fortiori*, market extension mergers which involve at most the possible elimination of potential competition.

In sum, in the vast majority of the Justice Department antitrust cases currently being brought, problems of pass-on or of the nature of the violation itself make it highly unlikely that consumers would be able to establish compensable claims. Consequently the treble damage action must be recognized as a generally inappropriate vehicle for protecting the consumer interest.

III. PRICE-FIXING CASES DIRECTLY AFFECTING CONSUMERS

Only 45 of the 346 Justice Department suits have alleged conspiracies to fix the retail prices paid by consumers for goods or services. The largest single category of retail price-fixing charged by the Government has been in the area of fee schedules and codes of ethics adopted by various associations of professionals and realtors. No less than 20 of these suits have been brought against groups of lawyers, architects, engineers, accountants, anesthesiologists, veterinarians, and (particularly) real estate brokers.

The fee schedule cases provide a dramatic example of the potential dangers of *parens patriae* and fluid class suits in circumstances where the equities fail to match the preconceived notions of the proponents of these procedural devices. These cases generally involve small individual businessmen and practitioners, not giant corporations. The defendants are not hardened price-fixers; in many cases the legality of the codes of ethics and fee schedules in question was generally assumed even by lawyers until the Supreme Court ruled otherwise just last term. Finally, it is highly unlikely that any of these groups of defendants has amassed a "pot of gold" by gouging consumers. As one court noted in approving the settlement of a class action against certain realtors in Alabama that provided for no damage recovery at all, in each and every case where real estate brokerge fee schedules have been enjoined, the effect has been to increase rather than lower rates. Therefore, it is doubtful that the violations found in these cases hurt consumers at all.

Nevertheless, real estate brokers in particular recently have been subjected to a number of class suits asserting astronomical treble damage claims which are particularly shocking in light of the smallness of the businesses involved. In *Kline v. Caldwell, Banker & Co.*, for example, the representatives of the alleged plaintiffs' class sought to recover $750 million against some 2,000 Los Angeles realtors (the vast majority of whom were individuals in business for and by themselves) based upon the alleged use of recommended fee schedules in some 400,000 sales of residential property. In refusing to certify this class, the Ninth Circuit relied on the requirement of fairness in Rule 23(b)(3). In his concurrence, Judge Duniway pointed out that to allow a class action in *Kline* would be to create "an overwhelmingly costly and potent engine for the compulsion of settlements, whether just or unjust"; most brokers, he observed, are small businessmen who "cannot afford even to participate in such an action as this, much less defend it effectively" and who therefore "will settle for whatever amount they can bargain for, and without regard as to whether they are really liable or not."

Use of *parens patriae* and fluid class remedies against such defendants could result in the very unfairness which the *Kline* court managed to prevent. While it is doubtful that the draftsmen of the proposed *parens patriae* bills deliberately intended to revoke the "fairness" doctrine articulated in Kline, they have in effect done so by failing to provide many of the Rule 23 safeguards. The Ninth Circuit's holding in *Kline* was predicated upon the requirement of Rule 23(b)(3) that a class action be "superior to other available methods for the *fair* and efficient adjudication of the controversy." Since no corresponding language is included in the proposed legislation now before Congress, the courts in *parens patriae* suits would lack the power, which the Ninth Circuit exercised in *Kline*, to prevent unfairness to defendants.

In short, while the proponents of the *parens patriae* bills may have in mind their application to cases of hard core antitrust violation by defendants that have unjustly enriched themselves at the public expense, nothing in the proposed legislation so limits state suits or indeed even permits judicial control to avoid the very real danger of inequity—a danger which is apparent in the kinds of cases that the Justice Department and private plaintiffs are now bringing.

Turning to the remaining 25 retail price-fixing suits, four of these alleged price-fixing in vending machine sales of cigarettes and soft drinks; four charged local prices-fixing conspiracies in retail liquor sales in Clovis, New Mexico and Waco, Texas; five charged similarly local price-fixing conspiracies in shoes and women's clothing in Albuquerque and New York City, respectively; eight involved automobile repair work; two charged price-fixing on assembled tour packages; and two concerned price-fixing by a group of gas stations in Jackson, Wyoming. Surveying this assortment of alleged local violations, almost all involving very small businesses, it would seem that the proposed use of *parens patriae* and fluid class remedies here is likely to be at best unnecessary and at worst actually detrimental to consumer welfare. The garages, liquor stores, tour coordinators, and other businesses involved in most of these violations are, after all, sufficiently small that the fines of up to $1 million provided by present law already suffice to threaten economic extinction. To the extent that *parens patriae* gives the states the power to extract monies from defendants above and beyond the damage recoveries actually proved by and paid over to individual consumers it of course creates a new, expanded form of monetary penalty.

Yet the amount of a fine can generally be varied by a court to take into account the economic situation of the person punished, the seriousness of the offense, and other mitigating or aggravating circumstances. None of these normal sentencing criteria can be considered under *parens patriae*. This means not only that the punishment resulting from *parens patriae* is unlikely to fit the violation involved in any given case, but also that the public may suffer by having businesses (especially small businesses) shut down by excessive penalties, with a resulting loss in competition, in employment, and in the economic well-being of the communities affected. Indeed, since the sample of cases we have previously reviewed shows that most of the defendants charged with antitrust violations directly affecting consumers *are* small businesses, the cases in which *parens patriae* suits are not barred by the impossibility of proving pass-on may well be the ones least likely to serve the public interest.

Regardless of the nature of the defendants against whom these price-fixing suits are brought, there are a host of other problems with the proposed legislation. Many of these problems result from the deletion in the *parens patriae* bills of the procedural safeguards of Rule 23. For example, Rule 23 would allow a court faced with a gargantuan action on behalf of millions of consumers to deny the class on manageability grounds; the *parens patriae* bills, without changing any of the substantive rules with respect to proof of injury, have no such manageability provision and hence would deprive the court of any escape hatch no matter how trivial the consumer claims or how many decades of judicial effort might be needed to adjudicate them.

In addition, while engrafting some of the procedural features of a Rule 23 class action on the *parens patriae* concept (such as notice and the opportunity to "opt out"), the proposed legislation fails to provide such basic safeguards as standards to ensure that there is a communality of interest among the class of persons on whose behalf the suit is brought; that subclasses of persons with divergent interests are separately represented; that the plaintiff will fairly and adequately protect the interest of those on whose behalf he sues; and that the plaintiff's claims are typical of those of the class. Apparently, the draftsmen of the *parens patriae* legislation fail to recognize that these requirements are of constitutional dimension. As the Supreme Court pointed out in *Hansberry v. Lee*, procedures that purport to adjudicate the rights of absent parties mark a departure from the general rule of Anglo-American jurisprudence and are constitutionally permissible only where the interests of those not joined are "of the same class as the interests of those who are," and where there is some assurance that the latter will "fairly represent" the absent class. If these minimum standards are not met, or if the representative parties have "dual [or] potentially conflicting interests," the class action fails to "afford that protection to absent parties which due process requires." Since often not all of the "natural persons" in a given state will have common interests in a given antitrust litigation, the neglect in the *parens patriae* bills of the legal concerns carefully considered by the draftsmen of Rule 23 may well be constitutionally fatal. The same may be true of the notice provisions of the *parens patriae* bills to the extent they offer less protection to absent class members than does Rule 23.

The pending legislation raises additional constitutional problems insofar as it goes beyond the normal functions of a compensatory remedy and adopts fluid class and *parens patriae* devices that would permit states to collect and dispose of damage recoveries based on injuries suffered by consumers who do not press their individual claims. Judge Medina, writing for the second circuit in *Eisen*, held the fluid class procedure "an unconstitutional violation of the requirement of due process of law." Former Solicitor-General Griswold persuasively argues that, because the states are not the real parties in interest, such litigation does not constitute a justiciable case or controversy within the jurisdiction of the federal courts under Article III of the Constitution.

Finally, the bills suffer from the crucial constitutional defect of conferring on state officials the power to enforce the federal antitrust laws. Existing antitrust treble damage actions, like other private suits under federal law, require the plaintiff to demonstrate injury to himself and thus involve the enforcement of clearly private rights. *Parens patriae*, by contrast, would allow the states to sue to vindicate public rights by in effect imposing fines designed to punish wrongdoers, to force them to disgorge ill-gotten gains, and to deter future violations. In purporting to grant such enforcement powers to state officials, the pending bills are unconstitutional under the Supreme Court's recent decision in *Buckley* v. *Valeo*. There, in holding that the creation of a congressional-appointed commission empowered to enforce the Federal Election Campaign Act violated the appointment powers clause of the Constitution, the Court ruled:

> We hold that these provisions of the Act, vesting in the Commission primary responsibility for conducting civil litigation in the courts of the United States for vindicating public rights, violate Art. II, cl. 2, § 2, of the Constitution. Such functions may be discharged only by persons who are "Officers of the United States" within the language of that section.

In support of the proposition that only "Officers of the United States" duly appointed by the President may be entrusted with the "administration and enforcement of a public law," the Court relied on the *Confiscation Cases*, which established that the Attorney General may discontinue litigation even where private parties are empowered to share n the recovery with the United States. Thus, in *Buckley* the Supreme Court recognized a constitutional principle implicit in the appointment powers clause that decisions with respect to the enforcement of federal statutes should be made by "Officers" of the federal executive branch. In that way, there is some assurance that such laws will be administered in the national interest and, if they are not, at least that the officials responsible will be accountable to the President who in turn is politically and constitutionally answerable for the manner in which federal laws are enforced.

Thus, by giving responsibility for bringing antitrust suits to 50 state attorneys general, *parens patriae* is likely to impede the effective enforecment of the antitrust laws. This shift will make it far more difficult to formulate and implement policies aimed at bringing those antitrust suits that will have the maximum beneficial economic effects. It will also increase the probability that suits will be brought which are harmful to the public interest, since the very granting to the states of the power to bring *parens patriae* suits for consumers will create pressures on state officials to sue in every colorable case, however questionable the legal or economic rationale for bringing the action may be.

IV. A SUGGESTED NEW APPROACH

Recognizing that in most antitrust contexts parens patriae suits and fluid recoveries are likely to provide ineffective vehicles for helping consumers is, of course, only the beginning of the inquiry as to how the antitrust laws ought to be enforced to protect the consumer interest. To take the example used in the House Report, even though the task of proving a $1 overcharge to each of 50 million consumers may be impossible and impractical, steps could be taken to prevent or halt the violation (and others like it) before any injury was inflicted. That an ounce of prevention in this area is worth many pounds of cure is so obvious as hardly to be worth mentioning; yet the effort to protect consumers under the antitrust laws during recent years has been so one-sided in its emphasis on compensatory procedures that it bears repeating that our first priority should be to deter unlawful behavior that significantly distorts competition.

To the extent Congress has addressed itself to the problem of the prevention of antitrust violations in ways other than as an incidental consequence of the in terroem effects of parens patriae, fluid classes, and other supposedly compensatory procedures, all of the proposals it has adopted or considered have tended to fall into two categories: stiffer penalties and more money for the enforcement agencies. Congress recently has raised the maximum fine for Sherman Act offenses to $1 million for corporations and increased the maximum jail term to three years. At the same time, it has increased the Justice Department appropriation for antitrust enforcement, thereby making possible the hiring of more attorneys and staff and the commencement of more investigations, civil suits, and criminal prosecutions.

Without in any way belittling the importance of these efforts, what may be most needed at this point to improve antitrust enforcement is not so much additional sanctions, or even further increases in appropriations, but rather the introduction of measures to ensure that the Antitrust Division uses its resources in a manner reasonably calculated to benefit consumers.

That this is not always the case under present practices is suggested by the record of government prosecutions we have previously reviewed. While there is no reason to believe that the relatively low number of Justice department suits alleging violations directly affecting consumers does not reflect a general predominance of violations at higher distribution levels, it is striking that many of the retailer cases that the Government does bring—such as the fee schedule suits—are often followed by increases rather than decreases in consumer prices. What is more, the Antitrust Division appears to treat the adverse economic effects of its suits as a matter of considerably less concern than consumer advocates might wish.

In addition, all too often the Justice Department proceeds as though its primary function were to expand the technical, legal scope of antitrust to the maximum possible limit, concentrating on novel areas of application without apparent consideration of the economic consequences or the likelihood that less exotic but possibly more prevalent and harmful practices—such as price-fixing—present greater dangers to the public welfare. This approach is reflected in the Government's merger cases, which have tended to involve smaller and smaller companies and increasingly attenuated theories of the impairment of potential competition—which have moved, in other words, into precisely those areas where the economic effects of a government lawsuit are most uncertain.

Also indicative of the problems with the Justice Department's enforcement policies are the very large numbers of cases which have reached the appellate courts in recent years dealing with the application of antitrust to regulated industries. Here the Government typically expends precious resources fighting itself as the Antitrust Division and various regulatory agencies conduct what are essentially jurisdictional disputes. In several recent cases, the Supreme Court has rejected the extension of antitrust to a new area (for example, stock exchange rules fixing brokerage commissions) in order to avoid disrupting regulatory policies adopted to further the congressionally established goal of serving the public interest. Surely, it is worth considering whether a more open and disciplined decisionmaking process prior to suit might not have brought the Department to the same conclusion on its own—or at least to the view that the question was close enough to warrant an allocation of resources to the stamping out of more unambiguous evils.

The need for procedures to ensure better Justice Department enforcement policies is heightened by the Supreme Court's increasing adoption of *per se* rules which keep the Court itself from considering the economic consequences of its rulings in the Government's favor. For example, in *United States v. Topco Associates, Inc.*, the defendants made out an impressive case that the net effect of their arrangement was to permit them to vie for business with their larger supermarket competitors and thus increase, rather than decrease, competition. The Supreme Court, in striking down the defendants' horizontal market allocations as illegal *per se*, reasoned that it would go beyond the judicial function and competence to weigh the defendants' claims of enhanced interbrand competition against the fact of decreased intra-brand competition. Assuming in light of the Court's opinion that this is so, shouldn't there be at least *someone* to make a determination as to whether a government victory is going to be good for consumers, competition, and the nation generally? And if the courts are not going to do that job, then shouldn't the Government itself make such a determination based on a reasoned consideration of all pertinent legal and economic factors affecting the public interest?

There would appear to be a number of ways in which existing antitrust enforcement could be improved. For one thing, the Justice Department should be encouraged to bring suits calculated to have major economic effects likely to benefit all groups (including consumers) interested in the proper functioning of the competitive system. Conversely, suits which lack such significance either because of the small size of the defendants, the limited, local nature of their offense, or the problematical economic consequences of the violation in question, should be discouraged.

A second goal toward which Justice Department enforcement efforts should be directed is the protection of the consumer as such. Thus, the detection and prosecution of violations that directly affect consumers should be encouraged and, to the extent necessary, funds should be appropriated specifically for that purpose. In addition, the United States attorneys in the various judicial districts should be authorized to maintain continuous grand jury investigations of pricefixing and other serious antitrust violations that have the most demonstrable, direct, and adverse effects on the consuming public; and the present activities of the Antitrust Division in monitoring prices in various key areas of the economy should be further expanded as an important early warning system for price-fixing and like violations.

The enforcement policies of the Antitrust Division should also reflect the fact that in cases where the numbers of persons injured are so large and the amounts of individual damage are so small that private suits are unlikely to be maintained, consumers must necessarily depend upon the Government to protect their interests. Since there is no feasible way in which small private recoveries, after absorption of administration costs, will have any meaningful benefit to consumers, we should concentrate on preventing consumer injury through vigilant and effective antitrust enforcement and especially through suits for injunctive relief.

There are several ways to ensure that the consumer interest is better reflected in Justice Department policymaking. One is to appoint advisors to both the Justice Department and the Federal Trade Commission who can identify areas of consumer interest and influence the choice of cases to be brought in a way which maximizes benefits to consumers. Another possibility is to require the Department to prepare a consumer impact statement setting forth an analysis of the likely economic impact on consumers of the Department's enforcement efforts. Such statements would indicate what portion of government civil and criminal cases materially advance the consumer interest and expose to public scrutiny cases which do not; they would also encourage the bringing of the former type of action and discourage the latter.

One of the great developments in administrative law in recent years has been the increase in both the effectiveness and the responsibility of the various federal agencies. This development has come about through a number of procedural innovations designed to require administrators to articulate the reasons for their decisions. While the function of the Justice Department is largely prosecutorial and the discretion of prosecutors is particularly ingrained in our legal tradition, the determinations made by the Antitrust Division as to what kinds of cases to bring also constitute an important aspect of our Government's economic policies. Hence, it is anomalous for such decisionmaking to be entirely immune from the requirement of open, reasoned consideration which is the hallmark of our administrative procedure in so many other areas. At the least, this potentially promising vehicle for improving the quality of antitrust enforcement for consumers deserves a good deal more of the attention and creative energy that is presently being squandered on the inherently futile effort to cure the incurable defects of *parens patriae* and fluid class suits.

Finally, we turn to such cases as may exist where injury to consumers can be proven and individual damages are large enough to make a compensatory remedy meaningful, but where, for one reason or another, it is impractical for consumers to maintain the litigation themselves. In dealing with such cases, there is no reason for the federal enforcement agencies to yield to the states their historic responsibilities for protecting consumers under the antitrust laws. Special legislation could be enacted to allow the Attorney General of the United States to sue under Rule 23(a) as a statutory class representative on behalf of consumers in those cases where he finds that the consumers' claims are significant enough to justify the burden which the suit would impose on the judicial system. In such an action, the court should be empowered to determine not only whether there was an antitrust violation, but also the nature and extent, if any, of the injury to consumers resulting from the defendants' conduct. The court could then, as part of its judgment, lay down rules governing the measurement of consumer damages where the individual consumer has suffered cognizable injury.

At that point, the adjudication of individual consumer claims should pass from the courts to an administrative body, such as the Federal Trade Commission. The agency should be empowered to award damages in a manner consistent with the court's findings, but only to individual consumers who comply with whatever simplified procedures the agency prescribes within congressionally mandated guidelines. The procedure should be sufficiently simple, however, so that a layman could present his own claim to the agency without having to retain an attorney. While consumers whose claims are not sufficiently large to make it worth their while to comply with even such minimal requirements would, of course, receive no recovery, those consumers whose claims were significant would receive their entire treble damage recoveries without deduction for attorneys' fees or for the large costs of administration which would erode individual claims in the proposed legislation.

There are a number of advantages to this suggested procedure. While preserving the fairness and manageability safeguards of Rule 23, it would allow a broader range of consumer class actions to be brought than at present. The cost of notice to class members would be borne by the federal government, and the FTC procedure for distributing damages would relieve the courts of a major source of manageability problems. The beneficiaries of such litigation would be the consumers who are actually injured rather than the lawyers who all too often are the only ones who profit from a class suit. The approach suggested here would assure consumers of skilled, adequately financed representation in every meritorious case where a treble damage remedy is appropriate. Combined with measures to improve the efficacy of antitrust enforcement from the consumer standpoint, it would accomplish the legitimate objectives of the legislation currently pending in Congress while avoiding the practical and constitutional obstacles which, as of now, make it highly unlikely that parens patriae will ever prove to be a truly effective consmer remedy.

Mr. THURMOND. Mr. President, in closing I want to say that in my opinion we are making a great mistake to pass this bill. I realize the sentiment on the part of some is to hit big business. But what we are doing here is hunting little business.

These letters I have just read are not from big business people. They are from little business people in the State of South Carolina. These letters are written from the heart. The writers wrote to me because they were concerned. Many letters I have received state that the little businessman cannot stay in business if this bill is passed.

I realize that this so-called compromise, or new proposal, or whatever you wish to call it, has taken some of the teeth out of this bill. That is good. However, there are left and I still think it is a mistake to pass the bill. I think it is a mistake to allow the attorneys general of the States of the Nation to bring lawsuits, and allow others to bring such lawsuits against the business people.

I have no stock in any business. I do not own a single share of stock in any corporation in the United States. What few stocks I owned, I disposed of when I came to the U.S. Senate. I fully realize the importance of employment, and if we are going to maximum employment we have to give business an even break. We cannot harass business and destroy businesses, and expect people to be employed in this country.

Now the distinguished Senator from Tennessee (Mr. BROCK) has a bill, I believe before the Finance Committee, which would allow a tax credit of 15 percent of the salaries paid to people who had been unemployed, any newly-hired people who were unemployed. Mr. President, I think that is the way to encourage business. I am told it would put a million people back to work.

I am told also that this so-called Humphrey-Hawkins bill will cost between $12 and $30 billion. But we do not need to pass such a bill, if we can just pass a reasonable bill, like the one suggested by the Senator from Tennessee. We must stop harassing business to death. OSHA has harassed them to death. EPA has harassed them to death. Government regulation and direction of all kinds have harassed business to death.

I am certainly not in favor of taking any step that will not protect the public. I am for the consumers. The best way to protect the consumer is not to harass business to death. Business must be viable to give people jobs. Jobs help consumers, and in the end I think that is the solution.

I am in favor of antitrust laws, but I am not in favor of the kind of antitrust laws we are passing in the Senate. This is an antitrust law which will permit a bureaucrat downtown to summon a man to Washington from across the Nation, put him under oath, and then, if he makes a little mistake, prosecute him for perjury.

I am not in favor of allowing a bureaucrat to go in all of the private records of the people and all of their business. If they want to go in court that is the proper course. We have established practices in this country. We have courts that can hear matters, and those matters should not be delegated to a bureaucrat in this country.

Mr. President, I will not have time to discuss other features of this bill, but I will tell this Senate now that this is a bad bill and in my judgment the Senate will regret the day that it passed.

I realize the sentiment in the Chamber seems all for it, and Senators think they are going to protect the consumer; they think they are going to hit the big businessman. They are not doing that. They are going to hurt the little businessman and hurt the consumer in the end.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. THURMOND. Mr. President, will the Senator yield me 1 additional minute.

Mr. HRUSKA. I yield 1 additional minute.

Mr. THURMOND. Mr. President, in closing, I only take this opportunity to congratulate the able Senator from Nebraska for the great part he has played in opposing this bill. I worked with him on the subcommittee, and we went into the ramifications of this bill. We both came to the conclusion that it is a dangerous, impractical, and unfair bill. The Senator from Nebraska is one of the ablest lawyers with whom I had the pleasure of serving with the U.S. Senate. I think he would have made a great Justice of the Supreme Court. He has a penetrative mind. He has a fine legal mind. I commend him for the great service he rendered.

The PRESIDING OFFICER. The Senator's additional minute has expired.

Mr. THURMOND. Yield me 1 more minute.

Mr. HRUSKA. I have too many demands. Sorry, I yield half a minute.

Mr. THURMOND. I congratulate the able Senator from Alabama for the great job he has done in opposing this bill. He has been magnificent in bringing out the defects of this bill and deserves the high accolades of the people of this Nation.

Mr. ABOUREZK. Mr. President, I yield 10 minutes to the Senator from Michigan (Mr. PHILIP A. HART).

Mr. PHILIP A. HART. I thank the Senator. I am satisfied I shall not consume that much or even close to that much time.

It is not my intention to plead for support for the compromise, though I do support it, and I view it as progress. There was an expression in our family that progress consists in climbing molehills, and as long as we have a modest definition like that, why, most things are progress. This is a little better than a molehill. But so much for the progress.

I rise to express my very real appreciation to fewer people than I would like to enumerate, but to some to whom I feel a very heavy obligation, and it begins with the leadership. I thank Senator MANSFIELD and Senator ROBERT C. BYRD for their unfailing support in the effort to permit the Senate to act on this legislation.

Before mentioning some of my colleagues, I join in the expression of thanks to so many staffers on both sides of the aisle and indeed on both sides of the controversy. As I leave this body, I am impressed more than in my first few months here. I remember then making the unsettling discovery that, while it might not be true of any of my colleagues, it was certainly true of me, that most, if not all, of the staff people with whom I was working were a damn sight smarter than I was, and that is dramatically true in the case of the several staff people with whom we have been associated over these many months.

I mention, of course, by name Buck O'Leary, the director of the Antitrust Subcommittee, and Bernie Nash. But I extend that to Tom Sussman and all the others who are indeed magnificent. And to the extent we make some progress around here is largely through their goading and counsel.

To my colleagues, I thank all of them for their patience. I thank particularly those who were on missions abroad and in far corners of the country who interrupted their schedules to return and permit us to obtain cloture. Having been stuck with that dilemma myself on occasions, I know how difficult is the decision, and I hope they will understand how grateful I am that they managed to get back.

I have floated along as the nominal floor manager of this bill, but to anyone in the gallery, it was evident, I am sure, as it is now, that there were three colleagues who in fact bore the burden of the day and the occasional nights. I thank them especially. Two are familiar enough to us so that we were not surprised at their ability to jump in, take hold, and give drive and direction. I speak of the Senator from Massachusetts (Mr. KENNEDY) and the Senator from South Dakota (Mr. ABOUREZK).

The third was someone who is not even a member of this committee and as a consequence I never had an opportunity to measure him in committee meetings. But in the last few weeks I think the whole Senate has discovered the capacity, good judgment, and courage of our colleague from North Carolina, Senator MORGAN. Unique among us, he has lived with a class action treble damage suit, and he can speak from that background. I think to the extent to which we made this progress it is accountable in very substantial part to his knowledgeable explanations as to why certain restrictions beyond those that we now find imposed on State's attorneys general should not be added to the bill.

I thank all of them for doing what I should have been doing.

I express again my commitment that in conference we will respect the pledges we made as to the form in which we shall attempt to bring the bill back.

I finally thank Senator HUGH SCOTT who lent his distinguished name and position to this bill as its cosponsor. I, from my narrow parochial limited interest, think it rather magnificent that HUGH SCOTT, as he leaves, is associated with an effort that would not please initially the giants of Pittsburgh or the financiers of Philadelphia, but, as Senator PERCY has said, even they are beginning to see the desirability of making the marketplace more competitive, and in their long-term best interest he continues to serve them.

I hope we remember him as a man who did associate with an effort which is consistent with the tradition of the Republican Party if I read Theodore Roosevelt correctly but which on occasion has not been as dramatic in its display, other than perhaps their platform statements. Indeed, in our own party, it is largely limited to platform statements and speeches.

I cannot overlook, nor could any who have sought to round up votes and make judgments based upon who will be present and absent, the extraordinary skill of ALAN CRANSTON and his patience and his devotion to the tedious job which I am sure receives very little attention in the California press but which, in the judgment of those of us who know what makes things work here, marks him as a most effective colleague.

So I express my thanks to all.

Mr. PERCY. Mr. President, will the Senator yield me 30 seconds?

Mr. ABOUREZK. I yield.

Mr. PERCY. It is the hope of the Senator from Illinois that the President of the United States, if there is any temptation not to sign this bill, would read back over what has been said in our platforms. I participated in one in 1960. Irrevocably, the principles of both parties, I believe, are to believe in the free marketplace and to crack down on those who manipulate it and rig it—in other words, those who rip off the consumer.

Mr. PHILIP A. HART. One of the tough things is to get a constituency behind antitrust legislation. Everybody applauds the speech, but it is darn hard to get a constituency, because they do not really know the effect on them, as individuals, of the practices we seek to curb.

Mr. KENNEDY. Mr. President, will the Senator yield?

Mr. ABOUREZK. I yield 5 minutes to the Senator.

Mr. KENNEDY. Mr. President, the Senate has heard the remarks of our good friend and colleague, the Senator who bears the prime sponsorship of the legislation.

We all understand why this body loves him and respects him. All of us are used to the fact that when the Senator from Michigan speaks, he always speaks in the most self-effacing way and always speaks with extraordinary modesty. He has done so again this evening.

Mr. President, I serve on the Antitrust Subcommittee, and I know, as do all the other members of that subcommittee, that the person who has devoted long and tedious hours to fashion this legislation and to retain its essential nature in the compromise which we will vote on in the next few minutes has been the distinguished Senator from Michigan (Mr. PHILIP A. HART).

Today, perhaps antitrust policy is in the vogue, as he has mentioned. Too often, it is used in the sloganeering and the cliches of our time. But it is an issue which reaches at the bedrock of our whole system, of our whole economy, and of our whole society.

However, as interested as this body is in fashioning legislation this evening, antitrust policy has not been the popular issue. It has not been for the last 13 years, during which the Senator from Michigan has been chairman of the Antitrust Subcommittee. It was not so during the long hours and dull and colorless hearings which he chaired for many years, over many days, on many important, complex and difficult subjects. The legislation we are considering this evening is the result and the culmination of those years of his service as chairman and of the time he has served on this committee.

Every Member of this body knows that the Senator from Michigan is associated closely with the issue of civil rights and liberties—with legislation which has been stamped on the statute books of this Nation over the period of recent years, legislation which extends the constitutional rights for citizens of this Nation in a manner to assure them the most basic and fundamental rights and the most basic and fundamental liberties.

Now, with the passage of this legislation and, hopefully, the signing of this legislation into the statute books of this country, I believe we are going to make a major contribution toward insuring that the great economic system of this Nation is going to be the kind of free and competitive system which I know he believes in very deeply, the same kind of system which all of us talk about but which, in too many instances, we have not achieved.

Mr. President, the compromise which will go forward to this body in a few minutes establishes some basic and fundamental and new paths for antitrust enforcement. I hope that future Departments of Justice and State attorneys general read this debate and discussion and see for themselves that the American people want a continuation of a strong and vigorous antitrust policy. And future Members of this body are going to be able to build upon this legislation—particularly in the section IV provisions and section V provisions—to breathe additional life into those provisions and expand on them where necessary. I, for one, believe that it will be necessary.

The fact that we have passed this legislation, I believe, will make it substantially easier in the future to achieve the full reach of the Hart-Scott proposal as we have debated them during the past days.

Mr. President, some members of the press have called the 94th Congress the "Antitrust Congress." In comparison with recent Congresses, it does seem that way.

Congress has enacted and the President has signed into law legislation which overturned State fair trade laws. This law should result in lower prices for many products, and savings for consumers, in a number of States.

Before us today is the Hart-Scott amendment to H.R. 8532, which embodies the text of S. 1284, Antitrust Improvements Act of 1976. And hopefully, soon to be before us will be a bill to restore competition in the petroleum industry by requiring major oil companies to divest themselves of certain operations. The Senate Judiciary Committee has agreed to vote on this bill next week, and I am confident that this significant legislation will be approved.

Also pending before the Judiciary Committee is the Competition Improvements Act, S. 2028, introduced by myself and Senator PHILIP HART. This bill would do much to inject competition into the Federal regulatory processes, lessening the unreasonable burdens placed by regulation on the free operation of the competitive marketplace.

Seldom has there been a better illustration of how one man can change the course of history. The man, of course, is Senator PHILIP A. HART, the senior Senator from Michigan.

It has been not only his vision but his gentle perseverance which has made so many of us finally aware of the importance of antitrust policy as a way of restoring competition in our country—and, in turn, straightening out the economy.

Senator HART assumed the chairmanship of the Antitrust Subcommittee almost 13 years ago when antitrust was far from "in vogue."

Year after year, he endured long—and often lonely—hours of tedious and complicated testimony as he led the subcommittee through a detailed study of the structure of the major industries of this country. Early into the study—about 10 years ago—he began to warn us that not only was there a frightening amount of concentration of power in a few corporate hands, but that this had dangerous implications for our social and political, as well as our economic, welfare.

Today, with the almost daily newspaper stories on how these giant corporations have taken this power and used it to corrupt and illegally influence governments and to destroy many of our traditional values, we appreciate what a prophet he was.

It is indeed fitting and proper that—as Senator HART concludes this term in the Senate—we should be tagged the "Antitrust Congress."

And it is fitting and proper that one of the bills to be considered by this Congress—and, I hope, to be enacted—is the legislation before us, introduced by Senators HART and SCOTT.

The five titles of this amendment represent a composite of bills which the Subcommittee on Antitrust and Monopoly has considered on and off over the past 17 years. Each, in its own way, is designed to overcome a particular and basic weakness of present antitrust laws.

As the debate has moved forward here, there has been much discussion of the major titles—the parens patriae, premerger notification, and Antitrust Civil Process Act amendments. But I would like to call attention to this moment to title I, the declaration of policy.

In six paragraphs, this declaration sums up the substance of the lessons we have learned from the Antitrust Subcommittee's work under Senator HART.

For example, for the first time the statute will put Congress on record as committed to preventing and eliminating oligophy power. When Senator HART took over the subcommittee, I doubt if most of us could say that word. Now a sizable number of us understand fully how the oligopolistic structure our basic major industries is frustrating competition and depriving consumers of the best products at the best prices.

In the declaration also, Congress will be going on record as recognizing that a good portion of the trouble we experience from trying to use fiscal and monetary policy to battle inflation and unemployment comes from the concentrated economic power in the marketplace.

The declaration of policy in the Hart-Scott amendment does little more than restate and reemphasize what Justice Hugo Black observed in the Northern Pacific Railway case 18 years ago:

> The Sherman Act was designed to be a comprehensive charter of economic liberty aimed at preserving free and unfettered competition as the rule of trade. It rests on the premise that the unrestrained interaction of competitive forces will yield the best allocation of our economic resources, the lowest prices,

> the highest quality and the greatest material progress, while at the same time providing an environment conducive to the preservation of our democratic political and social institutions.

Even President Ford has supported strong antitrust enforcement as a cornerstone of his economic policies. As the White House noted in its release outlining the President's regulatory reform program, its principal, No. 1 objective is to "benefit consumers by encouraging increased competition." For, as the President knows full well, "competition fosters innovation, encourages new business, creates new jobs, insures a wide choice of goods and services and helps to keep prices at reasonable levels."

This legislation does not represent the kind of major, far-reaching overhauling of the Federal Antitrust Laws that may well be necessary if we are to commit and dedicate our economy firmly and fully to the free enterprise system. Senator HART has introduced legislation to amend the Sherman Act and to establish an Industrial Reorganization Commission; both of these bills would institute the kinds of fundamental changes in our antitrust laws that in some form may well be needed in the third century of our national life.

The principal affect of the bill before us is not substantive change of the antitrust laws—the Sherman Act, the Clayton Act, the Robinson-Patman Act, the Federal Trade Commission Act. It basically provides the kinds of enforcement tools, procedures, and mechanisms that are needed to make these substantive laws work better and more efficiently. Each title would provide the government, the courts, private parties, and States with long-needed tools to combat and remedy price fixing, monopolization, attempts to monopolize, exclusive dealings, tie-in arrangements, conspiracies to limit production, and other anticompetitive conduct which injures small businesses and results in overcharges to consumers.

Each title of this legislation constitutes its own tribute to the senior Senator from Michigan.

But there is another reason why this bill is such a good tribute to Senator HART—the way in which it came to the floor.

One of the most admired traits of the Senator from Michigan is his courtesy and eagerness to be fair and accommodating to those who do not share his views.

So it was with this bill.

Despite the fact that the major issues dealt with in this bill had been debated over 17 years and a number of bills embodying them had passed one or the other house of Congress, Senator HART heard 40 additional witnesses on this bill. When the hearings were closed, twice again, at the request of other Senators, yet more witnesses were heard. After pending before the full Committee on the Judiciary for over 6 months, the bill was submitted to 16 hours of markup over a 4-week period. On April 6, it was ordered reported by the Judiciary Committee. And it has been subjected to over a week of extensive debate and amended over a dozen times on the floor.

In a short period of time, the full Senate will have a chance to thank Senator HART for the wisdom and work represented in this bill—by voting approval of this legislation which he and Senator HUGH SCOTT so patiently and painstakingly developed for our consideration.

I urge my colleagues to vote in support of the compromise. I believe it is a very substantial improvement in the existing legislation. If our economy, as a result of this legislation, is going to be fair, more competitive, more exciting, and more responsive to the millions of Americans who make up this great land, we will have to understand who the real architect of that legislation has been: Senator PHILIP A. HART of Michigan.

SMALL BUSINESS APPREHENSIONS AND HOPES ABOUT THE PENDING ANTITRUST BILL

Mr. ABOUREZK. Mr. President, the Senate will pass and send to conference the most important piece of antitrust legislation to be considered by the Congress in many years. Most Senators have received and will continue to receive a considerable amount of mail on this bill from the business community, including many communications from small business concerns.

Most of that business mail, including the small business mail, is hostile to the pending legislation. As a member of both the Judiciary Committee, which reported S. 1284, the bill now pending as substitute amendment No. 1701 to H.R. 8532, the narrower House-passed version, and as a member of the Small Business Committee, which is charged to serve as the small business community's advocate in the Senate, I have a particular interest in the views of the independent and smaller enterprises on this subject.

Nowhere, I think, have both the apprehensions and hopes of small business about the antitrust measure reported from the Senate Judiciary Committee been expressed more eloquently and ably than in the testimony on S. 1284 before the Subcommittee on Antitrust and Monopoly by Milton D. Stewart, the president of the National Small Business Association—"the NSB".

That statement, presented on March 2, 1976, is important. It contains many nuances, but I think its author might deem it fair to say that its main thrust is captured in just two sentences, both from page 8, the last page, of the summary highlights. Those sentences are:

> Small business also knows that Congress' failure to enact S. 1284 will be read as one more proof of its unwillingness and inability to come to grips with the problem of economic concentration.
>
> * * * * *
>
> S. 1284 is hardly a complete answer, but with the exemption we have recommended, it's a good step in the right direction.

Now right here it must be noted that the Senate has not adopted the amendment the NSB recommended, so it is entirely possible that, without that amendment, the NSB and Mr. Stewart would not favor the passage of S. 1284. My own feeling is that the country nevertheless needs this legislation in order, as Mr. Stewart put it, "to come to grips with the problem of economic concentration." But it is terribly important that a clear record be made of the concerns reflected in the amendment the NSB proposed.

The NSB wanted the Senate to adopt "an express but carefully drawn exemption for small business" from the parens patriae provision, title IV, and suggested that for purposes of the exemption, small business be defined in any particular case or industry as one which would meet whichever of three tests would result in the narrowest definition, or the smallest business concerns. The first test or screen would be the regulations of the Small Business Administration, defining small business for various purposes, industry by industry. The next test would be a ceiling on total employment or total income, so that a company which passed the first test would nevertheless not be regarded as small enough to qualify for the exemption if it had more than 1,000 employees or more than $10 million in annual sales. Finally, Mr. Stewart suggested that Congress might use a still lower employment or sales figure or both as the cutoff point for the exemption in some industries and cases, or in all.

REASONS FOR THE EXEMPTION

The NSB's reasons for suggesting such an exemption are six in number and well stated in the summary highlights of Mr. Stewart's testimony, as follows:

> (a) We do not believe State Attorneys General need new authority to go into Federal courts to defend consumers against small businesses in class actions. In the rare cases where small companies violate the antitrust laws with damages to consumers, it is only the involvement of large companies which will produce the mass of impacted persons warranting class actions at all.
>
> (b) There is simply no adequate justification—even a theoretical one—in potential benefit to the consumer for extending this measure to small business. The issues involved will involve too few people and too little money to warrant the costly process and the severe sanction.
>
> (c) Not to provide the exemption, however, is to expose small companies to a risk of distorted "cheap and easy" enforcement. An anonymous FTC official made one of the rare public admissions of the existence of this regulatory approach last Fall. He was quoted by the Wall Street Journal as having said that the Commission staff was finding the going too tough against big companies; they resisted too successfully because they could afford protracted delaying legal maneuvers. Therefore, he said, small companies would be the target of enforcement first. They would just give up earlier and concede legal issues because of their inability to survive or even finance long litigation. Then, he said, the results could be used against larger companies.
>
> (d) Over and over, we have learned that when the same restrictive law is applied to large and small companies without distinction, the result is *inequality* of treatment because of the far greater ability of large companies to defend themselves. Until Federal laws confer burdens and benefits on business with some regard for their size, they will continue to be an important force for economic concentration. Their spurious equality of treatment actually adds a totally synthetic and indefensible non-economic "advantage of scale" to bigness.
>
> (e) It only makes enforcement and juris-

> dictional common sense to begin this untested program with the highest priority problems—those involving the greatest number of consumers and the companies with the largest impact. Should the Attorneys General find, from experience, that the exemption is not warranted or is inhibiting, the Congress can always remove it. It is far less prudent and more dangerous to determine need by inclusion. That risks the unfair and disastrous exposure of many small companies to ruinous consequences.
>
> (f) We have no desire to allow the gravity of Title IV's possible application to small business to provide a convenient screen for big company resistance to proper public policy in defense of consumers. Congress should decide that issue on its own merits without the distraction of small business involvement."

Mr. President, Mr. Stewart's point (d) echoes a theme that has been heard time and again in hearings before the Senate Small Business Committee on the subjects of corporate giantism, competitive abuses, and tax inequities. The key sentence bears repeating:

> Until Federal laws confer burdens and benefits on businesses with some regard for their size, they will continue to be an important force for economic concentration.

That sentence brings to mind a remark which is attributed to Anatole France in the biography of that author in Cournos's "Modern Plutarch:"

> The law, in its majestic equality, forbids the rich as well as the poor to sleep under bridges, to beg in the streets, and to steal bread.

Or, as Mr. Stewart puts it more directly, the law's "spurious equality of treatment actually adds a totally synthetic and indefensible noneconomic 'advantage of scale' to bigness."

It will be an irony—indeed it will be a tragedy—if this pending legislation, once it is in the United States Code, becomes "an important force for economic concentration" by virtue of its being applied rigorously against small, less important violators, while the biggest, most important violators are bypassed, by virtue of their formidable legions of defense lawyers.

Let me assure Mr. Stewart and the NSB that, even though their recommended amendment was not adopted in terms, it is certainly the belief and expectation of this member of the Judiciary and Small Business Committees that the intent of their recommendation is included in this bill. The bill is intended as a conscientious effort by the Congress "to come to grips with the problem of economic concentration." It is not intended as a bludgeon for State attorneys general to apply to small businesses.

While Mr. Stewart argues that it would be more prudent and desirable for the Congress now to exempt small business and include it later, if a need is shown; it is also true that the reverse applies. Should the Congress note—and this Senator, for one, will be watching—that the State attorneys general are in fact using the parens patriae provisions to win cheap, politically advantageous but economically unimportant victories by suits against small businesses, while the big fish go free, the Congress can and should and I believe will change the law.

Without the amendment recommended by the NSB, the State attorneys general can follow precisely the course the NSB suggests: Name big businesses as defendants and name small businesses, where appropriate and necessary, as nondefendant coconspirators.

I am going to suggest that the Attorney General, or the professional staff of the Antitrust and Monopoly Subcommittee, or both, keep running totals, by business size classification, of the companies which employ the "natural persons" named as defendants in parens patriae actions brought by the attorneys general of the several States. Incidentally, the committee amendment which provided that only natural persons—not corporations—may be named as defendants in parens patriae actions, was itself a step in the direction of meeting the apprehensions reflected in the NSB statement. With corporations ruled out as defendants, the attorneys general may be more disposed to name as defendants those natural persons whose personal fortunes might better be able to meet judgments—and that will more often be executives of giant corporations than of small ones.

Mr. President, I ask unanimous consent to insert in the Record at this point the summary highlights of testimony before the Antitrust and Monopoly Subcommittee on March 2 by Mr. Milton D. Stewart, president of the NSB.

There being no objection, the summary was ordered to be printed in the Record, as follows:

Summary Highlights of Statement of Milton D. Stewart

We should like first to express our thanks to this Committee for its consideration and responsibility in giving us this opportunity to be heard. This is an appropriate point for us also to record our thanks to Senator Thurmond for sponsoring our Job Creation Credit Bill. That's an affirmative proposal to expand small business rather than big government in the fight to reduce joblessness. Our appearance here is to make sure that this Committee's effort to strengthen antitrust enforcement in the interest of the consumer is directed where it ought to be—at big business rather than small business.

This is also a proper place to say three things to Senator Hart. This country's history will one day record a debt which its people owe to him for his tireless, often lonely fight to focus attention on the problem of economic concentration. Like many, too many others, we in the small business community have not given him the support we should have given him. He (and, as it happens, Senator Scott, his colleague in the sponsorship of this bill) are closing many years of distinguished service in the Senate. You may be sure that this is one small business man and lawyer who will, in the years ahead, do what he can to see that these good men have not fought this good fight in vain. We have something to make up for.

1. We recommend strongly that an express, but carefully drawn exemption for small business be written into Title IV of S. 1284 (Parens Patriae).

The exemption we recommend should provide that Title IV will not apply to any enterprise (including one engaged in licensed professional practice) which qualifies as a small business under any of the definitions of "small business" provided in the regulations of the Small Business Administration.

To reassure those who fear that this may be used as a loophole, the exemption should be limited further to enterprises which, with affiliates, have fewer than 1,000 employees and less than $10,000,000 in annual sales (or any other numbers the Committee finds appropriate). This will preclude any unintended "slippage" of jurisdiction. The exemption should be further qualified to allow the naming of small businesses (without opening them to liability) as co-defendants where they are alleged to be indispensable parties in complaints against large companies. This will preclude the misuse of the exemption to hamper investigation and enforcement.

Our reasons for urging the exemption:

(a) We do not believe State Attorneys General need new authority to go into Federal courts to defend consumers against small businesses in class actions. In the rare cases where small companies violate the antitrust laws with damages to consumers, it is only the involvement of large companies which will produce the mass of impacted persons warranting class actions at all.

(b) There is simply no adequate justification—even a theoretical one—in potential benefit to the consumer for extending this measure to small businesses. The issues involved will involve too few people and too little money to warrant the costly process and the severe sanction.

(c) Not to provide the exemption, however, is to expose small companies to a risk of distorted "cheap and easy" enforcement. An anonymous FTC official made one of the rare public admissions of the existence of this regulatory approach last Fall. He was quoted by the Wall Street Journal as having said that the Commission staff was finding the going too tough against big companies; they resisted too successfully because they could afford protracted delaying legal maneuvers. Therefore, he said, small companies would be the target of enforcement first. They would just give up earlier and concede legal issues because of their inability to survive or even finance long litigation. Then, he said, the results could be used against larger companies.

(d) Over and over, we have learned that when the same restrictive law is applied to large and small companies without distinction, the result is inequality of treatment because of the far greater ability of large companies to defend themselves. Until Federal laws confer burdens and benefits on businesses with some regard for their size, they will continue to be an important force for economic concentration. Their spurious equality of treatment actually adds a totally synthetic and indefensible non-economic "advantage of scale" to bigness.

(e) It only makes enforcement and jurisdictional common sense to begin this untested program with the highest priority problems—those involving the greatest number of consumers and the companies with the largest impact. Should the Attorneys General find, from exeperience, that the exemption is not warranted or is inhibiting, the Congress can always remove it. It is far less prudent and more dangerous to determine need by inclusion. That risks the unfair and disastrous exposure of many small companies to ruinous consequences.

(f) We have no desire to allow the gravity of Title IV's possible application to small business to provide a convenient screen for big company resistance to proper public policy in defense of consumers. Congress should decide that issue on its own merits without the distraction of small business involvement.

2. With the exemption we have recommended, we believe S. 1284 should be enacted promptly with the support of all Senators concerned with the future competitive position of small business.

Small business may appear, at first blush, to have little to gain directly and "selfishly", if you will, from S. 1284. Title IV's limitation to "natural persons," for example, means that small companies will not be able to use it directly to defend themselves against antitrust abuses. Nevertheless, we believe S. 1284 will strengthen the antitrust laws enough to warrant our support. This Committee will never, for example, satisfy the legal gladiators and hired guns of the antitrust bar with this or any other bill. Nor will you get complete unanimity among the economists who spin out their differing airy-fairy definitions and proofs and disputations and propositions; they have as much to do with the real world of business as a collection of spider webs. The record shows you have a remarkable degree of support from them already.

What S. 1284—particularly Title V—may do is to help a little to slow down the next wave of merger madness. With signs of a reviving stock market, that's already being prepared in Wall Street, LaSalle Street and Montgomery Street. The press has reported the open opposition to Title V of the investment bankers. They are so often the prime movers and the engineers of big company mergers that you may take their opposition as a good sign that you are probably on the right track. We say this with full awareness that small companies often want and need mergers to achieve liquidity for stockholders or other benefits. And we freely concede that a relatively rare big company merger may be economically defensible. The strengthened notification procedure will hardly be a significant impediment in those cases.

I have taken the liberty of attaching excerpts from a statement I made just two weeks ago to the Senate Committee on Banking, Housing and Urban Affairs. It too was concerned with mergers. The Committee on Banking was considering the facts in the attempted takeover of a company called Microdot by General Cable and Microdot's management's only defense: selling out to an even bigger company called Northwest Industries even though it really wants to stay independent. You will, I think, find the facts of that case pertinent to Title V of S. 1284 and we do not support the suggestion that surprise takeovers be exempted from it.

Small business' greatest stake in S. 1284 may not relate to any one of its specific provisions at all. We've seen the antitrust laws sliced up into ineffective procedural baloney by big business lawyers to expect too much from this one set of changes. What should concern us most right now is what passage or failure of S. 1284 will do to opinions among two groups of people—one very small (big business management) and one very large (the American people). Small business wants very much to hold the confidence of the American people in the enterprise system. Big business, with some help from big government and big labor, is losing it for us at a frightening pace. We know, and we think big business needs to be reminded—and reminded hard—that the enterprise system rests on the same public opinion, the same mechanism of consent as our system of government. For five years at least, if I read the polls correctly, the American people have been putting out warning flags of every kind and color to all of us about their growing hostility to bigness. (See p. 146 of Committee hearings on S. 1284 citation of Opinion Research Corp. studies by Nader and Green.)

We will ignore those warnings at our peril. Too many big company boards continue to live in a dream world in which public disenchantment, even contempt, for business is treated as a public relations problem, or the result of antibusiness propaganda, or a media concoction, or just politics. Small business knows it isn't. It's a realistic, understandable public response to the very real abuses of bigness—among many other things, corporate political payola at home and abroad, our faltering technology, the disastrous failure of big oil as well as big government to level with us about energy for the 15 years after OPEC was formed and before it lowered the boom.

If you pass S. 1284, you will buttress a little the confidence of the American people that the Congress is awake and aware of the need to take its small steps to make antitrust enforcement more effective. If you don't pass it, it will be taken as just one more proof that bigness is now so far out of control that even the shadowy and tentative measures of procedural and notice improvements can't be made any more.

For what it's worth, the passage of S. 1284 and bills like it are also an important—if indirect part—of the biggest big business need we have: the need for a new and better definition of management's fiduciary duty to shareholders. The way it reads now it doesn't matter what you do to show growth and improvement at the bottom line. Earnings are to be bought, if necessary, by acquisition or even bribery. Losses are to be hidden and tax sheltered by other mergers if they can't be hidden. The more companies you acquire, the more money you can borrow against their assets. And the more you borrow, the more you have to buy more earnings to get your stock price up so you can borrow more to buy more, and on and on and on. (Some day some really *good* economist will figure out how much the capital formation needs of big business are merely reflections of excessive borrowing and leveraging to make acquisitions.)

What we need is a better definition for all big business men—one that says you also have a fiduciary obligation to the enterprise system as a whole and *all* its stockholders, employees, customers and suppliers. That means your obligation to increase the return on investment to your own stockholders is qualified by your duty to maintain an economically diverse system for all stockholders. Otherwise you threaten the system itself. That means you reach a point where you *don't* acquire, without divesting, where you fight for earnings the harder way yet—getting more of them from the assets you already control.

Those are the two most important reasons for Congress to enact S. 1284—and to go beyond it. Small business knows that the end of the golden merger and acquisition escalator is not a stronger enterprise system: it is state socialism for which big business is laying the foundation with its ceaseless drive for size. Small business knows that it will take far more than S. 1284 to recover and strengthen the confidence of the American people in the possibility of maintaining a competitive enterprise system. Small business knows that it will take more than S. 1284 to bring big business management to its senses and to a new definition of its fiduciary duty. Small business also knows that Congress' failure to enact S. 1284 will be read as one more proof of its unwillingness and inability to come to grips with the problem of economic concentration.

This Committee will note from the attachment our suggestion that you and the Senate Committee on Banking, Housing and Urban Affairs and the Senate Committee on Finance consider a joint study of mergers and concentration. Antitrust actions alone will not do the job of widening competition and expanding diversity. We must deal with related tax and banking issues. We must take the artificial corporate inducements to size out of our tax laws, and the interlocks and premiums on mergers and acquisitions out of our financial institutions and practices.

You must see our presence here as reflecting the long-term National Small Business Association commitment to a 15-year catch-up program for the nation's small business men. We are determined to restore balance to our economy by having the small business sector outgrow big business and big government in that 15-year period. Part of that catch-up program must be an effective antitrust program. S. 1284 is hardly a complete answer, but with the exemption we have recommended, it's a good step in the right direction.

Mr. HRUSKA. I yield myself such time as I may require.

Mr. President, there have been conferences during the day among a number of the Members of this body to produce what has been called and referred to as a compromise. That "compromise" consists of a number of amendments which will be voted on shortly and will bring to a conclusion the debate on the bill before the Senate. But, Mr. President, it is a compromise only among those who are advocates of the bill. There are others of us who not consider it a compromise.

There were differing views as to how many additional amendments should be offered, voted upon, and disposed of, as to substance and as to language. Some of us who attended those conferences were not in sympathy with the bill nor with any of the amendments. The Senator who is addressing the Senate at the present moment is one of those.

It is my intention to vote against the so-called compromise. It is my intention to vote against the Hart-Scott substitute. If it prevails, I shall vote against H.R. 8532, which will compose the substance of the legislation we are talking about.

The reason for calling the conferences was to find some fashion in which we could intelligently and rationally conclude the debate on this measure which has been under consideration for some time and which promises to continue to be subject of much extended discussion. However, Mr. President, the basis of my opposition to the bill and to the amendments we have before us has been evidenced in the past week or so in the debate which has transpired.

I want to make very clear that all thoughtful persons who address themselves to the subject share the belief that a vigorous and effective enforcement of antitrust laws is a must in our great Nation, an industrial and commercial society without comparison in all the history of mankind. Those of us who opposed the pending bill are as fully dedicated to the proposition of enforcing those laws and accomplishing their mission as those who are voting for this bill. There are some provisions in this bill that we are absolutely opposed to, some that we would like to modify in part, and some of which we approve. But in all cases, our concern is with ultimate enactment of a measure that will truly produce the desired assurance of a competitive economic system which will produce and market goods efficiently. We wish to see a measure which will benefit the consumer, and that will function in such a way as to permit our economic and industrial system to expand in accordance with the needs of our growing population and our increasingly higher standards of expectation.

Mr. President, we have before us discussion of three major titles of the bill. Title II has to do with civil process demands, title IV with parens patriae, or class actions. and title V with pre-merger notifications. Insofar as premerger notification is concerned, the fashion in which we have terminated our consideration of that title, in my judgment, is satisfactory. In its original form, it is anathema, and that is to speak of it as charitably as possible, because it would have fixed in the hands of an individual within the Department of Justice the capability and the potential of prohibiting any and all mergers upon which he would cast a baleful eye. Such should not be left within the power of an administrative official. Rather, inquiry should be initiated by the Department of Justice, a case should be made, and the judgment should be pronounced by a judge, not by an administrative official. However, that mandatory stay, which was a bad feature of that bill, has been eliminated, and it will be definitely eliminated by the adoption of this amendment that we shall vote on in the next few minutes.

Insofar as title II is concerned, dealing in civil investigative demands, Mr. President, there we find a different dish of tea. In 1962, we enacted in Congress a civil investigative demand law. It was limited to corporations; it was limited to documents and records that would be helpful to prosecute antitrust cases.

At that time, it was proposed to extend it to natural persons but such proposal was turned down. The bill before us, however, extends the civil investigative demand to natural persons and vests in officials, who will reside in the Department of Justice, with all of the powers of inquisition of a grand jury. Not only that, but the promise of this bill will result in oral answers to written interrogatories of persons in secret session.

Mr. President, the use of such authortiy will not be limited against people who are charged with crime. In fact, nontargets of an investigation will be scooped up in this dragnet. The persons representing the Department of Justice can range the land without any judicial supervision where they can work their wicked way through the harassment, the burdens and the oppression of the type of inquisition that we often hear of as being abused in grand jury sessions.

To that extent, I cannot sympathize with the bill in its present concept and its present terms. It is my hope that when we get into conference or, in due time, if it ripens into legislation that will reach the White House for signature, those features will be properly taken into consideration.

Much more can be said on that particular point. I shall not dwell on it further than that. I think it is wrong to put that much power in the hands of the administrative department, the executive branch of our Government.

Mr. President, conceptually, also the parens patriae title IV takes the wrong direction. It is wrong to farm out to the State attorneys general the power to enforce Federal laws in the antitrust field. If any State wishes to endow the State attorneys general with the power to do that, that is for the State to decide and properly for the Congress foist upon the States an attorney general who will have this jurisdiction and power.

Further, this bill would set aside and render for naught the class actions that have heretofore been governed by rule 23 of the Federal Rules of Civil Procedure. A class action is a complicated, intricate piece of litigation. It is difficult to manage in a way that will result in fairness to everyone concerned and in justice to everyone concerned. Those rules, developed by the courts after years of litigation, will be swept to one side. They will be exterminated. They will count for naught, because of the rules of the court we are seeking to prescribe in title IV of this act.

A third, very great defect in title IV, the class action title, is the aggregated or statistical basis for computed damages. That method, Mr. President, in my judgment, is an unconstitutional effort to try to deal with the problem. I shall not expand on that because I have done so already on the floor, and in the statement with which I shall supplement my remarks, I shall draw attention to some key points in that regard. In my judgment, where the persons are not in court, where they are unknown and there is no attempt to determine the extent of their damage, such situation is not within the article III requirement of the U.S. Constitution that Federal court are endowed with jurisdiction only in actual cases and controversies. Under the circumstances described, there is no case or controversy.

This will all come out in the wash in due time. I predict, Mr. President, that in due time, when there will be a test case brought in the Supreme Court, aggregated damages will not be sustained.

Mr. President, the fashion in which we are terminating this extended discussion of this bill, I think, is a happy one, because we have drawn to a point where we can say the issue is now joined.

It will be presently for the other body to act upon two of the titles of the bill as they have to date acted on only one. There will then be further treatment of it in the conference and later on in the White House, when it is presented there, if it ever is, for signature.

Mr. President, there has been a lot of suggestion of criticism of this body for taking so long to act on this bill. May I respectfully refer those who are critical that this bill in its entirety has five titles. Although the first is a declaration of policy, any one of the other four titles would have been a separate subject unto itself for deliberation, debate and processing in this Chamber. So we have not overreached the bounds of propriety, the bounds of good judgment, in dealing with it in extended fashion as we have. I think we could have done a better job had we pursued the course which this Senator suggested at the inception of the hearings on this measure a year and a half ago.

The suggestion was that we should take these bills one by one and accord them that treatment to which each one is entitled.

They do deal with weighty and with great issues which affect not only business, not only Government, but also the liberties and the freedoms of individuals that we like to think we are endowed with under the Constitution.

Mr. President, in order not to take further time I wish to have the remainder of my remarks placed in the Record at this point.

There being no objection, the remarks were ordered to be printed in the Record, as follows:

SENATOR HRUSKA REMARKS ON H.R. 8532

Mr. President, all thoughtful persons who address themselves to the subject share a firm belief in the necessity of a vigorous and effective enforcement of our antitrust laws. Compliance with the statutes, court decisions, and regulations in this field is imperative if the nation is to achieve maximum fulfillment of its potential as a mighty commercial and industrial nation.

Those of us who oppose the pending bill are as fully dedicated as anyone else on this score. Several provisions we oppose in their entirety. Others we would advocate if they are properly modified to eliminate inherent objections.

But in both cases, our concern is with an ultimate enactment which will truly produce the desired assurance of a competitive economic system, which will produce and market goods efficiently, which will do so fairly with quality and prices that will benefit consumers, and will function in a climate that will permit of that necessary growth, expansion and innovation which are so necessary in a thriving country of increasing population.

But Mr. President, not all bills labelled as improvements are necessarily good bills.

Not all bills so labelled truly produce beneficial results for the public, the consumer, or for those entities which are engaged in producing and distributing goods and services.

The pending bill proposes bad legislation.

It will not benefit the consumers who in the end will needlessly pay higher prices for the goods and services they must buy in the marketplace.

It will impose upon all business, professional, and service groups oppressive and punitive burdens. Such burdens will fall on small groups and individuals as well as large. They will add great risk to the conduct of all businesses—without any need being shown therefor and without fruitful purpose.

The bill is not needed for deterrence of enforcement of those laws which are designed to protect the public from illegal and unfair practices in business. There is ample provision now for this purpose in our statutes—civil and criminal.

The bill is a revolutionary and radical revision of anti-trust laws, processed and proposed in undesirable, faulty fashion for presentation to the Congress.

It will incite litigation in spectacular, massive degree and scope, which

(1) Will not benefit the consumer because he will not in the main receive the fruits of any judgments recovered.

(2) Will cause numerous litigation in which the lawyers will be the chief beneficiaries, in many cases receiving more dollars in fees than the total distributed and paid to individuals, for whose ostensible benefit the action was brought.

(3) It will aggravate the judicial crisis in the overloaded federal court system.

(4) Will discourage and greatly impair investment and allocation of capital, which is so vitally necessary to keep up in a growing nation and its expanding needs.

NATURE, COMPOSITION OF THE BILL

The bill reported by the Senate Judiciary Committee which is before the Senate is a hodgepodge of unrelated, complex, and highly technical provisions.

It consists of five titles.

Each title seeks to amend and restructure antitrust laws, in fundamental, far-reaching, and radical fashion. In some instances containing provisions alien to long accepted, well tested principles of law and procedure.

Each one of the titles has a scope and depth entitling it to a separate bill, report, and legislative processing, as has been done in previous years in Congresses which have considered these same subjects.

The topic in each title is separate and independent from other titles. They should be considered separately, as is being wisely done in the other body of the Congress on these same subjects. There is no need for joinder in an omnibus bill.

Disadvantages of omnibus treatment are many: It adds to difficulty of understanding the numerous issues involved. It results in confusion. It is impractical to analyze and fruitfully debate the bill since the field is so broad. Pertinent issues are seldom pointedly drawn.

All of these points were raised at the inception of the hearings by this Senator, who urged a separation of titles into independent bills to enable intelligent and rational consideration and disposition.

But protests were of no avail. The omnibus formula was followed, and even compounded!

One glaring example is the amendment of Sherman Act's section 6. It inflicts mandatory forfeiture of all property embraced by any unlawful contract or conspiracy. An atrocious, frightful and even bizarre consequence of a seemingly harmless amendment.

Yet it appeared in the printed pages of the bill without such explanation in the report, justification or support, as the subject demands. Happily, it was stricken by a floor amendment.

There are other amendments of similar jarring impact.

TITLE II ANTI-TRUST CIVIL PROCESS

This Title seeks vastly increased power for the Department of Justice to acquire, by secret inquisition, evidence and testimony in investigation of activities affecting competition.

The new powers requested were the subject of legislation proposed in 1962. They were rejected by Congress very decisively.

The same reasons for such denial are fully applicable today.

There is no sufficient showing of need for the broad and sweeping powers.

The type and nature of the powers requested are alien to our American traditions and principles of the Rights of our Citizenry.

Those powers are conducive to abuse, and will inflict oppressive burdens upon many persons and businesses who are not targets of investigation.

The bill deprives the citizen of the safeguards needed to resist the abuse, harassment and oppressive burdens which is potentially inherent in it.

Present law permits demands for documentary evidence from non-natural persons—usually corporations who are targets of the investigation.

The pending bill will extend this to natural persons, to those not targets of investigation, and to oral testimony of individuals taken in secret sessions.

The Congress flatly rejected giving the Department the power to take sworn testimony in secret from individuals 14 years ago even though the FTC was then also cited as precedent. The Congress did so for two reasons: (1) the need for the power was not sufficiently great to justify the burden,[2] and (2) the grant of the power, while proper for a regulatory agency, was wholly inappropriate for a prosecutor.

As the Attorney General's Committee To Study the Antitrust Laws, which originated the Civil Investigative Demand proposal, cautioned:

"We reject the proposal for legislation authorizing the Department of Justice to issue the type of administrative subpena typically employed by regulatory agencies. Unlike the Federal Trade Commission, for example, the Department of Justice is entrusted only with law enforcement. The grant of subpena powers suggests broader regulatory powers, structural reorganization; a system of hearing officers and a panoply of administrative procedural protections which the committee is not prepared to recommend. We would, in addition, disapprove any subpena power that would permit prosecuting officers in antitrust investigations to summon sworn oral testimony by placing businessmen under oath in the absence of a hearing officer and like safeguards. Such authority is alien to our legal traditions, readily susceptible to grave abuse and, moreover, seems unnecessary."

Such concern over prosecutorial abuse affected all of the deliberations leading up to enactment of the 1962 Civil Process Act.

In our view, the Justice Department has utterly failed to justify its recent claim for the type of administrative powers it deemed inappropriate for itself as a prosecutor 14 years ago.

NO SHOWING OF NEED HAS BEEN MADE

The testimony that title II would make the Anti-Trust Division's investigation more efficient is not sufficient reason. It is more than outweighed by the high cost to witnesses who will be called to testify under such burdensome, unfair conditions.

It was observed that greater efficiency could also result by eliminating the prohibition of "unreasonable searches and seizures" guaranteed by our Constitution. Yet no one would contend that the change would be worth the cost.

There are many things held more sacred than increased efficiency. Especially when the agency involved is endorsed with ample alternatives to secure any information it needs.

SAFEGUARDS FOR WITNESSES ARE SERIOUSLY DILUTED OR DESTROYED

Relevancy and scope test is destroyed.

A principal safeguard of existing law is that a CID must specify the nature of the conduct constituting the alleged antitrust violation under investigation. This gives the respondent some means by which he can test the relevance and scope of the demand.

But title II totally eliminates this protection, requiring instead only that the CID state either the "nature of the investigation," (no longer limited to antitrust and on longer limited to alleged violations), or the Federal administrative or regulatory agency proceeding involved. Since this is as open-ended as all of Government itself, there is no title II demand under this standard that would not be relevant.

As a consequence, title II may authorize "unreasonable" searches in violation of the Constitution. As Judge Bazelon stated in rejecting in a Federal Maritime Board subpena worded similarly to the standard in title II:

"The Board's failure on the instant case to state its purpose in requiring the information demanded precluded a determination of relevancy."

Judge Bazelon therefore concluded:

"Since the reasonableness of the order under review is dependent upon the relevancy of the information demanded, and that cannot be determined in the absence of a statement of purpose, the order is fatally defective."

In its present form the bill is constitutionally defective on this point.

ILLEGALLY SEIZED EVIDENCE

Another grave violation of rights is that the Anti-Trust Division is allowed to compel testimony on any subject that a grand jury is permitted to probe in a suspected violation inquiry.

The Supreme Court decision in United States vs. Calandra, 414 U.S. 338 (1974) now makes clear that a witness appearing before a grand jury cannot refuse to answer questions on the ground that they are based on unlawfully seized evidence.

The erosion of constitutional rights and the unfairness of this point are obvious.

TITLE IV

This title authorizes state attorneys general, on behalf of natural citizens residing in the state, to sue for damages sustained by them by reason of anti-trust violations.

"Parens patriae" pertains to a state's sovereign power of guardianship over persons under disability.

Under the bill the State would no longer be required (as it is now) to be an injured consumer in order to be eligible to sue.

CLASS ACTIONS

The result of such a suit in general will be a class action suit.

Class actions are very complex. Many factors must be weighed carefully and judiciously in order to determine whether a given set of circumstances is such as to warrant a court's entertaining of such a suit, and upon undertaking it, to apply rules and procedures suitable to a fair trial and disposition of the case.

RULE 23. FEDERAL RULES OF CIVIL PROCEDURE

This rule authorizes class actions to enable just recoveries by multiple claimants similarly situated, but subject to provisions to prevent abuses and unfairness.

This rule was worked out and developed by the court system after long years of practical court room experience.

Title IV seeks to eliminate and exterminate that rule and all of its benefits.

This should not be allowed to happen. The courts know better how to conduct and manage such difficult situations—much better than a Congress can do with unfeasible rules.

STATE ATTORNEYS GENERAL

If any state wishes to vest in its Attorney General, authority to sue in class actions, it can say so. Congress should not foist such a power in a State official.

Title IV provides for aggregated or statistical bases in determining damages in class action. The better view is that such methods are not constitutional. Elsewhere I have amplified on this point.

TITLE V

This title provides for premerger notice by corporations to the Department of Justice in acquisitions of other companies or merging with them.

Its most objectionable feature—the mandatory stay—has been eliminated from the bill.

There remains in statute form the essence of the procedures in current use by the Department of Justice in selected cases of merger or acquisition. These procedures require notice in form and substance satisfactory for the purposes at hand.

SUMMARY

H.R. 8532 is a hodge-podge of unrelated, complex and highly technical provisions.

It is a wordy lawyer's bill which would enact the most revolutionary revision of the antitrust laws since the Clayton Act of 1914.

It will greatly benefit lawyers, at heavy costs to the public, and great risk to smaller business firms and professional or service groups who may be leading victims.

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[2] When asked in hearings on a predecessor bill of the 1962 *act* why the Department had *not* sought the inclusion of private citizens, the Assistant Attorney General responded: "We have had very few instances where we have need for such powers where individuals were included, and, frankly, we felt it might be burdensome to an individual and that the need was not so great that we ought to place that burden on the individual." Hearings on S. 716 and S. 1003 before the Subcommittee on Antitrust and Monopoly of the Senate Committee on the Judiciary, 86th Cong., 1st Sess. (1959).

It is unneeded for effective deterrence and enforcement.

It will aggravate the judicial crisis in the overloaded federal court system.

Mr. HRUSKA. Mr. President, I yield back the remainder of my time. I am prepared to yield back the remainder of my time, if any there is.

Mr. ABOUREZK. How much time does the Senator have remaining?

The PRESIDING OFFICER. The Senator has 5 minutes remaining.

Mr. ABOUREZK. And I have how much?

The PRESIDING OFFICER. The Senator has 19 minutes.

Mr. ABOUREZK. I yield 1 minute to the Senator from Nebraska (Mr. Curtis).

Mr. CURTIS. Mr. President, I rise to pay tribute to my senior colleague, Senator Hruska has devoted years to the subject of antitrust legislation. I wish to commend him for his diligence, for his scholarship, for his knowledge, for his professional excellence and, above all, for his dedication to the cause of justice.

The object of a legislator should not be that of a crusader for any particular philosophy or program or objective, but, rather, the objective should be to do justice.

Sometimes to do justice calls for action and positions that may not be popular in some places. But I commend my colleague for his strong stand on behalf of justice, and for his long, hard work, and his professional excellence he has rendered to the United States of America in this most difficult bit of legislation.

I yield back the remainder of my time.

Mr. HRUSKA. Mr. President, I thank my colleague for his kind remarks.

Mr. ALLEN. Mr. President, will the Senator yield me 2 minutes?

Mr. ABOUREZK. Yes.

Can I make a couple of unanimous-consent requests?

UNANIMOUS-CONSENT REQUEST

Mr. ABOUREZK. Mr. President, because of the way the unanimous-consent agreement was drafted, I have to make another unanimous-consent request to alter that slightly because there have to be technical and clerical corrections that I have to call up.

If I can have the attention of the Senator from Nebraska, it is necessary to ask unanimous consent at this time, and I just wanted the Senator to hear this, that it be in order, following the vote on amendment 1701, for me to call up technical and clerical corrections and an amendment to the title, without debate, at that time.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. ABOUREZK. I yield 3 minutes to the Senator from Pennsylvania.

Mr. HUGH SCOTT. If the Senator from Alabama would indulge me for going ahead of him——

Mr. ALLEN. Yes.

Mr. HUGH SCOTT. I thank the Senator very much.

Mr. President, we have reached our journey's end. The compromise that we have sought and accepted preserves intact the fundamental purpose of the Hart-Scott bill. While the scope of parens patriae has been reduced in several important respects, future Congresses can meet future exigencies once the concept has proved its utility in the ongoing battle to safeguard the vitality of competition in our free enterprise economy.

Furthermore, the improved investigative authority of the Department of Justice has survived the compromise whole. I find this particularly gratifying since I had the privilege of introducing this measure early in the session with Senators Fong and Hart on behalf of the Ford administration.

The Senate has worked its will, and I join Senator Hart of Michigan, with whom I have had the distinct pleasure of working during the deliberations on this bill, in thanking the Senate for its forebearance and support. Senator Hart's intelligence, gentlemanliness, and his innate sense of fairness have kept the level of debate high and made possible our success.

I am, moreover, indebted to him for his very kind remarks about the senior Senator from Pennsylvania.

I would also like to take this opportunity to praise Senator Hart's able staff, especially Mr. Howard O'Leary and Mr. Bernard Nash, whose expert and tireless efforts on behalf of this bill I commend.

I view the Hart-Scott bill as a legislative milestone, and I praise the Senate for its wisdom. We have moved to strengthen the free enterprise system, under which all honest businessmen and businesswomen can thrive and prosper. From this action we can all take great satisfaction.

Mr. President, I would like to express my appreciation of the commitment—even though I disagree with it—the courteous commitment and vigor by which the views of the Senator from Nebraska, my friend, Mr. Hruska, and the Senator from Alabama, my friend Mr. Allen, and those who supported them, have made their case and have secured while making their case a part—and an important part—of the kind of consensus which is what the Senate generally tends to come out with in periods of arduous debate and controversy.

I would like to thank all those who have aided them for keeping the debate on a level of which we can be proud.

I would also like to thank in addition to the distinguished Senator from Michigan (Mr. Philip A. Hart), the distinguished Senator from Massachusetts (Mr. Kennedy), the distinguished Senator from South Dakota (Mr. Abourezk), the distinguished Senator from Florida (Mr. Chiles), and anybody else who wants—and the distinguished Senator from North Carolina (Mr. Morgan) and anybody else who wants—me to insert their names in the Record immediately after the conclusion of the session please call my number and it will be done. [Laughter.] But, seriously, I believe we have rarely had more sense of commitment to clashing concepts of the public weal and the public interest than we have had in this bill. But that was what motivated everybody. The distinguished majority leader, Mr. Mansfield, the assistant majority leader, Mr. Robert C. Byrd, have committed themselves to this enterprise, and so has the distinguished assistant minority leader, Mr. Griffin, and others.

I am glad we are near the end of the road. So far as I am concerned it cannot come too soon for me. I hope we do not run into any more stop signs or that we have to yield for any pedestrian obfuscations on the part of well-intentioned colleagues.

I hope that the road ahead is clear, that there are no potholes in the immediate future, and that we can arrive at our destination together and united after an interesting exercise in very high-toned disagreement.

Mr. ABOUREZK. Futility. [Laughter.]

Mr. HUGH SCOTT. Not futility, as the Senator suggests, but a determination that howsoever one may have to use all of the rules of the Senate, and however long it takes that somehow we do arrive at this valued consensus at the end, and I thank all those who helped. I join in the general relief for the rest of the Senate who have had to listen to them.

Mr. ABOUREZK. Mr. President, after all of these speeches, I am not so sure that we would not have been better off to have gone on through in trying to shut off the debate. [Laughter.]

Mr. HUGH SCOTT. Why does not the Senator say encomia.

Mr. ABOUREZK. I yield to the Senator from Alabama.

Mr. ALLEN. I thank the distinguished Senator from South Dakota, and I thank the distinguished Senator from Pennsylvania for his generous remarks.

On the first or second days when this legislation was before the Senate, I started the delivery of a prepared address commenting on the legislation, and pointing out what I considered to be defects in the proposed legislation. After giving a portion of the speech, my attention was diverted to other matters, and my statements directed as to other phases of the bill.

I ask unanimous consent that my prepared speech, which I started on some days ago and never completed, might be printed in full in the Record. It comments on the defects in the bill, many of which had been cured by the amendment passed here in the Senate, but I would like to have it printed in the Record, and I ask unanimous consent that that be done.

There being no objection, the statement was ordered to be printed in the Record, as follows:

STATEMENT BY SENATOR ALLEN

Mr. President, this bill, S. 1284, the provisions of which have been offered as a substitute to HR 8532, is probably the worst item of legislation brought to the floor of the Senate in this Congress. It must be rejected by the Senate or recommitted promptly to Committee if we are to avoid doing grave damage to the economic well-being of our people and to the political health of our free institutions.

This bill is not a bill merely modifying procedural aspects of the Federal anti-trust laws. This bill is, rather, a radical departure from the existing statutory scheme for antitrust enforcement, and it creates a new substantive cause of action which is revolutionary in concept and will be catastrophic in effect.

Mr. President, this bill is not primarily procedural, it is primarily substantive, but whether procedural or substantive it is throughout ambiguous, poorly worded, badly written, inartfully structured, impractical, short-sighted, and not in the least worthy to be considered by this body. Mr. President, this legislation is so replete with alarming and ill-conceived proposals that I truly find it difficult deciding where the greatest danger lies, or what specific provision deserves primary attention. And so, Mr. President, in this dilemma I am afraid I am going to be forced just to start at the beginning and from there examine each provision of this proposed substitute until I get to the end.

TITLE I

This bill astonishingly is entitled, "The Hart-Scott Anti-Trust *Improvements* Act of 1976". (REPEAT) Mr. President, if ever a wolf hid in sheep's clothing, it is the atrocious provisions of this bill masquerading in the guise of "improvements". Yes, Mr. President once again under the mindless banner of "improvements" or "reform", the Senate is asked to adopt sweeping changes in the fabric of our legal system—changes which will wreak untold havoc in the structure of our economy and the lives of our people but which many will hail as needed and beneficial simpy because they have been labeled "*improvements*".

Mr. President, this bill will improve nothing but the bank accounts of lawyers and the political power of State Attorneys General. A more appropriate and accurate title for this bill might be "The States' Attorneys General Political Relief Act of 1976" or, as has been suggested by my distinguished colleague from South Carolina, Senator Thurmond, "The Anti-Trust Lawyers Full Employment Act of 1976". Mr. President, this bill improves nothing, it destroys much that is good including established legal procedures which guarantee due process and fair play, it will cost consumers millions, and it promises to bring chaos to sound judicial administration of anti-trust cases.

TITLE II

The first substantive departure from commonly accepted notions of due process and plain fair play occurs in Title II, which purports to set forth procedural amendments to the Anti-Trust Civil Process Act. In fact, Title II authorizes investigatory powers foreign to our republic and abhorrent to our tradition. Title II permits the Attorney General, or the head of the Anti-Trust Division of the Department of Justice, to institute, in effect, roving inquisitorial panels which to me appear to be closely patterned after similar traveling witch-hunting curia utilized to root out wickedness and vice in the villages and towns of Spain during the Inquisition.

Under the provisions of Title II, the Attorney General or the Head of the Anti-Trust Division—and I would remind Senators that neither of those gentlemen are answerable to the electorate nor, to an increasing extent, event to the President—the Attorney General or the Head of the Anti-Trust Division would be authorized to demand that any person produce documents, answer interrogatories, and give oral testimoney to certain inquisitors, either acting singularly or tribunal-style, to be designated from time to time at the sole discretion of the Attorney General or the Head of the Anti-Trust Division. The scope of inquiry permitted is, astoundingly, not limited to violations of the Anti-Trust laws. In addition to any matter related to the Anti-Trust laws, the scope of inquiry would also encompass—and here we see an example of the bill's ambiguity and plain awkward wording—any matter relevant to "competition in a Federal administrative, or regulatory agency proceeding". Mr. President, has there ever been a Federal administrative or regulatory agency proceeding in which matters related to competition were not involved? Perhaps so, but the case would be rare indeed.

Mr. President, in practical effect the Attorney General's inquisitor will have *carte blanche* to call on the carpet virtually anyone so long as there were some remote connection with a Government proceeding. I have no doubt that the present Attorney General would use this immense power with discretion, but a less responsible Attorney General armed with the inquisitorial powers granted by this bill could do irreparable damage to individuals and to society. Who will these inquisitors be and where will they come from? Where are the inherent safeguards of a locally selected Grand Jury?

Mr. President, I do not believe we have come hundreds of years down the long line of the development of our legal heritage to enact in the bicentennial year a law which would permit unidentified designees of an appointed official to sit in unspecified numbers in our cities and towns as roving curia of the Attorney General examining whatever witnesses they care to call inquiring with respect to virtually any matter said to affect commerce.

Perhaps, Mr. President, there are those here who think that I am overly alarmed at this roving appointed Grand Jury, this imperial curia, this Spanish Inquisition permitted by Title II. If so, let me remind Senators that Title II provides only grudgingly that the witness may be accompanied by a lawyer, who is apparently denied the right to give on the spot counsel and is permitted to speak only briefly to make formal objection to assert that his client is entitled to refuse to answer a question on grounds of self-incrimination or for other reasons. With respect to other functions normally performed by a lawyer present at the deposition of an individual whom he represents, the bill states bluntly *"he shall not otherwise interrupt the examination."* The lawyer is thus permitted only to make for the record certain specific formal objections, but he otherwise is prohibited from interfering with the proceeding.

If a miscreant called before a Title II inquisitor refuses to answer on grounds of the right against self-incrimination, testimony may nevertheless be compelled in accord with the provision of Part V of Title 18 United States Code. If the witness simply refuses to answer, the inquisitors may obtain the assistance of the local Federal District Court in ordering an answer. If the witness still refuses, the consequences for contempt of court may be imprisonment without trial for an indefinite period. Similar imprisonment in the case of refusal to answer before a Grand Jury at least is limited to the duration of the Grand Jury proceeding, whereas under Title II no limiting period can be established. I would also remind Senators that the offending witness need not himself be the actual subject of the investigation to suffer the very dire consequences I have described.

Some will say that we should not concern ourselves about the civil liberties which would be lost if this bill were enacted since only civil anti-trust investigation will be conducted, but Mr. President, the information developed by the Federal anti-trust inquisitors operating under Title II may be delivered for use in any court, grand jury, or other forum, in which an attorney of the anti-trust division has been designated to appear regardless of whether the matter involved is civil or criminal. Moreover, all information developed will be made available on request to the Federal Trade Commission, where it will presumably be available to anyone who cares to inquire.

Additionally, Mr. President, this bill will permit any person instituting a civil action under the Anti-Trust Civil Process Act (76 Stat 548; 15 USC 1311) to obtain any documentary material produced in the transcript of any criminal Grand Jury proceeding concerning the subject matter of that person's civil action. Such private access to Grand Jury information is permissible only after completion of any civil or criminal proceeding instituted by the United States, which gets the first bite, but the information delivered could include documents and testimony made available to the Grand Jury by one or more of the roving panels of inquisitors established by Title II. The point is, Mr. President, that the traditional secrecy and care exercised in Grand Jury proceedings which has served over the centuries, would be with total abandon and, I believe, completely without forethought tossed out the window. (For policy reasons for Grand Jury secrecy see p. 34 Majority Report.)

TITLE III

Title III of the bill, entitled, "Miscellaneous Amendments", also contains its share of novel and unsound departures from normal practice and procedure and ought possibly be renamed "Miscellaneous Misadventures". For example, Title III permits, upon a determination that a particular case is a complex antitrust case, the appointment of special masters, economic experts, and others to assist the judge in trying the case.

Although that provision in itself is not completely without merit, Title III further specifies that such additional personnel may themselves appear before the trier of facts, whether judge or jury, as a witness in the matter before the court empowered to testify as experts to provide analysis of issues with reference to proposed remedial orders, to recommend orders to restore effective competition and to examine the evidence introduced by the parties. Fortunately these experts appointed by the judge would at least be subject to cross examination and rebuttal testimony, but nowhere else to my knowledge in the courts of this country is a judge permitted, in effect, to participate in the presentation of facts through his appointed experts in the very cause subject to his decision.

Mr. President, efficient judicial administration is not served by mixing and muddying the duties and responsibilities of the various components of the judicial structure. Judges do not act as prosecutors, plaintiffs, or defendants; plaintiffs and defendants do not act as judges or juries; and witnesses, expert or otherwise, ought not to act as judges. Traditional functional divisions must be maintained in the courts, and they are not maintained in Title III.

Title III also amazingly encourages the violation of foreign law where such law prohibits compliance by a party with a disclosure order. A party not wishing to violate a foreign statute and refusing to comply with such an order can expect to see any action pending before any court of the United States terminated in whole or part adversely as to his interest. Mr. President, I believe this particular provision of Title III, and I am speaking of Section 303, will do much to annoy and offend other nations by authorizing our courts to coerce compliance with discovery orders regardless of the fact that a party may in the process be forced to violate the law of another country.

But, Mr. President, the most dangerous provision of Title III and the most radical departure from the present law contained in that Title is set forth in Section 301 which would gratuitously extend the Clayton Act's restrictions on pricing, exclusive arrangements, and mergers into fundamentally local transactions, overruling thereby contrary Supreme Court decisions. (See, for example, *United States* v. *American Maintenance In-*

dustries, 422 U.S. 272 (1976) and *Gulf Oil Corp.* v. *Copp Paving Co.,* 419 U.S. 186 (1974).). I agree, Mr. President, with the American Bar Association's analysis of Section 301's effect which states that Section 301 would "transfer to the Federal courts—already heavily overburdened—a large number of local disputes that more appropriately belong in the State courts." Anyone who has had even a passing exposure to litigation, for example, involving the Robinson-Patman Act's mysterious provisions[1] will be horrified at the prospect of purely local pricing disputes being brought within the ambit of that statute and thrust into Federal court.

Then too, Mr. President, I feel it is my duty, since the matter is not discussed in the Majority Report, to point out to the Senate that Section 301(c) of Title III contains a "sleeper" provision or perhaps better a "ghost" provision which we are apparently neither to notice or to believe in but which, in my judgment, will return to haunt this body should it be adopted without full knowledge of its implications.

I refer, Mr. President, to the language in Section 301(c) which amends Section 6 of the Sherman Act by eliminating the highly restrictive language now contained in that Section which makes the Section applicable only in certain extraordinary situations in which goods are in the actual course of transportation from one State to another and substituting, in lieu of that restrictive language, calculated and very broad language which would make subject to Section 6 of the Sherman Act virtually all commercial transactions.

Lest the significance of this simple change set forth in this "ghost" provision be lost as the sponsors of this substitute might well wish—and again I point out that provision's effect is not mentioned at all in the Majority Report—lest its significance be lost, I would remind Senators that Section 6 is that old unused Section of the Sherman Act which is rarely even mentioned except in Law School but which provides for a *complete forfeiture* to the United States of certain assets of a business found to be engaged in conduct prohibited under the Sherman Act—a complete forfeiture, Mr. President, but as Section 6 is presently written a forfeiture strictly limited to those assets which are actually being transported in interstate or foreign commerce.

As a result of that limitation, this potentially draconian clause enacted in 1890 has fortunately from its earliest days been held in check by the courts' stringent application of exactly the same limiting language proposed Section 301 (c) would strike. Thus, Mr. President, settled practice which has properly rendered Section 6 of the Sherman Act a virtual nullity will be completely uprooted by the substitute proposal, without notice to this body in the Majority Report and under the innocuous heading, "Miscellaneous Amendments".

I would further caution Senators that the forfeitures set forth in Section 6 are not discretionary with the courts but are rather mandatory and automatic. Thus, should this provision become law, in price-fixing cases, or in mergers challenged under the Sherman Act, once illegality is established, any property involved will forfeit to the United States. Forfeitures would range from the minor to the major, even including the entire assets of billion dollar corporations.

But, Mr. President, the Senator from Alabama is not primarily concerned about billion dollar corporations (they generally have been able to fend for themselves), he is very concerned about medium or small local businesses which will be, for the first time in history, brought within the reach of the Clayton Act and which, as a result of the "ghost" provision, Section 301 (c), would conceivably stand to forfeit to the United States their entire assets should they in some way be athwart the strictures of the Sherman Anti-Trust Act. I am sure there are many others in this body who share that concern and still others who ought to.

TITLE IV

So, Mr. President, we see that this bill contains myriad defects, ambiguities, confusions, alarming provisions, and just plain ordinary sorry ideas, but Mr. President, if any one provision of this bill is to be said to be the most alarming, that provision would have to be the bill's creation in Title IV of a new right of action vested in the Attorneys General of the several States and in the Corporation Council of the District of Columbia. This new right of action in effect amounts to a new substantive cause of action vested in the States to recover in Federal Court damages for the benefit of the State for allegedly illegal or excessive profits. The new cause of action transforms the tested principle of treble compensation for injured persons as expressed in Section 4 of the Clayton Act to the principle of three-fold State confiscation of alleged monopoly overcharge or illegal profits, conditioned only on improbable redistribution to certain State residents.

As Senators know, Title IV would vest in a State Attorney General the power to bring a class action on behalf of individuals under Section 4 of the Clayton Act without proof either of the fact or the amount of any separate injury or damage to any such individual. In making a *prima facie* case, the State Attorney General need only show damage in the aggregate and is permitted to use statistical or sampling methods of estimation as to the determination of the amount of damages.

Putting aside the obvious Constitutional problem raised by permitting recovery without a showing of injury, the clear result of permitting proof of damages in the aggregate coupled with no requirement of proof of individual injury is to permit a State Attorney General to recapture allegedly illegal profits and overcharges without being required to make the showing of injury which tort law in general and Section 4 of the Clayton Act in particular now mandate as the essential element of any private damage cause of action. The consequence, therefore, is a new public cause of action, foreign to our tradition and not a simple procedural reform, as the sponsors of this bill might have us imagine. I, for one, do not believe this new public cause of action has a prayer of withstanding the Constitutional challenge it will surely face, but I see no reason for this body to appear foolhardy and untutored by forcing the courts to make that decision for us.

Mr. President, due process as set forth in the Constitution requires that both the fact and the amount of injury must be proved before any party may recover damages. This bill would permit aggregation of damages or a fluid class recovery, and it specifically states that neither the fact nor the amount of damages with respect to a member of the class need be proved. The Constitution also guarantees the right to a jury trial, and if a jury trial is demanded, there must be proved, on an individual basis, to the jury's satisfaction, both the fact and amount of injury.

Otherwise, the right to a jury trial is abrogated and made meaningless. If Senators have doubt that this is the law, I suggest a careful reading of the Supreme Court's recent holding in *Warth* v. *Seldin,* 422 US 490 (1975), in which the Court stated in this connection at 422 US 515–16:

"No award therefore can be made to the association as such. Moreover, in the circumstances of this case, the damages claims are not common to the entire membership, nor shared by all in equal degree. To the contrary, whatever injury may have been suffered is peculiar to the individual member concerned, *and both the fact and extent of injury would require individualized proof.* Thus, to obtain relief in damages, each member of Home Builders who claims injury as a result of respondents' practices must be a party to the suit. . . ." (Emphasis added.) Thus in a group damage action, whether brought under the *parens patriae* concept or as an ordinary anti-trust class action, there is simply no Constitutionally viable substitute for individual proof of both the fact and the amount of injury—precisely what Title IV purports to eliminate.

Mr. President, in practice, the proof of liability and damages proposed in Title IV, that is, liability without specific injury and damages proved in the aggregate by statistical means, will result in the bulk of any "compensation" recovered being applied to miscellaneous court-approved projects or forfeited to the State. The procedure proposed in Title IV, in effect, will cause the class as a whole to be treated as the real party in interest and the separate cases of the individual members of the class will become of little consequence and not subject to jury review.

Mr. President, there is ample authority that aggregation of cases wherein the fact of individual injury is not required to be proved, nor the amount of individual damages required to be established, is not permitted under the Federal Constitution. In *Eisen* v. *Carlisle & Jacquelin,* 479 F.2d 1005 (2d Cir, 1973), vacated on other grounds, 417 U.S. 156 (1974), Judge Medina explained that even an amendment to Rule 23 of the Federal Rules of Civil Procedure, the rule regarding establishment of a class action, could not cure the Constitutional infirmity inherent in class aggregation of damages and fluid recovery for injuries presumed but not proved on an individual basis. The Court stated, at 479 F.2d at 1017–18:

"Even if amended Rule 23 could be read so as to permit any such fantastic procedure *the courts would have to reject it as an unconstitutional violation of the requirement of due process of law.* . . . We hold the "fluid recovery" concept and practice to be illegal, inadmissible as a solution of the management problems of class actions and wholly improper."

Mr. President, the foregoing decision is typical of decisions in other circuits in which the courts have uniformly denied fluid recovery in enormous consumer class cases. Senators might wish to review, for example: *In re Hotel Telephone Charges,* 500 F.2d 86, 89 (9 Cir. 1974); *Kline* v. *Caldwell, Banker & Co.,* 508 F.2d 226 (9 Cir. 1974); *California* v. *Frito-Lay, Inc.,* 474 F.2d 774 (9 Cir. 1973), cert. denied, 412 U.S. 908 (1973); and *Pfizer* v. *Lord,* 522 F.2d 612 (8 Cir. 1975).

Mr. President, I would urge my colleagues to consider also the fact that Rule 23 of the Federal Rules of Civil Procedure is itself a carefully constructed procedure for permitting class actions within Constitutional bounds. This bill destroys the carefully structured safeguards of Rule 23 and in the process breaks through the Constitutional restraints carefully observed by the Rule.

Mr. President, Rule 23 requires that each class member receive actual notice that the members' legal rights are being asserted in a class action. A person whose interests are being litigated in a proceeding to which he is not a named party is Constitutionally entitled to notice of that fact and is Constitutionally entitled to the opportunity to decide for himself whether he wants his individual case pressed at all, in that suit, or elsewhere.

The *Eisen* opinion to which I have referred explains that all reasonably identifiable class members must receive individual notice. Amended Clayton Section 4c (B) (1) under Title IV directs instead that notice be given "by publication" unless the court finds that such notice would be "manifestly unjust as to any person or persons". Mr. President, that procedural shortcut does not, in my judgment, successfully circumvent the Constitutional due process requirement that all reasonably identifiable class members be given *actual* notice and an opportunity to opt-in or opt-out of the proposed class. This bill would put the horse before the cart, this bill would permit notification in the aggregate whether or not class members were reasonably identifiable, this bill would permit no real option with respect to participation except for those who might be found to be in a category of persons to whom failure to give actual notice would be manifestly unjust. Title IV attempts to treat *Eisen* as simply a case involving an interpretation of Rule 23, and having done so, makes notice by publication presumptively sufficient, absent manifest injustice, even if the class members are reasonably identifiable. Mr. President, this "leap of faith" disregards the undeniable fact that Rule 23's provision in this regard reflects a Constitutional imperative which the Senate should not try to flout.

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[1] Section 2 of the Clayton Anti-Trust Act, 15 U.S.C. 13.

Mr. President, I will touch briefly on another serious Constitutional question raised by Title IV, a Constitutional issue this body ought to weigh carefully. I, for one, do not believe that a State Attorney General will have Constitutional "standing" to bring suit in many of the class actions contemplated by Title IV. As you know, Mr. President, an essential element of the Constitutional plan for Federal courts under Article III of the Constitution is that Federal courts can only entertain "cases or controversies". One of the several manifestations of this requirement is that a plaintiff invoking the jurisdiction of the Federal Courts to seek the redress of a wrong must establish his standing to do so. Congress does not have a free hand in authorizing any party to represent and assert the rights of others.

The Supreme Court's most recent explanation of this point came in *Warth* v. *Seldin*, *supra*. In that case, the Court emphasized that, notwithstanding Congressional action, the Constitution required that a plaintiff must be able to allege "a distinct and palpable injury to himself, even if it is an injury shared by a large class of other possible litigants" (422 U.S. at 501). The Court held that none of the plaintiffs, who included various trade associations and public interest groups suing under the Federal Civil Rights Law, was able to allege and prove direct and palpable *personal* injury to itself from the allegedly illegal conduct. As a result, the plaintiffs were said to lack standing and were denied relief.

Mr. President, since the principles expressed in *Warth* with respect to "standing" are founded upon the Constitutional limits on the Federal judicial power, I do not believe any State official could validly be authorized to go into Federal court to recover "damages" allegedly incurred by others unless he satisfied the Constitutional requirement, which is made a part of Rule 23, that he be himself a member of the class he seeks to represent. In those cases in which the State, as a corporate entity, had itself suffered its own direct injury, the Attorney General would indeed have standing to sue as a representative of a class of which the State itself was a member; but, Mr. President, otherwise, the Constitution bars any class action Title IV would authorize.

I think in this connection, Mr. President, that Senators should also consider yet another Constitutional infirmity which should be even more glaring to this body now than it might have been in the months prior to the Supreme Court decision in *Buckley* v. *Valeo*. As Senators well know, in that landmark opinion the Court suspended the authority of the Federal Election Commission on grounds that the Commission was illegally consttiuted in that authority was delegated to carry out executive acts to those who were not officers of the United States. This bill would empower State Attorneys General to bring actions in Federal Courts pursuant to Federal statute under authority of the United States for the benefit of the individual State and certain of its residents. As the Supreme Court pointed out in the *Buckley* decision with respect to delegation of authority to maintain an action to enforce the laws of the United States, and this is reported in 44 US Law Week at page 4169:

"Whether tested, therefore, by the requirements of the Judiciary Act or by the usage of the Government, or by the decisions of this court, it is clear that all such suits, so far as the interests of the United States are concerned, are subject to the direction, and within the control of, the Attorney General . . ." (Attorney General meaning, of course, the United States Attorney General.)

A State Attorney General could not be said to be subject to the direction, and within the control of, the United States Attorney General, nor is a State Attorney General an officer of the United States. I, therefore, doubt that a State Attorney General can be vested with power under Federal authority to vindicate public rights, and my doubts are supported by the Supreme Court's further statement with respect to the ability of the Election Commission to conduct civil litigation. The Court said, also at 44 US Law Week at page 4169:

"We hold that these provisions of the Act, vesting in the Commission primary responsibility for conducting civil litigation in the courts of the United States for vindicating public rights, violate Article II, cl. 2, Section 2 of the Constitution.

Such functions may be discharged only by persons who are "Officers of the United States" within the language of that Section."

Mr. President, I have discussed at length some of the violations of the Constitution which would occur should Title IV be adopted by this body and become law, but I think Senators ought even more carefully consider the practical consequences which would result from enactment of this provision.

Title IV has been referred to as the "Great Bicentennial Money Machine", and I believe that that is an accurate characterization of the results that would follow rapidly after its enactment. The provisions of Title IV will be a bonanza for lawyers who will attack a multitude of business practices, with little regard for whether those practices are actually in fact illegal.

Let me explain, Mr. President, what I mean when I say that as a practical matter it will be immaterial whether a defendent is actually guilty or not guilty of an anti-trust violation charged under Title IV. Because of the enormous potential damages and the unacceptable exposure to liability that the normal action under this Title will entail, virtually all defendents will seek settlement at an amount they can afford to pay, whether guilty or innocent. A firm, a company, a group of companies, a trade association, a professional association, members of a trade or other similar potential target defendents simply cannot afford the exposure to which they would be subjected in suits brought for treble damages under Title IV.

In essence, Mr. President, title IV will permit recovery of alleged damages by blackmail. No firm will risk treble damages in the hundreds of millions even if the possibility of defeat at trial may be insignificant. Settlement will be absolutely required and will be viewed as a form of insurance. It is, Mr. President, simply a question of degree. Exposed to liability in the millions, few of us in this body would fail to settle in the thousands, even if the case were wholly without merit, simply because defeat at trial would result in bankruptcy. Businesses and individuals attacked under Title IV will respond in like manner and will pay tribute in the required amount to the State Attorney General or to his appointed prosecutor. That tribute will inure to the benefit of the State after a sizeable rake-off by the attorneys bringing the action. The lawyers defending the action will also presumably be paid.

Mr. President, in short, very little of that money recovered under Title IV will ever find its way into the hands of consumers who will have suffered *de minimus* or insignificant individual damages. The bulk of the swag will be divvied up by lawyers and by the State at the court's direction. Need I remind Senators of the immense legal fees already paid in some of the more celebrated class actions brought under the anti-trust laws? In the tetracycline cases, over $40 million was awarded as attorney fees out of a total settlement of approximately $200 million. Other treble damage settlements have produced like bonanzas for successful attorneys.

Mr. President, since I have mentioned the tetracycline cases, it might be beneficial to explore the settlement of those cases so that the Senate can better assess the potential impact of enactment of Title IV. As I have mentioned, very few private treble damage class actions have gone to trial. In fact, Mr. President, my research reveals that only one case has actually been tried in the ten years since class actions under Section 4 of the Clayton Act were first permitted in 1966. All other cases, to my knowledge, have been settled because target defendants were unwilling to face the tremendous potential liability inherent in massive anti-trust class action litigation.

Mr. President, in the tetracycline cases—which include the one action which did go to trial—fifty States filed anti-trust class action cases on a fluid recovery theory against certain drug companies for claims potentially amounting to several billion dollars. All but six cases were settled for approximately $200 million. Six States refused the settlement, which would have given them only $12 million, and brought a second series of cases which resulted in a better settlement of $20 million. North Carolina, the one holdout, believed it could obtain even more, and brought a third case. Mr. President, this is the only tetracycline case that actually went to trial, and the verdict was for the defendent. The point is, Mr. President, few companies can afford the tremendous potential liability they will face if fluid recovery is to be permitted as authorized in this bill. Even if the potential for success at trial is great, virtually all target defendents will settle, and the only victors will be the attorneys since the cost of settlement and legal fees will undoubtedly ultimately be passed onto consumers.

Mr. President, the forfeitures which will result under Title IV will contribute nothing toward the process of producing goods and services. These forfeitures will be counterproductive and will be an inflationary burden which our economy can ill afford. These forfeitures will go far beyond merely deterring illegal conduct and will instead provide the means of disrupting the orderly conduct of busniess. Businessmen will live in a reign of terror in which any State Attorney General may threaten their extinction on even the most remote theory of liability under the anti-trust laws.

I am also greatly distressed, Mr. President, that the substitute which has been offered to the House bill would permit the State Attorney General to appoint private practitioners to bring class actions under Title IV. In a bill laden with the incomprehensive and revolutionary, this particularly provision strikes me as one which could have been offered only by a person not familiar with the practice of law, or with the political nature of an Attorney General's office in most of the States of this Country. If we adopt this bill, we will be permitting under color of Federal law, a massive extension of the patronage power vested in State Attorneys General. Even the best of Attorneys General would not be able to resist the temptation to make use of the power we would grant to nominate certain favored lawyers or law firms within his State to sue to vindicate public rights in the *parens patriae* suits permitted under Title IV. It takes little imagination to envisage a State Attorney General doling out at the beginning of each year that year's public interest suits among the chosen. Since settlement and attorney fees would be virtually assured, the patronage power exerted would be immense.

TITLE V

The final title of this omnibus bill deals with premerger notification with respect to mergers contemplated by certain companies of defined types and assets. I have no quarrel with the requirement that prior to a merger of large corporations notification of the intent to merge be filed with the Federal Trade Commission and with the Assistant Attorney General in charge of the Anti-Trust Division of the Department of Justice. In practice, this is virtually the case at present. I can see little utility, however, in requiring an automatic 30-day stay prior to consumation of any contemplated merger. A mandated 30-day stay will inevitably be costly to the companies involved and will have a chilling effect on mergers which might otherwise be beneficial and not contrary to law.

Mr. President, Title V also provides that in the event a merger is deemed objectionable, then the Federal Trade Commission or the Assistant Attorney General in charge of the Anti-Trust Division may obtain a temporary restraining order and file a motion for preliminary injunction in the U.S. District Court in the District in which the respondent corporation resides or carries on business. Under present law, as Senators know, a preliminary injunction may be and frequently is sought by the Government under Section 7 of the Clayton Act to prevent a merger; however, certain specific provisions of Title V with respect to restraining a merger are novel, and I believe, unwise.

For example, under the procedure set forth in Title V companies could be done great harm should a lawful merger be wrongfully enjoined, yet there is no provision that the Government, in such cases, make restitution for the damages done.

Moreover, for the first time in the history of our legal tradition, the defendent is incredibly given the burden of providing that the Government does not have a reasonable probability of prevailing ultimately on the merits. This complete reversal of the traditional burden of proof is particularly alarming if it is remembered that the remedy being sought is the extraordinary equity remedy of injunction.

Then, Mr. President, even though serious or disastrous financial reverses may result after issuance of a temporary restraining order, the district court is given 60 days in which to consider in leisurely fashion the motion for preliminary injunction. This procedure is contrary to the present rules which, recognizing the severity of the *ex parte* restraining order, provide that the motion for preliminary injunction should be heard within ten days or otherwise the temporary restraining order dissolved.

Mr. President, I would also call attention to the fact that Tile V provides a penalty of $10 thousand for each day during which any person holds stock or assets in violation of the premerger notification provisions of the Title. I submit that the penalty permitted under Title V is excessively harsh and is far more than is needed to obtain compliance with the notification provision of the Title.

So, Mr. President, if any provision of Title V is to be retained, then it should be simply a provision calling for notification of merger when certain large corporations engaged in interstate commerce are merging. That notification, coupled with existing remedies under Section 7 of the Clayton Act should be amply sufficient to forestall any merger violative of the anti-trust laws.

Mr. President, I will summarize my remarks on the substitute now proposed by referring to the testimony of Congressman Seiberling of Ohio, given before the Committee on Rules of the House of Representatives late last year. Mr. Seiberling and a majority of his colleagues on the House Committee on the Judiciary are on record as being strongly opposed to the substitute omnibus approach now being considered by this body. In fact, Mr. Seiberling, I believe correctly, states simply that the substitute now before this body is a "real chamber of horrors" . . . "with all kinds of problems because (it is) trying to cover a whole lot of different fields of anti-trust in one bill." With respect to adding the provisions we are contemplating to the House version of this legislation, Mr. Seiberling states:

"I personally would oppose adding anything beyond this bill, if I were one of the conferees. I would insist we treat each one of those subjects separately. I think the Chairman shares that point of view."

Moreover, Mr. President, when Congressman Bolling asked Congressman Seiberling if he considered the additional Senate provisions germane to the House bill, Mr. Seiberling replied:

"Well, I do not think that the different titles the Senate is considering are germane to this bill."

and Congressman Bolling commented: "I am glad to hear that."

Mr. President, if this substitute is adopted, the Senate Conferees are surely going to face an interesting task, but I do not believe that we should have to rely on the House of Representatives to bring reason to legislation of this importance and with the potential for disaster I have outlined. Let us rather reject this substitute out of hand, not considering that action a rebuff to the bill's distinguished authors but rather a sound exercise of judgment in the best interest of the people.

ADDITIONAL STATEMENTS SUBMITTED

Mr. THURMOND. Mr. President, on Monday, June 7, 1976, I gave the Senate the benefit of Mr. Philip A. Lacovara's views on fluid recovery. The Senator from North Carolina (Mr. MORGAN) made an issue of Mr. Lacovara's credibility because he is now general counsel for Bristol-Myers. After examining the record, Mr. Lacovara has issued a statement which I would like to read into the RECORD at this point.

STATEMENT OF PHILIP A. LACOVARA

On June 7th, I understand, Senator Thurmond of South Carolina urged the Senate to consider my testimony on the unconstitutionality of "fluid recovery." Senator Morgan then stated: "Does not the Senate believe that the Senate is entitled to know the background of the man whose testimony the Senator read to us so that we can determine the credibility we want to give to it?" Senator Morgan stated that I am the general counsel for Bristol-Myers Company, a company that lost a $200 million price-fixing case involving parens patriae and fluid recovery. I wish to clarify the record.

Senator Morgan was obviously referring to the Tetracycline Antibiotic Drug Litigation, begun in the early 1960's, in which Bristol-Myers and four other companies ultimately settled what they considered unfounded claims totaling billions of dollars for approximatey $200 million. However, neither my law firm nor I had any contact with that litigation and never represented Bristol-Myers—or any other party—in that litigation.

In fact, apart from a brief period as a young associate in private practice in the early 1970's, virtually my entire career as a lawyer has been in government service. Most recently I served in the Department of Justice, as Deputy Solicitor General of the United States under former Harvard Law School Dean Erwin N. Griswold, and then as Counsel to Watergate Special Prosecutors Archibald Cox and Leon Jaworski.

Since resigning from the Special Prosecutor's Office in October 1974, and entering private practice, I have spent a relatively small amount of my time representing Bristol-Myers in attempting to explain to Members of both Houses of Congress why the parens patriae concept, including fluid recovery, is both unwise and unfair. I have been quite explicit in disclosing my quite recent connection with Bristol-Myers. Indeed, I have sought to point out expressly on many occasions in talking to Members that the vices inherent in parens patriae and fluid recovery are illustrated by Bristol-Myers' own experience in the Tetracycline Litigation, even though I was not in any way involved in it.

Furthermore, apart from the fact that, neither my law firm nor I had anything to do with that litigation, Senator Morgan is mistaken that Bristol-Myers lost that case. The company, and the other four companies that were the targets of the unprecedented demands in those cases, did settle most cases, but they insisted throughout that they had not violated the antitrust laws. Senator Morgan was apparently unaware that in the cases that were actually adjudicated on the merits, Bristol-Myers was exonerated.

The Federal Trade Commission, for example, after lengthy proceedings, found no violation by Bristol-Myers.

The Justice Department's criminal indictment was ultimately dismissed by a federal judge in New York for lack of evidence.

And most pointedly, the only State that declined to share a piece of the settlement was North Carolina, and Senator Morgan was, as I understand it, the Attorney General of the State at the time. When the State of North Carolina tried its case on the merits before a federal court in North Carolina, the court entered a judgment in favor of Bristol-Myers and the other companies, finding no antitrust violation. That decision was unanimously affirmed by the United States Court of Appeals for the Fourth Circuit in January of this year, which expressly agreed with the lower court that the evidence showed no violation of the antitrust laws.

Apart from the inaccurate ad hominem argument, therefore, I believe the record will demonstrate why authoritative court decisions in recent years have condemned fluid recovery as an unconstitutional device and have expressly stated that it can be used to coerce what they call "blackmail settlements". The cases showing the unconstitutionality of fluid recovery are cited and quoted in Senator Burdick's Separate Views and in the Minority Report of a number of Members of the Judiciary Committee. The Senate is fully able to judge the merits of the position, which I am pleased to say is in accord with mine.

I stand by my testimony and urge the Senate to consider—objectively—the solid basis in judicial precedent for rejecting fluid recovery as an unconstitutional expedient unworthy of this body.

Mr. BURDICK. Mr. President, I intend to support the compromise amendment presently before us, and I will also vote for the bill, which embraces the compromise, on final passage. However, I do it with reluctance and with knowledge of its defects.

My conception of due process of law in the assessment of damages, would be for a person to assert and prove his claim. The bill which will be before us for final passage, departs from that age old concept, and permits an estimation of damages or penalty based upon what is known as fluid recovery, and then permits that amount to be trebled. As I have pointed out to this Senate, I am convinced that that part of title IV is constitutionally defective.

However, I wish to see effective enforcement of our antitrust laws. There can be no doubt that competition is the keystone of our free enterprise system. I believe that we as legislators are duty bound to protect our free enterprise system by providing Government enforcement agencies with effective tools to battle anticompetitive practices. This bill does provide tools for such enforcement.

I am voting for this bill with the hope that the conference committee will make title IV constitutionally palatable, and if not, that there can be an early consideration of the question by the Supreme Court.

Mr. PHILIP A. HART. Mr. President, as we conclude our discussion I want to repeat the point made at the outset of our debate some days ago.

This bill—the Hart-Scott substitute—establishes no new antitrust offenses or prohibitions.

It makes no change in the exemption of organized labor from the antitrust law. Nor does it establish any new antitrust offense for manufacturers or producers in the commerce of our country.

What it does do, and this is something which needs doing, is improve the enforcement tools in the antitrust arsenal.

Mr. DOLE. Mr. President, when I voted against the motion to invoke cloture on the Hart-Scott substitute to this bill just a week ago, I expressed the hope that we could continue our deliberation until an acceptable compromise measure were developed. Although the end of the long debate on this legislation is now in sight, we have not, unfortunately, reached that point at which I can give H.R. 8532 even my qualified support.

This is not to say that I am not pleased with many of the amendments which have been adopted, however, for most certainly some very significant improvements have been made. But notwithstanding our approval particularly of the Byrd-Chiles proposal—which I voted for—my fundamental objections to the concepts still embodied in the parens patriae provisions are too much to overcome.

I refer directly to the principle of statistical aggregation of damages, or fluid recovery, which—while limited in its scope of applicability—has nevertheless been retained, and the extension of parens itself to other than willful price-fixing violations. If those changes had been included in the agreed-upon compromise, my final position could very well have come out differently—for I am relatively satisfied with the other four sections.

The one redeeming feature with respect to title IV—as I see it—is that a State legislature may by virtue of the Morgan amendment opt out of its coverage. This is hardly consistent with my understanding of what "States' rights" is all about—and may be federalism in reverse—but it does at least provide some opportunity for discretionary granting of authority to an attorney general, and I trust the conferees will make every effort to hold it in the bill.

I think my greatest concern over this final version of H.R. 8532 is the effect it may have on the small businesses of our Nation. Since they are the ones who could not afford to make even a minimal defense of a parens patriae action in most cases, they would be almost compelled to make an out of court settlement—even if innocent—and as such would be easy targets for an undiscerning and ambitious attorney general.

I have always considered myself an advocate of strong and effective antitrust enforcement, Mr. President, and I had hoped that after this much time we might have a bill which would make a meaningful and realistic contribution to that effort. While the fact that we have not is disappointing, the possibility that the President may also view this measure as an overly harsh and substantially unnecessary deterrent could yet be a consolation.

ORDER TO EXTEND DATE TO REPORT S. 495

Mr. ABOUREZK. Mr. President, on May 12, 1976, the Committee on Government Operations unanimously reported S. 495, the Watergate Reorganization and Reform Act. On that day unanimous consent was obtained to rerefer the bill to the Judiciary Committee to be reported to the floor no later than June 11. The Judiciary Committee has held 1 day of hearings on the bill but has not been able to discuss the bill in the full committee due to the cancellation of committee meetings this week. I am a strong proponent of this bill and I want the Judiciary Committee to have this opportunity to vote on this bill.

However, under a Senate resolution sponsored by Senator WEICKER and passed by a vote of 91 to 0, the Senate has committed itself to a final passage vote on this bill by July 2. In order to accommodate these factors and after consultations with the distinguished chairman of the Government Operations Committee Mr. RIBICOFF, and the distinguished ranking minority member of the Judiciary Committee, Mr. HRUSKA, as well as Senator WEICKER and Senator KENNEDY, I ask unanimous consent that the initial unanimous-consent agreement be modified to extend the date for the Judiciary Committee to report S. 495 to June 16, next Wednesday.

The PRESIDING OFFICER. Is there objection?

Mr. HRUSKA. Mr. President, reserving the right to object, and I shall not, in fact I shall concur and join with the Senator from South Dakota in the request.

I am glad that there is concurrence by the sponsor of the bill, the Senator from Connecticut, for this request, and that is the fact, is it not?

Mr. ABOUREZK. Yes.

Mr. HRUSKA. Mr. President, I would like to express our appreciation, to acknowledge this courtesy on the part of the Government Operations Committee, and to express our appreciation for it.

I concur in the request. I join in it.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

THE ANTITRUST IMPROVEMENTS ACT OF 1976

The Senate continued with the consideration of the bill (H.R. 8532) to amend the Clayton Act to permit State attorneys general to bring certain antitrust actions, and for other purposes.

Mr. ABOUREZK. Mr. President, we are going to vote in 1 minute, after Senator MORGAN, who has 1 minute.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. MORGAN. Mr. President, I had not intended to say anything, but I want to thank my colleagues for their kind remarks and to say that if I had any part, it is because I wanted to have and because of the longtime interest in this kind of legislation.

I want to express my gratitude especially to the Senator from Michigan, whom I have known for years for his work in antitrust—and if time would permit I could say many other things about his very fine work—and to all others.

But I just want to say one thing in closing. I hope we do pass this bill because my morale and my ego were getting pretty low.

I come from eastern North Carolina. Up until just a few years ago, there were not many Republicans down there. We used to have a very distinguished Republican that every time anything was said about discrimination, he would say, "You don't know what discrimination is unless you try being a Republican in eastern North Carolina." It is not quite that way now.

But after being here all last week, being home and hearing what people were saying about the Members of Congress, and listening to some of my distinguished colleagues talking about "we lawyers" all week and then today they got on the attorneys general, my ego was getting pretty low and my morale was getting pretty low.

So maybe passing this bill will send me away in better spirits.

Mr. PASTORE. If the Senator will yield, I merely want to say that, to me, this is one of the Senate's finest hours.

At least we have proven that rational people can sit down together, visit with one another, and reach a consensus—and that is exactly what we have done.

I want to congratulate all of the participants.

Mr. JAVITS. If the Senator will give me 1 minute, Mr. President, Senator

Pastore is going to leave at the end of this term and he has often served this role. I have heard him do it for years, all the years I have been here, and it is a noble role and a very effective and very important one.

He started this process by shaking us up and I am very grateful to him. I believe the Senate has every reason and the country has every reason to be very grateful to him, not only for this, of course, for his legendary service here.

But this is a unique quality he has and it worked very well in this case.

Mr. HRUSKA. Mr. President, I yield myself 1 minute to join in the sentiments just expressed by the Senator from New York.

The Senator from Rhode Island is one of my favorite Senators—he knows that, and we have been very firm and congenial and fine friends for a long time.

I want to say that had it not been for his rather inspirational addressing of a little bit of chastisement and scolding, but dressed up in nice sugar-coated words, we would probably not be terminating this legislation tonight.

We are very grateful to him.

I want to say how he is a conservative because he suggested that 2 hours on conference on this thing would set up a terminal point.

Senator Pastore took a little longer than that, but the results were important.

I thank him very much for what he did.

I am prepared to yield back the remainder of my time.

Mr. ABOUREZK. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been used or yielded back. The question is on agreeing to the Chiles-Robert C. Byrd compromise amendment. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MANSFIELD (when his name was called). Mr. President, on this vote, I have a live pair with the Senator from Arkansas (Mr. McClellan). If he were present and voting, he would vote "nay." If I were at liberty to vote, I would vote "yea." Therefore, I withhold my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. Bumpers), the Senator from Virginia (Mr. Harry F. Byrd, Jr.), the Senator from Idaho (Mr. Church), the Senator from Colorado (Mr. Gary Hart), the Senator from Hawaii (Mr. Inouye), the Senator from Washington (Mr. Jackson), the Senator from California (Mr. Tunney), the Senator from Washington (Mr. Magnuson), and the Senator from Arkansas (Mr. McClellan) are necessarily absent.

I further announce that the Senator from Georgia (Mr. Talmadge) is absent on official business.

I also announce that the Senator from Indiana (Mr. Bayh) is absent because of illness.

I further announce that, if present and voting, the Senator from Indiana (Mr. Bayh), and the Senators from Washington (Mr. Jackson and Mr. Magnuson) would each vote "yea."

I further announce, that if present and voting, the Senator from Colorado (Mr. Gary Hart) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from New York (Mr. Buckley), the Senator from Arizona (Mr. Goldwater), the Senator from Alaska (Mr. Stevens), and the Senator from Connecticut (Mr. Weicker) are necessarily absent.

The result was announced—yeas 73, nays 11, as follows:

[Rollcall Vote No. 274 Leg.]

YEAS—73

Abourezk
Allen
Baker
Bartlett
Beall
Bentsen
Biden
Brock
Brooke
Burdick
Byrd, Robert C.
Cannon
Case
Chiles
Clark
Cranston
Culver
Dole
Domenici
Durkin
Eagleton
Fong
Ford
Garn
Glenn
Gravel
Griffin
Hart, Philip A.
Hartke
Haskell
Hatfield
Hathaway
Helms
Hollings
Huddleston
Humphrey
Javits
Johnston
Kennedy
Leahy
Long
Mathias
McGee
McGovern
McIntyre
Metcalf
Mondale
Montoya
Morgan
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Sparkman
Stafford
Stennis
Stevenson
Stone
Symington
Taft
Williams
Young

NAYS—11

Bellmon
Curtis
Eastland
Fannin
Hansen
Hruska
Laxalt
McClure
Scott, William L.
Thurmond
Tower

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Mansfield, for.

NOT VOTING—15

Bayh
Buckley
Bumpers
Byrd, Harry F., Jr.
Church
Goldwater
Hart, Gary
Inouye
Jackson
Magnuson
McClellan
Stevens
Talmadge
Tunney
Weicker

So the Chiles-Byrd of West Virginia compromise amendment was agreed to.

The PRESIDING OFFICER. The question is now on amendment No. 1701, in the nature of a substitute, as amended. The yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. MANSFIELD (when his name was called). Mr. President, on this vote I have a pair with the Senator from Arkansas (Mr. McClellan). If he were present and voting, he would vote "nay." If I were permitted to vote, I would vote "yea." Therefore, I withhold my vote.

Mr. TOWER (when his name was called). Mr. President, on this vote I have a live pair with the junior Senator from Connecticut (Mr. Weicker). If he were present and voting, he would vote "yea." If I were permited to vote, I would vote "nay." Therefore, I withhold my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. Bumpers), the Senator from Virgina (Mr. Harry F. Byrd, Jr.), the Senator from Idaho (Mr. Church), the Senator from Hawaii (Mr. Inouye), the Senator from Washington (Mr. Jackson), the Senator from California (Mr. Tunney), the Senator from Washington (Mr. Magnuson), and the Senator from Arkansas (Mr. McClellan) are necessarily absent.

I further announce that the Senator from Georgia (Mr. Talmadge) is absent on official business.

I also announce that the Senator from Indiana (Mr. Bayh) is absent because of illness.

I further announce that, if present and voting, the Senator from Indiana (Mr. Bayh), the Senator from Washington (Mr. Jackson), and the Senator from Washington (Mr. Magnuson) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from New York (Mr. Buckley), the Senator from Arizona (Mr. Goldwater), the Senator from Alaska (Mr. Stevens), and the Senator from Connecticut (Mr. Weicker) are necessarily absent.

I further announce that, if present and voting, the Senator from Arizona (Mr. Goldwater) would vote "nay."

The result was announced—yeas 67, nays 17, as follows:

[Rollcall Vote No. 275 Leg.]

YEAS—67

Abourezk
Baker
Beall
Bentsen
Biden
Brock
Brooke
Burdick
Byrd, Robert C.
Cannon
Case
Chiles
Clark
Cranston
Culver
Domenici
Durkin
Eagleton
Fong
Ford
Garn
Glenn
Gravel
Griffin
Hart, Philip A.
Hartke
Haskell
Hatfield
Hathaway
Hollings
Huddleston
Humphrey
Javits
Johnston
Kennedy
Leahy
Long
Mathias
McGee
McGovern
McIntyre
Metcalf
Mondale
Montoya
Morgan
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Sparkman
Stafford
Stevenson
Stone
Symington
Taft
Williams

NAYS—17

Allen
Bartlett
Bellmon
Curtis
Dole
Eastland
Fannin
Hansen
Hart, Gary
Helms
Hruska
Laxalt
McClure
Scott, William L.
Stennis
Thurmond
Young

PRESENT AND GIVING LIVE PAIRS, AS PREVIOUSLY RECORDED—2

Mansfield, for.
Tower, against.

NOT VOTING—14

Bayh
Buckley
Bumpers
Byrd, Harry F., Jr.
Church
Goldwater
Inouye
Jackson
Magnuson
McClellan
Stevens
Talmadge
Tunney
Weicker

So amendment No. 1701 in the nature of a substitute, as amended, was agreed to.

Mr. ABOUREZK. Mr. President, a number of spelling and other typographical errors have been found in amendments numbered 1701 and 1729. That they are solely typographical errors can be verified by comparing the text of the amendment with the text of S. 1284 as reported by the Judiciary Committee.

I ask unanimous consent that the following corrections be made in the designated amendment:

AMENDMENT NUMBER 1729

On page 2, line 12—strike out "Web-Pomerene" and insert in lieu thereof "Webb-Pomerene".

AMENDMENT NUMBER 1701

On page 13, line 18—strike out "place" and insert in lieu thereof "places".

On page 28, line 23—italicize "res judicata".

On page 34, line 18—immediately before "(A)" insert an open quotation mark.

On page 40, line 5—italicize "pendente lite".

Also, on behalf of Senator Javits, I ask unanimous consent that a technical modification be made in amendment No. 1777, to be inserted on page 1 of amendment 1777, as modified, on line 4 after 601, before the word "In":

SEC. 601. There is hereby established an Antitrust Review and Revision Commission (hereinafter in this title referred to as the "Commission").

The PRESIDING OFFICER. Without objection, the amendments are considered and agreed to en bloc.

The question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read the third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read a third time, the question is, Shall it pass? The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MANSFIELD (when his name was called). Mr. President on this vote I have a pair with the Senator from Arkansas (Mr. McClellan). If he were present and voting, he would vote "nay." If I were permitted to vote, I would vote "yea." Therefore, I withhold my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. Bumpers), the Senator from Virginia (Mr. Harry F. Byrd, Jr.), the Senator from Idaho (Mr. Church), the Senator from Hawaii (Mr. Inouye), the Senator from Washington (Mr. Jackson), the Senator from Missouri (Mr. Symington), the Senator from California (Mr. Tunney), and the Senator from Arkansas (Mr. McClellan) are necessarily absent.

I further announce that the Senator from Georgia (Mr. Talmadge) is absent on official business.

I also announce that the Senator from Indiana (Mr. Bayh) is absent because of illness.

I further announce that, if present and voting, the Senator from Indiana (Mr. Bayh), the Senator from Idaho (Mr. Church), the Senator from Washington (Mr. Jackson), and the Senator from Washington (Mr. Magnuson) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from New York (Mr. Buckley), the Senator from Arizona (Mr. Goldwater), the Senator from Alaska (Mr. Stevens), and the Senator from Connecticut (Mr. Weicker) are necessarily absent.

I further announce that, if present and voting, the Senator from Arizona (Mr. Goldwater) would vote "nay."

The result was announced—yeas 65, nays 19, as follows:

[Rollcall Vote No. 276 Leg.]

YEAS—65

Abourezk
Baker
Beall
Bentsen
Biden
Brock
Brooke
Burdick
Byrd, Robert C.
Cannon
Case
Chiles
Clark
Cranston
Culver
Domenici
Durkin
Eagleton
Fong
Ford
Garn
Glenn
Gravel
Griffin
Hart, Philip A
Hartke
Haskell
Hatfield
Hathaway
Huddleston
Humphrey
Javits
Johnston
Kennedy
Leahy
Long
Mathias
McGee
McGovern
McIntyre
Metcalf
Mondale
Montoya
Morgan
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Sparkman
Stafford
Stevenson
Stone
Taft
Williams

NAYS—19

Allen
Bartlett
Bellmon
Curtis
Dole
Eastland
Fannin
Hansen
Hart, Gary
Helms
Hollings
Hruska
Laxalt
McClure
Scott,
William L.
Stennis
Thurmond
Tower
Young

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Mansfield, for

NOT VOTING—15

Bayh
Buckley
Bumpers
Byrd,
Harry F., Jr.
Church
Goldwater
Inouye
Jackson
Magnuson
McClellan
Stevens
Symington
Talmadge
Tunney
Weicker

So the bill (H.R. 8532), as amended, was passed.

The PRESIDING OFFICER. The clerk will state an amendment to the title.

The assistant legislative clerk read as follows:

Amend the title so as to read: "An Act to improve and facilitate the expeditious and effective enforcement of the antitrust laws, and for other purposes.".

The PRESIDING OFFICER. The question is on agreeing to the amendment to the title.

The amendment was agreed to.

Mr. ABOUREZK. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. GRIFFIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ABOUREZK. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of the Senate amendments to H.R. 8532.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ABOUREZK. I ask unanimous consent that S. 1284 be placed upon the calendar under "Subjects Listed on the Table."

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I am honored to join the distinguished Republican leader (Mr. Hugh Scott) and all other Senators, I am sure, on both sides of the aisle to pay tribute to a great Senator and a great man, Senator Philip A. Hart of Michigan. I am gratified that the Senate has been permitted to work its will on this important antitrust legislation. This bill is the most significant antitrust legislation to pass the Senate since the enactment of the Celler-Kefauver Act of 1950. I congratulate all of the parties who fashioned the compromise amendment which has permitted the Senate to complete action on this measure.

We have been here for 11 long days. At times there has been bitterness and acrimony in this Chamber, but reason has prevailed.

My congratulations must go to the distinguished Senator from Michigan (Mr. Philip A. Hart). As chairman of the Senate Subcommittee on Antitrust and Monopoly, Senator Hart has labored for 13 years to improve both the public and private system of antitrust enforcement. Senator Hart has long been an outspoken foe of great concentrations of economic power. This legislation will grant the necessary authority to the Department of Justice and the Federal Trade Commission to prevent further economic concentration through illegal mergers. This legislation will also create a significant deterrent to the two forms of anticompetitive conduct: price-fixing and fraud on the Patent Office.

I need not tell the Members of this body of the esteem in which I hold the Senator from Michigan, and I can say with confidence that my feeling of affection and respect for Phil Hart is shared by every Member of this Senate. His wisdom, his intelligence, his quiet, effective manner and his courage and tenacity primarily have been responsible for the passage of what I consider to be a monumental piece of legislation which will long benefit the people of this Nation. The Senate and the country are in his debt and I salute a good man and a cherished colleague—the noblest of us all.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

SENATOR BAYH

Mr. HARTKE. Mr. President, as my colleagues are aware, my dear friend and the distinguished Senator from Indiana, Birch Bayh, had a small benign growth removed from his lung. I am pleased to report that Senator Bayh is doing well, and after several weeks of rest and recuperation will return to the Senate.

I would also like to point out to my colleagues that the growth on Senator Bayh's lung is thought to result from histoplasmosis, a lung infection caused by a fungus very common in Indiana. On February 24, 1975, I introduced S. 809, to amend the Public Health Service Act to provide for a study of histoplasmosis and ocular histoplasmosis which can cause blindness and even death. In view of the fact that this disease has touched this body so closely, I am urging the Committee on Labor and Public Welfare to give S. 809 hearings in the very near future.

Mr. President, I ask unanimous consent to have printed in the Record following my remarks an article entitled "Bayh Has Operation on Lung" appearing in the Washington Post on June 3, 1976, as well as my introductory remarks upon introducing S. 809.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the Washington Post, June 3, 1976]

Bayh Has Operation on Lung

(By Victor Cohn)

Sen. Birch Bayh (D-Ind.) had a small, benign growth removed yesterday from his lung at Georgetown University Hospital.

His lung function will not be affected, and "there will be no necessity for him to alter his vigorous life style," Dr. Sol Katz, head of the hospital's pulmonary disease division, reported.

The 48-year-old senator withdrew from active campaigning for the presidency on March 4. He declared for Jimmy Carter last month, adding that he was "not particularly interested" in becoming his running mate, but "I don't believe anybody would turn down a request" to become Vice President.

The growth on the lung was discovered in 1967, a Bayh aide said, and was believed to have been a possible result of histoplasmosis, a lung infection caused by a fungus. Doctors watched it over the years, the aide said, and recently felt it was important to make sure it wasn't a cancer.

Microscopic examination of a frozen section showed that it was not, Katz said. Dr. Joseph W. Peabody did the 45-minute lung operation.

Bayh was in satisfactory condition afterward. His doctors said they expected him to go home in a week and stay there two or three more before a return to the Senate.

Mr. Hartke's Remarks on S. 809

Mr. HARTKE. Mr. President, I am reintroducing legislation to study and research histoplasmosis and ocular histoplasmosis, diseases that affect many individuals in various regions of our country. This legislation was proposed in the 93d Congress as S. 4220.

Some experts believe 2 out of every 3 people in Indiana and other parts of the United States may be carriers of histoplasmosis.

Histoplasmosis is caused by a fungus or mold existing in simple plant life form called Histoplasma Capsulatum. Certain conditions must exist for the fungus to live. These are commonly warm, moist and preferably dark. These conditions are found most often in droppings from chickens, pigeons, starlings, and other birds. In many cases, the fungus is prevalent around old chicken houses, barns, belfries and pigeon lofts.

Histoplasmosis is endemic, and characteristically found in the Mississippi, Ohio, Missouri and other river valleys in the United States. It has also been found in Latin America, North and South America, the East Indies and Australia.

Many people who come in contact with histo spores are infected. However, in most cases, contact with the fungus and the mold will not manifest any organic symptoms.

Schoolchildren of both sexes are frequent victims. More men than women get the disease as adults. Very young children and older men are the most susceptible to the generalized form of histoplasmosis that spreads from the lungs to other parts of the body.

When the fungus-bearing dust is breathed in, the tiny spores are carried into the bronchial tubes. Eventually, some of the spores reach deep down into the tiny sacs of the lungs. Here the spores are arrested by wandering cells and are taken to the lungs' lymph nodes. These filter-like nodes trap and hold the spores, and provide an excellent place for them to multiply.

Occasionally these areas become inflamed. There is often severe localized damage to the lymph nodes and lung cells. Scars and calcium deposits form. Usually the symptoms are those of a flu, and after a week of rest, a person recovers. A large dose of the fungus may bring more serious symptoms: loss of weight, extreme tiredness, and weeks or months of convalescence.

Another more serious type of histoplasmosis occurs when the spores spread from the lungs throughout the body. This condition may cause various organs to enlarge, fever to rise, or it may cause anemia.

In chronic, long-lasting cases of histoplasmosis, injured areas may be found in the lungs and at times in the throat and nasal passages. These cases occasionally can be fatal.

Ocular histoplasmosis occurs when the fungus or one of its products escapes from the lungs or other organs and lodges in the eye, causing inflammation behind the retina.

When the fungus lodges near or in the mascula of the eye the condition becomes serious, often resulting in blindness.

Dr. Ted Schlaegel, professor of ophthalmology, director of uveitis service at Indiana University School of Medicine, noted that in the endemic area, one out of every thousand people will suffer ocular disability from ocular histoplasmosis.

Histoplasmosis was originally treated as tuberculosis. With the introduction of the histoplasmosis skin test in 1941, the disease was separated from other generalities. However, it was not until the late 1950's that ocular histoplasmosis was discovered.

Mr. President, research into a disease which affects 2 out of every 3 people in Indiana and other States that have a high incidence of histoplasmosis should move along without hesitation. However, moneys are not available through existing programs for establishment of the necessary laboratories to carry out the research.

My bill provides $4.75 million over the next 3 years for reearch into histoplasmosis, and $4.75 million for research into ocular histoplasmosis. Additionally, my bill provides $500,000 for training of qualified individuals.

When so little is known about a disease that causes so much harm and suffering, I believe the modest amounts that are included in the bill should be swiftly approved.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record at this point.

There being no objection, the bill was ordered to be printed in the Record, as follows:

"S. 809

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That part A of title III of the Public Health Service Act is amended by adding at the end thereof the following new section:

"'HISTOPLASMOSIS RESEARCH

"'Sec. 310. (a) The Secretary shall conduct a research program with regard to the diagnosis and treatment of histoplasmosis and ocular histoplasmosis. Such study shall include clinical and animal research.

"'(b) From the funds appropriated to carry out this subsection, the Secretary is authorized to make grants to assist in initiating, developing, and maintaining programs for the training of personnel in the diagnosis and treatment of histoplasmosis and ocular histoplasmosis.

"'(c) (1) There are authorized to be appropriated to carry out the research program with regard to histoplasmosis, $1,000,000 for the fiscal year ending June 30, 1976, $1,500,000 for the fiscal year ending June 30, 1977, and $2,250,000 for the fiscal year ending June 30, 1978.

"'(2) There are authorized to be appropriated to carry out the research program with regard to ocular histoplasmosis, $1,000,000 for the fiscal year ending June 30, 1976, $1,500,000 for fiscal year ending June 30, 1977, and $2,500,000 for the fiscal year ending June 30, 1978.

"'(3) For the purposes of conducting training programs under subsection (b) there are authorized to be appropriated $500,000 for the fiscal year ending June 30, 1975 and a like sum for each of the next 2 succeeding fiscal years.'."

REPORT ON TAX REFORM ACT OF 1975—SENATE RESOLUTION 462

Mr. LONG. Mr. President, the tax bill that the Committee on Finance reported today is a massive bill which affects virtually every part of the Internal Revenue Code. The demand for the committee report will be great. The resolution which I will offer is to print additional copies of this report so that the public can have them. It will be far less expensive to print the additional copies at the same time that the record copies are printed.

This resolution was approved unanimously by the Committee on Finance and also cleared with the chairman of the Committee on Rules and Administration, Mr. Cannon.

I send this resolution to the desk, Mr. President, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the resolution.

The legislative clerk read as follows:

A resolution (S. Res. 462) authorizing the printing of additional copies of the Senate report to accompany H.R. 10612 (Tax Reform Act of 1975).

The Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 462) was agreed to as follows:

Resolved, That there be printed for the use of the Committee on Finance such quantity of additional copies of its report to accompany H.R. 10612 (Tax Reform Act of 1975) which does not exceed the statutory $1200 limitation under a simple resolution.

PRIVILEGE OF THE FLOOR—H.R. 10612

Mr. LONG. Mr. President, I ask unanimous consent that the following persons be permitted floor privileges during Senate consideration of H.R. 10612.

From the staff of the Committee on Finance: Michael Stern, Don Moorehead, George Pritts, Bob Willan, Bill Morris, Bob Cassidy, Bill Galvin.

From the staff of the Joint Committee on Internal Revenue Taxation: Laurence Woodworth, Michael Bird, Albert Buckberg, Herbert Chabot, Alvin Geske, William Lieber, Mark McConaghy, Michael Oberst, Paul Oosterhuis, Michelle Scott, Bob Shapiro, Howard Silverstone, Robert Strauss, Robert Warden, James Wetzler.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT OF TITLES IV-A AND VI OF THE SOCIAL SECURITY ACT

Mr. LONG. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 12455.

The PRESIDING OFFICER (Mr. Stone) laid before the Senate a message from the House of Representatives announcing its disagreement to the amendments of the Senate to the bill (H.R. 12455) to extend from April 1 to October 1, 1976, the maximum period during which recipients of services on September 30, 1975, under titles IV-A and VI of the Social Security Act, may continue to receive services under title XX of that act without individual determination, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. LONG. I move that the Senate insist upon its amendments and agree to the request of the House for a conference, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. Long, Mr. Talmadge, Mr. Mondale, Mr. Packwood, and Mr. Roth conferees on the part of the Senate.

ORDER FOR THE RECOGNITION OF SENATOR NUNN TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the two leaders or their designees have been recognized under the standing order on tomorrow Mr. Nunn be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

CORRECTION IN THE ENROLLMENT OF HOUSE CONCURRENT RESOLUTION 652

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on House Concurrent Resolution 652.

The PRESIDING OFFICER laid before the Senate House Concurrent Resolution 652, a concurrent resolution directing the clerk of the House to make a correction in the enrollment of the bill (H.R. 11559) entitled "An act to authorize appropriations for the saline water conversion program for fiscal year 1977," which was read twice by its title.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

The concurrent resolution was agreed to.

ORDER FOR ADJOURNMENT FROM TOMORROW TO 11 A.M. MONDAY, JUNE 14, 1976

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business on tomorrow it stand in adjournment until the hour of 11 a.m. on Monday.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTERNATIONAL SECURITY ASSISTANCE AND ARMS EXPORTS CONTROL ACT OF 1976-77

The PRESIDING OFFICER. By inadvertence, the Chair omitted to lay before the Senate the unfinished business, which the Chair now does, which the clerk will state.

The legislative clerk read as follows:

A bill (S. 3439) to amend the Foreign Assistance Act of 1961 and the Foreign Military Sales Act, and for other purposes.

ORDER FOR CONSIDERATION TOMORROW OF SENATE CONCURRENT RESOLUTION 105, RELATIONS WITH ITALY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that tomorrow, after Mr. Nunn has completed his statement under the order which has been previously entered, the Senate proceed to the consideration of Senate Concurrent Resolution 105, the Italy resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. There is a time agreement on that resolution, I understand.

The PRESIDING OFFICER. The Senator is correct.

ORDER FOR CONSIDERATION TOMORROW OF S. 1776, VALLEY FORGE HISTORICAL PARK, PA.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the disposition of Senate Concurrent Resolution 105 tomorrow, the Senate proceed to the consideration of S. 1776, the Valley Forge Park bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR CONSIDERATION OF S. 3439, THE FOREIGN MILITARY SALES BILL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on the disposition of S. 1776, the Valley Forge Park bill, tomorrow, the Senate resume consideration of the unfinished business, S. 3439, the foreign military sales bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I believe that the following time agreements have been cleared on all sides:

The first has to do with S. 3267, the Automotive Transport and Development Act of 1976. I ask unanimous consent that at such time as that bill is called up and made the pending business before the Senate, there be a time limitation for debate on the bill of 1 hour, to be equally divided between the majority leader and the minority leader or their designees; that there be a time limitation of 1 hour on an amendment by Mr. Domenici; that there be a 30-minute time limitation on any other amendment, with a time limitation on any debatable motion or appeal—or point of order, if such is submitted to the Senate by the Chair—of 20 minutes, to be equally divided and controlled in accordance with the usual form, and that the agreement be in accordance with the usual form.

The PRESIDING OFFICER. Is there objection? The Chair hears none and it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, the second measure is S. 1632, electric vehicle technology.

I ask unanimous consent that there be a time limitation for debate on the bill, at such time as it is called up and made the pending business before the Senate, of 1 hour to be equally divided between the distinguished majority leader and the distinguished minority leader or their designees, that there be a time limitation on any amendment thereto of 30 minutes, a time limitation on any debatable motion, appeal or point of order of 20 minutes, and that the agreement be in the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZATION FOR COMMITTEE TO REPORT NOMINATIONS UNTIL MIDNIGHT TONIGHT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations may have until midnight tonight to report nominations to the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZATION FOR COMMITTEES TO MEET UNTIL 1 P.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow all committees may be allowed to meet until the hour of 1 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO SENATOR PHILIP A. HART AND OTHER SENATORS

Mr. ROBERT C. BYRD. Mr. President, I want to take just a brief moment to congratulate the distinguished senior Senator from Michigan (Mr. Philip A. Hart) on having achieved a goal for which he has worked diligently and effectively for 13 years.

As all Senators know, had it not been for Senator Hart, the legislation that passed the Senate today, of course, would not have been enacted by the Senate.

I especially commend Senator Hart on his dedication to the cause for which he has labored so long.

I do not recall having seen any Senator in my 18 years of service in the Senate who has proved himself to be more diligent, more dedicated, more devoted, and more considerate of the feelings and the rights of other Senators and who has worked under the difficulties that Senator HART has encountered, especially in these last few months.

He has been unstinting in his efforts. He has never wavered in his zeal or determination. I know that I speak for all Senators as I express the deepest admiration for the nobility of spirit and the high sense of purpose and the great courage that have been demonstrated by our colleague, PHIL HART. He is a man of impeccable character and integrity, absolute fairness, and great compassion, and I know of no man anywhere for whom I hold greater respect.

I want, also, to commend other Senators who have participated in the long and arduous debate on this motion. I express appreciation for their efforts. I express my understanding of the differences that have been evinced by various Senators. I want to express, also, my gratitude to the Senators who have participated in the debate and in the consultations that led up to the compromise that was finally adopted.

I especially want to state my good feelings and my genuine admiration and fondness for Senator ALLEN who, as he always has in the past, has demonstrated his great ability, his knowledge of the rules, and his gentlemanly character. He is a southern gentleman in every true sense of the word.

He and I have our differences sometimes when measures come to the floor in which he is very strongly interested and in connection with which there happens to be some difficulty in moving the legislation forward. As a Member of the leadership, I have to fulfill my responsibilities and my duties. He understands that. I understand, in turn, the role that he feels that he has to play as the Senator from the State of Alabama. He plays it well.

I can only say to him that even though we may have our clashes, we both understand that they are clashes by necessity in both of the respective roles we feel we have to play, and that there is nothing personal, and that the friendship that exists between us is in no way blemished or tarnished as a result of our differences.

I also express commendations with respect to the fine work that has been done by Mr. ABOUREZK, Mr. KENNEDY, Mr. JAVITS, Mr. CHILES, Mr. PERCY, Mr. MANSFIELD, Mr. HUGH SCOTT, Mr. GRIFFIN, Mr. HRUSKA, Mr. MORGAN, Mr. TOWER, Mr. HELMS, Mr. BROCK, Mr. TAFT, Mr. STEVENS, and Mr. ROTH—those who participated in the work in developing the compromise amendment. Mr. KENNEDY, Mr. PHILIP A. HART, and Mr. CHILES were especially active in working out the compromise amendment. Mr. MORGAN, Mr. ABOUREZK, and Mr. KENNEDY did extremely competent floor work in managing the bill.

I hope I have not overlooked anyone.

But these men have demonstrated a high sense of dedication, great ability, and a willingness to work together in good will to make reason prevail and to present to the Senate a workable solution to the problems as they have arisen in connection with this bill.

Mr. TOWER. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. Yes, I am glad to yield.

Mr. TOWER. I associate myself with the remarks made by the distinguished majority whip. I think that we can all prove ultimately that we are men of good will. We have our differences and they are deeply felt differences because we are all men seized with conviction and we do what we conceive to be right and in the best interests of what we consider to be the greatest good for the greatest number of people in this country.

I especially identify myself with the remarks made by the distinguished Senator from West Virginia about our friend and colleague, PHIL HART, who has displayed extraordinary courage and perseverance. I think there is probably no man in the Senate who is more highly regarded, and highly respected as a man of integrity, and compassion, a man of his word, and a man of even-handed judgment. I think that we all can think better of ourselves because of the way our splendid colleague from Michigan, Senator HART, has performed throughout this.

Mr. ROBERT C. BYRD. Mr. President, I thank my very able colleague and friend from Texas (Mr. TOWER).

I am glad to yield to my friend from Rhode Island.

Mr. PELL. Mr. President, one of the best experiences of being a Senator is the association into a remarkably fine group of men. And when it comes to judgment and integrity, fairness and integrity, I know of no other individual for whom I have greater admiration and regard than the senior Senator from Michigan. Many, many times through past years I have consulted with him as to the merits of a particular amendment or provision, and I have always found his judgment sound. No Member of our body has more fairness and decency than does Senator PHILIP A. HART.

His departure will be a loss to each of us individually, to the Senate collectively, and to our whole United States.

Mr. ROBERT C. BYRD. Mr. President, I thank my friend, the distinguished Senator from Rhode Island (Mr. PELL).

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, on tomorrow the Senate will convene at the hour of 8 a.m. After the two leaders or their designees have been recognized under the standing order, Mr. NUNN will be recognized for not to exceed 15 minutes, after which the Senate will proceed to the consideration of Calendar Order No. 871, Senate Concurrent Resolution 105, the Italy resolution. Whether or not there will be a rollcall vote in connection with that resolution, I cannot say.

ORDER THAT THERE BE NO ROLLCALL VOTES PRIOR TO 9 A.M. TOMORROW

Mr. ROBERT C. BYRD. I ask unanimous consent that there be no rollcall votes tomorrow if ordered prior to the hour of 9 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, following the disposition of the Italy resolution, the Senate will proceed to the consideration of Calendar Order No. 775, S. 1776, Valley Forge Park, and I would assume that there would be one or more rollcall votes in connection with that measure. I understand that the Senator from Idaho (Mr. MCCLURE) has an amendment thereto. Upon the disposition of the Valley Forge Park bill, the Senate will resume consideration of the unfinished business, Calendar Order No. 832, S. 3439, the foreign military sales bill. I am quite positive that there will be rollcall votes in connection with that bill.

There is no time agreement thereon, but I have been led to understand that it is anticipated that action on the measure will probably not take more than a couple hours. But I am confident that there will be a vote or two on amendments thereto, and there definitely will be a rollcall vote on final passage of that bill. Consequently, Senators are aware that there will likely be several rollcall votes tomorrow.

Upon the disposition of that bill, the Senate is expected to take up Calendar Order No. 798, S. 3281, information on Federal domestic programs.

Mr. ALLEN. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. ALLEN. In the unfinished business, the Military Assistance Act, there is a provision in that bill for some $85 million for Zambia, Zaire, Mozambique, and other African nations, to assist them in helping to topple the Government of Rhodesia which is one of the few stable governments in this entire continent of chaos.

There is an item that came across on the news ticker just this afternoon that may cause a further discussion of this bill, and I am going to ask unanimous consent that this news item be printed in the RECORD when I complete my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. ALLEN. This item from Salisbury, Rhodesia, says:

> A band of black nationalist guerrillas entered Rhodesia from neighboring Zambia, opening up a second front in their fight against the white minority regime, a government spokesman said today.
>
> Rhodesian Defense Minister Pieter Van Dep Byl said 1,300 black guerrillas had previously crossed into the country from Mozambique.

Those are two of the countries that we are going to assist under this bill.

He said:

> The blacks operating from Zambia were responsible for the explosion that damaged three aircraft at a remote airstrip near the Zambian border over the weekend.

And it goes on and explains about guerrilla activities.

For the United States to be called on to give $85 million which is just the start of this program to subsidize these guerrilla activities, that is going to cause the need for additional discussion of this bill. So I do not promise that the bill will be completed tomorrow.

I have several amendments I wish to offer if I do get through with my discussion of the inadvisability of this action on our part. It is possible that the bill could come to a vote. But I do emphasize that I object strenuously to this $85 million subsidy of these governments in South Africa that are being subsidized to help topple the Government in Rhodesia through the action of guerrilla activities, of revolutionaries, and it is the United States subsidizing violence and efforts to overthrow a government, and I feel it is dangerous meddling on our part, and certainly something we should not do. It is the very thing that we have criticized Russia for doing in subsidizing the taking over of Angola. I think that it is a serious danger to our country if we permit this subsidization of these countries seeking to overthrow the government in a neighboring country. So I do not want to leave the distinguished assistant majority leader under the apprehension that this bill may possibly be disposed of in the final hour of the day.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator from Alabama. He speaks with calmness and equanimity as always, but I am sure that everyone will understand the implications in what he has just said about the vote on final passage of the bill. Each of us can draw his own inferences.

I thank the Senator. The outlook for votes on the foreign military sales bill tomorrow has been left somewhat less clear by his timely comments.

Mr. ALLEN. I thank the Senator.

EXHIBIT 1

SALISBURY, RHODESIA.—A band of black nationalist guerrillas entered Rhodesia from neighboring Zambia, opening up a second front in their fight against the white minority regime, a government spokesman said today.

Rhodesian Defense Minister Pieter Van Der Byl said 1,300 black guerrillas had previously crossed into the country from Mozambique.

"More are going to come in and are getting ready to come in and will come in," Van Der Byl warned.

He said the blacks operating from Zambia were responsible for the explosion that damaged three aircraft at a remote airstrip near the Zambian border over the weekend.

Zambian President Kenneth Kaunda announced recently his government would let the guerrillas operate from Zambian territory.

Rhodesian security forces said today four African children were killed when their toy cart detonated a mine. The announcement also said guerrillas burned several huts at a government-protected village, the first successful attack on a fenced and protected town.

The government said three more guerrillas and one Rhodesian soldier have been killed in fighting since June 7, bringing the total for the month to 38 guerrillas and four soldiers.

Swiss authorities said they were considering halting all exports to Rhodesia. A foreign ministry spokesman said Switzerland was concerned about its image with Third World nations.

"We are studying if and how such action could be taken under Swiss law," the spokesman said, "But there is growing understanding for the necessity to act."

The Swiss study was believed touched off by a confidential United Nations report advising the Bern government there was evidence of dozens of trade embargo violations by Swiss companies.

Switzerland is not a member of the United Nations and is not required to observe the 1966 U.N. economic sanctions against trade with Rhodesia. However, it has ordered imports frozen at the 1965–67 level.

The spokesman said his government was worried about "triangular deals," where Swiss companies act as go-betweens "and are often founded only for this purpose."

RECESS UNTIL 8 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in recess until 8 o'clock tomorrow morning.

The motion was agreed to; and at 8:21 p.m., the Senate recessed until tomorrow, Friday, June 11, 1976, at 8 a.m.

EXTENSIONS OF REMARKS

POLISH TRADITION, AMERICAN IDENTITY

HON. DAN ROSTENKOWSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 10, 1976

Mr. ROSTENKOWSKI. Mr. Speaker, recently two of the most prominent representatives of American Government and industry were singularly honored by the honorary degrees conferred on them by the Senate of the Jagiellonian University of Cracow, Poland. Jagiellonian, one of Europe's oldest and finest universities, was founded by Casimir the Great in 1364. Our distinguished colleague, CLEM ZABLOCKI, and Philadelphia businessman Edward Piszek received their degrees in the historic Collegium Maius. The majority leader, myself and 13 of our colleagues visited the university in April and were extremely impressed by the richness of its cultural heritage.

In the current edition of Poland, Illustrated magazine there appears an excellent article describing the ceremony and the outstanding contribution of these two impressive Americans. As the article points out, there is no need to emphasize the importance and weight of relations between Polish Americans and the "old country." The great majority are proud of their Polish heritage and express this by both word and deed. My good friends CLEM ZABLOCKI and Ed Piszek have expressed themselves better than most. The article follows:

"I am deeply grateful for the honor," said Clement John Zablocki upon receiving the diploma of a doctor honoris causa from the rector of the Jagiellonian University. "I cherish this honor conferred upon me by this fine university, one of the oldest in Europe, recognized by the world for more than six centuries as a leading center of ideas and scholarship."

Clement J. Zablocki, a leading American politician, congressman (Dem.) since 1946, is Vice-chairman of the Foreign Affairs Committee and Chairman of the Subcommittee on International Security and Scientific Affairs of the House of Representatives. Senior congressman among those of Polish extraction, he was the first to publicly support in the Congress the recognition of Poland's western frontier. He visited Poland on several occasions, for instance as head of the U.S. Congress's delegation to the opening ceremonies of the Institute of Pediatrics of Cracow. He is, indeed, one of the founders of this laudable institution. The project still continues to be his concern, for together with Senator Hubert Humphrey, he has sponsored the expansion of the hospital.

Clement Zablocki was also consultant for the American delegation to the Disarmament Conference and to the World Food Conference held in Rome. In addition to his political activity, he has an interest in political science. Finally, Clement Zablocki has made a notable contribution to the cause of the Polish Americans and to Polish affairs in general. He is one of the leading American citizens of Polish extraction who by their work and life are building bridges of understanding and friendship between the people of Poland and the United States. The same may be said of Edward J. Piszek, prominent American industrialist. The honorary degree conferred on him by the Jagiellonian University of Cracow was the crowning point of his life's work for the cause of the Polish Americans, Poland and the Poles.

Following the advice of Socrates, 'Know thyself' I came to Poland to seek my roots in order to fully appreciate my American life," said Edward Piszek during the ceremony at the Jagiellonian University in Cracow. "My business was going well and I felt that I shall be able to repay in some measure the debt I owed to the people and the country that shaped me." Edward Piszek is a first-generation American of Polish extraction. His parents emigrated from Poland in the early 20th century. He was educated at the University of Pennsylvania where he studied industrial administration. He is a socially conscious "practical idealist" working with a breadth of purpose for the benefit of the Polish Americans and for Poland. This has been fully substantiated not only by his activity as director of the Kosciuszko Foundation, as chairman of the American Copernicus Society and by the help he gave Tarnów, his parents' home town, in the field of health protection and especially in combating tuberculosis.

"As an American of Polish extraction, I claim that the time has come for the world to know that the modesty of the Poles does not mean that they have no cultural tradition and heritage. . . . There is probably no concert hall in the civilized world where Polish music is not played. Rarely do you find a scientific institute which has not heard of the views of Polish scientists. We should concentrate on creating and developing a powerful center that would propagate the Polish civilization and inform the world about Polish achievements. I claim that this would change not only the concepts of the Poles but also the evaluation of our contribution to the development of mankind." This statement became fact when Edward Piszek set up "Project: Pole" in 1971. The purpose of "Project: Pole" is to present in the mass media of all the larger cities of the United States a true picture of the Poles and Poland.

"I truly believe," said Edward J. Piszek in Cracow, "that my Polish tradition, personified by Tadeusz Kosciuszko, and my American identity are not at all mutually contradictory."

THREE NOTABLE CLEVELAND WOMEN HONORED

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 10, 1976

Mr. STOKES. Mr. Speaker, I rise on this occasion to pay tribute to three outstanding women in the city of Cleveland. Ms. Hester Shoto, Mrs. Audrey Jeter, and Mrs. James Craig who were recently honored by the prestigious Cleveland Call and Post newspaper for meritorious service to the community. Ms. Shoto was named the Cleveland Call and Post Woman of the Year.

Mr. Speaker, these exemplary women have worked hard and long to improve the quality of life for the residents of Cleveland. In doing so, they have taken upon themselves far more than their due share of the burdens of community service. In essence, Mr. Speaker, they are the true "movers and shakers."

Let me take this opportunity to cite but a few of their numerous achievements:

First. Mrs. Hester Shoto, 732 East 105th Street. Ms. Shoto has been a volunteer with the Forest City Hospital for 19 years and is also a volunteer with the Welfare Federation of Cleveland, the Anti-Tuberculosis League, East End Neighborhood House, and the American Red Cross. She is a member of the Junior Women's Civic League, the Forest City Auxiliary, the National Council of Negro Women, and Zeta Phi Beta Sorority.

Second. Mrs. Audrey Jeter. Mrs. Jeter is dedicated to youth within the community. She is a field worker for the Glenville Opportunity Center, organized the Glenville Co-op and gives free income tax service for the low-income people within the city. She also counsels young people about to enter college and is a member of most Glenville area civic organizations.

Third. Mrs. James Craig. Mrs. Craig has been active for 17 years in the American Legion Auxiliary Unit No. 94 and was the first black president of the 13th district of the American Legion Auxiliary of Ohio. She is a board member of Emmanuel Nursing Home where her mother is a patient and volunteers time as a companion to the elderly and takes care of their personal hygiene needs. She makes regular visits to the Society for Crippled and Handicapped Children at Camp Cheerful and has been affiliated with local PTA's at the elementary, junior high, and senior high levels since 1968. She was appointed by Daniel Corrigan to the Cleveland Board of Education Curriculum Review Board in 1970.

Mr. Speaker, I would like for you and my colleagues in the U.S. House of Representatives to join with me in applauding Mrs. Shoto, Mrs. Jeter, and Mrs. Craig. Their outstanding contributions, their quiet perserverence, and their warm and wonderful personalities are the trademark of many of the exceptional black women in Cleveland.

NEW FOOD STAMP PROGRAM REGULATIONS

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 10, 1976

Mr. FRASER. Mr. Speaker, on May 5, 1976, I joined the Food Research and Action Center—FRAC—suit seeking an injunction to block implementation of the new food stamp program regulations. May 28 we successfully obtained a temporary restraining order preventing the USDA from implementing the new regulations.

I joined the suit because I believe the regulations violate the intent of the Food Stamp Act. The purpose of Federal regulations is to make congressional intent operational—not to make massive and fundamental changes in a program. The intent of the Food Stamp Act is to provide nutritionally adequate diets for the poor. Mr. Ford's regulations eliminate many of the poor, defying the intent of the act and the legislative process.

The food stamp program needs reform. However, the problems appear to be primarily administrative. Reforms, then, should be aimed at the administrators. Mr. Ford's regulations, by depriving the working poor of food aid, blame the poor for administrative ineptness.

May 30, the Washington Post published an editorial which addresses the nature of President Ford's actions, identifying the working poor as victims of primary election politics. I submit this piece for the benefit of my colleagues:

> FAIRNESS AND FOOD STAMPS
>
> For reasons that have never been very clear or particularly persuasive, the Ford administration decided long ago to make its case for domestic frugality by hacking away at the food stamp program. When several of his other assaults on the food stamp program failed, Mr. Ford proposed amending the program by regulation, with a view to reducing the number of persons on the program by more than 5 million, reducing benefits for another 5 million, and increasing benefits for about 4 million
>
> At the time Mr. Ford made this proposal, it was easy to anticipate that many in the so-called "hunger lobby" would come forward to oppose his regulations on grounds that they are needlessly and cruelly punitive against the working poor, the very people whose willingness to try to work their way out of poverty should be encouraged by society. But hardly anyone anticipated the kind of coalition that has formed to file a lawsuit against the Ford regulations. Half the states, a huge number of labor unions, a substantial number of church groups—all the way from the Catholics to the Seventh Day Adventists—and scores of civil rights groups have come together as plaintiffs to urge the courts to place the leavening hand of reason on the Ford administration's food stamp proposals.
>
> Their arguments will have to be sorted out by the courts, and we can only wait, along with everyone else, to see how the courts respond. The group won its first round against the government Friday by obtaining a temporary restraining order against the imposition of the regulations.
>
> It is possible that before the issues raised by the suit are litigated. Congress will have reshaped the food stamp program itself in a way that the court would recognize as adequate reform without the wholesale methods the present administration is employing. It is also possible the courts won't get around to taking action until after the presidential elections and that a new and wiser President will withdraw these regulations and thus make the lawsuit moot.
>
> If none of the above should occur, then the federal judiciary, already criticized for having its fingers in too many American pies, will have yet another mess to untangle. The Department of Agriculture's record in such cases offers little encouragement to the government. The department has been found to have flouted the law with respect to advertising the availability of food stamps to people, and another court said the department's method of reckoning its diets was not fair to all who participate in food stamps.
>
> In this case, the courts will be asked to review much larger questions. This case raises the issue of whether the executive branch can lop off or reduce the benefits of half the recipients in a program mandated by law; it raises the issue of whether the federal government can add an immense paperwork burden to the load already on the states (the states estimate in the lawsuit that between 30 and 60 million additional forms a year will be required to comply with the new regulations); and it raises the question of whether Congress, in the process of reforming the food stamp program, can be preempted by the executive in the middle of its work.
>
> The Senate completed action on a food stamp reform package several weeks ago, and the House has begun similar action. Under such circumstances, it is hard to understand why the administration has picked this moment to come forward with a draconian reform of its own—unless, and we hesitate even to say such a thing, it has something to do with politics. In those quiet times before the good citizens of New Hampshire launched us on the road to November, there was an assumption that the administration would hold off action at least until the Senate Agriculture Committee had reported out a bill. But the administration couldn't wait. Now the Senate has acted, and responsibly, in reforming the program, but the administration regulations go forward. The trouble with such politically suspect policy moves, when they are successful, is that they tend to outlive the political impulses that inspired them. As a consequence, their innocent victims go right on suffering long after the reason for their suffering has been removed.

In addition, Mr. Speaker, I would like to draw the attention of my colleagues to several letters I received from Minneapolis area organizations and constituents in response to my decision to join the FRAC suit. Quite frankly, I was surprised that the response was so overwhelmingly positive. I hope my colleagues consider these remarks as they write the House food stamp bill. Hopefully we would not penalize the working poor as Mr. Ford has in his attempts to reform the program.

The letters follow:

OFFICE OF CITY COUNCIL,
Minneapolis, Minn., May 17, 1976.

Hon. DONALD M. FRASER,
U.S. Congressman, 1111 Longworth Building, Washington, D.C.

DEAR CONGRESSMAN FRASER: I congratulate you on your position regarding the proposed changes in federal food stamp regulations. It is, regrettably, typical for a Republican administration to make their cuts in social programs which affect so many of our working poor. If there is any way this City can be of any help to you please contact me immediately.

Respectfully,

Louis G. DeMars,
President, Minneapolis City Council.

Minneapolis Association
for Retarded Citizens,
Minneapolis, Minn., May 7, 1976.

Representative Don Fraser,
House of Representatives,
Washington, D.C.

Dear Representative Fraser: Thank you for joining in the law suit against the Department of Agriculture over the new eligibility criteria for the food stamp program. As the advocate for MARC, I work with quite a number of retarded citizens in Hennepin County. Many of these people are quite poor and rely on the food stamp program.

It is so alien to the purposes of our country that our government would take away from millions of our citizens the access to proper nutrition. Keep up the good work.

Let us know if our organization can assist you in your efforts.

Sincerely,

Mel Duncan,
Director of Advocacy Services.

Nancy L. Boyle,
St. Paul, Minn., May 7, 1976.

Representative Donald Fraser,
180 Federal Courts Building, 110 South 4th Street, Minneapolis, Minn. 55401

Dear Representative Fraser: I am writing to support and applaud your decision to join the ". . . affiliation of public interest groups in a court fight over new regulations that would affect 42 percent of the Minnesota families in the food stamp program . . ." as reported in the Minneapolis Tribune.

I am certain that the 1 percent who are illegally receiving food stamp aid are surely outbalanced by the number of persons who ARE NOT receiving aid . . . but who do qualify. I.e., older folks whose pride stops them, or who are physically unable to travel or who don't have transportation, or who don't know that they qualify . . . young families who can't take time off work to fulfill lengthy and demeaning "welfare" food stamp requirements for qualification . . . single mothers and fathers who aren't even aware that although they are holding down full time jobs, they are still eligible for assistance.

One must be concerned about the number of malnourished children in our elementary schools . . . children who can't learn, can't concentrate, are physically ill due to poor diet . . . children who don't get breakfast or lunch because their parent(s) don't earn enough to buy adequate food and pay day isn't for another 5 days. I know, I've been there. Where's the concern over the aforementioned people?

We both know where it is: with the 1 percent who cheat . . . who don't belong on the Food Stamp Program! I bring home $7000 a year net wages for myself and my 2 daughters . . . I know what a family of four on $6000 can and cannot do in the area of food purchases. They can't buy all the milk they need . . . they can't buy the meat or cheese or green leafy vegetables they need, etc.

What they can buy is bread, noodles, macaroni, soup, dry milk, hamburger, beans, tomatoes, etc. Not anything that would consist of balanced food products.

We need new regulations for emergency food stamps needs . . . for the single parent who just can't make it until the next pay day . . . for the older citizen who's drinking bouillon for breakfast, lunch and supper because his/her retirement check didn't show up on time.

Yes, I applaud your decision and hope that you and others are successful in your endeavor to improve human life . . . not hasten it toward the end . . . in the richest Nation in the world.

Sincerely,

Mrs. Nancy L. Boyle.

Minneapolis, Minn.

Dear Congressman Fraser: I'm wondering if troubles will ever quit. It seems as though Mr. Ford or Mr. Butz just delight in keeping things stirred up. In regard to food stamps they are talking about cutting some of them off. I know that there are plenty of them that are getting stamps that aren't eligible but I only hope that it wouldn't include we single ones and those of who are retired. They have been a godsend to me and to many others like myself.

Isn't there any way that you and the other members of Congress can squelch these things once and for all. If there isn't a change pretty soon we will all be complete wrecks. No peace at all.

I don't believe Mr. Ford cares about any one but himself just so he gets what he's got coming and no feeling about the rest of us who really have to depend on food stamps. You just don't know where you are at with them stirring things up all the time.

Please do what you can to stop these things and give us some peace of mind.

Miss Beatrice Anderson.

Minneapolis, Minn.,
May 11, 1976.

Dear Congressman Fraser: I would like to thank you for taking a strong stance on the issue of food stamp reform. By joining the attempt to block the USDA regulations, you demonstrate your concern for the poorest of our society, those who most often do not have their views represented in government decisions.

May I encourage you to continue educating the public about the real facts regarding food stamps. Again, my sincere thanks for your efforts.

Respectfully,

Ronald T. Krietemeyer.

Minneapolis, Minn.,
May 10, 1976.

Dear Congressman Fraser: We received your newsletter dated 5/5/76 and concur with the position you have taken on the matter. Happily we are not a part of the Food Stamp Program but sympathize with those that will be put to further hardship by the actions of the President. We are appalled at the way the elected Democrats have let the President ride roughshod over their efforts. Fight for we poor and elderly. Thank you.

Mr. and Mrs. William White.

Minneapolis, Minn.,
May 13, 1976.

Dear Congressman Fraser: We wish to inform you that we are against the change in food stamp regulations. Food stamps are something the government should save money for, not on. There will be irregularities either way. There is no way of keeping a program like this exactly on target, and we would rather have people use stamps who don't need them than have others who do need them cut out of the program. People who don't qualify as part of statistics on paper often qualify to those who know of their personal circumstances. Yours very truly,

Mary A. and John H. Kiner.

WORLD WAR I OVERSEAS FLYERS WEEK

HON. ROBERT W. KASTEN, JR.

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 10, 1976

Mr. KASTEN. Mr. Speaker, on October 4, 1976 the World War I Overseas Flyers, American veterans of United States and Allied flying services in the Great War, will hold their annual reunion at the U.S. Air Force Academy at the invitation of the superintendent, Lt. Gen. James R. Allen.

In a day when aviation was still in its infancy, when planes were still very fragile pieces of machinery, these brave men took to the skies. Even before the United States joined the Allies there were Americans flying over the trenches. In 1916 France went so far as to organize an entirely American unit of flyers, the famed Lafayette Escadrille. Such a unit had been the dream of two of the Americans then flying for France, Norman Prince and William Thaw. By the end of the war 267 Americans had volunteered for the French Flying Service. Of those who actually flew in combat they accounted for 199 confirmed enemy planes downed, and suffered the loss of 55 comrades killed.

When the United States entered the war in April 1917 we were unprepared. We had only 131 officers and 1,087 enlisted men in our flying service, and fewer than 250 planes. Through rigorous training, however, Americans were able to contribute to the Allied effort in the air. Veterans from the Lafayette Escadrille became the 103d Pursuit Squadron. New American units were formed, including the famed 94th Pursuit Squadron, led by Capt. Eddie Rickenbacker, the leading American ace of the war.

As one historian has noted, these pioneers of the air became heroes more famous than the generals actually commanding the armies. Besides Rickenbacker there was Billy Mitchell, the prophet of air power, and Lt. Frank Luke, Capt. Elliott Springs, Lt. George Vaughn and many others. Seventy-one Americans qualified as aces before the war was over.

At St. Mihiel and in the Meuse-Argonne these flyers helped pave the way for the offensives which broke the spirit of the German armies. Besides countless individual combats they carried out 150 bombing missions, and dropped 138 tons of bombs. Two hundred and thirty-seven made the ultimate sacrifice.

Needless to say, their ranks are thinning out. Some recognition of their services to this country would be a final fitting tribute during the week of the annual reunion, and I am therefore introducing legislation to designate the week of October 4, 1976 as World War I Overseas Flyers' Week. It is perhaps the least we can do to honor these gallant veterans.

WARNING ON PANAMA CANAL TREATY NEGOTIATIONS

HON. LEONOR K. SULLIVAN

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 10, 1976

Mrs. SULLIVAN. Mr. Speaker, as chairman of the Committee on Merchant Marine and Fisheries, charged with legislative responsibility over the operation and maintenance of the Panama Canal and over interoceanic canals generally, I wish to make some observations.

The history of the Panama Canal from 1879 to the present time consists in large measure of a series of crises, some of them major ones. Today, it faces what in some ways may prove to be one of the gravest in its history.

The current isthmian situation is the culmination of a sustained campaign by the State Department since 1964 to erode U.S. sovereign rights, power and authority over the Canal Zone and canal through the salami process of piecemeal erosion, and all of this without the authorization of the Congress. Under the Constitution, only the Congress, which includes the House of Representatives, is vested with the power to dispose of territory and other property of the United States and as regards the Canal Zone it has not authorized the making of any treaty to dispose of that territory or any property in it.

The ultimate end of the process now in progress can only be the surrender of U.S. sovereignty over the Canal Zone to Panama, a small, weak country allied with Cuban-Moscow axis and in no way qualified to assume the heavy burdens involved in the maintenance, operation, sanitation and defense of the canal.

Under the Panama Canal Reorganization Act of 1950 (Public Law 841, 81st Congress), the Panama Canal enterprise, consisting of the Panama Canal and its indispensable protective frame of the Canal Zone, is an independent agency of the United States under the President. Under this statute, he has designated only the Secretary of the Army as the officer of the United States responsible for its supervision. This law also placed the canal on a self-sustaining basis and specifically provides that the levy of tolls is subject to provisions of the 1901 Hay-Paunceforte treaty with Great Britain, the 1903 Hay-Bunau-Varilla treaty with the Republic of Panama, and the 1914–22 Thomson-Urrutia treaty with the Republic of Colombia.

The Panama Canal is located in an area of hostile, unstable conditions requiring a constant struggle with the forces of nature and others. These forces are climatic, environmental, geologic, engineering, and geopolitical.

The canal is rapidly approaching the time for major modernization. In this connection, I would stress that the people of the United States and the Congress would never permit the large expenditures involved in major modernization except in an area under the sovereign control of the United States.

As shown by experience during the construction of the canal, the first essential for success is the morale of employees. Important factors in maintaining a high morale include—not only commissaries—but also recreation facilities and financial security.

The employees of the Panama Canal form one of the finest industrial groups in the world. The restoration of their morale requires the several of certain recent actions of the Secretary of the Army and the termination of negotiations for surrendering our sovereign control.

The canal problem is not a local matter but part of a global situation. Upon the continued undiluted U.S. sovereign control over the Canal Zone depends, not only the fate of the canal itself, but that of the vast Caribbean basin, which is already well on its way toward becoming a "Red Lake." The fate of the Caribbean depends on the survival of the United States as a free and independent nation.

It is necessary that we focus on the impact of treaty negotiations on the canal operation and also on the influence of other events which have occurred on the isthmus on that same operation. We recognize the relevance of treaty negotiations to the legislative jurisdiction of other committees in the House. But when the negotiations and other events can impact upon the canal now or in the future, and when the status of U.S.-controlled territory in the Canal Zone is at issue, we would be negligent if we did not address important issues that concern the operation and maintenance of the canal or the government of the Canal Zone.

As we all know, our present treaty arrangement with Panama grants to the United States all sovereign rights in the canal to the exclusion of exercise of those rights by the Republic of Panama. Since our present treaty arrangement is part of the law of the land, it is incumbent upon us to insure that the canal and Canal Zone are operated within the framework of that arrangement. We are resolved that what it is illegal to do visibly and en bloc, that is, transfer control of the Canal Zone without congressional authorization, it is just as illegal to do in any veiled and piecemeal fashion. In this respect, I am concerned that the present treaty talks between the United States and Panama are casting such a cloud of uncertainty and anxiety over the whole canal operation that the ultimate objective of those treaty negotiations may come to pass without any authorization of the legislative branch as to a new treaty or a transfer of property.

We in the Merchant Marine and Fisheries Committee have long been dedicated to the task of solving the problems that relate to the canal and Canal Zone not to promote confrontation or ill-will, but to defeat it. And we in the committee are resolved that the zone should run as the present treaty arrangement mandates it

We must be concerned about the trend in the piecemeal erosion of U.S. authority on the Isthmus of Panama. It seems incredible to me that the executive branch would proceed to foster some of the ideas which they have despite the strong convictions of the Congress expressed over many years on this matter. The House of Representatives passes a resolution that the Panamanian flag should not fly in the Canal Zone and the President allows it; the Congress indicates in many ways that any land transferred to Panama should have congressional authorization and then the executive leases an area to an agency of Panama under a spurious authority, and this could be tantamount to a transfer. These are just two of the many actions that have been taken, and those actions which have occurred in the last decade to erode our authority in the Canal Zone do not hold a candle to the proposals which, if they had been approved, would have totally dissipated our tenure on the isthmus.

I would hope that we have some real communication on the matters of treaty negotiations, the nature of U.S. authority in the Canal Zone, and the future of the canal area irrespective of a new treaty. We simply cannot sit by and allow our treaty rights and obligations in the Canal Zone and over the canal itself, to be negotiated or otherwise given away by misguided administration policy, especially in light of the very real possibility of Communist infiltration and takeover of this strategic waterway which is so essential to our national commerce and security.

REPRESENTATIVE CHARLES GRASSLEY AND THE CONGRESSIONAL PAY RAISE

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 10, 1976

Mr. SYMMS. Mr. Speaker, for many months my friend and colleague Mr. GRASSLEY from Iowa has been working to rectify an economic mistake Congress made last summer. That is, giving itself an automatic annual pay raise. Many of us have joined in that fight.

Our constituents, like those of Mr. GRASSLEY, are angry, first of all at the way the pay bill was sneaked through, and second, at the audacity of Congressmen to insulate themselves from the effects of inflation, which Congress itself is creating.

Mr. GRASSLEY's efforts to rescind the pay raise have drawn national recognition. I would like to bring to the attention of the House the article in today's Washington Post by Mr. Mike Causey.

[From the Washington Post, June 10, 1976]

THE FEDERAL DIARY—MAN FROM IOWA PUSHING PAY CUT

(By Mike Causey)

If anything suspicious ever happens to Rep. Charles Grassley (R-Iowa) the police are going to have at least 400 VIP suspects. Not that one congressman would do harm to another, but . . .

Grassley is being boorish, in Capitol Hill terms, with his unrelenting efforts to get his 400 House colleagues to cut themselves out of an automatic pay raise they cut themselves in on only last year.

In what could honestly be called a very sly, slick move, Congress voted a quickie bill last year that forever linked itself to the automatic October pay raises civil servants get.

Grassley says it was a cynical move designed to "insulate" M.C.s (who get $44,600) from the ravages of inflation. Grassley thinks a dose of suffering from inflation is just what the congressional paycheck needs to persuade members that they should do something—like cutting federal spending—to fight inflation. If that sounds corny and unsophisticated, bear in mind that Mr. Grassley represents Cedar Falls and Mason City, not Georgetown and Potomac.

The White House refused to support a Grassley move for the congressional pay cut, so now he's pushing a petition through the House to do it. He figures if he gets enough members on the spot, even those who like the automatic pay feature will vote to rescind it, what with the elections and all.

Despite the normal congressional courtesies, Grassley has been getting something of a cold shoulder from some colleagues, and some congressional wives—and husbands—call him "that awful man." Insults like that could get Grassley re-elected in his conservative Iowa district where no government is considered good government.

PENSION BENEFITS FOR WORLD WAR I VETERANS

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 10, 1976

Mr. ASHBROOK. Mr. Speaker, the Subcommittee on Compensation and Pension of the Committee on Veterans' Affairs recently held hearings on World War I service benefits. At that time I provided the subcommittee with a statement recommending adoption of my bill H.R. 1582 or similar legislation. This bill would provide a flat rate payment to World War I veterans or to their widows without regard to income.

For the information of my colleagues following is the text of my statement:

STATEMENT BY CONGRESSMAN JOHN M. ASHBROOK ON LEGISLATION BEFORE THE SUBCOMMITTEE ON COMPENSATION AND PENSION

Mr. Chairman, I am pleased that the Subcommittee on Compensation and Pension of the Committee on Veterans' Affairs has decided to hold hearings on bills relating to service pensions for World War I veterans. I have always believed that World War I veterans have never received the fair shake they deserve from the government.

I have introduced a bill that I hope the Subcommittee will give its serious consideration. This bill—H.R. 1582—would provide a flat rate payment to World War I veterans or to their widows without regard to what their income is.

Under my bill veterans without dependents would be entitled to a $135 monthly pension. Veterans with dependents would be entitled to $150 a month. If the veteran is in need of regular aid and attendance, he would be eligible for an additional $125 each month.

Widows of World War I veterans would receive a monthly pension of $150 if they have one or more children. If there is no child, the pension would be $135 a month.

This would be a great improvement over the present situation. As the law now stands World War I veterans with service-connected disabilities are eligible for compensation without regard to income from other sources. Veterans with non-service-connected disabilities, however, receive a pension only if they meet certain poverty requirements. This resembles more of a welfare program than a true pension.

I believe that such a poverty requirement in order to qualify for pension benefits is personally degrading. The time to eliminate the means test is long overdue.

World War I veterans served our nation well. They are entitled to a pension based solely on service and age. It is only fair that they receive a general service pension similar to that provided for in H.R. 1582.

HAWAII EDUCATORS SUPPORT U.S. OPPOSITION TO ZIONISM RESOLUTION

HON. SPARK M. MATSUNAGA

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 10, 1976

Mr. MATSUNAGA. Mr. Speaker, the infamous resolution adopted by the United Nations Social, Humanitarian and Cultural Committee on October 17, 1975, which equated Zionism with racism, continues to draw strong denunciations from civic organizations.

Both the House and the Senate acted swiftly to unanimously support the denunciation of this condemnation of Israel, which in itself embodies racism, by the U.S. delegation to the U.N. One cannot protest enough against the reckless manner in which the United Nations, which was established as one of the few forums for broad and peaceful cooperation among nations, has been perverted for the narrow political advantages of a cabal of nations who have irresponsibly exercised their stranglehold economic powers. One cannot protest enough against the insidious anti-Semitism that lurks behind that resolution.

Unfortunately, in this fast-paced world, many concerns seem so ephemeral as they are replaced in the center stage of our attention by other pressing problems. It is so easy to consider the U.N. resolution to be history and of concern only to the historians. But, the Second World War taught me how cancerous to international peace racism and anti-Semitism can be in the face of acquiescence. In the postwar years I learned that peaceful international cooperation must be fostered to deal with global problems. We must not allow the budding of anti-Semitism to destroy the U.N. as a peaceful forum of cooperation.

In this Bicentennial Year, let us remember that the enjoyment of freedom also carries a corresponding heavy and continual responsibility of protection. Let us not forget the vanguard role the United States has asserted in the protection of international human rights and the preservation of world peace.

I would like to call the attention of my colleagues to the resolution adopted by the department of curriculum and instruction in the College of Education of the University of Hawaii supporting the U.S. delegation's opposition to the U.N. resolution. The department of curriculum and instruction adopted their resolution on March 5, 1976.

The resolution follows:

UNIVERSITY OF HAWAII AT MANOA RESOLUTION SUPPORTING U.S. OPPOSITION TO UNITED NATION'S VOTE EQUATING ZIONISM WITH RACISM

Whereby, on October 17, 1975 the U.N. Social, Humanitarian and Cultural Committee adopted a resolution equating Zionism with Racism, a vote which the U.S. representatives to the U.N. denounced as "an obscene act" and putting the U.N. "at the point of officially endorsing anti-semitism."

Be it resolved, that the Department of Curriculum and Instruction in the College of Education of the University of Hawaii—

1. Commends the governments of the following nations that opposed the vote. Australia, Austria, Bahamas, Barbados, Belgium, Canada, Central African Republic, El Salvador, Fiji, Finland, France, Germany (Federal Republic of), Haiti, Honduras, Iceland, Ireland, Israel, Italy, Ivory Coast, Liberia, Luxembourg, Malawi, Netherlands, New Zealand, Nicaragua, Norway, Panama, Swaziland, Sweden, United Kingdom, United States, Uruguay.

2. Commends former Ambassador Daniel P. Moynihan, the United States representative at the U.N., Clarence Mitchell, Jr., and Leonard Garment for leading the struggle at the U.N. against the Orwellian-black-white perversion of truth.

3. Denounces the attempt to equate zionism with racism, and the resolution as an attack against the State of Israel, against the Jewish people, against religious tolerance. It is a horrifying reminder of the Nazi campaign that begun with words of hate and ended with acts of extermination.

Be it further resolved, that we express to the President of the United States, the State Department and the Congress our principles.

TIMOTHY KNEALE: NATIONAL SPELLING BEE WINNER

HON. WILLIAM F. WALSH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 10, 1976

Mr. WALSH. Mr. Speaker, today 13-year-old Timothy Kneale is justifiably a most excited and proud young man.

With the correct spelling of the word "narcolepsy," Tim, a resident of the 33d Congressional District, today became the winner of the National Spelling Bee, one of the most prodigious feats that any junior high school student can possibly attain.

The road to victory for Tim was not easy. Last year he finished 21st at the regional Spelling Bee in Syracuse, N.Y. Now, after a full year of preparation and perseverance, Tim has not only won his regional Bee; he has bested the stiffest of competition and mastered the most cunning of words in becoming the 1976 National Spelling Bee champion.

Upon meeting Tim, I immediately found him to be a most intelligent, versatile and likable young man. I am told by his parents that Tim began reading at the incredible early age of 2, and that, at age 3, he was reading junior encyclopedias. While he may be the Nation's champion speller, he assures me that his favorite subjects are math and science. And when not participating in academics, he can be found enjoying sports and many other school activities.

Tim's parents, Mr. and Mrs. Robert Kneale of the town of Onondaga, a rural community near Syracuse, his brother and his three sisters should share in the spotlight of his acclaim. Tim and his parents have worked particularly diligently this past year in honing his considerable skills for the competition.

Also sharing in Tim's triumph must be his eighth-grade classmates, teachers, and principal, Mr. Richard Meyer, at Walter Wheeler Middle School in South Onondaga. I am told by Mr. Meyer that although Tim thought his chances of winning the Bee were slim, the school maintained faith that he would return home a victor.

But ultimately, all praise must fall to Tim himself. It was he who through reading, studying, and competing, has deservedly earned the title "1976 National Spelling Bee Champion."

I am most pleased now to represent two national champions in the House of Representatives: the very best high school field band in the United States of America, the West Genesee Senior High School Marching Band, and the very best speller in the United States of America, Timothy Kneale.

I know that the drive, discipline and determination that Tim has exhibited in competition indicate the great leader he is destined to become.

PASSAGE OF THE SMALL BUSINESS ACT AMENDMENTS

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 10, 1976

Mr. DOWNEY of New York. Mr. Speaker, I am very pleased to be a cosponsor of H.R. 13567 to amend the Small Business Act and the Small Business investment Act of 1958, which passed the House on Monday, June 7. This landmark bill, which passed overwhelmingly, will provide over $183 million in added assistance for the Nation's small businesses.

The new SBA bill was introduced to remedy a particularly acute Federal assistance loan problem that exists for Suffolk County businessmen as well as others across the Nation. The bill increases the Small Business Administration's loan authorization, broadens eligibility for SBA assistance, and places a moratorium on loan repayments for ailing businesses. The moneys that will become available due to this bill will have a total impact to small business of over $6.626 billion for direct participation, immediate participation, deferred participation, and guaranteed loans. This will enable businesses to get back on their feet as well as putting a 5-year moratorium of existing SBA loans to compensate for recent setbacks they suffered during the economic recession.

In addition, the bill will make small homebuilders eligible for SBA assistance for the first time. In the past few years Suffolk County has seen unemployment in the building industry rise to 40 percent. This Federal assistance provision could be the shot in the arm which will boost our construction industry out of the economic slump.

Another significant measure provides for the redefinition of the Walsh-Healey Act that was enacted in the 1930's, and its guidelines on the awards of Government contracts to small businesses. In the past the recipient of a Federal contract in excess of $10,000 had to be a "manufacturer of or regular dealer in" the items called for in the contract and the regional administrators of the act tended to apply this requirement arbitrarily, leading to discrimination and unnecessary disqualifications, particularly in New York. This fact was brought to light by a General Accounting Office investigation that I commissioned last year.

This act will become an effective help to all small businesses pending quick action by our colleagues in the Senate. The passage of the bill by the Senate will be invaluable to over 7,000 small businesses in my congressional district and it will have the same effect across the Nation.

JAMES J. KILPATRICK COLUMN SAYS HUMPHREY/HAWKINS BILL IS BALONEY

HON. MARVIN L. ESCH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 10, 1976

Mr. ESCH. Mr. Speaker, the Humphrey/Hawkins bill—no matter how thin you slice it is still baloney. So says James J. Kilpatrick, a syndicated columnist and television commentator.

James J. Kilpatrick speaks truth when he calls H-H thinly sliced baloney.

Unfortunately, however, it is being fed to the American people as if it were in fact red nourishing meat. This bill is being held out as the hope of the Nation to put people to work. This article pins it down for what it is—a political ploy by the Democrats to fool the people into believing they can put people to work by placing into the hands of the Federal bureaucracy the responsibility for a centralized planning scheme which would affect the lives of every single one of us, and for massive public service employment jobs which would be paid for out of the taxes of the already overtaxed lower and middle income people of this country.

The article is inserted for the benefit of all Members:

H-H BILL IS BALONEY WHOEVER SWALLOWS IT

(By James J. Kilpatrick)

When this nice plump package was unwrapped in March, it was described as the Hubert H. Humphrey-Augustus F. Hawkins Full Employment and Balanced Growth Act of 1976. This soon was whittled down to the Humphrey-Hawkins bill, then to Hump-Hawk, then to H-H. No matter how thin you slice it, it's still baloney.

Baloney or not, the H-H bill has become a kind of talisman in the presidential campaign. A talisman is a stone, or ring, or charm that is supposed to work wonders; it is a source of occult power; it is hocus-pocus, dominocus. One by one, the Democratic candidates have been put to the test: Do you believe in Humphrey-Hawkins?

Jimmy Carter was at first a doubter, but he got the Hump-Hawk religion; he is born again, and now believes. Jerry Brown remains a skeptic, but he has become an agreeable skeptic; he would give it a try. Sen. Humphrey, of course, believes absolutely. So does Sen. Birch Bayh. The AFL–CIO fully supports the measure. More than 100 members of the House are co-sponsors in the lower chamber.

The H-H bill is 100 per cent pure liberalism. Its economic thinking contains no synthetics, no preservatives, no artificial flavors. It is the whole grain product. Its benevolent purpose is to get the unemployment rate down to 3 per cent within four years, but that is only the beginning of the millennial delights.

Sen. Humphrey, whose innocent faith is positively boundless, believes his talismanic scheme would also reduce crime, drug addiction and vandalism. It would achieve nearly universal prosperity. It would benefit labor, industry, big business, little business, women, children and minorities. It would diminish heart attacks, alcoholism, infant mortality, mental disorders and suicides.

It would be good for man or beast. It would produce a balanced budget by fiscal 1979 and a $13.9 billion surplus in calendar 1980.

The permanent new mechanisms created by the bill would put an end to inflation and recession. Under H-H, we would live happily ever after.

You may well inquire: How would all this be achieved? Alas, it is at this point that the magic charm begins to lose its luster. Mr. Humphrey stoutly insists that he is proposing "fundamental reform in the management of the economy." What he is proposing is more of the same old patented extract—more bureaucracy, more grant-in-aid, more manpower training programs, more make-work jobs in the public sector.

Mr. Humphrey is the liberals' Lydia Pinkham. He has here bottled the same kind of vegetable compound on which little old ladies once got genteely blotto.

The H-H bill wouldn't cure our economic ills; it would only provide a rosy glow.

Mr. Humphrey wants "goals." He wants "targets." There is nothing wrong in this, of course, so long as the proclaiming is not confused with the achieving.

He wants the president annually to produce "comprehensive proposals to raise productivity and to increase the supplies of food and energy." In some fashion, not altogether clear, he would have Congress manipulate monetary and fiscal policies "in the optimum manner necessary to achieve full employment and balanced growth." If the Federal Reserve Board refused to go along, the Fed would be made to go along.

Under the H-H bill, there would be a new Full Employment Office within the Department of Labor. Its role would duplicate the role of perhaps 50 agencies already charged with "training, assisting and providing employment for those people who are otherwise unable to find employment."

The bill would create a "permanent counter-cyclical grant program" for states and localities. It would provide new supplies of credit. It would require that persons employed in federal makework jobs be paid at rates fully comparable to the private sector.

This is the stuff that dreams are made on. An answer to our economic problems lies not in the bottom of some boozy bottle, but in the old sober remedies; private jobs, business incentives, capital formation, lower taxes, greater productivity.

Proclaiming paper goals and printing paper money will produce merely paper solutions that would leave us, 10 years hence, less prosperous—and less free.

ASTRONAUTS "IN ORBIT" FOR USIA

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 10, 1976

Mr. TEAGUE. Mr. Speaker, our astronauts who participated in the Apollo-Soyuz have truly served as ambassadors of good will to all parts of the world. I am including in the RECORD an article by Walter Froehlich reporting a tour of these astronauts for the USIA.

ASTRONAUTS "IN ORBIT" FOR USIA

(By Walter Froehlich)

USIS Algiers cabled: "Succeeded beyond most optimistic expectations."

USIS Abu Dhabi wired: "Most effective USIS program yet in terms of impact . . . representing very best in American society."

USIS Cairo: "They represent to the fullest extent the type of goodwill visitors who should be encouraged more often to visit foreign countries on behalf of the United States."

USIS Tel Aviv: "Auditorium with capacity of 250 had to be changed. . . . estimated crowd at lecture 1,200 with people jammed in aisles . . . turned star-studded VIP audiences into mobs reminiscent of teeny-boppers."

USIS Jidda: "An attractive group of outstanding Americans . . ."

USIS Kuwait: "Received with great enthusiasm wherever they appeared."

U.S. Embassy Doha, Qatar: "On very top of any scale rating program resources. . . . was high spot in external programming since Embassy was established . . . A smash-eroo . . . send us more like them."

All of these messages talked about the tour to seven INA countries in February by the entire American three-man crew of the Apollo-Soyuz space flight of July 1975.

The Astronauts themselves also had some comment. They said working on behalf of USIA is just as thrilling—and almost as demanding—as orbiting in space.

Because of the heavy demand for their appearances (and the attempt by posts to squeeze every bit of program value from their presence), the three crewmen (Air Force Major General Thomas P. Stafford, who was crew commander, and Astronauts Vance D. Brand and Donald K. (Deke) Slayton) had no days off for rest throughout the two and one-half-week tour last February. On most days they were involved in official programming from 8 a.m. until late in the evening.

Traveling in a T–39 aircraft chartered from the U.S. Air Force, the Astronauts were welcomed by waiting officials each time they stepped from the plane's boarding ramp. Almost at once they were transported—usually with a police escort with sirens screaming—to their first programmed appearance. From then on in quick succession followed lectures, receptions, press conferences, meetings with officials and television interviews until the men were aboard their plane again. A similar routine began at the next stop.

In five of the countries, the Astronauts were accompanied by Dr. Farouk El-Baz, the Egyptian-born, Arabic-speaking American geologist who was the principal investigator for the earth observation experiments made by the crew during the flight. Dr. El-Baz, who is Research Director for the Smithsonian Air and Space Museum in Washington, did not go to Algeria and Israel because lecture commitments in the United States forced him to return before the end of the tour.

The Astronauts met the head of state in every country they visited. In some countries they lived in the palace or under other government auspices as official state guests.

In these visits with three Presidents, three Emirs and a King, the Astronauts gave each reigning leader a flag of his particular country that had been aboard the Apollo spacecraft during the flight, enlargements of photographs taken from space of each country's region, and a nearly-two-foot-tall model, one-hundredth scale, of the Space Shuttle, the next generation of U.S. manned spacecraft.

When the concept for the tour was formulated, ICS and INA, in consultation with the Astronauts and Dr. El-Baz, decided that the project would not follow the traditional Astronaut appearance format dominated by motorcades or parades and other forms of showmanship. Instead, the tour would concentrate on the crew's scientific accomplishments, particularly those useful to the visited countries.

Thus, the Astronauts talked about their photography and other earth observations from space while they had been orbiting above each of these nations. Dr. El-Baz, who also served as the team's Arabic interpreter, explained his analysis of these observations. The Astronauts showed slides demonstrating their discovery of heretofore unknown cracks in the earth's crust stretching through portions of the Near East northward to Southern Europe.

The discoveries, which were later confirmed by Dr. El-Baz and his science team, may help explain earthquake patterns and other geological characteristics of the region. Other Astronaut observations generated information that may increase understanding of desert encroachment and be useful in the search for water sources and mineral deposits and for other work of economic and social significance.

The Astronauts and Dr. El-Baz appeared before university audiences and at scientific organizations and conferred at length with cabinet ministers and other senior officials concerned with agricultural problems, industrial production and other aspects of economic development in which space technology can be helpful. Post reports on the tour emphasized that these contacts helped strengthen the U.S. dialogue, opened new avenues of communication and, thus, enhanced relations with this vital part of the world.

Tour arrangements required close cooperation among several Agency elements, particularly ICS and INA, plus appropriate media support from IPS and VOA.

The project was made possible by assistance and cooperation from several other Agencies, mainly NASA, the Air Force, the State Department, the National Security Council and the Smithsonian Institution.

Upon their return the Astronauts and Dr. El-Baz talked as glowingly about USIS American and local personnel as the posts had spoken in their cables about the visitors.

General Stafford said he was very favorably impressed everywhere by USIS staff—both American and local. He noted that most of the Americans are fluent in the local languages, know local officials well, and were able to organize ideally-suited programs for the speakers team.

Amid all its scientific and technological overtones, the tour had its relaxed and humorous moments. In their one-day program in Riyadh, Saudi Arabia, astronauts Slayton and Brand took a brief break during which royal protocol enabled them to ride Arabian horses at the National Guard stables. In Israel an American tourist gave General Stafford a red-white-and-blue skull cap and insisted he wear it as a "Bicentennial yarmulka."

THE GREATER THREAT

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 10, 1976

Mr. RANGEL. Mr. Speaker, I was quite alarmed recently when the City University of New York was forced to close down because of financial problems. It is one thing when a university which enables those without other means the opportunity to acquire a higher education falters because of incompetency to provide a good education but quite another when its demise is attributed to economic trouble. The City University enjoys a high reputation of producing graduates who successfully aspired to the benefits of a good education. It is quite sad indeed that this opportunity must be drastically reduced because of the recessionary plague that our country recently suffered. However, it is even more depressing to know that those who bear the brunt of economic pressure are those who can least afford it. Again, it is the poor who depend on such public programs to overcome their plight that suffers.

The closing of the City University was but one element of the growing economic barrier to higher education which is on the rise across the Nation. It seems that America, the land of promise for all, is reverting back to the old phenomena of promise to only those who can afford. I only hope for the sake of promoting a productive future for our country that this cycle will quickly end so that all of our citizens who seek to have access to a meaningful and productive life are enabled to do so.

At this point, I would like to share with my colleagues an insightful editorial recently published in the New York Times that speaks to this emerging attack on education as a right:

[From the New York Times, June 2, 1976]

THE GREATER THREAT

The impending move by the City University from free tuition to relatively high tuition among the nation's public universities is symptomatic of more than a local social and political trauma.

The dramatic change puts in sharp focus a national trend away from the century-old policy of constantly easing access to college for an ever-greater proportion of American youth, which began with the Land Grant Act of 1862 and took on new impetus after World War II with the G.I. Bill of Rights and the mushroom growth of community colleges.

Today, only the University of California system still claims to subscribe to the principle of free tuition; but its "fees" have in fact long exceeded the amounts charged by low-tuition state institutions. The end of free tuition at CUNY thus is merely the latest confirmation that economic barriers to higher education are rising everywhere.

A number of factors have contributed to the depressing fact that between 1969 and 1974 the proportion of college-aged males who are actually enrolled in college has dropped from 44 to 33.4 percent; but higher education's rising cost is undoubtedly a major reason for that decline.

The lower middle class—families in the $10,000 to $16,000 range—is the group hardest hit by the tuition inflation. They benefit only insufficiently or not at all from state and Federal student assistance that is available to the poor.

Part-time students also increasingly feel the pinch. Many of them are poor and dependent on income from low-paying jobs. They, too, often find it difficult to get scholarship aid. Yet it was this group that in the past represented the American promise of success through education.

Perhaps college standards, eased first in the 1950's by the booming demand for college graduates and later by the egalitarianism in the 1960's, need tightening.

But pricing policies are the worst approach to educational selectivity. If ability to pay is to be the new criterion for those who should go to college, then the Jeffersonian hope for an aristocracy of talent will soon fade. And if expensive elite institutions are to be forced by high tuition and limited student aid to become once again the preserves of the rich, nothing less is at stake than democratic access to the nation's power structure.

As legislators in Congress and in the state capitals deliberate how best to halt the college tuition inflation, in private as well as public institutions, they must not forget the inseparable link between a free society and ready access to higher education.

IRRIGATION PROJECTS AND FISH STOCKING IN THE ALPINE LAKES WILDERNESS

HON. LLOYD MEEDS

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 10, 1976

Mr. MEEDS. Mr. Speaker, during the consideration of the Alpine Lakes bill, we meant to clarify some of the legislative intent on the management of the wilderness area. Earlier the House Interior Committee approved a different bill which specifically allowed the operation of certain irrigation projects in the wilderness and which effectively banned the Forest Service from stopping fish stocking in the Alpine Lakes.

These two provisions were removed in the version of the bill passed on June 8. However, as the main sponsor of the legislation, I want to emphasize that it is the clear legislative intent to permit these uses to continue. The irrigation projects in question are mainly gates in some of the high mountain lakes, and the operation and maintenance of these projects should be allowed to continue. Also, the committee inserted the provision on fish stocking because of an incident in Idaho in which the Forest Service told the State it could not plant fish by motorized vehicles in a wilderness. The practice in question here usually involves stocking by aircraft. The Washington State Game and Fish Departments should be permitted to continue stocking the lakes which mean so much to the recreational enjoyment of the State's citizens.

BANKS AND THE BOYCOTT

HON. JAMES J. BLANCHARD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 10, 1976

Mr. BLANCHARD. Mr. Speaker, 2 weeks ago, when the Banking, Currency and Housing Committee considered H.R. 13876, the International Banking Act, I offered an antidiscrimination amendment.

My amendment was defeated in committee in a 16–16 tie vote, with opponents arguing that it would unduly complicate the legislation. I explained my own position in additional views on the bill, and resolved to bring the matter up again when the bill is considered by the full House of Representatives. Congressman WAXMAN, of California, has agreed to join me in this effort.

Our resolve has now been strengthened by disclosures in recent days that the banking industry has been complying wholesale with the Arab boycott.

I direct the attention of Members to testimony offered Tuesday, June 8, before the Subcommittee on Commerce, Consumer and Monetary Affairs. Mr. Rauer Meyer, director of the Department of Commerce's Office of Export Administration, reported that in the 4-month period from December, 1975, to March, 1976, 119 American banks reported receiving 10,443 requests to supply information or in some other way cooperate with the boycott. In about 80 percent of the cases, the banks reported that they complied. In only about 5 percent did they decline.

Mr. Speaker, this is all the evidence needed to show that the latitude which present law permits in this area must be corrected.

All of us know that these practices have no place in the United States. It is time for us now to write that principle into law so that it cannot be misinterpreted or misunderstood.

At this time, I would like to insert in the RECORD the following article from the New York Times, which describes the testimony before the Subcommittee on Commerce, Consumer and Monetary Affairs:

[From the New York Times, June 9, 1976]

BANKS SELDOM BALK AT BOYCOTT BY ARABS

(By Robert D. Hershey, Jr.)

WASHINGTON, June 8.—American banks have recently complied with thousands of Arab requests to participate in transactions involving the economic boycott of Israel, a Commerce Department official told Congress today.

Rauer Meyer, director of the department's Office of Export Administration, said the transactions were carried out at the rate of more than 1,000 a month during the four-month period ended in March. He said that in only 72 cases in each of the four months, on an average, did the banks refuse to facilitate payments between parties who had agreed to at least one restrictive provision.

The data, derived from a survey of 119 banks, were presented to a House Government Operations subcommittee looking into the Government's response to boycott.

The subcommittee is headed by Benjamin S. Rosenthal of Queens, who with his fellow Democrats argued that the findings represented a "horrible" pattern of behavior that made it necessary for Congress to pass legislation prohibiting American participation in boycotts.

The bankers' actions are legal. At present the only federal requirement is that companies, including banks, report to the Commerce Department all instances in which contracts presented to them contain restrictive provisions.

MOST COMMON RESTRICTIONS

A Presidential directive last November said that American companies must not engage in activities that would result in discrimination against United States citizens.

The most common restrictions insisted upon by the Arabs require that goods of Israeli origin or from blacklisted suppliers not be shipped to Arab countries, that Israeli vessels or aircraft not be employed in such transactions and that merchandise or packaging not bear the Star of David.

Representatives of two major New York banks—Chemical Bank and the Morgan Guaranty Trust Company—told the subcommittee they did not approve of boycotts but that laws forbidding even peripheral participation by American companies would severely impede trade with the Mideast.

The role of the banks is generally one of supplying or guaranteeing letters of credit, commercial documents that insure that the exporter is paid for goods he ships.

PRESSED FOR REMOVAL

Boris S. Berkovitch, senior vice president for Morgan Guaranty, said his bank had participated in 824 letters of credit involving $41.2 million during the period from December to March. He also declared there were 24 other cases in which the bank found certain terms of the contract "unacceptable" and pressed for their removal. In all but one of these—one involving discrimination against Americans—it was successful, Mr. Berkovitch said.

In outlining the results of the Commerce Department survey, Mr. Meyer said that the 119 banks had received 10,443 restrictive requests covering 5,190 transactions all of them directed against Israel.

About 80 percent of the requests, he added, came from Saudi Arabia, the United Arab Emirates, Kuwait and Iraq, with the rest from other Mideast states.

Banks complied with the requests to participate in the financing in 4,071 cases, while declining in 288. The rest were either decided by other parties or were cases in which the banks did not indicate their disposition.

Mr. Meyer resisted attempts by Democratic Representatives Robert E. Drinan of Massachusetts and Edward Mezvinsky of Iowa to get him to admit that his department had been lax in dealing with those companies that the Congressmen said violated public policy or that legislation was needed to bar American participation in boycotts.

Mr. Meyer said that "about five or six" companies had been fined $1,000 each for failing under the new requirements to report boycott requests.

MISSED VOTES

HON. PIERRE S. (PETE) du PONT

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 10, 1976

Mr. DU PONT. Mr. Speaker, yesterday afternoon and this morning I was absent from Washington for my daughter's graduation and missed several recorded votes in the House. Had I been present, I would have voted in the following manner:

Rollcall No. 347, "aye".
Rollcall No. 348, "aye".
Rollcall No. 349, "aye".
Rollcall No. 351, "aye".
Rollcall No. 352, "aye".
Rollcall No. 353, "no".

CHURCH REVEALS GOVERNMENT INTERFERENCE

HON. WALTER E. FAUNTROY

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 10, 1976

Mr. FAUNTROY. Mr. Speaker, as we review the actions of many of our Government agencies, we are learning that their interference with the rights of Americans was very widespread. Indeed, this interference even extended to the actions and decisions of certain religious institutions in the United States. For example, a 1967 Labor Department memorandum which was written with hearsay, was used for 7 years by the Immigration and Naturalization Service as a basis for denying admission to the United States for foreign ministers of the Church of Scientology. The memo, which was obtained by the church through a freedom of information suit after being circulated through at least three Federal agencies, contains among other allegations, that the church employed drugs as part of its religious practice, This charge comes despite the fact that the Church of Scientology avers in its literature that it strictly prohibits the use of drugs for anything besides medical purposes.

Another charge made in the memo was that—

> Members of several families in different parts of the U.S. have been shot, but not killed, by unknown persons because they have objected to their teenage children becoming members.

The memo implied that the shootings originated with the church, but contained no substantiation or reason for these charges.

It is hard to believe that the Government would use a secondary source, but the memo quoted from a 1964 edition of the now defunct Saturday Evening Post, which claimed the Church of Scientology is a self-interest group, organized to benefit a single individual. Contrary to this "self-interest" label, the Church of Scientology claims its purpose is to further study and understand man's spiritual nature. For example, this religious movement has been asknowledged for its nationwide sponsorship of social reform programs by such organizations as the Citizen's Commission on Human Rights, the Task Force on Mental Retardation, the Committee to Reinvolve Ex-Offenders, and the National Alliance on Alcoholism Prevention and Treatment.

The following is a copy of this 1967 Labor Department memorandum, so you have a chance to read these charges in full. Also attached is a copy of the 1975 Labor Department letter which agrees to submit a favorable immigration recommendation for the Church of Scientology. Please note that the 1975 Labor Department letter admits that their 1967 memorandum "contained unverified and questionable data." In addition, I have attached a newspaper article which summarizes this situation.

U.S. GOVERNMENT MEMORANDUM

From: Foley.

Subject: The investigation concerning the Church of Scientology was made in order to form an opinion as to whether the body can be considered a bona fide religious organization for the purpose of alien employment certification.

Contacted the National Council of Churches, New York City, 212–870–2561. Mr. Jacquett, Director of Research stated that this organization will never give an opinion or statement as to whether an organized group is a bona-fide church organization. They feel that they have no criteria by which to judge and will therefore issue no opinion. Mr. Jacquett, however, did advise that we accept as a basis for decisions, any opinion which may have been reached by the U.S. Dept. of Internal Revenue as regards "tax-exempt" status inasmuch as this is used only for non-profit organizations.

Contacted the U.S. Dept. of Internal Revenue. Atty Supervisor of Lawyers at Internal Revenue, and Atty (in charge of litigation in the case of the US vs the Church of Scientology) gave me a very comprehensive review of investigations made by the US Internal Revenue Dept as to the organization and operation of the Church of Scientology in the United States. In the course of the conversation the following was reported:

One, Mr. Hubbard, organizer and founder of the Church of Scientology moved to England a few years ago after deserting his wife and children in Washington, D.C. Mr. Hubbard has always been the chief recipient of all contributions and profits from this organization which was established around 1955 and has used several different names since it has been in existence. The cult was spread to many parts of the world and Mr. Hubbard is now a very wealthy man and lives in a castle in England.

The group is made up primarily of teenagers and young adults. There is evidence that LSD and perhaps other drugs are widely used by the members while assembled. There is evidence that an initiation ceremony is held for all new members at which time an electric shock is administered to them. There is evidence that members of several families in different parts of the U.S. have been shot, but not killed by unknown persons because they have objected to their teen-age children becoming members. It is not unusual to find that many of the young members come from homes where the parents are well-to-do persons.

The "Saturday Evening Post," in the March 21, 1964 edition on Page 31 carried an article entitled "Have You Ever Been A Boohoo?" In the article the "Church of Scientology" is described as a self-interest group, organized for the sole purpose of making Mr. Hubbard the founder rich.

Tentative revocation of the tax-exempt statute was extended to the Church of Scientology of Michigan, located at 10138 W. McNicholos, Detroit, Michigan on April 3, 1967 and the same action was taken against the Church of Scientology of California, located in Los Angeles. Any new churches organized by the group will also receive tentative revocation. Permanent revocation is dependent upon the outcome of litigation presently being conducted in the courts of the District of Columbia by the national church of Scientology which is located in Washington and the U.S. Dept. of Internal Revenue.

Attorneys both urgently request that the Department of Labor withhold alien employment certification on any basis for the Church of Scientology.

U.S. DEPARTMENT OF LABOR,
Washington, D.C., November 28, 1975.

Rev. VAUGHN YOUNG,
National Offices, Church of Scientology,
Los Angeles, Calif.

DEAR MR. YOUNG: The purpose of this letter is to advise you that we have recently submitted our recommendation to the Employment and Training Administration (formerly the Manpower Administration) concerning your request for recognition under Schedule A and for an acknowledgment that the "Foley memorandum" contained unverified and questionable data. The Employment and Training Administration has accepted our recommendations.

In our recommendation we advised the Employment and Training Administration that a review of the relevant data had led us to conclude that the Church of Scientology had established itself as a bona fide religious organization and that it should, therefore, be recognized as such for the purposes of Schedule A.

In a like manner we advised the Employment and Training Administration that the information contained in the "Foley memorandum" was irrelevant, unverified and based on hearsay and that, in light of the abovementioned determination, the memorandum should be destroyed. Under the disposal procedures dictated by Government regulations, the "Foley memorandum" will be retired to the Archives where it will be destroyed in due course. To insure that the questionable data contained in that memorandum is properly rebutted, however, a copy of our recommendation will be attached prior to such retirement and copies will be distributed to the pertinent government agencies and to Employment and Training Administration field offices.

We feel that our action, as outlined above, meets your desires in this regard.

Sincerely,

——— ———,
Associate Solicitor for Manpower.

[From the Washington Star, May 31, 1975]

UNSUBSTANTIATED CLAIMS BARRED ALIEN MINISTERS

(By David E. Anderson)

Alien ministers of the Church of Scientology were denied admission into the United States for seven years, apparently on the basis of a government memorandum which said church members used drugs and had been involved in shooting incidents.

"I'd say it was laughable if it wasn't for the fact that they acted on this pathetic lie for seven years," the Rev. Vaughn Young, a church spokesman, said.

The memo, written in November 1967 by Shirley Foley of the Labor Department's immigration section, was circulated through at least three federal agencies, including the Immigration and Naturalization Service, and was obtained by the church through a Freedom of Information suit.

The memo said it was based on an investigation "to form an opinion as to whether the (church) can be considered a bona fide religious organization for the purpose of alien employment certification."

"There is evidence," the memo said, "That LSD and perhaps other drugs are widely used by the members while assembled." It said the group is largely comprised of teenagers and young adults.

The memo also said there was evidence "members of several families in different parts of the U.S. have been shot, but not killed, by unknown persons because they have objected to their teenage children becoming members."

No substantiation was made of the charges which, according to the memo, were based on information from Internal Revenue Service lawyers.

According to Young, the memo and IRS charges were the basis for denying certification to alien ministers. The church is involved in a long-standing feud with the IRS over tax-exempt status.

A February 12, 1968, memo from Charles E. Odell, U.S. Employment Service director in the Labor Department, to John T. McGill in the State Department's visa office indicates the Labor Department felt the church "does not fall within the normal purview of religious organizations . . ." It adds: "Our position is based largely upon an investigation of this organization by the IRS. . . ."

The State Department reversed itself in December 1974 and told Young it had concluded Scientology "is a religious denomination having a bona fide organization in the United States."

FRANKLIN TOWNSHIP JOHNNY HORIZON PROGRAM

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 10, 1976

Mr. FLORIO. Mr. Speaker, I had the pleasure of being a part of Franklin Township's Johnny Horizon 1976 kickoff ceremony on May 8. With so many projects being executed in the spirit of the Bicentennial this year, the energetic people of Franklin began preparing for the Nation's 200th birthday 3 years ago. Throughout these 3 years the program has involved the efforts of the Little League, Girl and Boy Scouts, Cub Scouts, Brownies, the 4-H clubs, senior citizens, students at Delsea Regional High School, plus many other groups and individuals.

In the past, the cleanup committee has not only cleaned the roadsides and lakefronts, but they have also visited the elementary schools to explain the importance of environmental awareness.

This past May, Johnny Horizon cleanup month saw Mrs. Lorraine Kiefer and Mrs. Helen Stockton, cochairwomen of the program, visiting elementary schools and presenting each child with a pine seedling to plant at their home. Another one of Franklin's large projects was to plant liberty trees and red, white, and blue gardens.

Clayton Anderson of the Department of the Interior commended Franklin Township for "leading the way in this Johnny Horizon campaign." Said Mr. Anderson:

> There are a great many enthusiastic people in that township and it is one of the best examples of total community effort in promoting environmental awareness.

I would also like to commend Franklin Township on their energetic efforts of the past 3 years in seeking to maintain a high level of environmental awareness in their community. It is my fervent wish that others will become active in projects to make their communities more attractive, following the fine example provided by the residents of Franklin Township.

BOYCOTTS OF AMERICAN BUSINESS

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 10, 1976

Mr. ROSENTHAL. Mr. Speaker, I had the honor to testify today before the House International Relations Committee, of which I am a member, on Arab and other foreign boycotts of American business. This follows 2 days of hearings on this subject by the Government Operations Subcommittee on Commerce, Consumer and Monetary Affairs, which I chair.

The focus of the inquiry by my subcommittee was the pressures exerted on the American financial community and through it, American industry, to comply with Arab boycott demands. Among the witnesses were Chairman Roderick Hills of the SEC; the general counsel of the Federal Reserve Board; the head of the Commerce Department's Office of Export Administration, and officials of Chemical Bank and Morgan Guaranty. The thrust of the testimony was twofold. First, virtually all of this country's banks have been forced to extract their customers' compliance with the boycott as the price of their receiving payments under Arab letters of credit. Second, Federal agencies consider themselves virtually powerless to protect U.S. banks and industry from these pressures.

Those hearings put the lie to one of the prime contentions of boycott apologists that the boycott is directed solely against Israel. As the top bank and Federal officials made clear, the Arab boycott is largely a boycott of American business. In its secondary aspect, the boycott seeks to prevent American industry from doing business with one of this Nation's principal trading partners—Israel—and precludes blacklisted American firms from doing business in the growing markets of the 20 states of the Arab League. In the boycott's so-called tertiary aspect, American companies are pressured into discriminating against other American companies, that is, those on the boycott list.

BOYCOTT BACKGROUND AND THEORY

It is important to understand how the boycott of American business operates. Virtually from the founding of Israel in 1948, Arab States ceased to do business with that state. While an unfortunate consequence of the hostilities in the Middle East, this severance of economic relations has precedents in international relations and resembles U.S. policy with respect to countries such as Cuba, Vietnam, and North Korea. But the Arab States carried this practice further and elected to include innocent third parties, including American businesses, not otherwise involved in the Middle East dispute. This escalation led to the development of a list of mostly American companies and individuals allegedly connected in some way with Israel or with Jews with which no Arab State or company could do business. This is the Arab blacklist which, in the 1970 Saudi Arabian version made public by the Senate Subcommittee on Multinational Corporations, contains the names of 1,500 U.S. companies and financial institutions.

The theory of the boycott is simple. No company on the blacklist should expect to do business with any Arab State or business. Conversely, any company doing business with an Arab State or business cannot do business with Israel. In practice, as a condition of doing business with Arab interests—

Exporters are asked to certify that they do not sell to Israel;

Shipping lines must confirm that vessels stopping at Arab ports have not stopped in Israel;

Manufacturers must stipulate that they have no Israeli operations and their products contain no Israel-made components; and

Banks honor certain letters of credit only for customers who certify they have no dealings with Israel.

This economic pressure by Arabs directly against U.S. firms has been called the secondary boycott.

But the reach of the boycott can be far wider, to encompass not only doing business with Israel, but also doing business with any company which does business with Israel. United States firms are thus put in the position of discriminating against other U.S. firms pursuant to the dictates of foreign governments. In any form it is equally repugnant in restricting the freedom of American concerns to do business with whom they wish.

BOYCOTT IMPACT

The Arab boycott has an enormous impact upon American business. The House Commerce Investigations Subcommittee reported last month that American firms are complying with over 90 percent of the boycott requests as the cost of doing business with Arab States. The subcommittee, headed by Representative Moss, also found that during 1974 and 1975, 637 U.S. exporters sold at least $352.9 million and as much as $781.5 million in goods and services under boycott conditions. The actual figure is unknown since many firms reporting to the Commerce Department on boycott pressures refused to admit whether they had given in. The Commerce Department has required information as to compliance only since late 1975.

In the hearings before my subcommittee, banks gave graphic evidence of the pervasiveness of boycott requests. The resident counsel of Morgan Guaranty testified that in the 4 months from December 1975 to April 1976, his bank had received 824 letters of credit in a total amount of $41,237,815 containing boycott clauses. These letters of credit were issued not only by Arab banks but also by banks in other Asian and African countries which have joined the boycott against American businesses. In each of these instances, Morgan Guaranty exacted compliance with the boycott as a condition of payment to the American exporter under the letter of credit.

Appearing on the boycott list can have a significant impact upon a U.S. company's business. RCA Corporation offers a typical example. Prior to being included on the blacklist, RCA did about $10 million worth of business annually with the Arab world. The company had every reason to believe, it has said, that its sales would have increased substantially over this figure. Today, as a consequence of being boycotted, RCA operations in Arab countries have shrunk to under $1 million, a direct loss of over $9 million.

The boycott not only is hurting American businesses which must choose between doing business with Arabs or Israelis, it is also having a dire impact upon Israel. This impact has been greatest in certain high technology areas where the compliance of a few American firms with the boycott precludes access to vital new developments. In the area of energy exploration, for example, Israel has been unable to draw upon the services of the American petroleum giants for assistance in finding new sources of oil. This has forced Israel into a partnership with a non-American company and has prompted strict secrecy as to the identity of this company for fear of reprisal. Communications technology is another area where Israel has had to look elsewhere at greater expense for the assistance which American companies could better provide.

This impact on both U.S. companies and Israel threatens to increase substantially unless strong action is taken to curb the domestic boycott. A Saudi Arabian minister was recently in the United States exploring American investment in a Saudi development plan. In an interview, he made it clear that investors would have to make boycott declarations and certifications, thereby excluding the 1,500 American companies on the blacklist and undoubtedly widening the number of companies which will feel constrained to avoid business with Israel. The Commerce Department estimates that Arab-American trade, which amounted to $5.5 billion in 1975, is likely to double by 1980. Action is urgently required before large segments of American industry are divided into two groups, each one excluded from the other's Mideast market.

BOYCOTT AS EXTORTION

It is important to point out that the Arab boycott is not an ironclad and impermeable structure. Indeed, the many leaks in the boycott create an evil of their own in that they have created a new cottage industry based on evading the boycott or getting off the boycott list.

There is no single boycott list. Although there is a coordinating body based in Damascus which has power to recommend addition or deletion from the blacklist, each of 20 Arab countries and the Arab League itself has its own blacklist with its own wrinkles. The situation is further complicated by the length and complexity of the boycott regulations which contain 100 pages of detailed rules. Finally, confusion is guaranteed by the secrecy surrounding the list and the regulations. The boycott office has refused to make available copies of either. The only published versions, dated 1970 and 1972 respectively, were first made public in February 1976 by the Senate Subcommittee on Multinational Corporations.

The nature of the boycott as a capricious and extortionist device is clear from the reactions of some American companies to the discovery that they were on the 1970 Saudi Arabia list. A spokesman for the Hertz system, which has licensed auto rental outlets in both Israel and Egypt, declared:

> We are puzzled to find ourselves listed. From time to time we get applications from parties in Arab lands for licenses.

The chairman of Lord & Taylor department store chain said that he first learned of the blacklist in 1971 when a shipment of goods was impounded in Saudi Arabia. He said:

> So we know we are on the list. But we don't know why, never having been told.

A Burlington Industries spokesman noted:

> I did not know we were on any blacklist and don't know why we should be. We are shocked to hear it. We do business with both Israel and the Arab world—far more business in the Arab world, in fact.

The Republic Steel Corp. observed that it had been put on the list "although we have neither any investments or interest in the Mideast." American Electric Power Co. spokesmen were similarly bewildered as to their company's appearance on the list.

Those companies which could ascribe reasons to their being blacklisted disclosed a catalog of capricious and arbitrary actions by Arab boycott administrators. Xerox Corp. attributed blacklisting to a documentary on Israel sponsored in 1966. Coca-Cola was on because it granted a franchise to an Israeli bottling company in the mid-1960's. Sears, Roebuck & Co. said its inclusion was due to the mistaken impression that a British company, Sears Holding, Ltd., was in some way an affiliate. It is not. General Tire and Rubber appeared because a subsidiary, since sold, once had a service arrangement with an Israeli company.

Fortune magazine has noted that dozens of firms listed cannot be found and some no longer exist. A spokesman for Laurance Rockefeller speculated that Laurance Rockefeller Associates—which never existed—is mentioned because Rockefeller and a few colleagues once had a minor interest in Elron Electronics Industries, an Israel company, which they sold in 1967.

The experience of American companies in trying to get their names off or keeping their names off the blacklist throws a different cast upon the nature of the boycott. Instead of being a weapon in the war against Israel, the boycott appears more as a means of extorting bribes and additional business from U.S. concerns. Earlier this year, the SEC accused General Tire and Rubber Co. of failing to disclose that it had paid $150,000 to a Saudi Arabian to get its name off the boycott list. The alleged recipient was none other than Adnan Khashoggi, the same individual who has been implicated in other Mideast "commissions." General Tire subsequently agreed to a court injunction barring future violations.

Bulova had a similar experience. Despite having no dealings in the Middle East apart from its watches being on sale at duty free shops. Bulova was placed on the blacklist. Later a Syrian lawyer approached the company and offered for a retainer to get its name removed. Unfortunately, the lawyer was executed in a Damascus public hanging before he could fulfill his promise.

Undoubtedly other American companies have been forced to resort to similar payoffs to get themselves off the blacklist. But the usual method of "negotiation" to expunge a name or keep it off is somewhat subtler. What appears to be required is a willingness to make an appropriate contribution to the economies of the Arab world. Sometimes the contribution reportedly can be a strict quid pro quo. Secretary Simon testified to this extortionist arrangement yesterday before this committee.

Hence, Xerox is "negotiating" to have its name stricken. The documentary film about Israel which prompted the blacklisting cost the company $230,000 to produce. Xerox has been told that an investment of a like amount in an Arab State would suffice for delisting. Ford Motor Co. is talking with the Egyptians about a similar arrangement—assembling in Egypt automobiles to offset the 5,000 Ford cars annually produced by an Israeli concern. The New York Times reported that Sony was approached with a like arrangement—an electronics enterprise in an Arab country to "compensate" for one in Israel.

Sometimes exceptions are made without explicit agreement due to the bargaining position of the American concern. Hence, defense contractors such as McDonnell Douglas, United Aircraft, General Electric, Hughes Aircraft, and Texaco do business in both Israel and the Arab States without any apparent boycott interference. This is also true of Hilton and IBM. But how many smaller American exporters or manufacturers can afford to enter into similar agreements with the Arabs? And why should they be forced to submit to such extortion which is a violation of express U.S. policy?

According to recent indications, this bribery may become even more widespread. An article by the Arab Press Service cites pressures on the Central Boycott Office being exerted by individual Arab States to allow multinational companies to buy their way off the blacklist by making investments twice the size of their investments in Israel. This would institutionalize the current informal extortion and bribery which characterizes the listing and delisting process.

TERTIARY BOYCOTT

Thus far I have dealt with the direct impact of the boycott on American firms—the so-called secondary boycott. I would like to address an aspect of the boycott which has occasionally been called the tertiary boycott—the discrimination of certain American firms against other American and European firms under pressure from Arab States. This form of compliance wtih the boycott is illustrated by the following examples:

According to the testimony of SEC Chairman Hills before my subcommittee, a "$30 to $40 million American company" interested in receiving Arab investments felt compelled to end its sizable account with an American investment banking firm, because of the latter firm's close relations with Israel.

A U.S. bus manufacturer had its contract to sell buses to an Arab state terminated when it was learned that the seats were to be made by an American company on the blacklist.

Two American investment banking firms were disciplined by the National Association of Security Dealers—NASD—for violating that organization's rules of fair practice in substituting nonblacklisted affiliates for blacklisted firms in underwritings with Arab participation.

Bechtel Corp. was sued by the Justice Department for violating the Sherman—antitrust—Act in refusing to deal with blacklisted American subcontractors and requiring American subcontractors to refuse to deal with blacklisted persons or entities.

As the last example makes clear, there are many who feel that this so-called tertiary boycott; this is, American firms discriminating against American firms, violates the antitrust laws which outlaw conspiracies in restraint of trade. President Ford apparently shares that opinion. In a thoughtful and innovative statement made on November 20, 1975, he clarified his administration's position on the boycott and modified agency practice to outlaw compliance with the religious and racial, but not economic, aspects of the boycott. As part of his address, he remarked:

> The Department of Justice advises me that the refusal of an American firm to deal with another American firm in order to comply with a restrictive trade practice by a foreign country raises serious questions under the U.S. antitrust laws.

Other commentators suggest that the antitrust laws extend even to the secondary boycott where an American firm refuses to deal with Israel in compliance with boycott pressures.

I welcome and commend the actions of the President and the Justice Department in this regard. I share their conclusions about the applicability of the antitrust laws at least to the tertiary boycott. But we all know that actions through the courts to enforce the antitrust laws can be extremely lengthy, time-consuming and unpredictable. Bechtel has raised numerous defenses to the lawsuit including the undisputed fact that the U.S. Government at times has encouraged trade with Arab League countries knowing that boycott compliance was a commercial requirement and that an alleged exemption from the antitrust laws for foreign acts of state may be applicable. According to the San Francisco Examiner, Bechtel itself is apparently continuing to bow to blacklist pressures and has circulated letters to its subcontractors stating that Israeli goods or materials shipped on blacklisted vessels could not be used in a $20 billion seaport construction project in Saudi Arabia. Enforcement of the antitrust laws, while laudable, is therefore not the most expeditious or effective means of ending this boycott of American businesses.

UN-AMERICAN PRESSURES

I have so far addressed myself to the economic aspects of the boycott. There is another side. Few people seriously maintain that the boycott is not also anti-Jewish. Senate investigators and others have uncovered numerous instances where American individuals or companies were apparently denied business with Arab states solely because they or their officers, employees, or shareholders were Jewish. Two colonels in the Army Corps of Engineers admitted to a Senate subcommittee that the Corps had given in to Arab pressure to exclude Jewish personnel from projects in Saudi Arabia. They admitted that private U.S. companies were subject to the same anti-Jewish requirement. I will not, however, dwell on this important aspect of the boycott because I feel it has been well-documented and is the subject of the Executive memorandum dated November 20, 1976. I wish only to say that the illegality of such discrimination based on religion, national origin, sex, or race should be clarified and expanded to all American companies through appropriate language in the Export Administration Act.

DENUNCIATIONS OF THE ECONOMIC BOYCOTT

Many American businesses have joined in the denunciation of the Arab boycott which has put them in the unconscionable position of having to refuse to do business with an ally and major trading partner of the United States—Israel—in return for business from the Arab world. They urge the passage of legislation which, once and for all, will enable, indeed require, them to turn down such requests. Among the American firms reported taking this position are General Mills, Bausch and Lomb, Pillsbury, First National Bank of Chicago, Northwestern National Bank of Minneapolis, Provident National Bank of Philadelphia, and the Marine National Exchange Bank of Milwaukee. I think it is fair to say that these sentiments are shared by large segments of the American business community.

Important Federal officials have also urged strong congressional action to end the discriminatory impact on American business of boycott compliance. Principal among these has been Chairman Arthur Burns of the Federal Reserve Board who in a letter to my subcommittee dated June 3 stated:

> The time has come for Congress to determine whether it is meaningful or sufficient merely to "encourage and request" U.S. banks not to give effect to the boycott. It is unjust, I believe, to expect some banks to suffer competitive penalties for responding affirmatively to the spirit of U.S. policy, while others profit by ignoring this policy. This inequity can be cured if Congress will act decisively on the subject.

CURRENT LAW

Before I discuss the steps which I feel must minimally be taken to end this boycott of American business, let me summarize the present provisions of the Export Administration Act which pertain to the boycott and some other statutory weapons against the boycott which have unfortunately not proven wholly effective.

There are three sections of the current Export Administration Act relating to the boycott. The first, section 3(5), declares in effect that it is U.S. policy to oppose boycotts imposed by foreign countries friendly to the United States. A second provision requires companies to report to the Commerce Department all requests for boycott compliance. In December 1975, the Department announced it had fined four companies and warned 212 others for failure to report boycott requests properly. Tightened Department regulations now extend these reporting requirements to banks, insurers, freight forwarders, shipping companies, and other businesses that serve exporters, and include the obligation to report whether or not they plan to go along with boycott requests. Moreover, Department regulations outlaw compliance with boycott requests which involve discrimination against Americans based upon their race, color, religion, sex, or national origin. These prohibitions are widely known.

There is, however, a third provision of the Export Administration Act which, if enforced, would obviate having to strengthen the act to protect American concerns from the boycott. This is section 4(b)(1) of the act which gives the President the power to "effectuate the policies set forth in section 3"—including the antiboycott policies—through limiting export privileges and imposing other unspecified sanctions against related service companies which act contrary to these stated policies. In a letter to the Government Operations subcommittee, then Commerce Secretary Rogers Morton admitted that this language was the only authority he needed to outlaw all compliance with the boycott. Unfortunately, neither he nor his successor has seen fit to use this power despite the clear congressional intent that it be used.

Other laws or regulations which apply to the Arab boycott include the following:

The Sherman Act outlaws contracts, combinations or conspiracies in restraint of trade. According to the Justice Department—in the Bechtel suit—an agreement not to do business with American companies that deal with Israel would almost certainly be a violation. An American company's promise not to trade with Israel may also be a violation.

The Securities Exchange Act of 1934 requires the disclosure of information which could have a material impact upon a public company. SEC Chairman Hills in testimony before my subcommittee, suggested that compliance with the boycott might have to be disclosed where the company's business or the market value of its shares would be affected by such disclosure as where customers of a bank might be concerned that such bank was aiding the Arab cause.

In their duty to oversee the privileges and benefits of the banking community and to prevent unsafe or unsound practices, the Federal bank regulatory agencies have outlawed religious discrimination in accepting deposits, investing or lending. Chairman Burns of the Federal Reserve Board even suggested that processing letters of credit with boycott stipulations violated banks' Federal responsibilities.

Pursuant to the far-reaching Presidential statement of November 20, a number of departments and agencies have issued orders or regulations barring any boycott-related discrimination based upon religion, race, or national origin.

Legislation embodying the principles of the Presidential directive has been passed in New York and Maryland. These States, as well as Massachusetts, Illinois, and Pennsylvania, where similar legislation is under active consideration, are bearing the burden of the belated, piecemeal and insufficient Federal action against the boycott.

Let me summarize the current legal status of the boycott. The Export Administration Act declares the furtherance or support of the Arab blacklist to be against U.S. policy. Companies must report all boycott requests. They are prohibited from complying with any boycott request which furthers or supports discrimination against U.S. citizens or firms on the bases of race, color, religion, sex, or national origin. They also may be forbidden from discriminating against other U.S. firms, although the Justice Department acknowledges that a foreign boycott has never been held to violate the Sherman Act.

Thus, U.S. law already appears to outlaw the anti-Jewish features of the boycott as well as the so-called tertiary economic aspects of the boycott. But these prohibitions are embodied in the first instance in regulations based solely on U.S. "policy" and in the second instance on an antitrust statute only first being applied in a test case. These prohibitions should be given the force of explicit statutory language. Moreover, no U.S. law is addressed to the most pervasive, sinister and direct symptom of the boycott—the blacklisting of 1,500 American firms and individuals. I submit that it must be made clear that no foreign nation can involve innocent American businesses in its warfare against a nation friendly to the United States.

PROPOSED AMENDMENT

In testimony before the International Relations Committee today, I outlined an amendment I intend to offer that will strengthen the Export Administration Act's antidiscrimination provisions. A summary of my amendment's principal features follows:

First. The furnishing of any information or taking of any action which has the effect of supporting or furthering the boycott would be prohibited.

Second. Domestic firms would be prohibited from refusing to do business with other domestic firms pursuant to a foreign boycott demand.

Third. All domestic concerns would be barred from furnishing any information regarding the race, religion, sex, or national origin of those associated with any business.

Fourth. All domestic concerns receiving a boycott request would be required to submit reports concerning such requests. These reports would be available for public review.

Fifth. Also available to the public would be the record of enforcement proceedings under the Export Administration Act.

Sixth. Suspension and revocation of export privileges would clearly be made proper penalties for boycott compliance, and suspension would be available as a summary remedy without the delays consequent to notice and hearing.

Seventh. The maximum civil penalty for violation of the anti-boycott provisions of the act would be increased to $25,000.

Eighth. Any aggrieved domestic concern would have access to the Federal courts to initiate a civil action to obtain triple damages and costs along with other appropriate relief.

PROJECTED IMPACT OF SUCH AMENDMENT

Concern has been expressed in some quarters that outlawing compliance with the boycott may adversely affect U.S. trade and diplomatic relations with the Arab world. I would be naive if I did not admit some risk in the course of action I am urging on this committee. There could be some short-term diversion of trade to other European countries or Japan as the Arabs express anger that their scheme no longer enjoys tacit, if not explicit, American support. But there are several grounds for optimism that the disruption of trade would be neither severe nor long term.

First, the long-standing and generally amicable commercial relations between this country and the Arabs have survived earlier political vicissitudes. Iraq currently offers a fine example where radical rhetoric and divergent political philosophies have not interfered with a thriving American business relationship. The Arabs have become used to the high quality goods and services which only this Nation can provide in such abundance. Any major shift in commercial dealings would, I believe, work an unacceptable hardship upon the Arab business community and its customers.

Second, numerous Arab businessmen have expressed private misgivings about the operation of the boycott. They feel it unnecessarily restricts their dealings with backlisted companies. It also alienates executives of other companies who resent being questioned about their company's business relations or who find it morally repugnant. No fewer than 22 large American firms have recently pledged not to comply with Arab boycott demands. These include American Brands, Beatrice Foods, El Paso Natural Gas, General Motors, Greyhound, Kennecott Copper, G. D. Searle, Texaco, Textron, and U.S. Gypsum. Typical of this pledge was that of the chairman of General Motors, T. A. Murphy, who said:

> General Motors has received occasional requests from Arab countries that it agree not to participate in future dealings with Israel or with Israeli companies . . . . General Motors has made no such agreements and would not make any such agreements.

Third, Arab companies have demonstrated in past dealings that an objection to a boycott request would not necessarily lead to a termination of relations. When the Commerce Department in November 1975, outlawed compliance with requests involving discrimination on ethnic or religious grounds, banks were forced to reject letters of credit containing objectionable language. Morgan Guaranty testified before my subcommittee that in 23 of the 24 instances where the bank refused to process such letters of credit the offensive boycott language was voluntarily stricken by the Arab or other foreign banks involved. There is considerable reason to believe that Arab countries would waive boycott conditions rather than deprive themselves of vital American goods and services.

In closing, I want to emphasize the importance of this matter not only for America's moral posture but also for the furtherance of orderly American business relations.

I hope the amendment I outlined today will receive prompt and favorable consideration so as to end decisively this boycott of American industry. But whatever vehicle the committee and the Congress adopts for coping with this urgent problem, I hope we can agree on one goal: Our Nation must no longer acquiesce in the shameful and extortionist pressures of the Arab blacklist which offends American principles of free trade and fair play and which has a destructive, divisive, and anticompetitive effect upon American business.

PERSONAL STATEMENT

HON. RICHARD C. WHITE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 10, 1976

Mr. WHITE. Mr. Speaker, it has been my honor and privilege to represent the people of the 16th District of Texas in the U.S. House of Representatives for the past six consecutive terms. During this tenure, I have maintained a voting and attendance record averaging in the mid-90 percent range. This year, I found it necessary to be in my district during several weeks leading up to the May 1 Texas Democratic primary elections. At the time, I made a public statement in the mass media of my district that upon my return to Washington I would submit information to the CONGRESSIONAL RECORD indicating my stand on issues before the House during my necessitated absence. This is how I would have voted on the following:

March 31, 1976—H.R. 49, yes.

April 1, 1976—H.R. 12406, yes, Wiggins amendment.

April 1, 1976—H.R. 12406, yes, Frenzel amendment.

April 1, 1976—H.R. 12406—yes, motion to limit debate.

April 1, 1976—H.R. 12406, no, Burton amendment.

April 1, 1976—H.R. 12406, no, motion to recommit.

April 1, 1976, H.R. 12406, yes.

April 1, 1976, H.J. Res. 606, no.

April 2, 1976—H.R. 12572, yes, rule.

April 2, 1976—H.R. 12572, no, Bergland amendment.

April 2, 1976—H.R. 12572, yes.

April 5, 1976—H.R. 11722, yes.

April 5, 1976—H.R. 11140, yes.

April 5, 1976—H.J. Res. 670, yes.

April 5, 1976—S.J. Res. 35, yes.

April 5, 1976—S.J. Res. 101, yes.

April 5, 1976—H.R. 5446, yes.

April 5, 1976—H.R. 11670, yes.

April 5, 1976—H.J. Res. 890, yes.

April 6, 1976—S. 3108, yes.
April 6, 1976—H.R. 3836, yes.
April 6, 1976—S. 1941, yes.
April 7, 1976—H.R. 10686, yes.
April 7, 1976—H.R. 11337, yes.
April 9, 1976—H.R. 12438, yes.
April 12, 1976—H.R. 12132, yes.
April 12, 1976—H. Res. 1032, yes.
April 12, 1976—H.R. 7988, yes.
April 13, 1976—H.R. 13172, yes.
April 13, 1976—H.R. 13172, yes.
April 13, 1976—H. Res. 1135, no.
April 13, 1976—S. 644, yes.

HON. WON PAT REPORTS ON THE EFFECTS OF TYPHOON PAMELA

HON. ANTONIO BORJA WON PAT

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 10, 1976

Mr. WON PAT. Mr. Speaker, on May 21, 1976, I informed my colleagues here in the House of Representatives that the island of Guam, which I represent, was then being severely ravaged by a super typhoon. At that time, I also noted that I was immediately returning to Guam and would be further reporting to this body upon my return. This is my report.

After 10 days on Guam, I must sadly inform the Congress that the damage inflicted by Typhoon Pamela was far worse than I had originally feared. Although present reports are only in the preliminary stage, estimates of property damage to the island's civilian and military communities are now close to the $500 million mark and may go well beyond that staggering total.

Upon my return home, I was totally shocked by the extent of damage. Everywhere I turned, the devastating effects of super-Typhoon Pamela could be seen: cars overturned, homes without windows and roofs, large buildings literally smashed, piles of ruined furniture, clothing and other debris on the ground, roads washed away, all utilities out, only the masts of boats protruding above the water line, and most depressing of all, long lines of homeless families gathering for emergency aid.

Most devastated of all was the civilian community which was the least prepared to deal with a major storm. According to figures released by the Federal Disaster Assistance Administration, at least 80 percent of the island's private housing suffered heavy damage. Current totals reflect that 3,090 homes were totally destroyed; 2,721 units suffered major damage; and 3,463 minor damage. At present, 2,000 families are homeless, including the Governor and his wife. These individuals are now living in various makeshift and temporary facilities around the island and are being cared for by a host of Government and private relief agencies including the American Red Cross.

Damage to Guam's public school system was reported to be estimated at over $5 million, excluding the cost of replacing books and other supplies, according to the Government of Guam Department of Education. Our public utilities were devastated as well, leaving most of the island without water, power, or telephone service. From my discussion with utility officials, it appears that much of the island will be without proper utility service at least for another month or longer, so heavy was the damage to power lines and related facilities.

The storm, which reached 190 miles per hour at its peak, also ravaged the island's agricultural efforts. Present estimates of crop damage are running about $3.4 million, an especially damaging factor for an island which imports the majority of its food at high cost from the U.S. mainland.

While on the island, I also toured the various military facilities there. I was particularly interested in the damage to our military bases as I serve on the House Armed Services Committee and thus have an overriding obligation to my colleagues on the committee to report any problems which could negatively impact on the ability of Guam's defense system to perform its assigned role of guarding America's western shores.

Despite years of efforts by local military commanders to construct typhoon-proof structures on their bases, the military facilities on both Guam's extensive naval and air force bases suffered tremendous and costly damage.

Countless storage facilities were destroyed as were commissary and post exchange offices. The Navy's extensive communications operations were also damaged. According to local military officials, they now believe the storm inflicted $250 million in damage to naval and air force facilities. One particular point of concern was the extent of the damage by the storm to the naval communications facilities which, for a time, forced the bases on Guam to interrupt their normal operations. I know that military officials will be taking a serious look in the months to come at their Guam operations with an eye to making future construction capable of withstanding another storm the magnitude of Typhoon Pamela.

All in all, the damage is overwhelming. It will undoubtedly be years before Guam will be able to totally replace or repair the damage caused by Typhoon Pamela. Aside from a great deal of hard work on the part of local island residents, we will also require financial assistance from the Federal Government.

As I have pointed out in previous comments before this august body, Guam has already been in the throes of a severe economic decline; this latest tragedy only serves to heighten our problems.

In the days and weeks ahead, I will further report to Congress on final damage estimates and suggest emergency relief legislation. Despite the dearth of news from the mainland press about the intensity of Typhoon Pamela, I can assure my colleagues that your fellow Americans on Guam are making every effort to recover from one of the most devastating storms that have struck our island in this century.

Before closing, I do wish to make known my sincere congratulations to the many individuals who have contributed so much to the relief work on Guam. In particular, a tremendous amount of credit is due to members of the armed services for their superhuman efforts directly following the storm, and equal thanks must go to officials of the Federal Disaster Assistance Administration and the Red Cross for their prompt and ever-efficient service to those so much in need. Finally, I offer my thanks to many of you who have offered your services in the Congress to help relieve the crisis on Guam. Your thoughts and prayers will not be forgotten.

POSTAL REORGANIZATION ACT

HON. JIM LLOYD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 10, 1976

Mr. LLOYD of California. Mr. Speaker, this past month I have received many inquiries from constituents in my district regarding the Postal Reorganization Act Amendments of 1975 (H.R. 8603). Specifically, their concern is with the future of postal subsidies and private express statutes.

First let me say that any criticism I may have of the Postal Service, is not directed at the men and women who daily serve the public with great dedication, but rather, at an administrative system that seems unable to cope with continued problems of volume, service, and cost.

On October 30, 1975, I supported a House-adopted amendment to the Postal Reorganization Act Amendments of 1975, requiring the Postal Service to come to Congress each year for its funding. The Senate is expected to vote on this bill in the near future. There is no doubt that this bill was necessary to make the Postal Service accountable to Congress and the public. To continue giving the Postal Service a "blank check" would only continue that agency's inefficiency.

It is important to note that this bill does not abolish the Postal Service, nor will it get the Congress back into the business of hiring postmasters or being involved in the day-to-day operations of that service.

This Nation's mail service has been free of direct Government control since 1971, when Congress set up the Postal Service to replace the old post office. The idea was to let the mail service operate as a business, not a Government bureaucracy; to eliminate needless costs without downgrading service, and to get congressional politics out of the rate-setting process. A new Postal Rate Commission was given the unpleasant chore of voting on rate increases, and a timetable was designed that calls for elimination of all Federal mail subsidies by 1984.

I am still supportive of that original congressional intent in this matter, however, I do not believe it is wise to give the Postal Service additional subsidy funding until measures have been taken to demonstrate to the public that it can operate in a more efficient and economical manner.

As for existing private express statutes of the U.S. Postal Service, it may be necessary for Congress to review the policy which gives the Postal Service a monopoly on first-class mail delivery. Last year, the House considered an amendment to the Postal Reorganization Act Amendments that would have allowed private enterprise to compete with the Postal Service. Although this amendment was rejected by the House, it did serve notice on the Postal Service that the public is demanding better service, and that corrective action must be taken to insure that a person paying first-class mail rates doesn't receive second, third, or fourth-class mail service.

It is my hope that the House and Senate can agree on legislation that will once again give the American public an efficient postal delivery system, and at a cost that all can afford.

FEDERAL CROP INSURANCE EXPANSION

HON. RICHARD NOLAN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 10, 1976

Mr. NOLAN. Mr. Speaker, I am today introducing legislation to expand the Federal crop insurance program. The bill would lift the administrative cost ceiling and expand coverage to all agricultural commodities in all counties in the United States.

Only 60 of Minnesota's 87 counties are fully eligible for Federal crop insurance on specified crops. Less than half of the counties in the United States are now able to participate in the program. Most often, these counties which need the coverage most are the ones excluded from the program.

Because of the $12 million limitation on the funds which may be spent to cover administrative costs, the Federal Crop Insurance Corporation has found it increasingly difficult to expand its coverage. The costs of the program, above the $12 million limit, are presently being funded out of premiums paid by farmers. As a result, the reserves held for heavy loss years are slowly being depleted. The measure which I am introducing would lift this cost ceiling and permit the Corporation to expand its coverage on an economically sound basis to all crops and all counties.

With the severe drought conditions Minnesota is currently facing, it is clear that the crop insurance program as it is presently structured causes substantial inequities between farmers in the same location. For example, wheat is covered in Redwood County, Minn., but not in neighboring Lyon County. Corn is covered in Big Stone County but rye is not. Sound judgment dictates that producers should be provided with equal opportunity to protect themselves against the uncertainties of nature.

Mr. Speaker, I strongly urge the Member of the House to take positive action on this important measure.

THIRTEEN OUTSTANDING CLEVELANDERS HONORED

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 10, 1976

Mr. STOKES. Mr. Speaker, at this time, I would like to bring to the attention of my colleagues in the House, the names of 13 outstanding residents of the greater Cleveland area who have had a profound impact on the life of our city.

On May 25, 1976, these men and women were awarded "Applause Awards" at a banquet in their honor which was sponsored by four local organizations.

The following article, which appeared in the Wednesday, May 26, 1976 Cleveland Press gives details of this important occasion:

THIRTEEN HONORED BY THE APPLAUSE AWARD

Ten men and three women who help make Cleveland a great place to be are the recipients of the first annual Applause Awards.

The 13 winners were announced last night at a gala banquet in the Cleveland Plaza Hotel. Close to 900 attended, including 144 individuals who were nominated for an award.

The Applause Awards program, sponsored by Halle's Cleveland Jaycees, Junior League and Up with Downtown Inc., was designed to honor Greater Clevelanders who are committed to the community and who generously gave of their time and talent to the city.

The winners were selected by a special jury which reviewed all 144 nominations.

The winners are:

Gilbert Brooks, director of Circle Center for Community Programs of University Circle Inc., who develops programs involving University Circle institutions with secondary schools and golden age centers.

Anna V. Brown, executive director of the Mayor's Commission on Aging.

Andres Castro, equal employment opportunities specialist for the Federal Government's Defense Supply Agency who has been active in the Spanish-speaking community.

William Fissinger, vice president for development at John Carro University, who is a volunteer in many activities promoting mental health.

Dr. Richard Fratianne, who developed the burn center at Cleveland Metropolitan General Hospital.

Dr. Lester Glick, president and founder of the Cleveland Area Arts Council and members of 14 community organizations.

Fred Griffith, host of Morning Exchange and public affairs director of WEWS-TV.

Steven Rose, founder of the Vocational Information Program which has helped more than 150 people find skilled jobs.

Ray Shepardson, founder of the Playhouse Square Assn.

Wesley Toles, assistant vice president for administrative services at Case Western Reserve University, who has earned a reputation for his work in promoting equal opportunity in education, employment and housing.

James Young, founder of the Cleveland chapter of the National Junior Tennis League.

Betsy Schrader and Sarah Robechek, founders of the language bank which provides 24-hour-a-day interpreters for any language.

The winners received a certificate and a specially designed white bronze sculpture of a pair of applauding hands.

Masters of ceremony for the awards portion of the banquet were television newsmen Mike Landess, Dave Patterson and Jim Hale.

General host was Robert Rasmussen, senior vice president and general manager of Halle's who commented, "There's one thing to living in Cleveland and another to living Cleveland. The difference lies somewhere in the words 'involvement' and 'optimism.'

"The nominees represent the positive and constructive force that is making Cleveland a better place to live. These people are living Cleveland and making it a growing, active city," he said.

PROGRAM TO HELP VETERANS

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 10, 1976

Mr. EDWARDS of California. Mr. Speaker, I have today introduced legislation to provide a program of comprehensive mental health, psychosocial readjustment and counseling services to veterans and their dependents who are in need of such services as a result of military service performed since August 10, 1964, the date of the Gulf of Tonkin resolution.

I have for some time been greatly concerned by the tremendous difficulties faced by veterans of the Vietnam era in trying to make the transition from military to civilian life. It is clear that these veterans have encountered obstacles to successful readjustment far greater than veterans of any previous era. They have returned to a society which seems largely indifferent to them and to their readjustment needs and which is often outright hostile to them for their participation in a war which was opposed by the great majority of their fellow citizens. The depressed economic situation to which they have returned has resulted in an unemployment rate for Vietnam era veterans substantially higher than that of the population at large. A high incidence of alcohol and drug abuse, a high arrest rate, and an above average rate of divorce are yet other symptoms of the Vietnam veterans' personal readjustment problems. The dependents of these veterans also may often experience adjustment problems or may be in need of assistance as a result of the effect of the veterans difficulties on them.

I believe that we have an obligation to these veterans and their dependents to provide every possible assistance to enable them to make a successful reentry into civilian life. The legislation which I am introducing would provide the Veterans' Administration with the statutory authority to provide those programs essential to assist the veteran and dependents with personal readjustment problems. I would like to take this opportunity to briefly explain the major provisions of this legislative proposal.

This legislation would require the Administrator of the Veterans' Administration to provide a program of psychiatric, psychological and counseling services as may be necessary or appropriate for the successful treatment, readjustment and rehabilitation of the veteran or dependent. Such services would include, but not be limited to, preventive mental health care, psychological, psychiatric social work, marital and family counseling services, vocational and educational advisement, drug rehabilitation programs.

The Veterans' Administration would be required to arrange for or assist the veteran and his dependents in obtaining psychosocial readjustment services outside of the Veterans' Administration when such services are inadequate or unavailable at a VA facility, when travel to the VA facility is of such distance as to create an undue hardship for the veterans or dependent, when the hours at which services are available at a VA facility are not compatible with the time available to the veterans or dependent for treatment or when it is determined that the veteran or dependent would benefit more from receiving these services outside of the VA's facilities. Many veterans of the Vietnam era are distrustful of or feel alienated from the Veterans' Administration.

It is vitally important that veterans and dependents psychological readjustment be directed toward interaction with and readjustment to the community, the family and society; an adjustment sometimes hampered when services and programs are restricted to VA facilities and where veterans are only afforded the opportunity to interact with other veterans.

This measure would require that the VA and the Federal Government make concerted efforts to coordinate all programs, services, and research that could assist in the prevention of or treatment of readjustment problems experienced by veterans and their dependents. It would further require the Administrator to initiate and carry out a program to counsel and assist veterans and their dependents to understand and take advantage of the readjustment programs and assistance available through the Federal Government, and through public and private agencies, organization and efforts.

A further provision of the legislation will authorize the Administrator of the VA to conduct or contract for comprehensive studies of the psychological and sociological effects of the Vietnam war, military service, and the readjustment process upon veterans and dependents. Such studies are vitally important to the development of programs which are truly effective in dealing with the personal readjustment problems of veterans and dependents.

The measure also provides that participation in the services provided by the legislation is to be wholly voluntary and that such participation shall not be a prerequisite for receipt of any other services provided under title 38.

Thus far, we have not been responsive enough to the readjustment needs of our veterans. I believe that the enactment of this legislation will do much to rectify this situation and that the services provided will enable veterans with readjustment problems to successfully reenter civilian life and to become productive members of society. I strongly hope that the Committee on Veterans' Affairs will be able to begin consideration of this legislation in the near future.

THE 35TH ANNIVERSARY OF THE DEPORTATION OF BALTIC PEOPLES TO SIBERIA

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 10, 1976

Mr. EILBERG. Mr. Speaker, this year, about 1 million Americans of Baltic descent are commemorating the 35th anniversary of the mass deportations of Lithuanians, Latvians, and Estonians to Siberia which took place on June 14–15, 1941. During these first arrests, 100,000 persons were deported to various places in Asian Siberia. This was done to subdue the Baltic States, which had been illegally occupied by the Soviet Union against the will of the people.

The Soviet Government began planning for mass extermination of the Baltic people soon after the conclusion of the Hitler-Stalin pact of 1939. The clear evidence of this is found in N.K.V.D. Order No. 001223 regarding the "deportation of anti-Soviet elements from Lituania, Latvia, and Estonia." According to data collected by the Lithuanian Red Cross, 34,260 persons were deported from Lithuania, 35,102 from Latvia, and 33,500 from Estonia.

Statistics on age groups and professions have also been provided from a list of 20,974 persons. There were 1,626 infants; 2,165 children from the ages of 4 to 10; 2,587 persons from the ages of 10 to 18; 3,986 from the ages of 18 to 30 years; 7,778 persons from the ages of 30 to 50; 1,681 from 50 to 70 years; 427 over 70 years of age; and the remainder of undetermined age.

The largest groups were elementary and secondary school students: 6,378. There were 3,389 farmers, 1,865 housewives, 1,591 government employees, 1,098 teachers, 879 workers, 622 servicemen, and 416 university students.

All of these people were loaded into freight cars with 50 to 60 persons in each car. The windows of the cars were boarded over, husbands separated from wives, and children separated from parents. They all were locked in the cars lacking air, food, and water.

The long journey from the Baltic States to Siberia killed many weak and sick. Some dead children were thrown out of the cars by guards and left by the railroad, disregarding the enormous grief of their mothers.

In the following years, many other deportations took place. Baltic deportees were transported to Northern Russia, Western and Eastern Siberia, and Kazakhstan. They were used for slave labor and many of them perished in the mines and forests, or they were annihilated by the cold, the starvation, and diseases because they lacked proper clothing, food, and medical attention.

Some managed to survive. A few even reached the United States, and readily testified to the inhuman conditions of life and to the cruelty of their imprisonment. Even Alexandr Solzhenitsyn in his book "Gulag Archipelago" witnessed how Baltic deportees were tortured and forced to live under inhuman conditions.

Four young Lithuanian girls, who were deported to Siberia, have secretly written a prayerbook, which through underground channels, has been smuggled to the Western World. It was published in English and entitled: "Mary Save Us."

These young girls wrote:

> The day has closed its eyes. Fatigue closes my eyes. My feelings have dried up, my strength has left me . . . with icy lips, with tear-filled eyes, tormented by despair, we fly to your straw-covered crib, o Holy Babe . . . We are drained of strength, our feelings have faded away, our hearts are benumbed thoughts we cannot control . . . Jesus help those who die in foreign lands without consolation of the Church or their dear ones, without the comfort and aid of their friends.

The Soviet Union also deported people from the Baltic states in following years. A Lithuanian woman, Barbara Armonas, was deported in May of 1948, but after many years of slavery, she managed to emigrate to the United States. She describes her deportation from Lithuania in her book: "Leave Your Tears in Moscow":

> About four o'clock in the morning of May 22nd (1948), I heard a knock on my door . . . I opened the door and froze with fear . . . There was a whole detachment of soldiers, about thirty altogether, all with heavy weapons. In the yard, a machine gun had been set up. The officer pushed me aside, went into the house, and demanded my passport . . . He took a letter from his pocket and read in a monotonous voice that the state had decided to deport me from Lithuania to other Soviet states . . . I had only a half hour to prepare myself for the deportation journey. Awakened by the noise, my son started to cry . . . I was told that I could take no suitcases, but must pack everything into a potato sack . . .
>
> When the half hour was up, my son, myself, and our belongings were put into a buggy and escorted under heavy guard to the neighboring village . . . Some twenty-five families had been collected . . . Each family sat on their sacks in a group. No one talked.
>
> Some two hundred families had been collected and put into trucks, each guarded by four Russian soldiers with guns. These trucks were nearly all American Lend-Lease equipment . . . At first, I thought all Lithuanians were being deported . . . The village of Aukstuoliai was left completely empty . . .
>
> At the railroad station, we were put into cattle cars, about forty to sixty people to a car The train stood in the station at Panevezys for two full days. We were given no food . . . Our transport consisted of sixty cars, so it can be estimated that it contained about 2,400 persons . . . The feelings of human beings herded into cattle cars are impossible to describe. No one knew where we were going or what could be expected . . . In one car, a woman with two small children whose husband was in prison, went mad, jumped from the moving train, and was

> killed . . . The biggest problem in our car was an 83 year-old paralyzed lady . . .
>
> After about fifteen days, we stopped in a station about 160 miles from Irkutsk, the largest city in Siberia . . . We were ordered to get out . . . We stood there for about four hours in a cold rain mixed with snow. The children cried all the time . . .

The deportees were placed in barracks with broken doors and windows in company with many thieves, and Mrs. Armonas writes:

> It was clear to everyone that we had been sent here to die.

On starvation rations, they were forced to cut trees in the forests 5 miles away from the barracks. The work norms were very high, and they had only primitive tools. The regime for prisoners was severe. Mrs. Armonas writes:

> I was always hungry. We were not allowed to wear shoes in our rooms. We could not sit on the beds.

Fortunately for Mrs. Armonas, Khrushchev's amnesty released her from the slave labor camps, but there are still tens of thousands of Baltic deportees in Siberia, and tens of thousands buried there in unmarked graves.

The Communists murdered or deported about 350,000 people from Lithuania, the total exceeding 10 percent of the population, and these figures are also the same for Latvia and Estonia.

LET FREEDOM RING

HON. JERRY M. PATTERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 10, 1976

Mr. PATTERSON of California. Mr. Speaker and my colleagues from every part of this great Nation, I thank you for joining me in recognition of the Huntington Beach Fourth of July Parade, which has been adopted by the Assembly and the Senate of the great State of California as the Bicentennial Parade of the State of California.

As we celebrate our country's 200th birthday, the Huntington Beach Fourth of July Parade with its Bicentennial theme "Let Freedom Ring" embodies the American spirit that in 200 years built 13 weak and dependent Colonies into one of the strongest nations in the world.

This theme will be carried out in the parade by 13 divisions, each carrying the name of one of the 13 original States.

The Huntington Beach Fourth of July Parade began in 1904 under the city's chamber of commerce, and since 1965 has been conducted by the Huntington Beach Jaycees.

The city of Huntington Beach, Calif. and the Jaycees are to be highly commended for organizing this parade in which 35 floats, over 29 marching bands, and numerous other participants as well as over 800,000 onlookers from all of southern California will pay tribute to America and to the ideal of freedom which our Nation has held as a torch to guide the rest of the world for 200 years.

RETIREMENT OF HON. CARL ALBERT

HON. GILLIS W. LONG

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 7, 1976

Mr. LONG of Louisiana. Mr. Speaker, the Speaker of the House of Representatives must wear many hats: He is a Representative who must serve his constituents; he is a party leader who must lead and counsel his party; he is a legislative leader who must serve as the focal point of a great legislative body; and he is a national leader next in line after the Vice President in the line of succession to the President. It is a rare human being who can play all of these roles with distinction, choose to retire from a position of such extraordinary power, and upon his retirement leaves behind a House of Representatives which is the more distinguished by his leadership. CARL ALBERT is such a man.

Speaker ALBERT has served as Representative from the Third District of Oklahoma since 1947 and has been honored by numerous service and educational awards from his State, including a number of honorary degrees and distinguished service awards.

CARL ALBERT served our party for many years—as majority whip from the 84th Congress through the first session of the 87th Congress, and as majority leader from January 1962 until January of 1971. On January 21, 1971, he was elected Speaker of the House of Representatives.

As Speaker, CARL ALBERT has been known for his fairness, integrity, and scrupulous maintenance of the nonpartisan aspects of the Speaker's role. He has led the House through turbulent times and has been, since August 1974, the highest ranking elected official in the United States who was truly elected. He has exercised leadership in a period when the Congress has worked toward redressing the imbalance of executive-congressional power, in the arena of international activities as well as in domestic—particularly economic—affairs. Speaker ALBERT has set the tone for the Congresses of the future, Congresses in which the House of Representatives will play the role which the framers of our Constitution intended: The arm of government closest to the people with the all-important "power of the purse."

During a time when our highest national officials were stripped of their position of moral leadership, it was both a comfort and an encouragement to us to know that the man in the job third only to the Presidency and the Vice Presidency was a person of wisdom, courage, and unquestionable integrity. It was in large part due to the fair and judicious leadership of CARL ALBERT that this Government and this Nation survived those divisive days with unimpaired courage and decency.

In all of these roles, CARL ALBERT has left his mark on America. But as the distinguished Majority Leader has said, Speaker ALBERT's contributions to this House go beyond his institutional accomplishments. He has been a friend to all and a willing adviser to every Member who sought his counsel. He has never been too busy to help another Member of this House with an individual problem. While remaining steadfast in his support of those Members who have proved their devotion and reliability over the years, the Speaker has made a special effort to examine the concerns of young and newly elected Members, giving them an opportunity to become important parts of the decisionmaking structure of the House whenever possible. I was deeply honored to be appointed to the Rules Committee by the Speaker upon my return to the House in 1972. He later designated me a member of the Joint Economic Committee as well, an assignment which I have found to be both challenging and satisfying. I am more grateful than I can say for the confidence of Speaker ALBERT and hope that he has found that his trust in me was not misplaced. I know that I am not alone in looking back over my tenure in the House of Representatives and seeing the points at which my job was made more responsible and less problematic by some act of the Speaker.

CARL ALBERT has been a Speaker of whom all the House—regardless of party—could be enormously proud. He is a rural American with a deep understanding of the problems of citizens outside the urban areas, and a man who served his country in the Pacific in World War II. Most unusual of all for a man who has reached the highest rung of the political ladder, CARL ALBERT is a distinguished scholar who was honored with a Rhodes Scholarship for the study of law at Oxford University in England, where he received a bachelor of arts and a bachelor of civil laws degree.

As a Member of this House which he has so ably led, I greet the Speaker's retirement with a sense of loss at his departure and a deep regret that he will not be among us in the years to come. As his friend, I am glad to know that CARL ALBERT is returning to Oklahoma for a well-deserved retirement after so many years of public service. I know that his accomplishments will not be forgotten by this House and the Nation, and I hope that he will not forget that the House will always be his home.

TWO HUNDRED YEARS AGO TODAY

HON. CHARLES E. WIGGINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 10, 1976

Mr. WIGGINS. Mr. Speaker, 200 years ago, on June 12, 1776, the Continental Congress created a Board of War and Ordnance, the forerunner of the War Department. John Adams, Benjamin Harrison, Edward Rutledge, Roger Sherman, and James Wilson were elected to preside over the Board. Some of the Board's responsibilities included:

> Keeping a record of all officers and men in the land forces of the United Colonies, and

of the state and disposition of troops in the respective Colonies;

Forwarding all despatches from Congress to the Colonies and armies, and all funds transmitted for the public service by order of Congress; and

Supervising the raising, fitting out, and despatching of all land forces ordered for the service of the United Colonies.

VOCATIONAL EDUCATION AND CETA

HON. ALBERT H. QUIE

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 10, 1976

Mr. QUIE. Mr. Speaker, Duane Lund is a distinguished educator and a national leader in vocational education. All of us in Minnesota are proud of the work he has done as director of the Staples Area Vocational Institute, which has served as a model of how modern vocational education can contribute to the economic development and stability of a community and of an area. We are proud also of his effective leadership in vocational education at the national level, where he is beginning his third year as a member of the National Advisory Council on Vocational Education and currently serves as acting chairman of the council.

In the June 1976, issue of School Shop he has written a thoughtful article on the extremely important subject of the interrelationship between vocational education and the training programs under the Comprehensive Employment and Training Act. This is a matter of continuing concern to the Committee on Education and Labor, and to the Congress as a whole, which we have partially addressed in H.R. 12835, which passed the House on May 11, 1976, by building closer links between the administration of the two acts at all levels of government.

Dr. Lund's article is a brief but penetrating summary of the issues involved in this task, and is a most useful contribution:

VOCATIONAL EDUCATION AND CETA—A GROWING PARTNERSHIP

(By Duane R. Lund)

The relationship between vocational education and Department of Labor manpower programs has always been less than comfortable. This was true under the MDTA program, and the discomfort has turned, in many instances, to out-and-out distrust since since passage in 1973 of the Comprehensive Employment and Training Act (CETA). The unfortunate result has been a standoff between two strong and viable programs with closely related methods and goals, which should be complementing one another.

The reason for the distrust must be laid to old prejudices and new conceits on the part of both parties, and to the lack of communication and understanding which accompanies such attitudes. In recent months, the National Advisory Council on Vocational Education (NACVE) and other groups have taken the initiative to overcome the communication breakdown and bring together vocational educators, CETA personnel, and—most importantly—representatives of business and labor, to focus on common problems and concerns. Although still tentative, it appears that former antagonists are discovering that they do share areas of mutual interest, and that a growing partnership between vocational education and CETA is in the making.

Early last year, NACVE sponsored two conferences on CETA in Washington, D.C., and in San Francisco. The basis for the conferences was a survey of 100 city prime sponsors, conducted by the National League of Cities/U.S. Conference of Mayors, under contract to the National Advisory Council.

SURVEY RESULTS

The major findings of this survey were:

CETA was not significantly impacting on institutional vocational education; at best, the system was merely being maintained as it existed under MDTA.

There existed a great deal of confusion and lack of understanding among local prime sponsors about the system of institutional vocational education due to the lack of direct involvement prior to CETA.

The communication between states and local prime sponsors needed for CETA to positively impact on the provisions of institutional vocational education was inadequate.

CETA Title I money was not being used to any large extent to increase the training being provided at existing vocational education institutions.

The system of negotiating non-financial agreements with the state for the provision of vocational education training and services through the use of the 5 percent supplemental vocational education funds often did not afford local prime sponsors adequate flexibility.

CETA rules and regulations were vague regarding allocation of the 5 percent funds within the states.

The confusion, complexity, and restriction of local prime sponsor flexibility had resulted in frustration among local prime sponsors and had made it difficult for the 5 percent funds to impact in local jurisdictions.

PROBLEMS DEFINED

These conferences were the first attempt to open communications between vocational educators and CETA prime sponsors. The conferences did not offer any final solutions, but they did define many of the problems that needed to be faced. Some of the differences between the two groups run deep and will not respond to instant cure. These differences are over issues such as power and territoriality, at the gut level, as well as higher level concerns of basic ideology and philosophy. Vocational educators feel that they have valuable experience in skill training and development that should be utilized, and that to ignore this resource leads to duplication and the possibility of the establishment of a dual system of education. Many prime sponsors feel that vocational educators have failed to meet the needs of CETA's client population, and that new and more effective delivery systems must be devised. Vocational educators express concern that many CETA programs are ineffective, based on political expediency, and often lead to dead-end training for dead-end jobs. CETA personnel counter that vocational educators are unresponsive to the job market.

Then there is the major problem over the use of the 5 percent set-aside funds under CETA. The CETA legislation provides that the 5 percent can be used only for services provided by vocational institutions to prime sponsors, based on agreements between the institution and the prime sponsor. The purpose of this provision was to foster cooperation and avoid duplication. Unfortunately, contention has been stronger than cooperation. Each side has tended to look upon the 5 percent as its money, rather than as a means for developing complementary services, and programs.

HESITANT RECOGNITION

These were the conflicts identified by these conferences. More important, however, is the fact that communication was established, and out of that grew a hesitant recognition and respect by one side for the other. This is reflected in the introduction of the report of the conferences, which states the following proposition:

". . . manpower and vocational education constitute two significantly different operating systems for human resources development, each rooted in different political antecedents, different conceptions of time constraints, different philosophies of training and education, and widely different bureaucratic structures and procedures. Out of these conditions emerges an engaging implication: If CETA clients are to be served effectively, with a minimum of duplication and waste, direct initiatives must be undertaken to foster continuing dialogue between manpower and vocational education, which, in the words of one large city manpower administrator, 'is a two-way device, participated in by equals.' "

As one participant of the conference put it: "Both sides survived with convictions and prejudices intact for the most part, but with sensitivities raised."

Raised sensitivities gave rise to a new awareness that cooperation could yield mutual benefits for both programs and clients. Other organizations began taking an active interest in the coordination of vocational education and CETA. A coalition task force, composed of members of the National League of Cities/U.S. Conference of Mayors, National Governors' Conference, National Association of Counties, and the National Association of State Legislators began looking at the relationship between vocational education and CETA, with a view toward greater meshing and coordination of programs and advisory councils.

The National Governors' Conference early in 1976 sponsored a series of meetings to explore this relationship, with the assistance of NACVE. Vocational educators, CETA personnel, and members of State Advisory Councils on Vocational Education from each of the 50 States were among the 234 persons who attended. The intent of these conferences was to understand better the federal, state, and local roles in the implementation and coordination of CETA and vocational education, to become aware of the progress that had been made, and to examine the state role in effecting better coordination. Conference participants were urged to conduct similar meetings within their states to build awareness at the local level.

The U.S. Office of Education, as well as the Department of Labor, is increasingly aware of the necessity of effective coordination. USOE has established a CETA coordinating unit, and has provided regulation guidelines and training sessions for education administrators on CETA programs.

Coordination of these programs is also a prime interest of Congress. The new vocational education legislation will undoubtedly provide for representation of CETA prime sponsors in the development of vocational education state plans. In its testimony before Congress, NACVE strongly urged that the state plan address in detail efforts of coordination with CETA prime sponsors and state manpower councils, their successes and failures, and the reasons therefor.

MERGER TALK NAIVE

This intensified interest in coordinating programs and avoiding duplication has predictably led also to the naive call for merging vocational education and manpower programs funding, and advisory councils. These proposals have raised fears of "power grabs" and "takeovers," and have not helped the spirit of cooperation to flourish.

In response to such calls for merger, NACVE has stressed that while both vocational education and manpower programs are concerned with skill training, there are fundamental differences between them. Manpower programs are short-term and designed to meet the needs of out-of-school target populations. Vocational education programs are for those still in the school system and for those who re-enter the system through postsecondary vocational-technical schools or community colleges.

We would like to see greater utilization of the existing vocational education system in meeting the goals of our manpower programs. Manpower planners should make optimum use of the experience, staff, equipment, and facilities of vocational schools to help train their clients.

It cannot, however, work the other way around. We cannot, in good conscience, solve the problems of duplication by putting emphasis on manpower training programs at the expense of vocational education. If that were the case, the schools would be relieved of their responsibility to provide the vocational training, and students who needed such programs would have no alternative other than to enter a manpower training program outside the school system. This would encourage dropouts, take students out of the school system and put them into the labor market at a much earlier age, and deny them the high school diploma which is so important in our society. This would result in higher dropout rates and youth unemployment and greatly exacerbate exactly the conditions that our manpower programs are struggling to solve.

So we must guard against the extreme solutions which seek to provide greater efficiency through merging the separate programs. Such solutions would compromise the valid goals of both vocational education and the CET program.

The answer to more effective programs is to continue to keep open the lines of communication, to recognize the differences as well as the similarities between the programs, and to improve means of coordination.

As part of this effort to focus on the total picture, the National Advisory Council on Vocational Education will conduct a National Bicentennial Conference on Vocational Education, October 10–13, 1976, in Minneapolis, Minnesota.

The purpose of the conference is to look at vocational education in its relationship to all other segments of our society, including, of course, its relation to CETA. Leading experts in their fields will look at vocational education from the point of view of economics, political science, sociology, and a variety of other disciplines. Out of this conference will come further recommendations for developing a truly comprehensive policy to deal effectively with the training and employment needs of our nation and its citizens.

"COAL SLURRY PIPELINE—8" RAILROADS CAN HAUL COAL WITHOUT THE NEED FOR NEW LAWS

HON. JOE SKUBITZ

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 10, 1976

Mr. SKUBITZ. Mr. Speaker, beginning with May 26, I have called attention to the House of a bill, H.R. 1863, the coal slurry pipeline bill, which is now pending before the House Interior Committee. This bill would grant Federal powers of eminent domain to the slurry pipelines.

I have discussed the question of eminent domain; this can be found on page 15521 of the May 26 RECORD; the fact that this is transportation legislation not energy legislation, page 15878 of the May 27 RECORD; the railroad capability of handling the increased coal production, page 16078 of the June 1 RECORD; the effect of coal transportation on railroad economic viability, page 16246 of the June 2 RECORD; on June 3, I spoke of the railroad industries innovative handling of coal, this is on page 16740 of the RECORD; on June 7 I spoke of the slurry pipeline lobby, which is found on page 16805 of the RECORD; and yesterday I spoke on should a study by the Office of Technology Assessment precede congressional action on a slurry pipeline bill, this is on page 16902.

Today I intend to discuss the fact that railroads can haul coal without a need for new laws. In the discussion surrounding H.R. 1863, we have heard over and over again, the proposition that this is a simple bill.

Proponents do not want us to talk about water, or energy, or cost, of the effect on existing transportation modes. They say those issues are not relevant to this legislation, which—they say—is a simple matter of granting eminent domain for the construction of coal slurry pipelines. This argument in itself is an admission that a slurry pipeline does not produce an ounce of energy.

I think those issues are not only relevant, but vital.

However, for today, let us examine this allegedly simple issue of eminent domain.

The pipeline proponents say eminent domain for slurry pipelines is a matter of equity—of giving them the right to compete with railroads who do have eminent domain powers. In response, may I say that let it go before the ICC and request common carrier status first and show its need and necessity.

The railroads draw their eminent domain powers from the States. The pipeline people have tried this route, but have not met with notable success. In fact, the legislatures of Kansas and Nebraska have turned them down.

So they have come to Congress seeking the Federal eminent domain—asking the Congress to override the wishes of those who would be directly affected. They are asking for the Federal right of eminent domain, a right that has never been granted in circumstances analogous to those involved here. Natural gas pipelines were built with Federal eminent domain, but natural gas cannot be feasibly carried except by pipeline. And the movement of natural gas is strictly regulated. Neither characteristic applies to coal slurry pipeline.

Whether pipelines are built or not, coal will move. And the railroads can move it without benefit of an act of Congress.

The pipeline proponents would have you think that it is only railroad opposition that stands in their way. But the hearing record is replete with examples of other opposition—from environmentalists to western Governors to stockgrowers and others.

The very question of eminent domain for pipelines is tricky. We are talking about an operation which—for the most part—runs underground. The surface is, theoretically, returned to its previous use. When property is taken for continuing use, a value can be rather simply set. But, what will be considered just compensation for what amounts to an easement, rather than an outright purchase?

If the pipeline builders must buy land, or negotiate with property owners for easements, the property owner has the opportunity to determine what the land is worth to him. With eminent domain hanging over them, farmers especially fear they will be deprived of the full use of their land but compensation will be held down, based on the proposition that the surface is still available to them.

During the testimony of Al H. Chesser, president of the United Transportation Union, the concept of eminent domain as a subsidy was kicked around—and a member of the Interior Committee commented that eminent domain is not considered to be a subsidy.

The member is right. Is it not. But does anyone here doubt that, by using eminent domain powers to obtain easements, the pipeline builders will be able to obtain their right-of-way at a fraction of what it might otherwise cost?

Recently, Mr. Speaker, legislation was enacted which established ConRail. That legislation will be the subject of litigation for years to come. The basic issue in the litigation will be whether or not the creditors and stockholders of the eight bankrupt railroads in the Northeast had their property taken without due process of law. In that particular case, I am confident that the court will find that ConRail was an income-based reorganization, thereby giving the creditors and stockholders more value than they would otherwise expect. Consequently, I know that the court will agree with us that there was no taking of property without due process.

The same principle applies with respect to the coal slurry pipeline, but the outcome would be entirely different. In each and every case, I suspect lengthy litigation would be required to determine the value of an easement. For the owners of the land where the easement would be required, little, if anything, could be done to assure fair compensation.

There are those who argue that the generosity of the Federal Government to the railroads around the turn of the century should justify equal generosity to those promoting the coal slurry pipeline in 1976. That argument is not only out of date, but also misses the point that the railroads were needed to develop the West, while there is an easy alternative to the coal slurry pipeline for the transportation of coal. Nevertheless, I think it is worth taking several minutes to discuss the matter of Federal land grants to railroads.

Mr. Stephen Ailes, president of the Association of American Railroads, discusses the matter on page 996 of the hearings. He states:

> More than 92 percent of the railroad mileage in the United States was built entirely by private enterprise—without benefit of Federal land grants.
>
> The primary purpose of the grants—limited to a few trail-blazing railroads—was not to help those railroads, but to open up a vast new area, mostly west of the Mississippi, for settlement and development.

> The grants were not "gifts" but part of a business transaction that ultimately resulted in the railroads' repaying the Government more than 10 times the value of the lands received.

Mr. Speaker, may I add this was in the form of rate reductions. Mr. Ailes also states:

> Railroads were neither the first—nor the last—to receive land grants. Developers of wagon roads and canals received 10,007,687 acres, and thousands of individual farmers later were given up to 640 acres each in the form of homesteads.
>
> The railroads received a total of 131,250,534 acres—specifically for the purpose of providing them with the necessary security for borrowing the money needed to finance construction.

As for the argument advanced by the proponents of eminent domain for slurry pipelines that it is warranted because pipeline operators should have a right to compete, this is nonsense.

If such an argument were valid, every would-be service station operator could—without equal justice—petition the Congress for help in securing a choice location so that he might make more fuel available.

Can you imagine it? Here comes a person who wishes to open a brand X station. But the location he wants is the property of the local brand Y dealer. So, says the would-be newcomer, give me the power to seize a part of his land, in order that I might compete with him.

Finally, the slurry proponents say Federal eminent domain is necessary because, without it, the pipelines cannot be built.

If that is so, it is easy to see why they are trying so hard to get this bill enacted. But Congress does not pass laws because a group of promoters need them to do business. Congress passes laws because the public needs them. And I do not believe that the public needs coal slurry pipelines.

EMPLOYEE STOCK OWNERSHIP PLAN

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 10, 1976

Mr. MILLER of California. Mr. Speaker, I submit into the Record today a portion of a recent speech by the distinguished chairman of the Senate Finance Committee, the Honorable Russell B. Long, of Louisiana. In this section of his speech to the Tax Foundation, Senator Long discusses at length the employee stock ownership plan in which employees would become stockholders of the company for which they work. In the past I have submitted material on the ESOP plan to the Record because I believe it is a concept which ought to be studied both by business, Government, and labor.

I was very pleased to read Senator Long's comments on ESOP and his assessment of its potential for improving the economic condition and reducing the economic friction which has long been a feature of our society. I hope that others in Congress will consider Senator Long's thoughtful remarks.

The speech follows:

> In case you haven't heard, I've been spending a great deal of my time advocating the idea of employee stock ownership. You hear it called "ESOP," referring to "Employee Stock Ownership Plan."
>
> I don't really have an axe to grind in this. I'm not a part of any employee stock ownership plan, but I think that it's a great idea for employees to own stock in the company for which they work. I think it's good for the employees, and it's good for the companies and good for the nation. I'm not here to say that you should tailor your plan in a certain way, and every time I go and make a speech about ESOP, if I make any impression at all on business people, they usually wind up by telling me some technical problems and pointing out some things that need to be done to make it work the way it ought to work. So I learn a lot, and then I try to tell people about what a fine thing I think the concept is. We're going to continue, I believe, to make these technical changes and make it more desirable and more attractive until a great number of people will be using it.
>
> Now my conversion started with the premise that the system, as we like to call it, "capitalism, free enterprise," needs implementing. You look around and you see firms where they have employees who think they're being exploited, workers who believe their best interest is served by being an adversary to management, in conflict with their management. And then you see companies where they are finding it difficult to expand and find the money to provide better services, beleaguered by strikes, with declining production, and it seems to me that we have problems that could be solved in better ways.
>
> In Japan we see why the average worker relates to the company for which he works. There's a live bond with the company. I'm not here to advocate their system, but I do think that we ought to overcome this thing that is altogether too probable in America where workers feel hostile to the companies for which they work, where they have a growing sense of distrust toward business, and a misguided tendency to want to turn things over to government, with a growing encroachment of the public sector or the private sector. With less frequency, you will see evidence of the individual initiative, the personal industry and a sense of common purpose which has made this country great.
>
> You know the secret weapon that has made our system prevail up to this point, particularly here, has been the fact that a businessman puts so much in—his entire devotion, his love, his life, his savings, his hopes, his future—and he knows so much and tries so hard to make his business succeed, and anybody who feels like working for this business has a common purpose and a common chance to get ahead and to gain, and tends to do the same thing. Somewhere along the line, however, we have forgotten to keep capitalism democratic. We've allowed it in many cases, and altogether too many, to be the private preserve of the wealthy few to where private enterprise means "that other guy" to a great number of people, particularly a lot of workers. We can reverse that process.
>
> Let me just think about our income distribution for a moment. During the past twenty-five years, relatively speaking, people on the income ladder have been advancing at about the same level. The person making $5,000 has moved up to about $10,000, and the person making $30,000 has moved up to $60,000, and the gap in real dollars has jumped from $25,000 to $50,000, but in relative terms they're just about the same place as they were before. I call this the Cole Porter philosophy, based on that old song, "Ain't We Got Fun! The Rich Get Richer and the Poor Have Children." Well, despite these tax laws and despite our social programs, the distribution of income in the United States really hasn't changed significantly during twenty-five or thirty years or even fifty years. Even in spite of all these noble orations you've heard from platform speakers, particularly people in my party, and I've talked to people in the White House from time to time, as you well know, we just haven't been able to live up to the American dream of making America a land where the people generally participate in this great system of ours and feel that they're a part of it.
>
> I want to talk about wealth just a little bit. In 1962, the Federal Reserve Board conducted a study which indicated that the wealthiest 20% of our people had about 75% of all private assets, and that the poorest 25% at the bottom had no net worth. In other words, their debt exceeded their assets. Now if I were in my twenties again and an insurance salesman came to my office, as one did at that time thinking to sell me an ordinary life insurance policy expected to pay off in my seventies. I would ask him, "Do you think capitalism is really going to last for fifty more years?" I'm satisfied that the insurance industry will last as long as capitalism lasts in this country, but will capitalism last that long? All over Europe we see governments running scared. Socialism is a trend over there, and in smaller and less developed countries the leaders are not even interested in private capital development, and many of those nations are not even interested if you do it for them on a grant basis. In poor nations like India and a lot of others you have difficulty establishing privately owned companies for them even as a gift of the United States taxpayers. The world is becoming a hostile place for free enterprise, and in some respects it's even getting that way in the United States. Just look at the attitude of the average filling station operator. If I stood here and made a speech advocating higher taxes on the oil companies, a rollback in their prices, and divestiture of their assets, all three, the average filling station operator would congratulate me when he read about it. Yet it's at that filling station that the company comes into contact with the public. The companies ought to be trying to get those service station operators on their side. Yet every day I see evidence of a trend in just the opposite direction. How do you overcome that kind of suicidal tendency on the part of American business? Well, I think you have to reason with people and sometimes you have to get their attention first.
>
> To me, it's the simplest thing that this economic system cannot survive unless it can win elections for the simple reason that if a system cannot win elections then an unfriendly government will, in time, and perhaps sooner than you suspect, get rid of that system.
>
> Let's just analyze the situation for a moment. Here in this country we have about 5% of people who own any meaningful amount of capital in the usual investment-sense of the word. Where the average wealth for American adults is about $16,000 per capita, 85% of our people own less than that, and 50% of them have a net worth of less than $3,000. Now, when you have 85% against 15%, how can you win elections? Even if you only look at the 65% of the people who are far, far below the per capita average, why should they support and maintain a system that fails to offer them the American dream in any real sense? What the capitalist system needs is more capitalists. It can create them, and it *must* create them. Where shall we create them? Among the workers? Modern industry should offer workers more than social security. It must offer them health insurance, not necessarily government insurance, private supplementary pensions, and, yes, mark my word, a meaningful amount of income earnings stock in

the company for which they have toiled. Call it what you will. Incentives are what motivate people.

Already we have won four victories for ESOP—Employee Stock Ownership Plans. On all four occasions, the vote has been unanimous in the Senate, three times in the Senate Finance Committee and once in the Senate Committee on Commerce. We have other victories in mind. There's a great House Chairman, Al Ullman, Chairman of the Ways and Means Committee, who is sympathetic. He's been helpful when we have passed these measures from the House, from the Senate and gone to conference with the House. We have work to do in persuading members of his committee, but they're fair-minded men and women and they're persuadable. I'm satisfied that they'll give thoughtful consideration to our position, and that's all we really need. In the Senate we're in very great shape. Liberals like Senators Ribicoff, Mondale, Haskell, Hathaway and Javits have all voted for ESOP. Conservatives like Senators Fannin, Goldwater, Hansen, Curtis, Roth and Byrd, have voted for it. Moderates like Senators Talmadge, Sparkman, Stennis and Baker have voted for it as well. In fact, I can say in the Senate I have yet to see the first one to vote against it, and they've had four chances. Now this is not a something-for-nothing scheme. The man who earns a $100,000 salary benefits a lot more people than himself and he would get ten times as much stock as the man who earns $10,000, and the person who does not work at all gets no benefit out of it. The rich man who lives off of somebody else's hard efforts, who inherits his wealth, can expect nothing out of it except that he would have better security in keeping what he already has. That may prove to be very important to him.

I'm happy to say there are some people who will be on both ends. I try to tell executives who really in the last analysis are responsible for making money for a lot of people. A man who is a president of a company—who makes that company make money for his shareholders and makes it make money for the workers too—in the last analysis, that's the fellow who's the biggest winner of them all, because a high-salaried employee of the company, like the president himself, would get the maximum benefit. When we're trying to get him to go along with something that makes the workers more productive and also makes the company make more profit and do better by their workers, he would gain as much as anybody and probably more than anybody because he wins on both sides by being both a shareholder and also an officer of the company.

Now, I fully realize we have technical problems to solve. First, we have to perfect the Treasury Regulations. Then we must amend the law—and we must amend it more than once—to make ESOP what it ought to be. A couple of problems crop up immediately.

One: How do you relieve an employer from headaches that might be involved in managing a trust for his employees? Logically, he ought to be able to turn the whole thing over to an insurance company, a bank, or a stock brokerage firm and let them handle it for him. That, of course, calls for a management fee, and the trust should be able to pay from its assets to adequately compensate the trustee. This may require a change in the law.

Two: How do you keep employees from divesting themselves of their stock by selling it? Well, for starters we have a base period during which the stock cannot be sold. After that, we should amend the law to make it so attractive to keep the stock that the employee would not want to sell it.

Three: How do you keep employee stock ownership from becoming a tax-loophole for the rich? Well, I think in time we'll want to place a limit—perhaps at a million dollars—on the amount of stock that one person can accumulate in the future out of one of these ESOP plans. At the present time, it's no problem so there's no point in having a limit.

Now, these are just some problems that ESOP has created, but it also has solved a lot of problems. For example, a friend of mine in my hometown of Baton Rouge had a company that was small by New York standards but very big by Baton Rouge standards, and he found a God-sent answer in ESOP. His firm had become so successful that his tax problem was forcing him to either sell the company and take a capital gain, or to merge with a larger national company. He didn't want to do that. He had hired a lot of people, both friends and relatives, and he was interested in seeing them maintain their positions with the company.

Thanks to ESOP that businessman can sell his company to his employees and they can take it over under circumstances where the tax savings pays about half of what it would cost to buy that company from him. Therefore, this vigorous company remains on the competitive scene. I don't contend that ESOP will solve all of our problems, but I will argue anyone blue in the face that it helps.

Well, where do we go from here? I've informed practically all businessmen, especially the large ones I know of, that if they want further tax consideration to accumulate investment capital—as my good friend Charls Walker has done so effectively down through the years—that ESOP ought to be a part of the package, and they've generally agreed. For instance, the Chamber of Commerce of the United States, the National Association of Manufacturers and the American Stock Exchange co-sponsored a meeting in New York, and I explained my thoughts about this matter. They studied ESOP and agreed that they were willing to make it a part of the package. I've even got Secretary Simon thinking in those terms. In fact I think I've got him thinking in those terms so much now that I think he's more for ESOP than he is for the other part of it, but maybe he's just making me think that. Anyway we're making great headway.

I'm here to predict that when the average industrial worker retires fifty years from now, he will have somewhere between $50,000 and $100,000 of stock in the company for which he works. Further on down in my path I don't expect to see it, but the time will come when people will retire with a lot more than that. Last night a man was telling me of the plan in his company—I won't name it because he didn't give me consent to do it, but it's a rather substantial company—where their average truck driver is going to retire with $450,000 worth of stock in the company. Now that's a lot of income and a lot of income-producing property for those people to have. Can't you see how truck drivers feel like they're capitalists when they've got that much stake in the system?

Our experience is that in ESOP, ownership can meet the acid test. It can save these failing companies like it has done with that lathe company in South Bend and like it has done with a marble quarry up there in Vermont. I just say bring on those tired, labor-plagued, competition-weary companies, ESOP will breathe new life into them. It will revitalize what is wrong with capitalism. It will increase productivity. It will improve labor relations. It will promote economic justice. It will save the economic system. It will make our form of government and our concept of freedom prevail over those who don't agree with it. Thank you very much.

AN ANALYSIS OF THE CALIFORNIA NUCLEAR ENERGY INITIATIVE

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 10, 1976

Mr. BROWN of California. Mr. Speaker, the defeat of proposition 15, the California nuclear energy initiative, has generated considerable comment and relief, in some quarters. This vote is significant, but it would be a mistake to believe that all is well in the public's mind when it contemplates nuclear energy. Somewhat obscured by the attention given to the ballot proposition itself was the fact that the California State Legislature passed, and the Governor signed the most far-reaching State controls on nuclear energy in the United States. Analysts in the State of California credit this legislative effort with the decisive defeat of proposition 15, because the legislature did what the proponents of proposition 15 said they wanted them to do; reassess and analyze the problems associated with nuclear energy.

For the benefit of my colleagues who have not had access to California newspapers, and the relationship between the new laws and the ballot proposition, I insert in the RECORD several articles that further explain this subject.

The articles follow:

[From the Los Angeles Times, June 10, 1976]

PROPOSITION 15—THE WHY AND HOW OF ITS 2–1 DEFEAT

(By Robert A. Jones and Larry Pryor)

Late Tuesday night David Pesonen found himself squeezed into a restaurant booth, munching thoughtfully on something called a Mighty Burger, trying to figure what went wrong.

As chairman of Californians for Nuclear Safeguards, Pesonen had much to think about. His efforts, and those of thousands of other workers, to pass the nation's first initiative restricting the use of nuclear energy had just been handed a crushing defeat, losing by a margin of 2 to 1.

Pesonen dipped a french fry into some catsup, and then let it hang for a moment in mid-air. "We were running against all the currents," he said. "All their lives, people are told to connect the good life with industrial technology. With progress. We threatened all that, we scared them, and they backed away."

Two miles farther down Wilshire Blvd., in a scene that offered a dazzling contrast, elegant women in evening gowns adorned the Grand Trianon room of the Beverly Wilshire while the men gathered in small clusters, sipping champagne. They were the architects and supporters of the campaign to defeat the nuclear initiative and with the elation of winners, they were figuring out what went right.

"The Yes campaign got sidetracked, they wouldn't talk about the issues," said Mike Peevey, executive director of the California Council on Environmental Balance and a key spokesman for No on 15. "We got our message across."

There were, in fact, not one but many reasons for the defeat of Proposition 15, the Nuclear Power Plants Initiative. For its supporters it was a campaign in which everything went right in the beginning, and wrong in the end.

In March, shortly after three General Electric engineers resigned their positions in a demonstration of their concern for the safety of nuclear power, a poll conducted by the Field Research Corp. showed that the public was almost evenly divided between supporters and opponents of the initiative. It was the closest the sponsors would ever get to victory.

The resignations of the three engineers in San Jose had been carefully orchestrated by Californians for Nuclear safeguards along with their initiative cosponsor, Project Survival. The effect of the resignations on the public, both sides now agree, was dramatic.

Carl Goldstein, vice president of Atomic Industrial Forum, an industry trade association, said, "We were extremely concerned at that point. We thought 'If they're doing this (now), what have they got lined up for May?' The answer was nothing."

Larry Levine, the Yes on 15 news director who ushered the engineers through a critical series of news interviews, said "the resignations of the three engineers moved a whole bloc of voters from a 'No' position to an undecided. To win, we had to capture that bloc, and we didn't. We got some, but not enough."

Shortly after the resignations, supporters of the nuclear initiative were dealt perhaps the most severe setback of the campaign, and it came not from their opponents but from the state courts. Limitations on spending established by the Political Practices Act in 1974 were declared unconstitutional.

The opponents of the nuclear measure, which included many of the larger industrial firms in the nation, were suddenly free to spend millions defeating the initiative, and they did.

"It's hard to fight $5 million when you only have $1 million to throw back," said Jim Burch, president of Project Survival. "If you need a reason for losing, that's a very good one."

(A spokesman for the No committee estimated that the total spent against the initiative amounted to $3.8 million.)

Other prominent organizers of the nuclear initiative campaign believe, however, that additional factors contributed heavily to the margin of victory for the measure's opponents. In the end, they say, these factors stopped the momentum created by the General Electric resignations and slowly shifted the tide toward No on 15 organizers. Here are several:

—The "shutdown" issue. From the beginning, No on 15 literature portrayed the nuclear initiative not as a safeguards measure but as a bill that would shut nuclear energy out of California's future. It proved to be the most effective argument in the campaign.

In fact, the initiative established severe safety standards for nuclear energy and required approval of safety systems by ⅔ of the state Legislature. It also required Congress to lift liability limits for nuclear accidents.

Though such standards were not, per se, prohibitions on nuclear energy, the No on 15 organizers effectively portrayed them as amounting to a virtual shutdown.

"We made a decision not to deal with the shutdown issue, thinking it would be discredited on its own. That was a mistake," Levine said.

Pesonen, the chairman of the Safeguards committee, adds that "voters preceived us as saying one thing and intending another. In part it was true; many of our workers did want a total shutdown, not some new safety system. Others didn't, of course, but the essential point was that much of the public saw us as dishonest in that regard and it hurt."

The "credentials gap." While opponents of the initiative used such prominent scientists as Edward Teller and Stanford Nobel laureate Felix Bloch to great effect, initiative supporters had difficulty matching them. Late in the campaign, a pro-15 newspaper ad read "Why the Doobie Brothers Want You to Vote Yes on Proposition 15." The Doobie Brothers are a rock band.

To add to their frustration, The Safeguards Committee often found that their own scientists were not effective as public speakers. "Our people were talking curies (a measurement of radiation) instead of votes," Levine said. "(They) didn't realize it was a political campaign, not a scientific campaign."

The switch on issues. With three weeks to go before election day, the Yes on 15 organization all but dropped its attack on the safety of nuclear energy itself and focused instead on the massive contributions to the No campaign by large corporations.

The tactic failed, in part, campaign architects say, because it digressed from the real question posed by the initiative and in part because it came so late.

"By that time we thought we had built a strong case with a lot of credibility," said Charles Winner, president of Winner/Wagner & Associates, directors of the No campaign. "Voters were too much aware of the issues and we decided if we just continued we would offset it. They used bad judgment in switching issues."

The three bills. Perhaps one of the most perplexing developments of the campaign, the three nuclear safety bills introduced by Assemblyman Charles Warren, (D-Los Angeles), amounted to a blessing and a curse for initiative supporters.

"It hurt us," Burch says, but he also concedes that the bills accomplished, at least in part, the goals of the initiative.

The bills, passed into law less than a week before election day, also drained many endorsements that might have eventually fallen to the initiative. Instead, politicians and many newspapers and television stations embraced the legislative actions while remaining neutral or condemning the initiative.

The media blitz. With several times as much money, the No on 15 media campaign began almost a month before supporters of the initiative could afford to buy time on television and in newspapers. Still, the Yes on 15 organizers believed they could close the gap with an effective and large-scale media blitz in the final 10 days. Their efforts were frustrated when television stations argued that, under the Fairness Doctrine, the Yes advertising in the final days could not exceed the No advertising.

With the California campaign over, both sides of the issue now look toward Oregon and Colorado where similar initiatives have been placed on the November ballot. Nuclear measures are pending in at least six other states as well.

And in California, sponsors of the initiative here say they do not plan to disband. The Yes campaign ended with a small surplus, estimated by one official at $30,000, and the money will be used to campaign for effective enforcement of the nuclear legislation passed into law last week.

And if the nuclear legislation does not prove effective, the leaders of the Yes effort have not ruled out another initiative campaign.

"We are not going to fade away," Pesonen said. "One third of the California voters have listened to us, and agreed. The time when nuclear energy was accepted at face value is gone forever. From now on, the nuclear industry will have to prove what it claims, or face a fight from us."

[From the Los Angeles Times, May 5, 1976]

No on Proposition 15, Yes on 3 Bills

The state Senate is moving much too slowly on the three nuclear safety bills passed and sent to it by the Assembly, and that delay is not serving the interests of California.

Assembly Speaker Leo T. McCarthy (D-San Francisco) has warned that the bills "absolutely" must be on Gov. Brown's desk by the end of this month. That deadline, which is neither arbitrary nor unrealistic, is dictated by the June 8 primary election, and the presence on the ballot of Proposition 15, the Nuclear Power Plants initiative.

Proposition 15 is a simplistic and ill-considered response to nuclear safety questions. We oppose it, and the voters should reject it. The safety bills set reasonable and feasible goals. They should be enacted into law.

Politically, the three safety bills and the proposition are linked, since most people see the legislation as an alternative to the initiative measure. The linkage is understandable. Had it not been for Proposition 15, the nuclear safety bills might never have cleared the Assembly. But at the same time, the linkage is not entirely fair. The three bills have aims that are good and necessary in their own right. With or without Proposition 15, they represent essentially responsible efforts to reach desirable answers on the nuclear safety problem.

Proposition 15, if it were held legal, would have the effect of first diminishing and ultimately ending the production of electricity by existing nuclear power plants in California. The safety measures, conversely, would not interfere either with the three currently operating nuclear plants or with the four about to be built. Instead, they look ahead to possible future plants, seeking safety requirements that would have to be met before new construction permits would be granted.

AB 2820 would prohibit future nuclear power plants in the state until the federal government approved a facility to reprocess the spent fuel rods that are the power source for nuclear reactors. No such facility is now in operation.

AB 2821 would prohibit new nuclear power plants pending a study by the State Energy Commission of the feasibility and effectiveness of putting nuclear reactors underground, where dangerous discharges could be better controlled in the event of an accident. No such study has ever been made of this simple idea.

AB 2822 would hold up new power plant approval until the federal government first adopted acceptable procedures for the safe long-term disposal of nuclear wastes. No such procedures now exist.

Bureaucratic inertia at the federal level has been largely at fault for delaying action in all these areas. The safety measures have the worthwhile goal of forcing federal movement without irresponsibly bringing nuclear power in California to an end.

But the Senate must act before that goal can be met, and it must act soon. The first vote on the nuclear safety measures is not scheduled until May 18, in the Public Utilities, Transportation and Energy Committee. After that the bills must go to the Finance Committee, then to the floor, and finally to conference with the Assembly should expected amendments be adopted. That schedule should be speeded up.

Continued delay in the Senate benefits no one, least of all proponents of nuclear power in California. The safety measures deserve passage, and they should be signed into law by the governor, and the sooner the better.

[From the Riverside Press-Enterprise, May 16, 1976]

An Alternative to Proposition 15

The inflexibility of Proposition 15, the Nuclear Power Plants Initiative on the June ballot, is a formidable objection to it. So is the difficulty of changing any initiative statute, and so is the proposition's placement of veto power on nuclear development in the hands of one-third of either chamber of the Legislature.

Three nuclear safety bills now before the Legislature, however, constitute a reasonable alternative to Proposition 15. The bills, which have passed the Assembly will be heard in Senate committee this week, after having nearly been scuttled last week, and could be on Governor Brown's desk by the end of May. The tight schedule is crucial, since voters will be asked to choose June 8, regardless of what the Legislature and governor do.

The chief advantage of the three bills is that the restrictions they impose on nuclear reactors are more sensible than those of the initiative. The three proposed statutes would require legislative ratification of the following:

Federal designation of at least one safe method of disposing of nuclear wastes.

Federal regulations for construction and operation of nuclear fuel reprocessing plants.

The conclusions of State Energy Commission study of the feasibility of putting future nuclear reactors underground. (Existing nuclear plants and those substantially under construction would be exempted.)

A crucial point has been the method of legislative review. According to Assemblyman Charles Warren, D-Los Angeles and chief backer of the bills, a compromise has now been reached which would allow State Energy Commission determinations to stand, unless rejected by a majority vote in the Legislature within six months.

An over-all advantage of the legislative process vis-a-vis the initiative process is the chance to refine or alter the law, should it prove unworkable or unwise. Proposition 15, like any initiative statute, could be changed substantially only by submitting amendments to the electorate (or, perhaps, by the judiciary, if sections are found unconstitutional).

That feature alone makes the legislative package more attractive than the ballot proposition, and hopefully now the governor, who came very late to support of the three bills and even yet hasn't done much in their behalf, will work more actively for their passage.

[From the Los Angeles Times, June 4, 1976]

Brown Pauses To Sign Three Nuclear Power Bills but He Remains Neutral on Proposition 15 as He Campaigns Busily in Southland

(By Richard Bergholz)

Gov. Brown campaigned hard in Southern California Thursday in his bid for the Presidency, but managed to conduct some important state business along the way.

He signed three legislative bills rushed to enactment before Tuesday's primary election because they provide a milder alternative to Proposition 15, the Nuclear Power Plants Initiative on the ballot.

The governor had used considerable executive muscle to get the three bills through the Legislature and had promised to sign them, so his action Thursday was not unexpected.

Brown also announced, however, that he would continue to "maintain a position of neutrality" on Proposition 15 and would not even indicate how he might vote for fear of "lending the aura and prestige of my office" to one side or the other.

Let the people decide for themselves, the governor said, thus satisfying neither conservationists, who had counted on him for an endorsement of the measure, nor leaders of organized labor and officials of utility companies, who had counted on him to come down on the "no" side.

The three bills he signed Thursday as he campaigned in Los Angeles, Long Beach and San Diego deal with the siting and development of nuclear power plants in California and, according to Brown, represent "the most stringent and most comprehensive control of nuclear reactor licensing and development in the nation."

More than that; Brown said, the bills give Californians time to explore the safety requirements of nuclear plants, beyond existing federal regulations, and provide an alternative to the more-stringent provisions of the initiative.

Pressed to explain why he was unwilling to make a recommendation to the voters on Proposition 15, Brown said, "I am not going to weigh the scale to the extent that the expertise of the state has a better fix on the question than anyone else."

Brown said that if it had not been for the initiative and the pressure it created for some alternative safety regulations, "these bills wouldn't be here to sign."

Assemblymen Charles Warren (D–Los Angeles), Terry Goggin (D–San Bernardino) and Bruce Nestande (R–Orange), who authored and ramrodded the bill through the Legislature, appeared at the signing ceremony and Warren, in particular, praised Brown for "using his considerable persuasive ability on various members of the state Senate" in gaining final passage.

There had been criticism in the Legislature because Brown was so busy campaigning for President he was neglecting his duties as governor, particularly in getting the nuclear power bills enacted, but Warren concluded that "the bills wouldn't have been passed except for the governor's help."

Brown clearly hoped that, whatever the political fallout from his action on the bills and his failure to take a stand on the initiative, it would not seriously damage his hopes to run up a big score against Carter Tuesday.

He seemed to take some political credit for his action later when he said, "I have achieved reasonable success in this state bringing divergent forces together."

CONGRESSIONAL PAY RAISE

HON. CHARLES E. GRASSLEY

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 10, 1976

Mr. GRASSLEY. Mr. Speaker, efforts by many of my colleagues and myself to repeal the automatic congressional pay raise which went into effect last year are continuing. It was, therefore, with great interest that I read the following excerpt from the June 14, 1976 issue of Newsweek. It was contained within a story entitled "Questions of Ethics":

> As many Congressmen and their aides explain it, the real problem is that Americans simply don't pay their legislators well enough to begin with. "These guys have to get the hell out of town practically every weekend to make a speaking date in Chillicothe or Bowling Green so they can make ends meet," notes the executive assistant of one Senate Democrat. "They're expected to entertain (constitutents), but where do they get the money?" One longtime political adviser and former Senate aide argues that Congress "ought to raise the salaries to a realistic level and cut out having to beat it out of town every weekend to make a speech. But they're the only ones who can raise the salaries—and if they do, they're criticized for that.

I, for one, would appreciate it if the many Congressmen and aides who feel they are so desperately underpaid would step forward and take their case to the American people. Perhaps they might introduce legislation for an additional pay raise so that they will no longer have to eke out such a meager existence. This would, of course, be in addition to the automatic cost-of-living pay increase which Congress voted itself last year. The next increase is scheduled to be effective this coming October.

TRIBUTE TO SPEAKER CARL ALBERT

HON. JOHN G. FARY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, June 7, 1976

Mr. FARY. Mr. Speaker, in the few days since Speaker Albert announced his intensions to retire, many Members have paid eloquent tribute to his record of distinguished achievement and have spoken with deeply felt emotion of years of service shared with him in this House. I have had to form my judgment of this great legislative leader in a much shorter time, but I have reached the same conclusions:

Where some might have used the immense power of the speakership for purely partisan ends, I have seen Carl Albert work judiciously to give the decisions of the House the broadest possible base. He has thus helped this institution function in its constitutionally envisioned role as tribune of the people.

Where another might have buckled under the strains imposed by our Nation's gravest constitutional crisis, which included for him two periods when he stood a single heartbeat from the Presidency, Carl Albert was able to rely on his inner reserves of strength and courage. He perservered, and his steadiness during that crucial period helped calm the Nation.

Where a different Speaker might have acted arbitrarily, Carl Albert, has been the chief servant of the House fully as much as its presiding officer. His unfailing warmth, consideration, and willingness to listen have meant a great deal to all new Members as they learned the ropes in the House of Representatives.

Speaker Albert's tenure has been characterized by courage, compassion, courtesy, and an ability to compromise for the good of the Nation. He possesses all these virtues in abundance, and the two greatest of his many achievements as Speaker of the House are the direct results of his attitude: First, the steadfast and judicious way he conducted the business of the House during the constitutional crisis, and second, the widespread reforms in House structure and procedures that he promoted and encouraged.

Carl Albert is a man in the greatest tradition of this House, and I know that his stewardship will rank in history, with those of Clay, Reed, Longworth, and his distinguished immediate predecessors, Sam Rayburn and John McCormack. Carl Albert's record of accomplishment is all the more remarkable in light of the fact that throughout his tenure as Speaker, the White House has been occupied by Presidents of the other political party.

Finally, let me say that of all his fine qualities that have impressed me in the year I have served with Carl Albert, none has more become the man and his position than the Speaker's unfailing modesty and courtesy.

Mr. Speaker, I wish to join with my colleagues on both sides of the aisle in saluting the Honorable CARL ALBERT as he prepares to step down. I wish him and all his family the joys of a well earned and productive retirement.

SALUTE TO GLEN COVE

HON. JEROME A. AMBRO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 10, 1976

Mr. AMBRO. Mr. Speaker, in the year of our Nation's Bicentennial, colonial communities are well into their Tricentennial. One such community is the city of Glen Cove, founded in 1668, which will host a Colonial Heritage Fair to be held in keeping with the theme of our Nation's Bicentennial.

I would like to take this opportunity to share with my colleagues, a citation commending this community's tribute to our colonial heritage.

Glen Cove's day of Bicentennial celebration on May 24, 1868, commenced with an address delivered by Henry J. Scudder, Esquire, in the then-named hamlet of Mosquito Cove. In Scudder's words, the surroundings were described as follows:

> The country abounded in wild turkeys, deer, wolves, grouse, and other game. The waters swarmed with fish.

Of the developing community, he said:

> The course of the settlement after its foundation seems rapid, in view of the political troubles, religious dissensions, and antagonism of municipal interests.

Commenting on business Scudder continued:

> Toward the close of the seventeenth and the beginning of the eighteenth century, commerce is vigorous and thriving along the north shores of the island.

One must agree with Scudder in his address when he cautioned:

> In groping through these quaint collections of a past age, we must not forget that what is curious to us was consistent with the ideas of the time.

These words, spoken in 1868, are no less true today when we reflect on our colonial beginnings.

Scudder's Bicentennial address contained many such universal truths, which it would do all well to ponder, so we might never lose sight of what we are commemorating with this year's celebrations honoring our colonial heritage.

Scudder continued in the same Bicentennial address delivered here in what is now Glen Cove:

> The revolutionary struggle broke upon this part of the Island with terrible violence. From the final settlement of the revolutionary troubles, the adoption of the Constitution, and the return to steady industry, Musquito Cove has enjoyed a deserved prosperity.

In concluding my citation to the community of Glen Cove, I would like to share yet one more quote from Scudder's Bicentennial address:

> Mosquito Cove is known no more . . . we may say to Glen Cove: Honor the founders . . . let it not be said of you that the lessons of the past have fallen upon indifferent minds; that the monuments you build today will be the mockeries of your children tomorrow.

ATTORNEY ROBERT A. MANCHESTER II, OF CANFIELD, OHIO, IS NEW PRESIDENT OF ROTARY INTERNATIONAL

HON. CHARLES J. CARNEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 10, 1976

Mr. CARNEY. Mr. Speaker, I am proud to announce that one of my constituents, attorney Robert A. Manchester II, will soon be installed as the president of Rotary International. Attorney Manchester has been an active Rotarian since 1938, and he has served Rotary International with great distinction in virtually every capacity.

In addition to his work in Rotary International and his highly successful law practice, attorney Manchester is a former mayor of Canfield, the first president of the Ohio Board of Education, past president of the Mahoning Valley Boy Scout Council, a member of the education committee of the National Chamber of Commerce, past chairman of the Mahoning County Chapter of the Infantile Paralysis Foundation and the Easter Seal Society, chairman of the board, trustee, and elder of the old Canfield Presbyterian Church, and past president of the board of the First Presbyterian Church in Youngstown.

Behind every successful man, there is a woman; in this case, the woman is Mrs. Mary Barker Manchester. A former teacher, Mrs. Manchester is also very active in community affairs; she is deserving of special praise for her work with young people.

As president of Rotary International, attorney Manchester will visit Rotary clubs all over the world, and he will be an excellent goodwill ambassador for the United States during this Bicentennial Year.

Mr. Speaker, attorney Robert A. Manchester II exemplifies the highest ideals of Rotary International, as well as all that is best in America. He has brought great honor to the Youngstown area. We are indeed fortunate to have this good and decent man as a citizen of our community.

I would like to take this opportunity to extend my hearty congratulations to attorney Manchester on becoming the president of Rotary International, and to wish him a most successful and rewarding term of office. I would also like to insert a newspaper article about the life and work of attorney Robert A. Manchester II, in the RECORD at this time. The article follows:

[From the Youngstown Vindicator, June 6, 1976]

NEW ROTARY CHIEF TO CIRCLE GLOBE

(By Jane Lamb)

A year of world-wide travel lies ahead for Atty. Robert A. Manchester II, senior member of the law firm of Harrington, Huxley & Smith, when he becomes president of Rotary International of the New Orleans convention June 13–17.

A planeload of fellow Rotarians from the Youngstown area will make the trip to New Orleans to see him installed. He will take office July 1 as head of the international service organization, which now has a membership of 785,000 in 151 countries and 16,720 clubs.

Long known as Mr. Rotary to Youngstown, Atty. Manchester becomes Mr. Rotary to the world, a symbol of the ideals for which Rotary stands. It is this community's good fortune to benefit from his honor, for he is the kind of person any would be happy to claim as citizen.

DIRECTOR SINCE 1953

Manchester has been a director of RI since 1953 when he was elected at the convention in Paris. He has served on youth, finance, agenda and nominating committees and in many other capacities where his knowledge of the law and parliamentary procedure have been of invaluable assistance.

His membership in Youngstown Rotary Club dates back to 1938 when as a young lawyer he was sponsored by Atty. Donald J. Lynn. He became president of the local club in 1941, one of the youngest in the club's history at the time. He was elected district governor in 1946 and the following year was named to RI's Youth Committee.

In 1972 he became the first Paul Harris Fellow of Youngstown Rotary Club, a very special honor given only to a few. It includes a gift of $1,000 to Rotary International Foundation from fellow members.

Atty. Manchester realizes the RI post means giving up a year from his usual pursuits, but Rotary has long been his very special interest and there has never been a time when he has not shared his time, talents and knowledge generously to advance the cause of Rotary and especially to encourage young Rotarians.

WILL STRESS IDEALS

As president of Rotary this year, he will be stressing "Vocational Service." Within Rotary that means carrying the ideals of Rotary into the business or profession of the individual member. He believes this is the main street for Rotary and all others lead from it. He intends to stress the fundamentals on which Rotary was built and has flourished. Service about self is the Rotary motto. It's four-way test is: Is it true? Is it fair to all concerned? Will it build goodwill and better friendships? Will it be beneficial to all concerned?

Manchester will make a fitting ambassador for the United States during its Bicentennial year for he traces his family through three lines to the American Revolution.

The first Manchester arrived in Massachusetts in 1638. He was Thomas Manchester from Yorkshire, England. He left that same year for New Haven, Conn., with Ezekial Rogers, a non-conformist minister who helped found the settlement there, and Thomas spent his first winter with an ancestor of the famous Commodore Perry who turned the tide of American history in the Midwest by defeating the English fleet at Lake Erie.

During this same period, Roger Williams, famous in American history for his protest against the same religious bigotry in Massachusetts he had found in England, left for Rhode Island to found a colony. The Manchesters joined the Rhode Island settlement and lived in that state for five generations until Issac Manchester moved his family across the mountains to Washington County, Pa., near Little Washington. Some of his descendants still live there in the lovely old family homestead, now a state and national monument.

Three generations later in 1803, Atty. Manchester's great-grandfather, another Isaac Manchester, came to Canfield with his wife and small children. His father, Benjamin, had bought land in Canfield six years earlier, just seven years after the first settlements in this Connecticut Western Reserve.

Manchester was born in Canfield, a son of Joseph and Gertrude Manchester, graduated from Canfield elementary and high schools and learned his father's hardware business while still a boy.

He received his bachelor and law degrees from the University of Michigan and entered the firm of Harrington, Huxley and Smith after passing his Ohio State Bar examination. His law work has included just about every aspect of the profession, but he has been primarily involved in real estate and probate work.

Trusted for his character, ability and sense of human dignity, he has been a leader not only in local affairs but on state and national levels. Known for his firm convictions, he has never backed off from making them known, however unpopular. Occasionally it has made enemies, but in the long run friends who admire his strong moral qualities. The demands upon him for community service have just about equalled those of his professional career.

FIGHTS FOR EDUCATION

He was first president of the Ohio Board of Education, serving with distinction. He pressed to meet needs of poor school areas and publicly reminded people that education is a battle for minds which must be supported.

He was twice president of the Mahoning County Board of Education, declining pressures to continue. He was a member of the 40-member education committee of the national Chamber of Commerce. He is a founder, past president and honorary member of the National Association of State Boards of Education, formed to arrest a move toward federal control of education.

Boy Scouts gave him its Silver Beaver Award, top honor for distinguished service. He has been active in Boy Scouts since 1917, is a past president of the Mahoning Valley Boy Scout Council and served on the national Boy Scout Council. In 1975 Mahoning Valley Council dedicated an Eagle Scout class to him in special recognition.

In 1975 he received a special award from the Chamber of Commerce at its 70th anniversary in Amsterdam. He has been listed in "Who's Who in the Midwest" and is a 33d degree Mason.

AIDS POLIO FOUNDATION

A member of the first committee organized in Youngstown to fight polio, he held office in the Mahoning County Chapter of Infantile Paralysis Foundation for 31 years, serving several terms as chairman. He has been chairman of the Mahoning County Society for Crippled Children and Adults (Easter Seal Society), continues to serve on the board, and has been fund-raising chairman for the Ohio Society.

Canfield has always held special interest for him, of course, and he is one of its first citizens. He was mayor of Canfield for eight years in the 1930's, the youngest mayor ever elected in Ohio when he first took office. He served four terms and was then defeated for taking an unpopular stand in trying to persuade the village to use water from the City of Youngstown. He also served as Canfield's solicitor without pay while mayor.

He developed Canfield's water, sewer and fire systems as mayor and was instrumental in having the wells drilled at Canfield fairgrounds. He built the city's first council chambers and led the community effort to construct the community building which houses several civic projects. He continues to concern himself with Canfield politics.

The old Canfield Presbyterian Church his family has attended for generations always has had his support and close association. He taught Sunday School there for 25 years, served as chairman of the board, trustee and elder.

He also served as president of the board of First Presbyterian Church in Youngstown and has received many honors from the Presbyterians for compassionate, resolute demonstration of faith in action. He was president of the Organization of Protestant Men and won its "President of the Year" award.

The Manchester home in Canfield, at 495 Montridge Drive, is steeped in American history. The home itself is built of bricks from an old schoolhouse and is full of lovely antiques. The Manchesters have given hospitality there to many visiting Rotarians from all over the world when they have passed through this area.

Giving close support to Atty. Manchester is his wife, the former Mary Barker, who shares his interests in both Rotary and community affairs. Once a school teacher, she continues to have an interest in youth and was one of the driving forces back of the effort to build a much needed Juvenile Justice Center for Youngstown. She also served as Girl Scout commissioner and has been active in the Women's Auxiliary to the bar association.

The Manchesters have two sons, James Russell with IBM Corp. in St. Louis, just returned to this country from England where he worked on an IBM project for three years, and Robert III, in his last year of law school at Oklahoma City University and taking a law internship with Hamilton and Lambert. There also are two granddaughters, Misti and Lisa.

WOULDN'T IMPORTING MORE OIL LESSEN OUR DEPENDENCE?

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 10, 1976

Mr. CONTE. Mr. Speaker, "With all thy getting get understanding," says Malcolmn S. Forbes, editor-in-chief of Forbes magazine in his June 15, 1976, edition. Just below that call to reason, on the editorial page of Forbes, is a thought I have been pronouncing for the past 18 years. It is simple, incisive, and true.

It is an answer to those people who advocate a national policy of "Drain America First." I would recommend this short editorial as required reading for all employees at the Federal Energy Administration and for all oil company executives who still claim an ounce of allegiance to their country.

The article follows:

[From the Forbes magazine, June 15, 1976]

Wouldn't Importing More Oil Lessen Our Dependence?

Is it naïve to wonder if pumping ever more oil out of our own ever lessening pools of it will make us more independent of the OPEC countries?

Congress absolutely should encourage by every feasible financial carrot our Oils, big and little, to make pump-ready as many additional domestic pools as can be found; making ready to pump out Teapot Dome resources is a first-rate idea; preparing and storing a six-to-12-month supply in vast salt-encrusted reservoirs is a great step.

But, to the extent we can afford to, using more imported rather than domestic oil would seem in the long run to help preserve our energy resources, not lessen them.

THE REASON WHY THE HUMPHREY/HAWKINS BILL WILL INCREASE BOTH UNEMPLOYMENT AND PRICES

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 10, 1976

Mr. KEMP. Mr. Speaker, I have had the good fortune of coming across the Senate testimony of Arthur B. Laffer, one of our country's most distinguished economists, on the Humphrey/Hawkins bill. In clear and reasoned language Dr. Laffer shows why the Humphrey/Hawkins bill will achieve the opposite of what it intends. He shows why the bill will:

One, reduce employment;

Two, increase economic instability;

Three, increase prices.

Dr. Laffer's testimony also explains why the United States has just experienced the worst recession of the postwar period at just the time when Government spending is the greatest share of our GNP.

More importantly, he makes clear a lesson we all need to learn, and that is why a tax on work causes unemployment.

In the interest of our Nation and our people, I am making Dr. Laffer's testimony available to all Members by inserting it into the Record at this time:

Statement Prepared for the Senate Labor and Public Welfare's Subcommittee on Employment, Poverty, and Migratory Labor Hearings on S. 50—The Full Employment and Balanced Growth Act of 1976

(By Arthur B. Laffer)

Mr. Chairman, it is an honor to be invited to appear before your subcommittee today. There is no economic issue more important now or perhaps ever than relieving unemployment. Unemployment and all the attendant side effects that word connotes have been millstones around the neck of our country. Restoring full employment should be the prime objective of U.S. economic policy. Unemployment, misemployment, underemployment and withdrawals from the labor force are all different facets of the common problem.

On strictly humanitarian grounds the plight rendered by unemployment is abominable to the wage earner and his family. The market failure to make use of a perishable natural resource makes all of us poorer. The lost value to the United States far exceeds any strict dollar and cents measure. A large part of our role as world leader is predicated upon our economic prowess. Our capacity to deter potential belligerents not only rests on our defense capabilities narrowly defined, but is further enhanced by our production base.

Perhaps no proposition is more obvious in economics than the proposition that if taxes on a product are raised there will be less of that product. Likewise, if subsidies for a product are increased, in general, there will be more of the now subsidized product. Taxes on commodities discourage them while subsidies to products encourage them.

In the United States today basically we are taxing employment through a multitude of taxes such as the personal and corporate income taxes. Using the terminology of economics, we are also subsidizing inefficiencies, nonwork, and the absence of production. Examples in this area abound, such as agricultural subsidies, Export-Import bank subsidies, the "retirement test" for social security, the recent effort to discourage U.S. development of minerals on the deep sea beds, etc.

It is no wonder that the United States today has so little employment and output and so many inefficiencies and so much unemployment. In my opinion, the "Full Employment and Balanced Growth Act of 1976" will, if put into effect, add to our economic and employment problems. The proceeds for its expenditures can only come from current producers and employment. This Act therefore will add to the already onerous tax on employment and output. The expenditures themselves will be used to pay wages above what could be earned elsewhere. Likewise, the value of the product the government extracts will also be of questionable marketability. It is inconceivable to me that such a program will do anything other than hurt workers, consumers, and the truly needy who rely on other government programs.

A firm's decision to hire is based, in part, upon the total cost to the firm of the employee's services. For most firms the more it costs them to hire workers the fewer workers they will hire. Likewise the less it costs firms to hire workers the more they will hire.

Employees' decisions to work are also, in part, based upon the amount of earnings the employee himself gets. The more the employee gets the more willing he is to work and vice versa. Employees, it should be noted, do not concern themselves with the total costs to the firm. All employees care about is how much they get, net.

In sum, firms worry about the total wages they have to pay, while employees are concerned with the wages they receive. The difference between the wages firms pay and the wages employees receive is called the "wedge." This "wedge" consists of income taxes, payroll taxes, excises, sales taxes, property taxes as well as the market value of the accountants and lawyers firms hire in order to maintain compliance with government regulations.

Let us for a moment imagine a "wedge" or tax of 20 percent on a worker whose gross wages paid are $200 per week. Let us also imagine that the employer pays half of the tax and the employee half. Under these conditions the total cost to the employer is not $200 per week but is $220 per week. The firm's decision to hire is based exclusively on the $220 figure. From the employee's vantage point he doesn't receive $200 per week. He must subtract his tax "wedge" share of $20 leaving him with $180 per week wages received. Thus, the "wedge" of $40 is the difference between the wages paid of $220 and the wages received of $180.

It is easy to see what happens if the "wedge" is increased say to 40 percent. Assuming it is still divided evenly, then wages paid by firms rise from the $220 figure to $240. Firms will hire fewer workers. Wages received by employees will fall from the $180 figure to $160. Employees will be less willing to work. Both the firm's desire to hire workers and the workers' willingness to work will be reduced as the "wedge" increases. Output unambiguously falls and the level of total employment falls as the "wedge" increases.

In the United States the wedge can be represented by either total government spending or by the total of transfer payments. Basically, transfer payments are real resource transfers from producers and workers to people based upon some characteristic other than work or production. As such transfer payments reduce the amount of goods and services available to the people who produced them. Transfer payments are a tax on production and work. Likewise, transfers are a payment based upon a characteristic other than work. Some of the transfers may be based on population characteristics such as age, region of residence, health, sex, race, etc. In many instances, however, not only are transfers given to people based upon a characteristic other than work, but they are often given out only if there is an absence of work. That is, transfers are often a payment explicitly for nonwork. Examples of this are agricultural subsidies, food stamps (income requirement), social security payments (retirement test), housing subsidies 235-236 (means test) and obviously unemployment compensation itself.

In the table below I have attempted to construct a time series on the "wedge," both in absolute magnitude and as a share of GNP. Of necessity, much is omitted from the figures: such as (i.) the market equivalent of the lost value to the owners of productive factors of restrictions on the use of their resources such as transportation regulation, pollution controls, health requirements and standards etc. (ii.) the market value of the time people spend to comply with government requirements principally, but not totally, in filing out tax forms, and (iii.) the total cost to firms of the accountants and lawyers they hire to maintain compliance with government regulations and requirements. In spite of the shortcomings, the table is indicative of the recent trends in the United States and the growth of the "wedge."

GOVERNMENT SPENDING AND TRANSFER WEDGE[1]

[Columns 1-5, 7, and 8 in billions of dollars]

	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
Year	GNP	Government expenditures, Federal	Government expenditures, State and local	Grants-in-aid	Government expenditures, Federal, State, and Local (2)+(3)−(4)	Spending wedge (5)÷(1)	Government purchase of goods and services, total	Government transfers, all levels (5)−(7)	Transfer wedge (8)÷(1)
1950	286.2	40.8	22.5	2.3	61.0	0.213	38.5	22.5	0.079
1951	330.2	57.8	23.9	2.5	79.2	.240	60.1	19.1	.058
1952	347.2	71.1	25.5	2.6	94.0	.291	75.6	18.4	.053
1953	366.1	77.1	27.3	2.8	101.6	.277	82.5	19.1	.052
1954	366.3	69.8	30.2	2.9	97.1	.265	75.8	21.3	.058
1955	399.3	68.1	32.9	3.1	97.9	.245	75.0	22.9	.057
1956	420.7	71.9	35.9	3.3	104.5	.248	79.4	25.1	.060
1957	442.8	79.6	39.8	4.2	115.2	.260	87.1	28.1	.063
1958	448.9	88.9	44.3	5.6	127.6	.284	95.0	32.6	.073
1959	486.5	91.0	46.9	6.8	131.1	.269	97.6	33.5	.069
1960	506.0	93.1	49.8	6.5	136.4	.270	100.3	36.1	.071
1961	523.3	101.9	54.4	7.2	149.1	.285	108.2	40.9	.078
1962	563.8	110.4	58.0	8.0	160.4	.284	118.0	42.4	.075
1963	594.7	114.2	62.8	9.1	167.9	.282	123.7	44.2	.074
1964	635.7	118.2	68.5	10.4	176.3	.277	129.8	46.5	.073
1965	688.1	123.8	75.1	11.1	187.8	.273	138.4	49.4	.072
1966	753.0	143.6	84.3	14.4	213.5	.284	158.7	54.8	.073
1967	796.3	163.7	94.7	15.9	242.5	.305	180.2	62.3	.078
1968	868.5	180.6	106.9	18.6	268.9	.310	198.7	70.2	.081
1969	935.5	188.4	117.6	20.3	285.7	.305	207.9	77.8	.083
1970	982.4	204.2	132.2	24.4	312.0	.318	218.9	93.1	.095
1971	1,063.4	220.6	148.9	29.0	340.5	.321	233.7	106.8	.100
1972	1,171.1	244.7	163.7	37.5	370.9	.317	253.1	117.8	.101
1973	1,306.3	264.8	180.9	40.6	405.1	.310	269.9	135.2	.103
1974	1,406.9	300.1	201.3	43.9	457.5	.325	301.1	156.4	.111
1975	1,498.9	356.9	222.6	54.3	525.2	.350	331.2	194.0	.129

[1] Source: "Economic Report of the President."

Depending upon the specific assumptions underlying the cost estimates, the "Full Employment and Balanced Growth Act of 1976" will increase the "wedge" by a greater or lesser amount. In virtually every aspect this Act places additional burdens on producers and workers and simultaneously gives little in the way of final output in return.

The reordering of national priorities I interpret as meaning a continuation and furtherance of the changes in policies so far followed. The general tendency, with some notable exceptions, has been to make the economy less efficient. This is especially true in the energy and transportation areas. The additional levels of bureaucracy and the use of numerous professional groups to write, to analyze, and to evaluate plans and proposals is of little ultimate benefit to the country. And finally, the value of the production of those employed under this program, through no fault of their own, will not be as high as the payments made to them.

Viewing the cyclical nature of the economy from this vantage point also gives us a slightly different perspective.

Let us imagine for a moment an economy that produces, say, 1000 real units of output and has government transfers and purchases of 500 real units. If this is the case, then the producers and workers who produce the 1000 real units of output are able to keep 500 of those units. While these producers and workers are paid 1000 units they receive only 500 units and therefore have a "wedge" of 50 percent. For every two units someone produces he gets to keep only one. Fifty percent is taxed away and given to someone else.

Viewing the current U.S. economy in this manner, let us see what happens if, for whatever reason, there is a shortfall of income or output down from the 1000 level to say 900 real units. In our economy, as output and employment fall, government spending rises, here almost entirely as a result of increased transfer payments. Increases occur across a whole range of categories including open ended automatic increases such as food stamps, social security benefits, education loans and clearly unemployment benefits. There will be newly legislated increases as well. For the sake of the example, let's imagine government spending rises by 40 real units.

Therefore, while output falls from 1000 to 900, government spending rises from 500 to 540. The "wedge" in the economy rises from 50% to 60%. Now producers and workers receive only 4/5ths of one unit for every two they produce, as opposed to receiving the one unit for every two produced previously. By increasing spending during a recession or downturn in production the government reduces the incentives to produce and work. Far from stabilizing the economy, such counter cyclical spending will, in fact, accentuate the cyclical aspects of the economy. The greater government spending is, and the more closely tied to the level of unemployment it is, the more cyclical will be the economy. It should come as no surprise that the U.S. has just experienced the worst recession of the postwar period at just the time when spending is the greatest share of GNP and it is geared most closely to the level of unemployment.

Several features of the "Full Employment and Balanced Growth Act of 1976" impact directly on the cyclicality of the economy. By having a permanent counter cyclical grant program to state and local governments this Act will increase the severity of recessions and heighten excessively expansionary booms. The employment program will do the same. This program for all practical purposes raises the tax "wedge" during recessions and lowers the tax "wedge" during booms. As a consequence the economy will become more unstable.

On the inflation side the impact follows directly from the real output and production impact. Inflation results primarily from "too much money chasing too few goods." Reducing output and production, as I believe this Act would do, will thereby lead to higher prices. How much higher we cannot be sure.

In all I believe the "Full Employment and Balanced Growth Act of 1976" will do the reverse of what it states. It will have the effects of:

(1) Reducing total employment.

(2) Making growth more cyclical and less stable.

(3) Resulting in higher prices.

From the position of the current U.S. economy nothing is more important than achieving full employment and balanced growth. The way to achieve more employment and greater output is to make employment more profitable and to make it more profitable to employ. An economy does not reduce unemployment and increase output by taxing work and employment. To see this clearly one need only imagine how much would be produced if all output were taxed away from those who produced it. Production would cease.

What must be done, if we are ever to achieve a sustainable high level of output is to reduce the tax "wedge" on producers and workers. These reductions must occur predominantly on the already overtaxed and therefore underemployed factors of production. It is especially important for the reductions to be on marginal rates of taxation. Three areas of taxation deserve special attention, taxes on corporate held capital, personal income taxes, and the implicit taxes on the less educated and disadvantaged participants in our economy. In addition to reducing tax rates on production and work, inequitable and distortive spending must also be restrained.

At present, corporate held capital is taxed at exceptionally high rates on the margin. Viewing the problem strictly from the tax schedules, there is a marginal tax rate of 48 percent to be paid by corporations before anything goes to the ultimate owners of the capital. After the corporate tax, the owners of the capital must then pay additional personal income taxes. Even if the marginal personal income tax rate were only 42 percent this would imply that the tax "wedge" on corporate held capital would be close to 70 percent. The "wedge" considered so far only includes the corporate and personal income taxes on reported profits. Due to the effects of inflation, reported corporate profits overstate economic profits. Inventory price increases are reported as profits when, in reality, they are not. Similarly, depreciation is calculated from the purchase price of the capital good and therefore understates true depreciation.

In addition to these obvious considerations, some allowances should be made for capital gains taxes, excess profits taxes, property taxes, sales taxes, excise taxes, the cost of restrictions on the use of resources and the total cost of accountants and lawyers firms hire to comply with government regulations. All things considered, the total marginal tax "wedge" on corporate held capital may well be in excess of 90 percent.

Workers work better with capital. To induce people to save in order to provide the capital to employ workers there must be some post "wedge" yield. Reducing tax rates, especially the high marginal tax rates on capital, will reduce unemployment, increase employment, lower misemployment, reduce underemployment, and attract potential workers back into the labor force.

Another tax drastically in need of reduction is the personal income tax. Here again the "wedge" is apparent, especially at the higher marginal rates. Through tax loopholes and withdrawals from work in the form of unemployment or leisure, misemployment and underemployment prevail. By cutting the personal income tax rates, employees' after-tax wages rise while the pre-tax cost to employees falls. More people will be hired.

Cutting personal income taxes is especially appropriate seeing that a substantial portion of the current rise in tax rates has arisen from the effects of inflation on progressive tax schedules. Perhaps the best single measure here would be to index the personal income tax. As a second best, individual exemptions and deductions should be increased across the board. As a final suggestion, an across the board percent tax reduction (a negative tax surcharge) could be enacted.

The implicit taxes on the less educated and more disadvantaged potential employees and workers are unbelievably high. If a minority youth in a poor neighborhood would like to work for $1.50 an hour and a small minority-run business would like to hire him at that wage rate he still can't legally work because of the minimum wage law. After being unemployed for several years, the person becomes close to if not literally unemployable.

While complicated tax schedules and arcane building codes along with other modern bureaucratic developments can be coped with by college graduate entrepreneurs, they present a serious impediment to the economic development of the poor and less educated neighborhoods. As if there already weren't enough difficulties inherent in starting a successful business in poor neighborhoods the government-imposed tax "wedge" is probably at its highest there. Needless to say, it is precisely in these neighborhoods where the "Full Employment and Balanced Growth Act of 1976" will be used the most. It is rather ironic that one massive government program is proposed to undo the damaging effects of others. It is rather tragic that this new program will result in further deteriorations in areas already heavily deteriorated.

I doubt very much whether the United States can maintain peacetime full employment without a substantial reduction in the level of spending as a share of GNP. At the very least, this spending must be redirected in such a way as to reduce the direct incentives for non-production and non-employment.

The errors in the thinking underlying the logic of S–50 are rather subtle. It is argued that if the market won't provide ample employment opportunities, then government spending must take up the slack. By hiring previously unemployed workers, so the logic runs, purchasing power is placed in the hands of people who will spend. This spending in turn requires more jobs and so the process continues. Even if the output of the government employment is literally worthless (such as digging holes and then filling them up again), the economy will be better off in terms of total production and employment.

The questions to be asked here are twofold in nature. First, how and from whom does the government get the additional resources to pay for the program. In the case of direct taxes it is clear. Every dollar a recently hired government employee gets some private employee gets one dollar less. Distributional issues aside the increased spending by the government employee is exactly offset by the reduced spending of the now taxed private employee. If the spending is financed by debt issue, then some borrower will be "crowded out" of the capital market and his spending will fall by the amount the government employees' rises.

Whether they are taxed out or crowded out, total aggregate demand will not change. Only if we totally ignore the real effects of the financing will we get an increase in demand.

The second question that arises is whether the total "wedge" will not increase and thereby lead to lower output. Using an admittedly extreme example, what would happen if the government raised taxes and spending to the entire amount of GNP? Does anyone for a moment think that output would not fall? People who feel that S. 50, the "Full Employment and Balanced Growth Act of 1976" will move the economy to a higher level of employment and output have overlooked:

(1) The people who are taxed or can't borrow because of the financing of this program will reduce their spending to offset the increases by those who receive the funds; and

(2) The economy with the larger share of output going to the tax "wedge" will substitute away from work and production into non-work.

MATERNAL AND CHILD HEALTH ACT

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 10, 1976

Mr. SCHEUER. Mr. Speaker, today I am introducing the Maternal and Child Health Act, a health program for mothers and children with a comprehensive range of benefits including preventive services, physician and hospital services, drugs and medical devices. Joining me as prime sponsors are Representatives YVONNE BURKE, SILVIO CONTE, ELIZABETH HOLTZMAN, ANDREW MAGUIRE, CLAUDE PEPPER, CHARLES RANGEL, EDWARD ROYBAL, and LOUIS STOKES.

The Maternal and Child Health Act will meet the health care needs of 67 million children from birth through age 18, as well as 40 million women in the childbearing age group.

My introduction of this bill in no way diminishes my support for an eventual comprehensive national health program covering all citizens. Resource and budgetary constraints, however, make it more and more likely that we will have to move toward a complete program in incremental steps. Beginning with children is not only cost effective, it meets vital health care needs which are not now being met.

I am including a summary of the Maternal and Child Health Act, a cost breakdown of this legislation and a fact sheet which clearly indicates that child and maternal health has been woefully neglected in a country as rich and technologically advanced as ours.

MATERNAL AND CHILD HEALTH BILL FACT SHEET

This legislation would meet health care needs of the Nation's 67 million children from birth through age 18 and 40 million women in childbearing age group.

Children and youth comprise one third of our population, yet little more than 10 cents out of every health dollar spent in the U.S. goes towards child health.

14 other nations have better record than U.S. in infant mortality. U.S. statistics vary, ranging nationwide from 26.2 per thousand for non-whites to 15.2 for whites, and statewide, 23.0 in Mississippi to 12.2 in Utah.

Perhaps ten million U.S. children under age 16 receive no medical care whatever in our country.

Half of all children under 15 have never seen a dentist, two thirds of children from families with incomes less than $4,000 have never seen a dentist.

When U.S. children reach school age, they have an average of three decayed teeth.

Half of all school children suffer from gum disease.

In 1974, nearly 5 million children aged 1 to 4 (37%) were not immunized against polio.

40% were not vaccinated against rubella.

Pregnancy in young teenagers is steadily rising. Mothers under 17 are most likely to have babies of low birth weight—a condition associated with infant deaths, birth defects, mental retardation, etc.

Most pregnant women of any age have inadequate maternity insurance coverage under present system.

Cost estimate for this legislation is about $11 billion when fully implemented. $11 billion represents only half of increase in Federal health outlays betwen 1971–1977. $11 billion is only 3 times cost of unnecessary surgery financed under medicaid and medicare during 1974.

Average per capita health care costs of children up to age 18—$200.

Average per capita health care costs of persons aged 19–64—$384.

Average per capita health care costs of persons 65 and over—$1,052.

SUMMARY OF THE MATERNAL AND CHILD HEALTH CARE ACT

GENERAL APPROACH

This bill establishes a program of comprehensive health care for all children and a program of maternity benefits for all women. The program is financed by a small additional payroll tax and from general revenue. The bill creates a Maternal and Child Health Board within the Department of Health, Education and Welfare which administers the program. The Social Security Administration supervises payments to providers of care. Such cost control measures as prospective reimbursement for institutions, fee schedules for practitioners and economic incentives for the use of capitation as a mode of reimbursement for practitioners are included.

PEOPLE COVERED

All children from birth to age of 18 years and all pregnant women who are legal residents of this country are eligible for the benefits of this program.

SCOPE OF BENEFITS

The program provides for children a wide range of health care benefits. Pregnant women are provided with full prenatal, delivery and post delivery care.

Children's benefits

1. Professional services:

(a) Provided by a physician or a physician's extender under the supervision of a physician.

(b) Preventive health services including screening medical history and physical examination and such screening and preventive health measures as are appropriate to the age of the child. The frequency and the details of these preventive health visits are to be determined by the Maternal and Child Health Board in consultation with the Maternal and Child Health Advisory Council.

(c) All professional services for sick children with a 10% coinsurance fee paid by the patient to the provider.

(d) Dental services include preventive services, diagnostic services, and therapeutic services, for children over the age of 4 years.

(e) Limitations of service.

(1) Private psychiatric care. Mental health services are covered only when delivered in such institutional settings as community mental health or child guidance clinics.

(2) All major surgery to be performed only by Board eligible or certified surgeons.

(3) Tonsillectomies and adenoidectomies to be performed only after a second opinion from an independent physician.

(4) Dental orthodontic services are excluded except for therapy required for handicapping malocclusion.

2. Institutional services:

(a) Hospital Services—100 days annually.

(b) Skilled nursing homes limited to 120 days annually. Child may be admitted upon certification of need for such service only after a physical examination performed within 24 hours of admission.

(c) Home health services including homemaker services limited to 120 days annually with a ten percent coinsurance.

(d) Rehabilitative services provided in an organized setting limited to 60 visits annually.

(e) Mental health and social services provided in an organized setting limited to 60 visits annually.

3. Other services:

(a) Laboratory diagnostic services.

(b) Drugs prescribed to be taken for longer than 4 weeks.

(c) Devices, appliances and equipment with a 10% coinsurance fee.

Maternity benefits

1. Professional practitioner services:

(a) Provided by a physician or by a physician extender under the supervision of a physician.

(b) All professional services required during pregnancy and delivery.

(c) All professional services required for the diagnosis and treatment of conditions related to pregnancy during the 12 weeks following the termination of pregnancy.

2. Institutional services:

(a) All hospitalization required during pregnancy and for delivery.

(b) All hospitalization required for the diagnosis and treatment of conditions related to pregnancy during the 12 weeks following the termination of pregnancy.

3. Other services:

(a) All laboratory diagnostic services required during pregnancy and during the 12 weeks following the termination of pregnancy.

(b) All drugs prescribed during pregnancy and during the 12 weeks following pregnancy which are to be taken for longer than four weeks.

Other benefits

a. The Maternal and Child Health Board is mandated to designate certain regions or populations as medically underserved and to allocate additional funds for services required to ensure access and appropriate use of the benefits of the program. Such services include transportation, social services, outreach and counselling.

ADMINISTRATION

A three person Maternal and Child Health Board within the Department of Health, Education, and Welfare is responsible for the administration of this program. The members of the Board are appointed by the President with the advice and consent of the Senate. The responsibilites of the Board include the formulation of regulations, the negotiation of reimbursement schedules for institutions and of fee schedules for practitioners.

A National Maternal and Child Advisory Council consisting of 6 consumers and 4 experts in Maternal and Child Health are appointed by the Secretary of Health, Education, and Welfare. The Council advises the Maternal and Child Health Board on matters of policy and the operation of the program. The Council reports to the Board and to Congress annually.

FINANCING

The program is financed through the following sources:

A. 0.1% tax on employee's wages up to $20,000 annually;

B. 0.1% tax on employer's payrolls;

C. 0.1% on self-employed income up to $20,000 annually; and

D. contributions from general revenues equal to the amount necessary to implement the provisions of this program.

PAYMENTS OF PROVIDERS OF MATERNAL AND CHILD HEALTH SERVICES

A. Institutional reimbursement will be by a method of prospective reimbursement negotiated by the institutions with the Maternal and Child Health Board or their respective delegates.

B. Individual professional providers will be reimbursed by fee schedule negotiated between the professional providers and the Maternal and Child Health Board. The Maternal and Child Health Board may not approve any fee schedule which exceeds the prevailing fee schedule existing on December 31, 1974, and which has been adjusted by appropriate economic indices. Professional providers may elect to be reimbursed through the capitation method of reimbursement. The Board may provide up to a 10% bonus to those practitioners electing capitation as a mode of reimbursement. No co-insurance will be paid by patients using providers reimbursed through capitation.

C. Payment to dispensers of drugs or appliances will be based upon wholesale cost and a dispensing fee negotiated between the dispensers and the Maternal and Child Health Board or their delegates.

EFFECT ON OTHER GOVERNMENT PROGRAMS

Direct medical care benefits for mother and children under Title XIX and Title V are superceded by this Act.

OTHER MAJOR PROVISIONS

A. Only hospitals with 1500 deliveries in an urban area and 500 deliveries in a rural area will be approved as institutions for the maternity benefits of this program. The Board may waive this provision in areas in which it creates a hazard for the health and welfare of pregnant women.

B. Only hospitals with defined pediatric units of at least 12 beds and a 70% occupancy rate will be eligible institutions for the pediatric benefits of this program.

C. Families who are indigent are exempted from the coinsurance fee.

EFFECTIVE DATE

A. Tax collection will begin during the fiscal year following enactment.

B. Maternity benefits and those for children up to the age of 2 years will begin twenty four months following enactment.

C. Benefits for children, ages 2 through 4 years, will begin 40 months after enactment.

D. Benefits for children, ages 4 through 12 years, will begin 60 months following enactment.

E. Benefits for children, ages 12 through 18 years, will begin 72 months following enactment.

ESTIMATED TOTAL COST OF THE MATERNAL AND CHILD HEALTH BILL

Pediatric component	$7, 561, 561, 883
Maternity component	3, 036, 201, 500
Dental component	2, 276, 650, 752
Drug cost	360, 635, 693
Nursing home cost	79, 901, 875
Laboratory cost	635, 755, 362
Total cost	13, 950, 707, 065
Plus 7% administrative cost	14, 927, 256, 559
Minus current federal outlays (medicaid, title V of the Material and Child Health Act, OEO programs, and regained lost Federal revenue	—3, 237, 000, 000
Net cost of maternal and child health bill	11, 690, 256, 559

CURRENT FEDERAL OUTLAYS FOR MATERNAL AND CHILD HEALTH

Medicaid	$2, 000, 000, 000
Maternal and child health	310, 000, 000
OEO	67, 000, 000
Total current estimate of Federal outlay for MCH direct care	2, 377, 000, 000
Plus regained lost Federal revenue	860, 000, 000
Total Federal trade offs with MCH bill	3, 237, 000, 000

A MESSAGE FROM OSCAR A. CARLSON TO THE GRADUATING CLASS OF 1976

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 10, 1976

Mr. FORD of Michigan. Mr. Speaker, last week I had the honor of speaking to the graduating class of the Oscar A. Carlson High School in Gibraltar, one of the communities in my congressional district.

This school was named for a former teacher and administrator, now in retirement, who had been scheduled to address the graduating class, but for health reasons was unable to attend the ceremonies.

Instead, Mr. Carlson wrote an inspiring letter to the 208 graduates, the final paragraph of which was read to the students by Donald MacGregor, president of the board of education. I was so impressed with this message that I asked for a copy of the entire letter. It is such an impressive piece of writing that I am inserting it herewith in the RECORD.

Many of us are called upon to deliver commencement addresses, and we know the problem of finding the right words to tell today's young people the things we would have them know, the advice we would have them heed, the thoughts we would have them hear.

Mr. Carlson has done this effectively and skillfully in a thoughtful message which reflects his nearly half century of work and association with young people. I strongly commend it to the attention of you and all our colleagues:

A MESSAGE FROM OSCAR A. CARLSON TO THE GRADUATING CLASS OF 1976

"I would feel that I had performed well . . . if I could impress upon every youth . . . who goes out this year with a diploma . . . the knowledge that it is not a certificate of right . . . to special favor and profit . . . but rather a commission of service."—Warren G. Harding

DEAR SENIORS: There are many seasons: a season to be born and a season to die . . . a season to plant and a season to reap . . . a season to weep and a season to laugh. Seasons somehow change with life's cycle, and you change with them. They come and go in the long calendar of the year to remind you of the passing of time . . . and of the dawn of many milestones. And now at hand is . . . the joyous season of commencement.

The world comes all alive again
When snowflakes disappear.
For spring puts on a lovely show
As commencement time draws near . . .
New hopes are born, new joys arrive,
New beauty meets the eye.
And the gentle breath of summer
Has blown your cares away;
All nature sings,
For morning brings
This lovely commencement day.

You have now spent some twenty years of your life preparing for the future. You have learned a little of what is worthwhile. You have conquered the worst forms of foolishness. You have come closer to a balance period of life, knowing good from evil . . . what is precious . . . what is worthless. Some dangers are past, your mind is more peaceful . . . certain evils are forgiven . . . the affections are stronger . . . and envy is weaker.

You have at last reached your long anticipated goal of personal challenge. You shall now really begin to live some of the newer dimensions of a structured life . . . never lived before. Yesterday was experience . . . Tomorrow is hope. Today is getting from one to the other as best you can. But you must bridge this gap . . . and for you the gap may be wide and deep.

Yet in spite of everything you must continue to hold high an undaunted faith in God. A misty morning doesn't necessarily signify a cloudy day . . . especially to you of persevering faith. Those of you who love . . . hope . . . and believe will one day become a new creation . . . with a new life . . . built according to the enduring and lasting dimensions of eternity.

Faith for you, indeed, is not irrelevant. It is terribly important. It is the heart and soul of life. It is the stuff of which life is really made. It is more important than having a good job. It is more important than paying off a mortgage. Faith in the unseen is life itself.

If you are ever to survive this Atomic Age in which you now live, you must have something to live by . . . to live on . . . and to live for. You must stand aside from the world's conspiracy of fear and hate . . . and grasp again the great monosyllables of human behavior: faith, hope, and love. You must live by these . . . if you are to live at all . . . under the crushing weight of contemporary history.

But even the mere possession of faith alone . . . is not sufficient in itself. You must demonstrate this gift every day of your lives with a personal sort of dedication . . . a quality of sincere kindness in relating to others . . . and an ease in which you accept and tolerate all people everywhere. Your greatness is measured by your kindness . . . your education and intellect by your modesty . . . your ignorance is betrayed by your suspicion and prejudice . . . your real caliber is measured by the warm tolerance you demonstrate for others.

Yes, knowledge, ability and experience alone are indeed of little merit in reaching success . . . if kindness and consideration are lacking. Kindness is the one passport that is accepted without question in every land . . . in every office . . . in every home . . . in every heart in the world. For nothing commends itself so well as kindness; and kindness is only courtesy.

As we examine critically our immediate environment, we are forced to conclude that we are now living in a very shallow day . . . and the things that appear to matter most usually are matters related to our personal comfort, convenience and entertainment. The advertising that we are exposed to every hour in our newspapers tells us this often enough. Indeed, our theme song has come to be—"We Want . . . What We Want . . . When We Want It."

But probably the most profound question still unanswered and still confronting us . . . after these many years is . . . "Who am I?" This is the identity question . . . which in turn points to the identity crisis . . . that consistently runs through our present day . . . as almost no other problem does. It haunts us during every moment of our lives . . . especially as we so increasingly and rapidly become depersonalized numbers . . . as it were . . . running through a computer.

When people ask us who we are . . . our reaction is quick and mechanical. We at once produce our social security number. And when they inquire where we are going, we in like manner . . . produce our driver's license number. Is it any wonder that an irate customer in a local department store recently shouted to the manager: "Social security numbers, driver's license numbers, account numbers!!! numbers . . . numbers . . . numbers . . . don't you ever want to know . . . who I really am? One of your tasks as graduates is to help your fellowmen to reassure wtih dignity their status as real people in our society.

Most people somehow think of youth as a glorious time . . . a thrilling time . . . when everything without exception looks beautiful; an exciting time . . . that is forever full of promise. But all too often, people are looking only through rose colored glasses . . . and you alone are the ones that are really aware of it. Yes, people think that everything always looks beautiful to the young . . . but frequently this is not at all true. Too many times young people are wracked with life common tensions: uncertainty and insecurity. None ever seems able to escape these misfortunes in their lieftime . . . no one!

Already you are able to envision the final conclusion of your commencement festivities and ceremonies in the offing. For many of you the sound of the class bell will soon cease forever, the familiar roll call will not be heard by you again. And many endearing friendships that began in the classrooms and corridors of Carlson High School . . . one day will fade away.

The time has come at last to re-evaluate your past life as a guide to your future . . . to remind yourselves that "saints are sinners who keep on trying" . . . to toss out old hatreds, resentments, grudges and fears into the wastebasket of time . . . to forgive and forget . . . and to expand your souls. It is time at last to express your sincere gratitude to your parents, Principal Pavlov, Superintendent Bowen, the Board of Education, teachers and others . . . for this untiring assistance through the years. It is time at last to reassess your lives . . . and to become fully aware that he who graduates today and stops learning tomorrow . . . is uneducated the day after. And it is time finally to give thanks to God and to man . . . for the riches that have poured into your lives . . . adding zest to the years gone by.

Hail . . . and farewell . . . and God love you!

As ever,

OSCAR A. CARLSON.

ALBERT RAINS SPEECH CONTEST

HON. TOM BEVILL

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 10, 1976

Mr. BEVILL. Mr. Speaker, each spring, Snead State Junior College in Boaz, Ala., conducts the Albert Rains Speech Contest for young orators. The person for whom the contest is named is a familiar one to many of the Members of Congress today.

Albert Rains served in the U.S. Congress from 1945 until 1965, at which time he retired. During his two decades of service, Albert became one of the better-known orators in the House of Representatives. Thus, the Snead State contest that bears his name is a tribute to that service.

The winners in this year's contest are both constituents of mine in the Fourth Congressional District of Alabama. Ms. Terri Trotter of Cleveland, Ala., was the winner of this year's contest for her address on Euthanasia. The second place speech, also on Euthanasia, belongs to Robert Johnson of Albertville, Ala.

It is evident after reading these speeches that both were well-researched. Both speeches cover their subject matter thoroughly and I would like to share the texts of both with the full House:

EUTHANASIA

(By Terri Lynn Trotter, Snead State Junior College, Boaz, Alabama)

Terri is the daughter of Mr. and Mrs. Jimmy Trotter, Cleveland, Ala.

Modern medicine has wiped out many diseases—diseases that once routinely killed millions of people. But is it *always* a good thing that modern medicine keeps us alive longer? Therefore, we can see that modern medicine has brought with it problems, as well as blessings.

Pneumonia, for example, at one time was considered a friend to the elderly because it killed such patients swiftly and relatively painlessly. But that was before antibiotic drugs, and now, doctors can cure pneumonia, even though this may prolong the patients' suffering from some other disease such as incurable cancer.

Today we are faced with questions that we have never had to ask before, such as:

What, exactly, is life?

What, exactly, is death?

Which is more important: the length of life or it's quality?

And who decides, if anyone, who gets the benefit of the vast new medical knowledge mankind has discovered?

The American way of death has become too technological, often condemning a patient to a lingering and painful end. But, what is death? And who is to say exactly what death is? Or precisely when death occurs?

The traditional test for death was that a person's heart stopped beating. And when this happened, breathing and circulation also ceased. One doctor called this a crude, medieval method of testing for death. Today, special machines force the heart to pump blood and the lungs to suck in air into an otherwise dead person. Now, we see that we need a more precise definition and way to determine when death has occurred, and it came in the form of "brain death."

A group of doctors from Harvard Medical School drew up a program in 1968 aimed at determining when brain death has occurred. Various tests are used; then, finally the doctors say that when there is a completely flat EEG wave, the brain is dead, and there can be no life.

Euthanasia is not just a medical or legal problem, but it is first and foremost a moral and religious matter. Spiritual leaders, along with doctors, face it every day. Pope Paul VI, for example, says that euthanasia "without the patient's permission is murder, and with his consent it is suicide."

The results of a few polls may show how interested people are in euthanasia. Some 86 percent of the members of the Association of Professors of Medicine say they favor passive euthanasia: which is allowing a person to die from his disease without using all available treatment. While another 18 percent favored active euthanasia: which is the deliberate ending of a person's life. This would involve, for example, injecting a fatal dose of drugs into a person's system.

In *Medical Economics*, a poll showed that 75 percent of the doctors responding had practiced passive euthanasia many times after counseling with the patient's families.

More important, perhaps, is the feelings of the average person. A Gallup Poll reports that 53 percent of the American public believe the law should allow a doctor to painlessly end the life of a person who has an incurable disease—if the patient and his family request it. In 1950, a similar poll revealed that only 36 percent of the American public supported such an idea.

In closing, I would like to read a magazine article that was written by Patti Torrissi, a nineteen year old girl from Hammonton,N.J., and published in Seventeen—August, 1974:

"A motorcycle accident victim, paralyzed from the neck down, begs his brother to end his suffering. The blast from a sawed-off shotgun finishes his life. A patient enters the hospital suffering from cancer and five days later goes into a coma. An injection containing an overdose of potassium chloride kills him in minutes. Uremia, a disease of the kidneys, poisons a once-healthy body. The patient refuses treatment on a renal dialysis machine and dies within one week.

"Such instances of mercy killing and self-imposed death are causing bitter legal and medical controversies these days. At the center of the debate is an individual's right to die with a minimum of suffering. What was once a natural event has emerged as a complex social problem, due to the progress of medical science.

"Dictionaries define euthanasia as the act or practice of inducing death painlessly to end suffering from an incurable disease or condition. The term itself comes from the Greek word *eu* meaning good and *thanatos* meaning death.

"I believe that when the practice of keeping dying patients alive contributes only to prolonged suffering and overwhelming emotional and financial burdens on the family, the saving of those lives can no longer be considered a gain.

"Physicians, those professionals who have been entrusted with the job of preserving lives, have tremendous responsibility. By placing such responsibility so completely in the hands of doctors, society causes certain humanitarian considerations to be overshadowed. Some doctors prolong life in terminally ill persons to avoid malpractice suits and ill-will from the patient's family, as well as to protect their reputations. Thus human beings often suffer needlessly for a long time.

"The question is, at what point should doctors cease their efforts to maintain life artificially? For thousands of years death occurred when the heart action stopped and breathing ceased. Machines now make it possible to keep the heart going indefinitely. According to Dr. Robert S. Schwab of the Harvard Medical School, death occurs when the brain stops functioning and there is no potential for recovery even though the person may have an active, functioning pump in his chest maintained by apparatus.

"Brain cells do not regenerate. Once they are dead, the patient is doomed to be a vegetable. Doesn't he have the right to die? Shouldn't someone unplug the machines?

"Many people object to euthanasia on the religious grounds that God alone has supreme dominion over life. Man, they say, does not have such authority; the sixth commandmant states: 'Thou shalt not kill.'

"But we are taught that love is the greatest of all the commandmants. I feel that as an act of love, euthanasia is permissible, provided there are safeguards.

"In 1938 the Reverend Charles Francis Potter founded the Euthanasia Society of America. Its purpose is to promote an enlightened approach to death. The Society has published what it calls 'A Living Will.' A person, while of sound mind, fills out a form indication to family, physician, clergyman and lawyer his or her wishes in case of incapacity or terminal illness.

"We must accept the fact that death is inevitable. Today more than 70 percent of deaths in American cities take place in hospitals and nursing homes. There will probably come a time in each of our lives when we must ask ourselves just how much sense it makes to continue vigorously trying to postpone the inevitable through medical means. In her recent book, ***Last Rights***, writer Marya Mannes concludes that along with the right to know the truth about our condition and the right to be given appropriate care, we also have the right to choose death.

EUTHANASIA

(By Bob Johnson)

Bob is the son of Mr. and Mrs. Robert O. Johnson, Albertville, Ala.

George Hester, 26, lay in a hospital bed last month in Neptune, New Jersey, paralyzed from the neck down because of a motorcycle accident he had had. He felt that he was a broken piece of machinery. He was ready to die. He begged his brother, Lester, 23, to kill him. Lester complied, using a sawed-off shotgun at close range. Lester, who had enjoyed a close relationship with his brother, had been charged with first degree murder.

Last December Eugene Bauer, 59, was admitted to Nassau County Hospital with cancer of the throat. Five days later he was in a coma and given only two days to live. Then charges the District Attorney, Dr. Vincent A. Montemarano, 33, injected an overdose of potassium chloride into Bauer's veins. Bauer died within five minutes. Montemarano listed the cause of death as cancer, but prosecutors now say that it was a "mercy killing" and have accused the doctor of murder.

The two cases underscore the growing emotional controversy over euthanasia ("mercy killing") and the so-called right to die—that is, the right to slip from life with a minimum of pain for both the patient and his family. No one seriously advocates the impulsive taking of life, as in the Hester shooting. A person suddenly crippled, no matter how severely, may yet show unpredictable improvement or regain at least a will to live. Whether or not to speed the passage of a fatally ill patient is a far subtler question. The headlong advances of medical science make the issue constantly more complex for patients and their families, for doctors and hospitals and for theologians and lawyers.

The doctor's dilemma—how long to prolong life after all hope of recovery has gone—has some of its roots in half-legendary events of 2,400 years ago. When Hippocrates, the "Father of Medicine", sat under his giant plane tree on the Aegean island of Kos, euthanasia (from the Greek meaning "a good death") was widely practiced and took many different forms. But from beneath that plant tree came words that have been immortalized in the physician's Hippocratic oath, part of which reads: "I will neither give a deadly drug to anybody, if asked for, nor will I make a suggestion to this effect."

The most emphatic opponents of euthanasia have been clergymen, of nearly all denominations. Churchmen protest that if a doctor decides when a patient is to die, he is playing God. Many physicians still share this objection. However much they may enjoy a secret feeling of divinity when dispensing miraculous cures, to play the angel of death is understandably repugnant. Moreover, as psychoanalysts point out, they are chillingly reminded of their own mortality.

Until about twenty-five years ago, the alternatives facing a doctor treating a terminally ill patient were relatively clear. He could let nature take its sometimes harsh course, or he could administer a fatal dose of some normally beneficient drug. To resort to the drug would be to commit what is called active euthanasia. In virtually all Western countries, that act is still legally considered homicide (though juries rarely convict in such cases).

On the record, physicians are all but unanimous in insisting that they never perform active euthanasia, for to do so is a crime. Off the record, some will admit that they have sometimes hastened death by giving an overdose of the medicine they had been administering previously. How many such cases there are can never be known.

Now, with wondrous machines for prolonging a sort of life, there is another set of choices. Should the patient's heart or lung function be artifically sustained for weeks or months? Should he be kept technically alive by physicochemical legerdemain, even if he has become a mere collection of organs and tissues rather than a whole man? If a decision is made not to attempt extraordinary measures, or if, at some point, the life-preserving machinery is shut off, then a previously unknown act is being committed. It may properly be called passive euthanasia. The patient is allowed to die instead of being maintained as a laboratory specimen.

While legal purists complain that euthanasia and the right to die peacefully are separate issues, the fact is that they are are converging. With the increasing use of extraordinary measures, the occasions for passive euthanasia are becoming more frequent. The question of whether terminal suffering can be shortened by active or passive means is often highly technical—depending on the type of ailment. Thus the distinctions are becoming blurred, particularly for laymen.

When Sigmund Freud was eighty-three, he had suffered from cancer of the jaw for sixteen years and undergone thirty-three operations. Life for him was nothing but torture and didn't make sense anymore. He had a pact with Max Schur, his physician. "When he was again in agony," Schur reported, "I give him two centigrams of morphine. I repeated this dose after about twelve hours. He lapsed into a coma and did not wake up again." Freud died with dignity at his chosen time.

Dr. Schur's decision was, in the end, relatively easy. More often, there are unavoidable uncertainties in both active and passive euthanasia. Doctors may disagree over a prognosis. A patient may be so depressed by pain that one day he wants out, while the next day, with some surcease, he has a renewed will to live. There is the problem of heirs who may be thinking more of the estate than of the patient when the time to pull the plug is discussed. Doctors will have to live with these gray areas, perhaps indefinitely. Attempts to legalize active euthanasia—under severe restrictions—have failed in the U.S. and Britain but will doubtless be revived. The fundamental question, however, is humane rather than legal. To die as Freud died should be the right of every man.

SOUTH KOREA AND THE KOREAN CENTRAL INTELLIGENCE AGENCY

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 10, 1976

Mr. FRASER. Mr. Speaker, during the June 2 debate on H.R. 13680, the International Security Assistance and Arms Export Act, I referred to a Washington Post article by John Saar published May 23.

Saar details the destructive influences of the Korean Central Intelligence Agency—KCIA—on national life in Korea. Saar reports that a South Korean history professor said:

> The present Polish level of dissidence is unthinkable here, and Sakharov is able to operate in the U.S.S.R. in ways impossible here. Under the Hitler regime in the '30s, the German people were able to be more outspoken than we can be in Seoul today.

The U.S. commitment to South Korea has been and is major—50,000 lives and billions of dollars. From the beginning, U.S. military and economic aid has been predicated on the maintenance and growth of democratic institutions. But under Park Chung-hee, South Korea has become a police state. The KCIA has been a major force in bringing about the present state of affairs. Free institutions have succumbed to the KCIA onslaught managed by Park Chung-hee: The legislature is a puppet; the judiciary has been subordinated and the free press is gone. Park rules by decree.

Today, a poet is on trial for his life for having satirized political conditions in Park Chung-hee's Korea; students have been sentenced to 10 years imprisonment for passing out pamphlets; and respected Christian and political leaders are on trial because they called for a return to democracy.

Beyond the oppression inside Korea, the Park regime has extended its influence to the United States where some 300,000 Koreans and Korean-Americans reside. Many of these left Korea to escape Park's rule.

The Subcommittee on International Organizations, which I chair, has been investigating illegal or improper activities by the KCIA in this country. Sworn testimony and findings by the subcommittee staff shows that the KCIA is engaged in an effort to control the activities of Korean residents in the United States. KCIA tactics have included harassment involving death threats and slander of Koreans who are critical of President Park; covert funding of pro-Park communications media; and, manipulation of various Korean residents' associations. Our information indicates that KCIA agents are posted under diplomatic cover in the Korean Embassy and its consulates in New York, Chicago, San Francisco, Los Angeles, and Houston. The KCIA has injected itself into U.S. domestic life.

Mr. Speaker, I admire the Korean people. I admire their energy and respect their courage.

I do not admire the dictatorship of Park Chung-hee.

It is not necessary to become like the Communists to resist the Communists.

The article by John Saar follows:

SOUTH KOREAN CIA: POWER GROWS, FEAR SPREADS

(By John Saar)

SEOUL.—South Korea's secret police agency is steadily extending its covert grasp on national life, and its aura of fear is widening, according to numerous sources in this capital.

Answerable only to President Park Chung Hee, the Korean Central Intelligence Agency conducts control and surveillance measures against the armed forces, Cabinet ministers, civil servants, professors, political and religious opposition figures and ordinary citizens, to guarantee the internal security of the regime.

The KCIA's domestic activities have increased sharply since 1972, when, under martial law, Park instituted a new constitution granting him unlimited powers. Diplomatic observers say that as the instrument chosen to enforce Park's increasingly repressive rule, the KCIA has become more powerful and more feared.

"They incur the enmity of the people," noted a diplomat from a nation friendly to South Korea, "and if ever there is a day of reckoning—public disorder—there's going to be a great slaughter."

The agency's efficiency and sophistication, conceded even by people who hate it, have discouraged open opposition to the point that no accurate estimate of the government's true popularity is possible. Paradoxically, with the strict, KCIA-enforced censorship of the newspapers, other KCIA officials have to conduct polls and public-opinion sampling for President Park's advisers.

A Korean intellectual, never personally harassed by the agency, calls it the key to the government's survival.

"I doubt that this government could last a month without them," he said through an interpreter. "Their controlling mechanisms are vital."

He and other Korean sources insisted that outright physical torture continues in some cases and that psychological stress tactics are commonly used. Several people interrogated two months ago regarding an alleged plot by former presidential candidate Kim Dae Jung and 17 others complained they were deprived of sleep and questioned day and night for several days.

A deputy director of the KCIA, who declined to be named, issued a blanket denial to allegations of torture, intimidation and coercion. "So many things in our past reputation are distorted and exaggerated," he said. "It is very unfair and irresponsible to accept these allegations without concrete evidence."

The official said that about 80 per cent of the agency's resources go for intelligence-gathering, counterespionage and psychological warfare, all directed at North Korea.

Domestic activities under the national security and anti-Communist laws are essential to the survival of the nation, he said, since antigovernment actions might prompt North Korea to attack.

"This government's primary objective is survival," he added. "Without survival, who do you cry to for human rights?"

No nongovernment Korean interviewed supported that view.

Those who agreed to talk at all about "that certain agency" believe that most of the KCIAs energies are concentrated internally and go far beyond what is necessary in a country where dread of North Korean communism is almost universal.

The sources insisted on anonymity and refused to discuss even trivial matters over the telephone. Some left a radio playing during the conversation as anti-bugging background noise. One person under 24-hour surveillance slipped a KCIA tail for a meeting and insisted on leaving a public building by a different exist to avoid being seen with the reporter.

The sources agreed that there is a continuing need for intelligence operations against North Korea, "but their main activities are among [South] Koreans," as one source put it. An eminent journalist, who keeps his office blinds drawn, put it: "They control us."

The impression of omniscience, echoed by many others in the highly targeted opinion-making groups, is a tribute to the KCIA's carefully nurtured image of being everywhere, watching everyone.

Neutral observers say that while most ordinary people share a general fear of crossing the agency, they are not bothered unless they attract attention by careless talk against the government.

"I think 60 per cent of the assumptions made about the KCIA are untrue, but they keep the people spooked," a diplomat commented.

Koreans overseas express the belief that the KCIA's operations extend into every country that has a sizable Korean community, adding that in every South Korean embassy ultimate authority rests with the KCIA chief, not the ambassador.

Although it took its title from the American CIA, and has a conventional intelligence-gathering function, the KCIA was also chartered as an internal police force with almost unlimited power of arrest and interrogation. It was formed a month after the military coup that brought Park to power in 1961 to counter "indirect aggression and Communist forces and remove obstacles to the execution of the revolutionary tasks."

Fifteen years later, the "obstacles" are interpreted as anyone opposed to Park's regime.

"The facade of openness here makes it seem ridiculous, but control of protest here is tighter than many Communist countries," said a history professor. "The present Polish level of dissidence is unthinkable here, and Sakharov is able to operate in the U.S.S.R. in ways impossible here. Under the Hitler regime in the '30s, the German people were able to be more outspoken than we can be in Seoul today."

U.S. Central Intelligence Agency personnel assigned to the embassy in Seoul maintain liaison with the KCIA, but the areas of co-operation are not known.

An embassy spokesman said, "We will not comment, this is an internal matter"; but American diplomats have been privately outraged by some KCIA actions. Kim Dai Jung believes that American intervention saved his life when the KCIA abducted him from a Tokyo hotel room in 1973.

Ironically, the man widely—if unofficially—identified as the mastermind behind Kim Dae Jung's kidnaping, a man who has been known at various times as Kim Jae Kwon and Kim Ki Kwan, is currently living in the Los Angeles area.

Some intelligence sources believe that he is retired, like former KCIA director Kim Hyung Wook, who has been living quietly in New Jersey for years. Many people in the Los Angeles Korean community insist that Kim Ki Kwan is the head of the KCIA's "black team" in the United States—the group of agents allegedly responsible for intimidating Koreans living in America.

Reliable sources said that the U.S. government is aware of Kim Ki Kwan's presence in the country, but inquiries about him to federal agencies seemed to run up against a stone wall. The Immigration and Naturalization Service, for example, said that it has no record in its resident-aliens master file of anyone in the Los Angeles area under either of Kim's two names.

Sources on Capitol Hill said that congressional inquiries about Kim Ki Kwan drew only vague replies and "the blandest generalities" from the federal agencies. Meanwhile, retired or not, Kim Ki Kwan lives in the Los Angeles area, changing his residence frequently.

In the United States, the Justice Department has begun a quiet investigation of harassing and intimidating Korean residents. So far, the investigation has failed to turn up any evidence of systematic wrongdoing traceable to KCIA agents, leading to suspicion in Korean-American circles that Washington—concerned about strains in its alliance with Seoul, America's only military ally on the North Asian mainland—has let the investigation bog down.

Korean residents say that the KCIA agents make anonymous threats against anti-Park dissidents, try to win control of Korean communal organizations and bring economic pressure against hostile Korean-language newspapers.

The campaign, they say, is most evident in California, where a third of the 300,000 Koreans resident in the United States live.

Typical of what allegedly goes on is the story told by Lee Young Woon, a former admiral in the South Korean navy and outspoken Park opponent who now owns a motor hotel in the Los Angeles area.

Lee said that in March, while he was in Japan delivering an anti-Park speech, four men, including the South Korean consul general in Los Angeles, "barged into the office and shouted at my wife and my son-in-law that they wanted to know where I was. They frightened my wife very much," he added.

Since then, Lee says, he has received several telephoned threats: "The phone rings late at night and a voice says, 'Don't go out, you will be killed.' It has made my wife and me very fearful of leaving the motel."

Those familiar with Korean affairs say that harassment of this sort can have a very devastating effect. As Donald L. Ranard, retired former director of the State Department's Office of Korean Affairs, notes:

"You are dealing for the most part with people who grew up in a police-state atmosphere, who are here as resident aliens rather than U.S. citizens, and who can't quite believe that the police here don't have the same power as in Korea.

"As a result, they feel themselves very vulnerable, and only a little bit of pressure can go a long way in making them think twice about what they say."

For example, sources at the Justice Department say, when the FBI recently sought to question 10 persons in the Los Angeles area who reportedly had information about KCIA activities charges that the agency is there, eight of the 10—whether from fear or for other reasons—disclaimed any knowledge about the agency.

"Admittedly," Ranard continues, "this isn't the easiest thing to investigate. A lot of Koreans are scared, and when an FBI man flashes a badge on them, it's going to inhibit their talking freely.

"Also," he adds, "there's a lot of intrigue and rivalries in exile circles, and much of what's said is pure gossip aimed at enemies.

"Still, anybody who's familiar with this subject has good grounds for believing that there's something there," he concludes. "It seems to me that a really thorough, professional investigation could turn some of it up."

Sources at the Justice Department point to two additional complications that help keep the KCIA investigation State requested from getting very high priority:

Some alleged KCIA agents are diplomats, and their immunity prevents the FBI from questioning them.

Many of the tactics ascribed to the KCIA, while improper diplomatic conduct, do not seem to violate federal statutes.

Many present and former State Department officials say privately that the tendency within the Department, particularly during the presidency of Richard M. Nixon, was "not to make too much noise" about the KCIA. One put it this way:

"You couldn't call it a coverup or anything like that; I never heard anyone say specifically that this was an area to stay away from. It was more that you sensed a lack of enthusiasm about pursuing complaints. The feeling seemed to be that we were dealing not with the Soviets and the KGB but with an important ally and that, like it or not, we had to avert our gaze a little bit."

One notable exception, the sources say, occurred three years ago when the State Department called in officials of the South Korean embassy for a scolding about KCIA activities. Shortly the station chief in Washington, Sang Ho Lee, was quietly recalled to Seoul.

(The present station chief in Washington is known to be Kim Yung Wahn, a former air force general identified by the embassy only as a diplomat with the rank of minister.)

The KCIA's immense concrete complex in southeastern Seoul, a heavily guarded compound overlooking the city, has become synonymous in many Korean minds with interrogation and torture.

Estimates of the agency's size generally run from 30,000 to 45,000. "I have up to a million," said a KCIA deputy director noncommittally. The agency's budget is not disclosed, but sources insist that much of the cost is defrayed by "donations" solicited or extorted from businesses.

Sources say the KCIA is heavily involved in the stock market, real estate, construction and tourism industries.

The KCIA is organized into eight bureaus, numbered from one through nine and omitting four—pronounced the same as "death," four is an unlucky word in Korean.

Bureau 1 gathers and collects information from foreign periodicals; Bureau 2 controls internal propaganda and censorship, monitoring staff relationships within the media and ordering stories run or spiked.

Bureaus 3, 5 and 6 are the ones that operate against dissenting Koreans at home and abroad: 3 is counterintelligence and counterespionage; 5 is internal security; and 6 is "dirty tricks," associated with the abduction of Kim Dae Jung in 1972 and of alleged spies from West Germany and Britain in 1967 and 1968.

Bureau 7 analyzes intelligence gathered abroad by embassies and consulates; 8 is charged with psychological warfare against North Korea, and 9 does highly regarded strategic analysis on North Korea.

The KCIA's present director is Shin Jik Soo, a former attorney general handpicked, like his predecessors, by Park. He attends Cabinet meetings, but sources say his influence as one of the two people closest to Park outranks the premier.

The agency has outstripped such other rivals for powers as the Army Security Command, the Korean National Police (once all-powerful under Syngman Rhee) and the Presidential Security Force.

Diplomats observe that the KCIA is the perfect instrument for the president's control, since in can watch for possible coups from any quarter but lacks the armed strength to stage one itself.

Under Shin, the agency has reportedly abandoned heavy emphasis on torture for a variety of more subtle methods. Open and covert infiltration of government agencies, factors, political parties, and universities suffice to deter or pre-empt dissent.

Practically every church service is attended by KCIA agents who note names and maintain dossiers on ministers and priests. "You have no private life," said a minister who has sought restoration of human rights. "It's not only your telephone and your mail, they question people you met in your daily routine. From my colleagues and close friends they know what I am thinking."

Surveillance is conducted on U.S. diplomats, and, frequently the people they visit are later questioned by the KCIA on the topics of conversation. Koreans are reluctant to visit the embassy, for it is believed that all callers are photographed from a 19-story government building across the street. Political officers work behind net curtains designed to prevent high-resolution photography.

The campuses get special attention, since it was student demonstrations that brought down Syngman Rhee in 1960.

Since May last year, approximately 150 students have been charged with Emergency Measure No. 9 violations and about 50 have received prison terms of as much as 10 years for such offenses as demonstrating or passing pamphlets. Hundreds of other students have been taken off the street by the KCIA for a day or two of questioning. "They pick a few key figures, put the fear of God into them, get them worried about their families, give them a strong dose of anticommunism and release them," said the professor.

There is also evidence that agents provocateurs are working on the campuses to set other students up for KCIA arrest.

Broadly drawn laws offer a cloak of legitimacy for moves by the KCIA to extinguish dissent. Of some 400 professors fired under a new tenure system in March, about 300 were reported to be listed by the agency as campus undesirables for political activities.

Through coercion the KCIA is able to control labor unions and threaten judges. An eminent lawyer said, "You can just disregard the law. We lawyers can do nothing."

He and other sources alleged that the KCIA intimidates judges to secure guilty verdicts and long sentences in political cases. "We know," he said. "Just look at the unreasonable decisions and sentences which make no common sense."

Typical of the KCIA's present techniques, sources say, was the interrogation of people arrested and subsequently charged with plotting to overthrow the government after the March 1 incident in which Christian leaders read a democracy statement during a cathedral Mass.

"They sat me on a narrow chair and teams of investigators keep asking the same questions again and again. . . . It went on for six days and nights without sleep," one ex-prisoner said.

REAGAN VERSUS CARTER

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 10, 1976

Mr. ASHBROOK. Mr. Speaker, William Safire came as close to hitting the nail on the head in his column in today's New York Times as any commentary I have seen in recent weeks. I know that the utter stupidity of the so-called smart people in the Ford campaign committee has hopelessly turned off many thousands of needed Republican conservative workers throughout the country. I know how conservatives think and the low-level attack reminiscent of the Rockefeller, Scranton, and Democrat smears of the 1964 campaign should never have surfaced in the California campaign. They did and we are all the worse for it. Conservatives are generally tired of being trafficked with anyway. Republican candidates seem to need us at election time, but then forget about us in the ensuing years. That is bad enough but trying to put the extremist tag on a fine Republican candidate is too much for us to stomach. The low road can hardly lead to the White House.

The only thing the President's ads needed was the mushroom cloud and the little child. They could have borrowed the film from the Democratic National Committee—or did they?

The Safire article follows:

REAGAN VERSUS CARTER

(By William Safire)

CHICAGO.—The clearest indication that Gerald Ford is going to lose the nomination to Ronald Reagan came at the conclusion of one of the President's television spots in California.

"*Governor* Reagan couldn't start a war," the Ford commercials said. "*President* Reagan could."

That was the Ford campaign's equivalent of the "daisy spot," the television ad that depicted Senator Goldwater in 1964 as likely to cause a war that peaceful Lyndon Johnson would avoid. It worked for L.B.J.; it will work against Mr. Ford.

When the president personally decided to smear his challenger as a warmonger—a trigger-happy extremist—he delighted Democrats who will exploit that theme in the fall, and dismayed Republicans who will have to scrub off the smear.

Accordingly, we can expect to see much learned commentary that President Ford would make a far stronger candidate than Mr. Reagan, but this commentary will come from people most of whom fully expect to vote for the Democratic candidate.

We can also expect to see Republican delegates in states like Missouri react against the below-the-belt attack by the panicked White House. It is one thing for Mr. Ford to adopt a negative, my opponent-can't-win strategy; but it is another for him to attempt to permanently cripple his Republican opponent. Nelson Rockefeller did that, and the G.O.P. elephant never forgot.

Moreover, Republican delegates will come to see that the Ford nomination strategy is self-defeating, since it will ultimately be based on public opinion polls. For a "can't win" strategy to work—as it did when Boss Thurlow Week blocked Henry Clay in 1840—it must prove that one candidate would win while the alternative would surely lose.

But logic suggests that events will undermine that strategy. In the next six weeks, bandwagon publicity and endorsements from all sides will elevate Jimmy Carter in the polls; his peak of popularity will be in the month between the Democratic and Republication conventions.

At that time, the polls are likely to show that both Mr. Ford and Mr. Reagan "can't win." In the flush of the Carter acceptance speech and the unifying choice of a Vice President, both Republicans will be swamped in the polls that month—and if the polls show the President slightly stronger, it won't matter.

In that light, let us try to think like uncommitted Republican delegates.

1. If we're going to lose anyway, I might as well enjoy the ride. The sentimental favorite is Mr. Reagan; more important, conservatives believe that he better represents their principles than a President who has abdicated half his job to defeatist Henry Kissinger, and who grimly promises four more years of the same.

2. If we're going to have to catch up, I might as well go with a campaigner who won an uphill fight to victory in the primaries. Mr. Ford is a good President and a terrible candidate; Mr. Reagan would make a good President and is an excellent candidate. Most delegates would rather shoot for a long-shot Reagan upset than settle for a dignified Ford loss.

3. If Reagan "can't win," it's because Ford's warmongering charges made it impossible—which means that the right won't let Ford win. Such nightmarish thoughts are to be put quickly out of mind.

4. If any Republican is to win, he will have to be able to carry California and Texas, and to take the Wallace vote in the North from Carter—which Reagan could do, in spite of George Wallace's endorsement of Carter. Ford still thinks in outdated left-right spectrum terms, while Reagan is picking up blue-collar support with new majority appeals.

5. If this turns out to be a close campaign, a good staff would make the difference. The Ford staff—exhausted Rogers Morton, gutfighter Stu Spencer, and hack writer Bob Hartmann—are no match for the Reagan men. Delegates are impressed with John Sears, Prof. Martin Anderson, writer Pete Hannaford, a talented young group which easily outclasses the White House hangers-on, and which has more experience than the Carter coterie.

6. If this is indeed the year of the Outs, an anti-Washington campigner like Reagan can help me locally. In those areas where most of the uncommitted delegates are, resentment of bureaucracy is high and Carter posts a special threat which Reagan, not Ford, could best counter.

For those reasons (which liberals are certain to label a "death wish") the un-Presidential attack by the President will probably deliver the nomination to Governor Reagan. Then it will be "Reagan vs. Carter"—and the Californian's turn to move up in the polls, as Mr. Carter does his ambiguous best to stay tall in the straddle.

DOT SECRETARY COLEMAN SAYS LOCK AND DAM 26 "SHOULD BE REPLACED"

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 10, 1976

Mr. FINDLEY. Mr. Speaker, Transportation Secretary William T. Coleman, who played a major role in scotching the Army Corps of Engineers' original proposal to build new twin 1,200-foot locks at Atlon, has told me that the existing lock and dam "should be replaced." In a meeting with me June 8, Secretary Coleman said:

> I've made it clear that I feel that the lock and dam should be replaced. The only issue is at what capacity. If we replaced it at the same capacity, obviously there's no problem. If we expand the capacity we do have the problem of whether that would take away so much business from the railroads . . . that that would result in their bankruptcy.
>
> I am not for or against the expanded dam. My only position is that before Congress acts on that issue, they ought to have all the facts before them, because it's up to Congress.

I am extremely gratified by Secretary Coleman's clear support for the replacement of Lock and Dam 26. This is an important step forward. Hopefully, all parties can agree on the need for a new 1,200-foot lock in the near future so that construction can begin. This issue will be before Congress soon and any further delay will be very costly.

SENATE—*Friday, June 11, 1976*

(Legislative day of Thursday, June 3, 1976)

The Senate met at 8 a.m., on the expiration of the recess, and was called to order by Hon. PATRICK J. LEAHY, a Senator from the State of Vermont.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

From the rising of the sun unto the going down of the same the Lord's name is to be praised.

The Lord is high above all nations, and His glory above the heavens—Psalms 113: 3, 4.

Eternal Father, we lift our prayer to Thee with thankful hearts for the measure of strength and wisdom Thou has given us in many persevering and tedious hours of work. We pray for Thy light upon our efforts in the days to come, that what has been done imperfectly may be made perfect and what has been done tentatively that is right and good for the Nation and the world may be made permanent. Give us grace and courage to work with our eyes fixed not on conventions and ballot boxes but upon all that is just and true and righteous, a foretoken of that everlasting kingdom which cometh down from above.

And to Thee shall be the glory and the praise. Amen.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Does the distinguished majority leader seek recognition?

Mr. MANSFIELD. I do not.

The ACTING PRESIDENT pro tempore. Does the distinguished minority leader seek recognition?

Mr. HUGH SCOTT. Mr. President, I ask unanimous consent that during the consideration of S. 1776, my assistant, Miss Rita Pfeiffer, be granted the privilege of the floor.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HUGH SCOTT. I yield back the remainder of my time.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Georgia (Mr. NUNN) is recognized for not to exceed 15 minutes.

STAFF STUDY ON TEAMSTERS LOCAL 295 SEVERANCE TRUST FUND

Mr. NUNN. Mr. President, on March 25, 1976, as acting chairman of the Senate Permanent Subcommittee on Investigations, I, along with Senator CHARLES PERCY, ranking minority member, announced that the subcommittee had unanimously authorized the subcommittee staff to commence a preliminary inquiry into labor-management practices, including allegations of ties to organized crime. The approval was based on a staff recommendation that several case studies be developed and presented to the subcommittee for review and possible hearings. The subcommittee would then make a determination on expanding the investigation and subcommittee efforts in this area.

Mr. President, as part of this preliminary staff inquiry, I am releasing today a staff study which demonstrates how labor union fringe benefit programs and/or severance funds are particularly vulnerable to irregular practices.

The staff study deals with the manner in which the severance trust fund and the fund's life insurance benefits were designed and managed for Teamsters Local 295 in New York.

Information developed by the subcommittee staff indicated that the severance trust fund and the fund's life insurance benefits were used by persons of questionable background to extract large amounts of money, contributed by management, that rightfully belonged to union members.

It is my view that the potential for abuse in the severance fund area is a subject deserving further examination by the Congress. Accordingly, I have directed the subcommittee staff to continue its investigation of severance trust funds and related fringe benefit programs in other union locals.

The staff study is being referred to the Departments of Labor and Justice and the Internal Revenue Service with the recommendation that these Federal agencies review information contained in this subcommittee document for appropriate action.

Copies of the staff study are also being referred to the Senate Committee on Labor and Public Welfare for review in light of the possible need for corrective legislation.

Teamsters Local 295, located near the John F. Kennedy International Airport in New York, has some 1,400 members who transport goods in and around JFK.

The local is one of the seven "paper" locals set up without membership in the 1950's by James Hoffa in his bid to take control of Teamsters Council 16 and ultimately to unseat Dave Beck as president of the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America.

It is the subcommittee staff's principal finding that the local 295 severance fund-life insurance benefit, established in late 1970, was designed and operated to benefit the creator of the system—Louis C. Ostrer—and his associates and the rights of the local members were not given appropriate consideration.

The staff study indicates that Ostrer, who had no license to sell life insurance in New York and who was convicted of stealing $700,000 from a life insurance company in the 1960's, worked with well-known labor racketeer Harry Davidoff in designing the severance fund-life insurance benefit.

The staff study is critical of the Local 295 severance fund for having purchased individual whole life insurance policies on each of its approximately 1,400 members. This resulted in excessively high commissions for agents and equally expensive administrative fees, according to the staff study.

A General Accounting Office report, directed by the Permanent Subcommittee on Investigations, estimated, for example, that agents' commissions—paid to Ostrer's associates—were more than $800,000. GAO said these commissions would have been about $10,000 if the severance fund had contracted with life insurance companies for the more conventional group coverage rather than individual whole life.

In January of 1973, corrective actions were implemented at local 295 in which new administrators of the severance fund were selected and group life insurance coverage was obtained through the Prudential Life Insurance Co.

The New York State Insurance Department has also examined the local 295 severance fund-life insurance benefit program. The department claims that $1.1 million had been depleted from the fund through irregular practices.

On March 4, 1976, the Department announced that it had recovered $200,000 from 10 trustees of the fund and the two insurers, the Executive Life Insurance Co. of New York and Trans World Insurance Co. of New York. The New York State Insurance Department is returning the $200,000 to the Local 295 severance fund.

In addition, the New York State Insurance Department is continuing its examination of the 295 fund in connection with the activities of Louis C. Ostrer, his sister Dina Gelman, Cy Reeves Snyder, Seymour Greenfield, and their respective agencies.

In current proceedings being held in New York City, the New York Insurance Department hopes to be awarded the remaining $900,000 of the original $1.1 million it charges was depleted from the Local 295 severance fund. A judgment is expected soon.

Ostrer, who is reported to be an expert in setting up severance trust funds and life insurance benefits, and John (Johnny Dio) Dioguardi were convicted in Federal court of a stock swindle in the Belmont Franchising Corp. case January 26, 1973.

Dioguardi was sentenced to the Lewisburg, Pa., penitentiary. Ostrer is free while his conviction is being appealed.

Harry Davidoff, who was the secretary-treasurer of Local 295, Johnny Dio, and other persons of criminal background were investigated in the late 1950's by the Select Committee on Improper Activities in the Labor or Management Field chaired by Senator JOHN L. MCCLELLAN of Arkansas. The select committee was, in effect, an arm of the Senate Permanent Subcommittee on Investigations.

At that time the select committee asserted that local 295's leadership was infiltrated by persons associated with organized crime.

The subcommittee staff study concludes:

> Some 16 years have gone by since the Select Committee examined Local 295. There was more than enough time for the Teamsters International to demand that Local 295 be cleaned up.

This well-documented and meticulously researched report was prepared by Fred Asselin, an investigator currently on the staff of the Government Operations Committee of the U.S. Senate. Mr. Asselin has for the past 3 years, prior to his recent reassignment to the full Government Operations Committee of the Senate, distinguished himself as a talented investigator and writer for the subcommittee. I am hopeful I can, in the future, with the permission of Senator RIBICOFF, call on his services where his unique talents are required by the subcommittee.

We will certainly work with Senator RIBICOFF, the chairman of the full committee, in that kind of exchange.

In addition, we were able to call on the expertise of LaVern J. Duffy, subcommittee assistant counsel, who is in charge of this investigation.

Mr. President, I ask unanimous consent that an excerpt from the text of the subcommittee "Staff Study of the Severance Pay-Life Insurance Plan of Teamsters Local 295" be printed in the RECORD at the conclusion of Senator PERCY's remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. NUNN. Mr. President, I also ask unanimous consent to have the 35 individual appendixes to this study, which are individually identified in the table of contents, incorporated by reference.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. PERCY. Mr. President, the Senate Permanent Subcommittee on Investigations today is releasing a staff study on the "Severance Pay-Life Insurance Plan of Teamsters Local 295." As the ranking minority member of the subcommittee, I vigorously supported the preparation and release of the report because of its compelling significance and the need for those in Government, labor, and management to prevent a repetition of this kind of activity.

Together with Senator SAM NUNN, the acting chairman, I believe that there is an overriding need for the Senate to investigate corrupt practices in unions and in management, including possible links by both to organized crime. The assistant minority leader, Senator GRIFFIN, has been instrumental in seeking precisely this kind of inquiry because of its importance to the country, and does so with my full support.

The staff inquiry has now been started under the leadership of Subcommittee Assistant Counsel LaVern J. Duffy. Mr. Duffy's investigative background in labor rackets goes back to 1957 when he served on the Senate Select Committee on Improper Activities in the Labor or Management Field, under Chairman JOHN L. MCCLELLAN, of Arkansas.

This case focused on the mishandling of a severance trust fund and life insurance program by certain officials of Teamsters Local 295, located in and around New York City. It traces an ethical and possibly legal breach of the unwritten contract between the local's membership and its leadership.

The approximately 1,400 members of Local 295 truck freight from John F. Kennedy International Airport to customers throughout Metropolitan New York.

According to subcommittee investigators, the union leadership permitted a convicted felon to devise a severance pay/life insurance scheme whose main purpose seemed to be unjust enrichment of the program's designer, his friends, and his sister. That enrichment may have totaled $1.1 million. The need for an improved life insurance program for the 1,400 members of the local was arrogantly overlooked.

The plan, to provide local members a new severance pay and life insurance package, seemed questionable from the start. Harry Davidoff, secretary-treasurer of Local 295, selected Louis C. Ostrer to devise the severance pay scheme in December 1970. Ostrer had been convicted of stealing $700,000 from a life insurance company in the 1960's. He was also linked to several prominent organized crime figures, according to subcommittee investigators. Moreover, he was unlicensed to sell insurance in New York State because of his prior questionable activities in the insurance field. This did not seem to make a difference to Davidoff, who himself has been identified as being tied to organized crime figures.

The plan began with a legitimate purpose: to provide severance pay for those employeees who left employment with a trucking line. But the severance pay aspect of the plan had to share center stage with a dubious life insurance plan that Ostrer concocted.

The General Accounting Office—GAO, which investigated the severance pay/life insurance scheme at the subcommittee's direction, noted that local 295 members already had a life insurance program, under the group welfare fund, that could have been expanded. But Ostrer nevertheless devised a scheme whereby nearly half of the employer contributions to the severance pay fund went to buy the insurance. GAO found that the more expensive individual policy plan cost the fund an additional $790,000 in commissions that could have been avoided.

GAO estimated that under the group plan, reasonable commissions would have been $10,000, instead of $800,000.

GAO said that a group program could have afforded better protection for members at a more reasonable price.

And the New York State Insurance Department found later that the fund's insurance companies violated State law by issuing individual policies without obtaining the individual member's written permission.

But the use of individual policies, instead of group policies, was apparently not just bad judgment. According to subcommittee investigators, it was a deliberate attempt to exact commissions for Ostrer's sister, Mrs. Dina Gelman, and Ostrer's associates, Cy Reeves Snyder and Seymour Greenfield.

Three insurance experts who examined the fund for the subcommittee said agent commissions, which were an excessive 50 percent for the first year alone, would total $1 million in the first 3 years of the plan compared with $75,250 due on a comparable plan set up in accordance with the Code of Ethical Practices of the National Association of Insurance Commissioners.

On top of these excessive commissions were inflated costs for administration. The New York Insurance Department said that as of July 1, 1972, administrative costs were $124,077 or 4½ times higher than those of the average fund of similar size. The beneficiary was, once again, Ostrer's sister, who was "awarded" the job of administering the fund.

Apart from these highly suspect dealings, there was a lack of charity on the part of officials administering the fund toward the 1,400 local members and their families. Widows could not collect the full amount of their insurance. Rather, they had to receive 10 payments over a 10-year period or a lump sum right away, minus an administrative charge of 26.4 percent, if death occurred before age 55; or 15.8 percent, if death occurred after 55. I am particularly disturbed by the hardship this particular component of the scheme created for widows and surviving children.

Though I remain critical of the way that Local 295 handled this trust fund, it should be pointed out that in early 1973 the board of trustees of the local took corrective measures that insured a fairer deal for every member; it threw out the Ostrer scheme and went to a major carrier, who designed a group policy that provided for $30,000 worth of insurance for each member. I commend them for this necessary corrective action.

In addition, the New York State Insurance Department issued a citation in early 1974, charging that the trust fund had been improperly structured and managed. Two years later, the State recovered $200,000, which was to be returned to the fund. Proceedings against the main participants in the scheme are continuing and the State hopes to collect the remaining $900,000 of the original $1.1 million that it says was depleted from the fund. This money too would be returned to the severance trust fund.

Notwithstanding moves to correct the abuses shown in the Local 295 Severance Trust Fund, there are some significant conclusions that can be drawn from this study.

First, the Teamsters Union failed to clean up Local 295, even though 16 years ago the Select Committee on Improper Activities in the Labor or Management Field, an adjunct of the Permanent Subcommittee on Investigations, cited the local as being run by racketeers.

Second, organized labor must remain vigilant to guard against the infiltration into its leadership of organized crime figures. Harry Davidoff, according to investigators, was well-known as a link to organized crime. It was Davidoff who permitted Ostrer to devise the severance pay scheme. Why was a man with this background permitted to run this union?

Third, legitimate insurance companies must be more prudent in deciding with whom they will deal. If they do not, the State regulatory agency should order them to cease and desist. The role of Ostrer in this plan should have raised a red flag for any dutiful insurance executive.

Above all, it has become clear in recent days that further investigation into this area is imperative. It appears that a number of Teamsters locals—perhaps as many as 60 to 70 according to an informed account—in Michigan, California, Nevada, New Jersey, Florida, and in my own State of Illinois, may unwittingly be the victims of similar fringe benefit programs. It is precisely that development which we are now pursuing in an effort to put a halt to further abuse in this area.

I trust that the Senate Committee on Labor and Public Welfare, which is being forwarded a copy of this report, will carefully weigh the need for such corrective legislation as may be necessary, and that Federal law enforcement agencies, as well as the Department of Labor, will vigorously pursue such actions as they deem appropriate.

As a final note, I would like to express my sincere appreciation to Mr. Frederick J. Asselin, who meticulously researched and wrote this staff study. Mr. Asselin is a former subcommittee investigator, who is currently employed by the Senate Government Operations Committee. His professionalism and his ability to explain complicated fact situations in clear, cogent prose is reflected throughout this report. His contribution to the subcommittee and to the public interest has been invaluable.

On behalf of the minority members of the subcommittee, I want to commend Acting Chairman SAM NUNN for the resolve and direction he has demonstrated in this continuing inquiry which is of pressing importance to the Nation. Also my commendation to majority counsel Howard Feldman and minority counsel Stuart Statler who are contributing importantly in this effort.

EXHIBIT 1

STAFF STUDY OF THE SEVERANCE PAY-LIFE INSURANCE PLAN OF TEAMSTERS LOCAL 295

[Permanent Subcommittee on Investigations of the Committee on Government Operations, United States Senate]

MEMORANDUM

U.S. SENATE, COMMITTEE ON GOVERNMENT OPERATIONS, SENATE PERMANENT SUBCOMMITTEE ON INVESTIGATIONS,
Washington, D.C., May 10, 1976.

To: All Members of the Permanent Subcommittee on Investigations.

From: Senator Sam Nunn, Acting Chairman.

This staff study deals with the manner in which the severance trust fund and the fund's life insurance benefit were designed and managed for the Teamsters Local 295 in New York.

Information developed by the Subcommittee staff indicated that the severance trust fund and the fund's life insurance benefits were used by persons of questionable background to extract large amounts of money, contributed by management, that rightfully belonged to union members.

The life insurance purchased under the terms of the plan was individual whole life on each member. The whole life concept resulted in excessively high premiums and agent commissions. Administrative and legal fees were also excessively high. A more conventional group life insurance plan would have been far less expensive and the overall benefits to workers and their families far greater.

While this staff study concerns itself solely with the severance trust fund-life insurance benefit of Local 295, independent inquiry by the Subcommittee staff has revealed that similar fringe benefit plans have been designed for other union locals.

It is my view that the potential for abuse in the severance fund area is a subject requiring further examination by the Congress and the Department of Labor. Accordingly, as part of this Subcommittee's jurisdiction to make inquiry into alleged irregular practices in the labor or management field, the staff is continuing its investigation of severance trust funds and related fringe benefit programs in other union locals.

Copies of this staff study are being referred to the Department of Labor and Justice, the Internal Revenue Service, and the Headquarters of the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America.

I. INTRODUCTION

An agreement is reached

Harry Davidoff and Louis Cuple Ostrer were men with different backgrounds. Davidoff was a tough, plain spoken labor leader who had grown up on the streets of New York. Ostrer, who had come to the United States from his native Rumania, was an insurance executive with a penchant for abstract thought and for making complicated actuarial theories easy to understand. But in the fall of 1970 these two men who seemed to have so little in common came together and made an agreement.

Their plan was simple enough. Davidoff would use his considerable influence as secretary-treasurer of Teamsters Local 295 to persuade his membership to adopt Ostrer's new concept of severance pay and life insurance for workers.

The plan was accepted. In December of 1970, the union contract contained a severance fund provision and Louis Ostrer was put in charge of managing the fund as well as overseeing the insurance feature.

However, the agreement between Davidoff and Ostrer—and the severance fund-life insurance program that resulted from it—set off controversy and raised serious questions. Soon the severance fund-life insurance plan became the subject of inquiry by the Senate Permanent Subcommittee on Investigations.

In addition, Harry Davidoff and Louis Ostrer themselves became subjects of Subcommittee inquiry. For, in spite of their differing backgrounds, they did have some things in common. They were both felons. They both had ties with organized crime. And neither of them should ever have been entrusted with responsibility for millions of dollars in labor-management trust funds.

Although no hearings were held, the staff completed its investigation and compiled its case. What follows is the study by the staff of the Senate Permanent Subcommittee on Investigations of the severance trust fund and its life insurance benefit of New York Local 295 of the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America.

ORIGIN OF INVESTIGATION AND SUBCOMMITTEE'S JURISDICTION

The Senate Permanent Subcommittee on Investigations of the Committee on Government Operations is, by present and past Senate resolutions, authorized to examine alleged criminal activity in labor-management relations.

In February of 1971, the Subcommittee began a preliminary inquiry into the severance fund of Teamsters Local 295.

The Subcommittee's interest in Teamsters Local 295 was prompted by information which alleged that the local's severance trust fund was being managed with questionable procedures and policies.

It was alleged that because of these questionable practices the members of Local 295 were being deprived of benefits due them. It was further alleged that certain leaders of the local and certain of the leaders' business associates were profiting illegally or unethically from severance fund operations.

Definition of severance trust funds

A severance trust fund is a fund of money usually created as the result of a labor agreement, from which cash payments or other benefits are provided qualified employees upon termination of their employment with a covered employer, in accordance with a severance pay plan. In most cases, the plans are jointly administered.

The payments, usually in lump sum, are made to employees when they quit their jobs or are fired or laid off. In the event of death, the employees' beneficiaries receive the severance fund payment.

Severance funds are financed by contributions from management alone or from management together with union members. The funds are controlled by trustees who represent both management and labor, or management alone.

Payment to employees from the severance trust fund is commonly referred to as "severance pay." Severance pay is usually a "fringe benefit;" that is, it is a benefit unions win for their members in addition to higher wages. Examples of other major fringe benefits are retirement pensions, health and life insurance programs, vacations, annuities and savings programs and apprenticeship training.

Brief history of severance pay plans

At the Subcommittee's request, the Economics Division of the Congressional Research Service of the Library of Congress prepared a brief history of union severance trust funds in the United States.[1]

The first severance pay plans were started in the early 1920's when a form of lay-off notice payments were made to employees by certain companies. The companies implementing these plans were large, had mostly white collar employees, had small labor costs and did business for the most part in noncompetitive markets.

In the mid-1920's, several unions began to include severance pay provisions in their negotiated contracts. In 1925, for example, the International Ladies Garment Workers Union reached an agreement with the New York Dress Manufacturers Association in which at least two weeks' wages were paid to workers displaced by labor-saving devices. Employees laid off because of shop reorganization were to be paid from one to four weeks' wages depending on their length of service.

In 1926, the Amalgamated Clothing Workers negotiated a plan with Hart, Schaffner and Marx to pay 236 displaced cutters $500 each. The money was paid from funds contributed by the company and by cutters remaining on the job.

In May of 1936, railroad unions and the railroad industry signed the Washington Job Protection Agreement in which it was stipulated that workers laid off because of consolidations would receive 60 percent of their average monthly pay for periods varying according to their length of service.

In 1940, the Congress amended the Interstate Commerce Act to provide pay protection to workers let go because of mergers. In 1944, the policy was extended to workers displaced because of abandonment of railroad lines.

The Communications Act of 1934 was amended in 1943 so that workers fired due to mergers of telegraph companies would receive one month's pay for each year of seniority.

During World War II, controls on wages triggered new efforts toward better employee benefits. Moreover, workers and union leaders

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Footnotes at end of article.

feared that mass layoffs would occur when the war ended. These factors led to demands for severance pay benefits.

Accordingly, the War Labor Board ordered adoption of a plan giving employees displaced by post-War plant shutdowns at least four weeks' pay for workers with 10 or more years of service.

Since 1944, there has been a slow but steady rise in the number of negotiated severance pay plans. Government figures, compiled by the Bureau of Labor Statistics, show that in 1944 only 5 percent of the agreements studied contained severance pay provisions. Only a few industries, notably the newspaper publishing and railroad industries, had adopted the principle of severance pay to any considerable extent.

By 1949, 168—or 8 percent—of the 2,137 agreements studied provided for severance pay. These contract provisiosns tended to be in the communications, rubber, printing and publishing industries.

Some 266—or 16 percent—of 1,693 labor-management agreements covering 1.75 million workers contained severance pay benefits in the period of 1955 to 1956. Half of these agreements were in the communications, primary metals and electrical machinery industries.

While the severance pay contract provisions went from 5 percent to 16 percent from 1944 to 1956, this was a relatively slow pace when compared to the spread of pension plans and health and insurance programs built into collective bargaining pacts of the same period. However, the need for severance pay plans had been lessened somewhat by the post-War increases in supplementary unemployment programs and the enactment of unemployment compensation laws. But severance plans did continue to grow.

In the 1958 auto workers negotiations, severance pay arrangements were integrated into the supplementary unemployment benefit program. The International Ladies Garment Workers Union won acceptance of a widely praised severance pay plan in their 1958 negotiations. And other unions, especially in the electrical and maritime industries, also included some form of severance pay protection in their contracts.

By 1971, severance pay plans were found to be in use in 237—or 38 percent—of the 620 selected labor contracts examined by the Bureau of Labor Statistics.

Several factors have contributed to the growth of severance pay plans.

First, union leaders consider the severance issue of special significance to older workers who feel that it would be more difficult for them to find new employment should they lose their jobs.

Additionally, the rise in plant closures and relocations, coupled with increasing company mergers, has given severance pay a higher priority in the list of fringe benefits.

Finally, union negotiators are focusing more attention on winning fringe benefit increases in contracts because, in the better salaried industries, pay raises are often offset by higher taxes and are, therefore, less meaningful than in previous years.

From a management point of view, a benefit like a severance fund contribution satisfies a union's demand for increased compensation without raising other costs such as the hourly overtime wage. Severance fund contributions are also tax deductible.

Prior to enactment of the Employee Retirement Income Security Act of 1974, the federal government did not regulate union severance trust funds and pay plans to any significant extent. However, a few federal laws in effect prior to 1974 did relate to severance pay plans.

A 1959 amendment to section 302(c) of the Taft-Hartley Act, as amended, allows employers to contribute to jointly-administered severance trust funds if the severance pay plans meet certain stated requirements. For example, the kind of benefits provided must be spelled out in a written agreement and there must be an annual audit of the fund, the results of which must be made available to interested parties.

Section 302 of Taft-Hartley also states that the severance fund must be administered equally by management and the union. There must be a provision for recourse to a third party in cases of disagreement.[2]

Another federal law—the Labor-Management Reporting and Disclosure Act of 1959, as amended—provides for more specific availability of information about benefit plans. Section 201 of the Act requires the filing of financial reports by labor organizations with the Department of Labor. The report is to include information with respect to insurance and other benefits as well as all relevant data about union operations including assessments, disbursements, annual financial reports, assets, liabilities and receipts.[3]

In addition, the Internal Revenue Service (IRS) of the Treasury Department examines tax exempt trusts (severance pay plans) to determine if employer contributions are legitimate business expenses and are, therefore, tax deductible. IRS says that employers may deduct severance fund contributions if more than half of the money in the fund is for severance pay. This IRS provision enables severance fund money—as much as 49.9 percent of it—to be used for fringe benefits other than severance pay.[4]

1974 legislation

On September 2, 1974, the Employee Retirement Income Security Act (ERISA) became law. ERISA, public law 93-406, includes in its coverage any benefit described in section 302(c) of the Labor Management Relations Act of 1947 (Taft-Hartley). Section 302(c) covers "a trust fund established . . . for the purpose of pooled vacation, holiday, severance or similar benefits." Severance pay plans are now under the jurisdiction of the U.S. Department of Labor and the Internal Revenue Service.

While the new law does not mandate pension or welfare benefit plans, it does protect participants and beneficiaries of existing plans against mismanagement and misrepresentation. The law is designed to require adequate public disclosure of the administrative and financial affairs of employee pension and welfare benefit plans; establish minimum standards of fiduciary conduct for trustees, administrators and others dealing with plans; provide for appropriate remedies, sanctions and ready access to the federal courts; establish standards for vesting and funding; and provide for adequacy of plan assets by insuring unfunded portions of promised benefits.

ERISA covers employee pension and welfare benefit plans falling under the Commerce Clause jurisdiction but does contain certain specific exemptions. Among the exemptions are plans established by unions which do not provide for employer contributions after the date of enactment of the law; and church and governmental plans.

The Act sets forth a number of criminal violations including willfully violating reporting and disclosure provisions, embezzlement, kickbacks, false statements, concealment of facts, intentional violation of the office-holding prohibitions and willfully interfering with benefit rights through fraud or coercion. In addition, the law provides for civil equitable or remedial relief.

Various effective dates of coverage are set in the law depending on the nature of the matter to be covered. For example, participation and vesting for new plans became effective on the date of enactment, September 2, 1974; for existing plans on December 31, 1975; while collectively bargained plans will come under the law on the date of expiration of the contract or December 31, 1980. Other effective dates (but none before July 1, 1974) are set for termination insurance and fiduciary liability; the latter became effective January 1, 1975.

Under the law, employee pension and welfare plan administrators must file with the U.S. Department of Labor certain plan descriptions, annual reports, termination reports and other plan documents as required by the Secretary of Labor. Additional reports are required to be filed with the Pension Benefit Guarantee Corporation and with the IRS.

The potential for rapid growth of severance funds

There is considerable potential for quick accumulation of large amounts of money in severance trust funds. For example, it is possible that if a union local with 5,000 members negotiates a collective bargaining agreement that includes a severance trust fund, the employer might agree to contribute $1 an hour for each of his workers. Computing on the basis of a 40-hour week, the trust fund would receive $200,000 each week. Annual revenues, before interest and excluding pay-outs, would be $10.4 million.

II. HISTORY OF TEAMSTERS LOCAL 295

Senate committee investigates Teamsters in 1950's

The Senate created the Select Committee on Improper Activities in the Labor or Management Field in March of 1957. The Select Committee was, in effect, an arm of the Senate Permanent Subcommittee on Investigations. The Select Committee Chairman, Senator John L. McClellan of Arkansas, was also Chairman of the Investigations Subcommittee. Three of the other Senators on the Select Committee also served on the Investigations Subcommittee. The Select Committee's staff include men and women assigned from the Investigations Subcommittee. And the Select Committee's rules and procedures were those of the Investigations Subcommittee.[5]

The Select Committee focused considerable attention on the activities of the Teamsters Union and its executives, including Dave Beck, the president, and James R. Hoffa, a vice president who later became president.

The Select Committee issued interim reports in 1958 and 1959 and a four-part final report in 1960. It is from these reports and from the two and a half years of public hearings held by the Select Committee that this staff study gathered information on the creation of Local 295.[6]

The importance of Joint Council 16

In the mid-1950's, James Hoffa was trying to unseat Dave Beck as president of the Teamsters International. One move Hoffa made was to try to take control of the powerful Teamsters Joint Council No. 16 in New York City.[7]

Joint Council 16 was important to Hoffa's ambitions because it controlled the flow of goods and services in and out of and within New York City. Council 16 had the authority to approve Teamsters strikes and to grant or withhold Teamsters support for strikes staged by other unions.[8]

In addition, New York, as much as any other city in the United States, is dependent on services for its economic life. And in providing these services, the Teamsters Union plays a key role. Teamsters deliver food, pick up garbage, transport freight. Few aspects of New York commerce are not affected by the Teamsters. New York would quite literally close down if the men who drive its trucks stayed home.

By controlling Council 16, then, Hoffa could have exercised significant influence over the course of organized labor in the New York area. Hoffa would also have become pre-eminent in the ability of New York, America's biggest city, to survive.[9]

Footnotes at end of article.

Formation of the "paper" locals

Hoffa, who was a vice president of the Teamsters International wished to take over Joint Council 16 at the same time labor racketeers and organized crime figures had designs on the Council.[10]

The two groups—the Hoffa loyalists and mobsters—entered into an alliance. Together they formed seven locals. With these new locals, Hoffa and his allies hoped to outnumber—and out vote—existing locals in the Joint Council 16.[11]

The new locals—Nos. 295, 275, 651, 258, 269, 284 and 362—were "paper" organizations at the start since they lacked members.[12]

The union philosophy of the racketeers

The racketeers whom James Hoffa allied with in the mid-1950's were not newcomers to the labor movement. Two of them, in fact—Anthony (Tony Ducks) Corallo and John (Johnny Dio) Dioguardi—were well established labor racketeers.

Corallo had long been considered by law enforcement authorities to be one of the most powerful underworld figures in New York. His principal pursuits were in illicit narcotics and labor rackets.

Corallo acquired the name of "Tony Ducks" because of his ability to escape convictions when arrested. His police file showed 12 arrests but only one conviction, a six months sentence in 1941 for unlawful possession of drugs.[13]

Dioguardi, or Johnny Dio, had 12 arrests and three convictions—for extortion, for extortion and conspiracy, and for tax evasion—and, like Corallo, was also active in the labor movement. He was a regional director of the United Auto Workers-American Federation of Labor (UAW–AFL) locals in New York.[14]

Corallo and Dioguardi and their associates eagerly betrayed the interests of union members in return for money and power for themselves.[15]

The Select Committee exposed many instances when Corallo and Dioguardi unions entered into collusive contracts which called for wage rates lower than the national minimum wage enacted by Congress.

In other instances, workers were forced to join unions not of their own choosing or made to work in sweatshop conditions in bitter cold or extreme heat. They were often passed around from one union to another.

Witnesses from both labor and management testified about illegal and strongarm tactics used by unions controlled by Corallo, Johnny Dio and their criminal associates. Workers told Senators how they were ordered to join corrupt locals or face the threat of being fired. They told of union contracts negotiated in secret, contracts that gave them miniscule raises and no vacations, no seniority rights, no welfare benefits and only two, three or four holidays a year.

Workers found themselves afraid of their own union. They were not given copies of the contracts they worked under. Their business agents were not known to them. Union meetings were rarely held. Elections were unheard of.[16]

The seven "paper" locals and their leaders

The plan to take over Council 16 was implemented. The five UAW–AFL locals controlled by Johnny Dio were transferred into the Teamsters November 8, 1955. The same day two existing Teamsters locals were split up and two new locals were created.[17] The seven new locals had seven votes each for a total of 49, margin enough, Hoffa hoped, to elect a Council president of his choosing.

Although the subsequent election was later voided in court, 42 of 49 new votes were cast for Hoffa's candidate.[18]

The Select Committee on labor-management rackets found that the Corallo-Dio labor mob the Teamsters now housed included 40 men in positions of trust who, among them, had been arrested a total of 178 times and convicted 77 times for crimes such as theft, violations of narcotics laws, extortion, conspiracy, bookmaking, use of stench bombs, felonious assault, robbery, possession of unregistered stills, burglary, violation of gun laws, being an accessory to murder, forgery, possession of stolen mail and disorderly conduct.[19]

One of these men was Harry Davidoff, a convicted felon with a record of 12 arrests going back to 1936.[20] Davidoff had been an officer in the UAW–AFL local 649, an organization Johnny Dio used as his headquarters. With the changeover to the Teamsters, Dio named Harry Davidoff head of Teamsters Local 258.[21] Davidoff later was reassigned to run the affairs of the newly created Teamsters local 295.

It was as secretary-treasurer and principal leader of Local 295 that Davidoff, in 1970, got in the severance fund business with Louis Cuple Ostrer.

III. CRIMINAL BACKGROUNDS OF HARRY DAVIDOFF AND LOUIS OSTRER

Harry Davidoff's police record

A New York newspaper once described Harry Davidoff as a "tough looking, tough talking man with a sixth grade education" who had been "shot, arrested, questioned by Congressional panels and investigated by the FBI."[22]

Similarly, the Subcommittee found Davidoff to be a ruthless New York thug, a gangster who gravitated to the labor movement for no other reason than to steal from it.

Harry Davidoff's crime career began in 1933 when, at the age of 15, he was arrested for burglary. He was sentenced to three years probation.[23]

From 1934 to 1939, Davidoff was arrested—but not convicted—for felonious assault with a knife, possession of a gun, grand larceny and robbery.

In 1940, Davidoff received a suspended sentence for attempted extortion. He was convicted and fined $25 for bookmaking in 1943.

It was also in the 1940's that Davidoff moved into the leadership of organized labor as he went from positions of responsibility in one local to another in the New York area

In one of his jobs—as president of the AFL Local 130, Toy and Doll Workers—Davidoff became a trustee of the welfare fund. The New York Insurance Department found that Davidoff had siphoned off $4,000 from the fund for a new car for himself and was paying himself $225 a week from the fund as well as taking $75 a week from it for expenses.

When his payments from the welfare fund came to light, Davidoff left the Toy and Doll union and went to other unions and other positions of trust, eventually finding his way into Johnny Dio's UAW–AFL Local 649 and then into the Teamsters' "paper" locals November 8, 1955.

Harry Davidoff appears before the select committee

On August 14, 1957, Harry Davidoff, under subpoena, appeared before the Select Committee on labor-management rackets.

The Chairman, Senator John L. McClellan of Arkansas, and his Chief Counsel, Robert F. Kennedy, questioned Davidoff extensively about his activities in the labor movement.

To each question, Davidoff refused to respond, invoking 45 times his 5th Amendment right not to testify because his answers might have incriminated him.[24]

The testimony of James A. Landry

James A. Landry, the general counsel of the Air Transport Association of America, testified before the Senate Permanent Subcommittee on Investigations June 24, 1971 on the subject of airport security.[25]

The hearings at which Landry testified were in connection with the Subcommittee's investigation of the role of organized crime in the worldwide traffic in stolen securities. Many of these securities are stolen from mail bags at major airports.

Landry said the airlines, deeply troubled by airport thievery, had formed an Airport Security Council in 1968 and that, due to the Council's efforts, some progress had been made in controlling the number of thefts.

Landry said thievery at the John F. Kennedy International Airport was still very high but that statistics showed the crime rate to be declining. Thefts and losses in 1969 at JFK were $3.4 million, Landry said, but in 1970 they dropped to $1.4 million.

In addition, Landry said an Airport Security Council study found that the major gangsters involved in thievery from New York airports were out of circulation now having been convicted of federal crimes. All the "principal hoodlums" in airport thievery had been caught, Landry said—except one, Harry Davidoff. Landry's Airport Security Council concluded that "Harry Davidoff is the only remaining key organized crime figure associated with JFK Airport who has not been arrested as a result of investigations conducted by federal and local law enforcement authorities with the cooperation of the air cargo industry."[26]

The criminal record of Louis C. Ostrer

Louis Cuple Ostrer had come to Harry Davidoff with the idea for the severance pay-life insurance plan in 1970. In the 1960s, Ostrer was alleged to have stolen several hundred thousand dollars from the Canada Life Assurance Company. He was caught, charged with grand larceny, found guilty and given a five-year suspended sentence. His license to sell insurance would have been revoked but the State of New York had already done that.

As an agent for the Canada Life Assurance Company, Louis Ostrer sold to the Allmetal Screw Products, Inc., Garden City, New York, insurance policies on the lives of several of the firm's executives.

In 1964, Ostrer convinced the corporation's officials that it would be to their advantage to prepay for several years the future premiums on 12 policies. As a result, Allmetal drew 12 checks on March 10, 1964, all to the order of Canada Life Assurance Company. Two of these checks were for $60,810.28 and the other 10 were for $25,772.13 each.

The 12 checks, which totalled $379,341.86, were delivered to Ostrer.

It was alleged that Ostrer altered the checks by adding the phrase "Louis C. Ostrer Associates Agents for" just before the words "Canada Life Assurance Co."

Ostrer took six of the checks which were for $25,772.13 each to Henry Brown, a broker who operated the midtown Commercial Corporation at 301 West 39th Street in New York. Brown cashed the checks for Ostrer.

Some three years later—in February and March of 1967—Ostrer advised Canada Life that Allmetal wanted to take out loans on the polices it held on its executives. Canada Life received formal requests from Ostrer which bore the forged corporate seal of Allmetal and the forged signature of Allmetal officers.

The Canada Life Assurance Company forwarded to Ostrer checks totalling $396,000. Ostrer was found out but not before he had cashed eight checks worth $338,000.[27]

Charged with grand larceny of some $300,000, Ostrer pled guilty and received a suspended sentence.[28]

Canada Life Assurance conducted an investigation into Ostrer's activities while he represented the insurance company. The investigation showed that Ostrer's larcenies from Canada Life were not limited to the approximately $700,000 from the 1964 and 1967 thefts. It was asserted that Ostrer's larcenies from the Canadian firm actually were more than $1.2 million.[29]

As for the $300,000 which Ostrer pled guilty

Footnotes at end of article.

to having stolen, the sentencing judge—Manhattan Supreme Court Justice Xavier C. Riccobono—gave Ostrer five years' probation and ordered him to make restitution. Then the judge explained why he was not sending Louis Ostrer to jail.

Justice Riccobono said to Ostrer:

"It would appear that almost any venture you undertake, obviously because of those talents and gifts that have been given to you by the Almighty Himself, seems to enable you to convert almost anything into a very successful enterprise. It is inadvisable, under these circumstances, for the court to take these God-given talents and incarcerate them by incarcerating you."[30]

In addition to the Allmetal case, Ostrer was arrested July 6, 1967 by New York police for possession of $20,000 in stolen municipal bonds. No conviction resulted from this arrest.[31]

On January 4, 1973, trial was held in federal court in the Southern District of New York in which Ostrer and John Dioguardi were charged with conspiracy and stock fraud in connection with the manipulation of stock of the Belmont Franchising Corp. The case was prosecuted by Assistant U.S. Attorney Harold McGuire, Jr. Ostrer and Johnny Dio were convicted. More details of this case are presented later in this staff study, beginning on page 29.

Ostrer's link with organized crime

Harry Davidoff's association with organized crime was a long established fact. He was Johnny Dio's man in labor rackets and law enforcement agents had so identified him for many years.

By contrast, until the 1970's Louis Ostrer's link with organized crime was not obvious. Insurance was his line and he had a reputation for knowing the business very well, both in theory and in practice. Nonetheless, Ostrer had ties with organized crime figures.

Ostrer's associates included Anthony (Tony Ducks) Corallo, Johnny Dio, Anthony (Hickey) DiLorenzo, Ruby Stein, Nicholas (Jiggs) Forlane, Milton Holt and John Masiello, all of whom are well known organized crime figures.

IV.—LOCAL 295 SEVERANCE TRUST FUND

The air freight industry in New York

The truck drivers who deliver air cargo to and from and around the New York airports belong to Teamsters Local 295. There were about 1,400 members of Local 295. Its offices are located on the outskirts of the John F. Kennedy International Airport at 179–30 149th Avenue, Jamaica, New York.[32]

The air freight industry in the New York area was comprised of one very large company—Emery Air Freight—and about 35 smaller firms, some of which had only two or three trucks.

Davidoff controls local 295

In 1971, when Subcommittee Investigators began this inquiry, they found Harry Davidoff to be in firm control of Local 295. Davidoff was being paid an annual salary of $57,000 and had the use of a Lincoln Continental provided by the union. In addition, Davidoff, then 56, could look forward to a comfortable retirement of $20,000 a year and a severance payment from the local. Davidoff had also formed a new Teamsters local—No. 851—and had transferred to it all non-freight shops previously covered by Local 295. Housed in the same offices as Local 295, Local 851—the Miscellaneous Production and Industrial Workers Union—used the same phone and its secretary-treasurer was the same Harry Davidoff.

The local 295 contract proposal

The air freight industry and Local 295 negotiated their labor contracts on a three-year basis. The contract entered into December 1, 1967 was to expire November 30, 1970. A new three-year contract was anticipated.

Accordingly, in 1970, Davidoff was putting together a wide ranging contract proposal that included demands for sizable wage hikes and new comprehensive work rules. Ultimately, Davidoff's demands were assembled in a huge document 50 legal size pages long.

Section 26 of the Davidoff document was entitled, "Severance Pay," and stated:

"The parties agree to establish a severance bonus plan, which will provide a schedule of benefits of no less than one (1) week's pay for each year of employment. Said plan shall be based upon length of employment and will further provide for vesting of the employee's benefits in the event of termination for any reason provided said employee meets the eligibility requirements of the plan.

"The Employer will contribute to the severance bonus plan, which is to be administered jointly by the parties, the sum of twenty-five (25¢) cents per hour for each employee covered by this agreement."[33]

At 25 cents an hour, computing on the basis of a 40-hour week, the employers were being asked to contribute a minimum of $10 a week. However, Davidoff altered that initial proposal considerably. He won from the trucking firms a promise to contribute $15 a week for each driver the first year of the contract; $30 a week for each driver the second year; and $40 a week the third year.

Louis Ostrer promotes severance pay plan

While Harry Davidoff was planning his new contract demands, Louis Ostrer was in California seeking backing for his severance pay-life insurance plan from insurance executives.

Ostrer went to the office of Otto Forst at 9777 Wilshire Boulevard in Beverly Hills March 25, 1970. Forst was chairman of the board of the First Executive Corporation, a holding company for several insurance companies, including Executive Life of New York.

Basically, the Ostrer idea called for severance pay trust funds to be formed exclusively from the contributions of management. About half the money in the fund would then be used to buy life insurance for the union members.

In a Subcommittee affidavit, sworn to May 31, 1972 in Baden Baden, Federal Republic of Germany,[34] Otto Forst recalled the Beverly Hills meeting and Ostrer's enthusiasm for the severance pay-life insurance plan, a concept, Ostrer insisted, that would "revolutionize benefit practices under collective bargaining."

Forst, who was in business to sell insurance, was impressed. Ostrer spoke "in terms of hundreds of millions of dollars of face value insurance" and was so convincing that Forst agreed to have his Executive Life Insurance Company of New York provide the coverage for the kind of severance pay-insurance program Ostrer was promoting.

Some seven months after the Beverly Hills meeting—in the fall of 1970—Ostrer had apparently persuaded Teamster Local 295 to adopt his severance pay-life insurance concept. Forst said that he met with Ostrer on two visits to New York—on October 21 and 22 and November 17 and 18—and that Ostrer was now saying Local 295 was ready to start buying coverage.

Forst added that Ostrer, in both October and November, spoke precisely of what the terms of the employers' contributions would be—$15 per worker per week for the first year; $30 per week for the second year and $40 per week for the third year. These were the exact contributions the employers agreed to in December of 1970.

Forst said that Ostrer explained to him that slightly less than half of the employers' contributions would be available for the purchase of life insurance. On the basis of this assurance, Forst promised to advance Ostrer the first year's commissions as soon as the case was written.

Fund grows, its purpose expands

Things were moving quickly. Section 26, the "Severance Pay" provision, of the original Davidoff proposal grew from 25 cents an hour per employee to $15 per week per worker, and then to $30 and $40 a week in the second and third years, respectively. The purpose of the fund was also expanded and a life insurance feature was added that provided for 49.9 percent of the fund's money to be spent on insurance coverage for workers.

Soon Louis Ostrer was explaining to union and management representatives not only how the Ostrer concept of severance pay worked—but also how his concept of life insurance would go into effect. The truck drivers of Local 295 would have a severance pay plan that would return to them should they quit or retire or be laid off all the money contributed on each man's behalf by management. Next, at no extra cost, they would also have life insurance protection.[35]

Severance fund gets off to rocky start

Payments of $15 per man per week were due and payable starting December 1, 1970. The various collective bargaining agreements were signed between the trucking firms and Local 295 from December 6 to December 16. Money for the severance fund was pouring in at the rate of $18,000 to $20,000 a week.

Harry Davidoff appointed five union members to the board of trustees of the new trust fund. A meeting was called. Representatives from several of the trucking firms attended. They designated five trustees to represent management on the board.

At the first few meetings, minutes were not adequately kept. So it is uncertain as to all that actually transpired. But the minutes do show there was considerable confusion as to how to proceed.[36] Strong disagreements broke out. Two trustees of management—one from Emery Air Freight—resigned.

Through this rocky period, Louis Ostrer was a source of strength as he attended most of the meetings of the trustees and was helpful and ready to provide guidance. His advice was particularly well received as none of the trustees knew very much about managing a severance fund or setting up a life insurance program.

Ostrer was already a familiar figure to the Teamsters and to management. He had spoken to both groups previously about the severance fund. Now, the trustees, faced with the troublesome burden of having an on-going fund of their own, turned to Louis Ostrer to manage it, and help them make vital decisions.

The trustees of the fund seemed relieved to have Ostrer assume the responsibility of drawing up trust indentures, modifying the collective bargaining agreement when needed, seeking an insurance agency, using part of the severance fund money to buy life insurance, obtaining actuarial studies and, in general, just getting things moving.

Emery Air Freight, the largest by far of all the trucking firms, did have misgivings about the fund and Louis Ostrer. In fact, after their representative on the board of trustees resigned, Emery officials made a brief but futile effort to set up a separate trust for their own employees.

The union objected, saying it was bad precedent, might require several other separate trusts and would be foolish for the smaller companies to have individual funds. Emery gave up the effort.

Nonetheless, Emery Air Freight refused to participate in management's membership on the board of trustees and began making its contributions to the trust fund "under protest."

Details of the severance plan-insurance benefit

Examination of the severance fund's procedures showed that workers enrolled at the start of the fund qualified immediately for the full payment of whatever money had been contributed on their behalf by management. Noninception members qualified gradually over a five-year period.[37]

Nearly half—49.98 percent—of the em-

Footnotes at end of article.

ployer contributions was used to buy life insurance for the members of Local 295.

The life insurance purchased for each member was ordinary level-premium whole life insurance. It was provided in separate individual policies—not group.[38] The individual policy feature of the insurance program was to be one of the most controversial aspects of the plan. Considerable criticism was lodged against Ostrer, the architect of the system, for not having selected the more conventional group plan coverage. This criticism is noted in some detail later in this staff study.

Commissions for the agent were quite high. The total agent commissions were set at 50 percent for the first year; 25 percent for the second, third and fourth years, respectively; and 15 percent each for the fifth through 10th years.[39] Critics of the Ostrer plan also raised questions about the propriety of the commission rates as will be noted later in this study.

Insurance coverage for workers was determined by a formula. The first step was to multiply the employer's weekly contribution by 50. Next, that figure was multiplied by the number of years between the insured members' age and age 65.

For example, if a 40 year old man died in the second year of the plan when employer contributions were $30 per week, the dead man's policy was worth $37,500. By the same formula and with the same circumstances, a 25 year old man would have $60,000 coverage while a 56 year old man would have $15,000 coverage.[40]

Unfortunately, however, the dead man's widow could not collect the full face value of her husband's policy unless she waited 10 years to do it. That was another feature of Louis Ostrer's concept of life insurance which was a target of criticism.

This Ostrer innovation began on the premise that the beneficiary of all the insurance policies was not the families of the deceased but the severance fund itself.

Accordingly, after the death of the insured, the dead man's own named beneficiary did not receive cash from the trust fund according to the face value of the policy.

Instead, the named beneficiary had a choice of receiving either a lump sum payment with a considerable discount; or receiving the full face value of the policy in equal increments once a year for 10 years.

The discount reduced the face amounts of insurance payable by 26.4 percent if death occurred on or before age 55 and by 15.8 percent if death occurred after age 55.[41]

For example, Subcommittee investigators learned of the widow of one deceased union member who had the option of receiving the $12,000 face value of the policy in yearly payments over a 10-year period or $8,800 in an immediate lump sum. She took the lump sum—minus $3,200 of what she should have been entitled to. The money discounted from the lump sum remained in the trust fund.

In addition, Section 3.17 of the rules and regulations of the fund stipulated that money was to be paid to a dead man's beneficiaries only after the cost of his insurance premium and his allocated share of administrative fees were deducted.[42]

V. COMMISSIONS ON THE INSURANCE POLICIES

Without agent's license, Ostrer relied on others

Because his agent's license had been revoked by the New York State Insurance Department, Louis Ostrer could not actually write insurance policies as an agent in New York.[43] However, Ostrer did design insurance programs. He was associated with Fringe Programs, Inc., a New York City enterprise owned by Ostrer's sister, Mrs. Dina Gelman. Fringe Programs managed the severance trust fund under contract to Local 295.

In addition, Ostrer had a special relationship with three agents who were licensed by the State of New York and who wrote insurance for him in the Local 295 severance fund program. These agents were Mrs. Gelman, Cy Reeves Snyder and Seymour Greenfield.

The Subcommittee staff inquiry showed that when Mrs. Gelman Snyder and Greenfield were paid commissions in connection with the Local 295 life insurance coverage, they were, in fact, serving as fronts for Louis Ostrer.

Two insurance companies provide coverage

In his affidavit,[44] Otto Forst said that in mid-1971 he and his associates at the Executive Life Insurance Company of New York decided that the Local 295 policies were not profitable enough. Death claims and commissions were running too high.

Forst said he informed Ostrer that either he reduces the face value of the policies or cut the agent's commission. If he did neither, Executive Life did not wish to continue the agreement. Ostrer did neither. Forst said Executive Life did not renew and that the Trans World Life Insurance Company of New York took over the account.

Fringe Programs, Inc.

Fringe Programs, Inc., administered the severance pay plan from December 1, 1970 through November 30, 1972 at a cost of $148,198.20.

In addition, Fringe was paid a subsequent amount of $10,718.92 on January 16, 1973 for services rendered in December of 1972 and January of 1973.[45]

Fringe Programs, Inc., was located in a small office building in mid-town Manhattan at 377 Fifth Avenue across the street from the Empire State Building. Fringe Programs had also used office space at 384 Fifth Avenue.

The president of Fringe Programs was Julius November, a New York attorney with offices in Manhattan. The personal lawyer for Louis Ostrer, November told Subcommittee investigators that he knew almost nothing about the day-to-day operations of Fringe Programs.

The sole stockholder in Fringe was Dina Gelman, Ostrer's sister. Mrs. Gelman, besides being the only stockholder, was also office manager. Her salary was $18,000 to $25,000.

Subcommittee investigators found Fringe Programs to be an efficiently run administrative organization routinely involved in keeping track of the individual payments made on behalf of each of the members of Local 295. Fringe also provided a similar service for about 12 other union severance funds.

Tabulating equipment was used extensively. Computer time was rented from an outside company. Desk space was crowded.

Mrs. Gelman, the supposed owner of the enterprise, shared a small partitioned office with several secretaries and clerks and filing cabinets.

By contrast, Mrs. Gelman's brother, Louis Ostrer, who was not on the payroll but was listed as a "consultant," enjoyed a well appointed, wood paneled suite, conference room and library. Appearances suggested that Ostrer was in charge and that Mrs. Gelman worked for him.

Executive Life Insurance pays advance commissions

In his affidavit,[46] Otto Forst, president of the holding company that owned Executive Life, said he had expected the first year's premiums to be received in one lump sum. But he learned the premiums were to be paid in monthly installments.

At Ostrer's recommendation, Forst agreed to lend—or advance—the agent an amount equal to the first year's commissions, using as collateral a series of promissory notes.

Forst said Ostrer assured him that the trustees of the severance fund would accept Ostrer's advice as to the selection of an insurance company.

Forst was certain that Oster could prevail as to which company the trustees would select and that Ostrer would have his way on all other details of the insurance coverage. Forst put it this way:

"I would like to make it clear that as far as this company was concerned, Louis Ostrer controlled the placing of the severance fund business with us. He had designed the plan and the trustees would rely upon him for advice as to which insurance company should be selected and it was my policy to take those steps which he proposed in order to accomplish the writing of the case."

Forst said the Local 295 insurance policies were written through Ostrer's associate, Cy Reeves Snyder. Then, Forst said, a change was made as Dina Gelman, Ostrer's sister, took over the account and all of the promissory notes, guarantees, commission agreements and other papers connected with the plan were transferred to her in care of her Dina Gelman Agency. She was now the writing agent.

Interview with Cy Reeves Snyder

Cy Reeves Snyder, a retired 63 year old comedian and dancer, was interviewed by Subcommittee Investigators November 23, 1971 and February 22, 1972 in his apartment, No. 312, at 1652 N.E. 191st Street, North Miami Beach, Florida.[47]

Snyder said that he had gone in insurance sales at Louis Ostrer's suggestion. He obtained licenses in New York, New Jersey, Pennsylvania, California and Florida.

As for his association with the severance trust fund of Local 295, Snyder said he had allowed Dina Gelman and Fringe Programs, Inc., to use his name in that he, Snyder, was licensed in New York.

Snyder insisted, however, that any commissions paid in connection with the Local 295 insurance policies were not to him. He said he had received $3,000 from Fringe Programs but that this money was payment for his unsuccessful efforts to sell the Ostrer severance fund concept to some union locals in Florida.

Subcommittee investigators established that from December 17, 1970 to January 25, 1971 six commission checks totalling $335,000 from Executive Life payable to Cy Reeves Snyder were endorsed by a person who signed the name of Cy Reeves Snyder.[48]

Subcommittee investigators sought to discuss this apparent discrepancy with Snyder. But Snyder did not wish to discuss it and even refused to examine photostatic copies of the checks and the endorsements on the back sides.

Snyder would say only that it was his understanding that any income derived from the Local 295 insurance commissions went to Dina Gelman or Fringe Programs, Inc., or Seymour Greenfield.

The loans are guaranteed

On December 10, 1970, Harry O. Miller, general counsel for the Executive Life Insurance Company, wrote a memorandum to Otto Forst on the subject of the agent's commissions for the policies of the Local 295 severance fund.[49]

Miller informed Forst that the advance on the commissions—that is, Miller said, "the loan to be made to Cy Reeves Snyder"—was to be paid back over four years and was "to be guaranteed by Viscount Agency, Inc., Fringe Program, Inc., Louis Ostrer and Seymour Greenfield."

Greenfield was a close business associate of Ostrer. Viscount Agency, Inc., was an enterprise headed by Greenfield.

Forest, Lochner sign checks

The Executive Life Insurance Company of New York had offices at 540 Madison Avenue in New York City. The president of the firm was Norbert F. Lochner.

Lochner told Subcommittee investigators in a June 12, 1972 affidavit[50] that he was informed by Otto Forst that Executive Life would be handling coverage for the members of Local 295 under the new severance pay-life insurance program.

Footnotes at end of article.

Lochner said that Forst informed him that advance commissions were to be paid on the union policies. Lochner said that he and Forst co-signed checks totalling $431,516 to Cy Reeves Snyder and Dina Gelman, the agents for the Local 295 policies.

Lochner said that from December 17, 1970 to January 25, 1971, six checks totalling $335,000 were paid to Cy Reeves Snyder or the Cy R. Snyder Agency.

Lochner said tht from March 4, 1971, to April 12, 1971, four checks with a combined value of $96,516.43 were paid as commissions to Dina Gelman.

The Investigations Subcommittee obtained photostatic copies of these checks.[51] The Subcommittee also obtained copies of three additional checks from Executive Life to Dina Gelman. These checks, for commission advances on the Local 295 policies, totalled $51,671 and were issued on February 22, 1971, and June 22, 1971.[52]

Russell J. Lasher, the financial vice president and treasurer of First Executive Corporation, the holding company for Executive Life, gave the Subcommittee an affidavit August 30, 1972 in which he swore to the authenticity of all 13 checks and to the fact that all of them were issued in connection with the insurance coverage given by Executive Life to the members of Local 295.[53]

Trans World takes over the 295 account

Otto Forst, speaking for Executive Life, said the company dropped its policies with the Local 295 severance fund because the death claims were too high and the agent's commissions were too expensive.[54]

So, for the second tier of insurance for the Teamsters local, Louis Ostrer turned to the Trans World Life Insurance Company of New York.

Again, advance commissions were paid out. And, again, commission rates were quite high. Trans World Life Insurance policies provided for an aggregated first year commission of 90 percent.[55] The first agent for Trans World was Seymour Greenfield of 32–16 Healey Avenue, Far Rockaway, New York. Greenfield, a close associate of Ostrer, was president of the Viscount Agency, Inc., and secretary of the Modern Agency, Inc., both of which sold insurance.

Trans World pays commission advances

Joseph J. Warren was the President of the Trans World Life Insurance Company of New York. In a June 19, 1972 Subcommittee affidavit, Warren said he wrote checks to advance—or loan—money equal to the size of the commissions for the grants on the Local 295 life insurance policies.[56]

From September 2, 1971 to November 30, 1971, Warren wrote seven checks totalling $140,000 payable to the Viscount Agency, Inc.[57]

Warren wrote six more checks, totalling $320,000, from December 1, 1971 to January 10, 1972, payable to the Dina Gelman Agency.[58] The total commissions on the second tier of insurance, then, came to $40,000. The Subcommittee obtained photostatic copies of these checks.

Henry Brown cashes checks for Ostrer

Henry Brown, a New York City broker, had the financial resources to cash large checks for Louis Ostrer and for persons who were associated with Ostrer. Brown described these transactions in four affidavits he gave the Subcommittee December 9, 1971, June 6, 1972, July 28, 1972 and September 8, 1972.[59]

Brown said he had known Ostrer for 15 years trusted him and had cashed checks worth $1 million for him since 1968. Brown said Ostrer owned him $260,000 but he was confident he would be paid back.

Until Ostrer "got in trouble" wtih Canada Life Assurance Company, Brown said, Ostrer was "an outstanding insurance salesman." But when he lost his license, Ostrer became "associated with" or employed Dina Gelman, Seymour Greenfield, Cy Reeves Snyder and William Kilroy and such businesses as Fringe Programs, Viscount Agency, Modern Agency, Sutter Agency, Cy Reeves Snyder Agency and Dina Gelman Agency.

Brown said:

"Because I kept no records, I cannot recall the details of specific transactions I have had with Mr. Ostrer. However, in general, Mr. Ostrer or Mr. Seymour Greenfield would contact me concerning the cashing of a check they had in their possession or the advancing of funds on a check which they expected to receive in the near future. I would cash the check in question or advance the money on the expected check, giving the money to Mr. Ostrer or Mr. Greenfield or one of their associates—either a Mr. William Kilroy, Mr. William Felner or Mr. Sonny Ratoff, who is my nephew. However, I would only cash checks or advance money at either Mr. Ostrer's or Mr. Greenfield's direction. For these services I would charge only a nominal fee—such as $50 or $100 depending upon the amount of the check."[60]

While he kept no records and could not recall every check he had cashed for Ostrer, Brown did remember circumstances surrounding some of the checks when Subcommittee investigators showed him photostatic copies.

For example, Brown remembered cashing a January 25, 1971 check from Executive Life Insurance Company payable to Cy R. Snyder for $50,000. But, Brown said, it wasn't Cy R. Snyder who cashed it. "I cashed this check for either Mr. Ostrer or Mr. Greenfield and deposited the check in my account," Brown said, adding:

"I did not give the cash to Mr. Cy Reeves Snyder, the payee of the check. From previous conversation I had with Mr. Snyder, however, I know he approved of the transations. In fact, he told me that Messrs. Ostrer or Greenfield had a power of attorney to use his signature."[61]

Another January 25, 1971 Executive Life check payable to Snyder—this one for $35,000—was cashed by Brown. He said he remembered giving the money to Ostrer or Greenfield or one of their associates, and, again, Snyder approved of the transaction."[62]

Brown said one check—a $25,000 cashier's check drawn January 27, 1971 by the Kings Lafayette Bank—was payable to Henry Brown. Brown explained:

"Mr. Ostrer or Mr. Greenfield contacted me concerning the cashing of this check. Mr. Michael McEnroe signed this check on behalf of the Kings Lafayette Bank. At Ostrer's or Greenfield's direction, I cashed the check, giving the money to them or one of their associate."[63]

The Kings Lafayette Bank check is explained

The Kings Lafayette Bank, 200 Montague Street, Brooklyn, New York, was the site of a meeting December 30, 1970. The subject of the meeting was the severance fund-life insurance program of Local 295. In attendance were Louis Ostrer, Seymour Greenfield and several bank officials including Milton Vanderveer, the chairman of the board of the bank, and Tum Sudin, Richard Arkwright and Michael McEnroe, all vice presidents.

McEnroe discussed the meeting—and subsequent events related to it—in a July 14, 1972 Subcommittee affidavit.[64]

He recalled that Ostrer described the severance trust fund to the bank officers. Ostrer said certain trust fund deposits would be made in the bank as part of its investments portfolio.

"It was apparent from the beginning that Ostrer was in charge," McEnroe added, concluding his recollection of the meeting.

Shortly thereafter—on January 6, 1971—McEnroe said, an account for the Modern Agency, Inc., was opened and Seymour Greenfield, secretary of the firm, was authorized to be its sole signator.[65] On January 27, 1971, Greenfield opened a personal account, again with himself the sole signator.[66]

Greenfield took part in another transaction at the bank January 27. He and Louis Ostrer and a third man McEnroe did not know asked him to cash a $150,000 check from the Executive Life Insurance Company. The check was payable to the Cy R. Snyder Agency and had already been endorsed, McEnroe said. Greenfield then countersigned for it for the Modern Agency, Inc., McEnroe said.[67]

McEnroe said the bank didn't have sufficient cash on hand so he gave them what he could—$60,000 in bills, some of them as large as $100 denominations. McEnroe said Ostrer and Greenfield "promptly stuffed [the cash] into their pockets."

Next, McEnroe said, Ostrer asked for three cashier's checks for $25,000 each to be drawn, one made out to Greenfield, one to Dina Gelman, the third to Henry Brown.[68] The remaining $15,000 was deposited in the Modern Agency's account, McEnroe said.

Thus, Michael McEnroe explained how it was that Louis Ostrer got Henry Brown to cash a $25,000 check payable to Henry Brown.

Sometime after the January encounter McEnroe read a magazine article about cargo thefts at the John F. Kennedy International Airport. The article portrayed Local 295, Louis Ostrer and Anthony (Hickey) DiLorenzo in not a very favorable light.

McEnroe said he brought the article to the attention of the bank president, John DePalma, who ordered that Greenfield's Modern Agency account and his personal account be closed out.[69]

On February 22, McEnroe told Greenfield that his accounts were to be closed. "Greenfield did not object," McEnroe said, "nor did he seem too upset . . ."

Third year advances are returned

The Trans World Life Insurance Company paid advance commissions of $75,000 to Mrs. Gelman for the start of the third year of insurance under the Local 295 plan. Payment was made by a $50,000 check January 14, 1972 and a $25,000 check January 27, 1972.[70]

On April 24, 1972, Joseph J. Warren, president of Trans World, asked Mrs. Gelman to return the money because the severance fund trustees had not yet ratified the additional coverage.[71] Mrs. Gelman returned the money.[72]

VI. EVALUATIONS OF THE SEVERANCE PAY-INSURANCE PLAN

Subcommittee asks actuaries to examine fund

In May of 1971, at the request of the Senate Permanent Subcommittee on Investigations, three insurance experts examined the procedures and policies of the Local 295 severance trust fund and its life insurance benefit.

The insurance experts were Lawrence M. Hyman, supervising examiner of the State of New York Insurance Department; George Perla, senior examiner of the Department; and Herbert L. Feay, Assistant Director of the United States General Accounting Office.

On June 30, 1971, the conclusions of these men were given to the Investigations Subcommittee.[73] The three insurance experts were critical of the life insurance features of the severance fund.

They said the insurance coverage aspects of the fund were incomplete in describing procedures and benefits.[74]

They said the agent writing the coverage would benefit excessively from the high commission rates of the fund. They said that one of the agent's commissions—the persistency bonus—was probably illegal in the State of New York.[75]

The three insurance experts estimated that agent commissions would total $1 million in the first three years of the plan. They contrasted the million dollar commission

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Footnotes at end of article.

fee of the Ostrer system with the $75,250 commissions due on a comparable group plan set up in accordance with the Code of Ethical Practices of the National Association of Insurance Commissioners.[76]

The insurance experts were also critical of the insurance for being designed "without regard to the individual needs of each member." People's insurance requirements change as their lives change, they said, and their insurance coverage should be responsive to new situations. But instead of responding to worker's needs, the insurance experts said, the Ostrer policy was structured according to the "apparent desire to pay the maximum amount possible as life insurance premiums on which the agent will collect commissions." [77]

New York insurance department examines fund

On September 8, 1972, the State of New York Insurance Department completed a study entitled "Report on Examination of the Local 295 Severance Trust Fund." The report was forwarded to the Subcommittee on October 18, 1972.[78]

Prepared by Department examiner Murray Zaroff, the report was critical of the severance trust fund, particularly its life insurance provisions.

Excessive commissions to the agent were sharply questioned as the report asserted:

"The scale of payments to the insurance agent is unconscionably high and in the gross contravention of the Code of Ethical Practices." [79]

The report added:

"If commission has been made payable not at the unbelievably high rates currently in effect but at the range of rates contemplated in the Code of Ethical Practices, the savings in commissions would have been of great financial benefit to the trust fund. Such savings could have been passed on [to] the fund in the form of lower premiums or the contracts could have been rewritten on a participating basis so the fund could receive the savings as dividends.[80]

New York's Insurance Department charged that Louis Ostrer had deliberately misled the severance trust fund trustees and termed "seriously questionable" the use of ordinary whole life insurance instead of implementing a group plan.[81]

Fringe Programs, Inc., the administrator of the severance fund, came under fire for the excessively high fees it charged. The New York State Insurance Department noted that Fringe was paid first year administrator's fees of $86,877. This figure was contrasted with an avowal made by Louis Ostrer Janurary 21, 1971 in a meeting of the trustees that annual administrator's fees would be 94 cents per member per month—or $15,000.[82]

It was further asserted that, as of July 1, 1972, overall administrative charges—$124,077—were four and one-half times higher than those of the average fund of similar size.[83]

The Insurance Department report cited another item in the overall cost of managing the fund—the legal fees—which seemed to be too high. The severance fund had paid $18,000 to two lawyers—Haskell Wolf and Herbert Simon—and the report observed that the "fund's high administrative costs" could be reduced by $9,000 by retaining only one attorney, rather than two.[84]

Finally, the Insurance Department referred to its own previous announcement—of December 22, 1967—when it revoked Louis Ostrer's license as an insurance agent. The Department asserted that Ostrer had, in fact, solicited the insurance arrangement with Local 295 at a time when he was not licensed as an agent by the State of New York.[85]

The GAO studies fund

The Senate Permanent Subcommittee on Investigations on December 28, 1971 asked the United States General Accounting Office (GAO) to examine the severance pay-life insurance plan of Local 295. The GAO submitted its report to the Subcommittee May 21, 1973.[86]

Like the New York State Insurance Department report, the GAO study was critical of the high commission rates and the decision to have individual policies rather than a comprehensive group plan.

The GAO said the use of individual policies—rather than the less expensive group plan—cost the fund an additional $790,000 in commissions over what a group plan commission fee would have been.

The GAO analyzed the fund's finances from December 1, 1970 through November 30, 1972 and found that the fund had receipts totalling $3,304,336 for this two-year period. During the same period $2,156,171 was spent, resulting in a net cash balance of $1,148,165.

The major source of cash for the fund was employer contributions. They came to $2,966,220. The largest use of this cash was to buy insurance. Premiums cost $1,531,234.

Of the money spent on insurance $1,014,571 was paid to the Executive Life Insurance Company of New York. The Trans World Life Insurance Company of New York received $516,663.

Of the $1,531,234 of the fund's money that was spent on life insurance about $800,000 was for commissions that were paid to Dina Gelman, Cy Reeves Snyder and Seymour Greenfield or their respective businesses, the Dina Gelman Agency, the Cy R. Snyder Agency, the Modern Agency and the Viscount Agency.

GAO estimated that the commission costs would have been $10,000—not $800,000—if the coverage had been group rather than individual whole life.

The GAO said the life insurance coverage itself was "much more costly" than other insurance programs of similar size. Administrative costs were found to be "considerably greater" than those charged in other benefit plans in New York.[87]

GAO pointed out that Local 295 members already had a life insurance program under their Group Welfare Fund. "It would seem," the GAO reported, "that, if additional insurance coverage were considered desirable, it would have been more logical to provide it through the Group Welfare Fund." [88]

The GAO said that other insurance programs would have given Local 295 members better protection at cheaper costs. In short, the GAO said, "The plan was not formulated or administered in the best interests of the members." [89]

The GAO also studied the issue of funding. Was the severance fund properly funded? GAO's answer was, no, it was not properly funded. The severance trust, because of its huge life insurance liabilities and excessive administrative costs, never did live up to its first requirement—that is, to have adequate resources to pay back to workers at severance all the employer contributions made on their behalf plus interest earned on the contributions.[90]

The GAO said:

"A test commonly used for determining soundness of an employee benefit plan (such as the Local 295 plan) is simply to determine whether the plan will be able to pay benefits provided under its terms." [91]

But the Local 295 severance plan could not pass this test, GAO found, concluding:

"It [the fund] could not have been expected to be able to pay such benefits immediately because its earnings would not have been sufficient to offset expenditures made for insurance premiums, administrative expenses and benefit payments." [92]

This last GAO finding—on funding and the financial soundness of the plan—was also noted by Subcommittee investigators as they sought to evaluate the Louis Ostrer concept of severance pay and life insurance.

A critique of the Ostrer concept

Subcommittee investigators found incomplete records of what Louis Ostrer actually said as he briefed union officials and management on his severance pay plan and the life insurance coverage.

But available records and interviews conducted with persons who heart Ostrer's briefings indicate that Ostrer gave the impression that the insurance protection would be "free." That is to say, the fund could buy the insurance yet still be able to guarantee the return of every dollar contributed by management on behalf of every member.

This claim by Ostrer was misleading. Initially, the severance fund was not able to guarantee severance payments for all its members—for nearly one-half its revenues were spent on life insurance protection. The GAO estimated that it would be 15 to 20 years before the fund would have been 100 percent funded.

In promoting his concept of severance pay plans, Ostrer was relying on a principle that bankers, money managers and insurance men know very well. That principle has to to do with the incremental value of compounded interest on a large fund of money, particularly one—like this severance fund—which has a steady, fixed guaranteed income. In its most approximate terms, a set amount of money will double, even though not added to, in about 10 years at a reasonably obtainable rate of interest.

Compound interest allows insurance companies to collect low monthly premiums during a man's life span and pay out many thousands of dollars upon his death. Beneficiaries, in fact, may receive more than the total amount collected from the deceased but the insurance company will still show a profit.

In insurance, then, as in banking, what makes the venture profitable is the interest and particularly the componding of interest.

Louis Ostrer knew this principle well. Using even conservative actuarial considerations and cautious interest projections, the cost of the Ostrer insurance program could be paid back to the severance fund in a period of time. Ostrer claimed seven years. GAO said 15 to 20 years.

Ostrer's system counted on money coming from the weekly employer contributions being supplemented by (1) forfeitures from partially vested newer employees who leave before they have the full five years of employment needed to qualify; (2) the interest earned on that half of the severance fund not used to buy life insurance; (3) paying out death claims over a 10-year period or paying the claim in one lump sum minus a substantial discount; and (4) the cash surrender value of the insurance policies as they begin to mature and which are, in the Ostrer plan, the property of the trustees, not the insured truckers.

Ostrer misled Local 295 members

The life insurance program, purchased at high prices with high commissions and managed with high administrative costs, rendered the severance fund technically bankrupt the day it began. At that moment, the fund's assets were 50 percent of its liabilities.

A severance pay plan, by definition, must at all times be fully funded. Ostrer obscured that fact by encouraging his audiences to confuse severance pay with pension plans. The two are not comparable.

A severance pay plan has no "past service obligation." It is—as asserted in the Local 295 contract and in other similar arrangements—a fund obligated to pay the entire amount contributed by management to each employee upon severance. It is similar to the keeping of a separate bank account for every member.

On the other hand, a pension plan often does not reach full funding for many years because it assumes obligations which extend

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back in time before its creation and relies on the fact that most particapants will not be vested or retire for many years. Therefore, the Ostrer severance system—as portrayed by Louis Ostrer—compared favorably with pension funds; his fund was to be fully paid up in some 10 years.

But severance funds are not pension funds. If, for example, the trustees of a comparable welfare benefit such as health care are to expend $500,000 for medical expenses for the membership for the year, funds available should be approximately $500,000.

What Ostrer promised, in reality, was to achieve a return of the money he planned to lavish on excessively costly life insurance. He was promising to pay back to the truck drivers in 10 years what was theirs from the beginning. Louis Ostrer's proud claim that it would be fully funded in a decade had a hollow ring.

Letters are not answered

It was the Subcommittee's hope that persons involved in the creation and management of the Local 295 severance trust fund would contribute their own views in this staff study. Consequently, the staff asked Louis Ostrer and Harry Davidoff to give final interviews at which time the most serious questions about the fund could be raised and Ostrer and Davidoff would have a chance to give their side of the severance fund story.

Certified letters from Subcommittee Chief Counsel Howard J. Feldman were sent March 30, 1973 requesting these meetings. Neither of the letters was answered.[93]

The Belmont stock case

Louis C. Ostrer and John (Johnny Dio) Dioguardi were engaged in questionable stock transactions at the approximate same time that the Local 295 severance fund-life insurance program was being implemented.

Ostrer and Dioguardi were charged in a 40-count indictment May 27, 1971 in which it was asserted that they had violated federal securities laws and federal mail and wire fraud statutes. Seven other persons were also charged.

On January 26, 1973, a jury found Ostrer guilty on 11 counts and Dioguardi guilty on four counts (361 F. Supp 954). On April 12, 1973, Judge David N. Edelstein of the United States District Court for the Southern District of New York sentenced John Dioguardi to nine years' imprisonment and a $30,000 fine and Ostrer to three years' imprisonment and a $55,000 fine.

On January 4, 1974, the convictions of Dioguardi and Ostrer were sustained by the United States Court of Appeals, Second Circuit.

Ostrer still remains free pending further appeal of his conviction. Dioguardi is presently incarcerated at the Federal peniteniary at Lewisburg, Pa.

Details of the scheme of Ostrer and Dioguardi in the Belmont stock case are reported in the opinion of the United States Court of Appeals, Second Circuit in *U.S.* v. *Dioguardi* (492 F. 2d (1974)). Evidence in the case revealed a plan to manipulate the price of the stock on the Belmont Franchising Corporation, a substantially worthless over-the-counter security; the book value of the stock was almost negligible. Belmont's assets were essentially paper holdings in other concerns. The stock had been traded for only a short time for at most a few dollars a share.

In January of 1970, Michael Hellerman, who pleaded guilty and testified for the government, began steps to drive up the price of Belmont stock, first to $5 or $6 a share and then to nearly $50 a share. At that time, two alleged stock manipulators, Anthony Soldano and Fred Goodman, together with Hellerman, began to buy virtually all of the 28,720 known publicly tradeable shares of Belmont.

Goodman and Soldano executed their purchases ostensibly through the open market, using brokers who quoted prices for Belmont through the National Quotation Bureau's pink sheets for over-the-counter securities. These purchases created the appearance of an active public market in the stock.

By early March of 1970, Goodman and Soldano allegedly had caused the market price of Belmont as quoted in the pink sheets to reach $15 a share. They did this primarily through directions to their brokers, who traded small quantities of the stock among themselves. In the meantime, Goodman and Soldano had acquired, they believed, control of all the outstanding stock.

At this point Hellerman's role became more important. According to his testimony, he already had an understanding with John Dioguardi that "whatever I did in the future . . . he would have 25 percent." It had also been agreed between Hellerman, on one side, and Goodman and Soldano on the other that once the price of Belmont stock reached $15 Hellerman and his associates would purchase all the stock at the $15 level, with a $5 per share kickback, prior to further manipulation upwards.

In confirming this arrangement with Goodman and Soldano, Hellerman took Soldano to Dioguardi's office "to make sure it was on the record."

According to Hellerman, it was at this time in early March that he brought Ostrer into the scheme, although the two had only known each other a short time. Ostrer agreed to commit himself to buy 14,000 shares of Belmont at $15 a share, for a total of $210,000, with the understanding that he would split any future profits with Hellerman, that Hellerman would guarantee him against loss and that a loan of the purchase money would be arranged so that he would not have to "lay out a quarter" of the $210,000.

Purchase orders in Ostrer's name or in his behalf were to be made through various New York Stock Exchange firms.

Ostrer then placed orders in his own name and in the name of his sister, Mrs. Dina Gelman, for 14,000 shares of Belmont. However, most exchange firms which Ostrer approached refused to accept his orders and he was forced to place relatively large block orders through firms where brokers were already in league with Hellerman.

Meanwhile, Hellerman made arrangements with other persons to purchase the remaining 14,000 shares of Belmont. These persons were able to pay the selling brokers at the $15 a share price. But Ostrer was unable to raise the $210,000 needed to "hold up" his end of the deal.

This development left his brokers unpaid. According to Hellerman, he then obtained a loan for Ostrer through Dioguardi. These funds, totalling $60,000, came from Anthony (Hickey) DiLorenzo, at an interest rate of 1½ percent a week. DiLorenzo also demanded and received $24,000 from Hellerman. In addition Hellerman also advanced Ostrer $52,500 and Ostrer obtained the balance he needed from other sources.

From the end of March through late April of 1970, Hellerman directed purchases and sales of Belmont stock at ever-increasing prices among the individuals and brokers he controlled. He kept Dioguardi, Ostrer and DiLorenzo informed as the price rose. He also arranged for Ostrer to sell off enough stock, through a nominee, to repay the $60,000 loan from DiLorenzo—with a $1,700 profit left over which he split with Ostrer.

By the end of April of 1970, Hellerman had reecived about $140,000 in kickbacks from Goodman and Soldano. He gave $30,000 to Dioguardi and invested $9,000 more in a business in which Johnny Dio had an interest.

In early May of 1970, the scheme failed. The president of Belmont, through a broker unknown to the manipulators, began to sell heavily his own "investment" stock in the corporation. The market was unable to absorb the sales. Hellerman was unwilling to buy the stock and could not find other purchasers. The market for Belmont collapsed, leaving Ostrer and others with large quantities of unsold stock. Ostrer then tried to hold Hellerman responsible for his losses. Hellerman became worried because Dioguardi took Ostrer's side. Dioguardi arbitrated the dispute to some extent and arranged for partial compensation to Ostrer in the sum of $25,000.

At the trial, Dioguardi called no witnesses. He based his defense primarily on cross-examination going to the lack of credibility of the government's major witnesses, all of whom were accomplices. Ostrer did not testify but he did call two witnesses whose testimony indicated that Ostrer had been a "victim" of Hellerman's manipulations.

VII. CORRECTIVE ACTIONS AND RELATED EVENTS

Reforms are implemented in fund

Early in 1973 the board of trustees of the Local 295 severance fund took steps to improve the fund's procedures and insurance benefit.

Fringe Programs, Inc., was dropped as administrator of the fund January 16, 1973.[94]

The trustees voted to end the practice of buying individual life insurance policies for the union's members on February 20, 1973. A single group term insurance contract, effective March 1, 1973, was purchased with the Prudential Life Insurance Company.[95]

Accordingly, no agent or broker was involved in the purchase of the group term policy, thereby eliminating the high commissions paid under previous policies.

Under the new group plan, each member, regardless of age, was insured for $30,000.

The trustees also amended the rules and regulations of the severance fund so that payment of the death benefit would be made in lump sum and in full.[96]

James Hoffa's book

Before his disappearance July 30, 1975, James R. Hoffa, the International Brotherhood of Teamsters former president, wrote a book entitled, *Hoffa: The Real Story*.[97] The book was written in collaboration with Oscar Fraley, a former sportswriter who also wrote *The Untouchables* and other books.

In his book, Hoffa was critical of his successor, Frank Fitzsimmons, and charged that Fitzsimmons, as Teamsters president, allowed organized crime figures to bilk Teamsters of large amounts of money. Hoffa asserted that Fitzsimmons had been guilty of "selling out to mobsters and letting known racketeers into the Teamsters."

Citing the Local 295 severance fund, Hoffa called attention to Louis C. Ostrer's role in an insurance plan that resulted in a $1.1 million "rip-off" of Teamsters members in the local which was "dominated by labor racketeer Harry Davidoff."

Reader's Digest article

In the August 1974 issue of *Reader's Digest*, longtime labor rackets investigative reporter Lester Velie reported on the severance fund-life insurance benefit scheme which Louis Ostrer devised.[98]

Velie reported that the scheme first employed at Local 295 in New York was then put into practice in 60 or 70 Teamsters locals in Michigan, California, Nevada, New Jersey, Illinois and Florida.

Velie said Ostrer got the go-ahead to promote his severance fund-insurance plan from Frank Fitzsimmons. Velie said Ostrer hired Fitzsimmons' son, Don Fitzsimmons, as a "consultant and public relations man."

April 18, 1974 citation

On April 18, 1974, the New York State Insurance Department issued a citation charging that the Local 295 Severance Trust Fund had been improperly structured and man-

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aged. Named in the action were 10 trustees of the fund and Louis C. Ostrer, Dina Gelman, Cy Reeves Snyder, Seymour Greenfield, Viscount Agency, Inc., Fringe Programs, Inc., Executive Life Insurance Company of New York and Trans World Life Insurance Company of New York.[99] The state insurance department citation was authorized by Superintendent of Insurance Benjamin R. Schenck and signed by Sidney B. Glaser, Associate Counsel for Welfare Funds.

Ostrer and the others were charged with having "willfully and/or wrongfully and/or negligently failed to comply with" New York State insurance laws, the result of which was the depletion of the assets of the severance trust fund in the amount of $1,185,728.

Among the charges levelled by the insurance department were assertions that the whole life policies were "excessively costly," that no accredited actuarial consultant was brought in to evaluate the severance trust fund's life insurance benefit, that Louis C. Ostrer lost his license to sell insurance due to questionable practices in the 1960's, that the trustees should have checked into Ostrer's past and learned of his felonious background.

In addition, the insurance department's citation alleged that Cy Reeves Snyder, Dina Gelman, Louis Ostrer, Executive Life, and Trans World Life were involved in transactions they knew to be improper in connection with the purchase of the whole life policies; and that they, in fact, fronted for Ostrer in the solicitation and sale of the severance fund insurance program.

The state insurance department charged that Louis Ostrer and the others named in the citation had, by their action in the Local 295 Severance Trust Fund, showed a "pattern of gross neglect, incompetence, mismanagement and imprudence" and were guilty of "willful violations of the insurance law."

Louis C. Ostrer and the others were ordered to appear at proceedings of the New York State Insurance Department beginning May 21, 1974.

Nearly two years later—on March 4, 1976—the New York State Insurance Department announced it had recovered $200,000 to be returned to the Local 295 severance trust fund.[100]

Superintendent of Insurance Thomas A. Hartnett said the recovery was made according to an agreement entered into by the department with 10 trustees of the fund and the two insurers, the Executive Life Insurance Company of New York and the Trans World Life Insurance Company of New York.

The trustees and the insurance companies agreed, "without conceding liability," to pay the $200,000 to the insurance department, Superintendent Hartnett said. The department was then to transmit the money to the local's severance fund.

According to Insurance Superintendent Hartnett, the recovery was in response to the department's charges that, first, the trustees had imprudently bought excessively costly whole life insurance policies for severance fund members; second, the trustees had made these purchases upon the advice of Louis C. Ostrer but they had not bothered to check out his felonious past; third, the insurance companies had violated the insurance law by issuing individual policies without obtaining the individual member's written consent to having his life insured; and fourth, the commissions paid on the policies were "grossly in excess" of those permitted under the Code of Ethical Practices of the National Association of Insurance Commissioners.

The March 4, 1976 action ended the insurance department's proceedings against the 10 severance fund trustees and the two life insurance companies, Executive and Trans World.

However, the department noted, its proceedings against Louis Ostrer, Dina Gelman, Cy Reeves Snyder, Seymour Greenfield, Viscount Agency, Inc., and Fringe Programs, Inc. would continue, running March 15, 1976 in the department's offices in the World Trade Center Building No. 2 in New York City. These hearings were still in progress at this writing. The department hoped to be awarded the remaining $900,000 of the original $1.1 million it charged had been depleted from the Local 295 severance fund.

VIII. FINDINGS AND CONCLUSIONS

Investigation by the Subcommittee staff into the severance trust fund of Teamsters Local 295 showed that the fund and its life insurance feature were established and operated more to benefit the creator of the system—Louis C. Ostrer—and his associates than the workers.

The workers could have had cheaper and more practical insurance coverage and their severance trust fund could have been built and operated on a much sounder footing.

The two major drains on the severance fund were the huge commissions on the individual policies and the exorbitant administrative fees. Both of these resulted in handsome profits for Ostrer and his associates such as Mrs. Dina Gelman, Cy Reeves Snyder and Seymour Greenfield. These profits were gained at the expense of workers.

One example of how workers ultimately suffered was the Ostrer system of paying insurance benefits to beneficiaries. A worker's widow was given the choice of receiving one lump sum payment with a significant discount; or she could take the entire endowment in 10 equal payments across 10 years. Either way, the widow lost and the severance fund gained. But the fund required profitable procedures like this to compensate for the depletions caused by the high insurance commissions and administrative fees.

Another example of how Ostrer designed the severance pay-life insurance plan to benefit himself was seen in his arranging whole life policies for each of the 1,400 workers, rather than negotiating a more conventional—and much less expensive—group plan.

The General Accounting Office estimated that commission costs would have been approximately $10,000—not $800,000—if the coverage had been group rather than individual whole life. Thus, the use of individual policies rather than the less expensive group plan cost the fund approximately an additional $790,000 in commissions.

Ostrer's intention was clear. Individual policies also meant many individual commissions for the agents and the agents were Mrs. Gelman, Ostrer's sister, and his close associates, Snyder and Greenfield.

Similarly, Ostrer saw to it that the same Mrs. Gelman was also awarded the job of administering the severance fund. Again, the returns were lucrative. Ostrer benefited from administrative fee profits, just as he profited from the insurance commissions.

It is apparent, then, that instead of being primarily increased compensation for workers, the fund served as a means for improperly obtaining monies from the severance trust fund. The excessive agents' commissions and the administrative costs—and the very concept of whole life policies—were the avenues through which Ostrer, with Davidoff's concurrence, was able to extract hundreds of thousands of dollars from management at the expense of the workers.

A severance pay-insurance plan provides a wide variety of probably legal but certainly questionable methods for mobsters to obtain huge amounts of funds. A mobster who can speak for organized labor in pursuit of an apparent legitimate union demand—such as a severance fund—enjoys considerable protection against detection and prosecution. That is one reason why organized crime has been attracted to the union movement for many years.

Accordingly, the investigation by the Subcommittee staff into the severance trust fund and life insurance benefit of Local 295 showed that the local's leadership continued to be infiltrated by persons associated with organized crime.

In the late 1950's and in 1960, the Select Committee on Improper Activities in the Labor or Management Field cited Local 295 as being run by racketeers. The Select Committee was, in effect, an arm of the Senate Permanent Subcommittee on Investigations. Some 16 years have gone by since the Select Committee examined Local 295. There was more than enough time for the Teamsters International to demand that Local 295 be cleaned up.

The mere fact that Harry Davidoff was able to stay on for so long a time as secretary-treasurer and principal leader of the local is sufficient evidence on its face to demonstrate that the corruption that was rampant more than a decade ago was not eliminated.

The Teamsters Union has never lived down the bad reputation it received in the public mind as a result of the activities of Dave Beck, James Hoffa and their associates. The International should be determined that each of its local chapters is run for the benefit of its members and certainly not be led by persons who are associated with organized crime. Hundreds of thousands of men and women who are law abiding members of the Teamsters throughout the nation deserve no less.

With specific reference to the severance pay-life insurance program of Local 295, the Subcommittee staff finds that:

(1) Louis C. Ostrer designed and managed the severance pay-insurance program to make a lot of money for himself at the expense of workers and management.

(2) Ostrer should never have been allowed to participate in Local 295 affairs. Conscientious labor leaders would have noted his ties with organized crime and the fact that he had lost his agent's license in a criminal matter.

(3) The Executive Life Insurance Company of New York and the Trans World Life Insurance Company of New York, which provided coverage for Local 295 under the severance pay-life insurance program, should have refused to have any dealings with Ostrer because his license had been revoked in a criminal matter. A review of the charges levelled against Ostrer would have revealed his criminal past. By doing business with Ostrer, the two insurance companies showed that selling 1,400 insurance policies was more important to them than the ethical considerations of how the policies were being sold and who, in reality, was selling them.

(4) Abuses of the severance fund were of such consequence that the Permanent Subcommittee on Investigations is referring this staff study to the Senate Committee on Labor and Public Welfare. The potential for other abuses of severance funds may be seen in the Local 295 experience and this staff study may be helpful in citing the need for new legislation. Copies of this study are also being referred to the Internal Revenue Service, the Department of Labor, the Department of Justice and the headquarters of the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America.

FOOTNOTES

[1] Memorandum of August 27, 1975 entitled, "Information relating to severance pay fund," prepared by Charles V. Cicone, Specialist, Labor Economics and Relations, Congressional Research Service, Library of Congress, for the Senate Permanent Subcommittee on Investigations.

[2] Text of Labor Management Relations Act, 1947, as amended by Public Law 86–257, 1959.

[3] Labor Management Reporting and Disclosure Act of 1959, as amended.

[4] Memorandum of August 17, 1973 entitled, "Information relating to severance pay fund."

[5] Hearings before the Senate Select Committee on Improper Practices in the Labor or Management Field 85th Congress, First Session, pursuant to Senate Resolution 74, 85th Congress, Parts 1–58, February 26, 1967—September 9, 1959; First Interim Report March 1958; Second Interim Report, part 1, August 1959; Second Interim Report, part 2, October 1959; Final Report, part 1, February 1960; Final Report, part 2, March 1960; Final Report, part 3, March 1960; Final Report, part 4, March 1960.

[6] *Ibid.*

[7] Interim Report of the Select Committee on Improper Activities in the Labor or Management Field, March 17, 1958, pp. 198–199.

[8] *Ibid.*

[9] *Ibid.*

[10] *Ibid.*

[11] *Ibid*, p. 163.

[12] *Ibid*, p. 199.

[13] *Ibid.*, p. 173.

[14] *Ibid.*, pp. 167, 170.

[15] *Ibid.*, pp. 162–221.

[16] *Ibid.*

[17] *Ibid.*

[18] *Ibid.*, pp. 210, 211.

[19] *Ibid.*, p. 167.

[20] *Ibid.*, p. 170.

[21] *Ibid.;* p. 199; exhibit facing p. 202.

[22] New York Post article headlined, "The Life & Times of Harry Davidoff," December 15, 1972, p. 2 (See Appendix I.)

[23] Interim Report of the Select Committee, March 17, 1958, p. 170.

[24] Hearings before the Senate Select Committee, part 12, August 14, 1957, pp. 4523–4532.

[25] Hearings before the Senate Permanent Subcommittee on Investigations entitled "Organized Crime—Stolen Securities," part 2, June 24, 1971, pp. 376–420.

[26] *Ibid.*, pp. 378, 379.

[27] Investigation Report concerning Louis Ostrer prepared by the Probation Department. New York County, Case No. 5333/68.

[28] *Ibid.*

[29] *Ibid.*

[30] New York Daily News article headlined, "Swindler Makes 250G Bail But Still Winds Up in Jail," February 25, 1973. (See Appendix II.)

[31] Investigation Report, New York County.

[32] U.S. General Accounting Office document of April 13, 1973 entitled, "Review of Plans, Programs and Financial Transactions Relating to the Severance Benefit Trust Fund of Local 295." (See Appendix III.)

[33] Local 295 wage and benefit demands, 1970.

[34] Affidavit of Otto Forst, May 31, 1972. (See Appendix IV.)

[35] Rules and Regulations of Local 295 Severance Trust Fund; Agreement and Declaration of Trust Establishing the Local 295 Severance Trust Fund.

[36] Minutes of meeting of trustees of severance trust fund, Local 295, March 17 and 31, 1971, Subcommittee memorandum of March 1, 1972 entitled, "Local 295 Severance Trust Fund, review of minutes of trustees meetings for October and November of 1971," from Jack Balaban to John P. Constandy; Subcommittee memorandum of July 5, 1972 entitled, "Review of minutes of trustees meetings, January, February and April 1972," from Jack Balaban to John P. Constandy; Subcommittee memorandum of November 6, 1972 entitled, "Review of minutes of trustees meeting of September 25, 1972," from Jack Balaban to John P. Constandy.

[37] U.S. General Accounting Office study of Local 295 severance trust fund, dated May 21, 1973. (See Appendix V.)

[38] *Ibid.*

[39] Report on Local 295 severance trust fund, dated June 25, 1971, prepared for the Senate Permanent Subcommittee on Investigations by Lawrence M. Hyman, Supervising Examiner, New York State Insurance Department; George Perla; Senior Examiner, New York State Insurance Department; and Herbert L. Feay, Assistant Director and Actuary, U.S. General Accounting Office. (See Appendix VI.)

[40] *Ibid.*

[41] *Ibid.*

[42] *Ibid.*

[43] Findings of Fact, Conclusions and Decision by the New York State Insurance Department, dated October 4, 1967, requiring Louis Ostrer, Samuel Schienhaus and Seymour Greenfield; press release, dated December 22, 1967, issued by New York State Insurance Department concerning Louis Ostrer. (See Appendix VII.)

[44] Otto Forst affidavit.

[45] U.S. General Accounting Office study of Local 295 severance fund; Report on Local 295 severance fund by Lawrence Hyman, George Perla and Herbert L. Feay; New York State Insurance Department Report of Examination of Local 295 Severance Trust Fund as of June 30, 1971, No. 0–232–0295. (See Appendices V, VI, and VIII.)

[46] Forst affidavit.

[47] Subcommittee memorandum of November 23, 1971 entitled, "Interview of Cy Reeves Snyder re Louis Ostrer and Severance Benefit Fund of Local 295, IBT," from Stephen B. King and William F. Gibney to John P. Constandy, and memorandum of February 22, 1972 from King and Robert Dunne to Constandy. (See Appendix IX.)

[48] Check No. 6592, dated December 17, 1970, drawn on the account of the Executive Life Insurance Company of New York, payable to Cy Reeves Snyder, in the amount of $25,000; check No. 6593, dated December 17, 1970, drawn on the account of Executive Life, payable to Cy Reeves Snyder, in the amount of $50,000; check No. 6651, dated December 21, 1970, drawn on the account of Executive Life, Payable to Cy Reeves Snyder, in the amount of $35,000; check No. 6944 dated January 25, 1971, drawn on the account of Executive Life, payable to Cy R. Snyder, in the amount of $50,000; and check No. 6946, dated January 28, 1971, drawn on the account of Executive Life, payable to Cy R. Snyder Agency in the amount of $150,000. (See Appendix X.)

[49] Memorandum, dated December 10, 1970, from Harry O. Miller to Otto Forst. (See Appendix XI.)

[50] Norbert F. Lochner affidavit, June 12, 1972. (See Appendix XII.)

[51] Check No. 610, dated March 4, 1971, drawn on the account of Executive Life Insurance Company of New York, payable to Dina Gelman, in the amount of $2,232.47; Check No. 1063, dated April 5, 1971, drawn on the account of Executive Life, payable to Dina Gelman, in the amount of $22,129.87; Check No. 1148, dated April 9, 1971, drawn on the account of Executive Life, payable to Dina Gelman, in the amount of $22,154.09; and Check No. 1155, dated April 12, 1971, drawn on the account of Executive Life, payable to Dina Gelman, in the amount of $50,000. (See Appendix XIII.)

[52] Check No. 443, dated February 22, 1971, drawn on the account of Executive Life Insurance Company of New York, payable to Dina Gelman, in the amount of $25,000; Check No. 1466, dated May 14, 1971, drawn on the account of Executive Life, payable to Dina Gelman, in the amount of $5,671.88; and cashier's check No. 2610093, payable to Dina Gelman pursuant to instructions of Executive Life, in the amount of $20,000. (See Appendix XIV.)

[53] Affidavit of Russell J. Lasher, August 30, 1972. (See Appendix XV.)

[54] Forst affidavit.

[55] New York State Insurance Department Report of Examination of the Local 295 Severance Trust Fund as of June 30, 1971, No. 0–232–0295. (See Appendix VIII.)

[56] Affidavit of Joseph J. Warren, June 19, 1972 (See Appendix XVI.)

[57] Check No. 20522, dated September 22, 1971, drawn on the account of the Trans World Life Insurance Company, payable to Viscount Agency, Inc., in the amount of $25,000; Check No. 20523, dated September 22, 1971, drawn on the account of Trans World Life, payable to Viscount Agency, in the amount of $25,000; Check No. 20919, dated October 8, 1971, drawn on the account of Trans World Life, payable to Viscount Agency, in the amount of $15,000; Check No. 20920, dated October 8, 1971, drawn on the account of Trans World Life, payable to Viscount Agency, in the amount of $15,000; Check No. 21145 dated October 18, 1971, drawn on the account of Trans World Life, payable to Viscount Agency, in the amount of $20,000; Check No. 22152, dated November 29, 1971, drawn on the account of Trans World Life, payable to Viscount Agency, in the amount of $10,000; and Check No. 22169, dated November 30, 1971, drawn on the account of Trans World Life, payable to Viscount Agency, in the amount of $30,000. (See Appendix XVII.)

[58] Check No. 22191, dated December 1, 1971, drawn on the account of Trans World Life Insurance Company payable to Dina Gelman Agency, in the amount of $100,000; Check No. 22253, dated December 3, 1971, drawn on the account of Trans World Life, payable to Dina Gelman Agency, in the amount of $60,000; Check No. 22709, dated December 17, 1971, drawn on the account of Trans World Life, payable to Dina Gelman Agency, in the amount of $40,000; Check No. 22969, dated January 4, 1972, drawn on the account of Trans World Life, payable to Dina Gelman Agency, in the amount of $30,000; Check No. 23072, dated January 6, 1972, drawn on the account of Trans World Life, payable to Dina Gelman Agency, in the amount of $70,000; and Check No. 23144, dated January 10, 1972, drawn on the account of Trans World Life, payable to Dina Gelman Agency, in the amount of $20,000. (See Appendix XVIII.)

[59] Separate affidavits of Henry Brown, dated December 9, 1971; June 16, 1972; July 28, 1972; and September 8, 1972. (See Appendix XIX.)

[60] Henry Brown affidavit, June 16, 1972.

[61] *Ibid.*

[62] *Ibid.*

[63] Henry Brown affidavit, September 8, 1972.

[64] Affidavit of Michael McEnroe, July 14, 1972. (See Appendix XX.)

[65] Statement of Kings Lafayette Bank, New York, in which Seymour Greenfield was certified as secretary of the Modern Agency, Inc., and its sole signator. (See Appendix XXI.)

[66] Statement of Kings Lafayette Bank in which Seymour Greenfield of Viscount Agency opened a personal checking account. (See Appendix XXII.)

[67] Check No. 6946, dated January 25, 1971, drawn on the account of the Executive Life Insurance Company of New York, payable to Cy R. Snyder Agency, in the amount of $150,000. (See Appendix XXIII.)

[68] Cashier's check No. 103–001916, dated January 27, 1971, drawn by Michael McEnroe, payable to S. Greenfield, in the amount of $25,000; cashier's check No. 103–001917, dated January 27, 1971, drawn by Michael McEnroe, payable to D. Gelman, in the amount of $25,000; and Check No. 103–001918, dated January 27, 1971, drawn by Michael McEnroe, payable to H. Brown. (See Appendix XXIV.)

[69] Separate Kings Lafayette Bank statements closing out the account of the Modern Agency, Inc., care of Seymour Greenfield; and the personal account of Seymour Greenfield, both closings dated February 22, 1971. (See Appendix XXV.)

[70] Check No. 23345, dated January 14, 1972, drawn on the account of Trans World Life Insurance Company, payable to Dina Gelman Agency, in the amount of $50,000; and Check No. 23709, dated January 27, 1972, drawn on the account of Trans World Life, payable

to Dina Gelman Agency, in the amount of $25,000. (See Appendix XXVI.)

[71] Letter of April 24, 1972 from Joseph J. Warren to Dina Gelman. (See Appendix XXVII.)

[72] Check No. 124, dated April 26, 1972, drawn on the account of Dina Gelman Agency, payable to Trans World Life, in the amount of $25,000; and Check No. 125, dated April 26, 1972, drawn on the account of Dina Gelman, payable to Trans World Life, in the amount of $50,000. (See Appendix XXVIII.)

[73] Letter of June 30, 1971 from Lawrence M. Hyman and George Perla to Robert E. Dunne, transmitting the report of the actuaries on the Local 295 Severance Trust Fund to the Senate Permanent Subcommittee on Investigations. (See Footnote 39.)

[74] *Ibid.*

[75] *Ibid.*

[76] *Ibid.*

[77] *Ibid.*

[78] New York State Insurance Department Report on Local 295 Severance Trust Fund. (See footnote 55.)

[79] *Ibid.*

[80] *Ibid.*

[81] *Ibid.*

[82] *Ibid.*

[83] *Ibid.*

[84] *Ibid.*

[85] *Ibid.*

[86] GAO study of Local 395 Severance Trust Fund. (See Footnote 37.)

[87] *Ibid.*

[88] *Ibid*

[89] *Ibid.*

[90] *Ibid.*

[91] *Ibid.*

[92] *Ibid.*

[93] Separate letters each dated March 30, 1973 from Howard J. Feldman to Harry Davidoff and Louis Ostrer. (See Appendix XXIX.)

[94] Letter of January 16, 1973 from Michael Hunt to Fringe Programs, Inc. (See Appendix XXX.)

[95] Subcommittee memorandum of February 21, 1973 entitled, "Local 295 Severance Trust Fund, Selection of Insurance Carrier by Trustees of Fund," from Maurice Frame to John P. Constandy. (See Appendix XXXI.)

[96] Amendment to Local 295 Severance Trust Fund, effective February 1, 1973. (See Appendix XXXII.)

[97] *Hoffa: The Real Story*, by James R. Hoffa, as told to Oscar Fraley.

[98] "The Mafia Tighten Its Grip on the Teamsters" by Lester Velie, Readers Digest, August 1974, p. 99. (See Appendix XXXIII.)

[99] State of New York Insurance Department Citation regarding Local 295 Severance Trust Fund, April 18, 1974. (See Appendix XXXIV.)

[100] News release of the State of New York Insurance Department issued March 4, 1976. (See Appendix XXXV.)

COMMITTEE MEETINGS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees be allowed to meet today until the hour of 1 o'clock while the Senate is in session.

The ACTING PRESIDENT pro tempore. That has already been agreed to.

Mr. MANSFIELD. Fine; I thank the Chair.

AUTHORITY TO PRINT H.R. 8532

Mr. CLARK. Mr. President, I ask unanimous consent that H.R. 8532, the Antitrust Improvements Act of 1976, be printed as passed with amendments of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

RELATIONS WITH ITALY

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of Senate Concurrent Resolution 105, which the clerk will state.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 105) expressing the sense of Congress regarding democracy in Italy and participation by Italy in North Atlantic Treaty Organization.

The ACTING PRESIDENT pro tempore. The time for debate on this resolution is limited for 1 hour, to be equally divided and controlled by the Senator from Massachusetts (Mr. BROOKE), the Senator from New Mexico (Mr. DOMENICI), the Senator from Rhode Island (Mr. PASTORE) and the Senator from Virginia (Mr. HARRY F. BYRD, JR.).

The Senator from Massachusetts is recognized.

Mr. BROOKE. Mr. President, the pending resolution reaffirms the support of the American people for strong ties between our country and Italy, both on a bilateral basis and within the context of the Atlantic Alliance. It is my privilege to sponsor this resolution along with Senator DOMENICI, Senator PASTORE, Senator CASE, Senator FONG, Senator MCGEE, Senator HUMPHREY, Senator CRANSTON, Senator MONDALE, Senator CLARK, Senator GRAVEL Senator PELL, Senator SPARKMAN, Senator JACKSON, Senator BUCKLEY, and Senator HUGH SCOTT. It has been considered by the Foreign Relations Committee and favoraby reported without dissent. President Ford extended his full support of the resolution in a letter to me on May 17, 1976. I ask unanimous consent that this letter be included in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, May 17, 1976.

Hon. EDWARD W. BROOKE,
U.S. Senate,
Washington, D.C.

DEAR ED: Thank you for your letter of April 1 bringing to my attention the concurrent resolution you introduced in the Congress concerning American and NATO ties to Italy. I want you to know it has my full support.

The United States is fully committed to a strong North Atlantic Alliance. The prospect of Communists joining the national government of a NATO member state is deeply disturbing. Because of the dangers such a development would pose to the Atlantic Alliance, and to the entire framework of Western cooperation built up since World War II, I have expressed the United States' serious concern. Your initiative is a welcome contribution to an overall U.S. policy of working with our friends and allies to provide the encouragement and support necessary to preserve democratic government in Italy.

Sincerely,

GERRY FORD.

Mr. BROOKE. Briefly, the preamble of the resolution sets forth the following points:

The Atlantic Alliance is the cornerstone of U.S. foreign policy;

The basic purposes of the alliance are to preserve the security of its members and promote the ideals of freedom and democracy they hold in common;

The effective functioning of NATO is crucial to the realization of these purposes;

The effectiveness of NATO is dependent upon general agreement among alliance members as to their mutual security needs;

The full and unencumbered participation of Italy in NATO is of vital importance in sustaining such agreement;

The U.S. ties to Italy are based not only upon the alliance but also upon friendship and kinship as well as shared ideals and viewpoints between the two peoples; and

The United States owes a debt of gratitude to Italy for its contribution to our own development as a free nation.

The resolving clauses state:

That the Government of the United States and the American people reaffirm their sympathetic interest in Italian democracy and call upon Italy's freedom loving friends to confirm their support for the Italian people and their government.

That it is the sense of the Congress that the economic viability of Italy is important to both the United States and the Atlantic Alliance in general.

That the United States, in conjunction with other friends and allies of Italy, should be prepared to participate in efforts to provide financial assistance to Italy in a manner appropriate to preserving the economic viability of that country.

Senate passage of this resolution is particularly appropriate in light of the upcoming national elections in Italy. The Italian electorate should receive a reaffirmation of our interest in their democratic experiment and our intense desire to strengthen our relationship with Italy both as an ally and as a friend before they cast votes that will decide whether or not the Italian Communist Party will participate in their country's national government.

The Italian public has often expressed its frustration with inept and corrupt government by casting protest votes in favor of the Communists. Thus, while actual membership in the PCI, the Italian Communist Party, is approximately 1.5 to 1.7 million, the Communists have garnered a much larger number of votes in various elections than their party membership would warrant.

Still, in previous years, protest voting for Communists, while a problem, had not threatened to upset the political balance in Italy. The regional elections of June 1975 represented a turning point. The Communist vote totaled 33 percent of all ballots cast. This was an impressive percentage increase over previous elections, placing the Communists clearly in reach of their goal of being the plurality party. The election results were a clear signal that reform within the democratic parties would be necessary if the tide of growing Communist influence was to be stemmed.

Political and economic conditions in Italy have continued to deteriorate. The economic crisis has deepened. Inflation and unemployment have proved intractable. Allegations of misdeeds by Italian officials, resulting in part from the U.S. investigations of the activities of our intelligence agencies and multinational corporations, have further damaged the

Italian Government's credibility at home and abroad. Italy has suffered from a disastrous earthquake. And the inability of the existing democratic parties to reconcile their differences and present a united front to the Communists has been manifested on numerous occasions.

The pending resolution is designed to indicate the importance the United States attaches to a continued relationship with Italy within the context of a functioning Atlantic Alliance. It proposes the the United States should participate in efforts to assist the Italian Government in meeting the economic as well as political challenges it faces.

Some have questioned whether or not the proposed resolution constitutes an attempt to interfere unjustifiably in the internal politics of another country. The answer is no. It is an attempt to indicate our support of those in another country who hold ideals similar to our own. It is an attempt to influence developments in the direction of preserving the integrity of the Atlantic Alliance. And it is an attempt to point out the risks inherent in accepting the facile declarations of adherence to democracy on the part of a political movement whose internal organization and external affiliations indicate a close affinity with those espousing a closed system of government and society. I have no qualms in advocating this initiative because I refuse to believe that our confidence in ourselves and our ideals has been so eroded by the events of the past decade that we cannot recognize and respond to a clear challenge to our interests and our ideals.

I am personally concerned by this challenge as manifested in Italy because of my respect and affection for Italy and the Italian people. These feelings stem from my experience of fighting alongside Italian partisans in the Second World War, from the continuous interest I have had in Italian affairs since that time, and from contacts I have maintained with Italy through the Italian-American community in the United States. I am involved also out of concern for the economic and political difficulties currently besetting Italy, difficulties that if left to fester could lead to substantial erosion of personal freedom for the Italian people and an alienation of Italy from her allies in the free world. I believe it is self-evident that an Italy able to guarantee internal freedom and able to carry out fully its responsibilities within the Atlantic Alliance is of vital concern to the United States and the American people.

I am particularly sensitive to current developments in Italy because of my recent visit to Rome for the Senate Committee on Appropriations. The informal conversations I held with Italian officials, journalists, and private citizens and with American diplomatic personnel further confirmed my belief that the future of United States-Italy relations should be one of the primary concerns of our foreign policy endeavors.

It is important to keep clearly in mind what our interests are in relationship to the Italian situation. First, the United States has a direct interest in preserving the integrity of the Atlantic Alliance in general and NATO in particular. Despite the fact that the Italian Communist Party states that it is not against NATO and would not insist that Italy withdraw from NATO were it to become the ruling party, the PCI also advocates the withdrawal of NATO bases from Italy and a more neutral Italian posture. Consequently I do not believe that the collective security arrangement that has provided the cornerstone of our foreign policy for 30 years can be maintained over time if the Communists become integral fixtures in the government of one of the alliance's primary members. If this occurs, I believe the United States will find itself compelled by the course of events to refashion its security arrangements with Europe along bilateral axes to the Federal Republic of Germany, the United Kingdom, and possibly to several of the smaller European countries. The NATO facade might continue to exist but the collective security arrangement would have become a hollow shell.

Second, we have an interest in discouraging the belief in Moscow and elsewhere that "communism is the wave of the future." Given the bleak state of affairs in Italy, some appear ready to accept Communist participation in the national government as inevitable. Many have adopted uncritically the view that efficient Communist management of several major Italian cities could readily be transferred to the central government without serious risk to the democratic fabric of Italian political life.

I recognize that the Kremlin has exhibited concern over the possibility of the participation of the Italian Communists in a coalition government. The alleged reason for this concern is the fear that the supposed independent stance taken by the Italian Communists might encourage other Communist Parties or regimes to insist on increased independence from Moscow.

Still, even if Moscow were truly concerned about this possibility, I do not believe that such concern would inhibit in any way the Kremlin's use of the entry of Communists into a government in Western Europe as a means of furthering the "inevitable victory of communism mystique" that could be used to erode further the will to resist Soviet subversive efforts in various countries.

In addition, the involvement of the Italian Communists in a coalition government might also create greater Soviet pressures on Eastern Europe to conform to Moscow's dictates. This, combined with other developments, could reverse the trend toward liberalization in East-West relations in that area of Europe. It would be ironic if the Italian Communists' involvement in a National Government in Italy were a major cause of greater pressure for conformity in Eastern Europe. Yet that possibility is a real one.

Third, we continue to have a substantial interest in avoiding situations that threaten to erode the practice of true democracy, a way of ordering political life that has come under increasing pressure. While the right of the Italian people to make their own decisions in this area must be affirmed, I do not accept the view that we should remain silent regarding our justified apprehensions over the possible consequences they may suffer if their choice is to accept Communist participation in the National Government.

Under no conditions do I believe the United States should be party to encouraging a ready acceptance of the Italian Communists' claim of conversion to democratic values. The arguments against taking them at their word are, in my own mind, convincing. First, wherever the Communists have come into national power, political and cultural freedoms have lessened. Some would have us believe that this is the result of unique circumstances in the particular countries over which the Communists have gained control. I believe, however, that the loss of freedom results from the commitment to Marxist-Leninist organizing principles regarding society. Evidence that the Italian Communists have abandoned those principles is superficial at best.

Second, a principal tenet of communism has been that it is infantile to permit respect for democratic processes to stand in the way of using whatever techniques are necessary to promote Communist ordering of society. Lenin, of course, was the chief exponent of this view. It would be unwise to dismiss his influence in this area as irrelevant when the Communists, including the Italian Communists, insist that they are faithful to his teachings.

Third, the Italian Communist Party continues to follow the organizational principle of "democratic centralism" which is little more than a euphemism for dictatorial control by a small group of individuals committed to the view that freedom of discussion and dissent are inappropriate within the party. It is difficult for me to believe that this same type of insistence upon conformity would not characterize the Italian Communists' approach to participation in the National Government over time.

Fourth, it is hard to believe that the Italian Communists are truly committed to democracy when they affirm solidarity with a "Socialist camp" that is dominated by the totalitarian states of Russia and China. Many have argued that the fact that the Italian Communists openly disagreed with the Kremlin on several points during the recent meetings of Communist parties in Moscow indicates that they are truly committed to an independent path. I take the contrary view that the fact that the Italian Communists, professing independence from the Kremlin, felt compelled to go to Moscow to affirm solidarity with the Communist world view seriously undermines the claim of independence from the Soviet Union.

Finally, even if one gives the Italian Communists the benefit of the doubt in these four areas, which I certainly cannot, there is little reason to believe that they would adhere to professed allegiance to democracy if confronted with the prospect of being turned out of office after having attained national dominance. There is nothing in the principles or practices of communism that indicates any willingness to share power with other parties in good faith; to resist the opportunity to subvert democratic processes from within; or to agree willingly to relinquish power if the popular mandate is withdrawn. Faced with the prospect of loss of power and the resulting pressures from the totalitarians within the party and in Moscow, I greatly fear that the Italian Communists would quickly revert to the historical Communist methods for retaining power.

In light of our basic interests regarding United States-Italian relations and the likely speciousness of the Italian Communists' conversion to democracy, I believe the correct policy for the United States is to take responsible and legitimate actions to help reduce the attractiveness of the "Communist alternative" in Italy. The United States, acting in concert with its allies in Europe, can assist the democratic forces in Italy who desire to bring about the reforms needed to strengthen the Italian electorate's confidence in the effectiveness of an open democratic society. One means of doing so may be short-term financial assistance to the Italian Government designed to give the democratic forces the breathing space needed to regain their confidence and begin the process of reform. The pending resolution indicates a willingness to explore the appropriate means for providing such assistance.

Our actions should not be limited to any specific time frame and should not be solely dependent on whether or not the Communists come into the National Government of Italy in the near future. For, given the chance of Communist participation in the Government as a result of the upcoming elections, a chance that I hope is remote, we must demonstrate that our concern for Italian democracy will not diminish over time.

The Congress recently provided emergency disaster assistance for Italy in the aftermath of a succession of earthquakes. We thus acted rapidly to ameliorate the effects of a natural disaster. Passage of the pending resolution will also indicate that the United States stands ready to cooperate with our democratic allies in helping Italy avoid further economic and political disasters that can have far-reaching negative consequences for not only the Italian people but also for the other nations of the world who are committed to the principles and practices of freedom and democracy. Therefore, I urge immediate Senate approval of this resolution.

Mr. PASTORE. Mr. President, I rise to speak on this important subject as an American who loves his country with every drop of blood in his body, but who has a very sentimental respect for the land where those who gave me the breath of life itself were born and loved until the day they died.

They came here to find an opportunity, and the opportunity was theirs only because of our democratic process and the freedom of our society.

They hated repression, and it is in the character of the Italian people to abhor repression.

We have reached a crisis, we have reached a terrible crisis, that might rock the very freedom of the world. Italy is a linchpin in the Mediterranean. On the east side we have the tinderbox of the Middle East. We have the important, very important, problem of oil in the Middle East.

On the west side we have the Sixth Fleet with headquarters at Naples, and if you shut off the west entrance to the Mediterranean, you have made the Mediterranean a Communistic lake. It will rock the NATO establishment, it will destroy the complex of the Atlantic alliance, and this is what it means not only to the Italian people but, indeed, it means so much to the free world, and that is the reason why this resolution was introduced, and that is the reason why I rise to speak today.

I can understand, Mr. President, the desperation of a people who are unemployed, who are suffering from an astronomical inflation. Yes, high sounding promises are always very popular, but we have had tremendous experience in world affairs.

We saw what happened in 1939 when one man in Germany was able to mesmerize the entire young population of that society to the point that they began to spy on their parents, on their own friends, and it led to the annihilation and the cremation of millions upon millions of innocent people, including little babies. Little babies who had no mind of their own to make a decision went in these ovens to be destroyed and burned alive.

We saw what happened then in 1939 and we saw how one man who promised Utopia to the Italian people destroyed the entire country of Italy. I speak now of Mussolini.

That is what can happen to a people. I would hope that the Italian people would understand this.

I know the poverty of the Mezzogiorno. My family, that is my parents, came from that area of Italy. They came to this country. Of course, there was no further opportunity for them there. They could relieve themselves from their desperation because they had these shores to come to, so that their children might flourish a little better than they had in their opportunity in life. So they came here.

But where do their people go now? They are just locked in, so they look for something brand new.

The new ideology is communism. There is a question here whether this is a national communism or an international communism. But we know. We have lived long enough to know that there is an orientation to world communism. They have got to attend these meetings. They meet in Paris with the Communist Party; they meet in Moscow.

What the compulsions of the future will be I cannot say. How do I know? But, after all, the past is prolog. We know from experience what has happened at other times and we know what is going to happen.

If the Communists take over, have they said, "We will guarantee that the 6th Fleet will be headquartered in Naples"? Have they said, "We unflinchingly will support the Atlantic Alliance"? Have they said that categorically? Of course not.

We get a lot of wishywashy statements about, "We are not going to change this." But have any pledges been made? Of course not.

So I say to my friends, this resolution is important.

Then we have reached this other agony. Not too long ago, one of our own committees made a very broad charge with reference to corruption on the part of certain leaders in Italy.

Now, just imagine. Just imagine if that committee had said that there are five Members of the U.S. Senate who are corrupt and they did not name the five. If they did not name the five, would we not all be suspect?

At this crucial time to have that power, that caused shattering these election, on June 20, do we realize the harm that is being done?

I say to that committee that if they have evidence, name the people. Name the people, because they have tainted the entire Christian Democratic Party, and that is what is going to be discussed on June 20. That is the agony of Italy today.

I want to say to Mr. Church and to his entire committee that if President Leone is not responsible, why do they not say it? Why not say it, because that will be the biggest thing we can do to preserve democracy in Italy and guarantee the Atlantic Alliance.

That is how important it is and that is what they should do. If President Leone did not take the graft, then why not say, "We have no evidence. He is not a culprit."

And do we know what that would do? That would help on June 20 even more than this resolution, and this resolution will help. That is what is before us, Mr. President.

I do not have to go on and on and on. I do not have to write what I say because what I am saying is here, right in my body, on the left side of my chest, in my heart.

If Italy goes down the drain, we have got West Germany boxed in. Then the next question, the largest single party in France is Communist and it will be a step by step by step, and then where will we be? Where will we be?

That is what the American people have to look at, Mr. President. This is not alone an Italian concern. This is a concern of the free world.

Millions upon millions upon millions of dollars that we spent under the Marshall plan will go down the drain. The money that we have spent, our occupation, our involvement in Europe with troops, with weapons, with the 6th Fleet, that will go down the drain.

That is the question on June 20. That is the question.

The Pope is a wise man and understands the consequences.

So I say to my friends, this is a single small step, but an important one. I hope that Mr. Church and his committee, realizing the gravity of this situation, will name names, if they have them, and not taint everybody else with the same brush.

That is what I have to say, Mr. President. The rest, I pray to God, I pray to God that He will use His power to promote the freedom of man in Italy.

Mr. DOMENICI. Mr. President, I first want to commend the distinguished Senator from Massachusetts (Mr. BROOKE), for first introducing the resolution, and, certainly, the committee that so expeditiously handled it and permitted us to consider this today, and, of course, more than any other, my distinguished colleague from Rhode Island (Mr. PASTORE).

I, too, Mr. President, have, as Senator PASTORE said, a sentimental attachment to Italy. But it is even more than that.

My parents came from Italy, my mother and father were born in the Province of Tuscany and about 1906 one of them came to the city of Albuquerque, N. Mex., and a little later the other. We have been very fortunate to have been raised in the United States of America.

But I want to share with my Italian friends what I think this election is all about.

First, I want to say that I concur, and with the permission of the distinguished Senator from Massachusetts I want to be associated with his rather in-depth analysis and excellent remarks about what this election really means and what kind of demagoguery is taking place.

Then, I want to associate myself with the remarks of the distinguished Senator from Rhode Island with reference to what this means to the world if Italy goes communist and if that regime, as I think it will, associates and affiliates itself with the Soviet Union. I want to say to my good friend, I believe what he said about that is so.

I believe it will happen. I believe in short order there will be no home base for the 6th Fleet. I believe the Mediterranean is gone and perhaps France could fall and the United States, and the concept of freedom, will have lost its strongest ally and its most appropriate bastion against communism, namely Europe.

That is not even to speak of the Middle East and what will happen to the international supply of oil.

So much for that.

Now I want to talk to the Italian people about two things: One, the philosophy of freedom, and, second, about the onerous responsibility which is on their shoulders, as I see it as a friend from America.

First, while many in Italy will think that they are only talking about a political party in their country, I submit to them, and I urge them to consider, that the most beautiful gift they have, the most beautiful gift we have, is freedom. I submit that whether or not things have been good in Italy or bad in Italy, the worst thing that can happen to human beings is that they lose their freedom. With freedom there is hope; without freedom, there is no hope.

I hope they will understand, while they are voting for reform and for change, that the basic thing we want them to understand is that we, as their friends, think they are voting for freedom or against freedom.

It seems to many of us that, if they support the Communist Party in Italy they are making a decision, and we hope they understand it and believe us, against their own freedom.

Second, they are making a decision to break up the freedom-loving countries of Europe and the alliance with the United States.

Yes, we admit that all is not good, that we have problems in our country, that they have problems in their country. But I urge my friends in Italy to consider that the highest thing that Government can give to people is freedom.

As so eloquently said by the President of France, the true spirit of man accomplishes all good things only with freedom in this day and age.

As I close, I say to my friends in Italy, "Do not be fooled. Do not think that those who say to you, 'you have elected mayors who were of the Communist Party and nothing has happened; you have elected councilmen and nothing has happened.' Now the plan is to elect by referendum sufficient national party members so that the Communist Party will have a piece of the Italian Government."

I also say to them, "They will pick that part, if you elect them, which is easiest for them to control and for them to leave the appearance that they are getting rid of the social problems so that in a few years they will control it all. NATO will fall; the alliance with the United States will be severed in due course, and communism and its encroachment upon Europe will begin. The Mediterranean will cease being a place for the 6th Fleet."

I will continue: "So, my Italian friends, much is on your shoulders. Maybe you thought a couple of weeks ago this was not a very important election. But, you know, Italy has been very important in world events in past history. Usually that was because of its great leaders, because of its great strength. But now the average Italian is going to vote in a free and open democratic election and has on his shoulders one of the biggest decisions for his people, for us, and for others."

I hope as they did great things in the past, each Italian will consider this a very important day and will understand the significance of their actions.

I thank the Chair and yield the floor.

Mr. JAVITS. Mr. President, I was going to address the Senate respecting this resolution as far as our deliberations in the committee were concerned. I see our chairman is in the Chamber. If he would like me to, I will yield at this point.

The ACTING PRESIDENT pro tempore. On whose time is the Senator from New York speaking?

Mr. BROOKE. Mr. President, I yield 5 minutes to the Senator from New York.

The ACTING PRESIDENT pro tempore. The Senator from New York is recognized for 5 minutes.

Mr. MANSFIELD. Mr. President, do not forget the Senator from Virginia is to be recognized.

The ACTING PRESIDENT pro tempore. That is correct.

Mr. JAVITS. Mr. President, the deliberations of the Foreign Relations Committee upon this resolution, which were very especially directed toward that end by Senator SPARKMAN who caused the matter to be called up as promptly as it was, are attributable to what I feel is the deep concern of all the members of the Foreign Relations Committee about this particular matter.

I have rarely heard as penetrating an analysis as has been made on the floor this morning by men who are so sympathetic to, but also knowledgeable about, the subject.

There is one addition which deeply concerned our considerations; that is what Senator PASTORE had to say about the Atlantic Alliance. The indispenability of Italy's participation in the command aspects of the North Atlantic Alliance is critical because of the lack of that kind of cooperation on NATO's southern flank in the Mediterranean, by some other members with which we are all very familiar.

The grave danger is that should there be Communist participation of an appreciable kind in any new, postelection Italian Government, there could be a situation which is on the other side of the coin from that of the Republic of France. France has cooperated with NATO, especially in terms of its Navy, but its nonparticipation in the command structure reduces enormously, probably by more than 50 percent, the value of that cooperation.

With respect to Italy, if secrets cannot be shared with Italy as an appropriate NATO country—and I do not believe they will be under the Communist concept—we simply could not trust our security to the Communist members of the Italian Government.

The Government might not be of that nature but it certainly could be.

In that case, we could be materially restricted in coordinating closely the security of the Mediterranean with the security of Europe in the event of a fundamental change in the Italian Government. There is a great stake for America.

Finally, Mr. President, we can do something. We can do something very important. It is pointed out in the report on the bill. There is a safety net proposal before us which is very appreciable in amount. It is going to take impressive support to really help Italy.

The safety net is $25 billion. U.S. participation is indispensable. It is estimated by our own experts, both nongovernment and Government, that it will cost us absolutely nothing except the fact that the world will know it has this backing through the International Monetary Fund. Moreover, it is uniquely applicable to Italy. I repeat that: it is uniquely applicable to Italy.

There is nothing we can do, unilaterally, beginning to approach the assurance of that backup, that standby support. We have just recently seen how it turned the tide for Britain. All of us in banking and in finance know the value of this kind of backing, though it may cost nothing and risk nothing.

So I would urge the Senate, and urge the leadership of my colleagues who feel so deeply about this subject, to bring it before us and to see that we support the bill reported by the Foreign Relations Committee, S. 1907, providing for U.S. participation in the safety net.

Finally, Mr. President, Italy is, in many ways, the cradle of Western civilization. It was an Italian who discovered America. There are strong sentimental ties between the United States and Italy. The brilliance of the record of citizens of Italian descent is something that we have not, even in our ethnically oriented society, seen as clearly as when we look at it through this veil of tears, which now besets Italy.

No one can forget Fiorella LaGuardia's influence, the former mayor of New York, in respect of a comparable Italian election many years ago, when literally millions of Americans of Italian extraction communicated their views concerning that election.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts has no more time.

Mr. JAVITS. Mr. President, I ask unanimous consent that I be yielded additional time.

Mr. PASTORE. Do I have any time?

Mr. HARRY F. BYRD, JR. I yield to the Senator from New York additional time.

The ACTING PRESIDENT pro tempore. The Senator from West Virginia has yielded the time.

Mr. JAVITS. I thank the Senator from West Virginia.

I say we must not forget that Fiorello La Guardia had an enormous influence on a previous Italian election when he persuaded millions of Americans of Italian extraction to express their views.

Mr. PASTORE. Mr. President, if the Senator will yield on my time, I was Governor of the State of Rhode Island at the time, and I participated in that. It was one of the most edifying and exciting experiences I have ever had. Then the result was very rewarding. That was right after World War II, and Italy had been devastated. It was right after we had initiated our Marshall plan idea, and that was very helpful at the time.

I quite agree with the Senator from New York as to this proviso for the establishment of this new agency to back up countries that need development and need help because of the price of oil and how that has disrupted their economy. There is no obligation under this resolution, as the Senator well knows. It is merely the sense of the Senate that the United States should cooperate with their allies in looking into it and seeing what can be done.

Mr. JAVITS. I thank my colleague.

Our chairman is present in the Chamber, and I think I can affirm for our members of the Committee on Foreign Relations who acted unanimously that this was an act both of the heart and the head and that we are deeply concerned. If anyone could show us anything else that we could do to help, we would do it in a wink of the eye.

I thank my colleague for the time.

Mr. SPARKMAN. Mr. President, will the Senator from Virginia yield?

Mr. HARRY F. BYRD, JR. Yes; I am glad to yield.

Mr. SPARKMAN. Two minutes?

Mr. HARRY F. BYRD, JR. Yes.

Mr. SPARKMAN. Mr. President, I am sorry that I was late in arriving in the Chamber this morning, but it was the best I could do. I am glad I arrived while this discussion was going on.

I strongly endorse what I have heard in the Chamber this morning. We did act unanimously and we recognized the great part Italy has played and is playing.

Italy in many ways certainly is one of the key states in the Atlantic Alliance. Remember the service that Italy has rendered to us through the years with the great base at Naples and in all of the actions that have been taken.

I am glad he mentioned the safety net. I hope that we certainly will approve this safety net, and I am glad he pointed out the effect of this $2 billion that we made available to Britain. I have not heard any protest of that at all. We see the turnaround that it produced and can produce.

Italy has been a great nation from most ancient times. I believe it was Italy that really founded Greece and was important to the world way back in the Byzantine time, the times of Constantine, and down through the ages.

I hope we will keep those contributions that Italy has made as well as her contribution at the present time in mind in considering this matter.

I thank the Senator from Virginia.

Mr. HARRY F. BYRD, JR. Mr. President, I approve the thrust of the concurrent resolution pending before the Senate, and I am in agreement with the remarks made by the distinguished Senator from New York (Mr. JAVITS), the senior Senator from Alabama (Mr. SPARKMAN), the distinguished Senator from Rhode Island (Mr. PASTORE) and I am as much impressed with the eloquent address of the distinguished Senator from New Mexico (Mr. DOMENICI).

I will not repeat what they said in regard to the importance of Italy and what Italy has meant both to the North Atlantic Treaty Organization and to our own Nation.

I have visited most, if not all, of the U.S. military bases in Italy. Italy is very important to us and to the keystone of our foreign policy, the North Atlantic Treaty Organization. So I do not rise in opposition to the thrust of this concurrent resolution.

I rise only to query the manager of the bill in regard to section 3. My concern there is: what commitment if any is made through this resolution in regard to financial support or, to put it another way what, if any, tax funds are involved in this resolution?

Mr. BROOKE. Mr. President, in response to the distinguished Senator from Virginia, I assure him that this resolution only expresses the sense of Congress. It does not commit the United States to participate in the special financing facility of the OECD. The question of how the financing would be done, of course, would be left up to Congress to decide independent of this resolution. And even the question of our participation in the special financing facility is a matter which is presently being considered by the Committee on Banking, Housing and Urban Affairs on which I serve.

The administration has requested $7 billion as the U.S. contribution to the facility, and the total contribution would be $25 billion. This facility would provide a safety net for OECD countries should they be faced with the effects of another large increase in energy costs, and this safety net would likely be in the form of loan guarantees. As such there would be little likelihood of the United States ever having to actually provide any dollars. But I assure our colleague important questions—I know of his support for this resolution, but I also know of his concern so far as the financing of it is—that it is neither the intention of the resolution nor its advocates to commit Congress to a course of monetary action.

I point out that assistance to Italy could also come through existing international mechanisms such as the International Monetary Fund.

Mr. HARRY F. BYRD, JR. I thank the Senator from Massachusetts.

I want to support and do support the resolution, and I can do it without any difficulty now since the Senator from Massachusetts has made clear that it does not embody a commitment from Congress, and at any subsequent request would come before Congress and could be considered appropriately at that time.

Mr. BROOKE. I thank the Senator.

Mr. JAVITS. Mr. President, will the Senator yield to me for information?

Mr. HARRY F. BYRD, JR. I yield.

Mr. JAVITS. I just received the report on the bill which is referred to by the Senator from Virginia.

It is Calendar No. 713, S. 1907, and if we have a minute, I shall read the financial obligation. In the first place, it bears out exactly what Senator BROOKE had said, to wit: We will consider this matter quite independently and there is prejudice one way or the other by the adoption of this resolution.

The language of the report is as follows:

> Although an appropriation is authorized by S. 1907, it would not have a foreseeable budgetary impact, since the Fund is a standby arrangement. There is no paid-in capital. Should member qualify and be granted a loan it is the expressed intent of the U.S. Treasury to finance any U.S. portion of the loan through the sale of securities guaranteed by the U.S. Government. Only in the case of default on the loan by the member country would the U.S. Government become financially liable and incur a direct cost. Any conceivable loss would not be likely to become apparent until a five-year period had transpired.

I simply include this here by way of information on this subject.

Mr. HARRY F. BYRD, JR. I thank the Senator from New York.

As I understand it, that is entirely separate from the concurrent resolution.

Mr. JAVITS. Completely.

Mr. HARRY F. BYRD, JR. And the resolution before us today does not commit Congress one way or the other as to what it may or may not do for the future.

Mr. BROOKE. That is correct.

Mr. HARRY F. BYRD, JR. I think this is a fine resolution of support to a country that is a fine ally of the United States. Since there is no commitment of public funds, I am glad to support the resolution as a gesture of good will toward the people of Italy.

Mr. McCLURE. Mr. President, will the Senator yield me 2 minutes?

Mr. HARRY F. BYRD, JR. I yield.

Mr. McCLURE. I thank the Senator.

Mr. President, I take this time to associate myself with the remarks of the distinguished Senator from Massachusetts (Mr. BROOKE) and the remarks of the Senator from Rhode Island and the Senator from New Mexico.

It is not often that we in this country are faced with the opportunity to ask other people to make an apparent sacrifice in the name of freedom in quite the same way we are now asking the people of Italy to make some apparent sacrifiecs, to forgo the siren song of promises and progress that perhaps could not be achieved even if they were to listen to them, but to stand very firmly on the side of freedom in the elections in which they will be engaged.

The consequences that might flow from the wrong kind of reaction in the elections which will occur in Italy have been outlined very clearly here. The people in Italy have sacrificed so much in the past on the side of freedom that I think we can ask them, without flinching, to stand up to the challenge in this particular election.

I am very proud to associate myself with the remarks of my colleagues.

Mr. BROOKE. Mr. President, in response to the distinguished Senator from Virginia, I shall read the pertinent section of the resolution:

> SEC. 3. It is the sense of the Congress that the United States, in conjunction with other friends and allies of Italy, should stand ready to participate in efforts to provide financial assistance to Italy through the proposed OECD Special Financing Facility and/or by other means deemed appropriate.

I suggest to the Senator from Virginia (Mr. HARRY F. BYRD, JR.) that the "and/or by other means" fully protects the prerogatives of Congress in deciding whether or not appropriated funds should be used for this purpose and what form such usage should take. I think there are sufficient safeguards in the language of the resolution.

I think the Senator from Virginia for raising the question.

Mr. President, I ask unanimous consent that the names of the Senator from New York (Mr. JAVITS) and the Senator from Idaho (Mr. McCLURE) be added as cosponsors of the concurrent resolution.

The PRESIDING OFFICER (Mr. PROXMIRE). Without objection, it is so ordered.

Mr. BROOKE. Mr. President, I filed this concurrent resolution on March 25 of this year. The Committee on Foreign Relations took up this matter and reported it expeditiously. I commend the distinguished chairman, Senator SPARKMAN, and particularly the ranking member, Senator CASE, who was one of the original cosponsors of this concurrent resolution, and I thank the Committee on Foreign Relations for reporting this resolution unanimously.

The PRESIDING OFFICER. The time of the Senator from Massachusetts has expired.

The Senator from Rhode Island has 3 minutes.

Mr. PASTORE. Mr. President, I yield 2 minutes to the Senator from Vermont.

Mr. LEAHY. I thank the Senator from Rhode Island.

Mr. President, I ask unanimous consent that my name be added as a cosponsor of the concurrent resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, as a Senator of Italian descent, one whose maternal grandparent, Senor Pietro Zambon, emigrated from Italy to the great State of Vermont, one who has great aunts, uncles, and cousins still in Italy, I have a personal interest in the situation there. I also share the concern of my colleagues as to potential inroads being made in that great and democratic country.

As a member of the Committee on Armed Services I recently returned from a trip to Italy, during which I reviewed our NATO commitment there and the important contribution being made to NATO by the Italian Government. I hope that the Italian people will continue the democratic tradition they have followed in the past, and that they will reject what has been referred to here as the siren song of communism over the past few months preceding their elections.

Mr. PASTORE. I yield back the remainder of my time, Mr. President.

I ask for the yeas and nays.

The PRESIDING OFFICER. Does the Senator wish the yeas and nays on the House resolution?

Mr. PASTORE. On the House resolution.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BROOKE. Mr. President, will the Senator from New Mexico yield me 2 minutes?

Mr. DOMENICI. I yield 2 minutes to the Senator.

Mr. BROOKE. Mr. President, I ask unanimous consent that Senate Concurrent Resolution 105 be corrected to include the name of Mr. CASE, who was an original sponsor of this concurrent resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BROOKE. Mr. President, as I have said, the Committee on Foreign Relations reported this resolution unanimously; and while the Senate was bogged down in business over the last week or two it was impossible to bring up this concurrent resolution. The House has taken the identical resolution and passed it; therefore, we will be voting on House Concurrent Resolution 651.

I again thank my colleagues, Senator DOMENICI and Senator PASTORE, for their remarks in support of this resolution.

Mr. DOMENICI. Mr. President, I yield back the remainder of my time.

Mr. ALLEN. Mr. President, will the Senator yield me 1 minute?

Mr. DOMENICI. I yield.

Mr. ALLEN. Mr. President, I shall support the resolution, but in doing so, I do not feel obligated to support the proposed OECD special financing facility. I feel that that should be considered on its own merits and that this resolution should not constitute a commitment to vote for that proposal.

I shall vote for the resolution.

Mr. MUSKIE. Mr. President, I rise in general support of Senate Concurrent Resolution 105, which expresses the sense of Congress regarding democracy in Italy and Italy's participation in our most important mutual security alliance, the North Atlantic Treaty Organization.

Political and economic conditions in Italy are today placing the country under enormous strain. It is reported that the Italian people are demoralized and defeatist about the crisis they are in. Not only is the question being raised about whether the Communist Party will enter the next government, but whether the modern Italian State itself can survive. Only the Italian people—not Europeans, Americans, or Russians—will decide in an open and free election on June 20 and 21 who will and will not take over the reins of leadership in Rome. It is my hope, and I know this is shared by my colleagues, that free institutions will be maintained no matter what the election outcome will be. This proposition is of utmost importance to the United States. As Senate Concurrent Resolution 105 states, the United States and Italy "hold in common . . . the ideals of freedom and democracy."

All of us are conscious of the importance of Italy's continued participation in the mutual security NATO alliance which remains the centerpiece of American national security policy. The basic purposes of NATO are twofold: To protect the security of member countries and to promote the values which are common to Western civilization.

Section 3 of Senate Concurrent Resolution 105, however, concerns me, and I would like to discuss why. This section makes clear that Italy's friends and allies should stand ready to help in a common effort to provide financial assistance to Italy. The resolution refers specifically to the financial support fund which was set up by the OECD's 24-member governments on April 9, 1975. I want to point out to the Senate that Congress has not authorized the United States to participate in this fund—and for good reason. There is legislation being considered (S. 1907) which would allow the Secretary of the Treasury to issue an individual guarantee up to $6.7 billion for fund borrowing or to participate in a collective guarantee by all fund members for another member. Under such guarantee arrangements, the United States would be obligated to make transfers to the fund only in the event of default by a borrower and subsequent call on the U.S. guarantee.

The Committee on Foreign Relations has already reported favorably S. 1907. It is now pending before the Committee on

Banking, Housing and Urban Affairs, with a markup scheduled for the end of this month. This is an important measure; it has serious diplomatic and economic implications; it potentially involves an enormous sum of Federal funds. As a loan guarantee, financial support fund moneys would be exempt from backdoor spending restrictions in the Budget Act of 1974. This means that such a program, with liabilities of the magnitude proposed, could have significant impact on future budgets.

There are other established means available by which the United States and our allies can help out a close friend. For instance, there is the "general arrangements to borrow" of the International Monetary Fund. Also, there is the "currency swap," an arrangement which was utilized just this week in support of the United Kingdom when the Federal Reserve System and the Treasury Department joined to participate with central banks of the group of 10, Switzerland, and the Bank for International Settlements in making available to the Bank of England standby credits totaling $5 billion.

For this reason, I want my colleagues to understand that I do not consider Senate Concurrent Resolution 105 anything more than a sincere, but general expression of support for and American faith in our Italian friends. In no way, however, does section 3 bind this Senator nor commit this Congress to authorizing U.S. participation in the financial support fund until the Senate and House Banking Committees have taken a hard and thorough look at the administration's request and, if the bill is reported favorably, we have deliberated over and debated it here.

SUPPORT FOR STABILITY IN ITALY

Mr. DOLE. Mr. President, the Senator from Kansas is pleased to support the resolution expressing the sense of the Congress that the United States support the democratic institutions in Italy.

IMPORTANT TO U.S.

As I understand, a basic premise of this resolution is the recognition that Italy is important to the United States. The full participation of Italy in NATO is important to the economic and military vitality of that alliance. The Atlantic Alliance in turn is vital to our own national security. It is a mutual relationship and we must be prepared to come to the aid of Italy in her time of need.

The economic importance of Europe as a trading partner to the United States must not be understated either. The economic prosperity of Italy is a vital portion of the European economic picture. I strongly believe that the economic strength of Italy is best accomplished through the maintenance of free enterprise and democratic institutions. It is in our own interest to come to the aid of Italy at this time.

HERITAGE

Beyond the security and economic interest there is the very substantial social and cultural debt that we owe to Italy. For a great part of our heritage stems from that country and from the Italian people. The expression of support contained in this resolution is consistent with the cultural heritage we share with Italy.

PEACEFUL MEANS OF SUPPORT

The Senator from Kansas endorses the peaceful means of support described. It is my understanding that this resolution calls for the use of economic, financial, political and diplomatic support for the stability of democratic institutions in Italy. This is a timely use of those means of support. For our support at this time may avoid our being faced with a more difficult situation at sometime in the future.

I share the concern of the distinguished Senator from Massachusetts (Mr. BROOKE) about the true intentions of the Communist Party in Italy. It seems to me that the professed benevolent intentions of the Italian Communist Party may not be warranted in view of the many contradictions between the rhetoric and the practices of that group.

While I can understand the frustration of the Italian people, it seems to me that it may be easier to slip down the easy road promised by the Communists than to face the struggle of improving the political and economic situation through the existing framework. This is why I feel this resolution is of such importance.

I urge the adoption of this resolution.

Mr. MANSFIELD. Vote! Vote!

Mr. BROOKE. Mr. President, I move that the Senate proceed to the consideration of House Concurrent Resolution 651 and that the text of Senate Concurrent Resolution 105, as reported, be substituted therefor.

The PRESIDING OFFICER. The House concurrent resolution will be stated by title.

The assistant legislation clerk read as follows:

A concurrent resolution (H. Con. Res. 651) expressing the sense of Congress regarding democracy in Italy and participation by Italy in North Atlantic Treaty Organization.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Massachusetts.

The motion was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from North Dakota (Mr. BURDICK), the Senator from Florida (Mr. CHILES), the Senator from New Hampshire (Mr. DURKIN), the Senator from Mississippi (Mr. EASTLAND), the Senator from Alaska (Mr. GRAVEL), the Senator from Arkansas (Mr. BUMPERS), the Senator from Idaho (Mr. CHURCH), the Senator from Michigan (Mr. PHILIP A. HART), the Senator from Maine (Mr. HATHAWAY), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Hawaii (Mr. INOUYE), the Senator from Washington (Mr. JACKSON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from California (Mr. TUNNEY), the Senator from Washington (Mr. MAGNUSON), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from New Mexico (Mr. MONTOYA), the Senator from North Carolina (Mr. MORGAN), the Senator from Utah (Mr. MOSS), the Senator from Mississippi (Mr. STENNIS), and the Senator from Missouri (Mr. SYMINGTON) are necessarily absent.

I also announce that the Senator from Indiana (Mr. BAYH) is absent because of illness.

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON), the Senator from Washington (Mr. MAGNUSON), the Senator from North Carolina (Mr. MORGAN), and the Senator from North Dakota (Mr. BURDICK) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from New York (Mr. BUCKLEY), the Senator from Arizona (Mr. GOLDWATER), the Senator from Nebraska (Mr. HRUSKA), the Senator from Nevada (Mr. LAXALT), the Senator from Virginia (Mr. WILLIAM L. SCOTT), the Senator from Alaska (Mr. STEVENS), and the Senator from Ohio (Mr. TAFT) are necessarily absent.

The result was announced—yeas 69, nays 0, as follows:

[Rollcall Vote No. 277 Leg.]

YEAS—69

Allen
Baker
Bartlett
Beall
Bellmon
Bentsen
Biden
Brock
Brooke
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Clark
Cranston
Culver
Curtis
Dole
Domenici
Eagleton
Fannin
Fong
Ford
Garn
Glenn
Griffin
Hansen
Hart, Gary
Hartke
Haskell
Hatfield
Helms
Hollings
Humphrey
Javits
Johnston
Leahy
Mansfield
Mathias
McClure
McGee
McGovern
McIntyre
Metcalf
Mondale
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Sparkman
Stafford
Stevenson
Stone
Talmadge
Thurmond
Tower
Weicker
Williams
Young

NAYS—0

NOT VOTING—31

Abourezk
Bayh
Buckley
Bumpers
Burdick
Chiles
Church
Durkin
Eastland
Goldwater
Gravel
Hart, Philip A.
Hathaway
Hruska
Huddleston
Inouye
Jackson
Kennedy
Laxalt
Long
Magnuson
McClellan
Montoya
Morgan
Moss
Scott, William L.
Stennis
Stevens
Symington
Taft
Tunney

So the concurrent resolution was agreed to.

The preamble was agreed to.

The concurrent resolution (H. Con. Res. 651), as amended, with its preamble, reads as follows:

H. CON. RES. 651

Whereas the Atlantic alliance continues to be the cornerstone of the foreign policy of the United States; and

Whereas the basic purposes of that alliance are to preserve the security of member countries and promote the ideals of freedom and democracy they hold in common; and

Whereas the effective functioning of the

North Atlantic Treaty Organization (NATO) is crucial to the fulfillment of these purposes; and

Whereas the effectiveness of NATO is dependent upon general agreement within the alliance as to the security needs of its members and the means by which such needs are to be met; and

Whereas the full and unencumbered participation of Italy in NATO is of vital importance in sustaining such agreement; and

Whereas there exist between the United States and Italy strong ties of friendship, alliance, and kindship; and

Whereas the people of the United States and Italy share broad ideals and viewpoints; and

Whereas the United States owes a debt to Italy in the creation and formation of our own country: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that for all these reasons the people and Government of the United States reaffirm a sympathetic interest in Italian democracy and democratic institutions and call on the European friends and allies of Italy similarly to confirm their support for the Italian people and their Government and to join in assisting Italy to renew her confidence and to attain full and lasting prosperity.

Sec. 2. It is the sense of the Congress that the economic viability of Italy is important to the Atlantic alliance as a whole as well as to the United States.

Sec. 3. It is the sense of the Congress that the United States, in conjunction with other friends and allies of Italy, should stand ready to participate in efforts to provide financial assistance to Italy through the proposed OECD Special Financing Facility and/or by other means deemed appropriate.

The PRESIDING OFFICER. The Senate concurrent resolution is indefinitely postponed.

ORDER FOR YEAS AND NAYS ON S. 1776

Mr. McCLURE. Mr. President, I ask unanimous consent that it may be in order to ask for the yeas and nays upon an amendment on the bill next to be considered.

The PRESIDING OFFICER (Mr. Glenn). Is there objection?

Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays on the McClure amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. MANSFIELD. Mr. President, what is the pending business?

VALLEY FORGE NATIONAL HISTORICAL PARK, PA.

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of S. 1776, which the clerk will state by title.

The assistant legislative clerk read as follows:

A bill (S. 1776) to authorize the Secretary of the Interior to establish the Valley Forge National Historic Park in the Commonwealth of Pennsylvania, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Interior and Insular Affairs with an amendment to strike out all after the enacting clause and insert:

That in order to preserve and commemorate for the people of the United States the area associated with the heroic suffering, hardship, and determination and resolve of General George Washington's Continental Army during the winter of 1777–1778 at Valley Forge, the Valley Forge National Historical Park (hereinafter referred to as the "park") in the Commonwealth of Pennsylvania, is hereby established.

Sec. 2. Within the boundaries of the park, the Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized to acquire lands or interests in lands by donation, purchase wtih donated or appropriated funds, or exchange, except that any property owned by the Commonwealth of Pennsylvania or any political subdivision thereof may be acquired by donation only.

Sec. 3. The boundaries of the park shall be those generally depicted on the map numbered VF–91,000 which shall be on file and available for public inspection in the offices of the Director, National Park Service, Department of the Interior. Following reasonable notice in writing of his intention to do so to the Committees on Interior and Insular Affairs of the Senate and House, the Secretary, by publication of a revised map or other boundary description in the Federal Register, may make minor boundary adjustments in the boundary of the park: Provided, That the total acreage in the park may not exceed two thousand eight hundred acres.

Sec. 4. The Secretary shall administer the park in accordance with the Act of August 25, 1916 (39 Stat. 535), as amended, and the Act of August 21, 1935 (49 Stat. 666), as amended.

Sec. 5. There are hereby authorized to be appropriated not to exceed $8,622,000 for the acquisition of lands or interests in lands.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the pending business be laid aside and the Senate turn to the consideration of Calendar No. 890, H.R. 5621.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The bill will be stated by title.

The assistant legislative clerk read as follows:

An act (H.R. 5621) to authorize the Secretary of the Interior to establish the Valley Forge National Historical Park in the Commonwealth of Pennsylvania, and for other purposes.

Mr. McCLURE. Mr. President, I ask unanimous consent that Katherine Caples be granted privilege of the floor during all stages of the proceedings on the pending legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HANSEN. Mr. President, I ask unanimous consent that Tony Berinetta, Dan Dreyfus, and James Beirne be granted privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

If there is no objection, the time limit that has been proposed will be transferred to the House bill now before us. Is there objection?

Without objection, the time for debate on this bill is limited to 1 hour, to be equally divided and controlled between the Senator from Louisiana (Mr. Johnston) and the Senator from Wyoming (Mr. Hansen), 40 minutes on a McClure amendment, to be divided with 30 minutes to the Senator from Idaho (Mr. McClure) and 10 minutes to the Senator from Pennsylvania (Mr. Hugh Scott), and with 10 minutes on any amendment in the second degree, debatable motion, appeal, or point of order.

The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, H.R. 5621 is virtually the same bill as S. 1776 introduced into this Chamber by the distinguished Senator from Pennsylvania (Mr. Hugh Scott).

H.R. 5621 would establish the Valley Forge National Historical Park in the Commonwealth of Pennsylvania. This legislation is similar to S. 1776 which has been reported by the Interior Committee and which is the product of many months of careful consideration by the committee. The legislation will preserve the site of one of the most critical episodes in the American Revolution. I would like to express my appreciation to the distinguished minority leader and Senator from Pennsylvania (Mr. Hugh Scott) who has been so instrumental in assisting the committee in its consideration of this measure.

Mr. President, Valley Forge and the winter of 1777–78 marked the turning point in the American Revolution. Although the Declaration of Independence had been signed in Philadelphia a year and a half earlier, December 1777, found the British Army comfortably occupying that city. The American troops, which had yet to win a major engagement, endured the winter some 20 miles to the west at Valley Forge. Of the 11,000 troops at Valley Forge that winter, 3,000 died. Washington's testimony of the rigors of that winter is unforgettable:

> Without arrogance or the smallest deviation from trust, it may be said that no history now extant can furnish an instance of an army's suffering such uncommon hardships as ours has done, and bearing them with the same patience and fortitude. To see men without clothes to cover their nakedness, without blankets to lie on, without shoes, for want of which their marches might be traced by the blood from their feet, and almost as often without provisions as with them, marching through the frost and snow, and at Christmas taking up their winter quarters within a day's march of the enemy, without a house or a hut to cover them until they could be built, is a proof of patience and obedience which in my opinion can scarce be paralleled.

A portion of the campsite became a Pennsylvania State Park in 1893, and the Commonwealth of Pennsylvania has done an outstanding job of preserving and interpreting this area. The designation of this area as a unit of the National Park System will, I believe, accord this site, and the spirit it represents, the full national attention and respect it deserves.

Mr. President, Valley Forge has a long and intimate history, binding itself to the very lifeblood of this country's history.

I think I need not say its importance as a historical place, as a historical incident in the founding of this country.

Mr. President, the Senator from Pennsylvania has been so intimately involved in the passage of this legislation, I would like at this point to yield to him.

Mr. HUGH SCOTT. Mr. President, I thank the distinguished Senator from Louisiana.

S. 1776 is a legislative designation

which we had hoped to keep on this bill because of its historic significance.

I hope that in spite of substituting the House bill (H.R. 5621) we in Pennsylvania, particularly, may be able to still remember this bill as originating as S. 1776.

Mr. President, public-spirited interest in preserving Valley Forge as a national historical park goes back to 1845 with Dr. Isaac Pennypacker and Daniel Webster taking the lead. Despite vigorous efforts of these giants of the time, they failed, and so has every legislative effort up until this time. I am pleased that the distinguished majority leader MIKE MANSFIELD has joined me and 26 other cosponsors in support of S. 1776, a bill to provide for the establishment, at long last, of the Valley Forge National Historical Park in the Commonwealth of Pennsylvania. I am particularly pleased that S. 1776 has received the prompt attention and consideration of the Senate Interior Committee thus enabling its appropriate identification with our Bicentennial.

I am most grateful to the distinguished Senator from Louisiana (Mr. JOHNSTON) and to the distinguished Senator from Wyoming (Mr. HANSEN), and others, members in the Interior Committee, who have been so helpful in bringing about a favorable report of this bill.

Although Valley Forge should have been a Federal park since the establishment of this Union, the Commonwealth of Pennsylvania has operated the park for the past 83 years.

Yet it has been permitted in many ways to lie fallow. Management has been involved in many confusing directives, and areas of responsibility have remained unfilled, largely, I think, because of manpower not being provided in adequate sufficiency and adequate numbers for the park.

Pennsylvanians are justly proud of what our State has done to preserve Valley Forge. However, it is evident that the Commonwealth is no longer capable of meeting the task at hand.

Mrs. Annamaria Malloy, chairman of the Valley Forge Park Commission, says:

> It is sad but true that Valley Forge has been permitted to lie fallow and yet the very name swells within us a pride of nationality. A sleeping giant of potential, traditional management response has been to react to pressures rather than to act in anticipation of historic preservation and public needs. Management is guilty of confusing directives. Areas of responsibility vacated by attrition remain unfilled. Projects which will provide the experience for future growth are nonexistent. Activities which will add to the enjoyment and understanding of Valley Forge are undeveloped. Manpower does not exist. For four years we have asked for an historian, for instance. We still do not have one. Our curitorial staff consists of one trainee. Archeological programs are nonexistent because the Valley Forge Commission has been forced to first satisfy basic physical needs. And yet, we all understand that such research is essential to historical restoration and interpretation.

The Federal record in the development and interpretation of national parks is outstanding. There is no doubt that Valley Forge will make a splendid addition to the national park system, and we should be proud to commit our national energies, efforts, and resources to secure this sacred area.

On a personal note, from my own home in Philadelphia, I can see the hills of Glacier Ridge, and my home is a few yards from the Germantown Pike on which Washington's battered troops retreated from the Battle of Germantown. These wearied soldiers rested at Glacier Ridge on their way to Valley Forge. This view has always been an inspiration to me. As I look out in that great distance in years to come, I will remember the commitment we make today to preserve the truly hallowed ground of Valley Forge for all grateful Americans.

Mr. President, at this point I ask unanimous consent that the editorial in the Washington Post of May 31, 1976, as well as my response be printed in the RECORD.

There being no objection, the editorial and response were ordered to be printed in the RECORD, as follows:

[From the Washington Post, May 31, 1976]

NATIONALIZING VALLEY FORGE

With some of the same persistence that characterized the first encampment at Valley Forge 200 years ago, a small group of eastern Pennsylvania citizens has been working doggedly to save the scenic and historic parkland now at the site. At the moment, the 2,250 acres of the Valley Forge State Park come under the control of officials in the state government in Harrisburg. But because many of these officials have either been uncaring or uninformed about the problems of keeping the parkland in a fit condition, the local commission that runs the park (and runs it well) is seeking to transfer Valley Forge from state to federal control.

Legislation is now before the House and Senate. The bills have national interest, not only because the original heroism at Valley Forge was a high moment in the nation's formation but because the current dispute tells us something about the workings—or nonworkings—of Congress. The deficiency in the legislation is that neither House nor Senate committees reported out provisions for including an 869-acre site known as Chesterbrook, which is adjacent to the park. This ecologically valuable property has been considered an essential buffer for the park if Valley Forge is not to have still another real estate development crowding its borders. Unfortunately, Sen. Hugh Scott (R.-Pa.), who originally sponsored the bill fittingly known as S. 1776, lost interest in the Chesterbrook tract and offered little leadership in the cause of acquiring it. It isn't wholly clear what costs are involved; estimates range from $14 million to $22 million.

Although Sen. James A. McClure (R.-Idaho) is offering an amendment to acquire Chesterbrook, the fear of many—a legitimate fear, we believe—is that a do-or-die fight over Chesterbrook at this point could interfere with progress toward the goal of nationalizing the park. Local historians say that the idea of turning the park over to the federal government goes back to the 1840s when Daniel Webster and Dr. Isaac Pennypacker first suggested the idea. With the passage of 130 years, it would seem to us that a final and favorable decision on the park is overdue. President Ford is scheduled to visit Valley Forge on the Fourth of July. It would be nice if on that occasion he could have on hand newly signed legislation making Valley Forge what it should have been all along—a national park.

[From the Washington Post, June 6, 1976]

PRESERVING VALLEY FORGE

I welcomed your May 31 editorial, "Nationalizing Valley Forge," which addressed the most pressing issue surrounding Valley Forge Park—the question of stewardship of the park itself. This matter has been sorely lacking perspective in recent months, and emotions have run high.

Valley Forge Park, a stirring symbol of the American will to be free, should long ago have become a national park; this venerable land which saw the brave encampment of George Washington's troops in the brutal winter of 1777 deserves the enduring protection and preservation which can only be provided through the federal government.

My legislation, S. 1776, would transfer the park from state to federal management. A similar bill introduced by Congressman Richard T. Schulze (R-Pa.) awaits action by the full House of Representatives. Adjacent to Valley Forge is the 869 acre Chesterbrook tract, which has been the prime subject of controversy. If it were possible, I (as well as all of us who venerate Valley Forge) would like this tract to be purchased and added to the nationalized park in order to prevent the encroachment of developments and the like within sight of the hallowed encampment grounds.

We must regret that we could not accomplish this. The U.S. Department of the Interior estimated the value of the land at $23 million—a price which the federal government cannot bear during this time of essential economic frugality. Congressman Schulze and I personally met twice with the Secretary of the Interior, the Honorable Thomas Kleppe, to work out an acceptable plan to allow for the acquisition of the tract. The negotiations which followed were vigorous, protracted, but unsuccessful.

The final proposal, an offer representing the best possible package obtainable with federal support, was submitted to the developer. It did not meet with his approval. Therefore, we were forced to conclude that for the time being all avenues leading to acquisition of Chesterbrook had been exhausted.

Therefore, we must now continue with the prime mission of S. 1776; The transfer of Valley Forge Park to the federal government. The bill is pending before the Senate but unfortunately includes an amendment offered by Rep. James A. McClure to include the acquisition of Chesterbrook as part of the bill.

The McClure amendment so far has served no purpose other than to divide and mislead my constituents about my desire for preservation and protection of Valley Forge. I must, in all sincerity, take issue with your editorial's charge that I "lost interest in the Chesterbrook tract and offered little leadership in the cause of acquiring it."

What I have done is to come to grips with the reality of the situation. It is my hope that Valley Forge will very soon be a national park. To this end I have always been committed; Valley Forge is too sacred to be trifled with.

HUGH SCOTT,
U.S. Senator (R-Pa.).

Washington.

Mr. HUGH SCOTT. Let me add, Mr. President, that the editorialist of the Washington Post, with the kind of inconsistency they will not allow us, first expresses a criticism that I had somehow failed to include the Chesterbrook tract in the park and that that represented some lessening of interest, a totally inaccurate statement.

In the very next paragraph, the editorialist notes that it is a pretty good thing after all that Chesterbrook is not included.

This is the way by which editorialists' minimal knowledge of the subject does not interfere with their giving you the back of their hand.

The statement, of course, is entirely false. Everyone knows, as the distinguished Senator from Louisiana knows, we have fought long and valiantly for the inclusion of the Chesterbrook tract. Why is it not included? For the simple reason of the cost of $23 million, and perhaps I should add for the further reason cited that it is beyond the Pennsylvania Turnpike, on the other side of it, and that it has been cited to the committee that access was difficult to it.

The Representative in Congress from that district, Congressman SHULZE, and I have had numerous meetings with the Secretary of the Interior, with the National Park Service, with State officials, with preservation organizations, with members of the community and with a State representative of that district, Mr. Samuel Morris, who is indirectly related to me by marriage and is a member of the other party who has done valiant service in seeking to have Chesterbrook included. But the practical difficulty was that the developer would not consider what we felt was a reasonable price for the property; the Federal Government was unwilling to assume the cost, and the State government was unwilling to assume the cost. The State government will assume, I understand, the transfer of some $10 million for the maintenance and operation of the park as, I suppose we could call it turnover payment.

There exists an agreement in writing to this effect which is not part of the legislation itself.

The private participation is limited in amount, and the opportunity of acquiring Chesterbrook was simply nonexistent. I think Chesterbrook would be of considerable additional value to the national park. It is, however, removed from the park itself and separated by this highly unnatural and not very pretty barrier, the Pennsylvania Turnpike.

I believe the discussion in the House of Representatives is informative and states at greater length the reasons why it is not possible to obtain the Chesterbrook tract.

For those who might just read before they write editorials, it would be well for them to know the cost per acre of acquisition of Chesterbrook.

The cost of acquisition of Big Thicket, Tex., was assessed at $827 per acre; of Big Cypress, Fla., $275 per acre; of Cuyahoga, Ohio, $1,202 per acre; of Gateway, New York City, $5,976 per acre, and if one estimates the cost of acquisition of Chesterbrook at only $15 million, it would be $17,000 per acre for suburban property or, at the actual acquisition cost of $23 million, about $25,000 per acre.

That is about four times as much as the highest cost of acquisition of any other property cited. The Federal Government has made it abundantly clear that it simply is not going to spend either $17,000 per acre or $25,000 per acre to acquire a property which would be of benefit to the park but is not in itself the sine qua non precedent to the acquisition of the existing State park.

I would urge my colleagues to oppose the amendment. I say that now since I would not have but 10 minutes on the amendment. I say that also for these reasons:

I believe that other members of the Committee on Interior and Insular Affairs did not agree with my distinguished friend, the Senator from Idaho (Mr. McCLURE) on this matter. We do applaud his interest in the park. He has been there with me and with others to see it. We are grateful that he has supported the concept of acquisition.

In principle, we wish it would be possible to acquire Chesterbrook. We want it, but we do fear that the adoption of this amendment would be the end of a chance of acquiring the Valley Forge Park and making it a national historical site. If it could be ultimately acquired, it could only be achieved by subsequent legislation, an admittedly difficult procedure.

In conclusion, Mr. President, I would like to mention a bit of history. In 1947 the Congressman from the district adjoining mine, Mr. Hardie Scott, who is no relative but is a friend, and I introduced a bill for the acquisition of Independence Hall and its surroundings as a national historical site.

That bill passed and was signed into law in 1948.

The State then agreed to maintain additional parts of the Independence Hall area in the form of a T. That part of the tract going down to the Delaware River represents the national historical park. That part which intersects it and forms the leg of the T moving toward the Delaware River Bridge is the State historical park.

This is a matter of great pride to me, to have been associated with the Independence Hall Park and with the Valley Forge National Park.

It is a matter of further pride that the plaza on which the Liberty Bell rests is named in honor of my distinguished late uncle, the Hon. Edwin O. Lewis, for 33 years a judge in the Court of Common Pleas in Philadelphia, who died in his 95th year last year. He was the prime mover of the historical park idea. He conceived it, along with a Mr. Sidney Martin, a local architect. He pushed it through to consummation. Therefore, the Edwin O. Lewis Plaza is a memorial to his efforts, and I am proud to mention that at this time.

I do hope we can act promptly on the bill and that we will defeat all amendments so that the House bill may be accepted as a clean bill and thus go to the President.

Again I thank my distinguished friend from Louisiana.

Mr. JOHNSTON. I thank the Senator from Pennsylvania.

Mr. HANSEN. Mr. President, I rise in support of S. 1776, legislation which would establish the Valley Forge National Historical Park. This park will commemorate for the people of the United States the heroic suffering, hardship, and determination and resolve of Gen. George Washington's Continental Army during the winter of 1777–78. Following the Battles of Brandywine and Germantown in the fall of 1777, the British forces were billeted in comfortable quarters in Philadelphia, while Washington and his Army went into camp at Valley Forge. Located 20 miles west of Philadelphia, the site was defensible and allowed the Continentals to control the western approaches to the city.

Every schoolchild in the United States knows of the ordeal of Valley Forge. No name more appropriately evokes the spirit of patriotism and independence that gave birth to the United States. Here in the utmost of want and suffering, a nucleus of the Army survived and emerged as a respectable fighting force.

A portion of this historic campsite became a Pennsylvania State park in 1893, and is still administered by the Valley Forge State Park Commission. The park is a mixture of rolling meadow and wood lots dominated by a tree-covered hill called Mount Jay. Valley Forge became a national landmark in 1962.

S. 1776 would place the responsibility for the day-to-day management and interpretation of the existing State park with additional land acquisitions under the Federal Government. The bill authorizes the appropriation of $8,622,000 for acquisition of an additional 250 acres of strategically located land.

The Valley Forge saga has been a source of inspiration to Americans for the past 200 years. It is most appropriate that in this Bicentennial Year that the United States preserve and protect this national symbol of her history.

S. 1776 is a bill that we can share with pride as a Bicentennial gift to and for the American people. Valley Forge should have been in the inventory of national treasures as a part of the National Park System years ago. It is essential we do that today. It is not a fraud.

It does not need the Chesterbrook Tract to be a total unit. Acquiring Chesterbrook at a phenominal cost of $22 million does not save more than 10 degrees in the 360 degree surrounding Valley Forge. The Committee on the Interior and Insular Affairs agreed by a vote of 8 to 1 that the preservation and establishment of the park unit is necessary and desirable. The National Park Service agrees.

Additionally, the imposition of Federal land use planning requirements as a carrot on the string is a pressure of zoning on people who should not have this type of Federal pressures.

Mr. President, let me conclude by saying that I join with many countless Americans in expressing my gratitude to distinguished senior Senator from Pennsylvania for his foresight, wisdom, and patriotism which has been demonstrated on many occasions in moving to take steps in this very important year, the Bicentennial of the birth of this Nation, in affording all Americans the satisfaction and joy that comes from knowing that a place on our map and a time in history will be preserved for all future Americans.

I salute my distinguished colleague from Pennsylvania, and on behalf of

Americans everywhere thank him most sincerely for his foresight and vision.

Mr. RANDOLPH. Mr. President, will my colleague yield?

Mr. HANSEN. I am happy to yield.

Mr. RANDOLPH. Mr. President, I have listened with intense interest to the remarks of my friend from Wyoming. I join with him in the commendation of minority leader, Senator HUGH SCOTT of Pennsylvania, and others who have joined in this effort of giving attention to historic landmarks and to areas of our country that have provided for us a heritage of the dedication and often the sacrifices of so many people. It is important for us to reflect especially on the period of that time when the battered forces of our Revolutionary Army were fighting under the inspired leadership of George Washington.

General Mercer, writing to Washington, said:

> In our so-called staff hospital we have no food, we have no medicine, we have not a single bandage fit to be used, but, General Washington, we still have our faith.

I believe it is important to pause, even in a debate of this type, to recognize—to reflect on the founders of the American Government.

George Washington, as he and others were leading this fight, did not enjoy 100 percent for the effort being made to bring into being a new country. Perhaps one-third of the people were in favor of remaining under the British rule and only one-third wanted to form this Republic of which now we are the inheriters. One-third then seemed not to care one way or the other. But there were those who constantly, against extreme odds, worked to bring a new nation into being.

I have read recently a series of articles in the New York Times indicating that a survey of the public schools indicate there is a lessening of teaching of American history. Such a situation bodes ill for the school system of the country. I do not know where the breakdown is—whether it is in the supervisory part of our school system or whether it is in the teaching staffs—but it does exist. As to these children that the Senator spoke about having knowledge of Valley Forge, I am fearful that the school children today know very little about the history of the United States. Our history is not mere statistics. It should be made to come alive. This is the sort of programing that the grade school children, and those who are in high school and college, should be receiving in these days. There is the human quality.

So, it does us good at this particular time, I think, to come again to those watersheds of our history where there existed a spirit of a new beginning plus a tremendous faith. To have the Senator from Wyoming, the Senator from Louisiana, and particularly the Senator from the area involved, HUGH SCOTT of Pennsylvania, address themselves to this need, is indeed encouraging.

Mr. HANSEN. I thank my distinguished colleague from West Virginia.

The PRESIDING OFFICER. Who yields time?

Mr. McCLURE. Mr. President, will the Senator yield to the Senator from Idaho?

Mr. HANSEN. I yield.

Mr. McCLURE. I thank the Senator for yielding.

I will offer an amendment. On this amendment I do have a time limit, but I thought I might briefly speak with respect to the bill. My views are included as minority views in the report filed by the committee.

Let me note only at the outset that I understand the very difficult dilemma which has been faced by my distinguished colleague, the senior Senator from Pennsylvania, in whose State this area lies, as he has tried to thread the way through to getting the proposed legislation passed.

I wish to state on the record, as he has stated on the record, that I know, of my own personal knowledge, that he has been doing his very best to get this bill passed ever since it was introduced, as I have been doing. Other legislation has stood in the way of getting earlier consideration on the floor of the Senate, but it was not because of any willful delay on the part of the Senator from Pennsylvania or on the part of the Senator from Idaho. We both have been seeking to get this matter resolved on the floor of the Senate, because we recognize the necessity and the value of doing so.

I shall address myself for a moment to what the motivation was, as I get it from the people in the area who have been the prime movers and the backers of this project.

The Valley Forge State Park has been in the administration of the State of Pennsylvania for 83 years. It started as a very small park and has grown to 125 acres; but it has not grown in recent years, partly because of the building of the Pennsylvania Turnpike, which created a boundary of sorts on the south, partly because of the inholdings which were not then available.

Reference has been made to the fact that Chesterbrook should be included. It should be noted that the sponsors of the bill—I am a cosponsor—when the bill was introduced in both the Senate and the House, included acquisition of Chesterbrook as a portion of the legislation. It was only stricken in the committee. Those who have been critical of the efforts of the Senator from Pennsylvania should be advised of the fact that that was his initial thrust, and it was only after the committee had removed it that he sought to expedite passage of the bill, in spite of its absence. A number of the local people have been trying for years to get this included.

When the development plans on the Chesterbrook tract were first made known, they started efforts to acquire the property. Lawsuits were filed, and they were fought for years. In fairness to the owners of the Chesterbrook tract, they are entitled to a decision as to what will be done; they are entitled to that decision now. They should have had the decision earlier. But it was tied up in State courts, in litigation, and they sought help from the State of Pennsylvania in the acquisition of the Chesterbrook tract. They were unsuccessful in receiving that assistance because of the cost and perhaps because of other pressures of which I know nothing. So they turned to the Federal Government as the opportunity to acquire the lands which needed to be acquired for the preservation of the Chesterbrook area and the setting in which Valley Forge State Park now finds itself.

Aside from the area which lies across the river to the north and some small tracts that are not within view to the west, the Chesterbrook area is the only area yet undeveloped, as Philadelphia spreads westward, ever westward, and the suburban sprawl that is associated with the growth of great cities engulfs the Valley Forge National Park.

Let us not delude ourselves that we will have any other opportunity than the one confronting us today to discuss the issue of Chesterbrook. It is now or never. If we are to do anything with regard to the setting of Valley Forge State Park or Valley Forge National Park following the passage of this legislation, it will be now. If we do not act now, that opportunity will be lost forever.

Is it worth it? I do not know what value one places upon the vista that presently can be seen from points within Valley Forge Park. That is the only remaining area of the countrywide that is in anything approximating the condition that existed at the time of the Revolution. It has two registered national historic sites within the area known as Chesterbrook.

It has been suggested that the cost of Chesterbrook is too high and that we cannot acquire Chesterbrook because it is high compared to other tracts. Yet, we have $8 million in this bill for the acquisition of lands within Valley Forge State Park. What is the acquisition cost there? It has been suggested that we cannot buy Chesterbrook because the average cost of acquisition would be $17,000 an acre. Yet, the average cost of acquiring the small inholdings that the committee has suggested should be included in $34,000 an acre, and that does not include the Keene property, the old gypsum plant, that is a portion of the inholdings.

We are faced with the argument that we cannot afford to buy Chesterbrook but we can afford to buy the rest of the property, which costs twice as much per acre. I do not understand the logic of that argument.

It is suggested, also, that the turnpike is an effective barrier to Chesterbrook and separates Chesterbrook from the remainder of the tracts, and that is true. The turnpike did skirt the south edge of the State park when it was built, and it did separate some of the historic area from the rest of the historic area. There are three vehicle accesses directly between the two properties, one overpass and two underpasses. I do not think that kind of separation necessarily destroys it. But if the vista is worth anything, it does not depend upon vehicular access; it depends upon the visual line of sight.

Is the visual setting worth anything? What did we do at the home of George Washington, Mount Vernon? Mount Vernon is not a national park. Mount Vernon is operated by a private organization for the benefit of the public. But when it came to the possibility of the development of lands across the Potomac River, under the prodding of Congresswoman BOLTON and others who were very active for years, we did acquire property across the river from Mount Vernon—not a national park, a private organization maintaining it, with public moneys. A national effort was made to acquire lands across the river, and there is no access except by boat. That did not deter us. We said the visual setting was important to the preservation of George Washington's home, and therefore we acquired lands in what has become known as Piscataway. That was done by action of Congress. It was done at high cost, and it was done with my support, because I believed that it was valuable, that it was worthwhile.

So, for a variety of reasons, I hope we do not allow ourselves to be diverted today from the adoption of the amendment I will offer, simply because of cost or simply because we have not done it before or simply because we cannot do it; because we can do it, if we desire.

We have done it in other instances, and this bill proposes to spend twice as much money per acre for other lands which are within the boundaries of the proposed taking area. I think the logic for saying "don't do it" fails, and the logic for saying "let's acquire Chesterbrook" is the more persuasive logic.

Why should we take over, as a national park, a unit of a State park system when the Senate has done such a good job over the years? Undoubtedly, we can spend more money, as the Federal Government, and I will not argue that the National Park Service cannot do a magnificent job. I suspect that they will. But I shall read from a letter of the Acting Assistant Secretary of the Interior, dealing with this subject, addressed to the Honorable HENRY M. JACKSON, chairman of the Committee on Interior and Insular Affairs, dated October 15, 1975.

The PRESIDING OFFICER. If the Senator will suspend for a moment, all the time in opposition to the bill has expired. The Senator may proceed on the time on his amendment.

UP AMENDMENT NO. 5

Mr. McCLURE. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Idaho (Mr. MCCLURE) proposes an amendment.

Mr. McCLURE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, line 20, strike out "VF-91000" and insert in lieu thereof "VF-91001".

On page 5, between lines 14 and 15, insert the following new section:

"SEC. 4. (a) Effective on the date of the enactment of this Act, there is vested in the United States all right, title, and interest in, and the right to immediate possession of, all that property within the park boundaries designated in map numbered VF-91001 (on file for public inspection in the offices of the Director, National Park Service, Department of the Interior) referred to, and known, as Chesterbrook.

"(b)(1) The United States shall pay just compensation to the owner of such property known as Chesterbrook taken by subsection (a) of this section. Such compensation shall be paid by the Secretary of the Treasury from moneys appropriated from the Land and Water Conservation Fund upon certification to him by the Secretary of the Interior of the agreed negotiated value of such property, or the valuation of the property awarded by judgment, including interest at the rate of 6 per centum per annum from the date of the taking of the property to the date of payment therefor. Any action against the United States for the recovery of just compensation for the property taken by the United States by this section shall be brought in the Court of Claims as provided in section 1491 of title 28, United States Code.

"(2) If, within the twelve month period following the date of the enactment of this Act, the Secretary of the Interior has been unable to successfully negotiate an agreement with the owner of such Chesterbrook property immediately prior to its taking by this section concerning the amount of just compensation to be paid by the United States with respect thereto, and such owner, within such period, has failed to institute an action against the United States for the recovery of such compensation in the Court of Claims, the Secretary of the Interior shall institute a proceeding, by and in the name of and under the authority of the United States, in the Court of Claims, petitioning the Court to hear, consider, and ascertain the amount of just compensation payable for such property so taken. Upon the institution of such proceedings by the Secretary of the Interior, the Court of Claims shall have jurisdiction to hear and consider such proceedings and to render judgment against the United States awarding just compensation for such property so taken to the appropriate party. Such judgment shall include, as part of the compensation awarded, interest at the rate of six per centum per annum on the amount finally awarded as the value of such property as of the date of taking, from such date to the date of payment.

"(c) Notwithstanding any other provision of this Act, the Secretary of the Interior may, by sale or exchange, elect to dispose of the Chesterbrook property following its acquisition by this section, if the Secretary determines that those units of local government having jurisdiction over the lands immediately adjacent to the Park have not enacted zoning laws; which, in the opinion of the Secretary, are adequate to insure the historic and aesthetic integrity of the Park. If the Secretary of the Interior makes such election, the Secretary shall, by notice in the Federal Register, modify the boundaries of the Park so as to exclude therefrom such Chesterbrook property."

On page 5, line 15, strike out "Sec. 4" and insert in lieu thereof "Sec. 5."

On page 5, line 18, strike out the period and insert the following: ", other than that property referred to, and known, as the Chesterbrook property. For the purpose of paying just compensation in accordance with section 4 of this Act for the Chesterbrook property, there is authorized to be appropriated such sum as may be necessary.".

Mr. McCLURE. S. 1776, the proposal to establish Valley Forge as a national historical park, is being considered on the Senate floor today—gutted—stripped on the key provision that led to the urgency of its introduction. Chesterbrook, 869 acres of underdeveloped, historically significant and esthetically necessary land, is not included in the bill. It is part of the heritage of Valley Forge. Chesterbrook allows for an open vista park which is the key to the physical integrity—the very essence of Valley Forge. But because the State of Pennsylvania which has managed Valley Forge for 83 years cannot acquire this land, legislation was first drafted to include Chesterbrook so the Federal Government could save this last piece of Valley Forge from development.

While I am in favor of making Valley Forge a national park, I believe it is only justified if we do something more significant than what the State of Pennsylvania can do. Otherwise how can you rightly make it a national park in light of our huge Park Service acquisition and development backlog, and ahead of other areas not yet preserved. All we are doing by passing S. 1776 is taking what is already protected by the State system and transferring it to the Federal Government. Granted it is a national shrine but it has been maintained that way for over 80 years. Now that it is being threatened, we must, on behalf of all those Americans who have yet to gain from Valley Forge, stop that threat and save the park as it should be saved! I am thus introducing an amendment to S. 1776 that would allow for immediate acquisition of the 869 acres and set conditions upon which we are willing to invest the taxpayer's money. Local government should give assurances aimed at curbing high-rise development which may in areas detract from the historical setting of the park. In order to establish a basis for maintaining such standards, my amendment allows the Secretary of Interior to resell Chesterbrook if local governments do not maintain appropriate local ordinances.

As a member of the Parks and Recreation Interior Subcommittee and a cosponsor of S. 1776, I visited the park with the Honorable HUGH SCOTT to note its condition and view the "Chesterbrook tact" which was the focal point of the legislation. I met members of the Valley Forge Park Commission and others closely associated with the park. I commend them and the State of Pennsylvania for their excellent job of maintaining and developing Valley Forge. The park began 83 years ago with only 250 acres and has slowly increased in size to the present 2,250 acres. In 1940 however the Pennsylvania Legislature authorized acquisition of 5,000 acres. Unfortunately, around that some time the controversial turnpike, was constructed which plowed through some of the historic ground. No new land has been acquired since. While Chesterbrook remained farm land for years there is no question about its historical relevance. It houses General DuPortail's home, the engineer for the encampment and was part of the ground used by Washington's men during the crucial winter of 1776. Having stood and surveyed the scene it creates to the south, I know that the main asset of this additional acreage is the last, undeveloped open space that allows us a vista—a vista that preserves the very setting Washington's men knew. After all, the main objective in managing Valley Force has been to preserve this traditional setting as closely as possible. Chesterbrook is the key to this quality and should not be destroyed.

Local residents have for years recognized how vital this acreage is to Valley Forge. They have been in litigation over zoning with the owner once development threatened to overtake Chesterbrook. They have formed numerous organizations dedicated to the protection and inclusion of Chesterbrook into the park. They first brought to my attention the problem of high rises blocking the view on the east side of the park and the need to prevent this from occuring elsewhere. Development plans for Chesterbrook itself call for six-story apartment buildings. Development is coming and Congress must face the problem squarely. Will a wall of high rises surround Valley Forge in the years to come?

If the park is engulfed by development, the concept of Valley Forge itself will be eroded. I believe local seats of government stand ready and willing to prevent the encroachment of high rise and dense development along the park borders. I hope Congress will stand behind them and offer encouragement. Perhaps Congress may be doing more harm to the park if they refuse to take the opportunity to work with local governments who wish to do their part in helping to preserve Valley Forge as it should be preserved!

Cost is a factor that must be addressed. As of January 1, 1976, the Park Service estimate of Chesterbrook was $14.3 million based on other land values in the area. They have also estimated that administrative costs could increase to $22 million based on a 1½ year span between what they anticipate would be the date of authorization and the date a condemnation suit would be filed.

In light of these costs and in an attempt to finance this acquisition. I worked vigorously with Senator HUGH SCOTT, Congressman RICHARD SCHULZE, the Park Service, Nature Conservancy, the owner of Chesterbrook and local authorities to try and work out a reasonable way of negotiating on the acquisition of the tract. The Office of Management and Budget indicated a willingness to pay $12 million, local residents informally made commitments to raise funds and the State, who had just passed a $9 million improvement bill for the park, did not purchase some additional acreage.

Unfortunately our efforts failed and now the only method in which Chesterbrook can be purchased for the lowest possible price would be through my amendment that allows for immediate taking. With the high interest costs on the land and the fact that it can be developed anytime, it must be taken immediately!

It should also be noted that the bill authorizes about $8.6 million for inholdings. One of these, the Lafayette Headquarters, has already been purchased by the State for $375,000. Also the Keene property estimated at $3.8 million in the park is not operating any more and the cost is said to be less than half that today. Also, the Valley Forge Park Commission and the State of Pennsylvania Legislature do not feel that the $3.8 million Keene property, which is the old limestone quarry, should be acquired now because it is not a priority. The priority list the Park Service used for immediate acquisition is not the list the Valley Forge Park Commission has stated for over 3 years. Chesterbrook is their number one priority. If a more detailed appraisal of the land values and acquisition needs were made, I think we would find that it is no longer necessary to acquire some areas and that there would be a substantial decrease in moneys necessary for purchasing inholdings.

Because Valley Forge is located in an urban setting, past and present predictions are toward increased recreational use of Valley Forge. Over 4 million visitors are expected to visit those 2,250 acres this year. Not only do we need the additional land to help accommodate these millions of people, but in comparison with other similar urban setting parks, the acquisition of Chesterbrook with Valley Forge proves to be cheaper in terms of cost-per-visitor than both Gateway and Cuyahoga. Gateway, even with its 10 million visitors, has $98 million development costs in addition to acquisition and is calculated to cost about $9.86 per visitor. Cuyahoga is $34.50 per visitor. Chesterbrook, at the price of $14.3 million, comes to only around $3.75 per visitor.

Support has come from everywhere except Congress in seeing that Valley Forge becomes a completed national historic park. In this year of our Bicentennial, we will be making a big mistake by passing S. 1776 in haste without looking closely at the real values of the park. If we pass S. 1776 without my amendment, we are only deceiving the American people when we say we have given them Valley Forge. We have not given them anything more than what they already had. Will we wake up in 30 years and find ourselves in the middle of a Central Park that we cannot recognize as the Valley Forge where Washington's men once suffered while protecting the basic liberties we cherish today? We must not let this opportunity go by when we have the chance to protect for the last time, the crucial values of Valley Forge. We can make one of the best Bicentennial investments in our Nation's history for the American people by accepting the challenge to make Valley Forge a national park with all its integrity intact.

Mr. President, I shall read briefly, and then I will yield, so that others may respond to what I have said.

This letter is set forth in the report of the committee, and the language I am about to read appears on page 8. The Acting Assistant Secretary of the Interior said:

> We believe that the Federal Government does not have sole responsibility for preserving, developing and operating nationally significant public sites.

This responsibility is shared with local governments, individual citizens, and private institutions. Accordingly, we have reservations about the enactment of S. 1776.

Mr. President, that was at a time when the bill contained within it the acquisition of Chesterbrook. Now, with the action of the committee deleting Chesterbrook from the boundaries of the proposed national park, that sentiment certainly is more greatly underscored. We are asking the Federal Government to take over something that the State governments have done, with very little enhancement of what is being done, or at least lacking the very great and very significant enhancement that would occur if we were able to acquire Chesterbrook. So my amendment calls for legislative taking of the Chesterbrook area so that we can preserve what is there now and seize this last opportunity to do so, and thereby render meaningful what otherwise becomes only the gesture of transfer from State ownership to Federal ownership of a national historic shrine. It will give that action on the part of Congress a very great substance in greatly enhancing the merits of that park and preserving what remains of that setting.

As I said earlier, there are two historic sites within the Chesterbrook area in addition to the land itself. One was General Bradford's headquarters and the other was that of General Du Portail. General Du Portail was the engineer who laid out the entire encampment. His headquarters, located within the Chesterbrook area, is the site from which he carried on the work of laying out and supervising the laying out of the balance of Valley Forge Park.

Mr. President, I reserve the remainder of my time so that others may make whatever comments they would like about the amendment.

Mr. JOHNSTON. Mr. President, the distinguished Senator from Idaho is a very valued member of both the Committee on Interior and Insular Affairs and the Parks and Recreation Subcommittee. His judgment is good, he works hard, his logic is incisive, and we usually follow his advice on the committee. So it is very easy to forgive him for this one aberation, or this one departure from good judgment.

Mr. President, the fact of the matter is we simply do not have the money to acquire land at this astronomical cost. What is the cost of this land? It is $26,400 an acre for land across the Pennsylvania Turnpike. As the Assistant Secretary of the Interior, who opposed this acquisition, stated, the acquisition of this property will cost $22.350 million, according to their current estimates. If we add to that the cost of removing the 46-acre industrial plant within the park, we have another $3.8 million. We end up with the astronomical cost of some $26 million for the acquisition of additional property.

Mr. President, earlier this year the Senate passed an increase in the Land and Water Conservation Fund, which increased that fund to the sum of $1 billion. That fund is presently at $300 million. Of that $300 million, only $120 million annually is available for Federal recreation land acquisition. If we were to add Chesterbrook to this park, we would have in this one bill alone almost one-third of all the moneys available nationwide for all Federal park and recreation land acquisitions for this year.

Mr. President, when we consider that

$120 million limit available nationwide, then add to that fact the fact that we have some $572 million in authorized but, as yet, unfunded acquisitions for the Park Service alone, and if we add to that the increases in ceilings which must and will be granted—that is some $700 million total—then we are in the situation of the faster we go, the farther behind we get. If this sounds like a pitch for an increase in the Land and Water Conservation Fund, Mr. President, it is.

We do not have the money to acquire Chesterbrook. It is just as simple as that. As chairman of this subcommittee, Mr. President, I have to go around the country and look at these various parks that people want to add to the park system. And we have beautiful land areas, some close to urban areas, some containing valuable ecological, historical, and archeological treasures that this country ought to acquire and ought to acquire now.

We ought to give that the kind of priority that an affluent Nation can afford. We are not giving it that kind of priority now, Mr. President. One hundred twenty million dollars, with a budget of over $300 billion, is absolutely ridiculous and outrageous, and we need to do something about it. I am hoping that money for parks acquisition will become an issue before this Nation and that the people of this Nation and, hopefully, the Presidential candidates will rise up and say, "Let us change our priorities and let us devote to the American people a greater amount of our abundance to the acquisition of land for future generations."

In the meantime, Mr. President, we cannot spend a third of everything available to the National Park Service on Valley Forge. We cannot spend $26,400 an acre for land across the turnpike. We have too much waiting to be funded.

I was in the Indiana Dunes National Park last week. There the people pointed out that if we do not acquire that land, it is going to be swallowed up by industry—and a priceless heritage it is, with unique formations.

In Big Thicket National Park, in Texas, we had hearings about 6 weeks ago in which it was pointed out that the timber cutters are coming in and clear-cutting these valuable stands of timber, to be lost for at least a century or so, an irreplaceable treasure, but we cannot acquire the park because we do not have the money. So it is with park after park—Cuyahoga, Chattahoochee, you can go down the list almost ad infinitum.

Why this seeming inconsistency of not being able to afford $26,400 an acre for Chesterbrook when we are spending even more than that for the inholdings which we are acquiring in Valley Forge? The answer is quite simple. We are acquiring a set of inholdings as if it were in the already existing park. There are some 10 different tracts, most of them fairly small in acreage, which constitute private ownership in the midst of a publicly-owned park. Those inholdings, as in the case of some national parks, must be acquired in order to make one contiguous, homogeneous plot of Federal park-land. It is not as if we were acquiring big additions to the park; rather, we are removing blights from within the already existing State park which the Federal Government will acquire.

Mr. President, I am sorry we do not have the unlimited resources that we would need to be able to acquire tracts like Chesterbrook. It is because of that lack of resources, it is because we are behind in our park acquisitions. It is because of the higher priorities of other areas that the Committee on Interior and Insular Affairs, if I recall correctly, with only one dissenting vote, voted against the acquisition of Chesterbrook land. It is for that same reason that the Secretary of the Interior advised us against acquiring the Chesterbrook land because it was too high a cost and too low a priority.

Mr. President, I hope the Senate will concur with the judgment of the Committee on Interior and the judgment of the Secretary of the Interior and also, for one additional reason, I hope the Senate will concur. That is that in order to pass this bill now, we must pass it in the House-passed form. That will allow it to become law virtually immediately and in time for July 4. I have a good idea that the distinguished Senator from Pennsylvania, who has worked so hard on this project for a very long time, would like to take the Valley Forge National Park back as a well-deserved present to both himself and the people of Pennsylvania and to celebrate it there on July 4, 1976, the Bicentennial of this Nation.

Mr. HANSEN addressed the Chair.

The PRESIDING OFFICER. Does the Senator from Idaho yield time?

Mr. HANSEN. I ask unanimous consent that I may proceed for just 30 seconds.

Mr. JOHNSTON. Mr. President, I yield to the distinguished Senator from Wyoming such time as he may require from my time on the bill.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. HANSEN. Mr. President, let me observe that I know of some misgivings, some real misgivings, that the distinguished junior Senator from Louisiana, and the manager of this bill, has about some of the provisions in the House bill which has now, by unanimous consent, been incorporated into S. 1776.

I want to take this occasion to thank him in foregoing the misgivings he has in order that this bill can find its day and hopefully, may become law on July 4, 1976.

I thank my colleague and my good friend from Louisiana.

The PRESIDING OFFICER. Who yields time?

Mr. HUGH SCOTT. Mr. President, do I have time remaining?

Mr. JOHNSTON. I will yield to the distinguished Senator from Pennsylvania such time as he may require if he is out of time.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. HUGH SCOTT. I thank the Senator very much, and I particularly thank him very much for his kind words about me. This will be a matter of great rejoicing in Pennsylvania as well as elsewhere if this bill becomes law.

I have nothing to say except, in the interest of expediting the bill, to express the hope that the Senator from Idaho would be ready to proceed with his amendment. Is the Senator from Idaho prepared to go ahead with offering his amendment?

Mr. McCLURE. Mr. President, if I might respond, I would like to respond to two or three comments the Senator from Louisiana has made, before voting on the amendment.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. McCLURE. Just these words, if I may, and I do not wish to prolong this debate any more than I wish to delay passage of the legislation, but I want to point out that when it comes down to a question of priority of where we spend these limited moneys, would it not make sense, if we are really concerned about priorities, that we put the money we are going to appropriate under this bill on the property which will change in character rather than putting it on the property which will not?

We are talking about taking over from the State of Pennsylvania the administration of a park that is now preserved and is going to continue to be preserved under State management, but we cannot put money into the acquisition of lands that will change in character if they will not.

Again I will say, as I said at the outset, that the owners of that land are entitled to a decision, and they are entitled to a decision now. They waited too long for this decision, and it is not fair to them. So I am very willing that we make that decision, and we make it now, but I hope we will make the right one. That is one of the reasons, one of the two reasons, why I included in this bill a provision for legislative taking, which is a provision which I ordinarily would oppose.

The other reason is that the estimates of costs on the legislative taking provision are estimates of current market value. The estimates of costs that have been referred to, of $22 million or $23 million for the acquisition of Chesterbrook, are the estimates of costs phased over a several-year period according to the appropriations process, and that is the reason why you have a difference between some $14.3 million and $22 million. That is the reason why you see quite a different figure used for the costs of Chesterbrook.

I would point out, too, that we have within this bill already several millions of dollars for the acquisition of inholdings; we already have from OMB an informal, tacit approval for up to $12 million for Chesterbrook. We could never get any further than that.

We had commitments from local government in one form or another for an additional $2.3 million. Whether that is available or not I do not know, and I gave up trying to find out because that changed almost daily.

But I do know that when the Valley Forge Park Commission, the local body that is interested in the administration of this park and knows most about it, drew up their lists of priorities, they came in with a list of three for immediate acquisition, two for long-range planning, and four for areas to be explored.

Heading the list, ahead of all others in the minds of the Valley Forge Park Commission, was the acquisition of Chesterbrook. All of the others on that list followed it, and our bill takes all but two of every item below Chesterbrook and ignores Chesterbrook.

We can find the money to do the things that have less priority, we give the money to things that have lower priority; we do not give the money to the thing that has the highest priority, and that seems to me to be a curious inversion.

But again I say that if we are to act on Chesterbrook it must be now because we will not have that opportunity later. I recognize the dilemma that the distinguished Senator from Louisiana faces as he tries to meet all of the needs across the country, and I share his concern that the Land and Water Conservation Fund is not as large as it ought to be. I have joined in the efforts he has made in the past, and I will join in the efforts he will make in the future, to get more money into that fund because I think the need is great and we are losing irretrievably some opportunities for historic park and natural acquisitions and preservation that we otherwise would have.

Mr. President, if there be no further debate on the amendment, I would be prepared to yield back the remainder of my time and proceed to a vote on the amendment.

Mr. JOHNSTON. Mr. President, I yield back my time.

The PRESIDING OFFICER. All time has been yiedled back. The question is on agreeing to the amendment of the Senator from Idaho. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ABOUREZK (after having voted in the affirmative). On this vote I have a pair with the distinguished Senator from Washington (Mr. JACKSON). If he were present and voting, he would vote "nay." If I were at liberty to vote, I would vote "yea." I withdraw my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from Idaho (Mr. CHURCH), the Senator from Michigan (Mr. PHILIP A. HART), the Senator from Hawaii (Mr. INOUYE), the Senator from Washington (Mr. JACKSON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Washington (Mr. MAGNUSON), the Senator from Arkansas (Mr. McCLELLAN), the Senator from Missouri (Mr. SYMINGTON), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I also announce that the Senator from Indiana (Mr. BAYH) is absent because of illness.

I further announce that, if present and voting, the Senator from Washington (Mr. MAGNUSON) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from New York (Mr. BUCKLEY), the Senator from Arizona (Mr. GOLDWATER), the Senator from Nebraska (Mr. HRUSKA), the Senator from Alaska (Mr. STEVENS), and the Senator from Ohio (Mr. TAFT) are necessarily absent.

I further announce that, if present and voting, the Senator from Ohio (Mr. TAFT) would vote "nay."

The result was announced—yeas 10, nays 73, as follows:

YEAS—10

[Rollcall Vote No. 278 Leg.]

Baker
Bellmon
Clark
Garn
Helms
Laxalt
McClure
Nelson
Percy
Scott,
William L.

NAYS—73

Allen
Bartlett
Beall
Bentsen
Biden
Brock
Brooke
Bumpers
Burdick
Byrd,
Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Cranston
Culver
Curtis
Dole
Domenici
Durkin
Eagleton
Eastland
Fannin
Fong
Ford
Glenn
Gravel
Griffin
Hansen
Hart, Gary
Hartke
Haskell
Hatfield
Hathaway
Hollings
Huddleston
Humphrey
Javits
Johnston
Leahy
Long
Mansfield
Mathias
McGee
McGovern
McIntyre
Metcalf
Mondale
Montoya
Morgan
Muskie
Nunn
Packwood
Pastore
Pearson
Pell
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Sparkman
Stafford
Stennis
Stevenson
Stone
Talmadge
Thurmond
Tower
Weicker
Williams
Young

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Abourezk, for.

NOT VOTING—16

Bayh
Buckley
Church
Goldwater
Hart, Philip A.
Hruska
Inouye
Jackson
Kennedy
Magnuson
McClellan
Moss
Stevens
Symington
Taft
Tunney

So Mr. McCLURE's amendment was rejected.

Mr. HUGH SCOTT. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ADDITIONAL STATEMENTS SUBMITTED

Mr. HUGH SCOTT. Mr. President, every legislative effort to nationalize Valley Forge Park since 1883 has been unsuccessful. I deem it appropriate at this moment to thank Senator J. BENNETT JOHNSTON, chairman, Senate Interior Parks and Recreation Subcommittee as well as Senator CLIFFORD P. HANSEN, Ranking Minority Member, for their superb efforts and leadership in reaching this historic milestone.

My sincere thanks to Jim Beirne, Senate Interior counsel, and Tony Bevinatto, legislative assistant to Senator HANSEN, for their excellent staffing, thoroughness—and patience. All who worked to achieve the mission of S. 1776 deserve great credit for promoting the true spirit and significance of Valley Forge. And I will be forever grateful.

More will occur in the future than the mere changing of signs to reflect the national designation of Valley Forge Park. Inadequate administration of the State park will be replaced with those Federal resources and expertise necessary to capture and convey the feeling of that bitter winter of 1777–78. Upon leaving Valley Forge National Historical Park the visitor will be very much aware that this truly is hallowed ground.

Mr. HATFIELD. Mr. President, I was pleased to join with the Senator from Pennsylvania (Mr. HUGH SCOTT) as a cosponsor of S. 1776, which will provide the Federal recognition and protection which Valley Forge Park deserves.

I know of Senator SCOTT's concern about the need to protect those areas and sites of historical importance for future generations and I share that concern. Far too many sites which are symbolic of an event or period of our history have been lost, so that the only record is in the history books. Here we have an opportunity to preserve a part of the American Revolution.

It is my hope, Mr. President, that this legislation will be enacted into law this year and that following its enactment, the Department of the Interior will move quickly to provide Valley Forge with the manpower necessary to manage it in an adequate manner. In a recent letter, Senator HUGH SCOTT quoted the chairman of the Valley Forge Park Commission as saying that there is no historian at the park. This certainly should be rectified with Federal management.

I know that other Members of this body share my respect and esteem for the senior Senator from Pennsylvania. This legislation is another example of excellent public service he has provided to the people of Pennsylvania and to all Americans. Future generations will be grateful for Senator HUGH SCOTT's leadership, and I am grateful to have had the opportunity to support him in this particular effort.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on the third reading of the bill.

The bill (H.R. 5621) was ordered to a third reading, read the third time, and passed.

Mr. JOHNSTON. Mr. President, I move to indefinitely postpone S. 1776.

The motion was agreed to.

Mr. HUGH SCOTT. Mr. President, I again renew my thanks to the distinguished Senator from Louisiana (Mr. JOHNSTON) and the distinguished Senator from Wyoming (Mr. HANSEN), and thanks to the courtesy and understanding of the distinguished Senator from Idaho (Mr. McCLURE), and to all of the members of the staff on both sides of the aisle who made possible this bill, especially to my own aide Rita Pfeiffer, who worked hard on this measure from the beginning, and it really should be her bill.

Mr. JOHNSTON. Mr. President, I thank the distinguished Senator from Pennsylvania, and I can say from a viewpoint of some knowledge that this bill would not now be becoming law were it not for the efforts of the distinguished Senator from Pennsylvania. It is a great tribute to him, the people of Pennsylvania, and the Nation that we are able to complete this great work in this Bicentennial Year, and it is due to the efforts and long hard work of the Senator from Pennsylvania.

INTERNATIONAL SECURITY ASSISTANCE AND ARMS EXPORTS CONTROL ACT OF 1976–1977

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of the unfinished business, S. 3439, which the clerk will state.

The legislative clerk read as follows:

A bill (S. 3439) to amend the Foreign Assistance Act of 1961 and the Foreign Military Sales Act, and for other purposes.

Mr. CLARK. Mr. President, I ask unanimous consent that Marianne Albertson of my staff be accorded the privilege of the floor during consideration of the pending measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that a member of my staff, Mr. Robert Turner, be accorded the privilege of the floor during consideration of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRIFFIN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. CLARK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. ALLEN. I object.

The PRESIDING OFFICER (Mr. FORD). Objection is heard.

The assistant legislative clerk continued to call the roll.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. FORD). Without objection, it is so ordered.

Mr. HUMPHREY. Mr. President, I want to express my thanks to the Senator from Alabama for his cooperation in this matter. We have had some good discussions during the time of the quorum call. I think we can make some progress today on the pending legislation.

It is my understanding, Mr. President, that the bill has been laid before the Senate?

The PRESIDING OFFICER. That is correct.

Mr. HUMPHREY. Mr. President, we are now on Senate bill 3439?

The PRESIDING OFFICER. That is correct.

Mr. HUMPHREY. Mr. President, our plan of action today would be that we would proceed with certain amendments relating to the body of the bill and holding back on some of the amendments on the African section until later on in the day. Possibly we will be going on into another day on that, or longer. But we can make some progress.

I again want to say that we have had the cooperation of the Senator from Alabama on this matter. He has some very strong feelings about certain sections of the bill, which I fully respect. I believe we can proceed to make some genuine progress.

Mr. President, while we are waiting for the Senator from New Jersey, I believe Senator PELL had a matter he wanted to discuss.

Mr. PELL. I thank the Senator very much.

Mr. President, I would like to address a question to the able floor manager of the bill regarding assistance to Greece and Turkey.

All sums earlier requested by the administration for Greece and Turkey were deleted from this bill because proposed agreements with those countries, dealing with bases and military aid, will be submitted to Congress soon.

I understand the reasoning behind such a deletion, the argument being that all aid to these countries should be looked at in the context of the upcoming agreements. But as the Senator knows, I have strong reservations about the advisability of those agreements being entered into at all. I am concerned that any deviation from a business-as-usual approach to aid to Turkey and Greece could give the impression that the Senate has already made up its mind to support those agreements.

The House has taken the view that aid to Greece and Turkey should be included in the military assistance bill. A similar approach by the Senate would make it clear that approval of base and aid agreements with Greece and Turkey will not necessarily take place.

As the Senator knows, I am no enthusiast for assistance to Turkey, but I do think, by having a blank in here, it could indicate a tipping of the scales in that direction.

My question is to ask, if the Senate does agree to delete aid to Greece and Turkey, could the distinguished Senator from Minnesota state whether such a deletion connotes anything in terms of the Senate's position on the proposed agreement, and whether deletion of funds in this bill is likely to put pressure on the Senate to approve the agreements.

Mr. HUMPHREY. I want to respond very candidly that there surely is to be no presumption that the fact that the Senate did not include items and figures for Greece and Turkey on military assistance in any way is a recommendation for the agreements. The agreements must be debated and considered on their merits, because there is more in those agreements than simply money, and I want it clear that any action by the Senate as proposed in the bill before us in no way prejudices the case.

I have had some serious doubts myself, as the Senator knows, about some of the items in those agreements, but they will have to be acted upon on the basis of what is in those agreements. Any sums that are required would have to be authorized. The appropriations would have to be made.

Might I say, further, that since the House of Representatives does have language, as Greece and Turkey there is still basis for discussion.

Mr. PELL. If the bill is approved in this way, there is no presumption then that we are going to move ahead with Greece and Turkey through these military assistance treaties.

Mr. HUMPHREY. Not unless the committee so recommends and the Senate and the House of Representatives so agree.

Mr. PELL. I thank the Senator.

Mr. BUMPERS. Mr. President, I shall discuss briefly with the floor manager three or four items which I cannot fully comprehend, because I was not a member of the committee and, of course, have not had an opportunity to discuss what went into the deliberations in designing section 211 of this bill.

My concern and my questions, I suppose, are essentially these, and I would appreciate some comment from the distinguished Senator from Minnesota.

First, how many kinds of military assistance are anticipated under this bill? I noticed some were under letters of credit and some under guarantees, and so on.

Second, what kind of rights of disapproval do the two Houses of Congress have, and how are those rights exercised?

Mr. HUMPHREY. On the latter, the two Houses have the right by means of a concurrent resolution to disapprove certain sales within a period of 30 days.

Mr. BUMPERS. That is after the President submits his report to the chairman of the Committee on Foreign Relations of the Senate and to the Speaker of the House of Representatives.

Mr. HUMPHREY. That is correct.

Mr. BUMPERS. The two bodies then have 30 days.

Mr. HUMPHREY. In which to disapprove.

Mr. BUMPERS. By concurrent resolution.

Mr. HUMPHREY. By concurrent resolution which, of course, is not the subject of Presidential veto or signature.

Mr. BUMPERS. All right.

What amounts of aid are required before Congress must be notified under this procedure?

Mr. HUMPHREY. Anything of $25 million and over and any sale of major defense equipment over $7 million.

Mr. BUMPERS. There is one thing in the bill that was a little confusing to me.

Mr. HUMPHREY. This review provision relates, as the Senator knows, to military sales. The military assistance portion of the bill, the grant portion is very modest in the bill, and that is not subject to any limitations, but the amounts of that are very modest.

Mr. BUMPERS. One of the things that was a little confusing to me was in the first part of the bill, if the Senator would look at page 30, section 36 refers to reports on commercial and governmental military exports. I take it that that is not——

Mr. HUMPHREY. To what page does the Senator refer me?

Mr. BUMPERS. Page 30 of the bill.

Mr. HUMPHREY. Yes.

Mr. BUMPERS. At the bottom under subsection (1) the Senator will see the language—where the President is required to make these transmittals to the Speaker of the House of Representatives and to the chairman of the Committee on Foreign Relations of the Senate—saying that that transmittal shall contain:

> . . . a listing of all letters of offer to sell any major defense equipment to be sold for $1,000,000 or more under this Act to each foreign country and international organization, by category, if such letters of offer have not been accepted or canceled; . . .

Mr. HUMPHREY. Right. This is not a concurrent resolution review provision but simply a reporting requirement designed to keep the Congress informed on the volume and type of military sales that are contemplated or have been consummated.

Mr. BUMPERS. Would it be fair to conclude, then, that Congress will be notified on all sales of $1 million or more, but that the concurrent resolution rights of disapproval would apply only to sales of $25 million or more?

Mr. HUMPHREY. That is correct.

Mr. BUMPERS. I thank the Senator.

I have one other question.

I was curious as to some of the language in the bill. Will the Senator give me just a second here to find it again?

It says on page 33, if the Senator will turn to page 33——

Mr. HUMPHREY. I have that, yes.

Mr. BUMPERS. Under subsection (b) (1), it says:

> In the case of any letter of offer to sell any defense articles or services under this Act for $25,000,000 or more, or any major defense equipment $7,000,000 or more, . . .

I am curious if there is some definitive distinction between "defense articles or services" and any "major defense equipment." In other words, what is the difference between "major defense equipment" and "defense articles"?

Mr. HUMPHREY. That is defined, may I say, in a Department of State publication entitled "International Traffic on Arms Regulations." Major defense equipment goes beyond what one might call just ordinary vehicles or items that have no combat usefulness. We have a bulletin. The "International Traffic" publication identifies what we call major defense items and those defense items of an electronic nature, such things as the Hawk missile, that we call the more offensive capability weaponry. We felt that we ought to have a hold on those items at least for information purposes so that we have some idea of what was going into the different countries that might in some way destabilize the military situation in that area.

This has been worked out with the complete cooperation of the Department of Defense. We had quite a struggle over this issue and finally resolved it with General Fish, who is in charge of arms sales in the Department of Defense.

Mr. BUMPERS. I thank the Senator for that information.

Finally, and I do not wish to anticipate the amendment of the Senator from Alabama regarding assistance in Africa, but, as I understand the present situation in the comparable House bill, $85 million is appropriated for southern Africa, of which $30 million would be specifically earmarked for Zaire.

Mr. HUMPHREY. $30 million for Zaire and $30 million for Zambia.

Mr. BUMPERS. And $30 million for Zambia.

Mr. HUMPHREY. $25 million for other countries in southern Africa.

Mr. BUMPERS. All right.

First, in the House bill how is the additional $25 million to be distributed and, second, how does this whole thing vary? How does the Senate bill vary from that?

Mr. HUMPHREY. May I have the RECORD of the other day. In the Senate bill we modified the section as it originally came to the Senate from the Committee on Foreign Relations.

In our debate a week or so ago, I offered an amendment of modification of the section, if the Senator will turn to page 81 of the bill, pages 80–81, under supporting assistance, section 532 in subsection (b). The language would read as follows:

> There is authorized to be appropriated to the President for the fiscal year 1977, $25 million for security supporting assistance and economic assistance for countries in southern Africa other than Zaire and Zambia affected by the crisis in that region. Such sums are authorized to remain available until expended. None of the funds provided in this subsection may be used to finance directly or indirectly military or paramilitary activities by any government outside of its borders.

So we tightened up that section on page 81, subsection (b), and we struck the language about carrying out the proposals of the Secretary of State. We made it very clear that none of the funds provided here in this subsection may be used to finance directly or indirectly military or paramilitary activities by any government outside of its borders.

So that was adopted by rollcall vote in the Senate.

Mr. BUMPERS. As a practical matter, do we have any kind of control other than a subsequent sanction if that provision is violated?

Mr. HUMPHREY. There are one or two controls that we have. First of all, it is to be, hopefully at least, presumed that those who administer this section will keep in mind and understand the mandate of the Senate and Congress that this money is not to be used directly or indirectly to finance military, paramilitary, or guerrilla activities.

In addition, our own committee as well as the appropriations committees of Congress, as the Senator will see from the debate, if he looks at the legislative history, will be looking into whether or not this subsection is being fulfilled faithfully.

Mr. BUMPERS. It is the position of the committee, I assume, that we are not talking about the use of these arms. Perhaps there is a different law. I was under the impression that it was in a different law——

Mr. HUMPHREY. None of the money in this section is for arms. It is all for economic assistance. There are no armament shipments and no munitions. None of this is for arms. This is economic assistance, budget support.

Mr. BUMPERS. The way I understand it, the Africa money is not to be given to any country which engages in paramilitary activities and guerilla tactics. Is that correct?,

Mr. HUMPHREY. That would be my interpretation.

Mr. BUMPERS. I thank the Senator for his candor in response to these inquiries.

Mr. HUMPHREY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1817

Mr. PELL. Mr. President, on behalf of Senator KENNEDY, who is absent at a funeral, and various other Senators, I call up his amendment No. 1817.

The PRESIDING OFFICER (Mr. NUNN). The amendment will be stated.

The legislative clerk read as follows:

> The Senator from Rhode Island (Mr. PELL), for himself, Mr. KENNEDY, Mr. DURKIN, Mr. CLARK, and Mr. MONDALE, proposes an amendment numbered 1817.

Mr. PELL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On page 70, strike out lines 7 through 9, and insert in lieu thereof the following:
>
> "SEC. 402. Section 495 of the Foreign Assistance Act of 1961 is amended by striking out the period immediately after '$30,000,000' and inserting in lieu thereof a comma and the following: 'and for the fiscal year 1977, $25,000,000.' ".
>
> On page 80, line 17, strike out "$1,766,200,000" and insert in lieu thereof "$1,756,200,000".

Mr. PELL. Mr. President, I also ask unanimous consent to have printed in the RECORD a statement by the Senator from Massachusetts (Mr. KENNEDY) which he would have made had he been here to call up the amendment himself.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR KENNEDY

The amendment I am introducing, cosponsored by Senators PELL, DURKIN, CLARK, and MONDALE, sustains U.S. humanitarian assistance to the refugees and other needy people on Cyprus.

The plight of the people of Cyprus, torn from their lands and their homes by the Turkish invasion in 1974, has now been crowded off the pages of our newspapers by newer problems in other areas of the world. And there is a tendency to forget Cyprus, and the tens of thousands of homeless refugees on the island—perhaps because so little has changed over the past two years, and months of stalemate and frustration have followed.

However, thanks to the energy of the people of Cyprus, and the support of the United States and the International Community, the immediate relief requirements of the refugees and others in need have now been largely met. But serious humanitarian problems remain, and the process of rehabilitation and recovery has still just begun.

Not only have no Cypriot refugees returned to their homes, but new refugees have been created as the Turkish army has expelled Cypriot-Greeks from their homes in the occupied zone. And tens of thousands of refugees still remain in temporary shelters—some have been under tents for almost two years—and nearly all live in crowded conditions.

Although the economy of Cyprus has remarkably improved in the past year, the massive economic dislocation and loss caused by the Turkish occupation of 40% of the island has only partially been restored.

In short, all observers—the United Nations, voluntary agencies, and U.S. personnel in Nicosia—all agree that there remain serious humanitarian problems on Cyprus, and these needs continue to be a source of deep concern to many Americans.

Regrettably, this concern is not fully reflected in the administration's request for Cyprus for this coming fiscal year. The current request for $10 million reduces by more than half the funds available to Cyprus in 1977, and I believe it seriously neglects the real needs of the people of Cyprus. Furthermore, this reduction will come at a particularly crucial point in the effort to promote diplomatic negotiations to resolve the Cyprus problem, and to finally bring peace and relief to the Cypriot people.

CONTINUING RELIEF NEEDS

Mr. President, all recent information from Cyprus indicates that there are urgent humanitarian needs among many refugees and others affected by the Turkish invasion and occupation. The Cyprus Government, for example, estimates that the direct costs for continued refugee relief and rehabilitation will be well over $110 million in 1977; other estimates put the cost only slightly lower. In either case, all estimates, from all quarters, place the costs in the tens of millions of dollars.

The Government of Cyprus, which has a proven record of performance in assisting the refugees over the past two years, estimates refugee assistance will be required in the following areas, as outlined in table 1:

TABLE 1.—*Estimated needs for Cyprus refugees: Calendar year 1977*

Housing	$50,000,000
Food	23,000,000
Cash allowance	8,000,000
Welfare	2,000,000
Household items	4,000,000
Health care	1,000,000
Education	8,000,000
Reactivation projects	15,300,000
Loans	$3,000,000
Handicrafts	300,000
Agriculture	10,000,000
Reforestation	2,000,000
	111,300,000

Source: Cyprus Government.

Although a number of refugees have found employment, or at least partial employment, refugee food and relief assistance is still required for many. This is due to the fact, first, that new refugees have been created, as nearly 13,000 Cypriot-Greeks have been expelled from their homes in the Turkish occupied area; second, because the underemployed, all require assistance; and third, because only minimal food needs have been met to date, the government now seeks to up-grade the quality of the food assistance program. The estimated cost for this food program for 1977 will be some $30 million alone—or more than my amendment will provide.

In addition, Mr. President, there are a number of urgent rehabilitation projects that require funding—some of which remain from last year. These include projects for housing refugees, for social welfare, health, education, among others.

Last October—during the period when staff members of the Subcommittee on Refugees visited Cyprus—the Government of Cyprus formally submitted to the U.S. Embassy in Nicosia, through the U.N. high commissioner for refugees, an extended list of refugee projects totaling some $93 million for 1976. These projects were considered the minimum needed, and they were in addition to many other relief programs being undertaken for the refugees by the government.

Thus, early in this fiscal year, officials in the Agency for International Development (A.I.D.) were fully informed of the project needs the Cyprus refugees. Congress had generously ear-marked $25 million in the previous fiscal year which, under the continuing resolution, on a quarterly basis, was available, for Cyprus relief. Yet not a dime of these funds were made available until this past month—and then only $10 million.

The needs of the refugees were there. The U.N. projects were submitted. The government of Cyprus was ready to implement them. Congress, through the continuing resolution, and in consideration of this fiscal year's budget, was providing the funds. The only thing missing was A.I.D.'s effective use of these funds to meet the needs of the refugees.

Now A.I.D. officials tell us that because they failed to use the funds last year, there will be carry-over funds, and we should reduce our assistance to Cyprus—by more than half—to $10 million for fiscal year 1977.

In short, the refugees of Cyprus are to be penalized because of the extremely slow and bureaucratic response of A.I.D. in meeting the humanitarian requirements of the refugees on Cyprus. Mr. President, this is not a justification for cutting Cyprus relief, but an excuse for past failure to use expeditiously humanitarian relief funds that were available.

I believe the Senate must reject this bureaucratic excuse for not providing sufficient funds to help meet the relief and rehabilitation needs of the refugees of Cyprus.

Mr. President, this coming year could be a crucial year for peace on Cyprus. If the new initiatives by Secretary of State Kissinger do help to produce a settlement Cyprus will certainly require more assistance—not less. We can hardly ask the people of Cyprus to face the tough and difficult negotiating task of reaching a settlement that may involve the dislocation of its people, at the same time we are cutting our aid to the refugees.

And what kind of message will we send the refugees of Cyprus if, during this difficult period, we cut humanitarian assistance in their behalf, at the same time we provide in the pending bill additional military aid to Turkey?

Mr. President, my amendment will assure that the help and concern offered so generously by Congress and the American people since the invasion of Cyprus in 1974 will continue this fiscal year at the same level as last year. Until there is an honorable and just resolution of the Cyprus crisis—until the refugees are able to return to their homes or receive just compensations for their loss—I believe we have a clear humanitarian obligation to help meet, to the extent we can, their rehabilitation and recovery needs.

Mr. PELL. Mr. President, this amendment would authorize $25 million in the disaster relief and rehabilitation account for Cyprus. At the same time, it would cut $10 million from the administration proposal in the general security supporting assistance part, and it would cut the $10 million increase for fiscal 1976 which was talked about but for which there is no appropriation, and it is not a line item. The general effect is that it reduces the two authorizations by $20 million and then provides a $25 million authorization for fiscal year 1977.

I can see room for possible compromise here, which I discussed with the Senator from Minnesota.

Mr. HUMPHREY. Yes. I say to the Senator that if he could get that figure back to the $20 million, with the understanding, of course, that this is not really an addition to our overall budget outlays but a transfer of funds, then we see no reason not to accept it.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. PELL. I yield.

Mr. JAVITS. From what is the Senator deleting the $20 million?

Mr. HUMPHREY. It is not deleting, it is shifting. It was an understanding in the oral presentation of the language of the bill. What it really does is to earmark funds for fiscal year 1977, to make sure that there is the use of these funds.

Mr. JAVITS. Fine. I am satisfied.

Mr. PELL. I move that the amendment be modified so that the total amount is $20 million in lieu of $25 million.

Mr. CASE. That is quite satisfactory.

Mr. HUMPHREY. I agree.

The PRESIDING OFFICER. Is there objection? The Chair hears none.

The amendment is so modified.

Mr. PELL. I point out that by doing it this way, it will negate any problem with regard to the budget ceiling, because the authorization remains exactly the same. I ask that the amendment as modified be accepted.

Mr. HUMPHREY. It has been voted upon; is that correct?

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment, as modified, was agreed to.

Mr. CASE. I move that the vote by which the amendment was agreed be reconsidered.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PELL. I thank my distinguished colleague, the floor manager of the bill, and the ranking minority member.

AMENDMENT NO. 1670

There is one other amendment that we discussed that I call up. That is my amendment providing that a concurrent resolution may be utilized to cut off military assistance in the event of human rights violations and in the event that military assistance is used for purposes contrary to agreements entered into with the United States.

The PRESIDING OFFICER. The clerk will state it.

The second assistant legislative clerk proceeded to read the amendment.

Mr. PELL. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 53, lines 16 and 17, strike out "at any time thereafter adopt a joint resolution" and insert in lieu thereof "within ninety calendar days after such report is transmitted, adopt a concurrent resolution".

On page 53, line 18, strike out "joint" and insert in lieu thereof "concurrent".

On page 63, line 12, strike out "joint" and insert in lieu thereof "concurrent".

On page 65, line 21, strike out "joint' and insert in lieu thereof "concurrent".

On page 66, line 4, strike out "joint" and insert in lieu thereof "concurrent".

Mr. PELL. The purpose of the amendment is twofold—somewhat disparate in substance, but both relating to the procedural question of whether it takes a joint resolution or concurrent resolution for Congress to take action. As we know, if it is by joint resolution, the President has the authority to veto. If it is by concurrent resolution, it stands in law, no matter what the President does. I am aware of the problem that the administration has with concurrent resolutions and its intense distaste for them. What my amendment does is provide, that in any question of cutting off aid to countries for human rights reasons, such action should be by concurrent resolution as opposed to joint resolution.

My amendment also provides that when weapons are used for illegal purposes, it will take a concurrent resolution to make sure that no further aid is given to that country.

What this means in brief and specifically is that where there is, as there is now, Turkish use of American weapons, contributed to them, on Cyprus, completely against American law and illegally, Congress can, by concurrent resolution, withhold further assistance to Turkey until that matter is remedied. If it were done by joint resolution, it would then mean that the administration would veto the action of Congress.

Mr. ALLEN. Will the Senator yield for a question?

Mr. PELL. Yes.

Mr. ALLEN. How would the Senator's amendment affect a situation such as in Mozambique, which is a police state where human rights are not respected, which is a Marxist state which has concentration camps, where the rights of individuals are not protected, where human rights are violated every day and constantly and continually? How would the Senator's amendment affect that situation?

Mr. PELL. It would have equal effect. Whenever there is a pattern of gross violation of civil rights, it would apply no matter whether it was Mozambique or Chile or whetever it was. It does not make differences between whether human rights are being violated in Fascist states or violated in Communist states.

Mr. ALLEN. On the situation that we are confronted with now where, under the bill, money is being appropriated for Mozambique and Zaire and Zambia, where human rights are not protected, does the Senator think it right, in view of the sentiment expressed by his amendment, that millions of dollars, some $85 million in all, is being appropriated for such a nation?

Mr. PELL. I am not as familiar with the situation in Africa as I probably should be. But if there is a consistent pattern of gross violation of human rights, then it would be applicable. We are not getting into the whole question of the aid bill at this time. We are talking about this particular amendment, which I should think would enjoy the support of the Senator from Alabama.

Mr. ALLEN. Yes, and I want to implement the sentiment of it by withholding aid from Communist nations.

Mr. PELL. If it is really true that there is a pattern of gross violation of human rights in the countries the Senator mentioned and if that can be established, he does not have to worry about anything else, because, if my amendment is accepted, he could have that fact established and aid would be withheld.

Mr. ALLEN. But the Senator's action would be post action. It would be trying to stop the aid after it started. Why would it not be sounder to stop the aid before it is ever given?

Mr. PELL. I think it is better not to point out countries, but to have the basic law on the books that this applies to violation of human rights no matter where the country is. The Senator can press his own amendment as well, but frankly his would be redundant if this amendment is really accepted and carried out and in force.

Mr. ALLEN. And carried out, yes.

Mr. PELL. Right. I personally, speaking as one Senator, think it should be carried out just as much in Mozambique, if a pattern of gross violations can be established there, as in Chile or any other nation.

Mr. ALLEN. But the Senator thinks we ought to wait and apply the sanctions more or less afterwards, give them the benefit of the doubt that they are not an oppressive regime and then find out about it later.

Mr. PELL. As I say, the Senator's amendment would take it up first. Mine would take it up later. But mine covers the world, and the Senator's covers two or three countries in Africa. That is the difference. He can do both if he wishes.

Mr. ALLEN. The Senator will not look with favor, then, upon deciding the question before it is committed.

Mr. PELL. No, because I look forward to the debate as to the extent of human rights violations in those countries in Africa.

Mr. ALLEN. It seems to me the amendment as to these nations, then, would be completely meaningless.

Mr. PELL. I do not think so. All the Senate has to do is prove these patterns of gross violations of human rights.

Mr. ALLEN. How can we prove it later? I am trying to prove it now. We debated this 2 weeks ago and I pointed out the conditions there in Mozambique, but it had no effect.

I thank the Senator, I shall support his amendment.

Mr. PELL. I thank the Senator.

Mr. HUMPHREY. Mr. President, in this connection I wish to call attention to section 303 of the bill before us is known as the ineligibility section. That section amends section 505(d) of the Foreign Assistance Act. Under the new paragraph (2) of 505(d) in this bill, grant assistance would be terminated if the President so notifies Congress in writing or by the enactment of a joint resolution. Furthermore, nothing in this section is intended to limit the scope of section 617 of the Foreign Assistance Act, relating to the termination of assistance.

This particular feature of our bill requires that the President report to Congress promptly upon receipt of information that a violation described in the text of the bill may have occurred.

A new paragraph provides that grant military assistance and deliveries of assistance shall be terminated to any country which uses defense articles and defense services furnished under the act or any predecessor act, in substantial violation, either in terms of quantities or in terms of the gravity of the consequences regardless of quantities involved, of the provision of any agreements entered into pursuant to any of these acts.

I simply want to say to the Senator from Rhode Island, if I may have his attention, that we have strengthened existing law considerably in the bill.

Second, insofar as the human rights section is concerned, this is a new endeavor in this area. The bill that the President vetoed, which compelled us to go over this job once again, was vetoed in part because we had insisted upon a concurrent resolution feature in the human rights section. What we have done in the human rights section in the Senate bill is to provide a joint resolution rather than a concurrent resolution, but the House of Representatives has a concurrent resolution procedure. I have told the Senator from Rhode Island, as I have explained to the Senator from California and the Senator from South Dakota, we want a concurrent resolution feature, but we also want a bill that has something more in it than just this human rights section.

We are dealing with a $12 billion arms industry here, and we have features in this bill that are very important, and we do not want another veto and, therefore, if we can have some time to work with our colleagues in the House, we can ascertain whether or not receding to the House amendment on concurrent resolution would seriously jeopardize the bill or whether the President would be willing to sign it.

My appeal here is to remember that this is a very broad piece of legislation, and we have spent months trying to get it out. The administration does not want any legislation. They are looking for ways to avoid it, and I do not want to give them more targets than they presently have.

They want to be able to sell weaponry from the Department of Defense on the ordinary basis as we have in the past. The weapons industry today is a $12 billion industry, where a few years ago it was $1 billion or $2 billion.

We have got features in this bill that give reporting procedures to Congress, keep us informed as to what is going on; to provide for certain concurrent resolution checks or vetoes by Congress on military sales.

I say to my colleagues that no one wants this human rights section stronger than those members of the committee and, particularly, the manager of this bill, the distinguished Senator from New Jersey and the distinguished Senator from New York, and others. Give us the chance to work with our colleagues in the House. If we think we can get by and still get a bill signed with the concurrent resolution features, we will be glad to accept the House language. That is what we would like to do. But to have it locked in to a point where we may very well be just inviting another veto, I suggest would not be the most mature legislative procedure.

Mr. CASE. Mr. President, will the Senator yield?

Mr. HUMPHREY. Yes.

Mr. CASE. I want to support completely what the chairman of our subcommittee just said. It is a question with which we are faced: Do you want to destroy the chances of the better by seeking for the best? We have been through this before. We have expressed our view on the earlier bill. Those of us who introduced this whole concept into the bill had it the way to which the Senator now seeks to return.

We supported that in committee; we got it passed on the floor. It was in the conference report. It is one of the reasons why, as the Senator from Minnesota has said, the President vetoed the bill.

Now we are not giving up entirely on this, as the Senator also said. All we want to do is have this presented in a fashion not satisfactory to us but which will enable us to keep the issue alive until the conference, that is to say, the last legislative time we will have to consider this and to weigh against the possibility of no bill the necessity of accepting something less than we all want.

I hope the Senator from Rhode Island will see that this is a desirable method of approach, because it seems to those of us on the subcommittee so clear that we are taking the only possible course unless we want to let the whole thing go down the drain.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. HUMPHREY. Let me yield first on this side, if I may, to the Senator from South Dakota.

Mr. ABOUREZK. If the President is worried about a $12 billion annual arms industry, it seems to me that the Senate ought to take its responsibilities a little more seriously and put conditions on the sale of those arms that would prevent the governments we are selling the arms to from oppressing their own people. That is exactly the reason for this human rights amendment.

If you have a provision that allows the President to veto a human rights provision, then it is worthless, absolutely worthless. If he is going to veto the bill because of that human rights provision, he is using that simply as an excuse. There have to be other reasons why he would veto the bill. I do not think it simply would be those particular words "concurrent resolution."

Mr. HUMPHREY. Well, that is the Senator's point of view, and I respect his point of view.

I have spent 12 months on this bill, and I think I have a pretty good idea of what the administration's point of view is. We have perfected in this bill a section on human rights that fits the very program that the Senator from South Dakota particularly and the Senator from California, and my colleague, the Senator from Iowa, Senator CLARK, and others have worked on, plus our colleagues here on this side of the aisle, Senators CASE and JAVITS.

Months of work have gone into this human rights section. We set up a special office in the Department of State; we have a reporting procedure to Congress; we have a factfinding procedure. So we are not out just talking and making speeches and guessing about the violation of human rights. We make this report to Congress, and Congress has the opportunity to cut off aid.

Let me show you what we can do. We substitute in the bill as it is before us now a joint resolution for a concurrent resolution, and I submit that it does not substantially weaken the bill, first of all, by undercutting the President's constitutional argument that a joint resolution improves the prospects for finally enacting a significant piece of human rights legislation in a foreign aid bill. What is the use of passing an amendment which, most likely, will take another veto and thereby lose not only the entire human rights section——

Mr. ABOUREZK. Mr. President, will the Senator yield at that point?

Mr. HUMPHREY. Just a minute.

Mr. ABOUREZK. Did the President veto the economic aid bill in which a good human rights——

Mr. HUMPHREY. But that bill did not contain a human rights concurrent resolution provision.

Mr. ABOUREZK. Yes, there was.

Mr. HUMPHREY. Some of the procedures for human rights in the economic aid bill came from the executive branch. Here we have an initiative in terms of the legislative branch.

Mr. ABOUREZK. If I could just stop my good friend for just a minute, the Senator is talking about the idea of a concurrent resolution as being opposed by the President.

Mr. HUMPHREY. That is correct.

Mr. ABOUREZK. Now, then, you shift to the concept of an Office of Human Rights.

Mr. HUMPHREY. It is part of the picture.

Mr. ABOUREZK. I submit that what the Senator is telling us is that he is against a concurrent resolution so that the President can veto a resolution should we decide to cut off aid because of a human rights violation.

Mr. CASE. Economic aid, if the Senator will permit, is so regarded downtown and everywhere quite differently from military assistance. You cannot compare apples and oranges in this area. Maybe they should not have a different view, but they do. That is a fact.

Mr. HUMPHREY. I want to say also in our bill that is before us you have a well developed section on human rights such as you never have had before in any other legislation.

What we have done is substitute a joint resolution. If Congress passes such a resolution, then the President is put squarely on the spot, would he veto such a resolution knowing that Congress could cut all aid in the next authorization cycle? We have the power to cut the aid. It is a question of whether you want a month or 6 months.

Mr. CRANSTON. Mr. President, will the Senator yield?

Mr. HUMPHREY. Yes.

Mr. CRANSTON. The White House has also objected, has it not, to using the concurrent resolution on government-to-government military sales and commercial military sales transactions?

Mr. HUMPHREY. Not strongly, sir.

May I say that we were able to work out, in what we thought was at least a bill that we could pass and that we could get the Presidents' signature to——

Mr. CRANSTON. That was left in.

Mr. HUMPHREY. That is correct. So any sale of $25 million or over is subject to concurrent resolution.

Mr. CRANSTON. I am glad to see the Senator from South Dakota on the floor, because he has spoken on a theme I think we should consider while we are considering this matter—that is, the habit of Presidents, which has been developing, to use the veto power more and more and more to establish a very powerful Presidency, and to reduce the role of Congress in decisionmaking.

When we get to the point where we have to have a two-thirds vote to execute the will of the majority of the House and Senate, we have a difficult time on issue after issue after issue. We have had this proliferation, this expansion, of power in the White House going on now for a long time. We all know that it led to great abuses in many places. We now have a responsibility to try to restore that balance of power and, it seems to me, one way that we have to do this is to develop a veto authority, a veto power, of our own and use that to match the President's use of the veto power. That may lead to a realization by the President that he should be a little more careful in choosing, in deciding, where to veto and where not to veto. One way we can do that is in the use of the concurrent resolution.

Mr. HUMPHREY. May I say to the Senator that I have written in concurrent resolution procedures to the bill that we passed here. We went over it time after time. We fought it out. We thought we had an understanding. We worked it out with the State Department; we worked it out with the Defense Department, and we got a veto.

No one was more irate about it because I thought it was a violation of our understanding with them. All I am trying to say here is that this bill has broad ramifications. It deals with the whole subject of arms sales. It has reporting procedures to Congress; it has veto powers for Congress. It sets up regulations relating to human rights. It sets up regulations or law relating to discrimination against American nationals who are discriminated against in other countries simply because of their race or their religion.

We have said in here—we have taken all arms sales and put them under Government control, so we have a way to know what is happening. For example every sale of $1 million or more of a major weapons system must be reported to the Congress of the United States.

There are many features in this bill that never ever have been talked about before by the administration, that they really do not want, but we have been able to convince them that this is what we are going to do.

I would like to get the concurrent resolution on the human rights section.

What I have said is that if we do not lock it in here now given that the House does have it in, and we can then go to conference with the House. If there were any reason to believe that we could pass this now and get it through without a veto, I assure the Senator that the Senator from Minnesota, who has spent his whole life in the field of human rights, would be the first person to lock that concurrent resolution into the bill.

I do not want to destroy what possibilities we have here by an act of the Senate that gives no wiggle room, so to speak. We have to trust somebody.

Mr. CRANSTON. I welcome that assurance from the Senator from Minnesota.

I know the Senator's devotion to human rights and how hard he fought for the provisions I think should be in this bill.

I think there is nothing more important than the United States use its prestige and power for human rights.

Mr. HUMPHREY. I could not agree more.

Mr. CRANSTON. Right.

Yet, if we do not take every conceivable step we can to make plain to the world what we want to be happening in the advancement of human rights in this world, what we stand for, then I think we betray the fundamental principles behind the creation of our country.

Mr. McGOVERN. Will the Senator yield?

Mr. HUMPHREY. Yes.

Mr. McGOVERN. Mr. President, first of all I want to say to the Senator from Minnesota that we join with him, as I do, in the Committee on Foreign Relations.

I certainly do not want to do anything to complicate his efforts to get an instructive bill passed and enacted into law. But the Senator from California (Mr. CRANSTON) has not only drawn attention to the importance of this human rights provision, but he has alluded to something that has concerned me very deeply. That is, the tendency that we have been moving into very rapidly the last couple of years by veto.

If my facts are right, we have had some 48 Presidential vetoes in the last 2 years. There is nothing like that in all the history of the United States.

I do not think we can find another period in the 200-year life of this Nation where any President has exercised the veto so exorbitantly.

One might have a little more patience with that if we were dealing with a chief executive who had an enormous public mandate. But here we have the paradox of a President in office who was appointed to that office by one man, without a popular mandate of his own, exercising the veto in what I think is an arbitrary and reckless fashion.

It seems to me what the Senator from Minnesota is now suggesting is that we not only have to confront the actual veto situation when it occurs, but we have to begin drafting legislation in anticipation of what might be a possible veto, and that carries the abuse one step further.

I am wondering if that does not disturb the Senator, the responsible Senator who has had long experience in the executive branch, that we have reached that kind of predicament in this Chamber.

Mr. HUMPHREY. There is no person in this body who complained louder and more often or more vociferously about the abuse of the veto power by the President of the United States, and I think he has stood in the way of the will of the elected representatives of the American people, compelling us to try to legislate with a two-thirds majority.

But I am also a realist. What I realize here is that we did pass a bill which I thought was an excellent bill. It was not easy for us to go back over this legislation, but we found out in the passing of it that we got a veto.

Mr. McGOVERN. But was it not the concurrent resolution?

Mr. HUMPHREY. The concurrent resolution, yes. It is a feature the President hangs his hat on, so to speak.

We have been able to tack on some features.

They feel it is unconstitutional proceedings and violates the separation of powers. They have all kinds of constitutional arguments.

I do not believe it. I agree, I do not like it. But I want to say, in this human rights section, for the first time in a military assistance bill and the first time in a military sales bill, we have outlined policy matters and mandates that must be fulfilled by the executive branch of Government.

We are notified ahead of time, for example, on any military sales of any consequence, and we can cut them off, we can simply say, it does violate the rights——

Mr. McGOVERN. Does the Senator know any other legislative remedy that is open to the Congress to avoid situations, other than this concurrent resolution procedure? The purpose of it is to try to give us a tool we can use to restore some balance between the two branches of Government.

No one doubts the Senator from Minnesota's commitment to human rights. He has given a lifetime to public service, to human rights.

The question is, what are we going to do about the stalemate we find ourselves in with a President who is willing to use that veto on every measure he happens to disagree with?

Mr. HUMPHREY. I have an idea—a new President—and I think we are going to do it.

Mr. PASTORE. Will the Senator yield?

Mr. HUMPHREY. I promised to yield to the Senator from Rhode Island, if I may.

Mr. PASTORE. If I understand the Senator from Minnesota clearly, what he is trying to do is give himself a little elbow room in conference.

Mr. HUMPHREY. That is correct.

Mr. PASTORE. That he agrees with the spirit of the objective of those who want to go concurrent.

Mr. HUMPHREY. That is correct. The House has the concurrent language.

Mr. PASTORE. That is right.

And all he is asking is to be given an opportunity to go back and work out something that not only will give us a bill, but accomplish our purpose.

Is that correct?

Mr. HUMPHREY. That is correct.

I have given my word—and I think I speak for my colleagues here—that if there is any way possible that we can get this legislation with the concurrent resolution procedure, we will have it.

Mr. ABOUREZK. If the Senator will yield one more time, I do not doubt his word for a minute, that he will try to get the concurrent resolution feature in conference. His statement is that he will try, but he cannot guarantee it, obviously, because he does not control the conference.

He would try and get a commitment from the White House that they would not veto this bill if we put in a concurrent resolution feature.

Mr. HUMPHREY. In that section.

Mr. ABOUREZK. On human rights.

Mr. HUMPHREY. That is correct.

Mr. ABOUREZK. I submit, it is not the human rights concurrent resolution that is causing the problem but it is the arms sale resolution.

If we refuse to take a stand and make known our priorities on the question of human rights, then we have made a statement that we do not care as much about human rights as we do about selling arms around the world. I think that is the wrong thing to say.

Mr. HUMPHREY. May I say to the Senator, the incumbent President did sign a bill that included the Nelson amendment which provides that any amount of military sales of $25 million or over may be subjected to a concurrent resolution feature by the Congress. So he signed that.

Mr. ABOUREZK. He also signed one that provided for a human rights concurrent resolution.

Mr. HUMPHREY. I want to say again that if we had reason to believe we can get this legislation, which is comprehensive arms control legislation, passed with that concurrent resolution, it will be done.

I have told the Senator that the House of Representatives has passed it that way. All I am asking for is the opportunity to negotiate what I believe is the adoption of an important piece of legislation without closing the door on us before we even get to the conference table.

Several Senators addressed the Chair.

Mr. ABOUREZK. If I may finish this subject, when Senator PASTORE got up and said that the Senator is moving for elbow room in the conference committee, it is not a question of going in and negotiating downward. The House has already passed this concurrent resolution.

Mr. HUMPHREY. That is correct.

Mr. ABOUREZK. They have it in their bill. What is being done is starting at the bottom and hoping to go up in the conference.

Mr. HUMPHREY. No; not at all.

Mr. ABOUREZK. If the Senator goes in without a concurrent feature——

Mr. HUMPHREY. We have a joint resolution feature here.

Mr. ABOUREZK. That is right, and it would then require a two-thirds majority of the Senate to override.

Mr. HUMPHREY. To override.

Mr. ABOUREZK. That is right.

Mr. HUMPHREY. But it also puts the President on the spot, and he will be in a very difficult situation on a joint resolution where there is an established record of a continued violation of well-established, internationally established human rights.

The President of the United States who does that is going to have to be a very unusual man, in the most negative sense.

Mr. ABOUREZK. Well, if I am permitted now, or I will do it later, I would like to offer amendment No. 1669 as a substitute to the——

Mr. WILLIAM L. SCOTT. Will the Senator yield briefly to me before this is offered?

Mr. ABOUREZK. May I just offer this amendment and then I will be happy to yield?

Mr. HUMPHREY. There is an amendment pending.

Mr. ABOUREZK. Mr. President, I am offering this as a substitute to the amendment which is pending.

Mr. President, I ask for a division of the amendment offered by the Senator from Rhode Island.

Mr. CRANSTON. Will the Senator yield to me briefly?

Mr. HUMPHREY. The Senator from Virginia has been asking that I yield to him.

Let me get the parliamentary situation straightened out.

The Senator from South Dakota has asked for a division of the Pell amendment.

The PRESIDING OFFICER. The Senator has the right to ask for a division. If there is a division, there will be a division with the first amendment being lines 1 through 4 and the second amendment being lines 5 through 8.

Mr. HUMPHREY. And the first amendment is on the human rights section?

Mr. PELL. The first amendment would be lines 1 through 6 and the second part would be lines 7 and 8. What the Presiding Officer said was not correct.

The PRESIDING OFFICER. As requested by the Senator from South Dakota, lines 1 through 4 would be the first amendment for division, and the balance would be the second amendment.

Mr. ABOUREZK. Mr. President, in lieu of the language proposed, I want to insert amendment No. 1669 as an amendment to the first section of the Cranston-Pell amendment. I send the amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from South Dakota (Mr. ABOUREZK) proposes amendment No. 1669 to amendment No. 1670, as follows:

In lieu of the language proposed to be inserted, insert the following:

(4) (A) In the event a statement with respect to a country is transmitted under paragraph (1) of this subsection, the Congress may, within the first period of ninety days of continuous session after such report is transmitted, adopt a concurrent resolution terminating, restricting, or continuing security assistance for such country. In the event a concurrent resolution is agreed to, such assistance shall be so terminated, so restricted, or so continued, as the case may be.

Mr. ABOUREZK. Mr. President, I ask for the yeas and nays.

Mr. HUMPHREY. Will the Senator withhold that for a moment?

Mr. ABOUREZK. Yes.

Mr. HUMPHREY. Let me say what we may be entering into.

The Senator may very well be cutting off, by this amendment, any chance for us to adopt the House language. If this amendment is defeated, we will defeat the concurrent resolution possibility. By defeating that. I am obligated in conference to resist the House. I do not want to be obligated to resist the House. I want to have the chance to accept the House language.

I do not want to run the risk of a rollcall vote here which forces us, as conferees who do honor to this body, to resist the possibility of a concurrent resolution.

I believe we can work it out. I have told the Senator that privately. I would hope and pray that he does not force that issue.

The Senator has made a brilliant case. He knows of my concern about it, as does the Senator from California and others. I believe we can work it out.

Mr. WILLIAM L. SCOTT. Will the Senator yield?

Mr. HUMPHREY. Yes.

Mr. WILLIAM L. SCOTT. Mr. President, I appreciate the Senator yielding. My remarks are not addressed, frankly, to the matter before us.

The distinguished Senator from South Dakota (Mr. MCGOVERN) referred to an unelected President. Of course, we do have an unelected President. As most Senators probably know, I am supporting Ronald Reagan for the Republican nomination. But Mr. Ford is President of the United States. He is just as much President of the United States as if he were elected.

I think we do the Nation an injustice when we refer to him as having less authority than he would have if he were the elected President of the United States.

At the time the 25th amendment was enacted, Jerry Ford was a Member of the House of Representatives. He was a Congressman from one of the districts in Michigan. He had no greater part in the Constitution than many of us who are in the Senate today. By happenstance, he is the President of the United States.

I would hope that in the future we could, in our remarks with regard to the Presidency, refer to the President of the United States rather than indicating that we do not have anyone in the White House who really speaks for the American people.

I was elected from a full State, just as the distinguished Senator from South Dakota was and each Member of this body was. That is larger, in most instances, than any congressional district. My own State has 10 congressional districts. But, frankly, I just dislike hearing the argument made that the present occupant of the White House is something less than the President of the United States. We have but one President.

I remember when Franklin Roosevelt died the message came across, "The President is dead."

Somebody asked, "What President?"

The word came back, "We have but one President."

At that time we did have but one President. It happened to be Franklin D. Roosevelt. Today we have but one President. That happens to be Gerry Ford, a former Congressman from Michigan. I think we do the Nation a disservice by lowering the stature of the Office of the President of the United States.

I asked my distinguished friend from South Dakota to remain in the Chamber because I was going to mention this.

I just think in fairness to the country we ought to refer to the President of the United States.

Mr. ABOUREZK. Will the Senator from Virginia yield?

Mr. MCGOVERN. Mr. President, if the Senator will yield, I do not want to drag out this argument, but I do want to respond. I hope no one took an implication from anything I said that I intended any dishonor to the President of the United States when I thought it might be a little more discreet for a President who came to that office in the manner that he did to be a little more considerate about our constitutional process.

What I suggested, if the Senator will recall, is that we are moving into a situation where we now have had almost 50 vetoes in the short time President Ford has been in office.

Obviously, he is acting under the Constitution. I am not saying he is not acting under the Constitution. I am saying he has almost paralyzed our legislative process by using the veto as exorbitantly as he has.

That was not intended as a dishonor on him, but simply to recognize that we have a very difficult situation here. There is nothing unconstitutional about what I am proposing to the Senate, that we pass a concurrent resolution. I am not trying to dishonor anything but simply to say something in reality.

Mr. WILLIAM L. SCOTT. In other words, the distinguished Senator would say the same thing if we had an occupant of the White House who was elected by all of the people of the country.

Mr. McGOVERN. Absolutely.

Mr. WILLIAM L. SCOTT. The Senator is not suggesting less.

Mr. McGOVERN. I might say the same thing even if he were a Democrat.

Mr. ABOUREZK. Will the Senator from Virginia yield for a moment?

Mr. WILLIAM L. SCOTT. I do not have the floor.

Mr. ABOUREZK. I think he made an excellent point.

Mr. HUMPHREY. Let us get on with the debate.

Mr. ABOUREZK. I think the Senator from Virginia made an excellent point. Both my colleague and I have talked about the respect we have for the office of the presidency. The only problem is we have been subjected to the Ronald Reagan commercials in South Dakota during the primary, and we were somewhat overwhelmed.

Mr. CRANSTON. Will the Senator yield?

Mr. HUMPHREY. Yes.

Mr. CRANSTON. I would like to say that I take in good faith the strong pledge of the Senator from Minnesota that he will do everything he can before the conference in dealing with the administration, and at the conference, to achieve the concurrent resolution— which gives us the authority to deal, as Members of this independent branch of the Government, with the executive branch, in a greater stance of power, for what we believe.

Mr. HUMPHREY. I assure the Senator we will do our level best.

I have said that and I think the legislative history makes it very clear.

Mr. CRANSTON. I think there is one new aspect of the situation to take into account in the negotiations that the Senator will undertake. That is what Secretary Kissinger did in Chile.

The New York Times notes this morning that he stated while there that human rights violations had raised obstacles to United States-Chilean relations. He asked for more funds and a stronger mandate for the OAS Human Rights Commission which has condemned "arbitrary arrest and prosecutions" by the Chilean Government.

Of course, we are interested in violations in Chile, but we are also interested in human rights in other parts of the world.

If Secretary Kissinger meant what he said, and I presume he did, then it seems to me that he should agree with our position, if he wants the strongest possible approach to human rights—as taken in our legislation.

Mr. HUMPHREY. Which has been the position of the Senate by overwhelming majority vote, and it has been my position. The Senator is correct.

Mr. CRANSTON. I shall discuss one other point with the Senator from Minnesota.

Whatever the outcome of that conference, if he fails in his effort as to our purposes and we do not at the present time achieve a concurrent resolution approach, I urge the Senator to maintain the Senate language on expediting procedures.

Mr. HUMPHREY. Yes.

Mr. CRANSTON. So if we falter on the other approach we at least would be able to come to grips with the issues on which we wish to act.

Mr. HUMPHREY. The Senator should have no doubt about that.

Mr. CRANSTON. I thank the Senator.

Mr. HUMPHREY. I assure the Senator.

Mr. ABOUREZK. Mr. President, as manager of the bill, the Senator from Minnesota ought to make the strongest kind of statement to the White House when he discusses this legislation.

Mr. HUMPHREY. The Senator need not have any worry about that.

Mr. ABOUREZK. I can assure the manager of this bill that we are going to continue to press the case for human rights and I think the sympathy is growing in the Senate for that.

On the basis of the assurances that the Senator has given, I will withdraw my amendment.

Mr. HUMPHREY. The Senator does not need a unanimous consent request.

Mr. ABOUREZK. All right.

Mr. President, I withdraw the amendment I have offered.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. HUMPHREY. I thank the Senator very much.

Mr. GRIFFIN. Mr. President, for both constitutional and pragmatic reasons, I rise in strong opposition to this amendment.

The legislation now before us has already traveled a rough and winding road; and given the differences which exist between this and the House-passed version, the difficulties are not all behind us.

Timely legislation in this area is vital. This bill includes authorizations for fiscal year 1976, which is already into its 11th month. It would be a tragedy if acceptance of this amendment led to a second presidential veto, and yet such a possibility is not unlikely. I would remind my colleagues that the President's first objection to S. 2662—the vetoed predecessor to the bill now before us—was that its misuse of the concurrent resolution mechanism was inconsistent with the Constitution.

FUNDAMENTAL CONSTITUTIONAL ISSUES

There are fundamental constitutional issues raised by the pending amendment, which would empower the Congress to terminate lawfully executed international agreements by concurrent resolution—instead of by joint resolution, as the bill now provides.

Article I, section 7, clause 3 of the U.S. Constitution provides:

> *Every* Order, *Resolution*, or Vote *to which the Concurrence of the Senate and House of Representatives may be necessary* (except on question of Adjournment) *shall be presented to the President of the United States; and before the Same shall take Effect, shall be approved by him, or being disapproved by him, shall be repassed by two thirds of the Senate and House of Representatives*, according to the Rules and Limitations prescribed in the Case of a Bill. (Emphasis added.)

This is explicit language, and the records of the Constitutional Convention establish why it was inserted. Originally the Committee of Detail had recommended that all "bills" must be sent to the President for approval, but James Madison expressed concern that this provision could be evaded by calling an act a "resolution" or "vote" rather than a "bill."[1]

The language which now constitutes article I, section 7, clause 3 of the Constitution was subsequently proposed by Edmund Randolph, and was accepted by a vote of 9 to 1, with 1 absention.[2]

It is equally clear that the Founding Fathers intended this mechanism to apply to repealing a law as well as to enacting it. North Carolina delegate Hugh Williamson proposed that the Presidential veto not be permitted to stop the repeal of a statute, and his suggestion was rejected.[3]

Writing on this issue in a recent issue of the California Law Review, H. Lee Watson summarized:

> From this history it may be concluded that the primary objective of the veto power is to curb legislative authority by shielding the Executive from encroachment by the legislature.[4]

For the first 100 years of our Constitution, there was agreement on the meaning of the "presentation" clause of article I, section 7. Then, in 1896, a question was raised in the Senate over whether a joint or concurrent resolution was necessary to require certain reports from the Secretary of War under the 1892 Rivers and Harbors Appropriations Act. The Senate Judiciary Committee was asked to make a study of the proper uses of concurrent and joint resolutions.

After considering the matter for nearly a year, the Senate Judiciary Committee issued a lengthy report in 1897, which said in part:

> [I]t has been the uniform practice of Congress, since the organization of the Government, not to present concurrent resolutions to the President for his approval, and to avoid incorporating in such resolutions

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Footnotes at end of statement.

> any matter of strict legislation requiring such presentation. As a matter of propriety and expediency it is believed to be wise to continue that course in the future.
>
> We conclude this branch of the study by deciding the general question submitted to us, to wit, "whether concurrent resolutions are required to be submitted to the President of the United States," must depend, not upon their mere form, but upon the fact whether they contain matter which is properly to be regarded as legislative in its character and effect. If they do, they must be presented for this approval; otherwise, they need not be.[5]

A more recent interpretation of the "presentation" clause is provided by the Congressional Research Service of the Library of Congress, which—relying in part on the 1897 Judiciary Committee report—concluded:

> "[N]ecessary" here means necessary if an "order, resolution, or vote" is to have the force of law. Such resolutions have come to be termed "joint resolutions" and stand on a level with "bills," which if "enacted" become statutes. But "votes" taken in either House preliminary to the final passage of legislation need not be submitted to the President, not resolutions passed by the Houses concurrently with a view to expressing an opinion or to devising a common program of action . . . or to directing the expenditure of money appropriated to the use of the two Houses.[6]

It has only been within our lifetime that the concurrent resolution has been used as a means of limiting Presidential authority. The practice first became popular during the administration of President Franklin Roosevelt, and at the time appeared to meet with little administration opposition. Subsequent events have established that this was not because the President believed the mechanism was constitutionally sound, however, but because he found silence under the circumstances to be politically expedient.

Writing in a 1953 edition of the Harvard Law Review, Supreme Court Justice Robert Jackson—who earlier had been Roosevelt's Attorney General—published for the first time a memorandum on the constitutionality of the concurrent resolution veto which President Roosevelt had signed and deposited with the Attorney General following the enactment of the 1941 Lend-Lease Act. The extraordinary memorandum read in part:

> On March 11, 1941, I attached my approval to the bill (H.R. 1776) entitled "An Act to Promote the Defense of the United States." The bill was an outstanding measure which sought to meet a momentous emergency of great magnitude in world affairs. In view of this impelling consideration. *I felt constrained to sign the measure, in spite of the fact that it contained a provision which, in my opinion, is clearly unconstitutional.* I have reference to the clause . . . providing that after the passage of a concurrent resolution by the two Houses . . . neither the President nor the head of any Department or agency shall exercise any of the powers conferred by or pursuant to subsection (a), with certain exceptions. *In effect, this provision is an attempt by Congress to authorize a repeal by means of a concurrent resolution of the two Houses, of certain provisions of an Act of Congress.* . . . The Constitution contains no provision whereby the Congress may legislate by concurrent resolution without the approval of the President. . . . In order that I may be on record as indicating my opinion that the foregoing provision of the so-called Lend-Lease Act is unconstitutional, and in order that my approval of the bill . . . may not be construed as a tacit acquiescence in any contrary view, I am requesting you to place this memorandum in the official files of the Department of Justice. I am desirous of having this done for the further reason that I should not wish my action in approving the bill which includes this invalid clause, to be used as a precedent for any future legislation comprising provisions of a similar nature. [Emphasis added.][7]

Why did Roosevelt not make his views known publicly at the time? Justice Jackson provides the answer:

> The reason was political. His views, strangely enough, were those used by the opponents of the Lend-Lease Bill, some of whom were his consistent political enemies, to justify their opposition to the Bill. They argued that the device for recalling their grant of power was unconstitutional and therefore illusory. His loyal supporters, on the other hand, had argued that the provision was valid and therefore effective as a check on any runaway executive action. For the President to make public his views at that time would confirm and delight his opposition and let down his friends. It might seriously alienate some of his congressional support at a time when he would need to call on it frequently. It would also strengthen fear in the country that he was seeking to increase his personal power.[8]

Unfortunately, the President's failure to make public his constitutional objections to the concurrent resolution veto mechanism contributed to its increased use during his administration. Its use decreased greatly during the 1950's and 1960's, but has undergone a significant revival within the last 3 years.

As has been demonstrated, the use of a concurrent resolution to repeal or modify an existing law is contrary to the very explicit language of the Constitution and the established intent of the Founding Fathers.

There is another distinct constitutional issue involved in the mechanism proposed by the pending amendment—the doctrine of separation of powers.

When he returned S. 2662 to the Congress without his approval, President Ford expressed his opposition to these concurrent resolution "veto" provisions, noting:

> [T]hey would involve the Congress directly in the performance of Executive functions in disregard of the fundamental principle of separation of powers. Congress can, by duly adopted legislation, authorize or prohibit such actions as the execution of contracts or the issuance of export licenses, but Congress cannot itself participate in the Executive functions of deciding whether to enter into a lawful contract or issue a lawful license, either directly or through the disapproval procedures contemplated in this bill.

Testifying before the Subcommittee on Separation of Powers of the Senate Judiciary Committee in 1967, Yale Law School Professor Alexander M. Bickel concluded:

> Congress has no power under the Constitution to repeal a statute free of the President's veto any more than it has power to pass it free of the President's veto. On analysis that is very simply what it always comes to. Another way to put it . . . is that Congress is attempting to share executive power. That is, it is attempting not just to lay down the prospective broad policy but to share in the administration, and that can also be said to violate the Constitution, because the Constitution distinguishes between legislative power and executive power. And while there may be shadow areas in between, I do not think we are in one here. It is fairly clear what is legislative and what is executive once you have had a statute passed which authorizes certain actions to be taken by the executive and you try to participate in taking those actions.[9]

While the U.S. Supreme Court has never issued an opinion on the concurrent resolution veto mechanism per se, there are a number of judicial decisions of relevance.

In Springer against the Philippine Islands, the Supreme Court in 1928 declared invalid certain acts of the Philippine Legislature deemed of an executive character. Although the case was determined on the basis of the Philippine Organic Act of 1916, the Court established that its decision applied equally to the federal constitution:

> [T]he Organic Act, following the rule established by the American constitutions, both state and federal, divides the government into three separate departments—the legislative, executive and judicial. Some of our state constitutions expressly provide in one form or another that the legislative, executive and judicial powers of government shall be forever separate and distinct from each other. Other constitutions, including that of the United States, do not contain such as express provision. But it is implicit in all, as a conclusion logically following from the separation of the several departments. . . .
>
> *It may be stated then, as a general rule inherent in the American constitutional system, that,* unless otherwise expressly provided or incidental to the powers conferred, *the legislature cannot exercise* either *executive* or judicial *power;* the executive cannot exercise legislative or judicial power; the judiciary cannot exercise either executive or legislative power. . . . *Legislative power,* as distinguished from executive power, *is the authority to make laws, but not to enforce them* or appoint the agents charged with the duty of such enforcement. The latter are executive functions. . . . [T]he legislature cannot engraft executive duties upon a legislative office. . . ." [Emphasis added.][10]

This is virtually the only Federal judicial statement on the limits to the governmental powers of legislators.[11]

A recent discussion of Springer against Philippine Islands in the California Law Review concluded:

> Read narrowly, the case holds that the legislature cannot place legislators, by appointment or otherwise, in positions where they would wield executive power. A broader message is also clear: the legislature is limited to lawmaking; it cannot enforce or execute the laws.[12]

The following year, using Springer as precedent, the New York Court of Appeals held in People against Tremaine that drawing up a schedule of positions and salaries to be paid out of a lump sum appropriation was an executive function:

> This is a clear and conspicuous instance of an attempt by the Legislature to confer administrative power upon two of its own members. It may not engraft executive duties upon a legislative office and thus usurp the executive power by indirection. . . . *The*

Footnotes at end of statement.

> *legislation is complete when the appropriation is made.* [Emphasis added.] [13]

In 1936 the New York Court of Appeals provided another key precedent, in Matter of Moran against La Guardia. A State statute had authorized the lowering of certain civil service salaries during a period of emergency, stating that the provisions should apply "until the legislature shall find their further operation unnecessary." When the legislature attempted to terminate the provisions of the statute by concurrent resolution, the court ruled:

> The sole question . . . presented by this proceeding is whether the Legislature can terminate this economy legislation by concurrent resolution or whether for such termination there is required a legislative enactment. . . .
>
> *A concurrent resolution of the Legislature is not effective to modify or repeal a statutory enactment. . . . To repeal or modify a statute requires a legislative act of equal dignity and import. Nothing less than another statute will suffice.* A concurrent resolution of the two houses is not a statute. . . . *A concurrent resolution,* unlike a statute, *is binding only on the members and officers of the legislative body.* It resembles a statute neither in its mode of passage nor in its consequence. . . . [I]ts adoption is complete without the concurrent action of the Governor, or lacking this, passage by a two-thirds vote of each house of the legislature over his veto. [Emphasis added.] [14]

To my knowledge, this decision is the only judicial consideration of provisions for the termination of a statute by concurrent resolution.[15]

Watson, in his previously cited California Law Review article, notes the paucity of judicial authority in this area and suggests that "the political question doctrine may prompt the judiciary to shy away from these questions." [16] Continuing, however, he notes:

> That the question of the validity of extra-legislative control may be left to Congress does not automatically validate these measures. On the contrary, it places a heavy burden of responsibility on that body to consider the constitutional implications of using them.[17]

FOREIGN POLICY AND PRESIDENTIAL FLEXIBILITY

In addition to these very strong constitutional infirmities, this amendment also falls short on practical grounds.

There is a substantial tradition in American politics that, in the field of foreign relations, the President must have even greater flexibility from excessive legislative restrictions than in domestic areas. This has even been recognized by the Supreme Court, which observed in *U.S.* v. *Curtiss-Wright Export Corp.* (299 U.S. 304 [1936]):

> It is quite apparent that . . . congressional legislation which is to be made effective through negotiation and inquiry within the international field must often accord to the President a degree of discretion and freedom from statutory restriction which would not be admissible were domestic affairs alone involved. . . . Practically every volume of the United States Statutes contains one or more acts or joint resolutions of Congress authorizing action by the President in respect of subjects affecting foreign relations, which either leave the exercise of the power to his unrestricted judgment, or provide a standard far more general than that which has always been considered requisite with regard to domestic affairs.

The wisdom of allowing considerable Presidential flexibility in the conduct of foreign relations has been demonstrated time and again.

This is not the first time that Congress has tried to influence the day-to-day decisionmaking process with regard to foreign military sales. Two recent examples which come readily to mind are the sale of military equipment to Turkey, and the proposed sale of Hawk missiles to Jordan. In both instances, it seems to me, congressional intervention was counterproductive to its own objectives—restoring peace on Cyprus, and preserving Israel's security—and in the process both actions seriously damaged our own national security interests.

Two newspaper articles—both of which appeared during the last week of May of this year—make this point very well.

On May 27, Steve V. Roberts reported in the New York Times from Istanbul:

> While the foreign ministers of 42 Islamic countries were meeting here in early May, and hailing "Moslem solidarity," a Turkish journalist looked up from her notes and snapped, "It is the American Congress that has brought us to this point." The meeting symbolized an important change in Turkish foreign policy. After many years of unswerving identification with the West, Ankara is actively seeking broader ties with its Moslem neighbors to the south and east. It is also expanding relations with its Communist neighbors to the north and west, and in a few weeks the leaders of Yugoslavia, Bulgaria and Rumania are expected here for state visits. This policy shift was attributed mainly to the Cyprus situation and the arms embargo Congress imposed on Turkey last year.

I recall that Secretary Kissinger warned Congress that such an arms embargo would not soften the Turkish position on Cyprus, but that in the process it could seriously damage U.S. relations with Ankara. Events have unfortunately proven that he was right. Cyprus remains a tragic problem, the southern flank of NATO has been weakened, the United States has lost access to extremely important intelligence bases—which once contributed to our verification of of arms agreements with the Soviet Union—and, finally, a very strategic country vis-a-vis the Middle East has been driven closer to the Arab States and to the Soviet Union.

The next congressional initiative in the arms sale field was an effort to halt, or to significantly limit, the sale of Hawk antiaircraft missiles to Jordan. Once again, administration spokesmen warned that congressional intervention might prove counterproductive—forcing Jordan, which has traditionally been one of the most moderate and pro-United States countries of the Arab world, to turn to the Soviet Union for its air defense needs. But Congress was not to be deterred. After several weeks of strong criticism of the sale, a concurrent resolution to block it was withdrawn in return for restrictions on the proposed sale.

On May 31, 1976, Rowland Evans and Robert Novak provided an update on the situation in the Washington Post:

> The tragic turn toward Moscow by Jordan's King Hussein, one of this country's staunchest friends in the Mideast until his humiliation by the U.S. Congress over the Hawk missile deal, threatens to harden still further Israel's refusal to give up the West Bank of the Jordan River.
>
> If Hussein decides to buy Soviet anti-aircraft missiles during his June visit to Moscow (his first in almost 10 years), the Israeli reaction will be both predictable and hard to refute: The insinuation of Soviet power on the East Bank of the Jordan makes continued Israeli occupation of the Arab West Bank imperative. The West Bank could then become a counterpart of the Israeli-occupied Golan Heights of Syria: Arab territory Israel says will never be returned. That would destroy the key element of every U.S. peace plan devised to settle the bloody Arab-Israeli struggle: the return of the West Bank to Jordan—or to the Palestinians—under some form of international guarantee. Even worse, King Hussein may feel compelled to turn to radical, oil-rich Libya for help in financing the purchase of anti-aircraft missiles from Moscow.

By its untimely intervention in a delicate diplomatic situation, the Congress has jeopardized the admirable efforts President Ford and Secretary Kissinger have made to assist the nations of the Middle East in reaching a peaceful and equitable solution to their differences. One of our closest friends in the Arab world has been publicly humiliated and forced to go to Moscow to obtain air defense equipment he wanted to purchase from us. As a consequence, Soviet—and perhaps Libyan—influence in this volatile region of the world will be increased. Finally, Israel—our closest ally in the Middle East—will be in even greater danger.

CONCLUSION

It seems to me that President Ford is exactly right when he asserts that this "concurrent resolution veto" provision is inconsistent with two fundamental constitutional principles: the "submission" clause of article I, section 7; and the principle of separation of powers.

Even were there no such constitutional problems, however, the pragmatic considerations alone would be persuasive. The record of congressional interference in the sale of arms to Turkey and Jordan hardly argues for greater legislative participation in this area. On the contrary, the wisdom of the Constitution is once again borne out by experience. Congress has no business becoming involved in the day to day process of executing foreign policy.

I strongly urge my colleagues to reject the amendment now before us.

FOOTNOTES

[1] H. Lee Watson, "Congress Steps Out: A Look at Congressional Control of the Executive," 63 *California Law Review* 983 at 1046–7 (1975); Robert W. Ginnane, "The Control of Federal Administration by Congressional Resolutions and Committees." 66 *Harvard Law Review* 569 at 572–3 (1953).

[2] Watson, *op. cit. p.* 1047; Ginnane, *op. cit.*, p. 573.

[3] Ginnane, *op. cit.* p. 1047; Ginnane, *op.*

[4] Watson, *op. cit.* p. 1048; See also Hamilton's explanation of the veto power, in The Federalist, No. 73: "The propensity of the legislative department to intrude upon the rights, and to absorb the powers, of the other departments, has been already sug-

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Footnotes at end of statement.

gested and repeated; the insufficiency of a mere parchment delineation of the boundaries of each, has also been remarked upon; and the necessity of furnishing each with constitutional arms for its own defence, has been inferred and proved. From these clear and indubitable principles results the propriety of a negative [i.e., a veto] . . . in the Executive, upon the acts of the legislative branches. . . . The primary inducement to conferring the power in question upon the Executive is, to enable him to defend himself; the secondary one is to increase the chances in favor of the community against the passing of bad laws, through haste, inadvertence, or design."

[5] *Senate Report No. 1335*, 54th Congress, 2d Session, quoted in John T. Melsheimer, "Discussion of the Constitutionality of the Congressional Veto Provisions Contained in S. 2662 (94th Congress) Entitled The International Security Assistance and Arms Export Control Act of 1975," (Washington D.C.: Library of Congress, Congressional Research Service, 1976) p. 11, n. 5.

[6] Library of Congress, Congressional Research Service, *The Constitution of the United States of America: Analysis and Interpretation* (Washington, D.C.: U.S. Government Printing Office, 1973), pp. 127–128.

[7] Robert H. Jackson, "A Presidential Legal Opinion," 66 *Harvard Law Review* 1353, at 1357.

[8] *Ibid*, p. 1356.

[9] U.S. Senate, "Separation of Powers," *Hearings before Subcommittee on Separation of Powers of the Committee on the Judiciary*, 90th Congress, 1st Session, (1967), Part I, p. 253.

[10] 277 U.S. at 189, at 201, 201.

[11] Watson, *op. cit.* p. 1011.

[12] *Ibid*, p. 1012.

[13] 252 N.Y. 27, at 44, 168 N.E. 817 at 822 (1929).

[14] 270 N.Y. 450, at 452, I N.E. 2d 961 at 963 (1936); Under the Michigan Constitution (both 1908 and 1963 versions), by a two-thirds vote the legislature can provide that a new law take effect immediately after signing by the governor, rather than 90 days after final adjournment of the legislature, which is the normal practice. In 1941, rather than adjourning in late Spring as was the custom, the legislature took a recess until October. Upon reconvening, both houses adopted concurrent resolutions by two-thirds votes to give immediate effect to several of the acts which had been passed and signed by the Governor in the Spring. This use of concurrent resolutions was found unconstitutional by the Michigan Supreme Court, which concluded: "By virtue of his veto power, the governor is part of the law-making power . . . hence it is his legislative duty, as well as that of both houses of the legislature, to consider whether a measure falls within the categories to which the privilege of immediate effect may be given. The procedure adopted in the instant case deprived him of the opportunity of exercising such legislative function. For that reason it is unconsitutional." (*United Ins. Co.* v. *Attorney General* (300 Mich. 200, I N.W. 2d 510 [1942]). In *State* v. *Pulliam* (168 Okl. 632, 37 P. 417, 96 A.L.R. 1294), it was held that after a municipal ordinance had been duly passed by the common council, approved by the mayor and filed by the city clerk, it had passed beyond the control of the council. That body did not have the power to reconsider and amend it without re-enacting it, as amended, as a new ordinance.

[15] Ginnane, *op. cit.* p. 598; Watson, *op. cit.* p. 989.

[16] Watson, *op. cit.* p. 989.

[17] *Ibid*. p. 990.

Mr. PELL. Mr. President, there is no one more aware of the excellent job that the Senator from Minnesota has done in putting this bill together and of all the hours of hard work that he has put into it and the way he has given of his ability, diplomacy, and skill, in developing a bill with many new and good innovative concepts. I am very mindful of his words of assurance in the Chamber today, and I recognize in this regard that the House of Representatives not only has the concurrent resolution provision covering human rights, but it also has a concurrent resolution already written to cover the question of ineligibility for military assistance.

So my hope is that if both parts of my amendment are withdrawn and not included in the Senate billl, it should be a matter of record that the Senator from Minnesota would press in this direction as hard as he can and give real thought to the receding to the House position.

Mr. HUMPHREY. The Senator has my assurance of that.

Mr. PELL. I thank the Senator.

Mr. HUMPHREY. I think I speak for the distinguished Senator from New Jersey who is the ranking member.

Mr. CASE. That is right. This is predicated upon our judgment of what is possible to enact into law.

Mr. PELL. I recognize that. I know that the Senator from New Jersey has likewise shown an interest in the same problems long before I was a Member of this body.

Mr. CASE. I thank the Senator.

Mr. PELL. Mr. President, I also thank the Senator from Alabama for his willingness to support this amendment, which would show the breadth of viewpoint that is commanded by what we are saying here. I am very grateful to him for his expression of support.

But in light of the assurances of the Senators from Minnesota and New Jersey, I withdraw my amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. CRANSTON addressed the Chair.

Mr. CASE. Mr. President, I think I have the floor, and I am happy to yield, if I may briefly, to the Senator from California.

Mr. CRANSTON. Mr. President, I wish to have the floor briefly, first, for a unanimous-consent request and, second, to speak for about 2 minutes on an amendment that I will not call up.

Mr. CASE. On the understanding that I do not lose my right to the floor, I am happy to yield.

Mr. CRANSTON. I thank the Senator very much.

First, I ask unanimous consent on behalf of Senator CLARK that Bruce van Voorst of his staff be accorded privileges of the floor during consideration of this measure, and also from my staff, Bill Jackson and Chris Cohagen be accorded privileges of the floor throughout consideration of all phases of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. Mr. President, briefly let me say that I considered introducing and calling up an amendment on a related matter to the one we have just been discussing.

My concern is related to human rights and the violation of human rights in South Korea.

It is very disturbing to read once again in this morning's New York Times a story under the heading "United States To Make Few Gains in Seoul in Effort To Ease Repressive Policies."

Mr. President, I ask unanimous consent that that story be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

UNITED STATES SAID TO MAKE FEW GAINS IN SEOUL IN EFFORTS TO EASE REPRESSIVE POLICIES

By Andrew H. Malcolm

SEOUL, SOUTH KOREA—Quiet efforts by the United States to ease the authoritarian human and civil rights policies of the South Korea Government of President Park Chung Hee show no signs of having any effect, according to interviews with diplomats, South Koreans and other observers here.

In public statements and testimony before Congress in recent months, Washington officials, including Secretary of State Henry A. Kissinger, have said they were working behind the scenes to persuade President Park to loosen the repressive policies that have drawn international criticism and threats of reduced American aid.

But such efforts, including regular expressions of "concern" by resident and visiting American officials here, have produced no visible results, according to informed sources.

"I wouldn't say our efforts are just a ritual," one American admitted. "Let's just say we don't have very high expectations of results."

PARK'S GROWING INDEPENDENCE

This lack of civil rights impact is viewed by many here as part of a larger decline in American influence in general in the Republic of Korea as the 58-year-old President Park steadily gains greater military, economic, political and diplomatic independence.

"The days of table-pounding and telling them what's going to happen are over," said one diplomat. "The Koreans are more independent every day."

President Park and his spokesmen regularly ask their visitors to understand the special problems of South Korea, how it is threatened militarily by North Korea and how signs of dissidence or internal political opposition could be misconstrued by the Communists as weakness.

Just last month Mr. Park patiently explained to Elliot Richardson, the visiting Secretary of Commerce, how certain political ideals suitable for one country do not fit the circumstances of another.

It is prohibited here, for example, to criticize the Government, the Constitution or the president. Last year, eight men were hanged on charges of belonging to an outlawed political party.

Kim Dae Jung, the defeated 1971 presidential candidate, was kidnapped in Japan and returned here for several trials. Arrests in the night and jailings are common. So, too, are charges of torture, including denial of sleep during questioning that lasts several days. Bail is nonexistent.

Professors and other potential political opponents discover their employment terminated for unexplained or suspicious reasons. There have been deaths under questionable circumstances, with one dissident victim "falling" from a bathroom window after interrogation.

Local news media are controlled by the authorities. Magazines and newspapers from abroad arrive with censored articles clipped from their pages. Mail is opened, telephones are tapped, many citizens are followed.

HEAVY U.S. INVOLVEMENT

Theoretically, there is freedom of religion. But routine church services and prayer meetings are attended by bands of thick-chested men in blue suits. They do not know the hymns, fail to kneel for prayers and refuse the collection plate. Frequently, they stroll the church aisles to snap photographs of worshipers.

United States involvement here, directed from the modern embassy directly across King Sejong Boulevard from major South Korean government buildings, has been heavy. It has included a three-year occupation after World War II, 33,000 United States dead during the Korean War and the maintenance of 40,000 troops here now.

"Americans have made a very heavy investment in blood, tragedy and money to sustain South Korean democracy," says Yun Po Sun, the nation's only living ex-president. "Korea and the United States are so close that Americans should speak to the Government here as if they were a member of the Korean people."

Typically, American efforts here to ameliorate the authoritarianism are founded on criticism by Congress and efforts there to reduce aid to South Korea as a "punishment."

"You can't talk pure Jefferson to these guys," explained one American. "You've got to have a threat of some kind or they won't listen."

But the threat has seemed increasingly empty. Grant aid from the United States, which totals only $74 million, ends in September anyway.

And after a House committee had set limits on new military aid to South Korea because of its repressive policies, the full House on June 2 decisively decided to delete the limits. The move assures the Park Government the full $485.5 million for military aid in the next 27 months.

NO EFFECTS DETECTED

"There aren't many levers left to pull around here," one American said, "We just try to keep the civil rights issue before the eyes of Korean authorities on all levels and hope it has some effect."

If there has been any effect, it has yet to be detected by those who feel the brunt of the police power here. Many missionaries and scholars now refuse to have any contact with the United States Embassy.

"I have not seen one single instance when American influence has helped human rights here," said Mr. Yun, the former president, on trial again for criticizing President Park.

"Are the Americans doing anything to help civil rights in Korea?" asked the wife of a teacher imprisoned for suggesting President Park should resign.

"Why is the United States standing by and condoning a regime that so tramples on people?" asked another government opponent.

Mr. CRANSTON. The fact is that, while the administration has told us that they are seeking to do something about human rights in South Korea, plainly nothing is being accomplished, plainly the violations by the present dictatorship with which we are allied in South Korea continue in a sometimes violent and unpleasant way.

I feel at some point we must make plain by action we take, our unwillingness to accept this situation in a country with which we are allied.

I considered offering an amendment that would cut back on the aid we give South Korea to send them a clear message that we want and demand action on this front if they want us to continue to be allied with them and support them.

What we are doing now is supporting one dictatorship against another dictatorship, although there are differences in degree.

I do not think that is really what the United States is all about, and what the United States should be doing in this world.

However, because I am not certain how that amendment would fare at this point, and I would be unhappy about the message that failure would send, I am not going to propose that amendment now.

But let me say, and say clearly, that if there is not an advance in South Korea in terms of the treatment of the citizens of that country in regard to their human rights, next year when this bill is up I will offer an amendment, and a strong one, and I will expect at that time that we will have a Democrat in the White House who would be more sympathetic on the issue of human rights than the Republican administration presently in command of the executive branch of our Government.

So I think South Korea should be on notice that next year the situation will be quite different, next year we will be in a position to take vigorous action, I believe, with the support of a Democratic President and with overwhelming support in Congress, to make plain that we are not going to continue to subsidize and to bolster a tyranny in South Korea endlessly.

Mr. HUMPHREY. Mr. President, will the Senator yield?

Mr. CRANSTON. I yield.

Mr. HUMPHREY. I want the Senator to know that I fully respect his work. I join with him in bringing this pressure to bear upon our Government to get some action in South Korea. I have been patient a long, long time, as has the Senator. I do not underestimate the importance of South Korea in the whole defense perimeter, but I think that the violations of human rights, the political oppression that is taking place there with our backing, regrettably, is incredibly bad. We should not to tolerate it and we certainly should not subsidize it. Its continuation threatens to undermine our efforts to provide support for Korea.

Mr. CRANSTON. I thank the Senator, and I would like to ask him just one question.

Does he agree with my view that, assuming we are going to have a Democrat in the White House when this bill is being considered next year, the prospects are good that Congress and the executive branch will join in some action to make plain that we will not tolerate a continued violation, endlessly, of the human rights of the citizens of South Korea?

Mr. HUMPHREY. I hope so. The Senator would have my help.

Mr. CRANSTON. I thank the Senator.

Mr. CASE. Mr. President, the only exception I have to the Senator's statement, which I wish to enter for the record, is his optimism that any Democrat would be any better than any Republican on the matter of human rights.

Mr. CRANSTON. We will wait and see. I thank the Senator.

UP AMENDMENT NO. 6

Mr. CASE. Mr. President, I call up my unprinted amendment which is at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from New Jersey (Mr. CASE) proposes unprinted amendment No. 6.

Mr. CASE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with and that the amendment be printed in full in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill add the following new section:

INTERNATIONAL AGREEMENTS

SEC. 608. Section 112b of title 1, United States Code, is amended by adding at the end thereof the following: "Any department or agency of the United States Government which enters into any international agreement on behalf of the United States shall transmit to the Treaty Office, Department of State, the text of such agreement not later than 20 days after such agreement has entered into force."

Mr. CRANSTON. Mr. President, will the Senator yield?

Mr. CASE. I will, without losing my right to the floor.

But first I yield to the Senator from South Dakota for a unanimous consent request.

Mr. ABOUREZK. Mr. President, I ask unanimous consent that Alan Chvotkin, of my staff, be entitled to the privilege of the floor during consideration and voting on this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CASE. Mr. President, one of the important mechanisms for the Foreign Relations Committee and the House International Relations Committee keeping informed about the obligations and commitments made by our country with other nations is through the provisions of Public Law 92-403, which the State Department most kindly calls the Case Act. This measure provides that when any international agreement is entered into by the U.S. Government it must be transmitted to the Congress within 60 days after it has entered into force. In case the agreement is highly sensitive it can be transmitted under an appropriate injunction of secrecy.

This law has worked very well, generally speaking, and the State Department has been cooperative and helpful in trying to get international agreements transmitted to the Congress on time. Unfortunately, the work of the Treaty Affairs Office has been hampered, time and again, by the failure of other departments and agencies of the Executive Branch to themselves transmit copies of international agreements to the Treaty Affairs Office so that the Office could properly register them and send them to the Congress, pursuant to law.

On many occasions, the Foreign Relations Committee has complained about agreements arriving here late and, in some instances, never transmitted at all. Our complaints were reinforced by the General Accounting Office when, on February 20, 1976, the Comptroller General issued a report that pointed out that

34 agreements concluded with Korea which entered into force after the passage of Public Law 92–403 were never submitted by the agencies involved to the Department of State for transmittal to Congress.

This revelation led Monroe Leigh to state in a memorandum to key personnel in the Department of State that—

> It is essential that all international agreements concluded by any officer or representative of the U.S. Government be transmitted to the Assistant Legal Adviser for Treaty Affairs no later than 20 days after entry into force. Most agreements enter into force upon signature. The 20-day limit must be met if the Department is to meet its obligations to process and transmit the agreements to Congress no later than 60 days after entry into force in accordance with the Case Act.

I think the advisory view of the State Department legal adviser is important, but it obviously lacks teeth. It is not much more than a restatement of a letter to all Departments and Agencies on September 6, 1973, by then Acting Secretary of State Kenneth Rush.

My pending amendment would add language to the Foreign Military Sales Act, S. 3439, which if enacted will make it law that—

> Any department or agency of the United States Government which enters into any international agreement on behalf of the United States shall transmit to the Treaty Office, Department of State, the text of such agreement not later than 20 days after such agreement has entered into force.

This will back up the exact policy of the State Department which has been in effect since 1973 and it will make it clear that we intend, along with the Treaty Affairs Office of the State Department, that the requirements of the law be fulfilled promptly.

I have reason to believe that our colleagues in the House will be disposed to accept this amendment since the problems we have encountered in the Senate have likewise occurred on the House side.

To make the RECORD complete, I ask that Public Law 92–403, the Monroe Leigh Legal Memorandum of March 12, 1976, and Kenneth Rush's letter of September 6, 1973, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

h. TRANSMITTAL OF INTERNATIONAL AGREEMENTS

Public Law 92–403 [S. 596], 86 Stat. 619, approved August 22, 1972

An act to require that international agreements other than treaties, hereafter entered into by the United States, be transmitted to the Congress within sixty days after the execution thereof.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title 1, United States Code, is amended by inserting after section 112a the following new section:

"§ 112b. United States international agreements; transmission to Congress

"The Secretary of State shall transmit to the Congress the text of any international agreement, other than a treaty, to which the United States is a party as soon as practicable after such agreement has entered into force with respect to the United States but in no event later than sixty days thereafter. However, any such agreement the immediate public disclosure of which would, in the opinion of the President, be prejudicial to the national security of the United States shall not be so transmitted to the Congress but shall be transmitted to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Reresentatives under an appropriate injunction of secrecy to be removed only upon due notice from the President."

SEC. 2. The analysis of chapter 2 of title 1, United States Code, as amended by inserting immediately between items 112a and 113 the following:

"12b. United States international agreement[s] transmission to Congress."

To Key Department Personnel.

From L. Monroe Leigh.

Subject Case Act Procedures and Department of State Criteria for Deciding What Constitutes an International Agreement.

On February 20, 1976, the Comptroller General issued a Report on U.S. Agreements with the Republic of Korea which stated that certain agencies of the Government have not been submitting to the State Department or the Congress all agency-level agreements which they have concluded. The Report states that some agencies have apparently interpreted agreements concluded by agency personnel or agreements of a subordinate or implementing character to be outside the reporting requirements of the Case Act (P.L. 92–403, 1 U.S.C. 112b). The Case Act requires that all international agreements other than treaties be submitted by the Department of State to the Congress no later than 60 days after their entry into force.

The GAO Report called for "clarification of the reporting requirements and improved controls over the reporting of agreements." The Report listed 34 Korean agreements concluded after passage of the Case Act but never submitted by the agencies involved to the Department of State for transmittal to the Congress.

This Report by the GAO, in addition to legislative proposals now before the Congress calling for Congressional authority to disapprove executive agreements, has raised the question of how the Department of State Legal Adviser decides what constitutes an international agreement within the meaning of the Case Act and of the law requiring publication of international agreements (1 U.S.C. 112a).

The following discussion should be brought immediately to the attention of all personnel with responsibilities for the negotiation and conclusion of international agreements, whether agency-level arrangements, implementing or operating agreements, or government level agreements.

A. It is essential that all international agreements concluded by any officer or representative of the U.S. Government be transmitted to the Assistant Legal Adviser for Treaty Affairs no later than 20 days after entry into force. Most agreements enter into force upon signature. The 20-day limit must be met if the Department is to meet its obligations to process and transmit the agreements to Congress no later than 60 days after entry into force in accordance with the Case Act.

B. Whenever a question arises whether any document or set of documents, including an exchange of diplomatic notes or of correspondence, constitutes an international agreement within the meaning of the Case Act, the documents must be sent for decision to the Assistant Legal Adviser for Treaty Affairs. See also 11 FAM 723.6 and 723.7.

C. The following statement is designed to provide basic guidance with respect to the criteria applied by the Legal Adviser in deciding what constitutes an international agreement. While difficult judgments will have to be made in many cases, it is hoped that the principles set forth below will permit officers in the field to focus on the right questions, and to know when there is an issue for which further guidance from the Department should be sought.

For purposes of implementing legal requirements with respect to publication of international agreements and transmittal of international agreements to Congress, the Legal Adviser applies the following criteria in deciding what constitutes an international agreement:

1. Intention of the parties to be bound in international law;
2. Significance of the arrangement;
3. Requisite specificity, including objective criteria for determining enforceability;
4. The necessity for two or more parties to the arrangement;
5. Form.

1. INTENTION OF THE PARTIES TO BE BOUND IN INTERNATIONAL LAW

The central requirement is that the parties intend their undertaking to be of legal, and not merely political or personal, effect. Documents intended to have political or moral weight, but not intended to be legally binding, are not international agreements. An example is the Final Act of the Helsinki Conference on Cooperation and Security in Europe.

In addition, the agreement must be governed by international law. Most instruments are silent as to governing law, but the intent is normally to seek guidance from rules of international law when questions arise with respect to interpretation or application. However, if the agreement specifies another legal system as entirely governing interpretation or application, we do not consider the arrangement to be a true international agreement. An example of the latter is a foreign military sales contract governed in its entirety by the law of the District of Columbia.

2. SIGNIFICANCE OF THE ARRANGEMENT

It is our interpretation of sections 112a and 112b that minor or trivial undertakings, even if couched in legal language and form, do not constitute international agreements. Significance of the obligations undertaken is cited in the House Report on the Case Act (House Rept. 92–1301) as a relevant variable in deciding whether a particular document is an international agreement under the Act. Senator Case himself excluded "trivia" from the coverage of the Act (Hearings on S. 596, October 21, 1971, p. 65).

We have not developed detailed guidelines to assist in deciding what level of significance must be reached before a particular arrangement becomes an international agreement. This must remain a matter of judgment, taking into account the entire context of the particular transaction. It is frequently a matter of degree. For example, a promise to sell one map to a foreign nation is not an international agreement; a promise to sell one million maps probably is an international agreement. At what point between one and one million the transaction turned into an agreement is difficult to say.

The attached letter from Acting Secretary of State Kenneth Rush in September, 1973, to all Government departments and agencies addresses itself to this problem. It requires agencies to transmit to the Department for possible transmittal to the Congress "any agreements of political significance, any that involve a substantial grant of funds, any involving loans by the United States or credits payable to the United States, any that constitute a commitment of funds that extends beyond a fiscal year or would be a basis for requesting new appropriations, and any that involve continuing or substantial cooperation in the conduct of a particular program or activity, such as scientific, technical, or other cooperation, including the exchange or receipt of information and its treatment."

3. REQUISITE SPECIFICITY, INCLUDING OBJECTIVE CRITERIA FOR DETERMINING ENFORCEABILITY

International agreements require a certain precision and specificity setting forth the legally binding undertakings of the parties. Many international diplomatic undertakings are couched in legal terms, but are unenforceable promises because there are no objective criteria for determining enforceability of such undertakings. For example, a promise "to help develop a more viable world economic system" lacks the specificity essential to constitute a legalling binding international agreement. At the same time, undertaking as general as those of Articles 55 and 56 of the U.N. Charter have been held to create internationally binding obligations (though not self-executing ones).

4. THE NECESSITY FOR TWO OR MORE PARTIES TO THE ARRANGEMENT

While unilateral commitments on occasion may be legally binding and may be significant in international relations, they do not constitute international agreements. For example, a promise by the President to send money to Country Y to help earthquake victims, but without any obligation whatever on the part of Country Y, would be a gift and not an international agreement. It might be an important undertaking, but not all undertakings in international relations are in the form of treaties or executive agreements. There may be a difficult question whether a particular undertaking is truly unilateral in nature, or is part of a larger bilateral or multilateral set of undertakings. Parallel "unilateral" undertakings by two or more states may constitute an international agreement.

5. FORM

While form as such is not normally an important factor in the law of treaties and international agreements, it does deserve some weight. Documents which do not follow the customary form for international agreements, as to matters such as style, final clauses, signatures, entry into force dates, etc. may or may not be international agreements under the law. Failure to use the customary form may on occasion constitute evidence of a lack of intent to be legally bound by the arrangement. On the other hand, if the general content and context reveals an intention to enter into a legally binding relationship, the lack of proper form will not be decisive.

Two types of international arrangements which frequently cause difficulty in this context are agency-to-agency agreements and implementing agreements.

a. Agency-to-agency agreements

Despite variations in prior practice, it is currently our position that agency level agreements are international agreements for purposes of publication and transmittal to the Congress if they meet the above criteria. The fact that an agreement is signed by a particular department or agency of the United States Government, is not determinative. Agencies can and do bind the U.S. Government in international law, and it is questionable whether any Government agency has a separate legal personality. What is important is the substance of the agreement. This is of particular current significance since many departments and agencies are now signing international agreements in their own name. The Rush letter was designed to ensure that the Department is made aware of these agreements in a timely fashion and is placed in a position to transmit them to the Congress, if in its view it is required to do so by the Case Act.

b. Implementing agreements

Implementing agreements present still more complicated problems. Assuming that an implementing agreement meets the criteria specified above, the question then becomes how precisely it is anticipated and identified in the underlying agreement it is designed to implement. For example, suppose the underlying agreement calls for the sale by the United States of 1000 tractors, and a subsequent implementing agreement requires a first installment on this obligation by the sale of 100 tractors of the Brand X variety. In that case, the implementing agreement, is sufficiently identified in the underlying agreement, and would not be subject to the requirements of sections 112a and 112b. However, if the underlying agreement is general in nature, and the implementing agreement meets the specified criteria, it might well be subject to sections 112a and 112b. For example, if the "umbrella" agreement calls for the conclusion of "agreements for agricultural assistance," but without further specificity, then a particular agricultural assistance agreement subsequently concluded in "implementation" of that obligation, provided it meets the specified criteria, would constitute an international agreement independent of the "umbrella" agreement. It would be an "implementing agreement," but nevertheless subject to publication and Case Act requirements.

D. All officers who have not done so should familiarize themselves with the provisions of the Circular 175 Procedure, which sets forth detailed guidelines and information on Department procedures in the negotiation, signature, publication, and registration of treaties and other international agreements of the United States. The Circular 175 Procedure is found at Volume 11 of the Foreign Affairs Manual, Section 700.

DEPARTMENT OF STATE,
Washington, D.C., September 6, 1973.

DEAR ———. I want to invite your personal attention to the problem of ensuring that all international agreements to which the United States becomes a party are cleared, prior to conclusion, with the Department of State and are submitted, after conclusion, by the Department of State to the Congress, as required by the Case Act (Public Law 92–403; 1 USC 112b). Although cooperation by the various executive departments and agencies has, in general, been most gratifying, there remain difficulties, particularly in achieving mutual understanding of the types of agreements covered by the applicable law and in assuring sufficient awareness by officers and employees of the implications for the operations of their department or agency. It may well be that a combination of new regulations and broad educational efforts within each affected department and agency will suffice to eliminate these difficulties, and I hope you will ensure that the necessary action is taken within your jurisdiction.

A recent Report by the Comptroller General, "U.S. Agreements with and Assistance to Free World Forces in Southeast Asia Show Need for Improved Reporting," B–159451, April 24, 1973, has recommended that the Congress consider legislation requiring that the Secretary of State submit annually to the Congress a list of all such subordinate and implementing agreements made involving substantial amounts of U.S. funds or other tangible assistance, together with estimates of the amounts of such funds or other assistance. I believe that such legislation should be unnecessary. Certainly it is preferable to bring about full cooperation through our own efforts.

On August 15, 1973 the Department of State published in the Federal Register a Public Notice inviting comment on a proposed revision of its Circular 175 Procedure, and related procedures, regarding the authorization, negotiation and conclusion of treaties and other international agreements (38 Fed. Reg. 22084). We would appreciate the opportunity to discuss with you any particular questions or problems that you may have regarding the application of that procedure, which we hope will provide a satisfactory basis for instructions within each of the departments and agencies concerned.

In this connection, I would also note that neither the form in which an agreement is expressed nor the fact that an agreement is of a subordinate or implementing character in itself removes the agreement from the requirements of the Case Act or of the law regarding the publication of international agreements (1 U.S.C. 112a). The determination whether an instrument or a series of instruments constitutes an international agreement that is required to be transmitted to the Congress and to be published is based upon the substance of that agreement, not upon its form or its character as a principal agreement or as a subordinate or implementing agreement.

As the subject matter of our international agreements is, in general, as broad as the scope of our foreign relations, it is not practicable to enumerate every type of agreement which the Department of State should receive from the other executive departments and agencies. However, it seems clear that texts should be transmitted to the Department of State of the agreements referred to in the recommendations of the Comptroller General and of any agreements of political significance, any that involve a substantial grant of funds, any involving loans by the United States or credits payable to the United States, any that constitute a commitment of funds that extends beyond a fiscal year or would be a basis for requesting new appropriations, and any that involve continuing or substantial cooperation in the conduct of a particular program or activity, such as scientific, technical, or other cooperation, including the exchange or receipt of information and its treatment. In general, the instruments transmitted to the Congress pursuant to the Case Act, and those published (other than those classified under E.O. 11652), should reflect the full extent of obligations undertaken by the United States and of rights to which it is entitled pursuant to instruments executed on its behalf.

The fact that an agency reports fully on its activities to a given Committee or Committees of Congress, including a discussion of agreements it has entered into, does not exempt the agreements concluded by such agency from transmission to the Congress by the Department of State under the Case Act.

In the event of a question whether any particular document or series of documents constitutes an international agreement, inquiry may be made of the Assistant Legal Adviser for Treaty Affairs in the Department of State, telephone 632–1074. We look forward to your continued cooperation in ensuring compliance with these requirements.

Sincerely,

KENNETH RUSH,
Acting Secretary.

Mr. CASE. Mr. President, I have consulted the chairman about this amendment. I know of no opposition to it. Therefore, I urge the adoption of the amendment.

Mr. HUMPHREY. Mr. President, the amendment is much needed, and it is a very valuable contribution to the legislation.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New Jersey.

The amendment was agreed to.

Mr. HUMPHREY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CASE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 7

Mr. CASE. Mr. President, I have another amendment at the desk, which I call up.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New Jersey (Mr. CASE) proposes an unprinted amendment numbered 7.

Mr. CASE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with and that the amendment be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

On page 51, line 20, immediately before the comma insert "and Humanitarian Affairs".

On page 55, line 5, immediately before the period insert "and Humanitarian Affairs".

On page 55, line 8, immediately after "rights" insert "and humanitarian affairs (including matters relating to refugees, prisoners or war, and members of the United States Armed Forces missing in action)".

On page 55, line 12, immediately after "Rights" insert "and Humanitarian Affairs".

On page 55, line 14, immediately after "rights" insert "and humanitarian affairs (including matters relating to refugees, prisoners of war, and members of the United States Armed Forces missing in action)".

On page 55, line 16, immediately after "regarding" insert "humanitarian affairs and".

Mr. CASE. Mr. President, during our discussions of the International Security Assistance and Arms Export Control Act we have pointed with some pride to the Human Rights amendment that is part of this legislation. As I think we all recognize this is very important legislation, for it seeks to give us a responsible and temperate way to deal with other nations that appear to have violated basic standards of human decency and conduct. At the core of the Human Rights amendment is a new office in the Department of State called the Coordinator for Human Rights. He or she is to be appointed by the President and confirmed by the Senate. The duties of this officer include the responsibility to advise both the Secretary of State and the Congress on alleged human rights violations. Beyond that, at the request of either House or at the request of the Foreign Relations Committee or the International Relations Committee the Coordinator for Human Rights in the Department of State is required to report to us on any alleged case of human rights violations.

For the first time the Congress will have a responsible official who has the duty to respond to concerns about human rights violations and who will present for congressional consideration up to date factual information on any situation that gives rise to serious concern.

Unfortunately the companion House passed measure, H.R. 13680, has dropped the provision of the Human Rights amendment creating the Coordinator for Human Rights. I do not know why the House Members took this action although there has been some concern in the bureaucracy that an appointed official in the State Department concerned only with human rights might appear to be a one sided mandate. For some time the House Members have talked about the possibility of an office with a slightly different responsibility—namely, a Coordinator for Humanitarian Affairs with the responsibilty of monitoring matters relating to refugees, prisoners of war and members of the American Armed Forces missing in action.

In my own view the House proposal is not unreasonable and can be combined with the Senate's proposal for a Coordinator for Human Rights. For that reason my pending amendment to the human rights section of S. 3439 would expand the mandate of the Coordinator for Human Rights by making this individual responsible for humanitarian affairs as well. It is my belief that by taking this action today in the Senate we will be able to reach an accommodation with our House colleagues more easily and help to insure that the central part of the Human Rights amendment is retained in the final version of the International Security Assistance and Arms Export Control Act.

Mr. President, unfortunately, we have run into a little trouble in the House with this particular language. They want to change the Office of Coordinator of Human Rights, which we have put in the bill, and change it to a requirement to handle the matter in a much more limited way. We think we can accommodate the House view by having both a Coordinator for Humanitarian Affairs and the responsibility for doing what the House wants—namely, monitoring matters relating to refugees, prisoners of war, and members of the armed services missing in action. A modest amendment to our bill would provide that both of these matters be dealt with at this point. That is the purpose of the amendment, and I hope it will be found acceptable.

Mr. HUMPHREY. Do I correctly understand that it expands the Office of Human Rights Coordinator to that of humanitarian affairs as well?

Mr. CASE. That is right—to meet the House view that this matter, relating to MIA's—missing in action—prisoners of war and refugees, be included specifically in our legislation.

Mr. HUMPHREY. Mr. President, I feel that this is a valuable addition to the legislation and hope it will be adopted.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New Jersey.

The amendment was agreed to.

Mr. HUMPHREY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CASE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CASE. I thank my colleague for his cooperation, and I thank my colleagues in the Senate for their understanding and action in these matters.

UP AMENDMENT NO. 8

Mr. HUMPHREY. Mr. President, I send to the desk an amendment that would have been offered today by the distinguished Senator from Massachusetts (Mr. KENNEDY), but he is attending a funeral of a very dear friend and is unable to be present. I am a cosponsor with him. It is an amendment which I ask to be reported, and I will briefly explain it.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Minnesota (Mr. Humphrey), for himself, Mr. Kennedy, Mr. Javits, and Mr. Case proposes an unprinted amendment numbered 8.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with and that the amendment be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

On page 74, line 20, immediately after "AGAINST" insert "ECONOMIC ASSISTANCE."

On page 75, between lines 8 and 9, insert the following:

(c)(1) Notwithstanding any other provision of law, the total amount of economic assistance that may be made available to Chile may not exceed $30,000,000 during the combined periods of the transitional quarter and the fiscal year 1977. For the purposes of this section, economic assistance shall include, but not be limited to, grants, housing guaranties, other forms of guaranties, insurance, loans, credits, or other assistance by the Agency for International Development, the Overseas Private Investment Corporation, the Export-Import Bank, and any other agency of the United States, and sales or other assistance under title I of the Agricultural Trade Development and Assistance Act of 1954. This section shall not be construed to authorize the furnishing of assistance to Chile which is prohibited by any other provision of law.

(2) The $30,000,000 limit set forth in paragraph (1) of this subsection may be increased by not to exceed $20,000,000 if the President certifies in writing to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate that the government of Chile—

(A) does not engage in a consistent pattern of gross violations of internationally recognized human rights, including torture or cruel, inhuman, or degrading treatment or punishment, prolonged detention without charges or trial, or other flagrant denials of the right to life, liberty, or the security of person;

(B) has permitted the unimpeded investigation, by internationally recognized commissions on human rights (including the United Nations Commission on Human Rights and the Inter-American Commission on Human Rights of the Organization of American States) of alleged violations of internationally recognized human rights (as defined in subparagraph (A) of this paragraph); and

(C) has taken steps to inform the families of prisoners of the condition and charges against such prisoners.

Mr. HUMPHREY. Mr. President, I will explain the amendment. It is a valuable addition, I think, because it gives a good deal more flexibility to the program relating to Chile. It places a $30 million ceiling on all forms of economic aid to Chile. It authorizes an additional $20 million if the President certifies that Chile has made substantial progress in ending gross human rights violations. It excludes from the ceiling humanitarian food assistance under title II, Public Law 480, and Peace Corps assistance to Chile.

The present legislation is more restrictive. We feel that this amendment meets the administration's request in terms of the overall amounts of assistance. However it provides some incentive for improvement in the pattern of human rights in Chile, which is something that is being urged today by many governments in the Organization of American States.

Mr. ALLEN. Will the Senator yield?

Mr. HUMPHREY. Yes, I yield.

Mr. ALLEN. What effect, if any, does this have on the total amount appropriated under this section? Is it any increase in funds?

Mr. HUMPHREY. No, it is not, Senator. It just specifies what it will be used for.

Mr. JAVITS. Mr. President, will the Senator yield to me?

Mr. HUMPHREY. Does the Senator wish to speak on this amendment?

Mr. JAVITS. Yes. I am joined as a sponsor of this amendment.

Mr. HUMPHREY. Excuse me, Mr. President; Senator JAVITS and Senator KENNEDY are the main sponsors of this amendment, and Senator CASE as well.

Mr. JAVITS. I wish to emphasize the importance that is attached to this amendment by virtue of the finding of the Commission on Human Rights of the Organization of American States and to extend my appreciation to the members of that Commission, who even though within the country which they were so vigorously condemning—not just in rhetoric, but in individual proof of individual cases—caused that publication to be made. Knowing as we do the ways of governments and the ways of men, the publication of that report is probably as effective a single thing as could be done to end this reign of terror which seems to be continuing in Chile. While we would seem, by allowing any economic aid to move to Chile, superficially to be aiding rather than fighting against this dread situation, the fact is that our struggle is not with the Chilean people, who certainly have been put upon enough already, but with the regime which is in power in Chile. I join with my colleagues in believing that this is a very constructive way in which to move in this area, but I emphasize the tremendous debt of gratitude we owe to the members of that Human Rights Commission of the OAS, which took the bit in its teeth and, though the meeting was right in Santiago, did what had to be done.

Mr. HUMPHREY. I ask unanimous consent that a statement by Senator KENNEDY be printed at this point in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR KENNEDY

I offer this amendment after full consultation with Senators HUMPHREY, and JAVITS following Secretary Simon's appearance last week before the Subcommittee on Foreign Economic Assistance which is chaired by the distinguished floor manager of this bill.

In Santiago, the Inter-American Commission on Human Rights has released its most recent report on conditions in Chile.

It found again the persecution, arbitrary jailings and torture that have caused the Junta to be condemned by every international government and private agency concerned with human rights.

Not surprisingly, the Commission reported that the Junta has denied its cooperation. According to press reports, the Commission noted, "Some requests—a minority of them—have received incomplete replies. The majority of them, and very important ones, have received no reply whatsoever."

Nor is it surprising that the Commission found such a contradiction between the actual repressive acts of the Junta and its public statements that it viewed the Junta issuance of new decrees allegedly designed to protect human rights as "intended more as instruments of propaganda rather than as effective measures for the protection of human rights.

"While decrees are being issued for the purpose of tranquilizing or confusing world opinion, the practice of arbitrary jailings, persecution and tortures continued up to the present."

The Commission also found specific cases that highlight the repressive nature of the regime, cases where the commission could confirm individual executions without legal process, cases where individuals were tortured to death, cases where individuals clearly had been arrested by the Chilean secret police, the DINA, and never appeared again.

With this record before him, it is no wonder that even the Secretary of State, who has maintained firm support of the Junta, spoke out against the gross violation of human rights. Hopefully now we can obtain Administration support for cutting off military assistance of any sort and limiting economic assistance.

The reason for this amendment is simply that with regard to economic assistance, the condition of human rights in Chile, does not justify providing them with preferential treatment.

This amendment simply will right the current imbalance. It places a reasonable limit on economic assistance and I might add that with regard to economic assistance to that country, we have made it number one in the hemisphere, just as we did with military assistance.

Last year, the administration proposed sending 85 percent of all title I, 480 going to Latin America to Chile.

This year 68 percent.

Yet even the State Department acknowledges that Chile is not among the most needy country in the hemisphere.

The record of the Junta does not justify providing them with the great majority of U.S. economic assistance.

In fiscal year 1975, we placed a $25 million limit on the program of assistance. In fiscal year 1976, it went to $90 million because the bill was passed very late and the food already had gone to Chile.

Now, with the clear statements of the Department itself that Chile is not a country of greatest need, we should impose a reasonable limitation on assistance.

And let me relate, to those who might have seen some expressions of hopeful optimism from the Secretary of the Treasury several weeks ago, a few points.

Since his visit, we know of the arrest of the daughter of a former senator, two architects, the former vice president of a major labor union, two attorneys, an engineer and others. These individuals we have the names of because their relatives specifically have contacted either our embassy, volunteer groups, or friends and relatives outside Chile and we have their names. But there are many more we still have no detailed knowledge of. In Santiago alone, 133 more arrests occurred in the weeks just prior to the OAS meeting.

The point is that the arrests continue, the repression continues.

For 10½ hours while the Secretary was there it may have appeared different, but behind diplomatic curtains the repression was continuing.

And I am afraid that the Secretary may have been taken in by his hosts. While he was proudly showing off a list of 49 prisoners the junta said they were going to release, they were arresting others to take their places in the jails.

And they did not even have the courtesy to release all of those named on the list, nor could they. Three of them were already in the United States. Another 2 had been released before he arrived. And another half dozen had been on a release list announced in February. Even though a few hundred were subsequently released, some 4,000 political prisoners remain, perhaps 1,000 of them without charge.

Where are the names of the almost 4,000 who remain—1,000 without charge?

Where are the 1,000 men and women who have disappeared in the night, documented by the Chilean church committee, arrested by members of the D.I.N.A. who never appear again?

Their families saw them being arrested but now file habeus corpus petitions fruitlessly; the church files petitions fruitlessly on their behalf and yet the Government continues to deny knowledge of their whereabouts.

There are four questions one can ask to determine the situation in Chile:

First, can the junta order the arrest of anyone it wants without any cause? The answer is yes.

Second, can it keep him indefinitely imprisoned without charge, totally isolated? The answer is yes.

Third, can it abuse him and torture him without effective recourse? The answer is yes.

Fourth, can any public objection be raised to that conduct? The answer is no.

That is the reality in Chile today.

So I am afraid that the Secretary was unfortunately incorrect, if he thinks that there has suddenly been a magic change of heart on the part of the junta.

The reality is that the repression continues and we should not support it with arms or with preference in the granting of economic aid.

The most recent events in Chile continue to demonstrate the pattern of gross violations of human rights which exists in that country.

The most shocking arrest was that of a distinguished lawyer, Hernan Montealegre, the attorney for the Catholic Church's human rights organizations, the Vicariate of Solidarity.

The effort to terrorize all who have any concern for human freedom and dignity is clear when within five weeks the two attorneys for this human rights organization are arrested. The Vicariate was created by the Cardinal of Chile to provide some relief to the families of political prisoners and to try and provide them with some help when their husbands or wives or children are suddenly whisked off in the middle of the night by the D.I.N.A., the Chilean secret police.

One attorney, Jose Zalaquett, was arrested, held incommunicado for 18 days and then released 2½ months later—all without charge, all without trial. Then in late March, he met with three U.S. Congressmen; within days after they left he was ordered expelled, rearrested and finally deported.

The very act of talking honestly to a U.S. Congressman was cause for arbitrary arrest, imprisonment and expulsion.

I find it incredible that with this record before us, anyone would suggest sending weapons to that government.

The Government of Chile will of course accept U.S. arms and U.S. aid, but it will not permit Chilean lawyers to talk freely with U.S. Congressmen.

Now we see another effort to put pressure on the church in Chile by arresting the remaining attorney who provided counsel to the Vicariate.

These are not terrorists or bomb throwers, they are lawyers and even the State Department has chastised the junta for these violations.

Unfortunately, the Department still seeks $20 million in military aid for Chile this year, the provision of nearly $120 million in weapons in the pipeline.

The reports of continued arbitrary arrests, arbitrary firings, exile within the country and torture during interrogation persist. Every international human rights group that has investigated Chile has found a gross pattern of human rights violations, including a system of torture. And inquiry has found a violation of political freedom as well.

The Congress remains closed.

Political parties—in a country which once was the symbol of democracy in the hemisphere—remain outlawed. A state of siege continues in effect.

And the military junta which came to power in a bloody coup remains in power, pointing to the example of Franco as their model.

I am hopeful that the Senator will adopt this amendment, although I would have liked to place the ceiling closer to the $25 million ceiling adopted in the House.

UP AMENDMENT NO. 9 TO UP AMENDMENT NO. 8

Mr. STONE. Mr. President, I call up an unprinted amendment of mine to the amendment now pending at the desk.

Mr. HUMPHREY. Will the Senator yield first? Did we get reconsideration of the amendment on Chile?

Mr. STONE. No, this is an amendment to the Senator's amendment on Chile.

The PRESIDING OFFICER. The amendment on Chile has not been voted on.

The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from Florida (Mr. Stone) proposes an amendment

On p. 2, line 2, strike $20,000,000 and insert $38,000,000.

Mr. STONE. Mr. President, what I do in this, accepting the incentive structure of the Senator's amendment, is provide that if the Government of Chile satisfies the administration of the American Government so that they can certificate to the leadership of Congress, in the form that the amendment specifies, that the improvements in human rights conditions are satisfactory and are moving in the right direction, in that case, instead of $20 million—which is a handsome figure—the $38 million, which adds up to the $68 million the administration told the Committee on Foreign Relations that it requested, would be there. The Senators will note that I am not offering this in the first $30 million that they get in all events, but only as the full incentive to get the results that we wish. I hope that the floor managers of this bill can accept that one modification.

Mr. JAVITS. Let me ask the Senator a question before I agree to that. May we see the language or get the language?

Mr. STONE. I am using the Senator's language, I just changed one figure, from 20 to 38.

Mr. HUMPHREY. This would be within the administration request.

Mr. STONE. This is the administration's request.

Mr. JAVITS. Mr. President, the thing I would like to ask the Senator is this: Is it understood that we need not necessarily do all the $38 million, just as it is understood that we need not necessarily do all the $20 million?

Mr. STONE. That is understood.

Mr. JAVITS. The President may do what he conceives to be desirable under those circumstances up to $38 million?

Mr. STONE. That is correct.

Mr. JAVITS. If that is the understanding of the amendment, I have no objection.

Mr. HUMPHREY. I have no objection.

Mr. STONE. I call for the question.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Florida.

The amendment was agreed to.

Mr. HUMPHREY. Now the amendment as amended is up for consideration.

The PRESIDING OFFICER. The question is on agreeing to the amendment (UP No. 8), as amended.

The amendment was agreed to.

Mr. HUMPHREY. I move to reconsider the vote by which the amendment was agreed to.

Mr. JAVITS. I move to lay that on the table.

The motion to lay on the table was agreed to.

Mr. HUMPHREY. I ask unanimous consent that Senators MCGEE and BROOKE be added as cosponsors of the Chile amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 10

Mr. HATHAWAY. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. HATHAWAY. I ask unanimous consent that further reading of the amendment be dispensed with and that it be placed in the RECORD at this point.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment proposed by Senator HATHAWAY on behalf of himself and Mr. MUSKIE is as follows:

On page 35, line 14, strike out and.

On page 35, line 18, strike out the period and insert in lieu thereof a semicolon and On page 35, line 14, strike out "and".

On page 35, between lines 18 and 19, insert the following:

"(M) a detailed description of any agreement proposed to be entered into by the United States for the purchase or acquisition by the United States of defense articles, services, or equipment, or other articles, services, or equipment of the foreign country or international organization in connection with, or as consideration for, such letter of offer, including an analysis of the impact of such proposed agreement upon United States business concerns which might otherwise have provided such articles, services, or equipment to the United States an estimate of the costs to be incurred by the United States in connection with such agreement compared with costs which would otherwise have been incurred, an estimate of the economic impact and unemployment which would result from entering into such proposed agreement, and an analysis of whether such costs and such domestic economic impact justify entering into such proposed agreement.".

Mr. HATHAWAY. Mr. President, in explanation of this amendment, I would state that it adds one more item to the laundry list of considerations that must be made with respect to certain Government transactions on military equipment which appears on page 33 in the bill and runs over to pages 34 and 35. This would simply add another consideration, namely, whether or not there was any agreement between this Government and any foreign government with respect to a quid pro quo—that is, if we sell them one article, they will sell us another article—so that we may be able to know what that agreement contains, the economic impact upon other companies or industries of this country which might be able to provide what the foreign government is going to provide, what the unemployment impact might be, and so forth.

Section 36, as included in section 211 of S. 3439, requires that the Speaker of the House of Representatives and the chairman of the Senate Committee on Foreign Relations be kept informed of sales of U.S. weapons and defense equipment to foreign countries and international organizations on an ongoing basis.

In cases involving a proposed sale of defense articles or services for $25,000,000 or more, or defense equipment for $7,000,000 or more, the new section 36 (b) requires that the President, before issuing a formal letter of offer, must submit to the Speaker and the chairman of the Senate Committee on Foreign Relations a numbered certification describing the country or organization to which the proposed sale is to be made, the dollar value of the sale, a description of the goods to be sold, and the entity of the Federal Government which proposes to make the sale.

Upon request, the President must supply to the Senate Committee on Foreign Relations and the House International Relations Committee a variety of additional information describing the proposed transaction in more detail, including the number of U.S. employees required to carry out the sale, the name of each contractor likely to be involved, an analysis of the sale in terms of arms control, the proposed use of the items to be sold by the foreign country, the impact such sale would have on U.S. preparedness, the impact such sale would have upon the relative military strengths of the countries involved, and so on. The House and Senate committees are authorized to request such information in such detail as needed to analyze the proposed sale.

The formal letter of offer may not be issued to the foreign country or organization if Congress adopts a concurrent resolution stating its objections within 30 calendar days after having first received the certification. Thus, the Congress may in effect issue a veto to any proposed sale over the required dollar amount if it is not satisfied that such a sale is in the best interests of the U.S. foreign policy based on the information supplied to it by the President. Consideration of a proposed concurrent resolution of objection is to be on an expedited basis, as outlined in section 601 of S. 3439.

These provisions are sound ones, and I wholeheartedly support the concept of Congress being informed of significant foreign military sales proposals before they take effect, and before it becomes too late for Congress to exercise its constitutional duty with respect to foreign policy. If Congress is ultimately charged under the Constitution with the responsibility to declare war, it makes sense that Congress be involved along the way with decisions which could contribute to future wars. Any proposed decision on the part of the Executive which involves the sale of large amounts of U.S. weaponry or other defense related equipment to foreign nations has a direct impact upon the possibility of wars in other parts of the world which could lead to our own involvement. The still recent national tragedy of Vietnam offers ample evidence of the need for more congressional involvement in this sort of decisionmaking.

While the new section 36(b) authorizes the Senate and House committees to request a wide variety of information in connection with such proposed sales, this section does ignore one critical aspect which may be involved in such sales—namely, the possibility that a "package deal" or "quid pro quo" may be involved in such sale by the United States to foreign country whereby U.S. officials of the various armed forces or departments might agree to purchase foreign made goods or services as an inducement to the foreign country to participate in the sale.

In other words, there may well be an offset agreement whereby the foreign countries may agree to buy our weapons if we agree to buy theirs.

Such agreements, if entered into, raise a number of policy questions which appropriately ought to be considered by Congress in connection with its veto power over large sales. For example, by participating in such a package deal, the U.S. officials, whether they realize it or not, are acting for the benefit of the manufacturer of the goods to be sold and to the detriment of domestic producers who might otherwise have provided the Armed Forces with the goods now to be purchased from the foreign countries.

Further, such agreements, if entered into, raise fundamental questions of business ethics. The promise by the United States to purchase the foreign made goods, unless fully disclosed and considered on its merits, should be viewed as a payoff of sorts to the foreign country for their "privilege" of doing business. This issue is not that different from the considerations raised by the cash payments allegedly made by certain manufacturers to foreign governments as "bribes" to purchase the U.S.-made goods.

Such agreements, if not disclosed, could lead to the U.S. purchase and utilization of goods and services from the foreign country which may not be of the highest quality, or the most cost-effective. In their zeal to close large weapons deals, U.S. officials may be tempted to engage in such horse trading, but I would submit that these deals may not be in the best interests of our national security and defense posture.

It could be argued that these deals are now or soon will be an international fact of life and that we will have to play the game in order to reap the benefits. I would disagree and argue that these deals lower the level of our international relations. But, rather than engage in an extensive dispute over this, I would ask simply that Congress be informed of these deals and thereby be able to judge them on a case-by-case basis. In this way Congress can approve package sales it considers appropriate and veto those it considers improper.

Package deals are objectionable from another standpoint; carried to an extreme, they run counter to over 40 years of Federal law and regulation concerning procurement procedures.

Under existing law, the Buy American Act ordinarily requires that goods to be used by the armed services be acquired domestically unless there are overriding cost or quality considerations or other overriding public interest considerations. Federal procurement statutes and regulations in almost all instances require formal advertising, firm specifications, and competitive selection of the procurement contractor.

To instead give a foreign country the exclusive and immediate right to provide such goods to the United States in connection with a package deal is contrary to this structure and may well be illegal.

My amendment, therefore, would require that in addition to the information which may be requested by the congressional committees under section 36(b), these committees also be given a detailed description of the nature and substance of any "quid pro quo" agreement proposed to be entered into by the United States whereby it agrees to purchase or otherwise acquire the goods or services of a foreign country in connection with that country's commitment to purchase U.S. arms.

Included in this disclosure requirement would be an analysis of the impact such a "quid pro quo" agreement would have upon domestic U.S. manufacturers which might otherwise have provided the goods and services now to be procured from foreign countries. The committees could request, and the President would be required to furnish, an estimate of the domestic economic impact such an agreement might have, including the unemployment which could result.

Furnished with this information, Congress would then be equipped to reach an informed conclusion concerning the propriety and desirability of such agreements, approving those it considered appropriate and disapproving those it did not.

In this way our domestic manufacturers will know that their interests are not being ignored in the conduct of international diplomacy and our Armed Forces will be provided with the best quality goods and material which we are able to procure within our national budget priorities.

I point out that on May 26, 1976, the Senate approved a similar amendment I offered to H.R. 12438, the so-called military procurement authorization bill. That amendment required disclosure of agreements entered into in connection with weapons authorized to be procured under title I of that legislation.

I offered that amendment and I now offer this one because of a concern which has arisen regarding the Army's recently announced tentative decision to purchase an armor machinegun, the MAG-58 from a Belgian manufacturer in preference to the domestically produced machinegun the M-60E2, manufactured in Saco, Maine. There have been suggestions in the press that the Army's decision to consider the Belgian weapon resulted from an agreement between Secretary Schlesinger, and the Belgian Defense Minister Van Boynants as part of an exchange, or "package deal" for the Belgian purchase of the F-16 fighter aircraft.

My amendment to the procurement bill requires that such an alleged deal, if made, must be disclosed to Congress within 30 days of enactment of that legislation.

This amendment is consistent with my previous one, but would have broader applicability to future package deals and would provide such disclosure in connection with the congressional veto power of foreign military sales included in the legislation now under consideration.

Mr. HUMPHREY. Mr. President, we have looked this amendment over. The Senator was kind enough to let us know about it early. It is the view of the subcommittee which handles this legislation, and I think I can speak for the full committee, that is a desirable amendment and we are ready to accept it.

Mr. HATHAWAY. I thank the distinguished Senator from Minnesota, and I appreciate his accepting the amendment.

Mr. JAVITS. Mr. President, this amendment is acceptable on our part.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. HATHAWAY. I move to reconsider the vote by which the amendment was agreed to.

Mr. HUMPHREY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HUMPHREY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STONE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 11

Mr. STONE. Mr. President, I call up an unprinted amendment at the desk.

The PRESIDING OFFICER. Would the Senator send the amendment to the desk.

The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from Florida (Mr. STONE) proposes unprinted amendment No. 11.

Mr. STONE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER (Mr. BUMPERS). Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following new section:

"SEC. —. The last sentence of 22 U.S.C. section 1754(b) is amended to read as follows:

" 'Within 60 days after the beginning of each regular session of Congress, each member and employee of such committees shall prepare a report itemizing the amounts and dollar equivalent values of foreign currencies expended and the amounts of dollar expenditures from appropriated funds in connection with travel outside the United States during the preceding calendar year, together with the purposes of the expenditure, including per diem (lodging and meals), transportation and other purposes and shall forward such report to the Committee on House Administration of the House of Representatives (if a member of a House committee or a joint committee whose funds are disbursed by the Clerk of the House) or to the Secretary of the Senate (if a member of a Senate committee or a joint committee whose funds are disbursed by the Secretary of the Senate). Such report shall be open to public inspection.' "

Mr. STONE. Mr. President, the purpose of this amendment is to shift the burden of reporting funds expended for foreign travel from committee chairmen to individual Members and employees who actually incur the expenses in connection with such travel.

Under present law committee chairmen are required to prepare a consolidated report showing how much each committee member and employee spent in the preceding calendar year in connection with travel outside the United States and submit that report to the Secretary of the Senate. This amendment would simply place this responsibility where it belongs—with the individual Member or employee who incurs expenses in connection with foreign travel.

I believe it is a noncontroversial amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Florida.

The amendment was agreed to.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STONE. I move to lay that motion on the table.

The motion to law on the table was agreed to.

Mr. STONE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MUSKIE. Mr. President, I understand that a conference has taken place on the floor with respect to the item that the Senator from Alabama and the Senator from Minnesota (Mr. HUMPHREY) have been discussing. There are budgetary implications that we should discuss and make a record on, because I gather that what the Senate eventually will face is a conference report that will contain the same item.

Mr. HUMPHREY. That is correct.

Mr. MUSKIE. So I think it still would be useful to clarify this item from the budget point of view and have the record made now, so that Senators will know what the budget implications are. I shall explain the matter, and then I will ask the Senator from Minnesota for his response and his reaction to it.

During markup, the Committee on Foreign Relations added $85 million for countries of central and southern Africa. This amount had not been anticipated by the Committee on Foreign Relations in its March 15 report to the Committee on the Budget, and it was not assumed in Congress' first budget resolution for fiscal year 1977, and it was not a part of the President's original budget. Consequently, the pending bill is $100 million in budget authority over the target set in function 150.

Let me emphasize that. This item was not in the President's budget and it was not in the congressional budget; it was related to an event or events that took place after the submission of the President's budget and after the adoption of the congressional budget resolution. The report of the Committee on Foreign Relations makes this very clear.

Mr. HUMPHREY. The Senator is absolutely correct on those matters.

Mr. MUSKIE. What I am saying is not intended as a criticism of the committee at all.

With respect to the President's budget, on May 25 the Office of Management and Budget Director, James T. Lynn, sent me a letter acknowledging the provision of the Foreign Relations Committee in this connection, in which he said that the President supports enactment of legislation to provide $85 million for Zaire, Zambia, and other south African countries.

I ask unanimous consent that Mr. Lynn's letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., May 25, 1976.

Hon. EDMUND S. MUSKIE,
Chairman, Committee on Budget,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Section 501 of S. 3439, the International Security Assistance and Arms Export Control Act of 1976–1977, contains provisions which authorize 1977 appropriations of $85 million for additional aid to Zaire, Zambia, and other southern African countries. The President supports enactment of legislation to provide $85 million in supporting assistance for these countries and will transmit a budget amendment for this purpose.

Sincerely yours,
JAMES T. LYNN, *Director*.

Mr. MUSKIE. We now have from the President a budget submission which we did not have in the budget and which Congress had not received when the congressional budget resolution was adopted.

Mr. HUMPHREY. Again, the Senator recites the facts correctly.

Mr. MUSKIE. It is, of course, the prerogative of the President to submit amendments to his budget at any time in the course of a year, and Congress has some responsibility to respond.

So this $85 million takes on these dimensions:

The money was not in Congress budget or in the President's original budget. The new congressional budgetary process is flexible enough, I think, to respond to new developments, as it did last fall, following the Sinai accord. But unless we decide to increase the budget total at some point down the line, or unless other requirements change in the national defense or international affairs' functions, it will be necessary to assume that if we approve this $85 million, adjustments in other programs will be necessary to accommodate the new African money.

Mr. HUMPHREY. I understand.

Mr. MUSKIE. At this point, another disturbing fact is that details of how the $85 million will be spent are sparse. We have in the record already such details as are available, and I will not belabor that; but those details will later be available to the Committee on Appropriations, I assume.

Mr. HUMPHREY. We have made that very clear to the Department of State and the OMB, that those details must be made clear.

Mr. MUSKIE. Then Congress will have that information and the benefit of that information before it acts finally on the appropriations which will implement this authorization bill.

Mr. HUMPHREY. The Senator is correct. The legislative history of several days ago, when we commenced debate on this measure, so indicated.

Mr. MUSKIE. I understand. My last point is this: This $85 million is a one-shot requirement. It cannot be construed as anything more that. It is not seed money for an African Marshall Plan or Alliance for Progress.

Mr. HUMPHREY. I say again to the Senator from Maine that in my discussion of this amount, I stated categorically what the Senator has just said, that this does not in any way prejudge any further commitments, that this is an $85 million request for fiscal year 1977, period.

Mr. MUSKIE. Those are the points I wanted to emphasize, Mr. President.

Mr. President, the International Security Assistance and Arms Export Control Act (S. 3439) authorizes appropriations for security assistance and related programs for fiscal year 1976, the transition quarter, and fiscal year 1977, totaling $6.7 billion in budget authority, and $3.3 billion in current outlays.

This bill contains the same fiscal year 1976 and transition quarter levels which were agreed to by Congress in S. 2662 but were unfortunately vetoed by the President on May 7. My earlier remarks on the fiscal year 1976 and transition quarter authorization levels made in connection with the passage of S. 2662 are in the RECORD, and I shall not repeat them here.

The fiscal year 1977 portion of S. 3439, if fully funded, would produce budget authority of $2.8 billion and outlays of $1.2 billion. In the national defense function, the budget authority in the bill is $0.3 billion less than the President's request and $0.1 billion less than the level assumed in the first budget resolution approved by Congress on May 13.

The situation in the international affairs function is more complex. During markup, the Committee on Foreign Relations added $85 million for countries of central and southern Africa. This amount had not been anticipated by the committee in its March 15 report to the Committee on the Budget; it was not assumed in Congress first budget resolution for fiscal year 1977; it was not a part of the President's budget. Consequently, S. 3439 is about $0.1 billion in budget authority over the target set for function 150.

On May 25, 1976, Office of Management and Budget Director James T. Lynn sent me a letter acknowledging the Foreign Relations Committee provision in section 501 of S. 3439 and saying the "President supports enactment of legislation to provide $85 million" for "Zaire, Zambia, and other southern African countries." Mr. Lynn said the President would "transmit a budget amendment for this purpose."

Subsequently, on June 8, the President sent Congress a budget amendment which officially requests this $85 million for Africa.

The dimensions of the additional $85 million in S. 3439 are these:

The money was not in Congress budget or in the President's original budget. The committee's action and the administration's request for central and southern Africa funds came after the congressional budget resolution had been adopted. The new congressional budgetary process is flexible enough to respond to new developments, as it did last fall following the Sinai Accord. But, unless we decide to increase the budget totals or unless other requirements change, it will be necessary to assume that adjustments in other programs in the international affairs function will be necessary to accommodate the new Africa money.

Details of how the $85 million will be spent are sparse. What is known is that $30 million is for Zaire, $30 million is for Zambia, and $25 million is for other southern African countries, such as Botswana, Tanzania, and Mozambique. However, neither the State Department nor AID has provided Congress in-depth details on the actual programing for the money. It appears that much of the money would be available to support friendly governments in this volatile area of the African continent; security supporting assistance normally has a short-term political life to it.

I conclude that the $85 million is a one-shot requirement and cannot be construed as anything more than that. It is certainly not seed money for an African Marshall plan or Alliance for Progress. Upon his return from his Africa trip, Secretary of State Kissinger told the Committee on Foreign Relations that "the responsibility to assist Africa cannot be a purely American effort, requiring large new outlays." I want to assure the Secretary and the Senate that this is how this Senator, knowing our budgetary priorities and problems, looks at the issue.

Before any of these new Africa funds are appropriated, I believe it is necessary that the administration submit detailed descriptions as to how the moneys will be utilized and administered, and for what purposes. In fact, both the Committees on Appropriations and the Budget should require the full details this summer before the markup of the second concurrent resolution begins.

I reserve the right to review my vote on S. 3439 in light of the details we do not now have regarding the $85 million for central and southern Africa.

The historical relationship between foreign assistance authorization and appropriation is that the appropriation level always runs around 8 to 12 percent lower than that which Congress has authorized. I presume this will be the case for fiscal year 1977.

On balance, I plan to vote for S. 3439. It is a necessary bill. It asserts the role of Congress in developing a rational arms transfer policy. Potential to exceed the first budget resolution assumptions exists; offsetting reductions in other legislation or historical cuts may leave the function totals within the targets.

I commend Senator HUMPHREY for his leadership on the critical arms export and control issues. I appreciate his efforts to work within the budget process, and I note the forthright statement in the report on S. 3439, where the relation between this bill and the budget resolution is clearly stated.

Aside from this $85 million item, the bill before us is consistent with the targets we adopted in the budget resolution. I compliment the distinguished Senator from Minnesota and his associates in the Committee on Foreign Relations for undertaking to do that. I understand, of course, that there are those who think that even what we have provided in the budget resolution is too much money for that purpose, but our function is to tell committees whether or not bills are under the targets in the first budget resolution. This bill is under those numbers, except for this item.

I think, in all candor, that the budget process must be flexible enough for the President to make requests outside of his own budget submissions and for Congress to give them full consideration when it is ready to do so. It is in that spirit that I entered into this colloquy. I appreciate the response of the distinguished Senator from Minnesota.

Mr. HUMPHREY. I thank the Senator from Maine for his observations and for his assistance in this matter. I assure him that we shall try to be as helpful as possible in supplying the details necessary to properly document the support for the funds being authorized.

Mr. MUSKIE. I say to the Senators, including my good friend from Alabama, that I am going to vote for this, reserving the right to change my mind about this item when we have the details and when we have the full budgetary impact of the appropriations to back up this bill.

I think every Senator ought to feel he can reserve that right in light of this development. Otherwise, Presidents would be tempted to send these items up to us at the last minute and expect us to rubber-stamp them on the instant without the kind of mature consideration that the budget process envisages. In this instance, I think we do have to give the President's proposal full consideration.

Mr. ALLEN. Will the Senator yield?

Mr. MUSKIE. Yes, I yield.

Mr. ALLEN. As the Senator knows, I oppose the entire $85 million, because I do not believe that the American taxpayer should finance guerrilla activities, subversion, and violence aimed at toppling one of the few stable governments in Africa. I ask the Senator, in which category of foreign aid would the Congressional Budget Committee place this $85 million? Would it come out of economic assistance items, or would it come out of a military assistance item?

Mr. MUSKIE. This $85 million is in the international affairs function. Military assistance would be in the defense function.

Mr. ALLEN. What function would this be in?

Mr. MUSKIE. In the international affairs function; it is regarded as supporting assistance. It is not in the defense function, where we find military assistance.

Mr. ALLEN. The Senator does not have a breakdown of the international assistance? He puts military assistance and economic assistance both into the same category?

Mr. MUSKIE. No, we do not.

Mr. ALLEN. That is why I asked which category is this $85 million to be found in.

Mr. MUSKIE. Let me put it another way. Military assistance is found in the defense function. Supporting or economic assistance is in the international affairs function. This is not military assistance, as I understand it.

Mr. ALLEN. We have this in the military assistance bill.

Mr. HUMPHREY. Mr. President, I beg the Senator's pardon; I regret I was not attentive. Would the Senator repeat that?

Mr. ALLEN. I was trying to identify the type of money, the function or the use to which the money is to be put. Is it economic or military?

Mr. HUMPHREY. It is not for military purposes; it is not for paramilitary purposes; it is not for harboring guerrilla bandits behind borders or engaging in guerrilla activities in other people's countries. It is simply economic assistance, what we call supporting assistance. We have made the record manifestly clear that none of this money shall be used for military or paramilitary purposes.

Mr. ALLEN. I thank the Senator.

Mr. MUSKIE. May I add to that that it is on that understanding that, in the Budget Committees' bookkeeping, we have put this in the international affairs function. I think that might be some assurance to the Senator, because we do not understand the $85 million to be military assistance.

Mr. ALLEN. I appreciate that.

In budgeting the international affairs category, I assume, in arriving at the overall amount in that category, the Senator had to approve certain budgeted figures for certain approaches and he approved those in a given amount to reach an overall total in that particular category. Is that correct or not?

Mr. MUSKIE. Let me say, for 2 years now this is the hardest point I have found to make to Senators, that the Budget Committee is not a line item committee.

Mr. ALLEN. I understand, but how does the committee arrive at that overall figure in that one category?

Mr. MUSKIE. We use, of course, both the executive budget and congressional sources as a basis for evaluating——

Mr. ALLEN. Is it a total of separate items that it approves, separate functions or programs, to get an overall total?

Mr. MUSKIE. It is not. In the defense function, for example; we do not decide how many battleships or how many planes or how much ammunition or how many men. Those are details——

Mr. ALLEN. The committee would not just come out and say, we are going to allocate $1.5 billion in this program. It has to arrive at that figure by adding up the various program items included in that overall category.

Mr. MUSKIE. Let me try to find a way to explain this more successfully than I have in the past for the Senator from Alabama. Let me explain how the process starts.

It starts, first of all, with the submissions of the President's budget. Second, it continues with March 15 reports, which we get from every committee. In those reports, the committees undertake to inform us what the program needs in their areas of jurisdiction will be.

Third, we get an analysis by the Congressional Budget Office of what we are doing currently; in other words, the current services level of spending for these various functions.

With this information, we also do our own staff analysis of the broad requirements in every function. Our function is to determine the overall ceiling on spending that makes sense in terms of all of this information, in terms of the economic condition of the country, in terms of available revenues insofar as we can project them; then to divide that overall sum among the 17 functions of the Government in an equitable manner, taking into account current requirements, taking into account new proposals, and taking into account—and here we exercise our own balance and judgment as a Committee on the Budget—how to divide the whole pie.

Members of the committee then weigh all this information and make a recommendation to the Senate.

It is true that, with respect to big major programs, we discuss them in committee in considerable detail in order to check our judgment about the overall figure, but we do not add items until we get a total, whether it is to the international affairs function or community development function or the health function and so on. We do, of course, try to understand the major components of each of these functions and make some judgments.

Mr. ALLEN. I am no accountant, but I think that to arrive at a grand total, you would have to add up the various items going to make up that total.

I make no point of that, but the fact is that this $85 million would have to come out of programs and functions that the Committee on the Budget has more or less approved in those various amounts. Is that not right?

Mr. MUSKIE. If I were to say that we had done it on a line item basis, I would have a revolution on my hands, with myself confronting every other Senate committee chairman. That is not my function.

Let me discuss international affairs a little more, if I may.

Mr. ALLEN. I am just wondering where the Senator is going to place this $85 million.

Mr. MUSKIE. There are five major components in the international affairs function: economic assistance, supporting assistance, Food for Peace, the cost of conducting foreign affairs—in other words, State Department activity—and Export-Import Bank. Those are the five major functions.

We have a history, when we take up the budget in April and begin to try to put the budget together. So we make judgments about whether or not economic assistance, for example, ought to be continued at that level.

Each Senator in the committee votes whether we are spending too much on international affairs. Maybe he is voting his belief that economic assistance ought to be cut out, or that Food for Peace ought to be cut out, or that the State Department ought to be able to get by on less money, or the Export-Import Bank ought to be spending less. So each Senator's vote may be conditioned by what he thinks ought to be a proper level in these areas. What is done in the Budget Committee is that any Senator who thinks a function ought to be cut or increased, for any reason, offers a number in the total. Then the rest of us look at his amendment in the light of these major areas of the functions and decide whether or not they can be accommodated. We vote on the overall number.

In that process there is a discussion of what would be squeezed out.

Mr. ALLEN. I would think so.

Mr. MUSKIE. What would be in the lower number and what is permitted in the higher number. But we do not, for instance, vote on what countries ought to get economic assistance or what countries ought to get supporting assistance.

Mr. ALLEN. Somewhere down the line, though this $85 million is to be squeezed into the overall total, and the overall total not raised, somewhere along the line the Appropriations Committee then is going to have to adjust some of the present programs——

Mr. MUSKIE. Exactly.

Mr. ALLEN. And take it out of some of the present programs.

Mr. MUSKIE. That is right. That is where the pressure comes, and it is a healthy one because the Appropriations Committee looks at the details.

Mr. ALLEN. So I would think most of the existing programs that we have would be more constructive and better programs than this $85 million program, and yet this $85 million is going to have to come out of presently approved authorized ongoing programs; is that correct?

Mr. MUSKIE. Yes. But may I say—and then I will yield to my good friend from Idaho—that the Appropriations Committee traditionally appropriates less money than is approved in the authorizing legislation. That was true last year, and I know I raised a red flag at the time the authorizing legislation was on the floor, and I said that we cannot approve this number finally as an appropriation without reaching our ceiling. Senator INOUYE looked at those numbers that we gave him and he came back with an appropriation bill that was under. This has been more true of the international affairs function, I think, than almost any other one, the tendency of the Appropriations Committee to cut below the authorized totals.

Mr. ALLEN. One further comment, and I will then yield. I am very much pleased that the distinguished Senator from Maine (Mr. MUSKIE), the outstanding chairman of the Senate Budget Committee—and I say that advisably because I think he has done an outstanding job—I am glad that he is fearful that this is far from being a one-time authorization because we know that Federal programs, once started, mount and mount and mount.

I would say that in all likelihood this $85 million request this year will mushroom to at least twice that next year, and I hope the distinguished Senator will be on guard against that request.

Mr. MUSKIE. We certainly will be and, may I say, I made that statement about this being a one-shot item only after discussing it thoroughly with Senator HUMPHREY, Senator CLARK, with Senator CASE, and, through them, with the administration, so that there is no doubt.

Mr. HUMPHREY. That is correct, one fiscal year with no commitments beyond that.

Mr. MUSKIE. That is right.

Mr. McCLURE. Mr. President, will the Senator yield? I only wish to make this point, if I may, and I think it is absolutely imperative that the Senate understand the Budget Committee's approach to these problems.

I think the Senator from Maine has stated it very clearly, as clearly as it can be stated, that we are not a line item committee. We certainly do look program by program in order to make some estimate of what the functional total will be, and we can carry that one step further than was indicated before, and that is when, during the authorization and appropriation processes, it looks like there may be precommitment of a larger proportion of that function, we may point to other items that may be coming along later and raise a warning that the functional totals are apt to be exceeded if this action is taken, and then the later action which might be taken comes along as anticipated.

But we are not a line item committee, and it is totally within the prerogatives of the authorizing committees and the Appropriations Committees to change the allocations of moneys within the function, even after the concurrent resolution is adopted. That is the prerogative of the authorizing and Appropriations Committees. It is not the prerogative of the Budget Committee to try to do any more than direct a consideration of those line item considerations within the functional total.

Mr. MUSKIE. There is this further discipline involved—and I thank my good friend from Idaho, who is such a valued member of the Budget Committee, for supplementing what I had to say—and probably the real discipline is that we are in position to alert every Senator to the consequences of spending decisions in the light of what was assumed by the Budget Committee so that they can be alert to any upward pressures on spending that would be created by a pending piece of legislation, and when a Senator votes, he is aware of such pressures. If we have done that much then, hopefully, we have done something to bring some discipline around here.

I must say that committees and my individual colleagues in the Senate have responded very well to a growing awareness of the need for this kind of discipline, even though individually we may disagree with some of their votes.

Mr. HUMPHREY. Mr. President, the Senator from Ohio (Mr. GLENN) wants to engage in a colloquy, and has an amendment, I believe.

The PRESIDING OFFICER (Mr. THURMOND). The Senator from Ohio.

Mr. GLENN. Mr. President, I will not call up the two amendments that I had proposed for the bill, but I do ask unanimous consent that they may be printed in the RECORD.

There being no objection, the amendments were ordered to be printed in the RECORD, as follows:

GLENN AMENDMENT NO. 1: REPROCESSING

On page 68, line 10, strike "reprocessing or".

On page 69, line 2, strike the punctuation after "Agency" and insert in lieu thereof a semi-colon.

On page 69, between lines 2 and 3, insert the following: "or to any country which delivers nuclear reprocessing equipment, materials or technology to any other country or receives such equipment from any other country."

GLENN AMENDMENT NO. 2: NUCLEAR EXPLOSIONS

On page 69, line 2, after "Agency" and before the first period insert "and such country has forsworn the development of nuclear explosive devices".

Mr. GLENN. I would, however, like to make a comment regarding the entire situation surrounding the portion of this bill that Senator SYMINGTON had included, and which was passed by the Committee on Foreign Relations.

Section 305 of S. 3439, which was offered in committee by Senator SYMINGTON and adopted, without objection, would cut off American military and economic assistance to countries exporting and importing nuclear enrichment and reprocessing facilities unless the importing country agrees to place all such facilities under multilateral auspices, when available, and to put all of its nuclear activities under safeguards of the International Atomic Energy Agency.

If those conditions are met, however, no cutoff would be required even if the international community suspected weapons-related intentions on the part of the importing country.

The first of my amendments would assume that the transfer of any reprocessing equipment creates an inference of those intentions, in other words, the intentions to make atomic weapons. Such equipment is not economically useful in the production of nuclear power at this time, but can be readily used to produce nuclear weaponry.

In light of this, the amendment would impose the cutoff of American assistance whenever reprocessing equipment is transferred, even if the conditions of the Symington provision are satisfied,

Thus, the amendment aims at stopping such transfers altogether, while the Symington proposal would rely on a weak IAEA safeguards system to protect us from transfers which it would allow to continue.

The amendment would not change the provisions of the Symington proposal which affect transfers of enrichment facilities.

By strengthening the proposal with respect to reprocessing, however, it would add considerably to protections relating to the most dangerous equipment from a weapons-proliferation standpoint. It would do what a New York Times editorial applauds the Symington provision for doing but which in fact it does not do, that is, cut off "assistance to any nation importing a nationally controlled nuclear reprocessing plant." With the Glenn modification, reliance would no longer be placed on IAEA inspections which the Times legitimately calls "occasional and far from foolproof."

The second Glenn amendment, which would be offered only if the first were rejected, would be less far reaching and effective. Like the Symington proposal, it would permit continued transfers of reprocessing—as well as enrichment—equipment subject to specified conditions. It would, however, upgrade those conditions.

Under the proposal as reported, an importing nation can continue to receive fuel production facilities without losing American foreign assistance even if by its own admission it is embarked upon a nuclear weapons program. As a remedy, the Glenn amendment would require that the importing country not only submit to IAEA inspections and place imported facilities under available multilateral arrangements but also forswear "the development of nuclear explosive devices." Without such a commitment on the part of importing countries, the continued transfer of enrichment and reprocessing technology involves intolerable risks.

A similar requirement was contained in the proposal originally offered in committee by Senator SYMINGTON but was dropped by the committee for fear that is might damage delations with Israel and other allies. There is an important distinction in this regard, however, between the original Symington provision and this second proposed amendment of mine. The original provision would have cut off assistance to any nonnuclear nation which detonated a nuclear device even if that device was a product of its own indigenous efforts. The Glenn amendment would cut off assistance only to nations which import enrichment or reprocessing facilities and do not, prior to such importation, forswear the development of such devices. Nations which develop such devices entirely on their own therefore would not be affected by the amendment and the potential for disruption of sensitive diplomatic relations would therefore be lessened.

Mr. President, this whole area of nuclear proliferation around the world for the generation of electrical energy has become critical. It has become critical because one of the byproducts of the development of nuclear energy is plutonium and plutonium from a reprocessing plant can be used to make atomic weaponry.

As we observe the spread of nuclear plants around the world, we see the potential for atomic weaponry spreading further and further to smaller, perhaps less stable, nations around the world and it should be of great concern.

We have had extensive hearings before the Senate Government Operations Committee and I have chaired those hearings. We have had experts before us, including Secretary Kissinger and other members of the executive branch, expresing great concern about the spread of nuclear power, the plutonium output that goes along with it, and what may happen if we do not get control of it.

I have written articles myself on this, including one published in the Washington Post last March, which was subsequently inserted into the RECORD. In these articles, I have expressed by viewpoint that we should do everything we can to halt this trend toward proliferation, through controls under safeguards, nonproliferation treaties, and so on.

But in the short term these actions are not going to solve everything. We are going to have to use the time that we buy in that short term to go ahead and try to make some sort of international relationship whereby we literally put violators of these basics of humanity—that is what we are really talking about, the future of humanity—into isolation like criminals in this country. We are really talking about the start of a nuclear exchange that we cannot control.

I will not call up the amendments for reasons which I have discussed with the distinguished floor manager of the bill, and which involve my desire not to complicate existing problems in getting this bill through. However, I do want to call attention to the fact that, without some measures such as I was going to propose with these two amendments, we really are not going to be able to get control over the spread of plutonium around the world.

I think our whole foreign assistance program and the spread of American technology around the world has been carried out in good faith, trying to help nations around the world upgrade themselves by getting more energy for their people. We certainly want to support these efforts.

But we are reaching an intolerable state on the plutonium output that is not monitored. And where it is monitored, not enough is done to force its use into proper channels so that none is diverted into potential nuclear weaponry.

I think we have to go to the stronger provisions of the Glenn amendments to control this spread.

I realize that taking the step proposed by Senator SYMINGTON that is now included in the legislation is a giant stride compared with what we have done in the past. I know he would like to go much further and say he would support these amendments I was going to propose. But I also realize that, with administration opposition and some opposition in the House, the chance of even getting through what the Symington proposal does may be sketchy at best.

I am glad to have had the opportunity to express myself on this. I appreciate the floor manager's indulgence and I hope when this goes to conference we can work together on this. Perhaps then we can make some of our colleagues in the House as aware of some of these dangers as I think they should be, and hopefully they will accept this when it is considered.

Maybe we can strengthen this effort in the future and get administration support. Unless we do this we are just rolling the dice on the future of the whole world until we get control over this spread of plutonium which could eventually lead to a potential holocaust.

Finally, Mr. President, I rise in support of Senator SYMINGTON's provision on nuclear transfers as provided for in section 305 of S. 3439, and I would like to congratulate him for developing it.

It is this Nation's policy not to export either uranium enrichment or plutonium reprocessing facilities, and it is my view that this policy makes very good sense. It is my feeling that the Symington amendment will encourage the nuclear supplier nations to adopt similar policies by demonstrating the deep concern of this country about the spread around the world of fuel production facilities without adequate protection against weapons-related activity. The supplier nations will be meeting again this month in London on the proliferation problem. My feeling is—although I understand that reasonable men can differ on this—that the amendment will have a helpful effect on that conference. It also, of course, will require nations receiving fuel facilities to weigh the adverse effects of an American aid cut-off in any decision to adhere to policies we regard as dangerous.

In particular I would like to focus attention on the phrase "when available" in the new section 669 established by the amendment. It is clear that "when available," as it applies to "multilateral auspices and management," means right now, today. It is true that the IAEA and the State Department are preparing studies on the technical, economic, and political aspects of multinational nuclear fuel production centers and that these reports are not yet finished. However, it should be pointed out that multinational contracts which bind several nations to the financial, management, and operational aspects of reprocessing and enrichment can be written very quickly when nations have the desire to do so. One does not have to wait for the completion of long term studies in order to determine that, in many cases, multilateral options are already "available." The advantages of the multinational arrangements—the discouragement of unilateral actions of one nation, the enhancement of physical security and safeguard measures, and the economies of scale—are worth working for, and the Symington amendment would help accomplish these goals in the immediate, as well as the long-term future.

This past year the Senate Government Operations Committee has been considering all aspects of our nuclear export policies and licensing procedures. On May 11 the committee unanimously adopted far reaching policy objectives for the nuclear supplier nations and for this Nation in particular as part of S. 1439, the "Export Reorganization Act of 1976." In part because of the broad-reaching consequences of section 10 of that bill, the Government Operations Committee has referred S. 1439 to the Senate Foreign Relations Committee and the Joint Committee on Atomic Energy for a period of 60 days. Mr. President, I ask unanimous consent that the committee's report language on section 10 of S. 1439 be printed in the RECORD.

It is my hope that through the adoption of this section, the rest of S. 1439, and the Symington amendment we are considering today, we will begin to get a grip on one of the most threatening problems known to today's world.

Mr. President, I also ask unanimous consent that the New York Times article, a table which indicates which nations have what nuclear fuel facilities, and a table of American assistance to selected nations be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SECTION 10 OF S. 1439

Section 10 was added in markup as an amendment by Senators Javits, Ribicoff, Glenn and Percy. Its purpose is to define by statute basic United States policy objectives regarding nuclear exports and non-proliferation. The objectives generally are to promote the sale of U.S. reactors to meet the legitimate energy needs of other countries without proliferating the capability and materials suitable for the development of nuclear explosion programs. They are structured to emphasize positive steps to be taken by the President to promote international cooperation and to minimize unilateral actions that could place the United States at a commercial disadvantage.

The amendment identifies for the first time those nuclear activities which, if conducted by a recipient nation, would be deemed to be inconsistent with their commitments in U.S. agreements for nuclear cooperation to limit U.S. nuclear exports to peaceful uses. If a recipient nation conducts such activities, the President in his discretion could seek renegotiation of the relevant agreement for cooperation. This substantive change in the administration of U.S. agreements for nuclear cooperation is necessary, in the Committee's opinion, to correct the tendency to focus only on the question of whether particular exported reactors and fuel are safeguarded, regardless of whether unsafeguarded nuclear activities elsewhere in a recipient country constitute a potential or actual weapons development program. The amendment embodied in Section 12 is intended to encourage the United States to view the overall nuclear program of a recipient nation—not simply the use made of specific U.S. exports—in determining whether the country is engaged in peaceful nuclear activities.

In summary, Section 12 requests and authorizes the President to enter into negotiations with the six other major nuclear supplier nations, and other supplier nations of his choosing, to achieve six specific objectives. Senate ratification of any resulting suppliers' agreement would be required under the Case Act. The President is required to report to Congress by June 1, 1977 on progress in the negotiations, and annually thereafter on December 31, as part of the report required by subsection 8(c). Section 10 also requires the President's report to include a detailed review of all agreements for nuclear cooperation and a determination as to which agreements require renegotiation because of changed circumstances. Section 10 then enumerates 6 specific activities by agreement countries which would trigger renegotiation. The section also defines for the first time what can be deemed nonpeaceful activities requiring modification of U.S. agreements for nuclear cooperation. It also makes it possible for the United States to view the overall nuclear program of a recipient nation rather than simply the use made of U.S. exports. In so doing, it eliminates a dangerous form of tunnel vision in United States' dealings with a recipient country.

Subsection (*a*) requests and authorizes the President to enter promptly into negotiations with the Soviet Union, France, the Federal Republic of Germany, the United Kingdom, Canada, and Japan, and such other nuclear supplier countries as he deems appropriate, to reach a binding agreement for control of world nuclear exports. The agreement is to include provisions for:

(1) the cooperative provision of nuclear fuel enrichment, fabrication and reprocessing services by present supplier countries for recipient countries on an assured, nondiscriminatory basis. The IAEA would provide safeguarded deposits for excess of spe-

cial nuclear materials and for spent reactor fuel under Article 12 of the IAEA statute.

(2) a prohibition of the transfer to any individual non-nuclear weapons country of any technology, component, or facility capable of producing, fabricating or reprocessing special fissionable material. The Committee expects that a rule of reason will apply and that this provision will not be read foolishly to apply to common use items such as nuts and bolts or electrical equipment but rather would focus on those products especially designed for production purposes such as remote control devices for handling radioactive materials, or choppers for reprocessing spent fuel.

(3) a prohibition of the transfer of any non-military atomic energy technology and any atomic energy facility, component or material for non-military purposes to any non-nuclear weapons country that has not entered into an agreement with the IAEA to:

(A) accept IAEA safeguards on all source and special nuclear materials in all nuclear activities within the country, under its jurisdiction or carried out under its control anywhere, and

(B) undertake not to receive the transfer of, or manufacture or otherwise acquire nuclear weapons or other nuclear explosive devices, and not to receive any assistance in the manufacture of nuclear weapons or other nuclear explosive devices;

(4) the establishment of:

(A) minimum physical security standards for the protection against acts of sabotage and theft of all facilities and all shipment, handling, and storage of source and special nuclear material within the territory or under the jurisdiction of each of the parties, and transferred by the parties to other countries, and

(B) an international mechanism for the enforcement of such standards, for the recovery of stolen source and special nuclear material, and for dealing with individuals and groups engaging in acts of sabotage and theft.

The Committee recognizes that both 4(A) and 4(B) are controversial in some countries and are likely to generate opposition. However, if the benefits of nuclear energy are to outweigh the risks of proliferation, pressure must be increased for measures that will substantially increase the reliability of physical protection measures and measures to recover stolen or diverted items and to deal with thieves and saboteurs.

(5) the establishment of sanctions and recovery mechanisms.

Part (A) urges the President to negotiate for the establishment of sanctions to be imposed against any nuclear supplier country that refuses to comply with the final agreement and any recipient country that willfully violates IAEA safeguards. Part (B) urges the President to negotiate for the establishment of international mechanisms to recover source and special nuclear materials that have been obtained or used by a country in willful violation of IAEA safeguards, including the use of such materials to develop and make nuclear explosives, and for recovering any exported technology, components or facilities involved in such violations.

Again the Committee recognizes the difficulties implicit in these provisions. However, both sanctions and recovery mechanisms are essential to any effective international control and it is far preferable to implement such arrangements before they are needed.

Subsection (*b*) requests and authorizes the President to enter promptly into bilateral and multilateral negotiations with as many other countries as possible, including the supplier countries to reach a binding agreement to establish an international mechanism for dealing with and imposing sanctions on any non-nuclear weapons country that is deemed to have embarked upon a nuclear weapons program. Such a weapons development effort might be beyond the reach of IAEA safeguards in countries that have not ratified the NPT, or in direct violation of IAEA safeguards and/or NPT commitments in other countries. Such a mechanism should include provisions for dealing with any non-nuclear weapons country that detonates a nuclear explosive, including procedures to:

(1) suspend some or all commerce and communications between the parties and such country;

(2) require the return of any exported source or special nuclear material, and any exported technology, component or facility used in such a nuclear weapons program.

The Committee is well aware of the natural desire of non-nuclear weapons nations to resist pressures from abroad. Nonetheless, in the judgment of the Committee, the risks to world peace from unlimited proliferation are grave enough to warrant the imposition of strong, certain, and unusual measures to convince non-nuclear weapons states that any advantages to the development of nuclear weapons are offset heavily by the consequences of such acts.

Subsection (*c*) directs the President to report to Congress no later than June 1, 1977, and annually thereafter, on the progress of these negotiations. This report would be part of the annual report due each December 31 under subsection 8(c) of the Act. Each such report is to include:

(1) a description of the progress in negotiations to achieve each of the objectives specified in subsections (a) and (b) of section 12.

(2) an analysis of each agreement for cooperation negotiated pursuant to section 123 of the Atomic Energy Act as amended, including a discussion of the scope of the requirements and obligations relating to the safeguards and peaceful or civil uses contained in each agreement, and a discussion of the adequacy of such requirements and obligations to protect the interests of the United States and to maintain its obligations to prevent the further proliferation of atomic weapons capability;

(3) a determination as to which agreements should be modified because they are inconsistent with the interests and obligations of the United States. In making such determinations, the President is to discuss whether each agreement should prohibit five specied activities and whether these activities have been engaged in by the agreement country. The five specified activities include:

(i) the explosion of a nuclear device by a non-nuclear weapons country;

(ii) the refusal of a non-nuclear weapons country to accept the safeguards of the IAEA on all of its nuclear activities;

(iii) the refusal by a non-nuclear weapons country to give a specific assurance that it will not engage in a nuclear explosive program;

(iv) the import or indigenous production by a non-nuclear weapons country of technology, components or facilities capable of producing special nuclear material suitable for direct use in a nuclear explosive device. The Committee again expects a rule of reason to apply. The President's analysis is expected to focus upon the import or production of special components uniquely associated with the production of special nuclear materials. Also, the Committee does not intend this provision to include nuclear reactors. While spent fuel from commercial nuclear power plants does contain plutonium (or would contain uranium-233 if and when thorium fuel cycles come into use), these material in the spent fuel are not directly available for use in a nuclear explosive. The Committee is concerned with the reprocessing plants that extract the plutonium or uranium-233 and with enrichment plants that can produce weapons grade enriched uranium.

(v) the stockpiling by a non-nuclear weapons country on a national basis of nuclear material suitable for direct use in a nuclear explosive device.

(4) an annual statement on U.S. progress toward renegotiating any agreements for cooperation which the President has cited as needing modification. The first such statement would be due on December 31, 1977 and annually thereafter.

[From the New York Times]

JAPAN'S ATOM EXAMPLE . . .

The long-awaited approval by the Japanese Parliament of the Non-Proliferation Treaty (NPT) was a significant advance in worldwide efforts to control the spread of nuclear weapons—just as, in a different way, was the signing a few days later of the Ford-Brezhnev treaty restricting peaceful nuclear explosions.

The six years that have passed since Tokyo singed the treaty testify to the political sensitivity in Japan of this formal renunciation of atomic arms. But the fact that Japan's leaders have finally overcome their doubts should encourage other countries now leaning toward the nuclear option to take the NPT pledge.

Japan has two nuclear neighbors, the Soviet Union and China, and was at war with both only three decades ago. Yet, unlike India, Japan has not permitted China's development of a nuclear deterrent to spur latent nuclear ambitions. It is true that Japan, as the only nation ever to suffer atomic attack, has chosen a pacifist course since World War II. It is tragic that India, with the Gandhi-Nehru tradition of non-violence, has not been inspired to do the same.

In the three decades after Hiroshima, only the five major powers that are permanent members of the United Nations Security Council exploded nuclear devices—until India's first atomic test two years ago. In an effort to discourage a second Indian explosion—and similar ambitions elsewhere—Canada has indefinitely suspended nuclear aid to New Delhi, which diverted material for its explosive from a Canadian reactor.

The Senate Foreign Relations Committee has adopted the Symington amendment to the foreign military aid bill cutting off American economic and military assistance to any nation importing a nationally controlled nuclear reprocessing plant capable of producing weapons-grade plutonium, the explosive for atomic bombs. Senator Symington's amendment strikes at the chief proliferation danger now: purchase by third-world countries of pilot plutonium reprocessing plants, such as those sold to Brazil by West Germany and to Pakistan by France.

Japan's example, as the 96th NPT adherent, should shore up confidence in the future of non-proliferation efforts. To India and other nuclear-tempted countries, Japan is demonstrating again that a nation that achieves economic success can exert political influence in the world through peaceful diplomacy without seeking significant military strength, particularly the nuclear kind.

. . . FRENCH PROLIFERATION

In the annals of American relations with its oldest ally, Valéry Giscard d'Estaing will be recorded as the French President who reversed the deterioration that began almost two decades ago with the return to power of Gen. Charles de Gaulle. The improved atmosphere was evident throughout his recent Bicentennial visit.

But that visit also focused attention unavoidably on the disagreements that remain over NATO, the Common Market, the Middle East and, most important currently, the global spread of nuclear weapons technology.

Mr. Giscard d'Estaing claims credit personally for cancelling France's sale to South Korea of a pilot reprocessing plant to extract plutonium, the explosive used in atom bombs, from spent power reactor fuel rods. It is known that South Korea backed out of the deal under extreme American pressure, but France's President said that his decision preceded this development.

Yet Mr. Giscard d'Estaing defends France's sale of a similar plant to Pakistan on the ground that the plutonium, which has no commercial use at present, would ultimately be used as a power reactor fuel in place of slightly enriched uranium. Inspection, he argues, would prevent diversion. This argument has been publicly rejected by Dr. Fred Ikle, director of the U.S. Arms Control and Disarmament Agency.

Inspection by the Vienna-based International Atomic Energy Agency is occasional and far from foolproof. There are too few inspectors. They rely heavily on data supplied by the country under "safeguards." Stockpiled plutonium could be converted into bombs between inspections. The agency is not empowered to inquire into unsafeguarded nuclear plants and does not seek out possible clandestine facilities. Safeguards agreements could be unilaterally abrogated. No sanctions exist to enforce them.

That is why the United States and other nuclear supplier countries have for three decades refused to export plutonium reprocessing plants. Bonn broke with this policy last June to capture a $4 billion power reactor order from Brazil and is opening similar talks with Iran—arguing that France will sell the reprocessing technology if West Germany doesn't. If this evolution continues, a dozen third world countries will be producing enough plutonium by the 1990's to make 3,000 Hiroshima-size bombs yearly, a certain prescription for world disaster.

A summit-level approach to West German Chancellor Helmut Schmidt and further discussions with Mr. Giscard d'Estaing are essential if a moratorium on such exports is to be restored. Unfortunately, the outlook for improvement in this general area has now been further worsened by the announcement that a French consortium will build South Africa's first nuclear power plant.

ADDITIONAL DATA FOR S. 3439

The following identifies potential suppliers and recipients in present or possible future nuclear transactions, based on current information from unclassified sources. Also, is an alphabetical listing of the countries identified as possible participants, indicating the extent of military and economic assistance proposed for FY–1977.

This information indicates that Pakistan and Brazil are the only countries likely to attract sanctions under the Symington Amendment, since they are the only countries expected to receive economic or military assistance which are likely to be engaged in transactions of the type covered in the Symington Amendment:

COUNTRIES POTENTIALLY SUBJECT TO SYMINGTON AMENDMENT

Possible recipient, possible supplier, type of plant, and comment

Japan; none; reprocessing; Japan has already built reprocessing plant with French help; may seek assistance on second plant.

Australia; none; enrichment; Australia is interested in enrichment plant and has contacted Japan. Project probably would be multinational.

Korea; France; reprocessing; project has been cancelled.

Zaire; Belgium; enrichment; private Belgian firm is studying possible enrichment plant in Zaire.

Pakistan; France; reprocessing; contract already concluded for reprocessing plant.

Brazil; Germany; reprocessing and enrichment; contracts already concluded.

Argentina; none; reprocessing; Argentina has some interest in reprocessing but no known interest in outside supplier. It's constructing its own small plant for research reactor fuel.

Mexico; none; reprocessing; Mexico is interested in reprocessing but has no known interest in outside supplier.

Iran; none; reprocessing; Iran may be interested in reprocessing in future.

PROPOSED ASSISTANCE FOR FISCAL YEAR 1977

Country	MAP	Military training	FMS credits/ guarantees	Security sup. asst.	Development assistance	Peace Corps	Public Law 480	International Narc.
Argentina		900	48,400					24
Australia								
Belgium								
Brazil		1,100	60,000		461	2,000	935	603
France								
Germany								
Iran								
Japan								
Korea	8,300	2,700	275,000			1,851	145,034	
Mexico		200	5,000					10,942
Pakistan		325			73,900		83,948	1,800
Zaire		2,500	28,000		4,035	2,502	8,047	

Mr. HUMPHREY. Will the Senator yield to me?

Mr. GLENN. Yes.

Mr. HUMPHREY. I commend the distinguished Senator from Ohio for his statement here today, but above all for his deep concern and his very meticulous, energetic study of the problems that are plaguing mankind on the spread of nuclear technology and nuclear weaponry.

May I say to the Senator that these proposals he has offered today should come to our committee as amendments to the Military Assistance and Arms Export Control Act so that we can have some time in committee to give genuine consideration and thoughtful attention to these amendments.

They are far-reaching. They are very important.

I was particularly impressed with the second amendment which I consider to be a modest proposal in terms of the basic needs.

Of course, the first amendment the Senator has offered gets right at the heart of the problem.

But I hope this colloquy will be looked upon as an assurance to the Senator from Ohio that the proposals he has made deserve our consideration and, not only our consideration, but, I hope our very favorable attention.

I am sure the Senator knows that in the conference committee, we will even have some difficulty with our colleagues of the other body on the Symington amendment.

I wanted the Senator from Ohio to make his case today so that when we go to the conference I can point out what our concern in the Senate really is, and particulary the concern of the Senator from Ohio, who has given so much of his time and attention over the years to this whole matter of the nuclear problem and of nuclear proliferation.

With that I simply thank the Senator. I am sorry that I do not feel we can accept the amendments today because of their far-reaching consequences. I believe in the committee process. I believe we ought to take a good, hard look at these matters, and we will do so.

Mr. GLENN. I thank the distinguished floor manager.

Mr. JAVITS. Will the Senator yield?

Mr. GLENN. Certainly.

Mr. JAVITS. I direct the Senator's attention to page 68, lines 19 and 20, inclusive, where it says, "such equipment, materials, and technology upon delivery under multilateral auspices and management, when available."

What that refers to is the fact that there is now a very intensive effort by the United States to develop such multilateral auspices and management. That is the way to get a real grip on this.

Mr. JAVITS. I would like to assure the Senator that I do not know of a single member of the Foreign Relations Committee who is not heart and soul devoted to seeing that we get that at the earliest conceivable moment or sooner, and that we will move heaven and earth to that end. We recognize the danger as being one of the most pressing in the world.

Mr. GLENN. I thank the distinguished Senator from New York for his comments. I agree it is one of the most pressing things in the world. The multilateral auspices that we have discussed with the Secretary of State in the Government Operations Committee originated with the plan for regional reprocessing plants.

I must say for the benefit of the administration that we have been very disappointed, as I am sure the Senator from New York has been. We have had the Secretary of State over and he has said, "Yes, we want to move on this."

We have made inquiries and nothing is moving. He makes a statement to the United Nations that he will follow it up with other work, and we have not yet seen any other work. In the meantime the spread of plutonium goes on as we are seeing more and more nations desiring reprocessing plants.

West Germany is selling a complete cycle to Brazil, and France is selling a reprocessing plant to Pakistan.

People interested in reprocessing

plants, to my way of thinking are interested in weapons development. Otherwise, they would prefer going the enrichment route.

If their intent is to use nuclear power just for electrical generation that is fine. But when there is a reprocessing plant involved, a red flag goes up in my mind. We must come to grips with this problem. Until we do, we are rolling the dice on the future of the whole world.

I cannot tell the Senator how strongly I feel about this. I know the Senator shares that feeling. I am not lecturing the Senator from New York. We have talked about this before and I know we share this concern.

I hope that not only this body but the other body, in their consideration of this bill, will not take out the Symington proposal, but, in fact, I hope they strengthen it as these amendments would have done. We must do something about this worldwide problem or we, our children, and our grandchildren may all go up in smoke some day.

I thank the Senator.

Mr. HUMPHREY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to proceed for 2 minutes on other matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONSIDERATION OF CERTAIN MEASURES ON THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Orders Nos. 829 and 830, both of which have been cleared for unanimous consent.

The PRESIDING OFFICER. Without objection, it is so ordered.

FEDERAL WATER POLLUTION CONTROL AUTHORIZATIONS

The bill (S. 3437) to authorize appropriations for research, development, and demonstration under the Federal Water Pollution Control Act was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 104 (u) of the Federal Water Pollution Control Act is amended to read as follows:

"(u) There is authorized to be appropriated (1) $100,000,000 per fiscal year for the fiscal years ending June 30, 1973, June 30, 1974, June 30, 1975, and September 30, 1977, for carrying out the provisions of this section other than subsections (g) (1) and (2), (p), (r), and (t); (2) not to exceed $7,500,000 for fiscal year 1973, 1974, and 1975 for carrying out the provisions of subsection (g) (1); (3) not to exceed $2,500,000 for fiscal years 1973, 1974, and 1975 for carrying out the provisions of subsection (g) (2); (4) not to exceed $10,000,000 for each of the fiscal years ending June 30, 1973, June 30, 1974, June 30, 1975, and September 30, 1977, for carrying out the provisions of subsection (p); (5) not to exceed $15,000,000 per fiscal year for the fiscal years ending June 30, 1973, June 30, 1974, June 30, 1975, and September 30, 1977, for carrying out the provisions of subsection (i); and (6) not to exceed $10,000,000 per fiscal years ending June 30, 1973, June 30, 1974, June 30, 1975, and September 30, 1977, for carrying out the provisions of subsection (t)."

(b) Section 105(h) of the Federal Water Pollution Control Act is amended by striking "and the fiscal year ending June 30, 1975" and inserting in lieu thereof "the fiscal year ending June 30, 1975, and the fiscal year ending September 30, 1977,".

(c) Section 107(e) of the Federal Water Pollution Control Act is amended by striking "$30,000,000" and inserting in lieu thereof "$35,000,000".

(d) Section 113(d) of the Federal Water Pollution Control Act is amended by striking "$2,000,000" and inserting in lieu thereof "$4,000,000".

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 94–872), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

EXCERPT

This bill amends the Federal Water Pollution Control Act to extend until September 30, 1977, the authorizations for the research, development and demonstration programs of the Environmental Protection Agency carried on under the water pollution program. Previous authorizations for the water pollution research programs expired on June 30, 1975.

The water pollution research program of the Environmental Protection Agency is an important element of the overall Federal Water Pollution Control responsibilities of the Agency. These authorizations are necessary for the program to continue in fiscal year 1977.

The Committee has chosen to report research authorizations for this program in a separate bill amending the basic act rather than as part of an overall environmental research bill. The Committee does not, however, favor separating research on individual environmental matters from other substantive legislation in the same area.

The Committee would prefer not to have single year authorizations for the research elements of environmental programs. This bill, however, contains only the authorizations for fiscal year 1977 in the interest of expediting consideration of these environmental research authorizations, which have already passed the House.

ROLLCALL VOTES

There were no rollcall votes during the Committee's consideration of this bill. The Committee ordered the bill reported by unanimous voice vote.

COST OF LEGISLATION

Section 252(a)(1) of the Legislative Reorganization Act of 1970 requires publication in the report of the Committee's estimate of the costs of the reported legislation, together with estimates prepared by the Federal agency. Separate estimates of the cost of activities authorized by this bill were not prepared by any Federal agency.

This bill provides authorizations of $217,000,000 for the fiscal year 1977.

Section 403 of the Congressional Budget and Impoundment Control Act requires each bill to contain a statement of the cost of such bill prepared by the Congressional Budget Office. Because of time factors involved in meeting the May 15 deadline for reporting authorizing legislation for fiscal year 1977, this report does not contain the cost estimate.

CLEAN AIR ACT AUTHORIZATIONS

The bill (S. 3438) to amend the Clean Air Act to authorize appropriations for research, development, and demonstration was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 104(c) of the Clean Air Act is amended by striking the period at the end of the first sentence and adding the following: ", and $148,194,700 for the fiscal year ending September 30, 1977.".

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 94–873), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

EXCERPT

This bill amends the Clean Air Act to extend until September 30, 1977, the authorizations for the research, development, and demonstration programs of the Environmental Protection Agency carried on under the air pollution program. Previous authorizations for the air research programs expired on June 30, 1975.

The air pollution research program of the EPA is an important element of the overall Clean Air Act responsibilities of the Agency. These authorizations are necessary for the program to continue in fiscal year 1977.

The Committee has chosen to report research authorizations for this program in a separate bill amending the basic Act rather than as part of an overall environmental research bill. The Committee does not, however, favor separating research on individual environmental matters from other substantive legislation in the same area.

The Committee would prefer not to have single year authorizations for the research elements of environmental programs. This bill, however, contains only the authorizations for fiscal year 1977 in the interest of expediting consideration of these environmental research authorizations, which have already passed the House.

ROLLCALL VOTES

There were no rollcall votes during the Committee's consideration of this bill. The Committee ordered the bill reported by unanimous voice vote.

COST OF LEGISLATION

Section 252(a)(1) of the Legislative Reorganization Act of 1970 requires publication in the report of the Committee's estimate of the costs of the reported legislation, together with estimates prepared by the Federal agency. Separate estimates of the cost of activities authorized by this bill were not prepared by any Federal agency.

This bill provides an authorization of $148,194,700 for fiscal year 1977.

Section 403 of the Congressional Budget and Impoundment Control Act requires each bill to contain a statement of the cost of such bill prepared by the Congressional Budget Office. Because of time factors involved in meeting the May 15 deadline for reporting authorizing legislation for fiscal year 1977, this report does not contain the cost estimate.

INTERNATIONAL SECURITY ASSISTANCE AND ARMS EXPORTS CONTROL ACT OF 1976–77

The Senate continued with the consideration of the bill (S. 3439) to amend the Foreign Assistance Act of 1961 and the Foreign Military Sales Act, and for other purposes.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, it is my understanding that the pending business will be carried to third reading this afternoon. The Senate will come in at 11 o'clock on Monday morning next.

ORDER FOR VOTE TO OCCUR AT 12 NOON MONDAY ON S. 3439

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the vote on final passage on the pending measure, S. 3439, occur at the hour of 12 noon Monday next.

Mr. JAVITS. Mr. President, reserving the right to object.

Mr. MANSFIELD. Mr. President, first, I will divide it in two, then.

Mr. JAVITS. Will the majority leader make it 1 o'clock? That is all.

Mr. MANSFIELD. We cannot. We have so few days remaining, and we are not going to postpone votes on Monday any longer.

Mr. JAVITS. All right. I agree.

Mr. MANSFIELD. The Senator is just stuck.

Mr. JAVITS. I agree with the majority leader.

May I ask him this: Is it understood there will be third reading of the bill today?

Mr. MANSFIELD. Yes.

Mr. HUMPHREY. That is correct.

Mr. MANSFIELD. We had hoped that we would have final passage today but because of some difficulties that arose, which are understandable, that is the reason for the request at this time.

Mr. ALLEN. Mr. President, reserving the right to object, I will agree to it with the understanding that certain amendments that the Senator from Alabama is going to propose will be agreed to by the Senate.

Mr. MANSFIELD. With that understanding, yes.

Mr. HUMPHREY. With the understanding that certain amendments will be called up. Some, we hope, will not be agreed to, and some will be agreed to.

Mr. ALLEN. We have an understanding on it?

Mr. HUMPHREY. Yes.

Mr. ALLEN. I thank the Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays on final passage of S. 3439.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

UNANIMOUS-CONSENT AGREEMENTS—AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT (H.R. 9019)

Mr. MANSFIELD. Mr. President, following the reaching of third reading on the pending measure, it is the intention of the leadership to turn to the consideration of Calendar No. 840, H.R. 9019, relating to the Public Health Service Act. In is my understanding that this will take very little debate.

ORDER THAT VOTE OCCUR ON FINAL PASSAGE OF H.R. 9019 IMMEDIATELY AFTER VOTE ON S. 3439, MONDAY

Therefore, Mr. President, I ask unanimous consent that it be in order at this time that the vote on final passage of H.R. 9019 occur immediately following the vote on the pending measure at 12 noon on Monday next.

Mr. JAVITS. Mr. President, I reserve the right to object. Senator Kennedy is not here, and I have some problems with him in respect of the bill. I do not want to object, and I suggest——

Mr. MANSFIELD. Will the Senator yield?

Mr. JAVITS. I yield.

Mr. MANSFIELD. This has been cleared with Senator Kennedy. An amendment has been sent over. It will be offered. This was gone into very carefully, I say to the Senator from New York, before this request was made.

Mr. JAVITS. Will the Senator be kind enough to withhold the request until I check it out? I do have a problem on an amendment. I do not want to object.

Mr. MANSFIELD. We have an amendment, I understand, which was sent over. All I am trying to do is to clear as much of the calendar this afternoon as possible. So, go ahead.

Mr. JAVITS. The Senator knows that I will cooperate very closely.

Mr. MANSFIELD. Mr. President, this is apart from what the distinguished Senator from New York had in mind. I ask unanimous consent that it be in order at this time to ask for the yeas and nays on Calendar No. 840, H.R. 9019.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays on final passage.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Does the Senator from Montana ask unanimous consent that rule XII be waived?

Mr. MANSFIELD. Yes.

The PRESIDING OFFICER. On both requests?

Mr. MANSFIELD. Both requests.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUMPHREY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to Public Law 94–304, appoints the following Senators to the Commission on Security and Cooperation in Europe: the Senator from Rhode Island (Mr. Pell), the Senator from Iowa (Mr. Clark), the Senator from Florida (Mr. Stone), the Senator from Vermont (Mr. Leahy), the Senator from New Jersey (Mr. Case), and the Senator from New York (Mr. Buckley).

FEDERAL PROGRAM INFORMATION ACT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 798.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

> A bill (S. 3281) to provide for the efficient and regular distribution of current information on Federal domestic assistance programs.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Government Operations with amendments as follows:

On page 5, in line 21, strike out "applicant," and insert in lieu thereof "recipient,".

On page 5, in line 23, after the word "tribe," insert "an Indian tribe living on a State Indian reservation,".

On page 6, beginning at line 3, strike out:

> (2) the term "assistance" includes grants, loans, loan guarantees, scholarships, mortgage loans, and insurance, or other types of financial assistance; provision or donation of Federal facilities, goods, services, property, technical assistance, and counseling; but does not include provision of conventional public information services;

And insert in lieu thereof:

> (2) the term "assistance" refers to the transfer of money, property, services, or anything of value to a State or local government or other recipients, the principal purpose of which is to accomplish a public purpose of support or stimulation authorized by Federal statute. Assistance includes grants, loans, loan guarantees, scholarships, mortgage loans, insurance, or other types of financial assistance; provision or donation of Federal facilities, goods, services, property, technical assistance, and counseling; but does not include provision of conventional public information services.

On page 7, beginning at line 8, strike out:

> Sec. 8. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

And insert in lieu thereof:

> Sec. 8. There are hereby authorized to be appropriated $700,000 for fiscal year 1977, $800,000 for fiscal year 1978, $900,000 for

fiscal year 1979, and $1,000,000 for fiscal year 1980 to carry out the purposes of this Act.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the amendments be considered and agreed to en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1706

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. PERCY, I offer an amendment to S. 3281.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from West Virginia (Mr. ROBERT C. BYRD), on behalf of Mr. PERCY, proposes an amendment numbered 1706:
>
> On page 1, line 7, after "establish" insert "within the General Services Administration".

The PRESIDING OFFICER. The question is on agreeing to the amendment. The amendment was agreed to.

FEDERAL PROGRAM INFORMATION ACT

Mr. ROTH. Mr. President, today we are considering important legislation to improve the availability of information on Federal assistance programs. If this legislation is enacted citizens and communities which are intended to benefit from Federal aid will have better access to information about Federal programs.

The Federal Program Information Act would establish a central source of information for details on program purposes, funding availability, and application procedures. The information would be distributed to communities across the Nation using modern computer telecommunications equipment. Individual inquiries could be made from any location by telephone to an office which ties into a computer by means of accoustically coupled, terminal-printer equipment.

Rural communities, small cities, towns, hospitals, and colleges have been particularly disadvantaged in seeking a fair share of Federal grant money. There are more than 1,000 Federal domestic aid programs listed in the Federal Domestic Assistance Catalog. It requires considerable time and effort to pick out a program which meets the needs of a community. The application process can be long, complicated, and costly. Many States and cities spend a considerable amount of money simply to keep abreast of program changes. The present situation imposes added burdens on those cities and States able to afford a grantsman and unfairly disadvantages those unable to afford full-time professional help in securing Federal assistance funds. Neither situation is satisfactory.

SUNSHINE FOR FEDERAL ASSISTANCE

This legislation will not remove every weakness in the existing Federal categorical aid system. It will not increase the availability of funds; it will not reduce program restrictions; it will not eliminate the application process for aid. However, it will give local budget planners more tools to find the aid which is made available to local governments for special purposes. And, it will give all communities a basic search capacity with which to locate aid.

It is a matter of basic fairness to provide adequate information about Federal grant money equally to all potential applicants who may be eligible. I believe beneficiaries of Federal grants programs have a right to the full, fair, and timely disclosure of program information and that the Federal Government has a responsibility to make such information readily available.

HELP FOR LOCAL OFFICIALS

There are over 1,030 different Federal assistance programs listed in the catalog. It is next to impossible for local officials to know how to make good use of all of these programs. With the development of this information system a local official will be able to select a particular community project such as sewer construction, soil conservation, public housing, or recreational facilities and request a listing of all Federal programs which make grants for that purpose. The listing is keyed to the Federal Domestic Assistance Catalog. The center will also furnish applicants with information about who to contact, where to apply, what restrictions are imposed, and whether any funds are available for the program. As this system is developed the terminal will be able to provide a printed summary of all the pertinent program information. The local official would also be given the appropriate reference to the Domestic Assistance Catalog where he could find a printed summary of the program data.

The advantage to the use of a computerized catalog is that a local official is guided to the specific programs which have aid for certain purposes. The user does not have to page through the catalog trying to determine what each program offers.

A potential applicant would feed into the computer some basic information on his project needs and he would provide a simple profile of his community. The computer would then furnish a listing of all programs for which the individual meets the basic eligibility criteria. Thus, the local official would use the computer information center to specify what his needs are and he would receive a printed summary of available programs. The computer will conduct the search that has often taken hours of the local official's time.

This comprehensive, quick and easy-to-use system offers a significant improvement over the cumbersome methods now in use. The difficulty that people have identifying programs which may prove to be a source of funds is often the most frustrating aspect of applying for Federal aid programs. Many local officials simply do not bother applying for Federal aid due to the difficulty in locating funds and the administrative redtape.

INFORMATION REQUIREMENTS IMPROVED

The information on Federal programs will be collected by the Center and stored in a central information bank. This legislation specifies what information should be included. It would also require that additional program information be disclosed.

The bill improves considerably the types of information on program funding which would have to be disclosed. The Government Operations Committee determined that providing prospective applicants with useful information on available funds is particularly important so that applicants will not waste time applying for assistance after all funds have been committed. The bill requires disclosure of financial information, including the amounts of funds appropriated for the current fiscal year, the amounts obligated in past years, the average amount of awards in past years, and current information on the amount of funds not already obligated nor otherwise committed. One of the weaknesses in the present domestic assistance catalog is that applicants often do not know whether any funds are actually still available for a program. The legislation mandates the Center to provide as accurate information as available on funds which are neither obligated nor committed and are therefore still available to applicants.

This legislation also provides for publication of the Federal Domestic Assistance Catalog with periodic supplements. The catalog would be published from the information contained in the data base maintained by the Center. Local officials have found the catalog to be an invaluable reference in searching for sources of Federal aid. The committee determined that the catalog should continue to be provided for local officials as a supplement to the computerized information system.

The job of keeping the information in the data bank current and accurate is essential to the usefulness of this information service. Information can be added or updated in the computer files on a day-to-day basis. The committee intends that the staff working at the Federal Program Information Center will contact program managers and agency officials directly to get accurate program information. They will have the responsibility to see to it that agencies respond fully and promptly to their requests for information. Program directors also bear a responsibility to inform the Center about changes in the programs which they manage. The Center should be notified immediately about changes in the availability of funds. The committee determined that it is desirable to use informal methods of communication including telephone contact with program managers in order to improve the availability of current information on programs to applicants.

Putting the catalog into a computer system will be an immense help to local officials. Local and State agencies could tie into the system by telephone with the aid of a computer terminal. Many State and local agencies have such terminals. These terminals can also be rented on a monthly basis. If there are no terminals in a community it would be relatively easy to gain access to one in a neighboring community or county. A local official could telephone his request in to an office 20, 50, or 200 miles away in order to obtain access through a terminal to the central computer. The request would be processed in seconds and the printed summary of program information can then be mailed back to the outlying community official. Thus, the local official would be spared the redtape and the need to travel long distances to get program information.

I am hopeful that this information system will be implemented on a government-wide basis as quickly as possible. There are still many improvements that can be made to develop this retrieval system to assure that the information is accurate, up to date and easily understandable. The committee attaches special importance to the job of broadening the distribution of this system so that smaller communities will be able to participate and take advantage of its benefits.

This legislation is an important step in our efforts to make government more effective and more responsive and it continues our commitment to open government.

FEDERAL PROGRAM INFORMATION ACT OF 1976

Mr. DOLE. Mr. President, as I understand it, S. 3281 creates a Federal Program Information Center which incorporates and builds upon the Federal assistance program retrieval system—FAPRS—now operated by the Department of Agriculture. I hope that in the process of transforming FAPRS into a new, Government-wide system, the existing format will be preserved.

FAPRS has been demonstrated to my staff and I understand that it is rather unique among computerized information systems. The format is simple, straightforward, and based on English rather than computer language. When FAPRS is fully operational, a rural official should be able to go to the local extension service office or to the USDA service center where computer terminals are available and use the system himself. As such, FAPRS is particularly appropriate to the information requirements of small or rural communities and counties. I fear that if the existing format were significantly altered and made more complex, many officials of the smaller units of governments would be discouraged from using it. And it is precisely these officials whose information needs are greatest.

All too often, small and rural towns and counties have not received their fair share of Federal grants because of their lack of expertise in the art of Federal grantsmanship. A good many rural officials serve part time and on a nonremunerative basis. They are generally unfamiliar with the more than 900 Federal assistance programs, and even when they know of a program, they are often discouraged from applying because they do not understand the complicated application procedures.

FAPRS attempts to correct this situation by providing a ready source of information in a form that everyone can understand. I have no objection to the proposed legislation so long as the new information retrieval system utilizes a similar format.

I, therefore, ask the gentleman from Delaware whether the proposed system will possess a format appropriate to the needs of rural and small town officials?

I would also like to inquire whether the new system will be distributed widely and in a manner that will enable rural officials to access it directly without traveling long distances?

Mr. ROTH. Mr. President, the Senator from Kansas raises an important point. The small and rural communities do not receive their fair share of Federal grants in many cases because they do not have the resources to compete for grants with the well-heeled cities and universities.

The smaller communities have a proud tradition of independence, self-reliance, and local cooperation, and generally have not looked to the Federal Government for help. Many communities are discouraged by the complicated applications, the program restrictions, and the unreliability of Federal grants as a source of funds for community services. Although this legislation does not rectify all the inequities in categorical aid programs, it does help reduce the unfairness in the way program information is disclosed.

In answer to the questions of the gentleman from Kansas, let me emphasize that the intent of this legislation is to provide equally to all communities and to all citizens detailed information which is up to date, meaningful, and easily understandable.

The Federal Program Information Center will computerize information to permit maintenance of accurate and current files on programs. Changes in a program could be recorded in the computer files on a day-to-day basis.

It is the intention of the committee that the Center would maintain a retrieval system that uses plain language in its format rather than coded-computer language. The local official could ask questions and get answers without difficulty and more importantly without a lot of redtape. The official can request a list of programs that may have funds available for a community service for which he seeks Federal assistance. The Center will also develop methods to store more accurate information on the availability of funds.

This will give the local official a way to determine whether the application process is even worth making.

The intent of the legislation is to retain the clarity and simplicity of the computer program used in the Federal assistance program retrieval system—FAPRS—developed by the Rural Development Service in the Department of Agriculture. It is also the intent of this legislation to retain the population codes for smaller communities used by FAPRS, and the regional identification codes. In this way programs earmarked for rural areas, small communities, and larger cities are easily identified. Thus a basic format would be maintained which does not overlook the special requirements of smaller communities.

The question of distribution is also very important to rural communities. The computerized information system which would be established by this legislation could be linked to States and communities throughout the Nation. The telecommunications technology which is available today permits data developed and stored in a central file to be transmitted to almost any other geographic location where there is compatible terminal equipment. Access to this information network can be established by telephone. This bill would not require a small town to purchase a terminal in order to get program information. A local official could be served by a terminal located 20, 50, or 200 miles away by telephoning his information requests to a distribution center. These distribution centers could include many types of Federal agency offices, State government offices, or private organizations. The bill imposes no restrictions on the types of offices which could provide access for the program information. Thus the terminal equipment may be located in a county office, a U.S. Department of Agriculture office, a Governor's office, a Congressman's or Senator's office, a university office, a Social Security office, or a private business office. The intent of the legislation is to make the distribution as broad as possible. Telephone linkage to one of the terminal centers would enable rural officials to have access to the information without the need for traveling.

The information system must be developed and promoted to bring it within easy reach of every community, but it is the intent of the legislation to make information readily available to large and small communities alike.

Mr. CLARK. Mr. President, rural areas of the Nation now have quick access to information about a large number of Federal programs important to rural development through the Federal assistance program retrieval system now in operation by the U.S. Department of Agriculture. I understand that this USDA system provides for rural areas much of the program information the Federal Program Information Act would provide for all localities and for most Federal programs. The USDA system is, by now, a proven system, specifically tailored to meet rural needs. What precautions are being taken to insure that rural areas will continue to have the same or better access to the information they need under the new system?

Mr. ROTH. The Federal program information system will complement the USDA system and strengthen it, not threaten it. First, it will relieve USDA from the costly task of gathering the information from the non-USDA program agencies that will go into the system. And, USDA will be free to concentrate on the special needs of small communities who lack terminal facilities and who need special outreach programs to help them locate and interpret the information that comes from the computer. We would anticipate that the current cooperative effort in USDA involving RDS, extension, Farmers Home Administration, and other USDA agencies would continue, but would concentrate on outreach rather than program and information development.

Mr. MUSKIE. Mr. President, S. 3281, the Program Information Act, represents an important step toward providing complete and accurate information about Federal programs to all potential recipients. This legislation would establish an information system which will allow all users of the Federal Domestic

Assistance Catalog to compete for Federal dollars on a more equitable basis.

One of the most frequent complaints heard from local officials is the lack of comprehensive information about Federal programs and the difficulty in dealing with the information that is available. A quick glance at the Federal domestic assistance program shows why.

The catalog lists almost 1,000 programs administered by some 52 departments and agencies. In the health field alone, there are 228 different programs administered by 10 separate Federal agencies. Under the category of community development, there are 186.

As the number of programs has increased, so has the difficulty in dealing with the system. A recent General Accounting Office report states, in fact: "* * * many State and local officials don't learn about the available assistance or learn of it too late to apply."

The Subcommittee on Intergovernmental Relations recently held a day of hearings on the two bills that were combined in S. 3281. The testimony given by local officials clearly indicated the need for this legislation. As the town manager of Kennebunk, Maine, Kenneth W. Barrett, put it:

> The (computer) program, for the administrator of a small town is superb. It gives him all the information he needs.

Mr. President, it is clear to me that many smaller units of State and local government suffer because they are not able to take full advantage of available Federal dollars. S. 3281 will serve to solve that problem and close the information gap that now exists.

Mr. PERCY. Mr. President, my amendment to S. 3281, the Federal Program Information Act, directs that the legislation be implemented by the General Services Administration, as opposed to leaving the President total discretion as to what segment of the bureaucracy will execute this program.

The Federal Program Information Act is an important initiative toward bringing Government closer to the people. The Federal Government presently appropriates some $60 billion each year for over 1,000 Federal grant-in-aid programs for the States, localities, and individuals. Yet because of the sheer complexity of these programs, their differing requirements, procedures, and organizational structures, many potential recipients are left ignorant or confused about the fact that money is available to them at all, or how to go about obtaining it. As a result, the intention of Congress to benefit certain governments and individuals is thwarted, and the acquisition of Federal grant money is determined more on the basis of gamesmanship or grantsmanship than true need.

The Federal Program Information Act, by applying modern computer data processing technology to the Federal grant-in-aid programs, will help disseminate basic, necessary information to potential beneficiaries in a clear and understandable form.

For these reasons, I fully support this important legislation.

The one problem I find with S. 3281 as drafted is a mechanical one regarding the manner in which the new Federal Program Information Center is to be established. The legislation presently leaves total discretion to the President to establish this Center wherever he wants in whatever form he wants. I believe it is incumbent upon the Congress, in creating new programs of this importance, to at least determine where within the organizational structure of the executive branch the new program should be placed. As we all know, the ways of bureaucracy are such that a program misplaced may very well be a program doomed to failure.

The new Program Information Center is intended to provide a government-wide service, collecting information on grant programs in all Departments and agencies of the executive branch. As such, if it is to succeed, I believe this new Center must be attached to an agency with Government-wide responsibilities. Otherwise, it will be destined to face unnecessary bureaucratic roadblocks and other such hurdles.

I have examined two such Government-wide entities, the Office of Management and Budget and the General Services Administration, as potential homes for the new Federal Program Information Center. Between the two, GSA seems to have a much greater capacity to handle such a program.

GSA is an operational unit of the executive branch, while OMB is a policy unit. As such, GSA is more experienced and institutionally suited to actually implement a complex program of the sort envisioned here.

More importantly, GSA has already established a series of 37 Federal Information Centers across the country where people can call in and obtain basic information concerning Government programs and offices. Placing the new Center in GSA would therefore complement an existing structure, rather than requiring the creation of a totally new one.

My amendment will simply direct the President to establish the new Federal Program Information Center within the General Services Administration. It makes no other alterations of any kind in the legislation.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD a statement by the Senator from Massachusetts (Mr. KENNEDY) in support of the Federal Program Information Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY MR. KENNEDY

The Federal Program Information Act, which is before the Senate today, will greatly simplify the procedure for obtaining information on Federal domestic assistance programs. This bill establishes a Federal Program Information Center to provide the public with information on all Federal domestic assistance programs through a computerized information system and through a published catalog.

There are over one thousand Federal domestic assistance programs, but there is no straightforward way to obtain information on these programs. Many intended beneficiaries are unable to obtain assistance because of the difficulty of identifying programs for which they are eligible. Frequently, a city or town seeking Federal aid to build a new hospital, a school, or a sewage treatment plant, will spend weeks trying to determine which programs might be available to the community. Then the community may spend additional time working through the forms and going through the application process. Finally, by the time the application is filed, the deadline for consideration by the agency may have passed or the funds may have been shifted to another program.

The Federal Program Information Act will deal with this problem by establishing a center which will maintain current, computerized information on all Federal domestic assistance programs. The information will be kept up to date, with program changes incorporated at frequent intervals. The data will be accessible from anywhere in the country, by computer terminal or by telephone and the entire system will cost taxpayers only $200 thousand per year.

With the system established by this legislation, the applicant will feed into a computer some basic information on the kinds of assistance needed, and he will also provide a profile of his community. The computer will then furnish a list of all the programs for which the applicant meets the eligibility requirements. This system is quick, efficient, and easy to use. It represents a great improvement over the cumbersome methods now in use.

At a time when millions of Americans are questioning the capacity of the Federal government to place the people's interests ahead of the bureaucracy's interests, the Federal Program Information Act represents a small but important step toward restoring the credibility of the government. I urge the passage of this legislation.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendments to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 3281

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Federal Program Information Act".

FEDERAL PROGRAM INFORMATION CENTER

SEC. 2. The President shall establish within the General Services Administration a Federal Program Information Center (referred to in this Act as the "Center").

PURPOSE OF CENTER

SEC. 3. The Center shall be designed to identify all existing Federal domestic assistance programs, wherever administered, and to provide information on each program to the general public through computer terminals and through a published catalog.

INFORMATION REQUIREMENTS

SEC. 4. (a) The Center shall establish and maintain a data base which, for each Federal domestic assistance program—

(1) identifies the program by title, by authorizing statute, by administering office, and by an identifying number assigned by the Center;

(2) describes the program, the objectives of the program, and the types of projects which have been funded under the program;

(3) describes the eligibility requirements, the formulas governing the distribtuion of funds, the types of assistance, the uses and restrictions on the use of assistance, and the obligations and duties of recipients under the program;

(4) provides financial information, including, if available, the amount of funds appropriated for the current fiscal year, the amounts obligated in past years, the average amounts of awards made in past years,

and, to the extent feasible, current information on the amount of funds not already obligated nor otherwise committed;

(5) identifies information contacts, including the administering office and regional and local offices, and their addresses and telephone numbers;

(6) provides a general description of the application requirements and procedures and an estimate of the time required to process the application; and

(7) identifies programs which provide similar types of assistance.

(b) (1) Each Federal agency shall furnish to the Center, at such times as the Center may determine, current information on all domestic assistance programs administered by that agency.

(2) The Center shall on a regular basis incorporate into the data base all relevant information received under paragraph (1).

COMPUTERIZED PROGRAM INFORMATION SYSTEM

SEC. 5. (a) The Center shall establish and maintain a computerized program information system (referred to in this Act as the "information system").

(b) The information system shall be designed to provide the potential beneficiary with a listing of programs for which he meets the basic eligibility criteria, and with such information on these programs as is contained in the data base.

(c) The Center, to the greatest extent practicable, shall provide for the widespread availability of information contained in the data base, by computer terminals maintained by the Federal Government or owned or operated by State or local government units or their designees, by federally recognized Indian tribes or their designees, by private organizations, or by individuals.

(d) The Center is authorized to enter into contracts with private organizations to obtain assistance for the development and maintenance of the information system and to obtain computer time-sharing services.

CATALOG OF FEDERAL DOMESTIC ASSISTANCE PROGRAMS

SEC. 6. (a) The President shall prepare and publish each year a catalog of Federal domestic assistance programs (referred to in this Act as the "catalog").

(b) The President shall prepare and publish supplements to the catalog as necessary but not less than once each year.

(c) The catalog shall contain, in such form as the President determines—

(1) all information on Federal domestic assistance programs that is in the data base at the time that the catalog is prepared;

(2) any other information which the President considers helpful to potential applicants under such programs; and

(3) a detailed index.

(d) (1) The President shall make the catalog available to the public at a price approximately equal to the cost of its preparation.

(2) There are authorized to be distributed without cost not to exceed thirty thousand catalogs to Members of Congress, Resident Commissioners, Federal agencies, State and local units of government, federally recognized Indian tribes, and other local repositories designated by the President.

DEFINITIONS

SEC. 7. For the purposes of this Act—

(1) the term "Federal domestic assistance program" means any program, activity, service, or project of a Federal agency which provides assistance to an eligible recipient, including a State or local government, or any instrumentality thereof, a federally recognized Indian tribe, an Indian tribe living on a State Indian reservation, a domestic profit or nonprofit corporation or institution, or an individual;

(2) the term "assistance" refers to the transfer of money, property, services, or anything of value to a State or local government or other recipients, the principal purpose of which is to accomplish a public purpose of support or stimulation authorized by Federal statute. Assistance includes grants, loans, loan guarantees, scholarships, mortgage loans, insurance, or other types of financial assistance; provision or donation of Federal facilities, goods, services, property, technical assistance, and counseling; but does not include provision of conventional public information services.

(3) the term "administering office" means the lowest subdivision of any Federal agency that has direct operational responsibility for managing a Federal domestic assistance program;

(4) the term "Federal agency" means an agency as defined by section 551(1) of title 5, United States Code; and

(5) the term "computer time sharing services" includes the use of a computer, telecommunications network, computer software, and associated services.

AUTHORIZATION OF APPROPRIATIONS

SEC. 8. There are hereby authorized to be appropriated $700,000 for fiscal year 1977, $800,000 for fiscal year 1978, $900,000 for fiscal year 1979, and $1,000,000 for fiscal year 1980 to carry out the purposes of this Act.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 94–841), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

The purpose of S. 3281 is to increase the availability of information about Federal assistance programs to intended beneficiaries. The legislation would accomplish this by creating a Federal Program Information Center charged with the responsibility for identifying all Federal domestic assistance programs and providing information about these programs to the general public.

Specifically, the Center would be required to—

(1) Establish and maintain a data base containing comprehensive information on all Federal domestic assistance programs;

(2) Develop and maintain a computerized information system to provide for the widespread availability of information contained in the data base by computer terminal facilities;

(3) Publish a catalog of Federal domestic assistance programs, containing information from the data base.

NEED FOR S. 3281

Congress, over the past decade, has attempted to solve many of the problems of our society through numerous Federal grants-in-aid to individuals, institutions, Indian tribes, and State and local governments. Accordingly, during this period, the number of Federal grant programs has increased significantly. Since 1960, Federal assistance allocated through categorical grant programs, has increased from $7 billion annually to an estimated $60.5 billion in fiscal year 1977. The number of Federal grant authorizations increased from 160 in 1962 to over 650 in 1971. The actual total number of programs administered under these authorizations is much larger. The 1975 Catalog of Federal Domestic Assistance lists 1,030 assistance programs administered by 55 Federal agencies.

In fiscal year 1977, Federal grants will constitute 15.4 percent of total Federal outlays and 21.1 percent of domestic Federal outlays. Federal grant programs have increased as a percentage of State and local governmental expenditures, growing from 10 percent in 1955 to 15 percent in 1965 and 23 percent in 1977. The impact of these funds is increased, however, by matching requirements which are frequently imposed as a condition of the grant. State and local governments have allocated about 10 percent of their own resources to meet matching requirements for Federal grant monies.

Although the Congress has increased the number of programs and types of assistance available, little has been done to furnish prospective recipients with information concerning this Federal assistance.

Currently, the only tool available to individuals and governmental units seeking Federal assistance is the Federal Domestic Assistance Catalog prepared by the Office of Management and Budget. The shortcomings of the catalog were described to the committee during a March 5 hearing before the Intergovernmental Relations Subcommittee of the Committee on Government Operations. Suzanne Muncy, Intergovernmental Relations Coordinator for Montgomery County, Maryland, testified—

"It (the Federal Domestic Assistance Catalog) is one enormous thing. It is over 1,000 pages. It contains over 1,000 Federal programs and each of these programs has multiple programs within them. So that you really have to search and seek out what you want and to make sure that you read the program description properly or you can easily overlook possible funding for a very important program."

The committee is also concerned about the number of cities and States with Washington offices set up to look for Federal funds. As was pointed out by Senator Roth, during the Subcommittee's hearings, about 20 States and more than 50 cities have Washington representatives. Further, the number of cities participating in the National League of Cities—U.S. Conference of Mayors "Man in Washington Program" has jumped from 26 to 41 in only the last two years.

These statistics indicate that increasingly, cities and States, which are the principal recipients of Federal domestic assistance, must employ full-time professionals in Washington, D.C., to seek Federal funds. In addition to unnecessarily burdening those cities and States able to afford it, this practice places other cities and States, unable to afford such professional help, at a real disadvantage in securing Federal assistance funds.

The Committee concludes that beneficiaries of Federal grants programs have a right to the full, fair and timely disclosure of program information and that the Federal government has a responsibility to make such information readily available. In addition, enactment of the Federal Program Information Act would be an important step in fulfilling this responsibility and reducing the inequities and inefficiencies in the present information system.

COMMITTEE AMENDMENTS

The Committee approved four amendments to S. 3281.

Section 7(1) was amended by changing the word "applicant" to "recipient", and by adding the phrase "an Indian tribe living on a State Indian reservation."

The Committee replaced the word "applicant" with "recipient" to broaden the definition of "Federal domestic assistance program" and to insure that Federal entitlement programs are included in the definition.

"An Indian tribe living on a State Indian reservation" was added to provide coverage under the act to those organized Indian tribes not specifically recognized by the Federal government.

Section 7(2) was amended by the Committee by adding the following sentence:

"The term "assistance" refers to the transfer of money, property, services, or anything of value to a State or local government or other recipients, the principal purpose of which is to accomplish a public purpose of support or stimulation authorized by Federal statute."

This language defines assistance generically rather than merely by types of assistance. The committee intends by this change to include programs and services in the Center's data base which are forms of assistance, but which have been excluded from the Catalog of Federal Domestic Assistance.

Section 8 was amended by substituting language: "There are hereby authorized to be appropriated $700,000 for fiscal year 1977, $800,000 for fiscal year 1978, $900,000 for fiscal year 1979, and $1,000,000 for fiscal year 1980 to carry out the purposes of this Act."

This change was made in order to specify sums authorized for each year and remove ambiguity about the Committee's determination.

AGENCY COMMENTS

Agency comments on S. 3281 were requested by the Committee on May 10, 1976. Because of the short time between the date when comments were requested and Committee action on the legislation, no comments were received. However, the Committee believes that the testimony given by the Office of Management and Budget, the Department of Agriculture, and the General Accounting Office of the Inter-governmental Relations Subcommittee March 5 hearing on S. 2670 and S. 3021 provide an adequate reflection of agency reactions to the legislation.

SUMMARY AND NATURE OF THE FEDERAL PROGRAM INFORMATION ACT

The Federal Program Information Act would establish a Center with comprehensive responsibilities for maintaining current information in machine readable form, providing access to this information by computer terminal, and publishing the information in a catalog of Federal domestic assistance programs. Full disclosure of program information would be required under the Act, including the identification of the program, a description of the program and its objectives, eligibility requirements and restrictions on use of funds and obligations under the program, identification of appropriate officials to contact, financial information including current information on funds not already committed, a description of the application process, and identification of closely related programs.

This information would be maintained on data files for each Federal program. A potential applicant would be able to identify programs suited to his particular needs by using a computer to cross-reference his requirements with available programs. The user would receive a printed summary listing all programs which may have funds available for the specified needs of the applicant.

The program information would continue to be published in catalog form and made available to State and local governments and Members of Congress. The catalog would be updated or supplemented annually or more often as practicable.

S. 3281 would provide the potential program applicant with a versatile information system containing more complete and more up-to-date program information than is presently available.

The Committee has witnessed a demonstration of the Federal Assistance Programs Retrieval System (FAPRS) that has been developed by the Rural Development Service of the Department of Agriculture, and commends the Department of Agriculture for the initiative it has shown in developing this system. The Committee believes that FAPRS should serve as a model for the information system to be established by this Act and that, to the extent practicable, the computerized program information system should build upon FAPRS.

At the present time, although the Department of Agriculture has responsibility for FAPRS, the Catalog of Federal Domestic Assistance is prepared by the Office of Management and Budget. It is apparent that economies would be realized by establishing the Center as the primary information Center for all Federal domestic assistance programs. For example, the Catalog could be printed from the same data tapes that are used for the computerized information system.

It is the intent of the Committee that the data base established under this Act be revised on a regular basis so as to incorporate information with respect to any change in each Federal domestic assistance program as soon as practicable after the change is made. This may necessitate the use of informal methods of communication between the Center and the administering offices, such as the communication of information by telephone. While recognizing that these methods may make it difficult for the Center to be strictly accountable for the accuracy of information in the data base, the Committee considers it desirable to use the most rapid methods of communication in the interest of being able to provide the public with information that is significantly more timely than present techniques allow.

The Committee further recognizes the difficulty of providing the public with timely, meaningful financial information for each Federal domestic assistance program, and is aware of the fact that appropriation accounts do not correspond on a one-to-one basis to program accounts. It is also recognized that, because most agencies apply a system of administrative reservations in programming their funds, the amount of unobligated funds may overstate the amount of funds that are truly available to an applicant.

Nevertheless, the Committee wishes to stress the importance of providing prospective applicants with useful information on available funds, so that applicants will not waste time applying for assistance after all funds have been committed. It is clear that the Center can, through the use of informal methods, provide reasonably accurate information on funds that have been neither obligated nor otherwise committed, and that are thus available to applicants. When program funds are committed by an agency, the Center should be among those first to know.

It is the intent of the Committee that the Center use existing commercial computer time-sharing services if economies are realized in doing so. However, in contracting with private time-sharing companies, the Center must insist that these companies do not charge the public more than a fair price for their services.

It is not the intent of this bill to require the Federal government to provide computer terminals. Rather the intent is for the Center to make the information available to anyone who has access to compatible computer terminal equipment.

HEARINGS

On March 5, 1976, the Intergovernmental Relations Subcommittee and the Administrative Practice and Procedure Subcommittee of the Judiciary Committee held a day of hearings on S. 2690, the Federal Domestic Assistance Information Act of 1975, and S. 3021, the Program Information Act. Witnesses included Kenneth Barrett, Town Manager, Kennebunk, Maine; Walter A. Guntharp, Administrator, Rural Development Service, U.S. Department of Agriculture; Paul Kugler, Director, Plans and Programs Staff, Rural Development Service, U.S. Department of Agriculture; Suzanne Muncy, Intergovernmental Relations Coordinator, Montgomery County, Maryland; Aliceann Fritschler. Deputy Director of Federal Affairs, National Association of Counties; Paul H. O'Neill, Deputy Director, Office of Management and Budget; and Albert M. Hair, Associate Director General, Government Division, General Accounting Office.

Except for Mr. O'Neill, all the witnesses expressed support for both bills.

As a result of the March 5 hearing, Senators Kennedy and Roth combined their two bills into a single piece of legislation—S. 3281.

In his testimony at the March 5 hearing, Mr. O'Neill voiced several objections to the major provisions of S. 2690 and S. 3021, the two bills which were later combined in S. 3281, on the grounds that (1) S. 3021, in its specific direction to the Administration as to what should be included in the Domestic Assistance Catalog, would unnecessarily reduce the flexibility now exercised by OMB as to the catalog's contents; and (2) the Domestic Assistance Catalog is currently available on computer tapes and (3) the updating requirements in S. 2690 would be very difficult to meet.

The Committee considered these objections, but concluded that the objective of providing up-to-date information about Federal programs to prospective recipients was of overriding importance.

By specifying the contents of the Domestic Assistance Catalog, Congress can take an important step to insure that catalog users are provided with all the information needed to make informed decisions about the application process and available funding sources.

The Committee determined that the computerized process envisioned by S. 3281 would provide substantially more assistance to catalog users than the computer tapes of the catalog currently available from OMB. The committee has seen a demonstration of an information system similar to that which would be established under the provisions of S. 3281. This system provides not only the program information which would be available from the OMB tapes, but also gives the user an indication of the programs for which he is eligible.

Further, the Committee, based on expert opinion provided at the March 5 hearing, has determined that the updating requirements called for in S. 3281 can be met using existing technology.

BACKGROUND AND LEGISLATIVE HISTORY

The Federal Program Information Act, S. 3281, incorporates features from two bills considered by the Subcommittee on Intergovernmental Relations in a hearing on March 5, 1976. The Federal Domestic Assistance Information Act of 1975, S. 2690, was introduced by Senator Edward M. Kennedy and the Program Information Act, S. 3021, was introduced by Senator William V. Roth, Jr.

S. 2690 provided for a Program Information Center to collect and disseminate information on Federal domestic assistance programs and to make this information available to potential beneficiaries through a computer retrieval system. The data about each program would be stored in a data bank. The computer would then match the requirements for Federal domestic assistance programs with the basic eligibility characteristics of each applicant. A list of programs for which the applicant may be eligible could be obtained at the user's request.

Senator Kennedy introduced legislation in 1966 and again in 1967 to establish a computer-based Federal program information system.

The Program Information Act, S. 3021, introduced by Senator Roth, would provide for full disclosure of information on Federal domestic assistance programs and provide statutory authority for the periodic publication of the information in a catalog. The bill defines the types of assistance to be included in the catalog and specifies certain program information which is to be disclosed.

Similar legislation has been considered and reported favorably by the Government Operations Committee during three consecutive Congresses. S. 60 passed the Senate in October 1970 (91st Congress). S. 718 passed the Senate in September, 1972 (92nd Congress).

And S. 928 passed the Senate in November, 1973 (93rd Congress). Each time the legislation failed to receive full consideration in the House of Representatives and was never enacted.

Senator Roth first became concerned about Federal grant programs when, as a member of the House of Representatives, he discovered that the government could not even identify all Federal programs, much less explain program requirements to potential applicants. Utilizing the resources of his own office, he conducted an extensive investigation into the subject.

The House of Representatives published the product of the investigation—the "1969 Listing of Operating Federal Assistance Programs Compiled During the Roth Study". The Office of Management and Budget has used the format and the program information requirements of the Roth study and has published a comprehensive Catalog of Federal Domestic Assistance annually since 1970.

AUTHORIZATION FOR SUBMISSION OF STATEMENTS AND INTRODUCTION OF MEASURES UNTIL 5 P.M. TODAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Senators may have until 5 p.m. today, if the Senate should adjourn prior to that time, to insert statements in the Record and introduce bills, resolutions, petitions, and memorials.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TIME-LIMITATION AGREEMENT—S. 2477

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as Calendar Order No. 722 (S. 2477) is made the pending business before the Senate, the following time agreements obtain——

Mr. ALLEN. If the Senator will yield, what is the bill?

Mr. ROBERT C. BYRD. Calendar No. 722, a bill to provide more effective public disclosure of certain lobbying activities.

Mr. ALLEN. I have no objection.

Mr. ROBERT C. BYRD. I ask unanimous consent that the following time agreement be in effect: Provided that there be a time limitation of 1 hour on the bill, the hour to be equally divided between Mr. Ribicoff and Mr. Javits; that there be a time limitation on each amendment by Mr. Hathaway of 1 hour, and a time limitation on each Metcalf amendment of 1 hour; that there be a time limitation on any other amendment of 30 minutes; that there be a time limitation on any debatable motion or appeal or point of order, if such is submitted to the Senate, of 20 minutes; and that the agreement be in the usual form.

Mr. JAVITS. Mr. President, if the Senator will yield, would he make the time on this side available to Senator Percy or myself, depending on who is, at a given moment, managing the bill?

Mr. ROBERT C. BYRD. Very well.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I thank the Chair.

The text of the agreement is as follows:

Ordered, That during the consideration of S. 2477 (Order No. 722), a bill to provide more effective public disclosure of certain lobbying activities to influence issues before the Congress and the executive branch, and for other purposes, debate on any amendment (except amendments to be offered by the Senator from Maine (Mr. Hathaway) or the Senator from Montana (Mr. Metcalf), on each of which there shall be 1 hour) shall be limited to 30 minutes, to be equally divided and controlled by the mover of such and the manager of the bill, and that debate on any debatable motion, appeal, or point of order which is submitted or on which the Chair entertains debate shall be limited to 20 minutes, to be equally divided and controlled by the mover of such and the manager of the bill: *Provided*, That in the event the manager of the bill is in favor of any such amendment, debatable motion, appeal, or point of order, the time in opposition thereto shall be controlled by the Minority Leader or his designee: *Provided further*, That no amendment that is not germane to the provisions of the said bill shall be received.

Ordered further, That on the question of the final passage of the said bill, debate shall be limited to 1 hour, to be equally divided and controlled, respectively, by the Senator from Connecticut (Mr. Ribicoff) and the Senator from New York (Mr. Javits) or the Senator from Illinois (Mr. Percy): *Provided*, That the said Senators, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion, appeal, or point of order.

INTERNATIONAL SECURITY ASSISTANCE AND ARMS EXPORTS CONTROL ACT OF 1976–77

The Senate continued with the consideration of the bill (S. 3439) to amend the Foreign Assistance Act of 1961 and the Foreign Military Sales Act, and for other purposes.

Mr. ALLEN. Mr. President, I had planned at this time to call up my amendment No. 1790 which would have stricken from the bill the authorization of some $85 million to South African nations, the purpose of which would be to enable them, those nations, to join in the effort to unseat the stable government in Rhodesia.

On last evening I inserted in the Record a news item that ran on the ticker out in the Senate lobby which carried an AP news story from Salisbury, Rhodesia, which said:

> A band of black nationalist guerrillas entered Rhodesia from neighboring Zambia, opening up a second front in their fight against the white minority regime, a government spokesman said today.
>
> Rhodesian Defense Minister Pieter Van Der Byl said 1,300 black guerrillas had previously crossed into the country from Mozambique.

Mr. President, I object strenuously to the American taxpayers financing guerrilla activities, revolutionary movements, violence, and when I use the word violence I use that advisedly. I would like to call attention to an editorial in the Washington Post of May 28 entitled "American Support of African Violence."

It is a portion of this $85 million that the Washington Post is talking about, and they say that to do this—to make these appropriations—"would move Washington uncomfortably closer to doing in Rhodesia exactly what it criticized the Soviets for doing in Angola," and it questions very seriously the support by the United States of a policy of violent intervention.

I certainly oppose any such policy.

I have decided, however, to approach the matter in three stages, the first being an amendment which I will send to the desk and ask that it be stated.

UP AMENDMENT NO. 12

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

> The Senator from Alabama (Mr. Allen) proposes an unprinted amendment No. 12:
>
> On page 81, beginning with line 3, strike out all of subsection (b)

Mr. ALLEN. This section which this amendment would strike authorizes the appropriation, originally authorized the appropriation, of $25 million to implement Secretary of State Kissinger's so-called new African policy.

In Secretary Kissinger's speech in Lusaka, Zambia, he had promised $12.5 million to Mozambique, which is a Marxist state, which is a police state, a concentration camp, secret police, a dictatorship. For us to authorize appropriating $12.5 million to Mozambique, with the other $12.5 million going to other countries, I think, is absolutely foolhardy, and certainly is a dangerous meddling in the affairs of other countries.

The Washington Post points out that this is about the same as Russia's subsidizing the Cuban troops over in Angola. We were highly critical of them for doing that, and here we are authorizing the appropriation of $25 million to aid African nations in their effort to topple the Rhodesian Government. So we are intervening in the affairs of other nations through our support of these countries that are carrying on guerrilla activities against the Government of Rhodesia.

Well, Mr. President, the distinguished Senator from Minnesota (Mr. Humphrey), several days ago when this bill was up before, introduced a perfecting amendment to an amendment the Senator from Alabama had at that time, which did provide that none of this money could be used for military, paramilitary, or guerrilla activities. But I feel that the full amount should be dropped from the bill, $25 million going to Mozambique and the other African nations not called by name.

So, Mr. President, isasmuch as an

amendment to this section was adopted, I ask unanimous consent that it be in order to offer this amendment at this time.

Mr. JAVITS. Mr. President, I shall not object to this suggestion as to the amendment because that is very much before us in connection with this unanimous-consent request.

I would like to say that under the circumstances I shall not stand in the way of taking the amendment to conference on the whole record which is before the Senate in this debate.

The PRESIDING OFFICER. Is there objection?

Mr. HUMPHREY. No objection, Mr. President. I just wanted to say to the Senator from Alabama that we have discussed these matters with him.

Mr. ALLEN. Yes.

Mr. HUMPHREY. And I concur with the comments made by the Senator from New York.

There is a long record in this debate on this matter, and the House has provisions that are different from what we had here in the Senate. This will clear the way for some reconciliation of differences that existed.

Mr. CLARK. Mr. President, I would just like to speak a couple of minutes to the issue itself.

The PRESIDING OFFICER. Is there objection to the request?

Mr. CLARK. I am not sure what the request is.

Mr. ALLEN. Merely that it be in order to introduce the amendment.

Mr. CLARK. No objection.

The PRESIDING OFFICER. The unanimous-consent request is granted, and it is so ordered.

The Senator from Idaho.

(At this point, Mr. Domenici assumed the Chair.)

Mr. CLARK. I just want to speak to the issue that the Senator from Alabama raises; namely, the nature of the regime in Mozambique and the fact that there are guerrillas in that area attacking what the distinguished Senator from Alabama calls a stable government in Rhodesia.

The fact of the matter is that there was very little debate or discussion here for the years and years that Mozambique was under control of the Portuguese fascist dictatorship. It seems to me that there might have been some concern about the nature of that regime under those circumstances, and when, in fact, the black majority of the people made appeals to this country year after year after year to be able to gain their own independence.

It seems to me that we ought to be somewhat interested in allowing Mozambique to have the opportunity, at least, to be a nonalined country.

When the Soviet Union, for example, made appeal to try to establish a naval base in Mozambique under this government, they were turned down.

They said repeatedly they are not going to take either Soviet or Cuban help in trying to help the situation in Rhodesia.

So I think that just to simply say, "No, we don't want to have anything to do with you under any circumstances" would play directly into the Soviet hands.

I think we have a responsibility to assist them in trying to remain a nonalined state, and that that is in our interest.

I think it should be also very clear that there is no money in this bill for Mozambique, as such. There is no line item in here about Mozambique. What we say is that there are $25 million in southern Africa.

That can be spent in Mozambique, or some other part of it could be spent in Mozambique, but it certainly is not mandated in this legislation. To say that somehow this bill provides money for guerrilla activity in Mozambique is a great exaggeration.

In fact, it specifically states, as the Senator from Alabama said, in view of the so-called Humphrey amendment, that it cannot be directly used or indirectly used for that purpose.

Lastly, I simply say something about the nature of that regime which the Senator from Alabama identifies as stable, the Rhodesian regime.

It is a racist regime. It is a regime that not a single country in the world recognizes, including South Africa, not one country in the world recognizes it even as the legitimate government of that area.

What kind of government is it? Is it representative in parliament?

There happen to be 6 million blacks who live in Rhodesia and 270,000 whites. Blacks have 6 seats out of 60. The vast majority could not possibly qualify even to vote.

That is the kind of stable regime it is. It is all well and good to talk about stability on the one hand and revolutionary activity on the other, but there is such a thing as institutional violence, which a stable government very often practices, institutional violence based strictly on race, in this case, and that is the kind of regime it is.

Even the land held in that country, although blacks outnumber whites 22 to 1, the distribution is 1 to 1.

In education, there is no real effort at all to educate blacks in the country of Rhodesia.

Except for two hotels, two international hotels, and two token schools, it is a totally segregated society.

Yes, blacks may eat at restaurants if they stand and if they stand outside. They may not go in and sit down.

In terms of literacy, 30 percent of the blacks of that country are not literate.

There are wage differentiations that are enormous.

One could go on and on and on about the discrimination and the nature of the racist regime that exists in Rhodesia.

I think to somehow describe this as the big bad terrible people of Black Africa in Mozambique, Zambia, or Zaire, and on the other hand to simply talk about this as a stable regime in Rhodesia, misses the point about bringing about a peaceful transition to majority rule in southern Africa.

Mr. HUMPHREY. Is the Senator ready for a vote?

Mr. ALLEN. In just a moment.

By the way, the distinguished Senator said that there is nothing in the bill that would authorize money for Mozambique. That is true. But in the Lusaka speech, Secretary of State Kissinger promised Mozambique $12.5 million because they closed their borders with Rhodesia.

Well, if they promote that, does the Senator not know it is going to come out of this money and the rest of the money promised to the countries that also suggested economic loss, by closing their borders?

Mr. CLARK. Will the Senator yield on that one point?

It is certainly my understanding—I am subject to correction—that the condition of the promise of $12.5 million for closing those borders is to come out of money already authorized and appropriated in the last Foreign Assistance Act. No money need come out of this bill for Mozambique to fulfill that pledge.

Mr. ALLEN. Still it could go to Mozambique. They will either get it from other legislation or this legislation. The Senator knows the commitment is going to be kept if the money is available.

Mr. CLARK. Certainly, we are in agreement, money in this bill could be used in Mozambique, but there is none required to be used and no money to be used out of this bill to fulfill the promises made in Lusaka.

Mr. ALLEN. The Senator is saying it has already been appropriated?

Mr. CLARK. Right.

Mr. ALLEN. Therefore, it is not necessary to come out of this money?

Mr. CLARK. That is right.

Mr. ALLEN. But still it could come out of this money as well, an additional $12.5 million.

Mr. CLARK. It has already been assured. It seems to me that that money, since that money has already been authorized and appropriated, I do not know why additional money should be used from here.

Mr. ALLEN. There is nothing to prevent doubling the $12.5 million?

Mr. CLARK. No, in some new guarantee, there would not.

Mr. ALLEN. A column appearing in Newsweek of May 3, 1976, by Mr. Milton Friedman on Rhodesia has this to say:

> Of the 49 countries in Africa, fifteen are under direct military rule and 29 have one-party civilian governments. Only five have multiparty political systems. I have just returned from visiting two of these five—the Republic of South Africa and Rhodesia (the other three, for Africa buffs, are Botswana, Gambia and Mauritius). If this way of putting it produces a double take, that is its purpose. The actual situation in both South Africa and Rhodesia is very different from and very much more complex than the black-white stereotypes presented by both our government and the press. And the situation in Rhodesia is very different from that in South Africa.

It goes on and comments on the stability of the government.

Mr. President, I ask unanimous consent that the whole article be printed in the Record.

There being no objection, the article

was ordered to be printed in the Record, as follows:

[From Newsweek, May 3, 1976]

RHODESIA

(By Milton Friedman)

Of the 49 countries in Africa, fifteen are under direct military rule and 29 have one-party civilian governments. Only five have multiparty political systems. I have just returned from visiting two of these five—the Republic of South Africa and Rhodesia (the other three, for Africa buffs, are Botswana, Gambia and Mauritius). If this way of putting it produces a double take, that is its purpose. The actual situation in both South Africa and Rhodesia is very different from and very much more complex than the black-white stereotypes presented by both our government and the press. And the situation in Rhodesia is very different from that in South Africa.

Neither country is an ideal democracy—just as we are not. Both have serious racial problems—just as we have. Both can be justly critized for not moving faster to eliminate discrimination—just as we can. But both provide a larger measure of freedom and affluence for all their residents—black and white—than most other countries of Africa. Both would be great prizes for the Soviets—and our official policy appears well designed to assure that the Soviets succeed in following up their victory in Angola through the use of Cuban troops by similar take-overs in Rhodesia and South Africa.

The United Nations recently renewed and strengthened its sanctions against Rhodesia. The U.S. regrettably concurred. We have, however, had enough sense to continue buying chrome from Rhodesia under the Byrd amendment, rather than, as we did for a time, in effect forcing Rhodesia to sell its chrome to Russia (also technically a party to the sanctions) which promptly sold us chrome at double the price.

THE BACKGROUND

Rhodesia was opened up to the rest of the world less than a century ago by British pioneers. Since then, Rhodesia has developed rapidly, primarily through its mineral production—gold, copper, chrome and such—and through highly productive agriculture. In the past two decades alone, the "African" (i.e., black) population has more than doubled, to 6 million, while the "European" population (i.e., white) has less than doubled, from about 180,000 to less than 300,000.

As Rhodesia has developed, more and more Africans have been drawn from their traditional barter economy into the modern market sector. For example, from 1958 to 1975, the total earnings of African employees quadrupled, while those of European employees a little more than tripled. Even so, perhaps more than half of all Africans are still living in the traditional subsistence sector.

Europeans have a much higher average income than Africans in the market sector—perhaps in the ratio of as much as 10 to 1. But Africans in the market sector have a much higher average income than their fellows in the traditional sector—in about the same ratio. Both Europeans and Africans have benefited from their cooperation. Modern cities like Salisbury, an extensive network of roads and communications, productive farm lands, mines and industrial works—all this would have been impossible for a population of whites that even today totals fewer than 300,000. On the other hand, without the knowledge, skill and capital provided by the whites, Rhodesian blacks would today be many fewer and far poorer. To judge from the crude evidence that is available, the Rhodesian blacks in the modern sector enjoy an average income that is considerably more than twice as high as that of all the residents of the rest of Africa, excluding only South Africa.

RACE RELATIONS

The relation of the whites to the blacks is complex: a large dose of paternalism, social separation, discrimination in land ownership, and little or no official discrimination in other respects. In particular, there is no evidence of that petty apartheid—separate post-office entrances, toilets, and the like—that was our shame in the South and that I find so galling in South Africa. The education of the blacks has been proceeding by leaps and bounds. Today, half or more of the students at the University of Rhodesia are black.

Guerrilla warfare from outside and inside the country has produced a reaction by the government that can properly be described as repressive. But the provocation has clearly been great and it is important to maintain a sense of proportion. More than half the defense forces patrolling the borders are black. We were told that more blacks volunteer for the defense forces than can be accepted.

The streets of Salisbury give a visual impression of a black sea with occasional white faces that brings to life and gives new meaning to the 20-to-1 numerical population ratio. It is very difficult to reconcile that visual impression with any widespread oppression or feelings of oppression by the blacks. If that existed, Rhodesia could not easily maintain such internal harmony or so prosperous an economy. During the past ten years of sanctions, Rhodesia grew in real terms more rapidly than in the prior ten years—and more rapidly than the rest of Africa.

"MAJORITY RULE"

The external pressures against Rhodesia arise from its unwillingness to grant "majority rule" within a definite and brief timetable. Whatever the merits or demerits of "majority rule" as an abstract principle, the imposition of sanctions against Rhodesia on this ground is a striking example of a double standard. The other former African colonies of Britain that were granted independence without question and without sanctions do not have anything approximating what Americans regard as majority rule. They have minority rule by a black elite that controls the one party permitted to exist. If the elite minority in Rhodesia had happened to be black instead of white, Britain would have rushed to grant them independence and provide "development assistance."

"Majority rule" for Rhodesia today is a euphemism for a black-minority government, which would almost surely mean both the eviction or exodus of most of the whites and also a drastically lower level of living and of opportunity for the masses of black Rhodesians. That, at any event, has been the typical experience in Africa—most recently in Mozambique. In his trip to Black Africa, Secretary Kissinger would do well to talk to some of the exploited masses and not only the elite—but needless to say, he will not find it easy to do so in the one-party states.

Rhodesia has a freer press, a more democratic form of government, a greater sympathy with Western ideals than most if not all of the states of Black Africa. Yet we play straight into the hands of our Communist enemies by imposing sanctions on it! The Minister of Justice of Rhodesia cannot get a visa to visit the U.S.—yet we welcome the ministers of the Gulag Archipelago with open arms. James Burnham had the right phrase for it: suicide of the West.

Mr. ALLEN. Mr. President, I ask unanimous consent to have printed in the Record an article from U.S. News & World Report of May 31, an editorial from the Wall Street Journal of May 31, and a Washington Post editorial of May 28.

There being no objection, the material was ordered to be printed in the Record, as follows:

At the Scene—As Rhodesians Grope for a Way To Survive

(Note.—Not all whites, nor blacks either, believe that a race war is inevitable. David B. Richardson of the magazine's staff takes a close look at Rhodesian moods, finds some unexpected reasons for hope.)

Salisbury.—Viewed from the outside, Rhodesia's 274,000 whites stand as one in their determination to retain control over this prosperous country. The 6.1 million blacks appear equally resolved to end white rule even at the risk of an all-out racial conflict.

But here on the ground, a sharply different picture emerges.

Prime Minister Ian Smith intends to fight against black-majority rule. There is no doubt about that. Most of the white population feels the same way. But some concerned—and influential—whites are questioning the Government's rigid stand against compromise.

On the black side, you find militants preparing for a war that some of their leaders see as inevitable. Yet many educated, middle-class blacks fear that war would destroy the country.

Above all, there is a feeling among the whites that they stand alone in an unfriendly world. While the blacks get arms from Russia and help from such black-ruled neighboring nations as Mozambique and Zambia, white Rhodesians are on their own without a single reliable ally. Even white-ruled South Africa will be reluctant to intervene with its own military forces to save the Smith Government.

DIVIDED OPINIONS

Among some of the whites, this sense of isolation encourages defiance. A transplanted Englishman sees "a new sense of unity against the common enemy that reminds me of Britain during Hitler's blitz."

A merchant says: "The choice is a simple one between order and chaos. We must stand firm."

On the other hand, an opposition leader is bitterly critical of the Government. He says: "The Prime Minister has become a prisoner of the 'black peril' campaign that got him into office. He refuses to recognize the potential of an educated, responsible and growing black middle class that already makes a substantial contribution to our country."

A white lawyer declared: "In the Africa of today, it stands to reason that a white minority cannot indefinitely rule blacks who outnumber us 22 to 1. And besides, our Constitution for 53 years has upheld majority rule. The sooner Mr. Smith faces up to the realities, the better our chances of staying here."

Some of Salisbury's leading bankers are in the forefront of the campaign for change, having already won battles over equal pay and promotion for blacks in many of their banks.

"The nation is embarked on a war it cannot win," one banker warns. "Smith's specter of a Communist take-over may become a self-fulfilling prophecy if he continues the present policies."

Some white groups—even conservative ones—go far beyond the talking stage in the search for greater understanding between blacks and whites. In a single week here in Salisbury—

The Women's Association of the conservative Rhodesia Party listened to a luncheon talk by Josiah Chinamano, vice president of the dominant wing of the African National Council (ANC).

A guest speaker at a Rotary Club luncheon was Dr. Gordon Chavundukar, a university medical lecturer and a top official in the other wing of the ANC.

The Rhodesian Promotion Council, all

white, held the ninth in a series of dinners bringing together 50 prominent white and 50 black political, business and professional men for an evening of frank, informal discussions.

GOVERNMENT'S MOVES

Mr. Smith, responding to pressure here and abroad, has launched what he calls a "new initiative" aimed at "convincing black Rhodesians that it is our wish and hope to give them an increased role in national life."

Four black tribal chiefs have been named Cabinet Ministers with vague responsibilities for "regional development." They are subject to control by the powerful Ministry of Internal Affairs which oversees all black economic, social and political life.

But Mr. Smith has yet to act on a report by a blue-ribbon commission, said to recommend specific steps to improve job opportunities, promotions and property rights for blacks.

Other long-standing proposals recommending that qualified blacks be eligible to become officers in the armed forces also await action. Blacks make up two thirds of the Army and half the police force, but to date none has advanced beyond noncommissioned rank. Confides one white officer:

"It's hard to know whom to trust."

Blacks complain bitterly about not being permitted to own homes in urban areas. Black businessmen are barred from trading in white communities, and there is a 7 p.m. curfew for blacks in "European" bars.

In the tribal trust lands, where more than 80 per cent of the blacks live under a land-tenure act that enforces racial segregation, many exist on a subsistence level. They are falling far behind blacks living inside the thriving industrial and urban economy.

BLACKS IN SCHOOLS

Yet a higher proportion of black children go to school here than elsewhere in Africa. Nearly half the students at the University of Rhodesia are black, and the country already has 2,500 black university graduates.

The nationalists agree with Prime Minister Smith's boast that Rhodesian blacks enjoy the highest standard of living in black Africa. But they ask: "Why does Mr. Smith insist that black majority rule in the foreseeable future would be irresponsible rule? If we are responsible enough to lead men in battle, teach in the university, handle large banking operations, and run major buslines and other businesses, we can learn to run the Government as well."

Nationalist leaders dismiss white fears that whites would lose their jobs, businesses and holdings under black rule. Says one black leader: "We are not foolish enough to ruin the best country in Africa—we have too much at stake. And we know we will need all the help we can get."

The black nationalist cause is weakened by a long-standing and still-unresolved power struggle between Joshua Nkomo, of the moderate wing of the ANC inside Rhodesia, and two exiled leaders—Methodist Bishop Abel Muzorewa and the Rev. Ndabaningi Sithole, who claim the allegiance of the militant guerrilla forces based in Tanzania and Mozambique.

Although the Nkomo faction is free of Communist influence, it does not condemn other groups, particularly the guerrillas, for relying on Communist support outside the country. The rationale: "We find it perfectly understandable that where constitutional means of change are blocked, the frustrated turn to violence to gain their rights."

Although figures vary, intelligence sources estimate that the black forces, known as the Zimbabwe Liberation Army, muster some 2,000 men inside Rhodesia's borders. About 10,000 more are being trained in Mozambique and Tanzania.

TRAINED BY RUSSIANS

Rhodesian officers say Russians rather than Chinese are training and equipping the guerrillas in Mozambique. Each guerrilla unit, numbering anywhere from 12 to 30 men, has a political officer as deputy commander in the Communist style.

A small Rhodesian military force is deployed to contain the black raiders. The Regular Army now numbers 4,500 men and the Air Force 1,200 with 40 aging combat aircraft. In reserve is a 10,000-man Territorial Force, similar to the U.S. National Guard. By calling up the Reserves and extending the draft from 12 to 18 months, the Government expects to enlarge the size of the multiracial armed forces to more than 20,000 officers and men.

A paramilitary police force with 8,000 active members and 35,000 reservists rounds out Rhodesia's security forces.

The armed forces are in the process of switching from a static and thinly stretched holding operation to tactics widely used by U.S. forces in Vietnam—search-and-destroy missions, helicopter strikes, counterambushes and construction of protected villages.

Gen. Peter Walls, Rhodesian Army Chief of Staff, has vowed to use "hot pursuit" across the Mozambican border if necessary. Diplomats fear that this could lead to immediate retaliation and intervention by other nations, possibly including Russia and Cuba. Nobody here, however, expects the guerrillas to make much headway against the Rhodesian forces for the time being.

The guerrillas could fight a prolonged war and force the Government to increase its defense expenditure, already running at 96 million dollars a year. And the death toll would continue to mount. A sharp rise in casualties in recent weeks brought the dead in 3½ years to 276 black civilians, 902 black guerrillas and suspected supporters and 112 Rhodesian soldiers.

Guerrillas could threaten the country's vulnerable lifelines to the outside world. Rhodesia lost a major outlet to the sea when Mozambique closed its border. That left only two rail lines—one of them running through Botswana—and one good road to South Africa. These carry the bulk of Rhodesia's ore and tobacco exports.

ECONOMIC THREAT

Steadily expanding war could be a disaster to Rhodesia's economy, one of the fastest growing in Africa. Despite trade sanctions imposed by the United Nations in 1966, the economy expanded at a rate of 10 per cent a year until 1975 when it dropped off as a result of the worldwide recession.

Offices, mines and factories were all affected by the recent mobilization of skilled whites to boost the size of security forces. The costs of military operations, already up 300 per cent, also could hurt the economy.

The call-up of white reservists has been particularly hard on small firms with all-white staffs.

Blacks are virtually excluded from managerial and supervisory positions in Rhodesian businesses. Thus many positions remain vacant while white employees are on active duty. Some outfits are hiring white women to help out.

Major companies pay their workers overtime, double up shifts and eliminate nonessential work to take up the slack in manpower.

Most business leaders do not expect a drop either in production or in profits for the time being. But they want the Government to institute a more orderly system of conscription so that they can plan ahead.

In general, businessmen support the Government's measures. They have even agreed to contribute to the defense effort by making up the difference between a conscripted employee's salary and the pay he gets while on active duty.

What happens next in Rhodesia will depend largely on the attitude of the white minority and its leader for 11 years, Prime Minister Smith.

NO COMPROMISE

Neither the black nationalists nor their supporters in Africa or elsewhere are prepared to accept anything less than eventual majority rule in Rhodesia.

With their options becoming fewer day by day, the Rhodesian whites may yet agree to make their peace with black Africa. But no one here underestimates the demonstrated capacity of the whites to steel themselves for a fight to the bitter end.

[From the Wall Street Journal, May 31, 1976]

HENRY KISSINGER'S AFRICAN POLICY

Henry Kissinger's tour of black Africa has gone over well in the countries he has visited so far. The Secretary of State hasn't gone as far as many leaders in those nations would like, but by and large he said what his hosts wanted to hear.

He pledged that the U.S. will seek an eventual end to racial separation in South Africa and that it will immediately apply "unrelenting pressure" to force Rhodesia to accept black rule within two years. He not only warned that the U.S. would do nothing to help white Rhodesians in the event of what he termed the "African liberation movement," but offered increased economic aid to nations where guerrillas are being trained for such an invasion.

Some analysts attribute this hard-line position to Amercian desire to atone for past U.S. neglect of black Africa, others to Mr. Kissinger's desire to be on the winning side in southern Africa. More likely, however, the Secretary of State is convinced this policy is essential if the U.S. is to exert any influence in minimizing Soviet and Cuban influence on the African continent. He hopes that despite Soviet and Cuban dabbling, black African nations will ultimately choose neutrality, and that they are more likely to do so if the U.S. aligns itself with their struggle.

Or at least, if the U.S. can keep enough of their sympathy to play the broker between them and the white regimes in Southern Africa. Since the U.S. is the only power in position to pressure Israel to accede to Arab demands, it is the power in best position to pressure Rhodesia and South Africa to accede to black demands. We suspect the Secretary hopes to use this position to elbow the Russians out of Angola as he elbowed them out of Egypt.

This policy is not without a certain plausibility, especially since Secretary Kissinger banned arms aid to either side, and took pains to distinguish the case of Rhodesia from that of South Africa. But two things profoundly disturb us.

The first is the moralistic rhetoric in which the Secretary chose to wrap this cold-blooded realpolitik. The low point of this rhetoric was his echoing the citation of the U.S. Declaration of Independence by the Lusaka manifesto, signed by black African rulers seven years ago in Zambia. Here are Jefferson's words about men being created equal and having inalienable rights, being cited by an American Secretary of State on behalf of, albeit among others, General Idi Amin.

Inalienable rights are not guaranteed for blacks in Rhodesia or South Africa, but neither are they guaranteed for blacks in most of black Africa. All but about five of the 49 members of the Organization of African Unity are either military or civilian dictatorships. Some black African states "solve" their racial problems by exterminating or expelling religious, tribal or racial minorities. Rhodesia and South Africa certainly do embody deeply flawed racial and political attitudes, but to no greater an extent than most of their neighbors. If their governments were overthrown by an "African liberation movement," the likelihood is that in terms of political and civil rights the regimes that replace them would not be better but worse.

The second thing that disturbs us is more substantive, which is giving aid and comfort to efforts to settle international disputes by force of arms. Of course, Secretary Kissinger would prefer to see the Rhodesian government negotiate rather than be overthrown in a guerrilla war. But in pledging increased economic aid and "unrelenting pressure," Secretary Kissinger is clearly encouraging resort to arms. We much prefer one of his predecessors' strictures against governments that won't leave their neighbors alone.

Now, clearly it is in the U.S. interest to avoid racial war in southern Africa, with all the opportunities for Soviet adventurism that would bring. It is altogether appropriate for the U.S. to warn black Africa about resorting to arms, and to counsel transition to black rule in Rhodesia and the end of apartheid in South Africa. Of the several keys to such an exercise, the most important is to persuade the white South African electorate to support the compromises its leaders know to be necessary. It will not help if South Africa is isolated as Rhodesia was isolated a decade ago, and it apppears Secretary Kissinger's rhetoric has gone down badly even with the South Africans who oppose their government's racial policies.

We can understand the tactics of Secretary Kissinger's African policy, and certainly share his concern about the Soviets. But if the tactics require rhetoric suggesting the Declaration of Independence means no more to the Secretary of State than it means to black African leaders, if they require the U.S. to take the side of forces that export revolution, if they alienate the people most necessary to a long-term solution, then perhaps it is time for tactics to yield to strategy.

[From the Washington Post, May 28, 1976]

AMERICAN SUPPORT OF AFRICAN VIOLENCE

The war in Rhodesia is drawing American policy into an inconsistency that ought to be given a careful look before it hardens into a major contradiction. On the one hand the Ford administration is trying to mobilize international pressure to remove the Cuban troops already in Angola by way of ensuring, among other things, that they won't be used in Rhodesia. On the other hand, the administration is asking Congress for $12.5 million in aid to Mozambique; this money will make it that much easier for Mozambique to weather the effects of suspending economic ties with Rhodesia. Not to put too fine a point on it, what that means is that this $12.5 million will also make it that much easier for Mozambique to fund the operations of thousands of Rhodesian guerrillas that Mozambique is sponsoring against Salisbury right now.

To be sure, the source of this inconsistency is plain. For seven-plus years the Nixon and Ford administration calculated that "the whites are here to stay . . . there is no hope for the blacks to gain the political rights they seek through violence." In other words, the United States in that period largely ignored the liberation struggle. Only when a successful Cuban intervention in Angola raised the prospect of Communist gains elsewhere did Secretary of State Kissinger seek, in haste, to place the United States unequivocally on the side of black majority rule in Rhodesia. What he seems not to have fully perceived, however, is that by its earlier neglect Washington had lost a good deal of what opportunity there may have been to facilitate majority rule by "peaceful change." By the time Mr. Kissinger got into the action, that goal was already being pursued by violent means. And so, by political commitment and—if the aid to Mozambique goes through—by material support, the United States is becoming a party to the use of force across an international frontier. This will be the actual effect, though perhaps not the intended or admitted purpose, of the aid.

His eye still mainly on those Cubans in Angola, Mr. Kissinger declared the other day that American policy had contributed to Fidel Castro's recent "positive" pledge to halve his forces in Angola by 1977. Washington is entitled to take a little credit, however difficult it may be to read Mr. Castro's motives at any point along the way. As of right now, Mr. Castro wants it known that he does not wish to become "the crusader of the 20th century," and his second-in-command offers the fiction that, in aiding the Popular Movement in Angola, Cuba was merely backing the already-legitimate government of one country and not preparing to intervene elsewhere. Any cooling off of American and Cuban passions is to their common good. But thousands of guerrillas are already operating out of Mozambique. American aid will give them a psychological as well as material boost. The issue of violence in Rhodesia will be there, even if the Cubans are not.

We reject Sen. James B. Allen's (D-Ala.) blinkered views on the racial enlightenment of the Salisbury government. We think nonetheless he is right to ask why the United States should support an armed attack on an established government across an international border—regardless of how reprehensible that government may be and irrespective of how it holds power. You don't have to be soft on Salisbury—and we wouldn't exactly place ourselves in that category—to be worried about whether even indirect American collaboration with Mozambique in this enterprise would not create a questionable precedent in a highly explosive situation. It would move Washington uncomfortably closer to doing in Rhodesia exactly what it criticized the Soviets for doing in Angola. American sympathy for black liberation should be unhesitating and beyond question. But whether the United States should support this objective by lending its financial weight to a policy of violent intervention is quite a different issue, and one that is fraught with more than enough perils and pitfalls to justify a prompt and full debate.

Mr. ALLEN. Mr. President, I do not recall ever seeing in the Recorb—possibly this was printed in the Record but I do not recall seeing in the Record—a letter or statement from Mr. K. H. Towsey of the Rhodesian Information Office commenting on Secretary Kissinger's speech. This is a letter dated May 19, 1976, which went to several Senators.

I do not recall receiving one, but I have a letter addressed to another Senator and I have stricken out his name because I do not have authority from him to have printed a letter addressed to him, but a letter of this sort was mailed to a number of Senators.

I ask unanimous consent that the letter without the Senator's name be printed in the Record, with the assurance of the Senator from Alabama that such letter was received by that Senator.

There being no objection, the letter was ordered to be printed in the Record, as follows:

RHODESIAN INFORMATION OFFICE,
Washington, D.C., May 19, 1976.

I much appreciated the opportunity of exchanging views with you on the Rhodesian question. We were only able to touch on the fringes of it. Since the destiny of at least six million people is involved, I am taking the liberty of restating the case against the policy recently enunciated in Lusaka by Secretary Kissinger.

Briefly, Dr. Kissinger calls on Rhodesia to move to majority rule in two years, and to face the 'unrelenting opposition' of the United States government until she does so. Pending such transition the United States will not lift a finger to help Rhodesia 'in its conflict with African states or African liberation movements'.

It is claimed for the policy that it will bring peace to the area. It will in fact have precisely the opposite effect. It gives encouragement to the neighborhood forces of aggression and subversion by indicating that the United States will do nothing to restrain them. These forces will be vigorously resisted by Rhodesian security forces, in which black soldiers incidentally outnumber whites by three to two, and black policemen outnumber whites by three to one.

The conflict has already intensified since the Lusaka statement. Casualties in the border war have mounted sharply in the last two weeks. The State Department has acknowledged the 'potential in the foreseeable future for increased violence' and has warned Americans again remaining in or travelling to Rhodesia.

It would have been dandy, I suppose, if white Rhodesians had meekly accepted the ultimatum to commit political, economic and cultural suicide. Ambassador George Kennan has some perceptive thoughts on the subject. He expresses them as follows. "The implication of Mr. Kissinger's statements . . . is that all the Rhodesian whites have to do, in order to assure to themselves the blessings of a happy and prosperous future, is to move over and accept their place as a minority of the citizenry in a democratically governed country where race is of no importance. Now, one would not wish to be dogmatic about this assumption. Possibly, I suppose, there do indeed stand in the wings a number of African resistance leaders who, despite the encouragement they have had from Marxist-extremist sources, are united among themselves, moderate in their aims and methods, committed to the ideals of democracy as we understand it, and fully prepared to accept the permanent presence in their country of 200,000 or 300,000 whites and to extend to the latter all the normal benefits of democratic citizenship. But it would be hard to find the precedent for such a miracle in other black African countries".

It would indeed. Neighboring Mocambique is a case in point; reduced in less than a year of majority rule to a Marxist tyranny and an economic shambles; its white Portuguese inhabitants, plundered and humiliated, down from 200,000 to perhaps 30,000 and still fleeing. Is this the model we are supposed to emulate? There is not the remotest possibility that we shall acquiesce in any such fate, and it is incomprehensible to us (and to most Americans of my acquaintance) that you should want to wish it on us as a matter of positive U.S. policy.

As to subsidising Mocambique for offering Rhodesia a confrontation, that is essentially a matter for Americans to determine in their wisdom, but I make no apology for pointing out that Mocambique, by harboring and assisting anti-Rhodesian guerrilla forces, is engaged in an act of aggression against Rhodesia. Before you assist Mocambique with the problems she has created for herself by closing her border with Rhodesia, I suggest it would be proper to call on her to desist from aiding and abetting acts of aggression against Rhodesia. That would be consistent with the principles of international law, with the position that the United States has consistently taken at the United Nations on Rhodesia, and with the peaceful objectives envisaged in the Secretary's Lusaka statement.

The statement makes much of a desire to avoid an Angola type situation in Rhodesia. This is understandable because of the dilemma created for United States policymakers by the intervention of external communist forces in Angola. Unfortunately the policy enunciated in Lusaka contains all the ingredients for producing just such a situation. If we assume, hypothetically, that the governing authorities in Rhodesia will succumb to the two-year ultimatum, it requires only a superficial knowledge of the Rhodesian political scene to appreciate that the power vacuum will be filled by bitterly disputing factions, i.e. a replica of Angola. The Secretary's statement abjures any intention on the part of the United States to take sides in such a conflict. It expresses the pious hope that no other country should pursue "hegemonial aspirations or bloc policies" in such a situation. Given the tremendous geopolitical importance of southern Africa to the Soviets I suggest that is a forlorn hope.

The dictation of domestic policy to my government under threat seems to me to fall under the heading of what a former colleague of yours would have called the arrogance of power. The arrogance is compounded by the failure of the United States government to engage in any direct dialogue or communication with the leadership of my country for the last ten years. Not only is this incompatible with your national ethos; it leads to serious misunderstandings.

I cannot tell you how many times I have encountered the simplistic misconception that Rhodesia is a conflict area between six million blacks and a quarter of a million whites. The dispute is in fact between revolutionary forces with communist affiliations and evolutionary-cum-traditionalist forces with Western affiliations. The majority of blacks are in the latter group, but it requires a willingness to observe the situation at first hand to perceive this.

Countless times I hear it said that Mr. Smith was unyielding at the negotiating table. The facts are totally different. Mr. Smith moved quite a long way, to the point of offering immediate power-sharing and progression to a black parliamentary majority over a reasonable term. Mr. Nkomo moved scarcely at all. Yet Mr. Smith is regularly represented as the reluctant and inflexible negotiator. This is a plain misrepresentation of fact, discernible by anyone who cares to examine the situation at first hand.

The Lusaka statement seeks to keep Rhodesia under wraps. "American travellers will be advised against entering Rhodesia". There are some hardy spirits who break through the barrier of official disapproval. They are almost invariably impressed by what they find. A recent visitor was Professor Milton Friedman of the University of Chicago, who recorded his impressions in Newsweek magazine (May 3 issue). The whole article deserves attention, but particularly noteworthy, I think, are Professor Friedman's observations on the material progress of blacks in Rhodesia; on the fact, for example, that "the Rhodesian blacks in the modern sector enjoy an average income that is considerably more than twice as high as that of all the residents of the rest of Africa, excluding only South Africa".

As to the question of human freedom, may I suggest cutting the pretentious rhetoric with which the Lusaka statement is festooned; not because of any cynical disregard for 'human dignity' and 'racial equality' but because, as columnist Smith Hempstone put it, these phrases "bear about as much relationship to African realities as an elephant does to a goat".

Let us be honest enough to acknowledge, as Freedom House does in its most recent survey of comparative freedoms around the world, that there is greater respect for human rights in Rhodesia than in most of the rest of Africa.

Let us acknowledge, whilst we anguish over the widening gap between rich people and poor people around the world, that Rhodesia is one of the places where the gap is narrowing. Despite sanctions Rhodesia has a dynamic economy that promises a more abundant life for all its people without recourse to foreign aid or the elaborate mechanisms proposed in Secretary Kissinger's recent speech to UNCTAD. What advantage is to be gained by destroying it, as you surely will if you create political conditions in which white Rhodesians can have no confidence about their future?

According to the Lusaka statement someone from the American administration is going to shake a stick at Mr. Smith and let him know how much it will hurt unless he knuckles under. That will be unproductive. Mr. Smith has been around for a long time and he does not frighten very easily. I suggest something more statesmanlike, such as having a very senior American official—preferably the most senior—sit around the table with Mr. Smith and discuss with him coolly and dispasionately the very real problems of structuring a plural society so as to satisfy the reasonable aspirations of majority blacks and to allay the reasonable apprehensions of minority whites. That has not been tried for ten years. It could be more profitable than throwing down gauntlets.

I am sending a copy of this letter to some of your congressional colleagues in the hope that they will take it into consideration when addressing themselves to S. Res. 436.

Yours sincerely,

K. H. Towsey.

Mr. ALLEN. Mr. President, I ask that the Senate agree to the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT NO. 13

Mr. ALLEN. Mr. President, I call up my next amendment, an unprinted amendment.

The PRESIDING OFFICER. The unprinted amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Alabama (Mr. Allen) proposes an unprinted amendment numbered 13:

On page 80, line 21, strike out "$1,836,500,000" and insert in lieu thereof "$1,826,500,000".

On page 80, line 24, strike out "$30,000,000" and insert in lieu thereof "$25,000,000".

On page 80, lines 24–25, strike out "$30,000,000" and insert in lieu thereof "$25,000,000".

Mr. ALLEN. Mr. President, this would reduce the authorization to Zambia from $30 million to $25 million, and to Zaire from $30 million to $25 million.

Mr. HUMPHREY. The Senator has an additional amendment that relates to a proviso about the funds.

Mr. ALLEN. That is correct.

Mr. HUMPHREY. He will offer that as a separate amendment immediately, is that correct?

Mr. ALLEN. That is correct.

Mr. HUMPHREY. I think we are all right.

The Senator understands this will place us in conference. We will do our best.

Mr. ALLEN. The best to sustain the Senate figure, I assume the Senator means by that.

Mr. HUMPHREY. That is correct.

Mr. JAVITS. Mr. President, I would like to make the same statement I made on this amendment as on the preceding amendment. I am in agreement. We should take it to conference based on the whole record of this debate before the Senate.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT NO. 14

Mr. ALLEN. Mr. President, I send to the desk another unprinted amendment which I ask to be considered.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Alabama (Mr. Allen) proposes an unprinted amendment No. 14:

On page 80, line 25, strike out the period and insert in lieu thereof a colon and the following: "*Provided*, That none of the funds authorized to be appropriated by this section for Zaire and Zambia may be used for military, guerrilla, or paramilitary activities in either of such countries or any other country.

Mr. ALLEN. Mr. President, this proviso is almost identical with the proviso inserted by the distinguished Senator from Minnesota (Mr. Humphrey) on the $25 million when it was up before. It says that any of this money that is appropriated under this section, the two $25 million, cannot be used by Zaire or Zambia for military, paramilitary, or guerrilla activities in their own countries or any other country, which would preclude the use of this money for subversive activities in Rhodesia or the buildup of guerrilla, military or paramilitary activities in Zaire and Zambia for use elsewhere.

It is a very fine amendment. I hope it will be agreed to.

Mr. HUMPHREY. Mr. President, the amendment is needed. The whole purpose of the funding that is provided for in this authorization is for peaceful purposes. It is for economic purposes and not for military purposes.

The Senator is correct when he said that the amendment is very similar to the one we adopted about a week ago. I am more than happy to support the amendment.

Mr. JAVITS. It is limited to Zaire and Zambia. I concur that we should take the amendment to conference.

The PRESIDING OFFICER. The question is on agreeing to the amendment——

Mr. ALLEN. Mr. President, I want to be heard further.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. ALLEN. Mr. President, the effect of these amendments is to knock out the $25 million originally slated to implement Secretary Kissinger's new African policy and, in addition, to knock $5 million off of Zambia's $30 million and $5 million off of Zaire's $30 million, and to put in a proviso that none of the money can be used for revolutionary or guerrilla activities in any other country, or in their own country, for that matter.

Mr. President, I am not unrealistic enough to feel that these amendments are going to be accepted in their entirety by the House because the House in its bill, which is on the calendar, by the way—and I daresay it will be passed today—has this same $85 million divided in this same way. But it does have the significant sentence,

None of the funds authorized by this section may be used in Mozambique.

I am hopeful that, by slashing the

authorization by $35 million, and the House wanting to keep its prohibition against using any of the funds in the Marxist state, the police state, the dictator state of Mozambique, it will give the House some bargaining position for at least holding in this prohibition of using any of the funds for Mozambique. Then anything that might be saved between the $85 million that the House has and the $50 million that the Senate has would be that much of a savings for the American taxpayer.

I do feel that this at least shows, by the adoption of these amendments, that there is a substantial feeling here in the United States Senate that it is wrong to appropriate money for the aid of guerrilla and subversive activities by African nations aimed against Rhodesia.

I feel this is a constructive achievement. I do feel it will serve notice that there are some in the Senate who do not want to see the American taxpayer supporting violence in Africa—supporting it, aiding it, abetting it, encouraging it—and making it part of American policy.

I think that would be a mistake.

Mr. President, I ask the Senate to agree to the pending amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. HUMPHREY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that the order for quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ALLEN. Mr. President, I shall ask unanimous consent to have printed in the RECORD an article from the Washington Post of April 22, 1976, about missionaries being held in Mozambique's antichurch drive. The article tells of three American preachers who were being held in Mozambique. Two of them have been released. One has not. This article tells, also, about 35,000 members of the Jehovah Witnesses sect who have been forcibly moved to reeducation camps in central Mozambique in recent months.

I ask unanimous consent to have that article printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

MISSIONARIES HELD IN MOZAMBIQUE'S ANTI-CHURCH DRIVE

(By Robin Wright)

MAPUTO, MOZAMBIQUE.—The government of Mozambique has stepped up its anti-religion campaign dimming hopes for the release of three American missionaries who have been imprisoned since last summer.

The three Protestant missionaries were picked up by security police shortly after Mozambique gained independence from Portugal June 25. They have not been charged and have been refused legal counsel or consultation with U.S. embassy officials.

Diplomats in the southeast African country estimate that there may be as many as 150 missionaries and church workers—Africans as well as European—held without charge in Maputo's central prison and in the port city of Beira.

The three Americans are the Revs. Armand Doll and Hugh Friberg of the Nazarene Church, arrested Aug. 28, and the Rev. Don Milam of the Assembly of God Church, arrested July 3.

Milam ran a government-supported drug rehabilitation center near Maputo and Doll had been administrator of the Nazarene mission for more than 20 years.

In a related development, about 35,000 members of the Jehovah's Witness sect—many of them refugees from prosecution in neighboring Malawi—have been forcibly moved to reeducation camps in central Mozambique in recent months.

President Samora Machel has taken a hard line on religion since his militantly socialist party, Frelimo, took over 10 months ago, after almost 500 years of Portuguese colonialism.

Mission schools have been nationalized and religious holidays eliminated from the calendars, despite the fact that about 70 per cent of the 9 million population is Christian.

In a recent statement, the government warned: "The people must be made to understand that to attend church services or to obey the preachings of the missionaries will mean to work against Mozambique and to serve the imperialist powers.

Interior Minister Armando Guebuza had earlier charged that several missionaries were "involved in a conspiracy" against the government. The American-based Nazarene Church bore the brunt of the condemnation on charges that it organized secret meetings to plan subversive activities.

Guebuza said that all the churches had joined together to form a common front against Frelimo. The government claims to have confessions from the detained church leaders, and excerpts of letters and documents outlining their plot, although these have not been made public.

Specifically, Guebuza said the Nazarenes had gathered materials to fight the revolution—including printing machinery, microfilms, movie and still cameras, sound amplifiers, photostat machines, listening devices and cassettes and tapes.

Guebuza also said "enormous masses of propaganda material including American flags" had been confiscated.

The U.S. embassy in Maputo has made regular efforts to determine charges against the men and provide legal advice, but has been turned down by the Interior Ministry. Recently the new U.S. ambassador, Willard A. De Pree, was warned that any publicity about the three Americans would hurt their cause.

Nazarene officials in the United States also attempted to negotiate with the Frelimo government during the visit of Foreign Minister Joaquim Chissano to the United States last year, but were unable to get an appointment.

The Tanzanian ambassador, who is dean of the diplomatic corps and representative of Mozambique's closest ally, has also been unable to gain permission to talk with alien detainees.

UP AMENDMENT NO. 15

Mr. ALLEN. Mr. President, I offer an amendment having to do with the remaining missionary who is being held captive in Mozambique.

I ask unanimous consent to print a statement in the RECORD documenting the fact that Reverend Doll, a resident of the State of Pennsylvania, is being held.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

Initially three Christian missionaries were interned in June 1975, by the Government of Mozambique shortly after the Independence of that country. The three were Reverend Hugh Friberg, Reverend Don Milam, and Reverend Armand Doll. Revs. Friberg and Milam were released on April 28, and I understand have since returned to the United States. Rev. Doll remains in custody and has been seen by officials from our Embassy in Mozambique only on the occasion of the release of Revs. Friberg and Milam. Rev. Doll is 60 years old and has been a missionary for the Church of the Nazarene in Mozambique for approximately 20 years. (In fact, Doll's 60th birthday is sometime this week.)

Doll's wife resides in Pennsylvania and has been pressing the State Department for strenuous action in obtaining her husband's release. The State Department believes that Doll will eventually be released, but is uncertain as to when.

Doll and the other missionaries were arrested allegedly for activities contrary to the "revolution," i.e., continuing to preach the Gospel. Doll, unlike the other two missionaries had in his possession a great deal of electronic equipment such as tape recorders, projectors, tapes, and films. No specific charges were ever filed against the missionaries, and they have been denied counsel and have not been tried.

Incidentally, Senator Hugh Scott and Senator Schweiker will be interested to know that Doll is apparently a resident of Pennsylvania and to Senators Pearson and Dole that the Church of the Nazarene has its national headquarters in Garden City, Kansas.

Mr. ALLEN. Mr. President, I wish to have the amendment stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Alabama (Mr. ALLEN) proposes unprinted amendment No. 15.

At the end of the bill add the following new section:

"Section —. Limitation. No funds authorized by this Act or any other Act shall be made available to the Government of Mozambique until the Government of Mozambique shall have released into the custody of the Government of the United States and shall have thereafter permitted to depart Mozambique the following citizen of the United States presently interned in Mozambique: Rev. Armand Doll of the State of Pennsylvania.

Mr. ALLEN. Mr. President, this bill does not contain any funds for Mozambique. But the amendment states that no money will be given to Mozambique under this act or any other act, if this amendment is adopted, unless this preacher, who is being held captive over there on a religious charge, is released.

Mr. JAVITS. Mr. President, I have no objection to taking this amendment to conference within the context of the total debate on this bill in the Senate.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. HUMPHREY. Mr. President, has the Senator from Alabama completed his amendments?

Mr. ALLEN, I have one other amendment.

Mr. HUMPHREY. Will the Senator proceed with the other one?

AMENDMENT NO. 1789

Mr. ALLEN. Mr. President, I call up my amendment No. 1789.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alabama (Mr. ALLEN) proposes amendment No. 1789.

The amendment is as follows:

On page 80, line 17, strike "$1,766,200,000" and insert in lieu thereof the figures "$1,266,200,000".

On page 80, line 20, strike the figures "$705,000,000" and insert in lieu thereof the figures "$205,000,000".

On page 80, line 21, strike the figures "$1,836,500,000" and substitute the figures "'$1,336,500,000".

On page 80, line 23, strike the figures "$750,000,000" and substitute the figures "$250,000,000".

Mr. ALLEN. Mr. President, this bill provides approximately $1.5 billion over a 2-year period to Israel and a somewhat lesser amount to Egypt. It seems strange to me that we would be giving some $3 billion to adversaries, helping both sides.

So this amendment would seek to reduce the appropriation or the authorization to Egypt by $0.5 billion for this fiscal year and $0.5 billion for the next fiscal year, but leaving the appropriation authorization to Israel intact.

Mr. HUMPHREY. Mr. President, this amendment I must oppose. I think it would be unfortunate to have it adopted.

There is some movement in the Middle East that lends itself to the hope of peace. The United States has good working relationships now with Egypt.

I recognize that the situation in the Middle East is always subject to violent change, but our foreign policy in that area has been predicated upon piecemeal, step-by-step approaches with better and growing understandings between ourselves and Egypt and our continued friendship and support of Israel.

I would hope that the Senate would reject this amendment.

Mr. JAVITS. Mr. President, first, I wish to adopt everything Senator HUMPHREY has said. I am very strongly opposed to this amendment.

Within the last few weeks I was in the countries in question, as well as other Arab countries. Our hope for peace in the Middle East and our hope for peace in the world is heavily positioned on what happens in this area.

The considered foreign policy of the United States, considered most carefully by the Committee on Foreign Relations and by, I might say, also the Committee on International Affairs of the House of Representatives, and the settled policy of the United States ever since World War II contemplate exactly this way of proceeding with reference to the United States, Israel, and Egypt.

Mr. President, we are at long last in a position in which the United States is accepted as the nation which in the Middle East seems to have the best hope for bringing about, through its actions and policy, the peace for which the world so fervently longs. Under these circumstances, I think it would be a disaster if we overthrew this whole effort, which is now 30 years old, by an action of this character.

I feel that taking this action would be a major blow to the policy which has brought us within sight of peace, even though it might be a long way down the road.

I hope very much that the Senate will reject this amendment.

The PRESIDING OFFICER. The Chair informs the Senator from Alabama that parts 1 and 3 of the amendment are out of order, in that they amend figures which heretofore have been amended, one by the Senator from Alabama, himself.

Mr. ALLEN. What remains in the amendment, then?

The PRESIDING OFFICER. The second and fourth parts of the amendment are in order.

Mr. ALLEN. What do they consist of?

The PRESIDING OFFICER. The amendment will be modified to strike parts one and three, which are out of order.

Mr. ALLEN. Mr. President, these are a number of authorizations grouped together. The overall figure has been changed on account of the Zambia and Zaire reductions. But this still leaves the two half-billion dollar reductions, making a total of a $1 billion reduction.

Mr. HUMPHREY. We understand the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was rejected.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the vote was rejected.

Mr. HUMPHREY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HUMPHREY. Mr. President, I believe there are no further amendments.

The PRESIDING OFFICER. (Mr. SCHWEIKER). The bill is open to further amendment. If there be no further amendment to be proposed, the question is on engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. HASKELL. Mr. President, I would like to offer some brief observations about my vote in favor of S. 3439, the International Security Assistance and Arms Export Control Act of 1976–77.

This bill authorizes $6.7 billion for security assistance throughout the world. In the past, I have voiced my objection to the United States annually supplying over half the arms sold worldwide. This bill contains significant congressional controls over foreign arms sales. I am gratified that such controls have been adopted by Congress and accepted by the executive branch.

This bill also authorizes substantial funds for military assistance for countries in the Middle East. In the course of my recent visit to that region, I saw heavy armaments all stamped "Made in U.S.A." facing one another across hostile borders. I am anxious for the United States to play a constructive role in ending the Arab-Israeli conflict, rather than supplying weapons to the contending parties. But the United States will remain in the position of sending arms to the Middle East indefinitely unless initiatives for peace are undertaken.

My talks with leaders of Middle Eastern countries pursuaded me that now is the time to commence efforts to negotiate a lasting peace. The United States enjoys greater rapport and influence with Arab countries than ever before, and Arab leaders appear willing, with the resolution of the Palestinian problem, to accept the existence of Israel. In Israel, however, I found a less flexible attitude toward initiating negotiations. There was more interest in maintaining the status quo than on searching for the outlines of a just and lasting peace. I am convinced that to delay or temporize is a formula for disaster, for the countries of the Middle East and for the United States.

Consequently, it is with extreme reservations that I vote in favor of this bill. I realize, however, that this bill simply authorizes security assistance, and I wish to state for the record that I will very critically review subsequent, related appropriations. If it appears that the interest of peace in the Middle East and of the United States are best served by reducing security assistance appropriations, I will not hesitate to vote for those reductions. It is imperative that the United States use its good offices and its influence to initiate negotiations for a permanent settlement in the Middle East.

THE HUMAN RIGHTS PRIORITY

Mr. CRANSTON. Mr. President, the International Security and Arms Export Control bill is a significant piece of legislation offering farsighted and sweeping policy changes in the areas of foreign military assistance and arms sales abroad. What we have before us now is, in some respects, the same legislation the Senate approved on February 18. However, today's legislation has been shaped to accommodate objections raised by the President in vetoing the International Security Assistance Act of 1976.

Before speaking to the merits of the bill, Mr. President, I want to note the effort made to retain what the committee believed to be the crucial and significant aspects of the original legislation. To be sure, Congress was in a difficult position faced with a Presidential veto which occurred toward the end of this fiscal year, thereby putting in question the continuation or beginning of many substantial security assistance programs, notably in the Middle East.

I fully shared the surprise and dismay of many of my colleagues in reacting to the President's veto of May 7. During the months when this legislation was being drafted and examined, redrafted and reexamined—in a spirit of consultation and good will under the leadership of Senator HUMPHREY—practically everyone concerned had an input into this bill, or at least had the opportunity to do so. The Foreign Relations Committee worked in step with the administration all along the way. Admittedly, there were differences. However, the administration indicated that the legislation was something with which it could live. There was no legislative prestidigitation in this bill, Mr. President, no provisions that the administration was not aware of far in advance or had not been actively consulted on.

The President's veto raises again

some basic questions of good faith and credibility, Mr. President. I do believe there is a continuing need for a constructive dialog, for healthy compromise and exchange between Congress and the administration in matters of mutual responsibility. However, Congress must have the tools to enable the majority to work its will when confronted with indiscriminate use of the Presidential veto.

I will return to this theme shortly but, first, there are a number of sections in S. 3439 which I'd like to go on record supporting.

I particularly favor the basic new emphasis in policy this bill puts forth. Phasing out grant military assistance and training programs and putting some "sunshine" into our current arms export policy—if it can be called a policy—are steps in the right direction. Congress will be better informed about arms sales transactions. Congress will also be able to exercise greater control over the multi-billion dollar arms sales business which has assumed almost govern-less dimensions in both scope and magnitude in recent years. To allow Congress a means of better overseeing defense transfers, the current bill retains congressional authority to review and to have the final say in significant commercial military arms sales and in major government to government transactions.

There are three meritorius new provisions that I am completely behind. First, the committee has wisely taken the initiative to authorize funds according to the principles articulated by Secretary Kissinger in Lusaka. This is a welcome development. It is also a modest recommendation deserving support.

Second, I stand with Senators HUMPHREY and KENNEDY in supporting the provision to put a total embargo on military sales and deliveries to Chile, effective October 1, this year. Our government must not provide the means through which Chile can continue to violate the basic and essential human rights of her people.

Lastly, Senator SYMINGTON showed great courage and foresight when he introduced his amendment to prohibit U.S. aid from going to governments either supplying or receiving nuclear reprocessing or related equipment unless the transactions come under multilateral safeguards and controls. We are doing far too little to head off the threat of nuclar annihilation at a time when "too little" can virtually mean "too late." Senator SYMINGTON, who has tremendous knowledge and experience with the problems of nuclear weapons proliferation, has offered an amendment that marks a major turn in American foreign policy.

HUMAN RIGHTS AND AMERICAN FOREIGN POLICY

Now, Mr. President, I come to the section in the bill with which I have been most directly concerned, section 301 of S. 3439, the Human Rights provisions.

Recently, Leonard Garment, the U.S. representative on the Human Rights Commission of the United Nations, criticized the Commission for its overall record:

> With increasingly few exceptions, it is a record of unfinished work, work on subjects of utmost importance, that time and again has been frustrated, avoided or postponed. It is a record of selective action which subordinates the suffering of individuals to the convenience of particular states. It is the record of a majority, regularly acting without regard for the interests of the minority. And it is a record of the egregious misuse of procedural powers to thwart the universal protection of human rights.

I do not dissent from this description. There are serious violations of human rights occurring within countries that are very vocal in championing human liberty in the United Nations. For example, Amnesty International recently issued a list of 67 journalists who have been detained for political reasons or have "disappeared" in 17 countries. According to this British-based human rights organization, almost all the journalists are detained in violation of Article 19 of the U.N. Universal Declaration of Human Rights, which asserts the right of everyone to "receive and impart information through any media" as an integral part of the right to freedom of expression. Many of the journalists are held without charge or trial. Some have been subjected to "torture or to cruel, inhuman or degrading treatment or punishment," in violation of article 5 of the Declaration.

The list published by Amnesty, one of the most comprehensive but by no means complete, includes men and women who have allegedly been subjected to torture or degrading treatment. The countries named, in order of the number of journalists detained, were: Indonesia, the Soviet Union, Brazil, Yugoslavia, India, Taiwan, Bangladesh, Chile, Cuba, Singapore, Tanzania, Thailand, Turkey, the Philippines, South Africa, South Korea, Uruguay.

Of course, Mr. President, journalists are a small factor in the population. What is much worse than the cases cited above is the systematic, gross denial of basic human rights that occurs in so many countries of the world today. I will not review, at this time, a list of worst offenders—many of whom are recipients of American military aid grants and credit sales, and use this security assistance to oppress their own people.

What chagrins me almost as much as the denial of human freedom in the world—there is nothing new about this—is the apparent, continuing indifference and unwillingness to do anything about it on the part of our Government. We simply do not have to be so close to so many dictators, Mr. President. I cannot help but reflect on the attitudes often found in the State Department and the White House when I review Mr. Garment's comments on the Human Rights Commission: "unfinished work * * * that time and again has been frustrated, avoided or postponed"—"a record of selective action which subordinates the suffering of individuals to the convenience of particular states"—"a record of the egregious misuse of procedural powers to thwart the protection of human rights." I say this, sadly, Mr. President, after some experience in trying to get our Government to place a higher priority on the protection of human rights in American foreign policy.

Let me hasten to take note of Secretary of State Kissinger's recent speech at the 6th Regular General Assembly of the Organization of American States meeting in Santiago, Chile. Acknowledging that "it is a tragedy that the forces of change in our century * * * have also visited upon many individuals around the world a new dimension of intimidation and suffering," the Secretary argues the continuing validity of our Western heritage which asserts "the conviction that human beings are the subjects, not the objects, of public policy; that citizens must not become mere instruments of the state."

This is a refreshing new emphasis by the Secretary of State. I am glad that he chose Chile as the site to say that "clearly, some forms of human suffering are intolerable no matter what pressures nations may face or feel." But this same speech could also have been made in Brazil—earlier—or in South Korea. The question now is: In addition to our rhetorical commitment to the human rights of individuals, what practical support will we give to the institutions and procedures necessary to insure those rights?

Congress has been steadfastly trying to promote this priority in recent years. In 1974, we passed section 502B of the Foreign Assistance Act. It started the sense of Congress to be that—

> Except in extraordinary circumstances, the President shall substantially reduce or terminate security assistance to any government which engages in a consistent pattern of gross violations of internationally recognized human rights, including torture or cruel, inhuman or degrading treatment or punishment; prolonged detention without charges; or other flagrant denials of the right to life, liberty, and the security of the person.

Whenever proposing security assistance to any government meeting the above description, the President was to advise Congress of the "extraordinary circumstances necessitating the assistance."

This law has been totally ignored, Mr. President, in the sense that no such determination was made about any aid recipient and, therefore, no extraordinary circumstances were ever specified. Admittedly, its provisions were poorly drawn. They did not provide Congress with an effective procedure for the review of human rights questions related to security assistance or a means of taking action commensurate with its own findings. And, frankly, they put an unwise burden on the State Department by forcing them, in effect, to label a foreign government as a gross violator of human rights. Furthermore, I recognize the difficulty of reconciling the relationship between practices in certain countries affecting human rights and U.S. security interests in a country.

A great deal of calendar year 1975 time was spent by a lot of Senators and Representatives trying to devise a better approach, after the deficiencies of 502B were clear. What we finally came up with was the Human Rights section—section 301—of the International Security Assistance and Arms Export Control Act of 1976 as described in the conference report on S. 2662 (Report No.

94-1013). The Foreign Assistance Act was revised so as to establish a higher priority for human rights in determining both the recipients and levels of U.S. security assistance programs.

While recognizing that the United States had other national interests that were served by military assistance, Congress decided that, where the proposed recipient is a gross violator of human rights, "the burden of proof is on those who wish to provide the assistance, not those who want to terminate it" (in the words of the Senate Foreign Relations Committee).

Under this new policy, the Secretary of State would be required to transmit a report on the human rights practices of each proposed recipient of security assistance as part of the annual congressional presentation. In addition, the Secretary would be required, upon request of the Senate or House of Representatives, or of either one of the foreign relations committees, to promptly transmit an interim report during a fiscal year setting forth a detailed description of the human rights practices of the recipient, telling what the United States was doing about practices inimical to human rights, and stating whether extraordinary circumstances existed when necessitated the continuation of military assistance—notwithstanding such practices. Then Congress could decide, under expedited legislative procedures, and by concurrent resolution, whether it wanted to terminate or restrict security assistance to a particular country.

These provisions bit the dust, along with other fine features of the International Security Assistance and Arms Export Control Act, when the President vetoed S. 2662 on May 7. I quote from the veto message, the part entitled "Discrimination and Human Rights":

> This bill also contains well-intended but misguided provisions to require the termination of military cooperation with countries which engage in practices that discriminate against United States citizens or practices constituting a consistent pattern of gross human rights violations. This Administration is fully committed to a policy of not only actively opposing but also seeking the elimination of discrimination by foreign governments against United States citizens on the basis of their race, religion, national origin or sex, just as the Administration is fully supportive of internationally recognized human rights as a standard for all nations to respect. The use of the proposed sanctions against sovereign nations is, however, an awkward and ineffective device for the promotion of those policies. These provisions of the bill represent further attempts to ignore important and complex policy considerations by requiring simple legalistic tests to measure the conduct of sovereign foreign governments. If Congress finds such conduct deficient, specific actions by the United States to terminate or limit our cooperation with the government concerned would be mandated. By making any single factor the effective determinant of relationships which must take into account other considerations, such provisions would add a new element of uncertainty to our security assistance programs and would cast doubt upon the reliability of the United States in its dealings with other countries. Moreover, such restrictions would most likely be counterproductive as a means for eliminating discriminatory practices and promoting human rights. The likely result would be a selective disassociation of the United States from governments unpopular with the Congress, thereby diminishing our ability to advance the cause of human rights through diplomatic means.

Mr. President, I was heartened by the strong response of several members of the Foreign Relations Committee to the President's veto. Senator HUMPHREY, the able chairman of the Foreign Assistance Subcommittee, had this to say:

> The President is saying, in effect, that he wants the money and the authority to spread arms abroad but that he will not accord the Congress a role in determining how this is to be done. His action flies in the face of the American people's desire for a new measure of Presidential accountability.

To the committee's credit, it has held firm on many good provisions of the original bill, vetoed by the President, and has written them into new legislation (S. 3439) applicable to both fiscal years 1976 and 1977. The human rights section is virtually the same as I have previously described, with one important exception.

In answering the President's veto message, the Foreign Relations Committee (in Report No. 94-876) states that it is not its intent "that the human rights criteria in this provision should be the controlling factor in U.S. relations with other nations." "Obviously," it continues, "there are other elements which merit consideration. The language of the bill, in fact, requires, the Secretary of State to specify other circumstances which should be taken into account by the Congress in its assessment of U.S. assistance programs."

The committee report goes on to say that, in reworking the provisions of this bill concerning human rights, an effort was made "to place the Congress on the strongest possible procedural grounds in dealing with the executive branch on human rights questions." I do not agree with this statement, Mr. President. For the committee recommends that, in the human rights section of the bill, the concurrent resolution provision be replaced by a joint resolution. This change will make it more difficult to terminate or restrict military assistance to a government which Congress determines to be a gross violator of human rights—because any such determination would require Presidential signature. Previous expressions of congressional sentiment without enforcement teeth have been ineffective in motivating either the executive branch or foreign governments to take seriously this basic concern of the American people.

I fear the dropping of the concurrent resolution, and substituting the joint resolution, affects the potency of the whole human rights section. However, I hope—based upon the commitments made today by the Senator from Minnesota (Mr. HUMPHREY) that this may be reversed in conference. If it is not, consider this: Under the new bill in the form it is being adopted by the Senate, Congress could ask for a report detailing human rights violations in a particular country and listing the extraordinary circumstances warranting the continuation of assistance. But why should the State Department come up with more than a vague, nonresponsive report? They would not have to take the process very seriously because they would know the ultimate congressional sanction was not credible. That is, even if Congress passed a joint resolution to restrict or terminate aid, the President could veto.

Let us have no illusions about what we are doing. Congress had previously devised a fairly tight human rights section that forewarned military assistance recipients of the consequences of flagrant violations of basic human rights. Now they will know that the administration can get them off the hook in the end unless this situation is straightened out in conference.

I must say, Mr. President, I do not follow the Foreign Relations Committee's reasoning when it argues in the report that, in order "to facilitate prompt passage and final approval" of the bill, it changed the human rights section—while retaining the concurrent resolution procedure in other sections. For example, on page 13 of its report, the committee states that among the "legislative veto" provisions, there are two which it considers central to keep in the bill: congressional review of major government-to-government military sales and review of certain important commercial arms sales. I, of course, support these provisions of the bill. But, I ask, to what end do we want to review these sales? For what purposes would Congress want to interfere with such sales? Why keep the concurrent resolution procedure—by which Congress could work its will—in these sections of the bill and drop it in the human rights section? Surely, human rights violations—if they are gross—should weigh on the scales of policy as much as regional security or other concerns. But there would seem to have been a trade-off between arms sales oversight and human rights review, with the latter the loser.

Incidentally, in explaining the "concurrent" to "joint" change, the committee report cites the availability of section 617 of the Foreign Assistance Act relating to the termination of assistance. That section, which has never been used, states:

> Assistance under any provision of this act may . . . be terminated by concurrent resolution. Funds made available under this act shall remain available for a period not to exceed eight months from the date of termination of assistance under this act for the necessary expenses of winding up programs related thereto.

Note the lack of expedited parliamentary procedures, and the vague wording. Under the terms of the original security assistance bill for fiscal year 1976, Congress—within 90 days after receiving a human rights report on a country—could adopt under an expedited procedure a concurrent resolution terminating or restricting aid. The present Senate bill retains the expedited procedure, but substitutes "joint" resolution.

THE NECESSITY OF LEGISLATIVE VETOES

Mr. President, there is one more point I would like to make. A few days ago the distinguished chairman of the Foreign Relations Committee, Senator SPARKMAN, and I were conversing about some provisions in the security assistance bill, particularly the concurrent resolution device. This set me to thinking about why it is that Congress has seen fit to write more and more legislative vetoes into various kinds of legislation. Congress, I believe, has been reaching for a "bargaining chip" to be used against the possibility of vetoes by the President that defy the clearly expressed majority will of Congress as representatives of the people. I would simply note that President Ford's latest veto was his fifth this year; he vetoed 17 bills in the first session of the 94th Congress. All in all, he has vetoed a total of 49 bills during his incumbency. In foreign policy, in particular, it has symbolized a search for policy influence—as in the security assistance bill.

Before addressing the constitutional argument over legislative vetoes, I would like to put this debate in the context of recent history.

There is little dispute that for 40 years Presidents have increased the powers of the Presidency dramatically, encroaching on congressional prerogatives and some individual rights in the process. This accretion of presidential power reached a climax with the secret, unilateral exercise of war powers, and other powers under the cloak of "national security," in the administrations of Presidents Johnson and Nixon.

The Imperial Presidency, writes Arthur Schlesinger, was "essentially the creation of foreign policy."

Of late, however, the right of the President to act unilaterally in foreign policy and national security affairs has been sharply challenged by Congress and curtailed by other forces. Congress passed the War Powers Resolution to try to prevent another Vietnam-style exercise of presidential power. Congress has signaled in other ways that it is reasserting authority over the Nation's foreign policy and warmaking decisions. Refusal to grant to President the means to conduct open or covert military operations in Angola, resistance to military aid to Turkey, the passage of the trade bill with special restrictions pertaining to the Soviet Union—are all indications that Congress is resisting a further accretion of presidential power at its expense.

> Congress is now trying to bring about an equality of power between the executive and legislative branches.

As Senator Mansfield has put it:

The reaction to ballooning Presidential power is also discernible in the domestic area. Perhaps the single most important constraint adopted in recent years has been the congressional budget control process. I recall that this was adopted in reaction to wholesale impoundment by Mr. Nixon of funds allocated by Congress.

Another significant recent assertion of power by Congress has been the "legislative veto." There are several examples of this device in the foreign military aid bill before the Senate.

In his veto message on S. 2662, the President claimed that the bill's provisions "would seriously obstruct the exercise of the President's constitutional responsibilities for the conduct of foreign affairs." But as the Foreign Relations Committee report notes, Mr. President, the provisions to which the President objected related "to authorities which the Congress itself had granted, and which it therefore may modify, rather than to constitutional prerogatives of the Office of the President." Here is the view of the Foreign Relations Committee in its excellent earlier report, and since reaffirmed:

> If the legislative vetoes contained in the Reorganization Acts were constitutional (and the Committee believes that they were), then similar provisions in other statutes are likely to be valid. It is evident that the legislative veto provisions contained in S. 2662 are, in all material respects, comparable to the provisions contained in the Reorganization Acts. Each allows the President to propose, in a legislative context, specific action. Each permits such action to be carried out unless disapproved by the Congress. Each allows such disapproval only within a limited time period.
>
> Most importantly, each involves the delegation of a power which the Congress could constitutionally withhold altogether from the executive branch. Clearly, the Congress could refuse to authorize security assistance to a country which violates internationally recognized human rights. Clearly, the Congress could refuse to authorize funds for such assistance (including covert activities with respect to Angola). Clearly, the Congress could prohibit the transfer to a third country of defense articles and services which it authorizes to be sold to a foreign country. Clearly, the Congress could prohibit the sale of defense articles or services if such sales adversely affect the United States' combat readiness. Clearly, the Congress could prohibit altogether certain government-to-government sales or the granting of certain commercial licenses. Instead of withholding those powers altogether, the Congress, by enacting S. 2662, will merely have withheld a part of those powers by subjecting their use to the condition that Congress does not disapprove. It will have given the executive branch an opportunity to formally propose specific action which could not have been taken had no portion of those powers been delegated. The attachment of such a condition, the Committee believes, is necessary in S. 2662 for the same reasons it was necessary in the Reorganization Acts: to make use of executive branch expertise and provide some flexibility while at the same time avoiding an undue delegation of legislative discretion to the executive branch.
>
> Thus viewed, the legislative veto upholds rather than undermines the separation of powers principle.

This first report by the Foreign Relations Committee, Mr. President, contains one of the best briefs I have read on the whole subject of legislative vetoes. And, to my satisfaction, it establishes the constitutionality of the several concurrent resolutions in the original security assistance bill.

Once again, I express my regret that the committee saw fit—in order to avoid a confrontation over constitutional and policy issues—to drop some of the original provisions, especially the concurrent resolution portion of the human rights section.

I very much hope that a strong human rights section will, after all, come out of conference, combining most of the features of the Senate human rights amendment—including the expedited parliamentary procedures—with the concurrent resolution provision in the bill likely to be passed by the House. We still have the makings of a strong human rights section in the legislation before Congress.

Mr. HUMPHREY. Mr. President, I move that the Senate proceed to the immediate consideration of H.R. 13680, Calendar No. 885.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

> A bill (H.R. 13680) to amend the Foreign Assistance Act of 1961 and the Foreign Military Sales Act, and for other purposes.

Mr. HUMPHREY. Mr. President, I move to strike all after the enacting clause and insert in lieu thereof the text of S. 3439, as amended by the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUMPHREY. Mr. President, according to our previous unanimous-consent request, I ask that the unanimous-consent agreement relating to the hour of the vote and the yeas and nays be transferred to H.R. 13680.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of the Senate amendments to H.R. 13680.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUMPHREY. Mr. President do we need third reading on this?

The PRESIDING OFFICER. Third reading is automatic, since the substitute has been agreed to.

The bill will be stated by title.

The legislative clerk read as follows:

> A bill (H.R. 13680) to amend the Foreign Assistance Act of 1961 and the Foreign Military Sales Act, and for other purposes.

Mr. JAVITS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JAVITS. The only thing that remains is to have a rollcall vote, is that correct?

The PRESIDING OFFICER. Just the vote on final passage.

Mr. MANSFIELD. Mr. President, have the yeas and nays been ordered on the pending business?

The PRESIDING OFFICER. They have been, and they have been transferred to the changed title.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that instead of the vote occurring at 12 o'clock noon on Monday next, it occur at 12:15 p.m. on Monday next.

The PRESIDING OFFICER. Without objection, it is so ordered.

A UNANIMOUS-CONSENT AGREEMENT—S. 1926, HEALTH MAINTENANCE ORGANIZATION AMENDMENTS OF 1976

Mr. MANSFIELD. Mr. President, it is my understanding that it will not be possible to take up Calendar No. 801 or Calendar No. 840—both the same, one a House bill and one a Senate bill—

until Monday next. Therefore, I ask unanimous consent that after the vote on final passage of the pending business, the Senate proceed to the consideration of Calendar No. 801 or Calendar No. 840, depending upon the wishes of the distinguished Senator from Pennsylvania (Mr. SCHWEICKER) who is the Presiding Officer at this time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, it is my understanding that a number of amendments have been agreed to by the interested parties. I ask unanimous consent, therefore—this has not been requested—that there be a period of 10 minutes, to be divided between the Senator from Pennsylvania (Mr. SCHWEIKER) on one side and the majority leader or his designee on the other.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, has the Senate granted permission to ask for the yea and nays on one of these two bills on Monday next?

The PRESIDING OFFICER. They have been ordered on one of the bills, on the House bill.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that it be either on Calendar No. 801 or Calendar No. 840, because they are both the same, subject again to the wishes of the present occupant of the Chair.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. I ask unanimous consent that the vote on final passage—and it will be a rollcall vote—occur on Calendar No. 801 or Calendar No. 840 not earlier than 2 p.m. on Monday next.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMUNICATIONS ACT AMENDMENTS OF 1976 COMMUNICATIONS ACT AMENDMENT—PENALTIES AND FORFEITURES AUTHORITY OF THE FEDERAL COMMUNICATION COMMISSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 875, S. 2343.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 2343) to amend the Communications Act of 1934, as amended, with respect to penalties and forfeitures.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee with an amendment to strike all after the enacting clause and insert the following:

That this Act may be cited as the "Communications Act Amendments of 1976".

SEC. 2. Section 503(b) of the Communications Act of 1934 (47 U.S.C. 503(b)) is amended to read as follows:

"(b)(1) Any person who is determined by the Commission, in accordance with paragraph (3) or (4) of this subsection, to have—

"(A) willfully or repeatedly failed to comply substantially with the terms and conditions of any license, permit, certificate, or other instrument or authorization issued by the Commission;

"(B) willfully or repeatedly failed to comply with any of the provisions of this Act or of any rule, regulation, or order issued by the Commission under this Act or under any treaty, convention, or other agreement to which the United States is a party and which is binding upon the United States;

"(C) violated any provision of section 317(c) or 509(a) of this Act; or

"(D) violated any provision of section 1304, 1343, or 1464 of title 18, United States Code;

shall be liable to the United States for a forfeiture penalty. A forfeiture penalty under this subsection shall be in addition to any other penalty provided for by this Act; except that this subsection shall not apply to any conduct which is subject to forfeiture under title II, part II or III of title III, or section 507 of this Act.

"(2) The amount of any forfeiture penalty determined under this subsection shall not exceed $2,000 for each violation. Each day of a continuing violation shall constitute a separate offense, but the total forfeiture penalty which may be imposed under this subsection, for acts or omissions described in paragraph (1) of this subsection and set forth in the notice or the notice of apparent liability issued under this subsection, shall not exceed—

"(A) $20,000, if the violator is (i) a common carrier subject to the provisions of this Act, (ii) a broadcast station license or permittee, or (iii) a cable television operator; or

"(B) $5,000, in any case not covered by subparagraph (A).

The amount of such forfeiture penalty shall be assessed by the Commission, or its designee, by written notice. In determining the amount of such a forfeiture penalty, the Commission or its designee shall take into account the nature, circumstances, extent, and gravity of the prohibited acts, committed and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.

"(3)(A) At the discretion of the Commission, a forfeiture penalty may be determined against a person under this subsection after notice and an opportunity for a hearing before the Commission or an administrative law judge thereof in accordance with section 554 of title 5, United States Code. Any person against whom a forfeiture penalty is determined under this paragraph may obtain review thereof pursuant to section 402(a).

"(B) If any person fails to pay an assessment of a forfeiture penalty determined under subparagraph (A) of this paragraph, after it has become a final and unappealable order or after the appropriate court has entered final judgment in favor of the Commission shall refer the matter to the Attorney General of the United States, who shall recover the amount assessed in any appropriate district court of the United States. In such action, the validity and appropriateness of the final order imposing the forfeiture penalty shall not be subject to review.

"(4) Except as provided in paragraph (3) of this subsection, no forfeiture penalty shall be imposed under this subsection against any person unless and until—

"(A) the Commission issues a notice of apparent liability, in writing, with respect to such person;

"(B) such notice has been received by such person, or until the Commission has sent such notice to the last known address of such person, by registered or certified mail; and

"(C) such person is granted an opportunity to show, in writing, within such reasonable period of time as the Commission prescribes by rule or regulation, why no such forfeiture penalty should be imposed.

Such a notice shall (i) identify each specific provision, term, and condition of any Act, rule, regulation, order, treaty, convention, or other agreement, license, permit, certificate, instrument, or authorization which such person apparently violated or with which such person apparently failed to comply; (ii) set forth the nature of the act or omission charged against such person and the facts upon which such charge is based; and (iii) state the date on which such conduct occurred. Any forfeiture penalty determined under this paragraph shall be recoverable pursuant to section 504(a) of this Act.

"(5) No forfeiture liability shall be determined under this subsection against any person, if such person does not hold a license, permit, certificate, or other authorization issued by the Commission, unless, prior to the notice required by paragraph (3) of this subsection or the notice of apparent liability required by paragraph (4) of this subsection, such person (A) is sent a citation of the violation charged; (B) is given a reasonable opportunity for a personal interview with an official of the Commission, at the field office of the Commission which is nearest to such person's place of residence; and (C) subsequently engages in conduct of the type described in such citation. The provisions of this paragraph shall not apply, however, if the person involved is engaging in activities for which a license, permit, certificate, or other authorization is required. Whenever the requirements of this paragraph are satisfied with respect to a particular person, such person shall not be entitled to receive any additional citation of the violation charged, with respect to any conduct of the type described in the citation sent under this paragraph.

"(6) No forfeiture penalty shall be determined or imposed against any person under this subsection if—

"(A) such person holds a broadcast station license issued under title III of this Act and if the violation charged occurred—

"(i) more than 1 year prior to the date of issuance of the required notice or notice of apparent liability; or

"(ii) prior to the date of commencement of the current term of such license,

whichever is earlier so long as such violation occurred within 3 years prior to the date of issuance of such required notice; or

"(B) such person does not hold a broadcast station license issued under title III of this Act and if the violation charged occurred more than 1 year prior to the date of issuance of the required notice or notice of apparent liability.".

SEC. 3. (a) The first sentence of section 504(a) of the Communications Act of 1934 (47 U.S.C. 504(a)) is amended by inserting immediately after "recoverable" the following: ", except as otherwise provided with respect to a forfeiture penalty determined under section 503(b)(3) of this Act,".

(b) Section 504(b) of such Act is amended (1) by striking out "parts II and III of title III and section 503(b), section 507, and 510" and inserting in lieu thereof "title II, parts II and III of title III, and sections 503(b) and 507"; and (2) by striking out ", upon application therefor,".

SEC. 4. Section 510 of the Communications Act of 1934 (47 U.S.C. 510) is repealed in its entirety.

SEC. 5. The amendments made by this Act shall take effect on the 30th day after the date of enactment of this Act: except that the provisions of sections 503(b) and 510 of the Communications Act of 1934, as in effect on such date of enactment, shall continue to constitute the applicable law with respect to any act or omission which occurs prior to such 30th day.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

ROUTINE MORNING BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that there be a period for the transaction of morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Marks, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

APPROVAL OF BILL

A message from the President of the United States announced that on June 10, 1976, he approved and signed the enrolled bill (S. 223) for the relief of Angela Garza and her son Manuel Aguilar (aka Manuel Garza).

MESSAGE FROM THE HOUSE

At 2:30 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the bill (H.R. 13367) to extend and amend the State and Local Fiscal Assistance Act of 1972, and for other purposes, in which it requests the concurrence of the Senate.

ENROLLED BILL SIGNED

The message also announced that the Speaker has signed the enrolled bill (H.R. 11559) to authorize appropriations for the saline water conversion program for fiscal year 1977.

The enrolled bill was subsequently signed by the President pro tempore.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The PRESIDING OFFICER laid before the Senate the following letters, which were referred as indicated:

Report of the Privacy Protection Study Commission

A letter from the Chairman of the Privacy Protection Study Commission transmitting, pursuant to law, a report explaining the procedure of the Commission (with an accompanying report); to the Committee on Government Operations.

Published Regulation of the Department of Health, Education, and Welfare

A letter from the Acting Director, Office of Regulatory Review, of the Department of Health, Education, and Welfare transmitting pursuant to law, a copy of a published regulation relating to regional education programs for handicapped persons (with accompanying papers); to the Committee on Labor and Public Welfare.

Construction Projects of the Air Force Reserve

A letter from the Deputy Assistant Secretary of Defense transmitting, pursuant to law, notification of two construction projects to be undertaken by the Air Force Reserve (with accompanying papers); to the Committee on Armed Services.

Preposed Legislation of the General Services Administration

A letter from the Acting Administrator of General Services transmitting a draft of proposed legislation to amend the Federal Property and Administrative Services Act (with accompanying papers); to the Committee on Government Operations.

Report of the Civil Service Commission

A letter from the Chairman of the Civil Service Commission transmitting, pursuant to law, a report entitled "Report on New Systems" (with an accompanying report); to the Committee on Government Operations.

Reports of the Immigration and Naturalization Service

A letter from the Commissioner of Immigration and Naturalization transmitting, pursuant to law, reports covering the period May 17 through 28, 1976, concerning visa petitions (with accompanying reports); to the Committee on the Judiciary.

Report of the Department of Justice

A letter from the Attorney General transmitting, pursuant to law, a report on the business of the Department of Justice for the fiscal year 1975 (with an accompanying report); to the Committee on the Judiciary.

Report of the Office of Management and Budget—(S. Doc. 94-217) *

A letter from the Director of the Office of Management and Budget transmitting a report, pursuant to section 1014(e) of the Congressional Budget and Impoundment Control Act (with an accompanying report); to the Committees on Appropriations, the Budget, Agriculture and Forestry, Commerce, Public Works, Armed Services, Labor and Public Welfare, Banking, Housing and Urban Affairs, Interior and Insular Affairs, Foreign Relations, the Judiciary, Finance, the District of Columbia, Aeronautical and Space Sciences, pursuant to the order of January 30, 1975, and ordered to be printed.

Report of the National Commission on Water Quality

A letter from the Executive Director of the National Commission on Water Quality transmitting, pursuant to law, the final staff report to the Commission (with an accompanying report); to the Committee on Public Works.

PETITIONS

The PRESIDING OFFICER laid before the Senate the following petitions, which were referred as indicated:

Joint Resolution No. 2 and Joint Resolution No. 146, adopted by the Legislature of the State of New York; to the Committee on the Judiciary:

"Joint Resolution No. 2

"Whereas, The International Veteran Boxers Association is a nonprofit organization currently incorporated in the State of New Jersey; and

"Whereas, There are currently twenty-three boxing rings associated with the International Veteran Boxers Association which are located in eleven different states of the Union; and

"Whereas, The Boxers Association's goals and purposes include the promotion of the general welfare of Veteran Boxers, active or retired, throughout the United States, and the care and help of sick and disabled Veteran Boxers who may be in distress; and

"Whereas, The International Veteran Boxers Association is to be a nonprofit, nonpolitical and nonsectarian organization with no net earnings inuring to the benefit of any member, officer, director or individual; now, therefore, be it

"*Resolved,* That the Legislature of the State of New York respectfully memorializes the Congress of the United States to enact legislation granting a federal incorporation charter to the International Veteran Boxers Association; and be it further

"*Resolved,* That suitably engrossed copies of this resolution be transmitted to the Congress of the United States, one addressed to the President of the Senate, one to the Speaker of the House of Representatives, and the others to each member of the Congress of the United States from the State of New York."

"Joint Resolution No. 146

"Whereas, Over 108 years ago, Commander-in-Chief John A. Logan of the Grand Army of the Republic, declared in a general order, that America's heroic dead should be remembered on May thirtieth; and

"Whereas, Memorial Day was first observed on May thirtieth, eighteen hundred sixty-eight, to pay tribute and reverent homage to those men and women who having served this nation in time of war now peacefully rest; and

Whereas, New York State was the first state to grant official recognition of this holiday by Chapter five hundred seventy-seven of the Laws of eighteen hundred seventy-three; and

"Whereas, Memorial Day should not be only a day of Rememberance but a day when we should commemorate the sacrifice of those who served so we may live free; A day when Americans rededicate themselves to the high ideals that have been part and parcel of the basic philosophy of this nation since its birth in seventeen hundred seventy-six; and

"Whereas, The Veterans of Foreign Wars, the American Legion, the Disabled American Veterans and many other veteran's organizations and patriotic citizens in this state wholeheartedly endorse the concept that Memorial Day be celebrated on May Thirtieth; and

"Whereas, the State of New York on April thirteen, nineteen hundred seventy-six enacted legislation returning Memorial Day to May thirtieth; now, therefore, be it

"Resolved, that the Legislature of the State of New York respectfully memorialize the Congress of the United States, in this our bi-centennial year to enact appropriate legislation which will rename May thirtieth as the day Americans celebrate Memorial Day; and be it further

"Resolved, That copies of this resolution, suitably engrossed, be transmitted to the President of the United States, the President of the Senate of the United States, the Speaker of the House of Representatives and to each member of Congress from the State of New York."

Assembly Joint Resolution No. 40 adopted by the Legislature of the State of California; to the Committee on Commerce:

"Assembly Joint Resolution No. 40

"Whereas, The individual's freedom to travel is fundamental to the modern American way of life, with many persons finding it necessary to travel great distances by air for personal or business reasons; and

"Whereas, According to the Department of Transportation's 1970 Urban Mass Transportation statistics there are approximately 13,390,000 handicapped persons in the United States, representing about 6.31 percent of the nation's total population; and

"Whereas, A significant proportion of these handicapped persons are veterans of the Vietnam War, attempting to lead normal and productive lives; and

"Whereas, The federal regulations presently governing the air transport of handicapped persons are vague and open to conflicting interpretations, with the result that some airlines place undue restrictions on the freedom of travel of the handicapped, even to the extent of denying them passage; and

"Whereas, The Federal Aviation Administration on June 5, 1973 issued an advance notice of proposed rulemaking, known as Regulatory Docket No. 12881, on the subject of possible changes in federal regulations governing the air transport of handicapped persons, and has since been studying proposed revisions of the rules; now, therefore, be it.

"Resolved by the Assembly and the Senate of the State of California, jointly. That the Federal Aviation Administration be requested to expedite the issuance of regulations affecting air travel by handicapped persons, and that such rules should be adopted as will safely maximize and transportation of such individuals; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Secretary of the Department of Transportation, to the Director of the Federal Aviation Agency, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HUMPHREY, from the Committee on Foreign Relations:

S. Res. 464. An original resolution of waiver under section 402(a) of the Congressional Budget Act with respect to the consideration of S. 3557 (Rept. No. 94–940).

S. 3557. An original bill to authorize the appropriation of funds necessary during the fiscal year 1977 to implement the provisions of the Treaty of Friendship and Cooperation between the United States and Spain, signed at Madrid on January 24, 1976, and for other purposes (Rept. No. 94–941).

By Mr. HUDDLESTON, from the Committee on Agriculture and Forestry, without amendment:

S. Res. 439. A resolution relating to the oversupply of whey (Rept. No. 94–942).

LOCAL PUBLIC WORKS EMPLOYMENT ACT—S. 3201—CONFERENCE REPORT (REPT. NO. 94–939)

Mr. MONTOYA submitted a report from the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 3201) to amend the Public Works and Economic Development Act of 1965, to increase the antireccssionary effectiveness of the program, and for other purposes, which was ordered to be printed.

HOUSE BILL REFERRED

The bill (H.R. 13367) to extend and amend the State and Local Fiscal Assistance Act of 1972, and for other purposes, was read twice by its title and referred to the Committee on Finance.

ENROLLED BILLS AND JOINT RESOLUTION PRESENTED

The Secretary of the Senate reported that on June 11, 1976, he presented to the President of the United States the following enrolled bills and joint resolution:

S. 532. An act to authorize the Secretary of Agriculture to amend retroactively regulations of the Department of Agriculture pertaining to the computation of price support payments under the National Wool Act of 1954 in order to insure the equitable treatment of ranchers and farmers.

S. 1466. An act to amend the Public Health Service Act to provide authority for health information and health promotion programs, to revise and extend the authority for disease prevention and control programs, and to revise and extend the authority for venereal disease programs, and to amend the Lead-Based Paint Poisoning Prevention Act to revise and extend that Act.

S. 2760. An act to amend the Indochina Migration and Refugee Assistance Act of 1975 to provide for the inclusion of refugees from Laos.

S. 3187. An act to extend the authorization of appropriations for the National Commission on New Technological Uses of Copyrighted Works to be coextensive with the life of such Commission.

S.J. Res. 168. A joint resolution to provide for the reappointment of James E. Webb as a citizen regent of the Board of Regents of the Smithsonian Institution.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. PROXMIRE (for himself and Mr. Garn):

S. 3554. A bill to establish a National Commission on Neighborhoods. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. ABOUREZK (for himself, Mr. Eastland, and Mr. Philip A. Hart):

S. 3555. A bill to foster competition and consumer protection policies in the development of product standards, the testing and certification of products, the accreditation of testing, inspection, and certification laboratories, the use in marketing of standards and certifications, and for other purposes. Referred, by unanimous consent, to the Committee on the Judiciary and to the Committee on Commerce, with the provision that, if and when one committee reports the bill, it be referred to the other committee for not to exceed 45 days.

By Mr. MANSFIELD (for himself and Mr. Metcalf):

S. 3556. A bill for the relief of Marciano Santiago and his wife, Eleanor L. Santiago. Referred to the Committee on the Judiciary.

By Mr. HUMPHREY (from the Committee on Foreign Relations):

S. 3557. An original bill to authorize the appropriation of funds necessary during the fiscal year 1977 to implement the provisions of the Treaty of Friendship and Cooperation between the United States and Spain, signed at Madrid on January 24 1976, and for other purposes. Placed on the calendar.

By Mr. FANNIN (for himself, Mr. Goldwater, Mr. Domenici, and Mr Montoya):

S. 3558. A bill to amend the Act of December 15, 1971, relating to the Navajo Community College. Referred to the Committee on Interior and Insular Affairs.

By Mr. GRIFFIN (for himself, Mr. Philip A. Hart, Mr. Beall, Mr. Hartke, Mr. Magnuson, Mr. Moss, and Mr. Pearson):

S.J. Res. 199. A joint resolution to authorize and request the President to issue a proclamation designating the period from October 3, 1976 through October 9, 1976, as "National Schoolbus Safety Week." Referred to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. PROXMIRE (for himself and Mr. Garn):

S. 3554. A bill to establish a National Commission on Neighborhoods. Referred to the Committee on Banking, Housing and Urban Affairs.

THE NATIONAL NEIGHBORHOOD POLICY ACT

Mr. PROXMIRE. Mr. President, 5 months ago, the President signed into law the Home Mortgage Disclosure Act, which was designed to combat the destructive practice of redlining neighborhoods. In investigating this problem, the Senate Banking Committee found that many mortgage lenders did not appreciate the attachment people have for their neighborhoods and that lenders often arbitrarily devalued older neighborhoods, thus accelerating their decline.

It is clear, however, that the banks are not the only forces responsible for neighborhood decline. On all fronts, the need to preserve neighborhoods and existing housing, has been overlooked.

Over the years, Federal housing policy has concentrated almost exclusively on new construction, neglecting the need to conserve what exists. And while there is admittedly a desperate need for new production of housing, millions of new housing starts accomplish little when there are almost as many million housing abandonments on the other end.

People are not only pushed out of city neighborhoods by social problems, they are pulled out by distorted, wasteful subsidy priorities.

Federal transportation subsidies have heavily favored highways rather than mass transit—creating an incentive for people to move to new subdivisions, while making it harder for them to stay in cities.

Federal tax policy gives a developer an incentive to tear down what exists and take tax profits constructing and depreciating a new building. Local tax policy often serves to punish home improvements.

Federal Housing Administration efforts in the inner city, while well intentioned, have sometimes worked hand-in-glove with speculators and blockbusters, destroying existing neighborhoods and failing even to provide homes for those they sought to help.

Urban renewal programs in many cities destroyed more housing units than they built.

In all of these effects, there is not a conspiracy but a simple failure to recognize the fact that existing neighborhoods are a resource, not to be swept aside lightly; that public policy, laws, and programs should take into account their impact—positive or negative—on the ability of existing neighborhoods to survive and prosper.

That recognition becomes all the more

imperative as the cost of new housing increases, as resources become expensive and raw land becomes scarce.

In Europe, housing can last hundreds of years. In America, real property is usually depreciated on the assumption of only a 40-year life, yet some of our finest homes were built in the last century and could provide good housing well into the next century if incentives existed for proper maintenance.

We were once a frontier nation, but the United States can no longer afford to discard entire neighborhoods every generation only to duplicate them on farmland 50 miles from the city center. It would be better to keep that land in agricultural production, and to use the money for revitalization of existing neighborhoods—money that we now spend on duplication of streets, sewers, and properties in new subdivisions while fine old city neighborhoods rot.

Years ago, a generation of farmers learned a painful lesson that it was no longer possible to perpetually deplete the land and abandon it for new pastures. That system helped produce a dust bowl and a vanished frontier. Agricultural land was not an infinite resource, and it had to be conserved.

Americans of this generation must learn the same lesson about city neighborhoods or they will become this generation's dust bowl.

The abandonment of viable housing and the destruction of neighborhoods results from the absence of any clear conservation policy. The time for a neighborhood policy is overdue, so that public laws and programs will complement rather than frustrate local efforts to revitalize communities.

The spontaneous outpouring of support for antiredlining legislation proved that people love the old neighborhoods, and that these communities are not obsolete. But redlining is only one part of the problem. Now it is time to take the next step.

Today, Senator GARN and I are introducing the National Neighborhood Policy Act of 1976. This legislation makes it a matter of congressional intent that neighborhoods should be conserved and revitalized, and that public policy should support that objective.

The bill establishes a National Commission on Neighborhoods to make a thorough evaluation of the impact on neighborhoods of public laws, policies, and programs and to make recommendations for such modifications as are necessary to better promote neighborhood reinvestment by the private sector; to better adapt public policy to neighborhood preservation; to encourage better maintenance of existing housing; and to assist and support local efforts toward neighborhood revitalization.

The Commission would include four Members from the House and Senate and 16 public members appointed by the President and drawn from neighborhood organizations, local government, and business, finance, civic and academic circles. It is to issue a report 2 years after commencing operations.

This country has never had a deliberate policy of preserving neighborhoods. Instead, we have a patchwork of programs, some good, some bad, but none designed explicitly with neighborhoods in mind.

This weekend, 2,000 representatives of neighborhood associations are meeting in Washington at a national conference called "Neighborhoods First." These neighborhood associations came to Congress just over a year ago to petition for relief from redlining. They did their homework and together we took a first step toward promoting reinvestment in city neighborhoods. Neighborhoods First is not a bad slogan for this decade, in which resources are scarce and the era of freewheeling Federal spending is over. The first priority should be the preservation of what exists. And before the Congress or the next administration launches any new "Marshall Plan" for the cities, we must pause and assess how the panoply of existing policies and programs are impacting upon existing neighborhoods.

That is what the National Neighborhood Policy Act will do, and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3554

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "National Neighborhood Policy Act".

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds and declares that existing city neighborhoods are a national resource to be conserved and revitalized wherever possible, and that public policy should promote that objective.

(b) The Congress further finds that the tendency of public policy incentives to ignore the need to preserve the built environment can no longer be defended, either economically or socially, and must be replaced with explicit policy incentives encouraging conservation of existing neighborhoods. That objective will require a comprehensive review of existing laws, policies and programs which affect neighborhoods, to assess their impact on neighborhoods, and to recommend modifications where necessary.

ESTABLISHMENT OF COMMISSION

SEC. 3. (a) There is hereby established a commission to be known as the National Commission on Neighborhoods (hereinafter referred to as the "Commission").

(b) The Commission shall be composed of twenty members, to be appointed as follows:

(1) two members of the Senate appointed by the President of the Senate;

(2) two members of the House of Representatives appointed by the Speaker of the House of Representatives; and

(3) sixteen public members appointed by the President of the United States from among persons specially qualified by experience and training to perform the duties of the Commission, at least five of whom shall be elected officers of recognized neighborhood organizations engaged in development and revitalization programs, and at least five of whom shall be elected or appointed officials of local governments involved in preservation programs. The remaining members shall be drawn from outstanding individuals with demonstrated experience in neighborhood revitalization activities, from such fields as finance, business, philanthropic, civic and educational organizations.

The individuals appointed by the President of the United States shall be selected so as to provide representation to a broad cross section of racial, ethnic and geographic groups. The two members appointed pursuant to clause (1) may not be members of the same political party, nor may the two members appointed pursuant to clause (2) be members of the same political party. Not more than eight of the members appointed pursuant to clause (3) may be members of the same political party.

(c) The Chairman shall be appointed by the President, by and with the advice and consent of the Senate, from among the public members.

(d) The Executive Director shall be appointed by the President, by and with the advice and consent of the Senate, from among individuals recommended by the Commission.

DUTIES

SEC. 4. (a) The Commission shall undertake a comprehensive study and investigation of the factors contributing to the decline of city neighborhoods and of the factors necessary to neighborhood survival and revitalization. Such study and investigation shall include, but not be limited to—

(1) an analysis of the impact of existing Federal, State, and local policies, programs, and laws on neighborhood survival and revitalization;

(2) an identification of the administrative, legal, and fiscal obstacles to the well-being of neighborhoods;

(3) an analysis of the patterns and trends of public and private investment in urban areas and the impact of such patterns and trends on the decline or revitalization of neighborhoods;

(4) an assessment of the existing mechanisms of neighborhood governance and of the influence exercised by neighborhoods on local government;

(5) an analysis of the impact of poverty and racial conflict on neighborhoods;

(6) an assessment of local and regional development plans and their impact on neighborhoods; and

(7) an evaluation of existing citizen-initiated neighborhood revitalization efforts and a determination of how public policy can best support such efforts.

(b) The Commission shall make recommendations for modifications in Federal, State, and local laws, policies and programs necessary to facilitate neighborhood preservation and revitalization. Such recommendations shall include, but not be limited to—

(1) new mechanisms to promote reinvestment in existing city neighborhoods;

(2) more effective means of community participation in local governance;

(3) policies to encourage the survival of economically and socially diverse neighborhoods;

(4) policies to prevent such destructive practices as blockbusting, red-lining, resegregation, speculation in reviving neighborhoods, and to promote home-ownership in urban communities;

(5) policies to encourage better maintenance and management of existing rental housing;

(6) policies to make maintenance and rehabilitation of existing structures at least as attractive from a tax viewpoint as demolition and development of new structures;

(7) modifications in local zoning and tax policies to facilitate preservation and revitalization of existing neighborhoods; and

(8) reorientation of existing housing and community development programs and other tax and subsidy policies that affect neighborhoods, to better support neighborhood preservation efforts.

(c) Within two years after the date on which funds first become available to carry out this Act, the Commission shall submit to the Congress and the President a comprehensive report on its study and investigation under this subsection which shall include its findings, conclusions, and recommendations and such proposals for legislation and administrative action as may be necessary to carry out its recommendations.

COMPENSATION OF MEMBERS

SEC. 5. (a) Members of the Commission who are Members of Congress or full-time officers or employees of the United States shall serve without additional compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of the duties vested in the Commission.

(b) Members of the Commission, other than those referred to in subsection (a), shall receive compensation at the rate of $100 per day for each day they are engaged in the actual performance of the duties vested in the Commission and shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of such duties.

ADMINISTRATIVE PROVISIONS

SEC. 6. (a) The Commission shall have the power to appoint and fix the compensation of such personnel as it deems advisable, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates, but at rates not in excess of a maximum rate for GS–18 of the General Schedule under section 5332 of such title.

(b) The Commission may procure, in accordance with the provisions of section 3109 of title 5, United States Code, the temporary or intermittent services of experts or consultants. Persons so employed shall receive compensation at a rate to be fixed by the Commission but not in excess of $100 per day, including travel time. While away from his or her home or regular place of business in the performance of services for the Commission, any such person may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 (b) of title 5, United States Code, for persons in the Government service employed intermittently.

(c) Each department, agency, and instrumentality of the United States is authorized and directed to furnish to the Commission, upon request made by the Chairman or Vice Chairman, on a reimbursable basis or otherwise, such statistical data, reports, and other information as the Commission deems necessary to carry out its functions under this Act. The Chairman is further authorized to call upon the departments, agencies and other offices of the several States to furnish, on a reimbursable basis or otherwise, such statistical data, reports, and other information as the Commission deems necessary to carry out its functions under this title.

(d) The Commission may award contracts and grants for the purposes of evaluating existing neighborhood revitalization programs and the impact of existing laws on neighborhoods. Awards under this section may be made to—

(1) representatives of legally chartered neighborhood organizations;

(2) public interest organizations which have a demonstrated capability in the area of concern;

(3) universities and other not-for-profit educational organizations.

(e) The Commission or, on the authorization of the Commission, any subcommittee or member thereof, may, for the purpose of carrying out the provisions of this Act, hold hearings, take testimony, and administer oaths or affirmations to witnesses appearing before the Commission or any subcommittee or member thereof. Hearings by the Commission will be held in neighborhoods with testimony received from citizen leaders and public officials who are engaged in neighborhood revitalization programs.

AUTHORIZATION OF APPROPRIATIONS

SEC. 7. There are authorized to be appropriated not to exceed $2,000,000 to carry out this title.

EXPIRATION OF THE COMMISSION

SEC. 8. The Commission shall cease to exist thirty days after the submission of its report under section 4.

Mr. GARN. Mr. President, I am very pleased to join with the distinguished Senator from Wisconsin, WILLIAM PROXMIRE, Chairman of the Banking, Housing, and Urban Affairs Committee, in sponsoring the National Neighborhood Policy Act.

The "Statement of Findings and Purpose" contains as clear and concise a description as can be made of the problems that face "center cities" across the country. Our cities contain thousands of existing neighborhoods which are currently not viable and are liabilities to the continuing usefulness of center cities. As a former mayor and one who was active in the National League of Cities and the U.S. Conference of Mayors, I had an opportunity to visit and study many cities of all sizes and descriptions in all parts of the country. If you will permit a generalization, it is that the "existing city neighborhoods" represent a national resource which not only must be conserved and revitalized for the sake of the cities' economy and physical well being, but more importantly, for the sake of the people who choose to live in them. People are moving back to central city from the suburbs for many reasons, including family ties and origins as well as for the many benefits that urban life provides. This is a movement we should encourage.

Virtually all of these existing city neighborhoods have the infrastructure that at one time provided the necessary services and amenities. In some cases they have fallen into disuse and disrepair to varying degree, but it would be far more economical to repair a street, a sewer line, a water main, provide open space, or whatever, than to move into a cornfield and build a new suburb. The reasons why a cornfield approach will not work are many and need not be further detailed. Suffice it to say that as the cities continue to sprawl, problems of transportation, education, and job location are aggravated to an extent that is just not acceptable. We, as a nation, are learning that not only do we have finite financial resources, but our land resources and material resources are also becoming more limited. The older neighborhoods are beset by a long list of ills such as redlining, block busting, speculation and physical deterioration but they are only symptoms of a far more complex problem. There are no simple solutions but the Commission will serve to focus our concern and resources. We must reconsider and hopefully redirect our Nation's attitude and policy toward existing city neighborhoods, and this Commission will provide a complete analysis and list of recommendations for action by the Federal Government—but more importantly, by the localities.

The bill further states that the tendency of public policy incentives to ignore the need to preserve has aided and abetted this lack of concern and support for existing city neighborhoods. As an indication that such is the case, I would like to share a few of my experiences as a mayor. I have previously stated that often I felt that I was not the mayor of Salt Lake City, but instead the local manager for the Federal Government. For example, when the Federal Government was moving into cities with community development block grants on the one hand, on the other hand Congress was outlining sharply the necessary 701 planning funds. Or, to be even more specific, my experience with revenue sharing was that the Federal Government provided $4.1 million to my city with the one hand but on the other hand, with the Fair Labor Standards Act Amendments of 1972, increased the city's operating costs by $3.5 million. What else can a city do when faced with such a situation but cut services and capital improvements? That problem is further exaggerated within the older center cities. We found ourselves, as local officials, being visited by the Federal bureaucrats with their "bag of solutions" and it became our challenge to find problems to match their solutions. This is clearly not the most effective way to utilize this Nation's resources. We must permit cities to make their own analyses and set their own goals and spend the money to accomplish them. Hopefully in the long run the Nation's tax structure will be revised to permit cities to keep the funds and not have to look to the Federal Government to recycle the tax dollars. But until that happens, we must make it possible for the localities to be as efficient as our technology will permit.

As a fiscal conservative, I am obviously very reluctant to support another Commission, but in this case I am so committed to the goals of the legislation that I heartily support it and urge all of my colleagues to do so as well.

By Mr. ABOUREZK (for himself, Mr. EASTLAND, and Mr. PHILIP A. HART):

S. 3555. A bill to foster competition and consumer protection policies in the development of product standards, the testing and certification of products, the accreditation of testing, inspection, and certification laboratories, the use in marketing of standards and certifications, and for other purposes. Referred, by unanimous consent, to the Committee on the Judiciary and to the Committee on Commerce, with the provision that, if and when one committee reports the bill, it be referred to the other committee for not to exceed 45 days.

Mr. ABOUREZK. Mr. President, I ask

unanimous consent that the Voluntary Standards and Certifications Act of 1976, which I now introduce, be referred jointly to the Committee on the Judiciary and the Committee on Commerce with provision that whichever committee reports the bill first the other committee will have 45 days in which to report.

I understand that there has been agreement to this on both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

VOLUNTARY STANDARDS AND CERTIFICATIONS ACT OF 1976

Mr. ABOUREZK. Mr. President, from the inception of our Nation, any form of political or economic tyranny has not been tolerated. Yet, today, the systematic denial of certain economic choices is occurring to millions of our citizens in every segment of American life. So pervasive is this abuse that only a concerted Federal effort can bring relief.

What, you may ask is the mechanism for this abuse? The answer is simply unregulated industry "self-regulation." The potentially useful process of self-regulation has significantly thwarted competition in the marketplace by the use of two devices—voluntary standards and certification programs.

Voluntary standards are specifications written by private groups for both consumer and producer goods. Certification is the process of evaluating how well a product serves its intended purpose or determining if it complies with an applicable "voluntary" standard. There are over 400 standards-development organizations. They set standards covering everything from clothes, food, furniture, and cars to heaters, boilers, lights, replacement parts, et cetera.

By themselves, standards have no force of law, but customarily, cities, States, and the Federal Government adopt these industry-administered standards as their own. Thus, a "voluntary" standard quickly turns into law as a city ordinance or a specification for Federal purchasing. All too often Government adopts these standards without giving any consideration to their restraint of trade or consumer implications. Never mind who developed the standard. Never mind how it was developed. Never mind that the standard is written around a single manufacturer's product. Never mind that no procedure exists for challenging the standard.

In some instances, the enforcement of compliance with standards adopted by the Government is left to the private standards developers, as is the case with the American Society of Mechanical Engineers, Inc.—ASME—"Boilers and Pressure Vessels Code." The truth of the matter is that these organizations have the power to determine what products will be made available to the public and who will or will not enter the marketplace.

Such vast, unregulated power—tantamount to lawmaking—has caused numerous documented charges of anticompetitive activity against standards developers and certifiers. Such power has, until now, gone largely unchallenged because of the time and costly nature of antitrust suits. Yet, voluntary standards and certifications, in their present form, must be challenged, because they are a basic component of industry attempts to restrain trade by price-fixing, boycotting, controlling supply, and foreclosing new technology from the marketplace.

To be sure, these standards can play a role in producing better and safer products. However, they seem, all too often, to give the consumer less efficient and more costly products to choose from. To the "ins," of course, this is the ideal world because the outdated and outmoded standard provides them with dual economic benefits. First, it limits price and quality competition among established firms. Second, it protects these firms from the potential competition of newcomers.

Two other convenient anticompetitive tools in the standards-development process are design and construction standards. Design and construction standards require that a product be designed a particular way or constituted of a particular material. In March of 1975, the Antitrust and Monopoly Subcommittee investigated and held hearings on a manufacturer's complaint against a standards/certification laboratory's refusal to list its backflow preventer, because it did not meet the laboratory's design specifications. Despite the product's performance record in this laboratory and in several States, the laboratory refused to list the product and successfully barred its use in the markets recognizing its listing.

Of course, there is a place for design and construction standards; they can serve the public where safety is involved or where products are involved that may need frequent replacement, for example. But, under current conditions, they are too often abused.

On the other side of this coin, 1,000 laboratories test, inspect, and certify products. We are so used to accepting such laboratories' certificates of approval as evidence of some beneficent power watching over our household budgets, and over our safety, that we never stop to guestion what's behind them. Of the 1,000 or so testing labs in this business, 3 or 4 do the bulk of the work.

Indeed, some laboratories have gained quasimonopoly status. For example, the testing and certification of electrical appliances is done almost exclusively by Underwriters' Laboratories, Inc.—UL. The American Gas Association Laboratories—AGA—does almost all testing of gas-fired appliances. Two factors have made this dominance possible. First, some local codes state by name the laboratory seal it will accept—or they use the term "nationally recognized testing laboratory," which is a code word for the selective few.

Second, most of the laboratories that have gained quasi-monopoly status either develop standards themselves or are tied to a standards-development organization. UL and AGA serve as examples of this, as well. Thus, the standard and the seal often go hand in hand.

The testing, inspection, and certification of products needs competition badly. Long delays in certification can prevent the appearance of new products on the market. In March of this year, the Antitrust and Monopoly Subcommittee held hearings on an energy-saving device which could not gain a certificate of approval. There is substantial evidence that the product can reduce many homeowners' monthly gas bill considerably. The small manufacturer of this device tried, to no avail, for 8 years to get AGA and the committees it administers to develop a standard.

Who benefits from this? In the case of a good product, the beneficiary is very often the conglomerate. More important, as the Antitrust and Monopoly Subcommittee's investigations and hearings have shown, laboratories can and do establish arbitrary entrance barriers to new products produced by small companies, who are generally outside the standard/certification club. Worse yet, there is generally no recourse open since most standards developers and certification laboratories provide inadequate appeals processes—or, most commonly, none at all.

Who must pay the price for this anticompetitive and deceptive conduct? The consumer. The small business concern also suffers when these anticompetitive and deceptive practices are directed at his products.

Another formidable problem for small businessmen is the costly process of attending standards and certification meetings. These outlays can be significant to a small entrepreneur. Yet, failure to attend such meetings can result in standards that destroy or endanger an entire product line.

The large corporation, on the other hand, can devote substantial resources to supporting and participating in such organizations. Thus, some relief is necessary for small businessmen.

Finally, the United States appears to be the only industrialized nation that does not have a national policy toward standardization. It is time we did. The lack of a national policy has not only encouraged the anticompetitive and deceptive conduct outlined above, but it has also made it difficult for the United States to participate effectively in international standardization activities, which may have far-reaching consequences on our balance of trade and balance of payments.

It is for these reasons and others that I am introducing this bill. This bill would achieve seven goals:

First, it will establish uniform procedures for standards developers and certifiers.

Second, it will insure open access and due process to all affected interests.

Third, it will eliminate the anticompetitive and deceptive conduct that now exists in the standardization process.

Fourth, it will insure that the U.S. interest in international standards activity is adequately represented.

Fifth, it will eliminate that quasi-monopoly status that a few laboratories have achieved.

Sixth, it will insure that laboratories perform their intended purposes without unduly restricting consumer choice.

Seventh, it will insure that all standardization activities are consistent with our free enterprise system.

Mr. President, I ask unanimous consent that the bill and a detailed analysis of the bill be printed in the RECORD.

There being no objection, the bill and analysis were ordered to be printed in the RECORD, as follows:

S. 3555

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Voluntary Standards and Certification Act of 1976."

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FINDINGS OF FACT

SEC. 3. The Congress finds that—

(1) The standardization and certification of producer and consumer goods have become a necessary and an accepted means for the marketing and the purchasing of products.

(2) The standardization and certification of products have an effect upon almost every line of commercial activity in the United States.

(3) As the production volume of producer and consumer goods grows and as many of these products become more sophisticated and more complex, the standardization and certification of products will also continue to grow.

(4) The expertise to develop sound technical standards lies more in the private sector than in Government.

(5) The Federal and the local governments play a very limited role in the standardization process.

(6) More and more, the Federal and the local governments are relying on private standards-development organizations and private certification laboratories in deciding what products will be made available to the public.

(7) While the standardization process can facilitate trade, disseminate technology, improve communication between buyer and seller, and promote interchangeability, it can also have an adverse effect upon competition and consumers.

(8) Within the standardization process there is considerable duplication and confusion.

(9) The procedures for promulgating standards, for accepting products for testing, inspection and certification, and for ensuring aggrieved parties due process are inadequate and vary from organization to organization.

(10) The ever present potential for abuse can be a means for inflicting widespread consumer deception.

(11) The present standardization process poses grave economic hardships for small business concerns.

(12) Built-in safeguards to protect consumers and to eliminate restraint of trade problems inherent in the standardization process are lacking.

(13) The lack of a uniform policy with respect to domestic standardization activities has impeded the effectiveness of the United States participation in international standardization activities, which may have far-reaching consequences on balance of trade and balance of payments.

PURPOSE

SEC. 4. The Congress declares that the purpose of this Act is to provide for—

(1) the development of a uniform national standardization process which will create a forum for the kind of education and sharing of expertise that ultimately enhances competition and consumer welfare;

(2) a standardization process which ensures open access and procedural fairness to all affected persons and organizations;

(3) the elimination of anticompetitive activity and consumer deception in the standardization process;

(4) the establishment of a process which will ensure adequate representation of the United States interests in international standardization activities;

(5) the elimination of the quasi-monopoly status that a few laboratories have achieved in the testing, inspection and certification of products and for the introduction of true competition into this line of commercial activity;

(6) a system that will ensure that certification laboratories perform their intended purposes without unduly restricting consumer choice; and

(7) procedures and safeguards which will ensure that all national and international standardization activities are consistent with our free enterprise system.

DEFINITIONS

SEC. 5. As used in this Act, the term—

(1) "Person" includes the term "Interested Person", individuals, consumers, consumer organizations, educational institutions, partnerships, associations, corporations, government agencies at the Federal, state and local level, and other organizations.

(2) "Standard" refers to any prescribed set of conditions or requirements, applicable to any product in any market, established by agreement or custom among buyers, sellers, professional groups, standards writers, certifiers, or otherwise. The term includes, but is not limited to definitions; methods of test; specifications for performance, design, construction or composition; procurement specifications; classifications; guides, codes and recommended practices; and the Government use of the same where they have been promulgated by a private standards-development organization.

The term does not include (a) drugs, devices or cosmetics (as such terms are defined in sections 321(g), (h), and (i) of title 21); (b) food as defined in section 321 (f) of title 21, including poultry and poultry products (as defined in section 457(c) and (f) of title 21), meat, meat food products (as defined in section 601(j) of title 21), and eggs and egg products (as defined in section 1033 of title 21); or (c) standards which are prepared or adopted for use by a manufacturer or marketer solely for its own production or procurement purposes.

(3) "Performance Standard" means a standard which defines objective criteria relative to the intended use of a product. Such a standard prescribes the level of performance that a product must achieve under defined conditions, but does not prescribe or limit the physical form it must take.

(4) "Design or Construction Standard" means a standard or portions thereof which prescribe or limit the physical form of products and the type of material such products are to be made of, but, generally, does not prescribe levels of performance.

(5) "Equivalent Factor" means equal to in performance and in safety (where safety is a factor to be considered); it does not mean equal to in design or construction, (i.e., the product does not have to be of an identical design or constructed of identical material).

(6) "Product" includes, but is not limited to, finished products, components, equipment, materials and systems in both the producer goods and the consumer goods sectors, whether personalty or realty.

(7) "Standards development activity" refers to the process of preparation and promulgation of standards and includes committee selection, development, review, balloting, resolution of negative votes, adoption, subsequent revision, and all related activities.

(8) "Standardization" refers to the development of product standards, to the testing of products, to the inspection of products, to the certification of products, and to all related activities.

(9) "Standards development organization" means a private organization, profit or not for profit, which develops standards, sponsors the activity of developing standards or adopts standards to be used, either (a) as a reference by private industry in the manufacturing or marketing of products, (b) by Federal, State, or local governments in procuring products, (c) as a means for determining what products should be made available to the public, or (d) for other purposes.

(10) "Standards development committee"

refers to any committee formed for the purpose of developing standards as defined in this Act, and includes main committees, subcommittees, and task forces.

(11) "Certificates of approval" include, but are not limited to, seals, statements of conformance, labels, classifications, listings in directories, endorsements, and any other affirmations that a product conforms to applicable standards.

(12) "Certification" refers to the process of evaluating a product for acceptability in light of its intended use (The process includes sampling, testing, inspecting, follow-up, and all related activities.) It also refers to the granting of certificates of approval based upon such evaluation.

(13) "Certifier" or "certification laboratories" means a testing or inspection agency, profit or not for profit, which holds itself out as having, or is recognized as having, the personnel and equipment to evaluate products for acceptability; it also includes a testing or inspection agency which makes available its certificate of approval for use in connection with the marketing of products tested and inspected.

(14) "Laboratory" refers to a certifier or certification laboratory.

(15) "National standard" refers to a standard developed and adopted for use throughout the United States and which is developed in accordance with title I and Commission rules promulgated thereunder.

(16) "International standard" means a standard developed and adopted by an "international organization" (treaty or non-treaty) and recognized as having international applicability; it also includes the terms "regional standard or agreement" and "bilateral standard or agreement."

(17) "Regional standard or agreement" means a standard developed and adopted by a regional organization (for example, Pan American Standards Organization, Common Market, and so forth).

(18) "Bilateral Standard or Agreement" means a standard developed and adopted for use within the territory of two or more countries.

(19) "International Standardization Activity" refers to the negotiation, development, adoption or utilization of international standards or international certification systems, and to all related activity.

(20) "International Certification Agreement" means a system or program established or recognized by agreement between governmental or nongovernmental bodies in two or more countries which provide for the mutual recognition of national or regional programs to ensure that a product, process, convention, or test method, or the physical, functional or performance characteristic thereof complies with (identical or equivalent) standards acceptable to the parties to the agreement.

(21) "Marketing" means sale, offering for sale, advertising, promotion or distribution of products or services; the inducement of the use of standards or certificates of approval; or the inducement of adoption or acceptance of standards under building or other codes.

(22) "Interested Person" includes any person who can show that he will be adversely affected by the standard, standards-development activity, certification, certificates of approval, marketing, or standardization act or practice of the standards developer, certifier or marketer. Exception: The term as used in section 102(c) (1) (A) means a committee member, producer, manufacturer, inventor or other person whose product is or will be affected by the standardization process.

(23) "Formal Investigation" means an investigation under part 2, subpart A of the Commission's Rules of Practice, 16 C.F.R. 1890 15 U.S.C. 1, et seq.);

(24) "Commerce" means commerce as defined in section 4 of the Federal Trade Commission Act (15 U.S.C. 44), as amended.

(25) "Antitrust Laws" include—

(A) the Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies", approved July 2, 1890 (15 U.S.C. 1, et seq.);

(B) the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914 (15 U.S.C. 12, et. seq.);

(C) the Federal Trade Commission Act (15 U.S.C. 41, et seq.);

(D) sections 73 and 74 of the Act entitled "An Act to reduce taxation, to provide revenue for the Government, and for other purposes", approved August 27, 1894 (15 U.S.C. 8 and 9); and

(E) the Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21A).

(26) "Commission" means the Federal Trade Commission.

(27) "Department" means the Department of Commerce.

(28) "Division" means the Division of Standards and Certifications created in the National Bureau of Standards under section 201(b).

(29) "Not-for-profit Organization" refers to an organization that meets the requirements of section 501(c) of the Internal Revenue Code of 1954 and has been so cerified by the Internal Revenue Service.

(30) "Secretary" means the Secretary of Commerce.

TITLE I—NATIONAL STANDARDIZATION

FEDERAL TRADE COMMISSION

SEC. 101. The Federal Trade Commission shall have primary authority for the administration and enforcement of title I of this Act.

TRADE REGULATION RULE

SEC. 102. (a) Immediately following the enactment of this Act, the Commission shall initiate a proceeding to promulgate rules relating to the procedures and practices of standards-development organizations and certification laboratories and the use of standards and certifications in marketing. If the Commission is promulgating or has already promulgated rules under its existing authority, then it shall modify or amend such rules, to the extent necessary, to carry out the purpose of this Act.

(b) The Commission rules shall be requirements for—

(1) uniform standards-development procedures which will require—

(A) that interested persons receive adequate notice of standards-development activities;

(B) that interested persons have an opportunity to present views during the standards-development process;

(C) that the membership standards development committees be balanced so as to include and to insure effective representation of all affected interests for example, consumers, small business concerns, uses, manufacturers, suppliers, distributors, employees, environmental and conservation organizations, State and local procurement code officials, labor, et cetera; and

(D) that members of standards-development committees have the right to appeal any action or condition, preliminary or final, taken or arising during the development of a standard.

(2) the development of standards which will require—

(A) that standards are not unnecessarily stringent;

(B) that standards be reviewed and updated when necessary to insure that they reflect existing or new technology, and, in any event, shall be reviewed no later than every five years and revised as required;

(C) that performance standards be preferred over design or construction standards; and

(D) that where design or construction specifications are an integral part of the standard, it contain an equivalent factor as defined in section 5(5).

(3) Uniform certification procedures to insure fair, objective, and non-discriminatory testing, inspection, and certification of products.

(4) certifiers which will require them to determine whether or not a product fails to conform in one or more respects to an applicable design or construction standard should be certified on the basis of the equivalent factor requirement in subsection (b) (2) (D).

(c) The Commission rules shall set requirements for—

(1) appeals bodies established pursuant to section 113(a) which will insure that such bodies—

(A) consider complaints filed by any interested person;

(B) are competent to hear and decide matters which are the subject of this title or which are the subject of Commission rules promulgated thereunder, giving due regard to possible injury to competition and consumers;

(C) are independent and impartial with respect to the matter that is being appealed;

(D) have procedures to ensure a fair and expeditious resolution of mattters brought before it.

(2) standards-development organizations and certification laboratories which will require them to publicize the existence, procedures, membership and authority of their appeals body.

(d) The Commission rules shall set requirements—

(1) to ensure fair and non-deceptive marketing by standards-development organizations and certification laboratories of their publications and services;

(2) to ensure fair and non-deceptive use of standards and certifications in the marketing of products; and

(3) to ensure that manufacturers do not unreasonably condition a warranty, service adjustment, dealer reimbursement or similar policy as determined and defined by the Commission on the use of a product manufactured in accordance with a specific standard or tested, inspected or certified by a specific laboratory.

PROMULGATION OF COMMISSION RULES

SEC. 103. Any Commission rule (or any existing or proposed rule requiring modification or amendment) prescribed under this title shall be promulgated in accordance with section 553 of title 5, United States Code; except that the Commission shall give all interested persons an opportunity for oral presentations of data, views, and arguments, in addition to written submissions, and a single opportunity to present rebuttal testimony in writing. A verbatim transcript shall be kept of any oral presentation.

MINIMUM REQUIREMENT

SEC. 104. (a) The requirements set out in sections 102(b), 102(c), 113(a), and any other requirements the Commission may prescribe under its rulemaking power, to carry out the purpose of this Act, shall constitute the minimum requirements that a standards-development organization or certification laboratory must meet before commencing the activity of developing standards or certifying products.

(b) Nothing contained in sections 102(c) and 113(2), or any Commission rules promulgated under section 102(c) shall preclude, (1) a standards-development organization or certification laboratory from establishing its own appeals body, or (2) two or more standards-development organizations or two or more certification laboratories from joining together to establish a single appeals body.

ENFORCEMENT DUTIES

SEC. 105. (a) The Commission (1) may upon its own initiative, or (2) shall upon written petition filed, in accordance with section 106(a), by any interested person, review the standard, certificates of approval, or the operations of any standards developer, certifier or marketer to make a preliminary determination whether the standard, standards-development activity, certification, certificates of approval, marketing or standardization act or practice may violate any provision of this title or any Commission rule promulgated thereunder.

(b) (1) In order to aid the Commission in making a preliminary determination under subsection (a), it—

(A) shall consult with the Division for technical assistance or other assistance within the expertise of the Division.

(B) may call upon other Federal agencies on a reimbursable or nonreimbursable basis, upon state agencies on a reimbursable basis under contract or otherwise, or contract with any private person or organization.

(C) may hold public hearings or conduct any other investigation or proceeding it deems appropriate.

(2) In making a determination with regard to any matter the subject of a petition under subsection (a), the Commission shall consider the possible injury to competition and consumers resulting from the standard, standards-development activity, certification, certificates of approval, marketing or standardization act or practice whether or not the petition raised these issues.

(c) If the Commission finds that the standard, standards-development activity, certification, certificates of approval, marketing or standardization act or practice in question may constitute violations of this title or Commission rules promulgated thereunder, and that further action by the Commission would be in the public interest, then the Commission shall initiate a formal investigation.

(d) Subsection (a)(2) shall apply only to petitions filed more than sixty days after the effective date of Commission rules promulgated under this title.

RELIEF

SEC. 106. (a) A petition under section 105 (a)(2) shall be filed with the Commission and shall set forth—

(1) a brief description of the facts which surround the standard, standards-development activity, certification, certificates of approval, marketing or standardization act or practice in question;

(2) the nature and extent of injury; and

(3) the nature of the relief requested.

An informal statement will be sufficient to meet the requirements of this subsection.

(b) Where a petitioning party has not exhausted reasonable rights of appeal provided by a standards-development organization or certification laboratory, operating in accordance with section 102(c) and Commission rules promulgated thereunder, the Commission may require the petitioning party to first exhaust such rights, unless the petitioning party can establish a prima facie case to the satisfaction of the Commission that such appeal procedures will, under the instant circumstances, deprive such party of a prompt and effective appeal. If the Commission requires a petitioning party to first exhaust such rights, the 120-day period under subsection (c) is stayed and the petitioning party may not initiate a civil action under section 114(b).

(c) Within 120 days after receipt of a petition described in sections 105(a)(2) and 106(a), the Commission shall either grant or deny the petition.

(d) If the Commission denies the petition, it must issue a written determination to the petitioner at the expiration of the 120-day period stating why a formal investigation was not commenced.

STANDARDS-DEVELOPMENT ORGANIZATIONS AND CERTIFICATION LABORATORIES

SEC. 107. (a) Any private organization developing standards, sponsoring the activity of standards-development or adopting standards relating to products or conducting the business of certifying products, in or affecting commerce, must obtain a certificate for the purpose of conducting such activity. The certificate shall be obtained by petitioning the Secretary in accordance with a procedure to be devised by him.

(b) If the Secretary, after an examination of the facts as reported or otherwise coming to his knowledge, finds that a standards-development organization or a certification laboratory has complied with section 104 (a), he shall find that it is lawfully entitled to commence the activity of standards development or certification, and he shall give to such organization a certificate, under his hand and official seal, that such organization has complied with all the requirements and is authorized to commence the activity of standards development or certification. The Secretary may withhold or withdraw from an organization his certificate whenever he has evidence that the organization is not in compliance with applicable sections of this title and Commission rules promulgated thereunder.

(c) A certification laboratory which also develops standards or sponsors the activity of standards may seek a single certificate for both activities by first complying with the applicable requirements of this title and Commission rules promulgated thereunder relating to each activity.

(d)(1) In seeking a certificate under subsection (b), a standards-development organization or certification laboratory may ask the Commission for an informal Letter of Compliance for the purpose of presenting such letter to the Secretary to show that it has complied with the requirements of sesction 104(a).

(2) The Commission may delegate its duty to issue an informal Letter of Compliance to an appropriate bureau or division.

(3) The Commission, the bureau or the division, based upon the information available to it at the time of the request, shall issue such letter within ninety days after receipt of the request, either confirming or not confirming compliance.

(4) If the Commission finds that the requesting organization is not in compliance with the requirements of section 104(a), it must advise said organization how it might come into compliance.

(e) The Commission's informal Letter of Compliance shall not be binding on the Secretary in making his determination under subsection (b). He shall treat it as a fact reported or otherwise coming to his knowledge for examination as required by subsection (b).

FINANCIAL ASSISTANCE

SEC. 108. (a) A not-for-profit standards-development organization, certified by the Secretary to do business under section 107 (b), may apply to the Secretary for financial assistance for the purposes of ensuring participation and representation of consumers, small business concerns and other interests which otherwise may not be represented and establishing an appeals body, as required under sections 102(b)(1)(C) and 113(a) and Commission rules promulgated thereunder.

(b) In order for a standards-development organization described under subsection (a) to qualify for financial assistance, it must: (1) be a not-for-profit organization which develops national standards as opposed to local or regional standards; (2) have a membership which is drawn from all regions of the United States; and (3) meet any other criteria which the Secretary may set forth to identify those organizations described under paragraphs (1) and (2) of this subsection.

(c)(1) Even though a certification laboratory is a not-for-profit organization, certified to do business under section 107(b), it is not generally eligible for financial assistance. Exception: Where a not-for-profit certification organization also qualifies as a standards-development organization and in complying with sections 102(b)(1)(C) and 113(a) finds the additional cost an unmanageable financial burden, it can request financial assistance to the extent allowed under subsection (a). If based upon the facts presented, the Secretary determines that the request for financial assistance is justified, he may provide such assistance as necessary.

(2) A certification laboratory is eligible to receive financial assistance under paragraph (c)(1) only to the extent it can show that the additional financial burden resulting from compliance with sections 102(b)(1) (C) and 113(a) is directly attributable to standards-development activities.

REMEDIES

SEC. 109. (a) A violation of any provision of this title or a failure to comply with any Commission rule promulgated thereunder shall be prosecuted as and in the same manner as a violation of section 5 of the Federal Trade Commission Act.

(b) The Commission in addition to any remedy which it is presently authorized to enforce under the Federal Trade Commission Act may also provide for the following remedies under this Act:

(1) an order requiring modification or withdrawal of standards-development or certification procedures or practices;

(2) an order requiring withdrawal of standard or certificates of approval;

(3) an order requiring modification of a proposed or existing standard;

(4) an order requiring development of a new standard;

(5) an order requiring substitution of an existing standard for a standard more commonly relied upon, but found objectionable;

(6) an order requiring standards-development organizations or certification laboratories to give notice of Commission action to all interested parties including certifiers, code authorities, purchasers of products marketed with reference to the standard or certificates of approval found objectionable, and to others; and

(7) any other remedy found appropriate under the circumstances.

(c) Whenever the Commission determines that the appropriate remedy requires—

(1) modification of a proposed or an existing standard,

(2) development of a new standard, or

(3) substitution of an existing standard for a standard more commonly relied upon, but found objectionable,

the Commission may order such action to be taken.

(d) In carrying out its responsibility under subsection (c), the Commission shall proceed in accordance with the following procedures:

(1) Where the Commission orders modification of a proposed or an existing standard or development of a new standard, it shall require the organization in question to undertake such action unless the Commission has reason to believe that said organization will not and cannot carry out the action ordered;

(2) Where the Commission has reason to believe that the organization in question will not or cannot carry out the action ordered, it shall either call upon the Division, upon other Federal agencies on a reimbursable or nonreimbursable basis, upon State agencies on a reimbursable basis under contract or otherwise, or contract with any person or organization for the evaluation or development of an accepted standard.

(3) Where the Commission orders substitution of an existing standard for a standard more commonly relied upon, but found objectionable, the Commission shall call upon the Division to determine if the proposed substitute is an acceptable standard;

(4) (A) When the Commission proceeds under paragraph 2, it shall, first, have such government agencies, person, or organization, as described therein, make an evaluation of what would be an acceptable standard and report the same to the Commission. The Commission, if possible, should then require the organization in question to proceed to develop an acceptable standard, using the evaluation report as a guide, in accordance with the standards-development procedures of this title and Commission rules promulgated thereunder.

(B) The Commission should not proceed to have a modification of a proposed or an existing standard or a new standard developed under paragraph 2 unless it has reason to believe that the procedure set out in subparagraph (A) will not result in an acceptable standard.

(e) Whenever the Commission finds a violation of any provision of this title or any Commission rule promulgated thereunder, the Commission, through its General Counsel, may, giving due regard to section 113(d), commence a civil action in the district court of the United States in any district in which the party resides, transacts business or is found, to recover civil penalties not to exceed $10,000 for each such violation, against any person who violates any provision of this title or any Commission rule promulgated thereunder, respecting unfair methods of competition or unfair or deceptive acts or practices, with actual knowledge or with knowledge fairly implied on the basis of objective circumstances that any such method, act or practice is unfair or deceptive and is prohibited by such provision or rule.

NOTICE TO SECRETARY, FEDERAL DEPARTMENTS, AND AGENCIES

SEC. 110. (a) Whenever the Commission finds that a standards-development organization's or certification laboratory's standard, standards-development activity, certification laboratory's standard, standards-development activity, certification, certificates of approval, marketing, or standardization act or practice violates any provision of this title or any Commission rule promulgated thereunder, the Commission shall notify the Secretary and all departments and agencies making use of the organization's publications or services, of its findings and conclusions by publishing the same in the Federal Register.

(b) Whenever the Commission notifies a department or agency under subsection (a) that—

(1) an organization is in violation of this title or Commission rules promulgated thereunder, the department or agency must cease using or relying upon such organization's publications or services, unless it comes into compliance within a reasonable time. (A reasonable time shall be six months, unless the Commission grants a longer period.), or

(2) it has ordered an organization to modify or withdraw a standard, the department or agency must cease using the standard and commence using an alternative standard developed by it, a standards-development organization or certification laboratory holding a certificate under section 107(b), unless an acceptable standard is developed within a reasonable time. (A reasonable time shall be two years.)

FEDERAL DEPARTMENTS AND AGENCIES PARTICIPATING IN STANDARDS DEVELOPMENT

SEC. 111. (a) It shall be the duty of the head of any department, agency, or authority of the United States which sponsors or permits the participation of any officer or employee in private standards-development activities to ensure that all such officers or employees are familiar with the provisions of this title and Commission rules promulgated thereunder.

(b) Whenever a Federal officer or employee, participating in private standards-development activities, has reason to believe that standards are not being promulgated in accordance with the provisions of this title or Commission rules promulgated thereunder, such officer or employee shall inform, in writing, the chief executive officer of the parent organization and the relevant committee, subcommittee, task force, etc. If such action fails to bring the standards-development activity into conformance with the provisions of this title and Commission rules, such officer or employee shall seek corrective action through the appeals body established pursuant to section 113(a).

(c) If a Federal officer or employee is unable to correct the nonconforming standards-development activity under subsection (b), he shall bring the matter to the attention of his agency head, who, if after a review of the facts has reason to believe that this title or Commission rules have been violated, shall file a petition with the Federal Trade Commission in accordance with sections 105(a)(2) and 106(a).

FEDERAL USE OF NATIONAL STANDARDS

SEC. 112. (a) Each department and agency shall develop rules and procedures to avoid waste of time and funds developing duplicate Government standards where there is an existing acceptable private standard. Such rules and procedures shall encourage the use of national standards developed by organizations holding a certificate under this Act.

(b) To facilitate the use of national standards, the Secretary shall create a Library of Standards in the Division which shall list, under a classification system to be devised by him, all national standards developed by organizations holding certificates under section 107(b). A complete text of each listed standard shall be made available to the public by the Division.

APPEALS BODY

SEC. 113. (a) A standards-development organization or certification laboratory must establish an appeals body, in accordance with section 102(c) and Commission rules promulgated thereunder, before it can receive a certificate under section 107(b).

(b) An appeals body established pursuant to subsection (a) is granted no powers under this Act to enforce compliance with its orders or decisions. Such powers and authority must derive from the organization(s) establishing it.

(c) A standards-development organization or certification laboratory shall act in good faith in determining whether and to what extent it will abide by an order or decision of an appeals body.

(d) Compliance with an order or a decision of an appeals body will not constitute an absolute defense to an action by the Commission arising out of the matter decided by the appeals body. However, if the standards developer or certifier is carrying out the order or abiding by the decision in good faith, then the Commission may seek only such prospective or remedial relief as may be necessary.

JUDICIAL REVIEW

SEC. 114. (a) Except as provided in subsection (b), judicial review of any Commission rule, order, or decision pursuant to this title will be in accordance with those procedures set forth in the Federal Trade Commission Act, as amended, except that any element of review set out in the Federal Trade Commission Act, as amended, that is not consistent with the rule-making procedure described in section 103 shall not apply.

(b) Subject to sections 105(d) and 106(b), a person filing a written petition pursuant to sections 105(a)(2) and 106(a) may bring a civil action in the United States District Court for the District of Columbia seeking an order to compel the Commission to initiate a formal investigation. Such an action must be filed not later than sixty days after the Commission's denial of the petition.

(c) The court shall order the Commission to initiate a formal investigation when a petitioner can demonstrate to the satisfaction of the court, by a preponderance of evidence, that the standard, standards-development activity, certification, certificates of approval, marketing, or standardization act or practice complained of violates any provision of this title or any Commission rule promulgated thereunder; that injury will or has result(ed) to competition or consumers; that a proceeding by the Commission would be in the public interest; and that failure of the Commission to grant the petition was unreasonable.

(d) In any action under subsection (b), the court shall have no authority to compel the Commission to take any action other than the initiation of a proceeding in accordance with section 105(c).

(e) Where a party has a right to bring an action in the United States District Court under this title, the court shall have jurisdiction over such actions without regard to the citizenship or residence of the parties or the amount in controversy.

TITLE II—INTERNATIONAL STANDARDIZATION

DEPARTMENT OF COMMERCE

SEC. 201. (a) The Secretary shall have the primary authority for the administration of titles II and III of this Act.

(b) There is hereby established within the National Bureau of Standards, Department of Commerce, a Division of Standards and Certifications which shall develop the resources, facilities, and expertise necessary (1) to assist and advise the Secretary in the exercise of his duties and responsibilities under titles I, II, III and IV, and (2) to assist and advise the Commission in the exercise of its responsibilities under title I at the request of the Commission.

SECRETARY'S DUTIES AND AUTHORITY

SEC. 202. The Secretary, through the Division—

(1) shall identify international standardization activities which may substantially affect the commerce and international trade of the United States;

(2) shall provide for appropriate participation by private not-for-profit organizations or governmental bodies of the United States in such standardization activities;

(3) shall encourage the use of international standards and international certification systems listed pursuant to section 205 (e);

(4) shall inform and consult with the Secretary of State with respect to any contemplated action which involves the international relations of the United States;

(5) shall ensure that optimum use is made of the capabilities and resources of private not-for-profit standards-development organizations, which are in compliance with the

provisions of title I and Commission rules promulgated thereunder;

(6) may conduct such investigations and studies, by contract or otherwise, necessary to carry out his duties under this title;

(7) may enter into grants, contracts or other arrangements (including supply of services of government employees) to assist any private not-for-profit organization in the performance of international standardization activities in furtherance of an arrangement established under section 203; and

(8) may establish such policies and prescribe such rules, regulations, procedures and fee schedules as may be necessary for the administration of this title.

DESIGNATION OF REPRESENTATIVES AND RESPONSIBILITIES

SEC. 203. (a) The Secretary may designate and establish arrangements to provide for appropriate representation of the United States interests in international standardization activities through private not-for-profit organizations.

(b) The Secretary shall set forth guidelines for the selection and participation of private persons to represent the United States interests in international standardization activities, and for their removal. Such guidelines shall include the following:

(1) provisions which will ensure that all affected interests are represented in accordance with section 102(b)(1)(A) through (C) and Commission rules promulgated thereunder;

(2) provisions which will ensure that such private persons are made aware that they are representatives of the United States;

(3) provisions which will inform such private persons that they are to represent the interests of the general public, and not their personal interests or the interests of any private concern;

(4) provisions which make such private persons aware that failure to comply with subsections (b)(2) or (3) will be inconsistent with the purpose of this Act.

(c) Where the Secretary finds or where any court acting pursuant to this title finds that any private person has intentionally failed to comply with subsection (b)(2) or (3), in any material way, he shall—

(1) remove such person as a United States representative; and

(2) prohibit his future participation in international standardization activities under this title.

GOVERNMENTAL PARTICIPATION

SEC. 204. (a) Where the Secretary determines that the participation of private not-for-profit organizations under arrangements established pursuant to section 203(a) has been insufficient or where the Secretary is unable to establish such arrangements pursuant to section 203(a), he shall make arrangements for direct governmental participation in international standardization activities to the extent necessary.

(b) Before the Secretary proceeds under subsection (a) to arrange direct governmental participation in international standardization activities, he shall consult with the committees established under section 209(a).

(c) Any department or agency may provide technical assistance to the Secretary on a nonreimbursable basis and may supply special technical services of its employees to assist private not-for-profit organizations in the performance of international standardization activities. The Secretary shall be currently informed of any special technical services of employees furnished by a department or agency in assisting private not-for-profit organizations in the performance of international standardization activities.

REVIEW PROCEDURES

SEC. 205. (a) Before an international standard or international certification system is listed by the Secretary pursuant to subsection (e) the Secretary or his designee must review the proposed standard or system to determine whether it is in the public interest.

(b) In determining whether an international standard or international certification system is in the public interest, the Secretary shall consider, but not be limited to—

(1) the effects of the standard or system on the public and occupational health and safety or the quality of the environment, taking into account applicable public health, safety or environmental quality regulations, directives and standards;

(2) the effect of the standard or system on the balance of trade and the balance of payments of the United States;

(3) the effect of the standard or system upon competition and consumers in the United States;

(4) the extent to which the standard or system being considered is supported by the affected interests as identified in section 102(b)(1)(C) and Commission rules promulgated thereunder;

(5) the views of the committees established under section 209(a); and

(6) the technical adequacy of and need for any proposed standard or system and whether such standard or system is appropriate and reasonably limited to meeting the need.

(c) Prior to the listing of any international standard or international certification system pursuant to subsection (e), the Secretary shall publish in the Federal Register notice of his intent to list such standard, system or modification thereof. Such notice shall include a brief description of the standard, system or modification and an invitation for any person, within sixty days after the date of publication of such notice, to submit comments with regard to the items under subsection (b)(1) through (6) or any other data, views or arguments.

(d) The Secretary may allow for longer periods or extend the period provided under subsection (c) for persons to present their comments on the proposed listing of an international standard or international certification system. He shall also furnish a complete text of the standard or system, upon written request, to any person desiring to comment thereon.

(e) Unless it is not in the public interest to do so, the Secretary shall list, under a classification system to be devised by him, all international standards, international certification systems, or any modification thereof, negotiated or developed pursuant to this title in the Library of Standards. A complete text of each listed standard and each listed system shall be made available to the public by the Division.

EVALUATION AND ACCREDITATION

SEC. 206. (a) Where the United States participation in international certification systems is deemed to be in the public interest, the Secretary, subject to sections 205(c) and 209(b), shall establish procedures for the evaluation and accreditation of foreign certifiers for the purpose of documenting compliance with a standard.

(b) In addition to any requirements the Secretary's procedures may set forth, they shall require foreign certifiers to comply with the items set out in section 307(b)(1) and (2) to ensure that such certifiers have the facilities, personnel, follow-up procedures, etc., to document compliance with a standard initially and on a continuous basis.

(c) The evaluation, accreditation and audit of foreign certifiers shall be done in accordance with section 310.

FEES AND CHARGES

SEC. 207. Where information is furnished or services rendered under sections 112(b), 205(e) and 206, the Secretary may establish reasonable fees or charges therefor. Amounts received as a result of such fees or charges may be deposited to the credit of the appropriation of funds against which the cost of performing the services was charged.

FEDERAL USE OF INTERNATIONAL STANDARDS AND SYSTEMS

SEC. 208. Each Federal department and agency shall develop rules and procedures to encourage appropriate use of applicable international standards and to give appropriate recognition to international certification systems listed pursuant to section 205(e) in the procurement of supplies or services for its use.

POLICY GUIDANCE COMMITTEES

SEC. 209. (a) To provide policy guidance and to assist the Secretary in carrying out his responsibilities under this title, there shall be established (1) an interagency committee on international standardization policy consisting of members representing the Departments of Agriculture, Defense, Justice, Interior, State, Housing and Urban Development, Commerce, Labor, Treasury, Health, Education and Welfare, Transportation, the General Services Administration, the National Areonautics and Space Administration, the Federal Communications, Commission, the Environmental Protection Agency, the Consumer Product Safety Commission, and such other agencies as the Secretary deems advisable, and (2) a public committee on international standardization policy consisting of members representing all interests affected as identified in section 102(b)(1)(C) and Commission rules promulgated thereunder. The Secretary or his designee from the Division shall be the chairman of such committees.

(b) The Secretary shall also consult with the committees in considering whether a particular international standardization activity would be in the public interest; the committees shall be kept advised of all international standardization activities pending before the Secretary.

(c) The Federal Trade Commission is not included as a member of the interagency committee established undersubsection (a), and shall not be appointed by the Secretary to the committee.

FEDERAL TRADE COMMISSION AND PRIVATE PARTIES

SEC. 210. (a) The Federal Trade Commission or any interested person may at any time petition the Secretary of Commerce for the removal (delisting) of an international standard or international certification system listed under section 205(e) on the grounds that it is contrary to the public interest, giving due regard to the provisions of sections 205(b) and 405.

(b) In any action under subsection (a), the Commission, if not a party, may intervene as a matter of right.

(c) A petition under subsection (a) shall contain facts and information supporting the action in question.

(d) After receipt of the petition, the Secretary shall, except as provided in subsection (e), initiate a proceeding under section 553 of title 5 of the United States Code, on the issues raised in the petition. The Secretary shall designate a hearing examiner and give reasonable notice of the hearing and an opportunity for interested persons to participate in the hearing through the submission of written data, views or arguments. The petitioner may present data, views or arguments orally as a matter of right; whenever requested by the Commission, the Secretary shall give intervening persons a reasonable opportunity to present data, views of arguments orally in an appropriate manner. The testimony in any such hearing shall be reduced to writing, shall be filed with the Secretary, and together with written submissions, shall constitute the record. After consideration of all relevant material presented upon such record, the hearing examiner will make findings of fact and conclusions of law. Such findings and conclusions, together with the record, shall be reviewed by the Secretary, who shall make a decision based on the record whether or not to delist the international standards or international certification system as requested by the petition. Such decision shall include the findings and the conclusions of the Secretary.

(e) Where a party other than the Federal Trade Commission petitions the Secretary under subsection (a), he may refuse to initiate a proceeding as provided by subsection (d) if he determines that the petition does not present a meritorious complaint. The Secretary shall reduce to writing his reasons for denying the petition, and provide the petitioning party with a copy of his written determination within one hundred twenty days after receipt of the petition.

JUDICIAL REVIEW

SEC. 211. (a) Judicial review of the Secretary's determination made pursuant to this title may be had, within sixty days after the publication of his decision, in the United States Court of Appeals by—

(1) the Commission, through its general counsel, when the Secretary's decision is not to delist an international standard or international certification system pursuant to a petition under section 210; or

(2) any interested person.

(b) Except as provided in subsection (c), the court shall have jurisdiction to review decisions of the Secretary in accordance with chapter 7 of title 5, United States Code, including that provision that the decision of the Secretary be supported by substantial evidence on the basis of the entire record before the court (including any additional evidence adduced). Upon a showing that the decision of the Secretary is not supported by substantial evidence on the record taken as a whole, giving due regard to the provisions of sections 205(b) and 405, the court can grant relief as appropriate.

(c) Within sixty days after the Secretary's denial of a petition pursuant to section 210 (e), the petitioner may bring a civil action in the United States District Court for the District of Columbia seeking an order to compel the Secretary to initiate a proceeding as described in section 210(d).

(d) If the petitioner can demonstrate to the satisfaction of the court, by a preponderance of evidence, that the Secretary's refusal to initiate a proceeding is not in the public interest, giving due regard to the provisions of sections 205(b) and 405, the court shall order the Secretary to initiate the proceeding.

(e) In any action under subsection (c), the court shall have no authority to compel the Secretary to take any action other than the initiation of a proceeding in accordance with section 210(d).

(f) Where a party has a right to bring an action in the United States District Court under this title, the court shall have jurisdiction over such actions without regard to the citizenship or residence of the parties or the amount in controversy.

REPORT

SEC. 212. On or before the 31st of January of each year, the President shall transmit to the Congress an annual report for the preceding calendar year. Such report shall include a comprehensive statement of the activities under this title and may include such recommendations as the President deems appropriate.

TITLE III—ACCREDITATION

VOLUNTARY NATIONAL LABORATORY ACCREDITATION PROGRAM

SEC. 301. The Secretary, through the Division, shall devise a program and set forth procedures for the purpose of establishing a Voluntary National Laboratory Accreditation Program. If the Secretary is devising or has already devised such a program under his existing authority, then he shall modify or amend such program, to the extent necessary, to carry out the purpose of this Act.

SECRETARY'S DUTIES AND AUTHORITY

SEC. 302. (a) The Secretary, as soon as practical, shall identify those classes of technology or specific products for which it is in the public interest to accredit certification laboratories.

(b)(1) Where the Secretary finds that it is in the public interest to accredit certification laboratories for a class of technology or a specific product, he shall make preliminary findings supporting such decision, publish notice of said findings and allow all persons desiring to do so an opportunity to comment thereon.

(2) Where the Secretary finds that it is in the public interest to accredit certification laboratories for a specific product, he must, in his preliminary findings, show that he is unable to place the product into an existing class of technology.

(3) The Secretary shall evaluate the comments received pursuant to paragraph (1) and make a final decision (i) that it is in the public interest to accredit certification laboratories, or (ii) withdrawing his preliminary findings. The final decision must be accompanied by final findings and the same published for public review.

(4) If the Secretary's final decision is that it is in the public interest to accredit certification laboratories, then he must simultaneously publish that he will form a National Laboratory Accreditation Criteria Committee pursuant to section 303, or that he will utilize an existing criteria committee previously established under section 303. Except where the Secretary utilizes an existing committee, the publication shall outline the functions and duties of the committee, its size, and the basis for the selection of its members.

(c) The Secretary's statement setting forth the basis for his preliminary findings that it is in the public interest to accredit certification laboratories shall, at a minimum, address—

(1) the effect of the accreditation on the public and occupational health and safety or the quality of the environment, taking into account applicable public health, safety or environmental quality regulations, directives and standards;

(2) the effect upon competition and consumers (i.e., does accreditation enhance competition and consumer choice) in the United States;

(3) the extent to which accreditation is supported by the affected interests as identified in section 102(b) (1) (C) and Commission rules promulgated thereunder;

(4) the effect accreditation will have upon the individual inventor and small business concern;

(5) whether accreditation will accelerate the delivery of testing, inspection, certification and related services;

(6) whether there is a national need to accredit certification laboratories;

(7) whether there exist laboratories or the possibility of new laboratories being set up which will have the capability to perform the necessary testing, inspection, certification, and related services; and

(8) whether it is feasible and practical to accredit certification laboratories that serve or may serve the class of technology or product.

NATIONAL LABORATORY ACCREDITATION CRITERIA COMMITTEE

SEC. 303. (a) Subject to section 302(b)(4) and the Federal Advisory Committee Act, the Secretary shall establish a criteria committee to develop general and specific criteria to accredit certification laboratories that serve a class of technology or a specific product.

(b) The membership of criteria committee shall be composed of representatives of the affected interests as identified by section 102(b) (1) (C) and Commission rules promulgated thereunder. The Secretary shall appoint a chairman of each criteria committee established.

(c) The Secretary may establish additional rules and procedures for a criteria committee which he deems necessary to carry out the purpose of this Act.

DEVELOPMENT OF GENERAL AND SPECIFIC CRITERIA

SEC. 304. (a) Upon the development of proposed general and specific criteria by a criteria committee, in accordance with section 307, the Secretary shall publish a notice of the complete text of the proposed general and specific criteria and allow all persons desiring to do so an opportunity to comment on such criteria.

(b) Upon receipt of all written and oral comments, the Secretary shall request the criteria committee to conduct and return to him, in writing, its evaluation and recommendations with respect to such comments.

(c) The Secretary shall review the criteria committee's evaluation and recommendations, prepare his evaluation and publish the same by—

(1) announcing the final general and specific criteria that certification laboratories must meet in order to be accredited and the date such criteria shall go into effect;

(2) announcing that the proposed general and specific criteria will be further developed before final publication; or

(3) announcing that the proposed general and specific criteria will be withdrawn from further consideration.

NOTICE AND PUBLICATION

SEC. 305. (a) The notice required under sections 302(b) (1) and 304(a) shall also contain a statement that all persons have at least thirty days for the submission of written comments.

(b) All persons desiring to express their views in an informal hearing shall notify the Secretary within fifteen days after the notice is published.

(c) Where informal hearings are held, the period allowed for the submission of written comments shall be extended to the date on which such hearings are held.

(d) All publications required by the Secretary under this title shall be made in the Federal Register.

LABORATORY ACCREDITATION PROCEDURE

SEC. 306. (a) The Secretary shall—

(1) develop a procedure whereby any certification laboratory may petition the Department for accreditation in any class of technology or for any product, which general and specific criteria have been established pursuant to section 307(a) through (c)(1); and

(2) require the Division to maintain and publish in the Federal Register and other appropriate publications a current list of all laboratories accredited, including the class of technology or specific product for which they are accredited.

(b) Where the Seretary determines it is in the public interest to accredit certification laboratories for a specific product, he can grant accreditation only if more than one laboratory seeks and qualifies for accreditation.

(c) Any person may petition the Secretary to find that it is in the public interest to accredit certification laboratories for a class of technology or a specific product. The petition must be in writing and shall identify the class of technology or the product and, at a minimum, address the items in section 302 (c)(1) through (8). The Secretary may ask for additional information to support any such petition.

(d) If the Secretary denies the petition, he shall notify the petitioner, in writing, within 10 working days after making his final decision and shall state the reasons for denying the petition.

(e) If, based upon the petition, the Secretary finds that it is in the public interest to accredit certification laboratories, he shall proceed as if he had acted on his own initiative under section 302(a).

DUTIES AND AUTHORITY OF CRITERIA COMMITTEE

SEC. 307. (a) At the request of the Secretary, a criteria committee shall develop general and specific criteria to accredit certification laboratories that serve a class of technology or a specific product.

(b) The criteria committee shall—

(1) develop general criteria which will ensure that certification laboratories have—

(A) the ability to perform tests and examination, and to develop and to operate certification programs for which they are to be accredited;

(B) access to facilities which are equipped to perform the necessary tests and examinations in the area(s) accredited;

(C) a staff knowledgeable in testing, certifying, standards, control procedures and quality assurance, and appropriate administrative facilities for the operation of testing and certification programs; and

(D) well defined and acceptable professional and ethical business practices as appropriate.

(2) develop specific criteria for certification laboratories which will set forth—

(A) qualifications for personnel and equipment to ensure technical expertise and professional competence;

(B) requirements applicable to proficiency sample programs;

(C) initiation and application requirements for testing and certifying products;

(D) initial and periodic examination and audit procedures;

(E) professional and technical qualifications of examiners; and

(F) requirements which call for continuing follow-up through surveillance subsequent to initial certification to ensure continued compliance.

(c) In developing and establishing general and specific criteria, pursuant to subsection (b), the Criteria Committee may—

(1) establish additional general and specific criteria when necessary and appropriate;

(2) consult with other interested persons and organizations, including Federal, state and local agencies. (All communication between the Committee and such parties must be made a matter of public record.)

(d) In developing and establishing general and specific criteria, pursuant to subsections (b) and (c)(1), the Criteria Committee—

(1) shall not establish any criteria which precludes a laboratory from making appropriate use of outside facilities;

(2) shall not establish unnecessarily stringent criteria which will have the effect of unduly restraining trade or limiting consumer choice;

(3) shall take no action regarding standardization beyond its authority to develop criteria for certification laboratories under this title.

ACCREDITATION OF CERTIFICATION LABORATORIES

SEC. 308. (a) If a certification laboratory is found to meet the general and specific criteria established for a class of technology or a specific product and all applicable provisions of this title and rules promulgated thereunder, which establish antecedent conditions, it shall be granted accreditation.

(b) A certification laboratory can seek accreditation for one or more classes of technology or one or more specific products, where general and specific criteria have been established.

(c) A certification laboratory does not have to have the capabilities to test and certify all the products in a given class of technology in order to gain accreditation.

(d) Where a new product is introduced into the marketplace and it falls within an existing class of technology, a laboratory accredited in that class of technology is automatically eligible to test and certify the product if it has the technical and professional competence to evaluate the product.

(e)(1) If the Secretary denies a laboratory accreditation, he must set forth his reasons in writing, and provide the laboratory with a copy of same.

(2) Where a certification laboratory is denied accreditation, it shall have thirty days from the receipt of such notification to request an informal hearing for reconsideration.

AUDIT, ADVERTISING, FEES, AND RECORDS

SEC. 309. A laboratory receiving accreditation under this title must—

(1) agree to be examined and audited, initially and on a continuing basis;

(2) pay accreditation fees and charges;

(3) avoid reference to, and forbid others utilizing its service from making reference to its accreditation status in consumer media (e.g., product advertising, product labels, packaging, or the contents therein);

(4) provide open access to all persons, including foreign manufacturers, seeking its services;

(5) examine only those products which it has the capabilities to test and certify;

(6) maintain a list of all products it has the capabilities of testing and certifying and be prepared to make such list available to the public, auditors and examiners; and

(7) maintain a list of all products it has tested and certified and be prepared to make such list available to the public, auditors and examiners.

EVALUATION AND ACCREDITATION

SEC. 301. (a) The evaluation, accreditation and audit of certification laboratories, domestic and foreign, initially and on a continuing basis to ensure compliance, shall be done by the Division or by a person or an organization designated by it.

(b) In carrying out its duties under subsection (a), the Division may enter into contracts with private persons or organizations, except those which present a potential conflict of interest, for the purpose of having certification laboratories evaluated, accredited and audited.

REMOVAL, WITHDRAWAL, OR TERMINATION OF ACCREDITATION

SEC. 311. (a) The Secretary shall set forth procedures to allow a certification laboratory to terminate its participation and responsibilities under the Department's accreditation program at any time by giving written notice to the Secretary.

(b) The Secretary may move a product from one class of technology to another, merge two or more classes of technology into a single class of technology, or divide a single class of technology into two or more classes of technology for accreditation purposes.

(c) The Secretary may cease accreditation of certification laboratories for a class of technology or a specific product if he finds that there is no longer a public need to accredit such laboratories.

(d) Where the Secretary acts pursuant to subsections (b) or (c), he must—

(1) issue preliminary findings which shall be published;

(2) allow sixty days for all persons desiring to do so to submit written comments on the preliminary findings; and

(3) allow those wanting to express their views in an informal hearing to do so, if notified within thirty days after preliminary findings are published.

(e) After evaluating the comments received pursuant to subsection (d), the Secretary shall publish a notice of his final findings or a notice withdrawing his preliminary findings. The notice shall state the basis for the Secretary's final findings or withdrawal of his preliminary findings.

(f) Failure to comply with any of the requirements in subsections (b) and (c)(1) of section 307 and section 309 will constitute sufficient cause for the Secretary to withdraw a laboratory's accreditation.

FEDERAL DEPARTMENTS AND AGENCIES

SEC. 312. (a) Where an accreditation program has been established for a class of technology or a specific product in accordance with this title, all departments and agencies requiring the services of a certification laboratory for the class of technology or the product, must use those laboratories listed by the Division as being accredited. (This section does not apply to departments or agencies covered by subsection (d).)

(b) If no accreditation program has been established in accordance with this title for the class of technology or the product in question, then the department or agency shall ask the Secretary to establish an accreditation program. The Secretary, the department or the agency will not be required to comply with section 302, subsection (c)(2) and (3) of section 304, and subsections (c) through (e) of section 306, except as to the latter section, the department or agency shall identify the class of technology or the product as required by subsection (c).

(c) If the department or agency can show that being required to go through the procedure required by this title, notwithstanding the exclusions of subsection (b), would be too time consuming or would seriously hamper its functions, it can establish its own accreditation program.

(d) Where a department or agency is required by law to examine or accredit a certification laboratory for the purpose of carrying out its regulatory authority, it may by agreement allow the Division to perform that function.

(e) When the Division is examining or accrediting a laboratory on behalf of another department or agency, such examination or accreditation shall be done in accordance with the act or statute which requires the department or agency to conduct such an examination or accreditation.

JUDICIAL REVIEW

SEC. 313. Judicial review of the Secretary's decisions under this title shall be had in accordance with subsection (b) of section 211.

TITLE IV—MISCELLANEOUS PROVISIONS

DIRECTOR OF THE DIVISION

SEC. 401. (a) The Secretary shall appoint a Director of the Division of Standards and Certifications established under section 201 (b) of this Act. No individual so appointed may receive pay in excess of the annual rate of basic pay in effect for grade GS–18 of the General Schedule.

(b) The Director shall have the general supervision of the Division, its equipment, and the exercise of its functions. He shall make an annual report to the Secretary, including an abstract of the work done during the calendar year and a financial statement. He may issue, when necessary, bulletins for public distribution, containing such information as may be of value to the public or to facilitate the Division in the exercise of its functions.

RECORDKEEPING REQUIREMENTS

SEC. 402. (a) Each recipient of monies under a grant or contract or otherwise awarded pursuant to this Act shall keep such records and make such reports as the Secretary may prescribe. In the case of monies received in advance of performance, such records and reports shall identify the unearned balance of advances on hand, the liabilities and obligations outstanding under such grant or contract, and the application of the funds received.

(b) The Secretary and the Comptroller General of the United States, or any other duly authorized representative shall have access to any books, documents, papers and records of the recipient that are pertinent to his national or international standardization activities under this Act, for the purpose of audit or to determine whether a proposed international standard or international certification system is in the public interest.

METRIC CONVERSION ACT

SEC. 403. To the extent not inconsistent with this Act, authority under this Act shall be exercised in a manner calculated to achieve the purpose of section 6(4)(A) through (E) and other appropriate sections of the Metric Conversion Act of 1975 (P.L. 94–168).

AMENDMENT

SEC. 404. The term "Corporation" in section 4 of the Federal Trade Commission Act (15 U.S.C. 44) is amended by deleting the word "and" in the fifth line and the period at the end of the definition, and by inserting a comma in the place of the period and adding at the end of the definition the following language: "and not-for-profit organizations, incorporated or unincorporated, which conduct activities in or affecting commerce, as commerce is defined in this Act, unless specifically exempt by statute."

IMMUNITY

SEC. 405. No national or international standardization activity engaged in by any private person or private organization, with or without participation or approval by governmental bodies of the United States, shall be exempt or immune from the operation of the antitrust laws.

EFFECT ON OTHER LAWS

SEC. 406. (a) Nothing contained in this Act shall be construed to repeal, invalidate, or supersede the antitrust laws.

(b) The negotiations, development or listing of any international standard or international certification system pursuant to title II shall not preempt in any way international military standardization activities conducted by the Department of Defense.

(c) Nothing in this Act shall restrict any right or cause of action which any person or organization may have under any other statute or at common law to seek redress of one or more of the acts or practices which this Act is directed, or any right or cause of action which any person or organization may have under any other statute or at common law to seek enforcement of any provision of this Act or Commission rules promulgated thereunder, or any other relief.

SEPARABILITY

SEC. 407. If any title or provision of this Act, or the application of such title or provision to any person or circumstance, shall be held invalid, the remainder of this Act, or the application of such titles or provisions to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

AUTHORIZATION OF APPROPRIATION

SEC. 408. (a) There are authorized to be appropriated to the Commission for the purposes of carrying out the provisions of this Act not to exceed $2,000,000 for the fiscal year 1978, not to exceed $2,500,000 for the fiscal year 1979, and not to exceed $3,000,000 for the fiscal year 1980.

(b) There are authorized to be appropriated to the Secretary of Commerce for the purposes of carrying out the provisions of this Act not to exceed $6,000,000 for the fiscal year 1978, not to exceed $5,000,000 for the fiscal year 1979, and not to exceed $4,000,000 for the fiscal year 1980.

EFFECTIVE DATE

SEC. 409. (a) Except as provided in subsections (c) and (d), this Act shall take effect six months after the date of its enactment.

(b) The Commission shall promulgate rules under title I of this Act not later than one year after date of enactment.

(c) The Commission rules shall become effective six months from the date of final publication of such rules; except that the Commission, for good cause shown, may grant one extention not to exceed six months on the applicability of such rules after final publication in order to permit standards-development organizations, certification laboratories and marketers to come into compliance with the provisions of such rules.

(d) Titles II and III of this Act shall become effective one year after the Commission's final publication of its rules promulgated under title I.

SECTION-BY-SECTION ANALYSIS TO ACCOMPANY THE VOLUNTARY STANDARDS AND CERTIFICATION ACT OF 1976

Section 1. Short Title

Section 1 provides that the bill, when enacted, may be cited as the "Voluntary Standards and Certifications Act of 1976."

Section 2. Table of Contents

Section 2 sets forth a caption for each section of the bill in the form of a table of contents.

Section 3. Findings of Fact

Section 3 sets forth the congressional findings, which are based upon a two-year investigation by the Senate Antitrust and Monopoly Subcommittee and eight days of hearings, a Report of Subcommittee No. 5, to the Select Committee on Small Business, House of Representatives, 90th Congress, 2d Session, entitled "The Effect Upon Small Business of Voluntary Industrial Standards," a Report to the Subcommittee on Science, Research and Development of the Committee on Science and Astronautics, House of Representatives, 93rd Congress, 2d Session, entitled "Voluntary Industrial Standards in the United States (An Overview of their Evolution and Significance for the Congress)", a study conducted by the Federal Trade Commission, entitled, "Preliminary Staff Study (Precis): Self-Regulation—Product Standardization, Certification and Seals of Approval," and related material from both the Government and the private sector.

Section 4. Purpose

Section 4 states the purpose of the bill.

Section 5. Definitions

(1) "Person" is defined to recognize and include the broad range of interests and persons that the standardization process may affect.

(2) "Standard" is defined to recognize the varied, but related, usages that are functional equivalents in the marketplace. In keeping with the purpose of the Act to reach only private standards-development activity, the definition makes a distinction between government standards, definitions, test methods, etc., developed by government employees and standards, definitions, test methods, etc., developed by private groups and adopted by the Government as its own.

(3) "Performance Standard" is defined to distinguish it from a design or construction standard. The definition recognizes that generally a performance standard does not limit the manufacturer's freedom to choose any method of design or any form of construction that achieves the desired level of performance.

(4) "Design or Construction Standard" is defined to distinguish it from a performance standard. The definition recognizes that a design or construction standard will often limit the manufacturer's choice. However, this definition should be considered in conjunction with the equivalent factor requirement of section 102(b)(2)(D) and the overall purpose of title I.

(5) "Equivalent Factor" is defined to ensure that design and construction standards are written so as to recognize equal designs and constructions, to accommodate new and different designs or constructions which are an advancement in the state-of-the-art (i.e., recognize that technology may advance rapidly), and to ensure that the purpose of section 102(b)(2)(C) is carried out.

"(6) "Product" is defined to encompass the unlimited range of products that the standardization process may affect.

(7) "Standards-Development Activity" is defined to include all of those activities involved in the development, adoption and revision of product standards.

(8) "Standardization"is defined to include all activities in standards development, and in the related activities of certification, and is used in the Act for convenience when both types of activities are referred to.

(9) "Standards-Development Organizations" are defined to include all private, profit or not-for-profit, organizations which develop, sponsor or adopt standards for the purposes noted in the definition and include such organizations as the American Gas Association, American National Standards Institute, American Society for Testing and Materials, American Society of Heating, Refrigeration and Airconditioning Engineers, American Society of Mechanical Engineers, Association of Home Appliance Manufacturers, Building Officials and Code Administrators International, Gas Appliance Manufacturers Association, Illuminating Engineering Society, International Association of Plumbing and Mechanical Officials, International Conference of Building Officials, National Electrical Manufacturers Association, Society of Automotive Engineers, Southern Building Code Congress, Tile Council of America, National Fire Protection Association, Underwriters' Laboratories, Inc., USC Foundation for Cross Connection. This list is for illustrative purposes only and should not be read as a limitation on the application of this Act which is meant to encompass all such organizations without regard to size or legal form of the organization.

(10) "Standards-Development Committee" is defined to recognize and include the broad range of committees, by whatever name or label, that are commonly used by standards-developmeent organizations to promulgate standards.

(11) "Certificates of Approval" are defined to recognize and include the varied, but related forms of approval issued by certifiers that are functional equivalents in the marketplace.

(12) "Certification" is defined to encompass two different but related processes. The first includes all steps in the evaluation of a product for acceptability in light of its intended use, which may or may not be based on an established standard. The second includes the act or process of granting, monitoring and possibly withdrawing of certificates of approval in connection with such evaluation.

(13) "Certifier" or "Certification Laboratories" are defined to include all private, profit or not-for-profit laboratories who conduct testing, inspection, certification and related activities, and include such organizations as the American Gas Association Laboratories, the American Plywood Association, Architectural Aluminum Manufacturing Association, Electrical Testing Laboratories, Factory Mutual Research Corpora-

tion, Hardwood Plywood Manufacturers Association, International Association of Plumbing and Mechanical Officials, National Board of Broiler and Pressure Vessels Inspectors, Nationwide Consumers Testing Institute, Inc., National Sanitation Foundation, Pittsburgh Testing Laboratories, Plumbing and Drainage Institute, Underwriters' Laboratories, Inc., the USC Foundation for Cross Connection, and other certifiers. This list is for illustrative purposes only and should not be read as a limitation on the application of the act; all organizations who engaged in the described activities, without regard to size, class of products tested, inspected, certified, etc., of legal form of the organization are covered by the Act.

(14) "Laboratory" is defined to include certifiers and certification laboratories, and as used in this act, is synonymous with those terms.

(15) "National Standard" is defined to distinguish these standards from standards intended for local use or for use in certain regions of the United States.

(16) "International Standard" is defined as a standard having international applicability.

(17) "Regional Standard or Agreement" is defined to mean a standard developed and adopted by a regional organization (e.g., Pan American Standards Organization, Common Market, etc.).

(18) "Bilateral Standard or Agreement" is defined to mean a standard developed and adopted for use within the territory of two or more countries.

(19) "International Standardization Activity" is defined to include all activities in international standards development, and the related activities of certification, and is used in the Act for convenience when both types of activity are referred to.

(20) "International Certification Agreement" is defined to include all certification systems or programs established or recognized by two or more countries, whether the system or program is international, regional or national in character.

(21) "Marketing" recognizes the various aspects that may be involved in marketing a product or service. It also includes activities of standards-development organizations and certification laboratories intended to promote reliance on and purchase of their services and publications by the Government and the private sector.

(22) "Interested Person" is defined to include any person who can show that he will be adversely affected by the standardization process. Exception: As used in section 102 (c)(1)(A), the term includes a much smaller class, which is defined to mean a committee member, manufacturer, producer, inventor, or other persons whose product is or will be affected by the standardization process.

(23) "Formal Investigation" is defined as an investigation conducted under part 2, subpart A of the Commission's Rules of Practice, 16 C.F.R. 2.1, et seq.

(24) "Commerce" is defined to mean commerce as defined in section 4 of the Federal Trade Commission Act (15 U.S.C. 44), as amended.

(25) "Antitrust Laws" are defined to include the Sherman Antitrust Act, Clayton Antitrust Act, the Federal Trade Commission Act, sections 73 and 74 of the Wilson Tariff Act, and the Robinson-Patman Price Discrimination Chain Stores Act.

(26) "Commission" is defined as the Federal Trade Commission.

(27) "Department" is defined as the Department of Commerce.

(28) "Division" is defined as the Division of Standards and Certification created in the National Bureau of Standards under section 201(b).

(29) "Not-for-Profit" is defined as an organization which has qualified with the Internal Revenue Service under the requirements of section 501(c) of the Internal Revenue Code of 1954.

(30) "Secretary" is defined as the Secretary of Commerce.

TITLE I—NATIONAL STANDARDIZATION

The general purpose of title I is to bring uniform procedures to the standardization process and to further national competition and consumer protection policies in all phases of private standardization activities. The title identifies specific acts, practices and procedures of standards-development organizations and certification laboratories, and directs the Federal Trade Commission to promulgate rules relating to these areas. It also imposes duties on Federal agencies who rely on private standards or private certifications, and on Federal employees who participate in the private standardization process.

Section 101. Federal Trade Commission

Section 101 vests in the Federal Trade Commission primary authority for administration and enforcement of title I.

Section 102. Trade Regulation Rule

Section 102(a) directs the Federal Trade Commission to promulgate rules relating to specific standardization acts, practices and procedures which have important competition and consumer implications. These acts, practices and procedures are set out in section 102(b) through (d). In general the directive keys into the Commission's existing authority under the Federal Trade Commission Act and the Commission's established administrative rule-making authority.

Section 102(b)(1)(A) through (D) is intended to lead development of uniform procedures regarding notice, participation, representation of affected interests (e.g., consumers, small business concerns, users, producers, manufacturers and others), and committee members' right to appeal committee actions or conditions. Subsection (b)(1)(C) is meant to ensure more than mere representation, but that representation is such in number and in quality that it is effective representation.

Section 102(b)(2)(A) is intended to prevent the use of standards as restrictive or exclusionary devices, by prohibiting the development and adoption of standards which are written around a specific manufacturer's product, that set acceptance criteria too high, and that fail to recognize that the appropriate level of the acceptance criteria may vary from market to market. (In the latter case, for example, the minimum performance, design or construction requirements for a plumbing device might reasonably be different, depending upon such variables as wind velocity, local topography, soil conditions and water characteristics).

Section 102(b)(2)(B) is intended to ensure that standards-development organizations, through inaction—purposely or otherwise—do not allow standards to become outdated and used, purposely or otherwise, to prevent new products from entering the marketplace.

Section 102(b)(2)(C) requires that, generally, performance standards be preferred over design or construction standards.

Section 102(b)(2)(D) is intended to ensure that standards do not limit the manufacturer's freedom to choose any design or construction so long as underlying performance or safety objectives are met. This provision must be considered in light of section 5(3) through (5) and section 102(b)(2)(4).

Section 102(b)(3) is intended to lead to the development of uniform certification procedures which will ensure fair, objective and nondiscriminatory testing, inspection and certification of products.

Section 102(b)(4) provides that where a product fails to meet an applicable design or construction standard, the certifier must determine if the product should be certified as meeting the standard on the basis of the equivalent factor requirement.

Section 102(c)(1) requires that an appeals body established pursuant to section 113(a) must (A) consider complaints filed by any interested person, (B) be competent to hear and decide matters the subject of title I and Commission rules promulgated thereunder, (C) be independent and impartial with respect to the matter that is being appealed, and (D) have the capability to operate fairly and expeditiously. While all interested persons are not given access to the appeals body, a standards developer or certifier may grant such a right.

Section 102(c)(2) requires that standards-development organizations and certification laboratories make known, through appropriate publications, the existence of the procedures, membership and authority of their appeals body.

Section 102(d)(1) is intended to ensure that standards-development organizations and certification laboratories do not market their publications or services to manufacturers, to Federal, state or local governments, or others, in an unfair or deceptive manner.

Section 102(d)(2) is intended to ensure that the use of standards or certificates of approval by manufacturers in connection with the marketing of their products is not done in an unfair or deceptive manner.

Section 102(d)(3) is intended to ensure that manufacturers of products do not unreasonably tie a warranty, service adjustment, dealer reimbursement or similar policy to a specific standard, test, inspection or certificate.

Section 103. Promulgation of Commission Rules

Section 103 describes the procedures the Commission must follow when promulgating rules under this title. Because of the specific nature of the directive to the Commission—that is, section 102(b) through (d) which outline the rules the Commission must promulgate—the procedures generally track the informal rulemaking requirements of the Administrative Practice Act. However, some additional procedural safeguards have been added. This contrasts with the generally more complex and time-consuming procedures followed by the Commission when it proceeds under its general grant of rulemaking on its own motion, without a specific statutory directive covering the subject matter. If the Commission has initiated a rulemaking proceeding under its more complex procedures prior to enactment of this act, then it will not be required to resort back to the less complex procedures set forth in this section, provided it completes such rulemaking, in conformity with requirements of section 102(b) through (d), within the time limits prescribed in section 409.

Section 104. Minimum Requirements

Section 104(a) sets forth the minimum requirements a standards-development organization or certification laboratory must meet prior to commencing its activities.

Section 104(b) prohibits the Commission from establishing any rules which would prevent a standards-development organization or certification laboratory from establishing its own appeals body or from joining with other standards-development organizations or certification laboratories to establish a single appeals body. This section is intended to allow and to encourage certification laboratories to establish a single appeals body under the auspices of the American Council of Independent Laboratories, Inc., for example, or standards-development organizations to establish a single appeals body under the auspices of a similar organization.

Section 105. Enforcement Duties

Section 105(a) provides the Commission with two methods of reviewing standardization activities for possible violation of title I or Commission rules promulgated thereunder. Under section 105(a)(1), the Commission may initiate a review on its own motion. Under section 105(a)(2), it would undertake such review upon a petition filed by any interested person pursuant to section 106.

Section 105(b)(1) recognizes that the considerations of a standard tend to be expressed in technical language; thus, the Commission is required to consult with the Division of Standards and Certification, established in the National Bureau of Standards by this Act, for technical assistance in making a preliminary determination whether or not to institute a formal investigation. This section also allows the Commission to call upon other persons and organizations for technical assistance, to hold public hearings, and to conduct investigations or proceedings as it deems appropriate under the circumstances.

Section 105(b)(2) requires the Commission to consider all possible aspects of injury to competition and consumers which may result from standardization activities, even when a petitioner has failed to raise these issues.

Section 105(c) provides that where the Commission finds that the standardization activity may constitute a violation of title I or Commission rules promulgated thereunder, and that further action by the Commission would be in the public interest, then the Commission shall initiate a formal investigation.

Section 105(d) bars the Commission from entertaining petitions filed prior to sixty days after the effective date of its rules promulgated under this title.

Section 106. Relief

Section 106(a) sets the procedure and criteria for filing a petition with the Commission as referred to in section 105(a)(2). In the main, the procedure is informal and is intended to facilitate easy access to Commission review of possible violations.

Section 106(b) permits the Commission to require a petitioning party to exhaust reasonable rights of appeal provided by a standards-development organization or certification laboratory as required by this title and Commission rules promulgated thereunder, before making a preliminary determination under section 105, unless the petitioning party can establish a *prima facie* case to the satisfaction of the Commission that such appeal procedures will deprive such party of a prompt and effective appeal. This provision is meant (1) to afford standards-development organizations and certification laboratories, the subject of a petition, an opportunity to resolve disputes without government interference, (2) to keep frivolous petitions out of the Federal Trade Commission, and (3) to keep the Federal Trade Commission involvement to a minimum.

Whenever the Commission requires the petitioner to first exhaust such appeal rights, the one hundred twenty day period, under subsection (c), is automatically stayed.

Section 106(c) requires the Commission to either grant or deny a petition within one hundred twenty days.

Section 106(d) requires the Commission to issue a written determination to the petitioner when it denies a petition.

Section 107. Standards-Development Organizations and Certification Laboratories

Section 107(a) requires organizations developing, sponsoring or adopting standards or conducting the business of certifying products, in or affecting commerce, to obtain a certificate from the Department of Commerce for the purpose of conducting such activities. It also requires the Secretary to devise an appropriate procedure for administering the certificate program.

Section 107(b) requires the Secretary, in making his determination whether to grant, deny or withdraw a certificate, to examine all the facts as reported or otherwise coming to his knowledge.

Section 107(c) permits a certification laboratory, which also develops, sponsors or adopts standards, to seek a single certificate to conduct both activities.

Section 107(d)(1) allows a standards-development organization or certification laboratory to obtain an informal Letter of Compliance from the Commission to present to the Secretary for the purpose of showing that it has complied with the requirements of section 104(a).

Section 107(d)(2) allows the Commission to delegate its duty under subparagraph (1) to an appropriate bureau or division.

Section 107(d)(3) requires that the informal Letter of Compliance be issued to the requesting organizations within ninety days after receipt. Section 107(d)(4) requires the Commission to advise the requesting organization how it might come into compliance where the Commission advises such organization that it is not in compliance with the requirements of section 104(a).

Section 107(e) states that the informal Letter of Compliance shall not be binding on the Secretary in making his determination to grant or deny a certificate. He shall treat it as a fact reported or otherwise coming to his knowledge. The informal Letter of Compliance, which is based upon the information available to the Commission at the time of the request, must be contrasted with the notice required under section 110(a), where the Commission finds a violation of this title or Commission rules promulgated thereunder after conducting a formal investigation.

Section 108. Financial Assistance

Section 108(a) permits a not-for-profit standards, development organization to seek financial assistance for the purposes of complying with the requirements that the membership of standards-development committees be balanced to ensure effective representation of all affected interests and that standards-development organizations establish an appeals body.

Section 108(b) sets forth the requirements that a standards-development organization must meet before it is eligible to apply for financial assistance under subsection (a).

Section 108(c)(1) states that certification laboratories are not generally eligible for financial assistance, and sets forth the limited conditions under which a not-for-profit certification laboratory may apply for financial assistance.

Section 108(c)(2) requires a certification laboratory requesting financial assistance to show that the additional financial burden resulting from compliance with sections 102 (b)(1)(C) and 113(a) is directly attributable to standards-development activities.

Section 109. Remedies

Section 109(a) states that violations of this title or of Commission rules promulgated thereunder shall be prosecuted as and in the same manner as a violation of section 5 of the Federal Trade Commission Act.

Section 109(b)(1) through (7) sets forth the various remedies available to the Commission when it finds that a standardization act or practice violates this title or Commission rules promulgated thereunder.

Section 109(c) allows the Commission to order (1) modification of a proposed or an existing standard, (2) development of a new standard, or (3) substitution of an existing standard for a standard more commonly relied upon, but found objectionable, where it determines such action to be the appropriate remedy.

Section 109(d)(1) requires the Commission to give the organization in question an opportunity to modify a proposed or an existing standard or develop a new standard where the Commission determines that to be the appropriate remedy.

Section 109(d)(2) allows the Commission, when it has reason to believe that the organization in question will not or cannot modify a proposed or an existing standard in an acceptable manner or develop a new private persons or organizations to either (1) modify the standard or develop a new standard, or (2) consult with these Government agencies or private persons or organizations for evaluation of a modification of the standard or development of a new standard.

Section 109(d)(3). When the Commission orders substitution of an existing standard for a standard more commonly relied upon, this section requires the Commission to consult with the Division to determine if the proposed substitute is an acceptable standard.

Section 109(d)(4)(A) requires the Commission, when it proceeds under paragraph (2), to first seek an evaluation report of what would be an acceptable standard, and then require the organization in question to develop an acceptable standard using the evaluation report as a guide.

Section 109(d)(4)(B) is intended to ensure that the purpose of this Act of keeping government intervention in the standardization process to a minimum is carried out.

Section 109(e) provides that any person who violates any provision of title I or any Commission rule promulgated thereunder is liable for $10,000 for each violation and empowers the Commission, through its general counsel, to commence a civil action in the district court of the United States to recover such amount for each such violation.

Section 110. Notice to Secretary, Federal Departments and Agencies

Section 110(a) requires that whenever the Commission finds that a standardization act or practice violates any provision of title I or any Commission rule promulgated thereunder, it shall notify the Secretary and those departments and agencies relying on the publications or services of the organizations in question of its findings and conclusions, by publishing the same in the Federal Register.

Section 110(b)(1) requires departments and agencies to cease using or relying upon an organization's publications or services, within a reasonable time, where the Commission notifies them that the organization in question is in violation of this title or Commission rules promulgated thereunder. A reasonable time shall be six months, unless the Commission grants a longer period.

Section 110(b)(2) sets forth the action a department or agency must take when it is making use of a standard which the Commission has ordered a standards-development organization or certification laboratory to modify or withdraw. Departments and agencies will have to cease using the standard after two years following receipt of the Commission's notice, unless the organization complies with the Commission's order before. Departments and agencies should use a shorter time table, if possible.

Section 111. Federal departments and agencies participating in standards development.

Section 111(a) requires the head of each department or agency to take steps to ensure that employees, who participate in private standardization activities, are familiar with the requirements of this title and Commission rules promulgated thereunder.

Section 111(b) places a duty upon a participating Federal officer of employee to take steps, as necessary, to ensure that standardization activities are conducted in accordance with the provisions of this title and Commission rules promulgated thereunder, and set forth the procedures he is to follow to ensure such compliance.

Section 111(c) allows and requires the agency head to file a petition with the Federal Trade Commission where the officer or employee has failed to correct the nonconforming act or practice pursuant to the procedures set forth in subsection (b) and the agency head, after reviewing the facts, has reason to believe that this title or Commission rules promulgated thereunder have been violated.

Section 112. Federal use of national standards

Section 112(a) is intended to avoid duplication and the waste of Federal employees' time and Federal funds, by requiring Federal agencies to develop rules and procedures which will encourage the use of acceptable private standards. The section is written so as to give departments and agencies the flexibility to avoid using restrictive standards or standards which are below their acceptance criteria.

Section 112(b) requires the Secretary to create a Library of Standards which shall list all national standards developed by organizations holding a certificate under section 107(b).

Section 113. Appeals body

Section 113(a) requires an organization seeking a certificate under section 107(b) to establish an appeals body.

Section 113(b) states that an appeals body established pursuant to section 113(a) is granted no power under this Act to enforce compliance with its orders or decisions. Such an appeals body derives its powers and authority from the organization(s) establishing it.

Section 113(c) provides that a standards-development organization or certification laboratory shall act in good faith in determining whether and to what extent it will abide by an order or decision of an appeals body.

Section 113(d). The effect of this section is to prevent the Commission from seeking punitive relief where a standards-development organization or certification laboratory has, in good faith, complied with an order or decision of an appeals body.

Section 114. Judicial review

Section 114(a) sets out the procedures for judicial review of Commission rules, orders and decisions pursuant to this title.

Section 114(b) provides for an exception to subsection (a) by allowing a party to bring an action in the United States District Court for the District of Columbia to compel the Commission to initiate a formal investigation.

Section 114(c) sets forth the scope of review and the burden of proof that the petitioning party must meet in seeking review of the Commission's decision not to initiate a formal investigation.

Section 114(d) states that in an action under subsection (b), the court shall have no authority to compel the Commission to take any action other than the initiation of a proceeding in accordance with section 105(c).

Section 114(e) states that where a party has a right to bring an action in the United States District Court, under this title, the court shall have jurisdiction without regard to the citizenship or residence of the parties or the amount in controversy.

TITLE II—INTERNATIONAL STANDARDIZATION

Title II recognizes the emergence of international standards which may have far-reaching consequences on our balance of trade and balance of payments. Thus, the general purpose of this title is to ensure adequate representation of the United States interests in international standardization activities by promoting and supporting the participation of national standards-development organizations that are certified to conduct such activity under title I. The title also sets forth procedures and safeguards to ensure that such activity is conducted in a manner consistent with our free enterprise system.

Section 201. Department of Commerce

Section 201(a) vests in the Secretary of the Department of Commerce primary authority for administration of titles II and III.

Section 201(b) establishes a Division of Standards and Certification in the National Bureau of Standards to assist and advise the Secretary and the Commission in carrying out their respective duties and responsibilities under this Act.

Section 202. Secretary's duties and authority

Section 202 sets out the specific powers and duties of the Secretary relating to international standardization activities. These include: (1) identification of international standardization activities important to the United States trade and commerce; (2) providing for appropriate participation in such international activities; (3) encouraging the use of international standards and certification systems by departments and agencies of the United States; (4) consultation and coordination, as appropriate, with the Secretary of State; (5) ensuring an optimum degree of reliance on private standards-development organizations that operate in accordance with title I; (6) conducting investigations and studies as necessary in furtherance of his duties under this title; (7) entering into grants and contracts; and (8) establishing policies and prescribing rules, regulations, procedures and fee schedules as may be necessary for effective administration under this title.

Section 203. Designation of representatives and responsibilities

Section 203(a) empowers the Secretary to provide for arrangements with private not-for-profit standards-development organizations to represent the United States interests in international standardization activities.

Section 203(b)(1) through (4) requires the Secretary to establish guidelines for the selection and participation of private persons to represent the United States interest in international standardization activities, and for their removal. The Secretary's guidelines must contain provisions to implement the requirements of paragraph (1) through (4) of this section. The requirements of paragraph (1) through (4) are in addition to any of the Secretary's guidelines may establish.

Section 203(c) requires the Secretary to remove and prohibit future participation of a private person in international standards-development activities, pursuant to this title, where such person fails to comply, in any material way, with section 203(b) (2) or (3).

Section 204. Governmental participation

Section 204(a) requires the Secretary to provide for direct governmental participation where he determines that participation by a private organization is insufficient or where he is unable to arrange for private participation.

Section 204(b) requires the Secretary to consult with the Policy Guidance Committees established under section 209(a) before providing for direct governmental participation.

Section 204(c) allows departments and agencies to provide technical assistance to the Secretary and special technical services of its employees to private not-for-profit organizations to assist in the performance of international standardization activities. The Secretary is to be kept informed of such services supplied to private not-for-profit organizations.

Section 205. Review Procedures

Section 205(a) requires that prior to listing any international standard or international certification system, the Secretary must determine that it is in the public interest.

Section 205(b) sets out the "public interest" criteria that the Secretary must consider. These include criteria relating to (1) the public and occupational health and safety, and environmental quality, (2) the United States balance of trade and balance of payments, (3) the effect on competition and on consumers in the United States, (4) the support for such listing by persons identified in section 102(b)(1)(C), (5) the views of the public and private Policy Guidance Committee established under Section 209, and (6) the technical adequacy, need and appropriateness of the standard system.

Section 205(c) requires the Secretary to publish a notice in the Federal Register of his intent to list a standard, system, or modification of a standard or system. It also requires the Secretary to include a brief description of the standard, the system, or the modification of a standard or system, and an invitation for any person to submit comments with regard to the criteria under subsection (b) or any other data, views or arguments. The brief description requirement of this subsection must be viewed in light of the requirement respecting this matter in subsection (d).

Section 205(d) requires the Secretary to provide persons desiring to comment upon the standard, the system or the modification of a standard or system with a complete text of the standard, the system or the modification he intends to list. It also allows him to provide for longer periods to submit comments pursuant to subsection (c) or to extend the sixty day period provided therein.

Section 205(e) requires the Secretary to list all international standards and international certification systems in the Library of Standards, unless it is not in the public interest. The Division is required to make a complete text of each listed standard and each listed system available to the public.

Section 206. Evaluation and Accreditation

Section 206(a) requires that where the Secretary has made the determination that it is in the public interest for the United States to participate in international certification systems, he must establish procedures to evaluate and accredit test procedures used by foreign certifiers for the purposes of documenting compliance with a standard.

Section 206(b) requires the Secretary to incorporate into his procedures for the evaluation and accreditation of foreign certifiers, pursuant to subsection (a), the items set out in section 307(b)(1) and (2) to ensure that such certifiers have the facilities, personnel, procedures, etc., to test and certify products.

Section 206(c) requires that the evaluation, accreditation and audit of foreign certifiers be done in accordance with section 310.

Section 207. Fees and Charges

Section 207 provides that the Secretary may establish and assess fees and charges where information and services are provided under sections 112(b) and 205(e) and for the evaluation, accreditation and auditing of foreign certifiers under section 206.

Section 208. Federal Use of International Standards and Systems

Section 208 requires departments and agencies to develop rules and procedures certification systems listed pursuant to section 205(e) in the procurement of supplies and services.

Section 209. Policy Guidance Committees

Section 209(a) provides for establishment of both a public and a private policy guidance committee to assist and advise the Secretary in carrying out his responsibilities under this title. The section sets forth the departments, agencies, and interests to be represented on the committees.

Section 209(b) requires the Secretary to consult with the committees when considering whether a particular international standardization activity would be in the public interest, and to keep the committees informed of all international standardization activities pending before him. These requirements, however, are not intended to require that the Secretary keep the committees informed of every action he or those operating at his direction take regarding international standardiziation activities.

Section 209(c) excludes the Federal Trade Commission from the interagency committee established under subsection (a).

Section 210. Federal Trade Commission and Private Parties

Section 210(a) permits the Federal Trade Commission or any interested person, as the term is defined in section 5(22), to petition the Secretary for delisting of an international standard or international certification system on grounds that such listing is not in accord with the criteria set out in section 205(b), or that the listing may relate to a violation of the antitrust laws.

Section 210(b) allows the Commission to intervene, as a matter of right, in any action to have an international standard or international certification system delisted.

Section 210(c) states that a petition to delist an international standard or international certification system must contain facts and information supporting the action in question.

Section 210(d) describes the procedures the Secretary must follow when considering petitions filed pursuant to subsection (a). This provision's requirements include procedures under section 553 of the Administrative Procedure Act. It also provides that the petitioning party may present data, views or arguments orally as a matter of right and that intervening persons must be granted this right when requested by the Commission. The Commission always has the right to present its data, views or arguments orally.

Section 210(e) permits the Secretary to decline to act on a petition filed by a party other than the Commission where it appears that such petition is not meritorious. In such cases, the Secretary is required to provide, within one hundred twenty days, a written statement to the petitioner stating his reasons for declining to act.

Section 211. Judicial Review

Section 211(a) provides that judicial review of the Secretary's determinations may be had in the United States Court of Appeals and distinguishes between the limited right given the Commission and the traditional right given private persons to seek review of an agency's decisions.

Section 211(b) provides that judicial review of the Secretary's determination is to be in accordance with chapter 7 of title 5, United States Code.

Section 211(c) provides for an exception to subsection (a) where a party other than the Federal Trade Commission petitions the Secretary to delist a standard or system and he refuses to initiate a proceeding in accordance with section 210(d). The exception allows the petitioner to bring a civil action in the United States District Court for the District of Columbia to compel the Secretary to initiate a proceeding as described in section 210(d).

Section 211(d) sets forth the burden of proof that a petitioner must meet in seeking review of the Secretary's determination under subsection (c).

Section 21(e) states that in an action under subsection (c) the court shall have no authority to compel the Secretary to take any action other than the initiation of a proceeding in accordance with section 210(d).

Section 211(f) states that where a party has a right to bring an action in the United States District Court, under this title, the court shall have jurisdiction without regard to the citizenship or residence of the parties or the amount in controversy.

Section 212. Report

Section 212 requires the President to submit to the Congress an annual report regarding activities under this title.

TITLE III—ACCREDITATION

Title III recognizes that the standardization and certification of products has become an acceptable means of marketing producer and consumer goods. It also recognizes that a few certification laboratories have achieved quasi-monopoly status. Thus, its more general purpose is to increase competition in the testing, inspection and certification of products.

Section 301. Voluntary National Laboratory Accreditation Program

Section 301 requires the Secretary to develop a voluntary program for the accreditation of certification laboratories.

Section 302. Secretary's Duties and Authority

Section 302(a) requires the Secretary to identify, as soon as practical those classes of technology or specific products for which it is in the public interest to accredit certification laboratories.

Section 302(b)(1) is meant to ensure that all interested persons have an opportunity to comment on the Secretary's preliminary findings that it is in the public interest to accredit laboratories.

Section 302(b)(2) is meant to require, to the extent possible, that products be placed into classes of technology for the accreditation of laboratories rather than attempting to accredit laboratories for specific products.

Section 302(b)(3) requires the Secretary to evaluate the comments received pursuant to paragraph (1) before making his final decision. His final decision must be published for public review.

Section 302(b)(4) sets forth the procedures the Secretary must follow if his final decision is that it is in the public interest to accredit certification laboratories for a class of technology or a specific product.

Section 302(c)(1) through (8) set forth the items that the Secretary's preliminary findings must address where he determines that it is in the public interest to accredit certification laboratories for a class of technology or a specific product.

Section 303. National Laboratory Accreditation Criteria Committee

Section 303(a) requires the Secretary to establish a criteria committee to develop general and specific criteria to accredit certification laboratories that serve a class of technology or a specific product when he determines it is in the public interest.

Section 303(b) requires that the membership of a criteria committee be made up of representatives of all affected interests as identified by section 102(b)(1)(C) and Commission rules promulgated thereunder.

Section 303(c) allows the Secretary to establish additional rules and procedures for criteria committees which may be necessary to carry out the purpose of this Act.

Section 304. Development of General and Specific Criteria

Section 304(a) requires the Secretary to publish the complete text of proposed general and specific criteria developed by a criteria committee, and allow all persons desiring to do so an opportunity to comment on the proposed criteria.

Section 304(b) requires the criteria committee, at the request of the Secretary, to review the comments received pursuant to subsection (a) and to provide the Secretary with its evaluation and recommendations respecting such comments.

Section 304(c) requires the Secretary to review the criteria committee's evaluation and recommendations received pursuant to subsection (b), and to announce a final decision as provided for in paragraphs (1), (2) and (3) of this section.

Section 305. Notice and Publication

Section 305(a) requires that the Secretary's notice published pursuant to section 302(b)(1) and section 304(a) carry a statement that all persons will have at least thirty days to submit their written comments.

Section 305(b) allows all persons to express their views in an informal hearing if they notify the Secretary within fifteen days after the notice required under sections 302(b)(1) and 304(a) is published.

Section 305(c) provides that where informal hearings are held, the period allowed for the submission of written comments shall be extended to the date on which such hearings are held.

Section 305(d) requires the Secretary to make all publications required by him under this title in the Federal Register.

Section 306. Laboratory Accreditation Procedure

Section 306(a)(1) requires the Secretary to develop a procedure whereby certification laboratories may gain accreditation.

Section 306(a)(2) requires the Division to maintain and publish a current list of all laboratories accredited, including the class of technology or specific product for which they are accredited.

Section 306(b) prohibits the accreditation of a single laboratory for a specific product, since "sole source" laboratories are precisely the anti-competitive situation title III is intended to remedy. This provision is also intended to prevent, to the extent possible, a manufacturer from setting up its own accredited laboratory for the purpose of certifying its own products.

Section 306(c) allows any person, as the term is defined in section 5(1), to petition the Secretary to find that it is in the public interest to accredit certification laboratories for a class of technology or a specific product. The petition must be in writing and address the items in section 302(c)(1) through (8). This provision also provides that the Secretary may seek additional information when he deems appropriate.

Section 306(d) states that where the Secretary denies a petition filed under subsection (c) he shall notify the petitioner, in writing, within ten working days after making his final decision and set forth his reasons for denying the petition.

Section 306(e) requires that where the Secretary, based upon a petition filed pursuant to subsection (c), finds that it is in the public interest to accredit certification laboratories in a class of technology or a specific product, he must proceed in the same manner as if he had acted upon his own initiative.

Section 307. Duties and Authority of Criteria Committee

Section 307(a) requires a criteria committee, at the request of the Secretary, to develop general and specific criteria to accredit certification laboratories that serve a class of technology or a specific product for which he has decided it is in the public interest.

Section 307(b)(1)(A) through (D) sets forth the minimum requirements that the criteria committee must address in establishing general criteria for a class of technology or a specific product.

Section 307(b)(2)(A) through (F) sets forth the minimum requirements the criteria committee must address in establishing specific criteria for a class of technology or a specific product.

Section 307(c)(1) allows a criteria committee to establish additional general and specific criteria when necessary and appropriate.

Section 307(c)(2) allows a criteria committee to consult with outside individuals or groups, in both the government and private sectors, and requires that all such communication be made a matter of public record.

Section 307(d)(1) prohibits a criteria committee from establishing any criteria which will have the effect of precluding a laboratory from using outside facilities.

Section 307(d)(2) is a general provision which prohibits a criteria committee from establishing unnecessarily stringent criteria.

Section 307(d)(3) is meant to preclude a criteria committee from taking any action in the general standardization process which title I addresses. And, in no event will a criteria committee develop general or specific criteria which would result in the promulgation of a product standard, test methods or the modification of a product standard or a test method.

Section 308. Accreditation of Certification Laboratories

Section 308(a) states that if a certification laboratory meets the general and specific criteria established for a class of technology or a specific product, and meets all applicable provisions of this title and rules promulgated thereunder, it shall be granted accreditation.

Section 308(b). The effect of this section is to prohibit any limitation upon the number of classes of technology or specific products for which a laboratory can be accredited.

Section 308(c) recognizes that a single class of technology may include many different products and that new products are constantly being introduced into the marketplace; thus it prohibits the Secretary from setting forth the unreasonable requirement that a laboratory demonstrate that it has the capabilities of testing, inspecting and certifying all products in a given class of technology before it can gain accreditation. This provision should be viewed, however, in conjunction with sections 309(5) and 311(f).

Section 308(d). The effect of this section is to give a certification laboratory automatic accreditation for new products which fall within a class of technology for which it is already accredited. However, this section must be viewed in conjunction with sections 309(5) and 311(f).

Section 308(e)(1) requires the Secretary to set forth his reasons in writing when he denies a laboratory accreditation.

Section 308(e)(2) provides that where the Secretary denies a laboratory accreditation, it can request an informal hearing for reconsideration.

Section 309. Audit, Advertising, Fees and Records

Section 309 (1) through (7) sets forth obligations and duties that a laboratory undertakes by accepting accreditation under the provisions of this title. A laboratory's failure to fulfill these obligations may result in withdrawal of its accreditation under section 311(f).

Section 310. Evaluation and Accreditation

Section 310(a). The effect of this section is to require that evaluation and accreditation of certification laboratories under this title and under title II be carried out by the Division of Standards and Certifications or by a person or an organization designated by it.

Section 310(b) allows the Division of Standards and Certification to enter into contracts with private persons or organizations for the purpose of carrying out its responsibilities under subsection (a).

Section 311. Removal, Withdrawal or Termination of Accreditation

Section 311(a) requires the Secretary to develop procedures for allowing a certification laboratory to withdraw from the Voluntary National Laboratory Accreditation Program at any time by giving written notice to the Secretary.

Section 311(b) recognizes that we live in a society where technology advances at a rapid pace; thus, it allows the Secretary to move products from one class of technology to another, to merge classes of technology, or to divide a single class of technology into other classes of technology.

Section 311(c) allows the Secretary, by complying with the requirements of subsection (d), to cease accreditation of laboratories when he finds there is no longer a public need.

Section 311(d) requires that where the Secretary decides to move a product from one class of technology to another, etc., under subsection (b), or to cease accreditation for a class of technology or for a specific product, under subsection (c), he must (1) issue and publish his preliminary findings; (2) allow sixty days for interested persons to submit written comments; and (3) give those who want to express their views in an informal hearing an opportunity to do so if notified within thirty days after the issuance and publication of his preliminary findings.

Section 311(e) requires the Secretary to evaluate the comments received pursuant to subsection (d) and publish a notice of his final findings or a notice withdrawing his preliminary findings.

Section 311(f) vests the Secretary with the authority to withdraw a laboratory's accreditation if it fails to comply with the requirements of section 309 and subsections (b) and (c)(1) of section 307.

This section should not be construed as limiting the Secretary's authority to withdraw a laboratory's accreditation for not conforming with other applicable provisions of this title.

Section 312. Federal Departments and Agencies

Section 312(a) requires all departments and agencies to use the services of laboratories accredited and listed by the Division.

Section 312(b) requires departments and agencies requiring the services of a certification laboratory, when there is presently no laboratory accredited by the Division and no accreditation program established, to seek accreditation in the same manner that a private person would, except to the extent not required by this section.

Section 312(c) allows a department or an agency to establish its own accreditation program, provided it can show that being required to proceed in accordance with subsection (b) would be too time consuming or would seriously hamper its functions.

Secton 312(d). The effect of this section is to exclude those departments or agencies required by law to examine or accredit certification laboratories from the reach of this title, but in order to carry out the overall purpose of this Act, such agencies may, by agreement, allow the Division to perform the function of examining and accrediting certification laboratories.

Section 312(e) requires that where the Division is examining or accrediting a certification laboratory on behalf of another department or agency it must do so under the law which requires the department or agency to perform such functions.

Section 313. Judicial Review

Section 312 provides tha judicial review of the Secretary's decisions under this title shall be had in accordance wih subsection (b) of section 211.

TITLE IV—MISCELLANEOUS PROVISIONS

Section 401. Director of the Division

Section 401(a) requires the Secretary to appoint a Director of the Division of Standards and Certifications established by this Act.

Section 401(b) provides that the Director shall have general supervision of the Division. This provision requires the Director to make an annual report to the Secretary and allows him to issue bulletins, when necessary, for public distribution.

Section 402. Recordkeeping Requirements

Section 402(a) requires the recipients of Federal funds under this act to keep such records and make such reports as required by the provisions of this act and rules promulgated thereunder.

Section 402(b) requires organizations receiving Federal funds under this act to allow the Secretary and the Comptroller General of the United States, or any other duly authorized representative to have access to any books, documents, papers and records for the purposes of audit and other purposes.

Section 403. Metric Conversion Act

Section 403 gives recognition to the Metric Conversion Act of 1975 and its intended purposes.

Section 404. Amendment

Section 404 amends the term "Corporation" in section 4 of the Federal Trade Commission Act (15 U.S.C. 44). This provision should not be read as implying that the Commission does not presently have jurisdiction over such organizations; its purpose is merely to clarify the Commission's jurisdiction.

Section 405. Immunity

Section 405 states that no national or international standardization activity engaged in by any private person or organization, with or without participation or approval by governmental bodies of the United States, shall be exempt or immune from the operation of the antitrust laws.

Section 406. Effect on Other Laws

Section 406(a) provides that nothing contained in this Act shall be construed to repeal, invalidate or supersede the antitrust laws.

Subsection 406(b) provides that international standardization activities conducted pursuant to title II shall not preempt in any way any international military standardization activities conducted by the Department of Defense.

Section 406(c) provides that any rights or cause of action this act provides to any person is in addition to any right or cause of action said person may have under any other statute or at common law to seek redress.

Section 407. Separability

Section 407 provides that if any title or any provision of this act, or the application of such title or such provision to any person or circumstance, shall be held invalid, the remainder of this Act, or the application of such titles or provisions to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

Section 408. Authorization of Appropriations

Section 408(a) sets forth the appropriations for the Commission for the fiscal years 1978, 1979, and 1980.

Section 408(b) sets forth the appropriations for the Department for the fiscal years 1978, 1979, and 1980.

Section 409. Effective Date

Section 409(a) through (c) set forth the effective date of this act and Commission rules promulgated under title I.

Section 409(d) provides that titles II and III shall become effective one year after final publication of Commission rules under title I.

By Mr. FANNIN (for himself, Mr. GOLDWATER, Mr. DOMENICI, and Mr. MONTOYA):

S. 3558. A bill to amend the act of December 15, 1971, relating to the Navajo Community College. Referred to the Committee on Interior and Insular Affairs.

NAVAJO COMMUNITY COLLEGE ACT AMENDMENTS

Mr. FANNIN. Mr. President, today I am introducing legislation to amend the Navajo Community College Act. This legislation is designed to reauthorize Federal financial assistance to meet the college's continuing construction needs and rectify some serious problems in connection with the language which provides Federal funds for operational costs. My colleagues, Senator GOLDWATER and the distinguished Senators from New Mexico, Senators MONTOYA and DOMENICI, are joining me in sponsoring this legislation.

In response to a clearly perceived need for a permanent authorization for Federal financial assistance, Congress passed and President Nixon approved the Navajo Community College Act on December 15, 1971.

With enactment of Public Law 92–189, the college was able to begin construction of its campus at Tsaile, Ariz., which is in the heart of the Navajo reservation. In addition, Federal financial assistance assured the college of a predictable funding source to meet its operational costs.

Over the last 5 years, the college has grown and matured. In a physical sense, the college has moved from its temporary quarters at the BIA Many-Farms High School to its permanent quarters at its 1,200-acre campus at Tsaile. With $14.5 million in construction funds, of which $5.5 million were provided for under the act by the Federal Government, the college has constructed a campus consisting of 10 student dormitories, a library containing 50,000 volumes, a student union and cafeteria, 1 general classroom building, a vocational education facility, 50 faculty homes, and a just completed cultural and educational center.

But more importantly, the college is realizing its goals of providing a significant educational opportunity for Indian people. When the college opened in 1969, its enrollment was approximately 301 students. Seven years later, its enrollment had grown to 1071, of which 300 were residing on campus. In terms of graduates, the college has graduated 150 students since 1969, 80 of which chose to continue their education at 4-year institutions. As of May 1976, 51 had received bachelors degrees, 10 had obtained masters and 2 are currently working on a doctorate's in the field of education.

The true test, however, of any college is whether it can meet the rigorous standards for accreditation. The college has been under study by the North Central Accreditation Association, and the final site visit of the accreditation team was completed in April of this year. The college is anticipating receiving its accreditation sometime this fall. If granted, the college will have taken a major step in its growth, signifying its serious intention to provide a solid, sound educational program for its students. But more importantly, accreditation will give the college the impetus for progress and stability which is fundamental to any college which seeks to effectively serve not only its students, but the larger community as well. Nowhere is this fact more clearly recognized than at the Navajo Community College.

Yet, the Navajo Community College faces new challenges which this legislation addresses. First, the college is without sufficient construction funds to complete its campus at Tsaile and to develop its satellite campus program. At Tsaile, funds are needed to construct additional housing to accommodate 700 resident students, an increase of approximately 400 over the present enrollment. A student population of 700, however, will require additional housing for faculty as well as ancillary staff and other personnel. It is anticipated that the funds appropriated under this legislation over the next 5 years will complete the Tsaile campus as well as enable the college to accommodate its rising enrollment. In addition, the college, because of this rising demand for its services throughout the reservation, has planned satellite campuses to serve students in other parts of the reservation who are unable to attend classes at Tsaile.

In addition to authorizing additional construction funds, this legislation proposes to change the existing formula for allocating funds to meet the operational costs of the college. Since enactment, the Federal Government has provided $10 million for operational costs under the language of Public Law 92–189. Existing law authorizes:

> An annual sum for operation and maintenance of the college that does not exceed the average amount of the per capita contribution made by the Federal Government for the education of Indian students at federally operated institutions of the same type.

The proposed amendment would change the present language of the law to read:

> An annual sum for operation and maintenance of the college equal to the average amount of the per capita contribution made by the Federal Government.

The purpose for changing the language for operation and maintenance, that is, from "not to exceed" to "equal to" is necessary because the Secretary of the Interior and specifically, the Bureau of Indian Affairs, has never provided adequate funds to operate and maintain the college. College officials had assumed from the discussions with the testimony presented to the Subcommittees on Interior and Insular Affairs in both the House and the Senate, that the college would receive an amount which was to be the average of several postsecondary institutions operated by the Bureau of Indian Affairs, but not to exceed the average of these several schools. The unclear language contained in the present law has created confusion for both Federal and college officials. This has resulted in lower per capita allocations from the Bureau of Indian Affairs. To correct this less than adequate funding, the college has had to request an add-on directly from the Congress each year since 1972. Approximately $3 million has had to be provided by the Congress in an attempt to bring the college's operational funding to a par with other BIA supported schools. Nevertheless, these additional funds failed to meet the operational costs of the college. The proposed language should rectify this serious error while assuring the college of a more stable level of operational funding.

Another problem associated with the operational funding of the college has been the policy of the Bureau of Indian Affairs to treat Navajo Community College funding as being within the funds allocated to the Navajo Tribe. Under the Bureau's budget procedures, known as band analysis, an amount for higher education is made available to the Navajo Tribe, which the tribe then allocates to various programs, including the college. This arrangement results in unnecessary conflicts between the college and the tribe over the level of funding for the college. It puts the college in competition with other Navajo programs which the Congress, I am sure, never intended.

While I can appreciate the effort by the Bureau to give the tribe the maximum opportunity to influence the distribution of funds which directly affect its operations, the inclusion of the Navajo Community College within that framework is unreasonable and unacceptable. The proposed legislation is designed to remedy this problem by authorizing a direct appropriation to the college. Our intent is to eliminate the application of the band analysis system since its role is without foundation given the existence of a statutory formula which allocates funds for the college's operations. In view of the existing formula, there is no need for the band analysis system in determining the level of funds. The Bureau's position on this matter and its clear reference to the potential for a budgetary conflict with the tribe is contained in an April 18, 1975 letter which I ask to have printed in the RECORD following these remarks.

Mr. President, the Navajo Community College is the first college established on an Indian reservation, and its commitment to serving the challenging educational needs of Indian people is worthy of Federal support. The amendments I am proposing will strengthen the college and make it an even more viable instrument in the continuing effort to realize the educational ambitions of our Indian citizens.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill and letter were ordered to be printed in the RECORD, as follows:

S. 3558

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 4 of the Act entitled "An Act to authorize grants for the Navajo Community College, and for other purposes", approved December 15, 1971 (85 Stat. 646), is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 4. (a) For the purpose of making grants under this Act, there are hereby authorized to be appropriated, for each of the fiscal years 1978, 1979, 1980, 1981, and 1982, the sum of $10,000,000 for construction, plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations from 1975 construction costs as indicated by engineering cost indexes applicable to the types of construction involved.

"(b) There is further authorized to be appropriated to the Navajo Community College an annual sum for operation and maintenance of the college equal to the average amount of the per capita contribution made by the Federal Government to the education of Indian students at federally operated institutions of the same type.

"(c) Sums appropriated pursuant to this section for construction shall remain available until expended.".

BUREAU OF INDIAN AFFAIRS,
Washington, D.C., April 18, 1975.

Hon. PAUL FANNIN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR FANNIN: This is in reply to your letter of March 18 concerning the financial request of Navajo Community College for Fiscal Year 1976. True, the tentative amount of $2,058,000 for Fiscal Year 1976 is $1,000,000 less than the Fiscal Year 1975 allotment because in 1975 the $1,000,000 was an add-on to the budget request of $2,058,000.

Public Law 92–189, the Navajo Community College Act of 1971, provides that an annual sum may be appropriated for the operation and maintenance of Navajo Community College "that does not exceed the average amount of the per capita contribution made by the Federal Government to the education of Indian students at federally operated institutions of the same type." The Bureau of Indian Affairs operates one institution of the same type, namely, Haskell Indian Junior College. The per capita amount requested for Haskell Indian Junior College in the Fiscal Year 1976 budget is $4,384. Assuming that Navajo Community College were funded at the same level, on a per capita basis, as Haskell Indian Junior College and projecting a full-time equivalent enrollment of 500 pupils at Navajo Community College in Fiscal Year 1976, the maximum funding that could be requested under the law would amount to $2,192,000. This amount is derived by multiplying $4,384 by 500. This computation is in accordance with Section 104 of the Act. The full-time-equivalent enrollment projection of 500 represents an increase of approximately 18 percent over last semester's actual experience.

As you know, the law does not make it mandatory that the maximum amount allowable under the law be made available to the College. Our Bureau has taken the position in accordance with the law and budgetary policy that the funds be made available to the Navajo Tribe with the Tribe considering the funding for Navajo Community College along with the funding needs of all other Navajo higher education students applying for scholarship assistance. These determinations are made at the area and tribal level.

While the funding for Navajo Community College is considered along with the funding for scholarship grants for other Navajo students, the budget development format does not differentiate between the two with respect to amounts. Only the total requested for higher education for the Navajo is shown and that total is $6,146,800 for Fiscal Year 1976. The $2,058,000 was not recorded at any level in the budget process. It has been used in informal discussions with Navajo Area personnel to indicate that to the best of their knowledge the amount for Navajo Community College will remain approximately the same as the Fiscal Year 1975 budget request.

It is entirely possible that as firmer projections on full-time-equivalent students at Navajo Community College become available, the amount for Navajo Community College could be increased at the discretion of the Tribe. However, it must be kept in mind that if the Navajo Community College amount is increased, the amount available for individual grants would correspondingly be decreased since the total $6.1 million remains fixed. The Tribe would, of course, have to consider the demand for individual college grants in making such determination.

With respect to the request for additional construction funds in 1976, it is our opinion that new authorizing legislation must be passed before further financing could be requested by the Bureau. Section 4 of the P.L. 92–189 provides authorization for funds to be appropriated "not to exceed $5,500,000 for construction, plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations from 1971 construction costs as indicated by engineering cost indexes applicable to the types of construction involved." The total amount authorized has been appropriated.

We trust this information will be of assistance to you. Thank you for your support of the Bureau's education program.

Sincerely yours,

MORRIS THOMPSON,
Commissioner of Indian Affairs.

By Mr. GRIFFIN (for himself, Mr. PHILIP A. HART, Mr. BEALL, Mr. HARTKE, Mr. MAGNUSON, Mr. MOSS, and Mr. PEARSON):

S.J. Res. 199. A joint resolution to authorize and request the President to issue a proclamation designating the period from October 3, 1976, through October 9, 1976, as "National Schoolbus Safety Week." Referred to the Committee on the Judiciary.

NATIONAL SCHOOLBUS SAFETY WEEK

Mr. GRIFFIN. Mr. President, on behalf of myself and Senators HART of Michigan, MAGNUSON, PEARSON, BEALL, HARTKE, and MOSS, I am introducing for appropriate reference a resolution authorizing the President to declare the week of October 3 to 9 as "National Schoolbus Safety Week."

At a time when there is increased public awareness about the importance of traffic safety—reflected in the lowering of speed limits and other safety programs it seems particularly appropriate to emphasize the safety of our schoolchildren. Their safety should have the highest priority.

Nearly 22 million students are transported to and from school each day. In the course of a school year, these students travel more than 2.5 billion miles by schoolbus. While the schoolbus safety record is better than the overall traffic safety record, the recent tragic accident in California which claimed the lives of 29 school children is a grim reminder that we cannot relax our efforts in this regard.

A national program is already underway to call public attention to the importance of schoolbus safety during the first week in October of this year. In fact, the cochairmen of this program are from my own State of Michigan. And many other States are actively participating in this program.

Our resolution would enhance these efforts and help to focus national attention on this vital matter of public safety. I ask unanimous consent that the text of the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 199

Whereas nearly twenty-two million students are transported by schoolbus to and from school each day; and

Whereas the safety of these students deserves the highest priority; and

Whereas a national program is underway to call public attention to the importance of schoolbus safety during the first week in October of this year: Now therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating the period from October 3, 1976 through October 9, 1976 as "National Schoolbus Safety Week" and calling upon the people of the United States and interested groups and organizations to observe that week with appropriate ceremonies and activities.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the President.

ADDITIONAL COSPONSORS

S. 613

At the request of Mr. HATFIELD, the Senator from South Dakota (Mr. ABOUREZK) was added as a cosponsor of S. 613, to prohibit the introduction into interstate commerce of nonreturnable beverage containers.

S. 849

At the request of Mr. SPARKMAN, the Senator from Tennessee (Mr. BROCK) was added as a cosponsor of S. 849, a bill to clarify the eligibility of small business homebuilding firms for assistance under the Small Business Act.

S. 3098

At the request of Mr. WEICKER, the Senator from Iowa (Mr. CULVER) was added as a cosponsor of S. 3098, to increase financial assistance to community action agencies.

S. 3192

At the request of Mr. HARTKE, the Senator from New Hampshire (Mr. McINTYRE) was added as a cosponsor of S. 3192, the Consumer Communications Reform Act.

S. 3486

At the request of Mr. LEAHY, the Senator from Montana (Mr. MANSFIELD), the Senator from Pennsylvania (Mr. HUGH SCOTT), and the Senator from Vermont (Mr. STAFFORD) were added as cosponsors of S. 3486, to amend the Emergency Petroleum Allocation Act.

S. 3509

At the request of Mr. STONE, the Senator from Tennessee (Mr. BROCK), the Senator from Ohio (Mr. TAFT), and the Senator from Louisiana (Mr. JOHNSTON) were added as cosponsors of S. 3509, to amend title II of the Social Security Act.

S. 3510

At the request of Mr. STONE, the Senator from Ohio (Mr. TAFT) and the Senator from Tennessee (Mr. BROCK) were added as cosponsors of S. 3510, to extend certain coverage under the Social Security Act.

AMENDMENT NO. 1639

At the request of Mr. FORD, the Senator from Massachusetts (Mr. BROOKE), the Senator from Oklahoma (Mr. BARTLETT), the Senator from New York (Mr. BUCKLEY), and the Senator from Missouri (Mr. EAGLETON) were added as cosponsors of amendment No. 1639, intended to be proposed to H.R. 10612, the Tax Reform Act of 1976.

AMENDMENT NO. 1750

At the request of Mr. HASKELL, the Senator from Florida (Mr. CHILES), the Senator from Vermont (Mr. LEAHY), and the Senator from Colorado (Mr. GARY HART) were added as cosponsors of amendment No. 1750, intended to be proposed to S. 495, the Watergate Reorganization and Reform Act of 1976.

SENATE RESOLUTION 463—PRESENTATION OF A RESOLUTION RELATING TO EXPENSES OF DEFENDING A CIVIL ACTION

(Referred to the Committee on Rules and Administration.)

Mr. MANSFIELD (for himself and Mr. HUGH SCOTT) submitted the following resolution:

S. RES. 463

Whereas, a civil action has been filed against the senior Senator from Wisconsin (Mr. PROXMIRE) in the United States District Court for the Western District of Wisconsin (Hutchinson v. Proxmire, et al., No. 76C257); and

Whereas, the civil action against the Senator from Wisconsin (Mr. PROXMIRE) seeks damages for actions that were performed within the scope of a Member of the Senate's duties and responsibilities under the Constitution of the United States: Now, therefore, be it

Resolved, That the expenses, including attorneys fees, incurred in the defense of this civil action shall be paid from the contingent fund of the Senate on vouchers signed by the Senator from Wisconsin (Mr. PROXMIRE) and approved by the Committee on Rules and Administration.

SENATE RESOLUTION 464—ORIGINAL RESOLUTION REPORTED RELATING TO THE CONSIDERATION OF S. 3557

(Placed on the calendar.)

Mr. HUMPHREY, from the Committee on Foreign Relations, reported the following original resolution:

S. RES. 464

Resolved, That (a) pursuant to section 402(c)(1)(A) of the Congressional Budget Act of 1974 (P.L. 93-344; 88 Stat. 297), subsection (a) of such section shall not apply with respect to the consideration in the Senate of the Bill (S. 3557) to authorize the appropriation of funds necessary to implement the provisions of the Treaty of Friendship and Cooperation between the United States and Spain (Executive E, 94th Cong., 1st Sess.), signed at Madrid on January 24, 1976, and for other purposes.

(b) Such waiver is necessary for the following reasons:

(1) The consideration of such bill would not, under such section 402(a), be in order in the Senate in that such bill authorizes the enactment of new budget authority for a fiscal year and was not reported on or before May 15 of the previous fiscal year.

(2) The Committee on Foreign Relations did not desire to consider the authorizations until after it had disposed of the broader questions involved in the Treaty with Spain which were not resolved until the Committee ordered the Treaty reported on May 18, 1976.

AMENDMENTS SUBMITTED FOR PRINTING

NATURAL GAS ACT AMENDMENTS OF 1976—S. 3422

AMENDMENT NO. 1818

(Ordered to be printed and to lie on the table.)

Mr. STONE. Mr. President, I am today submitting an amendment to S. 3422, the natural gas bill recently reported by the Senate Commerce Committee. The amendment would simply shorten from 7 years to 3 years the length of time during which price controls would continue to be imposed for new, onshore natural gas.

As reported by the Senate Commerce Committee, S. 3422 provides for continued regulation of the price of new natural gas produced onshore for 7 years at a ceiling price of $1.60 Mcf. This compares with the immediate deregulation of new onshore natural gas provided for in S. 2310, the Pearson-Bentsen bill which was adopted by the Senate last year.

My amendment is designed to make S. 3422 more consistent with the principle of deregulation of new natural gas production—a principle supported by the Senate last year. More importantly, it is designed to encourage increased exploration and production of natural gas of which our country is so dependent. Unless the Congress takes effective action now to stimulate more gas production, our already-dangerous gas supply problem will be even worse in the years ahead.

I commend members of the Commerce Committee for working toward compromise legislation on the subject of natural gas. It is a complex and controversial subject. I hope to be able to support the product of the committee's work, S. 3422, at the conclusion of the Senate's consideration of the bill.

However, Mr. President, I am troubled by the fact that S. 3422 in several respects fails to throw off the yoke of unnecessary and cumbersome Government price regulation of natural gas. The 7-year price ceiling of $1.60 Mcf, with adjustments for inflation, must be considered in view of the fact that a recent Federal Power Commission report shows the weighted price for intrastate sales during the first quarter of 1976 was $1.55 per Mcf. It is clear to me that the proposed $1.60 per Mcf. price ceiling will place interstate purchasers of natural gas at a considerable disadvantage over the course of this 7-year period.

The 3-year period should be an adequate period of time to assure an orderly transition from regulated to unregulated prices in the onshore areas. It would protect consumers from precipitous retail price increases. It will also greatly reduce the possibility that Congress is setting a price which although perhaps allowing interstate purchasers to buy some additional gas in the initial years will not be sufficiently high in the later years to permit interstate pipelines to compete effectively in this market. Moreover, inasmuch as it normally takes 2 or 3 years from the time the decision is made to drill a new onshore well until natural gas is ready to be produced from this new well a 3-year ceiling should not discourage new drilling investment. A 7-year ceiling will have this effect.

The threat of gas shortages next winter is very real. We cannot afford the economic dislocations and the personal suffering which would result from these shortages. The Congress must act now to adopt an effective gas policy. I sincerely believe that my amendment, if adopted, would help make S. 3422 the basis for such policy.

Mr. President, I ask unanimous consent that the text of this amendment be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 1818

On page 2, line 19, strike out "7 years" and insert in lieu thereof "3 years".

On page 6, line 12, strike out "7 years" and insert in lieu thereof "3 years".

On page 7, lines 10 and 11, strike out "7 years" and insert in lieu thereof "3 years".

On page 8, line 23, strike out "7 years" and insert in lieu thereof "3 years".

On page 27, line 13, strike out "seven" and insert in lieu thereof "three".

TAX REFORM ACT OF 1976—H.R. 10612

AMENDMENT NO. 1819

(Ordered to be printed and to lie on the table.)

EQUAL TAX TREATMENT FOR RETIRED CIVIL SERVANTS

Mr. MONTOYA. Mr. President, I am today submitting an amendment which is aimed at equalizing the tax treatment for Civil Service and other Federal retirement plans with the tax treatment presently given to those receiving social security and railroad retirement benefits. Originally introduced as S. 2870, the amendment I am proposing will exclude from taxation the amount received from Federal retirement plans up to the amount of the maximum social security retirement benefit applicable for that year.

Benefits received by retired workers from social security are free of taxation. The same is true of benefits now received by retired railroad workers and their widows. This provision protects the small incomes of most retired workers in this Nation and is an important part of our largest retirement program.

However, benefits received by retired civil servants are taxed, following the final payment of dollars which have been previously contributed by the worker and taxed at the time of earning. Obviously, providing workers in different retirement groups with different tax treatment is a gross and unfair inequity in our present system.

Probably no group in our Nation has been hit harder by inflation than retired men and women who are dependent on pensions for the bulk of their retirement income. Most pensions are still set at levels which do not reflect the inflationary impact of the last few years. Even though both social security recipients and civil service and military retirees have received increases in pension levels, there is little doubt that many elderly Americans are still living below the poverty level. For most retired civil servants the plans which they had made for retirement income have been severely altered by the economic disasters of the last few years.

All older citizens on fixed incomes are having trouble. The items for which the aged normally spend the largest part of their income—food, housing, fuel, and medical care—have been the items which have the highest rates of inflation. In this situation the trust cost-of-living index for senior citizens is not realistically represented in the cost-of-living index used for urban working families. For that reason elderly retired workers are falling behind in the race with inflation. Many Americans have been able to adjust incomes in order to account for inflation. Those who are living on fixed retirement incomes are not able to make this kind of adjustment.

When we compound this problem with an inequitable tax treatment for one segment of our retired population, we create bitterness and resentment. In too many cases that is happening to men and women who have spent a lifetime working as servants of the public.

The amendment which I propose to add to the Tax Reform bill will relieve retired Federal employees of the cause for that resentment. It would allow to these Federal retirees an exemption from taxation on that portion of their income which is equal to the exclusion from taxation given to social security beneficiaries.

Approximately half of all Federal retirees would be unaffected by this legislation because their total income is so low that they are not required to pay any tax now. However, for those who are now required to pay taxes, this legislation will mean a small but vitally important tax saving.

An example will illustrate the inequity which this bill addresses:

A husband and wife each receive social security benefits of $300 per month (annual)	$7,200
They receive additional income from other sources	3,500
Total annual income is	10,700
Federal tax owed is	0
However:	
A husband and wife receive retirement benefits from civil service totaling (annual)	7,200
Their additional income from other sources is the same	3,500
Total annual income is the same	10,700
But Federal tax owed would be about	1,104

Congress recognized the obvious problem which the above examples illustrate. The retirement income credit was introduced to correct the situation. However, we have not acted to adjust the amount of income credit allowed so that it would continue to be in line with social security and railroad retirement benefits. The last time these figures were readjusted was in 1962. During the ensuing 14 years inflation has cut deeply into the value of that retirement income credit, making it much less valuable. At the same time, social security benefits have more than doubled. It is time we came up with a sensible and more permanent solution.

My proposed amendment would avoid the necessity of having to readjust ceilings every few years, and would maintain a fair and evenhanded tax approach to all retired workers.

The Library of Congress Economics Division has done an analysis of this amendment, and estimate that the cost of providing this tax exclusion to retired Federal workers would be around $500 million. Their analysis points out that most econometric models would produce a recoupment of 25 to 50 percent after feedback effects are taken into consideration.

Based on data for 1974, total payments to Federal retirees is about $11.9 billion annually. The average benefit was $5,080. For civil service retirees this constitutes 70 percent of the total income for annuitants, and 49 percent for survivors.

Mr. President, I urge my colleagues to take this opportunity to provide this very minor but important tax reform in this year's bill. I believe strongly that we should take action to correct what has become a very painful inequity in our tax system.

I ask unanimous consent that the amendment be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 1819

On page 5, after the last line, insert the following:

TITLE XX—MISCELLANEOUS PROVISIONS

Sec. 2001. Partial exclusion of United States retirement benefits from gross income.

On page 661, insert the following new title:

TITLE XX—MISCELLANEOUS PROVISIONS

SEC. 2001. PARTIAL EXCLUSION OF UNITED STATES RETIREMENT BENEFITS FROM GROSS INCOME.

(a) In General.—Part III of subchapter B of chapter 1 (relating to items specifically excluded from gross income) is amended by redesignating section 126 (as added by section 1011(c)(1)) as section 127 and by adding immediately after section 125 (as added by section 1011(c)(1)) the following:

"SEC. 126. PARTIAL EXCLUSION OF UNITED STATES RETIREMENT BENEFITS

"(a) GENERAL RULE.—Gross income does not include amounts received by an individual for the taxable year as a pension, annuity, or other benefit under a retirement system maintained by the United States or any agency thereof which would be included in gross income but for this section, to the extent that such amounts do not exceed the maximum Social Security benefit for that year, as determined under subsection (b).

"(b) Maximum Social Security Benefit.—For purposes of this section, the maximum Social Security benefit for a calendar year is the sum of—

"(1) the maximum amount of the old-age insurance benefit which could be paid for the calendar year under title II of the Social Security Act to any individual who attained age 65 in, and first became entitled to benefits for, the first month of such calendar year, and

"(2) the maximum amount of the earnings (as defined by section 203(f)(5) of the Social Security Act) which could be received in such calendar year by an individual who is entitled to old-age insurance benefits under title II of such Act, and who has not attained age 72, without a reduction in such benefits for any month of such calendar year.

In the case of a taxpayer whose taxable year is other than the calendar year, the amount determined under this subsection shall be determined in accordance with regulations prescribed by the Secretary or his delegate.".

(b) Technical and Conforming Amendments.—

(1) Section 37 as amended by section 503(a), (relating to retirement income) is amended—

(A) by inserting "other than a pension or annuity paid by the United States or an agency thereof," at the end of subsection (e)(4)(A)(i), and

(B) by striking out "the United States," in subsection (e)(8)(A).

(2) The table of sections for part III of subchapter B of chapter 1 is amended by striking out the last item (as added by section 1011(c)(2)) and inserting in lieu thereof the following:

"Sec. 126. Partial exclusion of United States retirement benefits.

"Sec. 127. Cross references to other acts.".

(c) Effective Date.—The amendments made by this section apply to taxable years beginning after December 31, 1975.

FEDERAL ENERGY ADMINISTRATION EXTENSION ACT—S. 2872

AMENDMENTS NOS. 1820 AND 1821

(Ordered to be printed and to lie on the table.)

Mr. DOLE. Mr. President, today I am submitting two amendments to improve the due process of law for those who come before the Federal Energy Administration requesting an exception or exemption on the basis of hardship or inequity.

The problems these amendments are intended to address have been frequently described in Kansas. It is my understanding that these problems have been encountered by individuals in virtually every State. Complaints have come from people in all sectors and at all levels of the energy industry.

The problems are general, and I am pleased that the Government Operations Committee addressed portions of them in their bill. But there is a need for more comprehensive action which my amendments provide.

There are many reasons justifying these amendments. These I intend to more fully spell out during the Senate debate on the bill.

I ask unanimous consent that the amendments and the summaries with them be printed in the RECORD.

There being no objection, the amendments and summaries were ordered to be printed in the RECORD, as follows:

AMENDMENT No. 1820

On page 5, line 14, strike all through page 6, line 2, and insert in lieu thereof:

Section 103. Section 7(i)(1)(D) of the Federal Energy Administration Act of 1974, P.L. 93–275, is amended to read as follows:

(D) Any officer or agency authorized to issue the rules, regulations, or orders described in paragraph (A) shall provide for the making of such adjustments, consistent with the other purposes of this Act, as may be necessary to prevent special hardship, inequity, or unfair distribution of burdens and shall, by rule, establish procedures which are available to any person for the purpose of seeking an interpretation, modification, rescission of, exception to, or exemption from, such rules, regulations, and orders. If such person is aggrieved or adversely affected by the denial of a request for such action under the preceding sentence, he may request a review of such denial by the agency. No individual who participates in the evaluation of or final determination with respect to a request for modification of, rescission of, exception to or exemption from, such rules, regulations and orders may, formally or informally, participate or be a member of an office or organizational unit which participates in the evaluation of the final determination with respect to an application to review the denial of such request. The office or organizational unit which processes applications to review denials of such requests shall be maintained separate and distinct from the office or organizational unit which processes the initial requests, and in the national office, the directors of the two offices or organizational units shall not be directly or indirectly responsible to any single official of the Administration below the level of Deputy Administrator. A person who is aggrieved or adversely affected by the denial of a request for such action under the first sentence of this paragraph may obtain judicial review in accordance with paragraph (2) of this subsection when such denial becomes final. The officer or agency shall, by rule, establish appropriate procedures, including a hearing, when requested, within 30 days of the date of filing, for review of a denial and, where deemed advisable by the agency, for considering other requests for action under this paragraph, and for the making of a transcript of such a hearing if requested.

HEARINGS AND ORGANIZATION REGARDING DISPOSITION OF APPLICATIONS FOR EXCEPTIONS AND APPEALS

This amendment makes two changes affecting the Office of Exception and Appeals.

1. Separate offices to Process Initial Applications and Appeals.

The FEA maintains a single staff to evaluate and recommend the disposition of applications for exceptions from the regulations and of appeals from orders or exception denials. The first purpose of this amendment is to insure that maximum fairness is obtained in the evaluation and disposition of exception applications and appeals by prohibiting any individual from participating in any way, including informally, in the processing and final disposition of both the applications and the appeals. In addition, this amendment provides that two separate staffs will be maintained to process the initial applications and subsequent appeals. The directors of these two staffs would not be permitted to report to any single individual in FEA below the rank of Deputy Administrator, except in Regional Offices where only one such official exists. This is to eliminate the possibility that any single official might influence the disposition of both the initial application and the appeal.

2. Administrative Hearings at Request of Applicant or Appellant.

FEA regulations currently provide that hearings and conferences with respect to applications for exception or appeals may be held whenever the hearing or conference will materially advance the proceeding. The sound purpose of this amendment is to allow applicants, as a matter of right, to request a hearing for any appeals of a denial. The amendment provides that the hearing, if requested shall be held within 30 days of filing and that a transcript of the hearing will be kept if requested by the applicant.

AMENDMENT No. 1821

On page 5, line 14, strike all through page 6, line 2, and insert in lieu thereof:

Section 103. Section 7 (i) (1) (D) of the Federal Energy Administration Act of 1974, P.L. 93–275, is amended to read as follows:

(D) Any officer or agency authorized to issue the rules, regulations, or orders described in paragraph (A) shall provide for the making of such adjustments, consistent with the other purposes of this Act, as may be necessary to prevent special hardship, inequity, or unfair distribution of burdens and shall, by rule, establish procedures which are available to any person for the purpose of seeking an interpretation, modification, rescission of, exception to, or exemption from, such rules, regulations, and orders, and shall, within 90 days from the enactment of this provision, by rule, establish the specific standards, criteria and guidelines according to which such special hardship, inequity, or unfair distribution of burdens are to be evaluated. If such person is aggrieved or adversely affected by the denial of a request for such action under the preceding sentence, he may request a review of such denial by the agency and may obtain judicial review in accordance with paragraph (2) of this subsection when such a denial becomes final. The agency shall, by rule, establish appropriate procedures, including a hearing, when requested, for review of a denial and, where deemed advisable by the agency, for considering other requests for action under this paragraph, except that no review under this subparagraph shall be conducted or in any way controlled by the same officer authorized under paragraph (A) to issue any such rule, regulations or orders.

PROMULGATION OF SPECIFIC STANDARDS TO EVALUATE HARDSHIP AND INEQUITY

At the present time, in order to obtain an exception from FEA regulations an applicant must show that the regulation is causing or is about to cause "special hardship," "gross inequity," or "unfair distribution of burdens." While these standards have been developed somewhat in past cases before the FEA, they are not defined by regulation or adequately set forth in guidelines or precedents. Consequently it is very difficult, if not impossible, for anyone to understand what factors FEA looks at or what considerations FEA makes in determining extreme hardship or gross inequity. No individual making application before the Office of Exceptions and Appeals knows what standards, if any, he will be judged by. The purpose of this amendment is to insure that FEA promulgates within 90 days, regulations containing the standards which it applies to serious hardship and inequity cases so that the standards may be subject to public scrutiny and available to applicants in formulating their petitions for relief and appeals from denials thereof.

LOBBYING DISCLOSURE ACT OF 1976—S. 2477

AMENDMENT NO. 1822

(Ordered to be printed and to lie on the table.)

Mr. KENNEDY (for himself, Mr. CLARK, and Mr. STAFFORD) submitted an amendment intended to be proposed by them to the bill S. 2477) to provide more effective public disclosure of certain lobbying activities to influence issues before the Congress, and the executive branch, and for other purposes.

NOTICE OF HEARING

Mr. WILLIAMS. Mr. President, on behalf of the Committee on Labor and Public Welfare, I wish to announce that the Joint Senate-House hearings on mine safety and the Scotia mine disasters which were to have been held Thursday, June 10, have been rescheduled for Wednesday, June 16. The hearings will begin at 9:30 a.m., in room 4232 of the Dirksen Senate Office Building. Anyone desiring further information can contact Michael Goldberg of the Labor Subcommittee staff, room G–237, Dirksen Senate Office Building, telephone (202) 224–3674.

ADDITIONAL STATEMENTS

TO SERVE AND NOT TO BE SERVED

Mr. MANSFIELD. Mr. President, on June 8, it was my privilege to address the Biennial Convention of the National Association of Retired Persons in Bal Harbour, Fla. It was a pleasure for me to meet with this outstanding group which has contributed so much to making the desires, the needs and the objectives of their organizations so well known, who have done so much to advance their objectives through legislation, and who now number collectively something on the order of 10 million members.

Mr. President, I ask unanimous consent that my remarks on that occasion may be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS OF SENATOR MIKE MANSFIELD (D–MONT.) BEFORE THE BIENNIAL CONVENTION OF THE NATIONAL ASSOCIATION OF RETIRED PERSONS, BAL HARBOUR, FLORIDA, JUNE 8, 1976

It is a privilege to be introduced by Harriet Miller, an old friend, a former colleague on the faculty at the University of Montana and a woman of great ability and integrity. Thank you so much for such a warm welcome.

Mister President, Madame President, officers, staff and delegates: I am most pleased to have this opportunity to address your Biennial Convention.

This is perhaps a fitting occasion for me, my last year in the United States Senate. But I can honestly say it is entirely coincidental, for your invitation arrived several days before I announced my retirement. Perhaps I should state one other qualification for being here. Before becoming a Member of the Congress in 1943, I had the honor of teaching history at the University of Montana. So I am not only about to be a retired Senator, I've been a retired teacher for 34 years.

In just a few weeks, we will celebrate the 200th birthday of our Nation. We have much to celebrate and much that we can be proud of. We are a young Nation, but we are the world's oldest constitutional democracy. Our wise founding fathers fashioned a system of government that has withstood the test of time—a civil war, two world wars, a great depression, and, more recently, a senseless and tragic war in Southeast Asia and the subversion of our public institutions by the first President to resign from office.

We have not only survived these crises; we have learned from them. We are a more healthy society for having been through them.

We now seem to be in a period of reaction, a reaction manifested in part by an anti-Washington, anti-government mood in the country. But it is important, I think, as we celebrate our 200th birthday, that we put this mood in perspective. It is important that we keep in mind the accomplishments as well as the mistakes and failures of past years.

The question, I think, is not whether we shall have a period of retrenchment. It is how best to get on with the Nation's unfinished business after more than a decade of war, the abuses of Watergate, the lawless violations of our civil liberties by intelligence agencies and the economic and phychological consequences of these tragic events.

The agenda of unfinished business is a long one. At the end of this century, in the year 2000, we will reach the bimillennial of the modern era. We will be at the threshold of the next one-thousand years of human history. The quarter of a century which remains of the 20th Century is crucial. These are years of basic decision. There are three fundamental questions we must answer, and answer affirmatively.

First, can we successfully reduce world tensions and achieve a lasting peace so that in the lives of our grandchildren, if not our children, we will no longer be faced with the threat of nuclear war. In the next 25 years, we may see the last chance to define an international structure that can support a durable peace. Indeed, if we do not bring to an end the Damoclean threat of nuclear war in these years, then we may see a doomsday end of civilization.

To achieve that lasting peace we must change the policies of the past 25 years.

—We must end, once and for all, our aimless military adventuring in Asia, Africa and anywhere else;

—We must build a lasting peace, not on the quicksands of the mutual threat of nuclear annihilation, but on strengthened institutions of international stability;

—We must end the obsessive arms race and lift the dead weight of armaments from the backs of the world's people.

Second, can we return to a period of stable economic prosperity with full employment and at the same time end the spiral of inflation which hurts every American but is so disastrous for those on fixed incomes. I think we can, but we must reject the economic philosophy of the past decade which has tolerated five, six, seven and even eight percent unemployment in the name of economic progress.

We must turn away from policies which would build economic prosperity on the blind and wasteful production of armaments and a balance-of-payments on international arms sales at bargain-basement prices by the United States government.

We must find the means other than arms production and high unemployment levels to sustain the country's economy. No unemployment level can ever be acceptable while there is work to be done and willing hands and heads to do it.

The *third* great question which we must answer in the next quarter century is this: Can we reverse the ever-increasing pollution of our environment and at the same time enjoy the fruits of continued industrial expansion and material prosperity? The next decades are years of choice between a hell-bent waste and defilement of air, water, fuel and other vital resources in the interest of so-called economic growth and a rational usage of the great natural gifts of this land for human needs. In these years we may well be exercising a final option to insure the sheer physical livability of the United States for centuries to come. A world at peace with mutual disarmament and without the threat of nuclear holocaust, an end to the pollution of our air and water, and economic prosperity with full employment but without inflation—these must be our goals now and in the next generation. But we will not achieve these or other goals unless we reaffirm the basic premises of our independence as a Nation which we celebrate this July 4th.

We are all Americans. Our birthright is the same. To all who live within the borders of the Nation, that birthright is the promise of a decent chance for life, liberty and the pursuit of happiness. Our policies and programs must reach out equally to all Americans, to the sick and to the well, to the old and to the young, to the poor and the properous, to men and to women and to all minority and ethnic groups whatever their circumstances. We must not turn away from those who have not shared in the Nation's well-being.

There are those who say we must do less. They would leave much of the agenda of unfinished business to state and local government, or even just unfinished. But I want to say to you, and to the next Administration and the next generation of political leaders: Our problems are national problems. They require a national effort. Our goals for the remainder of this century cannot be achieved without federal laws and programs and the funds to implement them—laws enacted by the Congress and administered by the national Executive.

So let us not succumb to rhetoric that implies that every federal program to help those who cannot help themselves has failed. Let us not be fooled by those who imply we should do nothing because we cannot do everything at once.

Indeed, we cannot do everything at once. But we can and must provide opportunities for those who do not have them and are dependent on others for their survival. We can and must, for example, fulfill the commitment to our senior citizens which the Congress made more than a decade ago when it enacted the Older Americans Act.

"In keeping with the traditional concept of the inherent dignity of the individual in our democratic society," the Congress declared, "the older people of our Nation are entitled to . . . secure equal opportunity to the full and free enjoyment" of these ten objectives.

An adequate income,

The best possible physical and mental health,

Suitable housing,

Full services for those who require institutional care,

Employment opportunities without discrimination on account of age,

Retirement in health, honor and dignity,

The meaningful pursuit of civic, cultural and recreational opportunities,

The availability of efficient community services,

The benefits of proven research, and

Freedom, independence and the free exercise of individual initiative in planning and managing their own lives.

We have made considerable progress toward these objectives, but we are a long way from fulfilling the promises of the Older Americans Act.

Social security benefits have increased substantially. Yet, the average elderly couple still receives only $310 a month and nearly a third of elderly Americans still live below the federal government's meager poverty income line. Four and three-quarters million elderly households have less than $2000 a year to live on more than a decade after we declared war on poverty. That is a tragic testimonial to how far we still have to go to fulfill Lyndon Johnson's dream of a Great Society.

Medicare has helped to pay the costs of illness for most of our senior citizens, yet the beneficiaries of Medicare are paying more now each year out of their own pockets than the year before Medicare became effective. In 1974, those out-of-pocket medical costs were $178 more than in 1964.

Seventy percent of our elderly own their own homes, but housing costs, especially utilities and taxes, have skyrocketed so that now the average person over sixty-five pays 35 percent of his or her income for housing costs alone. And six million older persons live in substandard housing and more than one and a half million are without even basic plumbing facilities.

Medicaid pays the daily costs of nursing home care, but as my colleague Senator Frank Moss has worked so tirelessly to demonstrate, many of the Nation's 23 thousand nursing homes are cruel warehouses operated by unscrupulous rip-off artists.

Employment opportunities for the elderly have been increased through programs such as the Older American Community Service Employment Act. But 70 percent of male and 86 percent of elderly female heads of households are still not in the labor force. Most workers are forced to retire at 65 because of the antiquated notion that the older you get the less efficient and less creative you become. And once retired, there is little incentive to work even part time because of the social security earnings limitation.

Yes, my friends, we have a long way to go before the promises of the Older Americans Act are fulfilled, and I might say the performance of the present Administration in Washington has been, to put it charitably, disappointing when it comes to helping our senior citizens. In fact, President Ford, during his brief tenure in the White House, has sought to cut back nearly every program for the aging.

The present Administration's policies have been expressed principally through vetoes, budget rescissions and extreme reluctance to propose anything new or even implement programs already on the books. It has only been through the most determined resistance by the Congress that we have counteracted the Ford Administration's attacks on senior citizen programs.

The Administration would have put a five percent ceiling on the first automatic social security cost-of-living increase. The Congress made it eight percent.

The President vetoed an emergency employment appropriations bill which included $30 million for the Older American Community Service Employment program. The Congress provided that $30 million in another bill.

The Congress overrode the President's veto of the special Health Revenue Sharing Act which established new home health agencies, created a study of mental health problems of the elderly, and provided training programs for home nursing aides and nurse practitioners.

The Congress overrode the President's veto of the 1976 Education Appropriations bill which provides three and a half million dollars to launch the community schools program.

The President vetoed the Labor/HEW Appropriations bill. Again, the Congress overrode. That bill contained $125 million for the nutrition program for the elderly, $25 million more than the President requested. And it provided $17.5 million for the National Institute on Aging, three million dollars more than the President requested.

The Congress increased funds for the Foster Grandparents and Senior Companions programs, $4.4 million more than the President's budget.

We continued the Senior Opportunities and Services program and the Emergency Services Conservation and Community Food and Nutrition programs which the Administration had proposed to phase out.

The present Administration has attempted repeatedly to increase food stamp charges, to the point that most elderly citizens would find it uneconomical to participate in the food stamp program. It has coupled this with proposed cutbacks in the nutrition program for the elderly which would have reduced participation in the food stamp program by nearly thirty-five thousand. Congress rejected this proposal and now two hundred and forty-five thousand elderly persons receive hot meals at senior citizens centers, schools, churches and in other settings.

These were the actions the Congress took to counter the present Administration's attacks on programs for the elderly for the current fiscal year.

The attacks continue, and the Congress will have to continue to hold the line. The President's Fiscal 1977 Budget submitted to the Congress last January offered practically no new initiatives. On the contrary, the Administration has recommended a fifty-two-million-dollar reduction in funding for the Older Americans Act.

It has even proposed to increase, yes increase—the fees that must be paid by elderly and disabled persons under Medicare. Its proposed catastrophic health insurance program would actually help only three percent of Medicare hospital patients, while the other 97 percent will pay more—a lot more. In fact, the President's proposal will add $1.3 billion to out-of-pocket payments of Medicare beneficiaries, and a Medicare patient hospitalized for 30 days would pay $450, compared with $104, the present Medicare deductible for the first 60 days of hospitalization.

So the Congress will have to hold the line on Medicare. But we will have to do better than that. When Medicare started it covered 46 percent of the elderly's health care costs. It now covers only 38 percent. Instead of increasing out-of-pocket costs for Medicare benefits, we should be working toward the elimination of deductibles and premiums. We should expand eligibility to all citizens over 65. We should eliminate copayments for low-income persons. We should have a catastrophic health insurance program for all our citizens, not one that benefits only three percent of the elderly. And we should expand Medicare to provide new services—out-of-hospital prescription drugs, glasses, hearing aids, dentures, physical checkups, and above all, preventive health services—benefits not now provided.

We could provide all this new coverage for less than the cost—nearly six billion dollars—of one antiballistic missile facility which was built and will be closed down within a year after its completion.

We could do this and more for less than half what the Pentagon proposes to spend building the new B–1 bomber. Yes, we could have full health insurance for the elderly and the disabled. We could build two hundred thousand new housing units for the elderly each year until we catch up to the White House Conference on Aging's goal of a hundred and twenty thousand units that was recommended in 1971.

We could expand the direct loan program for housing for the elderly and handicapped under Section 202 and we could renovate existing housing for the elderly

We can and should do this and more.

We must end all vestiges of discrimination against senior citizens. We should, as your organizations have so effectively advocated, guarantee jobs to those under 65, work toward the end of mandatory retirement policies and provide incentives for those over 65 to work if they want.

Age discrimination takes many forms. The elderly have had less than their share of federal funds and programs to help all our citizens. Revenue sharing is, of course, the most conspicuous example. Only four cents of every revenue sharing dollar has been spent on social services for the poor and the aged. Less than one-half of one percent of revenue sharing funds have been channeled into programs for the elderly, 10 percent of our population. There is also discrimination in the administration of programs for the elderly. Too often, senior citizens are either uninvolved or just members of advisory boards whose advice is never taken. It's time the elderly were invited into the councils of decision-making and implementation of programs which are for their benefit.

But discrimination is not only a matter of public policy. It is a matter of attitude.

Dr. Robert Butler has written in his recently published book, Why Survive? "The tragedy of old age is not that each of us must grow old and die, but that the process of doing so has been made unnecessarily and at times excruciatingly painful, humiliating, debilitating and isolating through insensitivity, ignorance and poverty."

That process must change. But it will change only when Americans start realizing and assuming that old people have great contributions to make to society.

Let us, as Americans, on our 200th Birthday take to heart the motto of your Associations: "To Serve and Not to be Served."

THE ANTITRUST IMPROVEMENTS ACT OF 1976

Mr. HUMPHREY. Mr. President, the Senate has completed consideration of legislation providing changes in our antitrust laws. This is an important aspect of our economic system. Answers to questions about competition and concentration and prices are hard to come by. The area is surrounded by serious differences in viewpoint and divergent ideas for solving the problems of an efficient economic marketplace. The Subcommittee on Antitrust and Monopoly, chaired by my good friend and the distinguished Senator from Michigan, Mr. PHILIP HART, has worked very hard to bring this legislation before the Senate.

I have been for many years a staunch supporter of measures to tighten our antitrust laws because I know first hand the difficulties of small and independent businessmen in the American marketplace.

I supported this bill, and I voted for its passage. But there was one provision in the committee reported version which gave me serious concern. My doubts centered around a provision which would have allowed the Government to obtain an injunction against a proposed merger without having to show to the satisfaction of the court that it had a reasonable likelihood of succeeding in showing that the merger would be a violation of the antitrust laws. This burden of proving that an injunction is necessary to protect the public welfare has been a traditional safeguard in the American judicial system. It has always been the obligation of the party seeking an injunction to show a justification for that type of extraordinary relief.

However, this provision would have required that the defendant be obligated to prove, in order to continue about their business, that the Government would not be able or likely to prove a violation of the antitrust laws or to prove that they would suffer irreparable injury if the merger were to be prevented. Not only that, the section provided that it would not be sufficient for a company to show that it would be injured economically, which to my mind is an understandable concern of any businessman.

I believe that the Government ought to protect the American public from concentrations of economic resources which inhibit price and product competition, but I do not believe that the Government should act on whim, or simply cause people trouble, or act without a foundation of fact. This would be in the interest of neither economic stability nor social and economic justice. The traditional legal safeguards with respect to burden of proof are a valuable tool in protecting the public from arbitrary action by the Government. I saw no sound justification for changing this well established principle of judicial protection.

I was gratified that I was able to work with Senators MATHIAS, HART, and other members of the committee, to come to an understanding about this provision and that it would be better not to make such a substantial change in our fundamental legal protections. I thus supported the compromise amendment offered by Senator MATHIAS to address this fundamental issue, and I am pleased that this amendment was adopted by the Senate.

FACTIONS IN LEBANON URGED TO LET REFUGEE RESIDENTS MOVE OUT OF TARGET AREAS

Mr. CASE. Mr. President, one thing emerges clearly from the confusing and conflicting reports from Lebanon; thousands of innocent civilians—Lebanese and Palestinian—are being killed.

Some of this killing is a direct consequence of the battles being waged. Some of it appears random. Unfortunately some of the killing is occurring because the refugee camps are being deliberately shelled by artillery fire directed at them.

The refugee camps have always been centers of political activities and are also arsenals. Nonetheless, the people in these camps are not combatants and they should not be subject to the bombardment now going on. Both sides should give them a chance to get out, if they want to do so. These people have suffered enough from the various conflicting ideologies and diverse political ambitions of their leaders.

One central element of the latest cease fire negotiations should be arrangements to give those in the camps who wish to leave the right to do so.

URANIUM SHORTAGE

Mr. MONTOYA. Mr. President, I recommend to colleagues an article by William M. Carley in the Wall Street Journal of June 7.

According to the article, the United States will undergo a nuclear fuel shortage within the next 10 to 20 years. ERDA estimates that domestic uranium requirements will escalate from about 12,000 tons a year now to 40,400 tons by 1985 to around 100,000 tons by the year 2000. Cumulative demand for uranium up until the year 2000 is estimated to be 1.4 million tons. And, the United States only possesses 780,000 tons of known reserves.

Mr. President, in order to resolve this problem, a tremendous amount of uranium will be needed in a short period of time. New Mexico, with 53 percent of all the uranium deposits in the United States, will play a leading role in the search for new sources of uranium. It is my hope that this search will be a successful one.

Mr. President, I ask unanimous consent that the Wall Street Journal article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Fuel Shortage Forecast for U.S. Nuclear Plants Within Decade or Two

(By William M. Carley)

Grants, N.M.—Seen from a small plane flying at 3,000 feet, the New Mexico landscape is a surrealistic wasteland. Dry riverbeds snake through brown desert, and distant mountains and extinct volcanos thrust into an azure sky.

But when the plane drops down to a few hundred feet, the landscape comes alive with scores of truck-mounted drilling rigs and their crews scattered across the barren wastes.

The object of the feverish drilling in this remote area is uranium—an alluring ore ever since the dawn of the atomic age but nowadays an increasingly desirable and increasingly scarce commodity.

Even though plans for new nuclear power plants have been scaled back in the U.S. because of environmental and other objections, some analysts say the nation still could run short of nuclear fuel, possibly around 1990. Moreover, newer types of reactors that would conserve uranium have fallen foul of governmental red tape or of economic cutbacks.

PROBABLE NEED FOR IMPORTS

So much uranium will be needed relatively soon for the current reactors that some industry executives are convinced the U.S. won't get by without substantial imports. "It is probably too late to avoid an important uranium import program," says Ray Dickeman, president of Exxon Nuclear Co., an atomic-power arm of Exxon Corp.

Major quantities of uranium ore do exist in Canada, Australia, South Africa and Southwest Africa, or Namibia. But industrialized nations such as Japan, France, and West Germany are developing major nuclear-power programs of their own, and they will be competing with the U.S. for available supplies, probably driving up the price.

The price of uranium has been soaring already, with the mounting fears of a shortage and with the jump in oil prices recently.

In January 1974, uranium sold for about $8 a pound. By January of this year it hit $35 a pound. And now, according to a survey by Nuclear Exchange Corp., a Menlo Park, Calif., uranium broker, buyers are bidding $40 a pound.

Dozens of utilities are delaying or canceling nuclear power plants, not only because of recent low electricity growth and environmental hassles, but also because of the uncertainties over uranium supplies. Many utilities already committed to building nuclear power plants have been caught short since Westinghouse Electric Corp. said last year that it couldn't fulfill uranium supply contracts. These utilities now are scrambling to line up supplies. (Meanwhile, they have sued Westinghouse for damages that could mount to an estimated $1.9 billion.)

EFFECT ON ELECTRICAL BILLS

Ultimately, the climbing uranium prices will result in still higher electrical bills for consumers. Uranium-ore costs are only a small portion of the total expense involved in a nuclear power plant, but the dollar figures are nevertheless enormous. By one government estimate, every one-dollar increase in the price of a pound of uranium will cost consumers over $200 million annually by the year 2000. Utilities may switch to coal, but that is still more costly than atomic power in many parts of the U.S., and massive use of coal also poses environmental problems.

The view that the U.S. may run short of uranium ore isn't unanimous, however. Some uranium mining outfits such as Kerr-McGee Corp., express confidence they will find enough uranium in the U.S.

"Prospecting is a lot more sophisticated than it used to be," explains Larry Werts, manager of minerals exploration for Kerr-McGee. "We used to fly around in light planes holding a Geiger counter in one hand and a map in the other, and throwing a bag of flour or a roll of toilet paper out the window to mark a 'hot spot.'" Now, he says, information gathered by planes is recorded on tapes and processed through computers to help pinpoint good drilling locations.

But even optimists concede that, at best, it will be a nip-and-tuck race to find enough uranium and mine it in time. For one thing, it takes about 10 years to find, plan and develop an underground uranium mine.

Moreover, the U.S. Energy Research and Development Administration (ERDA) estimates domestic uranium requirements will escalate from about 12,000 tons a year now to 40,000 by 1985 and around 100,000 tons in the year 2000. Cumulative demand for uranium to 2000 is estimated at 1.4 million tons. According to ERDA, known reserves in the U.S. now are 780,000 tons, including 140,000 that will result as the by-product from production of other chemicals.

MAGNITUDE OF THE PROBLEM

"The magnitude of the effort ahead can be visualized by recognizing that demand through 2000 will require finding the equivalent of more than six Ambrosia Lake districts," says Robert Nininger, ERDA's assistant director for raw materials. Ambrosia Lake, in New Mexico, is the biggest uranium "district" in the U.S.

Uranium miners have gone through a number of boom-and-bust periods, as price increases have regularly spurred enough drilling to turn up plenty of ore. But results of the current surge in exploration have been "disappointing," Mr. Dickeman of Exxon Nuclear says. "The discoveries have mainly extended old uranium areas" rather than uncovering brand new areas, he says.

Geologists are especially concerned because they think most of the easy-to-find uranium deposits near the surface probably have already been discovered. That leaves the uranium at depths of several hundred to thousands of feet. This ore is very expensive to mine.

It is also very tough to find, not only because of the depths but because of the nature of uranium deposits. In some areas, for example, uranium is believed to have originated in prehistoric mountains. About 130 million years ago, when dinosaurs were roaming the West, part of the uranium was washed down from the mountains into sandstone deposits along ancient river channels. Thus, a uranium deposit may follow an old riverbed, snaking in a configuration that's very difficult to trace. "You can drill 10 feet away and miss a uranium ore body completely," says John Motica, a veteran uranium geologist and senior vice president of Ranchers Exploration & Development Corp. in Albuquerque.

Even more worrisome is the possibility that there may not be many ore bodies left to find, at least of the rich sandstone type. Organic materials evidently served to precipitate the uranium in the sandstone deposits, and by one theory these organic materials came from swampy regions overlying the sandstone. But the combination of a swampy area over sandstone into which uranium was deposited constitutes "a perhaps restricted or uncommon set of geological circumstances," says Hans Adler, an ERDA official. Currently, about 95% of U.S. uranium comes from sandstone-type deposits.

The U.S. does have uranium deposits in so-called Chattanooga shale in Tennessee and North Carolina. But the grade of ore is so low that mining costs are estimated at $100 to $200 or more a pound. And to get the 100,000 tons of ore needed annually by the year 2000 would require mining 100 square miles of country a year, with devastating environmental effects, the Interior Department says. Most government and mining-industry officials figure the shale will never be mined.

What the U.S. needs, Mr. Nininger of ERDA says, is a new type of uranium deposit, something between the rich sandstone deposits of New Mexico and the low-grade Chattanooga shale. But so far, geologists haven't found solid evidence that an intermediate type of deposit exists in the U.S. "The one such productive deposit known in the world, in South-West Africa, and the potentially productive deposits in Canada, Greenland and Brazil, are all in old geologically stable areas known as Precambrian shields which, except for a small area in northern Minnesota and Michigan, do not occur in this country," Mr. Nininger says. Still, a number of geologists believe intermediate deposits will be found in the U.S.

To help discover what uranium there is in the country, the federal government is launching a massive survey. Teams are being set up to sample stream waters all over the U.S. for various elements that might help pinpoint a uranium deposit. Aircraft loaded with detection instruments and computers are systematically measuring the earth's radiation levels. Following grid paths averaging five miles apart, the planes are in the process of flying 700,000 miles to cover the entire U.S. mainland and Alaska.

"The aim isn't to find a uranium mine—we leave that to private companies," says Phil Dodd, a geologist based at ERDA's office in Grand Junction, Colo. "What we hope to find are new areas that appear favorable for uranium exploration by drilling and other methods."

Mining companies are stepping up their exploration so fast that there is a shortage of drilling rigs. George Hazlett, uranium manager of Teton Exploration Drilling Co., says his men will do three times as much drilling this year as three years ago. Teton drills under contract for others as well as for its parent, United Nuclear Corp.

The nation's big oil companies are also fast invading the uranium field. Exxon, Gulf Oil Corp., Continental Oil Co., Atlantic Richfield Co. and Phillips Petroleum Co. are all mounting major uranium exploration drives. Last December, Phillips announced a sizable find in New Mexico, and even though the ore is over 3,000 feet deep, Phillips says it's planning to mine it.

In an attempt to find new areas, some companies are exploring well beyond the traditional uranium-mining districts in New Mexico and Wyoming. "At least 50% of our effort is outside the traditional areas," Mr. Werts of Kerr-McGee says. While mining companies are highly secretive about where they are prospecting, searches are known to be under way in the Rocky Mountains, the Great Lakes area and in New England.

ALTERNATIVE REACTORS

Critics complain the U.S. wouldn't be facing a uranium pinch were it not for the choice of nuclear reactors that are extremely wasteful of fuel. In the 1960s the U.S. picked so-called light-water reactors, partly because they had already been developed for the Navy's submarines, and partly because capacity left over from the atomic-bomb program. But light-water reactors use only 1% of uranium's energy, leaving 99% unused.

The critics also say that a reactor such as the high-temperature, gas-cooled reactor could have been used. Because the HTGR is more efficient with fuel and mostly uses relatively plentiful thorium, it could cut uranium use by 50%, wiping out the danger of a uranium shortage. But the government has put relatively few dollars into HTGR development, and the most advanced HTGR, now being built by General Atomic Co., is a financial disaster.

What should save the day, government planners aver, is the breeder reactor, which produces more nuclear fuel than it burns, and which would usher in an age of ample electric energy. But the breeder is bogged down in governmental red tape over a proposed demonstration plant, and projected commercial use of the breeders has slipped from the 1980s into the 1990s; and some see it slipping into the next century. The later the breeder reactor, the more uranium will be needed to keep the nation's light water reactors going.

Meantime, the push for uranium supplies continues. Here in New Mexico, for example, Teton Exploration is drilling to try to extend a known ore body in the desert. At one truck-mounted rig halfway up a canyon wall. Mr. Hazlett watches as the drilling of a hole is completed amid a roar of diesel engines.

Then, a six-foot-long cylinder with radiation-detection devices is lowered into the hole by a cable. As this probe is lowered into the ground, an instrument on the surface records levels of radioactivity by a stylus tracing over a roll of chart paper.

"When the needle jumps off the chart, that's when we get interested," Mr. Hazlett says. "Because this area is near an established ore body, the needle soon does jump off the chart. But when drilling in virgin territory, it isn't uncommon to sink dozens of barren holes. Mr. Hazlett says. The average hole in New Mexico, now about 2,000 feet deep, costs about $8,000 to drill, he adds.

Not far from Teton's prospecting site, the parent United Nuclear is mining uranium. There, 900 feet below the surface, in miles of dimly lit tunnels, miners blast ore loose from the ore body. They load the ore onto half-ton-capacity vehicles that carry it through the maze of tunnels to elevators and the surface.

In the area where one miner is blasting, Mr. Hazlett points out a distinct line on the wall, with black ore beneath and grey stone above. He explains that here, at least, the ore is easy to spot and mine. "That's how sharply delineated the ore body is," he says. "Once you run out of black stuff, you're out of ore."

FULL EMPLOYMENT IS A BARGAIN FOR THE FEDERAL GOVERNMENT

Mr. HUMPHREY. Mr. President, last week I testified before the Committee on Banking, Housing and Urban Affairs on S. 50, the "Full Employment and Balanced Growth Act of 1976." Our Nation has been floundering in an environment of economic and intellectual stagnation. Every day our leaders and the press tell our people what we cannot do. This bill is based upon the contrary belief that things are not working well mainly because we are not putting our national energies into making them work. Our economic policy process, which has remained unchanged for decades, is no longer effective in coping with the problems of the modern world. Our economic performance will improve only if we make an effort to reshape our economic policy machinery.

Some critics are concerned that the act's requirements would destroy the independence of the Federal Reserve Board. It does nothing of the kind. The bill simply requires the Fed to regularly indicate to Congress how its intended monetary policy would support the employment, growth, and price stability recommendations made by the President to Congress. The Congress would then take whatever action is necessary to coordinate monetary policies with other policies.

The act does not deemphasize the importance of the private sector. It is not a public service jobs bill. In fact, the principal thrust of the act is to encourage the creation of job opportunities in private enterprise through tax, credit, and budgetary policies that will stimulate the private sector in a balanced and sustainable way. Some have argued the wage standards are so generous that they would cause an inflationary shift from private to public employment. The wage standards, however, are "neutral" between the private and public sectors because they simply reaffirm existing fair wage standards.

Furthermore, the full employment policy set forth by S. 50 would not seriously accelerate inflation as some claim. On the contrary, our postwar experience shows that the principal way to maintain price stability is to increase production, productivity, and the supply of goods and services like food and health care. Congressional Budget Office estimates show that efforts to reach a 3.5-percent overall unemployment target by 1980–82 could lead to an equal increase in inflation of approximately six-tenths of 1 percentage point.

As the CBO study indicates, these estimates might overstate the inflationary impact of S. 50 because they do not take account of anti-inflation measures included in the legislation. The direct budget cost of the bill is only $50 million a year. Rough estimates of the indirect budget costs of the bill made by the CBO show that a program to reduce unemployment to 3.5 percent by 1980 would have a net cost in the range of $8 to $16 billion. These budgetary costs are significant, but compared with the $600 million billion in lost production that will result if we continue to follow the present course, compared with the $14 billion a year lost in Federal tax revenue for each percentage point of unemployment, with the more than $20 billion in "extra" welfare and unemployment expenditures, and compared with the continued misery and lost hope of millions of people, a full employment policy is a bargain no matter how you look at it.

Mr. President, I ask unanimous consent that my testimony before the Committee on Banking, Housing and Urban Affairs be printed in the RECORD.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR HUBERT H. HUMPHREY, CHAIRMAN OF THE JOINT ECONOMIC COMMITTEE BEFORE THE SENATE COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS

Mr. Chairman, Members of the Committee, our nation has been floundering in an environment of economic and intellectual stagnation. Every day our leaders and the press tell our people what we can't do. The United States can no longer have full employment and price stability, we are told. We must keep a certain number of people unemployed, giving them welfare checks instead of useful jobs.

I believe things are not working well because we are not putting our national energies into making them work. Because our economic policy process has remained unchanged for decades, our institutions are no longer effective in coping with the problems of the modern world.

The Full Employment and Balanced Growth Act of 1976 taxes a different point of view, seeking to change the way we formulate and implement national economic policy. It is based on the premise that our economic performance will improve only if we make an effort to reshape our economic policy machinery.

The Act says that the President and Congress, through lack of intelligent and coordinated policies, have allowed the disaster of widespread unemployment and high inflation to overtake the lives of millions of our families with increasing frequency and duration. To correct this, the Act requires the President and Congress, as a first and constant priority, to jointly develop and implement the policies and programs that will prevent a recurrence of these avoidable national tragedies. The bill itself provides a new mechanism and a broad range of policies and programs to serve as the means to meet this responsibility.

Although there is disagreement over some of the specific provisions of the legislation before you, there is already widespread agreement that a new mechanism similar to S. 50 is necessary for managing national economic policy. In recent testimony before Senator Nelson's Subcommittee on Employment, Poverty, and Migratory Labor, a diverse panel of prominent economists including Charles Schultze, Arthur Laffer, Robert Nathan, Leon

Keyserling and Andrew Brimmer, stated that this was the case. I have attached the relevant portion of their testimony for this Committee's consideration.

A fundamental provision of the Act sets the goal of reducing adult unemployment to three percent within four years following enactment of the measure. This is an ambitious goal, certainly, but there are several reasons why I believe we should strive to achieve it.

First, I believe we should define the term "adult" as persons 18 years of age or older, which implies an overall unemployment rate of about 3.5 percent. This is only one half of a percentage point below what was considered "full employment" in the Kennedy-Johnson years. I might add that we went below 4 percent for 4 years during that period, beginning in 1966, while holding inflation to a 4 percent average annual rate.

Secondly, we must have new economic policies to get at stubborn pockets of unemployment, if we are to achieve this long term goal, and the bill provides for such policies. There is no iron law that decrees you can't reduce adult unemployment to 3%, because other industrialized countries have done it. Over the period 1962–73, while the U.S. had an average unemployment rate of 5 percent, the countries of Japan, France, United Kingdom, Sweden, and Germany had an average unemployment rate of 1.8 percent.

Finally, it should be remembered that a goal is an objective—not an absolute requirement. The purpose of setting goals is so that we can do better, not achieve perfection for all times. This bill provides for annual review of the goal and, it should be emphasized, requires the President in the first year to review the full employment goal and timetable and "report to Congress on any obstacles to its achievement, and if necessary, propose corrective economic measures to insure that the full employment goal and timetable are achieved."

I am fully aware that there are those who argue that the full employment goal of this bill cannot be achieved, given the imperfections in our economy. I would say to them that whether they know it or not they are expressing abandonment of faith in our democratic enterprise system. They are saying it is fatally flawed, that we cannot produce jobs for all who are willing and able to work without producing galloping inflation. They are saying they believe that a large number of American workers must be consigned to the waste and despair of unemployment for the sake of price stability.

Other than saying, "Wait, things will somehow get better," they would do nothing to answer the need of the more than seven million workers who remain unemployed today. They would ignore the fact that for the past five years our nation has had an average economic growth rate of only 1.8 percent and that this has resulted in the loss of $500 billion in the production of goods and services. That staggering loss never would have occurred had we sustained the previous historical average growth rate of 4 percent. And if we follow their advice and continue to observe the inadequate policies now in force, the nation will lose another $600 billion to $900 billion in goods and services by 1980.

We are not here in Congress to preside over a crippled economy or play the role of indifferent witnesses to the dissolution of families, increased sickness, death and crime that stem directly from the evaporation of jobs in a sick economy. We are here—and I want to emphasize this—we are here to fulfill our responsibility to provide leadership to revitalize or economy and get people back to work at decent wage levels that are not rapidly eroded by serious inflation. That's what S. 50 is all about. It provides a framework and the procedures for the leadership that we promised to furnish when we took our oath of office.

I certainly am not ready to concede that the United States, which actually made it possible for most of the countries of Europe to rebuild their economies following World War II, cannot now equal their economic performance.

As I have indicated, better economic performance will occur only if we establish a new mechanism and policies to achieve it. S. 50, the Full Employment and Balanced Growth Act of 1976, as amended, provides a new structure with the following elements:

(1) A new cooperative process is created among the President, Congress and the Federal Reserve for the establishment of annual, numerical economic goals, which will encourage the development of a unified annual economic policy.

(2) New requirements are placed on the Federal Reserve to make it a full partner in national economic decisions.

(3) The President is required to determine the extent to which budget policy can be relied upon to achieve full employment so that government spending does not excessively inflate the economy.

(4) A planning capability is provided for in the Executive Office of the President to give us a better idea of where the economy is headed over the long-run and how we can most efficiently achieve full use of our human and capital resources.

(5) The Act also provides for economy in government measures. It requires that 20 percent of Federal spending be intensively reviewed and evaluated each year, thus every program would receive detailed scrutiny at least once every five years.

(6) The Act requires that work be substituted for welfare, unemployment compensation, and income maintenance spending to the maximum practical extent.

(7) Comprehensive anti-inflation policies are required in conjunction with the annual policymaking process, with an emphasis on increasing productivity and the supplies of necessities such as food and fuel.

(8) Provision is made for a range of employment programs that focus on structural problems of unemployment in depressed regions, states, and among groups in the labor force who have special unemployment problems, such as youth. These provisions are designed to provide job opportunities primarily in private industry.

(9) A comprehensive counter-cyclical employment program is required, with special emphasis on a grant program to stabilize State and local government budgets during recessions and thereby prevent contradictory fiscal actions at different levels of government.

(10) After the private sector has been fully utilized, and all other provisions of this Act have been employed, the Federal government is responsible for ensuring that the remaining unemployed above 3 percent adult unemployment are provided jobs.

Let me now comment on some of the questions that have been raised about S. 50, including the extent to which it encourages public vs. private jobs, the requirements placed upon the Federal Reserve Board, the inflation impact, the wage provisions, and the costs of the bill.

This legislation is not a public service jobs proposal. The principal thrust of the Act is to encourage the creation of job opportunities in private enterprise through tax, credit, and budget policies that will stimulate the private sector in a balanced and sustainable way. Many of the auxiliary programs, such as the incentives program to revitalize depressed areas, and the skills-training and job-placement grants and loans from the development financing institution, are specifically designed to create jobs in private industry. Moreover, the programs for emergency public works and community development would provide jobs in private business by channeling funds to private contractors. The increased income from these government activities will in turn stimulate additional private sector jobs.

With respect to the Federal Reserve Board, I know there are some nervous Nellies who have canonized the Fed and say that the Act's requirements would destroy that Agency's independence. I would advise them to read S. 50 to be assured that it does nothing of the kind. In point of fact, it simply requires the Federal Reserve Board to regularly indicate to Congress the objectives of its projected monetary policy and to assess how that policy supports the employment, growth and price stability recommendations made by the President to the Congress. Congress would then be in a position to weigh the Administration's proposals, the Federal Reserve's intended policies, determine the adequacy or inadequacy of these plans and take whatever action is necessary to coordinate monetary policies with other policies in order to meet our national economic goals. In my view, this is in keeping with the Congress' constitutional responsibility to provide broad guidance to the Federal Reserve Board.

Will a full employment policy seriously accelerate inflation? Those who argue that more production and employment cause inflation have got things turned upside down. The principal way to reduce prices is to increase production, productivity, and the supply of goods and services like food and health care.

I am not propounding a theory, but reporting the facts. During the early 1950's, and again in the mid-1960's, increased production and employment was accompanied by lower rates of inflation. Our recent experience with unemployment and inflation tells the same story. In 1975, when we reached an unemployment rate of about 9%, we had an inflation rate that for many months exceeded 10%. Since then, as production was increased and unemployment reduced, the rate of inflation dropped by about one half.

Although I believe production and productivity are the best weapons against inflation, I recognize that as the economy approaches full utilization of its human and capital resources, bottlenecks and price pressures are likely to develop. No one knows how significant these inflationary pressures could be, but estimates can be made. At my request, the Congressional Budget Office has made such estimates in conjunction with an economic analysis of the Full Employment and Balanced Growth Act of 1976. These estimates show that efforts to reach a 3.5% overall unemployment target by increasing aggregate demand could increase inflation by roughly 1 percentage point by 1980, or 2 percentage points by 1982—in other words, an annual increase in inflation of approximately 0.6 percentage points.

As the CBO study indicates, even these estimates could overstate the inflationary impact of S. 50 because they do not take account of the anti-inflation measures included in the legislation. The bill requires the inflation situation to be constantly monitored, and the President to annually submit a comprehensive set of anti-inflation policies that are relevant to changing economic conditions. There is full provision for these actions to be as thorough and tough as necessary "to promote reasonable price stability if situations develop that seriously threaten national price stability."

Would the wage standards cause a shift from private to public employment? Some people have argued that the wage standards are so generous they would cause a shift from private to public employment and aggregate inflation. I don't believe this is true. I believe the wage standards are "neutral" between the private and public sectors because they simply reaffirm existing, fair wage standards.

The key to understanding the wage standards is to carefully read section 402. That section states that people employed under the bill shall receive "equal wages for equal work." It then prescribes a range of wage standards from the minimum wage to prevailing wages for similar employment in the specific labor markets. This means that someone doing a job that merits the minimum wage will be paid that wage, while a skilled worker doing a job of higher value will be paid commensurate wages. I believe this is a flexible and fair set of wage standards.

How much will the Full Employment and Balanced Growth Act of 1976 cost? The immediate cost of the Act is limited to the expense of: (1) expanding the staff of the Council of Economic Advisers to carry out long and short range planning functions and assist the President in preparing recommended policies and programs to achieve the goals of the measure; (2) creating a Public Advisory Commission to provide input from State and local governments and the private sector; and (3) creating a reservoir of public employment jobs to be utilized when necessary to maintain a full employment economy. That direct budget cost is estimated at $50 million a year.

There will be, of course, substantial indirect budget costs if all of the legislative actions mandated by this bill are undertaken. It is impossible to estimate these costs precisely because they depend on such things as the strength of the private sector economic recovery, the rate of growth in the labor force, and the specific design of the job creation programs mandated under the Act. In the study I mentioned earlier, the Congressional Budget Office took these factors into account and made some rough budget cost estimates. After twenty-four months of operation, a program to reduce unemployment to 3.5 percent by 1980 would have a net cost in the range of $8–$16 billion. The gross cost would fall in the range of $23–$44 billion, but these costs are drastically reduced when cutbacks in welfare and unemployment compensation payments, along with increased tax revenues, are taken into account.

These budgetary costs are significant, but simply compare them with the high cost of unemployment. Compare these costs with the more than $600 billion in lost production of goods and services that will result if we continue to follow the present course and fail to even approach a full employment economy. Contrast the costs with the $14 billion a year in lost federal tax revenue for each one percentage point of unemployment. Compare the costs with the more than $20 billion in "extra" welfare and unemployment expenditures due to the present high levels of unemployment. Contrast the costs with the continued misery and lost hope of the millions of people who will be unemployed during all of this period. In my mind, a full employment policy is a bargain no matter how you look at it.

One point I wish to emphasize in discussing the bill is the stress it places on substituting paid employment for welfare and unemployment insurance payments insofar as it is reasonably possible to do so. From the point of view of morale and training purposes, it is far better for otherwise idle workers to be performing useful, productive tasks. Putting people to work is both a humane and a practical idea. In fact, Mr. Chairman, much of this bill is premised on the conservative belief that we ought to put people to work instead of keeping them on the dole.

Despite claims from alarmists and the timidity of those who would maintain our painful status quo, there is nothing radical in the provisions of the Full Employment and Balanced Growth Act of 1976. It says in effect that the President and Congress shall coordinate their efforts to plan and implement the policies and programs which are needed to reach out and hold prosperity. It says this nation can be the master of its own economic destiny if it will but marshal the resources and talent to do so.

Mr. Chairman, in conjunction with my prepared testimony, I would like to submit for the record a recent Washington Post article on the bill, my testimony before the House Subcommittee on Manpower, Compensation, and Health and Safety and the Senate Subcommittee on Employment, Poverty and Migratory Labor, a letter from Dr. Eli Ginzburg, Chairman of the National Commission on Manpower Policy, an editorial and interview from the May-June issue of Challenge magazine, and the Congressional Budget Office study of S. 50.

ANNE ARMSTRONG: AMBASSADOR EXTRAORDINARY

Mr. MANSFIELD. Mr. President, an excellent interview by Takashi Oka, staff correspondent of the Christian Science Monitor, with the U.S. Ambassador to the Court of St. James, the Honorable Anne Legendre Armstrong, is carried in the Christian Science Monitor under the date of June 9, 1976.

I believe this country is extremely fortunate to have as our Ambassador to this most important post a woman of experience, understanding, and dedication. She is a distinct credit to the United States and she represents us with intelligence, ability, and integrity.

Mr. President, I ask unanimous consent that the interview referred to be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AMBASSADOR EXTRAORDINARY

(By Takashi Oka)

LONDON.—"Let's face it, I am a curiosity," said Anne Legendre Armstrong, first woman to become U.S. Ambassador to Britain. "I'm offered fora [forums] that I wouldn't be offered if I were just a run-of-the-mill male ambassador."

We were sitting on a sofa in the far corner of the enormous ambassadorial office overlooking leafy Grosvenor Square. It was a coolly impersonal room, not leatherbound or aggressively masculine, but detached, aloof, a room that had seen a succession of ambassadors from the legendary Davis Bruce to run-of-the-mill campaign contributors. All, until now, male.

Mrs. Armstrong is human enough to be delighted with the breakthrough her appointment represents, down-to-earth enough to know that, once the novelty has worn off, she will be judged on her own merits "as a person, and as an ambassador."

She is a striking woman. She walks with the assured grace of her New Orleans birth and upbringing, her complexion hints of Texas wind and sun; her eyes register a range of moods from wide-open enthusiasm to steely practicality. She answers all questions with disarming forthrightness, even when it is to say, in response to a waffling and long-winded query about possible British sensitivity to hints of a patronizing attitude on the part of Americans, "I could give you a more sensible answer if I had had more foreign policy experience."

ANGLO-AMERICAN TIES

Asked for her view of the Anglo-American relationship, she replied immediately, without hesitation: "It's so deep, so pervasive," emphasizing both adjectives, "that even if tomorrow someone decided there'll be no more special relationship, it would be impossible."

"It [the British influence] is in our legal system, in our Constitution, in our language and arts: It's the bedrock of our way of government. It's paradoxical that our very British heritage is what led to our revolution, our demand for self-government."

What was the most touching experience she had experienced since coming to Britain? Mrs. Armstrong thought a moment, then replied, "My visit to Northern Ireland." (It took place in early spring, not long after her arrival in Britain. Four-hundred housewives poured out onto the street to welcome her in Belfast, sweeping aside the security guards, waving, hugging, laughing, crying, so appreciative that an American ambassador had bothered to visit them in that violence-scarred city.) "There were a lot of men, too," Mrs. Armstrong recalled. "They were shyer about clasping a woman, but the housewives were not shy: they were clasping and even hugging me."

IMPRESSED WITH PEOPLE

On one hand, she found it "terribly sad" to see in downtown Belfast scarcely a block without rubble or signs of fire or some other violence. On the other hand, she was impressed that people went about their normal ways and had even kept their sense of humor. She was encouraged that only a "tiny, tiny minority" condoned or was engaged in violence, but recognized there were no easy solutions.

She refused to accept that Britain was a declining nation. "I don't think I ever questioned that they would pull through," she said of the British. She was encouraged by the trade union leadership's acceptance of a 4½ percent limit on wage increases and by the way in which this acceptance had been won—on a voluntary basis, by "consensus and not confrontation."

In all frankness, she said, "I meet some gloomy people here, but all my counselors at the embassy think that Britain is on an ascendant road." The only disagreement among them was over the pace of the recovery—whether it would take a couple of year or as many as five to seven.

FAMILY WOMAN

Although she has been active in politics for many years—first in Texas, then at the national level as cochairman of the Republican Party and counselor on women's affairs successively to Presidents Nixon and Ford—Mrs. Armstrong is a family woman and proud of it. She has five children, now grown except for 19-year-old twins who hope to transfer to a British university.

"My husband supported me in everything I ever wanted to do in politics except running for major public office. I feel that when you run for public office you do owe your life to the public, and to the position, and I made a personal decision that I would sacrifice something of what I would have wanted to do in politics in order to have the kind of home life I want to have. You can't have it all. I've had a marvelous bit of both, but not everything I'd want to do in either field, because my family has had to make some sacrifices too."

Mrs. Armstrong's husband Tobin is a six-foot-four-inch Texas rancher, and as such, has a long-standing professional interest in agriculture. He has taken on his job as ambassador's spouse with tact and good humor. "Though he has no bent for the kind of things a female spouse would be good at," says the ambassador, "he is very, very good once the party has started." Mr. Armstrong has an assignment from the Secretary of Agriculture to study ways of increasing protein food consumption in Europe, and has an office in the embassy adjoining that of the agricultural attache.

WHIRLWIND COURTSHIP

His courtship of Anne Legendre was, by all accounts, the proverbial whirlwind. "He proposed right away. I made him wait a month before saying yes," Mrs. Armstrong told another interviewer. "I didn't want to appear too eager." When this reporter asked her to confirm these remarks, she laughed and said, "That's true—he proposed late in November and I said yes on my birthday, Dec. 27."

What satisfaction did she get out of politics? Mrs. Armstrong straightened her shoulders, knit her brows, then burst out, "There's no way not to say it corny. Most human beings would like to contribute in some way to making the world a little better, in addition to the satisfaction of a good family life and raising children. Everyone has a different route. Some may be scientists or artists. I wasn't blessed with that. My natural bent is to be more of an activist. I feel that politics and government are a very direct way of trying to improve the lot of your fellowmen and women. We disagree violently on how to go about it. But the satisfaction I get from politics is working for principles, for policies, for conditions that I believe will make the United States better—and if one is a statesman, will make the world better for a lot more people."

LOYALTY TO NIXON

Mrs. Armstrong was one of Mr. Nixon's counselors who stood by him loyally until almost the end. "I guess my only regret must be that I was very naive. But since I thought I was telling the truth, my conscience is clear."

Her "wake-up period," she says, was the famous June 23 tape, the one that convinced her Mr. Nixon would have to resign.

Today, she thinks that most Americans have emerged from the trauma of Watergate and Vietnam, and that "there is a great wave of young people coming on, questioning, not quiescent or overly docile as my generation of the 1950s was. I'm totally self-confident about young people in the United States." And, of course, she hopes to get to know young people in Britain as well.

Mrs. Armstrong said she was "determined to meet a broad spectrum" of people here in Britain, not just the establishment figures. Her days, so far, have been a whirl of activities from speechmaking, opening exhibitions, and getting thoroughly briefed on British life and politics, to rising at 5 in the morning to accompany Secretary of State Henry A. Kissinger to his first meeting with new British Foreign Secretary Anthony Crossland.

In one of her most eloquent public remarks so far, at a bicentennial museum exhibition opened by the Queen at Greenwich, Mrs. Armstrong defined the "dominant theme of Anglo-American history" in the following terms: "not hostility but the compromise of differences; not war but peaceful cooperation around the world; not jealous competition but the harmonizing of national efforts to achieve a common purpose."

When the excitement generated by her being the first woman ambassador from Washington to the Court of St. James has died down, she knows her real task will be just beginning: to make certain that the lines of communication between Britain and the United States remain clear and unimpeded by error or misunderstanding at all times, in all fields, and all levels, from Buckingham Palace and Downing Street to the housewives of Belfast.

NO ONE WILL WEEP FOR SAIGON

Mr. THURMOND. Mr. President, an article entitled "No One Will Weep for Saigon" which appeared in the May 20, 1976, issue of the Aiken Standard should be read by every Member of Congress and every American citizen.

It may well be a prophetic piece of journalism. I certainly hope not. However, at the same time I am greatly pleased that some members of the American press recognize and understand the Communist method of operation.

Mr. President, I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

NO ONE WILL WEEP FOR SAIGON

Foreign consulates, news bureaus and international agencies have been ordered out of Saigon by the Communist regime there, an ominous development that could signal the beginning of a new phase in Hanoi's assimilation of the fallen South.

The West has maintained a window of sorts in Saigon in the year since the Communist triumph, though virtually no news at all has leaked concerning the fate of the rest of the country. Now the bamboo curtain seems about to descend on South Vietnam's former capital.

Given the brutal record of Asian Communism, exemplified by mass executions in the North following the victory of the Vietminh, and the horrors in neighboring Cambodia, the possibility that the long anticipated blood-bath may be about to begin in Saigon cannot be ignored.

Who will weep for Saigon? Who will protest the slaughter when and if it occurs? No one. we predict.

ISSUES OF CONCERN TO BLACKS IN AMERICA

Mr. HUMPHREY. Mr. President, on June 10 I had the privilege to address the National Newspaper Publishers Association at their annual convention in Philadelphia.

The NNPA serves as the voice of the black press of America—a voice which, over 149 years, has raised the cry for equal rights and human justice from coast to coast.

In this historic year, the black press is still carrying that urgent message to the people of this country, reminding them that we must never rest on our accomplishments, and that, in the words of their own credo, "all are hurt as long as anyone is held back."

In my remarks, I focused on issues of high unemployment, the decline of our cities, the need for decent housing, and the requirement that the Federal Government maintain leadership in the promotion of equal justice and equal opportunity. These are issues of serious concern to the black community.

Mr. President, I ask unanimous consent that the text of my prepared remarks be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS OF SENATOR HUBERT H. HUMPHREY, NATIONAL NEWSPAPER PUBLISHERS ASSOCIATION

This Convention is a traditional forum for the discussion of the major issues facing America, and I am grateful for the opportunity to share my ideas with you.

Unfortunately, it is apparently not a good year for debating issues. I am sure you all saw the Associated Press story which came over the wire last Thursday. It reported the results of a poll which found that over half of the American people have no idea where their favorite candidates stand on issues.

In this climate of vague issues and cloudy voter perception, your job can only become much harder. And the prroblem is particularly acute because there are so few issues this year which address themselves exclusively to the black community. Yet at the same time every major issue affects especially the black community.

As Mayor Richard Hatcher of Gary told the Caucus of Black Democrats, the black community is "the problem *within* the problem." He summed it up this way: "Nearly everything that is a problem for Americans generally is a much worse problem for us."

That is why I want to propose to you today an agenda for practical action in this critical year. It is an agenda addressed to the urgent problems of all our people—but it recognizes that these urgent problems have *crisis* proportions for black people.

At the very top of this agenda must be a mandate that a total effort be launched to achieve conditions of full employment in America.

Unemployment drains billions of dollars out of our economy in lost production and revenues, and bleeds away millions more in welfare, unemployment compensation and other transfers.

But it costs more than that.

It adds up to a terrible price in broken families, in the attitudes of our children, in the rising crime rate, in skills forgotten and work habits never formed, in permanent alienation from society and—perhaps worst of all—in loss of self-respect.

Of course, there are those who are telling us that,we will simply have to pay that price and more—because there just isn't any room for the unemployed in the system.

But let me tell you something. If the greatest free nation in the history of mankind has to get down on its knees in fear of something as abstract and as arbitrary as these so-called "free market forces," well, then we're through. We might just as well haul down the flag, lock up the Capitol, go home and admit that we don't have the courage or the imagination to govern ourselves.

But I don't think the American people are going to stand for that. They know that market forces aren't written up on any stone tablets somewhere. They know that they're not supernatural powers which we have to worship. The figure of 7.3 percent unemployment isn't written into the Constitution or stamped on the Liberty Bell.

But, a lot of people have been telling us that the maximum of three percent adult unemployment is unrealistic, that it is idealistic, that it can't be reached without intolerable levels of inflation. Well, I don't believe that—and I believe the figures bear me out.

But let me tell you something that the critics *don't* mention.

When someone comes along and says that five percent unemployment is the best we can do, you and I know what that means—it means *ten* percent or more unemployment for blacks and other minorities.

But the critical problem is that the critics just seem to be fiddling with their slide rules and calculators and saying more jobs cannot be found—it can't be done.

I'm here to tell you that it *can* be done. With the right kind of incentives for private-sector hiring, with carefully coordinated monetary and fiscal policies, with targeted anti-recession assistance programs, and with productive public service jobs when and where we need them, we *can* assure every American the opportunity for a piece of the action, *without* fueling the fires of inflation.

And we can't stop there, either—because, as you know, our young people have special employment problems. And it will take special policies to meet them. But if we don't get that job done—and done soon—we stand to lose an entire generation to the streets.

Now, there are those who have called this plan "alarming." Well, I wish they would take a walk with me through some of our cities. I'd show them something really alarming.

Like the fact that the richest nation on this planet is willing to sacrifice the suffering of millions of Americans to some notion of "price stability" for the wealthy.

Like the fact that black family income has sunk to a mere 58 percent—little more than half—that of the average white family.

Like the fact that in this country of two-car garages and matching sets of lawn furniture, there are children crying from hunger and families broken by poverty.

Like the fact that in this land of hot-lather shaving machines and electric can openers, there are millions of Americans who have never seen the inside of a decent school or a doctor's office.

My friends, if you want to see something *truly* alarming, you don't have to look very far.

So full employment is the broad base on which to build our progress. But there is much more to be done.

Our cities simply can't wait any longer. I have said before that neglect of the cities works a terrible discrimination against the millions of people who live there. Worse yet, it is a form of national blindness—because the city is America's tomorrow.

Make no mistake about it: by the end of this century—which is not far off—this nation will have over 250 million inhabitants. And 85 percent of them will be living in cities with populations of 50,000 or more.

So when we talk about our cities, we're not talking about some kind of foreign country. We are talking about nothing less significant than the future of more than four out of five American citizens.

We are talking about the future of almost all our children and grandchildren—black and white alike.

And yet there are people who want to retreat from our cities, who want a federal policy which says, in effect, "You're on your own."

But let me remind those people that one of this nation's proudest accomplishments was the Marshall Plan. In that program, we put our strength and our resources on the line, and we rebuilt the cities of Germany, of Italy and of England, to the wonder and admiration of the world.

Now, do you mean to tell me that we can't make the same effort to rebuild our *own* cities, right here in the United States of America?

Of course we can. And I'm not talking about going out and putting a bird-bath in a park somewhere, taking a picture of it, and saying, "Well, Hallelujah, we've rebuilt the city." Because we've seen that kind of policy in the past, and we know that it won't work.

I'm talking about a major, three-part initiative to restore the economies, the buildings and the governments of our cities.

A full employment program will go a long way toward rebuilding urban economies. But it must be joined by a vigorous effort to see that investment and employment programs are aimed at areas where the problem is worst.

We can develop incentives which encourage businesses to locate new activities in depressed center cities. And we can establish a Domestic Development Bank to help State and local government create that investment climate.

To back up that effort, the Federal Government can use its considerable procurement and employment expenditures to point the way to the truly needy regions of our Nation.

And to ease the burden on our exhausted city treasuries, the Federal Government must assume primary responsibility—once and for all—for financing welfare and health programs for the disadvantaged. In addition, it must make sure that its taxation and regulatory policies actively promote—and not retard—the development of our cities.

But restoring the economies of our cities is not enough to make them desirable places to live and work. That task requires a roster of creative and exciting possibilities. For one thing, we can use the resources of the Domestic Development Bank to restore our public buildings, day-care centers and school facilities—and in doing so, restore our civic pride.

But our most vital priority must be the improvement of our cities' housing stock. This need not mean building new. The bulldozer has somehow become the symbol of progress in our cities. And we have too often confused building cheap for building well.

Instead, we are going to have to conserve what is best in our neighborhoods. We must repair where possible and rebuild where necessary.

And that means changing our thinking from the old, "throw-away" concept to the neighborhood which characterized so much of our so-called "urban renewal."

We should encourage a good mix of low-income housing in new and restored areas. And in doing so, we are going to have to realize that low-income housing must not be low-quality housing. As we expand our public housing programs, we will have to acknowledge that low-income housing is sometimes more expensive than middle-income buildings, and plan accordingly.

And in the private housing sector, we must take strong measures to put home ownership back within the reach of more American families.

Whether public or private, however, it is not enough that we build well and restore carefully. We must see to it that our cities are once again a suitable living environment for human beings. That means surrounding our buildings with a healthy neighborhood—with good schools, clean schools, clean streets, reasonable public safety and—yes—some greenery. If we can plant the American flag on the moon, we can certainly figure out how to plant trees in our cities—providing playgrounds for our children and places for relaxation and enrichment for their parents.

Now, obviously, an effort of this magnitude is going to take money. And there is no point in trying to conceal the fact that it is going to take a considerable amount of money.

First, we need a steady and expansive monetary policy so that our entire economy—urban and rural—will be in the position to make significant advances.

Once we have secured that, we will need low- and moderate-income programs that really work. Our previous efforts simply have not gotten the job done. But to admit that is not to say that they were wrong in conception. They did not *fail*. But neither did they succeed—primarily because this administration has failed to get the programs off the ground.

To promote more widespread home ownership by our families, we will have to find a way to reduce mortgage interest rates. And if a more expansive monetary policy won't do the job, then we will simply have to do it more directly.

As one step in that direction, the Federal government should establish a Federal Housing Bank to buy mortgages and assure a steady supply of mortgage money at a fair rate of interest—in the neighborhood of six or seven percent.

And while we are developing new machinery for urban development, we can put more muscle behind existing programs. For openers, we can finally put an end to the insidious practice of "red-lining"—which is a virtual kick in the face to communities which are trying to pull themselves up.

These plans will not succeed, however, without a system to coordinate Federal, State and local policies. At present, we have absolutely no way to accomplish that long-awaited goal.

In recent weeks I have proposed a number of innovations that will move our governmental processes toward a new responsiveness—a new partnership among the three levels of government to bring about coordination and efficiency in getting this nation moving again.

First, Governors should be drawn into closer coordination with one another and with the Federal government through the establishment of regional Executive Councils.

These Regional Councils would be responsible for planning and administering Federal programs in their area, on the basis of plans prepared by the Governors of each region, working cooperatively with regional representatives of the Federal departments.

Second, we must always remember that the Federal system is not just the government in Washington. It is a national government.

The modern presidency, therefore, should include the establishment of a Federal Council, consisting of the 50 Governors and the President. The council should meet regularly so that the President can outline to the Governors his proposals and initiatives, and receive from the Governors their proposals and counsel in the preparation of the Federal budget, the administration of the departments, and the implementation of Federal laws.

Finally, State and local governments should become an integral part of the federal budget process, with full consultation on matters affecting them—*before* the budget is finally decided.

The agenda which I have outlined to you here is a plan for bold action.

It is a plan which envisions nothing less than a transformation of some of the major institutions of our society—institutions which have long been in need of repair.

And, admittedly, it is a plan which commits the Federal Government to a principal role in that transformation. It will not be pleasing to those who make a career out of condemning what they call "Big Government." Well, let them fire away.

Because you and I know that nothing great has ever been accomplished in this society without a bold vision and courageous leadership to get the job done.

You and I aren't taken in by empty slogans about big government. We know there are problems. And we know that they are on their way to creative solutions in Congress now and under a Democratic Administration beginning next year.

But more important, we know what to say when someone tells us that the federal government is unwieldy, useless and outmoded.

We say this: Is the government you want to do away with the same one which passed the Civil Rights Act of 1964? And the Voting Rights Act of 1965? And then had the guts and the determination to enforce those laws with the whole strength of our system of justice?

Is this government which you think is a waste of our time the same one which fought to end discrimination in our schools and give every black child in this country a chance? Is it the same government which stood up and said that a black man or woman has a constitutional right to live in the home of their choice?

Is this government which you say is useless the same one which stood up to the whole awesome machinery of American industry and said, "You shall not deprive any man or woman of work because of race?" And then backed up that commitment with the force of law?

Is this government which you say is outmoded the same one which is admired around the world as the strongest single protector of human rights and human dignity?

Because if it is, then we know where your priorities are, and we know what your policies would be.

But the people have not lost their faith in government. Rather, they have lost the sense of where we are going. They have seen what passes for leadership in our government and they are disillusioned.

They want leaders who can point the way, who can show us how to make the most of our heritage of freedom and our enormous talents—who can tell us that the great days of America have just begun.

But what do they see? They see an incumbent President whose imagination, whose courage and whose vision of America in this Bicentennial year extend no farther than finding ways to keep black children out of some of our schools, and halt 22 years of progress.

They see candidates who, on the one hand, tell them about the greatness of America and its promise for the future—and, on the other hand, tell them that we must cut back the very commitments that made that greatness possible.

Is it any wonder that they are confused?

But, my friends, I know that that confusion will pass. I know that the American people are not ashamed of what we have become, and do not want to retreat on our progress.

This will require imagination and perseverance. But, above all, it will require the leadership of a President who believes that government can again be a vital force for justice and opportunity in America—a true steward and guardian of the public interest.

CHIP ROBERT IS DEAD AT 88

Mr. TALMADGE. Mr. President, one of Georgia's most outstanding citizens and a great American, Mr. Lawrence Wood "Chip" Robert, Jr., died Wednesday in Atlanta. I join the people of Georgia and his many friends and loved ones throughout all of the United States in mourning the passing of this fine man.

Chip Robert distinguished himself and brought credit to Georgia and the Nation in business, education, politics, and government service. He was a close personal friend of President Franklin D. Roosevelt, and he served as Assistant Secretary of the Treasury during the depression and was later treasurer of the Democratic National Committee. He was a close associate of James A. Farley, Postmaster General under President Roosevelt and also chairman of the Democratic National Committee. The sadness of Chip Robert's passing was deepened in that Mr. Farley passed away in New York City just 2 hours later on the same day.

Chip Robert was founder of one of the country's largest engineering firms. He was director of a number of large business and industrial concerns, and he worked tirelessly and contributed beyond measure to economic development in Georgia and throughout the South.

It is not often that there is produced a man of the caliber of Chip Robert, whose leadership, service, and gentlemanly qualities were an inspiration to all with whom he came in contact in his personal, professional, and business life.

I know that his presence will be sorely missed and Mrs. Talmadge joins me in extending our heartfelt sympathies to his family.

I ask unanimous consent that there be printed in the RECORD news articles on Chip Robert's passing as well as editorial eulogies from the Atlanta Constitution and the Atlanta Journal.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Atlanta Constitution, June 10, 1976]

CHIP ROBERT IS DEAD AT 88; POWER IN BUSINESS, POLITICS

(By Bill King and Sam Hopkins)

Lawrence Wood (Chip) Robert Jr., head of one of the nation's largest engineering firms and undersecretary of the Treasury under President Franklin D. Roosevelt, died Wednesday afternoon at Emory Hospital.

Graveside services will be at 11 a.m. Friday in Westview Cemetery.

Robert, 88, gained fame during long careers in both business and politics. He was a well-known booster of Southern industry, a power in the Democratic party both nationally and in Georgia and a distinguished alumnus of Georgia Tech.

Down through the years Robert combined his business genius with a flair for national politics and as a charmer in the most sophisticated social circles of Washington, New York and Palm Beach.

A great admirer and poker-playing friend of FDR, Robert was called "the New Deal's Number One Glamor Boy" back in the 1930s when Roosevelt talked him into becoming the assistant secretary of the U.S. Treasury while he was secretary of the National Democratic Party.

James A. Farley, honorary chairman of Coca-Cola Export Corp. in New York and postmaster general under FDR, mourned Robert's death Wednesday as the loss of "a truly great, loyal and devoted friend of mine."

His comments to an Atlanta Constitution reporter late Wednesday came less than two hours before Farley's own death in New York.

Farley told the interviewer that he was "saddened" by the Atlantan's death.

"I first met him in Chicago during the Democratic convention in 1932," Farley remembered, "and from that meeting developed an association and friendship that has meant much to me and to Chip down through the years."

Robert served as secretary of the Democratic National Committee at the time Farley was serving as chairman. Farley said that in his party post and at the Treasury, Robert "performed great service to his country."

Farley characterized Robert as "a delightful person . . . a great story teller with a pleasant smile. He was the kind of person you could meet a dozen times a day and be glad to have that opportunity."

Farley said he last saw Robert in April when the two of them were reunited at Roosevelt's Little White House in Warm Springs for a commemoration of FDR's death.

"He (Robert) drove down from Atlanta to meet and visit with me and it was an occasion I shall never forget," Farley said.

Farley added that Robert "will be greatly missed by his many friends not only in Georgia but in every state in the union and by me and members of my family."

Robert was also mourned Wednesday by former Georgia Tech athletic director and football coach Bobby Dodd.

"Mr. Chip hired me at Tech and he was the leading alumnus then and remained so until a couple of years ago when he became ill.

"He was for many years the number one Tech football fan . . . we all loved Mr. Chip and we'll all miss him," Dodd added.

Robert never missed attending a national Democratic convention during a 50 year period—from 1912 in Baltimore when Woodrow Wilson won the party's nomination until 1972 when Sen. George McGovern was the nominee.

Although he admitted he hadn't liked some of the party's nominees over the years, Robert declared several years ago when a reporter asked him if he had ever bolted the Democrats: "Never! Never! Never!"

Robert was a close friend of FDR even before he was elected president for the first time in 1932.

He even raised $27,000 in Georgia for Roosevelt when he ran for governor in New York. Reminiscing recently about that campaign, Robert commented, "I'll bet that's the only time a Southern state ever put up money to elect a governor of New York."

Robert's last active political role was in 1968 when he headed the presidential campaign in Georgia for Vice President Hubert Humphrey.

Although several generations of Roberts had gone to Yale, he made the decision to enter Georgia Tech as a freshman on Sept. 3, 1903.

While at Tech, the versatile Robert was captain of the football, baseball and cross-country teams and earned 15 varsity letters. He received civil and experimental engineering degrees from Tech.

His love for Tech knew no bounds through the years, and he was instrumental in helping to line up big-name football opponents for Tech's schedule.

Robert once recalled several years back that he was "almost a finished engineer when I was 15 because I had worked with my father for so long." His father built the railroad between Macon and Athens through Robert's hometown of Monticello.

Robert formed his own architectual and engineering firm, Robert & Co., in Atlanta in 1917. It grew to become the largest company of its kind in the country and possibly the world.

Robert had an unbounded zeal for the South and pursued Northern business leaders tirelessly and successfully to persuade them to move their businesses and textile mills southward, particularly to Georgia.

Robert traced his interest in the South from having read about Henry W. Grady, the editor of The Atlanta Constitution back in the last century who doggedly sought to attract new industry to the South.

Even at the age of 10 in Monticello, Robert memorized Grady's famous speech, "The New South," and delivered it at a school exercise.

Georgia Tech fit right into Robert's plans for industrializing the South. He kept in close touch with Tech engineering graduates—by 1940 he had hired more than 100 of them in his firm—and in 1930 he helped organize the Georgia Tech special train that went on a 10-day tour of the great industrial cities.

On board were some 300 Southern industrialists, publishers and promoters, headed by Gov. Hugh Dorsey of Georgia and Tech President K. G. Matheson. They preached the overwhelming advantages of the South at banquets and public meetings.

Not only the South profited from the new business Robert helped to attract—so did his firm. During one span of years in the 1930's, his company furnished architectural and engineering service for nine out of 10 of the big industrial plants built south of the Mason–Dixon line.

Robert was always an inveterate traveler, having been around the world at least 17 times, and probably commuted between Atlanta and Washington more than most veteran Georgia congressmen.

Some of the happiest times of his life were back in the 1930's in Washington when he was working with his close friend Farley for the good of the Democratic party.

One of Robert's favorite stories concerned FDR after he defeated Republican President Herbert Hoover in 1932.

"When President Roosevelt took office," Robert recalled once, "there were post offices all over the country that Herbert Hoover had started. So we put up plaques in all of them as they were finished saying they were completed by the Roosevelt administration."

He also recalled with a mischievous twinkle in his eyes that they put shrubbery in front of all the post office corrnerstones that had already been completed and had Hoover's name on them.

Robert visited FDR often when he was in Georgia. "About every two weeks," he said once, "several of us would go down to Warm Springs and play draw poker with him. He was one of the greatest companions, whether you were hunting or fishing or playing poker with him. He was the greatest, most enjoyable man in the world."

Robert was chairman of the board of Robert and Co. and of Robert and Co. Associates and was a director of Iselin-Jefferson Co. of New York, Gainesville Midland Railroad Co. and the Georgia State Chamber of Commerce.

He was a director and former director for many textile corporations and railway, banking, airline and industrial enterprises.

His firm handles extensive projects for the federal government and many other state and local government projects and private jobs in excess of $2 billion in volume on an international scope.

He was a member of most of the national engineering societies, including ASCE, ASME, AMS, AIEE, GSPE, and SAME. He was also an official of Georgia Engineering Foundation, Inc.

Robert's wife, the former Evie Walker, died in Washington in 1972 of kidney failure after five years of treatment on a kidney machine. They had maintained homes in Washington and Atlanta for a number of years.

He is survived by daughters, Mrs. George Carroll of Sea Island and Mrs. Birney Robert Jones of Warrenton, Va.; a brother, A. Pierce Robert of Atlanta; six grandchildren and 12 great grandchildren.

[From the Atlanta Journal, June 10, 1976]

"Chip" Robert Is Dead at 88

L. W. "Chip" Robert Jr., a prominent Atlanta engineer who became a personal friend of President Franklin Roosevelt and the "glamour boy" of the New Deal, is dead at 88.

Robert died Wednesday afternoon at Emory University Hospital.

A 1908 graduate of Georgia Tech, where he was an honor student and 15-letter athlete, Robert was the founder and board chairman of Robert and Company Associates, a firm which helped to design everything from industrial plants to the Air Force Academy.

A longtime force in Democratic politics, Robert attended every party convention since 1912. During the Depression years, he served Roosevelt as assistant treasury secretary, a member of the public works board and a member of the president's cabinet council.

In the late 1930s, Robert was treasurer of the Democratic National Committee.

During his lifetime, Robert was a director of a number of railway, banking, airline and industrial firms, and for years conducted a personal campaign to attract companies to the South.

He spent 24 years as a trustee of Georgia Tech and two terms on the State Board of Regents. He was also a trustee of the Franklin D. Roosevelt Warm Springs Foundation.

Tragedy stalked his later years. His only son, Lawrence Wood Robert III, took his own life in 1962 after his wife was killed, along with a number of other Atlantans, in a Paris plane crash.

Robert's own wife died in 1972 after five years on a kidney machine.

A native of Monticello, Robert spent his early life helping his father in railroad construction camps in South Georgia. The work sparked his lifelong interest in engineering.

Survivors include a brother, A. Pierce Robert of Atlanta, two daughters, Mrs. George Carroll of Sea Island and Mrs. Birney Robert Jones of Warrenton, Va.; six grandchildren and 12 great grandchildren.

The family has requested that flowers not be sent and those wishing to contribute may do so to their favorite charity.

Graveside services will be held at 11 a.m. Friday in Westview Cemetery, with the Rev. Frank Ross officiating.

[From the Atlanta Journal, June 6, 1976]

Chip Robert

Lawrence Wood "Chip" Robert, Jr. was one of the best known Georgians of his generation and one of the most valuable to his state.

Mr. Robert was a native of Monticello. He ran one of the largest architectural and engineering firms in the nation and he was a great promoter of the land of his nativity and the things that were good in it. This profited Georgia and the South as he never passed up an opportunity to sell the virtues of this section to his friends over the world.

He was an alumnus of Georgia Tech, an athlete there in his youth and a great benefactor of the school thereafter. He was a genial person, an outgoing man. He was happy in his work and succeeded at it and in the process was able to help his school, his city, state and section. The Journal joins his many other friends in mourning his death.

[From the Atlanta Constitution, June 11, 1976]

Chip Robert

Chip Robert Jr. grew up in Monticello, Ga. but his educational, business, and political vision and activities spread throughout the nation. And his death early Wednesday afternoon at age 88 will be mourned by his many friends throughout America.

One of those who remember Mr. Robert was James A. Farley, friend of and campaign manager and Postmaster General for Franklin D. Roosevelt, who said that Mr. Robert "performed great service to his country." Mr. Farley himself died later in the day Wednesday.

Lawrence Wood Robert Jr. was also a personal friend of President Roosevelt and served as undersecretary of the Treasury under FDR. He was known as the "New Deal's Number One Glamor Boy" for his easy movement in elite social circles.

Mr. Robert also served as secretary of the Democratic National Committe in the 1930s, and he never missed attending a national Democratic convention during a 60-year period—from 1912 in Baltimore when Woodrow Wilson won the party's nomination until 1972 when Sen. George McGovern was tne nominee.

A 1908 graduate of Georgia Tech, Mr. Robert was an honor student, captain of the football, baseball, and cross-country teams and earned 15 varsity letters. His love for Tech's educational and athletic attainments knew no bounds and he served as a Georgia Tech trustee for 24 years, plus two terms on the State Board of Regents.

Mr. Robert formed his own architectural and engineering firm in Atlanta in 1917. It grew to become the largest company of its kind in the country and possibly the world. Mr. Robert, in addition, was very active for many years in helping lure businesses and industry to the South.

Mr. Farley said he last saw Mr. Robert in April when the two of them were reunited at Roosevelt's Little White House in Warm Springs for a commemoration of FDR's death. "It was an occasion I shall never forget," said Mr. Farley.

That was a good way for them to say goodbye. And, by thinking about it, for us, too.

PROPOSED ARMS SALES

Mr. SPARKMAN. Mr. President, section 36(b) of the Foreign Military Sales Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million. Upon such notification, the Congress has 20 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is immediately available to the full Senate, I ask unanimous consent to have printed in the Record at this point the two notifications I have just received.

There being no objection, the notifications were ordered to be printed in the Record, as follows:

Office of the Director, Defense
Security Assistance Agency,
and Deputy Assistant Secretary (Security Assistance),
OASD/ISA,
Washington, D.C., June 11, 1976.

Hon. John J. Sparkman,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: Pursuant to the reporting requirements of Section 36(b) of the Foreign Military Sales Act, as amended, we are forwarding herewith Transmittal No. 76–54, concerning the Department of the Army's proposed Letter of Offer to Saudi Arabia for a cement manufacturing plant estimated to cost $235.0 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

H. M. Fish,
Lieutenant General, USAF, Director, Defense Security Assistance Agency and Deputy Assistant Secretary (ISA), Security Assistance.

Transmittal No. 76–54

(Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Foreign Military Sales Act, as amended)

a. Prospective Purchaser: Saudi Arabia.

b. Total Estimated Value: $235.0 million.

c. Description of Articles or Services Offered: Planning, designing and contracting of one 3,000 ton per day cement manufacturing plant.

d. Military Department: Army.

e. Date Report Delivered to Congress: June 11, 1976.

OFFICE OF THE DIRECTOR DEFENSE SECURITY ASSISTANCE AGENCY AND DEPUTY ASSISTANT SECRETARY (SECURITY ASSISTANCE), OASD/ISA,
Washington, D.C., June 11, 1976.

Hon. JOHN J. SPARKMAN,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Foreign Military Sales Act, as amended, we are forwarding herewith Transmittal No. 76–55, concerning the Department of the Army's proposed Letter of Offer to Saudi Arabia for an amendment to the Saudi Ordnance Corps Program estimated to cost $223.3 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

H. M. FISH,
Lieutenant General, USAF, Director, Defense Security Assistance Agency and Deputy Assistant Secretary (ISA), Security Assistance.

TRANSMITTAL NO. 76–55

(Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Foreign Military Sales Act, as amended)

a. Prospective Purchaser: Saudi Arabia.

b. Total Estimated Value: $223.3 million.

c. Description of Articles or Services Offered: Amendment No. 6 to the Saudi Ordnance Corps Program, calling for the US Army Corps of Engineers to provide technical contract services support, planning, and contract for construction, and procurement support for the Saudi Arabian Army Ordnance Corps.

d. Military Department: Army.

e. Date Report Delivered to Congress: June 11, 1976.

THE MEANING AND BENEFITS OF S. 50

Mr. HUMPHREY. Mr. President, last month I was privileged to testify before the Subcommittee on Employment, Poverty, and Migratory Labor of the Committee on Labor and Public Welfare in support of S. 50, the Full Employment and Balanced Growth Act of 1976. This is a complex bill whose provisions are designed to improve the management of economic policy and encourage production in the private sector. It is clear that there is no one program that will bring us steady, balanced growth and achieve full employment. That is why S. 50's most important feature is that it establishes a new institutional framework in which we can deal with employment, inflation, and economic growth issues as they face us.

The Humphrey-Hawkins bill is not a public service jobs bills. On the contrary, it puts primary emphasis on balanced additions to both private and public employment. The bill promotes the expansion of conventional private sector jobs through improved fiscal and monetary policies and through the development of an economic environment in which private enterprise would be encouraged by the assurance of full and growing markets for its products, and by greater stability and certainty in public policies. The bill provides for the expansion of national priority jobs, most of which would be in the private sector, to meet the urgent housing, transportation, education, health, and environmental problems we face.

Only as a last resort, after the private sector has been fully utilized, would S. 50 provide for reservoirs of public and private nonprofit jobs, most of which would be at the State and local level or in nonprofit private employment. It is clear that this bill promotes a mixture of private and public sector job creation tailored to the skills and strengths of different sectors of the labor force. And it is equally clear that neither private employment nor public employment is promoted at the expense of the other by this bill.

The benefits of this legislation are major compared to the costs that would be incurred. A liberal estimate of the cost of this legislation is $12 billion. This $12 billion investment will help promote a national income that would be $500 billion higher than if we let the economy pursue its present course. The improvements in the quality of life that will result from the attention given to our national priority needs cannot be quantified.

The gains in the private sector far outstrip any of the minor problems associated with additional Federal spending. The Nation and its citizens will reap immeasurable benefits from having our workers in productive jobs rather than on the public dole. This bill establishes a necessary rational economic policy for making full employment a reality.

Mr. President, I ask unanimous consent that my testimony before the Committee on Labor and Public Welfare be printed in the RECORD.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR HUBERT H. HUMPHREY

Mr. Chairman and Members of the Subcommittee, I appreciate this opportunity to be with you today to testify on S. 50, the "Full Employment and Balanced Growth Act of 1976."

It has become increasingly apparent in the last six years that our government's role in managing the economy has been inept, ill-timed and wasteful. Many of the problems which we are struggling with in Congress today stem directly or indirectly from our poor economic performance—a performance marked by two recessions in the last five years This nation has lost some $500 billion in production of goods and services alone in the last five years. The other side of the coin is that individuals, families and corporations have lost this same $500 billion in income.

This drastic shortfall in income has been the primary cause of lower tax revenues, and as a result, of huge Federal deficits. It has meant higher welfare and food stamp payments, which in 1975 alone were $20 billion higher than they would have been if the economy were operating at capacity. The increases in crime, alcoholism, drug abuse, disease and family disruption defy measurement. As many as half of our States have bankrupted their unemployment insurance trust funds and are borrowing from the Federal government. We hear daily of the financial difficulties of the Social Security trust fund, and of the need for sharply higher payroll taxes. These problems would be reduced, and in some cases, would disappear with better economic management and direction from the Federal government.

At a time when almost every economic indicator is improving—production is up, unemployment is down, inflation has stabilized—one may be tempted to say that the worst is behind us, that economic recovery will eliminate most of the problems I mentioned. I do not believe this to be the case. Even with a modest recovery in the rest of this decade, we will lose an additional $600 to $900 billion in output by 1980. A continuation of the old-time religion may lead to another recession.

The fact is that the last 5 years have drawn more attention to the inadequacies of economic policy. Each recovery from recession has brought a higher unemployment rate which implies greater waste of our economic resources. In the late 1940's and early 1950's, we managed to achieve unemployment rates between 2.9 and 3.9 percent. After the 1953–54 recession, unemployment stayed above 4 percent. After the 1958 recession, unemployment reached a new plateau—it remained above 5 percent for 6 years. And now, after the combined 1970–71 and 1974–75 recessions we can look forward to several years of unemployment above 6 percent if policies currently in place continue.

There is something inherently wrong in an economic structure which only recovers 80 or 90 percent of its former vitality after each downturn and which wastes progressively more and more of its resources in successive periods of economic growth. I do not believe that this is an indictment of the mixed capitalist economic system which you and I support.

Rather it is an indictment of the economic management we've had in recent years. To deal with this 'two steps backward and one step forward' syndrome of American economic policy will require nothing less than bedrock reform of the way in which we manage the economy. And the keystone of that reform must be to assure that all citizens willing and able to work are given an opportunity to contribute to our nation's economic vitality.

The Full Employment and Balanced Growth Act of 1976, coauthored by myself and Congressman Augustus Hawkins, and cosponsored by many other Members, attempts to deal with these major shortcomings in the management of economic policy. We recognize that there is no one program that will bring us steady, balanced growth and achieve full employment. And that is why S. 50's most important feature is that it establishes a new institutional framework in which we can deal with employment, inflation, and economic growth issues as they face us. This framework will be reinforced with a package of programs that will come into play only if they are needed.

MODERNIZING OUR POLICYMAKING STRUCTURE

It is not always possible for national policy fully to offset the consequences of particular events, but we can do better than we have so far. Specifically, how can our policymaking structure be improved?

First, S. 50 establishes systematic procedures for setting specific quantitative targets for output, employment, and purchasing power. Second, all the appropriate agencies of government, including very importantly the Federal Reserve, would be required to follow policies designed to achieve those goals. Third, a time frame for achieving long range goals would be developed through a sensible, democratic planning process. Finally, the government would develop a much more sophisticated understanding of what is happening in particular markets, on both the labor and price side, how existing government policies influence the operation of those markets, and how government policies can be altered to improve the functioning of markets.

The process of reaching agreement on specific economic goals would begin with the requirement that the President, in conjunction with each Economic Report, propose interim numerical goals for employment, production, and purchasing power. These short-term goals would be accompanied by a long-term full employment goal consistent with the minimum level of frictional unemployment necessary for efficient job search and mobility in the labor force.

The Act sets a target of reducing unemployment to 3 percent of the adult labor force within 4 years of enactment. For the purposes of this legislation, I believe that we ought to define an adult as anyone 18 years of age and over. This translates to an overall unemployment rate of about 3.5 percent. While as a nation we have lowered our sights substantially in the last few years, we must remember that in six of the years since World War II we have achieved that goal.

It is also well to keep in mind that all other industrialized countries except Canada consistently achieve lower rates of unemployment than the U.S. During the period 1962–1968, while the U.S. had an average unemployment rate of 5 percent, Japan, France, the United Kingdom, Sweden and Germany had an average unemployment rate of 1.8 percent. During our most recent recession, the differential widened: in 1975, the unemployment rate in the U.S. was 8.5 percent while the industrialized European countries and Japan had an unemployment rate which averaged 3.5 percent.

Furthermore, we should remember that 3 percent of the adult labor force is a goal—it is not an absolute requirement. We all realize that it may not be possible to achieve 3 percent unemployment, year in and year out. But the setting of such an ambitious goal will induce us to do better; it will give economic policy the real direction that it has lost as a result of each successive recession and recovery.

Finally, S. 50 provides that within a year of enactment, the President should review this 3 percent goal, and the timetable for achieving it, and "report to Congress on any obstacles to its achievement and, if necessary, propose corrective economic measures to insure that the full employment goal and timetable are achieved."

Let me briefly summarize the provisions of S. 50 designed to achieve the goals of full employment, balanced growth and stable prices:

(1) A new cooperative process is created among the President, Congress and the Federal Reserve for the establishment of annual, numerical economic goals. This will encourage the development of a unified annual economic policy.

(2) New requirements are placed on the Federal Reserve to make it a full partner in national economic decisions.

(3) The President is required to determine the extent to which budget policy can be relied upon to achieve full employment so that government spending does not excessively inflate the economy.

(4) A planning capability is provided for in the Executive Office of the President to give us a better idea of where the economy is headed over the long-run and how we can most efficiently achieve full use of our human and capital resources.

(5) The Act also provides for economy in government measures to review and make recommendations for improvement of 20 percent of all governments programs and regulations each year.

(6) The Act requires that work be substituted for welfare, unemployment compensation, and income maintenance spending to the maximum practical extent.

(7) Comprehensive anti-inflation policies are required in conjunction with the annual policymaking process, with an emphasis on increasing productivity and the supplies of necessities such as food and fuel.

(8) Provision is made for a range of employment programs that focus on structural problems of unemployment in depressed regions, states and among groups in the labor force who have special unemployment problems, such as youth.

(9) A comprehensive counter-cyclical employment program is required, with special emphasis on a grant program to stabilize State and local governments during recessions and thereby prevent contradictory fiscal actions at different levels of government.

(10) After the private sector has been fully utilized, and all other provisions of this Act have been employed, the Federal government is responsible for ensuring that the remaining unemployed above 3 percent adult unemployment are provided jobs.

S. 50 EMPHASIZES BALANCED ADDITIONS TO PRIVATE AND PUBLIC EMPLOYMENT

This legislation is not merely another public jobs bill. As I have said earlier, one of its major innovations is the establishment of a new policy framework. We have the task ahead of us in the rest of this decade of creating almost 12 million jobs if we are to achieve full employment—jobs for those currently unemployed and for those who will be entering the labor force in the next 4 years. Most of those jobs will be created by the private economy. Without full employment legislation, however, we will fall several million jobs short of the 12 million needed.

How does S. 50 envisage meeting our jobs goal? Not by massive Federalized public employment, but by a mix of private and public sector job creation that is tailored to the skills and strengths of different sectors of the labor force. Our clear order of priority under S. 50 would be:

(1) Expansion of *conventional* private sector jobs, through improved monetary and fiscal policies, that work in tandem for a change rather than at cross purposes; promotion of an economic environment in which private enterprise would be encouraged by the assurance of full and growing markets for its products and by greater stability and certainty in public policies. Ask any businessman what encourages him to invest and he will tell you that it is the expectation of continued rising incomes and the expectation that the Federal government will not switch signals on him every two or three years. S. 50 would help restore confidence of both consumers and business by ending the stop-go economic policies of the past.

The bill would further promote private sector employment by eliminating outmoded rules and regulations. Improved training programs would make labor resources more attractive. And finally, there would be a multiplier effect of more stimulative policies, and of the human and capital investment promoted in other sections of the bill. As we all know, successful economic expansion feeds upon itself, and S. 50 aims to revitalize the private sector.

(2) Expansion of national priority jobs, with improved Federal assistance. These jobs would not be mainly public jobs, much less "public service" jobs. They would be mainly private jobs, as is clear from the nature of the priority needs cited in S. 50—housing, mass transportation, environmental improvement, health, education, etc. Even the priority jobs in the public sector would be mainly State and local, rather than Federal jobs and would have a high "multiplier" effect upon private employment and investment.

(3) As a last resort, for those otherwise unemployed, either because of unavoidable swings in the business cycle or because of some skill deficiency, S. 50 would provide for reservoirs of public and private nonprofit jobs. Most of these jobs would be at the State and local level or in nonprofit private employment. Only the remainder would be Federal jobs.

DEALING WITH INFLATIONARY PRESSURES

There is no doubt that we are facing today an inflation-prone economy, one where price and wage pressures bear close scrutiny whether we pass full employment legislation or not. But I fear that there is a general tendency today to look at our recent past of very severe inflation and assume that it is due to the old economic relationships that prevailed 20 years ago. The 1974–75 double-digit inflation was due almost entirely to one-time increases in food and energy prices, a situation that developed in international markets over which we had little control. It was not due to excess demand or excessive wage increases—in fact, demand was declining and wages lagged behind price increases.

I want to emphasize that one of the factors which contributes most to inflationary pressures is low productivity. Any business running its plant at 60 or 70 percent of capacity will suffer increases in the unit costs of production. In the early 1950's and again in the mid-1960's, increased production and employment were accompanied by lower rates of inflation. Our experience in late 1975 and early 1976 is similar. Many businesses have been able to absorb higher material costs and higher labor costs with very little increase reflected in consumer prices because of higher productivity.

Of course, demand pressures and supply shortages may become a problem as the economy moves towards full employment and potential output. S. 50 requires a constant monitoring of the inflation situation. And as I said earlier, a change in the policy-making framework would enable the government to better understand individual markets, to anticipate supply shortages, and to encourage the necessary development of those markets. There is also a full provision in the bill for these anti-inflation actions to be as thorough and tough as necessary "to promote reasonable price stability if situations develop that seriously threaten price stability."

BENEFITS AND COSTS OF FULL EMPLOYMENT LEGISLATION

I believe that we ought to determine the desirability of full employment legislation by examining the direct costs to the government of enacting it versus the costs that we suffer in terms of lost income, production, higher welfare, food stamps without full employment. In other words, let's look at some of the benefits that our economy and our nation would enjoy at the same time that we examine the costs.

First, let me tell you that the direct costs associated with this bill are relatively small, about $50 million. This $50 million would be used to establish the policy-making framework that I spoke of earlier. If all the programs outlined in the bill were enacted, however, the budget costs indirectly associated with this bill would be greater.

While it is difficult to give you a precise estimate of these costs, because the bill gives only the broad outline of the training, job creation and counter-cyclical grants programs, I would like to give you a rough idea of the magnitudes we are talking about. If in the next four years, we will need about 12 million jobs, and if the private sector, through the forces of expansion, and through overall fiscal and monetary policies, creates about 10 million of those jobs, there will be a gap of about 2 million jobs. We are assuming that the gross costs to the government of closing this gap would be about $16 billion.

The net budget costs, however, would be only about half that or $8 billion since the $16 billion would be offset by higher tax payments, lower unemployment compensation, lower welfare payments, larger contributions to social security. If we needed to create 3 million jobs, the gross budget costs would be $25 billion and net costs would be about $12 billion.

What will the Federal government get for its $12 billion investment in full employment? As I said earlier, in the rest of the decade this nation would have a national income about $500 billion higher at full employment than if we allowed the economy to continue on its present course. Since we will not be at full employment in all the remaining years until 1980, we will not recoup all of this lost income, but a substantial portion of it, as much as $300 billion, will be earned by individuals and businesses as we approach full employment in the next four years. The improvements in the quality of life that will result from attention to our national priority needs cannot be quantified.

These numbers show that the benefits from full employment far exceed the costs. At least half of the budgetary costs would be offset by higher tax revenues, and lower transfer payments. The gains in the private sector, however, far outstrip the additional Federal spending. For this reason, I believe that full employment is a bargain.

Before concluding my statement, I want to point out to the Members of the Subcommittee that in recent weeks some negative editorials and columns have appeared in the press about S. 50. Upon checking with the authors, we found that a number of them were using the original version of S. 50 introduced last year or that they relied on the interpretations of those who had not read the revised bill. The revised bill which is before you today bears very little resemblance to that original bill and for that reason I hope that you will read this legislation very carefully.

We all agree that the nation and its citizenry will reap immeasurable benefits from having our workers in productive jobs rather than on the public dole. What makes this revised S. 50 so attractive is that it establishes a rational economic policy for making full employment a reality.

THE GENOCIDE CONVENTION AND THE ROLE OF THE UNITED NATIONS

Mr. PROXMIRE. Mr. President, fears have been voiced that the Convention on the Punishment and Prevention of the Crime of Genocide would enlarge the powers of the United Nations.

Article VIII of the convention outlines the role of the United Nations on the issue of genocide. A number of points deserve mention here. The definition of genocide from the treaty itself has been generally agreed upon in past deliberations by the Senate Foreign Relations Committee. So defined, it constitutes a crime against all humanity, an infringement of the most basic of human rights. It is clearly a threat to the peace and harmony of the international community. Recall the global convulsions in the wake of the Nazi terror, the effects of which far transcended central Europe. As such, genocide is a genuine threat to world peace, and thereby within the realm of U.N. discussion.

Article VIII of the convention refers to "action under the charter of the United Nations." U.N. authority is limited by charter article 2(7), which proscribes against intervention "in matters which are essentially within the domestic jurisdiction of any state."

The point is this: whether or not we become a signatory to the convention, the United Nations can rightly continue to discuss alleged genocide committed in the United States or anywhere else, whenever its members so choose.

What do we have to fear from this discussion? False and inflammatory charges directed against the United States from the forum of the U.N. are nothing new. In point of fact, our long-standing inaction on the Genocide Convention merely serves to lend credence to such allegations.

Finally, a critical point to be recalled here is that enforcement powers within the U.N. reside with the Security Council. where the United States has veto power. This alone should serve as sufficient assurance to those who fear loss of our national sovereignty by some menacing world government, under the auspices of the United Nations.

The United States must put itself on record as being unquestionably opposed to this horrific crime against all humanity. Senate ratification of the Genocide Convention will be a giant step in this direction.

EXPERIENCE UNDER WPA PROVIDES INSIGHTS FOR CURRENT EMPLOYMENT POLICIES

Mr. HUMPHREY. Mr. President, in recent months a number of critics within and outside the administration have maligned both current job creation programs, and proposed alternatives. There seems to be an extremely negative attitude among the Council of Economic Advisors, for example, about any selective measures to stimulate employment. With the official unemployment rate hanging stubbornly at 7.5 percent, and with the unofficial, more comprehensive rate closer to 10 percent, we cannot afford to blithely disregard the good, effective features of measures to stimulate employment because of a few difficulties.

Today, I want to bring to my colleagues' attention the conclusions of a report by Alden F. Briscoe of the Center for Governmental Studies on the WPA. It is a critical analysis of the strengths as well as the flaws of the WPA, offering it as a conceivable solution to the rampant unemployment that faces us today. Briscoe observed:

> For the 1970s we must look at the WPA as a program not to disparage, but to learn from and improve.

The WPA, one of President Roosevelt's biggest New Deal programs, was founded "to provide relief, work relief, and to increase employment by providing useful projects." Until 1939, it was an independent agency known as the Works Progress Administration and then changed its name to the Work Projects Administration and became part of the Federal Works Agency. WPA was gradually phased out by an Executive order of December 4, 1942, when it was ordered to discontinue operations as soon as possible. It was originally supposed to be a secondary agency to the Public Works Administration and the Bureau of Roads. Under the vigorous direction of Harry Hopkins, however, it became a major operating agency, even though it was only regarded as a temporary program.

The WPA functioned as an intragovernmental program which was reviewed and changed by Congress on an annual basis. Projects for the WPA were initiated locally by a State or local government or by a Federal agency known as a "sponsor." The sponsor had to guarantee part of the cost but had little or no control over the project itself which was administered directly by the local WPA office. It was believed that the WPA could move faster to organize and direct projects than the local government could. Yet, upon completion, the projects became the property and responsibility of the local owners. Once a project was formalized between the sponsor and the local WPA office, it was then forwarded to the State office and ultimately to the national office.

Of necessity, projects sponsored were to be labor-intensive to serve the organization's purpose of employing the needy. WPA projects involved building or improving airports, sewers, water systems, parks, and public buildings. WPA involvement also included public services such as providing clothing for needy families, contributing to the arts, research projects, education, and public health.

The two major criteria for employment on the WPA were need and employability. "Need" was viewed as a determining factor since not enough jobs had been created by Congress to employ all those who were out of work. "Employability" was also a significant factor since it was necessary to seek applicants whose skills could be utilized for each particular project. Although most of the WPA projects were manual labor, white-collar workers and blue-collar workers alike were provided with jobs.

Wages paid by the WPA were regulated so as to be higher than relief but not so high as to be a reverse incentive that would encourage the rejection of opportunities for private employment. Ultimately, WPA wages were changed to become not less than the current wages for work of a similar nature.

Among the accomplishments of the WPA were the construction of New York's Central Park Zoo, San Francisco's Aquatic Park, and Chicago's waterfront, the Philadelphia Art Museum, LaGuardia Airport, and the restoration of Independence Hall. Approximately 2 million people were continually employed throughout the 8 years of the WPA's existence. Total WPA employment has been estimated to have been between 18 and 40 percent of all the unemployed in the United States.

Although Briscoe states that there is a dearth of concrete information on the WPA, he also believes that it is worthwhile to look back on it and see what hindsight can teach us. Briscoe states:

> The WPA proved once and for all . . . that unemployed people can be put to work quickly if the society makes a commitment to that goal. Furthermore . . . most of them can be put to work usefully . . . However, many claim that the wastage of having people who wish to work sit idle is immeasurably greater—not only in terms of goods and services not produced, but in terms of individual frustrations and suffering.

Briscoe acknowledges the shortcomings of the WPA and discusses each one in his report. One of the major drawbacks of the WPA was that little vocational training was offered for enrollees. This, however, was a result of the fact that WPA was always considered a temporary program. Briscoe considers this a weakness for he states:

> If a program is to have effective links to the normal employment system . . . then it must be planned with that in mind, and if permanent jobs are a goal, placement must be an important component of the program.

Another difficulty that stymied the functioning of the WPA was the fact that the question of eligibility was answered in different ways at different times. This resulted in discriminatory practices in hiring and potential WPA workers were excluded because of sex, race, and lack of residence in the area of the project.

Briscoe's report states the difficulties encountered in determining the impact of the WPA, which he mainly attributes to the lack of research on the subject. He acknowledges:

> Certainly the program must have had considerable impact. On the average 2 million families were receiving approximately $1.4 billion per year for six years.

The money received by families on the WPA was spent almost immediately for necessities which created a multiplier effect in the economy.

However, the WPA by itself was not sufficient to increase overall demand and stimulate private production enough to cut unemployment sharply despite the consequences of the multiplier effect. Yet, adds Briscoe, we will never know how much worse the Depression might have been without the WPA. The WPA and the employment programs of the New Deal must be viewed in their proper context. They have taught us that a present day public service employment program can give jobs and income to unemployed people and produce needed goods and services. "That," concludes Briscoe, "is no small achievement."

Mr. President, I believe that there are many lessons that we can learn from the WPA program of the 1930's. It had some shortcomings but by and large it served the intended function of putting America back to work in useful, productive jobs. I commend this report to my colleagues.

THE ANTITRUST IMPROVEMENTS ACT OF 1976

Mr. GARY HART. Mr. President, I would like to congratulate the sponsors, Senators Hart and Scott, floor managers and committee staff for their fine and exhausting effort on behalf of the antitrust bill, H.R. 8532, which passed the Senate yesterday evening. The original Senate bill, S. 1284, was a masterwork of rationality, detail, and careful and thoughtful compromise. It is because of this kind of far-sighted legislation that my children and their children will become familiar with the greatness of our senior colleague from Michigan, Senator Hart.

Some of my constituents and colleagues may be puzzled by my votes yesterday on the Hart-Scott substitute and on final passage of H.R. 8532, and I am taking this opportunity to explain my opposition.

Mr. President, throughout its history, the United States has relied upon free competition among private business enterprises as the basic regulator of most economic activity. American economic policy has generally been to promote competition in a free market system. The United States belief and experience, according to our courts, is that the "unrestrained interaction of competitive forces" will usually result in "the best allocation of our economic resources, the lowest prices, the highest quality and the greatest material progress, while at the same time providing an environment conducive to the preservation of our democratic political and social institutions." (*Northern Pacific Railway Co.* v. *United States*, 356 U.S. 1, 4, 1965.)

To insure the vitality of competition in the 20th century, the Congress enacted the major antitrust laws—the Sherman Act in 1890, and the Clayton Act in 1914. Our experience in the following 86 years has shown that the laws are basically good, but it has also shown that these laws do not automatically guarantee competition. Nor do they provide, in every instance, for the successful and efficient prosecution of the very activities banned by those acts.

As a result of many years of effort by the senior Senator from Michigan, Mr. Hart, the other hard-working members of the Judiciary Committee, and the committee staff, we were presented a sensible solution to the problem of antitrust law enforcement in the Hart-Scott Antitrust Improvements Act.

If this body is agreed that free competition is desirable in our economy, and if we are agreed that the goal of antitrust law is to maintain and enhance competition, then we should have also agreed that the original Hart-Scott bill was vital. All that the bill sought to do was to provide mechanisms for the enforcement of the antitrust laws. It did not seek to change the standards of the law—nothing that is legal today would have been made illegal upon the enactment of the original Hart-Scott bill.

Mr. President, there were 70 rollcall votes conducted during the course of debate on H.R. 8532, and I am proud to have voted with the bill's sponsors on 66 of those votes. I could not vote with my friend Senator Hart on the Chiles-Byrd amendment, the final language of the Hart-Scott substitute, or final passage of H.R. 8532. I did not vote for those measures because I disagreed with the priciples embodied in the legislation, but because those fundamental principles of free enterprise which H.R. 8532 sought to preserve were sufficiently diluted by amendment that I could not, in good conscience, vote with the majority.

I think it is important to reflect upon how this body amended the originally good antitrust bill into a compromise of general principles. First, it was agreed to limit the provisions of title IV to per se offenses and patent fraud only, and struck the retroactive provisions of the bill.

Second, a new section was added allowing the States to completely opt themselves out of title IV. Third, the 60-day period for temporary restraining orders under title V was cut in half. Fourth, language assuring uniformity of antitrust law enforcement with respect to the "in commerce" clause was deleted.

Fifth, a section requiring foreign companies and multinationals conducting business in the United States to comply with valid U.S. judicial orders was deleted. Sixth, a section providing for the expeditious handling of complex antitrust cases by the Federal District courts was deleted. Seventh, language permitting aggregate damages in class action suits was deleted.

Eighth, the provisions of title II affording access to grand jury documents and transcripts were limited. Ninth, language authorizing the Antitrust Division of the Department of Justice to issue civil investigative demands to obtain evidence for use in Federal administrative or regulatory agency proceedings was stricken. Tenth, contingency fees based on the success of an action under parens patriae were prohibited.

And as if this were not enough, it was decided yesterday evening that a compromise amendment was necessary. This compromise amendment weakened title V, prohibited the use of percentage contingency fees in parens patriae actions, and limited fluid class recovery for treble damages to per se price-fixing offenses and fraud on the patent office.

This last amendment prevented determination of aggregate damages for the per se offenses of horizontal market division, concerted refusals to deal, and certain tying arrangements, successfully preventing the expeditious prosecution of those crimes.

And the amendment completely exempted illegal monopolization, illegal attempts at monopolization, illegal restraints of trade, illegal reciprocal dealings, illegal exclusive dealing contracts, illegal price discrimination, illegal conscious parallelism, illegal tying arrangements, illegal joint ventures, illegal mergers and acquisitions, and illegal refusals to deal from prosecution under parens patriae. And the above mentioned crimes constitute approximately 57 percent of all antitrust cases filed by the Justice Department according to the Congressional Research Service.

Mr. President, I voted against the Hart-Scott substitute and against final passage of H.R. 8532 not because I am against the just compromise of details.

Rather, a filibuster by a determined few forced the large majority of Senators favoring H.R. 8532 to delete many worthy aspects. I believe the price that the American consumer must ultimately pay to break that filibuster was too high.

NEW JERSEY ASSOCIATION HONORS DR. SOLOMON GELD

Mr. WILLIAMS. Mr. President, for some years I have been fortunate enough to know Dr. Solomon Geld, who has a well-deserved reputation throughout the Nation for high standards of long-term care and housing for older Americans.

Dr. Geld came to the United States from Germany in 1938 and soon began his pioneering work at the Daughters of Miriam Center for the Aged in Clifton, N.J. He still serves at the center as executive vice president but his influence goes far beyond his significant achievements there.

He has insisted—and he has had the skill to apply his principles to everyday procedures at his home for the aged—that the medical and social and housing needs of older persons cannot be separated arbitrarily into separate compartments of policy and practice. He speaks quite deliberately about a "spectrum of care" for the elderly because the components of care, like the colors in a rainbow, do not stop sharply at distinct divisions in the spectrum; they overlap and blend.

And Dr. Geld has pioneered in combining skilled nursing care with residential settings; he has been unwilling to provide housing, and housing alone, for residents; he has insisted upon supportive services, as well. His innovations have been recognized; he has served as president of the National Association of Jewish Homes for the Aged, as vice president of the American Association of Homes for the Aged, and as president of the New Jersey Association of Homes for the Aged, to mention just a few of the titles he has borne.

But the most recent honor bestowed upon Dr. Geld is one which must have special satisfaction. The New Jersey Association of Nonprofit Homes for the Aged recently gave Dr. Geld its Distinguished Service Award for 1976.

Mr. President, the exchange of comments between the Association and Dr. Geld at the award ceremony in Morristown, N.J., was so warm and significant that I ask unanimous consent to have it reprinted here. Not only do the words tell us a great deal about Dr. Geld; they also say much about what can be done to provide good surroundings and care for the elderly when fundamental principles are firmly rooted in deep concern about humanity.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CITATION: N.J.A.N.P.H.A., DISTINGUISHED SERVICE AWARD PRESENTATION TO DR. SOLOMON GELD

It gives me great pleasure this evening to present the New Jersey Association of Non-Profit Homes for the Aging, Distinguished Service Award for 1976, our Nation's Bicentennial year, to one who has exhibited creative and outstanding service to the aging on the local, state, and national level—Dr. Solomon Geld.

As one nominator said, "To list all his activities would fill a volume." This evening I shall share with you highlights of Dr. Geld's life.

He was born in Poland in 1911 and was educated in the Public Schools of Lvov, Poland. He received his Rabbinical Degree from Jewish Theological Seminary in Breslau, Germany, and the Ph. D. Degree from the University of Breslau. While in Breslau, Dr. Geld was employed as a high school teacher, and Rabbi.

Sol came to the United States in 1938, took some Post Graduate work at Jewish Theological Seminary of America in Hebrew Poetry and additional courses in Social Work at New York University. For seven years he served as Executive Director, Jewish Community Council, Patterson.

Dr. Geld has been with Daughters of Miriam Center for the Aged, Clifton, N.J., from 1939 to present, first as a teacher-counsellor, then assistant administrator, Executive Director since 1948; Executive Vice President since 1970. During these years, Sol has been known as a man of great vision, an innovator of new programs for the aged.

He virtually built Daughter's of Miriam single-handedly and made it into the outstanding facility it is today. The windows in the Synagogue at Daughter's of Miriam were his concept as designed by the architect.

It was no surprise when Dr. Geld became the recipient of A.A.H.A.'s Award of Honor, that Association's most coveted award for his "creative achievement and contribution to the field of sheltered care of the aged."

He pioneered in getting skilled nursing care in residential non-profit facilities in 1946. In 1954, he was an advocate in securing Old Age Assistance payments for residents of homes for the aged. O.A.A. had been established for 30 years in the State of New Jersey before residents of our facilities were granted eligibility. It was 1961 when he created the first sheltered workshop for institutionalized aged. Dr. Geld sponsored the first Senior Citizen Housing Inter-Services under the auspices of a non-profit Home for the Aged. Under his leadership, H.U.D. recognized the concept of apartment living for the aged with supportive services at Daughter's of Miriam.

Sol has been a participant in conferences on aging on the State and National level. He was a Delegate to the White House Conference on Aging from the National Conference of Jewish Communal Service and the National Association of Jewish Homes for the Aged. It was during the days of preparation for this Conference in 1961 that the homes for the aged were caught in a difficult period, trying to define themselves in order to be clearly separated from the nursing homes organized for profit. It was Dr. Geld who came up with the satisfactory solution, a complex definition that nevertheless marked the chief characteristics of the Home:

"It is a voluntary, permanent, usually sectarian, non-profit, protective, subsidized, community of the aged, with many ramifications for the surrounding community as well." At the 1971 White House Conference he was a member of the New Jersey Delegation.

He has been a teacher and lecturer on the philosophy of care and social gerontology at many professional conferences and at Rutger's University. He has also been a sought after speaker at many cultural, fraternal and religious organizations on subjects of Jewish interest, such as Hadassah, Ort, B'nai Brith and Workman's Circle.

Dr. Geld has been listed in the Congressional Record for his testimony before the U.S. Senate Committee on Aging in 1958, 1971, and 1974. He was also a United States Government consultant on standards of extended care facilities for Medicare.

Sol served as President of the National Association of Jewish Homes for the Aged, President of the New Jersey Association of Homes for the Aged as well as leadership positions in numerous other organizations, commissions, and advisory council concerned with long term care of the elderly. He is a member of the Gerontological Society and in 1954 was made a Fellow of the Society. He is also a charter member of the New Jersey Gerontological Society.

This Distinguished Service Award is a timely expression and a small token of our appreciation for the dignity and stature Dr. Solomon Geld has brought to our Association within the State and on the National level and in his compassionate concern for his fellowman.

It is therefore my privilege and honor to present the Distinguished Service Award of the New Jersey Association of Non-Profit Homes for the Aging to Dr. Solomon Geld.

RESPONSE BY DR. GELD

Dear Hearts & Gentle People—Fellow Aging Americans:

I see that the salutation touched your nerves of fun. This is good. But there is a serious note in it as it is in every authentic humor. For too long we and others who are concerned with aging people—we were speaking of them, the aging and doing for them, the aging—as if they were an island unto themselves isolated from us—who harbored the illusion that we are not aging. The truth is, as the ancients put it: "de te fabula narratur", the story about aging is about thee and me, which means that what we want for the aging should be in every respect identical with what we want for ourselves. Indeed this kind of attitude is the measuring rod of our ministry to the aging which scores its achievements and failures.

So may I greet you again: fellow aging Americans. Accustomed as I am to public speaking, I find myself at this moment in a situation similar to the one which prompted the God intoxicated mystic, Meister Eckhart to say: "When the soul speaks it speaks no more". What he meant by this seemingly contradictory sentence is that there are moments in life, such as this moment in my life, when the soul, the heart and mind overflow with a rush, a surge of a thousand and one thoughts, feelings, rich memories of hopes, wishes, regrets, joys and sorrows, all of which well up within me, all trying to get through the narrow passage of the chocking throat and break the bounds of language. Even with the natural gift of gab to which I plead guilty one becomes tongue tied. How can I possibly convey to you the many images of the past, present and future which flash through my mind, my itinerary from Poland to Germany to the United States; The many years of my experience with this and other associations, the learning and teaching processes, the privileges of friendships, the rewards of involvement, the alternating sense of frustration and achievement. In moments such as this the silently moving eye is more eloquent than the noisily moving tongue. Therefore, my only way of saying thank you to you is to embrace you one and all (I dare not mention names) with my eyes, my heart, my mind, as an expression of love, respect and gratitude to my family, to the Board and Staff members of Daughters of Miriam who came to share this joyous occasion with me and my colleagues and friends of this Association.

You all know the often quoted lines by Browning: "Grow old with me, the best is yet to be". In retrospect of what can be regarded as three quarters of my life, optimistically speaking, this is the best with more of the same to come. Some wit, for reasons best known to himself, changed Browning's lines to read: "Grow old with me and you will live to see Medicare and Medicaid through Social Security". This is not what my embracing eyes say to you rather I do say it in the original version with the same flow of emotions which we, i.e. my true, good and beautiful wife and I experience on many enchanted evenings when we sit silently on the terrace of our new home looking at the vast expanse of greenery in front of us which is bathed in brightness and rich colors of the setting sun, when we smile and convey to each other with our eyes: Grow old with me, all is well. Good Bless You and Keep You.

THE DISC LEGISLATION

Mr. WILLIAMS. Mr. President, we are about to take up one of the most difficult legislative issues that we are called upon to face. I refer, of course, to tax revision legislation. The economic and social policies involved are always complex, and every American will be directly affected by our decisions. As Edmund Burke said in his "Speech on American Taxation" in 1774:

> To tax and to please, like to love and be wise, is not given to men.

However true that may still be today, the Senate Finance Committee has made a very good record of achieving realistic resolutions to the complex problems and interests which are involved in tax revision proposals.

Mr. President, I would like to take this opportunity to offer some comments on the Senate Finance Committee's action on DISC, which the Senate will consider very soon when it takes up H.R. 10612, the Tax Reform Act. DISC has been the subject of intense debate throughout the course of the 94th Congress, first in the House and most recently in the Senate Finance Committee. Under the able leadership of the esteemed chairman, the distinguished Senator from Louisiana (Senator LONG), the members of the Senate Finance Committee have labored long and hard to produce a tax bill which will address the issue of DISC in a responsible, balanced manner. They are to be commended for their diligent and fruitful efforts.

The passage of the DISC legislation in 1974 reflected our legitimate concern over the deteriorating trade situation of the 6 years prior to 1971. In 1965, the U.S. merchandise balance of trade was a positive $5 billion. That position eroded to $0.6 billion in 1969 and had reached a negative $2.3 billion in 1971.

In effect, DISC was designed to focus the attention of U.S. firms on exports and to provide a tax deferred source of capital for investments that will strengthen the export business.

In reviewing what has happened since the implementation of DISC, some of the raw numbers which have been presented are impressive. U.S. merchandise exports have gone from $44 billion in 1971 to $97 billion in 1974, a growth rate 300 percent greater than that of the gross national product. Last year we had a positive merchandise balance of trade of over $9 billion.

But there are many other factors to consider in evaluating this trend. On the positive side, we closed the gold window in 1971, and we devalued the dollar. During last year's recession, which hurt us along with most of the other industrial countries, many businesses expected a negative impact on export sales, yet our position improved significantly. Industry spokesmen have forcefully argued that DISC was definitely a factor in this trend and in the overall general improvement of U.S. balance of trade as well. Determining in some concrete fashion just how much DISC had to do with that improvement is the source of the debate in Congress.

I have been reviewing some of the claims which are being made about how effective DISC has been. Quite frankly, the wide disparity in the conclusions reached by different economic interpretations and statistical methods is confusing and leaves no positive idea of what the facts are. The Department of Commerce estimates that $7 to $9 billion of 1974 exports can be attributed to DISC and that as many as 360,000 exported related jobs had been created. Department of Commerce figures also claim an increase in the GNP figures of from $21 to $27 billion and an increase in Federal tax revenues of $5 to $6 billion versus a tax expenditure of $1.05 billion.

Industry sources generally agree with these figures but argue in behalf of DISC that it is not an outright tax expenditure but merely a deferral contingent on continued investment of DISC funds in export assets. In the case of noncompliance with DISC, the industry spokesmen say, exporters must pay back the deferred taxes.

The opposite point of view is represented by the recent Library of Congress study of DISC, which Senators HASKELL and KENNEDY reported to the Senate on May 3, 1976. That study considers the impact of DISC marginal at best. Citing "worst" and "best" case figures, this study finds that 1974 exports received at worst no benefit from DISC and at most $1.4 billion. As to export-related employment, the Library of Congress findings range from zero to as many as 104,000 jobs. The Congressional Research Service of the Library of Congress developed its findings from the statistics, analysis, and qualifications used by the Department of the Treasury in its 1974 annual report on DISC.

The 1974 annual report put out by the U.S. Treasury Department seems to represent an intermediate position. That report estimates that $4.6 billion of 1974 exports came about due to the favorable impact of DISC and that approximately 230,000 export-related jobs were created. The Treasury report analyzed its material only as a response to congressional inquiries and only did so after pointing out the difficulties in estimating the impact of DISC on exports. However, both this source and the methodology used have been criticized by the previous analysis which I mentioned.

Clearly, the data relevant to DISC is open to many interpretations and conclusions, and we seem to be caught up in a discussion of theoretical economics as we examine the provision. The arguments over whether DISC helps to spur exports and create jobs, whatever the figures, will not soon be solved. However, the likely employment impact should be a critical factor in our decision during this period of economic recovery.

I think there is another vital issue that relates to a problem that should also be one of the highest priority. The member nations of GATT, General Agreement of Tariffs and Trade, have registered strong protests that DISC is an incentive practice which is inconsistent with that agreement. That wave of protest by countries which themselves have strong export incentives clearly points out that DISC is partially offsetting the export incentives of those other nations. DISC clearly serve as an important element in negotiating away the unfair export practices which our competitors have used to detriment of our trade and employment policies.

I believe that these other nations see that DISC is an effective mechanism for building the capital pools we need to compete with their sophisticated export incentives. In export markets, while price is important, so is the ability to meet the selling terms of your competitors. And foreign selling terms dictate the imperative need for larger amounts of working capital in terms of accounts receivable than is needed domestically. Without the cumulative DISC funds, U.S. exporters could be hard pressed to remain in the marketplace. The possible loss on sales volume could be immediately seen in lower employment levels.

In conclusion, I think that the debate over the role of DISC has made a contribution to our overall understanding of the problems involved in the U.S. export situation and the need for more accurate information in this area. We are accustomed to resolving the differences of various interest groups in the United States. It is a normal part of the democratic process to see government, labor, and industry, for example, engage in debate on domestic issues. Preserving the DISC concept in legislation will permit U.S. negotiators to engage in a similar process during trade negotiations on export incentives in international forums.

We must recognize that the other governments cooperate with, coordinate and even direct the industrial activities of companies engaged in world trade. We have felt the competitive effects of this foreign government and industry cooperative effort. DISC can give us a valuable negotiating tool which should offset these foreign economic advantages that often undermine our ability to compete in our own as well as overseas markets.

We cannot forget that the normal policy of many other governments is to stimulate exports to our shores and traditional markets with tax rebates, guarantees, and subsidies. The result has been very low unemployment and tremendous export success while the U.S. industries are placed in a position where they cannot compete on an equitable basis.

While the adoption of flexible exchange rates do represent a stabilizing factor in international finance, their effects are still too complex to measure with any accuracy. And while we try to evaluate their actual impact, high unemployment in the United States precludes precipitous action that could aggravate our precarious economic position.

In conclusion, I feel that the debate about DISC has served to focus our debate on the worldwide competitive position of the United States, and it has also helped U.S. firms to compete in world markets while providing more U.S. jobs. The only real issue is whether the cost is worth the return in employment and sales benefits.

The Senate Finance Committee has recommended that corporations with earnings exceeding $100,000 claiming DISC benefits would be allowed such benefits only with respect to DISC receipts in excess of 60 percent of the base period receipts of the DISC. For 1977 and 1978, the base period would be the average receipts for any 3 of the 4 years 1973–76. Beginning in 1979, the 4-year period used to determine the base period receipts would move forward 1 year each year. This incremental approach is designed to be an incentive for companies to increase exports. Otherwise they lose the tax deferral advantage of DISC.

While I am still reviewing the impact of the agricultural and military sales provisions, I believe the overall direction taken by the Senate Finance Committee is an equitable compromise that substantially reduces the potential for abuse while retaining incentives for added exports and providing a tangible negotiating position for our diplomats. The very able chairman of the Senate Finance Committee is to be commended for his success in resolving the diverse viewpoints on this issue so well.

Since our economic health is so fragile, I am very reluctant to move in a direction that might aggravate our economic position. While I firmly believe that the DISC provisions must be tightened to insure that they are not abused, their value in achieving a greater equity in world trade practices should not be undermined. Further, the economic benefits that they do provide must be preserved to protect the economic recovery process which is our highest national priority today.

UNAUDITED SHIPBUILDING CLAIMS

Mr. PROXMIRE. Mr. President, the decision by Deputy Defense Secretary William P. Clements to withdraw his proposal to use the Pentagon's emergency powers to pay approximately $1.8 billion in shipbuilding claims against the Navy is welcome news.

CLAIMS SHOULD BE AUDITED

These claims have never been fully audited, analyzed, or evaluated by the Navy. Although Mr. Clements argues that the contracts on which the claims are based are inequitable, it seems to me that once a claim is filed it is essential that it be fully audited before it is paid. In addition, there is substantial evidence that the contracts are not inequitable. In fact, shipbuilding contracts are probably the most generous, liberal contracts awarded by the Federal Government.

Secretary Clements failed to demonstrate that the contracts signed by the shipbuilders are inequitable or that the shipbuilders are entitled to the additional money they are requesting to cover their cost overruns. All sides in this controversy agree that the ships in question are months or years behind schedule and that the costs to build them are far above the original estimates.

WHO SHOULD PAY FOR THE COST OVERRUNS?

The real question is, who is responsible for the delays and the cost overruns?

To answer this question, it is necessary to audit the claims. It is improper for the Defense Department to ask Congress or to take any steps to pay the claims, or to reimburse the shipbuilders for the cost overruns, without a full audit, a complete analysis and an evaluation of the claims themselves.

EVIDENCE OF POSSIBLE FRAUD

On Monday, June 7, 1976, the Subcommittee on Priorities and Economy in Government held a hearing on shipbuilding claims and other defense procurement issues. I might point out, that this subcommittee held its first hearing on the problem of shipbuilding claims in 1969 and that it has devoted considerable effort to studying the matter since then.

The evidence received by my subcommittee strongly suggests the possibility that the claims filed by one of the shipbuilders, Newport News Shipbuilding, totaling $894 million, may be based on false representations.

The testimony shows that the claims filed by Newport News are based on inflated figures, unsupported allegations, attempts to charge the Navy with the costs of commercial activities and possible double counting. The assertions by Newport News are not only unsubstantiated by documentation they supplied to the Navy, but they are also based on theories and propositions which can only be termed highly questionable.

$97 MILLION FOR PARKINSON'S LAW

For example, Newport News alleges that the Navy is responsible for the decline in productivity of the shipbuilder's labor force on the grounds of Parkinson's Law. Parkinson, it will be recalled argued rather facetiously that in a government bureaucracy work expands to fill the time available to complete it. In other words, bureaucrats are inclined to waste a lot of time, the more time they have to waste, the more time they will waste.

Newport News cites Dr. Parkinson to support its assertion that when the Navy agreed to modify the delivery schedule for the ships, the shipbuilder's workers relaxed their efforts, slowed their pace, and took more time to complete their task than they otherwise would have. Newport News wants the Navy to reimburse it nearly $100 million for this dubious part of the claim.

FORMER OFFICIALS SAYS NEWPORT NEWS RESPONSIBLE FOR DELAYS

There is also sworn testimony by a former official of Newport News that although the company has blamed the Navy for most of the delays and disruptions that took place in the construction of the ships, the company itself was responsible for most of the delays and the disruptions.

Something may be rotten in Newport News.

IMPROPER TO PAY UNAUDITED CLAIMS—FRAUD INVESTIGATION REQUESTED

For the Government to pay these unaudited claims would be grossly improper.

I have, therefore, today asked Navy Secretary J. William Middendorf to formally investigate the Newport News claims to determine whether they may have been based on false and fraudulent representations.

If the evidence I have received can be substantiated, I believe the case should be turned over by the Navy to the Justice Department for a criminal investigation.

I ask unanimous consent to have printed in the RECORD the prepared statement presented to the Subcommittee on Priorities and Economy in Government by Adm. H. G. Rickover on June 7, 1976.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

REMARKS OF ADM. H. G. RICKOVER

Mr. Chairman, I was invited to testify today about procurement and related problems. Your staff, however, has asked me to focus on the shipbuilding claims problem, and particularly on the claims submitted by Newport News.

I have testified previously to this committee and to other committees of Congress regarding the shipbuilding claims problem. The current claims problem permeates nearly all aspects of my work. The Navy must rely on contracts in obtaining the ships, weapons, and the supplies it needs from industry. Contracts set forth the rules under which the work is to be done. The responsibility of Government officials involved in the administration of the work is two-fold: first, to ensure that the work is performed properly in accordance with the contract terms; second, to ensure that public funds are legally spent.

Government contracts provide a mechanism to resolve contract disputes which may arise during contract performance. When the parties are unable to resolve their differences through negotiation, the contractor can request a formal ruling by the Contracting Officer and if he disagrees with the Contracting Officer's decision he may appeal it to the Armed Services Board of Contract Appeals. There the contractor can have his case heard by an independent forum. If he disagrees with the decision of the Armed Services Board of Contract Appeals, he can appeal to the Court of Claims.

In the area of shipbuilding claims, the Defense Department has decided to shortcut this process in an effort to dispose of the Navy shipbuilding claims quickly. The Defense Department has notified Congress of its intent to try to settle the backlog of claims with four shipbuilding companies by use of Public Law 85–804. This statute gives the Executive Branch authority to provide extracontractual relief whenever such action is deemed necessary to facilitate the national defense. Authority to provide such relief has been vested in senior officials in the Defense Department subject to Congressional review.

For the past several weeks the Defense Department has been negotiating with these four shipbuilders in an effort to reach a settlement it can recommend to Congress. The Defense Department is scheduled to report the results to the Armed Services Committees on June 10th. I am not involved in these negotiations. Whether the Defense Department will achieve the hoped for results remains to be seen.

The Navy has been under considerable pressure from some shipbuilders to settle their claims on a lump sum or total cost basis which would make potentially unprofitable contracts profitable.

These shipbuilders assemble large teams, comprised of lawyers, contract specialists, and accountants, to draw up claims on Navy shipbuilding contracts. One shipyard put 102 people to work preparing a single claim. To generate bases for these large omnibus claims, employees are often encouraged to search out and report actions and events that may be used as a basis for a claim against the Navy. Even minor technical matters are now treated as contractural matters.

As a result, settlement of contract changes has become increasingly difficult. Often the company either refuses to price the changes in advance, quotes excessive and unsupported prices, or demands the right to reopen contract pricing later for other reasons such as cumulative or ripple effect of changes. From the shipbuilders' viewpoint, these large claims can be made to look valid by including some change orders in them. Because of the length of time for ship construction and continued need to update ship specifications to meet defense needs, changes are and always will be an inherent part of ship construction. The Navy, of course, is contractually obligated to equitably adjust contract price and delivery date to reflect the impact of the change. Whenever possible, the Navy tries to reach agreement with the shipbuilder on price and schedule adjustment prior to authorizing the change. However, shipbuilder actions often make this impossible.

Along with the few valid changes shipbuilders have included in their claims, they have made so many other charges against government administration of contracts that it is sometimes difficult to sort out their various accusations, let alone determine legal entitlement or access cost impact. Shipbuilders have complained of untimely delivery of government furnished equipment and drawings; defective specifications; excessive tests, trials, and inspections; constructive changes to work scope and letters of direction; government insistence on erroneous contract interpretations; government recruiting practices, government interference with contract performance through imposed limitations on work methods, sequence, and other shipbuilding operations; changes in health and safety laws and pollution control laws; government "abuse of discretion"; government imposition of management systems; and the government's unilateral revision of contract requirements.

Sometimes, the same complaint reappears under various descriptions, leaving the impression of wide spread government interference. Elsewhere, claim elements are based on alleged "facts" which appear to contradict one another. Claimed costs seem to increase exponentially, as a function of so-called cumulative or ripple effect. And all cost increases are compounded, it is claimed, by inflation.

Shipbuilders defer negotiating changes so that years later, when the shipbuilder knows what his final costs will be, these items are consolidated into a general allegation of Government responsibility for all delays and costs experienced, without relating the individual causes to specific effects. The amount claimed is often inflated sufficiently to produce the profit desired by the shipbuilder, even if the claim is settled for only a fraction of the claimed amount.

The litany of contractor complaints presented in shipbuilders' claims are supposed to show that all delays and increased costs are the Government's fault, even when the shipbuilder knows that much of the delay and increased costs were caused by factors within his contractual responsibility.

In this connection, I think it is important to note that Newport News, whose claims comprise the largest portion of outstanding shipbuilders' claims, still refuses to certify its claims are current, accurate and complete, as required by Navy Procurement Directives. I think this company has overstated the claims because it hopes to settle on some fraction of the claimed amount which will still yield their desired profit.

The Navy's normal claims evaluation procedure is to determine and pay only for items of Government responsibility. This requires the Navy to perform a rigorous analysis to determine the legal basis for payment. Theoretically, the burden of proof rests on the contractor to demonstrate legal entitlement. In practice, the Navy, to demonstrate that the contractor is not entitled to the larger amounts claimed, often ends up having to construct whatever legitimate case the shipbuilder might have. The Navy analysis is obviously time consuming.

Even when Government officials spend months analyzing voluminous shipbuilders' claims, and successfully demonstrate elements of a claim are not valid, the contractor may withdraw the claim only to resubmit it based on a new rationale to support his contentions the Government owes him money. The result is to cripple Navy efforts to evaluate claims, thus prolonging settlement.

Knowing this, some contractors try to force a settlement by threatening to stop work if claims are not paid quickly. Armed with voluminous, generally unsupported claims, shipbuilders and their lobbyists sometimes take their case directly to Congress, senior defense officials, and the press. They accuse working level Navy personnel of wrongfully withholding funds and delaying settlements. They allege the company is in desperate financial straits. They threaten that unless immediate relief is forthcoming, the Navy will not get its ships, and so on. By these means, some shipbuilders believe they will be paid more than if their claims were settled on legal merits.

A specific example may help illustrate what the Navy is up against. About two years ago, Newport News officials and their superiors at Tenneco began airing complaints concerning the Navy before Congress and in the press. Company officials took the position that on all Navy shipbuilding contracts they should be guaranteed a 7 percent profit after paying interest and other unallowable costs.

Despite Newport News' notification as early as October 1974 of its intention to submit claims, the company did not submit these until recently—$825 million of the $894 million total in the last year, $665 million in the last six months. But once these claims were submitted, the pressure to settle these claims began immediately. On February 19, 1976, Newport News submitted its largest claim on a single contract; a $221 million, sixteen volume claim against the carriers CVN 68 and CVN 69. The next day the President of Newport News sent a letter to the Chief of Naval Operations intimating that Newport News was considering stopping work on the CVN 70 and not entering into new Navy shipbuilding contracts until its claims were resolved.

Six months earlier, Newport News actually stopped work on a nuclear-powered cruiser, CGN 41, claiming the contract option for construction of that ship was invalid. Construction was resumed under court order. However, Newport News still refuses to recognize the validity of the option because they want a higher price. Although the Navy lawyers are convinced that Newport News has no valid legal basis for its contentions, it could take years of litigation to establish that point.

In this regard, it is worth noting that the Navy is at a disadvantage in litigation of claims due to the imbalance in legal resources between the Government and contractors submitting claims. In the case of the CGN 41 dispute, the brunt of the Navy's legal work is being handled by one lawyer, two years out of law school, who is handling this matter as one of several assignments. I am not impugning this individual's integrity or competence. I simply want to point out the disparity between counsel representing the Government and counsel representing Newport News, which has thus far charged the Navy over $175 thousand of outside counsel fees pertaining to the dispute plus a seven percent profit for Newport News. It is interesting to me that I have been unable to get the Navy to hire outside counsel to help the Navy prepare its case, but the Navy is paying Newport News for its outside counsel.

Newport News officials have made their intentions clear. On March 15, 1976, the President, Newport News sent a publicly released letter to one Congressman in which he stated: "I need to bring all the pressure to bear that I can for a prompt and equitable resolution of the differences between the Company and the Navy. Time has run out." Newport News has brought pressure to bear on the Navy through their public statements; by complaints to defense officials and Members of Congress by threats of taking no future Navy business; and in the case of CGN 41, by challenging the validity of the CGN 41 option and actually stopping work.

There seems to be a tendency to view the shipbuilding claims problem as simply a problem in human relations. In actuality it is strictly one of money. If a shipbuilder is going to hold out for more than he is legally owed, his relations with the Navy will deteriorate until either he convinces the Navy to pay whatever he wants, regardless of legal entitlement; or, until the Navy convinces him he will be paid only what he is legally owed, regardless of pressures the company may bring to bear. I view the issue this way: Why bother negotiating and signing contracts if they are not going to be enforced?

I believe the Navy would be better off if it would insist on compliance with its contracts—in federal court if necessary—to maintain a sound basis for conducting future business. If contractors believe they will be excused from their contract obligations by submitting inflated claims, refusing to honor contracts, complaining to higher authority, and the like, they and others will be encouraged to follow this approach in the future.

I consider the shipbuilding claims problem must be resolved in a manner which is equitable to contractors and insures the integrity of future defense contracting. I have the following recommendations to accomplish this objective:

1. Make it clear to shipyard management that the Navy will process their claims and settle them based only on the legal merit of the claims.
2. Return responsibility for settling these claims to the Naval Sea Systems Command and discourage company officials from seeking settlements at higher levels.
3. Enforce the Navy requirement that the senior responsible company official certify that the claims are correct, complete, and accurate.
4. Provide the Naval Sea Systems Command sufficient resources to review claims expeditiously. Current Navy legal suport is inadequate and too much of the burden falls upon technical people, who are becoming increasingly unable to carry out their primary duties because of the claims workload. The Navy needs to hire or have the Department of Justice hire for the Navy, outside legal counsel and such other assistance as is necessary to assist in the evaluation of claims and claims related matters.

This concludes my opening remarks, Mr. Chairman. I will try to answer any questions you or other members of the subcommittee may have.

1776: THE CONSUMER REVOLUTION

Mr. FANNIN. Mr. President, as we celebrate our Bicentennial Year and reflect upon the history of our Nation, it would be well to take note of another Bicentennial anniversary. June 7, 1976, was the 200th anniversary of the birth of Adam Smith, whose book, "The Wealth of Nations," our Founding Fathers were well acquainted with.

I would like to commend to my colleagues the following article on Adam Smith and "The Wealth of Nations" by Prof. William H. Peterson of the faculty of the American Graduate School of International Management, Glendale, Ariz. The article is taken from the school's student newspaper Das Tor. I ask unanimous consent that it be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

1776: THE CONSUMER REVOLUTION

(By William H. Peterson)

If 1776 was the turning point for the political life of America, so was it also the turning point for the economic life of America. For 200 years ago An Inquiry into the Nature and Causes of the Wealth of Nations by Adam Smith was published.

This extraordinary book reaffirmed the Industrial Revolution and launched the Consumer Revolution in which every consumer could better "purchase whatever part of the produce of other men's talents he has occasion for."

Prime Minister William Pitt in introducing the budget to Parliament in 1792, echoed his fellow member of Parliament, Edmund Burke, and said this one book provides "the best solution to every question connected with the history of commerce, or with the systems of political economy."

Nineteenth-century economist Walter Bagehot said that, thanks to this one book, "the life of almost everyone in England—perhaps of everyone [read consumer]—is different and better . . ." Nineteenth-century historian Henry Thomas Buckle in his History of Civilization in England stated:

"This solitary Scotchman has by the publication of one single work, contributed more to the happiness of man [read consumer] than has been effected by the united abilities of all the statesmen and legislators of whom history has presented an authentic record."

The two revolutions of 1776—American and Consumer—were more than coincidence. Both were grand endeavors to advance the cause of a free society through the establishment of limited government, although one was mainly political in scope while the other was mainly economic. Both were reactions against mercantilism, a system of political economy characterized by state interventionism in commerce and industry.

As the *Declaration of Independence* put it, George III was guilty of erecting "a multitude of New Offices," sending "hither swarms of Officers to harass our People, and eat out their substance," and "cutting off our trade with all parts of the world."

Mercantilism met its match in Adam Smith. Smith was born in Scotland in 1723. In 1975 he became professor of moral philosophy at the University of Glasgow. In 1759 he published his *Theory of Moral Sentiments*. This book set forth the case for individual prudence, justice and benevolence and hence for a free society. It was a book that was clearly a precursor for his *Wealth of Nations*. In 1778 he became commissioner of customs for Scotland, and in 1787 lord rector of Glasgow University. He died in 1790.

Above all, Smith was a consumer advocate long before that phrase became the fashion. He saw the consumer as the key beneficiary in his laissez-faire system. This was the master oversight of the mercantilists. As he observed:

"Consumption is the sole end and purpose of all production; and the interest of the producer ought to be attended to, only so far as it may be necessary for promoting that of the consumer. The maxim is so perfectly self-evident, that it would be absurd to attempt to prove it. But in the mercantile system, the interest of the consumer is almost constantly sacrificed to that of the producer; and it seems to consider production, and not consumption, as the ultimate end and object of all industry and commerce."

Hence mercantilism, as in its interventionist counterparts today, turned upside down the logic of trade from consumer sovereignty to producer sovereignty. Politically, it spelled unlimited government, misallocated resources and continual warfare, even though the government—George III or whoever—was supposedly the "visible hand" aiding and abetting the consumer.

Mercantilism was a form of planning, and planning was fraught with danger. As Smith wrote:

"[The planner] seems to imagine that he can arrange the different members of a great society with as much ease as the hand arranges the different pieces upon a chess-board; he does not consider that the pieces upon the chess-board have no other principle of motion besides that which the hand impresses upon them; but that, in the great chess-board of human society, every single piece has a principle of motion of its own, altogether different from that which the legislature might choose to impress upon it. If those two principles coincide and act in the same direction, the game of human society will go on easily and harmoniously, and is very likely to be happy and successfully. If they are opposite or different, the game will go on miserably, and the society must be at all times in the highest degree of disorder."

On the other hand, the free market system led to the build-up of wealth down to "the lowest ranks" of the consumers.

The wealth build-up has proceeded, albeit erratically, over the two centuries since publication of The Wealth of Nations, despite backfiring prescriptions from neo-mercantilist doctors. As Smith wrote:

The uniform, constant and uninterrupted effort of every man to better his condition, the principle from which public and national, as well as private opulence is originally derived, is frequently powerful enough to maintain the natural progress of things toward improvement in spite of both the extravagance of government and the greatest errors of administration. Like the unknown principle of animal life it frequently restores health and vigor to the constitution, in spite, not only of the disease, but of the absurd prescription of the doctor."

So the core of The Wealth of Nations is Smith's perspective of individual incentives. To Smith private interest is very much in the public interest, as long as each man "does not violate the laws of justice." He wrote in what must be a classic perception of human nature:

"It is not from the benevolence of the butcher, the brewer, or the baker, that we expect our dinner, but from their regard to their own interest. We address ourselves, not to their humanity but to their self-love, and never talk to them of our own necessities but of their advantages."

Private interest leads naturally to specialization, to what Smith called "division of labor." He pointed to pin-making as evidence of its increased productivity. He observed that an ordinary workman might perhaps be able to make one pin a day "and certainly could not make twenty." But productivity would escalate when pin-making was broken down into as many as "eighteen distinct operations, which in some manufactories, are all performed by distinct hands . . . I have seen a small manufactory of this kind where ten men only were employed . . . make among them upwards of forty-eight thousand pins a day."

So to Smith the problem of production, trade and "the wealth of nations" was mainly a problem of giving free rein to man's innate propensity to specialize so as to better "truck, barter and exchange one thing for another."

Free trade, then, was another key to productivity. Smith sailed right into the heart of mercantilist doctrine when he attacked the theory of a "Favorable" balance of trade, or exports ever exceeding imports, of the accompanying system of protectionist regulations, prohibitions, export bounties, import duties, trading monopolies and so on.

He held national and international economic development stems from the freedom and volume of trade, internal and external, rather than from the inflow of bullion. Said Smith:

"Wealth does not consist in money, or in gold and silver, but in what money purchases, and is valuable only for purchasing."

He blasted protectionism with one of the most ringing statements in economic literature:

"It is the maxim of every prudent master of a family, never to attempt to make at home what it will cost him more to make than to buy. The taylor does not attempt to make his own shoes, but buys them of the shoemaker. The shoemaker does not attempt to make his own clothes, but employs a taylor. . . . What is prudence in the conduct of every private family, can scarce be folly in that of a great kingdom."

Smith's interest in the individual certainly included the worker. He accordingly attacked apprenticeship, wage and poor (welfare) laws as heedless impediments to productivity, labor mobility and rising living standards. Such laws violated man's supreme property, himself. Said Smith, borrowing from the ideas of John Locke:

"The property which every man has in his own labour, as it is the original foundation of all other property, so it is the most sacred and inviolable. The patrimony of a poor man lies in the strength and dexterity of his hands; and to hinder him from employing his strength and dexterity in what manner he thinks proper without injury to his neighbor, is a plain violation of this most sacred property. It is a manifest encroachment upon the just liberty both of the workman, and of those who might be disposed to employ him."

One poor law—the law of settlements in which every parish had to provide for its own poor—drew this retort:

"There is scarce a poor man in England of forty years of age, I will venture to say, who has not in some part of his life felt himself most cruelly oppressed by this ill-contrived law of settlements."

Naturally Smith thought little of slavery. Long before our Civil War, he wrote:

"It appears . . . from the experience of all ages and nations, I believe, that the work done by freemen comes cheaper in the end than that performed by slaves. It is found to do so even at Boston, New York, and Philadelphia, where the wages of common labour are so very high."

Smith also thought little of collusion and monopoly, which he thought to be "the sole engine of the mercantile system" and largely the result of government grants of special privilege. Yet he recognized monopolistic tendencies in business behavior. He wrote:

"People of the same trade seldom meet together, even for merriment and diversion, but the conversation ends in a conspiracy against the public, or in some contrivance to raise prices."

But today's adherents of the "monopolistic competition" school who quote the foregoing rarely go on to quote Smith a few paragraphs later where he also observed:

"In a free trade an effectual combination cannot be sustained but by the unanimous consent of every single trader, and it cannot last longer than every single trader continues of the same mind."

In this vein, he looked upon academic tenure as a kind of educational monopoly. Said Smith:

"The endowments of schools and colleges have necessarily diminished more or less the necessity of application in the teachers. Their subsistence, so far as it arises from their salaries, is evidently derived from a fund altogether independent of their success and reputation in their particular professions. . . . [Indeed] in the university of Oxford, the greater part of the public professors have, for these many years, given up altogether even the pretence of teaching."

And long before Professor John Kenneth Galbraith harped on private affluence and public squalor, Smith argued:

"It is the highest impertinence and therefore, in kings and ministers, to pretend to watch over the economy of private people, and restrain their expense, either by sumptuary laws, or by prohibiting the importation of foreign luxuries. They are themselves always, and with any exception, the greatest spendthrifts in the society. Let them look after their own expense, and they may safely trust private people with theirs. If their own extravagance does not ruin the state, that of subjects never will."

He also took governments to task for ever welching on their debts by clipping coins or running their printing presses faster. He cited the British pound, originally a full pound of sterling silver, as down to one-third that weight by 1776. Today the "pound" is equal in value to around a half-ounce of silver. He stated:

"For in every country of the world, I believe, the avarice and injustice of princes and sovereign states, abusing the confidence of their subjects, have by degrees diminished the real quantity of metal, which had been originally contained in their coins . . . When national debts have once been accumulated to a certain degree, there is scarce, I believe, a single instance of their having been fairly and completely paid. The liberation of the public revenue, if it has ever been brought about at all, has always been brought about by a bankruptcy; sometimes by an avowed one, but always by a real one, though frequently by a pretended payment."

In effect, in bringing about the Consumer Revolution, Adam Smith was pleading for the ages: Let my people—consumers everywhere—go; let them be comforted by private property, limited government, the "invisible hand" of free markets. In Smith's words:

"As every individual . . . endeavors as much as he can both to employ his capital in the support of domestic industry, and so to direct that industry that its produce may be of the greatest value; every individual necessarily labours to render the annual revenue of the society as great as he can. He generally, indeed, neither intends to promote the public interest, nor knows how much he is promoting it. By preferring the support of domestic to that of foreign industry, he intends only his own security; and by directing that industry in such a manner as its produce may be of the greatest value, he intends only his own gain, and he is in this, as in many other cases, led by an invisable hand to promote an end which was no part of his intention. Nor is it always the worse for the society that it was no part of it. By pursuing his own interest he frequently promotes that of the society more effectually than when he really intends to promote it. I have never known much good done by those who affected to trade for the public good."

There is little doubt about the influence of Adam Smith on the Founding Fathers. The Declaration of Independence, the Bill of Rights and the Constitution all reflect his thinking. These documents prescribe limited government and leave virtually all decision-making on the production of goods and services in private hands. In this sense, they are economic as well as political landmarks for our times.

To be sure, over the years there has been considerable resurgence of what might be called neomercantilism, some of it parading as consumer advocacy, all of it spinning off inflation, unemployment, recessions—stormy times not unlike those which led to 1776.

Still the Consumer Revolution has meant not only widespread material well-being (real personal income has roughly doubled for every generation in America for the past two centuries) but political freedom as well. For The Wealth of Nations demonstrates that a free economy and a free society are inseparable—that one cannot exist without the other.

ORDER FOR PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS ON MONDAY, JUNE 14

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the two leaders or their designees have been recognized under the standing order on Monday, there be a period for the transaction of routine morning business of not to exceed 15 minutes, with statements limited therein to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ELECTRIC AND HYBRID VEHICLE RESEARCH, DEVELOPMENT, AND DEMONSTRATION ACT OF 1976

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate now proceed, without any consideration today, with S. 1632.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE. Mr. President, reserving the right to object, may I inquire of the distinguished majority whip if it is the intention that that be made the pending business at this time, to be then brought up after the discussion of the HMO bills on Monday?

Mr. ROBERT C. BYRD. No, it would come up right after morning business. The Senator will recall that at 12:15 on Monday, we have a vote on passage of the foreign military sales bill. Then we are going to go to the HMO bills, I believe. In the meantime, we might be able to get some debate out of the way for the brief time on Monday preceding that.

Mr. McCLURE. Reserving the right to object, on our notes here, we have indicated that the ERDA authorization bill was cleared for action on Tuesday. I wonder if I may have a moment to check and see if there is any problem with bringing it up?

Mr. ROBERT C. BYRD. Mr. President, I withdraw my request.

The PRESIDING OFFICER. The Chair will state that the previous unanimous-consent request of the Senator from West Virginia is withdrawn.

ORDER FOR H.R. 11804 TO BE HELD AT THE DESK

Mr. HARTKE. Mr. President, I ask unanimous consent that when the Senate receives H.R. 11804, an act to amend the Federal Railroad Safety Act of 1970 to authorize additional appropriations, and for other purposes, that such act be held at the desk pending further disposition.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR H.R. 9291 TO BE HELD AT THE DESK

Mr. HARTKE. Mr. President, I ask unanimous consent that when the Senate receives H.R. 9291, that such act be held at the desk pending further disposition.

The PRESIDING OFFICER. Without objection, it is so ordered.

INCREASE IN GUARANTY FOR MOBILE HOME LOANS FOR VETERANS

Mr. HARTKE. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 2529.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the bill (S. 2529), "An act to amend chapter 37 of title 38, United States Code, to increase the maximum Veterans' Administration's guaranty for mobile home loans from 30 to 50 percent, to make permanent the direct loan revolving fund, to extend entitlement under chapter 37 to those veterans who served exclusively between World War II and the Korean conflict, and for other purposes," as follows:

Strike out all after the enacting clause, and insert: That section 1811 of title 38, United States Code, is amended—

(1) by striking out "$21,000" the first place it appears in subsection (d)(2)(A) and inserting in lieu thereof "$29,000";

(2) by striking out "$21,000;" and all that follows thereafter in subsection (d)(2)(A) and inserting in lieu thereof "$29,000."; and

(3) by striking out "$21,000;" and all that follows thereafter in subsection (d)(3) and inserting in lieu thereof "$29,000.".

Mr. HARTKE. Mr. President, I rise to urge the Senate to pass S. 2529, the Veterans Housing Amendments Act of 1976 as amended by the substitute amendment which I will offer today. The bill originally passed the Senate unanimously on May 13, 1976. On May 18, 1976, the House of Representatives passed a companion bill H.R. 13724 by a vote of 386 to 2 and then substituted the text of that bill for S. 2529 which it returned to the Senate.

S. 2529 as originally sponsored by the entire committee membership and as passed by the Senate would:

First, extend eligibility for housing benefits for the first time to veterans whose service was exclusively following the official termination of World War II and prior to the commencement of the

Korean conflict—after July 25, 1947, and prior to June 27, 1950;

Second, increase the Veterans' Administration direct home loan program maximum loan from $21,000 to $30,000 and further increase the maximum amount for a direct home loan in "excess cost" areas from $25,000 to $35,000;

Third, amend the Veterans' Administration loan guaranty and direct home loan programs into ongoing permanent programs;

Fourth, increase the maximum Veterans' Administration mobile home loan guaranty provisions for the purchase of mobile homes from 30 to 50 percent;

Fifth, make technical amendments to the housing chapter—chapter 37 of title 38, United States Code, to correct grammatical errors and to remove unnecessary or unwarranted gender references; and

Sixth, preempt, under certain conditions, State constitutional usury provisions which limit interest rates chargeable on FHA and VA mortgages by a certain class of lenders but which do not impose such rate limits on mortgages made by another class of lenders.

The House-passed version would:

First, increase the maximum direct loan from $20,000 to $29,000;

Second, raise the maximum mobile home loan guarantee from 30 percent to 50 percent; and

Third, provide for the continuation of the direct loan revolving fund.

Mr. President, following discussion and consultation with members of the House Committee on Veterans' Affairs, I believe the amendment offered today would be acceptable to the House of Representatives.

The principal difference from the original Senate version concerns the direct loan program. As originally passed, S. 2529 would have increased the Veterans' Administration direct home loan program maximum loan from $21,000 to $30,000 and further increased the maximum amount for a direct home loan in excess cost areas from $25,000 to $35,000. The House version would eliminate the excess cost area provision of the law, and increase the direct loan maximum amount to $29,000 for all areas. As a compromise, the bill before you would establish a single standard for all direct home loan areas in a maximum amount of $33,000.

On October 9, 1973, the Administrator—pursuant to authority granted him in section 1811(d)(2)(A) of title 38, U.S.C.—declared that all areas designated as credit shortage areas under the direct loan program qualified for the higher maximum loan—currently $25,000—which was evidence to the Senate committee, when it originally examined S. 2529, of the need for the increase in the direct loan maximum amount.

The number of applications received by VA for direct loans of greater than the maximum $25,000 has increased during four recent quarters. For the quarter ending September 30, 1974, 12.6 percent of all applications were for an amount in excess of $25,000. For the quarter ending December 31, 1974, 13.9 percent; for the quarter ending March 30, 1975, 19.8 percent; and for the quarter ending June 30, 1975, 22.4 percent. This is a clear indication that nearly one-quarter of the veterans living in credit-short areas are unable to purchase suitable housing for themselves and their families under the current maximum restriction.

A further indication of the trend in housing conditions is revealed by an examination of the application for guaranteed loans. Of all loans approved during fiscal year 1975, the percentage of loans for the amount indicated were as follows: 20 percent were for loans under $19,975; 20 percent were for loans between $19,976 and $25,219; 20 percent were for loans between $25,220 and $29,445. 20 percent were for loans between $29,446 and $34,955; and 20 percent were for loans greater than $34,956. As the average application for a guaranteed loan is increasing, nearly 40 percent of applications would be for greater than the $30,000 ceiling established by S. 2529 and 60 percent of the applications would be greater than the current direct loan maximum of $25,000. Thus, since nearly 40 percent of all guaranteed loan applications are for an amount greater than $30,000, the need to increase the present maximum direct loan authority is supported by ample evidence.

The compromise agreement would increase the maximum direct loan from $21,000 to $33,000 to provide veterans with greater opportunities to purchase suitable housing for themselves and their families. Though this is an increase of greater than 50 percent, such an increase is understandable since the excess cost figure of $25,000 has been in effect throughout the country since 1973.

By providing a single standard throughout the United States, this amendment should also lessen the administrative burden necessitated by determining excess cost areas. The committee intends to continue to monitor the program, to see if the $33,000 standard is a sufficient maximum.

There are two minor technical changes in the compromise version of S. 2529 as it is before the Senate today. First, in section 2 of the bill there is a technical correction which adds a new section 1807 of title 38, United States Code. That section generally authorized housing benefits for veterans who served between 1947 and 1950. As originally passed by the Senate, it was unclear whether veterans who served for exactly 180 days and who were discharged or released because of a service-connected disability would be entitled to benefits. This ambiguity has been clarified to reflect congressional intent that those veterans be entitled to housing benefits under chapter 37.

Second, consistent with the intention of the Congress to make permanent the direct home loan program, a sentence in subsection 1832(a) has been deleted. That sentence relates to disposition of funds after the expiration of the direct loan program. This sentence is both unnecessary and ambiguous because the program is made permanent under the Veterans Housing Amendments Act of 1976. Sections 2 and 3 would become effective on October 1, 1976, the first day of fiscal year 1977. Section 5, which increases the mobile home guaranty, would become effective on July 1, 1976. All other provisions are effective upon enactment.

Finally, Mr. President, I want to discuss briefly section 8 of S. 2529. Subsequent to the Senate's initial consideration of S. 2529, the committee received a report, dated June 1, 1976, from the Administrator of Veterans' Affairs, concerning this section which is also included in the compromise version. Section 8 resulted from an amendment, offered during committee consideration of the bill by the distinguished senior Senator from California (Mr. CRANSTON), designed to deal with a very unusual and discriminatory feature of the Constitution and the statutory law of the State of California, which, under certain circumstances, has had the effect of denying to veterans access to the VA guaranteed and FHA insured home loans provided for them as a matter of Federal policy.

Mr. President, this particular provision is not controversial at this point, and I believe will be acceptable to the other body. Its consideration, insofar as FHA-insured mortgages is concerned, has been cleared by the committees of jurisdiction in both bodies.

Although the administration has no objection to enactment of this provision, the official VA report indicates a belief that there is somehow something ambiguous about the language in the provision in question and that it is—in their language—not clear that the provision "would cover the California situation."

Mr. President, after careful review let me state in no uncertain terms that there is no doubt in my mind, nor in the mind of the Senator from California who authored this provision and with whom I have discussed the official VA report, that the amendment would fully and effectively cover the California situation and restore to veterans in that State full access to VA guaranteed individual and construction loans in times of high interest rates. The VA's confusion in this matter seems to flow from an uncharacteristically literal and semantical reading of the provision in question—and even then we find the Agency's semantics to be in error.

We think the provision is quite clear in applying to any State constitution which expressly limits the amount of interest which a certain class of lenders may charge either where the Constitution places a usury limitation only upon certain loans made by certain classes of lenders by expressly naming the covered classes of lenders, or, as in the case in California, where the Constitution places usury limitation on all lenders and exempts certain classes of lenders by a specific reference. In either case, to repeat, we believe that such a constitutional provision meets fully and clearly the description in section 8 of the compromise version by "expressly limiting the amount of interest—certain classes of lenders" may charge. In the California situation, we find nothing that is not expressed, for example, about the way that the California constitutional and statutory provisions both apply—literally and on their face—to loans originated by, for example, mortgage bankers, and do not apply to loans by banks and savings and loan associations as a result of an express exemption.

Mr. President, I would like to ask the distinguished Senator from California if I have stated what he understands to be the scope and application of section 8 of the compromise version which he authored.

Mr. **CRANSTON**. Mr. President, the distinguished chairman has done so with admirable clarity. I fully concur in and associate myself with his remarks in this regard.

Mr. **HARTKE**. I thank my colleague on the Committee on Veterans' Affairs.

Mr. President, I trust that this explanation will serve to remove any conceivable ambiguity which might have been created by the June 1 VA report on this legislation and make clear beyond any doubt the coverage and intent of the provision in question and its full applicability.

Mr. President, I urge the Senate to approve this compromise version of S. 2529 without delay. Unless we act promptly the direct loan program will expire on June 30, 1976. For this reason and for the other bill provisions, which will aid veterans seeking housing, I believe this measure deserves our support.

Mr. President, I send an amendment to the desk, which is in the nature of a substitute for the House amendments to S. 2529, and I move that the Senate concur in the amendments of the House with an amendment in the nature of a substitute to the text of the bill and an amendment to the House amendments to the title.

The motion was agreed to.

The amendments are as follows:

UP AMENDMENT NO. 16

In lieu of the matter proposed to be inserted by the House engrossed amendment to the text of the bill, insert the following:

That this Act may be cited as the "Veterans Housing Amendments Act of 1976."

SEC. 2. (a) Subchapter I of chapter 37 of title 38, United States Code, is amended by adding at the end thereof the following new section:

"§ 1807. Service after July 25, 1947, and prior to June 27, 1950

"Each veteran whose only active duty service occurred after July 25, 1947, and prior to June 27, 1950, and who—

"(1) served for a period of more than 180 days and was discharged or released therefrom under conditions other than dishonorable; or

"(2) served for a period of 180 days or less and was discharged or released for a service-connected disability;

"shall be eligible for benefits of this chapter.".

(b) The table of sections for subchapter I of chapter 37 of title 38, United States Code, is amended by adding at the end thereof the following new item:

"1807. Service after July 25, 1947, and prior to June 27, 1950.".

SEC. 3. Section 1811(d) of title 38, United States Code, is amended—

(1) by striking out in paragraph (2)(A) "$21,000" the first time it appears and inserting in lieu thereof "$33,000", by striking out in paragraph (2)(A) "$21,000", the second time it appears and all that follows thereafter and inserting in lieu thereof "$33,000."; and

(2) by striking out in paragraph (3) "$21,000;" and all that follows thereafter and inserting in lieu thereof "$33,000.".

SEC. 4. Section 1818(a) of title 38, United States Code, is amended to read as follows:

"(a) Each veteran who served on active duty, any part of which occurred after January 31, 1955, and who—

"(1) served for a period of more than 180 days and was discharged or released therefrom under conditions other than dishonorable;

"(2) has served more than 180 days in active duty status and continues on active duty without a break therein; or

"(3) was discharged or released from active duty after such date for a service-connected disability;

"shall be eligible for the benefits of this chapter, subject to the provisions of this section.".

SEC. 5. Section 1819(c)(3) of title 38, United States Code, is amended by striking out "30 per centum" and inserting in lieu thereof "50 percent" in the first sentence.

SEC. 6. Section 1823 of title 38, United States Code, is amended—

(1) by striking out in subsection (a) all of the last sentence thereof; and

(2) by striking out in subsection (c) before the period at the end of the last sentence, "and not later than June 30, 1976, he shall cause to be so deposited all sums in such account and all amounts received thereafter in repayment of outstanding obligations, or otherwise, except so much thereof as he may determine to be necessary for purposes of liquidation of loans made from the revolving fund and for the purposes of meeting commitments under section 1820(e) of this title";

SEC. 7. Chapter 37 of title 38, United States Code, is amended—

(1) by striking out in section 1801(a)(2) "widow", "her own", and "her husband" wherever they appear and inserting in lieu thereof "surviving spouse", "the spouse's own", and "the spouse", respectively;

(2) by striking out in section 1801(a)(3) "wife" and "her husband" wherever they appear and inserting in lieu thereof "spouse" and "the spouse", respectively;

(3) by striking out in section 1802(b), including clause (3), "he" and "his" and inserting in lieu thereof "the Administrator" and "the veteran-transferee's" respectively;

(4) by striking out in subsections (c) and (d) of section 1802 "He", "him", and "he" wherever they appear and inserting in lieu thereof "The Administrator", "the Administrator", and "the Administrator", respectively;

(5) by striking out in subsections (e) and (g) of section 1802 "him" and "his wife" wherever they appear and inserting in lieu thereof "the Administrator" and "the veteran's spouse", respectively;

(6) by striking out in section 1803(d)(3) "he" and inserting in lieu thereof "the Administrator";

(7) by striking out in section 1804(c) "he" and "his" wherever they appear and inserting in lieu thereof "the veteran" and "the veteran's", respectively;

(8) by striking out in section 1804(d) "he" and inserting in lieu thereof "the Administrator";

(9) by striking out in section 1805(a) "his" wherever it appears and inserting in lieu thereof "the Administrator's";

(10) by striking out in section 1806(a) "his" and inserting in lieu thereof "the seller's";

(11) by striking out in section 1810(a) "him", "his", and "he" wherever they appear and inserting in lieu thereof "the veteran", "the veteran's", and "the Administrator", respectively;

(12) by striking out in section 1811(b) "he" and "He" and inserting in lieu thereof "the Administrator" and "The Administrator", respectively;

(13) by striking out in section 1811(c) "he" wherever it appears and inserting in lieu thereof "the veteran";

(14) by striking out in section 1811(g) "him" and "he" and inserting in lieu thereof "the Administrator";

(15) by striking out in section 1811(k) "his" and "he" wherever they appear and inserting in lieu thereof "the Administrator's" and "the Administrator", respectively;

(16) by striking out in section 1815(a) "he" and inserting in lieu thereof "the Administrator";

(17) by striking out in subsections (a) and (b) of section 1816 "his" and "he" wherever they appear and inserting in lieu thereof "the Administrator's" and "the Administrator", respectively;

(18) by striking out in section 1817(a) "him" wherever it appears and inserting in lieu thereof "the veteran", by striking out "he" the first time it appears and inserting in lieu thereof "the Administrator", by striking out "has obligated himself" and inserting in lieu thereof "is obligated", and by striking out "he" the second and third time it appears and inserting in lieu thereof "the transferee";

(19) by striking out in section 1817(b) "him" and "he" and inserting in lieu thereof "the veteran" and "the Administrator", respectively;

(20) by striking out in paragraphs (1) and (3) of section 1819(c) "he" wherever it appears and inserting in lieu thereof "the Administrator";

(21) by striking out in paragraphs (1) and (3) of section 1819(d) "his" and "he" wherever they appear and inserting in lieu thereof "the Administrator's" and "the Administrator", respectively;

(22) by striking out in paragraphs (4) and (5) of section 1819(e) "subparagraph", "he", and "his" and inserting in lieu thereof "subsection", "the veteran", and "the veteran's", respectively;

(23) by striking out in subsections (f), (h), (k), (l) of section 1819 "he" and "his" wherever they appear and inserting in lieu thereof "the Administrator" and "the manufacturer's", respectively;

(24) by striking out in clauses (1) and (5) of section 1820(a) "his" and "he" wherever they appear and inserting in lieu thereof "the Administrator's" and "the Administrator", respectively;

(25) by striking out in section 1820(a)(6) "him" and inserting in lieu thereof "the Administrator";

(26) by striking out in paragraphs (1) and (2) of section 1820(e) "he", "him", and "his" wherever they appear and inserting in lieu thereof "the Administrator", "the Administrator", and "the Administrator's", respectively;

(27) by striking out in subsections (a) and (c) of section 1823 "he" and "his" wherever they appear and inserting in lieu thereof "the Administrator" and "the Administrator's" respectively;

(28) by striking out in section 1824(d) "his" and inserting in lieu thereof "the Administrator's";

(29) by striking out in section 1825 "he" and inserting in lieu thereof "said person";

(30) by striking out in section 1826 "he" and "widow" wherever they appear and in-

serting in lieu thereof "the Administrator" and "surviving spouse", respectively; and

(31) by striking out in subsections (a) and (b) of section 1827 "he" and "his" wherever they appear and inserting in lieu thereof "the Administrator" and "the Administrator's", respectively.

Sec. 8. (a) The provisions of the constitution of any State expressly limiting the amount of interest which may be charged, taken, received, or reserved by certain classes of lenders and the provisions of any law of that State expressly limiting the amount of interest which may be charged, taken, received, or reserved shall not apply to—

(1) any loan or mortgage which is secured by a one-to-four-family dwelling and which is (A) insured under title I or II of the National Housing Act, or (B) insured, guaranteed, or made under chapter 37 of title 38, United States Code; or

(2) any temporary construction loan or other interim financing if at the time such loan is made or financing is arranged, the intention to obtain permanent financing substantially by means of loans or mortgages so insured, guaranteed, or made is declared.

(b) The provisions of this section shall apply to such loans, mortgages, or other interim financing made or executed in any State until the effective date (after the date of enactment of this section) of a provision of law of that State limiting the amount of interest which may be charged, taken, received, or reserved on such loans, mortgages, or financing.

Sec. 9. (a) Except as provided in subsection (b), the provisions of this Act shall become effective on the date of enactment.

(b) Sections 2 and 3 shall become effective on October 1, 1976. Section 5 shall become effective on July 1, 1976. AMEND THE AMENDMENT OF THE HOUSE TO THE TITLE SO AS TO READ: "An act to amend chapter 37 to title 38, United States Code, to increase the maximum Veterans' Administration's guaranty for mobile home loans from 30 to 50 percent, to make permanent the direct loan revolving fund, to extend entitlement under chapter 37 to those veterans who served exclusively between World War II and the Korean conflict, and for other purposes."

ORDER TO PROCEED TO THE CONSIDERATION OF S. 1632 ON MONDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the transaction of routine morning business on Monday has been completed, the Senate proceed to the consideration of S. 1632, the ERDA authorization bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, on Monday the Senate will convene at the hour of 11 a.m. After the two leaders or their designees have been recognized under the standing order, there will be a period for the transaction of routine morning business of not to exceed 15 minutes with statements limited therein to 5 minutes each.

At the conclusion of the period for the transaction of routine morning business, the Senate will take up S. 1632, the ERDA authorization bill.

At the hour of 12:15 p.m. on Monday a rollcall vote, the yeas and nays having already been ordered, will occur on final passage of the foreign military sales bill.

Also on Monday at 2 p.m. or thereafter, a rollcall vote will occur on passage of either H.R. 9019 or S. 1926, the health maintenance organization bills.

On Monday the Senate will take up at some point during the day S. 3267, the Motor Vehicle Information and Cost Savings Act; S. 3165, a bill to establish a national marine science and technology policy for the United States, to extend the national sea grant program; and S. 2477, the lobbying act bill, but not necessarily in that order.

The Senate will be in rather late on Monday, I would suspect, and rollcall votes will occur throughout the afternoon and evening.

Mr. President, the Senate will be coming in early daily next week after Monday, and Senators may anticipate lengthy sessions daily and through Saturday even, with rollcall votes occurring daily.

ADJOURNMENT TO 11 A.M. MONDAY, JUNE 14, 1976

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate I move, in accordance with the previous order, that the Senate stand in adjournment until the hour of 11 a.m. on Monday next.

The motion was agreed to; and at 4:25 p.m. the Senate adjourned until Monday, June 14, 1976, at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate June 11, 1976:

Department of State

Shirley Temple Black, of California, for the rank of ambassador during her tenure of service as Chief of Protocol for the White House.

Department of State

Henry E. Catto, Jr., of Texas, to be the Representative of the United States of America to the European Office of the United Nations with the rank of ambassador.

In the Judiciary

Peter T. Fay, of Florida, to be U.S. circuit judge for the Fifth Circuit vice David W. Dyer, retiring.

In the Judiciary

Elizabeth A. Kovachevich, of Florida, to be U.S. district judge for the middle district of Florida vice Gerald B. Tjoflat, elevated.

Appalachian Regional Commission

George G. Seibels, Jr., of Alabama, to be Alternate Federal Cochairman of the Appalachian Regional Commission, vice Orville H. Lerch, resigned.

In the Navy

Rear Adm. Willard P. Arentzen, Medical Corps., U.S. Navy, for appointment as Chief of the Bureau of Medicine and Surgery in the Department of the Navy for a term of 4 years with the grade of vice admiral in accordance with title 10, United States Code, section 5137(a).

Vice Adm. Donald L. Custis, Medical Corps, U.S. Navy, for appointment to the grade of vice admiral on the retired list in accordance with title 10, United States Code, section 5133(b).

HOUSE OF REPRESENTATIVES—*Friday, June 11, 1976*

The House met at 10 o'clock a.m.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

This is the day which the Lord hath made; we will rejoice and be glad in it.—Psalms 118:24.

Eternal God, Creator of the universe, Sustainer of life, and Father of us all, we pause before Thee acknowledging our dependence upon Thee and offering Thee the devotion of our hearts. Keep us aware of Thy presence as we face the tasks of this day that no burden may be too heavy, no duty too difficult, and no work too wearisome. May they all be edged with glory because we lift them up into the light of Thy spirit.

Help us to obey Thy law, to do Thy will, and to walk in Thy way. Grant that we may be good in thought, gracious in word, generous in deed, and great in spirit. Make this a glorious day in which we are glad to be alive, eager to work, and ready to serve Thee, our country and our fellow men. Amen and amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment concurrent resolutions of the House of the following titles:

H. Con. Res. 640. Concurrent resolution authorizing the printing of 15,000 copies of "Federal Election Campaign Laws Relating to the U.S. House of Representatives"; and

H. Con. Res. 652. Concurrent resolution directing the Clerk of the House to make a correction in the enrollment of the bill (H.R. 11559) entitled "An act to authorize appropriations for the saline water conversion program for fiscal year 1977."

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 8532. An act to amend the Clayton Act to permit State attorneys general to bring certain antitrust actions, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 12455) entitled "An act to extend from April 1 to October 1, 1976, the maximum period during which recipients of services on September 30, 1975, under titles IV-A and VI of the Social Security Act, may continue to receive services under title XX of that act without individual determinations," disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. LONG, Mr. TALMADGE, Mr. MONDALE, Mr. HATHAWAY, Mr. PACKWOOD, and Mr. ROTH to be the conferees on the part of the Senate.

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 3184) entitled "An act to amend the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. HATHAWAY, Mr. WILLIAMS, Mr. RANDOLPH, Mr. KENNEDY, Mr. MONDALE, Mr. CRANSTON, Mr. DURKIN, Mr. SCHWEIKER, Mr. JAVITS, Mr. BEALL, and Mr. LAXALT to be the conferees on the part of the Senate.

The message also announced that the Senate had passed bills and a concurrent resolution of the following titles, in which the concurrence of the House is requested:

S. 1971. An act to designate the plaza area of the Federal Building, Portland, Oreg., the "Terry Schrunk Plaza";

S. 2184. An act to authorize appropriations for the winter Olympic games, and for other purposes;

S. 3063. An act designating Ozark lock and dam on the Arkansas River as the "Ozark-Jeta Taylor lock and dam";

S. 3475. An act relating to the display of certain historical documents within the U.S. Capitol Building during the calendar year 1976; and

S. Con. Res. 115. Concurrent resolution authorizing printing of background information on the Foreign Relations Committee as a Senate document.

THE LATE JIM FARLEY

(Mr. HANLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HANLEY. Mr. Speaker, on Wednesday of this week, departing from our midst was one of America's greatest sons. I refer to the great Jim Farley.

Few men in history have a record of achievements such as his, dating back to his teens when he evidenced a keen interest in two things: Politics and baseball. Beyond his fundamental love for family and country, he devoted his entire lifetime to both, baseball and politics, actively participating in the Democratic Party since the age 19, when he actually became the chairman of his county organization even prior to his ability to vote by virtue of failure to meet the age requirement.

It is often said, "He died with his boots on," and this was the story of Jim Farley, because on Wednesday, at age 88, he was still pursuing his full day in his office as chairman of the Board of Export for Coca-Cola. Sandwiched in between were many, many things, notably his activities during the thirties as one of the architects of the National Recovery Act.

I think it fair to say that his magnetism, his genius provided the route whereupon Franklin D. Roosevelt moved from the State capital in Albany on to the Presidency of the United States.

Much can be said about this great man. In fact, he was looking forward to serving the 1976 National Democratic Convention in the capacity of its honorary chairman. Ironically, on the day of his death, he dispatched a communication to me, political in nature, which demonstrates his interest right up until the time of his death.

Mr. Speaker, much more can and will be said about this great statesman, whom I revere. May he rest in peace.

A TRIBUTE TO THE LATE FATHER WALTER FLAHERTY

(Mr. O'NEILL asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matters.)

Mr. O'NEILL. Mr. Speaker, I rise to pay a special tribute to a former House staff employee, Father Walter Flaherty, whose untimely death is mourned by all of us in this Chamber who knew and admired him.

Father Flaherty was the secretary for 6 years to our beloved former Speaker, John W. McCormack. Those of us who were serving in the House of Representatives during Father Flaherty's all-too-short tenure on the Speaker's staff, remember well his love and devotion to Speaker McCormack, and his faithful and conscientious performance of duty which earned him high marks of excellence and appreciation from all members and employees of the House of Representatives.

The late Speaker Sam Rayburn often used to say that the most beautiful word in the English language was "service." And Father Flaherty gave to this Chamber 6 years of unprecedented and dedicated service.

His warmth, his engaging personality, and his ever-willingness to lend an assisting hand to Member and employee alike made him a favorite to everyone working on Capitol Hill. Father Flaherty took his job seriously and performed each succeeding task with equal diligence and enthusiasm.

How can anyone of us who served with Father Flaherty ever forget that memorable day when Father Flaherty returned to this Chamber as the guest chaplain following his ordination to the Roman Catholic priesthood, and began the House proceedings by leading the membership in prayer.

Those of us who knew Father Flaherty are deeply saddened by the loss of this great man. My wife Millie joins me in sending our condolences and sympathy to Father Flaherty's brothers and sisters.

Mr. BURKE of Massachusetts. Mr. Speaker, I am deeply saddened at the loss of a close and dear friend, Father Walter W. Flaherty. Father Flaherty was a man of selfless devotion who dedicated his life to his country, to Congress, and to God.

I know that many of my colleagues remember Father Walter Flaherty for his 6 years here as secretary to former Speaker John W. McCormack. We recall the constant delight which his ready wit and enthusiasm brought to us. We were touched by the goodness of his nature, and the kindness of his heart; and we marveled at his cheerful acceptance of every task. His tireless devotion to his fellow man inevitably led him to the calling of a greater vocation: The vocation of the priesthood.

Leaving the duties he had served so well here in Washington, Walter Flaherty entered the first class of seminarians at the Pope John XXIII National Seminary in Weston, Mass. A seminary that had been newly founded by the late Richard Cardinal Cushing, Archbishop of Boston, for the specific purpose of enabling older men with late vocations to study for the priesthood. Father Flaherty's calling was of special benefit to my own constituents.

In May of 1968, Father Walter William Flaherty was ordained by Cardinal Cushing at St. Ignatius Church in Chestnut Hill, Mass., and received his first priestly assignment as associate pastor of St. Mary's Church, which is in my congressional district, in West Quincy. While at St. Mary's his spiritual guidance touched and enhanced the lives of hundreds of my constituents. Father Flaherty was loved and admired by all who knew him; and we were all truly saddened when, for reasons of failing health, he was transferred from the parish. He returned to the Pope John XXIII Seminary and was assigned the directorship of field education on the seminary faculty.

Father Flaherty was born in South Boston 50 years ago, the son of the late John F. and Julia A. (O'Brien) Flaherty. He attended South Boston High School, Newman Preparatory School in Boston, and St. Michael's College in Winooski, Vt. He was a Navy veteran of World War II, and served with honor. Father Walter William Flaherty is a man who will be long remembered, and greatly missed. I know my colleagues join with me in extending our deep sympathy to Father Flaherty's surviving brothers and sister.

Under permission granted I include the pamphlet given out at the Mass of the Resurrection for Rev. Walter W. Flaherty:

MASS OF THE RESURRECTION: REV. WALTER W. FLAHERTY, 1926–76

The Entrance Hymn: "Sine Nomine".

First Reading.

Responsorial Psalm: "The Lord's My Shepherd":

The Lord's my shepherd, I'll not want
He maketh me down to lie
In pastures green: he leadeth me
The quiet waters by.

My soul he doth restore again,
And me to walk doth make
Within the paths of righteousness,
E'en for his own name's sake.

Yea, though I walk in death's dark vale,
Yet will I fear none ill:
For thou art with me, and thy rod
And staff me comfort still.

My table thou hast furnished
In presence of my foes;
My head thou dost with oil anoint,
And my cup overflows.

Goodness and mercy all my life
Shall surely follow me:
And in God's house for evermore
My dwelling-place shall be.

Gospel.
Homily.
Liturgy of the Eucharist.
Offertory Hymn: "I Will Raise Him Up".
Hymn: Holy, Holy, Holy.
Memorial Acclamation: "Keep in Mind".
The Great Amen. Amen, Amen, Amen!
Communion Hymn: "Prayer of St. Francis".

"YAWEH"

(Refrain)
Yaweh is the God of my salvation:
I trust in him and have no fear.
I sing of the joy which his love gives to me.
And I draw deeply from the springs of his great kindness.

(Verses)
Open our eyes to the wonder of this moment the beginning of another day. (Refrain)

Be with us Lord, as we break through with each other
To find the truth and beauty of each friend. (Refrain)

When ev'ning comes and our day of toil is over
Give us rest, O Lord,
in the joy of many friends. (Refrain)

Take us beyond the vision of this day
To the deep and wide ways
Of your infinite love and life. (Refrain)

Absolution:

"MAY CHOIRS OF ANGELS" (MELODY—O SACRED HEAD SURROUNDED)

May choirs of angels bring you
To Paradise above
And may they ever sing you
The Wonders of his love.

(Refrain)
O God of consolation
Your presence is our goal
Hear us in supplication:
Have mercy on this soul.

And may the martyrs greet you
And make you welcome there.
And in that city meet you
Jerusalem most fair. Refrain

Now rest from your endeavor,
With Laz'rus may you be.
May joy be yours forever
Through all eternity. Refrain

Recessional Hymn: "Jesus Christ Is Risen Today".

Walter William Flaherty was born in South Boston on February 28, 1926, the son of John Flaherty and Julia O'Brien. After graduating from South Boston H.S., he served in the United States Navy and then began his working career. It was as secretary in the office of the Honorable John W. McCormack, Speaker of the House of Representatives, that he applied for entrance into the first class at Pope John XXIII National Seminary. Ordained in 1968, he served briefly in St. Mary's Parish, Quincy, and then returned to Pope John XXIII National Seminary as a member of the faculty, where he served as Registrar and Associate Director of Field Education until the time of his death. The countless number of parishioners, students, faculty and seminary staff who were touched by his priestly life will never forget him. May God grant him the eternal happiness he so richly deserves.

Mr. BOLAND. Mr. Speaker, I want to join with my distinguished colleague, Mr. O'Neill, the majority leader, in mourning the loss of a former House staff member, Father Walter W. Flaherty, who was secretary for 6 years to our beloved former Speaker, the Honorable John W. McCormack of Boston.

I am sure that many Members and staff employees of this House will remember Father Flaherty for his dedication, efficiency, modesty, warm and pleasing personality, and above all, his graciousness and wit as he went about his daily tasks and dealt with thousands of people.

We also recall that memorable day after his ordination to the Roman Catholic priesthood when Father Flaherty stood at the podium, below Speaker McCormack, as the guest chaplain, and began the House proceedings by leading the membership in prayer.

After serving as Speaker McCormack's secretary for 6 years, Walter Flaherty decided to leave the hustle and excitement of Capitol Hill for the contemplative calling of a late vocation in the priesthood. He was in the first class of seminarians to enter the Pope John XXIII National Seminary in Weston, Mass., founded 10 years ago by the late Richard Cardinal Cushing, Archbishop of Boston, for the specific purpose of allowing older men with late vocations to study for the priesthood.

He was ordained by Cardinal Cushing in May of 1968 at St. Ignatius Church, Chestnut Hill, Mass., and his first priestly assignment was as associate pastor of St. Mary's Church in West Quincy, Mass. Later, because of failing health, Father Flaherty was transferred to Pope John XXIII Seminary as director of field education on the seminary faculty.

Father Flaherty was born in South Boston 50 years ago, the son of the late John F. and Julia A. (O'Brien) Flaherty. A Navy veteran of World War II, he attended South Boston High School, Newman Preparatory School in Boston, and St. Michael's College Winooski, Vt. His brother, Father Frank L. Flaherty, is pastor of Blessed Sacrament Church in Stowe, Vt. I want to express my profound sympathy to Father Walter Flaherty's brothers and sister on their great loss.

A TRIBUTE TO THE LATE HON. JAMES A. FARLEY

(Mr. PEPPER asked and was given permission to address the House for 1 minute, to revise and extend his remarks, and include extraneous matter.)

Mr. PEPPER. Mr. Speaker, Wednesday afternoon I put into the Congressional Record a beautiful story of Jim Farley's visit to the Little White House at Warm Springs, Ga., which he had sent to me with the hope that it might be incorporated in the Congressional Record.

Jim Farley and I have been intimate friends for 40 years. Little did I know, when late in the afternoon I prepared my own tribute to go with that newspaper story, that Jim Farley by the end of that day would have passed to the great beyond to receive the reward of a virtuous and good life.

Jim Farley's history is a part of the history of America. His whole life was primarily associated with politics. He was chairman of the Democratic State Committee of New York. The story is told that when the returns came in showing Franklin Delano Roosevelt, later to be President of the United States, elected as Governor, Jim Farley said, "That's the next President of the United States."

From then on, through the 1932 convention, at which Jim Farley was the floor manager, Jim Farley guided the destinies of Franklin Delano Roosevelt into the Presidency of our great country. Thereafter for two terms of President Roosevelt's administration, he was Postmaster General, and the political leader of that administration.

Jim Farley changed the course and destiny of the world by making it possible for Franklin D. Roosevelt as President of our country to become the champion of world freedom at a time when the forces of crime and despotism and cruel tyranny under Hitler were seeking to engulf mankind and to lift the Nation from the depth of a great depression to strength and well-being.

Mr. Speaker, Jim Farley was a great American. He loved America with all of his big heart. He was a big man in stature, a big man in the compassion that he had for his fellow men, and a big man in the vision that he had for America. Jim Farley was a politician who brought honor to that profession. He lived a long lifetime of political leadership, and not once did the stain or the tarnish of misconduct or impropriety contaminate his illustrious name in his private or public life.

He was a friend of many, and anyone who enjoyed that friendship will long cherish it. As fellow Americans we all join in remembrance and in paying tribute to the memory of Jim Farley for all that he did for our country. As men and women of politics, we are proud that he lived a long lifetime dedicated to our profession, and that his was an exemplary life, one that his fellow countrymen can applaud and approve.

Mr. Speaker, as his friends we shall always lament the passing of Jim Farley and revere the privilege of his friendship which we enjoyed. A good and great man, symbol of a great era in American life, has gone to his reward. We shall not see his like again.

Mr. Speaker, I include the following article from the Washington Star of Thursday, June 10, 1976:

JAMES FARLEY DIES AT 88; MASTERMINDED FDR'S RISE

James A. (Genial Jim) Farley, 88, the Democratic power broker who masterminded Franklin D. Roosevelt's rise to the presidency, died of a heart attack last night at his Park Avenue home in New York.

Farley, who had seen a doctor earlier in the day, had remained active despite his years, most days walking to his Madison Avenue job as honorary chairman of Coca-Cola Export Co.

The former Democratic national chairman also maintained a lively interest in politics and was looking forward to the party's convention in New York next month.

He had not endorsed a candidate but said recently the Democrats had a "very good chance of winning the 1976 presidential election—if the reformers don't lose it again."

Farley was floor chairman at the Chicago convention that nominated FDR to the first of a record four terms in the White House. He split with Roosevelt in 1940 on the issue of a third term, resigning as postmaster general.

Survivors include his son, James Jr. Funeral arrangements are incomplete.

(By Alden Whitman)

NEW YORK.—As returns from the 1930 New York gubernatorial race filtered in to the Biltmore Hotel headquarters of the State Democratic Committee that Nov. 4 night, its freshman chairman issued a statement.

"I do not see," the tall, bald, bluff James A. Farley said, "how Mr. (Franklin D.) Roosevelt can escape becoming the next presidential nominee of his party, even if no one should raise a finger to bring it about."

The next day, when the tally showed that Roosevelt's plurality was 725,000—Farley's prediction had been a mere 350,000—Farley announced:

"We have elected as governor the man who will be the next President of the United States."

That display of prescience—discounted at the time as the boastful rhetoric of elation—was typical of the master political organizer and salesman of the '30s.

His foresight was grounded in a patient accumulation of facts and remarkable acuity in interpeting them. He contributed his own dedicated diligence as a political worker, his dazzling attention to detail and his imperturbable geniality.

In 1930 Farley was just another Democratic chairman scarcely known outside his state. But for the next 10 years he was a figure of national importance—chairman of the Democratic National Committee, postmaster general of the United States, the man who effectively provided the New Deal's political muscle.

He was the powerhouse of the Democratic party, the man who energized the state and county leaders to get out the vote.

Farley's style was to emphasize the personal. He was Jim to thousands of party workers, to whom he sent chummy letters signed in Irish green ink.

"The secret of Jim Farley's success is not one possessed by the ordinary politician," Roger Baldwin, the civil libertarian, wrote in 1934. "He is not given to moving men in masses. With Jim it's one man at a time."

An admitted "political drummer," Farley possessed a truly compendious memory for faces and names, a total recall that visibly impressed the man who was remembered.

In the campaign of 1932 Farley was aboard the Roosevelt campaign train when it stopped at a small Western town. "Hello, Jim," a man in the shadow of the depot sang out. Farley couldn't see the man, but he glanced at the name of the railroad station and shouted. "How are you Frank? Glad to see you."

He explained that some months previously a man named Frank had written him a number of letters, and that he had remembered the name by associating it with the town.

Not a boss in the malodorous sense of the word, Farley ran the Democratic party with considerable sophistication and benignity. He put a high premium on party loyalty and he was quite unhypocritical in using patronage to cement that loyalty.

Attacked as "the master spoilesman of all time," he conceded that he did all he could to fill every available job with a deserving Democrat, provided the application was qualified.

One of Farley's grievances against Roosevelt arose out of the social difference between the two, one an Elk and an Eagle and the other a Porcellian and a Harvard Club member. With undisguised injured feelings Farley once recalled that he had never been invited to pass the night in the White House and only twice had made a cruise on the Presidential yacht.

"Mrs. Roosevelt once said 'Franklin finds it hard to relax with people who aren't his social equals,'" Farley related. "I took this remark to explain my being out of the infield."

After 1940 Farley's leverage in national affairs diminished. He resigned as New York State chairman in 1944 and gave most of his time to his business as head of the Coca-Cola Export Corp. He did not, however, lose his hankering for high elective office, for as late as 1962 he considered seeking the Democratic nomination for governor of New York. It was a forlorn ambition, as forlorn as his hope to run on a presidential ticket in 1940 with his friend Cordell Hull.

Standing 6 feet 2½ inches and weighing 215 pounds, Farley was an impressive figure. His head was bald, with just a fringe of hair. His face was open. His manner invited confidence.

From childhood James Aloysius Farley developed an aptitude for unremitting toil. He was born May 30, 1888, at Grassy Point in Rockland County, on the west bank of the Hudson River, the son of James and Ellen Goldrick Farley. The elder Farley was a brick manufacturer and one of the few Democrats in the county.

At the age of 8, James was a torchbearer in a local parade for William Jennings Bryan, the Democratic candidate for President in 1896. When the boy was not quite 10 his father was killed by a horse and his mother was left with five sons, of which he was the second.

He sold papers and ran errands and later helped his mother when she bought a small grocery shop and saloon. Summers he worked as a machine boy in a brickyard for $1 a day. His formal schooling ended with graduation from Stony Point High School in 1905, although he later studied bookkeeping.

He worked briefly for a paper company as a bookkeeper and then joined the Universal Gypsum Co., for which he worked 15 years as a bookkeeper, company correspondent and salesman.

In 1926 he formed his own building supplies company and three years later merged it with five other concerns to form the General Building Supply Corp., of which he was president until he became postmaster general in 1933.

Farley attained his highest elective public office in 1922—one term as a state assemblyman. He made the mistake of voting "wet" on Prohibition enforcement, and his politically "dry" constituents rejected him in 1924.

Far from profiting from public office, Farley was in debt after his years in Washington. He received $65,000 for his memoirs and that, with his business income, permitted him to live in comfort.

Farley never regretted his political vocation. "Would I do it all over again?" he asked rhetorically. "The answer is yes—without a moment's hesitation or a single shade of doubt.

"Politics is the noblest of careers."

Mr. FISH. Mr. Speaker, will the gentleman yield?

Mr. PEPPER. I yield to the gentleman from New York.

Mr. FISH. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I just wish to concur in everything the gentleman has said, and I concur especially with what he said on the note of friendship as he was talking of this great Democrat.

Jim Farley's political career was at its height in the 1930's during the time my father served in this House. They were great friends. Jim Farley was able to bridge another generation with his friendship, and in the last several years he was a friend of mine as well.

Mr. PEPPER. Mr. Speaker, I thank the gentleman for his remarks.

Mr. HECHLER of West Virginia. Mr. Speaker, will the gentleman yield?

Mr. PEPPER. I yield to the gentleman from West Virginia.

Mr. HECHLER of West Virginia. Mr. Speaker, I would like to add my tribute to James Aloysius Farley, who was a great American and a great Democrat.

Mr. Speaker, just before World War II, I was a young political science teacher at Columbia University and admired Jim Farley and related many of his exploits to my students. One day while reading his autobiography, "Behind the Ballots," I was intrigued by Farley's description of how he lined up delegates for Roosevelt at the 1932 Democratic National Convention in Chicago. It seemed that while Governor Roosevelt was in Albany, N.Y., Farley in Chicago rigged up a telephone with an amplifier in his hotel room to enable Roosevelt to talk long distance with groups of delegates from various States and to allow the delegates to ask Roosevelt questions on the issues.

Suddenly the thought occurred to me: Why not install a telephone and an amplifier in my classroom and call up nationally known public leaders to talk with and answer questions from students in my political science class? The phone company was very cooperative and had the gadget hooked up within a week; naturally, my first call was to James A. Farley himself, and that was the start of a 36-year friendship.

In April 1940, I asked Farley if he would come to visit my class in person. He invited me over for breakfast and then drove me up to Columbia in his long, black limousine with the seal of the Postmaster General on the door. He asked my students to keep his remarks off the record so he could be franker in his answers. One student asked him: "Is Roosevelt going to run for a third term?" Without the customary fence sitting of a politician, he answered bluntly:

> Roosevelt will not run for a third term except in case of war or a national emergency.

The students could not resist giving the big story to the newspapers. The next day I was mortified to discover in screaming streamer headlines that every newspaper blared forth:

> Farley says Roosevelt will not run for third term.

But Jim Farley must have known how I felt, because the telephone rang early, and he said:

> Don't worry, Professor Hechler, there is one thing you always must remember: there's nothing as dead as yesterday's newspaper.

Not long ago I got my last letter signed in green ink "Jim." Farley's letter read:

> I don't like to butt in in politics out of my own State, Ken, but as an old friend, it would give me a great amount of personal pleasure to see you nominated and elected Governor of your great State. You had a very fine career in the Congress and made a great Represent-

> ative in the manner in which you represented your constituents.
>
> Whenever I read about you, it always brings back memories of other days when our paths crossed more frequently when you were at Columbia. If you do happen to be at the Gridiron Dinner, I do hope I will have a chance to see you and say hello, or I hope you will give me a ring.

The Nation will always remember Franklin D. Roosevelt's Presidency, but many people overlook the fact that Roosevelt probably could not have been elected President in 1932 without James A. Farley.

Mr. **GILMAN**. Mr. Speaker, I rise with sadness in my heart today, just hours after the death of a great man, an institution, the Honorable James A. Farley.

Gentleman Jim, who earned a reputation throughout our Nation for never forgetting a name or a face, was born in my 26th Congressional District in New York State. The son of second generation Irish-Americans, Jim Farley grew up in Grassy Point, N.Y., a pleasant little river village which at the turn of the century was the site of a few industries and one shipbuilding concern.

Mr. Democrat, as he was known, had a deep, abiding love for his fellow man, for politics and baseball. In his younger days "Stretch" Farley played first base like few men had ever seen. As the days passed, his love of the great American pastime grew and he became known as the "No. 1 fan" of the New York Yankees. Recently he was honored at a special ceremony at the remodeled Yankee Stadium.

I had the pleasure of being with this great man recently, and that, appropriately enough, was on March 17 of this year, St. Patrick's Day. The man who steered the Roosevelt administration through its first 2 years was wearing the green as usual, and we had the occasion to participate in New York City's St. Patrick's parade and to meet at a dinner following the parade at the Friendly Sons of St. Patrick banquet.

The ex-Postmaster General always had a warm way of making one feel at home. He was a man who never lost sight of his roots. Grassy Point was still home for him, even though he had left the serenity of that community for Washington, for New York and for life in the public eye.

Prior to the dinner, the man with the happy smile accepted my offer to drive him to the banquet. He was anxious to hear of the latest developments in his home region, and he was looking forward to coming back to the town of Stony Point this summer to speak at a Fourth of July celebration.

When you think of Jim Farley, it is hard to pinpoint one specific event he was involved in. He participated in so much history that it is difficult to expound on just one of his contributions to America.

But some of his accomplishments deserve recognition. He was elected chairman of the Stony Point Town Democratic Committee before he was old enough to vote. He was noted for his phenomenal memory for faces and the names that went with them. He shook thousands of hands in his career, and he managed to remember the identity of most of the shakers. This smiling Irishman served three terms as town clerk, one term in the State legislature, several years as a member, and then chairman of the New York State Athletic Commission, and as a New York Port warden by appointment of Gov. Alfred E. Smith. He was one of the strong, courageous men that brought us through the depression.

I can only say that he will be missed, that I am proud to represent his hometown, and that we need more men like him. Jim Farley put Grassy Point and Rockland County on the map.

I extend my condolences to Mr. Farley's family on this great loss, but I hope that they will find some comfort in the fact that he was such a good man, a devout Roman Catholic, and that he was loved and admired by so many.

Mr. **BIAGGI**. Mr. Speaker, I was deeply saddened this week when I learned of the death of James A. Farley. His death is a personal loss to me, to the Democratic Party and above all, to this Nation.

Jim Farley's passing marks the end of one of the longest and most remarkable American political careers, a career which did not include Farley's achieving any major elected public office, but which did involve him intimately with the successful campaign of Franklin D. Roosevelt in his bid for the highest elected office in this land.

Jim Farley was very simply a master of political organization and savvy. He was a man who transformed the routine and tedious behind-the-scenes work of politics into a matter of national interest. Americans of all political persuasions marveled at the phenominal organization abilities of Jim Farley in 1932, which resulted in the election of Franklin D. Roosevelt, an event which in itself, changed the course of 20th century history in the United States.

Jim Farley's successes in life were a tribute to his hard work and dedication. From the time he served as a local torchbearer for the Presidential campaign of William Jennings Bryan at the age of 8, to his work as Postmaster General of the United States, Farley was a prime exponent and advocate of the work ethic.

Those of us fortunate enough to be New Yorkers were proud to claim James A. Farley as one of our most distinguished and prominent native sons. Born in Rockland County, N.Y., Farley began his political career in local Rockland County politics. His highest political office was State assemblyman which he was elected to in 1922 for one term. He then began an impressive career in appointed jobs with the State government of New York. His most noteworthy position was that of chairman of the State athletic commission, when he gained a reputation for promoting integrity in the sports field. He used this position to establish life-long friendships with leading Democrats in the State, including Franklin D. Roosevelt. James Farley helped Roosevent capture the governorship and sensing him to be a promising national leader, Farley began in July 1931 to promote Roosevelt for President in a national swing. It was during this swing that national Democrats became familiar with the qualities which made James Farley the master political strategist and organizer he was.

James Farley aided Roosevelt in his second term election and in fact, gained national attention again for his precise prediction of the debacle which was to occur to Republican, Alf Landon. After James Farley's association with Roosevelt soured in 1940, he returned to New York to continue his work in the State Democratic Party. His later years were spent combining business and politics and to the very end, Democrats from all over sought James Farley's advice. As recently as April 13, James Farley discussed his assessment of the 1976 elections and how he felt the Democrats will eventually prevail.

My involvement in New York politics gave me the privilege to have known James A. Farley. He was Mr. Democrat in the State of New York, the man who had the best advice, knew the best people to contact, and the best way to organize a successful political campaign. Once you gained the friendship of James Farley you never lost it, he valued his friends dearly.

Mr. Speaker, this Nation has lost one of its most dedicated, and colorful public figures. The Democratic Party has lost one of its mainstays of the 20th century, the man who helped trigger the democratic dominance in national politics in the past 40 years. The State of New York has lost a true friend, a man who lived his entire life in service to the State. I, and many others have lost a true and valued friend. But all of James Farley's friends can take solace in knowing that Jim lived a full life, rich and rewarding not only to himself, but also to those of us who had the honor and privilege to have known him. Jim Farley in his last interview summed up his life when he said:

> I've had 88 years and I've enjoyed every moment of them.

At this point in the RECORD, I would like to insert the account of Jim Farley's life as reported in the June 10 edition of the New York Times:

FARLEY, "JIM" TO THOUSANDS, WAS THE MASTER POLITICAL ORGANIZER AND SALESMAN

(By Alden Whitman)

As returns from the 1930 New York gubernatorial race filtered in to the Biltmore Hotel headquarters of the State Democratic Committee that Nov. 4 night, its freshman chairman issued a statement.

"I do not see," the tall, bald, bluff James A. Farley said, "how Mr. [Franklin D.] Roosevelt can escape becoming the next Presidential nominee of his party, even if no one should raise a finger to bring it about."

The next day, when the tally showed that Mr. Roosevelt's plurality was 725,000 (Mr. Farley's prediction had been a mere 350,000), the chairman announced:

"We have elected as Governor the man who will be the next President of the United States."

That display of prescience—discounted at the time as the boastful rhetoric of elation—was typical of the master political organizer and salesman of the nineteen thirties. His foresight in those years was grounded in a patient accumulation of facts and remarkable acuity in interpreting them. At the same time he contributed to the realization of his forecasts by his own dedicated diligence as a political worker, his dazzling attention to detail and his imperturbable geniality.

A NATIONAL FIGURE

In 1930 Mr. Farley was just another Democratic chairman, scarcely known outside his state. But for the next 10 years he was a figure of national importance—chairman of the Democratic National Committee, Postmaster General of the United States, the man who effectively provided the New Deal's political muscle. He was the powerhouse of the Democratic party, the man who energized the state and county leaders to get out the vote.

Mr. Farley's style was to emphasize the personal. He was Jim to thousands of party workers, to whom he sent chummy letters signed in Irish green ink. "The secret of Jim Farley's success is not one possessed by the ordinary politician," Roger Baldwin, the civil libertarian, wrote in 1934. "He is not given to moving men in masses. With Jim it's one man at a time.

"The effect is like one of these endless chains which every so often appear—the recipient tells 10 others. When Jim Farley leaves a man, that man is not only a loyal and devoted friend of Farley's, but he does not stop until he has lined up his own friends likewise."

An admitted "political drummer," Mr. Farley possessed a truly compendious memory for faces and names, a total recall that visibly impressed the man who was remembered.

NAME LINKED WITH TOWN'S

In the campaign of 1932 Mr. Farley was aboard the Roosevelt campaign train when it stopped at a small Western town. "Hello, Jim," a man in the shadow of the depot sang out. Mr. Farley couldn't see the man, but he glanced at the name of the railroad station and shouted, "How are you, Frank? Glad to see you."

He explained that some months previously a man named Frank had written him a number of letters, and that he had remembered the name by associating it with the town.

Mr. Farley was meticulous in such matters, even extending his recollections to members of the family. "Don't forget what kind of a tree it was that little Johnny fell out of and which arm he broke," he advised.

Not a boss in the malodorous sense of the word, Mr. Farley ran the Democratic party with considerable sophistication and benignity. He put a high premium on party loyalty and he was quite unhypocritical in using patronage to cement that loyalty.

Attacked as "the master spoilsman of all time," he conceded that he did all he could to fill every available job with a deserving Democrat, provided the applicant was qualified. In this respect he was conscientious.

SPLIT OVER THIRD TERM

For much of the decade of his national importance Mr. Farley worked in harmony with Mr. Roosevelt, whom Mr. Farley called "Governor" or "the boss" but never Frank or Franklin. The two broke publicly on the third-term issue in 1940, although Mr. Farley's party loyalty was strong enough to lead him to back the President for re-election.

In a series of articles on "Why I Broke With Roosevelt" in Collier's magazine and later expanded into a book, "Jim Farley's Story" (1948), Mr. Farley wrote that there was "no sharp, clean fracture of friendship" with the President but rather "a slow, imperceptible drifting apart of political principles." There were differences over such things as an attempted "purge" by Mr. Roosevelt of Democratic officeholders who opposed him.

At heart Mr. Farley was a conservative (but not a reactionary) Democrat whereas Mr. Roosevelt was an innovater; one was a professional politician, the other a politician by acquired taste. One of Mr. Farley's grievances against Mr. Roosevelt, for example, was that in the latter's second term the President's confidence went to "a small band of zealots who mocked at party loyalty and knew no devotion except to their leader."

Another grievance was the social difference between the two, one an Elk and an Eagle and the other a Porcellian and a Harvard Club member. With undisguised injured feelings, Mr. Farley recalled that he had never been invited to pass the night in the White House and only twice had made a cruise on the Presidential yacht.

"Mrs. Roosevelt once said, 'Franklin finds it hard to relax with people who aren't his social equals'," Mr. Farley related. "I took this remark to explain my being out of the infield."

(In an earlier book, "Behind the Ballots," issued in 1938, Mr. Farley wrote:

"I think there's another quality about the President that most people overlook, and that is the fact that there isn't a snobbish bone in his body." (Indeed, "Behind the Ballots" praised Mr. Roosevelt unreservedly for his sincerity and for an absence of any feelings of social superiority.)

A FORLORN HOPE

After 1940 Mr. Farley's leverage in national affairs diminished. He resigned as New York State chairman in 1944 and gave most of his time to his business as head of the Coca-Cola Export Corporation. He did not, however, lose his hankering for high elective office, for as late as 1962 he considered seeking the Democratic nomination for Governor of New York. It was a forlorn ambition, as forlorn as his hope to run on a Presidential ticket in 1940 with his friend Cordell Hull.

Indeed, Mr. Farley closed out his political career as campaign chairman for Abraham D. Beame, the Democratic candidate for Mayor of New York, in 1965 against John V. Lindsay, the Republican.

Affable and expansive, Mr. Farley accumulated an impressive number and variety of friends in high places. They admired him for his probity and his fellowship and his story-telling; but his conservative cast of mind put him out of joint with the masses of voters, to whom he could not seem to communicate warmth and appeal and concern for their welfare. It was a curious lack, underscored by the relatively few friendships he had with the important labor leaders who were a vital element in the New Deal coalition.

Standing 6 feet 2½ inches and weighing 215 pounds, Mr. Farley was an impressive figure. His head was bald, with just a fringe of hair. His face was open. His manner invited confidence. His robust health he attributed to regular exercise, good diet, weekly Turkish bath and complete avoidance of liquor and tobacco (but not gum, of which he was a habitual chewer).

"When I was confirmed in the Roman Catholic Church at 12," he explained, "I took a pledge not to drink or smoke until I was 21. When I reached that age I was in politics and my mother suggested that I shouldn't drink or smoke. I've never done either. I don't think I could have carried on when the pace was hard if I had."

From childhood James Aloysius Farley developed an aptitude for unremitting toil. He was born May 30, 1888, at Grassy Point in Rockland County, on the west bank of the Hudson River, the son of James and Ellen Goldrick Farley. The elder Farley was a brick manufacturer and one of the few Democrats in the county. "I was born a Democrat," his son delighted to say.

At the age of 8, James was a torchbearer in a local parade for William Jennings Bryan, the Democratic candidate for President in 1896. When the boy was not quite 10 his father was killed by a horse and his mother was left with a half-interest in a brick-cargo schooner, a small insurance policy and five sons, of which he was the second.

He sold newspapers and ran errands and later helped his mother when she bought a small grocery shop and saloon. Summers he worked as a machine boy in a brickyard for $1 a day. Between times he played baseball and learned to waltz. His formal schooling ended with graduation from Stony Point High School in 1905, although he studied bookkeeping for nine months in New York at the Packard Commercial School.

He worked briefly for a paper company as a bookkeeper and then joined the Universal Gypsum Company, for which he worked 15 years as a bookkeeper, company correspondent and salesman. In 1926 he formed his own company to deal in building supplies and three years later merged it with five other concerns to form the General Building Supply Corporation, of which he was president until he became Postmaster General in 1933.

ELECTED AS TOWN CLERK

Mr. Farley entered politics in 1912 by announcing his candidacy for town clerk of Stony Point a Republican stronghold. While selling on the road, he wrote postal cards to all the voters of Stony Point, who responded to this unusual campaign technique by electing him to the unpaid office. Afterward, he sent thank-you notes to every voter. And thus he remained in that post until 1918, making himself useful and agreeable by such devices as selling hunting permits from door to door and delivering marriage licenses personally.

Meantime, Mr. Farley was organizing the Democrats in Rockland—they elected him county chairman in 1918—and was becoming favorably known to party leaders throughout the state, who regarded him as a comer. The first reward for his exertions was conferred on him by Gov. Alfred E. Smith—he was appointed port warden of New York City for 1918–19. Then he returned to Stony Point for two years as town supervisor.

Mr. Farley attained his highest elective public office in 1922—one term as a State Assemblyman. He made the mistake of voting "wet" on Prohibition enforcement, and his politically "dry" constituents rejected him in 1924.

HEADED ATHLETIC COMMISSION

Governor Smith was fond of Mr. Farley, who had helped materially in his 1922 renomination fight against William Randolph Hearst, the publisher, and appointed him to the State Athletic Commission, of which he was chairman from 1925 to 1933. As, in effect supervisor of wrestling and boxing in New York, Mr. Farley banned the practice of ending boxing matches on fouls and of permitting bouts between boxers of mixed weights. He also barred the staging of wrestling matches, virtually all of which were fixed, as anything more than exhibitions.

His most controversial ruling kept Jack Dempsey from fighting Gene Tunney in New York for the world's heavyweight championship. Mr. Farley held that Dempsey had a pre-existing obligation to meet Harry Wills, which should be fulfilled before the Tunney bout. The result was that the Dempsey-Tunney fight, with its $1 million gate, was staged in Philadelphia.

"Farley was a fair and honest commissioner, always on the level," John Kieran, a Times sports writer of that era, recalled recently. "He was a pleasure to deal with."

As commission chairman, Mr. Farley was a conspicuous figure at prizefights, where he sat at the ringside with his friends, mostly politicians to whom he had distributed free tickets. He was also a baseball fan and a patron of the racetrack.

Meantime, he was unsparingly active in the Democratic party, of which he was elected state secretary in 1928. That year he helped to manage Mr. Roosevelt's first campaign for Governor, winning his admiration in the process.

SUCCESS IN G.O.P. AREAS

Two years later, as chairman of the Democratic State Committee, Mr. Farley ran the

Roosevelt campaign, which was notable for its success in the traditional Republican upstate strongholds. It was also memorable as an example of Mr. Farley's personal style, his extraordinary capacity for suffering fools gladly.

At his office in the Biltmore he listened to all comers. "They're all Democrats, and I never turn any of them away without a hearing," he remarked at the time. "I had a fellow in here this morning who said he wanted to help the party. Said he couldn't make a speech but would go any place and sing a song for us. He meant it. All kinds of people come in here, I see them all, make them feel at home and never turn them away without hearing suggestions."

A few days after the election Mr. Roosevelt called in Edward J. Flynn of the Bronx, a trusted political adviser, and Louis McHenry Howe, his gnomish aide-de-camp, and told them privately, "I believe I can be nominated for the Presidency in 1932."

It was decided to organize for the 1932 campaign and to send Mr. Farley to sound out party leaders across the nation. Happily, there was a Grand Lodge Convention of the Elks scheduled for Seattle in July, 1931, and Mr. Farley, a devoted Elk, planned to attend. And in an afternoon at Hyde Park, N.J., Mr. Roosevelt and Mr. Farley devised a 19-day itinerary that would take Mr. Farley to Seattle by way of 18 states and 1,100 Democratic leaders.

"WHIRL OF HANDSHAKES"

Describing the tour in "The Crisis of the Old Order," Arthur M. Schlesinger Jr. wrote:

"The three weeks were a whirl of handshakes, luncheons, dinners, conferences in hotel rooms, sleeper jumps through the sweltering heat, names and faces meticulously registered in memory, reports sent back to New York by special delivery, sweat mopped off the big man's streaming face . . .

"Farley's method was adroit and tactful. There were three potential candidates from New York, he might first suggest—Roosevelt, Smith and Owen D. Young. Then he would lead the conversation along designed lines, until he could see whether it was appropriate to get down to business."

And when the talk got down to cases, Mr. Farley flashed his carefully prepared election charts that showed how popular Mr. Roosevelt was not only in the cities, but also in New York's hinterlands. It was his sales clincher. Of course, each of the 1,100 leaders received a personal letter from "Jim."

As news of Mr. Farley's enthusiastic reports seeped through the national Democratic organization, John J. Raskob, the party's national chairman, and Mr. Smith, its titular leader, became concerned. Neither favored Mr. Roosevelt.

Mr. Smith, who had brought Mr. Farley along, was especially bitter, even though he had, after his 1928 defeat, decided not to seek another nomination. He had changed his mind, of course, by 1931, and had expected that Mr. Farley would help him.

"Farley betrayed me," Mr. Smith complained. "Wait and see him betray Roosevelt."

Scenting a winner, Mr. Farley pressed on with Mr. Roosevelt, and at the opening of the Democratic convention in Chicago in June, 1932, a total of 566 delegate votes was pledged or instructed for the New York Governor—200 votes short of the two-thirds then required to nominate.

After an initial setback, Mr. Farley set to rally the convention to Mr. Roosevelt. "Unhurried and tireless, his pink bald head gleaming, his hand forever outstretched, the correct name always on his lips," Professor Schlesinger wrote, "he greeted men and women he had met on his trip a year earlier, cheered the pessimistic, soothed the angry and exuded an atmosphere of smiling confidence."

Then, in the fierce haggling with Mr. Hearst over the delegate bloc pledged to John Nance Garner, Mr. Farley was instrumental in persuading the publisher to swing to Mr. Roosevelt lest a weary and deadlocked convention pick a Hearst bogeyman.

"It's in the bag!" exclaimed Mr. Farley when the dealings were concluded. And when Mr. Roosevelt arrived at the Chicago airport, on his way to deliver his acceptance speech, he singled out Mr. Farley. Seizing his hand, the Governor said, "Jim, old pal—put it right there—great work!"

In the campaign, Mr. Farley's Irish green ink flowed ceaselessly as his splendid, organizing talents coalesced a fractious party into a winning one. He predicted a popular plurality of 7½ mililon for Mr. Roosevelt over President Herbert Hoover, and he was less than a half-million too generous.

As Postmaster General and chairman of the Democratic National Committee in 1933. Mr. Farley had more than 100,000 Civil Service-exempt jobs to dispense. He delayed awarding these for a couple of months while he prepared a card index to show how every member of Congress voted on every Roosevelt proposal. Less enthusiastic Rooseveltians were penalized until they mended their ways.

This rough-and-ready patronage system earned its author much resentment, but it also drew praise from unexpected quarters. Harold L. Ickes, the curmudgeon Secretary of the Interior, conceded that Mr. Farley had played the game honestly. Of himself Mr. Farley said:

"While many criticize the spoils system, I have always felt it is just as easy to find a good Democrat as a good Republican or vice versa, and that the party in power should reward its own."

In his first four years as Postmaster General Mr. Farley was subject to criticism when 10 Army pilots were killed following cancellation of commercial airmail contracts. He was also attacked for the sale of unperforated postage stamps and gifts of special issues, but he countered these barbs by establishing a philatelic bureau.

"The 1936 election was one of the high-water marks of American politics," Mr. Farley wrote in "Jim Farley's Story." "Some have been kind enough to call it 'the campaign without a mistake.' I wouldn't go so far nor do I consider it the peak of my career. Personally, I prefer the campaign of fo years later, when I suffered defeat, but went down fighting for a principle."

80,000 NOTES MAILED

Despite Mr. Farley's disclaimer, the 1936 Roosevelt race, against Gov. Alf M. Landon of Kansas, was run virtually without hitches. Again Mr. Farley's letter-writing—80,000 "Jim" notes were mailed out—and his skills as an organizer played a powerful role. He was acutely aware of the magnitude of the victory in the making; and while the Literary Digest was forecasting a Landon triumph, he put this accurate prediction in a Democratic headquarters pool:

"Landon will only carry Maine and Vermont. 7 electoral votes".

Mr. Farley continued as Postmaster General and party chairman for four more years, but his intimacy with the President was ended. He received a fairly routine letter of thanks for his campaign efforts ("Dear Jim: You were right—so right that I thought you were more of an optimist than a prophet"), but the letter, predated to Nov. 4, 1936, was not delivered until the following January.

"I hadn't received any previous letter, thanking me for my services, since 1930," Mr. Farley complained in 1948.

However, until the third-term issue arose, the two were on distant but affable terms. "Outwardly we were as friendly as ever," Mr. Farley wrote. "It was just that I found myself outside the White House door."

The third-term question was, for Mr. Farley, both a matter of principle and one of personal ambition. He was against it on principle and against it, too, "because I might have been Vice President or even President," but for Mr. Roosevelt.

In "Jim Farley's Story," Mr. Farley quoted the President as saying, "Go ahead, Jim" in approval of his plan to seek the nomination. That Mr. Roosevelt ultimately turned to himself was a move that Mr. Farley never forgave. As a last gasp, the conservative Senator Carter Glass of Virginia put Mr. Farley's name in nomination at the 1940 convention, and he got 72 votes on the roll-call. It was his final national hurrah, for he resigned almost immediatey from the Cabinet and the party chairmanship to become board chairman of the Coca-Cola Export Corporation.

Mr. Farley, however, held on to the New York chairmanship, which he used in 1942 to black James M. Mead, Mr. Roosevelt's choice for the gubernatorial nomination. John J. Bennett Jr. Mr. Farley's man, won the nomination but lost handily to Thomas E. Dewey, the Republican. Two years later Mr. Farley stepped down as state chairman.

That year he was a pro forma supporter of Mr. Roosevelt for a fourth term. Mrs. Farley, however, frankly avowed her support for Mr. Dewey.

LIVED AT WALDORF TOWERS

Far from profiting from public office, Mr. Farley was in debt after his years in Washington. He received $65,000 for his memoirs and that, with his business income, which mounted over the years, permitted him to live in comfort at the Waldorf Towers, 301 Park Avenue.

In business Mr. Farley maintained a spacious 18th-floor office at 515 Madison Avenue. But he spent a great deal of his time traveling for the company. In 1962, for example, when he was 74, he logged 53,000 miles, 46,000 of them by air. "I spent nearly 106 hours in the air, attended 98 dinners and 78 business luncheons," he recounted. His job was essentialy that of a world salesman for Coca-Cola.

Mr. Farley was a compulsive joiner. The Knights of Columbus, the Order of Red Men, the Elks, the Eagles, the Hibernians, the Friendly Sons of St. Patrick, the Lotos Club and scores of others all claimed him. He was widely honored, having received at least 35 doctorates, crosses, gold medals and awards. The number of his scrolls and lesser awards was uncounted.

In 1920 Mr. Farley married Miss Elizabeth A. Finnegan, whom he called Bess. A retiring woman, she took little part in public life. She died in 1955. The couple had three children—Mrs. Elizabeth M. Montgomery, Mrs. Ann S. Hickey and James Jr.

Mr. Farley never regretted his political vocation. "Would I do it all over again?" he asked rhetorically. "The answer is yes—without a moment's hesitation or a single shade of doubt.

"Politics is the noblest of careers."

GENERAL LEAVE

Mr. PEPPER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the life, character, and public service of the late Honorable James A. Farley.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 9771, AIRPORT AND AIRWAY DEVELOPMENT ACT AMENDMENTS OF 1975

Mr. ANDERSON of California. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on the bill (H.R. 9771) to amend the Airport and Airway Development Act of 1970.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

SECRET SERVICE PROTECTION FOR LOSING DEMOCRATIC CANDIDATES SHOULD BE WITHDRAWN

(Mr. SCHULZE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHULZE. Mr. Speaker, the primary political wars are over as far as the Democrats are concerned, and the losers have been left long behind, but, this country is still providing Secret Service protection for a number of these losing candidates.

This is an expense being borne by the taxpayers of this Nation and it is an unnecessary one.

It is time that we stop this and I suggest that the committee which determines who gets the protection of the Secret Service instruct Assistant Secretary of the Treasury David R. Macdonald to withdraw his men from the three candidates who no longer need protection. I also call on those men, on their own, to request that the protection be removed.

Such a move could result in a substantial savings in taxpayer's dollars.

CALL OF THE HOUSE

Mr. CHARLES H. WILSON of California. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. O'NEILL. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 359]

Adams
Anderson, Ill.
Andrews, N.C.
Badillo
Beard, R.I.
Bedell
Bell
Biester
Brademas
Brooks
Broomfield
Brown, Calif.
Burgener
Burke, Calif.
Cederberg
Chisholm
Clancy
Clausen, Don H.
Clawson, Del
Clay
Collins, Ill.
Conlan
Conyers
Daniels, N.J.
de la Garza
Dickinson
Diggs
Downing, Va.
Drinan
Early
Edwards, Calif.
Emery
Esch
Eshleman
Flowers
Flynt
Ford, Mich.
Ford, Tenn.
Fraser
Frenzel
Fuqua
Giaimo
Goldwater
Goodling
Green
Harrington
Harsha
Hawkins
Hays, Ohio
Hébert
Heinz
Helstoski
Henderson
Hinshaw
Holt
Horton
Howe
Jarman
Jeffords
Jones, Okla.
Karth
Kasten
Kastenmeier
Koch
LaFalce
Landrum
Leggett
Long, La.
McDonald
Maguire
Mathis
Matsunaga
Meeds
Milford
Moffett
Morgan
Moss
Mottl
Murphy, N.Y.
Neal
O'Hara
Passman
Pettis
Pickle
Randall
Richmond
Riegle
Risenhoover
Roncalio
Rousselot
St Germain
Santini
Scheuer
Schneebeli
Schulze
Shuster
Sikes
Sisk
Smith, Nebr.
Stanton, James V.
Steelman
Steiger, Ariz.
Stokes
Stuckey
Symington
Talcott
Teague
Thompson
Treen
Udall
Ullman
Van Deerlin
Vanik
Waggonner
Waxman
Wiggins
Winn
Wydler
Wylie
Young, Alaska
Young, Tex.

The SPEAKER. On this rollcall 310 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

FEDERAL RAILROAD SAFETY AUTHORIZATION ACT OF 1976

Mr. ROONEY. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 11804) to amend the Federal Railroad Safety Act of 1970 to authorize additional appropriations, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from California (Mr. ROONEY).

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. BROWN of Michigan. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 322, nays 0, answered "present" 2, not voting 107, as follows:

[Roll No. 360]

YEAS—322

Abdnor
Abzug
Addabbo
Alexander
Allen
Ambro
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashbrook
Ashley
Aspin
AuCoin
Bafalis
Baldus
Baucus
Bauman
Beard, Tenn.
Bennett
Bergland
Bevill
Biaggi
Bingham
Blanchard
Blouin
Boggs
Bolling
Bonker
Bowen
Breaux
Breckinridge
Brinkley
Brodhead
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Carney
Carr
Carter
Cederberg
Chappell
Chisholm
Cleveland
Cochran
Cohen
Collins, Tex.
Conable
Conte
Corman
Cornell
Cotter
Coughlin
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Davis
Delaney
Dellums
Dent
Derrick
Derwinski
Devine
Diggs
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
du Pont
Eckhardt
Edgar
Edwards, Ala.
Eilberg
English
Erlenborn
Evans, Colo.
Evans, Ind.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flood
Florio
Foley
Forsythe
Frey
Gaydos
Gibbons
Ginn
Gonzalez
Gradison
Grassley
Gude
Guyer
Hagedorn
Haley
Hall
Hamilton
Hammerschmidt
Hanley
Hannaford
Hansen
Harkin
Harris
Hayes, Ind.
Heckler, Mass.
Hefner
Henderson
Hicks
Hightower
Hillis
Holland
Holtzman
Howard
Hubbard
Hughes
Hungate
Hutchinson
Hyde
Ichord
Jacobs
Jenrette
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Tenn.
Jordan
Kazen
Kelly
Kemp
Ketchum
Keys
Kindness
Krebs
Krueger
LaFalce
Lagomarsino
Latta
Lehman
Lent
Levitas
Litton
Lloyd, Calif.
Lloyd, Tenn.
Long, Md.
Lott
Lujan
Lundine
McClory
McCloskey
McCollister
McCormack
McDade
McDonald
McEwen
McFall
McHugh
McKay
McKinney
Madden
Madigan
Mahon
Mann
Martin
Mazzoli
Melcher
Metcalfe
Meyner
Mezvinsky
Michel
Mikva
Miller, Calif.
Miller, Ohio
Mills
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mosher
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Nedzi
Nichols
Nix
Nolan
Nowak
Oberstar
Obey
O'Brien
Ottinger
Patterson, Calif.
Pattison, N.Y.
Paul
Pepper
Perkins
Peyser
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Quie
Quillen
Railsback
Rangel
Rees
Regula
Reuss
Rhodes
Rinaldo
Roberts
Robinson
Rodino
Rogers
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Roybal
Runnels
Ruppe
Russo
Ryan
Sarasin
Sarbanes
Satterfield
Schneebeli
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shriver
Shuster
Simon
Skubitz
Slack
Smith, Iowa
Snyder
Solarz
Spellman
Spence
Staggers
Stanton, J. William
Stark
Steed
Steiger, Wis.
Stephens
Stratton
Studds
Sullivan
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Thone
Thornton
Traxler
Tsongas
Udall
Ullman
Vander Jagt
Vander Veen
Vigorito
Walsh
Wampler
Weaver
Whalen
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Wirth
Wolff
Wright
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Zablocki
Zeferetti

NAYS—0

ANSWERED "PRESENT"—2

Fountain
Roe

NOT VOTING—107

Adams
Anderson, Calif.
Badillo
Beard, R.I.
Bedell
Bell
Biester
Boland
Brademas
Brooks
Broomfield
Brown, Calif.
Burgener
Clancy
Clausen, Don H.
Clawson, Del
Clay
Collins, Ill.
Conlan
Conyers
Daniels, N.J.
de la Garza
Dickinson
Early
Edwards, Calif.
Emery
Esch
Eshleman
Evins, Tenn.
Flowers
Flynt
Ford, Mich.
Ford, Tenn.
Fraser
Frenzel
Fuqua
Giaimo
Gilman
Goldwater
Goodling
Green
Harrington
Harsha
Hawkins
Hays, Ohio
Hébert
Hechler, W. Va.
Heinz
Helstoski
Hinshaw
Holt
Horton
Howe
Jarman
Jeffords
Jones, Okla.
Karth
Kasten
Kastenmeier
Koch
Landrum
Leggett
Long, La.
Maguire
Mathis
Matsunaga
Meeds
Milford
Mink
Morgan
Moss
Mottl
Neal
O'Hara
O'Neill
Passman
Patten, N.J.
Pettis
Randall
Richmond
Riegle
Risenhoover
Roncalio
Rousselot
St Germain
Santini
Scheuer
Sikes
Sisk
Smith, Nebr.
Stanton, James V.
Steelman
Steiger, Ariz.
Stokes
Stuckey
Symington
Teague
Thompson
Treen

Van Deerlin
Vanik
Waggonner
Waxman
Winn
Wydler
Wylie
Young, Tex.

So the motion was agreed to.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. McFALL). The Chair requests the gentleman from Georgia (Mr. LEVITAS) to assume the chair temporarily.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 11804, with Mr. LEVITAS, Chairman pro tempore, in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee rose on Wednesday, June 9, 1976, the Clerk had read through line 18 on page 8 of the bill.

If there are no amendments to section 1, the Clerk will read.

The Clerk read as follows:

AUTHORIZATION FOR APPROPRIATIONS

SEC. 2. (a) Section 212 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 441) is amended to read as follows:

"SEC. 212. AUTHORIZATION FOR APPROPRIATIONS.

"(a) There are authorized to be appropriated to carry out the provisions of this Act not to exceed $35,000,000 for the fiscal year ending September 30, 1977, and not to exceed $35,000,000 for the fiscal year ending September 30, 1978.

"(b) Except as provided in subsection (c) of this section, amounts appropriated under subsection (a) of this section for any fiscal year shall be available for expenditure in such fiscal year as follows:

"(1) For the Office of Safety, including salaries and expenses for not more than (A) 500 safety inspectors, (B) 45 signal and train control inspectors, and (C) 110 clerical personnel, not to exceed $18,000,000 in any fiscal year.

"(2) To carry out the provisions of section 206(d) of this Act, relating to State safety programs, not to exceed $3,500,000 in any fiscal year.

"(3) For the Federal Railroad Administration, for salaries and expenses not otherwise provided for, not to exceed $3,500,000 in any fiscal year.

"(4) For conducting research and development activities under this Act, not to exceed $10,000,000 in any fiscal year.

"(c) (1) The aggregate of the amounts obligated and expended for research and development activities under this Act in any fiscal year shall not exceed the aggregate of the amounts expended for rail inspection and for the investigation and enforcement of railroad safety rules, regulations, orders, and standards under this Act in the same fiscal year. For purposes of this paragraph and paragraph (4) of subsection (b) of this section, amounts made available under paragraph (2) of this subsection for expenditure for research and development activities under this Act in any fiscal year following the fiscal year in which such amounts were originally appropriated shall be considered to have been obligated and expended for such activities during the fiscal year in which such amounts were originally appropriated.

"(2) Of amounts appropriated under subsection (a) of this section and available for expenditure for conducting research and development activities under subsection (b) (4) of this section, not to exceed $5,000,000 of amounts so appropriated and made available for fiscal year 1977, and not to exceed $7,000,000 of amounts so appropriated and made available for fiscal year 1978, are authorized to remain available until expended for conducting research and development activities under this Act.".

PENALTIES

SEC. 3. (a) Section 6 of the Act of March 2, 1893 (45 U.S.C. 6), is amended by striking out "two hundred and fifty dollars" and inserting in lieu thereof "not less than $250 and not more than $2,500".

(b) Section 4 of the Act of April 14, 1910 (45 U.S.C. 13), is amended by striking out "two hundred and fifty dollars" and inserting in lieu thereof "not less than $250 and not more than $2,500".

(c) Section 9 of the Act of February 17, 1911 (45 U.S.C. 34), is amended by striking out "two hundred and fifty dollars and inserting in lieu thereof "not less than $250 and not more than $2,500".

(d) Section 25(h) of the Interstate Commerce Act (49 U.S.C. 26(h)) is amended by striking out "$100 for each such violation and $100" and inserting in lieu thereof "not less than $250 and not more than $2,500 for each such violation and not less than $250 and not more than $2,500".

(e) Notwithstanding any provision of the Federal Claims Collection Act of 1966 (31 U.S.C. 951–953), no penalty assessed by the Secretary under any Act referred to in this section may be compromised by the Secretary for any amount less than the amount of the penalty originally assessed.

HOURS OF SERVICE

SEC. 4. (a) Section 2(a)of the Act of March 4, 1907 (45 U.S.C. 62(a)), commonly referred to as the Hours of Service Act, is amended—

(1) by striking out "or" at the end of paragraph (1);

(2) by striking out the period at the end of paragraph (2) and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following new paragraphs:

"(3) to provide sleeping quarters for employees (including crew quarters, camp or bunk cars, and trailers) which do not afford such employees an opportunity for rest, free from interruptions caused by noise under the control of the railroad, in clean, safe, and sanitary quarters; or

"(4) to begin construction or reconstruction of any sleeping quarters referred to in paragraph (3), on or after the date of enactment of this paragraph, within or in the immediate vicinity (as determined in accordance with rules prescribed by the Secretary) of any area where railroad switching or humping operations are performed.".

(b) Section 2 of such Act (45 U.S.C. 62) is amended by striking out subsection (c), relating to the exemption of crews of wreck or relief trains from limitations on employees hours of service, and inserting in lieu thereof the following new subsection:

"(c) Notwithstanding subsection (a) of this section, the crew of a wreck or relief train may be permitted to be or remain on duty for not to exceed 4 additional hours in any period of 24 consecutive hours whenever an actual emergency exists and work of the crew is related to such emergency. For purposes of this subsection, an emergency ceases to exist when the track is cleared and the line is open for traffic.".

(c) Subsection (b) (2) of the first section of such Act (45 U.S.C. 61(b) (2)), relating to the definition of the term "employee", is amended by inserting immediately before the period at the end thereof the following: ", including hostlers, and an individual engaged in installing, repairing, or maintaining signal systems".

SAFETY REGULATIONS

SEC. 5. (a) Section 202(d) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431 (d)) is amended to read as follows:

"(d) In prescribing rules, regulations, orders, and standards under this section, the Secretary shall consider relevant existing safety data and standards and shall, within 180 days after the date of enactment of the Federal Railroad Safety Authorization Act of 1976, take such action as may be necessary to develop and publish rules of practice applicable to all proceedings under this Act. Such rules of practice shall take into consideration the varying nature of proceedings under this Act and shall include specific time limits upon the disposition of all proceedings initiated under ths Act. In no event shall the time limit for any such proceeding extend for more than 12 months after the date such proceeding is initiated.".

(b) Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431) is amended by adding at the end thereof the following new subsection:

"(g) The Secretary shall, within 180 days after the date of enactment of this subsection, issue such rules, regulations, orders, and standards as may be necessary to require that—

"(1) the rear car of all passenger and freight trains shall have highly visible markers which are lighted during periods of darkness or whenever weather conditions restrict clear visibility; and

"(2) in any case in which activities of railroad employees (other than train or yard crews) assigned to inspect, test, repair, or service rolling equipment require such employees to work on, under, or between such equipment, each manually operated switch, including any crossover switch, providing access to the track on which such equipment is located must be lined against movement to that track and secured by an effective locking device which may not be removed except by the class or craft of employees performing such inspection, testing, repair, or servicing.".

REGIONAL ORGANIZATION OF FEDERAL RAILROAD ADMINISTRATION

SEC. 6. The Federal Railroad Administration shall be divided on a geographical basis into not less than 8 safety offices for purposes of administering and enforcing all Federal railroad safety laws. The Secretary shall retain full and final responsibility for all acts taken pursuant to Federal railroad safety laws and for the establishment of all policies with respect to implementation of such laws, and shall be responsible for insuring that all such laws are administered and enforced uniformly among such offices.

EVALUATION OF THE FEDERAL RAILROAD SAFETY PROGRAM

SEC. 7. (a) The Office of Technology Assessment shall conduct a study of the Federal Railroad Safety Act of 1970 (45 U.S.C. 421 et seq.) and related Federal laws to evaluate their effectiveness in improving the safety of our Nation's railroads. Such study and evaluation shall include, but shall not be limited to—

(1) a cost-benefit analysis of the railroad safety research and development activities under the Federal Railroad Safety Act of 1970 and related Federal laws;

(2) an evaluation of trends with respect to railroad employee injuries and casualties, injuries and casualties to other persons, accidents by type and cause, and such other data as the Office of Technology Assessment considers necessary to determine any significant statistical relationship between safety practices, expenditures, penalties for violation of Federal railroad safety laws and regulations, and accident rates;

(3) a statistical comparison of railroad accidents reported by each railroad for the 10-year period preceding the date of enactment of this Act;

(4) the cost-benefit and effectiveness of accident prevention resulting from the methodology used and practices employed by Federal and State railroad safety inspectors

under Federal railroad safety laws and regulations;

(5) an evaluation of safety inspection activities conducted by the railroad industry;

(6) an evaluation and analysis of industry research and development relating to railroad safety and accident prevention;

(7) a cost-benefit analysis of the various Federal laws and regulations relating to railroad safety; and

(8) the need for additional Federal expenditures for improvements in railroad safety.

(b) The Office of Technology Assessment shall, within 18 months after the date of enactment of this Act, submit a report to the Congress containing the results of the study conducted pursuant to this section, together with recommendations for such legislative or other action as such Office considers appropriate.

(c) There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

UNIFORMITY OF JUDICIAL REVIEW

SEC. 8. Section 4(c) of the Department of Transportation Act (49 U.S.C. 1653(c)) is amended by adding at the end thereof the following new sentence: "This subsection shall not apply to functions, powers, and duties transferred to the Secretary from the Interstate Commerce Commission under sections 6(e) (1) through (4) and section 6(e)(6)(A) of this Act.".

Mr. ROONEY (during the reading). Mr. Chairman, I ask unanimous consent that the remainder of the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

AMENDMENT OFFERED BY MR. STAGGERS

Mr. STAGGERS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. STAGGERS: At page 13, line 9, delete the comma after "hostlers", insert in lieu thereof a quotation mark and period, and strike the remaining text on lines 9 and 10.

At page 13, line 10, add the following:

"(d) The Act of March 4, 1907 (45 U.S.C. 61–64b) is further amended by adding a new section 3a to read as follows:

"'SEC. 3A. (a) It shall be unlawful for any common carrier, its officers or agents, subject to this Act—

"'(1) to require or permit an individual employed by the carrier who is engaged in installing, repairing or maintaining signal systems, in case such individual shall have been continuously on duty for twelve hours, to continue on duty or to go on duty until he has had at least ten consecutive hours off duty; or

"'(2) to require or permit an individual described in paragraph (1) to continue on duty or to go on duty when he has not had at least eight consecutive hours off duty during the preceding twenty-four hours.

"'(b) In determining for the purposes of subsection (a) the number of hours an individual is on duty, there shall be counted, in addition to the time such individual is actually engaged in installing, repairing or mantaining signal systems, all time on duty in other service performed for the common carrier during the twenty-four hour period involved.

"'(c) For purposes of this section, time on duty shall commence when an individual reports for duty and terminate when the individual is finally released from duty.

"'(d) As used in sections 4 and 5 of this Act, the term "employee" shall be deemed to include an individual employed by the carrier who is engaged in installing, repairing or maintaining signal systems.

"'(e) The provisions of this section shall not apply to an individual during such period of time as the provisions of section 3 apply to his duty and off-duty periods.'

"(e) Section 5(a) of such Act (45 U.S.C. 64a(a)) is amended by deleting the words 'section 2 or section 3 of this Act' and by inserting in lieu thereof the following: 'section 2, section 3 or section 3a of this Act'.".

Mr. STAGGERS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

Mr. STAGGERS. Mr. Chairman, this amendment has to do with hostlers and signalmen. They are already included in the bill. All we do in this amendment is to change the time on the signalmen by 2 hours, providing that after 12 hours of duty they must have 10 hours of rest and then they can be called back to duty.

Mr. SKUBITZ. Mr. Chairman, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman from Kansas.

Mr. SKUBITZ. I understand that the Department of Transportation has already approved this; is that correct?

Mr. STAGGERS. I understand that that is correct.

Mr. SKUBITZ. Mr. Chairman, we have no objection to the amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from West Virginia (Mr. STAGGERS).

The amendment was agreed to.

The CHAIRMAN pro tempore. Are there further amendments?

AMENDMENT OFFERED BY MR. STAGGERS

Mr. STAGGERS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. STAGGERS: Strike lines 13–18 at page 11.

Add at line 13, page 11, the following:

"(e) Notwithstanding any provision of the Federal Claims Collection Act of 1966 (31 U.S.C. 951–953), no penalty arising under a statute amended by this section shall be compromised by the Secretary for an amount less than $250."

Mr. STAGGERS. Mr. Chairman, this amendment would permit the Secretary of Transportation to continue to compromise claims for statutory penalities arising under the statutes known as the Safety Appliance Act, the Locomotive Inspection Act, and the Signal Inspection Act. This makes these uniform under the 1970 Safety Act; it makes them all uniform. It provides for penalties of $250 up to $2,500.

In this bill we allow a compromise between the railroads and the Secretary if they can show that it was not their fault or that they did not intentionally do something, in which case they can come in and compromise their penalty.

Mr. Chairman, this is only making uniform what we had in the 1970 act, making all the other acts uniform with it.

Mr. Chairman, there can be no compromise below the minimum or $250. It is a very simple amendment and one which, I think, makes all of the other acts uniform.

Therefore, Mr. Chairman, I think that this amendment is deserving of the attention of the House.

Mr. SKUBITZ. Mr. Chairman, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman from Kansas.

Mr. SKUBITZ. Is it not correct that the way the bill is now written it is not possible to compromise these penalties?

Mr. STAGGERS. That is correct.

Mr. SKUBITZ. And what the gentleman's amendment does is to give the Secretary the authority to compromise any penalties down to but not below $250; is that not correct?

Mr. STAGGERS. That is correct.

Mr. SKUBITZ. Is it not true that whenever these penalties are assessed and if they are compromised down to $250, the $250 goes into the Treasury of the United States and is not used to provide any sort of improvement on the railroads?

Mr. STAGGERS. That is correct.

Mr. SKUBITZ. I thank the gentleman.

Mr. STAGGERS. Mr. Chairman, all I want to do is to make one further statement, and that is that the 1970 act does just exactly what we are saying here, and this just puts it into compliance with that act.

AMENDMENT OFFERED BY MR. SKUBITZ AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. STAGGERS

Mr. SKUBITZ. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. SKUBITZ as a substitute for the amendment offered by Mr. STAGGERS: Page 11, strike out lines 13 through 18 and insert in lieu thereof the following:

AGREEMENTS TO IMPROVE SAFETY

SEC. 4. (a) The Federal Railroad Safety Act of 1970 is amended by adding at the end thereof the following new section:

"SEC. 213. AGREEMENTS TO IMPROVE SAFETY

"(a) In order to increase the enforcement powers of the Secretary in accordance with the declaration of policy contained in section 202 of the Rail Safety Improvement Act of 1974, the Secretary is authorized, in his discretion, to enter into an agreement with any railroad under which—

"(1) an amount equal to all or any part of the amount of a particular penalty assessed against such a railroad under section 209 of this act, or to the amount agreed upon in compromise, must be expended by such railroad in such manner as the Secretary shall prescribe to promote safety in the operations of such railroad in order to reduce deaths and injuries to persons and reduce damage to property caused by railroad accidents; except that no part of any amount expended by such railroad under such agreement shall be used to correct any unsafe condition for which any such penalty has been assessed; and

"(2) such railroad shall make any expenditure referred to in paragraph (1) in accordance with such terms and conditions as the Secretary may deem appropriate to carry out the purposes of this Act and to assure compliance with the terms of such agreement.

The Secretary shall not enter into any agreement under this subsection until he receives assurances in writing, satisfactory to him, that amounts to be expended by the railroad concerned under such agreement are in addition to, and not in lieu of, amounts the Secretary determines that such railroad could reasonably be expected to expend for railroad safety improvements during the period of such agreement.

Any amount expended by a railroad in accordance with an agreement entered into under this section may be deducted by such railroad from any amount, due the United States on account of a penalty assesed on or after the date of such agreement, under section 209 of this Act. The provisions of this section shall apply with respect to any penalty assessed by the Secretary under this Act, or under any Act (other than the so-called Hours of Service Act (45 U.S.C. 61–64b)) referred to in section 3 of the Federal Railroad Safety Authorization Act of 1976. Nothing in this section shall be construed to affect the authority of the Secretary to assess and collect penalties in accordance with section 209 of this Act. That portion of the amount of any penalty assessed under such section 209 (or the amount agreed upon in compromise) which exceeds the amount expended by the railroad concerned in accordance with an agreement under this section may be collected and covered into the Treasury in the same manner as in the case of any penalty assessed under such section 209.

"(b) Each railroad which enters into an agreement with the Secretary under subsection (a) of this section shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such railroad of each expenditure made pursuant to such agreement, the total cost of the project for undertaking in connection with which such expenditure was made, the amount of that portion of the cost of such project or undertaking supplied by other sources, and such other records as will facilitate an effective audit. The Secretary and the Comptroller General of the United States, or any of their duly-authorized representatives, shall, until the expiration of three years after completion of the project or undertaking referred to in this subsection, have access for the purpose of audit and examination to any books, documents, papers, and records of expenditures made pursuant to the agreement entered into under subsection (a) which, in the opinion of the Secretary or the Comptroller General, may be related or pertinent to the expenditures made pursuant to such agreement.".

(b) The Secretary of Transportation shall report to the Congress, within 12 months after the date of enactment of this Act, with respect to the implementation of the amendment made by subsection (a) of this section. Such report shall include such comments as the Secretary may deem appropriate with respect to the effectiveness of such amendment, together with his recommendations as to whether such amendment should be repealed, continued, or modified to improve its effectiveness.

And renumber the following sections accordingly.

Mr. SKUBITZ (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Kansas?

There was no objection.

Mr. SKUBITZ. Mr. Chairman, I offer my amendment as a substitute to the amendment proposed by the chairman of the subcommittee because I believe that the time has come to use a more imaginative approach toward the use of penalties under the Railroad Safety Act. The concept of applying penalties for violations of various railroad safety laws is not new. Ever since 1893, there have been rail safety laws passed and those safety laws have contained civil penalty provisions whereby railroads are fined and pay their fines to the U.S. Treasury. During that period of time, there has been no appreciable improvement in railroad safety.

During 1975, well over $1 million was paid into the U.S. Treasury from fines and penalties assessed against our Nation's railroads. In many cases, railroads paid those fines by laying off maintenance-of-way employees. This practice is particularly widespread on those railroads that are in poor financial condition. For example, one railroad president told me of a fine for track violations of $140,000 assessed against his railroad. After negotiation with the Secretary of Transportation—which would be impossible as section 3 is now written in the bill—that railroad president was able to have the funds compromised at $70,000. He then paid the $70,000 and, when I asked him where he got the $70,000 since his railroad was not a profitable one, he told me that he had to lay off maintenance-of-way employees in order to have the money available to pay the fine. In that instance, Mr. Chairman, the fine was counterproductive to railroad safety. There was a case where the problem had been unsafe track. Needless to say, that railroad had many more miles of unsafe track, and yet, in order to pay the fine, the railroad laid off maintenance-of-way employees. The maintenance-of-way employees are the men who make sure that track is safe and in good operating condition.

Now, Mr. Chairman, that does not make sense to me. Last February, all of us recognized that the railroad industry was in desperate financial condition. We passed the omnibus rail bill at that time in order to alleviate some of the financial problems facing the railroad industry. The penalty provisions contained in the bill as reported by committee would create a tremendous financial burden on the railroad industry inasmuch as no penalty could be compromised. The chairman is offering an amendment which would supposedly correct the problem contained in the bill. I submit that the amendment offered by the chairman would not save the railroads one thin dime.

Let us examine the amendment offered by the chairman. It would permit compromise of penalties as long as a compromise was not for less than $250 per violation. My colleagues, that is no compromise at all because in fact $250 is far more than the average penalty now assessed against the railroads. Instead of siphoning off $1 million from the railroad industry in the form of fines and penalties, we would be establishing the rules for siphoning 2 or 3 times that much off from an industry that badly needs it.

Perhaps I should explain where railroad penalties come from. There were a number of laws relating to railroad safety enacted prior to 1970. These laws included the Boiler Inspection Act, the Locomotive Inspection Act, and the Safety Appliance Acts of 1893, 1903, and 1910. Under the present law, these acts, and a number of similar acts, contain penalty provisions of $100, $200, or often less, for each violation. The bill we have before us would raise all of the penalties in these old laws up to a minimum of $250 and a maximum of $2,500. In most cases, these penalties are for each violation and the penalty grows with each day that the violation is not corrected. Well over 60 percent of the money collected by the United States in the form of fines and penalties from the railroad industry in 1975 was from these acts that were on the statute books prior to 1970. In each case of penalties under the pre-1970 safety acts, it is now possible to compromise the amount of penalty down to zero. The $1 million figure going into the U.S. Treasury is a figure arrived at after compromise. Had the chairman's amendment been the law in 1975, railroads would have had to have paid twice as much in the form of penalties and fines.

Mr. Chairman, I would not object to making the railroads pay more in the form of fines and penalties if there was one shred of evidence that such a course of action resulted in improved safety on the railroads. We do not have such evidence. Because of that, I have spent several months working on an amendment which would begin a new era of railroad safety by encouraging the Secretary of Transportation and the railroads to enter into agreements to use penalty money for making safety improvements on the railroads. The safety improvements which could be agreed to would have to be safety improvements over and beyond the correction of any defect for which a penalty was assessed. Instead of having $1 to $2 million siphoned off from the industry and placed in the U.S. Treasury, the adoption of my amendment would permit the Secretary of Transportation to pinpoint the spending of that money to improve railroad safety.

Mr. Chairman, there will be some who will say $1 to $2 million is not a lot of money. They are right. I wish we had several hundred million dollars to improve railroad safety. The widows and other survivors of the 1,200 to 1,300 people who will be killed in railroad accidents this year would also want more money to be spent for railroad safety. The amount of money is but one of the issues involved with respect to the use of fines and penalties. $1 to $2 million a year going directly for railroad safety instead of into the U.S. Treasury will reduce some railroad accidents and will save some lives. Certainly there can be no justification for siphoning a million dollars off from an industry that needs it unless it can be demonstrated that the deterrent effect of the fine will promote railroad safety. That cannot be demonstrated because for nearly 70 years such a practice has not resulted in greater railroad safety. All too often, I fear, it simply results in a railroad laying off necessary employees in order to get the money to pay the fine.

With the adoption of my amendment, Mr. Chairman, we can enter into a new era of railroad safety. While the amount of money generated from railroad fines is but $1 to $2 million, it can skillfully be put to use through the mechanisms of my amendment. Under my amendment, the Secretary of Transportation is permitted to enter into an agreement with a railroad which will permit the railroad to spend the money it would otherwise pay to the U.S. Treasury on specific repairs and improvements directly related to railroad safety. For example, the railroad would offer to the Secretary a list of projects where safety defects exist, but have not been detected. The railroad would then request the Secretary to permit them to expend the fine money in order to correct the safety conditions existing on their line. Those conditions could involve track, signal systems, or equipment. The Secretary would not have to enter such an agreement but could use his discretion if he thought it would promote railroad safety.

Some have suggested that it would be difficult to administer such a law. I cannot agree. I see no difficulty in the Secretary of Transportation negotiating with a railroad a specific contract to do a specific deed. My amendment also directs General Accounting Office to conduct audits after the work had been done so as to make sure that railroads do not take advantage of their ageements with the Secretary.

Finally, Mr. Chairman, there has been some confusion as to whether or not the money under my amendment could be used to correct the defect for which the fine was originally assessed. It could not be. Under the present law, the railroad must immediately correct any defect for which it is fined. Otherwise, the fine accumulates on a daily basis. Under the new law with my amendment, a railroad must immediately repair the defect for which it is fined. Any negotiations involving the use of the penalty money would involve safety projects quite unrelated to the condition which had caused the assessment of the penalty. In many ways, Mr. Chairman, my amendment would cause aggressive self-policing by the industry itself. The industry would be given the option of paying the money to the U.S. Treasury or scurrying around their property to find safety defects which they could repair if such repairs were acceptable to the Secretary of Transportation.

I urge my colleagues to support my substitute amendment. Quite frankly, we were very close to agreement with the administration, the rail industry, and the rail brotherhoods shortly before this bill came to the floor. You will notice on pages 34 and 35 of the committee report that the Administrator of the Federal Railroad Administration sent me a letter endorsing this amendment. In addition, Mr. Stephen Ailes, president of the Association of American Railroads, sent a letter also endorsing the amendment. The brotherhoods met in my office over 2 months ago and Mr. James Synder, the legislative counsel for the United Transportation Union, endorsed the amendment in principle, but wanted to be assured of its workability.

During the last few weeks, lawyers for the brotherhoods have worked with members of the Commerce Committee staff in order to improve the language of the amendment. I must say that I was disappointed to see the amendment being offered by the chairman when we were so close to agreement on the amendment I am offering as a substitute. Quite frankly, I believe that the substitute amendment will make the Federal Railroad Safety Authorization Act of 1976 a strong and meaningful piece of legislation. I urge my colleagues to adopt the amendment.

Mr. DEVINE. Mr. Chairman, if I may just add a word or two. This bill comes to the House under the wording of safety, and I have great concern about the legislation because it involves itself more in the process of collective bargaining. I think it is a dangerous precedent for the House to be involving itself in such things as in the amendment just adopted unanimously that was offered by the Chairman having to do with the period of time worked and the hours of employees. We are involving ourselves in something that should be resolved by labor and management at the negotiating table in the collective bargaining process, and I think it is a dangerous precedent for the House to involve itself in this matter under the guise of safety.

Mr. Chairman, I yield back the remainder of my time.

Mr. STAGGERS. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I want to compliment the gentleman from Kansas because he and I and the committee are trying to achieve the same thing, as well as the gentleman from Ohio. We are trying to achieve safety on the railroads.

Wrecks have been increasing. We are going to have to do something about it. We have had some minor fines, and we have not done anything about it. We have talked about inspectors. Yes, we asked for 500 inspectors. They have had not anywhere near that amount on the railroad. We have got 300,000 miles of track in this land. We have put money into this, and we knew we could not have enough Federal inspectors, so we have asked the Federal Railroad Administration downtown to take the States in on this and to share with them so that they could help with it. Until last year they only had eight States—since 1970—that were participating.

Then this year they say they are going to have 14 States and they are going to try to get more. To me that is completely wrong. They should have all 50 States by this time interested in safety and not expect the Federal Government to be doing it, but they should be doing it in cooperation with the others.

The gentleman's amendment, I might say, could be a good amendment but it has not had any study. It was brought up in the full committee and it was ruled not germane to the bill because of the fact that the money that was being raised for a purpose was going to be spent for some other purpose.

But I would like to say this. In 1976, in February, we put $600 million into a bill called the railroad revitalization and regulatory reform, which was called the 4R bill, to help safety in this land. To take this pitiful little $250 penalty and say we are going to put it back into something will set a precedent. The airlines then will come in and say: "All right, you did this for the railroads, and we need a new radio. We have had something go wrong and we need a new radio."

Then the river boat people will come and say: "This is wrong and we want to build a safer river boat. Give us the money." They will say: "It is wrong, it is not safe." And then we will say "All right, we will give you back so much money and you go build a safer boat."

This is what we can get into without study. I ask that we put this over for 1 year so we can give it study. It has had no study whatsoever, we can see how the airlines and all other transportation systems will work in with it, and then we will see whether we can do this.

We have $600 million we have put into railroad revitalization in February of this year. But this is the wrong time and the wrong place for this.

But I want to compliment the gentleman from Kansas. He is exactly right. He is after safety. He mentioned the grab bars. I remember working on the railroad in the 1920's when they had the grab bars and they still have them. But they are safety devices and they are needed. But they have had them for years, but they need to improve safety. Just recently we have had two accidents that have been caused because of lack of safety. There have been more and more accidents and more men killed in recent years than in other years. So we need to do something about safety and about human lives.

It is not the money. This does not call for a bit of extra money at all. It is the same money as has been expended since 1973. We have not upped the money one single cent. All we say is we ought to bring the rules up to date and for the future.

Mr. SKUBITZ. Mr. Chairman, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman from Kansas.

Mr. SKUBITZ. Both of us are very much interested in safety.

Mr. STAGGERS. Yes, sir.

Mr. SKUBITZ. But under the gentleman's proviso they will find a hand bar that is loose and there is at least a $250 penalty, up to $2,500 on each car. What happens? If we put in the inspectors and we have eager beavers as we have on OSHA, we will have these fines levied and this could place a tremendous burden on the railroads of this country. The railroads could go into court and fight every one of those fines.

All my proposal does is this.

The CHAIRMAN pro tempore. The time of the gentleman from West Virginia has expired.

(On request of Mr. SKUBITZ, and by unanimous consent, Mr. STAGGERS was allowed to proceed for 1 additional minute.)

Mr. SKUBITZ. Mr. Chairman, will the gentleman yield?

Mr. STAGGERS. I yield half the time to the gentleman if he will let me have half the time.

Mr. SKUBITZ. Mr. Chairman, all I am saying is do not take all the $250 and put it into the Treasury of the United States, and that is what the gentleman is proposing to do. That does not improve the railroads. I am saying we should use that money in order to improve the railroads.

Mr. STAGGERS. I understand what the gentleman is trying to do. That is why I say if we can compromise it down to $250, and we are putting $600 million into the railroads. Putting in just $250, the gentleman just does not know what they will use it for. We will have the water and rail and air and bus lines all coming in.

Mr. SKUBITZ. What is wrong with that?

Mr. STAGGERS. Let us have a study on them and let us have something on them so we can come back and have recommendations from the Department.

The CHAIRMAN pro tempore. The time of the gentleman from West Virginia has again expired.

(On request of Mr. SKUBITZ, and by unanimous consent, Mr. STAGGERS was allowed to proceed for 1 additional minute.)

Mr. SKUBITZ. Mr. Chairman, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman from Kansas.

Mr. SKUBITZ. Mr. Chairman, I think in each one of those instances if we had control of aircraft and the water lines, this is exactly what would be done; but now this authority is distributed between us and the Committee on Public Works.

Now, Mr. Chairman, getting to the germaneness of the question, the gentleman from West Virginia was the one that recommended that my amendment was not germane. Why did not the gentleman do the same thing today when he had the opportunity to do it?

Mr. STAGGERS. I did not make the objection. I made the ruling; but let me say the $250 is a mere pittance. They said downtown it was unworkable and would cost many times what this would be worth.

I say, let them have a study and come back. Let us have a study on it. They said it was unworkable.

Mr. ROONEY. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to the amendment.

Mr. Chairman, the gentleman from Kansas and I have discussed this matter on many occasions in the committee. I commend the esteemed ranking minority member of the subcommittee for a laudable idea. Unfortunately, that is what it is, just merely an idea.

The purpose is good, the intention is pure, but the execution is unworkable. It is an administrative nightmare, according to the FRA officials downtown. They have stated that they are opposed to the amendment, because they do not know how it can be administered. This is the real objection. One of the greatest deficiencies in FRA operations found by the subcommittee, of which the gentleman is a member, is the fact that it does not have enough men and women working down there to inspect and enforce present regulations. This being the case, and its steadfast refusal to increase its manpower, there is obviously no reasonable expectation that it would adequately take on the enforcement of the provisions of this amendment.

Mr. SKUBITZ. Mr. Chairman, will the gentleman yield further?

Mr. STAGGERS. I yield to the gentleman.

Mr. SKUBITZ. The gentleman has just called it an administrative nightmare. I would like to read to the gentleman the letter that we received. It is on page 34 of the report, from the Department of Transportation:

DEPARTMENT OF TRANSPORTATION,
FEDERAL RAILROAD ADMINISTRATION,
Washington, D.C., May 13, 1976.

Hon. JOE SKUBITZ,
House of Representatives, Committee on Interstate and Foreign Commerce, Washington, D.C.

DEAR MR. SKUBITZ: This is in response to your letter of May 13 asking the Federal Railroad Administration to comment on your proposed amendment to the Federal Railroad Safety Act of 1970, which was considered by the subcommittee on Transportation and Commerce of the House Committee on Interstate and Foreign Commerce on May 11, 1976.

The amendment would authorize the Secretary of Transportation to designate the expenditure of penalties assessed under Section 209 of the Federal Railroad Safety Act to correct deficiencies which lead to unsafe and hazardous operations on the nation's railroads. The Federal Railroad Administration would support such an amendment.

We believe that this amendment would further the FRA's goal of promoting railroad safety and reducing deaths and injuries to persons and damage to property. It would allow the FRA the alternative of providing funds to promote safety in the operations of railroads in an era of financial difficulty for the industry.

It also provides the FRA a workable mechanism for channeling penalty funds in a positive direction. Instead of penalties being diverted into the Department of the Treasury's miscellaneous fund, the moneys collected could be used for projects for the immediate improvement of railroad safety. These expenditures would be carefully monitored by the Office of the Comptroller General and the Secretary of Transportation.

The amendment will in no way impair our continuing efforts to promote safety on the nation's railroads. In appropriate cases, the Administrator or his delegate could continue to assess penalties as may be necessary.

Sincerely,

ASAPH H. HALL,
Administrator.

Now, this is a part of the report accompaning this bill. I know how it was changed, Mr. Chairman. If the gentleman would like me to state why the FRA changed it, I would be happy to do it on the gentleman's time.

Mr. ROONEY. Mr. Chairman, I do not think that is necessary, but I am glad the gentleman from Kansas brought to our attention that the Administration downtown has changed their minds. They took into consideration the gentleman's request. They studied it diligently. They are going to continue to study this idea. As I said, it is a good idea, but it is an administrative nightmare. Nevertheless, the FRA is still continuing its study. Hopefully, within another year from now, we might have that study completed and they might again agree with the gentleman's position.

Mr. SKUBITZ. Mr. Chairman, will the gentleman yield further?

Mr. STAGGERS. I yield.

Mr. SKUBITZ. The gentleman says that FRA have studied the proposal, but all I have is this letter which states just the opposite. They have never come around to speak to me or advise me of a change and I am shocked that the administration would reach a deal without talking to the ranking Member.

However, if it so acted, it does not surprise me. Some of its amateur liaison men have the habit of doubledealing.

Mr. ROONEY. Mr. Chairman, I have had a very long discussion with the administration and they are unalterably opposed to the gentleman's proposal. They have assured me they will continue to study it.

The CHAIRMAN pro tempore (Mr. LEVITAS). The question is on the amendment offered by the gentleman from Kansas (Mr. SKUBITZ) as a substitute for the amendment offered by the gentleman from West Virginia (Mr. STAGGERS).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

Mr. BAUMAN. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN pro tempore. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN pro tempore. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

RECORDED VOTE

The CHAIRMAN pro tempore. The pending business is the demand of the gentleman from Maryland (Mr. BAUMAN) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 37, noes 298, not voting 96, as follows:

[Roll No. 361]

AYES—37

Alexander
Armstrong
Ashbrook
Bauman
Beard, Tenn.
Collins, Tex.
Coughlin
Crane
Devine
Fenwick
Forsythe
Gaydos
Hansen
Hutchinson
Jacobs
Johnson, Colo.
Ketchum
Keys
Kindness
McClory
McDonald
Meyner
Michel
Miller, Ohio
Myers, Ind.
Paul
Rhodes
Robinson
Schneebeli
Sebelius
Shriver
Skubitz
Snyder
Symms
Taylor, Mo.
Wilson, Bob
Young, Alaska

NOES—298

Abdnor
Abzug
Addabbo
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Ashley
Aspin
AuCoin
Badillo
Bafalis
Baldus
Baucus
Bennett
Bergland
Bevill
Biaggi
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Bowen
Breaux
Breckinridge
Brinkley
Brodhead

Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Carney
Carr
Carter
Cederberg
Chappell
Chisholm
Clausen, Don H.
Cleveland
Cochran
Cohen
Conable
Conte
Corman
Cornell
Cotter
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Davis
Delaney
Dellums
Dent
Derrick
Derwinski
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
du Pont
Eckhardt
Edgar
Edwards, Ala.
Eilberg
Emery
English
Erlenborn
Evans, Colo.
Evans, Ind.
Evins, Tenn.
Fary
Fascell
Findley
Fish
Fisher
Fithian
Flood
Florio
Flowers
Foley
Fountain
Frey
Gibbons
Gilman
Ginn
Gonzalez
Goodling
Gradison
Grassley
Gude
Guyer
Hagedorn
Haley
Hall
Hamilton
Hammerschmidt
Hanley
Hannaford
Harkin
Harris
Hayes, Ind.
Hechler, W. Va.
Heckler, Mass.
Hefner
Hicks
Hightower
Hillis
Holland
Holtzman
Howard
Hubbard
Hughes
Hungate
Hyde
Ichord
Jarman
Jenrette
Johnson, Calif.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Tenn.
Jordan
Kazen
Kelly
Kemp
Krebs
Krueger
LaFalce
Lagomarsino
Latta
Lehman
Lent
Levitas
Litton
Lloyd, Calif.
Lloyd, Tenn.
Long, Md.
Lott
Lujan
Lundine
McCloskey
McCollister
McCormack
McDade
McEwen
McFall
McHugh
McKay
McKinney
Madden
Madigan
Mahon
Mann
Martin
Matsunaga
Mazzoli
Metcalfe
Mezvinsky
Mikva
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Pa.
Natcher
Nedzi
Nichols
Nix
Nolan
Nowak
Oberstar
Obey
O'Neill
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Peyser
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Quillen
Railsback
Rangel
Rees
Regula
Reuss
Rinaldo
Roberts
Rodino
Rogers
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Roybal
Runnels
Ruppe
Russo
Ryan
Sarasin
Sarbanes
Satterfield
Scheuer
Schroeder
Schulze
Seiberling
Sharp
Shipley
Shuster
Simon
Slack
Smith, Iowa
Solarz
Spellman
Spence
Staggers
Stanton, J. William
Stark
Steed
Steiger, Wis.
Stephens
Stratton
Studds
Sullivan
Talcott
Taylor, N.C.
Thone
Thornton
Traxler
Tsongas
Udall
Ullman
Vander Jagt
Vander Veen
Vigorito
Walsh
Wampler
Waxman
Weaver
Whalen
White
Whitehurst
Whitten
Wiggins
Wilson, C. H.
Wilson, Tex.
Wirth
Wolff
Wright
Yates
Yatron
Young, Fla.
Young, Ga.
Zablocki
Zeferetti
Hays, Ohio
Hébert
Heinz
Helstoski
Henderson
Hinshaw
Holt
Horton
Howe
Jeffords
Jones, Okla.
Karth
Kasten
Kastenmeier
Koch
Landrum
Leggett
Long, La.
Maguire
Mathis
Meeds
Melcher
Milford
Mills
Mink
Mottl
Neal
O'Brien
O'Hara
Passman
Pettis
Quie
Randall
Richmond
Riegle
Risenhoover
Roe
Roncalio
Rousselot
St Germain
Sancini
Sikes
Sisk
Smith, Nebr.
Stanton, James V.
Steelman
Steiger, Ariz.
Stokes
Stuckey
Symington
Teague
Thompson
Treen
Van Deerlin
Vanik
Waggonner
Winn
Wydler
Wylie
Young, Tex.

NOT VOTING—96

Adams
Beard, R.I.
Bedell
Bell
Biester
Brademas
Brooks
Broomfield
Brown, Calif.
Burgener
Clancy
Clawson, Del
Clay
Collins, Ill.
Conlan
Conyers
Daniels, N.J.
de la Garza
Dickinson
Diggs
Early
Edwards, Calif.
Esch
Eshleman
Flynt
Ford, Mich.
Ford, Tenn.
Fraser
Frenzel
Fuqua
Giaimo
Goldwater
Green
Harrington
Harsha
Hawkins

Mr. McKAY and Mr. AuCOIN changed their vote from "aye" to "no."

So the amendment offered as a substitute for the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the amendment offered by the gentleman from West Virginia (Mr. STAGGERS).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. SIMON

Mr. SIMON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SIMON: Page 14, line 13, strike out "and".

Page 14, immediately after line 13, insert the following new paragraph:

"(2) the locomotive of all passenger and freight trains shall have oscillating or strobe lights which are lighted during periods of darkness or whenever weather conditions restrict clear visibility; and"

Page 14, line 14, strike out "(2)" and insert in lieu thereof "(3)".

Mr. SIMON. Mr. Chairman, what this amendment does is very simple. It says that all lead locomotives must have either an oscillating or a strobe light. About one-fifth of the locomotives now do have that. What happens is that you will be crossing a railroad track in a car and look down at night and see there is a light. You think there is a car or a street light or a farm light, but then all of a sudden that light is upon you. It's a train.

We had an incident in my district where 12 children were killed recently, where there was a locomotive with just one steady light on. The chances are, and we cannot know this for sure, that those 12 children would be alive today if that lead locomotive had either an oscillating light or a strobe light.

It is an inexpensive change, relatively. It costs $300 to $400 per locomotive, and it would save lives.

I just had a discussion with the gentleman from Colorado (Mr. JOHNSON) up here, and he said he came around a corner and had this very experience where all of a sudden what he thought was a car turned out to be a railroad locomotive.

There are presently 27,000 locomotives in the United States. About one-fifth have these strobe lights or oscillating lights. The railroad companies or concerns that now either have the lights completely or are moving in this direction are: Amtrak, Union Pacific, the Chessie system, and the Santa Fe.

About one-third of the fatalities between autos and trains occur at night. There is no question we would reduce this number significantly by this simple change. In 1974—I do not have the 1975 figures—there were 536 deaths and 1,100 serious injuries which occurred at night.

There is one argument that is used against this. It is that if we have a strobe light or an oscillating light the other trains will somehow look to that rather than to the switch signals. If we accept that argument—and incidentally the railroads do not accept that argument—we would not want any light at all. The same argument can be used against any light on the locomotive.

I would urge my colleagues to accept this amendment. I think it is an inexpensive way to save lives. I hope we will move in this solid direction.

Mr. ROONEY. Mr. Chairman, I rise in opposition to the amendment.

Conceivably the use of the oscillating or strobe lights, Mr. Chairman, may be a good safety feature. The subcommittee however received no information regarding this matter and therefore we do not know whether such lights would increase the safety of trains or whether the lights presently being used are deficient or whether the recommended lights would be cost effective.

I do know the FRA is conducting intensive studies. I also know the use of strobe lights in railroad operations is currently under intensive research by the Department of Transportation, the State agencies, including the Illinois State Department of Transportation, and the railroad industry.

The initial research indicates that the strobe lights produce disorientation, dizziness, and confusion under certain conditions. With this in mind and the fact that DOT is still taking this into consideration, I urge defeat of this well-intended amendment.

Mr. COHEN. Mr. Chairman, will the gentleman yield?

Mr. ROONEY. I yield to the gentleman from Maine.

Mr. COHEN. Mr. Chairman, has the committee received any information that these types of strobe lights might trigger epileptic seizures?

Mr. ROONEY. It has been mentioned, but we have received nothing officially.

Mr. SIMON. Mr. Chairman, will the gentleman yield?

Mr. ROONEY. I yield to the gentleman from Illinois.

Mr. SIMON. Mr. Chairman, on that last question that the gentleman from Maine raised, if that would be a serious possibility, and I do not know that it is, we give a choice, either oscillating or strobe lights. I doubt that is a serious thing when we compare that to the number of deaths and serious injuries that we are talking about every year.

Mr. ROONEY. I think it is a well-intended amendment, but I think we should have more information from the Department of Transportation.

Mr. LLOYD of California. Mr. Chairman, will the gentleman yield?

Mr. ROONEY. I yield to the gentleman from California.

Mr. LLOYD of California. Mr. Chairman, I would ask the gentleman from Illinois if the gentleman knows that strobe lights are very commonly used in general aviation and aircraft in the thousands and, to the best of my knowledge, there has never been any reported case of seizures or malfunctions of the human body from these strobe lights. I think since we have an ongoing situation on that, perhaps it would be a good amendment.

Mr. MOSS. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, this is an amendment that should not be adopted, because research is continuing; but I would say to my good friend, the gentleman from California (Mr. Lloyd) that airplanes fly and trains do not. In many instances highways parallel railroad tracks. I think many of us have had the experience of driving at night and having a locomotive coming toward us with an oscillating light or the intermittent flash with the intensity of the strobe light and have learned how very blinding it is.

Now, there are far more deaths on the highway than on the railroads. There has been no study to indicate the effect of the strobe light upon the automobile traffic moving, in many instances, on heavily traveled freeways paralleling railroad tracks. Now, I have seen that in my State. I have on several occasions felt that I really ought to come back here and introduce legislation to stop the use of the damn things, because of the effect they have on the drivers. I think they are unsafe. I think there ought to be a careful look and that we should not be rushing in here just because of an idea that has not been researched. It is not a very responsible way of legislating. The studies are now being made. Let us at least let them be concluded and the reports on findings made to the industry and to the appropriate committees of this House before undertaking to write a piece of legislation containing this kind of congressional mandate. There are many areas where we are not experts and where we lack the necessary technical data upon which to pass a judgment.

Mr. MILLER of Ohio. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I believe that we are moving ahead rather hurriedly without the proper research and without the proper information.

The gentleman from Illinois has stated that we have 27,000 locomotives, with approximately one-fifth of those now equipped with oscillating or strobe lights at a minimum cost of $300 per locomotive. That means that we have 21,600 not equipped. Therefore, it would be necessary for the railroads to spend $6,480,000 on something that we are not certain about.

Until we are certain, I believe that the amendment should be defeated.

Mr. HALL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to rise in support of the amendment. I want to applaud my colleague from Illinois (Mr. Simon) for offering this amendment. I believe it is long past due. Like he, I too have driven many, many miles in the prairie States, in Illinois, and I know exactly what he is talking about.

If the argument of my colleague who preceded me in the well held up, we ought to abandon these lights because they are too bright, and we should stop driving automobiles also, because I have been blinded by automobile headlights. I would like to associate myself with the amendment offered by the gentleman from Illinois, and urge its adoption.

Mr. MOSS. Mr. Chairman, will the gentleman yield?

Mr. HALL. I yield to the gentleman from California.

Mr. MOSS. Mr. Chairman, I did not say that we should ban them. I said that at the very least, we should wait until the results of the studies now underway are available to us. I said that was the responsible way to legislate. It is still a responsible way to legislate.

Mr. FINDLEY. Mr. Chairman, will the gentleman yield?

Mr. HALL. I yield to my colleague from Illinois.

Mr. FINDLEY. Mr. Chairman, I am impressed with the amendment offered by my colleague, and also with the comments of my other friend from Illinois (Mr. Hall). The argument has been made that we ought to wait for studies to be completed. I was wondering if the author of the amendment would care to comment on that suggestion.

Mr. HALL. I yield to the gentleman from Illinois (Mr. Simon).

Mr. SIMON. Mr. Chairman, I appreciate my colleague yielding to me.

There has been research. How adequate it may be, I do not know. It has been adequate enough so that many railroad leaders feel that we have to move in this direction. They also feel that there is, in line with the remarks of my distinguished colleague from California, no great liability, possibly, from either the oscillating light or strobe light, so that on a very broad dollars-and-cents basis, they think it is sound on the basis of their research.

The gentleman from Kansas, earlier in debate, said, "More studies, more studies, more studies." I think this is one of those times that is not that complicated. I think all of us feel that way, but simple common sense generally says that we are going to save lives if we have those strobe lights and oscillating lights.

Mr. HALL. If I may finish up, I must say that if I misunderstood the gentleman saying that we should abandon lights, that was a misunderstanding, but I still think the idea has merit. I do not see waiting for studies while thousands of people could be killed.

Mr. STAGGERS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I think the gentleman certainly has a good purpose in mind when he offers the amendment. I know he has good will and has tried, in his opinion, to improve safety. But, the study that has been made has stated that they are very uncertain as to this time what the results of strobe lights will be. Someone has mentioned studies indicating that certain lights can disorient and confuse people under certain conditions.

They are conducting a study now. I do not think we ought to legislate when a study is being made. In fact, we are saying in the bill at the present time that this matter should be left up to the Secretary of Transportation, who has the authority under existing law to issue regulations in all areas of railroad safety, including locomotive headlights. I think it would be premature for this House to come forward and say, "Put strobe lights on these locomotives," when the study has not been complete.

Mr. Chairman, I urge defeat of the amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Illinois (Mr. Simon).

The amendment was rejected.

Mr. RUSSO. Mr. Chairman, I rise in support of H.R. 11804, the Federal Railroad Safety Authorization Act of 1976.

This legislation, Mr. Chairman, reflects the collective conviction of the House Interstate and Foreign Commerce Committee that the responsible executive agencies must make a greater effort to enforce the railroad safety laws.

This bill authorizes $35 million for each of fiscal year 1977 and 1978 for the enforcement and administration of the railroad safety laws. This includes $18 million for safety inspection and enforcement, $3.5 million for grants-in-aid to support State safety programs, $3.5 million for the operating expenses of the Federal Railroad Administration, and $10 million in funds for railroad safety research and development.

Penalties carrying a minimum fine of $250 and a maximum fine of $2,500 are established for the violation of penalty appliance acts, the Locomotive Inspection Act, and the safety appliance provisions of the Interstate Commerce Act. This legislation contains a directive prohibiting the Secretary of Transportation from compromising any of these penalties for less than the amount assessed by him.

The Hours of Service Act is amended by requiring railroad lines to furnish employees sleeping quarters where they will have an opportunity for necessary rest, unbroken by noise under the railroad's control. New construction or reconstruction of old sleeping quarters within, or in the immediate vicinity of any railroad switching or humping yard is prohibtied.

In addition, this legislation required the Secretary of Transportation to establish rules of practice for all proceedings growing out of the Federal Railroad Safety Act of 1970, including specific time limits on all such proceedings.

To help us measure our progress, the Office of Technology Assessment is directed to analyze the Federal railroad safety program and report to the Congress, within 18 months, the results of the study and recommendations for further action.

Mr. Chairman, let us take an important step toward achieving a safer working environment by approving the Federal Railroad Safety Authorization Act of 1976.

The CHAIRMAN pro tempore. Are there any further amendments?

If not, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the

nature of a substitute, as amended, was agreed to.

The CHAIRMAN pro tempore. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. LEVITAS, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 11804) to amend the Federal Railroad Safety Act of 1970 to authorize additional appropriations, and for other purposes, pursuant to House Resolution 1268, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. RUSSO. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 332, nays 11, not voting 88, as follows:

[Roll No. 362]

YEAS—332

Abdnor
Abzug
Addabbo
Alexander
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashbrook
Ashley
Aspin
AuCoin
Badillo
Bafalis
Baldus
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bennett
Bergland
Bevill
Biaggi
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Bowen
Breaux
Breckinridge
Brinkley
Brodhead
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Carney
Carr
Carter
Cederberg
Chappell
Chisholm
Clausen, Don H.
Cleveland
Cochran
Cohen
Conable
Conte
Conyers
Corman
Cornell
Cotter
Coughlin
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Davis
Delaney
Dent
Derrick
Derwinski
Dickinson
Diggs
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
du Pont
Eckhardt
Edgar
Edwards, Ala.
Eilberg
Emery
English
Erlenborn
Evans, Colo.
Evans, Ind.
Evins, Tenn.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flood
Florio
Flowers
Foley
Forsythe
Fountain
Frey
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Gonzalez
Goodling
Grassley
Gude
Guyer
Hagedorn
Haley
Hall
Hamilton
Hammerschmidt
Hanley
Hannaford
Harkin
Harris
Hayes, Ind.
Hechler, W. Va.
Heckler, Mass.
Hefner
Henderson
Hicks
Hightower
Hillis
Holland
Holtzman
Howard
Hubbard
Hughes
Hungate
Hutchinson
Hyde
Ichord
Jarman
Jenrette
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Tenn.
Jordan
Kazen
Kemp
Ketchum
Keys
Kindness
Krebs
Krueger
LaFalce
Lagomarsino
Latta
Lehman
Lent
Levitas
Litton
Lloyd, Calif.
Lloyd, Tenn.
Long, Md.
Lott
Lundine
McClory
McCloskey
McCollister
McCormack
McDade
McEwen
McFall
McHugh
McKay
McKinney
Madden
Madigan
Mahon
Mann
Martin
Matsunaga
Mazzoli
Metcalfe
Meyner
Mezvinsky
Michel
Mikva
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Nedzi
Nichols
Nix
Nolan
Nowak
Oberstar
Obey
O'Brien
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Peyser
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Quie
Quillen
Railsback
Rangel
Rees
Regula
Reuss
Rhodes
Rinaldo
Roberts
Robinson
Rodino
Roe
Rogers
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Roybal
Runnels
Ruppe
Russo
Ryan
Sarasin
Sarbanes
Satterfield
Scheuer
Schneebeli
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shriver
Shuster
Simon
Skubitz
Slack
Smith, Iowa
Snyder
Solarz
Spellman
Spence
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Steiger, Wis.
Stephens
Stratton
Studds
Sullivan
Talcott
Taylor, Mo.
Taylor, N.C.
Thone
Thornton
Traxler
Tsongas
Udall
Ullman
Vander Jagt
Vander Veen
Vigorito
Walsh
Wampler
Waxman
Weaver
Whalen
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Wirth
Wolff
Wright
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Zablocki
Zeferetti

NAYS—11

Collins, Tex.
Crane
Devine
Gradison
Hansen
Jacobs
Kelly
Lujan
McDonald
Paul
Symms

NOT VOTING—88

Adams
Bedell
Bell
Biester
Brademas
Brooks
Broomfield
Brown, Calif.
Burgener
Clancy
Clawson, Del
Clay
Collins, Ill.
Conlan
Daniels, N.J.
de la Garza
Dellums
Early
Edwards, Calif.
Esch
Eshleman
Flynt
Ford, Mich.
Ford, Tenn.
Fraser
Frenzel
Fuqua
Goldwater
Green
Harrington
Harsha
Hawkins
Hays, Ohio
Hébert
Heinz
Helstoski
Hinshaw
Holt
Horton
Howe
Jeffords
Jones, Okla.
Karth
Kasten
Kastenmeier
Koch
Landrum
Leggett
Long, La.
Maguire
Mathis
Meeds
Melcher
Milford
Mills
Mink
Mottl
Neal
O'Hara
O'Neill
Passman
Pettis
Randall
Richmond
Riegle
Risenhoover
Roncalio
Rousselot
St Germain
Santini
Sikes
Sisk
Smith, Nebr.
Steelman
Steiger, Ariz.
Stokes
Stuckey
Symington
Teague
Thompson
Treen
Van Deerlin
Vanik
Waggonner
Winn
Wydler
Wylie
Young, Tex.

The Clerk announced the following pairs:

Mr. Dominick V. Daniels with Mr. Adams.
Mr. O'Neill with Mr. Broomfield.
Mr. Waggonner with Mr. Randall.
Mr. Brown of California with Mr. Bell.
Mr. Koch with Mr. Esch.
Mr. Symington with Mr. Goldwater.
Mr. Passman with Mr. Karth.
Mr. Roncalio with Mr. Clay.
Mr. Fuqua with Mr. Bedell.
Mr. Hébert with Mr. Fraser.
Mr. Edwards of California with Mr. Clancy.
Mr. Milford with Mr. Steelman.
Mr. Sikes with Mr. Wydler.
Mr. St Germain with Mr. Young of Texas.
Mr. Helstoski with Mr. Biester.
Mr. Teague with Mr. Del Clawson.
Mr. Brademas with Mr. Eshleman.
Mr. Thompson with Mr. Frenzel.
Mr. Santini with Mr. Burgener.
Mr. Brooks with Mr. Rousselot.
Mr. Flynt with Mr. Horton.
Mr. Mottl with Mr. Jeffords.
Mr. Stuckey with Mr. Conlan.
Mr. Mathis with Mr. Kasten.
Mr. Melcher with Mrs. Smith of Nebraska.
Mr. Ford of Michigan with Mr. Treen.
Mr. Hays of Ohio with Mrs. Holt.
Mr. Harrington with Mr. Landrum.
Mr. Green with Mr. Winn.
Mr. Sisk with Mr. Mills.
Mr. Riegle with Mr. Neal.
Mr. Hawkins with Mr. Wylie.
Mr. Long of Louisiana with Mrs. Pettis.
Mr. O'Hara with Mr. Meeds.
Mr. Richmond with Mr. Vanik.
Mr. Risenhoover with Mr. Howe.
Mr. de la Garza with Mr. Ford of Tennessee.
Mr. Early with Mr. Van Deerlin.
Mr. Stokes with Mr. Heinz.
Mrs. Mink with Mr. Steiger of Arizona.
Mr. Dellums with Mr. Maguire.
Mrs. Collins of Illinois with Mr. Leggett.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERMISSION FOR SUBCOMMITTEE ON ACTIVITIES OF REGULATORY AGENCIES OF COMMITTEE ON SMALL BUSINESS TO MEET DURING 5-MINUTE RULE ON JUNE 16 AND JUNE 23, 1976

Mr. HUNGATE. Mr. Speaker, I ask unanimous consent that the Subcommittee on Activities of Regulatory Agencies of the Committee on Small Business be permitted to meet during the 5-minute rule on June 16 and June 23, 1976.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

GENERAL LEAVE

Mr. ROONEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 11804, Federal Railroad Safety Authorization Act of 1976, the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

AMTRAK IMPROVEMENT ACT OF 1976

Mr. ROONEY. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 13601) to amend the Rail Passenger Service Act to authorize additional appropriations, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Pennsylvania.

The motion was agreed to.

The SPEAKER. The Chair requests the gentleman from Georgia (Mr. LEVITAS) to assume the chair temporarily.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 13601, with Mr. LEVITAS (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee rose on Wednesday, June 9, 1976, the Clerk had read through line 5 on page 1 of the bill.

Are there any amendments?

Mr. CONTE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Amtrak Improvement Act of 1976 (H.R. 13601).

I serve as the ranking minority member of the House Appropriations subcommittee on Transportation and am most pleased to see this authorization on the floor before we present the transportation appropriations bill (H.R. 14234) next Wednesday, June 16, 1976, for consideration. One of the more controversial items in our appropriations bill is entitled "grants to the National Railroad Passenger Corporation" which is actually operating assistance to cover Amtrak's operating losses.

In fiscal year Amtrak received $328 million in operating assistance to cover losses for their present system. This year Amtrak advises that they need $460 million in operating assistance to maintain the same system. This is more than a 33½-percent increase. Amtrak further advises that if the full $460 million is not made available, low-income routes will have to be terminated. After serious review of the situation our subcommittee recommended a figure of $414.7 million to maintain the present system. This figure is $46.3 million less than what Amtrak feels is necessary.

I am pleased to note that after a full review by the Committee on Interstate and Foreign Commerce, a figure very close to our appropriation was reached—$430 million. Our subcommittee determined, with statistics provided by the American Association of Railroads, that Amtrak overestimated their inflation costs for fiscal year 1976 and the transition quarter. Accordingly Amtrak realized a $12.3 million cost saving. This cost saving added to the $414.7 provided by our subcommittee for operating grants almost ties in exactly with the authorization provided in this bill to maintain the present Amtrak system. These independent and harmonious committee actions can only serve to assure that the present Amtrak system can continue without any route terminations allegedly based on insufficient operating assistance.

I am sure that many Members have received letters and telegrams from their constituents throughout the Amtrak system on this matter. It is my hope that the actions by these two committees will prove the Congress determination to support our national railroad passenger system.

I should like to note that the committee has placed a monitoring device over Amtrak's awards of "incentive grants" to various participating railroads for their on-time performance.

It is clear that the participating railroads on-time performance has improved as a result, but the situation mandates that close checks on these awards be made.

"It is clear that if our new generation of railroad passenger transportation is to come into being, the necessary authorization and financial assistance is the keystone. I am satisfied that this legislation provides the necessary authorizing support to continue our overall plan for a new generation of railroad passenger service.

I urge my colleagues to support this legislation.

Mr. Chairman, I congratulate the chairman of the committee, the gentleman from Pennsylvania (Mr. ROONEY), and the ranking minority member of the committee, the gentleman from Kansas (Mr. SKUBITZ), and their committee for bringing out this bill and doing such a fine job.

The CHAIRMAN pro tempore. There being no amendments to section 1, the Clerk will read.

The Clerk read as follows:

AUTHORIZATION OF APPROPRIATIONS

SEC. 2. (a) The second sentence of section 601(a) of the Rail Passenger Service Act (45 U.S.C, 601(a)) is amended—

(1) by striking out "$355,000,000 for fiscal year 1977" in clause (1) and inserting in lieu thereof $430,000,000 for fiscal year 1977"; and

(2) by striking out "and $110,000,000 for fiscal year 1977" in clause (2) and inserting in lieu thereof "$140,000,000 for fiscal year 1977, and $140,000,000 for fiscal year 1978; (3) for the payment of additional operating expenses of the Corporation as a result of operation and maintenance of rail service in the Northeast Corridor pursuant to title VII of the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94–210), $68,000,000 for fiscal year 1977 and $75,000,000 for fiscal year 1978, except that such funds shall not be used for payment of operating losses of commuter rail services or rail freight services; and (4) for the payment of the principal amount of obligations of the Corporation (other than leases) which are guaranteed by the Secretary pursuant to section 602 of this Act, $25,000,000 for fiscal year 1978".

(b) Section 602(d) of the Rail Passenger Service Act (45 U.S.C. 602(d)) is amended by inserting immediately after the first sentence thereof the following new sentence: "Such $900,000,000 maximum shall be reduced by an amount equal to the total principal amount of such securities, obligations, or loans paid by the Corporation from funds made available pursuant to clause (4) of section 601(a) of this Act.".

SECURITY GUARDS

SEC. 3. Section 305 of the Rail Passenger Service Act (45 U.S.C. 545) is amended by adding at the end thereof the following new subsection:

"(i) The Corporation is authorized to employ security guards for purposes of providing security and protection for rail passengers of the Corporation and for rail properties owned by the Corporation. Security guards employed by the Corporation may be employed without regard to any provision of State law setting forth licensing, residency, or related requirements applicable to security guards or persons employed in similar positions.".

INCENTIVE PAYMENT CONTRACTS; AMTRAK ACQUISITIONS

SEC. 4. (a) Section 402(a) of the Rail Passenger Service Act (45 U.S.C. 562(a)) is amended by inserting immediately after the first sentence thereof the following: "The Corporation shall not enter into any contract under this subsection providing for any incentive payment to a contracting railroad or regional transportation agency for a level of service or performance equal to or less than the level of service or performance provided by such railroad or agency before the date such contract was entered into and, in no event, shall any such contract provide for an incentive payment on any basis other than a train-by-train basis or for any level of on-time performance for any train not operated within 5 minutes of its scheduled time for not less than 90 percent of its scheduled operations. The Commission may, on its own motion or on petition by an interested party, initiate a proceeding to determine whether the terms of any incentive payment contract are in compliance with the preceding sentence and, within 30 days after any such proceeding is initiated, shall issue such orders as it may deem necessary to carry out the provisions of such preceding sentence (including orders approving, disapproving, or requiring renegotiation of such contract).".

(b) Section 402(a) of the Rail Passenger Service Act (45 U.S.C. 562(a)) is further amended by adding at the end thereof the following new sentence: "For purposes of this subsection, the Corporation will be deemed to have 'acquired' tracks, rights-of-way, and other facilities if it has obtained a present legal or equitable interest in such facilities by any form of lease or purchase, including a long-term contract of sale or lease with option to purchase.".

LEVERAGE LEASING TRANSACTIONS

SEC. 5. Section 602(i) of the Rail Passenger Service Act (45 U.S.C. 602(i)) is amended by adding at the end thereof the following new sentence: "Any request by the Corporation for guarantee authority under this section for a lease transaction (including any leverage lease transaction in which the lessor obtains a Federal tax benefit with respect to railroad equipment leased to the Corporation), determined by the Board of Directors to be in the economic interest of the Corporation, shall be approved by the Secretary and by the Secretary of the Treasury, notwithstanding any guideline which would otherwise preclude the use of guarantee authority for such transaction.".

ADEQUACY OF SERVICE REGULATIONS

SEC. 6. (a) Section 308(c) of the Rail Passenger Service Act (45 U.S.C. 548(c)) is amended by adding at the end thereof the following new sentence: "Beginning March 15, 1977, the Commission shall include in the report required by this subsection a detailed listing of requests filed with the Commission by the Corporation to issue, modify, or grant an exemption from, any regulation referred to in section 801 of this Act, relating to adequacy of service, together with the results of any Commission action with respect to such requests.".

(b) Section 801(a) of the Rail Passenger Service Act (45 U.S.C. 641(a)) is amended by inserting immediately after the first sentence thereof the following new sentence: "No regulation issued by the Commission under this section shall require the Corporation or any railroad providing intercity rail passenger service to provide food service other than during customary dining hours.".

TRANSFERS TO IMPLEMENT NORTHEAST CORRIDOR PROJECT

SEC. 7. The first sentence of section 303(e) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 743(e)) is amended by striking out "title)" and inserting in lieu thereof "title, or which are made to the National Railroad Passenger Corporation from the Corporation at any time to carry out the purposes of title VII of the Railroad Revitalization and Regulatory Reform Act of 1976 or of section 601(d) of this Act)".

AUTHORITY OF THE INTERSTATE COMMERCE COMMISSION

SEC. 8. Section 304(j) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 744 (j)) is amended—

(1) by striking out paragraph (1) thereof and inserting in lieu thereof the following:

"(1)(A) Except as provided in subparagraph (B) of this paragraph, no local public body which provides mass transportation services by rail, and which is otherwise subject to the Interstate Commerce Act shall, with respect to the provision of such services, be subject to the Interstate Commerce Act or to rules, regulations, and orders promulgated under such Act, if the interstate fares, or the ability to apply to the Interstate Commerce Commission for changes thereto, of such local public body is subject to approval or disapproval by a Governor of any State in which it provides services.

"(B) Any local public body described in subparagraph (A) of this paragraph shall continue to be subject to applicable Federal laws pertaining to (i) safety, (ii) the representation of employees for purposes of collective bargaining, and (iii) employment retirement, annuity, and unemployment systems or any other provision pertaining to dealings between employees and employers."; and

(2) by striking out paragraph (2)(B) thereof and inserting in lieu thereof the following:

"(B) 'mass transportation services' means transportation services described in section 12(c)(5) of the Urban Mass Transportation Act (49 U.S.C. 1608(c)(5)) which are provided by rail.".

Mr. ROONEY (during the reading). Mr. Chairman, I ask unanimous consent that the remainder of the bill be considered as read, printed in the RECORD and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

AMENDMENT OFFERED BY MR. CONABLE

Mr. CONABLE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CONABLE: Page 4, strike out line 22 and all that follows through page 5, line 9.

And redesignate the following sections accordingly.

Mr. CONABLE. Mr. Chairman, my amendment strikes section 5 of the bill. This relates to the issue of leverage leasing with regard to Amtark. Leverage leasing has its place. This is a capital-deficit country and capital formation is one of our concerns. Encouragement of leverage leasing does not have its place in the Amtrak bill under current circumstances.

I would like to explain to my colleagues what the issue is with reference to leverage leasing by Amtrak.

Leveraged leasing is a term used to describe a complex form of financing in which the tax benefits that normally flow to a firm acquiring new capital equipment—the investment tax credit and accelerated depreciation—are transferred from the user of the equipment—who otherwise it can be assumed would purchase outright—to an owner-lessor. The owner-lessor typically borrows up to 80 percent of capital necessary—using the lease as security. In this way, the owner's tax benefits are "leveraged." The owner is gaining 100 percent of the tax incentive with 20 percent of the capital.

A simplified Amtrak leveraged lease might be as follows: An owner-lessor group is assembled to take title to new rolling stock which was built to Amtrak's specification. This group pays the builder of the equipment and repays any Amtrak deposits—with 80 percent borrowed funds and 20 percent capital. At the same time, the owner enters a long-term lease with Amtrak for the equipment at a least rate that reflects only about 50 percent of the tax savings that accrue to the owner.

The effective cost to Amtrak of acquiring new equipment by leveraged lease has, in the past, been less than conventional borrowing from the Federal Financing Bank would have been; however, our analysis has shown that savings to Amtrak are less than half the cost to the taxpayer due to the tax shelter created. On a discounted present value basis, the tax expenditure relative to "Amtrak savings" is even more pronounced—approximately 3:1—as the bulk of tax revenue loss occurs at the front end of the term of the lease while Amtrak's interest savings accrue evenly over the life of the lease.

The administration opposes further leverage leasing by Amtrak. Its decision was based principally on the recognition of total costs to the taxpayer, not just the portion that is reflected in appropriations to Amtrak. There were other considerations that also argued against allowing Amtrak's leveraged leasing to continue:

By reducing the effective cost of equipment acquisitions, the investment tax credit and provisions for accelerated depreciation are designed to stimulate business investment in new plant and equipment—investment that would theoretically not occur in the absence of those incentives. The economic policy objectives of these special tax incentives are not advanced by Amtrak's use of leveraged leasing for at least three fundamental reasons:

The owner-lessor of Amtrak capital equipment incurs no business risk because the lease payments are guaranteed by the Federal Government.

Normally that is why I say leverage leasing has its place in a market that is for capital. The owner is accepting some risk in entering into a leveraged leasing arrangement but here the Government guarantees the lease so there is no risk at all.

Amtrak has a ready source of financing through the Federal Financing Bank; and

Amtrak's capital acquisition decisions are not considered by interest rates.

In short, Amtrak operates in a fashion much more analogous to a Government agency that a "for-profit corporation."

While technically Amtrak is a "for-profit" corporation, the administration and the House Committee on Interstate and Foreign Commerce have determined as a matter of policy that beginning in fiscal year 1976 capital requirements will be provided by direct Federal grants, rather than loan guarantees. This decision simply recognizes the fact that Amtrak is not expected in the foreseeable future to generate revenues anywhere near sufficient to finance its capital needs. In recognition of this situation, H.R. 13601, as reported by the Committee on Interstate and Foreign Commerce initiates the process for retirement of guaranteed Amtrak debt. Further leveraged leasing would be inconsistent with the policy determination to retire existing debt and to authorize money to be appropriated for direct capital acquisitions by Amtrak.

The CHAIRMAN pro tempore. The time of the gentleman from New York has expired.

(By unanimous consent, Mr. CONABLE was allowed to proceed for an additional 2 minutes.)

Mr. CONABLE. Mr. Chairman, there are a number of members of the Committee on Ways and Means that feel this amendment is justified. What we are doing, in effect, is allowing a double-dip if we go the leveraged leasing route. I do not know the reasons for the committee to have provided in section 5 of this bill that the Secretary of Transportation must approve any lease transaction, including a leveraged lease transaction, if it is determined by the board of directors to be in the economic interests of Amtrak, because quite clearly we have an obligation to the taxpayers who are losing more by such a provision than Amtrak can possibly gain, particularly when the Federal Financing Bank makes available to Amtrak low-cost public loans. There is no risk involved. The section I am trying to strike provides a substantial benefit to those who use this particular device as a tax shelter and there is no resulting compensating risk to them when the Government guarantees the lease, in any event.

It seems to me very important in the interests of all the people involved in this that the Secretary be permitted to disapprove leveraged lease arrangements in the future, as in the past.

Mr. MYERS of Pennsylvania. Mr. Chairman, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman from Pennsylvania.

Mr. MYERS of Pennsylvania. Mr. Chairman, I am concerned about a possible skirting of the whole issue by virtue of a secondary lease arrangement. Say, for instance, we had corporation "A," who would like to lease to Amtrak and Amtrak was not allowed to act on leveraged leases; what would be the situation?

The CHAIRMAN pro tempore. The time of the gentleman from New York has again expired.

(At the request of Mr. MYERS of Pennsylvania, and by unanimous consent, Mr. CONABLE was allowed to proceed an additional 3 minutes.)

Mr. MYERS of Pennsylvania. Mr. Chairman, will the gentleman yield further?

Mr. CONABLE. I yield to the gentleman from Pennsylvania.

Mr. MYERS of Pennsylvania. Mr. Chairman, what would be the situation, or could it occur where corporation "B" could be formed to lease from the lessor, corporation "A" and then in turn have a secondary lease arrangement with Amtrak and, thereby, the leveraged lease arrangements provisions or advantages, the tax advantages, could be incurred between "A" and "B," rather than between "A" and Amtrak; is that a possibility?

Mr. CONABLE. I do not know enough about the powers of Amtrak to know whether such an arrangement would be legal. All I know is that leveraged leasing with respect to Amtrak does not seem to be in the interest of the taxpayers and the total cost to the taxpayers can be reduced by going the Federal Financing Bank route, rather than the leveraged leasing route, where we have, in effect, a double-dip out of the Treasury.

The gentleman from Pennsylvania makes a point that I simply cannot answer. It may be that such a power is available through multiple leasing arrangements; but whether or not that is available, clearly direct leveraged leasing by Amtrak is not in the interests of the taxpayers.

Mr. ROONEY. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to the amendment.

Mr. Chairman, the purpose of this section is precisely to assure that the previously expressed will of Congress is carried out. The Amtrak Improvement Act of 1975 specifically includes a clarification for the use of guaranteed loan authority to support leveraged lease agreements. The Secretary of Transportation, however, in exercising his authority to issue guidelines has prohibited use of guaranteed loans for leveraged lease transactions.

The Congress last year expressed a clear desire to permit Amtrak to enter into leverage leasing, and wished the Secretary to issue guidelines. Clearly, a prohibition goes beyond the intent of this Congress.

Based on Amtrak's experience and experience of those within the leasing industry, there is limited supply of funds available for lease financing. Accordingly, there is no impact on Treasury revenues, since lessors, unable to enter into lease transactions with Amtrak, will enter into transactions with others, thereby deriving the same tax benefits and causing the Treasury exactly the same revenue loss without the benefit of Amtrak getting the lower effective cost.

As the Members know, Amtrak is an independent corporation. It is not owned by the Government, and I see no reason why Amtrak cannot take advantage of leverage leasing as do the railroads. I would also like to point out that since Congress intended for Amtrak to engage in leverage leasing, my colleague is wrong in contending that the benefits of Amtrak from leveraged leasing constitute additional subsidies over and above those authorized by Congress because, if Amtrak is not allowed to take advantage of this, we are going to have to give them additional grants or additional loans.

With regard to financial disclosure, let me say that Amtrak has, in the past, fully disclosed the benefits of lease transaction in its budget presentations and its annual reports. In each of the budget presentations the effects of leasing on interest expense are clearly stated. Additionally, the annual report to Congress fully explains the accounting procedures for these leases.

The railroad industry, as the Members all know, historically has financed the major portion of rolling stock acquisitions through lease financing. They have done so because it has been economicially beneficial. It is only reasonable that any financial financing techniques available to the railroad industry should also be available to Amtrak.

Mr. CONABLE. Mr. Chairman, will the gentleman yield?

Mr. ROONEY. I yield to the gentleman from New York.

Mr. CONABLE. Is it not true, though, that the net cost of borrowing from the Federal Financing Bank is going to be less for the taxpayers, regardless of what it does for Amtrak, than the leverage leasing approach would?

Mr. ROONEY. There are, as I understand it, only a limited amount of funds.

Mr. CONABLE. Well, all the more reason why those funds should be put out at risk and not through a lease, which is itself guaranteed by the Federal Government. The Federal Government guarantees Amtrak's leasing through the leverage lease arrangements, so there is no risk at all to the lender, who gets better than 50 percent of the tax advantage himself.

Mr. ROONEY. Except that Amtrak can have more money to buy more rolling stock, and to improve Amtrak's functions.

Mr. CONABLE. But that is the key point. We are making Amtrak's financial situation look much better than, in fact, it is if we permit it to go the route of leverage leasing rather than go to the Federal Financing Bank, the net cost of which would be less than leveraged leasing. Amtrak prefers to lease, obviously, because it doesn't appear on the balance sheet, but the ability to hide the consequence is no justification.

It seems to me that Congress should express a strong intent that leverage leasing, while it has its place, has no place with respect to a no-risk situation like Amtrak, where the Government guarantees the lease. The Government does not guarantee the leases with respect to all the private railroads that are now using leverage leasing to handle a lot of their capital now, largely because they cannot afford at current interest rates to issue corporate bonds to raise the money to buy the equipment outright. Interest rates do not affect the financing decision of Amtrak.

Mr. ROONEY. Mr. Chairman, if this amendment is adopted, I see 4 more years of financial plight for Amtrak. I urge its defeat.

Mr. SKUBITZ. Mr. Chairman, I move to strike the last word, and I rise in support of the amendment.

Mr. Chairman, I rise in support of Mr. CONABLE's amendment to strike section 5 of the Amtrak Improvement Act of 1976.

We discussed the subject of leverage leasing at length during the deliberations of the subcommittee and the full committee. At first glance leverage leasing appears to be an attractive gimmick for getting something for nothing. With a little bit of analysis, however, it becomes clear that the something for nothing in this case would mean exorbitant increases in Amtrak operating costs for years to come.

As it has been pointed out a leverage lease is simply a device whereby a financial institution can obtain tax advantages it would not otherwise get in exchange for advancing money to a user of capital equipment. Amtrak proposes to borrow money from the U.S. Treasury with which to place an order for new equipment. As soon as they have placed an order with their borrowed down payment they will sell title to the unbuilt equipment to a lender. The lender could be the First National City Bank of New York, the General Electric Finance Corp., Household Finance, or a number of other financial investors. Amtrak would sell title to the unbuilt equipment because it could not take advantage of the investment tax credit or accelerated depreciation simply because, as we all know, Amtrak has no profits. The lender, in turn, would enter a lease arrangement with Amtrak whereby Amtrak would agree to pay rental on the equipment for a period of 15 to 20 years. At the end of that time Amtrak would purchase the equipment at its current fair market value.

In the meantime, Amtrak would take the money it originally had used to place the first order and place a second, third, fourth, et cetera. So it would go until Amtrak had so much equipment that there would not be room on the tracks for any more.

As one who has constantly fought for increased Amtrak authorizations and better Amtrak equipment, the proposal for leverage leasing was very attractive to me at first. I soon realized, however, that Amtrak was not going to be getting a free lunch. The investors were because they were getting tax credits that they would not otherwise receive. Those tax breaks, by the way, would be coming as a result of those initial Federal dollars used to place the purchase order. In one respect tax dollars would be used to create direct tax loss. The free lunch for Amtrak disappears when one considers that each year for 15 to 20 years Amtrak's operating expenses would be inflated because of their lease payments. This situation would be analogous to the situation we faced with respect to the increasing debt service costs caused by the loans we made to Amtrak. You will recall that in 1974 we changed the capital financing program for Amtrak from a loan policy to a grant policy. We did this in order to reduce Amtrak's operating cost.

The adoption of Mr. CONABLE's amendment will keep us on the same course of not saddling Amtrak with a lot of future obligations in order to get the short term free lunch.

This section, which requires that the Secretaries of Transportation and Treasury approve loan guarantees used in conjunction with leverage leases, appears to represent an effort of leasing lobbyists to prevent the administration from enforcing its policy of forbidding the use of federally assisted credit as debt capital in leveraged leases.

This analysis which led the administration to this policy concluded that this is an extremely inefficient method of subsidizing Amtrak, or any industry. While a leveraged lease may reduce Amtrak costs of acquiring capital equipment by 15 to 20 percent of direct acquisition costs, it increases the subsidy costs to the Government—including revenues forgone—by about 2½ times as much as the savings to Amtrak. The subsidy costs above that going to Amtrak—about 1½ times more than Amtrak's savings—goes to the lessor, an unintended beneficiary of the program. Thus, while a lease may be "determined by the Board of Directors to be in the economic interest of the Corporation" it is clearly not in the economic interest of the Federal Government. Finally, it should be pointed out that IRS rules effectively prohibit the lessor from sharing the tax benefits with the lessee, so that Amtrak's share of the Government subsidy cannot be increased.

Leasing lobbyists argue that tax savings to equity capital under leveraged leasing should not be considered part of the costs to Government, since that capital would simply find other tax shelters. Our position has been that we must account for revenue losses where they occur, and that leveraged leasing using Government-assisted loans as debt capital defeats a primary service of lessors, namely the accumulation of debt capital for leveraged leases. In Government-assisted borrowing that service is provided by the agency or the Federal Financing Bank, not the lessor.

Section 5 of this bill has been justified on the argument that leveraged leasing is allowed in the Maritime Administration's Federal ship financing program under title XI of the Merchant Marine Act of 1936, as amended. We consider this argument spurious for two reasons:

The exemption of MARAD from the Administration's policy is a temporary one, based on several facts peculiar to that program. That form of financing has been in use for some time in the shipbuilding program, hence specific analysis of the impact of the prohibition is necessary before enforcement can reasonably be required. There are also different institutional arrangements that make the financing of shipbuilding under the MARAD program much more complex than the arrangements under Amtrak leveraged leases using FFB loans as debt capital. That analysis is just getting underway, and it may well lead to recommendations for change in the present forms of subsidy to the shipbuilding industry.

Recognition of Amtrak's need for Government subsidy has led to provision of direct grants in addition to loan guarantees. That provides to Amtrak a viable alternative to the use of guaranteed loans for capital investments. Such an alternative is not available to MARAD shipbuilders. If it were there would be much less justification for the exemption of MARAD from the leveraged leasing prohibition.

In summary we have attempted to follow policies that will provide Government subsidies to the industries in need in the most efficient form available under existing legislation. The authorization of leverage leasing to Amtrak moves us to one of the most inefficient forms of subsidy and provides only marginally increased subsidies to the industry that is the subject of this bill.

Mr. MYERS of Pennsylvania. Mr. Chairman I move to strike the requisite number of words.

Mr. Chairman, I take this time to ask the gentleman from New York (Mr. CONABLE) for some further clarity on the subject I discussed earlier with relation to the effect of his amendment on multiple lease arrangements.

My concern is that if his amendment is adopted, there would be an opportunity for Amtrak to circumvent the intent of his amendment by entering into an arrangement through a multiple lease on secondary lease arrangement. I would like to ask the gentleman if it is his intent, if his amendment carries, that the Secretary would have the right to disapprove that type of an arrangement.

Mr. CONABLE. Mr. Chairman, if the gentleman will yield to me, I think if there was a multiple leverage leasing arrangement entered into, let us say, by the Pullman Co., which then leased the new equipment to Amtrak, if my amendment were to carry, doubtless the Secretary of Transportation would have the authority to disapprove such an arrangement if he deemed it in the country's interest to do so.

The provision that is in the bill that would make it impossible for him to do so is section 5. That is the section that my amendment would strike. That section simply provides that if the Amtrak Board of Directors decides it will be in the interest of the corporation to enter into an arrangement relating to leverage leasing, the Secretary of Transportation must approve it, notwithstanding any guideline which would otherwise preclude the use of guarantee authority for such transaction.

Therefore, I believe regardless of whether there was a direct leverage leasing arrangement or one which was indirect, through another company such as the Pullman Co., the adoption of my amendment would still make it within the power of the Secretary of Transportation to disapprove something that he felt in the long run would cost the taxpayers more than access to the Federal financing bank for direct borrowing to effect the acquisition of this equipment.

Mr. MYERS of Pennsylvania. Mr. Chairman, I thank the gentleman for his explanation.

I stand in support of the gentleman's amendment. I think at a time when we are spending considerable taxpayers' dollars in subsidies to Amtrak, it is imperative that we be able to evaluate the total economic impact on the budget, and I believe the gentleman's amendment allows that situation to prevail.

Mr. STAGGERS. Mr. Chairman, I rise in opposition to the amendment.

I will speak only briefly, Mr. Chairman. The Congress authorized Amtrak in 1970, and it began operation in 1971. Amtrak took over a defunct, rundown, outmoded system of transportation. I think they have now begun to rebuild the system.

This is a private corporation, and since it is a private corporation, I believe it should be able to compete with the other private corporations in the land, just as other railroads do. I think that the taxpayers would get the most out of their dollars if this remains in the bill, because Amtrak will be able to get 4 times as much equipment, and they will not need that amount of money which we will have to put into it to get the equipment going and get it on a paying basis. And we hope it will be on a paying basis one of these days.

Mr. Chairman, I believe the amendment should be defeated, because we allow big business and all other types of business in the land involved in private enterprise to do this, and this is a private corporation authorized by the Congress in 1970. I understand the argument that these are taxpayers' dollars, and I know it sounds good when we say, "Don't let them do this," but if we take that position, we are going to hamstring Amtrak and just cut them out of 4 times the equipment they could get under this section, which allows the same practices to be followed that other private corporations follow.

Mr. Chairman, I urge the defeat of the amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from New York (Mr. CONABLE).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. SOLARZ

Mr. SOLARZ. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SOLARZ: Page 2, immediately after line 18, insert the following new subsection:

(b) Section 601 of the Rail Passenger Service Act (45 U.S.C. 601) is amended by adding at the end thereof the following new subsection:

"(c) Whenever the United States or any agency or instrumentality thereof acquires, by purchase or otherwise, any railroad rights-of-way not owned by the Corporation which have been repaired or improved, after the date of enactment of this subsection, with Federal financial assistance pursuant to this section, there shall be deducted from the acquisition price of such rights-of-way an amount equal to the lesser of—

"(1) the amount of Federal financial assistance expended pursuant to this section for the repair or improvement of such rights-of-way; or

"(2) the increase in value of such rights-of-way which is determined by the Secretary to be a direct result of Federal financial assistance expended pursuant to this section.

Page 2, line 19, strike out "(b)" and insert in lieu thereof "(c)".

Mr. SOLARZ (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. SOLARZ. Mr. Chairman and members of the committee, I want to take this opportunity, at the outset, to compliment the distinguished chairman of the committee and the distinguished ranking minority member for the good and hard work they did on this legislation.

I think it is a good bill, and I support it in its entirety; but I come here this afternoon with a very small, but, I think, reasonable amendment which, in my judgment, would constitute an improvement in this otherwise completely meritorious legislation.

Mr. Chairman, may I say that the amendment that I am offering is essentially identical to another amendment which was adopted on the floor of the House several months ago to the jobs bill and which was so meritorious, so persuasive and so convincing that it had the verbal support not only of the gentleman from New York (Mr. Gilman) and the gentleman from California (Mr. Rousselot) on that side of the aisle, but the gentleman from Illinois (Mr. Mikva) and the gentleman from New York (Mr. Koch) on this side of the aisle.

Therefore, Mr. Chairman, this is an amendment which Members of diverse ideological inclinations can support.

What does it do? It provides, in essence, that the taxpayers of the United States should not have to pay twice for the same piece of property.

This bill, as the members of the committee know, would provide up to $60 million over the course of the next 2 fiscal years for the improvement of the rights-of-way of privately owned railroad corporations.

My amendment provides that in the event, at some point in the future, the U.S. Government should decide to acquire these railroad rights-of-way, the purchase price should be diminished by either the amount of the investment in the improvement of these rights-of-way or the improvement in the value of the rights-of-way which is directly attributable to the subsidies provided for in this legislation, whichever is less.

Mr. Chairman, I think it is important to point out that this amendment in no way provides for, requires, or mandates that the U.S. Government must acquire these rights-of-way at any time in the future. What it does do is to say that in the event the U.S. Government should decide to acquire these rights-of-way, the taxpayers of our country should not be required to pay an additional value for the purchase when they have already invested substantial amounts of money in improving the rights-of-way in the first place.

I understand that the committee has expressed some concern that, if this amendment is adopted, it would somehow create a permanent lien on these private railroad corporations which this legislation proposes to improve by virtue of the $60 million provided in subsidies over the course of the next 2 years.

Mr. Chairman, I think this is really not quite the case because to the extent that, over the course of time, Federal moneys were spent to improve these rights-of-way, if the additional value of the rights-of-way declined or diminished because, over a period of time, the rights-of-way lapsed back into their original condition, or if the railroads were required to make additional expenditures as a result of the improvements in the rights-of-way which were equivalent to the subsidies that we propose to make for these rights-of-way, then the railroads would be relieved of any obligation, under the terms of this amendment. However, to the extent that at some point in the future the U.S. Government decides to actually purchase the right-of-way and if, at that point, in the judgment of the Secretary of Transportation, the value of the right-of-way is higher than it would have been if these subsidies had not been provided, then the amendment would make it possible for us, in effect, to get our money back.

Consequently, Mr. Chairman, the railroads do not suffer, but the taxpayers are protected. For that reason, I urge the members of the committee to support this essentially conservative and very reasonable proposal.

Mr. ROONEY. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the amount of funds to be expended by Amtrak on track improvements is relatively small and will be distributed over several railroads. As a consequence, many of the expenditures will be less than $1 million for several railroads. It seems to me that it is unreasonable to place a permanent lien on railroad property for this small amount. Such liens, in my opinion, could hamper these railroads in their efforts to obtain loans or mortgages.

These life-long restrictions appear even more unreasonable considering the remoteness of the United States acquiring this property during the period of normal amortization.

In addition, it should be noted that the improvements Amtrak desires are solely for the benefit of Amtrak and not the railroads. It is for this reason that the funds are being provided by Congress. If this amendment is adopted, it is very possible that the railroads will not permit the improvements to be made. Since there are no benefits to the railroads, there would be no incentive for them to permit Amtrak to do the work as it will result in a lien on their property.

I urge the defeat of this amendment.

Mr. COLLINS of Texas. Mr. Chairman, I move to strike the last word, and I rise in opposition to the amendment.

Mr. Chairman, I hope that this House does not involve the private railroad system of America with this Amtrak boondoggle that we all have to put up with every other year.

I want to call the attention of the Members to a few facts in the financial statistics that the Members may not have noticed.

First let me say that Amtrak is moving downhill so fast that it would be a shame to mix up, in this confused Amtrak downhill run, the excellent private railroad system of America.

Just let me quote you all some figures.

The operating losses of Amtrak have increased from $197 million last year to $313 million this year. In the current operating business, the losses they have created have increased current liabilities from $103 million to $318 million. But the important figure we ought to keep in mind on this Amtrak, and which we ought to repeat over and over again is this figure of the operating subsidy as a percentage of the Amtrak revenue. The subsidy percentage is absolutely startling; last year in 1974 it was 34 percent of the operating revenues that came through as the subsidy. One just cannot believe they could do so badly, but they did. This means that sales revenues totaled $246 million but that operating cost expenses totaled $559 million in 1975. Amtrak had a 55 percent operating subsidy. This is a typical government business. Let me add that even the Post Office does not reach any loss figures like those. I hope my colleagues realize that Amtrak is exceeding all-time records. This year they have gone 55 percent in the way of a subsidy, which is saying they spend twice as much as they take in revenue.

But further, what we are doing by providing this money in any form to Amtrak is that we are borrowing the money. The U.S. Congress is borrowing the money and we are increasing the national debt. Deficit spending increases the national debt. It is raising our top-heavy debt and in doing so it is creating inflation on an escalating scale.

Further, Mr. Chairman, I will remind this House who is paying for this; it is the people out there who are on social security and the people who are on veterans' pensions, and who are disabled. Right now, we know that the social security is moving closer and closer to disaster and we know that the veterans' pensions are getting squeezed, and we are going to have to provide enough money for these veterans' pensions. Mr. Chairman, we are going to have to do away with more of the boondoggles like Amtrak and it is up to us here in Congress.

I went back to see my constituents 2 years ago because at that time I was also skeptical as to where we were heading. I referred this Amtrak subject to them—I do now know how my colleagues are handling this in the areas that you come from—but I found out that if we took all of the income taxes paid by the Dallas citizens for the past 3 years—and that is a big community down in Texas—eighth largest city in the U.S.A.; and if we took all of the income taxes they paid it would take care of the losses of Amtrak for 3 years. What I am driving at is that these people do not want to be paying all of their income taxes for 3 years just to go to pay for the losses of Amtrak, but now we are doing it. And in this bill Amtrak's loss will in 1976 again swallow up all the income tax they pay.

This bill was started in 1970 and it continued in 1971, 1972, 1973, 1974, 1975, and 1976. Every one of those years it was a loser but it is becoming a worse loser year in and year out. And now Amtrak's bill asks Congress for 430, 140, 140, 68, 75, and 25 millions of dollars which totals $878 million.

We have an amendment facing us right now that talks about putting a lien on private railroads. We should pray to the Good Lord that the private railroads do not get involved in Amtrak. The biggest problem with Amtrak is that it is mixed up with Congress and we are telling them how to run Amtrak. Let us get the Congress out of Amtrak and let us get the Federal Government off the backs of the private railroads.

Mr. MIKVA. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, as I heard my distinguished colleague, the gentleman from Texas, I think he made an impassioned plea against the bill, but I am not sure that what he said was relevant as to being in opposition to the amendment. I have heard the distinguished chairman of the subcommittee speak out. His concern, too, was wide of the thrust of this amendment. What this amendment says very simply is that if, and only if, any of the funds expended under this bill benefit a private right-of-way, and if, and only if, the U.S. Government subsequently acquires that right-of-way, the taxpayer should not be charged for such benefit twice.

If either of those "ifs" do not come to pass, this amendment has no effect. If, in fact, there has been no enhancement of the private right-of-way, the amendment does not take effect. If ultimately the U.S. Government does not acquire the right-of-way, the amendment has no effect. But it is simple justice and simple reasoning, and I think it ought to appeal to the gentleman from Texas as well as everybody else in the House that if in fact the Federal moneys authorized under this bill benefit the private right-of-way, a private railroad, and if the taxpayers ultimately end up buying that railroad, they should not have to pay for the same thing twice. It is that simple.

That is why I think the original amendment that I sponsored on behalf of the gentleman from New York (Mr. SOLARZ) to the jobs bill passed so overwhelmingly, and that is why I think this amendment ought to pass the House overwhelmingly and ought to be adopted in committee. If there is no enhancement, there is no effect to the amendment, but it is simple taxpayers' justice and logic that we ought not ask the long-suffering American public to pay twice for the same benefit.

Mr. SKUBITZ. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, there are two things wrong with this amendment. First of all, the railroads are already heavily encumbered with liens, and, more importantly, the railroads do not like Amtrak anyway. They would just as soon get rid of Amtrak if at all possible.

The best example I can give my colleagues is the Missouri Pacific Railroad which will not permit Amtrak to operate at a greater speed than 40 miles an hour over its track. Amtrak has offered to compensate the railroad if it would improve its track so that Amtrak could increase its speed. The track today is suitable for MoPac to operate at 40 miles per hour, and it is not going to do anything to help Amtrak improve its own service.

It seems to me that if we pass an amendment like this, what we are actually doing is discouraging the improvement of the right-of-way. We are going to hinder the improvement of our intercity transportation system because it gives the railroads the very excuse they want not to improve tracks.

The CHAIRMAN. The time of the gentleman has expired.

Mr. STAGGERS. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I agree with what the gentleman from Kansas and Pennsylvania have said that this would put a hindrance on Amtrak. Most of the railroads in this country drove the passenger service out of being because they were making money on the freight service and just did not want to be bothered with passenger service. They still do not want to be bothered with it today.

I would say that most of the railroads in the country would say, "We do not want any impediment put on our railroads. We will not accept any improvements on here because we do not want liens on them."

Amtrak would probably have to detour over some other railroad or reduce the rate of speed over that railroad that they are going through. I do not believe the amendment ought to be adopted. It would be detrimental to the bill.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. SOLARZ).

The question was taken; and on a division (demanded by Mr. SOLARZ) there were—ayes 12, noes 25.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. HEFNER

Mr. HEFNER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HEFNER: Page 6, immediately after line 2, insert the following new section:

ENTERTAINMENT AND PROMOTIONAL EXPENSES

SEC. 7. Section 601 of the Rail Passenger Service Act (45 U.S.C. 601) is amended by adding at the end thereof the following new subsection:

"(c) The Secretary shall, within 90 days after the date of enactment of this subsection, establish guidelines to govern the expenditure of funds by the Corporation for entertainment and promotional expenses incurred by any officer or employee of the Corporation. Such guidelines shall include provisions prohibiting any expenditure by the Corporation to pay (1) the cost, in whole or in part, of membership in any private social or athletic club incurred by any officer or employee of the Corporation, and (2) the cost of alcoholic beverages purchased by any such officer or employee for entertainment purposes and not for resale in the ordinary course of business.".

Renumber subsequent sections accordingly.

Mr. HEFNER. Mr. Chairman, the Washington Post of April 5, 1976, carried a column by Jack Anderson and Les Whitten entitled "Amtrak Chiefs Spend," another similar article appeared in the Washington Star on May 7, 1976. These articles detail a number of examples where Amtrak officials have spent funds on food and liquor for parties for themselves and meetings with Federal officials, and where Amtrak executives are also provided memberships in exclusive social and country clubs. These expenses pass under the label of official entertainment and promotional expenses.

I asked Amtrak about this, and in reponse to these charges, Amtrak points out that its own internal audits, annual General Accounting Office audits, and the oversight activities of Congress will prevent any spending abuses. But, to my knowledge, Amtrak has not disputed the charges made by the articles referred to above. In fact, Jack Anderson credits Amtrak with cooperating in his investigation and the Star's article is based in part on official Amtrak records.

When Congress created Amtrak, it established the railroad as an independent profit-making corporation. It can hardly be argued now that Amtrak is either of these when the taxpayers of this country have subsidized Amtrak to the extent of some $1 billion since 1971. We are prepared today to offer another $430 million. And the General Accounting Office estimates that from 1976 through 1980, at least $6.2 billion in Federal funds will be required for Amtrak to continue to function.

In light of this, I believe it is unfair to ask our hard-pressed taxpayers to pick up the tab for enterainment expenses of questionable value. The president of Amtrak draws a salary of $85,000. There are nine vice presidents at Amtrak who draw salaries over $50,000 each. These individuals should be able to pay for their own personal luxuries or to do without. As officials of Amtrak, they have an obligation to be frugal with the taxpayers' money.

It has been argued to me that the sums involved here are very small in light of Amtrak's total budget. This argument is beside the point.

We in the Congress have the responsibility to control the spending of every penny in the Federal budget, including this public corporation which is operating to a great extent on public money—particularly at a time when the public is questioning the value of the privileges enjoyed by Federal officials.

As a former member of the Transportation Subcommittee of our great Interstate and Foreign Commerce Committee, I have supported Amtrak in the past. I believe there is a great need for an adequate rail passenger system in this country.

However, it makes it very difficult and personally embarrassing for me to justify to my constituents the need to support Amtrak when its top officials continue to spend my constituents' funds for things that, in my judgment, have nothing to do with running a railroad.

Mr. Chairman, Members have heard the clerk read my amendment. It is very simple. It would require the Secretary of Transportation to establish guidelines for expenditures of funds by Amtrak for its entertainment and promotional expenses. These guidelines would specifically prohibit the cost of memberships in private social or athletic clubs for any officer or employee of Amtrak and would prohibit the purchase of alcoholic beverages for entertainment purposes and not for resale in the ordinary course of business.

Let me point out that the amendment would not prohibit Amtrak from lobbying, entertaining, or promoting its legitimate railroad business. Nor would it affect current Amtrak practices regarding the sale of alcoholic beverages on its passenger trains. It would simply require Amtrak to practice austerity with our taxpayers' money and to eliminate two of the more obvious abuses of its entertainment budget.

I hope Members will support my amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from North Carolina (Mr. HEFNER).

The amendment was agreed to.

Mr. DRINAN. Mr. Chairman, I rise in strong support of the Amtrak Improvement Act, H.R. 13601. This legislation must be enacted if we are to continue Amtrak as a vital part of America's railroad system.

Five years ago Congress pledged itself to provide a viable and efficient railroad network throughout the country, encompassing both passenger and freight service. The sudden bankruptcy of the Penn Central Railroad in 1970 had the effect of alerting our citizenry to the precipitous decline that the railroads had gone through in recent years. Out of that crisis situation, a bill was passed by the Congress which created Amtrak as the passenger branch of a revitalized railway system.

Since the passage of that bill, Mr. Chairman, we have discovered that our continued commitment to the railroad will be neither easy nor inexpensive. There are those among us, such as President Ford, who would already like to give up insofar as maintaining a nationwide rail system. The President has asked for only $378 million to cover Amtrak's budget, an amount which could very well force the Amtrak system to drop up to half of its current 38 routes.

If the Congress were to accept the President's suggested budget, Amtrak would be reduced to a bare skeleton system serving only the largest cities in the United States. In view of the importance of revitalizing our railroads, this would be an ill-advised and tragic decision for this nation's citizens. It is true that there are numerous problems to be overcome, but the Federal Government cannot shy away from its responsibility to provide both passenger and freight rail service throughout the country.

In seeking to curtail Amtrak, administration officials have pointed to Amtrak's poor financial record and need for continuing operating subsidies. In the 5 years of its existence, operating deficits at Amtrak have now passed the $1 billion mark, and a reversal of this situation is not expected in the next 5 years. Based on this experience, the administration's attitude is to "cut its losses" and allow the rail consumer to meet his own transportational needs.

Mr. Chairman, it is quite obvious that we must do more than consider just economic costs in determining Amtrak's future. I believe that we must give as much weight to social and environmental factors in weighing the important decisions which we are making today. America's transportational capabilities are already woefully inadequate, even given the limited rail system which the Congress created in 1970. If we further reduce that rail capability, it will truly be a black day in American transportation history.

There can be little doubt that Amtrak's performance has not been up to expectations. As I indicated when the Amtrak Improvement Act was before the Congress last year, I have been greatly troubled by the fact that the Amtrak system has needed such extensive subsidies to keep operating. I feel that with good management, the taxpayer should not have to continue to support the huge deficits which have been accumulated so far. Yet at the same time, I also feel that it is too early to "call it quits" on this important undertaking.

Mr. Chairman, I would argue that it is still too soon to make definitive judgments about Amtrak's performance. The company is only beginning to see the benefits of the capital investment of its earlier years. Amtrak has just recently begun receiving, at a rate of 1 per day, the first of 800 new cars and some 150 locomotives that have been on order since 1973. Consequently, it will take time to develop the capacity to manage the new equipment and recycle its existing stock before the most efficient operating standards can be set. Surely it would be a mistake to curtail Amtrak's operations at a time when the rewards of our previous commitment are just now being shown.

Under the provisions of the Amtrak Improvement Act, a total of $878 million would be authorized for fiscal years 1977 and 1978 in Federal grants to Amtrak. Approximately half of this total—$430 million—will go towards operating grants. Another $280 million will be directed for capital improvement purposes. New passenger cars, right of way improvements, locomotives, and other purchases will be made with these authorizations. Also, $143 million will be targeted for the Northeast quarter operating expenses.

Mr. Chairman, I am supporting this legislation, but I want it to be known to Amtrak officials that the Congress' support of railroad revitalization will not tolerate inefficient Amtrak management. I have been encouraged by steps which the new president of Amtrak has taken to improve the efficiency and operations of railroad passenger service. His vow to upgrade the Federal system is most encouraging in view of his previous achievements and experience in the field of railroads. However, the road ahead is fraught with difficulty for Amtrak, and it will indeed take enlightened leadership to rescue the railroad system from its reoccurring financial deficits.

Mr. Chairman, I hope that when the Congress debates the next authorization for Amtrak significant progress will have been made. The American public genuinely wants to see a revitalized rail system operating in this country. Although Amtrak has gotten off to a rocky start, I do believe that it can still provide the needed passenger service for which it was originally created 5 years ago. I therefore urge my colleagues to support H.R. 13601.

The CHAIRMAN pro tempore. Are there further amendments? If not, under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker having resumed the chair, Mr. LEVITAS, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 13601) to amend the Rail Passenger Service Act to authorize additional appropriations, and for other purposes, pursuant to House Resolution 1271, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ROONEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of H.R.13601, the bill just passed by the House.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

OLYMPIC WINTER GAMES AUTHORIZATION ACT

Mr. ROONEY. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the

State of the Union for the further consideration of the bill (H.R. 13490) authorizing appropriations for the 1980 Olympic winter games at Lake Placid, N.Y.

The SPEAKER. The question is on the motion offered by the gentleman from Pennsylvania (Mr. ROONEY).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 13490, with Mrs. SPELLMAN in the chair.

The clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. When the committee rose on Wednesday, June 9, 1976, the clerk had read through line 24, page 5 of the bill.

Are there any amendments to section 1?

If not, the clerk will read.

The clerk read as follows:

FINDINGS

SEC. 2. The Congress finds and declares that—

(1) it is desirable for Americans of present and future generations to be assured adequate outdoor recreational resources and wilderness areas;

(2) the XIII international Olympic winter games, which are to be held in the United States at Lake Placid, New York, in 1980, will further an awareness and appreciation of indoor and outdoor recreational activities and of the need for preserving wilderness areas; and

(3) the Congress has pledged its cooperation and support in the successful fulfillment of the 1980 Olympic winter games.

GRANTS FOR OLYMPIC WINTER GAMES

SEC. 3. The Secretary of Commerce (hereinafter in this Act referred to as the "Secretary") shall provide grants to the Lake Placid 1980 Olympic Games, Incorporated, a not-for-profit corporation incorporated under the laws of the State of New York, or to State, local, or other public agencies, for purposes of assisting in the planning, design, and construction of the necessary winter sports and supporting facilities in connection with the XIII international Olympic winter games to be held at Lake Placid, New York, in 1980. Such grants shall be provided in such sums, at such times, and under such conditions as the Secretary considers necessary and appropriate, except that if the actual cost of any Olympic winter games facility for which a grant has been made under this section exceeds the estimated cost which served as the basis for determining the amount of such grant, the Secretary shall not provide Federal funds for more than 50 per centum of the excess over such estimated cost.

ENVIRONMENTAL PROTECTION

SEC. 4. In carrying out the provisions of this Act, the Secretary shall—

(1) coordinate activities and plans for the 1980 Olympic winter games in order to assure that (A) such activities and plans are consistent in all respects with State laws, rules, regulations, and plans governing the use, management, and development of Adirondack Park and, (B) such activities and plans will not require any modification in any such State law, rule, regulation, or plan; and

(2) take such action as may be necessary and appropriate to provide that all activities relating to the staging of the 1980 Olympic winter games will be carried out in a manner designed to assure the preservation and enhancement of the outdoor recreational and wilderness values of Adirondack Park and the Lake Placid area.

CONTINUED PUBLIC USE

SEC. 5. The Secretary, in coordination and consultation with State and local officials, shall take such action as may be necessary and appropriate to assure that all facilities designed and constructed with Federal financial assistance pursuant to this Act will be designed and constructed in a manner which will provide maximum continued public use and benefit following the completion of the 1980 Olympic winter games.

REPORTS

SEC. 6. (a) The Secretary shall, within three months after the end of fiscal year 1977 and within three months after the end of each of the two succeeding fiscal years, submit an interim report to the Congress on the progress of the design and construction of facilities for the 1980 Olympic winter games pursuant to this Act, together with his recommendations, if any, for further Federal Government involvement to assure a successful staging of such games.

(b) The Secretary shall, within three months after completion of the 1980 Olympic winter games, submit a final report to the Congress containing a summary of all activities undertaken by the Secretary in the administration of this Act, including a description of the action taken to assure the maximum continued public use of Olympic facilities designed and constructed with Federal financial assistance.

RECORDS AND AUDIT

SEC. 7. (a) Each recipient of financial assistance under this Act, whether in the form of grants, subgrants, contracts, subcontracts, loans, or other arrangements, which are entered into other than by formal advertising and which are otherwise authorized by this Act, shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and the disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, the amount of that portion of the cost of the project or undertaking supplied by other sources, an identification of such other sources, and such other records as will facilitate an effective audit.

(b) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall, until the expiration of three years after completion of the project or undertaking referred to in subsection (a) of this section, have access for the purpose of audit and examination to any books, documents, papers, and records of the recipients of financial assistance which in the opinion of the Secretary or the Comptroller General may be pertinent to the grants, contracts, subcontracts, subgrants, loans, or other arrangements referred to in such subsection (a).

AUTHORIZATIONS OF APPROPRIATIONS

SEC. 8. (a) There is authorized to be appropriated to the Secretary the sum of $49,040,000 for purposes of providing grants pursuant to section 3 of this Act for the planning, design, and construction of the necessary facilities for the 1980 Olympic winter games.

(b) There is also authorized to be appropriated to the Secretary the sum of $250,000 for the administration of this Act.

(c) Sums appropriated pursuant to this section are authorized to remain available until expended.

Mr. ROONEY (during the reading). Madam Chairman, I ask unanimous consent that the committee amendment in the nature of a substitute be considered as read, printed in the RECORD, and open to amend at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

AMENDMENTS OFFERED BY MR. SKUBITZ

Mr. SKUBITZ. Madam Chairman, I offer amendments.

The Clerk read as follows:

Amendments offered by Mr. SKUBITZ: Amend section 2 of H.R. 13490 by deleting the "and" at the end of paragraph (2), adding "; and" to the end of paragraph (3), and adding the following additional paragraph;

"(4) assistance authorized by this Act is provided in recognition of the unique economic circumstances of the Lake Placid area and should not be considered as establishing a precedent for any future federal assistance for international athletic competitions."

Amend section 3 of H.R. 13490 by adding the following sentence:

"All revenues generated by the XIII International Olympic Winter Games in excess of actual costs shall revert to the U.S. Treasury in an amount not to exceed monies appropriated pursuant to authorizations in this act."

Mr. SKUBITZ (during the reading). Madam Chairman, I ask unanimous consent that the amendments be considered as read, printed in the RECORD, and considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Kansas?

There was no objection.

Mr. SKUBITZ. Madam Chairman, the purpose of this amendment is to require that profits from the winter Olympic games, if any, be used to pay off the moneys provided by the Federal Government. This bill authorizes some $49 million to be used for a variety of projects connected with the winter Olympic games of 1980. As I said yesterday, my visit to Lake Placid convinced me that the money is needed. Nevertheless, I am concerned that we not establish a precedent whereby other localities might use this practice to create windfall profits for their communities. In Lake Placid, I am convinced there will be no windfall profits, but we are entering into a new era of Federal financing for international sports. I would hope that that Federal financing is confined to Olympic games. Moreover, we should make clear that profits should be used first to pay back any Federal money necessary for the construction of facilities at an Olympic site.

My amendment would simply request that any revenues generated by the Winter Olympics in excess of actual cost be paid to the United States until the money given by the United States is paid back. I think this is a reasonable amendment and I think it is a necessary amendment from the standpoint of precedent. As a factual matter, I do not foresee the winter Olympics at Lake Placid generating profits, but I believe that it is incumbent upon us to establish the correct principles in this, our first, Federal grant for Olympic competition.

Madam Chairman, my second amendment to the Olympic Winter Games Authorization Act simply sets forth the sense of the Congress that we are not establishing a precedent for future assistance for international athletic competition. As I have stated, I am convinced that Lake Placid deserves $49 million authorized by this bill. I also realize that we are entering a new area for Federal financing.

I, for one, do not want to see the Federal Government asked to finance every international sports competition that comes up. Quite frankly, one of the strengths of international athletic competition is the cooperation and dedication of hundreds of volunteers who raise the money and complete the plans for such events. If we place ourselves in the position of providing the "free lunch" for international sports competition, it will not be long before our welfarism detracts from the value of such competition.

The Lake Placid situation is unique. Here is a small community of some 3,000 or 4,000 people which already had some of the finest winter facilities in the country for the Olympics. Those facilities, however, needed significant enhancing to accommodate the greatly expanded Winter Olympics schedule. No one could reasonably expect a small community in upstate New York to provide the necessary resources to do this job alone. The success of the 1980 Winter Olympics is a success to be shared by all Americans. And it is right and reasonable that this legislation provide money necessary to assure that success. At the same time, Madam Chairman, I think the legislation should clearly state that the assistance authorized by this act is provided in recognition of the unique economic circumstances of the Lake Placid area and should not be considered as establishing a precedent for any future Federal assistance for international athletic competition. Already, we have seen those who want financing for the Pan American games. I am certain that other groups will be fast in the footsteps of those supporting funding for the Pan American games. Let us clearly state that this authorization was considered on its merits and deemed worthy of our support, but in no way does it mean that we are embarked upon a policy of funding every international athletic competition which comes down the pike.

Mr. ROONEY. Madam Chairman, if the gentleman will yield, I have had an opportunity to review the amendments offered by the gentleman from Kansas (Mr. SKUBITZ) and we will accept his amendments.

Mr. SKUBITZ. I thank the gentleman.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Kansas (Mr. SKUBITZ).

The amendments were agreed to.

Mr. PATTISON of New York. Madam Chairman, I rise in support of H.R. 13490, authorizing funds for construction of facilities for the 1980 Winter Olympics at Lake Placid, N.Y.

In these times of economic difficulty and our efforts to keep Federal spending down, I was not at first convinced that building a sports complex in a remote, mountainous area was a very wise use of our tax dollars. Even though the tax dollars would be coming to my State, I had doubts about the public value of constructing facilities which I thought might be useful only as a monument to international sports once the short period of Olympic activity was completed.

I took my doubts to Lake Placid and discussed them thoroughly with the local Olympic Organizing Committee.

Madam Chairman, I only wish that our neighbors to the north who are now in expensive preparation for the 1976 summer Olympics could have sat in on this meeting. They could have learned much from what the committee has already done in planning the 1980 competition.

I was impressed, Madam Chairman. The Lake Placid Olympic Organizing Committee has learned from the mistakes of other Olympic host communities. First of all, they started from the bottom, asking the people of Lake Placid if they were willing to commit themselves to the project. When the people resoundingly answered "Yes," the committee proceeded to secure the support of Congress and then the International Olympic Committee.

My colleagues are already familiar with the list of facilities which we are buying with Federal funds. They may be interested to know that the local committee and community is also raising $3 million on their own and New York State is contributing another $13 million to the project.

I just want to say that my questions were completely satisfied by the committee's thorough planning. Adequate housing, transportation and sports facilities are planned while still giving careful attention to environmental concerns.

What was most convincing, however, was the thoughtful attention to future use of the facilities. The Olympic project will provide our athletes with training and competition facilities for use many years after the last 1980 Olympic medal is awarded. Many international competitions will be held at Lake Placid, and there is a good possibility that we can look forward to establishing a system of rotating Olympic sites rather than building new facilities every 4 years.

Ms. ABZUG. Madam Chairman, I rise in support of H.R. 13490—the Olympic winter games authorization. The United States is honored to be the host of the 1980 winter Olympics. The Olympics is a special event, which brings together thousands of people from all over the world. Lake Placid has offered to accept the tremendous responsibility of administering the 1980 winter Olympics.

Lake Placid hosted the 1932 Olympic winter games and every year since then has hosted major sports competitions, including more world championships than anywhere else in the world. Existing facilities already include an arena with seating for 1,800 spectators, a second ice surface for figure skating practice, a 70-meter ski jump, a biathlon range and trail system, a 1,500-meter bobsled run, and an alpine ski area for downhill events. These facilities are valued at $20 million. According to the rules set by the International Olympic Committee, the facilities for the games must be in place 1 year prior to the opening date of the games. I do not know of any other sports center in the United States which is as well prepared to host the Olympic events as Lake Placid.

In May 1976, President Ford pledged Federal assistance for constructing permanent facilities at Lake Placid for the Olympic games. Now the administration has decided not to support a number of the facilities recommended by the Interstate and Foreign Commerce Committee on the grounds that these facilities should be financed from revenues derived from the Olympics or from State and local funding. The administration does not realize that the Lake Placid Olympic Organizing Committee and the local towns in the area have already accepted the responsibility for all the organization and administrative expenses. These expenses are projected to $13.3 million. In addition to the local funding, the State of New York is planning to contribute about $12 million toward the games in order to renovate the facilities at Whiteface Mountain and Mount Howenberg to meet the Olympic specifications.

The State has also agreed to contribute over $10 million toward the administrative effort. Certainly, the State and local community are already contributing as much as they are financially able.

The administration has expressed concern that a number of facilities are not worth funding, that these facilities do not meet the criteria of national use and permanency. This is a misapplication of those criteria.

Many of these facilities would have to be provided in any case, if we are to hold the Olympics in the United States. Accomodations for 1,800 people will be needed and therefore the "Olympic village" is essential. Other facilities which were denied support, such as the construction of administrative offices, improvement and expansion of existing facilities, parking facilities and increased electrical power, will be of a permanent nature and are not only essential for the 1980 Olympics but for all major events in the future.

Lake Placid is already the center for many winter sport training programs in the United States. These improvements to the already existing facilities will help create the best equipped winter sports center in the country, a facility which will benefit young athletes from all over the world.

Mr. BIAGGI. Madam Chairman, as a New Yorker and as an American, I rise to indicate my full support for H.R. 13490, legislation providing appropriations for the 1980 winter Olympic games to be held in Lake Placid, N.Y. I am proud to be an original cosponsor of this legislation, and feel its passage will be applauded by all Americans who recognize the international significance and prestige associated with hosting the Olympic games.

In August of 1974, I rose in support of Senate Concurrent Resolution 72 which endorsed the bid of Lake Placid to be the official site for the 1980 games. At that time, I expressed my hopes that the plans of the International Olympic Committee would adhere to the environmental laws which govern the Adirondack Park region in which Lake Placid is located. I am pleased to report that this legislation we are considering today, fully reflects the promise of the Olympic committee to preserve and enhance the rich, outdoor recreation and wilderness of the Adirondack Park region.

Lake Placid will enjoy the prestigious distinction of being the only American community to host two winter Olympic games. Its impressive credentials as a site for international winter sport competitions are well known and have helped it to achieve this milestone.

There was never any serious doubt about Lake Placid's bid to host the 1980 Olympics. This area already has many of the facilities necessary to successfully conduct an event such as the winter Olympics. Included among their many existing facilities are outstanding Alpine and cross-country ski trails, excellent bobsled runs, as well as world renowned figure skating and ice hockey rinks. Their abundance of winter sports facilities has allowed Lake Placid to become the leading host site for major national and international winter sports championship events.

What this bill seeks to do is provide some $49 million in authorizations to finance certain costs associated with the 1980 Olympics. The need for Federal assistance is clear. It took the community of Lake Placid until 1967, to redeem the bonds they issued to help pay off the costs associated with the 1932 Olympics. Nevertheless, the Lake Placid Olympic Organizing Committee and the local governments have committed themselves to meeting all necessary organization and administrative expenses which are expected to exceed $13 million. But the other expenses associated with this event are beyond the reach of both the community of Lake Placid and the Government of New York State. Included among these expenses are renovations of existing facilities as well as the construction of new facilities, such as the $12 million Olympic village which will be used to house the athletes and coaches. This represents a sound investment, not only in terms of insuring the success of the Olympic games, but also for providing a permanent home for American athletic training for Olympics to come.

There is a vestige of American pride associated with this legislation. Traditionally, the athletes of the host country of the Olympics have fared somewhat better in the overall competition of the Olympic games. This was demonstrated very clearly this past year in Innsbruck, where Austrian athletes did much better than expected.

I am very pleased at the prospects of millions of visitors from the United States and around the world visiting Lake Placid. They will have an opportunity to see the breathtaking beauty of the Lake Placid region and hopefully will also respect the strict environmental laws which have maintained the beauty of the area. Of course, the Lake Placid region and the State of New York will benefit from the tourist revenues which is an added plus.

Madam Chairman, I wish to commend the distinguished chairman of the Interstate and Foreign Commerce Committee, Mr. STAGGERS, for his outstanding leadership on behalf of this bill. Lake Placid has both the high tradition and proven capabilities to conduct the 1980 Olympics with true distinction.

The CHAIRMAN. Are there further amendments?

If not, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mrs. SPELLMAN, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 13490) authorizing appropriations for the 1980 Olympic winter games at Lake Placid, N.Y., pursuant to House Resolution 1270, she reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted in the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. PEYSER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 179, nays 147, not voting 105, as follows:

[Roll No. 363]

YEAS—179

Abzug
Addabbo
Alexander
Allen
Ambro
Andrews, N. Dak.
Annunzio
Armstrong
Ashley
Badillo
Baldus
Baucus
Beard, R.I.
Bergland
Biaggi
Bingham
Boggs
Boland
Bonker
Bowen
Breckinridge
Brown, Ohio
Broyhill
Burke, Mass.
Burlison, Mo.
Burton, Phillip
Byron
Carney
Carter
Chappell
Chisholm
Clausen, Don H.
Cleveland
Cohen
Conable
Conte
Corman
Cotter
Danielson
Delaney
Diggs
Dingell
Downey, N.Y.
Downing, Va.
Duncan, Tenn.
du Pont
Eilberg
Emery
Erlenborn
Fary
Fascell
Fish
Flood
Florio
Gaydos
Gilman
Ginn
Goodling
Gude
Guyer
Hagedorn
Haley
Hamilton
Hanley
Hannaford
Hayes, Ind.
Heckler, Mass.
Hicks
Holtzman
Howard
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, N.C.
Jones, Tenn.
Jordan
Kemp
Ketchum
Kindness
LaFalce
Latta
Lent
Litton
Lloyd, Calif.
Long, Md.
Lundine
McClory
McCloskey
McDade
McEwen
McFall
McHugh
Madden
Matsunaga
Metcalfe
Meyner
Mezvinsky
Michel
Mills
Mineta
Minish
Mitchell, N.Y.
Moakley
Moffett
Moorhead, Pa.
Morgan
Mosher
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Pa.
Natcher
Nix
Nolan
Nowak
Oberstar
O'Neill
Ottinger
Patten, N.J.
Pattison, N.Y.
Pepper
Perkins
Peyser
Pike
Preyer
Price
Pritchard
Quie
Quillen
Railsback
Rangel
Regula
Rhodes
Rinaldo
Rodino
Roe
Rogers
Rooney
Rosenthal
Rostenkowski
Roybal
Ruppe
Russo
Ryan
Sarbanes
Scheuer
Seiberling
Shipley
Shriver
Shuster
Skubitz
Slack
Solarz
Staggers
Stanton, J. William
Steed
Stephens
Stratton
Studds
Sullivan
Thornton
Tsongas
Udall
Ullman
Vander Jagt
Vander Veen
Walsh
Wampler
Waxman
Whalen
Wilson, Bob
Wilson, Tex.
Wolff
Wright
Yatron
Young, Alaska
Young, Ga.
Zablocki
Zeferetti

NAYS—147

Abdnor
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Archer
Ashbrook
Aspin
AuCoin
Bafalis
Bauman
Beard, Tenn.
Bennett
Bevill
Blanchard
Blouin
Breaux
Brinkley
Brodhead
Brown, Mich.
Buchanan
Burke, Fla.
Burleson, Tex.
Burton, John
Butler
Carr
Cochran
Collins, Tex.
Cornell
Coughlin
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Davis
Derrick
Derwinski
Devine
Dickinson
Dodd
Drinan
Duncan, Oreg.
Eckhardt
Edgar
Edwards, Ala.
English
Evans, Colo.
Evans, Ind.
Fenwick
Findley
Fisher
Fithian
Foley
Ford, Tenn.
Forsythe
Fountain
Frey
Gibbons
Gonzalez
Gradison
Grassley
Hall
Hammerschmidt
Hansen
Harkin
Harris
Hechler, W. Va.
Hefner
Henderson
Hightower
Hillis
Holland
Holt
Hubbard
Hughes
Hungate
Hutchinson
Hyde
Jarman
Jenrette
Kazen
Kelly
Krebs
Krueger
Lagomarsino
Lehman
Levitas
Lloyd, Tenn.
Lott
Lujan
McCollister
McCormack
McDonald
McKay
Madigan
Mahon
Mann
Martin
Mazzoli
Mikva
Miller, Calif.
Miller, Ohio
Mitchell, Md.
Montgomery
Moore
Moorhead, Calif.
Moss
Myers, Ind.
Neal
Nedzi
Nichols
O'Brien
Patterson, Calif.
Pickle
Poage
Pressler
Reuss
Roberts
Roush
Runnels
Sarasin
Satterfield
Schneebeli
Schroeder
Schulze
Sebelius
Sharp
Simon
Snyder
Spellman
Spence
Stark
Steiger, Wis.
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Thone
Traxler
Weaver
White
Whitehurst
Whitten
Wiggins
Wilson, C. H.
Wirth
Yates
Young, Fla.

NOT VOTING—105

Adams
Bedell
Bell
Biester
Bolling
Brademas
Brooks
Broomfield
Brown, Calif.
Burgener
Burke, Calif.
Cederberg
Clancy
Clawson, Del
Clay
Collins, Ill.
Conlan
Conyers

Daniels, N.J.
de la Garza
Dellums
Dent
Early
Edwards, Calif.
Esch
Eshleman
Evins, Tenn.
Flowers
Flynt
Ford, Mich.
Fraser
Frenzel
Fuqua
Giaimo
Goldwater
Green
Harrington
Harsha
Hawkins
Hays, Ohio
Hébert
Heinz
Helstoski
Hinshaw
Horton
Howe
Ichord
Jacobs
Jeffords
Jones, Ala.
Jones, Okla.
Karth
Kasten
Kastenmeier
Keys
Koch
Landrum
Leggett
Long, La.
McKinney
Maguire
Mathis
Meeds
Melcher
Milford
Mink
Mollohan
Mottl
Obey
O'Hara
Passman
Paul
Pettis
Randall
Rees
Richmond
Riegle
Risenhoover
Robinson
Roncalio
Rose
Rousselot
St Germain
Santini
Sikes
Sisk
Smith, Iowa
Smith, Nebr.
Stanton, James V.
Steelman
Steiger, Ariz.
Stokes
Stuckey
Symington
Teague
Thompson
Treen
Van Deerlin
Vanik
Vigorito
Waggonner
Winn
Wydler
Wylie
Young, Tex.

The Clerk announced the following pairs:

On this vote:

Mr. Thompson for, with Mr. Fuqua against.

Mr. Brademas for, with Mr. Mottl against.

Mr. Brown of California for, with Mr. Clancy against.

Mr. Dominick V. Daniels for, with Mr. Rousselot against.

Mr. Helstoski for, with Mr. Del Clawson against.

Mr. Dent for, with Mr. Eshleman against.

Mr. Edwards of California for, with Mr. Robinson against.

Mr. Jeffords for, with Mrs. Smith of Nebraska against.

Mr. Flynt for, with Mr. Treen against.

Mr. Ford of Michigan for, with Mr. Hébert against.

Mr. Stuckey for, with Mr. Passman against.

Mr. Winn for, with Mr. Mathis against.

Mr. Roncalio for, with Mr. Milford against.

Mr. St Germain for, with Mr. Paul against.

Mr. Koch for, with Mr. Sikes against.

Mr. Riegle for, with Mr. Teague against.

Mr. Wydler for, with Mrs. Pettis against.

Mr. Horton for, with Mr. Bell against.

Until further notice:

Mr. Giaimo with Mr. Adams.

Mr. Brooks with Mr. Bedell.

Mr. Clay with Mr. Randall.

Mr. Landrum with Mrs. Burke of California.

Mrs. Collins of Illinois with Mr. Biester.

Mr. Conyers with Mr. Van Deerlin.

Mr. Stokes with de la Garza.

Mr. Vigorito with Mr. Broomfield.

Mr. Vanik with Mr. Conlan.

Mr. Waggonner with Mr. Cederberg.

Mr. Sisk with Mr. Esch.

Mr. Rees with Mr. Evins of Tennessee.

Mr. Smith of Iowa with Mr. Burgener.

Mr. Meeds with Mr. Flowers.

Mr. Obey with Mr. Frenzel.

Mr. O'Hara with Mr. Fraser.

Mr. Young of Texas with Mr. Green.

Mr. Rose with Mr. Harrington.

Mr. Richmond with Mr. Early.

Mr. Ichord with Mr. Harsha.

Mr. Hawkins with Mr. Howe.

Mr. Hays of Ohio with Mr. Heinz.

Mr. Jacobs with Mr. Kasten.

Mr. Kastenmeier with Mr. Jones of Alabama.

Mr. Jones of Oklahoma with Mrs. Keys.

Mr. Leggett with Mr. McKinney.

Mr. Maguire with Mr. Melcher.

Mrs. Mink with Mr. Long of Louisiana.

Mr. Mollohan with Mr. Risenhoover.

Mr. Santini with Mr. James V. Stanton.

Mr. Symington with Mr. Steelman.

Mr. Wylie with Mr. Steiger of Arizona.

Messrs. EVANS of Colorado, BREAUX, O'BRIEN, ANDERSON of California, McCORMACK, and FORSYTHE changed their vote from "yea" to "nay."

Mr. SEIBERLING changed his vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2184) to authorize appropriations for the winter Olympic games, and for other purposes, a similar Senate bill to that just passed by the House, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2184

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress declares it to be desirable to the long-term interest of the United States that the Federal Government contribute to the construction of the permanent, unique sports facilities for the thirteenth international winter Olympic games which are to be held in the United States at Lake Placid, New York, in 1980.

SEC. 2. (a) The Secretary of Commerce is authorized to assist the Lake Placid 1980 Olympic Games, Incorporated, a not-for-profit corporation of the State of New York, or any appropriate public authority in planning, designing, or constructing the permanent, unique sports facilities necessary for the thirteenth winter Olympic games, specifically those facilities needed for speed skating, figure skating, 90-meter ski jump, and luge events.

(b) The Secretary may provide such assistance by making grants not to exceed a total of $28,000,000 to finance 100 per centum of the estimated cost of providing such facilities: *Provided,* That he may also make additional grants not to exceed 50 per centum of any costs over this amount which shall be attributable to increases in construction costs over costs projected as of January 1, 1976.

(c) The Secretary shall use authorities and funding presently and otherwise available to the maximum extent possible.

(d) Any assistance extended under title I of the Public Works and Economic Development Act of 1965, as amended, for the purpose of this Act, shall be excluded from the limitation of section 103 and the requirements for a non-Federal matching share as provided by section 101(c) of the Public Works and Economic Development Act.

SEC. 3. There is authorized to be appropriated such sums as may be necessary to carry out provisions of this Act, such funds to remain available until expended.

AMENDMENT OFFERED BY MR. STAGGERS

Mr. STAGGERS. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. STAGGERS: Strike out all after enacting clause of the Senate bill, S. 2184, and insert in lieu thereof the provisions of H.R. 13490, as passed, as follows:

SHORT TITLE

SECTION 1. This Act may be cited as the "Olympic Winter Games Authorization Act".

FINDINGS

SEC. 2. The Congress finds and declares that—

(1) it is desirable for Americans of present and future generations to be assured adequate outdoor recreational resources and wilderness areas;

(2) the XIII international Olympic winter games, which are to be held in the United States at Lake Placid, New York, in 1980, will further an awareness and appreciation of indoor and outdoor recreational activities and of the need for preserving wilderness areas;

(3) the Congress has pledged its cooperation and support in the successful fulfillment of the 1980 Olympic winter games; and

(4) assistance authorized by this Act is provided in recognition of the unique economic circumstances of the Lake Placid area and should not be considered as establishing a precedent for any future Federal assistance for international athletic competitions.

GRANTS FOR OLYMPIC WINTER GAMES

SEC. 3. The Secretary of Commerce (hereinafter in this Act referred to as the "Secretary") shall provide grants to the Lake Placid 1980 Olympic Games, Incorporated, a not-for-profit corporation incorporated under the laws of the State of New York, or to State, local, or other public agencies, for purposes of assisting in the planning, design, and construction of the necessary winter sports and supporting facilities in connection with the XIII international Olympic winter games to be held at Lake Placid, New York, in 1980. Such grants shall be provided in such sums, at such times, and under such conditions as the Secretary considers necessary and appropriate, except that if the actual cost of any Olympic winter games facility for which a grant has been made under this section exceeds the estimated cost which served as the basis for determining the amount of such grant, the Secretary shall not provide Federal funds for more than 50 per centum of the excess over such estimated cost. All revenues generated by the XIII International Olympic Winter Games in excess of actual costs shall revert to the U.S. Treasury in an amount not to exceed moneys appropriated pursuant to authorizations in this Act.

ENVIRONMENTAL PROTECTION

SEC. 4. In carrying out the provisions of this Act, the Secretary shall—

(1) coordinate activities and plans for the 1980 Olympic winter games in order to assure that (A) such activities and plans are consistent in all respects with State laws, rules, regulations, and plans governing the use, management, and development of Adirondack Park and, (B) such activities and plans will not require any modification in any such State law, rule, regulation, plan; and

(2) take such action as may be necessary and appropriate to provide that all activities relating to the staging of the 1980 Olympic winter games will be carried out in a manner designed to assure the preservation and enhancement of the outdoor recreational and wilderness values of Adirondack Park and the Lake Placid area.

CONTINUED PUBLIC USE

SEC. 5. The Secretary in coordination and consultation with State and local officials, shall take such action as may be necessary and appropriate to assure that all facilities designed and constructed with Federal financial assistance pursuant to this Act will be designed and constructed in a manner which will provide maximum continued public use and benefit following the completion of the 1980 Olympic winter games.

REPORTS

SEC. 6. (a) The Secretary shall, within three months after the end of fiscal year 1977 and within three months after the end of each of the two succeeding fiscal years, submit an interim report to the Congress on the progress of the design and construction of facilities for the 1980 Olympic winter games pursuant to this Act, together with his recommendations, if any, for further Federal Government involvement to assure a successful staging of such games.

(b) The Secretary shall, within three months after completion of the 1980 Olympic winter games, submit a final report to the Congress containing a summary of all activities undertaken by the Secretary in the administration of this Act, including a description of the action taken to assure the maximum continued public use of Olympic facilities designed and constructed with Federal financial assistance.

RECORDS AND AUDIT

SEC. 7. (a) Each recipient of financial assistance under this Act, whether in the form of grants, subgrants, contracts, subcontracts, loans, or other arrangements, which are entered into other than by formal advertising and which are otherwise authorized by this Act, shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and the disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, the amount of that portion of the cost of the project or undertaking supplied by other sources, an identification of such other sources, and such other records as will facilitate an effective audit.

(b) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall, until the expiration of three years after completion of the project or undertaking referred to in subsection (a) of this section, have access for the purpose of audit and examination to any books, documents, papers, and records of the recipients of financial assistance which in the opinion of the Secretary or the Comptroller General may be pertinent to the grants, contracts, subcontracts, subgrants, loans, or other arrangements referred to in such subsection (a).

AUTHORIZATIONS OF APPROPRIATIONS

SEC. 8. (a) There is authorized to be appropriated to the Secretary the sum of $49,040,000 for purposes of providing grants pursuant to section 3 of this Act for the planning, design, and construction of the necessary facilities for the 1980 Olympic winter games.

(b) There is also authorized to be appropriated to the Secretary the sum of $250,000 for the administration of this Act.

(c) Sums appropriated pursuant to this section are authorized to remain available until expended.

The amendment was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: "Authorizing appropriations for the 1980 Olympic winter games at Lake Placid, N.Y."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 13490) was laid on the table.

GENERAL LEAVE

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on H.R. 13490, the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

OUTER CONTINENTAL SHELF LANDS ACT AMENDMENTS OF 1976

Mr. MURPHY of New York. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 6218) to establish a policy for the management of oil and natural gas in the Outer Continental Shelf; to protect the marine and coastal environment; to amend the Outer Continental Shelf Lands Act; and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from New York (Mr. MURPHY).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 6218, with Mr. NATCHER in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on Friday, June 4, 1976, the Clerk had read through line 20 on page 38.

The Clerk will now read the table of contents and title I.

The Clerk read as follows:

TABLE OF CONTENTS

TITLE I—FINDINGS AND PURPOSES WITH RESPECT TO MANAGING THE RESOURCES OF THE OUTER CONTINENTAL SHELF

Sec. 101. Findings.
Sec. 142. Purposes.

TITLE II—AMENDMENTS TO THE OUTER CONTINENTAL SHELF LANDS ACT

Sec. 201. Definitions.
Sec. 202. National policy for the Outer Continental Shelf.
Sec. 203. Laws applicable to the Outer Continental Shelf.
Sec. 204. Outer Continental Shelf exploration and development administration.
Sec. 205. Revision of bidding and lease administration.
Sec. 206. Outer Continental Shelf oil and gas exploration.
Sec. 207. Annual report.
Sec. 208. New sections of the Outer Continental Shelf Lands Act.
"Sec. 18. Outer Continental Shelf leasing program.
"Sec. 19. Regional Outer Continental Shelf Advisory Boards.
"Sec. 20. Baseline and monitoring studies.
"Sec. 21. Safety regulations.
"Sec. 22. Enforcement.
"Sec. 23. Citizen suits, court jurisdiction, and judicial review.
"Sec. 24. Remedies and penalties.
"Sec. 25. Oil and gas development and production.
"Sec. 26. Outer Continental Shelf oil and gas information program.
"Sec. 27. Federal purchase and disposition of oil and gas.
"Sec. 28. Limitation on export."

TITLE III—OFFSHORE OIL SPILL POLLUTION FUND

Sec. 301. Definitions.
Sec. 302. Establishment of the Fund and the revolving account.
Sec. 303. Prohibition.
Sec. 304. Notification.
Sec. 305. Removal of discharged oil.
Sec. 306. Duties and powers.
Sec. 307. Recoverable damages.
Sec. 308. Cleanup costs and damages.
Sec. 309. Disbursements from the revolving account.
Sec. 310. Fee collection; deposits in revolving account.
Sec. 311. Financial responsibility.
Sec. 312. Trustee of natural resources.
Sec. 313. Claims procedure.
Sec. 314. Judicial review.
Sec. 315. Class actions.
Sec. 316. Representation.
Sec. 317. Jurisdiction and venue.
Sec. 318. Access to records.
Sec. 319. Public access to information.
Sec. 320. Annual report.
Sec. 321. Authorization of appropriations.
Sec. 322. Relationship to other law.

TITLE IV—AMENDMENTS TO THE COASTAL ZONE MANAGEMENT ACT OF 1972

Sec. 401. Amendments to the Coastal Zone Management Act of 1972.

TITLE V—MISCELLANEOUS PROVISIONS

Sec. 501. Review of shut-in or flaring wells
Sec. 502. Review and revision of royalty payments.
Sec. 503. Natural gas distribution.
Sec. 504. Relationship to existing law.

TITLE I—FINDINGS AND PURPOSES WITH RESPECT TO MANAGING THE RESOURCES OF THE OUTER CONTINENTAL SHELF

FINDINGS

SEC. 101. The Congress finds and declares that—

(1) the demand for energy in the United States is increasing and will continue to increase for the foreseeable future;

(2) domestic producton of oil and gas has declined in recent years;

(3) the United States has become increasingly dependent upon imports of oil from foreign nations to meet domestic energy demand;

(4) increasing reliance on imported oil is not inevitable, but is rather subject to significant reduction by increasing the development of domestic sources of energy supply;

(5) consumption of natural gas in the United States has greatly exceeded additions to domestic reserves in recent years;

(6) technology is or can be made available which will allow significantly increased domestic production of oil and gas without undue harm or damage to the environment;

(7) the Outer Continental Shelf contains significant quantities of petroleum and natural gas and is a vital national resource reserve which must be carefully managed so as to realize fair value, to preserve and maintain competition, and to reflect the public interest;

(8) there presently exists a variety of technological, economic, environmental, administrative, and legal problems which tend to retard the development of the oil and natural gas resources of the Outer Continental Shelf;

(9) environmental and safety regulations relating to activities on the Outer Continental Shelf should be reviewed in light of current technology and information;

(10) the development, processing, and distribution of the oil and gas resources of the Outer Continental Shelf, and the siting of related energy facilities, may cause adverse impacts on the various coastal States and other States;

(11) policies, plans, and programs developed by coastal and other States in response to activities on the Outer Continental Shelf cannot anticipate and ameliorate such adverse impacts unless such States are provided with timely access to information regarding activities on the Outer Continental Shelf and an opportunity to review and comment on decision relating to such activities;

(12) because of the national interest

served by the development and production of the resources of the Outer Continental Shelf, the Federal Government should provide financial assistance to coastal and other States to assist them in planning for and ameliorating the impacts associated with such development and production;

(13) funds must be made available to pay for the prompt removal of any oil spilled or discharged as a result of activities on the Outer Continental Shelf and for any damages to public or private interests caused by such spills or discharges; and

(14) because of the possible conflicts between the exploitation of the oil and gas resources in the Outer Continental Shelf and other uses of the marine environment, including fish and shellfish growth and recovery, and recreational activity, the Federal Government must assume responsibility for the minimization or elimination of any conflict associated with such exploitation.

PURPOSES

SEC. 102. The purposes of this Act are to—

(1) establish policies and procedures for managing the oil and natural gas resources of the Outer Continental Shelf in order to achieve national economic and energy policy goals, assure national security, reduce dependence on foreign energy sources, and maintain a favorable balance of payments in world trade;

(2) preserve, protect, and develop oil and natural gas resources in the Outer Continental Shelf in a manner which is consistent with the need (A) to make such resources available to meet the Nation's energy needs as rapidly, as possible, (B) to balance orderly energy resource development with protection of the human, marine, and coastal environments, (C) to insure the public a fair and equitable return on the resources of the Outer Continental Shelf, and (D) to preserve and maintain free enterprise competition;

(3) encourage development of new and improved technology for energy resource production which will eliminate or minimize risk of damage to the human, marine, and coastal environments;

(4) provide States which are impacted by Outer Continental Shelf oil and gas exploration, development, and production with comprehensive assistance in order to anticipate and plan for such impact, and thereby to assure adequate protection of the human environment;

(5) assure that States have timely access to information regarding activities on the Outer Continental Shelf, and opportunity to review and comment on decisions relating to such activities, in order to anticipate, ameliorate, and plan for the impacts of such activities;

(6) assure that States which are directly affected by exploration, development, and production of oil and natural gas are provided an opportunity to participate in policy and planning decisions relating to management of the resources of the Outer Continental Shelf;

(7) minimize or eliminate conflicts between the exploration, development, and production of oil and natural gas, and the recovery of other resources such as fish and shellfish;

(8) provide financial assistance to States to assist them in planning for and ameliorating the impacts of activities on the Outer Continental Shelf;

(9) establish an oil spill liability fund to pay for the prompt removal of any oil spilled or discharged as a result of activities on the Outer Continental Shelf and for any damages to public or private interests caused by such spills or discharges; and

(10) insure that the extent of oil and natural gas resources of the Outer Continental Shelf is assessed at the earliest practicable time.

Mr. MURPHY of New York (during the reading). Mr. Chairman, I ask unanimous consent that the table of contents and title I be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

AMENDMENT OFFERED BY MR. HECHLER OF WEST VIRGINIA

Mr. HECHLER of West Virginia. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HECHLER of West Virginia: On page 44, after line 24, add a new section to read as follows:

"SUNSHINE IN GOVERNMENT

"SEC. 103. (a) Each officer or employee of the Secretary of the Interior who—

"(1) performs any function or duty under this Act or the Outer Continental Shelf Lands Act, as amended by this Act; and

"(2) has any known financial interest in any person who (A) applies for or receives any permit or lease under, or (B) is otherwise subject to the provisions of, this Act or the Outer Continental Shelf Lands Act, shall, beginning on February 1, 1977, annually file with the Secretary of the Interior a written statement concerning all such interests held by such officer or employee during the preceding calendar year. Such statement shall be available to the public.

"(b) The Secretary of the Interior shall—

"(1) act within ninety days after the date of enactment of this Act—

"(A) to define the term 'known financial interest' for purposes of subsection (a) of this section; and

"(B) to establish the methods by which the requirement to file written statements specified in subsection (a) of this section will be monitored and enforced, including appropriate provisions for the filing by such officers and employees of such statements and the review by the Secretary of such statements; and

"(2) report to the Congress on June 1 of each calendar year with respect to such disclosures and the actions taken in regard thereto during the preceding calendar year.

"(c) In the rules prescribed in subsection (b) of this section, the Secretary may identify specific positions within the Department of the Interior which are of a nonregulatory or nonpolicymaking nature and provide that officers or employees occupying such positions shall be exempt from the requirements of this section.

"(d) Any officer or employee who is subject to, and knowingly violates, this section, shall be fined not more than $2,500 or imprisoned not more than one year, or both."

Mr. HECHLER of West Virginia (during the reading). Mr. Chairman, in light of the fact that this amendment was printed in the June 4, 1976, RECORD at page 16676 and also in light of the fact that it is identical to amendments adopted to four bills recently passed by the House, I ask unanimous consent that further reading of the amendment be dispensed with.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

Mr. HECHLER of West Virginia. Mr. Chairman, the purpose of this amendment is to bring more sunshine in Government. It is cosponsored by my colleague, Representative GARY A. MYERS. It is the same provision which the Congress adopted last December for the Federal Energy Administration and some of the employees of the Interior Department administering Public Law 94-163—the Energy Policy and Conservation Act. On May 20, 1976, the House adopted this provision for ERDA employees in H.R. 13350, which authorized appropriations for fiscal year 1977 for ERDA. On June 3, 1976, the House added it to H.R. 9560 for employees of the Environmental Protection Agency who administer the water pollution control program.

Our amendment requires officers and employees of the Interior Department who perform any function under H.R. 6218 to file annually statements of any known financial interest in the person or persons subject to this bill or the Outer Continental Shelf Lands Act, as amended by this bill. Such statements would be available to the public and would have to be reviewed by Interior. Positions at Interior that are of a nonregulatory or nonpolicymaking nature could be exempt from this requirement by the Secretary of the Interior.

The amendment does not prevent Interior employees from having such interests. It merely requires that they disclose such interests. It does not apply to consultants.

Currently, Interior and other Federal agencies require their employees who are at the GS-13 level or above and in a decisionmaking position to file financial interest statements which are not available to the public. This requirement is not based on any statutory provision but on a 1965 Executive Order No. 11222 and Civil Service Commission regulations. But the Executive order and regulations do not have any teeth. Our amendment does.

Moreover, in a series of reports on the effectiveness of the financial disclosure system for agency employees, the GAO has found "deficiencies" in the system at Interior and several agencies, including in the collection and timely review of such statements, the identification of employees who should file such statements, and the resolution of problems associated with the statements. At Interior, the GAO said of the 1,435 additional employees who should file statements, over 1,100 were below the GS-13 level. Some of these employees would probably administer H.R. 6218.

Our amendment makes it clear that Interior must look at the positions to determine who should file and not base their decision on the grade level of the employee. It also mandates annual filing by the affected employee and review by the agency and provides criminal penalties for knowing violation. Adequate provision is made for Interior to define what a "known financial interest" is. Indeed, an example of such a definition Interior published regulations defining this term on March 22, 1976 for the purposes of Public Law 94-163. That definition, which is not yet finalized, of course, is as follows:

> Any pecuniary interest of which an officer or employee is cognizant or of which he can reasonably be expected to have knowledge. This includes pecuniary interest in any person engaged in the business of exploring, developing, producing, refining, transporting by pipeline or distributing (other than at the retail level) coal, natural gas, or petro-

leum products, or in property from which coal, natural gas, or crude oil is commercially produced. This further includes the right to occupy or use the aforesaid business or property, or to take any benefits therefrom based upon a lease or rental agreement, or upon any formal or informal contract with a person who has such an interest where the business arrangement from which the benefit is derived or expected to be derived has been entered into between the parties or their agents. With respect to officers or employees who are beneficiaries of "blind trusts," the disclosure is required only of interests that are initially committed to the blind trust, not of interests thereafter acquired of which the employee or officer has not actual knowledge.

I urge adoption of my amendment.

Mr. Chairman, I yield now to the gentleman from Pennsylvania (Mr. MYERS), who cosponsored this amendment with me.

Mr. MYERS of Pennsylvania. Mr. Chairman, I thank the gentleman from West Virginia for yielding.

I rise in strong support of the amendment.

Mr. Chairman, I am very pleased to offer, along with my colleague from West Virginia, KEN HECHLER, this amendment to strengthen the conflict of interest provisions which would be enforced under this bill.

Mr. Chairman, all of us are increasingly aware of the gradual erosion of confidence in the operations of the Government. This is due to many reasons, one of which is the public's fear of conflict of interests by Government officials in their jobs. Certainly nothing could be more detrimental to the public's perception of its Government than to have Government employers using the powers or privileges of Government office to their own benefit. This is a gross misuse of the powers which the citizens have agreed to yield these Federal employers for the sole purpose of the good of the Nation.

I will not belabor further explanation of this amendment, because my colleague from West Virginia has ably done this already. Rather I will simply call upon you to support this amendment for reasons.

First of all, we will be establishing a high code of moral conduct for Government employees working under this act. By passing this amendment we will make this code quite simple. Any policymaking employee must disclose his related interests and that is all. The actual standards of moral conduct will come from the reaction of the people to any potential conflict.

In conclusion, I urge you to support this amendment.

Mr. DODD. Mr. Chairman, will the gentleman yield?

Mr. HECHLER of West Virginia. I yield to the gentleman from Connecticut.

Mr. DODD. Mr. Chairman, I rise in support of the Hechler amendment to require the public disclosure of known financial interests by top policymaking officials in the Department of the Interior. The Hechler amendment addresses the problem of potential conflict of interest between individuals who are granting the leases and those oil companies who bid on the leases.

This is not the first time the House has recognized the need for public disclosure by top policymaking officials of their known financial interests in the companies they deal with. Just 2 weeks ago, I offered a similar amendment to the ERDA authorization which passed the House by a voice vote.

We cannot afford to ignore the growing lack of thrust the public has in our Government officials or in the energy industry. The Hechler amendment is another step in trying to rebuild public confidence.

As Congress increases its commitment to the increased development of domestic energy supplies, we also must insure that steps are taken to avoid any potential conflict of interest between Government and industry.

I urge the adoption of the Hechler amendment as a means to accomplish this objective.

Mr. HECHLER of West Virginia. I thank my colleague, the gentleman from Connecticut.

Mr. MURPHY of New York. Mr. Chairman, if the gentleman will yield, I had a conference with the gentleman from West Virginia, and I understand that the gentleman's amendment will require Interior employees who administer H.R. 6218 and the OCS Act to file annual statements with the Interior Secretary of any known financial interest in the persons affected by this bill and that those statements will be available to the public. Under the amendment, Interior may exempt on a case-by-case basis nonpolicymaking and nonregulatory positions from this filing requirement, such as certain clerical positions. The amendment, which I understand results from recent studies by the GAO critical of Interior's regulation of conflicts of interest, require that Interior review these statements. The amendment is aimed at disclosure of financial interests with the belief that such disclosure will help to prevent future conflicts. We accept the amendment.

Mr. HECHLER of West Virginia. I thank the gentleman from New York.

Mr. FISH. Mr. Chairman, will the gentleman yield?

Mr. HECHLER of West Virginia. I yield to the gentleman from New York.

Mr. FISH. Mr. Chairman, I gladly accept the gentleman's amendment.

Mr. HECHLER of West Virginia. I thank my colleague, the gentleman from New York (Mr. FISH).

The CHAIRMAN. The question is on the amendment offered by the gentleman from West Virginia (Mr. HECHLER).

The amendment was agreed to.

The CHAIRMAN. The Clerk will read title II.

The Clerk read as follows:

TITLE II—AMENDMENTS TO THE OUTER CONTINENTAL SHELF LANDS ACT

DEFINITIONS

SEC. 201. (a) Paragraph (c) of section 2 of the Outer Continental Shelf Lands Act (43 U.S.C. 1331) is amended to read as follows:

"(c) The term 'lease' means any form of authorization which is issued under section 8 or maintained under section 6 of this Act and which authorizes exploration for, and development and production of, deposits of oil, gas, or other minerals;".

(b) Such section is further amended—

(1) in subsection (d), by striking out the period and inserting in lieu thereof a semicolon; and

(2) by adding at the end thereof the following new paragraphs:

"(e) The term 'coastal zone' means the coastal waters (including the lands therein and thereunder) and the adjacent shorelands (including the waters therein and thereunder), strongly influenced by each other and in proximity to the shorelines of the several coastal States, and includes islands, transitional and intertidal areas, salt marshes, wetlands, and beaches, which zone extends seaward to the outer limit of the United States territorial sea and extends inland from the shorelines to the extent necessary to control shorelands, the uses of which have a direct and significant impact on the coastal waters, and the inward boundaries of which may be identified by the several coastal waters, and the inward boundaries of which may be identified by the several coastal States, pursuant to the authority of section 305(b)(1) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1454(b)(1));

"(f) The term 'coastal State' means a State of the United States in, or bordering on, the Atlantic, Pacific, or Arctic Ocean, the Gulf of Mexico, or Long Island Sound, or one or more of the Great Lakes, and such term includes Puerto Rico, the Virgin Islands, Guam, and American Samoa;

"(g) The term 'affected State' means, with respect, to any program, plan, lease, sale, or other activity, proposed, conducted, or approved pursuant to the provisions of this Act, any State—

"(1) the laws of which are declared, pursuant to section 4(a)(2) of this Act, to be the law of the United States for the portion of the outer Continental Shelf on which such activity is, or is proposed to be, conducted;

"(2) which is or is proposed to be directly connected by transportation facilities to any artificial island or structure referred to in section 4(a)(1) of this Act;

"(3) which is receiving, or in accordance with the proposed activity, will receive, oil for processing, refining, or transshipment which was extracted from the outer Continental Shelf and transported by means of vessels or by a combination of means including vessels;

"(4) which is designated by the Secretary as a State in which there is a substantial probability of significant impact on or damage to the coastal, marine, or human environment, or a State in which there will be significant changes in the social, governmental, or economic infrastructure, resulting from the exploration, development, and production of oil and gas anywhere on the outer Continental Shelf; or

"(5) in which the Secretary finds that there is, or will be, a significant risk of serious damage, due to factors such as prevailing winds and currents, to the marine or coastal environment in the event of any oilspill, blowout, or release of oil or gas from vessels, pipelines, or other transshipment facilities;

"(h) The term 'marine environment' means the physical, atmospheric, and biological components, conditions, and factors which interactively determine the productivity, state, condition, and quality of the marine ecosystem, including the waters of the high seas, the contiguous zone, transitional and intertidal areas, salt marshes, and wetlands within the coastal zone and on the outer Continental Shelf of the United States;

"(i) The term 'coastal environment' means the physical, atmospheric, and biological components, conditions, and factors which interactivity determine the productivity, state, condition, and quality of the terrestrial ecosystem from the shoreline inward to the boundaries of the coastal zone;

"(j) The term 'human environment' means the physical, esthetic, social, and economic components, conditions, and factors which interactively determine the state, condition, and quality of living conditions, recreation, air and water, employment, and health of those affected, directly or indirectly, by activities occurring in the outer Continental Shelf of the United States;

"(k) The term 'Governor' means the Governor of a State, or the person or entity designated by, or pursuant to, State law to exercise the powers granted to such Governor pursuant to this Act;

"(l) The term 'exploration' means the process of searching for oil, natural gas, or other minerals, including (1) geophysical surveys where magnetic, gravity, seismic, or other systems are used to detect or imply the presence of such resources, and (2) any drilling, whether on or off known geological structures, including the drilling of a well in which a discovery of oil or natural gas in commercial quantities is made, and the drilling of any additional delineation well after such discovery which is needed to delineate any reservoir and to enable the lessee to determine whether to proceed with development and production;

"(m) The term 'development' means those activities which take place following discovery of oil, natural gas, or other minerals in commercial quantities, including geophysical activity, drilling, platform construction, and operation of all on-shore support facilities, and which are for the purpose of ultimately producing the resources discovered;

"(n) The term 'production' means those activities which take place after the successful completion of any means for the removal of resources, including such removal, field operations, transfer of oil, natural gas, or other minerals to shore, operation monitoring, maintenance, and work-over drilling;

"(o) The term 'antitrust law' means—

"(1) the Act entitled 'An Act to protect trade and commerce against unlawful restraints and monopolies', approved July 2, 1890 (15 U.S.C. 1 et seq.);

"(2) the Act entitled 'An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes', approved October 15, 1914 (15 U.S.C. 12 et seq.);

"(3) the Federal Trade Commission Act (15 U.S.C. 41 et seq.);

"(4) sections 73 and 74 of the Act entitled 'An Act to reduce taxation, to provide revenue for the Government, and for other purposes', approved August 27, 1894 (15 U.S.C. 8 and 9); or

"(5) the Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21a);

"(p) The term 'fair market value' means the value of any oil, gas, or other mineral (1) computed at a unit price equivalent to the average unit price at which such mineral was sold pursuant to a lease during the period for which any royalty or net profit share is accrued or reserved to the United States pursuant to such lease, or (2) if there were no such sales, or if the Secretary finds that there were an insufficient number of such sales to equitably determine such value, computed at the average unit price at which such mineral was sold pursuant to other leases in the same region of the outer Continental Shelf during such period, or (3) if there were no sales of such mineral from such region during such period, or if the Secretary finds that there are an insufficient number of such sales to equitably determine such value, at an appropriate price determined by the Secretary; and

"(q) The term 'major Federal action' means any action or proposal by the Secretary which is subject to the provisions of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).".

NATIONAL POLICY FOR THE OUTER CONTINENTAL SHELF

SEC. 202. Section 3 of the Outer Continental Shelf Lands Act (43 U.S.C. 1332) is amended to read as follows:

"SEC. 3. NATIONAL POLICY FOR THE OUTER CONTINENTAL SHELF.—It is hereby declared to be the policy of the United States that—

"(1) the subsoil and seabed of the outer Continental Shelf appertain to the United States and are subject to its jurisdiction, control, and power of disposition as provided in this Act;

"(2) this Act shall be construed in such a manner that the character of the waters above the outer Continental Shelf as high seas and the right to navigation and fishing therein shall not be affected;

"(3) the outer Continental Shelf is a vital national resource reserve held by the Federal Government for the public, which should be made available for orderly development, subject to environmental safeguards, in a manner which is consistent with the maintenance of competition and other national needs;

"(4) since exploration, development, and production of the mineral resources of the outer Continental Shelf will have significant impacts on coastal and non-coastal areas of the coastal States, and on other affected States, and, in recognition of the national interest in the effective management of the marine, coastal, and human environments—

"(A) such States may require assistance in protecting their coastal zones and other affected areas from any temporary or permanent adverse effects of such impacts; and

"(B) such States are entitled to an opportunity to participate, to the extent consistent with the national interest, in the policy and planning decisions made by the Federal Government relating to exploration for, and development and production of, mineral resources of the outer Continental Shelf;

"(5) the rights and responsibilities of all States to preserve and protect their marine, human, and coastal environments through such means as regulation of land, air, and water uses, of safety, and of related development and activity should be considered and recognized; and

"(6) operations in the outer Continental Shelf should be conducted in a safe manner by well-trained personnel using technology, precautions, and techniques sufficient to prevent or minimize the likelihood of blowouts, loss of well control, fires, spillages, physical obstruction to other users of the waters or subsoil and seabed, or other occurrences which may cause damage to the environment or to property, or endanger life or health.".

LAWS APPLICABLE TO THE OUTER CONTINENTAL SHELF

SEC. 203. (a) Section 4(a)(1) of the Outer Continental Shelf Lands Act (43 U.S.C. 1333 (a)(1)) is amended—

(1) by striking out "and fixed structures" and inserting in lieu thereof ", and all structures permanently or temporarily attached to the seabed,"; and

(2) by striking out "removing, and transporting resources therefrom" and inserting in lieu thereof "or producing resources therefrom, or any such stucture (other than a ship or vessel) for the purpose of transporting such resources".

(b) Section 4(a)(2) of such Act is amended to read as follows:

"(2)(A) To the extent that they are applicable and not inconsistent with this Act or with other Federal laws and regulations of the Secretary now in effect or hereafter adopted, the civil and criminal laws of each coastal State adjacent to the outer Continental Shelf, as in effect on the date of enactment of this paragraph, are hereby declared to be the law of the United States for that portion of the subsoil and seabed of the outer Continental Shelf, and those artificial islands and structures referred to in paragraph (1) of this subsection, which would be within the area of such State if its boundaries were extended seaward to the outer margin of the outer Continental Shelf. After such date of enactment—

"(i) any change in any criminal law of such State shall be adopted as the law of the United States, for purposes of this paragraph, at the same time such change takes effect in such State; and

"(ii) any change in any civil law of such State during the five-year period beginning on such date of enactment shall be adopted as the law of the United States, for purposes of this paragraph, at the end of such five-year period, and any change during any subsequent five-year period shall be adopted in the same manner at the end of the five-year period in which such change occurs.

Within one year after the date of enactment of this paragraph, the President shall determine and publish in the Federal Register projected lines extending seaward and defining each such area. The President may, prior to such determination, establish procedures for setting any outstanding boundary disputes relating to the projection of such lines. All of such applicable and consistent State laws shall be administered and enforced by the appropriate officers and courts of the United States. State taxation laws shall not apply to the outer Continental Shelf.

"(B) Within one year after the date of enactment of this paragraph, the President shall establish procedures for settling any outstanding international boundary dispute respecting the outer Continental Shelf, including any dispute involving international boundaries between the jurisdictions of the United States and Canada and between the jurisdictions of the United States and Mexico.".

(c) Section 4(d) of such Act is amended to read as follows:

"(d) For the purposes of the National Labor Relations Act, any unfair labor practice, as defined in such Act, occurring upon any artificial island or structure referred to in subsection (a) of this section shall be deemed to have occurred within the judicial district of the coastal State, the laws of which apply to such artificial island or structure pursuant to such subsection, except that until the President determines the areas within which such State laws are applicable, the judicial district shall be that of the coastal State nearest the place of location of such artificial island or structure.".

(d) Section 4 of such Act is amended—

(1) in paragraph (1) of subsection (e), by striking out "the islands and structures referred to in subsection (a)", and inserting in lieu thereof "the artificial islands and structures referred to in subsection (a)";

(2) in subsection (f), by striking out "artificial islands and fixed structures located on the outer Continental Shelf" and inserting in lieu thereof "the artificial islands and structures referred to in subsection (a)"; and

(3) in subsection (g), by striking out "the artificial islands and fixed structures re-

ferred to in subsection (a)" and inserting in lieu thereof "the artificial islands and structures referred to in subsection (a)".

(e) Section 4(e) (1) of such Act is amended by striking out "head" and inserting in lieu thereof "Secretary".

(f) Section 4(e) (2) of such Act is amended to read as follows:

"(2) The Secretary of the Department in which the Coast Guard is operating shall mark for the protection of navigation any artificial island or structure referred to in subsection (a) whenever the owner has failed suitably to mark such island or structure in accordance with regulations issued under this Act, and the owner shall pay the cost of such marking.".

(g) Section 4 of such Act is further amended by striking out subsection (b) and relettering subsections (c), (d), (e), (f), and (g) as subsections (b), (c), (d), (e), and (f), respectively.

OUTER CONTINENTAL SHELF EXPLORATION AND DEVELOPMENT ADMINISTRATION

SEC. 204. Section 5 of the Outer Continental Shelf Lands Act (43 U.S.C. 1334 et seq.) is amended to read as follows:

"SEC. 5. ADMINISTRATION OF LEASING OF THE OUTER CONTINENTAL SHELF.—(a) The Secretary shall administer the provisions of this Act relating to the leasing of the outer Continental Shelf and shall prescribe such regulations as necessary to carry out such provisions. Such regulations shall, as of the date of their promulgation, apply to all operations conducted under any lease issued or maintained under the provisions of this Act and shall be in furtherance of the findings, purposes, and policies of this Act. In the enforcement of safety, environmental, and conservation laws and regulations, the Secretary shall cooperate with the relevant agencies of the Federal Government and of the affected States. At each stage in the formulation and promulgation of regulations, the Secretary shall request and give due consideration to the views of the Attorney General with respect to matters which may affect competition. The regulations prescribed by the Secretary under this subsection shall include, but not be limited to, provisions—

"(1) for the suspension or temporary prohibition of any operation or activity, including production, pursuant to any lease or permit (A) at the request of a lessee, in the interest of conservation, to facilitate proper development of a lease, or to allow for the unavailability of transportation facilities, or (B) if there is a threat of serious, irreparable, or immediate harm or damage to life (including aquatic life), to property, to any mineral deposits (in areas leased or not yet leased), or to the marine, coastal, or human environment, and for the extension of any permit or lease affected by such suspension or prohibition by a period equivalent to the period of such suspension or prohibition, except that no permit or lease shall be so extended when such suspension or prohibition is the result of gross negligence or willful violation of such lease or permit, of regulations issued concerning such lease or permit;

"(2) for the cancellation of any lease or permit, at any time, when it is determined, after hearing, that continued activity pursuant to such lease or permit would cause serious harm or damage, which would not decrease over a reasonable period of time, to life (including aquatic life), to property, to any mineral deposits (in areas leased or not yet leased), to the national security or defense, and to the marine, coastal, or human environment, except that the cancellation of any lease pursuant to such regulations shall not foreclose any claim for compensation as may be required by the Constitution of the United States or any other law;

"(3) for the assignment or relinquishment of leases;

"(4) for the sale of royalty, net profit share, or purchased oil and gas accruing or reserved to the United States in accordance with section 27 of this Act;

"(5) for the utilization of different bidding systems in accordance with section 8 (a) of this Act;

"(6) for the preparation and submission of annual reports to the Congress in accordance with section 15 of this Act;

"(7) for the development and enforcement of safety regulations in accordance with sections 21 and 22 of this Act;

"(8) for the preparation and implementation of leasing and development programs and plans in accordance with this section and section 18 of this Act;

"(9) for the procedures for citizen suits in accordance with section 23 of this Act;

"(10) for the establishment of and procedures for Regional Outer Continental Shelf Advisory Boards in accordance with section 19 of this Act;

"(11) for unitization, pooling, and drilling agreements;

"(12) for subsurface storage of oil and gas;

"(13) for drilling or easements necessary for exploration, development, and production; and

"(14) for the prompt and efficient exploration and development of a lease area.

"(b) The issuance and continuance in effect of any lease, or of any extension, renewal, or replacement of any lease, under the provisions of this Act shall be conditioned upon compliance with the regulations issued under this Act if the lease is issued under the provisions of section 8 hereof, or with the regulations issued under the provisions of section 6(b), clause (2), hereof, if the lease is maintained under the provisions of section 6 hereof.

"(c) Whenever the owner of a nonproducing lease fails to comply with any of the provisions of this Act, or of the lease, or of the regulations issued under this Act if the lease is issued under the provisions of section 8 hereof, or of the regulations issued under the provisions of section 6(b), clause (2), hereof, if the lease is maintained under the provisions of section 6 hereof, such lease may be canceled by the Secretary, subject to the right of judicial review as provided in this Act, if such default continues for the period of thirty days after mailing of notice by registered letter to the lease owner at his record post office address.

"(d) Whenever the owner of any producing lease fails to comply with any of the provisions of this Act, or of the lease, or of the regulations issued under this Act if the lease is issued under the provisions of section 8 hereof, or of the regulations issued under the provisions of section 6(b), clause (2), hereof if the lease is maintained under the provisions of section 6 hereof, such lease may be forfeited and canceled by an appropriate proceeding in any United States district court having jurisdiction under the provisions of this Act.

"(e) Rights-of-way through the submerged lands of the outer Continental Shelf, whether or not such lands are included in a lease maintained or issued pursuant to this Act, may be granted by the Secretary for pipeline purposes for the transportation of oil, natural gas, sulphur, or other mineral under such regulations and upon such conditions as to the application therefor and the survey, location, and width thereof as may be prescribed by the Secretary, and upon the express condition that such oil or gas pipelines shall transport or purchase without discrimination, oil or natural gas produced from said lands in the vicinity of the pipeline in such proportionate amounts as the Federal Power Commission, in the case of gas, and the Interstate Commerce Commission, in consultation with the Administrator of the Federal Energy Administration, in the case of oil, may, after a full hearing with due notice thereof to the interested parties, determine to be reasonable, taking into account, among other things, conservation and the prevention of waste. Failure to comply with the provisions of this section or the regulations and conditions prescribed under this section shall be ground for forfeiture of the grant in an appropriate judicial proceeding instituted by the United States in any United States district court having jurisdiction under the provisions of this Act.

"(f) (1) The lessee shall produce any oil or gas, or both, obtained pursuant to an approved development and production plan, at rates consistent with any rule or order issued by the President in accordance with any provision of law.

"(2) If no rule or order referred to in paragraph (1) has been issued, the lessee shall produce such oil or gas, or both, at rates consistent with any regulation promulgated by the Secretary which is to deal with emergency shortages of oil or gas or which is to assure the maximum rate of production which is efficient and safe for the duration of the activity covered by the approved plan. The Secretary may permit the lessee to vary such rates if he finds that such variance is necessary.

"(g) After the date of enactment of this section, no holder of any oil and gas lease issued or maintained pursuant to this Act shall be permitted to flare natural gas from any well unless the Secretary finds that there is no practicable way to complete production of such gas, or that such flaring is necessary to alleviate a temporary emergency situation or to conduct testing or work-over operations.".

REVISION OF BIDDING AND LEASE ADMINISTRATION

SEC. 205. (a) Subsections (a) and (b) of section 8 of the Outer Continental Shelf Lands Act (43 U.S.C. 1337) are amended to read as follows:

"(a) (1) The Secretary is authorized to grant to the highest responsible qualified bidder or bidders by competitive bidding, under regulations promulgated in advance, any oil and gas lease on submerged lands of the Outer Continental Shelf which are not covered by leases meeting the requirements of subsection (a) of section 6 of this Act. The bidding shall be by sealed bid and, at the discretion of the Secretary, on the basis of—

"(A) cash bonus bid with a royalty at not less than 12½ per centum fixed by the Secretary in amount or value of the production saved, removed, or sold;

"(B) variable royalty bid based on a per centum of the production saved, removed, or sold, with a cash bonus as determined by the Secretary;

"(C) cash bonus bid with diminishing or sliding royalty based on such formulae as the Secretary shall determine as equitable to encourage continued production from the lease area as resources diminish, but not less than 12½ per centum at the beginnnig of the lease period in amount or value of the production saved, removed, or sold;

"(D) cash bonus bid with a fixed share of the net profits of no less than 30 per centum to be derived from the production of oil and gas from the lease area;

"(E) fixed cash bonus with the net profit share reserved as the bid variable;

"(F) cash bonus bid with a royalty at no less than 12½ per centum fixed by the Secretary in amount or value of the production saved, removed, or sold and a per centum share of net profits of no less than 30 per centum to be derived from the production of oil and gas from the lease area;

"(G) cash bonus bids for 1 per centum

shares of an undivided working interest in the lease area, such shares to be awarded at a price which is equal to the average price per share of the highest responsible qualified bids tendered for not more than 100 per centum of the lease area, with a fixed share of the net profits derived from the production of oil and gas pursuant to a lease to be determined by the Secretary; or

"(H) cash bonus bids for 1 per centum shares of an undivided working interest in the lease area, such shares to be awarded at a price which is equal to the average price per share of the highest responsible qualified bids tendered for not more than 100 per centum of the lease area, and with a fixed or diminishing royalty based upon the production derived from operation pursuant to the lease.

"(2) The Secretary may, in his discretion, defer any part of the payment of the cash bonus, as authorized in paragraph (1) of this subsection, according to a schedule announced at the time of the announcement of the lease sale, but such payment shall be made in total no later than five years from the date of the lease sale or no later than the date of the authorization of development and production, whichever date first occurs.

"(3) The Secretary may, in order to promote increased production on the lease area, through direct, secondary, or tertiary recovery means, reduce or eliminate any royalty or net profit share set forth in the lease for such area.

"(4) At least ninety days prior to notice of any lease sale under subparagraphs (D), (E), (F), and (G) of paragraph (1), the Secretary shall by regulation establish rules to govern the calculation of net profits. In the event of any dispute between the United States and a lessee concerning the calculation of the net profits under the regulation issued pursuant to this paragraph, the burden of proof shall be on the lessee. In determining the attribution of profits as between oil and gas, costs shall be allocated proportionately to the value of the respective amount of oil and gas produced.

"(5)(A) In the case of any lease area offered for sale pursuant to subparagraph (G) or (H) of paragraph (1), if the accepted bid per share of any person for a per centum working interest in such lease area is less than the average price per share of all accepted bids, and such person does not, within such time as the Secretary shall by regulation prescribe, agree to pay such price, then—

"(i) the Secretary shall return to such person any deposit made with respect to such bid; and

"(ii) any right acquired and any obligation incurred by such person with respect to such bid shall be deemed to be canceled.

"(B)(i) In the event the Secretary sells less than 100 per centum of the interest in the lease area affected under subparagraph (G) or (H) of paragraph (1), he shall offer the additional shares to the bidders who purchased shares pursuant to the initial bidding process. The Secretary shall sell such additional shares to the bidders who have elected to purchase under this clause, except that the maximum number of additional shares which any such bidder may purchase shall be in proportion to his bidded interest.

"(ii) To the extent that any per centum of the interest in the lease area offered under such subparagraph (G) or (H) remains unsold after the Secretary uses the procedure required by clause (i) of this subparagraph, he shall repeat such procedure for such period of time as he determines to be reasonable.

"(iii) To the extent that any per centum of the interest in the lease area offered under such subparagraph (G) or (H) remains unsold after the Secretary uses the procedure required under clauses (i) and (ii) of this subparagraph, the Secretary shall offer any remaining shares for sale to the highest interested bidder whose bid was not accepted in the initial bidding process, except that any such bidder may not purchase a number of shares which exceeds the number for which he originally bid. The Secretary shall repeat such procedure for such period of time as he determines to be reasonable.

"(iv) Any additional shares of the interest in a lease area which are sold by the Secretary pursuant to this subparagraph shall be sold at a price equal to the price at which shares of the interest in such lease area were sold pursuant to the initial bidding process.

"(C) The Secretary shall, by regulation, provide for the cancellation of any lease sale held pursuant to subparagraph (G) or (H) of paragraph (1), if the total amount to be paid for all shares sold does not represent a fair return to the Federal Government.

"(D) The Secretary shall establish standards and procedures for the formation of a joint working group in an area leased pursuant to subparagraph (G) or (H) of paragraph (1), and shall approve one or more operators for, and the terms of management of, activities on such lease area. The United States, represented by the Secretary, shall be considered a nonvoting party to any joint working group formed pursuant to such standards and procedures.

"(6)(A) The Secretary shall utilize the bidding alternatives from among those authorized by this subsection, in accordance with subparagraphs (B) and (C) of this paragraph, so as to accomplish the purposes and policies of this Act, including (i) providing a fair return to the Federal Government, (ii) increasing competition, (iii) assuring competent and safe operations, (iv) avoiding undue speculation, (v) avoiding unnecessary delays in exploration, development, and production, (vi) discovering and recovering oil and gas, (vii) developing new oil and gas resources in an efficient and timely manner, and (viii) limiting administrative burdens on government and industry. In order to select a bid to accomplish these purposes and policies, the Secretary may, in his discretion, require each bidder to submit bids for any area of the outer Continental Shelf in accordance with more than one of the bidding alternatives set forth in paragraph (1) of this subsection.

"(B) During the five-year period commencing on the date of enactment of this subsection, the Secretary may, in order to obtain statistical information to determine which bidding alternatives will best accomplish the purposes and national policies of this Act, require each bidder to submit bids for any area of the outer Continental Shelf in accordance with more than one of the bidding systems set forth in paragraph (1) of this subsection. For such statistical purposes, leases may be awarded using a bidding alternative selected at random or determined by the Secretary to be desirable for the acquisition of valid statistical data and otherwise consistent with the provisions of this Act.

"(C)(i) Except as provided in clause (ii), the bidding system authorized by subparagraph (A) of paragraph (1) of this subsection shall not be applied to more than 90 per centum of the total area offered for lease each year, during the five-year period beginning on the date of enactment of this subsection, in each region where there has been no development of oil and gas prior to October 1, 1975, including the outer Continental Shelf region off southern California outside the Santa Barbara Channel.

"(ii) If, in any year following the date of enactment of the subsection, the Secretary finds that compliance with the limitation set forth in clause (i) would unduly delay efficient development of the oil and gas resources of the Outer Continental Shelf, result in less than a fair return to the Federal Government, or result in a reduction of competition, he shall submit to the Senate and House of Representatives a report stating his specific findings and detailed reasons therefor. The Secretary may thereafter, for that year, exceed such limitation if both the Senate and House of Representatives pass a resolution of approval of the Secretary's finding within thirty days after receipt of such report (not including days when Congress is not in session).

"(D) Within six months after the end of each fiscal year, the Secretary shall report to the Congress, as provided in section 15 of this Act, with respect to the use of the various bidding options provided for in this subsection. Such report shall include—

"(i) the schedule of all lease sales held during such year and the bidding system or systems utilized;

"(ii) the schedule of all lease sales to be held the following year and the bidding system or systems to be utilized;

"(iii) the benefits and costs associated with conducting lease sales using the various bidding systems;

"(iv) if applicable, the reasons why a particular bidding system has not been or will not be utilized;

"(v) if applicable, the reasons why more than 90 per centum of the area leased in the past year, or to be offered for lease in the upcoming year, was or is to be leased under the bidding system authorized by subparagraph (A) of paragraph (1) of this subsection; and

"(vi) an analysis of the capability of each bidding system to accomplish the purposes and policies stated in subparagraph (A) of this paragraph.

"(7) The Secretary may, by regulation, permit submission of bids made jointly by or on behalf of two or more persons for an oil and gas lease under this Act unless—

"(A) more than one of the joint bidders, directly or indirectly, controls or is chargeable worldwide with an average daily production of one million six hundred thousand barrels a day or more, or the equivalent, in crude oil, natural gas, and liquefied petroleum products; or

"(B) the bidding system is one authorized by subparagraph (G) or (H) of paragraph (1) of this subsection and joint bidding is not specifically found by the Secretary to be necessary to promote competition.

"(b) An oil and gas lease issued pursuant to this section shall—

"(1) cover an area designated by the Secretary on the basis of entire geological structures or traps, or be comprised of a reasonable, economic production unit, as determined by the Secretary;

"(2) be for a period of five years, and may be extended for a period of five additional years if the Secretary finds such extension is necessary to encourage exploration and development in areas of unusually deep water or adverse weather conditions, and as long thereafter as oil or gas may be produced from the area in paying quantities, or drilling or well reworking operations, as approved by the Secretary, are conducted thereon, except that no such extension shall be granted if the Secretary finds that the lessee has not exercised due diligence in the maximum, efficient, and safe development of all wells and resources pursuant to the lease;

"(3) require the payment of amount or value as determined by one of the bidding procedures set forth in subsection (a) of this section;

"(4) entitle the lessee to explore, develop, and produce the oil and gas resources contained within the lease area, conditioned upon due diligence requirements and the approval of the development and production plan required by this Act;

"(5) contain a provision that the Secretary shall, in the absence of any applicable rule or order issued by the President and under conditions defined in applicable regulations prescribed by the Secretary, have the right to require increased production under such lease for purposes of dealing with emergency shortages of oil or gas or other national emergencies;

"(6) provide for suspension or cancellation of the lease pursuant to section 5 of this Act; and

"(7) contain such rental and other provisions as the Secretary may prescribe at the time of offering the area for lease.".

(b) Section 8 of the Outer Continental Shelf Lands Act (43 U.S.C. 1337) is further amended by striking out subsection (j), by relettering subsections (c) through (i), and all references thereto, as subsections (g) through (m), respectively, and by inserting immediately after subsection (b) the following new subsections:

"(c) No lease may be issued for an initial five-year period or extended for five additional years, until at least thirty days after the Secretary notifies the Attorney General of the United States and the Federal Trade Commission of the proposed issuance or extension. Such notification shall contain such information as the Attorney General and the Federal Trade Commission may require in order to advise the Secretary as to whether such lease or extension would create or maintain a situation inconsistent with the antitrust laws.

"(d) No lease may be issued or extended if the Secretary finds that an applicant for a lease, or a lessee, is not meeting due diligence requirements on other leases.

"(e) Nothing in this Act shall be deemed to convey to any person, association, corporation, or other business organization immunity from civil or criminal liability, or to create defenses to actions, under any antitrust law.

"(f)(1) At the time of soliciting nominations for the leasing of lands within three miles of the seaward boundary of any coastal State, the Secretary shall provide the Governor of any such State—

"(A) an identification and schedule of the areas and regions offered for leasing;

"(B) all information concerning the geographical, geological, and ecological characteristics of such regions;

"(C) an estimate of the oil and gas reserves in the areas proposed for leasing; and

"(D) an identification of any field, geological structure, or trap located within three miles of the seaward boundary of a coastal State.

"(2) Upon receipt of nominations for any lands within three miles of the seaward boundary of any coastal State, the Secretary shall offer the Governor of such coastal State the opportunity to jointly lease any area which the Secretary approves for lease which may contain a field, geological structure, or trap which may be located within both Federal and State owned lands.

"(3) Within ninety days after the offer by the Secretary pursuant to paragraph (2) of this subsection, the Governor shall elect whether to jointly lease any such area. If the Governor accepts the offer, the Secretary and Governor shall jointly offer such area for lease under mutually acceptable terms. If the Governor declines the offer, the Secretary may lease the federally owned portion of such area in accordance with this Act.

"(4) All bonuses, royalties, rents, and net profit shares obtained pursuant to a lease for lands within three miles of the seaward boundary of any coastal State, whether or not such lease is issued jointly by the Secretary and the Governor of such coastal State, shall be placed in an escrow account until such time as the Secretary and the Governor of such coastal State determine, on the basis of geological or other information, the proper rate of payments to be deposited in the treasuries of the Federal Government and such coastal State.".

OUTER CONTINENTAL SHELF OIL AND GAS EXPLORATION

SEC. 206. Section 11 of the Outer Continental Shelf Lands Act (43 U.S.C. 1340) is amended to read as follows:

"SEC. 11. OUTER CONTINENTAL SHELF OIL AND GAS EXPLORATION.—(a)(1) Any agency of the United States, and any person whom the Secretary by permit or regulation may authorize, may conduct geological and geophysical explorations in the outer Continental Shelf, which do not interfere with or endanger actual operations pursuant to any lease issued or maintained pursuant to this Act, and which are not unduly harmful to the marine environment.

"(2) The provisions of paragraph (1) of this subsection shall not apply to any person conducting explorations pursuant to an approved exploration plan on any area under lease to such person pursuant to the provisions of this Act.

"(b) Beginning ninety days after the date of enactment of this subsection, no exploration pursuant to any oil and gas lease issued or maintained under this Act may be undertaken by the holder of such lease, except in accordance with the provisions of this section.

"(c)(1) Prior to commencing exploration pursuant to any oil and gas lease issued or maintained under this Act, the holder thereof shall submit an exploration plan to the Secretary for approval. Such plan may apply to more than one lease held by a lease in any one region of the outer Continental Shelf, or by a group of lessees acting under a unitization, pooling, or drilling agreement, and shall be approved by the Secretary if he finds that such plan is consistent with the provisions of this Act, regulations prescribed under this Act, and the provisions of such lease. The Secretary shall require such modifications of such plan as are necessary to achieve such consistency. The Secretary shall approve such plan, as submitted or modified, within thirty days of its submission, except that if the Secretary determines that (A) any proposed activity under such plan would result in any condition which would permit him to suspend such activity pursuant to reglations prescribed under section 5(a)(1) of this Act, and (B) such proposed activity cannot be modified to avoid such condition, he may delay the approval of such plan.

"(2) An exploration plan submitted under this subsection shall include, in the degree of detail which the Secretary may by regulation require—

"(A) a schedule of anticipated exploration activities to be undertaken;

"(B) a description of equipment to be used for such activities;

"(C) the general location of each well to be drilled; and

"(D) such other information deemed pertinent by the Secretary.

"(3) The Secretary may, by regulation, require that such plan be accompanied by a general statement of development and production intentions which shall be for planning purposes only and which shall not be binding on any party.

"(d) The Secretary may, by regulation, require any lessee operating under an approved exploration plan to obtain a permit prior to drilling any well in accordance with such plan.

"(e)(1) If a revision of an exploration plan approved under this subsection is submitted to the Secretary, the process to be used for the approval of such revision shall be the same as set forth in subsection (c) of this section.

"(2) All exploration activities pursuant to any lease shall be conducted in accordance with an approved exploration plan or an approved revision of such plan.

"(f) The Secretary may, within ninety days after the date of enactment of this section, provide for the approval under subsection (c) of any plan submitted prior to such date of enactment which he finds is in substantial compliance with the provisions of such subsection, and may require the submission of any additional information necessary to bring such plan into such compliance.

"(g) At least once in each frontier area, the Secretary shall seek qualified applicants to conduct geological explorations, including core and test drilling, for oil and gas resources in those areas and subsurface geological structures of the outer Continental Shelf which the Secretary, upon the basis of information available to him and advice of the Geological Survey of the Department of the Interior, regards as having the greatest likelihood of containing significant oil and gas accumulations.".

ANNUAL REPORT

SEC. 207. (a) Section 15 of the Outer Continental Shelf Lands Act (43 U.S.C. 1344) is amended to read as follows:

"SEC. 15. ANNUAL REPORT BY SECRETARY TO CONGRESS.—Within six months after the end of each fiscal year, the Secretary shall submit to the President of the Senate and the Speaker of the House of Representatives the following reports:

"(1) A report on the leasing and production program in the outer Continental Shelf during such fiscal year, which shall include—

"(A) a detailed accounting of all moneys received and expended;

"(B) a detailed accounting of all exploration, exploratory drilling, leasing, development, and production activities;

"(C) a summary of management, supervision, and enforcement activities;

"(D) a list of all shut-in and flaring wells; and

"(E) recommendations to the Congress (i) for improvements in management, safety, and amount of production from leasing and operations in the outer Continental Shelf, and (ii) for resolution of jurisdictional conflicts or ambiguities.

"(2) A report, prepared after consultation with the Attorney General, with recommendations for promoting competition in the leasing of outer Continental Shelf lands, which shall include any recommendations or findings by the Attorney General and any plans for implementing recommended administrative changes and drafts of any proposed legislation, and which shall contain—

"(A) an evaluation of the competitive bidding systems permitted under the provisions of section 8 of this Act, and, if applicable, the reasons why a particular bidding system has not been utilized;

"(B) an evaluation of alternative bidding systems not permitted under section 8 of this Act, and why such system or systems should or should not be utilized;

"(C) an evaluation of the effectiveness of restrictions on joint bidding in promoting competition and, if applicable, any suggested administrative or legislative action on joint bidding;

"(D) an evaluation of present measures and a description of any additional measures to encourage entry of new competitors; and

"(E) an evaluation of present measures and a description of additional measures to increase the supply of oil and gas to independent refiners and distributors.

NEW SECTIONS OF THE OUTER CONTINENTAL SHELF LANDS ACT

SEC. 208. The Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) is amended by adding at the end thereof the following new sections:

"SEC. 18. OUTER CONTINENTAL SHELF LEASING PROGRAM.—(a) The Secretary, pursuant to procedures set forth in subsection (c), shall prepare and periodically revise, and maintain an oil and gas leasing program to implement the findings, purposes, and policies of this Act. The leasing program shall indicate as precisely as possible the size, timing, and location of leasing activity which will best meet national energy needs for the five-year period following its approval or reapproval. Such leasing program shall be prepared and maintained in a manner consistent with the following principles:

"(1) Management of the outer Continental Shelf shall be conducted in a manner which considers all of the economic, social, and environmental values of the renewable and nonrenewable resources contained in the outer Continental Shelf, and the potential impact of oil and gas exploration on other resource values of the outer Continental Shelf and the marine, coastal, and human environments.

"(2) Timing and location of exploration, development, and production of oil and gas among the oil- and gas-bearing physiographic regions of the outer Continental Shelf shall be based on a consideration of—

"(A) existing information concerning the geographical, geological, and ecological characteristics of such regions;

"(B) an equitable sharing of developmental benefits and environmental risks among the various regions;

"(C) the location of such regions with respect to, and the relative needs of, regional and national energy markets;

"(D) the location of such regions with respect to other uses of the sea and seabed, including fisheries, intracoastal navigation, existing or proposed sealanes, potential sites of deepwater ports, and other anticipated uses of the resources and space of the outer Continental Shelf;

"(E) the interest of potential oil and gas producers in the development of oil and gas resources as indicated by exploration or nomination;

"(F) laws, goals, and policies of affected States;

"(G) policies and plans promulgated by coastal States pursuant to the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.);

"(H) recommendations and advice given by any Regional Outer Continental Shelf Advisory Board established pursuant to this Act; and

"(I) whether the oil and gas producing industry has sufficient resources, including equipment and capital, to bring about the exploration, development, and production of oil and gas in such regions in an expeditious manner.

"(3) The Secretary shall select the timing and location of leasing, to the maximum extent practicable, so as to obtain a proper balance between the potential for environmental damage, the potential for the discovery of oil and gas, and the potential for adverse impact on the coastal zone.

"(4) Leasing activities shall be conducted to assure receipt of fair market value for the oil and gas owned by the Federal Government.

"(b) The leasing program shall include estimates of the appropriations and staff required to—

"(1) obtain resource information and any other information needed to prepare the leasing program required by this section;

"(2) analyze and interpret the exploratory data and any other information which may be compiled under the authority of this Act;

"(3) conduct environmental baseline studies and prepare any environmental impact statement required in accordance with this Act and with section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)); and

"(4) supervise operations conducted pursuant to each lease in the manner necessary to assure due diligence in the exploration and development of the lease area and compliance with the requirements of applicable law and regulations, and with the terms of the lease.

"(c)(1) Within nine months after the date of enactment of this section, the Secretary shall submit to the Congress and to the Attorney General, and publish in the Federal Register, a proposed leasing program.

"(2) Within ninety days after the date of publication of a proposed leasing program, the Attorney General shall submit comments on the anticipated effects of such program upon competition, and any State, local government, Regional Outer Continental Shelf Advisory Board, or other person may submit comments and recommendations as to any aspect of the program.

"(3) At least sixty days prior to approving a proposed leasing program, the Secretary shall submit to the President and the Congress, together with any comments received. Such submission shall indicate why any specific recommendation of the Attorney General or a State or local government or Regional Advisory Board was not accepted.

"(4) After the leasing program has been approved by the Secretary, or after June 30, 1977, whichever first occurs, no lease shall be issued unless it is for an area included in the approved leasing program and unless it contains provisions consistent with the approved leasing program, except that leasing shall be permitted to continue until such program is approved and for so long thereafter as such program is under judicial or administrative review pursuant to the provisions of this Act.

"(d) The Secretary shall review the leasing program approved under this section at least once each year, and he may revise and reapprove such program, at any time, in the same manner as originally developed.

"(e) The Secretary shall, by regulation, establish procedures for—

"(1) receipt and consideration of nominations for any area to be offered for lease or to be excluded from leasing;

"(2) public notice of and participation in development of the leasing program;

"(3) review by State and local governments which may be impacted by the proposed leasing;

"(4) periodic consultation with State and local governments, oil and gas lessees and permittees, and representatives of other individuals or organizations engaged in activity in or on the outer Continental Shelf, including those involved in fish and shellfish recovery, and recreational activities; and

"(5) coordination of the program with the management program being developed by any State for approval pursuant to section 305 of the Coastal Zone Management Act of 1972 and to assure consistency with the management program of any State which has been approved pursuant to section 306 of such Act.

Such prcedures shall be applicable to any revision or reapproval of the leasing program.

"(f) The Secretary may obtain public sources, or purchase from private sources, any survey, data, report, or other information (including interpretations of such data, survey, report, or other information) which may be necessary to assist him in preparing any environmental impact statement and in making other evaluations required by this Act. The Secretary shall maintain the confidentiality of all proprietary data or information for such period of time as is provided for in this Act, established by regulation, or agreed to by the parties.

"(g) The heads of all Federal departments and agencies shall provide the Secretary with any nonproprietary information he requests to assist him in preparing the leasing program. In addition, the Secretary shall utilize the existing capabilities and resources of such Federal departments and agencies by appropriate agreement.

"SEC. 19. REGIONAL OUTER CONTINENTAL SHELF ADVISORY BOARDS.—(a) The Governors of coastal and affected States may establish Regional Outer Continental Shelf Advisory Boards for their regions with such membership as they may determine, after consultation with the Secretary and the Secretary of Commerce.

"(b) Representatives of the Secretary, the Secretary of Commerce, the Administrator of the Federal Energy Administration, the Chairman of the Council on Environmental Quality, the Commandant of the Coast Guard, the Administrator of the Environmental Protection Agency, and the Administrator of the Occupational Safety and Health Administration shall be entitled to participate as observers in the deliberations of any Board established pursuant to subsection (a) of this section.

"(c) Each Board established pursuant to subsection (a) shall advise the Secretary on all matters relating to outer Continental Shelf oil and gas development, including development of the leasing program required by section 18 of this Act, approval of development and production plans required pursuant to section 25 of this Act, implementation of baseline and monitoring studies, and the preparation of environmental impact statements prepared in the course of the implementation of the provisions of this Act.

"(d) If any Regional Advisory Board or the Governor of any affected State—

"(1) makes specific recommendations to the Secretary regarding the size, timing, or location of a proposed lease sale or with respect to a proposed development and production plan; and

"(2) submits such recommendations to the Secretary within sixty days after receipt of notice of such proposed lease sale or of such development and production,

the Secretary shall accept such recommendations, unless he determines they are not consistent with national security or the overriding national interest. For purposes of this subsection, a determination of overriding national interest shall be based on the desirability of obtaining oil and gas supplies in a balanced manner, consistent with the findings, purposes, and policies of this Act. To the extent that recommendations from State Governors or Regional Advisory Boards conflict with each other, the Secretary shall accept such recommendations which he finds to be the most consistent with the national interest. If the Secretary finds that he cannot accept recommendations made pursuant to this subsection, he shall communicate, in writing, to such Governor or such Board the reasons for rejection of such recommendations.

"SEC. 20. BASELINE AND MONITORING

STUDIES.—"(a)(1) The Secretary of Commerce, in cooperation with the Secretary, shall conduct a study of any area or region included in any lease sale in order to establish baseline information concerning the status of the human, marine, and coastal environments of the outer Continental Shelf and the coastal areas which may be affected by oil and gas development in such area or region.

"(2) Each study required by paragraph (1) shall be commenced not later than six months from the date of enactment of this section with respect to any area or region where a lease sale has been held before such date of enactment, and not later than six months prior to the holding of a lease sale with respect to any area or region where no lease sale has been held before such date of enactment. The Secretary of Commerce may utilize information collected in any study prior to the date of enactment of this section in conducting any such study.

"(3) The Secretary of Commerce shall, after being notified of the submission of any development and production plan in an area or region under study, complete such study and submit it to the Secretary prior to the date for final approval of any development and production plan required by section 25 of this Act for any lease area. Failure of the Secretary of Commerce to complete any such study in a lease area shall not, in itself, be a basis for precluding the approval of a development and production plan by the Secretary.

"(4) In addition to developing baseline information, any study of an area or region, to the extent practicable, shall be designed to predict impacts on the marine biota resulting from chronic low level pollution or large spills associated with outer Continental Shelf production, from the introduction of drill cuttings and drilling muds in the area, and from the laying of pipe to serve the offshore production area, and the impacts of development offshore on the affected and coastal areas.

"(b) Subsequent to the leasing and developing of any area or region, the Secretary of Commerce shall conduct such additional studies to establish baseline information as he deems necessary and shall monitor the human, marine, and coastal environments of such area or region in a manner designed to provide time-series and data trend information which can be used for comparison with any previously collected data for the purpose of identifying any significant changes in the quality and productivity of such environments, for establishing trends in the areas studied and monitored, and for designing experiments to identify the causes of such changes.

"(c) The Secretary of Commerce shall, by regulation, establish procedures for carrying out his duties under this section, and shall plan and carry out such duties in full cooperation with affected States. To the extent that other Federal agencies have prepared environmental impact statements, are conducting studies or are monitoring the affected human, marine, or coastal environment, the Secretary of Commerce may utilize the information derived therefrom in lieu of directly conducting such activities. The Secretary of Commerce may also utilize information obtained from any State or local government entity, or from any person, for the purposes of this section. For the purpose of carrying out his responsibilities under this section, the Secretary of Commerce may by agreement utilize, with or without reimbursement, the services, personnel, or facilities of any Federal, State, or local government agency.

"(d) As soon as practicable after the end of each fiscal year, the Secretary of Commerce shall submit to the Secretary and to the Congress and make available to the general public an assessment of the cumulative effect of activities conducted under this Act on the human, marine, and coastal environments.

"SEC. 21. SAFETY REGULATIONS.—(a)(1) Safety regulations which apply to the construction and operation of any fixed structure and artificial island on the outer Continental Shelf shall be promulgated and periodically revised. Such regulations shall be developed by the Secretary and—

"(A) the Administrator of the Environmental Protection Agency or the Secretary of Commerce, or both, for the protection of the marine and coastal environments;

"(B) the Secretary of the Army or the Secretary of the Department in which the Coast Guard is operating, or both, for the avoidance of navigational hazards in the waters above the outer Continental Shelf; and

"(C) the Secretary of Labor or the Secretary of the Department in which the Coast Guard is operating, or both, for occupational safety and health.

"(2) In promulgating regulations under this section, the Secretary shall require, on all new drilling and production operations and, wherever practicable, on existing operations, the use of the best available and safest technology, economically achievable, wherever failure of equipment would have a significant effect on occupational or public health, safety, or the environment.

"(b) Upon the date of enactment of this section, the National Academy of Engineering shall commence a study of the adequacy of existing safety regulations and of technology, equipment, and techniques for operations with respect to the outer Continental Shelf, including the subjects listed in subsection (a) of this section. Not later than nine months after the date of enactment of this section, the results of such study and recommendations for improved safety regulations shall be submitted to the Congress, the Secretary, and the Secretary of the Department in which the Coast Guard is operating.

"(c)(1) Within one year after the date of enactment of this section, the applicable Federal officials, in consultation with other affected Federal agencies and departments, shall complete a review of existing safety regulations, consider the results and recommendations of the study required by subsection (b), and promulgate a complete set of safety regulations (which may incorporate outer Continental Shelf orders) which shall apply to operations on the outer Continental Shelf or any region thereof. Any safety regulation in effect on the date of enactment of this section which such officials find should be retained shall be promulgated pursuant to the provisions of this section, but shall remain in effect until so promulgated. No safety regulation (other than a field order) promulgated pursuant to this subsection shall reduce the degree of safety or protection to the environment afforded by safety regulations previously in effect.

"(2) Within sixty days after the date of enactment of this section, the Secretary of Labor shall promulgate interim regulations or standards pursuant to the Occupational Safety and Health Act of 1970 applying to diving activities in the waters above the outer Continental Shelf, and to other unregulated hazardous working conditions for which he, in consultation with the Secretary and the Secretary of the Department in which the Coast Guard is operating, determines such regulations or standards may be modified from time to time as necessary, and shall remain in effect until final regulations or standards are promulgated.

"(d) Nothing in this section shall affect or duplicate any authority provided by law to the Secretary of Transportation to establish and enforce pipeline safety standards and regulations.

"(e) The Secretary shall make available to any interested person a compilation of all safety and other regulations which are prepared and promulgated by any agency or department of the Federal Government and applicable to activities on the outer Continental Shelf. Such compilation shall be revised and updated annually.

"SEC. 22. ENFORCEMENT.—(a) The Secretary and the Secretary of the Department in which the Coast Guard is operating shall strictly enforce safety and environmental regulations promulgated pursuant to this Act. The Secretary and the Secretary of Labor shall strictly enforce occupational and public health regulations promulgated pursuant to this Act. All operations authorized pursuant to this Act shall be regularly inspected for purposes of enforcing applicable regulations.

"(b) All holders of leases and permits under this Act shall—

"(1) be responsible jointly with any employer or subcontractor for the maintenance of occupational safety and health, environmental protection, and other safeguards, in accordance with regulations intended to protect persons, property, and the environment on the outer Continental Shelf pursuant to this Act, and any other Act applicable to activities in or on the outer Continental Shelf; and

"(2) allow prompt access, at the site of any operation subject to safety regulations, to any inspector, and provide such documents and records which are pertinent to occupational or public health, safety, or environmental protection, as may be requested.

"(c) The Secretary, with the concurrence of the Secretary of Labor and the Secretary of the Department in which the Coast Guard is operating, shall, within one hundred and twenty days after the date of enactment of this section, promulgate regulations applicable to the outer Continental Shelf to provide for representatives of the Federal Government to undertake—

"(1) physical observation, at least twice each year, of all installations, fixed or mobile, including rigs, platforms, diving boats, and apparatus;

"(2) the testing of all safety equipment designed to prevent or ameliorate occupational hazards, blowouts, fires, spillages, or other major accidents; and

"(3) periodic onsite inspection without advance notice to the lessee or permittee, to assure compliance with occupational and public health, safety, or environmental protection regulations.

"(d)(1) The Secretary of the Department in which the Coast Guard is operating shall make an investigation and public report on each major fire and each major oil spillage occurring as a result of operations conducted pursuant to this Act, and he may, in his discretion, make an investigation and report of lesser oil spillages. For purposes of this subsection, a major oil spillage is any spillage in one instance of more than two hundred barrels of oil over a period of thirty days. All holders of leases or permits issued or maintained under this Act shall cooperate with such Secretary in the course of any such investigation.

"(2) The Secretary of Labor shall make an investigation and public report on any death or serious injury occurring as a result of operations conducted pursuant to this Act, and may, in his discretion, make an investigation and report of any injury. For purposes of this subsection, a serious injury is one resulting in substantial impairment of any bodily unit or function. All holders of leases or permits issued or maintained under this Act shall cooperate with such Secretary in the course of any such investigation.

"(3) For purposes of carrying out their responsibilities under this section, the Secretary, the Secretary of Labor, and the Secretary of the Department in which the Coast Guard is operating may by agreement utilize, with or without reimbursement, the services, personnel, or facilities of any Federal agency.

"(e) The Secretary, the Secretary of Labor, or the Secretary of the Department in which the Coast Guard is operating shall consider any allegation from any person of the existence of a violation of any safety regulation issued under this Act. Any such Secretary who receives an allegation shall respond to such allegation within thirty days, and submit his findings within ninety days, after receipt of such allegation, stating whether or not such alleged violation exists and, if so, what action has been or will be taken.

"(f) In any investigation conducted pursuant to this section, the Secretary, the Secretary of Labor, or the Secretary of the Department in which the Coast Guard is operating shall have power to summon witnesses and to require the production of books, papers, documents, and any other evidence. Attendance of witnesses or the production of books, papers, documents, or any other evidence shall be compelled by a similar process as in the United States district court. Such Secretary, or his designee, shall administer all necessary oaths to any witnesses summoned before such investigation.

"(g) The Secretary shall, after consultation with the Secretary of Labor and the Secretary of the Department in which the Coast Guard is operating, include in his annual report to Congress required by section 15 of this Act the number of violations of safety regulations alleged by any person, the investigations undertaken, the results of such investigations, the number of proven violations of safety regulations (whether through such allegation and investigation, or in any other manner), the names of the violators, and the action taken with respect to such violators.

"(h) Subject to judicial review, whenever the Secretary finds, after notice and a hearing, that the owner or operator of any lease—

"(1) has, by a repeated course of conduct, failed to comply with safety regulations promulgated under section 21 of this Act, and such failures have resulted in a clear and present danger to occupational or public health, safety, or the environment; or

"(2) has established an overall pattern of failing to comply, without lawful justification, with regulations which are to assure the maximum, efficient, and safe development of such lease or leases;

the Secretary shall cancel any such lease or leases which are the subject matter of such violations.

"SEC. 23. CITIZEN SUITS, COURT JURISDICTION, AND JUDICIAL REVIEW.—(a)(1) Except as provided in this section, any person having an interest which is or can be adversely affected may commence a civil action on his own behalf—

"(A) against any person, including the United States, and any other government instrumentality or agency for any alleged violation of any provision of this Act or any regulation promulgated under this Act, or of the terms of any permit or lease issued by the Secretary under this Act; and

"(B) against any Federal official referred to in section 21(a)(1) of this Act where there is alleged a failure of such official to perform any act or duty under this Act which is not discretionary.

"(2) No action may be commenced—

"(A) under subsection (a)(1)(A) of this section—

"(i) prior to sixty days after the plaintiff has given notice of the alleged violation, in writing under oath, to the appropriate Federal official and to any alleged violator; and

"(ii) is such official or the Attorney General has commenced and is diligently prosecuting a civil action in a court of the United States with respect to such matter, but in any such action any person adversely affected or aggrieved may intervene as a matter or right; or

"(B) under subsection (a)(1)(B) of this section prior to sixty days after the plaintiff has given notice of such action, in writing under oath, to the Federal Government official, in such manner as such official shall by regulation prescribe, except that such action may be brought immediately after such notification in any case in which the violation alleged constitutes an imminent threat to the public health or safety or would immediately affect a legal interest of the plaintiff.

"(3) In any action commenced pursuant to this section, the appropriate Federal official or the Attorney General, if not a party, may intervene as a matter of right.

"(4) A court, in issuing any final order in any action brought pursuant to subsection (a)(1) or subsection (c) of this section, may award costs of litigation, including reasonable attorneys' fees, to any party, whenever such court determines such award is appropriate. The court may, if a temporary restraining order or preliminary injunction is sought, require the filing of a bond or equivalent security in accordance with the Federal Rules of Civil Procedure.

"(5) Except as provided in subsection (c) of this section, nothing in this section shall restrict any right which any person or class of persons may have under this or any other Act to seek enforcement of any provision of this Act and any regulation promulgated under this Act, or to seek any other relief, including relief against the appropriate Federal official.

"(b) Except as provided in subsection (c) of this section, the United States district courts shall have jurisdiction of cases and controversies arising out of, or in connection with (1) any operation conducted on the outer Continental Shelf which involves exploration, development, or production of the natural resources of the subsoil and seabed of the outer Continental Shelf, or which involves rights to such natural resources, or (2) the cancellation, suspension, or termination of a lease or permit under this Act. Proceedings with respect to any such case or controversy may be instituted in the judicial district in which any defendant resides or may be found, or in the judicial district of the State nearest the place the cause of action arose.

"(c)(1) Any action of the Secretary to approve a leasing program pursuant to section 18 of this Act shall be subject to judicial review only in the United States Court of Appeals for the District of Columbia.

"(2) Any action of the Secretary to approve, require modification of, or disapprove any exploration plan or any development and production plan under this Act shall be subject to judicial review only in a United States court of appeals for a circuit in which an affected State is located.

"(3) The judicial review specified in paragraphs (1) and (2) of this subsection shall be available only to a person who (A) participated in the administrative proceedings related to the actions specified in such paragraphs, (B) is adversely affected or aggrieved by such action, (C) files a petition for review of the Secretary's action within sixty days after the date of such action, and (D) promptly transmits copies of the petition to the Secretary and to the Attorney General of the United States.

"(4) Any action of the Secretary specified in paragraph (1) or (2) shall only be subject to review pursuant to the provisions of this subsection, and shall be specifically excluded from citizen suits which are permitted pursuant to subsection (a).

"(5) The Secretary shall file in the appropriate court the record of any public hearings required by this Act and any additional information upon which the Secretary based his decision, as required by section 2112 of title 28, United States Code. Specific objections to the action of the Secretary shall be considered by the court only if such objections have been submitted to the Secretary during the administrative proceedings related to the actions involved.

"(6) The court of appeals conducting a proceeding pursuant to this subsection shall consider the matter under review solely on the record made before the Secretary. The findings of the Secretary, if supported by substantial evidence on the record considered as a whole, shall be conclusive. The court may affirm, vacate, or modify any order or decision or may remand the proceedings to the Secretary for such further action as it may direct.

"(7) Upon the filing of the record with the court, pursuant to paragraph (5), the jurisdiction of the court shall be exclusive and its judgment shall be final, except that such judgment shall be subject to review by the Supreme Court of the United States upon writ of certiorari.

"(d) Except as to causes of action which the court considers of greater importance, any action under this section shall take precedence on the docket over all other causes of action and shall be set for hearing at the earliest practical date and expedited in every way.

"SEC. 24. REMEDIES AND PENALTIES.—(a) At the request of the Secretary, the Secretary of Labor, or the Secretary of the Department in which the Coast Guard is operating, the Attorney General or a United States attorney shall institute a civil action in the district court of the United States for the district in which the affected operation is located for a temporary restraining order, injunction, or other appropriate remedy to enforce any provision of this Act or any regulation or order issued under this Act.

"(b) If any person fails to comply with any provision of this Act, or any regulation or order issued under this Act, after notice of such failure and expiration of any reasonable period allowed for corrective action, such person shall be liable for a civil penalty of not more than $10,000 for each day of the continuance of such failure. The Secretary, the Secretary of Labor, or the Secretary of the Department in which the Coast Guard is operating, as applicable, may assess, collect, and compromise any such penalty. No penalty shall be assessed until the person charged with a violation has been given an opportunity for a hearing.

"(c) Any person who knowingly and willfully (1) violates any provision of this Act, or any regulation or order issued under the authority of this Act designed to protect occupational or public health, safety, or the environment or conserve natural resources (2) makes any false statement, representation, or certification in any application, record, report, or other document filed or required to be maintained under this Act, (3) falsifies, tampers with, or renders inaccurate any monitoring device or method of record required to be maintained under this Act, or (4) reveals any data or information required to be kept confidential by this Act shall, upon conviction, be punished by a fine of not more than $100,000, or by imprisonment for not more than ten years, or both. Each day that a violation under clause (1) of this subsection continues, or each day that any monitoring device or data recorder remains inoperative or inaccurate because of any activity described in clause (3) of this subsection, shall constitute a separate violation.

"(d) Whenever a corporation or other entity is subject to prosecution under subsection (c) of this section, any officer or agent of such corporation or entity who knowingly and willfully authorized, ordered, or carried out the proscribed activity shall be subject to the same fines or imprisonment, or both, as provided for under subsection (c) of this section.

"(e) The remedies and penalties prescribed in this section shall be concurrent and cumulative and the exercise of one shall not preclude the exercise of the others. Further, the remedies and penalties prescribed in this section shall be in addition to any other remedies and penalties afforded by any other law or regulation.

"SEC. 25. OIL AND GAS DEVELOPMENT AND PRODUCTION.—(a) (1) Prior to development and production pursuant to an oil and gas lease issued under this Act after the date of enactment of this section, or pursuant to an oil and gas lease issued under this Act and outstanding on the date of enactment of this section, with respect to which development and production has not yet commenced, the lessee shall submit a development and production plan (hereinafter in this section referred to as a 'plan') to the Secretary, for approval pursuant to this section.

"(2) A plan shall be accompanied by a statement describing all facilities and operations, other than those on the outer Continental Shelf, proposed on the lessee and known by him (whether or not owned or operated by such lessee) which will be constructed or utilized in the development or production of oil or gas from the lease area, including the location and site of such facilities and operations, the land, labor, material, and energy requirements associated with such facilities and operations, and all environmental and safety safeguards to be implemented.

"(3) Except for interpretive data, which, pursuant to regulations prescribed by the Secretary, constitute confidential or privileged information, the Secretary, within ten days after receipt of a plan and statement, shall (A) submit such plan and statement to the Governor of any affected State and to an appropriate Regional Outer Continental Shelf Advisory Board established pursuant to section 19 of this Act, and (B) make such plan and statement available to any other appropriate interstate regional entity, the executive of any affected local government area, and the public.

"(b) After the date of enactment of this section, no oil and gas lease may be issued pursuant to this Act unless such lease requires that development and production of reserves be carried out in accordance with a plan which complies with the requirements of this section.

"(c) A plan may apply to more than one oil and gas lease, and shall set forth, in the degree of detail established by regulations issued by the Secretary—

"(1) the specific work to be performed;

"(2) a description of all offshore facilities and operations proposed by the lessee or known by him (whether or not owned or operated by such lessee) to be directly related to the proposed development, including the location and size of such facilities and operations, and the land, labor, material, and energy requirements associated with such facilities and operations;

"(3) the environmental safeguards to be implemented on the outer Continental Shelf and how such safeguards are to be implemented;

"(4) all safety standards to be met and how such standards are to be met;

"(5) an expected rate of development and production and a time schedule for performance; and

"(6) such other relevant information as the Secretary may by regulation require.

"(d) (1) After review of a plan submitted pursuant to this section in accordance with the National Environmental Policy Act of 1969 (42 U.S.. 4321 et seq.), the Secretary shall declare his findings as to whether development and production pursuant to the lease or set of leases (which set includes such lease and other leases which cover adjacent or nearby areas to the area covered by such lease) is a major Federal action.

"(2) The Secretary shall at least once, prior to major development in any structure, area, or region of the outer Continental Shelf where there has been no previous development of oil and natural gas, declare development and production pursuant to a lease or set of leases to be a major Federal action.

"(3) The Secretary may require lessees on adjacent or nearby leases to submit preliminary or final plans for their leases, prior to or immediately after a determination by the Secretary that the procedures under the National Environmental Policy Act of 1969 shall commence.

"(e) If development and production pursuant to a plan is found to be a major Federal action, the Secretary shall transmit the draft environmental impact statement to the Governor of any affected State, any appropriate Regional Outer Continental Shelf Advisory Board, any appropriate interstate regional entity, and the executive of any affected local government area, for review and comment, and shall make such draft available to the general public.

"(f) If development and production pursuant to a plan is not found to be a major Federal action, the Governor of any affected State, any appropriate Regional Outer Continental Shelf Advisory Board, and the executive of any affected local government area shall have ninety days from receipt of the plan from the Secretary to submit comments and recommendations. Such comments and recommendations shall be made available to the public upon request. In addition, any interested person may submit comments and recommendations.

"(g) (1) After reviewing the record of any public hearing held with respect to a plan pursuant to the National Environmental Policy Act of 1969 or the comments and recommendations submitted under subsection (f) of this section, the Secretary shall, within sixty days after the release of the final environmental impact statement prepared pursuant to the National Environmental Policy Act of 1969 in accordance with subsection (d) of this section, or one hundred and twenty days after the period provided for comment under subsection (f) of this section, approve, disapprove, or require modifications of the plan. The Secretary shall require modification of a plan if he determines that the lessee has failed to make adequate provision in such plan for safe operations on the lease area or for protection of the human, marine, or coastal environment, except that any modification requested by the Secretary shall be, to the maximum extent practicable, consistent with the coastal zone management programs of affected States approved pursuant to section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455), and with any valid exercise of authority by the State involved or any political subdivision thereof. The Secretary shall disapprove a plan only (A) if the lessee fails to demonstrate that he can comply with the requirements of this Act and other applicable Federal law, (B) if the plan is not and cannot be made, to the maximum extent practicable, consistent with the coastal zone management programs of affected States approved pursuant to section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455), or with any valid exercise of authority by the State involved or any political subdivision thereof, or (C) if because of exceptional geological conditions in the lease area, exceptional resource values in the marine or coastal environment, or other exceptional circumstances, the proposed plan cannot be modified to insure a safe operation. If a plan is disapproved under clause (C) of this paragraph, the lease shall be deemed canceled and the lessee shall be entitled to reimbursement by the United States for all consideration paid for the lease, plus interest thereon from the date of payment to the date of reimbursement, and for all direct expenditures made after the date of the issuance of such lease and in connection with exploration or development pursuant to the lease.

"(2) The Secretary shall, from time to time, review each plan approved under this section. Such review shall be based upon changes in available information and other onshore or offshore conditions affecting or impacted by development and production pursuant to such plan. If the review indicates that the plan should be revised to meet the requirements of this subsection, the Secretary shall require such revision.

"(h) The Secretary may approve any revision of an approved plan proposed by the operator if he determines that such revision will lead to greater recovery of oil and natural gas, improve the efficiency, safety, and environmental protection of the recovery operation, or is the only means available to avoid substantial economic hardship to the lessee, to the extent such revision is consistent with protection of the marine and coastal environments. Any revision of an approved plan which the Secretary determines is significant shall be reviewed in accordance with subsections (d) through (g) of this section.

"(i) Whenever the owner of any lease fails to submit a plan in accordance with regulations issued under this section, or fails to comply with an approved plan, the lease may, after notice to such owner of such failure and expiration of any reasonable period allowed for corrective action, and after an opportunity for a hearing, be forfeited, canceled, or terminated, subject to the right of judicial review, in accordance with the provisions of section 23(b) of this Act. Termination of a lease because of failure to comply with an approved plan, including required modifications or revisions, shall not entitle a lessee to any compensation.

"SEC. 26. OUTER CONTINENTAL SHELF OIL AND GAS INFORMATION PROGRAM.—(a) (1) (A) Any lessee or permittee conducting any exploration for, or development or production of, oil or gas pursuant to this Act shall provide the Secretary access to all data obtained from such activity and shall provide copies of such specific data, and any interpretation of any such data, as the Secretary may request. Such data and interpretation shall be provided in accordance with regulations which the Secretary shall prescribe.

"(b) If an interpretation provided pursuant to subparagraph (A) of this paragraph is made in good faith by the lessee or permittee, such lessee or permittee shall not be held responsible for any consequence of the use of or reliance upon such interpretation.

"(C) Whenever any data is provided to

the Secretary, pursuant to subparagraph (A) of this paragraph—

"(i) by a lessee, in the form and manner of processing which is utilized by such lessee in the normal conduct of his business, the Secretary shall pay the reasonable cost of reproducing such data; and

"(ii) by a lessee, in such other form and manner of processing as the Secretary may request, or by a permittee, the Secretary shall pay the reasonable cost of processing and reproducing such data,

pursuant to such regulations as he may prescribe.

"(2) Each Federal agency shall provide the Secretary with any data obtained by such Federal agency conducting exploration pursuant to section 11 of this Act, and any other information which may be necessary or useful to assist him in carrying out the provisions of this Act.

"(b)(1) Information provided to the Secretary pursuant to subsection (a) of this section shall be processed, analyzed, and interpreted by the Secretary for purposes of carrying out his duties under this Act.

"(2) As soon as practicable after information provided to the Secretary pursuant to subsection (a) of this section is processed, analyzed, and interpreted, the Secretary shall make available to the affected States a summary of data designed to assist them in planning for the onshore impacts of possible oil and gas development and production. Such summary shall include estimates of (A) the oil and gas reserves in areas leased or to be leased, (B) the size and timing of development if and when oil or gas, or both, is found, (C) the location of pipelines, and (D) the general location and nature of onshore facilities.

"(c) The Secretary shall prescribe regulations to (1) assure that the confidentiality of privileged information received by the Secretary under this section will be maintained, and (2) set forth the time periods and conditions which shall be applicable to the release of such information. Such regulations shall include a provision that no such information will be transmitted to any affected State or any Regional Advisory Board unless the lessee, or the permittee and all persons to whom such permittee has sold such information under promise of confidentiality, agree to such transmittal.

"(d)(1) The Secretary shall transmit to any affected State and any appropriate Regional Advisory Board—

"(A) a copy of all relevant actual or proposed programs, plans, reports, environmental impact statements, tract nominations (including negative nominations) and other lease sale information, any similar type of relevant information, and all modifications and revisions thereof and comments thereon, prepared or obtained by the Secretary pursuant to this Act;

"(B) any relevant information prepared by the Secretary pursuant to subsection (b) of this section; and

"(C) any relevant information received by the Secretary pursuant to subsection (a) of this section, subject to any applicable requirements as to confidentiality which are set forth in regulations prescribed under subsection (c) of this section.

"(2) Notwithstanding any other provision of this section, the Governor of any affected State may designate an appropriate State official to inspect, at a regional location which the Secretary shall designate, any privileged information received by the Secretary regarding any activity adjacent to such State, except that no such inspection shall take place prior to the sale of a lease covering the area in which such activity was conducted. Knowledge obtained by such State during such inspection shall be subject to applicable requirements as to confidentiality which are set forth in regulations prescribed under subsection (c) of this section.

"(e) Any provision of State or local law which provides for public access to any privileged information received or obtained by any person pursuant to this Act is expressly preempted by the provisions of this section, to the extent that it applies to such information.

"(f) If the Secretary finds that any State cannot or does not comply with the regulations issued under subsection (c) of this section, he shall thereafter withhold transmittal of privileged information to such State until he finds that such State can and will comply with such regulations.

"(g) The regulations prescribed pursuant to subsection (c) of this section, and the provisions of subsection 552(b)(9) of title 5, United States Code, shall not apply to any information obtained in the conduct of geological or geophysical explorations by any Federal agency (or any person acting under a service contract with such agency), pursuant to section 11 of this Act.

"Sec. 27. Federal Purchase and Disposition of Oil and Gas.—(a)(1) Except as may be necessary to comply with the provisions of sections 6 and 7 of this Act, all royalties or net profit shares, or both, accruing to the United States under any oil and gas lease or permit issued or maintained in accordance with this Act, shall, on demand of the Secretary, be paid in oil or gas.

"(2) The United States shall have the right to purchase not to exceed 16⅔ per centum by volume of the oil and gas produced pursuant to a lease or permit issued in accordance with this Act, at the regulated price, or, if no regulated price applies, at the fair market value at the wellhead of the oil and gas saved, removed or sold, except that any oil or gas obtained by the United States as royalty or net profit share shall be credited against the amount that may be purchased under this subsection.

"(3) Title to any royalty, net profit share, or purchased oil or gas may be transferred, upon request, by the Secretary to the Secretary of Defense, to the Administrator of the General Services Administration, or to the Administrator of the Federal Energy Administration, for disposal within the Federal Government.

"(b)(1) Upon the commencement of production of oil from the outer Continental Shelf pursuant to any lease issued after the date of enactment of this subsection, the Secretary, pursuant to such terms as he determines and in the absence of any provision of law which provides for the mandatory allocation of such oil in amounts and at prices determined by such provision, or regulations issued in accordance with such provision, may offer to the public and sell by competitive bidding for not more than its regulated price, or, if no regulated price applies, not less than its fair market value any part of the oil (A) obtained by the United States pursuant to such lease as royalty or net profit share, or (B) purchased by the United States pursuant to subsection (a)(2) of this section.

"(2) Whenever, after consultation with the Administrator of the Federal Energy Administration, the Secretary determines that small refiners do not have access to adequate supplies of oil at equitable prices, the Secretary may dispose of any oil which is taken as a royalty or net profit share accruing or reserved to the United States pursuant to any lease issued or maintained under this Act, or purchased by the United States pursuant to subsection (a)(2) of this section, by conducting a lottery for the sale of such oil, or may equitably allocate such oil among the competitors for the purchase of such oil, at the regulated price, or if no regulated price applies, at its fair market value. The Secretary shall limit participation in any lottery or allocated sale to assure such access and shall publish notice of such sale, and the terms thereof, at least thirty days in advance of such sale. Such notice shall include qualifications for participation, the amount of oil to be sold, and any limitation in the amount of oil which any participant may be entitled to purchase.

"(3) Whenever a provision of law is in effect which provides for the mandatory allocation of such oil in amounts or at prices determined by such provision, or regulations issued in accordance with such provision, the Secretary may only sell such oil in accordance with such provision of law or regulations.

"(c)(1) Except as provided in paragraph (2) of this subsection, upon the commencement of production of gas pursuant to any lease issued after the date of enactment of this subsection, the Secretary, pursuant to such terms as he determines, may offer to the public and sell by competitive bidding for not more than its regulated price, or, if no regulated price applies, not less than its fair market value any part of the gas (A) obtained by the United States pursuant to a lease as royalty or net profit share, or (B) purchased by the United States pursuant to subsection (a)(2) of this section.

"(2) Whenever, after consultation with and advice from the Administrator of the Federal Energy Administration and the Chairman of the Federal Power Commission, the Secretary determines that an emergency shortage of natural gas is threatening to cause severe economic or social dislocation in any region of the United States and that such region can be serviced in a practical, feasible, and efficient manner by royalty, net profit share, or purchased gas obtained pursuant to the provisions of this subsection, the Secretary may allocate or conduct a lottery for the sale of such gas, and shall limit the sale of such gas to any person servicing such region, but he shall not sell any such gas for more than its regulated price, or, if no regulated price applies, less than its fair market value. Prior to allocating any gas pursuant to this paragraph, the Secretary shall consult with the Federal Power Commission.

"(d) The lessee shall take any Federal oil or gas for which no acceptable bids are received, as determined by the Secretary, and which is not transferred pursuant to subsection (a)(3) of this section, and shall pay to the United States a cash amount equal to the regulated price, or, if no regulated price applies, the fair market value of the oil or gas so obtained. In the event that net profit share oil or gas produced pursuant to the bidding system authorized in subparagraphs (G) and (H) of section 8(a)(1) of this Act is sold back to the lessee or lessees, each party shall be eligible to purchase a pro rata share according to its per centum interest.

"(e) As used in this section—

"(1) the term 'regulated price' means the highest price—

"(A) at which Federal oil may be sold pursuant to the Emergency Petroleum Allocation Act of 1973 and any rule or order issued under such Act;

"(B) at which natural gas may be sold to natural-gas companies pursuant to the Natural Gas Act and any rule or order issued under such Act; or

"(C) at which either Federal oil or gas may be sold under any other provision of law or rule or order thereunder which sets a price (or manner for determining a price) for oil or gas produced pursuant to a lease or permit issued in accordance with this Act; and

"(2) the term 'small refiner' means an owner of an existing refinery or refineries, including refineries not in operation, who qualifies as a small business concern under the rules of the Small Business Administration and who is unable to purchase in the open market an adequate supply of crude oil to meet the needs of his existing refinery capacities.

"(f) Nothing in this section shall prohibit the right of the United States to purchase any oil or gas produced on the outer Continental Shelf, as provided in section 12(b) of this Act.

"Sec. 28. Limitations on Export.—(a) Except as provided in subsection (d), any oil or gas produced from the outer Continental Shelf shall be subject to the requirements and provisions of the Export Administration Act of 1969 (50 App. U.S.C. 2401 et seq.).

"(b) Before any oil or gas subject to this section may be exported under the requirements and provisions of the Export Administration Act of 1969, the President shall make and publish an express finding that such exports will not increase reliance on imported oil or gas, are in the national interest, and are in accord with the provisions of the Export Administration Act of 1969.

"(c) The President shall submit reports to the Congress containing findings made under this section, and after the date of receipt of such report Congress shall have a period of sixty calendar days, thirty days of which Congress must have been in session, to consider whether exports under the terms of this section are in the national interest. If the Congress within such time period passes a concurrent resolution of disapproval stating disagreement with the President's finding concerning the national interest, further exports made pursuant to such Presidential findings shall cease.

"(d) The provisions of this section shall not apply to any oil or gas which is either exchanged in similar quantity for convenience or increased efficiency of transportation with persons or the government of a foreign state, or which is temporarily exported for convenience or increased efficiency of transportation across parts of an adjacent foreign state and reenters the United States.".

Mr. MURPHY of New York (during the reading). Mr. Chairman, I ask unanimous consent that title II be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

AMENDMENT OFFERED BY MR. MURPHY OF NEW YORK

Mr. MURPHY of New York. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Murphy of New York:

On page 46, lines 7 through 12, strike subsection (f), and renumber succeeding subsections accordingly.

The CHAIRMAN. The gentleman from New York (Mr. Murphy) is recognized for 5 minutes in support of his amendment.

Mr. MURPHY of New York. Mr. Chairman, this amendment is one of a series.

Mr. FISH. Mr. Chairman, will the gentleman yield?

Mr. MURPHY of New York. I yield to the gentleman from New York (Mr. Fish).

Mr. FISH. I thank the gentleman for yielding.

Mr. Chairman, I want to know if the minority is in possession of the amendment the gentleman from New York has just introduced. Has the amendment been delivered to us?

Mr. MURPHY of New York. Mr. Chairman, this amendment and others I will offer in sequence were furnished to the minority yesterday. Here is another set of them.

Mr. FISH. I thank the gentleman.

Mr. Chairman, I ask unanimous consent that the Clerk re-report the amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk reread the amendment.

Mr. MURPHY of New York. Mr. Chairman, this amendment is one of a series of amendments that I will offer here in the next few minutes that represent an agreement with the Department of the Interior on clarifying many of the issues that did surface after the 4-month markup that the committee went through. We felt we had an agreement through the 4 months of markup in the consideration of 194 amendments in the process of reporting H.R. 6218 from the committee; but subsequent to that action the Department had some reservations in some areas. After detailed consultation with them, we have agreed to offer certain amendments to assist them in further agreeing to the final approval of H.R. 6218.

This amendment specifically includes in section 201 additional definitions to be included in section 2 of the Outer Continental Shelf Lands Act, for "coastal State," incorporating the definition of that term as found in the Coastal Zone Management Act.

Section 201 also includes a definition for the term "affected State," which determines which States are insured the rights of participation, consultation, and coordination with the Federal Government, as to OCS activities. As the factors to be considered, and applied, for determination of whether a State is affected by OCS activities, are specifically designated in a new definition, there is no longer a need for a definition of the term "coastal State."

Mr. FISH. Mr. Chairman, I move to strike the last word. I will not take all the time, except to advise the chairman that I have no objection to the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. Murphy).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. MURPHY OF NEW YORK

Mr. MURPHY of New York. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Murphy of New York; On page 59, lines 12 to 20, strike paragraphs 5(a) (6), (7), and (8) and renumber subsequent paragraphs accordingly.

POINT OF ORDER

Mr. FISH. Mr. Chairman, a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. FISH. Mr. Chairman, the minority has amendments to offer, including a substitute amendment to title II. It is my understanding that the minority would have its turn at the same time as the majority in considering the amendments.

The CHAIRMAN. The Chair would advise the gentleman from New York (Mr. Fish) that that would not come under the category of a point of order; but the Chair would further advise the gentleman from New York (Mr. Fish) that since the gentleman has raised the point, the Chair will alternate from side to side.

The Chair now recognizes the gentleman from New York (Mr. Murphy).

Mr. MURPHY of New York. Mr. Chairman, paragraphs 5(a) (6), (7), and (8) require regulations to be issued for annual reports, safety regulations, and the leasing program. Such additional requirements are unnecessary as the bill already obliges the Secretary himself to issue the reports and the program and he need exert no regulatory authority to do so. In addition, section 21, describing safety regulations, already mandates the promulgation of appropriate regulations.

Mr. FISH. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I have no objection to the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. Murphy).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. FISH

Mr. FISH. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Fish: Page 45, strike out line 1 and all that follows through page 122, line 4, and insert in lieu thereof the following:

TITLE II—IMPROVED MANAGEMENT OF OUTER CONTINENTAL SHELF ENERGY RESOURCES

DEFINITIONS

Sec. 201. (a) Paragraph (c) of section 2 of the Outer Continental Shelf Lands Act (43 U.S.C. 1331) is amended to read as follows:

"(c) The term 'lease' means any form of authorization which is issued under section 8 or maintained under section 6 of this Act and which authorizes exploration for, and development and production of, deposits of oil, gas, or other minerals;.

(b) Such section is further amended—

(1) in subsection (d), by striking out the period and inserting in lieu thereof a semicolon; and

(2) by adding at the end thereof the following new paragraphs:

"(e) The term 'coastal zone' means the zone defined in section 304(a) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453(a)), the inward boundaries of which may be identified by the several coastal States pursuant to the authority of section 305(b)(1) of such Act;

"(f) The term 'coastal State' means a coastal State as such term is defined in section 304(c) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453(c));

"(g) The term 'affected State' means a State which is designated as such pursuant to section 23 of this Act;

"(h) The term 'environment' means the marine, coastal, or human environment, as appropriate, and includes economic, esthetic, and social factors;

"(i) The term 'Governor' means the Governor of a State or the person or entity designated by, or pursuant to, State law to exercise the powers granted to such Governor pursuant to this Act;

"(j) The term 'exploration' means the process of searching for oil, gas, or other minerals, including (1) geophysical surveys in which magnetic, gravity, seismic, or other systems are used to detect or imply the presence of such resources, (2) any drilling, whether on or off known geological structures, including the drilling of a well in which a discovery of oil or natural gas in commercial quantities is made, and (3) the drilling of any additional well needed after such discovery to delineate the reservoir and to enable a lessee to determine whether to proceed with development and production;

"(k) The term 'development' means those activities which (1) take place following discovery of oil, gas, or other mineral resources in commercial quantities, including drilling, emplacement and outfitting, pipelaying, and platform construction and other on-shore support activities, and (2) are for the purpose of ultimately producing such resources;

"(l) The term 'production' means the removal of oil, gas, or other minerals from the outer Continental Shelf, and other activities which take place after the successful completion of a development well or other means for such removal, including field operation, transfer of oil, gas, or other minerals to shore, operation monitoring, maintenance, and workover drilling;

"(m) The term 'fair market value' means the value of any oil, gas, or other mineral (1) computed at a unit price equivalent to the average unit price at which such mineral was sold pursuant to a lease during the period for which any royalty is accrued or reserved to the United States pursuant to such lease, or (2) if there were no such sales, or if the Secretary finds that there were an insufficient number of such sales to equitably determine such value, computed at the average unit price at which such mineral was sold pursuant to other leases in the same region of the outer Continental Shelf during such period, or (3) if there were no sales of such mineral from such region during such period, or if the Secretary finds that there are an insufficient number of such sales to equitably determine such value, at an appropriate price determined by the Secretary;

"(n) The term 'major Federal action' means any action or proposal by the Secretary which is subject to the provisions of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)); and

"(o) The term 'antitrust law' means—

"(1) the Act entitled 'An Act to protect trade and commerce against unlawful restraints and monopolies', approved July 2, 1890 (15 U.S.C. 1 et seq.);

"(2) the Act entitled 'An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes', approved October 15, 1914 (15 U.S.C. 12 et seq.);

"(3) the Federal Trade Commission Act (15 U.S.C. 41 et seq.);

"(4) sections 73 and 74 of the Act entitled 'An Act to reduce taxation, to provide revenue for the Government, and for other purposes', approved August 27, 1894 (15 U.S.C. 8 and 9); or

"(5) the Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21a).".

NATIONAL POLICY FOR THE OUTER CONTINENTAL SHELF

SEC. 202. Section 3 of the Outer Continental Shelf Lands Act (43 U.S.C. 1332) is amended to read as follows:

"SEC. 3. NATIONAL POLICY FOR THE OUTER CONTINENTAL SHELF.—It is hereby declared to be the policy of the United States that—

"(1) the subsoil and seabed of the outer Continental Shelf appertain to the United States and are subject to its jurisdiction, control, and power of disposition as provided in this Act;

"(2) this Act shall be construed in such a manner that the character of the waters above the outer Continental Shelf as high seas and the right to navigation and fishing therein shall not be affected;

"(3) the minerals of the outer Continental Shelf constitute a vital national resource held by the Federal Government in trust for the benefit of the public;

"(4) lands of the outer Continental Shelf determined to be both geologically favorable for the accumulation of oil, gas, and other minerals, and capable of supporting exploration therefor, and development and production thereof, without undue environmental harm or damage, be made available for such purposes in an orderly manner which is consistent with the maintenance of competition and other national needs;

"(5) affected States, in recognition of their rights and responsibilities to preserve and protect their environment through such means as regulation of land, air, and water uses, and of other related activity and development, be assured the opportunity to participate, to the extent consistent with the national interest and in accordance with the provisions of this Act, in policy and planning decisions relating to leasing, exploration, development, and production activities under this Act by means which include timely access to information relating to such activities and opportunity for review and comment before such decisions are made and thereafter; and

"(6) operations in the outer Continental Shelf should be conducted in a safe manner by well-trained personnel using technology, precautions, and techniques sufficient to prevent or minimize the likelihood of blowouts, loss of well control, fires, spillages, physical obstruction to other users of the waters or subsoil and seabed, or other occurrences which may cause damage to the environment or to property, or endanger life or health.".

LAWS APPLICABLE TO THE OUTER CONTINENTAL SHELF

SEC. 203. (a) Section 4(a)(1) of the Outer Continental Shelf Lands Act (43 U.S.C. 1333(a)(1)) is amended—

(1) by striking out "and fixed structures" and inserting in lieu thereof ", and all structures permanently or temporarily attached to the seabed"; and

(2) by striking out "removing and transporting resources therefrom" and inserting in lieu thereof "or producing resources therefrom, or any such structure (other than a ship or vessel) for the purpose of transporting such resources".

(b) Section 4(a)(2) of such Act is amended to read as follows:

"(2)(A) To the extent that they are applicable and not inconsistent with this Act or with other Federal laws and regulations of the Secretary now in effect or hereafter adopted, the civil and criminal laws of each coastal State adjacent to the outer Continental Shelf, as in effect on the date of enactment of this paragraph, are hereby declared to be the law of the United States for that portion of the subsoil and seabed of the outer Continental Shelf, and those artificial islands and structures referred to in paragraph (1) of this subsection, which would be within the area of such State if its boundaries were extended seaward to the outer margin of the outer Continental Shelf. After such date of enactment—

"(i) any change in any criminal law of such State shall be adopted as the law of the United States, for purposes of this paragraph, at the same time such change takes effect in such State; and

"(ii) any change in any civil law of such State during the five-year period beginning on such date of enactment shall be adopted as the law of the United States, for purposes of this paragraph, at the end of such five-year period, and any change during any subsequent five-year period shall be adopted in the same manner at the end of the five-year period in which such change occurs.

Within one year after the date of enactment of this paragraph, the President shall determine and publish in the Federal Register projected lines extending seaward and defining each such area. The President may, prior to such determination, establish procedures for settling any outstanding boundary disputes relating to the projection of such lines. All of such applicable and consistent State laws shall be administered and enforced by the appropriate officers and courts of the United States. State taxation laws shall not apply to the outer Continental Shelf.

"(B) Within one year after the date of enactment of this paragraph, the President shall establish procedures for settling any outstanding international boundary dispute respecting the outer Continental Shelf, including any dispute involving international boundaries between the jurisdictions of the United States and Canada and between the jurisdictions of the United States and Mexico.".

(c) Section 4(d) of such Act is amended to read as follows:

"(d) For the purposes of the National Labor Relations Act, any unfair labor practice, as defined in such Act, occurring upon any artificial island or structure referred to in subsection (a) of this section shall be deemed to have occurred within the judicial district of the coastal State, the laws of which apply to such artificial island or structure pursuant to such subsection, except that until the President determines the areas within which such State laws are applicable, the judicial district shall be that of the coastal State nearest the place of location of such artificial island or structure.".

(d) Section 4 of such Act is amended—

(1) in paragraph (1) of subsection (e), by striking out "the islands and structures referred to in subsection (a)", and inserting in lieu thereof "the artificial islands and structures referred to in subsection (a)";

(2) in subsection (f), by striking out "artificial islands and fixed structures located on the outer Continental Shelf" and inserting in lieu thereof "the artificial islands and structures referred to in subsection (a)"; and

(3) in subsection (g), by striking out "the artificial islands and fixed structures referred to in subsection (a)" and inserting in lieu thereof "the artificial island and structures referred to in subsection (a)".

(e) Section 4(e)(1) of such Act is amended by striking out "head" and inserting in lieu thereof "Secretary".

(f) Section 4(e)(2) of such Act is amended to read as follows:

"(2) The Secretary of the Department in which the Coast Guard is operating may mark for the protection of navigation any artificial island or structure referred to in subsection (a) whenever the owner has failed suitably to mark such island or structure in accordance with regulations issued under this Act, and the owner shall pay the cost of such marking.".

(g) Section 4 of such Act is further amended by striking out subsection (b) and relettering subsections (c), (d), (e), (f), and (g) as subsections (b), (c), (d), (e), and (f), respectively.

ADMINISTRATION OF LEASING OF THE OUTER CONTINENTAL SHELF

SEC. 204. (a)(1) The second and third sentences of section 5(a)(1) of the Outer Continental Shelf Lands Act (43 U.S.C. 1334 (a)(1)) are amended to read as follows: "The Secretary may at any time prescribe and amend such rules and regulations as he determines to be necessary and proper in order to provide for the maximum recovery, prevention of waste, and conservation of the natural resources of the Outer Continental Shelf, and for the protection of the marine and coastal environments; and, notwithstanding any other provision of this Act, such rules and regulations shall apply to all operations conducted pursuant to any lease issued or maintained under the provisions of this Act. In the administration of conservation or environmental laws, rules, and regulations, the Secretary is authorized to cooperate with the conservation and environmental agencies of the adjacent coastal States.".

(2) The fourth sentence of such section 5 (a)(1) is amended by striking out "for the sale of royalty oil and gas accruing or reserved to the United States at not less than market value,".

(b) The first sentence of section 5(a)(2) of such Act is repealed.

SEC. 205. Section 7 of the Outer Continental Shelf Lands Act (43 U.S.C. 1336) is amended—

(1) in the first sentence thereof, by inserting "(a)" immediately before "In"; and

(2) by adding at the end thereof the following new subsection:

"(b)(1) Except as provided in subsection (a) of this section, in the case of any lease issued under this Act after the date of enactment of this section with respect to which production may, in the judgment of the Secretary, result in the drainage of oil or gas from lands of any State, the Secretary shall—

"(A) whenever the lands of such State have been or are about to be leased or otherwise utilized for exploration, development, or production by such State, seek to establish an agreement for unitary exploration, development, and production of the Federal and State lands; or

"(B) whenever such State has not or is not about to so lease or utilize such lands, include a term in the lease making the lessee a party to any negotiations and any suit for equitable division of the proceeds from such lease among the lessee, the State, and the Federal Government.

"(2) Whenever subparagraph (B) of paragraph (1) is applicable, and upon an allegation by the State or a determination by the Secretary that drainage of oil or gas from State lands is occurring, the Secretary shall institute negotiations among the lessee, the State, and the Federal Government for the equitable division of the proceeds from such lease. If within six months after the date on which negotiations are commenced pursuant to the preceding sentence an equitable distribution is not agreed to by the parties to the negotiations, any party to such negotiations may initiate a suit for an equitable division of the proceeds from such lease. Notwithstanding any other provision of this subsection, the Secretary shall not be required to include the term referred to in subparagraph (B) of paragraph (1) in such lease, or to institute negotiations pursuant to this paragraph, unless the State agrees to insert a similar term and to institute similar negotiations in any case in which operations on lands of such State may result in the drainage of oil or gas from Federal lands.".

REVISION OF LEASING TERMS AND PROCEDURES

SEC. 206. (a) Section 8(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337 (a)) is amended to read as follows:

"(a)(1) In order to meet the urgent need for further exploration, development, and production of the oil and gas deposits of the submerged lands of the outer Continental Shelf, the Secretary, pursuant to regulations which he shall prescribe, is authorized to sell and issue, to the highest responsible qualified bidder by competitive bidding, oil and gas leases for the exploration, development, and production of such submerged lands which are not covered by leases meeting the requirements of subsection (a) of section 6 of this Act. The bidding for each lease shall be by sealed bid and, at the discretion of the Secretary, on the basis of—

"(A) cash bonus bids with a royalty fixed by the Secretary at not less than 12½ per centum in amount or value of the oil or gas extracted pursuant to such lease;

"(B) cash bonus bids with diminishing or sliding royalty based on such formulae as the Secretary shall determine are necessary to encourage continued production from the lease area as resources diminish, except that the initial royalty shall be fixed by the Secretary at not less than 12½ per centum in amount or value of the oil or gas extracted pursuant to such lease;

"(C) cash bonus bids with a share of the net profits derived from operation of the tract fixed by the Secretary at not less than 30 per centum and reserved to the United States;

"(D) cash bonus fixed by the Secretary with the per centum royalty in amount or value of the oil or gas extracted pursuant to such lease, as the bid variable;

"(E) cash bonus fixed by the Secretary with a per centum share of the net profits derived from operation of the tract reserved to the United States as the bid variable;

"(F) cash bonus bids for 1 per centum shares of an undivided working interest in the lease area, such shares to be awarded at a price which is equal to the average price per share of the highest responsible qualified bids tendered for not more than 100 per centum of the lease area, with a fixed share of the net profits derived from the production of oil and gas pursuant to a lease to be determined by the Secretary; or

"(G) cash bonus bids for 1 per centum shares of an undivided working interest in the lease area, such shares to be awarded at a price which is equal to the average price per share of the highest responsible qualified bids tendered for not more than 100 per centum of the lease area, and with a fixed or diminishing royalty based upon the production derived from operation pursuant to the lease.

"(2) No provision of this subsection shall be interpreted as diminishing the Secretary's authority under section 5(a) of this Act to provide for the reduction of royalties after production commences on any tract.

"(3) Prior to selling any lease under the provisions of subparagraph (C), (E), or (F) of paragraph (1) of this subsection, the Secretary shall establish accounting procedures and standards to govern the calculation of net profits. Such procedures and standards may be established separately for each lease to be sold and may be modified from time to time in the same manner as originally promulgated. In the event of any administrative or judicial proceeding involving a dispute between the United States and any lessee concerning the calculation of net profits, the burden of proof shall be on the lessee. The value of any net profit share reserved to the United States from any lease issued pursuant to this section shall be deemed a royalty for the purposes of this Act.

"(4) In accordance with a schedule announced at the time of the announcement of a lease sale, the Secretary may, in his discretion, defer any part of the payment of a cash bonus required to be paid pursuant to any lease sold in such lease sale, except that such payment shall be made in total not later than five years from the date of such lease sale or no later than the date of the approval of the development and production plan submitted with respect to such lease, whichever date first occurs.

"(5)(A) In the case of any lease area offered for sale pursuant to subparagraph (F) or (G) of paragraph (1), if the accepted bid per share of any person for a per centum working interest in such lease area is less than the average price per share of all accepted bids, and such person does not, within such time as the Secretary shall by regulation prescribe, agree to pay such price, then—

"(i) the Secretary shall return to such person any deposit made with respect to such bid; and

"(ii) any right acquired and any obligation incurred by such person with respect to such bid shall be deemed to be canceled.

"(B)(i) In the event the Secretary sells less than 100 per centum of the interest in the lease area offered under subparagraph (F) or (G) of paragraph (1), he shall offer the additional shares to the bidders who purchased shares pursuant to the initial bidding process. The Secretary shall sell such additional shares to the bidders who have elected to purchase under this clause, except that the maximum number of additional shares which any such bidder may purchase shall be in proportion to his bidded interest.

"(ii) To the extent that any per centum of the interest in the lease area offered under such subparagraph (F) or (G) remains unsold after the Secretary uses the procedure required by clause (i) of this subparagraph, he shall repeat such procedure for such period of time as he determines to be reasonable.

"(iii) To the extent that any per centum of the interest in the lease area offered under such subparagraph (F) or (G) remains unsold after the Secretary uses the procedure required under clauses (i) and (ii) of this subparagraph, the Secretary shall offer any remaining shares for sale to the highest interested bidder whose bid was not accepted in the initial bidding process, except that any such bidder may not purchase a number of shares which exceeds the number for which he originally bid. The Secretary shall repeat such procedure for such period of time as he determines to be reasonable.

"(iv) Any additional shares of the interest in a lease area which are sold by the Secretary pursuant to this subparagraph shall be sold at a price equal to the price at which shares of the interest in such lease area were sold pursuant to the initial bidding process.

"(C) The Secretary shall, by regulation, provide for the cancellation of any lease sale held pursuant to subparagraph (F) or (G) of paragraph (1), if the total amount to be paid for all shares sold does not represent a fair return to the Federal Government.

"(D) The Secretary shall establish standards and procedures for the formation of a joint working group in an area leased pursuant to subparagraph (F) or (G) of paragraph (1), and shall approve one or more operators for, and the terms of management of, activities on such lease area. The United States, represented by the Secretary, shall be considered a nonvoting party to any joint working group formed pursuant to such standards and procedures.

"(6)(A) The Secretary shall utilize the bidding alternatives from among those authorized by this subsection so as to accomplish the purposes and policies of this Act, including (i) providing a fair return to the Federal Government, (ii) increasing competition, (iii) assuring competent and safe operations, (iv) avoiding undue speculation, (v) avoiding unnecessary delays in exploration, development, and production, (vi) discovering and recovering oil and gas, (vii) development new oil and gas resources in an efficient and timely manner, and (viii) limiting administrative burdens on government and industry.

"(B) During the five-year period commencing on the date of enactment of this subsection, the Secretary may, in order to obtain statistical information to determine which bidding alternatives will best accomplish the purposes and national policies of this Act, require each bidder to submit bids for any area of the outer Continental Shelf in accordance with more than one of the bidding systems set forth in paragraph (1) of this subsection. If the Secretary requires bids to be submitted in accordance with this subparagraph, he shall, by a random method, determine which one of the bidding systems used in the submission of such bids shall be used in awarding leases for such area."

(b) Section 8(b) of such Act is amended to read as follows:

"(b) An oil and gas lease issued by the Secretary pursuant to this section shall—

"(1) be for a tract consisting of a compact area not exceeding five thousand seven hundred and sixty acres, as the Secretary may determine, unless the Secretary finds that a larger area is necessary to comprise a reasonable economic production unit;

"(2) be for an initial period of

"(A) five years; or

"(B) not to exceed ten years where the Secretary finds that such longer period is necessary to encourage exploration and development in areas of unusually deep water or unusually adverse weather conditions, and as long after such initial period as oil or gas may be produced from the area in paying quantities, or drilling or well reworking operations as approved by the Secretary are conducted thereon;

"(3) require the payment in amount or value of a royalty as determined by one of the bidding procedures set out in subsection (a) of this section;

"(4) contain a provision that the lessee will comply with any rule or order which is issued by the President under section 106 of the Energy Policy and Conservation Act (Public Law 94–163) and which applies to such tract, and with any rule or order relating to the rate of production of oil or gas which is issued by the Secretary pursuant to section 5(a) of this Act and which applies to such tract;

"(5) provide for cancellation of the lease pursuant to section 5, section 12, or section 21 of this Act; and

"(6) contain such rental provisions and such other terms and provisions as the Secretary may prescribe at the time of offering the area for lease.".

(c) Section 8(f) of such Act is amended by adding at the end thereof the following: "At least thirty days prior to publishing such notice of sale, the Secretary shall publish the final selection of tracts to be offered for lease, together with an invitation for the Governor of each affected State and other interested persons to submit comments. Any such tract may be withdrawn by the Secretary at any time prior to the issuance of a lease for such tract.".

(d) Section 8 of such Act is further amended by adding at the end thereof the following new subsection:

"(k) No lease may be issued pursuant to this section until at least thirty days after the Secretary notifies the Attorney General of the United States and the Federal Trade Commission of the proposed issuance. Such notification shall contain such information as the Attorney General and the Federal Trade Commission may require in order to advise the Secretary as to whether the issuance of such lease would create or maintain a situation inconsistent with the antitrust laws. Nothing in this subsection shall be deemed to convey to any person immunity from civil or criminal liability under any antitrust law, or to create any defense to any action under any antitrust law.".

DISPOSITION OF REVENUES

SEC. 207. Section 9 of the Outer Continental Shelf Lands Act (43 U.S.C. 1338) is amended to read as follows:

"SEC. 9. DISPOSITION OF REVENUES.—All rentals, royalties, and other sums paid to the Secretary under any lease issued or maintained under this Act shall be deposited in the Treasury of the United States and credited to miscellaneous receipts.".

REFUNDS

SEC. 208. (a) Section 10(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1339) is amended by striking out the last sentence thereof.

(b) Section 10(b) of such Act is amended to read as follows:

"(b) Prior to making any repayment under this section, the Secretary shall submit a report to the Congress setting forth (1) the name of the person to whom the repayment is to be made, (2) the amount of such repayment, and (3) a summary of the facts upon which the determination was made. No such repayment shall be made before the end of the first period of thirty calendar days of continuous session of the Congress after the date of such submission. For purposes of this subsection, continuity of session of the Congress is broken only by an adjournment sine die, and the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the thirty-day period.".

GEOLOGICAL AND GEOPHYSICAL EXPLORATION

SEC. 209. Section 11 of the Outer Continental Shelf Lands Act (43 U.S.C. 1340) is amended to read as follows:

"SEC. 11. GEOLOGICAL AND GEOPHYSICAL EXPLORATION.—(a) Any agency of the United States, and any person when the Secretary by permit or regulation may authorize, may conduct geological and geophysical explorations in the outer Continental Shelf, which do not interfere with or endanger actual operations pursuant to any lease maintained or issued pursuant to this Act, and which are not unduly harmful to the marine environment.

"(b) The provisions of this section shall not apply to any person conducting explorations pursuant to an approved exploration plan on any area leased to such person pursuant to the provisions of this Act.".

RESERVATIONS

SEC. 210. Section 12(c) of the Outer Continental Shelf Lands Act (43 U.S.C. 1341(c)) is amended—

(1) by striking out "lease; and" and inserting in lieu thereof "lease or to cancel any lease; and"; and

(2) by inserting immediately before the period at the end thereof the following: "or whose lease is thus canceled".

ANNUAL REPORT

SEC. 211. Section 15 of the Outer Continental Shelf Lands Act (43 U.S.C. 1344) is amended to read as follows:

"SEC. 15. ANNUAL REPORT.—Within six months after the end of each fiscal year, the Secretary shall submit to the President of the Senate and the Speaker of the House of Representatives a report on the activities conducted pursuant to this Act during such fiscal year. Such report shall include (1) a detailed accounting of all moneys received and expended, (2) a detailing of all permits issued and all leasing, exploration, development, and production activities, (3) a summary of management, supervision, and enforcement activities, and (4) recommendations for (A) improvements in the administration of this Act, and in the safety, environmental protection, and amount of oil, gas, and other minerals produced in activities conducted pursuant to this Act, and (B) the resolution of ambiguities or jurisdictional conflicts.".

NEW SECTIONS OF OUTER CONTINENTAL SHELF LANDS ACT

SEC. 212. The Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) is further amended by adding at the end thereof the following new sections:

"SEC. 18. OUTER CONTINENTAL SHELF OIL AND GAS LEASING PROGRAM.—(a) After consideration of alternative leasing activities which may be conducted pursuant to this Act, the Secretary shall prepare and maintain an oil and gas leasing program to implement the policy set forth in section 3 of this Act. Such leasing program shall indicate as precisely as possible the size, timing, and location of leasing activities that will best meet national energy needs without undue environmental harm or damage. Such program shall apply to the five-year period, or such longer period as the Secretary may determine, immediately following approval by the Congress of such program. In preparing such program, the Secretary shall take into consideration the following:

"(1) Management of the outer Continental Shelf in a manner which considers the economic, social, and environmental values of the renewable and nonrenewable resources contained therein, and the potential impact of oil and gas exploration, development, and production on other resource values of the Outer Continental Shelf and the marine and coastal environments.

"(2) Scheduling of lease sales to distribute such sales among the regions of the outer Continental Shelf in which commercially exploitable quantites of oil and gas may be located, based on a consideration of factors including—

"(A) information concerning the geographic, geological, and ecological characteristics of such regions;

"(B) the relationship of the general areas to be leased pursuant to such sales to the location and relative need of regional and national energy markets;

"(C) the relationship of the general areas to be leased pursuant to such sales to the location of existing or sited onshore facilities for the receipt, storage, processing, refining, transportation, or distribution of oil or gas, which facilities have, or may have, excess capacity which could be utilized for oil or gas resources from the outer Continental Shelf;

"(D) the potential effect of the leasing of such general areas on other uses of the sea and seabed, including fisheries, intracoastal navigation, sea lanes, deepwater ports, and other uses or anticipated uses of the resources and space of the outer Continental Shelf;

"(E) the location in the coastal zone of development and production facilities necessitated by such lease sales with respect to the existence of other uses or anticipated uses of the coastal zone, including hunting and fishing, recreation, wildlife or bird sanctuaries, and housing;

"(F) interest by potential oil and gas producers in exploration for and development of resources, as indicated by nomination, consultation, or other representation;

"(G) a proper balance among the potential for discovery of oil and gas, the potential for environmental damage, and the potential for adverse impact on the coastal zone; and

"(H) an equitable sharing of developmental and energy benefits and environmental risks among various States and regions of the United States.

"(3) Consideration of the laws of adjacent coastal States.

"(4) Receipt of fair value by the public for the rights to be conveyed by such leasing activities.

"(b) The program shall include estimates of appropriations and personnel required by the Federal Government to implement such program and this Act during each fiscal year, or part thereof, covered by such program.

"(c)(1) No program prepared pursuant to this section shall take effect until it has been published in final form, and then submitted to and approved by the Congress. Such program shall be deemed approved, and the Secretary shall be authorized to proceed with activities thereunder, unless within a sixty-day period of continuous session of the Congress following the date of submission either House passes a resolution stating in substance that such House does not favor the program and setting out the reasons therefor.

"(2) For purposes of this subsection, the continuity of a session of the Congress is broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment of more than three days to a day certain shall be excluded in the computation of such sixty-day period.

"(3) Whenever a program prepared pursuant to this section is submitted to the Congress pursuant to paragraph (1), such program shall be accompanied by any environmental impact statement which is prepared with respect to such program in accordance with section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

"(d)(1) During the preparation of any program under this section, the Secretary shall invite and consider suggestions for such program from the Governor of any coastal State which may become an adjacent coastal State under such program. The Secreary may also invite or consider suggestions from any other person.

"(2) After such preparation and at least sixty days prior to submission of such program to the Congress, the Secretary shall publish the proposed program and shall transmit a copy of such proposed program to the Governor of each adjacent coastal State for review and comment. If any such comment is received by the Secretary at least fifteen days prior to such submission and includes a request for any modification of the proposed program, the Secretary shall reply in writing, granting or denying such request in whole or in part, or granting such request in such modified form as the Secretary considers appropriate, and stating his reasons therefor. All such correspondence between the Secretary and the Governor of any adjacent coastal State, together with any additional information and data relating thereto, shall accompany the program when such program is submitted to the Congress.

"(3) The provisions of this subsection shall not apply to any program resubmitted to Congress subsequent to disapproval thereof under subsection (c) of this section, if the only significant modifications of such program are made in response to the reasons set forth in the resolution of disapproval, except that such resubmitted program shall be published and shall be transmitted to the Governor of each adjacent coastal State for his information.

"(e)(1) The first program submitted to the Congress under this section shall be submitted within one year after the date of enactment of this section.

"(2) At least once each year during the period to which any program approved under this section applies, the Secretary shall review such program. If the Secretary determines that it is necessary to revise such program, the provisions of subsections (a), (b), (c), and (d) of this section shall apply to any such revision. If any such revision extends the applicability of such program beyond its original term, the revised program shall be deemed a new and separate program for purposes of this section. Prior to the date of expiration of any program approved under this section, the Secretary shall prepare a new program under this section to apply to the period of not less than five years beginning immediately after such date.

"(f) The Secretary may make minor changes in an approved program, including the cancellation or delay of a scheduled lease sale, by publishing such changes and after transmitting a copy of such changes to the Congress and to the Governor of each adjacent coastal State affected by such changes. The advancement of a lease sale by more than four months shall not constitute a minor change for purposes of this subsection.

"(g) After the first approval of a program under this section, or after eighteen months following the date of enactment of this section, whichever first occurs, no oil and gas lease may be offered for sale under this Act, except in accordance with an approved program.

"SEC. 19. OIL AND GAS EXPLORATION PURSUANT TO LEASES.—(a) Beginning ninety days after the date of enactment of this section, no exploration pursuant to any oil and gas lease issued or maintained under this Act may be undertaken by the holder of such lease, except in accordance with the provisions of this section.

"(b)(1) Prior to commencing exploration pursuant to any lease issued or maintained under this Act, the holder thereof shall submit an exploration plan to the Secretary for approval. Such plan may apply to more than one lease held by a lessee in any one region of the outer Continental Shelf, or by a group of lessees acting under a unitization, pooling, or drilling agreement, and shall be approved by the Secretary if he finds that such plan is consistent with the provisions of this Act, regulations prescribed under this Act, and the provisions of such lease. The Secretary shall require such modifications of such plan as are necessary to achieve such consistency. The Secretary shall approve such plan, as submitted or modified, within thirty days of its submission, except if the Secretary determines that (A) any proposed activity under such plan would result in any condition which would permit him to suspend such activity pursuant to section 21(a)(1) of this Act, and (B) such proposed activity cannot be modified to avoid such condition, he may delay the approval of such plan.

"(2) An exploration plan submitted under this subsection shall include, in the degree of detail which the Secretary may by regulation require—

"(A) a schedule of anticipated exploration activities to be undertaken;

"(B) a description of equipment to be used for such activities;

"(C) the general location of each well to be drilled; and

"(D) such other information deemed pertinent by the Secretary.

"(3) The Secretary may, by regulation, require that such plan be accompanied by a general statement of development and production intentions which shall be for planning purposes only and which shall not be binding on any party.

"(c) The Secretary may, by regulation, require any lessee operating under an approved exploration plan to obtain a permit prior to drilling any well in accordance with such plan.

"(d)(1) If a revision of an exploration plan approved under this section is submitted to the Secretary, the process to be used for the approval of such revision shall be the same as set forth in subsection (b) of this section.

"(2) All exploration activities pursuant to any lease shall be conducted in accordance with an approved exploration plan or an approved revision of such plan.

"(e) The Secretary may, within ninety days after the date of enactment of this section, provide for the approval under subsection (b) of any plan submitted prior to such date of enactment which he finds is in substantial compliance with the provisions of such subsection, and may require the submission of any additional information necessary to bring such plan into such compliance.

"SEC. 20. OIL AND GAS DEVELOPMENT AND PRODUCTION ON THE OUTER CONTINENTAL SHELF.—(a) Beginning ninety days after the date of enactment of this section, no development or production pursuant to any oil and gas lease issued or maintained under this Act may be undertaken except in accordance with the provisions of this section.

"(b)(1) Upon the discovery of oil or gas in commercial quantities, the lessee shall promptly notify the Secretary of such discovery in a discovery report which shall detail, in such form and manner as the Secretary may by regulation prescribe, pertinent information regarding such discovery, including the location thereof and the lessee's best estimate of the volume of recoverable resources discovered. The Secretary may, by regulation, require the lessee to submit supplemental reports updating such information.

"(2) After such discovery, and after drilling any additional well which may be necessary to delineate the reservoir and to enable such lessee to determine whether to proceed with development and production, such lessee shall submit for the approval of the Secretary a development and production plan described in subsection (c) of this section. Such plan may apply to more than one lease held by a lessee in any one region of the outer Continental Shelf, or by a group of lessees acting under a unitization, pooling, or drilling agreement.

"(c) A development and production plan shall include, in the degree of detail which the Secretary may by regulation require—

"(1) a schedule of anticipated development and production activities on the outer Continental Shelf;

"(2) a description of equipment intended to be used to conduct such activities;

"(3) a description and the anticipated location of development and production facilities on the outer Continental Shelf intended to be constructed or utilized by such lessee (whether or not owned or operated by such lessee), including platforms and wells, rights-of-way, pipelines, and transfer facilities, together with a statement as to the expected date of completion or availability of each such facility;

"(4) any exceptional condition, on or near the leased area and offshore rights-of-way, which may require special treatment or precautions to protect the environment or insure safe development and production of oil or gas, together with a description of the proposed means for effecting such special treatment or precautions;

"(5) the lessee's best estimate of the potential rate of production of oil or gas under such plan; and

"(6) such other relevant information as the Secretary may by regulation require.

"(d) A development and production plan shall be accompanied by a statement of the lessee's intentions regarding the type and location of development and production facilities located other than on the outer Continental Shelf (whether or not owned or operated by such lessee) which will be constructed or utilized in the development or production of oil or gas from the leased area, including support facilities, storage facilities, refineries, processing facilities, and platform construction or assembly facilities. The Secretary shall promptly transmit a copy of such statement to (1) the Secretary of Commerce, (2) the head of any other affected Federal agency, (3) the Governor of each adjacent coastal State, and (4) the governing official or body of each local government within the jurisdiction of which facilities will be constructed or utilized, as described in such statement, except that the Secretary may, by regulation, require the lessee to transmit such statement to such Governors and such officials or bodies.

"(e) Upon receipt of a development and production plan pursuant to subsection (c) of this section and an accompanying statement of intentions pursuant to subsection (d) of this section, the Secretary shall, as promptly as possible but no later than five days after the date of such receipt, publish a notification in the Federal Register that such plan and such statement are available to the general public for inspection.

"(f) (1) Within thirty days after publication under subsection (e) of this section with respect to a development and production plan, the Secretary shall evaluate such plan and—

"(A) if because of exceptional resource values in the marine or coastal environment, or other exceptional environmental factors with respect to which the lessee had no control, such plan (i) does not make adequate provisions for environmentally safe operations, or (ii) is not consistent with the provisions of this Act, regulations prescribed under this Act, and the provisions of the lease, and it is not practical to modify such plan to make such adequate provisions or achieve such consistency, the Secretary shall disapprove such plan; or

"(B) if the Secretary is not required to disapprove such plan under subparagraph (A) of this paragraph, and if any proposed activity to be conducted pursuant to such plan is not in compliance with the requirements of this Act or any other applicable Federal law and it is not practical to require modification of such plan to achieve such compliance, the Secretary shall disapprove such plan.

After the disapproval of a plan by the Secretary under this paragraph, the Secretary may require or permit the lessee to submit a new plan.

"(2) (A) If the Secretary does not, pursuant to paragraph (1) of this subsection, disapprove the plan, he shall, within the thirty-day period referred to in such paragraph—

"(i) require such modification of such plan as is necessary and practical to achieve the safety and consistency referred to in paragraph (1) (A) of this subsection, or to protect the coastal zone from avoidable adverse impacts, except that such modification shall, to the maximum extent practicable, be consistent with the coastal zone management program of any adjacent coastal State, approved pursuant to section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455); and

"(ii) determine whether the approval of such plan, as submitted or modified, constitutes a major Federal action.

"(B) Within the thirty-day period referred to in paragraph (1) of this subsection, the Secretary shall publish a notification in the Federal Register setting forth (i) any modification required in a development and production plan pursuant to subparagraph (A) (i) of this paragraph, (ii) the determination of the Secretary, pursuant to subparagraph (A) (ii) of this paragraph, as to whether approval of such plan constitutes a major Federal action, and (iii) any information required to be included pursuant to paragraph (1) (B) of subsection (g) of this section.

"(g) (1) (A) If the Secretary determines, pursuant to paragraph (2) (A) (ii) of subsection (f) of this section, that a plan does not constitute a major Federal action, he shall approve such plan, as submitted or modified.

"(B) If the Secretary approves a plan under subparagraph (A) of this paragraph, he shall include in the notification published pursuant to paragraph (2) (B) of subsection (f) of this section a statement that such plan has been approved and that interested persons have thirty days from the date of such publication to submit comments and request modifications with respect to such plan.

"(C) The Secretary shall review the comments and requests for modifications submitted pursuant to subparagraph (B) of this paragraph, and he may, on the basis of such comments and requests, require modification of such plan in accordance with paragraph (2) (A) (i) of subsection (f) of this section.

"(2) If the Secretary determines, pursuant to paragraph (2) (A) (ii) of subsection (f) of this section, that a plan constitutes a major Federal action, he shall, not less than thirty or more than sixty days after the final environmental impact statement prepared with respect to such plan is submitted to the Council on Environmental Quality—

"(A) approve such plan, as submitted or as modified pursuant to paragraph (2) (A) (i) of such subsection (f);

"(B) require additional modification of such plan, based upon the environmental impact statement prepared with respect to such plan, and approve such plan as so modified; or

"(C) disapprove such plan, based upon the environmental impact statement prepared with respect to such plan.

The Secretary shall publish in the Federal Register his decision under this paragraph with respect to approval or disapproval of such plan, and shall include in such publication a statement setting forth any modification of such plan required pursuant to subparagraph (B) of this paragraph.

"(h) Upon approval of a development and production plan pursuant to paragraph (1) or (2) of subsection (g) of this section, the lessee may proceed with development and production pursuant to such approved plan.

"(i) Upon his own initiative or upon the request of the lessee, the Secretary may, pursuant to such regulations as he shall prescribe, require or approve revisions in a development and production plan approved under this section. In determining whether to require or approve any such revision, the Secretary shall consider—

"(1) whether such revision would lead to a significant increase in the degree of, or probability of, adverse impact on the marine or coastal environment;

"(2) whether such revision would lead to a significant and avoidable reduction (contrary to the public interest) in the rate of recovery of oil or gas from any well or in the ultimate recovery of oil or gas from any reservoir; and

"(3) whether requiring such revision, or failing to approve such revision, would result in substantial economic hardship to the lessee.

Upon the requirement or approval of a revision in an approved plan under this subsection, the lessee may proceed with development and production pursuant to such plan as so revised.

"(j) The Secretary may, within ninety days after the date of enactment of this section, provide for the approval under this section of any plan submitted prior to such date of enactment which he finds is in substantial compliance with the provisions of this section, and may require the submission of any additional information necessary to bring such plan into such compliance.

"(k) Notwithstanding any other provision of this section, the Secretary may, by regulation, require a lessee to obtain a permit prior to drilling any well in accordance with a development and production plan.

"SEC. 21. ENVIRONMENTAL SUSPENSION AND CANCELLATION OF LEASES.—(a) (1) (A) Whenever the Secretary has reason to believe that any lessee is conducting or planning to conduct any activity on the outer Continental Shelf which poses a serious threat of harm or damage—

"(i) to life;

"(ii) to property other than that of such lessee;

"(iii) to the mineral deposits on a lease or other valuable mineral deposits; or

"(iv) to the marine or coastal environment,

the Secretary shall notify such lessee that he intends to make a determination on the record, pursuant to subparagraph (B), with respect to the suspension or prohibition of such activity.

"(B) If the Secretary has given notice under subparagraph (A) or (C), he shall determine, on the record after opportunity for an agency hearing, whether the lessee is conducting or planning to conduct any activity which poses a serious threat or harm or damage, as described in subparagraph (A). If the Secretary determines that such lessee is conducting or planning to conduct any activity which poses a serious threat of such harm or damage, he shall—

"(i) suspend or temporarily prohibit such activity; or

"(ii) if such activity has been suspended or temporarily prohibited on an emergency basis under subparagraph (C), continue such suspension or temporary prohibition.

Any suspension or prohibition required pursuant to this subparagraph shall remain in effect until the Secretary determines, upon his own initiative or after a hearing held at the request of such lessee, that the activity suspended or prohibited no longer poses a serious threat of such harm or damage. If notice is provided to the lessee under subparagraph (C), the determination by the Secretary under the first sentence of this subparagraph shall be made no later than seven days after the date of such notice.

"(C) If the Secretary determines, in his discretion, that—

"(i) any lessee is conducting or planning to conduct any activity which poses a serious threat of harm or damage, as described in subparagraph (A), and

"(ii) due to the immediate nature of such threat, action must be taken prior to a determination on the record,

the Secretary may suspend or temporarily prohibit such activity on an emergency basis. Within forty-eight hours after any such suspension or prohibition, the Secretary shall notify the lessee that he intends to make a determination on the record, pursuant to subparagraph (B), with respect to the continued suspension or prohibition of such activity. The Secretary may terminate any emergency suspension or prohibition required pursuant to this subparagraph if he determines, in his discretion, that the activity suspended or prohibited no longer poses a serious threat of such harm or damage.

"(2) In the event that any suspension or prohibition under this section applies to all activity on a lease area (excluding any maintenance or safety activity), no payment of rental or minimum royalty shall be required with respect to such lease area for or during the period of such suspension or prohibition, except with respect to amounts accrued to the United States and not yet paid.

"(3) The term of any lease affected by a suspension or prohibition under this section shall be extended by a period equivalent to the period of such suspension or prohibition.

"(4) The provisions of paragraphs (2) and (3) of this subsection shall not apply if the Secretary finds that a suspension or prohibition under this section has been made necessary, in whole or in part, due to the negligence of the lessee or through the failure or refusal of the lessee to comply with any provision of this or any other Act, or any applicable regulation.

"(b)(1) If the Secretary finds that (A) it is probable that the threat of harm or damage resulting in a suspension under this section, or resulting in a delay of approval of an exploration plan under section 19 of this Act will not decrease over time, (B) it is not probable that the development of new technology or further study will lessen such threat within a reasonable period of time, (C) there is no portion of the leased area which may be safe and practical to explore and develop, and (D) such threat outweighs any environmental risks inherent in terminating all operations pursuant to the affected lease, he shall cancel such lease.

"(2) If the Secretary, pursuant to subsection (f)(1)(A) or (g)(2)(C) of section 20, disapproves a development and production plan submitted with respect to any lease issued or maintained under this Act, he shall cancel such lease, unless he determines that a change in circumstances will occur within a reasonable period of time which will permit him to approve, in accordance with the provisions of this Act, a new plan which is submitted pursuant to section 20.

"(c)(1) Except as provided in paragraph (3), upon the cancellation under subsection (b) of this section of—

"(A) any oil and gas lease issued or maintained under this Act and in effect on the date of enactment of this section; or

"(B) any producing oil and gas lease issued under this Act after such date of enactment,

the Secretary shall pay just compensation to the holder of the lease.

"(2) Except as provided in paragraph (3), upon the cancellation under subsection (b) of any nonproducing oil and gas lease issued under this Act after the date of enactment of this section, the Secretary shall (A) pay to the holder of such lease an amount equal to (i) all bonuses, rentals, royalties, and other sums paid to the Secretary pursuant to such lease, and (ii) all direct costs incurred by such holder in the conduct of activities pursuant to an approved exploration plan or an approved development and production plan, or in direct support of such activities, and (B) waive payment of any bonus with respect to such lease deferred pursuant to section 8(a)(4) of this Act.

"(3) A lessee shall have no remedy or right of recovery against the United States for the cancellation under subsection (b)(1) of any lease, if the Secretary has made a finding with respect to such lessee under subsection (a)(4) of this section.

"(d) Within sixty days after the date of enactment of this section, the Secretary shall review each regulation issued pursuant to section 5(a)(1) of this Act, and shall repeal or modify any such regulation to the extent it is inconsistent with this section. After such date of the enactment, the Secretary shall not issue any regulation pursuant to section 5(a)(1) of this Act if such regulation would be inconsistent with the provisions of this section.

"(e) If any lease may be canceled pursuant to either this section or section 5(b) of this Act, the Secretary shall cancel such lease pursuant to the provisions of this section.

"SEC. 22. BASELINE AND MONITORING STUDIES.—(a)(1) The Secretary, in consultation with the Secretary of Commerce, and in cooperation with coastal States, shall design and conduct a study of—

"(A) any area or region of the outer Continental Shelf in which a lease is in effect on the date of enactment of this section, or in which a lease is proposed to be sold within one year after such date of enactment; and

"(B) any area or region of the outer Continental Shelf in which a lease is proposed to be sold following the one-year period beginning on such date of enactment.

The Secretary may utilize information collected in any study prior to the date of enactment of this section in complying with the foregoing requirements of this subsection. Nothing in this subsection shall be interpreted as requiring the Secretary to conduct more than one study pursuant to this subsection in any area or region of the outer Continental Shelf.

"(2) Each study required by paragraph (1) shall be commenced—

"(A) with respect to any area or region described in subparagraph (A) of paragraph (1), six months after the date of enactment of this section; or

"(B) with respect to any area or region described in subparagraph (B) of paragraph (1), six months prior to the sale of a lease in such area or region.

"(3) Nothing in this section shall be interpreted as requiring any delay in the holding of any lease sale, or in approval of any plan under section 19 or 20 of this Act, pending completion of any study required by paragraph (1).

"(b) Promptly after the first lease sale held with respect to any area or region studied pursuant to subsection (a) of this section, the Secretary, in consultation with the Secretary of Commerce, shall take such action as is necessary to complete such study, and shall monitor the affected environment in a manner designed to provide data which can be compared with previously collected data for the purpose of identifying any significant change in the quality and productivity of such environment, and establishing trends in the various factors studied and monitored.

"(c) To the extent that other Federal agencies are conducting studies of or are monitoring the affected environment, the Secretary shall utilize the information derived therefrom in lieu of directly conducting such activities. The Secretary may also utilize information obtained from any State or local government entity, or from any person, for the purposes of this section. For the purpose of carrying out his responsibilities under this section, the Secretary may by agreement utilize, with or without reimbursement, the services, personnel, or facilities of any Federal, State, or local government agency.

"(d) As soon as practicable after the end of each fiscal year, the Secretary shall submit to the Congress and make available to the general public an assessment of the cumulative environmental effect of activities conducted under this Act.

"SEC. 23. AFFECTED STATES.—(a) For the purposes of this Act, the Secretary shall, with respect to any activity conducted or proposed to be conducted on the outer Continental Shelf (including the sale of any lease permitting such activity), designate as an affected State any State—

"(1) the laws of which are declared, pursuant to section 4(a)(2) of this Act, to be the law of the United States for the portion of the outer Continental Shelf on which such activity is, or is proposed to be, conducted;

"(2) which is or is proposed to be directly connected by transportation facilities to any artificial island or structure referred to in section 4(a)(1) of this Act;

"(3) which is receiving, or in accordance with the proposed activity, will receive, oil for processing, refining or transshipment which was extracted from the outer Continental Shelf and transported by means of vessels or by a combination of means including vessels;

"(4) in which there is a substantial probability of significant impact on or damage to the coastal, marine, or human environment, or a State in which there will be significant changes in the social, governmental, or economic infrastructure, resulting from the exploration, development, and production of oil and gas anywhere on the outer Continental Shelf; or

"(5) in which the Secretary finds that because of such activity there is, or will be, a significant risk of serious damage, due to factors such as prevailing winds and currents, to the marine or coastal environment in the event of any oilspill, blowout, or release of oil or gas from vessels, pipelines, or other transshipment facilities.

"(b) At any time after making any designation pursuant to subsection (a) of this section, the Secretary may withdraw such designation from any State which he finds no longer meets the criteria set forth in such subsection.

"SEC. 24. OUTER CONTINENTAL SHELF OIL AND GAS INFORMATION PROGRAM.—(a)(1)(A) Any lessee or permittee conducting any exploration for, or development or production of oil or gas pursuant to this Act shall provide the Secretary access to all data obtained from such activity and shall provide copies of such specific data, and any interpretation of any such data, as the Secretary may request. Such data and interpretation shall be provided in accordance with regulations which the Secretary shall prescribe.

"(B) If an interpretation provided pursuant to subparagraph (A) of this paragraph is made in good faith by the lessee or permittee, such lessee or permittee shall not be held responsible for any consequence of the use of or reliance upon such interpretation.

"(C) Whenever any data is provided to the Secretary, pursuant to subparagraph (A) of this paragraph—

"(i) by a lessee, in the form and manner of processing which is utilized by such lessee in the normal conduct of his business, the Secretary shall pay the reasonable cost of reproducing such data; and

"(ii) by a lessee, in such other form and manner of processing as the Secretary may request, or by a permittee, the Secretary shall pay the reasonable cost of processing and reproducing such data,

pursuant to such regulations as he may prescribe.

"(2) Each Federal agency shall provide the Secretary with any data obtained by such Federal agency conducting exploration pursuant to section 11 of this Act, and any other information which may be necessary or useful to assist him in carrying out the provisions of this Act.

"(b)(1) Information provided to the Secretary pursuant to subsection (a) of this section shall be processed, analyzed, and interpreted by the Secretary for purposes of carrying out his duties under this Act.

"(2) As soon as practicable after information provided to the Secretary pursuant to subsection (a) of this section is processed, analyzed, and interpreted, the Secretary shall make available to the affected States a summary of data designed to assist them in planning for the onshore impacts of possible oil and gas development and production. Such summary shall include estimates of (A) the oil and gas reserves in areas leased or to be leased, (B) the size and timing of development if and when oil or gas, or both, is found, (C) the location of pipelines, and (D) the general location and nature of onshore facilities.

"(c) The Secretary shall prescribe regulations to (1) assure that the confidentiality of privileged information received by the Secretary under this section will be maintained, and (2) set forth the time periods and conditions which shall be applicable to the release of such information. Such regulations shall include a provision that no such information will be transmitted to any affected State or any Regional Advisory Board unless the lessee, or the permittee and all persons to whom such permittee has sold such information under promise of confidentiality, agree to such transmittal.

"(d)(1) The Secretary shall transmit to any affected State and any appropriate Regional Advisory Board—

"(A) a copy of all relevant actual or proposed programs, plans, reports, environmental impact statements, tract nominations (including negative nominations) and other lease sale information, any similar type of relevant information, and all modifications and revisions thereof and comments thereon, prepared or obtained by the Secretary pursuant to this Act;

"(B) any relevant information prepared by the Secretary pursuant to subsection (b) of this section; and

"(C) any relevant information received by the Secretary pursuant to subsection (a) of this section, subject to any applicable requirements as to confidentiality which are set forth in regulations prescribed under subsection (c) of this section.

"(2) Notwithstanding the provisions of any regulation required pursuant to the second sentence of subsection (c) of this section, the Governor of any affected State may designate an appropriate State official to inspect, at a regional location which the Secretary shall designate, any privileged information received by the Secretary regarding any activity adjacent to such State, except that no such inspection shall take place prior to the sale of a lease covering the area in which such activity was conducted. Knowledge obtained by such State during such inspection shall be subject to applicable requirements as to confidentiality which are set forth in regulations prescribed under subsection (c) of this section.

"(e) Any provision of State or local law which provides for public access to any privileged information received or obtained by any person pursuant to this Act is expressly preempted by the provisions of this section, to the extent that it applies to such information.

"(f) If the Secretary finds that any State cannot or does not comply with the regulations issued under subsection (c) of this section, he shall thereafter withhold transmittal and deny inspection of privileged information to such State until he finds that such State can and will comply with such regulations.

"(g) The regulations prescribed pursuant to subsection (c) of this section, and the provisions of subsection 552(b)(9) of title 5, United States Code, shall not apply to any information obtained in the conduct of geological or geophysical explorations by any Federal agency (or any person acting under a service contract with such agency), pursuant to section 11 of this Act.

"SEC. 25. REVIEW OF ENVIRONMENTAL, HEALTH, AND SAFETY REGULATIONS.—(a) Within one year after the date of enactment of this section, the Secretary and the Secretary of the Department in which the Coast Guard is operating shall each, in consultation with each other, complete a review of all current environmental, health, and safety regulations which he has promulgated pursuant to this Act. Each such review shall consider current technology and information and relevant Federal and State law, including regulations of any other Federal agency having jurisdiction over activities on the outer Continental Shelf or over similar activities elsewhere. Each such Secretary shall, within such year, revise his respective regulations as necessary in light of such review, and promulgate a complete set of such regulations, including the repromulgation of any such regulation which he finds should be retained.

"(b)(1) With respect to occupational safety and health regulations to be promulgated or repromulgated pursuant to this section, the Secretary and the Secretary of the Department in which the Coast Guard is operating shall each include standards or regulations applicable to each known hazardous working condition within his jurisdiction. Subsequently, whenever any previously unregulated hazardous working condition becomes known, the Secretary having jurisdiction over such condition shall promptly promulgate standards or regulations to apply to such condition. Whenever both such Secretaries have jurisdiction over any hazardous working condition, the President shall determine which shall exercise such jurisdiction. Before either such Secretary promulgates any occupational safety or health regulation under this Act, he shall consult with the Secretary of Labor.

"(2) For purposes of section 4(b)(1) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653(b)(1)), any regulation or standard promulgated pursuant to this Act which applies to any hazardous working condition, and the enforcement of such regulation or standard by the Secretary or the Secretary of the Department in which the Coast Guard is operating, as applicable, shall, with respect to such hazardous working condition, be deemed to be an exercise of statutory authority to prescribe or enforce standards or regulations affecting occupational safety or health.

"(c) Within sixty days after the date of enactment of this section, the Secretary of Labor shall promulgate interim regulations or standards pursuant to the Occupational Safety and Health Act of 1970 applying to diving activities in the waters above the outer Continental Shelf, and to other unregulated hazardous working conditions for which he, in consultation with the Secretary and the Secretary of the Department in which the Coast Guard is operating, determines such regulations or standards are necessary. Such regulations or standards may be modified from time to time as necessary, and shall remain in effect until final regulations or standards are promulgated.

"(d) The Secretary shall make available to any interested person a compilation of all safety and other regulations which are prepared and promulgated by any agency or department of the Federal Government and applicable to activities on the outer Continental Shelf. Such compilation shall be revised and updated annually.

"SEC. 26. ENFORCEMENT OF ENVIRONMENTAL, HEALTH, AND SAFETY REGULATIONS.—(a) The Secretary and the Secretary of the Department in which the Coast Guard is operating shall consult with each other regarding the enforcement of environmental, health, and safety regulations which either has promulgated pursuant to this Act, and each may by agreement utilize, with or without reimbursement, the services, personnel, or facilities of any Federal agency, for the enforcement of their respective regulations.

"(b) The Secretary and the Secretary of the Department in which the Coast Guard is operating shall individually, or jointly if they so agree, promulgate regulations within ninety days after the date of enactment of this section to provide for—

"(1) scheduled onsite inspection at least once a year of each facility on the outer Continental Shelf which is subject to any environmental, health, or safety regulation promulgated pursuant to this Act, which inspection shall include, whenever practical, testing of all safety equipment designed to prevent or ameliorate blowouts, fires, spillages, or other major accidents; and

"(2) periodic onsite inspection without advance notice to the operator of such facility to assure compliance with such environmental, health, or safety regulations.

"(c) All owners and operators of any such facility shall allow any inspector conducting an inspection pursuant to this section prompt access to such facility and shall provide such pertinent documents and records as such inspector may request.

"(d)(1) The Secretary or the Secretary of the Department in which the Coast Guard is operating, as applicable, shall make an investigation and public report on each major fire, major personal injury, and major oil spillage occurring as a result of operations conducted pursuant to this Act. For the purpose of this subsection, the term 'major oil spillage' means any discharge from a single source of more than two hundred barrels of oil over a period of thirty days or of more than fifty barrels over a single twenty-four-hour period. In addition, such Secretary may make an investigation and report of any lesser oil spillage.

"(2) In any investigation conducted pursuant to this subsection, the Secretary of the Department in which the Coast Guard is operating shall have the power to subpena witnesses and to require the production of books, papers, documents, and any other evidence relating to such investigation.

"SEC. 27. REMEDIES AND PENALTIES.—(a) At the request of the Secretary, the Secretary of the Army, or the Secretary of the Department in which the Coast Guard is operating, the Attorney General shall institute a civil action in any United States district court having jurisdiction under the provisions of section 4(b) of this Act for a temporary restraining order, injunction, or other appropriate remedy to enforce any provision of this Act or any regulation or order issued under this Act.

"(b) If any person fails to comply with any provision of this Act, or any regulation or order issued under this Act, after notice of such noncompliance and after expiration of any period allowed for corrective action, such person shall be liable for a civil penalty of not more than $10,000, for each day of the continuance of such noncompliance. The Secretary, the Secretary of the Army, or the Secretary of the Department in which the Coast Guard is operating, as applicable, may assess, collect, and compromise any such penalty. No penalty shall be assessed until the person charged with noncompliance shall have been given an opportunity for a hearing.

"(c) Any person who knowingly and willfully (1) violates any provision of this Act, or any regulation or order issued under the authority of this Act, (2) makes any false statement, representation, or certification in any application, record, report, or other document filed or required to be maintained under this Act, (3) falsifies, tampers with, or renders inaccurate any monitoring device or method of record required to be maintained under this Act, or (4) reveals any data or information required to be kept confidential by this Act shall, upon conviction, be punished by a fine of not more than $100,000, or by imprisonment for not more than ten years, or both. Each day that a violation under clause (1) of this subsection continues, or each day that any monitoring device or data recorder remains inoperative or inaccurate because of any activity described in clause (3) of this subsection, shall constitute a separate violation.

"(d) Whenever a corporation or other entity is subject to prosecution under subsection (c) of this section, any officer or agent or such corporation or entity who knowingly and willfully authorized, ordered, or carried out the proscribed activity shall be subject to the same fines or imprisonment, or both, as provided for under subsection (c) of this section.

"(e) The remedies and penalties prescribed in this section shall be concurrent and cumulative and the exercise of one shall not preclude the exercise of the others. Further, the remedies and penalties prescribed in this section shall be in addition to any other remedies and penalties afforded by any other law or regulation.

"Sec. 28. Judicial Review.—(a) Notwithstanding any other provision of this or any other Act (other than the National Environmental Policy Act of 1969), any—

"(1) action, finding, or determination by the Secretary regarding the approval, modification, or revision of any exploration plan or development and production plan under this Act;

"(2) action to suspend or temporarily prohibit any activity, or to cancel any lease, pursuant to section 21 of this Act; and

"(3) any action by the Secretary under this Act to schedule or hold a specific lease sale;

shall be subject to judicial review only in a United States court of appeals for a circuit within which an adjacent coastal State is located, or in the United States Court of Appeals for the District of Columbia.

"(b) Any person who—

"(1) participated in the administrative proceedings related to an action, finding, or determination specified in subsection (a); or

"(2) submitted comments or requested modifications of a development and production plan pursuant to subsection (g)(1)(B) of section 20 of this Act, and

who is adversely affected or aggrieved, must file, within sixty days, a petition for review of such action, finding, or determination in any court of appeals having jurisdiction. Upon the filing in a court of appeals of the initial petition for review of an action, finding, or determination which is, pursuant to the provisions of ths section, subject to review, all subsequent petitions for review of such action, finding, or determination shall be filed in the same court of appeals. The petitioner shall promptly transmit copies of such petition to the Secretary and to the Attorney General of the United States. The Attorney General shall represent the Secretary with respect to such review.

"(c) The Secretary shall file, in the court of appeals conducting a review pursuant to this section, the record of any public hearing held in regard to the matter under review and any additional information upon which the Secretary based his decision, as required by section 2112 of title 28, United States Code.

"(d) The court of appeals conducting a review pursuant to this section shall consider the matter under review solely on the record made before the Secretary. Such court of appeals shall hold unlawful and set aside any action, finding, or determination of the Secretary found to be unsupported by substantial evidence on the record considered as a whole.

"(e) Upon the filing of the record with the court of appeals pursuant to subsection (c), the jurisdiction of such court of appeals shall be exclusive and its judgment shall be final, except that such judgment shall be subject to review by the Supreme Court of the United States upon writ of certiorari.

"(f) The judicial review provided in this section shall constitute an exclusive remedy for any action, finding, or determination specified in subsection (a) of this section.

"Sec. 29. Federal Royalty Oil and Gas.—(a) Any royalty accruing or reserved to the United States from production of oil or gas pursuant to any lease issued or maintained under this Act may be taken in value at the fair market value of such oil or gas, or in amount of such oil or gas, as the Secretary may determine. If the Secretary determines to take such royalty in oil or gas, any oil or gas controlled by the lessee may be substituted for an equivalent amount of the other, lease, and either oil or gas may be substituted for an equivalent amount of the other, if the Secretary and the lessee so agree.

"(b) Any royalty reserved to the United States in the form of the value of a per centum share of the net profits derived from operation of any tract may be converted to an equivalent amount of the oil or gas produced on such tract at the fair market value of such oil or gas and taken in such amount by the Secretary pursuant to subsection (a) of this section.

"(c) Title to any oil or gas taken as a royalty by the Secretary pursuant to this section may be transferred by the Secretary, upon request, to the Secretary of Defense or to the Administrator of the General Services Administration for disposal within the Federal Government.

"(d) Whenever, after consultation with the Administrator of the Federal Energy Administration, the Secretary determines that small refiners (as such term is defined in regulations prescribed by the Secretary) do not have access to adequate supplies of oil at equitable prices, the Secretary may dispose of any amount of the royalty oil accruing or reserved to the United States pursuant to any lease issued or maintained under this Act by conducting a lottery for the sale of such oil, or may equitably allocate such oil among the competitors for the purchase of such oil, at its fair market value. The Secretary shall limit participation in any lottery or allocated sale to assure such access and shall publish notice of such sale, and the terms thereof, at least thirty days in advance of such sale. Such notice shall include qualifications for participation, the amount of oil to be sold, and any limitation in the amount of oil which any participant may be entitled to purchase. Any oil obtained by a small refiner pursuant to this subsection shall be used only in the refinery of such small refiner and may not be resold in kind.

"(e) Whenever, after consultation with the Administrator of the Federal Energy Administration and the Chairman of the Federal Power Commission, the Secretary determines that an emergency shortage of natural gas exists in any region of the United States and that such region can be serviced in a practical, feasible, and efficient manner (1) by royalty gas accruing or reserved to the United States pursuant to any lease issued or maintained under this Act, or (2) by exchange for natural gas available to any other region which can be so serviced, the Secretary may sell any amount of such royalty gas at its fair market value to any person servicing the region in which such emergency shortage exists. The Secretary may allocate such gas among the competing applicants for the purchase of such gas to assure the equitable distribution of such gas among the various areas within any such region. If it is not practical to provide all such applicants with a portion of the gas to be sold under this subsection, the Secretary may conduct a lottery for the sale of such gas under such regulations as he may prescribe.

"(f) Any portion of any royalty accruing or reserved to the United States pursuant to any oil and gas lease issued or maintained under this Act which the Secretary determines to take in amount of oil or gas and which is not disposed of under any preceding subsection of this section may be offered to the public and sold by competitive bidding for not less than its fair market value, in such amounts and for such terms as he determines.

"(g) Any portion of any royalty accruing or reserved to the United States pursuant to any oil and gas lease issued or maintained under this Act which the Secretary determines to take in amount of oil or gas and which is not disposed of under any other subsection of this section shall be purchased by the lessee at the fair market value of the product determined for the period during which such royalty was accrued or reserved.

"(h) The provisions of this section shall not apply to the extent that they are inconsistent with any provision of law which applies to oil obtained from the outer Continental Shelf and which provides for the mandatory allocation of such oil in amounts and at prices determined by such provision, or regulations issued in accordance with such provision.

"Sec. 30. Shut-In or Flaring Wells.—(a) After the date of enactment of this section, no holder of any oil and gas lease issued or maintained pursuant to this Act shall be permitted to flare natural gas from any well unless the Secretary finds that there is no practicable way to complete production of such gas, or that such flaring is necessary to alleviate a temporary emergency situation or to conduct testing or work-over operations.

"(b) Within six months after the date of enactment of this section, and each year thereafter, the Secretary shall submit a report to the Comptroller General and the Congress listing each shut-in oil or gas well and each well flaring natural gas on the outer Continental Shelf. Each such report shall indicate why each well is shut-in or flaring natural gas, and whether the Secretary intends to require production or order cessation of flaring.

"(c) Within six months after receipt of each report required by subsection (b) of this section, the Comptroller General shall review and evaluate the reasons for allowing the wells to be shut-in or to flare natural gas and submit his findings and recommendations to the Congress.

"Sec. 32. Regional Outer Continental Shelf Advisory Boards.—(a) The Governors of coastal States and noncoastal affected States may establish Regional Outer Continental Shelf Advisory Boards for their regions with such membership as they may determine, after consultation with the Secretary and the Secretary of Commerce.

"(b) Representatives of the Secretary, the Secretary of Commerce, the Administrator of the Federal Energy Administration, the Chairman of the Council on Environmental Quality, the Commandant of the Coast Guard, the Administrator of the Environmental Protection Agency, and the Administrator of the Occupational Safety and Health Administration shall be entitled to participate as observers in the deliberations of any Board established pursuant to subsection (a) of this section.

"(c) Each Board established pursuant to subsection (a) shall advise the Secretary on all matters relating to outer Continental Shelf oil and gas development, including development of the leasing program required by section 18 of this Act, approval of development and production plans required pursuant to section 20 of this Act, implementation of baseline and monitoring studies, and the preparation of environmental impact statements prepared in the course of the implementation of the provisions of this Act.

"(d) If the Governor of any affected State, or any Regional Outer Continental Shelf Advisory Board—

"(1) makes specific recommendations to the Secretary regarding the size, timing, or location of a proposed lease sale or with respect to a proposed development and production plan in any case in which the approval of such sale or plan will affect the environment of such State, or of any State which is represented on such Board, and

"(2) submits such recommendations to the Secretary within sixty days after receipt of notice of such proposed lease sale or of such development and production plan,

the Secretary shall fully consider such recommendations in light of the national security, the desirability of obtaining oil and gas supplies in a balanced manner, and the policies and purposes of this Act. If the Secretary finds that he cannot accept such recommendations, he shall communicate, in writing, to such Governor of such Board the reasons therefor.

"SEC. 32. COURT JURISDICTION.—(a) Except as otherwise provided in this Act, the district courts of the United States shall have jurisdiction of cases and controversies arising out of, or in connection with, any—

"(1) permit, lease, or right-of-way which is or may be maintained, issued, granted, or otherwise authorized pursuant to this Act;

"(2) exploration, development, or production activity conducted or proposed to be conducted pursuant to this Act; and

"(3) dispute involving rights to the natural resources of the subsoil and seabed of the outer Continental Shelf.

"(b) An action with respect to any matter referred to in subsection (a) of this section may be instituted (1) in the judicial district in which any defendant resides or may be found, or (2) in any judicial district located in the coastal State, the laws of which apply under section 4(a)(2)(A) of this Act to the portion of the outer Continental Shelf on which the cause of action arose, or if the President has not determined the areas within which such State laws are applicable, in any judicial district located in the coastal State nearest the place where the cause of action arose."

And on page 122, line 5, strike "28", and insert in lieu thereof "33".

Mr. FISH (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. KAZEN. Mr. Chairman, will the gentleman yield?

Mr. FISH. I yield to the gentleman from Texas.

Mr. KAZEN. Is this a complete substitute for title II?

Mr. FISH. No; it is not.

Mr. KAZEN. What is it?

Mr. FISH. It embraces a great deal of title II; on some it does not and on some it lets matters stand, such as the section on limitation of exports, for example. During the course of my explanation, I think the gentleman will understand that we have incorporated a good deal of title II and have added additional material.

Mr. KAZEN. All I wanted to find out is whether it is a substitute for title II?

Mr. FISH. Technically, it is not a substitute.

Mr. KAZEN. I thank the gentleman.

Mr. FISH. Mr. Chairman, this amendment proposes alternative to title II of the bill, amending the Outer Continental Shelf Lands Act.

It is my firm belief that the OCSLA is in need of amendment. There have been no significant changes in that law since it was enacted over 20 years ago. It has served its purpose well in the Gulf of Mexico and off Southern California, but we now have a far greater need for energy and leasing of the so-called "frontier areas" in proceeding at an accelerated schedule. The act needs to be modified to keep pace with the state of the art and to answer the concerns of States regarding the onshore effects of federally authorized offshore activities.

I, therefore, do not agree with those representatives of industry and the administration who want to kill this legislation. In fact, I testified before the Rules Committee in favor of granting the rule and supported the rule on the floor last week.

If the Members want a bill that has any chance of becoming law and having a positive effect on offshore leasing, I strongly urge that they support our amendment to title II. The Secretary of the Interior has assured me he would recommend that the President veto this bill if it reaches him with title II as reported. By the time we get through a conference with the other body, a veto will be all the more likely. The excessive delays and administrative costs built into the present title II will mean less domestically-produced energy resources and higher oil and gas prices, so I think it very likely that a veto will be sustained.

As I see it, Mr. Chairman, the only way to enact positive OCS legislation is to avoid a veto in the first place, and the best chance for that is passage of this amendment.

It is not an administration amendment, however. Nor is it an industry amendment, nor an amendment from environmental groups or from the States. All these interests are important. Instead it is a reasoned attempt to balance the often competing concerns of all of these groups, and the responsibilities of Congress as well. The committee bill goes too far at times in circumscribing the authority of the Secretary of the Interior. It neglects legitimate State interests, for example, in not providing for early input at the drafting stage of the Secretary of the Interior's 5-year leasing plan. Elsewhere, the committee bill gives to Governors too much power, as in the virtual veto by the regional advisory boards of the Secretary's promulgation of the 5-year leasing plan.

Here are some of the major deficiencies in the bill's title II, which are cured in our amendment.

Our amendment eliminates unnecessary delays in the committee bill. For example, in the present title II, leasing is cut off at least 6 months after the date of enactment while baseline studies are gotten underway. A baseline study is a catalog of the life in the area to enable scientific analysis of the ecosystems. There is no need to delay a lease sale for the start of a baseline study. This is particularly true in the frontier areas which are the major concerns of this legislation—Alaska and the Atlantic OCS—where production is 5 to 8 years away. It is more than enough time for baseline studies to be completed.

All leasing would stop under the committee bill—June 30, 1977—if the 5-year leasing plan is not then in effect. The committee report admits it would take longer than a year from now to develop such a leasing program. No new leases means no new production.

Our amendment, Mr. Chairman, allows 18 months after the date of enactment of the bill before the failure of the Secretary to put a new leasing plan into effect would prevent any new lease sales from being held. This is a realistic period of time, with which my colleagues on the majority side have agreed.

Another example of delay in the committee bill is that the Secretary of the Interior is given an unlimited amount of time to decide whether development and production of discovered oil or gas is subject to an Environmental Impact Statement under NEPA. Even when no EIS is required, the Secretary can delay up to 120 days, far longer than necessary, while reviewing comments already submitted by the States.

Our amendment gives the Secretary of the Interior 30 days to decide whether or not his action will be subject to NEPA. States are immediately notified of the Secretary's impending decision and their comments will be considered by the Secretary before this decision is made. If no EIS is required, then individuals and States may comment and request modifications of the development and production plan. Such comments must be fully reviewed by the Secretary. This procedure gives those commenting standing to pursue legal remedies should their comments be disregarded.

An EIS is required in the committee bill before development of every new oil or gas-bearing structure. A structure could be small—only a few square miles. It might be adjacent to a region where an EIS has been done already. In effect, the committee bill changes NEPA.

The present title II is rife with opportunities for nuisance suits which do nothing to protect the environment. Our amendment provides for full access to the courts in its judicial review section and leaves the longstanding and well understood legal concept of citizen suits intact. Under our amendment, the remedy for a citizen who feels that the Secretary of Interior is not enforcing regulations with reference to some offshore facility is to use mandamus procedure. This reliance on a long-used method for forcing recalcitrant public officials to do their duty is the best approach. It is certainly preferable to allowing any person who wants to to directly sue any offshore operator for any imagined violation of the official regulations.

Mr. Chairman, where a resource-bearing geological structure is located under both Federal and State submerged lands, the joint leasing scheme in the committee bill allows States to indefinity delay leasing of the first 3 miles of adjacent Federal lands. This is because both governmental parties must agree to lease terms before the sale can take place. Our amendment contains no such joint leasing scheme. Instead we provide for coordinated leasing of State and Federal lands if the State so desires. Therefore, sums derived from the sale, rents, and royalties flow directly into the State or Federal Treasury. No delay is possible as we do not require exact agreement on lease terms prior to the sale.

Mr. Chairman, our amendment also assures congressional control over the leasing process and regulatory jurisdiction. The present title II allows the Secretary of Interior to approve his own 5-year leasing program with no opportunity for meaningful congressional review. Our amendment provides for one-house disapproval of the leasing program. In this way we make sure congressional intent is followed in the basic long-term leasing scheme, as well as provide the States with an additional forum to make their voices heard through their elected representatives.

Also, unlike our amendment, the committee bill, by dividing up responsibility for OCS safety regulations, creates a situation in which OMB will have opportunity to choose among as many as three agencies to take the lead in developing the different types of such regulations.

The decision as to which agency will have each specific type of regulatory jurisdiction should be made by the Congress, as in our amendment, not by OMB.

The same applies to the enforcement section, where one agency is directed to enforce regulations issued by another. Not only would we abdicate our constitutional responsibility by adopting the committee's title II, but the bureaucratic nightmare and intramural infighting which would ensue within the executive branch would severely delay the promulgation of needed safety regulations.

The amendment also insures compliance with the 1947 and 1950 Supreme Court decisions giving the Federal Government exclusive jurisdiction over the Outer Continental Shelf. By giving the States a veto power over Federal OCS decisions in the absence of specific findings by the Secretary of the Interior, and by requiring an offer of joint Federal-State leasing of adjacent drainage tracts, the present title II attempts to modify the Supreme Court decision and have the Federal Government share its exclusive jurisdiction with the States. This would require a constitutional amendment and cannot be accomplished by simple legislation. The amendment provides a means to handle the drainage problem without upsetting jurisdictional lines.

Our amendment eliminates several provisions of the present title II which severely limit the ability of the Secretary of the Interior to protect the public interest. First, the committee bill requires a minimum of 10 percent of the area to be leased in each of the next 5 years to utilize experimental bidding systems, even if this is contrary to the criteria outlined in the bill itself. The only way to avoid this is an impossible two-House approval within 30 days. Since the Senate bill requires a 50 percent use of these untried systems, which could significantly reduce Federal OCS revenues, the conference report is likely to be greater than the present 10-percent figure. We feel that proper oversight by the Congress can adequately insure that experimental systems will be used when appropriate and to a sufficient degree. Also, the transfer of control of baseline studies from Interior to Commerce deprives interior of its most valuable ongoing environmental decisionmaking tool. The amendment puts the studies back in Interior where they belong. The unwise requirement for on-structure stratographic drilling by industry is an uneconomic allocation of resources, since the participants get no rights to the oil or gas discovered. The provision is also eliminated in the amendment.

The committee bill purports to protect the States, the environment, and competition. In several respects, however, it works to their detriment. For example, the present title II fails to invite suggestions from the States for the initial drafting of the 5-year leasing program. The amendment requires this procedure. By attempting to define the term "environment" the committee bill limits the concept. For example, in noncoastal affected States, the bill does not take into consideration atmospheric and biological factors.

Our amendment does not limit the concept of "environment" in any way, and in fact broadens it by insuring that economic, esthetic, and social factors are also taken into consideration. By not permitting a longer initial lease term in unusually deep water or unusually adverse weather conditions, the committee bill misses an important opportunity to encourage the private allocation of capital to the development of new, environmentally safe technology. It may instead have the opposite effect of encouraging premature and environmentally marginal drilling in adverse areas, such as off of Alaska, in order to be sure that a lease will be continued. Our amendment provides for a maximum 10-year lease term under adverse conditions.

Finally, the committee bill allows very large tracts to be leased when the present 9-square-mile size would be economic. It also forces small companies to compete on the same basis as the major oil giants for shares of so-called Phillips Plan leases, in the absence of special findings by the Secretary. These provisions are detrimental to competition and restrict the entry of smaller companies. These problems too are rectified in our amendment.

I would ask my colleagues on both sides of the aisle who sincerely want to improve Federal management of the OCS and provide meaningful opportunities for State input in the decisionmaking process to support this amendment. Otherwise we are going to waste many valuable hours of the time of this body on a bill which will never be enacted into law.

Mr. Chairman, in order to expedite consideration of this positive alternative to title II, I shall ask unanimous consent to include at this point in the RECORD a section-by-section analysis of our amendment when we are back in the House:

SECTION BY SECTION ANALYSIS OF MINORITY ALTERNATIVE FOR TITLE II OF H.R. 6218 AS AMENDED

INTRODUCTION

The Minority Alternative for most of Title II of H.R. 6218 as amended is newly-drafted in light of the ad hoc Select Committee's deliberations during markup. In some cases the alternative incorporates ideas evolved during that process. It is offered as an alternative rather than as a series of individual amendments so that it can constitute a coherent, integrated piece of legislation. It lets stand, however, the worthwhile section on limitations of export.

It lacks the contradictions found in the present form of Title II and will solve problems rather than create them. It does not contain provisions which would give rise to spurious, delay-causing lawsuits but it does protect the rights of those with a real interest in OCS decisions. The Minority Alternative adheres to long-recognized legal and constitutional distinctions between the jurisdictions of State and Federal Governments with regard to undersea resources. States are provided with complete information on activities of oil companies on OCS leases so that the States can carry out their responsibility to plan for any on-shore impacts of those activities. The importance of protecting the environment and economy is recognized and the danger of marine oil spills is held in check by holding down our nation's growing dependence on tanker-transported foreign oil.

In general, the Minority Alternative takes as its purpose the establishment of procedures to best implement the purposes of this bill. However, it also recognizes and provides for an overall flexibility necessary to insure the maximum effectiveness and efficiency of the regulatory mechanism it creates.

Section 201.—Contains definitions and is substantially the same as the section presently in the bill. The terms "marine environment," "coastal environment" and "human environment" are not spelled out but are included as constituents of the general term "environment." Since no really comprehensive and flexible definitions exist, it is best to follow the lead of the National Environmental Policy Act and not give specific definitions. Geophysical activity is included in the definition of "exploration" where it properly belongs, not in the definition of "development."

Section 202.—Amends Section 3 of the Outer Continental Shelf Lands Act to update that statement of national policy for the OCS. This Section is substantially the same in intent as the section presently in the bill. Paragraph three is restated to make it clear that the minerals of the Shelf are a "vital national resource," not the shelf itself and that they are to be used, not kept as a reserve. The latter theme is expanded upon in substitute purpose number four. The policy statement on affected States calls for their maximum constitutional involvement.

Section 203.—Laws Applicable to the Outer Continental Shelf. This section was written with the agreement of both Minority and Majority and is nearly the same as that presently found in the Committee Amendment.

Section 204.—Administration of Leasing of the OCS. The Alternative expands section 5(a)(1) of the OCSLA to bring it into line with today's world. The Committee's bill, on the other hand, sets out fourteen complicated new sets of regulations that have to be finalized before oil and gas activities in the subject areas covered can proceed. The sanctity of contract is invaded and delay-causing legal battles are assured when the Committee bill makes the failure to obey any new regulation the cause for cancellation of a lease. The Committee bill concludes this section with a paragraph banning flaring of natural gas unless the Secretary makes a finding that there is "no practicable way to complete production of such gas." Since "practicable way" means any physically possible way, flaring is effectively banned and some oil might never be produced.

Section 205.—This section in the Minority Alternative provides a procedure to be followed where production from future leases may result in the drainage of oil or gas from lands of any State. The Secretary must seek unitization where both State and Federal lands are or will be in production. If the State is not planning to or does not want to allow actual production on State land, there will be a suit filed for "equitable division of the proceeds from such lease" and the State will get its share.

Section 206.—Revision of Leasing Terms and Procedures. Even though the present system of leasing has provided the U.S. government with more than 90% of the revenues derived from OCS revenue, this section provides additional flexibility to the Secretary to meet the challenges of frontier area leasing. Flexibility is brought about by the addition of seven new bidding systems for the Secretary's use. There is no mandate setting some crystal ball revealed minimum usage of new systems. The Secretary is expected to use systems which best carry out the purposes and policies of the Act in light of all known factors about the area to be leased. The results of any experimental use of new systems is to be included in the Secretary's annual report to the Congress. Tract size is kept at the present dimensions unless the Secretary finds that some larger area is necessary to constitute a "reasonable economic production unit." Also, leases may be granted for initial periods of up to ten years where necessary to encourage production. Provision is made for compliance with rates of production set by the President under the Energy Policy and Conservation Act rather than attempting to amend that new piece of legislation as the Committee did. Antitrust review by the Attorney General is provided for.

Section 207.—Disposition of Revenues. This short section makes technical amendments to the Act's present Section 9.

Section 208.—This section sets forth a procedure for notification of Congress which must be followed before any repayment can be made under Section 10 of the OCSLA.

Section 209. Geological and Geophysical Exploration. Section 11 of the Outer Continental Shelf Lands Act is updated through technical amendments.

Section 210.—Reservations. This section makes two technical changes in Section 12 of the OCSLA.

Section 211.—Annual Report. The contents of the Secretary's annual report to the Congress are set forth here.

Section 212.—New Sections of the Outer Continental Shelf Lands Act. Section 18. Outer Continental Shelf Oil and Gas Leasing Program. A five year or longer leasing program is to be prepared and implemented by the Secretary. Such a program is subject to review and comment by adjacent coastal states whose laws, including any enacted to implement the Coastal Zone Management Act of 1972, must also be considered by the Secretary. The program becomes effective unless within sixty days after final publication either House of Congress passes a resolution of disapproval. Once in effect, the program is to be formally reviewed once a year. All major revisions are subject to the same procedure that the original program had to pass through before they can become effective.

Section 19.—Oil and Gas Exploration Pursuant to Leases. Ninety days after enactment of this section, no exploration could be carried out except under an approved exploration plan as defined therein. The plan is modelled after that already required under regulations and does not call for any information a lessee would not normally compile in preparation for exploration activities.

Section 20.—Oil and Gas Development and Production on the OCS. Ninety days after enactment of this section, all development and production would have to be carried on under an approved plan as set forth in the Act. Such a plan is currently required under regulations issued by the Secretary of Interior. A discovery report setting forth pertinent information such as the location and approximate size of the discovery. The development and production plan for a tract or group of tracts will include such things as a schedule of anticipated activities, a description of equipment to be used and the type and location of any facilities to be installed on the OCS. Special mention must be made of any exceptional conditions which might require special treatment to insure that the environment is preserved and production is safely carried on. The location of development and production facilities not on the OCS is the subject of a separate statement accompanying the plan, and it is transmitted to the States immediately. All plans are to be published in the Federal Register.

Within 30 days after such publication, the Secretary is to determine if the plan makes adequate provisions for environmentally safe operations, consistent with the Act and the lease terms, or can be modified in a practical manner to fulfill these requirements; if not, then the Secretary shall disapprove such plan. After disapproval, a lessee may be required to submit a new plan.

If the plan is not disapproved, the Secretary may require modification of a plan as is necessary and which is as consistent as possible with the coastal zone management program of the affected State. The Secretary must also determine whether or not approval of such plan constitutes a major Federal action. Any such modifications or determinations shall be published in the Federal Register. Interested persons are given 30 days to submit comments and request modifications of such plan, which the Secretary shall review. On the basis of these comments the Secretary may require further modification of the plan.

If the Secretary determines approval of a plan does constitute a major Federal action, he shall approve, require modification of, or disapprove the development and production plan in light of the final environment impact statement, which was prepared with respect to such plan and submitted to the Council on Environmental Equality, and publish his decision in the Federal Register.

Upon approval of the d&p plan, the lessee may proceed with development and production. Based on several considerations, the Secretary may approve or require revisions in already approved d&p plans.

Any such plan submitted prior to enactment of this section may be approved by the Secretary if it complies substantially with the provisions of this section.

The Secretary, by regulation, may require a lessee to obtain a permit prior to drilling any well.

Section 21.—This section of the Minority alternative provides for the Environmental Suspension and Cancellation of Leases, whenever the Secretary makes a determination that conduct of certain activities on the Outer Continental Shelf poses a serious threat of harm or damage to life, property, the mineral deposits on a lease, or to the marine or coastal environment. Any suspension or prohibition required by the Secretary will remain in effect until the Secretary determines that the activity suspended no longer poses threat of serious harm or damage. If the Secretary determines that such activity cannot be corrected, that the threat of serious harm or damage cannot be reduced, and that such threat outweighs any environmental risks inherent in terminating all operations on the affected lease, the Secretary shall cancel the lease.

In the event of a suspension or prohibition of activities on a lease, no rental or royalties will be required for that time, and the lease shall be extended by an equivalent period, unless of course, the suspension or prohibition was made necessary due to the negligence of the lessee.

If a lease is cancelled through no fault whatsoever of the lessee, the lessee shall be reimbursed for all direct expenses on that lease after the date of sale until the date of cancellation.

If the lease is cancelled due to the negligence of the lessee or his failure to comply with this Act or other regulations, he shall have no remedy or right of recovery against the United States.

The Secretary shall review and revise his regulations with respect to this section within 60 days of enactment of section.

Section 22.—Baseline Studies and Monitoring of Environmental Impacts. This section elaborates the present powers of the Secretary of Interior to design and carry out baseline studies and the monitoring of environmental conditions in areas after leasing. The work is to be done in consultation with the Secretary of Commerce and in cooperation with coastal States. A baseline study remains a baseline study in the Minority Substitute. It is to be designed to establish baseline information concerning the status of the marine and coastal environments which may be affected by activities under this Act. It would not be made into a miniature environmental impact statement. Studies must be initiated within six months of the date of enactment of the section for leases already sold or those to be sold within a year of enactment. After that no lease sale could be held unless a baseline study had been under way for six months. Duplication of effort is avoided as the Secretary is instructed to utilize information from all reliable scientific sources. After the baseline data is gathered, a program to monitor the status of the leased areas must be implemented.

Section 23.—Affected States. This section defines affected States as those whose law is declared to be the law for a portion of the OCS; as those which are directly connected by transportation facilities to any artificial island engaged in OCS oil or gas recovery; as those which are or will be receiving oil from the OCS; as those in which there may be environmental impacts, or in which there will be changes in the infrastructure due to offshore activity; or those whose environments risk serious environmental damage in the event of an oil spill, blowout or other release of oil.

Section 24.—Outer Continental Shelf Oil and Gas Information Program. As provided in this section, any lessee or permittee is to give access to the Secretary to all data obtained from activities conducted on the Outer Continental Shelf, and to provide copies of any data as the Secretary may request.

Lessees will not be held responsible for any consequence of the use of or reliance upon interpretative data supplied to the Secretary. The Secretary shall pay the reasonable cost of data processed or reproduced for him. Each Federal agency shall provide the Secretary with useful or necessary data, and the Secretary is to process, analyze, and interpret all data provided to him in order to better carry out his duties. After such processing and interpreting, the Secretary is to make available to affected States summary of data designed to assist them in planning for onshore impacts due to offshore activities.

This summary shall include the size and timing of development, the location of pipelines and the location and nature of onshore facilities. The Secretary is also to transmit to affected States and Regional Advisory Boards copies of all relevant programs, plans, reports, EIS's and other relevant information.

The Secretary is to prescribe regulations to assure the confidentiality of privileged information. No privileged information is to be transmitted to the States or Regional Advisory Boards unless the lessee or permittee agrees to such transmittal. Any information not transmitted to the States may be inspected by an appropriate State official at a regional location designated by the Secretary. State laws providing for public access to privileged information are overridden, and if States do not comply with the regulations under this section, the Secretary is to withhold transmittal and deny inspection of privileged information until he finds that the State can and will comply. Information obtained by a Federal agency is not subject to confidentiality.

Section 25.—Review of Environmental, Health, and Safety Regulations. This section directs the Secretary and the Secretary of the Department in which the Coast Guard is operating to complete within one year a review of all current environmental, health, and safety regulations which he had promulgated pursuant to this Act. In light of the other information and state and Federal laws which must be considered in such review, each Secretary is to revise his regulations and promulgate a complete set thereof. Pursuant to OSHA, the Secretary of Labor shall promulgate interim standards or regulations for each known hazardous working condition with respect to occupational safety and health which shall remain in effect until such time as the Secretary or the Secretary of the Department in which the Coast Guard is operating promulgate regulations applying to the hazardous working conditions on the outer Conitnental Shelf.

The Secretary is to compile and revise annually a set of all safety and other regulations which apply to activities on the OCS.

Section 26.—Enforcement of the Environmental, Health, and Safety Regulations. This section directs the Secretary and the Secretary over the Coast Guard separately or jointly to schedule on-site inspection for each facility on the OCS at least once a year and periodic on-site inspection without advance notice. Either Secretary, as applicable, is to investigate and report on each major oil spill, major fire, or major personal injury. The Secretary over the Coast Guard shall have the power to subpoena witnesses and to require the production of books, papers, documents and other evidence relating to such investigation. At the request of the Secretary, the Secretary of the Army or the Secretary over the Coast Guard, the Attorney General shall institute a civil action in any U.S. District Court for a temporary restraining order, injunction, or other appropriate remedy to enforce any provision of this Act or any regulation issued under this Act.

Section 27.—Remedies and Penalties. Civil penalties of up to $10,000 for each day of non-compliance with any rule or regulation under the Act, and criminal penalties of $100,000 and/or 10 years in prison are assessed. No penalty shall be assessed until the person charged with non-compliance shall have been given an opportunity for a hearing. The remedies and penalties listed are to be concurrent and cumulative and not preclude the exercise of others.

Section 28.—Judicial Review. Procedures for judicial review are established in this section which provides that actions and determinations of the Secretary shall be subject to judicial review only in a regional U.S. Court of Appeals or in the District of Columbia.

The persons who can file a petition for review of an action or determination of the Secretary are limited to those who are adversely affected or aggrieved and who participated in the process leading to that action or determination or those who commented on a development and production plan. The petition must be filed in the appropriate court within 60 days, and all subsequent petitions dealing with that action shall be filed in the same court of appeals. The Secretary, represented by the Attorney General, shall file the record of any public hearing held in regard to the matter under review and any additional material upon which the Secretary based his decision. The jurisdiction of the Court is exclusive, and the judgement of the Court shall be final (subject to review by the Supreme Court).

Section 29.—Federal Royalty Oil and Gas. The Secretary is authorized to take royalties in the form of oil or gas under this section, and the Secretary may transfer title to any oil or gas taken to the GSA for disposal within the Federal Government. The Secretary may also conduct a lottery for the sale of such royalties to small refiners which do not have access to adequate supplies of oil or gas. If an emergency shortage exists, the Secretary may allocate natural gas to distributors in such region for sale at its fair market value. If oil or gas is not disposed of under any of the methods permitted the Secretary, then the lessee shall buy it back at the fair market value.

Section 3.—Shut-In of Flaring Wells. This provision requires that no lessee be permitted to flare natural gas from any well unless the Secretary makes an express finding that such flaring is necessary, and submits a report to the Comptroller General. His reasons therefor shall be reviewed and evaluated by the Comptroller General. Within 6 months after receipt of such report, and the Comptroller General shall submit his findings and recommendations to the Congress.

Section 31.—Regional Outer Continental Shelf Advisory Boards. This section provides for the establishment of regional Advisory Boards comprised of representatives of the Secretary, FEA, CEQ, Coast Guard, EPA, and OSHA, as observers, and such other members as the Governors of the affected states determine. Each such board is to advise the Secretary on all matters pertaining to OCS oil and gas development. The Secretary is to fully consider all recommendations in light of the national security and national interest. If he determines he cannot accept such recommendations he is to state in writing his reasons therefor.

Section 32.—Court Jurisdiction.—The United States district courts shall have jurisdiction of cases and controversies arising out of, or in connection with OCS activities subject to this Act, except as otherwise provided.

Proceedings may be instituted in the judicial district where the defendant resides or in the judicial district of the coastal State nearest the place where the cause of action arose.

Mr. MURPHY of New York. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. Natcher, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 6218) to establish a policy for the management of oil and natural gas in the Outer Continental Shelf; to protect the marine and coastal environment; to amend the Outer Continental Shelf Lands Act; and for other purposes, had come to no resolution thereon.

GENERAL LEAVE

Mr. MURPHY of New York. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 6218, as it was considered under the 5-minute rule today.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

PERSONAL EXPLANATION

Mr. FOUNTAIN. Mr. Speaker, on rollcall 360 on a motion to go into the Committee of the Whole today for the consideration of H.R. 11804, the Federal Railroad Safety Act of 1970, I inadvertently indicated "present," but I had intended to vote "yea" and I would like the Record to show that I would have voted "yea."

PROVIDING FOR CONSIDERATION OF H.R. 9291, NATIONAL TRAFFIC AND MOTOR VEHICLE SAFETY ACT AUTHORIZATION

Mr. DELANEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1277 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 1277

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 9291) to amend the National Traffic and Motor Vehicle Safety Act of 1966 to authorize appropriations. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER. The gentleman from New York (Mr. Delaney) is recognized for 1 hour.

Mr. DELANEY. Mr. Speaker, the gentleman from Illinois (Mr. Anderson), who will handle this resolution for the minority side, is on his way over. Because of the unusually short notice he had, and the short consideration of the previous bill, he is not here but will be here soon.

In the meantime, Mr. Speaker, I yield 30 minutes to the gentleman from Arizona (Mr. RHODES), the minority leader, pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 1277 is an open rule with 1 hour of general debate on H.R. 9291, a bill to amend the National Traffic and Motor Vehicle Safety Act of 1966, to authorize appropriations.

Mr. Speaker, H.R. 9291 authorizes appropriations not to exceed $13 million for the transition period and $60 million for fiscal years 1977 and 1978 to carry out the provisions of the National Traffic and Motor Vehicle Safety Act of 1966. In addition, the bill would postpone the implementation date for school bus safety standards for a 6-month period in order to provide bus manufacturers with sufficient time to comply with the standards while at the same time providing the best possible design solutions.

Mr. Speaker, I urge the adoption of House Resolution 1277 so that we may proceed to the consideration of H.R. 9291.

Mr. RHODES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support this bill, and I hope that the rule will be adopted.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. RHODES. I yield 2 minutes to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, I appreciate the minority leader's yielding.

The only reason I rise is to inquire of whoever may appropriately be able to answer as to exactly what the program is in the House this Friday afternoon.

As I understand it, we finished the announced program which was given to the Members.

I would like to know exactly what the program is to be this afternoon and how long it is to proceed since Members were not informed of other legislation.

Mr. DELANEY. Mr. Speaker, if the gentleman will yield, this was listed in today's RECORD, and it is on the list to be taken up this afternoon.

Mr. BAUMAN. I understand that the announcement was that if time permitted that four other bills would be brought up.

Mr. DELANEY. Yes, so this is eligible to be called up today.

Mr. BAUMAN. So we will continue on with the other four bills that have been listed?

Mr. DELANEY. It depends on how the time goes.

Mr. BAUMAN. I thank the gentleman from New York.

Mr. RHODES. Mr. Speaker, I yield back the balance of my time.

Mr. DELANEY. Mr. Speaker, I have no further requests for time.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The question was taken; and the Speaker announced that the ayes appear to have it.

Mr. McCOLLISTER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 318, nays 1, not voting 112, as follows:

[Roll No. 364]

YEAS—318

Abdnor
Abzug
Addabbo
Alexander
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashbrook
Ashley
Aspin
AuCoin
Badillo
Bafalis
Baldus
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bennett
Bergland
Bevill
Biaggi
Bingham
Blanchard
Blouin
Bolling
Bowen
Breaux
Breckinridge
Brinkley
Brodhead
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Carney
Carr
Carter
Chappell
Chisholm
Clausen, Don H.
Cochran
Collins, Tex.
Conable
Conte
Conyers
Corman
Cornell
Coughlin
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Davis
Delaney
Dellums
Derrick
Derwinski
Devine
Dickinson
Diggs
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
du Pont
Early
Eckhardt
Edgar
Edwards, Ala.
Eilberg
Emery
English
Erlenborn
Evans, Colo.
Evans, Ind.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flood
Florio
Foley
Ford, Tenn.
Forsythe
Fountain
Frey
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Gonzalez
Goodling
Gradison
Grassley
Gude
Guyer
Hagedorn
Haley
Hall
Hamilton
Hammerschmidt
Hanley
Hannaford
Hansen
Harkin
Harris
Hayes, Ind.
Hechler, W. Va.
Heckler, Mass.
Hefner
Henderson
Hicks
Hightower
Hillis
Holland
Holtzman
Hubbard
Hughes
Hungate
Hutchinson
Hyde
Ichord
Jacobs
Jarman
Jenrette
Johnson, Calif.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Tenn.
Jordan
Kazen
Kelly
Kemp
Ketchum
Kindness
Krebs
Krueger
LaFalce
Lagomarsino
Latta
Lehman
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, Md.
Lott
Lujan
Lundine
McClory
McCloskey
McCollister
McCormack
McDade
McDonald
McEwen
McFall
McHugh
McKay
McKinney
Madden
Mahon
Mann
Martin
Matsunaga
Mazzoli
Meyner
Mezvinsky
Michel
Mikva
Miller, Calif.
Miller, Ohio
Mills
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Moss
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Neill
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Pickle
Poage
Pressler
Preyer
Price
Pritchard
Quie
Rangel
Rees
Regula
Reuss
Rhodes
Rinaldo
Roberts
Rodino
Roe
Rogers
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Roybal
Runnels
Ruppe
Russo
Ryan
Sarasin
Sarbanes
Satterfield
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shriver
Shuster
Simon
Skubitz
Slack
Snyder
Solarz
Spellman
Spence
Staggers
Stanton, J. William
Stark
Steed
Steiger, Wis.
Stephens
Stratton
Studds
Sullivan
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Thone
Thornton
Traxler
Tsongas
Udall
Ullman
Vander Jagt
Vander Veen
Walsh
Wampler
Waxman
Weaver
Whalen
White
Whitten
Wiggins
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Wirth
Wolff
Wright
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Zablocki
Zeferetti

NAYS—1

Pike

NOT VOTING—112

Adams
Bedell
Bell
Biester
Boggs
Boland
Bonker
Brademas
Brooks
Broomfield
Brown, Calif.
Burgener
Burke, Calif.
Cederberg
Clancy
Clawson, Del
Clay
Cleveland
Cohen
Collins, Ill.
Conlan
Cotter
Daniels, N.J.
de la Garza
Dent
Edwards, Calif.
Esch
Eshleman
Evins, Tenn.
Flowers
Flynt
Ford, Mich.
Fraser
Frenzel
Fuqua
Goldwater
Green
Harrington
Harsha
Hawkins
Hays, Ohio
Hébert
Heinz
Helstoski
Hinshaw
Holt
Horton
Howard
Howe
Jeffords
Johnson, Colo.
Jones, Okla.
Karth
Kasten
Kastenmeier
Keys
Koch
Landrum
Leggett
Litton
Long, La.
Madigan
Maguire
Mathis
Meeds
Melcher
Metcalfe
Milford
Mink
Mollohan
Mosher
Mottl
Nix
O'Hara
Passman
Paul
Pettis
Peyser
Quillen
Railsback
Randall
Richmond
Riegle
Risenhoover
Robinson
Roncalio
Rousselot
St Germain
Santini
Schneebeli
Sikes
Sisk
Smith, Iowa
Smith, Nebr.
Stanton, James V.
Steelman
Steiger, Ariz.
Stokes
Stuckey
Symington
Teague
Thompson
Treen
Van Deerlin
Vanik
Vigorito
Waggonner
Whitehurst
Winn
Wydler
Wylie
Young, Tex.

The Clerk announced the following pairs:

Mrs. Boggs with Mr. Bell.
Mr. Hébert with Mrs. Holt.
Mr. Waggonner with Mr. Peyser.
Mr. Passman with Mr. Rousselot.
Mr. Brooks with Mr. Karth.
Mr. Thompson with Mr. Maguire.
Mr. Koch with Mr. Treen.
Mr. Cotter with Mr. Biester.
Mr. Dominick V. Daniels with Mr. Harsha.
Mr. Dent with Mrs. Pettis.
Mr. Fuqua with Mr. Winn.
Mr. Harrington with Mr. Schneebeli.
Mr. Green with Mr. Broomfield.
Mr. Teague with Mr. Burgener.
Mr. Mathis with Mr. Cohen.
Mr. Howard with Mr. Wydler.
Mr. Helstoski with Mr. Cederberg.
Mr. Hawkins with Mr. Clancy.
Mrs. Collins of Illinois with Mr. Young of Texas.
Mr. Milford with Mr. Esch.
Mr. Nix with Mr. Del Clawson.
Mr. O'Hara with Mr. Ford of Michigan.
Mr. Van Deerlin with Mr. Wylie.

Mr. Symington with Mr. Frenzel.
Mr. Stuckey with Mr. Goldwater.
Mr. Stokes with Mr. Mosher.
Mr. St Germain with Mr. Cleveland.
Mr. Roncalio with Mr. Eshleman.
Mr. Risenhoover with Mr. Fraser.
Mr. Riegle with Mr. Mottl.
Mr. Richmond with Mr. Paul.
Mr. Hays of Ohio with Mr. Sisk.
Mr. Brademas with Mr. Robinson.
Mr. Adams with Mr. Railsback.
Mrs. Burke of California with Mr. Ransdall.
Mr. Evins of Tennessee with Mr. Quillen.
Mr. Bedell with Mr. Howe.
Mr. Boland with Mr. Horton.
Mr. Santini with Mr. Johnson of Colorado.
Mr. Bonker with Mrs. Smith of Nebr.
Mr. Kastenmeier with Mr. Melcher.
Mr. Long of Louisiana with Mr. Vanik.
Mr. Meeds with Mr. Metcalfe.
Mrs. Mink with Mr. Madigan.
Mr. Vigorito with Mr. Steelman.
Mr. Leggett with Mr. Jones of Oklahoma.
Mr. Edwards of California with Mr. Landrum.
Mr. Sikes with Mr. James V. Stanton.
Mr. Smith of Iowa with Mr. Steiger of Arizona.
Mr. Mollohan with Mr. Whitehurst.
Mr. Litton with Mr. Jeffords.
Mr. Flynt with Mr. Conlan.
Mr. Brown of California with Mr. Clay.
Mr. de la Garza with Mr. Flowers.

Mr. MARTIN changed his vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. GILMAN. Mr. Speaker, on rollcall No. 360, on a motion that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 11804, Railroad Safety Authorization, I was unavoidably absent due to the necessity of attending a ceremony at the Drug Enforcement Administration. Had I been present, I would have voted "aye."

NATIONAL TRAFFIC AND MOTOR VEHICLE SAFETY ACT AUTHORIZATION

Mr. MURPHY of New York. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 9291) to amend the National Traffic and Motor Vehicle Safety Act of 1966 to authorize appropriations.

The SPEAKER. The question is on the motion offered by the gentleman from New York (Mr. Murphy).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 9291, with Mr. Kazen in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from New York (Mr. Murphy) will be recognized for 30 minutes, and the gentleman from Nebraska (Mr. McCollister) will be recognized for 30 minutes.

The Chair now recognizes the gentleman from New York (Mr. Murphy).

Mr. MURPHY of New York. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this bill is an administration proposal and authorizes appropriations, for the purpose of carrying out the act, not to exceed:

$13 million for the transition period;
$60 million for fiscal year 1977; and
$60 million for fiscal year 1978.

The funding level for fiscal year 1976 was also $60 million; therefore, the fiscal year 1977 and 1978 levels do not exceed the fiscal year 1976 level. This act is administered by the National Highway Traffic Safety Administration in the Department of Transportation.

When the act was passed in 1966, highway fatalities were over 50,000 and steadily climbing. Since then, substantial progress has been made. The number of fatalities in 1974 was 45,534, a decline of more than 9,500 from the previous year's total. The 1974 reductions are largely attributable to the national 55 mile-per-hour speed limit and reduced highway travel in that year. Since highway travel and speed are again climbing, whether fatalities can remain at a reduced level will depend partly upon the promulgation and enforcement of needed vehicle safety standards.

The authorized funds would be used to conduct Vehicle Safety Research: develop and promulgate new vehicle safety standards; amend existing standards and other rules and regulations; provide consumer information; conduct defect and noncompliance testing; and enforce the act's provisions.

The Subcommittee on Consumer Protection and Finance held 3 days of hearings on this bill in March 1976. The full committee, in executive session, amended the act to delay the effective date of the new Federal schoolbus safety standards to April 1, 1977. The new schoolbus safety standards were mandated by the 1974 amendments to the act and required to become effective no later than 2 years following enactment, which is October 27, 1976.

In approving this amendment, the committee is granting the schoolbus manufacturing industry the additional time requested in order to achieve compliance using the best possible design solutions, while insuring that the majority of schoolbuses produced during 1977 are in compliance with the new safety standards.

The full committee favorably ordered the bill reported to the House, by voice vote, on April 29, 1976. I urge the passage of this bill.

Mr. McCOLLISTER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of the bill, H.R. 9291. As the subcommittee chairman has pointed out, this legislation contains the authorizations for the National Highway Traffic Safety Administration through fiscal year 1978. The legislation, as reported from the committee, would also extend from October 27, 1976, to April 1, 1977, the effective date for minimum safety standards applicable to schoolbuses. This extension was necessary because the October deadline fell right in the middle of the manufacturers' busiest season, at a time when it would be very difficult to change production techniques. Further, few buses are manufactured in the first several months of the year. Therefore, by extending the deadline for 5 additional months, we give the manufacturers adequate time within which to comply with these standards while still providing maximum safety for passengers of schoolbuses.

As far as I can determine, that is the only bone of contention in the bill, and for myself, I will defend the April 1, 1977, date. I think, Mr. Chairman, that nothing more needs to be said in the way of general debate. Therefore, I reserve the balance of my time.

In conclusion, I do support this bill and urge its speedy enactment.

Mr. MURPHY of New York. Mr. Chairman, I yield such time as he may consume to my colleague from North Carolina (Mr. Fountain).

Mr. FOUNTAIN. Mr. Chairman, I would like to ask whether or not there is anything in this bill which authorizes the Department to promulgate any such crazy regulations as it at one time did, establishing an interlock system forcing a driver and those riding with him to imprison themselves within a shoulder harness and seat belt tied together without regard to whether or not a driver wanted such protection—if in fact protection is the proper word.

Mr. MURPHY of New York. I will respond to the gentleman by saying that the Safety Board goes through a rulemaking procedure, and they are currently in the process of going through a rulemaking procedure concerning that horse collar, in addition to putting an air bag in the gentleman's face at the same time. But that is several years, I would say, before promulgation; but in order to prevent the buzzer disconnect interlock problem, the committee required that this administrative procedure take place.

Mr. FOUNTAIN. Let me ask this other question: Does this legislation or such other regulations, as may be promulgated, have to be submitted to the committee or the Congress for consideration before they become effective?

Mr. MURPHY of New York. That does come to the Congress for approval.

Mr. FOUNTAIN. I thank the gentleman.

Mr. MURPHY of New York. Mr. Chairman. I have no further requests for time.

The CHAIRMAN. There being no further requests for time, the Clerk will read.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 121 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1409) is amended to read as follows:

"SEC. 121. There are authorized to be appropriated for the purpose of carrying out this Act, not to exceed $13,000,000 for the transition period July 1, 1976, through September 30, 1976, $60,000,000 for the fiscal year ending September 30, 1977, and $60,000,000 for the fiscal year ending September 30, 1978.".

Mr. MURPHY of New York (during the reading). Mr. Chairman, I ask unanimous consent that the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

COMMITTEE AMENDMENT

The CHAIRMAN. The Clerk will report the committee amendment.

The Clerk read as follows:

Committee amendment: On the second page, after line 2, insert the following:

SEC. 2. Section 103(1)(1)(B) of such Act is amended by striking out "the expiration of the nine-month period which begins on the date of promulgation of such safety standards" and inserting in lieu thereof "April 1, 1977".

AMENDMENT OFFERED BY MR. ECKHARDT TO THE COMMITTEE AMENDMENT

Mr. ECKHARDT. Mr. Chairman, I offer an amendment to the committee amendment.

The Clerk read as follows:

Amendment offered by Mr. ECKHARDT to the committee amendment: On page 2, line 6, strike "April 1, 1977" and insert in lieu thereof, "January 1, 1977".

Mr. ECKHARDT. Mr. Chairman, I have copies of this very simple amendment at the desk for everyone who would like to have a copy. All it does it strike "April 1, 1977," and inserts in lieu thereof "January 1, 1977."

Mr. Chairman, my amendment making schoolbus safety standards effective January 1, 1977, as opposed to the current date in the bill of April 1, 1977, is to amend the bill to comply with the original intent of the Subcommittee on Consumer Protection and Finance. That is the date that we had initially established in the subcommittee for the effective date of the schoolbus compliance standards.

Under the 1974 amendments to the National Traffic and Motor Vehicle Safety Act, safety standards for schoolbuses were to be effective on October 26, 1976. The School Bus Manufacturers Institute, SBMI—argued that, since the schoolbus model year is the calendar year, it was unfair and unduly burdensome to implement standards in the middle of a model year. October is also the peak production season for schoolbuses. An extension to January 1, 1977, would allow the manufacturers to begin production of their new model buses and incorporate the safety standards at the same time The subcommittee felt this extension was reasonable, and I concur.

Unfortunately, the industry lobbied successfully in the full committee for a further extension to April 1977. With this April 1, 1977 deadline, schoolbus manufacturers will be faced with implementing the safety change in the middle of the model year, thus making somewhat questionable the argument of the efficiency of the extension. But more importantly, while the extension is only 3 additional months, in reality the danger resulting from such an extension is great. The impact of this extension is that children will be riding around in substandard schoolbuses for years to come. Hundreds of buses will be produced between January 1, 1977, the original deadline, and April 1, 1977, the deadline the full committee adopted. These buses, produced in noncompliance with the safety standards, will be in active service carrying schoolchildren for 10 to 15 years. Thus, we have not made a simple 3-month extension of the deadline for safety standards. We have decided hundreds more schoolchildren will ride day after day in substandard buses.

Because of the peculiar nature of constructing schoolbuses, the extension has even a further impact.

Schoolbus companies normally purchase the chassis of a bus from another manufacturer and then build the body of the bus on the chassis. Under this bill we also extend the deadline for chassis and other schoolbus safety standards. Thus a noncomplying chassis manufactured before April 1, 1977, may be the foundation for a bus built in December of 1977 or later. This will result in substandard buses being turned out for months after supposed implementation of the safety standards. So instead of getting a 3-month extension, the companies are really getting an open-ended extension to construct buses with noncomplying parts so long as the chassis were manufactured before April 1, 1977.

I am not denying that millions of schoolchildren travel thousands of miles each year on schoolbuses with a remarkably low accident rate. But this low accident ratio is due to the high visibility of the bus, the great care other drivers afford such buses, and the low speeds involved, not the inherent safety of the buses.

The CHAIRMAN. The time of the gentleman from Texas has expired.

(By unanimous consent, Mr. ECKHARDT was allowed to proceed for 3 additional minutes.)

Mr. ECKHARDT. Mr. Chairman, I am not going to maintain my amendment would prevent tragedies such as the recent schoolbus accidents which have made the news, because these involved buses built in the past, but I do stress this point: the substandard buses manufactured between January 1, 1977, the date I proposed, and April 1, 1977, the date currently in the bill, can likewise be hazard prone and may be in service for 10 to 15 years, and probably longer. These buses, lacking the proper safety equipment and construction, will continue to carry children, driving along our streets and highways, a hazard waiting to become a tragedy.

The amendment will not alter the fact that unsafe schoolbuses exist, but it will reduce the percentage of unsafe buses of the total in use. The schoolbus industry, which has not been dilatory in the past, does not maintain it cannot meet the standards of January 1, 1977, but merely that it will be difficult to do so. Recent comments by one of the most progressive manufacturers indicate the major difficulty, that of seating standards, has been solved. I wish to be accommodating to industry, but the safety of schoolbus riders is more important to me than accommodation to industry.

Mr. Chairman, I urge my colleagues to vote for my amendment to make schoolbus safety standards effective January 1, 1977, rather than 3 months later. If only a few young lives are saved, I think it is worth the inconvenience.

Mr. Chairman, this is what the subcommittee had originally adopted. This is what seemed reasonable. This was in effect a compromise, and what happened was that in the full committee considerably more than the original compromise was demanded by industry, and, unfortunately, those with the intense, special interest prevailed. So what I am asking for is simply agreement with the subcommittee which heard the facts in the case.

Mr. Chairman, I strongly urge an "aye" vote on the amendment.

Mr. PREYER. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Texas (Mr. ECKHARDT) to section 2 of H.R. 9291. I sponsored the amendment which was adopted by my colleagues on the Committee on Interstate and Foreign Commerce to change the effective date of the new schoolbus safety standards to April 1, 1977. This amounts to a total extension of only 5 months and 5 days beyond the current statutory effective date of October 26, 1976.

Mr. Chairman I sponsored this amendment because I believe that the six schoolbus body manufacturers, one of which, Thomas-Built Buses, is located in my district, face an impossible task in trying to bring their buses into compliance with the four new Federal schoolbus construction standards within the statutory 9-month compliance period. These standards which affect seats, body joints, roof construction, and emergency exists, change the way just about every major body component is made. The members of the Committee on Interstate and Foreign Commerce agreed that an extension to April 1, 1977, is both reasonable and necessary.

Neither the School Bus Manufacturers Institute nor any of its six member companies opposes the new safety standards—in fact, they are anxious to bring their 1977 buses into compliance with them providing they can do so using the soundest production methods possible. They, too, are concerned about the safety of the schoolchildren who ride in the buses they build, and are doing everything they can to implement the new standards in the best way they know how—but they know that achieving quality production will take more than 9 months. They do not think that either the statutory effective period ending October 26, 1976, or an extension to January 1, 1977, which Mr. ECKHARDT's amendment will provide, will be adequate.

The bus manufacturers have assured me that this extension will affect, at the most, only 16 percent of the 1977 schoolbuses which is the portion of the annual production which is normally manufactured in the months of January, February, and March. Based on a yearly production figure of 25,000 units, this 16 percent amounts to 4,000 buses and these 4,000 buses will not be "substandard" as some would have you believe. They will be solid, reliable buses which represent the advances in motor vehicle technology which have been made over the last 20 years.

Furthermore, section 2 as it now stands, is not an open ended extension to build noncomplying buses for years to come. Under NHTSA regulations, a manufacturer must certify that his vehicle meets all standards that were in effect either on the date of manufacturing of the chassis—not the date of purchase, as has been stated—or on the date on which the body and chassis are finally assembled. In fact, schoolbus body manufacturers have almost nothing to say about dates of chassis manufacturing. Ninety percent of the schoolbus chassis are ordered directly from the chassis manufacturers by the school districts, who set delivery date. The body manufacturers build the schoolbus body only after they have received the chassis to put it on. The chassis are built by separate companies such as Ford, GM, and International Harvester, who produce according to their own schedules.

Let me emphasize that the critical date for implementation of the new standards, with or without the gentleman's amendment, is not the date of the actual delivery of the bus to the customer or the date on which the agreement to purchase is made—it is either the date of actual manufacturing of the chassis or the date of final assembly. I want to assure my colleagues that there is no loophole in the bill as it now reads to permit anyone to evade the new standards by placing an order or otherwise "purchasing" a bus or bus components prior to April 1, 1977, as has been alleged. Only the actual date of manufacturing governs.

Just as every other Member of this body, I was shocked and saddened by the tragic bus accident in Martinez, Calif., which resulted in the death of 27 Yuba City high school students and 1 adult supervisor. Early reports from the California Highway Patrol indicate that the accident was caused by driver error, namely, excessive speed, and by brake failure. I want to point out to my colleagues that when this particular bus—a Crown Coach Corp. product—they are not members of the School Bus Manufacturers Institute—was built, 1950, there were no Federal or State standards on roof strength for protection in a rollover accident. I understand that the State of California first adopted a construction standard on rollover protection in 1957—7 years after this bus was built.

Mr. Chairman, even if these new DOT schoolbus construction standards had gone into effect 10 or even 20 years ago, it would not have helped those children. The appalling fact about the accident in Martinez, Calif., is that a school district permitted its children to ride in such an outmoded bus. Great advances in the technology of bus construction have been made since 1950, but those students were denied the benefits of those improvements. Those who would raise a great hue and cry about that accident here today might do well to channel those energies into a requirement for age limits for buses in use for school transportation, so that our children will actually get to ride in the new safer buses. I want to make sure, here, today, that the schoolbus manufacturers get adequate time to make these new buses the soundest and the safest ever built to remain strong through the years so that no guesswork needs to be involved in selecting compliance methods for the new standards.

Mr. Chairman, I fully agree that it was the intent of Congress in enacting the 1974 Schoolbus Safety amendments, originally sponsored by the gentleman from California (Mr. MOSS), and others that the 1977 schoolbuses be built according to the new standards mandated by that act. I do not think that section 2 of this bill, which provides a total extension of 5 days and 5 months, during a slow production period, contravenes that intent. Nearly all of the new 1977 buses—at least 84 percent—will be produced according to the requirements of the new standards. Furthermore, if section 2 of this bill remains as the Committee on Interstate and Foreign Commerce intended, we can be confident that the Congress has provided adequate time in which the schoolbus engineers can implement the standards to achieve a vehicle which is the result of repeated testing and careful craftsmanship.

Mr. Chairman, I ask that the amendment by the gentleman from Texas (Mr. ECKHARDT) be defeated.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. PREYER. I yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, I want to be sure that everyone understands what the situation is with respect to timing.

The CHAIRMAN. The time of the gentleman has expired.

(On request of Mr. ECKHARDT, and by unanimous consent, Mr. PREYER was allowed to proceed for 2 additional minutes.)

Mr. ECKHARDT. If the gentleman will yield further, I think we are both in agreement on this proposition: That if my amendment should prevail, that if the manufacturers of bus chassis, which are generally General Motors, Ford, and International Harvester, actually manufacture the chassis in this year, this model year, that the company in your district, Thomas-Built Buses, or any other company building buses, having bought buses whose chassis were manufactured in 1976, would be permitted any time necessary—any time—to comply with the standards with respect to seats.

The gentleman from North Carolina will concur on that proposition, would he not, that that would be the case? And, of course, if we make it April 1, the manufacturer could be up to April 1 and any bus manufactured before this time would not be restricted by the standards?

In other words, we are not in any wise limiting Thomas-Built Buses to comply with the standards by January 1. We are only requiring that they comply with the standards on all buses built during the year 1976 up to January 1 or, of course, if the amendment should pass, until April 1. But Thomas-Built Buses would have any period of time after such dates, whatever the deadline be, to comply with the safety requirements respecting the manufacture of the seats and the structures within the bus?

Are we in disagreement on that?

The CHAIRMAN. The time of the gentleman has again expired.

(On request of Mr. MCFALL, and by unanimous consent, Mr. PREYER was allowed to proceed for 2 additional minutes.)

Mr. PREYER. I am not sure I understand the gentleman's question fully, but I believe that I am in agreement on that.

My view is that the nature of this business is such that there is no possibility of their ordering a great number of chassis and stockpiling those bodies so that they can use them at their leisure just to build bodies on them.

Mr. BRINKLEY. Mr. Chairman, will the gentleman yield?

Mr. PREYER. I yield to the gentleman from Georgia.

Mr. BRINKLEY. Mr. Chairman, I would ask the gentleman from North Carolina (Mr. PREYER) if it is not a fact that the chassis is not even bought by the bus manufacturer; the chassis is bought by the school district which is ordering the bus?

Mr. PREYER. Yes.

Mr. BRINKLEY. Therefore, realistically speaking, there just could not and would not be a backlog of chassis to the manufacturers such as Fort Valley, Bluebird, and Thomas-Built Buses?

Mr. PREYER. That is correct.

The CHAIRMAN. The time of the gentleman has again expired.

Mr. MOSS. Mr. Chairman, I move to strike the last word and I rise in support of the amendment.

Mr. Chairman, I was one of the principal authors of the Safety Act that requires the proclamation of standards for safer vehicles. In 1966 we were assured by the administrators, and have been in succeeding years, that standards would be promulgated for schoolbuses' safety, but no such standards were promulgated until in 1974 we reported another piece of legislation, of which I was the author, which made it mandatory that the Department issue regulations in specified areas of schoolbus safety, and everyone was on notice from the 24th of October of 1974 on that standards would have to be met.

The subcommittee did extend the

length of time from October 1 of 1976 to January 1 of 1977 in order to permit manufacturers, who I concede have been most cooperative, the opportunity to meet just one standard that was causing them problems, and that was the seating or the seating standard. I offered in committee to join in a move to extend the time to meet the seat standard on through into April of 1977, but that was not acceptable. As a result, if this bill is passed without the Eckhardt amendment, there will be a delay, in my judgment, for well over 1 model year, possibly 2 full model years, because while in many instances the bus manufacturers who do only manufacture the bus on extended chassis purchased directly from manufacturers or through middlemen—some of them do also purchase more than just the number of chassis required for their immediate on-hand orders—on those chassis manufactured prior to April 1 of 1977, if they want to put a new body on it clear into December of 1977 that is nonconforming, they can do so. It is a rather significant loophole. It is one that should not be made unless it is the intention of the Congress to give additional period of time, which really carries us through the 11th year after the commitment was made that we would have schoolbus standards.

We have not acted arbitrarily or in a hurried manner, and where there is an involvement of safety of our children, we have been usually, in my opinion, dilatory in acting to bring about the standards which would protect those children. Remember that the average age of schoolbuses—the average length of service—runs around 15 years. The one that caused the tragedy at Martinez, Calif., was a 26-year-old bus.

So these buses are going to be serving for many years in the future. It is long overdue. This business of requiring that standards be applied and delayed again for 1 and possibly 2 model years does a great disservice, and I strongly urge that the gentleman's amendment be adopted.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. MOSS. I yield to my distinguished colleague, the gentleman from Texas.

Mr. ECKHARDT. I thank the gentleman for yielding.

I want to make it very clear to the body that a company like Thomas-Built Buses not only has during this year to comply with respect to the seat standards, but on those buses manufactured in which the chassis is manufactured during this year, it has an indefinite period to comply.

I also want to make it very clear to the Members here that this is not such a hard requirement.

The CHAIRMAN. The time of the gentleman from California has expired.

(By unanimous consent, Mr. Moss was allowed to proceed for 3 additional minutes.)

Mr. ECKHARDT. Mr. Chairman, if the gentleman will yield, I understand that at Ward, which is another manufacturer competitive with Thomas, they are now capable of complying, but Thomas would not be required to comply with respect to buses the chassis of which were built this year or in any time limitation. It seems to me that is extremely generous.

Mr. MOSS. If the gentleman will recall, at the time of the 1974 amendment making schoolbus standards mandatory, we were told by several manufacturers that they had optional packages which would have provided the kind of safety we are attempting to legislate here and they were not able to supply it because they were in such a competitive field pricewise in getting the bids from the school districts.

Mr. ECKHARDT. The gentleman in the well has joined me in seeing innumerable films with built-in booby traps to injure children in buses as they are now manufactured. I recall seeing those films.

We are not asking for something that bus manufacturers have not had adequate notice about. We are asking for the bus manufacturers to meet a long delayed problem of affording safety to children who must ride in buses. Is that not correct?

Mr. MOSS. That is correct.

Mr. ECKHARDT. I thank the gentleman.

Mr. McCOLLISTER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I think we are losing sight of the main feature of the legislation which is to establish an effective date for these safety standards on schoolbuses. What is at issue is a matter of 3 months when everybody agrees, I think, that there is a relatively small proportion of a year's manufacture of schoolbuses produced. I believe the gentleman from North Carolina said 16 percent.

The DOT had some 15 months to promulgate these regulations which were published on January 6 of 1976. It seems to me that it is a very reasonable request to allow the schoolbus manufacturers to April 1 of 1977 to accommodate not only their design and production but also their quality control procedures in order that we can all be assured that we have adequate schoolbus safety.

Reference has been made to the vote in subcommittee and I would advise the Committee of the Whole that it passed—I think by one vote—in subcommittee to delete the April 1 date, and the April 1 date was restored overwhelmingly by a voice vote in the full committee when the matter was under consideration there.

Mr. Chairman, I would hope that the Committee would accede to a reasonable request and not agree to the gentleman's amendment, and leave the April 1, 1977, date in place.

Mr. BRINKLEY. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I wish to commend the chairman of the committee and the subcommittee and all of its members for the great deal of time they spent on this bill and also take this opportunity to commend the schoolbus manufacturers of this Nation for having done a good job in the safety features in the past and for fully proposing to do an even better job in the future.

The All-American body built by Bluebird at Fort Valley, Ga., has never experienced a fatality in all its existence.

I appreciate the fact that the gentleman from Texas has acknowledged that the industry has been cooperative. They want to do that which is right, and, believe me, they want the best bus and safest bus possible. But Mr. Chairman, the issue before us today is not that of good or bad faith in the schoolbus industry. It is a question of whether or not there is adequate time to do the best job possible. Even the gentleman from Texas and the gentleman from California as well as others, together with the rest of us here today, are in agreement that more time is needed from the October 1 deadline.

The issue is: How much more time? There is a question of 3 months or April 1. I submit, Mr. Chairman, that a better job can be done by the people of my district if we are to grant them the April 1 deadline.

It is a fact that they do get their chassis directly from the school district involved. There is no backlog of chassis. There is good faith and I would suggest to the gentleman from Texas that the gentleman's amendment, if it should carry, would produce possibly just the opposite result of that which the gentleman wishes to achieve, for if school districts are confronted with higher costs, they might not be purchasing new buses and, thus, children may be relegated to riding ad infinitum in even older buses from past years.

Mr. Chairman, I hope the Members will reject the amendment. I think the committee extension is a fair and reasonable, commonsense extension, and I ask the House to consider this most carefully and vote "no" on the amendment.

Mr. MURPHY of New York. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to the amendment.

Mr. Chairman, there are many complex standards that are written into the requirements for schoolbuses. Four of them are interrelated. I think that our objective is to solve the problem and not demand compliance by a certain date. Therefore, I think 90 days is not an unreasonable extension to permit these companies to design for future safety, rather than for a specific compliance date.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. Eckhardt) to the committee amendment.

The question was taken; and on a division (demanded by Mr. Eckhardt) there were—ayes 8, noes 31.

Mr. ECKHARDT. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. Forty-two Members are present, not a quorum.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

The pending business is the demand by the gentleman from Texas (Mr. ECKHARDT) for a recorded vote.

A recorded vote was refused.

So the amendment to the committee amendment was rejected.

The CHAIRMAN. The question is on the committee amendment.

The committee amendment was agreed to.

The CHAIRMAN. Are there further amendments to the bill?

If not, under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. KAZEN, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 9291) to amend the National Traffic and Motor Vehicle Safety Act of 1966 to authorize appropriations, pursuant to House Resolution 1277, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MURPHY of New York. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 9291, the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

APPOINTMENT AS MEMBERS OF COMMISSION ON SECURITY AND COOPERATION IN EUROPE

The SPEAKER. Pursuant to the provisions of section 3(1), Public Law 94–304, the Chair appoints as members of the Commission on Security and Cooperation in Europe the following Members on the part of the House:

The gentleman from Florida, Mr. FASCELL, chairman;

The gentleman from Illinois, Mr. YATES;

The gentleman from New York, Mr. BINGHAM;

The gentleman from Illinois, Mr. SIMON;

The gentleman from Alabama, Mr. BUCHANAN; and

The gentlewoman from New Jersey, Mrs. FENWICK.

APPOINTMENT AS MEMBERS OF SELECT COMMITTEE ON PROFESSIONAL SPORTS

The SPEAKER. Pursuant to the provisions of House Resolution 1186, 94th Congress, the Chair appoints as members of the Select Committee on Professional Sports the following Members of the House:

The gentleman from California, Mr. SISK, chairman;

The gentleman from Illinois, Mr. PRICE;

The gentleman from Pennsylvania, Mr. ROONEY;

The gentleman from Louisiana, Mr. LONG;

The gentleman from Virginia, Mr. FISHER;

The gentleman from Ohio, Mr. MOTTL;

The gentleman from New York, Mr. ZEFERETTI;

The gentleman from New York, Mr. HORTON;

The gentleman from Massachusetts, Mr. CONTE;

The gentleman from Illinois, Mr. DERWINSKI;

The gentleman from California, Mr. DON H. CLAUSEN;

The gentleman from New York, Mr. WYDLER; and

The gentleman from Maryland, Mr. GUDE.

PROVIDING FOR CONSIDERATION OF H.R. 11743, NATIONAL AGRICULTURAL RESEARCH POLICY ACT OF 1976

Mr. BOLLING. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1244 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 1244

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 11743) to establish a National Agricultural Research Policy Committee, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Agriculture, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Agriculture now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, and all points of order against said substitute for failure to comply with the provisions of clause 7, rule XVI, are hereby waived. At the conclusion of such consideration, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER. The gentleman from Missouri (Mr. BOLLING) is recognized for 1 hour.

Mr. BOLLING. Mr. Speaker, I yield 30 minutes to the gentleman from Mississippi (Mr. LOTT), pending which I yield myself such time as I may consume.

The SPEAKER. The gentleman from Missouri is recognized.

Mr. BOLLING. Mr. Speaker, the only thing unusual about this rule is that there is a waiver of germaneness. The reason for the waiver is that the substitute imposes an upper limit on the appropriations for agricultural research authorized under the bill or under any other act; and the bill, as originally introduced, did not contain such a limitation.

Therefore, Mr. Speaker, it goes beyond the rule of germaneness. That is the reason for the waiver.

As far as I know, Mr. Speaker, there is no opposition to this rule.

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as explained by the gentleman from Missouri his rule provides for 1 hour of general debate on H.R. 11743, national agricultural research policy, and that the bill shall be open to all germane amendments. In order to preserve the normal amending process, the rule makes the committee substitute in order as an original bill for the purpose of amendment, and waives points of order against the substitute for failure to comply with the provisions of clause 7, rule XVI, which is the rule on germaneness.

This bill proposes to emphasize agricultural research and education as distinct missions of the U.S. Department of Agriculture, and to encourage and facilitate the development and implementation of more efficient and environmentally sound methods of producing, processing, marketing, and utilizing food, fiber, and wood products.

The administration would favor enactment of this bill if the earmarking of funds for specific areas of research were eliminated.

Mr. BOLLING. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 12944, 6-MONTH EXTENSION OF FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT

Mr. BOLLING. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1245 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES 1245

Resolved, That upon the adoption of this resolution it shall be in order to move, the provisions of clause 2(1)(5)(B) of rule XI to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 12944) to extend the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, for six months. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Agriculture, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER. The gentleman from Missouri (Mr. Bolling) is recognized for 1 hour.

Mr. BOLLING. Mr. Speaker, I yield 30 minutes to the gentleman from Mississippi (Mr. Lott), pending which I yield myself such time as I may consume.

The SPEAKER. The gentleman from Missouri is recognized.

Mr. BOLLING. Mr. Speaker, the waiver authorized in this 1 hour open rule is really technical in nature.

The committee failed to put on the cover of their report some material that they had at another place. That is all that the waiver is about.

Mr. Speaker, I know of no opposition to the rule.

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as explained by the gentleman from Missouri, this rule provides for 1 hour of general debate on H.R. 12944, 6-month extension of Federal Insecticide, Fungicide, and Rodenticide Act, and that the bill shall be open to all germane amendments. This rule does contain a waiver—regarding reporting requirements. I waives clause 2(1)(5)(B) of Rule XI. This rule requires that a report must state on its cover that it contains estimates of the Congressional Budget Office, if in fact it does.

The bill extends the authorization for FIFRA for 6 months. The cost of this legislation is $19,735,100.

The administration has no objection to this bill.

Mr. BOLLING. Mr. Speaker, I have no further requests for time.

Mr. LOTT. Mr. Speaker, I have no further requests for time.

Mr. BOLLING. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 10133, USDA EXECUTIVE ADJUSTMENTS

Mr. BOLLING. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1243 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 1243

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 10133) to upgrade the position of Under Secretary of Agriculture to Deputy Secretary of Agriculture; to provide for two additional Assistant Secretaries of Agriculture; to increase the compensation of certain officials of the Department of Agriculture; to provide for an additional member of the Board of Directors, Commodity Credit Corporation; and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Agriculture, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER. The gentleman from Missouri (Mr. Bolling) is recognized for 1 hour.

Mr. BOLLING. Mr. Speaker, I yield 30 minutes to the gentleman from Mississippi (Mr. Lott) pending which I yield myself such time as I may consume.

Mr. Speaker, this is a simple 1 hour open rule, no waivers, nothing strange about it. I reserve the balance of my time.

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as explained by the gentleman from Missouri this rule provides for 1 hour of general debate on H.R. 10133, USDA—executive adjustments, and that the bill shall be open to all germane amendments.

The purposes of this bill are: upgrade the position of the Under Secretary to Deputy Secretary of Agriculture; establish a new position of Assistant Secretary of Agriculture at executive level IV; raise the positions of Administrator of the Animal and Plant Health Inspection Service, and Administrator of the Food and Nutrition Service, from GS–18 to executive level V.

The committee estimates that the cost during the current and 5 subsequent fiscal years would be no more than $5,000 in each fiscal year and one-quarter of that amount for the transition quarter. The Department of Agriculture estimates the total cost, including the transition period and 5 fiscal years, thereafter, at $26,667.

The administration supports this bill.

Mr. BOLLING. Mr. Speaker, I have no requests for time.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

NATIONAL AGRICULTURAL RESEARCH POLICY ACT OF 1976

Mr. FOLEY. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 11743) to establish a National Agricultural Research Policy Committee, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Washington (Mr. Foley).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 11743, with Mr. Jacobs in the Chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Washington (Mr. Foley) will be recognized for 30 minutes, and the gentleman from Virginia (Mr. Wampler) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Washington (Mr. Foley).

Mr. FOLEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of the bill (H.R. 11743), "to establish a National Agricultural Research Policy Advisory Board, and for other purposes."

This bill was introduced by the ranking minority member of our committee, the gentleman from Virginia (Mr. Wampler) and was cosponsored by 26 other members of the committee. It commanded nearly unanimous support from the many representatives of the agricultural, research, and academic communities who testified in support of the bill at hearings before the full Committee on Agriculture. It is designed to end the stagnation and lack of effective direction which have plagued the agricultural research efforts of this country for the past dozen years. Hopefully, it will also arrest the decline in agriculture's share of the Federal research dollar and get America moving again toward devising new and better ways of providing an adequate and nutritious diet for this Nation and the world.

H.R. 11743, as amended by the committee, should assure that this Nation will establish and meet adequate national goals in food, fiber, forestry product, and human nutrition research. It provides the Secretary of Agriculture with major management tools to better plan, carry out, coordinate, and evaluate the Federal role in agriculture research.

First of all, he is provided with an additional Assistant Secretary of Agriculture and a staff to assist him in carrying out both the new functions assigned in this bill and those agriculture research and education responsibilities already entrusted to the Department of Agriculture.

Second, the bill establishes a new permanent National Agricultural Research Policy Advisory Board, composed of 22 members drawn from concerned Federal Departments and agencies, the academic community, the agricultural community, and the public, to advise and assist the Secretary of Agriculture in carrying out these functions. The National Agricultural Research Policy Advisory Board will be required to submit to the President and the Committees on Agriculture and Appropriations of the House and Senate annual reports of its activities. The second such annual report is to contain a long-range plan for agricultural research and extension.

Third, this bill establishes within USDA a clearinghouse for Federal human nutrition research which must compile and publish an annual inventory of human nutrition research conducted or funded by all Federal agencies.

Fourth, the bill authorizes additional funds for the Department of Agriculture to expand agricultural research as follows:

First, $150 million would be authorized over the next 3 fiscal years for a new program of competitive grants for agricultural research, of which $15 million would be available for fiscal year 1977;

Second, an additional $5 million is authorized for competitive human nutrition research grants in fiscal year 1977, and such sums as may be necessary to carry out further human nutrition research in fiscal years 1978 and 1979; and

Third, the bill provides an additional authorization of approximately $90 million to fund both a new mission-oriented research grant program established by the bill, and also to fund expansion of the Department's existing agricultural research programs. This is accomplished by providing an authorization of $600 million for agricultural research as compared with the President's budget request of $510 million. However, after fiscal year 1977, annual authorizations for all agriculture research programs, other than the new competitive research grant programs, would be required.

Mr. Chairman, I am pleased that the architect of this bill the distinguished gentleman from Virginia (Mr. WAMPLER) is here to speak in support of this bill. I would like to turn the floor over to him at this point and reserve the balance of my time.

Mr. WAMPLER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, when I began my membership on the House Committee on Agriculture 10 years ago, the fruits of decades of agricultural research by our Federal and State governments, our State universities and land grant colleges, our State agricultural experiment stations, and private industry research centers, were pushing crop, meat, poultry, and forestry products production to ever increasing heights.

Agriculture research was not a problem, except in the sense we thought we might be over-producing.

Corn yields, for example, rose from 70 bushels an acre in 1955 to 130 bushels in 1965. A revolution also occurred in the poultry industry, when in a period of 25 years, the grain needed to produce a pound of broiler chicken meat fell from 4 pounds to 2.5 pounds, and during the same period, the average number of eggs produced per laying hen rose from 170 per year to 220. In area after area, we find the same story.

Today we have a different story—many American agricultural scientists are raising disturbing questions about America's future ability to feed itself and ease food shortages elsewhere. As a New York Times article of June 1, entitled "Scientific Deadend Faces United States in Its Agricultural Technology," stated:

> Simply put, they (the agricultural scientists) think the United States is living off past breakthroughs in its food production.

What are these agricultural scientists saying is happening to our once vaunted agricultural research system that is cause for alarm? Let's take a look.

Dr. Glenn Salisbury, director of the Illinois Agricultural Experiment Station, points out that while corn production had increased to 130 bushels per acre by 1965, it has dropped in the last 10 years toward 120 bushels per acre. This trend takes into account a poor crop in 1974 and an exceptional one in 1975.

Other scientists see a major threat to future agricultural production in the invasion of prime farmland by suburban developers' bulldozers.

Let me share another thought with you. Several months ago a speaker at a seminar at Virginia Polytechnic Institute and State University said something like this:

> Untold millions of souls lost their lives as a result of World War II, but this great catastrophe hardly caused a dent in the Malthusian-predicted growth of the world's population.

Translated to census statistics, I am informed our own population will expand from today's 214 to 270 million by the year 2,000, even with our current declining birthrate. And, during the same period the world's population will dramatically rise from 4 billion to between 6 and 7 billion souls.

Dr. Jean Mayer, author of the article entitled, "Agriculture, the Island Empire," said last year:

> This means that we have to find in the next 25 years, food for as many people again as we have been able to develop in the whole history of man "til now."

We should also consider the following:

First, we can no longer meet the increased demands of the world for agricultural products by bringing idle land in our own country under cultivation. The nearly 60 million acre reserve from cropping that existed in the United States in the early 1970's is, for all extents and purposes, now gone. Among these lands are many acres that are inherently less productive and more subject to soil losses due to water and wind erosion; a situation we were gravely concerned about recently in our winter wheat belt in Oklahoma and Kansas.

Second, the use of fertilizers, which has been so successful in increasing productivity, is now reported to be reaching a point of diminishing returns.

Third, we must export large quantities of our agricultural products in order to maintain a favorable balance of trade and thus pay for our considerable imports of foreign oil to support our industries, our individual requirements, and yes, provide energy for our agricultural system.

In this regard, some have said we have reached the point in our economy where agriculture plays such an important part in the solution of the Nation's energy problem, that we either export food products to pay for imported gasoline, which in turn allows Americans to drive to work, or we stop exporting food and Americans walk to work.

Finally, and not all of the considerations by any means, is the continual decline of the U.S. farm population. Much of this is due to a decline in the profitability of farming, which has seen farm producers paying increasing prices for farm equipment, building materials, land, fertilizers, feed ingredients, and labor, but not receiving a corresponding price for the goods they produce.

This points up the economically disturbing fact that far too many of our people who play the key role in providing us with food, fiber, and forestry products, the staff of life so to speak, are finding it unprofitable to keep producing. This unprofitability must be corrected.

You and I know the real facts of our past accomplishments. We know it is no accident that Americans are eating the least expensive, and at the same time the highest quality food in the world. We also know this is not a phenomenon in our history, but is the direct result of our fine agricultural research and extension effort carried out by the U.S. Department of Agriculture, our land-grant institutions and our State agricultural research stations and the extension service working closely with the innovative and highly efficient American farmer and our business institutions—all operating within the framework of the free enterprise system.

However, the U.S. Department of Agriculture's Economic Research Service in its 1974 report gave this word of caution to our past accomplishments:

> An extensive inquiry was made into the root causes of productivity change in agriculture. Factors considered were: mechanization, hybridization, fertilization, and pesticides. Change in aggregate agriculture productivity was made a function of changes in the adoption of these major technologies. There is strong evidence that these few technologies were responsible for the bulk of productivity change during this century. Since most of the major technologies were nearly exploited by 1960, the productivity increase has slackened since that time. For the future, minor technologies will contribute a modest improvement in productivity but major change will have to wait the discovery of new major technology.

This means the day has passed when we can take for granted our excellent past record in bettering our agricultural performance.

Before we continue on this point, I would like for you to examine with me past and current agricultural programs of our Federal Government from a budgetary standpoint to determine if our current programs and the funding thereof, meet our problems of: Providing food, fiber, and forest product needs for the expected population expansion of our own country and the world; maintaining a balance of payments in international trade; lowering food and fiber productions costs to increase farm incomes, and providing lower agricultural product costs to the American consumers.

Let us consider what has been happening with respect to the Department of Agriculture's budget over the past 10 years. The USDA's main functions are no longer agriculture functions, but are instead welfare functions. To me the most shocking revelation is the fact that the Agriculture Department's own budget people now refer to the Department's traditional activities such as agricultural research, conservation programs, meat and poultry inspection, and related functions as "other." I find this unbelievable.

I have asked the Department of Agriculture to give me the specific expenditures for research which the Department carries as "others."

The Department has informed me that in fiscal year 1969 the total obligations for all USDA research amounted to $267 million advancing to $433 million in fiscal year 1975. During the same period USDA obligations for research at universities and State agricultural research experiment stations only modestly advanced from $62 million in fiscal year 1969 to $108 million in fiscal year 1975. In considering these figures it is important to note that total agricultural research constitutes only slightly more than 3 percent of the total agriculture budget. Even more significant to me is that a decline occured in funding at universities and State experiment stations in constant dollars. Beginning in fiscal year 1972 inflation of the dollar took its toll. The constant dollar figures expended at State agricultural experiment stations and State agricultural colleges are significant and point up the serious declining position of agricultural research funding.

It is important to note that agricultural research accounted for 39 percent of the total Federal research and development budget in 1949, while today agricultural research has slipped to only 2 percent of the total Federal R. & D. budget. In testimony before the House Subcommittee on Science, Research, and Technology, Dr. Sylvan H. Wittner, chairman of the board on Agriculture and Renewable Resources, National Academy of Science, director of the Agricultural Experiment Station, assistant dean of agriculture, and professor of horticulture at Michigan State University, who incidentally testified at the hearings on the research bill, stated:

> Five times as much for research is projected by HEW, ERDA, and considerably more by the National Science Foundation, than is projected for USDA in the current Federal budget. And research and development budgets for the U.S. Department of the Interior and the Environmental Protection Agency are projected for more than a 50 percent increase in this current year, while agriculture is to receive only a modest 11 percent increase over its low figure of 433 million dollars in the Fiscal Year 1975 budget.

The National Science Foundation in a recent publication titled: "An Analysis of Federal R. & D. Funding, By Function, Fiscal Year 1969–76" points up yet another reason for the declining agricultural research effort in the Federal Government. A close examination of the NSF analysis leads one to wonder whether or not the Agriculture Department is conducting any research whatsoever. You cannot find agricultural research on their analysis charts because the National Science Foundation does not consider agriculture as a primary function of our Government.

To clarify matters, the National Science Foundation carries agricultural functions under the heading "Natural Resources." Even under this heading, food research of the total agricultural subfunctions amounted to 46.2 percent of the natural resources total in 1969, 40.7 percent in 1974, 35.7 percent in 1975, and 36.4 percent in 1976—or "its share of this function has dipped from almost one-half in 1969 to somewhat more than one-third in 1976 as other subfunctions—such as mineral—have grown," to quote the NSF analysis.

Before I proceed further I want to again insert an important quote from Dr. Edminister, Administrator of the Agricultural Research Service, in his testimony before the Subcommittee on Science, Research, and Technology last September. I quote:

> Frankly, as scientists and engineers, we are becoming increasingly concerned about the real likelihood that we cannot sustain the rate of flow of new technology we enjoyed in recent years, despite our great confidence in the agricultural research system in the U.S. This concern is based on the: (1) general slippage in research capacity during the past ten years due to inflationary costs, (2) higher constant dollar cost in researching increasingly complex problems, (3) new and greater responsibilities to maintain and improve the environment, (4) increasing demands for safe nutritionally acceptable foods, (5) increasingly repressive pressures placed on high yielding plants and animals by the environment, insect pests, and diseases, (6) new technology demands caused by high energy prices, use of marginal lands, consumer demands, and inability to use certain existing technology, (7) persistent and formidable yield barriers, and (8) erosion of technology reserves.
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> During the period of readily available agricultural production capacity, the argument was forcefully made that it did not make sense to increase agricultural research at a time when food and feed reserves were so large. The logic of that argument gave little weight to the time lag between research expenditures, research results, technological development and adoption, yet it was sufficient to stabilize expansion of research programs. For example, in 1965, agricultural research funding from Federal, SAES, and industry sources was estimated at $854 million. A comparable estimate for 1975 was about $1.6 billion. After discounting for inflation, the 1975 expenditure had less purchasing power than the amount spent in 1965. A similar pattern existed for ARS. While the real value of the budget was no higher than 1965, the new thrusts of human nutrition, environmental quality, and other special problems were funded out of increases by or program redirections, the result being inadequate funding for production and marketing research.
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> The contribution that agricultural research can make to a safe and adequate food supply, reasonably priced, must place it as one of the highest research priorities. To achieve this objective will require an increase in priority for research well above the present two percent share of the Federal R & D budget.

My observations and my readings on the problems confronting our agricultural system has led me to believe that we must make significant upgrading of the priority of the agricultural budget if we are going to meet the challenges before us.

My findings also point out the necessity for a modification in the management of research in the Department of Agriculture itself, and the research system that now covers programs for agricultural research in the land-grant colleges and the State agriculture experiment stations, the National Science Foundation, the National Institutes of Health, HEW, EPA, and the Energy Research and Development Administration. All carry out some research relating to farming.

Such fragmentation greatly hinders our ability to focus the vast research capabilities of this Nation on the research needs of highest priority. Moreover, the research effort as to priority and funding needs to be represented at the highest councils of the Department of Agriculture. It is also apparent that the Secretary needs a highly competent, fully representative, Research Policy Council to which he can turn for overall advice and review of research priority and long-range goals and planning. It is also apparent that the current funding of research as to inhouse projects and research at our land-grant colleges, our State agriculture experiment station, and support for outside institutions and individuals must be expanded and better balanced. This would entail, in my judgment, specific new forms of 100 percent Federal grant programs to insure we preserve the outstanding mission-oriented research capabilities we possess at our land-grant and other agricultural colleges and our State agriculture experiment stations. We also need a new competitive grant process to give us a broader access to the whole scientific community, outside present funding channels, thus broadening the range of knowledge applied to the problems of agriculture.

From what I am told, a revitalized Federal agricultural research program and budget is necessary to tackle basic research in such promising areas as: Fundamental knowledge about photosynthesis, nitrogen fixation, crop, poultry and livestock protection, water and nutrient efficiencies, genetics, biochemical aspects of handling and processing of crops, livestock and fish, and plant, soil, and water relationships.

To realize these goals, I introduced the corrective legislation we are considering today.

This legislation was originally introduced as H.R. 11339, on December 19, 1975, and is titled the "National Agricultural Research Policy Act of 1976." The bill was subsequently modified, on recommendations of many land-grant institutions, the directors of State agricultural research stations, and others concerned with agricultural research, and was reintroduced on February 5 and given the numbers 11743 and 11744. The bill was subsequently modified and amended by me after consultations with the Department of Agriculture, the Office of Management and Budget, the agricultural and academic communities and was reported out of the House Agriculture Committee on May 5 with some minor committee amendments. Last Thursday, the House Rules Committee approved the bill for floor action.

This legislation is designed to assure

that this Nation will establish and meet adequate national goals and policies in food, fiber, and forestry product production research and human nutrition research. It would provide the Secretary of Agriculture with major management tools to better emphasize, coordinate, plan, and enhance the Federal role in agricultural research. An additional Assistant Secretary of Agriculture is authorized to coordinate agricultural research within the Department of Agriculture with agriculturally related research in other Federal departments and agencies and in disseminating all resultant information. The bill establishes a permanent new National Agricultural Research Policy Advisory Board of 22 members from concerned Federal departments and agencies, the academic community, the agricultural community, and the public to advise and assist the Secretary in carrying out these functions by, first, facilitating interagency and intergovernmental cooperation in the realm of agricultural research; second, recommending allocation of funds to agricultural research by major research areas; third, evaluating, developing and recommending national policies, priorities, and strategies for agricultural research; fourth, providing liaison with agencies in other Federal departments or agencies involved in agricultural related research activities in other countries, and fifth, recommending long- and short-term plans for agricultural research and education. The bill would expand support for fundamental research and broaden the scope of scientific participation in solving the problems of food, fiber, and forest product production and human nutrition through competitive grants, mission-oriented grants, and human nutrition competitive research grants. The bill also authorizes additional funds for the Department of Agriculture to expand existing agricultural research. It provides for the establishment of a Clearinghouse for Federal Human Nutrition Research within the Department of Agriculture.

H.R. 11743 authorizes additional funds for the Department of Agriculture as follows: First, $150 million over the next 3 fiscal years for a new program of competitive grants for agricultural research, of which $15 million would be available for fiscal year 1977; second, $5 million for competitive human nutrition research grants in fiscal year 1977, and such funds as may be necessary to carry out further human nutrition research in fiscal years 1978 and 1979; and third, an additional $90 million—by providing $600 million for agricultural research as compared with the President's budget request of $510 million. After fiscal year 1977 annual authorizations for all agriculture research programs other than the new competitive research grant programs would be required.

Mr. Chairman, before I conclude, I would like to thank our distinguished committee chairman TOM FOLEY, for his support of this bill. I would also like to express my appreciation to the other 28 cosponsors, from both sides of the aisle, for their support.

This is a good bill; a bipartisan bill; and a much needed bill.

I urge the support of my colleagues for this legislation.

Mr. BRECKINRIDGE. Mr. Chairman, will the gentleman yield?

Mr. WAMPLER. I yield to the distinguished gentleman from Kentucky.

Mr. BRECKINRIDGE. Mr. Chairman, I rise to speak in support of the bill, which is the product of a great deal of careful and deliberate consideration by the Committee on Agriculture. I salute the gentleman from Virginia (Mr. WAMPLER), the author of the bill, who worked long and hard in negotiating with the executive branch and in reducing the results of these negotiations to legislative language.

Mr. Chairman, this is an important bill that will strengthen and coordinate America's agricultural research activity to insure that our agricultural industry remains strong and viable. Such research will not only increase the Nation's food, fiber, and forestry production and improve the nutritional value of our food, but will also guarantee that all aspects of U.S. agricultural research remain strong.

Mr. Chairman, I would like to make the record clear that the committee made every effort to insure that the term "agricultural research" in the act was defined in its broadest aspects to cover every activity connected with agriculture. If anything, it is the intent of the committee that the term be even more broadly construed than it is in the present act. I feel the need to clarify this point, because of the apparent concern of millions of horsemen across the country who fear that some may argue later that it is the intent of the act to curtail existing or future equine research.

As all Members of this body know, following World War II horses began a resurgence in popularity that has yet to subside and indeed becomes stronger each year. Although we have no firm figures regarding the number of horses in the United States since no national census has ever been conducted, we anticipate that the horse population will exceed 10 million head by 1980.

Notwithstanding the renewed interest and popularity of the horse, there has not been a sufficient concomitant response by public research agencies to adequately service this important segment of American life.

Our knowledge of equine diseases has not kept pace with the expanding horse industry. Additional research is essential if we are to cope with the problems this expansion has brought.

The need for equine research is clear. Hearings on the Animal Health Research Act which was vetoed by the President on inflationary grounds offer a library of evidence in this regard. In 1973, the Horse Industry Advisory Committee—HIAC—of the USDA listed various priority categories for equine research. Listed in the top priority category were Venezuelan equine encephalomyelitis, equine infectious anemia, equine piroplasmosis, African horse sickness, and equine respiratory disease. In its 1974 report, HIAC added a second priority involving biological management which included waste disposal, housing design and physical environment, feeding systems, feed processing, nutrition and reproduction. The importance of research into these areas cannot be overstated by the American horseman.

All of these areas of concern are within the definition of "agricultural research" in the present statute and are included within the areas of research in the present bill. That the USDA recognizes the importance of equine research is clear from its reinstitution of research into certain diseases affecting horses. During 1976, the Department is expected to expend about $1.5 million for equine research into Venezuelan equine encephalomyelitis, equine infectious anemia, piroplasmosis, internal and external parasites, and African horse sickness.

This research, however, is presently insufficient. Moreover, the Department is doing no research on the husbandry aspects of horse production and use.

The Department recognizes the importance of equine research and the dangers equine afflictions involve. Its research, however limited, demonstrates this. The recently adopted regulations requiring a negative Coggins test before a horse may be imported is also evidence of this concern. The mobility of horses, both within this country and internationally, makes the threat of epidemic even more hazardous.

Nonetheless, the USDA needs more funds. Equally important, the USDA needs a reaffirmation from Congress of the importance and necessity of equine research. This legislation demonstrates congressional approval of horse-related research.

The importance of equines to the American economy cannot be overstated. Combined investment and annual expenditures of the horse industry amount to more than $13 billion, with horse owners spending nearly $7 billion annually on feed, equipment, drugs, services, and related items. Total Federal, State, and local revenues from racing and related industries approach $1 billion annually. Over 320,000 boys and girls are engaged in 4-H horse projects, more than the number in cattle and swine projects combined.

Mr. Chairman, the American horse industry grows stronger every day bringing with it not only jobs, employment, and new sources of funds for our people, but also a great deal of personal pleasure and recreation. It is important that research into equines be continued and expanded. Since this bill provides for continued and coordinated research into all areas of agriculture, including equine research, I ask that all Members support it.

Mr. Chairman, I would like to engage the gentleman in a colloquy for the purpose of establishing the record.

Mr. WAMPLER. Mr. Chairman, I yield to the distinguished gentleman.

Mr. BRECKINRIDGE. It is my understanding, I will say to the gentleman from Virginia (Mr. WAMPLER) that the present definition of agricultural research, as found in 7 United States Congressional 427, was formulated by the Bankhead-Jones amendment of 1946.

It is my further understanding that it was the purpose of that amendment to so enlarge and broaden the authority of the Secretary as to enable him to go into an expanded research effort in all of the areas of the problems affecting agriculture, including, but not limited to particularly, the equine industry.

It is my further understanding, I will say to the gentleman from Virginia (Mr. Wampler), that this was made clear to the Department of Agriculture in its negotiations with the gentleman, and that in the preparation of this legislation it was the gentleman's intention and it is the intention of this legislation, to enlarge and extend and further emphasize the Department's responsibility in the area of equine research. If I understand this matter correctly, I would appreciate the gentleman's expression of opinion on that.

Mr. WAMPLER. Mr. Chairman, in responding to the distinguished gentleman from Kentucky, I would concur in the gentleman's impression and conclusion of the original Bankhead-Jones amendment. There is nothing in this bill to prevent that application. As a matter of fact, it is the intention of this legislation that this could be considered as a part of agricultural research. It would be an important part of it and it would be up to the Policy Board to make recommendations to the Secretary and clearly the Secretary would have authority to include that as part of the research recommendations.

Mr. BRECKINRIDGE. If the gentleman will yield further, as a matter of fact, the Board has already ruled on the priority of the mechanics for such research and has set the priority and this does no more than enlarge that authorization.

Mr. WAMPLER. Mr. Chairman, I would further respond to the distinguished gentleman from Kentucky by saying that the Agricultural Advisory Board makes recommendations to the Secretary. It is the intent of the Board that the Board would make both short-term and long-term decisions on priority; but the sole decision rests with the Secretary. I think the gentleman is quite correct that this need in the area of agricultural research does exist and it is my opinion it would be of high priority.

Mr. BRECKINRIDGE. Mr. Chairman, I thank the gentleman.

Mr. BROWN of California. Mr. Chairman, I rise in support of Mr. Wampler's National Agricultural Research Policy Act, and wish to commend him for such an excellent piece of legislation.

There are many factors which have arisen in the past few years that demand a greater focus on agricultural research. The food crisis was the most noticeable of these; but increasing concern, due to energy shortages, regarding the need for alternative, less energy-intensive farming technology, problems with air pollution and its harmful effects on crops, and ecological abuses such as deforestation, overgrazing, and desert encroachment have all stimulated an awareness of the lack of emphasis on research which will forestall or alleviate some of these problems.

The only way to prepare for future needs is to plan for them and to provide as many alternatives as possible so that various avenues will be open to us. For the past few decades agricultural research has been geared toward full productivity through the use of energy intensive technology and chemical aids.

Though such an emphasis was understandable in an area of cheap, abundant energy, it is no longer as appropriate. We must conduct research to provide various methods of pest controls, including biological ones, to prepare for possible climate changes that might mean years of famine under our present food systems and to increase our knowledge through basic research in photosynthesis and nitrogen fixation so that our main food crops might utilize radiant energy and atmospheric nitrogen with increased efficiency. Our farmers, small and large, must be provided with access to such alternatives and appropriate technologies as quickly as possible.

H.R. 11743 will help move this country toward such goals of improved agricultural alternatives. By legislating an agricultural research board whose duties include preparing a 5-year plan, continuously up dated, for new research priorities based on present and future needs, coordinating research with all other Federal agencies that conduct agricultural research for the enhancement of communication and the avoidance of duplication, reviewing present agricultural research programs and goals for the purpose of up dating any which seem less useful in light of present or future requirements, reporting its findings to the Congress and the President, and making recommendations on budgeting appropriated funds, the focus of our USDA agricultural research program will be moved into a forward-looking thrust which is extremely important.

In addition, the section of the bill which broadens the program for allocating competitive grants to include individuals and nonprofit organizations, as well as the land-grant colleges and experiment stations which received them before, will hopefully stimulate scientific competition, imagination, and innovation—which various reports have claimed are lacking in the present USDA agricultural research system.

I urge my colleagues to enthusiastically support this bill when it comes time to vote. It is a positive step toward the improvement of our food system so that our Nation will be prepared for future famines, droughts, diseases, and energy shortages. This move is long overdue.

Reports have been issued over the last 5 years pointing out many problems within our agricultural research system—the lack of basic research in such areas as photosynthesis and nitrogen fixation, the need for some sort of peer review, the problems with administration and redtape, lack of creative scientific output, and many other such serious findings. Until this time, no action was taken. It took soaring food prices and an energy crisis to draw our attention to the field of agricultural research, and, to the benefit of us all, Mr. Wampler acted where he saw the need.

Mr. THONE. Mr. Chairman, I rise in support of H.R. 11743, which could well be called the Less Expensive and More Plentiful Food Act. Consumers all over the world will have better diets at less relative cost if we pass this legislation, formally titled as the National Agricultural Research Policy Act of 1976.

My sincere thanks to the senior minority member of the House Committee on Agriculture, the gentleman from Virginia (Mr. Wampler) for his leadership in focusing on this opportunity to increase food production. His diplomacy and perseverance are to be complimented. He was chiefly responsible for working out the compromises that have resulted in broad support of this legislation both among Democrats and Republicans and in both the executive and legislative branches. Our thanks are due also for the leadership and cooperation provided by the chairman of the House Committee on Agriculture, the very hardworking gentleman from Washington (Mr. Foley). I am proud to be one of the cosponsors who developed this bill.

Previous speakers have given some indication of the national and international effects of this legislation. For a few moments, I want to focus on the bill's effect on my home State of Nebraska. The effect would be typical of that in many States.

If this bill is fully funded, the University of Nebraska extension service would receive about an additional $270,000 over what was available this fiscal year through the formula for land-grant colleges. Through the two programs in this new legislation that provide for awarding grants competitively to those who offer the most promising applications, I will guess that Nebraska might gain another $130,000 per year. This would be a total of about $400,000 in additional funds per year.

It costs about $50,000 per year to pay for a full-time research scientist, his subprofessional help and overhead. That would mean about eight more full-time scientists doing food research through the University of Nebraska. In terms of numbers, this is a very modest goal. It would be only about a 7- to 8-percent increase in nonadministrative scientists now working through my State's extension service.

In terms of what those eight people might accomplish to increase the world's food, the results could be extremely dramatic.

Two of those scientists might go to work on improving forage. In Nebraska, about half of our State's agricultural land is in grass. In other States, the percentage is even higher. These grasslands are essential for raising livestock of every kind. And yet, there has been much more research done in America on improving any one of a number of crops that are harvested than has been done to improve our land that is foraged. These two new scientists in Nebraska working on forage would develop improved grass varieties, better fertility and more efficient techniques for managing grazing lands.

The single most precious physical asset that we have in Nebraska is our water. Through irrigation, our farmers produce twice as much grain per acre as can be achieved through dryland farming. And yet, we are terribly inefficient in our agricultural use of the water available to us. There is so much we need to know. Particularly, we need to know more about how groundwater recharges itself. Therefore, in Nebraska we would certainly put one of our eight new scientists to work at providing for more efficient use of our most valuable resource—water.

One scientist in Nebraska might be added to help develop a corn plant that provides less stalk and more and larger ears.

There have not been any dramatic breakthroughs to make the soybean yields jump dramatically—as have been achieved with corn and wheat. Through nitrogen fixation such a breakthrough is probably close. Another Nebraska scientist working on the problem might conceivably reduce by a year the time necessary for development and adoption of soybean production methods that will result in much greater yields per acre.

So much of our food is lost, or is wasted or becomes spoiled during transportation and processing. Therefore, American consumers will gain by having an additional scientist working in Nebraska on this aspect of food safety.

There is so much research that would be helpful in the field of nutrition—both from the standpoint of producing plants and animals containing more nutrition, processing and handling foods so their food value is not lost and finding diets that produce a high degree of nutrition with low cost. Our Nation will benefit from another scientist at work on this problem in my home State.

Finally, we might put one of these additional Nebraska scientists to work on conserving agricultural energy use. In farming, as in all other aspects of American life, energy has been so bountiful and cheap that we have not even bothered to study the full range of possibilities for alternatives that use less fuel. Today, it is certainly in our national interest to make such a study for every aspect of food production.

Now, some laypersons may think that if agricultural research is being conducted in each of the States, much duplication and overlapping must result. Such is not—I emphasize—is not—the case. A scientist would earn the scorn and contempt of his or her peers if he or she conducted research that provided no new knowledge. In agricultural research, there are a number of ways to avoid reinventing the wheel. One of the tools is the current research information system—CRIS—operated by the U.S. Department of Agriculture.

While we have had the means to avoid duplicative agricultural research, we have lacked overall direction. We have not firmly established and promulgated the most urgent national priorities for food production research. The bill we have cosponsored fills this need.

It will increase the emphasis placed on food research within USDA. It will provide for a national agricultural research policy advisory board to set priorities. Membership will represent all aspects of American life with significant representation by those engaged in agricultural research on the working grassroots level.

Over the last 75 to 100 years, our Nation has developed diverse and complex systems for accomplishing agricultural research. Some is done directly by USDA, some is federally funded but performed by State experiment stations associated with land grant colleges, some by universities or local governments without Federal funding, some by Federal agencies outside USDA, some by foundations and other nonprofit organizations and some by profit-seeking corporations. It is high time we established a means for measuring the effort being made by non-Federal sources and concentrating Federal efforts on the remaining highest priority fields for food research.

Food is the most critical item in the world today. American farmers and ranchers—aided by agricultural research and extension—have been fantastically successful at food production.

Today, however, American farmers are being called upon to feed not only the people of the United States but also much of the world's people. To meet these fast-increasing food demands, we will need better coordination of food research and additional funding.

Increased food research will help to prevent world starvation and alleviate malnutrition. Better diets around the globe will help to improve prospects for peace. Our farmers and ranchers being greatly dependent upon the vagaries of climate take great risks. Farm income can be improved through elimination of some of those risks through agricultural research. Increased food research will assure American consumers of plentiful supplies at the supermarket with relatively inexpensive prices. Through research, we can increase our food production capacity and thus help the Nation's balance of payments through more sales abroad. Finally, the research provided through this legislation will aid us in conserving our natural resources and protecting our environment.

Based on my careful study of this bill in committee and on my personal experience, coming from a farm State and working closely with extension agents and officials at the university of Nebraska, I can heartily recommend this legislation. I urge my colleagues to vote for H.R. 11743.

Mr. WAMPLER. Mr. Chairman, I reserve the balance of my time.

Mr. VIGORITO. Mr. Chairman, I am in support of H.R. 11743, the National Agricultural Research Policy Act. The bill was carefully perfected during its consideration by the Committee on Agriculture, and in my view it deserves to be approved as reported by the committee.

Essentially, H.R. 11743 seeks to impart greater rationality to the setting of priorities among food and agricultural research projects, and to provide greater coordination in the implementation of agricultural research. Further, the bill would emphasize certain neglected areas of research, particularly research on nutrition.

The time is right for this legislation. We have begun to deemphasize publicly funded food and agricultural research in recent years, and the experience in the food sector since 1972 has taught us that such a deemphasis is unwise. We must maintain an extensive agricultural research program to sustain the farm productivity on which U.S. consumers have come to rely, and this must be done substantially through public research. Unlike in the more concentrated sectors of the economy where research expenditures can be budgeted in an orderly fashion with confidence that market returns will compensate producers for the research investment, research in agriculture must of necessity be largely publicly financed.

It has been clearly demonstrated that such expenditures pay off in greater benefits than costs to the Nation. Ever-increasing agricultural productivity is the main avenue to stability in farm prices, and in that component of food prices which is due to farm level rather than marketing costs. U.S. agricultural productivity is also the basis for the continued exercise of world food power by the United States since it sustains our large favorable balance of trade in agricultural products.

At the same time, because of inflationary pressures and the necessity of making every public dollar yield as large a public dividend as possible, the mechanisms for coordination of food and agricultural research in H.R. 11743 are extremely timely. The new National Agricultural Research Policy Advisory Board will afford the first real opportunity to pull together agricultural research undertakings that are spread among the U.S. Department of Agriculture, National Science Foundation, Environmental Protection Agency, and other agencies. The new framework for managing agricultural research contained in H.R. 11743 will not end all duplications and inefficiencies in this area, but it should reduce them substantially.

The greater emphasis on nutritional research in H.R. 11743 is commendable. In connection with numerous programs, we encounter the problem of not having developed and disseminated the information required for individuals and families to secure an adequate and balanced diet. The pending bill will take a step toward correcting that serious problem.

Mr. Chairman, I urge my colleagues to support H.R. 11743.

Mr. FOLEY. Mr. Chairman, I have no further requests for time.

Mr. WAMPLER. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. FOLEY. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. Pursuant to the rule, the Clerk will now read the committee amendment in the nature of a substitute recommended by the Committee on Agriculture, now printed in the reported bill as an original bill for the purpose of amendment.

The Clerk read as follows:

H.R. 11743

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. That this Act may be cited as the "National Agricultural Research Policy Act of 1976".

Mr. FOLEY. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and

the Speaker having resumed the chair, Mr. Jacobs, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 11743) to establish a National Agricultural Research Policy Committee, and for other purposes, had come to no resolution thereon.

GENERAL LEAVE

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on general debate on the bill H.R. 11743.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. RHODES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RHODES. Mr. Speaker, I take this time to ask if the distinguished acting majority leader is in a position to inform the House as to the program for next week.

Mr. McFALL. Mr. Speaker, if the distinguished minority leader would yield, I will be happy to respond.

There is no further legislative business for today, and upon announcement of the program for next week I will ask unanimous consent to go over until Monday.

The program for the week of June 14 is as follows: I say that it is a long program, and it is going to be an unusual or different announcement because in addition to the program which I will announce below, the following authorization bills will be considered during the week not necessarily in this order:

H.R. 13179, State Department authorization, votes on amendments and bill; H.R. 13589, USIA authorization, votes on amendments and bill; H.R. 12944, Federal Insecticide, Fungicide and Rodenticide Act extension, open rule, 1 hour of debate. The rule was adopted just today.

Then, we will have H.R. 11743, national agricultural research, votes on amendments and bill; H.R. 10133, USDA executive adjustments, open rule, 1 hour of debate. The rule was previously adopted.

Following that, we will have H.R. 9398, Economic Development Act amendments, open rule, 1 hour of debate; H.R. 13636, Law Enforcement Assistance Administration, open rule, 2 hours of debate; H.R. 13777, public land policy and management, open rule, 2 hours of debate; H.R. 8401, nuclear fuel assurance, open rule, 1 hour of debate. The House meets at 10 a.m., as the minority leader will remember, each day next week. Monday is District day. There are no bills on the calendar.

The first of the bills will be H.R. 14261, Treasury-Postal Service appropriations, fiscal year 1977; following which we will take up H.R. 14114, debt limit temporary increase, open rule, 2 hours of debate; followed by H.R. 6218, Outer Continental Shelf amendments, votes on amendments and bill.

Perhaps, if we have time, one or more of the unfinished authorization bills which we have listed above will be taken up.

On Tuesday, the Flag Day ceremonies will be at noontime, and the Private Calendar is on that day. We will begin the day at 10 o'clock, however, with the Private Calendar first; then, the public works appropriation bill, H.R. 14236.

At noon we will break for the Flag Day ceremonies.

Following the completion of the public works appropriation bill, we will consider H.R. 14237, the agriculture appropriation, and, of course, any of the unfinished authorization bills that we have time for.

On Wednesday the House will consider H.R. 14235, military construction appropriations for fiscal year 1977, and some of the authorization bills.

On Thursday we will consider H.R. 14262, defense appropriations, fiscal year 1977, and perhaps we will consider some of the authorization bills.

On Friday we will consider H.R. 14239, State-Justice appropriations for fiscal year 1977, and, of course, some of the authorizing bills.

Conference reports may be brought up at any time.

Any further program will be announced later.

Mr. RHODES. Mr. Speaker, I would like to inquire of the distinguished acting majority leader if it might not be good policy to put the Outer Continental Shelf Lands Act Amendments of 1976 over until after the Fourth of July recess.

Many of the bills which are listed in the potpourri at the beginning of the program are rather important. I am at a loss to know why the Outer Continental Shelf Lands Act Amendments of 1976 requires any sort of priority at this time.

For instance, the Nuclear Fuel Assurance Act, I am told by the gentleman from Illinois (Mr. Anderson), who is the ranking member of the Joint Atomic Energy Committee, is a most important bill.

The distinguished director of ERDA had called me on the telephone last week, indicating his concern that this bill is not moving.

I would certainly hope that it could be advanced on the calendar and given some priority.

Mr. McFALL. If the gentleman will yield, in answer to the gentleman's question, the Outer Continental Shelf bill does have some authorizations or appropriations that will be taken up in the next 2 weeks. So it is relevant to the appropriation schedule. For that reason it has been put on the schedule at the time it has.

Mr. RHODES. I thank the gentleman.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. RHODES. I yield to the gentleman from Maryland (Mr. Bauman).

Mr. BAUMAN. I thank the gentleman for yielding.

Mr. Speaker, I wonder if we could ask the majority whip, the gentleman from California (Mr. McFall), during the next week, and the week after that, to extend the courtesy to the House of announcing each day, at the end of the day, before we adjourn, what he expects the program to be for the next day. I know it has been confusing, at least it was today, for some Members to know what legislation is before us.

Mr. McFALL. If the gentleman will yield, I think the gentleman from Maryland makes a very good suggestion, and we will endeavor, near the end of each day, to discuss with the minority the proposed schedule, as best we can, for the next day, and we will make sure that the Members have an announcement of the next day's business. The schedule could be somewhat confusing. We will endeavor to do the best we can, to make sure that there is an announcement so that the Members will know what is going to happen.

Mr. BAUMAN. I would appreciate that.

Mr. Speaker, I wonder, also, if there has been any consideration given as to a uniform time for adjournment each day.

I know that last year, when we had a long period of time, several days, of extended debate on different bills such as this, there was general agreement to adjourn each day at a certain time, say, 6 o'clock or 7 o'clock, or whatever hour was agreed upon.

Mr. McFALL. We want to make certain we pass those appropriation bills. The rest of it, to use the phrase former Speaker McCormack used to use, we will play by ear.

We are going to work very steadily next week, and I would not think it would be in the interest of the House to go too late each day, since we are going to come in each day at 10 o'clock.

As we recall, the predecessor in the gentleman's role, Mr. Gross, used to object to coming in early if we were going to stay very late in the evening. I think he had a very good point. When we stay late, it is difficult to come in early the next morning. We will come in at 10 o'clock every day next week, so we ought to finish up at a reasonable hour each night.

Mr. KAZEN. Mr. Speaker, will the gentleman yield?

Mr. RHODES. I yield to the gentleman from Texas.

Mr. KAZEN. Mr. Speaker, let me ask the distinguished majority whip, the gentleman from California (Mr. McFall), what we are going to do about committee meetings next week.

Mr. McFALL. If the distinguished minority leader will yield, I would hope that committee meetings would be held under a unanimous-consent request that would allow them to meet until noon.

In almost every instance we have heard nothing but general debate at those times, so the committees could meet anyway. I am sure, with the State Department authorization and the first bill we have on the calendar, Treasury-Postal Service appropriations, on Monday, we will be discussing that for quite a while, probably until nearly noon, and the gentleman's committee would be able to meet anyway then, as I understand it, under the rules.

If necessary, I am sure that the other Members would grant a unanimous-consent request to meet until 12 o'clock.

That has generally been acceptable in the last few weeks.

Mr. KAZEN. Mr. Speaker, I thank the gentleman.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. McFALL. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

ADJOURNMENT TO MONDAY, JUNE 14, 1976

Mr. McFALL. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet on Monday next.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

EIGHTH TERRORIST ACT COMMITTED AGAINST YUGOSLAV DIPLOMATIC AND CONSULAR MISSIONS THIS YEAR

(Mr. OBERSTAR asked and was given permission to address the House for 1 minute to revise and extend his remarks and include extraneous matter.)

Mr. OBERSTAR. Mr. Speaker, early in the morning of June 9, 1976, downtown Washington was rocked by a powerful explosion at the Yugoslav Embassy.

This is the eighth terrorist act against the Yugoslav diplomatic and consular missions, and their representatives, this year.

Other crimes against the Yugoslavs include:

The May 3, 1975, brutal assault on the Yugoslav Consul General in New York and his wife;

The May 14, 1975, attempt by two armed individuals to forcibly penetrate the building of the Yugoslav U.N. Mission in New York;

The June 23, 1975, grave terrorist act of bombing the premises of the Yugoslav U.N. Mission in New York;

The September 1975, incident in the U.N building, provoked by a group of terrorists;

The December 28, 1975, bombing of the residence of the Yugoslav Consul in Chicago;

The March 3, 1976, breaking of a display window of the Yugoslav Airlines Office in New York;

The May 3, 1976, demonstration by a group of emigre extremists in front of the Yugoslav Consulate General in Chicago, during which one of the participants fired a shot and injured an American citizen, whom the assailant mistook for a member of the Consulate.

Mr. Speaker, none of these terrorists acts have been solved, nor has the 1967 bombing of the Yugoslav Embassy been resolved.

These activities are an outrage, an affront to the American people as well as a brutal and inexcusable sustained assault on the Yugoslav people through their diplomatic corps.

I am, therefore, taking this opportunity, the medium of the House of Representatives and the U.S. Congress, to let the Yugoslav people know that these activities are in no way representative of the peaceful attitudes of Americans or their Government, who hold Yugoslavia and her people in highest regard, and are actively engaged in building peaceful ties and increased economic and cultural exchanges between our two countries.

The Executive Protection Service, charged with protecting the embassies in Washington, has certainly fallen short in failing to recognize this consistent pattern of violence against Yugoslav diplomats and facilities; and as the tempo of these attacks increased, should have tightened the security of the Yugoslav diplomatic locations and personnel, and conducted intensive inquiry to determine the reasons for, and source of, this terrorism.

I have asked Treasury Secretary William E. Simon what security precautions the EPS has taken to provide needed protection for the Yugoslav Embassy; what investigative work is underway to apprehend those responsible; and what future steps are intended to prevent a recurrence of this pattern of violence.

Additionally, I am exploring the actions the House Public Works Committee, with jurisdiction over the EPS, can take either to strengthen the Service, or to improve their performance.

The American people will not tolerate further outrages against the Yugoslav people; nor will we permit the actions of a few unknown people of unknown origin to interrupt the long and friendly relations between the American people and their government, and the people and government of Yugoslavia.

THE ELEVENETTES MARCHING DRILL TEAM AND JASPER COUNTY FIFE AND DRUM CORPS EXEMPLIFY SPIRIT OF YOUNG AMERICA

(Mr. FITHIAN asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. FITHIAN. Mr. Speaker, I am proud to have today the chance to recognize two performing groups from my district who will shortly be appearing outside the Capitol as part of Indiana Day in the Bicentennial. The Elevenettes, a marching drill team headed by Mr. Forrest Platt, and the Jasper County Fife and Drum Corps, led by Mr. and Mrs. Bernie Hannon, have worked long and hard to achieve this honor.

I believe their efforts serve as an excellent, and encouraging example of the spirit of young America, a spirit which is so important to us as we begin our third century. These young people have invested long hours of time and effort both to achieve the excellence in performance which earned them their place in this program and to earn the money to bring them to Washington. Their reward for this effort is an unselfish one—they will have the chance to give people pleasure in their performance and the chance to honor America's birthday.

I believe this kind of dedication, this kind of participation, is what our country is all about, particularly during the Bicentennial. The United States has achieved all it has because for 200 years, and before, people have dedicated themselves to such achievements, citizens have participated for the honor of their country. When I see such dedication among the young today, I see the spirit that restores faith in America and the participation which will continue to build a great American future. This spirit, this participation, are the best gifts Americans can give in honor of the Bicentennial. As I look at these two groups from Indiana, I see a reflection of similar spirit in 12,000 different Bicentennial communities across our land and I see a great future for America as millions of Americans continue their participation in other ways. We have much to be thankful for, and much to look forward to, as we begin our third century.

Thank you for your attention.

PLIGHT OF GEORGI VINS UNDERSCORES SOVIET UNION'S TREATMENT OF RELIGIOUS DISSENTERS

(Mr. BUCHANAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BUCHANAN. Mr. Speaker, the name of Georgi Vins is fast becoming a rallying cry throughout the world for thousands of people who are protesting the Soviet Union's treatment of religious dissenters.

Georgi Vins was imprisoned 2 years ago for attempting to carry on the work of a minister to the congregations who elected him their leader. He, however, is only one of many believers, of many faiths and doctrines, who have suffered harassment, arrest, and imprisonment.

In Europe and in our country, people who don't know Georgi Vins and don't know one another have joined together to protest the outrage of his imprisonment.

This week in Trafalgar Square in London, 15,000 people marched to call attention to Vin's plight. Three hundred thousand signatures have been collected in England on petitions to the Soviet Government on his behalf. Christians and civil libertarians in Switzerland, Norway, Germany, Canada, and in our country have signed many thousands of petitions.

Almost always, when these petitions are offered to the Soviet officials, the bearers are turned away. Last week a Member of Parliament was turned away from the Soviet Embassy in London.

The resolution which it was my privilege to introduce on Georgi Vin's behalf a few weeks ago has attracted almost 100 cosponsors, including the leadership from both parties in the House. Senators JACKSON, HUMPHREY, STEVENS, and CASE have introduced the resolution in the Senate. Hearings will be held soon. It may be that our efforts will bear fruit but perhaps they will be to no avail.

It is heartening to me, however, to learn that Georgi Vins's mother, Lydia, and his wife, Natasha, and his five children have learned of the efforts of the U.S. Congress on his behalf. I had a message yesterday that Georgi Vins's wife wept when she learned that the Congress is calling on the Soviet Government to free her husband and all other religious believers imprisoned for their faith.

Mr. Speaker, it may be that this Christian pastor, who aspired only to be a minister of God, will live to see his name written on history's pages as a leader in the continuing struggle for freedom of religion.

CONTINUED SUCCESS OF GOVERNOR SCRANTON

(Mr. McDADE asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. McDADE. Mr. Speaker, I wish to bring to the attention of my colleagues a report of the continuing success of a past Member of this body. Recently, the President of the United States appointed Bill Scranton, former Governor of Pennsylvania to the Cabinet level position of Ambassador to the United Nations. The appointment to such a difficult and demanding position reflects great credit on Ambassador Scranton, particularly since this may be the most important period in the history of the United Nations, both present and future. I am sure that Bill's many friends here will be happy to learn of his outstanding performance in this most important world forum.

Although new to his assignment, he has earned the friendship and respect of the great majority of the United Nations delegates, not only for his grasp of problems confronting the United Nations, but also for his manner in dealing with those problems. The French Ambassador to the United Nations has been quoted as believing that Ambassador Scranton is "much superior" to his predecessor. Other diplomats report that he has "done his homework and is well briefed." Foreign envoys who were questioned about the performance of the new American representative credited him with having brought about a noticable abatement of the confrontational atmosphere that previously prevailed.

The press corps that follows United Nations events has also given Ambassador Scranton high marks. Ann Tuckerman, writing in the Nation observes:

> The choice of Scranton for the top post at the U.N. is exceptional because paradoxically, it follows a tradition used by most governments, but not by Washington.

She reviews some of the words of praise for the former Pennsylvania Governor:

> An excellent choice honoring both the U.N. and the United States. A dignified, well informed and courteous personality. An experienced diplomat.

The Christian Science Monitor headlined an article about Mr. Scranton "America's Nice Guy at the U.N." and described him as "shirt-sleeved, amiable, but not afraid to speak his mind." The article, written by David Anable, declares:

> Almost without exception U.N. Delegates from overseas have warmed to the courteous, soft-spoken new chief delegate of the United States, William Scranton.

As a fellow Pennsylvanian, Scrantonian, and successor to Bill Scranton, I am proud to bring his accomplishments before this House. His performance has been without flaw and deserves our recognition and support.

PERSONAL EXPLANATION

The SPEAKER pro tempore (Mr. McFALL). Under a previous order of the House, the gentleman from Connecticut (Mr. SARASIN) is recognized for 5 minutes.

Mr. SARASIN. Mr. Speaker, on June 9, 1976, I was absent from Washington for part of the legislative day as I was delivering a graduation address at my son, Michael's school, St. Margaret-McTernan in Waterbury, Conn. Had I been present, I would have voted in the following fashion:

Rollcall No. 342, the rule—House Resolution 1269—to H.R. 13367, Fiscal Assistance Amendments of 1976, "yea"; and

Rollcall No. 343, H.R. 13367, Fiscal Assistance Amendments of 1976, motion that the House resolve itself into the Committee of the Whole for the consideration of the bill, "yea."

RELIEF TO VICTIMS OF TETON DAM COLLAPSE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Idaho (Mr. HANSEN) is recognized for 10 minutes.

GENERAL LEAVE

Mr. HANSEN. Mr. Speaker, I ask unanimous consent that all Members may have permission to extend their remarks in the RECORD on the subject of my special order today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Idaho?

There was no objection.

Mr. HANSEN. Mr. Speaker, I am joining today with my House colleague STEVE SYMMS in introducing legislation that I hope will give speedy and compassionate relief to the victims in my congressional district of the Teton Dam collapse on June 5, 1976.

In essence, Mr. Speaker, this legislation asks that the Secretary of Interior take the responsibility of processing and settling claims, on behalf of the citizens of the United States of America, in the eventual amount of the total real and personal losses of the victims.

The legislation asks that the Secretary immediately make compensation of 80 percent of these losses to the victims, and later, after more thorough settlement procedures can be set, make final restitution that as nearly as possible restores the victims' livelihood to what it was before the Teton Dam collapsed.

As many of you know, this earth-filled dam began leaking dangerously the morning of June 5 and shortly after just collapsed, releasing billions of gallons of water and tons of sand and rock on the innocent people of the Upper Snake River Valley.

So far, there are 10 known deaths—and and we are most fortunate, believe me, that there are only 10 fatalities. Over 2,000 persons have been injured. The figures for those persons unreported varies from 50 to 4 times that number.

I point out carefully, Mr. Speaker, that this was a very costly tragedy in more than human suffering. Towns and communities were completely destroyed such as Sugar City, Wilford, Menan, Hibbard, Roberts, and Salem. It will be years before cities and towns such as Rexburg, Lewisville, Burton, Teton, Firth, Blackfoot, Riverside, Pingree, and Thomas are the same as they were before this tragic event. Damage estimates are ranging from half a billion to more than a billion dollars. This is one of the largest domestic disasters of our lifetime.

To be perfectly frank, the losses we view today compare to many of the larger amounts given to nations of the world in our foreign aid legislation every year.

There is growing evidence that the Teton Dam was disastrously constructed, and the fault of miscalculations on the part of man and the U.S. Government. It will be a long time before this proof is official, but we cannot wait until then to compensate the very innocent victims of this unnatural tragedy.

Mr. Speaker, the legislation we have introduced has a precedent. In 1947, a French freighter exploded in the harbor of Texas City, Tex. The U.S. Supreme Court later held the U.S. Government negligent in the manufacture, packaging, and loading of the ammonium nitrate that exploded aboard the ship, and liable for the destruction of Texas City, Tex. In 1955, Congress enacted legislation, Public Law 88-378, that held the Secretary of the Army responsible for the settlement of claims, and held that they would be payable out of the U.S. Treasury.

Likewise, our legislation requires the Secretary of the Interior to handle the settlements and for the claims to be payable from the general funds of the U.S. Treasury.

Mr. Speaker and my colleagues, our Government has been very quick since World War II to compensate those who suffered loss as a result of Government operations, such as our atomic tests in the Pacific.

We have indemnified the people of Japan who were injured as the result of the explosion of the atomic bomb. We have indemnified Japanese fishermen who suffered fallout from atomic tests in the Pacific. We have given relief to people who have suffered as the result of tornadoes and hurricanes, and we have had claims commissions running all over the world indemnifying our allies for war claims. We have assisted poorer nations that were victims of natural disasters.

As our former colleague Congressman BILL MILLER said in arguments to assist the Texas City, Tex., victims:

> This is not a bill of charity. This is a bill of justice. It is only basic, not extravagant. It is a bill which gives a minimum of justice and not a maximum of justice.

Mr. Speaker, the U.S. Government is involved in a mighty expensive case. But

I plead with my colleagues to understand the suffering and tragedy of this sensational chapter of the controversial history of the Teton Dam.

The complexity of our problem in eastern Idaho cries out for the U.S. Government to assume a compassionate role in the immediate rebuilding of the flood area. It is particularly proper that it do so here where the Government actually had real responsibility.

Mr. Speaker, I submit for the Record recent news releases reporting some of the apparent causes of the dam's collapse.

TETON CRACKS SPOTTED IN 1974

(By Gaylord Shaw)

Washington.—Midway through construction of Teton Dam, the project engineer reported to his superiors that cave-like cracks, some large enough for a man to walk through, had been found in a natural rock abutment intended to help contain the reservoir's 80 billion gallons of water, the Los Angeles Times has learned.

"Unusually large fissures" were found on the right side of the dam, the section involved in Saturday's collapse.

When the geological faults were discovered in 1974, "We did not consider halting construction," Gilbert Stamm, commissioner of the Bureau of Reclamation, said in response to questions.

Instead, government documents show, the contractor sought to seal off fissures, cracks and voids in the dam's bedrock foundation by pumping in more than 500,000 cubic feet of grout, a mixture of concrete, sand and water injected under high pressure.

This was roughly double the 260,000 cubic feet of grout that Stamm's bureau originally estimated would be needed.

Officials investigating the disaster now suspect that the 300-foot-high earthen structure was weakened by water seeping through unplugged fissures in the canyon wall serving as the dam's right abutment.

The 17-mile-long reservoir in Eastern Idaho was nearly full for the first time when the dam collapsed.

Probers of the collapse will be examining, among other documents and reports, a five-foot-high stack of federal records inspected by The Times.

The records, which include hundreds of pages of specifications, geological reports, monthly construction data, charts and blueprints, disclose what Stamm acknowledged in an interview: From the beginning, government engineers in Washington, D.C., were aware that there were potential problems with the dam's foundation.

"We knew we didn't have the kind of foundation we had, for example, at Grand Coulee, which is solid granite," Stamm said. "We knew before we ever went in . . . we had soft, porous, fissured rock."

Contractors bidding on the project, which eventually cost $55 million, were told in advance of these possible problems.

During construction, documents disclosed, the contractor pumped in 503,406 cubic feet of cement and 82,384 cubic feet of sand, and was paid more than $1.8 million for foundation grouting.

This quantity of cement is roughly enough to build the foundations and floors of 500 medium-sized, three-bedroom homes, a non-government engineer estimated.

Documents disclose engineers estimated it would require 260,000 cubic feet of grout to seal off the dam's foundation and figured the cost at $2 per foot, or a total of $520,000.

The winner of the bidding, a joint venture of Morrison-Knudsen Construction Co. and Peter Kiewit Sons, raised the unit price bid to $3.40, or a total of $884,000 for the foundation grouting.

The additional grouting was required because, soon after construction started it became clear that the foundation rock had more fissures than first thought.

For instance, a construction report for September, 1972, filed by project engineer Robert Robison disclosed than an electromagnetic subsurface survey had been ordered for the left abutment "in an attempt to determine if any large fissures cross the rock . . ."

Two months later, Robison reported that the survey results "were inconclusive and very likely further exploration will be required to evaluate anomalies and correlate them with suspected fracture systems."

Subsequent monthly reports do not say whether further tests were conducted on the left embankment, only that the grouting there eventually resumed.

But the monthly reports do reveal problems on the right abutment, on the side of the dam that collapsed. The February, 1974, report stated:

"The excavation for the right abutment keyway trench has disclosed two unusually large fissures that cross the floor and extend into the walls . . ."

"The largest and most extensive open zone" was 10 feet wide at points, this report said, and extended for at least 75 feet through the rock.

The finding led to further exploration, and a total of 15 holes were bored "to determine the location and character of the fissure zones . . ."

Geological charts were drawn showing several voids, including one up to 12 feet wide and nearly 100 feet long, and another up to 9 feet wide and 190 feet long.

The contractor spent months trying to seal off these fissures, the records show, with periodic reports repeatedly disclosing "large grout takes" in the right abutment.

Other problems were encountered in construction of the spillway, a chute-like structure extending about 2,000 feet down the canyon wall to the right of the dam. The April, 1975, construction report, for instance, revealed that in grouting one section of the spillway, large voids were encountered . . . and a total of 117,243 cubic feet of grout materials were injected.

It was in the canyon wall between the spillway and lower front side of the dam that seepage was first detected last week.

One theory is that water from the reservoir found its way into fissures above the dam and cascaded through the cracks before exiting below the dam. As the unintended flow increased, it began eating at the base of the dam, eventually causing it to collapse, according to that theory.

(The pressure of water at the base of a dam can be enormous. A water depth of 100 feet exerts a pressure of about 6,240 pounds per square foot. The reservoir water was more than 200 feet deep.)

BUILDERS OF TETON DAM FOUND CRACKS IN ROCK

(Los Angeles Times)

Midway through construction of the ill-fated Teton Dam, the project engineer reported to his superiors that cave-like cracks, some large enough for a man to walk through, had been found in a natural rock abutment intended to help contain the reservoir's 80 billion gallons of water.

"Unusually large fissures" were found on the right side of the $55 million dam, the section involved in Saturday's disastrous collapse.

When the geological faults were discovered in 1974, "we did not consider halting construction," Gilbert Stamm, commissioner of the Bureau of Reclamation, said in response to questions yesterday.

Instead, federal government documents show, the contractor sought to seal of fissures, cracks and voids in the dam's bedrock foundation by pumping in more than 500,000 cubic feet of grout—a mixture of concrete, sand and water injected under high pressure.

This was roughly double the 260,000 cubic feet of grout that Stamm's bureau originally estimated would be needed, but even the extra amount apparently was not enough.

Officials investigating the disaster now suspect that the 300-foot-high earthen structure was weakened by water seeping through unplugged fissures in the canyon wall serving as the dam's right abutment.

The 17-mile-long reservoir in southeastern Idaho was nearly full for the first time when the dam collapsed, sending a wall of water surging down the Teton River, killing at least nine persons, leaving scores missing and causing more than $1 billion in damage to homes, businesses and farms.

Three congressional committees and a joint federal-state panel of independent experts have announced plans to investigate the collapse.

Federal records show government engineers were aware that there were potential problems with the dam's foundation. "We knew before we ever went in . . . we had soft, porous, fissured rock," Stamm said.

GEOLOGISTS WARNED AGAINST DAM IN 1972

(By Thomas Love)

The Bureau of Reclamation and the Interior Department were warned by government geologists more than three years ago that the Teton River Dam in Idaho was dangerous and should not be built.

The warnings were ignored and the dam burst Saturday while its reservoir was being filled with water for the first time, killing seven persons and leaving an estimated 30,000 homeless. More than 150 persons were still missing as of early today.

An internal memorandum within the Interior Department warned in December 1972 that failure of the dam and catastrophic flooding were likely if the project were built.

In April 1973, four U.S. Geological Survey geologists working on seismology and geological faulting in the Idaho area wrote a lengthy letter to the Bureau of Reclamation project engineer at the dam pointing out nine specific dangers.

Robert Curry, professor of hazard geology at the University of Montana in Missoula, worked with the four government geologists. "We predicted this would happen," he said yesterday. "We told the Bureau of Reclamation the hazards well in advance of when they actually happened.

"When the four geologists warned the Bureau of Reclamation about the dangers of the dam, the response from the Department of Interior was that they were being paid to map geology and not to meddle in the construction of dams," he said.

The four geologists—Steven S. Oriel, Harold J. Protska, David Schleicher and Robert J. Hackman of Denver—warned that the dam was being built in an area of seismic instability where earthquakes are frequent.

The region had, in fact, been designated as "zone three," the zone of highest seismic risk where "major destructive earthquakes may occur," according to the letter.

The weight of water in the reservoir could well cause additional earthquake activity, they say. In addition, the water seeping into the ground could cause landslides and other problems.

The data they had gathered "point to (geological) instability of the project region," they wrote. "It seems desirable, therefore, to bring this information to your attention as promptly as possible."

The 1972 internal memo pointed out that 82.5 percent of the earthquakes in the area occur in June, September and October. Filling the reservoir would raise the water table along and beneath the dam, which would "increase the likelihood of slumping or shifting in response to earthquakes."

The memo states that "a final point is that flooding in response to seismic or other failure of the dam—probably most likely at the time of highest water—would make the flood of February 1962 look like small potatoes.

"Since such a flood could be anticipated, we might consider a series of strategically placed motion picture cameras to document the progress as catastrophic flooding," it continues.

A copy of the memo was given in 1974 to the Sierra Club, which had been active in fighting the dam. Curry, who had worked in the organization's campaign, made it available to The Star yesterday.

As early as 1971, a group of environmental organizations, including the Sierra Club, sued the government to block the dam, charging among other things that tht environmental impact statement on the project had failed to examine various physical dangers in building the dam—including geologic faults in the area and possibilities of earthquakes.

They lost the suit when the court ruled that the impact, regardless of its omissions, was adequate.

According to Curry, when he learned of the four geologists' findings and their rejection by the Interior Department, he made sure that the information was disseminated to all officials involved in the project.

"Since I was not a federal employe, I was free to take their information and write letters to Reclamation and others about the specific hazards involved," he said.

Research by the four showed that the dam was not only in an earthquake zone but was built over a fault, with part of the earthen structure on each side. The ground on one side was softer than the other because of previous faulting, so filling the reservoir would compact one side more than the other, he explained.

"This would cause a small rupture at the base of the dam. When the bottom began to leak, the water would start to wash out the basic sand structure, open a hole into which the rock covering would collapse and the whole thing would go," he said.

"This was highly predictable three years ago. And this is apparently what happened Thursday when the dam began to leak," he continued.

A small earthquake might have started the process, he said.

Interior Department spokesmen say the cause of the dam collapse has not been determined, and Oriel said last night that the Geological Survey has been unable to determine if there were any earthquakes in the area when the dam began to leak.

However, according to Curry, a small earthen dam at Culvertson, Mont., in the same earthquake zone, collapsed about the same time that the Teton Dam began to leak Thursday.

Yesterday, Curry sent a telegram to Sen. Frank Church, D-Idaho, the main backer of the dam when the proposal was before Congress, asking for independent federal hearings into the disaster.

Edwin F. Sullivan, now assistant commissioner of Reclamation and former regional director in Boise, asid he recalled that some leaking of the dam was expected but "we felt it would not be a sufficient environmental problem."

He added, "I can assure you any concerns were not ingored," but said he would have to check department records for details.

Mr. SYMMS. Mr. Speaker, I am joining today with my colleague, GEORGE HANSEN, in introducing legislation to grant financial relief to the victims of the Teton Dam disaster in Idaho.

We recognize, of course, that these people can in no way be fully compensated for the heartbreak of this experience, nor for those intangible losses of a lifetime involvement in Idaho agriculture. Nor can we ask more of our Government than to act compassionately in taking responsibility for the processing and settlement of claims connected to that disaster. There is much work to be done yet in this Congress in exercising our oversight authority over the causes and responsibility of the dam's failure. In time, that will be accomplished, but my concern today is for the thousands of individuals who are homeless, their means of production irrevocably destroyed, their lives in a shambles. Without assigning a legal responsibility for that disaster, I implore this Congress that we have a humane responsibility to our people not unlike the acts of generosity which we have made throughout the world in times of natural disaster.

This legislation has my full support, and I intend to work in whatever way possible for timely action in the House of Representatives.

In the near future, I will have a further proposal for the consideration of my colleagues.

In my State, millions of acres of irrigable desert land could be put into full production if water were made available. I am in the process now of drafting legislation allowing Idaho farmers to exchange lands destroyed in the Teton Dam disaster for new irrigation project lands downstream on the Snake River. That bill will direct the Bureau of Land Management to make these exchanges on a priority basis. The Bureau of Reclamation will be authorized to build irrigation pumping and distribution systems for these new farms. The program will be voluntary and would be supplemented by disaster payments for destruction of housing, equipment, livestock, and so forth, as proposed in Congressman HANSEN's bill today.

This provides one more option for Idaho farm families wiped out in the Teton disaster. For many families, moving onto this acreage might be a welcome alternative to changing occupations or moving out of the State. While we except Federal disaster relief to cover most losses, these families still need some options that are more attractive than merely cashing out their lifetime stake in Idaho agriculture. The Nation as well as Idaho needs these experienced farmers in production.

My colleague from Idaho's Second District has worked long and diligently in coordinating disaster assistance for the people of his district. I want to express the gratitude of the people of Idaho for his untiring effort and pledge my full effort once again in assisting in any way I can.

SPECIALTY STEEL IMPORTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. CONABLE) is recognized for 5 minutes.

Mr. CONABLE. Mr. Speaker, the situation with respect to specialty steel, about which the President made an announcement last week, is further explained by the attached release issued by Ambassador Dent, the President's Special Trade Representative. I am including this in the RECORD because of the congressional responsibilities with respect to trade embodied in the Trade Reform Act of 1974, knowing that my colleagues will wish to keep themselves informed:

U.S. SIGNS SPECIALTY STEEL IMPORT AGREEMENT WITH JAPAN; PRESIDENT SETS QUOTAS FOR OTHER SUPPLIES

An agreement limiting U.S. imports of specialty steel from Japan was signed today by Ambassador Frederick B. Dent, President Ford's Special Representative for Trade Negotiations, and His Excellency, Fumihiko Togo, the Ambassador of Japan, in Washington.

Japan has accounted for more than 50% of recent U.S. imports of specialty steel. The orderly marketing agreement calls for U.S. imports of these products from Japan to be limited to 66,400 short tons for the 12-month period from June 14, 1976 to June 13, 1977, with 3% annual increases in each of the two subsequent years. Japan supplied 78,500 tons in 1975, and 30,900 tons in the first four months of 1976.

Following signature of the U.S.-Japan agreement, Ambassador Dent announced that the President will proclaim, effective June 14, three-year restraints on U.S. imports of specialty steel from other foreign suppliers, pursuant to his previous determination on March 16, 1976 (STR Press Release #220). These actions are based upon a USITC finding that imports are a substantial cause of serious injury to the domestic industry. The USITC proposed five-year quotas as a result of its investigation of an "escape clause" import relief petition filed by the alloy tool and stainless (specialty) steel industry and the United Steelworkers of America, under the Trade Act of 1974.

Quotas imposed are as follows:

The quota for the period June 14, 1976 to June 13, 1977 is 147,000 short tons, comparable to the overall level recommended by the USITC. For the 1977–78 period, the total quota is 151,500 tons, and for 1978–79, 155,900 tons.

The relief program determined by the President provides for immediate reductions in total imports from the 1974, 1975, and first-third 1976 levels, over which period they increased markedly. Imports totaled 151,200 tons in 1974, 153,700 tons in 1975, and were running at an annual rate of 168,900 tons for the first four months of 1976. The 1976–77 quota represents reductions from those levels of 3 percent, 4 percent, and 14 percent, respectively.

Ambassador Dent explained that the program provides for historical supplier market-shares, growth factors, new-supplier considerations, and authority to allocate specific product coverages and to reallocate shortfalls on a basis which will assure equitable utilization of the quotas. It is nondiscriminatory, and takes into account both U.S. and foreign suppliers' trade interests. The program was developed following thorough consultations with most exporting countries, including the principal suppliers—Japan, the European Community (EC), Sweden and Canada—and takes into account the concerns of exporting countries. The agreement with Japan provides for additional consultations, and the U.S. remains open to consultations with others.

Allocations of the quotas generally are applied to supplier countries on the basis of their proportionate import shares of the U.S. market over the five-year period 1971–75. Specific allocations are provided for Japan, the EC, Sweden, Canada, and "all other" suppliers. These quotas will cover five product categories: stainless steel sheet and strip, plate, bar, and rod; and alloy tool steel. Excluded from the quota program is stainless steel strip imported for use in the manufacture of razor blades. The USITC found that currently this is not being produced domestically. This exclusion thus benefits consumers without jeopardizing effective import relief of injury to the domestic industry.

Under the program, the EC is allocated an overall quota, covering all nine member states, of 32,000 tons. The Swedish quota is 24,000 tons, Canada, 12,600. The "basket" quota for all other countries as a group is 12,000 tons. Each of these quotas will be increased by an additional 3 percent in 1978–79.

In announcing the President's action today, Ambassador Dent noted that specialty steel tonnage represents less than 2 percent of total U.S. steel imports.

After a review of the USITC findings and recommendations by the Cabinet-level Trade Policy Committee, the President last March instructed Ambassador Dent to seek orderly marketing agreements with principal supplier nations to remedy injury to the domestic industry in a manner meeting the special concerns of each of the nations affected.

Also in March, the President announced his intention to proclaim by June 14, 1976, import quotas at overall levels comparable to those recommended by the USITC, but not necessarily with respect to specific country or product category allocations recommended by the Commission, in event that orderly marketing agreements were not concluded. He also rejected as too inflexible the five-year quota system recommended by the Commission.

The President's March determination further provided that any import restraints imposed may be relaxed or removed at any time prior to June, 1979 when he finds—upon the advice of the USITC and the Secretaries of Commerce and Labor—that the domestic industry is regaining a healthy production and employment position.

In order to record and review both the effectiveness of the restraint program announced today and the economic condition of the domestic industry, a monitoring system will be put into effect immediately. This system will provide current data on production, shipments, employment, man-hours worked, imports, exports, prices, and consumption, collected on a monthly basis and published quarterly. Additional data also will be collected and made public on profits, investment, capacity, inventories and orders.

LEGISLATION TO INSTITUTE IMPROVEMENTS IN ANNUAL REPORT ON RURAL DEVELOPMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kentucky (Mr. BRECKINRIDGE) is recognized for 5 minutes.

Mr. BRECKINRIDGE. Mr. Speaker, on February 10, 1976, the Congressional Rural Caucus Executive Committee introduced H.R. 11846, a bill to institute improvements in the annual report on rural development submitted to Congress by the Secretary of Agriculture, and to require the prompt appointment of a new Assistant Secretary of Agriculture for Rural Development in case of a vacancy.

The original sponsors include me as chairman and the six other members of the CRC Executive Committee of the Congressional Rural Caucus (the CRC)—Mr. BERGLAND of Minnesota; Mr. JONES of Tennessee; Mr. LONG of Louisiana; Mr. MCKAY of Utah; Mr. ROSE of North Carolina; and Mr. YOUNG of Alaska; and, Mr. BLOUIN of Iowa, chairman of the CRC Committee on the Rural Development Act.

Today I am reintroducing this measure with additional members of the CRC as cosponsors. They include Mr. ABDNOR of South Dakota; Mr. ALEXANDER of Arkansas; Mr. BAUCUS of Montana; Mr. BROWN of California; Mr. CHAPPELL of Florida; Mr. MCCORMACK of Washington; Mr. OBERSTAR of Minnesota; Mr. PRESSLER of South Dakota; Mr. RISENHOOVER of Oklahoma; Mr. SIKES of Florida; Mr. STUCKEY of Georgia; Mr. SYMINGTON of Missouri; Mr. TRAXLER of Michigan; and Mr. WHITE of Texas.

The amendment would clarify and elaborate the intent of the Congress with respect to the setting of goals for rural development and progress reports by the Secretary of Agriculture. The amendment adds several functional areas for which goals are to be set; makes clear that the goals are to be formulated in quantitative or numerical terms whereever appropriate; and, directs the Secretary to establish goals for rural development that reflect national priorities as well as State and local objectives.

The existing September 1 date is proposed for change to February 1 to conform to the Congressional Budget and Impoundment Control Act of 1974 (Public Law 93–344) which provides for a new congressional budget schedule; a September 30 fiscal year termination date; an October 1 fiscal year beginning date; and, a March 15 congressional committee input date and several other legislative changes reflected in a revised timetable.

The amendment would reaffirm the importance that the Congress places on establishing goals for rural America and assure that reasonable progress is being made toward their achievement. The first and second goals reports issued by the Secretary of Agriculture were several months late. The third goals report was due prior to September 1, 1975. It was transmitted during May 1976, 8 months after the required date. To some extent this may reflect the difficulty of preparing such reports; but it may also indicate a subordinate claim on the Secretary's time and effort.

The amendment would require that goals be formulated for several functions and activities that were omitted in the original legislation, such as transportation, financial resources and credit requirements, energy, health, and education. These functions and services are vitally important to rural communities. They have not received sufficient attention from the executive branch or the Secretary of Agriculture within the context of rural needs and rural development. Not only are they underemphasized in the Secretary's first two reports, but in the Secretary's coordinating efforts within the executive branch. Their inclusion will not only require the Secretary to give closer attention to these functions, but will also strengthen his hand in dealing with other departments and agencies in the Federal Government.

The change would instruct the Secretary to formulate goals not only in broad general language but also in numerical terms. To the extent possible, goals ought to be stated as targets for time-specific periods. Example: The 1968 Housing Act which made operational the earlier congressional goal of "a decent home—for every American family—as soon as feasible" by calling for the production of 26 million units of housing over a 10-year period.

Goals would have to be stated for a 5-year period. The Secretary's second annual report simply utilized 1-year program levels already included in the budget rather than establishing multiyear goals against which progress can be measured.

The amendment would make clear the intent of the Congress that goals must reflect national priorities and needs. The Secretary's second annual report suggests that the goals should be derived by aggregating the goals of the States and localities. While input from the local and State levels is obviously necessary, there are some goals that only the Federal Government can realistically recognize, because they involve responsibilities and powers that are beyond those of the individual States and localities. Federal fiscal and monetary policy, environmental problems that transcend State lines, and regional economic development all fall within this category.

The Secretary's first two reports have not provided indepth analyses of the constraints that prevent or retard the achievement of national goals for rural development. The amendment would require that such studies be made and the results included in the goals report.

Some problems are neglected or completely overlooked because we lack solid data and information on the problem. For example, the nature and extent of underemployment in rural areas are not well documented for lack of systematically obtained data. Similarly, the effectiveness of job opportunities programs in rural areas is difficult to assess because we do not have good information. The Secretary would be instructed to conduct surveys to fill these data gaps so that progress or lack of progress can be measured.

The CRC has requested the Congressional Research Service to prepare a critical analysis and report on the contents of the third rural development goals report which was transmitted to the Congress during May 1976.

The text of this bill follows:

H.R. 14324

A bill to provide for improvements in the annual report on rural development submitted to the Congress by the Secretary of Agriculture, and to require the prompt appointment of a new Assistant Secretary of Agriculture for Rural Development in the case of a vacancy in that position

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 526(b) of the Revised Statutes of the United States (7 U.S.C. 2204(b)) is amended—

(1) by striking out "employment, income, population" and all that follows in the second sentence and inserting in lieu thereof: ", in qualitative and quantitative terms, five-year goals for quality of community services and facilities; education; employment; energy; environmental protection; financial

resources and credit requirements; health; housing; income; occupational training; population; sewage treatment, sewer and water facilities; social services; and transportation for rural development, and the Secretary shall submit, prior to February 1 of each year, a written report to each House of the Congress which contains an accounting, in detailed qualitative and quantitative terms, of the progress which has been made and which is anticipated with respect to meeting these goals."; and

(2) by inserting the following new sentences immediately after the second sentence: "The Secretary shall formulate these goals on the basis of national needs and priorities as well as State and local needs. The Secretary's report each year shall include an analysis of the legislative, financial, institutional, and other capabilities and constraints which are relevant to meeting the goals established by the Secretary. The Secretary shall conduct surveys for the purpose of collecting and collating data needed for the execution of the duties prescribed by this subsection.".

SEC. 2. Section 604(a) of the Rural Development Act of 1972 (7 U.S.C. 2212a) is amended by adding at the end thereof the following new sentence: "In the case of any vacancy in the position created by this subsection, the President shall submit his appointment to the Senate within sixty days after the vacancy occurs.".

SOCIAL SECURITY SYSTEM'S WEAKNESSES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. LEVITAS) is recognized for 5 minutes.

Mr. LEVITAS. Mr. Speaker, as many of our colleagues will recall, I have repeatedly addressed the House of Representatives to urge strongly that prompt action be taken on the social security system, both to remedy the program's current inequities in coverage and benefits and to head off the otherwise unavoidable fact that the old age and disability trust funds will be running in the red within only a few years. For that reason, last year I offered House Joint Resolution 291, the bill which would create a National Commission on Social Security to conduct an in-depth, 4-year study with a view to making the necessary long-range changes to save the commitment we have to social security.

My most recent remarks on social security were made to this Chamber only last week, when I pointed out that the just-released 1976 annual social security trustees' report contains the loudest warning signals to date about the system's imminent financial crisis. I concluded my statement by pleading for this 94th Congress to get on with the job that has to and must be done if we are to keep the trust funds out of the red without raising the regressive payroll tax which is such a burden on the backs of the American people. Once again, though, a majority of the Members of Congress seem to have turned a deaf ear to these warnings.

I was gratified, however, to note in last Sunday's Washington Post that my voice is not, after all, the only one crying in the wildernses. Columnist Hobart Rowen has reached the same conclusions and is sounding his own alarms about the financial integrity of the social security system. Maybe these words will help bring about some action.

I am inserting his column at this point in the RECORD and I earnestly commend it to the attention of my fellow Congressmen, especially those who serve on the House Social Security Subcommittee.

[From The Washington Post, June 6, 1976]

SOCIAL SECURITY SYSTEM'S WEAKNESSES

(By Hobart Rowen)

One again, questions are being raised about the integrity of the Social Security system, sending a chill down the spine of millions who depend on Social Security for all or most of their retirement needs.

Specifically, the 1976 annual report of the trustees warns that the trust fund of the system is paying out more money than it takes in, and—depending on the assumptions made—could be exhausted as early as 1981 or "sometime" after 1984.

There is a lot of confusion about the Social Security system and the trust fund. But perhaps the first thing to be said is that there is no danger that someone entitled to his or her Social Security check will not get it.

The depletion in the reserve funds over the next few years, due to the combined effects of the recent recession-cum-inflation, "was to be expected," as Alice M. Rivlin, director of the Congressional Budget Office, pointed out in recent testimony.

President Ford, backed by the trustees, has recommended a "quick fix" by raising Social Security tax rates 0.3 per cent on both employers and employees. That, he says, would boost the trust fund, which amounted to $48 billion in mid-1975, to about $73 billion by 1981, and restore "confidence" in the system.

There are a lot of good arguments against doing what the President suggests. The Social Security tax, a regressive tax, is already a great burden for lower-income working families. Moreover, there would be a risk that a tax increase, which is not an absolute necessity right now, would retard economic recovery.

Anyway, if the trust fund needs an infusion of money, taxes could be raised, or the wage base subject to the tax (now $15,300) could be raised some time in the next few years. The problem is not overwhelming.

On the other hand, there do exist two weaknesses in the financing of the Social Security system over the longer-run future—but these, too, can and should be handled by Congress promptly.

The first concerns a change made in 1972 to "index" future benefits against inflation. Because of a technical flaw, many retired persons 40 or 50 years from now would be eligible for Social Security benefits higher than any wages they ever earned.

Because the system is a "pay as you go" operation, meaning that the taxes on payroll are supposed to roughly cover the benefits paid in any year, this excessive amount of outgo, never intended by Congress, clearly would be a drain on the system.

The "goof" must and will be fixed by next year, because both parties in principle agree on the issue, if not the technique of how to do it.

The second long-run problem will be more difficult to solve. That comes about because of a combination of the post-World War II "baby boom," and a subsequent sharp drop in American fertility rates.

Beginning around 2012, when the "baby boom" generation of 1947-55 is retiring, fertility rates, now declining, are projected to drop to a low of 1.9 children per mother from 3.77 in 1957. That, in effect, would produce zero population growth, or even an actual decline.

According to the CBO, the coincidence of the retirement of the "baby boom" crop and low birth rates means that, in the year 2030, there will be 50 beneficiaries drawing Social Security for every 100 workers paying into the system compared with a 30 to 100 ratio in 1975.

As things now stand, to provide the necessary tax payments into the Social Security system from a smaller working force would require a jump of some thing like 20 per cent in the tax rate, or substantial increases in the wage base.

However, reduction of the over-generous "indexing" would reduce the deficit by about half, according to former Social Security Commissioner Robert M. Ball, now a senior scholar at the National Institute of Medicine.

If fertility rates should somehow bounce up again, that, too, would ease the problem. So would an increase in the percentage of the number of women in the labor force.

And, as Ball suggests, one "quite possible and highly rational" response to the shifts in population would be for society to reverse the trend toward earlier retirement. More older people working (many of whom would be happy to postpone mandatory retirement at 65) would increase Social Security revenues.

Although the Administration's pessimistic projections for the short-term problem smack of scare tactics, it would seem prudent for Congress to begin thinking about the whole system, with emphasis on the long-range problem, because some new financing will be needed way down the road.

There is nothing wrong, either, with considering some help from the general revenues. In part, Social Security should be frankly viewed as an income redistribution system.

THE BOMBING OF THE YUGOSLAV EMBASSY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. MORGAN) is recognized for 5 minutes.

Mr. MORGAN. Mr. Speaker, I wish to join in the expressions of regret and concern which have been expressed by spokesmen for the U.S. Government regarding the bombing of the Yugoslav Embassy in Washington which took place Tuesday.

American policy toward Yugoslavia is one of friendship and good relations, and such acts of senseless violence deserve the severest condemnation both as crimes and as contrary to our policy and national interest.

I am glad that both national and local authorities are undertaking vigorous efforts to apprehend and prosecute those responsible for this serious incident.

"COAL SLURRY PIPELINE—9" SLURRY NEEDLESSLY EXPLOITS VALUABLE WATER RESOURCES

(Mr. SKUBITZ asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SKUBITZ. Mr. Speaker, beginning with May 26, I have called attention to the House of a bill, H.R. 1863, the coal slurry pipeline bill, which is now pending before the House Interior Committee. This bill would grant Federal powers of eminent domain to the slurry pipelines.

I have discussed the question of eminent domain, this can be found on page 15521 of the May 26 RECORD; the fact that this is transportation legislation not energy legislation, page 15878 of the May 27 Record; the railroad capability of handling the increased coal production, page 16078 of the June 1 Record; the effect of coal transportation on railroad economic viabilility, page 16246 of the June 2 Record; on June 3, I spoke of the railroad industries innovative handling of coal, this is on page 16740 of the Record; on June 7 I spoke of the slurry pipeline lobby, which is on page 16805, June 8 I spoke on the question of whether a study by the Office of Technology Assessment should precede congressional action on a slurry pipeline bill, this is on page 16902, yesterday I spoke on the fact that railroads can haul coal without the need for new laws, this can be found on page 17594.

Today I intend to discuss the problem of slurry pipelines needlessly exploiting valuable water resources. There is, perhaps, no more troublesome question about the pipelines than that of their voracious use of water.

Remember, we are talking about a region of this country in which water is a scarce commodity. History tells of killings over water in the West.

The Energy Transportaation Systems, Inc., pipeline—the one furthest along in the planning stage—would draw its water from the Madison Formation. According to Dr. Perry H. Rahn of the South Dakota School of Mines and Technology, on page 1034 of the hearings he states "it would use 9,000 gallons of water per minute—for the life of the pipeline. That life, according to pipeline proponeponents, may range from 30 to 75 years."

In testimony before the Interior Committeee, Dr. Rahn expressed his concern about the use of ground water for the ETSI project. On page 1045 of the hearings he also characterized as "erroneous" a statement by the former Wyoming State engineer that recharge to the Madison in the area of the ETSI project is estimated at 150,000 acre-feet per year. Dr. Rahn estimated the recharge at 8,000 acre-feet per year—a little more than half the amount that ETSI would take out for its pipeline.

In conclusion, Dr. Rahn said, and I quote:

> In terms of recharge, it can be seen that the Wyoming State Engineer and ETSI have hastily produced some numbers which have little scientific value. The numbers are, however, being used to support the goals of the project.

John L. McCormick, of the Environmeental Policy Center, on page 852 of the hearings expressing concern similar to that of Dr. Rahn, noted, in addition, that a 1,000-mile pipeline would need from 10 to 20 pumping stations, each with a standby water supply of up to 18.7 million gallons.

Pipeline proponents tend to brush the water question aside, or respond—when they do—with a comparison to the water needs of a coal gasification or mine-mouth generation operation. Nobody questions that mine-mouth generation may use more water than coal slurry pipelines—but the salient fact is that those are not the only choices for coal. The railroads offer a choice that does not involve the loss of water in arid regions.

I believe I detected a certain note of exasperation with the pipeline proponents and their attitude about water concerns in the statement of our colleague, the gentleman from Wyoming, Mr. Teno Roncalio.

Mr. Roncalio does not, apparently, share all my concerns about the coal slurry pipelines—but he does share my concern about water use. He said on page 50 of the hearings, and I quote:

> I have never opposed the construction of the ETSI pipeline so long as the ETSI people would follow through with what I thought was the basic amendment; that they would make an appropriation to the Corps of Engineers on the Missouri River and tap surplus floodwaters and bring that water into Wyoming and let some of that water be used to help lubricate their pipeline.

But, Representative Roncalio found, this was not to be the case. The ETSI pipeline would get all its water from the Madison Formation. And so he told the committee:

> It is the same old shell game, over and over again, and I could not be more adamant in my objection to considering this legislation until we get a guaranteed statement from the people who are building these lines about how many are proposed and why cannot an acceptable percentage of the water be piped in and used to help lubricate this coal and the water that is in the formations in Wyoming be left for the agricultural needs of that part of the country.

I believe the pipeline proponents have made some attempts to satisfy Mr. Roncalio. I don't know whether they have been successful. I do know that their suggestions are highly questionable.

In a story in the Casper, Wyo. Tribune of December 31, 1975, Mr. Roncalio's objections were noted and connected with an ETSI offer to buy the sewage of two Wyoming towns.

According to the story, ETSI would build treatment plants and use the treated sewage to provide a portion of its water needs.

There are a couple of things wrong with this idea. First, ETSI has not, in subsequent representations, altered its estimates of the cost of building the pipeline to reflect the additional cost of buying and treating sewage. This leads me to believe that either they are not really serious about it—or that their cost estimates, already low in my estimation contain a truly remarkable elasticity.

The second thing wrong with the proposition is that it would not change the amount of water to be exported from Wyoming to Arkansas. If sewage can be treated to move coal, it can obviously be treated for use closer home.

The so-called solution is like trying to make a rope longer by cutting a length off one end and tying it to the other end.

The pipeline proponents have also talked of piping water in from the Missouri River Basin. According to E. J. Wasp, Vice President of ETSI, on page 831 of the hearings and I quote:

> Now what seems to us to be a much more viable alternative rather than recycling would be to go to the main stem Missouri reservoirs which are only about 288 miles away from the coal fields and there is a serious study underway by South Dakota to have a joint-use pipeline which would take water from away high, drop off some of the water in the western part of the State for municipalities and continue that water in the western part of the State of municipalities and continue that water on to the coal fields.

But as the statement of Mr. Roncalio indicates, they have talked of this before and it came to nothing. Obviously it would increase their costs. Then too, they could meet with opposition to taking large amounts of water from the Missouri. In fact the question of the legality of such a move has never been fully answered.

Mr. Speaker, we should all take a minute to consider the implications of what I have just said. The possibility exists that a number of river basins established for a certain purpose might have their water diverted in order to enhance the profits of a coal slurry pipeline. Will any river basin be protected from such an eventuality? As I have pointed out, the powers behind the coal slurry pipeline seem willing to go to any length to make their scheme work. Large amounts of water could be taken from the Missouri River Basin, it has been suggested. I've got news for you, it would be illegal to transfer that water for a coal slurry pipeline without the enactment of legislation and we who live in the area have something to say about that.

Thomas Kleppe, Secretary of the Interior, is apparently making things even more difficult for the pipeline people. In a story in the Minneapolis Tribune of May 28, 1976, he was quoted as saying that unless he sees a satisfactory proposal for returning the water to its source after use, the pipelines are a "no-no."

I do not know how the pipeline proponents will deal with that one. In a statement before the Interior Committee on page 702 of the hearings, Darrell MacKay, vice president of the Northwest Pipeline Corp., which hopes to build a slurry pipeline, said recycling the water would increase the unit cost of transportation of the coal by about 38 percent. He said the increase is so substantial that it would make the project not viable, and it would not move forward.

Similar sentiments are expressed in testimony on page 831 of the hearings by E. J. Wasp, who said it would cost an additional $250 million to build a recycle line.

There is an obvious answer to this problem: Do not build the pipelines.

If the pipelines are built, water would seem to be an insurmountable problem—not for the pipeline operators, who will, after all, have the water, but for the other potential users of water in the region.

But if the pipelines are not built, there will be no problem for anyone.

I submit that the Congress would be making a serious error if it takes an action that would encourage the needless waste of a vital resource.

I submit that questions on water use—the amounts, the sources, and the effects on the region—must be answered completely, specifically, and satisfactorily before H.R. 1863 is advanced beyond its present point.

MCPL EDUCATION FUND SPEAKERS SERIES—TALK OF DR. HERBERT SCOVILLE, JR. ON "SALT AND DETERRENCE: THE IMPACT OF NEW U.S. STRATEGIC PROGRAMS"

(Mr. SEIBERLING asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. SEIBERLING. Mr. Speaker, today I am placing in the Record a summary of the remarks, at a discussion meeting on March 3, 1976, when Dr. Herbert Scoville, Jr. discussed with Members of Congress and their staffs the subject of "SALT and Deterrence: The Impact of New U.S. Strategic Programs." Dr. Scoville is a leading expert on strategic weapons and arms control as his previous service in Government would indicate. He is a former Assistant Director for Science and Technology of the U.S. Arms Control and Disarmament Agency; a former Deputy Director for Research, CIA; a former Assistant Director for Scientific Intelligence, CIA; and a former Technical Director of Armed Forces Special Weapons Project, Department of Defense. Today he is an active writer on arms control and strategic affairs and serves as the Secretary to both the Federation of American Scientists and the Arms Control Association.

This talk on "SALT and Deterrence" was part of the continuing series sponsored by the MCPL Education Fund dealing with various subjects under the general heading of "New Directions in Foreign Policy, Defense Policy, and Arms Control Policy."

In response to requests from Members desiring to study them and from interested members of the public, I have placed summaries of other speakers' remarks in this series in the Record earlier and will place further summaries in the Record after the various speakers have completed reviewing them for accuracy. The summary of the discussion with Dr. Scoville follows:

It is important that the Members of Congress and the public understand the impact of new U.S. strategic weapons upon both SALT and the U.S. deterrence capability. There are four major U.S. strategic concepts as described in Secretary of Defense Donald Rumsfeld's *Annual Defense Posture Statement*, and eight major threats which Mr. Rumsfeld cited to justify new U.S. strategic programs.

The strategic concepts are:

Deterrence. This is the overriding objective of U.S. strategic policy: to deter a Soviet attack.

Stability. U.S. and Soviet forces should be structured so that neither side has any incentive to attack the other.

Flexibility. This is an option of lesser importance: the ability of U.S. forces to make various responses to different levels of threat or attack. The key question is: How much flexibility is enough?

Equivalence. That is, essential equivalence with the U.S.S.R. The problem is: How do you define equivalence? Does that mean we have to be equal to the Soviets in all categories of weapons? Or that we must have new what the Soviets will have in five years? The search for equivalence has proven the greatest single incentive to the continuation of the arms race in the past decade.

The eight threats he described were:

1. *Civil Defense*. Although it has suddenly been given great attention, this is not new. For a long time, people (usually not in the government) have been throwing scare stories around to the effect that since the Soviets are making an extensive investment in civil defense, they therefore must be planning a nuclear war. It has also been claimed that the Soviet civil defense program undermines deterrence. This is unadulterated nonsense. Anybody who thinks the Russians could ride out an attack is wrong. It disturbs me profoundly that a man like Malcolm Currie (Director of Defense Research and Engineering) who is in a responsible position, could actually think that the Soviet Union could safeguard its industrial base from a nuclear attack by putting sandbags around their machine tools. One should look at what actually happened at Hiroshima, and at the results of our own nuclear tests.

2. *Anti-Submarine Warfare* (*ASW*). Secretary Rumsfeld says there is no threat to our ballistic missile submarines today, but that we should keep track of Soviet ASW developments. The Soviet Union has virtually no ASW capability against our POLARIS/POSEIDON submarine-launched missile force, and the experts are agreed that there is nothing in the foreseeable future that could seriously threaten our ballistic missile submarine force.

3. *Air Defense*. The Russians do not now have a "look-down/shoot-down" radar and missile system (capable of tracking aircraft at very low altitudes) such as are on our Airborne Early Warning and Control (AWACS) aircraft. The development of such a radar by the Soviets is potentially the greatest threat to our bombers, according to Secretary Rumsfeld. He forgets that this is the strongest argument against building the B–1. If they had a "look-down/shoot-down" radar, then we should not build a penetrating bomber, but instead equip our B–52s with long-range cruise missiles. The B–52 fleet, he has admitted, can have a useful operational life into the 1990's.

4. *Anti-Ballistic Missiles* (*ABMs*.) The Soviets are conducting research on ABMs, but the only system they have deployed is their 1960's-vintage one, which they have not even built up to the level permitted by the SALT I agreement.

5. *MIRVed ICBMs*. This is the closest thing to a genuine threat. The Soviets are now beginning to deploy multiple warheads on their ballistic missiles, six years after we began to do so. Ex-Secretary of Defense James Schlesinger said last year that these Soviet missiles do not have the necessary accuracy/yield combinations to threaten us. But Secretary Rumsfeld is very alarmed at this future threat. Dr. Scoville says that he thinks that this does not reflect any new data, but rather the need to justify new missile programs of our own to replace our MINUTEMAN missiles.

Destroying our 1000 MINUTEMAN land-based missiles simultaneously is just an impossible problem technically, so it is not a genuine threat, but rather the perception of a threat. When one side has many MIRVed ICBMs, which on paper look like a first strike threat, you have an unstable situation, in which both sides have an incentive to strike first.

However, the answer to a Soviet first strike, or counterforce threat is not to have a counterforce threat of your own. If both sides have a counterforce capability, this is worse than one side having it, since our counterforce-capable missiles would be an even more tempting target for a pre-emptive strike.

So, it is absolutely the wrong response either to build the higher-yield Mk. 12A Reentry Vehicle for the MINUTEMAN, or worse, to build the follow-on MX intercontinental ballistic missile (ICBM) with a counterforce capability.

6. New *Submarine-Launched Ballistic Missiles* (*SLBM's*). New SLBMs are not a threat to us. We should be pleased, because their development improves mutual deterrence. This increases stability, and the Soviet's confidence in their ability to survive a first strike.

7. *BACKFIRE Medium-Range Bomber*. Even if the BACKFIRE is a strategic bomber, it is no added threat. We've decided not to have an ABM, so Soviet missiles get a "free ride," and there is hence no point in defending against bombers. The BACKFIRE, in any event, is a long way from even having the capability of our B–52 for intercontinental attacks. The Soviets haven't really built a major bomber force. They seem to be satisfied with a dual deterrent force of land and sea-based missiles. The BACKFIRE is clearly designed for use against Europe and China. To fly it against the United States, it must fly both subsonically, and not come back, as it lacks sufficient fuel, or be staged from bases in the Soviet Arctic, which is difficult for the Russians to do. It only becomes a "strategic" bomber when you want to make trouble in the SALT talks, or when you attempt to justify the B–1.

8. *Soviet Cruise Missiles*. Soviet cruise missiles are short-range missiles which were developed around 1961 as anti-shipping missiles. They weren't very accurate, so they had to have nuclear warheads. They have only been considered "strategic" weapons by the Defense Department since the United States has begun its own cruise missile program. They could conceivably be targeted against U.S. coastal cities, but this is obviously not their primary mission.

To quickly go through the major Defense Department programs:

Improved MINUTEMAN and MX. These are the wrong programs if we are worried about MIRVed ICBMs; they tend to decrease stability; and they are not needed for deterrence. We also have a program to reduce vulnerability by putting land-based missiles on mobile launchers, which is a clear violation of the SALT I accord. Development of mobile ICBMs could also seriously impair our (and their) capability to verify future SALT ceilings on numbers of launchers.

Trident. This is an attempt to shore up the key part of our deterrent. The long-range missile is the useful element. When you buy the missile, you've bought 90% of the improvement in the Trident program. The Trident II missile is unnecessary, because when you have the 4,000 mile range of the Trident I, you can hit Moscow from our Atlantic coast, and you don't need the 6,000 mile range Trident II.

The Trident submarine program is also a bad program. There are too many missiles per submarine, and it is ghastly expensive. We should go to smaller submarines with fewer missiles per submarine. Two years ago, then-Secretary of Defense Schlesinger requested funds for a design study of a smaller missile submarine (the SSBNX), but some members of Congress (who had fought the Trident program and lost) were outraged by the thought of appropriating funds for yet another missile submarine, and deleted the funds from the budget.

B–1 Bomber. The B–1 is the wrong answer for the bomber part of our deterrent, and it comes at the wrong time. The B–52 will still be operational through the 1990s. When and if a replacement is needed, a stand-off bomber would be superior and cheaper than the B–1.

Air-Launched and Sea-Launched Cruise Missiles (*ALCM and SLCM*). The most important advantage of the ALCM is that it makes the B–1 unnecessary, so that if we're worried about the Soviet air defense threat we can go with a B–52/ALCM combination or a follow-on stand-off bomber which will be superior and cheaper than the B–1.

THE STATUS OF SALT

There are two things holding up a SALT agreement: the Soviet Backfire bomber and the cruise missile problem.

The Backfire is a strategic bomber only under extreme conditions, as noted earlier. It would have been wise to drop this issue at SALT, since we had succeeded in persuading the Russians to leave out the American so-called Forward Based Systems (FBS). By reopening the question of medium-range systems (such as Backfire), we are likely to get the Soviets to reopen the FBS question. If they do, we would have an impossible task negotiating limits on FBS, because it would require the consent of NATO, and to negotiate limits through NATO might be more than the alliance politics could take.

FBS, of course, are the nuclear-capable land and aircraft carrier-based airplanes deployed in Europe and the Far East which have sufficient range to attack targets deep inside Russia (including Moscow), but which have the primary mission of supporting our allies in tactical warfare in Europe. They are a vital part of our NATO force, so to try to limit them would be very difficult. However, our argument about excluding them (as we did in SALT I and II) is a bit weak, since they have been assigned missions under our strategic war plans, the SIOP. However, the Russians understand our political problems with NATO, and the FBS are not very important strategic weapons.

The other important roadblock to SALT is the strategic cruise missile program, particularly the SLCM. Any submarine or ship could become a strategic delivery vehicle. Once developed, there is no way of knowing where or how many have been deployed. This essentially undercuts the SALT concept, since quantitative ceilings have no meaning if these missiles are to be deployed.

The cruise missile program is an example of getting a program started for non-security reasons. Six days after the conclusion of the SALT I negotiations, Secretary of Defense Melvin Laird came to Congress to ask for a long-range, submarine-launched cruise missile. Laird wanted to use up some funds he thought he would otherwise lose. Kissinger approved the supplemental appropriation on the grounds that cruise missiles would make a good SALT "bargaining chip." Kissinger has since changed his mind, commenting that he "never thought the military would fall in love with it." Laird's successor as Secretary of Defense, James Schlesinger, has gone all over Europe, trying to sell our NATO allies on the usefulness of cruise missiles in a tactical role.

The Russians have proposed banding all SLCMs with a range above that of their current missiles (375 miles), but we're still arguing with them about that.

SELECTED QUESTIONS AND ANSWERS

All questions and answers have been paraphrased and condensed.

Q. Why not bring in a rider on the defense authorization bill to limit the range of all SLCMs to 375 miles or less, since "once deployed, they cannot be controlled?"

A. That would be a great idea. However, we could never get away with a covert deployment of cruise missiles, but we must worry that the Russians could. To have a reliable system (if they want a bad system, we shouldn't care) they must not only run a series of tests during development, but also periodic operational tests. So, verification of cruise missiles is not an insoluble problem. Rumsfeld says that the Russians don't have the capability to even begin designing cruise missiles comparable to ours, and won't have for at least ten years.

Q. Would it be meaningful to limit cruise missile tests to over water?

A. Yes, but one would probably have a hard time with the missile developers, because they want to test a tactical version for overland version as well. The key limitation is mileage.

Q. How many tests are required before the development of a cruise missile could be considered complete?

A. I don't know, but probably twenty or thirty at least. Also, operational tests would be needed. I would think that the other side would need even more tests, but someone like John Foster (Former Director of Defense Research and Engineering) might not think so.

Q. Dr. Schlesinger recently made the statement: "The U.S. could survive a bad SALT agreement, but Western civilization would not long survive a bad MBFR agreement." Would you agree?

A. Yes. Albert Wohlstetter started a myth back in the 1950's that there was a very delicate strategic balance between the U.S. and Russia. This is not true. Both sides are so overarmed you could make an agreement where you gave up far more than you got and you would still have a deterrent.

There is already an imbalance of conventional forces in Europe, so we could get licked conventionally, and find ourselves faced with tactical nuclear war. The imbalance is not the force structure, but effectiveness. Thus a bad MBFR agreement could make an already bad situation worse.

Q. Alain Enthoven has argued that the balance of conventional forces in Europe is not that unfavorable, and that we could safely remove many of our theatre nuclear weapons (TNWs). Would you comment?

A. We could certainly withdraw some of the TNWs, particularly the ones in forward positions, where they are exposed to capture. On the conventional balance, Enthoven is right, if you look at numbers of weapons, the force imbalance is not all that great. But I have heard discouraging reports, from sources better informed than I, that communications between NATO armies are miserable, that there is little commonality of weapons. It is a poor fighting force, bady deployed, with all of the troops close to the East German border under the trip wire concept. If NATO really wished to defend anything with its army, the troops (and particularly the nuclear weapons) should be farther back.

Q. What effect have the charges of cheating on Salt I had on Salt II.

A. A disastrous one, politically. These accusations have poisoned the atmosphere.

Q. Has the unilateral interpretation of terms made it more difficult?

A. No, unilateral definitions of terms are a tool which is often very necessary. For example, in the Non-Proliferation Treaty, we would never have gotten an agreement without it. But, if we make a unilateral statement, and it is exceeded, we should't ignore it. If the unilateral statement doesn't mean anything, you shouldn't make it.

Unfortunately, Kissinger, in trying to sell the SALT agreement, said our unilateral statement meant that the Russians couldn't build a "light" missile that was any bigger than their existing SS-11. The Russians never agreed to this, it went beyond any formal U.S. position, and the Russians then deployed the far larger SS-19.

Q. Could you describe our capability to detect Soviet missile submarines and the threat that poses to the Soviet deterrent?

A. It is generally known that we have the "SOSUS" passive sonar arrays, which are quite widespread, particularly in the Atlantic. They can't pinpoint submarines, but can give a general indication of where they are, if no one tries to interfere with the equipment by jamming it. We can do this, because we have control of the lands bordering on the Atlantic Ocean, and they cannot. I don't know whether or not the Soviets have such systems in the Arctic, but the stories about our submarines bumping into theirs would suggest that they do not. They are far behind us in ASW, not only technically, but also geographically.

Q. Is it completely unrealistic to move away from the Triad?

A. It isn't unrealistic. A sea-based force is more than adequate, so long as it is backed up by something. There are some advantages in the Triad, but I sure wouldn't goldplate the back-up force.

Q. Dr. Kosta Tsipis suggested that if the SLCM were developed, other countries would use cruise missiles to build a low-cost nuclear delivery system. What would be the strategic arms limitation effects of such a situation?

A. Even if this scenario were to come to pass, it wouldn't blow SALT out of the water. Once a state obtained nuclear material, it would have many possible ways of delivering it. It wouldn't need cruise missiles. There would be a destabilizing effect, but it would not add greatly to our SALT problems.

He is also more worried than I about these systems as counterforce weapons. A point target is not that vulnerable, and a cruise missile would take too long to reach its target. Cruise missiles are not really a counterforce threat, but the same guidance technology used on a ballistic missile to give comparable accuracy would be dangerous. The danger of cruise missiles is that it is easy to get thousands of them, and they would make numerical limits, such as the SALT I and II agreements, impossible.

Q. It has also been predicted that if the Soviets got cruise missiles, we would have to duplicate their prodigious air defenses.

A. I'd hope no one would do that. There is no reason to defend against cruise missiles when we're not defending against ballistic missiles or bombers. However, if you wanted to protect a point target, that is possible.

Q. Is there any reason why a future President couldn't announce: "We're prepared to dismantle 20% of our strategic weapons, if you do the same?"

A. That would be a first step, but only a first step, though you have to start somewhere. It is interesting that the papers have reported that the Soviets are willing to drop the ceilings to 2100; we should jump at the chance to reduce the numbers of strategic launchers. If both sides go that way, they ought not to throw away the old systems first; they ought to throw away the MIRVed missiles first, because the MIRVed weapons are the most destabilizing.

Q. How do you verify a cut in MIRVs?

A. At the moment, MIRVed missiles look different. The Soviets, for some unexplained reason, built their MIRVs so that they don't fit in the same silos as their older missiles.

The Russians have never worried about verifying us, in part because our society is so open compared to theirs.

Q. Kissinger has called Vladivostok "a cap on the arms race." Yet that agreement has not halted any of our or their major strategic programs. What would a real "cap on the arms race" look like?

A. I fully agree; we've been trying to find exceptions ever since the Vladivostok agreement. If you really want to put on a cap, you have to get at the MIRVs, the cruise missiles, and the number of warheads. Qualitative improvements are what is really pushing the arms race, so you need restrictions on replacing new weapons.

Q. Can you limit research and development?

A. The way to get at research is through the test programs. You can't stop some improvements, but you could limit their size and scale. The problem is that there is no enthusiasm either here or in the Soviet Union for qualitative limitations.

Q. If the Russians ever got to a position of strategic equivalence, is there any reason why they shouldn't show more enthusiasm?

A. I think they have no desire to have

overwhelming superiority. But, they are never going to legislate themselves into a position inferior to us. There is now so much freedom, so much slack in the strategic balance, that rather than buying bargaining chips against a potential threat, we should exercise restraint, and then see what they do. This is how we got the Limited Test Ban Treaty and also the biological warfare agreement. You don't get anything from the bargaining chip approach. I think history is clear on this point.

Q. In fact, the effort now is to portray the Russians as catching up, and then overtaking us. Some of the people in the Armed Services Committee have been stampeded by this.

A. Neither side has shown any restraint since 1972. We've been going ahead with our programs, and they've been going ahead with theirs. The latest threat is the spending gap. That's unadulterated nonsense. You simply can't make dollar comparisons between U.S. and Soviet spending, and even General Graham (former Director of the Defense Intelligence Agency) and William Colby of the CIA have said so in testimony before Congress.

In 1955, the Soviets must have spent billions on an anti-aircraft system to protect Moscow, and then had to rip it out again in 1957. Much of their spending involves this kind of wastefulness. When we hear that they are developing four new types of ICBMs, we should be glad, because it means that they are wasting money, and diverting it from useful programs.

Q. I've never seen anything in the literature about the threats that the Russians are facing from both China and the United States and the forces required to defend against both.

A. Certainly they're worried, especially about the conventional balance. The two-sided war is a very serious problem to them, and that is one of the reasons they are in the SALT talks. That is also one of the reasons that the Chinese don't like SALT.

Q. The Chinese, I've heard, have cancelled their strategic missile.

A. I don't know, since I have no access to the information. There was evidence that they once had an ICBM program, but it simply never came to fruition. They have been developing shorter range missiles, though.

LAWRENCE W. ROBERT PASSES

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PEPPER. Mr. Speaker, one of the outstanding Democrats and distinguished Americans who were closely identified with Roosevelt and the New Deal, was Lawrence W. (Chip) Robert. Chip Robert was an outstanding player on the Georgia Tech football team and throughout his life retained a very keen interest in sports and did much to promote clean and wholesome sports in the country.

He was also a distinguished engineer and had one of the largest engineering firms in the country with offices in Washington, Atlanta, and Palm Beach, Fla. But Chip Robert is best known for having been Assistant Secretary of the Treasury and Secretary of the Democratic National Committee under Franklin D. Roosevelt.

He was close to the President and worked very closely with the great Jim Farley, who was chairman of the Democratic National Committee and Postmaster General under Roosevelt. These two men, coworkers in the Democratic Party and close friends for most of their lifetimes, died at almost the same age; Farley at 88 and Robert at 86, within a day of each other. Both because of their leadership in the Democratic Party, which had the responsibility for administration of the Federal Government during the depression and the postdepression years, contributed immeasurably to lifting America from the depths of the recession and putting it back on the track of recovery, strength, and well-being.

Chip Robert was an early supporter of President Roosevelt, raising $27,000 for him when he was elected Governor of New York in 1930. Chip Robert to his last days retained a keen interest in the Democratic Party and helped it in every election very valuably. He was also one of the founders and one of the supporters of the Jefferson Island Democratic Club on the Potomac. The last time I saw Chip was about 2 years ago when he came up for the annual Jefferson Island get-together and he, Mrs. Leslie Biffle, wife of the great Secretary of Senate and Democratic leader for many years, Mrs. Pepper and I, drove from Washington down to the Jefferson Island Club and back. Almost the whole distance down and back Chip Robert regaled us with reminiscences of his long and full life and the great figures he had known. It was a fascinating day.

Chip and his lovely late wife, Evie, and my wife and I have a friendship dating back 40 years and we have always cherished it. Chip Robert was a charming gentleman, a dedicated American, a great Democrat, and an outstanding professional man of America. My wife and I are deeply saddened by his passing and extend our heartfelt sympathy to all the members of his family. I submit, Mr. Speaker, the obituary remarks about Chip Robert from the Washington Post of June 11, for inclusion in the RECORD following my remarks:

LAWRENCE W. ROBERT, PARTY, TREASURY AIDE UNDER FDR

Lawrence W. (Chip) Robert, 86, an assistant secretary of the Treasury and treasurer and secretary of the Democratic National Committee under Franklin D. Roosevelt, died Wednesday in Atlanta.

A native of Monticello, Ga., and a graduate of Georgia Institute of Technology, Mr. Robert was chairman of the board of Robert and Co., an architectural engineering and planning firm with offices in Atlanta and Palm Beach as well as Washington. The firm is one of the nation's largest.

Mr. Robert had a lifelong interest in politics. When Mr. Roosevelt ran for governor in New York, Mr. Robert, a longtime friend, raised $27,000 for him.

"I'll bet that's the only time a southern state ever put up money to elect a governor of New York," Mr. Robert later said.

In 1952, Mr. Robert argued in behalf of obtaining the Democratic nomination for Gen. Dwight D. Eisenhower, and in 1960 he was active in efforts to win the nomination for Lyndon B. Johnson.

Although he did not always like the Democratic candidates, he once said he "never! never! never!" voted against a Democratic ticket.

Mr. Robert served from 1933 to 1936 as assistant Treasury secretary in charge of public works. He was treasurer and then secretary of the Democratic National Committee from 1936 to 1940.

In his letter of resignation as national committee secretary, Mr. Robert said, "I cannot serve the best interests of my company and also the best interests of my party connections simultaneously, and there cannot and must not be a conflict between the two."

His firm reportedly had received numerous government contracts.

Mr. Robert had homes in Georgia and in Washington.

He is survived by two daughters, Mrs. George Carroll, of Sea Island, Ga., and Mrs. Birney Robert Jones of Warrenton, Va.; a brother, A. Pierce Robert of Atlanta; six grandchildren, and 12 great-grandchildren.

RELIEF AND REHABILITATION FOR THE REPUBLIC OF ITALY

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PEPPER. Mr. Speaker, the Honorable John Adams, member of the Florida House of Representatives, recently initiated a resolution recognizing the contributions that Italians have made toward the very fruitful life enjoyed by most Floridians, and expressing a willingness to assist the people of Italy who have been victimized by the recent earthquakes in that country. Mr. Adams was joined by seven of his colleagues, Representatives Young, Lehman, Bloom, McPerson, Margolis, Becker, and Barrett.

This resolution concurs with the recent action of the House of Representatives of the United States when, on behalf of all Americans, we provided $25 million disaster relief for the Republic of Italy, in the International Security Assistance and Arms Export Control Act of 1976, H.R. 13680. It demonstrates to the citizens of the Republic that democracy carries with it the freedom to express our willingness to help provide assistance to the victims of disasters.

I insert Resolution No. 4127, adopted on the 17th day of May, 1976, in the State of Florida House of Representatives, in its entirety at this point in the RECORD, and I commend it to the attention of my colleagues:

"STATE OF FLORIDA, HOUSE OF REPRESENTATIVES, RESOLUTION NO. 4127

"A resolution urging all Floridians to assist the Republic of Italy in aiding the victims of the recent series of earthquakes in northeastern Italy

"Whereas, the northeastern portion of the Republic of Italy has recently been struck by a series of earthquakes and aftershocks which have taken the lives of more than 1,000 Italians, injured tens of thousands more, left over 100,000 Italians homeless, and caused severe economic loss, and

"Whereas, there are approximately 600,000 residents of the State of Florida who are Italian, many of whom have relatives living in Italy and affected by the recent devastation there, and

"Whereas, the House of Representatives of the State of Florida recognizes the contributions that Italians have made toward the very fruitful life enjoyed by most Floridians and also recognizes that the citizens of this state, having experienced the destruction of natural forces, are willing to assist those who fall victim to such forces: Now, therefore, "*Be It Resolved by the House of Representatives of the State of Florida:*

"That the House of Representatives of the State of Florida urges all Floridians to demonstrate to the citizens of the Republic of Italy that democracy carries with it the freedom to live, aid, and care for our fellowman by helping and by expressing their willingness to help the Republic of Italy provide assistance to the victims of the recent earthquakes in northeastern Italy.

"*Be it further resolved* that copies of this resolution be forwarded to the Premier of the Republic of Italy, the President of the United States, and to each member of the Florida delegation to the United States Congress."

NOT EVERY STOCKHOLDER OPPOSES DIVESTITURE

(Mr. OTTINGER asked and was given permission to extend his remarks at this point in the RECORD, and to include extraneous matter.)

Mr. OTTINGER. Mr. Speaker, a few days ago I inserted in the RECORD a statement made in 1935 on the Senate floor by Senator Burton K. Wheeler of Montana, author of the Public Utility Holding Company Act of 1935. His speech dealt largely with the tremendous lobbying efforts being carried on by the holding companies to kill the bill, much of it by means of a massive letter-writing campaign organized by the "power trust." Senator Wheeler stated plainly:

> I have been told that companies have asked all their employees to write such letters. I have had letters from stockholders in which they apologized to me for writing letters asking me to kill the proposed legislation, because they did not understand its purpose at the time they wrote their original letters.

I am sure that everyone of my colleagues has been literally deluged by mail of a similar nature recently, mail opposed to S. 2387 or any other oil industry divestiture legislation. It is certainly not surprising.

It is gratifying, however, when we hear from a constituent who has been solicited by a major oil company and instead writes in support of divestiture legislation. I received such a letter earlier this week and I would like to share it with the House. In reading our mail, we should remember that not every stockholder is writing, and that for every one who does ask us to oppose divestiture, there may be many who have not interest in taking up the cudgels for the oil industry.

The letter follows:

LARCHMONT, N.Y., *June 7, 1976*.

DEAR CONGRESSMAN OTTINGER: As a shareowner in Continental Oil Company, I have been advised that I might protest Congressional legislation on divestiture in the petroleum industry.

On the contrary, in spite of my wish to continue receiving financial benefits, I am more concerned about future corporate developments and ecological problems. I particularly favor excluding the oil companies from the development of sources of energy other than petroleum.

Sincerely,

MRS. JEANNE L. SCHWARZ.

CONFERENCE REPORT ON S. 3201

Mr. WRIGHT submitted the following conference report and statement on the bill (S. 3201) to amend the Public Works and Economic Development Act of 1965, to increase the antirecessionary effectiveness of the program, and for other purposes:

CONFERENCE REPORT (H. REPT. No. 94–1260)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 3201) to amend the Public Works and Economic Development Act of 1965, to increase the antirecessionary effectiveness of the program, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the House amendment insert the following:

That this Act may be cited as the "Public Works Employment Act of 1976".

TITLE I—LOCAL PUBLIC WORKS

SEC. 101. This title may be cited as the "Local Public Works Capital Development and Investment Act of 1976".

SEC. 102. As used in this title, the term—

(1) "Secretary" means the Secretary of Commerce, acting through the Economic Development Administration.

(2) "State" includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa.

(3) "local government" means any city, county, town, parish, or other political subdivision of a State, and any Indian tribe.

SEC. 103. (a) The Secretary is authorized to make grants to any State or local government for construction (including demolition and other site preparation activities), renovation, repair, or other improvement of local public works projects including but not limited to those public works projects of State and local governments for which Federal financial assistance is authorized under provisions of law other than this Act. In addition the Secretary is authorized to make grants to any State or local government for the completion of plans, specifications, and estimates for local public works projects where either architectural design or preliminary engineering or related planning has already been undertaken and where additional architectural and engineering work or related planning is required to permit construction of the project under this Act.

(b) The Federal share of any project for which a grant is made under this section shall be 100 per centum of the cost of the project.

SEC. 104. In addition to the grants otherwise authorized by this Act, the Secretary is authorized to make a grant for the purpose of increasing the Federal contribution to a public works project for which Federal financial assistance is authorized under provisions of law other than this Act. Any grant made for a public works project under this section shall be in such amount as may be necessary to make the Federal share of the cost of such project 100 per centum. No grant shall be made for a project under this section authorized under provisions of law other than this Act is authorized under provisions of law other than this Act is immediately available for such project and construction of such project has not yet been initiated because of lack of funding for the non-Federal share.

SEC. 105. In addition to the grants otherwise authorized by this Act, the Secretary is authorized to make a grant for the purpose of providing all or any portion of the required State or local share of the cost of any public works project for which financial assistance is authorized under any provision of State or local law requiring such contribution. Any grant made for a public works project under this section shall be made in such amount as may be necessary to provide the requested State or local share of the cost of such project. A grant shall be made under this section for either the State or local share of the cost of the project, but not both shares. No grant shall be made for a project under this section unless the share of the financial assistance for such project (other than the share with respect to which a grant is requested under this section) is immediately available for such project and construction of such project has not yet been initiated.

SEC. 106. (a) No grant shall be made under section 103, 104, or 105 of this Act for any project having as its principal purpose the channelization, damming, diversion, or dredging of any natural watercourse, or the construction or enlargement of any canal (other than a canal or raceway designated for maintenance as an historic site) and having as its permanent effect the channelization, damming, diversion, or dredging of such watercourse or construction or enlargement of any canal (other than a canal or raceway designated for maintenance as an historic site).

(b) No part of any grant made under section 103, 104, or 105 of this Act shall be used for the acquisition of any interest in real property.

(c) Nothing in this Act shall be construed to authorize the payment of maintenance costs in connection with any projects constructed (in whole or in part) with Federal financial assistance under this Act.

(d) Grants made by the Secretary under this Act shall be made only for projects for which the applicant gives satisfactory assurances, in such manner and form as may be required by the Secretary and in accordance with such terms and conditions as the Secretary may prescribe, that, if funds are available, on-site labor can begin within ninety days of project approval.

SEC. 107. The Secretary shall, not later than thirty days after date of enactment of this Act, prescribe those rules, regulations, and procedures (including application forms) necessary to carry out this Act. Such rules, regulations, and procedures shall assure that adequate consideration is given to the relative needs of various sections of the country. The Secretary shall consider among other factors (1) the severity and duration of unemployment in proposed project areas, (2) the income levels and extent of underemployment in proposed project area, and (3) the extent to which proposed projects will contribute to the reduction of unemployment. The Secretary shall make a final determination with respect to each application for a grant submitted to him under this Act not later than the sixtieth day after the the date he receives such application. Failure to make such final determination within such period shall be deemed to be an approval by the Secretary of the grant requested. For purposes of this section, in considering the extent of unemployment or underemployment, the Secretary shall consider the amount of unemployment or underemployment in the construction and construction-related industries.

SEC. 108. (a) Not less than one-half of 1 per centum or more than 12½ per centum of all amounts appropriated to carry out this title shall be granted under this Act for local public works projects within any one State, except that in the case of Guam, Virgin Islands, and American Samoa, not less than one-half of 1 per centum in the aggregate shall be granted for such projects in all three of these jurisdictions.

(b) In making grants under this Act, the Secretary shall give priority and preference to public works projects of local governments.

(c) In making grants under this Act, if for the three most recent consecutive months, the national unemployment rate is equal to or exceeds 6½ per centum, the Secretary shall (1) expedite and give priority to applications submitted by States or local governments having unemployment rates for the three most recent consecutive months in excess of the national unemployment rate and (2) shall give priority thereafter to applications submitted by States or local governments having unemployment rates for the three most recent consecutive months in excess of 6½ per centum, but less than the national unemployment rate. Information regarding unemployment rates may be furnished either by the Federal Government, or by States or local governments, provided the Secretary determines that the unemployment rates furnished by States or local governments are accurate, and shall provide assistance to States or local governments in the calculation of such rates to insure validity and standardization.

(d) Seventy per centum of all amounts appropriated to carry out this Act shall be granted for public works projects submitted by State or local governments given priority under clause (1) of the first sentence of subsection (c) of this section. The remaining 30 per centum shall be available for public works projects submitted by State or local governments in other classifications of priority.

(e) The unemployment rate of a local government shall, for the purposes of this Act, and upon request of the applicant, be based upon the unemployment rate of any community or neighborhood (defined without regard to political or other subdivisions or boundaries) within the jurisdiction of such local government, except that any grant made to a local government based upon the unemployment rate of a community or neighborhood within its jurisdiction must be for a project of direct benefit to, or provide employment for, unemployed persons who are residents of that community or neighborhood.

(f) In determining the unemployment rate of a local government for the purposes of this section, unemployment in those adjoining areas from which the labor force for such project may be drawn, shall, upon request of the applicant, be taken into consideration.

(g) States and local governments making application under this Act should (1) relate their specific requests to existing approved plans and programs of a local community development or regional development nature so as to avoid harmful or costly inconsistencies or contradictions; and (2) where feasible, make requests which, although capable of early initiation, will promote or advance longer range plans and programs.

SEC. 109. All laborers and mechanics employed by contractors or subcontractors on projects assisted by the Secretary under this Act shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a-5). The Secretary shall not extend any financial assistance under this Act for such project without first obtaining adequate assurance that these labor standards will be maintained upon the construction work. The Secretary of Labor shall have, with respect to the labor standards specified in this provision, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267; 5 U.S.C. 133z-15), and section 2 of the Act of June 13, 1964, as amended (40 U.S.C. 276c).

SEC. 110. No person shall on the ground of sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any project receiving Federal grant assistance under this Act, including any supplemental grant made under this Act. This provision will be enforced through agency provisions and rules similar to those already established, with respect to racial and other discrimination under title VI of the Civil Rights Act of 1964. However, this remedy is not exclusive and will not prejudice or cut off any other legal remedies available to a discriminatee.

SEC. 111. There is authorized to be appropriated not to exceed $2,000,000,000 for the period ending September 30, 1977, to carry out this Act.

TITLE II—ANTIRECESSION PROVISIONS

FINDING OF FACT AND DECLARATION OF POLICY

SEC. 201. FINDINGS.—The Congress finds—

(1) that State and local governments represent a significant segment of the national economy whose economic health is essential to national economic prosperity;

(2) that present national economic problems have imposed considerable hardships on State and local government budgets;

(3) that those governments, because of their own fiscal difficulties, are being forced to take budget-related actions which tend to undermine Federal Government efforts to stimulate the economy;

(4) that efforts to stimulate the economy through reductions in Federal Government tax obligations are weakened when State and local governments are forced to increase taxes;

(5) that the net effect of Federal Government efforts to reduce unemployment through public service jobs is substantially limited if State and local governments use federally financed public service employees to replace regular employees that they have been forced to lay off;

(6) that efforts to stimulate the construction industry and reduce unemployment are substantially undermined when State and local governments are forced to cancel or delay the construction of essential capital projects; and

(7) that efforts by the Federal Government to stimulate the economic recovery will be substantially enhanced by a program of emergency Federal Government assistance to State and local governments to help prevent those governments from taking budget-related actions which undermine the Federal Government efforts to stimulate economic recovery.

FINANCIAL ASSISTANCE AUTHORIZED

SEC. 202. (a) PAYMENTS TO STATE AND LOCAL GOVERNMENTS.—The Secretary of the Treasury (hereafter in this title referred to as the "Secretary") shall, in accordance with the provisions of this title, make payments to States and to local governments to coordinate budget-related actions by such governments with Federal Government efforts to stimulate economic recovery.

(b) AUTHORIZATION OF APPROPRIATIONS.—Subject to the provisions of subsections (c) and (d), there are authorized to be appropriated for each of the five succeeding calendar quarters (beginning with the calendar quarter which begins on July 1, 1976) for the purpose of payments under this title—

(1) $125,000,000 plus

(2) $62,500,000 multiplied by the number of one-half percentage points by which the rate of seasonally adjusted national unemployment for the most recent calendar quarter which ended three months before the beginning of such calendar quarter exceeded 6 percent.

(c) AGGREGATE AUTHORIZATION.—In no case shall the aggregate amount authorized to be appropriated under the provisions of subsection (b) for the five calendar quarters beginning with the calendar quarter which begins July 1, 1976, exceed $1,250,000,000.

(d) TERMINATION.—No amount is authorized to be appropriated under the provisions of subsection (b) for any calendar quarter if—

(1) the average rate of national unemployment during the most recent calendar quarter which ended three months before the beginning of such calendar quarter did not exceed 6 percent, and

(2) the rate of national unemployment for the last month of the most recent calendar quarter which ended three months before the beginning of such calendar quarter did not exceed 6 percent.

ALLOCATION

SEC. 203. (a) RESERVATIONS.—

(1) ELIGIBLE STATES.—The Secretary shall reserve one-third of the amounts appropriated pursuant to authorization under section 202 for each calendar quarter for the purpose of making payments to eligible State governments under subsection (b).

(2) ELIGIBLE UNITS OF LOCAL GOVERNMENT.—The Secretary shall reserve two-thirds of such amounts for the purpose of making payments to eligible units of local government under subsection (c).

(b) STATE ALLOCATION.—

(1) IN GENERAL.—The Secretary shall allocate from amounts reserved under subsection (a)(1) an amount for the purpose of making payments to each State equal to the total amount reserved under subsection (a)(1) for the calendar quarter multiplied by the applicable State percentage.

(2) APPLICABLE STATE PERCENTAGE.—For purposes of this subsection, the applicable State percentage is equal to the quotient resulting from the division of the product of—

(A) the State excess unemployment percentage, multiplied by

(B) the State revenue sharing amount by the sum of such products for all the States.

(3) DEFINITIONS.—For the purposes of this section—

(A) the term "State" means each State of the United States;

(B) the State excess unemployment percentage is equal to the difference resulting from the subtraction of 4.5 percentage points from the State unemployment rate for that State but shall not be less than zero;

(C) the State unemployment rate is equal to the rate of unemployment in the State during the appropriate calendar quarter, as determined by the Secretary of Labor and reported to the Secretary; and

(D) the State revenue sharing amount is the amount determined under section 107 of the State and Local Fiscal Assistance Act of 1972 for the one-year period beginning on July 1, 1975.

(c) LOCAL GOVERNMENT ALLOCATON.—

(1) IN GENERAL.—The Secretary shall allocate from amounts reserved under subsection (a)(2) an amount for the purpose of making payments to each local government, subject to the provisions of paragraphs (3) and (5), equal to the total amount reserved under such subsection for calendar quarter multiplied by the local government percentage.

(2) LOCAL GOVERNMENT PERCENTAGE.—For purposes of this subsection, the local government percentage is equal to the quotient resulting from the division the product of—

(A) the local excess unemployment percentage, multiplied by

(B) the local revenue sharing amount, by the sum of such products for all local governments.

(3) SPECIAL RULE.—

(A) For purposes of paragraph (1) and (2), all local governments within the jurisdiction of a State other than identifiable local governments shall be treated as though they were one local government.

(B) The Secretary shall set aside from the amount allocated under paragraph (1) of this subsection for all local government within the jurisdiction of a State which are treated as though they are one local government under subparagraph (A) an amount determined under subparagraph (C) for the purpose of making payments to each local government, other than identifiable local governments within the jurisdiction of such State.

(C) The amount set aside for the purpose of making payments to each local government, other than an identifiable local government, within the jurisdiction of a State under subparagraph (B) shall be—

(i) equal to the total amount allocated under paragraph (1) of this subsection for all local governments within the jurisdiction of such State which are treated as though they are one local government under subparagraph (A) multiplied by the local government percentage as defined in paragraph (2) (determined without regard to the parenthetical phrases at the end of paragraphs (4) (B) and (C) of this subsection), unless

(ii) such State submits, within thirty days, after the effective date of this title, an allocation plan which has been approved by the State legislature and which meets the requirements set forth in section 206(a), and is approved by the Secretary under the provisions of section 206(b). In the event that a State legislature is not scheduled to meet in regular session within three months after the effective date of this title, the Governor of such State shall be authorized to submit an alternative plan which meets the requirements set forth in section 206(a), and is approved by the Secretary under the provisions of section 206(b).

(D) If local unemployment rate data (as defined in paragraph (4) (B) of this subsection without regard to the parenthetical phrase at the end of such definition) for a local government jurisdiction is unavailable to the Secretary for purposes of determining the amount to be set aside for such government under subparagraph (C) then the Secretary shall determine such amount under subparagraph (C) by using the local unemployment rate determined under the parenthetical phrase of subsection (4) (B) for all local governments in such State treated as one jurisdiction under paragraph (A) of this subsection unless better unemployment rate data, certified by the Secretary of Labor, is available.

(4) DEFINITIONS.—For purposes of this subsection—

(A) the local excess unemployment percentage is equal to the difference resulting from the subtraction of 4.5 percentage points from the local unemployment rate, but shall not be less than zero;

(B) the local unemployment rate is equal to the rate of unemployment in the jurisdiction of the local government during the appropriate calendar quarter, as determined by the Secretary of Labor and reported to the Secretary (in the case of local governments treated as one local government under paragraph (3) (A), the local unemployment rate shall be the unemployment rate of the State adjusted by excluding consideration of unemployment and of the labor force within identifiable local governments, other than county governments, within the jurisdiction of that State);

(C) the local revenue sharing amount is the amount determined under section 108 of the State and Local Fiscal Assistance Act of 1972 for the one-year period beginning on July 1, 1975 (and in the case of local governments treated as one local government under paragraph (3)A), the local revenue sharing amount shall be the sum of the local revenue sharing amounts of all eligible local governments within the State, adjusted by excluding an amount equal to the sum of the local revenue sharing amounts of identifiable local governments within the jurisdiction of that State);

(D) the term "identifiable local government" means a unit of general local government for which the Secretary of Labor has made a determination concerning the rate of unemployment for purposes of title II or title VI of the Comprehensive Employment and Training Act of 1973 duirng the current or preceding fiscal year; and

(E) the term "local government" means the government of a county, municipality, township, or other unit of government below the State which—

(i) is a unit of general government (determined on the basis of the same principles as are used by the Social and Economic Statistics Administration for general statistical purposes), and

(ii) performs substantial governmental functions. Such term includes the District of Columbia and also includes the recognized governing body of an Indian tribe or Alaskan Native village which performs substantial governmental functions. Such term does not include the government of a township area unless such government performs substantial governmental functions.

For the purpose of paragraph (4) (D), the Secretary of Labor shall, notwithstanding any other provision of law, continue to make determinations with respect to the rate of unemployment for the purposes of such title VI.

(5) SPECIAL LIMITATION.—If the amount which would be allocated to any unit of local government under this subsection is less than $100, then no amount shall be allocated for such unit of local government under this subsection.

USES OF PAYMENTS

SEC. 204. Each State and local government shall use payments made under this title for the maintenance of basic services customarily provided to persons in that State or in the area under the jurisdiction of that local government, as the case may be. State and local governments may not use emergency support grants made under this title for the acquisition of supplies and materials and for construction unless such supplies and materials or construction are to maintain basic services.

STATEMENT OF ASSURANCES

SEC. 205. Each State and unit of local government may receive payments under this title only upon filing with the Secretary, at such time and in such manner as the Secretary prescribes by rule, a statement of assurances. Such rules shall be prescribed by the Secretary not later than ninety days after the effective date of this title. The Secretary may not require any State or local government to file more than one such statement during each fiscal year. Each such statement shall contain—

(1) an assurance that payments made under this title to the State or local government will be used for the maintenance, to the extent practical, of levels of public employment and of basic services customarily provided to persons in that State or in the area under the jurisdiction of that unit of local government which is consistent with the provisions of section 204;

(2) an assurance that the State or unit of local government will—

(A) use fiscal, accounting, and audit procedures which conform to guidelines established therefor by the Secretary (after consultation with the Comptroller General of the United States), and

(B) provide to the Secretary (and to the Comptroller General of the United States), on reasonable notice, access to, and the right to examine, such books, documents, papers, or records as the Secretary may reasonably require for purposes of reviewing compliance with this title;

(3) an assurance that reasonable reports will be furnished to the Secretary in such form and containing such information as the Secretary may reasonably require to carry out the purposes of this title and that such report shall be published in a newspaper of general circulation in the jurisdiction of such government unless the cost of such publication is excessive in relation to the amount of the payments received by such government under this title or other means of publicizing such report is more appropriate, in which case such report shall be publicized pursuant to rules prescribed by the Secretary;

(4) an assurance that the requirements of section 207 will be complied with;

(5) an assurance that the requirements of section 208 will be complied with;

(6) an assurance that the requirements of section 209 will be complied with;

(7) an assurance that the State or unit of local government will spend any payment it receives under this title before the end of the six-calendar-month period which begins on the day after the date on which such State or local government receives such payment; and

(8) an assurance that the State or unit of local government will spend amounts received under this title only in accordance with the laws and procedures applicable to the expenditure of its own revenues.

OPTIONAL ALLOCATION PLANS

SEC. 206. (a) STATE ALLOCATION PLANS FOR PURPOSES OF SECTION 203(c)(3).—A State may file an allocation plan with the Secretary for purposes of section 203(c)(3)(C)(ii) at such time, in such manner, and containing such information as the Secretary may require by rule. Such rules shall be provided by the Secretary not later than sixty days of the effective date of this title. Such allocation plan shall meet the following requirements:

(1) the criteria for allocation of amounts among the local governments within the State shall be consistent with the allocation formula for local governments under section 203(c)(2);

(2) the plan shall use—

(A) the best available unemployment rate data for such government if such data is determined in a manner which is substantially consistent with the manner in which local unemployment rate data is determined, or

(B) if no consistent unemployment rate data is available, the local unemployment rate data for the smallest unit of identifiable local government in the jurisdiction of which such government is located,

(3) the allocation criteria must be specified in the plan, and

(4) the plan must be developed after consultation with appropriate officials of local governments within the State other than identifiable local governments.

(b) APPROVAL.—The Secretary shall approve any allocation plan that meets the requirements of subsection (a) within thirty days after he receives such allocation plan, and shall not finally disapprove, in whole or in part, any allocation plan for payments under this title without first affording the State or local governments involved reasonable notice and an opportunity for a hearing.

NONDISCRIMINATION

SEC. 207. (a) IN GENERAL.—No person in the United States shall, on the grounds of race, religion, color, national origin, or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this title.

(b) AUTHORITY OF THE SECRETARY.—Whenever the Secretary determines that a State government or unit of local government has failed to comply with subsection (a) or an applicable regulation, he shall, within ten days, notify the Governor of the State (or, in the case of a unit of local government the Governor of the State in which such unit is located, and the chief elected official of the unit) of the noncompliance. If within thirty days of the notification compliance is not achieved, the Secretary shall within ten days thereafter—

(1) exercise all the powers and functions provided by title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000e);

(2) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted;

(3) take such other action as may be provided by law.

(c) ENFORCEMENT.—Upon his determination of discrimination under subsection (b), the Secretary shall have the full authority to withhold or temporarily suspend any payment under this title, or otherwise exercise any authority contained in title VI of the Civil Rights Act of 1964, to assure compliance with the requirement of nondiscrimination in federally assisted programs funded, in whole or in part, under this title.

(d) APPLICABILITY OF CERTAIN CIVIL RIGHTS ACTS.—

(1) Any party who is injured or deprived within the meaning of section 1979 of the Revised Statutes (42 U.S.C. 1983) or of section 1980 of the Revised Statutes (42 U.S.C. 1985) by any person, or two or more persons in the case of such section 1980, in connection with the administration of a payment under this title may bring a civil action under such section 1979 or 1980, as applicable, subject to the terms and conditions of those sections.

(2) Any person who is aggrieved by an unlawful employment practice within the meaning of title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) by any employer in connection with the administration of a payment under this title may bring a civil action under section 706(f)(1) of such Act (42 U.S.C. 2000e–5(f)(1)) subject to the terms and conditions of such title.

LABOR STANDARDS

SEC. 208. All laborers and mechanics employed by contractors on all construction projects funded in whole or in part by payments under this title shall be paid wages at rates not less than those prevailing on similar projects in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act (40 U.S.C. 276a to 276a–5). The Secretary of Labor shall have, with respect to the labor standards specified in this section, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 C.F.R. 3176) and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c).

SPECIAL REPORTS

SEC. 209. Each State and unit of local government which receives a payment under the provisions of this title shall report to the Secretary any increase or decrease in any tax which it imposes and any substantial reduction in the number of individuals it employs or in services which such State or local government provides. Each State which receives a payment under the provisions of this title shall report to the Secretary any decrease in the amount of financial assistance, which the State provides to the units of local governments during the twelve-month period which ends on the last day of the calendar quarter immediately preceding the date of enactment of this title, together with an explanation of the reasons for such decrease. Such reports shall be made as soon as it is practical and, in any case, not more than six months after the date on which the decision to impose such tax increase or decrease, such reductions in employment or services, or such decrease in State financial assistance is made public.

PAYMENTS

SEC. 210. (a) IN GENERAL.—From the amount allocated for State and local governments under section 203, the Secretary shall pay not later than five days after the beginning of each quarter to each State and to each local government which has filed a statement of assurances under section 205, an amount equal to the amount allocated to such State or local government under section 203.

(b) ADJUSTMENTS.—Payments under this title may be made with necessary adjustments on account of overpayments or underpayments.

(c) TERMINATION.—No amount shall be paid to any State or local government under the provisions of this section for any calendar quarter if—

(1) the average rate of unemployment within the jurisdiction of such State or local government during the most recent calendar quarter which ended three months before the beginning of such calendar quarter was less than 4.5 percent, and

(2) the rate of unemployment within the jurisdiction of such government for the last month of the most recent calendar quarter which ended three months before the beginning of such calendar quarter did not exceed 4.5 percent.

STATE AND LOCAL GOVERNMENT ECONOMIZATION

SEC. 211. Each State or unit of local government which receives payments under this title shall provide assurances in writing to the Secretary, at such time and in such manner and form as the Secretary may prescribe by rule, that it has made substantial economies in its operations and that payments under this title are necessary to maintain essential services without weakening Federal Government efforts to stimulate the economy through reductions in Federal tax obligations.

WITHHOLDING

SEC. 212. Whenever the Secretary, after affording reasonable notice and an opportunity for a hearing to any State or unit of local government, finds that there has been a failure to comply substantially with any assurance set forth in the statement of assurances of that State or units of local government filed under section 205, the Secretary shall notify that State or unit of local government that further payments will not be made under this title until he is satisfied that there is no longer any such failure to comply. Until he is so satisfied, no further payments shall be made under this title.

REPORTS

SEC. 213. The Secretary shall report to the Congress as soon as is practical after the end of each calendar quarter during which payments are made under the provisions of this title. Such report shall include information on the amounts paid to each State and units of local government and a description of any action which the Secretary has taken under the provisions of section 212 during the previous calendar quarter. The Secretary shall report to Congress as soon as is practical after the end of each calendar year during which payments are made under the provisions of this title. Such reports shall include detailed information on the amounts paid to States and units of local government under the provisions of this title, any actions which the Secretary has taken under the provisions of section 212, and an evaluation of the purposes to which amounts paid under this title were put by State and units of local government and economic impact of such expenditures during the previous calendar year.

ADMINISTRATION

SEC. 214. (a) RULES.—The Secretary is authorized to prescribe, after consultation with the Secretary of Labor, such rules as may be necessary for the purpose of carrying out his functions under this title. Such rules should be prescribed by the Secretary not later than ninety days after the effective date of this title.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for the administration of this title.

PROGRAM STUDIES AND RECOMMENDATIONS

SEC. 215. (a) EVALUATION.—The Comptroller General of the United States shall conduct an investigation of the impact which emergency support grants have on the operations of State and local governments and on the national economy. Before and during the course of such investigation the Comptroller General shall consult with and coordinate his activities with the Congressional Budget Office and the Advisory Commission on Intergovernmental Relations. The Comptroller General shall report the results of such investigation to the Congress within one year after the date of enactment of this title together with an evaluation of the macroeconomic effect of the program established under this title and any recommendations for improving the effectiveness of similar programs. All officers and employees of the United States shall make available all information, reports, data, and any other material necessary to carry out the provisions of this subsection to the Comptroller General upon a reasonable request.

(b) COUNTERCYCLICAL STUDY.—The Congressional Budget Office and the Advisory Commission on Intergovernmental Relations shall conduct a study to determine the most effective means by which the Federal Government can stabilize the national economy during periods of rapid economic growth and high inflation through programs directed toward State and local governments. Such study shall include a comparison of the effectiveness of alternative factors for triggering and measuring the extent of the fiscal coordination problem addressed by this program, and the effect of the recession on State and local expenditures. Before and during the course of such study, the Congressional Budget Office and the Advisory Commission shall consult with and coordinate their activities with the Comptroller General of the United States. The Congressional Budget Office and the Advisory Commission shall report the results of such study to Congress within two years after the date of enactment of this title. Such study shall include the opinions of the Comptroller General with respect to such study.

TITLE III—FEDERAL WATER POLLUTION CONTROL ACT AMENDMENTS

SEC. 301. There is authorized to be appropriated to carry out title II of the Federal Water Pollution Control Act, other than sections 206, 208, and 209, for the fiscal year ending September 30, 1977, not to exceed $700,000,000 which sum (subject to such amounts as are provided in appropriation Acts) shall be allotted to each State listed in column 1 of table IV contained in House Public Works and Transportation Committee Print numbered 94–25 in accordance with the percentages provided for such State (if any) in column 5 of such table. The sum authorized by this section shall be in addition to, and not in lieu of, any funds otherwise authorized to carry out such title during such fiscal year. Any sums allotted to a State under this section shall be available until expended.

And the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the title of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the amendment of the House to the title of the bill, insert the following: "An Act to authorize a local public works capital development and investment program, to establish an antirecessionary program, and for other purposes.".

And the House agree to the same.

JIM WRIGHT,
HAROLD T. JOHNSON,
ROBERT A. ROE,
KENNETH L. HOLLAND,
ALLAN T. HOWE,
JAMES L. OBERSTAR,
HENRY J. NOWAK,
Managers on the Part of the House.

JENNINGS RANDOLPH,
EDMUND S. MUSKIE,
JOSEPH M. MONTOYA,
QUENTIN N. BURDICK,
ABE RIBICOFF,
JOHN GLENN,
ROBERT T. STAFFORD,
JACOB K. JAVITS,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 3201) to amend the Public Works and Economic Development Act of 1965, to increase the anti-recessionary effectiveness of the program, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment to the text of the bill struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees and minor drafting and clarifying changes.

TITLE I

Short title

House Amendment

The short title of the House amendment provides the legislation may be cited as the "Local Public Works Capital Development And Investment Act of 1976".

Senate Bill

Provides the act may be cited as the "Public Works Employment Act of 1976".

Conference Substitute

Identical to Senate bill as to the Act and identical to the House amendment as to title I.

Definition of terms

House Amendment

Defines "Secretary" to mean the Secretary of Commerce acting through the Economic Development Administration; defines "State" to include the several States, District of Columbia, Commonwealth of Puerto Rico, the Virgin Islands, Guam and American Samoa; and defines "local government" to mean any city, county, town, parish or other political subdivision of a State and any Indian tribe.

Senate Bill

No comparable provision.

Conference Substitute

Same as the House amendment.

Direct grant program

House Amendment

Authorizes the Secretary to make grants to State and local governments for the construction, renovation, repair or other improvement of public works projects. This includes grants for projects for which Federal financial assistance is authorized by other acts and grants for achitectural design, engineering and related planning expenses. Grants may be made for the completion of plans, specifications, and estimates where either architectural design or preliminary engineering or related planning has already been undertaken and where additioanl architectural and engineering work or related planning is required to permit construction of the project. The Federal share of the cost of any project for which a grant is made under this act shall be 100 percent of the cost of the project. Grants can be made only when it is shown that, if funds are available, on-site labor can begin within 90 days of the project approval.

Senate Bill

No comparable provision.

Conference Substitute

Same as the House amendment.

Rules and regulations

House Amendment

Requires the Secretary to prescribe rules and regulations within 30 days of enactment. In doing so, he must consider, among other factors: (1) The severity and duration of unemployment in the project areas, (2) the extent of underemployment in the project area, and (3) the extent to which the project will contribute to the reduction of unemployment. In considering the extent of unemployment and underemployment under this section, the Secretary must consider the amount of unemployment and underemployment in the construction-related industries. A final determination of each project application must be made within 60 days of receiving it. Failure to make such determination within this period will be deemed to be an approval by the Secretary.

Senate Bill

No comparable provision.

Conference Substitute

Same as the House amendment.

Supplemental grants

House Amendments

Authorizes the Secretary to make grants for the purpose of increasing the Federal contribution to 100 percent of project cost on any federally-assisted public works projects authorized by any other Federal law where the Federal financial assistance under such law is immediately available and construction has not been started.

Senate Bill

No comparable provision.

Conference Substitute

Same as the House amendment.

Grants for projects authorized by State or local law

House Amendment

Authorizes the Secretary to make grants for all or any portion of the State or local share of cost of any public works project authorized by any State or local law. However, no grant may provide both the State and local share. The matching share, other than the share with respect to which a grant is requested, must be immediately available for the project and construction of the project not yet started.

Senate Bill

No comparable provision.

Conference Substitute

Same as the House amendment.

Limitations

House Amendment

Contains prohibitions on use of funds to affect natural watercourses, acquisition of interest in real property, use of funds for maintenance cost and a requirement for on-site labor within 90 days of project approval.

Senate Bill

No comparable provision.

Conference Substitute

Same as the House amendment.

Priority of projects

House Amendment

Assures that at least ½ of 1 percent but not more than 10 percent of funds appropriated will be granted within any one State, Guam, the Virgin Islands and American Samoa together will not receive less than ½ of 1 percent.

As long as the national unemployment rate is 6½ percent or more, the Secretary must give priority to applications from areas in excess of the national rate and must thereafter give priority to applications from areas in excess of 6½ percent but less than the national unemployment rate.

Statistics establishing the unemployment rate of an area may be furnished by the Federal Government, States, or local governments as long as the Secretary determines that they are accurate.

70 percent of the funds appropriated must be used for projects in areas that exceed the national unemployment rate in the first priority above and the remaining 30 percent of the funds appropriated must be used on projects in other classifications of priority.

The unemployment rate of a local government shall for purposes of this Act and upon request of the applicant be based upon the unemployment rate of any community or neighborhood (defined without regard to any other political subdivisions or boundaries) then within the jurisdiction of such local government, except that any grant made to a local government based on the unemployment rate of a community or neighborhood within its jurisdiction must be for a project of direct benefit to, or provide employment for, unemployed persons or residents of that community or neighborhood.

When requested by an applicant, the Secretary, in determining the unemployment rate of a local government, must consider the unemployment in adjoining areas from which the labor force for a project may be drawn. Applicants should relate their projects to local and regional development plans and where possible, submit projects that would implement long-range plans.

Senate Bill

No comparable provision.

Conference Substitute

Same as the House amendment, except that the maximum percentage which can be granted in one State is increased to 12½ per centum.

Fair labor standards

House Amendment

Makes the Davis-Bacon Act applicable to all grants for projects under this act.

Senate Bill

No comparable provision.

Conference Substitute

Same as the House amendment.

Sex discrimination

House Amendment

Prohibits any discrimination because of sex on any project receiving grant assistance under this act.

Senate Bill

No comparable provision.

Conference Substitute

Same as the House amendment.

Authorization of program

House Amendment

Authorizes up to $2.5 billion to carry out this act.

Senate Bill

No comparable provision.

Conference Substitute

Authorizes up to $2.2 billion to carry out this title for the period ending September 30, 1977.

Grants to state and local governments for public works projects

House Amendment

No comparable provision.

Senate Bill

Adds a new section 107 to the Public Works and Economic Development Act of 1965 as follows:

(a) authorizes the Secretary upon application of State or local government to make supplementary grants for Federal aid public works projects in such amount as to bring the Federal share to 100% of cost. Basic grant funds must be immediately available and construction not started because of lack of matching share. Grant funds cannot be used to purchase land.

(b) (1) authorizes grants for cost overruns on Federal projects. Grants are limited to the maximum percentage of the Federal participation authorized.

(2) applications must set forth information on project, its job effectiveness and area to be served by the project. The Secretary must review applications and with the concurrence of the agency funding the project select those projects which best serve the employment objectives of this section.

(c) authorizes grants for construction, repair, renovation of State and local public works projects for which Federal assistance is authorized other than by the Public Works and Economic Development Act. These grants will be 100% grants.

(d) First priority must be given to projects that will have on-site labor within 90 days of project approval in the following order:

1. Supplemental grants authorized by subsection (a)

2. Cost overrun grants authorized by subsection (b) and

3. 100 percent grants authorized by subsection (c)

(e) (1) No more than 15 percent of funds appropriated may go to any one State. At least ½ of 1 percent must be granted to Guam, Virgin Islands, and American Samoa.

(2) No grants may be made for maintenance.

(f) Assistance under this section is available only to designated C.E.T.A. areas and areas designated by the Secretary of Labor as having 6½ percent unemployment or more for the most recent three months. As long as the national unemployment rate is 6½ percent or more, the Secretary must give priority to project applications from areas of unemployment in excess of the national average. 70 percent of the funds appropriated must go to these areas. The grant program is suspended when the national unemployment rate goes below 6½ percent.

(g) Section 103 (15 percent limitation to any one state) and section 104 (prohibition of Title I assistance to Appalachia) of the Economic Development Act do not apply to this section.

(h) Grants are to be made in accordance with the same regulations promulgated for the public facility grants authorized by the Economic Development Act except the Secretary should not consider the severity and duration of unemployment and the income levels of families and extent of underemployment as required by section 101(d) nor should the Secretary require an Overall Economic Development Plan (OEDP) as required by section 101(a) (1) (c). Any revision to the regulations must be made within 30 days of enactment.

(i) In selecting projects, Secretary must consider the extent and severity of unemployment, the level and extent of construction unemployment and, extent project will reduce unemployment in the area. Determination of applications must be made within 60 days of receipt.

(j) Unemployment statistics are to be determined by the Secretary of Labor. State or local governments may present the Secretary of Commerce with information on actual unemployment of an area.

(k) Authorizes $2 billion for fiscal year 1977.

Conference Substitute

No comparable provision.

Working capital loans and interest subsidies

House Amendment

No comparable provision.

Senate Bill

The Senate bill amends title II of the Public Works and Economic Development Act, the Economic Development Administration's business development program. The present fiscal year 1976 authorization of $75 million for business development programs is increased by $125 million to $200 million. Additional authority also has been provided to the Secretary to pay to or on behalf of a private borrower, an amount sufficient to reduce up to four percentage points the interest paid by such borrower on any loan guaranteed by the Secretary under this section. These payments must be made no less than annually and no obligation shall be made by the Secretary to make any payment under this paragraph for any loan guarantee made after December 31, 1976.

Conference Substitute

No comparable provision.

Job opportunities program amendments

House Amendment

No comparable provisions.

Senate Bill

The Senate bill would authorize an additional $375 million for the period ending December 31, 1976, for title X of the Public Works and Economic Development Act, the Job Opportunities Program.

The Senate bill would also make the following improvements in program management: (1) consolidation and simplification of project selection criteria; (2) elimination of review responsibility by the Secretary of Labor with the Secretary of Commerce; (3) elimination of the requirement that half the appropriated funds must go to projects with 75 percent or more "labor costs," emphasizing instead the job effectiveness purpose; and (4) assignment of priority to programs and projects sponsored by State and local governments. Job effectiveness, as defined in the bill, is the total man/months of employment related to a particular project which could not have occurred without the addition of funds under title X.

The Senate bill also provides that priority consideration should be given programs or projects sponsored by States or local communities which best serve the purposes of the program—whether these are revisions of pending programs and projects or new submissions made pursuant to title X.

Conference Substitute

No comparable provisions.

Limit on authority to obligate

House Amendment

No comparable provision.

Senate bill

Limits on the authority to obligate the funds appropriated when unemployment levels decline.

The limitation is based on the seasonally adjusted unemployment rate for the preceding calendar quarter as determined by the Secretary of Labor in the quarterly report on unemployment. The authority to obligate appropriations is reduced by one-fourth of the funds appropriated up to $500 million each time the quarterly unemployment rate declines by one-half of 1 percent from a base of 9 percent.

Conference Substitute

No comparable provision.

Waste treatment funds

House Amendment

No comparable provision.

Senate bill

The Senate bill contains an authorization for $21 million to be distributed to those States and territories which received an allocation of less than $7 million in waste treatment construction grant funds for fiscal year 1976 under the Federal Water Pollution Control Act, P.L. 92–500.

Conference Substitute

No comparable provision.

TITLE II

Antirecession provisions

House Amendment

No comparable provision.

Senate Bill

Findings of Fact and Declaration of Policy

Section 201 sets out congressional findings concerning the impact of recession on state and local governments and further declares it to be national policy to make state and local government budget-related actions more consistent with Federal efforts to stimulate national economic recovery.

Financial Assistance Authorized

Section 202 authorizes for each of 5 succeeding calendar quarters (beginning with the calendar quarter which begins on July 1, 1976) $125 million when the national seasonally adjusted unemployment rate reaches 6 percent plus an additional $12.5 million for each one-tenth percentage point over 6 percent. The total amount authorized by this Act is not to exceed $1.375 billion.

All unemployment data to be used in the implementation of this title shall, because of limitations on data gathering, be from the quarter ending three months before the quarter in which a payment is to be made.

Section 202 further provides that no funds would be authorized for any calendar quarter during which the national unemployment rate averaged under 6 percent or for any quarter in which the last month's unemployment rate was below 6 percent.

Allocations

Section 203(a) provides that the Secretary of the Treasury shall reserve one-third of the authorized funds for distribution to State governments and two-thirds of the authorized funds for distribution to local governments.

Section 203(b) provides that allocations to each State government be made according to a formula using that State's excess unemployment rate and its revenue sharing entitlement for Entitlement Period VI (July 1, 1975 to June 30, 1976). Excess unemployment is defined as the State's unemployment rate during the most recent calendar quarter minus 4.5 percent.

Section 203(c) provides that allocations to local governments would be made according to the same formula—excess unemployment rate times revenue sharing entitlements. In the case of both State and local governments, the unemployment factor is used as a measure of the severity of recession in a particular jurisdiction, while revenue sharing payments are used as a measure of the size of that jurisdiction.

For each local government for which the Labor Department has verified unemployment statistics (about 1,200 in all), there would be an allocated share under the formula.

For those local governments for which the Labor Department does not have verified unemployment data, funds would be set aside for a Balance of State category in each State in an amount determined by treating all such jurisdictions as if they constituted one government and applying the formula described above for identifiable governments. In other words, the amount determined for the Balance of State would be determined by entering aggregate unemployment and revenue sharing data for jurisdictions within the Balance of State into the formula, as if these jurisdictions constituted one single government.

Section 203 also sets out procedures for distributing funds for the Balance of State category to individual jurisdictions within that category. Once the Balance of State allocation has been determined, by entering the aggregate data into the formula, individual allocations within the Balance can be determined in one of two ways: (1) by using the unemployment rate for the entire Balance of State in combination with individual revenue sharing entitlements; or (2) on the basis of an allocation plan prepared by the State government, in conformance with requirements set out in section 206 of the Act.

Section 203 further provides that no allocations will be made to any jurisdiction if the allocation determined by the formula amounts to less than $100 per quarter or $400 annually.

Use of emergency support grants

Section 204 provides that grants under this program should be used for the maintenance of basic services ordinarily provided by the State and local governments and that State and local governments shall not use funds received under this Act for the acquisition of supplies and materials or for construction unless essential to maintain basic services. The funds under this Act are intended to be used to maintain service and employment levelss without increasing taxes, and not to buy heavy equipment or for major construction projects.

Statement of assurances

Section 205 provides that in order to receive assistance under this Act, each State and local government shall file a statement of assurances with the Secretary of the Treasury concerning the use of the funds provided. Such statement must include assurances that the funds will be used for maintaining levels of services customarily provided by the jurisdiction, in addition to assurances that the jurisdiction will comply with other sections of the Act—for example, civil rights and Davis-Bacon provisions.

Optional allocations plans

Section 206(a) sets out criteria for State plans submitted to the Secretary under section 203(c)(3), for distribution of funds to the Balance of State. Specifically, this Section requires that the State plan must be consistent with the formula used for determining allocations to identifiable local governments and must be developed in consultation with officials of local governments included in the Balance of State.

Section 206(b) requires the Secretary to act on such allocation plan within thirty days.

Nondiscrimination

Section 207 provides that no person shall, on the grounds of race, religion, color, national origin, or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this Act.

This section further authorizes the Secretary to suspend temporarily or withhold any payments under the legislation upon his determination of discrimination.

Labor standards

Section 208 provides that laborers and mechanics employed by contractors on all construction programs funded under this Act be paid wages at rates not less than those prevailing on similar projects in the locality as determined by the Secretary of Labor under the Davis-Bacon Act.

Special reports

Section 209 provides that each State or local government which receives a grant under this Act shall report to the Secretary, within 6 months, any increase or decrease in any tax which it imposes and substantial reductions in employment levels or in services which that jurisdiction provides. It also requires State governments to report any decreases in the amount of assistance they provide local governments.

Payments

Section 210 gives the Secretary of the Treasury the authority to make payments from the funds authorized under this Act. It further allows payments to be made in installments in advance or by way of reimbursement, with necessary adjustments on account of overpayments and underpayments.

Section 210(c) provides that no fund be paid to any State or local government under this Act for any calendar quarter if the unemployment rate within that jurisdiction during the calendar quarter for which the payment is made or during the last month of that quarter was less than 4.5 percent.

State and local government economization

Section 211 provides that each recipient government must certify in good faith to the Secretary that it has taken steps of its own to economize and that without countercyclical assistance it would not be able to maintain essential service levels without increasing taxes.

Withholding

Section 212 requires the Secretary of the Treasury to withhold funds from any jurisdiction which fails to comply substantially with any of the provisions set forth in the application it submitted for funds under this Act. Funds will continue to be withheld until the Secretary of the Treasury is satisfied that compliance has been achieved.

Reports

Section 213 requires the Secretary of the Treasury to report as soon as practical after the end of each calendar quarter on the implementation of the program.

Administration

Section 214 authorizes the Secretary of the Treasury, after consultation with the Secretary of Labor, to prescribe such rules as may be necessary to carry out the Act. That section also provides the Secretary of the Treasury with the authority to use services and facilities of any agency of the Federal Government and of any other public agency or institution in accordance with appropriate agreements and to pay for such services either in advance or by way of reimbursement as may be agreed upon.

Program studies

Section 215(a) requires the Comptroller General of the United States to report to Congress within 1 year on the impact of this program in State and local governments and on the macroeconomic impact of this program.

The Comptroller General is directed to conduct such an investigation in coordination with the Congressional Budget Office and the Advisory Commission on Intergovernmental Relations. The committee intends that the Government Accounting Office retain the principal authority in this investigation, and that the Congressional Budget Office focus on the macroeconomic impact of the legislation.

Section 215(b) requires the Director of the Congressional Budget Office and the Advisory Commission on Intergovernmental Relations in coordination with the Comptroller General, to report to Congress within two years on the most effective means by which the Federal Government can stabilize the national economy during periods of excess expansion and high inflation through programs directed toward State and local governments.

Conference substitute

This is the same as the Senate bill except that the aggregate authorization is set at $1.250 billion and the additional amount is set at $62.5 million for each one-half percentage point by which unemployment exceeds 6 percent.

Explanation

Title II of the Senate amendment provides for the strengthening of the Federal Government's role as guarantor of a stable national economy by promoting greater coordination, during times of economic downturn, between national economic policy—as articulated at the Federal level—and budgetary actions of state and local governments. Title II of the Senate amendment would accomplish this purpose by providing emergency Federal assistance to State and local governments hard hit by recessionary pressures, in order to reduce the reliance of these governments upon budgetary actions which run counter to Federal efforts to stimulate speedier economic recovery. The assistance provided is designed to meet the following criteria of a limited, antirecession program:

First, the assistance provided would go quickly into the economy, with as little administrative delay as possible.

Second, the assistance provided is selectively targeted, by means of the formula, to go to only those governments substantially affected by the recession.

Third, the assistance provided would phase itself out, as the economy improves.

A fundamental premise underlying title II of the Senate amendments is that the amount and quality of government services at the state and local levels should not be determined by national economic conditions over which State and local governments have no control. In other words, the conferees, in accepting title II, have concluded that it is not sound governmental policy for a jurisdiction to be able to provide good police protection, fire protection, trash collection, and public education during good economic times, but be forced to lower the quality of those services significantly, whenever the health of the economy declines.

Impact on jobs

The Congressional Budget Office, in a report released in September 1975, measured the job producing impact of various antirecession measures. In this report, the CBO found that a program similar to title II of the Conference Report could create as many as 77,000 jobs per $1 billion initially, and as many as 97,000 jobs after twelve months. This estimate ranked antirecession aid to State and local governments second highest of the four alternatives in its employment impact.

Impact on Government services

Title II will, as the CBO estimated, create thousands of jobs, but it is not designed or intended solely as a jobs program.

To be sure, unemployment is increased when state and local governments lay off workers. But unemployment in the public sector has an even broader impact on national economic recovery.

When a State or local government lays off employees, several things can occur.

First, if the vacant positions are filled with personnel paid for with Federal public service employment funds, then the goal of that Federal effort—to reduce overall unemployment—is blunted.

If the employees laid off are not rehired, they will go on the unemployment rolls. Thus, while payroll costs are reduced, unemployment compensation costs go up.

But, the most important impact is on the basic services which State and local governments provide and which make population centers agreeable places in which to live. The demand for these services is as great, if not greater, during bad times as when the economy is healthy.

The demand for certain basic services—such as road maintenance, garbage collection or fire protection—is largely immune to fluctuations in the economy. Though it does not increase during bad times, neither does it decline and allow breathing room in government budgets.

But for many other services, the demand

is greater when the economy is depressed. Certain of these services—unemployment compensation, food stamps, welfare benefits—are obviously recession-related. Though some or all of the cost of these benefits may be borne by the Federal Government, the administrative cost falls on the local governments which, when hard pressed to meet existing payrolls, are in no position to add more staff to meet these new administrative burdens.

Other, less obvious services are in greater demand during bad times also. High unemployment may result in a higher crime rate or in higher demands on publicly supported health and mental health services. Families which might ordinarily send a child to a private college may send him to a less expensive State college instead. Or families which had planned to take a vacation might decide to stay at home, and make use of the municipal swimming pool.

While all these pressures are occurring, State and local governments are laying off workers—at just the wrong time.

Impact on taxes

It must be remembered that reducing employment is not the only way that State and local government can have an adverse impact on the economy. They can also raise taxes, thereby absorbing some of the stimulative impact of Federal tax cuts already enacted. In addition, while tax increases may allow local governments to keep their own employees on board, they often aggravate the recessionary pressures that already exist.

Title II of the Senate amendment is designed to lessen the possibility of such tax increases.

TITLE III

Allotment of wastewater treatment works grant funds

House Amendment

No comparable provision.

Senate Bill

The Senate bill authorizes an appropriation of $1,417,968,050 for the fiscal year ending September 30, 1977, for grants for the construction of publicly owned wastewater treatment works, pursuant to title II of the Federal Water Pollution Control Act. This authorization is subject to such amounts as are provided in appropriation Acts. The authorized sums shall be allotted to the eligible States in accordance with the percentages provided in column 5 of table IV contained in House Public Works and Transportation Committee Print numbered 94–25. This table sets forth the percentages for each State to be used by the Administrator of the Environmental Protection Agency in allotting funds pursuant to this section. Those States eligible to receive allotments pursuant to this section are those which would have received a greater allotment than they actually received had the Senate amendment been utilized by the Administrator in February 1975 to allot the $9 billion. Funds allotted pursuant to this section shall remain available until expended.

The Senate bill also requires the Administrator, within 45 days from the date of enactment of this section, to report to Congress his recommendations for a formula or formulas to be used to allot equitably new authorizations of funds to carry out title II of the Federal Water Pollution Control Act.

Conference Substitute

The same as the Senate bill except that amount of the authorization is reduced to $700,000,000 and the reporting requirement is eliminated.

Jim Wright,
Harold T. Johnson,
Robert A. Roe,
Kenneth L. Holland,
Allan T. Howe,
James L. Oberstar,
Henry J. Nowak,
Managers on the Part of the House.

Jennings Randolph,
Edmund S. Muskie,
Joseph M. Montoya,
Quentin N. Burdick,
Abe Ribicoff,
John Glenn,
Robert T. Stafford,
Jacob K. Javits,
Managers on the Part of the Senate.

GENERAL LEAVE

Mr. OTTINGER. Mr. Speaker, I ask unanimous consent that all Members may be permitted to extend their remarks, and include extraneous matter, on the subject of the death of Father Walter Flaherty.

The SPEAKER pro tempore (Mr. McFall). Is there objection to the request of the gentleman from New York?

There was no objection.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. Drinan (at the request of Mr. O'Neill), for today, on account of official business.

Mr. AuCoin (at the request of Mr. O'Neill), for June 7 and 8 until 12:30 p.m. on June 9, on account of official business as delegate to the Habitat Conference.

Mr. Jeffords (at the request of Mr. Rhodes), for today, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Lott) and to revise and extend their remarks and include extraneous matter:)

Mr. Sarasin, for 5 minutes, today.
Mr. Hansen, for 10 minutes, today.
Mr. Conable, for 5 minutes, today.

(The following Members (at the request of Mr. Ottinger) and to revise and extend their remarks and include extraneous matter:)

Mr. Annunzio, for 5 minutes, today.
Mr. Breckinridge, for 5 minutes, today.
Mr. Gonzalez, for 5 minutes, today.
Mr. Levitas, for 5 minutes, today.
Mr. Morgan, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Seiberling, and to include extraneous matter notwithstanding the fact that it exceeds two pages of the Record and is estimated by the public printer to cost $854.

Mr. Burke of Massachusetts to follow remarks of Mr. O'Neill on Rev. Walter Flaherty and to include extraneous matter.

Mr. Fish, and to include extraneous matter with his remarks in the Committee of the Whole in the consideration of H.R. 6818.

(The following Members (at the request of Mr. Lott) and to include extraneous matter:)

Mr. Johnson of Colorado.
Mr. Esch.
Mr. McClory.
Mr. Rhodes.
Mr. Michel in two instances.
Mr. Symms.
Mr. Findley in two instances.
Mr. Conte.
Mr. Steiger of Wisconsin.
Mr. Gilman in two instances.

(The following Members (at the request of Mr. Ottinger) and to include extraneous material:)

Mr. McDonald in two instances.
Mr. Nichols.
Mr. Anderson of California in three instances.
Mr. Gonzalez in three instances.
Mr. Matsunaga.
Mr. Fraser.
Mr. Morgan.
Mr. Eilberg.
Mrs. Lloyd of Tennessee.
Mr. Charles H. Wilson of California.
Mr. Danielson.
Mr. Rangel in two instances.
Mr. Ottinger.
Mr. McCormack.
Mr. Riegle.
Mr. Dingell.
Mr. Downey of New York.
Mr. Murtha.
Mr. Corman.
Mr. Wirth.
Mr. Won Pat.
Mr. Teague.
Mr. Mazzoli.
Mr. Russo.
Mr. Pickle in five instances.
Mr. Dodd.
Mr. Pepper in two instances.
Mr. Conyers.
Mr. Delaney.

SENATE BILLS AND A CONCURRENT RESOLUTION REFERRED

Bills and a concurrent resolution of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1971. An act to designate the plaza area of the Federal Building, Portland, Oreg., the Terry Schrunk Plaza"; to the Committee on Public Works and Transportation.

S. 3063. An act designating Ozark lock and dam on the Arkansas River as the "Ozark-Jeta Taylor lock and dam"; to the Committee on Public Works and Transportation.

S. 3475. An act relating to the display of certain historical documents within the U.S. Capitol Building during the calendar year 1976; to the Committee on House Administration.

S. Con. Res. 115. Concurrent resolution authorizing printing of background information on the Foreign Relations Committee as a Senate document; to the Committee on House Administration.

ENROLLED BILL SIGNED

Mr. HAYS of Ohio, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 11559. An act to authorize appropriations for the saline water conversion program for fiscal year 1977.

ADJOURNMENT

Mr. OTTINGER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 15 minutes p.m.), under its previous order, the House adjourned until Monday, June 14, 1976, at 10 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3470. A letter from the President of the United States, transmitting a proposed supplemental appropriation for fiscal year 1976 for the Department of the Interior (H. Doc. No. 94-523); to the Committee on Appropriations and ordered to be printed.

3471. A letter from the Director, Office of Management and Budget, Executive Office of the President, transmitting a cumulative report on rescissions and deferrals of budget authority as of June 1, 1976, pursuant to section 1014(e) of Public Law 93-344 (H. Doc. No. 94-524); to the Committee on Appropriations and ordered to be printed.

3472. A letter from the Deputy Secretary of Defense, transmitting his determination and certification that the CONDOR weapon system has successfully completed testing and is ready for initial production, pursuant to title IV of Public Law 94-212 (90 Stat. 163); to the Committee on Appropriations.

3473. A letter from the Chairman, U.S. Civil Service Commission, transmitting notice of a proposed new system of personnel records for the Commission, pursuant to 5 U.S.C. 522 a(o); to the Committee on Government Operations.

3474. A letter from the Under Secretary of the Interior, transmitting a draft of proposed legislation to guarantee certain obligations of the Guam Power Authority; to the Committee on Interior and Insular Affairs.

3475. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a copy of Presidential Determination No. 76-16, finding and determining that it is in the national interest of the United States to permit the sale to Egypt of 250,000 metric tons of wheat/wheat flour under title I of the Agricultural Trade Development and Assistance Act of 1954, as amended, pursuant to section 103(d)(3) and (4) of the act; to the Committee on International Relations.

3476. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the intention of the Department of the Army to offer to sell certain defense services to Saudi Arabia (transmittal No. 76-54), pursuant to section 36(b) of the Foreign Military Sales Act, as amended; to the Committee on International Relations.

3477. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the intention of the Department of the Army to offer to sell certain defense services to Saudi Arabia (transmittal No. 76-55), pursuant to section 36(b) of the Foreign Military Sales Act, as amended; to the Committee on International Relations.

3478. A letter from the Chairman, U.S. Consumer Product Safety Commission, transmitting the Commission's comments on S. 1466, an act "To amend the Public Health Service Act to provide authority for health information and health promotion programs, to revise and extend the authority for venereal disease programs and to amend the Lead-Based Paint Poisoning Prevention Act to revise and extend that act," pursuant to section 27(k)(2) of Public Law 92-573; to the Committee on Interstate and Foreign Commerce.

RECEIVED FROM THE COMPTROLLER GENERAL

3479. A letter from the Comptroller General of the United States, transmitting a report on improvements needed to prevent unnecessary construction of Reserve Forces facilities; jointly, to the Committees on Government Operations, and Armed Services.

3480. A letter from the Comptroller General of the United States, transmitting a report on major issues facing the Social Security Administration in implementing Supplemental Security Income for the aged, blind, and disabled; jointly, to the Committees on Government Operations, and Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. EVINS of Tennessee: Committee on Small Business. Report on Small Business Committee allocation of budget totals to subcommittees for fiscal year 1977 (Rept. No. 94-1259). Referred to the Committee of the Whole House on the State of the Union.

Mr. WRIGHT: Committee of Conference. Conference report on S. 3201; with amendment (Rept. No. 94-1260). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ANDREWS of North Dakota:

H.R. 14323. A bill to authorize a dam and reservoir for flood control and other purposes on the Pembina River, near Walhalla, N. Dak.; to the Committee on Public Works and Transportation.

By Mr. BRECKINRIDGE (for himself, Mr. Abdnor, Mr. Alexander, Mr. Baucus, Mr. Brown of California, Mr. Chappell, Mr. McCormack, Mr. Oberstar, Mr. Pressler, Mr. Risenhoover, Mr. Sikes, Mr. Stuckey, Mr. Symington, Mr. Traxler, and Mr. White):

H.R. 14324. A bill to provide for improvements in the annual report on rural development submitted to the Congress by the Secretary of Agriculture, and to require the prompt appointment of a new Assistant Secretary of Agriculture for Rural Development in the case of a vacancy in that position; to the Committee on Agriculture.

By Mr. CORMAN:

H.R. 14325. A bill to restrict the use as a tax shelter of a limited partnership licensed to operate as a small business investment company; to the Committee on Ways and Means.

By Mr. CRANE (for himself and Mr. Treen, Mr. Symms, Mr. Brown of Ohio, Mr. Murphy of Illinois):

H.R. 14326. A bill to amend title 39, United States Code, to eliminate certain provisions relating to private carriage of letters, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. ROBERT W. DANIEL, JR.:

H.R. 14327. A bill to require review and evaluation of Government programs and activities at least every 4 years, to limit the period of authorization of new budget authority, and for other purposes; to the Committee on Rules.

By Mr. HANSEN (for himself and Mr. Symms):

H.R. 14328. A bill to provide emergency relief to persons incurring losses as a result of the collapse of the Teton Dam located on the Teton River in Madison County, Idaho; to the Committee on the Judiciary.

By Mr. JOHNSON of Colorado:

H.R. 14329. A bill to establish a national rangelands rehabilitation and protection program; to the Committee on Interior and Insular Affairs.

By Mr. JONES of Alabama (for himself, Mr. Anderson of California, and Mr. Harsha) (by request):

H.R. 14330. A bill to amend the Federal Aviation Act of 1958 to bring about the phased and progressive transition to an air transportation system which will rely on competitive market forces to determine the variety, quality, and price of interstate and overseas air services, and for other purposes; to the Committee on Public Works and Transportation.

By Ms. KEYS:

H.R. 14331. A bill to establish in the Energy Research and Development Administration an Energy Extension Service to oversee the development and administration of State plans for the development, demonstration, and analysis of energy conservation opportunities, for the promotion of energy research, and for the development of educational programs to encourage the acceptance and adoption of energy conservation opportunities by energy consumers; to the Committee on Science and Technology.

By Ms. KEYS (for herself and Mr. Matsunaga):

H.R. 14332. A bill to amend title 39, United States Code, to require the U.S. Postal Service to evaluate and examine specific criteria whenever the closing of a post office is considered, to provide for a public hearing whenever the U.S. Postal Service considers closing any post office, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. McCLORY (for himself, Mr. Gradison and Mrs. Spellman):

H.R. 14333. A bill to protect the public from traffickers in heroin and other opiates, and for other purposes; jointly to the Committees on Interstate and Foreign Commerce, the Judiciary, Banking, Currency and Housing, and Ways and Means.

By Mr. MANN:

H.R. 14334. A bill to amend title 23 of the District of Columbia Code with respect to detaining defendants on pretrial release, probation, parole or mandatory early reelase, and for other purposes; to the Committee on the District of Columbia.

By Mr. MATSUNAGA:

H.R. 14335. A bill to revise the estate and gift tax laws of the United States; to the Committee on Ways and Means.

By Mr. O'NEILL (for himself, Mr. Rhodes, Mr. Roe, Mr. Winn, Mr. Vander Veen, Mr. Simon, Mr. Lloyd of California, Mr. Hughes, Mr. Horton, Mr. Pickle, Mr. Thompson, Mr. Derrick, Mr. Whitehurst, Mr. Gude, Mr. Preyer, Mr. Carter, Mr. Stark, Mr. Roybal, Mr. Seiberling, Mr. Butler, Mr. Haley, Mrs. Spellman, Mr. Gradison, Mr. Moakley, and Mr. Murphy of New York):

H.R. 14336. A bill to authorize the Architect of the Capitol to perform certain work on and maintain the historical sections of the Congressional Cemetery for a 2-year period, and to authorize a study by the Secretary of the Interior to formulate proposals for renovation and permanent maintenance of such sections by the United States; to the Committee on Interior and Insular Affairs.

By Mr. O'NEILL (for himself, Mr. Rhodes, Mr. Moss, Mr. Cochran, Mr. Matsunaga, and Mr. Murphy of Illinois):

H.R. 14337. A bill to authorize the Architect of the Capitol to perform certain work on and maintain the historical sections of the

Congressional Cemetery for a 2-year period, and to authorize a study by the Secretary of the Interior to formulate proposals for renovation and permanent maintenance of such sections by the United States; to the Committee on Interior and Insular Affairs.

By Mr. PATTERSON of California (for himself, Mr. Hannaford, Mr. Hinshaw, Mr. Wiggins, Mr. Moss, Mr. Ryan, Mr. Lloyd of California, Mr. Phillip Burton, Mr. Mineta, Mr. Johnson of California, Mr. Edwards of California, Mr. Brown of California, Mr. Pettis, Mr. Moorhead of California, Mr. Sisk, and Mr. Burgener):

H.R. 14338. A bill to authorize construction of the project for flood control and other purposes on the Santa Ana River, Orange, Riverside and San Bernardino Counties, Calif.; to the Committee on Public Works and Transportation.

By Mr. SCHULZE:

H.R. 14339. A bill to amend the Tariff Schedules of the United States to provide that certain netting belts used in connection with the growing and harvesting of mushrooms be admitted free of duty; to the Committee on Ways and Means.

By Mr. SOLARZ:

H.R. 14340. A bill to require reporting and analysis of contributions, payments, and gifts made in the conduct of international business, and for other purposes; jointly to the Committees on Interstate and Foreign Commerce, International Relations, and Ways and Means.

By Mr. SPENCE (for himself, Mr. Bafalis, Mr. Baucus, Mr. Brown of Michigan, Mr. Cochran, Mr. Dominick V. Daniels, Mr. Davis, Mr. Derwinski, Mr. Downey of New York, Mr. Duncan of Tennessee, Mr. Edgar, Mr. Fisher, Mr. Fithian, Mr. Hansen, Mr. Harkin, Mr. Hinshaw, Mr. Howe, Mr. Jenrette, Mr. Ketchum, Mr. Lujan, Mr. Mann, Mr. Martin, Mr. Neal, Mr. Robinson, and Mr. Ryan):

H.R. 14341. A bill to amend chapter 49 of title 10, United States Code, to prohibit union organization in the armed forces, and for other purposes; to the Committee on Armed Services.

By Mr. SPENCE (for himself, Mr. Schulze, Mr. Sebelius, Mr. Treen, Mr. Bob Wilson, and Mr. Young of Florida):

H.R. 14342. A bill to amend chapter 49 of title 10, United States Code, to prohibit union organization in the armed forces, and for other purposes; to the Committee on Armed Services.

By Mr. STAGGERS (for himself, Mr. Rogers, Mr. Carter, and Mr. Broyhill):

H.R. 14343. A bill to protect the public from traffickers in heroin and other opiates and for other purposes; jointly, to the Committees on Interstate and Foreign Commerce, the Judiciary, Banking, Currency and Housing, and Ways and Means.

By Mr. THONE:

H.R. 14344. A bill to amend the Consolidated Farm and Rural Development Act to increase the maximum loan amounts on certain programs, to revise the interest rate for certain loans, and to provide for congressional authorization of program levels; to the Committee on Agriculture.

H.R. 14345. A bill to amend section 618 of title 38, United States Code, in order to authorize the Administrator to expand the current program providing therapeutic and rehabilitation activities for certain veterans, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. ANDERSON of California:

H.J. Res. 983. Joint resolution to provide for the designation of a week as National Lupus Week; to the Committee on Post Office and Civil Service.

By Mr. PERKINS (for himself, Mr. Quie, Mr. O'Hara, and Mr. Eshleman):

H.J. Res. 984. Joint resolution to amend the Higher Education Act of 1965, and for other purposes; to the Committee on Education and Labor.

By Mrs. BOGGS (for herself, Mr. O'Neill, Mr. Pickle, Mr. Butler, and Mr. Rhodes):

H. Con. Res. 654. Concurrent resolution to encourage the flying of the American flag to commemorate the Bicentennial; to the Committee on Post Office and Civil Service.

By Mr. ROBERTS:

H. Con. Res. 655. Concurrent resolution providing for the printing of the publication entitled "Summary of Veterans Legislation Reported, Ninety-fourth Congress"; to the Committee on House Administration.

By Mr. DELANEY:

H. Res. 1293. Resolution condemning the Soviet Union's newest restriction regarding the delivery of parcels in the International Mail and calling upon the U.S. Government at the highest level to protest formally the action of the Soviet Government; to the Committee on International Relations.

By Mr. DELANEY:

H. Res. 1294. Resolution expressing the sense of the House of Representatives with respect to oppression of minorities in Rumania and requesting the President and appropriate committees of Congress to take this situation into consideration before taking further action on MFN tariff treatment for Rumania; jointly, to the Committees on International Relations, and Ways and Means.

By Mr. HARRINGTON:

H. Res. 1295. Resolution directing the President to provide to the House of Representatives certain information with respect to any payment made by the United States to influence Italian politics; to the Committee on International Relations.

By Mr. MICHEL (for himself and Mr. Quie):

H. Res. 1296. Resolution to require the adoption of a resolution by the House of Representatives to carry out the establishment or adjustment of certain allowances to Members, officers, and standing committees of the House of Representatives; to the Committee on House Administration.

By Mr. RHODES (for himself, Mr. Michel, Mr. Anderson of Illinois, Mr. Conable, Mr. Devine, Mr. Edwards of Alabama, Mr. Frey, Mr. Vander Jagt, and Mr. Quillen):

H. Res. 1297. Resolution to establish a select committee to review the accounts of all committees of the House; to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. CLEVELAND:

H.R. 14346. A bill for the relief of John C. Shurtleff; to the Committee on the Judiciary.

By Mr. HUTCHINSON:

H.R. 14347. A bill for the relief of Nabil Yacoub Razzouk; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By the SPEAKER: Petition of the Pennsylvania Credit Union League, Harrisburg, Pa., relative to the late Hon. William A. Barrett; to the Committee on Post Office and Civil Service.

494. Also, petition of the Pennsylvania Credit Union League, Harrisburg, Pa., relative to the late Hon. Wright Patman; to the Committee on Post Office and Civil Service.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 6218

By Mr. HUGHES:

On page 123, strike the period and quotation mark at the end of line 9, and insert immediately after line 9 the following new section:

"Sec. 29. Restrictions on Employment.—No fulltime officer or employee of the Department of Interior who directly or indirectly discharged duties or responsibilities under this Act, and who was at any time during the twelve months preceding the termination of his employment with the Department compensated under the Executive Schedule or compensated at or above the annual rate of basic pay for grade GS–16 of the General Schedule, shall accept, for a period of two years after the date of termination of employment with the Department, employment or compensation, directly or indirectly, from any person, persons, association, corporation or other entity, subject to regulation under this Act.".

H.R. 13636

By Mr. McCLORY:

Page 4, strike out line 25 and all that follows down through line 3 on page 5.

Redesignate succeeding sections accordingly.

Page 13, strike out line 13 and all that follows down through line 20.

Page 16, line 21, immediately after "funds" insert "under this part".

Page 29, lines 12 and 13, strike out "and not to exceed $880,000,000 for the fiscal year ending September 30, 1977." and insert in lieu thereof the following: "$1,000,000,000 for the fiscal year ending September 30, 1977, $1,250,000,000 for the fiscal year ending September 30, 1978, and $1,250,000,000 for the fiscal year ending September 30, 1979."

Page 34, strike out line 14 and all that follows down through line 16.

H.R. 14236

By Mr. FRASER:

Page 10, line 22, strike out "$351,386,000" and insert in lieu thereof "$339,226,000".

Page 17, immediately after line 23, add the following: "No part of any appropriation for the Bureau of Reclamation under this Act shall be obligated or expended for construction or land acquisition with respect to the Lone Tree Reservoir and Dams, as part of the Garrison diversion unit of the Pick-Sloan Missouri Basin Project."

FACTUAL DESCRIPTIONS OF BILLS AND RESOLUTIONS INTRODUCED

Prepared by the Congressional Research Service pursuant to clause 5(d) of House Rule X. Previous listing appeared in the Congressional Record of June 10, 1976, page 17417:

HOUSE BILLS

H.R. 13806. May 17, 1976. Ways and Means. Amends the Social Security Act by including the services of optometrists under the Medicare supplementary medical insurance program.

H.R. 13807. May 17, 1976. Post Office and Civil Service. Sets the annual rate of pay for Members of Congress and the Vice President at the rate in effect on September 30, 1975.

Removes the authority of the Commission on Executive, Legislative, and Judicial Salaries to review salaries of Members of Congress.

H.R. 13808. May 17, 1976. Post Office and Civil Service. Amends the Defense Department Overseas Teachers Pay and Personnel Practices Act to revise the salary structure for teachers in the Department of Defense's overseas dependents' schools. Allows such teachers to take a sabbatical leave.

H.R. 13809. May 17, 1976. Merchant Marine and Fisheries. Amends the Merchant Marine Act, 1936, to provide that any citizen of the United States may apply to the Secretary of Commerce for aid in developing and constructing a nuclear ship for operation in the commerce of the United States.

Requires that all ships whose development, construction, or operation is aided by this Act shall be constructed in a shipyard within the United States.

H.R. 13810. May 17, 1976. Ways and Means Amends the program under the Social Security Act of Grants to States for Unemployment Compensation Administration to require States to prepare and implement contingency plans to insure that unemployment benefits will be promptly paid in periods of high unemployment.

H.R. 13811. May 17, 1976. Interstate and Foreign Commerce. Amends the Solid Waste Disposal Act to prohibit the issuance of solid waste management regulations with respect to the sale or distribution of beverage containers at Federal facilities.

H.R. 13812. May 17, 1976. Government Operations. Requires, under the Office of Federal Procurement Policy Act, that Federal agencies pay interest at an annual rate of at least 12 percent on any payment which is overdue by more than two weeks on a contract with a small business concern.

H.R. 13813. May 17, 1976. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Grants additional authority to the Federal Communications Commission to authorize mergers of carriers when deemed to be in the public interest. Reaffirms the authority of the States to regulate terminal and station equipment used for telephone exchange service. Requires the Federal Communications Commission to make specified findings in connection with Commission actions authorizing specialized carriers.

H.R. 13814. May 17, 1976. Public Works and Transportation. Amends the Urban Mass Transportation Act of 1964 to require that any mass transportation system receiving Federal assistance under such Act comply with specified notice and hearing requirements before the establishment or change of any fare or service which substantially affects the community.

H.R. 13815. May 17, 1976. Public Works and Transportation; Interior and Insular Affairs. Terminates the authorization for the Tocks Island Reservoir project in New Jersey, New York, and Pennsylvania. Requires that property acquired by the Secretary of the Army pursuant to such authorization be transferred to the Secretary of the Interior for management by the National Park Service.

Requires relocation of a national highway to minimize adverse environmental impact on the area.

H.R. 13816. May 17, 1976. Interior and Insular Affairs. Increases the amount authorized to be appropriated to establish, equip, operate, and maintain a metallurgy research center on the Fort Douglas Military Reservation, Utah.

H.R. 13817. May 17, 1976. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Reaffirms the authority of the States to regulate terminal and station equipment used for telephone exchange service. Requires the Federal Communications Commission to make specified findings in connection with Commission actions authorizing specialized carriers.

H.R. 13818. May 17, 1976. Judiciary. Delays the effective date of specified rules and amendments to the Federal Rules of Criminal Procedure promulgated by the Supreme Court.

H.R. 13819. May 17, 1976. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Grants additional authority to the Federal Communications Commission to authorize mergers of carriers when deemed to be in the public interest. Reaffirms the authority of the States to regulate terminal and station equipment used for telephone exchange service. Requires the Federal Communications Commission to make specified findings in connection with Commission actions authorizing specialized carriers.

H.R. 13820. May 17, 1976. Ways and Means. Amends the Tariff Schedules of the United States to increase for a 5-year period the customs duty on certain hand tools.

H.R. 13821. May 17, 1976. Banking, Currency and Housing. Amends the Federal Fire Prevention and Control Act of 1974 to authorize the Administrator of the National Fire Prevention and Control Administration to make grants to volunteer fire departments which are unable to purchase necessary firefighting equipment because of the increased cost of such equipment as the result of inflation.

H.R. 13822. May 17, 1976. Ways and Means. Amends the Internal Revenue Code to exempt nonprofit volunteer firefighting or rescue organizations from the excise tax on sales of special fuels, automotive parts, petroleum products, and communication services.

H.R. 13823. May 17, 1976. Ways and Means. Amends the Internal Revenue Code to allow members of volunteer firefighting organizations to deduct the cost of firefighting-related clothing expenses.

H.R. 13824. May 17, 1976. Interstate and Foreign Commerce. Amends the Communications Act to allow for voters' time during which broadcasters must make the networks available for presentations by qualified Presidential and Vice Presidential candidates.

EXTENSIONS OF REMARKS

SECRETARY KISSINGER ON HUMAN RIGHTS

HON. ROBERT P. GRIFFIN

OF MICHIGAN

IN THE SENATE OF THE UNITED STATES

Friday, June 11, 1976

Mr. GRIFFIN. Mr. President, Secretary of State Kissinger spoke to the General Assembly of the Organization of American States, which is meeting in Santiago, Chile. The subject of his remarks was human rights.

I ask unanimous consent that the text of Dr. Kissinger's Santiago speech be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

STATEMENT BY THE HONORABLE HENRY A. KISSINGER, SECRETARY OF STATE, ON HUMAN RIGHTS

One of the most compelling issues of our time, and one which calls for the concerted action of all responsible peoples and nations, is the necessity to protect and extend the fundamental rights of humanity.

The precious common heritage of our Western Hemisphere is the conviction that human beings are the subjects, not the objects, of public policy; that citizens must not become mere instruments of the state.

This is the conviction that brought millions to the Americas. It inspired our peoples to fight for their independence. It is the commitment that has made political freedom and individual dignity the constant and cherished ideal of the Americas and the envy of nations elsewhere. It is the ultimate proof that our countries are linked by more than geography and the impersonal forces of history.

Respect for the rights of man is written into the founding documents of every nation of our Hemisphere. It has long been part of the common speech and daily lives of our citizens. And today, more than ever, the successful advance of our societies requires the full and free dedication of the talent, energy, and creative thought of men and women who are free from fear of repression.

The modern age has brought undreamed-of benefits to mankind—in medicine, in technological advance, and in human communication. But it has spawned plagues as well, in the form of new tools of oppression, as well as of civil strife. In an era characterized by terrorism, by bitter ideological contention, by weakened bonds of social cohesion, and by the yearning of order even at the expense of liberty, the result all too often has been the violation of fundamental standards of humane conduct.

The obscene and atrocious acts systematically employed to devalue, debase, and destroy human life during World War II vividly and ineradicably impressed the responsible peoples of the world with the enormity of the challenge to human rights. It was precisely to end such abuses and to provide moral authority in international affairs that a new system was forged after that war: globally, in the United Nations, and regionally, in a strengthened inter-American system.

The shortcomings of our efforts in an age which continues to be scarred by forces of intimidation, terror, and brutality fostered sometimes from outside national territories and sometimes from inside, have made it dramatically clear that basic human rights must be preserved, cherished, and defended if peace and prosperity are to be more than hollow technical achievements. For technological progress without social justice mocks humanity; national unity without freedom is sterile; nationalism without a consciousness of human community—which means a shared concern for human rights—refines instruments of oppression.

We in the Americas must increase our international support for the principles of justice, freedom, and human dignity—for the organized concern of the community of nations remains one of the most potent weapons in the struggle against the degradation of human values.

THE HUMAN RIGHTS CHALLENGE IN THE AMERICAS

The ultimate vitality and virtue of our societies spring from the instinctive sense of human dignity and respect for the rights of others that have long distinguished the immensely varied peoples and lands of this Hemisphere. The genius of our inter-American heritage is based on the fundamental democratic principles of human and national dignity, justice, popular participation, and free cooperation among different peoples and social systems.

The observance of these essential principles of civility cannot be taken for granted even in the most tranquil of times. In periods of stress and uncertainty, when pressures on established authority grow and nations feel their very existence is tenuous, the practice of human rights becomes far more difficult.

The central problem of government has always been to strike a just and effective balance between freedom and authority. When freedom degenerates into anarchy, the human personality becomes subject to arbitrary, brutal, and capricious forces. When the demand for order overrides all other considerations, man becomes a means and not an end, a tool of impersonal machinery. Clearly, some forms of human suffering are intolerable no matter what pressures nations may face or feel. Beyond that, all societies have an obligation to enable their people to fulfill their potentialities and live a life of dignity and self-respect.

As we address this challenge in practice, we must recognize that our efforts must engage the serious commitment of our societies. As a source of dynamism, strength, and inspiration, verbal posturings and self-righteous rhetoric are not enough. Human rights are the very essence of a meaningful life, and human dignity is the ultimate purpose of government. No government can ignore terrorism and survive, but it is equally true that a government that tramples on the rights of its citizens denies the purpose of its existence.

In recent years and even days, our newspapers have carried stories of kidnappings, ambushes, bombings, and assassinations. Terrorism and the denial of civility have become so widespread, political subversions so intertwined with official and unofficial abuse, and so confused with oppression and base criminality, that the protection of individual rights and the preservation of human dignity have become sources of deep concern and—worse—sometimes of demoralization and indifference.

No country, no people—for that matter no political system—can claim a perfect record in the field of human rights. But precisely because our societies in the Americas have been dedicated to freedom since they emerged from the colonial era, our shortcomings are more apparent and more significant. And let us face facts. Respect for the dignity of man is declining in too many countries of the Hemisphere. There are several states where fundamental standards of humane behavior are not observed. All of us have a responsibility in this regard, for the Amercas cannot be true to themselves unless they rededicate themselves to belief in the worth of the individual and to the defense of those individual rights which that concept entails. Our nations must sustain both a common commitment to the human rights of individuals and practical support for the institutions and procedures necessary to ensure those rights.

The rights of man have been authoritatively identified both in the United Nations' Universal Declaration of Human Rights and in the OAS's American Declaration of the Rights and Duties of Man. There will, of course, always be differences of view as to the precise extent of the obligations of government. But there are standards below which no government can fall without offending fundamental values—such as genocide, officially tolerated torture, mass imprisonment or murder, or comprehensive denials of basic rights to racial, religious, political, or ethnic groups. Any government engaging in such practices must face adverse international judgment.

The international community has created important institutions to deal with the challenge of human rights. We here are all participants in some of them: the United Nations, the International Court of Justice, the OAS, and the two Human Rights Commissions of the UN and OAS. In Europe, an even more developed international institutional structure provides other useful precedents for our effort.

Procedures alone cannot solve the problem, but they can keep it at the forefront of our consciousness and they can provide certain minimum protection for the human personality. International law and experience have enabled the development of specific procedures to distinguish reasonable from arbitrary government action on, for example, the question of detention. These involve access to courts, counsel, and families; prompt release or charge; and, if the latter, fair and public trial. Where such procedures are followed, the risk and incidence of unintentional government error, of officially sanctioned torture, of prolonged arbitrary deprivation of liberty, are drastically reduced. Other important procedures are habeas corpus or amparo, judicial appeal, and impartial review of administrative actions. And there are the procedures available at the international level—appeal to, and investigation and recommendations by established independent bodies such as the Inter-American Commission on Human Rights, an integral part of the OAS and a symbol of our dedication to the dignity of man.

The Inter-American Commission has built an impressive record of sustained, independent, and highly professional work since its establishment in 1960. Its importance as a primary procedural alternative in dealing with the recurrent human rights problem of this hemisphere is considerable.

The United States believes this Commission is one of the most important bodies of the Organization of American States. At the same time, it is a role which touches upon the most sensitive aspects of the national policies of each of the member governments. We must ensure that the Commission functions so that it cannot be manipulated for international politics in the name of human rights. We must also see to it that the Commission becomes an increasingly vital instrument of Hemispheric cooperation in defense of human rights. The Commission deserves the support of the Assembly in strengthening further its independence, even-handedness, and constructive potential.

THE REPORTS OF THE INTER-AMERICAN HUMAN RIGHTS COMMISSION

We have all read the two reports submitted to this General Assembly by the Commission. They are sobering documents, for they provide serious evidence of violations of elemental international standards of human rights.

In its annual report on human rights in the Hemisphere, the Commission cites the rise of violence and speaks of the need to maintain order and protect citizens against armed attack. But it also upholds the defense of individual rights as a primordial function of the law and describes case after case of serious governmental actions in derogation of such rights.

A second report is devoted exclusively to the situation in Chile. We note the Commission's statement that the Government of Chile has cooperated with the Commission, and the Commission's conclusion that the infringement of certain fundamental rights in Chile has undergone a quantitative reduction since the last report. We must also point out that Chile has filed a comprehensive and responsive answer that sets forth a number of hopeful prospects which we hope will soon be fully implemented.

Nevertheless the Commission has asserted that violations continue to occur, and this is a matter of bilateral as well as international attention. In the United States, concern is widespread in the Executive Branch, in the press, and in the Congress, which has taken the extraordinary step of enacting specific statutory limits on United States military and economic aid to Chile.

The condition of human rights as assessed by the OAS Human Rights Commission has impaired our relationship with Chile and will continue to do so. We wish this relationship to be close, and all friends of Chile hope that obstacles raised by conditions alleged in the report will soon be removed.

At the same time, the Commission should not focus on some problem areas to the neglect of others. The cause of human dignity is not served by those who hypocritically manipulate concerns with human rights to further their political preferences, nor by those who single out for human rights condemnation only those countries with whose political views they disagree.

We are persuaded that the OAS Commission, however, has avoided such temptations.

The Commission has worked and reported widely. Its survey of human rights in Cuba is ample evidence of that. Though the report was completed too late for formal consideration at this General Assembly, an initial review confirms our worst fears of Cuban behavior. We should commend the Commission for its efforts—in spite of the total lack of cooperation of the Cuban authorities—to unearth the truth that many Cuban political prisoners have been victims of inhuman treatment. We urge the Commission to continue its efforts to determine the truth about the state of human rights in Cuba.

In our view, the record of the Commission this year in all these respects demonstrates that it deserves the support of the Assembly in strengthening further its independence, even-handedness, and constructive potential.

We can use the occasion of this General Assembly to emphasize that the protection of human rights is an obligation not simply of particular countries whose practices have come to public attention. Rather, it is an obligation assumed by all the nations of the Americas as part of their participation in the Hemispheric system.

To this end, the United States proposes that the Assembly broaden the Commission's mandate so that instead of waiting for complaints it can report regularly on the status of human rights throughout the Hemisphere.

Through adopting this proposal, the nations of the Americas would make plain our common commitment to human rights, increase the reliable information available to us and offer more effective recommendations to governments about how best to improve human rights. In support of such a broadened effort, we propose that the budget and staff of the Commission be enlarged. By strengthening the contribution of this body, we can deepen our dedication to the special qualities of rich promise that make our Hemisphere a standard-bearer for freedom-loving people in every quarter of the globe.

At the same time, we should also consider ways to strengthen the inter-American system in terms of protection against terrorism, kidnapping and other forms of violent threats to the human personality, especially those inspired from the outside.

THE NECESSITY FOR CONCERN AND CONCRETE ACTION

It is a tragedy that the forces of change in our century—a time of unparalleled human achievement—have also visited upon many individuals around the world a new dimension of intimidation and suffering.

The standard of individual liberty of conscience and expression is the product heritage of our civilization. It summons all nations. But this Hemisphere, which for centuries has been the hope of all mankind, has a special requirement for dedicated commitment.

Let us then turn to the great task before us. All we do in the world—in our search for peace, for greater political cooperation, for a fair and flourishing economic system—is meaningful only if linked to the defense of the fundamental freedoms which permit the fullest expression of mankind's creativity. No nations of the globe have a greater responsibility. No nations can make a greater contribution to the future. Let us look deeply within ourselves to find the essence of our human condition. And let us carry forward the great enterprise of liberty for which this Hemisphere has been—and will again be—the honored symbol everywhere.

HON. CARL ALBERT

HON. JAMIE L. WHITTEN

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Monday, June 7, 1976

Mr. WHITTEN. Mr. Speaker, it is with deep regret that we accept your announced retirement beginning with the new Congress.

May I say, along with your many other friends, that we shall miss you as a colleague and as Speaker.

I can understand your desire to return to private life in view of the almost limitless hours you have to put in both as a Member and as Speaker. It is fitting that during your service we received the tribute by the British people in making available to the American people an original copy of the Magna Carta. The statement made by the Lord Mayor that we in this country refer to the American Revolution as a great victory for the Colonies against England, whereas the people of England view it as a great victory for the English-speaking people of the world properly describes the relationship we now enjoy with our Mother country.

May I say, too, Mr. Speaker, that in this Bicentennial Year, I have reviewed much of the history of the American Revolutionary period including the lives and activities of many great Americans who contributed so greatly to the founding of the country. We are reminded that they had their problems during their time, their moments of indecision, with some successes and, yes, some failures. This causes me to recognize that during your service as Speaker, without a large State delegation behind you, such as Speaker Rayburn had, or a region such as Speaker McCormack had, you have dealt with some of the most controversial issues in a nation with citizens of many diverse viewpoints, with many separate groups and changing conditions, and in one of the most turbulent times in our history. All in all, your retirement comes when, with you as Speaker, we have achieved greatly improved conditions, largely due to your patience and kindness, never losing track of the desired results.

Mr. Speaker, we wish for you and your family many happy and successful years, and again, I join with your many friends in saying that as Representative in Congress and as Speaker, you have done an excellent job for your district, State, and Nation. Among the many monuments to your success is the fact that with all the challenges, yours has been a patient hand holding it all together; and to your successor you turn over a prosperous Nation with problems, yes, but with your support the Congress has protected and developed our natural resources which after all is our real wealth.

Again, we wish you much happiness in your retirement.

LEST WE FORGET

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, June 11, 1976

Mr. DERWINSKI. Mr. Speaker, the Bicentennial Year has demonstrated the vitality of the American spirit and has served a wonderful purpose in resurrecting the interest of Americans in their country. I noted that while participating in numerous Memorial Day observances in my district. Many of these observances were tied to this year's Bicentennial theme.

Editorial commentary in newspapers were especially helpful in stimulating the observance of Memorial Day, just as they are in arousing interest in the Bicentennial. Typical was the lead editorial which appeared on May 30 in the Star-Tribune publications serving south suburban Cook County, Ill., and I insert it in the Record and commend it to the Members' attention:

Lest We Forget

Today is Memorial day in Illinois, a solemn occasion set aside to memorialize the men and women who served in the nation's military forces. For Illinoisans the observance has extra special significance because so many aspects of the annual day of consecration had their origins within the borders of the state.

Memorial day, originally called Decoration day, was first observed nationally on May 30, 1868. The first such ceremony, however, an informal local affair, was that held two years earlier, on April 29, 1866, at Carbondale, Ill. The principal speaker on that occasion was Gen. John W. Logan, national commander of the Grand Army of the Republic (GAR), which had been organized earlier that month at Decatur, Ill. It was Gen. Logan, later U.S. representative and then senator from Illinois, who issued the order proclaiming May 30, 1868, as Memorial day and calling upon all GAR members to decorate the graves of Union veterans.

The patriotic gesture caught the public's fancy, and the children and the grandchildren of the Civil war veterans continued the custom. As the years passed, to war memorials throughout the country have been added the names of other battlegrounds where Americans fought to uphold the democratic ideals of their country—names like San Juan hill, Chateau-Thierry, Guadalcanal, Inchon and Da Nang.

At present the United States is at peace around the world, but we must not forget that we were able to achieve this condition without compromising our ideals only because the sacrifices of the men and women who are being honored today.

What is our debt to these nameless patriots and how do we repay them for their valor? One of the best attempts at providing answers to these questions was perhaps expressed by James A. Garfield, at the time a member of the U.S. House of Representatives from Ohio and later our 20th President. Speaking at the National cemetery at Arlington, Va., on the first Memorial day, he said, in part:

"With words we make promises, plight faith, praise virtue. Promises may not be kept, plighted faith may be broken, and vaunted courage may be only the cunning mask of vice.

"We do not know one promise these men made, one pledge they gave, one word they spoke; but we do know they summed up and perfected, by one supreme act the highest virtues of men and citizens. For love of country they accepted death, and thus resolved all doubts, and made immortal their patriotism and virtue . . . the victory was won when death stamped on them the great seal of heroic character, and closed a record which years can never blot."

SADIE HERING, 100 YEARS "YOUNG"

HON. HENRY B. GONZALEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, June 11, 1976

Mr. GONZALEZ. Mr. Speaker, the day she and her husband headed for Texas was the "happiest day of my life" recalls Sadie Hering, resident of the San Antonio Housing Authority's Victoria Plaza, who will celebrate her 100th birthday this Saturday, June 12.

A native of Wilmington, Ill., where she and her husband, the late Albert Hering, were married, Mrs. Hering has lived in San Antonio since 1906.

The Herings came to San Antonio from Spalding, Nebr., bringing the first broom corn to Texas which they planted and threshed on the grounds of San Jose Mission.

The centenarian, who describes herself as a "transplanted Yankee," said she was happy to leave Nebraska "because I was scared to death of the wild cowboys."

Mrs. Hering recalls her efforts to help the late Reverend Paul Soupiset establish the "Little Church of La Villita"—a nondenominational church located in the heart of San Antonio on a small street with several shops featuring Mexican crafts. Mrs. Hering was a volunteer worker in the church's rummage store, and also was house mother to the men at "Seniorville," which Reverend Soupiset operated for needy and down-and-out men.

Mrs. Hering also is proud of the 5,000 hours of volunteer service with the "Angels," a club she and her daughter, Gladys Goerson, helped establish at the San Antonio State Hospital where her pet name with the patients was "Sweetie."

The residents of Victoria Plaza—an apartment complex for senior citizens located in the 20th Congressional District which I represent—and members of Mrs. Hering's family are having a birthday party for her today.

Mrs. Hering's children: Mrs. Floyd (Marjorie) Harrison of Fort Smith, Ark., and Mrs. Goerson and Louis Hering, both of San Antonio, as well as other family members, will all be there.

It is a wonderful and happy occasion, and I regret that I cannot personally attend this celebration honoring a fine lady, who has lived her century well—Mrs. Sadie Hering, 100 years young.

She is, indeed, a remarkable 100 years young for she enjoys the independence of being able to live alone in her apartment at Victoria Plaza, and to do her own housework.

Happy birthday, Mrs. Hering. May you enjoy many more birthdays to come.

LESTER B. KING, ONE OF THE OUTSTANDING CITIZENS OF SAN FERNANDO VALLEY

HON. JAMES C. CORMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 11, 1976

Mr. CORMAN. Mr. Speaker, it is a privilege and a personal pleasure for me to bring to the attention of my colleagues the dedicated service of Lester B. King, one of the San Fernando Valley's most outstanding citizens.

On June 28 Les will be honored at a testimonial at the Woodland Hills Country Club by more than 100 friends who know of his active participation in community affairs. This honor is fitting and proper because Les has been one of the Valley's true leaders during the 14 years he has been manager of the Van Nuys main branch of the Bank of America.

Les' involvement in the needs and problems of the community has been total. He has worked tirelessly to improve not only Van Nuys, but the entire San Fernando Valley, a community that is now approaching 1.3 million people. He has served as president of the San Fernando Valley Industrial Association and president of the Van Nuys Chamber of Commerce. In 1964, he was honored as man of the year in Van Nuys. And he has devoted a large portion of his time to the development of the Valley Presbyterian Hospital, serving as its vice president and director of planning and development.

The list of Lester King's accomplishments and interest seems almost endless, Mr. Speaker. I do not know how he keeps up the pace and manages to take on new responsibilities. Recently, he assumed the added responsibility of serving as a member of the Los Angeles City Planning Commission. At the time of his appointment, the Valley News and Green Sheet, a respected communicator of San Fernando Valley News, commented that "we cannot think of a more qualified man in this valley. His dedication to our community has been endless." I wholeheartedly concur with their assessment.

On July 31, Les will retire from his position at the Bank of America, but I am sure this will not signal the end of his participation in valley civic affairs. His loving wife Mary and his two children, Janet and Donald are hopeful that being free of some responsibilities will permit him more time to spend with the family. However, his friends know that if there is a tough job to handle, they can count on Les to lend his skills and talents.

Mr. Speaker, Lester King is a credit to the valley community and we owe him a debt that cannot easily be repaid. I personally hope that he fully understands our deep appreciation for all his devoted service.

PROPOSAL FOR NEW STUDENT LOAN BANK

HON. WILLIAM A. STEIGER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, June 11, 1976

Mr. STEIGER of Wisconsin. Mr. Speaker, the rising cost of post secondary education is a fact which can no longer be ignored. Families who have carefully and responsibly budgeted their incomes for years, now find their savings insufficient to provide college or other training for the children. Terrence Bell's resignation as Director of the U.S. Office of Education, because his salary was inadequate to pay for his children's education focused national attention on a situation in which all too many Americans find themselves.

No longer is financial aid a necessity only for the economically deprived. Harvard has recently announced that it will consider applications for assistance from "middle income" students—defined as members of families with incomes of up to $50,000 per year.

The Federal Government has long recognized its responsibility to assist students who wish to further their education but who lack the necessary funds to do so. The basic opportunity grants, guaranteed student loans, and national direct student loans are all evidence of this commitment. Nevertheless, not all potential beneficiaries of financial aid are being reached, and the minimum family income and repayment requirements of existing loan programs, in particular, are often unrealistically designed. Specifically, many potential borrowers—often those most in need—are denied loans on the basis of their families' low incomes. And for those who are able to borrow, the heavy burden of repayment falls during the period immediately following graduation, when incomes are rarely high, and when such debts are most difficult to absorb.

Consequently, this week my distinguished colleague, and good friend. AL QUIE, and I have introduced the National Student Loan Bank Act. This measure would create a new, self-sustaining and independently administered source of aid for education. Eligible borrowers would include all students at recognized institutions of higher learning; no income ceiling or floor would be imposed. Repayment would take place over a more extended time period than that allowed under present programs. The borrower would pay back a percentage of his or her annual income as each year's payment, until the loan and accrued interest were remitted. If, after 30 years, a borrower's income were abnormally low and the loan were not completely repaid, the remaining principal would be forgiven.

This act is designed in accordance with the recommendations of some of the Nation's most highly respected experts in the fields of higher education and student aid. Many of its provisions are modeled after recommendations issued by the Carnegie Commission on Higher Education. In the near future, I intend to present further evidence to support the desirability and workability of such a program. But today, I would like to share with my colleagues an article which appeared in the New York Times on April 5, 1976. It underscores the pressing need for a new approach to student aid—an approach which offers new hope to deserving students from all groups in our society, regardless of family income level.

The article follows:

COSTS AT LEADING COLLEGES GOING OVER $7,000 A YEAR

(By Gene I. Mearoff)

The relentless increase in the cost of going to college will continue next fall as tuitions at many of the country's leading private institutions climb over the $4,000 mark for the first time and total annual charges push above $7,000.

Increases in total costs, including room, board and expenses, as well as tuition, will vary from 5 to 12 percent at individual colleges and universities, according to a survey released yesterday by the College Entrance Examination Board.

The average cost for a resident undergraduate will be $4,568 at a private institution and $2,790 at a public institution. But for students at some highly selective, prominent institutions, costs will far exceed the averages, especially because of the higher tuitions at such schools.

Tuitions already set for fall include those of $4,400 at Yale, $4,300 at Princeton, $4,275 at Stanford, $4,270 at Brown, $4,230 at Dartmouth, $4.150 at the Massachusettes Institute of Technology and at Wesleyan, $4,110 at Cornell, $4,100 at Harvard, the University of Pennsylvania and Middlebury and $4,000 at Columbia.

Bennington College in Vermont, which in 1973 was one of the first institutions in the United States to charge a tuition of more than $4,000, will become one of the first to exceed $5,000 in September, when tuition goes to $5,250 from $4,980.

By breaking through the psychological barrier of the $4,000 tuition level, institutions of higher education are giving fresh impetus to the debate over just how much a college can charge without pricing itself out of the market.

There is growing concern over the prospect that the cost of attending leading private colleges and universities may get so high that only the children of the very wealthy and those poor enough to qualify for extensive financial aid will be able to afford such institutions.

"The individual institutions leading the pack in terms of high tuition are somewhere on the threshold of going beyond what the market can bear and I would not be in that vanguard," said Dr. Steven Muller, president of Johns Hopkins in Baltimore, which is raising its tuition by $200 to $3,600.

"If we don't get a reliable, well coordinated student aid program at the state and Federal level," Dr. Boyer said, "the tuition problem will become a social disaster."

Some of the most expensive private schools are trying to offset the impact of their tuition increases by maintaining and even increasing the proportion of money they devote to student assistance.

"The Ivies and other leading institutions have not gotten the credit they deserve in this connection," said Dr. John G. Kemeny, president of Dartmouth University in New Hampshire. "What is sometimes overlooked is that the very best schools are also the ones most likely to be able to afford the strongest financial aid programs.

Franconia College, also in New Hampshire, is one of the few institutions that intends to cut tuition and total charges next year, hoping that it will help the school attract more students. Tuition will drop from $3,900 to $3,740 and total charges will be down by almost 10 percent.

"We are going to have a difficult time avoiding a deficit next year and from a budgetary standpoint we should have raised tuition much higher than we did, he said.

"But if we jack up our tuition much higher than we absolutely have to we will frighten away students, said Dr. Muller, who also heads the newly formed National Association of Independent Colleges and Universities. "It would also have diminishing returns because an increased proportion of each dollar we take in would have to be put into financial aid.

Adding to the despair of some observers is the fact that the costs at publicly supported institutions are rising at an even faster rate than at the private colleges.

"The answer has to be greater Federal support for the scholarship aid of students from low- and middle-income families," said Dr. Ernest L. Boyer, chancellor of the 170,000-student State University of New York, which last week announced tuition increases ranging from 12 percent.

Despite the cost increases at most private colleges and universities there remains a feeling in many sectors that the demand to get into the prestigious institutions is still strong.

TUITION DIFFERENTIAL

"As long as an institution can be first rate and offer an excellent and distinctive program," said Dr. Hanna Gray, provost of Yale, "and as long as it is not alone in its price bracket itself in light of changing circumstances it will not price itself out of the market."

The differential in tuition is essentially what accounts for the cost margin between public and private institutions.

For instance, the average cost of room and board next fall will be $1,304 at public colleges and $1,371 at private colleges. Transportation, personal expenses, books and supplies will also cost about the same at both kinds of institutions, according to the College Board.

The two-year community colleges, attended primarily by commuting students, will still be the least expensive institutions of higher education. But pressures in many states to increase community college tuitions are causing alarms.

"If tuition is imposed here," said Max Thompson, a student at Los Angeles City College, which is now free, "I'd have to quit school or borrow money."

The average tuition at community colleges across the country is expected to be $387.

Here are the figures on what the total costs for resident undergraduates will be next fall at a number of representative institutions around the country:

Arizona State University, $3,150; California Institute of Technology, $6,285; University of Colorado, $2,831; University of Connecticut, $3,400; Georgetown University, Washington, $5,700; Northwestern University, Illinois, $6,110; Indiana University, $3,237; Grambling College, Louisiana, $1,995; and Bowdoin College, Maine, $6,200.

Bunker Hill Community College, Massachusetts, $350; Smith College, Massachusetts, $6,170; Bethany Lutheran College, Minnesota, $3,480; Central Missouri University, $1,970; Drew University, New Jersey, $5,455; Rutgers University, New Jersey, $3,200; LeMoyne College, New York, $4,350; Sarah Lawrence College, New York, $7,390; State University of New York at New Paltz, $5,040; and Vassar College, New York, $5,710.

Copies of the College Entrance Examination Board's report are available at $25.50 each from College Board Publication Orders, Box 2815, Princeton, N.J. 08540.

OUR WAR ON DRUGS—"THE IMPOSSIBLE TASK"

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, June 11, 1976

Mr. GILMAN. Mr. Speaker, earlier today I addressed the graduating class of the Drug Enforcement Administration's National Training Institute for law enforcement officers from throughout the United States.

There were 27 young men and women who participated in the intensive 11-week course of study and training which touched on all phases of our fight on drugs. All the accumulated knowledge of our DEA agents was at the disposal of the participants.

The tuition for this worthy program was provided by funds allocated by the Law Enforcement Assistance Administration. Local police agencies absorbed the student's living expenses.

It was an honor to speak to this graduating class of dedicated police personnel. In order to share my comments with my colleagues, I would like to insert my remarks at this point in the RECORD. These men and women are now prepared to do battle against a killer—hard narcotics.

My hat goes off to these dedicated police officers as they go back to their home areas, prepared to enter our Nation's war on drugs.

My remarks follow:

Administrator Bensinger, D.E.A. Officials, Agents, Friends, and most important, our new training institute graduates. Good Morning and Congratulations.

While I regret I can not stay due to my responsibilities on the hill, I am honored to take part in this graduation of D.E.A.'s National Training Institute—a graduation for a critically important job—a monumental task. At a time when narcotics are flowing into our Nation in increasing quantities, you have chosen to battle what some have called an "impossible task".

To each and every one of you police officers, I offer you not only heartfelt good wishes—but a prayer for your success, for yours is a job of protecting the youth in our cities from self destruction—of protecting our Nation from that scourge on our society—narcotic abuse.

In my years of public service, I have come to know the burdensome responsibilities of narcotics enforcement work, and about the dedication of our D.E.A. agents. I have seen first-hand the work of our agents—in Mexico, in Colombia, in Southeast Asia, in Turkey—and in the drug pits of Harlem where millions of dollars are exchanged each day, out on the streets, for packets of heroin being piped in from Latin America.

The training you have just completed at the Institute will be invaluable—I have seen your fellow drug enforcement officers in action—in the back alleys in remote Nations throughout the World—in Colombia in "Operation Kitchen"—and in light aircraft over the mountainous terrain of Mexico searching for fields of poppy crops in desolate areas—the narcotics filtering into our Nation originate all over this globe. It is a vast battlefield. It is a battle which must be fought by all of us, in all levels of Government—from South Carolina to Hawaii to Colorado to next door here at Laurel, Maryland—the battle must be waged both domestically and internationally.

You, above all, need not be reminded that as Narcotics Enforcement Officers you have a highly dangerous job—just as our D.E.A. agents are battling the vicious drug business at its source, some of you will be fighting it at the other end—and it is a difficult, dangerous business. It was just last month that a D.E.A. plane went down in Mexico killing two of our courageous DEA agents—James Lund and Ralph Shaw—they knew the risks, and they accepted them—it cost them their lives. It was only a few months before their tragic, fatal flight, that I was a passenger in a similar aircraft with our D.E.A. agents as we flew over some of the mountainous poppy fields close to the crash site.

Those two men went to their graves knowing the risks they faced—they went down, courageously and loyally doing their part in a deserted section of a foreign land—in the world wide war against drug traffickers. Let us make certain that their sacrifices will not have been in vain.

The efforts of Agents Lund and Shaw and the many other drug agents in Mexico have helped to slow down the flow of heroin from Mexico—as you may know, this week in Washington, Director Bensinger was notified by Mexico's Attorney General Pouada, that most of the Mexican opium poppy fields have been eradicated or destroyed.

This is heartening news. When I was in Mexico in January, along with Congressman Wolff and DEA's Latin American expert, Burt Moreno, we met with President Echeverria to bolster up their opium eradication program. We had been advised by the D.E.A. that this would be a feasible way to cut off this tidal wave of Mexican heroin coming into our Nation. While there, we met with the Mexican President and asked that joint working commissions be set up in both the U.S. and Mexico to monitor, coordinate and contain the illicit flow of narcotics. Such an effort is now underway and it now appears to be working out.

Because the drug business is a dirty business, it may become tedious and overwhelming—you may find yourself becoming cynical and disillusioned—it may seem impossible to wipe out this killer—if that happens and when it happens, remember that you are fighting a war—war to protect our youth—a war to protect the roots of our society—please, never forget that.

You must never forget that drugs spell death for our Nation. President Ford recently proclaimed that five thousand Americans died last year from drug overdoses—and most of those fatalities were young people—the future of our Nation.

And never forget that the destruction brought about by drugs is not limited to the taking of lives—drug related crime exceeds twenty billion dollars each year—drug abuse strikes at the very heart of our national well being—As President Ford said recently, "The cumulative effect of drugs is to diminish the quality and vitality of our community—weakening the fabric of our Nation."

The National Institute of Drug Abuse reports that there are five hundred thousand addicts in the United States. It is estimated that two hundred thousand of them live in the Metropolitan New York area—that may explain my more than passing interest in this crisis. New York City is just a short hop down the Hudson from my Congressional District—it is too close for comfort.

With every passing day there is news of more and more drug busts throughout the Nation and in foreign lands. I applaud the D.E.A. for stepping up its efforts in trying to control illicit narcotics traffic. In Monday's Congressional Record, I inserted two newspaper reports of major drug seizures to emphasize to my colleagues the extensiveness of narcotic trafficking—and to underscore the need for a concerted effort by the Congress to assist our Federal authorities in stemming the flow of drugs.

One report involved ten persons who are being tried in Raleigh, North Carolina, on charges of smuggling three hundred million dollars worth of heroin into our Country—the second news account reported that the skipper of a Colombian ship discovered a three million dollar cache of cocaine aboard his vessel resulting in the arrest of two crew members who were allegedly involved.

I have been informed by the D.E.A. that heroin seizures since January of this year—total D.E.A. foreign cooperative seizures—totaled 245 lbs. valued at $139 million and total domestic, Federal and cooperative removals of heroin totaled 152 lbs. at $86 million.

It makes you think about the enormity of our job when you realize the number of other ships which may be carrying in drugs from other lands—we can't search every ship and we can't search every bag. There are a million and one places on ships and planes and cars and boats to hide contraband—that is why interdiction and eradication at its source task.

Because it is such a difficult task, that is why interdiction and eradication at its source is so important.

And because it is such a difficult task, it is going to take a massive effort to stop it—it is going to take money, manpower, and equipment in a concerted, coordinated effort by all levels of Government to stamp out this plague on our society.

In our battle—let us recognize the enemy for what he is. We are battling a vicious, highly organized criminal activity. We are not just dealing with the common criminal on our streets. We are dealing with conscienceless people. Who don't care about the five thousand people who are injured and killed when junkies in need of a fix, rob to pay for their habit. Who don't care about the misery felt by the parents and families of those injured by drugs.

The only thing they care about are the dollars. The bloody profits from their death dealing drugs. They are the worst kind of criminals and they must be dealt with accordingly. They deserve no quarter.

Our Chief Executive recognizes the battle that you are waging—and I know that you are all aware of the latest initiatives that he is supporting. Now, if we can get Congress to follow his lead we will be on the road toward resolving this problem. We will at least be making a dent in it.

The experts tell us that forty-eight per cent of those arrested for trafficking in hard drugs and who are released on bail, get reinvolved in the business. The President therefore recommends some strong steps to make it difficult for those charged with drug smuggling to get out on bail and he has also requested stiffened penalties. President Ford has asked Congress for minimum three-year sentences for first offenders and harsher sentences for repeat offenders. I don't think that is tough enough, but it is a start in the right direction. The Ford proposal will also allow Judges to deny bail if a trafficker is on parole and expands the authority of the Customs Service to require boat owners to report to Custom's Officials immediately on arrival in this Country.

He has called for a joint effort on the Town, County, State and Federal level to knock this problem out of the park, once and for all.

But, most importantly, the President is pushing this critical problem to the forefront. Our Nation's narcotics problem has been on the backburner for too long a period. Narcotics traffic and drug abuse are eating away at the very root of our Society—our youth.

While the President referred to drug abuse as a national problem, you and I know better. Drug abuse is an international problem. Not only is our national well-being at stake, but so too are the youth in other affected Nations.

Yours is a rough and tough job—it is a highly important assignment. To each and every one of you I offer my congratulations, but more than that, to all of you I give thanks. Thanks on behalf of the youth and parents in my Congressional District and throughout our Nation who you will be protecting. May God bless you and protect you in all your endeavors on behalf of our Nation.

LIBERALS' LABELS DON'T FIT THE FACTS

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, June 11, 1976

Mr. DERWINSKI. Mr. Speaker, as we continue to hear of the tragedy in Lebanon, it is evident that the plight of the Christians in that country has basically been ignored by the rest of the world. It must also be noted that the plight of people in Cambodia has been ignored by the world despite a number of stories that have broken on that unfortunate country. These points and others are very effectively analyzed by Rev. Andrew Greeley in his column in the Chicago Tribune on Thursday, June 10, and I commend it to the Members' attention:

LIBERALS' LABELS DON'T FIT THE FACTS

(By Andrew Greeley)

That "liberals" have a double standard on matters of international oppression is now so well known that it hardly needs to be further documented.

They worry a lot about oppression in Chile but don't notice it in Cuba. They are skeptical about Spain's tentative movements toward democracy but forget about what happened to Czechoslovakia and Hungary. They never ask when the last time was that a "socialist" government had a free election like Portugal just did.

They use the word "genocide" in talking about South African racism, although the standard of living for blacks in that ugly society is higher than it is in any black-ruled nation in Africa.

But they ignore—when not celebrating—the genocide being committed against Maronite Christians in Lebanon. You see, the Moslems are "leftists" and the Maronites are "rightists."

Never mind that the idea of Kamal Jumblatt, the reactionary leader of a Moslem sect, being a "leftist" is ludicrous. Since the Moslems are defined as "leftist," they have to be good.

Never mind that the only way the Maronites got their superior economic position was by hard work; never mind that if it were not for their work, Lebanon would be as desperately poor as the other Arab countries. The Maronites are defined as "right-wingers," and thus they must be swept away by the wave of history.

Besides, the Maronites are Catholics. When is the last time a "liberal" worried about oppression of Catholics in, say, Lithuania or Poland? Or in Loyalist Spain during the Civil War, or in Mexico during the 1920s and '30s, or in Ireland at almost any time?

But the worst silence of "liberals" is on Cambodia. The Khmer Rouge, we were told, were merely agrarian reformers, peasant revolutionaries resisting American imperialism.

The Congress of the United States, following the insistence of the "liberals" and the poster carriers, cut off aid to the Cambodian government and in effect turned over control of the country to the "peasant revolutionaries." Liberals heaved a great sight of relief. The "people" had won again.

There then began one of the great horror stories of modern times. The entire population of Phnom Penh was forced out of the city at gunpoint to work in the rice fields and railroads. The government announced the new society would need only one million workers to keep the country running, and that the rest of the population was expendable.

According to the Paris journal Le Monde, 800,000 Cambodians died there between April, 1975, and last February—about 20 percent of the population of the country.

Their blood, unfortunately, is on American hands. We made an alliance with the Cambodians and then ran out on them—although, in truth, they did not seem eager to fight for themselves.

Meanwhile, the liberals keep pointing out that the predicted "bloodbath" has yet to occur in Viet Nam, ignoring completely what is happening in Cambodia (and forgetting what happened in China and the Soviet Union when the communists were finally secure enough to start murdering people by the millions).

Part of the reason, no doubt, is that the Khmer Rouge is dedicated to building a new variety of human nature—a goal that American "liberals" support or at least consider an "interesting experiment in socialism."

What are a few million lives for an interesting experiment? Especially when they are the lives of yellow-skinned Buddhists?

It's the same sort of mentality displayed by the Rev. Philip Potter, general secretary of the World Council of Churches, who said recently at a press conference in Chicago that one can supply money to violent revolutionary movements "for the love of God."

Great Christianity, huh? Of course you don't provide guns to the Irish Republican Army "to love God with all our means and to love our neighbors as ourselves," as Potter put it!

And, funny thing, I haven't heard a word from the Rev. Mr. Potter about our neighbors in Cambodia.

TRUE SPIRIT OF THE HOLIDAY

HON. CHRISTOPHER J. DODD

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Friday, June 11, 1976

Mr. DODD. Mr. Speaker, the following editorial comment was originally published in the Norwich Bulletin in 1975, to celebrate Memorial Day. The Bulletin chose to reprint it this year, as an expression of the true spirit of the holiday. I would like to share this message with my colleagues:

We are the dead. Short days ago we lived, felt dawn, saw sunset glow, loved and were loved. . ." John McCrae's words return relentlessly to trouble us each year at this time: "If ye break faith with us who die, we shall not sleep. . ."

The Memorial Day observance this year should be one of the most heartfelt since the day was first observed on May 30, 1868. There is a deep lesson to be learned and repeated. It is that man's savagery has continued to bring needless suffering to every generation. During the past decade, we found no moral barrier to prevent us from sending 50,000 of our sons to death in a war that was totally without justification.

We have entered an unique time in the history of the world. For the first time within recent memory there are no wars raging between nations anywhere on the globe. But that is a deceptive picture. Pressures for war are building, yet our mechanisms for achieving peace are no better than at any other time in history.

Today, we honor our war dead—over 400,000 since the Civil War. We will honor them best with a promise that no more dead heroes will join them, and with the acknowledgement that there is no glory in war, and no high honor in an ignominious death on a savage battlefield.

Abraham Lincoln pledged, over a century ago "that these dead shall not have died in vain."

If the purpose of their death was to bring an end to the causes of war, we have not kept that pledge. If the war dead are speaking to us of futility of their sacrifice, we have not listened.

If, in a desperate grasping for self-justification, we tell ourselves that death on the battlefield is our youth's finest hour, we have not matured and we have not learned—and we have broken faith.

NEW SATELLITE EXPECTED TO HELP IMPROVE UNDERSTANDING OF EARTHQUAKES

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, June 11, 1976

Mr. TEAGUE. Mr. Speaker, the human tragedies resulting from recent earthquakes make us even more aware of the need to better understand and predict earthquakes. Last month NASA launched a satellite to assist scientists in this objective. For the information of my colleagues, I am including in the RECORD an article by Marvin Miles which was published in the Los Angeles Times:

> A NASA satellite resembling a giant golf ball was launched Tuesday from the Western Test Range at Vandenberg Air Force Base to improve the understanding of earthquake mechanisms.
>
> Called Lageos—for Laser Geodynamic Satellite—the spacecraft is expected to demonstrate the capability of laser satellite techniques to measure the movement of large land masses called tectonic plates and study earth shifts along critical faults such as California's San Andreas fault.
>
> Lageos is a 24-inch aluminum sphere with a brass core, a solid, 903-pound satellite that contains no moving parts or electronic components.
>
> On its surface it carries 426 three-dimensional prisms called retroreflectors that give it the dimpled appearance of a large golf ball.
>
> The prisms are designed to reflect the light of laser beams back to their source on earth regardless of the angle at which they are received.
>
> A laser pulse beamed from a ground station initiates a timing signal that continues until the pulse is bounced back from the satellite and is received at the station, NASA engineers explained.
>
> By measuring the length of time, the distance between the station and the satellite can be calculated precisely with a technique known as laser ranging.
>
> Movements of the earth's surface as small as eight inches can be determined by using the satellite system, space agency spokesmen said.
>
> The United States Geological Survey, responsible for earthquake research and prediction, will use the satellite for extensive studies, NASA noted, and hopefully correlate its findings with observed earth dynamics phenomena.
>
> Lageos should have a useful life of about 50 years, but will remain in orbit for more than eight million years, program officials said.
>
> The satellite carries a plaque showing earth's continental land masses as they probably appeared 225 million years ago, as they are today and as they are expected to be 8.4 million years from now.
>
> Cost of the satellite, together with its launch rocket, was given as about $8.5 million.

JACK ARAKELIAN, COMMUNITY LEADER

HON. GEORGE E. DANIELSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 11, 1976

Mr. DANIELSON. Mr. Speaker, I rise on this occasion to pay tribute to a man who has devoted his life and energies to the soical and moral betterment of the southern California community.

Jack Arakelian and his family, who are residents of the city of Montebello in the district which I represent, are leaders in community affairs. On Saturday, June 26, 1976, they will be honored at a testimonial dinner, the proceeds of which will go to help finance the City of Hope, a health and medical center of southern California.

Jack is a man with boundless energy and a zest for life which amazes all of us who know him.

Similar to many of the leaders in the community, Jack has achieved success through his virtues of hard work, talent, and determination. As a young immigrant from Armenia, he worked his way through school. Always mindful of the struggles he endured, he is today an outstanding leader in the fight to improve Armenian educational programs. As chairman of the Armenian Education Foundation he has been responsible for raising the funds needed to support Armenian cultural and church schools and to provide scholarships and other financial aid to deserving students.

I often wonder myself where does he find the time. Let me list a few of his associations: He is a leader in the livestock industry, a director of Garfield Bank, and serves as vice president of Constitution Savings and Loan Association. In addition, he is active as a Shriner and Rotarian.

In the past, he has served as a member of the Montebello Planning Committee. His other civic and philanthropic interests include the East Los Angeles YMCA, the Montebello YMCA, and the East Side Boys Club.

An inspirational model for us all, Jack Arakelian excels in the spirit that we all as Americans should practice, that is, the spirit of sharing and using his success for the benefit of others.

I want to take this opportunity to join with his friends in extending my personal best wishes for continued success in all his future endeavors, and to call the attention of the Congress to a few of the accomplishments of this outstanding community leader.

NEED FOR TWO-PARTY BALANCE IN CONGRESS

HON. JOHN J. RHODES

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 11, 1976

Mr. RHODES. Mr. Speaker, for quite some time I have been telling as many people who will listen that the inability of Congress to legislate effectively is a direct result of the fact that one party has controlled Congress for 39 out of the last 44 years. This is not a partisan argument. I admit freely that had the situation been reversed and my party controlled Congress during this inordinate length of time, the same deterioration in the legislative process could have taken place. Our system of government works best when there is periodic switching of party control. Unfortunately, that has not been the case with regard to Congress.

I was delighted to read an editorial in the Washington Star of June 8, 1976, which makes this very point. With commendable insight, the Star has observed:

> The failures and successes of the House as an institution in that long and eventful period of our history are the failures and successes of a nearly unbroken one-party reign. It is difficult to say what the institutional costs are, since we have had no opportunity to try the alternative. It is reasonable to believe them considerable.

Mr. Speaker, all the public opinion polls available reveal that the American people are not satisfied with Congress' performance. Simple logic demands that the people give another party a chance to change things for the better.

The editorial follows:

> LEADERSHIP IN THE HOUSE
>
> It is usually said of Rep. Carl Albert, as he prepares to resign the House Speakership, that he is a nice man of enlightened outlook who practiced the passive virtues—patience, consultation and deference. And it is usually said of his all but anointed successor, Rep. Thomas P. (Tip) O'Neill Jr., that his leadership will be considerably more commanding.
>
> That change of leaderly styles would probably be welcome, although the House has a way of confounding energetic expectations. It's probably a mistake to look to the House for heroic leadership. Thomas Jefferson thought the lower house would gush legislative notions piping hot, needing the "senatorial saucer" for cooling. But that assess-

ment tells us more of Mr. Jefferson's wishful enthusiasm for popular government than of his institutional judgment.

William S. White hit closer to the mark in calling the House a "home place," a focus of humdrum activity that often contrives to conceal the abilities of its considerable array of first-class talents. That is what made the House Judiciary Committee's impressive impeachment proceedings a startling education for the public. Imagination and ability reared their heads, and the House leadership was powerless to hide them from the public.

Usually, however, the House leadership manages to accentuate the "home place" character—the localism, the volatile provincialism the institution cherishes—and to some degree rightly. "The great failure of the House," wrote D. W. Brogan some years ago, "is not in its performance of its legislative . . . or its investigatory functions, but its failure to impress on the public mind that what it is doing is necessary, is worthwhile, is interesting."

If Mr. O'Neill is chosen to succeed Mr. Albert as Speaker, the majority leader's post is expected—typically—to pass to one of two gentlemen: one celebrated for his scholarly knowledge of the House's institutional mysteries; the other storied in the arts of parliamentary manipulation. To the public, if we may be pardoned for saying so, it looks like a contest between a monk and Machiavelli. Either choice would promise more of the rather inbred style that the House seems to prefer.

One of the principal problems of the House, to be sure, is a problem that only the voters could correct—and they seem unlikely to do so. We are not speaking of salutary unseatings that a number of constituencies might contribute if they would, but of the fact that while the executive branch has changed party hands fairly regularly in the last quarter century the House has changed hands (and that briefly) only twice since 1932.

Thus the failures and successes of the House as an institution in that long and eventful period of our history are the failures and successes of a nearly unbroken one-party reign. It is difficult to say what the institutional costs are, since we have had no opportunity to try the alternative. It is reasonable to believe them considerable.

The complacency in petty matters that does the House so much harm in the eyes of the public can probably be traced in large part to having had the same in-crowd for so long.

The Wayne Hays scandal, symptomatic of this complacency, does offer the House a chance to demonstrate that it is made of sterner stuff than we usually suppose. It is encouraging that the prospective Speaker, in contrast to the incumbent Speaker, has moved out front in the maneuvering to discipline the errant administrative boss of the House. Perhaps that is a sign of better days to come.

IN RECOGNITION OF JOHN CONTRES, JR.

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 11, 1976

Mr. MURTHA. Mr. Speaker, I want to say a few words in honor of a constituent of mine who gave his life while serving his community as a volunteer fireman.

Last November John "Jim" Contres, Jr., was the driver of a tank truck that was responding to a barn fire. The truck skidded on slippery pavement and overturned, catching fire. Mr. Contres lost his life in the accident and two other firemen were injured.

The parents of Mr. Contres, Mr. and Mrs. John J. Contres, Sr., have received several honors on behalf of the contribution made by their son. Obviously, these honors cannot make up for his loss.

I hope that through these remarks, however, I can add to the knowledge of Mr. and Mrs. Contres that Congress and the Nation recognizes the tremendous contribution being made by volunteer firemen throughout the United States. Our communities benefit tremendously from the effort of these individuals, and I hope Congress and all our citizens will continue to recognize and properly reward this dedication and service. The parents and families of all our volunteer firemen should share with our communities a great sense of pride for the work of volunteer firemen.

IN DEFENSE OF MACOS

HON. JAMES P. (JIM) JOHNSON

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Friday, June 11, 1976

Mr. JOHNSON of Colorado. Mr. Speaker, Members of Congress are familiar with the criticisms which have been directed toward the MACOS (Man: A Course of Study) social studies course.

Recently, a school district in Colorado offered this course to interested adults. Several of the adult participants prepared a commentary on MACOS which I commend to my Colleagues.

Following is the text of the article by Elaine Boni, Glen Brink, Jack Brouillette, Mary Ann Burridge, Isabelle DeMeio, Ruth Francis, Ken Klopfenstein, and Dolores Williams as it appeared in the June 3, 1976, Fort Collins Coloradoan

IN DEFENSE OF MACOS

The sixth grade social studies course Man: A Course of Study (MACOS) was offered to interested adults in the Poudre R1 School District this past school year. More than 60 people began the course; about 20 completed it.

The course was taught by Roger Killion, Bill Lamperes and Ron Finney. We wish to thank them for their dedication and effort, and their excellent presentation of the course.

MACOS gives sixth grade students a basic understanding of the nature of man. The central question posed by MACOS is "What makes man human?" The course identifies characteristics of man which make him unique among all forms of life. The first half of the course contrasts man with three animal species: the king salmon, the herring gull, and the free-ranging baboon. These contrasts demonstrate man's ability to nurture and educate his young, his use of language, his ability to learn, his technical skills, and his unique capacity for social behavior and social invention.

The last half of MACOS deals with the Netsilik Eskimo. The study of this traditional tribal culture shows that while geography and climate do not determine human behavior, they may limit the range of choices by directing most energy toward survival. The problems of getting food in a hunting society where game is scarce leads students to consider man's efforts to explain and control his environment. In their continual struggle for survival, the Eskimos confront basic ethical issues on the harshest possible terms.

MACOS addresses these issues directly and leads students to examine the processes involved in making responsible decisions which affect other people and the community. The need to explain and control the environment and the ability to make ethical decisions emerge as unique human characteristics.

As individuals who have completed the MACOS course, we believe that MACOS emphasizes many important skills, concepts and values. Because the teaching method is exciting and relies on student participation, students learn to listen and to respect different points of view. As students become involved in decision making, they learn to consider alternatives and to anticipate the consequences of a particular course of action.

In MACOS students gain an understanding of the similarities and differences between people, customs and behaviors. MACOS teaches students not to judge a culture or religion as being "wrong" for simply being different from their own. It teaches students that understanding and respecting the customs and beliefs of others does not invalidate one's own beliefs.

We feel that the most important aspect of MACOS is its emphasis on traditional values. The indispensability of the family and its role in human life, and the necessity for structure and order in society are stressed throughout the course.

Near the end of the adult course, a number of Poudre R1 students who had completed or were currently taking MACOS met with us. These students were enthusiastic about the ideas and skills developed and about the materials and methods used in MACOS.

The understanding of man and the approach to ethical questions presented in MACOS have made it appealing to many private and parochial schools. These schools see MACOS as supportive of sound values because it deliberately stimulates children to think independently and responsibly about issues which they never really thought about before.

Public schools face the problem of preparing our children for the world of the future. How will man cope with the major social issues of war, poverty, injustice, human relations and the like? These human problems require social solutions. Public education alone cannot solve these major social problems. It can, with the help of the family, the church and other institutions, be an important influence in the right direction.

Courses such as MACOS teach our children to address critical social issues. We thank you, Poudre R1, for offering our children this exciting, meaningful and basic course.

PRAISE FOR SPEAKER OF THE HOUSE

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, June 7, 1976

Mr. MAZZOLI. Mr. Speaker, I wish to add my voice to those who have praised you for your years of service to this House and to the Nation. Your leadership has guided the House through one of the severest crises in our history.

It is with some resignation that we acknowledge your decision to retire after this term.

Under your leadership the House has made progress toward restoring the public's confidence in our system of government and in the legislative branch of Federal Government.

Of all the tasks before us perhaps nothing supercedes our responsibility to restore the shattered trust of the American people in this Congress.

In this Mr. Speaker, we honor you—for your upright leadership and correctness in your relationships with others.

It is interesting to note that for about 40 percent of the Members of this House, you are the only Speaker under whom we have served. Thus, you have had a profound influence—personal and legislative—on a great number of the leaders of the Nation.

Mr. Speaker, your presence will be missed but your influence will still be here. We wish you health, happiness, and personal fulfillment in your retirement years—of which I hope there are many.

THIRTY-FIFTH ANNIVERSARY OF THE DEPORTATION OF BALTIC PEOPLES TO SIBERIA

HON. DONALD W. RIEGLE, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, June 11, 1976

Mr. RIEGLE. Mr. Speaker, this year, about 1 million Americans of Baltic descent are commemorating the 35th anniversary of the mass deportations of Lithuanians, Latvians, and Estonians to Siberia which took place on June 14–15, 1941. During these first arrests, 100,000 persons were deported to various places in Asian Siberia. This was done to subdue the Baltic States, which had been illegally occupied by the Soviet Union against the will of the people.

The Soviet government began planning for mass extermination of the Baltic people soon after the conclusion of the Hitler-Stalin pact of 1939. According to data collected by the Lithuanian Red Cross, 34,260 persons were deported from Lithania, 35,102 from Latvia, and 33,500 from Estonia. All of these people were loaded into freight cars with 50 to 60 persons in each car. The windows of the cars were boarded over, husbands separated from wives, and children separated from parents. They all were locked in the cars lacking air, food, and water. The long journey from the Baltic States to Siberia killed many of the weak and sick. Some dead children were thrown out of the cars by guards and left by the railroad, disregarding the enormous grief of their mothers.

In the following years, many other deportations took place. Baltic deportees were transported to northern Russia, western and eastern Siberia, and Kazakhstan. They were used for slave labor and many of them perished in the mines and forests, or they were annihilated by the cold, the starvation, and diseases because they lacked proper clothing, food, and medical attention. Today 10 percent of the populations of all three Baltic nations have been murdered or deported by the Soviet Union. But some of the former prisoners managed to survive. A few even reached the United States, and they readily testified to the inhuman conditions of life and to the cruelty of their imprisonment.

I would like to ask my colleagues to join me in the observance of this anniversary and to commend the courage of the Lithuanians, Latvians, and Estonians in their continuing struggle for freedom.

SECRETARY OF AGRICULTURE SPEAKS OUT ON WELFARE REFORM AND FARM PROBLEMS

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, June 11, 1976

Mr. ASHBROOK. Mr. Speaker, Earl Butz has done an outstanding job as Secretary of Agriculture. He has consistently fought for the best interest of the farmer, even when this has meant suffering great personal abuse. Although his pro-farmer stance has not always made him popular with liberal big-city Congressmen, I respect his efforts on behalf of the agricultural community.

Secretary Butz recently spoke before a farm group in Kansas City. I was impressed by the remarks he made on welfare reform and problems facing our Nation's farmers.

I strongly agree with his comments on the need to tighten food stamp eligibility requirements. Due to a lack of proper standards the cost of this program has skyrocketed to more than $5 billion a year. Presently there is no maximum income limit to qualify for food stamps. No minimum age exists for eligibility as a household. College students whose parents earn high salaries may qualify. Even those who are on strike from their jobs are eligible to participate in the program.

This is unfair to the taxpayers of our country. Food stamps should be used only to help people truly in need.

I also strongly agree on the importance of eliminating burdensome Government regulations. We have a host of Federal agencies—particularly the Occupational Safety and Health Administration and the Environmental Protection Agency—issuing complex, unrealistic and often unworkable regulations on tractors, pesticides and other vital farming matters. It is time to stop piling regulation upon regulation and get these agencies off the back of the farmer.

Following is an article on Secretary Butz' speech as it appears in the May 29, 1976 issue of the Farmland News:

"HUNGER LOBBY" FIGHTING WELFARE REFORM; BUTZ SAYS MORE EXPORTS PROMISED

(By Jill Susan Rowe)

A powerful "Hunger Lobby" is perpetuating work disincentives built into this nation's welfare program, Secretary of Agriculture Earl Butz charged in Kansas City recently.

"This group can produce 1,000 telegrams on any congressman's desk any time it wants to," he said. Butz accused the group, made up of "liberals and bleeding hearts," of fighting proposals to tighten eligibility requirements for welfare.

He noted that more than two-thirds of USDA's $15 billion budget is for welfare which, he said, should be transferred to the Department of Health, Education and Welfare instead.

Food stamp fraud and welfare cheating are far too preponderant and far too easy, Butz told reporters. He noted an ad in a national magazine with the Headline: "You can make $16,000 and still get food stamps." For $3.50, the advertiser offered to send information on how to obtain the stamps.

"It's wrong to feed students at the University of Missouri whose parents drive Buicks," he said. "It's wrong to feed strikers who voluntarily strike."

Butz said that through various federal programs, including school lunches and food stamps, it is possible for a youngster to qualify for eight free meals a day.

The Secretary of Agriculture was in Kansas City for a joint meeting of the Foundation for American Agriculture and the Farm Federation. He spoke at a dinner for the group hosted by Farmland Industries.

He told reporters that President Ford has asked him to remain as head of USDA if Ford is elected this fall, and indicated that he probably will, in spite of his age (66). A new farm bill will be enacted in 1977 after current legislation expires and Butz said he would be "strongly tempted" to stay and fight for it.

Butz said that he is declaring war on the "regulations upon regulations" that are "tying our hands behind our backs." He named EPA, OSHA, FDA and his own USDA as the worst offenders.

"How much cost do you think we've added to the price of a tractor with OSHA?" he asked, then guessed "about $1,000, I'd say."

The regulations are getting worse, he said, telling a story about "some young squirt from OSHA" teaching an experienced farmer-friend of his how to spray his trees.

"The most powerful man in the USDA isn't Earl Butz," Butz said. "It's some young man who writes 'C Subsection C.' The most powerful people in goverment are the little nameless GS–12s who write the regulations. They're not vicious people. But they never spent any time on a farm."

It's difficult to fight the regulators, Butz said. "It means eliminating jobs."

Butz also attacked labor union regulations that add to the cost of food. "It would take 5 cents off the price of retail beef if we could take the featherbedding out of it," he said. "And boxed beef is a prime example." The meatcutters' union opposes the shipment of boxed beef. "We're shipping a half a truckload of air when we ship beef carcasses," he said. "Instead it could be broken down at the plant and we could ship a whole truckful of beef."

Butz promised that the United States will continue to be a heavy exporter of farm products, pointing out that agriculture was the No. 1 source of foreign exchange last year.

Consumers should recognize that exports held hold down the price of food, he said. "Exports mean capacity production, and capacity production means lower per unit cost and lower prices."

Of the $22 billion in farm exports, $21 billion is being sold for cash, Butz said, and only $1 billion on easier terms.

"The fallout of that export income has been tremendous," he noted. "You can see it all over the countryside."

The Agriculture secretary attacked the present estate tax exemption as "completely inadequate" and said he supports President Ford's recommendation to raise the exemption to $150,000.

The current estate tax "almost forces a farmer to liquidate and gnaws at the very structure of the family farm," Butz said. He criticized a Ways and Means Committee proposal to apply capital gains tax to farm inheritances: "That would be even worse than the present system," he said. "This reflects a growing egalitarianism. It would destroy incentive, and the very guts of our family farm system is individual incentive."

TAXES ON POLLUTION

HON. TIMOTHY E. WIRTH

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Friday, June 11, 1976

Mr. WIRTH. Mr. Speaker, our environmental cleanup efforts are imposing necessary costs on both industry and consumers. Shortages of scarce natural resources, rising energy demands, and the maintenance of a comfortable standard of living are straining our resolve to implement pollution control measures. These are not sufficient reasons to retrench on our urgent environmental goals. As we continue our efforts to improve our treatment of the environment, it is clear that in view of the very high costs involved, we should seek improved methods to administer these cleanup efforts.

The difference between an inefficient and an efficient control policy may make a difference of billions of dollars and years in the speed of compliance. Our present pollution control methods, a combination of effluent standards and the subsidization of pollution control construction, have not been an outstanding success. Industry and consumers have been reluctant to comply with pollution limits. Many of the regulations which have been set forth have become bogged down in the courts, are unduly costly and complex in enforcement, or capricious in effect. Alternative policies demand careful consideration.

The Environmental Study Conference, as part of their informational service, recently sponsored a briefing on an alternative approach of pollution taxes or effluent fees. Senator GARY HART and I had the pleasure of moderating a distinguished panel at a well attended and lively briefing.

Charles L. Schultze, senior fellow of the Brookings Institution and professor of economics at the University of Maryland, urged that pollution taxes become an integral part of the market price mechanism. Placing a price on the use of scarce environmental resources, he maintained, would provide a continuous incentive to adopt the best available technology to control pollution.

Leonard Lee Lane, director of education at the Public Interest Economics Center, expanded on Schultze's presentation and suggested reasons why pollution taxes had not received a serious evaluation by the Congress. He has written several articles on this subject in Tax Notes.

Dan Cannon of the National Association of Manufacturers defended the present regulatory pollution control legislation. He argued that fees would detract from business expenditures on pollution control technology, research and development. Industry, Cannon continued, needs precise standards against which to plan future capital expenditures.

David Tunderman, of the Council on Environmental Quality, described an approach to pollution control which he helped to implement in Connecticut. Connecticut's pollution fees depend on the business costs of complying with pollution limits. Fees declined as control technology was implemented. Tunderman found this approach to be flexible, objective, and effective. Provisions were included which sharply limited the possibility of bureaucratic overzealousness on the part of the enforcing agency. The program has received good support from the Connecticut business community.

Pollution taxes, by readjusting market pricing signals, place a price on pollution. The fee per unit of pollutant emitted could be set to achieve the desired policy objective based on the assimilative capacity of the environment. Polluters would be under a continuing pressure to develop cleaner processes in order to reduce the cost of this tax. The tax would be neutral in the sense that the polluter would be free to choose its production process, raw materials, and products. A means for metering each pollution source would still have to be undertaken, however. Unlike the current regulatory approach, the EPA would not have to investigate internal industrial production methods.

Pollution taxes are not a panacea. Although I have been favorably impressed with the potential advantages of such a system, it is clear that many difficult problems must be faced. The setting of equitable and balanced fees for the many pollutants will be a major challenge. Monitoring of point and nonpoint sources will require new technology. We must also take notice of the fact that many polluters are not particularly sensitive to the price mechanism, among them public utilities and municipalities.

ESC's briefing was an excellent beginning for a renewed effort to reexamine our approach to pollution control legislation. Such seminars provide an opportunity for the Congress to be better informed, and I hope that interest in this area will stimulate further discussion and investigation.

Charles Schultze's lucid and forceful presentation is an excellent introduction to pollution, prices, and public policy. ESC has prepared an edited transcript of his remarks:

STATEMENT OF CHARLES L. SCHULTZE AT ESC BRIEFING ON POLLUTION TAXES

The basic problem is that since the industrial revolution, we have treated environmental resources as free resources; free to everybody to use as a dump and as a sink. There has been no incentive to economize on their use; in fact there is an incentive to use as much as possible of these resources. The impact on society is serious and pervasive. Raw materials, production techniques, and consumer products are designed and chosen as if environmental resources were free, and chosen without concern for environmental consequences. The true environmental costs are not accounted for. Take bleached versus unbleached household paper as a very mundane example. The pollution consequences of producing unbleached paper are far less than for bleached paper. But since the environmental cost of bleaching is not charged into the product price there is no incentive for society anywhere to take that into account when it decides what products to produce and what products to buy. Because environmental resources are free, industry and consumers are biased towards using as much as possible of them.

The market system that we have is incredibly efficient in sending out and responding to price and cost signals. Now they may be the wrong or the right signals. Labor is a case where the market response to price signals is good. Labor is costly. You have to pay a wage rate for it. It is very important in the production process. So, society has bent over backwards by way of the production techniques it chooses and new technology it finds to reduce the amount of labor per unit of output. As a result, every thirty years the amount of labor per unit of output is halved, or in other words, productivity doubles. During the past 100 years, therefore, productivity has increased eight fold, because labor is expensive. This is a fundamental reason for the improvement in our living standard.

Two examples where the system responds marvelously efficiently to the wrong signals: In the public utility area, the pricing system provides cheaper and cheaper rates the more power you use; block rates. At the upper end of the rate schedule, rates are below the long run cost of adding additional electrical utility capacity. Over the last twenty years, the system has responded beautifully increasing electrical capacity and production by leaps and bounds, and excessively, as signals were sent out all over the economy saying that we are going to charge you less for that last unit of electricity than its full cost.

Mass transit subsidy: The federal government has subsidized capital costs, not mass transit ridership. So, people build great monumental wonders which incredibly use capital, are highly automated, and terribly expensive. In cities which get subsidies for buying new buses but not subsidies for maintaining and operating buses, those buses are not maintained and operated over about half the life that they could be operated for, because the city can buy new ones with a large federal subsidy.

The fundamental point is that society is tremendously efficient in doing what the price and cost signals indicate. And we have sent out the signal that environmental resources are free.

In choosing an approach when we began to address environmental problems, we did not change the price signals, but we regulated; we set up a central regulatory bureaucracy to tell everyone precisely how to run each business and how to reduce environmental pollution. For a long time we set ambient standards for water and for air and then, in effect, relied on the courts to enforce ambient standards against individual violators. Given the rules of judicial procedure and evidence, tracing a violation of an ambient standard to any one polluter was not possible. That approach was a dismal failure and we had to step back.

Then in the 1970 water amendments and the 1972 air amendments we told EPA to go in and set emission standards for air and water plant by plant, firm by firm. We now regulate directly. When you look at what EPA has to do it makes your head swim:

By 1977 a deadline has been set for achieving effluent limitations for point sources, other than publicily owned treatment works, which require the application of the best practicable control technology currently available.

By 1983, EPA must set effluent limitaton requiring the application of the best available technology economically achievable.

In addition, in establishing these guidelines, EPA is charged to take into account the age of equipment and facilities involved and the production and engineering processes employed.

To avoid court challenges EPA is forced into a determination plant by plant, process by process, almost subprocess by subprocess, and age of plant and equipment by age of plant and equipment, not only of effluent standards, but also of appropriate technology. There are 55 thousand point sources of water pollution in this country. With air pollution we have essentially the same problem as with water pollution and similar regulatory methods and enforcement.

Once the limits are set, there is no incentive to go any further. With respect to the best available technology, there is an incentive not to innovate and find new ways to control pollution. What incentive is there to invent something that raises your costs. The regulatory method is not future oriented. What are the long term implications? We are selfish. We are setting our eyes far too much on immediately achievable objectives by only asking what can we do with present technology. This is not a short run problem It is a problem for our children and our children's children. There are a fixed quantity of air and water resources for us to enjoy. The impact of industrial society on these resource is pervasive. It is critical that appropriate technology be continuously invented and stimulated for maintenance of a reasonably affluent and working modern society. In turn, institutional structures and social incentive to go any further. With respect to the system to bend its efforts toward achieving this long run task.

We can follow two approaches: we can preach to urge people to change their lifestyles; this is the 'religious' approach and an important one. We can also change the incentives that confront people. We have to make it profitable and rewarding to be continually searching for ways to make a modern society livable and viable under a limited number of scarce environmental resources. The future of society depends on conserving those resources.

With respect to effluent and emission charges, we can change the price signals we are sending out and pervasively and universally send out the enforceable signal that the environment is scarce, we have got to economize on it, under effluent charges it costs to pollute and conversely a firm can make money otherwise by reducing pollution and therefore its effluent taxes and charges.

A basic characteristic of pollution control is that as the percentage of pollutants removed increases, the costs of going even further rise as you get more ambitious: a rising cost curve. Therefore, you can set effluent taxes to get any objective you want. If the tax is set low then clearly it is profitable to pay the charge and continue to pollute rather than to cleanup. As you raise the charge, the profit break-even point at which you cleanup pollution becomes more and more stringent. This avoids that all or nothing showdown of regulatory standards: do you put scrubbers in or do you not. We all know who wins this 'game of chicken' 90 percent of the time. Rather than shut down an industry the standard is modified or postponed by the government. Therefore, we now usually do not shutdown. This is an all or nothing situation rather than a gradual process of raising pollution taxes to make it more and more expensive to pollute and thereby creating more and more incentives to change the production process—rather than these all or nothing games of chicken in the courts and in Congress.

There are now enough studies done to give us the idea of how to begin using the tax approach for common pollutants. Obviously, for toxic chemicals and certain heavy metals economic incentives are not the answer; flat-prohibition still is. However, for some of the most pervasive problems in the energy-environment tradeoff and in areas of fundamental pollutants of air and water we can begin. It will take a long time to learn how to do it right. You can not set up a new structural system overnight. But we must begin to send out the enforceable signal that it is very important to do something about environmental pollution and clean up pollution, a signal which is enforceable because it sets up incentives and rewards for compliance and stronger and stronger penalties for those who do not.

TERRORISM AGAINST YUGOSLAVIA DIPLOMATS SHOCKS NATION

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, June 11, 1976

Mr. McCLORY. Mr. Speaker, the Government of Yugoslavia is justifiably concerned over the rash of terrorist attacks against its embassy here, its missions in other cities, and its diplomatic personnel. The latest incident of violence occurred here early Wednesday at the Yugoslavian Embassy.

Two members of the staff were injured, other suffered shock, and the building sustained heavy damage.

This is the ninth such incident in the United States since May 3, 1975, when the Yugoslavian General Counsel and his wife were brutally assaulted in New York.

Other acts of violence preceded that. These incidents have occurred here in Washington, in New York, and in Chicago, and, to my knowledge, none has been solved.

Mr. Speaker, the U.S. Government and the Government of Yugoslavia enjoy a long history of cordial relationships.

In 1975, as a member of the Congress Interparliamentary Union delegation, I had the opportunity of meeting in Belgrade with Yugoslavia's major political leaders. The conversations were engrossing, enlightening, and reassuring because our two countries, although differing widely in political systems and political philosophies, have much in common.

A State Department spokesman last Wednesday officially expressed—and I quote here—

> Our deep concern over this incident and our profound regret at its occurrence.

The spokesman continued—and I quote again:

> Such an act is the most flagrant contradiction to the policy of this Government, which is to strengthen and expand the good relations which we have with Yugoslavia.

Mr. Speaker, I strongly concur in these official remarks expressing the shock and regret of the United States. They express my feelings exactly and I am sure they reflect the sentiments of the Congress and the American people.

I believe that we in the United States are as concerned about such wanton terrorism as are the leaders and the people of Yugoslavia. I hope our law enforcement agencies may zero in soon on whatever group of ideological fanatics is responsible for this campaign.

For myself, I apologize to the Government—and the citizens—of Yugoslavia, and reaffirm the policy of friendship and cooperation that has long characterized the relationship between our two great nations.

THE CASE FOR REQUIRING COST-EFFECTIVENESS IN GOVERNMENT

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Friday, June 11, 1976

Mr. SYMMS. Mr. Speaker, the following speech by Richard Wood, chairman of the Board of Eli Lilly and Co., goes right to the point. I concur with the gentleman's conclusion that no Government regulation should be created until an economic impact statement has been made relating to the regulation's effect on the consumer. My colleagues, let us not kid ourselves. We allow for nice-sounding regulations and laws with little heed of the price the consumer is going to be forced to pay. So-called consumer groups often call for these laws, and we pat ourselves on the back that we are doing a "good turn" for the average guy in America. To my way of thinking, however, the average guy is most interested in making ends meet and providing a better way of life for his family. This goal becomes impossible when the costs of food, of housing, of clothing, of drugs, of automobiles, of commercial transportation, of books, of applicances, and of virtually every other product that the consumer buys are made to soar by unnecessary Government regulation. Before presenting Mr. Wood's excellent statements, I would like to direct my colleagues to one question. How many spokesmen for "consumer groups" have you talked to recently who were blue-collar laborers? How many worked in grocery stores, on car assembly lines, in pharmacies, or on farms? And how many were self-anointed spokesmen coming from professions like the law or education, and coming from the upper socioeconomic levels? If you can honestly answer this question, you might rethink your position on who is doing what to the average guy in America.

The article follows:

STATEMENT OF RICHARD D. WOOD, BEFORE COMMISSION ON FEDERAL PAPERWORK

I am Richard D. Wood, Chairman of the Board and Chief Executive Officer of Eli Lilly and Company. We research, manufacture, and market pharmaceutical and agricultural products.

The essential points that I wish to make and illustrate this morning are the following:

1. The amount of paperwork required by the government is staggering. So is the cost of providing it. The consumer, of course, must ultimately pay this cost.
2. We believe a large percentage of the information we provide the government is unnecessary, unused, or both.
3. Paperwork is only a symptom. It can and should be treated, but the disease causing the symptom is wasteful and nonproductive government bureaucracy.
4. There are specific and effective ways to reduce the amount of paperwork and bureaucracy *without* diminishing the benefits society realizes from legitimate and valid government regulatory functions.

Let me briefly illustrate the overall problem. Our company prepares 27,000 government forms or reports a year at a cost of $5,000,000. That, of course, is only the cost of gathering specific information and filling out the forms or reports. All the necessary analysis and background work is conservatively estimated at another $10,000,000. If this total of $15,000,000 was theoretically applied to only our U.S. pharmaceutical business, it added approximately 50 cents to the price of every prescription for a Lilly medicine bought by the public last year.

The hidden cost of paperwork for the government is, of course, incalculable. Suffice to say that we have one of the world's largest pharmaceutical research organizations and we spend more man-hours filling out government forms or reports than we do on research for cancer and heart disease combined.

I am providing you with a list of forms or reports common to many businesses with our specific suggestions for improvement in content, frequency, or duplication.

Perhaps of more interest to you would be matters unique to our business. Because the safety and effectiveness of our pharmaceutical and agricultural products have important implications for consumers, we, of course, work closely with FDA on pharmaceuticals and EPA on agricultural chemicals. Our paperwork problems with these individual agencies are substantial.

Our application to the FDA for a drug for the treatment of arthritis consisted of 120,000 pages. You heard correctly—120,000 pages. That, of course, was only the original copy. Counting the duplicate and triplicate copies of certain information required by FDA, the total was over 200,000 pages. The actual weight of the paper was 2,038 pounds. Abount 25 percent of these pages—or 30,000 of them—contained information that was important to the evaluation of the drug by FDA. The other 90,000 pages contained incredibly detailed records of every patient who received the drug during its 7 years of testing in humans. Some reports for a single, individual patient were 200 pages long. These individual patient reports, of course, formed the basis for the 30,000 pages of important summary information.

Common sense tells me, as I hope it does you, that something is dreadfully wrong when government believes itself responsible for—or even capable of—using such amounts of information for any worthwhile purpose. Think of the savings in government time and money if we were to adopt the principle of "certified summaries." Stated simply, this means we would have sent the FDA the 30,000 pages of useful information, certified they were based on information contained in the other 90,000 pages, and made any of the 90,000 pages available for on-site examination or analysis. Considering that last year the FDA received 137 original new drug applications, 157 resubmitted applications, and 966 so-called abbreviated applications, the concept of "certified summaries" seems worthy of serious consideration.

Another way to eliminate untold hundreds of thousands of pages of paperwork for the FDA is to eliminate a simple duplication that is now required. Before a new drug is given to that first human being, we submit three or four thousand pages of data about how the drug behaves in a test tube and how various species of animals react to it. This important information is essential to analyze before human testing begins. Later, when we submit the application for marketing the new drug, exactly the same three or four thousand pages must be submitted again (and again in triplicate) because the original information is, quote, not readily retrievable, unquote. We take that to mean nobody can find it. Eliminating this simple and direct duplication of information in one application for testing a drug and another for marketing it could produce impressive savings for both the FDA and drug companies.

Our agricultural division works with EPA on the evaluation and approval of pesticides and herbicides. The amount of paperwork involved is best illustrated by this 153-page computer print-out needed for the information we have submitted on one product. One hundred fifty-three pages of information doesn't seem like a lot, and it isn't. This, you see, is not the information itself. This is the index of the information. Each entry in these 153 pages represents anywhere from 3 to 3,000 pages of information, all of it on one product.

Once again, the principle of "certified summaries," with raw data available upon request, should make simple good sense to any responsible executive in government whether he be in FDA or EPA.

The testing of agricultural chemicals, long before marketing approval is sought, requires tremendous duplication of information. Greatly detailed and highly technical information is submitted to EPA quarterly and annually. However, the first-quarter data must be repeated in the second-quarter report, the first- and second-quarter data repeated in the third-quarter report, and so on. Since each report is submitted in triplicate, this means that 12 copies of first-quarter data are submitted each year. Then, just as with drugs for humans, we must supply the information all over again when the testing is completed and an application for marketing is submitted.

In our dealings with FDA and EPA, the same basic problems arise and the same basic solutions are at hand.

First, the sheer volume of paperwork sent to each agency can be reduced dramatically by using "certified summaries" with any of the back-up information available if needed.

Second, the FDA and EPA requirements that we supply vast amounts of the same information at two different times in the process of seeking approval for a product is simply inexplicable to us and seems contrary to even minimal standards of modern management.

Third, the EPA requirement for submitting first-quarter data four different times in one year is equally inexplicable and wasteful.

Fourth, just because the FDA and EPA are regulators of the health and safety matters in this country does not mean that these agencies should in any way be immune from good management practices and common sense efforts to achieve efficiencies.

As I said, the paperwork is only a symptom. The causes of the paperwork are the regulations that are issued by regulatory agencies. Once in place, these regulations are virtually impossible to eliminate. But they never work as well in practice as they looked in theory. The only way to correct their deficiencies, therefore, is to issue more regulations. And so forth, ad infinitum.

The greatest reduction in government paperwork for any business—large or small—can be achieved by limiting agency regulations to those that can pass a stiff cost/benefit analysis conducted by competent professionals independent of the agency issuing regulations or the businesses affected by them. Surely it is not beyond the capacity of our political system to have a reasonable degree of common sense prevail between business and government. This commission could make a most important contribution in that direction by doing two things: (1) seeking the acceptance of "certified summaries" by FDA and EPA and (2) helping eliminate the blatant duplication of information required by FDA and EPA during the testing and approval of a single product.

I will be happy to answer any questions. Also present are the two executives at Eli Lilly and Company responsible for regulatory matters of drugs and agricultural chemicals.

BIG ISLAND STUDENT BEN BALANAY SALUTES AMERICA'S 200 YEARS OF FREEDOM

HON. SPARK M. MATSUNAGA

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Friday, June 11, 1976

Mr. MATSUNAGA. Mr. Speaker, the Lion's Club in Hawaii is holding a Bicentennial essay contest on the topic "What the Bicentennial Means to Me." I have had the honor of reading the essay of one of the finalists in the high school division, Ben Balany of Konawaena High School on the Island of Hawaii.

Through my travels abroad as an official of the United States, I myself have learned to appreciate the unique opportunities offered to all citizens of the United States to fully develop their potentials, and the high respect accorded Americans by foreigners. Only in relation to the life in other nations can one fully appreciate the advantages of freedom and the responsibilities our Nation, though much maligned, has provided, and continues to provide, its citizens and residents. Ben Balanay has captured this spirit of the U.S. position in his essay.

I would like to share this noteworthy essay with my colleagues. I would also like to express my thanks to Mr. Bill Kennedy, editor of the Hawaii Tribune-Herald, for calling my attention to this essay.

The essay follows:

ESSAY CONTEST WINNERS: THE MEANING OF THE BICENTENNIAL

(EDITOR'S NOTES.—Three Big Island students placed in the finals of the Lion's District 50 Bicentennial Essay Contest, "What the Bicentennial Means to Me. " Ben Balanay of Konawaens High School placed first in the high school division. He received a $500 U.S. Savings Bond and a certificate. Valerie Osaki of Waiakea Intermediate School placed third in the intermediate division and Lynn Ariki of Kalanianaole School was fourth in the elementary division. They also recieved savings bond and certificates. Balanay's essay is presented here. Miss Osaki's and Miss Ariki's essays will be printed in Friday's Tribune-Herald.)

WHAT THE BICENTENNIAL MEANS TO ME

When I was very young and attending elementary school, our teacher said to us, "Stand still, children, for the flag is being raised. Notice its color, how beautiful it is." At that time I couldn't comprehend the full meaning of what she was trying to say. For then my American education had only just begun.

As the years passed and I advanced from one grade level to another, I became exposed to the U.S. history and culture. But what good will it do me if I have nothing to compare it to?

I got my first taste of an answer to that question when I took three trips to the Philippines. The people there look up to you as if you were a god from another world. But so—what is it about America that arouses such passions? After all, we're only five percent of the world's population. Why does the rest of the world react so? My answer to this explains What the Bicentennial means to me.

The Bicentennial means the years of fighting—fighting for the Declaration of Independence. The blood, sweat and tears working for progress by the laws set forth by the constitution, that it is possible I'm blessed with freedom of speech, freedom of the press, freedom to move about whenever and wherever I wish. It means I'm blessed with public schools, the freedom to worship, to assemble with, marry, associate with whomever I wish. You may say, "So what?" Well, three fifths of the world cannot.

Being American means more is expected of me when I'm abroad. I'm supposed to know more, spend more, help more, share more. Again, "So what?" Well, I believe too many of us have an "I've got mine, you get yours" attitude. Half of the world's population is malnournished.

America means Care packages, the eradication of smallpox, the World Bank, emergency food relief for Bangladesh, giving military support, walking on the moon. We can justly be proud of this. I certainly am.

The U.S.A. means the King of the Mountain. We're envied and we're resented. Envied because we're first most of the time. Resented because we're supposed to care more and being the best, sometimes we do, sometimes we don't. Nations copy us; our mode, look forward to our help, yet we get resented. What have other countries given in return? Much less. So you might say, "Then we should ignore them." You can't. If you do, then you'll only be destroying what Americans have fought for; the two hundred years of blood, sweat and tears that have made the red, white and blue stand bright and proud. The belief in democracy to better your nation and others as well. The rest of the world often sees our diversity. Only we Americans understand the mystery of our invisible Union. And the bond serves us in peace as well as in war.

The belief in God and man made America, but America has also made us what we are. Unlike most nations in history, we are a mixture of a multitude of races, religions and cultures. Who can identify us as Americans simply by how we look, how we act or by our names. Yet we know who we are and we have been saying so since the birth of this nation, "Thank God I'm American."

Of course, we have so much to be thankful for! We have fuller freedom for self government and greater opportunity for self-fulfillment than ever existed before anywhere else in this world. Because of the way our founding fathers have shaped this nation—winning the independence, taming the wilderness, advocating the belief of manifest destiny, we have the opportunity of being called American.

The American society is still not perfect, but it is still the best. If we continue to move on the course set forth by our constitution to secure the blessings of today so that we may prosper tomorrow, we will still find ways to better ourselves to bond us into a better and perfect nation.

In '76 and the future years, the most important is the commitment for leadership by all Americans regardless of race, color, or creed.

ANOTHER ANGLE

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, June 11, 1976

Mr. RANGEL. Mr. Speaker, at a time when the Nation is in an uproar over school busing the products of the controversial method to achieve quality education are busy pursuing the benefits. I have in mind, Ms. Cheryl Cottroll, who recently graduated from Yale University this past spring as a premed student and who is now looking forward to attending one of the medical schools which has accepted her in the fall.

Ms. Cottroll is but an example of many black children who because of her residence are denied access to the schools in the "better" neighborhood. However, with concerned parents, Ms. Cottroll overcame that obstacle and enjoyed a good education at one of the most reputable public schools in New York City. The Cottroll family did not move to achieve that goal. Nor did they pay the immense price of private schooling which many parents are forced to do because of zoning restrictions. Rather, the Cottroll family simply took it upon themselves to bus their two children to those schools reserved only for the elite because such schools are located only in elite neighborhoods.

Rather than suffer bureaucratic redtape or the familiar "sorry, Cheryl cannot attend—because—," the Cottrolls simply utilized fictionalized addresses and other "illegal" methods to obtain a quality education for their children.

Mr. Speaker, the point is that while many black children have historically suffered the trauma of school busing, the complaints and protests which are currently undermining the only available method to attain equal education, have not been an obstacle to these young people because the benefits have for the most part heavily outweighed the losses. As long as schools maintain unequal educational facilities, then we have no choice but to insure that all children are allowed equal access to those schools which guarantee first-class education.

I would like to give my colleagues the opportunity to digest for themselves the story of the Cottroll experience. Herewith I submit, "Another Angle," authored by James Hicks and printed recently in the New York Amsterdam News:

ANOTHER ANGLE

(By James L. Hicks)

My kids and Bob Cottroll's kids didn't exactly grow up together because we lived in separate ends of the Big Town.

But Bob, a long time newsman, and a former managing editor of the Amsterdam News, and I, hung out together often, and we got our kids together as often as time would permit.

Needless to say, during the Sixties, we both worked for school integration and instilled in our kids that busing for integration was the best way.

Graduation time is here and with it comes news that busing for integration has paid off for the Cottroll family. Some of the Cottroll 'busing' may have been illegal-but-what the hell!

Bob's daughter, Cheryl, graduated from Yale University as a pre-med student this year. Both she and her brother, Robert, who had graduated from Yale with honors in 1971, have benefited from the family's private, illegal "busing."

"I used to notice those ads in the Sunday Times," said Cheryl's father, "describing luxury co-op apartments that sold for over $100,000 and with annual maintenance charges of up to $50,000. The bottom line of many of the ads read: 'In the P.S. 6 school district.'

"When I saw those chauffered limousines delivering kids (all white) there in the morning, I made up my mind that my kids were going to go there too—I knew that the highest quality education was sure to be provided there for the 'carriage trade.' "

THE FINEST

P.S. 6 does enjoy the reputation of being the finest public school in New York City—that is where the Cottroll children attended. "Whatever it took—false address, traveling there from Englewood, N.J. during one period—that's what we did," said Cottroll.

Did it pay off?—Cheryl has already been accepted by several medical schools and will take courses at Syracuse University Medical School this summer—she is anxious to reach her goal (being a neuro-surgeon) as quickly as possible.

She graduated from Hunter College High School, one of New York City's honors high schools (one in 13,000 eligible applicants is accepted) as class valedictorian in 1972.

Her brother, Robert had graduated from Charles Evans Hughes H.S., after transferring from Stuyvesant H.S. (another of the city's honors schools), as the outstanding graduate. He won the Achievement Scholarship, the N.Y. State Regents Scholarship, full scholarships to most Ivy League schools—in fact, he had to turn down $38,000 in academic scholarships.

He graduated from Yale in 1971, with honors in American Studies; has earned two Master's Degrees—a M.A. in History and a Master of Philosophy in American Studies; has completed his studies for his Ph.D. (all at Yale), and is teaching at Connecticut College. He is listed in "Who's Who Among Black Americans, 1975–76."

Cheryl forsook a promising career as a singer and actress—although the only Black in her class, she played the lead in every play given during her tenure at P.S. 6, including the role of Dorothy in the "The Wizard of Oz." She was a cotillion queen at her church, St. Mark's United Methodist, and active in Sunday School and Church work.

DECIDES ON MEDICINE

She decided to become a doctor before entering high school and has spent the past seven summers working in different laboratories and hospitals throughout the city.

Her father a noted photojournalist, former managing editor of the N.Y. Amsterdam News, is now director of Public Relations for the National Office for Black Catholics and editor-publisher of its newspaper, Impact!

Her mother, who has been employed by the National Council of Churches for over 20 years, set the pace for the children, when she returned to school and received her degree the same year as her son.

"Believe in busing? . . .

"What do you think? Of course they would have made it anyhow.

"But that 'busing' to P.S. 6 didn't do any harm."

ARTICLE MAKES PROPOSALS FOR FUTURE OF CORPS OF ENGINEERS, RAILROADS

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, June 11, 1976

Mr. MICHEL. Mr. Speaker, I was interested to read recently a paper written by two University of Illinois professors, Roger Findley and Bruce Hannon, in which they make a number of proposals for changing the mission of the Army Corps of Engineers.

Specifically, they would divert the corps from its present responsibilities for domestic waterways, and instead have them concentrate on general transportation engineering with special emphasis on the railroad system.

In the course of their discussion, the professors make some interesting commentaries on related subjects. Frankly, I do not agree with all of their positions; I do, however, feel that their paper represents a valuable resource for all who are concerned with the future of transportation in this country.

Since the Members of Congress assuredly fall into that category, I would like to bring the Findley-Hannon paper to their attention by having it printed here in the RECORD:

RAILROADING THE ARMY ENGINEERS: A PROPOSAL FOR A NATIONAL TRANSPORTATION ENGINEERING AGENCY

(By Roger W. Findley, Professor of Law, University of Illinois, Visiting Professor of Law at the University of California, Davis and Bruce M. Hannon, Director, Energy Research Group Center for Advanced Computation, University of Illinois)

The U.S. Army Corps of Engineers is a large competent agency doing the wrong things. It plans and builds expensive, ineffective and environmentally destructive dams and reservoirs. At the same time, our emerging national transportation program calls for massive rehabilitation of intercity rail beds and tracks. Why not reassign the Corps from dams to railroads?

THE NEED TO REORGANIZE THE CORPS OF ENGINEERS

The Corps of Engineers presently constructs and operates the system of inland and intercoastal waterways as well as other water resources projects for flood control, irrigation, hydropower, recreation, municipal and industrial water supply, and water quality control. Unfortunately the agency is in nearly total control of all phases of such programs, from determination of local needs or desires through promotional activities, cost-benefit justification, engineering and design, contracting, construction supervision, operation and maintenance. It is an early and obviously durable example of a completely vertically integrated public agency.

The 225 Army officers and 32,000 civilians comprising the Corps spend much of their time and budget (about $1.8 billion per year) on increasingly controversial projects.[1] Achievement of multiple purposes is sought through construction of large reservoirs at geologically suitable sites on the nation's rivers. The purposes often conflict. For example, the storage of a flood behind a large dam raises the water level there to unprecedented levels. In dry periods, normal reservoir levels are reduced to meet downstream navigation objectives or local water supply needs. The drawdown exposes much of the reservoir bottom, creating cast mud flats which, like the high water levels resulting from flood retention, conflict with the recreational purposes of boating, swimming, picknicking and hiking. While expenditures for such reservoirs have increased substantially over the years, so have national flood damages. This phenomenon stems from an inherent shortcoming of flood retention structures. No dam is designed or able to hold all floods, but the impression of permanent protection encourages development of downstream areas. When the uncontrollable storm hits, it must be passed through the dam and the built-up flood plain is innundated with resulting high damages.[2]

The Corps' non-reservoir navigation and flood control work on large rivers also serves to increase the peril of storm runoff. The Corps constructs permanent revetments into a river (at right angles to the banks) to increase the velocity of the normal streamflow so that the water will scour a suitably deep and wide channel for barge traffic. But the revetments decrease the river's cross-sectional area and thereby increase flood levels. Similarly, the construction of flood protection levees (parallel to the banks) on both sides of a river also causes flood levels to rise as the waters are forced down the constricted river bed. As the constriction increases due to additional levee construction, older levees must be raised to give continued protection to the increasingly valuable property which they enclose. Ultimately, the levees are topped with disastrous consequences.[3]

Finally, it has been shown that the construction projects of the Corps of Engineers are more energy demanding and create less jobs, directly and indirectly per construction dollar, than many other federal programs and than personal consumption.[4] In a special case study, the construction of a Corps reservoir was found to have a negligible effect on employment in a town only eight miles away which had high unemployment levels.[5] The reasons appeared to be that the very specialized skills required for heavy construction are not found in smaller communities, and that such projects actually involve few jobs.

The Corps is inappropriately located in the Department of Defense. Corps officials have indicated that this connection provides valuable military construction experience for its Army staff. Environmentalists argue that the pervasive presence of the Army's civil works projects suggests a relationship between allocation of the Corps' budget for such projects and political support for overall Department of Defense appropriations. Actually, the affiliation probably is a historical accident. Early U.S. military movements occurred on water. These operations required skills in river clearing, crossing and control operations which have burgeoned into today's Corps of Engineers.

Because of the Corps' of heavy involvement in water transportation, as well as its experience in railroad building related to reservoir dislocations, we believe the agency to be a logical and important element in a sensible national transportation program. Presently, however, it clearly and seemingly unswervingly is engaged largely in a wasteful and destructive structural flood control effort. The Corps should be reorganized functionally in order properly to serve as the nation's transportation engineering agency. Such a restructuring also could serve as a model for modernization of other governmental agencies whose programs are equally outdated.

THE NEED FOR A NATIONAL TRANSPORTATION PLAN

Since the beginning of the industrial revolution both producers and consumers have become increasingly centralized. This tendency has enhanced our dependence on transportation systems which have facilitated the centralization process: first waterways, then railroads and highways, and finally airways.

Government intervenes in these systems in varying degrees with subsidies and restrictions which at least in the past were thought necessary to protect producers and consumers from transport system monopolies and from each other. The inland water transport system, for example, is completely subsidized by the federal government. The canal system and locks and dams, through the U.S. Army Corps of Engineers, receive a full one-third of all current governmental transport subsidies.[6] The U.S. Maritime Commission also provides low interest loans for waterway equipment.[7] Only about eight percent of inland waterway traffic (ton-miles) is federally regulated as to rates and routing.[8]

Until this year the railroad system for the most part was privately owned and operated. It received federal subsidies in the form of land about 125 years ago to encourage development of a transcontinental land based transport system. Subsequently, through 1975, private railroad companies received little in the way of public assistance except for the federal takeover of intercity passenger service by Amtrak in 1971. For 100 years rates and routes have been federally regulated, and for several decades employment (union) contracts have been the subject of specific federal legislation.

Motor vehicles enjoy the benefit of public highway systems which connect every village and metropolis in the nation. Some of the federal and state contributions to highway construction are recovered through vehicle fuel use taxes. Large trucks, however, do not pay in accord with the damage they inflict upon the highways and thus in effect are subsidized.[9] Rates and routes of about one-third of total truck traffic are regulated.[10]

All air traffic is federally controlled. The extensive national electronic plane guidance system is provided by the federal government, while most airport facilities are provided by local governments which recover part of their costs from airplane operators and from the federal government.

Recent studies indicate that mechanized transportation as a whole requires approximately 42 percent of all energy consumed in the United States, split about equally between passenger and freight movers.[11] Planes and automobiles are the most energy demanding passenger modes, trains and particularly buses the least.[12] Trucks are easily the most energy intensive freight mode, while barges and especially trains are the least demanding.[13] Yet rail passenger and freight service never has been more depressed financially, and the recent federal takeover of seven Northeastern and Midwestern rail companies may mark the beginning of widesprad railroad nationalization.

The need for a national transportation policy and plan never has been clearer. Fortunately, the Department of Transportation and Congress finally have begun to address the matter.

REORGANIZATION OF THE CORPS OF ENGINEERS AS PART OF THE NATIONAL TRANSPORTATION PROGRAM

We propose that the Corps of Engineers be transformed from a vertically integrated planning, engineering, construction and operating agency, engaged in virtually all aspects of water resources development, to a more horizontally integrated water and rail transportation engineering agency, with some construction and operating responsibilities for navigation facilities and perhaps for railroad rights of way. Responsibility for flood control and other nonnavigational water related purposes, and for the planning and evaluation of transportation projects, would be located in other agencies, and the Corps would be moved to the Department of Transportation.

Now is the critical time to involve the Corps of Engineers in the job of rebuilding the nation's deteriorated rail trackage. The Railroad Revitalization and Regulatory Reform Act of 1976[14] authorizes federal investment of $2.1 billion in the new Consolidated Rail Corporation (ConRail), which has taken over major routes of the Penn Central and six smaller railroads and will operate 17,000 miles of track in seventeen Northeastern and Midwestern states.[15] The act further authorizes $1.8 billion in loans and loan guarantees to other railroads to help them rebuild track and upgrade equipment, and $1.85 billion in grants to improve Amtrak service, primarily through reconstruction of deteriorated tracks between Boston and Washington, D.C.

Track maintenance by most railroad companies in recent years has been sorely deficient. Since 1930 freight car speeds and wheel weights have increased steadily while maintenance expenditures per ton mile have declined by 80 percent.[16] Since 1960 accidents attributable to nonmaintenance of rights of

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Footnotes at end of article.

way have increased by a factor of six.[17] Insurance premium payments and casualty reserves of all railroads increased by 235 percent from 1965 to 1971,[18] suggesting the possible substitution of those forms of protection for track maintenance—a terminal solution absent public intervention.

The final system plan governing ConRail's operations[19] contemplates large scale rehabilitation of its tracks and road beds. The Regional Rail Reorganization Act of 1973, which created ConRail, specifically authorizes the Corps of Engineers to consult with and assist ConRail in the rehabilitation.[20] In response to this authorization the Corps has prepared a study elaborating its "extensive" capability to participate in both planning and construction.[21] During the past twenty-five years, as a result of railroad relocations necessitated by reservoir construction, the Corps has been probably the largest railroad builder in the United States, having designed and constructed more than 1,500 miles of railways at a cost of over $1.25 billion.[22]

With respect to railroads other than ConRail, track rehabilitation utilizing federal loans, guarantees and grants available under the Railroad Revitalization and Regulatory Reform Act could be designed and carried out by the Corps under contractual arrangements with the private owners and Amtrak.

However, we see competitive and maintenance advantages in public ownership of all intercity railroad rights of way. It would be a major step toward more equitable governmental intervention in and competitive opportunity among the several transportation modes, these being the prime elements of the national transportation policy recently outlined by Secretary of Transportation Coleman.[23] Publicly owned tracks, like public highways, waterways and airways, could be opened to a wider range of users. Not only could there be more competition among railroad companies on particular routes, but users might include shippers themselves, such as coal and steel companies, and perhaps even one-engine operations analogous to "gypsy" truckers who haul much of the freight on our highways. Users would pay fees based on wheel weights, velocity and frequency of use, the fees being proportional to damage caused and sufficient to cover all maintenance and replacement. (The same fee rule should cover highway and waterway users.) Such a system, of course, would require substantial revision of the regulatory program of the Interstate Commerce Commission, but changes in I.C.C. practices are due in any event.[24] The Railroad Revitalization and Regulatory Reform Act gives railroad companies new freedom to raise and lower fares without commission approval, to enable them to compete more evenly with other freight haulers. A basic objective of further changes should be to minimize total (private and public) costs and to recover the public costs through user fees. While public ownership and expanded usage of tracks would pose problems of traffic control, they should be soluble.

The Corps of Engineers manages similar problems, though not of the same magnitude, at locks on inland waterways, and the Federal Aviation Administration handles much greater ones in the airways. Some agency within DOT could do so for railroads.

Regarding maintenance, we are not sanguine about leaving it to private railroad companies. Experience has shown them and their parent corporations to be inclined to divert funds to other purposes, sometimes unrelated to the railroad business. Public ownership of the rights of way would permit the government, through the Corps of Engineers, to insure a high level of maintenance after rehabilitation of tracks and related facilities. An important part of maintenance must be enforced limits on wheel weights and train speeds. In the United States it is reported that the average load per freight car axle ranges from 10 to 30 tons, depending on the type of car, one and one-half times that allowed by European standards.[25] Without reasonable limits, completely rehabilitated trackage will deteriorate rapidly with constant maintenance efforts. Well maintained tracks are essential to efficient and safe railroad operation, particularly passenger operation. It is practically not possible to maintain existing tracks for the profitable operation of both 100-ton freight cars and 125 mile-per-hour passenger trains.[26] Given the present condition of most intercity roadbeds, Amtrak has not had a fair opportunity to test the viability of a modern rail passenger service system in this country. Such an opportunity will require major rehabilitation plus either a combination of wheel-weight and speed limits plus adequate maintenance, or dedication of some tracks exclusively to passenger and light-freight traffic.

The foregoing assignments to the Corps of responsibilities related to rail transportation should be made only if accompanied by steps to terminate the agency's authority outside the transportation field. Continuation of the other authority would divert attention and resources from the railroad reconstruction mission. Even more importantly, the Corps' other functions—flood control, recreation, water supply and other nonnavigational aspects of water resources development—reflect largely outdated national policies or could more appropriately be performed by other federal, state or local agencies. In addition, within the context of water and rail transportation, the Corps' activities should be restricted to engineering, construction and maintenance. The planning and evaluation functions which it currently performs in connection with water resources projects should be reassigned to avoid the bootstrap or solution-in-search-of-a-problem approach so common with mission oriented planning and construction agencies. Finally, consistent with its new focus on national transportation engineering, the Corps should be moved from the Department of Defense to the Department of Transportation. The Corps is essentially a civilian agency, with the few hundred military officers spending brief tours of duty serving as figureheads for a bureaucracy of tens of thousands of nonmilitary personnel who in fact are the promoters, planners and builders of Corps projects.

At the top of the list of functions to be transferred from the Corps is flood control. The Corps itself recognizes that there has been a remarkable change in national attitudes toward the building of reservoirs to withhold flood waters. In the words of its last Director of Civil Works:

"Only after we have thoroughly exhausted all other alternatives, in particular those labeled nonstructural solutions, will the public accept structural solutions. This is quite a change in the national attitude which existed just 10 or 15 years ago, As a result, I see the Corps role in flood control changing significantly." [27]

The Corps' responsibility for flood control should be turned over to the Department of Housing and Urban Development. HUD administers the national flood insurance program[28] and works most closely with state and local land use planning agencies whose involvement is essential in any floodplain management program. To informed persons it has been clear for many years that the dam-and-reservoir approach to flood control has been not only expensive but counterproductive. It has encouraged human encroachment and development on floodplains without protecting against the largest and most destructive floods. The result has been constantly and rapidly increasing flood losses.[29] The only feasible way of reducing such losses is a comprehensive program of floodplain management, a fact finally recognized in the federal Flood Disaster Protection Act of 1973.[30] The act denies flood insurance and financial assistance to communities which fail to adopt and enforce adequate land use and control measures to protect new development against the so-called 100-year flood. Such measures, in addition to restrictive zoning, include elevating homes to safe levels, flood proofing commercial buildings, anchoring buildings, providing sufficient drainage, etc.

Where public flood control structures such as dikes and levees are needed, they should be provided by state or local governmental units with power to assess the costs against direct beneficiaries. Much of the political popularity of Corps reservoirs has stemmed from the fact that the nation's taxpayers, not the benefited landowners, foot the flood control bill.[31]

Where reservoirs are desirable for recreational, water supply or water quality purposes, they also should be built by the states or their political subdivisions, not by the Corps or other federal agencies. Too often in recent years these purposes have been the real reasons for ostensible flood control projects built by the Corps and far too heavily federally subsidized.[32]

Irrigation and hydropower projects are built principally in Western states in which the Bureau of Reclamation is authorized to operate. Removal of such projects from the Corps' range of activities need not foreclose the possibility of federal construction in appropriate situations.

The new annual budget for the Corps of Engineers could be as high as $1.2 billion, about $600 million each for waterways and railroads. This estimate of railroad costs includes rehabilitation of the tracks taken over by ConRail and comprising about one-fourth of all U.S. trackage.[33] It does not include such major needs as separated-grade-road crossings.

CONCLUSION

The net results of the organizational changes which we propose would be to realign our national water resources programs in accord with current social priorities, to facilitate adoption and implemention of a rational and badly needed national transportation policy of essentially uniform governmental intervention in the different modes, to utilize more beneficially the Corps of Engineers' engineering and construction capabilities, and to establish a desirable precedent for functional reorganization of other federal agencies. The physical needs of the national rail transport system, both in absolute terms and in social importance because of energy and employment considerations, far exceed those of the nonnavigational aspects of water resources development which for decades have occupied the Corps' attention and too large a piece of the federal budget. Now we should trim the fat and respond to more pressing contemporary issues.

FOOTNOTES

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[16] Hannon, Note 10.

[17] Id.

[18] Id.

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[20] 45 U.S. Code 701, et seq.

[21] Department of the Army, Office of the Chief of Engineers, Regional Rail Reorganization Act of 1973, Capability of the U.S. Army Corps of Engineers to Participate (January 1974).

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TREMENDOUS COST OF GOVERNMENT PROGRAMS

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, June 11, 1976

Mr. DERWINSKI. Mr. Speaker, a very sound, penetrating, and thoughtful editorial appeared in the Press Publications, serving DuPage and western Cook Counties, Ill., on Wednesday, May 26. It referred to the tremendous cost of Government programs and their relationship to the tax burden that business concerns and their employees must bear, and I want to call it to the attention of the Members:

UNSUNG MINORITY

A small news item may have escaped the eye of some persons but it significantly sums up what is happening in the country today and why the country has problems.

In effect, it said more persons are getting direct government payments than are employed in private industry.

Perhaps it was only coincidental but the next item said the United States no longer has the highest per capita income in the world.

Those who fail to understand the correlation between the two items should go back and take a basic high school economics course.

After completion of the economics course the younger generation might find the basis for a new crusade, climaxed by a march on Washington to demand an accounting of the taxpayers' funds.

In 20 or 30 years the older generation will be gone and the under-30 age group will be saddled with an enormous debt piled up by the present fiscally irresponsible legislators who daily bow to demands for handouts.

HE WAS EVERYTHING A MAN SHOULD BE

HON. JAMES J. DELANEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, June 11, 1976

Mr. DELANEY. Mr. Speaker, it is tough to be in the public eye, especially in the national spotlight, over a long period of years. Jim Farley was. Known and loved as a national figure for over 40 years, his image comes through as fresh and unblemished with his passing as it did on the day he started out in politics. Jim's service to community, State, Nation, and church is a legend that no man, no matter how bright his intellect, how big his heart, or how enduring his stamina could approach. Jim was my friend. I will greatly miss him.

Jim Farley was "born a Democrat" back on May 30, 1888, the second of five sons of a New York Irish Democrat who was a brick manufacturer in Grassy Point. His father died when he was only 9 years old and, shortly after, his mother Ellen scraped together $1,500 and bought a grocery store with a saloon attached so she could raise money to rear her children. Jim worked in the saloon. I remember he used to say,

> I tapped many a keg of beer and cleaned many a bottle with buckshot.

But, he never drank or smoked. He worked summers as a machine boy in a brickyard for $1 a day.

At the age of 8, Jim was a torchbearer in a local parade for William Jennings Bryan. That marked the humble beginnings of a long and illustrious career as the most successful political manager in history, a national committee chairman, intimate Presidential adviser, Postmaster General and key New York State tactician. I am sure if FDR had not run in 1940, he would have been our President. He was revered whether as an "affable Irish giant" or as a "kingmaker"; he was a friend to people from every walk of life—from Popes to altar boys, from Prime Ministers to filing clerks, from Presidents to pages—perhaps to more people than any other man of his generation.

Mr. Speaker, Jim received honorary degrees from an incredible 25 universities—the list sounds like a travelog of the United States. Although he graduated from Stony Point High in 1905 and studied bookkeeping for 9 months at Packard Commercial School, he only recently received his New York regents diploma. He was fond of saying that his education began after he left Stony Point.

He always emphasized the human; he was known to hundreds of thousands, both Democrats and Republicans, and everyone called him by his first name. His personal letters signed in green ink were familiar to all with whom he came in contact.

I want to take this opportunity to extend my deepest condolences to Betty, Ann, James Jr. and the rest of the family. Jim Farley had the respect of everyone in politics on both sides of the aisle and I know we will dearly miss his keen sense of humor and irresistable charm.

He was everything a man should be.

EDUCATIONAL PROBLEMS FACING URBAN NATIVE AMERICANS—PART IV

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 11, 1976

Mr. FRASER. Mr. Speaker, I would like to call my colleagues' attention to the fourth article in a five-part series on Indian education which recently appeared in the Minnesota Daily, the University of Minnesota newspaper. This article, written by Patrice Vick, looks at programs in Minneapolis that are designed for Native Americans who have left the traditional educational sequence.

Ms. Vick observes that two types of programs are particularly valuable to the Indian adult who has left school: Courses which study Native American culture in a relatively formal academic setting and tutoring in preparation for the General Equivalency Diploma examination. Both types of programs serve to strengthen a Native American adult's self-image and to give the individual a sense of confidence in his or her ability to cope with and succeed in the educational system. The tutoring programs, especially, contribute to these feelings by better preparing the adult to enter the job market.

Ms. Vick describes the programs of three Minneapolis institutions: the Minneapolis Regional Native American Center, the Division of Indian Works under the Greater Minneapolis Council of Churches, and Metropolitan Community College.

On May 14 the Minneapolis Tribune reported that the Regional Native American Center held its first graduation ceremonies on May 13. Beneath a picture of Mrs. Gladys Cain, one of the center's graduates, the Tribune noted:

> Mrs. Cain, 49, was one of 43 graduates who received high-school equivalency diplomas under a program begun in September by the Center's education department. She had completed 9th grade at a boarding school in Pipestone, Minn. in her youth and since then has had nine children. Mrs. Cain also has 14 grandchildren. More than 200 Indian students are enrolled in the program, which is supported by a $62,500 federal grant.

Ms. Vick's article follows:

EDUCATIONAL TUTORING HELPS INDIANS CURE CHRONIC DROPOUT RATE

(By Patrice Vick)

While public schools are experimenting with ways to keep Indian youngsters in school, the education levels of older Indians—failed by conventional education—are being raised by programs in Minneapolis.

Last year the Regional Native American Center, 1530 Franklin Ave. E., launched two tuition-free programs to upgrade the self-image of Indians who are out of school and better prepare them for jobs.

Under a $62,000 grant from the U.S. Department of Health, Education and Welfare, the center's adult education department offers courses in Native American culture and tutors Indians who want to receive their high school General Equivalency Diploma (GED).

The culture class, taught by Native American Jeremy Rockman, is frequently attended by as many whites as Indians.

But center education director Jim O'Brien sees educating whites about Indians as one of the class' main functions.

"For non-Indians to know what goes on in Indians' heads is important," O'Brien said.

The course also gives Indians a chance to look at the positive aspects of their culture in a somewhat formal, academic setting, he said.

Helping older Indians may have long-range implications for the chronically high dropout rate of Indian youth. "If these people find they're successful in academics, their children will tend to follow," O'Brien said.

Having an educated Native American, such as Rockman who is working on his master's degree in special education-educational psychology, teach also gives Indians confidence that they can succeed in the educational system, O'Brien said.

In his class Rockman stresses the positive values of Indian culture—a spirit of cooperation and equality, and a reverence for nature and friendship—by relating them to Indian symbols such as the circle, the drum and tobacco.

A key objective of the center's GED tutoring program is to open up the job market for urban Indians.

Wilbur Spottedwolf, another Indian tutor, said he thinks the lack of a high school diploma has kept many Indians from seeking jobs "because they've heard a high school education is important."

Unlike other GED tutoring programs in the city, the center's program is geared towards the special needs of its Indian students.

"These classes are a nonpressure type of thing," Spottedwolf said. "Some other (tutoring) programs keep them in there too long—for a couple of months. We've been able to turn out a graduate in two or three weeks. Our goal is graduation."

To ease some financial problems of students attending the class, the center also pays babysitting and partial transportation expenses.

O'Brien said he thinks the tutoring classes, like the culture class, build up the Indian students' self-image.

"People without diplomas think their entire schooling is a failure," he said.

The Division of Indian Works, under the Greater Minneapolis Council of Churches and which aids reservation families in finding housing and employment in Minneapolis, also provides tutoring "on a need basis" for Indians seeking their GED.

According to Celeste Fraction, who administers GED testing at Metropolitan Community College in Minneapolis, students in the Native American Center's tutoring program have earned higher than average scores on their GED tests.

Currently 18 of those students are nearing completion of the test, which includes sections on social studies, math, English, grammar, science and reading comprehension. Five students from the center's class have completed the test.

The college's tie to the center's tutoring program is important because the college hopes to recruit Indian students who have passed the GED test, according to James Field, chief examiner of the GED tests at the college.

Field said that having the students take the test at the college "gives them a chance to walk around and feel comfortable on a college campus."

"The Native American community has seen us (Metropolitan Community College) as an alternative for higher education. We're trying to live up to that reputation," he said.

One step the college has taken this year to better serve the Indian community is hiring a Native American student support specialist, Elizabeth Smith.

Smith said her experience as a Native American qualifies her for the job, even though she lacks a college degree.

Many Indian students in college have the same problems as those in public school: a feeling of insecurity when not surrounded by other Indians, a lack of rapport with their instructors and difficulties in understanding curricula that seem irrelevant to their way of life, Smith said.

To alleviate these problems, she hopes to have math, English and public health courses Indian students have difficulty with, taught through the college at the Native American center this spring.

"If I'm going to pull them through I'm going to have to do something different. I think the environment (being surrounded by Indians in a center built for them) will help," she said.

Smith said she also hopes to ease the teacher-student friction in some classes at the college by recruiting instructors who have a good rapport with Indian students.

Smith and O'Brien both said they are skeptical of how well Indians who advance educationally through their programs will fare in coping with the white-dominated job market in the urban area.

"There will always be a problem for Indian students who can't get jobs in Indian organizations," Smith said.

This spring O'Brien will start offering courses in resume-writing, corporate law and proposal-writing for government grants—all geared at helping Indians get into the economic mainstream.

However, he said he thinks only about one in ten Indians who receive their GED will find jobs in the Indian community and most are not going to be satisfied "going out and making money for some white man."

Smith is a bit more optimistic about her program: "Once we get them through here (the college courses), they'll feel better about themselves so they'll apply for those jobs outside Indian organizations."

A WRONGFUL INTERVENTION

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, June 11, 1976

Mr. RANGEL. Mr. Speaker, I would like to share with my colleagues a recent letter sent to the President of the United States from the Harlem Lawyers Association regarding President Ford's unconscionable attempt to intervene in the school busing case currently awaiting Supreme Court review. The letter ably expresses my own sense of dismay that the leader of our country sees fit to adversely intervene in a case which involves the inalienable right to an equal education for all American children. To engage in politicking in this controversial area only serves to further ignite the violence which has penetrated the busing area and jeopardize the progress thus far made in promoting quality education for all Americans. Mr. Ford must not forget that he not only represents those who will vote him into office but also those innocent children who are not eligible to vote but do have the right to enjoy those rights exercised by those with the ballot power.

Herewith, I submit the text of the Harlem Lawyers Association's letter protesting President Ford's inopportune behavior:

MAY 26, 1976.

GERALD R. FORD,
President of the United States, The White House, Washington, D.C.

DEAR MR. PRESIDENT: The Harlem Lawyers Association is deeply concerned and distressed by the recent Presidential Pronouncement urging the Attorney General of the United States, as the Chief Law Enforcement Officer in the land, to intervene in an appropriate case involving school busing at a time when that issue is highly inflammatory and follows hard on the heels of the recent mob violence against school busing in Boston, Massachusetts.

Whereas, the Harlem Lawyers Association expects any President who is the leader of all the people, to exert the moral and legal presence of his office to uphold the law of the land.

Whereas, in this instance, the President is a lawyer, who should understand the necessity of peaceful appellate review of any decision an appellant deems adverse to his interest.

We as an organization of lawyers are chagrined, mortified and appalled by our Chief Executive's succumbing to mob violence in the volatile Boston situation; wherein you stated that you are opposed to busing and then urged your Chief Legal Officer to intervene in the Supreme Court, asking for new guidelines on the question of school desegregation.

We as a professional organization of lawyers, would think that there would be no need for the Chief Executive, who is also a lawyer to be able to differentiate between peaceful picketing and assembly under the provision of the First Amendment and violent mob action which interposes itself between a legally mandated decision of a court and the promulgation of its idea of what the law should be.

Respectfully yours,
MILTON L. WILLIAMS,
President, Harlem Lawyers Association.

GENERAL REVENUE SHARING PROGRAM

HON. JOHN Y. McCOLLISTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 11, 1976

Mr. McCOLLISTER. Mr. Speaker, I would like to express my delight at the manner in which the House has acted to extend the general revenue-sharing program and to reject amendments which would have converted it into yet another categorical grant program.

As one who traveled the length and breadth of this Nation campaigning for the original enactment of general revenue sharing, I am gratified that the House voted to remove the remaining restrictions on use of revenue sharing funds by local units.

Rejection by the House of the Rosenthal and Fascell amendments represents a vote of confidence in the Nation's Governors and mayors and in the original program itself. Using revenue sharing as a lever to restructure local governments or to provide supplemental unemployment assistance would have clearly converted revenue sharing into just another special categorical grant program. Instead, by resisting these committee amendments, the House has given Governors and mayors the green light to direct this Federal assistance to those programs which in their judgment should get priority funding.

Much has been said and written about the need to promote responsive government. Of late, we are being lectured on the imperative of effective and efficient government as well. One may well argue that Federal programs are responsive to the expressed desires of our people. But the tailoring of governmental response to local priority concerns is uncontestably superior to broad Federal programs. For this reason, general revenue sharing should be continued and expanded to take advantage of the Federal Government's superior tax collecting capacity and the superior targeting ability of State and local governments.

The impact of House approval of the bill is well assessed by Richard L. Lyons in the Washington Post. I include Mr. Lyons' story at this point in the RECORD:

REVENUE SHARING EXTENSION IS VOTED

(My Richard L. Lyons)

The House yesterday voted an extension of revenue sharing that would hand out $25 billion over the next 3¾ years in no-strings aid to state and local governments.

The bill was sent to the Senate, which is also expected to give it friendly treatment, by a vote of 361 to 35 after the House rejected an attempt to convert the guaranteed payout to an annual appropriation.

The outcome was a victory for the nation's mayors, who had lobbied heavily to continue the long-range funding, and for the administration, which was able to eliminate some provisions it didn't like. It was a defeat for Democrats who favor aid for specific programs with federal guidelines and who oppose handing out federally raised tax money to be spent by other levels of government with no accountability.

By an earlier vote of 233 to 172 the House cut out of the bill several provisions that President Ford had said would cause him to consider a veto. Stricken were provisions calling for reports from state and local governments on what they were doing to modernize their operations, a change in the allocation formula that would have based allotments in part on the number of families below the poverty line instead of per capita income, a requirement that if any revenue sharing funds are used for construction projects, prevailing wage rates for construction workers must be paid, and part of a toughened anti-discrimination provision.

Civil rights spokesmen said that action left the anti-discrimination section weaker than existing law. The bill provides new procedures to suspend revenue sharing aid to recipients where there is a finding of discrimination. But the section also prohibits any citizen to file a court suit alleging discrimination until he had "exhausted all administrative remedies." Opponents said this language appears in no civil rights law and was not clear.

But before the bill was passed, an amendment was adopted without opposition which provides that a citizen need not spend more than 60 days seeking administrative relief before going to court.

As passed by the House, the bill is an entitlement program. Cities and states are entitled to the $6.65 billion a year, and Congress may not reduce the amount during the 3¾-year life of the program.

Rep. Brock Adams (D-Wash.), chairman of the House Budget Committee, which is trying to regain congressional control over spending, was defeated, 244 to 150, in his efforts to make the amount of aid subject to annual appropriation action by Congress. He would have continued the program as it is for two years, then provide that Congress appropriate the money one year or more in advance.

The mayors lobbied hard to keep the present procedure, saying they needed long-range assurance of the amount of aid they would receive to plan for its intelligent use.

The cities and states wanted the program extended for 5¾ years and with more money. The $6.65 billion a year it provides in grants is the same amount now being handed out. But the bill does not contain the existing law's inflation factor, which has increaesed the total by $150 million a year.

John Gunther, executive director of the National Conference of Mayors, issued this statement after the bill passed.

"The key issue was long-range funding. We got it. The only thing we didn't get was more money to cover inflation. We'll work for that in the Senate."

The League of Women Voters said, "House failure to pass legislation which would establish modest but critical reforms in the general revenue sharing program is an abomination. The reforms, sought by the league and others, were designed to make the program more responsive to human needs and to eliminate some of its fiscally irresponsible features."

PERSONAL EXPLANATION

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, June 11, 1976

Mr. CONYERS. Mr. Speaker, because of circumstances beyond my control, I was not able to be present in the Chamber for passage of House Resolution 1260, which permits the Ethics Committee to draw funds directly from the contingency fund for any investigations pending. Had I been present, I would have voted "aye" on House Resolution 1260.

UNITED STATES SHOULD KEEP PROMISE TO WITHDRAW FROM THE ILO

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 11, 1976

Mr. EILBERG. Mr. Speaker, the United States has threatened to withdraw from the International Labor Organization because of that group's policy of getting into issues which have nothing to do with its purpose. This stand, clearly stated by Secretary of State Henry Kissinger, is to be applauded. Since our warnings have not been heeded, we should prove that we mean what we say and begin the steps of withdrawal from the ILO. At this time I enter into the RECORD an editorial from the Philadelphia Inquirer concerning this situation. The newspaper is to be commended for its position:

UNITED STATES SHOULD KEEP PROMISE TO WITHDRAW FROM THE ILO

Last November Secretary of State Henry Kissinger, noting the tendency of the International Labor Organization to "become increasingly and excessively involved in political issues," served formal notice that the U.S. intends to withdraw from the 126-member United Nations agency unless it "returns to its basic principles."

Now that the agency has departed even further from its basic principles, the U.S. should make it clear that it means exactly what it said.

The immediate issue is the decision of the ILO's governing body to admit the Palestine Liberation Organization, a terrorist group, not a government, to an ILO-sponsored conference on world employment.

Earlier, the governing body had decided, by a single vote, to ban the Palestinians from representation at the conference. Then, brushing off the American contention that it was flouting its own rules, the governing body reversed itself, under pressure of Arab governments, other "third world" countries and the Communist bloc.

The reason was clear enough. The Arabs themselves had made it clear that they intended to boycott the conference if they lost on the issue. The ILO plainly took their threats more seriously than it took the American warning.

After the reversal, a PLO spokesman hailed the seating of his organization as "a defeat for Israel and the advocate of Israel, which is the United States." Precisely so. That was the intention.

If the Arab countries and their "third world" and Communist supporters want to twist the eagle's feathers, however, there is no reason why the U.S. should sit still for it. Nor is there any reason why the U.S., which puts up one-fourth of the ILO's annual $50 million budget, should continue paying for the privilege of having the ILO used as an anti-American sounding-board.

For this is not simply a matter of one vote lost. Like other specialized U.N. agencies, the ILO is supposed to be neutral and nonpartisan, dedicated to the improvement of workers' conditions and the advancement of human rights. Yet as Mr. Kissinger pointed out last November, the ILO has shown in recent years a "selective concern for human rights," ignoring violations in such countries as Saudi Arabia, where slavery is still practiced, and the USSR.

There is, of course, something to be said for hanging in there and fighting for one's principles, but there does come a time when the best way to uphold one's principles is to withdraw from the organization which consistently flouts them. We think that time has come as regards the ILO and that a U.S. withdrawal might have a salutory effect on the nations now perverting international agencies into instruments of political warfare.

POLLY WARFIELD, WOMAN OF MANY TALENTS

HON. CHARLES H. WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 11, 1976

Mr. CHARLES H. WILSON of California. Mr. Speaker, an outstanding figure I have had the pleasure of knowing in my 31st District for many years is Polly Warfield of 2023 West 160th Street in the city of Gardena.

It is fitting that the business of the Nation pause at this moment to honor her for her many accomplishments. While her stature is diminutive, she stands tall among her fellow members of the press, and rightly so. Hers has been a long and distinguished career in the field of communications and her achievements are many.

Most recently, Polly has worked long hours as editor-in-chief of the Gardena Valley News. Prior to this assignment she was managing editor and women's editor. This career covered a span of 10 years, and it was often late at night that Polly's red curls could be seen above fingers busily tapping out the many news events vital to a viable community. And there was always a ready smile, a willingness to lend a hand, and time in spite of deadlines to meet visitors. She will be missed at that desk by many.

For 3 years she was a reporter and writer for the San Francisco Chronicle; and for 2 years wrote and produced a radio program for the national networks. The program featured Mrs. Eleanor Roosevelt, who was then delegate to the United Nations. The fact that Polly touched upon the famous of the world in this work gave her no affectations; she has always been able to talk with the least-renowned as easily and with as much warmth as with those who could command awe.

Polly was also the first woman in Los Angeles to do senior radio newscast writing, this at KNX, the CBS outlet in Hollywood. Her responsibilities included major newscast development, writing for radio features, and she expressed her talents in editing, writing, and broadcasting her own program, known as Katherine Carr and the News.

Her awards and honors include the George Washington Honor Medal of the Freedoms Foundation; first place award for the best front page from the California Newspaper Publishers Association; the Herrick Memorial Award from the National Newspaper Association; the second annual Jeane Hoffman Award from Theta Sigma Phi, the Statewide award from the California Taxpayers Association; as well as plaques and commendations from the Elks, Rotary Clubs, Chamber of Commerce, Veterans of Foreign Wars, Gardena Community Adult School, PTA, and school awards for editorial and play writing.

Probably the achievement Polly would list as foremost is being the mother of two lovely girls: Jocelyn, 21 and Carola, 22.

It has been a fine experience to have known Polly Warfield. Her contributions have been selfless, and many have turned to her as they can only to a good friend.

May the record of this country show that on this day Polly Warfield was recognized as an outstanding citizen, public servant, and above all a lovely and warm woman to whom many of us are deeply indebted.

OUR NATIONAL MARITIME POLICY

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, June 11, 1976

Mr. DOWNEY of New York. Mr. Speaker, I am grateful for this opportunity to share with my colleagues some views on our national maritime policy, or lack thereof, that I consider cogent and most timely.

For nearly 18 years the maritime affairs of this Nation have played a significant role in my life, and I continue to be concerned that the United States establish and maintain worldwide maritime superiority. This is as essential to our economic well-being as it is to our defense capabilities.

In that connection, I commend to my colleagues the recent remarks of Rear Adm. George H. Miller, U.S. Navy, retired, examining some of the problems that exist regarding our direction in maritime affairs. Admiral Miller is highly qualified to address these matters.

In 1970 he was assigned as naval adviser to the Assistant Secretary of Commerce for Maritime Affairs in a move by the Secretaries of Commerce and the Navy to give more attention to the U.S. merchant fleet's responsibility as the Nation's naval and military auxiliary.

Admiral Miller, who retired from active duty a year ago, has written and lectured extensively on military policy and strategy, sea power and maritime strategy, and has published numerous articles on these subjects.

Mr. Speaker, I encourage my colleagues to give serious thought to Admiral Miller's views:

NATIONAL MARITIME POLICY

(By Rear Adm. George H. Miller, USN (Ret.))

My assigned subject today is National Maritime Policy. I must confess at the outset, the United States has no National Maritime Policy; nor is it organized to produce one.

In actual practice the United States Government tends to favor foreign-flag ships over U.S. flag ships.

We insure that about half of U.S. airborne foreign trade goes on U.S. carriers, but look the other way while 95 percent of our foreign waterborne trade is handed over to foreign flag carriers.

We stand idle while the U.S. maritime industry is exported, but protect other national defense industries, such as aerospace, steel, automobile and agriculture.

We pour billions of dollars into modernizing highways and railroads, but allow our waterways and canals to sink into obsolescence.

We pour more billions into development of aircraft, missiles and submarines, but continue to build obsolescent ships.

I retired from the Navy last July after 46 years of service. Part of that service was in the years leading up to Pearl Harbor. I remember well in the late 1930's our Government leaders praising the strength and war readiness of our Navy.

Then came Pearl Harbor. On December 7, 1941, the U.S. was caught by surprise. Army and Navy ships, planes, airfields, and key installations were reduced to helplessness by what, until then, had been regarded as a less capable Japanese Navy.

Fortunately in those days, we could depend on powerful, courageous allies to hold off our enemies while we recovered from shock, picked up the pieces, and rebuilt.

Today, however, we cannot count on allies to hold off attackers for the months we might require to change over to wartime procedures. From the outset of a new emergency, U.S. forces must carry the burden of the sea war.

It was a substantially different Navy that emerged from Pearl Harbor. Large numbers of naval reserves, many trained in the merchant marine poured into Navy ranks. Merchant ships by the hundreds were converted to combat, amphibious and logistic functions. A total of 110 merchant ships, for example, saw service as auxiliary aircraft carriers in World War II.

The Pearl Harbor disaster showed that Navy-Merchant Marine pre-Pearl Harbor planning was woefully inadequate to meet a sudden surprise emergency. It revealed that the U.S. was not ready with the strategy, back-up and staying power needed to outlast a first-class opponent in a protracted sea war. The Pearl Harbor disaster also put to shame the optimistic, "We're Number One," rhetoric of U.S. leaders of the 1930's. The continuous outpour of optimistic assessment by administration officials lulled the American constituency into a false sense of security. Those who raised questions concerning U.S. readiness for war received scant attention.

This brings one to wonder about the accuracy of the statements being made by Government authorities today. At the end of World War II, United States naval strength was clearly Number 1 in the world. Since then our relative naval strength has declined to where many authorities, including a former Secretary of Defense and a former Chief of Naval Operations, question its adequacy. The U.S. Navy has declined to a level of 299 combat ships for the first time since 1939. The U.S. Merchant Marine has declined from close to 5 thousand ships in 1946 to a mere 573 as of January 1, 1976. The percentage of U.S. trade carried by our Merchant Marine has declined from 58 percent in 1946 to a more 5.1 percent today. Still, out of the mouths of Government officials the optimistic rhetoric continues to pour.

Having served in Government for some 46 years I can say with some authority that if a Government official wishes to keep his job and get promoted now and then, he had better continue stressing the good news and soft-pedal the bad. Politics prevents us from admitting and correcting our shortcomings.

So, who is to tell the people the bad news? Fortunately, we do have a free press, which has shown encouraging aptitude recently for digging out the bad news, rather than depending on optimistic Defense Department handouts, as was sometimes the case during the euphoric decades following World War II. Fortunately also, Government leaders must stand for reelection, and opposition candidates have begun again to question Administration national security policies.

The free press is essential to national security. So are the candidates for political office who understand national security well enough to ask questions. Without people who ask critical questions, we shall be doomed to wait again until another enemy reveals our weakness. But in addition to the press and the candidates, there also must be a few pioneers who tend to be uncomfortable with the status-quoism of the great national security bureaucracies. As former Assistant Secretary of Commerce for Maritime Affairs, Andrew Gibson, remarked:

"The pioneers get all the arrows and those who follow behind make all the money and get the promotions."

So in this Bicentennial Year, let us remember the pioneering spirit of our forefathers. Few of them would have sailed for America had they felt comfortable with the status quo. Let us therefore look closely at the status of U.S. sea power.

We might define sea power as the Nation's total capacity to use and exploit the oceans. Sea power consists of combat navy, merchant navy, fishing fleet, scientific fleet, shipbuilding, maritime-related industries, seaports, overseas naval bases, foreign trade, maritime education facilities and other maritime-related activities, coordinated by a national maritime policy and strategy.

Traditionally, a nation's sea power has been coordinated and led by a Minister of Marine with direct access to the highest authority in the land. Throughout most of its history, the United States had a Secretary of the Navy in the President's Cabinet to coordinate and speak for the various branches of U.S. sea power. However, in 1949, the Cabinet-level Navy Department was abolished and the Secretary of the Navy was reassigned to a sub-cabinet role in the Department of Defense. The other maritime agencies are scattered among a number of Government departments, all at sub-cabinet levels or below.

In a well-organized sea power structure, the combat navy, merchant marine, shipbuilding and other maritime arms operate together as a matter of daily routine. In the United States, the Navy, Merchant Marine, shipbuilding industry, and other maritime agencies are uncoordinated. Many Government officials use the term sea power in their speeches and writings. But what they actually talk about is Navy power, not sea power.

I have spent the past six years, full time, in an attempt to establish a strong coordinated relationship between the Navy and Merchant Marine. I was assigned to this task in 1970 by the Secretary of Commerce and the Secretary of the Navy who agreed that closer Navy-Merchant Marine coordination was essential to the naval readiness of this Nation.

During this period I found the maritime industries—merchant marine, shipbuilding, management and labor—eager to cooperate with the Navy. In the words of Andrew Gibson, former Assistant Secretary of Commerce for Maritime Affairs, to both the Secretary of the Navy and the Chief of Naval Operations, "The maritime industry wants to give the Navy full cooperation on a silver platter." Moreover, the Navy Secretaries and Chiefs of Naval Operations—I've talked to all of them during the past years—have expressed their desire to cooperate.

Unfortunately, the Government bureaucracy, lower-level bureaucrats, have succeeded in blocking the Navy-Merchant Marine cooperation worked out by the Secretaries of Commerce and Navy. The Military Sealift Command opposes use of commercially-crewed U.S. merchant ships as fleet support auxiliaries in peacetime and prefers instead to use Government-owned ships manned by Military Sealift Command civil service crews. The Navy ship design and construction bureaucracy prefers to design its own naval auxiliaries and build them to Navy specifications. As long as these two state-owned shipbuilding and operating bureaucracies set the tone of Navy-Merchant Marine cooperation, as they now do, the U.S. Navy and Merchant Marine cannot prepare themselves for joint wartime operations. I consider the lack of Navy-Merchant Marine joint operations in peacetime to be one of the most serious deficiencies in U.S. naval readiness today.

Lack of maritime leadership is the problem. Abolishment of the Cabinet-level Navy Department in 1949 destroyed the maritime coordinating and policy-making structure of the U.S. Government. One of the more serious consequences of the lack of maritime leadership has been the steady decline over the past 30 years of both the Navy and Merchant Marine. The Navy and Merchant Marine, in addition to being uncoordinated, are both inadequate in size. This is a living example of the old adage: "You either hang together or hang separately."

The absence of maritime leadership has resulted in the wholesale export of the U.S. maritime industry, beginning in 1950 and continuing to this day. Government indifference to the maritime readiness of the United States has permitted a series of unobtrusive legislative and administrative changes which enabled major U.S. corporations to build merchant ships in foreign lands, register them under foreign flags, and man them with foreign crews.

These U.S. citizen-owned foreign flag fleets, sometimes called flag-of-convenience fleets, have continued to grow since 1950, while the U.S. Merchant Marine has shrunk to a fraction of what it should be. The U.S. Merchant Marine is now less than one-half the size of the flag-of-convenience fleet, which has grown from 797 thousand deadweight tons in 1946 to 33.9 million deadweight tons today. The U.S. Merchant Marine deadweight tonnage is 15 million today, 9th in world standing.

Tax loopholes make it more profitable for a U.S. citizen to own and operate flag-of-convenience ships than U.S.-flag merchant ships. Present laws even permit these foreign flag fleets to participate in U.S. foreign trade on terms more favorable than those available to the U.S. Merchant Marine. In airborne trade, for example, a foreign aircraft can participate in U.S. foreign trade only through reciprocal agreements; a U.S. aircraft must have equal landing and trade rights in the foreign nation concerned. U.S. seaports and ocean trade, on the other hand, are accessible to foreign ships with few restrictions.

Export of American maritime and foreign trade industries has robbed the U.S. of the lead in maritime strength. Every ship built by a U.S. citizen in a foreign land exports a segment of the U.S. shipbuilding industry. Every U.S.-owned ship registered under a foreign flag subtracts one ship from the U.S. Merchant Marine. Every U.S.-owned ship manned by a foreign crew subtracts one trained crew of U.S. seamen from the national defense readiness of the U.S. Merchant Marine. Every ton of U.S. cargo exported or imported in a foreign flag merchant ship subtracts one ton of potential economic influence from the merchant marine-foreign trade component of U.S. maritime strength. The United States cannot afford to export its maritime and foreign trade industries.

Another serious consequence of the lack of U.S. maritime leadership is the growing vulnerability of U.S. ships to aircraft, missile and submarine attack. While tens of billions of dollars have been spent over the past thirty years on aircraft, missile, and submarine technology, ship technology has stagnated. For example, the speeds of aircraft and submarines have increased over sevenfold since World War I; we are still building warships and merchant ships with speeds less than those available in the early 1900's.

Meanwhile, both the British and Soviets have surpassed the United States in developing high-speed ship technology for commercial use. The British have had a 200-ton air cushion vehicle in commercial ferry service across the English Channel since 1969. This service has already attracted one-fourth of the passengers and one-third of the automobiles now crossing the English Channel. It expects to show a profit this year. The Soviet Union has a comprehensive commercial and military high-speed, surface-effect shipbuilding program. A number of models are operating in passenger and cargo service on the extensive Soviet river and canal network. Both the British and the Soviets are building up a competitive surface-effect ship industry. They are expanding their industrial base, their skilled surface-effect ship designers, builders and operators.

The U.S. Navy is developing a surface-effect ship (an open ocean version of the air cushion vehicle) in the 2 to 3 thousand-ton range. A hundred-ton prototype of this ship has already attained a speed of 83 knots in test trials. Slightly under 50 million dollars has been allocated for this project in 1977. At the present rate of development, the U.S. will be years behind in developing a high-speed, ocean-going ship. Moreover, the U.S. still has no program for commercial use of surface-effect ships.

The United States must redesign its Navy and Merchant Marine to regain the technological lead. The U.S. should build sufficient speed into its first-line sea transports to give them a reasonable chance to evade attacks by modern 30-knot submarines. The U.S. maritime industry must develop a simpler, high-speed hull and propulsion package, capable of mass production for naval and commercial service. With specially-designed sets of containers on board, these high-speed ships could serve as weapon platforms, troop and war material transports or commercial carriers. They would provide more defense for less and a competitive advantage in commercial trade as well.

American sea power is unprepared for a national emergency. Do Government leaders really believe, as many did before Pearl Harbor, that the Navy can perform the essential maritime tasks in a national emergency without full participation of the U.S. Merchant Marine and maritime industry? Has the maritime community become too docile—satisfied with the status quo? Do our leaders tend to take the comfortable road to promotion and higher pay?

The U.S. maritime industries can and must help restore maritime leadership in the U.S. Government. If we in the maritime industry join together in common purpose, we can carry this message to our elected representatives in the Congress and the White House:

The Government must coordinate the operations of the Navy, Merchant Marine and other maritime agencies under leadership capable of spelling out and implementing a forward-looking national maritime policy and strategy.

Bring back America's maritime and foreign trade industries.

Reserve U.S. waterborne foreign trade for U.S. flag ships on the same basis as U.S. airborne foreign trade is reserved for U.S. air transport.

Give advanced ship technology the same priority as aircraft, missile and submarine technology.

Give U.S. waterway and ship canal modernization the same priority as highway and railroad modernization. Let Americans know that for about one dollar they can ship a ton of cargo 14 miles by truck, 70 miles by rail and 300 miles by water.

If we of the U.S. maritime industry can help achieve these goals, America will have a better chance to endure and prosper. Will the pioneers among you please stand up?

JOBS STATISTICS CAN BE MISLEADING

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, June 11, 1976

Mr. MICHEL. Mr. Speaker, the always intriguing Michael Novak, in a column in the Washington Star on June 10, has done an outstanding job of analyzing the question of unemployment, its meaning, and its use as a political issue.

I was particularly interested to see the clear and irrefutable way he debunked some of the more extravagant claims of those who see anguished and starving unemployed persons under every bed.

As Novak points out, there are neither so many bona fide unemployed persons as we are led to believe, nor are all of those who fall into the unemployed category statistically particularly disadvantaged.

His article deserves to be read by all Members, and ought to be required for those who continue to push for a wasteful and counterproductive Government-guaranteed jobs program.

I believe the appropriate jobs program is described thusly: The more Government gets off the back of business, the more business will prosper; the more business prospers, the more people it will hire. I think Mr. Novak's article advances that position, and I insert it here in the Record:

America's Illusion: "Jobs" as an Issue

(By Michael Novak)

There is no doubt that the single greatest challenge to our system is its need to provide jobs to all who want them.

If we had a Gulag Archipelago, we would have no unemployment problem. In a free society, built around the dynamism of a partially free market, full employment is an exceedingly difficult—but essential—goal. The topic is fraught with illusions, evasions, ignorance and demagoguery.

We hear often, for example, that "almost half of all black youths are unemployed." This is an incendiary fiction. The unemployment rate for teen-age blacks in January 1976 was, in truth, 41.5 percent. But as Professor Carolyn Shaw Bell has trenchantly pointed out, the actual number of black teen-agers represented in that percentage is 390,000. The official percentage does not refer to the total population of black teen-agers. It refers only to those (a) in the labor force and (b) actively looking for work.

As of October 1975, about 1,400,000 of 2,104,000 blacks between the ages of 16 and 20 were enrolled in high school or college; 704,000 were not. Of these, some were not seeking work for a variety of reasons: Disability, service in the armed forces, responsibility at home, etc. The unemployed blacks of that age represent 18 percent of all black teen-agers, not 41.5 percent. It serves no one to imagine matters worse than they already are.

A second factor not often noticed is that in a healthy economy the possibility of quitting a job—"job hopping"—is a freedom much prized. Last December, it was estimated that 1,093,060 Americans quit their jobs—up from 801,944 the preceding March. In March 1969, at the height of the longest economic expansion in the nation's history, 2,241,904 persons quit their jobs. Quitting is understood by labor market economists as a sign of confidence. People are willing to take chances and to try to better their position.

There are two aspects to quitting: (1) Sheer freedom is involved. Some Americans hold a philosophy of "work a little, live a little." Quitting provides variety, allows vacation time. Many Americans do not live to work; they work just enough to live.

(2) For some with incomes up to about $15,000, present unemployment benefits at 90 percent of salary make quitting cheaper than working. Once one has qualified for unemployment benefits, savings in taxes and in transportation and other expenses related to work may result in higher actual income. In some families, husbands and wives alternate their working and their "going on unemployment." In some unions, it is written into the contract that workers with most seniority have first call on being "first to go out, last to return," so as to take full advantage of these benefits. If a fellow can do a little carpentry or house-painting on the side, he can handsomely "beat the system," and get in a little fishing or hunting, too.

Unemployment is a disaster for many families, psychologically crippling. But it is not always so. Political sloganizing about "jobs" has a faintly hollow ring to many who comprehend full well how to beat the system. It doesn't have the old ring of the 1930s.

A third significant feature of our present predicament is that more persons are now working than ever before. It may be true that jobs, like oil and other important goods in our society, are among our scarce and limited resources. One reason is that more people of working age seek work now than ever before—more persons, both as proportion and also in absolute numbers.

In April, e.g., more Americans were employed full time than ever before. Women, in particular, set new records for employment.

There is a painful irony here. Each woman who now enters the work force—propelled by economic need in her family, by a desire for self-realization, by the need to support herself (more women living in single households), or by whatever reasons—places a new demand on a system already short of jobs.

Put the matter in its most painful light. Every woman who takes a job decreases the number of openings for blacks, whose unemployment rate has yet to be improved by the record number of available jobs. In addition, she is often in competition wtih young people graduating from school. (Often the mother enters the job market then too).

There are great changes, then, in the nature of the job market. They are not well understood. Since jobs are the foundation of personal independence, and at the heart of healthy family life, no issue is so central to the success of our system.

Why, then, are we content with such poor knowledge of the ramifications of our laws, life-styles, habits and actions? Why are we so unimaginative? Why don't we stop and think? Public service jobs, it seems, are the last alternative we should desire. Humphrey-Hawkins has not been earning much praise.

No subject is more important to the nation. Unfortunately, it is not a sexy topic for writers or for television. It doesn't lend itself to guilt feelings.

SUPPRESSION OF INNOVATION: DO WE HAVE A "MEDICAL POLICE FORCE"?

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Friday, June 11, 1976

Mr. SYMMS. Mr. Speaker, the following article dealing with the counterproductive nature of our drug regulatory system speaks for itself. If the Members of this body value their health and that of their constituents, I strongly urge them to cosponsor my medical freedom of choice legislation and thereby join the effort to restore regulatory sanity. The article appeared in Barron's and follows:

"The Medical Police," A Report From Abroad Indicts the FDA

(By Neil McInnes)

"The Medical Police" is the sinister title of a book published in German in Dusseldorf today. It is not a thriller, although it does uncover a little-known variety of the crime of drug smuggling. It reveals that certain medicines which rank as established therapy in Europe are being smuggled into the U.S. on a large scale in order that reputable physicians, against the will of the Food and Drug Administration, can apply them to the relief of sickness. For this is an indictment of what its subtitle calls "The Control of the Pharmaceutical Industry and of Doctors in the U.S." It was authored, after prolonged sleuthing among physicians and drug manufacturers on both sides of the Atlantic, by a team led by Hans-Joachim Cramer, on behalf of the West German Pharmaceutical Industry Association.

It is a stern indictment, but even if it were not, some might question the right of a West German trade body to sit in judgment on an agency of the U.S. government. The explanation is that Bonn is weighing a new law on pharmaceuticals, and Mr. Cramer's study is a contribution to public debate on both sides of the Atlantic. It is designed to be an object lesson in what not to do. Besides, European drug makers who aspire to serve the American medical profession have fallen afoul of the FDA's decrees and have a right of reply. They might be more inclined to use it if, as observers like Milton Friedman suggest, there exists a sort of armistice between the FDA and U.S. drug firms that results in reduced competition and stifled criticism. Even the West German report is careful not to name names for fear, as it explicitly says, of "reprisals"—a delicate hint about the way the agency does business.

In view of the fact that West German drug firms have introduced twice as many new medicines as the U.S. industry in the past decade, they are expert witnesses. Nor are they without compassion for the accused, as witness this description of the FDA: "A group of not particularly qualified people who nowadays face terrible pressure from the consumer protection movement and who are trammeled by the bureaucratic mechanism are expected to judge, often with insufficient technical facilities, the risk-benefit ratio of drugs whose mode of operation is frequently unknown."

In seeking to carry out this inherently impossible task, say the Germans, the FDA gets involved in scientific charlatanry, bureaucratic bungling and conflicts of interest. The agency, so they (like a growing number of critics at home) aver, is preventing, or at least slowing down, the application in American medicine of remedies the efficacy of which is recognized abroad, and it is preventing, or at least slowing down, the discovery of new remedies. And to make matters worse, after arresting the progress of the drug companies, the medical police is moving in on the doctors.

The Germans diagnose in the FDA the classic bureaucratic proud flesh from which all modern societies (not least West Germany) suffer, but what bewilders them is the Yankee reforming zeal that is always recasting its structure without ever correcting its vices. The FDA commissioner's job, they note, is called the ejector seat, and the whole agency is in a perpetual state of flux called "reform." Among the reasons for this instability are the frequently mediocre quality of the personnel and internecine struggles between bureaucratic clans. The main reason, though, says the German study, is that the FDA is trying to do something impossible—"reduce the risk of socially valuable products to zero."

Required to deliver the unattainable, the FDA thrashes about to give the illusion of efficacy. It spends ever larger sums of money, employs more people, generates more paper and demands that others do the same. Inevitably, it drowns in its own paperwork. Not only do valuable documents get lost, but also the Germans cite evidence that it can take weeks for a letter to the FDA to find its way to the relevant official and weeks more for his written reply to get put in the mail. Not to mention that his decision can take weeks, months or even years to arrive at. FDA took two years to approve the wording of a package insert for a tuberculosis remedy, while a ruling on an advertisement commonly must wait 18 months. There are legal limits to the time consumed over some matters, but the agency evades them by calling, at the eleventh hour, for "more information." Once it gets its "fix" of paper-drug, it can slump into another legal spell of torpor.

Such circumvention of the law is what the Germans, all-too-familiar with recent cases of legalized arbitrariness, find objectionable about the FDA. They charge that the agency stretches the law to usurp additional powers and it uses its right to control drugs for purposes which the law never intended. When it chooses to enforce a change in the labeling or the indications for a medicine, it will hold up approval of a sample batch or of some new presentation of that drug until the manufacturer bows to its will. It is not surprising to learn that an agency with such disrespect for propriety frequently denies common justice by declining to grant manufacturers their right to a hearing, by violating trade secrets and by disregarding its own legally prescribed rules.

Malfeasance can be found in bureaucracies of any kind, but the association of this one with the art of healing makes its misdeeds especially repellent. The German report alleges that while the FDA will demand that a manufacturer attain scientifically impossible levels of purity in a drug, its own laboratories are so disorganized, incompetent and contaminated that they damage samples sent for analysis, whereupon the manufacturer is blamed. While posing as the scientific enemy of quackery, the agency has refused to correct arithmetical mistakes and typographical errors in its rulings, although they do proven damages to commercial interests. While it plagues the industry with "thoughtless, superfluous and vexing demands," it invites ridicule by ordering fertility tests on a drug used in geriatrics, or by concluding, after an expensive, weeks-long inspection of a drug factor, that the big change needed was use of a steel spoon rather than a wooden one.

Behind these peccadilloes, the FDA is forging a whole new philosophy of public health, which, in reality, is a prescription for the tranquility of bureaucrats. Briefly, it is to the effect that a highly visible illusion of protection from quackery is preferable to the inevitable risks of trying out new remedies for illness. The German study charges that certain FDA personnel have elaborated an unwritten "doctrine of need," which holds that no new drug need be approved in a field where apparently adequate remedies already exist. If satisfactory therapeutic results are being obtained from medicines already in use, the agency declines to risk the opprobrium of approving a new drug that might have side-effects. This outright rejection of the very notion of progress is nowhere put on paper, but industry sources claim it is now FDA policy. Innovators are guilty until proven innocent.

The impact of this primitive approach to pharmaceutical research in the U.S., and on the use of foreign medicines in American practice, is a well-documented subject to which the German report adds little. It does note, however, that the diversion of FDA resources to a vast and vain program of testing the efficacy of tens of thousands of existing remedies will further slow down the rate of approval of new ones. More seriously, the Germans argue that after terrorizing the drug manufacturers, the medical police now has the practising medicos under surveillance.

By insisting on rating the relative efficacy of various medicaments, the regulatory body is invading the province of the physician. Instead of doing its basic job of keeping impostors out of physic, it is usurping the doctor's job of deciding how to treat illness. The law gives it no warrant to do so, and, indeed, a Health, Education and Welfare official, at the Kefauver-Harris hearings, specifically denied that this would ever be done. The fact remains that every American doctor today is in danger of a malpractice suit if his treatment varies from the therapeutic recommendations and tables of relating drug efficacy issued by Washington.

It is natural that, as they ponder a new drug law, the Germans should study the canker of a regulatory body smitten with hypertrophy. It is just as natural that they should ask whether Americans today are any better protected from medical mishaps than Europeans with less meticulous regulation. And that is a highly delicate subject in the drug industry these days. Tactfully, the study commissioned by the West German association simply notes that just as many accidents have been reported in the U.S. since 1962 as in Europe after thalidomide. Informants who are ready to speak more freely say that the official figures well may understate the case.

TRIBUTE TO CARL ALBERT

HON. PHILLIP BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 7, 1976

Mr. PHILLIP BURTON. Mr. Speaker, to know Carl Albert as a friend is a treasured experience. To have served with him in the U.S. House of Representatives has been a privilege.

His long career stands out as one of the most exemplary in the history of this House.

It is a career marked by unquestioned integrity, unshakable fairness, and compassion of the sort that moves colleagues and associates to view him with affection and loyalty.

Mr. Speaker, Carl Albert has been a formidable champion in these Chambers of both his Nation and his party. His voice has been heard and heeded in behalf of the poor and the dispossessed as well as in defense and support of the constitutional liberties and civil rights of the American people.

Carl Albert will be missed in this House for his friendship. He shall be missed for his support. But most of all, Mr. Speaker, he will be missed because he is an uncommonly decent human being.

ILLINOIS STUDENT TO DENMARK

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, June 11, 1976

Mr. FINDLEY. Mr. Speaker, this summer 184 students from throughout the United States will visit 27 foreign countries as Bicentennial Couriers. The program is sponsored by Youth For Understanding and has received Government grants. The couriers are being selected through essay contests and will later live with a family in a foreign country and in various ways represent the United States.

Later this month, Marcia Lemon of Roodhouse, Ill., will leave for Denmark as a Bicentennial Courier. I am confident that she will admirably represent both Illinois and the United States while she is there. I include extracts from her prize winning essay:

The Seeds of Our Heritage

America's roots lie deep in her rich black soil. The promise of abundant land brought people to the New World. Farmers, since the very beginning of American history, have played one of the most important roles in cultivating the growth of America. The very first colony, Jamestown, was saved through the tobacco farming in 1612. All along the eastern coast Europeans settled and began to farm. They cleared land, built their homes and barns, and raised their crops and families. Merchants soon followed to trade with the farmers, and thus America was colonized. It developed into thirteen colonies who soon demanded their independence.

The new nation, just founded in 1776, owned no land. It called upon its thirteen states to surrender their vacant and unappropriated "western" public lands, which could be disposed of for the common benefit of the United States. When American farmers began to feel too crowded, they pushed westward onto these public lands called the Northwest Territory.

In Thomas Jefferson's day, over 70 percent of the new country's population were farmers. Thomas Jefferson called agriculture the "crown of all other sciences". He considered the independent farmer the ideal citizen of a democracy: secure and, in many ways, self-sufficient. Jefferson was already preparing the United States for the rapidly growing west. Even before Napoleon's offer to sell Louisiana, Jefferson had ordered preparation for the exploration of lands west of the Mississippi. The United States purchased Louisiana in 1803, and in May, 1804, the Lewis and Clark expedition set forth.

European immigrants were pouring into New York, some to stay there and some to join the westward movement. Settlers spilled over the Mississippi, following the expeditions of Lewis and Clark, Pike, and government surveyors. America was constantly on the move westward. The farmers settled first, followed then by the rest of "civilization". It was not at all unusual for a man to move his family three or four times in his life, each time developing a new farm, and selling his developed farm at a profit.

America kept growing and expanding. It was beginning to seem impossible for the farmers, plagued with much work and few hands to do it, to feed a now industrial society with its growing towns and cities. Inventors came to the rescue, some of who were farmers themselves.

In 1837, a man named John Deere built "the plow that broke the plains". Farmers now had horse-drawn plows, harrows, and planters. They were able to sow much more wheat than they were able to reap with the awkward, heavy scythe. A mechanical harvester was needed. In the 1830's, several men patented various reapers but they were too faulty, and too few. Cyrus McCormick, a Virginia farmer developed a reaper that would work. He patented it in 1834. His machine combined all the necessary elements, none of them new, but never before assembled so practically.

Agriculture was on the road to expansion. Farmers could produce greater quantities of crops, and Whitney's invention of the cotton gin (1792) had increased the cotton crops phenomenally. The government wanted to encourage more farmers to settle the far west, so they modified the sale of public lands by the Homestead Act of 1862. Any person over 21 could obtain the title to 160 acres of public land if he lived on the land for five years and improved it, or the settler could pay $1.25 an acre in place of the residence requirement. It was hoped this law would help workers obtain homesteads of their own.

Thousands of settlers were attracted to the West. From 1862 to 1900 it provided farms and new homes for between 400,000 and 600,000 families. The opportunities offered by the act were widely advertised in Europe, bringing many immigrants to settle the western lands. The Dakotas and the other territories were soon populated.

Changes came quickly in agriculture after the mid 1860's. Businessmen built meatpacking plants, dairies, and other factories to process farm products, taking over tasks once performed by the farmer.

Farmers started using large numbers of tractors and tractor-drawn machines after World War I. The increased use in machines has made it possible for one family to operate a farm over twice the size of farms in the days of the horse-drawn equipment.

The revolution in agriculture has not been limited only to machines. Increased production also resulted from new crop varieties, new knowledge in fertilizers, improved irrigation, better control of diseases and insects, and improved marketing methods.

Farming has become an occupation on which the existence of the entire population of the United States depends. The improved methods of farming have decreased the number of farmers to less than 7 percent of the American population today.

The effect of these modern farming methods have made America the best fed, healthiest nation in the world. We have a wider choice of foodstuffs than ever before. Furthermore, we can purchase most items of food all year round—not just during harvest season.

Today's farm youth have no conception of farming a century ago. They cannot, nor do they care to understand the language which contained such words as hame, crouper, single tree, evener, or husking peg.

They do understand carburetor, supersonic, diesel, and stilbestrol. They know the meaning of such cryptic initials and figures as 2-4-D-t, DDT, 4-H, FAA, IAA, and USDA. What will our world and farming in it be like in the year 2076? No one can contemplate the activities, the crops and livestock, the buildings and machinery, the power and transportation.

Lessons from the past shall be guides to the future. New discoveries shall add to agricultural prosperity.

Farmers were the fertilizer needed for the growth of America. They are the seeds of our heritage, and the sowers of our future.

H.R. 50 GOES INTO A "FAIRLY DEEP DOSE OF ECONOMIC PLANNING"

HON. MARVIN L. ESCH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, June 11, 1976

Mr. ESCH. Mr. Speaker, I should like to call attention to the Members of this body, an article by James L. Rowe, Jr., in the April 18 issue of the Washington Post. The subject is the Humphrey-Hawkins bill. It was written at a time when deep concerns were beginning to surface about the ramifications of this legislation. Because of the in-depth treatment by Mr. Rowe of this bill, I will quote at length from his article:

> The bill has enthusiastic support from organized labor, but many economists, both liberal and conservative are chary of setting numerical targets for aggregate figures such as the unemployment rate.
>
> Getting down to a 3 per cent unemployment rate could have terrible consequences on the inflation rate. Even in the best of times the economy has found it difficult to sustain on unemployment rate much below 4 percent for very long. Although the last half of the 1960s saw rates below 4 per cent, much of that occurred during the super-heated economy of the Vietnam war.
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> Arnold Weber, who headed the Cost of Living Council during the 1971 wage-price freeze and is now dean of the Graduate School of Business Administration at Carnegie-Mellon University, notes that the Humphrey-Hawkins bill restores the notion of a link between work and income.
>
> But Weber, a labor economist, has strong reservations about the proposal. He worries about how to define who is counted as an adult American and who is not and says it will be very difficult to figure out what to pay those citizens who are working for the government as an employer of last resort.
>
> "You want to keep the wage low to create disincentives to stay on when there might be jobs in the private sector." Weber said, adding that the wage must be high enough to create an incentive to work, also that there will be little incentive to leave a government job of last resort if it pays as well as a job in the private sector.
>
> Although most public discussion of the proposal has focused on the 3 per cent unemployment goal and the government's role as employer of last resort to assure that the 3 per cent level is reached, the bill goes well beyond simple goal-setting and manpower programs "Into a Fairly Deep Dose of Economic Planning."
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> The bill would require the President, in cooperation with the Congressional Joint Economic Committee to:
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> Develop a long-range economic plan for employment, production "purchasing" power and, within a year after the act is passed, review the full employment goal and the timetable to meet it. In no event could that goal be higher than 3 per cent by 1980.
>
> Determine whether the proposed policies of the central bank, the Federal Reserve Board, are consistent with the Presidential-Congressional goals (the Fed must submit its intended policies each year), and if the President determines the Fed's approach is "inconsistent with the achievement of the goals and policies . . ." (he) shall make recommendations to the Board and to the Congress to insure closer conformity.

Mr. Speaker, this gives the President carte blanche to do almost anything he wishes. If the President were to implement the bill fully, the President would have enormous—and frightening—powers.

As our minority views state:

> Theoretically, the President could, if he wishes, do most anything. He could charge into the arena of monetary policy and force a growth in the money supply—advantageous to his short-run political fortune, but disastrous to the economy. He could set loose the regulatory agencies to further disrupt the private sector through arbitrary and unchallengeable edicts. He could institute confiscatory tax policies to pay for the new full employment programs. In short, he could do most anything he deemed "necessary and advisable" to achieve the stated goal of full employment, including centralization of economic decision-making into one man.

Mr. Rowe continues:

> Critics contend that an approach such as Humphrey-Hawkins, instead of making things better in the long-run, could make them worse. While the 3 per cent target is only a goal rather than a fixed element of public policy, policy makers have an aversion to setting goals they do not hit.
>
> Albert Rees, director of the Council of Wage and Price Stability from its inception in October 1974 until last August, worries not only about the practicability of the 3 per cent target—"We've never been able to reach it"—but also whether the government wants to get so deeply enmeshed in jobs programs.
>
> Rees, now provost of Princeton University, said it would make more sense to concentrate on providing jobs for the long-term unemployed alone.

Mr. Speaker, I agree with Albert Rees; I do believe that the 3 percent target is an unrealistic goal, and have been inserting in the RECORD statements by leading liberal economists who also hold this view. I agree with his concern that the Government not become too "enmeshed" in public service jobs, for our experience thus far with the CETA—comprehensive Employment and Training Act—has been that it has turned into a bailout for the cities who have laid off their municipal employees and has not addressed the problem of providing employment for the hard-core unemployed, which was CETA's original purpose. It seems to me, too, that we should concentrate on providing jobs for the long-term unemployed, and I should like my colleagues to know that the Republican substitute has an important component in it which addresses this problem. I shall be writing further on the subject of the Esch substitute in future days and trust that my colleagues will give time and thoughtful attention to the alternative proposals which are made. The article follows:

WEIGHING THE JOBS GAP

(By James L. Rowe, Jr.)

> Although the American economy has been in a relatively vigorous recovery for the last six to nine months, about 7 million people—

7.5 per cent of the work force—are still jobless.

While this is an improvement from the 8.9 per cent unemployment peak reached last May, it is still well above the 5 to 5.25 per cent rate most economists settle on as "full employment." And it is about twice the unemployment rate recorded during the boom years of the late 1960s. Despite the extremely high level of joblessness that has persisted since the end of the recession last spring—and despite administration forecasts that it will be several more years before the rate winds down to even a 5 per cent level—unemployment has not been a hot issue even in this, a presidential election year.

Sen. Hubert H. Humphrey (D-Minn.) and Rep. Augustus Hawkins (D-Calif.) are trying to change that.

Last month they introduced into the House and Senate a bill which, if it would not guarantee every adult American a job, would come close to doing so. It would commit the federal government to setting specific numerical goals for unemployment. If fiscal and monetary policies prove insufficient in bringing the rate down to that level, the bill would require the President to put forth a program of government jobs to fill the gap.

The proposed bill says that in any event within four years after enactment, the goal is an unemployment rate no higher than 3 per cent among "adult" Americans. But the bill does not specify what an adult is.

All three leading contenders for the Democratic presidential nomination have embraced the concept of the Humphrey-Hawkins proposal, although Jimmy Carter has been less enthusiastic about the bill than Morris Udall or Henry Jackson.

Humphrey, chairman of the Joint Economic Committee, used the occasion of the 30th anniversary of the Employment Act of 1946 as a sounding board for the Humphrey-Hawkins proposal last month. The bill has enthusiastic support from organized labor, but many economists, both liberal and conservative are chary of setting numerical targets for aggregate figures such as the unemployment rate.

Getting down to a 3 per cent unemployment rate could have terrible consequences on the inflation rate. Even in the best of times the economy has found it difficult to sustain an unemployment rate much below 4 per cent for very long. Although the last half of the 1960s saw rates below 4 per cent, much of that occurred during the superheated economy of the Vietnam war.

Nevertheless, several economists point to redeeming characteristics in the lull beyond the "chicken-in-every-pot" approach.

Alice Rivlin, director of the Congressional Budget Office noted at the hearings last month that the government is spending about $19 billion to "pay people not to work and only about $5.3 billion to create jobs."

Arnold Weber, who headed the Cost of Living Council during the 1971 wage-price freeze and is now dean of the Graduate School of Business Administration at Carnegie-Mellon University, notes that the Humphrey-Hawkins bill restores the notion of a link between work and income.

But Weber, a labor economist, has strong reservations about the proposal. He worries about how to define who is counted as an adult American and who is not and says it will be very difficult to figure out what to pay those citizens who are working for the government as an employer of last resort. "You want to keep the wage low to create disincentives to stay on when there might be jobs in the private sector," yet the wage must be high enough to create an incentive to work, Weber said.

The bill itself says that the wages paid those who work for the government as an employer of last resort should be the prevailing wage for that type of occupation. If an individual is working as an electrician on a project, he should receive an electrician's wage, an aide to Humphrey said, while if the job is a minimum-wage level job, the individual should receive the minimum wage.

"If there are defects in the wage structure," they will be reflected in the wages paid by the government as an employer of last resort, he said, but there should be no new defects introduced under the Humphrey-Hawkins proposal.

But, as Weber notes, there will be little incentive to leave a government job of last resort if it pays as well as a job in the private sector.

Treasury Secretary William E. Simon said he fears that Humphrey-Hawkins would lead to a round of uncontrollable wage escalations and its implementation would ultimately lead to wage and price controls.

Implicit in the bill is the notion that monetary and fiscal policies by themselves will not only fail to create enough jobs, but will probably fail to be effective enough in themselves as an anti-inflation device. Humphrey-Hawkins not only requires the government to come up with supplementary manpower policies to bring unemployment down further than monetary and fiscal policies can, it also provides the basis for some sort of wage-price policy, although the statements are vague and do not talk directly of wage and price controls—which are anathema not only to the current administration and to businesses, but also to labor which supports Humphrey-Hawkins.

Although most public discussion of the proposal has focused on the 3 per cent unemployment goal and the government's role as employer of last resort to assure that the 3 per cent level is reached, the bill goes well beyond simple goal-setting and manpower programs into a fairly deep dose of economic planning.

The bill would require the President, in cooperation with the Congressional Joint Economic Committee to:

Develop a long-range economic plan for employment, production and "purchasing" power and, within a year after the act is passed, review that full employment goal and the timetable to meet it. In no event could that goal be higher than 3 per cent by 1980.

Set yearly goals for employment, output and inflation.

Determine whether the proposed policies of the central bank, the Federal Reserve Board, are consistent with the Presidential-Congressional goals (the Fed must submit its intended policies each year), and if the President determines the Fed's approach is "inconsistent with the achievement of the goals and policies . . . (he) shall make recommendations to the Board and to the Congress to insure closer conformity . . ."

Determine how far monetary and fiscal policies can take full employment and set out a panoply of programs to bring it down to the goal.

Humphrey, testifying last week before the House Committee on Education and Labor, said his measure "recognizes that there is no simple path to full employment through a single bill or program, and instead it proposes a general economic policy framework with a package of programs to give that new structure direction and meaning. The actual activities will vary from year to year, depending upon economic conditions and Congressional descisions and this flexible process is the major strength of the legislation."

Critics contend that an approach such as Humphrey-Hawkins, instead of making things better in the long-run, could make them worse. While the 3 per cent target is only a goal rather than a fixed element of public policy, policy makers have an aversion to setting goals they do not hit.

And while the bill does not guarantee absolutely every American a job—if a citizen went to court to demand a job, an aide to Humphrey said the courts would not force the government to hire him—the fine legal textures might not be apparent to the average citizen who could see it as a job guarantee.

The bill says right off it is designed to "translate into practical reality the right of all adult Americans able, willing and seeking to work to full opportunity for useful paid employment at fair rates of compensation."

To get to a 3 per cent unemployment level, Sar Levitan of George Washington University's Center for Manpower Policy Studies has estimated, the economy would have to grow at an annual rate of 7.5 per cent a year, a rate that it has never sustained.

Furthermore, as the unemployment rate moved closer to 4 per cent, tremendous inflationary pressures would begin to be felt in many sectors of the economy where resources were tight. The trouble with setting broad numerical targets, notes Carnegie-Mellon's Weber, is that it is not calibrated to demographic realities or social policies such as the attitude toward the amount of time potential workers remain students.

But a few economists, most notably Leon Keyserling who headed President Truman's Council of Economic Advisers, do not buy the standard argument that there is a trade-off between inflation and unemployment. Keyserling has argued that recessions and unemployment contribute to inflation because the costs of production must be spread across both used and unused resources and because the economy loses vast amounts of skills when workers are laid off.

Weber said there is no doubt that there are unused resources, but that they are unused because the costs of producing from them are higher than the value of the product.

Albert Rees, director of the Council on Wage and Price Stability from its inception in October 1974 until last August, worries not only about the practicability of the 3 per cent target—"We've never been able to reach it"—but also whether the government wants to get so deeply enmeshed in jobs programs.

Rees, now provost of Princeton University, said it would make more sense to concentrate on providing jobs for the long-term unemployed alone.

DECLARATION OF INDEPENDENCE RESOLUTION BY RICHARD HENRY LEE, CONTINENTAL CONGRESS, PHILADELPHIA, JUNE 7, 1776

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, June 11, 1976

Mr. PICKLE. Mr. Speaker, I would like to bring to the attention of the House a speech made June 7 by our colleague, Lindy Boggs, chairman of the Joint Committee on Arrangements for Commemoration of the Bicentennial. The occasion was a luncheon in Philadelphia, sponsored by the Philadelphia Chapter of the Federal Bar Association, honoring Richard Henry Lee's resolution in the Continental Congress on June 7, 1776. This resolution led to the drafting of the Declaration of Independence, a "Plan of Treaties" that served as a model for the Treaty of Alliance with France in 1778, and "the form of a confederation" that later became the Articles of Confederation. This resolution, then, began a process that ended with the organization of the United States of America. LINDY BOGGS, CALDWELL BUTLER, and I attended this celebration and represented the Joint Committee on the Bicentennial on this very historic occasion.

The speech made by Mrs. BOGGS follows:

REMARKS OF HON. LINDY BOGGS, FEDERAL BAR ASSOCIATION LUNCHEON

I want to thank the Philadelphia Chapter of the Federal Bar Association and the city of Philadelphia for inviting me here today. It is always a pleasure to visit Philadelphia and especially this year in my capacity as Chairman of the Joint Committee on Arrangements for Commemoration of the Bicentennial. For, after all, not only did so many of the historic events that we are celebrating this year occur here, but also this city was the site of the Centennial Exposition which we can remember as the first occasion of true national unity following the terrible divisive struggles of the Civil War and Reconstruction. I am sure that here in Philadelphia in 1876, thoughts turned to the question of national purpose almost as readily as they had in 1776.

So much that is dear to all of us was born and nurtured here, and each time I visit this city that so obviously cherishes the monuments of its historical past, I feel confident of the future of this Republic that is preparing to enter its third century. For as I visited some of the elegant buildings here in Independence National Historical Park—Georgian, Federal, and Greek Revival in style—I began to think of the members of the Continental Congress assembled here in 1776. They were as skillful as the architects who designed these ancient structures.

Their building materials, however, were words rather than bricks; ideas were their blueprints.

"That these colonies are, and of right ought to be, Free and Independent States, that they are absolved from all allegiance to the British Crown, and that all political connection between them and the State of Great Britain is, and ought to be, totally dissolved. That it is expedient forthwith to take the most effectual measures for forming foreign alliances. That a plan of confederation be prepared and transmitted to the respective colonies for their consultation and approbation."

These words of Richard Henry Lee of Virginia, spoken on July 7, 1776, were the opening statement in a debate that we may fairly judge to be the most crucial in the history of this nation. They are the words that have drawn us together today so that we may more fully understand the events of two centuries ago that compelled a Congress of representatives from thirteen British colonies scattered along the Atlantic coast of North America between the St. Lawrence River in the north, Spanish Florida in the south, and the Allegheny mountains to the west, to begin the final phase of a discussion that most colonists would not have anticipated when the first Continental Congress had assembled in September, 1774.

The first Congress was also composed of troubled men. The cause of their concern was the measures recently adopted by the government in London that Americans called the "Coercive Acts." In response to those Acts, this first Congress pursued several strategies: one of these taken at the urging of Richard Henry Lee was a series of non-importation, non-exportation, and non-consumption acts—in effect a commercial boycott directed at Great Britain. These were familiar techniques to Richard Henry Lee, who, along with Jefferson and Patrick Henry, was recognized as a Virginian possessing those qualities of eloquence and intellect that placed him in the front rank of colonial leaders.

This boycott, begun in 1774 and later called the "Continental Association," was modeled on Lee's "Westmoreland Association" of 1766. It was the most significant action of that Congress because it organized a committee to oversee its enforcement in virtually every American community, committees that would become the organizational backbone of the independence movement. It was the first truly concrete step towards an American Union.

The difference between the Richard Henry Lee who advanced the "Continental Association" in 1774 and the Richard Henry Lee who introduced the Resolution of June 7th, 1776, illustrated how quickly and decisively American attitudes had changed in that brief period. While the Continental Congress of 1774 was preoccupied with the peaceful pursuits of drafting a "Declaration of Rights and Grievances" and implementing the "Continental Association"; in June, 1776, less than two years later, the delegates assembled in Philadelphia, who were absorbed by the demands of a year-long war and the recent news that King George was planning to send twelve thousand German mercenaries to suppress his rebellious colonies, turned their attentions instead to the question of independence, foreign alliances, and confederation.

Because of the dramatic impact of the Declaration of Independence, we sometimes forget that Lee's resolution and Congress's actions concerned more than independence. Committees were also formed to compose both "the form of a Confederation" and a "Plan of Treaties." All of the committees completed their assigned tasks. The Declaration of Independence was agreed to on July 4th. John Dickinson's draft of the Articles of Confederation, ready for consideration on July 12th, were finally accepted by Congress in 1778 and ratified in early 1779. Similarly, the "Plan of 1776," adopted in September of that year, led to the alliance with France in 1778, and remained the model for most American commercial treaties for over a century.

If only Congressional Committees today were as farsighted as those of the summer of 1776; but few Congresses since have matched the talent that was assembled across the street two hundred years ago. We can only consider them with a certain wonder—those fifty-six signers of the Declaration of Independence—who in a few weeks one summer in Philadelphia not only expressed the aspirations of a people but also wisely and almost effortlessly laid the lasting foundations of a new nation.

NATIVE AMERICAN SOLIDARITY COMMITTEE

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 11, 1976

Mr. McDONALD. Mr. Speaker, the Native American Solidarity Committee—NASC—is yet another in a series of New Left revolutionary organizations formed to support certain currently popular national liberation movements and anti-imperialist struggles, most of which are openly or clandestinely using armed struggle tactics—the current revolutionary euphemism for terrorism.

As with the parallel groups—the Puerto Rican Solidarity Committee—PRSC, the Palestine Solidarity Committee—PSC, and the Committee for Panamanian Sovereignty—CPS, the Native American Solidarity Committee is working closely with the Puerto Rican Socialist Party—PSP, the Weather Underground's Prairie Fire Organizing Committee—PFOC, the Mass Party Organizing Committee—MPOC, and the National Lawyers Guild—NLG, in the July 4 coalition which is planning mass demonstrations at the Philadelphia Bicentennial.

The Native American Solidarity Committee, with its national office operating from P.O. Box 3426, St. Paul, Minn. 55165 [612/227–1973], grew out of the work of the Wounded Knee Legal Defense/Offense Committee — WKLDOC, organized by the National Lawyers Guild after the American Indian Movement's armed occupation of Wounded Knee, S. Dak. New Left revolutionaries from across the United States traveled to South Dakota to work with the WKLDOC as legal workers, researchers, newsletter and press release writers. Others served as local contacts for fund raising, arranging speakers tours by AIM leaders, and so on. The NASC arose from those activities.

The NASC supports the "Native American struggle for sovereignty as part of the worldwide anti-imperialist struggle," and "freedom for all Native American political prisoners"—by which NASC means all convicted Indians serving a sentence.

NASC chapters exist in some 19 cities, and it is interesting to note that the Weather Underground's Prairie Fire Organizing Committee is strongly represented on the NASC National Interim Committee in the persons of Melinda Rorick, a former Mayday Tribe activist who is now a leader of the San Francisco PFOC; and Jed Proujansky, arrested and convicted of mob action at the 1969 Weatherman Days of Rage riot in Chicago and who is currently a Prairie Fire Organizing Committee leader in New York working with the July 4 coalition. It is also noted that Miles Pustin, a PFOC national leader from Barre, Vermont, has devoted a significant amount of his time to the Vermont NASC chapter.

At its February 3–5 national council meeting, the NASC decided to use NASC chapters to "start taking leadership in the building of July 4, 1976, coalitions, partly to guarantee that our positions are articulated and to be a visible and vocal part of the event."

Ann Gael Durham, who was made a member of the NASC's National Interim Coordinating Committee at that meeting, was selected as the Native American Solidarity Committee delegate to the July 4 coalition board. Ann Gael, as she is frequently known, is the wife of Jimmy Durham, head of the AIM Foreign Affairs department and of AIM's International Indian Treaty Council United Nations office. Jimmy Durham also serves on the July 4th coalition board. It is noted that the Philadelphia demonstrations are scheduled to commence with a street march led by 2,000 members of the American Indian Movement.

The NASC not surprisingly decided to obtain membership on the PFOC/PSP Hard Times Board, to accept a staff member recruited and funded by the

National Lawyers Guild's new Committee on Native American Struggles, and to invite the WKLDOC also to have a representative on the NASC representative council.

List of NASC chapters follows:

NATIVE AMERICAN SOLIDARITY COMMITTEE CHAPTERS

Amherst NASC: c/o Jim Jordan, Room 216, Student Union, University of Massachusetts, Amherst, Massachusetts 01002.

Liaison: Jim Jordan, 413–367–2613.

Ann Arbor NASC: c/o Vander Wall, 2222 Fuller Road 1204, Ann Arbor, Michigan, 313–663–0217.

Liaison: Rita Barusch.

Atlanta NASC: c/o Cathy Bennett, 619 Myrtle Street, Atlanta, Georgia 30308.

Liaison: Cathy Bennett, 404–874–8843.

Boston/Cambridge NASC: Cosas y Plata, 36 Boylston Street, Harvard Square, Cambridge, Massachusetts.

Liaison: Rubin Galaviz, 617–354–1630 or Carol Dinezip, 617–973–0693 (w), 545–0478 (h).

Chicago NASC: c/o Happy Mathieson, 411 N. Harvard, Villa Park, Illinois 60181, 312–833–5893.

DC NASC: P.O. Box 6512, Washiugton, D.C. 20009.

Liaison: Suzanne Groff, 292–234–1616.

Ganienkeh Support Committee: 405 Westcott Street, Syracuse, New York 13210, 315–479–7783.

Indianapolis NASC: c/o David Cain, 970 N. Olney Street, Indianapolis, Indiana 46201.

Kentucky NASC: c/o Terry Bisson, RR No. 6, Box 212A, Scottsville, Kentucky 42164.

New York City NASC: c/o International Indian Treaty Council, 777 United Nations Plaza, New York City, New York 10017 212–986–6000.

Liaison: Sue Robeson, 212–243–2310.

Ohio NASC: c/o Shelly Tenebaum, Student Mailroom, Antioch College, Yellow Springs, Ohio 45387.

Liaison: Shelly Tennenbaum 513–767–7112.

Philadelphia NASC: 137 South Eighth Street, Philadelphia, Pennsylvania 19106.

Liaison: Karel Kilimnik, 215–241–7126(w) 561–4230(h) 215–923–6763.

Phoenix NASC: c/o Diana Werner, 1705 South Cutler Drive, Apt. J. Tempe, Arizona 85281 602–968–1520.

Portland NASC: c/o Steve Suagee, 103 Northeast 29th, Portland, Oregon 97232.

Seattle NASC: c/o Chris Melroe, 924 North 35th, Seattle, Washington.

Liaison: Chris Melroe, 206–634–0276.

St. Louis NASC: P.O. Box 8205, St. Louis, Missouri 63156.

Liaison: Lucky Hollander, 314–776–7843, 773–3566.

NATIONAL OFFICE STAFF

David Tilsen, Karen Northcott, Richard Hoover, Rachel Tilsen, Fathi James.

San Francisco NASC: P.O. Box 40538, San Francisco, California 94140.

3418 22nd Street, San Francisco, California 94114, 415–647–6196.

Liaison: Robin Evans, 415–648–1977.

Twin Cities NASC: P.O. Box 8564, Lake Street Station, Minneapolis, Minnesota 55408.

Liaison: Kava Zabawa, 612–823–3534.

Vermont NASC: c/o PPOC, Box 33, Barre, Vermont 05641.

Liaison: Miles Pustin, 802–456–8953.

National Office: P.O. Box 3426, St. Paul, Minnesota 55165, 612–227–1973.

NATIONAL INTERIM COORDINATING COMMITTEE

Rachel Tilsen, 1653 South Victoria Road, St. Paul, Minnesota, 612–454–5333.

400 Minnesota Building, St. Paul, Minnesota 55101, 612–224–7687.

Suzanne Groff, 1737 17th Street NW., Washington, D.C. 20009, 202–234–1616.

Melinda Rorick, 661 Anderson Street, San Francisco, California, 415–285–4301.

Jed Proujansky, July 4th Coalition, Box 205, Cooper Station, New York City, New York 10003.

Kathi James, 604 Holly, Apt. 202, St. Paul, Minnesota 55102, 612–224–0908.

Ann Gael [Durham], 228 Eighth Avenue, #7, New York City, New York 10011, 212–691–9051(h), 986–6000.

AMERICAN AUTOMOBILE ASSOCIATION ANNOUNCES SUPPORT FOR THE DINGELL/BROYHILL—TRAIN—AUTOMOBILE EMISSIONS CONTROL AMENDMENT TO THE CLEAN AIR ACT AMENDMENTS OF 1976

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, June 11, 1976

Mr. DINGELL. Mr. Speaker, the American Automobile Association has joined in support of the strong movement to secure adoption in Congress of the automobile emission control amendment cosponsored by Congressman JAMES T. BROYHILL of North Carolina and I. The support of this nationwide organization is most welcome and appreciated. The public announcement by the AAA, 17-million consumer/motorists, is further evidence of the need and widespread call for adoption of those emission control standards we advocate, standards which were recommended to Congress for enactment earlier by Administrator Train of the U.S. Environmental Protection Agency.

As I enclose the text of the AAA endorsement which was received by all House Members, I urge the House to immediately schedule action on the Clean Air Act Amendments of 1976, H.R. 10498. It is vital that the issue in this bill on auto emission standards be resolved quickly ensuring the important and timely progress of the manufacturing, jobs, distribution, and sales cycle of automobiles, major factors in the health of the U.S. economy.

The text of the AAA letter of support for the Dingell/Broyhill—Train—amendment follows:

AMERICAN AUTOMOBILE ASSOCIATION,
Falls Church, Va., June 9, 1976.

Re: H.R. 10498, the Clean Air Amendments of 1976.

Hon. JOHN D. DINGELL,
2210 House Office Building,
Washington, D.C.

DEAR CONGRESSMAN DINGELL: The American Automobile Association, made up of 17 million consumer/motorist members, urges you to reject the new auto emission standards called for in H.R. 10498, and substitute a less costly set of standards proposed by the U.S. Environmental Protection Agency.

This set of standards will be offered soon as an amendment to the bill by Reps. John Dingell (D-Mich.) and James Broyhill (R-N.C.). In simplest terms, the Dingell/Broyhill amendment allows for the phasing in of increasingly stringent emission standards over a 6-year period (please see attachment). We believe it will aid consumer/motorists in three ways.

First, the Dingell/Broyhill amendment should hold down new car prices, maintenance and fuel costs. The EPA, the Department of Transportation (DOT) and the Federal Energy Administration (FEA) support this contention. After analyzing all short and long term factors, these agencies believe that under certain assumptions the Dingell/Broyhill amendment will save consumers $22.3 billion over the costs of attaining H.R. 10498's more stringent emission schedule. This saving would rise to $30 billion if inflation is taken into account.

Second, the Dingell/Broyhill amendment would permit the auto industry to adopt more innovative, less inherently polluting power sources. Auto makers have been nearly unanimous in their announcements that the ultimate nitrogen oxide (NO_x) standard required in the 1970 Clean Air Act—.4 grams per mile (gpm)—will prevent them from using new engines (e.g. the diesel, stratified charge, sterling cycle etc.).

The Dingell/Broyhill amendment, on the other hand, drops the present NO_x standard of 3.1 gpm to 2.0 gpm in the coming model year and maintains it through the 1981 model year. It then permits EPA to set future NO_x levels administratively.

AAA believes that maintaining the NO_x standard at 2.0 gpm for the 1977–81 period will adequately protect public health and, at the same time, provide the stability needed to permit auto makers to direct their efforts toward developing more advanced engines.

While the Dingell/Broyhill amendment continues the reduction of auto pollution, it also has the important collateral advantage of giving mechanics a "fixed target" on which to concentrate in developing their understanding of emissions control maintenance.

AAA feels that the rapid changes in technology resulting from the Clean Air Act, coupled with continual changes in the standards, have caused a widening gap between engineering design and the ability of mechanics to properly maintain controlled vehicles.

A recent indication of this gap was revealed when EPA surveyed 1975-model car owners in Chicago and Houston. EPA found most of these low-mileage cars emitted higher than allowable amounts of pollution, even though 90 percent of the car owners surveyed said they had had their vehicles "tuned" since purchase!

The Dingell/Broyhill amendment will allow mechanics time enough to master the new techniques with little sacrifice in air quality. The EPA, DOT and FEA agree that under ideal conditions, the Dingell/Broyhill numbers will allow auto pollution to rise only slightly higher by 1990 than levels to be permitted by existing numbers in H.R. 10498.

AAA's support of this amendment is conditioned upon its expectation that extension of the compliance deadline will afford industry the time it needs to develop less complex, more effective emissions control technology, and to exert its influence more fully in the direction of upgrading technical capability of the nation's mechanics.

Our association will study carefully the auto industry's record of progress toward achievement of these ends, and advise its members accordingly.

(We are aware that a foreign-made Volvo, using a fuel injection system and a three-way catalytic converter, recently demonstrated excellent pollution control in a series of special tests for the California Air Resources Board. We do not believe that this series, utilizing a single prototype model, can justify more severe emissions standards. Because the testing procedure differs from that of EPA and because of other variables, we think the results, while most promising, are not as immediately significant as some have made them out to be.)

We ask you to take the more positive, less costly approach to emissions controls and support the Dingell/Broyhill amendment.

Yours sincerely,

JOHN DE LORENZI,
Managing Director, Public Policy Division.

THE DINGELL/BROYHILL AMENDMENT[1]

Standards	Hydrocarbons	Carbon monoxide	Nitrogen oxide
Present	1.5	15.0	3.1
1977	1.5	15.0	2.0
1978	1.5	15.0	2.0
1979	1.5	15.0	2.0
1980	.9	9.0	2.0
1981	.9	9.0	2.0
1982, et seq	.41	3.4	[2]

[1] May 11, 1976 CONGRESSIONAL RECORD, 13454.

[2] To be set administratively.

NEEDED REFORMS IN THE SOCIAL SECURITY DISABILITY PROGRAM

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, June 11, 1976

Mr. OTTINGER. Mr. Speaker, earlier today I had the opportunity to submit testimony before the Subcommittee on Social Security of the Ways and Means Committee regarding legislation I have introduced to permit individuals who are fully insured under social security to qualify for disability benefits regardless of when their coverage was earned.

I believe the 20/40 requirement is one of the most inequitable provisions of social security law, and I feel strongly about the need to correct this. I also took advantage of the opportunity to express support for Congressman SEIBERLING'S bill to improve the time frame for review and processing of social security claims and appeals.

I insert my testimony into the RECORD in order to share my views on these subjects with our colleagues,

ELIMINATING THE RECENCY-OF-WORK REQUIREMENT FOR DISABILITY INSURANCE BENEFITS

Mr. Chairman: I am pleased that you have given me this opportunity to appear before you to testify in behalf of legislation I have introduced regarding the Social Security Disability Program.

Under present law a worker disabled at age 31 or later must have at least 20 quarters of coverage during the 40-quarter period ending with the quarter of his or her disability in order to qualify for benefits. On March 5 of last year I introduced legislation, H.R. 4315, retaining the requirement that an individual be fully insured in order to qualify for disability but eliminating any requirement that coverage be earned during a specific time period. This bill has been reintroduced several times and now has a total of 45 co-sponsors. You may recall that on February 11 of this year most of these co-sponsors joined me in sending a letter to the Subcommittee urging that you give consideration to making this change in the law as you debate reforms in the disability program.

The 20/40 requirement arbitrarily denies protection to those who have contributed to the Social Security System over a long period of time. I am sure that when this requirement was placed into the law its authors felt that it was a logical way of restricting outlays under Social Security by denying disability benefits to those who had not in recent years been paying into the trust fund—the logic being that if they were not contributing to Social Security immediately prior to the onset of disability they would not really need the benefits. The idea was to protect the individual suddenly stricken with an incapacitating condition and removed from the work force. It appears that the need of those who had left the work force, either intentionally or without choice, were ignored altogether. Thus people who are otherwise fully insured under Social Security are denied benefits from a program that was intended to protect all Americans against loss of income due to old-age, disabiltiy or death of the wage earner.

In addition, the 20/40 requirement discriminates against women who frequently leave the labor force in order to raise families and care for the home and who thus have less continuous coverage under Social Security. I have heard this complaint several times, for example, from women in middle age who have become disabled and are not yet eligible for old-age benefits, yet are fully insured under Social Security. More often than not, these women left the labor force because of responsibilities at home and planned to return to work once conditions permitted.

I am informed by the Social Security Administration that in calendar year 1975 nearly 166,000 persons were denied disability benefits on the basis of the 20/40 requirement. It is not possible to say how many of these individuals would eventually have qualified for benefits, because they were not subjected to the disability test. Unfortunately, statistics on the number of women who applied for and were denied benefits on the basis of this requirement are not available.

It is particularly distressing to think of the choices that face an individual who finds that due to some obscure provision of law he is not protected against disability. If the individual is not able to perform any work for wages and has no protection under some private program, he or she may ultimately be forced to resort to the S.S.I. Program. This means that the individual may very well have to divest himself of most of his assets which have been acquired through years of hard work but which exceed the allowable limits under S.S.I. I think it is unconscionable that persons who are otherwise fully insured would be asked to make such sacrifices simply because they had the misfortune to become disabled at a period in time which puts them outside the protection of the Social Security System.

Mr. Chairman, last year I asked the Social Security Administration to provide me with a cost estimate on my proposal. This was made available to me from the office of the Acting Deputy Chief Actuary on October 2, 1975. As you can well imagine, the proposal is not an inexpensive one. If the measure were effective for December of 1976, the resulting amount of additional benefit payments in calendar year 1977 is estimated to total $1.6 billion. This estimate includes the effect of assumed automatic general benefit increases of 6.6% effective this month and 6.4% effective for June of 1977. As you know, the cost-of-living increase for this year actually amounted to 6.4%, only slightly less than the figure used in computing this cost estimate. Unfortunately, the dollar costs of providing fair and adequate protection for all Americans under the Social Security Program are invariably high. But we are talking about our responsibility to persons who, through no fault of their own, are deprived of their livelihood. We are also talking about persons who have contributed to a program, many of them for long periods of time, through their own hard-earned dollars and who expect to be protected.

H.R. 4315 is a simple bill, and the idea of removing this inequity for the disabled is not at all new. I would only ask that as the Subcommittee members debate reforms in the Disability Program, you keep in mind the very arbitrary nature of the 20/40 requirement and give careful and serious consideration to removing it for the benefit of thousands of Americans who are genuinely disabled and who have paid Social Security taxes with the expectation that they would be protected against loss of income in the event they should become incapacitated.

Before I conclude my remarks this morning I would just like to mention also my concern over the inordinate delays in claims and payment processing which have plagued the Disability Insurance Program in recent years. I have co-sponsored with Congressman John Seiberling the Social Security Rights Act which would place limitations on the amount of time the Social Security Administration can spend in processing Social Security benefit claims. This bill requires that all initial and reconsideration claim decisions must be made within 90 days and that hearing and appeals council decisions must be rendered within 120 days on all Social Security claims. Emergency payment procedures in cases where monthly checks are lost or for claimants who are caught in delays in claims processing would also be authorized under this Act. This is an area that is of concern, I believe, to all of us. We all have constituents who are affected by these delays, and I think this is an area that simply must be straightened out. I hope, therefore, that you will also give sympathetic consideration to the procedures and policies that are established by this bill.

I appreciate the opportunity to appear before you this morning and I assure you of my complete cooperation in the full House in attempting to correct inequities and problems in the Social Security Disability Program.

NATIONAL DEFENSE IS MEANINGLESS WITHOUT ADEQUATE ENERGY

HON. MIKE McCORMACK

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Friday, June 11, 1976

Mr. McCORMACK. Mr. Speaker, I wish to call to the attention of my colleagues a letter by Mr. Boris Pregel, former president of the New York Academy of Sciences, published in the New York Times on April 7, 1976.

Mr. Pregel considers the development of a continuous domestic energy supply to be as critical a national priority as defense. I agree, Sufficient funding for energy research and development, insuring adequate fuel supplies is critical to the economic stability of the Nation and our military defense system.

It does no good to provide for national defense if we do not have enough energy to run this country. It does no good to talk about programs to reduce unemployment if we do not produce the energy that the jobs will require. These are the real issues. The antinuclear activists would weaken our country and cause higher unemployment.

Mr. Pregel's letter follows:

ENERGY: THE OVERLOOKED SECURITY ISSUE

(By Boris Pregel)

The energy debate has been clouded over by many topics regarding fuel sources, environmental impacts, the pros and cons of nuclear generation and so on.

Heated discussion of these topics during the current Presidential campaign has tended to overlook one paramount issue—the relationship of adequate energy supplies to the security of the nation. The concept of national security itself needs now to include energy security.

In today's world, our security cannot be measured only in terms of economic wealth or the balance of weaponry systems. It resides ultimately in the supply of energy on which all these other kinds of security are based—that is in terms of the energies required for our production and distribution system and, importantly, those energies on which our elaborate defense security is wholly dependent. It matters little how many planes, tanks, ships or missile systems a nation has if it does not have the energy to run them.

I would like to suggest, therefore, that a new definition of our national energy policy is urgently required. The first proposition would be that energy policy is central to security policy, both nationally and internationally. A second key consideration is that the economics of such an energy policy should be considered in the same light as the acquisition of military defense systems. Just as we do not balk at defense allocations of upwards of $100 billion as an essential charge on the national budget, so we should be prepared to make comparable allocation to securing adequate energy. Conventional economic pricing is, therefore, no real guide to the questions of energy and security.

The third and final point is that of priorities. If energy is central to the security of the nation, then considerations of its policy priorities must go beyond our conventional dependence on the market mechanism and traditional economic forces. Energy security in terms of fuels supply, research and development and future planning must be given parity with other measures, both fiscal and political, which are seen to be essential to the security of the nation.

TANK REBUILD CAPITAL

HON. BILL NICHOLS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 11, 1976

Mr. NICHOLS. Mr. Speaker, as we debate this year's military hardware bill in the House and Senate, and particularly those moneys allocated in the bill for rebuilding our American battle tanks, I found of special interest an article written by Lt. Col. Tom Hamrick appearing in Army magazine.

Anniston Army Depot is proud to be known as the "Tank Rebuild Capital" of the entire free world. The depot employs some 4,800 civilian technicians who take pride in rebuilding the Army's M48 battle tanks and this depot takes special pride that their skilled technicians can take a wornout, damaged tank and for as little as $75,000 rebuild it into a tank as good as a new one.

I found Colonel Hamrick's article to be most interesting and I commend it to the reading of all Members of this body and place it in the Record.

Battle Tanks, $1.33 Per Pound

(By Lt. Col. Tom Hamrick, U.S. Army, Retired)

No matter how you try to polish it, the tank-rebuilding center and all of sprawling, single-story Anniston Army Depot, Ala., looks like Dullsville from a distance. There are no bugles, no fluttering unit standards, no columns of marching troops, no secretaries eating lunch on a lawn near a magnificent headquarters building, no soldier-sweetheart promenade scene anywhere on the horizon.

Not even a comely auburnette named Shirley Ramsey can inject a touch of glamour into an awesome arena of grease, welding torches and programmed and unprogrammed cacophony. She is a modern-day counterpart of World War II's "Rosie the Riveter" and the first to concede that the daylight hours she spends as a mechanic refurbishing a tired M48 battle tank don't make for fascinating reading.

But Anniston Army Depot may well be the only place in the world where the Army can buy a new titan tank—or one that Dixie workers say is surely just as good as new—for $75,000. And the center is pouring out 60 a month at $1.33 a pound, with a bonding guarantee.

Still, chances are you wouldn't walk across the street to visit the depot on a workday. Just as well. There are 18 miles of barbed wire and 42 miles of chain-link fence around the rolling 15,204 acres in the Appalachian foothills of Alabama. Civilian guards check out visitors as if they had the king's jewels hidden in the nearest men's room.

Down at the information office, civilian publicist Bill Congo ponders how he can report the depot's impressive task load in salable publicity releases, even though the depot is the largest single civilian employer in eastern Alabama, with 4,500 souls with rural roots reporting in for duty every day.

Newsmen who occasionally come to the gigantic tank-rebuild shed, the center ring of the depot's activities, walk away also wondering how they're going to translate ironmongering and statistics into exciting paragraphs.

"So they do have a capacity to salvage 3½ tanks a day from the scrap pile. Our readers will just yawn," said one touring reporter.

Although the 50-ton Goliaths of the M48 and M60 families—which are swung overhead by giant cranes—create an elephantine assembly-line safety hazard, the four to five generally minor accidents the tank center chalks up monthly don't make headlines.

Bill Congo remembers the depot's last fatality sometime last summer when a motorist reportedly ignored warnings at the front gate, accelerated through and seconds later, died after crashing into a parked tank. And the depot has long ago squeezed all the publicity it could from the presence of five bison on the grounds, a gift from the Navy for reasons Mr. Congo isn't sure about.

Around the place, workers regret that only a handful of Army troops have even heard of Anniston Army Depot, for even being the Army's largest ammunition storage facility in continental America hasn't served to turn a spotlight on the installation. Nor in the city of Anniston, ten miles away via a heavily trafficked, dangerous, two-lane, serpentine road, does the depot find itself a topic in day-to-day conversation.

This then is the story of the Anniston Army Depot. It may not seem an important one except that the depot's mission might provide the turning point in battle at some future date, as a financially pressed Army finds itself pushed to buy new tanks a half-million dollars each.

"There's one helluva lot of patriotism in Alabama and around this depot, and we like to think that we're giving the soldier tanks he wouldn't otherwise have," boasted a red-headed mechanic.

Aged and battered tanks, as many as trainloads of 40 at a time, are pushed onto the depot's 49 miles of rail for total overhaul, equipping with more powerful guns and a tripled operational range, as the individual model requires. Some two months later, rebuilt from the bottom track up, they roll out again, headed for the world, or maybe just around the corner to the nearest National Guard or Army Reserve unit.

Father, son and grandson—and sometimes, mother, daughter and granddaughter—man the 35-year-old plant where a rebuild facility overhauls and upgrades unserviceable M48A1, M48A2C and M48A3 tanks into a more potent M48A5 configuration, which will closely complement the performance capability of the M60 tank series, also refurbished here.

The M48's enter armed with the 90-mm gun and leave equipped with the M60's blasting punch of the 105-mm. Additionally, the gas engine of the 48A1 is yanked out and replaced with diesel equipment to match that of the new tanks the Army uses. In the process, the range of the A1 is increased from 100 miles to 300 miles, cutting back on pit stops for refueling.

Anniston Army Depot and everything it does is largely a civilianized operation. Total uniform strength at the depot numbers 67. Yet, despite an impressive tank turnout, the depot will close the gap only slightly against a Soviet lead in battlefield armor. The Soviets boast a 4.5 to one edge: about 42,000 tanks vs. a slim 9,000 in the hands of U.S. armored forces.

The current target strength for U.S. tanks, as established by Congress, is 14,400. When this goal is achieved and if the Soviets stay at their 42,000 level, the Soviets' numerical superiority will drop to 2.9 to one, with the odds still heavily weighted in Moscow's favor.

This tank-rebuild factory, sitting in the midst of what was nothing more than woods and cotton fields at the start of World War II, is expected to play an accelerating role in upgrading America's armored power. By late 1977, the Anniston rebuild center intends to be geared to double its present tank output to seven reclaimed tanks per duty day, "all with zero mileage and zero age, representing a product as good as brand new," in depot parlance.

Each tank will get the same 2,250 man-hours of meticulous attention now being accorded daily to the 90 to 110 mobile fortresses in the plant's processing line.

In they come, an endless chain: "Susie Q," "Honey Belle III, "Hell's Hammer" and "Little Orphan Annie." Some are burned out and rusted, with fenders and road wheels twisted into grotesque shapes. Others appear undamaged by test or time, with fatal ills camouflaged by relatively new coats of paint on sleek, steel carcasses.

In a measure of 56 working days, all will be stripped to the ground to the very bolt and reassembled on a production line which is probably surprassed nowhere in America, from the standpoint of sheer dead weight.

The "line" itself is both literal and figurative. There is a line, but its end product is inched forward by heavy overhead cranes, two of them 60-ton monsters. There is no "belt" as in a Ford plant, although the disassembly and reassembly technique is otherwise much the same, as a tank is leap-frogged up the line from one crew of workmen to another a few feet ahead.

It costs the depot some 2,200 men and women—half the human strength of the local command—to operate the two lines and also to man the adjacent reclamation facilities, a 17-building complex.

The guts of the operation is a noisy, high-ceilinged coliseum so vast it could host five football games in simultaneous play. It is into this welter that the old tank enters to be reborn for combat. The attendant sheds are designed for support ranging from storage to stenography, and house repair for cylinders, turrets, artillery, engines and transmissions.

Elsewhere in the depot, the command's predominant civilian corps is engaged in receiving, repairing, cataloging, maintaining and storing combat and transport vehicles, weapons from rifles to towed artillery, guided missiles and strategic materiel—all secured in a battery of 43 warehouses spread over two million square feet of red Alabama earth.

Before hostilities in Indochina ended for the American forces, the depot devoted 60 percent of its ammo maintenance-and-supply mission to serving troops in that theater of war. Should an emergency arise, the depot is ready; closeted in its 1,405 igloos and Stradley magazines are munitions ranging from rockets to missiles and their intricate components.

But the command is most proud of its tank-rebuild campaign. It believes the Army is getting more than its money's worth for the $120 million it earmarks annually for the rebuild program. The gargantuan effort is also considered one of the brighter economy feathers in the cap of the Army's Materiel, Development and Readiness Command (DAR COM), headquartered in Alexandria, Va., where other information specialists try to encourage press and TV depot coverage from long distance.

As the depot's commander, Brig. Gen. Robert L. Bergquist, sees it, "the words 'Anniston' and 'tanks,' while perhaps not synonymous, are becoming inseparable. The depot has been working . . . to earn the distinction of being 'the tank overhaul center of the free world.' "

Gen. Bergquist thinks the depot has unquestionably won that title. One mechanic on the assembly line refers to the general as "an everywhere guy. He believes in knowing what's going on by at-your-elbow inspections." Gen. Bergquist's force is similarly impressed that they have the only general officer in the Army in command of a depot.

Because he has a command which operates behind barbed wire where visits are discouraged, Gen. Bergquist puts heavy emphasis on playing host once a year to the local countryside. He throws the front gate open and stages what depot officials claim is the Army's most extravagant Armed Forces Day event. Last year, flyovers, paradrops, a plethora of Army exhibits and band music attracted 30,000 visitors.

Industry-oriented, Gen. Bergquist represents a new and growing breed of Army general, say his staff. They regard him as "a man who would be completely at home running a Chrysler plant for fun and profit." The general is a *cum laude* graduate of Providence College and holds a master's degree in business administration from the Wharton School of Finance and Commerce at the University of Pennsylvania.

The tank plant is geared to penny-pinching economy from screws to salaries, and heavy accent is placed on job attendance—goldbricks are advised they are replaceable, costly overhead.

"We tell them all—and I think most of them believe it—that they're competing with civilian industry and if the Army can get the job done cheaper by a civilian plant, the Pentagon will damned sure close the tank plant here," said Bobby Coplin, chief of the vehicle branch of the rebuild shop.

"We expect and we get a full day's work for a full day's pay," contends Mr. Coplin. "If we don't, I try to run them off. This is the Bible Belt we're in, and a man's word and his work are his bond."

Equal stress is given to salvaging every ounce of metal which can be reclaimed and used again on the same tank or its mate. Step by disemboweling step, a team of four to six mechanics commands each link of the strip line. Then hull, parts, motor power are steam cleaned and sandblasted, with the naked steel tank housing subsequently introduced to the assembly line for rebirth, from fan belt to fire control.

Before it quits the faculty, what looks every inch a new model from Detroit is waded through a fording pool to test for leaks and its weaponry is tested on the range by civilian gunners.

Through it all, production-line managers employ an intricate quality-data feedback system to evaluate individual rebuild efficiency. Since the system was inaugurated, Gen. Bergquist claims that defects have decreased by 50 percent. "This translates," he said, "to a cost-avoidance of $390,000 (a year) by eliminating rework requirements."

The end product, whether M48 or M60, is "essentially the same tank," according to one spokesman, "with armor, weight, fire controls and artillery punch." Depot officials say some of the Army's tank experts agree the converted 48s are on equal par with the newer 60s.

One-sixth of the depot's personnel are women—nearly 700—and the coliseum's shop foreman insists that "they can be expected to carry their full share of the load, and they carry it well. I get mighty few complaints from our women."

For the most part, the women are involved in painting and restocking parts. Some have been on the job since the depot did its bit against Hitler and Mussolini.

Despite a safety record which ballons management pride, "the rebuild plant is—hell, yes—a dangerous place to work," according to foreman Coplin. Overhead cranes are constantly ferrying equipment along the twin lines of disassembly-assembly as warning horns blast out alerts. Hard hats, however, aren't required attire. "If a 15-ton turret fell on your head, a plastic helmet wouldn't keep you from getting a bad headache," one workman grinned.

Yet worker attention to constant danger is mandatory, particularly on the belt lines. Only recently, workers are constantly reminded, a mechanic who didn't watch his step let an overhead crane lodge an iron monster on his instep.

Originally a World War II ordnance depot, the records show that over 1,230,000 tons of materiel were handled during wartime, with employment peaking at 6,780. Not until 1962 did the plant get into the tank-rebuild business on a major scale, when it won the Pentagon's blessing to upgrade the combat prowess of the M48 family. New facilities were hurriedly installed, and the first finalized vehicle rolled out of the plnat in March, 1963.

The depot, plus nearby Fort McClellan, provides the unquestioned financial heartbeat for the city of Anniston and Calhoun county, with a combined population of 105,000. The community was greatly concerned that the depot might be mothballed or at least diminished as a source of revenue when the war in Vietnam ended.

"It hasn't happened, thank God," said an Anniston community leader, "but half the town is waiting for the other shoe to drop. We don't mind admitting that half of our local economy is directly related to two big government payrolls."

This is the big reason the command continually accents what one depot official called "pure bread-and-butter politics among our employees." Still, the absentee statistic at times worries depot officialdom, as with the beginning of the fishing season.

But the command is nonetheless willing to compare its per capita attendance and total performance with "Yankee Country" industry—any day you want to pick.

TERRORIST SUPPORT: THE BAY AREA RESEARCH COLLECTIVE

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 11, 1976

Mr. McDONALD. Mr. Speaker, while I was on the west coast recently, my attention was called to the large number of revolutionary terrorist organizations operating on the west coast in Seattle, Los Angeles, and San Francisco Bay area and other localities. This week I have already presented material developed on the George Jackson Brigade in Seattle and on the National Socialist Liberation Front in Los Angeles. I now call your attention to the Bay Area Research Collective, support group and publicist for the New World Liberation Front, Symbionese Liberation Army, and other terrorists.

> The state's stake in reactionary ideology will not allow them to "give in to terrorists." For corporations on the other hand, ideology may be of less importance than the almighty buck. It may be possible to force them to bend somewhat to the force of the movement.—Dragon No. 9, June, 1976 Bay Area Research Collective

So states the Bay Area Research Collective—BARC—in the most recent edition of its newsletter, Dragon, in analyzing a successful extortion campaign by the terrorist New World Liberation Front—NWLF—against the Bayview Federal Savings and Loan.

The Bay Area Research Collective appeared in May 1974, as the organizer of a rally in support of six Symbionese Liberation Army—SLA—"comrades" killed in a May 17, 1974, Los Angeles gun battle with police. BARC has described its mission as the building of unity among "the aboveground, the underground and the locked down" who hold that "support for guerrilla struggles is a necessary part of mass revolutionary work."

As of June 1976, it would appear that BARC is among those who consider the disruption of the Bicentennial a "necessary part of their mass revolutionary work." BARC's newsletter urges their readers to support the July 4 Coalition—J4C—either in Philadelphia or in one of the west coast solidarity demonstrations in Seattle, San Francisco, Los Angeles, or San Antonio, Tex.

A Justice Department press release stated that the Attorney General had asked the FBI for a "preliminary 30-day investigation" of the July 4 Coalition. With less than that time period remaining until July 4, this move, if true, is far too little and far too late.

A review of BARC's development will give an indication of the threat posed by both the July 4 Coalition and its supporters.

In its first "Support the SLA" leaflet distributed at the May 1974 rally, BARC said:

> The spectacle of the police shootout in L.A. * * * was a manipulated event. The purpose was to intimidate and frighten all who dare to resist, all who dare to say "no." As the support is here, it must be demonstrated. We should now take the initiative and not merely react to actions of the pigs. * * * They cannot stop our struggle. They cannot stop our resistance. "Pray for the dead, fight like hell for the living."—Mother Jones.

BARC, which sometimes uses the name Orphans of Amerika, operates from Post Office Box 4344, Sather Gate Station, Berkeley, Calif. 94704. The BARC collective lives at 1418 Northside, Berkeley, having moved to that address this year from 750 54th Street, Oakland, Calif. 94609.

Despite the intentionally small size of the collective, probably less than a dozen core members, BARC activities in support of revolutionary terrorism are both many and varied. BARC reprints and distributes communiques from terrorist groups; organizes rallies and defense groups; publishes a newsletter, Dragon; and from time to time provides accurate information on the design and construction of bombs and detonating mechanisms.

BARC's own statement of purpose, distributed soon after their initial rally, reads in part:

> 1. The Bay Area Research Collective formed in the spring of 1974 largely as a response to the Symbionese Liberation Army and reactions to it by the police, the media both movement and straight, the left and the populace. We were aware that the SLA and more generally armed resistance to the ruling system had support and sympathy from many people, but that there was little organized support. We intended (and have attempted) to help fill that gap. We try to give a voice to popular support and constructive criticisms of clandestine groups and actions. We also try to build support by circulating information by and about these organizations. We feel that by opening this dialogue * * * we can be of benefit to the aboveground and clandestine movements.
>
> 2. Our general aim is the demystification/disalienation of "illegal" resistance and of the people who practice it. Our primary * * * tactic has been the printing and distribution of written materials * * *.
>
> 3. * * * we see it as essential to and inseparable from our political activity to try to break the barriers of personal and interpersonal alienation and mystification. * * *

Central to BARC's existence is its support of the Symbionese Liberation Army. Following the arrest of Patricia Hearst, Wendy Yoshimura, Emily Harris, and Bill Harris, on September 18, 1975, BARC members within hours had rushed to the walls, bulletin boards, and utility poles of Berkeley with a leaflet headed "'It ain't no big deal, comrades. Long live the guerrilla!' — Teko" — William Harris — which stated:

> Today, September 18, 1975, members of the Symbionese Liberation Army * * * were captured by federal agents. For over a year, and in Wendy's case longer, these comrades have been successfully living underground. We reaffirm our solidarity with the S.L.A. and are angered by their capture.
>
> These arrests do not mean the S.L.A. is dead. The S.L.A. has spawned new revolutionary energy since its formation last year; underground guerrilla activity had increased considerably in scope and militancy. We are in the midst of a protracted revolutionary war. Many revolutionaries will be killed and captured, but there are many more of us who will keep fighting. With the strength of our commitment, unity, and courage, we will combat the state's terrorism.

Within a week BARC had organized yet another rally, September 27, 1975, in support of the SLA "and all recently captured comrades." BARC reported in Dragon No. 3, October, 1975:

> Sponsored by Prisoner Support Organization, National Lawyers Guild/Prison Task Force, United Prisoners Union, Prairie Fire Organizing Committee, and BARC, this rally made a clear statement of support for guerrilla struggles as a necessary part of mass revolutionary work.

Later, as the trial of Patricia Hearst progressed in San Francisco, BARC's cosponsors of rallies had expanded to include the American Indian Movement—AIM—Native American Solidarity Committee—NASC—New Dawn Collective, the Medical Committee for Human Rights—MCHR—Bay Area Gay Liberation, Network Against Psychiatric Assault, People's Health Resource Center, Prison Health Project and the United Front for Survival.

Among those closely linked to BARC in its formative months were Kathleen Ann Soliah, Josephine Soliah, Bonnie J. Wilder, James Kilgore, Margaret Turcich, Ann Solish, Andrea L. Behr, Deborah Gausman and Jeffrey Sokolow. The Soliah sisters, Kilgore and Wilder have disappeared "underground."

Of this group, Ann Solish has been identified as a friend of slain SLA member Angela D'Angelis Atwood who worked with her at the Great Electric Underground restaurant in San Francisco; the Soliah's are sisters of Steve Soliah, who was arrested September 18, 1975 on charges subsequently dropped of harboring the fugitive Hearst and who was recently acquitted on charges related to a Carmichael, Calif. bank robbery; Jeff Sokolow was formerly a Columbia University SDS activist where he was associated with the early Weatherman group, an association that continues by way of the Prairie Fire Organizing Committee—PFOC.

According to BARC, the Soliahs, Wilder and Kilgore are "political fugitives" who state:

> We are proud to be among those fighting against the U.S. empire. We are proud to have uncompromisingly supported people who have taken up arms against the enemy. We will continue the struggle no matter what the personal consequence may be.

Presently, those involved with BARC include Steven Murphy, Andrea Behr, Donald Shearn, Deborah Marcus, Deborah Gausman, Margaret King Schutze, Steven Morton Frankuchen and Jeff Sokolow.

In November 1975, BARC formed a Steven Soliah Defense Committee, P.O. Box 1034, El Cerrito, Calif. 94530, with Nancy Ann Northern, Michael T. Bloomenfield and Emily J. Toback taking active roles. It will be recalled that Ms. Toback provided the alibi that resulted in Steve Soliah's acquittal and that it was reported that a perjury charge was being considered against her.

Since August 1975, the Bay Area Research Collective has published a 30-page mimeographed newsletter, Dragon. To date eight editions have been distributed, with the "press run" having been increased from 1,000 to 1,250, and the paging to 46.

Dragon reprints communiques from a variety of terrorist groups. The first edition included a statement from the Red Guerrilla Family—RGF—taking credit for bombing the offices of the Alcohol, Tobacco and Firearms Bureau in San Francisco; a chronology of the bombings by the New World Liberation Front—MWLF—which began in May 1974; and instructions and diagrams on making bombs.

The nine editions of Dragon provide considerable psychological insight into what passes for thought in the terrorist collectives. Here in summary form are brief descriptions of the Dragon editions:

Dragon No. 2 devoted half its space to trial and sentencing statements by convicted SLA members Joe Remiro and Russell Little. It noted the Denver trials of two accused bombers, provided instructions on how to deal with any original communiques from terrorist groups—retype and burn immediately, and printed statements of the NWLF justifying their murder of Popeye Jackson and his girlfriend, leader of the United Prisoners Union, whom they suspected of being a police informer.

Dragon No. 3—October 1975—was published after the arrests of the SLA members. It contained statements from the Harris' and Yoshimura; communiques from the Canadian Frente de Liberation du Quebec, the Black Liberation Army—BLA—the George Jackson Brigade in Washington State, and the NWLF; and a letter from Martin Sostre, then in prison in New York, who wrote that "Now is the time to close ranks, federate from coast to coast and demonstrate through revolutionary and political deeds our support for Russ, Joe, and the other SLA comrades and the rest of our guerrilla forces."

The fourth edition concerned the role of women in armed struggle with such figures as jailed Puerto Rican terrorist Lolita Lebron, the women of the Weather Underground and SLA, and admitted bank robber and revolutionary Susan Saxe held as examples for emulation. It also published a NWLF communique claiming the October 30, 1975, bombing at Fort Ord in solidarity with the Puerto Rican FALN—Fuerzas Armadas de Liberacion—and the November 1, 1975, "International Day of Solidarity With the Struggle for an Independent Puerto Rico" called by the Puerto Rican Socialist Party and its international allies.

Dragon No. 5—December 1975—published a criticism by Remiro, Little and the Harrises of a "History Will Absolve Us" pamphlet apparently by the underground BARC/SLA group in which the imprisoned SLA group strongly disagreed with the pamphlet's concept of the SLA's urban guerrilla activities being used to build "a Marxist-Leninist Party at some future date." It also printed a NWLF statement in which they defined their politics as Marxist-Leninist-Maoist. The newsletter carried a criticism of the Zapata Unit for its bragging and boasting promises to carry out much more violent actions than they were capable of performing and for a major "poliitcal error" in detonating a bomb at a Safeway in Oakland which damaged working class houses. The criticism was signed "Jones" and it is noted that the fingerprints of Weather Underground fugitive Jeff Jones were reported discovered in a Zapata Unit hideout after their arrests.

Dragon No. 6—January 1976—continued in a similar vein with information about grand jury investigations into aspects of the Susan Saxe case, a story about the NWLF threats against the San Francisco Board of Supervisors attempting to extort money for certain NWLF-approved purposes, communiques from the George Jackson Brigade concerning their two New Year's Eve bombings in Seattle, and a message from the Zapata Unit which included a long quote from Carlos Marighela's Minimanual of the Urban Guerrilla. Wrote in Brigade, "We have no qualms about bringing discriminate violence to the rich."

Dragon No. 7—February–March 1976—articles included commentary on the SLA and Patricia Heart. "It's clear that Patty is dealing fast and furious, and will say anything to secure her own freedom. Patricia Hearst is a snitch and should be regarded as such. Most significant was NWLF material listing 20 utilities, individuals and corporations as "scumlords" on a "most wanted" list. Said the NWLF communique, "If scumlords fail to move on the just demands of their tenants * * * they will be subject to the people's justice."

On January 28 and 29, the NWLF bombed the home and car of two "accused" slumlords, followed the next night by a bombing of the Pacific Gas & Electric San Geronimo substation as "parasites of the poor." The bank targeted on the list for "people's justice", Bayview Federal Savings and Loan, which had been subjected to separate NWLF bombings, has capitulated to the revolutionary terrorist campaign by agreeing to renovate and rent a group of old buildings which the bank had purchased to tear down for a parking lot. That issue also reported the arrests of members of the Zapata Unit on February 17 and 21.

Dragon No. 8—April 1976—reported on the arrest of several members of the George Jackson Brigade in Seattle. A chronology of bombings by the Red Guerrilla Family, six since its first appearance in March, 1975, appeared with a statement of BARC approval:

> We have come to expect powerful, clean actions from the RGF with well-written and appropriate communiques. We are pleased that they have begun laying out more of the theoretical base of their politics.

The Red Guerrilla Family, possibly a splinter or a sub-group of the Weather Underground Organization, wrote in its communique on the bombing of the Hewlett-Packard laboratory in Palo Alto:

> Hewlett-Packard is a multi-national corporation that owns subsidiaries in South Africa, Spain, Brazil, Argentina, Venezuela, Malaysia and many other countries. It manufactures sophisticated electronic and technicological equipment, much of it for the military, and it makes a lot of components for use in other companies' military contracts. Hewlett-Packard is a major developer of 'smart' weapons * * *.

The RGF communique gives personal details about the company owners, William Hewlett and David Packard, of the sort found in standard references and states:

> The people will not accept any more imperialist war, for Vietnam and the economic crisis taught us that it is always poor and working people who pay for capitalist war * * *. We must turn the hard times around, and deal with it by building a class conscious, antiimperialist and revolutionary movement.

The style of the RGF communique is such that it could have appeared in an edition of the Weather Underground's Osawatomie with the signature of Jeff Jones or other WUO Central Committee member on it—or perhaps in presentations made to meetings of the Prairie Fire Organizing Committee.

Clearly there is a pressing and urgent need for immediate investigations by Federal and local law enforcement agencies into the terrorist networks being constructed in this country. And there is clearly a pressing need for this body to restore the House Committee on Internal Security to hold immediate public hearings on the terrorist threat and prepare remedial legislation for our consideration.

CHATTANOOGA EXCHANGE CLUB

HON. MARILYN LLOYD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Friday, June 11, 1976

Mrs. LLOYD of Tennessee. Mr. Speaker, I would like to express my appreciation for the fine community service of the Exchange Club of Chattanooga. I believe their program of presenting Freedom Shrines for display in schools and public buildings deserves the recognition of this body.

Each Freedom Shrine is an arrangement of replicas of 28 historical documents beginning with the Mayflower Compact and ending with the surrender in the Pacific-World War II. The shrines also include the Declaration of Independence, the Bill of Rights, and the Gettysburg Address.

The Exchange Club of Chattanooga has presented 78 of their Freedom Shrines, mostly to public schools, considerably more than any other Exchange Club in the country.

This fine organization has made a valuable contribution to the education of our children and helped make the public aware of our wonderful American heritage. The Exchange Club of Chattanooga and Exchange Clubs in other U.S. communities deserve our congratulations for their patriotic spirit.